29 August 2017

Standards Australia
GPO Box 476
Sydney NSW 2001

OCN Comments on DR AS 4349.2:2017
Prepared by Banjo Stanton

Dear Sir/Madam

Strata is the fastest growing form of residential property ownership in Australia. Over half the new dwellings to be built in our metropolitan areas over the next decades will be strata titled. The growth of this sector raises increasingly important questions over property ownership and governance.

The Owners Corporation Network of Australia Limited (OCN) is the peak body representing residential strata and community title owners and occupiers. OCN is therefore the key consumer voice in this review. OCN notes that no consumer groups were represented on the committee developing the standard despite consumers being the stakeholders most affected by the matters being considered.

OCN’s particular interest in AS 4349.2:2017 (standard) is due to the NSW Government considering deferring to the standard as setting out the form and requirements of interim reports and final reports issued as part of the new building defects bond regime set out by Part 11 of the Strata Schemes Management Act 2015 (NSW) (NSW building bonds).

The workability and effectiveness of the NSW building bonds is dependent upon appropriately clarifying what a building inspector has to do in preparing the interim and final report.

The standard is being prepared for a national application. The standard therefore sets out to accommodate the requirements of different objectives and legislation frameworks across the states and territories.

As a starting point it is clear that the objectives of the NSW building bonds can only be satisfied by a document that is prepared for the sole purpose of clarifying what is required for the NSW building bond regime.
The standard has started heading in that direction by including an appendix D to apply to ‘Inspections related to release of bond’. However, there are inconsistencies between that appendix and the rest of the standard. Even if a building inspector for the NSW building bonds realises that there is a need to refer to appendix D specifically (buried at the back of the standard), it is inevitable that building inspectors will be confused as to what is required due to what is said in the rest of the standard.

Appendix D must be an entirely stand-alone document for the purposes of NSW building bonds inspections, with the standard making it extremely clear that NSW building bond inspectors should only refer to appendix D and completely ignore the rest of the standard. That is the first change proposed by this submission. All of the standard except appendix D should have absolutely no application to inspections for NSW building bonds.

The comments below are provided on the basis that, if the standard is to apply to NSW building bonds inspectors at all, then appendix D will be the only part of the standard that applies.

Sincerely

Karen Stiles
Executive Officer

c.c. The Hon Victor Dominello, NSW Minister for Finance
    The Hon Matt Kean, NSW Minister for Innovation & Better Regulation
Due to the multiple objectives of the standard, there is a disconnect between the definition of ‘defective building work’ in Part 11 of the *Strata Schemes Management Act 2015 (NSW)* (*SSMA*) and the definitions in the standard for ‘defect’. That is an unnecessary recipe for confusing NSW building bonds inspectors who should only be assessing for the existence ‘defective building work’ as defined in Part 11 (section 190).

It is inappropriate for there to be no steps taken in the interim report to assist with ensuring that the repair work to be undertaken by the builder adequately addresses the identified defects. For the sake of owners and builders, the interim report should specify the repair works that the builder (who will not itself be a specialist remedial works contractor) should undertake and, where appropriate, identifying hold points in the repair work beyond which the contractor cannot progress without the inspector first checking the adequacy of the work done up to that hold point (e.g: hold point for inspector to witness satisfactory flood testing of a new membrane before it is tiled over).

Replace all with:

‘The purpose of an inspection carried out in accordance with this Appendix is to meet the requirements of Part 11 of the *Strata Schemes Management Act 2015 (NSW)* (*SSMA*) for an interim report or a final report required under Part 11. The inspection is to assess the construction to determine the extent of ‘defective building work’ present, as defined in section 190 of the SSMA, and to develop a scope of necessary rectification works (including hold points for inspections by or on behalf of the inspector) and, for a final report only, the estimated cost of such works.’

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<tr>
<th>Clause</th>
<th>Comment Detail</th>
<th>Proposed Change</th>
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<td>D2</td>
<td>Due to the multiple objectives of the standard, there is a disconnect between the definition of ‘defective building work’ in Part 11 of the <em>Strata Schemes Management Act 2015 (NSW)</em> (<em>SSMA</em>) and the definitions in the standard for ‘defect’. That is an unnecessary recipe for confusing NSW building bonds inspectors who should only be assessing for the existence ‘defective building work’ as defined in Part 11 (section 190). It is inappropriate for there to be no steps taken in the interim report to assist with ensuring that the repair work to be undertaken by the builder adequately addresses the identified defects. For the sake of owners and builders, the interim report should specify the repair works that the builder (who will not itself be a specialist remedial works contractor) should undertake and, where appropriate, identifying hold points in the repair work beyond which the contractor cannot progress without the inspector first checking the adequacy of the work done up to that hold point (e.g: hold point for inspector to witness satisfactory flood testing of a new membrane before it is tiled over).</td>
<td>Replace all with:</td>
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| D4     | It is inappropriate for it to be left to the inspector and the developer to be able to agree amongst themselves upon:  
   1. The scope of the inspection;  
   2. The arrangements and process for access to units;  
   3. The report contents; or | ‘The purpose of an inspection carried out in accordance with this Appendix is to meet the requirements of Part 11 of the *Strata Schemes Management Act 2015 (NSW)* (*SSMA*) for an interim report or a final report required under Part 11. The inspection is to assess the construction to determine the extent of ‘defective building work’ present, as defined in section 190 of the SSMA, and to develop a scope of necessary rectification works (including hold points for inspections by or on behalf of the inspector) and, for a final report only, the estimated cost of such works.’ |
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<th>4. Any provisions limiting the inspector’s liability for any failures by the inspector.</th>
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<td>D5.1(f)</td>
<td>The interim report scopes of rectification work should include hold points in the repair work beyond which the contractor cannot progress without the inspector first checking the adequacy of the work done up to that hold point (e.g., hold point for inspector to witness satisfactory flood testing of a new membrane before it is tiled over).</td>
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