

Introduction

- 1.1 Cyclones, fires, floods and storms have continued to ravage many parts of Australia in recent years. The losses experienced by those in affected areas have been extensive, and the trauma was often compounded by the experience of making and seeking to resolve an insurance claim.
- 1.2 In the wake of these disasters, serious concerns have emerged regarding the operation of the insurance industry during disaster events and subsequent steep rises in insurance premiums across Australia. In particular, those living in strata title complexes in north Queensland are experiencing excessive and unsustainable premium rises.
- 1.3 Residential strata title is a legal ownership arrangement that involves a combination of individual and collective ownership of property. The individual units or apartments may be owned independently of each other while the rest of the estate, such as common infrastructure, grounds and facilities, is owned in common by all unit proprietors.
- 1.4 Residential strata title insurance, also known as Body Corporate cover in some states, is general insurance that covers common property under the management of a strata title or Body Corporate entity for unit or apartment complexes. This might include common areas, wiring, lifts, pools, car parks, walls, windows, ceilings and floors. It usually covers building and common contents, legal liability, fidelity guarantee, personal accident and office bearer's liability.
- 1.5 In some complexes the common property may be extensive, while in others, it may only extend to a shared wall or driveway.
- 1.6 The annual insurance premium for a strata title scheme is issued to a body (or owners) corporation and is then proportioned to individual unit owners for payment. However, the strata title insurance premium levied to unit owners only covers common property and infrastructure. If owners

wish to have insurance coverage for the individual unit or apartment and its contents, then they must seek separate insurance cover.

- 1.7 Strata title insurance is unique because it is compulsory in all states and territories for owners in strata schemes to hold insurance over common property and for public liability.
- 1.8 Over the last 20 years, there has been an increase in medium and high density type housing. According to Australian Bureau of Statistics (ABS) data analysed by Macroplan, in the 1990s there was one apartment approved for every three houses. By April 2011, that ratio had shrunk to only 1.6 houses approved for every apartment.¹
- 1.9 This increase in apartment construction is particularly apparent in major metropolitan areas, but has also been apparent in regional urban centres such as Cairns, Townsville and Mackay. Apartment or unit style complexes are often attractive to retirees, pensioners and those seeking a smaller style of home or investment property.
- 1.10 A significant proportion of the submissions received during this inquiry were from owners of units and apartments in desirable holiday destinations along the north Queensland coast.
- 1.11 In the past five years, strata title insurance premiums have increased significantly, particularly for people owning units or apartments in Mackay, Townsville, Cairns and Port Douglas. The Unit Owners Association of Queensland (UOAQ) reports that these increases have been the most excessive over the last two years, with UOAQ members reporting increases ranging from 300 to 800 percent.²

Relevant reviews and inquiries

- 1.12 There are a number of reviews and inquiries relating to general insurance and the disaster events of 2010-11. These reviews are relevant to the present inquiry where they relate to the pricing of risk, increases in the cost of insurance and reinsurance, consumer awareness of various insurance options, and residential strata title schemes.

1 Ben Hurley, 'The new Australian dream: own an apartment', *The Australian Financial Review*, 16 June 2011, <<http://afr.com>>, viewed 7 March 2012.

2 Unit Owners Association of Queensland (UOAQ), *submission 328*, p. 5.

ACCC insurance market pricing reviews

- 1.13 In 2002, the Australian Competition and Consumer Commission (ACCC) conducted an *Insurance Industry Market Pricing Review* in response to concerns that had been raised about insurance affordability following the September 11 terrorist attacks and the collapse of HIH Insurance Limited (HIH) in 2001.
- 1.14 The ACCC made several recommendations intended to assist consumers in assessing whether the premiums being offered were acceptable. The review recommended:
- increases to the previous policy's premium should be clearly explained when policies are offered for renewal,
 - the industry should provide consumers with general premium trend data and explain why premiums have increased, and
 - insurers should improve their premium complaints and query handling systems to enable consumers to contest premium assessments and access detailed explanations for specific increases.³
- 1.15 The ACCC further recommended that insurers provide a standard checklist for what was covered by policies, as well as the use of standard terms, large font and plain English in policies.⁴
- 1.16 The ACCC Review was updated later that year. In addition, the Australian Securities and Investment Commission (ASIC) have released a number of reports relating to consumers and insurance more generally.⁵

Western Australia strata management inquiry

- 1.17 Legislation governing strata management entities is predominantly state-based. In 2003, the Western Australian Legislative Assembly Standing Committee on Economics and Industry conducted an inquiry into the Western Australian strata management industry.⁶

3 Australian Competition and Consumer Commission (ACCC), 'Insurance industry market pricing review: March 2002' p. iv.

4 The ACCC review was updated later in 2002. See ACCC, 'Second insurance industry market pricing review: September 2002'.

5 Australian Securities and Investment Commission, 'Making Home Insurance Better', Report No. 89, January 2007; Australian Securities and Investment Commission, 'Consumer Understanding of Insurance', Report No. 7, June 2000.

6 Western Australian Standing Committee on Economics and Industry, 'Report into the Western Australian Strata Management Industry' June 2003.

- 1.18 The inquiry report set out a number of findings, including:
- strata title law is difficult to interpret,
 - regulation of the industry was insufficient, and
 - there is a potential risk for minority owners to have little or no say in the running of a strata title company.⁷
- 1.19 In its response, the Western Australian Government noted that further analysis and consultation was appropriate given that the proposed reforms would increase cost and would result in increased administrative work and responsibilities for strata managers, government agencies and tribunals.⁸
- 1.20 The Western Australian Legislative Council Standing Committee on Public Administration conducted a further review of the strata management industry in 2011.⁹ It called for regulation and better education of strata managers. The report made a number of recommendations that are relevant to this inquiry, including:
- strata managers be regulated by a system of positive licensing,
 - all assets held by strata managers on behalf of strata companies should be deposited in a trust account and should be subject to audit by a regulatory body,
 - a prescribed form of appointment for strata managers be implemented that includes:
 - ⇒ the list of functions that can be delegated to the manager,
 - ⇒ termination provisions, and
 - ⇒ a declaration of any commissions, payments or benefits paid to the strata manager other than those payable by the strata company under the terms of the contract,
 - lot proprietors should be provided with a plain English statement containing information about:
 - ⇒ services strata managers have agreed to provide,

7 Western Australian Standing Committee on Economics and Industry, 'Report into the Western Australian Strata Management Industry' June 2003, pp. 12-38.

8 Western Australian Government, 'Response to the Recommendations of the Legislative Assembly's Economics and Industry Standing Committee Report on the Western Australian Strata Management Industry', October 2003, pp. 8, 18, 19.

9 Western Australian Standing Committee on Public Administration, 'Report 13, Report in relation to the inquiry into Western Australian strata managers', September 2011.

- ⇒ services provided by the strata manager for an additional fee;
 - ⇒ services the strata manager will not provide, and
 - ⇒ details of how a lot proprietor can raise concerns, seek information, approvals or have matters included on an annual general meeting agenda, and
- strata managers should disclose all commissions payable to the strata company. Non-disclosure should be an offence.¹⁰
- 1.21 The Western Australian government responded to the report on 7 March 2012. The government announced further consultations on this issue, are drafting amendments to the relevant legislation and is considering new legislation to implement a licensing scheme for strata managers.¹¹

Natural Disaster Insurance Review

- 1.22 The Australian Government's Natural Disaster Insurance Review (NDIR) was conducted in response to the series of storms, floods and cyclones that affected many parts of the country in late 2010 and early 2011. The NDIR was primarily instigated because of widespread reports of the absence of flood insurance for policyholders, mainly in the urban centres of Brisbane and Ipswich.¹²
- 1.23 The NDIR recognised issues around the availability and affordability of strata insurance in areas exposed to cyclones, especially in north-east Queensland. It recommended that a specific inquiry into residential strata title insurance be undertaken.¹³
- 1.24 The NDIR made a series of recommendations that are relevant to this inquiry, including that:
- the Australian Government operate a flood risk reinsurance facility, supported by a government funding guarantee,¹⁴

10 Western Australian Standing Committee on Public Administration, 'Report 13, Report in relation to the inquiry into Western Australian strata managers', September 2011, pp. ii-v.

11 Western Australian Government, 'Response to the Recommendations of the Standing Committee on Public Administration: Report in relation to the inquiry into Western Australian strata managers', March 2012.

12 The Treasury, 'Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011.

13 The Treasury, 'Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 6.

14 The Treasury, 'Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 3.

- government-subsidised discounts be introduced against the full cost of flood insurance for purchasers of home, home contents and home unit insurance policies in areas subject to flood risk,¹⁵
 - the facility to offer cover to insurers for cyclone risk, on the same basis as for flood risk but with no affordability discounts,¹⁶ and
 - discounts also be provided to the bodies corporate of eligible properties.¹⁷
- 1.25 The NDIR drew attention to the unique insurance characteristics of residential strata title insurance which are discussed further in this report.¹⁸

Insurance Contracts Amendment Bill 2011

- 1.26 More generally, the NDIR found that consumers have a poor understanding of insurance options.¹⁹ The NDIR therefore endorsed the introduction of a standard definition of 'flood' and a Key Facts Statement as a means of enhancing consumer awareness.²⁰
- 1.27 As a result, the Australian Government introduced legislation on 23 November 2011 to mandate the standard definition of flood and implement a Key Facts Statement. The Insurance Contracts Amendment Bill 2011 (the Bill) is currently before Parliament.
- 1.28 The Bill was referred to the House of Representatives Standing Committee on Economics and the advisory report was tabled on 16 February 2012.²¹ The Committee found that both consumer and industry groups supported the Bill, concluded that the Bill represented important reforms, and recommended that the Bill be passed.

15 The Treasury, Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 4.

16 The Treasury, Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 6.

17 The Treasury, Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 46.

18 The Treasury, Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 43.

19 The Treasury, Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 99.

20 The Treasury, Natural Disaster Insurance Review: Inquiry into flood insurance and related matters' September 2011, p. 15.

21 House of Representatives Standing Committee on Economics, 'Advisory Report on the Insurance Contracts Amendment Bill 2011' February 2012.

In the Wake of Disasters – Operation of the insurance industry during disaster events

- 1.29 This Committee previously inquired into the operation of the insurance industry during disaster events.²² The inquiry was in response to overwhelming community concerns about the conduct of insurers during the 2010-11 storms, floods and cyclones, including delayed claims processing and difficulty contacting insurers.
- 1.30 During the inquiry, the Committee held eighteen public hearings and visited disaster-affected communities in Western Australia, Queensland and Victoria. The Committee was first alerted to the problems relating to residential strata title insurance while conducting hearings in Innisfail, Queensland. Owners of strata title residences or units in northern Queensland, particularly above the 26th parallel, told the Committee that either they could not secure cover from any insurer, or that premiums had reached exorbitant levels. The Committee heard of increases in premiums ranging from 30 percent to 1 000 percent.
- 1.31 The Committee found that:
- the Insurance Code of Practice is ineffective in protecting consumers,
 - consumers are not adequately aware of what their insurance policies meant,
 - consumer rights are not adequately protected in the claims-handling process, particularly during disaster events, and
 - internal dispute resolution processes are convoluted and ineffective.
- 1.32 The Committee's report made a number of recommendations to address these issues. Specifically, Recommendation 13 calls for a joint industry-Government action group to be established immediately to address the rising costs and potential market failure affecting insurance premiums across Australia.
- 1.33 The Australian Government has six months to respond to the report, but some of the recommendations call for more urgent and immediate action.
- 1.34 The report attracted significant media coverage, which drew the public's attention to the important recommendations it contained.²³ The

22 House of Representatives Standing Committee on Social Policy and Legal Affairs, 'In the Wake of Disasters: Inquiry into the operation of the insurance industry during disaster events', February 2012.

23 L Wilson, 'Insurance industry is failing to protect consumers, committee finds' <<http://www.theaustralian.com.au>> viewed 7 March 2012; J Gould, 'Insurers facing walk of

Committee trusts that this media coverage, and subsequent public awareness of the important recommendations that are before the Government, will result in the necessary reforms to be implemented.

- 1.35 The Insurance Council of Australia (ICA) responded in the media, claiming that the recommendations referred to 'changes already enacted by either the insurance industry or the Federal Government'.²⁴ They asserted that 'current dispute resolution processes had proven robust and effective' and that 'more than 90 percent of all claims relating to last year's catastrophes have been closed.'²⁵

Scope of current inquiry

- 1.36 On 24 November 2011 the Assistant Treasurer and Minister for Financial Services and Superannuation, the Hon. Bill Shorten MP, asked the Committee, in addition to undertaking its inquiry into insurance issues arising as a consequence of natural disasters, to inquire into and report on residential strata title insurance.

- 1.37 The terms of reference for this inquiry are as follows:

That the House of Representatives Standing Committee on Social Policy and Legal Affairs also inquire into and report on the affordability of residential strata title insurance, particularly in Northern Australia, and factors influencing this, including:

- ⇒ (a) The magnitude of the increases in the cost of residential strata insurance over the past 5 years, the reasons for these increases and whether these increases are likely to be sustained,
- ⇒ (b) The ability of insurers to price risk and the availability of accurate data to allow for this,
- ⇒ (c) The extent to which there is a failure in the insurance market for residential strata properties either generally across Northern Australia or in some regions in particular, for example due to a lack of competition between insurers,

shame', <<http://www.qt.com.au>> viewed 7 March 2012; B Saunders, 'Committee Hopes to End Insurance Nightmares' <<http://blogs.abc.net.au>> viewed 7 March 2012.

24 Insurance Council of Australia (ICA), 'Insurance industry has already acted on key recommendations of Perrett Report, says ICA', Media Release, 28 February 2011, p. 1.

25 ICA, 'Insurance industry has already acted on key recommendations of Perrett Report, says ICA', Media Release, 28 February 2011, p. 2.

- ⇒ (d) Whether consumer awareness of different insurance options should be enhanced,
- ⇒ (e) The extent to which the nature of body corporate arrangements are contributing to affordability difficulties, and
- ⇒ (f) Whether the conclusions regarding (a)-(e) provide justification for government intervention in the residential strata insurance market, noting the existing responsibilities of Australian, state and local governments, for example:
 - the Australian Government has responsibility for insurance regulation under the Insurance Act and the Insurance Contracts Act and competition and consumer regulation under the Competition and Consumer Act, and
 - state governments (and local governments where appropriate) have responsibility for strata title legislation, building regulation, land use planning regulation and specific state government interventions in insurance markets (for example home builders warranty insurance, compulsory third party insurance).

The Inquiry should have regard to the following principles:

- ⇒ Individuals and businesses should be encouraged to insure themselves where practicable, and
- ⇒ Government intervention in private insurance markets is justifiable only where, and to the extent that there is clear failure by those private markets to offer appropriate cover.

- 1.38 Despite advertising nationally and contacting representative organisations from other states and territories, no submissions were received that raised concerns about the affordability of strata insurance in areas outside of Queensland. Where investors owned multiple properties and/or lived elsewhere, concerns regarding strata title insurance affordability were confined to the north Queensland area.
- 1.39 Consequently this report focuses on north Queensland and examines why residential strata title has become a localised affordability issue.
- 1.40 While examining the affordability of residential strata title insurance, the Committee also received a volume of correspondence from people in other circumstances experiencing rising insurance premiums or the inability to secure insurance. The Committee notes the seriousness of these concerns, particularly when it affects pensioners and those on low incomes, or when it threatens the sustainability of businesses such as farm stay or bed and breakfast type holiday accommodation.

- 1.41 However, as these concerns fall outside the terms of reference for this inquiry, the Committee has not been able to investigate further. Nevertheless, in its earlier report, *In the Wake of Disasters: the operation of the insurance industry during disaster events*, the Committee took the opportunity to recommend the immediate establishment of a taskforce to address the rising costs and potential market failure in the insurance industry across Australia.²⁶
- 1.42 The Committee trusts that the Government will respond promptly by implementing the important reforms it has already recommended, and will also implement the recommendations contained in this report.

Conduct of the inquiry

- 1.43 The Committee recognises the urgency of the issue of residential strata title insurance affordability. Unit owners are already experiencing financial stress and indications are that these types of premiums are expected to continue to rise. Increases to date have been substantial, and continuing increases of this magnitude are clearly unsustainable for unit owners.
- 1.44 In addition to the devastating personal toll already caused by increases in strata insurance premiums, any continued increases will threaten the economic viability of many areas in north Queensland.
- 1.45 With this in mind, the Committee resolved to conduct this inquiry expeditiously within a shortened reporting timeframe. While this may have reduced the time for consultations, it was the clear view of the Committee that prompt action would be required and that it was the Committee's duty to set out before the Australian Government a clear and direct plan of action to both alleviate immediate distress and address longer term sustainability issues.
- 1.46 Within the shortened timeframe, the inquiry's terms of reference and call for submissions were advertised nationally and the Committee wrote to a range of organisations seeking submissions.
- 1.47 The Committee received 431 submissions, and 17 supplementary submissions. A list of the submissions received can be found at Appendix

26 House of Representatives Standing Committee on Social Policy and Legal Affairs, 'In the Wake of Disasters: Inquiry into the operation of the insurance industry during disaster events', February 2012, p. 106.

- A. The Committee also received one exhibit, which can be found at Appendix C.
- 1.48 The Committee held public hearings in Port Douglas, Cairns, Townsville, Mackay (via videoconference) and Canberra. Community forums were held at many of these locations. Transcripts from these hearings are available through the Committee's website. Details of the public hearings and the witnesses who gave evidence are listed at Appendix B.
- 1.49 The Committee was overwhelmed by the response of those affected by these issues. The number of submissions and the large number of people who attended the hearings confirmed the magnitude of community concerns and the extent to which people are being financially and emotionally impacted.
- 1.50 The Committee thanks those who made submissions, appeared at public hearings and participated in the community forums.

Structure of the report

- 1.51 This report comprises four chapters.
- 1.52 Chapter Two sets out the legislative and regulatory framework for residential strata title insurance, examines the magnitude of premium increases and the associated impacts and community concerns, and discusses the additional cost impost of Stamp Duty and Goods and Services Tax (GST).
- 1.53 Chapter Three examines the evidence the Committee received in relation to the reasons for recent strata insurance price increases. It reviews a range of factors that were suggested as contributing to premium increases, including:
- the rising cost of raising and servicing capital to meet capital adequacy requirements,
 - the rising cost of reinsurance,
 - an elevated pricing of risk,
 - characteristics of residential strata title schemes that make them more costly to insure, and
 - a lack of competition in the residential strata title insurance market in north Queensland.

- 1.54 Chapter Four examines additional community concerns that were expressed to the Committee during the inquiry, including:
- the role of intermediaries (including strata managers and brokers) in the negotiation of insurance contracts and the commissions they charge,
 - the nature and role of property valuations and claims history in assessments of risk, and
 - flexibility in negotiating insurance arrangements, including excess levels, insured value and choice in what is insured.
- 1.55 Many of the recommendations set out in this report have clear timeframes associated with them, in recognition of the urgency of the issues. However there are no quick fixes for this complex problem, and the Committee took care to explain this to those affected during its consultations with the public.
- 1.56 The recommendations made here address the regulatory frameworks, methodologies for the assessment and pricing of risks, and consumer awareness. They dictate a course of action that will unravel the factors at play and enable appropriate reforms to be implemented.
- 1.57 Throughout the inquiry, the Committee was moved by personal stories of the hardship and fear caused by successive insurance premium increases. From the many submissions received and the public hearings, a selection of personal experiences and anecdotes has been compiled into textboxes that are included in this report.
- 1.58 These textboxes serve as a potent reminder that driving the urgent need for reform are the experiences of people living in strata title complexes. These people are bound by law to have strata title insurance and are facing an uncertain future if their premiums continue to rise at exorbitant rates.

Box 1.0 Premium increases ‘the last nail in the Strata Title Unit Owner’s coffin’

For my part it is the last nail in Tropical Queensland Strata Title Unit Owner’s coffin. Like a train accident occurring in slow motion I can see the horrible events unfold and almost predict what happens next; my savings have gone, I have just poured my last into refurbishing my beloved unit but now have no financial reserve left.

My tenant is neat and clean living but can’t afford to pay higher rents to offset the insurance increase. She is struggling to keep her job and in a two speed economy her wages have fallen well below any CPI or local rate of inflation. If she loses her job she faces diminished job prospects as Cairns unemployment is over 13%. She also won’t be able to pay her rent and already is struggling with a rising cost of living.

Like me, she may be forced to leave Cairns which cascades onto other economic, social and mental health areas. She will no longer shop at her local shop, she will no longer service her car with the local mechanic. Her kids will be pulled out of the local school and like me she may face the daunting emotional challenges of relocating.

I kept my job but lost my marriage and the subsequent stress caused a level of anxiety that I honestly can’t express in words and certainly wouldn’t wish on anyone. I grieve not only the loss of my marriage but the loss of my Tropical Queensland lifestyle and the sense of community that is so prevalent in regional Australia.

I’m now just another number in an overcrowded, insensitive, ugly Australian city struggling with the Federal Government concept of nation building and community bonding.

The Federal Government wants people to migrate to regional Australia. This builds community, confidence and infrastructure yet this blatant massive strata title unit insurance increase is a nail in my coffin and contrary to any community building agenda.

(Erik Host, *Submission 161*, p.1).

