

# Out of Sight, Vermiculite!

## What is Vermiculite?

Vermiculite is a naturally occurring mineral which is utilised in building products for its superior fireproofing and soundproofing properties.

## Use of Vermiculite in Strata Schemes

Vermiculite products were extensively used in residential construction between the 1930's and 1980's until it was discovered that asbestos, which was sometimes found in vermiculite products, caused serious disease. Asbestos found its way into some vermiculite products of the day due to minerals that contain asbestos and naturally coexist with vermiculite, contaminating vermiculite extracted during the mining process.

Due to the discovery of asbestos in vermiculite products, the use of vermiculite in today's construction industry is almost non-existent. Vermiculite products with no asbestos contamination are still used today for the purposes of fireproofing and soundproofing.

Previous to the discovery of asbestos in vermiculite products, vermiculite was most commonly used to create vermiculite ceilings also refer to as popcorn ceilings. Strata schemes built before 1990, commonly have popcorn ceilings installed to the underside of concrete slabs in the common property areas and inside their lots. Everyone knows someone with a horrible popcorn ceiling.

## What to do if your Strata Scheme contains Vermiculite Ceilings?

In most cases, vermiculite ceilings are common property and therefore an owners corporation of a strata scheme that contains vermiculite ceilings has a duty to repair and maintain them as per section 106 of the Strata Schemes Management Act (2015). The duty to repair and maintain common property extends to replacing obviously unsafe common property items and not just to repair and maintaining physically deteriorated common property (*Doherty v The Owners - Strata Plan No. 36613* [2021] NSWCATAP 285). Hence, if an owners corporation is aware that there are vermiculite ceilings in its building which contain asbestos and that it poses a risk to the health of occupants due to, for instance, the condition of the vermiculite ceilings, the owners corporation has a duty to remove the vermiculite ceilings in the building. If an owners corporation does not take action against obviously unsafe vermiculite ceilings, an owners corporation could be liable to pay compensation to individuals who have developed diseases caused by vermiculite ceilings.

Losses sustained by a strata scheme resulting from successful asbestos compensation claims are uninsurable as policies for strata buildings exclude asbestos related claims. Hence, an asbestos register, asbestos management plan and emergency procedures can be developed to stop the possibility of claims being made against the strata scheme for being negligent. Having an asbestos register, asbestos management plan and emergency procedures may be a legal requirement for your

strata scheme. However, if it is not, it is in the best interests of the owners corporation to create them if there is evidence that asbestos exists in the strata scheme.

A good management plan will outline how to either maintain, remove or alter building elements that contain asbestos including vermiculite ceilings.

The alteration of a vermiculite ceiling will most commonly occur when a false ceiling is installed to hide an ugly popcorn ceiling. If a certain vermiculite ceiling is not included in an asbestos register, then testing should be done to determine if the vermiculite ceiling contains asbestos. If asbestos is found, then a management plan must be put into place to stop contamination of a unit or the strata scheme during the construction phase.

Furthermore, if an owners corporation decides that a vermiculite ceiling is to be altered or removed, it must employ the relevant consultants to determine whether the strata plan will continue to meet relevant fire standards or to determine whether there will be sound egress issues if such works occur.

Although an asbestos management plan may be in place to mitigate the risk of an individual making a successful claim against an owner corporation, an owners corporation can still be found liable for not upholding its section 106 duty to repair and maintain the common property if vermiculite ceilings containing asbestos become unsafe for occupants.

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