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Submission

Review of the *Strata Schemes Management Bill* 2014 [NSW]

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1. INTRODUCTION

This Submission is prepared by The Real Estate Institute of New South Wales (**Institute**) and is in response to the latest draft of the *Strata Schemes Management Bill* 2014 [NSW], issued by NSW Fair Trading on 19 March 2014 (**Draft Bill**).

The Institute is the largest professional association of real estate agents and other property professionals in New South Wales. The Institute seeks to promote the interests of its members and the property sector on property-related issues. In doing so, the Institute has a substantial role in the formation of regulatory policy in New South Wales.

In New South Wales there are approximately 73,000 strata schemes, 750,000 strata title lots (with an average of 10 lots per strata scheme) and the largest volume of strata schemes being less than 10 lots per scheme.

The Institute is quite concerned that some of the policy decisions appearing in the Draft Bill will introduce unproductive "red tape" statutory requirements and will directly affect strata owners' levies. The additional "red tape" policy compliance proposals in the Draft Bill are skewed toward appeasing a small number of owners of lots in very large developments where the costs on a per lot basis of the proposed additional compliance work is small. That is because there are more lots to absorb the resulting additional costs. However, the cost per lot of implementing the same policies on an average strata scheme will invariably have a significant effect on the average quarterly levies for owners.

With hourly charge-out rates of experienced strata managers being typically in the range of $200 - $250 per hour, it is estimated that the proposed additional compliance work required by those strata managers will result in around 4.5 - 5 hours of work a year (or $900 - $1,250 per annum). With small developments making up the largest proportion of the market, that increased cost may increase the annual management costs of a strata scheme to possibly double what is currently being charged, if not more. On an average development with 10 units (assuming equal unit entitlements), the effect of that will be additional levies of $90 - $125 per annum, whereas on a large development (such as 200 units), the additional costs equate to $4.50 - $6.25 per annum.

In addition, the proposed provisions in section 165 of the Draft Bill will invariably increase insurance costs which could result in a doubling, tripling or even quadrupling of strata fees (and, in turn, strata levies) compared to standard management fees. The reason for that would be because of the offloading of work currently undertaken by strata managers independently of insurance brokers.

The Institute makes the following comments on, and improvements to, the Draft Bill having regard to:

(a) the daily operational and practical matters that would be affected by the current drafting of the Draft Bill; and

(b) policy issues which will result in increased strata scheme levies (for instance, the proposed insurance requirements set out in section 165 of the Draft Bill which would ultimately and substantially increase strata levies).

2. REVIEW OF THE DRAFT BILL

(a) Operational and Practical Matters

Section 15

The Institute made a Submission in response to the Draft Bill on 31 January 2014 (**Initial Submission**). That Initial Submission recommended the following matters be considered as statutory agenda items at the first annual general meeting to avoid the necessity of convening a subsequent extraordinary general meeting at a later date:

(a) To consider whether the strata scheme will be registered for the purpose of the Goods and Services Tax (**GST**). This is a critical matter that must be addressed in order for owners to be made aware of the issues associated with the registration or non-registration of the strata scheme for GST purposes. The issue has significant and potentially detrimental financial ramifications depending upon the circumstances of the strata scheme and upon each lot owner in the scheme.

(b) To consider changing the registered address of the strata scheme from the developer's or developer's solicitors office to another address (such as the strata manager's office or the strata schemes' building address). Without addressing this matter, important documents (including summonses) may be served at the incorrect address and the strata scheme may not become aware of those documents until the matter has already been determined by a Court or Tribunal, to the detriment of the owners' corporation.

The Institute insists that the above matters be considered at the first annual general meeting of a strata scheme to avoid the costs associated with convening a subsequent meeting for that purpose. For an average development of, say, 10 lots at current industry rates, it would cost in the vicinity of $350 to prepare and issue the notices, convene and conduct the meeting and subsequently prepare and issue minutes to all lot owners.

Section 22(4)

This section imposes an obligation on a person to give the required notice but with no enforcement mechanism. Having regard to the maximum penalty points imposed for breach of other sections of the Draft Bill, the Institute considers 5 penalty points to be appropriate for non-compliance with this section.

Section 32(1)(a)

This section needs to be redrafted to clarify that an appointment of a strata manager under section 235 applies as an exception. The Institute suggests the section be made "subject to section 235" or that it include words to the effect that the section applies unless a strata managing agent has been appointed by virtue of an order of the Tribunal pursuant to section 235.

Section 37

A strata scheme is a separate legal entity to the individual owners in that scheme. Therefore, the Institute is of the view that the section should impose a duty on each member of the strata committee to carry out their functions for the benefit of the owners' corporation, rather than the "owners".

That view is based on the fact that it is not uncommon for a small group of owners to control meetings and take actions which might be for their own short-term benefit and to the detriment of the owners' corporation. For example, they might agree to reduce levy contributions because they intend to sell their lots and would rather levies be unrealistically low to assist with the sale.

Section 54(2)

Section 54(4) states that section 54 is subject to section 56, and section 56 clarifies the functions of a strata managing agent appointed by the Tribunal. However, the Institute believes that the Draft Bill is lacking clarity on the functions and rights of a strata managing agent following the appointment of another strata managing agent pursuant to section 235. The Institute is uncertain as to whether the rights and functions of a strata scheme's managing agent to act at all or on specific matters will cease or be suspended during the period in which a strata managing agent is appointed by the Tribunal. Further, the Draft Bill needs to confirm whether a strata scheme's strata managing agent will resume their rights and functions once exercised by the court-appointed agent.

Section 56

The Institute is of the view that each reference to "person" in section 56 should be replaced with "licence holder". That is because Tribunal members tend to insist on a literal interpretation of the *Strata Schemes Management Act* 1996 (NSW) (**Act**) when appointing a strata manager. That is the case even

when the consent to appointment is provided in the name of the strata manager's licensed company. Despite that, Tribunal members have issued orders appointing the strata manager who:

(a) did not actually consent to the appointment; and

(b) does not hold professional indemnity insurance (as the policy is held in the name of the corporate licence holder).

Section 62(1)

Section 62(1) states that a strata managing agent must comply with the relevant notice by giving a written statement within 7 days after the notice is "given". The Institute is concerned that the term "given" does not guarantee that the notice is actually received by the strata managing agent.
The Institute suggests deleting "given" and inserting "received" in its place. Further, an additional provision should be included to permit a defence against the imposition of a fine where the notice has not been "received". Alternatively, the section could include parameters around the time when notice is taken to have been received (for instance, within 7 business days).

Sections 73(2)(b), 74(2), 79(2)(b) and 79(2)(c)

Personal property of the owners' corporation is dealt with as an administration item in section 73(2)(b) and as a sinking fund item in sections 79(2)(b) and 79(2)(c).

Historically, personal property of the owners' corporation has been considered to be a sinking fund item. Therefore, the Institute believes it should be removed from section 73(2)(b) and inserted into section 74(2).

Section 73(3)(b)

This section (when read in isolation) is inconsistent with section 74(2)(d). Section 73(3)(b) states that any income of the owners' corporation should be paid into the administrative fund. However, that is a very broad requirement and would include interest from a sinking fund investment which would clearly fall within section 74(2)(d). To avoid the possibility of misinterpreting section 73(3)(b), the Institute suggests the section be redrafted to clarify that any income of the owners' corporation relating to the administration of the strata scheme or to the administration fund should be paid to that fund.

Schedule 1, Part 2

Section 5(6), Part 2 of Schedule 1

Whilst the Institute agrees with the intent of this section, it recommends that the section be redrafted because it currently appears to be in conflict with Section 32(2).

Section 17(4)(a), Part 2 of Schedule 1

The Institute is of the belief that having a prescribed time for the reconvening of an adjourned meeting could lead to potential problems. For example, pursuant to section 17(4)(a), Part 2 of Schedule 1, a meeting adjourned on 18 December 2014 must be reconvened on 25 December 2014 (being, Christmas Day).

The Institute recommends that this 7 day timeframe be made flexible to allow for public and bank holidays in New South Wales as well as unforeseen circumstances specific to the availability of owners of strata schemes. Accordingly, the section should be amended by deleting "adjourn the meeting for 7 days" and inserting in its place either "adjourn the meeting for at least 7 days" or, alternatively, "adjourn the meeting for a period of not less than 7 days and not more than 28 days".

Section 23(3), Part 2 of Schedule 1

This section requires notification to the lot owner that a priority vote will be cast, however, it does not specify who must give that notice and the chairperson is not required to receive a copy of the notice. They would, therefore, be unable to make an informed determination as to whether the priority vote is valid. This anomaly could potentially have unwanted ramifications on a chairperson's declaration on a motion at a general meeting. The Institute recommends that the section be amended to specify the party required to give the notice to exercise a priority vote and to require a copy of that notice to be issued to both the lot owner and the owners' corporation.

Schedule 2, Part 2

Sections 4 and 5, Part 2 of Schedule 2

The references to section 259 in sections 4 and 5, Part 2 of Schedule 2 appears to be incorrect since the latter sections relate to serving notices on lot owners whereas section 259 sets out how to serve documents on an owners' corporation.

The Institute recommends either deleting the references to section 259 from each of section 4 and 5, Part 2 of Schedule 2 or to clarify the way in which each lot owner is served with notices of meetings.

(b)Policy Issues

Section 14(3)(b)

The proposal to include tenants in the administration of strata schemes has been put to hundreds of clients of members of the Institute who are strata managers since January 2014 (when the issue first became an apparent policy issue). It has since been unanimously rejected by owners whilst also creating a significant degree of concern at the prospect of disclosing to

tenants information about the strata scheme, which owners consider to be commercially private information.

The proposal to have tenants appointed to the strata committee has also been tested by members of the Institute at their respective strata meetings. It has created a significant degree of concern from both owner occupiers and investor lot owners. Further, some members have landlords who own every lot in their strata title building as an investment property. Those landlords have made it clear that they will not contemplate appointing tenants to the strata committee. Other landlords have engaged rental agents to remain at arms-length from their tenants. Those particular landlords strongly object to being placed in a position of potentially having their tenants attend general meetings and being appointed as members of their strata committee.

On the basis that tenants have no financial interest in the strata scheme or building and may only be a resident for a short period of time, landlords have opposed this proposal. Private matters that do not concern tenants are discussed at strata committee meetings and, if the proposal were implemented, there would be unnecessary conflict between landlords and tenants on policy, financial and other matters in which the tenant has no financial interest.

For the reasons stated above, the Institute does not support the inclusion and involvement of tenants in the management and operation of strata schemes.

Section 32(1)(a)

Whilst strata managers are generally reluctant to accept an appointment as a strata committee member other than pursuant to an appointment under section 235 of the Draft Bill, there are cases where a lot owner wants their interests to be represented on the strata committee but is unable to attend a general meeting (for example, when residing interstate or overseas) and/or the only option they might have is to appoint their strata managing agent. The Institute is concerned that section 32(1)(a) will prevent a landlord from being represented on the strata committee by a person (namely, their strata managing agent) who will have an intimate knowledge of, and experience with, their property and the building.

Where a strata managing agent is appointed pursuant to section 235, that section requires the strata manager to convene general meetings only and not strata committee meetings. That will result in additional cost and delay to the resolution of matters because of the time and cost involved with collating the documents required to be attached to notices of general meetings as well as the notice period for general meetings being longer than that for strata committee meetings. On that basis, the Institute suggests that the strata managing agent should also be permitted to convene strata committee meetings in addition to general meetings.

Section 33

The Act currently enables a person who is not a proprietor to be appointed to the strata committee. This appointee could be, and in some cases is, the landlord's tenant (for example, where the tenant is a relative). Such appointments are entirely at the discretion of the landlord.

With that in mind, the requirement to have a compulsory notice to tenants where tenants occupy more than 50% of the lots would increase the likelihood that they will nominate a tenant representative for the strata committee. That would cause an unnecessary imposition on the owners' rights to privacy and an unnecessary additional cost to the owners (via levies) because there would be increased costs borne by the owners' corporation. Further, if a tenant representative sat on the strata committee, conflicts between landlords and tenants would increase. In some circumstances, landlords choose not to deal with their tenants directly in any respect let alone being faced with them at general meetings or strata committee meetings. For those reasons and the issues raised elsewhere in this Submission that relate to tenant representatives, the Institute does not support the concept of a tenant representative on the strata committee.

Section 55(2)

A strata managing agent is currently required to retain a clients' records for 5 years. Section 55(2) would require a strata managing agent to copy an entire year's records, every 12 months, and give those copies to the owners' corporation. That is a waste of time and resources and an unnecessary additional cost to the owners' corporation because that work will increase management fees which, in turn, will increase strata management fees.

The Institute does not support the introduction of this section particularly since it will lead to inefficiencies and increased costs.

Section 57

The Institute refers to its Initial Submission in relation to this section and notes that the proposed Regulations are not available for review to confirm whether the Institute's concern in relation to an agent's receipt of gifts or other benefits has been addressed. The section must take account of practical considerations of day-to-day operations of a strata manager's office. For instance, it is not uncommon for the strata manager to be invited by a contractor (possibly in the company of committee members) to meet at a café to discuss options and preferences of proposed works, whereby the contractor purchases a coffee or the like for the strata manager.

In these circumstances and depending on the amount prescribed by the Regulations referred to in s57(3)(c), the strata manager may be in technical breach of the Act.

In addition, the section takes no account of a situation where a contractor may be servicing many strata schemes managed by the strata manager's office and, for example, purchases a bottle of wine as a Christmas gift for consumption by several staff members at the staff Christmas party. In that circumstance, the gift is not in respect of any specific strata scheme client.

The Institute recommends that this section be clarified to confirm that minor gifts and benefits (including those mentioned above) are to be exempt from the requirements of this section.

Section 60

Under the *Property, Stock and Business Agents Act* 2002 (NSW), strata managers are required to disclose in their agency agreements any commission they are entitled to receive from third parties.

The Institute has no objection to additional disclosure at each annual general meeting of the insurance commissions they have received, which are disclosed in the relevant agency agreement. Most strata managers already undertake such disclosure in annual general meeting notices issued to owners. However, the Institute does not support the introduction of the requirements in sections 60(1)(b) and 60(2). Those requirements involve a time-consuming process and require establishing new systems for the office and computer software for reporting purposes. If introduced, the sections create an unnecessary "red tape" burden which will increase management fees and, in turn, strata levies.

When one of the main purposes of the Draft Bill (as stated by the Minister) is to reduce unnecessary "red tape", it is the Institute's view that these provisions have the complete opposite effect.

Since the annual general meeting is generally the only meeting held each year for most strata schemes, it is the appropriate venue to disclose and report on information to all owners rather than on an ad-hoc piecemeal basis throughout the year. For that reason, it would be difficult and unnecessarily costly to owners to satisfy the requirements of section 60(2).

Section 74

The term "sinking fund" has been used since 1961 and is a universally understood expression.

The change in terminology to "capital works fund" will cause confusion to owners of strata lots who are used to the current terminology of a sinking fund.

The Institute does not support the use of "capital works fund" in place of a "sinking fund" on the basis that it will result in considerable and unnecessary additional compliance work and substantial costs (for instance, to change

stationery and software), which will be recouped from lot owners in the form of increased strata levies.

Section 85

As detailed in the Institute's Initial Submission, the *Conveyancing (Strata Titles) Act* 1961 (NSW) and the *Strata Titles Act* 1973 (NSW) (**1973 Act**) provided for a 20% penalty interest rate which was later changed to a 10% interest rate with an option of a 10% discount. That change was effectively a complicated modification of the original requirement for a 20% penalty interest charge.

The introduction of the discount option has been a constant source of dispute for strata schemes (who have applied the discount option) for the following reasons:

(a) There is a considerable amount of additional administrative work with accompanying costs that is required to give effect to the discount option. Where that option is applied, the annual budgets need to be modified to provide for the likelihood that all owners will pay the levies prior to their due date to take advantage of the levy discount. As a result, the discount option requires levies raised to be 10% higher than they may otherwise be to allow for the possibility that all owners will take advantage of the discount.

(b) The word "paid" results in disputes where the lot owner pays levies on the last day on which they are entitled to receive the discount but the funds are not actually received by the strata scheme until after that last day for payment. Software currently available in the market is unable to determine the date of payment and can only determine the date of receipt. The Institute suggests amending section 85 so that the concept of "received" is used instead of "paid". By doing so, disputes with respect to the issue above will be reduced (if not eliminated) and so will the inordinate amount of time and expense currently being incurred to rectify the levy account ledgers where an owner proves they "paid" the levy before the due date for payment but the strata scheme did not "receive" the payment until on or after that date.

The Institute is of the view that the 20% penalty for late payment under the 1973 Act for late payment has the same net effect as the 10% discount with 10% penalty for late payment under section 85 of the Draft Bill. In light of the above, the Institute suggests that the 20% penalty rate be reintroduced in addition to have 10% penalty rate with a 10% discount.

Section 102

This section, in its current form, causes problems where the item or matter is insurance premiums. The section has the potential to necessitate a general meeting where, for whatever reason, the insurance premium is in excess of

the 10% rule but where it is also compulsory to insure the building for its replacement value.

The Institute suggests that section 102(4) be amended to include insurance premiums such that they are exempt from section 102.

Section 109

The installation of door locks on fire rated doors (which already have a fitted door lock) can negate the fire rating of the door for the purposes of obtaining a compulsory annual fire safety report, required to be lodged with Council on set dates each year.

The ability for occupants to change locks to a non-compliant lock or to add door locks on fire rated doors may render the door non-compliant. If that is the case, the owners' corporation could be fined if the annual fire safety statement is lodged late due to the door needing to be replaced. The slowness, possible hindrance and/or lack of co-operation by the occupant will likely result in a time overrun of the date upon which the owners' corporation must lodge the annual fire safety statement with Council.

The Institute requests that the addition of any door locks should only occur with the prior consent of the owners' corporation. Reason being is that the cost of the replacement of a fire door is usually in the vicinity of $1000 for a standard door and considerably more for non-standard doors.

In the case of non-standard doors, requiring replacement doors to enable compliance will result in a time delay of up to eight weeks leaving the strata scheme to pay Council fines of up to $12,500 for failure to lodge the compliance statement on time.

Furthermore, the *Strata Schemes Management Amendment (Child Window Safety Devices) Bill* 2013 (NSW) and section 117 of this Draft Bill makes the owners' corporation responsible for ensuring that complying window safety devices are installed. Therefore, the Institute does not support the inclusion of "window safety devices" in section 109 and requests that the words be deleted. The Institute is concerned that the inclusion of those words would be misleading and give a false impression that occupants can rectify a matter that is a statutory obligation of the owners' corporation.

Section 110

There is a long historical trend of lot owners carrying out cheap kitchen, bathroom and laundry renovations immediately prior to the sale of their strata title lot. Such work often leaks and causes property damage due to poor workmanship and failure to properly install waterproofing membranes.

On occasions, it may take several years for those problems to become apparent, resulting in disputes between the new owner and other lot owners as to who is responsible to pay for the rectification work.

Strata scheme records are only required to be held for 5 years whereas building warranties extend for 7 years (for example, waterproofing membranes) and by-laws remain on the common property title certificate until repealed.

Essentially, the terms and conditions of an approval given by an ordinary resolution will be lost after 5 years unless the issue is dealt with by way of a registered by-law. The Institute sees great benefit with that approach as a by-law registered on title also serves as a warning to prospective purchasers that they will be responsible for the cost of the rectification of defective workmanship if the workmanship of the former proprietor is found to be defective, rather than having all the owners pay for the former owners' substandard renovation job.

Section 122

Failure to lodge an annual fire safety statement by the due date with the relevant local Council can result in an owners' corporation being fined by that Council of up to $12,500.

The Institute is of the view that where a fine has been incurred as a result of the owner or occupier of a lot hindering access to that lot or common property for the purpose of undertaking the fire inspection, they should be liable for all fines and associated costs incurred by the owners' corporation imposed for the late lodgement of the annual fire safety statement with the relevant Council.

Section 158(4)

This section takes no account of the possibility that one or both lots may have a mortgage. As a matter of general practice, mortgage documents always require the building to be insured for its replacement value.

The Institute suggests that this section, if it is to remain, should be expanded so that section 158 does not apply where a mortgage is held over one or both lots unless the written consent of the mortgagee is obtained.

Section 161

Building costs can escalate quickly in times of inflation and invariably rise at a higher rate than the general published inflation rate. Building insurance policies generally have an "averaging clause" which applies where the building is underinsured.

As an example, if the replacement value of a building is $2 million and the insured value is $1 million, then the building will be 50% underinsured. In the event of total destruction, the owners' corporation will only receive 50% of the sum insured (being, $500,000).

As a result of the averaging clause, a large proportion of strata schemes have a replacement valuation undertaken annual to ensure that the building is not underinsured.

Accordingly, the Institute considers 5 years to be far too long to review the building cover to replacement value. It is also concerned that the 5 year period may result in significant loss to owners in the event of total or major destruction during that time.

In addition, mortgage documents require the mortgagor to insure the property for its replacement value. That requirement causes the Institute concern when, under section 161, property owners with a mortgage will be in breach of that mortgage if a replacement valuation is undertaken every 5 years and not on a more regular basis.

Since the cost of obtaining an updated replacement value is, on average, less than $150, the Institute recommends that a formal valuation be undertaken at least every two years.

Section 163

New South Wales is currently in the top three States in the world for litigation on a per capita basis and it is the understanding of the Institute that it is currently the most litigious State in the world (ahead of California and Texas).

Public liability cover is a comparatively cheap insurance premium compared with other types of cover. Under the Act, the minimum level of public liability cover has been $10 million since 1996 whereas personal injury settlement sums have escalated significantly since that time.

Where a claim relates to a minor, it could conceivably be 20 years or more before a settlement takes place at which time the $10 million cover may invariably be found to be totally inadequate. In that situation, lot owners may have to pay any shortfall between the insured sum and any award amount which, depending upon personal circumstances, may lead to bankruptcy.

For the reasons above, the Institute recommends that the minimum public liability cover be raised to $20 million.

Section 165

This section assumes that, where a strata manager has been engaged, the strata manager will be acting as an insurance agent. However, many strata schemes have their own insurance brokers acting independently of the strata manager or they may arrange their own insurances independently of the strata manager.

There also appears to be an assumption that every strata scheme will take the cheapest insurance quote. In reality, many would prefer to remain with their current insurer regardless of the premium because the policy has a more

comprehensive cover and/or because they have had an adverse past experience with other insurers.

A mandatory report on why quotes were not obtained (whether or not the strata manager has been engaged as an insurance agent) is another example of additional and unnecessary "red tape". That requirement will result in unnecessary and additional costs to strata schemes because of the time involved in complying with this section.

The Institute's is concerned that insurance brokers charge substantially greater amounts than that of a strata manager's agreed contractual commissions. It is common place for insurance brokers not to declare their brokerage fee in a quote but rather disclose it at the time of presenting their invoice. In that regard, please refer to the **enclosed** document which is an example of broker fees being more than twice the strata manager's agreed contractual commission.

In view of the proposed additional work involved to comply with this section, strata managers will no doubt gravitate toward the use of insurance brokers to obtain the quotes. That will invariably result in higher total insurance premiums for strata schemes.

Under the current arrangement, strata managers do not ordinarily use insurance brokers and they tend to directly use the insurers for whom they are authorised representatives. The Institute believes that the use of insurance brokers in the process to comply with this section will not change the commission of strata managers but will increase the overall insurance premiums for, and costs to, strata schemes. Consequently, strata fees will increase to the detriment of the strata schemes.

Finally, if strata managers were to comply with section 165 in obtaining 3 insurance quotes, that would cause many to be in breach of the *Financial Services Reform Act* 2001 (Cth) because many strata managers are authorised representatives of only 1 or 2 insurance companies. If a strata manager were to obtain quotes and process claims they would either need to be appointed as an authorised representative of an entity who holds an Australian Financial Services Licence (that is, insurers) or they would need to hold such a licence themselves. To avoid breaching the *Financial Services Reform Act* 2001 (Cth), strata managers will resort to engaging insurance brokers to meet the requirements of section 165.

With regards to the **enclosed** sample invoice from an insurance broker, whilst their quotes include a strata manager's agreed commission (thereby complying with the disclosure requirement), the insurance brokers' fees will not be evident until their final invoice is rendered. The Institute believes that the practice of strata managers engaging insurance brokers to ensure compliance with section 165 (that is, obtaining 3 insurance quotes) will increase insurance premiums and fees to the financial detriment of strata schemes and to the financial benefit of insurance brokers. The Institute recommends the deletion of the requirement of section 165 on the basis that it

will create an outcome not in the best interests of lot owners in strata schemes.

Section 181

Strata management offices generally close over the Christmas/New Year period for 10 - 12 days, one main reason being that tradespeople are generally not available during that period.

A notice may be "received" or served, for example, by being left at the strata manager's address or in their letterbox on Christmas Eve. However, if the office is closed for the next 10 - 12 days, there will be a breach of section 181 because no one will be available to facilitate compliance with this section.

From a practical perspective, the Institute considers 14 days (rather than 7 days) to be a more realistic time period to address the issues described above.

Sections 198 - 214

These provisions appear to be targeting large developers who are invariably the builder of the development at the expense of small developers who, more often than not, contract out the construction of the development to licensed builders.

These sections introduce another layer of "red tape" that could be easily avoided by requiring all builders involved with the development of residential buildings, regardless of size or height, to be subject to the *Home Building Act* 1989 (NSW).

Whilst the Institute can appreciate that larger developers may be in favour of these sections as a whole, if they were included in the Draft Bill in their current form then the Institute is concerned that it will invariably result in many smaller developers ceasing their developments in New South Wales, relocating their capital to alternative jurisdictions and/or investing in alternatives other than property development. A consequence of that would no doubt be the accompanying loss of the financial multiplier effect that new construction has on the economy.

Section 11, Part 2 of Schedule 1

For the reasons set out in this Submission with respect to section 14(3)(b) (above), the Institute does not support the proposed requirement to provide tenants with copies of the agenda for meetings and other strata scheme documents and for tenants to be represented at general meetings and on the strata committee.

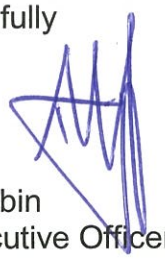
3. CONCLUSION

The Institute welcomes the amendments to the Act but requests that the NSW Fair Trading considers the Institute's response to the Draft Bill and amends it to reflect the comments and address the concerns set out in this Submission.

The Institute does not consider the due date for submissions to be appropriate having regard to the size of the Draft Bill. It recommends a longer period of time be allowed for stakeholders to review the next draft. That way, a more comprehensive and thorough review of the proposed legislation can be carried out, benefiting the public at large. The Institute intends to lodge a subsequent submission (after the due date for this Submission) once it has had sufficient time to completely digest the implications of the Draft Bill.

Thank you for the opportunity to provide this Submission and the Institute would welcome the opportunity to discuss it further.

Yours faithfully



Tim McKibbin
Chief Executive Officer

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[redacted]

Renewal of Cover
TAX INVOICE [redacted]

Our Reference : ABS STR [redacted]

Date : [redacted].2013

Class : Strata Title Residential - STRA

Placed with : Strata Unit Underwriting Agency Pty Ltd

Policy No. : [redacted]

Period : 31.08.2013 to 31.08.2014

Premium	7,531.72
FSL & SES Levy*	1,021.07
Underwriting Agency Fee	100.00
Stamp Duty	826.30
Broker Fee	4,105.04
Premium GST	865.28
Fee GST	410.50
GST Total	1,275.78
Total Amount	14,859.91

* Where SES relates to State Emergency Levy (Applicable NSW only)

IMPORTANT NOTES

Insured: *Strata Plan* [redacted]
Insured Location: [redacted]
Renewal for: *Residential Strata*

: 14 AUG 2013

4105-04
410-50
4515-54
= 14859.91
30.3%

PAID by Electronic Funds Transfer

Your Account Manager is Michael Wilbers

TERMS - NET 14 DAYS - Please forward your remittance to ensure cover. Please refer to your DUTY OF DISCLOSURE obligations and other important notices overleaf. Claims must be notified immediately as late notification may cause denial of liability in some instances. Unless we tell you otherwise in writing, we receive commission in addition to any broker fee mentioned above. Please ask us for any further information.

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Biller Code: [redacted]
Ref No: [redacted]

Reference	: ABS STR [redacted]
Invoice No	: [redacted]
Client Name	: Strata Plan [redacted]
Account Mgr	: [redacted]
Date	: [redacted].2013
Total Amount	14,859.91

FOR Credit Card Payment

To make a Credit Card Payment, please visit our website click on the payment tab at www.absyd.com.au Please enter your Reference as ABS STR 67121 and your Invoice Reference as I0380230. Alternatively, please call our office to arrange this for you on 02 9570 8355

*An Administration Fee inclusive of GST will be charged at 1% Mastercard & Visa, 1.65% Diners & 2.75% for Amex.

austbrokers
ABS Strata

Austbrokers Sydney Pty Ltd
ABN 14 061 968 090
AFS Licence No. 244244
PO Box 103 Hurstville NSW 1481
Tel (02) 9570 8355 Fax (02) 9586 1467

[redacted]2013

QUOTATION FOR RESIDENTIAL STRATA INSURANCE

UNDERWRITTEN BY:
CHU - CHU Underwriting Agencies Pty Ltd
SUU - Strata Unit Underwriting Agency Pty Ltd
ZUR - Zurich Australia Insurance Limited

Current Underwriter: Strata Unit Underwriting Agency Pty Ltd

STRATA PLAN [redacted] **STRATA MANAGER** [redacted]

SITUATION: [redacted]

INSURANCE PERIOD: **FROM:** [redacted]/2013
TO: [redacted]/2014

POLICY REQUIREMENTS & PREMIUM

TYPE OF COVER		SUM INSURED CHU	SUU	ZUR
1. PROPERTY	BUILDINGS as defined	$10,630,000	$10,630,000	$10,630,000
	COMMON CONTENTS	$106,300	$106,300	$106,300
	LOSS OF RENT	$1,594,500	$1,610,445	$1,594,500
	FLOOD COVER	No Cover	No Cover	No Cover
	PAINT COVER FOR UNITS	Not Insured	Not Available	Not Available
EXCESS:	CHU $500, SUU & ZUR: $200			
2. PUBLIC LIABILITY	Limit of Liability	$20,000,000	$30,000,000	$20,000,000
3. FIDELITY GUARANTEE		$100,000	$100,000	$100,000
4. VOLUNTARY WORKERS		$200,000/$2,000	$200,000/$2,000	$200,000/$2,000
5. OFFICE BEARERS	Limit of Indemnity	$10,000,000	$10,000,000	$10,000,000
6. MACHINERY BREAKDOWN		No Cover	No Cover	No Cover
PLEASE CONTACT OUR OFFICE TO OBTAIN A QUOTE FOR EQUIPMENT BREAKDOWN INSURANCE				
7. CATASTROPHE		$1,594,500	$1,610,445	$1,594,500
8. GOVERNMENT AUDIT COSTS		Included	Included	Included
9. LOT OWNERS FIXTURES & IMPROVEMENTS		Additional $250,000 per unit	Additional $250,000 per unit	Included in Building Value
ADMINISTRATION FEE		Included	Included	N/A
BROKER FEE		Included	Included	Included
BROKER FEE GST		Included	Included	Included
TOTAL		**$18,246.32**	**$14,859.92**	**$16,609.11**
GST (Included in above Total)		**$1,559.50**	**$1,275.79**	**$1,420.94**
STRATA MANAGERS COMMISSION		$1,917.10	$1,506.34	$1,711.72

IF THE WAGES PAID BY THE STRATA PLAN ARE GREATER THAN $7,500, PLEASE CONFIRM TO OUR OFFICE & WE WILL ORGANISE COVER FOR WORKERS COMPENSATION

FOR TERMS, CONDITIONS & ADDITIONAL EXCESSES, PLEASE REFER TO EACH COMPANIES PDS