



The Better Regulation Office
GPO Box 4341
Sydney NSW 2001

RE: UDIA NSW Submission – Better Regulation Office Issues Paper: Licensing of Selected Occupations

The Urban Development Institute of Australia NSW (UDIA NSW) is a proud advocate of the urban development industry. Our members generate more than \$15 billion worth of activity for the NSW economy annually. Our members include developers, regulators, and affiliated professionals including strata managers and lawyers.

UDIA NSW welcomes the opportunity to comment to the Better Regulation Office on the *Issues Paper – Licensing of Selected Occupations*. UDIA NSW appreciates the Better Regulation Office is committed to ensuring regulation in NSW is appropriate, effective and efficient with the intent of reducing the regulatory burden on the community.

UDIA NSW has considered the most relevant issues to our members in section 9 of the *Issues Paper* as well as the benefits and costs of licensing strata managers in NSW. UDIA NSW contends that the benefits of licensing for strata managing agents outweigh the costs to the community and stakeholders including developers.

UDIA NSW has consulted with our members including strata managers and lawyers involved in the management of multi owner properties being developed and registered under NSW strata and community scheme legislation. UDIA NSW has responded to the views sought in section 9 of *the Issues Paper* which are most relevant to the urban development industry as detailed below.

1. The benefits of the licensing regime including the protections offered to consumers and impacts on professional standards in the industry

The *Property Stock and Business Agents Act 2002* requires all strata plans in NSW to undertake regular sinking fund assessments. As a result of the introduction of this Act it is evident there is a significant increase in the funds held by strata plans. This has resulted in an increased need to ensure consumer protection and maintain security in the management of owner's funds.

The existing licensing regime imposes control over licensed strata managers and holders of certificates of registration by the Office of Fair Trading (OFT). The OFT imposes minimum educational standards and continuing professional development requirements as an integral part of the licensing and registration process.

Recent reforms to the *Strata Schemes Management Act 1996* (the Act) have also increased the legislative complexity of the Act and it is therefore important to continue to enhance the professionalism of the strata management industry. Licensing is a key component in maintaining and enhancing those professional standards.

Annual statutory audits of strata manager's operations and trust account balances to the OFT are currently mandatory and should be retained. There is approximately \$500,000,000 of owners funds held in strata manager's trust accounts in NSW. UDIA NSW contends licensing is an important and effective mechanism to provide consumer protection, including for developers, who have substantial funds held in these trust accounts.



RECOMMENDATION 1

UDIA NSW recommends the requirement for mandatory licensing of strata managers be maintained to provide certainty and confidence to the development industry by providing a necessary layer of consumer protection for substantial developer funds held in strata manager trust accounts.

2. Whether there are any reasons why it is necessary to license this occupation in NSW when it is not considered necessary to license it in other States and Territories

NSW is one of two Australian States or Territories that has a licensing regime with the other being the Northern Territory. Victoria has a lower level regulatory scheme and it is UDIA NSW understanding that other States are currently considering regulation of the strata management industry. It is disingenuous to assume that since most other States and Territories do not licence or regulate strata managers that NSW is incorrect for imposing a licensing regime.

Regulation of the strata management industry in Australia has generally increased since the introduction of strata title in the early 1960s. NSW was also the first State to introduce strata title laws with the introduction of the *Conveyancing (Strata Titles) Act 1961* and subsequently the *Strata Titles Act 1973*. NSW has pioneered the development of strata title regulation in Australia.

As strata management regulation in NSW continues to evolve ahead of other States it would be retrospective to remove the existing licensing regime. UDIA NSW contends it is necessary to license strata managers to protect consumers considering strata managers are effectively agents with fiduciary duties. This includes developers and the development industry.

Strata managers retain, on a continuous basis, significant amounts of developer's money in trust accounts. The strata industry is also responsible for the care and administration of significant assets of developers such as the strata properties of scheme owners, which at the initial stage of a scheme are developers. UDIA NSW contends the current licensing regime provides developers who maintain an interest in a strata or community title scheme with investment certainty and consumer protection.

RECOMMENDATION 2

UDIA NSW recommends maintaining the current requirement for employees of licensed strata managing agents to be the holder of a Certificate of Registration issued by the OFT. This applies to any employee who exercises any of the functions of a strata or community managing agent, or engages in any other activity that is prescribed by the Property Stock and Business Agents regulations.

Conclusion

UDIA NSW contends regulation and licensing of strata managers is necessary to provide added investment certainty for the urban development industry in NSW. The strata management industry is particularly relevant to developers of properties which are subdivided under the strata or community schemes development legislation.

Developers often rely upon professional input from strata managing agents during the pre-registration phase of a scheme. This includes advice on by-laws or management statements that will impact on the practical ongoing management of the development as well as the provision of initial budgets that will apply from date of registration.

Many developers also rely on strata managing agents to establish statutory and other records not required by legislation but essential for practical efficient management of the scheme following



registration. Acting on behalf of developers, strata managers obtain complying insurances, hold inaugural meetings and undertake other functions that are the original owner's (the developer's) responsibility prior to the first annual general meeting.

Continuing to properly regulate strata managers through the existing licensing scheme is essential to provide consumer protection to developers of strata lots. Regulation through licensing protects developers with real property investments and their levies in the trust of a strata manager.

UDIA NSW offers the following recommendations in response to the *Issues Paper – Licensing of Selected Occupations*

RECOMMENDATIONS

1. *UDIA NSW recommends the requirement for mandatory licensing of strata managers be maintained to provide certainty and confidence to the development industry by providing a necessary layer of consumer protection for substantial developer funds held in strata manager trust accounts.*
2. *UDIA NSW recommends maintaining the current requirement for employees of licensed strata managing agents to be the holder of a Certificate of Registration issued by the OFT. This applies to any employee who exercises any of the functions of a strata or community managing agent, or engages in any other activity that is prescribed by the Property Stock and Business Agents regulations.*