

House Standing Committee on Social Policy and Legal Affairs

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Inquiry into residential strata title insurance

Hello committee

We would like to make the following submission in regards to the above issue. We will use the terms of reference given.

- a) The magnitude of the increases in the cost of residential strata insurance over the past 5 year, the reasons for these increases and whether these increases are likely to be sustained.

We believe that our strata insurance has increased from approximately \$50,000.00 to \$91,000.00 to \$181,000.00 over the past 5 years. We do not believe that there is any evidence as to why our insurance has increased by this amount. We believe that as the insurance industry is aware, Body Corporates must have insurance; therefore, insurance company appear to be able to charge exorbitant amounts. We understand that Body Corporates should have insurance; however, this allows the insurance companies to know that our choices are very limited.

- b) The ability of insurers to price risk and the availability of accurate data to allow for this.

We do not believe that insurers accurately price risk our area or provide evidence of accurate data to allow them to do this. It would appear that insurers decide who will and will not be charged these amounts and then try to justify this every time a weather event occurs – whether or not it affects any strata unit complex or not.

- 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.

As stated above, we believe that this issue is at the very heart of these insurance increases.

- d) Whether consumer awareness of different insurance options should be enhanced.

If we are to believe our Body Corporate manager, not many insurance company will provide insurance cover for strata units and those that do, do so at these exorbitant amounts. If this is true, we are unsure as to whether consumer awareness will make any difference.

- e) The extent to which the nature of body corporate arrangements are contributing to affordability difficulties.

We believe that the nature of Body Corporate arrangements is contributing to affordability difficulties. Body Corporate must have insurance and insurance

company limit what insurance is available. Also see our comments below regarding builders/developers.

- f) Whether the conclusions regarding (a)-(e) provide justification for government intervention in the residential strata insurance market, noting the existing responsibilities of Commonwealth, state and local governments.

We believe that as the Commonwealth Government is responsibility for insurance regulation the Commonwealth Government should be aware that private markets are failing to offer appropriate cover at affordable costs.

Discriminatory legislation

We realise that the state government is responsible for Body Corporate legislation; however, some parts of this legislation is in our opinion very discriminatory and the Commonwealth Government should ensure that these sections are amended by the state governments to ensure that they are not discriminatory.

Associates of the caretaker, under the legislation, are not permitted to be committee members even though they are owners in the complex. This being the case, under the same legislation, associates of the caretaker are not permitted to speak at committee meetings unless authorised by the voting committee members to do so. To search the Body Corporate's records cost owners, who are not committee members, a fee. At times, when information is requested from the Body Corporate manager, non-committee members can be informed that the requested information does not form part of the Body Corporate records and therefore cannot be obtained. It appears that natural justice is being denied to owners in the complex who under the legislation cannot be committee members and therefore do not have the same rights as other owners who can be voting committee members. An associate of the caretaker (eg a person employed by the caretaker company) cannot even be a non-voting member of the committee although the associate could own multiple units in the complex. This legislation does not help these owners when the committee is discussing/deciding on issues such as insurance.

Builders/developers

There is nothing in the legislation which does not permit associates of the builder/developer being on the committee even when the warranty period for the builder/developer is still in effect or other stages of the complex are still under development. The associates of the builder/developer could under the legislation hold all of the executive positions on the committee. If these builders/developers keep at least three units in two different company names (their associate/s can be the sole directors of these companies – these companies could have the same sole director), under this legislation (Accommodation Module s18), they could hold six positions of the allowable 7 positions on the committee.

Under the legislation as it stands today, the builder/developer could have three units in two different company names and one unit in a third company name and could then form the entire committee. This apparently is permitted if they are owners in the complex; however, other owners in the complex are not permitted to be voting members of the committee (or non-voting members of the committee). It appears that the legislation is biased in this regard.

The associates of the builders/developers could influence who is elected to the committee at an AGM as at the AGM, they could hold the majority of votes casted and/or use their influence to ensure that other owners present vote for their representatives.

In our opinion, this can then allow these owners (who are actually the builders/developers) to submit insurance claims against the Body Corporate's insurance instead of attending to the issue under the builder's warranty.

The legislation should be amended so that builder/developers should not be permitted to be voting committee members and should not be able to vote at AGM on warranty/insurance issues.

Body Corporate managers, who are only contractors to a Body Corporate and not an owner, may influence the strata insurance because of commissions received from certain insurance companies over other insurance companies. Under our current legislation, Body Corporate managers are non-voting committee members.

We further believe that associates of the caretaking company, who are owners in the complex, (particularly associates via employment) should be permitted to be voting committee members.

This would ensure that insurance issues can be discussed/decided on by all owners who may be interested in the issue and the builder/developer could not use insurance to cover any builder's warranty issues.

Once builders/developers are allowed to control committees, they could intimidate committee members and ensure that those who oppose them are either bullied into submission or threatened in a manner that could ensure that they either resign their position or do not stand at the next AGM. Builders/developers can have more financial power than many other committee members including the caretaker and can usually ensure that everyone understands this. They can threaten other committee members with various actions including but not limited to Code of Conduct violations.

If committee members try to oppose them, they can be threatened with legal action. Many committee members will resign or acquiesce rather than take this risk.

Once the committee is intimidated by these other committee members, it would not be difficult to ensure that whatever the builder/developer wants occurs. If the caretaker believes that there are warranty issues which should be addressed by the builder/developer, the committee (controlled by associates of the builder/developer) could ensure that these issues are not addressed or addressed as insurance issues.

Standard of Cover

Insurance companies could categorize strata building having regard to their building type, year built and location. If a unit complex was built near a beach prior to all the new building codes and cyclone requirements and sustains damage in a cyclone because it was not up to the same standard as newer building, the rest of the strata unit owners should not have to pay to cover their insurance. We believe there is a possibility unit owners are subsidizing other

unit owners who have purchased older/cheaper units not up to standard and have replacement insurance.

Thank you for your consideration of our submission.

Bruce Grant and Margaret Grant