

# What are Australia's other defective towers aside from Sydney's Opal Tower?

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How unique is Sydney's Opal Tower crisis? The [evacuation of all residents](#) is unusual – and an occurrence probably not seen in Sydney since [a gas explosion on the 29th floor of a residential tower at Bondi Junction's Eastgate complex](#) in 2009.

But building defects aren't unusual. While [developers argue](#) that the structural failures that triggered cracks in precast concrete panels in the Sydney Olympic Park are an isolated occurrence, building defects are all too common in Australian construction. A [2012 report](#) by UNSW's City Futures Research Centre found that 85 per cent of strata title owners in NSW said there were defects in the construction of their building.

The high-profile Opal failure, which has dominated news headlines since Christmas, reveals shortcomings in Australian construction that show the [vulnerability of builders and subcontractors](#) who create these buildings as well as the [lack of protections for the consumers](#) who buy them.



The Opal Tower in the Sydney Olympic Park in Sydney was evacuated on Christmas eve. **Mick Tsikas**

"This is a David & Goliath fight no owner expects, or should be expected, to enter into," says Owners Corporation Network executive officer Karen Stiles.

"But they are left by a broken system to fend for themselves."

Louise Stewart, a spokeswoman for the Australian Subcontractors Association, whose members typically complete 90 per cent of the work on a building but who frequently suffer from delayed or incomplete payment, says the financial setup of the industry can encourage shoddy work.

"What we're seeing in Opal Tower is that there are systematic issues with how the building has been constructed," Stewart says. "This comes down to the quality of workmanship on the projects."

Even tracking buildings with defects is a hard task – owners are often subject to private settlements that demand confidentiality of them.

But here are some of examples of building defects that are recent, well-known, or which have in themselves shaped the legal environment now confronting Australia's growing legion of apartment owners.



Chatswood's Chelsea Tower: A landmark High Court ruling in 2014 found developers owned no duty of care to apartment owners.

### **Chelsea tower, 10-18 Railway Street, Chatswood, Sydney**

Residents of the 22-storey tower built in 1998 sued builder Brookfield Multiplex for about \$10 million a decade after completion for defects in the building including defective external render,

corroding metal cowlings on fire services shutters and a spa on level 1 that leaked into the function rooms. The owners lost their first case in the [NSW Supreme Court](#) in 2012, [won on appeal](#) in 2013 and then lost in the [High Court](#) in 2014 when [that court found the builder owed the owners no duty of care](#) over defects after the six-year period had already ended. Since that time, no state or territory government has passed legislation to ensure owners had protection for defects. State-based statutory warranty insurance schemes exist for set periods after completion, but no building insurance exists for dwellings above three storeys in height.

### **16-30 Bunn Street, Pyrmont, Sydney**

In 2009, the City of Sydney issued a rectification order for [a 40-unit apartment block in Pyrmont](#), ordering residents out while the 2001 building was brought into compliance with fire safety requirements. Residents then suffered a years-long wait [after disagreeing with government insurer BIG Corp on the extent of repairs](#). The original builder, BJ Metro Pty Ltd, was deregistered in 2008 and its principals could not be found by a lawyer working for residents. All works were finally completed in 2015, a city spokesman said.



Mark Terry, a resident of the Bunn Street building, had already been forced to live out of the building for three years by the time this photo was taken in 2012. **Dean Sewell**

### **Palermo, Baywater and Savona Drive, Hill Road and Nuvolari Place, Wentworth Point, Sydney**

Owners at private developer Payce Consolidated's Wentworth Point apartment complex Palermo in Sydney's west - a complex with 245 units across four buildings - suffered defects including fire safety issues and water leaks after it was completed in 2007.

The owners lodged a claim against builder Southern Cross Constructions (NSW) in 2014 but the company had gone into liquidation in 2012. Payce said while the builder was obliged to rectify defects - mainly related to fire dampers, mechanical ventilation/exhaust fans in bathrooms and

laundries and waterproofing - it negotiated and settled a \$2.5 million defects claim by owners in April 2017.

### **Centenary Park, 81-86 Courallie Street, Homebush West, Sydney**



World Tower on Sydney's Liverpool Street. Developer Meriton counter-sued World Tower's owners when they claimed for defects against the developer between 2011 and 2013. **Bob Pearce**

One of the largest stratas in the country, [with about 1000 units, Centenary Park](#) is a sprawling gated community also situated in Sydney's west, next to the Sydney Flemington Markets.

The property suffered from poor management including congestion, overcrowding, excessive Airbnb lettings, soiled and leaking carparks as well as overflowing rubbish bins from the time residents first moved into the staged development in 2014.

The property also suffered cracking roads, chipped walls and water damage.

NSW Fair Trading issued the developer with a series of orders to fix gas water heaters, cracked tiles and facades and collapsing stairs between April and June 2017 with a deadline for compliance in August 2017. Fair Trading said the orders were complied following an inspection.

Lacrosse Tower: The 21-storey residential building in Melbourne's Docklands has become the Australian symbol of the combustible cladding crisis. **Wayne Taylor**

Since October last year, however, residents say an elevator in one of the buildings has consistently broken down.

The developer is Raad Group, also known as Lansari. It acquired the site adjoining a former quarry pit from Telmet Ventures, whose directors are also Payce's chairman Brian Boyd and his brother Garry.

### **World Tower and other Sydney CBD towers**

Apartment developer [Meriton counter-sued World Tower's owners](#) when they claimed for defects against the developer between 2011 and 2013.

World Tower is one of the earliest tall residential towers in Sydney's CBD. Owners accused Meriton of neglect and breach of contract over building defects and maintenance issues worth more than \$1 million.

Meriton had awarded itself the caretaker contract for 10 years after it completed the development in 2004.

Meriton was served with at least 15 official breach notices and formal complaints between 2011 and 2013 including flooding problems caused by shoddy work, malfunctioning lifts that frequently trapped residents, faulty fire systems, and defective swipe-card systems that locked residents out of the building.

The City of Sydney council also conducted inspections revealing a range of maintenance issues.

The *Australian Financial Review* approached Meriton for an update on the tower but did not receive a response.

Meriton was also sued by the City of Sydney after it failed to fix potential fire hazards in three of its city apartment blocks, Regis Towers in Castlereagh Street, the Summit in George Street and the Mirage in Bunn Street, Pyrmont.

Late in 2002, Meriton agreed to co-operate and signed deeds to fix the problems. Owners at the 653-apartment Regis Towers went ahead to sue Meriton for the defects in the NSW Supreme Court, but dropped the case in late 2003.

### **Cladding - Lacrosse Tower, 673 La Trobe St, Docklands, Melbourne**

The [21-storey residential tower in Melbourne's Docklands](#) is not the only example, but it has become the Australian symbol of the combustible cladding crisis due a potentially catastrophic fire that raced up one side of the building in the early hours of 25 November 2014.

The LaTrobe Street tower was covered in polyethylene-core aluminium panels - similar to the material on [London's tragic Grenfell Tower](#) - and apartment owners have fought both with and against builder LU Simon in the intervening years as [they tried to settle - with the City of Melbourne - upon a way to mitigate risks](#) of the problematic cladding and to then replace the potentially dangerous material.

A \$24 million damages hearing in the Victorian Civil and Administrative Tribunal by the Lacrosse owners corporation against LU Simon over the cladding the residents say failed to comply with the National Construction Code [wrapped up in October](#), but has not yet received judgment. Late last year, however, [LU Simon started replacing the PE-core cladding](#) under a \$5.6 million agreement with the owners that will be offset against any ultimate damages award.

### **Cladding - 59-65 Stawell Street, Richmond, Melbourne**

Builder [Hickory Group put subsidiary H Buildings into voluntary administration](#) in August last year, just days before it was due to face a \$13 million tribunal claim to replace the combustible cladding on four residential buildings. Calling in the administrator halted the claim by the 133 owners of apartments in the development in Melbourne's inner eastern Richmond against the builder. H Buildings faced 13 defects claims in total, all of which could go nowhere when it went into administration.

### **Cladding - 45 Bowman Street, Pyrmont, Sydney**

Residents of the 19-storey tower containing 200 units last year [estimated they would have to pay about \\$7 million](#) to replace the combustible cladding that covered 30 per cent of their building.

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