

Australia needs 'decennial' building insurance

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Taking out a "decennial" building insurance where defects are fixed by all contractors at a building regardless of fault, could be the solution that protects Australian owners of apartments and units, construction experts say.



In many countries including France, Belgium and Qatar, the "constructors" of a building – a reference to architects, builders, or any persons bound to a building by a contract of work – are liable for the health of a building for up to 10 years and are obliged take out insurance to cover this before construction starts, according to construction lawyer Jessica Rippon of Construction Legal.



The evacuated Mascot Towers in Bourke Street, Mascot. *Brook Mitchell*

Ms Rippon, who has researched the area, said owners do not have to prove which contractors were negligent or failed to deliver their contractual obligations.

Benefits of the insurance are passed on to subsequent owners, if units are sold. It also helps to protect homeowners if original contractors are no longer in business.

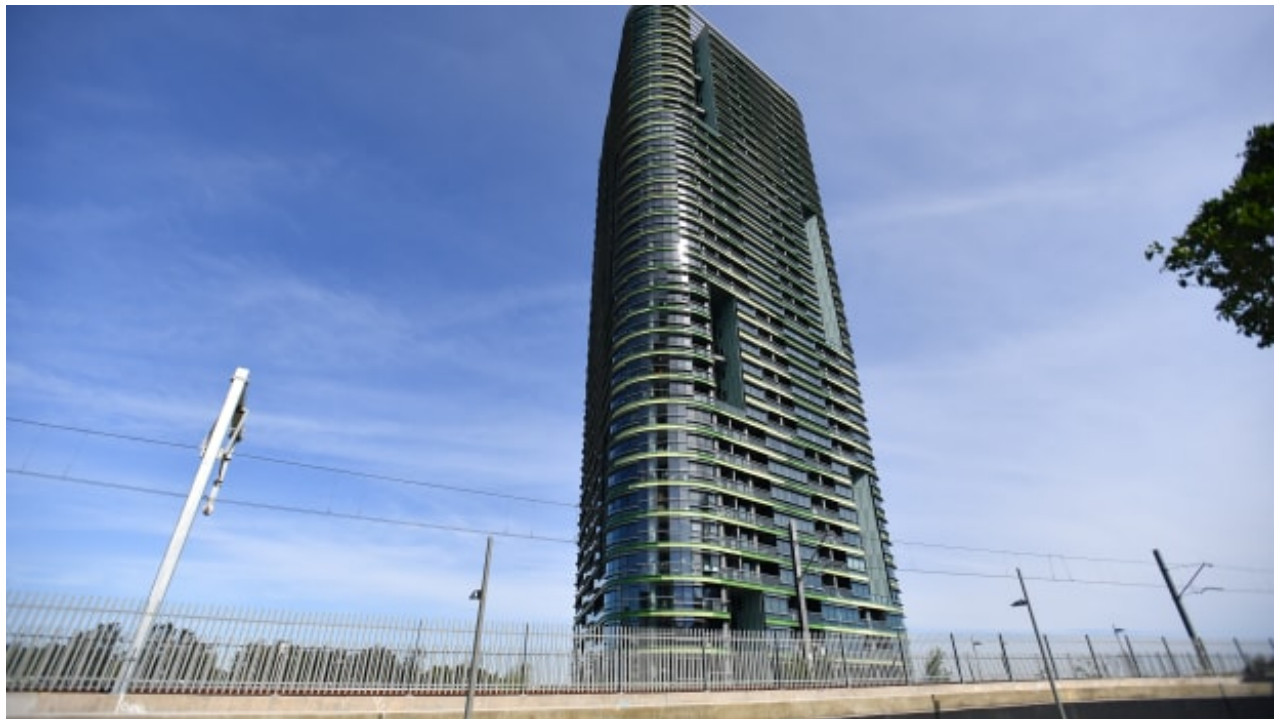
"The insurer appoints an independent certifier to inspect the building at regular intervals during construction to ensure the quality of the works remain to the highest standards," Ms Rippon said.

"The system works seamlessly in all parts of the world including Europe, the Middle East and some states in Canada."

The scheme could have saved the owners of both recently evacuated towers in Sydney, Mascot Towers and Opal Towers, from further legal anguish, Ms Rippon added.

"Mascot Tower owners will not have any legal recourse against the developer or contractor for the simple reason that the building was constructed over 10 years ago," Ms Rippon said.

Opal Tower owners are luckier because their building was completed in 2018. Some owners can trigger their statutory warranties but they face future troubles in building reputational damage.



The Opal Tower was evacuated on Christmas Eve. AAP

In NSW, the statutory warranty period for fixing defects in buildings is six years from completion. High-rise apartment owners are particularly hard-pressed because they are not covered by the additional federal Home Building Compensation scheme, which only insures building under three storeys.

"The exemption to the home warranty scheme was enacted in 2003, the rationale being that high-rise developments were commercial projects. Back then however, we did not seem to have an issue as the percentage of people in NSW living in high-rise apartments was

significantly less [and] the quality of construction, some say, was of a higher standard. This is no longer the case," Ms Rippon said.

Other ways to protect apartment owners is for governments to spot-check building construction, Savil Group's Dimitri Livas – who specialises in fixing "broken buildings" – said. An example is Dubai, which appoints its own engineers who "have the authority to actually stop works and stop the concrete pouring if there is a concern".

"There are more checks and balances and staged inspections to make sure that nothing slips through the gaps," he said.

The government need only step in at the riskiest section of construction such as fire protections or water sealing, he said.

Equally, owners should be more proactive with defects claims to stop problems from escalating.

"Even with protections in place, the process to access those protections is not a simple one and given that most corporations are made up of owner volunteers, they are not always qualified to manage a building with major issues," he said.
