The Parliament of the Commonwealth of Australia

In the Wake of Disasters

Volume Two: The affordability of residential strata title insurance

House of Representatives
Standing Committee on Social Policy and Legal Affairs

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Canberra

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Foreword

The impact of Cyclone Lua in Western Australia and severe flooding in parts of Victoria, New South Wales and Queensland, constantly reminds us that we live in a place that is prone to natural disasters. All Australians need to be able to access affordable and appropriate insurance to provide cover against the risk of being affected by these kinds of events. We need a healthy and competitive insurance industry that is responsive to the needs of its customers, and has the capacity to provide adequate cover at affordable prices for all Australians.

On 27 February 2012, the House of Representatives Standing Committee on Social Policy and Legal Affairs tabled its report In the wake of disasters: inquiry into the operation of the insurance industry during disaster events. The report made a range of recommendations aimed at ensuring that the insurance industry has the capacity to respond to people’s claims on their policies in a timely manner.

During the aforementioned inquiry, the Committee also received evidence about spiralling insurance costs in both disaster affected areas, and across Australia more broadly. In particular, the Committee heard of extremely concerning increases in residential strata title insurance in north Queensland. In view of these concerns, the report also recommended the immediate establishment of a taskforce to address the rising costs and potential market failure in the insurance industry across Australia.

Many unit and apartment owners, particularly those in north Queensland, have been confronted with increases in their insurance premiums of over 500 percent in recent years. This has been a result of a complex range of contributing factors, none more so than a glaring lack of competition in the market for residential strata title insurance.

The Committee recognised the urgency of residential strata title insurance affordability and resolved to conduct an inquiry into the issue with a short reporting timeframe. The Committee received the terms of reference on 24 November 2011, conducted four very well attended public hearings and received 431 submissions and 17 supplementary submissions. The Committee now delivers this report outlining a clear and direct course of action to both alleviate immediate hardship and address longer term sustainability issues.

The recommendations contained in this report call on the Government to strengthen the regulatory frameworks for Body Corporates, examine the methodologies for the assessment and pricing of risk, increase transparency in all strata insurance cost components, and raise consumer awareness of their rights and responsibilities.

I reiterate that the Committee responded expeditiously to the urgent issue of residential strata title insurance affordability. The Committee trusts that the Australian Government will be similarly prompt in implementing appropriate and much-needed reforms in response to the recommendations contained in this report.

I thank the members of the Committee and the two supplementary members who joined the Committee for this inquiry. Committee members took on this inquiry, in addition to their usual workload, in recognition of the urgency of the issue and the need to initiate Government action.

Finally, I thank the hundreds of people who made submissions to this inquiry, and the many more who attended public hearings and bravely spoke about their dire circumstances. While there is no quick fix for this complex issue, I trust that this report sets in motion the actions required to balance the insurance market and address affordability issues for strata title insurance.

Mr Graham Perrett MP
Chair

Membership of the Committee

Chair	Mr Graham Perrett MP
Deputy Chair	Hon. Judi Moylan MP
Members	Mr Shayne Neumann MP
	Ms Michelle Rowland MP
	(To 7 February 2012)
	Ms Laura Smyth MP
	Hon. Dr Sharman Stone MP
	Mr Mike Symon MP
	(From 7 February 2012)
	Mr Ross Vasta MP
Supplementary Members	Mr George Christensen MP
	Hon. Warren Entsch MP

Committee Secretariat

Secretary	Dr Anna Dacre
Inquiry Secretary	Dr John White
Office Manager	Ms Claire Young

Terms of reference

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 five 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
- (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 Commonwealth, state and local governments, for example:
  - ⇒ the Commonwealth 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.

List of acronyms and abbreviations

ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ASIC	Australian Securities and Investment Commission
ASIC Act	*Australian Securities and Investments Commission Act 2001* (Cth)
APRA	Australian Prudential Regulation Authority
ARPC	Australian Reinsurance Pool Corporation
BCCM Act	*Body Corporate and Community Management Act 1997* (Queensland)
BUGT Act	*Building Units and Group Titles Act 1980* (Queensland)
CGU	CGU Insurance Limited
Corporations Act	*Corporations Act 2001* (Cth)
GST	Goods and Services Tax
HIH	HIH Insurance Limited
ICA	Insurance Council of Australia
MCCA	Ministerial Council on Consumer Affairs

NDIR	Natural Disaster Insurance Review
NIBA	National Insurance Brokers Association
OCN	Owners Corporation Network
SCA	Strata Community Australia
TIO	Territory Insurance Office
The Bill	*Insurance Contracts Amendment Bill 2011*
The Commissioner	Queensland Commissioner for Body Corporate and Community Management
UOAQ	Unit Owners Association of Queensland
Zurich	Zurich Financial Services Group

List of recommendations

Regulating, pricing and taxing risk

Recommendation 1

The Committee recommends that the Australian Government liaise with the Queensland government and urge them to implement a 12 month moratorium on Stamp Duty charged on strata title insurance for properties north of the tropic of Capricorn.

This moratorium should be implemented for the 2012-13 financial year, and extended for as long as strata insurance premiums continue to rise at a higher rate than the average for general insurance.

Decreasing risk and increasing market competition

Recommendation 2

The Committee recommends that the Australian Prudential Regulatory Authority conduct a review of the risk assessment methodologies used by insurance companies to accurately price risk for strata title insurance coverage.

The review should particularly focus on strata insurance premium calculations in north Queensland in the last five years to determine whether the major driver for premium increases was:

- a failure to consider changes in building codes,
- the costs of reinsurance,
- historically inaccurate or inadequate assessment and pricing of risk, or
- the result of market forces, including heavy discounting.

This review should be completed by 1 October 2012 and provided to the Minister for Financial Services and the Australian Competition and Consumer Commission to determine if further investigation is required.

Recommendation 3

The Committee recommends that the Australian Competition and Consumer Commission conduct a review to identify the cost drivers, relative profitability and competition in the strata title insurance industry with a focus on the north Queensland market. This review should be completed by 1 October 2012.

Recommendation 4

The Committee recommends that the Australian Government investigate the feasibility of requiring insurance companies which provide types of mandated insurance (such as residential strata title) to offer this type of cover to all regions of Australia as part of their permit to operate in Australia.

The Committee further recommends that this investigation take into account the methodology for risk assessment and pricing for mandatory strata title insurance and how this pricing is applied equitably throughout regions of Australia.

This investigation should be completed by 1 October 2012 and provided to the Minister for Financial Services.

Recommendation 5

The Committee recommends that the Australian Government investigate and report on the expansion of the Australian Reinsurance Pool Corporation created to provide terrorist risk reinsurance for application to residential strata title schemes.

The investigation should consider the likely impact of the availability of this reinsurance on strata title insurance premiums. The report should be completed by 1 October 2012.

Improving transparency, flexibility and choice

Recommendation 6

The Committee recommends that the Australian Competition and Consumer Commission undertake an investigation into the use of intermediaries to negotiate strata title insurance cover, in order to determine whether there is evidence of improper or anticompetitive behaviours taking place.

The investigation should focus on the Queensland market and indicate whether there is evidence to suggest a more thorough investigation is required. The report of the preliminary investigation should be made public by 1 October 2012.

Recommendation 7

The Committee recommends that the Australian Government, through the Australian Consumer Law framework, work with the Insurance Council of Australia and the Queensland Commissioner for Body Corporate and Community Management to improve the information and education resources available to Body Corporates and better equip them in the management of strata title affairs, with a focus on:

- understanding the cost components specific to strata title insurance, such as unlimited liability, Stamp Duty and GST, and valuations based on full replacement costs,
- consumer awareness of the contractual obligations to disclose fees and commissions, and the responsibilities pertaining to the contractual relationships between Body Corporates and their appointed managers or management companies, and and/or insurance brokers, and
- recognition of the factors which may contribute to the risk profile of a strata title complex and in particular factors which may assist in negotiating decreased premium pricing, such as varying the agreed excess.

The Minister for Financial Services should be provided with a summary of the measures undertaken to address these needs by 1 December 2012.

Recommendation 8

The Committee recommends that the Attorney-General conduct a review of state and territory legislative and regulatory requirements around strata title insurance. The review should consider:

- options to provide strata title complexes with greater flexibility in their choice of insurance arrangements, including the availability of tailored arrangements that may offer capped insurance cover on non-essential assets or infrastructure,
- the need to expand the role of the Financial Ombudsman Service to encompass strata title insurance issues,
- regulatory requirements to increase transparency in the disclosure of commissions and fees taken by intermediaries, such as insurance brokers and Body Corporate managers, and

- mechanisms to simplify the legal process for the dissolution of strata schemes.

The review should be completed by 1 October 2012. The findings and recommendations of the review should be raised with the Standing Committee of Attorneys-General.

Recommendation 9

The Committee recommends that the Australian Government outline the plan of reforms it will undertake, in conjunction with relevant State and Territory governments where necessary, in order to establish a competitive and affordable insurance market for residential strata title insurance.

The plan should be announced before 1 December 2012, be informed by the reviews and investigations recommended in this report, and have a particular focus on the north Queensland area.

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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]

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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,

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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]

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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.

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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

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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,

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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, S*ubmission 161*, p.1).

2

Regulating, pricing and taxing risk

2.1 This chapter outlines the legislation and regulatory bodies governing insurance in Australia, with a particular focus on residential strata title insurance. While strata title insurance is required in all states and territories, reference is made to Queensland legislation since the evidence received during this inquiry related only to affordability issues in Queensland.

2.2 Premium increases in the strata title insurance market have been significant, despite there having been little regulatory change. The Committee received a volume of evidence citing substantial premium increases. A summary of these accounts is provided, along with details of some of the personal and economic impacts of these premium increases.

2.3 Added to strata title insurance premium costs are state government Stamp Duties and the Goods and Services Tax (GST). The impact of these additional imposts is discussed, along with the scope to alleviate an element of these costs in the short term.

Regulating insurance

2.4 The residential strata title insurance industry in Australia is regulated by a range of Australian and State and Territory legislation. This section provides a brief overview of the relevant legislation and regulatory bodies. A more detailed examination of the statutory framework for general insurance in Australia can be found in Chapter Two of the Standing Committee on Social Policy and Legal Affairs' *In the Wake of*

Disasters: The operation of the insurance industry during disaster events, March 2012.[1]

2.5 The Australian Government has responsibility for insurance regulation under the *Insurance Act 1973,* the *Insurance Regulations Act 2002* and the *Insurance Contracts Act 1984*, and competition and consumer regulation under the *Competition and Consumer Act 2010*.

2.6 State governments (and local governments where appropriate) have responsibility for strata title legislation, building regulation and land use planning regulation. There are some further specific state government measures operating in insurance markets, for example in relation to home builders warranty insurance and compulsory third party insurance.

2.7 The Australian Prudential Regulation Authority (APRA) was established in 1998 to oversee the financial services industry, including the insurance industry. APRA's main responsibility in the area of insurance is to ensure that insurers operate in accordance with prudential regulation and are able to meet their Prudential Capital Requirements. Insurance companies must be able to demonstrate to APRA that they have adequate capital to remain financially sound and to ensure that policyholder interests are protected.

2.8 Following the collapse of HIH in 2001, the Australian Government introduced regulatory changes that imposed greater capital adequacy requirements on insurers.

2.9 As with other financial services industries, insurers are regulated by ASIC. ASIC administers the legislation set out in the *Australian Securities and Investments Act 2001* (Cth) (ASIC Act), and the *Corporations Act 2001* (Cth) (Corporations Act). The ASIC Act provides consumer protection, while the Corporations Act provides for a licensing system for financial services providers.

2.10 Insurance companies can also be subject to the scrutiny of the ACCC, which administers Commonwealth competition, fair trading and consumer protection laws.

1 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.

Requiring strata title insurance

2.11 While the legislation governing the operation of strata schemes varies across jurisdictions, Body Corporates are statutorily required to take out insurance in every state and territory. The main reason for this is because individual lot owners in strata schemes are both joint and severally liable for the property they share. This means that, by purchasing and entering into a body corporate arrangement, they are both individually liable for the shared property, and liable as members of the body corporate.

2.12 As Strata Community Australia (SCA) point out, the underlying policy intent is clear:

> Strata insurance needs to be mandatory because of the unlimited liability of each owner to the entity. Should a building suffer an uninsured loss, each owner is jointly and severally liable to make good whether or not they approved or indeed had any role in making insurance arrangements. In effect a building cannot become insolvent unless every owner is also insolvent or bankrupt. To overcome this moral hazard, the statutes and regulations require those responsible for the building's management to mitigate the risks of losses through insurance. The only alternative to meeting uninsured losses is termination of the strata title as a route to sale of the whole site.[2]

2.13 Concerns were raised by several witnesses about the nature, and insurance cost implications, of the liability status of strata schemes.[3] The Committee is of the opinion that this is evidence that Body Corporates need to have a clear understanding of the legal status of strata schemes, and how that legal status may impact upon their premium prices. This is discussed further in Chapter Four.

2.14 The Committee received evidence that many Body Corporates were struggling to make required insurance payments, to the point where some were forced to take out loans to meet unanticipated premium increases.[4] However there was general acceptance throughout the inquiry that strata title insurance was necessary and was a statutory requirement to protect unit owner investment in common property.

2 Strata Community Australia (SCA), *submission 354*, p. 3.

3 See, for example, Ms Margaret Grant, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 32; Suncorp Group, *submission 372*, p. 2.

4 See, for example, Mrs Margaret Shaw, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 15; Ms Shelagh Murphy, *submission 96*, p. 2.

2.15 Given that evidence to this inquiry was limited to concerns about strata title affordability in Queensland, the following section focuses on Queensland's legislative requirements for strata title insurance.

2.16 In addition, a review of the strata title legislation in Australia asserted that 'Queensland is considered by many as a national leader in the establishment of effective yet flexible strata industry regulation'.[5]

2.17 Consequently Queensland provides a useful benchmark for a comparison of legislative regimes throughout Australia, and any general references to Body Corporate legislation made by the Committee should be taken to mean Queensland legislation. However, the conclusions drawn should be applied in principle to legislation in other jurisdictions.

Body Corporate legislation in Queensland

2.18 In the Queensland Government's submission, the Department of Justice and the Attorney General state that Queensland has specific legislative requirements for insurance of community title schemes, as set out in the *Body Corporate and Community Management Act 1997* (BCCM Act) and its associated regulations, and the *Building Units and Group Titles Act 1980* (BUGT Act).

2.19 According to this body of legislation:

> Premiums for insurance policies required to be taken out by a body corporate (which is made up of each lot owner in a community titles scheme) are a body corporate expense and form part of the body corporate fees which must be paid by lot owners. The insurance premiums are generally portioned between each lot owner in a scheme based on the relevant lot entitlements applying to each individual lot. [6]

2.20 An important element of insurance requirements for strata schemes is public risk. In Queensland:

> The body corporate must take out public risk insurance over the common property and for assets for which it is practical to have public risk insurance. The body corporate is not required to take out public risk insurance over any other property, such as a lot owned by a person other than the body corporate.

5 Everton-Moore, K., Ardill, A., Guilding, C. and Warnken, J., 'The law of strata title in Australia: a jurisdictional stocktake', *Australian Property Law Journal*, vol 13, 2006, p. 3.

6 Queensland Department of Justice and Attorney-General, *submission 425*, p.2.

> The public risk insurance must provide for the following type and level of coverage:
>
> - for amounts the body corporate becomes liable to pay for compensation for death, illness and bodily injury and damage to property
> - to the value of at least $10 million for a single event, and at least $10 million in a single period of insurance.
>
> The body corporate may elect to take out more insurance than is required by the regulation module applying to the scheme. For example, it may obtain directors and office bearers liability cover for committee members.[7]

2.21 Further, all common property must be specified and included in the insurance coverage. Under the BCCM Act, Body Corporates:

> must insure common property, body corporate assets and buildings in which lots are located. The type of survey plan registered for the community titles scheme affects the body corporate's responsibility to insure a building. The common categories of plans registered as community title schemes are:
>
> - Building Format Plan - A building format plan of subdivision is a form of subdivision that normally occurs within a building. An example of a scheme that is established as a building format plan is a multi-storey block of residential units.
> - Standard Format Plan - A standard format of subdivision plan defines land with references to marks on the ground or a structural element (for example, survey pegs in the ground). An example of a scheme that is established as a standard format plan includes a townhouse complex where on each lot is a building and a backyard or courtyard.[8]

2.22 For the relatively small number of lot owners in schemes registered as Standard Format Plans, where they are 'stand-alone' lots and where they do not share a common wall with a building on another lot, there is a degree of flexibility. In this instance, unit owners may establish a voluntary insurance scheme.

2.23 The Committee did not collect evidence on these types of stand-alone complexes or their insurance arrangements.

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7 Queensland Department of Justice and Attorney-General, *Body Corporate and Community Management: Insurance*, <http://www.justice.qld.gov.au/__data/assets/pdf_file/0008/12878/Insurance.pdf> viewed 14 February 2012.

8 Queensland Department of Justice and Attorney-General, *submission 425*, p.3.

2.24 For the vast majority of strata title complexes (which are categorised as Building Format Plans), there is the requirement that coverage must be obtained for all common property and assets and must be for full replacement value, regardless of the current condition of assets.

2.25 Therefore, coverage must include all costs associated with 'making good', including expert and consultant fees and all aspects of demolition and reconstruction:

> The body corporate must insure the common property (such as a pool or fences) and the body corporate assets (such as plant and equipment) to full replacement value. The insurance policy must:
>
> - cover damage* and the costs associated with the reinstatement or replacement of insured buildings, (including the cost of taking away debris and the fees of architects and other professional advisers), and
> - provide for the reinstatement of property to its condition when new.[9]

2.26 Similar full replacement coverage, including associated costs, is required for buildings:

> The body corporate must take out the following building insurance:
>
> - building format plan - insurance for the full replacement value of each building which contains a lot, and
> - standard format plan where a building on one lot has a common wall with a building on an adjoining lot - insurance for each building to its full replacement value.
>
> A policy for building insurance must:
>
> - cover damage* and the costs associated with the reinstatement or replacement of insured buildings, (including the cost of taking away debris and the fees of architects and other professional advisers), and
> - provide for the reinstatement of property to its condition when new.
>
> * The regulations under the BCCM Act provide a statutory definition of damage for coverage under insurance required to be put in place under the legislation. This definition of damage includes earthquake, explosion, fire, lightning, storm, tempest and water damage, glass breakage, and damage from impact, malicious act and riot.[10]

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9 Queensland Department of Justice and Attorney-General, *submission 425*, p.3.

10 Queensland Department of Justice and Attorney-General, *submission 425*, p.3.

2.27 Buildings regulated under the BUGT Act have similar insurance requirements as those regulated by the BCCM Act.[11] The Committee has noted that there scope for confusion in the applicability of different legislation to strata complexes in Queensland. The need for clarity in strata title legislation contributes to the Committee's discussion around the need for a legislative review in Chapter Four of this report.

2.28 A further requirement for Body Corporates in Queensland is that they must obtain an independent valuation for the full replacement value of the building or buildings at least every five years. This valuation must take into account all associated costs with replacement and making good with common property, building and assets as set out in the relevant legislation. The full replacement valuation is required to be provided to individual lot owners.[12]

2.29 The Committee received evidence questioning the validity of some valuations, and the need to insure all assets and property for full replacement value. These issues are discussed further in Chapter Four, which considers flexibility and transparency in insurance arrangements.

11 Queensland Department of Justice and Attorney-General, *submission 425*, p.3.

12 Queensland Department of Justice and Attorney-General, *Body Corporate and Community Management: Insurance*, <http://www.justice.qld.gov.au/__data/assets/pdf_file/0008/12878/Insurance.pdf> viewed 14 February 2012.

Box 2.0 Premium increases: 'a never ending cyclone of financial horror'

'A few years ago in 2008 my pro rata insurance contribution was just over $110 pa and now in 2012 it has increased nearly 700% to a massive $697 pa. This simply is not sustainable and to my mind I can't understand the rationale of such a suffocating hike in premiums' (Erik Host, s*ubmission 161*, p.1.)

'…the insurance for the complex has increased from $15 580.60 in 2011 to $46 541.20 in 2012, an increase of 300%.' (Peter & Karen Grabau, s*ubmission 300*, p.1.)

'…this property's insurance cost has risen from $8,507.00...to $39 554.00. This equates to a 527% increase (Bruce Riley, s*ubmission 356*, p.1.)

'Owners are experiencing extreme financial difficulty due to these increases, so much so that I have seen owners forced to sell at a substantial loss. (Michelle Williams, *submission 368*, p.1.)

'I am writing to advise you of the exorbitant costs associated with the Insurance Premiums that have escalated to over 300-400%...I am a single female home owner and I am UNABLE to afford and maintain the Mortgage, Rates and Day-To-Day Living Costs and utilities due to the INCREASE in Body Corporate Insurance.' (Kym Blackwell, s*ubmission 370*, p.1.)

'People are in a situation where they cannot afford such an increase and will be forced out of their homes but will be unable sell their property because buyers will not pay exorbitant body corporate fees.' (Sue Miller, *submission 47*, p.1.)

'This represents an increase of some 200% which we had no choice but to accept as we are legally required to have the complex insured.' (Colin Gray, *submission 29*, p.1.)

'I am stunned by the level of desperation and fear these steep rises have caused to ordinary people who thought they could live in their home till they died... we are in a never ending cyclone of financial horror which seems to have no end.' (Noelene Clarke, s*ubmission 223*, p.1.)

'…the increase in premium over last year's premium is 390% from approximately $39 000.00 in 2011 to $179 000.00 for 2012' (Warren Pitt, *submission 397*, p.1).

'There's no doubt the premium increases have caused financial stress to strata property owners. A good many strata title owners are on fixed incomes and can ill- afford the substantial increases.' (Kay Maclean & Irene Holdcroft, *submission 269A*, p.2.)

Premium increases

2.30 Many households and businesses across Australia are now facing increased insurance premiums. In some instances, these increases are extreme and are threatening the capacity of people to remain in their homes or to operate their business.

2.31 The Committee is aware that insurance affordability is a national issue. In its earlier report on the operation of the insurance industry during disaster events, the Committee recommended the immediate formation of a Government – industry taskforce to investigate the insurance market and validity of these increases. [13]

2.32 However strata title owners in north Queensland are in a unique predicament because:

- there is a concentration of strata title properties along the north Queensland coast,
- common property insurance is compulsory,
- some insurance premium increases are of a magnitude not reported elsewhere,
- for many this is the second or third successive year of extreme premium increases, and
- there are few insurance companies offering strata title insurance in these areas.

2.33 For these reasons, the impact of strata title premium rises has been particularly significant in the north Queensland market. Further, it is not clear whether these premium rises directly result from increased assessed risk following recent disasters in the area – although the increases have certainly been most dramatic following the extreme weather events of 2010-11.

2.34 Since the 2010-11 floods and Cyclone Yasi, the Queensland Government received reports from unit owners of increases in their strata insurance premiums of between 130 and 360 percent on the previous year.[14]

13 See Recommendation 13, 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.

14 Queensland Department of Justice and Attorney-General, *submission 425*, p.4.

2.35 The UOAQ report large increases, stating that in the years 2010 and 2011, its members raised concerns about increases in their strata insurance premiums of between 300 and 800 percent.[15]

2.36 Similarly, SCA state that their members began reporting 'jumps in renewals of 100, 200, 300 percent and more from late in 2010'. [16] SCA claim that premium increases were observed prior to the major weather events of 2010, reporting that its members:

> advise that increases of this magnitude began to appear in late 2010, before the two major weather events of early 2011, the Brisbane region floods and Cyclone Yasi.[17]

2.37 Accordingly SCA claim that 'increases had little apparent relationship to risk factors such as age, construction method, location or claims history'.[18]

2.38 They also note that it is difficult to accurately quantify increases, remarking that:

> The strata management industry is highly competitive and companies generally regard the outcome of insurance negotiations on behalf of clients as commercially sensitive, which means large scale quantitative information on actual cost experience is difficult to obtain from these sources. [19]

2.39 The majority of the submissions made to the Committee were from individual unit owners citing premium increases over the last three years. For example:

- The annual strata premium for an apartment complex at Airlie beach rose from $4 500 in 2009-10 to $32 000 in 2011-12, an increase of over 600 percent.[20]
- The annual strata premium for a complex in Cairns increased from $30 000 in 2009 to $120 000 in 2011-12, an increase of over 300 percent.[21]
- The annual strata premium for a complex in Townsville increased from $37 660 in 2011 to $160 551 in 2012, an increase of over 300 percent.[22]

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15 UOAQ, *submission 328*, p.5.

16 Strata Community Australia (SCA), *submission 354*, p.4.

17 Strata Community Australia (SCA), *submission 354*, p.4.

18 Strata Community Australia (SCA), *submission 354*, p.4.

19 Strata Community Australia (SCA), *submission 354*, p.4.

20 Mr Anthony O'Rourke, *Committee Hansard*, Wednesday, 1 February 2012, Mackay Videoconference, p. 10.

21 Witness C, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 33.

22 Corey and Aneka Davis, *submission 177*, p. 1.

2.40 The Committee was not able to obtain reliable data on the scale of increases over recent years, and recognises the difficulties in attempting to quantify increases across building types, locations etc. However, the sheer volume of personal stories supplied to the Committee (some of which are reproduced in textboxes throughout this report), the distress of those who spoke to the Committee, and admissions from insurance companies regarding recent premium 'price adjustments' all validate the claims of extreme and successive insurance premium rises specific to the strata title market in north Queensland.

2.41 Based on this anecdotal evidence, the Committee concludes that many premiums have risen in excess of 300 percent in the last three years, with some increasing by that value in the last year alone. For each individual lot holder in a strata scheme, this could represent an increase of anywhere between $1 000 and $4 000 per annum.

2.42 The ICA supplied the average premium costs for strata properties at three different locations in north Queensland for 2012 and 2011. These figures are reproduced in Table 1.

Table 1 Comparison of north Queensland average strata insurance rates (2010-2011)

	Average Annual Premium ($)		**Percentage increase**	**Average Annual Premium Per Strata Unit ($)**		**Percentage Increase**
	2010	*2011*		*2010*	*2011*	
Cairns	18,310	36,300	98%	605	1,120	85%
Airlie Beach	22,068	61,805	180%	848	2,210	160%
Townsville	16,615	48,211	190%	1,007	2,116	110%

Source ICA, submission 380, p. 5.

2.43 While the percentage increases supplied by the ICA were not as large as have been reported elsewhere, they still represent significant cost increases that have serious financial impacts for the people affected.

Box 2.1 The elderly, pensioners and retirees: ‘no real savings’ and ‘nowhere else to go’

‘We have no real savings and no capacity to absorb much more than CPI increases. My wife is so worried that she is now actively seeking employment so that we can afford the Body Corporate Fee rise this year, even though she is in some pain from her artificial hip and would lose her disability pension as well as the benefits’ (K.J. & R.L. Shepherd, *submission 84*, p.1.).

‘…worrying about how to find this huge, on-going extra cost is already affecting the health of some of these elderly owners.’(Body Corporate for Park Edge, *submission 174*, p.1.)

‘…elderly people on pensions or fixed incomes who have nowhere else to go...have no ability to meet these unjustifiable costs inflicted upon them.’ (D. B. & S. Z. O’Neill, *submission 249*, p.1.)

‘Since Cyclone Yasi our premiums have begun to soar making it extremely difficult to live on a pension of $19448 per year to pay the Body Corporate Fees...giving one anxiety attacks as to a feeling that one may be living on the street shortly with no real avenue to turn to.’(Frank Woerle, *submission 28*, p.1.)

‘…many owner occupiers on a fixed income – pension or superannuation – who have had to borrow money in order to pay their share of the insurance this year because it has increased in some cases by several thousand percent.’ (Margaret Trimble, *submission 390*, p.3.)

‘I am also on a fixed income - the age pension - and it's tough enough without greedy Insurance companies making matters worse by hiking up premiums.’ (Dale Evens, *submission 1*, p.1.)

‘The increase in our Body Corporate insurance premium has blown my budget completely, and the small allocated pension I have in the past used to pay for extras, is now being swallowed up for day to day expenses.’ (N. Rochford, *submission 247*, p.1.)

‘We are pensioners living on the Government pension and will find this increase...extremely difficult to live with.’ (Ray & Shirley-Anne Owens, *submission 51*, p.1.)

‘This extreme increase in insurance premium is placing a financial burden on all owners, particularly those in retirement and on pensions.’ (George Christianson, *submission 376*, p.1.)

Impact of increases

2.44 It is clear from the evidence received that residential strata title insurance increases are seriously impacting people's livelihoods and that any further premium rises will exacerbate the situation further.

2.45 Throughout the inquiry the Committee has heard about the impacts this urgent issue is having on individual lot owners, investors, and the broader economy in affected areas.

2.46 The evidence of emotional and financial impact received by the Committee has been consistent. In particular, of concern are:

- pensioners, retirees and other people on fixed incomes, who are most vulnerable to sharp increases in their cost of living and are struggling to cope with colossal insurance-driven increases in Body Corporate fees:
  - ⇒ some have already suffered considerable financial losses as a result of the Global Financial Crisis, and
  - ⇒ many either cannot sell their individual lots to escape insurance-driven rises in Body Corporate fees, or would be faced with selling at disastrous financial losses, and
- investors who are being driven away from investing in strata title schemes because of prospective negative returns and rapidly increasing outgoings, resulting in:
  - ⇒ a soft rental market with high vacancy rates in some areas, and rent increases which make properties unaffordable to those on lower incomes, and
  - ⇒ weakening property prices which negatively impacts the local economy.

2.47 The Committee has heard that for many people, concerns about their future financial viability are having serious flow-on effects on their psychological and social wellbeing.

2.48 For example, the Whitsunday Ratepayers Association comment that:

> The effect these premiums are having on the community is being under rated. Owners would sell and move out of Airlie if they could, but they can't as the units are unsaleable.
>
> This is leading to welfare problems and mental anguish.

> In some cases the younger owners are having to call on their parents for help, putting additional pressure on the parents. In other cases it is the older, retired person who is suffering:
>
> Margaret Shaw was contacted by an 83 year old woman who was in tears because for the first time in her life she couldn't pay her debts. Her body corporate fees had increased so much due to the insurance premiums she just couldn't do it. She wanted someone to listen to her for help. She refused for her name to be given as she was more than embarrassed, she was humiliated. People don't deserve this.
>
> A considerable number of the units are owned by self funded retirees and their income is being affected. Self-funded retirees have to draw down savings with No Means Of Achieving Any Additional Income. If this continues there will be no choice but to make demands on the pension system if costs cannot be afforded and sales take place at below purchase prices.
>
> Pensioners who have to watch their expenditure carefully cannot find the extra money and older people already suffering from depression and anxiety are having their conditions made worse.
>
> Some retirees are even contemplating returning to work as an option to cover increased costs, but the jobs aren't there for them.[23]

2.49 SCA add that further concerns were raised during their consultations in north Queensland in November 2011, including:

- Real estate salespeople who said they could not ethically sell apartments as a viable investment,
- Builders and other tradespeople dealing with the impact of complete collapse of any new strata-type construction activity, and
- Building executive committees concerned about the long term effects of slashed maintenance budgets, usually to help offset rising insurance costs, on the quality of life of residents and asset values.[24]

2.50 From the evidence provided to the Committee during this inquiry, it is clear that the impacts of rising strata title premiums are severe and wide ranging. Further, these impacts will be exacerbated by subsequent increases and the flow-on effects to local economies will be substantial.

23 Whitsunday Ratepayers Association, *submission 112*, p. 14.

24 Strata Community Australia (SCA), *submission 354*, p.7.

Taxing hardship – GST and Stamp Duty

2.51 It is obvious that if insurance premiums are increasing by anything up to 500 or more percent annually, then any taxes applied as a percentage to those premiums are also increasing the ultimate cost of premiums.

2.52 The government taxes and duties currently applied come on top of the range of costs and assessed risks that make up the premiums charged by insurance companies. The following chapter examines the proportional component of premium costs, and how these factors contribute to setting the price of risk that is passed onto policy holders as insurance premiums. Conflicting evidence has been received as to how the price of some of these cost factors may have changed, such as reinsurance, and this is discussed in more detail in the following chapter.

2.53 While Government taxes and duties are not driving strata premium increases, the Committee is aware that, in these times of financial hardship, they are a burdensome additional contributor.

2.54 The GST is a tax of ten percent that applies to most goods and services in Australia. The GST is collected by the Australian Government and then distributed to the states and territories for the purpose of funding essential services (such as education, health and public transport).

2.55 The GST is distributed using the principle of horizontal fiscal equalisation. This means that it is the Australian Government's responsibility to ensure that each state and territory have the same fiscal capacity to provide their residents with services of the same standard. However, ultimately it is the states and territories who decide how they apportion these funds to deliver services.

2.56 Stamp Duty is a tax that historically has been levied upon documents, but now applies to various transactions and transfers. In Australia, Stamp Duties are levied by the states and territories and the rates vary between jurisdictions.

2.57 In Queensland the Stamp Duty charged on residential strata title insurance (or 'transfer duty') is 7.5 percent of the premium paid. Stamp Duty is charged after the GST has been applied to insurance premiums, with cumulative charges representing a larger impost than the 17.5 percent of combined taxes.

2.58 SCA are concerned that these taxes heavily inflate the cost of strata insurance premiums:

> Both the Commonwealth (through GST collections) and the states (through stamp duties) benefit significantly from the excessive levels of taxation on certain insurance classes, including strata insurance. While Queensland and Western Australia do not impose fire service levies that add substantially to insurance costs in Victoria and New South Wales, they do collect significant percentage based stamp duties. A major by-product of runaway strata insurance costs has been a revenue windfall for both states as well as the Commonwealth as these taxes inflate the cost of higher base premiums. [25]

2.59 Other witnesses were concerned that the cumulative charging of Stamp Duty and GST effectively imposed 'cascading government taxes'[26] or 'a tax on a tax'.[27]

2.51 These two taxes combine to add nearly one fifth to the actual premium cost. If premiums are increasing by 100 percent, this amounts to a major increase in the tax that is paid in actual dollars. If increases are in the magnitude of 500 percent, then the sum of the taxes and duties applied are close to the amount of the original premium.

2.60 There is no doubt that, given the magnitude of premium increases for strata title insurance in north Queensland, government taxes and duties are contributing to people's hardship.

Committee Comment

2.61 The Committee recognises the financial strain that many are experiencing as a result of the steep insurance premium increases for strata title complexes. In addition, the Committee acknowledges the emotional stress this brings, particularly for those who have been planning for retirement and have limited resources to adjust to these changes of circumstances.

2.62 Already, there are indications that these premium rises are impacting on the housing and rental market in the north Queensland region, and the

25 SCA, *submission 354*, p.8.

26 Owners Corporation Network (OCN), *submission 388*, p. 1.

27 Mr Graham Koch, *submission 214*, p. 2.

economic flow-on effects to communities will obviously become more apparent over the coming year.

2.63 While premium increases are occurring nationwide, the Committee concludes from evidence received that those more severely impacted at this time are strata title unit owners in north Queensland, and in particular in the area north of the tropic of Capricorn. In many instances, these unit owners are now in the second or third year of premium increases, with the most significant increases occurring in current renewal policies.

2.64 Further, these unit owners are legally compelled to seek insurance coverage and, with limited competition in the strata title insurance market in north Queensland, they are in an untenable bind.

2.65 The Committee acknowledges that the GST and state government Stamp Duty are charged as a percentage of insurance premiums. Consequently as premiums have risen, so has the value of these taxes.

2.66 The Committee is aware that the Australian Government collects the GST and then distributes it to the states and territories to fund essential services. Any change to GST arrangements requires the unanimous support of all states and territories.

2.67 Whilst the Committee recognises that it would be beneficial for parts of Queensland to have a relaxation of the GST charged on residential strata title insurance (particularly in areas north of the Tropic of Capricorn), it is highly unlikely that all states and territories would agree since the benefits of an exemption would only accrue to one region.

2.68 Moreover, the Australian Government has opposed narrow exemptions in the past on the basis that they would set a precedent that might undermine the overall tax base and intent of the GST. There have been a large number of other worthy causes in the past that have sought exemptions and have been unsuccessful. It is for these reasons that the Committee sees no merit in recommending an exemption for residential strata title insurance from the GST.

2.69 Stamp Duty on strata title insurance is these locations is levied by the Queensland government. Consequently it is beyond the scope of this Committee or of the Australian Government to apply a moratorium on Queensland Stamp Duty charges on strata title insurance.

2.70 However the Committee urges the Queensland government in the strongest possible terms to apply a 12 month moratorium on Stamp Duty.

2.71 The Committee does not have access to data on the extent of increased revenue the state government has received, which has resulted from the duties applied to rising premiums. Consequently the Committee has not been able to conduct economic modelling and assess the revenue impact of this recommended moratorium.

2.72 Nevertheless, the Committee suggests that revenues over the last 12 months will have increased due to clear evidence of increased premiums. These unintended gains may offset potential losses following the implementation of a 12 month moratorium on duties.

2.73 The Committee recommends that the moratorium be implemented at the earliest opportunity and apply for the financial year 2012-13. The Committee makes a number of recommendations in following chapters to investigate the drivers of strata insurance costs in this area and to address the crisis situation which has resulted.

2.74 In the longer term, the Committee considers that the course of action set out in this report will assist in balancing the market and stemming the trend of excessive strata title premium increases. However some measures will take time to gain effect. Consequently the Committee recommends that this moratorium be reviewed and extended by the Queensland Government for an additional year if strata title premium increases continue at a substantially higher rate than the average for general insurance.

2.75 As previously mentioned, Stamp Duty is a tax levied by State and Territory governments. For strata title insurance in north Queensland, it is the Queensland government who impose the Stamp Duty and it is not within the scope of this Committee or the Australian Government to direct the Queensland Government to reassess their Stamp Duty requirements.

2.76 Consequently, the Committee recommends that the Australian Government liaise with the Queensland Government, and encourage that government to implement a 12 month moratorium on Stamp Duty levied on strata insurance in north Queensland.

Recommendation 1

2.77 **The Committee recommends that the Australian Government liaise with the Queensland government and urge them to implement a 12 month moratorium on Stamp Duty charged on strata title insurance for properties north of the tropic of Capricorn.**

This moratorium should be implemented for the 2012-13 financial year, and extended for as long as strata insurance premiums continue to rise at a higher rate than the average for general insurance.

2.78 To the insurance industry, the Committee notes that this recommended measure is extraordinary and must not be seen as a precedent for the suspension of taxes or duties in other areas.

2.79 The moratorium on Stamp Duty is recommended as a short term life buoy to unit owners who are in severe financial stress. The measure is not designed in any way to be of assistance to the insurance industry or to justify past or future premium increases.

2.80 The following chapter considers the cost structure of insurance premiums, prior to the application of any taxes or duties, and interrogates the reasons suggested for the recent excessive price increases.

F

3

Decreasing risk and increasing market competition

3.1 Residential strata title insurance is becoming unaffordable for many people, particularly in the north Queensland region. This situation will become more critical if premium prices continue to rise.

3.2 A healthy strata title insurance market in north Queensland is reliant on two factors – *decreasing* the assessed risk levels and *increasing* market involvement to increase competition and disperse risk.

3.3 This chapter examines the following cost components that are factored into assessing risk and subsequently setting premiums:

- natural peril risk,
- attritional claims,
- reinsurance, and
- operating costs and profit margins.

3.4 In this chapter, the Committee considers how these components are priced and the evidence given regarding which of these factors may be contributing to price increases for strata title insurance. There are also characteristics of strata title complexes which, insurers argue, increase their risk profile and claim costs. These are discussed as costs specific to strata title insurance.

3.5 The Committee notes that much of this evidence is contradictory and unsatisfactory.

3.6 Alongside claims of increased risk exposure from insurers, unit holders have cited the decreased competition in the north Queensland strata title insurance market as a key reason for excessive premium increases.

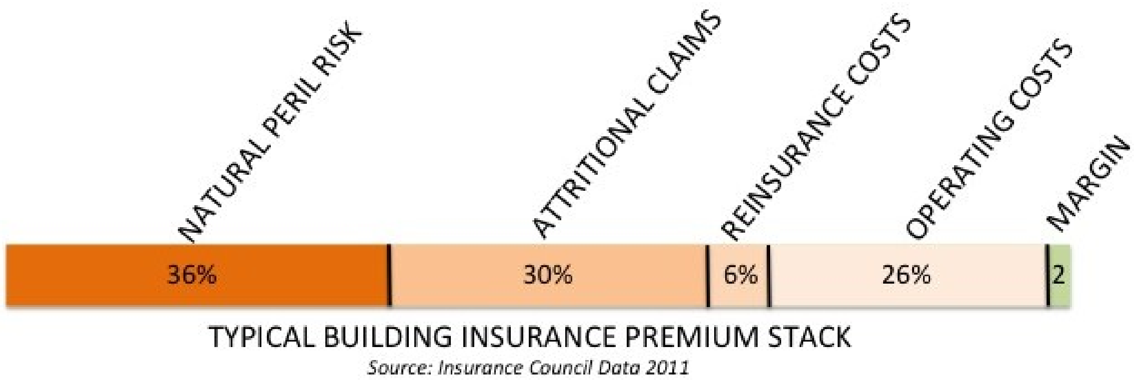
3.7 This chapter examines the evidence the Committee has received relating to these two arguments, and the actions required to address distortions in these two drivers of premium price.

Assessing risk and setting premium prices

3.8 Evidence supplied by the ICA shows building insurance premiums are comprised of five factors. The focus of this inquiry is on the proportions assigned to natural peril risk (36 percent), attritional claims (30 percent), and reinsurance costs (6 percent).

3.9 Figure 1 provides a breakdown of the typical building insurance premium stack.

Figure 1 Insurance Council of Australia: typical building insurance premium stack



Source *ICA, submission 380, p.4.*

3.10 In this figure, 'natural peril risk' refers to the risk of an event occurring that would result in an insurer needing to pay out a large number of claims (for example, as a result of a tropical cyclone or major flooding).

3.11 'Attritional claims' refer to the probability of regular, minor claims on insurance policies.

3.12 'Reinsurance costs' refer to the cost of insurance that is taken out by insurance companies. The main purpose of reinsurance is to transfer risk from the insurer to the reinsurer. Typically, reinsurance companies are large multinational corporations.

3.13 It should be noted that the premium stack breakdown is based on national data and is not specific to the north Queensland area. Some insurers allege that the Queensland market has a higher number of claims pay-outs than other parts of the country, and that construction and repair costs are also higher which results in increased claim costs.

3.14 The Committee did not investigate these allegations, although there is some discussion of strata title claim frequency and reconstruction options to reduce risk costs in Chapter Four of this report.

3.15 The following sections examine the three key cost components of the premium stack, the methodologies for calculating these cost components, and the, at times, contradictory evidence from the insurance industry regarding relative increases to each of these cost components.

The cost of reinsurance and capital adequacy

3.16 Despite only contributing six percent to overall premiums, the requirement for capital adequacy and rising costs of reinsurance were cited by some as crucial factors contributing to dramatic increases in premium prices.

3.17 As mentioned in the preceding chapter, the main responsibility of APRA in the area of insurance is to ensure that insurers operate in accordance with prudential regulation and are able to meet their Prudential Capital Requirements. This means that, in the event of a major disaster event, insurers have adequate capital to meet their responsibilities to policy-holders, whilst remaining solvent.

3.18 Insurers generally insure themselves against the risk of high levels of large claims by buying reinsurance. Reinsurance helps insurers to meet their capital adequacy requirements by passing on their risk to the reinsurer.

3.19 Mr Robert Whelan, CEO of the ICA, acknowledges the rises in strata title insurance premiums but refuted suggestions that the pricing of premiums was not soundly based. He refers to the highly regulated nature of insurance and the capital requirements to cover risk as drivers of price increases:

> we recognise that there have been significant increases in residential strata insurance premiums. However, these increases have not occurred on a speculative basis. Premiums are risk based and the practice for prudently managing operations of an insurer is highly regulated in order to avoid the risk of insurer failure. This regulation is administered by the federal government

> through APRA who mandates levels of capital to be maintained and risk management practices by insurers.[1]

3.20 Zurich Financial Services Group (Zurich) remains one of the few insurers still operating in the north Queensland strata title insurance market. In their submission, Zurich claims that growth in the number of strata title properties has been accompanied by decreased market involvement by other insurers which in turn increases Zurich's risk exposure. This lead to a 20 percent premium rise in 2010:

> Following the withdrawal of other insurers from the region, Zurich's strata property portfolio in North Queensland continued to grow in late 2009 and throughout 2010. Due to the cost of capital associated with this growth, and the poor performance of this portfolio, Zurich implemented a further premium increase of 20% on 16 October 2010.[2]

3.21 Increased risk exposure followed by recent Queensland disasters placed further pressures on their obligations to meet capital adequacy requirements for their underwritten risk. Zurich asserts that the required capital allocation for strata title insurance in north Queensland is far in excess of its capital requirements elsewhere in Australia.

3.22 Zurich claims that further premium price increases of around 300 percent on average represent the recalculation of capital allocation based on capital adequacy requirements. Zurich trace the bulk of premium price increases to these drivers of price:

> It has also been necessary for Zurich to allocate additional capital against its exposure to catastrophes in North Queensland. Zurich's capital allocation for North Queensland strata business is 220%, driven by the high volatility of catastrophe claims. This is more than double Zurich's capital allocation for strata insurance outside of Queensland.
>
> As a result of a further review conducted in late 2010, the increase in capital allocation to North Queensland strata business and further increases in reinsurance costs, Zurich determined it would be necessary to either cease offering its strata product in North Queensland or charge the appropriate technical premium. The technical premium is the premium Zurich needs to charge in order to cover all costs of supplying the product and generate Zurich's

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1 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 3.

2 Zurich Financial Services (Zurich), *submission 330*, p.2.

> minimum required rate of return on capital. Once the technical premium was calculated, it was determined that current premiums would need to increase on average by 302% to implement the technical price.[3]

3.23 Consequently, Zurich continues to offer insurance renewals to its customers, but decided not to take on any new business in this portfolio.

3.24 CGU Insurance Limited (CGU) similarly argues that premium price rises reflected cost rises in ensuring capital adequacy. Mr Brad Robson explained that CGU is:

> under very stringent prudential requirements to ensure we have adequate capital available—the cost of capital has increased—so that we are writing business in a sustainable fashion and can be here to pay and settle claims. [4]

3.25 A crucial element of insurers meeting their capital adequacy requirements is their capacity to purchase reinsurance. The reinsurance market is a global one and so the capacity of insurance companies operating in Australian to seek reinsurance has been affected to some degree by international catastrophes such as the recent tsunami in Japan and the earthquakes in Christchurch, New Zealand.

3.26 Mr Whelan notes the impact of local disasters on the reinsurance market:

> Reinsurance costs are also increasing due to the large number of extreme weather catastrophes in recent years. As noted in our earlier evidence to the committee in relation to claims handling, the extreme weather events experienced around Australia in 2010-11, particularly flooding in Queensland and Cyclone Yasi in Northern Queensland, flooding in Victoria, severe storms in Victoria and bushfires in Western Australia, were unprecedented in their scale and geographic spread. [5]

3.27 Mr Whelan indicates that these Australian disasters have occurred at the similar time as a series of disasters in other countries. This has serious implications for Australian insurers seeking reinsurance on a tight global market:

> in 2011 alone there were catastrophic losses across the planet totalling something of the order of $380 billion in economic loss. Of that, something of the order of being in excess of $150 billion

3 Zurich, *submission 330*, p.2.

4 Mr Brad Robson, CGU Insurance, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 4.

5 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 2.

> was borne by the insurers, and that means largely the reinsurers—so in one year a $150 billion loss. That was contributed to in no small part by the sorts of catastrophic events we experienced in Australia and New Zealand.[6]

3.28 The consequences of these global costs, coupled with recent disasters within Australia, are a changed risk profile and subsequently increased costs of reinsurance. Mr Whelan claims that the increased premium costs to policy holders reflected the increased reinsurance costs borne by insurers:

> the reinsurance companies, on whom we rely to be able to provide insurance to the insurance companies so that we can put product into the marketplace, decided that they needed to review our risk profile as a region and they substantially repriced their products to us, and that is what has occurred.[7]

3.29 How these reinsurance changes may have affected individual insurers will be determined by their assessed risk exposure and involvement in different markets. However, Mr Whelan claims that all insurers would have been significantly affected by the reinsurance market and further increases could be expected.

3.30 Citing figures obtained from APRA, Mr Whelan comments that:

> the costs of reinsurance to Australian insurers had increased by at least 50 per cent. How that is factored into individual programs by individual insurers is a very complex matter and that is a subject to be addressed by individual insurers, but it is a significant increase and it is not the end of the increase. [8]

3.31 Mr Raymond Pavey, a Townsville insurance broker, told the Committee that he believes reinsurance costs were the most significant factor contributing to strata premium increases. Mr Pavey claims that the north Queensland area was particularly affected by this reinsurance loading:

> Insurers who operate in North Queensland are penalised by overseas reinsurance companies by way of a tropical storm zone premium loading. The greater the percentage of the insurer's book of business held in North Queensland the greater the premium loading they receive from their reinsurer. So the insurers who

6 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 5

7 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 5.

8 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 5.

> continue to do business in North Queensland receive a higher reinsurance loading. [9]

3.32 Mr Pavey also predicts that the situation could deteriorate if further insurers withdrew from the north Queensland market as this would increase the perceived risk exposure and, in turn, reinsurance costs for those that remained:

> The more insurers withdraw from the North Queensland market the more lopsided the books of business become in terms of risk held in North Queensland for the insurers who remain; consequently, the more costly it is for those remaining insurers to do business in North Queensland—north Australia, for that matter. Ultimately, this cost passes on to their North Queensland clients.[10]

3.33 Mr Pavey asserts that the best thing the Government could do to ameliorate the problem of strata premium increases, is to attract insurers back to the strata insurance market in north Queensland. Mr Pavey adds that this would spread the exposure and allow insurers to reduce their 'book of business in Northern Queensland and should flow through to their reinsurance'. [11]

3.34 The issue of increased competition is discussed later in this chapter.

The cost of claims

3.35 The cost assessment of attritional claims is a 'loading' that reflects the average amount typically paid out through claims made on this type of insurance cover. Attritional costs can be influenced by the frequency of claims in a region, the frequency of claims for a type of building, and the frequency of claims for the particular building for which insurance is sought.

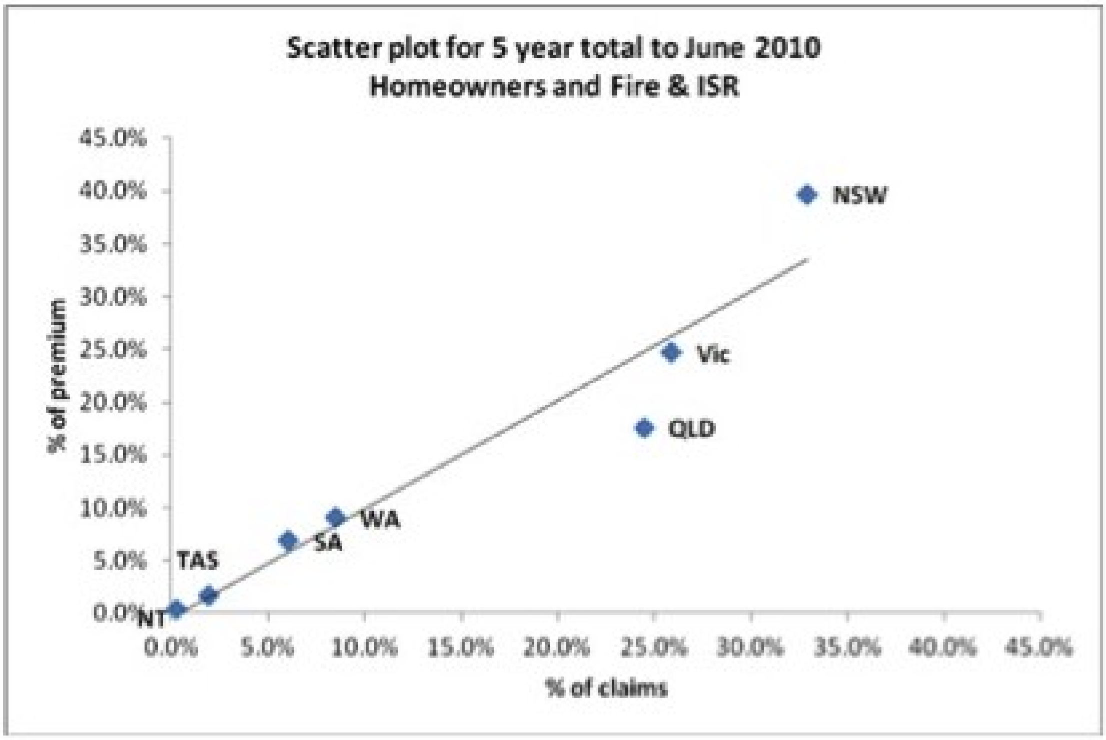
3.36 It was claimed that recent disasters in Queensland have increased capital adequacy and reinsurance costs, and this is reflected in increased premiums in these regions. However, it was also asserted that, as a region, Queensland has historically had a higher claim rate than other parts of Australia.

9 Mr Raymond Pavey, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 23.
10 Mr Raymond Pavey, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 23.
11 Mr Raymond Pavey, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 23.

3.37 The ICA provided the Committee with evidence that Queensland:

> experiences significantly more claims than other states compared to the contributions made into the national premium pool. In other words, in the five years to June 2010, for all property classes, Queensland has drawn some 25% of all national claims despite contributing around 15% of premium into the national premium pool. By contrast, NSW, despite contributing some 40% into the national claim pool, draws under 35% in national claims. [12]

Figure 2 Comparison of each state's percentage of gross premiums and percentage of gross incurred claims for five years to June 2010



Source ICA, submission 380, p.4.

3.38 In addition to these increased regional pay-out rates, insurers suggested that the attritional costs of strata title cover were often higher than that for other types of residential insurance. They assert this is because claim rates for these types of buildings were generally high and excess levels were typically low.

3.39 Insurers assert that this has resulted in higher claim pay-out costs for strata title policies than experienced with other types of residential housing policies.

12 ICA, *submission 380*, p. 4.

3.40 Zurich reports that across their policy holders, owners in residential strata schemes generally carry lower excesses and make more frequent claims on their policies than owners of houses:

> Zurich's experience on claims frequency on strata insurance in North Queensland is around 30-40%. This means for every 100 customers, we are getting 30-40 claims each year. In comparison, a personal lines home building insurance portfolio generally runs at less than 10%.[13]

3.41 Zurich cites 'the main reason for such a high claims frequency in strata insurance is historically low excesses'.[14]

3.42 Zurich adds that:

> Many strata managers and body corporate negotiate excess payments as low as $100 for the entire strata complex, meaning the annual premium can become very expensive. This is done by some strata managers so that many small claims can be made during the year to help with the overall costs associated with running a strata titled property. However using insurance to cover general maintenance issues rather than responding to larger claims and disaster events only puts upward pressure on insurance premiums. [15]

3.43 Similarly Mr Whelan describes the relationship between higher claims frequency and low excesses as having a feedback effect on premium costs. He suggests that strata schemes that have an 'increased excess will reduce the premium but it also reduces the claims which continue to feed back into premiums'. [16]

3.44 Mr Whelan asserts that policy holders need to be aware that they can 'dial up' their level of excess and 'dial down' their premiums. This serves to 'prevent people putting in small claims which would build the constant claim profile'.[17]

3.45 The ICA also put forward a number of recommendations to assist Body Corporates in best determining appropriate excess levels and understanding how claim frequency can impact on premium levels. These are discussed further in Chapter Four.

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13 Zurich, *submission 330*, p. 5.

14 Zurich, *submission 330*, p. 5.

15 Zurich, *submission 330*, p. 5.

16 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 13.

17 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 13.

Box 3.1 Excessive insurance premiums land investors on ‘struggle street’

‘The rental margins were always modest, but the investment was intended to bring an increased capital gain as I neared retirement. I am on a minimal income and this investment has become a deadweight’ (Marion MacLennan, *submission 30*, p.1.).

‘The increases have threatened the viability of Queensland properties as investments and will lead to forced sales and financial hardship for many owners.’ (Graham Young, *submission 409*, p.1.)

‘…the insurmountable increases being inflicted ... [are] farcical and...restrict investment in Far North Queensland. (Dave Reynolds, *submission 407*, p.1.)

‘…my wife and myself are on a struggle street to make mortgage payments on 2 investment properties.’ (Cecil & Lila Wati Prasad, *submission* 275, p.1.)

‘…the investment potential will be severely affected. Who would want to buy a unit that has no chance of Capital Gains and Body Corporate Fees of $6 000-$8 000...’ (K.J. & R.L. Shepherd, *submission* 84, p.2.)

‘Increases as predicted of 800% can mean a significant financial burden to the average small time investor.’ (Natalie Pawlik, *submission 167*, p.2.)

‘Steps should be taken to remove the disincentive to investment in northern regional areas caused by the burden of excessively high insurance...’ (Ian Cruickshank, *submission 130*, p.2.)

‘This substantial increase in strata insurance makes rent too high if passed onto tenants (untenable) and unviable for owners to keep their investment unit if they don’t.’ (Amanda Newton, *submission 334*, p.1.)

‘This unfair and unsustainable situation in FNQ has become untenable... It has become such a major issue in this region that it is impacting on....current and future investment.’ (Name withheld, *submission 150*, p.2.)

‘Extensive rises in strata insurance will cost people their homes, livelihoods and investments.’(Chris Sergeant, *submission 310*, p.1.)

‘This has to be the...worst investment in Australia.’(Geoff Everett, *submission 405*, p.1.)

‘The increases have threatened the viability of Queensland properties as investments and will lead to forced sales and financial hardship for many owners.’ (Graham Young, *submission 409*, p.1.)

‘My premiums have increased by 300%, making my position as a property investor/landlord virtually untenable....apartments are not a good investment due to increasing insurance costs.’(Mia Lacy, *submission 109*, p.1.)

The cost of natural peril

3.46 The ICA cites recent increases in the pricing of risk as being another key driver of increases in residential strata title insurance. They assert that natural peril risk makes up the largest proportion of insurance premiums and that the profit margins for insurance companies are comparably small.

3.47 The main argument put forward by the insurance industry to explain the recent significant increases in strata title premiums is that, in the past, strata premiums in north Queensland have been underpriced.

3.48 Mr Whelan says that:

> whilst there are a range of factors which have contributed to these increases, fundamentally it is in the insurance market correcting premiums in high-risk locations which have historically been heavily discounted for risk. [18]

3.49 The ICA asserts that some unit owners were 'paying less than a third of technical risk prices'.[19]

3.50 Mr Whelan defends the insurance industry's past underpricing of risk with the rationale that risk assessment is an 'evolving science'. He explains that:

> the whole pricing process, subject to risk, is an evolving science, and it is based essentially on experience, which gets factored into the overall risk assessment of individual locations and individual properties.[20]

3.51 Mr Whelan concludes that recently increased premium prices for strata title insurance now represent a more accurate assessment of risk, based on natural perils and attrition claims. He asserts that premium increases are a corrective to previous underpricing of risk; in effect, they are a realisation based upon improved data:

> [prices] are now starting to reflect the risk premium that is associated with the risk assessments that have accumulated over a fairly long period of time. [21]

3.52 While this was the view argued by the ICA, other insurers were not consistent in the reasons they gave for underpricing risk in the past. Some insurers conceded that, until relatively recently, competition for a

18 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 2.

19 ICA, *submission 380*, p. 1.

20 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 3

21 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 3.

burgeoning market share led companies to heavily discount strata premiums, particularly in some tropical zones like the north Queensland coast.

3.53 CGU concedes that market competition led to reduced pricing at one point. However, CGU claims that this reduced pricing was not sustainable and did not reflect the actual risk represented by strata title insurance coverage in these areas. It was, they assert, an historic underpricing of risk driven in part by the rapid growth in the strata title market:

> The distribution of residential strata insurance in Northern Australia, particularly in Far North Queensland, became increasingly competitive a number of years ago in response to the rapid urban development in this region. The growth in the number, size and density of strata developments was, for a period, accompanied by an increase in the residential strata insurance 'capacity' for this region.
>
> This high level of competition, particularly when compared to the distribution of strata insurance in southern Australia, led in some sub-regions of Northern Australia to premium pricing at unsustainable levels.[22]

3.54 Conversely, CGU deny that premiums were deliberately underpriced. Mr Brad Robson suggests that underpricing resulted from insufficient data to accurately price risk in the past, and the market is now experiencing the necessary pricing adjustments:

> Our product may have been underpriced but it was not underpriced knowingly. That is a discovery process as you apply your actuarial studies to your statistical performance combined with the reinsurance cost factors that change together with the claims costs. There are inflationary pressures put on claims costs with general repairs. A lot of buildings have become more sophisticated in high-end asset values and there has been an accumulation of buildings being built in coastal regions, which unfortunately do bear the brunt of winds. It is those key factors that have contributed to our discovery as we have looked at our pricing. The pricing was not adequate or accurate to offset the risk of taking on that business.[23]

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22 CGU Insurance, *submission 379*, p. 3.

23 Mr Brad Robson, CGU Insurance, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 4.

3.55 So, on one hand insurers concede that, until relatively recently, competition for business led to heavy discounting on strata policies, while on the other they claim that risk assessment was inadequate or inaccurate in the past.

Costs specific to strata title insurance

3.56 The premium cost components considered above (the cost of natural peril, the cost of attritional claims and the cost of reinsurance) are common to all types of residential building insurance, though the proportions may vary depending on type of building, region, scope of cover etc.

3.57 In relation to strata title insurance, the ICA argue that there exist specific characteristics of strata title properties which increase their risk profile and so the risk exposure for insurers.

3.58 The assessment of risk and the relative cost components as they apply to any individual policy is obviously a complex and commercially sensitive process. The ICA state that insurers employ actuarial experts so that they price risk correctly and take into account many detailed factors to determine costs.

3.59 For strata title properties, these factors may include the following:

Portfolio costs:

- The estimated cost of future claims
- reinsurance and capital costs
- management costs
- Broker costs

Building specific issues:

- The level of cover requested and liability provisions
- Risks at the location
- The age of the building and claims history
- Special limits on the building such as heritage listings
- Building materials and design used
- The number of units and floors, floor space etc,
- Fire protection systems and other mitigation present
- Presence of an onsite manager or measures to lower claims frequency
- The number of pools, car parks, lifts, etc

- The primary use of the building, owner occupied, rental, commercial etc. [24]

3.60 Differences in these factors can result in different premiums applying to strata title complexes which are in close proximity and or which may appear to be of a similar value or size.

3.61 CGU state in their submission that there are distinct features of residential strata title insurance that have 'conspired to magnify recent premium increases'. These include:

- The total value of a residential strata building is higher than a home, so the scale of losses is potentially higher.
- Concentration of risk – as opposed to insuring 100 homes dispersed over a large area, a residential strata building may represent 100 homes on a smaller square footage. If a storm hits that particular area it could lead to a higher number of insurance claims in terms of value and severity of damage, than if the risk was spread across a broader geographical area.
- Clustering – residential strata buildings are often clustered together in particular areas of a town, which further exacerbates the concentration risk.
- Location – residential strata buildings in Northern Australia are often along or near the coastline and built for their sea views or holiday letting potential. This puts them at higher risk of cyclone and storm damage than other properties located inland.
- Repairs – costs are influenced by availability to materials and labour. Major catastrophes can result in a sharp rise in costs due to high demand. The engineering involved in large residential strata complexes can require specialist attention unlike that of traditional homes. This draws upon specialist skills that may not be readily available within the local region further exacerbating the cost to repair. Equally, in many cases the high value plant and equipment used for the provision of services (water, electricity, air-conditioning, etc) in residential strata complexes is centrally located in flood prone areas, such as basements, significantly adding to the cost of repairs incurred in even minor events.
- Increases in peripheral costs – residential strata policies provide temporary accommodation costs to tenants in the event the premises is temporarily uninhabitable. This cost is magnified with multi-tenanted risks, such as a 50 dwelling apartment building.[25]

24 ICA, *submission 380*, p. 4.

25 CGU Insurance, *submission 379*, p. 4.

3.62 These factors, CGU assert, increase the risk exposure of those insurers operating in the strata title market. While the natural peril risk may not be higher than that of nearby residential standalone houses, the claim pay-out costs potentially incurred by the insurer are likely to be substantially higher in the event of a major damage to the area.

3.63 Regardless of these particular characteristics of strata title and recent massive increases in premium prices, the ICA claim that premium increases do not disadvantage strata title unit owners compared to standalone residential house owners. They deny that strata insurance is unaffordable and assert that it is on par with general insurance.

3.64 The ICA claim that despite recent premium increases:

> Strata unit holders now pay the same or less than householders. Strata title insurance in some areas of Australia has been heavily discounted in the past, compared to the technical risk price. Recent corrections to price, whilst very significant, now better reflect risk levels and the cost of capital associated with providing cover. Strata title property owners in high risk areas now (on average) pay a premium comparable or lower than the premiums payable by owners of stand alone households.[26]

Table 2 Comparison of north Queensland average insurance rates: strata vs household property (2011)

	Average Annual Premium Per Strata Unit ($)	Average Annual Premium Per Standalone House ($) (with $500 excess)
Cairns	1,120	2,312
Airlie Beach	2,210	2,410
Townsville	2,116	2,398

Source ICA, submission 380, p.5.

3.65 The ICA provided the Committee with comparative data for average annual premiums per strata unit and per standalone house at three locations in north Queensland (reproduced in Table 2). The ICA included this information to show that strata unit owners are, on average, 'not currently disadvantaged compared to their householder neighbours'.[27]

26 ICA, *submission 380*, p. 2.

27 ICA, *submission 380*, p. 5.

3.66 Based on their comparative data, the ICA assert that:

> The increase in strata title premiums have moved average premium to sum insured ratios closer to parity with household property.[28]

3.67 The ICA also refute that the square metre area covered by strata title insurance is less than that for standalone houses, noting that many strata title complexes have large common areas, with costly assets, more electrics, amenities and infrastructure than is usually found in standalone residential homes.

3.68 Despite these arguments from insurers, some unit owners express doubts about the capacity of insurers to accurately assess risk. Mr Mark Beath, a unit owner-resident from north Queensland, states that:

> Only three insurers would provide quotes via our broker for our building last year. The highest quote was more than 100% above the lowest. There is an enormous disparity even between the two lowest bidders of approx. 40%.
>
> For the previous year (2010) the highest of three quotes was more than 40% above the lowest. Either that is a market failure or evidence of extreme variance in risk assessment methodology by insurers?[29]

3.69 Other anecdotal evidence was received regarding variations in premium prices and discounting by insurance companies when challenged.

Committee Comment

3.70 The Committee heard two main arguments put forward by insurers to explain the extraordinary premium increases in strata title insurance in north Queensland. Insurers have variously claimed that:

- increased reinsurance costs have driven price rises, and/or
- price increases are a result of past inadequate or inaccurate pricing of risk.

3.71 Based on information provided to the Committee by the ICA, reinsurance costs make up only six percent of the overall average premium. The

28 ICA, *submission 380*, p. 5.

29 Mr Mark Beath, *submission 298*, p.1.

Committee does not accept that fluctuations in costs within that range can fully explain reported premium increases of above 500 percent.

3.72 If poor risk assessment in the past is the true reason for such drastic readjustment, the Committee is astonished at the extent of these flawed past practices. Given the enormity of these errors, the Committee struggles to place confidence in current business practices and risk methodologies.

3.73 The Committee is of the view that the whole point of insurance is the capacity for a company to carefully assess the cost of the risk that they underwrite and then to calculate premiums accordingly. If companies have failed so completely in assessing the risk in the past, then it is difficult to have faith in their capacity to accurately calculate the current risk that is supposedly driving premium increases.

3.74 The Committee heard anecdotal evidence about the disparity in premiums prices quoted from different companies, including evidence suggesting that insurance companies were able to drastically reduce their quoted rates for premiums when challenged over prices. In some instances, policy premiums were reported to be reduced by between $30 000 and $50 000 with no change in other policy conditions or excess levels.

3.75 This suggests either a lack of sound methodology being applied to initial risk assessments, or that price points have been heavily inflated above the cost of the assessed risk (and hence the capacity to provide huge deductions).

3.76 The Committee presents no view as to how or why these reductions are possible and did not attempt to gather evidence on this given the urgency of this inquiry. While the Committee is thankful that some strata title holders were able to benefit from these reductions, the Committee expresses its grave concerns regarding these business practices and its subsequent concern for those who did not challenge the first quoted premium and who may not have secured reductions.

3.77 The Committee considers that suggestions of either price inflation or a lack of methodology adds weight to the urgent need for a review of risk pricing by APRA.

Recommendation 2

3.78 **The Committee recommends that the Australian Prudential Regulatory Authority conduct a review of the risk assessment methodologies used by insurance companies to accurately price risk for strata title insurance coverage.**

The review should particularly focus on strata insurance premium calculations in north Queensland in the last five years to determine whether the major driver for premium increases was:

- **a failure to consider changes in building codes,**
- **the costs of reinsurance,**
- **historically inaccurate or inadequate assessment and pricing of risk, or**
- **the result of market forces, including heavy discounting.**

This review should be completed by 1 October 2012 and provided to the Minister for Financial Services and the Australian Competition and Consumer Commission to determine if further investigation is required.

Market involvement and competition

3.79 Evidence was given that over the last five years there has been a decline in the number of insurance companies providing strata title insurance in the north Queensland area.

3.80 The Owners Corporation Network (OCN) notes that 'there are currently only four core strata insurance providers' in north Queensland and that other insurers 'have withdrawn from the market due to insufficient premium base.'[30]

3.81 The exit from the market of many insurers has forced some Body Corporates to change insurance companies, and others have been unable to seek alternative quotes for insurance cover and have been forced to accept the prices set by the one or two insurers remaining in the market.

30 OCN, *submission 388*, p. 5.

3.82 This, in itself, is not evidence of any price fixing or price inflation. However, there is certainly an absence of evidence of robust market competition.

3.83 Successive Australian governments have been committed for several years now to a free market approach to general insurance. While regulating the industry and ensuring oversight of financial practices, governments have not intervened in setting premium pricing or assessing risk.

3.84 In other types of insurance and in other localities there are a number of insurers providing a competitive range of residential home, contents, vehicle and other forms of insurance. Given the lack of evidence received regarding strata title insurance outside of the Queensland area, the Committee assumes that a robust strata title insurance market exists elsewhere with premiums that are considered affordable by unit holders.

3.85 When a free market fails to operate effectively and service public need, it is for governments to investigate the existence and cause of distorting factors. In this instance, a lack of robust market competition is particularly troubling given the mandatory requirement for strata title insurance and recent excessive premium increases.

3.86 While strata title insurance is mandatory in all states and territories, the issue of rising premiums and lack of competition seems confined to the north Queensland market. Clearly insurance companies are choosing to have a presence where risk profiles are considered lower. This is creating regional inequities with robust markets operating in some areas, and excessive premiums with limited or no insurance choices in others.

3.87 There is currently no obligation for an insurance company that provides certain insurance cover in one region, to offer this cover to all areas of Australia. Consequently, while legislation requires residential strata title insurance (and so ensures that there is a demand created for residential strata title insurance), there is no requirement for insurance companies to offer residential strata title insurance. Therefore, there is no regulatory requirement that ensures the supply of affordable insurance in all areas of Australia.

3.88 Many witnesses claim there is a failure in the strata title insurance market in north Queensland. Several assert that this lack of competition is creating monopolistic conditions in the marketplace and contributing to price increases.

3.89 For example, Mr Matthew Blackmore, an owner-resident of an apartment in Cairns, expresses his frustration that only one insurer was prepared to quote for his strata title complex, and they were forced to accept the dramatic premium increases dictated by this insurer:

> There is unquestionably market failure for body corporate insurance in northern Australia as evidenced by the fact that only one insurance company was willing to quote for our building. I made numerous attempts to identify other insurers, as did our current insurance broker. The legislative requirement for bodies corporate to take out building and other related insurance has created a monopoly of sorts, where one insurer is able to command premium increases of around 400% in 2 years.[31]

3.90 Similarly Mr Beath argues that a market failure exists for tropical strata insurance. He notes that:

> this is evident in the failure of increased prices to attract entrants. In fact insurers have withdrawn from the market as prices have been increasing.[32]

3.91 The Committee heard evidence from insurance brokers who also suggest the north Queensland situation was indicative of a market failure. For example, Mr Pavey said that ‘there has been a market failure in north Queensland’.[33]

3.92 Similarly, Mr Dallas Booth CEO of the National Insurance Brokers Associated (NIBA) conceded that ‘there is market capacity, but it clearly is limited and the market is struggling at the present time’.[34] Mr Booth added that ‘I cannot deny that it is getting very close to market failure’.[35]

3.93 SCA outlines how prices had increased with the withdrawal of other insurers from the market:

> The quantum leap in prices in 2010 and 2011 was clearly associated with a collapse in competitive tension in the tropical insurance market. Some insurers withdrew altogether while others would quote for renewals and not new business.[36]

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31 Mr Matthew Blackmore, *submission 377*, p. 2.

32 Mr Mark Beath, *submission 298*, p.1.

33 Mr Raymond Pavey, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 26.

34 Mr Dallas Booth, *Committee Hansard*, Thursday 16 February 2012, p. 1.

35 Mr Dallas Booth, *Committee Hansard*, Thursday 16 February 2012, p. 7.

36 SCA, *submission 354*, p. 5

3.94 SCA notes this has enabled the remaining companies to select business and the consequence is that some older buildings struggle to secure the insurance coverage required of them by law:

> By late 2011 there was effectively only one major insurer taking new business other than on a highly selective basis. Even then, this insurer drew the line at some of the risks seen to be at the higher end of the spectrum, such as buildings on resort islands and older (pre-1980s) buildings which may not meet current cyclone standards. These have been effectively uninsurable.[37]

3.95 Other evidence suggests that limits placed on available cover are a serious issue and give weight to the notion of market failure. Several submissions and witnesses referred to seeking quotes from companies and being refused cover. For example:

- A strata complex was refused cover because the company only insures 'up to $5 million and they do not have a catastrophe allowance.'[38]
- Anecdotal evidence of one Standard Format Plan registered as a community titled scheme under the BCCM Act that was unable to secure cover for the whole property because the buildings were made of timber and were holiday let. The owners were forced to make their own insurance arrangements, however the common property was un-insurable.

3.96 Several witnesses also express their concern that Body Corporates are no longer able to obtain flood insurance in north Queensland.[39]

3.97 OCN argues that this situation goes beyond market failure and is a complete system failure. OCN assert that:

> The aim of strata title insurance is to provide comprehensive protection against risks to which the Owners Corporation is exposed. A successful market operation in the area implies that choices by well informed consumers, that is, executive committees, result in effective protection for strata plans at the least cost.
>
> In OCN's view this is not the case and a state of affairs exists which is best described not merely as *market failure* but as *system failure*.[40]

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37 SCA, *submission 354*, p. 5.

38 Viewmont Body Corporate, *submission 137*, p. 5.

39 See, for example, Body Corporate for Park Edge, *submission 174*, p. 1; Ms Denise Timanus, *submission 39*, p. 1; Mr Graham Young, *submission 409*, p. 1.

40 OCN, *submission 388*, p. 2.

3.98 OCN describe the lack of competition for strata insurance and how this was impacting pricing policies for strata title insurance. OCN also suggest that this is also resulting in a poor insurance product being offered:

> This lack of competition adversely impacts the cost of strata insurance via inefficiencies and inflated premiums. Without an incentive to price products more keenly, the cover offered tends to be 'one size fits all' resulting in inflated premiums as well as, in many cases, underinsurance in such areas as machinery breakdown, public liability, and office bearer's cover. [41]

3.99 Mr Graham Janz, a unit owner from Cairns, calls for urgent government intervention because of 'crippling increases' in insurance premiums:

> Despite all of the demand for residential strata insurance, the complete absence of other insurers in supplying insurance to bodies corporate in renowned cyclone-prone areas where the building sum insured exceeds $20 million over the last two years reveals the need for government intervention in the market to alleviate the crippling increases in insurance costs which are rising exponentially.[42]

3.100 However, Mr Pavey reacts to calls for government intervention or a government insurance company, suggesting this would only exacerbate the market failure and concentrate risk on one insurer. He argues that the ACCC needs to investigate how and why the market failure had occurred in north Queensland. [43]

3.101 Mr Pavey suggests that the only viable solution to address premium increases is to increase competition in the market, which spreads the exposure:

> Ultimately, if you set up a government insurance company it is going to be the only one operating in the market because everybody will insure with it. That company will eventually face the same pressures as the other insurers. When you have one insurer in the market, it has all the exposure and it will attract higher reinsurance premiums. The only solution is more insurers.[44]

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41 OCN, *submission 388*, p. 5.
42 Mr Graham Janz, *submission 387*, p. 7.
43 Mr Raymond Pavey, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 26.
44 Mr Raymond Pavey, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 25.

Box 3.2 Port Douglas and Cairns: a dire situation pricing out beautiful north Queensland

‘It is getting ludicrous…I am really frightened that a lot of people are going to have to sell — and to sell anything in this market you have got to give it away. As a property manager, a body corporate manager and a real estate agent, it is very hard to look anyone in the eye and suggest that they should buy a strata unit as an investment at the moment. (Margaret Trimble, *Committee Hansard*, Port Douglas, 30 January, p. 9)

‘....we are concerned about the unjustifiable insurance premiums that have gone up significantly. They are impacting on our owners' investments and their livelihoods.’ (Sue Chapman, *Committee Hansard*, Port Douglas, 30 January, p. 9)

‘We can only insure with Zurich, they are the only ones, so they can charge us five million if they like, or we do not insure—and we have to by law, I believe. We just do not have a choice.’ (Valerie Reid, *Committee Hansard*, Port Douglas, 30 January, p.16.)

‘If I were a cynical person I would think that the body corporate management companies around the traps are all holding hands with the insurance companies so they can jack the premiums up.’ (Ian Campbell, *Committee Hansard*, Port Douglas, 30 January, p.18.)

We are very concerned, because a lot of the people who live in our complex are retirees and some are still working at a mature age to make ends meet. It has become ridiculous.’ (George Spathis, *Committee Hansard*, Cairns, 30 January, p.24.)

‘I am particularly concerned because I think that this beautiful part of Australia is being priced out of the ability for some people to come and live here.’ (Dr. Janice Crowley, *Committee Hansard*, Cairns, 30 January, p.25.)

‘Many will think that this issue is only affecting the people who live in the far north...I would like to say that this issue is affecting people Australia wide...the situation is now dire’ (Linda Tuck, *Committee Hansard*, Cairns, 30 January, pp.25-26.)

‘There are literally no investors coming into Cairns.’ (Clint Smith, *Committee Hansard*, Cairns, 30 January, p. 28.)

‘...a situation has arisen which has enabled those insurers participating in this segment of the market to gouge customers with premium increases of up to 800 per cent.’ (Garry Masters, *Committee Hansard*, Cairns, 30 January, p. 29.)

‘...how do you ensure people do not lose their homes and their houses due to unaffordability of insurance?...I am distressed and outraged and I feel sick at the thought of such unjustifiable increases, which have a huge effect on people's lives’ (Helen Reed, *Committee Hansard*, Cairns, 30 January, pp.31-32.)

Territory Insurance Office

3.102 The Committee heard evidence that the only state-owned general insurance company in the country, the Territory Insurance Office (TIO), provides a model of best practice for servicing a strata insurance market.

3.103 SCA comments that the TIO is able to deliver a well-priced insurance product to the strata title market in the Northern Territory:

> While strata insurance remains expensive relative to southern capitals, it continues to be quoted at levels well below those now on offer in north Queensland and northern WA and with no material recent changes in price levels or restrictions on coverage.
>
> In most respects the TIO mirrors the State insurance offices that in every other instance have been privatised in recent decades. On occasions the Northern Territory Government has considered and rejected the option of a similar privatisation because of concerns about the impact on availability and affordability of insurance in the NT. Based on recent experience in strata insurance the rest of tropical Australia, it would appear these concerns were well founded.[45]

3.104 Mr Mark Lever from SCA remarks that data he obtained shows that strata insurance premiums in north Queensland are two to three times the cost of premiums being charged in Darwin, despite the city being similarly exposed to cyclone risk.

3.105 Mr Lever suggests that the TIO is shielded from increasing capital-servicing and reinsurance costs by the Northern Territory government.[46]

3.106 In correspondence received by the Committee, the Chief Executive, Mr Richard Harding, outright rejects claims that the TIO is immune from market forces. While acknowledging that the TIO is a statutory corporation owned by the Northern Territory government, Mr Harding stresses that the TIO is subject to standards and capital management practices comparable to those that APRA requires of other insurers in the market:

> TIO must comply with a prudential standard regime that closely mirrors relevant Australian Prudential Regulation Authority

45 SCA, *submission 354*, p. 9.

46 Mr Mark Lever, *Committee Hansard*, Monday, 30 January 2012, Port Douglas, p. 4.

> (APRA) prudential standards, including its capital management practices. [47]

3.107 Mr Harding also states that the TIO experiences the same market conditions as other insurers, including recent pressures of reinsurance and exposure to risk. These factors dictate its premium pricing:

> In addition to TIO being subject to the above prudential requirements it also experiences reinsurance capacity constraints and expenses equivalent to other insurers in the industry. TIO's pricing is a factor of claims history, reinsurance costs, and the exposure and nature of the risk, and the application of a commercial return on capital which is the same approach as other commercial insurers.

3.108 Mr Harding explains that the differences in premium pricing results from regional differences, and how these impact on attritional and natural peril costs. Pricing differences between the Northern Territory and north Queensland cannot be attributed to any shielding of the TIO from market conditions or by more favourable operating conditions. Mr Harding emphasises that:

> TIO's mandate is to operate in the Northern Territory insurance market on a fully commercial basis, like for like with other insurers. [48]

Australian Reinsurance Pool Corporation

3.109 Some submitters raise the establishment of the Australian Reinsurance Pool Corporation (ARPC) as an analogous situation of the existence of an insurance market failure, and subsequent remedial action taken by the Australian Government.

3.110 Prior to the September 11 2001 terrorist attacks in the United States, Australian insurance companies were able to reinsure their insured risk in the event of a terrorist attack. However, following the terrorist attacks, global reinsurance companies withdrew from the market.

3.111 In the absence of reinsurance, Australian insurers could not provide insurance for terrorism risk.

3.112 In 2002 the Australian Treasury commissioned a review into the availability of terrorism insurance in Australia. This review found that

47 Mr Richard Harding, Committee Correspondence, 10 February 2012.

48 Mr Richard Harding, Committee Correspondence, 10 February 2012.

there was no terrorism-related cover available for commercial property and business interruption.

3.113 As a result of this review, in 2003 the Australian Government intervened in the market to establish a scheme for replacement terrorism insurance coverage (namely, the ARPC). The ARPC was intended as a stop-gap measure to correct an immediate market failure that had serious implications for the Australian economy.

3.114 The viability of the ARPC is required to be reviewed every three years by Treasury. The latest review was conducted in 2009 and found that the ARPC was still necessary because it is unlikely that the private sector can provide terrorism insurance in the near future. Moreover, the availability of insurance and reinsurance was further depleted by the Global Financial Crisis in 2008.[49]

3.115 The review highlighted the fundamental need for private sector involvement, recommending that the Australian Government withdraw from the market once private insurers can offer terrorism insurance on reasonable terms.

3.116 Mr Whelan describes the intervention of the Australian Government to address market failure and establish the ARPC:

> The terrorism pool was established due to actual market failure. After the 9-11 events in America, the availability of insurance for terrorist attacks evaporated globally, so there was no available cover. To replace that available cover in the marketplace, the government intervened and created the pool, which is funded to a large extent by a levy charged against insurance policyholders on certain types of property. The pool has grown and it has a stipulated requirement to build its reserves and its reinsurance capability to a certain level to cope with the potential of a major terrorist attack against Australia. All of that is in place.[50]

3.117 While the ARPC was established to provide terrorism reinsurance for commercial buildings, a number of strata title complexes comprise a mix of commercial and residential occupancy. Depending on the composition, some are eligible for ARPC reinsurance coverage, while others must seek terrorism insurance through commercial markets.

49 The Treasury, Terrorism Insurance Act Review, October 2009.

50 Mr Robert Whelan, ICA, *Committee Hansard*, Monday, 30 January 2012, Cairns, p. 7.

3.118 In correspondence received by the Committee, the CEO of the ARPC, Mr David Matcham explains that:

> Residential buildings are generally covered for terrorism risk in commercial reinsurance arrangements however the general rule is that residential buildings with more than 20% of commercial use and buildings valued in excess of $50M are excluded.
>
> ...
>
> The ARPC scheme provides insurers with a contract of reinsurance covering terrorism risk for commercial buildings. Where buildings are mixed use (commercial and residential), cover is available from ARPC if 50%or more of the building is turned over to commercial use. [51]

3.119 Mr Matcham notes the gaps available in cover for mixed commercial and residential strata title complexes. He indicates that this had been considered in the 2009 review, although the conclusion was that the current ARPC guidelines should remain unchanged. Mr Matcham advises that a further review is being conducted to examine the gaps in available cover. [52]

3.120 OCN argues that the gaps in available cover for terrorism reinsurance are a 'glaring failure in the residential strata arena':

> There are now many buildings in major Australian cities which have been converted from commercial to residential use. It is an anomaly that these residential (or predominantly residential) buildings do not qualify for participation in the government's terrorism coverage scheme. The building site, exposure and risks remain essentially the same as the former commercial building.[53]

3.121 OCN goes on to add that the market failure is this area is significant with potentially serious consequences:

> Meaningful terrorism insurance is not available through local insurers following the withdrawal of Affiliated FM, a US based company, from the market. It can be separately purchased through Lloyds but the cost is prohibitive. If it is accepted that strata insurance should provide comprehensive cover for risk to which the Owner's Corporations (OCs) may be exposed, then lack of

51 Mr David Matcham, Committee Correspondence, 24 February 2012.

52 Mr David Matcham, Committee Correspondence, 24 February 2012.

53 OCN, *submission 388*, p. 5.

> terrorism coverage renders such policies in effect not fit-for-purpose.[54]

3.122 In addition to concerns regarding the gaps in cover for some strata title complexes, the Committee heard calls for an expansion of the ARPC to provide general reinsurance for insured residential strata title risk.

Committee Comment

3.123 Poor pricing practices leading to market readjustments, and increased risk exposure of strata title complexes, were cited as key reasons for the recent dramatic increases in premium prices. Evidence of poor market conditions leading to little or no competition was also cited as a reason for the dramatic increases in premium prices.

3.124 The Committee agrees that the current strata title insurance market in north Queensland is characterised by monopolistic conditions and market failure. The Committee does not conclude from this that anticompetitive, monopolistic or collusive behaviour is or has taken place in the market.

3.125 However, it is clearly not a robust market that encourages efficiencies or competitive pricing. In addition, the concentration of insurers in this market obviously focuses their exposure to risk, exacerbating high costs and the lack of choice or competition.

3.126 The Committee recognises that the TIO is able to provide strata title insurance to service the Northern Territory market at a lower cost than private insurers in north Queensland as a consequence of market characteristics. The Committee sees no merit in the Australian Government entering the market for strata insurance, nor can it recommend that the Queensland government do the same.

3.127 Several submitters told the Committee how they had approached the ACCC to investigate the affordability of strata title insurance in the area. The Committee viewed some of the responses received by those submitters from the ACCC and noted that the agency has been reluctant to do so.[55]

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54 OCN, *submission 388*, p. 5.

55 See, for example, Mr Andrew Hayes, *submission 329A*; Mr Edward Dews, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 22; Whitsunday Ratepayers Association, *submission 112A*.

3.128 The Committee considers that the responses from the ACCC were unhelpful, almost formulaic letters, which added to the frustration and stress of individuals facing the fear of ever-increasing insurance premiums.

3.129 The Committee recognises that the ACCC cannot make rulings about whether strata title insurance premiums are accurately set, or if prices are inflated or have been historically set too low. The Committee acknowledges that those writing to the ACCC may not have grasped the exact jurisdiction of the ACCC. Accordingly, when those writing to the ACCC requested that it investigate the price increases, the response of the ACCC (that they were not able to assist) was technically correct.

3.130 However, as a statutory authority with a public service duty, the Committee considers the tone of some of the responses to be inappropriate – namely some responses were bureaucratic, unhelpful and dismissive.

3.131 The Committee admonishes the ACCC for this type of response and for not seeking to raise the issue with other more appropriate agencies, or to refer it to the Minister for his information and action.

3.132 While not able to investigate the price setting of strata title insurance premiums, the ACCC has the authority to investigate the cost drivers, market conditions and relative profitability of the strata insurance market.

3.133 The Committee is aware that the ACCC conducted extensive reviews into the general insurance industry following shifts in the market and premium increases as a consequence of the September 11 terrorist attacks and the collapse of HIH.

3.134 The Committee is of the view that a similar review of the strata insurance market is warranted, given the magnitude of premium increases in recent years. The Committee notes that insurers offered to provide to the Committee confidential information on their market profitability and relative costings.

3.135 The Committee thanks insurers for their willingness to make available this sensitive information and trusts they will extend the same cooperation to any investigation conducted by the ACCC.

Recommendation 3

3.136 **The Committee recommends that the Australian Competition and Consumer Commission conduct a review to identify the cost drivers, relative profitability and competition in the strata title insurance industry with a focus on the north Queensland market. This review should be completed by 1 October 2012.**

Recommendation 4

3.137 **The Committee recommends that the Australian Government investigate the feasibility of requiring insurance companies which provide types of mandated insurance (such as residential strata title) to offer this type of cover to all regions of Australia as part of their permit to operate in Australia.**

The Committee further recommends that this investigation take into account the methodology for risk assessment and pricing for mandatory strata title insurance and how this pricing is applied equitably throughout regions of Australia.

This investigation should be completed by 1 October 2012 and provided to the Minister for Financial Services.

3.138 The Committee did not receive evidence quantifying the terrorism risk to residential strata title buildings and how this may impact premium prices.

3.139 However, the Committee expresses some concern that residential strata title buildings are excluded from being reinsured by the ARPC. The Committee queries whether the current proportions of residential/commercial use of a building that qualify/disqualify it for reinsurance under the ARPC remain appropriate given the growth of strata title complexes, particularly in coastal holiday and metropolitan areas.

3.140 Given that strata buildings in some locations may face similar levels of terrorism risk as commercial buildings, the Committee is of the view that a reassessment is required. The Committee is aware that any expansion of the reinsurance pool to cover terrorism reinsurance for residential strata title or general insurance risk has serious implications for the Commonwealth.

3.141 Further, the ICA has indicated that the average reinsurance component of insurance premiums is around six percent. Given that this inquiry was instigated because of reports of premium increases in the order of hundreds of percentage points, the Committee is not convinced that terrorism reinsurance represents the most significant component of the problem.

3.142 However, the Committee feels that any measures that may limit premium increases warrant further investigation with an analysis of any possible reductions that may be applied to premium prices.

Recommendation 5

3.143 **The Committee recommends that the Australian Government investigate and report on the expansion of the Australian Reinsurance Pool Corporation created to provide terrorist risk reinsurance for application to residential strata title schemes.**

The investigation should consider the likely impact of the availability of this reinsurance on strata title insurance premiums. The report should be completed by 1 October 2012.

4

Improving transparency, flexibility and choice

4.1 This chapter examines a range of issues relating to improving transparency in the factors impacting on strata title insurance premiums and options to increase flexibility in tailoring insurance cover.

4.2 The range of factors considered include:

- commissions,
- claims history,
- excess levels, and
- full replacement cover and building codes.

4.3 The purpose in considering transparency and flexibility is to enable Body Corporates and unit owners to make more informed choices in their insurance arrangements. By examining the current constraints on the insurance market, the further aim is to attract greater choice back into the strata title insurance market in north Queensland.

4.4 While the Committee did not seek evidence on the capacity of insurers to offer bundling for strata insurance and the range of insurance products they offer, the Committee sees potential benefits for both insurers and their customers in offering discounts on multiple policies. The lack of bundled offers for strata insurance and other policies was raised during the Cairns public hearing.[1]

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1 Dr Janice Crowley, *Committee Hansard*, Monday 30 January, Cairns, p. 26.

Box 4.1 Hidden, unreasonable kickbacks

‘There is virtually no competition between insurance intermediaries as the gate keepers, being the Body Corporate managers, in most cases have insisted intermediaries kick back commission to win the insurance on the properties they control. The Body Corporate committees seem to be powerless if they challenge their Body Corporate manager on this matter’ (Graham Koch, s*ubmission 214*, p.1).

‘My pet dislike (hate is a better word) is the ‘hidden commissions’ paid by the insurer to both brokers and Body Corporate managers, which do not appear on any tax invoice.’ (Margaret Shaw, s*ubmission 404*, p.1.)

‘Not many people seem to realise (even though it is in their contract) that Body Corporate Service Companies are allowed to receive a commission of up to 20% on insurance products they procure for their clients. We find this to be unreasonable percentage...’ (Geoff & Kathy Partridge, *submission 50*, p.1.)

‘[the relationship between insurance brokers and Body Corporates] can be obscure, poorly disclosed, and not well known or understood by owners. The relationship between Body Corporate managers, brokers, insurers and their respective role in the market deserves further attention. Unlike house insurance, there are several levels between an owner and insurer.’ (Mark Beath, s*ubmission 298*, p.2.)

‘I was surprised to learn about the extent of secret commissions being paid on Body Corporate insurance.’ (Matthew Blackmore, *submission 377*, p.3.)

‘There is a profit disincentive for Body Corporate managers to take measures towards facilitating an insurance market that would reduce our premiums [because they]...profit directly from increasing premiums through their percentage commissions. (Graham Janz, s*ubmission 387*, p.8.)

‘It is also known that there is a significant “kickback” (commissions) to the strata manager from the broker and or the insurance company IF the insurance policy recommended is taken out by the Body Corporate.’ (Peter Brownscombe, s*ubmission 98*, p.2.)

‘With each increase in insurance cost, the commission to the broker increases proportionally, exacerbating the increases. One area for reform may be a set fee for commission for brokers.’ (Mandy Sapper, s*ubmission 111*, p.1.)

Commissions

4.5 Body Corporate managers may be unit owners who volunteer or are paid a fee to manage the business needs of their strata title complex, including sourcing insurance either directly through an insurance company or through an insurance broker. Alternatively a strata title complex may employ the services of a management company to act as their Body Corporate manager.

4.6 Under the BCCM Act in Queensland, a person is a Body Corporate manager for a strata scheme if:

> the person is engaged by the Body Corporate (other than as an employee of the Body Corporate) to supply administrative services to the Body Corporate, whether or not the person is also engaged to carry out the functions of a committee, and the executive members of a committee, for a Body Corporate.[2]

4.7 As policy premium costs have increased, so have the commission costs (such as Body Corporate manager or insurance broker fees) that are added to premiums and then passed on to individual unit owners. While commission costs are not drivers of premium increases, their commensurate dollar value rises as premium costs rise, and so they therefore contribute to overall price increases.

4.8 A number of issues were raised in relation to the fees and commissions charged, including:

- the independence and accountability of those accepting commissions,
- the transparency of commissions charged, and
- the value of the services.

4.9 The Committee took evidence from both unit owners who were the Body Corporate manager for their complex, and from representatives of Body Corporate management companies. The Committee also spoke to NIBA.

2 *Body Corporate and Community Management Act 1997 (QLD)*, p. 29.

Insurance brokers

4.10 The Committee heard evidence from a number of insurance brokers, including from NIBA. According to NIBA:

> the traditional role of insurance brokers is to:
>
> - Assist customers to assess and manage their risks, and provide advice on what insurance is appropriate for the customer's needs,
> - assist customers to arrange and acquire insurance, and
> - assist the customer in relation to any claim that may be made by them under the insurance. [3]

4.11 NIBA claims that brokers are skilled at offering tailored insurance packages and providing clients (Body Corporates) with detailed information on insurance options when selecting appropriate cover. They also offer assistance with submitting claims and suggest that they achieve 'a higher success rate with settlements (about 10 percent higher than claims made without a broker)'.[4]

4.12 In relation to the independence of advice offered, NIBA concede that in a small number of instances, the broker acts on behalf of the insurer rather than the Body Corporate. However, this is not the usual relationship and in such instances, full disclosure is required:

> The NIBA make the qualification that, in limited cases, insurance brokers may act as agent of the insurer not the insured but where such a relationship exists the customer is clearly advised up front.[5]

4.13 During the public hearing in Canberra, the CEO of NIBA, Mr Dallas Booth, confirmed that unless particular brokers are acting as agents of insurance companies, and that relationship has been clearly explained to the customer, the fiduciary duty of brokers is always to their customers rather than insurers. This is dictated under financial services regulation.

4.14 Body Corporate managers are not bound by the same regulations and are not necessarily subject to the same fiduciary duty.

4.15 NIBA emphasises the difference between qualified insurance brokers and Body Corporate managers lies in market knowledge and independence. They assert that Body Corporate managers (a category that includes large companies) play a significant role in sourcing insurance due to their close relationship with the Body Corporates they manage.

3 National Insurance Brokers Association (NIBA), *submission 303*, p. 1.

4 NIBA, *submission 303*, p. 1.

5 NIBA, *submission 303*, p. 1.

4.16 However, NIBA doubts that Body Corporate managers are able to best serve the Body Corporate when it comes to sourcing or recommending the most appropriate and most competitive insurance option. Further, they suggest that the intervention of Body Corporate managers in negotiating insurance contracts may have contributed to the diminished involvement of other insurers in the market.

4.17 NIBA questions:

> whether a lack of competition could to some degree be contributed to by the fact that strata managers act as a conduit in organising strata insurance. Such managers would typically have a relationship with one or a limited number of insurers. Unlike a traditional insurance broker they would not provide personal advice on the most appropriate strata insurance available for the strata Body Corporate. [6]

4.18 However, some witnesses questioned the accountability and independence of brokers, suggesting that initial premium prices may have been inflated in order to 'cover' the commission of the broker who then supposedly negotiated a reduction of the premium price.

4.19 Mrs Margaret Shaw, a unit owner and treasurer of her Body Corporate in Airlie Beach, suggested that the insurance offer provided by one company indicates them 'discounting the premium by the 20% [commission] loading' and goes on to add that:

> the insurance companies actually add the commission onto the base premium, and then it is split between the brokers and Body Corporate managers according to their own agreement. [7]

Body Corporate managers

4.20 Body Corporate managers, whether individual unit owners or management companies, are paid a fee for services. In some instances this fee includes the task of sourcing insurance for the strata title complex. In other instances, managers charge a commission in addition to their usual fess to source the required insurance coverage.

4.21 Under the BCCM Act, Body Corporate managers have a legislated code of conduct, which includes requirements that they:

- have a sound knowledge of the Act, including the code of practice,

6 NIBA, *submission 303*, p. 7.

7 Mrs Margaret Shaw, *submission 404*, p. 2.

- undertake their engaged tasks with honesty, fairness, professionalism, skill, care and diligence,
- act in the best interests of the Body Corporate,
- keep the Body Corporate informed of any developments or issues,
- ensure that employees comply with the Act and code,
- supply goods and services at competitive prices,
- keep Body Corporate records as required by the Act, and
- not engage in fraudulent, misleading or unconscionable conduct.[8]

4.22 A further stipulation in the code relates to conflict of interest, though this is limited to any conflicts that might arise from the management of multiple strata schemes.

4.23 The response from the Western Australian Government to the 'Report into the Western Australian Strata Management Industry' in 2002, noted that while strata managers are responsible for ensuring they have complied with the state's strata laws, the evidence suggested that they can have little understanding of the relevant law.[9]

4.24 The Committee notes that Body Corporate managers in Queensland are similarly responsible for ensuring that strata schemes comply with relevant legislation. However, the Committee did not collect evidence on whether strata managers in Queensland had sufficient knowledge of the relevant Acts (as they are required to do under the legislated code of conduct). The Committee can therefore form no conclusions in this regard.

4.25 Neither the Act, nor the code specifically mentions or places clear legislated requirements on the payment or receipt of commissions.

4.26 When speaking to individual unit owners, some were unaware of the commissions paid to Body Corporate managers or had only become aware of the commissions since querying the premium increases and reading the fine print of the contracts. Several refer to these commissions, especially when there were cumulative commissions, as 'hidden' costs that add to the burden of strata insurance costs.[10]

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8 *Body Corporate and Community Management Act 1997* (QLD), pp. 341-3.

9 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, p. 19.

10 See, for example, Mrs Margaret Shaw, *submission 404*, p. 1; Geoff and Kathy Partridge, *submission 50*, p. 1.

4.27 Mr Ian Campbell concedes that insurance brokers have a right 'to make a quid', however he objects to 'Body Corporate managers charging a commission on arranging that insurance. How many people have got their fingers in the till?' [11]

4.28 Mr Campbell describes the situation as:

> just an absolute rort. We are paying these people a fee to manage our business and to then have to pay a commission on top of that. I think is absolutely disgraceful.[12]

4.29 Mrs Shaw comments on the size of some commissions paid to Body Corporate managers. She suggests there is a lack of transparency around these business dealings and how they might be recorded:

> when you consider the premiums for the larger complexes (replacement value >$10M and >20 units) are now between $77 000 - $180 000, or more, a 20% loading (+GST and stamp duty) is a huge amount of money which is why the Body Corporate managers do not want it shown on the tax invoices.[13]

4.30 The UOAQ are also concerned about the additional commission cost and the scope for less than objective advice from Body Corporate managers:

> In addition to the premium increases there is also a practice where some Body Corporate Management Companies are receiving a commission for the insurance they recommend which is accepted and approved by Body Corporate management committees. These commissions are an additional cost which is paid for by unit/apartment owners and is in addition to the insurance premiums paid by unit and apartment owners.[14]

4.31 Mrs Shaw expresses concern about the accountability and independence of Body Corporate managers and brokers when it comes to insurance contracts. She suggests that both brokers and Body Corporate managers may have a greater allegiance to insurers as that is where they gain the commission.[15]

4.32 The lack of accountability and independence of advice was raised by Mr David Morgan as a key concern in relation to Body Corporate managers. He suggests that Body Corporate managers may lack independence and

11 Mr Ian Campbell, *Committee Hansard*, Monday 30 January 2012, Port Douglas, p. 18.
12 Mr Ian Campbell, *Committee Hansard*, Monday 30 January 2012, Port Douglas, p. 17.
13 Mrs Margaret Shaw, *submission 404*, p. 1.
14 UOAQ, *submission 328*, p. 10.
15 Mrs Margaret Shaw, *submission 404*, p. 1.

can wield too much power over the market for strata title insurance because of their close links with large insurers:

> From my observations, the provision of Strata Insurance Policies in Australia is controlled by a very small group of Large Insurers, who derive a large percentage of their business through a system of appointing Strata Managers as their Distributors or Authorised Representatives. Strata Managers traditionally source the Insurance on behalf of Body Corporates and in doing so, will in turn, as a Distributor or Authorised Representative, receive a commission from the Insurer.

4.33 Mr Morgan also suggests that some commissions charged were particularly high and that current business arrangements were not necessarily benefitting Body Corporates. He adds that this lack of independence could be negatively impacting on market competitiveness:

> Whilst not opposed to the payment of commissions for business provided, the levels of commissions can range from zero to 20% with the latter figure appearing to be the norm. Additionally some Insurance Companies act under 'Binders' for other Insurers, which in fact means they are acting for the other Insurance Company and not the Body Corporate seeking Insurance. Commissions in these instances can approach 30%.
>
> At these levels of commission it is extremely difficult for smaller Insurers to compete in providing Strata Insurance as they would in most cases be unable to generate sufficient policies to allow such percentage payments to Distributors.[16]

4.34 From the evidence received it is apparent that there is a great variation in commissions charged by Body Corporate managers. However the Committee also heard of one instance where an insurance broker agreed to waive his fee to ameliorate the dramatic increases in premium prices.[17]

4.35 No doubt, as in any industry, there are a range of operators and business practices amongst those negotiating strata title insurance. The Committee commends those who act with integrity and transparency in the negotiation of insurance on behalf of Body Corporates, particularly those who have generously waived some fees.

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16 Mr David Morgan, *submission 4*, p. 1.

17 Mr Anthony O'Rourke, *Committee Hansard*, Wednesday 1 February 2012, Mackay videoconference, p. 10.

4.36 Allegations of lack of transparency, accountability and independence are concerning, particularly at a time when many unit owners are under such financial stress. From these accounts there is obviously a need for Body Corporates to ensure that Body Corporate managers and/or insurance brokers provide a full disclosure of fees, duties expected and additional commissions.

4.37 At the conclusion of this chapter the Committee makes further comment about addressing transparency and accountability of commissions, and equipping Body Corporates with greater knowledge to oversee their business affairs.

Excess levels

4.38 The Committee notes some contradictory evidence was received in relation to how excess levels reduce premium prices.

4.39 On one hand, the Committee heard evidence from the ICA that raising excess levels would help reduce premiums. On the other, the Committee heard that recent increases in premium prices were accompanied by elevated or new excesses, particularly 'catastrophe' or 'named cyclone' excesses, and that these were becoming a standard condition in strata polices.[18] These 'one-off' excesses are discussed in the following section.

4.40 In terms of the degree of flexibility enjoyed by Body Corporates in the balance of premiums versus excesses, the ICA suggests that part of the fault lies with strata managers, who:

> do not always lower premiums with excess or deductible settings. The setting of appropriate excess payments or retention levels is a mechanism widely used in insurance markets to reduce upfront premium costs to a client, by nominating an excess payment to be made at the time of a claim. [19]

4.41 The ICA argues that, in contrast to the residential housing market, the practice of agreeing to a higher excess in order to secure lower ongoing premiums is not the norm for strata title complexes:

> In the residential strata market there has been a long term trend by some strata managers to set excess payments as low as $200 for

18 See, for example, Mr Andrew Hayes, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 2.

19 ICA, *submission 380*, p. 2.

> some aspects of cover, leaving premiums payable by their strata unit holders at very high levels.[20]

4.42 It was reiterated to the Committee from insurance industry representatives that small excesses that were payable by individual lot owners led to a higher number of small or frivolous claims that, in turn, made insuring strata schemes more costly.

4.43 Zurich suggests that low excess levels are having a feedback effect on claims history, leading to increased premiums. Mr Shaun Feely from Zurich says that 'we have a frequency issue that is quite high and that links to the excesses that are paid, and they are charged at an individual level.'[21]

4.44 Mr Whelan from the ICA emphasises that 'there are flexibilities about being able to provide a dial down premium for an increased excess.' He adds that:

> the excess that would be paid on a claim—we are also talking about claims which do not happen every year—by a unit holder is reasonably light, it is not a particularly large impost on people if you have a dialled up excess. So yes it does prevent people putting in small claims which would build the constant claim profile, which drives the business into loss. Increased excess will reduce the premium but it also reduces the claims which continue to feed back into premiums.[22]

Figure 3 A selection of various excess payments and their impact on typical strata premiums

	No Excess	$200 Excess	$500 Excess	$1000 Excess	$2000 Excess	$5000 Excess	$10,000 Excess
Annual Premium Payable	$18,000	$17,820	$16,920	$16,380	$15,840	$14,940	$13,320
Annual Premium Payable per strata unit	$1,125	$1,113	$1,057	$1,021	-$990	$933	$832
Premium Reduction due to excess payment	0%	-1%	-6%	-9%	-12%	-17%	-26%
Excess payment payable by each strata unit holder upon claim.	$0	$12.5	$31.25	$62.5	$125	$312.5	$625

Example impact on annual premium of selecting excess payments – Varies depending on risk location and underwriting parameters
$5,000,0000 Sum Insured, 16 units, **Residential Strata Property** in Cairns – These levels of discount are not achievable by every insurer, it will vary depending on the underwriting model used.

Source *ICA, submission 380, p. 6.*

4.45 Figure 3, taken from the ICA's submission, gives an indication of how various levels of excess payments impact upon typical strata premiums.

20 ICA, *submission 380*, p. 2.

21 Mr Shaun Feely, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 9.

22 Mr Robert Whelan, ICA, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 13.

4.46 The ICA further state that 'the average excess selected by individual home homeowners is $500. In some instances strata unit owners have an average excess per unit of $10.'[23]

4.47 The Committee notes the need for Body Corporates to ensure that the managers or brokers whom they employ on their behalf are investigating all options to reduce premiums and provide a tailored insurance package with appropriate excess levels.

4.48 While increased excess levels may ameliorate some of the dramatic premium increases being experienced, they are not the sole driver or the sole solution to strata title insurance affordability.

4.49 The Committee also notes that in some instances, high excess levels are being set by the insurer for 'one-off' catastrophic events, such as named tropical cyclones.

Cyclone excesses

4.50 While insurers are encouraging Body Corporates to set higher excess levels in order to reduce the frequency of claims and rates of pay-outs, there was also evidence of extraordinarily high excesses being mandatorily set by insurers in some circumstances.

4.51 Many witnesses referred to the recent addition of large excesses being charged on policies in the event of 'named cyclones'.[24]

4.52 Ms Linda Tuck, a realtor and investor in strata properties states that the introduction of these large excesses is significant. While technically complying with the law by having strata title insurance, the effect of such large excesses for named cyclone events is that individual unit owners feel exposed to large losses – which is contrary to the purpose of seeking insurance cover. Ms Tuck explains that:

> If a cyclone does hit, many of the complexes now have ridiculously high excesses for named cyclones. The highest we have is $25 000, which went up from $100 plus premium. If we do have a claim, this will essentially take away half our sinking fund. The knock-on effect would be that either the work does not get done or owners have to pay a special levy.[25]

23 ICA, *exhibit 1*, p. 1.

24 See, for example, Mr Ian Cruickshank, *submission 130*, p. 1; Ms Kim Hughes, *submission 305*, p.1; Ms Linda Tuck, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 27; Ms Judy Hayden, *submission 100*, p. 1.

25 Ms Linda Tuck, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 27.

4.53 Ms Tuck goes on to say that in her experience working with several Body Corporates to negotiate insurance policies, there is no option to negotiate on these special excesses. She notes that the level of cyclone excess set is:

> mandatory. They still have a $100 excess or a $500 excess for other claims but for a named cyclone event the least they have is at $10 000 and the most they have is at $25 000. [26]

4.54 Ms Kim Hughes is worried that her strata insurance policy included a $15 000 'named cyclone' excess, which excludes cover for storm surge. Ms Hughes finds it 'very concerning, given the fact that storm surge is the biggest threat facing this building complex, yet we are unable to obtain cover for such an event'.[27]

Claims history

4.55 The previous chapter discussed the contribution of claims history as a cost component to the insurance premium stack. In particular, the ICA suggests that Queensland experiences a higher number of claims than other parts of the country, and further that strata title policy holders have a higher frequency of claims than other types of residential housing. The combination of these factors adversely impacts the risk profile of strata title complexes in north Queensland.

4.56 While some witnesses dispute that Queensland has a higher claims frequency than other parts of the country, or that strata title complexes have a higher claims frequency than residential standalone households, the Committee must trust the data collated and published by insurers themselves.

4.57 The previous chapter includes data provided by the ICA showing that Queensland contributed to 25 percent of all national insurance claims, despite contributing only 15 percent to the national premium pool.[28]

4.58 Further, the ICA reports that some insurers are experiencing claim frequencies of 30 percent for their strata portfolios, in comparison to an average of 10 percent for their residential home portfolios. [29]

26 Ms Linda Tuck, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 27.
27 Ms Kim Hughes, *submission 305*, p.1.
28 ICA, *submission 380*, p. 4.
29 ICA, *submission 380*, p. 2.

4.59 Mr Feely from Zurich notes that, in the north Queensland strata insurance market, his company is experiencing claim frequencies in the order of 30 to 40 percent, which is far higher than for general insurance.[30]

4.60 Notwithstanding these figures, the lack of transparency provided to customers by insurers about how their strata complex's history of claims is factored into the pricing of premiums is a common cause of frustration expressed during the inquiry. Many submissions the Committee received from owners in strata schemes express their concerns that their insurance premiums have increased despite low claim histories.[31]

4.61 At the Townsville public hearing, Mr Pavey says that insurance brokers provide insurers with claims history 'verbatim', however, he says that companies 'do not discount for a good claims history. They knock you back if you have a bad one. That is essentially the way they deal with it.'[32]

4.62 Many witnesses express concerns that the quality of their buildings under various building codes are not taken into account in the calculation of their premiums. In particular some witnesses who were unit owners claim that premiums have unfairly gone up when the buildings have not suffered any damage during recent weather events.[33]

4.63 The Committee notes that with further questioning, some witnesses concede that the Body Corporate have made claims during those weather events for damage to trees or fences.[34]

4.64 It is not unreasonable to expect that the claims history for strata title complex will impact on premium levels for future years – regardless of whether claims are for damage to garden areas or to buildings. For the insurer, the risk remains of similar damage in the future following a similar weather event.

4.65 However, the issue of claims history is a vexed one and reveals issues about the provision of information by insurers to Body Corporates, and from Body Corporates to unit holders.

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30 Mr Shaun Feely, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 9.

31 See, for example, Mr Matthew Blackmore, *submission 377*, p. 2; Sea Temple Palm Cove Body Corporate, *submission 126*, p. 1; The Committee of Josephine Palms, *submission 361*, p. 1; Mr Warren Pitt, *submission 397*, p. 1.

32 Mr Raymond Pavey, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 25.

33 See, for example, Mr Don Cunningham, *submission 121*, p. 1; Dr Janice Crowley, *submission 389*, p. 1; Mr David Wah Day and Mrs Audrey Wah Day, *submission 424*, p. 1.

34 See, for example, Dr Janice Crowley, *Committee Hansard*, Monday 30 January 2012, Cairns, p. 25; Witness B, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 36.

4.66 It was revealed that in many instances a Body Corporate may make a claim on its insurance without the knowledge of all individual lot owners. It was also reported that in some instances a unit holder may make a claim without the full knowledge of the Body Corporate.

4.67 This lack of collective responsibility and knowledge is concerning in light of the consequences for the collective. It is obvious that such a set of circumstances could encourage a culture of claiming amongst some, with many unit holders unaware of the claims being made but forced to then bear the costs of increased premiums.

4.68 Again, there is a need for greater transparency in how insurers determine a claims history based on both locality and the actual building complex. The Committee notes the recommendations made earlier in this report in regard to examining the methodologies insurers utilise to assess and price risk.

4.69 Additionally there is a need for Body Corporates and Body Corporate managers to retain greater oversight over their business affairs, including claims made on strata title insurance. This would enable them to better negotiate based on a low claims history, and to make more informed choices about when it is prudent to make an insurance claim.

4.70 The Committee makes further comment on these issues at the conclusion of this chapter.

Building codes

4.71 Another major concern is the lack of transparency in the manner in which building valuations, and the quality of particular buildings in relation to building codes and cyclone ratings, are taken into account in the calculation of premiums.

4.72 Throughout the inquiry many witnesses referred to their buildings being built to improved (and more expensive) cyclone ratings standards and commented that those buildings emerged relatively unscathed from recent disaster events, while nearby stand-alone homes suffered substantial, or total losses.

4.73 Mr Steven Malcolm, the Managing Director of a building consultancy and property development company in northern Queensland, directed the

Committee's attention towards a report produced by the James Cook University's Cyclone Testing Station.[35]

4.74 Mr Malcolm's assessment of the report, 'Tropical Cyclone Yasi Structural Damage to Buildings dated April 2011', leads him to assert that:

> there should be a consideration by the insurance companies of the performance of different types of buildings, constructed of different types of materials, and particularly the year of construction i.e. whether the building was constructed pre-or post 1980 as more than adequately discussed in the above-mentioned report.[36]

4.75 Mr Malcolm notes the changes to building codes implemented in the 1980s, and the need to discriminate between buildings of different eras.

> From 1980 there was a significant change in the structural construction requirements of the codes that were then legislated at that time. Therefore the structural damage that was sustained by houses and other buildings during cyclone Yasi constructed post 1980 was significantly less than those constructed pre-1980.
>
> The point being that the owners of buildings constructed post 1980 should not have to bear the same cost of insurance premiums as that of older buildings. Whether the roof is of concrete tiles or steel sheeting appears to be another important consideration. [37]

4.76 The author of the report, Dr John Ginger, confirms that recent studies have shown that:

> houses built to current engineering regulations that were introduced in the early 1980s—have significantly better structural performance compared to houses built prior to the introduction of these standards.[38]

4.77 The rigour of building codes in north Queensland ensures many buildings can withstand extreme weather events. However, it is also noted that these codes imposed additional costs should a building require repair.

4.78 Additionally, for any building constructed prior to the current building codes, reconstruction or repair work must comply with current codes and

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35 Mr Steven Malcolm, *submission 147*, p. 1.

36 Mr Steven Malcolm, *submission 147*, p. 1.

37 Mr Steven Malcolm, *submission 147*, p. 1.

38 Dr John Ginger, *Committee Hansard*, Wednesday 1 February 2012, Townsville, p. 2.

consequently the costs may be extensive. Compliance with building codes, while protecting against damage also incurs the risk of costly repairs.

4.79 From the evidence received it is unclear the extent to which strata title insurance policies are being tailored to specific complexes and taking into account cyclone ratings and compliance with current building codes. Equally it is unclear the extent to which these same codes impose the risk of additional costs should a claim for repair be made.

4.80 Once more the Committee concludes that it falls primarily to insurers to improve their communication with clients, including notifying how construction style, assets covered, claims history and other factors may positively or adversely impact on a complex's risk profile.

4.81 However, the Committee considers that Body Corporates must accept a degree of responsibility to ensure that all relevant details, including adherence to current building codes and a claim-free history, are duly taken into account by the insurer.

4.82 The Committee acknowledges that in the current market of limited competition, policy holders have limited choices and hence limited negotiation power. The suite of recommendations set out in this report is intended to redress the perceived risk profile of strata title schemes and so attract further competition back into the north Queensland strata title market. This will assist in restoring the balance of power and provide Body Corporates with a greater range of options in seeking appropriate cover.

Full replacement cover

4.83 While all states and territories require strata title complexes to be insured for full replacement value, concerns were raised about the lack of flexibility this allowed Body Corporates in their insurance arrangements.[39]

4.84 Evidence received by the Committee to this inquiry is focussed on the Queensland jurisdiction. Consequently the following sections refer to the legislative requirement for full replacement cover for strata title complexes and the possible impact of this requirement for strata title insurance premiums in Queensland.

39 See, for example, Mr Ian Campbell, *submission 281*, p. 2; Mr Garry Masters, *submission 95*, p. 3; Mr Terry Balson, *submission 68*, p. 2.

4.85 Mrs Pauline Stirgess suggests that the legal requirement for full replacement value leads to over-insurance of buildings that are capable of withstanding the majority of extreme weather events. She states:

> the law requires that all Body Corporates are insured for the full replacement value of any building. This means that we are very much over-insuring in the majority of buildings. Modern buildings are now built to strict council requirements to withstand cyclones and they would, even in the event of a Category 5 cyclone, will withstand most of the damage and perhaps in the worst case scenarios will only lose the roof or have partial damage to some apartments from storm damage.[40]

4.86 Mr Ian Campell, a unit owner from Port Douglas, believes that current legislative requirements for insuring strata schemes for full replacement value are discriminatory and contributes to an anticompetitive market. Mr Campbell says that:

> Other than 3rd party motor vehicle insurance, there is to my knowledge, no other mandatory insurance under QLD legislation (except maybe in financial contracts). If any entity wish[e]s to insure anything of value, they are not legally enforced to do so. They can select their own opinion of Insurable value & negotiate with their insurer a mutually satisfactory premium. Or they can elect not to insure at all.[41]

4.87 Mr Garry Masters asserts that strata schemes should not have to insure for full replacement value, but rather for the current market value (i.e. sale price) of the property. Mr Masters says that 'insuring for total replacement value has provided the insurers with a total replacement value on which to base premiums which is more often as not, up to 100% higher than market value'.[42]

4.88 In listing the following factors, Mr Masters suggests that many of them had an inflationary effect on the replacement value of a strata complex:

- Demolition of remaining parts of the building
- Cost to reclaim the site and prepare same for rebuilding
- Headworks and local council fees
- All other fees relating to services to be provided to the new building
- Cost of the materials and labor to rebuild, and

40 Mrs Pauline Stirgess, *submission 185*, p. 3.
41 Mr Ian Campbell, *submission 281*, p. 2
42 Mr Garry Masters, *submission 95A*, p. 1.

- Cost of landscaping and roadworks on site and gaining access to site.[43]

4.89 Mr Colin Archer from SCA draws the Committee's attention to the practical implications and legal constraints around insuring for less than full replacement value, particularly for buildings nearing the end of their habitable life. He notes that, regardless of how old a building was, 'if someone gets hurt, you have to maintain it and you have got to insure it as though it were a new building. There aren't really any options.' Mr Archer adds that 'if it is habitable, you have to insure it for its full replacement value because you cannot take a lesser value under the Act.'[44]

4.90 Certainly the requirement to insure for full replacement value provides added protection for unit holders in the event of a disaster, but also adds to premium costs which must be sufficient to cover reconstruction and replacement of all amenities and assets. Considering the rigour of building codes in north Queensland, it is more likely that a post-1980 building will withstand an extreme weather event relatively unscathed, while other infrastructure and assets in the complex may be significantly damaged.

4.91 Currently all aspects of a strata title complex must be insured for full replacement value. In most instances this puts the replacement valuation considerably higher than the market value of a complex.

4.92 Given that certain elements of shared property might be deemed non-essential to replace (for example, plants and garden sheds), and that consensus could be achieved within a Body Corporate on what is necessary to replace, there is merit in reviewing the legislative requirement across jurisdictions with the view to introducing greater flexibility in the minimum insurance cover required. This may provide some scope to reduce premium levels.

Valuations

4.93 In Queensland, as in other states, Body Corporates are required to have their strata scheme assessed to obtain a full replacement value every five years.

4.94 Assessing replacement value is a more complex task than determining current market value. The Committee notes that many unit owners do not appear to understand that the valuation required for strata title insurance purposes refers to full replacement value, rather than market value.

43 Mr Garry Masters, *submission 95*, p. 2.

44 Mr Colin Archer, *Committee Hansard*, Monday 30 January 2012, Port Douglas, p. 7.

4.95 In addition, the Committee heard of significant variations between full replacement valuations for the same complex. Such differences can substantially impact on premium prices. For example, one building was assessed for $25 million, only to be valued by a different assessor for $19 million the same year.[45]

4.96 Concerns were also raised about additional cost factors that contributed to elevated valuations. In his submission, Mr Warren Pitt says that he had been given a valuation on his strata scheme and then had an additional 39 percent added on to account for 'Cost Escalations, Fees & Charges and Removal of Debris'. According to Mr Pitt:

> The final paragraph from the Valuer's report states that 'following the occurrence of possible catastrophic circumstances the sum insured for should further be increased' and the recommendation was a staggering 79% increase in the 'Replacement Building Cost'.[46]

4.97 The Committee understands the logic for including such components in the assessment of full replacement value, yet it has concerns about the accuracy of the methodologies used to arrive at such inflated values. No evidence was presented to the Committee during this inquiry that unpacked or explained these processes.

4.98 The Committee would expect an insurance broker and many Body Corporate management companies to have some expertise in verifying the validity of a valuation. Similarly the Committee encourages Body Corporates to take an active role in understanding how a valuation for full replacement cover has been assessed and the components contributing to that cost.

4.99 Further comment on flexibility in strata title insurance arrangements is made at the conclusion of the chapter.

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45 Mr Anthony Sharp, *submission 283*, p. 1.

46 Mr Warren Pitt, *submission 397*, p. 3.

Box 4.2 Townsville and Mackay: 'The massive increases in insurance have the ability to smash people's dreams.'

''As more and more insurance companies have pulled out of the strata building industry, we have really arrived at a monopoly situation...We are captives because legally we have to insure our strata buildings. We cannot refuse to insure, so we are all helpless — absolutely helpless. This again has led to rorting on a grand scale — in my words, tantamount to theft...There will be more forced sales at reduced values, bank foreclosures, fear, distress and anger, with no end in sight.' (Mr Lester Riley, *Committee Hansard*, Townsville, 1 February, p.13.)

'I feel that I am in a movie which is a cross between *The Castle* and *Erin Brockovich*. It would be funny if it were not so tragic. We are hurting and it is only getting worse. It is not right and it is not fair.' (Margaret Shaw, *Committee Hansard*, Townsville, 1 February, pp.14, 15.)

'If the Body Corporate[s] are legally required to purchase the product that the insurers are selling at the price that the insurers nominate, what protection is there for us against rapacious insurance companies?…Extortion is demanding money with menace. The insurers are demanding my money…It is a disgraceful situation and it is bringing many pensioners to their knees…it is a catch-22 position. We cannot afford to pay the premiums; we cannot afford any more increases. Our investments are going down. We cannot even sell them. If we did have a claim, we cannot afford the excess.' (Nanette Grace, *Committee Hansard*, Townsville, 1 February, pp.17, 19.)

'When I spoke to our broker down south, he basically said, 'Look, if you're in this part of the world, the insurers don't want to know you anymore; it's just the problem.' If they are also flagging future increases, where do we turn to from here? There is only so much we can absorb in terms of insurance increases.' (Anthony O'Rourke, *Committee Hansard*, Mackay, 1 February, p.10.

'The massive increases in insurance have the ability to smash people's dreams.' (William Moffat, *Committee Hansard*, Mackay, 1 February, p.6.)

Committee Comment

4.100 The Committee is concerned about the apparent lack of disclosure in the commissions and apparent hidden discounts negotiated by intermediaries in their dealings with insurers on behalf of Body Corporates. The Committee sees the need for honest and transparent disclosure of every component that comprises strata insurance premiums.

4.101 In particular the Committee notes suggestions of a lack of transparency, accountability and independence from some Body Corporate managers and insurance brokers. This evidence is anecdotal and in the scope of this inquiry the Committee did not have the capacity to investigate these allegations.

4.102 The Committee is aware of the difference between the roles of Body Corporate managers and qualified insurance brokers. Insurance brokers are bound to provide a full disclosure of any relationship that may exist with an insurer, although it is rare for such a relationship to exist. The broker must disclose all fees and commissions received from all sources.

4.103 The Committee considers that it is incumbent on Body Corporates or the Body Corporate manager who may be liaising with an insurance broker to ensure full and obvious disclosure of all information as part of establishing a contract with the broker.

4.104 Where a Body Corporate manager or management company negotiates directly with an insurer, there are not necessarily the same regulatory obligations placed on them for disclosure of relationship or commissions. The Committee considers this a severe deficiency in current requirements.

4.105 The Committee considers that Body Corporate managers should be similarly accountable to their clients, particularly when they act as intermediaries in negotiating strata title insurance matters.

4.106 However, once again an onus must rest with the Body Corporates to oversee their business affairs and dictate the terms and conditions under which a Body Corporate manager or management company is engaged to operate on their behalf.

4.107 The Committee draws no conclusions from the limited evidence received regarding improper practices on the part of Body Corporate managers or insurance brokers. However, the issue is sufficiently serious to warrant further investigation than the Committee was able to undertake.

4.108 Consequently, the Committee recommends that the ACCC undertake a preliminary investigation of the use of intermediaries to negotiate strata title insurance, with a particular focus on the north Queensland market. The ACCC should consider whether there is evidence of improper or anticompetitive behaviour taking place between intermediaries and insurers, and determine whether a full investigation is required.

Recommendation 6

4.109 **The Committee recommends that the Australian Competition and Consumer Commission undertake an investigation into the use of intermediaries to negotiate strata title insurance cover, in order to determine whether there is evidence of improper or anticompetitive behaviours taking place.**

The investigation should focus on the Queensland market and indicate whether there is evidence to suggest a more thorough investigation is required. The report of the preliminary investigation should be made public by 1 October 2012.

4.110 The Committee is firmly of the view that a number of factors are combining to excessively increase strata title insurance premiums in north Queensland. Many of these factors are beyond the control of Body Corporates and individual lot owners. The purpose of this inquiry is to mobilise urgent action across a number of fronts to investigate the market failure in this sector, and bring attention to bear on how insurers are pricing the risk of strata title complexes in north Queensland.

4.111 The Committee anticipates the recommendations made in the previous chapter will lead to a greater market involvement and a more robust methodology for pricing risk.

4.112 That said, the Committee also sees scope for Body Corporates to be better equipped around their rights and responsibilities when it comes to managing their affairs. In a tight insurance market with steep premium increases, there are a number of measures that can be taken to ensure that the most appropriate and competitive premium price and coverage is achieved.

4.113 The Committee also recognises that there are a number of Body Corporates who are well informed and who have actively pursued all available options already. However, this does not apply to all Body Corporates and unit holders. Furthermore, the Committee is aware that the premium for one strata title complex is influenced by the behaviour of other strata title complexes in the locality.

4.114 The Committee has received data which indicates that, overall, strata title complexes in the north Queensland region have lower excess levels and higher claim frequency than standalone residences.

4.115 Body Corporate structures are complex, and the Committee acknowledges that individual unit owners will often have had no prior experience in many of the matters which a Body Corporate must oversee, negotiate, make decisions on and forecast. In essence, each unit owner when purchasing into a strata title complex becomes part of a complex business management structure, usually without training or knowledge of how to access resources to assist them in these duties.

4.116 Often unit owners outsource their research into a Body Corporate prior to purchase to a solicitor acting on their behalf in the purchase. Thus, while the information may be obtained, it is not necessarily known by the purchaser.

4.117 The complexity of Body Corporate arrangements is the reason many Body Corporates employ a manager or management company to direct their affairs. However even this delegation requires a contractual arrangement and necessitates the Body Corporate overseeing the performance of the Body Corporate manager.

4.118 The Committee considers that Australian Consumer Law (ACL) could assist in the provision of plain English assistance to Body Corporates regarding contract responsibilities.

4.119 The ACL is a cooperative reform of the Australian Government and the States and Territories, through the Ministerial Council on Consumer Affairs (MCCA). The ACL framework replaces 20 existing State, Territory and Australian Government laws with a single consumer law. The ACL provides consumers with a law that is easier to understand and is better enforced.

4.120 Given that the issues raised in this inquiry appear specific to the Queensland market, the Committee sees a clear role for the Queensland Commissioner for Body Corporate and Community Management (the Commissioner) to assist in better equipping individual unit holders and Body Corporates to competitively manage their affairs.

4.121 The role of the Commissioner is to assist people who live, work or invest in Queensland strata schemes in accordance with the powers conferred on it by the BCCM Act. The Commissioner's office provides a range of valuable information and tools, including an online training course for Body Corporate members, committees and industry groups.[47]

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47 Queensland Commissioner for Body Corporate and Community Management, <http://www.justice.qld.gov.au/justice-services/body-corporate-and-community-management>, viewed 7 March 2012.

4.122 Similar online resources are offered by Strata Community Australia in New South Wales.[48]

4.123 The Committee acknowledges that some detailed resources and training are already made available through the Queensland commission. However, the online training package does not refer to legislative requirements for insurance, how strata title insurance differs from other forms of insurance, cost factors, and strategies to consider when negotiating appropriate insurance coverage.

4.124 The Committee considers that, while there is a weak strata title insurance market in north Queensland, it is of paramount importance that Body Corporates more actively oversee their insurance affairs, ensuring that they are accessing the most competitive pricing available, and that the insurance coverage is adequately tailored to their individual complex.

4.125 This requires Body Corporates being able to confirm from their manager or insurance broker that a number of factors have been considered by the insurer in assessing the individual risk of a strata title complex. Such factors might include:

- alternative excess settings,
- claim history, including claim frequency and size of claim pay-outs,
- building materials, compliance with building codes for main buildings and other structures on the complex,
- cyclone and disaster resilience of infrastructure and other assets on the complex,
- fire protection systems and other mitigation devices,
- presence of onsite manager, and
- accurate valuation for full replacement.

4.126 The Committee considers that, given the complexity of strata title arrangements, Body Corporates should have access to improved resources to assist them in the management of their affairs, in particular in sourcing the most competitively priced and appropriate insurance cover available.

48 Strata Community Australia NSW, <http://nsw.stratacommunity.org.au/page/education/free-online-executive-committee-training>, viewed 7 March 2012.

Recommendation 7

4.127 **The Committee recommends that the Australian Government, through the Australian Consumer Law framework, work with the Insurance Council of Australia and the Queensland Commissioner for Body Corporate and Community Management to improve the information and education resources available to Body Corporates and better equip them in the management of strata title affairs, with a focus on:**

- **understanding the cost components specific to strata title insurance, such as unlimited liability, Stamp Duty and GST, and valuations based on full replacement costs,**
- **consumer awareness of the contractual obligations to disclose fees and commissions, and the responsibilities pertaining to the contractual relationships between Body Corporates and their appointed managers or management companies, and and/or insurance brokers, and**
- **recognition of the factors which may contribute to the risk profile of a strata title complex and in particular factors which may assist in negotiating decreased premium pricing, such as varying the agreed excess.**

The Minister for Financial Services should be provided with a summary of the measures undertaken to address these needs by 1 December 2012.

4.128 The Committee has reviewed the legislative arrangements for Body Corporates in Queensland and has concluded that there is significant scope for confusion amongst both consumers and professionals working in the sector. The Committee notes that strata title arrangements are characterised by a complex interplay between Australian, state and local government legislation. Given that the Committee has only focussed on the experiences of Body Corporates in Queensland in this inquiry, the Committee is aware that the situation is far more complicated on a national level.

4.129 While many of these legislative and regulatory requirements are there for the protection of individual unit owners, the Committee considers a review of the extent of these requirements is warranted.

4.130 The Committee concludes that full replacement cover for residential areas of strata title complexes is essential and must not be compromised.

Further, other essential components of a strata tile complex such as shared access ways must be insured for full replacement cover as part of the common property of a Body Corporate.

4.131 However, there are some aspects of a complex for which it may not be necessary to secure full replacement cover, if these are non-essential parts of the complex and if it is the collective agreement of the Body Corporate to cap the insured value.

4.132 The Committee considers there is scope to consider such flexibility. Non-essential items may include garden areas or sheds – items which are probably of a low value in proportion to the total value of a complex. However, these may also be the types of items most susceptible to damage during disaster events such as a cyclone.

4.133 In addition, there are some instances where a complex has a strata title arrangement in order to cover a small area of common property – such as a shared driveway or fencing. Given the complexity of strata title arrangements and the additional requirement they necessitate in relation to insurance, the Committee recommends that the dissolution of strata titles should be a more accessible option where this is appropriate.

4.134 The Committee repeats its concern that Body Corporate managers may not be subject to the same regulatory requirements for full disclosure of fees, commissions or relationships when they undertake an intermediary role to secure insurance cover. The Committee recommends that these requirements for transparency, accountability and independence be reviewed and strengthened as required.

4.135 The findings of the Western Australian inquiries into Body Corporate arrangements suggest that these issues are not confined to Queensland, and that a legislative review should take into account the complex legislative and regulatory requirements across all jurisdictions.

Recommendation 8

4.136 **The Committee recommends that the Attorney-General conduct a review of state and territory legislative and regulatory requirements around strata title insurance. The review should consider:**

- **options to provide strata title complexes with greater flexibility in their choice of insurance arrangements, including the availability of tailored arrangements that may offer capped**

insurance cover on non-essential assets or infrastructure,

- **the need to expand the role of the Financial Ombudsman Service to encompass strata title insurance issues,**
- **regulatory requirements to increase transparency in the disclosure of commissions and fees taken by intermediaries, such as insurance brokers and Body Corporate managers, and**
- **mechanisms to simplify the legal process for the dissolution of strata schemes.**

The review should be completed by 1 October 2012. The findings and recommendations of the review should be raised with the Standing Committee of Attorneys-General.

Concluding remarks

4.137 The Committee understands that it has become almost impossible to source residential strata title insurance at sustainable premium levels, particularly in north Queensland. The Committee is aware that urgent action needs to be taken to ensure that premium levels do not continue to rise and that Body Corporates are able to access affordable and appropriate levels of cover.

4.138 It was clear to the Committee that increases in residential strata title insurance have placed many people under serious financial and emotional pressure. It is understandable that insurance-driven increases in Body Corporate fees of the magnitude described in this report have made many people feel extremely anxious about the future, and that it is almost impossible to budget for these increasing costs.

4.139 The Committee is acutely aware of the precarious position these increases have placed pensioners and retirees in, especially in the aftermath of the Global Financial Crisis which had such a disastrous impact on many people’s superannuation and savings.

4.140 The Committee is conscious of the potential negative long-term effects that increases in strata insurance may hold for the economy of coastal north Queensland. The evidence already suggests a localised decline in property prices and investment, while the state struggles to get back onto its feet in the wake of the 2010-11 disaster events.

4.141 In its earlier report, *In the Wake of Disasters: the operation of the insurance industry during disaster events*, the Committee recommended the immediate establishment of a taskforce to address the rising costs and potential market failure in the insurance industry across Australia. The Committee reaffirms its support for this recommendation and trusts that the Government will take appropriate action in a timely manner.

4.142 The Committee undertook this inquiry with the knowledge that the affordability of residential strata title insurance is an urgent issue. In recognition of this urgency, many of the recommendations set out in this report have clear timeframes associated with them.

4.143 The recommendations address the regulatory frameworks, methodologies for the assessment and pricing of risk, and consumer awareness. They dictate a strong and clear course of action that will unravel the complex and interrelated factors contributing to this issue and will enable appropriate reforms to be implemented.

4.144 The Committee confirms its support for a strong and competitive insurance industry in Australia; one that is able to fulfil its function of carefully assessing the cost of the risk underwritten and then calculating fair and equitable premiums accordingly.

4.145 The Committee urges the Australian Government to act quickly on the recommendations contained in this report, to conduct the necessary reviews and investigations and to carry out appropriate reforms where required and in a timely manner.

Recommendation 9

4.146 **The Committee recommends that the Australian Government outline the plan of reforms it will undertake, in conjunction with relevant State and Territory governments where necessary, in order to establish a competitive and affordable insurance market for residential strata title insurance.**

The plan should be announced before 1 December 2012, be informed by the reviews and investigations recommended in this report, and have a particular focus on the north Queensland area.

Graham Perrett MP
Chair

A

Appendix A – List of Submissions

1	Mr Dale Evens
2	Ms Rhonda Johnston
3	Ms Tina Gonsalves
4	Mr David Morgan
5	Mr Adam Whitlock
6	Body Corporate Committee of Park Haven Garden Village
7	Ms Deanne Pin
8	Mr Peter Dent
9	Mr Lyle Guilfoyle
10	Mr Eddy Burke
11	Ms Anne Pincott
12	Mr David Frost
13	Mr Richard Roberts
14	Ms Joan Peak
15	Ms Bernadette Tooman
16	Mr Paul Williams
17	Ms Helen Finn
18	Mr Robert Chad
19	Mr Chris Harris
19a	Mr Chris Harris – Supplementary
20	Mr Allen Hammacott
21	Ting Ting Lei
22	Ms Lisa Blackledge
23	Ms Jane Termaat
24	Mr David Chippendale
25	Mr Robert Fitzsomon
26	Mr Roger Bourke
27	Ms Josephine Robin
28	Mr Frank Woerle
29	Mr Colin Gray
30	Ms Marion MacLennan
31	Mr Grant Culic

32	Mr Roy Ankers
33	Ms Gloria Burley
34	Mr Jan Bambynek
35	Ms Eiliin Wilson
36	Ms Margaret Rhodes
37	Ms Sarah Drewery
38	Ms Stephanie
38a	Ms Stephanie - Supplementary
39	Ms Denise Timanus
40	Mr Simon and Sheena Towle
41	Mr Paul Sergeant
42	Ms Angie Denahy
43	Mr Mike Blackman
44	Mr Lee Campbell
45	Mr Ross Russo
46	Mr DJ and MA Fagg
47	Ms Sue Miller
48	Mr Darrell Dorrington
49	Mr Keith Collier
50	Mr Geoff & Kathy Partridge
51	Mr Ray & Shirley-Anne Owens
52	Ms Marjorie Dixon
53	Mr Jason Moore
53a	Confidential - Supplementary
53b	Mr Jason Moore - Supplementary
54	Ms Chelsey Johnston
55	Mr Joe Sim
56	Ms Chantel Sones
57	Ms Sally Ottaway
58	Ms Trish Cowin
59	Ms Fiona Davis
60	Guenter Pfisterer
61	Mr Gordon Rothe
62	Cairns Aquarius Body Corporate Committee
63	Mr Michael Nicholls
64	Name Withheld
65	Ms Bianca Togolo
66	Ms Kathy Davis
67	Ms Kaye Farcich
68	Mr Terry Balson
69	Ms Norma Ryan
70	Ms Adrienne Mann-Jones
71	Ms Gaye Donnellan
72	Mr Peter Nicholls and Mrs Susan Nicholls
73	Name Withheld

74	Mr Paul Morley
75	Mr Dave Rover
76	Mr Luke Rains
77	Mr Martin Brooke
78	JC Huggett
78a	JC Huggett - Supplementary
79	Ms Lauren Mesch and Mr Fabian Tahir
80	Mr Paul Michna
81	Mr Bob Lamberton
82	Mr Frank and Kerri Yarsley
83	Body Corporate McLeod Court
84	Mr K.J. And R.L. Shepherd
85	Ms Bronwyn Masters
86	Mr Ron Tippet
87	Mr Allen Fenech
88	Ms Renae
89	Ms Sue Redhead
90	Mr David Rutherford
91	Mr Andrew Alevras
92	Mr Scott Braunack
93	Mr David Anderson
94	Mr Simon Batt
95	Mr Garry Masters
95a	Mr Garry Masters - Supplementary
96	Ms Shelagh Murphy
97	Mr Craig Smith
98	Mr Peter Brownscombe
99	Portofino Body Corporate
100	Ms Judy Hayden
101	Mrs Merle McMurtrie
102	Ms Fleur Stone
103	Mr Ryan Cheetham
104	Mr Doug Turnbull
105	Mr George Hush
106	Swangem on McLeod Body Corporate
107	Mr Michael Keaveney
108	Ms Elizabeth Thornton
109	Ms Mia Lacy
110	Mr Joe Muscat
111	Ms Mandy Sapper
112	Whitsunday Ratepayers Association
112a	Whitsunday Ratepayers Association - Supplementary
113	Ms Vita Scalia
114	Ms Barbara Dawson
115	Mr Ross Grant

116	Ms Feleena Geddes
117	Mr Ross Baker
118	Mr Mick Fisher
119	Mr Jeremy Kay
120	Name Withheld
121	Mr Don Cunningham
122	Mr Wallace & Robyn Kienzle
123	Ms Helena Zebrowski
124	Ms Susan Loukas
125	Ms Charlie Hislop
126	Sea Temple Palm Cove Body Corporate
127	Ms Liz Richards
128	Ms Jan O'Sullivan
129	Nastasi's Takeaway
130	Mr Ian Cruickshank
131	Mr Phillip Henry Richardson
132	Name Withheld
133	Ms Hilary Waugh
134	Ms Lyn Willett
135	Confidential
136	Mr Kevin Carrier
137	Viewmont Body Corporate
138	Whitfield Gardens Body Corporate
139	Tropic Gardens Body Corporate
140	City Park Body Corporate
141	Balaclava Mews
142	MacArthur Court Body Corporate
143	Edge Hill Apartments Body Corporate
144	Melita Court Body Corporate
145	Palm Tree Apartments Body Corporate
146	Scotsdale Apartments Body Corporate
147	Mr Stephen Malcolm
148	Ms Hannah Brown
149	Ms Lynne Kendall
150	Name Withheld
151	Mr Stuart Murray and Mrs Doreen Murray
152	Ms Jenny White and Mr Shane Branch
153	Mrs Brenda Wishart and Mr Donald Wishart
154	Ms Jeanine Cooke
155	Mr Barrie Jacobson
156	Ms Deborah Morison
157	Mr Grant Guerin and Ms Julie Rose
158	Ms Lyn Weight
159	Confidential
160	Mr Alvaro Conti

161	Mr Eric Host
162	Mr David Parker
163	Ms Kim Vine
164	Mr Mark Curtin and Mrs Carmel Curtin
165	Marcarla Curtin
166	Ms Monica Curtin
167	Ms Natalie Pawlik
168	Ms Kymberlee Talbot
169	Mr Delour Doxford
170	Mr William (Keith) Bearham
171	Mrs Kerry Peters and Mr Bruce Peters
172	Body Corporate Caro Mel Apartments
173	Ms Caroline Wood
174	Body Corporate for Park Edge
175	Ms Debra Cavallaro
176	Mr T & B French
177	Mr Corey Davis and Mrs Aneka Davis
178	Mr Ray Gilbert
179	Ms Lyndall Doring
180	Mr Joe Dankow and Mrs Cynthia Dankows
181	Ms Louise McCafferty
182	Mr Walter Moreno- Neisa and Ms Flor Soto-Rodriguez
183	Mr Kevin Massey
184	Mr Kerry Desmond O'Connor
185	Ms Pauline Stirgess
186	Name Withheld
187	Mr Dominic Vivona
188	Master Builders Queensland
189	Ms Kerryn Beck
190	Mr Luke Bellamy
191	Ms Zoe O'Neill
192	Mr Oliver Vido
193	Committee of the Body Corporate for Marlin Waters
194	Ms Kazumi Munro
195	Ms Jodie Brownlee
196	Ms Helen Bate
197	Mr Ron Winsor
198	Confidential
199	City Villas Body Corporate
200	Ms Helen Curnock
201	Mr Dean Shelly
202	Mr Jeff and Deslee Davis
203	Mr Adam Thompson
204	Mr Calvin and Sharon Berryman
205	Ms Pamela Maple

206	Mr Cedric Mortimer
207	Mr Ian Coffey
208	Mr J & W Mu
209	Ms Sonia Wilson
210	Mr Murray Langdale
211	Ms Jan Iggulden
212	Ms Diana Higgins
213	Ms Riane Dela Cruz-Alevras
214	Mr Graham Koch
215	Cayman Villas Body Corporate
216	Name Withheld
217	Mrs Jennine Christensen
218	Mr Nick Chapman
219	Name Withheld
220	Ms Meryl Napier, Ms Ann Dyson and Ms Norma Reeves
221	Mr Alister McFarlane
222	Mr Paul Street and Ms Jocelyn Vargas
223	Ms Noelene Clarke
224	Ms Christine Hildebrand
225	Mr Dean Garside
226	Ms Sandy Murphy
227	Ms Jane and Jurg Zindel
228	Ms Leanne Brammer
229	L J Walsh
230	Mrs Deanna & Gerd Hoermann
231	Mr Matt Roulston
232	Ms Kelly Rushton
233	Ms Jayne Stanley
234	Mr John Murphy
235	Mr Peter Barty
236	Mr John Buzacott JP-Cdec
237	Ms Saro Kelly
238	Mr Brian Bailey
239	Ms Margaret Vale
240	Mr Neil Sloggie
241	Ms Christina Dwyer
242	Mr Joseph Crawfoot
243	Ms Suzanne Kane
244	Ms Natalie Clark
245	Townsville Enterprise Limited
246	Mr Mark Enders
247	Mrs N Rochford
248	Mr Edwin Dews
248a	Mr Edwin Dews - Supplementary
249	Mr Doug and Zoe O'Neill

250	Ms Barbara Coleman
251	Ms Helen Reed
252	Ms Monika Mesarek
253	Ms Dianne Turner
254	Ms Aileen Cole
255	John Gribbin Realty
256	Mr Fred Sorensen
257	Mr Robert and Julie White
258	Mr Wayne and Rhonda Leonard
259	Mr Remington Davis
260	Mr Scott Dunlop
261	Mr Franz and Suzanne Thelan
262	Ms Kathryn Seymour
263	Mr John Hunt
264	Ms Susan Wilson
265	Mr Paul Stapleton
266	Mr Patrick McBride
267	Mr Liam Egan
268	Mr Lucas Sexton
269	Ms Kay Maclean and Ms Irene Holdcroft
269a	Ms Kay Maclean and Ms Irene Holdcroft - Supplementary
270	Ms Kate McKenzie
271	Clifton Gardens Body Corporate
272	Ms Shirley Tyler
273	Ms Joy Buton
274	Ms Christina Walker
275	Mr Cecil & Lila Wati Prasad
276	Ms Jennifer Brandenburg, Ms Eva Marti and Ms Marie Dunajewski
277	Mr Les Thomas
278	Mr Alexander Blair
279	Mr Fred Richter and Mrs Helen Ritcher
280	Ms Maria Land
281	Mr Ian Campbell
281a	Mr Ian Campbell - Supplementary
282	Mr John Shepherd
283	Mr Anthony Sharp
284	Mr Bruce Crichton
285	Confidential
286	Mr Jason Greenaway
287	Mr Keith and Zuzana Orme
288	Ms Gaella Luxford
289	Ms Sue Freer
290	Ms Sandy Hilder
291	Ms Sheena O'Brien

292	Mr W A Beldan
293	Mr James and Sybil Mienert
294	Ms Kym Blackwell
295	Mr Zane Grant
296	Mr Bruce and Margaret Grant
296a	Mr Bruce and Margaret Grant - Supplementary
297	Mr Geoff Brown
298	Mr Mark Beath
298a	Mr Mark Beath - Supplementary
299	Ms Corina Loro
300	Mr Peter and Karen Grabau
301	Ms Margaret Roughton
302	Mr Tom and Jan Appleby
303	National Insurance Brokers Association of Australia
304	Mr Paul Noble
305	Ms Kim Hughes
306	Mr Edward Brown
307	Mr Peter and Rosanne Coumbis
308	Jewel of the Reef Body Corporate
309	Mr Gary Ferguson
310	Mrs Chris Sergeant
311	Edgecliff Body Corporate
312	Ms Donna Williams
313	Mr Tom Michalak
314	Ms Linda Pearson
315	Body Corporate Committee for the Arcadier Units
316	Mr James Horan
317	Ms Sue Chapman
318	Mr Wayne Martin
319	Concerned owners of Verandahs Apartments
320	Mr Jim Wort
321	Ms Sally Mattocks
322	Ms Ann Edmondstone
323	Mr Ken Ellett
324	Ms Anne Burger
325	Mr Bryan Meehan
326	Mr Philip van der Eyk
327	Mr Leo Gradinger
328	Unit Owners Association of Queensland
329	Mr Andrew Hayes
329a	Mr Andrew Hayes - Supplementary
330	Zurich Financial Services Australia Limited
331	Ms Marie Gray
332	Mr Peter Leggat
333	Mr Leonard Garvey

334	Ms Amanda Newton
335	Ms Anna Magee
336	Mr Jonathan Gyde
337	Mr Joseph and Rita Quagliata
338	Mr Michael Price
339	Mr Tim Howey
340	Mr Alan and Lyn Bell
341	Mr Mike and Cathy Costello
342	Ms Clare Newton and Mr Hugh Luetchford
343	Ms Glenda Crosbie
344	Mr Jeff Kennedy
345	Ms Wendy Ivey
346	Ms Jan Bode
347	Mr Ross Barlow
348	Mr Evan Morgan
349	Mr Chris and Glenda Sweet
350	Mr Tak Sam Lee and Ms Ching Zen Han
351	Mr G & L Arthur
352	Mr Mark Bennett
353	Ms Chris Ward
354	Strata Community Australia Ltd
354a	Strata Community Australia Ltd - - Supplementary
355	Mr Ari Herson
356	Mr Bruce Riley
356a	Mr Bruce Riley - Supplementary
356b	Mr Bruce Riley – Supplementary
357	Mr Darren and Karen O'Neill
358	Mr Jaydon Grassi
359	Tropical Strata Services
360	Ms Hayley Gorsuch
361	The Committee of Josephine Palms
362	Mr Peter and Orna Bennett
363	Ms Robyn Woodfield
364	Name Withheld
365	Name Withheld
366	Mr Andrew and Lauren Scardino
367	Mr Darryl and Sue Harris
368	Ms Michelle Williams
369	Mr John and Jan Hutchinson
370	Ms Kym Blackwell
371	Mr Roger Dalton
372	Suncorp Group Ltd
373	Mr Sam and Serge Vatovey
374	Actuaries Institute
375	Mr Scott McKellar

376	Mr George Christianson
377	Mr Matthew Blackmore
378	Rapid Realty
379	CGU Insurance
380	Insurance Council of Australia
381	Mr Trevor Mitchell and Mrs Rae Mitchell
382	Mr David Johnston
383	Body Corporate Services
384	Romano Property Management
385	Mr Len Taudevin
386	Masthead Outlook Body Corporate
387	Mr Graham Janz
387a	Mr Graham Janz - Supplementary
388	The Owners Corporation Network
389	Dr Janice Crowley
390	Ms Margaret Ann Trimble
391	Mr Clint Smith
392	Mr Brian Strauss
393	Ms Barbara Lansbury
394	Mr Pat Rainnie
395	Mr Alban Scotland
396	Ms Cheryl Callcott
397	Mr Warren Pit
398	Woodville Arcadia Pty Ltd
399	Mr Jeff Peacock and Mrs Gail Peacock
400	Mr Roy Bettison
401	Ms Di Larkman
402	Ms Ada Cheung
403	Mr John Dean and Mrs Elizabeth Dean
404	Mrs Margaret Shaw
405	Mr Geoff Everett
406	Mr Phil Laycock
407	Mr Dave Reynolds
408	Ms Maureen Schmitzer
409	Mr Graham Young
410	Chris Holland
411	Ms Carmel Sherman
412	Mr Anders Dunder
413	Ms Karin Diamond
414	Mr Peter Spicer
415	Ms Rachel Watson
416	Ms Wendy van der Wolf
417	Ms Marie Dunajewski
418	Mr Trevor Parsons
419	Ms Jan Shepherd

420	Mr Anthony O'Rourke
421	Ms Elizabeth Wilson
422	Mr Paul Jahnz and Mrs Barbara Jahnz
423	Mr Kelvin Haller and Mrs Vivien Haller
424	Mr David Wah Day and Mrs Audrey Wah Day
425	Queensland Department of Justice and Attorney-General
426	Mr William Gobbe
427	Ms Michele Schultz
428	Mr Tony Heywood and Mrs Jenny Heywood
429	Metro Quays Body Corporate
430	Joan Maccarone
431	Lorraine Camm

B

Appendix B – List of witnesses appearing at public hearings and community forums

Monday, 30 January 2012 - Port Douglas

Individuals

Mr Ian Campbell
Ms Sue Chapman
Ms Denise Timanus
Ms Margaret Ann Trimble

Body Corporate Surya

Ms Valeria Reid, Secretary

Strata Community Australia Ltd

Mr Colin Archer, Queensland Director
Mr Mark Lever, Chief Executive

Monday, 30 January 2012 - Cairns

Individuals

Dr Janice Crowley
Mr Clint Smith
Mr George Spathis

CGU Insurance

Mr Brad Robson, National Manager

Insurance Council of Australia

Mr Paul Giles, General Manager Policy, Government and Stakeholder Relations
Mr Karl Sullivan, General Manager, Policy Risk & Disaster Planning
Mr Robert Whelan, Chief Executive Officer

Property Ladder Reality

Ms Linda Tuck, Principal, Director

Suncorp Group

Mr Mike Thomas, Manager, Government and Stakeholder Relations

Unit Owners Association of Queensland

Mr Andrew Hayes, Committee Member

Zurich Financial Services Australia Limited

Mr Shaun Feely, General Manager SME & Packages, General Insurance

Wednesday, 1 February 2012 - Townsville City

Individuals

Mr Robert Chad
Mr Ian Cruickshank
Mr Edwin Dews
Mrs Nanette Grace
Mr Bruce and Mrs Margaret Grant

John Gribbin Realty

Ms Amanda Field

North Queensland Insurance Brokers

Mr Ray Pavey

Park Gardens

Mr Kevin Riseley, Chairman, Body Corporate

Whitsunday Ratepayers Association

Mr Lester Riley, Chairman
Mrs Margaret Shaw

Wednesday, 1 February 2012 - Mackay

Individuals

Mr David Bourke
Ms Saro Kelly
Mrs Karen Leibie
Mr William Rodney Moffatt
Ms Susan Seymour

BC Committee for Seaforth Units CTS 689

Mr Anthony O'Rourke, Chairman

Hinschen Place

Mr Ryan Cheetham, Administrator, Body Corporate

Masthead Outlook Body Corporate Committee

Mr Mark Faulkner, Treasurer

Portofino Body Corporate

Mr John Eden, Chairman

The Shores Holiday Apartments

Ms Kerryn Beck, Owner/Manager

C

Appendix C – List of exhibits

1 Insurance Council of Australia

Reducing Residential Strata Premiums