
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	<i>Australian Securities and Investments Commission Act 2001 (Cth)</i>
APRA	Australian Prudential Regulation Authority
ARPC	Australian Reinsurance Pool Corporation
BCCM Act	<i>Body Corporate and Community Management Act 1997 (Queensland)</i>
BUGT Act	<i>Building Units and Group Titles Act 1980 (Queensland)</i>
CGU	CGU Insurance Limited
Corporations Act	<i>Corporations Act 2001 (Cth)</i>
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	<i>Insurance Contracts Amendment Bill 2011</i>
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.