

26 November 2024

Ms. Bronwyn Weir
NSW Home Building Compensation Review

Via email HBCF.Review@sira.nsw.gov.au

Home Building Compensation Fund – Review

The Insurance Council of Australia (ICA) thanks the State Insurance Regulatory Authority (SIRA) for its invitation to provide a submission on the review of the Home Building Compensation Fund (HBCF).

This submission complements verbal feedback ICA provided you as part of your industry consultations on the Fund in August 2024. ICA's key comments and observations in relation to the HBCF are:

- Historically, insurers have experienced losses when participating in the NSW scheme (and in other states) and these commercial realities continue to restrict insurers' involvement.
- The HBCF requires reform for it to become sustainable – insurers' involvement in the scheme is dependent on the viability and sustainability of the insurance product going forward.
- In conjunction with these HBCF reforms, ongoing effort is required to modernise the state's building regulatory framework to minimise defects and to implement the recommendations of the *Building Confidence Report*,
- ICA supports the HBCF model remaining mandatory, as a voluntary scheme would be ineffective in providing 'last resort' financial protection to consumers from defective or incomplete residential building works.
- Consideration should be given to Insurer funded and guaranteed work being exempt from the HBCF given the extensive warranties provided by APRA licensed insurers.

By way of background, the Insurance Council is the representative body for the general insurance industry in Australia and represents approximately 89% of private sector general insurers. Our membership is diverse, ranging from large ASX-listed companies to medium and smaller insurers who offer bespoke products.

General insurers perform a critical role in the Australian economy, assisting individuals, small businesses, and communities to become more resilient and financially recover from loss or damage to their insurance assets.

In that respect, ICA recognises the importance of the HBCF as an important safety net for homeowners in NSW faced with incomplete and/or defective building works.

ICA notes the Review's Terms of Reference to improve the operation of the HBCF, including its focus on reviewing the feasibility and desirability of a multi-insurer market for the HBCF and, if so, to recommend additional actions to facilitate this.

The Insurance Council supports and encourages a competitive insurance market, which is fundamental to driving efficient pricing, innovative products and services. In that context, we support models that facilitate effective competition for the provision of sustainable insurance products and services.

However, it is important to recognise that the structure of the HBCF currently presents significant sustainability challenges for the insurance industry. In the past, private insurers have experienced losses when providing this scheme in other jurisdictions, and these commercial realities have significantly restricted industry's involvement in the scheme.

ICA draws to the review team's attention our attached previous submission to the NSW Government as part of its 2016 review of the Reform of the Home Building Compensation Fund. The ICA's position on the HBCF remains relatively unchanged to that which we expressed as part of the 2016 review. This includes our view that the industry requires a HBCF mode that remains mandatory, not voluntary.

The failure of the voluntary insurance models previously adopted in other jurisdictions, such as Tasmania and Western Australia, illustrate that a voluntary scheme would not be effective in providing 'last resort' financial protection to consumers from defective or incomplete residential building works.

ICA also reiterates its call to exempt from the HBCF, insurer funded and guaranteed work. Insurance companies' builders should be exempt from requiring insurance where an insurer is already providing a guarantee for the works. As outlined in our submission, the warranties provided by APRA licensed insurers are extensive and can include lifetime warranties on building repair works. In addition, some insurers also have extensive quality assurance measures in place to ensure that building repair work is completed to an appropriate standard.

The cost impost on insurers in NSW can be quite significant. Whilst repair value does vary, if we consider that on average there were 15,000 claims where repairs exceeded \$20,000 - the cost to the industry in NSW would be a minimum of \$4.5 million with an average of \$300 per insurance policy¹.

As the cost of repairs continue to increase due to supply and demand, the cost for insurer builders to possess the insurance will also rise. Extensive warranties provided by insurers should be considered sufficient coverage for insurance related repairs.

Whilst we continue to encourage measures to improve the viability and sustainability of the Fund (which may facilitate greater private sector involvement in the future), we reiterate our observations expressed to government that the HBCF requires reform for it to become sustainable.

Future private sector involvement in the Fund is dependent on the viability and sustainability of the insurance product. Factors which impact this include the scope of the coverage and the timeframe to bring a claim, both of which significantly impact underwriting risk and the affordability of the product.

The ICA notes the NSW Government is currently implementing a range of reforms to the state's building regulatory framework, and a number of these are consistent with recommendations of the *Building Confidence Report*. The ICA is supportive of these building reforms, particularly those designed to address the prevalence of building defects and looks forward to these underpinning future improvements in the NSW building and construction industry. In that context, the insurance industry will continue to monitor the outcomes and impact of the reform process and will assess these outcomes as part of its consideration of any potential future involvement in the HBCF.

¹ [1] Hypothetical numbers provided to demonstrate cost to the general insurance industry.



Thank you for the opportunity to provide feedback on the review process and we would be happy to discuss these matters with you further.

Regards,

A handwritten signature in blue ink, appearing to be 'Andrew Hall', written in a cursive style.

Andrew Hall
Executive Director and CEO