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27 November 2008

Occupational Licensing
c/-The Better Regulation Office
GPO Box 5431
SYDNEY NSW 2001

Dear Sir/Madam,

RE: **NSW TRADE LICENSING (Strata Managing Agents)**
SUBMISSION – NOVEMBER 2008

Strata Associates Pty Limited and Linders Strata Management Pty Limited are members of the Strata Choice Pty Limited group ("Strata Choice") and are leading strata and community management organisations in New South Wales. Strata Choice on behalf of its members submits the following paper in respect of NSW Trade Licensing but limited to Strata Managing Agents licensing and certification.

Strata Choice member companies manage in excess of 680 strata and community schemes comprising approximately 22,000 lots, hold in excess of \$40M in trust funds for properties with an insured value in excess of \$15B.

From the above it can be determined that Strata Choice members play a vital part in the community and we are fully cognisant of the impact of licensing of Strata Managing Agents and the Certification of employees in the industry.

Our organisation understands the significance of minimum standards of practice generated through legislation and education to ensure a high level of **CONSUMER PROTECTION**. The continuing and rapid growth of strata title as the preferred property title system for new development in New South Wales dictates that **CONSUMER PROTECTION** is of paramount importance.

Strata Managing Agents owe a fiduciary duty of care to their client principals. They handle vast sums of trust money and have a vital role to play in decision making impacting on the lives of many thousands of consumers.

The existing licensing regime for Strata Managing Agents in NSW ensures that only those persons with the relevant qualifications are able to hold the position of Licensee in Charge of a corporation operating as a Strata Manager.

Our submission to you is that this regime must be retained and indeed should be replicated in other States and Territories to ensure best protection of all stake holders in the strata living environment but in particular the interests of individual lot owners.

Overview of Licensing and Certification

NSW is the only State in Australia which not only requires licensing of Strata Managing Agents but also Certification of any employees carrying out function of a Strata Manager. This certification process results in the majority of employees in the industry attaining a minimum standard of knowledge, thus enabling a degree of **CONSUMER PROTECTION**.

In conjunction with the requirement for a minimum standard of education to enter the industry there is the ongoing requirement for Continual Professional Development ("CPD") training of licensed and certificated persons on an annual basis.

CPD training is a requirement as a prerequisite to renewal of licenses and certificates.

- Strata Choice members support CPD
- Strata Choice members, in addition to CPD, undertake extensive additional training of all employees.
- Strata Choice members believe this action is the path to greater professionalism and consumer protection.

Past Experience

The introduction of Licensing of Strata Managing Agents occurred in the early 1980's as a result of the lack of professionalism, breach of trust and fraud on a number of strata schemes by a strata management firms.

The New South Wales Government of the day believed as a result of this **BREACH OF TRUST** a level of **CONSUMER PROTECTION** was fundamental to an increasingly expanding industry. A licensing regime was established with the licensing authority being The Auctioneers and Agent Council created under legislation known as the Auctioneers and Agents Act 1941 which was amended to include Strata Managing Agents.

Since 1980 there have been a small number of breaches of trust by Strata Managing Agents resulting in payments from the Property Services Compensation Fund under the now Property Stock and Business Agents Act.

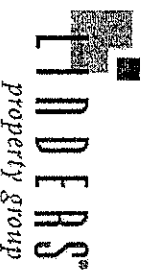
Strata Choice members believe that failure to implement licensing and at a later date certification of employees would have resulted in greater claims brought about by way of breach of trust. We also believe that the level of education and skill would not be of the high level it is today.

Education Requirements

Licensed Strata Managers

An example of legislation a Strata Manager deals with on a day to day basis includes but is not limited to:

Strata Schemes Management Act
Strata Schemes Management Regulations
Strata Schemes (Freehold) Development Act
Strata Schemes (Leasehold) Development Act
Community Land Management Act
Community Land Management Regulations
Retirement Villages Act
Retirement Villages Regulations
Property Stock and Business Agents Act
Property Stock and Business Agents Regulations
Landlord and Tenant Act
Landlord and Tenant Regulations
Dividing Fences Act
Privacy Act
Financial Services Reform Act
Home Building Act



Home Building Regulations
Occupational Health and Safety Act

The complexity and breadth of the legislation a Strata Manager deals with on a day-to-day basis, warrants in itself the need to maintain a minimum educational requirement. Failure to do so will lower the knowledge base, lower the skill level, and thus reduce necessary levels of **CONSUMER PROTECTION**.

There will always be the majority of professionals within the Strata Management Industry who will continue professional self development and understand the word **TRUST** and **RESPONSIBILITY**.

The licensing regime appropriately protects the consumer from those who don't.

Strata Choice supports the continuation of Licensing, Certification and the continuation of CPD training of Strata Managing Agents

Employees carrying out the functions of a Strata Managing Agent under the supervision of a Licensee are required to complete the Certificate 3 in Registration (Strata and Community Property). This course is currently being provided by a number of training bodies. The Institute of Strata Title Management is the leading industry organisation offering this five day certificate course.

Upon completion of the certificate course application is made to the Office of Fair Trading for a Certificate of Registration. The Office of Fair Trading will issue a certificate subject to verification of qualifications and Police search issue the appropriate certificate.

CONCLUSION

The provision of services to the community as a Strata Managing Agent is **NOT** a trade occupation. The knowledge, skill and expertise required to provide this service effectively, together with an understanding of an extensive range of legislation liken the sector to areas of professional practice such as banking, accounting or legal practice. It is this (in the absence of true professional status) that we insist that the licensing and certification of strata managing agents in Australia is of paramount importance.

Removing the requirement to licence and/or certificate both Strata Managers and employees will **EXPOSE THE CONSUMER TO GREAT RISK** both in the administration of billions of dollars of property and hundreds of millions of dollars in trust funds.

The small cost to the New South Wales Government via the Office of Fair Trading in administering the current regime is miniscule to the risk to the consumer of the Strata Management Business being self regulated.

Yours sincerely,
Linders Strata Management Pty Ltd

A handwritten signature in black ink, appearing to read "Daniel Linders", written over a horizontal line.

DANIEL LINDERS
Director / Licensee in Charge