

Applicable legislation

The requirement for a five yearly insurance valuation is stated in the Standard Module regulation s181 and the Small Schemes Module regulation s115. The clause is the same in both modules.

Valuation for insurance purposes

- (1) This section applies if, under this part, a body corporate must insure 1 or more buildings for full replacement value.*
- (2) The body corporate must, at least every 5 years, obtain an independent valuation stating the full replacement value of the building or buildings.*
- (3) The owner of each lot included in the community titles scheme is liable to pay a contribution levied by the body corporate for the cost of the valuation of the building or buildings that is proportionate to the amount of the premium for reinstatement insurance for the building or buildings for which the owner is liable under this part.*
- (4) The contribution that the owner of a lot is liable for may be recovered by the body corporate as part of the owner's annual contribution to the administrative fund.*

Independent Valuation

When a scheme is first established, the independent valuation obtained by the original owner must be completed by a registered valuer or quantity surveyor (s191 Act). However, subsequent five yearly valuations need only be 'independent' and the regulations do not specify who may provide the valuation. Lot owners and their relatives and friends would not be considered independent.

Insurance companies and Insurance brokers could be considered independent, but these organisations do not furnish a Body Corporate with an independent written valuation. They are not skilled in the art of valuation. There can be confusion for Committees because Insurers usually automatically increase building valuations year on year. They do this in line with one of the CPI indicators (eg. Queensland construction index). However, this should not be construed as providing a valuation.

Tracsafe recommendation

We recommend that an expert experienced in quantity surveying be used to undertake an independent valuation every five years. The best time to undertake this valuation is just prior to an insurance renewal. This is because the Insurer will use the valuation provided as the basis for the insured amount. If you advise the insurer at other times of a year, the insurer will immediately take that valuation into consideration and potentially adjust your premium and request a premium topup (if the independent valuation exceeds the current sum insured).

The regulations require the most recent independent valuation to be stated in the AGM documentation each year. In the same documentation, you should expect to also have disclosed the current (or soon to be renewed) insurance policy with the insured amount. As already explained, these two amounts may differ. It is at the Body Corporate's / Committee's discretion/peril to resolve to advise the Insurer of their own insured amount despite any independent valuation and any incremental adjustments made by an Insurer.

Consequences

The worst case scenario is a catastrophic event that requires the entire building on scheme land to be demolished and rebuilt. When an expert makes a valuation for the purposes of insurance replacement, they make allowance for demolition costs and removal, current building costs as at the date of valuation, allowance for cost escalation during the planning, tendering, construction and final fit out stages, an allowance for professional fees. After the catastrophe, the insurer is responsible to undertake the demolition and rebuild. If the total cost exceeds the building sum insured, the Committee can have some comfort that there is a current valuation in place by an acknowledged expert. Legal action against the expert's professional indemnity insurance may be an option. Legal action from disgruntled lot owners against the Committee should not be expected where five yearly independent valuations (as required by the Act) have been procured and used as the basis for insurance replacement.

Can the Committee authorise an independent valuation outside of an AGM

The cost of a valuation will usually be within the minor spending limit of the Committee. In cases where the valuation is out of date, the Committee has an obligation to act in the Body Corporate's best interest and to comply with the Act (refer Schedule 1A BCCM Act). The Committee may be able to identify an appropriate budget item that permits the Committee to authorise the expenditure without exceeding the budgeted expenditure. If not, the valuation may need to wait until funds are allocated in a subsequent year. If considered urgent, a special levy could be raised to fund the work in a shorter time period.

In schemes, where lot owners do not pay equal insurance premiums, an administrative fund Insurance budget item should be used so that an associated insurance levy will reflect correctly the cost impact for each lot owner (STD reg s181(3)). In other cases, we are comfortable with the expenditure being assigned to a sinking fund account (such as Asset replacement) as permitted by the regulation (STD s148(1)(c)) as this expenditure is applicable to the longer term health of the Body Corporate assets. There would need to be unexpended sinking fund budget available in the current financial year of the scheme.