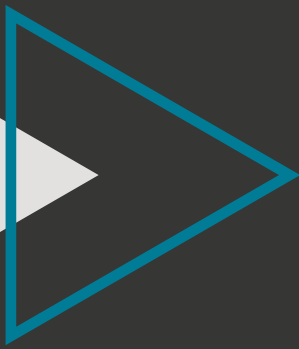


A data-driven holistic understanding of strata insurance in Australia and New Zealand



A data-driven holistic understanding of strata insurance in Australia and New Zealand.

By Nicole Johnston (Lead Author) with contributions from Adrian Lee, Sagarika Mishra, Karen Powell, Mark Bowler-Smith and Ambika Zutshi.

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The author of this report can be contacted at: nicole.johnston@deakin.edu.au

Executive summary

Strata Community Association (SCA) engaged Deakin University to undertake research on strata insurance in Australia and New Zealand. The specific aims of the research were to provide a comprehensive data-driven overview of strata insurance in Australia and to examine the role of strata managers in the delivery of strata insurance-related services and determine manager value.

The research is exploratory in nature as, at the time of writing this report, no in-depth research had been conducted specifically focusing on strata insurance in Australia and New Zealand. Exploratory research allows for flexibility in the research design often leading to serendipitous outcomes. Although this research is comprehensive, it is not exhaustive, and improvements will be made over time. The research represents a snapshot of strata insurance in 2021 and is limited to data that was made available to the researchers.

Strata titled properties are unlike many other forms of real property. To understand how insurance impacts upon this property product, a thorough understanding of the intricacies of strata title is required. The co-ownership property structure combined with a highly regulated governance framework, the diversity of uses, and the relationships with multiple vested stakeholders is in stark contrast to other property types. This report highlights these intricacies which need to be understood to appreciate the complexity of strata insurance and the reliance, in many cases, on strata managers and other professionals to assist OC clients navigate their obligations and responsibilities to insure.

Numerous research activities were undertaken to ensure that a holistic overview was presented. Methods of inquiry included, a jurisdictional-specific analysis of strata insurance data, cross-jurisdictional comparative reviews of the laws and taxes impacting strata insurance, a review of strata management agreements, survey questionnaires, and semi-structured stakeholder interviews.

It is important to note that the insurance data provided represents approximately 49% of all strata schemes in Australia. More specifically, 76% of the data relates to larger strata schemes (that is, schemes over 6 lots). It is evident that many smaller schemes seek insurance cover from insurance companies that do not necessarily specialise in strata insurance and where common property is limited. Due to time and resourcing limitations, only rough estimates of the total costs of insurance for the strata population for 2020 has been determined. These estimates have been provided in footnotes in section 3 of the report. Therefore, the figures outlined in this summary represent only the data provided by the insurers and underwriters participating in this research project.

The research draws attention to the fact that:

- In 2020, 165,554 Australian OCs paid over \$830 million in strata insurance premiums, nearly \$230 million in duties, levies and taxes and claimed over \$390 million (based on 32,574 claims). Overall, the total cost of insurance payable by these OCs was approximately \$1.08 billion.
- The average premium increased from \$3,305 in 2016 to \$5,017 in 2020, representing an overall period increase of 12%. Similarly, the total cost of insurance has on average increased from \$4,320 to \$6,522 over the same period.
- Policy cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses are taken up by nearly 100% of all OCs.

Office bearers' liability cover is taken up by approximately 60% of OCs, catastrophe cover by nearly 39%, and machinery breakdown cover by nearly 15%.

- Water damage including leaks, storm damage, impact damage, burst water pipes and malicious damage make up the top five most prevalent loss causes between 2016 and 2020. However, the costliest claims are for storm damage (\$438 million), followed by water damage (\$362 million), followed by fire damage (\$249 million), and then burst water pipes (\$160 million) for the same period.
- A desktop audit identified 17 underwriters (supported by 11 general insurers) specialising in strata insurance. Six of these underwriters had limitations in terms of the locations in which these products are offered. Nine underwriters provide only residential strata insurance products, and eight underwriters provide both residential and commercial products.
- There are both global and localised pressures impacting upon insurance availability and affordability including, increased costs in the reinsurance market, global climatic events, northern Australian climatic events and building defects and cladding risks.
- The laws regulating strata insurance are embedded in multiple sources. There are at least 38 pieces of legislation and associated regulations across Australia and New Zealand forming the suite of strata laws regulating strata insurance. An additional nine pieces of legislation relate to workers' compensation insurance, an insurance policy type that OCs must consider when arranging strata insurance.
- There are 12 legal topics relevant to strata insurance. From these topics, a number of questions have been formulated and outlined in the report that will assist OCs in understanding their legal obligations and ensure compliance. Engaged strata managers are required to have working knowledge of the legislation to assist their clients in navigating the regulatory framework. Therefore, there are additional obligations imposed on the strata management industry in serving their OC clients.
- There are several duties, levies and taxes that significantly impact the total cost of insurance for strata schemes. All jurisdictions impose GST. Most states impose (stamp) duty. In addition, some schemes attract an additional levy, the Terrorism Insurance Levy. As GST applies to a number of insurance components, there is a compounding effect that contributes to the high cost of taxes imposed on schemes.
- New South Wales and Tasmania have the highest tax burden due to the inclusion of emergency or fire services levies.
- There are a number of direct and indirect links in the strata insurance supply chain. Although providers in the chain vary depending on the choice of engagements made by the OC, generally, there is an insurer, an underwriter (specialising in strata products), an insurance broker, and a strata manager. In addition, OCs will often engage the services of a valuer to provide information in relation to the replacement and reinstatement value of the insured property. Reinsurers are also involved in the supply chain sitting behind insurers to ensure that the required levels of capital are maintained.
- There are various registration and licensing requirements imposed on some of the providers in the supply chain. Brokers, insurers and underwriters must hold an Australian Financial Services Licence (in Australia) or Financial Product Market Licence (in New Zealand). Four jurisdictions (ACT, NSW, NT, Vic) require either registration or licensing when providing strata management services or carrying on a strata management business.
- There are at least 47 strata insurance services that are regularly provided by strata managers to their OC clients. These services have been categorised under seven broad categories including: quotation, procurement, placement and renewal; insurance

valuation; insurance claims; insurance recording keeping; insurance advice; insurance negotiation and liaison; and insurance finance.

- The strata management industry has devised a fee structure that utilises mixed fee arrangements. Generally, strata management companies refer to three types of services fees - agreed (or core) services fees, disbursement fees, and additional services fees. The agreed services fee and the disbursement fees are usually determined on a per lot basis but charged as an annual lump sum. The agreed services fee is one fee that covers a bundle of services. For most companies, the bundling of these services is contingent on the company's receipt of rebates, discounts and commissions from insurers or brokers. Interviewees advised that insurance commissions received by strata management companies subsidise the agreed services fee.
- Nearly 50% of strata managers surveyed indicated that their employer management company on average charges between \$200 and \$300 per lot, per annum. Nearly 24% of managers indicated the average rate was between \$100 and \$200 and nearly 24% over \$300.
- In instances where commissions are not received, strata management companies have developed altered remuneration models to supplement the agreed services fee including, for example: arrangements where the agreed services fee increases by an amount equivalent to the likely commission, or the insurance services provided are charged as a fee for service based on specified hourly rates.
- Aside from New Zealand and Tasmania, all jurisdictions have implemented laws requiring commissions received by strata managers to be disclosed to OCs or OC representatives.
- Nearly 40% of lot owners surveyed indicated that insurance commissions should be abolished, and 30% believe commissions need to be better regulated. However, the majority of lot owners opposed to the commission-based remuneration structure changed their position when confronted with scenarios where the agreed services fee increased by at least 25%.
- Concerns were raised about the lack of transparency regarding remuneration and remuneration models and the services provided by strata managers. Many strata manager interviewees conceded that improvements need to be made in terms of transparency and communicating the services provided to their clients more effectively.
- Three value pillars were identified that highlight the role of strata managers in the delivery of strata insurance services. Strata managers are agents of the OC and therefore are contractually obligated to act on behalf of OC clients. There are also legal duties that apply which require managers to act in the best interests of the OC. Secondly, strata managers are custodians of the OC records. This is a necessary role as lot owners and committee members change over time and a central information repository is required to ensure the safekeeping of OC records. This custodian role also enables easy access to, and distribution of information required in the strata insurance process, facilitating the quick transfer of information to those parties in the supply chain requiring data to determine scheme risk. Thirdly, managers have a built-up knowledge bank. Strata managers are legally required to know the laws that regulate strata schemes including strata insurance laws. Educational input is required to fully understand the nuances of not only strata laws generally, but strata insurance laws as specifically applied to particular OCs. For managers that are authorised representatives, education and training is regularly conducted by financial licensees to ensure the requisite knowledge of strata insurance is conveyed and understood. The

experience of dealing with many strata schemes also gives managers on the job training regarding strata insurance. The experience gained by managers via regular exposure to procurement and management of strata insurance puts them in a unique position to add value to the overall strata insurance services performed for OC clients.

- Although strata managers add value to the strata insurance process and lot owners agree that they rely on strata managers for the delivery of those services, generally, strata managers have not well articulated their value to their clients. As evidenced in the strata management agreements review, the suite of services commonly provided to OC clients are not well detailed in the agreements between OCs and the management companies. It is arguable that this lack of detail has led to OC clients underestimating the strata insurance services performed by their strata manager. It is recommended that strata managers review their agreements and provide more detail regarding the services that they regularly provide.
- In the event that commission-based remuneration models are no longer sustainable, several alternative fee arrangement models have been advanced in the report including the benefits and deficits of each model. These models include commission supplement, time-based recording, value-based pricing and sliding costs scale. Before these models are considered in more detail, it is recommended that management companies undertake financial modelling to determine more accurately the costs borne by managers in the provision of insurance services. As highlighted by interviewees, there may be little if any cost benefit to OC clients if insurance commissions are removed. The reasoning is that insurers/underwriters would need to incur additional resourcing costs in order to market and distribute their services. Furthermore, the portfolio pooling effect of commissions would be replaced with individualised scheme services cost that may lead to inequitable distribution of services.

This research has highlighted the complexity of strata insurance and the delivery of strata insurance services. Due to the mandatory requirements regarding strata insurance and the complexity of this property type, OCs rely heavily on a number of service providers in the supply chain including strata managers. It is important that key service providers provide full and frank disclosure regarding the insurance-related services that they perform and the fee arrangements relating to those services. Consideration should be given to surpassing the minimum requirements outlined in the various regulations to ensure a higher level of transparency and that OC clients fully understand and appreciate the services provided.

Although this report provides a comprehensive overview of strata insurance in Australia and New Zealand, there are limitations. The primary method relied on for the strata insurance analysis was data provided by five (5) strata insurance underwriters. Due to time and resourcing constraints, the research team was unable to estimate the costs of insurance for the whole strata population over the five-year period. Care therefore needs to be taken when referring to the data presented in this report as it represents only a portion of schemes. There are also multiple datasets that would be a valuable inclusion to this research but were unable to be provided by third parties including: information of insurance excesses; fees charged by intermediaries (brokers) to OC clients; workers compensation insurance take-up by OCs; TIL information; insurance costs based on specific risk types (e.g., buildings with defects); and valuation data based on CRESTA zones.

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Glossary of terms

| | |
|------------------------|--|
| Broker | A strata insurance intermediary and professional adviser with expertise in insurance, risk management and claims who facilitates market matching of insurance products between OCs and Insurers. Brokers act as advocates for the insured throughout the policy lifecycle. |
| Insurer | Insurance companies providing strata insurance products either directly or via an intermediary specialist underwriting agency. |
| Owners Corporation | Private governing entity created upon the registration of the strata's plan of subdivision. The term OC is used in this report to denote body corporate, strata company, community association. |
| Premium | Is the gross written premium being the price of insurance cover for specified risks for a specified period and includes reinsurance costs, commissions, and TIL (if relevant). |
| Reinsurer | An insurer taking on all or part of the risk covered under a policy issued by another insurer. |
| Strata (title/titling) | A parcel of land subdivided into lots and common property with allocated entitlements. |
| Strata Manager | The company or person engaged under a strata management agreement to undertake various services on behalf of the OC client. |
| Underwriting Agency | A specialist strata insurance intermediary that has been granted underwriting and claims authority by an insurer and acts as agent on behalf of the insurer. |
| Valuer | A professional who assesses the strata scheme's assets and determines the replacement or reinstatement value of the property to ensure adequate insurance coverage. |

Acronyms

| Jurisdictions | | Other | |
|---------------|------------------------------|--------|--|
| ACT | Australian Capital Territory | AGM | Annual General Meeting |
| Qld | Queensland | BC | Body Corporate |
| NSW | New South Wales | CRESTA | Catastrophe Risk Evaluation & Standardising Target Accumulations |
| NT | Northern Territory | OC | Owners Corporation |
| SA | South Australia | SCA | Strata Community Association |
| Tas | Tasmania | | |
| Vic | Victoria | | |
| WA | Western Australia | | |
| Levies | | Fees | |
| ESL | Emergency Services Levy | FFS | Fee for service |
| FSL | Fire Services Levy | EFFS | Extra Fee for Service |
| FEL | Fire and Emergency Levy | | |
| TIL | Terrorism Insurance Levy | | |

1 Introduction

“Insurance is a complex product representing a promise to compensate the insured, or a third party, according to specified terms and conditions should some well-defined contingent event occur.”¹ Generally in the strata title context, the insured is the OC, a private governing entity constituted by all the lot owners within the strata scheme. Providing insurance to a strata scheme means consideration needs to be given to the different elements of the strata structure including the property itself (e.g., the buildings and common property) and the private governing entity (which may need to protect staff, guests, committee members). Unlike many other property types, there are multiple layers of complexity when insuring strata schemes. This report provides a comprehensive overview of research undertaken that captures the breadth and depth of the multiple facets of strata insurance in Australia and New Zealand.

There are essentially two broad aims of this research project. The first is to provide a data-driven overview of strata insurance in Australia. The second is to examine the role of strata managers in the delivery of strata insurance-related services and determine manager value. To fulfil these research aims, several research activities were undertaken including: a detailed analysis of strata insurance data, two cross-jurisdictional legal analyses (strata laws and tax laws), two survey questionnaires (strata managers and strata lot owners), and a review of strata management agreements – agreements that regulate the relationship between the strata management company and the OC client.

The sections of this report are outlined below:

- Section 1: introduces the research project highlighting the aims of the project and the strata environment.
- Section 2: provides an overview of the methodology and the research activities undertaken.
- Section 3: presents a jurisdictional-specific overview of strata insurance data.
- Section 4: discusses strata insurance availability and affordability.
- Section 5: provides a detailed cross-jurisdictional comparative analysis of strata insurance law.
- Section 6: provides a detailed cross-jurisdictional comparative analysis of the duties, levies and taxes impacting strata insurance.
- Section 7: outlines the strata insurance supply chain and highlights the roles, relationships and legal framework regulating strata insurance services suppliers.
- Section 8: examines the strata insurance-related services undertaken by strata managers.
- Section 9: details the various fee arrangements used by the strata management industry.
- Section 10: provides a more detailed overview of insurance commissions.
- Section 11: presents the value pillars of strata management and provides an overview of the knowledge base of strata managers and strata lot owners in understanding strata insurance.
- Section 12: provides recommendations for improving strata insurance practices within the strata management industry.
- Section 13: discusses the project more holistically, provides concluding remarks, outlines the project's limitations, and identifies future research direction opportunities.

¹ Cummins, J. David, and Neil A. Doherty. "The economics of insurance intermediaries." *Journal of Risk and Insurance* 73.3 (2006): 359-396.

In addition, several appendices are included providing more in-depth information into the key research activities undertaken.

1.1 The strata environment

The intricacies of strata titled properties are not well understood. The co-ownership property structure combined with a highly regulated governance framework, the diversity of uses, and the relationships with multiple vested stakeholders creates a stark contrast to other property types. In order to make sense of this property product and understand strata insurance, it is important to explain some of these intricacies in more detail.

The co-ownership structure – there are various property configurations that can exist under a strata titling arrangement. For example, this titling arrangement has been used to create lots (including an apartment) in a multi-storey building, townhouses, duplexes, or freestanding dwellings. One aspect that makes a strata titled property different from other property arrangements is the co-ownership arrangement that sits across a strata scheme. Strata lot owners purchase both an individually titled property (their lot) and a share in the common property.

Regulated governance framework – it is important to understand the private governing entity that is created upon registration of the plan of subdivision. This entity has various names across Australia and New Zealand including owners corporation, body corporate, community association, strata company and strata corporation. As a regulated entity, jurisdiction-specific legislation has been enacted that provides a prescriptive framework in which the entity operates. It is within this framework that specific insurance matters are detailed. It is important to understand this regulatory framework as there are mandatory requirements relating to insurance. Further, as the entity is not protected by limited liability (like other corporate structures), individual lot owners are responsible for any liabilities arising in connection with the strata scheme. The mandatory insurance requirements espoused in the various legislation has limited this communal risk and exposure.

Diversity of schemes – the types of properties that use a strata titling structure are diverse and include vertical building subdivision, horizontal land subdivisions or a mixture of both. Some strata schemes incorporate multiple subsidiary schemes (e.g., layered arrangements) and/or multiple OCs that for example, might differentiate between various property uses (retail, residential, commercial etc). As highlighted above, strata properties are properties that have been subdivided into two or more lots capable of different ownership, have at least one shared service or common property element and incorporate a private governing entity. A “common property element” includes one or more of the following: common building structures, common accessways corridors and exits, shared utility services, common atriums, shared car parks, shared foyers, stairwells and landings, shared lifts and escalators, shared mezzanine areas, and shared recreation facilities. Following are some examples of the range of strata title properties.

- Urban residential subdivision developments with detached dwellings;
- Townhouses either attached or detached;
- Low-rise residential apartment developments with multiple dwellings;
- Mid-rise residential apartment developments with multiple dwellings;
- High-rise residential apartment developments with multiple dwellings;
- Commercial subdivisions with multiple business premises e.g., subdivided shopping centres with strata title lots used for commercial purposes with shared car parking and thoroughfare areas;

- Hotels subdivided into strata lots;
- Low-rise commercial developments with multiple business premises e.g., a row of shops in a town centre with strata title lots used for retail, office and other commercial purposes with shared services;
- Mid-rise commercial developments with multiple business premises e.g., subdivided office buildings with strata title lots used for office or other commercial purposes with shared car parking and entrance areas;
- Holiday accommodation buildings subdivided into strata lots;
- Retirement villages;
- Rural property with multiple detached or attached dwellings;
- Time-share apartments;
- Eco villages or other themes subdivisions;
- Commercial high-rise e.g., office high-rise with strata title lots used for office purposes with shared foyer and lifts;
- Mixed-use (residential and commercial) developments e.g., developments with a residential apartment tower and a separate hotel tower on top of a commercial or retail area;
- Industrial developments e.g., an industrial park with strata title lots from which industrial businesses operate with shared driveway and car parking areas;
- Subdivided commercial car park buildings e.g., car parking building subdivided into strata lots for each car park with common entrance and thoroughfare areas;
- Subdivided commercial storage buildings e.g., buildings subdivided into strata lot storage areas with common entrance and thoroughfare areas;
- Development lots that are intended to be further subdivided following further development of residential, commercial or industrial subdivisions;
- Marina berths that form part of a subdivision.

Relationship with service providers – Strata governing entities work on the basis that individual lot owners volunteer to serve as committee members. Strata committees are the primary governance decision-maker in all strata schemes and their powers and functions are prescribed in the various state and territory strata legislation. Although there are a number of service providers in strata, for larger strata schemes in particular (e.g., schemes over 20 lots), agents are regularly appointed by the governing entity to assist the volunteer committee and the OC to manage their strata scheme. This is a contractual relationship which incorporates both negotiated and statutory terms. The inclusion of statutory terms means the managing agent has legal duties and obligations that must be met when acting on behalf of the OC. This is particularly important in relation to the provision of services relating to insurance.

This overview of the strata environment provides a brief introduction for those readers not directly connected to the strata industry and highlights the uniqueness and complexity of this property type. It is important to understand this complexity especially when juxtaposing property-related insurance narratives. Strata titled properties must only be viewed through the lens that incorporates the complexity and uniqueness of strata titling and care needs to be taken when comparing to other property types.

2 Methodology

This project is exploratory in nature as to date a limited amount of industry and academic research has been undertaken that focuses on strata insurance. Five specific research activities formed the overall methodology for this research project including: strata insurance data analysis; cross-jurisdictional comparative law reviews – strata insurance laws outlined in relevant strata legislation, duties, levies and tax laws relevant to strata insurance at the federal, state and territory levels; a review of strata management agreements; survey questionnaires – strata managers, and strata lot owners; and semi-structured stakeholder interviews.

Ethics approval was sought by Deakin University prior to any research being conducted. On 30 November 2020, Deakin University's, Business and Law Faculty Human Ethics Advisory Group approved the project (BL-EC 51-20).

2.1 Strata insurance data analysis

Using the Insurance Council of Australia, 'Find an Insurer' search engine², thirteen insurers and underwriters categorised as providing a strata insurance product were identified. Contact was made to representatives of all relevant insurers and underwriters. Several representatives notified the research team that they either, no longer provided a strata insurance product or that they had little data to contribute. After further investigation, it was also apparent that several insurers/underwriters no longer provided insurance products in the market. Five specialist strata insurance underwriters agreed to participate in the research project by supplying strata insurance data. Confidentiality agreements were entered into between the underwriting agencies/insurers and Deakin University.

The insurance data supplied was limited to the following data points:

- Details of the premium split between base premium, commission, all taxes (duties and levies), and insurer administration fee;
- The take up rate of each of the sections of the policy;
- Total number of claims and costs, split by size of claim and the type of claim;
- All of the above data points split between residential and commercial;
- All of the above data points summarised by CRESTA zones within each state and territory;
- All data supplied for the five-year period being (1 January 2016 - 31 December 2020).

All data was sorted, organised and company information de-identified by the research team. All data is reported in aggregate. It is important to note that numbers presented have been rounded for efficiency.

The data provided represents approximately 49% of all strata schemes in Australia. More specifically, the data represents: 48% of strata schemes in the ACT; 81% in NSW; 39% in NT, 75% in Qld, 73% in SA, 82% in Tas, 68% in Vic.³ In terms of scheme size, the data represents 33% of schemes with less than six lots; 81% of schemes with more than six lots and less than 20 lots; 86% of scheme with more than 21 lots and less than 50 lots; 93% of schemes with more than 51 lots and less than 100; and 76% of schemes with more than 100 lots. The data provides a good representative sample of the states with the largest number of strata schemes (NSW, Qld, Vic and WA) and for schemes that are over six lots.

² <https://www.findaninsurer.com.au/search-insurer>

³ The authors were unable to obtain scheme size breakdowns for the WA survey-strata schemes data and therefore the percentage of coverage was unable to be determined.

Although the results of the strata insurance data analysis are littered throughout the report, Section 3 provides the main results.

2.2 Cross-jurisdictional comparative law reviews

2.2.1 Cross-jurisdictional comparative review 1: Insurance duties, levies and taxes

The purpose of this comparative review was to identify the various duties, levies and taxes imposed on strata insurance products across Australia and New Zealand. An extensive desktop library review was conducted to identify these levies, duties, and taxes as they apply generally to insurance products and specifically to strata insurance products. A legislative review (approximately 17 pieces of legislation and associated regulations) was then undertaken to provide an interpretation of the various taxes and how they applied in the strata insurance context. A cross-jurisdictional comparative review was the final research activity, with the aim of determining the level of variation or harmonisation of duties, levies and taxes across the country and New Zealand.

Section 6 and Appendix B provide the results of the strata insurance taxes analysis.

2.2.2. Cross-jurisdictional comparative review 2: Strata insurance and related laws

The purpose of the second comparative review was to identify the various insurance and valuation requirements imposed on strata properties across jurisdictions (including reforms currently under consideration). A legislative review (approximately 38 pieces of legislation and associated regulations) was undertaken to provide an interpretation of the various strata insurance-related provisions. A cross-jurisdictional comparative review was the final research activity, with the aim of determining the level of variation or harmonisation across Australia and New Zealand.

Section 5 provides the results of the strata insurance cross-jurisdictional comparative review. Appendix A provides jurisdictional based summaries of this analysis.

2.3 Strata management agreements review

Strata management agreements (agreements) that regulate the relationship between companies and OC clients were reviewed and evaluated in order to identify the types of strata-related insurance services undertaken by strata managers and to determine which of these services are bundled and unbundled (giving rise to a fee for service).

The SCA provided copies of its approved management agreement templates that are available to its members in various jurisdictions. A request was also made to companies across Australia and New Zealand to provide copies of their management agreements. The research team removed the names of the companies from the agreements prior to any analysis. Table 1 provides an overview of the number of agreements provided by companies in each Australian state and territory and New Zealand.

Table 1: Number of strata management agreements provided by jurisdiction

| Jurisdiction | SCA approved management agreement templates | Management agreements | Total management agreements including SCA template |
|--------------|---|-----------------------|--|
| ACT | 1 | 4 | 5 |
| NSW | 1 | 12 | 13 |
| NT | 0 | 2 | 2 |
| SA | 1 | 2 | 3 |
| Vic | 1 | 15 | 16 |
| WA | 1 | 7 | 8 |
| Qld | 1 | 8 | 9 |
| New Zealand | 0 | 2 | 2 |
| Total | 6 | 52 | 58 |

Fifty-eight agreements from all Australian states and territories (except Tas) and New Zealand were evaluated. The distribution of agreements by jurisdiction provides a sound base for comparison given the number of schemes registered in each jurisdiction. That is Vic, NSW, Qld and WA have the highest proportion of schemes in Australia and therefore a higher proportion of agreements were reviewed in those states.

Of the 52 agreements evaluated (excluding SCA template agreements), the majority (45) of companies were SCA members. However, due to jurisdictional differences, there was substantial variation in the agreements. These variations included the description of insurance-related services undertaken and the alternative remuneration models used where the company did not receive any commission.

Each agreement was reviewed and evaluated using a multiple step process. Relevant insurance-related information was extracted from each agreement and analysed in two stages.

Stage 1: An initial summary of each agreement was prepared to determine:

- Whether any commission received by the company from an insurer or insurance broker is disclosed and if so, the percentage or amount of the commission;
- The categories of insurance-related services expressly referred to or described in the agreement;
- Which insurance services are considered to be part of the 'agreed services fee' (referred to as the "bundled insurance services");
- Which insurance services are expressly referred to as being excluded from the 'agreed services fee' and provided for a fee for service (FFS);
- If a FFS is payable for additional services, the amount of that FFS;
- Whether the bundled insurance-related services and/or the FFS are affected by whether or not the company receives a commission for placing the client's insurance;
- The nature of any effect of the company not receiving a commission and any altered remuneration model that is adopted by the company and any extra FFS (referred to as an "extra fee for service (EFFF)" that become payable for certain services.

Stage 2: An in-depth, comparative analysis was undertaken which, allowed the insurance-related services to be categorised and sub-categorised in order to compare them across agreements and jurisdictions. Firstly, an itemised list of insurance-related services was identified from the Stage 1 results. An additional list of insurance-related services was devised which, although not expressly referred to in any of the agreements, objectively reflects the

practical tasks that relate to strata insurance procurement, renewal and administration. Only those services expressly described in the agreements were evaluated. Where an agreement made no reference to a particular service on the list this absence is consistently reflected in the Stage 1 summary and the Stage 2 analysis.

The Stage 2 analysis was unpacked further to reflect two common scenarios (A and B) evident in the agreements:

- Scenario A: relates to the common practice where the company receives a commission from an insurer or broker when the client's insurance is placed;
- Scenario B: relates to the more uncommon practice where the company does not receive any commission when the client's insurance is placed.

For each service identified by each agreement, a notation was made as to whether the service was bundled, subject to a FFS, subject to an EFS and where available, and the FFS arrangement (fixed or by hourly rate). Appendix C provides a table overview of this analysis.

The findings from this analysis are located in Section 9.

2.4 Survey questionnaires

Two survey questionnaires were designed for this study – one for strata managers and one for strata lot owners.

The managers' survey was designed with the aim of exploring: the role of managers in dealing with insurance matters (including, but not limited to, sourcing and renewing policies and managing claims); managers' skills, abilities and capacity in dealing with the relevant strata legislation, analysing competing policies, administering claims, liaising with key stakeholders; education initiatives that support their work; and perceptions around the current insurance model.

The strata owners survey questionnaire was designed with the aim of exploring: lot owner knowledge and understanding of strata insurance processes; lot owner knowledge of legal requirements and responsibilities relating to strata insurance; the extent to which lot owners rely on managers in relation to insurance matters; lot owner interaction with strata insurance policies; lot owner understanding and views of the current insurance model; and lot owner views on alternate insurance models; the extent to which lot owners would participate in insurance-related education forums.

Both surveys included a combination of closed and open questions. As an incentive, respondents were invited to participate in a raffle to win one of 30 gift vouchers.

Managers were recruited by internal promotion within the SCA⁴. Each state chapter of the SCA was asked to notify their strata manager members of the survey. Your Strata Property also promoted the survey to manager members.

⁴ <https://www.strata.community/>

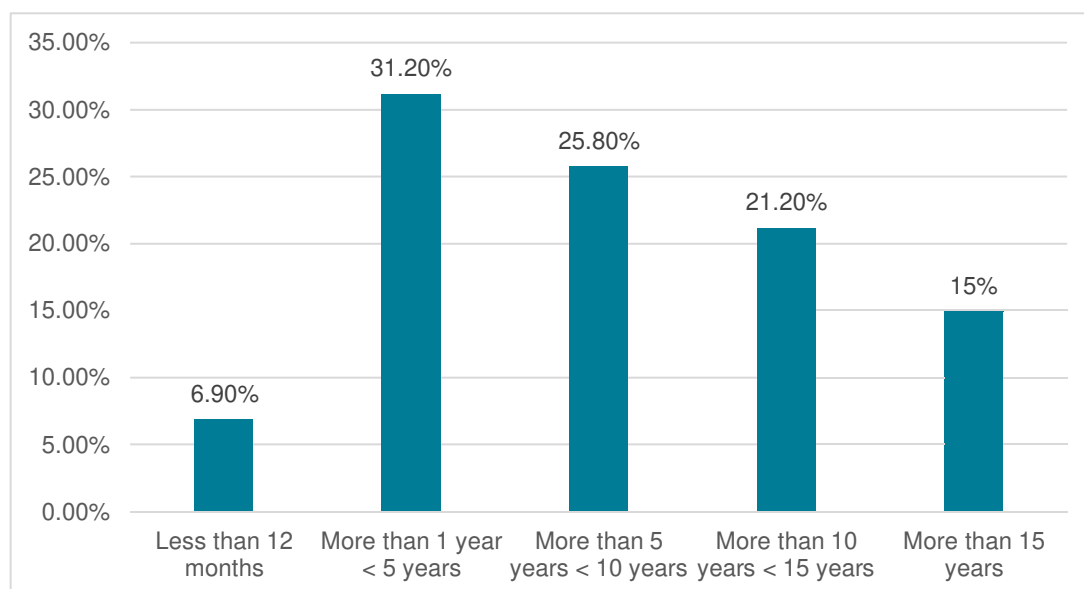
Strata lot owners were recruited via several representative groups including: Owners Corporation Network (OCN)⁵, Your Strata Property⁶, LookUpStrata⁷, and Australian Apartment Advocacy⁸.

Demographic information relating to the manager and lot owner respondent cohorts is outlined in this section of the report as the surveys results are littered throughout the body of this report.

2.4.1. Strata manager demographic information

Over a two-week period, 454 strata managers in Australia and New Zealand completed the strata manager survey. Approximately 60% of the respondents identified as employed strata managers, 29% as a Principal or Director and 11% as other. Graph 1, provides an overview of the management experience of the cohort. Most respondents had at least one year experience as a manager with 62% having been employed as a strata manager for more than five (5) years.

Graph 1: Strata management experience



Over 60% of respondents worked for management companies that had more than 15 employees. Nearly 13% of respondents indicated that they had worked for an insurance company, insurance underwriter or insurance broker previously.

The respondents geographical work location (Graph 2) is a fair representation of strata manager distribution in Australia. Over 36% of respondents are located in NSW, followed by Vic (22.56%), Qld (16.28%) and then WA (12.56%).

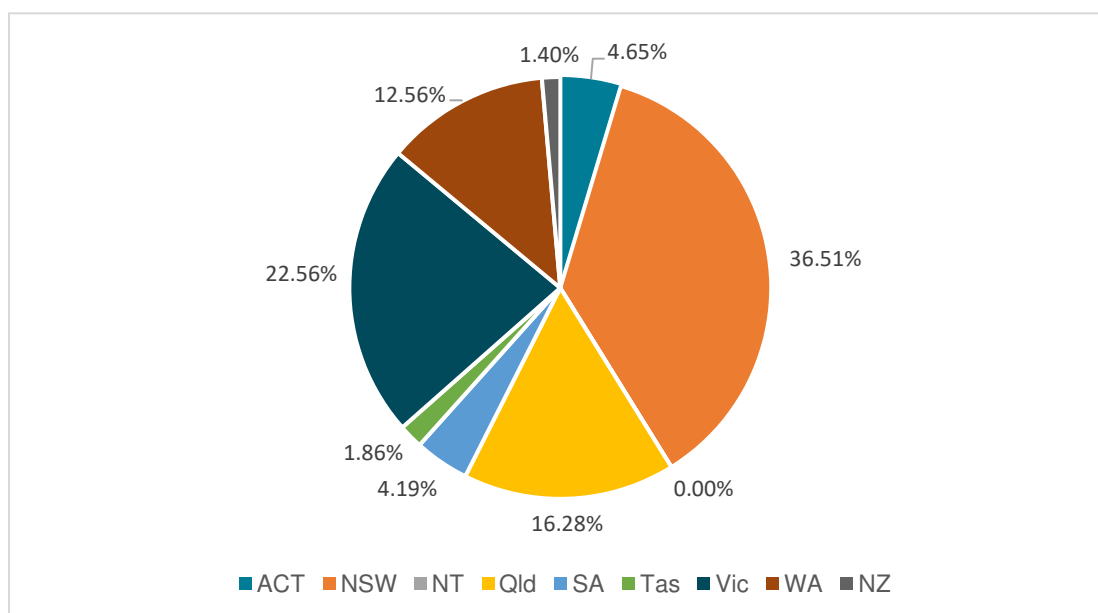
⁵ <https://ocn.org.au/>

⁶ <https://yourstrataproperty.com.au/>

⁷ <https://www.lookupstrata.com.au/>

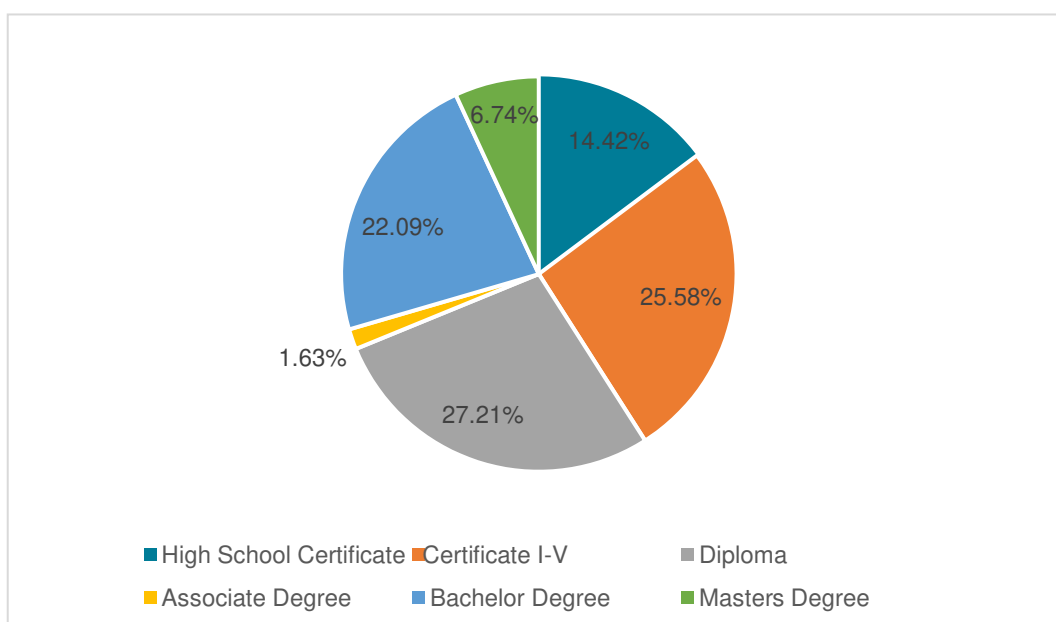
⁸ <https://www.aaadvocacy.net.au/>

Graph 2: Geographical locations where respondents work



The majority of manager respondents (53%) said their highest education level was a certificate I-V or a diploma. Nearly 30% of respondents had obtained either a bachelor or master's degree (Graph 3).

Graph 3: Highest level of education reached

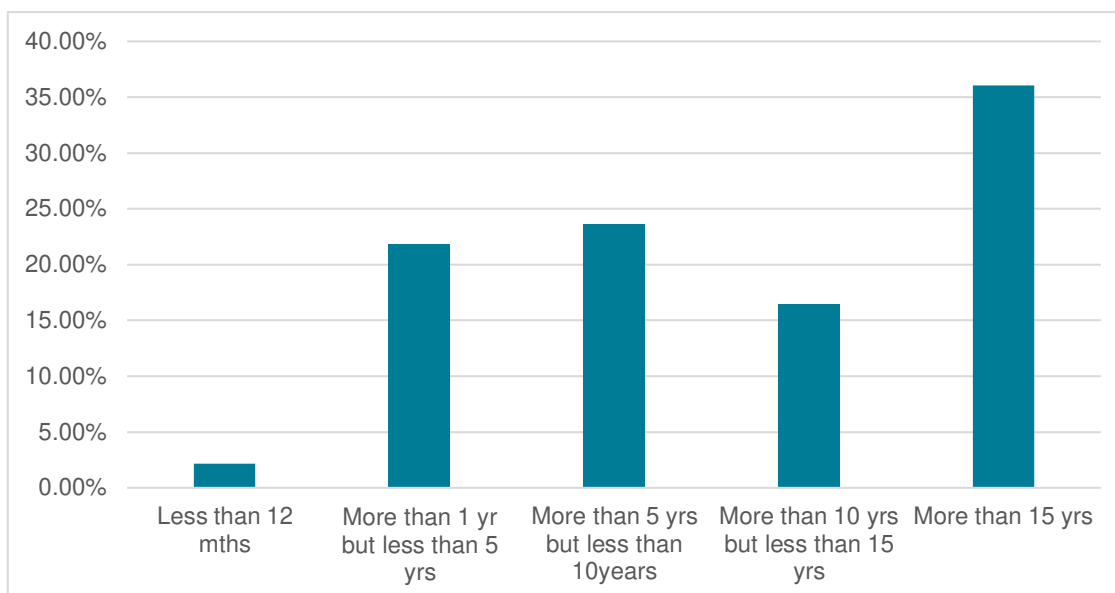


Managers were asked to describe the number of strata schemes they personally manage and the make up of their portfolio. Nearly 23% managed 25 to 50 schemes, 20% less than 10, 20% more than 50 but less than 75 and 18% managed more than 10 but less than 25 schemes. The remaining 19% managed over 75 schemes. In terms of scheme types, 75% of respondents indicated that at least 70% of their management portfolio were residential schemes; 82% indicated that less than 20% of their management portfolio were commercial; and 83% indicated that less than 20% of their management portfolio were mixed use schemes.

2.4.2. Strata manager demographic information

Over a two-week period, 280 strata lot owners in Australia completed the strata lot owner survey. Approximately 63% of the respondents indicated that they had owned more than 1 strata lot in their lifetime. Graph 4, provides an overview of the ownership history of the respondents. The majority of respondents (76%) had owned strata properties for more than 5 years. Over 70% of the respondents described their ownership as owner-occupier.

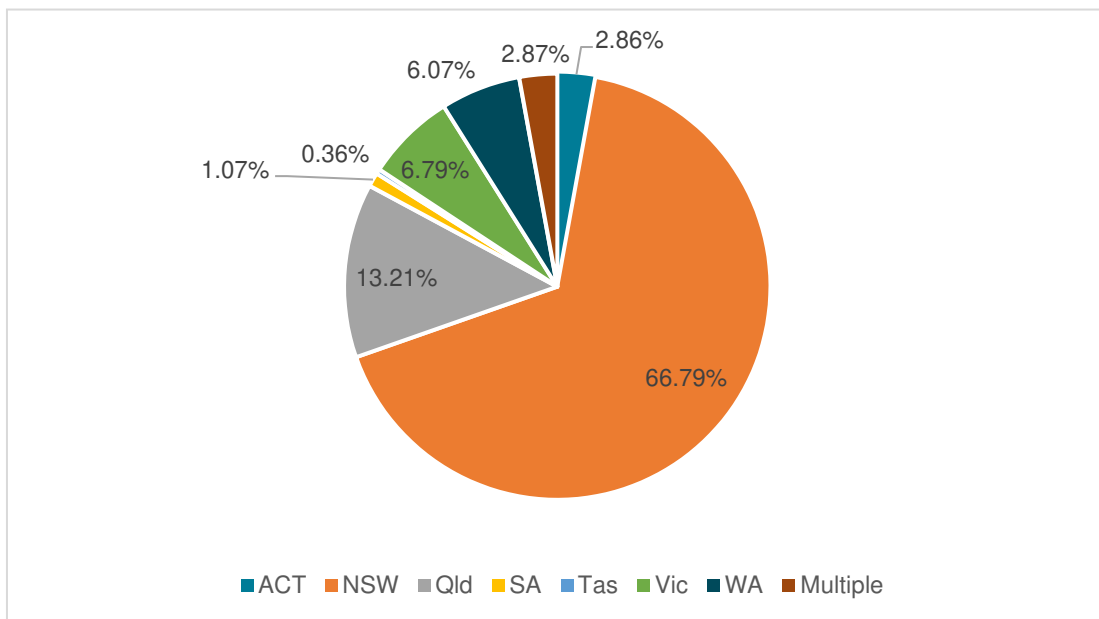
Graph 4: Lot owners ownership history



Less than 8% of lot owner respondents owned in a strata schemes with less than six lots. Nearly 26% of respondents owned in a scheme with more than six lots but less than 20. Similarly, 26% of respondents owned in a scheme with more than 20 but less than 50 lots, 17% of respondents owned in a scheme with more than 50 lots but less than 100 and nearly 24% of respondents owned in a scheme with over 100 lots. As the majority of schemes in Australia are less than six lots, this sample is not representative of the overall strata ownership market. However, the insurance strata data distribution aligns with this sample. Approximately 12% of respondents owned in a scheme with more than one OC.

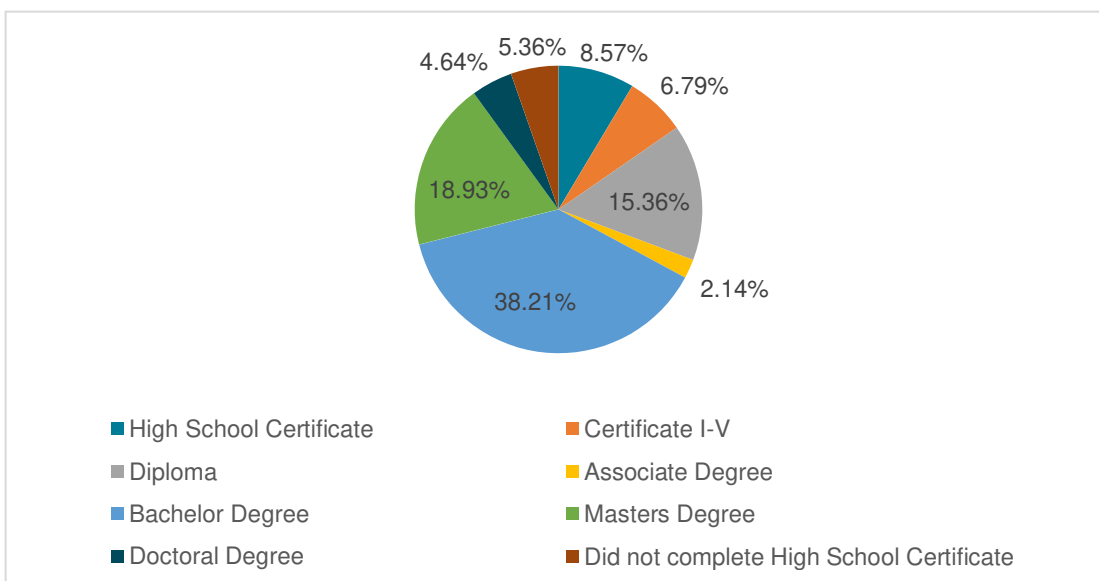
Graph 5 highlights the geographic location where the respondents lots are held. A high proportion (approx. 67%) of respondents had a lot situated in NSW, followed by Qld (13%), Vic (7%), and WA (6%). Over 80% of lots owned by respondents were situated in metropolitan areas.

Graph 5: Lot owners strata location



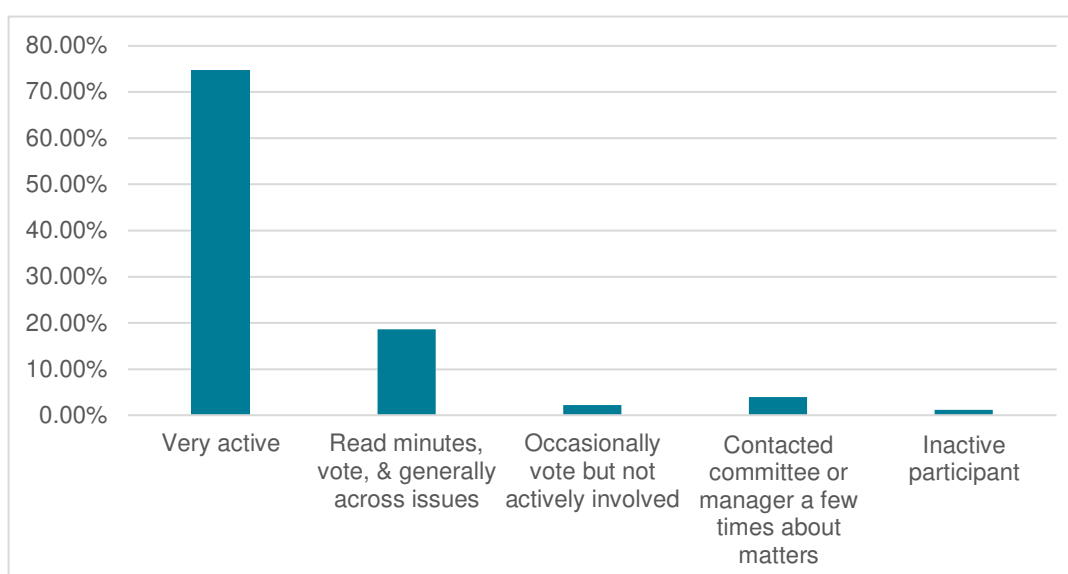
The highest education level of lot owner respondents was a bachelor's degree (38%), followed by master's degree (19%), and diploma (15%). Nearly 5% of respondents had obtained a doctoral degree (Graph 6).

Graph 6: Highest level of education reached



Over 92% of lot owner respondents were currently or had been a member of the committee. Over 24% had been on a committee for more than 12 months but less than five years and 56% had been on a committee for over five years. As highlighted in Graph 7, nearly 75 % of lot owner respondents described their interaction with the OC as very active.

Graph 7: Lot owner respondents involvement in owners corporation/body corporate



The demographic information of the strata lot owner respondents highlights an experienced, well-educated and very active cohort. This cohort is not representative of all strata lot owners. Generally, lot owners are, in the main, apathetic and inactive. These findings were unsurprising given the recruitment strategy engaged. That is, the survey was promoted through groups that represented strata lot owners or through groups that provided education resources, insights, and publications for strata lot owners. It is usual for active lot owners and lot owners concerned about strata issues to engage with these groups.

The results from both surveys appear in various sections throughout the report.

2.5 Semi-structured stakeholder interviews

The purpose of the interview phase for this research project was to capture more in-depth insights regarding current strata insurance practices, the role of strata managers in the process, the benefits and deficits of the current strata insurance models, and views of alternative strata insurance models. Eight interviews were conducted, and participants included CEOs of insurance underwriting companies, brokerage, and strata management companies. Table 2 provides a brief description of the interviewee and the allocated interviewee ID, which references their quotes throughout the report.

Table 2: Description of interviewees

| Description of interviewee | Location | Interviewee ID |
|----------------------------|-------------------|----------------|
| CEO Underwriting Agency | National | U1 |
| CEO Underwriting Agency | National | U2 |
| CEO Brokerage | National | B1 |
| CEO Strata Management | Queensland | SM1 |
| CEO Strata Management | Western Australia | SM2 |
| CEO Strata Management | Victoria | SM3 |
| CEO Strata Management | NSW | SM4 |
| CEO Strata Management | National | SM5 |

All interviewees were provided with an interview guide one week prior to their interview. Questions related to strata insurance availability and affordability; strata valuations; disclosure; commissions and fee arrangements, management services, the supply chain of

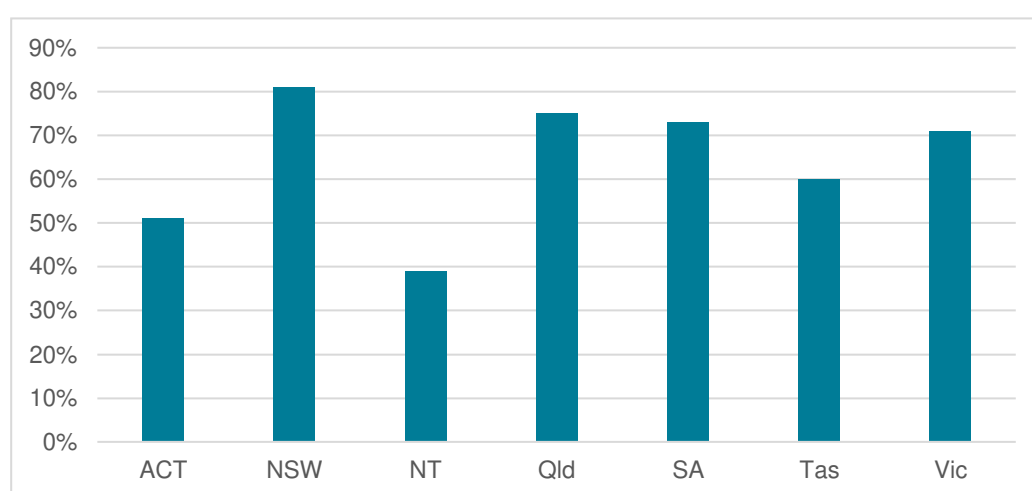
strata insurance products and the relationships between the providers; and the sustainability of the current strata insurance model. Interviews were conducted either in person or via zoom, recorded and transcribed verbatim.

The findings from the interview phase appear in various sections through the report.

3 Australian strata insurance overview

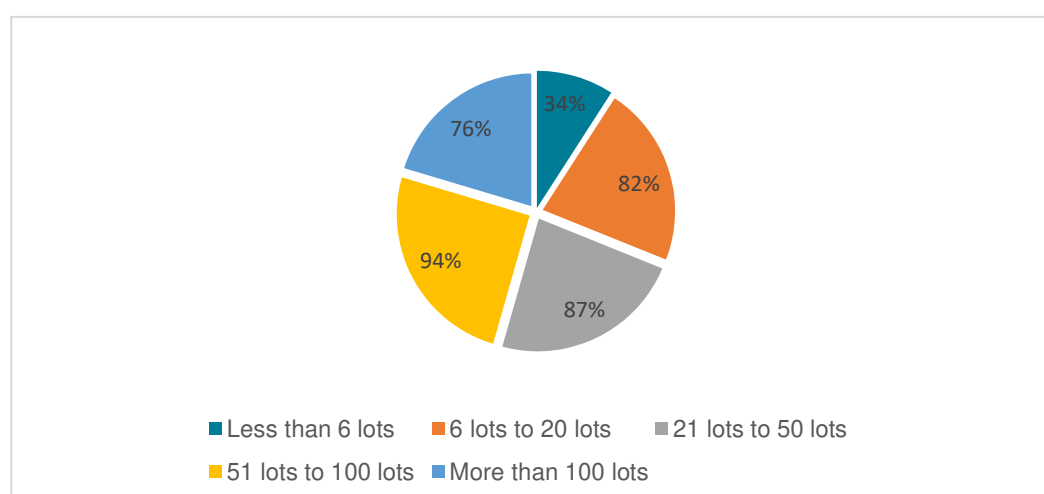
As outlined in Section 2, five strata insurance underwriting specialists provided strata insurance data for this project. Graph 8 highlights the percentage of data coverage based on the total number of strata schemes in each Australian state and territory. At least 71% of the data covered the states of Vic, SA, Qld and NSW, the states with the large numbers of strata schemes.⁹

Graph 8: Percentage of data coverage based on total number of strata schemes by jurisdiction



Graph 9 highlights the scheme sizes the data covered. At least 76% of the data covered schemes over six lots.

Graph 9: Strata scheme sizes covered by insurance data obtained



⁹ WA has been excluded as it was difficult to obtain accurate strata scheme data (specifically survey-strata plan data).

The results from the strata insurance analysis covered the main components of strata insurance including: the costs associated with premiums, taxes (duties and levies), total cost of insurance, policy coverage (OC take-up) and claims costs including the types and costs by loss causes.

3.1 Background information on strata insurance

Premiums: For this report, the data used relates to the Gross Written Premium (GWP), which includes commissions, TIL (where applicable) and reinsurance costs. The text box below provides explanations from the underwriters interviewed about the components of a premium.

Components of a premium explained by underwriters:

“As a rough guide, for every \$100 of premium, about one-third is reinsurance cost, one-third is administration and one-third to pay claims. The one-third that is administration relates to product distribution costs and includes the commission.” (U2)

“So today, one-third goes to the reinsurer, 20% goes to an intermediary, so you are at 50%, and the less 10% which is [named underwriter] costs, so you’re at 60%. The other 40% is what there’s left to pay for water damage and glass claims and fire claims and all that.” (U1)

Duties, levies and taxes: Section 6 and Appendix B provide a detailed cross-jurisdictional overview of the duties, levies and taxes that apply to strata insurance. The data provided in this section relating to duties, levies and taxes are only those that are paid via the insurer or underwriter. Other fees charged by intermediaries (i.e., broker fees) that attract GST have not been included in this analysis.

Total cost of insurance: For this report, the total cost of insurance equals the premium plus all applicable duties, levies and taxes and administrative fees charged by the insurer or underwriter. It is important to note that the fees charged by intermediaries have not been included and therefore the total cost of insurance is not necessarily the total cost of insurance borne by OC clients.

Policy cover: The data provided by the underwriters on policy cover and take-up had a degree of variability in terms of the policies offered. Most data were able to be coded to the nine discrete policy areas outlined below. It is important to note that Product Disclosure Statements (PDS) were not evaluated for this research project. The notations made against each policy area are general definitions only. The reader should review Section 7, which outlines the legally mandated and discretionary (optional) insurance requirements for strata schemes across Australia. Due to the aggregation of data, it is difficult to determine which policy types are optional inclusions and exclusions. A review of insurance policies is required to determine this.

The nine policy areas outlined in this report are:

- **Building** covers physical loss or destruction (i.e., damage) to the property being the scheme building/s and common property contents. The best mechanism currently used by determine the level of cover required is a valuation. As outlined in Section 7, there is variation across the country in terms of an OCs legal obligation to obtain an insurance valuation. In the managers’ survey, approximately 38% of respondents indicated that 100% of their OC clients obtained an insurance valuation at least every five years, 37.5% indicated that 75% but less than 100% obtained a valuation every

five years and 16% indicated that more than 50% but less than 75% of clients obtained a valuation.

- **Public liability** covers the OC in the event it becomes legally responsible to pay personal injury compensation;
- **Voluntary workers** covers personal injury claims resulting from the voluntary engagement of work;
- **Workers' compensation** covers amounts legally liable to pay to employees engaged under respective state and territory workers compensation legislation;
- **Fidelity guarantee** covers fraudulent misappropriation of funds;
- **Office bearers' liability** covers claims made against office bearers;
- **Machinery breakdown** covers damage to machinery requiring replacement;
- **Catastrophe** covers unexpected increases in the replacement costs of the property as a result of a specific event;¹⁰
- **Government audit and legal expenses** covers legal fees incurred in connection with a claim.

Claims: Due to data variations in relation to claims descriptions and the number of claim categories identified by the underwriters, the following claim types are used in this report.

- **Water damage** – including leaks
- **Storm damage**
- **Impact damage**
- **Burst water pipes**
- **Malicious damage** – including criminal activities
- **Accidental damage**
- **Machinery breakdown**
- **Fire damage**
- **Other unspecified**
- **Legal** – liability arising from office bearers, voluntary work etc
- **Hail damage**
- **Other property** - damage not otherwise specified
- **Other catastrophic event** – resulting from earthquake, cyclone and other extreme weather-related events

3.2 Results section overview (by jurisdiction)

The strata insurance data results are separated based on an Australian wide perspective and then the eight state and territory jurisdictions. Each jurisdictional section provides:

- A 2020 strata insurance snapshot;
- An overview of the premiums¹¹, taxes (including duties and levies), and the total cost of insurance over a five-year period (2016-2020) and the percentage of change over this period;

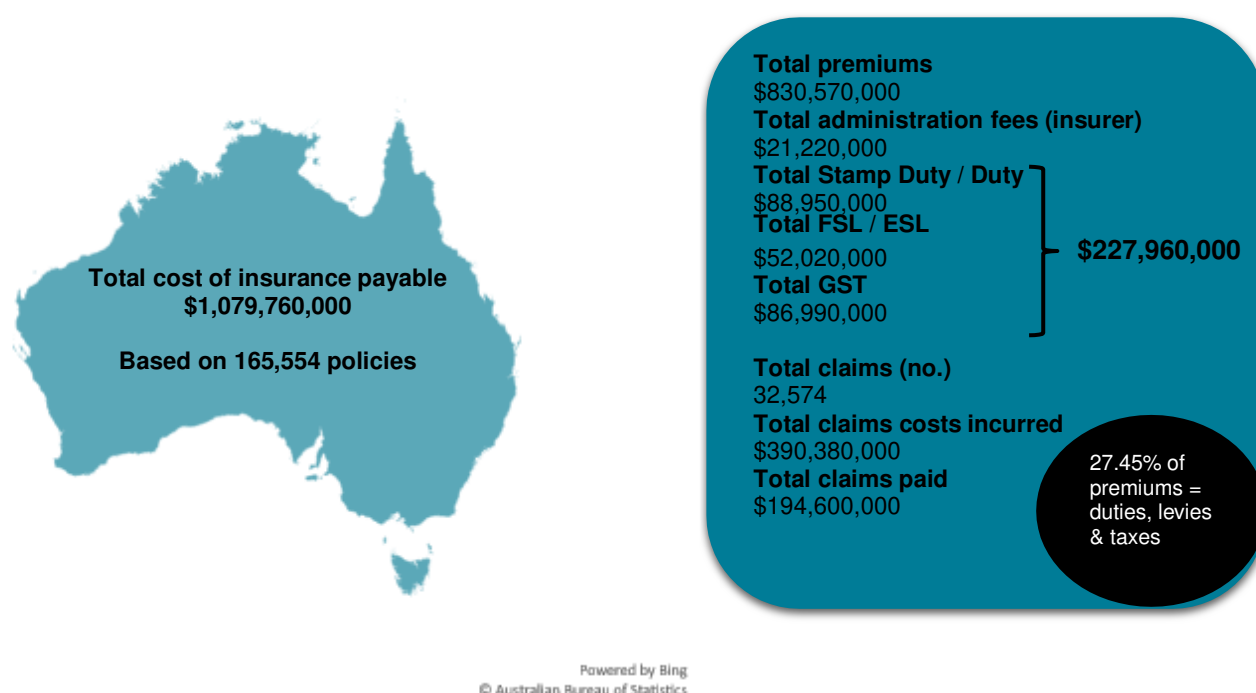
¹⁰ As noted by interviewee U2, catastrophe cover is a contingency top-up when building cover is exhausted.

¹¹ Although the GWP amounts are used in this data analysis (which include the federal Terrorism Insurance Levy (TIL) where applicable) the amount of the TIL was unable to be determined. Readers should refer to Section 6 of the report which outlines the applicability and the rates of the TIL.

- The average cost of premiums and total cost of insurance based on the policy numbers provided and the percentage change over time;
- The insurance costs based on scheme type (residential and commercial (including industrial) and the changes over the period;
- The take-up rates of various policy cover in 2020;
- The number of claims, claims costs and percentage changes over the period;
- The number and costs of claims based on loss causes (types and costs) over the period; and
- Insurance data based on the CRESTA zones with the highest number of strata schemes. CRESTA (Catastrophe Risk Evaluation and Standardising Target Accumulations) is the commonly used geographical data aggregation standard used in the insurance industry.¹² The insurance underwriters provided data to the level of these identified zones.

3.2.1. Australia

Figure 1: 2020 snapshot of strata insurance



In 2020, 165,554 Australian OCs paid over \$830 million in strata insurance premiums, nearly \$230 million in duties, levies and taxes and claimed over \$390 million (based on 32,574 claims). Overall, the total cost of insurance payable by these OCs was approximately \$1.08 billion. Breaking these statistics down further, 27.45% of premiums were paid to various state, territory and federal governments and included state and territory-imposed duties (approximately \$89 million), fire services and emergency services levies (approximately \$52 million and only paid by OCs in NSW and commercial OCs in Tas), and the federally imposed GST (approximately \$87 million). It is important to note the GST is applied to several components of the overall total cost of insurance including, commissions, premiums and insurers' administrative fees. As outlined further in the jurisdictional breakdown sections of the report, a TIL is also applied to certain types of insurable properties. This levy has not been

¹² <https://www.cresta.org/>

identified in the data per se but does form a component of the insurance premiums. More information regarding the TIL is provided in Section 6.

3.2.1.1. Australian strata insurance analysis

The 2020 Australian strata insurance data provided in this report represents approximately 49% of all Australian strata schemes. More specifically, the data represents 84% of all strata schemes over six lots and therefore provides a sound representative sample. As highlighted in Table 3, in 2020, 69% of schemes in Australia are less than six lots, 26% more than 6 lots but less than 20, 5% more than 20 lots but less than 50, 1.4% are more than 50 lots but less than 100, and 0.8% are more than 100 lots.

Table 3: Strata schemes in Australia by size in 2020¹³

| Year | Total Schemes | Total schemes no. lots < 6 | Total schemes no. lots >=6 <=20 | Total schemes no. lots >=21 <=50 | Total schemes no. lots >=51 <=100 | Total schemes no. lots >100 |
|-------------|---------------|----------------------------|---------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| 2020 | 339,718 | 229,794 | 85,826 | 16,728 | 4,685 | 2,685 |

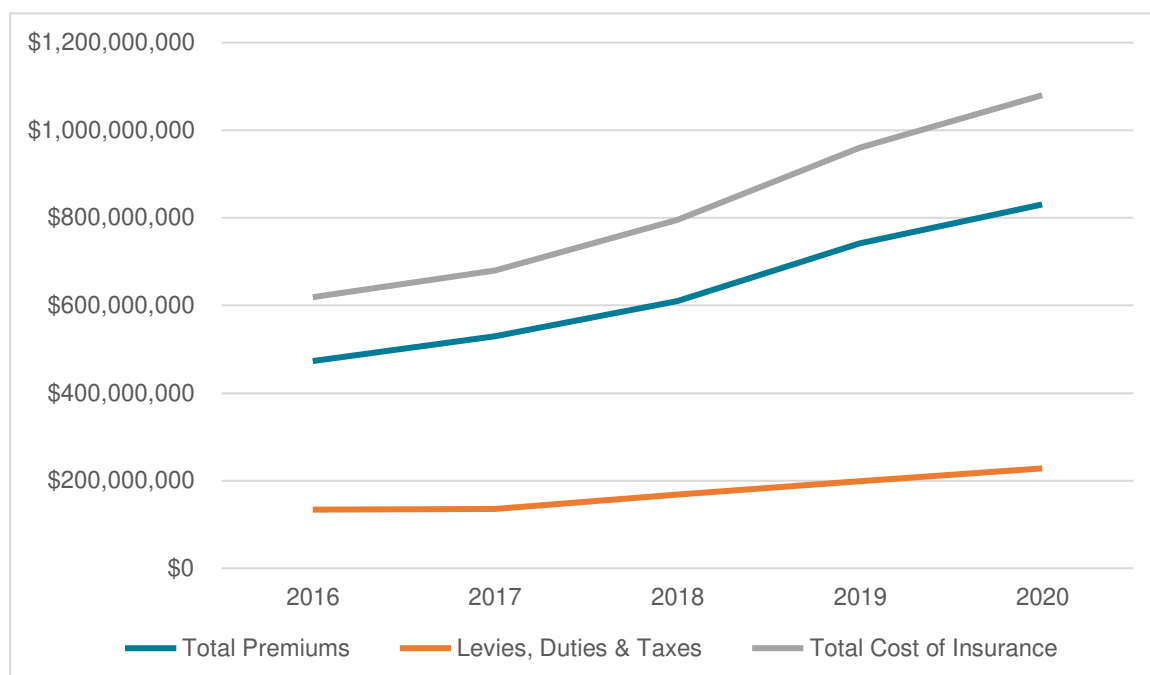
The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 4. The number of policies written by strata insurers increased from 142,212 in 2016 to 165,554 in 2020, with increases ranging from 2.68% to 4.40%. The total premiums have increased in that same period from approximately \$473 million to \$830 million, an overall period increase averaging 15%. The total levies, duties and taxes have similarly increased at the same rate, increasing from approximately \$134 million in 2016 to \$228 million in 2020. The rate the premiums and taxes increased also aligned with the increase in the total insurance costs, from approximately \$619 million in 2016 to \$1.08 billion in 2020. Graph 10, provides a visual representation of the information contained in Table 4.

Table 4: Australian policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|-------------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 165,554 | 2.68% | \$830,570 | 11.89% | \$227,960 | 14.93% | \$1,079,760 | 12.47% |
| 2019 | 161,232 | 4.39% | \$742,300 | 21.64% | \$198,350 | 17.70% | \$ 960,050 | 20.68% |
| 2018 | 154,455 | 3.30% | \$610,230 | 15.22% | \$168,520 | 24.04% | \$ 795,560 | 16.95% |
| 2017 | 149,521 | 4.40% | \$529,630 | 11.89% | \$135,860 | 1.58% | \$ 680,240 | 9.95% |
| 2016 | 143,212 | - | \$473,340 | - | \$133,740 | - | \$ 618,660 | - |

¹³ The authors acknowledge Associate Professor Hazel Easthope and the research team at City Future Research Centre for providing the Strata Schemes data for this project. We further acknowledge the contribution by the various state and territory lands departments including data supplied by the Western Australian Land Information Authority. Please note that WA survey-strata schemes are not included in these figures as the authors were unable to obtain data that breaks down the schemes into these identified size categories.

Graph 10: Australian strata insurance 2016 to 2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 5. The average premium increased from \$3,305 in 2016 to \$5,017 in 2020, representing an overall period increase of 12%. Similarly, the total cost of insurance has on average increased from \$4,320 to \$6,522 over the same period. Although the average premiums and insurance costs are highlighted, consideration must be given to the variations in strata schemes sizes in Australia as noted above. At this time, data is not available to estimate the average premium and insurance costs based on scheme size. However, only 34% of the data used in this section represents schemes under six lots.

Table 5: Australian average premiums and insurance costs based on policy counts for the period 2016 - 2020

| Year | Policy Count | Total premiums ('000) | Average premium based on policy counts | Change | Total insurance costs ('000) | Average insurance cost based on policy counts | Change |
|------|--------------|-----------------------|--|--------|------------------------------|---|--------|
| 2020 | 165,554 | \$830,570 | \$5,016.91 | 8.97% | \$1,079,760 | \$6,522.10 | 9.53% |
| 2019 | 161,232 | \$742,300 | \$4,603.92 | 16.53% | \$ 960,050 | \$5,954.46 | 15.60% |
| 2018 | 154,455 | \$610,230 | \$3,950.86 | 11.54% | \$ 795,560 | \$5,150.75 | 13.22% |
| 2017 | 149,521 | \$529,630 | \$3,542.18 | 7.17% | \$ 680,240 | \$4,549.46 | 5.31% |
| 2016 | 143,212 | \$473,340 | \$3,305.17 | - | \$ 618,660 | \$4,319.89 | - |

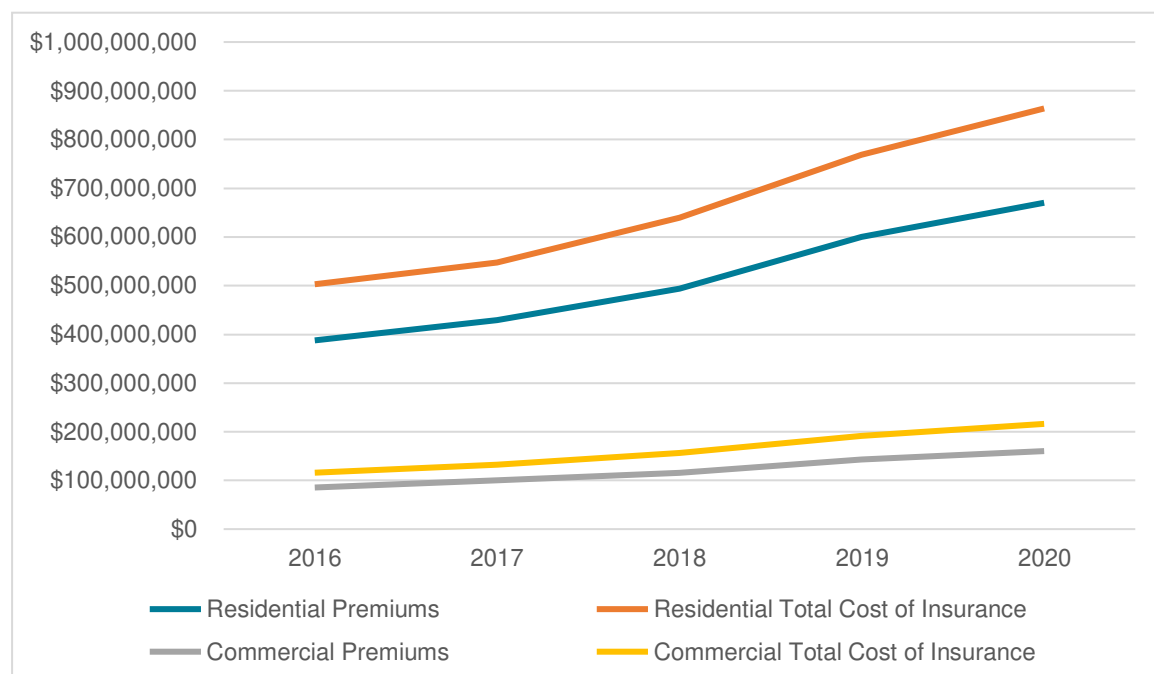
As highlighted in Table 6, residential strata schemes represent approximately 87% of the policies analysed compared with 13% commercial (including industrial). Residential policies increased from 127,002 in 2016 to 143,286 in 2020. Similarly, commercial policies increased substantially from 16,210 in 2016 to 22,271 in 2020. Residential premiums increased from approximately \$388 million in 2016 to approximately \$670 million in 2020. Commercial

premiums increased from approximately \$86 million to \$160 million in the same period. Graph 11 is a visual representation of the data in Table 6.

Table 6: Australian comparison of residential and commercial strata insurance data for the period 2016 - 2020

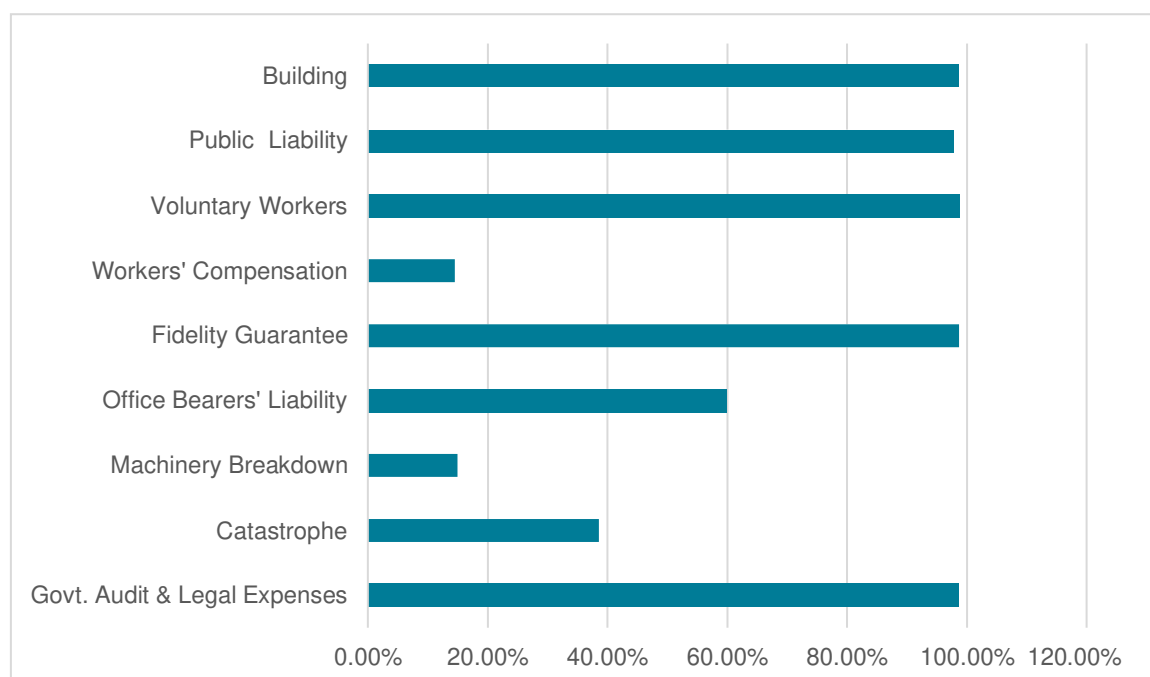
| Year | Residential | | | Commercial | | |
|------|-------------|-----------------------|--------------------------------|------------|-----------------------|--------------------------------|
| | Policies | Total premiums ('000) | Total cost of insurance ('000) | Policies | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 143,286 | \$670,110 | \$863,620 | 22,271 | \$160,460 | \$216,140 |
| 2019 | 139,499 | \$599,480 | \$768,620 | 21,460 | \$142,820 | \$191,430 |
| 2018 | 134,433 | \$494,040 | \$638,830 | 20,022 | \$116,140 | \$156,730 |
| 2017 | 131,048 | \$429,500 | \$547,860 | 18,475 | \$100,130 | \$132,380 |
| 2016 | 127,002 | \$387,510 | \$502,850 | 16,210 | \$85,830 | \$115,810 |

Graph 11: Residential v commercial strata insurance costs in Australia for the period 2016 - 2020



Graph 12 provides an overview of the percentage of various policy types taken up by OCs. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses are taken up by nearly 100% of all OCs. Office bearers' liability is taken up by approximately 60% of OCs, catastrophe cover by nearly 39%, and machinery breakdown cover by nearly 15%. Although workers' compensation is taken up by nearly 15% of the sample, it is important to note that only OCs in the states of the ACT, Tas, WA and a small number of NSW commercial schemes are included in this sample. In states and territories including Qld, NT, SA, Vic and NSW, workers' compensation cover is administered by the relevant state and territory agencies such as Workcover. Although efforts were made to determine the take up of workers' compensation in these states, the data was unable to be provided.

Graph 12: Australian policy cover in 2020



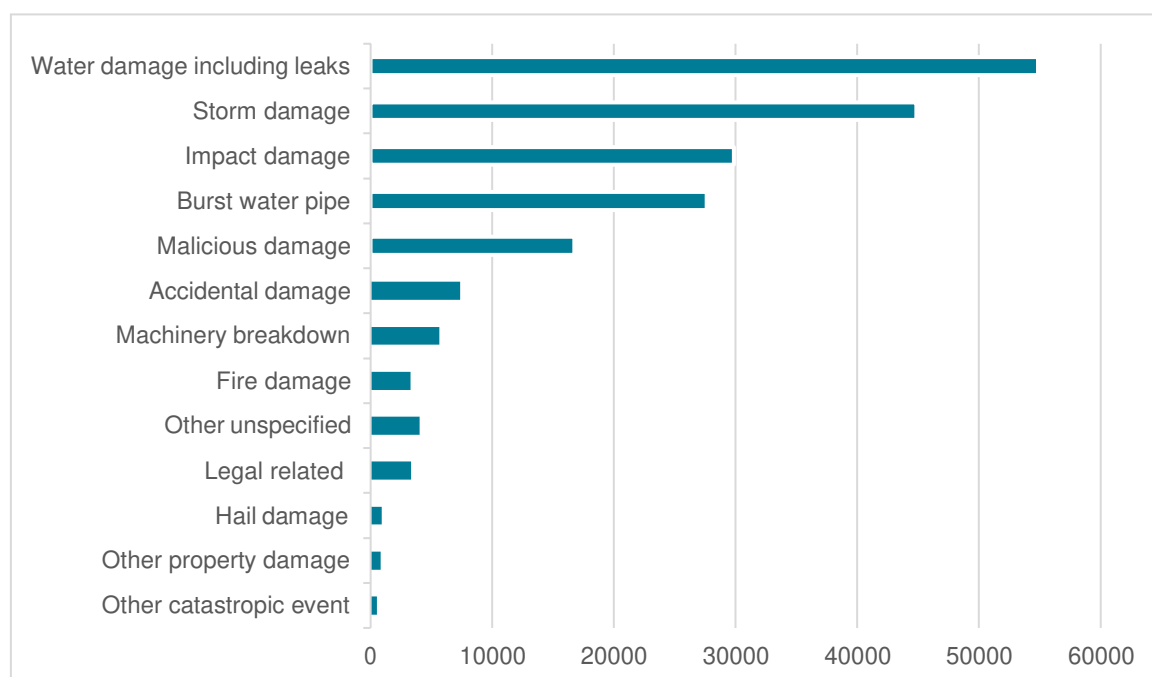
The claims data outlined in Table 7 illustrate the fluctuating nature of claims. Since 2016, the number of claims across Australia declined from 48,086 claims in 2016 to 32,574 claims in 2020. Although the total costs of claims rose, fell then rose again, overall the average for this period has increased by nearly 11%.

Table 7: Total number and cost of claims in Australia for the period 2016 - 2020

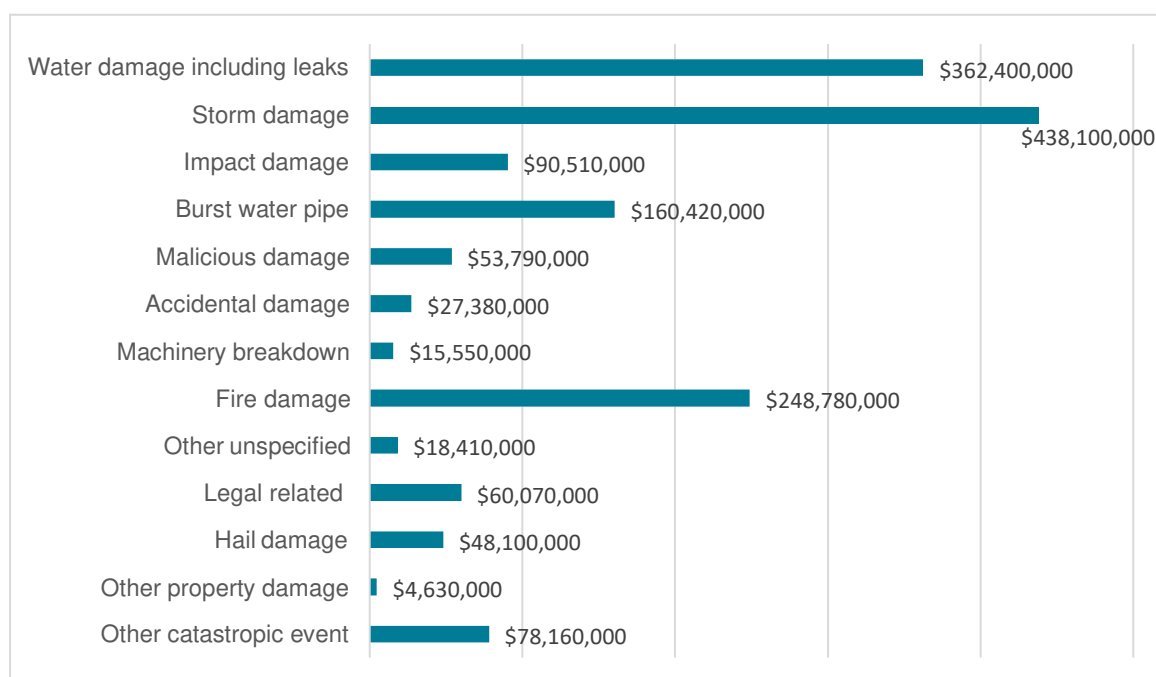
| Year | No. of claims | Claims increase | Total claims paid ('000) | Claims increase | Total claims costs incurred ('000) | Claims cost incurred increase |
|------|---------------|-----------------|--------------------------|-----------------|------------------------------------|-------------------------------|
| 2020 | 32574 | -8.30% | \$194,600 | -38.59% | \$390,380 | 22.67% |
| 2019 | 35522 | -12.63% | \$316,890 | 16.60% | \$318,240 | 10.24% |
| 2018 | 40655 | -5.53% | \$271,780 | 9.52% | \$288,670 | -14.15% |
| 2017 | 43034 | -10.51% | \$248,150 | -4.01% | \$336,240 | 23.25% |
| 2016 | 48,086 | - | \$258,510 | - | \$272,800 | - |

Graph 13 and Graph 14 highlight the total claims by loss cause and the total cost of claims by loss cause over the 2016 to 2020 period. Water damage including leaks, storm damage, impact damage, burst water pipes and malicious damage make up the top five most prevalent loss causes in this period. However, these causes don't necessarily represent the costliest claims. Storm damage (\$438 million), followed by water damage (\$362 million), followed by fire damage (\$249 million), and then burst water pipes (\$160 million) are the costliest claims for that period.

Graph 13: Australian total claims by loss cause for the period 2016-2020



Graph 14: Australian total claims costs by loss cause for the period 2016-2020



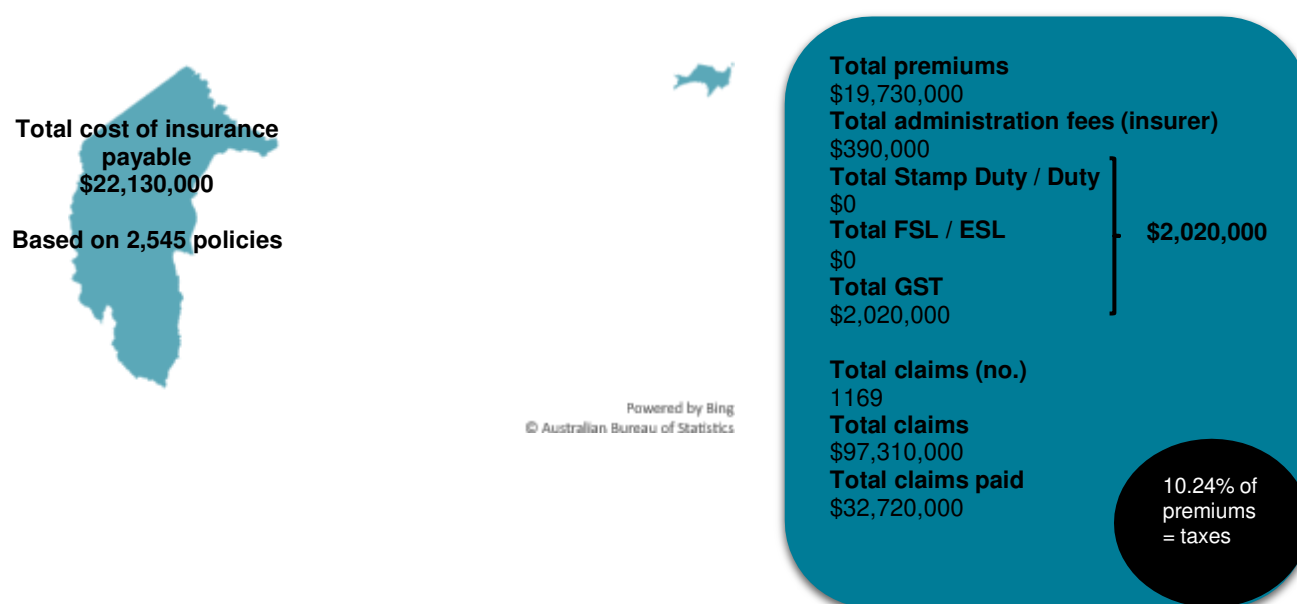
Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the Australian strata population are outlined in Table 8. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 8 are over-estimated. Care should be taken when referencing these figures.

Table 8: Estimated costs of insurance and claims for the period 2016 – 2020 of the Australian strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties, and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims costs incurred ('000) |
|------|--------------------------|-----------------------|--|------------------------------|---------------|------------------------------------|
| 2020 | 339,718 | \$1,704,303 | \$467,767 | \$2,215,633 | 67,016 | \$803,145 |
| 2019 | 328,414 | \$1,511,993 | \$404,020 | \$1,955,529 | 72,355 | \$648,224 |
| 2018 | 316,227 | \$1,249,368 | \$345,023 | \$1,628,808 | 83,236 | \$591,015 |
| 2017 | 304,040 | \$1,076,964 | \$276,261 | \$1,383,218 | 87,506 | \$683,719 |
| 2016 | 291,853 | \$964,624 | \$272,550 | \$1,260,773 | 97,995 | \$555,942 |

3.2.2. Australian Capital Territory

Figure 2: 2020 snapshot of strata insurance



In 2020, 2,545 OCs in the ACT paid nearly \$20 million in strata insurance premiums, over \$2 million in GST and claimed over \$97 million (based on 1,169 claims). Overall, the total cost of insurance payable by these OCs was approximately \$22 million. Breaking these statistics down further, 10.24% of premiums were paid to the federal government. The ACT is the only territory where additional levies and duties are not imposed on strata insurance premiums.

3.2.2.1. ACT strata insurance analysis

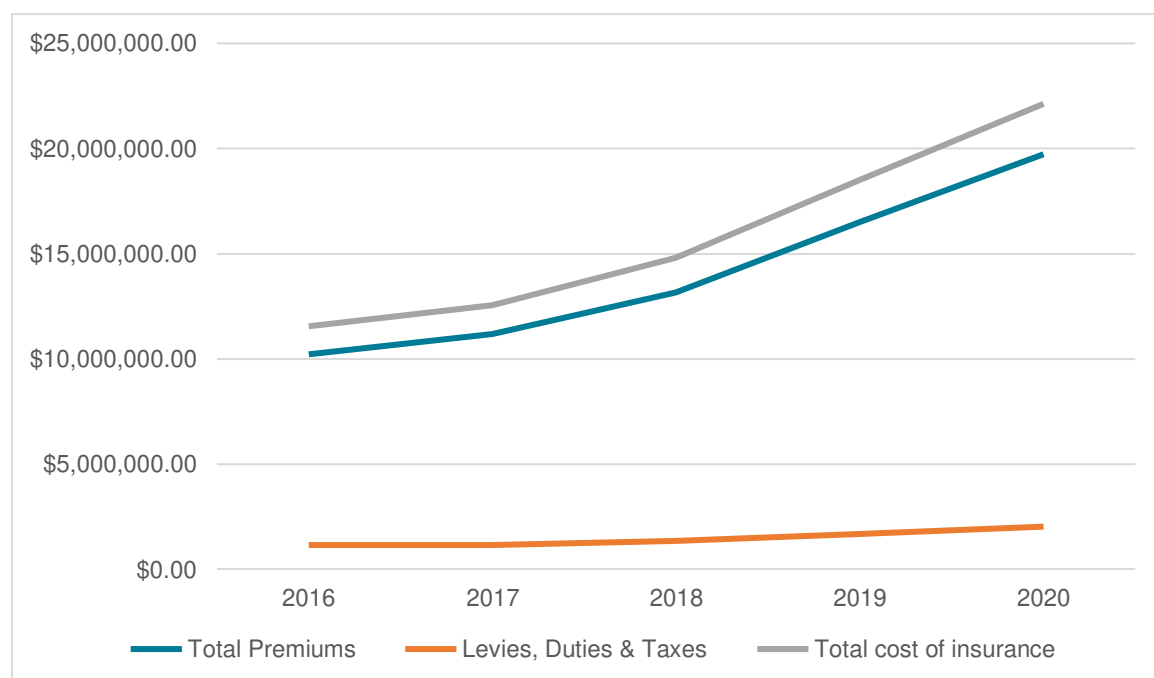
The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 8. The number of policies written by strata insurers increased from 2,183 policies in 2016 to 2,545 in 2020, with an average increase of 4%. The total premiums increased in that same period from approximately \$10 million to \$20 million, an overall period increase averaging 18%. The total

GST paid increased from approximately \$1.14 million in 2016 to \$2.02 million in 2020. The rate premium and taxes increased also aligns with the increases in the total insurance costs, from approximately \$11.5 million in 2016 to \$22 million in 2020. Graph 15, provides a visual representation of the information contained in Table 9.

Table 9: ACT policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 2,545 | 6.57% | \$19,730 | 19.50% | \$2,020 | 20.24% | \$22,130 | 19.49% |
| 2019 | 2,388 | 5.38% | \$16,510 | 25.36% | \$1,680 | 24.44% | \$18,520 | 25.13% |
| 2018 | 2,266 | 3.99% | \$13,170 | 17.80% | \$1,350 | 18.42% | \$14,800 | 17.83% |
| 2017 | 2,179 | -0.18% | \$11,180 | 9.39% | \$1,140 | 0% | \$12,560 | 8.7% |
| 2016 | 2,183 | - | \$10,220 | - | \$1,140 | - | \$11,550 | - |

Graph 15: ACT strata insurance for the period 2016-2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 for the ACT are outlined in Table 10. The average premium increased from \$4,682 in 2016 to \$7,752 in 2020, representing an overall period increase of 13%. Similarly, the total cost of insurance has on average increased from \$5,291 to \$8,695 over the same period. Compared with the Australian average premium, the ACT OCs paid \$2,735 more in 2020.

Table 10: ACT average premiums and insurance costs based on policy counts for the period 2016 - 2020

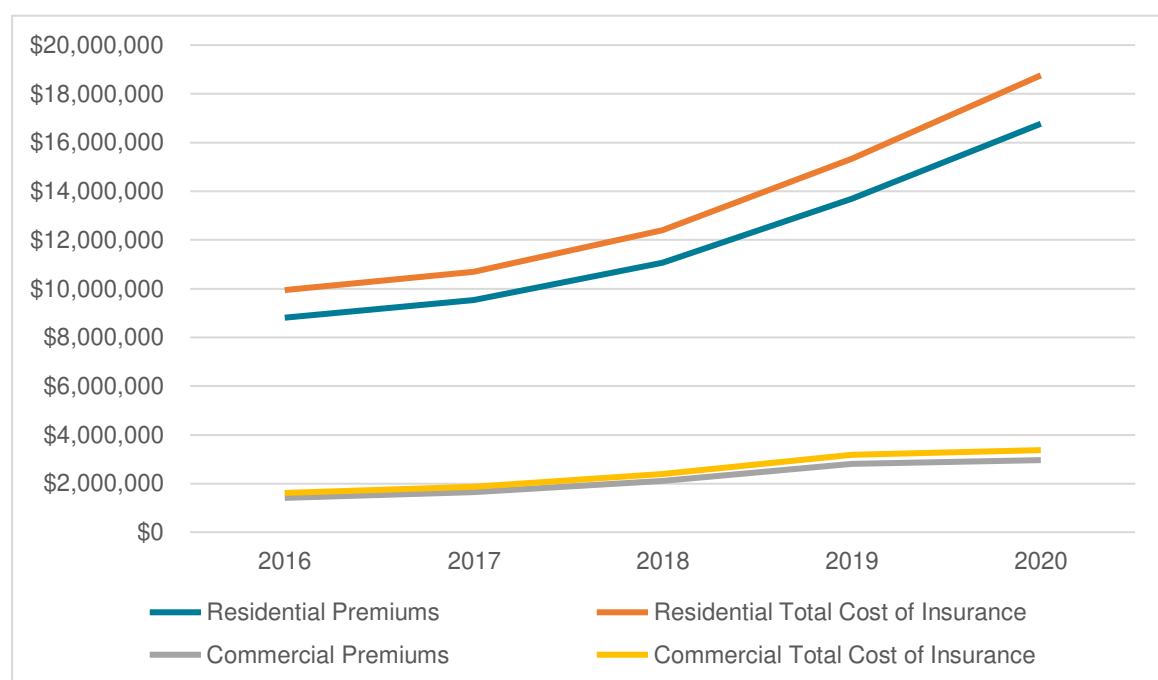
| Year | Policy count | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average cost based on policy count | Change |
|------|--------------|-----------------------|---------------------------------------|--------|------------------------------|------------------------------------|--------|
| 2020 | 2,545 | \$19,730 | \$7,752.46 | 12.13% | \$22,130 | \$8,695.48 | 12.12% |
| 2019 | 2,388 | \$16,510 | \$6,913.74 | 18.96% | \$18,520 | \$7,755.44 | 18.74% |
| 2018 | 2,266 | \$13,170 | \$5,812.00 | 13.28% | \$14,800 | \$6,531.33 | 13.31% |
| 2017 | 2,179 | \$11,180 | \$5,130.79 | 9.60% | \$12,560 | \$5,764.11 | 8.94% |
| 2016 | 2,183 | \$10,220 | \$4,681.63 | - | \$11,550 | \$5,290.88 | - |

As highlighted in Table 11, residential policies increased from 2,011 in 2016 to 2,254 in 2020. Similarly, commercial policies increased from 172 in 2016 to 291 in 2020. Residential premiums increased from approximately \$9 million in 2016 to approximately \$17 million in 2020. Commercial premiums have increased from approximately \$1.4 million to \$3 million in the same period. Graph 16 is a visual representation of the data in Table 10.

Table 11: ACT comparison of residential and commercial strata insurance data for the period 2016 - 2020

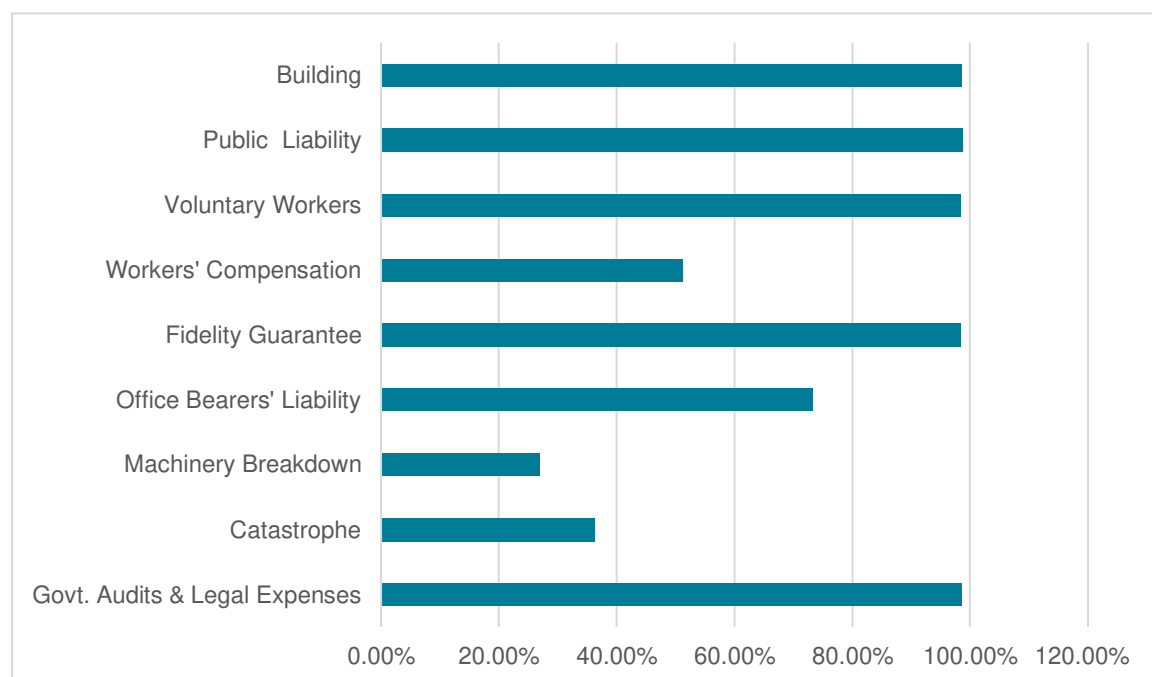
| Year | Residential | | | Commercial | | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| | Policy count | Total premiums ('000) | Total cost of insurance ('000) | Policy count | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 2254 | \$16,770 | \$18,760 | 291 | \$2,960 | \$3,370 |
| 2019 | 2114 | \$13,700 | \$15,330 | 274 | \$2,810 | \$3,190 |
| 2018 | 2040 | \$11,060 | \$12,400 | 226 | \$2,110 | \$2,400 |
| 2017 | 1985 | \$9,540 | \$10,700 | 194 | \$1,640 | \$1,860 |
| 2016 | 2011 | \$8,810 | \$9,940 | 172 | \$1,410 | \$1,610 |

Graph 16: ACT residential v commercial strata insurance costs for the period 2016-2020



Graph 17 provides an overview of the percentage of various policy types taken up by OCs in the ACT in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses are taken up by nearly 100% of all OCs. Office bearers' liability is taken up by approximately 73% of OCs, catastrophe cover by approximately 36%, and machinery breakdown cover by nearly 27%. Workers' compensation is taken up by approximately 51% of the sample.

Graph 17: ACT policy cover for the period 2016-2020



The claims data outlined in Table 12, illustrates again the fluctuating nature of claims. Since 2016, the number of claims across the ACT was in decline (1,217 (2016), 1,107 (2017), 927 (2018), 832 (2019) until 2020 when the claim numbers increased substantially to 1169. Again, the rise and fall of claim costs can be observed over this period culminating in a substantial increase in 2020 of 830% with total claims estimated at over \$93 million compared to just over \$10 million in 2019. This dramatic increase in claims and claims cost can be traced to the significant hailstorm event in Canberra in January 2020.¹⁴

Table 12: ACT total number and cost of claims for the period 2016 - 2020

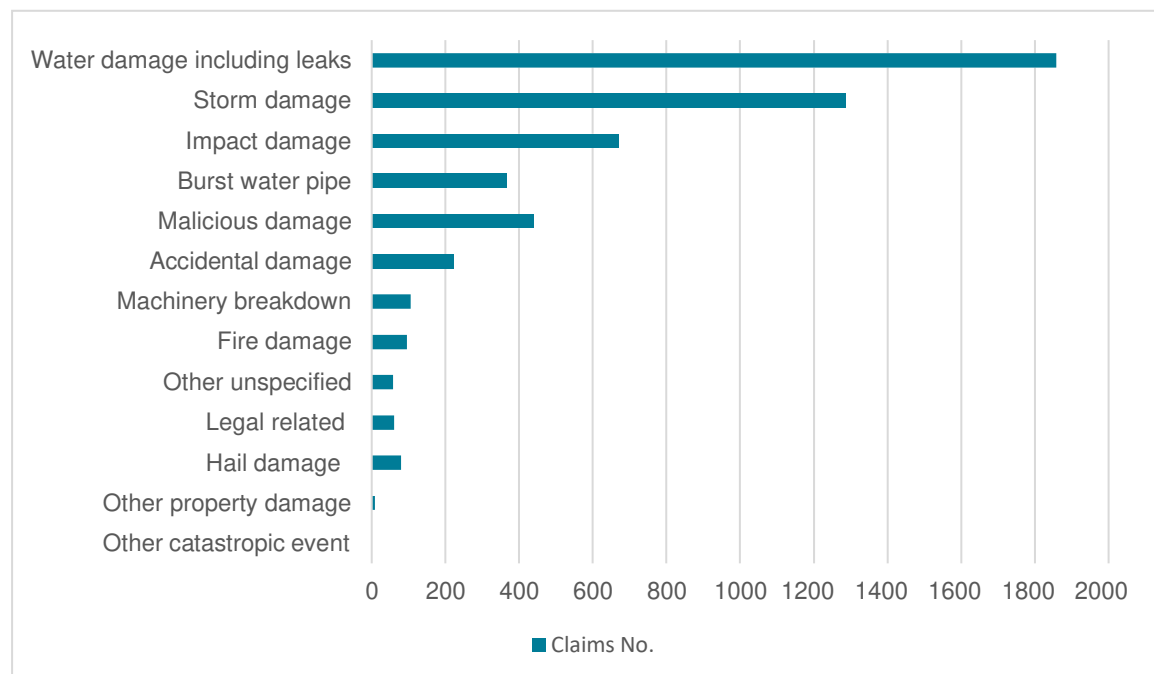
| Year | No. of Claims | Claims increase | Total claims paid ('000) | Claims increase | Total claims incurred ('000) | Increase |
|------|---------------|-----------------|--------------------------|-----------------|------------------------------|----------|
| 2020 | 1169 | 40.50% | \$32,720 | 392.03% | \$97,310 | 830.31% |
| 2019 | 832 | -10.25% | \$ 6,650 | 31.68% | \$10,460 | 86.78% |
| 2018 | 927 | -16.26% | \$ 5,050 | -17.21% | \$ 5,600 | -12.64% |
| 2017 | 1107 | -9.04% | \$6,100 | 5.17% | \$ 6,410 | 6.83% |
| 2016 | 1217 | - | \$5,800 | - | \$ 6,000 | - |

Graph 18 and Graph 19, highlight the total claims by loss cause and the total cost of claims by loss cause in the ACT over the 2016 to 2020 period. Water damage including leaks, storm

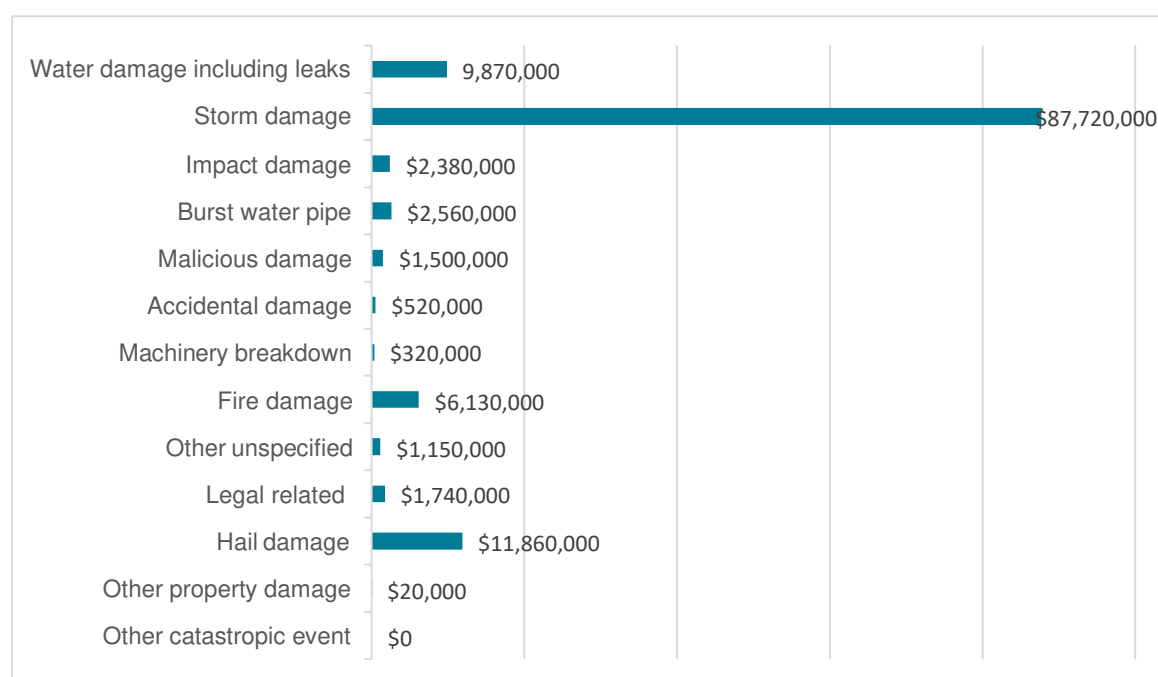
¹⁴ <https://www.disasterassist.gov.au/Pages/disasters/current-disasters/Australian-Capital-Territory/canberra-hailstorm-20012020.aspx>

damage, impact damage, malicious damage, and burst water pipes make up the top five most prevalent loss causes in this period. Storm damage (approximately \$88 million) followed by hail damage (\$12 million) and water damage (\$10 million) were the most costly claims for that period. Again, the 2020 hailstorm in Canberra has significantly impacted these results.

Graph 18: ACT total claims by loss cause for the period 2016-2020



Graph 19: ACT total claim costs by loss cause for the period 2016-2020



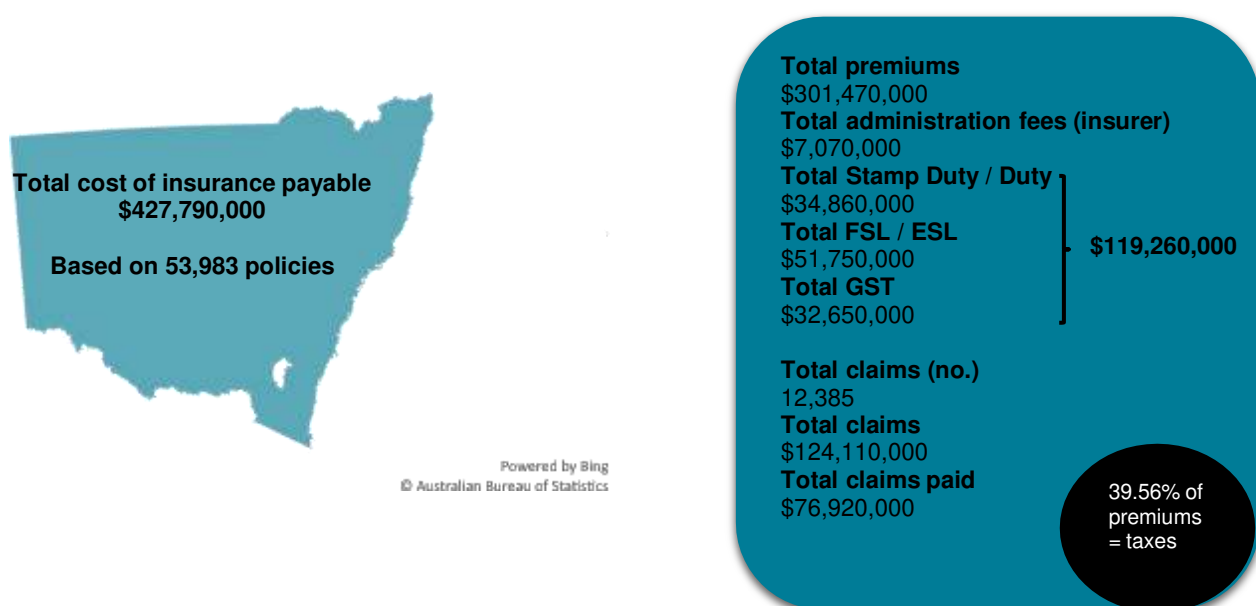
Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the ACT strata population are outlined in Table 13. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 13 are over-estimated. Care should be taken when referencing these figures.

Table 13: Estimated costs of insurance and claims for the period 2016 – 2020 of the ACT strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties, and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims cost ('000) |
|------|--------------------------|-----------------------|--|------------------------------|---------------|--------------------------|
| 2020 | 4,337 | \$33,622 | \$3,442 | \$37,712 | 1,992 | \$165,828 |
| 2019 | 4,101 | \$28,353 | \$2,885 | \$31,805 | 1,429 | \$17,963 |
| 2018 | 3,865 | \$22,463 | \$2,303 | \$25,244 | 1,581 | \$9,552 |
| 2017 | 3,629 | \$18,620 | \$1,898 | \$20,918 | 1,844 | \$10,675 |
| 2016 | 3,393 | \$15,885 | \$1,772 | \$17,952 | 1,892 | \$9,326 |

3.2.3. New South Wales

Figure 3: 2020 snapshot of strata insurance



In 2020, 53,983 NSW OCs paid over \$301 million in strata insurance premiums, nearly \$120 million in duties, levies and taxes and claimed over \$124 million (based on 12,385 claims). Overall, the total cost of insurance payable by these OCs was approximately \$428 million. Breaking these statistics down further, 39.56% of premiums were paid to state and federal governments and include state-imposed duties (approximately \$35 million), emergency services levies (approximately \$52 million) and the federally imposed GST (approximately \$33 million). Compared to all other states and territories, NSW OCs paid significantly more in duties, levies and taxes. The ESL is a substantial contributor to these costs. There are four postcodes in NSW that, if applicable, attract Tier A of the TIL. These include Sydney CBD,

Broadway, Pyrmont and North Sydney. Many other cities and towns in NSW attract Tier B and C of the TIL. If the TIL is applicable, it forms a component of the premium.

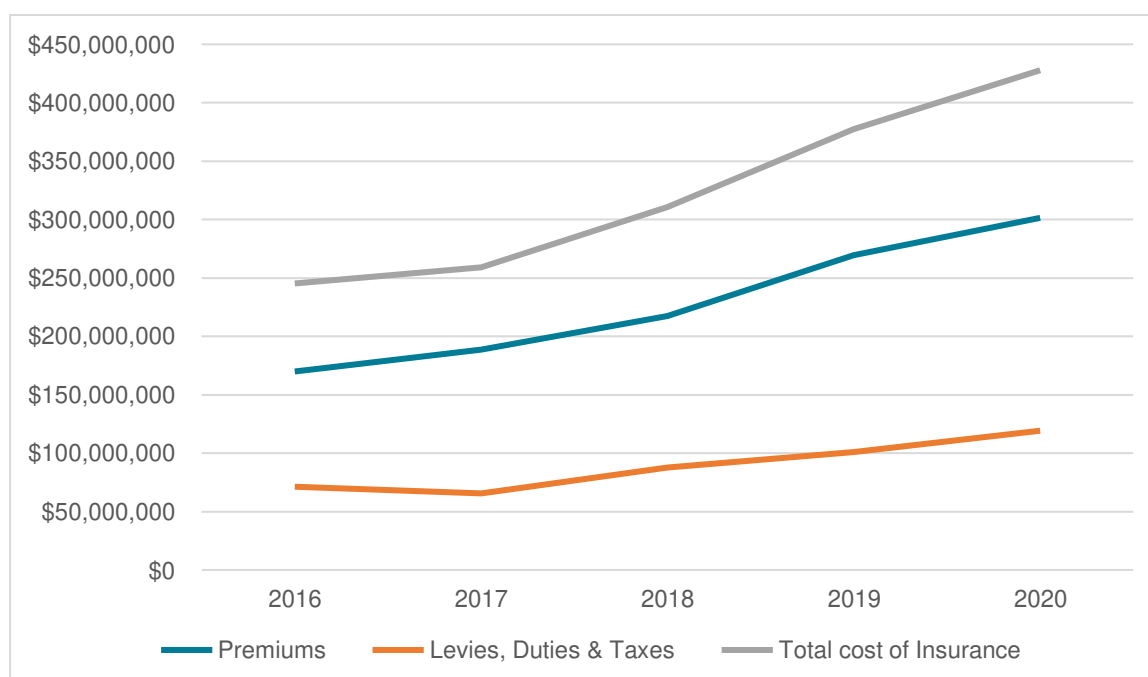
3.2.3.1. NSW strata insurance analysis

The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 14. The number of policies written by strata insurers increased from 47,193 policies in 2016 to 53,983 in 2020, with increases ranging from 1.26% to 5.25%. The total premiums increased in that same period from approximately \$170 million to \$301 million, an overall period increase averaging 15%. Similarly, the total levies, duties and taxes increased at the same rate from approximately \$71 million in 2016 to \$119 million in 2020. The rate the premiums and taxes increased also aligned with the increase in the total insurance costs, from approximately \$245 million in 2016 to \$428 million in 2020. Graph 20, provides a visual representation of the information contained in Table 12.

Table 14: NSW policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy Count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 53,983 | 1.26% | \$301,470 | 11.80% | \$119,260 | 17.93% | \$427,790 | 13.41% |
| 2019 | 53,313 | 5.25% | \$269,650 | 23.93% | \$101,130 | 15.26% | \$377,190 | 21.42% |
| 2018 | 50,654 | 3.23% | \$217,580 | 15.35% | \$ 87,740 | 33.59% | \$310,650 | 19.97% |
| 2017 | 49,068 | 3.97% | \$188,630 | 10.94% | \$ 65,680 | -8.01% | \$258,940 | 5.61% |
| 2016 | 47,193 | - | \$170,030 | - | \$ 71,400 | - | \$245,180 | - |

Graph 20: NSW strata insurance for the period 2016-2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 15. The average premium increased from \$3,603 in 2016 to \$5,585 in 2020, representing an overall period increase of 11.65%. Similarly, the total cost of insurance increased on average from \$5,195 to \$7,925 over the same period. Although the average premium based on policy counts aligns with the national average, the average total insurance costs were higher than the national average due to the impact of higher duties, levies and taxes in NSW.

Table 15: NSW average premiums and insurance costs based on policy counts for the period 2016 - 2020

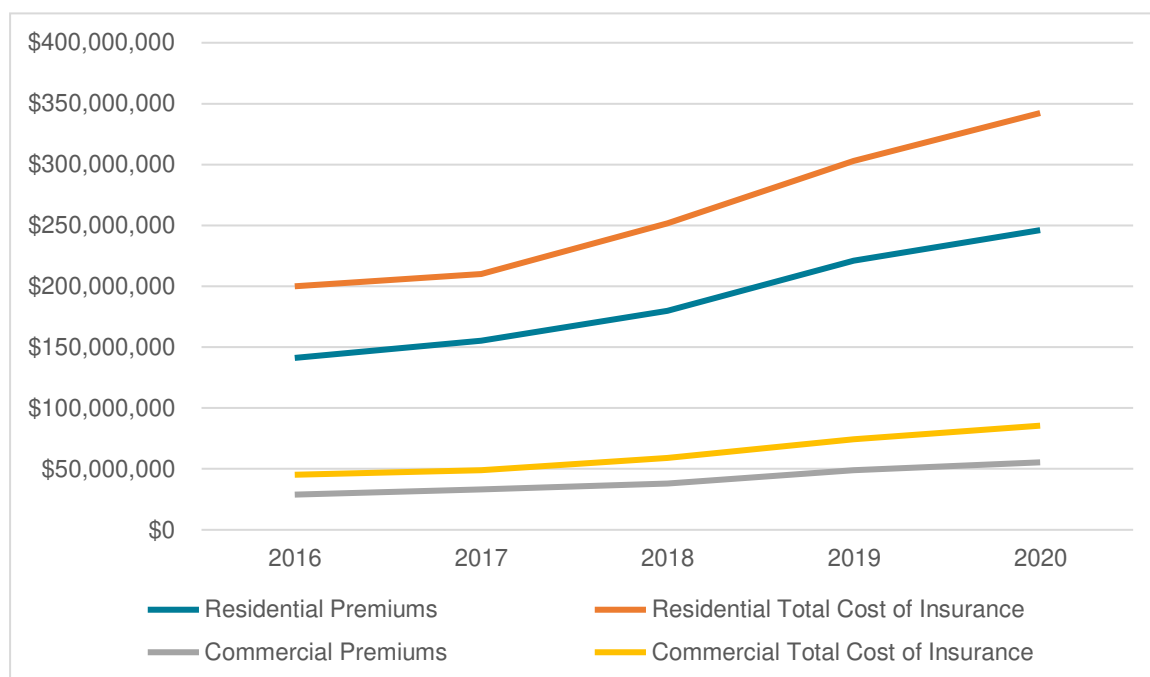
| Year | Policy counts | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average insurance costs based on policy count | Change |
|------|---------------|-----------------------|---------------------------------------|--------|------------------------------|---|--------|
| 2020 | 53,983 | \$301,470 | \$5,584.53 | 10.41% | \$427,790 | \$7,924.53 | 12.01% |
| 2019 | 53,313 | \$269,650 | \$5,057.86 | 17.75% | \$377,190 | \$7,075.00 | 15.36% |
| 2018 | 50,654 | \$217,580 | \$4,295.41 | 11.73% | \$310,650 | \$6,132.78 | 16.21% |
| 2017 | 49,068 | \$188,630 | \$3,844.26 | 6.7% | \$258,940 | \$5,277.17 | 1.57% |
| 2016 | 47,193 | \$170,030 | \$3,602.86 | - | \$245,180 | \$5,195.26 | - |

As highlighted in Table 16, residential policies increased from 41,735 in 2016 to 46,357 in 2020. Similarly, commercial policies increased substantially from 5,458 in 2016 to 7,626 in 2020. Residential premiums increased from approximately \$141 million in 2016 to approximately \$246 million in 2020. Commercial premiums increased from approximately \$29 million to \$55 million in the same period. Graph 21 is a visual representation of the data in Table 16.

Table 16: NSW comparison of residential and commercial strata insurance for the period 2016 - 2020

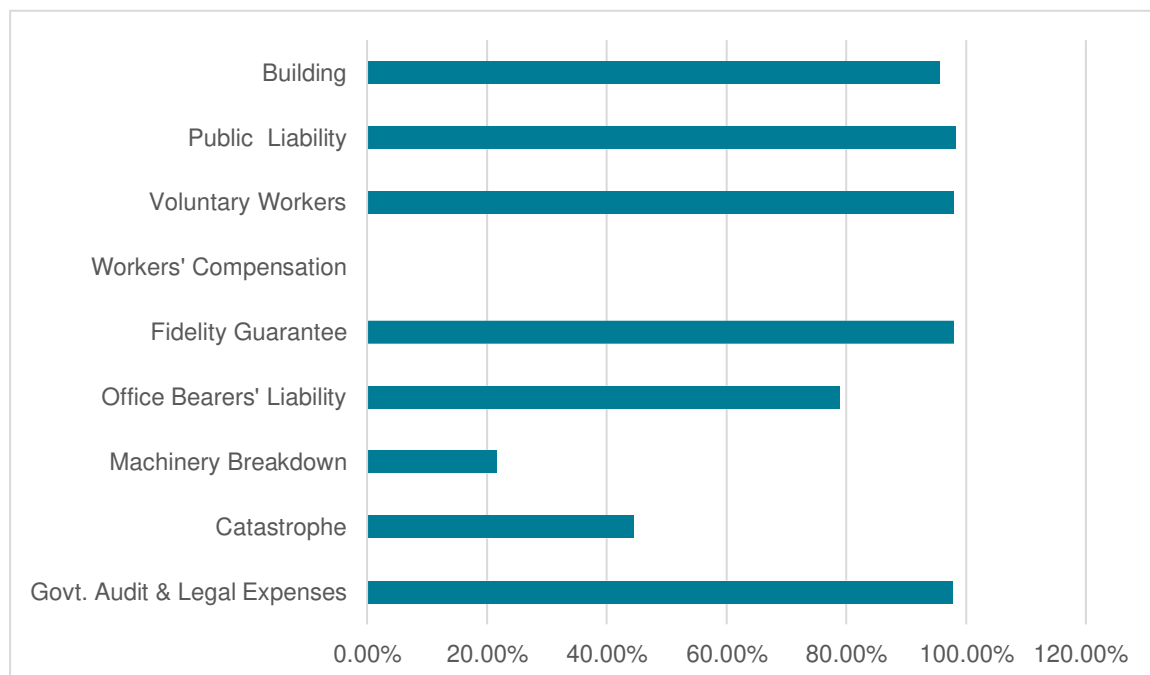
| Year | Residential | | | Commercial | | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| | Policy count | Total premiums ('000) | Total cost of insurance ('000) | Policy count | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 46,357 | \$246,100 | \$342,280 | 7,626 | \$55,370 | \$85,510 |
| 2019 | 45,927 | \$220,870 | \$302,810 | 7,386 | \$48,780 | \$74,380 |
| 2018 | 43,754 | \$179,830 | \$251,610 | 6,900 | \$37,750 | \$59,040 |
| 2017 | 42,606 | \$155,530 | \$210,070 | 6,462 | \$33,100 | \$48,870 |
| 2016 | 41,735 | \$141,240 | \$200,060 | 5,458 | \$28,790 | \$45,120 |

Graph 21: NSW residential v commercial strata insurance for the period 2016 - 2020



Graph 22 provides an overview of the percentage of various policy types taken up by OCs in NSW in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses were taken up by nearly 100% of all OCs. Office bearers' liability was taken up by approximately 79% of OCs, catastrophe cover by approximately 45%, and machinery breakdown cover by nearly 22%. Workers' compensation insurance is generally administered in NSW by icare.

Graph 22: NSW policy cover for the period 2016-2020



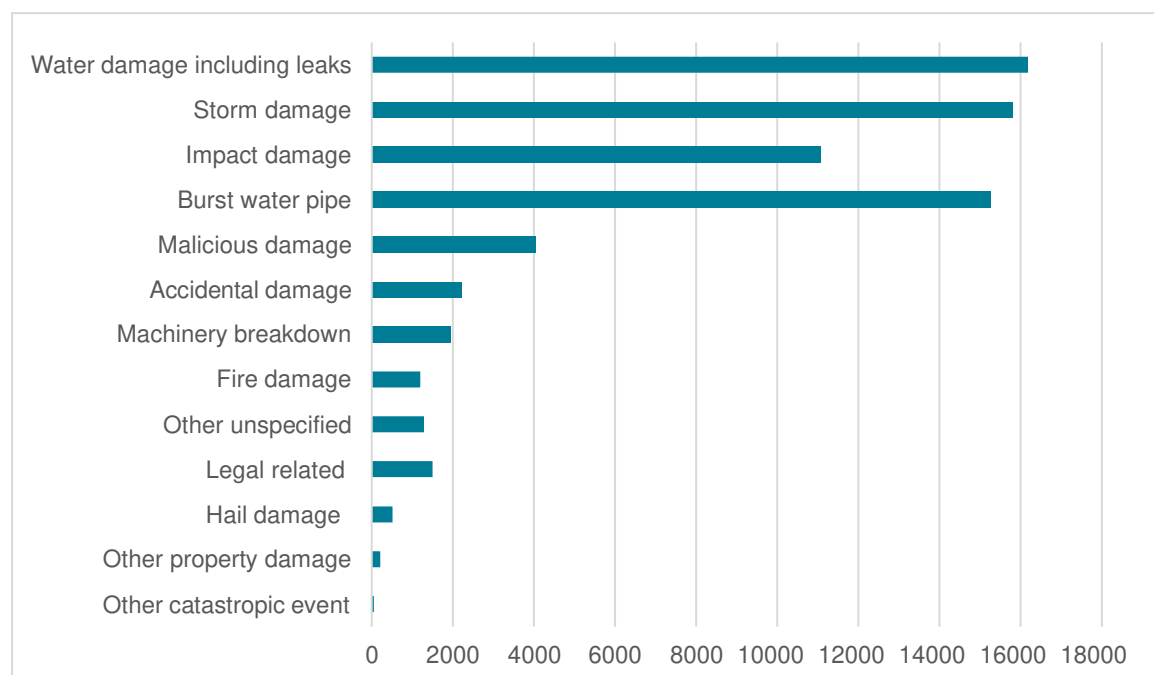
The claims data outlined in Table 17, illustrate again the fluctuating nature of claims. Since 2016, the number of claims across NSW has declined from 17,314 claims in 2016 to 12,385 in 2020. The total cost of claims rose over the 2016 to 2019 period (from \$95 million to \$143 million) with a decline in 2020 (\$124 million).

Table 17: NSW total number and cost of claims for the period 2016 - 2020

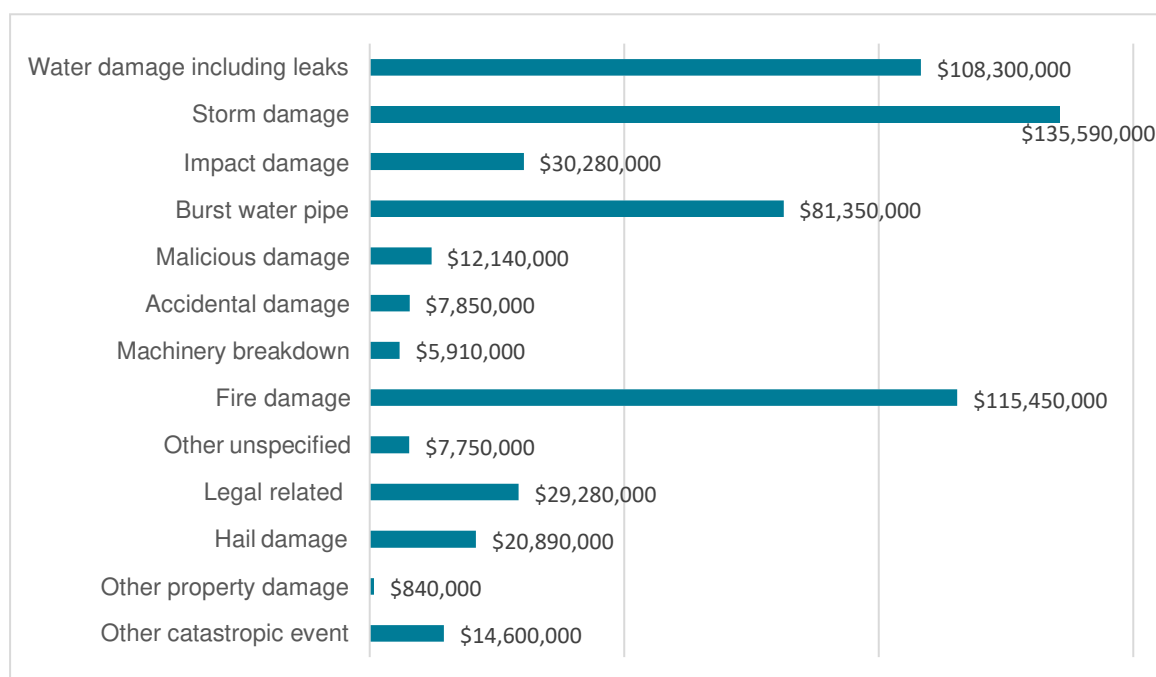
| Year | No. of claims | Claims increase | Total claims paid ('000) | Claims increase | Total claims incurred ('000) | Increase |
|------|---------------|-----------------|--------------------------|-----------------|------------------------------|----------|
| 2020 | 12,385 | -0.97% | \$ 76,920 | -22.98% | \$124,110 | -13.38% |
| 2019 | 12,507 | -12.13% | \$ 99,870 | -5.51% | \$143,290 | 27.62% |
| 2018 | 14,233 | -4.18% | \$105,690 | 17.18% | \$112,280 | 17.80% |
| 2017 | 14,854 | -14.21% | \$ 90,190 | -2.96% | \$ 95,310 | 0.06% |
| 2016 | 17,314 | - | \$ 92,940 | - | \$ 95,250 | - |

Graph 23 and Graph 24, highlight the total claims by loss cause and the total cost of claims by loss cause in NSW over the 2016 to 2020 period. Water damage including leaks, storm damage, burst water pipes, and impact damage made up the top four most prevalent loss causes in this period. Storm damage (approximately \$136 million) followed by fire damage (\$115 million), water damage (\$108 million), and burst water pipes (\$81 million) were the costliest claims for that period. The 2019 bushfires in NSW is a likely contributor to the claims relating to fire damage.

Graph 23: NSW total claims by loss cause for the period 2016-2020



Graph 24: NSW total claims costs by loss cause for the period 2016-2020



Breaking the NSW strata insurance data down further, the following section highlights strata insurance information by CRESTA zones (CZ). There are 12 CRESTA zones in NSW. Table 18 outlines the zone identifier, zone name and corresponding key postcodes and suburbs.

Table 18: NSW CRESTA zone information

| Zone ID | Zone name | Key postcodes | Key suburbs in zone |
|---------|-----------------|--|--|
| 35 | South Coast | 2541, 2549, 2550, 2536 | Batemans Bay, Nowra, Bega |
| 38 | South West | 2580, 2576, 2650, 2795 | Goulburn, Bowral, Wagga Wagga, Bathurst |
| 40 | Illawarra | 2533 | Kiama |
| 41 | Sydney South | 2000, 2010, 2020, 2025, 2029, 2227, 2210 | The Rocks, Surry Hills, Redfern, Mascot, Woollahra, Rose Bay, Burwood, Homebush, Peakhurst |
| 42 | Sydney West | 2144, 2150, 2766, 2750 | Auburn, Parramatta, Rooty Hill, South Penrith |
| 43 | Sydney North | 2061, 2067, 2072, 2086, 2106, 2095, 2108 | Kirribilli, Northbridge, Neutral Bay, Manly, Chatswood, Palm Beach |
| 44 | Central Coast | 2083, 2250, 2256 | Gosford |
| 45 | Blue Mountains | 2773, 2774, 2776, 2782 | Lithgow, Wentworth Falls |
| 46 | Newcastle | 2282, 2289, 2291, 2302 | Newcastle CBD, Warners Bay, Adamstown, The Junction |
| 47 | Northern Slopes | 2311, 2333, 2340, 2372 | Gresford, Muswellbrook, Tamworth |
| 48 | Mid North Coast | 2350, 2428, 2431, 2444 | Port Macquarie, Armidale, Forster |
| 49 | Far North Coast | 2481, 2485, 2480, 2478 | Ballina, Byron Bay, Lismore, Tweed Heads |

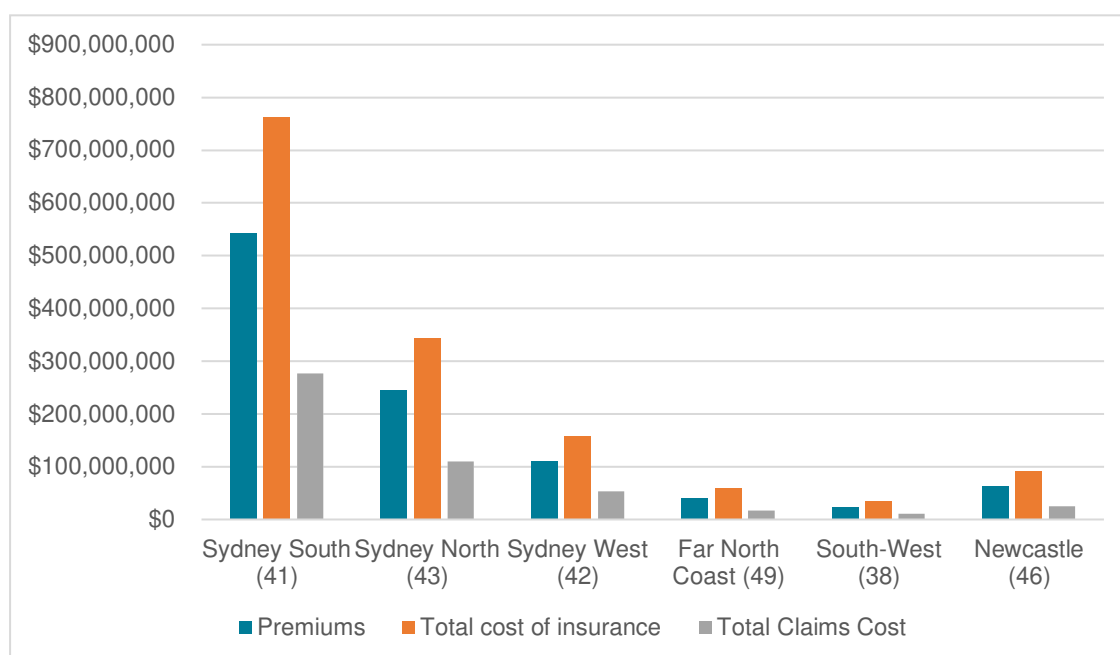
The CRESTA zones in NSW with the highest number of strata schemes is highlighted (in grey) in Table 19 and include, from highest scheme numbers: Sydney South (CZ:41) with 27,334 schemes, Sydney North (CZ: 43) with 13,495 schemes, Sydney West (CZ: 42) with 8,141 schemes, Far North Coast (CZ:49) with 7,635, South West (CZ:38) with 6,938 schemes, and Newcastle (CZ: 46) with 7,635 schemes.

Table 19: NSW strata schemes breakdowns by CRESTA zones for 2020

| CRESTA zone | Total schemes | Total schemes no. lots < 6 | Total schemes no. lots >=6 <=20 | Total schemes no. lots >=21 <=50 | Total schemes no. lots >=51 <=100 | Total schemes no. lots >100 |
|--------------|---------------|----------------------------|---------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| 35 | 1,837 | 1243 | 552 | 36 | 6 | 0 |
| 38 | 6,938 | 4740 | 1884 | 242 | 53 | 19 |
| 40 | 2,911 | 2169 | 659 | 72 | 8 | 3 |
| 41 | 27,334 | 9575 | 13173 | 3096 | 878 | 612 |
| 42 | 8,141 | 3439 | 3621 | 737 | 208 | 136 |
| 43 | 13,495 | 5075 | 5954 | 1761 | 466 | 239 |
| 44 | 4,433 | 3320 | 934 | 145 | 22 | 12 |
| 45 | 276 | 173 | 94 | 8 | 1 | 0 |
| 46 | 6,064 | 4312 | 1435 | 229 | 61 | 27 |
| 47 | 1,486 | 1235 | 228 | 20 | 3 | 0 |
| 48 | 3,421 | 2690 | 631 | 85 | 14 | 0 |
| 49 | 7,635 | 6073 | 1362 | 157 | 26 | 17 |
| TOTAL | 83,971 | 44,044 | 30,527 | 6,588 | 1,746 | 1,065 |

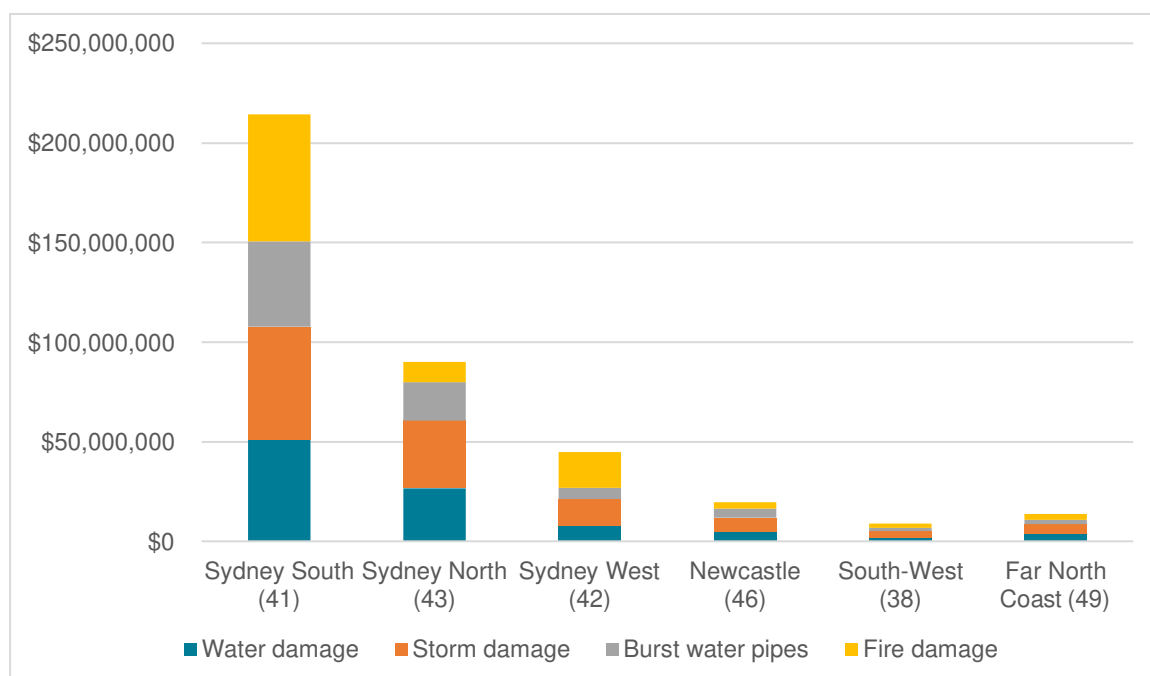
Graph 25 highlights the strata insurance costs of these key CRESTA zones for the 2016 to 2020 period. OCs in Sydney South incurred nearly \$543 million in premium costs for that period, over \$763 million in insurance costs and over \$276 million in total claims costs. OCs in Sydney North incurred nearly \$246 million in premium costs, \$345 million in insurance costs and \$110 million in claims costs. OCs in Sydney West incurred nearly \$111 million in premium costs, just over \$157 million in insurance costs and \$54 million in claims costs. Although Newcastle has a smaller number of strata schemes (38) than CRESTA zones (49), OCs in Newcastle collectively pay more in premiums and insurance costs. There are slightly more larger schemes in Newcastle than South West and the Far North Coast. Newcastle had higher claims costs than the other two CRESTA zones, which may impact on these higher insurance costs.

Graph 25: NSW strata insurance costs by key CRESTA zones for the period 2016 - 2020



Graph 26 highlights the claims cost by the highest loss causes by key CRESTA zones over the 2016 to 2020 period. This breakdown to CRESTA zone levels highlights the areas in which fire damage occurred. Just over 70% of the total fire damage for the 2016 to 2020 period occurred in Sydney South (\$64 million in claims) and Sydney West (\$18 million in claims).

Graph 26: Claims cost by highest loss causes in NSW key CRESTA zones for the period 2016-2020



Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the NSW strata population are outlined in

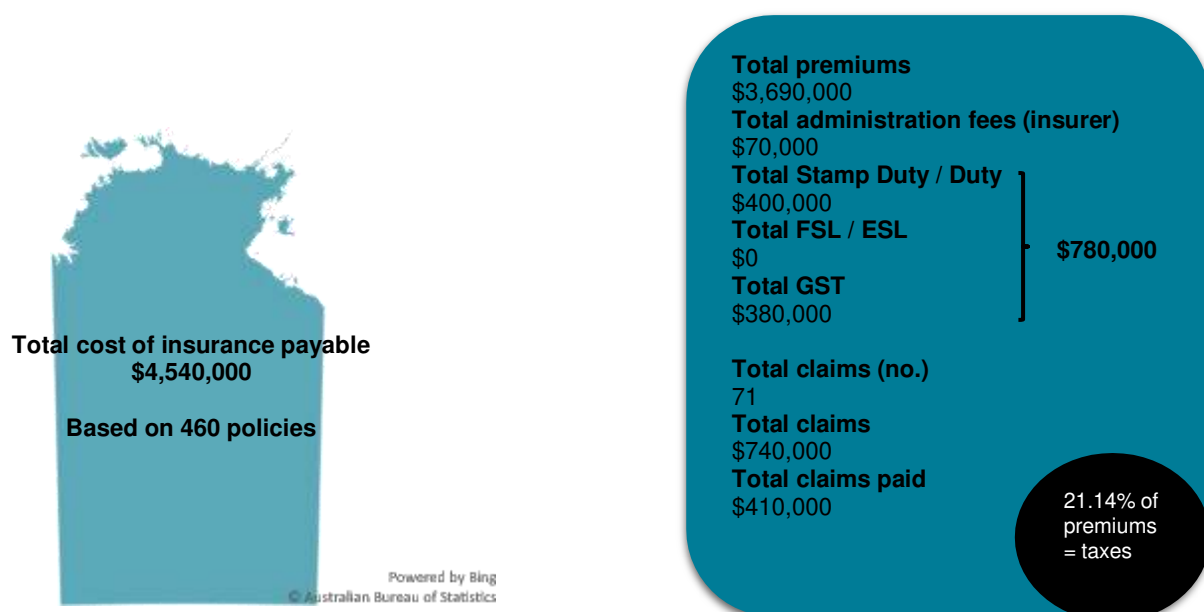
Table 20. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 13 are over-estimated. Care should be taken when referencing these figures.

Table 20: Estimated costs of insurance and claims for the period 2016 – 2020 of the NSW strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties, and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims incurred ('000) |
|------|--------------------------|-----------------------|--|------------------------------|---------------|------------------------------|
| 2020 | 83,971 | \$469,090 | \$185,570 | \$665,645 | 19,271 | \$193,116 |
| 2019 | 82,331 | \$416,419 | \$156,175 | \$582,493 | 19,314 | \$221,282 |
| 2018 | 80,664 | \$346,485 | \$139,722 | \$494,695 | 22,665 | \$178,800 |
| 2017 | 78,997 | \$303,685 | \$105,741 | \$416,880 | 23,914 | \$153,444 |
| 2016 | 77,330 | \$278,610 | \$116,995 | \$401,750 | 28,371 | \$156,076 |

3.2.4. Northern Territory

Figure 4: 2020 snapshot of strata insurance



In 2020, 460 NT OCs paid \$3.69 million in strata insurance premiums, \$780 thousand in duties and taxes and claimed \$740 thousand (based on 71 claims). Overall, the total cost of insurance payable by these OCs was approximately \$4.5 million. Breaking these statistics down further, 21.14% of premiums were paid to territory and federal governments and include territory-imposed duties (\$400 thousand), and GST (\$380 thousand).

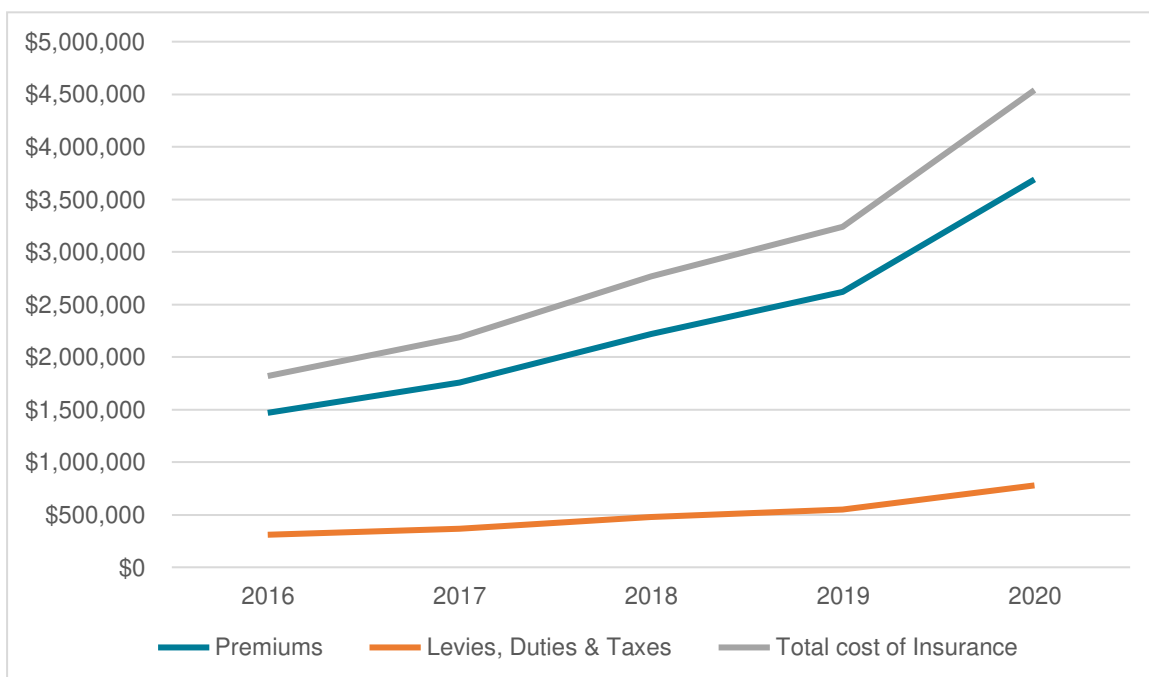
3.2.4.1. NT strata insurance analysis

The number of policies written, the total premium amounts, the total duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 21. The number of policies written by strata insurers increased from 291 policies in 2016 to 460 in 2020. The total premiums increased in that same period from approximately \$1.47 million to \$3.69 million, an overall period increase averaging 26%. Similarly, the total duties and taxes increased at the same rate, from approximately \$310 thousand in 2016 to \$780 thousand in 2020. The rate that premium and taxes increased also aligns with the increase in the total insurance costs, from approximately \$1.82 million in 2016 to \$4.54 million in 2020. Graph 27, provides a visual representation of the information contained in Table 21.

Table 21: NT policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|-------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 460 | 18.25% | \$3,690 | 40.84% | \$780 | 41.82% | \$4,540 | 40.12% |
| 2019 | 389 | -9.74% | \$2,620 | 18.02% | \$550 | 14.58% | \$3,240 | 16.97% |
| 2018 | 431 | 19.72% | \$2,220 | 26.14% | \$480 | 29.73% | \$2,770 | 26.48% |
| 2017 | 360 | 23.71% | \$1,760 | 19.73% | \$370 | 19.35% | \$2,190 | 20.33% |
| 2016 | 291 | - | \$1,470 | - | \$310 | - | \$1,820 | - |

Graph 27: NT strata insurance for the period 2016 - 2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 22. The average premium increased from \$5,051.55 in 2016 to \$8,021.74 in 2020, representing an overall period increase of 13%. Similarly, the total cost of insurance increased on average from \$6,254 to \$9,869 over the same period. However, there were significant increases in 2019 and 2020 (averaging 25%).

Table 22: NT average premiums and insurance costs based on policy counts for the period 2016 - 2020

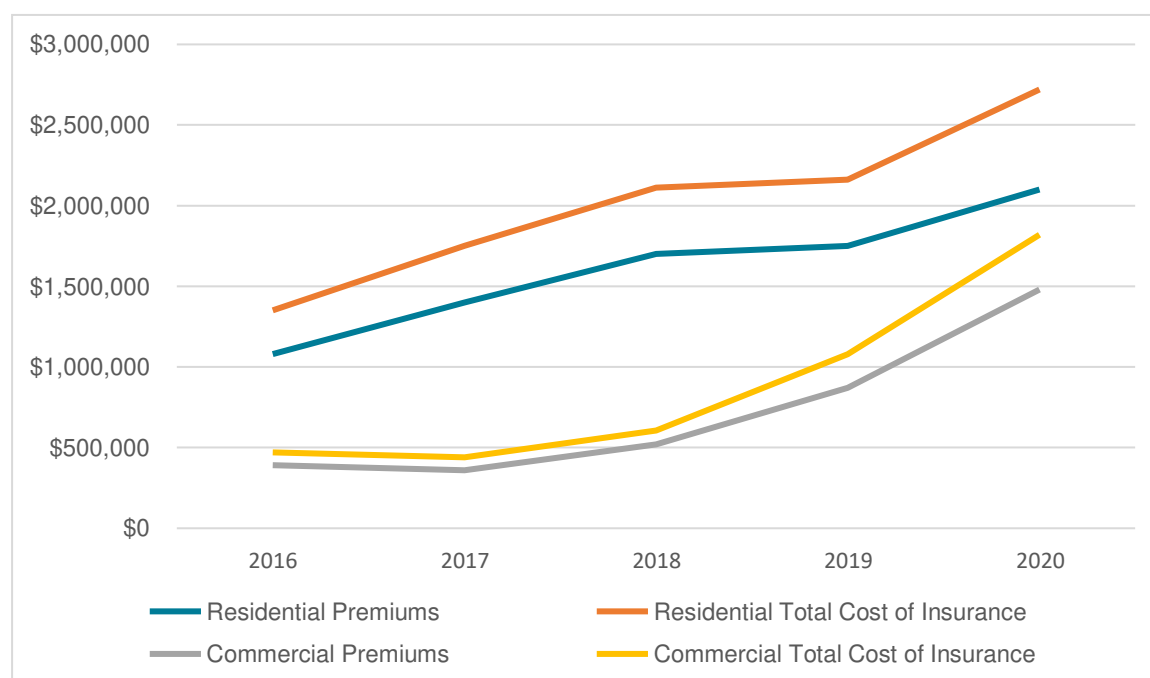
| Year | Policy count | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average cost based on policy count | Change |
|------|--------------|-----------------------|---------------------------------------|--------|------------------------------|------------------------------------|--------|
| 2020 | 460 | \$3,690 | \$8,021.74 | 19.10% | \$4,540 | \$9,869.56 | 18.49% |
| 2019 | 389 | \$2,620 | \$6,735.22 | 30.76% | \$3,240 | \$8,329.05 | 29.60% |
| 2018 | 431 | \$2,220 | \$5,150.81 | 5.36% | \$2,770 | \$6,426.91 | 5.65% |
| 2017 | 360 | \$1,760 | \$4,888.89 | -3.22% | \$2,190 | \$6,083.33 | -2.73% |
| 2016 | 291 | \$1,470 | \$5,051.55 | - | \$1,820 | \$6,254.29 | - |

As highlighted in Table 23, residential policies increased from 332 in 2016 to 375 in 2020. Similarly, commercial policies increased from 29 in 2016 to 93 in 2020. Residential premiums increased from approximately \$1.08 million in 2016 to approximately \$2.1 million in 2020. Commercial premiums increased from approximately \$390 thousand to \$1.48 million in the same period. Graph 28 is a visual representation of the data in Table 23.

Table 23: NT comparison of residential and commercial strata insurance data for the period 2016 - 2020

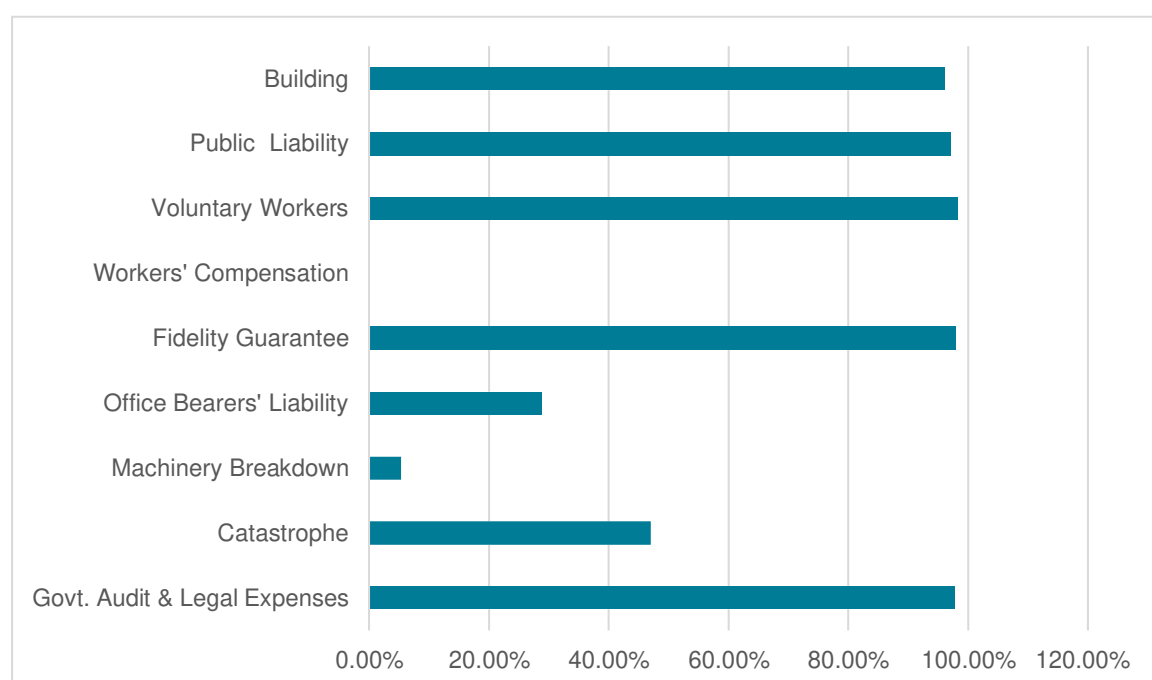
| Year | Policy count | Residential | | Policy count | Commercial | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| | | Total premiums ('000) | Total cost of insurance ('000) | | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 375 | \$2,100 | \$2,720 | 93 | \$1,480 | \$1,820 |
| 2019 | 314 | \$1,750 | \$2,160 | 81 | \$870 | \$1,080 |
| 2018 | 379 | \$1,700 | \$2,110 | 55 | \$520 | \$600 |
| 2017 | 342 | \$1,400 | \$1,750 | 32 | \$360 | \$440 |
| 2016 | 332 | \$1,080 | \$1,350 | 29 | \$390 | \$470 |

Graph 28: NT residential v commercial strata insurance for the period 2016 - 2020



Graph 29 provides an overview of the percentage of various policy types taken up by OCs in the NT in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses were taken up by nearly 100% of all OCs. Office bearers' liability was taken up by approximately 29% of OCs, catastrophe cover by approximately 47%, and machinery breakdown cover by 5%. Workers' compensation insurance data was not provided for this report.

Graph 29: NT policy cover for the period 2016 - 2020



The claims data outlined in Table 24, illustrate again the fluctuating nature of claims. Since 2016, the number of claims across the NT steadily increased from 74 to 109 in 2018 and then reverted to 71 claims in 2020. A similar distribution can be seen in relation to the total cost of claims. With \$270 thousand paid out in 2016, \$1.09 million in 2018 and \$740 thousand in 2020. The 2018 increase corresponds with severe storm activity in the region.

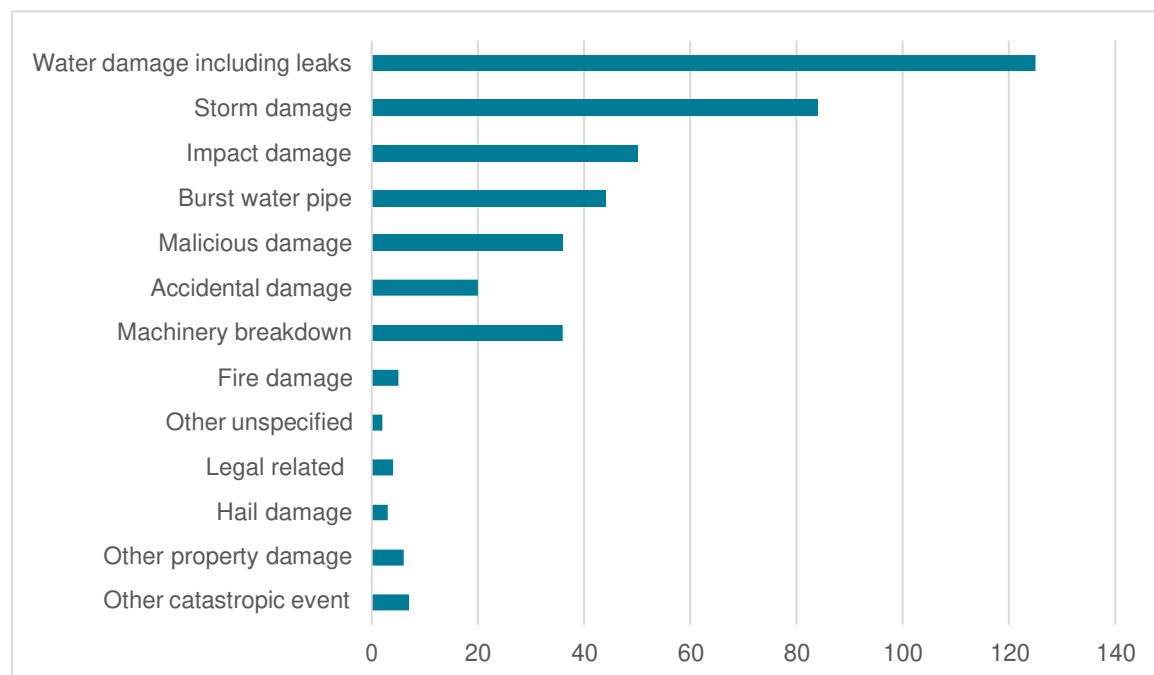
Table 24: NT total number and cost of claims for the period 2016 - 2020

| Year | No. of claims | Claims increase | Total claims paid ('000) | Claims increase | Total claims costs ('000) | Claims increase |
|------|---------------|-----------------|--------------------------|-----------------|---------------------------|-----------------|
| 2020 | 71 | -1.39% | \$410 | -21.15% | \$740 | 10.45% |
| 2019 | 72 | -33.94% | \$ 520 | -52.29% | \$ 670 | -38.53% |
| 2018 | 109 | 14.74% | \$1,090 | 101.85% | \$1,090 | 101.85% |
| 2017 | 95 | 26.66% | \$ 540 | 45.95% | \$ 540 | 45.95% |
| 2016 | 75 | - | \$ 370 | - | \$ 370 | - |

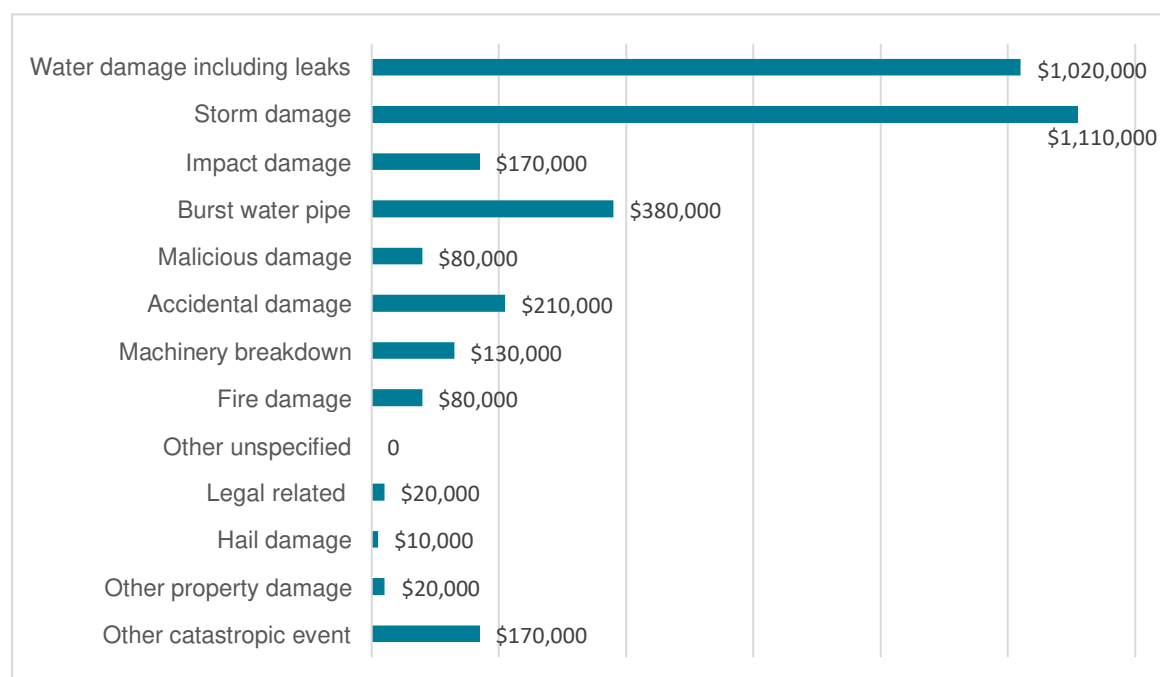
Graph 30 and Graph 31 highlight the total claims by loss cause and the total cost of claims by loss cause in the NT over the 2016 to 2020 period. Water damage including leaks, storm damage, impact damage, burst water pipes, machinery breakdown and malicious damage made up the top six most prevalent loss causes in this period. Storm damage (approximately \$1.11 million) followed by water damage (\$1.02 million), were the costliest claims for that

period. The extreme weather events in 2018 were the contributor to the claims relating to storm damage.

Graph 30: NT total claims by loss cause for the period 2016 - 2020



Graph 31: NT total claims costs by loss cause for the period 2016 - 2020



Breaking the NT strata insurance data down further, the following section highlights strata insurance information by CRESTA zones (CZ). There are three Cresta Zones in the NT. Table 25 outlines the zone identifier, zone name and corresponding key postcodes and suburbs.

Table 25: NT CRESTA zone information

| Zone ID | Zone name | Key postcodes | Key suburbs in zone | No. of strata schemes | No. of strata lots |
|---------|--------------|---------------|---------------------|-----------------------|--------------------|
| 16 | North NT | 0850 | Katherine | 321 | 2,678 |
| 17 | Darwin | 0800, 0810 | Darwin | 1,366 | 16,914 |
| 18 | Remainder NT | 0870 | Alice Springs | 378 | 2,628 |

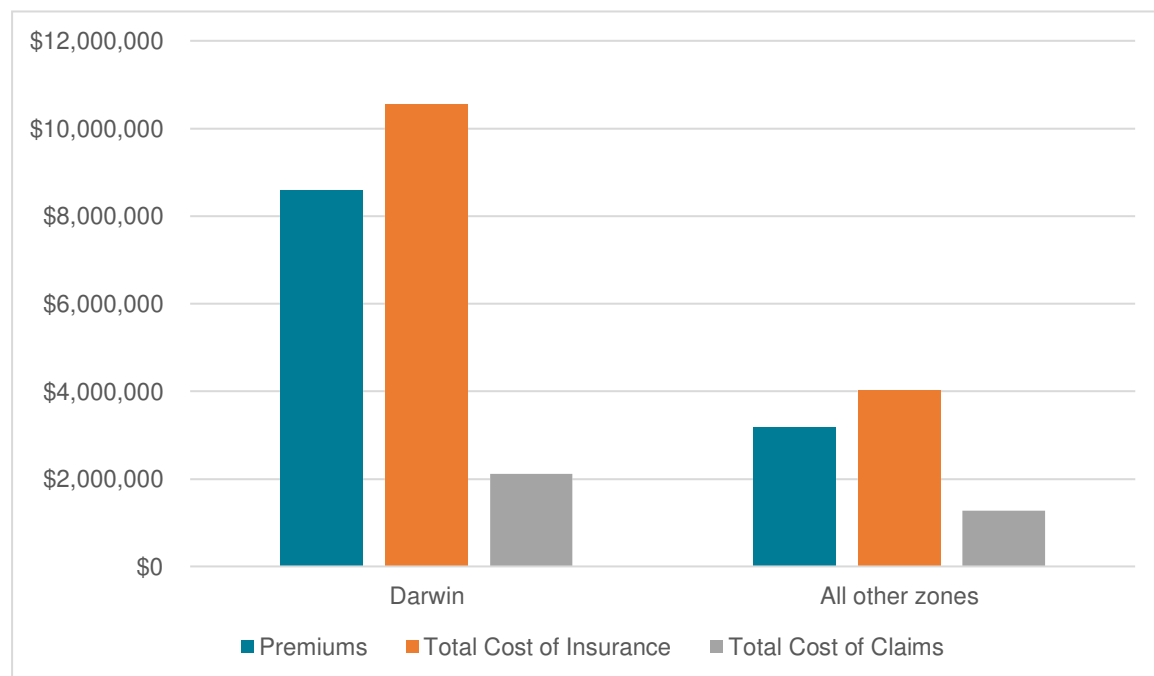
The CRESTA zone in the NT with the highest number of strata schemes is highlighted in grey in Table 26 and is Darwin with 1,366 strata schemes.

Table 26: NT strata scheme breakdowns by CRESTA zones for 2020

| CRESTA zone | Total schemes | Total schemes no. lots < 6 | Total schemes no. lots >=6 <=20 | Total schemes no. lots >=21 <=50 | Total schemes no. lots >=51 <=100 | Total schemes no. lots >100 |
|--------------|---------------|----------------------------|---------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| 16 | 434 | 293 | 119 | 14 | 7 | 1 |
| 17 | 1,966 | 1,186 | 606 | 122 | 34 | 18 |
| 18 | 495 | 342 | 133 | 15 | 4 | 1 |
| Total | 2,895 | 1,821 | 858 | 151 | 45 | 20 |

Graph 32 highlights the strata insurance costs of the Darwin CRESTA zone and all other zones combined for the 2016 to 2020 period. OCs in Darwin incurred \$8.59 million in premium costs for that period, over \$10 million in insurance costs and \$2.12 million in total claims costs. OCs in all other NT areas incurred \$3.17 million in premiums, \$4.03 in total insurance costs and \$1.28 million in claims costs.

Graph 32: NT strata insurance costs by key CRESTA zones for the period 2016 - 2020



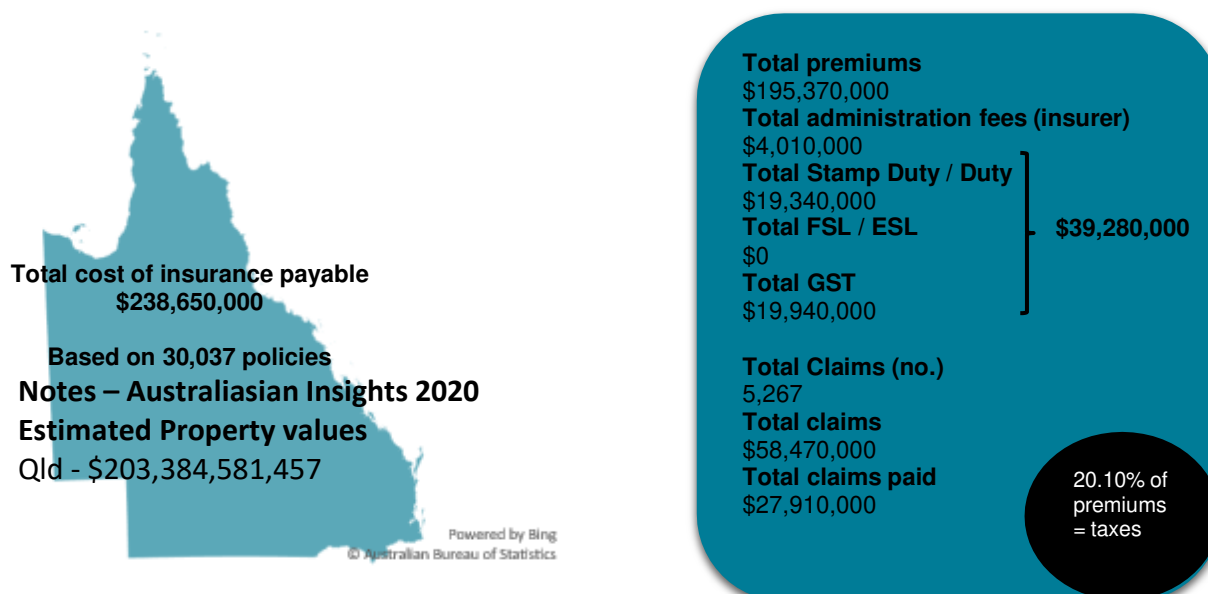
Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the NT strata population are outlined in Table 27. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 27 are over-estimated. Care should be taken when referencing these figures.

Table 27: Estimated costs of insurance and claims for the period 2016 – 2020 of the NT strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total duties and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims costs ('000) |
|------|--------------------------|-----------------------|-------------------------------|------------------------------|---------------|---------------------------|
| 2020 | 2,895 | \$23,223 | \$4,909 | \$28,572 | 447 | \$4,657 |
| 2019 | 2,874 | \$19,357 | \$4,063 | \$23,938 | 532 | \$4,950 |
| 2018 | 2,853 | \$14,695 | \$3,177 | \$18,336 | 722 | \$7,215 |
| 2017 | 2,832 | \$13,845 | \$2,911 | \$17,228 | 747 | \$4,248 |
| 2016 | 2,811 | \$14,200 | \$2,995 | \$17,581 | 724 | \$3,574 |

3.2.5. Queensland

Figure 5: 2020 snapshot of strata insurance



In 2020, 30,037 Qld OCs paid over \$195 million in strata insurance premiums, over \$39 million in duties, levies and taxes and claimed over \$58 million (based on 5,267 claims). Overall, the total cost of insurance payable by these OCs was approximately \$239 million. Breaking these statistics down further, 20.10% of premiums were paid to state and federal governments and include state-imposed duties (approximately \$19 million) and the federally imposed GST (approximately \$20 million). There is one postcode in Qld that, if applicable, attracts the tier A

TIL. This postcode includes Brisbane, Spring Hill and Petrie Terrace. There are number of other Qld locations that attract tier B and C TIL.

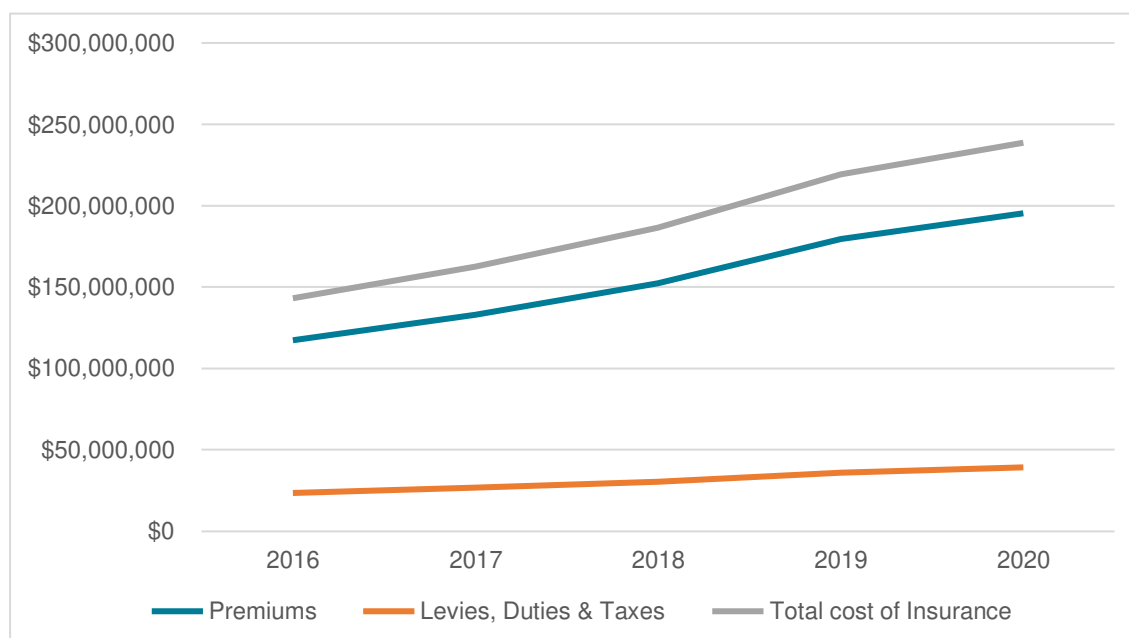
3.2.5.1. Qld strata insurance analysis

The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 28. The number of policies written by strata insurers increased from 26,799 in 2016 to 30,037 in 2020, with increases ranging from 0.50% to 6.78%. The total premiums increased in that same period from approximately \$117 million to \$195 million, an overall period increase averaging 14%. The total levies, duties and taxes increased at the same rate from approximately \$23.59 million in 2016 to \$39.28 million in 2020. The rate the premiums and taxes increased also aligned with the increase in the total insurance costs, from approximately \$143 million in 2016 to over \$238 million in 2020. Graph 33, provides a visual representation of the information contained in Table 28.

Table 28: Qld policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 30,037 | 1.76% | \$195,370 | 8.82% | \$39,280 | 8.84% | \$238,650 | 8.79% |
| 2019 | 29,516 | 0.50% | \$179,530 | 17.88% | \$36,090 | 17.83% | \$219,360 | 17.73% |
| 2018 | 29,370 | 2.63% | \$152,300 | 14.59% | \$30,630 | 14.50% | \$186,320 | 14.64% |
| 2017 | 28,616 | 6.78% | \$132,910 | 13.21% | \$26,750 | 13.39% | \$162,530 | 13.55% |
| 2016 | 26,799 | - | \$117,400 | - | \$23,590 | - | \$143,140 | - |

Graph 33: Qld strata insurance for the period 2016 - 2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 29. The average premium increased from \$4,380 in 2016 to \$6,504 in 2020, representing an overall period increase of 10.48%. Similarly, the total cost of insurance increased on average from \$5,341 to \$7,945 over the same period. The average

premium and total cost of insurance based on policy counts is higher in Qld than the national average by approximately \$1,500.

Table 29: Qld average premiums and insurance costs based on policy counts for the period 2016 - 2020

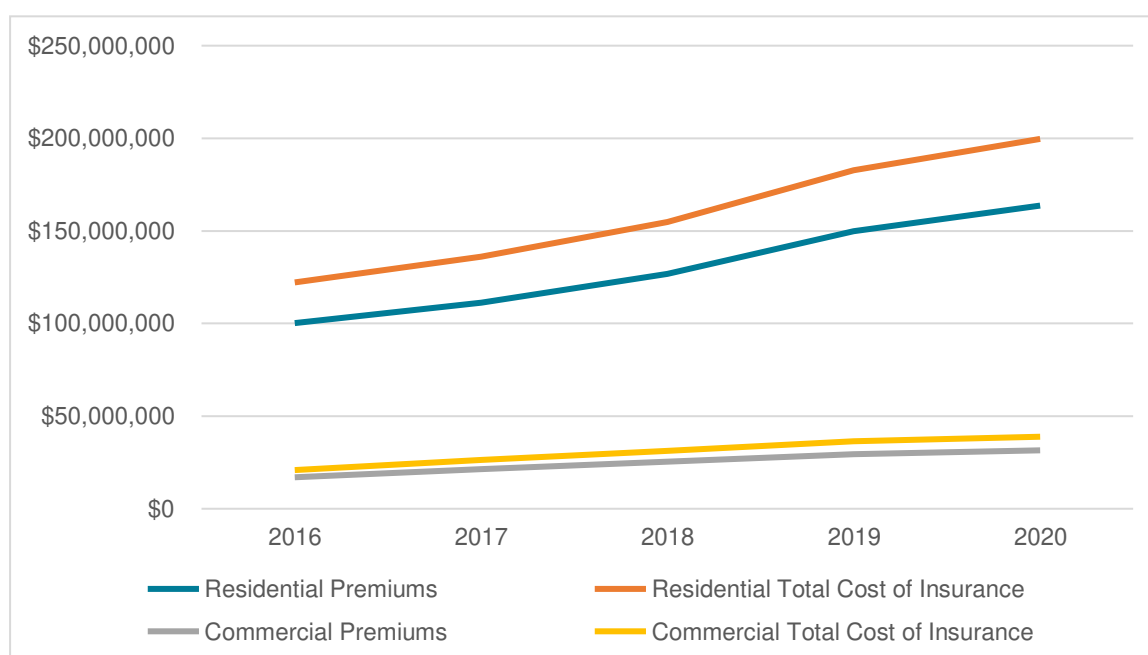
| Years | Policy count | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average cost based on policy count | Change |
|-------|--------------|-----------------------|---------------------------------------|--------|------------------------------|------------------------------------|--------|
| 2020 | 30,037 | \$195,370 | \$6,504.31 | 6.93% | \$238,650 | \$7,945.20 | 6.91% |
| 2019 | 29,516 | \$179,530 | \$6,082.46 | 17.30% | \$219,360 | \$7,431.90 | 17.15% |
| 2018 | 29,370 | \$152,300 | \$5,185.56 | 11.65% | \$186,320 | \$6,343.88 | 11.69% |
| 2017 | 28,616 | \$132,910 | \$4,644.60 | 6.03% | \$162,530 | \$5,679.69 | 6.33% |
| 2016 | 26,799 | \$117,400 | \$4,380.76 | - | \$143,140 | \$5,341.24 | - |

As highlighted in Table 30, residential policies increased from 23,443 in 2016 to 25,209 in 2020. Similarly, commercial policies increased from 3,356 in 2016 to 4,828 in 2020. Residential premiums increased from approximately \$100 million in 2016 to approximately \$1.64 million in 2020. Commercial premiums increased from approximately \$17 million to \$32 million in the same period. Graph 34 is a visual representation of the data in Table 30.

Table 30: Qld comparison of residential and commercials strata insurance for the period 2016 - 2020

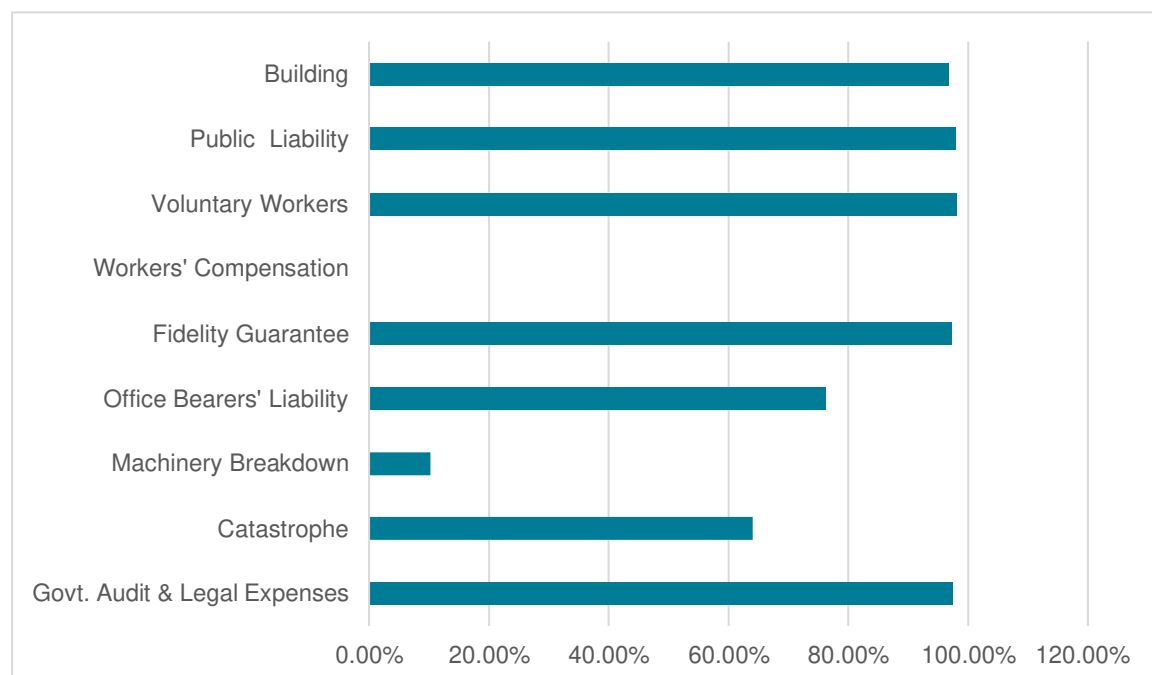
| Year | Policy count | Residential | | Policy count | Commercial | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| | | Total premiums ('000) | Total cost of insurance ('000) | | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 25,209 | \$163,740 | \$199,710 | 4,828 | \$31,630 | \$38,940 |
| 2019 | 24,834 | \$149,880 | \$182,820 | 4,682 | \$29,650 | \$36,540 |
| 2018 | 24,989 | \$126,820 | \$154,920 | 4,381 | \$25,480 | \$31,400 |
| 2017 | 24,684 | \$111,490 | \$136,220 | 3,932 | \$21,420 | \$26,350 |
| 2016 | 23,443 | \$100,330 | \$122,220 | 3,356 | \$17,070 | \$20,920 |

Graph 34: Qld residential v commercial strata insurance for the period 2016 – 2020



Graph 35 provides an overview of the percentage of various policy types taken up by OCs in Qld in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses were taken up by nearly 100% of all OCs. Office bearers' liability is taken up by approximately 76% of OCs, catastrophe cover by approximately 64%, and machinery breakdown cover by 10%. Workers' compensation insurance data was not provided for in this report and is administered by Workcover.

Graph 35: Qld policy cover for the period 2016 - 2020



The claims data outlined in Table 31, illustrate again the fluctuating nature of claims. The number of claims across Qld rose slightly in 2017 (7,507 claims) before slowly declining over subsequent years to 5,267 in 2020. The total cost of claims followed a similar trajectory, rising in 2017 to approximately \$147 million before sharply decreasing in 2018 and steadily decreasing over subsequent years to \$58 million in 2020. This dramatic increase in claims and claims cost in 2017 are likely attributable to damage cause as a result of Cyclone Debbie and a number of other storm-related events in early 2017.¹⁵

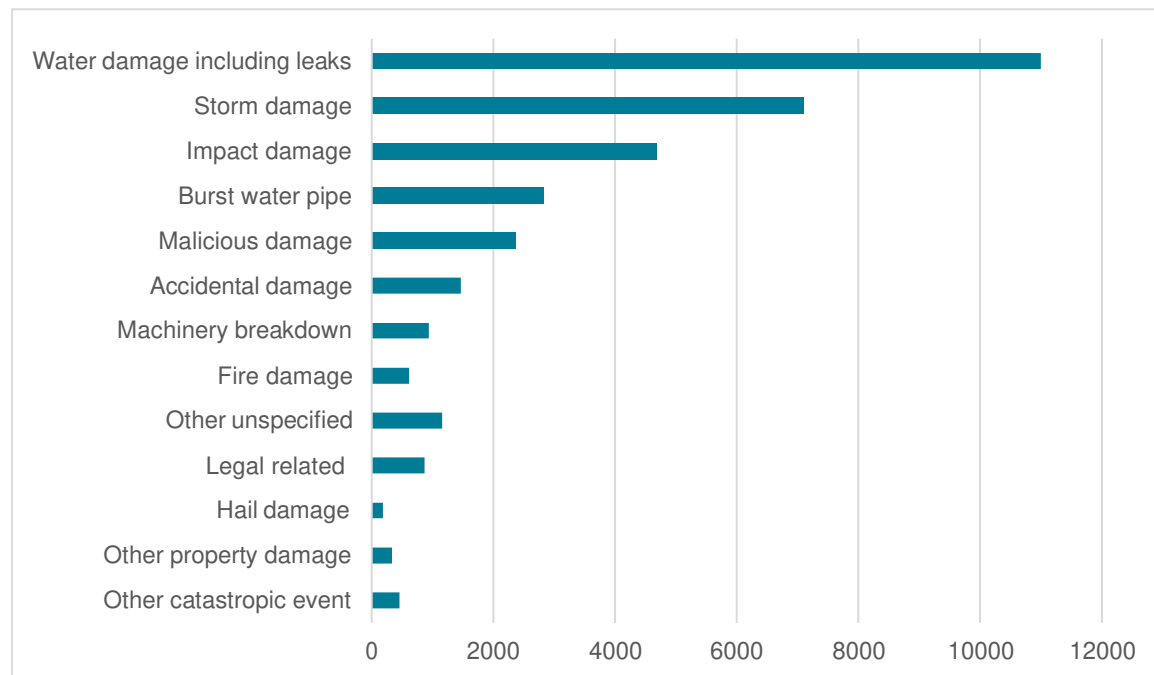
Table 31: Qld total number and cost of claims for the period 2016 - 2020

| Year | No. of claims | Claims increase | Total claims paid ('000) | Claims paid increase | Total claims costs ('000) | Claims costs increase |
|------|---------------|-----------------|--------------------------|----------------------|---------------------------|-----------------------|
| 2020 | 5,267 | -19.94% | \$27,910 | -50.24% | \$58,470 | -10.49% |
| 2019 | 6,579 | -10.57% | \$56,090 | -14.44% | \$65,320 | -5.89% |
| 2018 | 7,357 | -2.00% | \$65,560 | -51.56% | \$69,410 | -52.74% |
| 2017 | 7,507 | 3.05% | \$135,340 | 97.09% | \$146,870 | 89.80% |
| 2016 | 7,283 | - | \$68,670 | - | \$77,380 | - |

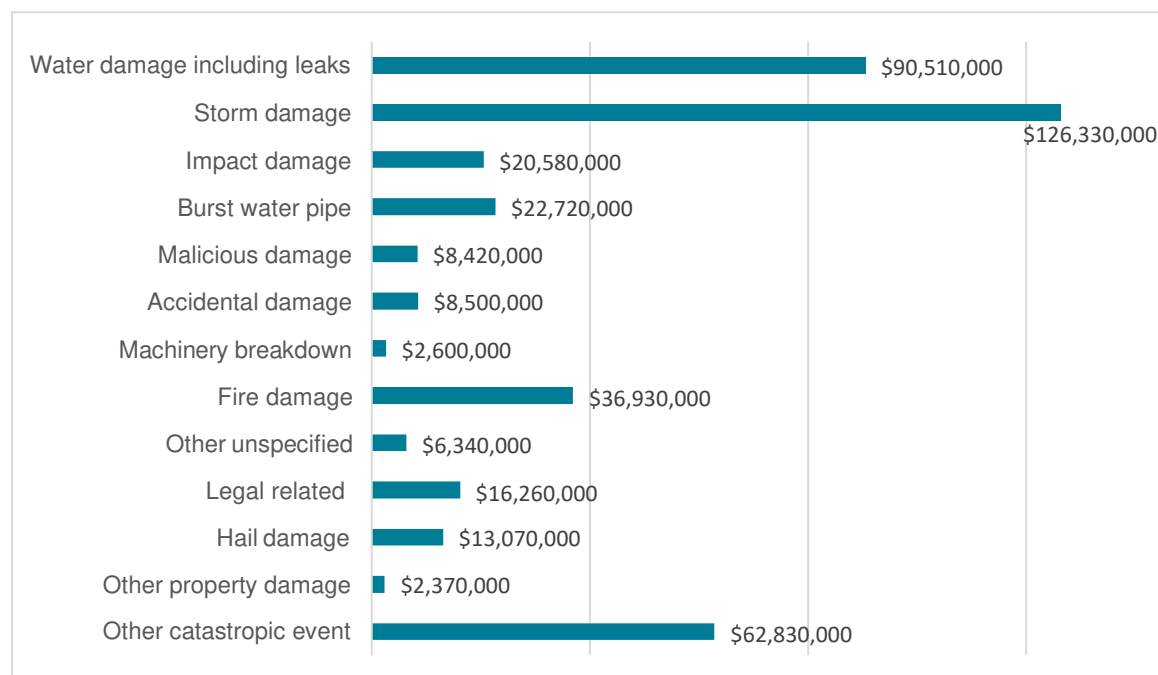
¹⁵ <https://www.disasterassist.gov.au/Pages/disasters/current-disasters/Australian-Capital-Territory/canberra-hailstorm-20012020.aspx>

Graph 36 and Graph 37, highlight the total claims by loss cause and the total cost of claims by loss cause in Qld over the 2016 to 2020 period. Water damage including leaks, storm damage, impact damage, burst water pipes and malicious damage make up the top five most prevalent loss causes in this period. Storm damage (over \$126 million) followed by water damage (over \$90 million), other catastrophic events (\$63 million) and fire damage (\$37 million) were the costliest claims for that period.

Graph 36: Qld total claims by loss cause for the period 2016 - 2020



Graph 37: Qld total claims costs by loss cause for the period 2016 – 2020



Breaking the Qld strata insurance data down further, the following section highlights strata insurance information by CRESTA zones (CZ). There are 15 Cresta zones in Qld. Table 32 outlines the zone identifier, zone name and corresponding key postcodes and suburbs.

Table 32: Qld CRESTA zone information

| Zone ID | Zone Name | Key Postcodes | Key Suburbs in Zone |
|---------|---------------------------------|------------------------------|---|
| 1 | Gold Coast | 4218, 4220, 4223, 4272 | Main Beach, Surfers Paradise, Broadbeach, Southport, Labrador |
| 2 | Brisbane | 4000, 4005, 4017, 4025, 4030 | Indooroopilly, Brisbane CBD, New Farm, Fortitude Valley |
| 3 | Sunshine Coast | 4551, 4557, 4566, 4573 | Noosaville, Peregian Springs, Mooloolaba |
| 4 | Wide Bay | 4570, 4650, 4655, 4670 | Gympie, Maryborough, Hervey Bay, Bundaberg |
| 5 | Rockhampton | 4680 | Gladstone |
| 6 | Marlborough | 4703 | Yeppoon |
| 7 | Mackay | 4740, 4737 | Sarina, Mackay |
| 8 | Proserpine and Offshore Islands | 4802, 4803 | Airlie Beach, Hamilton Island |
| 9 | Townsville | 4814 | Townsville |
| 10 | Ingham | 4849, 4854 | Cardwell, Tully |
| 11 | Cairns | 4860-61, 4865, 4868-70, 4873 | Cairns City, Innisfail, Port Douglas |
| 12 | Cape York | 4871 | Julatten |
| 13 | Fair Cape | 4874 | Weipa |
| 14 | Gulf | N/A | N/A |
| 15 | Inland QLD | 4350, 4380 | Toowoomba, Stanthorpe |

The CRESTA zones in Qld with the highest number of strata schemes are highlighted in grey in Table 33 and include, from highest scheme numbers: Brisbane (CZ: 2) with 18,291 schemes, Gold Coast (CZ: 1) with 13,194 schemes, and Sunshine Coast (CZ: 3) with 6,521 schemes. Due to the prevailing concerns regarding strata insurance in Far North Qld, strata schemes situated above the Tropic of Capricorn have been combined for analysis. CRESTA zones 5 to 13 (including: Rockhampton, Marlborough, Mackay, Proserpine and Offshore Islands, Townsville, Ingham, Cairns, Cape York and Fair Cape) have 6,896 strata schemes.

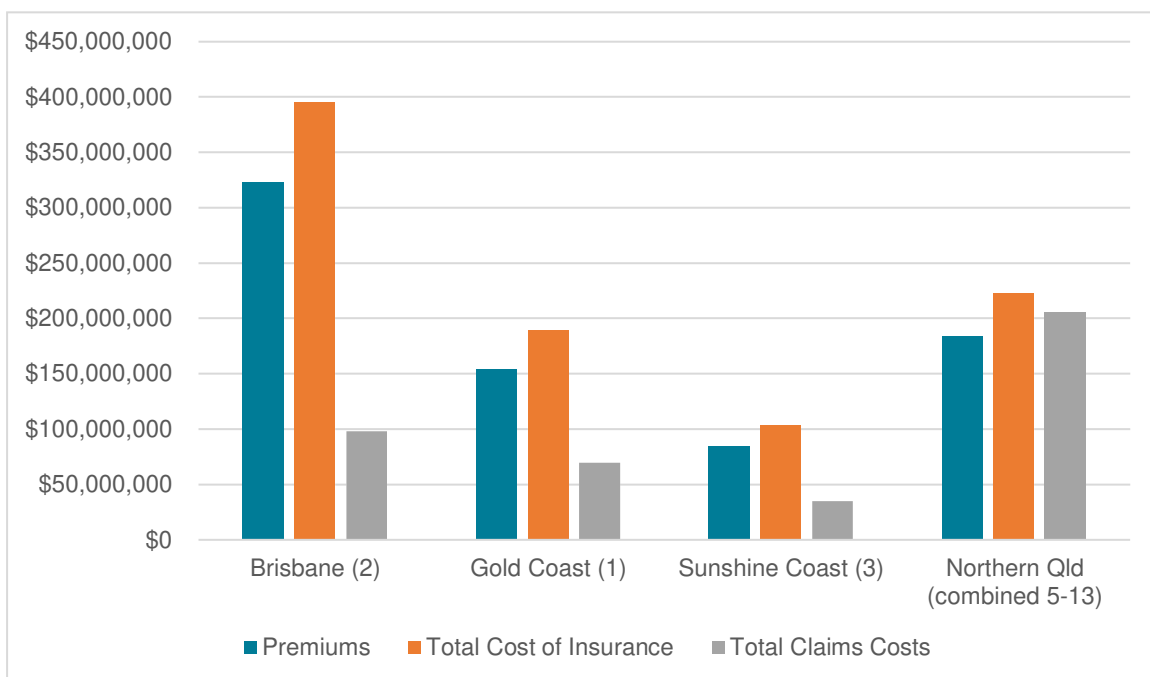
Table 33: Qld strata scheme breakdowns by CRESTA zones for 2020

| CRESTA zone | Total schemes | Total schemes no. lots < 6 | Total schemes no. lots >=6 <=20 | Total schemes no. lots >=21 <=50 | Total schemes no. lots >=51 <=100 | Total schemes no. lots >100 |
|-------------|---------------|----------------------------|---------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| 1 | 13,194 | 9,409 | 2,534 | 694 | 363 | 194 |
| 2 | 18,291 | 8,393 | 7,594 | 1,438 | 609 | 257 |
| 3 | 6,521 | 4,295 | 1,714 | 333 | 136 | 43 |
| 4 | 1508 | 1,062 | 374 | 59 | 8 | 5 |
| 5 | 613 | 401 | 168 | 30 | 11 | 3 |
| 6 | 483 | 370 | 94 | 12 | 6 | 1 |
| 7 | 1073 | 850 | 189 | 23 | 11 | 0 |
| 8 | 418 | 254 | 110 | 41 | 11 | 2 |
| 9 | 1707 | 1,085 | 491 | 68 | 38 | 25 |
| 10 | 139 | 93 | 40 | 5 | 0 | 1 |
| 11 | 2355 | 1,201 | 871 | 212 | 52 | 19 |
| 12 | 6 | 4 | 1 | 1 | 0 | 0 |
| 13 | 102 | 88 | 14 | 0 | 0 | 0 |
| 15 | 3430 | 2857 | 492 | 64 | 15 | 2 |

| | | | | | | |
|--------------|--------|--------|--------|-------|-------|-----|
| Total | 49,840 | 30,362 | 14,686 | 2,980 | 1,260 | 552 |
| 5-13 | 6,896 | 4346 | 1978 | 392 | 129 | 51 |

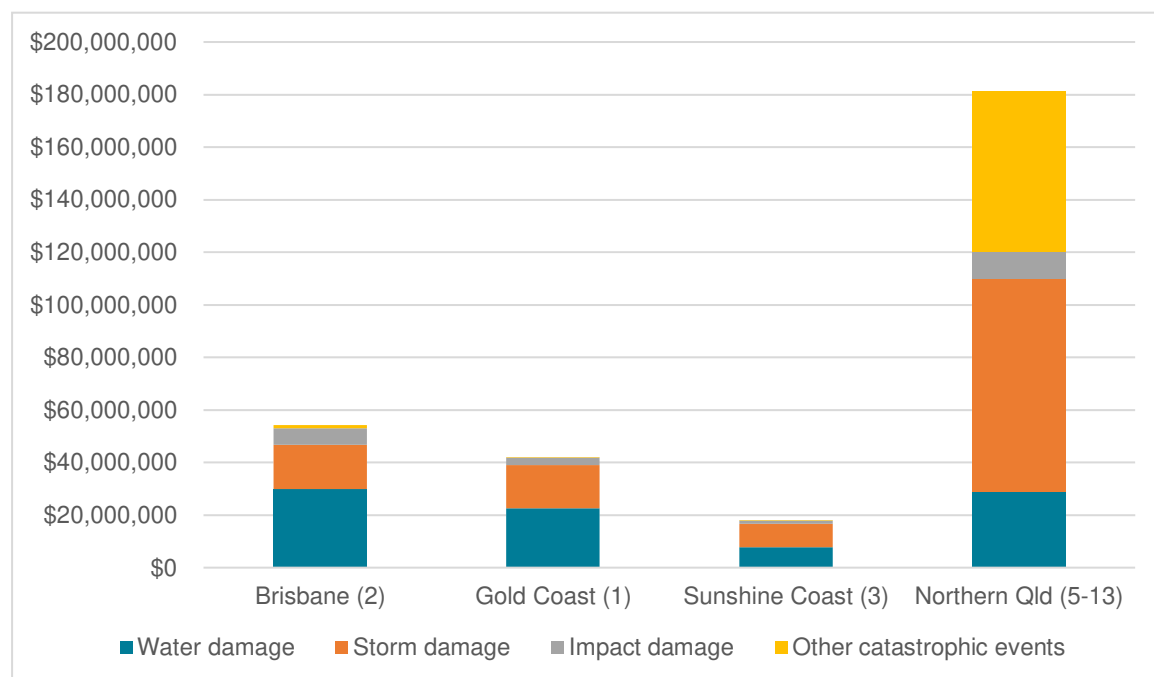
Graph 38 highlights the strata insurance costs of these key CRESTA zones for the 2016 to 2020 period. OCs in Brisbane incurred over \$322 million in premium costs for that period, nearly \$395 million in insurance costs and nearly \$100 million in total claims costs. OCs on the Gold Coast incurred over \$154 million in premium costs, \$190 million in insurance costs and \$70 million in claims costs. OCs on the Sunshine Coast incurred nearly \$84 million in premium costs, just over \$103 million in insurance costs and \$35 million in claims costs. The combined Northern Qld zones incurred nearly \$184 million in premiums, over \$222 million in total insurance costs and over \$205 million in claims costs. The Northern Qld zone is the only zone in Australia where the cost of claims over the five-year period exceeded the cost of premiums.

Graph 38: Qld strata insurance cost by key CRESTA zones for the period 2016 - 2020



Graph 39 highlights the claims cost by the highest loss causes by key CRESTA zones over the 2016 to 2020 period. This breakdown to CRESTA zone levels highlights the Northern Qld impacts compared to other zones in Qld that have similar numbers of schemes (e.g. Sunshine Coast) or significantly higher number of schemes (Brisbane and Gold Coast). Water, storm and other catastrophic event loss cause types are significant in Northern Qld.

Graph 39: Claims costs by highest loss causes by key Qld CRESTA zones for the period 2016 - 2020



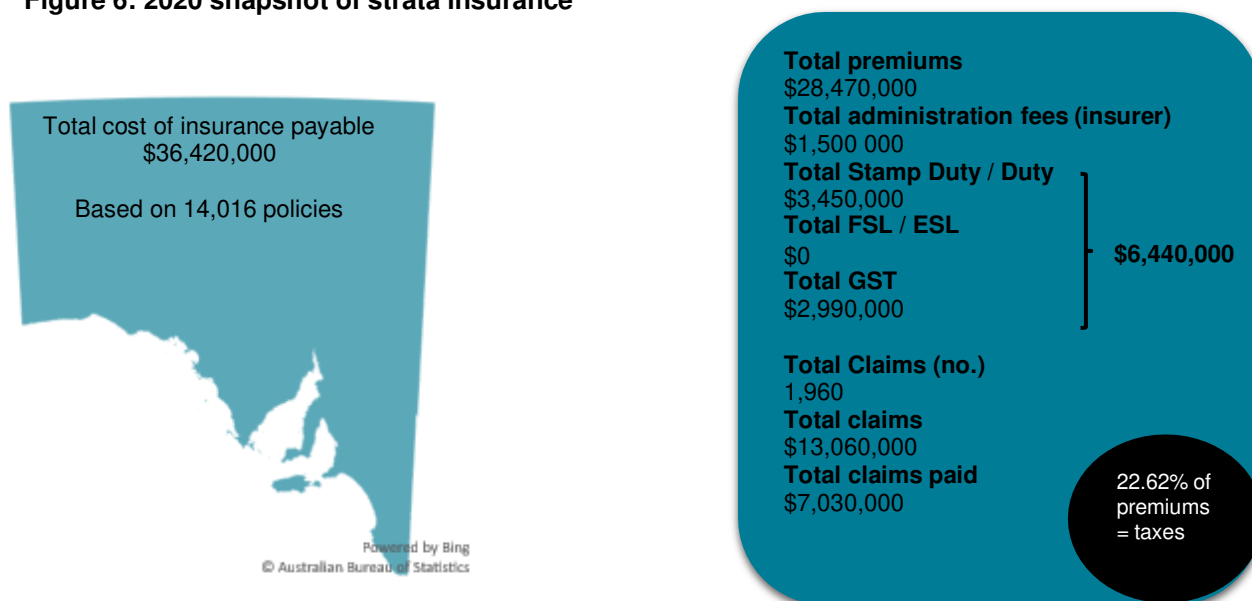
Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the Qld strata population are outlined in Table 34. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 34 are over-estimated. Care should be taken when referencing these figures.

Table 34: Estimated costs of insurance and claims for the period 2016 – 2020 of the Qld strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties, and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims costs ('000) |
|------|--------------------------|-----------------------|--|------------------------------|---------------|---------------------------|
| 2020 | 49,850 | \$324,240 | \$65,190 | \$396,068 | 8,741 | \$97,038 |
| 2019 | 48,967 | \$297,837 | \$59,873 | \$363,914 | 10,914 | \$108,365 |
| 2018 | 48,083 | \$249,337 | \$50,146 | \$305,033 | 12,044 | \$113,634 |
| 2017 | 47,200 | \$219,223 | \$44,122 | \$268,079 | 12,382 | \$242,249 |
| 2016 | 46,316 | \$202,899 | \$40,770 | \$247,385 | 12,587 | \$133,734 |

3.2.6. South Australia

Figure 6: 2020 snapshot of strata insurance



In 2020, 14,016 SA OCs paid over \$28 million in strata insurance premiums, nearly \$6.5 million in duties, levies and taxes and claimed over \$13 million (based on 1,960 claims). Overall, the total cost of insurance payable by these OCs was approximately \$36.42 million. Breaking these statistics down further, 22.62% of premiums were paid to state and federal governments and included state-imposed duties (approximately \$3.45 million), and GST (approximately \$3 million). There is one postcode in SA that, if applicable, attracts the Tier A TIL. This postcode includes Adelaide CBD and its close surrounding suburbs. There are number of other SA locations that attract Tier B and C TIL.

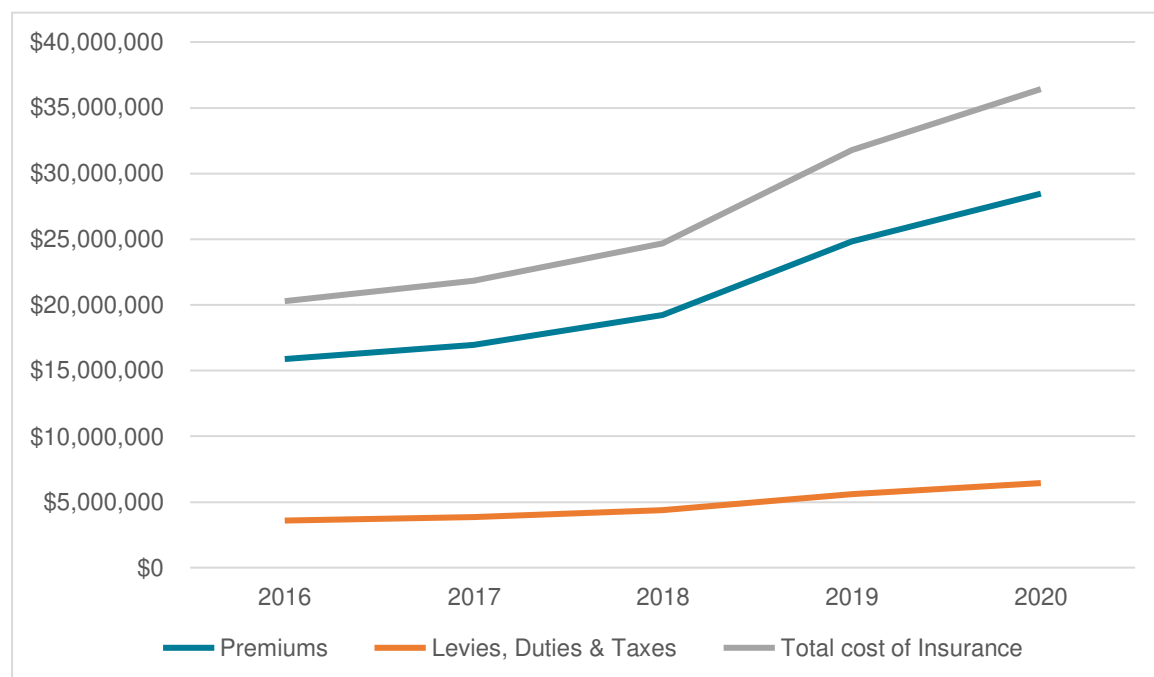
3.2.6.1. SA strata insurance analysis

The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 35. The number of policies written by strata insurers increased from 10,640 policies in 2016 to 14,016 in 2020, with increases ranging from 2.55% to 13.17%. The total premiums increased in that same period from approximately \$16 million to over \$28 million, an overall period increase averaging 7.23%. Similarly, the total levies, duties and taxes increased at the same rate from approximately \$3.59 million in 2016 to \$6.44 million in 2020. The rate the premiums and taxes increased also aligned with the increase in the total insurance costs, from approximately \$20 million in 2016 to \$36.42 million in 2020. Graph 40, provides a visual representation of the information contained in Table 35.

Table 35: SA policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 14,016 | 10.20% | \$28,470 | 14.66% | \$6,440 | 14.79% | \$36,420 | 14.67% |
| 2019 | 12,719 | 13.17% | \$24,830 | 29.05% | \$5,610 | 28.67% | \$31,760 | 28.74% |
| 2018 | 11,238 | 2.99% | \$19,240 | 13.44% | \$4,360 | 12.95% | \$24,670 | 13.06% |
| 2017 | 10,912 | 2.55% | \$16,960 | 6.73% | \$3,860 | 7.52% | \$21,820 | 7.59% |
| 2016 | 10,640 | - | \$15,890 | - | \$3,590 | - | \$20,280 | - |

Graph 40: SA strata insurance for the period 2016 - 2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 36. The average premium increased from \$1,493 in 2016 to \$2,031 in 2020, representing an overall period increase of 9.41%. Similarly, the total cost of insurance has on average increased from \$1,906 to \$2,598 over the same period. The average premium and total cost of insurance based on policy counts is significantly lower in SA compared with the national average by over \$1,300.

Table 36: SA average premiums and insurance costs based on policy counts for the period 2016 - 2020

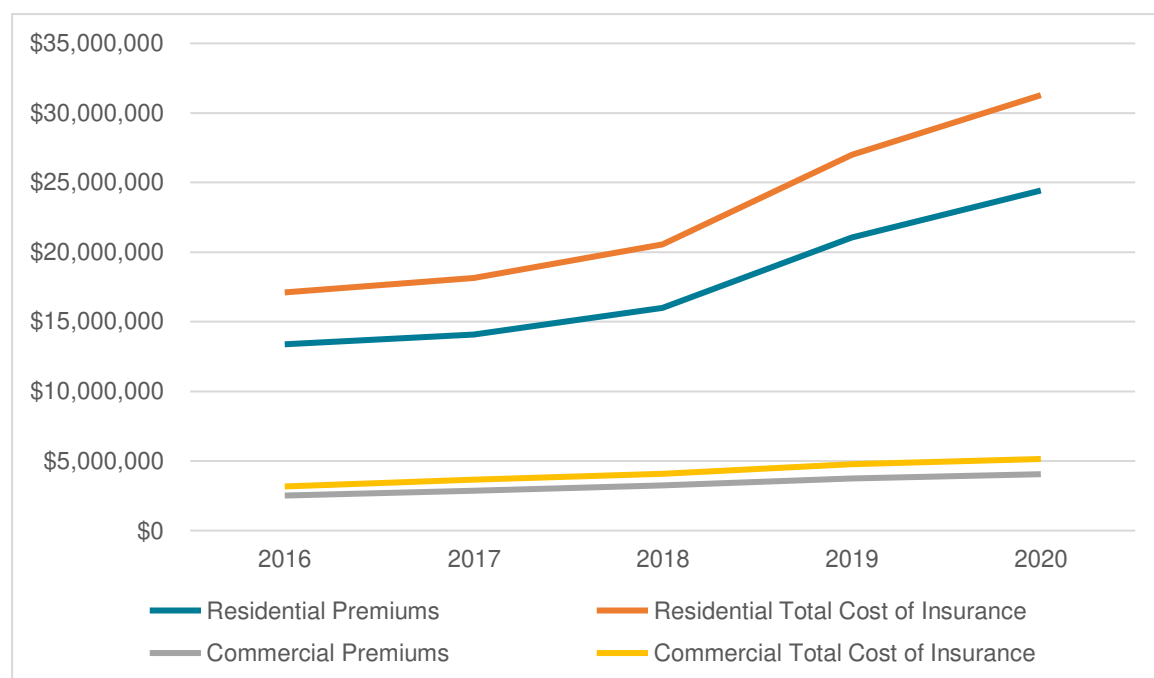
| Year | Policy count | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average cost based on policy count | Change |
|------|--------------|-----------------------|---------------------------------------|--------|------------------------------|------------------------------------|--------|
| 2020 | 14,016 | \$28,470 | \$2,031.25 | 4.05% | \$36,420 | \$2,598.46 | 4.06% |
| 2019 | 12,719 | \$24,830 | \$1,952.20 | 14.03% | \$31,760 | \$2,497.05 | 13.75% |
| 2018 | 11,238 | \$19,240 | \$1,712.05 | 10.15% | \$24,670 | \$2,195.23 | 9.78% |
| 2017 | 10,912 | \$16,960 | \$1,554.25 | 4.07% | \$21,820 | \$1,999.63 | 4.91% |
| 2016 | 10,640 | \$15,890 | \$1,493.42 | - | \$20,280 | \$1,906.02 | - |

As highlighted in Table 37, residential policies increased from 10,081 in 2016 to 13,260 in 2020. Similarly, commercial policies increased from 559 in 2016 to 756 in 2020. Residential premiums increased from approximately \$13 million in 2016 to approximately \$24 million in 2020. Commercial premiums increased from approximately \$2.5 million to \$4 million in the same period. Graph 41 is a visual representation of the data in Table 37.

Table 37: SA comparison of residential and commercial strata insurance data for the period 2016 - 2020

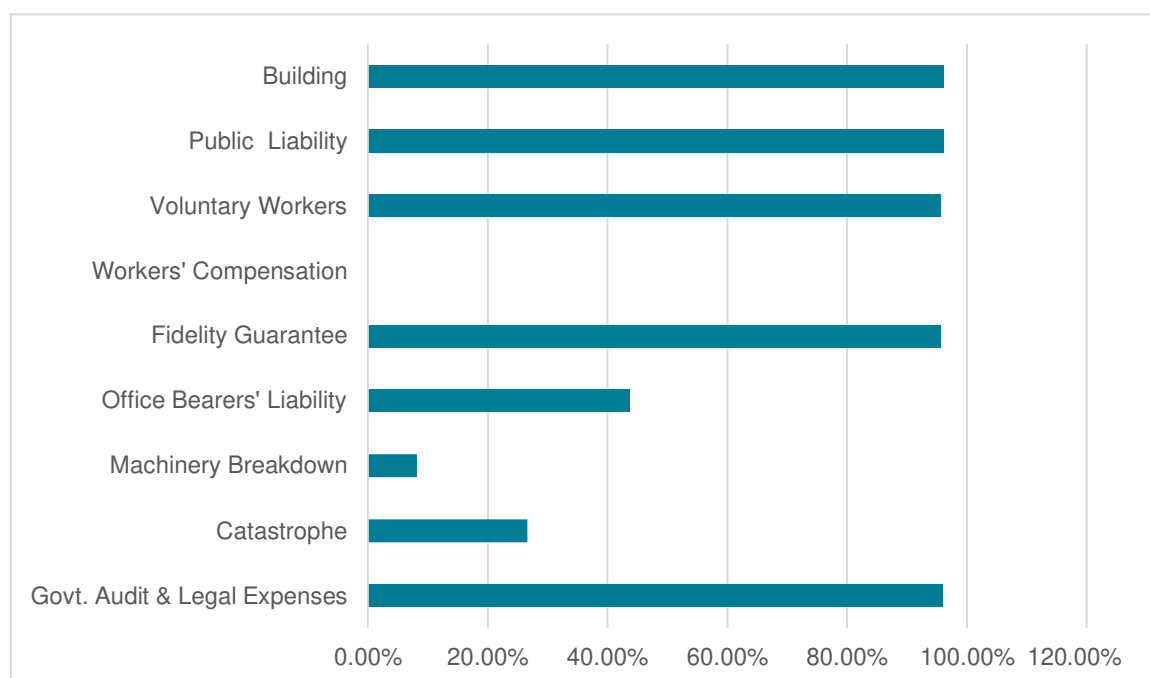
| Year | Policy count | Residential | | Policy count | Commercial | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| | | Total premiums ('000) | Total cost of insurance ('000) | | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 13,260 | \$24,430 | \$31,280 | 756 | \$4,040 | \$5,140 |
| 2019 | 11,993 | \$21,080 | \$27,000 | 726 | \$3,750 | \$4,760 |
| 2018 | 10,567 | \$16,010 | \$20,570 | 671 | \$3,230 | \$4,100 |
| 2017 | 10,296 | \$14,090 | \$18,160 | 616 | \$2,870 | \$3,660 |
| 2016 | 10,081 | \$13,380 | \$17,110 | 559 | \$2,510 | \$3,170 |

Graph 41: SA residential v commercial strata insurance for the period 2016 - 2020



Graph 42 provides an overview of the percentage of various policy types taken up by OCs in SA in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses were taken up by nearly 100% of all OCs. Office bearers' liability was taken up by approximately 44% of OCs, catastrophe cover by approximately 27%, and machinery breakdown cover by 8%. Workers' compensation insurance data was not provided for in this report.

Graph 42: SA policy cover for the period 2016 - 2020



The claims data outlined in Table 38, illustrate again the fluctuating nature of claims. The highest number of claims in the period was in 2016 with 3,339 and the lowest in 2020 with 1,960 claims. The total costs of claims didn't follow this trend with significant increases in 2019 and 2020 (\$10 million and \$13 million respectively). It is likely that the bushfires at the end of 2019 onward contributed to the high claims' costs in this period.¹⁶

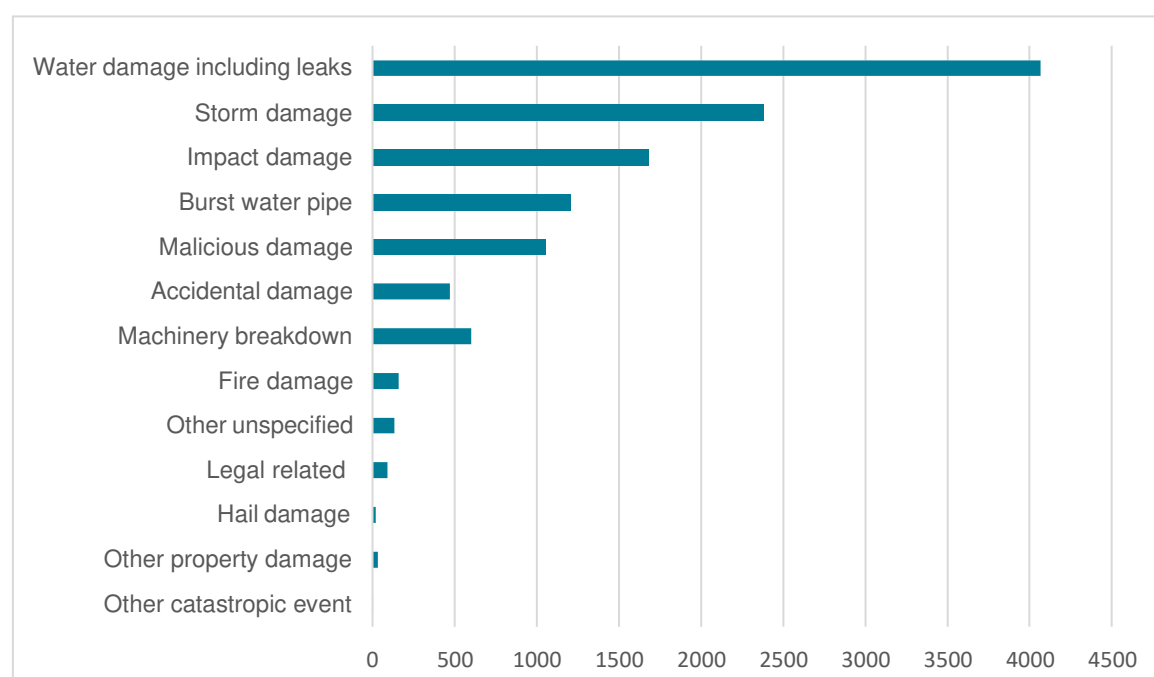
Table 38: SA total number and cost of claims for the period 2016 - 2020

| Year | No. of claims | Claims increase | Total claims paid ('000) | Claims paid increase | Total cost of claims ('000) | Cost of claims increases |
|------|---------------|-----------------|--------------------------|----------------------|-----------------------------|--------------------------|
| 2020 | 1,960 | -10.95% | \$7,030 | -25.29% | \$13,060 | 30.21% |
| 2019 | 2,201 | -1.12% | \$9,410 | 50.08% | \$10,030 | 47.28% |
| 2018 | 2,226 | 2.25% | \$6,270 | 16.54% | \$6,810 | 26.11% |
| 2017 | 2,177 | -34.80% | \$5,380 | -34.63% | \$5,400 | -35.41% |
| 2016 | 3,339 | - | \$8,230 | - | \$8,360 | - |

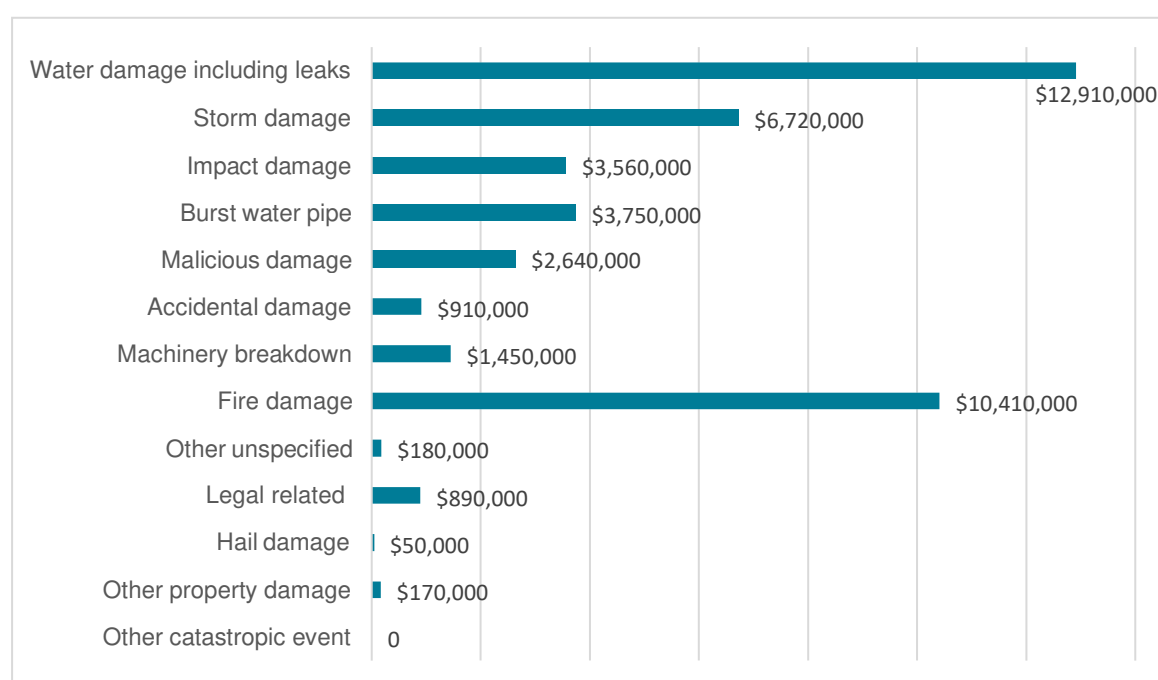
Graph 43 and Graph 44 highlight the total claims by loss cause and the total cost of claims by loss cause in SA over the 2016 to 2020 period. Water damage including leaks, storm damage, impact damage, burst water pipes and malicious damage made up the top five most prevalent loss causes in this period. Water damage (nearly \$13 million) followed by fire damage (over \$10 million), and storm damage (nearly \$7 million), were the costliest claims for that period.

¹⁶ <https://www.disasterassist.gov.au/Pages/disasters/current-disasters/South-Australia/Yorketown-bushfire-112019-onwards.aspx>

Graph 43: SA total number of claims for the period 2016 - 2020



Graph 44: SA total cost of claims for the period 2016 - 2020



Breaking the SA strata insurance data down further, the following section highlights strata insurance information by CRESTA zones (CZ). There are four Cresta zones in SA. Table 39 outlines the zone identifier, zone name and corresponding key postcodes and suburbs.

Table 39: SA CRESTA zone information

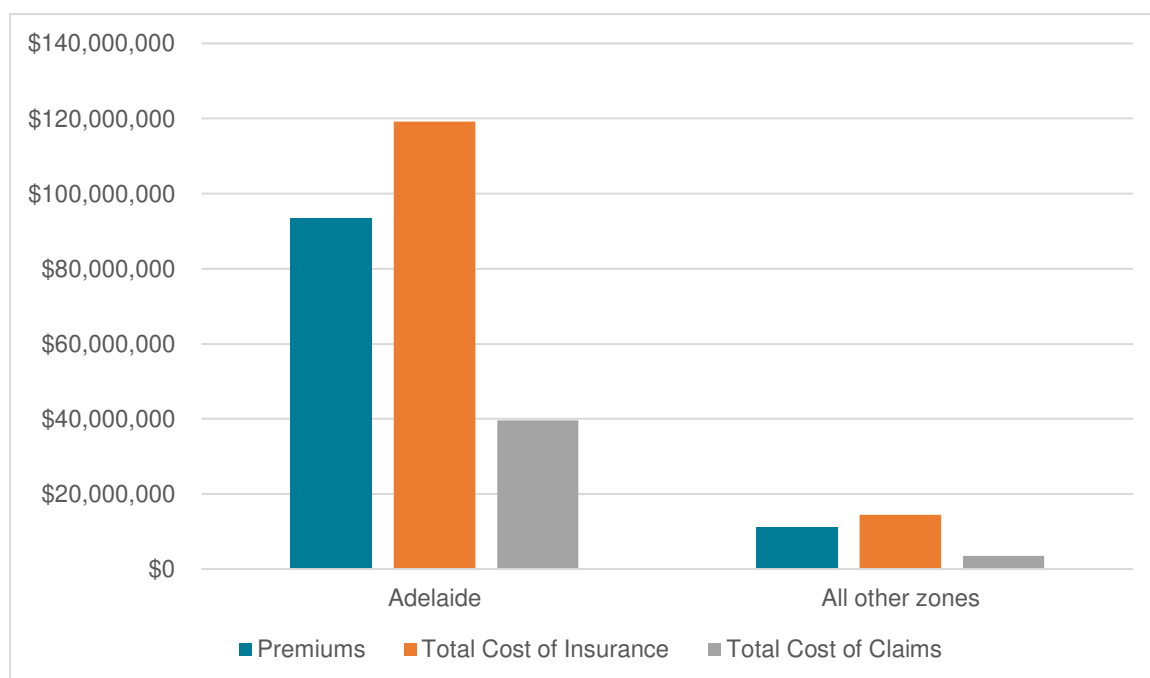
| Zone ID | Zone Name | Key Postcodes | Key Suburbs in Zone |
|---------|--------------------------------|------------------|-----------------------------------|
| 25 | Remainder SA | 5290 | Mount Gambier |
| 26 | East Eyre and York Peninsulas | 5606, 4553, 5700 | Port Lincoln, Clare, Port Augusta |
| 27 | Adelaide | 5000, 5045, 5031 | Glenelg, Adelaide |
| 28 | Adelaide Hills and South Coast | 5211 | Victor Harbour |

The CRESTA zone in SA with the highest number of strata schemes is Adelaide (highlighted in grey in table 40). The Adelaide zone has 18,819 strata schemes.

Table 40: SA strata scheme breakdowns by CRESTA zones for 2020

| CRESTA zone | Total schemes | Total schemes no. lots < 6 | Total schemes no. lots >=6 <=20 | Total schemes no. lots >=21 <=50 | Total schemes no. lots >=51 <=100 | Total schemes no. lots >100 |
|--------------|---------------|----------------------------|---------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| 25 | 958 | 735 | 203 | 16 | 2 | 2 |
| 26 | 1,318 | 984 | 295 | 30 | 5 | 4 |
| 27 | 18,819 | 13,216 | 5,069 | 421 | 67 | 46 |
| 28 | 1,419 | 1100 | 292 | 23 | 3 | 1 |
| Total | 22,514 | 16,035 | 5,859 | 490 | 77 | 53 |

Graph 45 highlights the strata insurance costs of the Adelaide CRESTA zone and all others combined for the 2016 to 2020 period. OCs in Adelaide incurred over \$93 million in premium costs for that period, over \$119 million in insurance costs and nearly \$40 million in total claims costs. All other combined OCs in SA incurred \$11 million in premiums, \$14.56 million in total insurance costs and \$3.62 million in claims costs.

Graph 45: SA strata insurance costs by key CRESTA zones the period 2016 - 2020

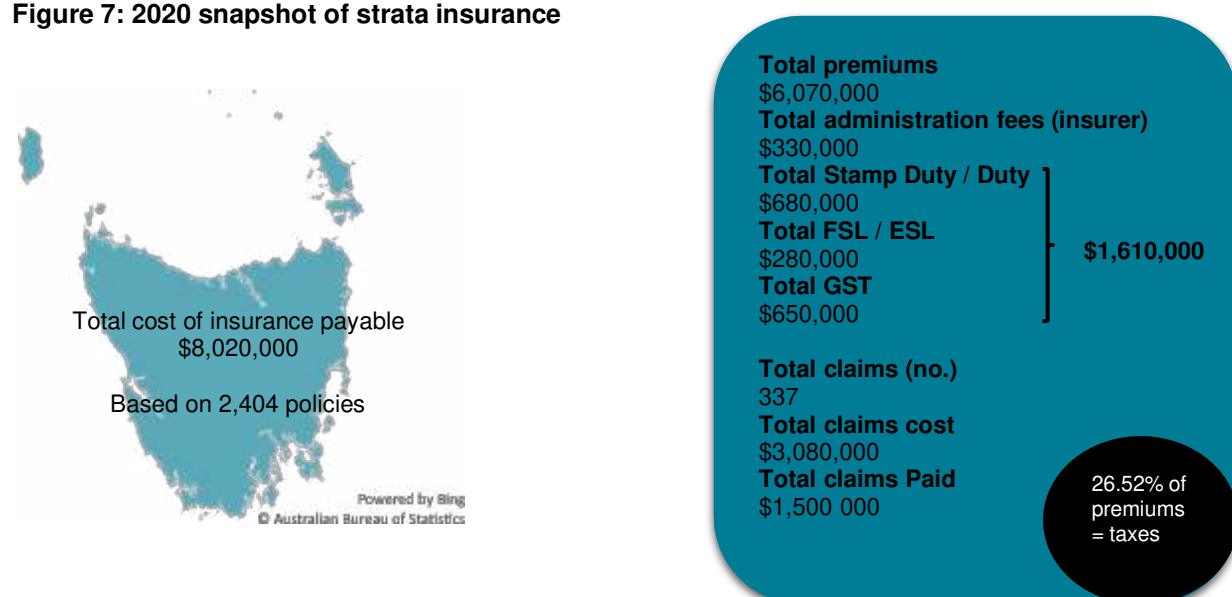
Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the SA strata population are outlined in Table 41. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 41 are over-estimated. Care should be taken when referencing these figures.

Table 41: Estimated costs of insurance and claims for the period 2016 – 2020 of the SA strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties, and taxes ('000) | Total insurance costs ('000) | No. of claims | Total cost of claims ('000) |
|------|--------------------------|-----------------------|--|------------------------------|---------------|-----------------------------|
| 2020 | 22,514 | \$45,734 | \$10,345 | \$58,504 | 3,149 | \$20,979 |
| 2019 | 22,067 | \$43,079 | \$9,733 | \$55,102 | 3,819 | \$17,402 |
| 2018 | 21,619 | \$37,013 | \$8,388 | \$47,459 | 4,282 | \$13,101 |
| 2017 | 21,171 | \$32,905 | \$7,489 | \$42,334 | 4,224 | \$10,477 |
| 2016 | 20,723 | \$30,948 | \$6,992 | \$39,498 | 6,503 | \$16,282 |

3.2.7. Tasmania

Figure 7: 2020 snapshot of strata insurance



In 2020, 2,404 Tas OCs paid over \$6 million in strata insurance premiums, over \$1.6 million in duties, levies and taxes and claimed over \$3 million (based on 337 claims). Overall, the total cost of insurance payable by these OCs was approximately \$8 million. Breaking these statistics down further, 26.52% of premiums were paid to various state and federal governments and include state-imposed duties (approximately \$680 thousand), FSL (approximately \$280 thousand) and GST (\$650 thousand).

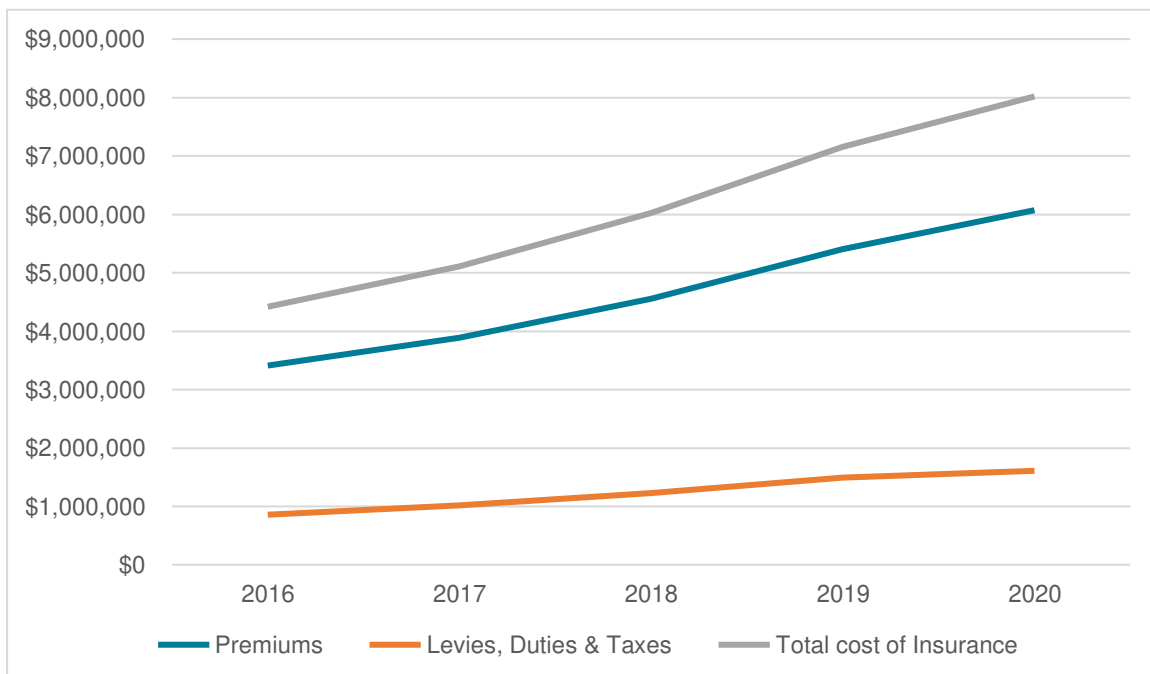
3.2.7.1. Tas strata insurance analysis

The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 42. The number of policies written by strata insurers increased from 2,020 policies in 2016 to 2,404 in 2020, with increases ranging from 2.08% to 5.89%. The total premiums increased in that same period from approximately \$3.4 million to \$6.07 million, an overall period increase averaging 15.5%. Similarly, the total levies, duties and taxes increased at the same rate, from approximately \$860 thousand in 2016 to \$1.6 million in 2020. The rate the premiums and taxes increased also aligned with the increase in the total insurance costs, from approximately \$4.42 million in 2016 to \$8.02 million in 2020. Graph 46, provides a visual representation of the information contained in Table 42.

Table 42: Tas policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 2,404 | 5.72% | \$6,070 | 12.41% | \$1,610 | 8.05% | \$8,020 | 12.01% |
| 2019 | 2,274 | 3.13% | \$5,400 | 18.67% | \$1,490 | 21.14% | \$7,160 | 18.94% |
| 2018 | 2,205 | 3.08% | \$4,550 | 16.97% | \$1,230 | 20.59% | \$6,020 | 17.81% |
| 2017 | 2,139 | 5.89% | \$3,890 | 14.08% | \$1,020 | 18.60% | \$5,110 | 15.61% |
| 2016 | 2,020 | - | \$3,410 | - | \$ 860 | - | \$4,420 | - |

Graph 46: Tas strata insurance for the period 2016 - 2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 43. The average premium increased from \$1,688 in 2016 to \$2,525 in 2020, representing an overall period increase of 10.65%. Similarly, the total cost of insurance has increased on average from \$2,188 to \$3,336 over the same period. The average premium and total cost of insurance based on policy counts is lower in Tas compared with the national average by approximately \$800 to \$1000.

Table 43: Tas average premiums and insurance costs based on policy counts for the period 2016 - 2020

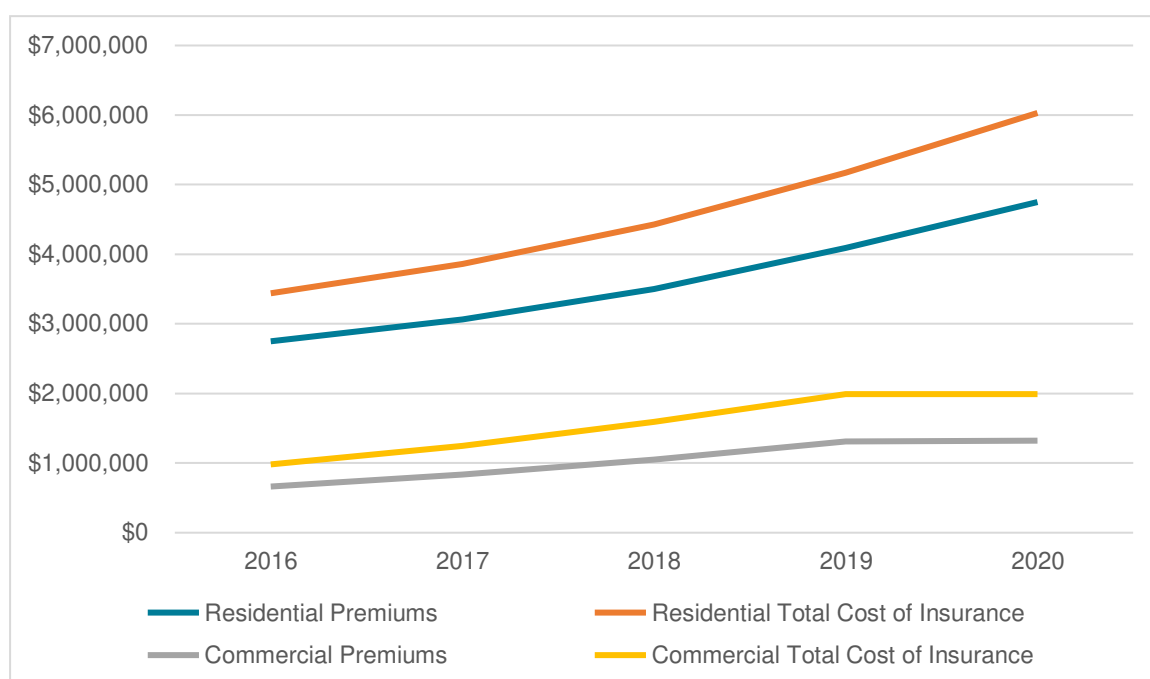
| Year | Policy count | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average cost based on policy count | Change |
|------|--------------|-----------------------|---------------------------------------|--------|------------------------------|------------------------------------|--------|
| 2020 | 2,404 | \$6,070 | \$2,524.96 | 6.33% | \$8,020 | \$3,336.11 | 5.95% |
| 2019 | 2,274 | \$5,400 | \$2,374.67 | 15.08% | \$7,160 | \$3,148.64 | 15.33% |
| 2018 | 2,205 | \$4,550 | \$2,063.49 | 13.46% | \$6,020 | \$2,730.16 | 14.28% |
| 2017 | 2,139 | \$3,890 | \$1,818.61 | 7.73% | \$5,110 | \$2,388.97 | 9.18% |
| 2016 | 2,020 | \$3,410 | \$1,688.12 | - | \$4,420 | \$2,188.12 | - |

As highlighted in Table 44, residential policies increased from 1,862 in 2016 to 2,182 in 2020. Similarly, commercial policies increased from 158 in 2016 to 222 in 2020. Residential premiums increased from approximately \$2.75 million in 2016 to approximately \$4.75 million in 2020. Commercial premiums increased from approximately \$660 thousand to \$1.32 million in the same period. Graph 47 is a visual representation of the data in Table 44.

Table 44: Tas comparison of residential and commercial strata insurance data for the period 2016 - 2020

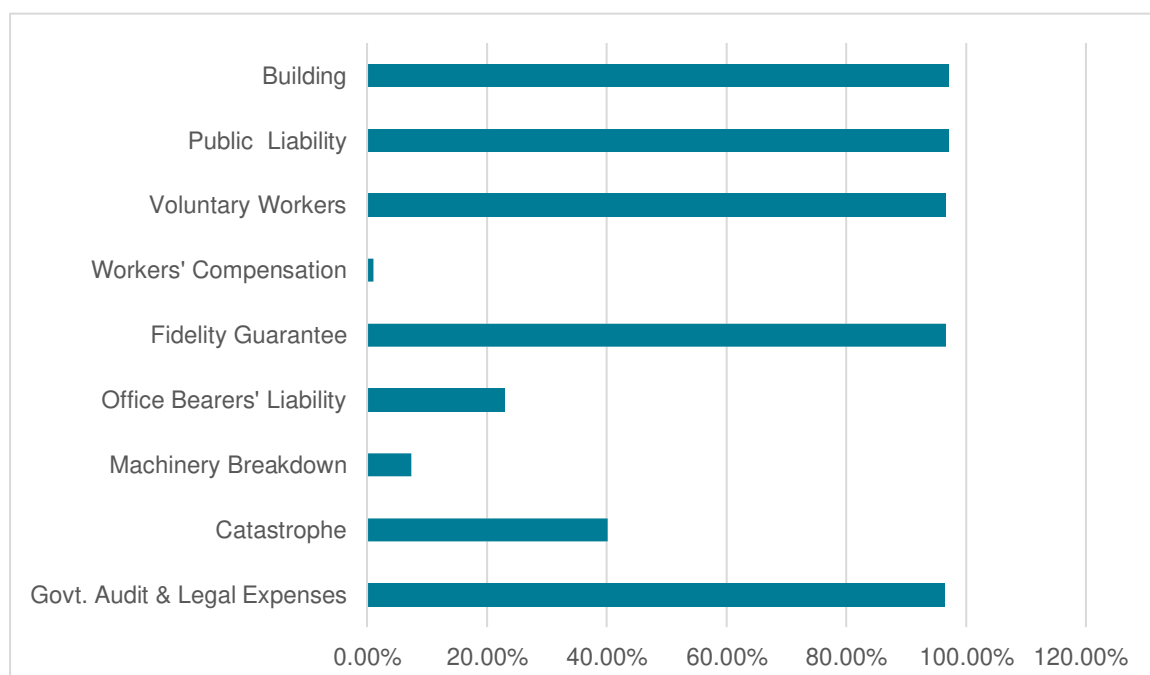
| | | Residential | | | Commercial | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| Year | Policy count | Total Premiums ('000) | Total cost of insurance ('000) | Policy count | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 2,182 | \$4,750 | \$6,030 | 222 | \$1,320 | \$1,990 |
| 2019 | 2,048 | \$4,090 | \$5,170 | 226 | \$1,310 | \$1,990 |
| 2018 | 1,988 | \$3,500 | \$4,430 | 217 | \$1,050 | \$1,590 |
| 2017 | 1,955 | \$3,060 | \$3,860 | 184 | \$ 830 | \$1,250 |
| 2016 | 1,862 | \$2,750 | \$3,440 | 158 | \$ 660 | \$ 980 |

Graph 47: Tas residential v commercial strata insurance for the period 2016 - 2020



Graph 48 provides an overview of the percentage of various policy types taken up by OCs in Tas in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses were taken up by nearly 100% of all OCs. Office bearers' liability was taken up by approximately 23% of OCs, catastrophe cover by approximately 40%, and machinery breakdown cover by 7%. Workers' compensation insurance data was not provided for this report.

Graph 48: Tas policy cover for the period 2016 - 2020



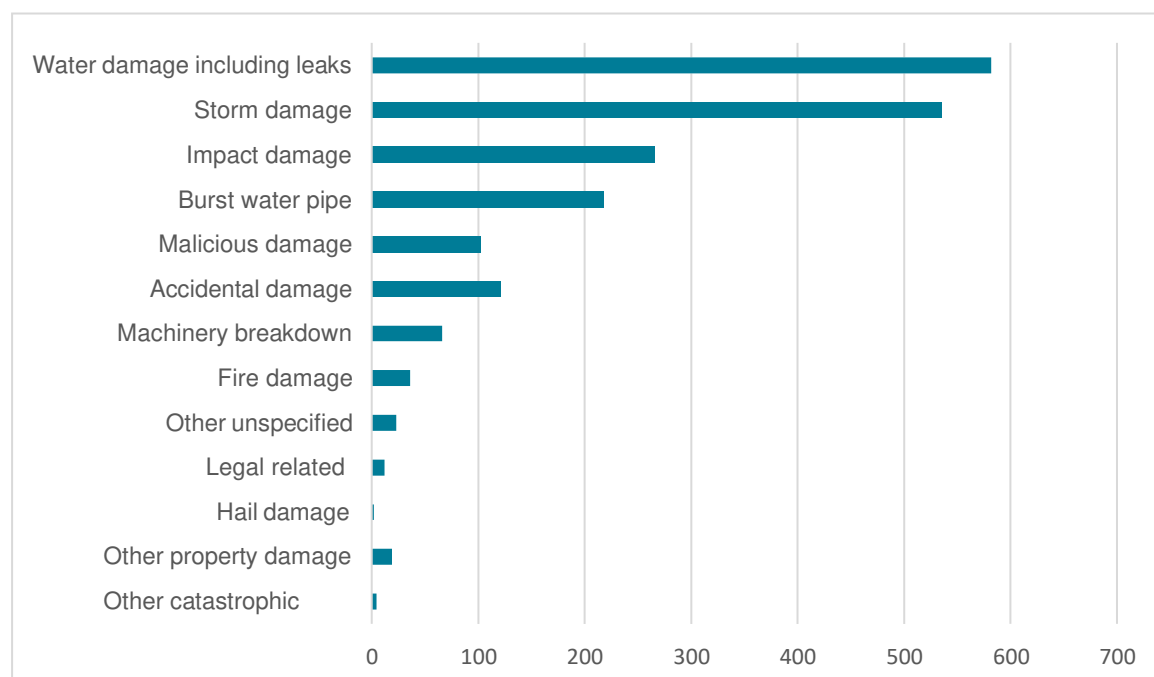
The claims data outlined in Table 45, illustrate again the fluctuating nature of claims. The highest number of claims in the period was in 2018 with 511 and the lowest in 2019 with 312 claims. The total costs of claims peak in 2018 at \$6.64 million, a significant increase from previous years. It is likely that the storms in May 2018 contributed to the high claims' costs in this period.¹⁷

Table 45: Tas total number and cost of claims for the period 2016 - 2020

| Year | No. of claims | Claims increase | Total claims paid ('000) | Claims change | Total claims cost ('000) | Claims costs change |
|------|---------------|-----------------|--------------------------|---------------|--------------------------|---------------------|
| 2020 | 337 | 8.01% | \$1,500 | -50.82% | \$3,080 | -7.23% |
| 2019 | 312 | -38.94% | \$3,050 | -47.59% | \$3,320 | -50% |
| 2018 | 511 | 46.42% | \$5,820 | 185.29% | \$6,640 | 223.90% |
| 2017 | 349 | -26.22% | \$2,040 | 29.94% | \$2,050 | 30.57% |
| 2016 | 473 | - | \$1,570 | - | \$1,570 | - |

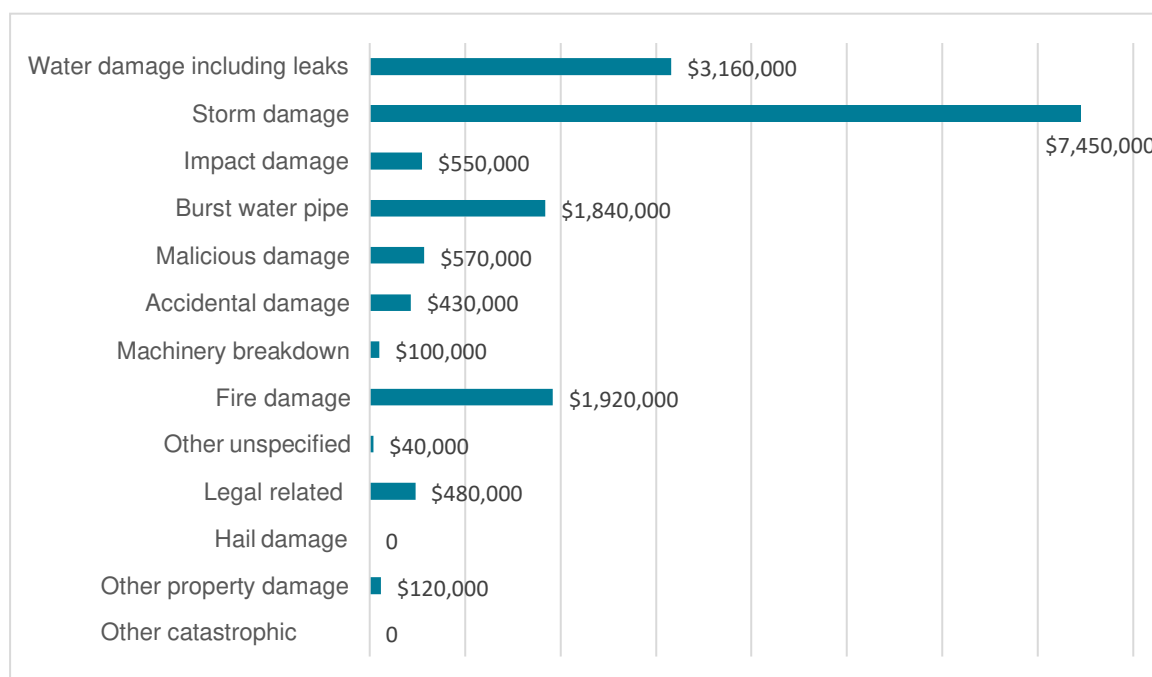
Graph 49 and Graph 50 highlight the total claims by loss cause and the total cost of claims by loss cause in Tas over the 2016 to 2020 period. Water damage including leaks, storm damage, impact damage, burst water pipes and accidental damage made up the top five most prevalent loss causes in this period. Storm damage (\$7.45 million) followed by water damage (\$3.16 million), and fire damage (nearly \$2 million), were the costliest claims for that period.

Graph 49: Tas number of claims by loss cause for the period 2016 - 2020



¹⁷ <https://www.disasterassist.gov.au/Pages/disasters/current-disasters/Tasmania/Southern-tasmania-extreme-weather-event-10-to-11-may-2018.aspx>

Graph 50: Tas total cost of claims by loss cause for the period 2016 - 2020



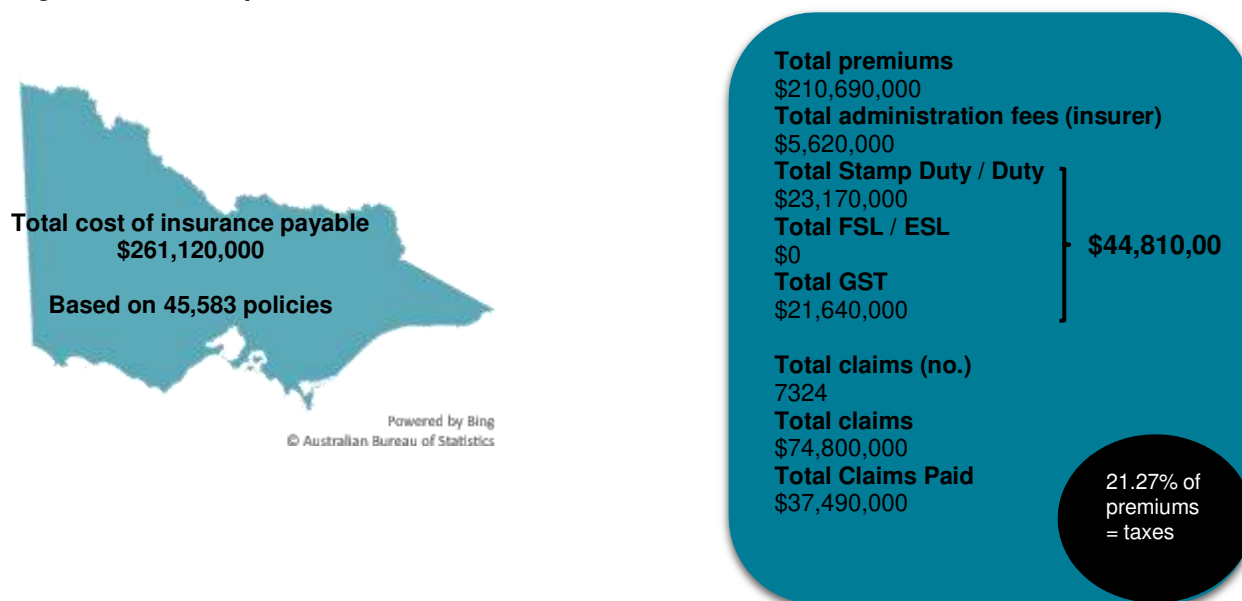
Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the Tas strata population are outlined in Table 46. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 46 are over-estimated. Care should be taken when referencing these figures.

Table 46: Estimated costs of insurance and claims for the period 2016 – 2020 of the Tas strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties, and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims cost ('000) |
|------|--------------------------|-----------------------|--|------------------------------|---------------|--------------------------|
| 2020 | 9,240 | \$23,331 | \$6,188 | \$30,826 | 1,295 | \$11,838 |
| 2019 | 9,224 | \$21,904 | \$6,044 | \$29,043 | 1,266 | \$13,467 |
| 2018 | 9,208 | \$19,001 | \$5,136 | \$25,139 | 2,134 | \$27,728 |
| 2017 | 9,192 | \$16,717 | \$4,383 | \$21,959 | 1,500 | \$8,810 |
| 2016 | 9,176 | \$15,490 | \$3,907 | \$20,078 | 2,149 | \$7,132 |

3.2.8. Victoria

Figure 8: 2020 snapshot of strata insurance



In 2020, 45,583 Vic OCs paid over \$210 million in strata insurance premiums, nearly \$45 million in duties, levies and taxes and claimed nearly \$75 million (based on 7,324 claims). Overall, the total cost of insurance payable by these OCs was approximately \$261 million. Breaking these statistics down further, 21.27% of premiums were paid to various state and federal governments and include state-imposed duties (approximately \$23 million), and GST (approximately \$22 million). There are three postcodes in Vic that, if applicable, attract the Tier A TIL. These postcodes include the suburbs of Melbourne, South Wharf and Southbank and Docklands. There are number of other Vic locations that attract Tier B and C TIL.

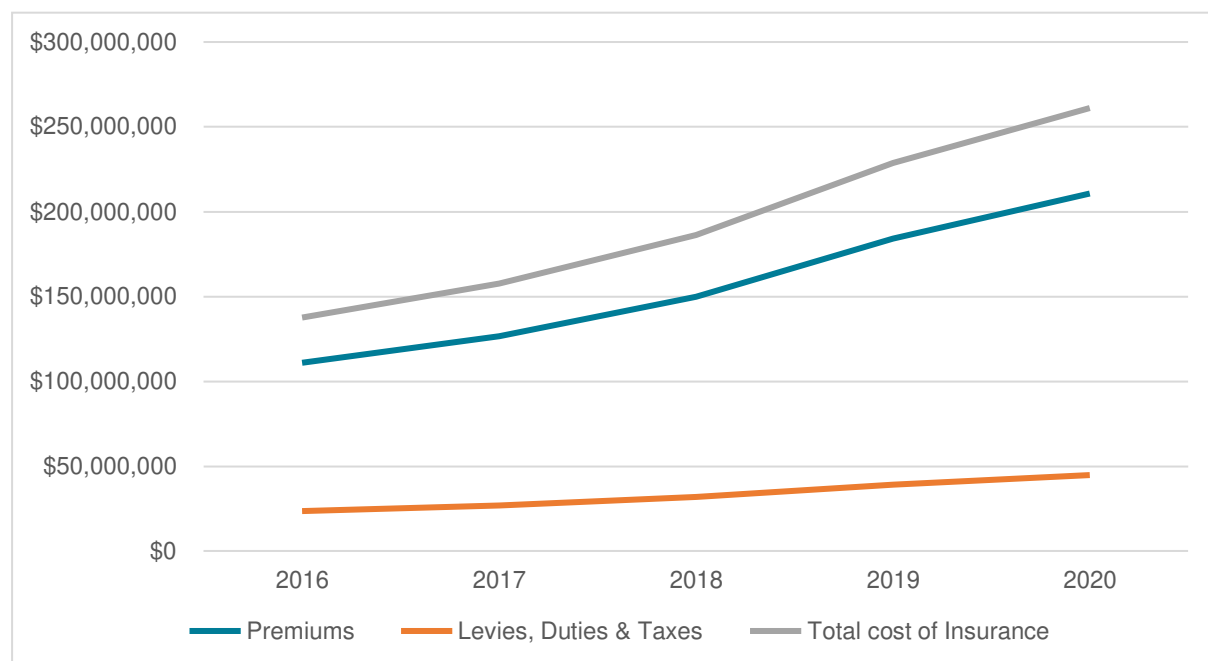
3.2.8.1. Vic strata insurance analysis

The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 47. The number of policies written by strata insurers increased from 39,083 in 2016 to 45,583 in 2020, with increases ranging from 3.07% to 4.34%. The total premiums increased in that same period from approximately \$111 million to \$211 million, an overall period increase averaging 17%. Similarly, the total levies, duties and taxes increased at the same rate, from approximately \$24 million in 2016 to \$45 million in 2020. The rate the premiums and taxes increased also aligned with the increase in the total insurance costs, from approximately \$138 million in 2016 to \$261 million in 2020. Graph 51, provides a visual representation of the information contained in Table 47.

Table 47: Vic policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 45,583 | 3.07% | \$210,690 | 14.35% | \$44,810 | 14.28% | \$261,120 | 14.22% |
| 2019 | 44,226 | 4.11% | \$184,250 | 23.00% | \$39,210 | 22.88% | \$228,620 | 22.76% |
| 2018 | 42,479 | 4.34% | \$149,790 | 18.23% | \$31,91 | 18.14% | \$186,230 | 18.14% |
| 2017 | 40,712 | 4.17% | \$126,690 | 14.19% | \$27,010 | 14.35% | \$157,640 | 14.50% |
| 2016 | 39,083 | - | \$110,950 | - | \$23,620 | - | \$137,670 | - |

Graph 51: Vic strata insurance for the period 2016 - 2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 48. The average premium increased from \$2,839 in 2016 to \$4,622 in 2020, representing an overall period increase of 13%. Similarly, the total cost of insurance increased on average from \$3,522 to \$5,728 over the same period. The average premium and total cost of insurance based on policy counts is lower in Vic than the national average.

Table 48: Vic average premiums and insurance costs based on policy counts for the period 2016 - 2020

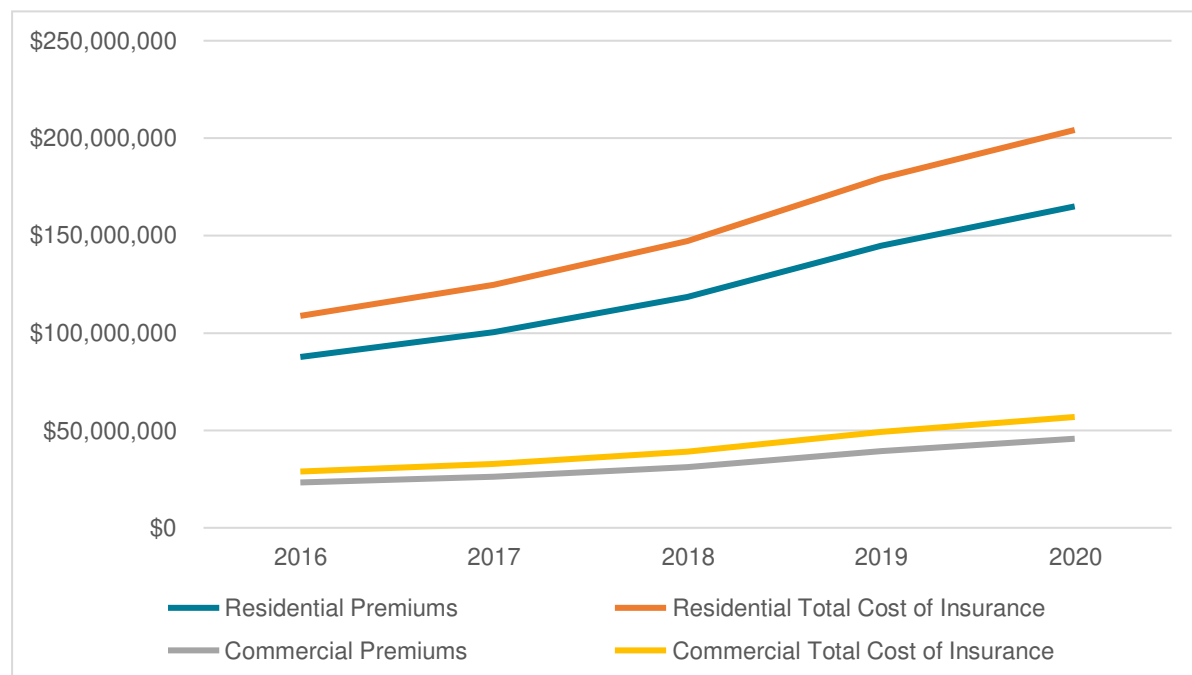
| Year | Policy count | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average cost based on policy count | Change |
|------|--------------|-----------------------|---------------------------------------|--------|------------------------------|------------------------------------|--------|
| 2020 | 45,583 | \$210,690 | \$4,622.12 | 10.94% | \$261,120 | \$5,728.45 | 10.81% |
| 2019 | 44,226 | \$184,250 | \$4,166.10 | 18.15% | \$228,620 | \$5,169.36 | 17.91% |
| 2018 | 42,479 | \$149,790 | \$3,526.21 | 13.31% | \$186,230 | \$4,384.05 | 13.22% |
| 2017 | 40,712 | \$126,690 | \$3,111.86 | 9.62% | \$157,640 | \$3,872.08 | 9.92% |
| 2016 | 39,083 | \$110,950 | \$2,838.83 | - | \$137,670 | \$3,522.50 | - |

As highlighted in Table 49, residential policies increased from 34,914 in 2016 to 40,074 in 2020. Similarly, commercial policies increased from 4,169 in 2016 to 5,509 in 2020. Residential premiums increased from approximately \$88 million in 2016 to approximately \$165 million in 2020. Commercial premiums increased from approximately \$23 million to \$46 million in the same period. Graph 52 is a visual representation of the data in Table 49.

Table 49: Vic comparison of residential and commercial strata insurance for the period 2016 - 2020

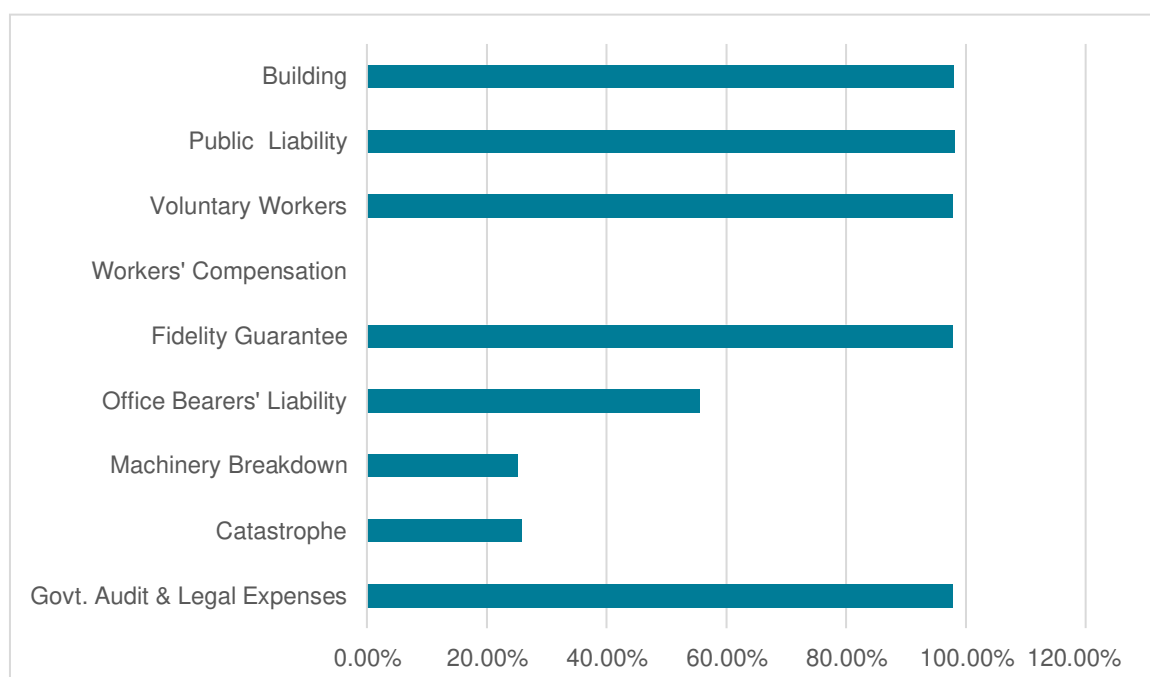
| Year | Policy count | Residential | | Policy count | Commercial | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| | | Total premiums ('000) | Total cost of insurance ('000) | | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 40,074 | \$164,950 | \$204,210 | 5,509 | \$45,740 | \$56,910 |
| 2019 | 38,934 | \$144,800 | \$179,470 | 5,292 | \$39,450 | \$49,150 |
| 2018 | 37,614 | \$118,540 | \$147,240 | 4,865 | \$31,250 | \$38,990 |
| 2017 | 36,240 | \$100,450 | \$124,860 | 4,472 | \$26,240 | \$32,780 |
| 2016 | 34,914 | \$87,690 | \$108,810 | 4,169 | \$23,260 | \$28,860 |

Graph 52: Vic residential v commercial strata insurance for the period 2016 - 2020



Graph 53 provides an overview of the percentage of various policy types taken up by OCs in Vic in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses were taken up by nearly 100% of all OCs. Office bearers' liability was taken up by approximately 55% of OCs, catastrophe cover by approximately 26%, and machinery breakdown cover by 25%. Workers' compensation insurance data was not provided for this report.

Graph 53: Vic policy cover for the period 2016 - 2020



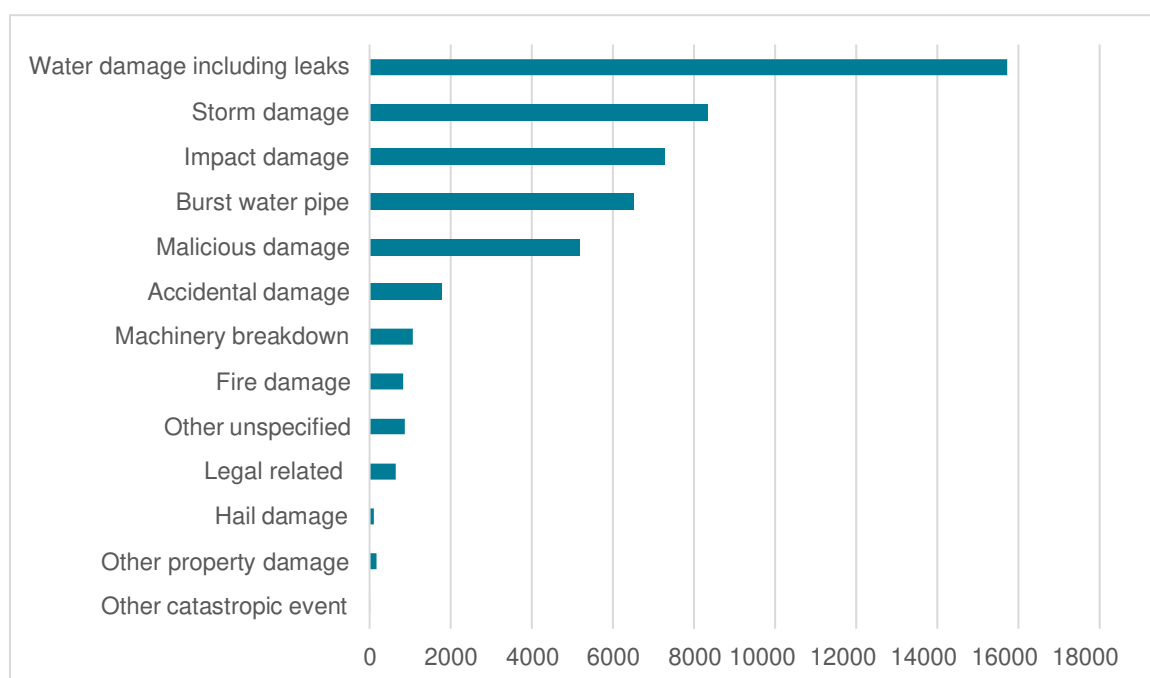
The claims data outlined in Table 50, illustrate a decrease in the nature of claims in Vic over the last five years. The highest number of claims in the period was in 2016 with 12,337 and the lowest in 2020 with 7,324 claims. The total costs of claims peaked in 2016 at approximately \$70 million.

Table 50: Vic total number and cost of claims for the period 2016 - 2020

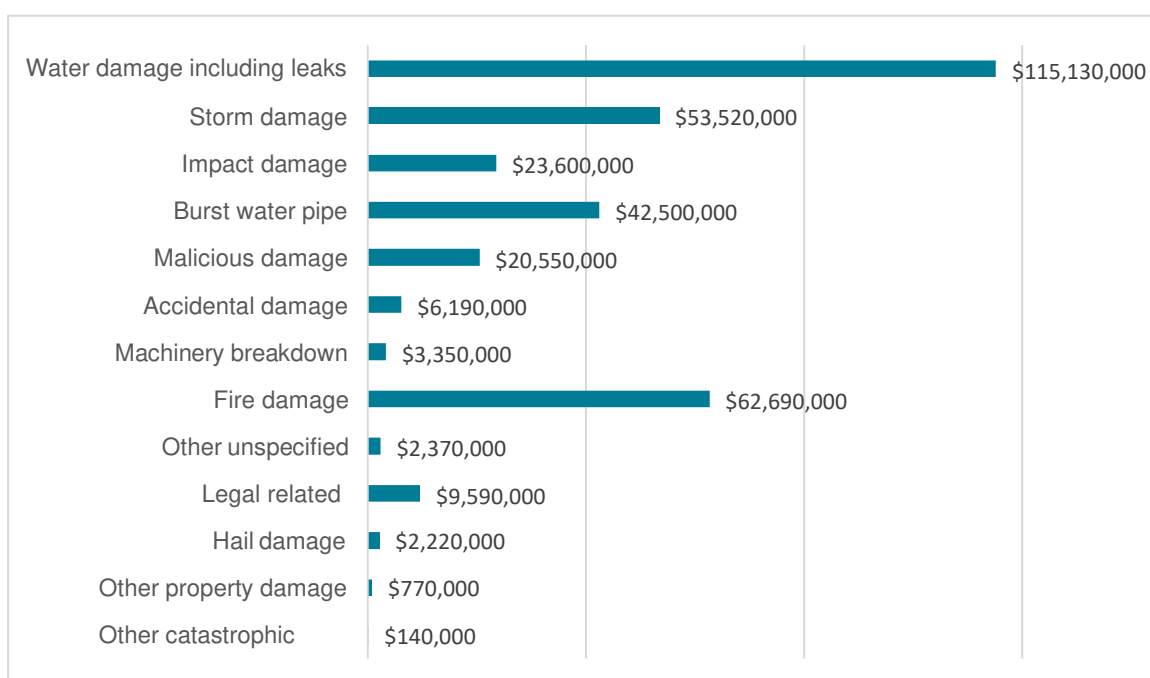
| Year | No. of claims | Claims increase | Total claims paid ('000) | Claims paid change | Total claims cost ('000) | Claims cost change |
|------|---------------|-----------------|--------------------------|--------------------|--------------------------|--------------------|
| 2020 | 7,324 | -9.60% | \$37,490 | -32.29% | \$74,800 | 14.07% |
| 2019 | 8,102 | -15.99% | \$55,370 | -14.75% | \$65,570 | -4.80% |
| 2018 | 9,645 | -13.35% | \$64,950 | 5.97% | \$68,880 | 8.62% |
| 2017 | 11,133 | -9.76% | \$61,290 | -8.70% | \$63,410 | -9.33% |
| 2016 | 12,337 | - | \$67,130 | - | \$69,940 | - |

Graph 54 and Graph 55 highlight the total claims by loss cause and the total cost of claims by loss cause in Vic over the 2016 to 2020 period. Water damage including leaks, storm damage, impact damage, burst water pipes and malicious damage made up the top five most prevalent loss causes in this period. Water damage caused by leaks (over \$115 million) followed by fire damage (\$63 million), and storm damage (nearly \$54 million), were the costliest claims for that period.

Graph 54: Vic total claims by loss cause for the period 2016 - 2020



Graph 55: Vic total cost of claims by loss cause for the period 2016 - 2020



Breaking the Vic strata insurance data down further, the following section highlights strata insurance information by CRESTA zones (CZ). There are seven CRESTA zones in Vic. Table 51 outlines the zone identifier, zone name and corresponding key postcodes and suburbs.

Table 51: Vic CRESTA zone information for the period 2016 - 2020

| Zone ID | Zone name | Key postcodes | Key suburbs in zone |
|---------|--------------------------|------------------------|---|
| 30 | Western Victoria | 3550, 3400, 3460 | Bendigo, Horsham, Daylesford |
| 31 | South-West Victoria | 3220, 3232, 3350 | Geelong, Lorne, Ballarat |
| 32 | South-East Victoria | 3741, 3996 | Bright, Inverloch |
| 33 | Melbourne | 3000, 3073, 3056, 3128 | Melbourne, Docklands, Richmond, Brunswick, Box Hill |
| 34 | Dandenong Ranges | 3138, 3777, 3810 | Healesville, Pakenham |
| 36 | Victoria Snowy Mountains | 3722, 3699 | Mansfield, Falls Creek |
| 37 | Victoria Riverland | 3500 | Mildura |

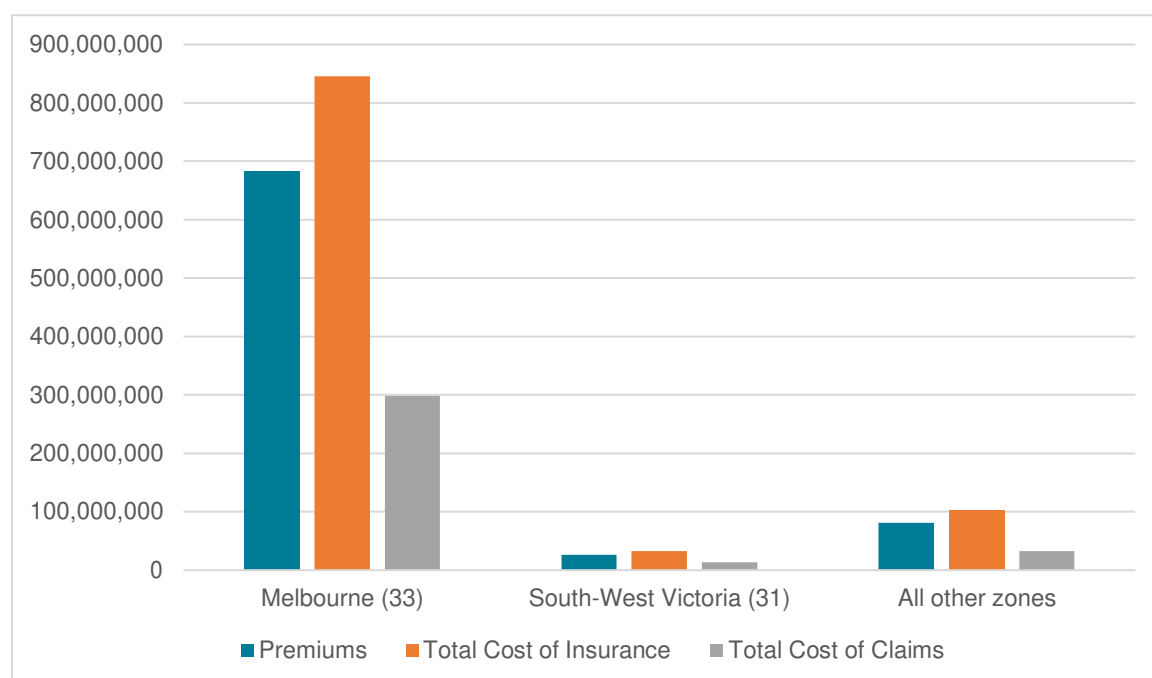
The CRESTA zones in Vic with the highest number of strata schemes are highlighted in grey in Table 52 and include, from highest scheme numbers: Melbourne (CZ:33) with 89,983 schemes, South-West Victoria (CZ: 31) with 13,469 schemes. All other zones total 12,635 schemes.

Table 52: Vic strata scheme breakdowns by CRESTA zones for 2020

| CRESTA zone | Total schemes | Total schemes no. lots < 6 | Total schemes no. lots >=6 <=20 | Total schemes no. lots >=21 <=50 | Total schemes no. lots >=51 <=100 | Total schemes no. lots >100 |
|--------------|---------------|----------------------------|---------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| 30 | 2609 | 2033 | 545 | 24 | 2 | 5 |
| 31 | 8717 | 6848 | 1656 | 164 | 25 | 24 |
| 32 | 3637 | 2778 | 784 | 63 | 8 | 4 |
| 33 | 89983 | 64919 | 19033 | 4437 | 957 | 637 |
| 34 | 2572 | 1999 | 499 | 55 | 15 | 4 |
| 36 | 612 | 435 | 161 | 13 | 1 | 2 |
| 37 | 4039 | 3315 | 643 | 58 | 19 | 4 |
| Total | 112,169 | 82327 | 23321 | 4814 | 1027 | 680 |

Graph 56 highlights the strata insurance costs of these key CRESTA zones for the 2016 to 2020 period. OCs in Melbourne incurred over \$683 million in premium costs for that period, over \$846 million in insurance costs and nearly \$300 million in total claims costs. OCs in South-West Vic incurred approximately \$26 million in premium costs, \$33 million in insurance costs and \$13.6 million in claims costs. The rest of the Vic zones combined incurred \$81 million in premiums, \$103 million in total insurance costs and nearly \$33 million in claims costs.

Graph 56: Vic strata insurance costs by key CRESTA zones for the period 2016 - 2020



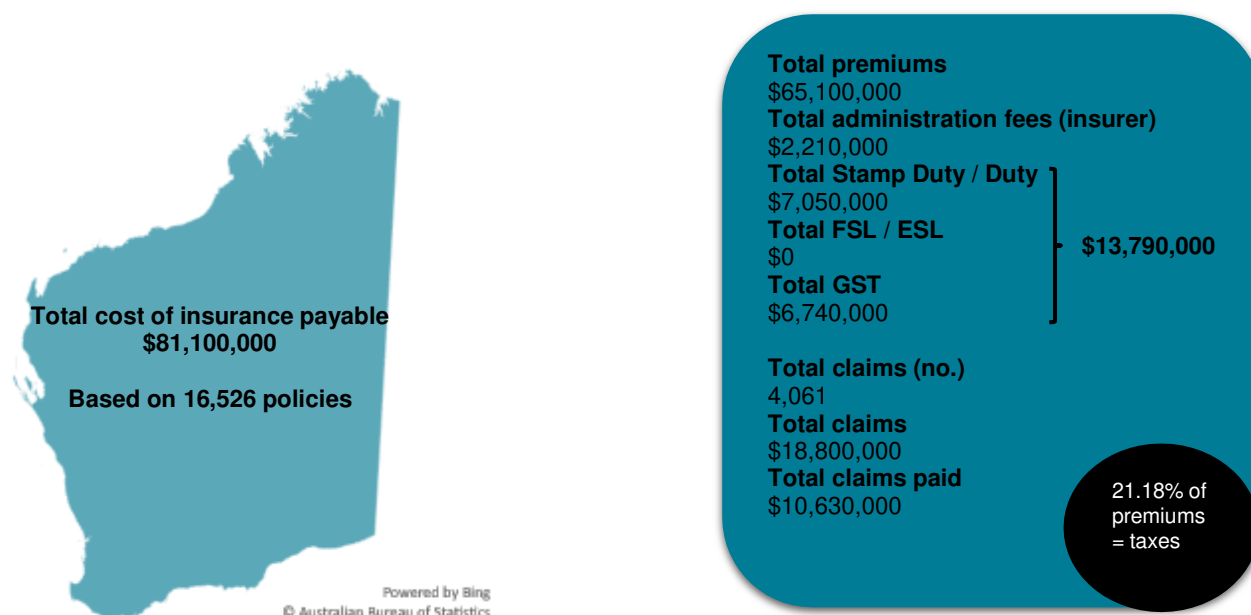
Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the Vic strata population are outlined in Table 53. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 53 are over-estimated. Care should be taken when referencing these figures.

Table 53: Estimated costs of insurance and claims for the period 2016 – 2020 of the Vic strata population

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims cost ('000) |
|------|--------------------------|-----------------------|---------------------------------------|------------------------------|---------------|--------------------------|
| 2020 | 112,169 | \$536,018 | \$114,001 | \$664,317 | 18,633 | \$190,299 |
| 2019 | 108,633 | \$452,576 | \$96,312 | \$561,563 | 19,901 | \$161,061 |
| 2018 | 101,298 | \$357,198 | \$76,095 | \$444,095 | 23,000 | \$164,255 |
| 2017 | 93,963 | \$292,400 | \$62,339 | \$363,832 | 25,695 | \$146,350 |
| 2016 | 86,628 | \$245,922 | \$52,354 | \$305,147 | 27,345 | \$155,023 |

3.2.9. Western Australia

Figure 9: 2020 snapshot of strata insurance



In 2020, 16,526 WA OCs paid over \$65 million in strata insurance premiums, nearly \$14 million in duties, levies and taxes and claimed nearly \$19 million (based on 4,061 claims). Overall, the total cost of insurance payable by these OCs was approximately \$81 million. Breaking these statistics down further, 21.18% of premiums were paid to various state and federal governments and include state-imposed duties (approximately \$7 million), and GST (\$6.74 million). There are two postcodes in WA that, if applicable, attract the Tier A TIL. These postcodes include the suburbs of Perth CBD and Northbridge and Highgate. There are number of other WA locations that attract Tier B and C TIL.

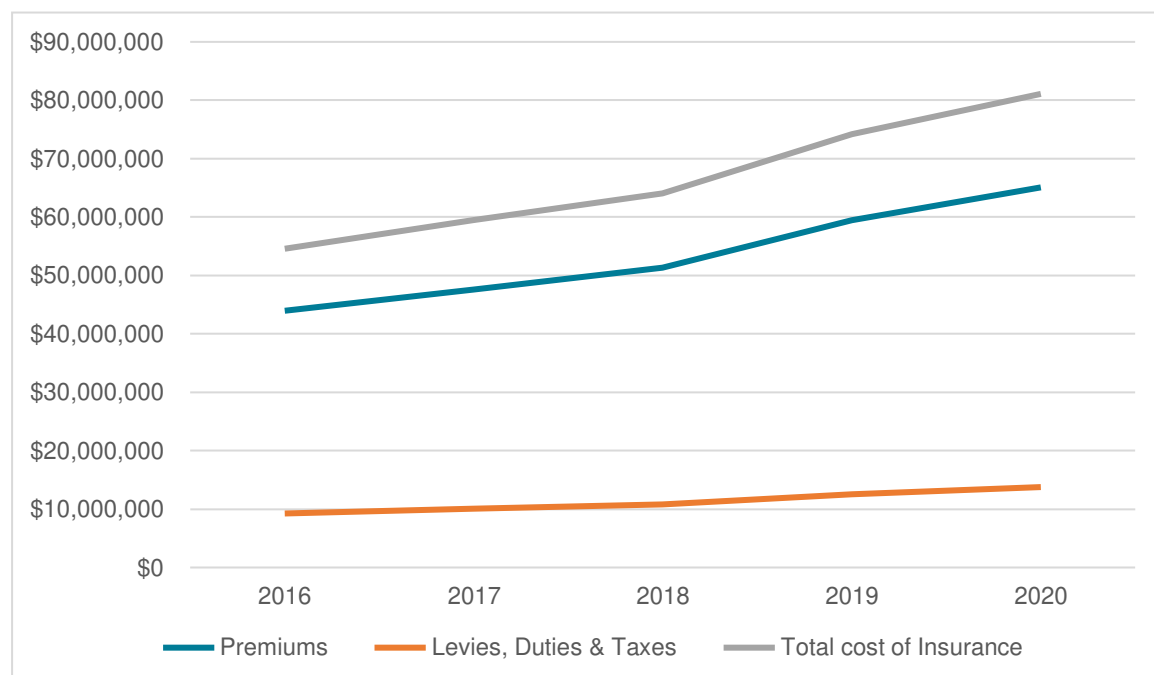
3.2.9.1. WA strata insurance analysis

The number of policies written, the total premium amounts, the total levies, duties and taxes and the total insurance costs for the years 2016 to 2020 are outlined in Table 54. The number of policies written by strata insurers increased from 15,003 policies in 2016 to 16,526 in 2020, with increases ranging from 0.72% to 3.76%. The total premiums increased in that same period from approximately \$44 million to \$65 million, an overall period increase averaging 10%. Similarly, the total levies, duties and taxes increased at the same rate, from approximately \$9.25 million in 2016 to \$13.79 million in 2020. The rate the premiums and taxes increased also aligned with the increases in the total insurance costs, from approximately \$55 million in 2016 to \$81 million in 2020. Graph 57, provides a visual representation of the information contained in Table 54.

Table 54: WA policy counts, premiums, taxes and total insurance cost for the period 2016 - 2020

| Year | Policy count | Policy increase | Total premiums ('000) | Premium increase | Total levies, duties and taxes ('000) | Levies, duties and taxes increase | Total insurance costs ('000) | Total insurance costs increase |
|------|--------------|-----------------|-----------------------|------------------|---------------------------------------|-----------------------------------|------------------------------|--------------------------------|
| 2020 | 16,526 | 0.72% | \$65,100 | 9.36% | \$13,790 | 9.71% | \$81,100 | 9.30% |
| 2019 | 16,407 | 3.76% | \$59,530 | 15.88% | \$12,570 | 15.96% | \$74,200 | 15.76% |
| 2018 | 15,812 | 1.78% | \$51,370 | 7.85% | \$10,840 | 7.75% | \$64,100 | 7.80% |
| 2017 | 15,535 | 3.54% | \$47,630 | 8.27% | \$10,060 | 8.76% | \$59,460 | 8.94% |
| 2016 | 15,003 | - | \$43,990 | - | \$9,250 | - | \$54,580 | - |

Graph 57: WA strata insurance for the period 2016 - 2020



The average premiums and insurance costs based on the policies provided over the period 2016 to 2020 are outlined in Table 55. The average premium increased from \$2,932 in 2016 to \$3,939 in 2020, representing an overall period increase of 7.69%. Similarly, the total cost of insurance has increased on average from \$3,638 to \$4,907 over the same period. The average premium and total cost of insurance based on policy counts is lower in WA than the national average.

Table 55: WA average premiums and insurance costs based on policy counts for the period 2016 - 2020

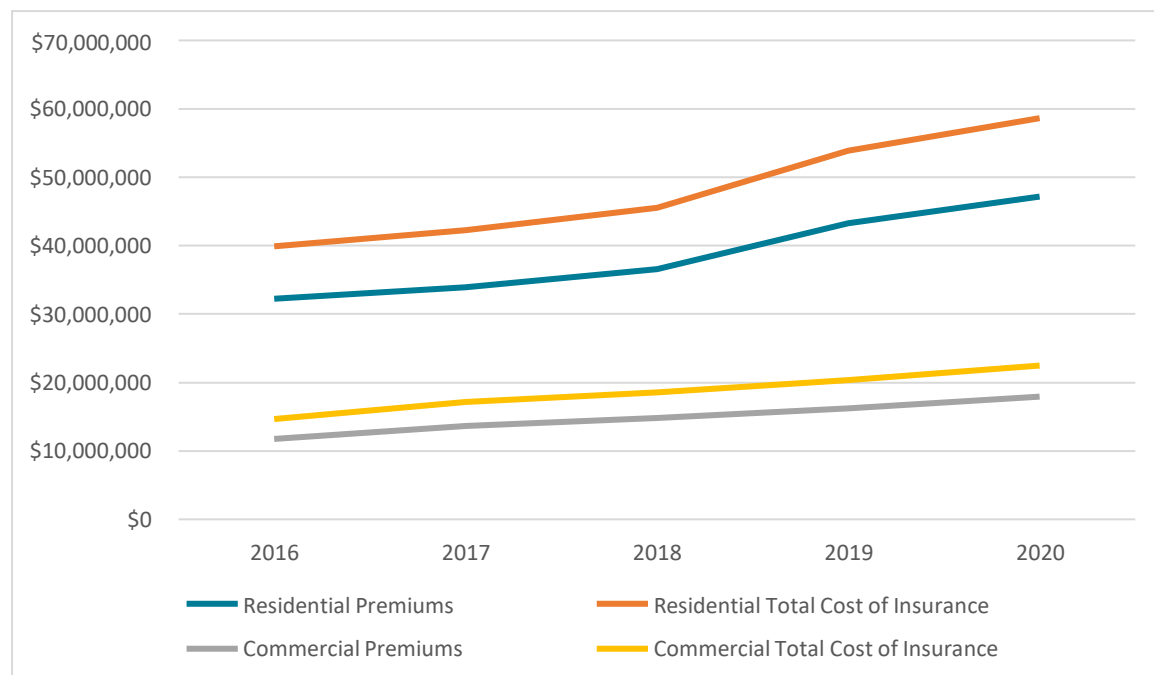
| Year | Policy count | Total premiums ('000) | Average premium based on policy count | Change | Total insurance costs ('000) | Average cost based on policy count | Change |
|------|--------------|-----------------------|---------------------------------------|--------|------------------------------|------------------------------------|--------|
| 2020 | 16,526 | \$65,100 | \$3,939.25 | 8.57% | \$81,100 | \$4,907.42 | 8.51% |
| 2019 | 16,407 | \$59,530 | \$3,628.33 | 11.68% | \$74,200 | \$4,522.46 | 11.56% |
| 2018 | 15,812 | \$51,370 | \$3,248.80 | 5.96% | \$64,100 | \$4,053.88 | 5.91% |
| 2017 | 15,535 | \$47,630 | \$3,065.98 | 4.56% | \$59,460 | \$3,827.49 | 5.21% |
| 2016 | 15,003 | \$43,990 | \$2,932.08 | - | \$54,580 | \$3,637.94 | - |

As highlighted in Table 56, residential policies increased from 12,690 in 2016 to 13,583 in 2020. Similarly, commercial policies increased from 2,313 in 2016 to 2,943 in 2020. Residential premiums increased from approximately \$32 million in 2016 to approximately \$47 million in 2020. Commercial premiums increased from approximately \$12 million to \$22 million in the same period. Graph 58 is a visual representation of the data in Table 56.

Table 56: WA comparison of residential and commercial strata insurance data for the period 2016 - 2020

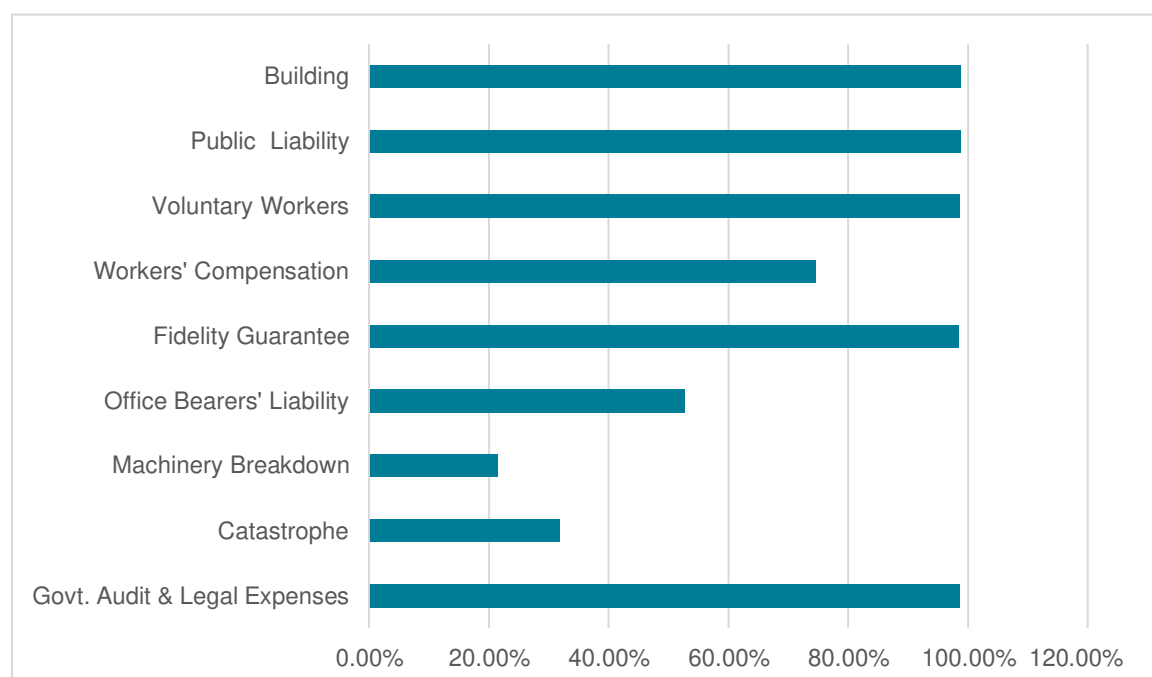
| Year | Policy count | Residential | | Policy count | Commercial | |
|------|--------------|-----------------------|--------------------------------|--------------|-----------------------|--------------------------------|
| | | Total premiums ('000) | Total cost of insurance ('000) | | Total premiums ('000) | Total cost of insurance ('000) |
| 2020 | 13,583 | \$47,170 | \$58,630 | 2,943 | \$17,930 | \$22,470 |
| 2019 | 13,609 | \$43,320 | \$53,860 | 2,798 | \$16,210 | \$20,340 |
| 2018 | 13,103 | \$36,570 | \$45,550 | 2,709 | \$14,800 | \$18,550 |
| 2017 | 12,952 | \$33,940 | \$42,290 | 2,583 | \$13,690 | \$17,170 |
| 2016 | 12,690 | \$32,240 | \$39,910 | 2,313 | \$11,750 | \$14,670 |

Graph 58: WA residential v commercial strata insurance for the period 2016 - 2020



Graph 59 provides an overview of the percentage of various policy types taken up by OCs in WA in the 2016 to 2020 period. Cover relating to building, public liability, voluntary workers, fidelity guarantee, and government audit and legal expenses were taken up by nearly 100% of all OCs. Office bearers' liability was taken up by approximately 53% of OCs, catastrophe cover by approximately 32%, and machinery breakdown cover by 21%. Workers' compensation insurance cover has a take up rate of nearly 75%.

Graph 59: WA policy cover for the period 2016 - 2020



The claims data outlined in Table 57, illustrates a decrease in the nature of claims in WA over the last five years. The highest number of claims in the period was in 2016 with 6,048 and the lowest in 2020 with 4,061 claims. However, the total costs of claims peaked in 2019 at approximately \$19.60 million. It is likely the storms in March 2019 particularly in the northern areas of WA contributed to the high claims' costs in this period.¹⁸

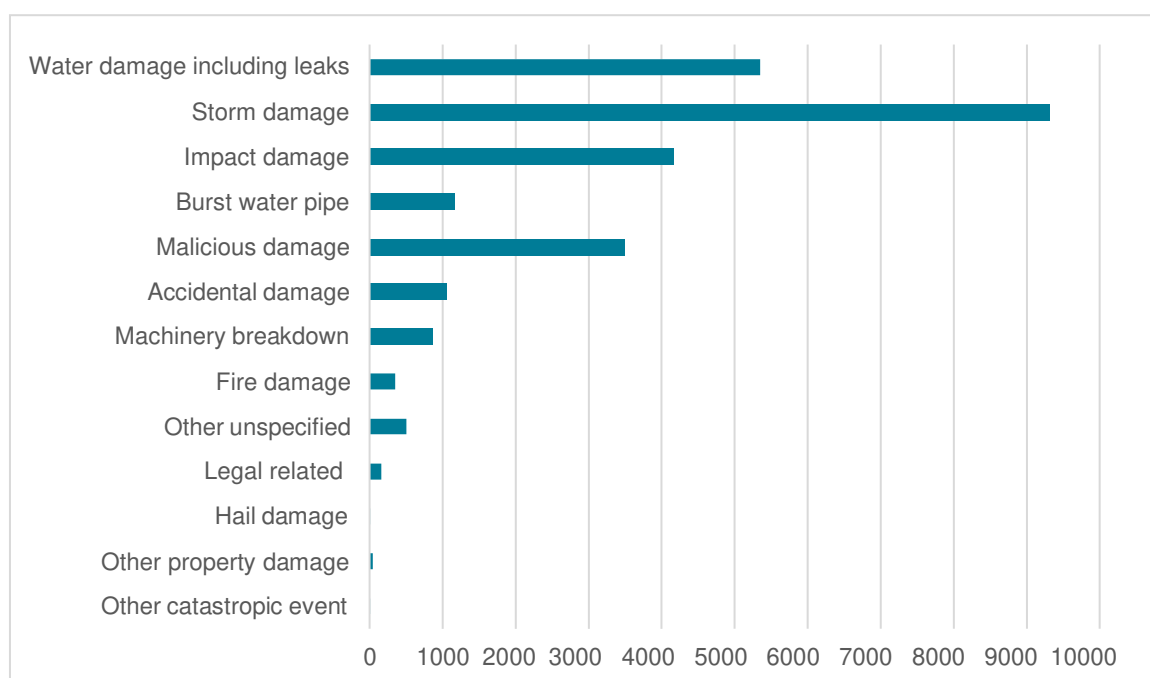
Table 57: WA total number and cost of claims for the period 2016 - 2020

| Year | No. of claims | Claims increase (%) | Total claims paid (\$) ('000) | Claims change (%) | Total cost of claims (\$) ('000) | Cost of claims change (%) |
|------|---------------|---------------------|-------------------------------|-------------------|----------------------------------|---------------------------|
| 2020 | 4,061 | -17.41% | \$10,630 | -38.12% | \$18,800 | -3.98% |
| 2019 | 4,917 | -12.93% | \$17,180 | -0.98% | \$19,580 | 9.08% |
| 2018 | 5,647 | -2.84% | \$17,350 | 8.30% | \$17,950 | 10.32% |
| 2017 | 5,812 | -3.90% | \$16,020 | 16.34% | \$16,270 | 16.80% |
| 2016 | 6,048 | - | \$13,770 | - | \$13,930 | - |

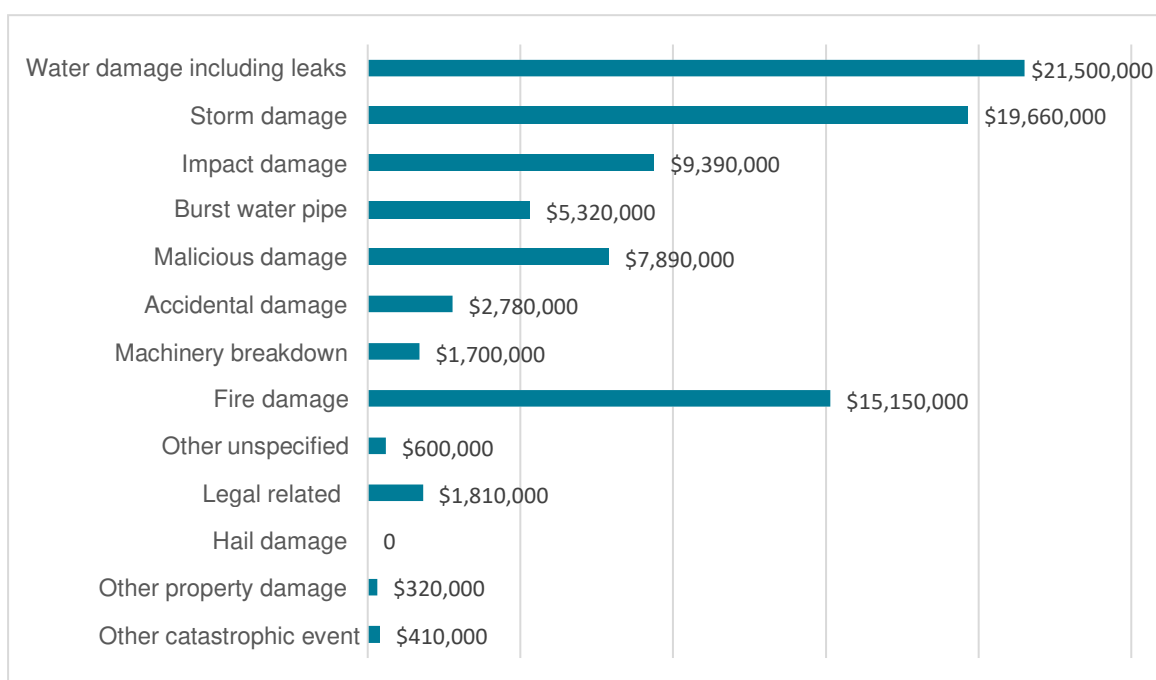
Graph 60 and Graph 61 highlight the total claims by loss cause and the total cost of claims by loss cause in WA over the 2016 to 2020 period. Storm damage, water damage including leaks, impact damage and malicious damage made up the top five most prevalent loss causes in this period. Water damage caused by leaks (over \$21 million) followed by storm damage (nearly \$20 million), and fire damage (approximately \$15 million), were the costliest claims for that period.

¹⁸ <https://www.disasterassist.gov.au/Pages/disasters/current-disasters/Western-Australia/tropical-cyclone-veronica-associated-flooding-23-26-march-2019.aspx>

Graph 60: WA total number of claims by loss cause for the period 2016 - 2020



Graph 61: WA total cost of claims by loss cause for the period 2016 – 2020



Breaking the WA strata insurance data down further, the following section highlights strata insurance information by CRESTA zones (CZ). There are six CRESTA zones in WA. Table 58 outlines the zone identifier, zone name and corresponding key postcodes and suburbs.

Table 58: WA CRESTA zone information

| Zone ID | Zone Name | Key Postcodes | Key Suburbs in Zone |
|---------|-------------------------|------------------|---------------------------------|
| 19 | Kununurra-Broome | 6726, 6743 | Cable Beach, Kununurra |
| 20 | Pilbara | 6707, 6714, 6721 | Exmouth, Port Hedland, Karratha |
| 21 | Geraldton Central Coast | 6701, 6530 | Carnarvon, Geraldton |
| 22 | Perth | 6061, 6160, | Perth, Fremantle |
| 23 | Albany-Bunbury | 6285, 6330, 6230 | Margaret River, Albany, Bunbury |
| 24 | Remainder WA | 6430 | Kalgoorlie |

The CRESTA zone in WA with the highest number of strata schemes is Perth and is highlighted (in grey) in Table 59. Due to the prevailing concerns regarding strata insurance in the top end of WA, strata schemes situated above the Tropic of Capricorn have been combined for analysis. CRESTA zones 19 to 20 (Kununurra-Broome and Pilbara) have 1,053 strata schemes.

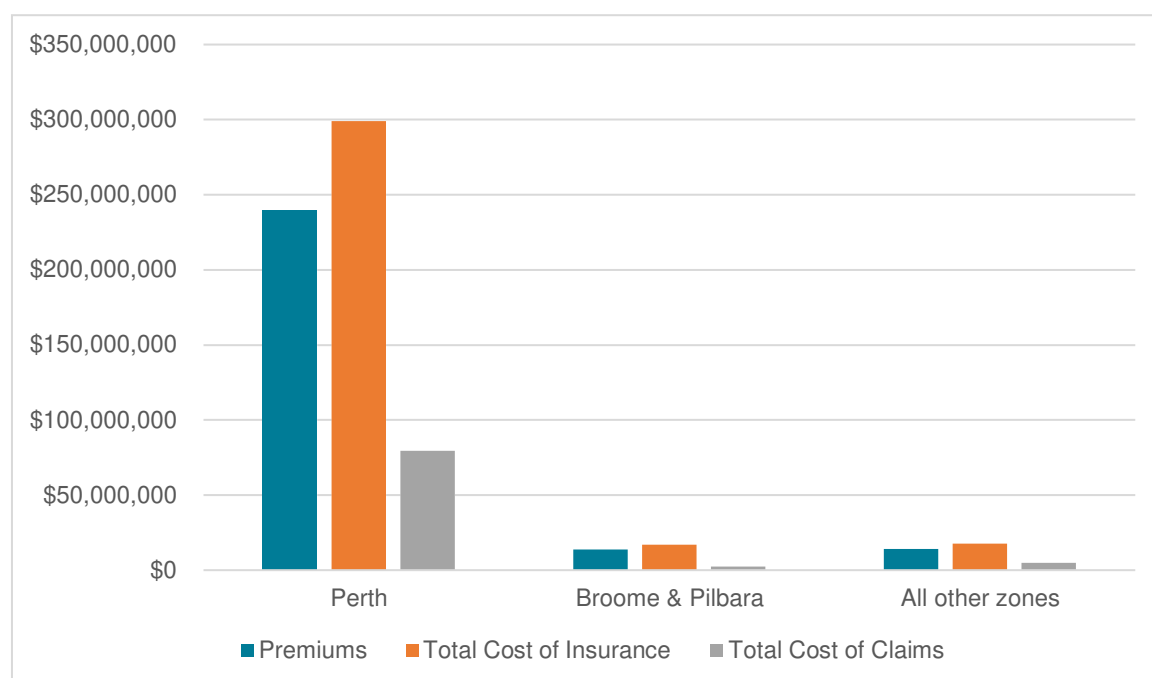
Table 59: WA strata schemes¹⁹ breakdowns by CRESTA zones for 2020

| CRESTA zone | Total schemes | Total schemes no. lots < 6 | Total schemes no. lots >=6 <=20 | Total schemes no. lots >=21 <=50 | Total schemes no. lots >=51 <=100 | Total schemes no. lots >100 |
|---------------------------|---------------|----------------------------|---------------------------------|----------------------------------|-----------------------------------|-----------------------------|
| 19 | 252 | 201 | 41 | 7 | 1 | 2 |
| 20 | 801 | 558 | 192 | 41 | 7 | 3 |
| 21 | 863 | 718 | 125 | 14 | 4 | 2 |
| 22 | 45,701 | 37,718 | 6,689 | 915 | 272 | 107 |
| 23 | 2,702 | 2,329 | 312 | 50 | 8 | 3 |
| 24 | 1,480 | 1,357 | 113 | 7 | 3 | 0 |
| Total | 51,799 | 42,881 | 7,472 | 1,034 | 295 | 117 |
| 19 and 20 combined | 1,053 | 759 | 233 | 48 | 8 | 5 |

Graph 62 highlights the strata insurance costs of these key CRESTA zones for the 2016 to 2020 period. OCs in Perth incurred over \$239 million in premium costs for that period, nearly \$300 million in insurance costs and nearly \$80 million in total claims costs. OCs in the Kununurra-Broome and Pilbara zones combined incurred approximately \$14 million in premium costs, \$17 million in insurance costs and \$2.3 million in claims costs.

¹⁹ Data up to March 2020 from ©Western Australian Land Information Authority. The strata scheme data supplied and outlined in table 59 excludes survey-strata schemes. The authors acknowledge that there are over 22,000 survey-strata schemes (as outlined in the Australasian Strata Insights 2020 report) that are distributed throughout Western Australia. Unfortunately, at the time of writing the report, the authors were unable to gather CRESTA zone level data of survey-strata schemes.

Graph 62: WA strata insurance costs by key CRESTA zones for the period 2016 - 2020



Based on the insurance sample (provided by the five participating insurers / underwriters), estimates of the costs of insurance and claims of the WA strata population (excluding survey-strata schemes) are outlined in Table 60. An assumption has been made that the sample is representative in order to determine these figures however, as noted in section 2, the sample is highly representative in strata scheme categories over 6 lots. It is therefore likely that the figures outlined in Table 60 are over-estimated. Care should be taken when referencing these figures.

Table 60: Estimated costs of insurance and claims for the period 2016 – 2020 of the WA strata population (excluding survey-strata schemes)

| Year | Estimated strata schemes | Total premiums ('000) | Total levies, duties and taxes ('000) | Total insurance costs ('000) | No. of claims | Total claims cost ('000) |
|------|--------------------------|-----------------------|---------------------------------------|------------------------------|---------------|--------------------------|
| 2020 | 51,799 | \$204,045 | \$43,222 | \$254,194 | 12,729 | \$58,925 |
| 2019 | 50,218 | \$182,206 | \$38,473 | \$227,107 | 15,050 | \$59,929 |
| 2018 | 48,637 | \$158,012 | \$33,343 | \$197,169 | 17,370 | \$55,213 |
| 2017 | 47,057 | \$144,274 | \$30,472 | \$180,108 | 17,605 | \$49,283 |
| 2016 | 45,476 | \$133,339 | \$28,038 | \$165,439 | 18,332 | \$42,224 |

3.3 Insights from the strata insurance data results

Approximately one-third of all strata schemes in Australia consist of more than six lots. It is this sample that is highly represented in this results section. In the five-year period in which this data is based, schemes over 50 lots have increased by 18% (substantially more than the other scheme size categories). These changes are important to consider when evaluating the results of this analysis. Large schemes are generally more complicated. They include complex infrastructure and are costly to build. In turn, the cost of insurance is higher than for smaller

schemes with less complexity. This increase in larger schemes is likely to be a contributor to the significant increases in the average premium costs.

A significant contributor to the overall cost of insurance are the duties, levies and taxes imposed on insurance contracts. The national average is 27.45% of premium costs. In 2016, the total levies, duties and taxes imposed on the sample of policies was approximately \$134 million. In 2020, the total tax costs increased to \$228 million. OCs in NSW and Tas are disproportionately taxed. Nearly 40% of a NSW strata premium is taxed with stamp duty, an ESL and GST. This has a compounding effect as several components of the total costs of insurance have GST applied including commissions, administrative fees and the premium. Although not as significant as NSW, commercial strata schemes in Tas are required to pay a FSL, which adds to the overall cost of insurance for these schemes. Most other states pay 20% to 22% of premiums in taxes with state-imposed property duties (including stamp duty) being the most significant tax type in terms of cost.

Over the five-year period from 2016 to 2020 there has been a significant increase in the number of commercial (and industrial) policies in the Australian market. The NT, Tas and WA, have had significant increases in commercial strata schemes.

Due to the mandatory nature of building and public liability insurance in all Australian states, it is unsurprising that nearly 100% of policies cover these specific policies. Voluntary workers, fidelity guarantee, and government audit and legal expenses are policy types that also are taken up by nearly 100% of all strata schemes. This might be a result of insurers including these policy types as optional exclusions, meaning they are automatically included in the overall policy and the insured would need to opt out of these options. The take up rate of the office bearers' liability, machinery and catastrophe policies differs significantly across the jurisdictions. The ACT, NSW and Qld all have take-up rates of over 73% of schemes opting for office bearers' liability cover compared with Vic and WA at around 54% and Tas and NT with under 30% scheme take-up. Machinery breakdown cover ranges from take-up rates of over 20% but under 27% (ACT, NSW, Vic and WA) with NT, Qld, SA and Tas under 10% of scheme take-up. Catastrophe cover similarly produces variations in scheme take-up. Qld has a significant take-up rate of 64% followed by NT, NSW and Tas (between 40 and 47%), followed by the ACT, WA, SA and Vic (all less than 36% take-up). Although very limited data was provided in relation to workers' compensation insurance, schemes in the ACT had a take-up rate of 51% compared to WA schemes at 75%.

The data provided did not allow any cost comparisons based on the type of policy take-ups.

As claims and claim payouts are event driven, it is unsurprising that the results show uneven fluctuations over the five-year period. In 2020, the total cost of claims incurred by Australian strata schemes was nearly 50% of the overall premium costs. Although damage from water, storm, impact, burst water pipes and malicious incidents are the most significant loss causes in Australia, the costs are mainly borne by damage relating to storms, water and fire. There were a number of significant weather-related events in Australia over the five-year data period that contributed to the various state and territory claims costs including: the Canberra hailstorm in 2020, the NSW bushfires in 2019, severe storm activity in 2019 in the NT, Cyclone Debbie and a number of other storm-related activities in Qld in 2017, the SA bushfires at the end of 2019, storm activity in Tas in 2018, and storm activity in the northern areas of WA in 2019.

Comments from interviewees regarding claims:

"The frequency of claims in strata for us is about one in four, so that's to say one policy has a claim every four years or one quarter of policies claim every year." (U1)

"The other side that's driven up costs is claims. One-third of your premium, \$33 out of \$100 is not enough to cover the claims, because the claims have been running at more like \$50 out of a \$100, not \$33. A big driver of that - multiple issues - the quality of new buildings, certain products (cladding) – the easiest one to talk about is flexi hoses, the adoption of cheaper products that cause performance issues. Another metric is that maintenance has now become fair game at trying to get it paid under insurance, which is really, really silly if you think about the value chain. If you're going to put in another \$100 of claims then it's got to come back at \$250 in premiums." (U2)

Additional analysis and information have been provided for key CRESTA zones located in the states of NSW, Qld, Vic and WA. Due to the variability in the numbers of schemes in the various CRESTA zones, zone comparisons are difficult to achieve. However, three zones (Sunshine Coast, Newcastle, and the combined northern Qld) have similar strata scheme numbers (6,521, 6,064, and 6896 respectively) and similar numbers of larger schemes so a comparison can be made. This comparison illustrates, more than anything, the impact of insurance costs in northern Qld. In the 2016-2020 period, strata schemes on the Sunshine Coast incurred approximately \$84 million in premiums, \$103 million in the total cost of insurance and \$35 million in claims. Although the total number of schemes in Newcastle is slightly less than the Sunshine Coast (by about 460 schemes), the distribution is similar with \$63 million in premiums, \$91 million in total costs and \$25.5 million in claims. Northern Qld schemes (6,896) in the same period incurred nearly \$184 million in premiums, \$222.5 million in the total cost of insurance and \$205.5 million in claims. Schemes on the Sunshine Coast and Newcastle pay approximately 40% of the total premium costs in northern Qld but approximately 15% of the total claims' costs. Northern Qld claims cost exceeded the total premiums by nearly \$22 million over the 2016 to 2020 period. The largest loss cause contributor being storm damage.

Other matters impacting strata insurance costs

Data relating to excesses and the impact that excesses have on insurance premiums was not available for this study. The use of net quoting was similarly unable to be determined from the data provided however interviewees provided commentary around these practices.

Many interviewees discussed increased **excesses as a mechanism to reduce premiums**. The following interview quotes highlight that there has been changes in the market toward increasing excesses in an effort to offset high premiums. For schemes in northern Australia and very large complex schemes, the use of high excesses has been the only option to ensure mandatory building cover.

“So most of our buildings in northern Queensland have excesses of a minimum of \$50,000 per cyclone” (SM1)

“We’ve got quite a few buildings that are significantly impacted by cladding and it is nothing to see the premiums triple. And it is nothing to see the excesses quadruple.” (SM3)

“For schemes in the north, they already have a \$5,000 excess on each claim, and if it’s a named cyclone that jumps up to \$100,000. So they’ve already pretty much maxed out their excesses, and from what we were told last year increasing those again is really not going to make any difference.” (SM2)

“We’re increasingly seeing excesses now pushing into the \$5,000, \$10,000, \$25,000 category. Do we recommend that? We recommend that owners view what options are available to them and if you’ve got a significantly high premium, then perhaps a higher excess is an appropriate channel to look at.” (SM4)

“To get a real premium relief you’re looking at 5,000/10,000 [in excesses] and I would say you see more now opting for a 5,000.” (U1)

Net quoting – the practice of net quoting appears to occur in larger strata schemes. It is a mechanism used to reduce premiums by removing the commission component of the premium and therefore has a flow on effect that reduces the duties, levies and taxes associated with strata insurance. In turn, intermediaries charge a broking fee for their services.

“In some cases with the larger buildings....there is net rating and how that works. So that’s where the insurer’s not paying a commission but just giving a net price, and then they [brokers] add a margin on top of that.” (SM5)

“Because of the premiums. So a lot of [brokers] just do it so it’s easier to disclose because it comes up in the fee section ‘broker fee \$5,000’. So it’s easier for disclosure, it reduces the stamp duty, GST payable to yourself which can all have significant costs associated with them depending on the state.” (U1)

4 Strata insurance availability and affordability

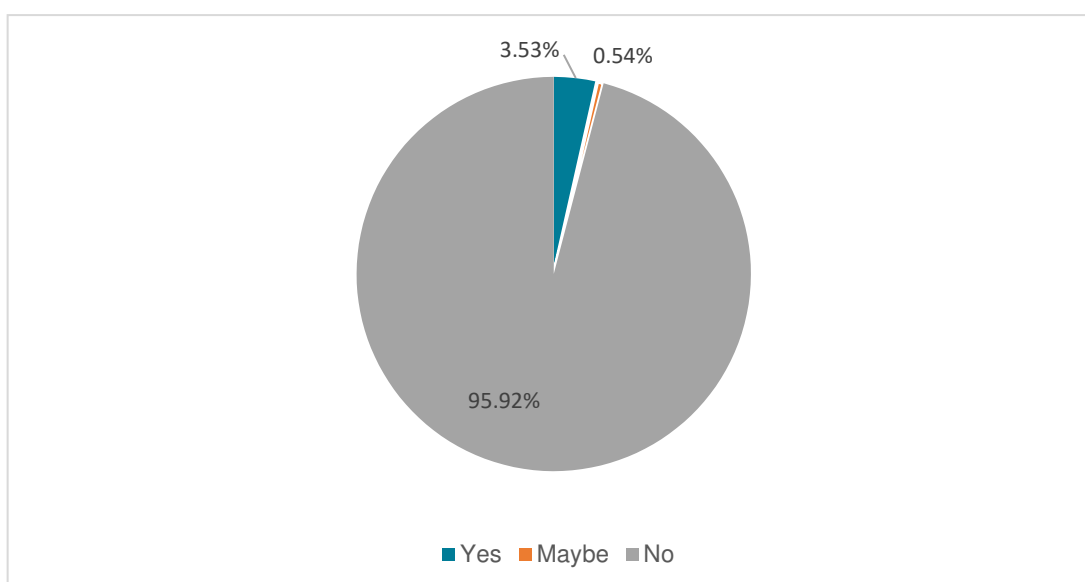
There is a clear relationship between the availability of any product or service and affordability. The more supply in a market of a product or service, the more competition and therefore the more choice for consumers. In relation to strata insurance, there are sections of the strata market where specialised strata insurance products are difficult to obtain. Securing policies and providing policy choice is in some instances impossible. As explained in this section of the report, insurance supply is cyclical and both global and local events impact upon supply in the market. It is very evident that availability is problematic for strata schemes in the northern parts of Australia; for very large complex schemes; and schemes impacted by building defects, including combustible cladding.

Following is a brief overview of some survey results relating to non-insurance and foreign insurance placement. Next, the insurers currently offering strata insurance products to the Australian market is highlighted. Finally, availability and affordability influences (globally and locally) and affordability as a measure are discussed.

4.1 Insurance coverage

In the managers' survey, respondents were asked questions relating to insurance availability. Approximately 3.5% of managers indicated they had a scheme under their management that was not currently insured or had not been insured for a period (over the last 12 months). Even though this is a low percentage, it is concerning given that strata schemes in Australia are required by law to hold certain strata insurance policies including building reinstatement and replacement; and public liability insurance.

Graph 63: Are any of the schemes under management not currently insured or have not been insured for a period of time?



Managers were also asked whether they managed schemes that placed strata insurance with an insurer located outside of Australia and New Zealand. Approximately 11% of managers indicated that they managed schemes where insurance was placed outside Australia and New Zealand. An open-ended survey question asked those managers to provide reasons why strata insurance was placed outside of Australia and New Zealand. Thirty-eight respondents

stated that local specialist insurers would not provide a quote or refused to cover specific areas such as the Pilbara, North Qld, New Zealand and other particular regions. Others stated that there was a general lack of availability or more competitive premiums in the overseas markets. Lloyd's of London was mentioned several times as having either better terms or was the only insurer willing to cover particularly high-risk schemes (including those with combustible cladding).

4.2 Strata insurance product offerings

As outlined in the methodology section, a review was undertaken to identify the strata insurance products currently available in the Australian market. Although the Insurance Council of Australia has a list of insurers and underwriters that issue strata insurance products, further enquiries found some companies no longer provided strata insurance cover. A further search of company websites was undertaken to determine the insurers and underwriters that currently provide strata insurance coverage, the types of schemes that are covered and the boundaries in which they operate. Table 61 highlights the results of this search and provides additional comments where relevant. In many cases, except where explicitly mentioned, identifying excluded locations was difficult to determine. It appears that as of June 2021, there are 17 underwriting agencies (supported by 11 general insurers) offering strata insurance products in Australia. Six of these underwriters had limitations in terms of the locations in which these products are offered. Nine underwriters provide only residential strata insurance products, and eight underwriters provide both residential and commercial products.

Table 61: Search results from desktop audit of strata insurance products offered in Australia

| General insurer | Underwriting agency | Type of coverage | Additional comments |
|--|---------------------------------|--|---|
| Lloyd's of London | Axis Underwriting | Residential and commercial | |
| | Millennium | Residential | |
| AAI Limited | GIO Strata Insurance | Residential | |
| | <i>Suncorp Strata Insurance</i> | | <i>Suncorp advised that it is no longer a major player in the stand-alone strata market</i> |
| AIG Australia Limited | QUS Strata Select | Residential (including mixed use) and commercial | |
| Allianz Australian Insurance Limited | Strata Community Insurance | Residential, commercial and community associations | |
| Berkley Insurance Company | <i>Express Insurance</i> | | <i>Advised by Berkley insurance that strata insurance products are not offered</i> |
| Chubb Insurance Australia Limited and Swiss RE International SE | Longitude | Residential, commercial and mixed use. | |
| | Expert | Residential, commercial and mixed use | |

| General insurer | Underwriting agency | Type of coverage | Additional comments |
|--|-------------------------------|--|--|
| Insurance Australia Ltd | SUU | Residential and commercial | <i>CGU doesn't distribute strata insurance for new schemes in SA, NT and WA.</i> |
| | CGU | Residential | |
| | WFI | Residential and commercial | |
| Liberty Mutual Insurance Company | Sure Strata Insurance | Residential | <i>Available in mainland regional Queensland only</i> |
| QBE Insurance (Australia) Limited | CHU | Residential, commercial and community associations | <i>Flex is only available in NSW, Qld, Vic, WA and SA</i> |
| | Flex | Residential | |
| | Elders Residential | Residential | <i>CommunitySure is only available to PICA managed strata schemes</i> |
| | CommunitySure | Residential | |
| RACQ Insurance Ltd | RACQ Body Corporate Insurance | Residential | <i>Queensland only</i> |
| RACT Insurance Pty Ltd. | RACT Strata Insurance | Residential | <i>Tasmania only</i> |
| XL Insurance Company SE | Brooklyn Underwriting | | <i>No longer offering tropical strata insurance</i> |

4.3 Availability and affordability influences

Interviewees provided very detailed knowledge and observations regarding the availability and affordability influences impacting the strata market. These insights are from CEOs of underwriting agencies, brokerage firms and strata management companies. Each quote provided has a unique ID attached which aligns with the interviewee. Section 2 provides more detail regarding these interview respondents.

4.3.1 Global market-based pressures

4.3.1.1 Increases in the reinsurance market and global event impacts

Interviewees in the insurance industry explained that in recent times, global market-based pressures have had a direct impact upon the Australian strata insurance market. The reinsurance market and climatic global events have added pressure on the Australian market in terms of available insurance products and the affordability of those products. The following quotes explain this relationship.

“The biggest driver of probably affordability but also availability is actually the reinsurance market. When insurance capital is plentiful, it means insurers are making money. Around the globe, lots of capital pours in because for some people insurances are seen as like a bit of a bond and a yield which it's not, it's actually got a risk component. But the money flows in and it's given to people who can deploy it in insurance, which creates a lot of capacity. So to fill that capacity, people buy the reinsurance and they go, okay well now I've got some spare, so I'll go and write some business to kind of backfill that available capacity. When affordability becomes an issue (major events around the globe), a lot of capital is burnt and people go, you know what, we're not going to put any new capital in. All of a sudden it tightens up. The price for reinsurance goes up, insurers can't compete with other reinsurers to buy additional reinsurance, so all the prices are fed through. And in the last probably few years, at least reinsurance has been going up and I guess probably double digit for the last three years and that has to be passed through the insurance premium component. (U2)

“... in periods gone by you might find overseas insurers who are in a different cycle looking at opportunities to get involved in our market. But with rising patterns of climate change driven events and the more serious or more expensive catastrophes for insurers, we've just seen an increasing consistent hardening of insurance around the world. And a lot of insurers – or most insurers – will have their reinsurance set ups to include overseas reinsurance. And so, you really need to get a global context for the cost of insurance.” (B1)

As a result of these pressures, the strata insurance market is currently considered a hard market and therefore there are limits on the amount of capital available which leads to less supply in the market and higher premiums for consumers.

“Insurance tends to go through cycles much like interest rate and money markets. There's a supply and demand type of curve effect to it, where money is cheap, which is when you get what we call a soft market. So, there's plenty of supply of insurers chasing market share, discounting premiums and the market is good for consumer. And then you get a turn where claims rise, insurers start to restrict cover and potentially retreat from the market or certain products and the price rises. We have in recent years seen a trend to what we call a harder market. So, rising premiums.” (B1)

“We're sitting probably somewhere towards the top of a very hard market. And so what that means by nature is that there's limited capital available.” (U1)

4.3.2 Localised market-based pressures

Localised market-based pressures were also identified by the interviewees. Although the availability and affordability impact on strata schemes in northern Australia received much attention in the interviews, several other areas were also identified. The following quote highlights the perception of the market from a CEO of a large strata management company.

“Affordability is becoming an increasingly common issue for schemes. And that is not exclusive to North Queensland or northern Australia. That is now across the entire eastern seaboard. And it is becoming a significant challenge, particularly in the current climate, to secure what we consider to be reasonable terms.” (SM 4)

The climatic conditions in Northern Australia that cause significant damage to strata schemes and the building defects crisis plaguing many apartment buildings across Australia appear to be contributors to the availability and affordability issue. Interviewees commented that strata schemes infected with defects or schemes in the North of the country have limited choice in terms of insurer and that the cost of insurance is prohibitive. Moreover, very large strata schemes and non-standard schemes are run into difficulties securing affordable insurance.

4.3.2.1 Northern Australia

The following observations from the interviewees highlight the critical availability and affordability issues effecting northern Qld and northern Australia.

“There is limited affordability across all sectors in NQ. The general rule is the Tropic of Capricorn delineates risk apportionment and where affordability becomes an issue - basically Rockhampton North. Schemes that fit within the following guidelines have more choice - less than 5 mill BRE [Building Replacement Estimate], less than 10 Lots and less than 40% holiday let. There is currently one main provider and their only parameters are that the BRE must be less than 5 Million. For all other schemes there is little to no availability... [as a result] So obviously, what’s occurring is that people are deliberately under insuring. To access, for example, the [named insurer], you have to be under five million. So what do you think people are doing that have a building replacement that says 5.5 or 6? They’re saying, “Oh, we’re going to say we’re worth 4.9.” I mean it puts us in a really bad position. We’re the conduit in the middle having to, I suppose, turn a blind eye because that’s all they can get.” (SM1)

“Northern Australia is where the key pressure point appears to be... exacerbated by various cyclones. We had cyclone Yasi, was a peak event in 2011. And so, premiums really respond after that in 12, 13. And then we’ve had a round of cyclone Debbie, Townsville floods. And so, that northern Australia market has not seen falling premiums or a supply assistance if you like. People haven’t been coming into the market competing. It’s been a gradual contraction of supply. And therefore, the affordability has been a constant problem. Because those remaining insurers are needing to try and establish a rate of return that their shareholders will tolerate if you like.” (B1)

“What you don’t want to have is a building with defects in Far North Queensland. That’s your worst case scenario because you’ve got your storm perils, you’ve got not a lot of available capital and you’ve also got a building that’s less insurable.... So you’ve got a less insurable building in a less insurable place in an unfavourable market. Lots of the buildings that are up there in North Queensland where they’re needing to get exemptions from having to have insurance, they’re not necessarily solid, sturdy buildings. Some of them are defective buildings with defective roofs and you may also have the added factor of a committee who doesn’t want to do a lot about it.” (U1)

4.3.2.2 Building defects

There were some mixed views regarding the impact that building defects have on premiums. Some interviewees noted that specialist strata insurers tend to work with their existing policyholders to minimise premium increases when defects are disclosed. Renewals appeared to be more problematic in securing new terms.

“[Insurers] are certainly assessing every scheme on a risk-by-risk basis, but if we disclose a standard defect report, I’m finding that that’s automatically being viewed in the prism that this building defect-riddled and this building needs to be rated that way.” (SM4)

“The other one is probably cladding and defects. And particularly from a cladding point of view at the moment, what we’re seeing is substantial impacts of cladding and re-cladding on insurance. And the insurers either declining to quote and/or having significant levies or price pressures overlaid with significant excesses.” (SM 3)

4.3.2.3 Large strata schemes

Large and complex schemes also appear to have limited strata insurance options. As highlighted in the following quotes, co-insurance deals need to be negotiated for schemes to comply with their statutory obligations to insure. There are also concerns regarding the disproportionate yearly increased in these insurance premiums.

“So the type of schemes that are impacted the most are anything with a disclosed defect. And I guess the challenge that we have, particularly in New South Wales, is our pre declaration process is so exhaustive these days that it’s very unlikely that any scheme has no report that’s been done. That

doesn't just mean a defect report. It may well just be a status report. Those reports have then been used by the underwriters to significantly mitigate the risk on the building. And I think there's been a massive overcorrection now in terms of the disclosure requirements that are currently in place are leading to very conservative risk profiles being placed on these buildings, which are leading to significant affordability issues. Now, that's further translated to a significant lack of capacity emerging in the market. We have insurers now who are capacity constrained in areas that you wouldn't expect, like the Sydney CBD, for example. Because they've got an overconcentration of risk in those areas. So it's not just the typical conditions around claim profile. It's now the underwriting profile has become sufficiently complicated that it's forcing a whole bunch of affordability issues. To the point where we struggle to get multiple quotes even in the current environment." (SM4)

"One of the properties we have here is quite large and they were limited with choice as to who would take on the risk, and they ended up getting a co-insurance deal. So the large property last year, their premium pretty much doubled over what it was the year before, and that wasn't through any changes in the risk profile of the property, it was just simply local influences and underwriting practices overseas. So that caused quite a bit of problem." (SM2)

4.3.2.4 Non-standard strata schemes

Schemes that are not a standard residential or commercial strata format also appear to run into availability and affordability issues.

"As soon as you start getting away from standard types of strata formats then you start running into issues with affordability, availability... because of course strata can be used for all sorts of weird and wonderful things, probably the hardest properties that we've had to insure..." (SM2)

4.4 Measuring strata insurance affordability

Based on estimated population premiums and estimated property values,²⁰ Table 62 highlights the total premiums by state and territory as a percentage of the overall value of strata schemes in those jurisdictions. The total premiums are less than one quarter of a percent (average 0.17%) of the estimated property values across all jurisdictions. As property valuations by CRESTA zones were not available, it is difficult to determine these percentages in areas above the Tropic of Capricorn. However, it is likely to be much higher than the percentages outlined in the table. These percentage estimates are not an affordability measure per se. Other factors need to be considered to measure strata insurance affordability.

Table 62: Australian premiums and insurance costs as a percentage (%) of 2020 strata scheme value by states and territories

| | Estimated total property values ('000) | Estimated premiums of all schemes ('000) | Premiums as % of value | Estimated total cost of insurance of all schemes ('000) | Insurance cost as % of value |
|------------------|--|--|------------------------|---|------------------------------|
| Australia | \$1,117,350,632 | \$1,704,303 | 0.15 | \$2,215,633 | 0.20 |
| ACT | \$25,505,300 | \$33,622 | 0.13 | \$37,712 | 0.15 |
| NSW | \$404,358,229 | \$469,090 | 0.12 | \$665,645 | 0.16 |
| NT | \$9,118,438 | \$23,223 | 0.25 | \$28,572 | 0.31 |
| Qld | \$203,384,581 | \$324,240 | 0.16 | \$396,068 | 0.19 |
| SA | \$27,159,634 | \$45,734 | 0.17 | \$58,504 | 0.21 |
| TAS | \$13,609,026 | \$23,331 | 0.17 | \$30,826 | 0.22 |

²⁰ Estimated strata schemes property values (Australia and each state and territory) was outlined in Australasian Strata Insights 2020 report (City Future Research Centre) - <https://cityfutures.be.unsw.edu.au/research/projects/2020-australasian-strata-insights/>

| | | | | | |
|------------|---------------|-----------|------|-----------|------|
| Vic | \$343,347,688 | \$536,018 | 0.15 | \$664,317 | 0.19 |
| WA | \$95,268,926 | \$204,045 | 0.21 | \$254,194 | 0.27 |

In a 2020 research paper on the challenges and potential solutions for property insurance affordability, the Actuaries Institute, identified five core drivers that influence insurance affordability including: “the cost of the insurance premium, the change in annual premium costs on renewals, the annual cost of insurance-related taxes, the income of the household; and the perceived value of the insurance.”²¹ This paper focused on ‘home insurance’ more generally but provides a solid foundation to consider other factors specific to the strata context. For example, the total cost of the OC budget might be a consideration. The following quote by a strata broker needs to be considered in the discussion about strata insurance affordability measures.

“I think we need to not look at it generically. Because we’ve got small schemes through to very large schemes and you’ve got older buildings and newer buildings and better protected buildings, better built buildings. A key part to introduce in this discussion is that these are businesses. Strata insurance can appear to be a mums and dad purchase – consumer perspective – however they are buying a package of policies that is more like the package that you would apply to a small business. It’s got many covers in it. They’re complex. It’s to protect an asset and a corporation not a home and contents. It a very different equation.” (B1)

It is evident that some strata schemes in Australia and New Zealand have had difficulties securing insurance on reasonable terms or at all, and supplier choice in some locations is extremely limited. Schemes located in northern Australia, large complex schemes, schemes that are non-standard and incorporate multiple uses, and (new) buildings impacted by defects have been particularly disadvantaged.

5 Cross-jurisdictional comparative review of strata insurance laws²²

Due to the co-ownership structure of strata schemes and the difficulties associated with collective and consensus decision-making, parliaments across Australia and New Zealand have statutorily intervened, regulating many aspects of the governance functions of OCs. As a regulated entity, an OC derives its powers and functions from governing frameworks embedded in various strata laws. The regulations mandate actions that an OC must perform, actions that it can perform, and its responsibilities and liabilities.

When it comes to insurance, specific risk protections are mandated disabling consumer choice whether to insure. As a result, OCs are duty bound, forcing them to comply with strict legal requirements. In order to comply, the onus falls on the OC and its committee to understand its legal obligations regarding strata insurance and ensure that those obligations are met. As this part of the report attests, strata insurance, whether viewed cross-jurisdictionally or not, is a highly regulated and very complex area. Without the advice and guidance of specialists, OCs would find it extremely difficult to navigate insurance laws. As appointed managers, strata managers, often fill that advisory role and provide assistance to OCs in obtaining insurance quotations, placing insurance of behalf of OCs, keeping insurance-related documents, managing claims and so forth.²³

²¹ Actuaries Institute (2020) Property Insurance Affordability: Challenges and Potential Solutions, <https://actuaries.asn.au/Library/Miscellaneous/2020/GIRESEARCHPAPER.pdf>

²² All efforts have been made to capture the requirements relating to most regulations, but the authors acknowledge that some provisions may be missed due to the amount of legislation reviewed.

²³ Section 8 of this report details the services generally provided by strata managers.

The aim of this section of the report is to:

- identify and explain the insurance provisions outlined in the relevant strata laws;
- identify and explain the additional insurance provisions applicable to strata schemes (e.g., workers' compensation);
- assess and compare the similarities and differences of strata insurance laws across the Australian and New Zealand jurisdictions.²⁴

This analysis has been provided to highlight the complexity of strata insurance laws and to itemise the myriad of decisions that an OC needs to make to ensure compliance and protection.

A reference guide has been provided in Appendix A of this report, which details all relevant strata insurance laws by jurisdiction.

5.1 Understanding the laws that apply to strata insurance

It is evident that for many strata schemes, specialised knowledge and advice is required to navigate this complex regulatory environment. This reliance on specialised knowledge was clearly foreshadowed by the state and territory parliaments when enacting strata laws in Australia. Not only is provision made for the engagement of strata managers in most, if not all, strata laws, obligations are placed on strata managers to have knowledge and understanding of the relevant legislation.

Strata laws either expressly require strata managers to have (a good working) knowledge and understanding of the relevant strata Act (e.g., ACT, NSW, Qld and WA) or, a requirement for strata managers to comply with the Act (e.g., NT, SA and Vic). By implication strata managers need to know and understand the laws. Although volunteer strata committee members also have obligations, the standard appears to be lower in states like the ACT and Qld where members only have to provide a commitment to acquire an understanding of the Act.

As the central repository and custodian of OC records, in many cases, strata managers are best placed to provide information, including required disclosure information, to insurers. Before an OC enters into an insurance contract, it has a duty to tell the insurer every matter that it knows, or could reasonably be expected to know, which may affect the insurer's decision to insure the OC and on what terms.²⁵ This is an ongoing duty and applies when an OC renews, extends, varies or reinstates an insurance contract. Ensuring that proper disclosure is made on behalf of an OC requires a centralised information gathering procedure about matters affecting the property generally. Without such a centralised system, there is a risk that knowledge of relevant matters relating to the property will not be collected, or will be lost, as ownership of lots within the scheme changes.

²⁴ This part of report primarily focusses on express references to an OC's insurance obligations within the legislation as opposed to implied references to broader categories of OC obligations that insurance may fall under.

²⁵ S. 21(1)(b), *Insurance Contracts Act 1984* (Qld); *State Insurance v McHale* [1992] 2 NZLR 399.

Failure to comply with the duty of disclosure may enable the insurer to treat the OC's insurance contract as void and of no legal effect or may reduce the amount payable to the OC under an insurance claim.²⁶ The risk of a strata insurer avoiding an insurance contract due to an OC's failure to make disclosure of a relevant matter can have significant financial implications for an OC and its members, as OCs are not afforded limited liability status.²⁷

5.1.1 Suite of strata insurance laws

As highlighted in Table 63, the laws regulating strata insurance are embedded in multiple sources. There are at least 38 pieces of legislation and associated regulations across Australia and New Zealand forming the suite of strata laws providing for strata insurance. An additional nine pieces of legislation relate to workers' compensation insurance, an insurance policy type that OCs must consider when arranging strata insurance.

²⁶ Australian insurance contract law reform will in October 2021 also introduce the concept of a 'misrepresentation' by an insured impacting the validity of an insurance contract.

²⁷ This risk eventuated in the recent case of *The Owners– Strata Plan No 55682 v W. R. Berkley Insurance (Europe), PLC & Ors* [2020] NSWDC 758 where a strata insurer was able to successfully avoid an OC's strata damage policy on the basis that the OC's appointed insurance broker had not adequately disclosed to the insurer the presence of a motorcycle bike club as the occupier of one of the lots. Whilst the OC was able to establish that its broker had been negligent in failing to make adequate disclosure to the insurer on its behalf, it was not able to recover the full amount that the insurer would have been liable to indemnify had the insurance contract not been avoided by the insurer.

Table 63: Relevant strata and workers' compensation regulations by jurisdiction

| Jurisdiction | | Strata-related regulations | Workers' compensation regulations |
|-------------------------|--------------------------|--|---|
| ACT | | <i>Unit Titles (Management) Act 2011</i> <i>Unit Titles (Management) Regulation 2011</i> <i>Unit Titles Act 2001</i> | <i>Workers' Compensation Act 1951</i> |
| NSW | <i>Strata Schemes</i> | <i>Strata Schemes Management Act 2015</i> <i>Strata Schemes Management Regulation 2016</i> <i>Strata Schemes Development Act 2015</i> | <i>Workplace Injury Management and Workers' Compensation Act 1998</i> |
| | <i>Community Schemes</i> | <i>Community Land Management Act 1989</i> <i>Community Land Management Regulation 2018</i> | <i>Workers' Compensation Act 1987</i> |
| NT | <i>Pre-2009 Schemes</i> | <i>Unit Titles Act 1975</i> <i>Unit Titles (Management Modules) Regulations 2009</i> | <i>Return to Work Act 1986</i> |
| | <i>Post-2009 Schemes</i> | <i>Unit Title Schemes Act 2009</i> <i>Unit Titles Schemes (Management Modules) Regulations 2009</i> | |
| Qld²⁸ | <i>BCCM</i> | <i>Body Corporate and Community Management Act 1997</i> <i>Body Corporate and Community Management Regulation 2008</i> <i>Body Corporate and Community Management (Standard Module) Regulation 2008</i> <i>Body Corporate and Community Management (Accommodation Module) Regulation 2008</i> <i>Body Corporate and Community Management (Commercial Module) Regulation 2008</i> <i>Body Corporate and Community Management (Small Schemes Module) Regulation 2008</i> <i>Body Corporate and Community Management (Specified Two-Lot Schemes Module) Regulation 2011</i> | <i>Workers' Compensation and Rehabilitation Act 2003</i> |
| | <i>BUGT</i> | <i>Building Units and Group Titles Act 1980</i> <i>Building Units and Group Titles Regulation 2008</i> | |

²⁸ For the purpose of this report special purpose legislation, such as the *Sanctuary Cove Resort Act 1985* (Qld), *Integrated Resorts Act 1987* (Qld), *Southbank Corporation Act 1989* (Qld) and the *Mixed Used Development Act 1993* (Qld), has been excluded from the analysis. It is important to note that specific insurance provisions are incorporated into these enactments.

| Jurisdiction | | Strata-related laws | Workers' compensation regulations |
|--------------|--------------------------|--|--|
| SA | <i>Strata Schemes</i> | <i>Strata Titles Act 1988</i> <i>Strata Titles Regulations 2018</i> Reference regulations: Part 5 'home building' of the <i>Insurance Contracts Act 1984</i> (Cth) Regulation 19 of the <i>Insurance Contracts Regulation 2017</i> (Cth) | <i>Return to Work Act 2014</i> |
| | <i>Community Schemes</i> | <i>Community Titles Act 1996</i> <i>Community Titles Regulations 2011</i> | |
| Tas | | <i>Strata Titles Act 1998</i> <i>Strata Titles (Insurance) Regulations 2019</i> | <i>Workers' Rehabilitation and Compensation Act 1988</i> |
| Vic | | <i>Owners Corporations Act 2006</i> <i>Owners Corporations Regulations 2018</i> <i>Owners Corporations and Other Acts Amendment Act 2021</i> <i>Subdivision Act 1988</i> <i>Subdivision (Registrar's Requirements) Regulations 2011</i> | <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> |
| WA | | <i>Strata Titles Act 1985</i> <i>Strata Titles (General) Regulations 2019</i> | <i>Workers' Compensation and Injury Management Act 1981</i> |
| New Zealand | | <i>Unit Titles Act 2010</i> <i>Unit Titles Regulations 2011</i> | |

However, the range and complexity do not end with this identified suite of laws. The co-ownership structure of strata scheme means there is a division in terms of property risk. Understanding the legal boundaries between common property and private lot property is necessary in order to ensure what is covered by the respective policies and who is liable in the event of a claim being made. As highlighted in this report, understanding legal boundaries in strata schemes requires the interpretation of survey plans and the regulations which, in some instances, sit outside the suite of strata laws identified (e.g., land titling legislation, subdivision legislation and the like).

5.2 Cross-jurisdictional comparative analysis

Twelve strata insurance legal topics were identified after a review of each jurisdiction's strata legislation. Table 64 outlines these legal topics along with related questions. These questions provide context to the topic areas and highlight the general scope of strata insurance laws. This section of the report examines each of these legal topics, comparing cross-jurisdictionally to better understand the similarities and differences that exist.

Table 64: Legal strata insurance topics and related questions

| Section | Legal topics | Related questions |
|---------|--|--|
| 5.2.1 | Approved insurers | Do the laws prescribe who the mandatory or optional insurance must be obtained from? If so, how the insurer is described? |
| 5.2.2 | Insurable interests | Is an OC deemed to have an insurable interest? If so, what is the extent of that insurable interest? Are mortgagees of lots deemed to have an insurable interest? If so, what is the extent of that insurable interest? |
| 5.2.3 | Mandatory building insurance | Is there a mandatory duty on OCs to obtain building insurance for the scheme? If so, what is the nature and scope of the cover? |
| 5.2.4 | Exemptions to mandatory building insurance | Do any exemptions exist in relation to an OCs duty to obtain mandatory building insurance? If so, when do those exemptions apply? |
| 5.2.5 | Valuations | Is an OC required to obtain a valuation? If so, what requirements for the valuation are prescribed? If a valuation is required, is there any prescribed method for how the valuation is to be paid? |
| 5.2.6 | Mandatory public liability insurance | Is there a mandatory duty on OCs to obtain public liability insurance for the scheme? If so, what is the nature and scope of the cover? |

| Section | Legal topics | Related questions |
|---------|--------------------------------------|---|
| 5.2.7 | Other mandatory insurance | Are there any other mandatory duties on OCs to obtain other insurance? If so, what is the nature and scope of the cover? |
| 5.2.8 | Power to obtain additional insurance | Do OCs have the right to obtain other (non-mandatory) insurance? If so, what kind of resolution must be passed to obtain such optional insurance? |
| 5.2.9 | Premiums | Are there any specific methods for raising money to pay insurance premium(s)? Are premiums regarded as part of the general administrative expenses of OCs? |
| 5.2.10 | Insurance claims | What is the procedure for dealing with insurance claims? Is there a procedure for resolving insurance-related disputes? Are there any restrictions on how OCs can use insurance money paid to it by an insurer under its mandatory insurance? |
| 5.2.11 | Disclosure obligations | What are OCs disclosure obligations? |
| 5.2.12 | Strata manager duties | Do strata managers have any legal duties in relation to client OCs mandatory insurance obligations? |

At the end of this comparative analysis, these questions are revisited in the discussion section and answered.

5.2.1 *Approved insurers*

Although only authorised or licensed entities under the relevant insurance legislation²⁹ can carry on an insurance business and therefore be deemed an approved insurer, NSW is the only jurisdiction replicating this requirement in its strata management legislation and associated regulation. Specifically, the NSW legislation states that an approved insurer is ‘...a general insurer within the meaning of the Insurance Contracts Act 1973 of the Commonwealth, or any other person prescribed by the regulations for the purposes of this definition.’³⁰

²⁹ S.9 Insurance Act 1973 (Cth) and s. 15, Insurance (Prudential Supervision) Act 2010 (NZ).

³⁰ S.4, Strata Schemes Management Act 2015 (NSW). The NSW regulations further provide that ‘a Lloyd’s underwriter, as defined in the Insurance Act 1973, is authorised to carry on insurance business, or exempted from authorisation, under the Insurance Act 1973 of the Commonwealth is an approved insurer for the purposes of paragraph (b) of the definition of approved insurer in section 4(1) of the Act.’

5.2.2 Insurable interests

The requirement to ascertain and specify who has an insurable interest in the land, buildings and assets of a strata scheme appears to be a result of historical issues around wagering contracts and ineffective and inconsistent laws regulating general insurance contracts. Although the Australian Law Reform Commission has taken steps to reform insurance contract requirements, inconsistencies remain especially between the Imperial Applications Acts in NSW and Qld and the *Insurance Contracts Act 1973* (Cth). It is arguable that because of these anomalies, state and territory parliaments included clear provisions regarding insurable interests in modern strata legislation.

All jurisdictions except for SA make express reference to the OC having an insurable interest. Table 65 outlines the extent and variations of insurable interests across the jurisdictions.

Table 65: Deemed insurable interests

| Jurisdiction | | Extent of insurable interest |
|--------------|--------------------------|---|
| ACT | | The OC is taken to have an insurable interest in the buildings on the land to the extent of their replacement value. |
| NSW | <i>Strata Schemes</i> | A person, including an OC is taken to have an insurable interest in the subject matter of a contract of insurance entered into by that person in accordance with the insurance part of the legislation. |
| | <i>Community Schemes</i> | An Association has an insurable interest in the subject matter of any insurance it is required to maintain under the insurance division. |
| NT | <i>Post-2009 Schemes</i> | The OC has an insurable interest in the scheme land. |
| | <i>Pre-2009 Schemes</i> | The OC shall be deemed to have an insurable interest in the buildings and improvements on the parcel to the extent of their replacement value. |
| Qld | <i>BCCM</i> | An insurable interest for the purpose of the insurance it is required to put in place under the regulation module applying to the scheme. |
| | <i>BUGT</i> | A sufficient insurable interest in the subject matter of any contract of insurance entered into by it pursuant to the insurance division. |
| SA | <i>Strata Schemes</i> | Legislation is silent on this issue |
| | <i>Community Schemes</i> | Legislation is silent on this issue |
| Tas | | The OC is taken to have an insurable interest in property that it is required to insure under the insurance division. |
| Vic | | An OC must be taken to have an insurable interest in the land affected by the OC. |
| WA | | The OC may enter into a contract of insurance relating to the insurable assets of its strata titles scheme and execute documents relating to the contract in its own name, as if it were the owner of the assets. |
| NZ | | The OC, every lot owner and every person entitled as mortgagee by virtue of a registrable mortgage of any principal unit, have an insurable interest in the property covered by the principal insurance policy. |

In the unique ownership structure of strata schemes, whilst the OC may be named as the legal registered owner of the common property, it is generally not regarded as the legal owner in its own right. Rather, the common property is held by the OC on behalf of the lot owners in undivided proportions equal to their lot entitlement or by the owners as tenants in common. It is not known whether this unique ownership structure is the reason why almost all (except SA) jurisdictions have included a provision putting it beyond doubt that OCs are deemed to have an insurable interest. OCs that have a duty to insure multi-storey buildings require this insurable interest to ensure private lot property as well as common property can be covered. The presence of express statutory provisions deeming OCs to have insurable interests in the insurance contracts they are required to, or choose to, obtain certainly eliminates one potential avenue for legal dispute between OCs and insurers.

5.2.3 Mandatory building insurance

All jurisdictions impose some form of mandatory requirement on OCs to obtain and maintain building insurance cover. However, the nature and scope of the mandatory building insurance in each jurisdiction varies significantly.

Lacking is common terminology to describe mandatory building insurance. There are different terms adopted in each jurisdiction and examples of inconsistencies within jurisdictions where a state or territory has multiple enactments regulating strata schemes. Table 66 sets out terms adopted in each jurisdiction for the mandatory building insurance.

Table 66: Names and reference terms used for mandatory building insurance

| Jurisdiction | | Legislation | Term(s) adopted |
|--------------|--------------------------|---|--|
| ACT | | <i>Unit Titles (Management) Act 2011</i> | Building insurance |
| NSW | <i>Strata Schemes</i> | <i>Strata Schemes Management Act 2015</i> | Damage policy |
| | <i>Community Schemes</i> | <i>Community Land Management Act 1989</i> | Full building insurance |
| NT | <i>Pre-2009 Schemes</i> | <i>Unit Titles Act 1975</i> | Replacement value |
| | <i>Post-2009 Schemes</i> | <i>Unit Title Schemes Act 2009</i> | Replacement value |
| Qld | <i>BCCM</i> | <i>Body Corporate and Community Management Act 1997 and associated regulation modules</i> | Full replacement value |
| | <i>BUGT</i> | <i>Building Units and Group Titles Act 1980</i> | Damage reinstatement for building units plan |
| SA | <i>Strata Schemes</i> | <i>Strata Titles Act 1988</i> | Replacement value insurance |
| | <i>Community Schemes</i> | <i>Community Titles Act 1996</i> | Insurance against prescribed risks and risks that a normally prudent person would insure against |

| Jurisdiction | Legislation | Term(s) adopted |
|--------------|-------------------------------------|---|
| Tas | <i>Strata Titles Act 1998</i> | Reinstatement insurance |
| Vic | <i>Owners Corporations Act 2006</i> | Reinstatement and replacement insurance |
| WA | <i>Strata Titles Act 1985</i> | Replacement value insurance |
| NZ | <i>Unit Titles Act 2010</i> | Full insurable value |

There is some overlap in the terms adopted by each jurisdiction. For example,

- 'replacement value' or 'full replacement value' is the most common term and is used in NT, Qld, SA, WA;
- 'damage' and 'damage reinstatement' are used in NSW (strata schemes) and Qld (BUGT) respectively;
- 'reinstatement and replacement insurance' or 'damage reinstatement' is adopted in Tas, WA, Vic;
- 'building' or 'full building insurance' is adopted in the ACT and NSW (community schemes);
- 'full insurable value' is only adopted in New Zealand.

5.2.3.1 Physical scope of cover for mandatory building insurance

When it comes to the physical parts of a scheme that must be covered by a mandatory insurance policy, each jurisdiction defines the scope of cover differently. Table 67 outlines the physical parts of the land and buildings that mandatory building insurance must cover and what is excluded.

Table 67: Physical parts of the land and buildings that must be covered by mandatory building insurance and exclusions

| Legislation (Jurisdiction) | Physical scope of cover for mandatory building insurance | Exclusions from physical scope of cover for mandatory building insurance |
|--|---|--|
| <i>Unit Titles (Management) Act 2011</i> (ACT) | <p>All buildings on the land in the units plan including any improvements and fixtures forming part of the building, any improvements and fixtures consisting entirely of common property and anything prescribed by regulation as forming part of a building.</p> <p>The regulations do not prescribe anything further in this regard.</p> | Paint, wallpaper and temporary wall, floor and ceiling coverings; or fixtures, removable by a lessee or sublessee of a unit at the end of a lease. |

| Legislation (Jurisdiction) | Physical scope of cover for mandatory building insurance | Exclusions from physical scope of cover for mandatory building insurance |
|--|---|--|
| <i>Strata Schemes Management Act 2015 (NSW)</i> | <p>The whole of a building in the strata scheme consisting entirely of common property, owners' improvements and fixtures forming part of the building and anything prescribed by the regulations as forming part of the building.</p> <p>The regulations do not appear to prescribe anything further in this regard.</p> | Fixtures removable by a tenant at the expiry of a tenancy, owners' improvements and fixtures comprising paint, wallpaper and temporary wall, floor and ceiling coverings. |
| <i>Community Land Management Act 1989 (NSW)</i> | Any building or structure that is on a lot deemed by the OC's plan to be 'association property' (either community property, precinct property or neighbourhood property). | |
| <i>Unit Title Schemes Act 2009 (NT)</i> | The common property in scheme land and a scheme building, which is a fixed structure on the scheme land (including for example, a swimming pool). | Coverings for a ceiling, floor or wall, any fixtures installed by a lessee of a unit that are removable at the end of the lease. |
| <i>Unit Titles Act 1975 (NT)</i> | All buildings and other improvements, including fixtures and fittings, on the whole of the land comprised in the subdivision. | |
| <i>Body Corporate and Community Management Act 1997 (Qld) and all regulation modules</i> | <p>The common property and body corporate assets.</p> <p>For a scheme created under a building format or volumetric plan of subdivision, common property and body corporate assets and each building, including improvements and fixtures, which is located in the scheme.</p> | Carpet; temporary wall, floor and ceiling coverings; fixtures removable by a lessee or tenant at the end of a lease or tenancy; mobile or fixed air conditioning units servicing a particular lot; curtains, blinds or other internal window coverings; or mobile dishwashers, clothes dryers or other electrical or gas appliances not wired or plumbed in. |
| <i>Building Units and Group Titles Act 1980 (Qld)</i> | The common property including any improvements thereon and in the case of a building units plan, the building. | Proprietor's fixtures meaning a structure of fixture made after the registration of the building unit's plan forming part of a building and which is exclusively for the use and enjoyment of a lot and which is not made for the necessary renewal or replacement of a structure or fixture made |

| Legislation (Jurisdiction) | Physical scope of cover for mandatory building insurance | Exclusions from physical scope of cover for mandatory building insurance |
|---|---|---|
| | | before the registration of the plan or has replaced such a structure or fixture but is of a greater value than necessary replacement of and a like nature to the original structure. Proprietor's fixtures do not include floors, walls or ceilings of a lot. |
| <i>Strata Titles Act 1988</i> (SA) | All buildings and building improvements on the site. Building is defined as including a fixed structure. | |
| <i>Community Titles Act 1996</i> (SA) | The buildings and other improvements (if any) on the common property; and in the case of a strata scheme—the building or buildings divided by the strata plan. A building is defined as including a fixed structure. | |
| <i>Strata Titles Act 1998</i> (Tas) | The buildings and other improvements on the site. | |
| <i>Owners Corporations Act 2006</i> (Vic) | All buildings on the common property. In a multi-storey building, all lots in the building and common property. | Carpet and temporary floor, wall and ceiling coverings. Fixtures removable by a lessee at the end of a lease. Anything prescribed as not forming part of a building. The regulations do not prescribe anything further. |
| <i>Strata Titles Act 1985</i> (WA) | All insurable assets of the strata title scheme. 'Insurable assets' that must be insured by a WA Replacement Insurance policy are defined as: the common property, including the fixtures and improvements on the common property; or the parts of scheme buildings that comprise lots in the scheme (including the paint and wallpaper); or carpet and flooring coverings on and within common property that are not temporary and buildings on the parcel of a strata scheme (whether or not shown on the scheme plan). | Fixtures or improvements on the common property that are not themselves common property; or carpet and temporary wall, floor and ceiling coverings in a scheme building; or fixtures removable by a lessee at the expiration of a tenancy; or temporary wall, floor and ceiling coverings on common property. |

| Legislation (Jurisdiction) | Physical scope of cover for mandatory building insurance | Exclusions from physical scope of cover for mandatory building insurance |
|----------------------------------|--|--|
| <i>Unit Titles Act 2010</i> (NZ) | All buildings and other improvements on the parcel subdivided by the units plan. | |

In the broadest sense, each jurisdiction requires mandatory building insurance policies to cover common property buildings and in the case of multi-storey buildings, all buildings on the land.

Observations regarding the physical scope of mandatory building insurance in each jurisdiction are ranked in order from the broadest scope to the narrowest scope:

- the ACT, NT (Pre-2009 schemes), NSW, SA (strata schemes), Tas, Qld and NZ all appear to have the broadest physical scope, generally including all buildings and other improvements on the parcel or site;
- the NT (Post-2009 schemes), SA (community schemes), Vic and WA appear to have a narrower physical scope, adopting defined terms for the insurable building structures for example, '*insurable assets*' in WA and '*all the lots in the building and common property*' in Vic.

Some jurisdictions expressly contemplate a difference in insurance requirements for schemes with single-storey or fully detached lots, namely the ACT, Qld and Vic. These jurisdictions still require, at a minimum, any buildings on the common property to be covered by the mandatory building insurance.

One aspect that complicates these jurisdictional differences is how legal boundaries are treated – the dividing point between common property and private lot property. Each jurisdiction has its own unique method of defining legal boundaries, which in turn adds an additional level of complexity when determining building coverage for insurance purposes.

Complex legal ownership arrangements go hand in hand with subdivided properties. Legal property rights are fundamental. Precision is necessary when it comes to defining which parts of a subdivided property are privately owned and which parts are owned collectively (common property). Such precision assists OCs and lot owners to ascertain the extent of their respective legal responsibilities when it comes to maintenance, repair and insurance under the strata laws. Laws have been developed in each jurisdiction to determine how land may be subdivided and the legal boundaries of private lot property and common property that are set when subdivision occurs. In order to properly interpret a legal boundary, reference must be made firstly to the legislation and any applicable regulations relating to how the legal boundaries are to be determined and secondly, to the registered plan that has the effect of subdividing the particular property. Even then, there can be ambiguity as to whether a building or particular part of a building forms part of private lot property or common property.

Although a comprehensive review of how legal boundaries are defined in each jurisdiction has not been undertaken for the purpose of this report, it is evident that the methods for defining legal boundaries vary greatly in each jurisdiction. For example, in NSW, the boundaries of a lot are generally defined by reference to the inner surface of vertical walls of lots, and upper surfaces of horizontal floors and ceilings, otherwise known as an 'interior face' lot boundary under section 6 of the *Strata Schemes Development Act 2015* (NSW). Then, common property has a residual definition, being any part of a parcel that is not part of a lot. In Vic, whilst there is also a residual definition of common property, there are in contrast with NSW, no generally applicable lot boundaries. One must interpret the particular Victorian plan of subdivision for the scheme that particularises the horizontal and vertical lot boundaries by reference to the various available methods set out in the *Subdivision (Registrar's Requirements) Regulations 2011* (Vic) made under the *Subdivision Act 1988* (Vic). WA similarly requires reference to the particular scheme plan in order to interpret the legal boundaries of a lot in order to determine the residual legal boundaries of common property. In the ACT, under section 14 of the *Unit Titles Act 2001* (ACT) legal boundaries of walls, floors or ceilings between units lie along the centre of the structure unless otherwise specified in the units plan. Common property in the ACT is defined as all the parts of a parcel identified in the units plan as common property. However, the OC has a duty to maintain defined parts of a building, meaning any part of a balcony or any load bearing walls, columns, footings, slabs or beams.

Understanding a scheme's legal boundaries becomes very important when matters arise regarding building insurance coverage and responsibility.

5.2.4 Mandatory building insurance exclusions

A number of jurisdictions specifically, NSW (community schemes), NT (Pre-2009 schemes), SA (strata schemes), SA (community schemes), Tas and New Zealand are silent on items that are excluded under the OC's mandatory building insurance.

The other jurisdictions do specify certain items that are excluded from the OC's mandatory building insurance requirements. Of the jurisdictions that do prescribe mandatory exclusions:

- **paint** is excluded in the ACT and NSW (strata schemes). In contrast, **paint** is required to be covered by a WA mandatory building insurance;
- **wallpaper** is excluded in the ACT and NSW. Again, in contrast, **wallpaper** is required to be covered by WA mandatory building insurance;
- **carpet** is excluded in the NT, Qld, Vic, WA;
- **temporary wall, floor and ceiling coverings** are excluded in the ACT, NSW, NT, Qld, Vic, WA;
- **fixtures removable by a lessee or tenant at the end of a lease or tenancy** are excluded in the ACT, NSW, NT, Qld, Vic and WA;

- Qld's BCCM regulations exclude **mobile or fixed air conditioning units servicing a particular lot, curtains, blinds or other internal window coverings** and **mobile dishwashers, clothes dryers or other electrical or gas appliances not wired or plumbed in**;
- Qld's BUGT legislation excludes **any structure of a fixture made after the registration of the building units plan** and which is exclusively for the lot owner's use and enjoyment.

Again, there is no uniformity across the jurisdictions when it comes to mandatory building insurance exclusions. Whilst there are some categories of excluded items that appear in multiple jurisdictions, there is a lack of consistency.

A potential consequence of the lack of consistency is that the wording in insurance policies will need to be carefully considered to ensure the policy is compliant with the particular jurisdiction's legal requirements. For example, a building insurance policy that excludes carpet may comply with the mandatory building insurance requirements in NT (Post-2009 schemes), Qld, Vic and WA, but may not comply with the broader requirements of other jurisdictions.

5.2.5 Mandatory inclusions – risks that must be covered by mandatory building insurance

The main purpose of mandatory building insurance is to insure against damage and destruction to the insured land and buildings. Some jurisdictions are much more prescriptive, detailing specific inclusions that must be covered by the mandatory building insurance. These inclusions are described as specified risks that must be insured against. Table 68 outlines these specified risks.

There are some inclusions that are consistent across these jurisdictions. However, there are also some unique risks that are only required to be insured against in certain jurisdictions. Qld, Vic and NZ are the only jurisdictions that do not provide further specific risks that must be insured against beyond the broader concept of damage and destruction.

Table 68: Specified mandatory inclusions by jurisdiction

| | ACT | NSW | | NT | | Qld | | SA | | Tas | Vic | WA | NZ |
|-------------------------------------|--|---|---|--|--|--|---|---|----------------------------------|-------------------------------|-------------------------------------|---|-----------------------------|
| | <i>Unit Titles (Management) Act 2011</i> | <i>Strata Schemes Management Act 2015</i> | <i>Community Land Management Act 1989</i> | <i>Unit Title Schemes Act 2009</i> | <i>Unit Titles Act 1975</i> | <i>BCCM Act and all regulation modules</i> | <i>Building Units and Group Titles Act 1980</i> | <i>Strata Titles Act 1988</i> | <i>Community Titles Act 1996</i> | <i>Strata Titles Act 1998</i> | <i>Owners Corporations Act 2006</i> | <i>Strata Titles Act 1985</i> | <i>Unit Titles Act 2010</i> |
| Specific risk to be insured against | | | | | | Damage | Damage | Damage caused by the events below: | | | | | |
| | Fire | Fire | Fire | Fire | Fire | | | Fire | | Fire | | Fire | |
| | | | | | | | | Storm | | Storm | | Storm | |
| | Lightning | Lightning | Lightning | Lightning | Lightning | | | Lightning | | | | Lightning | |
| | | | | | | | | Thunder bolt | | | | | |
| | Tempest | | | Tempest | Tempest | | | Tempest | | Tempest | | Tempest (excluding damage by sea, flood or erosion) | |
| | Earthquake | | | Earthquake | Earthquake | | | Earthquake | | | | Earthquake | |
| | Explosion | Explosion | Explosion | Explosion | Explosion | | | Explosion | | Explosion | | Explosion | |
| | Riot | | | Riot | Riot | | | Riot | | | | | |
| | Civil commotion | | | Civil commotion | Civil commotion | | | Civil commotion | | | | | |
| | Strikes | | | Strikes | Strikes | | | | | | | | |
| | Labour disturbances | | | Labour disturbances | Labour disturbances | | | | | | | | |
| | Malicious damage | | | Malicious damage | Malicious damage | | | Malicious damage | | | | | |
| | Bursting, leaking and overflowing boilers, water tanks, water pipes and associated apparatus | | | Bursting, leaking and overflowing boilers, water tanks, water pipes and associated apparatus | Bursting, leaking and overflowing boilers, water tanks, water pipes and associated apparatus | | | Bursting, leaking, discharging or overflowing of fixed apparatus, fixed tanks or fixed pipes used to hold or carry liquid of any kind | | | | | |

| | ACT | NSW | | NT | | Qld | | SA | | Tas | Vic | WA | NZ |
|--|---|---|---|---|---|--|---|--|--|-----------------------------------|--|-----------------------------------|---------------------------------|
| | <i>Unit Titles (Management) Act 2011</i> | <i>Strata Schemes Management Act 2015</i> | <i>Community Land Management Act 1989</i> | <i>Unit Title Schemes Act 2009</i> | <i>Unit Titles Act 1975</i> | <i>BCCM Act and all regulation modules</i> | <i>Building Units and Group Titles Act 1980</i> | <i>Strata Titles Act 1988</i> | <i>Community Titles Act 1996</i> | <i>Strata Titles Act 1998</i> | <i>Owners Corporati ons Act 2006</i> | <i>Strata Titles Act 1985</i> | <i>Unit Titles Act 2010</i> |
| | | | | | | | | Flood (the covering of normally dry land that has escaped from the normal confines of natural water courses) | | | | | |
| | Impact of aircraft (including parts of, and objects falling from, aircraft) | | | Impact of aircraft (including parts of, and objects falling from, aircraft) | Impact of aircraft (including parts of, and objects falling from, aircraft) | | | | | | | | |
| | Impact of road vehicle | | | Impact of road vehicle | Impact of road vehicle | | | | | | | | |
| | Impact of horses and cattle | | | Impact of horses and cattle | Impact of horses and cattle | | | | | | | | |
| | | | | | | | | Impact of or arising out of the use of a vehicle (including an aircraft or a waterborne craft) | | | | | |
| | | | | | | | | Impact by space debris or impact from an aircraft, rocket or space satellite | | | | | |
| | | | | | | | | Impact by an animal other than an animal kept on the site or a pet animal | | | | | |
| | | | | | | | | Impact by a falling tree or part of a tree | | | | | |
| | | | | | | | | Impact by a TV or radio aerial that has broken or collapsed | | | | | |

| | ACT | NSW | | NT | | Qld | | SA | | Tas | Vic | WA | NZ |
|--|--|---|---|--|---------------------------------|--|---|---|--|-----------------------------------|--|-----------------------------------|---------------------------------|
| | <i>Unit Titles (Management) Act 2011</i> | <i>Strata Schemes Management Act 2015</i> | <i>Community Land Management Act 1989</i> | <i>Unit Title Schemes Act 2009</i> | <i>Unit Titles Act 1975</i> | <i>BCCM Act and all regulation modules</i> | <i>Building Units and Group Titles Act 1980</i> | <i>Strata Titles Act 1988</i> | <i>Community Titles Act 1996</i> | <i>Strata Titles Act 1998</i> | <i>Owners Corporati ons Act 2006</i> | <i>Strata Titles Act 1985</i> | <i>Unit Titles Act 2010</i> |
| | Anything prescribed by regulation | Any other occurrence specified in the policy* | Other prescribed risk | | | | | | | Any other prescribed risks | | | |
| | | | | | | | | Damage by theft, burglary or house breaking or attempt to commit | | | | | |
| | | | | | | | | Deliberate or intentional act | | | | | |
| | | | | | | | | Accidental damage to fixed glass bathroom fixtures | | | | | |
| | | | | | | | | Loss by theft, burglary or housebreaking | | | | | |
| | | | | | | | | The insured or a residing family incurring a liability as an owner or occupier to pay compensation or damages to some other person | | | | | |

In jurisdictions that provide a list of specified risks that must be insured against under the mandatory building insurance, the standard risks that are specified are: fire, storm, lightning, tempest, and explosion.

Certain jurisdictions add other specified risks on top of the above standard list:

- the ACT, NT, SA and WA add 'earthquake';
- the ACT, NT and SA (strata schemes) also add:
 - riot;
 - civil commotion;
 - malicious damage.
- the ACT and NT add 'bursting, leaking and overflowing boilers, water tanks, water pipes and associated apparatus';
- SA (strata schemes) adds 'thunderbolt' and 'bursting, leaking, discharging or overflowing of fixed apparatus, fixed tanks or fixed pipes used to hold or carry liquid of any kind';
- whilst the ACT, NT and SA (strata schemes) also add risks resulting from the impact of aircraft, vehicles and animals, SA (strata schemes) goes further and more broadly to encompass some unique risks that must be covered by the mandatory building insurance such as:
 - the impact of space debris;
 - any deliberate or intentional act;
 - damage by theft, housebreaking or attempt to commit the same;
 - loss by theft, burglary or housebreaking; and
 - any insured or residing family incurring a liability as an owner or occupier to pay compensation or damages to some other person.

SA (strata schemes) has the greatest number of specified risks that must be insured against. It also appears to have the broadest range of specified risk that must be covered by mandatory building insurance. The mandatory building insurance must also cover '*the insured or a residing family incurring a liability as an owner or occupier to pay compensation or damages to some other person*'. This appears to be a very broadly defined category of potential risk that extends to families residing in the scheme. No other jurisdiction has a similar mandatory inclusion. SA (strata schemes) is unique in defining its specified risks by reference to 'damage caused by events, other than subsidence, declared to be prescribed events in relation to home building insurance under Part 5 of the *Insurance Contracts Act 1984* (Cth)'.³¹

5.2.6 Level of cover for mandatory building insurance

The standard for the minimum level of cover required by a mandatory building insurance policy differs depending on the jurisdiction. Table 69 sets out each jurisdiction's standard for the minimum level of cover for mandatory building insurance.

³¹ Regulation 19, *Insurance Contracts Regulation 2017* (Cth).

Table 69: Level of cover for mandatory building insurance

| Legislation (Jurisdiction) | Minimum level of cover | Other costs that must be covered |
|---|--|--|
| <i>Unit Titles (Management) Act 2011 (ACT)</i> | For their replacement value from time to time. | <ul style="list-style-type: none"> • Removing debris • Fees of architects • Fees of other professional advisers |
| <i>Strata Schemes Management Act 2015 (NSW)</i> | <p>The building is to be insured for at least the amount determined in accordance with the regulations.</p> <p>The regulations state:</p> <p>(a) if the building is destroyed the building is to be rebuilt or replaced so that the condition of every part of the rebuilt or replacement building is not worse or less extensive than that part when new.</p> <p>(b) if the building is damaged but not destroyed the damaged part of the building is to be repaired or restored so that the condition of the repaired or restored part is not worse or less extensive than that part when new.</p> | <ul style="list-style-type: none"> • Expenses in removing debris • Remuneration of architect whose services is necessary as an incident to the rebuilding, replacement or restoration • Remuneration of other people whose services is necessary as an incident to the rebuilding, replacement or restoration |
| <i>Community Land Management Act 1989 (NSW)</i> | The building to be fully insured. | |
| <i>Unit Title Schemes Act 2009 (NT)</i> | All reasonable costs for the reinstatement of any damaged common property (including any damaged scheme building that is common property (meaning work that is reasonably required for restoring the damaged common property to substantially the same condition as existed immediately before it was damaged)). | |
| <i>Unit Titles Act 1975 (NT)</i> | For their replacement value from time to time. | |
| <i>Body Corporate and Community Management Act 1997 (Qld) and all regulation modules</i> | Full replacement value of the common property and reinstatement of the property to its condition when new. | <ul style="list-style-type: none"> • Costs of taking away debris • Fees of architects • Fees of other professional advisers |
| <i>Building Units and Group Titles Act 1980 (Qld)</i> | To the reinstatement or replacement value. | <ul style="list-style-type: none"> • Costs of taking away debris • Fees of architects • Fees of other professional advisers |

| Legislation (Jurisdiction) | Minimum level of cover | Other costs that must be covered |
|--|---|--|
| <i>Strata Titles Act 1988 (SA)</i> | To the building's replacement value including the cost of its complete replacement. | <ul style="list-style-type: none"> •Costs of any necessary preliminary demolition work •Costs of any necessary architectural work •Costs of any necessary surveying work •Costs of any necessary engineering work |
| <i>Community Titles Act 1996 (SA)</i> | For the full cost of replacing the buildings or improvements with new materials. | |
| <i>Strata Titles Act 1998 (Tas)</i> | That covers damage. | |
| <i>Owners Corporations Act 2006 (Vic)</i> | The cost necessary to replace, repair or rebuild the property to a condition substantially the same, but not better or more extensive than its condition when new. | <ul style="list-style-type: none"> •The payment of expenses necessarily and reasonably incurred in the removal of debris •The remuneration of architects whose services are necessary •The remuneration of other persons whose services are necessary |
| <i>Strata Titles Act 1985 (WA)</i> | To replacement value (the amount required to rebuild, replace, repair or restore the asset so that, on completion of the work, the asset is no less extensive and in no worse condition than when the asset was new) or to replacement value up to, for an event of a specified kind, a maximum amount specified in the contract of insurance that is a reasonable limitation in the circumstances. | <ul style="list-style-type: none"> • The amount required for costs of demolition site clearance • The remuneration of architects, surveyors, engineers and other persons whose services are necessary for the rebuilding, replacement, repair or restoration of the asset. |
| <i>Unit Titles Act 2010 (NZ)</i> | To their full insurable value. | |

The following observations have been made regarding the quality standards required by mandatory building insurance in each jurisdiction:

- in terms of the quality standard for any replacement or reinstatement building work required under a mandatory building insurance policy, NSW (strata schemes) and Qld appear to have the highest standard, requiring that the building to be reinstated to a standard no worse than its condition if it were new;
- NSW (strata schemes) gives the most consideration to providing stakeholders with a detailed method for determining the level of cover required;
- Vic's quality standard of replacement and reinstatement work is slightly lower than that required in Qld and NSW, being not better than or more extensive than the building's condition when new;
- NT's quality standard is lower than Vic's, requiring only work that is reasonably required for restoring the damaged common property to substantially the same condition as existed immediately before it was damaged;

- WA requires that the asset is replaced or repaired in a way that is no less extensive and in no worse condition than when the asset was new and also adopts the concept of 'reasonableness' when determining the level of cover required for the replacement value of buildings;
- the ACT, NT (Pre-2009 schemes) and SA do not provide any specific guidance around the quality standard of the replacement or reinstatement work required, but simply refer to the 'replacement value' of the building as the standard for the level of cover;
- Tas simply requires the mandatory building insurance 'covers damage'. NT (Post-2009 schemes) requires cover for the 'reinstatement value' and New Zealand requires cover for the 'full insurable value', but none of these jurisdictions prescribe any quality standard for the replacement work.

There is a notable divide in the way the jurisdictions define the scope of the costs the OC must be insured for under mandatory building insurance. The ACT, NSW (strata schemes), Qld, SA, Vic AND WA expressly contemplate those costs associated with the removal of debris and the engagement of architects and other professionals will likely be required in the event the insured buildings need to be replaced and specify that the cover must include such costs. In these jurisdictions there may be a risk that this limits the insurable categories of expenses that could be incurred by an OC in rebuilding its insured building, thereby limiting the scope of cover rather than expanding it compared to the jurisdictions that do not make reference to any specific associated costs. Those jurisdictions that do not make express reference to these kinds of specific associated costs are NSW (Community Schemes), NT, Tas and New Zealand. This could be because it is implied that such costs are included within the broader concepts of 'replacement value', 'insurable value' commonly used in those jurisdictions.

5.2.7 Exemptions to the requirement to obtain mandatory building insurance

There are limited exemptions to the requirement that an OC obtain building insurance. Table 70 sets out these exemptions by jurisdiction.

Table 70: Exemptions to the duty to obtain mandatory building insurance

| Legislation (Jurisdiction) | Exemption(s) |
|--|---|
| <i>Unit Titles (Management) Act 2011 (ACT)</i> | <ul style="list-style-type: none"> • If the replacement value of all common property buildings on the land is less than an amount prescribed by regulation the OC may be unanimous resolution exempt itself from the requirement to take out building insurance under s.100(1) for any risk stated in the exemption resolution. • An OC for Class B units may be unanimous resolution exempt itself from the requirement to take out building insurance for any risk stated in the exemption resolution. |
| <i>Strata Schemes Management Act 2015 (NSW)</i> | <ul style="list-style-type: none"> • If the OC for a two-lot subdivision consists of physically detached building and no part of the building in the scheme is situation outside of the lots and the OC determines by unanimous resolution, then the OC does not need to obtain a damage policy for the buildings. • If the Tribunal by order exempts the OC from compliance with the requirements to insure unconditionally. • If the Tribunal is of the opinion that compliance with the insurance requirements is unnecessary or impracticable and each other |

| Legislation (Jurisdiction) | Exemption(s) |
|---|--|
| | <p>person required to insure the building has consented, the Tribunal may make an order that exempts the OC from compliance with requirements, subject to a condition that the OC takes out insurance for the building that is specified in the order, with the OC's consent only, to be given by unanimous resolution.</p> |
| <i>Community Land Management Act 1989 (NSW)</i> | <ul style="list-style-type: none"> • If an Adjudicator exempts the Association from the requirement to insure against damage or destruction from fire, lightning, explosion or other prescribed risk. |
| <i>Unit Title Schemes Act 2009 (NT)</i> | <ul style="list-style-type: none"> • NIL |
| <i>Unit Titles Act 1975 (NT)</i> | <ul style="list-style-type: none"> • Insurance requirements do not apply to or in relation to the corporation of an estate development except in relation to improvements and buildings the common property of the estate development. • If an OC passes a unanimous resolution not to insure then it is not required to insure unless an owner or a mortgagee serves a written notice requiring the OC to effect such insurance within 28 days. |
| <i>Body Corporate and Community Management Act 1997 (Qld) and all regulation modules</i> | <ul style="list-style-type: none"> • If an OC in a community titles scheme created under a building format plan of subdivision or volumetric format plan of subdivision cannot comply with the obligation to take out full replacement insurance, then the OC may apply in writing to the commissioner, who may authorise the OC to put in place alternative insurance in a form approved by the commissioner if the commissioner is satisfied that the insurance approved gives cover that is as close as practicable to the cover given by full replacement insurance cover. • The OC does not need to insure a building or part of a building if the scheme is a subsidiary scheme for another community titles scheme and the OC for the other scheme is required to insure the building or part of the building. • The OC does not need to insure a building or part of a building if the building is scheme land and the whole of the building is the subject of a building management statement registered under the <i>Land Title Act 1994</i> (Qld) and the building management statement provides for insurance for the building to a level comparable with the otherwise mandatory insurance and that insurance is in place. |
| <i>Building Units and Group Titles Act 1980 (Qld)</i> | <ul style="list-style-type: none"> • NIL |
| <i>Strata Titles Act 1988 (SA)</i> | <ul style="list-style-type: none"> • The duty to insure does not apply to an OC if all units comprised in the scheme are held by the same registered owner and no unit in the scheme is subject to a contract for sale. • The Minister may by Gazette exempt OCs from compliance with the requirement to maintain fidelity guarantee insurance for such a period as the Minister thinks fit. The regulations state that OCs with no administrative fund or sinking fund are not required to maintain fidelity guarantee insurance. |

| Legislation (Jurisdiction) | Exemption(s) |
|--|---|
| <i>Community Titles Act 1996 (SA)</i> | <ul style="list-style-type: none"> • The Minister may, by notice in the Gazette, exempt OCs from compliance with the requirement for fidelity guarantee insurance for such period as the Minister thinks fit. The regulations state that the following kinds of OCs are not required to maintain fidelity guarantee insurance: (i) OCs that have buildings and other improvements on its common property insured for a sum not exceeding \$100 000; (ii) 2-lot OCs with no administrative or sinking funds. |
| <i>Strata Titles Act 1998 (Tas)</i> | <ul style="list-style-type: none"> • If the OC can show that despite the OC having taken all reasonable steps available to it to comply with the requirement to obtain a damage and reinstatement policy, no insurer is willing to enter into a policy of insurance on reasonable terms that meets the statutory obligations, then the OC shall have a defence to any offence proceedings under s.99(1) against it. |
| <i>Owners Corporations Act 2006 (Vic)</i> | <ul style="list-style-type: none"> • The OC is not required to take out insurance over single storey buildings on lots. • The OC is not required to take out insurance over lots in plans of subdivision registered under the <i>Cluster Titles Act 1974 (Vic)</i> or <i>Strata Titles Act 1967 (Vic)</i> unless one or more of the lots is located above another lot. • If there is no common property the OC may resolve that each lot owner must arrange for the lot owner's own insurance. • If the OC's land is affected by another OC which has the insurance required by the insurance division then the OC does not need to insure. |
| <i>Strata Titles Act 1985 (WA)</i> | <ul style="list-style-type: none"> • If an OC has taken all reasonably practicable steps available to it to obtain the required insurance but no insurer is willing to enter into a contract of insurance on reasonable terms that meet the requirements, the OC must obtain whatever insurance it can obtain on reasonable terms that most closely meets the requirements. • The Tribunal may exempt an OC from compliance with its insurance obligations subject to conditions. • The owner of a lot in a survey strata scheme is responsible for replacement insurance for infrastructure on the lot. • If the OC is for a single tier scheme and the OC has passed a resolution without dissent that it is not required to keep insured the insurable assets within the common property. • If the OC is for a single tier scheme and there is no common property except for cubic space above or below the horizontal boundary of a lot in which there are no insurable assets and boundary fencing. |
| <i>Unit Titles Act 2010 (NZ)</i> | <ul style="list-style-type: none"> • If the principal and accessory lots are stand-alone units, the OC may by special resolution at a general meeting require each lot owner to insure all the improvements within the boundaries of the unit, the OC remaining responsible for insuring all improvements within the common property boundaries. |

Each jurisdiction has its own unique scenarios in which an OC may be exempt from the duty to obtain mandatory building insurance.

Qld (BCCM), Tas and WA appear to appreciate that it may not always be possible for an OC to comply with its duty to obtain mandatory building insurance and allow for some form of alternative insurance that meets the requirements as closely as possible. The other jurisdictions do not appear to make express reference to that scenario.

Some jurisdictions create exemptions defined by reference to the physical layout or nature of the scheme itself, usually those exemptions apply to smaller schemes that are comprised of stand-alone lots with little or no common property: NZ, Vic, SA (community schemes), NSW (strata schemes) and WA single tier schemes appear to make such a distinction.

NT (post-2009 schemes) and Qld (BUGT) do not appear to provide any exemptions.

The general trend is that exemptions, where they do exist, have been narrowly construed and are unlikely to apply to an OC unless it is for a very small scheme or finds itself in the situation where it is not able to source the mandatory building insurance.

5.2.8 Valuations

Despite there being a requirement in every jurisdiction to obtain mandatory building insurance to cover, at minimum, the replacement cost of the insured buildings, only two jurisdictions, Qld (BCCM) and Vic, impose a legal duty on an OC to obtain a valuation of the insured buildings. In Vic, the duty is only imposed on 'prescribed owners corporations', being those that either affect more than 100 lots or raise more than \$200,000 in fees per annum.³²

In Qld and Vic, a valuation of the insured buildings must be obtained by an OC at least every five years. The duty on OC in Qld (BCCM) requires the valuation to state the full replacement value of the insured buildings, whereas Vic only requires a valuation of the insured building and does not expressly state that it must be for the buildings' replacement value.

5.2.9 Mandatory public liability insurance

NZ does not require an OC to obtain public liability insurance due to its unique Accident Compensation Corporation (ACC) no fault scheme that regulates claims for compensation for personal injury under the *Accident Compensation Act 2001* (NZ). However, no such scheme exists in Australia and therefore all jurisdictions require an OC to obtain and maintain some form of public liability insurance. However, the nature and scope of the mandatory public liability insurance varies in terms of how it is described and what it must cover.

5.2.9.1 Names, reference terms and scope of cover

³² At the time of writing this report, Victoria was in the process of reforming its OC laws. When the new legislation commences, all OCs in Victoria (aside from two lot schemes or services only schemes) will be required to obtain a valuation for insurance purposes.

The various terms used by each jurisdiction and the scope of the required cover mandatory public liability insurance are set out in Table 71.

Table 71: Names and reference terms used for mandatory public liability insurance

| Legislation (Jurisdiction) | Terms adopted | Scope of cover |
|---|---|--|
| <i>Unit Titles (Management) Act 2011 (ACT)</i> | Public liability insurance. | For events happening on the common property. |
| <i>Strata Schemes Management Act 2015 (NSW)</i> | Insurance in respect of damage to property, death or bodily injury for which the OC could become liable in damages. | For which the OC could become liable in damages. |
| <i>Community Land Management Act 1989 (NSW)</i> | Insurance in respect of damage to property and in respect of death and bodily injury. | For which the OC could become liable in damages. |
| <i>Unit Title Schemes Act 2009 (NT)</i> | Insurance against the liability of the OC for a claim relating to an individual's illness, injury or death, or the loss of or damage to property, suffered. | On the common property. |
| <i>Unit Titles Act 1975 (NT)</i> | Insurance against liability in respect of (a) death, bodily injury or illness; or (b) loss of, or damage to, property. | Occurring in connection with the common property. |
| <i>Body Corporate and Community Management Act 1997 (Qld) and all regulation modules</i> | Public risk insurance. | Of the common property and relevant assets. |
| <i>Building Units and Group Titles Act 1980 (Qld)</i> | Insurance in respect of the liability of the OC for damage to property, death or bodily injury. | Occurring upon the common property. |
| <i>Strata Titles Act 1988 (SA)</i> | Must insure against liability in tort. | |
| <i>Community Titles Act 1996 (SA)</i> | A OC must insure itself— (a) against risks that a normally prudent person would insure against; and (b) against such other risks as are prescribed by regulation. | |
| <i>Strata Titles Act 1998 (Tas)</i> | Public risk. | Over the site. |
| <i>Owners corporations Act 2006 (Vic)</i> | Public liability insurance. | Which is sustained as a result of an occurrence or happening in connection with the common property. |

| | | |
|------------------------------------|--|---------------------------------------|
| Strata Titles Act 1985 (WA) | Insurance against damage to property, death, bodily injury or illness. | For which the OC could become liable. |
| Unit Titles Act 2010 (NZ) | NIL - because ACC applies. | N/A. |

There is no commonly used term for the mandatory public liability insurance that an OC is required to obtain. The following observations are made:

- the ACT, Qld (BCCM), Tas and Vic use the terms ‘public liability’ or ‘public risk’ insurance; NSW, NT, Qld (BUPT) and WA describe the mandatory public liability insurance in more detailed terms, referring specifically to cover for death, bodily injury, and illness;
- the NT also requires cover for loss of, or damage to, property to be covered by mandatory public liability insurance;
- four jurisdictions (ACT, NT, Qld and Vic) refer to the common property when defining the scope of the mandatory cover;
- NSW and WA define the scope of mandatory cover by reference to what the OC could become liable for;
- mandatory public liability insurance in Tas needs to cover the entire site, not just the common property. This is a notable difference between Tas and all of the other jurisdictions;
- SA (Strata Schemes) is unique in that it requires cover for ‘liability in tort’. This is a very broad definition of the required cover and extends beyond an OC’s legal liability to pay compensation for death or bodily injury occurring on common property as a result of the OC’s negligence. It appears that it must cover all potential liability in tort and could extend to cover for damages payable for all kinds of breach of tortious duty, including breach of statutory duty.

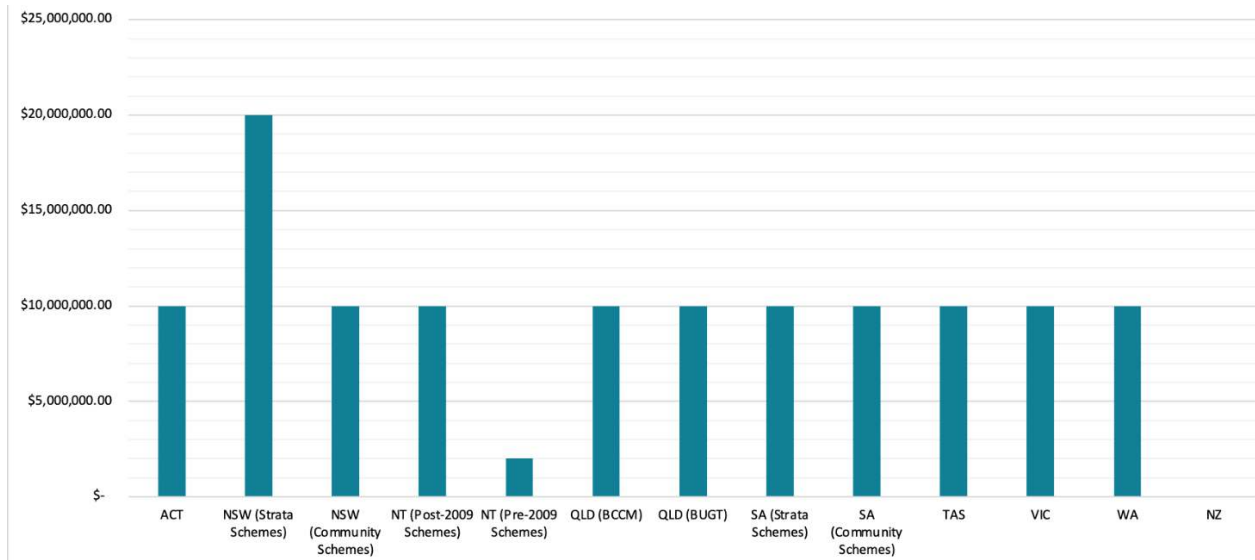
5.2.9.2 Specified risks to be covered by mandatory public liability insurance

Apart from SA and NSW (community schemes), there is a trend in the strata laws that goes beyond simply requiring mandatory public liability insurance. There are specific risks prescribed that must be covered under this policy type - death (including accidental death), bodily injury (or personal injury), illness, and damage to property. In the ACT, loss of property is also a specific risk that must be covered.

5.2.9.3 Level of cover for public liability insurance

Where an OC has a legal duty to obtain mandatory public liability insurance, the minimum amount of cover required is always prescribed. The minimum cover ranges from \$2 million to \$20 million but is most commonly set at \$10 million. Graph 64 highlights the minimum level required in each jurisdiction.

Graph 64: Minimum level of mandatory public liability insurance cover



NSW (strata schemes) require minimum cover of \$20 million, more than double the minimum amount of cover required by all other jurisdictions except NT (Pre-2009 schemes), which only requires a minimum cover of \$2 million.³³

5.2.10 Other mandatory insurance

In addition to mandatory building insurance and mandatory public liability insurance, several jurisdictions also require an OC to obtain other insurances. These include workers' compensation and workplace injury insurance, voluntary workers insurance, and fidelity insurance.

5.2.10.1 Workers' compensation or workplace injury insurance

Only NSW, Qld (BUGT) and WA expressly reference workers' compensation or workplace injury insurance. Although the strata laws in the other jurisdictions may not reference this insurance, other legislation specifically regulating workplace compensation and workplace injuries may need to be considered in the suite of strata insurances.

Workers' compensation insurance policies indemnify an OC in respect of legal liability it owes to individuals it employs who are injured during the course of their employment. Whenever an OC employs an individual to perform services, and the individual suffers an injury during the course of the work, there is a risk that the OC will be responsible to pay weekly benefits, medical expenses and other costs arising as a result of the injury, pursuant to the requirements of the relevant state's workers' compensation legislation.

³³ It is noted that Victoria has recently passed amendments to its strata legislation increasing the minimum level of cover from \$10 million to \$20 million effective from 1 December 2021.

Workers' compensation schemes are intended to cover employees as opposed to independent contractors who ordinarily would have their own personal accident insurance. Whether or not an individual is an employee requires an examination of the definition of "worker" in each Act, which is summarised in Table 72.

In addition to the definitions contained in each Act it is often necessary to consider other matters to reach a conclusion as to whether a contractor may meet the definition of "worker". Consideration must be given to matters such as:

- was the individual paid to achieve a specific purpose (i.e., not paid an hourly rate)?
- did they supply their own tools and equipment?
- would they be liable for the cost of rectifying any defective work?

It is not as simple as drafting an agreement for the work that refers to the person as a contractor. Consideration must be given by the OC to the context of the relationship in order to assess its risk.

Premiums are calculated based on the amount of wages an OC pays to employees annually, together with the relevant claims histories.

Table 72: Coverage for employees and contractors under relevant workers' compensation legislation

| Legislation (Jurisdiction) | Coverage for Employees | Coverage for Contractors |
|--|---|--|
| <i>Workers' Compensation Act 1951 (ACT)</i> | <p>Worker means an individual who:</p> <p>(a) works under a contract of service...</p> <p>(b) works under a contract, or at piecework rates, for labour only or substantially for labour only; or</p> <p>(c) works for another person under a contract (whether or not a contract of service) unless-</p> <p>(i) the individual is paid to achieve a stated outcome; and has to supply the plant and equipment or tools of trade needed to carry out the work; and is, or would be, liable for the cost of rectifying any defect in the work carried out; or</p> <p>(ii) a personal services business determination is in effect for the person carrying out the work under the</p> <p><i>Income Tax Assessment Act 1997 (Cth)</i> s. 8 <i>Workers' Compensation Act 1951</i></p> | <p>Potential coverage for contractors employed by an OC on a regular or systematic basis.</p> <p>s. 11 <i>Workers' Compensation Act 1951</i></p> |

| Legislation (Jurisdiction) | Coverage for Employees | Coverage for Contractors |
|--|---|---|
| Workplace Injury Management and Workers Compensation Act 1998 (NSW) Workers Compensation Act 1987 (NSW) | <p>A worker is a person who has entered into or works under a contract of service or a training contract with an employer (whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, and whether the contract is oral or in writing).</p> <p>s. 4 <i>Workplace Injury Management and Workers Compensation Act 1998</i></p> | <p>a. No coverage likely for independent contractors performing work for an OC.</p> <p>Schedule 1 <i>Workplace Injury Management and Workers Compensation Act 1998</i></p> |
| Return to Work Act 1986 (NT) | <p>A worker is an individual who:</p> <ul style="list-style-type: none"> - performs work or a service of any kind for another person (the employer) under a contract; and - in relation to the contract: <ul style="list-style-type: none"> - is an employee for the purpose of assessment for PAYG Withholding under the <i>Taxation Administration Act 1953</i> (Cth), Schedule 1, Part 2-5 (the PAYG provisions); or (ii) despite that the employer does not treat a person as an employee, the person should be an employee under the PAYG provisions. <p>s. 3B <i>Return to Work Act 1986</i></p> | <p>No coverage for independent contractors.</p> <p>A director of a body corporate is covered so long as an amount is withheld pursuant to the PAYG provisions and the director's name, estimated remuneration and nature of employment are disclosed to the OC's insurer at the time of taking out the policy.</p> <p>The fact that an individual has an ABN is not determinative of whether or not the individual is a worker.</p> |
| Workers' Compensation and Rehabilitation Act 2003 (Qld) | <p>A worker is a person who works under a contract; and in relation to the work, is an employee for the purpose of assessment for PAYG withholding under the Taxation Administration Act 1953 (Cwlth), schedule 1, part 2-5.</p> <p>s11 <i>Workers' Compensation and Rehabilitation Act 2003</i></p> | No coverage for independent contractors. |
| Return to Work Act 2014 (SA) | <p>A worker is defined as a person by whom work is done under a contract of service.</p> <p>s. 4 <i>Return to Work Act 2014</i></p> | <p>There is potential coverage for individuals involved in certain building and cleaning work where the work is personally performed by the worker and the value of any material supplied does not exceed a certain amount.</p> <p>s. 5 <i>Return to Work Regulations</i>.</p> |

| Legislation (Jurisdiction) | Coverage for Employees | Coverage for Contractors |
|--|--|--|
| Workers' Rehabilitation and Compensation Act 1988 (Tas) | Worker means any person who has entered into, or works under, a contract of service or training contract with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is express or implied, or is oral or in writing. s. 4 <i>Workers' Rehabilitation and Compensation Act 1988</i> | No coverage for independent contractors unless the work being performed by the contractor exceeds \$100 and is not incidental to the business regularly carried out by the contractor. No coverage where contractor has their own personal accident insurance. s. 4B <i>Workers' Rehabilitation and Compensation Act 1988</i> |
| Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) | Worker means an individual who performs work for an employer; or agrees with an employer to perform work at the employer's direction, instruction or request, whether under a contract of employment (whether express, implied, oral or in writing) or otherwise. s. 3 <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> | Potential coverage for sole trader contractors depending on the level of control and direction (e.g., if engagement is on an ongoing basis under direction and control of OC, generally works standard hours, equipment and tools etc provided for by the OC or reimbursed). Contractors running an independent business would be excluded. Schedule 1, cl. 9, <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> |
| Workers' Compensation and Injury Management Act 1981 (WA) | Worker means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise and whether the contract is expressed or implied, is oral or in writing. s. 5 <i>Workers' Compensation and Injury Management Act 1981</i> | Worker also includes any person engaged by another person to work for the purpose of the other person's trade or business under a contract with him for service, the remuneration by whatever means of the person so working being in substance for his personal manual labour or services. s. 5 <i>Workers' Compensation and Injury Management Act 1981</i> |

5.2.10.2 Voluntary workers' insurance

In NSW (strata schemes) it is mandatory for an OC to obtain insurance against any damages for which the OC could become liable because, without fee or reward or any expectation of the same, a person acting on behalf of the OC does work in a building or on common property in the strata scheme.

Similarly, in NSW (community schemes) it is mandatory for an OC to obtain insurance against damages for which the OC could become liable because of work done by a voluntary worker, and against accidental injury to, or accidental death of, a voluntary worker.

In making it mandatory to obtain voluntary workers insurance, NSW appears to have given express consideration to the unique nature of strata schemes being more likely to attract voluntary worker behaviour such as owner-occupiers undertaking jobs (e.g., cleaning, minor repairs and gardening work) on common property. However, no other jurisdiction has made it mandatory for an OC to obtain voluntary workers insurance.

Further consideration is required to determine whether an occupier, for example, would be covered under a scheme's public liability insurance if injured whilst performing unpaid jobs around the common property.

5.2.10.3 Fidelity insurance

In SA, it is mandatory for an OC to obtain and maintain fidelity guarantee insurance for the maximum total balance of the strata corporation's bank accounts at any time in the preceding three (3) years, or \$50,000, whichever amount is higher.

Fidelity insurance is not mandatory in any other jurisdiction, although NSW does make express reference to fidelity insurance being an optional type of insurance that an OC may decide to obtain.

5.2.11 Power to obtain additional insurance

Aside from the insurance that is mandatory for an OC to obtain, the legislation in some jurisdictions makes express reference to other types of insurance policies that the OC may decide to obtain in addition to the mandated policies. Table 73 outlines these optional insurances by jurisdiction. Whilst all jurisdictions make some reference to an OC's ability to obtain additional insurance, only three jurisdictions specify the types of additional insurance that may be considered by an OC.

Each jurisdiction words the OC's power to obtain additional insurance differently. Advice should be obtained to ensure that the OC has the power to obtain a particular policy.

Table 73: Power to obtain optional insurances

| | ACT | NSW | | NT | | QLD | | SA | | TAS | VIC | WA | NZ |
|--|-----|---|-------------------|-------------------|------------------|------|------|----------------|-------------------|-----|-----|-----|-----|
| | | Strata schemes | Community schemes | Post-2009 schemes | Pre-2009 schemes | BCCM | BUGT | Strata schemes | Community schemes | | | | |
| Do OC's have power to take out additional insurance? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Types of additional insurance expressly referred to (if any): | | | | | | | | | | | | | |
| Fidelity insurance | | Yes | Yes | | | | | | | | | | |
| Insurance against dishonesty | | | | | | | | | | Yes | | | |
| Insurance against negligence | | | | | | | | | | Yes | | | |
| Insurance against any other wrongful conduct or any other risk | | | | | | | | | | Yes | | | |
| Office bearer's liability insurance | | Yes | Yes | | | | | | | | | | |
| Insurance against the possibility of lot owners becoming jointly liable because of a claim arising in respect of any other occurrence | | Yes - but requires special resolution to obtain | | | | | | | | | | | |
| Insuring any other property in which the OC has an interest | | | Yes | | | | | | | | | | |
| A voluntary lot insurance scheme | | | | | | Yes | | | | | | | |

A decision to take out an optional insurance policy must be passed by a resolution of the OC. Table 74 outlines the type of resolution required for such a decision to be made in each jurisdiction.

Table 74: Resolution type required to take out optional insurances by jurisdiction

| Laws and reference (Jurisdiction) | Type of resolution required to obtain optional insurance |
|--|--|
| <i>Unit Titles (Management) Act 2011 (ACT)</i> s. 104 & cl. 3.14, Schedule 3 | Ordinary resolution. |
| <i>Strata Schemes Management Act 2015 (NSW)</i> s. 165, cl 14(1), Schedule 1 | Simple majority resolution. |
| <i>Community Land Management Act 1989 (NSW)</i> s. 40(2)(2), s. 41, s. 3 | Special resolution for additional insurance against the possibility of members of the association becoming jointly liable under a claim arising out of any other event against which the association decides by special resolution to insure. All other additional insurance requires an ordinary resolution. |
| <i>Unit Title Schemes Act 2009 (NT)</i> s. 56 (Post-2009 schemes) | Ordinary resolution. |
| <i>Unit Titles Act 1975 (NT)</i> s. 80(7) (Pre-2009 schemes) | Ordinary resolution. |
| <i>Body Corporate and Community Management (Standard Module) Regulation 2020 (Qld)</i> r. 204, r. 205 | Ordinary resolution is required by the OC for a basic community titles scheme under a standard format plan of subdivision with a stand alone building on one or more lots, in order to elect to put in place insurance under a voluntary insurance scheme covering other lots included in the scheme. |
| <i>Building Units and Group Titles Act 1980 (Qld)</i> s. 56(3) | Simple majority. |
| <i>Strata Titles Act 1988 (SA)</i> s. 31(3) (Strata schemes) | Special resolution. |
| <i>Community Titles Act 1996 (SA)</i> s. 34(3)(ca) (Community schemes) | Depends on the by-laws for each scheme. |
| <i>Strata Titles Act 1998 (Tas)</i> s. 99(3A), s. 3 | Ordinary resolution. |
| <i>Owners Corporations Act 2006 (Vic)</i> s. 62 | Ordinary resolution. |
| <i>Strata Titles Act 1985 (WA)</i> s. 97(7)(3) | Ordinary resolution. |
| <i>Unit Titles Act 2010 (NZ)</i> s. 135(2) | Ordinary resolution. |

An ordinary or simple majority is most commonly required to pass a resolution for an OC to take out optional insurances. A special resolution is required for SA (strata schemes) and for certain insurance in NSW (community schemes).

5.2.12 Insurance premiums

As a statutory body, an OC needs to raise funds from its members (the lot owners) to meet its financial obligations, including its obligation to pay the premiums for its insurance policies. Failure to pay insurance premiums will invalidate the insurance policy and cause an OC to breach its legal duty to obtain the mandatory insurances. Alternatively, an OC with insufficient funds to pay insurance premiums may be required to seek out and obtain financial assistance in the form of a loan from a third party, leading to the OC becoming liable for additional costs in the form of interest and associated loan fees.

All jurisdictions impose either:

- a general legal duty on an OC to ensure the funds that it raises from its members are sufficient to cover all estimated annually recurrent expenditure; or
- a specific legal duty on an OC to ensure that funds are raised from its members to pay the premiums for its insurance policies.

All jurisdictions require an OC to raise contributions (either generally or specifically for premiums) from the lot owners based on their lot liability.³⁴ Only NSW (strata schemes), NSW (community schemes), Qld (BCCM), Tas and WA expressly contemplate that a lot owner or other person's use of the lot or the scheme may impact upon the amount of the insurance premium and provide a specific mechanism to enable an OC to equitably adjust a lot owner's contribution towards the insurance premiums to reflect the increased risk attributable to them.

Whilst some of the other jurisdictions do provide a mechanism for altering lot owners' contributions generally, they have not made express reference to the situation where it may be inequitable for a particular lot owner or lot owners to contribute more than their set lot liability contribution towards insurance premiums for the scheme. Table 75 outlines the general and specific insurance premium duties imposed by each jurisdiction.

³⁴ Note that the general basis of raising contributions in each jurisdiction is based on: 'unit liability' (ACT); 'lot entitlement' ((NSW (Community Schemes)), (Qld (BCCMA)), (Vic); 'unit owner's share' (NT (Pre-2009 Schemes)); 'unit entitlement' (NSW (Strata Schemes)), (NT) (Post-2009 Schemes)); (SA (Strata Schemes)), (Tas), (WA); 'unit ownership interest' (NZ).

Table 75: Insurance premium duties imposed by jurisdiction³⁵

| | ACT | NSW Strata Schemes | NSW Community Schemes | NT Pre-2009 Schemes | NT Post-2009 Schemes | Qld BCCM | Qld BUGT | SA Strata Schemes | SA Community Schemes | Tas | Vic | WA | NZ |
|--|---|---|---|--|-------------------------------------|---|---|--|--|---|---|---|--|
| Does the legislation expressly refer to how funds to pay insurance premiums are to be raised for OC mandatory policies? | Yes - specific reference to insurance premiums is made | Yes - specific reference to insurance premiums is made | Yes - specific reference to insurance premiums is made | No | Yes | Yes | No | No | No | No | Yes - specific reference to insurance premiums is made | No | No |
| Is there a standard method for raising funds for insurance premiums? | Generally based on unit liability | Generally based on unit entitlement | Generally based on lot entitlement | Generally based on unit owner's share of annual contribution | Generally based on unit entitlement | Generally based on lot entitlement | Generally based on lot entitlement | Generally based on unit entitlement | Generally based on lot entitlement | Generally based on unit entitlement | Generally based on lot entitlement | Generally based on unit entitlement | Generally based on unit ownership interest |
| Is there a modified method of raising funds to pay for insurance premiums? | Generally, if Special Resolution Passed to raise from certain unit owners | Yes - if a lot owner causes an increase in the insurance premium and lot owner consents or Tribunal orders | Yes - if a lot owner causes an increase in the insurance premium | Generally, amendment may be made to contribution for recurrent expenditure by unanimous resolution | No | Yes - adjustments may be made to reflect higher standard lots fixtures and improvements and proportions of risk caused by use of lot | Generally, amendments may be made to contribution by the OC or by referee order | Generally, any other basis as determined by the OC | Generally, amendments may be made to contributions by unanimous resolution | Yes - if lot owner who is causing insurance to be unavailable is given a notice and agrees to pay an additional amount | No | Yes - if the OC gives notice to a lot owner or an infrastructure owner to pay part of the premium attributable to their risk or if the scheme by-laws provide for a different basis for levying contributions. | No |

³⁵ This table deals with express references in the strata legislation to the method of raising levies for insurance premiums, it does not include the potential situation where an OC may have by-laws or rules that empower it to alter the method of raising levies for premiums.

5.2.13 Insurance claims

The co-ownership arrangements within a scheme affected by an OC gives rise to multiple potential beneficiaries of an OC's insurance policies. Whilst the OC is the policy holder, lot owners within the scheme may also be regarded as beneficiaries under the policies.

As insurable loss or damage occurs, insurance claims will be made. The laws in each of the jurisdictions vary widely in terms of procedures and obligations for insurance claims. Table 76 highlights these procedures and obligations. In particular, the differences relate to:

- whether or not an insurance claim must be made in certain circumstances;
- who may make a claim against an OC's insurance policy;
- if there is a claim excess payable, who is responsible for paying the excess.

No jurisdiction regulates whether or not an insurance claim must be made. The ACT is the only state that specifies that it is the domain of the OC to make a claim. Four jurisdictions make reference to who the responsible party is for paying the excess. The ACT and SA (community scheme) state that this obligation falls on the OC. Qld (BCCM) and Tas have a similar provision where the OC is liable unless the insurable event affects one lot. There is a provision whereby a resolution can be passed by the OC to overturn the general requirement.

If an insurance claim is successfully made, resulting in an OC receiving money from an insurer, most jurisdictions impose some form of restriction on how the OC may use that money. Legal restrictions within the strata laws about how an OC may or must apply insurance money, how it may decide or be ordered to otherwise, and where the money must be held pending use, impose an additional layer of legal obligations. Table 77 outlines the nature of the express legal restrictions on the use of insurance money in each jurisdiction. Generally, the starting position is that insurance monies need to be applied to reinstating, rebuilding, replacing, repairing the damaged or destroyed building. However, exceptions apply ranging from - not to apply in the prescribed manner (NSW – strata schemes, NT post-2009, Qld – BCCM, Qld – BUGT, SA – community scheme, WA, New Zealand) to seeking an order from a Tribunal or Court (NT pre-2009, Qld-BCCM, SA – strata scheme, Tas). Usually, these exemptions require a unanimous resolution, resolutions without dissent to special resolution of the OC. Four jurisdictions prescribe where the money is to be held pending works being undertaken. NSW, Qld (BUGT), SA (community schemes) require insurance monies to be applied to either the capital (sinking) fund or administrative fund. Qld (BCCM) and Vic (only for schemes that have established a maintenance fund) require funds to be credited to the sinking fund only.

Table 76: Procedures and obligations relating to insurance claims by jurisdiction

| Jurisdiction | | Whether or not an insurance claim must be made in certain circumstances | Who may make a claim against an OC's insurance policy? | If a claim excess is payable, who is responsible for paying the excess? | Is there is a specific procedure for disputes between the OC and lot owners about insurance claims or money? |
|--------------|--------------------------|---|--|---|--|
| ACT | | Silent | The OC must lodge the insurance claim. | The OC must pay any excess payable in relation to the insurance claim. | |
| NSW | <i>Strata Schemes</i> | Silent | Silent | Silent | If an OC refuses to make or pursue an insurance claim in relation to damage to the building or other insured property, the Tribunal has the power to order the OC to make or pursue the claim if it has unreasonably refused to do so. |
| | <i>Community Schemes</i> | Silent | Silent | Silent | Silent |
| NT | <i>Pre-2009 Schemes</i> | Silent | Silent | Silent | Silent |
| | <i>Post-2009 Schemes</i> | Silent | Silent | Silent | Silent |
| Qld | <i>BCCM</i> | Silent | Silent | If an insurable event only affects one lot, then the lot owner is liable to pay the excess unless the body corporate decides that it is unreasonable in all of the circumstances for the lot owner to bear the liability for the excess. | Silent |
| | <i>BUGT</i> | | | If an insurable event affects two or more lots, or one lot and common property, the body corporate is liable to pay the excess, unless it decides it is reasonable in all the circumstances for the excess to be paid by a lot owner, shared between lot owners or shared between the body corporate and particular lot owners. | |
| | | | | | If a body corporate has unreasonably refused to make or pursue an insurance claim, a lot owner may apply for an order that it must. |

| Jurisdiction | | Whether or not an insurance claim must be made in certain circumstances | Who may make a claim against an OC's insurance policy? | If a claim excess is payable, who is responsible for paying the excess? | Is there is a specific procedure for disputes between the OC and lot owners about insurance claims or money? |
|--------------|-------------------|---|--|---|--|
| SA | Strata Schemes | Silent | Silent | Silent | Silent |
| | Community Schemes | Silent | Silent | Any excess or shortfall resulting from under insurance must be met by the OC. | Silent |
| Tas | | | | The OC remains liable to pay, by way of excess, any contribution that has to be made to the cost of reinstatement or repair because the insurance is not for the full replacement value of the insured's property, unless the event affects only one lot, then the lot owner is liable to pay the excess unless the OC decides by ordinary resolution that it would be unreasonable that the lot owner alone be required to pay the excess. | Silent |
| Vic | | Silent | Silent | Silent | Silent |
| WA | | Silent | Silent | Silent | The Tribunal has the power to make orders requiring an OC to pursue a particular insurance claim. |
| NZ | | Silent | Silent | Silent | The District Court has jurisdiction to hear and determine unit title disputes relating to the application of insurance money for amounts up to and including \$50,000. For amounts over \$50,000, the High Court has jurisdiction. |

Table 77: Legal requirements regarding the application of insurance claim money by jurisdiction

| Jurisdiction | | Are there express legal restrictions on the application of insurance money received by an OC? | What must the insurance money be applied to? | Exception(s) | Are there restrictions on where the OC may hold the insurance money pending work? |
|--------------|--------------------------|---|---|---|---|
| ACT | | Yes | To reinstating the damaged or destroyed building on the land. | Subject to any other territory laws, for example, if an OC, lot owner or other interested person a 'building damage scheme/order' for a units plan under Part 10 of the <i>Unit Titles Act 2001</i> , then the OC may not apply insurance money until obtaining the orders. | |
| NSW | <i>Strata Schemes</i> | Yes | To rebuilding, replacing, repairing or restoring the damaged building. | Unless the OC resolves by unanimous resolution not to apply the money in that manner – but subject to any variation order made by a court under the <i>Strata Schemes Development Act 2015</i> that directs how insurance amounts shall be applied by the Owners corporation. | Must be paid into its capital works fund or administrative fund. |
| | <i>Community Schemes</i> | Yes | To rebuilding, replacing, repairing or restoring the damaged or destroyed building. | Subject to any order in force under Part 7 of the <i>Community Land Development Act 1989</i> (which relates to variation or termination of a scheme). | Must be paid either into either its administrative fund or sinking fund. |
| NT | <i>Pre-2009 Schemes</i> | Yes | To rebuilding, reinstatement of the damaged or destroyed building. | Subject to any order of the Tribunal. | |
| | <i>Post-2009 Schemes</i> | Yes (Conditional) | Damaged scheme land can only be reinstated under an approved reinstatement process. | There are two methods of obtaining an approved reinstatement process: <ul style="list-style-type: none"> ○ The OC may pass a resolution without dissent to approve the reinstatement process for insured damaged scheme land, and the insurer must approve the reinstatement process; or ○ An OC, lot owner or mortgagee may make an application to the Local Court seeking approval of a proposed reinstatement process and naming the OC's insurer and the OC of each of the schemes as respondents to the application. | |

| Jurisdiction | | Are there express legal restrictions on the application of insurance money received by an OC? | What must the insurance money be applied to? | Exception(s) | Are there restrictions on where the OC may hold the insurance money pending work? |
|--------------|-------------------|---|---|--|---|
| Qld | BCCM | Yes (Conditional) | For insurance money received (except under a 'voluntary insurance scheme'): to repairing, reinstatement or replacement of the damaged property. For money received under a 'voluntary insurance scheme': to the owner of the damaged property, subject to any prior mortgagee claim. | For insurance money received (except under a 'voluntary insurance scheme'): unless the OC passes a resolution without dissent to apply the insurance money for another purpose. An application may be made to the District Court for approval of a process for reinstating the building in whole or in part. The Court's powers to make orders under such an application include the power to make an order directing how insurance money is to be applied. | Must pay into its sinking fund amounts received under policies of insurance for destruction of items of a major capital nature. |
| | BUGT | Yes | To the rebuilding, replacing, repairing or restoring of the damaged building or common property including any improvements thereon. | Unless the OC passes a unanimous resolution to do otherwise. Subject to any order made under s.25 or s.26 of the <i>Building Units and Group Titles Act 1980</i> (relating to extinguishment of the plan). | An OC's administrative or sinking fund must include amounts paid to the OC by way of discharge of insurance claim. |
| SA | Strata Schemes | Yes | To reinstating or repairing the damaged building or building improvements. | Subject to any contrary Court order | |
| | Community Schemes | Yes | To making good the insured loss and damage. | Unless the OC passes a unanimous resolution to apply the money otherwise. Subject to any contrary Court order. | Must be credited to the OC's administrative or sinking fund |

| Jurisdiction | Are there express legal restrictions on the application of insurance money received by an OC? | What must the insurance money be applied to? | Exception(s) | Are there restrictions on where the OC may hold the insurance money pending work? |
|--------------------|---|---|--|---|
| Tas | Yes (Conditional) | To reinstating the building in accordance with an approved scheme for reinstatement which is either: by agreement in writing between all interested parties; or by Supreme Court order. | Subject to any Supreme Court order to the contrary. | |
| Vic | No | | | If an OC has established a maintenance fund, any amounts received under an insurance policy in respect of damage or destruction of property covered by the maintenance plan must be paid into the maintenance fund. |
| WA | Yes | To rebuilding, replacing, repairing or restoring the insurable asset. | Unless the OC's scheme is a survey-strata scheme and the strata company passes a resolution without dissent determining that the insurance money shall be used or distributed otherwise, but only where the damaged insurable asset is left in a safe condition. | |
| New Zealand | Yes | To the reinstatement of the unit title development. | Unless the OC decides otherwise by special resolution. Subject to any contrary Court order. | |

5.2.14 Disclosure obligations

Aside from the legal obligations on OCs to disclose material issues to the insurer, every jurisdiction imposes some form of obligation on OCs to disclose insurance information to other relevant or interested parties. The extent of the disclosure varies, with some jurisdictions requiring key insurance documents to be kept and made available for inspection, to far more detailed disclosure obligations with multiple avenues for interested persons to be able to inspect or request insurance documents.

With so many potential beneficiaries of the OC's insurance policies, it is important that those people are able to access information about who the insurer is, the type of cover, level of cover, whether an excess is payable, the expiry date and policy disclosure statements that apply to each policy. Table 78 sets out the procedures for insurance disclosure that OCs must maintain in each jurisdiction.

Table 78: Disclosure obligations by jurisdiction

| Jurisdiction | | To keep and maintain insurance records | To make insurance records available for inspection (whether subject to fee or not) | To allow copies of insurance records to be taken (whether subject to fee or not) | To provide insurance details in statutory certificates upon application | To make insurance disclosure to the annual general meeting |
|--------------------|--------------------------|--|--|--|---|--|
| ACT | | Yes | Yes | Yes | Yes | Yes |
| NSW | <i>Strata schemes</i> | Yes | Yes | Yes | | Yes |
| | <i>Community schemes</i> | Yes | Yes | Yes | | Yes |
| NT | <i>Pre-2009 schemes</i> | Yes | Yes or alternatively to give copies. | | | |
| | <i>Post-2009 schemes</i> | Yes | Yes | | | |
| Qld | <i>BCCM</i> | Yes | Yes | Yes | | Yes |
| | <i>BUGT</i> | Yes | Yes or alternatively to give copies. | | | |
| SA | <i>Strata schemes</i> | Yes | Yes or provide copies. | | | Yes |
| | <i>Community schemes</i> | Yes | Yes | | Yes | Yes |
| Tas | | | Yes | | | |
| Vic | | Yes | Yes | Yes | Yes | Yes |
| WA | | Yes | Yes | Optional | Yes | Yes |
| New Zealand | | Yes | Yes | Yes | Yes | |

5.2.15 Strata manager's insurance duties

Statutory duties imposed on strata managers that relate specifically to insurance fall into two categories – receiving a benefit from the placement of insurance and seeking alternative quotes.

In the ACT, the amount and type of any financial or other benefit given, or to be given, by the insurer for the insurance being taken out, to any person (e.g., commissions and discounts) must be given by the executive committee to the OC at every AGM. In Qld (BCCM), if a person is entitled to receive a commission, payment or other benefit associated with the body corporate considering entering into a contract of insurance, the person must give written notice to the body corporate disclosing the commission, payment or other benefit.³⁶

A number of jurisdictions require managers to disclose commissions or financial benefits generally. There may also be common law duties that apply to strata managers receiving a benefit such as an insurance commission.

In NSW (strata schemes), a strata manager has a duty to provide an OC with not less than three (3) quotations from different providers for each type of insurance proposed, or alternatively, must provide written reasons to the OC if less than three (3) quotations are provided.

5.3 Legal topics summation

As highlighted in this section of the report, the laws regulating strata insurance are complex, wide-ranging in terms of jurisdictional variations and at times, difficult to interpret. Protecting a strata scheme, its OC members, lot owners, and employees from risk requires the OC to make a number of important decisions. The mandatory insurance requirements and the complexity of the co-ownership structure forces owners of strata schemes to engage in insurance policies and laws very differently than an owner of a property that is not affected by an OC. This section re-introduces the legal topics outlined above in order to summarise the legal provisions and to itemise the decisions that an OC would need to make in ensuring the appropriate insurance requirements are undertaken and met.

5.3.1 Approved insurers

- *Do the regulations prescribe whom the mandatory or optional insurance must be obtained from? If so, how is the insurer described?*

NSW is the only state that specifically makes reference to approved insurers in its strata legislation. Regardless of this specific requirement, only the Australian Prudential Regulation Authority (APRA) can authorise bodies corporate to carry on insurance business in Australia.³⁷ It would be prudent of any OC to check the APRA register of authorised insurers.³⁸

³⁶ The Victorian strata law reforms will expressly require a strata manager to disclose commissions received for the placement of insurance contracts including the percentage of the premium and any changes to it.

³⁷ s 12, *Insurance Act 1973* (Cth).

³⁸ s 122, *Insurance Act 1973* (Cth).

| Decision to be made by the OC | Consequences of inaction |
|--|---|
| Review the APRA register annually at renewal time to ensure the proposed insurer is authorised to carry on an insurance business and whether it has any applicable conditions relevant. | That the insurer is not authorised to carrying on an insurance business in Australia. |
| Review the RBNZ list of insurers under the <i>Insurance (Prudential Supervision) Act 2010</i> (NZ). | That the insurer is not authorised to carrying on an insurance business in NZ. |

5.3.2 Insurable interests

- *Is an OC deemed to have an insurable interest? If so, what is the extent of that insurable interest?*

All strata laws, except for SA, provide that an OC does have an insurable interest. The extent of the interest ranges from:

- the buildings on the land to the extent of the replacement value; to
- the buildings on the land and improvements; to
- the scheme land; to
- the subject matter of the contract of insurance entered into in accordance with the strata regulations.

In some jurisdictions the OC's insurable interest, as outlined in the strata laws, appears to be limited and does not cover the potential range of policies that an OC can enter into. OCs should seek advice regarding the extent of its insurable interests.

| Decision to be made by the OC | Consequences of inaction |
|--|---|
| Understand the extent of the OC's insurable interest under the strata laws. | The OC may obtain optional insurance that it does not have to obtain. |

- *Are mortgagees of lots deemed to have an insurable interest? If so, what is the extent of that insurable interest?*

Only the New Zealand strata legislation specifies that a mortgagee has an insurable interest in the property covered by the OC's policy.

| Decision to be made by the OC | Consequences of inaction |
|---|---|
| Understanding to what extent other interested parties (lot owners, mortgagees) may have an insurable interest under the OC's policies. | The OC may be faced with a claim for damages from an interested party where indemnity has been declined under the OC's policy (whether validly or not). |

5.3.3 Mandatory building insurance

- *Is there a mandatory duty on OCs to obtain building insurance for the scheme? If so, what is the nature and scope of the cover?*

All jurisdictions require an OC to obtain some type of building insurance. The laws, generally, specify the physical scope of cover for this type of insurance and its exclusions. OCs need to

understand this coverage as most insurance policies rely on the definition of ‘building’ in insurance policies. Furthermore, due to the lack of uniformity in terms of the specific risks that must be covered within jurisdictions, OCs need to be aware of the risks covered and consider whether additional risk coverage is required due to the site-specific needs of the scheme. For example, flood coverage.

It is essential that OCs also have a good understanding of the legal boundaries within the scheme. Responsibility and therefore liability may be dependent on where the insurable event arose within the insurable parts of the land.

| Decision to be made by the OC | Consequences of inaction |
|---|--|
| Consider and take all reasonable steps to answer any questions asked by the insurer prior to entering into any contract of insurance. | The OC fails in its duty to disclose relevant information to the insurer, and the insurer may avoid the policy. |
| Read the insurance policies and ensure that the policies meet the minimum legal requirements relating to mandatory building insurance. | The policy may not sufficiently provide the minimum legal coverage for mandatory building insurance leading to: <ul style="list-style-type: none"> • Breach of statutory duty to insure; and • Risks associated with inadequate insurance. |
| Determining the level of excess relative to the impact on the premium amount ensuring that the excess amount does not breach any legal constraints. | Depends on the jurisdiction, but OC should be aware of their general statutory duties when making decisions. |
| Check restrictive or prohibitive clauses that impact the OC ability to make a claim under the policy. | The OC may be restricted from making an insurance claim for loss or damage. |
| Identify whether the OC has a duty to insure any part of lot property, and the legal boundaries of such lot property. | The policy may not provide cover for lot property that is legally required to be insured by the OC, leading to: <ul style="list-style-type: none"> • Breach of statutory duty to insure; and • Risks associated with inadequate insurance. |
| Identify whether the OC has imposed a contractual duty on any third party to reimburse any part of the insurance premium. | The OC may not recover part of the insurance premium that it is contractually entitled to recover. |
| Maintain an update to date common property asset and improvements register and ensure that all assets are continually disclosed to the insurer. | The policy may not sufficiently cover the newly acquired assets or improvements that have not been disclosed to the insurer. |
| Continually make disclosure to the insurer of every matter that it knows, or could reasonably be expected to know, which may affect the insurer's decision to insure the OC and on what terms. | The insurer may be able to avoid the insurance contract on the basis the OC has failed in its legal duty to disclose, leading to: <ul style="list-style-type: none"> • Breach of statutory to insure; and • Risks associated with having no insurance. |
| Create a procedure whereby incidents and other matters relevant to the insurer's decision whether to insure the OC and on what terms, (such as lot owner renovations or damage) that may affect the OC's ongoing disclosure obligations are compiled and disclosed to the insurer. | The OC may not become aware of an incident that affects its policy and it could have reasonably become aware of. |
| Take reasonable steps to ensure that the OC has an up to date occupier list including the use of the lot and disclosed to the insurer where necessary. | The OC may not become aware of a use of a lot that affects its policy and that it could have been reasonably become aware of. |

5.3.4 Exemptions to mandatory building insurance

- *Do any exemptions exist in relation to an OCs duty to obtain mandatory building insurance? If so, when do those exemptions apply?*

Most jurisdictions contemplate situations where building insurance may be not required due to the type of strata scheme (for example, detached dwellings) or that no insurer was willing to enter into an insurance contract on reasonable terms. In respect to the latter situation, such an exemption would need approval from the relevant Commission or Tribunal.

| Decision to be made by the OC | Consequences of inaction |
|--|---|
| Determine whether or not the OC has the benefit of an exemption to obtain mandatory building insurance. | The OC may enter into a contract of insurance that is not required, or may fail to enter into a contract of insurance that is required. |

5.3.5 Valuations

- *Is an OC required to obtain a valuation? If so, what requirements for the valuation are prescribed?*

Only schemes in Qld and some schemes in Vic are required to obtain a valuation every five years for building insurance purposes. It is likely that most schemes in other jurisdictions obtain a valuation even though there is no statutory requirement to do so. OCs should obtain a valuation at least every five years and ensure that the methodology used to determine the valuation accords with the minimum level of coverage prescribed in the relevant jurisdiction's strata regulations. However, the strata laws do not specify the type of professional that is qualified to provide such valuations.

| Decision to be made by the OC | Consequences of inaction |
|---|---|
| Check whether it is a mandatory legal requirement to obtain a valuation and if so, the frequency. | The OC will be unaware whether it has a duty to obtain a valuation or the frequency. |
| Obtain valuation and ensure it complies with any legislative requirements (e.g., any prescribed methodology). | The valuation does not comply with the legislative requirements, leading to a breach of duty. |
| Determine the reinstatement and replacement insurance value of the insurable buildings including obtaining any advice necessary to establish the appropriate level of cover. | The OC may underinsure its insurable buildings, leading to a breach of statutory duty and potential risks associated with underinsurance. |

5.3.6 Mandatory public liability insurance

- *Is there a mandatory duty on OCs to obtain public liability insurance for the scheme? If so, what is the nature and scope of the cover?*

All jurisdictions except New Zealand require OCs to obtain public liability insurance. The nature and scope differ across jurisdictions and therefore OCs must ensure that the cover accords with the jurisdictional requirements. Although minimum levels of public liability insurance are mandated in the strata laws (with the average cover of \$10 million), an OC should assess the level of potential risk based on the type of scheme and amend the minimum level as it sees fit.

| Decision to be made by the OC | Consequences of inaction |
|--|---|
| If public liability insurance is mandatory, ensure that the public liability coverage meets the minimum coverage amount prescribed by law. | The policy may not meet the minimum coverage, leading to a breach of the OC's duty to obtain public liability insurance. |
| Ensure that the public liability coverage is appropriate for the type and nature of the scheme. | The policy may meet the needs of the OC's public liability risk (e.g., if the scheme is a very large complex that is open to the public, or a mixed-use scheme, the nature of the scheme may increase the public liability risk). |
| Determining the level of excess relative to the impact on the premium amount ensuring that the excess amount does not breach any legal constraints. | Depends on the jurisdiction, but OC should be aware of their general statutory duties when making decisions. |
| Check restrictive or prohibitive clauses that impact the OC ability to make a claim under the policy. | The OC may be restricted from making an insurance claim for loss or damage. |
| Understand that scope of cover that the public liability insurance must insure (i.e., whether the scope is limited to common property or extends to anything the OC may become liable for). | The policy may not cover the mandatory scope. |

5.3.7 Other mandatory insurance

- *Are there any other mandatory duties on OCs to obtain other insurance? If so, what is the nature and scope of the cover?*

There are limited additional insurances that OCs must obtain. In NSW, OCs must obtain voluntary workers insurance, in SA, OCs must obtain fidelity guarantee insurance and in Qld (BUGT schemes) the legislation expressly requires an OC to take out workers' compensation insurance if it applies. Workers' compensation legislation may separately impose mandatory duties on OCs to take out workers' compensation insurance.

| Decision to be made by the OC | Consequences of inaction |
|---|--|
| Determine whether in the next financial year there is the potential that the OC will engage a person who falls into the category of a "worker" under the relevant workers' compensation legislation. | If they engage a person who is a "worker" and fail to obtain the mandatory workers' compensation insurance, the OC will be in breach of its duties, and liable for any personal injury or death. |
| Obtain advice from a qualified professional about whether a person engaged by the OC is a "worker" or not under the relevant legislation. | The OC may easily misinterpret the provisions under the workers' compensation legislation. |
| If fidelity guarantee insurance must be obtained, ensure that the level of cover meets the minimum legal requirements. | The fidelity guarantee policy may be inadequate, leading potential breach by the OC of its duty to insure. |

| | |
|--|---|
| If voluntary workers insurance must be obtained, ensure that an appropriate level of cover is obtained. | The policy may provide inadequate cover, leaving the OC underinsured in the event that loss occurs. |
| Ensure that in respect of all mandatory policies the OC has, and continues to, comply with its duty of disclosure to the insurer. | The insurer may be able to avoid the policy or reduce the amount that the OC is indemnified for. |

5.3.8 Power to obtain additional insurance

- *Do OCs have the right to obtain other (optional) insurance? If so, what kind of resolution must be passed to obtain such optional insurance?*

All jurisdictions allow OCs to take out some forms of optional insurances. These types of insurances usually relate to office bearer's liability, fidelity and workers' compensation. Workers' compensation insurance is a particularly difficult insurance type to navigate due to the definition of "worker". OCs that engage employees and contractors need to be aware of jurisdictional requirements and ensure the appropriate coverage is in place, if relevant.

Aside from a few jurisdictions, an OC's decision to obtain optional insurances only requires an ordinary or simple majority resolution.

| Decision to be made by the OC | Consequences of inaction |
|---|--|
| Assess the nature of any OC property (real and personal property) that is not mandatory to insure, but which presents such a risk so as to make it prudent for the OC to obtain optional insurance (e.g., in schemes with expensive machinery, the OC may consider obtaining machinery breakdown insurance). | The OC will not have any insurance cover for remedying loss or damage to uninsured OC property. |
| Assess the nature of any other risk to the OC (e.g., potential legal liability or foreseeable loss or damage) that is not mandatory to insure (e.g., in schemes with significant funds, the OC may consider obtaining fidelity insurance to protect theft). | The OC will not be insured for other foreseeable risk. |
| Consider whether the OC should obtain advice about its potential risk and whether insurance should be obtained. | The OC not be fully informed about its risk. |
| Ensure that in respect of all optional policies the OC has, and continues to, comply with its duty of disclosure to the insurer. | The insurer may be able to avoid the policy or reduce the amount that the OC is indemnified for. |
| Assess what type of resolution is required to obtain optional insurance and that the necessary type of resolution is passed. | The OC's decision may be determined to have not been made validly. |

5.3.9 Premiums

- *Are there any specific methods for raising money to pay insurance premium(s)?*

Generally, insurance premiums are paid based on lot entitlements or liabilities. Some jurisdictions allow the OC to charge a lot owner a greater proportion of the premium in certain circumstances.

| Decision to be made by the OC | Consequences of inaction |
|---|--|
| Ensure that budget appropriately covers premiums of all insurance policies. | When the insurance premiums become payable, the OC may not be in a financial position to pay, leading to a potential risk of the policies not being valid and in force. |
| Keep a record of any contracts with third parties that impose obligations to insure risk and which benefit the OC or the scheme. | Third parties may breach their insurance obligations leaving the third party uninsured or underinsured and affecting potential recovery by the OC under the policy. |
| Keep a record of any contracts or other arrangements that give the OC the right to recover all or part of the OC's insurance premium(s) from a third party (e.g., lot owner or occupier with exclusive use of common property areas). | Third parties may not meet their obligations to pay or contribute to the OC's insurance premium(s). |
| Understand any legal powers of the OC to amend the contributions by lot owners or occupiers to the OC's insurance premium(s). | The OC may miss the opportunity to recover part of the insurance premium from a lot owner or occupier whose use of the lot has caused an increase in the OC's insurance premium. |
| Consider the effect that the excess amount will have on the amount of the OC's insurance premium. | The OC may miss an opportunity to negotiate the amount of a premium. |

5.3.10 Insurance claims

- *What is the procedure for dealing with insurance claims?*

There is little regulatory oversight in terms of insurance claims procedures. Some laws provide for excess payment responsibility and procedures regarding insurance-related disputes. Most jurisdictions however provide restrictions on how insurance monies are to be used. Although exemptions do apply, monies, generally, must be applied to rebuilding, replacing, repairing or restoring the damage.

| Decision to be made by the OC | Consequences of inaction |
|--|---|
| Understand the legal boundaries of lot property and common property and determine the ownership of what parts of the insurable property have been damaged. | In the event the insurance claim is declined, the OC may not understand whether it is the OC, the lot owner or another person that is responsible for repairing the damage. |
| Ensure that the OC understands what the cause of the damage or insurable event was and whether the cause is covered or excluded by the policy wording. | In the event of a dispute with the insurer over the claim decision, the OC may not be fully informed or capable of successfully disputing a decision. |
| Ensure the OC understands any restrictions or caps on claims. | The OC may not fully recover the whole amount of the loss or damage. |

| | |
|---|--|
| Read the policy wording and understand who the beneficiaries are under the policy and who can make a claim under the policy. | The OC may be unaware of claims made under the policy by beneficiaries, impacting the premium for the next insurance period. |
| If the policy allows third party beneficiaries to make claims under the policy, implement a procedure to ensure the OC is notified of any claims made. | The OC may be unaware of claims made under the policy by beneficiaries, impacting the premium for the next insurance period. |

5.3.11 Disclosure obligations

- *What are OCs disclosure obligations?*

OCs have both a continuing duty to disclose material issues to the insurer and a duty to disclose insurance information to interested parties, as defined under the relevant strata laws. All OCs in every jurisdiction must keep and maintain insurance records.

| Decision to be made by the OC | Consequences of inaction |
|---|--|
| Ensure that the OC takes reasonable steps to obtain information about every matter that may affect the insurer's decision to insure and on what terms. | The insurer may be able to avoid the policy, leading to a significant risk that the OC will not be insured or will be underinsured. |
| Have a procedure in place for ensuring disclosure is made in writing to the insurer in compliance with the OC's duty of disclosure. | The OC may fail in its duty to disclose to the insurer due to an administrative oversight or be unable to prove that proper disclosure was made (e.g., if disclosure was made verbally). |
| Understand the OC's duties to make disclosure of insurance information to lot owners and other eligible third parties. | The OC may breach its disclosure duties, leading to a breach of statutory duty. |
| Ensure that the OC complies with its duties to disclose insurance information to lot owners and other eligible third parties (e.g., have procedures in place for who will maintain the mandatory insurance records and respond to requests for insurance certificates within prescribed timeframes). | The OC may breach its disclosure duties, leading to a breach of statutory duty. |

5.3.12 Strata managers duties

- *Do strata managers have any legal duties in relation to client OCs mandatory insurance obligations?*

Strata managers in the ACT and Qld must notify OCs or committees regarding any insurance-related commissions or benefits. There is also a general disclosure provision relating to financial benefits received by strata managers in most jurisdictions. In NSW, strata managers have an express duty to provide OCs with a minimum of three (3) insurance quotations.

| Decision to be made by the OC | Consequences of inaction |
|---|--|
| Understand what disclosure the strata manager has made to the OC about any commissions or benefits the manager receives for placing the OC's insurance policies. | The OC will not understand the extent of what has been disclosed and whether the practice of receiving commissions for certain policies complies with the disclosure made. |
| Compare whether there is a difference in which insurance-related services provided by the strata manager when a commission is, or is not, received for placing the OC's insurance. | The OC may become liable for additional management fees in the event a commission is not received by the strata manager. |

5.4 Consolidated list of strata insurance law matters requiring OC consideration

In conclusion, this section of the research report has demonstrated the complexity and jurisdictional variations in strata insurance laws in each Australian state and territory and in New Zealand. It has more importantly, highlighted the decisions that OCs must make and consider when entering into insurance contracts. Without a doubt, the majority of volunteer OC committee members would find it difficult to navigate this area of law to ensure compliance. As OCs are not afforded limited liability status, lot owners become liable for any unpaid debts of the OC including any debts incurred as a result of unprotected insurance risks. It is therefore prudent that OCs and committees take advice on matters relating to strata insurance.

For ease of reference, Table 79 provides the consolidated list of the matters that require consideration and action (where applicable) when an OC is endeavouring to comply with its strata insurance obligations or exercising powers relating to strata insurance.

Table 79: Consolidated list of strata insurance law matters requiring OC consideration and action

| Legal topic | Decisions to be made by the OC |
|---|--|
| Approved insurer | <ul style="list-style-type: none"> Review the APRA register annually at renewal time to ensure the proposed insurer is authorised to carry on an insurance business and whether it has any applicable conditions relevant. Review the RBNZ list of insurers under the <i>Insurance (Prudential Supervision) Act 2010</i> (NZ). |
| Insurable interest <i>Do mortgagees have an insurable interest?</i> | <ul style="list-style-type: none"> Understand the extent of the OC's insurable interest under the strata laws. Understanding to what extent other interested parties (lot owners, mortgagees) may have an insurable interest under the OC's policies. |
| Mandatory building insurance | <ul style="list-style-type: none"> Consider and take all reasonable steps to answer any questions asked by the insurer prior to entering into any contract of insurance. Read the insurance policies and ensure that the policies meet the minimum legal requirements relating to mandatory building insurance. Determining the level of excess relative to the impact on the premium amount ensuring that the excess amount does not breach any legal constraints. Check restrictive or prohibitive clauses that impact the OC ability to make a claim under the policy. Identify whether the OC has a duty to insure any part of lot property, and the legal boundaries of such lot property. Identify whether the OC has imposed a contractual duty on any third party to reimburse any part of the insurance premium. Maintain a common property asset and improvements register and ensure that all assets are continually disclosed to the insurer. Continually make disclosure to the insurer of every matter that it knows, or could reasonably be expected to know, which may affect the insurer's decision to insure the OC and on what terms. Create a procedure whereby incidents and other matters relevant to the insurer's decision whether to insure the OC and on what terms, (such as lot owner renovations or damage) that may affect the OC's ongoing disclosure obligations are compiled and disclosed to the insurer. Take reasonable steps to ensure that the OC has an up-to-date occupier list including the use of the lot and disclosed to the insurer where necessary. |
| Exemptions to mandatory building insurance | <ul style="list-style-type: none"> Determine whether or not the OC has the benefit of an exemption to obtain mandatory building insurance. |

| | |
|---|--|
| Valuations | <ul style="list-style-type: none"> • Check whether it is a mandatory legal requirement to obtain a valuation and if so, the frequency. • Obtain valuation and ensure it complies with any legislative requirements (e.g., any prescribed methodology). • Determine the reinstatement and replacement insurance value of the insurable buildings including obtaining any advice necessary to establish the appropriate level of cover. |
| Mandatory public liability Insurance | <ul style="list-style-type: none"> • If public liability insurance is mandatory, ensure that the public liability coverage meets the minimum coverage amount prescribed by law. • Ensure that the public liability coverage is appropriate for the type and nature of the scheme. • Determining the level of excess relative to the impact on the premium amount ensuring that the excess amount does not breach any legal constraints. • Check restrictive or prohibitive clauses that impact the OC ability to make a claim under the policy. • Understand that scope of cover that the public liability insurance must insure (i.e., whether the scope is limited to common property or extends to anything the OC may become liable for). |
| Other mandatory insurance | <ul style="list-style-type: none"> • Determine whether in the next financial year there is the potential that the OC will engage a person who falls into the category of a “worker” under the relevant workers’ compensation legislation. • Obtain advice from a qualified professional about whether a person engaged by the OC is a “worker” or not under the relevant legislation. • If fidelity guarantee insurance must be obtained, ensure that the level of cover meets the minimum legal requirements. • If voluntary workers insurance must be obtained, ensure that an appropriate level of cover is obtained. • Ensure that in respect of all mandatory policies the OC has, and continues to, comply with its duty of disclosure to the insurer. |
| Powers to obtain optional insurance | <ul style="list-style-type: none"> • Assess the nature of any OC property (real and personal property) that is not mandatory to insure, but which presents such a risk so as to make it prudent for the OC to obtain optional insurance (e.g., in schemes with expensive machinery, the OC may consider obtaining machinery breakdown insurance). • Assess the nature of any other risk to the OC (e.g., potential legal liability or foreseeable loss or damage) that is not mandatory to insure (e.g., in schemes with significant funds, the OC may consider obtaining fidelity insurance to protect theft). • Consider whether the OC should obtain advice about its potential risk and whether insurance should be obtained. • Ensure that in respect of all optional policies the OC has, and continues to, comply with its duty of disclosure to the insurer. • Assess what type of resolution is required to obtain optional insurance and that the necessary type of resolution is passed. |

| | |
|-------------------------------|--|
| Premiums | <ul style="list-style-type: none"> • Ensure that budget appropriately covers premiums of all insurance policies. • Keep a record of any contracts with third parties that impose obligations to insure risk and which benefit the OC or the scheme. • Keep a record of any contracts or other arrangements that give the OC the right to recover all or part of the OC's insurance premium(s) from a third party (e.g., lot owner or occupier with exclusive use of common property areas). • Understand any legal powers of the OC to amend the contributions by lot owners or occupiers to the OC's insurance premium(s). • Consider the effect that the excess amount will have on the amount of the OC's insurance premium. |
| Insurance claims | <ul style="list-style-type: none"> • Understand the legal boundaries of lot property and common property and determine the ownership of what parts of the insurable property have been damaged. • Ensure that the OC understands what the cause of the damage or insurable event was and whether the cause is covered or excluded by the policy wording. • Ensure the OC understands any restrictions or caps on claims. • Read the policy wording and understand who the beneficiaries are under the policy and who can make a claim under the policy. • If the policy allows third party beneficiaries to make claims, implement a procedure to ensure the OC is notified of any claims made. |
| Disclosure obligations | <ul style="list-style-type: none"> • Ensure the OC takes reasonable steps to obtain information about every matter that may affect the insurer's decision to insure and on what terms. • Have a procedure in place for ensuring disclosure is made in writing to the insurer in compliance with the OC's duty of disclosure. • Understand the OC's duties to make disclosure of insurance information to lot owners and other eligible third parties. • Ensure that the OC complies with its duties to disclose insurance information to lot owners and other eligible third parties (e.g., have procedures in place for who will maintain the mandatory insurance records and respond to requests for insurance certificates within prescribed timeframes). |
| Strata manager duties | <ul style="list-style-type: none"> • Understand what disclosure the strata manager has made to the OC about any commissions or benefits the manager receives for placing the OC's insurance policies. • Compare whether there is a difference in insurance-related services provided by the strata manager when a commission is, or is not, received for placing the OC's insurance. |

Although an OC should ensure that these matters are considered and actioned in order to comply with its statutory obligations, the practical reality is that an OC and its committee will generally not possess the necessary level of knowledge about these strata insurance laws. As outlined in this part of the report, in most jurisdictions, parliaments have expressly imposed obligations on strata managers to possess a higher level of strata law knowledge than committees. Guidance and direction regarding strata insurance laws is therefore an important aspect of the strata manager's role. An effective manager can increase compliance and decrease the risk for OCs.

6 Cross-jurisdictional comparative analysis of strata insurance duties, levies and taxes

In order to gain a holistic appreciation of the impact of strata insurance premiums on the affordability of strata insurance, it is important to understand the duties, levies and taxes imposed by the Australian Government and the New Zealand Government.

Governments create legislation that authorises them to collect tax revenue in the form of duties, levies and taxes on various goods and services and specific taxable activities. In the context of strata insurance, this section:

- provides an overview of the legislation that authorises various governments to collect duties, levies and taxes on strata insurance premiums;
- compares the categories of duties, levies and taxes that are generally payable on strata insurance premiums in each jurisdiction and to whom each of those taxes are payable;
- sets out the general methods of calculating each type of tax, duty or levy in each jurisdiction and some of the ambiguities around whether each of the various types of levies payable are themselves subject to other taxes, creating a compounding tax effect; and
- makes observations about the future relevance of certain duties and levies in certain jurisdictions.

Further detailed discussion and analysis of each category of tax payable on strata insurance premiums in Australia and New Zealand (including detailed general formulae for calculating the tax payable, the authorising legislation and ambiguities about what related costs are dutiable) is contained in Appendix B and includes:

- Details about the GST collected on strata insurance premiums in Australia and New Zealand;
- Details about duties collected on strata insurance premiums in all Australian states and territories (except the ACT);
- Details about levies on insurance premiums collected in NSW, Tas and New Zealand;
- Details about the terrorism insurance levy collected on limited 'eligible insurance contracts' by the Australian Government;
- Details about the earthquake commission premiums payable by insurers in New Zealand.

6.1 Taxation categories

There are three main components of taxation on strata insurance in Australia and New Zealand, which are briefly summarised as:

- **Tax:** GST collected by the Australian Government and the New Zealand Government;
- **Duties:** duties³⁹ collected by all Australian state and territory governments except for the ACT;⁴⁰
- **Levies:** the TIL collected by the Australian Government through premiums for certain strata insurance policies; the ESL collected by the NSW Government; the FSL collected by the Tas Government; the Fire and Emergency Levy (FEL) collected by the

³⁹ Referred to as 'stamp duty' in the NT and SA.

⁴⁰ Duties are not collected by the New Zealand Government.

New Zealand Government and the Earthquake Insurance Premiums that New Zealand insurers are required to pay to the New Zealand Earthquake Commission under the Earthquake Commission Insurance Scheme.

The names of the above three taxation categories are intended to assist the reader. However, the term 'taxes' will also be used in a general sense in this paper to encompass all three categories above. In terms of whether there is a difference between the term 'tax' and the term 'levy' it has been observed in Australia that:⁴¹

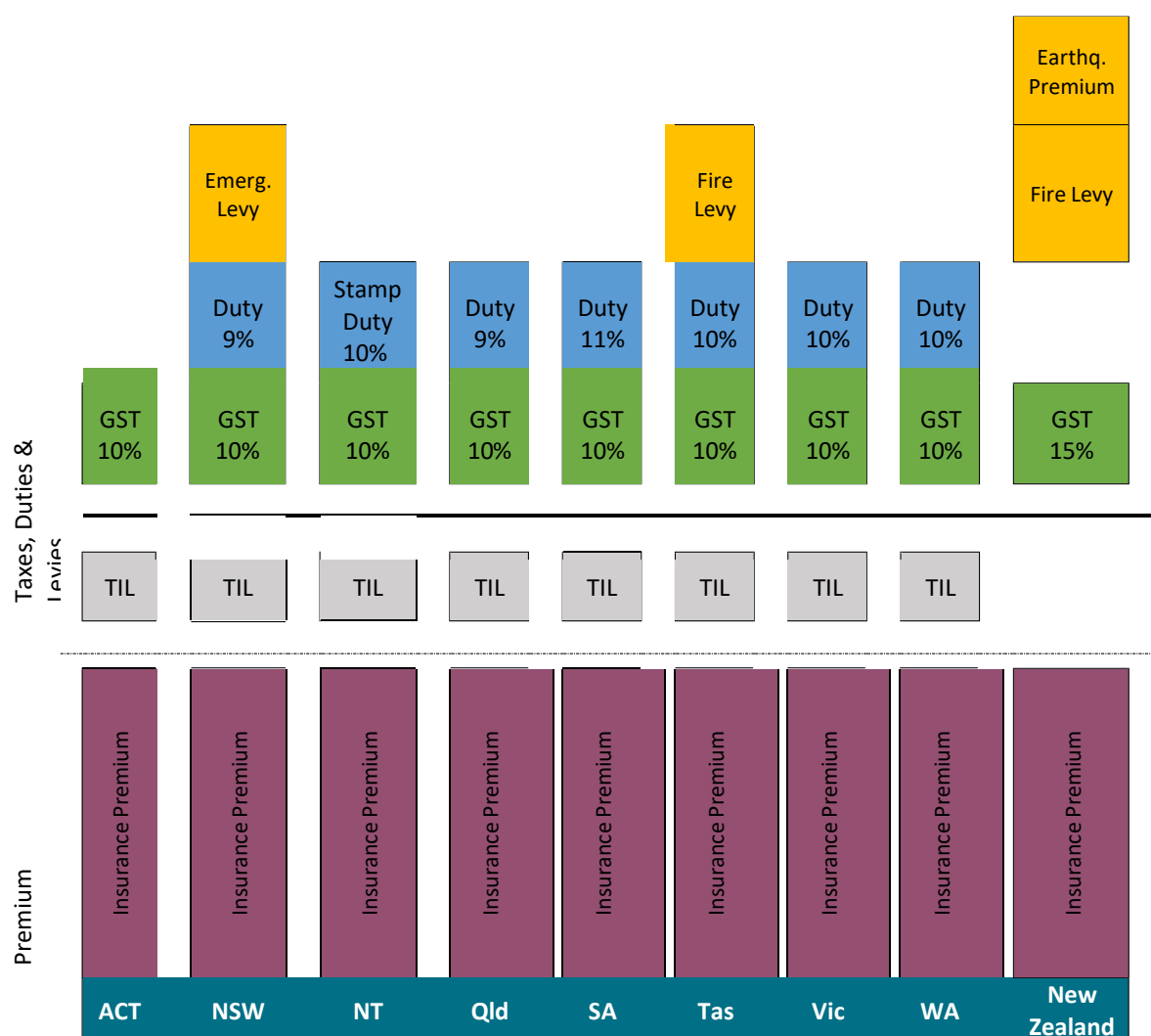
'...[a] levy is defined as a temporary measure to raise revenue and provide for a social purpose or mitigate a crisis which is generally supported and understood by society. Nevertheless, the increasingly permanent nature of some levies, for example the Medicare Levy, confirms that definitional lines between a levy and a tax are becoming increasingly blurred. ... Because levies are seen as a 'soft' tax and thus more palatable, they may continue as the favoured technique or vehicle for government charges and not just for 'one off' emergency funding. We cynically might comment, a levy is just a tax, after all.'

6.2 Tax categories that apply to strata insurance (by jurisdiction)

Each jurisdiction has its own tax regime and there is significant inconsistency across the regimes about which categories of tax are collected by governments on strata insurance premiums and how each category of tax is calculated. This complexity leads to differing taxation burdens in certain jurisdictions, which can be significant. Graph 65 shows at a high level the tax categories that generally apply to strata insurance in each jurisdiction.

⁴¹ Taylor, Madeline (2012) "Is it a levy, or is it a tax, or both?," *Revenue Law Journal*: Vol. 22: Iss. 1, Article 7, Page 10. Available at: <http://epublications.bond.edu.au/rli/vol22/iss1/7>

Graph 65: Strata insurance taxes by jurisdiction



6.2.1 GST charged by the Australian and New Zealand governments

In both Australia and New Zealand, the issuance of strata insurance by insurers triggers liability to pay a GST. In Australia, GST is payable to the Australian Tax Office (ATO). In New Zealand, GST is payable to the Inland Revenue Office (IRD).

Property insurance, including strata property, falls within the category of 'general insurance' and therefore constitutes a taxable supply (as opposed to life insurance etc., which has its own special GST treatment as a financial service/supply). The treatment of GST on strata insurance premiums is reasonably similar across both Australia and New Zealand, at a federal level in the two jurisdictions.

However, some notable differences are:⁴²

| GST | Australia | New Zealand |
|---|---|---|
| GST rate | 10% | 15% |
| GST implications of insurance claims payout | Australia does not treat an insurance claim payout as a taxable supply. ⁴³ | New Zealand treats an insurance claim payout as a taxable supply. |

6.2.2 Duties charged by Australian state and territory governments (excluding ACT)

In addition to the GST collected by the Australian and New Zealand governments, all Australian state and territory governments, except the ACT government, collect duties on insurance premiums. New Zealand abolished stamp duty in 1999. The authorising state and territory legislation that permits the collection of duty on strata insurance premiums is listed in Table 80.

Table 80: Duties legislation

| | Legislation |
|-----|--|
| NSW | <i>Duties Act 1997</i> (NSW) (“DA”) |
| NT | <i>Stamp Duty Act 1978</i> (NT) (“SDA”), Div. 6 Insurance Business |
| Qld | <i>Duties Act 2001</i> (Qld) (“DA”), Chapter 8 |
| SA | <i>Stamp Duties Act 1923</i> (SA) (“SDA”), Division 3 “Insurance” |
| Tas | <i>Duties Act 2001</i> (Tas) (“DA”), Chapter 7 |
| Vic | <i>Duties Act 2000</i> (Vic) (“DA”), Chapter 8 |
| WA | <i>Duties Act 2008</i> (WA) (“DA”), Chapter 4 |

The NT and SA still have stamp duty legislation (dating back to the 1920s and 1970s) in force, whilst the other four states have implemented new “duties” legislation approximately two decades ago.

The duties on strata insurance premiums in each jurisdiction vary and range from 9 - 11% on the relevant premium. The way the duty is calculated in each jurisdiction differs in terms of what must be included or excluded as part of the amount that is subject to the duty. Table 81 sets out the rates of duty charged in each jurisdiction, what is excluded from the definition of the dutiable premium and the formula for calculating the duty payable.

⁴² Note: It is also noted that on the topic of tax base, it is unclear whether warranties are included. They are seemingly excluded from the taxable supply in New Zealand but can be included in Australia. It is unclear whether the NSW and Tas levies are included in the supply but it is clear that the relevant levy is included in the supply in New Zealand.

⁴³ To enable an input tax credit for the insurer, the insurer may take a decreasing adjustment during the period in which the relevant insurance event took place to compensate what would otherwise be the unavailability of an input tax credit.

Table 81: Rates and formulae for calculating duty payable

| | Duty Rate | Rate calculated on: | 'Premium' excludes: | Formula for calculating the duty payable on a strata insurance premium |
|------------|-----------|--|--|--|
| NSW | 9% | Premium paid | An amount identifiable as a fee paid to an intermediary (express) | Premium + commission/discount + ESL = NSW Total NSW Total x 9% = NSW Duty Payable <i>Unclear whether GST must be included in the premium amount before duty is calculated</i> |
| NT | 10% | Insurance | Stamp duty | Premium + commission/discount + GST = NT Total NT Total x 10% = NT Duty Payable Unclear whether fees included |
| Qld | 9% | Net insurance premiums | Fees and duties | Premium + commission/ discount = Qld Total Qld Total x 9% = Qld Duty Payable <i>Unclear whether GST must be included in the premium amount before duty is calculated.</i> |
| SA | 11% | All premiums received by insurer in the previous month | Duties and refunded premiums | Premium + GST (capped to level of insurer input credit) = SA Total SA Total x 11% = SA Duty Payable <i>Unclear whether commission, discount or fees are to be included in the premium amount before duty is calculated</i> |
| Tas | 10% | Premium paid | An amount paid to an insurance intermediary as a fee provided readily identifiable. Duties | Premium + commission / discount + FSL = TAS Total TAS Total x 10% = TAS Duty Payable <i>Unclear whether GST is to be included in the premium amount before duty is calculated</i> |
| Vic | 10% | Premium paid | An amount paid to an insurance intermediary as a fee provided readily identifiable/and duties. | Premium + commission / discount + GST = Vic Total Vic Total x 10% = VIC Duty Payable |
| WA | 10% | Premium instalment | Fees if readily identifiable | Premium + commission/ discount + GST = WA Total WA Total x 10% = WA Duty Payable |

The key similarities across the jurisdictions that collect duties on strata insurance are:

- commissions and discounts are generally included in the dutiable value of the premium;
- other duties that may be payable on the insurance premium are expressly excluded from the dutiable value of the premium;
- fees are either not mentioned or, when they are, they are excluded from the dutiable value of the insurance premium where they are readily identifiable as fees (e.g. Vic and NSW).

The key differences in the way duties are calculated are:

- in relation to GST, the NT, SA, Vic and WA expressly include GST in the dutiable value of the premium. NSW, Qld and Tas do not expressly refer to GST; and
- levies (such as the ESL collected in NSW and the FSL collected in Tas) are expressly included in the dutiable value of the premium in NSW and Tas.

Duties legislation in Australia is outmoded. New Zealand abolished stamp duty in 1999 (*Stamp and Cheque Duty Abolition Act 1999* (NZ)) in the year Australia brought in the GST but duty taxes were also arguably conceived of in a time when income taxes and value-added taxes were in their early stages of development. Whilst New Zealand spent some 14 years phasing out stamp duties following the introduction of its GST in 1985, Australia has failed to remove similar duties across the board despite the fact that it has now been 21 years since the Australian GST was introduced. There has been intergovernmental discussion at the federal, state and territory level on the abolition (or at least harmonisation) of stamp duties.⁴⁴ The NSW Treasury has only very recently recommended abolishing all specific taxes on insurance products and replacing these with “efficient and broad tax bases” such as “a levy on property owners” in combination with a “broad-based land tax”.⁴⁵ The fact duties are governed by Australia’s states and territories, adds a further layer of complexity to the removal of stamp duties on insurance premiums.

However, there has been little substantive movement to abolish stamp duty. The table setting out the different formulae for calculating duty in each jurisdiction demonstrates problems of cascading or compounding taxation, affordability of insurance and the potential for significantly lower levels of insurance uptake. As certain Australian states have already begun to reduce their reliance on duties as a revenue generator (e.g. removal or reduction of stamp duty on property transactions in ACT and Vic), consideration of focused work on the abolishment of stamp duty may be one avenue of future exploration.

⁴⁴ “Rethinking Regulation: Report on Taskforce in Reducing Regulatory Burden on Business”, 31 January 2006 (Recommendation 5.46: Encourage the elimination of Stamp Duties in the Intergovernmental Agreement and develop measures to harmonise the administration of any remaining stamp duty regimes).

⁴⁵ NSW Government, Review of Federal Financial Relations (Draft), July 2020, 64-73. Available at: <https://www.treasury.nsw.gov.au/sites/default/files/2020-06/FFR%20Review%20Draft%20Report%20.pdf> Accessed on 1 December 2020).

6.2.3 Emergency/fire/earthquake levies (NSW, Tas and New Zealand only)

In NSW, Tas and New Zealand additional levies are collected on strata insurance premiums. A levy is a temporary tax collected by governments from all taxpayers or certain taxpayers to fund stated public or social purposes.⁴⁶ The three levies collected in NSW, Tas and New Zealand, the authorising legislation and the intended use of the collected levies are described in Table 82.

Table 82: Levies collected in NSW, Tas and New Zealand

| | NSW | Tas | New Zealand |
|-------------------------------------|---|--|---|
| Levy Name | Emergency Services Levy | Fire Services Levy | Fire and Emergency Levy |
| Authorising legislation | <i>Emergency Services Levy Act 2017 [NSW] ("ESLA").</i> | <i>Fire Service Act 1979 [TAS] ("FSA"); Fire Service (Finance) Regulations 2006 ("FSR").</i> | <i>Fire and Emergency New Zealand Act 2017 ("FENZA"); Fire and Emergency NZ (Levy Rates and Information Regulations in Transitional Period) 2017 ("FESR"); Fire Service Act 1975 ("FSA"); Earthquake Commission Act 1993 ("ECA").</i> |
| Application, purpose and use | To fund 73.7% of Rural Fire Service, State Emergency Service and; Fire and Rescue NSW | Payable by insurance companies for commercial insurance only: ss74 & 77C. Provides 19.1% of the state fire commission's budget. | Only for contracts of fire insurance . Funds approx. 95% of FENZ operations. |

NSW, Tas and New Zealand adopt different approaches to determining the amount of the levy. For details on how each levy is calculated see Appendix B. The main differences in the way in which each of the levies are calculated in NSW, Tas and New Zealand are:

- **Different Tax Bases:** New Zealand's emergency levy includes GST whereas NSW and Tas exclude GST. Neither NSW nor TAS mentions whether fees are included, whereas the New Zealand Fire and Emergency Levy expressly excludes fees.
- **Residential/Commercial Insurance:** All three jurisdictions treat residential/commercial property insurance differently for levy purposes. NSW uses a proportion basis, where residential property is *subject* to 50% allocation and commercial 80% with the result that residential property is subject to a lower level of levy. Tas excludes residential property and New Zealand places a cap on the amount of the levy on residential property (whereas there is no equivalent cap on the levy for commercial property).

⁴⁶ Taylor, Madeline (2012) "Is it a levy, or is it a tax, or both?," Revenue Law Journal: Vol. 22: Iss. 1, Article 7, page 3.

In these three jurisdictions, there are no uniformly applied definitions of 'residential property', thus it is unclear from the tax legislation whether homeowner insurance requires owner occupation or merely residential use. It is also unclear how mixed-use buildings fare given the clear differentiation in treatment across residential and commercial property. Such issues may be made apparent elsewhere but is not clarified by the relevant legislation.

- **Different Levels of Tax Certainty and Complexity:** In NSW, the method of determining the amount of the levy creates significant uncertainty. The NSW government first calculates the amount of funds it needs to raise on an annual basis and then determines how much of a contribution is required from levy payers. The result is variable rates being charged year on year and the need to determine initial and final contribution amounts on the basis of formulae with a minimum of five payments per year.

NSW also requires differing proportions of the premiums to be included in the calculation as "relevant premiums" (i.e. different treatment for residential and non-residential property). In Tas, the method is relatively straightforward (albeit at a relatively high rate of 28%) but requires monthly instalments to be made. New Zealand's method involves determining the amount insured and then applying a specified rate. As noted above, there is a cap on the amount a person can be charged where they are liable on residential property.

6.2.3.1 General dissatisfaction with NSW, Tas and New Zealand levies

There appears to be some significant dissatisfaction at a governmental level with the three types of levies collected in NSW, Tas and New Zealand. The levies in Tas and New Zealand are the subject of review. Specifically, Tas had a review in 2018 and New Zealand in 2019/20. Prior to that, NSW considered abolishing the levy in 2016 but ultimately did not abolish it.

There is a case for abolition of the levies in NSW, Tas and New Zealand. The other jurisdictions do not collect similar levies on strata insurance premiums. The whole community stands to benefit if damage caused by fires and other natural disasters is kept to an absolute minimum. Hence, there is a strong argument that such funding should come from general revenue. In other words, everyone should shoulder the tax burden, rather than a select few.

6.2.4 The Australian TIL collected on 'eligible insurance contracts'

The TIL is a levy collected by the Australian Government on limited categories of insurance premiums for 'eligible insurance contracts' and generally paid by insurers to the Australian Reinsurance Pool Corporation (ARPC) under the terrorism insurance scheme prescribed by the *Terrorism Insurance Act 2003* (Cth). There is a compulsory aspect to the TIL: all 'eligible insurance contracts' are prohibited from excluding terrorism cover. Thus, terrorism cover must be included. There is a voluntary aspect: insurers are not required to reinsure terrorism loss in such contracts with the ARPC. In other words, it is open to insurers to seek reinsurance on eligible insurance contracts from a non-ARPC source but these contracts are prohibited from excluding terrorism cover.

The wording of the *Terrorism Insurance Act 2003* (Cth) details what types of insurance are not subject to TIL. Thus, there is a need to carve out "ineligible" insurance.

The TIL is generally not payable on properties that are 'mainly residential' unless it is also a high value multiple building contract:

- Mainly residential is defined as⁴⁷ⁱ (i) more than 80% floor space for use wholly or mainly for residential purposes; (ii) insured value less than \$50 million; and (iii) not a hotel/motel/boarding house/temporary building structure/demountable or movable structure/caravan; and
- High Value Multiple Building Contract⁴⁸ (HVMBC)ⁱⁱ provides cover (whether or not the cover is restricted) for destruction or damage to two or more buildings, if the total sum-insured value of the buildings is \$50 million or more.

For further detail about the application of TIL including the rates and formulae for calculating any TIL payable on the premium of an eligible strata insurance contract see Appendix B.

It is anticipated the insurer will pass on the cost of any TIL payable, as well as that of any associated overheads. However, it does not appear there are any safeguards in place that verify the amount charged to the insured is the same as that paid out (to the ARPC and for related overheads) by the insurer or if any profit generation exists. This creates two issues:

- a potential lack of transparency of government payments paid by the insured; and
- the stacking of governmental payments which creates a higher effective tax rate on strata insurance premiums eligible to pay a TIL.

Since the TIL was introduced under the *Terrorism Insurance Act 2001* (Cth) the scheme has collected \$13.7 billion.⁴⁹ At the end of the 2020 financial year, the ARPC had collected \$220,876,000 in premium revenue.⁵⁰ In that same period no relevant declared terrorist incidents resulting in damage to property occurred and consequently no claims were made against the fund.⁵¹

6.2.5 New Zealand earthquake commission premiums payable by insurers

In New Zealand, insurance companies must pay premiums to the Earthquake Commission under the *Earthquake Commission Act 1993* (NZ) in relation to fire insurance policies for residential properties. GST is included in the earthquake premium payable. Insurers are entitled to recover the cost of the earthquake premium from insured consumers. For further details about the earthquake premium payable in New Zealand by insurers, see Appendix B.

There is significant support across industry, academia and the 'insurance buying public' for a reduction in the overall cost of insurance. In the course of their business, insurance companies are already subject to, inter alia, income tax, capital gains tax and GST and often in a similar manner to other business. This raises the issue of the policy rationale behind the extra tax burden placed specifically on the strata insurance product. Emergency levies are inconsistently applied across jurisdictions.

Some exploration of the general insurance considerations may demonstrate that a particular jurisdiction emergency levy model may be applicable for broad implementation, leading to increased harmonisation across Australia.

In total, consideration of the emergency levy, duties and GST as cascading taxes on strata insurance may benefit from further targeted research. At this time, there is little indication that change to the GST structure is politically palatable. However, a broad discussion of the

⁴⁷ *Terrorism Insurance Regulations 2003* (Cth), reg. 3.

⁴⁸ Ibid.

⁴⁹ Australian Reinsurance Pool Corporation Annual Report 2019- 2020, page 37 as at 30 June 2020.

⁵⁰ Ibid, Statement of Comprehensive Income for the period ended 30 June 2020, page 104.

⁵¹ Ibid, page 112.

negative effects of cascading taxation on the affordability of strata insurance premiums may drive harmonisation of emergency levies or abolishment of duties in particular jurisdictions. Such harmonisation and/or changes in levies would create a more transparent and harmonised tax structure for strata products, providing transparency for brokers, consumers and regulators.

6.3 Recommendations

Therefore, the recommendations of this paper are:

- the consideration of the abolishment of duty on insurance premiums or, at the very least, strata insurance premiums;
- there should be further analysis of the effective tax rates payable on strata insurance premiums. In particular, further review of the inconsistent and stacking taxation components in each jurisdiction and the effect on the affordability of strata insurance; and;
- the investigation of replacement of emergency levies with general revenue or generally applied property taxes or rates.

7 Strata insurance supply chain

Supply chains involve different stakeholders (organisations and individuals) delivering various products or services to an end user or customer. This section overviews the supply chain for strata insurance services.

The provision of strata insurance services is an example of a business-to-customer (B2C) supply chain. The OC is the end user, the customer and payer of fees, and thus finances all the services provided to it by the parties involved in the supply chain.

7.1 Key stakeholders

The key stakeholders in the strata insurance supply chain are set out in Table 83.

Table 83: Levies collected in NSW, Tas and New Zealand

| Stakeholder | Role |
|-------------------------|---|
| OC | The end user / purchaser of strata insurance products. |
| Strata manager | The agent engaged by the OC to provide management services. Engages with brokers / underwriters on behalf of the OC to procure strata insurance. May also be a person authorised to provide a financial service on behalf of an Australian financial services licensee. ⁵² |
| Insurance broker | Carries on the business of arranging contracts of insurance. May act as an agent of the insurer if it has a binder arrangement with an insurer. |
| Underwriter | Deals in strata insurance products under a binding authority to market, underwrite, settle claims and administer policies on behalf of the general insurer. |
| General insurer | A company authorised to carry on insurance business by the APRA ⁵³ or under a licence registered with the Reserve Bank in New Zealand. |
| Reinsurer | An entity that enters a contract of reinsurance with a general insurer to ensure that the general insurer maintains required levels of capital / assets in Australia under the general insurer's internal capital adequacy. ⁵⁴ |
| Valuer | A person that assesses the insurable value of strata buildings for the purposes of strata insurance. |

7.2 Direct and indirect supply chain links

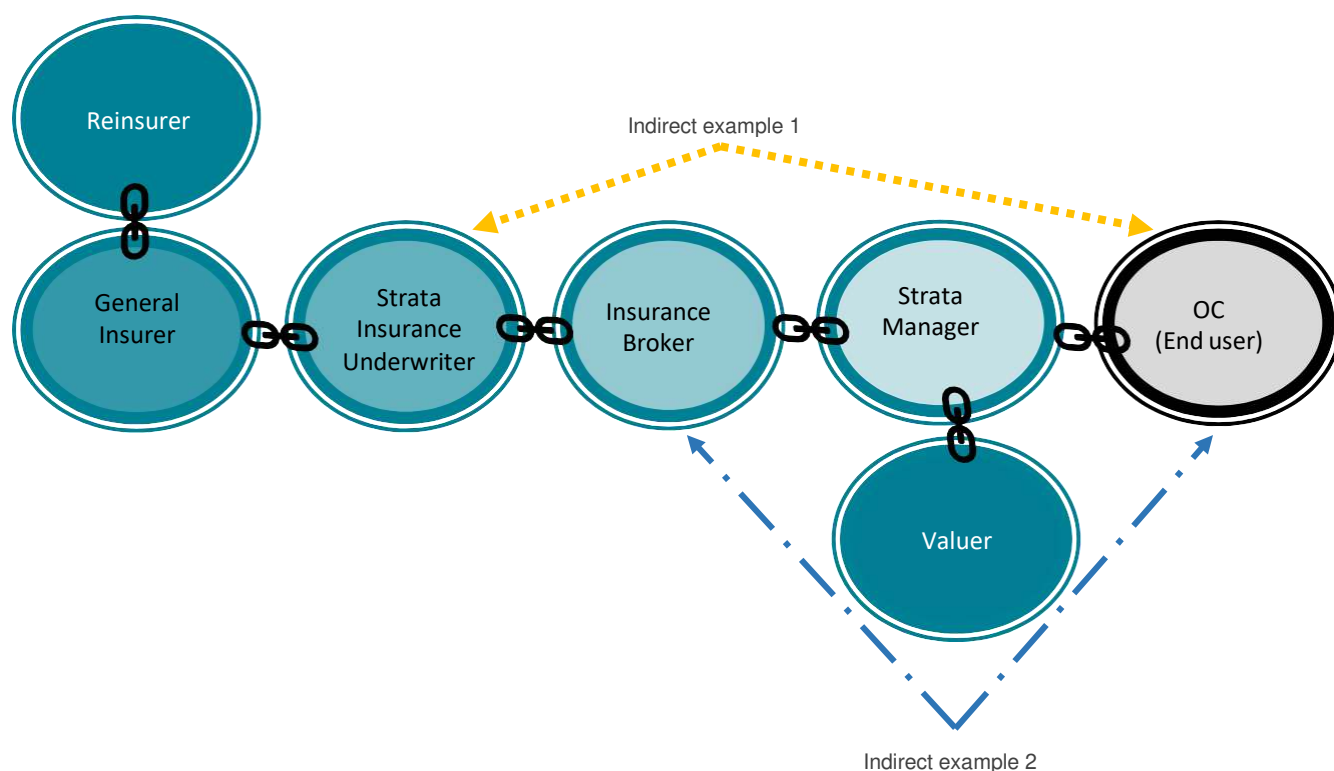
The services provided by each stakeholder in the supply chain is not linear and the chain may be linked directly or indirectly (Figure 10).

⁵² s. 916A of the Corporations Act.

⁵³ Lloyd's underwriters are authorised to carry out insurance business in Australia: s. 93 Insurance Act.

⁵⁴ s. 116A, Insurance Act and GPS 110.

Figure 10: Strata insurance supply chain



The most common strata insurance supply chain is highlighted in Figure 10. An OC engages the services of a strata manager, the strata manager then engages the services of a broker on behalf of the OC, the broker on behalf of the OC then engages with a strata insurance underwriter and the underwriter then issues a policy to the OC on behalf of the insurer. The strata manager on behalf of the OC also engages with a valuer to obtain a building valuation for insurance purposes. Reinsurers sit behind insurers to ensure the insurer maintains the required levels of capital.

There are several indirect links in the strata insurance supply chain. Some examples include:

- a strata insurer underwriter can directly provide services to an OC (breaking supply chains with the strata manager and broker) (Indirect example 1 – yellow dotted line on Figure 10);
- a broker, underwriter and insurer without a connection to the strata manager can provide services to an OC (Indirect example 2 – blue long dash dot line on Figure 10). This may occur in smaller schemes that have opted not to engage the services of a strata manager.

7.3 Registration and licensing requirements

Due to the nature of the insurance services being provided in the supply chain, several stakeholders are subject to registration or licensing requirements.

In Australia, the primary legislation regulating licensing in the insurance sector is the *Australian Prudential Regulation Authority Act 1998* (Cth) (APRA Act), the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act), the *Corporations Act 2001* (Cth) and the *Insurance Act 1973* (Cth).

In Australia, APRA regulates licensing and provides prudential regulation of the insurance industry.⁵⁵ Because a contract of insurance is considered to be a ‘financial product’ under the ASIC Act, some stakeholders in the supply chain are required to hold an Australian Financial Services Licence (AFSL) issued by ASIC.⁵⁶ ASIC is responsible for supporting APRA and for establishing and maintaining a register of financial services licensees and authorised representatives.⁵⁷

In New Zealand, the *Insurance (Prudential Supervision) Act 2010* (IPS Act (NZ)) and the *Financial Markets Conduct Act 2013* (FMC Act (NZ)) are the primary pieces of legislation that regulate licensing in the insurance sector. A contract of insurance is a financial advice product under the FMC Act⁵⁸ and therefore some stakeholders in the strata insurance supply chain are required to hold a Financial Product Market Licence (FPML). The Reserve Bank of New Zealand keeps the public register of licensed insurers. The Financial Markets Authority keeps a register of the holders of FPMLs.

In Australia, a strata insurance underwriter or broker may also be an authorised licensee of a general insurer under a written binder arrangement. A binder arrangement may enable the authorised licensee to act on behalf of the insurer⁵⁹ to enter into insurance contracts on behalf of the insurer and/or provide a claims handling and settling services on behalf of the insurer in relation to insurance products.⁶⁰

Table 84 sets out the registration or licensing requirements for the main strata insurance supply chain stakeholders.

Table 84: Insurance registration and licensing requirements

| Stakeholder | Insurance Registration or Licensing Requirements | | | |
|-------------------------------------|--|--|---------------------------|---------------------|
| | <i>APRA Act</i> | <i>ASIC Act</i> | <i>IPS Act</i> (NZ) 61 | <i>FMC Act</i> (NZ) |
| Insurance broker | | Must hold an AFSL. May also be an authorised licensee of a general insurer under a binder. ⁶² | | Must hold an FPML. |
| Strata insurance underwriter | | Must hold an AFSL. May also be an authorised licensee of a general insurer under a binder. | | Must hold an FMPL. |
| General insurer | Must be authorised by APRA to carry on insurance business in Australia. | Must hold an AFSL. | Must be licensed. | Must hold an FMPL. |
| Reinsurer | No authorisation required if solely a business of reinsurance. ⁶³ | | | |

⁵⁵ APRA Act, s. 2A(2).

⁵⁶ Ibid, s. 12BAA(7).

⁵⁷ ASIC Act, s. 11.

⁵⁸ FMC Act, s. 6.

⁵⁹ Corporations Act 2001 (Cth), 916E.

⁶⁰ Ibid, s. 761A.

⁶¹ IPS Act, s. 15(1).

⁶² The existence of a binder must be disclosed in the financial services guide given by the Licensee: Corporations Act 2001 (Cth), s. 942B.

⁶³ Insurance Contracts Act 1973 (Cth), s. 3(5A) and s. 3(6A).

The regulation of general insurers and AFSL licensees occurs at the federal level.⁶⁴ In Australia, strata managers rarely hold their own AFSL. However, a strata manager may be an authorised representative of an AFSL holder that is an insurance broker, underwriter or general insurer. Being an authorised representative (as opposed to an authorised licensee) does not require the strata manager to obtain its own AFSL.

Each jurisdiction deals with the regulation of strata managers differently. In Qld, SA, Tas and New Zealand, strata managers are not subject to any registration or licensing regime as highlighted in Table 85.

Table 85: Strata manager registration or licensing requirements

| | Registration or Licensing Required? | Nature of any mandatory registration or licensing requirement | Reference | Registration/ Licensing Body |
|--------------------|-------------------------------------|---|--|---|
| ACT | Yes | Real estate agents must be licensed. A person carries on business as a real estate agent if the person provides, or offers to provide, a real estate agent service (which includes acting as a manager of an OC for a units plan) for a principal for reward. | <i>Agents Act 2003</i> (ACT), s.18 and s. 8 | Commissioner for Fair Trading ⁶⁵ |
| NSW | Yes | Strata managing agents must be licensed to carry on the business of a strata managing agent. | <i>Property and Stock Agents Act 2002</i> (NSW), s. 8. | Commissioner for Fair Trading, Department of Finance, Services and Innovation ⁶⁶ |
| NT | Yes | Real estate agents include corporation managers under the <i>Unit Titles Act 1975</i> (NT) and body corporate managers under the <i>Unit Titles Schemes Act 2009</i> (NT) and must not carry on business unless licensed. | <i>Agents Licensing Act 1979</i> (NT), s. 5 and s. 17. | Agents Licensing Board of the Northern Territory ⁶⁷ |
| Qld | No | N/A | | |
| SA | No | N/A | | |
| Tas | No | N/A | | |
| Vic | Yes | It is an offence to act as a manager of an OC for a fee or reward without being registered. | S.12, <i>Owners Corporations Act 2006</i> (Vic) | Business Licensing Authority ⁶⁸ |
| WA | No | N/A | | |
| New Zealand | No ⁶⁹ | N/A | | |

⁶⁴ National level in New Zealand.

⁶⁵ Fair Trading (Australian Consumer Law) Act 1992 (ACT), s. 33.

⁶⁶ Property and Stock Agents Act 2002 (NSW), s. 198.

⁶⁷ Agents Licensing Act 1979 (NT), s. 77.

⁶⁸ Business Licensing Authority Act 1998 (Vic) & *Owners Corporations Act 2006* (Vic), Part 12.

⁶⁹ Unless the manager also happens to be operating within a real estate agency regulated by the Real Estate Agents Act 2008 (NZ)

As in all supply chains, it is critical that the services undertaken by the various stakeholders are clearly mapped and conveyed to the end-user customer. It is essential that customers understand the division of services across the supply chain to enhance the customer experience and build trust. As highlighted by one of the project interviewees: *“Insurance is built on trust. It’s an utmost good faith system. You need to respect your suppliers and work with them in a way that you want them there for the long run. You want a strong market.”* (B1)

Interviewees were asked to describe their relationship with key suppliers in the strata insurance supply chain. The following quotes highlights their respective responses:

- Broker perspective of insurer / underwriter

“It’s a healthy tension between pragmatic decision making on a risk and aggregating and pooling of risk. So, we try and encourage commercial practices. Like, “How much information have you got?” “How does this risk compare to another?” To be consistent.” (B1)

- Broker perspective of strata managers

“The manager is an anchor point that often outlasts the link between the building and the committee and the market...Strata managers play a key role in the relationship – they are the interface with the market in terms of collecting the data. So, we want data to see what the risk is. What is this building? What’s it made up of? What machinery is in it? What complexity is there? And how has it performed, claim wise? The manger can fulfil those functions really well.” (B1)

- Insurers / underwriters perspective of strata managers

“Strata managers absolutely perform a valuable role in the insurance process, both in arranging insurance and in claims that I don’t believe can be replicated outside of their role.” (U1)

- Strata managers perspective of brokers:

“I think [brokers] have emerged as being increasingly critical. I think it’s a very symbiotic sort of relationship in terms of the way insurance is placed now. The need for broker expertise, particularly access to broader insurance markets is critical. Where I’m cynical - the way financial relationships have emerged between the way brokers and strata managers operate. I think there’s some really opaque business structures in place that are unhelpful in the current environment.” (SM 4)

“In my experience brokers generally don’t provide much in the way of service.” (SM2)

“I sometimes struggle with the value that brokers actually deliver... what part does the broker play in mass market transactions under 20? Not that much. When you start getting up into those more complex buildings that’s when I think when the broker comes into play.” (SM3)

“We felt that a broker brings far more expertise to the table than we do. And we felt that the clients are better serviced by a relationship that includes the broker...a key role for us is to find an appropriate broker and a professional broker with integrity...” (SM5)

- Insurers / underwriters perspective of brokers:

“I think there is far too much cost associated with transacting insurance [using strata managers and brokers], too many mouths to feed if you like and I think transparency will lend itself to the right questions and the right value being associated to those parties and then an OC can make their own decision. There’s some great brokers who work exceptionally efficiently but there’s others that are playing a game of arbitrage and leveraging off that. That’s disappointing for that industry. In more recent times unfortunately, there’s been broker fees added and some of the fees have increased [the cost of insurance] exponentially.” (U2)

“And so the benefit that [brokers] will provide is to the insured. I mean they’re big advocates obviously in the placing of insurance and sourcing multiple quotes – they can give personal advice. Mostly they

don't, but they should. In the claims area - if they think that something is a claim and you are not paying it they will not let it go, they will ring you, they will ring me, they'll ring everyone, they'll ring you late at night. They do not let it go if they think you are not doing the right thing... And so my experience of brokers, even though some of this stuff there's aggressive tactics and all of that, when you get to claim time they are very good advocates for the customer.” (U1)

In the strata insurance supply chain, it is evident that the services provided by various stakeholders and the fee arrangements relating to the supply of these services is not well understood. The lack of transparency in the supply chain needs to be urgently addressed to safeguard the integrity of the whole supply chain and ensure that the OC is being well served. A number of interviewees provided evidence of brokers adding exorbitant fees to OCs insurance tax invoices. One example showed a premium of \$12,000 which included a 20% commission component, \$150 in brokers fees and an additional \$4,000 in 'Agents fees'. The total cost payable by the OC was nearly \$23,000. Many interviewees in the supply chain indicated that there were very professional brokers who do not participate in this type of overcharging but those that do undermine the quality of the strata insurance supply chain. It is important that these types of practices are thwarted. The strata management industry needs to identify and itemise all the various components that make up the total cost of insurance to their clients. A more transparent approach will likely curtail these types of practice.

8 Strata management insurance services

One of the aims of this research project was to examine the role of strata managers in the strata insurance supply chain and the value of their services to their clients. The first step in this examination was to identify the strata insurance-related services that are undertaken by strata managers.

In order to determine these services several avenues of inquiry were explored. Firstly, a review of 58 strata management agreements was undertaken to extract the strata insurance-related services identified in these agreements (see section 2). In total, 31 insurance-related services were identified from the analysis and coded under seven broad insurance-related services categories. Table 86 outlines these categories and sub-categories. After an evaluation of these categories and sub-categories, a further 15 services were identified as forming the overall suite of insurance-related services undertaken by managers. Therefore 47 services were identified via a secondary process.

Strata managers were then surveyed (see section 2) and asked to identify how frequently they undertook these services on behalf of their clients and to estimate how long it would usually take to perform each service. In addition, managers surveyed were asked to identify any further insurance-related services that they perform. These three information points have enabled a concrete list of insurance-related services undertaken by strata managers to be identified.

Table 86: Strata insurance-related services identified in management agreements – categories and subcategories

| Insurance Service Categories | Sub-categories |
|--|---|
| Quotation, procurement, placement and renewal services | <ul style="list-style-type: none"> • Obtaining or arranging quotations; • Arranging or renewing insurance; • Ensuring insurance is current; and • Seeking client instructions for the placement / renewal of insurance. • Paying insurance premiums on behalf of the client. |
| Insurance valuation services | <ul style="list-style-type: none"> • Obtaining insurance valuation for building reinstatement; and • Distributing a copy of the valuation to lot owners. |
| Insurance claim services | <ul style="list-style-type: none"> • Lodging claims <ul style="list-style-type: none"> - Common property - Private lot property - Routine - Non-routine - Complex / major • Engaging in ongoing insurance claim management • Undertaking general activities involved with minimisation of loss • Liaising with loss adjustors • Undertaking administrative work involved when insurance brokers/agents that are not the manager's preferred broker • Forwarding contractor quotations to insurer or insurance broker directly • Receiving and processing the insurer's acceptance or declinature of insurance claim • Instructing contractors to undertake approved indemnified works following acceptance of insurance claim • Receiving and forwarding contractor invoices for approved indemnified works to insurer/ broker for payment or reimbursement as appropriate • Receiving and receipting indemnification payment from insurer and paying contractors • Providing any other insurance services in respect of insurance products offered through the authorised insurers and insurance brokers as listed in the management contract |
| Insurance record keeping services | <ul style="list-style-type: none"> • Maintaining the client's insurance records • Maintaining a register of insurance claims • Verifying insurer/broker credentials (registration, licences, insurance ABN) |

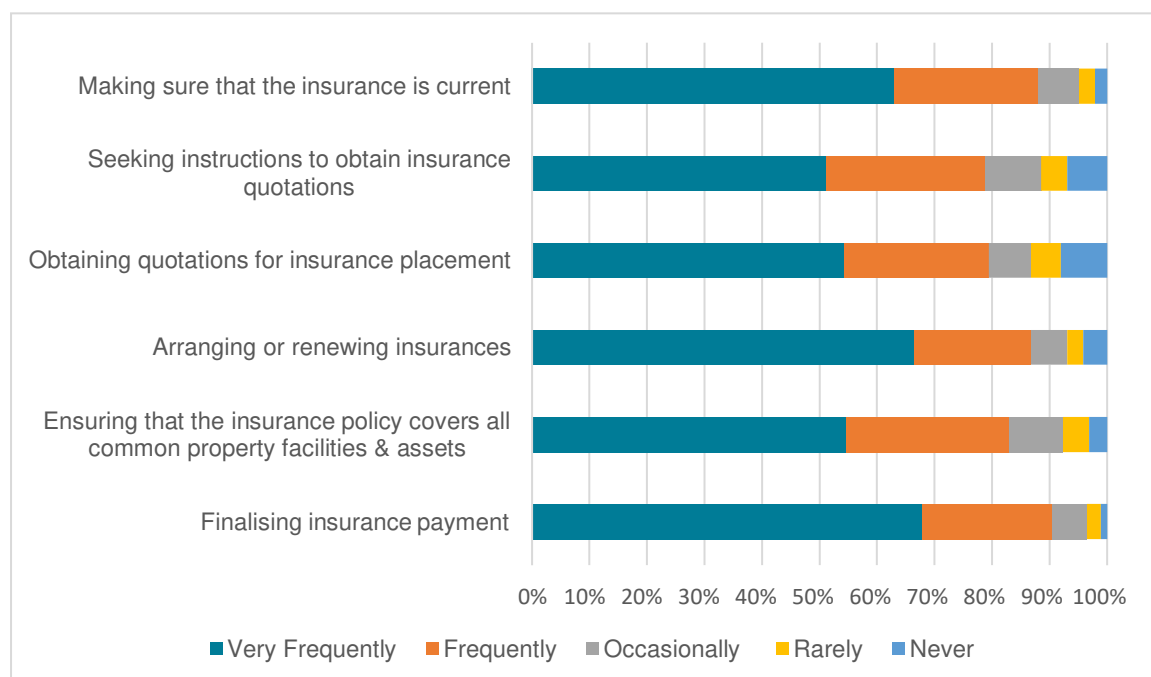
| Insurance Service Categories | Sub-categories |
|--|--|
| Insurance advice services | <ul style="list-style-type: none"> • Advising (generally or personally) on insurances • Referring the client to an adviser for personal advice if manager is not authorised to give personal advice • Providing certificates of currency for insurance when requested • Providing any other insurance services in respect of insurance products offered through the authorised insurers and insurance brokers as listed in the management contract • Providing annual insurance commission disclosure to the client |
| Insurer negotiation and liaison services | <ul style="list-style-type: none"> • Making contest representations to the insurer if insurance claim is declined • Engaging in protracted insurance renewal negotiations with the insurer / broker • Supplying client relevant disclosure information to insurers when there is a non-property claim such as an action by member against the client • Providing documents required for non-property insurance claims (e.g. public liability, legal defence claims) against the client where the insurer provides indemnity for legal costs • Liaising with legal practitioners for non-property insurance claims (e.g. public liability insurance claims and legal defence claims) |
| Insurance finance service | <ul style="list-style-type: none"> • Arranging insurance premium finance (loan /funding) if required |

8.1 Insurance service categories

8.1.1 Category 1: Quotation, procurement, placement, and payment

Graph 66 highlights the frequency that managers perform the six services relating to Category 1. At least 70% of the managers surveyed indicated that the six sub-category services were very frequently or frequently undertaken.

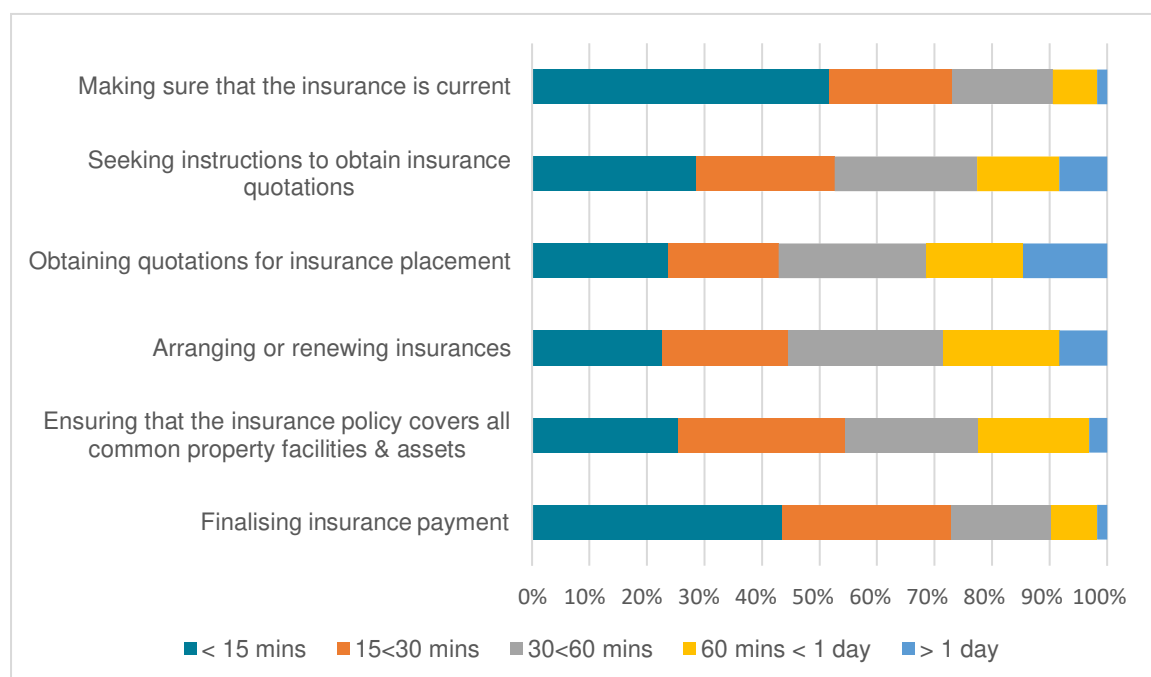
Graph 66: How frequently do managers undertake these services for all clients?



Graph 67 highlights the average length of time it takes to perform Category 1 services. Generally (approximately 70% agreement), the services performed under this category take less than one hour to perform with four sub-category services taking less than 30 minutes.

Approximately 52% of managers indicated that making sure the insurance is current is a task that takes less than 15 minutes, 44% indicated that finalising insurance payments similarly takes less than 15 minutes. Approximately 20% of respondents indicated that arranging or renewing insurance and ensuring that the insurance policy covers all common property facilities and assets can take between 60 minutes and one day to perform.

Graph 67: On average, how long to these services take to perform for a client?



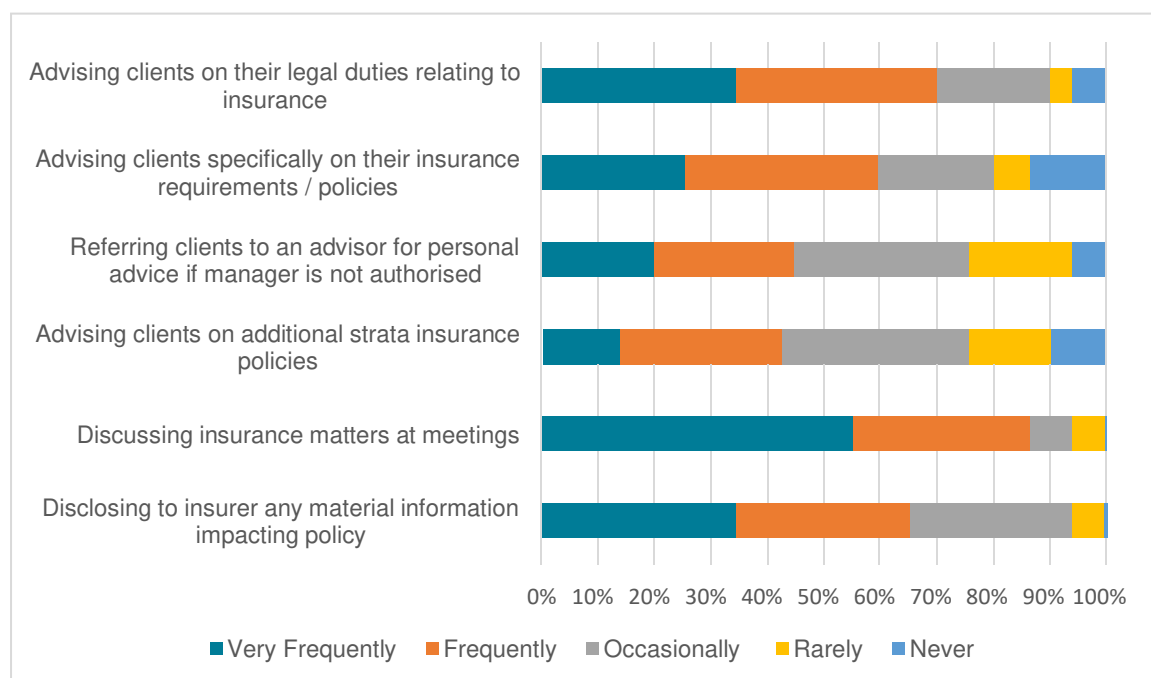
8.1.2 Category 2: Insurance premium finance

Arranging insurance premium finance for client OCs was the only sub-category identified under this category. The majority of manager respondents (70%) indicated this service was rarely or never performed. For those who had undertaken this service, 56% indicated it would take less than 30 minutes to perform.

8.1.3 Category 3: Strata insurance advice

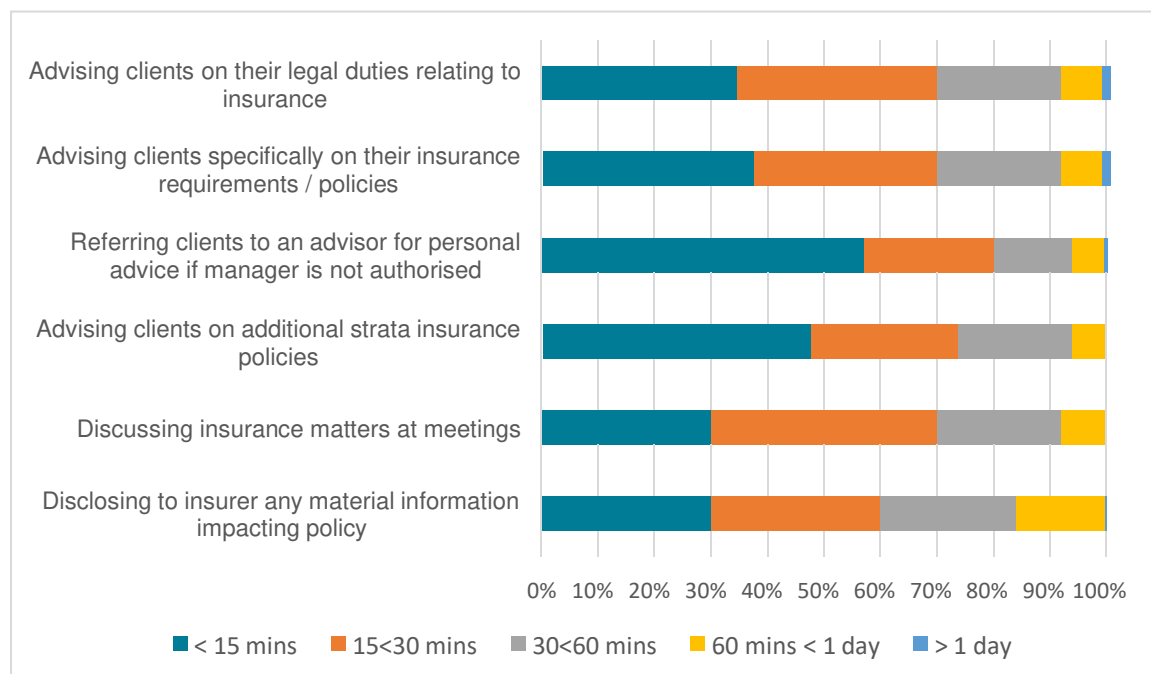
Graph 68 highlights the six services undertaken in relation to the strata insurance advice category. Discussing insurance matters at meetings, advising clients on their legal duties relating to insurance, advising clients specifically on their insurance requirements and policies, and disclosing material information to the insurer were all services very frequently or frequently performed by managers.

Graph 68: How frequently do managers undertake these services for all clients?



Graph 69 highlights the average length of time it takes to perform Category 3 services. Generally (approximately 59% agreement), the services performed under this category take less than 30 minutes to perform.

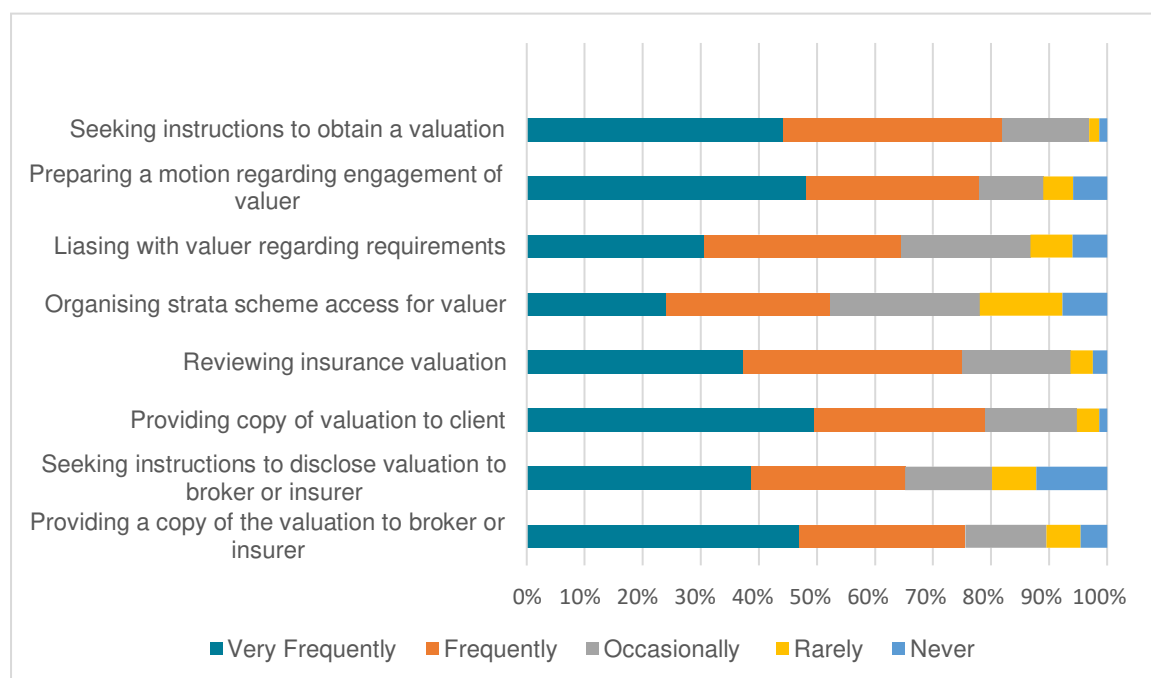
Graph 69: On average, how long to these services take to perform for a client?



8.1.4 Category 4: Strata insurance valuations

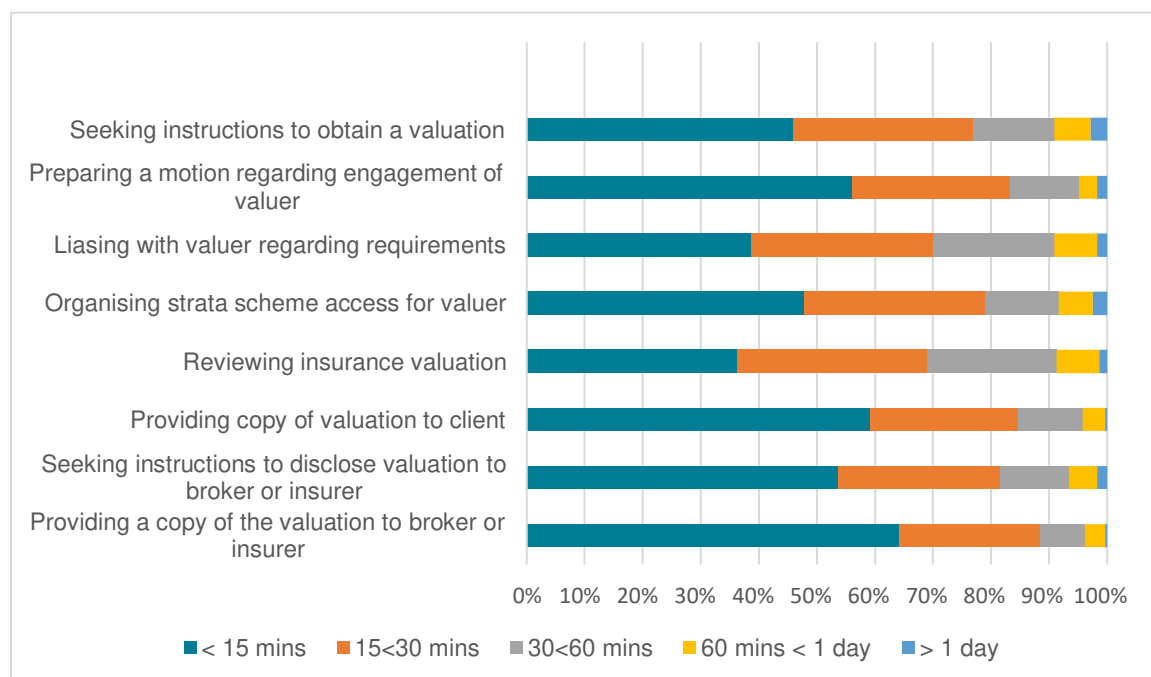
As highlighted in Graph 70, at least 50% of all manager respondents indicated that all eight (8) valuations related services are very frequently or frequently undertaken. Organising strata scheme access for valuer was rarely or never performed by 22% of respondents.

Graph 70: How frequently do managers undertake these services for all clients?



Graph 71 highlights the average length of time it takes to perform Category 4 services. Generally (approximately 68% agreement), the services performed under this category take less than 30 minutes to perform. At least 50% of respondents indicated that four sub-category services take less than 15 minutes including: providing a copy of the valuation to the broker or insurer, provide a copy of the valuation to the client, preparing a motion regarding the engagement of a valuer, and seeking instructions to disclose the valuation to the broker or insurer.

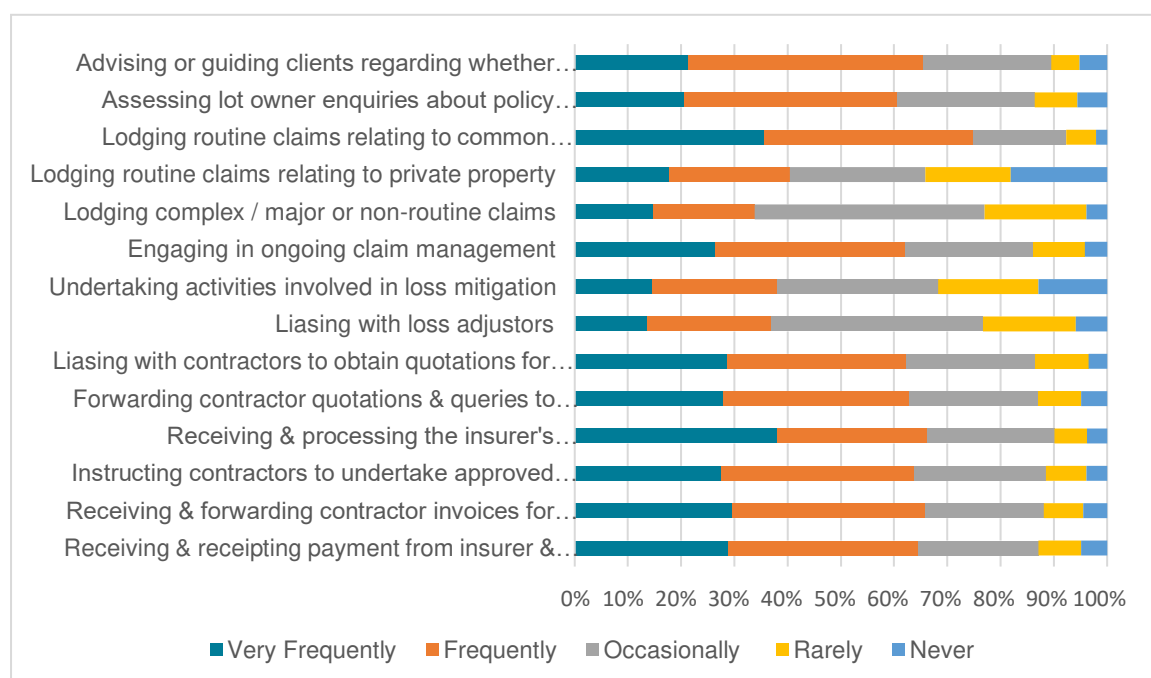
Graph 71: On average, how long do these services take to perform for a client?



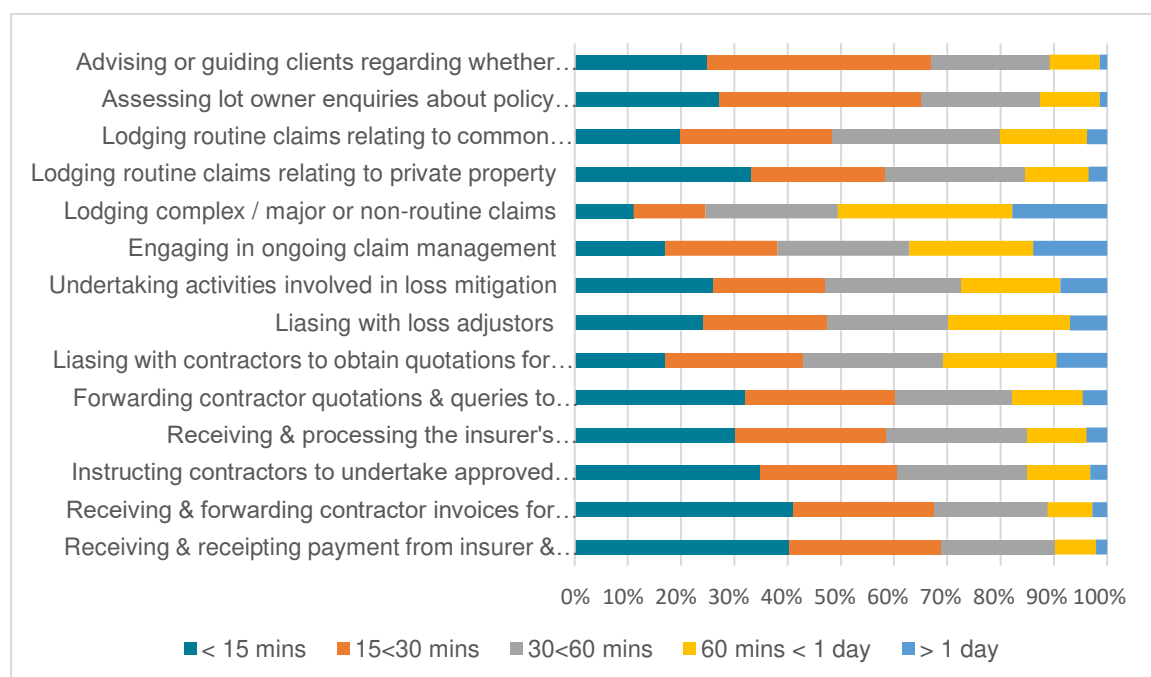
8.1.5 Category 5: Strata insurance claims

As highlighted in Graph 72, 14 discrete services have been identified for category 5. At least 60% of manager respondents agreed that ten of these services are very frequently or frequently undertaken including, for example, lodging routine claims relating to common property, guiding clients regarding whether or not to make a claim, receiving and processing the insurer's acceptance or rejection of insurance claim, and receiving and forwarding contract invoices for approved insurance work to insurer or broker for payment. Less frequently undertaken are services such as lodging complex or major claims, liaising with loss adjustors, undertaking activities involved in loss mitigations and lodging routine claims relating to private property.

Graph 72: How frequently do managers undertake these services for all clients?

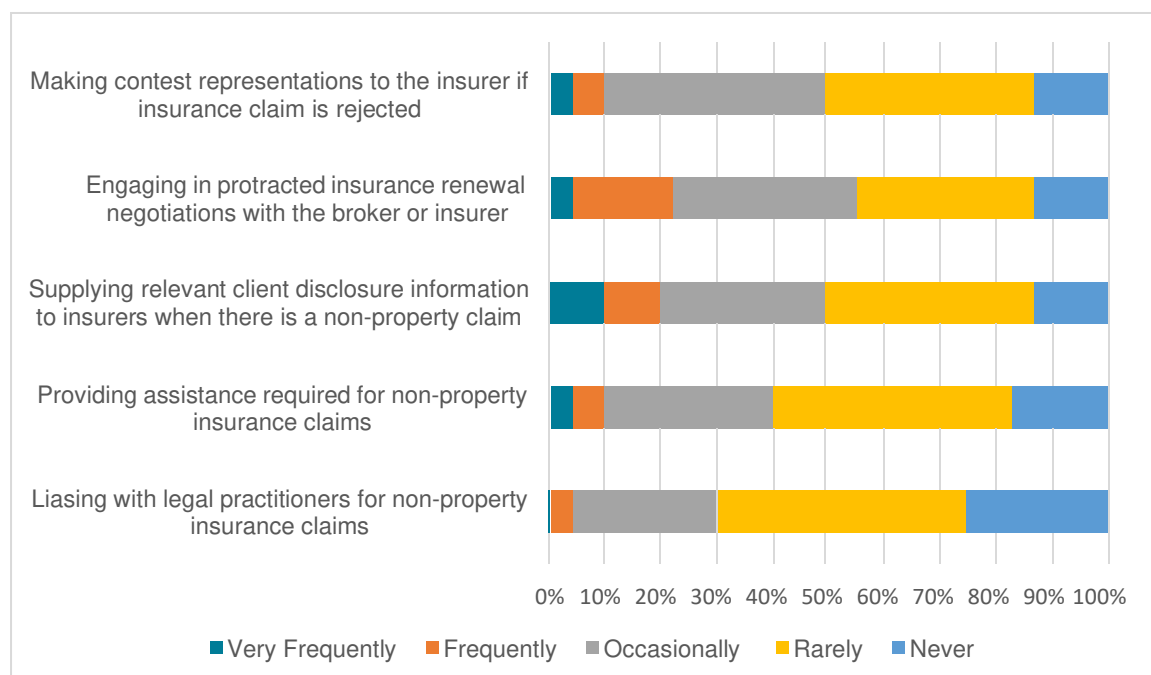


Graph 73 highlights the average length of time it takes to perform category 5 services. Generally (at least 55% agreement), eight services performed under this category take less than 30 minutes to perform. At least 50% of respondents indicated that lodging complex or major claims takes at least 60 minutes to a day.

Graph 73: On average, how long do these services take to perform for a client?

8.1.6 Category 6: Insurer negotiation and liaison

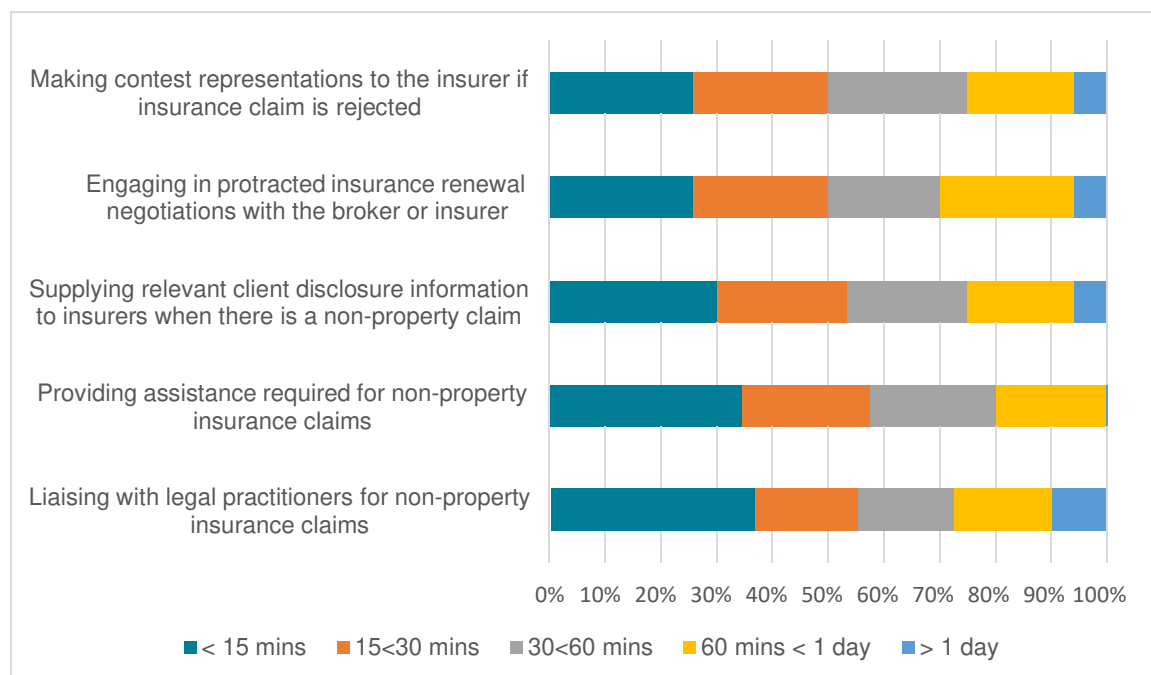
As highlighted in Graph 74, five discrete services have been identified for category 6. At least 77% of manager respondents agreed all these services are occasionally to never undertaken. Approximately 22% of manager respondents indicated that engaging in protracted insurance renewal negotiations with a broker or insurer is very frequently or frequently undertaken.

Graph 74: How frequently do managers undertake these services for all clients?

Graph 75 highlights the average length of time it takes to perform category 6 services. Generally (at least 54% agreement), these services take less than 30 minutes to perform.

Approximately 35% of respondents indicated that all these services took between 30 minutes and a day to perform.

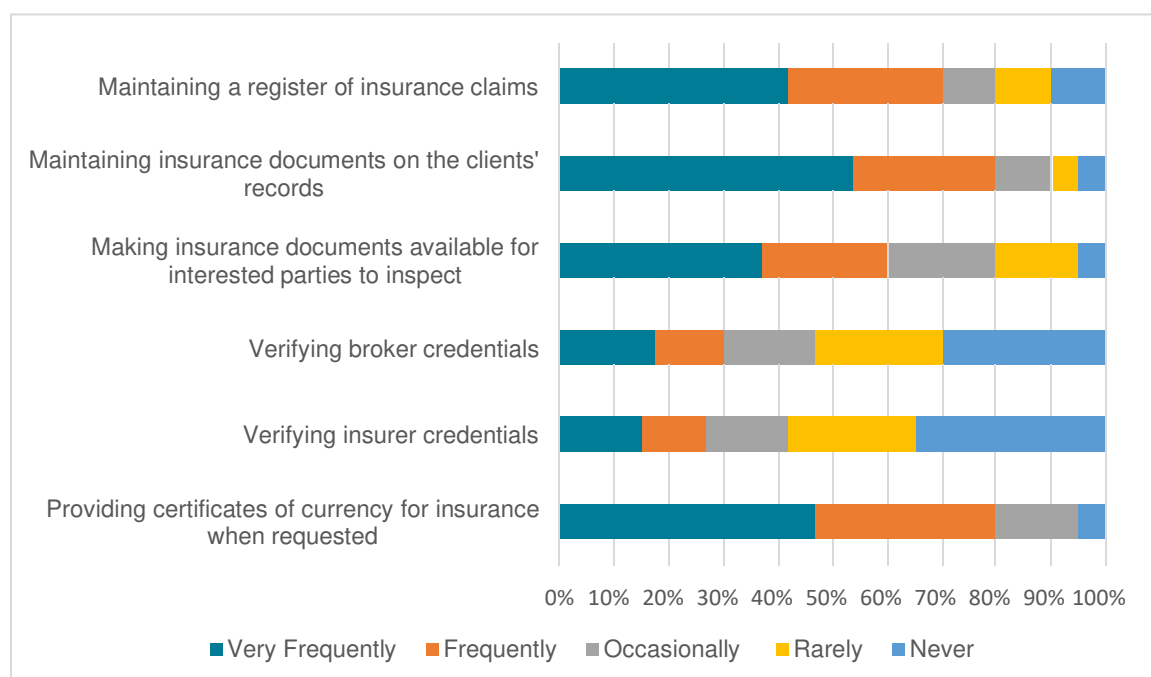
Graph 75: On average, how long do these services take to perform for a client?



8.1.7 Category 7: Insurance record keeping

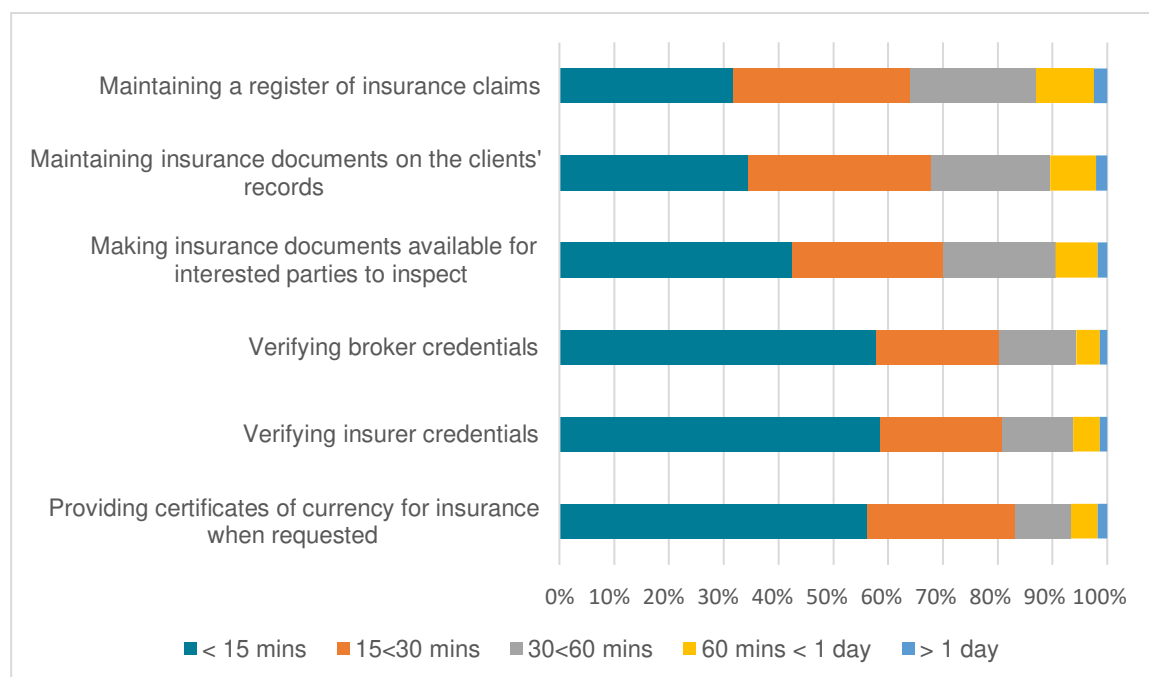
As highlighted in Graph 76, six discrete services have been identified for category 7. At least 60% of manager respondents agreed that four of these services are very frequently or frequently undertaken including: maintaining a register of insurance claims, maintaining insurance documents on the clients' records, making insurance documents available for inspection, and providing certificates of currency for insurance when requested. Verifying insurer and broker credentials are rarely or never undertaken by the majority of manager respondents.

Graph 76: How frequently do managers undertake these services for all clients?



Graph 77 highlights the average length of time it takes to perform Category 7 services. Generally (at least 64% agreement), these services take less than 30 minutes to perform.

Graph 77: On average, how long do these services take to perform for a client?



Of the 47 discrete services identified, at least 50% of the manager respondents identified 32 services that were very frequently or frequently undertaken on behalf of their clients. Table 87 outlines these services in ranking order (1 = the most respondents identified as very frequently or frequently performed service) and the average time taken to perform each task. The most frequently undertaken tasks by managers relate to Category 1 services (quotation,

procurement, placement and payment of insurance) and Category 5 services (claims). The most frequently undertaken tasks take less than 30 minutes.

Table 87: Very frequently or frequently undertaken strata insurance services and average time taken to perform tasks

| Ranking order | Category | Sub-category service | Average time taken to perform task |
|---------------|----------|--|------------------------------------|
| 1 | 1 | Finalising insurance payments | < 30 mins |
| 2 | 1 | Making sure that the insurance is current | < 15 mins |
| 3 | 1 | Arranging or renewing insurances | < 60 mins |
| 4 | 3 | Discussing insurance matters at general and committee meetings | < 30 mins |
| 5 | 1 | Ensuring that the insurance policy covers all common property facilities and assets | < 30 mins |
| 6 | 4 | Seeking instructions to obtain a valuation | < 30 mins |
| 7 | 7 | Maintaining insurance documents of the client's records | < 15 mins |
| 8 | 1 | Obtaining quotations for insurance placement | < 60 mins |
| 9 | 4 | Providing a copy of the valuation to the client | < 15 mins |
| 10 | 1 | Seeking instructions to obtain insurance quotations | < 30 mins |
| 11 | 7 | Providing certificates of currency for insurance when request | < 30 mins |
| 12 | 4 | Providing a copy of the valuation to the broker or insurer | < 15 mins |
| 13 | 5 | Lodging routine claims relating to common property | < 30 mins |
| 14 | 4 | Reviewing insurance valuation | < 30 mins |
| 15 | 7 | Maintaining a register of insurance claims | < 30 mins |
| 16 | 3 | Advising clients on their legal duties and obligations relating to strata insurance | < 30 mins |
| 17 | 4 | Preparing a motion regarding engagement of a valuer | < 15 mins |
| 18 | 5 | Receiving and processing the insurer's acceptance or rejection of insurance claims | < 30 mins |
| 19 | 5 | Receiving and forwarding contractor invoices for approved insurance work to broker or insurer | < 30 mins |
| 20 | 5 | Advising or guiding clients regarding whether or not to make a claim | < 30 mins |
| 21 | 4 | Seeking instructions to disclose valuation to broker or insurer | < 15 mins |
| 22 | 3 | Disclosing to insurer any material information impacting policies | < 30 mins |
| 23 | 4 | Liaising with valuer regarding valuation requirements | < 30 mins |
| 24 | 5 | Receiving and receipting payments from insurer and paying contractors | < 30 mins |
| 25 | 5 | Forwarding contractor quotations and queries to brokers or insurers | < 30 mins |
| 26 | 5 | Liaising with contractors to obtain quotations for proposed insurance repair work | < 60 mins |
| 27 | 5 | Engaging in ongoing claim management | < 60 mins |
| 28 | 5 | Assessing lot owner enquiries about policy coverage for loss or damage | < 30 mins |
| 29 | 7 | Making insurance documents available for interested parties to inspect | < 30 mins |
| 30 | 3 | Advising clients on their strata insurance requirements | < 30 mins |
| 31 | 5 | Instructing contractors to undertake approved insurance work following acceptance of insurance claim | < 30 mins |
| 32 | 4 | Organising strata scheme access for valuer | < 30 mins |

Of the 47 discrete services identified, at least 50% of the manager respondents identified seven services that were very frequently to occasionally undertaken on behalf of their clients. Table 88 outlines these services in ranking order (1 = the most respondents identified as very frequently, frequently or occasionally performed service) and the average time taken to perform each task. The most frequently undertaken tasks by managers relate to category 5 services (claims).

Table 88: Very frequently to occasionally undertaken strata insurance services and average time to perform tasks

| Ranking order | Category | Sub-category service | Average time taken to perform task |
|---------------|----------|--|------------------------------------|
| 33 | 5 | Lodging routine claims relating to private property | < 30 mins |
| 34 | 3 | Referring clients to an advisor for personal advice | < 30 mins |
| 35 | 3 | Advising clients on additional strata insurance policies | < 30 mins |
| 36 | 5 | Liaising with loss adjustors | < 60 mins |
| 37 | 5 | Lodging complex / major claims | <1 day |
| 38 | 5 | Undertaking activities involved in loss mitigation | <60 mins |
| 39 | 6 | Engaging in protracted insurance renewal negotiations with broker or insurer | <30 mins |

Manager respondents who had indicated in their survey that the overwhelming majority of the strata services outlined in categories 1 to 7 were rarely or never undertaken by them (8.6%) stated that these services are either performed by: a dedicated strata insurance section within their management company (55%), an assistant (20%) or other, including a broker (25%).

9 Strata management fee arrangements

The strata management industry, like many service industries, has devised a fee structure that utilises mixed fee arrangements. Generally, strata management companies ('companies') refer to three types of services fees in management agreements - agreed (or core) services fees (agreed services fee), disbursement fees, and additional services fees.

The agreed services fee and the disbursement fees are usually determined on a per lot basis but charged as an annual lump sum. The agreed services fee is one fee that covers a bundle of services. For most companies, the bundling of these services is contingent on the company's receipt of rebates, discounts and commissions from insurers or brokers.⁷⁰ In instances where this contingency is excluded, companies have developed altered remuneration models to supplement the agreed services fee.

Additional services are usually outlined in a schedule forming part of the agreement. These services attract additional fees, which is either a fixed fee or an hourly rate. For the purpose of this report, these additional fees are referred to as a FFS. In the later stages of this part of the report, a distinction is made between a FFS and an extra FFS (EFFS). This EFFS only applies to some altered remuneration models where companies do not receive commissions.

In order to define FFS in the strata context, an evaluation is required to ascertain the types of insurance-related services that are provided by companies and are bundled together and the types of insurance-related services that are performed for a FFS.

⁷⁰ To be clear, the commission paid by insurers will only be paid to one party, either the broker or the management company, not both. It is likely that most management companies have a contractual relationship where the commission is shared between the company and broker.

The aims of this section of the report are to identify:

- The services that form part of the bundle of services included in the agreed service fee arrangement or whether they attract a FFS;
- the extent to which the bundling of services changes when the company does not receive any commission, resulting in the use of an altered remuneration model under the agreement.

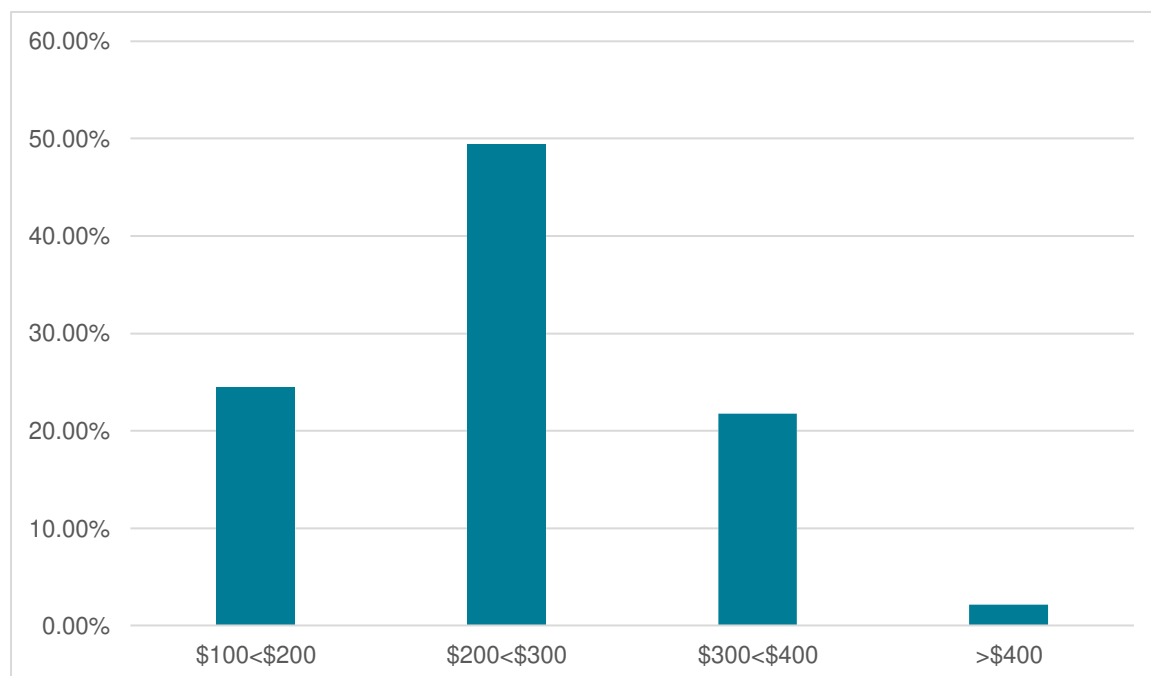
This section provides the findings mainly from the management agreements review. Firstly, some general findings are outlined including FFS hourly rates and the disclosed insurance commission information. Secondly, the strata insurance services identified in the management agreements are evaluated based on two scenarios - Scenario A (when a company receives a commission) and Scenario B (when no commission is received). The method used to undertake this research activity is outlined in Section 2.

9.1 General findings from management agreement review

9.1.1 Agreed services fee

As highlighted in Graph 78, nearly 50% of strata managers surveyed indicated that their employer management company on average charges between \$200 and \$300 per lot, per annum. Nearly 24% of managers indicated the average rate was between \$100 and \$200 and nearly 24% over \$300.

Graph 78: Average agreed services fee charge per lot charged



9.1.2 Fee for service hourly rate

All agreements (except for two) stipulated the hourly fees charged by strata management staff. The majority of those that stipulated an hourly fee provided a rate for managers (based on

seniority) or administrative assistants. For the purpose of this report, only the strata manager rates are used. Table 89 provides an overview of the average rate and rate range in each jurisdiction.

Table 89: Fee for service – rates and range (based on manager rate)

| | ACT | NSW | NT | SA | Vic | WA | Qld | New Zealand |
|---------------------|---------------|---------------|---------------|--------|---------------|---------------|-----------------|---------------------|
| Average Rate | \$165 | \$178 | \$137.50 | \$165* | \$180 | \$243 | \$168 | \$159 ⁷¹ |
| Range | \$121 - \$220 | \$100 - \$220 | \$110 - \$165 | | \$120 - \$250 | \$110 - \$550 | \$71.50 - \$250 | |

9.1.3 Insurance commission details

All agreements (except for two) provided for rebates, commissions or discounts. The majority of agreements disclosed a commission percentage of up to 20%, although the range across all agreements was 10% to 25%. Generally, the agreements noted that the commission percentage was calculated in reference to the premium or base premium. A sample of agreements calculated the commission based on the broker's commission. The percentages outlined in those agreements varied considerably from 0% to 75% of the broker's commission. Eleven agreements (22%) did not specify a commission percentage.

9.1.4 Commission conditions

The majority of the Victorian agreements contained a stipulation that, in the event the commission received is less than 15% of the base premium, the client must pay to the company the difference between the received commission and an amount equivalent to 15% of the base premium. For the purpose of this paper, this is referred to as the 'top up model'.

9.1.5 Disclosed 'authorised insurers and brokers'

All agreements identified (where relevant) each company's preferred or authorised insurers and brokers. Although the number of preferred or authorised insurers and brokers ranged from 0 to 15, on average, four (4) insurers or brokers were disclosed.

9.1.6 Identified strata insurance-related services categories

As outlined in Section 8, although 47 discrete services have been identified through the two-step process, only 31 insurance-related services were identified from analysing the management agreements. These services were coded under the seven (7) broad insurance-related services categories already identified. These broad categories are:

- Quotation, procurement, placement and renewal services
- Payment of insurance premium services
- Insurance valuation services
- Insurance claim services
- Insurance record keeping services
- Insurance guidance services
- Insurance negotiation and liaison services

⁷¹ Only one rate was provided

9.1.6.1 Scenario A – Commission received by company

Scenario A applies when the company receives a commission from an insurer or broker when the client's insurance is placed. The seven (7) broad insurance-related services categories are used as headings to describe the extent that these services are bundled or attract a FFS across jurisdictions.

- Quotation, procurement, placement and renewal services

Although various wording is used to describe activities relating to, obtaining or arranging quotations and arranging or renewing insurances, the majority (85%) of agreements bundled these services. It is usual however that a number of pre-conditions are adopted (for example, only using an authorised broker / insurer and limiting the quotes to three) in relation to this service.

FFS activities under this category were limited but included: obtaining quotations from brokers or insurers that were not specified in the agreement as authorised suppliers; obtaining more than three quotes; and arranging committee meetings to consider the placement of insurance.

Comparing across jurisdictions, NSW agreements included substantially more FFS activities under this category.

- Payment of insurance premium service

Approximately 24% of agreements identified paying insurance premiums of behalf of the client as a bundled service. Although in practice, it is highly likely that all companies provide this service, the majority of agreements did not explicitly make reference to this service activity.

Comparing across jurisdictions, Qld and WA agreements regularly identified this activity.

- Insurance valuation services

Approximately 60% of agreements identified obtaining an insurance valuation as a bundled service and 5% as a FFS activity. Comparing across jurisdictions, most states and territories identified this service activity, except Qld agreements.

Although only one agreement identified distributing a copy of the valuation to lot owners (as part of the bundle of services), it is likely that many companies either distribute the valuation certificate with the annual general meeting agenda or it is added to the client records and available for lot owners to inspect.

- Insurance claim services

Claims services are divided into three further categories – non-routine (standard), routine or complex / major. Although limited information is provided in order to determine the factors that constitute a routine, non-routine or complex / major claim, some agreements specify conditions that aid in classifying these claim types further. For example, time limitations (15, 20 or 30 minutes) or claim values (less than or more than \$5000) are noted as threshold indicators.

The majority of routine claims services are bundled and specifically relate to lodgement. Approximately 66% of agreements provide for routine (or standard) claims lodgement but generally include a time limitation pre-condition of 15 minutes. A small number of agreements

(17%) stipulate this as a FFS activity with variations in the cost of the services ranging from \$55 to \$110 per claim or by an hourly rate.

The majority of non-routine or complex / major claims activities are classified as a FFS activity (charged at hourly rates) with less than 14% of agreements bundling the lodgement activity. Of interest is that 40% of agreements did not stipulate any specific services relating to the lodgement of non-routine or complex claims.

Variations exist across jurisdictions in relation to the other specified activities relating to insurance claim services. In general, agreements from Qld, Vic, NT, SA and New Zealand did not identify other claim-based services. Approximately half of NSW and ACT agreements and the majority of WA agreements specified activities that were involved with minimisation of loss and liaising with loss adjustors. These activities were all characterised as FFS activities.

It is likely that companies routinely engage in other claim-related services that are not specified in the agreement including, but not limited to: engaging in ongoing claim management; engaging with contractors; receipting funds; and liaising with client committees.

- Insurance record keeping services

Only three (3) NSW agreements stipulate maintaining the client's insurance records as a bundled service activity. Although it is common practice that this service (more generally) is provided by companies. No agreement identified verifying insurer or broker credentials as a service.

- Insurance guidance services

Over 60% of agreements did not stipulate any services relating to guiding on insurances or referring a client to an adviser. Generally, the WA agreements and one agreement from SA, explicitly stated that these types of services would not be provided by the nominated manager. The majority of the Vic agreements bundled these services and other insurance services offered by the authorised insurer or broker as listed in the agreement.

Although not explicitly identified as a FFS activity in the reviewed agreements (except seven NSW agreements), providing certificates of currency for insurance is a task normally undertaken by managers. Of the NSW agreements stipulating this service, the FFS costs ranged from \$16.50 to \$35 per certificate provided.

- Insurer negotiation and liaison services

Only two (2) agreements (both from NSW) stipulated services relating to: engaging in protracted insurance renewal negotiations and supplying relevant disclosure information to insurers when there is a non-property claim. These activities were FFS activities. Again, although these services may be commonly undertaken by managers in practice (even on an ad hoc basis), these activities were not stipulated in most of the agreements.

- Insurance finance service

Only one agreement (from NSW) described the service of 'arranging insurance premium finance', which was a FFS activity. Other companies may consider this service to be an ad hoc or miscellaneous service charged under a general (rather than insurance-specific) FFS category.

- Annual insurance commission disclosure service

Only one agreement (from NSW) stipulated the service of 'providing annual insurance commission disclosure to the client' and this activity is a bundled service. It is unclear what this service involves in practice.

Table 90 provides an overview of the bundled and FFS activities commonly provided under Scenario A. It is important to note that due to variations in the agreements, only services that at least 20% of the agreements reviewed identified as a service have been included in this table.

Table 90: Overview of management services that are generally bundled or provided under a FFS arrangement (that is, at least 20% of agreements reviewed identified the services)

| Insurance Services Categories | Bundled Services | Fee for Service |
|---|---|--|
| Quotation, procurement, placement and renewal services | <ul style="list-style-type: none"> Obtaining and arranging quotations for insurance from an insurer or broker (limited only to insurers or brokers authorised by the manager) Arranging insurance or renewing an existing policy (generally, but only through an insurer or broker whom the manager is an authorised representative or distributor of) Seeking client instructions for renewal or placement of insurance | |
| Payment of insurance premium service | <ul style="list-style-type: none"> Paying insurance premiums on behalf of the client | |
| Insurance valuation services | <ul style="list-style-type: none"> Obtaining insurance valuations for building reinstatement value | |
| Insurance claim services | <ul style="list-style-type: none"> Lodging routine claim | <ul style="list-style-type: none"> Lodging non-routine or complex claims Engaging in ongoing insurance claim management including activities involved with loss minimisation Liaising with loss adjustors |
| Insurance record keeping services | | |
| Insurance guidance services | <ul style="list-style-type: none"> Guidance (generally) on insurances Referring client to an adviser for personal advice if manager is not authorised to give personal advice Providing any other insurance services in respect of insurance products offered through the authorised insurers / broker | |
| Insurer negotiation and liaison services | | |
| Insurance finance service | | |
| Annual insurance commission disclosure service | | |

9.1.6.2 Scenario B – No commission received by company

Scenario B applies when companies do not receive any commission. For this part of the review, the focus is on the altered models of remuneration that the agreements adopt in Scenario B.

- Identification of altered remuneration models adopted in Scenario B

The agreements reviewed can be aligned with the following five alternative remuneration models:

- The Automatic Increase Model: if the company does not receive a commission, then the agreed services fee will increase automatically, or at the company's sole discretion, by an amount equivalent to the commission that the company would have received if it had placed the insurance;
- The Fee for Service Model: if at any point during the term of the agreement, the company does not receive a commission, then either all insurance services or specific insurance services are only provided in return for an EFFS;
- The Select Option Model: at the point in time where the parties first enter into the agreement, they must select whether the company is allowed to retain a commission or not, and this selection impacts the amount of the agreed services fee;
- The Silent Model: the agreement is silent on whether there is any effect on the agreed services fee or fee for service if the company does not receive a commission;
- The Fixed Fee in Lieu Model: the agreement stipulates that the company will not receive any commission, but that the client must pay a fixed fee to the company in lieu of a commission.

Outlined in Table 91 is the proportion of companies adopting each model and the representative jurisdictions.

Table 91: Altered remuneration models by jurisdiction and adoption percentage

| Models of altered remuneration | Percentage | Jurisdictions |
|-------------------------------------|------------|---------------------------|
| The Fee for Service Model | 38% | ACT, Vic, WA, Qld |
| The Automatic Increase Model | 31% | NSW, NT, SA, WA |
| The Silent Model | 17% | ACT, NT, NZ, Vic, WA, Qld |
| The Select Option Model | 10% | ACT, Qld, WA |
| The Fixed Fee in Lieu Model | 4% | Vic, WA |

The Fee for Service Model and the Automatic Increase Model are the most commonly used altered remuneration models in Australian states and territories.

All jurisdictions except for NSW and SA, had examples of management agreements that adopted the Silent Model, meaning no reference was made in the agreement to whether the company's remuneration would be affected in the event it did not receive any commission.

- SCA standard agreements and jurisdictional practice

In NSW, 100% of companies adopted the Automatic Increase Model provided in the SCA (NSW) standard agreement. In Vic, almost all companies adopted the Fee for Service Model provided in the SCA (Vic) standard agreement. WA had slightly more variation. The SCA (WA) standard agreement provides the Select Option Model should apply. Just over 40% of WA management agreements adopted that model, with the others adopting the Silent Model, Fixed Fee in Lieu Model, the Fee for Service Model or the Automatic Increase Model.

The SCA (Qld) standard agreement foreshadows that a Fee for Service Model should apply, but ultimately leaves it up to the parties to negotiate which insurance services will be included or excluded from the agreed services fee. In practice, the majority of Qld agreements are in line with Vic by adopting a Fee for Service Model.

Whilst the SCA (SA) standard agreement provides for a Fee for Service Model, in practice, the agreements instead adopt the Automatic Increase Model.

The SCA (ACT) standard agreement provides for the Silent Model. In practice, the ACT management agreements adopt all models except for the Automatic Increase Model and the Fixed Fee in Lieu Model.

Table 92 identifies the percentage of agreements within each jurisdiction that adopt the above alternative remuneration models in Scenario B.

Table 92: Jurisdictional overview of altered remuneration models used in Scenario B where company does not receive commission

| | ACT | NSW | NT | SA | Vic | WA | Qld | New Zealand |
|---------------------------------|-----|------|-----|------|-----|-----|-----|-------------|
| Automatic Increase model | | 100% | | 100% | | 17% | | |
| Fee for Service model | 50% | | 50% | | 87% | 41% | 50% | |
| Select Option model | 25% | | | | | 50% | 13% | |
| Silent model | 25% | | 50% | | 7% | 14% | 38% | 100% |
| Fixed Fee in Lieu model | | | | | 7% | 8% | | |

Jurisdictional observations include:

- the Automatic Increase Model is adopted in NSW and SA without variation;
- the Fee for Service Model is the predominant model adopted in Vic and is also the model that is adopted the majority of the time in the ACT, NT and Qld;
- WA predominantly adopts the Select Option Model, and has the greatest variety of methods used compared to the other jurisdictions;
- the New Zealand agreements adopt the Silent Model. They do not address what occurs in the event that the company does not receive a commission. This is consistent with the absence in those New Zealand agreements of any disclosure of commissions received from insurers or brokers.

To be consistent with the methodology set out earlier in this report, when discussing 'changes' to services comparative from Scenario A to Scenario B in the agreements below, reference is only made to those changes that the agreements make express reference to. Where no express change is stipulated in an agreement in Scenario B, the bundled and FFS activities discussed in Scenario A are presumed to remain unaltered.

- Altered Remuneration Model Trends

The trends identified in each altered remuneration model are discussed below and a comparative table is provided in Appendix D.

The Automatic Increase Model

Approximately 33% of all agreements reviewed adopt the Automatic Increase Model in Scenario B. There is some variation in the manner in which the automatic increase is calculated, namely:

- The agreed service fee increases by the amount equal to the commission that the company would have received if it had arranged the insurance;
- The client becomes liable to pay the company an amount that is equivalent to 20% of the actual insurance premium paid by the client;
- A general discretion afforded to the company to 'increase the agreed services fee' if no commission is received.

In approximately 70% of agreements that adopt the Automatic Increase Model, there is no further change to the bundled or FFS activities that are provided by the company to the client. Nearly 30% of those agreements stipulate that an EFFT will apply for particular services limited to quotation, placement and renewal services and insurance claim services.

The Fee for Service Model

- The largest proportion (38%) of the agreements reviewed adopt the Fee for Service Model in Scenario B. The following trends are apparent where the Fee for Service Model is adopted:
 - Almost all of the agreements stipulate that services in the category of 'quotation, procurement, placement and renewal services' become subject to an EFFT;
 - For the agreements that had stipulated in Scenario A that obtaining a valuation was a 'bundled service', this bundling remained unaffected in 66% of those agreements, with 33% changing to require an EFFT to be charged for the service of obtaining a valuation in Scenario B;
 - More than 50% of the agreements (primarily from Victoria) continue to treat the service of lodging insurance claims taking less than 15 minutes as a bundled service, whereas 42% of those agreements change to stipulate that an EFFT will be payable for lodging insurance claims generally;
 - Services under the heading 'insurance advisory services' largely remained bundled, with less than 10% of those agreements stipulating that an EFFT is required for insurance advice.

The Select Option Model

Less than 10% of the agreements adopted the Select Option Model. Where this model was adopted, there was very little change to the bundled and FFS activities. Minor changes appear only in the category of insurance claim services to stipulate that insurance claims and ongoing claims management may become subject to an EFFT according to certain agreements.

The Silent Model

Seventeen percent (17%) of agreements were silent in relation to Scenario B. NSW and Qld were the only jurisdictions that did not have any agreements that adopted the Silent Model.

All of the New Zealand agreements adopted the Silent Model. If this absence reflects a practice where the company does not receive any commission, then that appears to explain why there is no distinction made between the bundled or FFS activities provided to the client depending on whether a commission is received or not.

The Fixed Fee in Lieu Model

The Fixed Fee in Lieu model is the least frequently adopted model. The Fixed Fee in Lieu Model exists in conjunction with the Fee for Service Model (but has been categorised under the Fixed Fee in Lieu Model only).

The additional fixed fee payable by the client in the event that the company did not receive a commission ranged from \$1,100 to \$1,750 (including GST). In addition to these fixed charges, the company also charges an EFFT for all insurance services (in the case of one agreement), and specified quotation, procurement, placement and renewal services (in the case of the other agreement).

- Overview of trends

The models of altered remuneration in Scenario B that attract an EFFT (in ranked order from highest number of services that become subject to an EFFT) are:

- Fee for Service Model;
- Automatic Increase Model;
- Fee in Lieu Model;
- Select Option Model;
- Silent Model.

Approximately 56% of agreements reflect that certain insurance-related services that were bundled under Scenario A, would become subject to an EFFT in Scenario B. The remaining 44% did not stipulate any change to their bundled and FFS activities. The best indicator of whether or not there would be an EFFT for specific services was the type of altered remuneration model adopted.

The Fee for Service Model is usually accompanied by additional fees for service being payable for previously bundled services. Only about 33% of agreements that adopt the Automatic Increase Model also stipulate that EFFT also apply for certain services. The Fee in Lieu Model also involves an EFFT for specific services. The Silent Model and the Select Option Models rarely stipulated any change to bundled and FFS activities in Scenario B.

Where the Select Option Model was adopted, all quotation, procurement, placement and renewal services and payment of insurance premium services remained bundled. Approximately 80% of the agreements that adopted this model also kept insurance claims services as bundled.

9.1.6.3 Scenario A – Discussion

The patterns that did emerge under Scenario A can be categorised as generally bundled services and generally FFS activities.

It is evident from the findings that activities that are commonly bundled are less complex, less time consuming and considered routine services performed regularly (e.g., on an annual basis). These outcomes are expected as companies can instigate processes and procedures for service activities that are undertaken multiple times throughout a year. It is likely that administrative staff within a company could perform or assist with most of these types of

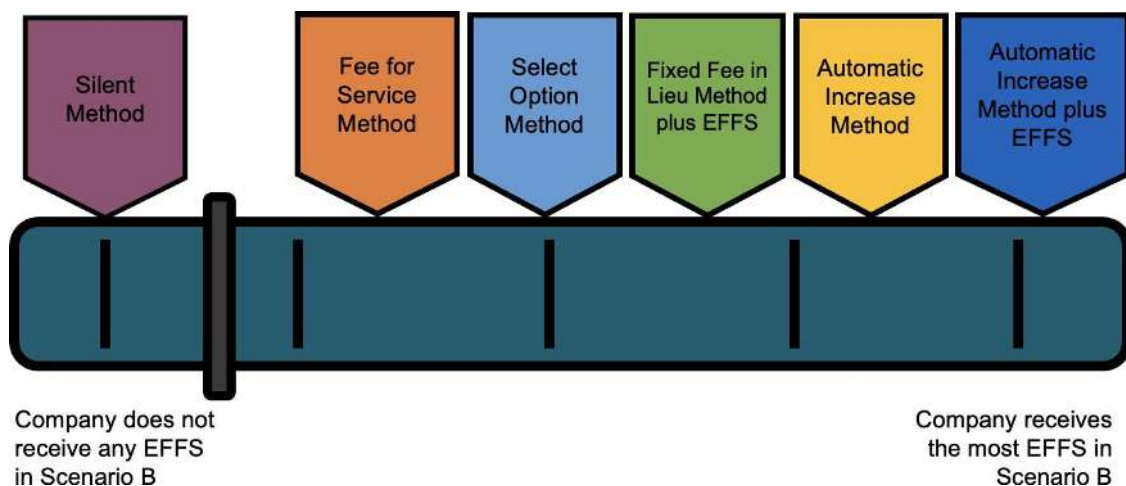
services. The common services that are bundled together include: obtaining and arranging quotations for insurance from an insurer or broker; arranging insurance or renewing an existing policy; seeking a client's instruction for renewal or placement of insurance; paying insurance premiums on behalf of the client; obtaining insurance valuations for building reinstatement value; lodging routine claims; providing guidance generally on insurances; referring clients to advisers; and providing any other insurance services.

Conversely, those activities attracting a FFS either have a higher level of complexity, or are more time consuming and therefore considered as non-routine services. It would be expected the focused expertise of a manager or senior staff member would be required when lodging non-routine or complex claims; engaging in ongoing insurance claim management including activities involved with loss minimisation; and liaising with loss adjusters.

9.1.6.4 Scenario B – Discussion

It was evident from the review that there was variability in how the agreements responded in Scenario B when no commission was received (when the client's insurance was placed) and the company's revenue had to be supplemented. This variability can be described in terms of a sliding scale. At one end there are agreements that do not make any reference at all to Scenario B (for example, those that adopt The Silent Method), at the other end there are agreements that impose an automatic contractual increase equivalent to commission amount, but also charge EFFS for certain services (for example, The Automatic Increase Model with EFFS). Figure 1 visually depicts this scale. The scale could also be described as one where there is no real financial impact on the client at one end, and where there is a financial incentive for the client to permit the manager to retain the commission from the insurer or broker at the other end.

Figure 11: Altered remuneration model scale



Despite the variability in how the agreements responded in Scenario B, the following patterns were observed:

- Across the altered remuneration models that are adopted by companies, there are three ways in which the companies generally supplement their revenue in Scenario B
 - i. By charging the client a set amount on top of their agreed services fee that is equivalent to or indirectly tied back to the amount of the insurance commission the company would have received in Scenario A; and/or

- ii. By charging the client an EFFE for insurance-related services that would otherwise have been bundled in Scenario A; and/or
 - iii. By charging the client a fixed amount for routine insurance-related services plus an EFFE for more complex insurance services.
- Although there are some trends observed when Scenario B is considered on a jurisdictional basis, those trends generally appeared in jurisdictions where the same altered remuneration method was commonly used. In jurisdictions where a variety of different altered remuneration methods were adopted, trends were less apparent. Therefore, assessing the Scenario B data through the lens of the altered remuneration model that was adopted was the best method for assessing patterns in which insurance-related services remained bundled and which services become subject to an EFFE.

The way the Automatic Increase Model (in Scenario B) operates (by automatically increasing the agreed services fee by an amount equivalent to the amount of the commission the company would have received in Scenario A), suggests the company has determined its agreed services fee based on an assumption that Scenario A will apply, and it will receive a commission when the client's insurance is placed. In the majority of these agreements, the bundled and FFS activities remain unchanged. However, in the minority of agreements that adopt the Automatic Increase Model and also charge an EFFE for certain services, it appears that the company is in a better financial position in Scenario B, because instead of receiving a commission from an insurer, it receives the equivalent amount from the client plus an EFFE for certain insurance services. The converse of that situation is that as a result of the company not receiving any commission, the client becomes liable to pay an equivalent amount plus an EFFE for certain services.

The Select Option Model could be seen as a variation of the Automatic Increase Model, albeit the choice appears to be made more clearly to both parties at the commencement of their contractual relationship. For example, the client can see the agreed services fee with, or without, the manager receiving a commission.

The Fee for Service Model arguably provides less price certainty to a client than the Automatic Increase Model. This is because under the Fee for Service Model, an EFFE will be charged for most insurance services in Scenario B, but there is little information in the agreements about how long each of those activities generally take. Therefore, although the client can see the hourly rate for the EFFE, it is difficult for the client to assess the likely total EFFE that will be payable under a Fee for Service Model for insurance-related services. This absence of information about how long insurance-related activities take also makes it difficult to undertake a clear comparison of the Fee for Service Model compared with permitting the company to receive a commission from an insurer or broker (Scenario A).

9.1.6.5 Concluding remarks

Identifying the services that are generally bundled under the agreed service fee structure and the services that attract a FFS was difficult to determine due to the variability in the agreements. A small number of activities were identifiable although these findings are limited in terms of generalisability. A more consistent approach to management agreement drafting is required, across jurisdictions, in order to identify the suite of services generally offered by companies and the fee structure that applies. It is very evident that strata management companies have generally not provided detail in their management agreements regarding the strata insurance-related services that they provide and therefore it would be difficult for their clients to fully appreciate or determine the scope of the services provided.

10 Strata insurance commissions

The use of commissions as a compensatory mechanism for insurance intermediaries is a common international practice.⁷² In most insurance areas, brokers are considered 'market makers', assisting the insurance buyer to determine their risk management needs and coverage type and matching those needs with the most appropriate insurer.⁷³ In return for undertaking the matching process, brokers are compensated usually via premium-based commissions and in some instances a contingency-based commission as well (i.e. performance-based commissions). It is also typical that brokers receive fees for additional services.

In the Australian strata insurance context, strata managers and brokers have over time (both separately and jointly) played the 'market maker' role as insurance intermediaries. The general regime used today has both strata managers and brokers jointly performing this role albeit providing different and distinct services. There is a mutual reliance between the strata manager and broker in order to optimise the flow of information through the strata insurance supply chain.

The purpose of this section is to:

- identify the extent to which insurance commissions are received by strata managers;
- determine whether strata lot owners are aware of the various aspects of the commission system and the extent to which managers believe that owners are aware;
- identify the amount of commissions paid out by insurers over the past five years;
- identify and compare the legal obligations placed on strata managers to disclose commissions in each Australian jurisdiction and identify the mechanisms commonly used to disclose commission information to OC clients;
- examine strata lot owners and strata managers perceptions regarding commissions; and
- highlight the view of insurers, brokers and senior strata managers regarding commissions and the sustainability of the commission system.

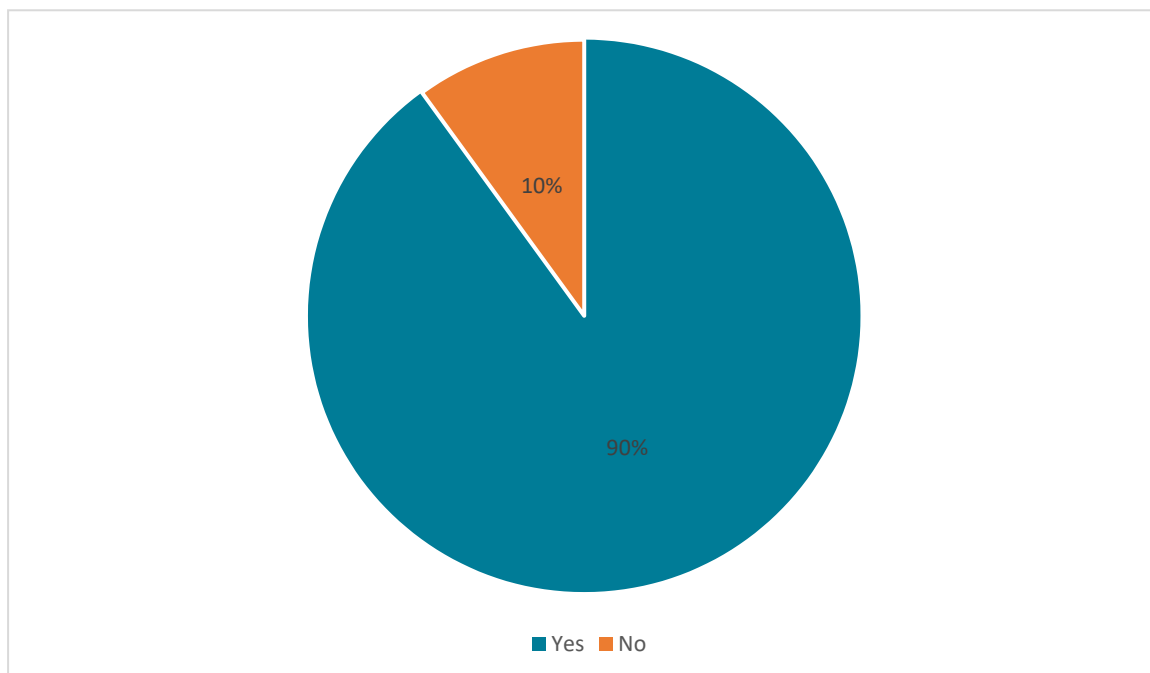
10.1 Prevalence of strata insurance commissions

As highlighted in the strata management services section of this report (Section 8), most fee arrangements in strata management agreements are contingent upon insurance commissions being received. Alternative fee arrangements are outlined in strata management agreements if a client OC rejects the commission-based approach. As the commission-based approach is the preferred model by most strata management companies, it is no surprise that 90% of the strata managers surveyed for this project confirmed the management company they worked for received insurance commissions (Graph 79).

⁷² Cummins, J. David, and Neil A. Doherty. "The economics of insurance intermediaries." *Journal of Risk and Insurance* 73.3 (2006): 359-396.

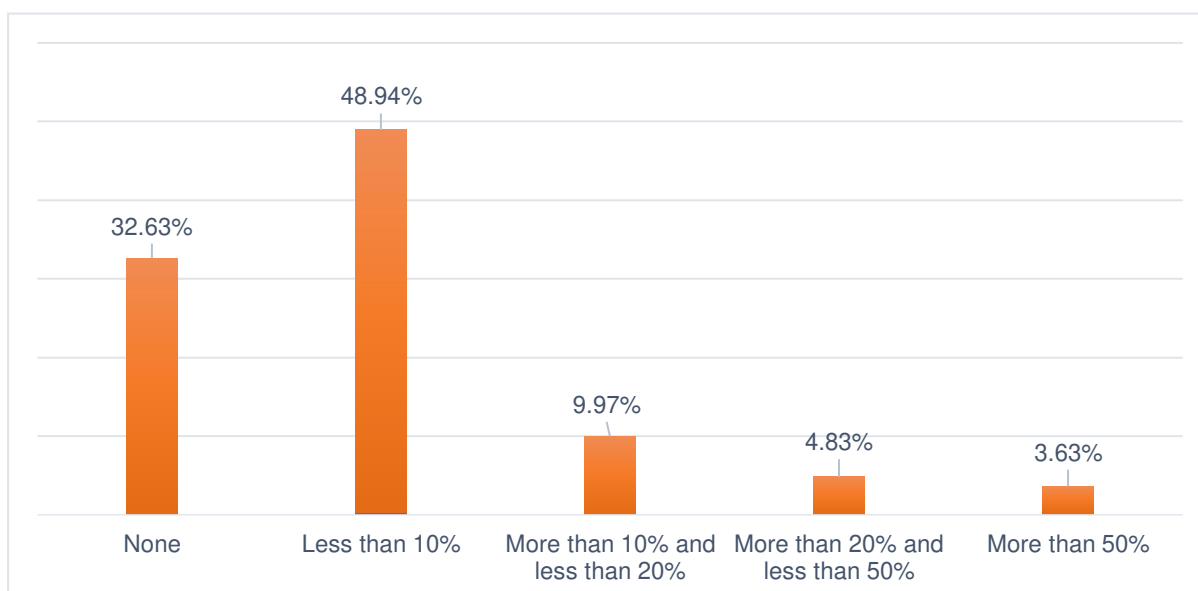
⁷³ As above.

Graph 79: Does the management company you work for receive commissions when placing insurance?



Approximately 49% of managers surveyed indicated that less than 10% of their client OC had opted for, or requested an alternative fee arrangement that excluded commissions (Graph 80). Less than 20% of managers indicated that more than 10% of their client base had requested an alternative arrangement. Nearly one-third had no requests.

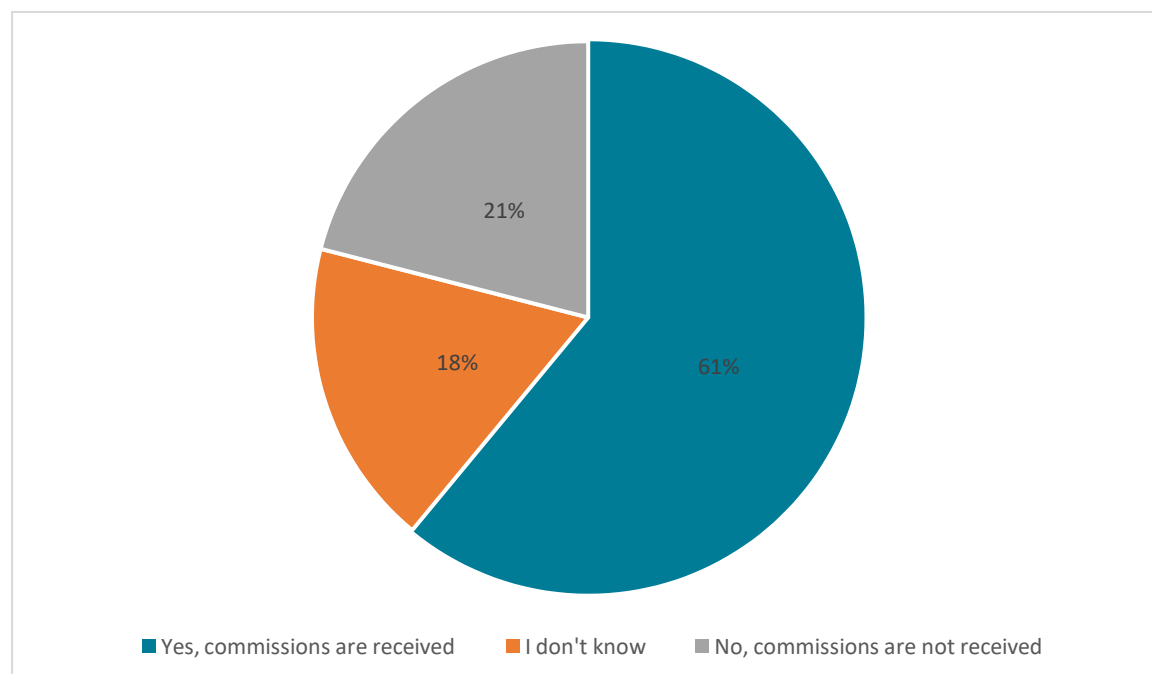
Graph 80: What percentage (%) of schemes, opt for or request alternative fee arrangements where no insurance commissions are received?



The majority (61%) of strata lot owners surveyed indicated they were aware their appointed strata management company received commissions for the placement of insurance (Graph 81). Interestingly, 21% of owners surveyed indicated that commissions were not received by

their management company. Given the attributes of the strata lot owners surveyed (experienced strata lot owners), it is reasonable to assume these surveyed respondents had been part of an OC that had actively requested an alternative fee arrangement or had sought out a management company that did not receive commissions.

Graph 81: Do you know if your strata management company receives a commission for placing insurance on behalf of the owners corporation/body corporate?



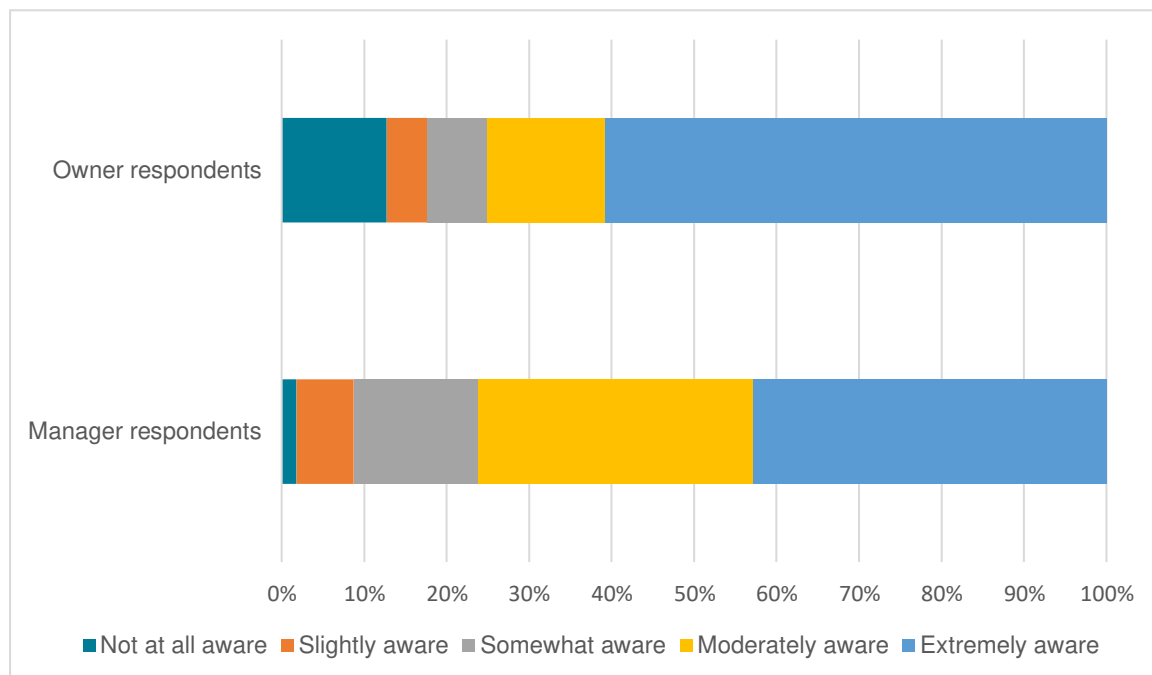
10.2 Awareness of strata insurance commissions

Members of an OC are generally considered apathetic in terms of strata knowledge.⁷⁴ The strata lot owners survey was specifically designed to determine the extent to which strata owners are aware of the different aspects of strata insurance commissions. The same awareness questions were asked of the strata managers (as the party disclosing insurance commission information) to determine whether there was an alignment between what managers think their clients know and what their clients know.

The first question sought to determine the extent to which strata owners were aware that commissions are generally received for the placement of strata insurance. Although nearly 61% of owner respondents indicated that owners were extremely aware compared to 43% of managers, nearly 13% of owner respondents indicated that owners were not at all aware compared to less than 2% of manager respondents (Graph 82). Although not significant, there is a misalignment between what owners know about commissions for the placement of insurance and what managers think owners know.

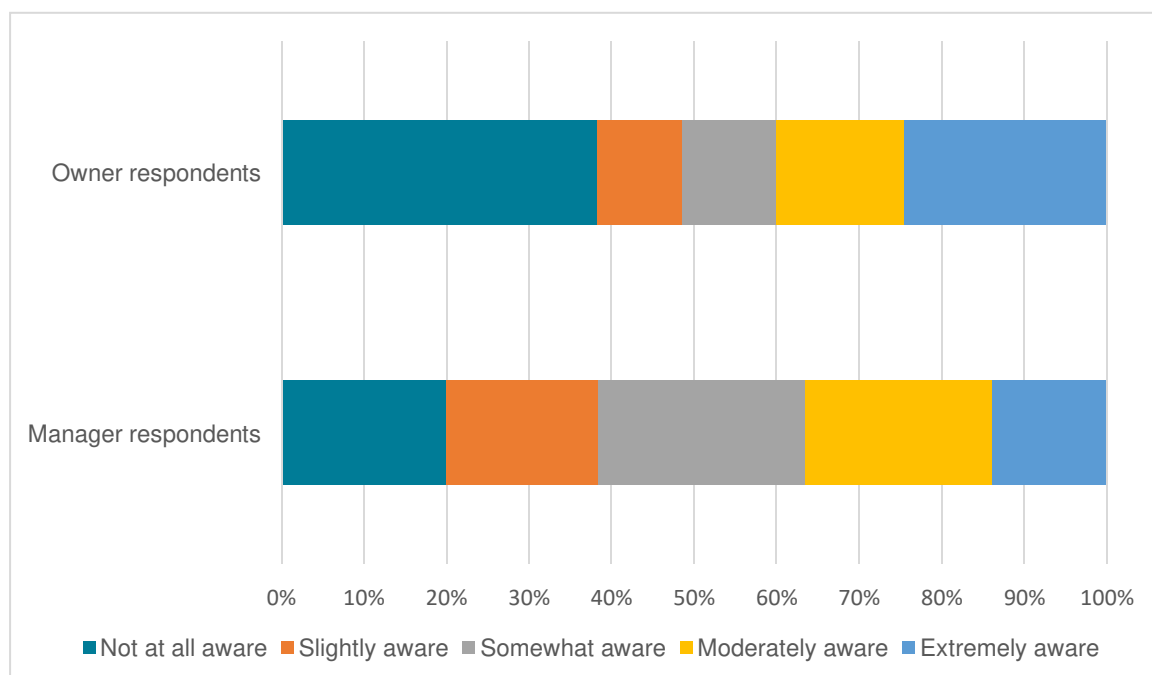
⁷⁴ Chris Guilding, Jan Warnken, Allan Ardill and Liz Fredline, 'An agency theory perspective on the owner/manager relationship in tourism-based condominiums' (2005) 26 *Tourism Management*.

Graph 82: To what extent are owners aware that commissions are generally received for the placement of strata insurance?



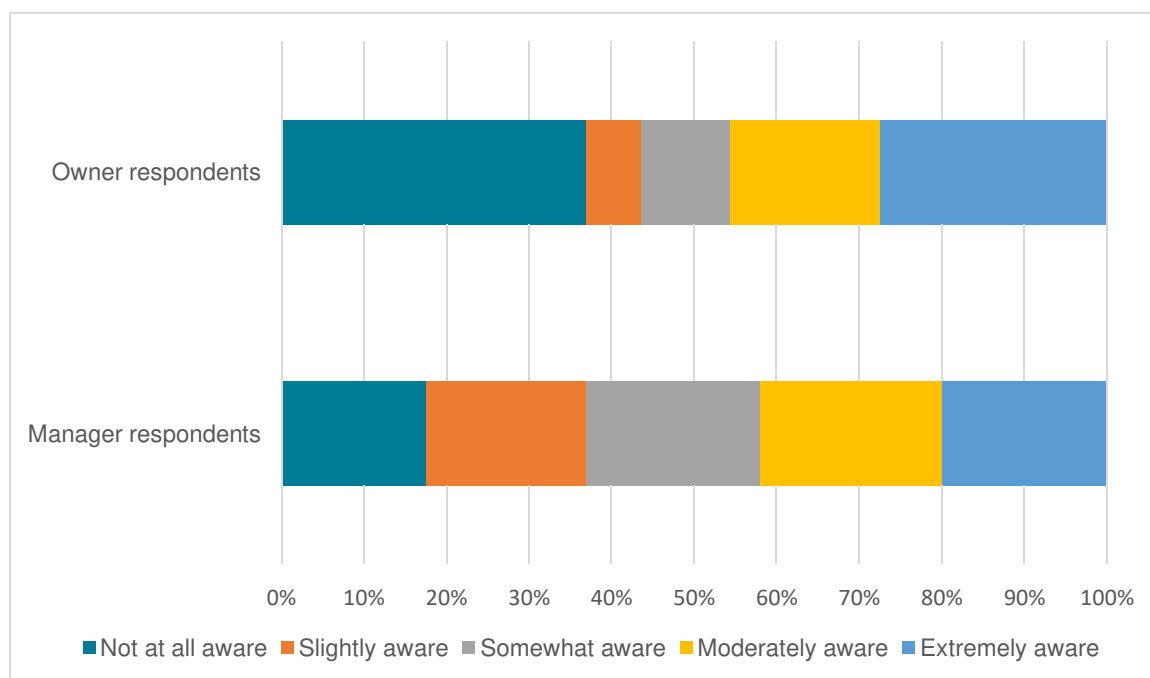
The second awareness question sought to determine the extent to which owners were aware an OC could opt out of commission-based fee arrangements. Approximately 38% of owner respondents and 20% of manager respondents indicated they thought owners were not at all aware the opt-out of commission-based arrangements was available (Graph 83). Even though, 34% of managers and 40% of owners believe owners are moderately to extremely aware the OC can opt out, it is important for the strata management industry to know that from a customer services perspective, there is uncertainty regarding the fee arrangement options available.

Graph 83: To what extent, are owners aware they can opt out of commission-based fee arrangements?



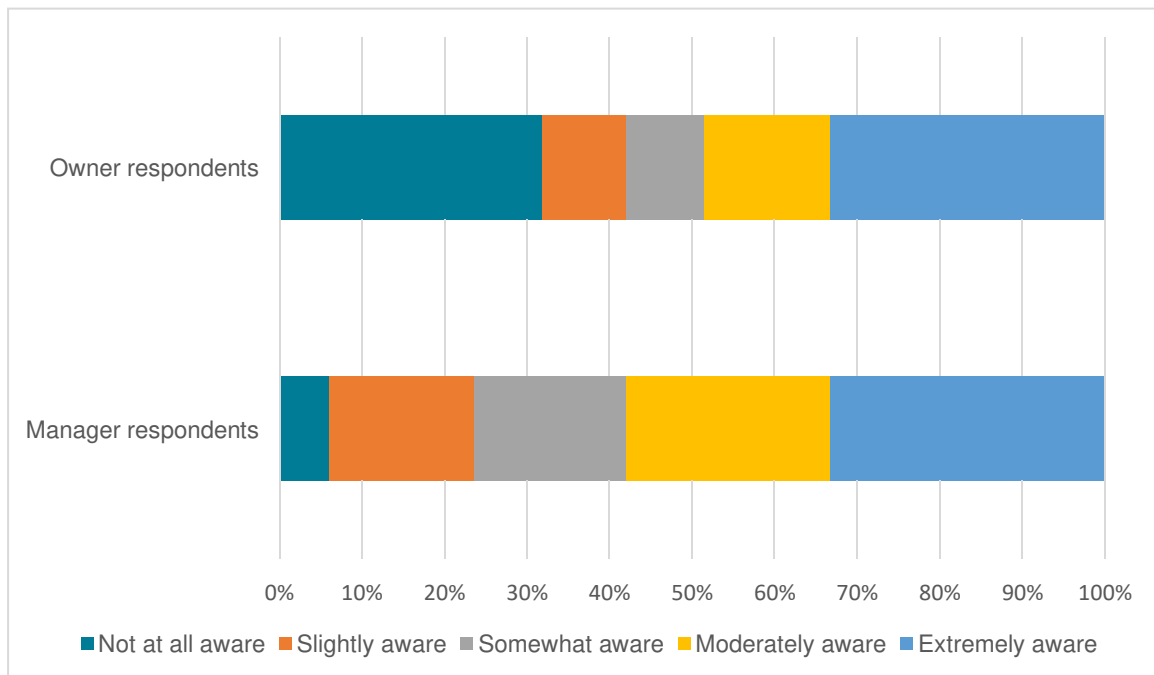
The third awareness question sought to determine the extent to which owners were aware insurance commissions subsidise the managers agreed annual services fee. Although, approximately 40% of both managers and owners believed owners were moderately to extremely aware of the subsidisation, over 36% of owners and only 17% of managers believed owners were not at all aware (Graph 84). Again, this highlights from a customer services perspective, that there is uncertainty regarding how the fee arrangements for strata management services work.

Graph 84: To what extent, are owners aware that commission subsidise the agreed annual services fee?

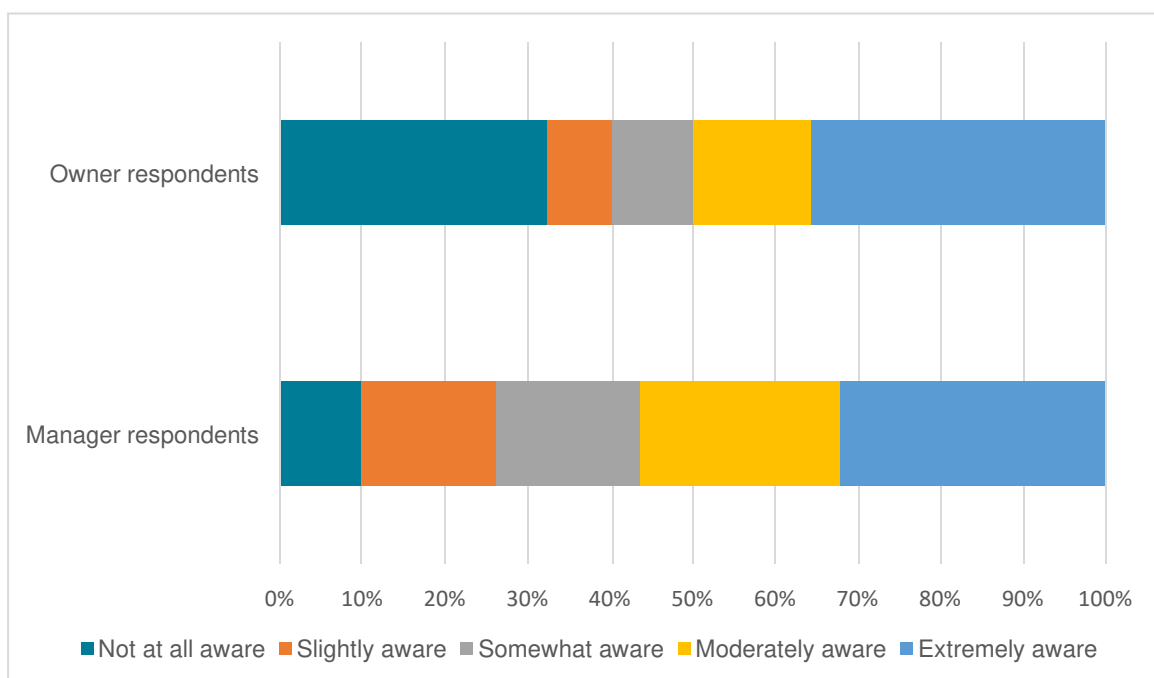


The fourth awareness question sought to determine the extent to which owners were aware of the percentage of the commission usually received. There is a large percentage of both managers (58%) and owners (48%) who believed owners were moderately to extremely aware of the percentage of the insurance commission received (Graph 85). This view is somewhat unsurprising given that most jurisdictions require strata managers to disclose the nature of the commission (Section 10). Still, nearly 32% of owner respondents indicated they believed owners were not at all aware of the commission percentage. The position does not substantially change when respondents were asked if they thought owners were aware of the amounts in dollars of the commission received (Graph 86). Respondents believed that owners were slightly less aware of the dollar amount than the percentage amount.

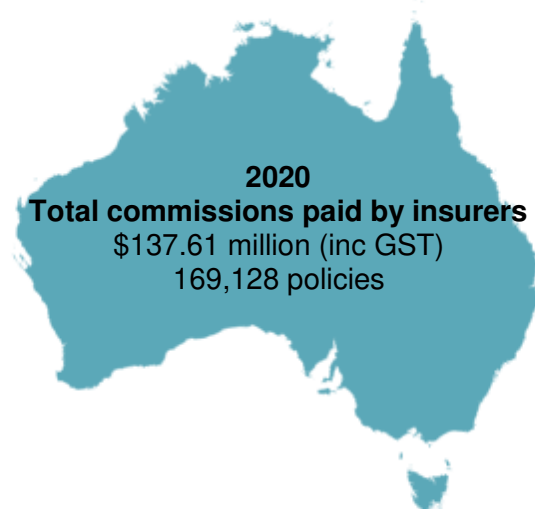
Graph 85: To what extent, are owners aware of the percentage of commission received?



Graph 86: To what extent, are owners aware of the amount in dollars of the commission received?



10.3 Commissions paid out by insurers



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Based on data provided by five strata insurance specialists, \$137.61 million (for 169,128 policies) was paid out in insurance commissions to strata insurance brokers and strata managers in Australia in 2020. Graph 87 highlights the incremental increases of commissions paid between 2016 and 2020 inclusive. The increased curve is reflective of, and aligns with, the increases in strata scheme premiums across Australia for the same period (see Graph 10 in Section 3).

Graph 87: Commissions (inc GST) paid by insurers in the period 2016-2020

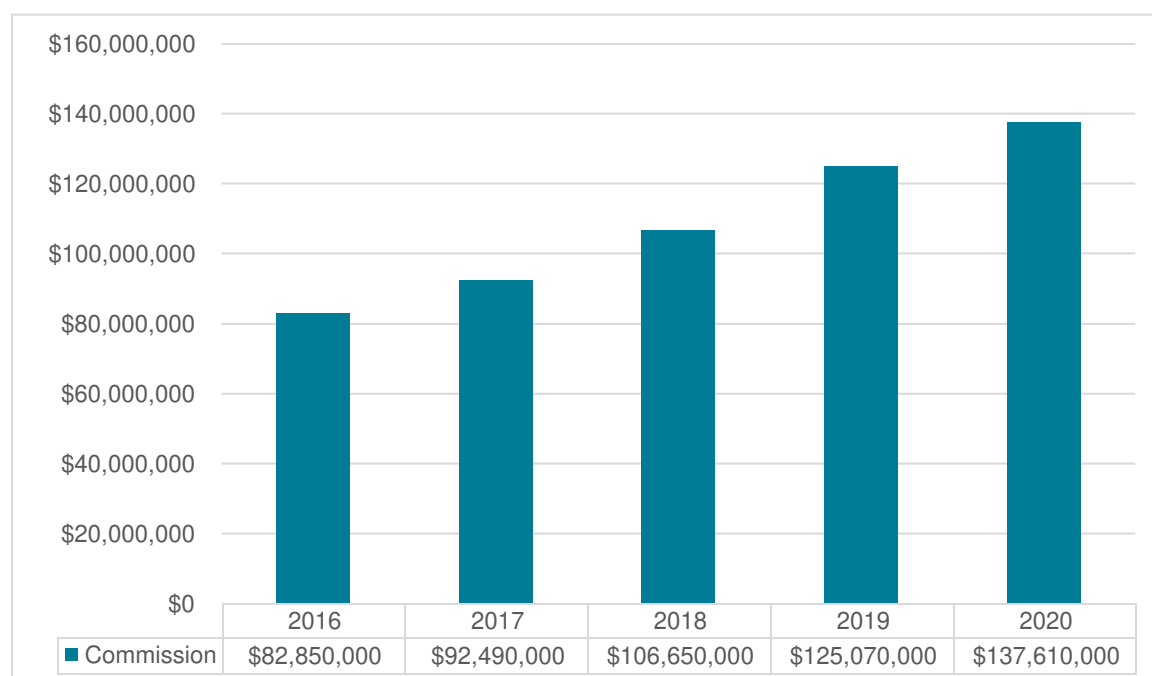
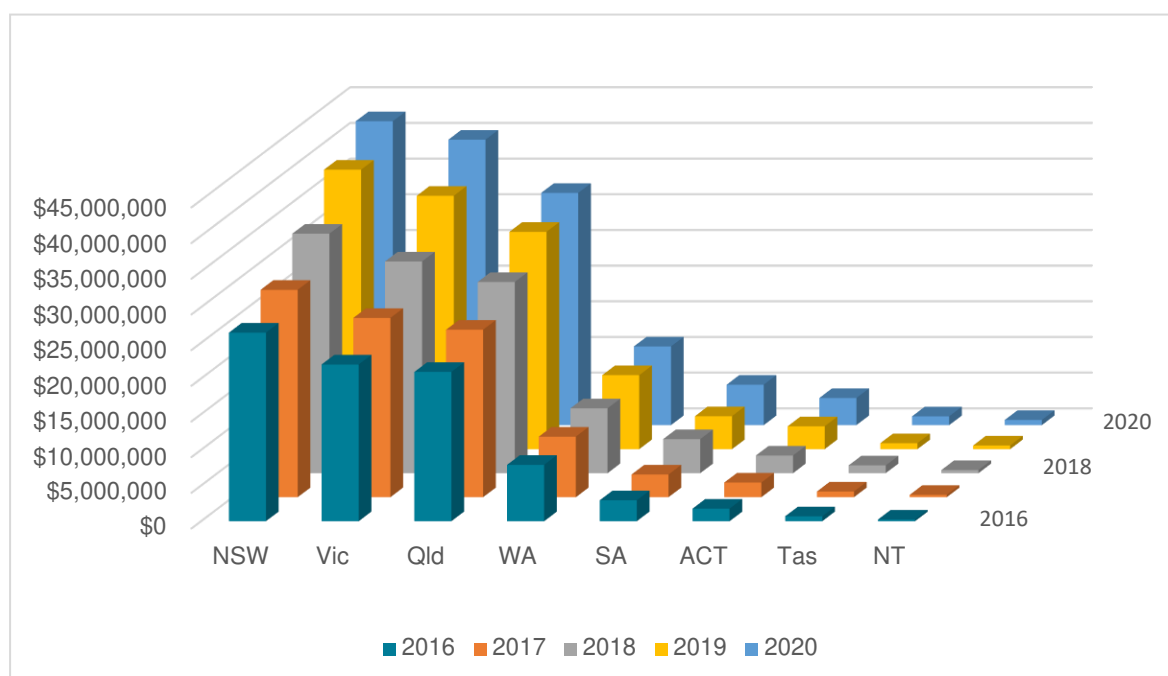


Table 93 provides a breakdown of strata insurance commission paid by the insurer, sampled across Australian states and territories over the years 2016 to 2020 inclusive.

Table 93: Commissions (inc GST) paid by insurers by jurisdiction (\$ millions)

| Year | ACT | NSW | NT | Qld | SA | Tas | Vic | WA |
|--------------|--------------|---------------|-------------|---------------|--------------|-------------|---------------|--------------|
| 2016 | 1.76 | 26.43 | 0.23 | 20.92 | 2.94 | 0.69 | 21.96 | 7.90 |
| 2017 | 2.05 | 29.06 | 0.32 | 23.47 | 3.18 | 0.80 | 25.12 | 8.48 |
| 2018 | 2.47 | 33.56 | 0.44 | 26.80 | 3.69 | 0.93 | 29.67 | 9.09 |
| 2019 | 3.20 | 39.17 | 0.51 | 30.46 | 4.77 | 1.09 | 35.51 | 10.37 |
| 2020 | 3.80 | 42.59 | 0.73 | 32.55 | 5.66 | 1.23 | 40.01 | 11.03 |
| Total | 13.28 | 170.81 | 2.23 | 134.20 | 20.24 | 4.74 | 152.27 | 46.87 |

Graph 88 illustrates the information contained in Table 93 and showcases the states that paid the most commissions over the years 2016 to 2020 inclusive. This information simply reflects the size of the strata market in each of these jurisdictions with NSW, Vic and Qld having the highest proportion of strata schemes.

Graph 88: Commissions (inc GST) paid by insurers by jurisdiction and year

10.4 Duties and methods of strata insurance commission disclosure⁷⁵

Strata managers are required to make some form of disclosure of the commissions they receive for placing the OC's insurance in all jurisdictions except for Qld (BUGTA), Tas and New Zealand. This section outlines the legal requirements for each jurisdiction in Australia. Table 94 provides an overview of this information.

⁷⁵ The Authors acknowledge that financial services licensees also have additional disclosure obligations under their governing legislation and that there may be other common law duties that should be considered in relation to disclosure.

10.4.1 Australian Capital Territory

In the ACT, a person is considered to carry on business as a real estate agent if the person acts as a manager of an OC for a units plan.⁷⁶ Therefore, strata managers must hold conditional real estate licences authorising them to act as strata managers.⁷⁷ Strata managers are not entitled to recover any commission, fee or reward for their services unless they are licensed.⁷⁸

Strata managers are required to ensure their agreements with OC clients comply with the requirements set out in Schedule 3 of the *Agents Regulation 2003* (ACT), which relevantly requires the agreement to include a term stating:

- the circumstances in which the strata manager is entitled to remuneration (by way of commission or otherwise) for services performed under the agreement;
- the amount of remuneration or how it is to be worked out; and
- when the remuneration is payable.⁷⁹

In addition, rule 8.13(1) of the General Rules states that an agent who refers a principal to a service provider must not falsely represent to the principal that the service provider is independent of the agent. A service provider is not considered to be 'independent' from the service provider if there is a commercial relationship or if the agent receives a commission or benefit from referring the client. If a service provider is not independent from the agent, then the agent must disclose to the principal:⁸⁰

- the nature of any relationship the agent has with the service provider; and
- the nature and value of any commission or benefit the agent may receive, or expects to receive, by referring the client to the service provider.

The above duties apply if an insurer or insurance broker pays a commission to a strata manager.

⁷⁶ *Agents Act 2003* (ACT), s. 8; subject to the narrow categories of exemption under s. 8A.

⁷⁷ *Ibid* s. 18.

⁷⁸ *Ibid*, s.23.

⁷⁹ *Ibid*, sch 3, cl. 3.9.

⁸⁰ *Ibid*, sch 8, part 8.2, cl. 8.13.

Table 94: Strata management commissions – disclosure requirements and duties

| | ACT | NSW | NT | Qld (BCCM) | SA | Vic | WA | NZ / Qld (BUGTA) / Tas |
|---|---|---|--|--|---|--|--|------------------------|
| Duty to disclose insurance commission? | Yes | Yes | Yes | Yes | Yes | Yes (from 1 December 2021) | Yes | No |
| Legal reference(s) | <i>Agents Act 2003</i> sch 3, cl 3.9 & sch 8, pt 8.2, cl. 8.13. <i>Unit Titles Management Act 2011</i> , cl. 2.3, schedule 2 | <i>Property and Stock Agents Act 2002</i> , s. 57(1). <i>Strata Schemes Management Act 2015</i> , s. 60. | <i>Agents Licensing Regulations 1979</i> , sch 4, cl. 13. | <i>Body Corporate and Community Management (Standard Module) Regulation 2020</i> r 156. | <i>Strata Titles Act 1988</i> , s.27D(1) & <i>Community Titles Act 1996</i> , s. 78D(1). | <i>Owners Corporations and Other Acts Amendment Act 2021</i> , s. 54. | <i>Strata Titles Act 1985</i> , s.147 & <i>Strata Titles (General) Regulations 2019</i> , r. 100. | |
| What must the manager disclose? | The nature of any relationship the manager has with the insurer or broker and the nature and value of any commission or benefit the manager may receive or expects to receive, by referring the OC to the insurer or broker. The Committee must give the OC at its AGM details about any financial or other benefit, commission or discount given by the insurer to any person in relation | All commissions, including the source and estimated amount of those commissions to the extent the amount can reasonably be estimated, that the manager will or may receive from an insurer or broker in connection with the services that the manager provides to the OC. The manager must report at the AGM whether any commissions or training services have been provided to or paid for the manager in connection with the exercise of the manager's functions | If the manager is likely to obtain an interest in a transaction entered into on behalf of an OC, the manager must disclose the exact nature of the interest to the client. | The manager must disclose any commission that the manager is entitled to receive in association with the body corporate considering entering into a contract of insurance. | If the manager is the delegate of an OC who receives a commission for placing insurance on behalf of the OC, then the manager must disclose the nature of the commission to the OC in writing before placing the insurance. | The manager must disclose the commission (in the manner of a percentage of the premium rather than the actual amount of the commission) received by the manager for any insurance contract placed on behalf of the OC. | The manager must disclose the amount or value of any remuneration or other benefit in excess of \$100 that the strata manager receives, or has a reasonable expectation of receiving in connection with the performance of the strata manager's functions. | |

| | | | | | | | | |
|--|---|---|----------------|--|--|---|--|--|
| | to the OC's insurance policies. | for the OC during the preceding 12 months and the particulars and estimated amount or value and explain any variation. | | | | | | |
| Disclosure to: | OC | OC (and variations to OC committee) | OC | OC | OC | Chairperson of the OC | OC | |
| What method is required for the manager to make disclosure? | In the strata manager's written agreement with the OC. Committee must disclose to the OC at its AGM. | In the strata manager's written agreement with the OC and at the Annual General Meeting of the OC. Manager must report to the OC at the AGM. | Not specified. | In writing before the body corporate makes its decision to enter into the insurance contract | In writing before the manager places the insurance on behalf of the OC and in the written contract if it forms part of the manager's remuneration. | In writing for any insurance contract placed on behalf of the OC. | In writing to the OC as soon as is practicable after the manager becomes aware of the fact that it reasonably expects to receive or does receive a commission. | |

10.4.2 New South Wales (strata schemes) and New South Wales (community schemes)

In NSW, a person who carries on business for reward of exercising any function of an OC or association is a strata managing agent.⁸¹ Strata managers must ensure their agency agreement contains a statement identifying the source of all commissions. This statement must include the estimated amount of those commissions to the extent that it can be reasonably estimated. Strata managing agents must also report any commissions at the Annual General Meeting (AGM) of an OC both for the following 12-month period and the past 12-month period.⁸² In the event that the nature of the commission changes in the 12-month period after the AGM, managers must, as soon as practicable, advise the OC committee.⁸³

In addition, Rule 12 of the rules of conduct that apply to all agents, including strata managing agents, states that an agent who refers a person to a service provider must not falsely represent to the person that the service provider is independent of the agent.⁸⁴ A service provider is not considered to be independent if it pays the manager a commission for referring the client to the service provider.⁸⁵ Therefore, if an insurer pays a strata manager a commission for referring a client, the strata manager must disclose to the client the nature of its relationship with the insurer and the nature and value of any commission the manager may receive, or expects to receive, by referring the client to the insurer.⁸⁶

Furthermore, a strata managing agent in NSW must not, in connection with the provision of their services as a strata managing agent, request or accept a gift or other benefit from another person unless it is relevantly:

- remuneration paid to a strata managing agent by an owners corporation (which must be set out in the statement in their agency agreement); or
- a monetary commission that is provided in accordance with the terms of appointment of the strata managing agent or otherwise approved by the OC.⁸⁷

10.4.3 Northern Territory

In the NT, managers of OC's are bound to comply with a code of conduct that imposes general obligations on managers to act honestly, fairly, professionally, in the best interests of the corporation and to not engage in unconscionable conduct.⁸⁸ However, the code of conduct does not impose obligations on the manager to disclose commissions or benefits.

In addition, body corporate and corporation managers are considered to be agents under the *Agents Licensing Act 1979* (NT) and are bound to comply with the rules of conduct. Rule 13 provides a broad rule that an agent who is likely to obtain an interest in a transaction entered into on behalf of a client must disclose the exact nature of the interest to the client.⁸⁹

⁸¹ *Property and Stock Agents Act 2002* (NSW), s.3B(1); subject to the limited exemptions in s.3B(2).

⁸² *Strata Schemes Management Act 2015* (NSW), s. 60.

⁸³ *Ibid.*

⁸⁴ *Property and Stock Agents Regulation 2014* (NSW), sch 1, cl. 12.

⁸⁵ *Ibid.*, cl. 12(2).

⁸⁶ *Ibid.*, cl.12(4).

⁸⁷ *Strata Schemes Management Act 2015* (NSW), s. 57.

⁸⁸ *Unit Titles (Management Modules) Regulations 2009* (NT) & *Unit Titles Schemes Management Act 2009* (NT).

⁸⁹ *Agents Licensing Regulations 1979* (NT), sch 4, cl. 13.

In addition, Rule 20 states an agent must not accept or demand a fee or other payment from a person other than the agent's client, in respect of a service performed or to be performed by the agent for the client and which the agent is entitled to receive payment from the client.⁹⁰

Section 65A of the *Agents Licensing Act 1979* enables the Minister to prescribe the terms, conditions and provisions of an agreement between an agent and a client that are considered necessary to protect the interests of a client. It is not known whether such prescription has been made for strata management agreements in the NT.

10.4.4 Queensland (BCCM)

Managers in Qld are not required to be licensed or registered. However, the *Body Corporate and Community Management Act 1997* (Qld) provides that if a manager is entitled to receive a commission, payment or other benefit associated with the body corporate considering entering into a contract of insurance, the manager must give written notice to the body corporate disclosing the commission, payment or other benefit before the body corporate makes its decision to enter into the insurance contract.⁹¹

In addition, a notice of AGM or a note attached to the administrative fund budget for adoption at the AGM must include details of the amount, type and provider of any financial or other benefit given, or to be given, by the insurer or any insurance broker or intermediary, for the insurance being taken out to the body corporate manager.⁹²

10.4.5 Queensland (BUGT)

Body corporate managers in Qld appointed under the *Building Units and Group Titles Act 1980* (Qld) (which now has limited application) are not subject to any express duty to make disclosure of commissions. Rather, a body corporate may appoint the manager upon such terms and conditions as it determines.

10.4.6 South Australia

In SA, a paid body corporate manager who has delegated functions and powers of a strata corporation is only entitled to receive remuneration in respect of their work if the manager and the corporation have entered into a written contract that sets out the remuneration payable to the manager and the basis upon which such remuneration is to be calculated.⁹³

A delegate of a strata corporation who has a direct or indirect pecuniary interest (for example, receiving a commission for, or making a profit from, placing insurance for the strata corporation) in a matter in relation to which he or she proposes to perform delegated functions or powers must disclose the nature of the interest in writing to the corporation before performing the functions or powers.⁹⁴

⁹⁰ Ibid, cl. 20.

⁹¹ *Body Corporate and Community Management (Standard Module) Regulation 2020* (Qld) r 156;

⁹² Ibid, r. 196(2)(h).

⁹³ *Strata Titles Act 1988* (SA), s. 27B; *Community Titles Act 1996* (SA), s.78B.

⁹⁴ *Strata Titles Act 1988* (SA), s.27D(1); *Community Titles Act 1996* (SA), s. 78D(1).

10.4.7 Tasmania

Strata managers in Tas, are not required to be licensed, or registered. Other than the broad power of the OC to appoint a manager who is then subject to the control and direction by the body corporate, there is no express duty on a manager to disclose the receipt of commissions.⁹⁵

10.4.8 Victoria

Strata managers in Vic have general legal duties to not make improper use of their position to gain, directly or indirectly, an advantage personally or for any other person.⁹⁶

However, from 1 December 2021, the *Owners Corporations and Other Acts Amendment Act 2021* (Vic) will come into effect and managers must disclose by written notice to the chairperson of the OC, the commission received by it for any insurance contract placed. This disclosure needs to be in the manner of a percentage of the premium, rather than the actual amount of the commission.⁹⁷ If the percentage of the commission changes, the manager must make a further disclosure in writing to the chairperson.⁹⁸ Failure to make written disclosure shall amount to a breach of the manager's statutory duties.⁹⁹

10.4.9 Western Australia

Strata managers in WA, are not required to be licensed, or registered. However, under the *Strata Titles Act 1985*, a strata manager must inform the strata company in writing of the amount or value of any remuneration or other benefit in excess of \$100 that the strata manager receives or has a reasonable expectation of receiving. This disclosure must take place as soon as is practicable after the manager becomes aware of the relevant facts.¹⁰⁰

10.4.10 New Zealand

Strata managers in New Zealand are not required to be licensed or registered. The strata legislation does not impose any express obligation on strata managers to inform the OC in writing of any insurance commission received by the manager.

10.5 Strata lot owners' views and perceptions on commissions

Nearly 40% of lot owners surveyed want insurance commissions abolished, and 30% believe commissions need to be better regulated (Graph 90).

Given the opportunity to provide extra feedback regarding commissions, those respondents opposed to commissions provided the following reasons for their position:

⁹⁵ *Strata Titles Act 1998* (Tas), s. 80.

⁹⁶ *Owners Corporations Act 2006* (Vic), s. 122(1)(c).

⁹⁷ *Ibid* s 54.

⁹⁸ *Ibid*.

⁹⁹ *Ibid*.

¹⁰⁰ *Strata Titles Act 1985* (WA), s.147 & *Strata Titles (General) Regulations 2019* (WA).

'The very minimal work done by the BC Manager to email or call the broker to ask for insurance quotes and then forwarding them to the Committee does not, in my opinion, warrant such a charge (17.5%).'

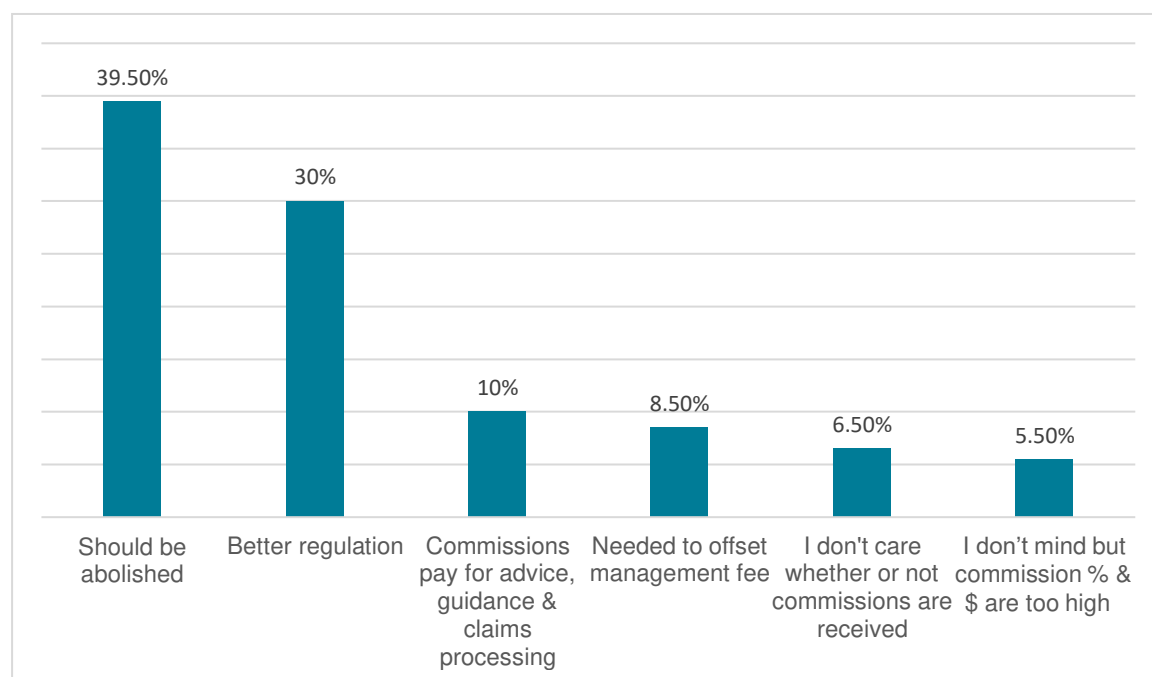
'The strata manager's 20% rate of commission is not proportionate to the skills and action required of it in arranging the insurance.'

'I would characterise the commission system as a rort.'

'There is a broker involved who does most of the work and the managers should absorb any additional work into their fees.'

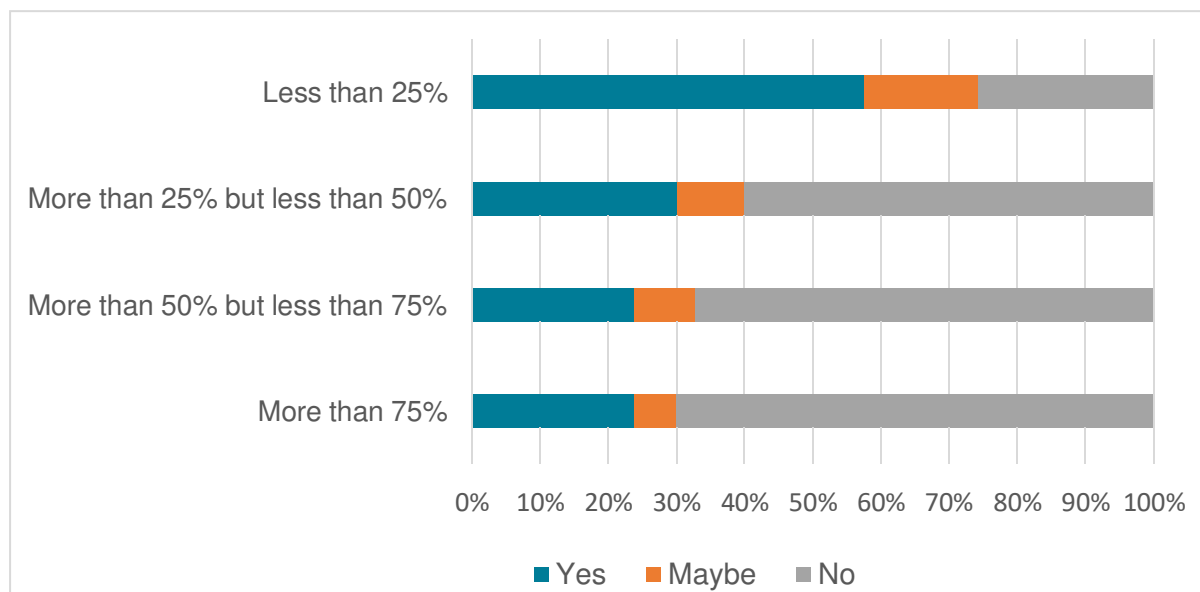
'The insurance broker gets their commission, then passes all responsibility onto committee. As we are obliged to have insurance it is easy money for very little service.'

Graph 90: Owners perceptions regarding strata insurance commissions



The commission abolitionists were asked whether, in the event of the management fee increasing, would they still believe commissions should be abolished. Approximately 24% of respondents opposed to commissions held this position no matter the percentage of the likely increase in fees (Graph 91). A similar proportion of respondents (25%) indicated they would change their position in the event the fees increased by any percent less than 25%. The majority of respondents indicated they would change their position as soon as the increase was more than 25%. This trend continued as the increases became larger, leading to over 70% of respondents changing their position in the event the fees increased by more than 75%.

Graph 91: Would you still believe commissions should be abolished if the annual management fee increased?



In context, strata management fees, on average, range from \$100 to \$400 per lot per annum. The majority of fees in Australia are between \$200 and \$300 per lot per annum. A 25% increase would change the average range to \$250 to \$375, a 50% increase to \$300 to \$450, and a 75% increase to \$350 to \$525.

Of the 100 written responses provided by lot owners, 40% raised concerns about a lack of transparency around strata insurance commissions. The following quotes reflect the general sentiments of these strata lot owners:

'How can you be assured the advice given by the management company is without bias?'

'The whole process is opaque (insurer - broker - manager) to the strata committee and it is difficult to determine the motivations/incentives for annual changes in coverage, amounts and excesses proposed to us.'

'We were told by our Strata Management Company that there was only one Strata Insurance Company.'

'I think the strata insurance and commission model for strata managers is a bit of a stitch up and should be more transparent in what the policy provides in plain English, and why the commissions are paid.'

'The real issue is the perception/ fact that receiving commissions creates questionable behaviour and potential bias.'

'Strata Management Agreements need to be closely scrutinized to ensure commissions are not snuck in.'

'The strata manager position is compromised as they cannot represent the best interests of the strata AND take commissions and incentives from commercial insurers.'

'I believe Strata managers have a conflict of interest by recommending insurance companies they are associated with and pay them higher commissions.'

Strata managers surveyed were also given an opportunity to provide their thoughts on strata insurance commissions. Of the 32 managers who responded, 15 indicated it was time commissions were abolished or that a different model be utilised, and 17 indicated it was necessary to keep the existing commission-based model.

Managers who indicated it was time for the commission-based system to be abolished, provided the following comments:

'I am an OC Manager, and believe the insurance commissions should NOT be payable to OC Managers. Instead of relying on insurance commissions to subsidise our income, we should be charging clients a more suitable upfront management fee.'

'Having been in the industry for over 10 years I believe that insurance commissions should be abolished as this is one of the only areas that our industry is regularly called for being 'on the take'.'

'Commissions paid to strata companies is so frowned upon owners believe we are crooks for accepting and expected to lodge all claims, get quotes, give advice for free.'

'Fee for service would be an appropriate model in the event that this is adopted across the industry.'

'I need to educate my clients that insurance commission is not a bonus to us, but an aspect of my annual fees charged to manage their owners corporation.'

Managers who indicated the existing models needs to continue, provided the following comments:

'If the commission structure was not in place we would have not option but to significantly increase our management fees.'

'I believe the term commission is problematic for clients. It should be called a service fee.'

'We need the commission so we can process the claims if not we need to charge for the extra time required for claims.'

'Would prefer not to receive commissions however this would impact the owners as additional management fees would have to be applied to cover operating costs.'

10.6 Stakeholder views regarding the sustainability of the commission system

The diversity of opinion regarding the use of the commission-based remuneration system was similarly revealed in the interview phase on the project. Some CEOs of strata management companies indicated that they had never felt comfortable taking commissions, others felt that the existing system was no longer sustainable particularly due to the issues around availability and affordability in certain areas.

"My personal position is that I've never felt comfortable about receiving insurance commissions. I don't feel comfortable about receiving commissions or any other kind of benefit from placing a client's business with one party or another. We only really started getting involved with commissions because we just couldn't compete with our fees. So when you're in a marketplace where everybody does get commission then it makes it very hard to compete. But the standard management agreement now does cater for those situations where you don't get a commission and you've discounted your fees because of that. So we do have a clause in there that if we've currently got an arrangement with the insurer where we do get a commission and then they decide to go to somewhere else where we don't, then we can increase our fee by a factor of the insurance premium." (SM2)

The majority however indicated that the commission-based system is sustainable but recognised that there are transparency issues across the supply chain and that the services provided have not been properly communicated to clients. There was a general recognition that more work by the strata management industry is needed. The impacts that commissions have on the overall strata management fee arrangement and the potential ramifications if commissions are removed are outlined:

- Pooling of commissions as an equitable model

As explained by a number of providers, the commission-based system provides a level of equity across strata schemes because commissions are pooled across property portfolios. That is, commissions that are paid to both brokers and strata managers are not usually allocated to the specific strata schemes in which the commission relates. In turn, the strata insurance services undertaken on behalf of a particular OC client is not tracked to particular schemes.

“So, I believe it’s a really equitable system. So, if I receive a phone call this afternoon to say, I’ve got a property. It’s in one of the low socio-economic suburbs. It’s an old building. And the committee have got issues. They’re looking for some advice. And wanting to understand what options are available to them.” I’m not going to say, “Okay, I’ll put you on the clock and I’ll start charging you.” Or even, I might even be as bold and arrogant to say, “Oh, can they afford my services? Do you realise that kind of service will cost about this? And are the committee okay to pay that? It’s in the system. Not every building is going to ask me every afternoon for that kind of help. But that pooling makes it indiscriminate. I won’t discriminate who I give that help to based on their ability to pay. It also means that they’re not going to be kept outside of the ability to get managed at a reasonable rate or get insurance at a reasonable rate. Because it’s pooled. Now they will have – they might pay more than others because they’ve got some particular problems. But I think that price is kept in check because of the pooling of commission to give a portfolio effect to the giving of advice and services.” (B1)

- Subsidisation of agreed management fee

As explained by strata managers, the commissions received offset the agreed annual management fee. The position appears to be that the agreed annual management fee does not cover the services generally performed by a strata manager and therefore an additional income stream is required to subsidise those services.

“I think there’s always been a perception that because we receive a commission, it’s either been undisclosed or it’s a kickback or a referrer. And they haven’t seen the value in it. I guess what people probably need to understand is that the insurance commission is in fact an offset of the management fee. So when we negotiate a fee with our clients upfront, we negotiate a piecemeal fee which is our management fee, our disbursements and recoveries, and our commission. And they’re all part of the same total fee sum. What has been probably under-communicated to clients are that the commission subsidises the management fee.” (SM4)

“So I think if we shift completely away from commissions and to a fee-for-service, there’s going to be winners and there’s going to be losers. But at the same time, from a strata management perspective, we’re saying well, we get x amount in commission and we use a lot of that to subsidise the management fee...” (SM 5)

- Premium impacts when commission is removed

Various interviewees explained that a portion of the commission paid in the premium would still be retained by the insurer/underwriter if commissions were removed from the supply chain. The reasoning is that insurers/underwriters would need to incur additional resourcing costs in order to market and distribute their services.

“And it’s been proven that the distribution of insurance when you exclude the strata manager’s commission, does not reduce proportionally. Because the strata underwriter still needs to market and distribute that insurance somehow.” (SM4)

“...so say there is no strata manager and there is no broker, so the business is direct to the public. And the premium for those clients is not different to the clients who currently have commission because what we have to do for those – so all those calls “what’s fidelity guarantee insurance”, “I’ve got a claim”, “I don’t like my neighbour”, all of that comes in here [to the underwriter] instead. And so what happens is we share our commission with them because they do some of our work”. (U1)

“So part of the commission is that there is information that an intermediary is collecting and the things they’re doing on behalf of the insurer that without that, they would probably have to do themselves. There is an involvement and a cost hidden in there. It certainly would reduce the premium, there’s no doubt about that. It may not be to 20% for example.” (U2)

- Potential ramifications if commissions are removed

Interviewees also identified potential risks to clients if commissions are removed. As suggested by one manager, clients faced with higher insurance services costs may choose to opt out of receiving those services due to the increased costs or underinsure properties.

“And I think one of the issues that comes to mind is if you remove the commission model and move to a full fee-for-service model, there are going to be some owners corporations that may well be very worse off by that movement, and potentially could make decisions about not taking out the full value insurance that they otherwise would. And so that would be my only concern, that there’s other industries where, in the past, they’ve taken away what they’ve perceived to be conflicted remuneration..., because I think if people start measuring, weighing up the costs of insurance or even the fee-for-service is too much to justify, “No, we won’t have it,” it could be very detrimental. So I think the regulators need to be very mindful of that.” (SM5)

The current commission-based remuneration system is based on a very complex set of arrangements between various providers in the strata insurance supply chain. It is evident that strata lot owners are generally opposed to commissions being received by brokers and managers, but their abolitionist stance changes in the face of increased management fees. It is evident that many aspects of the system have not been transparent or clearly articulated to OCs. It is further evident that in the absence of commissions, agreed services fees would increase to meet the financial deficit borne by the management company, premiums may decrease but not to the value of the commission, and if brokers are engaged, additional service costs would be borne by the OC. In-depth financial modelling is lacking and therefore difficult for OCs to make decisions regarding remuneration model options.

11 Value pillars of strata management

This section of the report highlights the value of strata managers in the strata insurance process. Three value pillars have been identified which highlight the role of the manager in the process. More results from the managers and strata lot owners’ surveys are presented outlining the knowledge and understanding of strata insurance from both perspectives. The reliance of OC clients on strata managers to navigate this process is also shown.

11.1 The three pillars – knowledge, education and understanding

When assessing the value of strata managers in the strata insurance process, it is important to identify the various inputs required to ensure that the process is successfully managed for the OC. The research activities undertaken have enabled these inputs to be clearly defined.

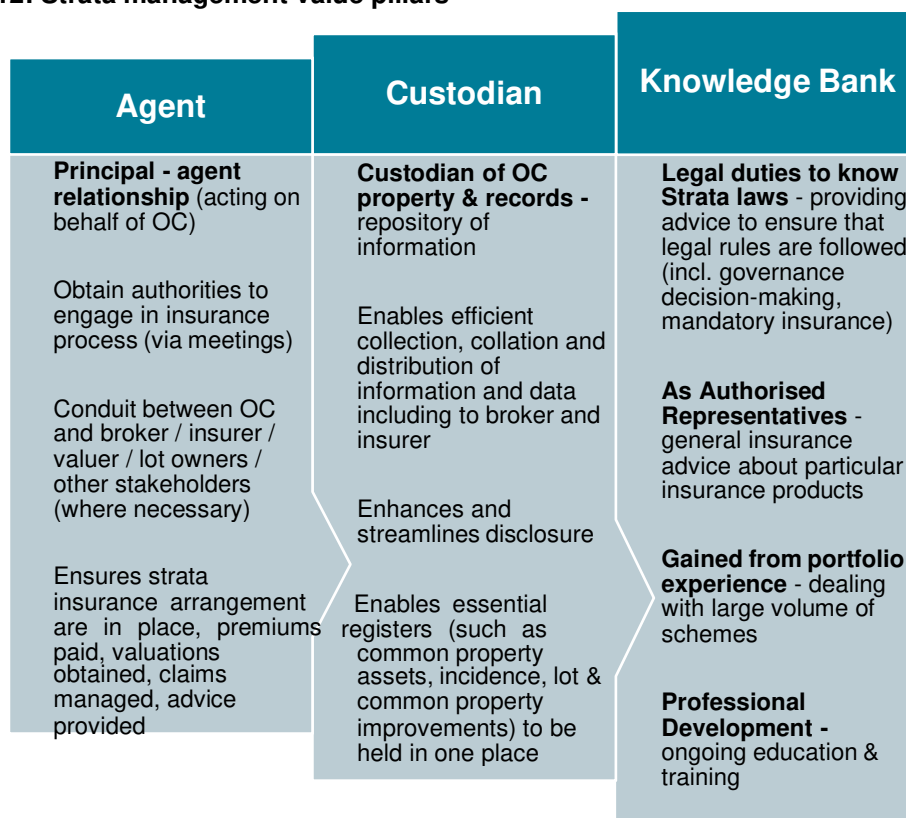
There are three main value pillars (Figure 12) that work together to ensure the efficient delivery of strata insurance services to OC clients.

The first pillar is the manager's role as the OC's agent. The manager acts on behalf of the OC to affect the OC's decisions regarding insurance. The manager takes steps to obtain the necessary authorities to engage in the insurance process (via resolutions), they are the conduit between the main parties in the supply chain, and they are responsible for ensuring that the process is managed through to completion.

The second pillar is the manager's role as the custodian of the OC records. This is a necessary role as lot owners and committee members change over time and a central information repository is required to ensure the safekeeping of OC records. This custodian role also enables easy access to, and distribution of information required in the strata insurance process. This facilitates the quick transfer of information to those parties in the supply chain requiring data to determine scheme risk. It is also important for disclosure requirements and enables important scheme information registers to be held in one place.

The third pillar is the knowledge bank. Strata managers are legally required to know the laws that regulate strata schemes which include strata insurance laws. As outlined in Section 5, strata laws are jurisdictionally specific and very prescriptive. Educational input is required to fully understand the nuances of not only strata laws generally but strata insurance laws as specifically applied to particular OCs. For managers that are authorised representatives, education and training is regularly conducted by financial licensees to ensure the requisite knowledge of strata insurance is conveyed and understood. Various professional bodies regularly engage with the strata management industry providing updates and training on strata insurance. Lastly, the experience of dealing with many strata schemes also gives managers on the job training regarding strata insurance. The experience gained by managers via regular exposure to procurement and management of strata insurance puts them in a unique position to add value to the overall strata insurance services performed for OC clients.

Figure 12: Strata management value pillars



As identified throughout this report, strata insurance is a complex area to navigate. For most strata lot owners, it would be challenging to traverse the strata insurance landscape without the assistance of an experienced third party. The co-ownership and governance structure, outlined in the introduction section to this report, adds an additional layer of responsibility and liability to this property type. Care therefore needs to be undertaken to ensure that the legal obligations are met and risk exposure minimised. OCs are best placed when engaging the services of a provider that has not only the requisite knowledge but the infrastructure to ensure that those legal obligations are known and met. In the strata insurance environment, the strata manager is that person.

11.2 Manager knowledge

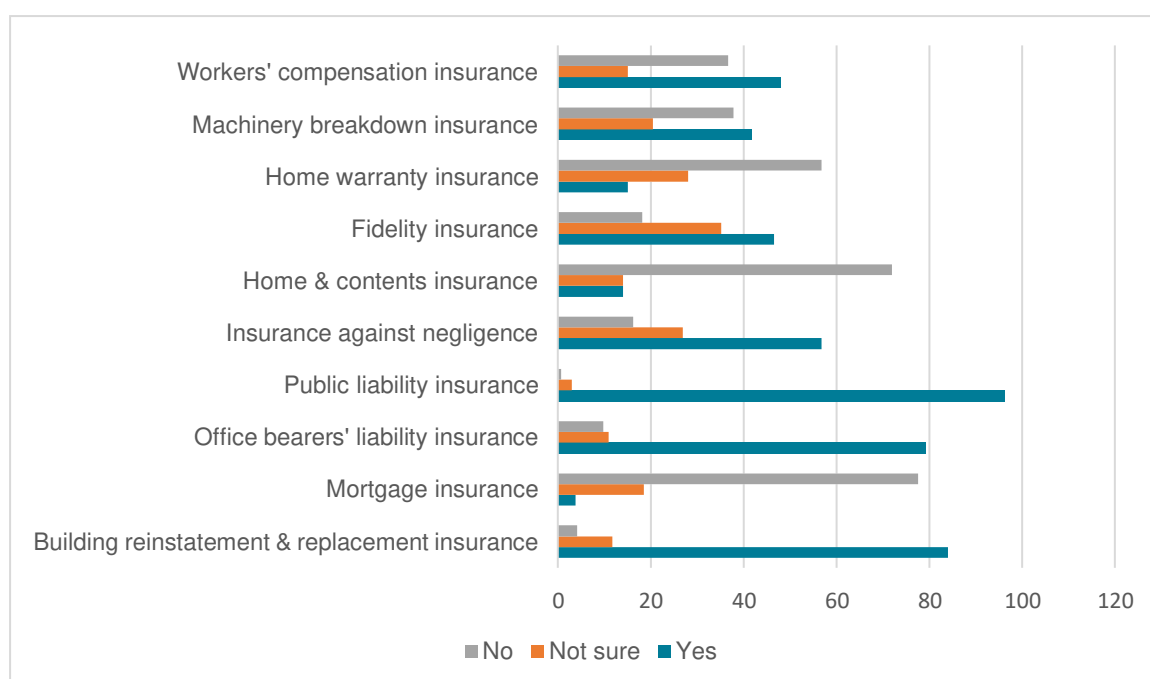
The majority of managers (over 90%) indicated that they understood the mandatory legal requirements impacting their OC clients. More than 70% of managers indicated that they were confident in explaining the optional insurance products that are currently available to OCs.

Up to 60% of managers said that they regularly refer most client insurance queries to the nominated insurance broker or insurer and rely on the broker or insurer to assess the OC's needs.

11.3 Owner knowledge

Owners were surveyed about their knowledge of which strata insurance policies were mandatory for the OC to obtain. Graph 92 sets out the owners' responses.

Graph 92: Owner knowledge of mandatory insurance coverage



The strata lot owner responses show that their knowledge of what strata insurance is mandatory for an OC to obtain is not always correct.

- Over 95% of owners correctly identified that public liability insurance is mandatory.
- Approximately 85% of owners correctly identified that building reinstatement and replacement insurance is mandatory.

- About 95% incorrectly indicated that office bearer's liability insurance is mandatory.
- Over 40% incorrectly indicated that machinery breakdown insurance was mandatory.
- About 15% incorrectly indicated that home and contents insurance was mandatory.
- About 5% incorrectly indicated that mortgage insurance was mandatory.

11.4 Owners corporation reliance on managers

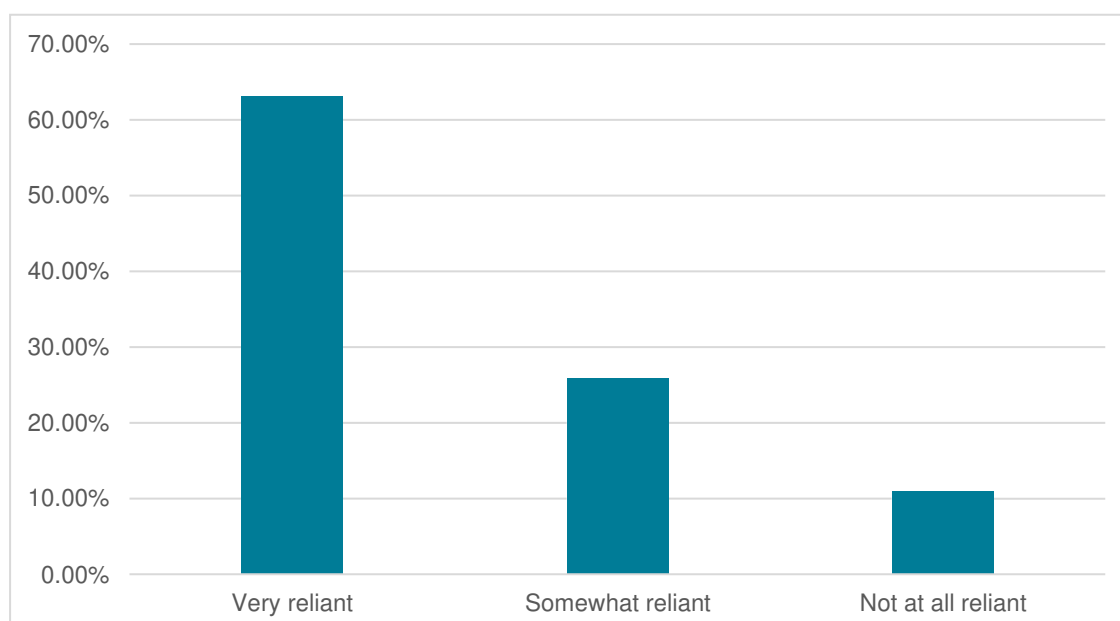
The majority of managers indicated they are often asked by OCs to provide advice or guidance on policy selection. Managers indicated that less than 35% of their clients appear interested in the strata insurance process, policy inclusions and exclusions. Only 25% of managers indicated that their OC clients asked for a copy of the policy wording for their strata insurance policies. These results are somewhat in contrast with the results of the strata lot owners survey. In owners survey, over 50% of owners indicated that they:

- had read the legal requirements relating to strata insurance;
- were aware of the types of strata insurance policies their OC was required to obtain; and
- were aware of their OC's current insurance policy inclusions and exclusions.

As indicated in the methodology section of this report, the lot owners' surveys for this project were atypical of the general strata lot owner population and therefore these results are unsurprising. It is more than likely that the majority of lot owners are not interested or involved in understanding their OC's strata insurance requirements or policy information.

As highlighted in Graph 93, the majority of strata lot owners surveyed are very reliant on their strata manager to assist in insurance tasks. Most strata lot owners surveyed also indicated that it would not be their preference for the OC to arrange and manage its own insurance and claims.

Graph 93: To what extent are you reliant on the strata managers to assist in processing and managing strata insurance claims?



11.5 Opportunities for further education

Owners rely on the specialist knowledge of managers about strata insurance. To ensure that the services provided by managers add the maximum value to OCs, ongoing education and improvement of industry-wide practices are key.

In the managers' survey, over 45% of managers indicated that they are not confident explaining to their OC clients what 'unlimited liability' means in the context of strata schemes. Over 40% of managers indicated that they were not confident in advising their clients whether Workcover or workers' compensation insurance is required. The majority of managers said they would like to improve their understanding of the legal requirements relating to strata insurance.

Similarly, the majority of strata lot owners surveyed indicated that they would be interested in learning more about strata insurance.

12 Exploring alternative remuneration models

There has been limited research work undertaken that evaluates alternative fee arrangements for service providers more broadly and strata managers specifically. In the event there is reform prohibiting the use of commission-based remuneration models for strata insurance, the strata management industry will need to consider the type of remuneration model that will be sustainable in the long term.

Whilst this report has identified key opportunities to significantly improve the altered remuneration models that are currently being used by strata managers, formulating new sustainable remuneration models would require further examination, evaluation and financial modelling.

The long-term sustainability and broad acceptance of any new remuneration model adopted by the strata management industry for the provision of insurance services in the future, will depend on the level of care taken in its formulation to ensure that current issues of lack of clarity for clients and transparency are confronted and resolved. There are potential long-term adverse effects of taking a reactive rather than a proactive approach. New models that are adopted reactively and that are not well thought through may fail to address the issues of lack of clarity and transparency and create legacy issues in the future.

Discussed below are the potential benefits and deficits of potential remuneration models that could be considered.

- Commission Supplement Model

Under a supplement model the agreed services fee would increase automatically by an amount equivalent to what the commission might have been – for example, by approximately 20% of the base premium.

| Benefits | Deficits |
|---|---|
| In the short term, the supplement model would maintain the financial status quo for managers and provide a simple way of continuing to receive that revenue stream, albeit from clients rather than insurers, without having to either invest in financial modelling or restructuring their internal practices. | Clients may end up paying more unless the supplement takes into consideration that the premium reduction may not be the full amount of the commission (for example, amounts retained by the insurer for distribution costs). |
| If the insurance premium is reduced for the client by the elimination of commission, then the taxes, duties or levies payable on the premium are reduced (net quoting). | If the client still requires the use of a broker who is paid on a commission basis, then the client shall pay the manager supplement plus the broker's commission or the broker's fee for service. This is not guaranteed to be less than the current situation where the manager receives a percentage of the commission paid by the insurer (Note: this is because there is no transparency for the client about how much the premium would decrease if a commission were not paid by the insurer). |
| The supplement model could be of financial beneficial to the manager if all properties managed by it have: low insurance claim histories; are of an overall better quality; well-maintained; and have active and functioning committees. | It would create 'legacy issues' in the future around the reasoning for linking the premium paid by the client to the manager's supplement. |
| | This model may prevent the manager from being able to charge the client the full value of the insurance services that are provided by fixing the supplement as a percentage of the premium that would have been paid. Although, this would apply only for client portfolios that require high service levels due to a high volume of insurance claims. |
| | This supplement model would prevent the manager from being compensated for providing clients with additional insurance services that normally would attract an additional fee for service. |
| | This supplement model may encourage clients to either underinsure or utilise other mechanisms to reduce the premium (e.g., increase excess) in order to reduce the amount of the supplement payable to the manager. |

- Time-based Recording Model

Under a Time-based Recording Model, the client is required to pay for all of the manager's insurance services or specific insurance services on the basis of time recorded by the manager and charged at an hourly rate. This model is regularly adopted by professional services industries such as the legal, accounting and consulting industries.

| Benefits | Deficits |
|---|--|
| The client gets transparency around the detail of the kinds of tasks performed by the manager. | Implementing time recording system for managers, requires upskilling of managers about time recording, implementing additional infrastructure and resources for additional manual billing (Note: time recording as a practice is currently under review in a number of professional industries). |
| It is user-pays system – there is theoretical equity in this kind of system (e.g., the more a client uses the manager's insurance services, the more they pay). | There is a likelihood that complaints from clients will increase as clients evaluate their management invoices. |
| This model might be beneficial to insurers as it will potentially drive down the number of frivolous claims by clients. | The client's ability to forecast financially the insurance services they will require from their manager or broker is very limited. |
| Clients would be able to evaluate whether or not to go through the insurance process for damages | Clients may be less willing to exercise their rights under the insurance contract due to the increased service cost of doing so. |
| | Clients may be incentivised to underutilise the insurance services provided by their manager due to the cost. |
| | There is a potential that this system would create inequity (schemes that are in a less financially stable situation may not be able to afford to pay for additional services). |
| | There is potentially uncertainty for clients about the competitiveness of manager's proposed rates, unless there are guaranteed caps or limits on the maximum amounts charged per service. |
| | If a client decides not to use the manager's insurance services, the manager will not earn this additional revenue (e.g., on the other hand, the manager's workload will decrease). |
| | This model may incentivise prolonging of tasks or matters. |
| | This model could reward inefficiency. |
| | It is focused on inputs of time rather than output of results |
| | Higher resourcing costs for staff who may work longer hours |

- Value-based Pricing Model

Under this model, the manager would set out in the contract, which insurance services are bundled as part of the agreed services fee for management services, and which insurance services, as detailed in a clear schedule, will be provided as an additional fee for service. This report identifies in detail the nature of and value of insurance services provided by managers and the time usually spent providing each type of service. Managers would make their own assessment on the overall amount of the agreed services fee inclusive of bundled insurance services.

The authors of this report have suggested that financial modelling will assist in determining the estimated value of insurance services. This value-based price increase method is different to the commission supplement model as the price increase is not arbitrarily determined according to a percentage of the client's insurance premium.

Concerns were raised in some interviews about the lack of licensing and registration requirements for strata managers in some jurisdictions and the impact of a 'race to the bottom pricing' tactic has on the overall industry including services pricing. There is a perception that increasing barriers to new entrants into the management industry will discourage rogue managers undercutting others on price, delivering sub-standard service and bringing the strata management industry into disrepute.

Improving the reputation of the strata management industry by excluding this group of potential new entrants will enhance the ability of managers to increase their fees without fear of losing clients to cheaper but substandard operators.

- Sliding Scale Model

There is merit in investigating a sliding cost scale model. This would involve further analysis of the time and value of insurance services provided by managers, the services that are standard across all clients and the factors that directly increase the resources the manager has to spend on insurance matters.

A formula or scale could be developed that seeks to address inequities between clients who infrequently require insurance services and those that require a disproportionate amount of the manager's resources. Factors may include the number of lots, the complexity of the scheme, the OC's compliance with its repair and maintenance duties and the functionality of the Committee. Such a formula or scale could operate to provide a financial incentive to OCs to mitigate the insurable risks in their schemes, reduce frivolous claims and reduce disproportionate reliance on manager insurance services.

13 Recommendations for improving strata insurance practices

It is clear that there are opportunities for managers:

- to improve the distinction between what services are undertaken by the manager and what insurance services are, or should be, undertaken by the insurance broker;
- to improve the description of the insurance-related services provided by managers in their management agreements; and

- communicate in a much more transparent manner with their clients.

Responses from the owners' survey when asked to provide feedback in relation to the role of strata managers in providing strata insurance. Approximately 35% of respondents raised issues about transparency. The following comments are examples:

'Strata Managers need to be clearer on what they do or do not do'

'Transparency is key and descriptions, with examples, in plain English of the fees charged and services rendered are needed. Currently, this is very opaque, and thus gives rise to suspicions of shady or incestuous business relationships between Strata Management companies and insurance providers.'

Table 95 sets out:

- the seven categories of management services as currently described by managers in their management agreements with OCs;
- suggested improvements to those service descriptions based on the manager survey results and minimum legal requirements for strata insurance;
- the distinction between services generally provided to the OC by the manager and broker. As identified by the managers surveyed, 82% engage the services of an insurance broker when procuring strata insurance for their OC clients.

Table 95: Suggested improved descriptions of management services related to insurance

| Insurance service categories | Sub-categories as described currently in management agreements: | Improved description of management service | Frequency | Broker's role |
|---|---|--|---|---|
| Quotation, procurement, placement and renewal services | Obtaining or arranging quotations | Request quotations for strata insurance policies for the OC (or asking broker to obtain) and engaging in communication with the insurer/broker to supply information about the scheme from the OC's records and manager's knowledge of the scheme and information relevant to the insurer's decision whether to insure the OC and on what terms, including but not limited to assessing what buildings, common property, assets and infrastructure exist at the Property and must be insured or may be insured | Annually or otherwise as renewal necessary. | <p>Receiving with insurers and insurance underwriters to obtain their quotations based on the information supplied by the manager from the OC's records and to provide the quotes to the manager for the OC.</p> <p>Reviewing and advising on insurance needs.</p> <p>Providing general information about insurance policies but limited to insurers that the broker regularly recommends.</p> <p>Providing a PDS.</p> <p>Attending to policy variations and cancellations.</p> |
| | Arranging or renewing insurance | Receiving quotations from the insurer/broker for strata insurance policies and assessing the quotations to ensure they comply with what was requested and liaising with the insurer/broker if quotations require amendment and communicating with the insurer/broker the OC's acceptance of selected quotations. | Annually or otherwise as renewal necessary. | <p>To advise the insurer or underwriter of the OC's acceptance of quotations and provide tax invoices for the policies to the manager for the OC.</p> <p>Arranging and renewing insurance contracts including liaising with insurer.</p> |

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| | Ensuring insurance is current | <p>Monitoring the expiry date of each strata insurance policy held by the OC and advising the OC when policies are due to be renewed on an ongoing basis.</p> <p>Assessing in the OC's records whether the OC has imposed any legal obligation on a lot owner or third party to effect insurance for the benefit of the OC or common property and making all necessary enquiries to ensure that such insurance is in effect and current.</p> | Annually or otherwise as renewal necessary. | |
| | Seeking client instructions for the placement/renewal of insurance | Advising the OC what strata insurance policies are already in place, identifying whether all mandatory insurances are in place and providing guidance on which types of insurance may be optional for the OC to have and any necessary resolutions required to take out each type of insurance. | Annually or otherwise as renewal necessary. | |
| | Paying insurance premiums on behalf of the client | <p>Receiving invoices from the insurer / broker for the policies that the OC has resolved to enter into and, identifying and itemising all components of the tax invoice.</p> <p>Assessing that the invoice amount accords with the accepted quotation amount and arranging for the invoice to be paid from the OC's funds and if funds are not available, advising the OC what resolutions are required to raise funds to pay the insurance premiums.</p> <p>Checking the OC's records to see whether the OC has any rights to recover payment of any part of the premium from a lot owner or other third party.</p> | Annually or otherwise as renewal necessary. | Broker supplies the tax invoice to the manager for the OC to pay. |

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| Insurance valuation services | <p>Obtaining insurance valuation for building reinstatement; and</p> <p>Distributing a copy of the valuation to lot owners.</p> | <p>Assessing whether or not it is a mandatory legal requirement for the OC to obtain a valuation in that year.</p> <p>Assessing the OC's records to determine whether any valuation reports have been obtained in the past.</p> <p>Obtaining quotations from valuers or other qualified people to provide the valuation.</p> <p>Providing quotations to the OC and preparing a motion to enable the OC to select a valuer quotation.</p> <p>Receiving the OC's instructions and briefing the valuer.</p> <p>Providing the valuer with information requested from the OC's records.</p> <p>Receiving the valuation report, reading it to identify whether it accords with the material provided and providing a copy to the OC.</p> <p>Seeking instructions from the OC to provide a copy of the valuation report to the broker or insurer.</p> <p>Providing the valuation to the insurer broker.</p> <p>Responding to any insurer / broker or insurer queries about the valuation or receiving any communication about the impact of the valuation on the OC's policies</p> | <p>As frequent as the legislation requires or more frequently as the OC directs.</p> | <p>Broker or Insurer may request a valuation report be carried out for the scheme for the purposes of issuing insurance cover to the OC.</p> <p>The broker who receives the valuation report shall provide it to the insurer or underwriter by way of disclosure and communicate to the manager whether the insurer has any queries about the valuation.</p> |
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|---------------------------------|---|---|----------------------------------|---|
| Insurance claim services | <p>Lodging claims</p> <ul style="list-style-type: none"> - Common property - Private lot property - Routine - Non-routine - Complex / major <p>Engaging in ongoing insurance claim management</p> <p>Undertaking general activities involved with minimisation of loss</p> <p>Liaising with loss adjustors</p> <p>Undertaking administrative work involved when insurance brokers/agents that are not the manager's preferred broker</p> <p>Forwarding contractor quotations to insurer or insurance broker directly</p> <p>Receiving and processing the insurer's acceptance or declinature of insurance claim</p> <p>Instructing contractors to undertake approved indemnified works following acceptance of insurance claim</p> <p>Receiving and forwarding contractor invoices for approved indemnified works to insurer/ broker for payment or reimbursement as appropriate</p> <p>Receiving and receipting indemnification payment from insurer and paying contractors</p> | <p>Receiving notification of potentially insurable loss or damage at the scheme, collection of further information and passing the information to the OC.</p> <p>Guiding the OC on whether or not to make an insurance claim.</p> <p>Assessing lot owner enquiries about policy coverage for loss and damage.</p> <p>Lodging routine insurance claims with the insurer or through the broker on behalf of the OC.</p> <p>Lodging complex / major or non-routine insurance claims with the insurer or through the broker including collection of relevant information and evidence.</p> <p>Responding to requests by the insurer or broker for further information from the OC's records or from third party contractors.</p> <p>Engaging in complex ongoing claim management.</p> <p>Arranging contractors as required to ensure the OC complies with its duty to mitigate its loss and damage and seeking instructions from the OC.</p> <p>Obtaining quotations from contractors to provide reports, perform make-safe works or perform rectification works as required.</p> <p>Instructing contractors to perform insured work.</p> | <p>As and when claims arise.</p> | <p>The broker generally receives notification of the insurance claim and advises the OC what further information is required to support the claim.</p> <p>Assisting with general insurance claims.</p> <p>If the insurer appoints a loss adjuster to assess the claim, the loss adjuster will contact the manager for information.</p> <p>The broker will receive the insurer's decision whether to accept or reject the claim and pass the decision onto the manager for the OC.</p> |
|---------------------------------|---|---|----------------------------------|---|

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| | <p>Providing any other insurance services in respect of insurance products offered through the authorised insurers and insurance brokers as listed in the management contract</p> | <p>Receiving the insurer's acceptance or rejection of an insurance claim and communicating the decision to the OC.</p> <p>Receiving and forwarding contractor invoices to the broker or insurer for payment as indemnified.</p> <p>Receiving and receipting indemnification payment from insurer and paying contractors.</p> | | |
| Insurance record keeping services | <p>Maintaining the client's insurance records</p> <p>Maintaining a register of insurance claims</p> <p>Verifying insurer/broker credentials (registration, licences, insurance ABN)</p> | <p>Maintaining a register of all insurance claims made.</p> <p>Maintaining insurance documents on the OC's records.</p> <p>Maintaining an asset register recording the assets held and disposed of by the OC.</p> <p>Making insurance documents available for inspection by interested and authorised persons.</p> <p>Verifying broker credentials.</p> <p>Verifying insurer credentials.</p> <p>Preparing and providing from the OC's records, certificates of currency for insurance when requested by eligible persons.</p> | <p>On an ongoing basis or as required.</p> | <p>The broker receives relevant OC records from the manager and provides those relevant records to the insurer for its consideration.</p> |
| Insurance guidance services | <p>Guiding (generally or personally) on insurances</p> <p>Referring the client to an adviser for personal advice if manager is not authorised to give personal advice</p> | <p>Sourcing personal advice about insurance requirements for the OC from a qualified person.</p> <p>Providing all relevant information from the OC's records about the scheme to the person providing the advice.</p> | <p>On an ongoing basis or as required.</p> | <p>The broker may be asked to provide specific insurance advice to the OC.</p> |

| | | | | |
|---|--|--|-------------------------------------|---|
| | <p>Providing certificates of currency for insurance when requested</p> <p>Providing any other insurance services in respect of insurance products offered through the authorised insurers and insurance brokers as listed in the management contract</p> <p>Providing annual insurance commission disclosure to the client.</p> | <p>Receiving the advice and providing it to the OC for its consideration.</p> <p>Receiving the OC's instructions arising from the advice and implementing any decisions.</p> | | |
| Insurer negotiation and liaison services | <p>Making contest representations to the insurer if insurance claim is declined</p> <p>Engaging in protracted insurance renewal negotiations with the insurer / broker</p> <p>Supplying client relevant disclosure information to insurers when there is a non-property claim such as an action by member against the client</p> <p>Providing documents required for non-property insurance claims (e.g. public liability, legal defence claims) against the client where the insurer provides indemnity for legal costs</p> <p>Liaising with legal practitioners for non-property insurance claims (e.g. public liability insurance claims and legal defence claims).</p> | <p>Monitoring events that occur at the scheme that may be required to be disclosed to the insurer and seeking instructions from the OC to make such disclosure as and when required.</p> <p>Arranging for a qualified person to provide advice to the OC about its prospects of challenging the insurer's decision to reject a claim or pay only part of a claim and make contest representations on the OC's behalf;</p> <p>Providing all relevant information from the OC's records about the scheme to the person providing the advice.</p> <p>Supplying client relevant disclosure information to insurers when there is a non-property claim such as an action by member against the client</p> <p>Providing documents required for non-property insurance claims (e.g. public liability, legal defence claims) against the client where the insurer provides indemnity for legal costs</p> | On an ongoing basis or as required. | Any information from the OC will be passed to the broker, who will pass the information to the insurer by way of disclosure or contest. |

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|----------------------------------|---|--|-------------------------------------|--|
| | | Liaising with legal practitioners for non-property insurance claims (e.g. public liability insurance claims and legal defence claims). | | |
| Insurance finance service | Arranging insurance premium finance (loan /funding) if required | <p>Identifying in advance of premium due date whether sufficient funds will be available for the OC to pay premium.</p> <p>If sufficient funds not available, advise OC about its options to raise funds from its members or obtain premium finance.</p> <p>Prepare motion to approve premium finance.</p> <p>Liaise with financiers if OC decides to obtain premium finance including receiving agreement, sourcing advice from a qualified person about the OC about the agreement.</p> <p>Implementing a procedure to ensure the OC's obligations under any premium finance agreement are complied with.</p> <p>Preparing motions for OC to raise funds to repay the premium finance.</p> | On an ongoing basis or as required. | |

This report has identified opportunities for further education to increase manager knowledge about strata insurance on the following topics:

- jurisdictional specific training on:
 - the minimum mandatory insurance for OCs to enable managers to identify and competently explain to OCs what insurance must be obtained and what insurance amounts to optional, additional cover; and
 - how to identify whether workers compensation insurance may be mandatory for a particular OC and what qualified people can provide the OC with advice on this topic;
- training on which insurance advisory services fall outside of the scope of the manager's expertise and should instead be sourced on behalf of the OC from a qualified person, for example a broker, a valuer, a lawyer or other professional¹⁰¹;
- training on what is required for the OC to comply with its ongoing duty of disclosure to the insurer.

In addition, industry-wide implementation of the following up-to date registers to be kept on behalf of OCs, regardless of whether there is already a legal duty to do so or not, is recommended:

- a common property asset register recording what assets are acquired or disposed of by the OC over time;
- a lot and common property improvement register recording what improvement works have been done at the scheme over time so that their value can be advised to valuers and insurers;
- a register of incidents at the scheme that could affect the insurer's decision whether to insure the OC or on what terms and the date that disclosure of the incident was made to the insurer so that the OC can prove that it has made the required disclosure to the insurer;
- a register of any contracts or by-laws that transfer the obligation to insure or pay part of the insurance premium to a lot owner or third party so that the OC does not overlook its right to recover such amounts.
- a register of occupiers in the scheme and their current use of the lot so that the OC is able to quickly disclose the use(s) to the insurer during procurement.

¹⁰¹ There is a distinction between giving legal information and giving legal advice. Legal advice can only be given by a legal practitioner.

14 Discussion and conclusion

This report has provided a comprehensive overview of strata insurance in Australia and to some extent New Zealand.¹⁰² The research undertaken has unveiled the layers of complexity that exist when strata titling intersects with insurance. The cross-jurisdictional comparative analysis of strata-related insurance laws provides an example of this complexity with over 47 separate pieces of legislation and associated regulations. In addition, strata insurance is also impacted by general insurance; insurance contracts laws; and federal, state and territory legislation relating to duties, levies and taxes. From a legal perspective, strata insurance is a complicated area to navigate. From a financial perspective, there are many components and many service providers involved in the distribution of strata insurance products, which creates a costly market.

The insurance data analysis provides important insights into the total cost of insurance. One of the most significant insights is the cost associated with the various taxes, duties and levies imposed on premiums. Collectively, 27.45% of premiums paid by Australian strata schemes are comprised of taxes, duties and levies, with NSW schemes paying the highest proportion (39.56%). As GST is applied to multiple components of the total cost of insurance, there is a compounding effect on the GST paid by schemes. That is, OCs are paying GST on GST-applied services.

As highlighted by the project interviewees, premiums are determined by various factors. A component of the premium (approximately 33%) is for reinsurance costs. Insurers have insurers - the reinsurance company. The insurer and reinsurer distribute aspects of the risk and in the event of a catastrophe, the insurer will pay out claims to a threshold amount and the reinsurer pays out the final component of the claim. Commissions are another component of the total cost of insurance generally representing 20% of the premium. The commission pays for insurance-related services provided to the OC by brokers and/or strata management companies and in turn offsets some of the insurers /underwriters' distribution costs. That is, as managers and brokers refer their OC clients to underwriters, there is a saving for underwriters in terms of resourcing costs associated with marketing and distributing their insurance products. Another premium cost component is the money set aside for distribution in the event of claims being made. For commercial schemes and some large residential schemes, there is a TIL that is also a component of the premium. For this project, data relating to the number of schemes and the costs associated with the TIL was unable to be determined. Although this report has focused on the total cost of insurance, it is not necessarily the total cost borne by the OC for procurement. As identified, a high proportion of strata schemes engage the services of an insurance broker and although they generally receive a percentage of the commission, it is common practice that brokers also charge an additional fee. These fees need to be included in the total cost of insurance to the OC.

However, the cost of premiums can be offset by increases in policy excesses. Interviewees indicated that in more recent times higher excesses have been used by OCs for this purpose. Traditionally, excesses would be a few hundred dollars to a few thousand. However, the market has changed. Although no data was available to determine the range of excesses or the cost savings, it appears there is a high excess threshold before there is a corresponding premium reduction. Relief is rarely seen for excesses under five or ten thousand dollars. Interviewees advised that there are excesses in the range of \$25 to \$50 thousand particularly for schemes in areas considered high risk.

The legislatively mandated insurance policies generally relate to the reinstatement and/or replacement of the property and public liability. Some states and territories proactively allow OCs to take up additional policies (although many are silent on this point). The results of this research indicate that voluntary workers; fidelity guarantee; and government audit and legal expenses; are in most instances, taken up by OCs. This may be a result of underwriters including these policy types as optional exclusions. Due to limited available data regarding workers compensation insurance, it is difficult to determine the extent

¹⁰² Unfortunately, limitations in data supply prevented a more thorough analysis of strata insurance in New Zealand.

OCs take up this policy. It is likely that in larger schemes, workers compensation insurance is taken out via the respective state workers compensation authorities or agencies.

The common perils that impact Australia - cyclones, floods, bushfires, and storms correlate with the costliest claims made under strata insurance. Based on the sample, over \$1 billion of claims in Australia over the last five years can be attributed to water, storm, and fire damage. As an area impacted by numerous weather-related events, Far North Queensland is burdened with a high number of claims so the cost of claims borne by insurers is high. In fact, the total cost of claims over the five-year period from 2016 to 2020 is higher than the total cost of premiums. It is unsurprising there are availability and affordability issues in this area.

There are other events that are impacting strata insurance availability and affordability. Aside from large complex schemes and schemes incorporated within other property uses, properties that have been affected by building defects and combustible cladding appear to be suffering from a lack of provider choice (especially in relation to renewals). Premiums have increased substantially due to the risks. It is difficult to determine the level of premium increases for riskier buildings, as building level data was unavailable. However, there has been an average increase on premiums of 12% over the last five years. Interviewees, particularly the underwriters, mentioned that existing clients with defect issues were less likely to incur large premium increases if they proactively rectified the defects and have a functioning committee.

The supply chain for strata insurance services was mapped, identifying the various service providers and the licensing requirements for each of the providers. As one interviewee acknowledged, there are 'a lot of mouths to feed' in the strata insurance supply chain including the reinsurer, the insurer, the underwriter, the broker, the strata manager and in most cases, the valuer. From the research activities undertaken in this project, two common themes were identified. The services provided across the supply chain are not well articulated to OC clients and there is a lack of transparency in terms of fee arrangements.

As a key focus of this project was to identify the insurance-related services undertaken by strata managers on behalf of their OC clients, a review of strata management agreements was undertaken. The results of this review highlighted only general categories of services with detail of the services generally lacking. Further investigation identified at least 47 discrete services performed by managers, of which, 32 were performed either very frequently or frequently and an additional seven services performed frequently or occasionally. It is clear from the results of the various research activities, that strata managers perform a large number of insurance-related services in their roles as agent, custodian of the OC records and as a knowledge bank. Again, these services have not been well articulated to their clients in their management agreement. It is unsurprising that many lot owner survey respondents provided feedback that they were unaware of the services managers provide in relation to strata insurance. There is a need for the management industry to communicate more effectively with their clients about the services they provide starting with more detail in management agreements.

The services provided by managers are not just task-based. Firstly, strata managers are agents of the OC and therefore legally required to act on their behalf. Ensuring that the OC is aware of insurance renewal timeframes and that it understands the mandatory obligations is critical to the strata manager's role. Secondly, strata managers are custodians of the records and property of OCs and therefore can supply the requisite data to the broker and insurer. This custodian role is important as OC and OC committee members might change over time and valuable information and data can be lost. Strata management companies are a necessary information repository for OCs. Thirdly, strata managers are the first knowledge bank for OCs. Due to their experience dealing with multiple schemes, having access to specialised training and education, and having a higher legal obligation to know the laws relating to strata titling governance, managers play an important role in disseminating strata insurance information and guiding their OC clients.

It is likely that the lack of articulation around the services provided by managers has led to OC clients being either wary or outright opposed to the commission-based fee structure used by many management companies. As highlighted in the report, most strata management companies receive commissions (or share in commissions) from underwriters, which subsidise the annual agreed services fee charged to OCs. The commissions received are usually pooled across management company portfolios alleviating the need for managers to time record each discrete insurance-related service performed. Many interviewees considered that this pooling of commissions provided equity across the portfolio. In the absence of such pooling, each service provided would need to be time recorded and costed. As suggested by one interviewee, there might be winners and losers under such a model.

In the event that commissions are prohibited managers will need to consider alternative fee arrangements that may include supplementing what would have otherwise been received as a commission by increasing the agreed services fee; implementing time recording; or using a sliding cost scale. To determine the best model, it is recommended that managers undertake financial modelling of the various fee arrangement models.

Although nearly 40% of lot owners that were surveyed for this project are opposed to the commission-based fee arrangement, many changed their position when confronted with the possibility that the abolition of commissions would result in increases to the agreed services fee. It appears the opposition, for many, is based on the lack of transparency around commission disclosure. It is arguable that information about commissions has been somewhat hidden in the fine print of management agreements, which has given rise to issues of distrust around this form of remuneration. Although legislative reform over time has required more overt disclosure, there is not a universally consistent approach across jurisdictions that ensures full and frank disclosure. In essence, OC clients should be aware of the fee arrangements options available and consent via an OC resolution to any proposed fee arrangement.

The complexity of strata insurance requires input from service providers with various and diverse skills. All interviewees and the majority of survey respondents indicated that strata managers provide an essential service, and that OCs are very reliant on the manager in relation to undertaken multiple tasks relevant to insurance. Both managers and lot owners surveyed indicated a willingness to engage in ongoing education around strata insurance.

This research is important for those in the strata insurance supply chain to recognise that a lack of communication and transparency has weakened the chain. For policymakers, a better understanding of the intricacies of strata titling is needed prior to enacting any reforms. Prior to any legislative changes, the strata management industry needs to highlight their value to their clients and provide options in terms of fee arrangements.

14.1 Research limitations and future directions

This research project is not without limitations. The primary method relied on for the strata insurance analysis was data provided by five (5) strata insurance underwriters. The data was supplied in various formats so aggregating it was a complex task. In some instances, data was presented by both postcode and CRESTA zone and when mapped the data was incorrectly identified to the CRESTA zone. All efforts were taken to realign the data to the correct CRESTA zone. Some terms used in the data (particularly around policy types and claim causes) also varied and therefore best efforts were made to align the data to common terms used across the datasets.

Although the managers' survey generated a representative sample, the owners survey did not. As outlined in Section 2, the survey was distributed through known groups and organisations that provide information or advocacy to strata owners. It is unsurprising the owners responding to the survey were highly informed, well-educated and active OC members. This is not necessarily an issue as the respondents were very informed about the content of the survey and provided great insights. The limitation is that the survey results cannot be generalised to the strata owner population.

There are a number of datasets that would be a valuable inclusion to this research but were unable to be provided by third parties including: information of insurance excesses; fees charged by intermediaries (brokers) to OC clients; workers compensation insurance take-up by OCs; TIL information; insurance costs based on specific risk types (e.g., buildings with defects); and valuation data based on CRESTA zones.

As this is the first comprehensive research undertaken specifically focusing on strata insurance, there are numerous opportunities for future research.

- As outlined throughout the report and in the limitations presented above, there are research gaps that could be filled including: more specific analysis of insurance costs (including brokerage fees and TIL applications); the use of excesses and the impact higher excesses have on premiums; and the practice of net quoting and its impact.
 - There is also opportunity to develop a strata insurance affordability measure, which may require specific OC data (e.g., OC budgets, income levels of OC members, property valuations).
 - As discussed, financial modelling of various fee arrangement models would be useful for both individual management companies and their OC clients.
 - Although not highlighted in detail in the report, research is required to determine the most appropriate methodology that should be used to value strata properties for insurance purposes. There are currently several methods used to value strata properties, which vary in terms of cost. More investigation is required to determine the accuracy of these methods and which methods are most suitable for strata titled properties.
 - It would be useful to compare these results with data from other international jurisdictions that have a similar strata titling arrangement.
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