

Valuations
Best Practice
Standard Operating Procedure
New South Wales 2023



**STRATA COMMUNITY
INSURANCE**

Best Practice

Standard Operating Procedure

At Strata Community Insurance, a key focus is to share our 'Strength of Experience' and advocate and educate the Strata Industry. Valuations are a vital tool in mitigating underinsurance and a professional valuer is worth the investment. A credible valuation will take into account prospective building costs, planning approvals, and include incidental costs and GST requirements. We're committed to protecting your interests and liabilities, and those of your owners corporation customers.

This best practice Standard Operating Procedure on valuations has been produced for the benefit of strata managers and their customers.

Why are valuations important?

A professionally qualified valuer is key to determining the insurance amounts required for each jurisdiction.

While valuations for insurance purposes are mandatory in some jurisdictions, even where valuations are optional they are the most practical way for owners to ascertain with a degree of certainty that they are meeting their legal obligations.

In the absence of professional assistance owners face an onerous task, involving complex and technical calculations, to determine the amount for which a building is to be insured. This leaves them exposed to possible uncapped financial exposures to the unlimited liability of the owners corporation.

Introduction to the Standard Operating Procedure

We have taken a comprehensive approach to designing a Standard Operating Procedure covering all aspects of the valuation process, from initially engaging with a valuer through to issuing instructions to your customer's preferred insurance partner.

The Standard Operating Procedure is made up of four broad components:

1. Engaging with valuers and obtaining instructions from the owners corporation
2. Providing instructions to the valuer
3. Reviewing valuations and advising the owners corporation
4. Providing instructions to the preferred insurance partner

These four major components are described in more detail and in sequential order below. Each component has associated template wordings that can be found as appendices to this document.

As always, it is important that details of any discussions are adequately recorded and minuted.

The cost of arranging a valuation for insurance purposes is normally included in your annual fee. Your fee structure is based on time, therefore the less time you take to complete the task, the more profit you will achieve. It is not known how much time you allowed in your fee structure to complete the valuation process, but profitability dictates the exercise must be completed within the time allocated to complete the valuation exercise.

We have designed the valuation procedure and templates to ensure the time involved is kept to the minimum.

The Standard Operating Procedure

1. Engaging valuers and obtaining instructions from the owners corporation

Setting clear expectations with a new valuer (or with your existing panel of valuers) will inform any submission you make to your owners corporation customers, and support their instructions to you to appoint a particular valuer on their behalf.

a. Engaging valuers

You should meet with two to three valuers to review and discuss the work order, which establishes the standard scope of work for the valuer to complete. The intent of this process is to ascertain the business model and relevant business information of the valuer, determine their suitability or otherwise for your panel of providers (best practice is to have at least two valuers), and set clear requirements and parameters from the outset including reaching agreement on whether your customer's work order scope can be fulfilled. This one-off process will ensure all necessary information as to the valuer's suitability is available, and you can make a recommendation accordingly to your owners corporation customer. Thus the cost of this process should be amortised over your total number of customers. The meetings should take no more than two hours each.

Appendix 1 'Submission to Valuers' includes the relevant information that should be sought from valuers.

Appendix 5 'Work Order – Instructions to the Valuer' provides an example standard template work order.

Note: there are varying levels of expertise and service from different valuation professionals. It is worth reviewing the extent of their offering, including their experience, standard disclaimers and limitations, extent of insurance coverage and method of charging.

b. Submission to the owners corporation and obtaining instructions

The intent of this process is to:

- Advise your owners corporation customer of their statutory obligations with respect to insurance requirements under their governing legislation;
- Provide sufficient information relating to the valuer(s) to allow them to make a confident, informed decision as to which service provider to appoint – and on what terms; and
- Allow the strata manager to obtain specific instructions from the owners corporation to appoint a valuer.

All discussions should occur via telephone or email (with return written instructions, via email, from the owners corporation).

Appendix 2 'Submission to the owners corporation' provides a template for advising your customers of their legal obligations, and providing relevant business information concerning prospective valuers.

Appendix 3 'Instructions to the Manager' provides a template instruction to be provided by the owners corporation to the strata manager, confirming their preferred valuer for appointment.

2. Providing instructions to the valuer

Once an instruction to appoint a particular valuer has been received from your owners corporation customer, it is important to effectively communicate to the valuer the fact of their successful appointment and any relevant terms.

Appendix 4 'Confirmation to the Valuer' provides a template confirmation for you to provide to the valuer, confirming their appointment in terms of the agreed work order.

Appendix 5 'Work Order – Instructions to the Valuer' provides an example standard template work order, which should be attached to any instructions issued to the valuer per Appendix 4.

3. Reviewing valuations and advising the owners corporation

Once you receive a completed valuation from the appointed valuer, best practice will include – prior to on-forwarding to your owners corporation customer:

- Checking the valuation report against the original instruction and work order to ascertain whether the report suitably covers all matters;
- Consider any significant disclaimers contained in the valuation report to ensure the valuer has not effectively 'contracted out' of the agreed scope of work;
- Discuss any such disclaimers – and any other notable limitations with respect to the report – with the valuers and ask for their removal or amendment within reason.

Once the above review has been completed, the final valuation report can be provided to your owners corporation customer. The accompanying communication should:

- Highlight any areas of concern identified in the report;
- State clearly that the owners corporation must read the report in full and seek clarification if any aspect is not clear; and
- Request the owners corporation to provide you with formal instructions based on the report.

This communication is also your opportunity to remind your owners corporation customer of their legal obligations with respect to insurance requirements, the dangers of underinsurance and their potential exposure to financial liability in the event of any shortfall in insurance monies to reinstate or replace loss or damage. It is important to emphasise that the owners corporation should consider any disclaimers and shortcomings contained in the report in arriving at the ultimate sum insured for insurance purposes in accordance with their legal obligations.

Appendix 6 ‘Advising the owners corporation’ provides a template communication addressing the above matters, which should accompany any valuation report forwarded by you to the owners corporation.

4. **Providing instructions to the preferred insurance partner**

Once the owners corporation has agreed on sums insured appropriate to satisfy their legal obligations, you should obtain an instruction from them for passing on to their preferred insurance partner (direct insurer, underwriting agency or insurance broker).

Appendix 7 ‘Instructions to preferred insurance partner’ provides a template instruction that can be provided to you by the owners corporation, for on-forwarding to the appropriate insurer, underwriting agency or insurance broker.

A note on the Appendices

The template documents and communications appearing in the following appendices include, in a number of areas, highlighted text appearing in brackets such as:

<abc xyz>.

Where this occurs it indicates information that you need to complete, but which is variable depending on your own circumstances and those of your owners corporation customer in the particular circumstances.

Appendix 1: Submission to Valuers

Information required

- Are you a member of the Australian Property Institute?
 - If not, are you a member of another similar body/organisation?
- Are you a member of Strata Community Association?
- Details of your current valuer's license:
- In regard to your insurance cover, please provide the following information:

[a] Professional Indemnity Insurance

Name of insurer:

Do you use an insurance broker? (If so, who):

Policy number:

Limit of Liability for any one event: \$

Limit of Liability in the aggregate in any one year: \$

Policy excess:

Expiry date of the policy:

[b] Public Liability Insurance

Name of insurer:

Policy number:

Limit of Liability: \$

Expiry date of the policy:

[c] Workers Compensation Insurance

Name of insurer:

Policy number:

Expiry date of the policy:

- Has your company or any of your principal personnel:
 - Been subject to any claim or action for professional negligence or dishonesty?
 - Been charged with or convicted of an offence other than a minor motoring offence?
 - Been fined, disciplined, suspended or expelled by an industry, trade association or industry body?

If you have answered Yes to any of the above, please provide details below:

- Please detail any standard disclaimers/advice limitation clauses you include in your reports:
- On what basis do you charge for your services?
 - If on a per-lot basis, how much per lot? \$
 - Do you have a minimum fee, if so what is it? \$
- After reviewing the attached work order, please confirm whether you will be able to complete the scope of works:

Appendix 2: Submission to the owners corporation

In New South Wales, under the *Strata Schemes Management Act 2015* (NSW) (the **Act**) and the *Strata Schemes Management Regulations 2016* (NSW) (the **Regulations**), the owners have a statutory duty to ensure the building is insured for its full replacement value, allowing for an escalation period of 24 months from the commencement of the policy. The individual owners forming part of the owners corporation have an unlimited joint and several financial obligation in regard to any shortfall in terms of the actual replacement cost compared to the selected sum insured.

Some relevant statutory provisions include sections 160-161 of the Act and reg 39 of the corresponding Regulations, which describe the requirements for the owners corporation to insure all buildings, the common property and owners corporation assets for full rebuilding/replacement value at the time of rebuilding.

These provisions also specify that policies must provide for reinstatement of buildings to their condition no worse or less extensive than when new, and must cover damage and costs incidental to the reinstatement and replacement of buildings, including the cost of removing debris, the fees of architects and other professional advisers as well as escalation costs.

Section 161(3) of the Act specifies that the definition of 'building' includes '*owners' improvements and owners' fixtures forming part of the building*'.

Although the legislation no longer requires the owners corporation to obtain a valuation every 5 years, the most effective way to meet the legislative requirements is to engage the services of a qualified valuer to determine the level of insurance protection required. It is the responsibility of the owners corporation to issue the correct instructions to the valuer. The instructions issued are the critical factor that will determine if the selected sums insured are sufficient, and are the best defence to ensure you are protected with respect to any potential legal dispute or other exposure. A valuer's first line of defence may well be: "I merely completed the valuation as instructed".

We have interviewed a number of valuers to determine their suitability to provide services to the Owners Corporation. Below we provide information on <number of valuers> valuers, and ask that you review this information in deciding which provider you wish to appoint to complete the valuation.

- <Name of valuer>
- They <are/are not> a member of the Australian Property Institute.
- They <are/are not> a member of Strata Community Association.
- The valuer <insert relevant licensing/qualification details, e.g. 'is a certified practising valuer, certificate number 2089'>
- Insurance details
Professional indemnity: <insert details obtained from the valuer, e.g. 'The valuer has a professional indemnity policy with Allianz Insurance Australia Limited, policy number pl6776, expiring on 30th June 2023. The limit of liability for any one event is \$10m and the aggregate in any one year is \$15m. The policy excess is \$10,000 any one event.'>

Public liability: <insert details obtained from the valuer, e.g. 'The valuer has a public liability insurance policy with Allianz Insurance Australia Limited, policy number pll2332 expiring on 30th June 2023. The limit of liability is \$20m.'

Workers compensation: <insert details obtained from the valuer, e.g. 'The valuer has a workers compensation insurance policy with Allianz Insurance Australia Limited, policy number pll2332 expiring on 30th June 2023.'

- The valuer has declared that their company and principal personnel:
 - <Have/Have not> been subject to any claim or action for professional negligence or dishonesty.
 - <Have/Have not> been charged with or convicted of an offence other than a minor motoring offence.
 - <Have/Have not> been fined, disciplined, suspended or expelled by an industry, trade association or industry body.
- The valuer charges on the basis of <insert details e.g. '\$20 per lot'>, and there <is/is not> a minimum fee <of \$x>.
- We detail below/attach the standard disclaimers/advice limitation clauses the valuer includes in their valuation reports. It is important you read and fully understand the ramifications of these provisions being included in any valuation report:

<Either 'N/A' or insert details.>

- The valuer <has/has not> confirmed that they are able to complete the scope of works as set out in the agreed work order. <If valuer unable, include details of limitations.>

<Repeat the above details as relevant for all valuers, if more than one.>

Please carefully consider the information provided above, and advise <which valuer you agree to appoint/if you agree to appoint the valuer> to undertake the agreed scope of works. Please issue an instruction to us, in accordance with our <management agreement/Contract of Appointment>, to appoint the valuer and instruct them to complete the agreed scope of works.

Appendix 3: Instructions to the Manager

The strata committee has discussed the details provided in regard to obtaining a valuation on our building for the purpose of insuring the building in accordance with the *Strata Schemes Management Act 2015* (NSW) and *Strata Schemes Management Regulations 2016* (NSW).

We have examined the information on the valuer<s> provided, including as relates to their credentials, insurance protection, use of disclaimers and advice limitation clauses and their charging practices.

After consideration we agree to appoint <name of valuer>.

We have reviewed the agreed work order and are satisfied it adequately covers those issues that need to be addressed when calculating sums insured for insurance purposes in accordance with the law.

On behalf of the owners corporation please instruct <name of valuer> to complete the valuation in accordance with the agreed work order.

We advise the name of the owner who will be available to arrange access to the individual units (as required) and otherwise deal directly with the valuer is <name of person>.

Please arrange for the valuer to contact <name of person> on <telephone number> to agree on a date and time to complete any inspection(s).

Appendix 4: Confirmation to the Valuer

<Insert insured name> advise that they have agreed to appoint <name of valuer> to complete a valuation report for insurance purposes in respect to <insert risk address>.

The owners corporation accordingly instruct you to complete the valuation in accordance with the requirements of the *Strata Schemes Management Act 2015* (NSW) and *Strata Schemes Management Regulation 2016* (NSW), and instructions contained in the attached work order.

We confirm your previous advice that you will charge on the basis of <insert details>, resulting in a total cost of \$<xxx>.

We confirm your previous advice that all of your required insurances are current and for the amounts you have previously specified, and any relevant qualifications, licenses and registrations remain current.

The nominated contact person for the owners corporation is <name of person>. Please contact them on <telephone number> to agree on a date and time for any inspection(s).

We await receipt of the completed valuation report.

Appendix 5: Work Order – Instructions to the Valuer

We, <insured name or strata manager name depending on who issues the instruction> instruct <name of Valuer> to provide a valuation report for insurance purposes in accordance with the *Strata Schemes Management Act 2015* (NSW) and the *Strata Schemes Management Regulations 2016* (NSW), in respect to <insert risk address>.

We confirm that the owners corporation <is/is not> registered for GST.

The valuation must be calculated taking into account the expiry date of the insurance policy, which is <dd/mm/yyyy>, and must reflect the full replacement cost at the completion of any rebuilding following loss, damage or destruction – that is, at the handover of the building. When calculating this cost, the scope of works must include:

- Allowance for the time it will take to rebuild the building in its entirety, taking into account all required approvals of local councils and other statutory authorities, removal of dangerous materials, delays due to objections from local communities and court appeals, and other relevant considerations.
- Onerous easements, encroachments, zoning issues, flood, landslip, main roads acquisition and restrictions on access.
- The full costs for the removal and disposal of debris (extending to the building and all contents of whatsoever nature contained in the building) and – if present in the building – asbestos, lead dust, lead paint, deteriorated fibreglass insulation, cement and lime dust.
- Any restrictions and demands placed on the rebuilding program owing to heritage classification (including local council, State government and Federal government categories).
- All fees payable to professional people or companies, employed or consulted in the course of the rebuilding or replacement of the building including but not limited to architects, engineers, electricians, surveyors and lawyers, as well as all costs associated with terminating existing schemes, authorisation of new plans and court costs including appeals.
- An allowance to cover the increased costs that will occur as a result of shortage in materials and labour due to a strong building surge, which could occur if a major event or a catastrophe occurred elsewhere in Australia.
- The full amount of GST plus any other applicable taxes.
- A suggestion on a percentage increase which should be included to cover a catastrophe.
- Allowance for increase in CPI and /or CCCI that may occur during the time it would take to rebuild the building completely, if a total loss occurs on the expiring date of the insurance policy on <dd/mm/yyyy>
- Allowance for any upgrades to the insured property to comply with current and relevant construction codes and regulations.
- <Other specific insurance requirements per relevant Act(s), e.g. ‘As the definition of ‘building’ includes owners’ improvements and owners’ fixtures forming part of the building, it is necessary for the value of all such improvements and fixtures to be included in the final valuation figure.>

Please clearly detail at the start of your valuation report, any disclaimers or advice limitation clauses relating to the report.

In addition, please highlight any areas of your report, including particular concerns identified, that the owners corporation should pay particular attention to.

It will be necessary for you to contact <name of person> on <telephone number> to agree on a date and time for any inspection(s) including to gain access to individual units.

We look forward to receipt of your report by <dd/mm/yyyy> to allow time for consultation with the owners corporation and their insurers prior to the upcoming insurance renewal.

Appendix 6: Advising the owners corporation

We attach the valuation report completed by <name of valuer> dated <date>.

This is an important document to assist you in ensuring you meet your legal obligations with respect to insurance requirements under the *Strata Schemes Management Act 2015* (NSW) and the *Strata Schemes Management Regulation 2016* (NSW). Therefore it is essential that you read and fully understand the contents of the report, and seek clarification if any aspect of the report is in your view unclear.

We highlight, and advise that you pay particular attention to, the following areas of the report:

- <important consideration 1>
- <important consideration 2>
- <important consideration 3>

We await your formal instructions as to the amount you wish to insure the building for, which we remind you should reflect the full replacement cost of the building that would apply at the time the building is rebuilt following loss, damage or destruction. In this respect it is worth emphasising that the owners corporation should consider any disclaimers and shortcomings contained in the report in arriving at the ultimate sum insured for insurance purposes in accordance with their legal obligations.

On receipt of your instructions we shall confirm with <name of relevant insurer/underwriting agency/insurance broker> the sum insured you require the building to be insured for.

Appendix 7: Instructions to preferred insurance partner

The owners corporation has considered the valuation report completed by <name of valuer> dated <date>, and have agreed that the replacement value of the building is \$<xxx>.

In accordance with the *Strata Schemes Management Act 2015* (NSW) and the *Strata Schemes Management Regulation 2016* (NSW), our <management agreement/Contract of Appointment> and the instructions of the owners corporation, on behalf of the owners we advise <name of relevant insurer/underwriting agency/insurance broker> that the building situated at <risk address> is to be insured for \$<xxx>.



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