

Stay Ahead of Building Defects | How Preliminary Advice Safeguards Your Scheme

1. What Is Preliminary Advice?

Preliminary advice is initial advice provided to owners corporations to help identify potential building defects, understand statutory warranty rights and clarify the options available for pursuing a claim.

It offers a high level overview of relevant legislation and regulatory frameworks, including:

- the Home Building Act 1989 (“HBA”),
- Design and Building Practitioners Act 2020 (“DBPA”),
- Home Owners Warranty Insurance (“HOWI”), and
- Strata Building Bond and Inspections Scheme (“SBBIS”).

Our advice explains how each impacts your scheme’s time limitations and obligations.

Our advice is tailored specifically for owners corporations seeking clarity about their legal position, the parties potentially responsible and the timeframes within which action must be taken.

2. Why is Preliminary Advice Important?

Building defect matters are highly time sensitive. Statutory warranty periods are strict, and missing a deadline can completely remove a scheme’s right to recover costs for defects.

Our preliminary advice helps ensure:

- You understand when statutory time limitations expire;
- You know which parties may be liable for building defects;
- You receive early direction on how to preserve your scheme’s rights; and
- You avoid unnecessary delays that can lead to costly disputes or lost claims.

By obtaining advice early, owners corporations can make informed decisions before defects escalate into complex legal battles.

3. Benefits of Obtaining Early Preliminary Advice

Early preliminary advice offers a range of practical and strategic advantages, including:

- Identifying precise expiry dates for statutory warranties to ensure steps are taken promptly to avoid missing critical deadlines.
- Clarification on whether defects are classified as major or minor.
- Assists in determining liability and provides a recommended course of action.
- Supports early resolution strategies to avoid lengthy and expensive litigation.
- Provides early visibility of potential costs and pathways.
- Improves the quality of evidence and strengthens your position in negotiations or proceedings.
- Identifying weaknesses or gaps in your case early.
- Allowing you to correct issues before they develop into larger, costly problems.

Overall, early preliminary advice transforms a potentially overwhelming situation into a clear, structured process which will save you time, reduce stress and maximise the chance of a successful outcome.

This approach ensures your owners corporation is fully informed, prepared, and able to act quickly to preserve its position.

4. Information Required to Prepare Preliminary Advice

To assist us in preparing detailed, accurate advice, we require the following documents and information:

- Details of the builder and developer, including a copy of the building contract;
- Handover documents from the developer and/or builder;
- The strata plan;
- Certificates of completion;
- All interim and final occupation certificates, including relevant annexures;
- Any expert defect reports (or a list of defects with supporting photographs)

These documents will enable us to prepare a proper assessment of statutory timeframes, potential liability and warranty expiry dates, ensuring your rights are protected.

5. Next Steps

If you are experiencing building defects or require clarity around statutory timeframes, we can assist by providing preliminary advice for a fixed fee.

Contact us to obtain a fixed price fee proposal and take the first step toward protecting your statutory rights.

Key takeaways

- Preliminary advice helps owners corporations identify potential building defects and understand their statutory rights.
- Timely preliminary advice can prevent costly disputes and ensure compliance with strict statutory time limitations.
- Early advice clarifies liability and provides a structured approach to resolving building defect issues.
- Essential documents for preparing preliminary advice include building contracts, completion certificates, and expert defect reports.
- Bannermans Lawyers offers fixed-fee preliminary advice to assist owners corporations in protecting their rights.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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