

PERIODIC BUILDING INSURANCE VALUATIONS GONE!

On 1 March 2016 the NSW Parliament made sweeping amendments to legislation regulating valuers. This included amendments to the strata and community schemes legislation that managed to sneak through under the radar. Now an owners corporation or community association is no longer required to obtain a building valuation for insurance purposes every five years.

Introduction

In September 2014 the Independent Pricing and Regulatory Tribunal of New South Wales (**IPART**) undertook a review of licensing in New South Wales. The review aimed to assist the NSW Government achieve its target of \$750,000,000 in reduced “red tape” for business in the community by June 2015. In its report IPART recommended ending the requirement for real estate valuers to be registered under the *Valuers Act 2003*.

The Legislative Change

In late 2015, the NSW Parliament adopted IPART’s recommendations and passed the *Regulatory Reform and Other Legislative Repeals Act 2015 (Reform Act)*. The Reform Act became law on 1 March 2016. Under the Reform Act, registration of NSW valuers ceased from 1 March 2016 and the *Valuers Act 2003* was repealed.

Impact on Strata and Community Laws

However, the Reform Act made consequential amendments to the strata and community schemes legislation. Before the Reform Act, the legislation required a community association, neighbourhood association and owners corporation to obtain a valuation of any building that was required to be insured under the legislation at least once every five years. That valuation generally needed to be carried out by a registered valuer.

Changes to Strata and Community Laws

The Reform Act amended the *Community Land Management Act 1989* and the *Strata Schemes Management Act 1996* by omitting the requirement for five-yearly valuations of buildings situated on association property (such as community property or neighbourhood property) or common property. Therefore, an owners corporation or community association is no longer required to obtain a building valuation for insurance purposes every five years.

Rationale for Changes to Strata and Community Laws

The requirement for five-yearly valuations of those types of buildings was originally included in the strata and community schemes legislation for the purpose of determining the minimum amount for which those buildings must be insured against damage or destruction by fire or other risks. The NSW Government considered that the requirement for five-yearly building valuations for insurance purposes is now redundant because the strata and community legislation provide that the minimum amount of insurance cover is to be determined by adding up estimates of costs that would be incurred in replacing strata and community buildings.

JS Mueller & Co

Level 1, 240 Princes Highway, Arncliffe NSW 2205

P. 02 9562 1266 | F. 02 9567 8551

E. enquiries@muellers.com.au W.muellers.com.au

DX 25315 Rockdale

How Does it Now Work?

So, for example, from 1 March 2016, the amount for which a strata building must be insured under a building damage policy generally must be at least:-

- The estimated cost, as at the date of commencement of the damage policy, of:-
 - Carrying out the work involved in rebuilding the building or replacing the building with a similar building in the event of its destruction; and
 - Making the payments to cover expenses incurred in the removal of debris and for the remuneration of architects and other persons whose services are necessary to enable the rebuilding or replacement of the building;
- The estimated amount by which the expenditure referred to above may increase during the period of 18 months following the date of commencement of the damage policy.

The Wash Up

Obviously an owners corporation or community association will not know the amount for which it will need to insure its building unless it obtains a report from a valuer or quantity surveyor to estimate the costs that need to be covered by the building insurance policy. Therefore, despite the changes to the law made by the Reform Act, in practice, nothing should change, and an owners corporation or community association should still periodically obtain a building valuation report for insurance purposes to calculate the amount for which its building should be insured under a building damage policy.

Adrian Mueller
Senior Lawyer
B.Com LL.B FACCAL

P. 02 9562 1266
E. AdrianMueller@muellers.com.au
S. <https://www.linkedin.com/in/adriansmueller>

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About JS Mueller & Co

JS Mueller & Co is a specialised firm of strata lawyers with over 130 years' combined knowledge and experience in all aspects of strata law. We have been resolving development, statutory, commercial and contractual issues within the strata industry since 1983. Our experience and expertise brings valuable service to our clients that consistently exceed expectations. Working with property developers, owners corporations, executive committees, strata and building managers through to large scale commercial developers. We are there to assist you every step of the way.

P. 02 9562 1266

E. enquiries@muellers.com.au

W. muellers.com.au



<https://twitter.com/JSMuellerCo>

<http://www.linkedin.com/company/j-s-mueller-&-co>

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