

# Body Corporate Liability insurance



## Body corporate matters

It may come as a shock to body corporate committee members that they can be personally liable for actions and decisions they make as part of the committee. Body corporate committee members are generally not paid for their time and are often on the committee simply 'because no-one else wanted to put their hand up'.

## Why a body corporate committee should buy Body Corporate Liability cover?

Many people accept an appointment on a body corporate committee without fully understanding that it involves serious and onerous duties - conflict and tension can often arise between unit owners and the committee. Being a committee member can be a complex responsibility involving not only an in depth understanding of the body corporate rules but also the relevant statutory regimes.

### What are some of the key points of cover?

#### Definition of insured

Covers the body corporate, its committee members and the chairman.

#### Liability cover

NZI's Body Corporate policy will cover a member for liability arising from a claim for misstatement, acts, errors, omissions, negligence, breach of duty, trust or authority in connection with the performance of their duties under the Unit Titles Act 2010.

#### Advancement of defence costs

Pays defence costs for a claim against the committee member for an investigation or claim alleging conduct that is excluded from cover (for example fraud or dishonesty offences) prior to the final disposition of a claim. The defence costs must be repaid to NZI if found guilty.

#### Court attendance costs

Pays \$500 per day per committee member who is required to attend a Court as a witness in connection with a claim.

#### Defence costs

Paid in addition to the limit of indemnity. Maximum amount payable is \$5,000,000 or the limit of indemnity, wherever the lesser amount.

#### Emergency defence costs

NZI waives its requirement for prior written consent before the committee can incur defence costs provided consent is obtained within 14 days of the first of such defence costs being incurred. Sub-limit of 10% of the amount payable for defence costs.

## Claims examples

- ▶ A claim by several members against the committee alleging abuse and misuse of powers and violation of unit-holders' rights by interfering with quiet enjoyment of their units whilst the units underwent repairs. **\$27,000** in legal costs.
- ▶ Dispute over a scheme arrangement and the fair allocation of the cost of repairs between common property and members' property. There were lengthy delays, cost escalations and an absence of full co-operation between the different unit owners. Legal costs of **\$97,000**.
- ▶ Cost of general exterior repairs to heritage building saw members unable to agree to how the cost of repairs should be allocated. The dispute arose from allocation of the repair cost of common property versus private property. The body corporate rules imposing an obligation on unit owners to repair and maintain exterior walls were found to be ultra vires and outside the Unit Titles Act. **\$123,000** in legal costs.

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