

Submission

12 December 2025

NSW Productivity and Equality Commission

GPO Box 5469

Sydney NSW 2001

Submitted by: stratacommissionsreview@treasury.nsw.gov.au

Re: NIBA Submission: Review of the Market Impacts of Prohibiting Strata Managers from Accepting Commissions and Other Conflicted Remuneration

Dear Commissioner,

The National Insurance Brokers Association (NIBA) welcomes this opportunity to respond to the Commission's review of commission-based remuneration in strata management.

Executive Summary

NIBA is the peak representative body for the general insurance intermediation profession. It serves as the collective voice for about 450 member firms and over 15,000 individual brokers. Our members include large multinational insurance brokers, Australian broker networks, and small to medium-sized businesses in both cities and regional areas across Australia. NIBA advocates for general insurance brokers and their clients, promoting integrity and professionalism within the industry.

NIBA's work is guided by three core pillars: community, representation, and professionalism. Our mission is to enhance the professional standing of insurance brokers through strong advocacy, comprehensive education, and unwavering ethical standards. By promoting collaboration and innovation, NIBA seeks to elevate service quality for consumers and strengthen trust and confidence in the insurance broking profession.

Strata living is central to how Australians live—more than two million NSW residents depend on adequate insurance protection for their homes and communities. Insurance brokers play a vital role in ensuring these communities are appropriately protected and advocating for fair claim outcomes when disaster strikes.

NIBA's core position is that the conflicts of interest identified in this review mainly originate with strata managers, not insurance brokers. The regulatory frameworks governing these two professions are fundamentally different: brokers operate under comprehensive Commonwealth regulation through the Corporations Act (especially the Australian Financial Services Licence regime), ASIC oversight, and the Insurance Brokers Code of Practice, while strata managers are licensed under NSW state legislation. This distinction is critical to appropriate policy design.

NIBA submits that insurance brokers are already regulated with robust disclosure obligations and conflict management requirements that protect strata owners. The commission-based model funds comprehensive services, including midterm insurance policy changes and claims advocacy, without additional cost barriers for the benefit of strata communities. NIBA supports enhanced transparency for strata managers and has engaged constructively with SCA NSW regarding industry-led improvements. However, NIBA strongly opposes Option 3 – the supply chain prohibition – which raises jurisdictional concerns, would harm consumer access to professional advice, and risks significant market distortion.

Recommendations:

- 1. Recognise adequacy of existing broker regulation** — The AFSL regime, common law and statutory duties, and the Insurance Brokers Code of Practice provide consumer protection without additional NSW intervention.
- 2. Support industry-led transparency improvements (Option 1)** — Collaborative reform with SCA NSW and NIBA avoids regulatory costs while achieving transparency objectives.
- 3. If legislative intervention is required, adopt Option 2 over Option 3** — Option 2 addresses strata manager conflicts without extending to well-regulated broker remuneration.
- 4. Conduct rigorous cost-benefit analysis** — Any proposed changes must demonstrate that consumer benefits clearly outweigh compliance costs and unintended consequences.
- 5. Maintain three-quote requirement with proportionality review** — The requirement serves competition objectives; however, exceptions should apply for hard-to-place risks.
- 6. Extend broker disclosure standards across all distribution channels** — A level playing field ensures consistent consumer protection regardless of insurance access channel.

Context & Insights: The Regulatory Distinction

The distinction between insurance brokers and strata managers—in role, regulation, and remuneration—has critical implications for how this review should approach reform.

Insurance Brokers: Commonwealth-Regulated Financial Services Professionals

Insurance brokers are intermediaries who act for and on behalf of clients, in this case, owners' corporations, not lot owners, to purchase appropriate insurance cover. They hold Australian Financial Services Licences administered by ASIC under the Corporations Act 2001 (Cth) and owe common law duties to act with reasonable care and diligence and statutory duties to act efficiently, honestly and fairly. AFSL conditions require brokers to maintain adequate conflict management arrangements, as do common law fiduciary duties.

The Insurance Brokers Code of Practice, updated in 2022, provides an additional layer of consumer protection that directly addresses the conflict-of-interest concerns raised in this review. The Code prohibits contingent remuneration when acting for clients, including volume-based commissions, profit-sharing arrangements, and overrider commissions from insurers. It requires the disclosure of commission amounts (in dollars) to all Retail Clients, including those with residential strata insurance. The Code also requires disclosure of non-monetary benefits and prohibits accepting benefits that could influence advice. Independent monitoring and enforcement are provided through the Insurance Brokers Code Compliance Committee, which has the power to impose sanctions for non-compliance.

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, despite having general insurance brokers within its terms of reference, found no evidence of misconduct by general insurance brokers and made no adverse findings against them. This is a significant finding that distinguishes brokers from other financial services sectors where conflicted remuneration was found to cause consumer harm.

Strata Managers: State-Licensed Administrative Service Providers

Strata managers are licensed under NSW legislation to provide administrative services to owners' corporations, including coordinating the procurement of services such as insurance. They are not insurance intermediaries and are not subject to the Commonwealth regulatory framework governing brokers.

Recent NSW reforms commencing in February 2025 have strengthened strata manager obligations, requiring disclosure of relationships with suppliers, detailed breakdowns of insurance quotes including commissions and broker fees, and pre-contract notification where commissions may be paid. These reforms represent positive progress toward aligning strata manager disclosure obligations with broker standards.

Why This Distinction Matters

The concerns identified in the Issues Paper—conflicts of interest, information asymmetry, and erosion of trust—relate primarily to the conduct of strata managers. The regulatory investigations, media reports, and industry analyses cited in Table 1 of the Issues Paper predominantly concern strata manager practices, not broker misconduct.

The SCA NSW announcement to phase out strata manager insurance commissions demonstrates industry recognition that conflicts originate at the strata manager level. NIBA has engaged constructively with SCA NSW and supports this direction. The policy implication is clear: reforms should target the source of identified conflicts, being strata manager remuneration, rather than extending to well-regulated broker remuneration where problems have not been demonstrated.

Strata Insurance Complexity

Strata insurance requires specialist expertise to navigate. Schemes typically require multiple coverage types, including building insurance, public liability, office bearers' liability, machinery breakdown, fidelity guarantee, and voluntary workers' insurance. The boundary between common property insured by the owners' corporation and lot owner property insured individually creates potential coverage gaps requiring careful analysis. Determining appropriate sums insured involves complex consideration of construction costs, professional fees, demolition costs, and escalation over the policy period. Schemes with building defects, prior claims, or adverse risk characteristics may require specialist broker expertise and market relationships to secure coverage. The evolving risk landscape, including climate change impacts, changing building regulations, and emerging cyber risks, demands ongoing professional monitoring that most strata committees lack the time and expertise to provide.

Response to Consultation Question 1: Commissions and Their Effects

The Commission-Funded Value Proposition

The commission model enables strata schemes of all sizes to access professional broking services without upfront fee barriers. This is particularly critical for smaller schemes where premium values may not support fee-for-service arrangements.

Commission-based remuneration funds a comprehensive suite of services extending well beyond initial policy placement. In the pre-placement phase, brokers conduct detailed risk assessment and identification, undertake market research across multiple insurers, perform policy comparison and sum insured evaluation, and negotiate terms and conditions on behalf

of the owners' corporation. During placement, brokers manage administration and data collection, handle premium collection and remittance, and prepare policy documentation. In the post-placement phase, brokers can update insurance policies to reflect any changes and provide claims advocacy, acting as advocates throughout the claims process and negotiating with insurers for a fair settlement. They also conduct ongoing policy review and renewal management and provide continuing risk advice as the scheme's circumstances evolve.

Claims advocacy warrants particular emphasis. NIBA member experience demonstrates that broker intervention has successfully overturned initial claim denials, identified additional policy benefits clients were unaware of, and expedited resolution, enabling faster community recovery. Complex claims can involve 30 or more hours of broker work—costs that fee-for-service clients would be reluctant to approve, precisely when they are most financially vulnerable following an insured event.

Protecting Communities from Underinsurance

NIBA research indicates that 40% of clients are underinsured before engaging a broker. In strata, where insurance is mandatory and complex, professional advice is essential to ensure adequate coverage and protect homes and communities.

When strata schemes are underinsured, the consequences fall on individual lot owners through special levies that can amount to tens of thousands of dollars per lot. By ensuring optimal coverage, brokers' services protect not just the corporate entity of the owners' corporation, but also the financial security of every lot owner within the strata community.

Commission Structure Clarification

Insurance brokers receive commissions from insurers for placing policies. In some arrangements, a portion may be remitted to strata managers under commercial agreements between the broker and strata manager. It is important to clarify that brokers do not "offer" commissions to strata managers in the sense of creating new payment flows. Rather, insurers agree on commission rates with brokers, and commercial arrangements between brokers and strata managers may involve sharing this commission. The February 2025 NSW reforms require disclosure of these arrangements to owners' corporations.

Broker-Insurer Relationships

As detailed in the Context section, the Insurance Brokers Code of Practice prohibits contingent remuneration when acting for clients. Insurers set standard commissions, and rates are generally consistent across the market for similar product types. The broker's duty is to recommend products appropriate to the client's needs, regardless of which insurer is selected.

The existing regulatory framework—comprising AFSL obligations, common law and statutory duties to act in clients' best interests, and Code requirements—provides comprehensive protection against conflicts in broker-insurer relationships.

Response to Consultation Question 2: Effectiveness of Current Requirements

Three-Quote Requirement Assessment

The three-quote requirement for strata insurance renewal places compliance costs on brokers servicing the strata market. These costs include the time and administrative burden of approaching multiple insurers, preparing detailed risk submissions, following up on responses, and documenting the process. Market access challenges arise for schemes with claims history, building defects, or unusual risk profiles, where obtaining three genuine quotes may be difficult or impossible. Brokers must also maintain documentation demonstrating compliance or explaining why three quotes could not be obtained.

NIBA's position is that the three-quote requirement, while creating a compliance burden, is a proportionate measure that enhances transparency and supports informed decision-making by strata committees. The requirement is more stringent than the two-quote rule for other services over \$30,000, reflecting the significance of insurance in strata finances.

NIBA supports periodic review to ensure compliance costs remain proportionate to consumer benefits. Explicit exceptions should apply to hard-to-place risks where market conditions prevent the obtaining of three genuine quotes.

Conflict Management Effectiveness

Regarding insurance brokers, as detailed in the Context section, the regulatory framework is already comprehensive and effective. The combination of AFSL obligations, common law and statutory duties, and Insurance Brokers Code of Practice requirements provides robust conflict management. The Royal Commission's finding of no misconduct and consistently low complaint volumes at dispute resolution bodies support this assessment.

Regarding strata managers, the framework has historically been less comprehensive. NIBA supported the February 2025 reforms precisely because they strengthen strata manager disclosure and move toward the existing broker standards. The SCA NSW commission phase-out announcement represents a positive industry response to remaining concerns.

Brokers can play a valuable role in enhancing transparency for owners' corporations. When engaged to provide strata insurance services, brokers offer detailed information about coverage options, premium components, and remuneration arrangements. This professional

intermediary role offers owners' corporations independent expertise and advocacy to counterbalance information asymmetries in their relationships with strata managers.

Response to Consultation Question 3: Policy Option Impacts

Options 1 and 2: Proportionate Responses

Option 1, industry self-regulation, and Option 2, a legislative ban on strata manager commissions, both address the identified problem of strata manager conflicts of interest without disrupting well-regulated broker remuneration.

Under both options, brokers would need to renegotiate commercial arrangements with strata managers and potentially shift to alternative fee structures for strata manager services. Importantly, neither option affects broker commission from insurers—the broker-insurer remuneration relationship would be maintained.

NIBA supports Option 1 as the preferred approach. Industry-led reform is responsive to market concerns, allows appropriate transition, and avoids regulatory costs. NIBA has engaged constructively with SCA NSW and supports collaborative approaches that reflect shared commitment to professionalism and consumer protection.

If legislative intervention is considered necessary, NIBA supports Option 2 over Option 3. Option 2 provides broader coverage with government enforcement while appropriately targeting strata manager conflicts rather than extending to broker remuneration.

Any implementation of Option 2 should include adequate transition periods for orderly contract adjustment, disclosure requirements ensuring transparency about broker remuneration to owners' corporations, and ongoing monitoring to ensure consumer benefits are realised.

Option 3: NIBA's Strong Opposition

Option 3, the supply chain commission ban, would prohibit strata managers from procuring services involving commission payments further up the supply chain. NIBA strongly opposes this option for three fundamental reasons.

Jurisdictional Overreach

The Issues Paper acknowledges that NSW "is only able to regulate its licensed strata managers' behaviour directly, and not the payment of commissions in the supply chain." Insurance broker services are regulated under Commonwealth legislation through the AFSL regime administered by ASIC.

Attempting to regulate broker remuneration by restricting strata manager procurement raises significant jurisdictional questions. The appropriate regulatory response to any concerns about broker conduct should come through Commonwealth channels, specifically ASIC, rather than indirect NSW regulation.

As detailed in the Context section, the Royal Commission found no evidence of broker misconduct. Option 3 would impose significant costs on a sector where problems have not been demonstrated, representing a disproportionate regulatory response that lacks an evidentiary foundation.

Consumer Harm

Option 3 requires brokers to offer commission-free products for strata clients, forcing fee-for-service arrangements that create barriers to professional advice.

Smaller strata schemes—often comprising retirees, first-home buyers, and families on modest incomes—may be unable to afford explicit upfront fees for broking services. Unlike investment advice, strata insurance is mandatory; reduced access to professional advice increases the risk of underinsurance for precisely those communities that can least afford to bear uninsured losses. The Issues Paper itself acknowledges concerns about the "impact on consumers' ability to take up financial advice" in similar contexts involving fee-for-service transitions.

The impact on claims advocacy would be particularly harmful. Under fee-for-service arrangements, strata committees would be required to pay separately for claims assistance at precisely the time when communities are most financially stressed following an insured event. Committees reluctant to approve hourly professional fees would leave their communities without expert advocacy when it is most needed—during the claims process, where broker intervention can mean the difference between full recovery and significant shortfall.

Market Distortion

Option 3 would create significant compliance complexity and unintended structural consequences. Brokers would need to operate dual pricing and remuneration systems for strata clients versus other client segments, increasing operational complexity and costs. Strata managers would be required to determine "whether commissions were paid further up the supply chain"—a substantial compliance burden with uncertain consumer benefit.

Option 3 could encourage structural arrangements designed to avoid the prohibition. These include accelerated vertical integration of broking services within strata management businesses, which the Issues Paper acknowledges is already a growing trend, movement of business to channels not subject to NSW strata regulation, and a reduction in broker participation in the strata market, thereby reducing competition and choice for owners' corporations.

NIBA assesses that Option 3 aims to address a problem—broker commission conflicts—that has not been demonstrated to exist. It imposes costs disproportionate to any perceived consumer benefit and risks unintended consequences that could harm consumer outcomes, particularly for smaller strata communities that would lose access to professional advice under a fee-for-service model.

Response to Consultation Question 4: Conflicts and Vertical Integration

Business Relationships

Insurance broking businesses may have various relationships with other participants in the strata ecosystem. Brokers maintain relationships with multiple insurers to access a range of products for clients. As detailed in the Context section, the Insurance Brokers Code of Practice prohibits contingent remuneration arrangements that could create incentives to favour particular insurers. Some brokers have commercial arrangements with strata managers involving commission sharing or referral arrangements, which are disclosed to clients under Code requirements. Some insurance broking businesses are also part of corporate structures that include related strata management or other property services businesses. The February 2025 NSW reforms require disclosure of such related party relationships.

Conflict Management Framework

As detailed in the Context section, brokers manage conflicts through multiple layers of protection. Legal obligations include the statutory duty to act efficiently, honestly and fairly under the Corporations Act, common law and statutory duties, and AFSL conditions requiring adequate conflict management arrangements. The Insurance Brokers Code of Practice imposes additional requirements, including the prohibition on contingent remuneration when acting for clients, dollar-amount disclosure of commissions to retail clients, disclosure of non-monetary benefits, requirements to identify and disclose conflicts of interest, and periodic review of remuneration arrangements. Professional standards, including the Qualified Practising Insurance Broker designation, continuing professional education requirements, and industry codes of ethics, provide further accountability.

Vertical Integration Position

NIBA acknowledges that vertical integration between broking and strata management businesses has been raised as a potential conflict concern. The Insurance Brokers Code of Practice requires brokers to have policies and procedures to identify and manage conflicts of interest and to disclose conflicts to clients.

NIBA's position is that vertical integration is not inherently problematic. It can deliver genuine efficiencies and cost savings for consumers. However, transparency is essential. The February 2025 NSW reforms requiring disclosure of related-party relationships address this concern by ensuring owners' corporations are informed about relevant business relationships.

NIBA would not support prohibitions on vertical integration without evidence demonstrating that existing disclosure requirements are insufficient to address consumer protection concerns. Vertical integration is common in financial services, and the Royal Commission did not present any recommendations on it.

Recommendations

- 1. Recognise adequacy of existing broker regulation** — The AFSL regime, common law and statutory duties, and Insurance Brokers Code of Practice provide comprehensive consumer protection without additional NSW state intervention.
- 2. Support industry-led transparency improvements (Option 1)** — Collaborative reform with SCA NSW and NIBA achieves transparency objectives while avoiding regulatory costs and enabling appropriate transition arrangements.
- 3. If legislative intervention is required, adopt Option 2 over Option 3** — Option 2 targets identified strata manager conflicts; Option 3 extends to well-regulated broker arrangements without demonstrated need and raises jurisdictional concerns.
- 4. Conduct rigorous cost-benefit analysis** — Any proposed regulatory changes must demonstrate that consumer benefits clearly outweigh compliance costs and unintended consequences.
- 5. Maintain three-quote requirement with proportionality review** — The requirement serves legitimate competition and transparency objectives; however, explicit exceptions should apply for hard-to-place risks where market conditions prevent three genuine quotes.
- 6. Extend broker disclosure standards across all distribution channels** — Consistent disclosure standards across brokers, direct insurers, and their agents ensure consumer protection regardless of how strata schemes access insurance.

Conclusion

NIBA shares the Commission's objective of ensuring strata owners receive value for money and transparency regarding conflicts of interest. The concerns prompting this review relate primarily to the conduct and remuneration practices of strata managers. NIBA supports reforms enhancing strata manager transparency, including the February 2025 NSW reforms and the SCA NSW industry initiative to phase out insurance commissions, and has engaged constructively with stakeholders throughout this process.

Insurance brokers are already subject to Commonwealth regulation that addresses the concerns identified in this review. The Insurance Brokers Code of Practice prohibits the forms of contingent remuneration most likely to create conflicts, requires disclosure of commission amounts in dollars for Retail clients, and provides for independent monitoring and enforcement.

NIBA cautions against Option 3, which would extend regulation to broker remuneration where problems have not been demonstrated. This option raises jurisdictional concerns regarding NSW regulation of Commonwealth AFSL holders, creates substantial compliance complexity, and risks harming consumer access to professional insurance advice—particularly for smaller strata communities that can least afford to navigate complex insurance decisions without expert guidance.

NIBA is committed to working constructively with the Commission, government, and other stakeholders to ensure strata communities across NSW receive professional and transparent insurance services.

Yours sincerely,



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