



# News release

Insurance Council  
of Australia

Friday, 25 June 2021

## Statement on Special Leave application

The Insurance Council of Australia (ICA) today acknowledged the High Court's decision to deny special leave to appeal the NSW Court of Appeal's judgment around the interpretation of pandemic exclusions in some business interruption policies.

Insurers will respond to affected customers who have lodged business interruption claims on a case-by-case basis, however the vast majority of claims will not be able to be finalised until further clarity is provided by the second test case.

Insurers commenced a second test case in the Federal Court of Australia in February 2021 to test the application of further issues of pandemic coverage in business interruption policies.

The second test case will determine the meaning of policy wordings in relation to the definition of a disease, proximity of an outbreak to a business, and prevention of access to premises due to a government mandate, as well as policies that contain a hybrid of these type of wordings.

The industry will meet the costs of policyholders in the second test case, as it did in the first test case and will for any appeal. It is anticipated that the trial of the second test case will take place in late August 2021.

Policyholders should contact their broker or insurer directly if they require clarity on their particular circumstances and should gather and keep any evidence and documents to support any potential claim they may make.

Quote attributable to Andrew Hall, CEO, Insurance Council of Australia:

The Insurance Council acknowledges today's ruling from the High Court.

While we are disappointed, this decision on the first test case provides us with certainty and allows the industry to focus on the issues to be resolved through the second test case underway in the Federal Court of Australia.

We encourage policy holders who are considering lodging a claim to contact their broker or insurer, and make sure they are keeping all the necessary paperwork.

Once finalised, insurers are committed to applying the courts' decisions in both test cases in an efficient, transparent, and consistent way when assessing claims.