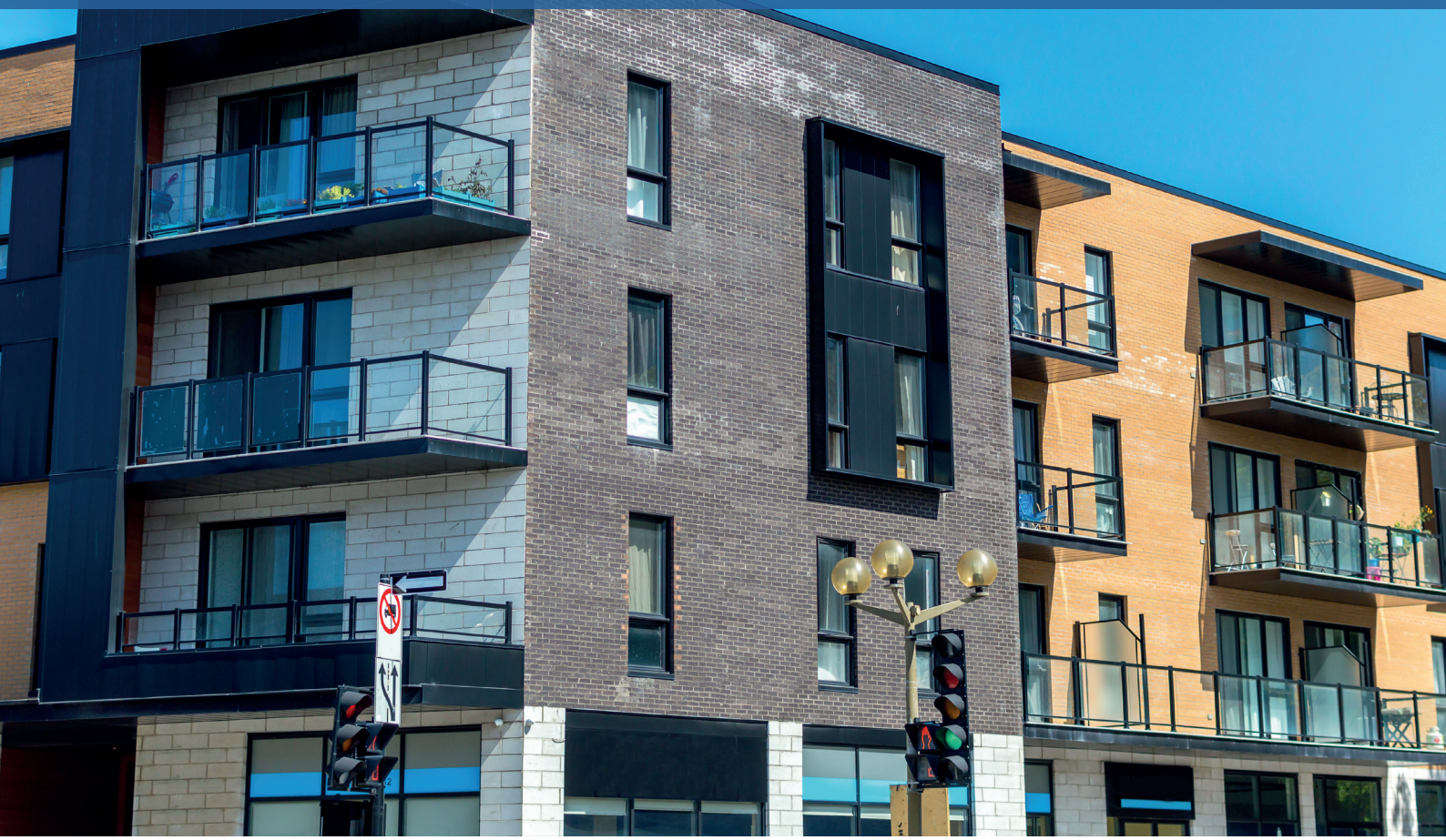


New Insurance Rules Offer Relief for Low-Rise Apartment Projects

Getting more homes built takes more than a planning approval right now in NSW. The project also needs to be feasible from a financial standpoint. This is why Construction Legal welcomes the insurance exemption that will come into effect from 1 December 2026, saving builders and developers upfront development costs of up to 11% of the construction cost.

From 1 December 2026, changes to NSW's Home Building Compensation Fund (**HBCF**) insurance rules will remove a significant upfront cost for developers when embarking on low-rise apartment projects. It is a practical step towards making more of these projects viable and supporting much-needed housing supply.

What is changing?

The existing exemption applies to multi-storey building, being a building with a rise in storeys of more than three that contains two or more separate dwellings. At the moment:

- Class 2 apartment buildings three storeys or under require mandatory home warranty insurance (HBCF insurance), costing builders and developers up to 11% of the total construction cost in premiums at the start of the project; and
- Class 2 apartment buildings over three storeys do not need HBCF insurance. Instead, developers of strata buildings lodge a strata building bond of 2% of the contract price before the occupation certificate is issued. Eligible developers can use an approved Decennial Liability Insurance (**DLI**) policy instead of the bond.

From 1 December 2026, HBCF insurance will no longer be needed for Class 2 apartment buildings with three or more apartments. It won't matter whether the building is two storeys or ten. For strata projects, that means the strata bond or DLI will apply, a cost the developer can plan for towards the end of the project rather than paying upfront.

The new rule also covers mixed-use buildings, such as apartments above shops, as long as the residential part has three or more apartments. Build to Rent projects however are exempt.

Why This Matters?

For a small apartment project, an upfront premium of around 11% can be the difference between a project going ahead and staying on the drawing board. This is especially so where planning controls cap a building at three storeys, so the cost can't be spread across more apartments.

The Government's own figures show the problem. Approvals for new apartments in buildings of up to three storeys fell by 84% between FY2017 and FY2025, while HBCF premiums kept rising.

This reform won't fix the housing shortage on its own. But it removes a real barrier, and it gives developers a much clearer and more predictable cost to plan for.

What Isn't Changing

There are a few limits to be aware of:

- Build to Rent projects are exempt.
- Buildings with only two apartments still need HBCF insurance.
- The new rule only applies to building work that starts on or after 1 December 2026. Signing a building contract before then is not enough on its own.
- If HBCF insurance for the project was already in place before 1 December 2026, the project stays in the old system, even if work starts later.
- Builders still have to do the work properly, and the statutory warranties still apply.
- The strata bond applies to strata buildings. Non-strata projects, such as Build to Rent, need to be looked at separately.

Already Sold off the Plan? Check Your Contracts

The timing needs checking. The new exemption applies to qualifying work starting on or after 1 December 2026. The date a contract was signed does not, by itself, settle the position. A contract signed before that date can still benefit if work starts on or after 1 December 2026 and no insurance is already in force.

Some developers will have sold apartments off the plan before 1 December 2026 with a clause promising to give buyers an HBCF insurance certificate. If construction hasn't started and no payment has been asked for or received for the building work, that clause will stop applying from 1 December 2026.

Developers in this position must give each buyer written notice by 31 December 2026, telling them that the clause no longer applies and that the project is exempt from HBCF insurance. Penalties apply if the notice isn't given.

The notice must state that those provisions no longer have effect and explain the exemption. These arrangements have specific conditions. They apply only to sale contracts made in reliance on the clause 61 exemption, which allows a developer to sell before work starts without an insurance certificate.

What Should You Do Now?

If you are planning a low-rise apartment project, now is a good time to revisit your feasibility. For projects already underway, check:

- the building's classification and number of apartments;
- when building work will start;
- whether HBCF insurance is already in place; and
- whether any off-the-plan buyers need to be given a notice.

Construction Legal can help you review your project's insurance position, contracts and notice requirements.

Link to Legislation

Please find the link to the legislation here.

More Information

For further details on construction law insights and legal case notes, visit Construction Legal Insights.