

WORK HEALTH & SAFETY

In NSW the Work Health & Safety (WHS) Act 2011 replaced the Occupational Health & Safety Act 2000.

The main objective of these new laws was to provide a consistent framework (rule book) to ensure workers' health, safety, and welfare are at a high standard.

The WHS Act covers a wide range of areas, including asbestos, confined spaces, hazardous chemicals and general safe work practices.

This new Act sets out different requirements for buildings containing residential units and buildings with commercial-type lots. The WHS Act is complex and places many conditions on the building to comply. Failing to do so puts the building and its owners at risk for not acting diligently to identify and manage risks and hazards.

Commercial & Mixed-Use Buildings

Buildings with a commercial or retail lot are considered a workplace and must comply with the WHS Act by undertaking a WHS Report.

Residential

Buildings made up of strictly residential units are exempt from the Work Health & Safety laws in the same way people who live in houses are unless they directly employ someone to work for them, e.g. caretaker, building manager, etc.

While residential buildings are exempt, owners still have a responsibility and duty of care to maintain the common property in good and serviceable repair in accordance with the Strata Schemes Management Act.

Recommended Action

Legal action resulting from slips, trips and falls can be brought against the owners of any building, whether commercial, mixed-use or residential.

It is common practice that owners of multi-dwelling buildings seek advice from a WHS Consultant by performing regular WHS Reports ensuring the health and wellbeing of residents and tradespersons who visit the site to complete work.

Whether the building is commercial, mixed-use or residential, it is recommended advice be sought from a WHS Consultant on an annual basis to assess the risks associated so that the required management of these risks can be eliminated or minimised where possible.

Insurance companies can look favourably at buildings that proactively manage risk. This may allow the acting Insurance Broker of the building to negotiate better renewal terms relating to excesses and premiums.

What to expect from a WHS risk inspection and report

A WHS Consultant would visit the building and complete an assessment of the common areas, including stairways, pathways and carparks. They will then provide a report on identified risks and hazards with accompanying photos and other information as required. This report would contain recommendations and guidance for the Owners Corporation to eliminate or reduce these risks and hazards.

Further Information:

<http://www.workcover.nsw.gov.au>

<http://www.safeworkaustralia.gov.au>

Disclaimer: The articles and comments in this Fact Sheet are necessarily brief and general in nature and are not intended to be relied upon by any reader in dealing with a particular problem. Whilst all care has been taken in the preparation of this publication the writer and the producers accept no liability for any omission or misguidance. Liability limited by a scheme approved under Professional Standards Legislation.