Insurance Council of Australia

Hon. Stephen Jones MP
Assistant Treasurer and Minister for Financial Services
Parliament House
Capital Hill ACT 2600

Via: PreBudgetSubmissions@treasury.gov.au

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Dear Minister

2023-24 Pre-Budget Submissions

Thank you for the opportunity to contribute to the Australian Government's 2023-24 Budget process.

The 2022-23 Budget laid a strong foundation to improve community and household resilience to worsening extreme weather events. The Insurance Council of Australia looks forward to working with the newly established Hazards Insurance Partnership and seeing the results of investments from the Disaster Ready Fund*,* both initiatives that we strongly support.

In addition to these initiatives, we welcome the decision of National Cabinet to task Planning Ministers to develop a national standard for considering disaster and climate risk, and Treasurers to consider ways to improve insurance affordability.

Our industry is made up of 60,000 people who collectively serve to protect Australia and Australians from the full impact of loss, damage, and disaster. Insurance is vital, not only to protect assets such as homes, businesses and livelihoods, but to help communities recover from disaster.

Recent years have seen our members work across Australia to respond quickly to disasters when they occur and help communities get back on their feet. This includes the east coast floods last year, which we now know were the costliest insurance event in Australia's history and the second costliest in the world in 2022.

Our extensive experience responding to worsening disasters is why as an industry we have long called for more investment and greater collaboration to better protect Australian communities from the impacts of extreme weather.

The Insurance Council is ready to continue working with the Commonwealth in the 2023-24 Budget to develop further positive policies to improve the affordability and availability of insurance in a changing climate, and address disaster mitigation, land use planning, building codes, data investment, cyber security, and regulatory reform.

This submission sets out the areas of policy that insurers have identified as requiring reform, modernisation, or investment, and is the result of collaboration and consultation not just across the membership of the Insurance Council, but with stakeholders and policymakers across the country.

Together, this suite of policy proposals will support all Australians to recover more quickly from unexpected events and be better prepared for the future, and we strongly recommend their adoption in the 2023-24 Budget

We would appreciate the opportunity to brief you and your office, the Treasurer and other relevant Ministers on the proposals in this submission.

Regards

Andrew Hall
CEO and Executive Director

Investing in mitigation

The ICA welcomes the establishment of the Disaster Ready Fund (DRF) from 1 July 2023, with up to $200 million to be invested annually in disaster mitigation for five years from 2023-24. This follows a recommendation from the Productivity Commission in a 2014 report that the Commonwealth Government invest $200 million annually, matched by the states and territories.

Australia's experience with disasters over recent years, including the 2019-20 Black Summer bushfires and flooding across eastern Australia last year, shows why investing in disaster mitigation is vital to protect lives and property from worsening extreme weather driven by a changing climate. Insured costs alone from disasters last year reached $6.762 billion, with the February-March floods the costliest insurance event in Australian history and the second costliest in the world in 2022.

Research commissioned by the Insurance Council from leading actuarial consultancy Finity showed that a five-year program of resilience measures costing approximately $2 billion would be expected to reduce costs to governments and households by more than $19 billion by 2050, delivering a return on investment of almost 10 times nationally. A program of this size could be delivered by budgeted funding from the DRF when matched funding from the states is included.

Given the long-term challenges posed by worsening extreme weather in Australia, investment in disaster resilience will clearly be required well beyond the 2028-29 end date for budgeted DRF spending. To enable communities and governments to plan and develop a pipeline of these investments, the Insurance Council believes that Commonwealth disaster mitigation funding must move to a rolling ten-year program, as occurs with funding for land transport infrastructure and defence spending.

A rolling ten-year program would align with the Government's stated objective, as outlined in the DRF Guidelines, that "*The DRF is intended to be an enduring fund, to provide all levels of government and affected stakeholders the certainty they need to plan for robust investments in resilience projects to reduce the impacts of disasters predicated by natural hazards*". A ten-year program would provide much needed certainty and enable communities, insurers, and governments at all levels to develop a long-term, high-quality pipeline of projects that targets high risk areas, delivers the best return on investment and puts downward pressure on premiums.

A ten-year funding profile would also allow consideration of more flexible DRF Guidelines that could lead to higher-quality, longer-term projects. Were a ten-year program to be established, the Government could consider removing the three-year project time limit and allowing states to submit projects for consideration at any time, rather than being confined to time-limited funding rounds. This would enable state governments to submit more comprehensive plans for funding approval, including projects that may require planning and construction over more than three years.

In this Budget, mitigation funding should also be indexed from 2023-24 so it does not fall in real terms, as will occur under current arrangements. This would reflect decisions taken in other ongoing programs, such as changes made to homelessness funding delivered under the National Housing and Homelessness Agreement. Resulting additional spending could be delivered through legislated changes to the DRF or via other mechanisms funded through consolidated revenue.

A ten-year, indexed program would cost the budget approximately $2.5 billion over the medium term[1], $1 billion less than the cost of disaster recovery payments and allowances in 2022 alone.

Disaster funding must be matched by the states and territories. The ICA commends the Government for requiring a matched contribution from the states for all projects approved under the DRF. The Commonwealth may wish to incentivise high-quality investments by providing greater than 50 per cent funding for high-ROI projects in identified high risk areas.

To ensure the maximum return to the community, the Government should commit to investing the full amount of budgeted funding each year to mitigation projects and, if this does not occur, to rolling uncommitted funding into later years.

Insurers have significant experience in disaster risk analysis and data on these risks. All governments should work with insurers, including through the Hazards Insurance Partnership, to understand the risks of disasters in different areas of Australia and identify the mitigation projects that deliver the greatest ROI for the community and help put downward pressure on premiums.

Given that disaster mitigation requires a whole-of-government approach across all states and territories, involving fiscal, planning, environmental and emergency management considerations, the National Cabinet agenda should include a regular (at least bi-annual) discussion of this important topic.

The 2023-24 Budget should:

- Building on the five-year disaster resilience funding announced in the October 2022-23 Budget, move disaster resilience funding to a ten-year rolling program, as already occurs for land transport and defence funding.
- Index disaster mitigation funding from 2023-24 so it does not fall in real terms, as occurs under current arrangements.
- Include a commitment to investing the full amount of budgeted funding each year into disaster mitigation projects and, if this does not occur, to rolling uncommitted funding into later years.
- Identify risk mitigation projects, in partnership with industry, that deliver a significant return on investment and help put downward pressure on premiums, working with insurers through the Hazards Insurance Partnership.

Land use planning

The disasters experienced in Australia in recent years have highlighted the need for policy settings that more precisely, consistently, and deliberately consider the relationship between land use planning and extreme weather risk. Greater precision, transparency and consistency is needed to ensure extreme weather risk is assessed and addressed in planning across Australia.

Too many homes are in the direct line of flood, fire, or at risk from the sea, because at the time of planning and approval not enough account was given to the extreme weather risk. Many of these properties are now cheaper to buy or rent because of this risk, and some are home to

[1] Using Budget assumptions of CPI over the forward estimates and assuming CPI remains at 2.5 per cent in the medium term.

those who are least able to afford adequate insurance, compounding the impact of an extreme weather event.

Insufficient mitigation at the planning stage and a deficiency of effective resilience in construction increases risks and results in higher insurance premiums. These problems are compounded by the shortage of affordable housing and the location of jobs.

As populations expand, the pressure for new houses to be built in higher risk areas will grow. The threshold of acceptable risk needs to be reconsidered and the consequence of extreme weather, not just the probability, taken into consideration.

The Insurance Council strongly agrees with the National Cabinet that the days of developing on floodplains need to end and welcomes the development of a national standard that considers disaster and climate risk as part of land use planning and building reform processes. Alongside the development of a new national standard, the Insurance Council is urging state and local governments to focus on avoidance, mitigation, and the impacts of a disaster at the time of planning approval. Future financial losses and costs to homeowners, businesses, governments, and the community can be avoided with better government planning and investment.

Administration of land use planning is made more difficult given divided responsibilities between state and local government. Local governments have limited resources and on many occasions information that is incomplete, potentially inaccurate, and out of date. Floods do not respect local government boundaries and hazards are usually managed over multiple council areas, with actions in one Council potentially impacting another. In some cases, decisions by local councils are overridden by independent planning panels, creating further complexity.

Understanding the risk framework posed by extreme weather at a regional and local level will significantly enhance the ability of planning instruments, and the decisions made within them, to be undertaken fully cognisant of current and emerging risk. Planning should be state-led and catchment-based, incorporating flood risk and utilising water catchment boundaries rather than local government boundaries.

The capacity to accommodate new dwellings should be understood before the setting of housing targets for local governments. Councils should provide input into the strategic planning at the catchment level and receive direction from the State on where housing should not be planned as part of the development of regional plans.

When communicating the risks of flooding, all Governments must better explain the meaning of ‘one in one-hundred-year flood’ risks, which has been mistakenly understood to mean a property should flood once in every one hundred years. In reality, a one per cent chance of flooding each year means a property is more likely than not to flood significantly at least once in 70 years[2].

The 2023-24 Budget should:

- Provide any necessary resources required for the Government, working with the National Cabinet, to finalise the development this year of a national standard for considering disaster and climate risk in land use planning.

[2] A one per cent annual chance of flooding equates to a 50.3% chance that a property will flood at least once in seventy years.

National Construction Code and building standards

Increasing severity and / or frequency of extreme weather events will require more resilient buildings to better protect Australians. To enable this, the principle of resilience must be embedded in the National Construction Code (NCC).

The NCC is developed by the Australian Building Codes Board (ABCB) with consideration of issues of building design, construction, performance and livability that are the minimum necessary to achieve health and safety, amenity and accessibility, and sustainability. It is of significant concern that the NCC is not required to consider the resilience of buildings in the context of a changing climate.

The Commonwealth should, via the Building Ministers' Meeting and ABCB, support amendments in the next round of review to the NCC and relevant Australian Standards to prioritise building resilience and consider current and future climate projections.

The 2023-24 Budget should:

- Include funding to support amendments in the next round of review to the NCC and relevant standards to include minimum technical requirements for building resilience that take account of current and future extreme weather events and climate projections.

Cyber security

Recent high-profile incidents involving the theft of customer data from Optus and Medibank highlight the growing risks of cyberattack. Although cyber-attacks on such large corporates are high profile, small and medium size businesses are most vulnerable. The Australian Cyber Security Centre received over 76,000 cybercrime reports in 2021-22 – equivalent to one every seven minutes – up 13 per cent from the previous financial year.

Cyber insurers provide rapid response support in the event of a cyberattack and financial support for forensic investigation, data restoration, customer notification and rectification, and indemnification of penalties imposed by regulators. Where the data breach is due to the malicious act of a foreign state actor or criminal gang, coverage may include costs related to the services of a negotiator, legal advice to determine if any ransom payment is legal or reportable, and indemnification of the ransom if the business decides to pay.

Cyber insurance remains a specialist line of insurance in Australia, in part because of the specialist nature of cyber risk assessment and the need to provide rapid response support to clients to limit the severity of a cyberattack. Several insurers provide free advice to businesses as part of their initial assessment of a prospective policy holder. Large insurers have not entered the market and are excluding silent or implied cyberattack exposure from their property and other insurance products, which means cyber insurance must be purchased as a standalone policy.

Rising incidence of cyber-attacks, including ransomware attacks, have driven large premium increases over the last few years. There is an urgent need for government to improve cyber resilience among businesses. This should include a review of legislation that requires personal data retention with the aim of minimizing the harm resulting from a data breach, and initiatives to address cyber resilience, including governance, people, and ICT infrastructure.

Catastrophic cyberattacks pose an accumulation risk to the cyber insurance market. Such a cyberattack could potentially exceed the capacity of the private insurance and reinsurance markets. A catastrophic cyberattack could potentially trigger concurrent claims across insurers' portfolios and costs to businesses that are above claims caps. It is important to note that a large proportion of businesses that suffer a cyberattack do not fully recover leaving a scar on the economy. Government may have a role in providing reinsurance for catastrophic cyber risk.

The Insurance Council welcomes the Government's intention to develop a new cyber strategy to replace the earlier strategy from 2020. The strategy, in addition to the Budget, provides an opportunity to address the issues above and establish a partnership framework with insurers.

The 2023-24 Budget should:

- Establish a cyber insurance partnership to develop new cyber resilience initiatives that improve the cyber risk environment and support accessible and affordable insurance for businesses.
- Initiate a review of legislation requiring personal data retention by businesses with the aim of minimising the harm from data breaches.
- Include funding for an investigation into the consequences and reinsurance options for catastrophic cyberattacks, including government backed reinsurance, and the related issues of cyber acts of war and cyber terrorism.
- Progress engagement with stakeholders on the new cyber strategy.

State taxes and charges

The ICA welcomes the decision of National Cabinet to task Treasurers to consider ways to improve insurance affordability.

A key barrier to insurance affordability is the imposition of unfair and inefficient state taxes and charges, such as stamp duty and levies to fund emergency services. These can drive up premiums by 20 to 40 per cent.

Multiple government reviews have criticised the impact of taxes on insurance, including the Henry Tax Review, Thodey Review of Federal Financial Relations and ACCC Northern Australia Insurance Inquiry. According to a 2015 report, the abolition of all state taxes on insurance and replacement with broad-based land taxes would lead to a $5.52 billion net increase in household spending capacity each year.[3]

The Commonwealth and state and territory Treasurers, through the Council on Federal Financial Relations, should consider ways to remove inefficient taxes on insurance as a means to improve the availability and affordability of insurance.

The 2023-24 Budget should:

- As part of the Commonwealth Government's work to lead the Council of Federal Financial Relations to consider ways to remove inefficient taxes on insurance, include consideration of providing incentives to the states for reforms that improve the availability and affordability of insurance.

[3] [10] Deloitte Access Economics, 2015, 'Impact of Removing Stamp Duties on Insurance'

Investing in better data

Worsening extreme weather is having a direct impact on the affordability and availability of insurance and the wellbeing of Australian communities, homes and infrastructure. The development of a robust, national hazard database that streamlines existing national, state and territory datasets, that is accessible to all levels of government, industry and the Australian public can play a critical role in improving and standardising our understanding of climate risk and how we prepare for it.

National public baseline of climate risk

The Commonwealth should work with state and territory governments to update, standardise and make publicly available climate hazard data, considering long-term time horizons and prioritising the high impact perils of flood, bushfire, cyclone and coastal erosion. This data should consider all possible perils to help establish a national public baseline that can better inform land use planning, building codes and standards and understanding of current and future risk.

The lack of a data standard, combined with incomplete or inconsistent approaches to publishing risk information, can lead to uncertainty for insurers.

Disaster resilience and impact registers

The Commonwealth Government should work with the states and territories to develop a national register of historical disaster impact data to improve understanding of impacted areas. This should be supplemented by a nationally consistent register of buildings – containing important risk and resilience characteristics such construction features – to assist the community, emergency services and insurers to understand risks, and of coastal defences.

Post Event Disaster Information

Insurance companies are swift to respond to catastrophic events, however incomplete and inaccurate information can reduce the effectiveness of the industry's response. More detailed warnings, updated information regarding active events and open communication channels enable insurers to move resources to the most impacted areas faster, offering the maximum benefit to affected communities. Governments should improve the accuracy, availability, and timeliness of catastrophic event information.

The 2023-24 Budget should:

- Include funding to allow collaboration with state and territory governments to:
    - Update, standardise and make publicly available climate hazard data, considering long-term time horizons and prioritising the high impact perils of flood, bushfire, cyclone and coastal erosion;
    - Develop an impact register which includes a footprint of historical hazard event data to improve understanding of impacted areas, prioritising high hazard zones;
    - Develop a Coastal Defence Register which includes a database of coastal defence works, including the standard of protection offered to different hazards, age, maintenance regime and cost; and
    - Develop a nationally consistent asset register of buildings containing important risk and resilience characteristics, prioritising high hazard zones first. This could

include information such as: housing construction type, roof type, year of construction, and floor height.

- Assist state and territory governments to improve event monitoring through periodic and post-event high-resolution surveys, including by providing Australian Defence Force assets where requested.

Electric vehicles

Electrification of Australia's transport sector, including the electrification of passenger and commercial vehicles, will play an important role in the transition to net zero. Insurers are seeking to reduce emissions across their operations, underwriting and supply chain, and a faster transition to electric vehicles in Australia will facilitate this. Insurers and governments can work together on a range of policies to accelerate this transition.

Training EV technicians

Skill shortages in EV repair can contribute to delays in repairs, increasing costs and inconvenience for consumers. To address this skills gap, the Commonwealth should work with the states and territories to prioritise and fund micro-credentials in EV repair to assist in upskilling existing mechanics and add EV repair to state-based training programs for school leavers. Governments should also work to improve access to technical information on EVs to enable them to be safely repaired.

The Government should use the New Energy Skill's program to incentivise and support all states and territories to establish pilot programs to train EV technicians. The Victorian Government has already established a pilot program to upskill 500 electricians and inform a new course that will be funded through its Workforce Training Innovation Fund. The new course is supported by the Electric Vehicle Council, EV Choice, Energy Safe Victoria and Future Energy Skills.

Future-proofing homes for EVs

EV uptake is accelerating, and it is vital Australian homes are ready for this change. The market share of EVs increased by 65 per cent in 2022 to 3.39 per cent of new car sales.

The Government should consult with insurers and other relevant industries regarding the potential risks and new opportunities created by charging infrastructure upgrades, including a greater focus on compliance with existing standards on EV charging installation to ensure the safe installation and operation of EV chargers.

The 2023-24 Budget should:

- Include funding out of the New Energy Skills Program for willing states and territories to establish pilot programs to train EV technicians.
- Include funding to support collaboration with state and territory governments, insurers and other relevant industries to develop a path for insuring and encouraging the uptake of EV home charging infrastructure.

Tort law reform and risk management

The Australian public liability insurance market continues to harden, creating insurance affordability and availability problems for SMEs, particularly those in the hospitality, live-music, caravan park, amusement park, leisure and tourism sector. Many operators in these sectors are struggling to maintain appropriate public liability insurance cover, threatening their ongoing viability.

In response to this is issue, in 2021 the Insurance Council released a report into the availability and affordability of commercial lines insurance, and subsequently established a Business Advisory Council bringing together key business groups including COSBOA, the ASBFEO and ACCI to explore possible solutions.

Insurers have struggled to maintain profitability of public liability insurance over the past three years, often experiencing combined loss ratios of over 100 per cent (meaning payouts were higher than premiums received). The hard insurance market, characterised by scarce capital, difficult to obtain reinsurance, high regulatory activity, claims inflation and rising cost of litigation and settlements means that insurers are increasing premiums or unwilling to insure sectors because of the inherent nature of the activity, poor risk management, or both.

Tort reform has not been undertaken since 2001-02. Given the development of case law, the emergence of new industries and the current difficulties some businesses face in obtaining public liability insurance, a further examination of civil liability settings and whether they remain fit-for-purpose and support availability and affordability of insurance should be undertaken.

The use of statutory defined benefit frameworks for personal injury claims (similar to those used in CTP and workers compensation schemes) should be considered. This could provide greater underwriting certainty, reduce claims costs and durations, improve health outcomes for injured people and increase the affordability and availability of public liability insurance for businesses.

Insurance affordability and availability is also driven by appropriate risk mitigation and management. The implementation of appropriate risk mitigation standards play an important role in helping businesses and organisations implement necessary risk reduction measures that will reduce risk of injury to people and put downward pressure on premiums. The Government should fund a program of up to $2 million per year to provide training and education grants to industry groups in high-risk sectors to improve risk management practices.

The 2023-24 Budget should:

- Include funding for a national review of tort law and civil liability arrangements to examine the impact legislation is having on SMEs, in particular their ability to access appropriate insurance.
- Establish a program with funding of $2 million per year to provide training and education grants to industry groups and improve risk management and national standards across sectors experiencing higher frequency of personal injury liability claims.

Lenders Mortgage Insurance

Lenders Mortgage Insurance (LMI) is an important component of Australia’s housing market. By reducing credit risks to lenders, LMI enables more Australians to achieve the dream of home ownership earlier.

Programs that support buyers to enter the market with smaller deposits, such as the Commonwealth’s Home Guarantee and Help to Buy Schemes and other state-based schemes, put pressure on the viability of the LMI market by displacing a proportion of potential customers who could have entered the market using LMI. Participants in these programs are likely to be those with lower default risks, increasing the average risk of the remaining potential pool of LMI customers.

The Government should closely evaluate the effect of existing and future housing policies on the LMI market to ensure that the market remains competitive, and homebuyers are able to access the insurance they need to enter the housing market.

The 2023-24 Budget should:

- Continue to evaluate the effect of both planned and existing housing policies on the LMI market to ensure homebuyers remain able to access LMI in a well-functioning and competitive market.