



INSTITUTE OF STRATA TITLE MANAGEMENT

POLICY DIRECTIONS STATEMENT 2008

Meeting the Challenges of the Modern Strata Community in NSW

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1. STRATA LIVING IN NSW

1.1 Overview

About 3.5 million Australians live in, own, or directly work in a strata titled complex, putting the strata title management and service industry in Australia in touch with almost 15% of Australians.

Within the next 25 to 30 years, strata titled apartments will almost out-rate residential houses as the number one choice as 'home'. For every new home built there is a new strata lot built. Industry forecasts are that more than 50% of greater Sydney will reside in strata titled complexes by 2032 and more than 3 million will reside in a strata community in NSW in the next 25 years.

With factors such as land scarcity and housing affordability driving the trend towards apartment living, ensuring the strata living experience is a positive one is more important than ever.

For owners and tenants of strata-titled apartments, a professional and effective strata management team - comprising strata managers, their employees and key suppliers who repair and maintain strata buildings - is central to the apartment living experience.

By its very nature, community living involves the strong potential for conflict and resultant need for negotiation, often navigated with the assistance of a professional strata manager. Strata living is community living - your neighbour is across the wall, not across the street.

But changes in the make-up of strata titled developments, particularly in urban areas, and inconsistency in the development and application of planning regulations in NSW are creating unnecessarily complex and difficult issues within these developments that not only affect life quality, but often building quality.

In reality, owners corporations charged with the management of their building are effectively a fourth tier of government, with many responsibilities, but no defined rules of engagement.

As the representative of those working in the strata management industry, ISTM is striving to ensure that the regulatory support systems in NSW are adequate to support the significant numbers of NSW residents that will call strata titled apartments home in the next 30 years.

2. ABOUT THE ISTM

2.1 Overview

The Institute of Strata Title Management (ISTM) is the peak industry body for strata title management in New South Wales.

The ISTM's 1300-strong membership includes strata managers, who hold either a license or a certificate of registration, employees of strata businesses, and suppliers of products and services to the strata industry and to owners corporations.

ISTM provides a range of services for members, including newsletters, professional education, networking opportunities and a services directory.

2.2 Membership scope

The strata title industry has a wide range of stakeholders beyond strata title managers and employees. . Property developers, architects, local government planning officers, solicitors, accountants, tradespeople, insurers, bankers, property valuers, quantity and land surveyors, tourism policy-makers, hotel owners and retirement village operators are among the extended strata title management family.

ISTM's membership includes:

LICENSED MANAGERS (Licensed Manager Chapter): Open to strata managers in their own business, and employed strata managers who hold a License.

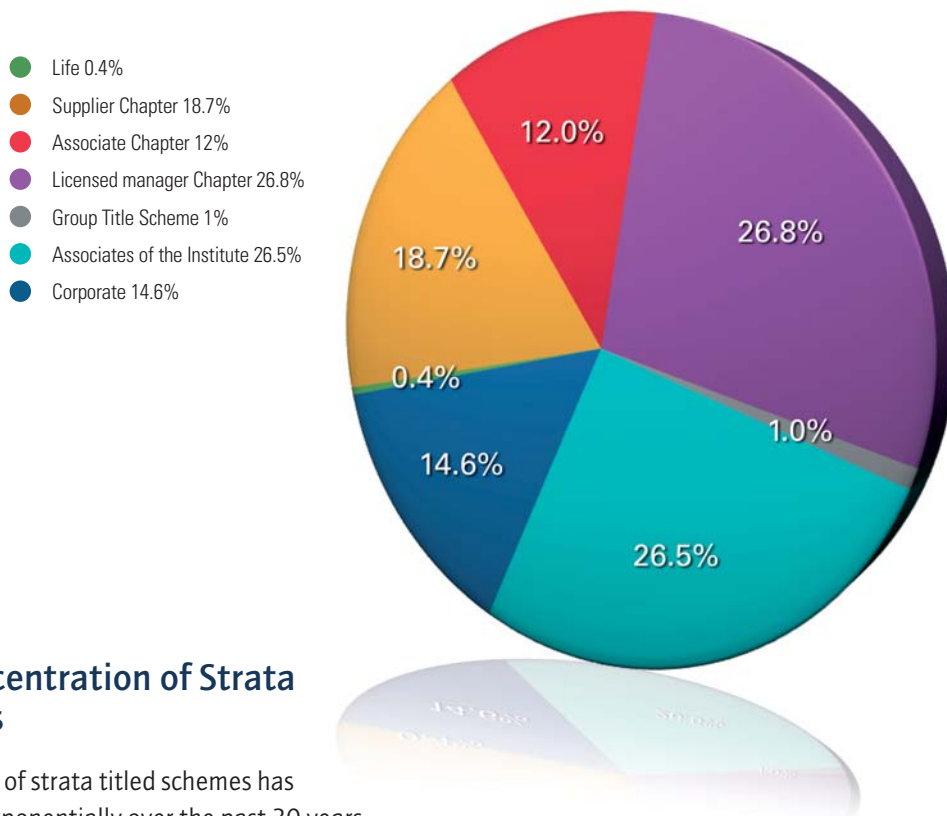
SUPPLIERS (Supplier Chapter): Suppliers of goods & services to the Strata industry.

STRATA CERTIFICATE HOLDERS (Associate Chapter): Open to holders of a Strata Certificate, who generally include employed strata personnel.

STUDENTS (Associate of the Institute): Open to trainees and students planning to become strata managers. Non-voting membership.

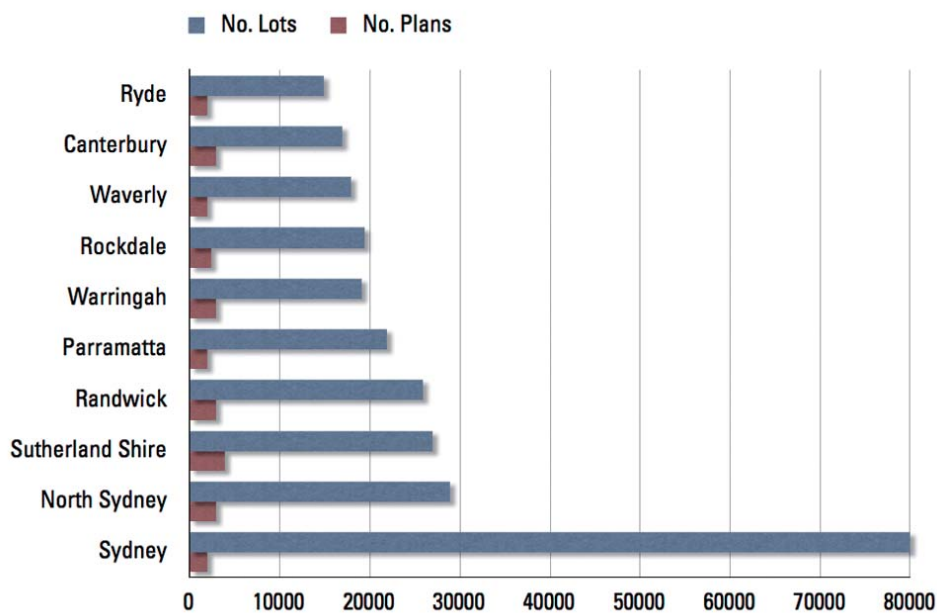
CORPORATE (Corporate Members): Open to a company or corporation controlled by a member of the Institute and to strata companies and to suppliers of goods and services to the strata industry. Non-voting membership.

GROUP TITLES SCHEMES: Open to schemes, not to individual persons.



2.3 Concentration of Strata Schemes

The number of strata titled schemes has increased exponentially over the past 30 years. In the early 1970s, there were 8500 schemes in NSW; today there are about 65,000 schemes that contain some 654,826 apartments. The highest concentration of strata schemes is in greater Sydney, with the top 10 areas including:



2.4 What a Strata Manager does

Strata managers are charged with managing a building's finances and legalities remotely, issuing levies and paying the bills from their own offices. A professional strata team can make or break the apartment living experience.

A professional strata manager has access to a myriad of tradespeople with specialist knowledge in the maintenance and rectification of strata titled buildings. They work hand in hand with owners corporations - the elected executive committee of strata unit owners within a strata plan, and often with building managers and caretakers.

While the activities of owners corporations are governed under the Strata Schemes Management Act 1996, the work of strata managers is governed by the Property Stock and Business Agents Act.

Approximately, 62.5% of strata buildings (with the exception of duplexes), have a strata managing agent.

2.4.1 How a Strata Manager Differs to a Building Manager

Building managers oversee the daily running of a building on-site. With increasingly large developments, the role of the building manager is becoming more significant.

Building managers organise tradespeople, security, maintenance and building repairs and handle residents' complaints and disputes.

An increasing percentage of larger strata titled buildings have building managers, but these buildings also have a strata manager. Building managers in the modern form are not regulated - currently legislation only exists for live-in caretakers.

2.5 ISTM's mission

As the peak industry body in NSW, the Institute of Strata Title Management is committed to maintaining the highest professional and ethical standards in the operation of strata and community titled properties, for the benefit of the people living and working in them.

Strata managers are partners with owners corporations and other stakeholders such as building managers in creating harmonious community living. A professional strata team - which includes strata managers and all of the suppliers that service a building - can help make or break the apartment living experience. By dealing with a member of the ISTM, owners corporations receive access to a professional strata team.

The ISTM promotes the role of the professional strata team, and the value such a team adds to owners corporations in managing risk and creating a harmonious strata living experience.

3. MEETING THE CHALLENGES FOR THE STRATA MANAGEMENT INDUSTRY IN NSW

3.1 Generating data about our industry

With law-making, “taxation” (through the raising of levies) and enforcement powers, owners corporations of strata titled dwellings effectively create a fourth tier of governance – below the local council.

Whilst heavily regulated by the Strata Schemes Management Act the responsibilities of both owners and tenants are largely unheralded and unknown by those who call a strata titled apartment home.

Little empirical research exists about how the strata sector functions, how decisions are taken and by whom, the nature and extent of existing problems as well as the profile and competence of those involved in managing the sector.

Identifying the lack of systematic, analytic research on the strata sector as a serious industry issue, the First National Strata Management Conference in 2005 highlighted the need to build the sector’s research capacity to effectively support policy and decision making at state and federal levels.

The ITSM has demonstrated their commitment to these principles by supporting a research project currently being undertaken by the City Futures Research Centre at the University of NSW.

Over the next 18 months, Dr Bill Randolph and his team will investigate the role and effectiveness of strata title in higher density residential development. Dr Randolph’s research, supported by ISTM and other industry stakeholders, will provide insight into the issues and challenges facing strata management professionals, owners and residents.

This will enable a greater understanding of the regulatory requirements of strata titled dwellings and provide an invaluable tool for policy makers seeking to create effective strata legislation.

ISTM believes this project is an important step in gaining empirical evidence to test the claims of city planners, urban analysts, strata industry stakeholders and policy makers.

3.2 Resourcing our industry

The strata management sector is entering another boom phase, with predicted growth of up to 25 per cent over three years . The National Strata Management Benchmarking Project, an industry survey commissioned by Macquarie Bank and conducted by FMRC Property, reported that businesses estimated growth of between 10-25 per cent over the next three years, necessitating an increase in employee numbers of between 20 and 50 per cent over the same period.

The industry is struggling to fulfil demand for additional staff. Indeed, more than half of large business owners name staffing as the biggest impediment to future business growth .

Analysis of current employment opportunities in industry within NSW show that knowledge and experience in strata title management can lead to positions ranging in salary from \$45,000 to \$90,000 per annum , and create career progression in asset management within large corporations.

4. POLICY DIRECTION FOR 2007-2008

4.1 Planning & Building Laws

Overview

The landscape for strata buildings has changed significantly over the past 20 years. Moving away from conventional straight-up residential apartments, strata developments – particularly within greater Sydney – are increasingly large and complex.

Modern strata developments can incorporate hundreds of residential units (often of different types – eg townhouses and apartments) with multi-use applications such as retail shopping precincts, commercial business premises, and food outlets. Serviced apartments are increasingly in the mix in metropolitan Sydney. Often developments are built and released in stages over several years.

Overlaying the physical changes are huge social changes. In the 1950s, strata buildings were attractive for retirees, while now they are the home of choice for educated young professionals, families and cashed up empty nesters – all of whom have different needs and demands.

In a recent survey of Sydney apartment dwellers, 68% of people agreed that apartment living suited their lifestyle, while 43% viewed apartment living as primary housing in the long term .

Whether a large mixed development, or a straight up block of 12 apartments, the sheer growth in strata development has highlighted flaws in NSW planning and building legislation and the application of related regulations.

The experience of ISTM's membership continues to be that shortcomings in the current building and planning environment

are adversely impacting on the strata living experience.

Primary issues include:

- Occupational Health and Safety (need to write when we know the outcomes of November)
- Water Usage
- Demolition of Buildings
- Odour & Noise
- Home Warranty Insurance
- Developers and Building Managers
- Short-term rentals

Management of conflicts arising from these issues by essentially volunteer committees (executive committee of an owners corporation) is an ever increasing challenge, and can severely impact the apartment living experience.

Many of these issues can be traced to poor design and construction. ISTM believes the impediments to improving design and construction include:

- The lack of clarity and cohesion between government departments responsible for planning, building and management of strata titled developments. Planning responsibility rests with Department of Planning and Urban Development; while management and execution rests with Office of Fair Trading. A further layer exists in Local Government, which applies planning policy and regulations. This can mean significantly different planning guidelines between local government areas.
- Buildings not being built as per original plans. While practical, the self-certification system introduced by the NSW Government in 1998, and enforced by local councils, lends itself to exploitation.

ISTM is of the view that the system of new buildings being approved by private certifiers, contracted by the developer, is open to abuse, with apartment owners bearing the consequences when alterations to original building design result in a less than optimal living experience.

With forecasts anticipating that strata developments will house 50% of greater Sydney by 2032, it's vital that government and industry work to ensure the laws that govern the design and construction of strata buildings are robust.

ISTM supports the NSW Government's plans for streamlining development approval processes, as outlined by the Minister for Planning the Hon. Frank Sartor in late November 2007. Streamlining the process for building and planning approvals will reduce the cost of compliance for all.

While a step in the right direction, ISTM believes that Minister Sartor's plans don't go far enough, and the ISTM calls for urgent action in this regard.

ISTM has seen time and time again the impact of poorly designed buildings on consumers who have invested possibly their 'life savings' into their new apartment.

Maximising the strata living experience through good design and development will not only benefit the owners and tenants residing in such buildings, but the communities in which they live.

ISTM Recommendations

While ISTM concedes that 'buyer beware' should prevail, the inconsistent application of planning policy and regulations across the state by local councils, and sometimes poor design and construction are at the heart of these issues.

Rather than merely facilitate a streamlined process, ISTM calls an improvement in building standards. That alone will reduce conflict and save the government millions in reduced need for conflict resolution through arbitration and mediation.

ISTM believes there are opportunities to strengthen planning policy and regulations in NSW and strive for consistency in planning processes and standards across NSW local authorities, and potentially, across Australia. Basing legislative change on empirical research would enhance the ability of developers, owners and the strata title industry to create, live in and effectively manage strata living in NSW. Resolving issues in strata titled properties requires action based upon hard research and objective assessment of the implications.

ISTM will continue to press government at all levels for improvements. The following outlines the ISTM's position on the major issues that could be alleviated through improved building and planning laws in NSW.

4.1.1 Occupational Health and Safety

Overview

Over the past five years, a significant majority of residential strata titled schemes in NSW have operated as though their owners corporations are exempt from the Occupational Health and Safety Act 2000 (OHS Act).

This belief was founded in the existence of an Exemption Order under the Occupational Health & Safety Regulation 2001. Upon expiry of this order on November 1, 2007, NSW WorkCover released a further order that sees a virtual continuation of the initial exemption.

From the application of the first order in October 2002, ISTM became increasingly concerned about owners corporations' interpretation of the order as a blanket exemption from their OHS obligations.

Private dwellings are exempt from the Act and the Regulation, however both oblige those who 'control' premises that are used as a place of work to ensure those premises are safe and without risks to health.

Obligations therefore exist for any type of strata scheme (whether full residential, or mixed residential and commercial) where **common property** is used by contractors or by the clients of residents who operate a home business.

Legal advice reinforced the ISTM's concerns conveying that, under the former and now most recent order, owners corporations are exempt from OHS requirements only in certain limited situations – and that the exemption for private dwellings is not sufficiently broad to exclude coverage or common areas of strata titled premises.

ISTM maintains that this new order only

prolongs the confusion within owners corporations about their obligations, and extends the risks for both owners in strata titled apartments and their strata managing agents.

Continued reluctance within owners corporations to accept their obligations under the legislation not only puts residents as private individuals at risk of the consequence of OHS breaches, but places strata managing agents in a difficult position. Strata management companies and agents must comply with all applicable obligations under the Act and Regulation.

That is, a strata managing company has an obligation as an employer to ensure the safety of their own employees and contractors:

- When performing work on the premises of any type of strata scheme, and
- As a 'controller of premises' in relation to the common property of any strata scheme.

Owners Corporations Obligations

- Neither Exemption Orders have exempted owners corporations from the following obligations under the OHS Act:
- Owners corporations must ensure that no safety risk is apparent for any contractors or voluntary workers engaged to perform work on common property. This includes cases where a resident conducting a home business invites their clients to the premises, and those clients traverse common areas
- As controllers of premises, owners corporations have an obligation under clauses 33 to 44 in relation to common property, to:
 - > Identify hazards and assess risks;

- > Eliminate or control risks;
- > Review risk assessment and control measures;
- > The provision of information to other persons who have responsibilities under the OHS Regulation to enable the other persons to fulfil their responsibilities;
- > Ensure safe access is provided to the workplace and to prevent any falls;
- > Ensure safety in relation to electricity and electrical installations; and
- > Ensure that where the premises contain asbestos or asbestos containing materials that the proper risk assessment and control measures are carried out.
- Owners corporations must comply with obligations in relation to maintenance and registration of plant affecting public safety, that is, lifts, scaffolding, gas cylinders, amusement devices and boilers and pressure vessels

ISTM Recommendations

The experience of ISTM members is that the vast majority of residential strata title schemes have interpreted the former and latest exemption as a blanket exemption from compliance with the OHS Act. The exemption only applies to owners corporations in certain situations.

Strata title managing agents have continued their attempts to convince residential strata titled schemes of the need to fully comply with the OHS Act, with minimal success.

ISTM believes that if government and regulators want to ensure compliance with the OHS Act, by residential strata titled schemes, then there is no option other than to remove Exemption Order No. 014/07. ISTM therefore urges government and the regulator NOT to incorporate the current exemption into legislation, due to its propensity to create uncertainty, inequity in application and more complex litigation should injury occur.

4.1.2 Demolition of Buildings

Overview

The NSW Government is considering amendments to the Strata Schemes Management Act (1996) in a bid to simplify the laws around termination of strata schemes, to ensure NSW replaces its ageing strata stock.

Currently, alterations to by-laws of a strata scheme require only 75% of members of owners corporations to agree, however, wind-up of strata schemes requires a unanimous vote.

The ISTM acknowledges that 100% agreement on wind-up of schemes is extremely difficult to achieve and presents a major barrier to improvement in strata stock in the state, and therefore represents a significant challenge for government and regulators.

The knowledge that 76% of all strata schemes in NSW are comprised of lots of less than 10 poses additional challenges. A single person can cause a redevelopment proposal not to proceed. Additionally, changes to planning laws over the years (requiring inclusion of car parking for example), mean that developers are unable to rebuild 10 units on a space that formerly held 10 units, negatively impacting upon the economic viability of such projects for developers.

ISTM Recommendation

Option 1:

A developer makes an offer to the owners to purchase 100% of the scheme

- Owners corporation votes on the offer at an Extra Ordinary General Meeting (EGM). If 90% vote by unit entitlement is achieved in favour, the deal is accepted, contracts are exchanged and 10% of purchase price is placed in escrow. Funds for each owner are calculated using the registered unit entitlement as the formulae.
- If the deal is rejected, then the executive committee of the owners corporation can attempt to negotiate a higher price with the developer and place a revised offer back to owners at another EGM.
- If an existing owner wishes to remain at the re-developed site, they negotiate with the developer to purchase a unit of their choice 'off the plan' and fund their own temporary accommodation during the re-development process. In this instance, government could provide that no stamp duty is payable on the contract for the purchase back into the re-developed property.
- Owners receive payment when they vacate within the last three months of the fixed date contract. If a lot owner wishes to move out prior to the last three months, they receive a lower dollar amount that reflects average additional financing cost to the developer to settle prior to the final three months of the fixed date contract.

For schemes of 10 lots and over, ISTM recommends the government consider legislative amendments that mirror ASIC requirements for compulsory acquisition of the remaining 10% shareholding in a listed company. ISTM has considered three options (listed below), however believes that such proposals will not assist with the government's vision unless accompanied by a review of state planning guidelines. Otherwise, re-development of ageing strata properties will remain commercially unpalatable for developers.

Option 2:

- Developer negotiates through legal process to purchase individual units until they own at least 90% of the registered unit entitlement.
- If the developer is unable to secure the remaining 10% of the registered unit entitlement, they apply to the Consumer Tenancy Trader Tribunal (CTTT) for an order to compulsorily acquire the remaining 10%.
- To value the entitlements, three valuers from a registered panel of approved valuers are appointed (at the developer's cost) in agreement between the lot owners, the developer and the CTTT. The average price from the three valuations determines the price to be paid for remaining 10% of the property.
- Once the CTTT order for compulsory acquisition is issued, the affected lot owners[s] have up to six months to vacate.

Option 3:

Developer acquires the property using either of option A or B, but in this case all owners in the existing building are guaranteed a

replacement unit in exactly the same location. The developer then constructs a larger building, using the funds generated from the sale of the units on the higher floors to cover acquisition / demolition / reconstruction / holding costs.

Single Individuals:

Whilst the above outlined options provide a mechanism to assist government to achieve its stated goal, it does not address the special cases where a single individual is the barrier to change. In this situation, ISTM proposes the following:

- Compulsory acquisition of the unit.
- Developer pays for alternative temporary accommodation, and then after completion, relocates the individual back into a similarly located unit within the re-developed scheme.
- On sale of the unit, following death or voluntary relocation of the individual, then the individual or their estate retains the original figure of the compulsory acquisition plus CPI from acquisition date, to date of sale. The developer retains the remaining capital gain to cover their prior costs of temporarily housing the individual during the re-development process and construction of the replacement unit. Should the price drop, then developer receives nothing and the individual receives full sale proceeds, less cost of sale.

4.1.3 Odour and Noise Abatement

Overview

ISTM members increasingly report a rise in complaints from owners regarding smells and ambient noise from other tenants.

The rise of large scale mixed use developments has led to inevitable conflicts of interest between residential, commercial and retail occupants such as restaurants. However, disputes about noise and odour are not only occurring as a result of conflicts between mixed use occupants.

This was borne out in a case in late 2006, when a Consumer Trader and Tenancy Tribunal Adjudicator in the Ingwe case ruled that tenants in an apartment in the Highgate complex in Sydney's CBD could no longer permit smoke from their own apartment to escape into the vicinity of other apartments.

Within this case, the owners of the apartment submitted that shortcomings in the design and construction of the building and in the air conditioning system were a contributing factor to the complaint.

Despite the Adjudicator finding that the cause of the issue was the smoking, rather than building design, this case again highlights the impact of building standards on the apartment living experience and harmonious strata living.

ISTM Recommendation

ISTM calls upon the NSW Government to amend planning laws to incorporate Standards Australia standards AS-ISO 140.8-2006 and AS-ISO 140.6-2006. These two standards cover impact noise transmitted via floors etc. This would result in an improvement in building design and construction to limit noise.

In relation to odour penetration, improved design and ventilation systems from the outset would go some way to ensuring that odours from cigarette smoke or restaurants (in a mixed complex) don't impact on residents' apartment living experience.

4.1.4 Home Warranty Insurance

Overview

The Home Warranty (HOW) provisions and HOW regulations within the Home Building Act 1989 are some of the most frequently amended provisions of any legislation in NSW.

HOW or indemnity insurance protects the homeowner and future owners for loss or damage from non-completion of the building contract in the case of death, disappearance or insolvency of the builder.

Issues surrounding the disappearance or insolvency of builders and how owners corporations can seek redress make up a significant proportion of complaints to both strata managers and to regulators in NSW.

ISTM has concerns about two aspects of this legislation as it relates to residents of strata titled apartments.

Firstly, the lack of obligation on builders / developers of multi-storey residential developments to hold HOW insurance places strata apartment owners in difficulty should the building not be completed or defects are discovered that require attention. It also remains difficult for owners corporations to obtain insurance coverage of this nature, even in cases where no such coverage is held by the builder.

Secondly, amendments to the HOW provisions in December 2003 mean that this form of insurance is now considered as a 'last resort'. That is, that the claimants (owners corporations), must exhaust all reasonable measures before the HOW insurance provider is required to accept the claim.

Difficulties surrounding this type of insurance serve as a serious caution for those considering

purchasing an apartment in a new strata titled complex, particularly in high-rise buildings. As it stands, owners corporations have little redress to have defects and recourse is either convoluted, or futile.

ISTM Recommendation

ISTM calls upon the NSW Government to amend the planning laws to make it mandatory for builders / developers of multi-storey residential developments to hold HOW insurance.

4.1.5 Eliminating Unfair Water Charging in Strata Titled Dwellings

Overview

As pressure increases on consumers, business and government to act on water conservation, the ISTM believes the current predominant method of water metering in strata titled apartments is an anomaly that must be addressed.

As it stands today, only a very small percentage of strata titled apartment owners pay for water according to actual usage, through an individual meter for each apartment. There is no level-playing field - owners are either paying for the excessive water consumption of their neighbour, or not paying their fair share.

In the face of continuing water restrictions and sustained drought throughout the state, the NSW Government is actively encouraging all residents to conserve water via water efficient shower devices and rebates on energy efficient appliances, such as washing machines.

For unit owners, the reality is that they may not individually benefit from their particular investment in water saving strategies, and they are unfairly disadvantaged compared to those who use excess water. Why should a resident who leaves his apartment empty for six months be obliged to pay for water according to a fixed percentage, based upon his share of the unit entitlement for the building? This is archaic thinking by government and simply not compatible with sustainable development principals.

ISTM Recommendation

For New Developments

Introduce legislation making it mandatory for all new strata buildings to have individual water meters, that can be read electronically from outside the building.

ISTM calls upon the NSW Government to act immediately to legislate that it be mandatory for all new apartment buildings in NSW to be fitted with individual water meters. Despite some questions about impact on development, and therefore costs to unit buyers, the ISTM believes this could be achieved at minimal cost – for example, inclusion of individual water meters (at \$100 per meter) to a 100 apartment block, would add less than say \$100 to the cost of each individual apartment at sale. Under this approach, water used in common areas such as gardens, lawns and swimming pools would continue to be paid out of quarterly strata levies. This immediately stops the problem from getting bigger.

For Existing Developments

Introduce legislation that progressively requires existing strata buildings to retro fit individual electronic water meters but at the water authorities' expense.

ISTM recommends that, within the legislative framework, the NSW Government encourage existing buildings to upgrade over a certain generous time period to comply with requirements for individual water metering in apartments. Government, through Sydney Water, is offering home owners discounts on retrofitting shower heads and tap aerators. Given the potential impact on water usage, ISTM believes there is a case for subsidies to retrofit individual water meters.

The ISTM is aware that technology is available that allows a meter to be clamped around the water pipe where it enters each individual household in a building. These meters can be read remotely, no longer requiring water meter readers to try to gain access to security buildings to read the meter. This would present a cost-effective solution.

In addition to allowing strata units to monitor their individual water consumption, this initiative would also remove the controversy about strata developments and overpayments of GST (see below).

Sydney Water is yet to introduce individual billing.

Water and GST

Close the GST loophole so owners are no longer paying non-existent GST on water bills.

Overview

Federal legislation currently prevents strata buildings registered for GST claiming GST back on the proportion of their levy which pays for water, despite water bills being GST free to individual consumers. This view is based on the notion that the provider, in this case Sydney Water, sells the water to the owners corporation, which in turn on sells the water

to individual owners based on their unit entitlement.

ISTM believes this unfairly disadvantages those living in group titled properties. People living in Torrens Title dwellings do not pay GST on water, as they receive individual bills from Sydney Water.

The cost to apartment dwellers is significant. The NSW Government has estimated that strata unit owners pay \$11 million in GST annually that should be refunded. The GST isn't currently refunded due to a legal loophole and due to the state government's reluctance to mandate that Sydney Water adopt similar charging systems like those implemented by Dubbo City Council, and Melbourne and Adelaide Water.

Despite advice from the NSW Government that it could be cost prohibitive for Sydney Water to modify their computer systems to rectify this anomaly, Dubbo City Council, Melbourne Water and South Australia Water do not charge GST on water supplied to group titled properties, but rather use the registered unit entitlement to produce individual water bills. The Sydney Water computer systems are able to charge individuals without including GST. Therefore Sydney Water must have the capacity to charge Owners Corporations on the same basis.

ISTM Recommendation

Changes to the water billing system (as noted above), that would see individual unit households billed rather than whole buildings, would partly address the problem of unfair charging of GST on water bills for consumers in group titled buildings. ISTM will continue to lobby governments at all levels to rectify this situation.

4.1.6 Developers and Building Managers

Overview

As the number of large-scale strata developments increases, building managers are becoming an important player in the strata title industry.

The ISTM believes that a professional building manager working hand in hand with a professional strata manager, are an excellent combination for a good strata living experience.

However, conflicts of interest can arise when building managers are appointed by the original developer. Cases have occurred where building managers treat potential defects within a building – which would normally be the responsibility of the developer (within a certain timeframe after construction) – as maintenance or repairs, for which the owners corporation must pay.

Building managers in the modern form are not currently regulated or licensed – legislation only exists for live-in caretakers of strata buildings, so there is no legal obligation to hold specific qualifications, undergo training, or have professional insurances.

ISTM Recommendation

Potential strata apartment owners should make enquiries about the building management before buying a new apartment, particularly those off the plan.

ISTM believes that the building managers and on-site managers appointed by a developer should be subject to the same restrictions as strata managers appointed by developers.

Regulation of building managers, similar to that for strata managers, would provide consumers with a greater level of protection, particularly where it can be shown that building managers have worked against the interests of the owners corporation.

This change to the licensing requirements for building managers and on-site managers should ensure greater accountability for the benefit of consumers and reduce the current high level of complaints to Fair Trading concerning both building managers and on-site managers. Recent changes to legislation mean that their appointment extends only to the date of the first annual general meeting.

floors within a building to serviced apartments. These apartments would have separate lifts, garbage services and perhaps an entrance from a different street or different side of the building.

The management statement for the building can even provide for increased share of outgoings by such serviced apartments due to increased wear and tear on the fabric of the strata building. This permits the use for which there is obviously market demand but provides a separation to group “like with like” minimise the potential for conflict to occur and provides the mechanism for the scheme itself to manage the conflicts that do arise.

4.1.7 Short-Term Rentals

Overview

Increasing numbers of what are termed ‘serviced’ apartments in Sydney – especially short-term rentals to holiday-makers – is creating conflict and discomfort for owner occupiers, who are often living a different lifestyle.

While strata and planning laws exist to prevent units being sublet for multiple occupancy and leases shorter than three months, it’s clear the laws are being flouted. Local councils experience difficulty in managing this issue as it’s difficult to gain orders to enter apartments for inspection.

ISTM Recommendation

ISTM believes that this consumer problem can be overcome with variations to planning laws whereby such apartments can exist within a residential building.

Solutions could include allocation of whole

