

Review of the market impacts of prohibiting strata managers from accepting commissions and other conflicted remuneration

Terms of Reference

Purpose

The charging of commissions in the strata industry has led to concerns about inflated costs for owners corporations, a reduction in competition, erosion of trust between owners and strata managing agents, and the compromised ability of owners corporations to make informed financial decisions.

With more than 1.2 million people living in strata schemes in NSW, we need a regulatory environment that stops strata managing agents from being incentivised to act in their own interests rather than in the best interests of strata owners.

Strata managing agents already have a legislated fiduciary duty to act in the best interests of their clients, the owners corporation.

However, it has become standard practice for many strata managing agents to receive commissions from insurers, suppliers and other service providers. Such commissions can create conflicts of interest and a perverse incentive for the strata managing agent to prefer products and services that benefit themselves, instead of those that are in the best interests of owners corporations. This practice breaches an agent's fiduciary duty, and has eroded consumer confidence.

The NSW Productivity and Equality Commissioner is to review the market impacts of prohibiting strata managing agents from accepting commissions or other payments that could improperly influence their decisions when doing their job.

Scope

The Review should:

1. Consider whether prohibiting the payment of commissions and other conflicted payments to strata managing agents will lead to:
 - o better value for money for strata owners, or
 - o higher-quality services, or
 - o lower costs and simpler arrangements for strata owners, or

- o any change in market conditions.
- 2. Assess and quantify (where possible) the costs and benefits and wider impacts of prohibiting strata managing agents from accepting commissions or other conflicted payments on:
 - a. strata owners,
 - b. strata managing agents including effects on competition and workforce availability and capacity, and timeframes in which strata managing agents business models could adapt,
 - c. insurers and underwriters,
 - d. insurance brokers, and
 - e. the NSW Government.
- 3. Undertake case studies of strata managing agents whose remuneration model does not include commissions or conflicted remuneration and consider their scalability to the wider strata industry.
- 4. Based on findings in points 1-3, identify pathways to transition away from strata commissions and other conflicted remuneration, including reforms to the regulatory framework and the intersections with the Commonwealth Government's oversight of the insurance and insurance broker industry.
- 5. Examine any other related matters.

Review process

In undertaking the Review, the NSW Productivity and Equality Commissioner should:

- Prepare an issues paper for public consultation.
- Assemble and analyse relevant data and draw on published research, NSW Fair Trading complaint and compliance data, expert opinion, and work undertaken to date by Fair Trading, including summaries of stakeholder consultation.

The NSW Productivity and Equality Commissioner will deliver a report with recommendations to the Minister for Better Regulation and Fair Trading and the Treasurer by 27 February 2026.