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.

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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]

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]

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.