Consumer Policy Framework,

A submission to

Productivity Commission

Issues Paper

By the

Institute of Body Corporate Managers (Victoria) Inc.

7 May 2007

About Institute of Body Corporate Managers (Victoria) Inc. - "…the voice of the body corporate industry…"

IBCMV is the pre-eminent professional association of the body corporate industry, and was formed in 1990 to provide a forum for improved standards and education in the industry. Supporting more than 75% of all body corporate management firms it is the only organisation solely focussed upon representing this increasingly significant industry, and reaches and represents 250 body corporate professionals who manage approximately 200,000 lots. It also represents industry suppliers and bodies corporate, making it the voice of all with an interest in the management of bodies corporate. Members benefit from representation, promotion, establishment of professional practice guidelines and ethical standards, and professional development through education seminars, conferences and regularly publishing bulletins on items of professional interest. IBCMV is an affiliate member of the National Community Titles Institute, which represents practitioners throughout Australia. More information about the Institutes are available at www.bodycorp.org and www.ncti.org.au

About the bodies corporate or strata title industry in Victoria.

Changing lifestyle choices of Victorians and demographic shifts have led to rapid growth in higher density dwellings and the strata industry. With 65,000 Bodies Corporate and 500,000 lots in Victoria and about 1,000,000 Victorians or 1 in 4 people living in or affected by Bodies Corporate, it represents the management of property worth $45 billion and they comprise residential properties ranging from 2 units in a suburban street to many hundreds of units in an urban tower block. Bodies corporate also encompass commercial, retail, lifestyle resorts, retirement villages, car parks, storage facilities, industrial and, increasingly, mixed developments comprising more than form of development.

Strata and Community Title Managers deal with:

- The management of people in a community living environment
- Manage billions of dollars of other peoples money on an on-going and not a single transaction basis
- Manage entire communities and their current and future assets and facilities

About the strata and community title industry in Australia
The industry continues to grow rapidly in Australia and represents the management of property worth more than $500 billion. There are approximately 1500 body corporate managers in Australia; with 3.5 million people living or working in bodies corporate schemes. Conservatively, it is estimated 20,000 Australians work in and derive their income from the strata title industry.

APPROACH

Comment is made on the following areas:

1. Address overlaps and inconsistencies between various state jurisdictions
2. Systemic reform through greater national harmonisation is required
3. Owners Corporations Act 2006 (Vic)
4. Application of the Fair Trading Act 1999 (Vic) in the Owners Corporations Act 2006 (Vic)
5. FSRA - Financial Services Reform Act
6. Greedy states won't forgo stamp duty on insurance

1. Address overlaps and inconsistencies between various state jurisdictions

Potential overlaps and inconsistencies need to be addressed whenever new regulation is being proposed or developed. Cross-jurisdictional comparisons aid in assessing the efficiency and effectiveness of Victoria's regulatory regime.

For an independent analysis, refer to *The law of strata title in Australia: A jurisdictional stocktake,* an article by Griffith University's K Everton-Moore, A Ardill, C Guilding and J Warnken; Australian Property Law Journal, June 2006; published by LexisNexis Australia. This provides an overview of strata title legal provisions applying in each Australian state and territory. Specific issues addressed include: each state's legislative framework, plans for reform, governance arrangements concerning power and responsibility distribution, and dispute resolution procedures.

2. Systemic reform through greater national harmonisation is required

As ever more business activity occurs on a national scale, there is an increasingly compelling case for introducing uniform regulation across Australian jurisdictions.

IBCMV supports the Griffith University submission to the Prime Minister outlining the need for COAG to further harmonise strata and community title laws in Australia with two key pre-condition initiatives:

a. ***A national coordinating body, such as a Ministerial Council***
b. ***A Strata Reform Commission***

The Government Briefing Paper was submitted in January 2006 and is included as an Appendix.

3. Owners Corporations Act 2006 (Vic)

New laws are set to significantly change the landscape for the one in four Victorians who own or occupy property in more than 65,000 bodies corporate in Victoria.

The name change from bodies corporate to owners corporation is the least of the implications of the new Owners Corporations Act 2006, coming into force by the end of 2007. The new regulatory regime aims to improve transparency and financial accountability in the management of owners corporations and we welcome new dispute resolution provisions, but more onerous regulatory compliance will result in higher costs to be borne by owners.

While the IBCMV is pleased that the Victorian Government has accepted many of its recommendations, we believe that in practice, compliance with some of the proposed regulations will disadvantage professional managers, members of owners corporations and committees alike.

For example, the new Act does not recognise the important role of professional managers in the smooth and consistent running of owners corporations. In practice, managers now perform the roles of secretary and chairperson at general meetings at the behest of owners, to ensure proper and effective conduct of meetings and proxies/ballots. The new Act prohibits this, which would result in much greater responsibility being foisted on individual committee members.

4. Application of the Fair Trading Act 1999 (Vic) in the Owners Corporations Act 2006 (Vic)

The Owners Corporations Act 2006 (Vic), due to commence at the end of 2007, now provides for various provisions of the Fair Trading Act 1999 (Vic) to extend and apply (with any necessary modifications) to paid managers under this Part. These include the inspection powers (apart from those excepted) set out under Part 10 of the Fair Trading Act 1999, the Director's power to obtain information and documents to assist in monitoring compliance, as set out in section 106HA of the Fair Trading Act 1999, and some of the enforcement provisions in the Fair Trading Act 1999.

It is noted that the provisions of the Fair Trading Act 1999 have now changed, being applicable to managers only – not to any others as was the case when the Owners Corporations Act 2006 was in Bill form.

However, a regulatory regime that includes application of the Fair Trading Act 1999 for professional "paid" [for fee or reward] or "registered" managers but that does not apply equally to the newly introduced "volunteer" managers of self-managed bodies corporate remains highly discriminatory, and may simply lead to "opting out" and self management which is likely to result in reduced levels of service and security for members.

It must also be remembered that, given our recommendation for it to be mandatory for an owners corporation to appoint a manager in some circumstances has not yet been adopted, a $1 billion dollar building asset with 500 lot owners and an annual budget in the millions of dollars may still be self-managed by a volunteer manager who is not subject to the application of the Fair Trading Act 1999, yet a "paid" or "registered" manager of a suburban block of 6 units with a $10,000 budget is subject to application of the Fair Trading Act 1999.

Also consider the new immunity given to the volunteer manager provides that any liability that would otherwise have attached to the volunteer manager attaches instead to all the owners of the owners corporation.

Thus, the same recommendation as previously is reiterated below.

The enforcement powers given to the Director in Part 12 of the Act includes penalty units of 240 (natural person) and 600 (body corporate; which is up to approximately $60,000). These enforcement powers are inconsistent with the internal disputes resolution process, proposed mediation/conciliation and the provisions for the enforcement of rules. The enforcement provisions under Part 12 will deter voluntary committees and self management. Managers will increasingly need to seek legal advice on matters to ensure compliance with the legislation and to avoid prosecution.

Application of the Fair Trading Act 1999 is inconsistent with the announced Victorian Government policies, Final Report and the Future Directions Paper and therefore has not had any input from stakeholders. It is inappropriate to apply criminal sanctions to private property managed by unqualified/unsupported individuals acting on committees who are managing not for profit owners corporations; or managers. An owners corporation is not permitted to undertake any business activities and does not trade with the public at large.

5. FSRA - Financial Services Reform Act

Arranging insurance for bodies corporate is an important function of strata and community title managers, but the regulations now governing body corporate managers are still an issue of concern as the market remains confused.

IBCMV asked CHU Underwriting Agencies, a leading provider of specialist strata insurance, to provide some advice. CHU's article as published in January 2007 is reproduced below.

The Perils of Not Giving Advice

As a consequence of the Financial Services Reform Act (FSRA) in early 2004, the strata and insurance industries in Australia have undergone radical changes as to how they provide financial (insurance) services to their clients.

New concepts and obligations were introduced which nowadays govern how Body Corporate Managers provide insurance services under their Management Agreements. Those reforms include the differentiation between 'retail' and 'wholesale' clients and products, and how Body Corporate Managers communicate with their respective Bodies Corporate.

How can I provide a financial service?

To be able to provide a financial service and arrange insurance under the Corporations Act a Body Corporate Manager must choose to be appointed as either (1) a 'Distributor' or (2) an 'Authorised Representative' of an Australian Financial Services (AFS) licensee.
The financial product information that can be imparted by 'Distributors' and 'Authorised Representatives' does vary.

(1) 'Distributor' - Body Corporate Managers appointed as 'Distributors' may only 'arrange' financial products – they are **not** allowed to provide any advice (general or personal) at all in relation to the insurance product or services. Distributors may, however, provide factual information (which is regarded as being accurate and objective) about the insurer and the insurance product.

(2) 'Authorised Representative' – Body Corporate Managers appointed as 'Authorised Representatives' may provide factual information **and** advice, in addition to arranging the strata insurances. Advice authorities are dependent upon the level of training undertaken and the authorisations issued by the licensee.

What are the differences between the two 'models'?

Aside from providing financial product advice, both the Distributor and Authorised Representative models are the same as to how they impact a Body Corporate Manager. Disclosure requirements differ depending on the model selected however the Body Corporate Manager must still issue a Product Disclosure Statement (PDS) and continue to provide a Financial Services Guide (FSG) which outlines remuneration received, etcetera.

How does this impact my obligations and responsibilities?

The two main considerations for a Body Corporate Manager, when determining the appropriate model are:

(1) the model which most appropriately fulfils his or her fiduciary obligations to the Body Corporate; and

(2) the level of financial product advice it is they require to service their clients.

A fiduciary relationship exists between the Body Corporate Manager and the Body Corporate through the application of the Management Agreement, and through the relationship developed.

The relationship is also based on trust, honesty and confidence, which arises when one person is bound to act in good faith and in the interests of another person. The relationship that is developed between the two parties can be seen as a relationship of reliance. At the centre of any fiduciary relationship, a duty exists that relates to making available to the Body Corporate all information relevant to the beneficiary.

As the strata industry becomes more complex and more competitive, Body Corporate Managers will be expected to provide an improved level of service to their clients, which **will** include some form of advice required at some point by the Body Corporate. To successfully discharge this duty, a Body Corporate Manager would need to become an Authorised Representative with the appropriate advice authorisations issued.

How appropriate is Factual Information?

Consideration should also be given to how the factual information best supports the services provided by a Body Corporate Manager.

Factual information should not contain an opinion or recommendation of any kind (actual or implied) and must contain only objectively ascertainable information. For example, a statement about the specific limits provided within the policy cover is considered to be factual information because this can be supported by the policy wording.

Let's say, for example, three lot owners are renovating their lots for $150,000 each. The Body Corporate is aware of the renovations and would like to know whether the lot owners should increase the sum insured by $450,000.

How would a reasonable Body Corporate Manager answer this question when factual information is defined as being accurate and objective information that does not contain an opinion or a recommendation?

The real danger in answering questions such as these is the ease in which they lend themselves to be answered with general advice. Remember, when a person provides financial product advice, they are making a recommendation or a 'statement of opinion' that is intended to influence the person making the decision about the financial product. Advice can be defined also as being given when the recommendation or opinion provided could reasonably be regarded as having that intention.

It is also questionable as to whether a Body Corporate would be able to make an adequate assessment of their insurance needs and understand their obligations under the relevant strata legislation with factual information alone, despite those situations in which the presiding Body Corporate Manager is confident of his or her ability to provide factual information alone.

Is Training necessary for Distributors and Authorised Representatives?

Both models require Body Corporate Managers to undergo thorough training. It is a misconception within the industry that training is not required when appointed as a Distributor. Under both models, Licensees must ensure the Body Corporate Manager is adequately trained and competent to provide a financial service.

What is the best solution?

Although the 'Distributor' model offers the simplest and most cost-effective solution for Licensees to the authorisation process, situations will arise where providing factual information alone would not be possible, suitable or advisable.

All being said, Body Corporate Managers do have an overriding fiduciary obligation to their Bodies Corporate that should require them to provide some form of financial product advice.

The main issues involved in providing advice and the reluctance of some Body Corporate Managers to provide this advice, whether general or personal, can easily be attributed to misconceptions about the legislation and misinformation that is provided by various AFS Licensees.

Unfortunately, several licensees within the insurance industry have been advising the strata industry that it would be beneficial to reduce the level of strata services currently enjoyed by the market, such as providing factual information only and not providing general advice

In an industry where some sectors are questioning the payment of commissions to Body Corporate Managers, it would seem inadvisable and ill-conceived to reduce any of the services and standards currently enjoyed within the strata market.

Considering no further effort is really required in obtaining general advice authorisations, a prudent Body Corporate Manager should seriously consider becoming or remaining as an Authorised Representative.

ASIC releases proposed reforms – November 2006

In light of the issues raised above, ASIC has released notification of proposed reforms which will allow insurance agents such as Body Corporate Managers to provide advice (both general and personal) without triggering FSR compliance requirements.
The proposed reforms will allow Body Corporate Managers (most likely through the Authorised Representative model), to provide simple advice and guidance to help a customer decide whether a product suits their needs. The 'product sales recommendations' provided will not involve giving either a Statement of Advice (SOA) if the information is personal, or the General Advice Warning if the information is general.
Those reforms will greatly benefit the strata industry and allow more freedom in the provision of financial product advice being given to the Bodies Corporate.

CHU will closely monitor those reforms and provide more information when it becomes available.

For information concerning this article, or to enquire about CHU's training program, please phone Brad Sutton or Sylvia Wasef on 1300 361 263 or email compliance@chu.com.au.

ENDS

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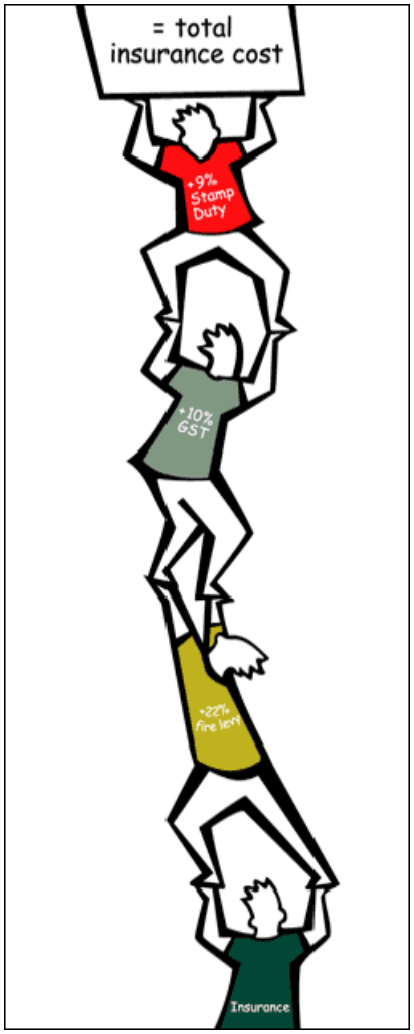
6. Greedy states won't forgo stamp duty on insurance



In every state and territory, governments place stamp duty on insurance products, thus increasing the cost of insurance to consumers through higher premiums. These tax rates range from the highest of 11% in South Australia, to the lowest of 7.5% in Queensland. NSW's rate lies in the middle at 9%.

At a time when underinsurance and non-insurance are a major issue, as it is estimated that 9 out of every 10 Australians are not fully insured, these taxes are not encouraging consumers to cover themselves adequately. These taxes can be seen to be inefficient in three ways:

- Firstly, taxes should be imposed on **activities we wish to discourage** - this is the rationale for charging 'sin taxes' on alcohol, cigarettes and gambling. Insurance is a benefit to the consumer in the event of a disaster. A recent report by the Centre for International Economics, however, finds that taxes on insurance now raise more revenue than alcohol, and not much less than gambling and tobacco.

- Secondly, stamp duty imposes a **'tax on tax effect'**, namely onto the goods and services tax (GST), thus breaking one of the most fundamental principles of taxation. In NSW and VIC, an additional 22% fire services levy (FSL) is imposed on premiums to fund fire-fighting services. After the levy is charged, followed by a 10% GST, followed by stamp duty, a basic home insurance premium in NSW of $100 can end up costing $146.28.

Fire Services Levy [FSL]
The ICA [Insurance Council of Australia] and NIBA [National Insurance Brokers Association] have lobbied successive governments for many years and have had success in Queensland, South Australia and Western Australia in having the FSL removed from insurance policies. It is only New South Wales, Victoria and Tasmania that still adopt the completely inappropriate method of funding. The **reallocation of FSL to rates** and not insurance is required in these states that have not already made the change.

The FSL has a tax base limited to those persons and organisations which take out property insurance. The base is further reduced in reality by under insurance. The limitations are completely unnecessary and result from poor scheme design.

This tax is inequitable in that those prudent individuals who insure and particularly those who insure fully pay for the service and those who do not insure contribute nothing and those who under insure pay only a proportion of their fair share.

The FSL should be property based [ie rates], but it also should be **charged only once per person** – not, in the case of investor owners, being charged for multiple properties.

- Thirdly, placing stamp duty on insurance keeps premiums higher, which **does not encourage the consumer to insure adequately**, if at all. The reality is, poorer people tend to live in areas with higher crime rates and are more likely to need insurance than most.

Whether it's the insurance cover the owners corporation is required by law to have, or the additional insurance the owners corporation decides it is prudent to have, all are slugged.

Surprisingly, there has not been much consumer reaction to the rise in stamp duties on insurance in NSW, perhaps because some consumers have convinced themselves they just don't need any, or much, insurance? There are three common reasons often used to justify the lack of insurance:

- There's the 'it won't happen to me' factor. Fifteen years of uninterrupted economic growth have exerted a calming influence on Australians through real wage rises and low unemployment.
- The second reason why insurance slips off the radar for some is the 'I couldn't be bothered' factor. Deciding whether or not you need to take out some form of insurance involves a complex weighing of risk.
- There's always the 'if something really bad happens to me, the Government will bail me out'. Economists call this a 'moral hazard' problem. In the case of insurance, if they think the Government will step in to cover the gap for large claims, they are likely to underinsure their property.

When the deal was initially struck between the Federal Treasurer and the states in 1999 to hand GST to the states, it was made in return for the states agreeing to 'review' a range of stamp duties. These included stamp duties on mortgages, leases, business conveyancing and hire of goods, and were to be offset by the GST. Insurance wasn't on the hit list.

NIBA has put these tax concerns in writing to express brokers' concerns over inequitable taxes charged on policies, seeking a commitment from the states and territory governments that stamp duty would be dropped in the future. The ICA predicts the 9% stamp duty in NSW brings in revenues of $540 million a year, so a tax reform in this area doesn't seem likely.

APPENDIX

GRIFFITH UNIVERSITY SUBMISSION TO THE PRIME MINISTER FOR A NATIONAL COORDINATING BODY

Strata and Community Title in Australia

Proposal for a National Co-ordinating Body

Government Briefing Paper

Prepared by Griffith University Service Industry Research Centre

January 2006

Proposal for a National Co-ordinating Body

Government Briefing Paper

Outline

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Purpose of this Paper

A recent conference conducted by Griffith University highlighted the different legislative and policy approaches taken by the various Australian States and Territories since the advent of the first strata laws in NSW in the early 1960s. While there were a range of views expressed at the conference on many of the items under discussion, one issue arose on which there was unanimous agreement – the need for a national body to coordinate the examination of strata and community scheme issues Australia wide. This Paper takes the first step in having this aim realised.

A number of presentations were made during the Conference that discussed issues related to the need for greater uniformity in strata and community title legislation. Key points from these presentations form the basis of this paper.

Where are we now?

One of the biggest challenges facing the strata and community title industry nationally is inconsistent legislation. It could be said that the downside of Australia's federation system is no more clearly demonstrated than in the policy and legislative framework behind the strata scheme industry.

States and Territories have allocated the responsibility for the administration of the strata/community schemes laws to a range of ministerial portfolios. Even individual States have taken several significant changes of direction in their strata law custodianship over the years. For example, in the 44 years since the NSW strata laws began, the ministerial responsibility for the management and disputes aspects of the legislation has switched from the Attorney General to Consumer Affairs, to Local Government, to Housing and to Fair Trading. However, the responsibility for registration and subdivision provisions of strata/community legislation in NSW has maintained relative stability during that period, being under a Department of Lands or similar custodianship.

The disparate arrangements in place at present can be seen in the following table outlining the various current State departmental responsibilities for the respective strata laws:

Jurisdiction	Registration/subdivision	Management/disputes
Queensland	Natural Resources	Tourism, Fair Trading
NSW	Lands	Commerce (Fair Trading)
Victoria	Sustainability& Environment	Justice
Tasmania	Primary Ind., Water & Environ	Primary Ind., Water & Environ
South Australia	Admin & Information Services	Attorney General (disputes)
Western Australia	Land Information	Attorney General (disputes)

It could be said that strata and community scheme law makers have never had an obvious home, unlike distinct areas of government responsibility such as health, education and agriculture, and herein lies an impediment to the development of a nationally consistent approach. This is evident in the table attached, which highlights the various terminologies used in different states.

There is no national body at Government level that co-ordinates the development and oversight of strata/community scheme policy.

A number of important fair trading concerns (e.g. product safety, unfair contracts, trade measurement and credit) are able to be progressed nationally and uniformly through the Ministerial Council of Consumer Affairs (MCCA) but as the strata and community scheme issue does not fall within the administration of all consumer affairs/fair trading Ministers; it is unlikely to receive exposure at this type of forum. Therefore it is a difficult task to move the issue along at a national level.

Perhaps the fundamental question that needs to be examined and settled before movement at a national level is likely is– what is strata and community scheme law all about?

Is it planning law?
Is it corporations law?
Is it titling law?
Is it commerce law?
Is it housing law?
Is it consumer protection law?

Until this basic issue is resolved, it may be that we will continue to see strata/community scheme policy and regulation developed in a relatively uncoordinated fashion.[1]

[1] Berry, P. (2005). *The Challenge for Legislators.* Paper presented to Griffith University's Strata and Community Title in Australia for the 21st century conference 2005. 31 August 2005.

Where do we want to be?

The Griffith University 'Strata and Community Title in Australia for the 21st century conference' held in August/September 2005 was the first national cross-industry conference focusing on the rapidly growing strata and community title industry. The Conference highlighted inconsistent state legislation and discussed strategies for developing a common federal framework to move the industry towards best practice.

A recurring theme at the Conference was the need for a much greater level of cross-state strata title legislation harmonisation. The Conference delegates unanimously supported a resolution to call on State and Federal Governments and the various State Ministers responsible for the administration of strata and community titles legislation to review and consider the need for a co-ordinated national approach.

Griffith University's Service Industry Research Centre (SIRC) is seeking government support to consider forming a National Co-ordinating Body to promote research based legislation and ensure the best outcomes from such legislation for the millions of Australians who create, own, manage, work in or reside in strata and community title properties. The following legislative issues were highlighted during conference proceedings.

Legislative issues[2]

Imperatives for legislators in the future will be:

- Serious investigation of the possibility of more uniformity of strata legislation across the various Australian jurisdictions.
- Comprehensive review of the legislation in all major jurisdictions to ensure that it can cope with future challenges.
- Consolidation of strata-related legislation in New South Wales and Queensland and, to a lesser extent, in South Australia.
- Changing the public consultation process to ensure that it is meaningful and restricts the influence of minority groups that are not "really" representative of their constituents.
- As a means of achieving the last point, commission and rely upon quality research before deciding to make changes to legislation (which also involves a commitment to avoid "reactive change" for short-term political gains).
- To tap the wealth of knowledge that resides in a range of industry experts, but to do this in a way that avoids outcomes driven by "private agendas".

[2] Bugden, G. (2005). *Future Directions and Challenges*. Paper presented to Griffith University's Strata and Community Title in Australia for the 21st century conference 2005. 1 September 2005.

Why is it important?

Ultimately, the key benefits that can be achieved through a national coordinated approach to strata and community title legislation are:

- Increased clarity and understanding for all levels of investors and owners
- Enhanced ability of government to manage future growth in medium and high density living
- Maximised opportunities for future growth in strata title and related industries, e.g. tourism.
- Increased consumer protection and encourage greater consumer confidence in the industry

It has been estimated that in excess of 3.5 million Australians live in, work in or own a strata title property. More than 216,000 strata schemes have been registered so far and ongoing registrations exceed 100 each week. The trends towards medium to high density living, driven in part by current and proposed planning policies, will ensure this rate increases over the coming years. There is a need for more uniform regulations and terminology to cope with the national growth of strata title living. As one of the major property investment markets, strata and community title needs greater national coordination to increase clarity and understanding for all levels of investors and owners. This will ensure the future growth of strata and community title in Australia can be managed effectively.

Major investment in the development and construction of strata and community title properties is being threatened by a lack of consistent legislation and regulations. Conflicting definitions and administrative procedures are hampering large and individual investors seeking to commit to strata and community title ventures, who are concerned by the different regulating, legislation and requirements of schemes in the various states. These inconsistencies exist at a time when Australians are increasingly purchasing inter-state real estate, particularly strata title properties.

The lack of consistency across jurisdictions creates major issues for Australians who own inter-state real estate and are seeking to understand the rules that govern their decisions. It also creates problems for developers, real estate agents, lawyers and others involved in the industry that operate beyond single state boundaries, and major investment institutions looking at national projects are wary of the market perceptions created by different systems. In the current environment where investors and developers are conscious of risk and need certainty, there are genuine fears and impediments created by unclear and inconsistent legislation, which may stymie continued growth of the industry.

How will it work?

The real challenge for Government is how to achieve all this in the most efficient and cost effective way. Clearly, there is the lack of uniformity among the various States, particularly the three most populous States. These days it is very common for people to own properties in more than one State or to move from State to State. Also, all of the major property developers operate in two or more States. This supports a case for more uniformity among the States.

However, **there is a limit to achieving this** because States will always want to preserve their independence and there are no serious commercial drivers for uniformity as there was, for example, with the corporations law.

It is fair to say more effort could be made on such things as development mechanisms and general terminology. There could also be more effort towards States working together in law reform initiatives, particularly research into what is required by way of reform.[3]

Ministerial Council

One proposed method of achieving this type of coordinated national approach is the establishment of a national Ministerial Council dealing with strata and community title legislation and issues.

Other critical policy areas such as consumer affairs, fair trading, education, drugs, youth affairs and energy have all established ministerial councils. The role of the Ministerial Councils in each of these areas is to consider issues of national significance and, where possible, develop a consistent approach to those issues.

The broad objectives of a Ministerial Council on Strata and Community Title would be to:

- Provide a mechanism for regular consultation between Australian Government, State and Territory Ministers responsible for the administration of strata and community titles legislation on programs and policies in relation to strata and community title in Australia;
- Promote a consistent and coordinated national approach to policy development and implementation in relation to all strata and community title issues.

To be effective, the Ministerial Council would be responsible for the coordination of strategic policy at the national level and facilitate negotiation and development of national agreements on shared objectives and interests.

[3] Bugden, G. (2005) *Current Challenges*. Paper presented to Griffith University's Strata and Community Title in Australia for the 21st century conference 2005. August 31, 2005.

The Ministerial Council would develop principles for the sharing of information and collaborative use of resources towards agreed objectives and priorities, and coordination of communication with, and collaboration between, related national structures.

The Council would meet at least once each year and generally no more than twice each year. Video and teleconferencing would be used at other times where necessary to consider particular matters.

Strata Reform Commissions

The recommended approach for achieving changes to legislation that are effective and meaningful involves the establishment of a standing "Strata Reform Commission", ideally within the office of the Commissioner in those States where there is a Commissioner or similar office.

In many respects this would be similar to a Law Reform Commission, except that its functions would be tailored to the needs of the strata industry. Such a Commission would:

• Comprise 3 to 4 "members", with no more than one from Government
• Have a range of appropriate skills
• Be under a statutory duty to act in the public interest
• Be responsible for commissioning and interpreting relevant research
• Be the designated body to receive and assess submissions from members of the public
• Make recommendations to Government on required changes to the law.

Funding a Commission

Such a Commission would need to be appropriately funded and given adequate secretarial support.

Again, an option for funding may be an annual levy on unit owners. The communication process for such a levy may itself be an opportunity for research and general feed-back from the strata community. This could be an effective way to overcome the flaws in the current policy making and public consultation processes.

Given the large percentage of the community that lives in strata titled properties, the costs can be easily justified. Politically, this could be seen as a serious attempt on the part of Government to address the needs of people living in a strata environment.[4]

[4] Bugden, G. (2005). *Future Directions and Challenges*. Paper presented to Griffith University's Strata and Community Title in Australia for the 21st century conference 2005. 1 September 2005.

Differences in terminology between states

	QLD	NSW	VIC	SA	WA	TAS	NT	ACT
Terminology for 'Scheme'	Community Title Scheme	Strata Scheme	Subdivision, Strata Subdivision or Cluster Subdivision	Strata Scheme	Strata Scheme	Strata Scheme	Unit Title	Unit Title or Community Title
Terminology for 'Body Corporate'	Body Corporate	Owners Corporation	Body Corporate	Strata Corporation	Strata Company	Body Corporate	Management Corporation	Owners Corporation (*UTA*[5]) or Body Corporate (*CTA*[6])
Terminology for 'Management Committee'	Committee	Executive Committee	Committee	Management Committee	Strata Council	Committee of Management	Committee	Executive Committee (*UTA*) or Committee of Management (*CTA*)
Terminology for 'By-laws'	By-laws	By-laws	By-laws	By-laws (*CTA*[7]) or articles (*STA*[8])	By-laws	By-laws	By-laws	Articles (*UTA*) or by-laws (*CTA*)

[5] *Unit Titles Act 2001* (ACT).
[6] *Community Titles Act 2001* (ACT).
[7] *Community Titles Act 1996* (SA).
[8] *Strata Titles Act 1988* (SA).