BLINK AND YOU'LL MISS IT - NSW DEFECT BOND SCHEME POSTPONED AND EMAIL SERVICE GETS THE GREEN LIGHT UNDER THE NSW SOP ACT

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Australia Real Estate and Construction Alert

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The NSW Parliament has today passed the *Electronic Transactions Legislation Amendment (Government Transactions)* Bill 2017 (**the Bill**). The Bill has broad reaching implications for many participants in the building and construction industry.

The Bill:

- postpones the commencement of Part 11 of the *Strata Management Scheme Act 2015* (NSW) including the defects bond scheme until **1 January 2018**. Under the bond scheme, developers (in respect of applicable projects) will be required to lodge a bond (valued at 2% of the contract price) with the Department of Fair Trading as security for remedial building work
- provides that notices under the *Building and Construction Industry Security of Payment Act 1999* (**NSW SOP Act**) may now be served by email and no longer by facsimile (unless otherwise provided under the construction contract concerned).

We note that the Bill is currently awaiting assent and that the changes above are not yet in force. We expect that the Bill will be assented to in the next week (and before the current commencement date of the defects bond scheme, being 1 July 2017).

What this means for you

Once the Bill is made law, we note the following:

- participants in the building and construction industry that are impacted by Part 11 of the *Strata Management Scheme Act 2015* (NSW) will have up until **1 January 2018** to consider how the provisions impact on their construction contracts
- it will no longer be permissible to serve notices under the *NSW SOP Act* by facsimile (unless otherwise provided under the construction contract concerned). Instead, email service to "an email address specified by the person for the service of notices" will be valid for notices under the *NSW SOP Act*.

If you would like assistance on how to adequately address these issues, please contact the authors of this alert.

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