
NATIONAL DISASTER INSURANCE REVIEW

SUBMISSION BY

DR ALLAN MANNING AND MR MAX SALVESON

**IN RESPONSE TO THE EXECUTIVE SUMMARY AND
QUESTIONS POSED IN THE AUSTRALIAN
COMPETITION AND CONSUMER COMMISSION
NORTHERN AUSTRALIA INSURANCE INQUIRY –
ISSUES PAPER.**

Background information for each respondent

Professor Allan Manning is Chairman and founder of LMI Group established in 1999 to provide public adjuster services to policyholders in Australia and elsewhere as well as loss adjusting services for selected insurers and underwriting agencies.

The business has expanded considerably since inception to both pre and post loss services which include claims preparation, loss adjusting, legal, risk management, risk engineering, risk surveying, policy reviewing, policy drafting, forensic accounting, sum insured reviews, business continuity management planning, as well as on-line research, comparison and calculator tools including LMI PolicyComparison, LMI BICalculator, LMI RiskCoach, LMI ContinuityCoach and LMI PolicyCoach. Through the Financial Services School, the organisation also provides training, publications and textbooks.

Professor Manning's work experiences and qualifications are:

Professional Qualifications

Doctor of Business Administration

Master of Business Administration

Bachelor of Commerce

Fellow, CPA Australia

Fellow, Australian & New Zealand Institute of Insurance & Finance (Honorary Life Member)

Fellow, Chartered Insurance Institute (UK)

Fellow Chartered Loss Adjuster

Fellow, Chartered Institute of Loss Adjusters (UK)

Chartered Insurance Practitioner (UK)

Fellow Institute of Insurance Claims Professionals

FUEDI European Loss Adjusting Expert

Professional Experience

Allan founded the LMI Group in 1999; a firm dedicated to providing a high level of customer service and technical expertise in pre- and post-loss insurance services. Allan created the concept of the highly popular LMI PolicyComparison, which is a web-based training and comparative tool for the insurance industry; together with LMI BICalculator, an online service that assists in setting an accurate business interruption sum insured; and the business continuity management system, LMI ContinuityCoach.

For over 48 years, Allan has managed large and complex losses involving major property, business interruption including advanced consequential loss, fidelity,

construction and liability throughout Australia, Asia Pacific, Europe and North America. Assignments have been completed for many multi-national companies, as well as government organisations and small to medium-sized enterprises (“SMEs”).

His lifetime of experience in managing major losses proves invaluable in this area. Allan and his colleagues have assisted the Department of Foreign Affairs in developing a publication on building resilience in countries and has completed a modelling exercises for both the Victorian Police and the Australian Reinsurance Pool Corporation.

Allan has lectured at Victoria, RMIT and Melbourne Universities on a range of insurance subjects and has delivered over 1,250 seminars on various topics including risk management, ISR policies, and business interruption. He holds the post of Adjunct Professor at Victoria University in the faculty of Law and Justice. He is the author of 16 books on insurance, including Business Interruption Insurance & Claims: A Practical Guide and the 3-volume set, Understanding the ISR Policy. In 2019, Allan was rated one of the top 20 most influential leaders in the Australian insurance industry for the 9th year running. He is an Honorary Life Member of the Australian and New Zealand Institute of Insurance and Finance. In 2012, Allan was honoured being awarded the Lifetime Achievement Award at the Australian Insurance Industry Awards.

Max Salveson career in the insurance commenced in 1950 and continues currently in a consultant role to LMI Group. His experiences encompass claims management, policy drafting and design for insurers and insurance brokers, general insurance underwriting, loss adjustment, claims preparation for insureds”, policy development and conducting risk audits of SME companies.

Insurance industry roles include but not limited to, President of the Insurance Institute of Victoria, Chairman of the Victorian Regional Board of Insurance Council of Australia, Member of the Victorian Fire and Accident Underwriters’ Association Council’s Accident Insurance & Interpretations Committee, Treasurer of the former Australian Insurance Institute, Honorary Life Member of ANZIIF, Victorian Manager of GRE Insurance retiring as Assistant General Manager responsible for Underwriting business in Australia, PNG and Western Pacific Countries, Director of the Victorian Managed Insurance Authority (VMIA) on the establishment of that organization and, Chairman of the Claims and Technical Committee of VMIA for 13 years.

Max Salveson was appointed a Member in the General Division of the Order of Australia in the Queen's Birthday Honours List on 12 June 1995 and awarded the Commonwealth of Australia Centenary Medal *“For service to the insurance industry”* in May 2003.

Insurance qualifications and memberships list includes:

- Senior Associate and CIP of the Australian and New Zealand Institute of Insurance and Finance
- Associate Fellow Australian Institute of Management
- Member Australian Institute of Risk Management
- Member Australasian Institute of Chartered Loss Adjusters Ltd

The career experience of both respondents encompasses:

- The Tariff period where uniform retail insurance policies were usually two large page documents covering defined perils with limited exclusions.
- Claims management and loss adjustment practices in and beyond the Tariff period.
- Loss adjustment practices in the tariff period where the principles of Messr, Swanton in Sydney, Crane, McGee and Benjamin in Melbourne and other leading loss adjusters were applied to manage the claims process as independent parties (despite their legal status), to ensure the application of the utmost good faith in loss adjustments, that delivered to insureds the benefits they were entitled to receive under their policies.
- The insurance industry's greater awareness of the extent and impact of fraud and dishonesty on policy holder funds since the 1970's if the management of the front end of claims is not properly addressed and managed.
- Changes in responsibilities within the larger composite general insurers whereby the role of the underwriter is now focused on drafting the terms of cover and setting premium rates, and claims departments are charged with the separate responsibility of interpreting policy cover, payment of claims and instructing loss adjusters in both process and technical matters to prevent "leakage" of policy holder funds from disclosure issues, fraud and/or dishonesty.
- Loss Adjusters and other service providers are left to the procurement department who purchase the services based primarily on price at the expense of on expertise, qualifications, and/or customer service and often without the input of claims managers.
- In the search for reduced costs of administration entailed in underwriting and accepting cover, the movement by insurers to automatic acceptance of risk over the internet based on an intending insured's answers to underwriting questions online, has inevitably led to a review of the correctness of that information at claims time. Whilst necessary in these cases, the practice is not conducive to

customer satisfaction.

- The rise in consumerism and debate over social media whether facts are right or wrongly presented to them by insureds affects the reputation of the general insurance industry, quite often unfairly and are given a great public airing. This is affecting the public perception of insurers in the absence of any program of publishing good news by Insurance Council of Australia as the industry body.
- The demise of uniform insurance policies, the current overload and cost to insurance underwriting practice from the system of providing consumers and potential consumers with written information and the expansion of Product Disclosure Statements (“PDS”)¹ wordings in the continuing quest to clearly explain all facets of cover and exclusions resulting in very complex documents which very few people will ever read at the time when they enter into an insurance contract.
- An active role in the insurance industry’s proud delivery of insurance indemnities over long period of time to insureds suffering loss, damage or destruction from natural peril catastrophe events enabling them to rebuild their lives and assets.

Our conclusions

1. We accept the fact that the processes commenced following the General Insurance Law Reform review resulting in the introduction of the *Insurance Contracts Act* (Cth) 1984 and the Regulations require continual review and renewal.
2. The changes introduced in 1985 were accepted in good faith by insurers providing a necessary and timely review of industry practice.
3. The continuing expansion with so many matters to be clearly explained is reaching a situation where the system is at risk of overload and further burdened with higher costs of administration.
4. We consider that further changes in documentation must be governed by the following rules:
 - (a) not overloading product costs. Further changes should be confined to those only found absolutely necessary in the public interest; and
 - (b) not shifting interests more in favor of consumers against those of the insurer

¹ Why do we need to introduce such terms as PDS when the contract of insurance has been called an insurance policy for hundreds of years all around the world? Do such changes really help the appalling lack of financial literacy in this country? If we wish to take out the mystic and complexity of insurance why not start with the name of the document and reduce the length of the document, not add to it when the past changes have only gone to reduce the number of people who read and understand the policies?

without hard evidence that this is required to reinforce the principle of the utmost good faith.

5. We are concerned about the necessity, practicality and extent of the changes embodied in the Inquiry's Second Update Report.
6. Our comments, responses and recommendations in relation to the findings of the Second Update report of the Northern Australian Insurance Inquiry are set out sequentially in Sections 1 to 4 of this document.

Signed by Dr Allan Manning



Signed by Max Salveson



Dated in Melbourne 5th September 2019

Section 1

SOME HISTORY IN THE DEVELOPMENT OF GENERAL INSURANCE

1.1 The Development and Role of Private Insurance

The modern business of property insurance underwritten by private insurers has its origins in England, following the Great Fire of London in 1666. Stock companies were formed with cover initially provided against the peril of 'fire'. The range of insurable perils has expanded considerably over time.

Insurers have a vital interest and role in reducing the incidence of loss, property damage and wastage in the community. Insurance premium rates are structured to reward favorable features that lessen the risk of loss and to penalise those that are adverse.

Underwriting is a conservative business, requiring proper definition of the cover provided, the assessment and quantification of the risks underwritten for the purpose of pricing, and the management of the portfolio of risks underwritten within the financial capacity of the company. History well documents the failure of insurers proceeding otherwise.

The development of property insurance and reinsurance practice has shown that insurers, far from being risk-adverse, have accommodated the challenges of providing property insurance coverage from the earliest of colonial times in Australia. Property insurances then, and now, have delivered the security needed for growth in trade and commerce.

Many types of insurance cover initiated by private insurers are now regarded as essential, and some are now mandatory.

1.2 Private Insurance and Government Responsibilities

Whilst cyclone damage has traditionally been covered by private insurers in Australia, certain other risks to property were originally regarded as beyond the capacity of private insurance companies to underwrite. This situation has prevailed not only here, but overseas as well. War and flood were originally placed in this category and, whilst protection against war damage remains the province of national Governments, there have been advances in providing cover against flood damage, with riverine flooding and water released or escaping from dams or water storages.

With the mounting values of property located in cyclone prone areas of Northern Australia, the potential value of claims is increasing at a significant rate placing insurers under pressure in relation to capacity and the challenge of balancing their risk portfolio's, including the extent of cross subsidisation of risks in cyclone areas by premiums paid on property located in other areas with lesser or no exposure to natural perils events.

The roles of local, state and federal Government in risk mitigation has been less than what was necessary, this is particularly the case in Queensland.

Following Cyclone Tracy and other major cyclone events, the work of James Cook

University in addressing construction standards for new buildings and better protection of existing buildings was at the forefront in addressing risk mitigation in building construction. Both state and federal Governments are now committed to provide annual funding for wider risk mitigation activities but the cost of 'catch-up' is major.

Providing insurance cover against loss from natural perils in high-risk areas therefore remains a problem for private insurers for several reasons, all of which are quite valid. This includes but is not limited to:

- 1) Managing risk with an indeterminate loss potential.
- 2) Financial risk to shareholder and policyholder funds and preservation of capital.
- 3) The growing accumulation of property values in Northern Australia.
- 4) Portfolio capacity for the insurer and the cost of backup reinsurance catastrophe support.
- 5) Absence of mapping upon which to properly/accurately underwrite natural peril business.
- 6) Past town planning failures in Australia, resulting in development of property on land subject to cyclone risk (including storm surge) and riverine flooding with inadequate focus in many areas on engineering or other matters to mitigate the risk of damage, thereby adding to the accumulated damage when such events recur.
- 7) The affordability of insurance premiums based on risk exposure and the incentive not to insure created by government grants and or public campaigns which make some members of the public question, "why is there any need for me to insure?".
- 8) Policyholders located in areas not affected by the problem, not wishing to subsidise the insurance costs of others who have chosen to live in high risk locations.
- 9) The introduction into the Australian market of insurers and underwriting agencies who are "cherry picking" the areas that they are prepared to underwrite risks which has created a move more to individual risk rating rather than the community rating model of the past.

1.3 Current issues affecting Residential Property Damage Insurance in Northern Australia

- 1) The payment of federal and state Government community grants for loss or damage to property and personal effects following major catastrophe events acts as a disincentive to private insurance. The practice and extent of payments requires review.
- 2) Some uninsured owners of property finish up better off than those who are insured.
- 3) Some householders for whatever reason continue to have no insurance.
- 4) The level of insureds without any contents insurance is much higher than for building owners.
- 5) Some householders have insurance, but an inadequate sum insured.

- 6) Reducing the percentage of householders having inadequate insurance cover.
- 7) The level of taxation, GST, with state government stamp duty charged at 10% on both the premium, which includes the Terrorism Levy, and the GST creates a double taxation which combined is substantially increasing the cost of insurance.
- 8) Those that can least afford not to have insurance are typically the ones that consciously elect not to insure. This can lead to a multigenerational cycle of poverty that is extremely difficult to escape from placing greater burden on government through social security payments.
- 9) A basic understanding of risk management and insurance is lacking in the community.
- 10) The emphasis on price and simplicity of insurance in insurance advertisements and in the selling of insurance by some intermediaries rather than focusing on the protection that insurance provides against personal risk, is not helping the situation.
- 11) Persuading insureds to exercise more responsibility in establishing sums insured that are adequate for the chosen type of policy cover they have selected.
- 12) The introduction of guaranteed replacement cost insurance cover by some insurers, but they are in the minority. The policies are usually issued without the USA system, where they are paying agents to undertake drive by assessments and to review where necessary.
- 13) Rising building costs (demand surge) in the aftermath of any natural disaster based on the law of supply and demand, specifically in relation to the availability of tradesmen to undertake the work which adds to the problem of underinsurance.
- 14) The adequacy of the sum insured limit to cover the cost of upgrading to comply with current building regulations including those introduced after the event which is an unknown cost of risk.
- 15) Some insurers have added a sum insured escalation factor of up to 20% to 30% after a state of emergency has been declared following any event, to assist with issues 8) and 9) above. LMI Group was instrumental in the introduction of this into commercial business pack insurance policies. In fairness to the insurance industry the vast majority of insurers adopted the approach taking a socially reasonable position.
- 16) The possible lack of choice of building contractor following a major event. Some insurers are now using their appointed team of building contractors to adjust claims and reinstate property.
- 17) Some householders want a cash settlement in order to leave the area without incurring the cost of reinstatement as provided by the policy conditions, raising the attendant problem of whether such payment will be based on the actual (indemnity) value of the property in accordance with the policy conditions, or the cost of reinstatement.
- 18) Cash settlements based on the quotations or price indications of people or firms who will never do the work is not a satisfactory situation without safety checks and the preparation of a detailed scope of works prepared by a qualified independent engineer.
- 19) Some householders will, with justification, want to hold the insurer to its promise

to perform the reconstruction process at the existing site, or elsewhere when applicable under the terms of the policy but are prevented from doing so by the insurer's 'option' in relation to the type or form of settlement.

- 20) Alternative accommodation expenses limited to 12 months may be inadequate due to delays in obtaining approval to rebuild and the limited availability of contractors to undertake the work. The option to buy extended cover is not usually offered other than by brokers.
- 21) Damaged property is mostly replaced *in situ* merely adding to the level of accumulated damage when the next event occurs.

1.4 Challenges in Relation to Residential Property Damage and insurance in Northern Australia

- 1) The dramatic increase in the accumulated value of property going forward.
- 2) What action can be taken which is feasible and possible in the way of risk mitigation to contain the community loss?
- 3) Whether the task of providing property insurance cover in its present form by private insurers is beyond the point of affordability of members of the public if insurance premiums are set on a proper risk-based assessment of loss?
- 4) Is it time to establish a new way of approaching the provision of property insurance for certain catastrophe perils that better enables to arrange insurance cover and lessen government outgoes on levies and grants after the event?
- 5) To address the implementation of necessary recommendations following the ACCC Inquiry that do not add an unnecessary or unbearable loading to existing costs of complying with Consumer Law.
- 6) How state and federal Government grants and payments can be better arranged to achieve desirable long-term outcomes and reduction of accumulating losses.
- 7) How can the current approach to allowing development to occur on land that is clearly unsuitable be changed to prevent families and business owners to be set up to fail.
- 8) In line with Point 7 above the same applies to inappropriate construction techniques and products.

Section 2

OUR RESPONSE TO THE DRAFT RECOMMENDATIONS

Draft recommendation 3.1.2 – Insurers should estimate a sum insured for customers

Final recommendation as follows:

The Insurance Contracts Regulations should be amended to require insurers to estimate an updated sum insured for their home insurance customers and advise them of this estimate on their renewal notice.

This estimate should note when the information used by the insurer to form the estimate was last updated by the consumer and direct the consumer to contact the insurer if renovations/alterations to their home had occurred since then. Where the sum insured estimate is materially higher than provided for under the policy, the renewal notice should also include a warning to the customer about the dangers of their property being underinsured.

Chapter 7 of the Corporations Act should be amended to exclude advice by an insurer fulfilling this obligation from being considered personal financial advice.

Comments

1. We do not accept that this recommendation is practical if mandated in its present form. It will add to insurer responsibilities and costs. For its validity, an insurance contract is one requiring the utmost good faith with shared responsibilities upon each party. Historically, the onus of choosing the sum insured is the insured's responsibility as the party knowing the full details of their building and its appointments.
2. With the now widespread introduction of 'reinstatement' as opposed to 'indemnity' policies, if insurers are in future to be required down to drill down and hold such detailed information about an insured's property, this will add significantly to the costs of underwriting and administration. This recommendation is in effect increasing the onus on insurers to come up with figures because of insureds failing to do so in their own interests.
3. We would point out that prior to the Canberra bushfires of 2003, some insurers automatically indexed the sums insured in line with what building cost indices suggested was reasonable. Following the fires, many people found they were over insured and this caused poor publicity for the insurance industry with insureds claiming they had been over charged and or where not receiving their full entitlement based on the sum insured. To accurately determine the actual cost of reinstatement of homes would greatly increase the cost of insurance and it is for this reason that this approach has not been universally adopted.
4. Renewal documentation provided by most insurers typically already stresses upon insureds the importance of reviewing their sum insured against current costs and variations made to the property.

5. Notwithstanding the proposed change to Chapter 7 of the *Insurance Contracts Act* (Cth) ("*ICA*"²) care is needed that any change in responsibilities for setting sum insured values does not lead to insurers being legally liable for inadequate sums insured. This would be pushing consumerism too far and would be unfair and unwarranted.
6. Differences in rebuilding costs between insurers will add further complexity and possible confusion for insureds making comparisons.
7. If the proposal to amend the *ICA* is taken up, we would recommend that the Act be amended to certify a single advisory construction costs guide applicable to construction work at the relevant time (updated annually or quarterly) prepared by either the Housing Industry Association or Master Builders Association in each state. Insurers can show this on their websites and attach a copy to renewal notices for insureds to use. This would avoid adding further insurer system and administration costs as a component of premium.
8. The form would show examples of styles of buildings for the intending insured to identify with a tick the example most relevant to their property, seek construction details, size, special features, number of rooms and on the reverse show relevant building costs for each category of property and an example of the process to calculate an estimated cost of replacing the dwelling.
9. For standardisation, the terms of the Prescribed Policy wording should then be amended to:
 - (a) Index the sum insured quarterly by the relevant building cost inflation index provided by the Australian Bureau of Statistics; and
 - (b) provide for an additional 20 or 25 percent for increased building costs following a natural disaster.
 - (c) Insureds would be at liberty to increase or decrease the suggested sum insured.
10. Apart from the cost of supplying the information to Insureds when the contract is being arranged and at renewal, this recommendation will not inflate premiums.
11. It should be the responsibility of ASIC, in managing the processes of the *ICA*, to procure and promulgate this information each quarter.

Recommendation

Adding additional costs to insurance must be avoided for obvious reasons. The focus must be on making insurance more affordable not placing further cost burdens which will ultimately be passed on to consumers. We do not accept the current final recommendation in its present form. The variation suggested above is recommended as the basis for any future approach.

² We use *ICA* [in italics] to differentiate the *Insurance Contracts Act* from the Insurance Council of Australia, also often referred to by its initials ICA.

Draft recommendation 3.1.3 PDS and KFS support clear disclosure and should be prominent and published online.

Final recommendation:

The Insurance Contracts Regulations should be amended to require insurers to publish key facts sheets and product disclosure statements online in a prominent manner and alongside the relevant products.

These documents should be accessible prior to the commencement of the online quoting process, and accessible throughout the entire quoting process. This will facilitate more timely and convenient access for consumers to important information about products they are interested in buying.

Comments

The Regulations to the ICA already contain Key Fact Sheets for home building and contents policies.

The further request for disclosure of further key facts in addition to those listed in the Regulations and as provided in the PDS statement continues the important process of providing information to insureds and intending insureds.

The PDS statement currently includes an initial summary of cover in the information section followed by the full policy wording. It is evident that insureds do not read these documents and most purchasing decisions even with broker assistance are made on price.

Home insurance policies are now written in plain English. The policies provide comprehensive protection for several separate traditional classes of insurance with insurers clearly required to explain the cover and exclusions. As issues arise highlighted in consumer claims disputes, policy wordings are being continually extended by insurers acting in good faith to better explain the scope of cover. The result is an increasingly complex document with little hope of it being read or the content fully understood by persons without knowledge of the technical aspects of general insurance. [As an aside, it is our experience that most Insureds do not read their insurance policy (PDS) even after a loss let alone before].

Recommendation

We agree with the concept of insurers providing key fact summaries online for assistance to insureds and intending insureds and part of the continuing process of providing insureds or intending insureds with important product information.

If the existing disclosure of information at the beginning of the PDS is not seen as serving its purpose, we recommend that consideration also be given to the preparation of specific key fact sheet templates to update PDS documents showing those additional key facts in table of form in the PDS which the ACCC and insurers identify as necessary to meet required consumer objectives.

The content of these key fact sheets should be in sync with those included in any Comparison Summary Site developed by government and be available online to an insured or intending insured.

The key fact summaries should be in a form prescribed in the Regulations to the ICA.

Attached as **Appendix 1** is a sample **Home and Contents Most Popular Feature Report** that could be delivered inexpensively to the public through the data base of comparisons provided to subscriber insurers and insurance brokers via LMI PolicyComparison.com.

Draft recommendation 3.1.4 – Price transparency better informs consumers

Final recommendation as follows:

The Insurance Contracts Regulations should be amended to require that insurers disclose the premium costs or saving for each optional inclusion or exclusion they offer to a consumer. Insurers should also indicate the premium cost or saving associated with incremental changes in excess levels and sums insured. This information should be provided to a consumer when an insurer provides a quote for a new policy and on a renewal notice.

Providing consumers with information about the cost impact of optional inclusions/exclusions (e.g. flood cover, accidental breakage cover) as well as variable costs (such as changing an excess or sums insured) will allow consumers to make more informed decisions about their choice of cover.

Comments

The expectations that such a recommendation relating to pricing will assist the consumer to make better decisions in relation to excess levels and self-assumption of risk is commendable and reasonable.

However, the extent of highlighting and explaining the pricing implications of other matters to the detail requested will be a costly administration exercise, adding a further burden on affordability in producing such information.

In an environment where there is an attitude on the part of a great many people that loss, damage or liability '*will never happen to me!*', trying to break down costing information in relation to features and benefits of cover may merely add to the paper trail resulting in the proven risk of it not being read or some important parts of the cover being discarded.

As most properties are subject to mortgage finance, mortgagees will be very concerned about the possibility of parts of the property cover being removed at renewal without reference to them and would lead to a stronger push towards more control of insurance arrangements by mortgagees lessening the opportunity for insureds to arrange or switch cover.

The cost of providing cover and excess options at renewal for the full scope of matters as envisaged by the recommendation will add significant costs to the renewal process and to premiums resulting in higher charges for Stamp Duty and GST. The impact of Emergency Services Levy in NSW on the cost of property insurance, although not in Northern Australia, is a worst-case example of the adverse impact by Government on a commercial commodity.

We would make the point that the commodity we are taking about, that is insurance protection is designed to protect the policy holders, our communities and the local, state and federal economy. It is not a product like alcohol or tobacco that leads to a burden on Government! In fact we believe that by taxing insurance it leads to greater under insurance which in turn leads to more people turning to Government for financial assistance in the form of grants and social security particularly in rural communities.

Recommendation

With more insurance cover being purchased online, we agree that there is a case in that process for an insured or intending insured to have the option of alternative pricing for differing levels of excess.

Home insurance policies incorporate a wide range of perils carried forward from the former Tariff Houseowners and Householders Policies. These were extended in 1984 under the Prescribed Wordings set out in the Regulations to *ICA* including flood.

We do not consider it desirable for any policyholder acting on the assumption that flood by natural peril is not a risk, having the opportunity to remove insured perils from cover. Any such action may be taken in ignorance of the impact of other risks such as, a dam or reservoir burst included in the definition of flood.

With new business and renewals being arranged online, the systems thus provided already allow the flexibility of selecting an increased sum insured.

Where notice of renewal is provided by post or electronic copy, the opportunity of providing premium costings including all Government charges and taxes for increased sum insured cover in \$25,000 steps above the indexed amount offered by the Insurer should be within the insurer's systems capability.

The insured may choose to pay the extra amount of premium if responding by mail, but if seeking to pay online (BPay), existing systems may not have that flexibility and require personal contact with the insurer. Their ability to upgrade online services needs further investigation. Whilst brokers and agents have access to data entry online to generate endorsements and invoices, such online services are not available to the general public.

It is unreasonable to expect insurers to provide information in the renewal process covering the whole range of underwriting components factored into premium calculations. No other business is asked to do this to the degree suggested and if the insured or intending insured wants to pursue matters to that depth then they must consult either the insurer or their broker for advice. Notwithstanding that brokers will still say that their advice is general and not personal advice, this is already part of broker services provided and factored into the cost of the product.

The abolition of stamp duty payable on insurance in Northern Australia is the single most cost-effective way of improving the affordability of insurance in this or any other region in Australia. A broad-based property tax has been shown, in every study we are aware of, as being a fairer approach and is supported on fundamental economic principles.

Draft recommendation 3.1.5 – A comparison website may improve consumer's ability to find comparative policies

Concerned at the level of the public who thought that all insurance was the same and only the cost of insurance mattered, LMI Group created, with the help of a \$50,000 grant from the Queensland Government at the time (2003), a product feature and comparison service [LMI PolicyComparison.com](http://LMIPolicyComparison.com). This site does not compare the cost of insurance, it compares the protection afforded by the policy.

Currently this site compares over 3,000 policies across 20+ classes of general insurance including Home and Contents, Strata, Landlords, and Business Packs.

In any one year there are approximately 1,000 changes to policies, and as such we have a full-time equivalent team of circa 25 staff keeping the site up to date. Due to the cost of operating this site, the service is currently a subscription-based service supported by the majority of general insurers, some underwriting agencies and most professional insurance brokers in Australia.

Concerned at the falling standards of the claims service, LMI introduced LMI ClaimsComparison.com a free service to the public which rates the service provided by insurer and underwriting agency claims departments. This too includes Home and Contents, Strata, Landlords, and Business Packs.

These comparison services were both released to allow insured and those advising them to make an informed decision on the level of protection and the claims service provided by the insurer in line with their own risk appetite so that price was not the key criteria for selection.

Besides working to educate the public LMI ClaimsComparison.com is designed to drive positive change in the claims departments on the belief that if something is not managed it will not improve.

Final recommendation as follows:

The government should consider developing a national home insurance comparison website. It should require the participation of all insurers active in relevant markets, allow consumers to compare policies by features, and make it quick and easy for consumers to act on the results.

An independent insurance comparison website may facilitate more informed consumer choice by assisting consumers to quickly and easily find insurers in their area and offering policies that meet their needs. Comparison websites can provide an opportunity for new entrants to increase consumer awareness of their brand at relatively low cost, reducing a barrier to entry. Enhanced comparability of products, such as through standardised definitions (recommendation 4) and mandated standard cover (recommendation 5), will assist in the effectiveness of such a website.

Comments

Insurers are engaged in a highly competitive process to write insurance business and many already provide a document rating the features/benefits of their policies against those of other selected competitors.

Insurers have been generally unwilling to set up or participate in comparison websites based on price comparison due to the consumer's propensity to buy on an impulse that is purely price related and carrying the risk of making a poor choice. Most of the media advertising publicising the availability and use of comparative websites is focused on price. The insurer's reputation for cover and claims delivery is never the part of this process. LMI ClaimsComparison.com has been working to address this issue.

With the wider range of cover features available under policies sold by broker groups, those seeking to proceed directly or through agents frequently express disappointments that such features and benefits included in higher priced more comprehensive cover options are not also universally applied to them. This type of criticism of the industry lacks substance.

Some insurers already provide a comparison summary online or in writing, setting out the benefits provided by their policy against selected other insurers, usually shown with a tick,

but never showing price comparison.

There is no desire to do so and reference to competitive terms is usually incorporated in their media advertising.

As stated above, LMI Group currently provides a Policy Comparison Website (www.PolicyComparison.com) for subscribing insurance industry members (insurers, underwriting agencies, brokers and agents) setting out the features and benefits of commercial and retail insurance policies. The site is accessed by insurers for marketing comparison purposes and brokers will usually print off comparison summaries in support of their recommendations, sending these to clients. Currently over 500,000 comparisons are completed on the site annually. The LMI Group comparisons do not extend to premium comparisons.

PolicyComparison.com does provide the added advantage of explaining each benefit, exclusion, warranty and condition with advice on the tips, trips and traps to assist the Insured and or their adviser in understanding the coverage or lack thereof.

Recommendation

The question of providing a comparison website for home insurance that includes pricing is one for the government to answer but will fail to gain support from insurers on that aspect.

Insurance pricing is a difficult item to deal with as it will vary by the portfolio loss experience of each insurer, postcode and the premium may not be calculated at a rate percent on sums insured plus Government charges, but may be based on a primary level of sum insured plus administration charges and cascading rates for layers above the primary.

LMI Group's PolicyComparison.com system and information may be of assistance to Government in further considering this recommendation. A logon and password for evaluation purposes is available upon request.

Draft recommendation 3.1.6 – Extending the renewal notice period will give consumers more time to shop around

Final recommendation as follows:

Renewal notices should give 28 days' notice

The Insurance Contracts Act should be amended to require insurers to provide renewal notices for home, contents and strata insurance no less than 28 days before the expiration of their insurance coverage, with a reminder to be sent no less than 7 days before expiration if it has not been renewed.

The Insurance Contracts Act currently requires no less than 14 days. The current minimum timeframe does not provide consumers with sufficient time to consider their renewal quote and explore their insurance options. It also may not be sufficient time for some consumers to have ready access to funds.

Comments

We agree that insureds will be disadvantaged in exploring and/or negotiating other insurance

options by any delay in the insurer providing timely advice of the expiry of a renewal contract of insurance

We are unclear why 14 days' notice prior to the date of expiry for residential property is not sufficient.

The insurance industry experienced difficulties managing client underwriting reviews and frequent systems changes which occurred in the 1970's and early 1980's and renewal notices from insurers and agents were frequently delayed leaving little time for consideration by the insured.

However, many insurers in this situation also provided automatic renewal to clients of agents and brokers to avoid insureds' being disadvantaged by late notice. 90 days post renewal is not uncommon. The later collection of premiums becomes a credit control function.

Direct clients in many cases were, and are still, provided by insurers with 14 to 21 days of grace after the expiry of their policy to arrange renewal.

Where policies were in the joint names of the insured and a mortgagee, policies were not lapsed without reference to the mortgagee for payment.

The change introduced by the *ICA* gave the insured mandatory extended cover if the notice of expiry/renewal of any general insurance policy was not in the policy holders hands within 14 days of expiry. Cover was extended for a statutory period rather than reliance on 'days of grace'.

At the time this was seen by all parties as a reasonable compromise and seems to be working well in practice.

Currently Australia Post can have several days delay with delivery of mail but the risk of any delayed receipt of renewal documents imposes an added obligation on the insurer.

If the notices are forwarded electronically there is no such added risk on insurers but if the insured does not have the facility to print off hard copy of what may be an attachment running into several pages, it is highly possible that an insured may lose sight of time.

However, the question arises whether insurers generally still offer 14 or 21 days of grace to accommodate their clients in such circumstances providing further time for insureds to consider their options.

With the use of an insurance broker with their immediate access to broker systems such as Sunrise and the number of direct insurers with call centres and or on-line quoting, the time taken to obtain a competitive quote is measurable in minutes not days.

Recommendation

The current requirement of the *ICA* seems to be working well and imposes a penalty on insurers for non-compliance. Section 58 of the *ICA* applies to all classes of retail and commercial insurance policies throughout Australia and not just in Northern Australia.

We question, "why the need for change?" and whether providing customers with an additional 14 days to shop around and imposing an earlier trigger and penalty to one party on the other side of the contract is reasonable and warranted in practice.

Questions

- Is there evidence of why the current 14 days is insufficient?
- Is this something that is common in other renewable commercial arrangements?
- Has the system whereby insurers provide extended cover under traditional means of granting added 'days of grace' following the expiry of retail and commercial insurance policies or under agent and broker administration agreements been discontinued?
- Is the proposed variation to Section 58 of the *ICA* to apply only to residential properties?

If the answer to the questions posed in the first 3 dot points shown above is in the negative, we see no valid reason why the standing arrangements for the conduct of insurance business should change.

Draft recommendation 3.1.7 – Disclosure where premium increases are capped

Final recommendation as follows

The Insurance Contracts Act should be amended to require insurers that have capped premium increases for particular risks (to slow the rate of adjustment to a higher technical price or other pricing objective), to disclose this to an affected policy holder and provide an estimate of the timing and extent of premium increases that the insurer intends to apply in future.

This will allow consumers to recognise price as a signal of risk and prepare for potential future premium rises.

Recommendation

This recommendation is not supported. It adds complexity to process and confuses rather than providing a benefit. It is not feasible for Insurers to provide information or a 'guesstimate' of premiums 12 months in advance of renewal by them or their staff that depends upon the extent of future natural perils losses, effects of mitigation works, future reinsurance costs and claims costs development.

It has long been a feature of underwriting practice for insurers finding themselves requiring substantial premium increases for any class of business, to cap premiums and finance the added costs to avoid destabilizing the portfolio and creating a run on lapses.

A better year ahead may prevail with less catastrophe events resulting in reduction in claims and reinsurance costs. An adverse year ahead would call for the re-rating of the whole portfolio in any case.

If the need for further major increases in premiums above indexation is likely, that is a matter to be dealt with at the time in future. These occasions are not usually restricted to one insurer in isolation and affect most insurers and the market in which they operate. The circumstances may require the insurer to raise additional shareholder capital to cover further additional claims costs and charges.

Commercial insurance buyers engage brokers to provide market analysis to guide their buying decisions and the focus is very much on current premiums and ensuring that there is an ongoing market for their client's insurance needs.

It is APRA's role to ensure that insurers are solvent and adding such an overlayer of information into the current renewal process serves no particular purpose.

Draft recommendation 3.1.8 – Disclosure improves price signals for consumers

Final recommendation as follows:

Draft recommendation 7: Consider likely insurance costs before purchasing real estate

States and territories should implement measures to prompt consumers to investigate insurance costs when they are considering purchasing real estate.

As a first step, states and territories should include a statement in a statutory information disclosure for a real estate transaction advising any potential purchaser to obtain an insurance estimate as part of their due diligence.

If recommendation 5 (to review and mandate standard cover) is accepted, states and territories should mandate that a current home (building) insurance premium based on the standard cover product be listed in a statutory information disclosure for a real estate transaction. This requirement should not extend to properties with a very high estimated sale price. States and territories should also mandate that vendors, or agents acting on their behalf, are unable to receive payment for the inclusion of a quote in the disclosure documents.

This will provide prospective purchasers with a clearer expectation of the possible insurance costs associated with the property.

Recommendation

We agree with the first step set out above.

Contracts for sale of real estate in Australia incorporate a vendor's statement in which the vendor is required to disclose important information including notification of building defects and work carried out on the property within a defined period.

There is no reason why the vendor's statement should not provide information whether the property for sale is insured, any special details of cover limitations imposed by the insurer known to vendor, the amount of premium payable for the existing insurance and to express a warning that refers the intending purchaser to the importance of investigating the cost and provision of property insurance to cater for his requirements on taking over the ownership of the property.

It is not considered that the vendor should be under any greater obligation.

It is unreasonable to expect a vendor to provide any insurance quotation for the purchaser's consideration or use. The vendor is not a financial services adviser and should not be placed in the position of acting as one.

Insurers do not sell or price standard or Prescribed Policy cover. Their policies provide much wider protection. What the vendor's insurer might have to say about the cost of such cover is irrelevant.

What would be most beneficial is flood mapping and other such data held by local authorities, insurers and the like to be freely available to Insured and those offering insurance advice to

the insuring public. This would allow Insured's to make an informed decision on where to rent or buy before committing to the property/location.

Draft recommendation 3.1.9 – Improve consumer awareness of personal information held by insurers.

Final recommendation as follows:

The Insurance Contracts Regulations should be amended to require insurers to provide clear notice to consumers that they can obtain a copy of the information that the insurer holds about them, and contact details for doing so. This notice should be provided on a certificate of insurance and any renewal notices.

This will empower consumers to check and confirm their risk assessment, pricing and claims assessment is based upon reliable and verifiable information.

Recommendation

We consider that recommendation 3.1.9 is unnecessary as the insurers' Privacy Statements in policies already provide extensive information about the level of information they hold, how it will be or can be used and how the insured can access such information.

Privacy statements appear to be in relative standard form and are currently approved by ASIC for each insurer.

Draft recommendation 3.2.1 – Strata Managers to be rewarded by body corporate only.

Final recommendation as follows:

State and territory legislation governing strata managers should be amended to prohibit strata managers from accepting payments in relation to arranging strata insurance other than those agreed to, and made by, their body corporate.

Strata managers should be required to negotiate any fees or payments for arranging insurance directly with the body corporate they are servicing. This would encourage remuneration arrangements that better align the interests of the strata manager and their clients.

Comment

The trend towards the placement of strata title insurance business shifting from registered brokers to body corporate managers acting as sub-agents of underwriting agencies or being appointed as authorised representatives of brokers, with corresponding commissioning arrangements has continued at pace since the introduction of authorised representatives. This was very predictable at the time with a small number of broking firms then actively sourcing the recruitment of body corporate managers.

Insurance legislation does not prohibit the payment of a proportion of commission to affinity groups. The payments required by the AFL for product approval and endorsement is a prime example but there are many others involving groups or associations.

Many body corporate managers acting as the agent of the insurer for underwriting agencies were ready to forego a proportion of their commission income for acquiring the opportunity for linked claims services available from the appointed broker principal with added protection of their professional indemnity insurance.

The prospect then of diminishing involvement by mainstream registered brokers was raised in writing with ACCC by Max Salveson on behalf of registered brokers but ACCC perceived there was no problem if body corporate managers received training.

The trend for body corporate managers to then become agents of the insurer or an authorised representative of a broker was readily foreseeable.

Individual brokers outside of these arrangements with appointments directly from body corporate clients lost much of their business.

A breakdown of the current main sources of strata insurance business introduction in the Australian insurance market is as follows:

- High end high value properties placed through major brokers offering industrial special risks insurance (ISR) policies suitably endorsed to reflect an appropriate range of benefits specific to this class.
- By property managers acting as authorised representatives or agents placing cover for other properties with insurers providing specific strata title policies to service the needs of their clients in the exercise of their responsibilities under management agreements. The extent and quality of professional advisory services to clients than general advice is debatable.
- By other brokers retaining a diminishing share of strata business either direct or through property owner groups or financiers.
- Direct by a limited number of smaller body corporates or by individual members of a body corporate seeking to protect the value of their asset after the body corporate committee or council has ceased to function.

We agree with the ACCC that there is an inherent conflict between the financial interests of strata managers and the interests of their clients.

However, the interests of body corporate owners also are impacted in other ways and the investigation of better protection of their interests needs further consideration of the following matters, i.e., the management of their affairs and claims by:

- (a) body corporate managers acting as agents of the insurer under agency agreements;
- (b) loss adjusters and the increasing number of building firms replacing loss adjusters and managing the claims delivery services for insurers all acting as agents of the insurer.

Some of these impacts and risks are listed below.

- Lack of knowledge of the principles and practice of property insurance by builders and property managers.
- Inadequate investigation of facts and causation of loss necessary to the consideration of any claim.

- Early rejection of claims by insurer claims staffs and referral to IDR following inadequate investigation and presentation of the facts by those giving notice of claim who do not have sufficient knowledge of insurance law or technical aspects applying to claims.
- Rejection of claims under generic (non ISR) body corporate policies covering the risk of accidental damage for loss or damage caused by building defects or faulty workmanship. ISR policies provide write backs for subsequent damage by a peril insured notwithstanding that this may result in consequence of such defects or workmanship. Generic insurer policies covering defined perils other than accidental damage do not usually provide such writebacks.

The prescribed policy coverages set out in the regulations to the ICA (Cth) provide protection against a limited range of perils and do not provide any guidance where insurance against accidental damage is introduced into cover with a corresponding range of exclusions that drop down and in many cases are applied to other specified perils as well.

N.B. Traditionally insurers indemnified the policy holder against the perils of fire, lightning, explosion and extraneous water other than flood, irrespective of building design and workmanship matters and if there were ongoing problems from those factors, imposed underwriting cover restrictions on renewal until the defects were rectified.

- Additional costs necessarily incurred by body corporate owners to investigate matters in pursuit of their claims to contest rejections with no right of recoupment excepting under ISR policies where cover can be arranged for claims preparation expenses for professional services.
- Lack of insurance knowledge on the part of some builders, restoration companies, and/or loss adjusters, third party administrators, and/or claims staff (local or based in overseas call centres, appointed by the insurers/underwriters to manage claims and damage repair or reinstatement with no or inadequate understanding of the insurance principle of the utmost good faith or the differences in claims settlement between policies of indemnity and those promising reinstatement to a condition as when new. The outcome with claim settlements may be contrary to the insurers promise to pay as evidenced in the insuring clauses of the reinstatement policy.

Recommendations

The changes recommended are not replicated in other insurance or commercial arrangements and need to be reconsidered.

The writing of Insurance business in Australia is in compliance with the requirements of the Insurance Brokers and Agents Act developed by Government and the relationships between body corporate managers and owners is no doubt repeated many times over in other businesses.

The movement of strata insurance between competing parties was readily predictable some years ago and is now probably too difficult to unwind.

Having said this full disclosure of commissions, fees and other inducements by body corporate managers, along with the full basis of their recommendation for the insurer(s) they put forward ought to be mandatory.

Should the Government decide to address the matters set out in recommendation 3.2.1 for this industry and impose a statutory change, this in our view is a governance issue and should be legislated through the corporations' law.

The changes we suggest below address the important changes to achieve procedural fairness for body corporate owners and occupiers apart from the issue of commissioning.

1. Cover under home and contents insurance policies should be extended to indemnify insured's for costs and expenses for 'Claims investigation and Preparation Expenses' the same as is done under commercial property policies so that insureds are provided with an indemnity for additional costs and expenses necessarily and reasonably incurred in support of their claims. The amount of such cover would vary depending upon the size and property values at risk and the additional sum insured should be included in the total sum insured for calculation of premium. A base starting point ought to be \$10,000.
2. Builders and others appointed by insurers to provide claims management and repair or reinstatement services should be required to undertake certified training to acquire knowledge of:
 - The principles and practice surrounding the business of general insurance.
 - Instruction on the principle of the utmost good faith (the first and underlying principle of general insurance since 1766) and the insurer's obligations in all matters relating claims.
 - The basic rules of contract/policy interpretation
 - The scope and differences in cover where applicable in their area of responsibility
 - The difference between and the full meaning of indemnity and reinstatement policies.
 - The factors that must be addressed in providing quotations for the repair and reinstatement of property in accordance with the conditions of the relevant policy including the supply of relevant professional engineering input when applicable.
 - The dispute resolution process of the insurer / underwriting agency for whom they are representing.
 - The ethical management of claims.

Such courses could be arranged only through registered training organisation's accredited in general insurance.

3. Builders appointed by insurers to provide claims management and repair or reinstatement services and their claims representatives should be obliged to base their pricing estimates on a detailed scope of works prepared by an independent engineer or licenced building surveyor.

The term independent is used advisedly because the recent inquiry into cladding and other building construction defects has demonstrated the failure of compliance by Government in enforcing building codes due to ignorance and the myriad of conflicts of interest affecting building construction to the detriment of building owners.

The policy wording should clearly state the insured's entitlement to have any such scope of works and estimate of the overall cost, checked by a suitably qualified engineer or licenced building surveyor appointed by them as a claim's cost within the terms of cover.

4. Home and strata insurance policies covering the risk of accidental or unspecified damage should have the same write backs for subsequent damage granted in commercial policies such as ISR. It is unclear why financiers, including banks, accept and themselves provide policies as security for mortgages and client protection that contain the above exclusions and in are failing to keep pace with developments in family law with this class of insurance and what might be assumed as delivering basic fairness in relation to matters which an insured cannot control.
5. Without such write backs for resultant damage, the policy in question loses a great deal of protection for the insured, as loss "occasioned by or happening through" a defect in design, a faulty product or faulty workmanship results in a full denial despite it being triggered by a severe storm or cyclone. These Clayton policies ought to be outlawed or such exclusions which take away the very cover that Insureds take out insurance out to be struck out under unfair contract term provisions. Examples of such harsh exclusions are available upon request.

Draft recommendation 3.2.2 – Clear disclosure of products considered and remuneration.

Final determination as follows:

The Corporations Regulations should be amended to require comparison websites and insurance brokers to disclose a complete list of what home, contents, or strata insurance products they will consider in making a comparison or providing a recommendation to a consumer. This disclosure should be prominently displayed on the comparison website or insurance broker's website, and be provided to consumers before they engage the services of the comparison website or broker.

If recommendation 3 (insurers to report their brands and where they are writing new business) is adopted, this disclosure should also refer consumers to this information. Finally, comparison websites should also be required to include, as part of this disclosure, the amount of commission and other remuneration that they receive for each product.

Comparison websites and insurance brokers only consider a sub-set of the market when providing a quotation or recommendations. Consumers should clearly understand the breadth of search a comparison website or insurance broker they are looking to use will undertake. This requirement should not preclude an insurance broker from considering a new product during the course of providing advice to a client, where this new product would not ordinarily be considered by the insurance broker (and therefore would not have been disclosed).

Recommendation

We do not consider this recommendation reasonable or required. Why do brokers have to be instructed in this manner and go to such detail on their websites? What other organisation's providing professional services are required by law to do this?

There are over 100 home and contents policies available on LMI PolicyComparison at any one time. What Insured is realistically going to review a comparison of all these products?

Discussions surrounding obtaining client instructions for the placement of their insurance policies will already cover these aspects, including:

- the range of insurance policies available and those recommended by the broker; and
- why particular cover has been recommended to address the risk and insurance needs in relation to the body corporate property.

Whether the client accepts the broker's advice or requires the broker to take the insurance to market for quotation or tender will be incorporated in the insured's instructions to the broker.

As will whether the client wishes to stay with an existing insurer for whatever reason or move to the broker's recommended insurer for the placement of the business.

Brokers bring knowledge of new types of cover and new insurers to the table when seeking instructions from new and existing clients.

Many brokers have special arrangements and services provided by particular insurers providing survey services at nominal or no cost, professional advice on reinstatement costs and are best placed to assess the insurer's performance with claims services on a day to day basis.

Yes, some brokers may receive a profit commission based on the outturn of their portfolio.

Brokers live or die on their ability to market their services to customers and the cost of those services. Clients' must assess for themselves whether the range of cover, services and cost is within budget and matches their requirements.

This requires discussion, interview and some investigation of the services of alternative brokers or direct insurers.

The proposal as it stands is an interference with normal business operations at an added cost to serve what need or purpose? If the client doesn't like the broker, then they will find another one or another source of placement.

Draft recommendation 3.3.1. – Giving consumers more control over how claims are settled.

Final recommendation

The Insurance Contracts Act should be amended to provide consumers with the right to choose whether their home building insurance claim is settled through a cash

settlement or with a repair/rebuild managed by the insurer. The insurer must inform the consumer they have this choice at the time a consumer lodges a claim.

At the time of advising a consumer about this choice, the insurer should also provide the consumer with a one-page document written in plain English setting out matters the consumer should consider to help them make an informed decision, including:

- **if a cash settlement is accepted, the insurer would no longer be required to manage or guarantee the quality, cost or timeliness of any works the consumer decides to carry out**
- **the consumer should seek advice from their mortgage lender (if applicable) about any implications of accepting a cash settlement for their mortgage**
- **the insurer may be able to obtain lower repairing/rebuilding quotes than the consumer is able to achieve**
- **the consumer should obtain independent quotes for repairing/rebuilding their property before making their decision.**

Limited exemptions when cash settlement is necessary include repairing a shared fence, or if a home is insured for significantly less than the cost to reinstate the property and the insured is unwilling to contribute to the cost of repair.

Where a consumer requests a cash settlement offer, the amount of the cash settlement offer should be based on a genuine quote the insurer has received to carry out the necessary repairs/rebuild. If no such quote has been received, the insurer should set out the basis for the cash settlement amount offered. Any ancillary expenses subject to the claim that are not within the scope of works for the quote (such as temporary accommodation costs) should be settled separately.

Upon receiving a cash settlement offer, the consumer should be provided with a reasonable time period to decide whether to accept the offer, seek an amended offer, or elect to have the insurer manage the rebuild/repair.

Comments

Insurance is not a one-sided contract. It requires the interaction of both parties when the contract is being entered and proper communication between them following loss.

Arrangements for the proper conduct of the business already exist and allow for the processing of thousands of claims providing satisfaction to consumers of insurance products.

Recommendation 3.3.1 proposes revision of existing practice on the assumption that most claims are cash settled and therefore the settlement of building claims by repair, reinstatement or paying the value of the property at the option of the insurer should be changed.

We agree that there has been an increase in cash settlements following some natural disasters, however in our experience most major claims involve the repair or reinstatement of major damage and go through normal process.

Insuring clauses in most property policies contain an insurer's promise to pay, 'we will', by reinstatement and we see no reason to for this change.

Agreements to settle claims by payment of the loss, request for cash settlements are usually at the request of the insureds reflecting their particular circumstances and may carry the penalty of an indemnity settlement.

Such requests by insureds are usually motivated by but not limited to:

- an inadequate sum insured limit;
- the insured being prepared to do or sub-contract the work or not replace the property;
- the insured not wanting to replace the building but sees the benefit of the available insurance funds plus proceeds from the sale of the land as a better financial outcome than to repair or reinstate;
- a genuine desire to take control of the repair process and/or so that they can use the services of builders and other trades that are known and trusted by them.
- wishing to apply the funds to the purchase of an alternative property; or
- to resolve an unrelated financial issue in the absence of fraud.

Insurer requests for cash settlements usually reflect the following factors:

- the sum insured is inadequate for the task and will not cover the cost of repair or reinstatement;
- as a deterrent to fraud arson where the insurer may withhold cash and proceed with repair or reinstatement;
- the basis of settlement is the cost of automatic reinstatement with no sum insured limit and the insured thinks he can do better with the money; or
- the basis of settlement is the cost of automatic reinstatement with no sum insured limit and the insurer seeks to avoid the full cost of its promise to pay by paying a cash settlement (bad faith).

In relation to the final dot point above the possible disadvantages to the insured are:

- the insurer's payment whether under a fixed price contract or otherwise may be based on cost estimates prepared by building contractors, none of whom will perform the work ("low ball" offers by insurers are known to take place putting the insured at a disadvantage. The performance of one insurer in particular, following the Wye River bushfires, is an example of this appalling behavior);
- the contract pricing may not be on fixed price terms;
- the cost estimates may be based on the lowest prices of building contractors introduced by the insurer and not subject to any market tender process;
- the cost estimates may not be based on detailed scope of works prepared by an independent engineer;
- the cost of professional services, permit fees, supervision and sign off for completed works may not be factored into the settlement:

- no allowance for contingencies or variations usually a feature of most construction work and which is even more common in repair/reconstruction work where unseen damage is often uncovered during the demolition and repair phases. All the risk of variations due to unforeseen damage rests with the Insured;
- the amount payable for ancillary benefits such as, extra cost of reinstatement due to changes in regulation, removal of debris, loss of rent and additional accommodation are estimates and may prove to be wrong. The underestimation of a loss of rent or additional accommodation cost can arise as a result of unexpected delays with approvals or for any other reason affecting property or the building trade.

Recommendations

Notwithstanding the underlying principle of “Utmost Good Faith” applying to insurance contracts, we agree that the interest of the insured need to be specially addressed where insurers, at their option, are proposing to cash settle building claims.

Notwithstanding the interests insurers have in their own reputations on the line, the movement of more decision making down the line to parties acting as agents of the insurer in the settlement of claims and the publicity of failures and conflicts of interest occurring in the building industry now makes this matter a necessity.

The matters referred to above need to be considered when deciding the future action required.

Penalties for clearly proven serious low ball offers ought to be introduced such as fines; sanctions; and/or loss of the proposed claims licencing placed on individuals and/or organizations.

Draft recommendation 3.4.1. Clearly state mitigation discounts

Final recommendation

The Insurance Contracts Regulations should be amended to require insurer quotes and renewal notices for a property to expressly show what discounts have been applied (if any) to reflect mitigation measures undertaken on that property.

This is important to help ensure premium adjustments are comparable between insurers and transparent for consumers. It also provides clarity to consumers and assists with evaluating investments in mitigation works.

Recommendations

1. We consider that any action taken in the community interest to mitigate the risk of accumulated damage from cyclones and or flooding is highly desirable.
2. In the case of property insurance, we agree with the concept of new and renewal notices and other insurance documentation such as policy schedules identifying specific mitigation measures undertaken in relation to that property and factored into the calculation of the premium payable by the insured.
3. We are less persuaded in showing how the percentage or amount of discount allowed by each insurer will create the comparable environment that will provide clarity to

consumers or encourage investments in mitigation works, without more persuasion and example by Government and municipalities.

How insureds access or stay abreast of this information is an issue, as is the fact that the premium discount provided is not a basis for evaluating investment in mitigation work but the work itself may well be a necessary requirement going forward to obtain insurance cover.

4. We also refer to our response to Recommendation 3.4.2.

Draft recommendation 3.4.2. Information on mitigation works that could reduce premiums

Final recommendation

The Insurance Contracts Regulations should be amended to require insurer quotes and renewal notices for home insurance to provide a schedule of mitigation measures which customers of the insurer have undertaken for properties with similar characteristics in order to improve their risk rating. This should include a guide to the premium reductions (in percentage terms) that consumers have received for undertaking these measures.

This would provide (new or renewing) consumers with current information on a practical range of actions that could be undertaken to mitigate risk and show them what the benefit could be in terms of premium reductions. This will assist consumers to decide if the risk mitigation option is worth the upfront cost.

Comments

The conclusions in the statement of this draft recommendation carry forward the usual principles of the ACCC in encouraging individual insurer responses and pricing competition between insurers.

Whilst sounding reasonable they add responsibilities on insurers and do not direct the attention where needed.

The obligations in Recommendation 3.4.2 are directly on insurers and ignore the need for government and local government to also focus on their roles of addressing, avoiding and mitigating the risk of accumulated damage to community property, taking full ownership of this responsibility.

Loss or damage due to catastrophe natural perils risk and particularly cyclone and flood, impacts the whole community and common sense and fairness indicates that community base rating for this exposure is highly desirable and will, in itself, provide greater incentive for the community to mitigate risk rather than being side tracked by any delaying action until the lowest priced insurer is out of business.

As we understand the reason for the present inquiry is the unavailability of affordable insurance.

Whilst some insurers may have structured their pricing differently and not have comparative post code groupings that are relevant to others, this is another area as with Terrorism where community based standard price loadings to premiums are applied.

We consider there is reason for the insurance industry to have standard premium rates for cyclone and flood and standard discounts for property improvements that mitigate the risk of loss or damage. This is already the case as a carryover from tariff times where standard insurance discounts usually still apply to insurer's premium rates for mitigation of fire risk arising from the installation of fire appliances and sprinkler systems.

Recommendations

1. We agree, in principle, with recommendation 3.4.2 and changes to the *Insurance Contracts Act* Regulations in identifying risk mitigation of loss characteristics applying to buildings and personal property which may lead to the building being classified under the building code with a rating that reflects its cyclone damage resisting capabilities.

As this is a community issue, we do not see such information as suggested by Recommendation 3.4.2 being restricted to insurers as it is a responsibility of federal; state; and local Governments.

Following Cyclone Tracy, Professor Walker and his group at the James Cook University assisted in the development of building construction changes for new buildings with recommendations for action to strengthen existing buildings.

This work carried over into building codes.

Insurers then used that and other information in selecting their portfolio of property insurance business and rewarded the owners of new properties and those whose existing properties were strengthened with lower rates than those otherwise applicable.

We consider that development of the building code is the responsibility of Government and the recommendations initiated years ago following the James Cook University research should be ongoing and tested after each major catastrophe, with any further findings applied to new building construction as well as providing recommendations to owners of existing properties about action they can take to strengthen and better protect their properties.

The responsibility for promoting this information to the public should be upon Government agencies and municipalities. Such information should also be distributed in Northern Australia with council rates notices.

Perhaps Government could consider granting reductions in council rates through their municipal organisations, in recognition of risk mitigation improvements measures undertaken on property thus acting as a motivator, moving the community into a pro-active role towards risk mitigation.

2. For the sake of good order and positivity, we only recommend the adoption of standard discounts to premiums. If this recommendation is accepted, such discounts should be developed by Insurers and their engineers in consultation with a panel of specialist engineers engaged by government to quantify the relevant percentages to be applied to each category of risk improvement and in the overall in recognition to their individual contribution to a reduction in claims' costs.
3. We recommend that any agreement between insurers for standard discounts to apply to premium pricing be recognised in the *Competition and Consumer Act* (Cth) 2010.

Section 3

Our response to Part 4 - Current focus areas of the inquiry

Item 4.1 Focus area 1: Measures to improve the affordability and availability of insurance in Northern Australia.

Comments

1. Insurance companies are private stock companies providing community insurance services to alleviate the foreseeable risks of loss or damage to individuals.
2. Certain categories of risk, such as war, riverine flooding, earthquake and volcanic eruption damage were formerly regarded as uninsurable and were the province of Governments to both manage and deal with outcomes.
3. Over time, both the spread of risk and the formation of pools resulted in some cover becoming available for risks previously deemed unacceptable.
4. The formation of pools or captive companies to only write risks otherwise seen by insurers as becoming uninsurable, will result in the consolidation of unprofitable business in one portfolio subject to inevitable financial loss over time.
5. It is a well-established underwriting fact in motor and property insurance that the insurance business of consumers who consistently shop around for lower prices has a higher incidence of both claims and cost than that of existing clients within an insurer's portfolio.
6. The suggestion that a private or Government owned specialist insurer be established to write high risk cyclone and flood exposures to bring competitive and affordable premiums to the market is not well founded. The risk loading attaching to such portfolio without a spread of other more desirable risks in the portfolio mix renders a satisfactory financial outcome virtually impossible unless incorporating severe underwriting requirements and limitations in cover that would be seen as unacceptable.
7. The current administration costs of providing insurance and claims services in Northern Australia is borne by insurers. The cost of administering a separate specialist government insurer would be an added expense.
8. The authors do not favour the concept of setting up a special direct writing government captive insurer.
9. Following any catastrophe, Governments are required to make significant financial contributions to individuals as a social responsibility to cover the impact of under-insurance, non-insurance and assistance packages for people in distress.
10. Such payments are sometimes repeated for the same individuals for different events.
11. Such payments can act as a disincentive to insure.

Recommendations

1. The present private insurer market approach already provides the most efficient system of managing the marketing and claims administration of property insurance to the Australian public, but it cannot do so as a loss-making venture.
2. Any decision with regard to insurance cover for high end natural perils risks in

Northern Australia as a result of this inquiry must be accompanied by long term government planning that results in action on risk mitigation work within defined periods of time targeting the major areas of replicated accumulated damage currently affecting the availability of insurance. Otherwise, private insurance is hardly likely to ever be affordable.

3. We believe that either the services of Australian Reinsurance Pool Corporation or a new body, the Australian Reinsurance Cyclone and Riverine Flood Pool (“ARCRFP”) be established to provide natural perils cover for loss or damage by named cyclones or riverine flooding risks in designated parts of Northern Australia acting as a reinsurer to the direct market.
4. We consider a future layered arrangement for property insurance in respect of damage to property resulting from named cyclones or riverine flooding in Northern Australia should be re-structured as follows:
 - Direct writing insurers will write fronting cover and carry an agreed primary layer.
 - Direct writing insurers will provide all underwriting and claims services
 - ARCRFP would set the level of excess to be applied to each category of risk based on the construction and risk mitigation features and location of individual properties in designated areas.
 - The primary layer written by direct insurers to cover both highly protected and other risks up to a level of capacity to be agreed by negotiation.
 - ARCRFP to arrange second layer excess of loss cover to the extent available from professional reinsurers with the cost included in a premium levy across all participating insurers.
 - ARCRFP to provide a third layer excess of loss cover under a government guarantee subject to an appropriate premium levy collectible by the direct writing insurer.
 - The facilities of the arrangement with ARCRFP would only be available to insurers supervised by APRA.

The Benefits

- The arrangement would make best use of the existing skills and services of direct underwriting companies and not add to the current cost base.
- It would enable Governments to reconsider the extent of social payments to persons choosing to not insure or under insure.
- Encourage strong risk mitigation programs resulting in necessary action to take back government ownership of land subsequently deemed to be too high risk for general development.
- Overtime it should be possible to achieve some reduction in social and other payments by Governments following these events and result in more affordable premiums.

Item 4.2 Focus area 2: Case studies

- Under investigation – no comment at this stage

Item 4.3 **Focus area 3: Examination of premium adjustments**

Comments

- This item is the subject of continuing examination and whilst the fundamentals comprising technical rates are well known, insurers following the introduction of the *Trades Practices Act* (Cth) in 1974, (now the *Competition and Consumer Act*) have operated in a highly competitive environment ever since.
- Whilst the 'average burning costs' associated with particular perils and constructions are well known and available from the database, achieving a theoretical technical rate in an open market populated by brokers and agents is not often possible with technical rates discounted to retain or acquire acceptable business subject to tender or influenced by media advertising.
- Insurers behavior with premiums in responding to competition and the discipline throughout organisations will vary; and
- with renewable insurances of 12 months duration including those for retail premiums in Northern Australia, may be discounted, influenced by:
 - recurrent claims costs being less than their budgeted level;
 - lesser numbers of catastrophic events in the financial year to date;
 - the quality and claims experience of a particular client or parcel of business offered;
 - production targets exceeded covering budgeted expenses for the year;
 - competition between the underwriting and sales sides of the business; and
 - circumstances in the insurance industry referred to as 'special situations' affecting an insurer.
- The issue going forward, for retail policies, is whether there is basic fairness in the way renewal premiums are then set having regard to future loyalty, claims free and other bonuses are managed. Is this different in any other retail business?

We shall wait the outcome of the inquiry.

Item 4.4 **Focus area 4: Barriers to expansion (or re-entry)**

Comments

1. History surrounding the development of insurance in Australia shows that insurers set themselves up for business in the main centres of population which were in the south of the continent.
2. Excepting for North Queensland, Insurers selling or servicing business in less populated Northern Australia mainly did so through agency arrangements.
3. The expense of servicing such business was costly and the remoteness meant that both the administration and cost of claims was higher.
4. History also shows that outturn of insurance risks in the southern states was more predictable due to less exposure to catastrophe events and therefore more profitable.
5. Insurers, including new entrants in seeking to build a sustainable portfolio of insurance

business, have therefore focused on the centres of population in the south of the continent, consciously not offering insurance in Northern Australia.

6. This is unlikely to change except by legislation as is the case in some US states when it comes to perils such as flood or earthquake.
7. Establishment of the Queensland State Government Insurance Office and the Territory Insurance Office in the Northern Territory many years ago would indicate the desire of those governments to ensure a local insurance facility to service the needs of the public and business community in remote places.
8. The Queensland State Government Insurance Office was subsequently privatized to become Suncorp while the Territory Insurance Office was acquired by Allianz Australia Insurance Limited. These changes provided the opportunity to obtain the benefit of a wider geographical spread of portfolio risks. Compare this to the fate of AMI following the Christchurch Earthquake of 2011 which had far too great a concentration of risk in one geographical area. It needs to be kept at the top of mind that the likelihood of a catastrophic weather perils event in a city in Northern Australia is known to be significantly higher than government or the insurance industry in New Zealand rated the risk of a major earthquake in Christchurch: remembering they had multiple events in a very short period of time.

Item 4.5 Focus area 5: Understanding and addressing non-insurance

Response

1. We await the outcome of the research. LMI would be happy to share our experience as we have been with Sphere on behalf of the Mitigation and Risk Subcommittee within the Australia-New Zealand Emergency Management Committee who are undertaking a review of disaster insurance across Australia and New Zealand.

Item 4.6 How to make a submission to focus area 1: Measures to improve affordability and availability

Response

1. We await the outcome of the research and refer you to our comments and recommendations in this paper.
2. Insurance affordability will only improve if the amount of accumulated damage arising in any event is reduced in consequence of attention to risk mitigation by state and federal Governments; and municipal councils become obliged under the statutory powers vested in them, exercise proper controls in partnership with the public in managing this situation rather focusing on increased income by responding to the wishes of developers.
3. As we have seen in areas such as Karang in Victoria and Roma in Queensland, a relatively small amount of capital investment in risk mitigation can repay itself over and over again for decades and in turn lead to lower insurance premiums commensurate with the reduced risk.

Section 4

Our response to Appendix A – List of Recommendations

Recommendation 1 – Abolish stamp duty on home, contents and strata insurance products

Response

Stamp Duty on insurance policies should have been abolished when GST was introduced and was a failure in the political process then and remains so today.

Insurance risk premiums are inflated by stamp duty, GST and Emergency Services Levies in NSW.

If the Governments of Western Australia, the Northern Territory and Queensland could be persuaded to abolish stamp duty, that would result in an important immediate reduction in the cost of insurance and might lead to general improvements being developed by the federal Government to assist State funding.

Queensland, under Premier Bjelke-Petersen was the first state to abolish Fire Services Levies. It is now time for the Queensland Government, if it is genuine in its desire to assist the economy and the communities under its care to abolish the Stamp Duty on insurance.

For over 50 years there has been tax incentives, now referred to as Zone Tax Offsets, offered to people living in Northern Australia to compensate them for the harshness of the climate and lack of services. While the services have improved since the original tax incentives were introduced with the affordably crisis in insurance, we recommend that serious consideration be given to the removal of GST on home and contents, strata, and landlord insurance for residential properties where the Insured is not registered for GST?

If both GST and Stamp Duty were to be removed on such policies an immediate saving of 21% could be achieved for consumers.

Recommendation 2: Re-base stamp duty; use stamp duty revenue for affordability & mitigation

Response

We question the assumptions in this recommendation.

Insurance premiums are rated against property values, so the present system does not need to change.

We do not consider that Government measures to exercise their responsibilities and perform the functions in relation to risk mitigation should be traded in this manner.

If action at every level of Government is not undertaken with risk mitigation, it may not be a matter of risk affordability but availability of cover that becomes the next issue.

We advocate in the strongest terms that the benefits of flood mitigation strategies and the like will benefit all in the community and the funding of this work ought to be borne by all not just the prudent and risk averse that elect to insure, penalizing even further those that insure fully.

Recommendation 3: Insurers to report their brands and where they are writing new business

Response

Implementation of this recommendation would result in a significant change in the purpose of the *Insurance Contracts Act*.

It is no doubt within the power of any state Government not to grant an insurer a licence to operate or make such approval to do so conditional on providing certain services.

Insurers are private companies and can only provide insurance services where they can provide a return on shareholder capital. They do not have write cover for any risk they deem as unacceptable, cannot price the risk or is excluded by their underwriting terms or those of their reinsurers.

In the case of war and civil insurrection, the risk is carried by Governments. In the case of riverine flooding, the risk was traditionally borne by Government.

In less developed times, Insurers carried the risk of cyclone damage and in more recent times Insurers have moved to covering riverine flooding with increased activity on risk mitigation by local and state authorities.

The more Government seeks to force private insurers into writing natural perils catastrophe cover and added administration expenses without the Government delivering promptly on risk mitigation measures, the more likelihood there is of insurance cover becoming not only unaffordable, but also unavailable.

We trust that recommendations in our response are seen as seeking to avoid such a situation.

Recommendation 4: Standardise definitions of prescribed events

Response

We consider that this recommendation requiring further definition of defined perils is another step in the process of requiring insurers to clearly explain what in many cases is plain English.

It will add to the size of the PDS which few insureds will read, will make words more contestable, add to legal costs and will no doubt require insurers to go to the expense of rewriting their policies in a new format.

We were unable to form a conclusion about the comment “and does not unnecessarily limit insurers scope for future beneficial product innovation”.

We do not support this recommendation excepting in relation to an amendment to the prescribed home and contents wording.

Recommendation 5: Review and mandate standard cover

Response

Apart from what is already done with prescribed wordings under the *Insurance Contracts Act* Regulations it is difficult to see what this recommendation has to do with the affordability of natural perils cover in Northern Australia including those where strata risks are insured under Industrial Special Risks policies.

If it is intended to mandate cyclone and riverine flooding risk and the cover terms, it would represent a gross interference with the system of private insurance and may result in the unavailability of cover.

Currently, insurers do not produce a specific policy in the form of the prescribed version.

Their policies provide wider cover benefits.

We do not consider such an approach justified.

In relation to the review of the present home building and contents prescribed wordings, we recommend that the following exclusions in the prescribed home building and home contents wording be addressed to bring them into line with past cover and then to update them in line with modern family law.

The following are excluded:

(e) destruction or damage intentionally caused, or a liability as mentioned in paragraph (1)(d) intentionally incurred, by:

- *the insured; or*
- *a residing family member of the insured; or*
- *a person acting with the express or implied consent of the insured or a residing family member of the insured;*

Recommendation 6: Unfair contract term protections should apply to insurance

Response

General insurers have operated in Australia for over 165 years, serving the public with every natural disaster event indemnified by the policies they issue.

In the early history of insurance in Australia and at the end of the 19th century, many Australian insurance companies became insolvent due to rampant competition. Their businesses were acquired by British insurers resulting in the formation of the Tariff system which continued until 1975 delivering standard cover and standard premium rates to the Australian public in the cities and towns of Australia.

Insurance companies under the Tariff system could only differentiate themselves by the level of service they gave. Staff were educated in insurance practice by the various Australian Insurance Institutes with lectures conducted by qualified members working in the industry supported by lawyers and accountants as required.

Claims experiences of the many were shared in the various discussion groups. The atmosphere encouraged a liberal interpretation of cover based on what an insured might have expected to be covered with doubt frequently decided in the insured's favour. Under uniform wordings there was less consumer conflict and generally, staff of an insurance company may have also discussed claims situations with their network of contacts in other companies to test matters when in doubt about cover. The Tariff system of committees and claims discussion groups arranged in every state by the local Insurance Institutes helped by providing forum giving a safeguard against errors of judgement which generally assist the claims process.

After overseas brokers entered the Australian insurance market in the 1960's the Tariff system became under threat of major business being placed in London and other Overseas markets offering wider cover than that generally available under the Tariff system and the abolishing of the Tariff in 1975 was timely.

Changes since that time have resulted in vigorous competition for business. Advertising, which was banned under Tariff rules and therefore was not an expense of the business has now become a major component of insurers marketing retail policies.

With the abandonment of Tariff, many of the industry committees and groups that previously existed, ceased to operate. Current day practice sees the learned experience of insurance staffs confined to matters arising in their employer's business supplemented by law reports of insurance cases.

With the rise in consumerism, the important role of insurance claims staff in seeking to protect the insurer's portfolio premiums from fraud is often placed under criticism and attack by authorities and media comment. Bad publicity ignores the delivery of services resulting in the prompt settlement of many thousands of claims every week.

Insurance underwriting requires the offer of financial protection to insureds within a range of defined perils or events the risk of which can be properly costed by the insurer.

Difficulties will always arise when consumers don't take the trouble to read and understand their documented cover expressing dissatisfaction that others may seemingly be covered when they are not, regardless of the variations in protection that are now a feature of a competitive market and pricing differential. In this environment, the image of the industry is inevitably tarnished.

The image of the general insurance industry has also suffered in consequence of the Hayne Royal Commission, mainly in respect of the discredited sale of consumer credit insurance policies by a small number of insurers aligning themselves with the motor trade providing services to a particular market shunned by many other insurers.

There were examples of poor outcomes of certain insurers following recent natural disasters, namely the Wye River Bushfires and Cyclone Debbie. Much of this comes down to inadequate training of claims staff, the retirement of an entire generation of technical experts compounded by recent changes to the 457 Visa rules which has prevented the industry short cutting the boosting of claims expertise. Some disappointingly comes down to inappropriate conscience behaviour. These individuals and organisations ought rightly to be penalized for the good of the insuring public, the community, the economy and the insurance industry.

Government agencies distributing money find themselves under attack with fraudulent claims.

General insurance is no different in the management and distribution of their portfolio premiums which are treated as trust funds held for the benefit of the policyholders with legitimate claims to be paid out when claims arise from the perils defined in their policies.

Insurance is subject to the observance of utmost good faith by the insured **and** the insurer.

The insured knows the matters affecting their risk and if not willing to disclose or fully disclose the circumstances affecting their risk, the insurer is disadvantaged in making a proper assessment of the risk to be insured.

The responsibilities of an insurer are to act fairly in all dealings with insureds and intending insureds by not misrepresent the cover applicable or reading cover down in the determination of claims.

During the conduct of the Law Reform Commission Inquiries, there was recognition that the risk to policyholder funds from fraud and non-disclosure was ever present and there was general agreement between all parties that the legislative changes introduced at the time struck a reasonable balance in what was required to protect the interests of insurers and insureds.

We are concerned that changes proposed to address unfair contract terms that lessening insurers rights in favor of the consumer will make the conduct of the business and claims administration more difficult and expensive to perform in the management of policyholder funds.

The practice issues we observe that require more urgent attention in the interests of fairness are:

1. With larger insurer business portfolio's and the lesser technical insurance experience of claims personnel operating in the retail area, the risk of early rejection of claims due to inadequate information and quick reference to internal IDR programs is increased.

Whilst Brokers are quick to respond to these cases as their services include claims handling, direct clients are disadvantaged.

We have recommended the extension of retail policies to include claims investigation and preparation expenses as is done with commercial policies;

2. Definitions of flood that require the flood to make an opening in the building. This is a nonsense requirement for many flood victims where the water simply seeps up under the doors and defeats the purpose of the coverage in many cases of flood. The wording is a carry-over from a storm and tempest exclusion and was never intended to be applied to flood coverage in the past. Whether this is an accidental drafting error or a deliberate cynical attempt to deceive the insuring public we are unsure. All we know is the impact is the same on the unsuspecting public whatever the reason.
3. Exclusions for faulty workmanship, faulty design, faulty materials without a write back for the resultant damage caused by a peril such as storm and tempest, fire, and or flood that is not otherwise excluded.
4. Addressing the impact of current day intentional damage exclusions on families by reviewing the following exclusion contained in the present prescribed wordings for home building and contents insurance.

The following are excluded:

(e) destruction or damage intentionally caused, or a liability as mentioned in paragraph (1)(d) intentionally incurred, by:

- *the insured; or*
- *a residing family member of the insured; or*
- *a person acting with the express or implied consent of the insured or a residing family member of the insured;*

We are seeing cases of a family member with serious mental illness causing damage and the innocent insured(s) not having the reasonable protection of the insurance coverage.

Recommendation 7: A link to MoneySmart should be on new quotes and renewal notices**Response**

It is unclear why any commercial insurers should be required to include such a mandatory reference in their policy?

Recommendation 8: Better understand information that falls within 'general financial advice'**Response**

Insurers specialise in the business of providing insurance cover. They do not have expertise in relation to costs of rebuilding property or in building valuations.

Our views are set out under Recommendation 3.1.2.

Surely customers have to stand up and exercise some responsibility for themselves.

Recommendation 9: Disclose costs that count towards 'sum insured'**Response**

We agree that renewal documentation should identify to an intending insured the need to include cost allowances for demolition, debris removal and professional fees including for architectural services if required. The cost of asbestos removal could be significant.

Insurers can provide a template to assist the insured to work through this task to develop their sum insured requirements. Our proposal is that the information on building costs be obtained in future prepared by the State branches of either HIA or MBA State branches should also be extended to include reference to these matters.

The emphasis being placed on insurers to provide general information on costings under mandatory order of the *Insurance Contracts Act* is taking matters in a direction away from shared responsibilities. It imposes an additional burden and cost to the process and risks leading to a situation where Insurers may be held legally liable for perceived errors and omissions.

We do not favour this recommendation in its present form.

Recommendation 10: Disclose the premium, sum insured and excess on a renewal notice**Response**

We agree with this recommendation

Recommendation 11: Extend the ban on conflicted remuneration to insurance brokers**Response**

We question the broad assumption of this recommendation.

Agents, at all times, are acting as the agent of the insurer or multi-agents. As also providing professional services may be in a position to make recommendations to a client in favour of their own interests rather than those of the client.

Insurance Brokers acting as the agent of an insurer are required by law to provide notice to clients to that effect.

Brokers may sell ancillary services for which they receive commission, i.e., premium funding as an example. This saves clients the need to shop around, expedites closing the insurance but may not be at the most competitive price. Is this to be banned?

Brokers managing a portfolio of a particular class of business may move this to an insurer to achieve special benefits, premiums and conditions for the client base and negotiate a profit commission for themselves without becoming the agent of the insurer. Is this to be banned?

Brokers are already required to provide a detailed summary to clients which covers their services, advice, remuneration and how they deal with information.

Under the *Privacy Act*, brokers are not at liberty to sell or deal with client information other than as stated in their client appointment arrangement.

We consider that more information is required in relation to this recommendation.

Recommendation 12: Better information for consumers lodging a claim**Response**

The reputation of the insurer rests on the quality of their claim service delivery.

Are insurers currently so bad in the discharge of their claims obligations to client claims under the principle of the utmost good faith, that requires the production of such a document some aspects of which may already be covered in the policy under "How claims are settled"?

Some of the required information required to be delivered at the time when the claim is lodged is premature as it precedes determination of whether there is a valid claim and proof of loss.

It currently reads as though it is demonstrating to an insured, the thorny issues of the claims process for them and what they have to contend with and introduces the possibility of contest.

The decision to appoint a loss adjuster and the name of that party is communicated to an insured, usually on the report of the claim.

This recommendation needs further thought.

There are clear cases where insurance personnel and or their agents, loss adjusters, builders, restoration are not trained on the dispute's resolution process. This needs to be seriously addressed.

Others have been proven to fail to disclose the process to their clients.

For many insured's the claim, particularly if it is a significant one following fire, flood or severe storm. Insurers engage a swag of experts such as: loss adjusters; in-house assessors; investigators; hydrologists; engineers; building consultants; to protect their interests but the Insured is left there with no one to turn to. So much more is at stake for the insured than the insurer.

Over our working lifetimes, the social conscience of the insurance industry has certainly changed with less emphasis on the customer with more emphasis on share price and executive bonuses at lower and lower levels linked to share price.

Since the mid 1980's the right of an insured to appoint an expert on their side has been provided to business pack and ISR policy holders. Sometimes for a fee other times as a standard benefit.

A modest level of cover ought, in our opinion be a base requirement of all home, contents, strata and landlords' policies involving residential risks. Such cover would allow the insured to engage a loss adjuster of their choosing, and if required an engineer or other expert to ensure that the reinstatement of their asset, often their biggest financial investment is correctly carried out and that all the appalling practices we have seen in the construction and insurance industries is not going to impact them. A standard limit of \$10,000 and or a small percentage of the sum insured say 2.5% should be made standard, with the option to purchase higher levels of cover.

Aligned to this, research has shown and newspaper articles following events such as the Brisbane floods have described the process of the insurance claim is more stressful than the flood, fire or cyclone event. Having someone who is an expert in the process acting for them would greatly remove the stress. Remembering that mental health is a genuine issue for our communities.

The insurance industry addresses the issue of stress and mental anguish very well in the transport industry with counselling services available to truck drivers following serious accidents. Could this service be extended to policy holders directly affected by major events and or the claim process following natural catastrophes. Again, a modest policy limit would be recommended as standard with the option to purchase higher limits.

Recommendation 13: ASIC approval for the General Insurance Code of Practice

Response

No comment- This item currently a work in progress.

Recommendation 14: Public mitigation works and expected premium reductions

Response

Refer to our responses under Recommendations 3.4.1. and 3.4.2.

Recommendation 15: Building code changes to better protect interiors and contents**Response**

We agree in principle with this recommendation.

Refer to our response under Draft Recommendation 3.4.2.



HOME AND CONTENTS MOST POPULAR FEATURE REPORT

Home Insurance - Optional Accidental Damage

Allianz Insurance

<https://www.allianz.com.au/>

Info@allianz.com.au

1800 000 000

Effective Date: 01/03/2019

Insurance Underwritten by: Allianz Australia Insurance Limited

Claim Service Rating ★★★★★

FLOOD COVER

This Policy provides OPTIONAL cover for FLASH FLOOD

This Policy provides OPTIONAL cover for FLOOD

A 72-hour exclusion period applies for loss or damage caused by flood or flood water combined with run-off and rainwater – see page 11 for details

Coverage Legend

Coverage is generally provided however limitations to the extent of cover may apply	✓	Covered
Cover can be provided subject to underwriting criteria and generally the payment of an additional Premium	○	Optional
Cover is not available under this Policy	✗	Excluded
Some cover is provided but not full coverage	L	Limited

SUMMARY OF COVER PROVIDED BY THIS POLICY

Accidental Damage p43	✓	Rainwater p11/17	✓	Transit to New Permanent Risk Address Within Australia p40	L
Defined Events p16	✗	Riot or Civil Commotion p23	✓	Extended Motor Vehicle Liability - Legally Unregistered Vehicles p51	✓
Burglary, Theft or Housebreaking p19/73	✓	Storm p11/17	✓	Action of Sea p22/44/53	✗
Earthquake p14/22/74	✓	Storm Surge p17/53	✓	Defects - Inherent and Other p53	✗
Electrical Motor Burnout p45	L	Wind p11/17	✓	Earth Movement following a Storm p17/54	✗
Escape of Liquid p18	✓	Tsunami p14/22/74/76	✓	Erosion, Subsidence, Landslide, Earth Movement p17/20/44/54	✗
Explosion p20	✓	Additional Costs of Temporary Accommodation p28/38	L	Fire Related Damage p16	✗
Fire p11/16	✓	Cover Away From Risk Address - Temporary Removal of Contents p43	L	High Water p53/76	○
Flash Flood p11/44	○	Demolition, Removal of Debris p29/39	L	Malicious Damage by Tenants or Persons at Risk Address with Consent p21	○
Flood p11/44	○	Exploratory Costs p18	L	Mechanical or Electrical Breakdown (other than Fusion) p55	○
Glass or Sanitary Fittings p20	✓	Extra Costs of Rebuilding i.e. Statutory or Government Charges p31	✓	Seepage p1-79	✗
Impact p21	✓	Loss of Rent p1-79	✗	Settling, Shrinkage, Expansion 43/44	✗
Lightning p22	✓	Professional Fees ie Architect, Surveyor, Engineer p29	L	Theft by Tenants or Persons at Risk Address with Consent p19	✗
Malicious Damage p21	✓	Spoilage of Freezer or Refrigerated Food p41	L	Tidal Wave p53/76	✗
Power Surge p1-79	✗	Temporary Repairs/Protection p1-79	✗		

RELATED BENEFITS AND LIMITS OF COVER AT RISK ADDRESS

COVER	INCLUDED OR ADDITIONAL TO SI	LIMITS	PAGE
Additional Costs of Temporary Accommodation	Additional to SI	Limit 10% of SI, maximum 12 months	28/38
Demolition, Removal of Debris	Additional to SI	Limit 10% of SI	29/39
Professional Fees ie Architect, Surveyor, Engineer	Additional to SI	Limit \$5,000, includes solicitors fees, nil excess applies	29
Legal Liability	Limit	Limited to \$20,000,000	50
Replacement of Locks and Keys	Included in SI	Limit \$1,000, if keys stolen or duplicated, excludes replacement of locks or cylinders ...	19
Visitor's Contents	Included in SI	Limit \$5,000 for property belonging to the Insured's guests visitors or domestic helpers ...	40
Bicycles	Sub Limit	No sub limit, excluded whilst being used	34/35
CDs/DVDs/Videos/Electronic Games/Digital Media	Sub Limit	Limit \$2,000 in total for commercially recorded or downloaded media contents including audio...	36
Collection of Contents or Valuables	Sub Limit	Limit \$2,500 per item pair set or collection up to \$7,500 in total unless specified for collections or...	36
Gold or Silver Articles	Sub Limit	Limit \$2,500 per item pair set or collection up to \$7,500 in total unless specified for jewellery...	36
Jewellery	Sub Limit	Limit \$2,500 per item pair set or collection up to \$7,500 in total unless specified for jewellery...	36
Mobile, CDMA, GSM, Satellite Phones	Sub Limit	Limit \$1,500 per item for laptops tablets mobile phones portable computers and their...	37
Photographic Equipment and Accessories	Sub Limit	Limit \$2,500 per item pair set or collection up to \$7,500 in total unless specified	36
Unfitted Vehicle Caravan Boat Accessories or Spare Parts	Sub Limit	Limit \$2,000 in total for spare parts or accessories which are not fitted or being used...	36
Money, Cheques and Negotiable Instruments	Sub Limit	Limit \$2,000 in total, excludes money cheques or other negotiable instruments belonging to Insured's business trade or profession	34-36



THE INSURED

This Definition outlines who the Insurer considers to be the Policy Holder or Insured Person. It is generally the person stated in schedule and can include their family. A definition of who the Insurer considers to be family is usually provided. Some Policies will even extend to cover your student children boarding at school, college or university.

The person(s) named in the current schedule as the Insured and those

persons who live with the Insured permanently who are (a) Insured's legal spouse or de facto (meaning a de facto relationship where the Insured and their partner are living together in a genuine domestic relationship) or (b) any member of Insured's own family and Insured's spouse's or defacto's family - page 77



THEFT V BURGLARY

Traditionally 'Theft' is classified as 'Theft without forcible entry' or sometimes 'without forcible and violent entry', meaning that there must be evidence of forcible and violent entry by way of damage to the

building. Theft as opposed to Burglary (which is a theft following forcible and violent entry upon the premises) may have many Policy limitations. For example, money



EXCESSES

Unless we state otherwise in the PDS, when you make a claim under the policy, you will need to pay an excess – which is a type of co-payment toward your claim.

So for example, if you have an excess of \$1,000 and make a claim for \$3,000, we'll pay the balance of \$2,000. We will only pay the claim if the claim amount is more than the excess that you have agreed to pay. In some circumstances you will need to pay the excess amount up front.

When you apply for cover, you will be asked to choose an excess amount from the available options. This can be made up of a basic excess, and a voluntary excess. Generally, the higher your excess amount, the lower

your premium will be. In some cases, we may impose an additional compulsory excess which reflects our risk and underwriting criteria. You cannot vary or remove this excess.

The agreed excess you need to pay for each cover type is shown on your policy schedule, or referred to in this PDS.

An additional imposed excess amount of \$250 applies for each claim for loss or damage caused by an earthquake or tsunami, or a series of earthquakes or tsunamis, during any period of 48 consecutive hours.



ADDITIONAL EXCESSES AND WAITING PERIODS

An additional imposed excess amount of \$250 applies for each claim for loss or damage caused by an earthquake or tsunami, or a series of

earthquakes or tsunamis, during any period of 48 consecutive hours.



DEPRECIATION

Despite the Basis of Settlement of most insurance Policies in today's market being "Reinstatement Replacement" (New for Old) there can be instances where an insurer will reduce the amount payable on the basis of its age and/or condition.

Examples in this Policy:

- Dividing fences, gates and free-standing walls: the most we'll pay is half

the cost of repairing or rebuilding, after taking into account depreciation, based on its age and condition

- If we have chosen to repair or rebuild your damaged buildings, but you don't want to repair or rebuild, we will pay you either:• the reasonable cost to repair or rebuild your damaged buildings, less an amount for depreciation (based on the age and condition of the buildings), or



INSURER, ISSUER, UNDERWRITER, PROVIDER, SECURITY

The name of the Company selling this insurance product is not necessarily the company who is insuring your property. In many

instances this is simply the Brand or Trading Name of another Insurance Company or Underwriting Agency.

The Underwriter of this Policy is:

© **Allianz Australia Insurance Limited**

Allianz Australia Insurance Limited
AFS Licence No. 234708,
ABN 15 000 122 850
2 Market Street,
Sydney, NSW, 2000