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BUILDING DEFECTS: TOP 3 TIPS BEFORE YOUR HOME WARRANTY INSURANCE EXPIRES

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BUILDING DEFECTS: TOP 3 TIPS BEFORE YOUR HOME WARRANTY PERIOD EXPIRES

The current NSW home building legislation states that buildings must be at risk of collapse or be uninhabitable to reap the benefit of a full 6 year warranty.

It seems absurd to provide warranties only for defects (major) at this extreme end of the spectrum, which, as is now being acknowledged, should not be occurring at all in a properly regulated building industry.

So, what about all the other defects?

The remaining defects that now fall into the so called category of 'minor defects' with only a 2 year warranty and which are often very costly to rectify across an entire building puts incredible financial strain on home owners buying into new strata buildings.

The appointment of David Chandler, NSW Building Commissioner and the proposed introduction of a statutory duty of care for all involved in the building process, especially certifiers, is a good step.

However, in my opinion any real building reform must at least bring back the full 7 year warranty period that applied prior to the 2011 amendments, insurance for buildings over 3 stories high and a restriction on phoenix activity (companies deliberately liquidated to avoid paying its debts) with actual prosecution and enforcement, rather than the toothless tiger approach.

Before your building defects warranty expires, we strongly suggest that the following 3 points be considered.

1. You'd probably get a mechanic to check your vehicle prior to the end of a warranty period so why don't you seek legal advice prior to expiration of your building warranty period?	Seek legal advice 6 months prior to the expiration of a statutory warranty period is a good strategy. We can assist with briefing and co-ordinating appropriate experts to identify any building defects and provide advice on liaising with the builder and/or developer and commence any appropriate proceedings.
2. Why don't you seek legal advice about alternatives such as your Home Warranty Insurance?	Seek legal advice to help reduce disputes by making appropriate insurance claims and notifications with your insurer at the earliest stage of the process as possible.
3. As an alternative dispute resolution strategy, are you eligible to claim with NSW Fair Trading?	Where a critical deadline for a statutory warranty period isn't imminent our team can provide assistance with attempting to resolve a building claim with NSW Fair Trading.





Have you or your client recently purchased a new strata home? Do you have a building defect issue (or you're not sure)? Talk to our building defect experts before your warranty period expires.

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About JS Mueller & Co Lawyers

JS Mueller & Co Lawyers has been servicing the strata industry across metropolitan and regional NSW for 40 years. We are a specialist firm of strata lawyers with in depth and unmatched experience in, and comprehensive knowledge of strata law and levy recovery.

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