

# Should New Owners Corporations Obtain Building Defects Reports?

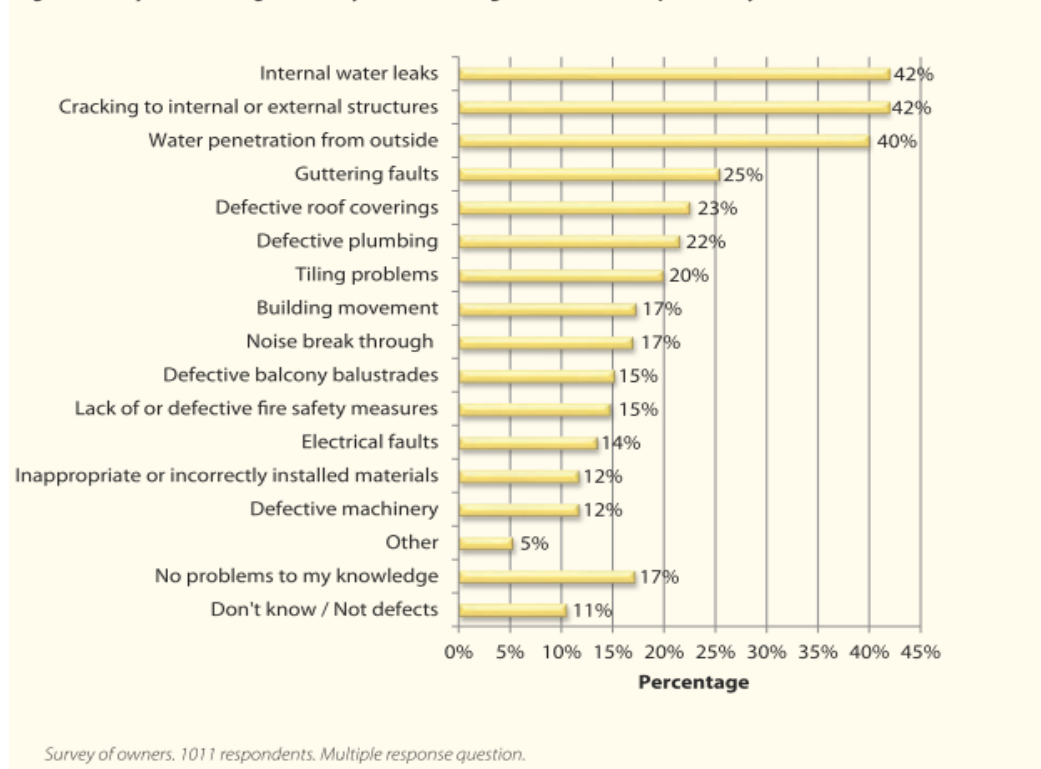
## Short answer is yes, Why?

- (a) For the reasons set out below in the UNSW research, which are supported by our experiences below.
- (b) Pre-purchase inspection reports obtained by lot owners concern their own individual lots and usually do not involve an inspection of the whole of the building. It is neither the strata manager's nor the caretaker's role to report on defects in the common property.
- (c) Fire safety consultants who issue annual fire safety statements do not report on breaches of statutory warranties in fire measures.
- (d) The strata reforms were to provide that developers were to pay for a defect report on the whole of the building within 12 to 18 months of completion of the works, but these reforms have delayed until 2016.
- (e) So that an owners corporation can become aware of any losses and take appropriate action within the relevant statutory periods.

## UNSW Research

Reproduced below is an extract from the [University of New South Wales' report dated May 2012 'Governing the Compact City' by Hazel Easthope, Bill Randolph and Sarah Judd](#) representing the answers from 1011 respondents to the question 'To your knowledge, have any of the following defects ever been present in your strata scheme?'

Figure 8.1: To your knowledge, have any of the following defects ever been present in your strata scheme?



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## Our Experience

In line with the above, some of the results from our experience are set out in the below table.

Locality	Approx number of lots	Broad categories of defects	Approx rectification costs (excl. legal and expert costs)
Ashfield Council	160	General and fire safety defects	\$100,000 with rectification by the builder
Auburn City Council	80	Water penetration, fire safety defects, cracking	\$2,000,000
Bankstown City Council	70	Water ingress, tile defects, garage defects	\$1,000,000
City of Canada Bay	50	Tiling defects, render defects, fire safety defects, water ingress	\$900,000
City of Canada Bay	70	Waterproofing, cracking, landscaping	\$150,000
City of Ryde Council	30	General building defects, fire defects	\$300,000
City of Sydney	15	Waterproofing and incomplete works	\$170,000 with rectification by the builder
City of Sydney	15	Waterproofing, cracking, general defects	\$2,500,000
City of Sydney	30	Cracking in the car parking slab	\$400,000
City of Sydney	30	Water penetration, cracking, spalling render	\$300,000
City of Sydney	60	Balcony waterproofing, window shutters, rusting balustrades	\$1,500,000
City of Sydney	60	General and fire safety defects	\$700,000
City of Sydney	60	Water penetration, cracking, render	\$240,000 with rectification by the builder
City of Sydney	70	Water penetration, cracking, fire safety defects	\$2,000,000
City of Sydney	90	Water ingress, structural defects, balustrades	\$3,000,000

City of Sydney	100	Water penetration, windows and tiling issues	\$680,000
City of Sydney	100	Water penetration, cracking, spalling render	\$250,000
City of Sydney	130	Water ingress from balconies	\$800,000
City of Sydney	130	Window shutters corroding steel/columns, water ingress and fire defects	\$1,500,000
City of Sydney	230	General building defects and fire defects	\$2,500,000
Hornsby Shire Council	170	Balcony balustrades	\$800,000
Hornsby Shire Council	90	Mechanical ventilation	\$465,000
Hornsby Shire Council	200	Drainage, electrical and fire safety defects	\$220,000 with rectification by the builder
Lane Cove City Council	15	Fire safety defects, cracking, waterproofing	\$800,000
Manly Council	30	General and fire safety defects	\$1,300,000
Marrickville Council	20	Water penetration, cracking, render, water leeching	\$350,000
Mosman Council	20	General and fire safety defects	\$50,000 with rectification by the builder
Newcastle City Council	60	Water penetration, cracking, fire safety defects	\$2,500,000
Pittwater Council	30	Water penetration, cracking, render	\$300,000
Randwick City Council	40	Fire safety defects, fire sealing, fire doors	\$200,000
Randwick City Council	40	Water penetration, cracking, spalling render	\$250,000
Randwick City Council	50	Major defects to roof, and general building defects	\$4,000,000
Strathfield City Council	50	Cracking, non-compliant BCA items (stairs), fire defects, render cracking, rusted render angles	\$950,000
Strathfield City Council	80	Water penetration, cracking	\$1,200,000

Warringah City Council	15	Water penetration, Cracking, roof leaks	\$850,000
Warringah City Council	15	Water penetration, cracking, tiles, waterproofing, balconies/roof	\$700,000

Why take the risk? Why wait until the owners corporation is out of time to bring an action to find out what defects exist in your scheme?

### **Briefs to be issued by lawyers**

So, owners should firstly have a lawyer consider the time frames for statutory limitations and brief a suitable expert to prepare a building defect report for reasons including:

- that the report is prepared in a format that can be used in legal proceedings;
- it addresses any breaches of statutory warranty appropriately and does not address maintenance issues;
- it identifies lot property and common property issues;
- so it identifies suitable remedial scopes of work to rectify the defect issues; and
- to maintain legal professional privilege.

**Prepared by Bannermans Lawyers**

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