

Don't Blame it on the Rain – 5 Point Action Plan for Building Water Penetration

The recent deluge has provided a serious water resistance test for strata and other buildings. Many buildings have failed that test, with serious water penetration issues being identified and water damage being sustained. Some things for property owners to consider:

1. Lot or common property

If part of a strata scheme, there may be others responsible for the water entry.

Is the cause of the water entry located in the lot or the common property? If in the lot it is the owners responsibility. If the cause is through the common property the owners corporation would normally be responsible.

2. Defective building works

Is defective building work an issue? Entry of water from external sources often indicates defective building work. If your home, do you have a claim against the developer and /or builder, based on the construction contract or the statutory warranties under the Home Building Act 1989? If a strata building, does the owners corporation have such a claim?

If you have experienced such issues, you should obtain legal advice urgently. There are tight time limits for commencing proceedings, which could be about to expire and failure to take action before they expire could result in loss of your rights. For works under contracts dated from 1 February 2012, the warranty period will generally be two years. That is a tight timeframe to identify the defect, let alone pursue legal action.

3. Home owners warranty insurance

If applicable, have you notified the home owner warranty insurance insurer?

4. Home contents policy

Is the damage to your contents covered by your home contents policy?

5. Building policy

Has the building been damaged? If your home, is it covered by your building policy? If a strata building, is the owners corporation doing something about it?

We can assist with these matters and failing to take action can have serious consequences, including loss of rights.

Key takeaways

- Property owners must determine whether water entry is through their lot or common property.
- Defective building work may provide grounds for legal claims against developers or builders.
- Home owners warranty insurance should be notified if applicable.
- Home contents and building policies should be reviewed for coverage of water damage.
- Legal advice should be sought urgently due to tight time limits for claims.

Bannermans Lawyers is a NSW strata law firm advising owners corporations, strata managers and lot owners.

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Prepared by David Bannerman

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