



**NATIONAL INSURANCE BROKERS ASSOCIATION OF AUSTRALIA (NIBA)**

**COMMENTS ON NEW SOUTH WALES “MAKING NSW NO. 1 AGAIN: SHAPING  
FUTURE COMMUNITIES” STRATA & COMMUNITY TITLE LAW REFORM  
DISCUSSION PAPER**

**ABOUT NIBA**

NIBA is the voice of the insurance broking industry in Australia. NIBA represents 500 member firms and over 2000 individual Qualified Practising Insurance Brokers (QPIBS) throughout Australia.

Brokers handle almost 90% of the commercial insurance transacted in Australia, and play a major role in insurance distribution, handling an estimated \$16 billion in premiums annually and placing around half of Australia’s total insurance business. Insurance brokers also place substantial insurance business into overseas markets for large and special risks.

Over a number of years NIBA has been a driving force for change in the Australian insurance broking industry. It has supported financial services reforms, encouraged higher educational standards for insurance brokers and introduced a strong independently administered and monitored code of practice for members. The 500 member firms all hold an Australian financial services (AFS) licence under the Corporations Act that enables them to deal in or advise on Risk Insurance products.

NIBA appreciates the opportunity to be able to provide these comments on the New South Wales Government Strata & Community Title Law Reform discussion paper *Making NSW No.1 Again: Shaping Future Communities* dated 15 September 2012.

**ABOUT INSURANCE BROKERS**

**The role of insurance brokers**

The traditional role of insurance brokers is to:

- assist customers to assess and manage their risks, and provide advice on what insurance is appropriate for the customer's needs;
- assist customers to arrange and acquire insurance; and
- assist the customer in relation to any claim that may be made by them under the insurance.

In doing the above the insurance broker acts on behalf of the customer as their agent. Insurance brokers offer many benefits to customers and consumers:



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- assistance with selecting and arranging appropriate, tailored insurance policies and packages
- detailed technical expertise including knowledge of prices, terms and conditions, benefits and pitfalls of the wide range of insurance policies on the market;
- assistance in interpreting, arranging and completing insurance documentation;
- experience in predicting, managing and reducing risks; and
- assistance with claims and a higher success rate with settlements (about 10 per cent higher than claims made without a broker).

In limited cases insurance brokers may act as agent of the insurer not the insured but where such a relationship exists the customer is clearly advised up front.

#### **EXECUTIVE SUMMARY**

NIBA supports the thrust of the discussion paper and that changes to the Act as to insurance requirements are worthwhile. In particular, NIBA supports:

- a change to reduce the re-valuation period from 5 years;
- insurance and valuation details on AGM notices;
- encouragement of higher excesses;
- an increase in the minimum public liability cover.

While the questions understandably concentrate on minimum standards, they also demonstrate the need and benefit for owners corporations to have access to advice from an insurance broker, to provide further advice and information on types and levels of cover and excesses.

#### **NIBA DETAILED COMMENTS**

NIBA sets out its comments below on each of the questions raised for public discussion in the paper.

<b>Question 57: Should the requirement for valuations every 5 years be kept or changed?</b>
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The *Strata Schemes Management Act 1996 (NSW) (Act)* requires an owners corporation to insure its strata building on a rebuilding and replacement basis, and for at least the value of the building indicated by the last valuation required under the Act.

NIBA believes that, as a principle, that an owners corporation should be insured for an amount that *in fact* allows for the rebuilding and replacement of the building following a major loss.

The Act currently does not necessarily provide this outcome, as the discussion paper reflects, due to the insured value being out-dated by up to 5 years.



Accordingly, NIBA supports both:

- a change to reduce the current re-valuation period from 5 years; and
- a prescribed indexation formula by which the insured value would need to increase each year between valuations.

NIBA is not qualified to comment on the optimal frequency, but 5 years appears a very long period over which building costs could increase. NIBA appreciates that this needs to be balanced with the corresponding increase in valuation costs. The annual indexation would help the insured value keep pace with increases in building costs between valuations.

**Question 58: Should insurance and valuation details be on the notices for each AGM?**

As with question 57 above, this question relates to periodic valuations for building insurance purposes.

NIBA believes that insurance and valuation details should sensibly be included on AGM notices. For lot / unit owners, insurance is a material issue.

However, NIBA believes that this should be done as a separate measure, and not in place of a reduction in the re-valuation period or an annual indexation.

NIBA appreciates that any additional disclosure is likely to focus attention on insurance. However, NIBA also believes it highly unlikely that any individual lot / unit owners would be able to compare the level of building insurance by this alone. It is difficult enough for the owner individual dwelling to estimate their replacement value (without outside assistance), let alone a building the size and scale of a strata or community title building.

**Question 59: What items should the law require to be covered by scheme insurance policies?**

The discussion paper raises whether the types of items required to be insured under the Act should be changed to remove, for example, owner improvements and fixtures.

NIBA has concerns about this approach for these reasons:

- any decrease in premiums would depend on the ratio of insured value attributable to these types of fixtures and improvements, compared to the building and common property;
- this step would move the cost to lot owners and thereby create risks of gaps or underinsurance for lot owners; and



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- under the proposed approach the demarcation between what an owners corporation and individual lot owners need to insure may be more problematic in practice, because some fixtures would be part of the building and some would not.

NIBA supports retention of the mandatory insurance of the additional items, including removal of debris and architects fees.

**Question 60: Should schemes be encouraged or required to have a higher insurance excess?**

As NIBA understands it, the Act does not prevent an owners corporation from having a higher excess.

However, the discussion paper points out that many owners corporations have a modest excess and that this may impact on their premiums.

NIBA supports that the principle that higher excesses should be considered by owners corporations, and that this could help to reduce premium costs.

NIBA doubts that a minimum excess should be prescribed, but the Act could provide that the excess is a required insurance matter to be considered.

As noted above, this is also an area where owners corporations have a need for and can certainly benefit from advice from insurance brokers. The advice can include the extent to which a higher but still reasonably modest excess might reduce the premiums, and the impact of the size of the excess on claims.

**Question 61: How could the law give schemes more flexibility over their insurance requirements?**

NIBA believes that insurance is an important matter for lot owners and should not lightly exempted.

Therefore, NIBA generally supports the approach of the current Act, and with the avenue for an application to a strata Adjudicator.

NIBA cannot comment on every situation, but even on lots where there are no common buildings there may be structures and all lots also require some public liability insurance.

**Question 62: Should the cost of insurance be shared only on the basis of unit entitlements?**

NIBA can see the utility of being able to adjust premium contributions, such as where one or more lots are commercial premises. Commercial uses generally involve greater insurance risks than residences.

However, NIBA believes that overall this is a question for lot holders to comment on.



**Question 63: Is there a need to increase the minimum public liability cover for schemes? If so, what should be the amount?**

NIBA supports some increase in the minimum public liability cover, subject to there being capacity in the insurance market to insure for the higher level.

Although strata developments vary in size and scale, they are generally multiple occupancy residences and with a variety of public liability risks. Many developments have increased risks via swimming pools, car parks, stairwells and lifts.

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If you would like to discuss any aspect of this matter further do not hesitate to contact us.

**Dallas Booth**

**Chief Executive Officer**

**National Insurance Brokers' Association of Australia**