



Northern Australia Insurance Inquiry

Second Update Report

July 2019



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Australian Competition and Consumer Commission
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1. Executive summary

The Australian Competition and Consumer Commission (ACCC) commenced its Northern Australia Insurance Inquiry on 1 July 2017. The government asked us to undertake this inquiry in northern Australia to help address concerns about insurance availability and affordability, and promote more informed and more competitive insurance markets.

Over the past two years, we have examined the markets for residential home, contents and strata insurance in a level of detail that has not been possible by any review before us. We have received and analysed an extensive volume of documents and data from insurers, and we have consulted widely, including with local residents and communities across northern Australia.

On 30 November 2018, we provided our first interim report to the Treasurer. That report set out our findings about the operation of markets for home, contents and strata insurance in northern Australia so far. We made 15 recommendations designed to improve how insurance markets work and achieve better outcomes for consumers, and we urged governments and industry to act on these recommendations immediately. The Australian Government is still considering its response to our first 15 recommendations alongside its consideration of other reports and inquiries.

In addition to our 15 recommendations, we made a further 13 draft recommendations that we considered had the potential to make markets work more efficiently by improving information and choices available to consumers and addressing conflicts of interest. In publishing our first interim report, we invited public comment on the draft recommendations. The outcome of that consultation, and our now finalised recommendations, are the main subject of this update.

We welcome the interest from stakeholders on our draft recommendations. We received approximately 120 submissions, including from local residents, industry and consumer groups, and regional development and government organisations. The views shared have helped us understand the level of support for the principles underlying our draft recommendations, and potential issues that we could seek to address through amendments.

After considering stakeholder views, we have finalised all 13 draft recommendations (six without amendment, seven with minor amendments). Coupled with our first 15 recommendations, we have now made a total of 28 recommendations to governments and industry. We again urge governments and industry to act quickly on all 28 recommendations that we have now made as part of this inquiry.

While we believe our recommendations, if acted on, will bring improvements to insurance markets for consumers, we maintain that further policy responses may be necessary to address the scale of insurance affordability concerns that have been emerging. The primary focus of our inquiry is now to consider and propose policy measures that could have the potential to achieve real and meaningful change for northern Australian communities.

We are committed to progressing our consideration of potential policy responses as part of our key focus area for 2019 (focus area 1). Our work on this key focus area includes a review of how others, including internationally, have considered issues of insurance affordability and availability and whether any such measures could be applied in northern Australia. We encourage interested individuals and groups to help inform our considerations by responding to the consultation questions set out in section 4.1 of this report.

We are also actively developing our four other focus areas:

- case studies on sub-regions in northern Australia, which includes a look at the insurance profile of Townsville in light of the February 2019 flood event
- examining the effects of premium adjustments on retail premiums in northern Australia
- investigating barriers to expansion (or re-entry) into northern Australian markets, which will discuss a recent new entrant to north Queensland markets
- understanding non-insurance and how it may be addressed, which includes a commissioned survey of residents of northern Australia.

We look forward to reporting on these focus areas more fully in our next interim report, which is due to the Treasurer by 30 November 2019.

2. Looking back: Our first interim report

On 30 November 2018, we provided our first interim report to the Treasurer. The following chapter provides an overview of the report and summarises our findings about home, contents and strata insurance markets in northern Australia.

2.1 About the report

The northern Australia insurance inquiry was established to address concerns about insurance availability and affordability, promote more informed and more competitive insurance markets, and make a difference for consumers in northern Australia.

The first interim report was the first of three reports that we were required to provide to the Treasurer as part of the inquiry. Our second interim report will be provided by 30 November 2019 with a final report due at the conclusion of the inquiry by 30 November 2020.

The first interim report set out detailed findings about the prices, costs and profits in home, contents and strata insurance markets in northern Australia up until 2017–18. As well, the report detailed findings on the state of competition in those markets, and the products and information available to consumers. Importantly, it also set out measures that could be taken to begin to address the problems we have identified. Many of the recommendations could also benefit consumers and insurance markets nationally if more broadly applied.

In preparing the first interim report, we obtained information from the eight main insurers supplying insurance in northern Australia through compulsory information gathering powers available to the ACCC under section 95ZK of the *Competition and Consumer Act 2010* (Cth).¹ We also obtained information from eight public forums we held across northern Australia between 15 November and 6 December 2017 and from submissions we received in response to our issues paper, which we released in October 2017.

2.2 What we found

Our analysis confirmed what many residents and property owners across northern Australia told us throughout our public consultation. Home, contents and strata premiums are, on average, considerably higher in northern Australia than in the rest of Australia and have increased more in recent years.

However, while premium revenue is proportionally much higher in northern Australia, so too are insurers' costs. Insurers incurred heavy losses in northern Australia earlier this decade due to the impact of a number of damaging weather events, and while insurers' financial performance in northern Australia has significantly improved in recent years, the region remains unprofitable for the industry in aggregate. As a result, insurance premiums are increasing, especially for those in high risk areas.

We also observed an unusual competitive dynamic, with insurers in northern Australia not necessarily motivated to compete on price for market share. Instead, we have observed insurers employ measures to manage their exposure in regions they perceive to be risky or volatile. For example, by increasing their premiums so as to lose customers in certain regions, or by no longer selling or renewing policies in certain areas once they reach a certain exposure.

¹ These insurers are: AAI Limited (Suncorp), Allianz Australia Insurance Limited (Allianz), Commonwealth Insurance Limited (CommInsure), Insurance Australia Limited (IAG), QBE Insurance (Australia) Limited (QBE), RACQ Insurance Limited (RACQ), Westpac General Insurance Limited (Westpac), Youi Pty Ltd (Youi). A number of other insurers with a limited or no current presence in Northern Australia have also provided limited information.

While many consumers told us they have attempted to shop around for the best deal, they found comparing insurance policies difficult and time consuming due to the complexity of policy documents and the lack of pricing transparency. We found consumers are not always given the information they need to make good choices and product variability can make comparisons difficult for consumers. Although some consumers may use brokers to help understand their risk and assess products, we found broker remuneration structures inevitably give rise to conflicts of interest, which consumers may not be fully aware of.

In order to begin addressing the problems we identified, we set out 15 recommendations that we considered would improve how insurance markets work and which would achieve better outcomes for consumers, and urged governments and/or industry to act on immediately. These included:

- abolishing stamp duty on insurance products
- introducing standard definitions of prescribed events
- requiring insurers to provide a product consistent with the revised standard cover
- requiring insurers to report their brands and areas where they are writing new business
- prohibiting conflicted remuneration for insurance brokers
- a range of other recommendations to improve information disclosure to consumers.

We also made 13 draft recommendations that we believe have the potential to make insurance markets work more efficiently and sought stakeholder feedback on those proposals. The outcome of that consultation, and our finalised recommendations, are the main subject of this report. While the measures we have proposed to date will bring improvements to insurance markets, it will still leave underlying affordability issues for some individuals, and further policy responses may be required. As such, our key focus for this phase of the inquiry is to explore what measures could be considered that may improve the affordability and availability of insurance in this region. Our current focus for the inquiry is discussed further in section 4.

2.3 Reactions to our first interim report

There is a broad range of stakeholders with a strong interest in our inquiry including local residents and property owners across northern Australia, the insurance industry, regional development and government organisations, brokers, strata management groups and consumer advocacy groups.

We received approximately 120 submissions in response to our first interim report, including from consumers, representatives of the insurance industry, consumer groups, and regional development and government organisations. These submissions are published on our website.² The majority (over 70) of these were submissions in substantially the same form from strata managers in support of the submission from Strata Communities Australia (SCA).

While the first interim report sought stakeholder views on the draft recommendations, some submissions also provided views on the recommendations we proposed be implemented by industry and/or governments without delay. Although these recommendations stand, we also share some of the reactions we received to these as part of this report.

Generally, there was overall support for the 15 recommendations made in the first interim report. In particular, there was strong support from all parties for the abolition or the rebasing of stamp duty. Consumer groups expressed general support for all recommendations and noted their ability to improve outcomes for consumers through increased transparency and the removal of the information asymmetry between consumers and insurers.

Submissions from the insurance industry generally supported most recommendations in principle. Recommendations they did not offer full support for were generally ones that place disclosure obligations on insurers through regulation. In these circumstances, the insurers considered that the industry should have flexibility in how it presents information to prevent what they consider will be information overload.

² www.accc.gov.au/insurance.

There was strong opposition from broker groups, the SCA and strata managers in response to our recommendation to extend the ban on conflicted remuneration to insurance brokers. These submissions considered that there is a lack of evidence that a commissions-based system has resulted in negative outcomes for consumers. RACQ considered there are potential downside impacts to consumers who rely on brokers if this recommendation is implemented, particularly in the context of low financial literacy levels. However, individuals and consumer groups supported this recommendation noting the current potential incentives for brokers to place consumers with inappropriate products.

The government is considering its response to our recommendations alongside other existing financial service reports and inquiries. This includes the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry and the government's response to the Productivity Commission's report into Competition in the Australian Financial System.³

2.4 Monitoring insurance affordability and availability in Townsville

Subsequent to the release of our report, in February 2019, Townsville and surrounding areas of north Queensland were affected by a devastating flood that left hundreds of residents displaced and caused up to a billion dollars in damages to people's homes and businesses.⁴

In April 2019, we received a letter from the then Assistant Treasurer, the Hon Stuart Robert MP, requesting we continue to monitor insurance affordability and availability in Townsville as part of our ongoing inquiry into insurance in northern Australia.

In particular, the letter noted our intention to undertake a number of detailed case studies on sub-regions within northern Australia (our focus area 2), and in light of the recent severe flooding in Townsville, requested the ACCC assess the extent of non-insurance in flood affected areas as part of these case studies. This includes households that have insurance but not flood cover, and understanding why some consumers choose not to take out flood cover and why some insurers do not provide it.

In parallel to our inquiry, the government also request we examine the extent of non-insurance for small businesses in the affected areas and the reasons for this.

A case study on Townsville will help the government plan its long-term response to the recent flooding and prepare for future disasters in northern Australia, and will be included as part of our case studies focus area. Our proposed case studies are discussed further in section 4.2.

A copy of the letter is on our website.⁵

³ <http://srr.ministers.treasury.gov.au/media-release/058-2018/>.

⁴ <https://www.brisbanetimes.com.au/national/queensland/queensland-floods-damage-bill-estimates-top-1-billion-20190216-p50ya1.html>.

⁵ www.accc.gov.au/insurance.

3. Our final position on our draft recommendations

In the first interim report, we identified 13 draft recommendations on which we sought stakeholder feedback. The draft recommendations were measures we considered have the potential to improve the functioning of insurance markets, but which we considered needed to be subject to stakeholder views before finalising. These draft recommendations predominantly relate to consumer information and choices, intermediaries and other third parties, claims processes and dispute resolution, and mitigation. In the report, we invited submissions on the draft recommendations, and asked a number of specific questions about each recommendation.

While we received a large number of submissions in response to our first interim report, only a small subset provided in-depth comments on the proposed draft recommendations. Submissions that commented on the draft recommendations were predominantly from representatives of the insurance industry, consumer groups or government organisations. Individual consumer submissions tended to not comment on the draft recommendations, but rather reiterated concerns regarding high and rising insurance premiums. Submissions are available on the ACCC website.⁶

This section provides an update on stakeholders' views on the draft recommendations, and our decision about whether amendments are required before finalising the recommendations. In summary, we are finalising all 13 draft recommendations, six of these without amendments. We have amended the drafting of seven of the recommendations in response to issues raised in submissions. However, these amendments do not change the effect of the recommendations. The recommendations that have been amended relate to consumer information and choices, disclosure obligations for intermediaries, and claims settlement.

Together with the 15 recommendations from the first interim report, the inquiry has now made 28 recommendations. A list of the inquiry's recommendations is in Appendix A.

3.1 Consumer information and choices

In the first interim report we found consumers are not always given the information they need to make good choices, as there is little visibility over how insurers are assessing risks, how premiums were being set and why they were increasing. We also heard from consumers who wanted to shop around, but found comparing insurance policies difficult and time consuming. They said they often lacked the confidence to understand exactly what they were covered for and how to compare policies.

In any industry, informed and engaged consumers drive competition. We found the complexity and opacity of home, contents and strata insurance is challenging this outcome in northern Australia. We therefore made a number of draft recommendations aimed at improving the effectiveness and relevance of information provided to consumers in order to reduce underinsurance, help consumers choose and improve consumer awareness of their risk.

Consumers face difficulties in comparing insurance offers and making informed decisions. Insurers usually offer products that deviate from the standard cover and event definitions differ between insurers. In order to determine how these products and event definitions differ, customers need to consult each insurer's Product Disclosure Statement (PDS) or Key Facts Sheet (KFS) resulting in a complex and time consuming search. There is also little transparency in the pricing of premiums other than the total price, meaning consumers have little visibility over how pricing of components differs between insurers.

To help consumers choose, we proposed measures that would assist consumers to think about the key features they want, or can afford, to include in their policy, how these may impact their premium, and how to better compare them between insurers.

⁶ <https://www.accc.gov.au/focus-areas/inquiries/northern-australia-insurance-inquiry/submissions-to-first-interim-report>.

3.1.1 Treasury's review of the general insurance disclosure regime

An important related development is Treasury's current review of the disclosure regime for general insurance. In December 2017, the Minister for Revenue and Financial Services asked Treasury to develop proposals to improve consumers understanding and access to information for general insurance, through enhanced disclosure and better transparency. As part of this, Treasury are currently reviewing the standard cover regime.⁷

In the first interim report, we recommended Treasury, as part of its review of the standard cover regime, develop a proposal to standardise definitions of prescribed events (recommendation 4) and develop a proposal to mandate insurers provide a product that does not deviate from a standard cover product (recommendation 5).

We consider these two recommendations will improve consumers' ability to compare products between insurers, and lower search and switching costs. We also consider that recommendations 4 and 5, if accepted, will improve the effectiveness of other draft recommendations made in the interim report. In particular, draft recommendation 4 (a national home insurance comparison website) and draft recommendation 7 (consider likely costs before purchasing real estate) would be more effective if a standard cover regime were in place.

We note Treasury's review into the disclosure regime for general insurance is continuing.

3.1.2 Reducing underinsurance by estimating sum insured

Data on the rates of non-insurance and underinsurance is limited and an area we are exploring in more detail this year (see section 4.5). Most claims for damage to buildings in northern Australia are for a partial loss and any inadequacy in the sum insured amount relative to a total loss is not necessarily clear even following a partial loss claim.

However, when a home insured under a sum insured policy becomes a 'total loss' and needs to be rebuilt, the sum insured may not be sufficient to fully replace the home. While the data we obtained from insurers suggests insurers often pay out claims up to, and even a margin over, a consumer's sum insured for home insurance, we did see some instances of clear underinsurance, where a claim pay out limited by the sum insured was only a fraction of the estimated value of the loss.⁸

Consumers experiencing difficulty in determining a sum insured may select a sum insured amount that is too low leading to underinsurance. Currently, most insurers offer online calculators provided on their websites to estimate the sum customers should insure their home and contents for. While calculators can be very helpful, the variable results they produce continue to cause concern and confusion for consumers. ASIC's MoneySmart website (www.moneysmart.gov.au) and the ICA's Understand Insurance website (www.understandinsurance.com.au) explain how calculators work and things to look out for in using them, however the majority of consumers will likely not access this information.

Estimating the sum insured is one area where we proposed that insurers could, and should, provide better guidance to consumers to lessen the risk of underinsurance. Insurers are likely to already have access to the information necessary to estimate a sum insured in relation to their customers' insured buildings. As such, they should be in a position to understand if there are material differences between the sum insured a customer has selected and the amount suggested by their own calculations.

⁷ <https://treasury.gov.au/consultation/c2019-t354736>.

⁸ ACCC First interim report, Northern Australia Insurance Inquiry, November 2018, p. 159.

Draft recommendation 1: Insurers should estimate a sum insured for customers

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.

Stakeholder views

Submissions were generally supportive of this draft recommendation, with many noting its potential to reduce underinsurance by improving consumer information and highlighting potential hidden costs involved in repairing or rebuilding, such as debris removal, legal costs, and potentially temporary accommodation costs.

The Financial Rights Legal Centre (FRLC) and Legal Aid Queensland (LAQ) both supported this draft recommendation, however they considered it should also include requirements for insurers to maintain an accurate and informative sum insured calculator. FRLC submitted amending the Insurance Contracts Regulations further, to require insurers to provide access to an accurate and informative sum insured calculator as part of the home building insurance application process.⁹ LAQ considered calculators should be regularly reviewed by experts, easily accessible for consumers, and include the cost of extras such as clean-up costs following a cyclone.¹⁰

ASIC supported this draft recommendation and considered that differences between insurers' sum insured estimates would provide insurers an opportunity to explain any variations between their estimate and those provided by other insurers. It considered that this would give insurers a greater incentive to work with third-party calculator providers to ensure the accuracy of the estimates produced, and improve consumer confidence in the estimates produced by calculators.¹¹

While Suncorp, RACQ and the ICA supported the intent of this draft recommendation, all three considered that there is either potential for an insurer's estimate of sum insured to be considered personal financial advice under Chapter 7 of the *Corporations Act 2001* (Cth) or that giving this estimate during policy renewal may be considered to be the provision of such advice.¹² This would be inconsistent with many insurers' 'general advice models' under which insurers are not authorised to provide personal financial advice and would therefore trigger additional obligations and requirements.¹³ Suncorp and ICA also raised concerns that providing an estimate in this way may transfer liability for potential underinsurance to insurers. They noted that if this recommendation was adopted, it should be made clear that this does not constitute personal advice and that this does not transfer liability to insurers in the event that the customer is underinsured.¹⁴

IAG suggested a more effective approach would be to educate consumers about the risks of underinsurance and prompt policyholders to contact the insurer if their circumstances have changed since their last renewal.¹⁵

⁹ Financial Rights Legal Centre submission, p. 18.

¹⁰ Legal Aid Queensland submission, p. 8.

¹¹ Australian Securities and Investments Commission submission, pp. 8-10.

¹² RACQ submission, p. 10; Suncorp submission, p. 15; IAG submission, p. 2.

¹³ Under Part 7.7, entities that provide personal advice relating to a financial product must prepare and provide both a financial services guide and a statement of advice. Under Part 7.7A, the advice provided must comply with the best interests duty and related obligations.

¹⁴ Insurance Council of Australia submission, p. 8; Suncorp submission, p. 15.

¹⁵ Insurance Australia Group submission, p. 2.

Final recommendation

Current arrangements to address issues around underinsurance are of limited effectiveness. In 2014, Legal Aid NSW surveyed 108 residents who were affected by the 2013 Blue Mountains bushfires and found:

- for home building policies—on average, underinsurance amounted to \$186 188 per household (totalling 28 per cent of rebuilding costs)
- of the 68 survey participants who were insured and had suffered a total loss of their home, a total of 82 per cent experienced some level of underinsurance for their home building policy and/or home contents policy.¹⁶

Further, we note some stakeholders' view that insurers providing an updated estimate of the sum insured and providing a factual warning about the dangers of underinsurance could be considered personal advice under Chapter 7 of the *Corporations Act 2001*. For the avoidance of doubt, we recommend amending Chapter 7 of the *Corporations Act 2001* to exclude advice by an insurer fulfilling this obligation from being considered personal financial advice. However, we would still expect estimates to be made with due care and skill.

We also note that insurers' concerns about providing personal advice could be addressed through recommendation 8 in the interim report. This recommended the ICA engage with ASIC to gain a clearer understanding about the nature and type of information insurers can give to consumers within the meaning of providing general financial advice under Chapter 7 of the *Corporations Act 2001*.

Requiring the insurer to estimate a sum insured for consumers would give the insurer an opportunity to explain their estimate, and in doing so may help to improve consumer confidence in the estimates produced by the calculators. This in turn would also give insurers a greater incentive to work with third-party calculator providers to ensure the accuracy of the estimates produced.

Final recommendation: Insurers should estimate a sum insured for customers

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.

3.1.3 PDSs and KFSs support clear disclosure and should be prominent

Insurers must provide a PDS and a KFS to consumers when they are purchasing a new product, or renewing an existing one. A PDS is a plain English document that gives a full description of all of the terms and conditions of the insurance product. It includes a description of the features, benefits, cost and risks associated with the product. A KFS is a short document intended to provide increased simplicity, consistency and comparability for consumers when they are making decisions regarding insurance products. Together, they provide consumers with sufficient information about the terms and conditions, benefits and exclusions that will allow them to compare different insurance products they may be considering and make an informed decision about whether they meet their needs.

¹⁶ Legal Aid NSW, Submission to Financial System Inquiry Interim Report, August 2014 https://www.legalaid.nsw.gov.au/_data/assets/pdf_file/0006/19977/Legal-Aid-NSW-submission-to-the-Financial-System-Inquiry-Interim-Report_-August-2014.pdf.

Insurers vary considerably in the prominence they give to disclosure documents on their websites including the PDS and KFS. In our review of insurers' websites, we found that in many cases, links to a KFS did not appear alongside their product offerings, or were located only in the 'fine print'. We consider that any mandatory information disclosure must, at a minimum, be prominent to consumers and potential consumers.

Draft recommendation 2: Prominently publish PDSs and KFSs online with product offerings

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.

They should be accessible prior to the commencement of a quoting process. This will facilitate more timely and convenient access for consumers to important information about products they are interested in buying.

Stakeholder views

All submissions made in response to draft recommendation 2 either supported or did not oppose it. However, IAG believed more guidance is required on the meaning of 'prominent manner'.¹⁷ LAQ and FRLC submitted that for this draft recommendation to be effective, the placement and presentation of this information should be regulated to ensure consistency between insurers and to aid consumers in comparing different insurance products.¹⁸

Final recommendation

We consider the PDSs and KFSs remain important mechanisms for consumers to understand product features, coverage limitations and exclusions. Ensuring consumers have ready and easy access to these documents will prompt them to assess important information about the products they are trying to compare.

However, we do not consider the precise placement and presentation of this information needs to be regulated. We consider these documents will be prominent if they are at least alongside or directly underneath the relevant product and if a person visiting the website or viewing the signage can easily find and read them. These documents should also be accessible prior to the commencement of the quoting process, and should be accessible throughout the entire quoting process.

While a revamped standard cover regime has the potential to reduce current reliance on PDSs and KFSs, consistently presented information of this kind will remain an important mechanism to enable customers to compare between insurers for optional inclusions and other product characteristics.

Our final position is therefore to amend the wording used in the draft recommendation to require that the PDS and KFS should be accessible throughout the entire online quoting process.

Final recommendation: Prominently publish PDSs and KFSs online with product offerings

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.

¹⁷ Insurance Australia Group submission, p. 2.

¹⁸ Legal Aid Queensland submission, p. 9; Financial Rights Legal Centre submission, pp. 19-20.

3.1.4 Price transparency better informs consumers

Consumers with a clear understanding of the pricing components of their insurance products are likely to make more informed decisions about their choice, and have an improved capacity to shop around and switch insurers.

While some insurers provide a breakdown of the components of their premiums, this is not always the case. Choices made by consumers, in particular for flood coverage or raising or lowering the excess, can have a significant impact on premiums. For example, in the first interim report we found that raising the excess for home and contents products from a median of \$1500 to \$5000 could lower premiums by between 15 and 19 per cent. Conversely, lowering the excess from a median of \$1500 to \$500 increased premiums by 15 to 16 per cent.

In order to enable new and renewing customers to make an informed decision about which product features, excess levels and sums insured to select, we made draft recommendation 3, which proposes the Insurance Contracts Regulations be amended to require insurers to disclose the premium costs or saving for each optional inclusion or exclusion they offer to a consumer. This could be as a percentage surcharge or discount, or a specific dollar amount. In relation to the sum insured, this would be with reference to the price effect of selecting an incremental increase, or decrease, in the sum insured amount (for example, for each increase or decrease of \$25 000 for a building policy). This information should be provided to a consumer when an insurer provides a quote for a new policy and on a renewal notice.

Draft recommendation 3: Disclose premium impacts of optional inclusions or exclusions

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 with a quote for a policy and upon its renewal.

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.

Stakeholder views

Consumer groups LAQ and FRLC, as well as Professors Allan Fels and David Cousins all supported this draft recommendation. LAQ considered this recommendation is important because it improves transparency in the insurance industry and allows consumers to make more informed choices about the type of products that are suitable for them.¹⁹ Professors Fels and Cousins considered that if a standard cover product were mandated, insurers would still be able to offer optional extras above and beyond the standard cover product, but these deviations from the standard product should be benchmarked against the standard cover product price.²⁰ FRLC believed such a reform goes directly to the principles behind mandating a component pricing regime, which is currently being considered by Treasury.²¹ The Australian Financial Complaints Authority (AFCA) agreed with Draft Recommendation 3 applying to inclusions but did not see this as practicable for exclusions.²²

¹⁹ Legal Aid Queensland submission, p. 9.

²⁰ Professor Allan Fels AO and Professor David Cousins AM submission, p. 11.

²¹ Financial Rights Legal Centre submission, p. 22.

²² Australian Financial Complaints Authority submission, p. 9.

Insurers, on the other hand did not support this draft recommendation, considering it would risk encouraging consumers to select cover based on price rather than risk assessment (and potentially leaving people underinsured). Suncorp, RACQ, IAG and the ICA also considered there is risk of providing too much information and confusing customers.²³ The ICA submitted consumers are already able to view the impact of optional inclusions or exclusions on premiums using the web based calculators provided by insurers and any regulatory requirement to separately list out premium costs or savings requires careful consideration to avoid inundating consumers with too much information.²⁴

The National Insurance Brokers Association (NIBA) considered that any proposal along the lines of the draft recommendation should be thoroughly tested by extensive market research prior to implementation to ensure that the provision does not result in further confusion for consumers.²⁵

Final recommendation

We do not find the insurers' arguments against this draft recommendation to be persuasive. Current visibility over the components of premium pricing is very poor, and it is difficult for consumers to determine what the different aspects of their coverage cost. This has already led to customer confusion.

Currently, consumers are unable to easily compare the price impact of optional policy inclusions/exclusions (such as flood, accidental breakage cover or extended replacement policies) which are available in home and contents policies. As we found in the first interim report, price competition in northern Australia is soft in certain areas. Measures to improve price visibility and comparability will improve this. By including the premium impacts of optional inclusions/exclusions, consumers are able to make an informed assessment of price and the effect of these choices on price. Where consumers are able to better consider the cost of inclusions and savings from exclusions, this will provide incentives for insurers to provide better product features at more competitive prices.

We do not consider adding a price component to optional inclusions/exclusions will confuse customers. Many insurers already provide consumers with a list of optional inclusions/exclusions when providing them with a quoted premium. This practice improves price visibility over how these optional inclusions/exclusions may impact the final premium. We consider consumers should be provided with this information as it will enable them to better compare between insurers and assess whether they are willing to pay for a particular aspect of their coverage.

If insurers are required to offer a standard cover product in the future, this disclosure will be improved as the standard cover product provides a better comparable benchmark and would likely be more useful to consumers comparing insurance products. However, we do not consider the disclosure would only be effective if a standard cover product was introduced. Consumers will still more easily be able to identify what the cost of inclusions are from their insurer and competing insurers, even if the precise terms do differ. If anything, this is more likely to prompt a consumer to consider why two insurers' apparently similar inclusions differ in price.

We have amended the drafting to improve clarity that this information should be provided to a consumer when an insurer provides a quote for a new policy or on a renewal notice.

Final recommendation: Disclose premium impacts of optional inclusions or exclusions

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.

²³ Suncorp submission, p. 16; RACQ Insurance submission, pp. 10–11; Insurance Australia Group submission, p. 3.

²⁴ Insurance Council of Australia submission, p. 8.

²⁵ National Insurance Brokers Association submission, p. 8.

3.1.5 A comparison website may improve consumers' ability to find and compare policies

Comparison websites can help consumers to minimise their search time, more easily compare products and find products that best match their preferences. By facilitating more informed consumer decision making, comparison websites can also support competition between suppliers and put downward pressure on prices. They can also provide an opportunity for new entrants to increase consumer awareness of their brand at relatively low cost, reducing a barrier to entry.

Current commercial comparison websites attract a range of concerns such as not comparing product offerings from all providers in a market, and conflicts that can arise when some sites are owned by the providers they are comparing and/or from the revenue streams that fund the provision of the website. Crucially, Australia's four largest insurers do not participate in commercial insurance comparison websites, meaning consumers who use these sites do not see insurance products offered by those insurers.

We consider an independent insurance comparison website which includes all insurers active in the relevant markets may facilitate more informed consumer choice by assisting consumers to quickly and easily find insurers in their area offering policies that meet their needs.

Draft recommendation 4: National home insurance comparison website

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.

Stakeholder views

Submissions on this draft recommendation were varied. Submissions from consumer groups generally supported measures to improve comparability, however noted implementation issues that would first need to be overcome. The insurance industry opposed this draft recommendation, arguing ASIC's North Queensland Home Insurance comparator has not been successful and a comparison website would primarily emphasise price rather than appropriate cover. The ICA also considered that by focusing on price, 'there is also a risk that insurers will estimate a lower sum insured in order to quote the lowest premium, a practice that would exacerbate the problem of underinsurance'.²⁶

While some submissions supported the potential development of a national home insurance comparison website, most supporting submissions considered that without an effective standard cover regime and standardised definitions, its effectiveness will be limited due to difficulties in comparing like for like products. Therefore most submissions provided in principle support for the draft recommendation, supporting a national home insurance comparison website only in the context of enhanced comparability facilitated by a strengthened standard cover regime.

ASIC supported undertaking consumer research to identify the demand for and benefits to consumers of a national home insurance comparison website. It noted that if consumer testing supported it, such a comparison service could form part of ASIC's MoneySmart website.²⁷

²⁶ Insurance Council of Australia submission, p. 9.

²⁷ Australian Securities and Investments Commission submission, p. 10.

Final recommendation

We acknowledge that an improved standard cover regime and standardised definitions would certainly improve the effectiveness of a national home insurance comparison website, as it would allow consumers to compare like products. However, we do not consider it a prerequisite for implementing a national comparison website.

We consider that it is possible to improve upon the model adopted for ASIC's North Queensland comparison site to avoid many of the issues raised in submissions and make comparisons easy for consumers. These include requiring all insurers to participate, encouraging a focus on features of the product and not just the premium, and making it easy for consumers to act on the results of their research in timely and convenient way. We note that ASIC's current North Queensland home insurance comparison site only uses a consumer's postcode and sum insured information to provide an indicative quote range. We consider that the national comparison website we propose should attain quotes at the address level using more granular information and data input by the end-user (such as construction type and building year). This will improve the accuracy and usefulness of the quotes compared.

We do not consider a comparison website would necessarily cause insurers to lower their sum insured estimates (in order to provide a lower quote). We reject the notion that making comparisons on price or other product features easier for consumers should be avoided, due to a risk that insurers may respond inappropriately. An insurer which intentionally underestimated sums insured for potential customers would be at risk of contravening existing consumer protection laws. A comparison website where different insurers each provided a sum insured estimate would in fact highlight to consumers any such differences in estimates between insurers. Alternatively, where a comparison website is designed to enable users to specify their own sum insured, this concern would not arise at all.

We also consider requiring insurers to participate in a national home insurance comparison website will improve consumers' ability to compare and switch, and will improve price competition in northern Australian markets. We do not consider this will necessarily lead consumers to emphasise price over appropriate cover, but rather increase transparency of insurance product pricing so consumers can make more informed assessments of the products available. Further, we also consider that a comparison website should include information about standard inclusions and exclusions under the policy, allowing consumers to compare other aspects of cover.

As such, we maintain our recommendation that the government consider developing a national home insurance comparison website. In considering this, the government may wish to undertake consumer research to inform its design and implementation of the comparison website.

Final recommendation: National home insurance comparison website

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.

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

A renewal notice serves as an important prompt to consumers to consider switching. The *Insurance Contracts Act 1984* (Cth) currently requires insurers to provide written notice no less than 14 days before a contract of general insurance is due to expire and indicate whether the insurer is prepared to negotiate to renew or extend the cover.

We consider the current minimum timeframe does not provide consumers with sufficient time to consider their renewal quote and explore their insurance options. It may also not provide sufficient time for some consumers to have ready access to funds. In order to give consumers more time to shop around and pay their premium, we consider renewal notices should be provided at least 28 days before the policy expires.

Draft recommendation 5: 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.

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.

Stakeholder views

Most submissions that commented on this draft recommendation were in support, with some submissions noting many insurers already provide renewal notices well in advance of the current 14 day minimum. ASIC considered the insurers should also send a further follow-up notice if the policy is not renewed after 14 days.²⁸ RACQ and IAG supported the intent of this draft recommendation, however IAG considered there is no guarantee that consumers will use this time to undertake any additional research or policy review.²⁹

The ICA recommended caution in implementing the draft recommendation. They noted that whilst many members already give 28 days' notice, the ICA considered providing notice too far in advance may exacerbate the possibility of the consumer disregarding or overlooking renewal.³⁰ Suncorp did not support changing the notice period unless there is evidence that the proposed timeframe will result in better consumer outcomes.³¹

Final recommendation

Submissions generally supported our view that the current 14 day period is insufficient to give consumers appropriate opportunity to explore their options and shop around. As many insurers already provide up to 28 days' notice, we do not consider requiring them to do so via amending the *Insurance Contracts Act* will unduly increase the regulatory burden on them, especially as they will already have processes in place to send out renewal notices by a certain date and sending further reminders (for example by text message or email) is a common practice.

In the first interim report, we considered this recommendation could include a reminder to be sent out to consumers no less than seven days before expiry. To address the possibility that consumers may forget to renew with the extended reminder, we have amended the draft recommendation so that a reminder is sent to consumers if they have not renewed within seven days before expiration.

²⁸ Australian Securities and Investments Commission submission, p. 13.

²⁹ RACQ Insurance submission, p. 12; Insurance Australia Group submission, p. 5.

³⁰ Insurance Council of Australia submission, p. 9.

³¹ Suncorp submission, p. 16.

Final recommendation: 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.

3.1.7 Disclosure improves price signals for consumers

In the first interim report we noted more granular data, and increasingly sophisticated analysis of that data, is allowing insurers to identify and understand risks more clearly. This offers significant benefits through improved risk identification, product innovation, and mitigation opportunities, but it also raises new concerns with issues of data access, sharing, and privacy. It also raises concerns about asymmetry of information—when insurers know more about a consumer's risk than the consumer does. We therefore proposed measures intended to improve consumer awareness of their risk.

Insurers sometimes cap premium increases in a single year for existing customers where a change in premium pricing methodologies would otherwise lead to a substantial premium increase. This allows insurers to spread the premium increase over a number of years and reduce price shock to consumers.

While we understand premium capping is used to protect a customer from a price shock, we consider the capping process results in less informative prices for those consumers.

For most consumers, their premium reflects various aspects of the expected future costs to the insurer of providing the policy, which in turn are driven in part by the policy's effect on the insurer's overall risk. Their premium conveys some information about the costs and risks associated with the policy.

The price paid by consumers under capping is less information about the insurer's assessment of the risks and expected future costs associated with the policy. If a consumer is aware of their higher expected future premiums then they will have a stronger incentive to consider mitigation activities. Similarly, this information would be relevant to a consumer's decision to renovate their property and assist with their financial planning more generally. Alternatively, it may prompt the consumer to search for alternative insurance products to meet their needs.

Draft recommendation 6: Disclosure where premium increases are capped

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.

Stakeholder views

There were few submissions in response to this draft recommendation. LAQ and FRLC supported this draft recommendation.³² However, LAQ considered information must be provided in an easy to understand format for consumers.³³ While AFCA supported initiatives to increase disclosure about expected premium increases they anticipated that it may be difficult for insurers to provide the estimates referred to in the draft recommendation.³⁴

The insurance industry generally opposed this draft recommendation. RACQ expressed concern that this draft recommendation may act as price signalling between insurers and thereby has potential to result in anti-competitive outcomes for consumers.³⁵ The ICA submitted that the risk assessments and datasets that underpin assessments of price capping represent commercial assets for insurers and are the basis on which insurers compete against each other, and any regulatory requirement for insurers to disclose their future pricing strategies based on those risk assessments raises significant competition concerns.³⁶

Further, IAG and the ICA noted that many policies are repriced on an annual basis and insurers' forward assessments of price and risk can change year to year. In such circumstances, IAG considered the estimates of the timing and extent of future premium increases may be confusing or misleading.³⁷

Final recommendation

We consider it important that consumers are aware of expected future premium increases so they will have a stronger incentive to consider mitigation activities or consider switching. Further, we do not consider that insurers' arguments against the measures are strong.

First, requiring insurers to provide policyholders with notice about future price movements would not provide competing insurers with information about each insurer's assessment of a particular risk profile that is not already available to them. Insurers only cap existing customer premiums when their pricing approach changes and would result in a substantial premium increase for the customer. New customers do not receive capped premiums, and are instead quoted the premium produced by the insurer's new pricing approach. As a result, the uncapped premium amount is already publicly available by seeking quotes on insurers' websites. As noted in our first interim report, our analysis of insurers' documents shows that insurers routinely monitor prices offered by other insurers.

The only additional information insurers would gain from this recommendation is how an insurer implements a capped price increase. For example, the timing of the intended increase. It also does not appear that this information will be readily accessible to competitors, as this draft recommendation requires insurers informing their customers only and does not expressly require the information to be disclosed on a renewal notice (which a rival insurer may request as part of its quoting process). We consider the benefit to consumers is far greater than any benefit insurers would gain from this additional information.

Secondly, we do not consider that providing customers with an estimation of their future premium, being subject to capping, would constitute a misleading representation provided the insurer has a reasonable basis for the estimation. To avoid confusion, an insurer could note in their disclosure that their assessment of the consumer's risk could change in the future, and with this so would their premium. If an insurer's planned increases changed significantly due to a change in risk assessment, this would be disclosed at the time of the next renewal (or earlier).

³² Financial Rights Legal Centre submission, pp. 27-28.

³³ Legal Aid Queensland submission, p. 11.

³⁴ Australian Financial Complaints Authority submission, pp. 9-10.

³⁵ RACQ Insurance submission, p. 13.

³⁶ Insurance Council of Australia submission, p. 9.

³⁷ Insurance Australia Group submission, p. 5; Insurance Council of Australia submission, p. 9.

Final recommendation: Disclosure where premium increases are capped

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.

3.1.8 It is important consumers are aware of the potential cost of their insurance

Insurance premiums can add considerable cost to homeowners' living expenses, particularly in northern Australia where premiums are high. If not considered by a consumer when purchasing a property, the high cost of insurance premiums could potentially result in financial hardship.

In the first interim report, we noted the issue of risk disclosure at the time of property acquisition was raised explicitly in several submissions. These showed that residents purchasing property are often unaware that a property is in a high risk area, and do not consider the cost of insurance. We consider states and territories should improve information provided to potential homebuyers by prompting consumers to consider likely insurance costs before purchasing real estate.

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

Stakeholder views

There was general support for the first part of draft recommendation 7, with the industry and consumer groups supporting requirements that encourage potential purchasers to obtain insurance quotes as part of their due diligence. However, there was less support for including an insurance premium based on any future standard cover product that insurers are required to offer.

IAG considered requiring real estate agents and private vendors to obtain insurance estimates as part of the real estate transaction does not take into account information on the prospective buyer and may result in sellers obtaining the cheapest base quote available that may be unrepresentative of the appropriate level of cover.³⁸ The ICA also considered such a requirement introduces significant challenges including which insurer's quote to include and how that insurer is selected.³⁹

³⁸ Insurance Australia Group submission, p. 6.

³⁹ Insurance Council of Australia submission, p. 10.

Professors Fels and Cousins also had reservations about the inclusion of a standard cover quote in the manner described in this draft recommendation. They considered that having to include one, or even some, quotes may risk distorting decision making. For example, they considered it may bias consumers towards the specified quote providers causing competitive distortions.⁴⁰ RDA Pilbara considered this recommendation would be improved if consumers are already aware of potential premium prices from the national home insurance comparison website outlined in draft recommendation 4.⁴¹

Final recommendation

Requirements to include a statement advising potential purchasers to obtain an insurance estimate as part of their due diligence will help ensure consumers are fully aware of the potential cost of insurance prior to purchasing a property, and can help reduce the instances new homeowners experiencing payment difficulties.

In terms of providing an indicative quote, if insurers are required to provide a standard cover product (which is a prerequisite for this part of the draft recommendation) we believe the risk of the quote being unrepresentative of the appropriate level of cover is mitigated. We also do not see the harm in agents selecting the cheapest quote for the area, as increasing price competition is one of the intended outcomes of requiring insurers to offer a standard cover product.

We consider two additional amendments to the recommendation are necessary. First, because these statements are generally prepared by a real estate agent (or perhaps a conveyancer), we consider that any state/territory legislation should include a requirement that the person preparing the statement must not receive remuneration for including a quote on the statement to avoid conflicts of interest.

We also consider that these requirements may not be practical where a property is particularly high value, because it is often more difficult to obtain a quote for a property with a very high sum insured. Further, insurance affordability issues are less likely for consumers purchasing properties in this category. Therefore, we propose to make a minor amendment to the draft recommendation to include that the requirements to provide an insurance quote do not apply where the estimated sale price of the property is above a threshold amount (for example, around \$2 million).

Final recommendation: 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.

⁴⁰ Professor Allan Fels AO and Professor David Cousins AM submission, p. 16.

⁴¹ Regional Development Australia (RDA) Pilbara submission, p. 2.

3.1.9 Improve consumer awareness of personal information held by insurers

Consumers should have full access to the information held about them by their insurer to ensure their risk assessment, pricing and claims assessment is based upon reliable information.

In the first interim report, we found that insurers include privacy information (including how consumers can access their information) in their PDS and few people read the PDS in full when purchasing insurance. This means very few consumers understand what information is collected, how this information is used, and how they can access this information.

Draft recommendation 8: Requesting personal information held by insurers

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.

Stakeholder views

Professors Fels and Cousins, LAQ, and FRLC all supported this draft recommendation, with Professors Fels and Cousins submitting the relationship between consumers and insurers should be as transparent as possible.⁴² However, the insurance industry generally opposed this draft recommendation predominantly on the basis that most (if not all) insurers have existing policies and practices that enable their customers to enquire about relevant policy information and therefore an additional regulatory requirement for insurers to provide clear notice to consumers is not necessary.

Final recommendation

While many insurers may already provide customers with personal information when requested, we consider clearer disclosure of this option to consumers is required. Including this information on a certificate of insurance or renewal notice will increase the number of consumers who are aware of, and pursue, the option to access their personal information. This will help ensure the information insurers rely upon in their risk, pricing and claims assessment is accurate. As insurers already collect personal information and most have existing policies and practices that enable their customers to enquire about this information, we consider the regulatory burden in implementing this draft recommendation is very low.

Final recommendation: Requesting personal information held by insurers

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.

⁴² Legal Aid Queensland submission, p. 12; Financial Rights Legal Centre submission, p. 29; Professor Allan Fels AO and Professor David Cousins AM submission, p. 17.

3.2 Intermediaries and other third parties

In the first interim report, we found conflicts of interest are common and significant for both insurance brokers and strata managers. We found insurers are competing for intermediaries through the remuneration arrangements they offer, and that intermediaries can react strongly to attempts by insurers to reduce commission rates, including avoidance of the particular insurer, or through adverse selection of high-risk clients. As strata managers have similar remuneration arrangements with insurers and insurance brokers, this can create a conflict of interest with their role providing services to a body corporate.

We also noted that current comparison websites and insurance brokers only consider a sub-set of the market when providing a quotation or recommendations. It is important that consumers are aware of the limitations of the search being conducted by a comparison website or insurance broker, and the scale of any payments they stand to receive.

3.2.1 Reforming strata manager remuneration arrangements will drive greater competition in strata insurance markets

A strata community's body corporate can delegate its function, duties and powers (including the purchase and renewal of insurance) to a strata manager. In this sense, a strata manager is an intermediary acting on behalf of the body corporate. However, in reality, strata managers' arrangements and obligations are more complex.

We acknowledge that the complexities and varied duties of managing a strata complex require remuneration under a management agreement. However, there is an inherent conflict between the financial interests of strata managers' and the interests of their clients, when a portion of their revenue is derived through commission payments from insurers or insurance brokers.

Instead, we consider strata managers should only be remunerated by their body corporate in relation to arranging strata insurance, under arrangements agreed between the strata manager and their body corporate client. While it would be open for a strata manager to seek a fee set with reference to the strata premium paid (that is, just like a commission), we consider it far more likely that strata managers and their clients would agree to arrangements that more closely aligned their interests.

Draft recommendation 9: Strata managers to be remunerated by body corporate only

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.

Stakeholder views

Industry submissions to this draft recommendation were split. Suncorp expressed support for this draft recommendation.⁴³ While IAG, the ICA and the SCA (and the over 70 substantially similar submissions from strata managers supporting the SCA) did not.⁴⁴ NIBA expressed support for the full disclosure of strata manager remuneration structures by strata managers to their body corporate clients.⁴⁵

The SCA, and strata managers, considered that if strata managers did not receive commissions from insurers or insurance brokers, then the cost of services would be borne by the body corporates in the form of additional service fees under the strata management agreement. In the event of a large

⁴³ Suncorp submission, p. 24.

⁴⁴ Insurance Australia Group submission, pp. 6-7; Insurance Council of Australia submission, pp. 10-11; Strata Community Association submission & see: <https://www.accc.gov.au/focus-areas/inquiries/northern-australia-insurance-inquiry/submissions-to-first-interim-report>.

⁴⁵ National Insurance Brokers Association submission, p. 10.

claim, the SCA considered this could add a considerable cost to the body corporate.⁴⁶ The SCA also considered that current disclosures of commissions are sufficient, and the market for strata managers is competitive, which would prevent price gouging.⁴⁷

IAG offered an alternative solution which fixes or caps commissions and increases the ability of body corporates to obtain their own insurance quotes.⁴⁸ While the ICA considered that we should first conduct an assessment of the impact of distribution costs on the market before pursuing this recommendation.⁴⁹

Three SCA members made submissions that dissented from the SCA submission and supported draft recommendation 9.⁵⁰ Their reasons being that strata manager commissions reflect a conflict of interest and therefore can result in poor outcomes for consumers. Suncorp supported this draft recommendation as it increases transparency for body corporates around the actual cost of their strata insurance.⁵¹

Final recommendation

Numerous submissions to our inquiry from members of the public, bodies corporate, and consumer groups raised concern at the high rate of commissions paid to strata managers, either directly or through an insurance broker, for their role in arranging insurance on behalf of a body corporate, and how this is contributing to high insurance costs. Much like insurance brokers, there is an inherent conflict between the interests of their clients (the body corporate) and their own financial interests. Disclosure of commission amounts is not sufficient to deal with this conflict of interest, and there is a risk that strata managers will have little incentive to pursue lower premiums for their clients, as this will reduce their own remuneration.

Further, if implemented, the recommendation does not mean that strata managers will not be paid for their work in obtaining insurance coverage or managing claims. Instead, they will be paid under remuneration arrangements negotiated with their body corporate client. This will be more transparent and avoid conflicts of interest.

We also do not agree with SCA and strata managers' submissions that the recommendation will increase costs to the body corporate. Under current arrangements, strata managers have little incentive to obtain lower premiums for their clients. This situation can result in insurers competing for strata insurance business by the commission they provide to either brokers or directly to strata managers, rather than through offering lower premiums. The cost of these commissions is passed onto body corporates in the form of a higher premium.

If a strata manager can only be remunerated by their body corporate, insurers will better compete for this business by offering lower premiums and/or better coverage, as strata managers' choice of strata insurance products will no longer be influenced by the commissions and other payments they receive from insurers directly, or through insurance brokers.

So while this draft recommendation will result in body corporates incurring additional strata manager fees in relation to arranging insurance, their incentives will be more closely aligned, which will in turn drive greater competition in markets for strata insurance.

While brokers may still receive commissions from insurers under current arrangements, they will face competitive pressure from strata managers who will be more willing to use alternative brokers or deal with insurers directly. As such, insurance brokers may need to forego some of their commission in order to attract strata managers' business.

⁴⁶ Strata Community Association submission, p. 1.

⁴⁷ Strata Community Association submission, p. 15.

⁴⁸ Insurance Australia Group submission, pp. 6-7.

⁴⁹ Insurance Council of Australia submission, pp. 10-11.

⁵⁰ Name Withheld 3 submission, Name Withheld 4 submission, First Western Realty submission.

⁵¹ Suncorp submission, p. 24.

Final recommendation: Strata managers to be remunerated by body corporate only

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.

3.2.2 Clearer disclosure will improve consumers' understanding of intermediary arrangements

In the first interim report, we noted previous inquiries and reports found comparison websites and insurance brokers only consider a sub-set of the market when providing a quotation or recommendations. Further, we found that current remuneration arrangements create incentives to brokers to recommend some products over others.

Given this, we consider consumers should be able to clearly understand the breadth of search undertaken by a comparison website or insurance broker they are looking to use, so that consumers are aware of the limitations of the search being conducted. Similarly, consumers should be able to understand the scale of any payments that a comparison website stands to receive for the products under consideration.

Draft recommendation 10: Clear disclosure of products considered and remuneration

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 before making a comparison or providing a recommendation to a consumer. 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 disclose the amount of commission and other remuneration that they will 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 undertaken by the comparison website or insurance broker they are looking to use.

Stakeholder views

Submissions were generally supportive of this draft recommendation applying to comparison websites, with no objections raised. However, industry submissions differ on whether the draft recommendation's measure should extend to insurance brokers.

Professors Fels and Cousins, AFCA, LAQ, and FRLC all supported both limbs of the draft recommendation as it encouraged transparency and improved consumer information.⁵² However, AFCA believed it should apply to all insurance brokers, not just in relation to home insurance.⁵³ RACQ and IAG also supported all of draft recommendation 10 as it improved consumer awareness and encouraged more informed decisions.⁵⁴

Suncorp and the ICA supported the draft recommendation extending to comparison websites, however do not support it extending to insurance brokers. Suncorp did not see additional value for consumers in compelling brokers to disclose a complete list of the options they will consider as they believed it could

⁵² Legal Aid Queensland submission, p. 13; Financial Rights Legal Centre submission, pp. 30–31; Professor Allan Fels AO and Professor David Cousins AM submission, pp. 17–18.

⁵³ Australian Financial Complaints Authority submission, p. 10.

⁵⁴ RACQ Insurance submission, p. 14; Insurance Australia Group submission, p. 7.

also restrict the solutions available to consumers should new products become available which are not included in their approved products list.⁵⁵ The ICA considered brokers typically conducted a detailed review of an individual's circumstances before recommending a product and may be faced with placing risks which are not covered by mainstream products.⁵⁶

NIBA also did not support the draft recommendation extending to insurance brokers noting that at all times, insurance brokers are under a statutory duty to act in the best interests of their clients, and are already required to disclose remuneration arrangements to their clients.⁵⁷

Final recommendation

As expressed in the ACCC's June 2018 Retail Electricity Pricing Inquiry Report, there are concerns that many consumers are generally not aware that comparison websites and brokers do not consider all products available to them when providing quotations or recommendations.⁵⁸ We believe this is also likely to be the case in relation to insurance products.

Requiring comparison websites and insurance brokers to disclose a complete list of what home, contents or strata insurance products they will consider will improve transparency for consumers and increase their ability to make an informed assessment in considering whether to use such services. It will also act as an incentive for brokers and comparison websites to consider a wide range of products, and thereby improve the recommendations they make to consumers.

We do not consider that this recommendation should limit the way that brokers operate, or restrict the offers that they can consider. The draft recommendation does not prevent insurance brokers from considering products that are not listed when trying to place a risk. The recommendation would only require them to disclose the new product when they subsequently provide the list of products considered, if that new product is to be considered in the future.

We also note that the requirement for insurance brokers to disclose products that they will consider does not require them to provide quotes for every product listed. However, they have to at least consider whether the product would meet their client's needs.

We will amend draft recommendation 10 to provide guidance on when and where the disclosure should occur and clarify that an insurance broker would be able to consider products not listed in their disclosure. However, if the broker is aware that the new product will be considered for future clients (that is, it is added to their product panel), this product should be included in future disclosures.

55 Suncorp submission, p. 25.

56 Insurance Council of Australia submission, p. 11.

57 National Insurance Brokers Association submission, p. 10.

58 ACCC Final Report, *Retail Electricity Pricing Inquiry*, June 2018. See <https://www.accc.gov.au/publications/restoring-electricity-affordability-australias-competitive-advantage>.

Final recommendation: Clear disclosure of products considered and remuneration

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).

3.3 Claims settlement

During our inquiry, people have told us about lengthy delays in claims settlement, excessive repair quotes and numerous cases of unsatisfactory work. It was clear to us that this exacerbated the distress and trauma these residents were already experiencing as a result of their losses.

There are a range of circumstances where a consumer may prefer a cash settlement of a home insurance claim rather than repair or rebuilding work being managed/organised by an insurer. However, submissions to our inquiry highlighted a range of potential problems that can arise when insurers have the discretion to cash-settle claims against the wishes of a consumer, or where the consumer does not have a clear understanding of the implications of this decision

3.3.1 Allowing and supporting consumers to have a say in how their claims are settled

Insurers typically retain discretion to decide how a claim is settled. This will be communicated to a consumer in the relevant PDS. This discretion is potentially very significant at the time of making a claim but may be easily overlooked by a consumer at the time of taking out an insurance policy.

Currently, there is no express requirement for an insurer to take into consideration a consumer's preference in making its decision about how to settle a claim. We found that this often led to issues for consumers, with cash settlements often leaving consumers worse off than a repair/rebuild organised by the insurer. For example, this occurred when it was against the consumer's wishes to accept a cash settlement and/or when the amount offered is perceived as being inadequate for a consumer to repair or rebuild their property.

Draft recommendation 11: Giving consumers more control over how claims are settled

The Insurance Contracts Act should be amended to provide consumers with the right to choose whether their home insurance claim is settled through a cash settlement or by proceeding with a repair/rebuild managed by the insurer.

The consumer must be given clear notice of the implications of accepting a cash settlement, for example the insurer will be discharged of any obligations to manage or guarantee the quality, cost or timeliness of any repair the consumer chooses to undertake. Any ancillary expenses subject to the claim that are not within the scope of works for the quote (such as temporary accommodation costs) would be settled separately.

Stakeholder views

We received a wide range of views in response to this draft recommendation. While many submissions expressed support for this draft recommendation, some raised concerns that consumers may accept cash settlements when it is not in the customers best interest to do so (for example, if they have external financial pressures) and that consumers may not fully understand critical issues relating to cash settlements (such as losing lifetime repair guarantees offered by insurers). LAQ considered any implementation of this recommendation will not be effective unless such issues are addressed.⁵⁹

The Consumer Action Law Centre (CALC) and the FRLC supported this draft recommendation as long as there are safeguards in place.⁶⁰ AFCA, while supporting the intent, considered the draft recommendation could have unintended consequences and submitted there should be measures to ensure that a consumer does not choose between a cash settlement and a repair or replacement until they obtain independent advice and their own quotes for the repair or replacement. AFCA also noted that where an insured property is mortgaged and a cash settlement of a claim is paid, an additional concern arises. The mortgagee may be entitled to require the payment to be used to reduce the outstanding balance of the loan. In this situation, after the cash settlement, the mortgagor may not be able to afford to repair their damaged property.⁶¹ FRLC supported draft recommendation 11 as long as consumers are fully informed of the implications of choosing the cash settlement option.⁶²

ASIC also supported the recommendation but note there may be some very limited circumstances where it is necessary for an insurer to provide a cash settlement (for example, when a consumer wants a repair or rebuild that is outside the policy coverage).⁶³ Professors Fels and Cousins considered that in total loss situations, cash settlements for sum insured policies should closely align with the amount the consumer nominated as the sum insured, plus any safety net or other allowances provided under the policy, as the sum insured value is an important factor affecting the premium charged.⁶⁴

Suncorp, RACQ and the ICA opposed this draft recommendation. Suncorp and the ICA considered there are many circumstances in which only a cash settlement is appropriate. RACQ also considered the measure will potentially have the unintended outcome of impacting affordability of insurance if insurers cannot put in place a well-managed repair supply chain to drive down cost.⁶⁵ IAG proposed a modification to the recommendation, giving the consumer the right to refuse a cash settlement where it is offered by the insurer and a home repair/contents replacement would be an appropriate alternative option.⁶⁶

Final recommendation

As noted in our first interim report, while most insurers submitted that they generally had a preference to repair or rebuild as a means of settling claims, data we obtained indicates that the majority of home (building) claims are currently being finalised by way of cash settlement to consumers.⁶⁷

There are many scenarios in which a consumer may prefer a cash settlement, including:

- preferring to relocate rather than rebuild
- using their own preferred repairers/builders
- wanting to rebuild to different specifications/higher building standards
- if they consider they can manage the repair/rebuild at a cost lower than the cash settlement amount.

⁵⁹ Legal Aid Queensland submission, pp. 14-15.

⁶⁰ Consumer Action Law Centre submission, p. 5.

⁶¹ Australian Financial Complaints Authority submission, pp. 10-11.

⁶² Financial Rights Legal Centre submission, pp. 32-33.

⁶³ Australian Securities and Investments Commission submission, pp. 13-14.

⁶⁴ Professor Allan Fels AO and Professor David Cousins AM submission, p. 19.

⁶⁵ RACQ Insurance submission, p. 14.

⁶⁶ Insurance Australia Group submission, p. 7.

⁶⁷ ACCC First interim report, Northern Australia Insurance Inquiry, November 2018, pp. 205-6.

However, there are also currently consumers who would prefer an insurer managed repair/rebuild but are required by their insurer to accept a cash settlement. These consumers have little choice but to accept the cash settlement and incur all the potential liabilities and difficulties a cash settlement can create.

This recommendation enables the consumer to choose their preferred settlement rather than the insurer.

We understand there may be circumstances in which a cash settlement is the only viable option. For example, repairing a shared fence, or if a home is insured for significantly less than the cost of reinstating the property and the insured is unwilling to contribute to the cost of repair. However, we believe the circumstances in which this may occur are limited and can be dealt with by way of appropriate drafting of legislation, by allowing for exemptions in specified, but limited circumstances.

We also recognise concerns that some consumers may face unforeseen consequences if they opt for a cash settlement. However, these concerns exist irrespective of whether it is the consumer's decision or the insurer's decision to resolve a claim using a cash settlement. We believe concerns can be mitigated via a requirement for insurers to provide consumers with clear notice of potential implications of accepting a cash settlement, including that a mortgage lender (if relevant) may require the proceeds from the cash settlement to pay down the loan amount, or be used to reinstate the property or carry out other works.

Any argument that providing consumers with the ability to insist on a repair/rebuild managed by their insurer could worsen affordability because the insurer cannot put in place a well-managed repair supply chain to drive down costs, raises the question of why an insurer insisting on a cash settlement at a lower amount than the insurer's repair/rebuild cost is an appropriate consumer outcome.

Instead, this recommendation would add a layer of pricing discipline on tradespeople providing quotes to insurers (including those on their panel) as they would need to quote knowing that, even if their quote was the lowest received by the insurer, if it was substantially higher than competitive rates, the consumer could opt for a cash settlement and then engage a different supplier. Over time this could lower costs to insurers.

In order to ensure consumers are well informed when deciding whether to choose a cash settlement offer or an insurer managed repair/rebuild, we have amended the draft recommendation to require insurers to provide a one page document written in plain English that informs consumers on the matters they should consider when deciding whether to request a cash settlement offer.

We have also added to the wording of the draft recommendation. First, to clarify that in situations when a consumer requests a cash settlement offer, the insurer would be required to calculate a cash settlement amount to be presented to the consumer. As noted in the first interim report, the appropriate amount would generally be the lowest cost quoted to the insurer. If an insurer has not received a genuine quote, then they should disclose on what basis they have calculated the cash settlement offer.

Second, we have set out specific examples of situations when a cash settlement is necessary (and a consumer would not be able to select a repair/rebuild managed by the insurer), including 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.

Third, we have made clear that a consumer that has received a cash settlement offer should be provided 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.

Final recommendation: Giving consumers more control over how home (building) claims are settled

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.

3.4 Mitigation

Mitigation is frequently mentioned as the most sustainable way to reduce premiums in northern Australia. However, we found a lack of transparency about the size or longevity of premium reductions, coupled with high upfront costs, can discourage consumers from improving the resilience of their property.

A very clear theme of our public consultation was that the insurance industry should stand by individuals who invest in mitigation and recognise the reduction of risk with a reduction in premiums. Individuals would be more encouraged to undertake mitigation if there was a clearer link between mitigation and lower insurance premiums. We consider the following measures are two ways the insurance industry can support private mitigation.

3.4.1 Consumers should know the impact of private mitigation activities on their insurance premiums

Currently, there is little visibility for consumers over how mitigation works will impact their premiums. We consider it is important for consumers to understand what discounts have been provided on a quote or renewal notice in recognition of property features that mitigate risk.

As well as improving transparency about how an insurance premium has been calculated, clearly stating mitigation discounts would act as a prompt so that consumers could alert an insurer to other relevant property characteristics that could support a (further) reduction in a premium.

Draft recommendation 12: Clearly stated mitigation discounts

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.

Stakeholder views

Support for this recommendation was strong, with RACQ, Professors Fels and Cousins, ASIC, LAQ and FRLC in favour of the recommendation.⁶⁸ Most supporters considered that this would form an important part of a suite of measures centred on broader transparency of pricing and improving comparability between insurers.

Although Suncorp and IAG supported the intent of the draft recommendation, they did not support implementing it through amending the Insurance Contracts Regulations, but rather by providing insurers with flexibility around how they disclose mitigation discounts.⁶⁹ While the ICA considered there is a significant risk that stating specific discounts for mitigation measures would operate as price signalling between insurers by expressly stating the discount applied for mitigation.⁷⁰

Final recommendation

In our first interim report we found that not all insurers offer explicit discounts for mitigation. This is surprising, because the insurance industry has often argued that the only sustainable way to reduce premiums in northern Australia is through better mitigation measures. Insurers currently have flexibility in how they disclose mitigation discounts. Although insurers do take into account some mitigation activity through their risk rating factors (for example, construction type), only RACQ and Suncorp offer explicit discounts for mitigation activity.

We do not consider that this recommendation would raise any meaningful concerns about price signalling between insurers, as suggested by the ICA. Different insurers will inevitably place different values on the value of mitigation measures which may be reflected to a greater or lesser extent in premium discounts. This measure would not enable insurers to obtain any more information about their competitors' explicit mitigation discounts (or lack of discounts) than they already could obtain through shadow shopping and other competitor pricing analysis. This may be an alternative way for insurers to obtain similar information. Insurers that presently offer explicit mitigation discounts promote these extensively. If the effect of greater transparency of mitigation discounts for consumers is that insurers will be able to more easily compare their discounts (if any) with their competitors, we consider this will increase the likelihood that insurers provide and compete on explicit mitigation discounts for their customers in higher risk areas.

We consider consumers who have undertaken mitigation activities on their property should be able to know how (if at all) these mitigation initiatives have impacted their premium. This will provide consumers with the information required to consider if their mitigation efforts have been properly recognised, and if not, they can use this to compare between insurers. This may also lead to another level of competition between insurers, competing on mitigation discounts.

⁶⁸ RACQ Insurance submission, p. 15; Professor Allan Fels AO and Professor David Cousins AM submission, p. 21; Australian Securities and Investments Commission submission, p. 14; Legal Aid Queensland submission, p. 16; Financial Rights Legal Centre submission, p. 33.

⁶⁹ Suncorp submission, pp. 10–11; Insurance Australia Group submission, pp. 8–9.

⁷⁰ Insurance Council of Australia submission, pp. 12–13.

Final recommendation: Clearly stated mitigation discounts

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.

3.4.2 Providing more information about mitigation discounts may encourage private mitigation activities

Insurers are often best placed to know what potential improvements could be considered, given a building's current characteristics. More importantly, only an insurer will know the level of discount in premiums (if any) that it would apply in response to a range of mitigation measures and which of the options available have the potential to result in meaningful premium reductions based on their own experience.

Using information on mitigation measures undertaken by other customers, insurers are best placed to provide an estimate of potential premium reductions that may occur after undertaking certain mitigation measures given the information that it has available about the consumer's property characteristics and its own pricing methodology.

Draft recommendation 13: Information on mitigation works that could reduce premiums

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.

Stakeholder views

Floodplain Management Australia, LAQ, and the FRLC supported this draft recommendation on the basis that it will encourage people to investigate undertaking mitigation measures.⁷¹

However, while the insurance industry supported the intent, they expressed concerns around the design and implementation of draft recommendation 13. Suncorp and RACQ considered there is a potential for it to add to an overload of information and reduce effective disclosure.⁷² IAG noted that each insurer has a different approach to pricing risk and it would therefore be difficult to make comparisons between insurers. Further, it considered the measures would increase the regulatory burden on insurers.⁷³

The ICA also considered that this draft recommendation has the potential to mislead customers, as no two properties are the same, and mitigation activity undertaken on one home could improve its resilience and reduce premiums but may have a negligible impact on another property. Therefore, they considered the only way to accurately quantify the impact of mitigation on a particular home is with an inspection and assessment by a suitably qualified builder.⁷⁴

⁷¹ Floodplain Management Australia submission, p. 2; Legal Aid Queensland submission, p. 16; Financial Rights Legal Centre submission, pp. 33-37.

⁷² RACQ Insurance submission, p. 16; Suncorp submission, pp. 10-11.

⁷³ Insurance Australia Group submission, pp. 8-9.

⁷⁴ Insurance Council of Australia submission, p. 13.

Finally, Suncorp noted the national approach to insurance disclosure legislation means that mandating the disclosure of cyclone mitigation measures would result in this information being included for consumers in southern states, where such information is of little (or no) relevance and may be construed as personal financial advice.⁷⁵

ASIC also did not support this draft recommendation as it is currently constructed, as it places heavy emphasis on the need for improved disclosure. However, given ASIC's views on the inherent limitations on relying on disclosure, ASIC suggested the recommendation be reframed to emphasise the need for a direct mechanism linking effective mitigation measures with premium reductions. ASIC would support a recommendation that took this form.⁷⁶

Final recommendation

We consider that if insurers are compelled to clearly state actual mitigation discounts provided to consumers, as we proposed in draft recommendation 12, then such information should easily be able to be passed onto consumers with properties sharing similar characteristics, to show what measures could be undertaken to potentially receive a similar discount.

Similar characteristics would include properties in a similar risk zone, which would prevent households receiving irrelevant potential mitigation measures information as suggested by Suncorp. We also do not consider such information is likely to be construed as personal advice for the purposes of the financial product advice regime, as it is factual information based on the characteristics of like properties and is general in nature.

By requiring insurers to disclose what premium reductions may be available to consumers, this measure will give insurers an incentive to provide discounts to all customers who have undertaken such activity.

We understand that insurers providing this information may be required to include caveats that customers may not receive the same discount. However, we consider that an indication of potential discounts may help assist customers in understanding the potential benefits of mitigation, and will encourage consumers to engage their insurers on what mitigation measures can help them for their situation. It will also place consumers in a better position than they are in now, where there is very little information on how mitigation activity will impact premiums.

Final recommendation: Information on mitigation works that could reduce premiums

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.

⁷⁵ Suncorp submission, pp. 10-11.

⁷⁶ Australian Securities and Investments Commission submission, p. 15.

4. Current focus areas of the inquiry

As foreshadowed in our first interim report, we are currently focusing on five areas we consider require further examination in a level of detail not possible before the first interim report. In particular, we are considering measures that could benefit consumers in northern Australia by improving the affordability and availability of insurance. The four other focus areas are considering aspects of market dynamics and affordability, and will also inform our consideration of focus area 1.

4.1 Focus area 1: Measures to improve affordability and availability

We consider that the recommendations discussed in this update report, and the first interim report, will begin to address some of the problems in northern Australian insurance markets that we have identified. However, these measures are unlikely to address the acute affordability issues experienced by some consumers in northern Australia. We consider that to address these issues, further measures may be required.

We are currently reviewing a broad range of options considered in Australia and internationally to improve insurance affordability and availability, and whether these could be applied in northern Australia. To inform our consideration, we are seeking information from insurers as well as international agencies, regulators and others involved in the implementation of measures to address insurance availability and affordability. Our consideration of the measures involves looking at the potential advantages of the measures, but also the likely costs involved and whether the measures may have unintended consequences such as distorting price signals or competition in insurance markets.

To facilitate submissions on these issues, we have set out below some background information on the potential measures we are currently considering. We would value stakeholder views on any of the measures outlined below, and have set out some questions to help guide these responses. The potential measures listed below, and the specific questions that follow them, are only a guide: they are not exhaustive and you may address any issues, or potential measures in your feedback. We would also welcome submissions on any measures not outlined below.

Reinsurance pool and insurance mutual

Reinsurance pool

A government run, and/or funded (or partially funded) reinsurance pool offers reinsurance to private insurers, usually backed by a government guarantee.

Currently, the Australian Reinsurance Pool Corporation (ARPC) is the only government backed reinsurance pool operating in Australia. The ARPC provides primary insurers with reinsurance for commercial property and associated business interruption losses arising from a declared terrorist incident.

Reinsurance pools are used internationally to provide reinsurance for either a specific peril or multiple perils. International examples include the United Kingdom's Flood Re or the Japanese Earthquake Reinsurance Company. Government entities similar to reinsurance pools have also been set up to provide catastrophe insurance. International examples include New Zealand's Earthquake Commission (EQC) and the Turkish Catastrophe Insurance Pool (TCIP).

Reinsurance pools have also been considered in previous inquiries as a way to address higher premiums in northern Australia, but have not been implemented.

Insurance mutual

An insurance mutual is an insurance company whose policyholders are the owners, and any profits are returned to the policyholders (for example, through lower premiums).

Internationally, government schemes with insurance mutual characteristics have been implemented to provide catastrophe insurance or as an insurer of last resort for those unable to obtain insurance from private insurers. International examples include the California Earthquake Authority (CEA) or Florida's Citizens Property Insurance Corporation.

Reinsurance pool and insurance mutual design aspects

The design of a reinsurance pool or insurance mutual can be complex and can impact how effective a scheme is. There are a number of key aspects in the design of reinsurance pools and insurance mutuals that we are reviewing. These include whether the schemes:

- apply to a single peril (like cyclone) or multiple perils
- are targeted to a specific geographic area or more widely available
- have its coverage restricted to particular loss levels
- are funded through premiums paid by private insurers, levies, government subsidies, government guarantees or other means
- are established for a particular timeframe or have a process in place to be phased out.

Direct subsidy

A more direct way governments can lessen affordability concerns is through providing a direct subsidy to policyholders. We are considering examples of direct insurance premium subsidies in other jurisdictions, as well as subsidies provided for other services regarded as near-essential. We are looking at a number of issues around how subsidies can be designed. This includes:

- whether a subsidy targets only those consumers facing acute affordability issues, and if so how this is done
- the basis on which a subsidy is made available, for example, with reference to nominal premiums, premiums per sum insured, household income or another measure
- approaches that can be used to fund the cost of subsidy (which can be significant)
- the triggers or timing for the withdrawal of a subsidy.

Mitigation

Mitigation of natural hazard risk remains an important part of any strategy to reduce insurance premiums. Mitigation can be undertaken privately by individuals to protect their own properties and publicly by governments to protect the interests of the broader community. Governments can implement measures to promote private mitigation such as subsidies or tax relief. Local, state and territory, and federal governments can work together to select and fund public mitigation works to benefit high risk communities.

Private mitigation measures

Governments can support private mitigation by reducing the expense of undertaking mitigation works through grants or interest free/low interest loans, or through tax relief. One impediment to this is certainty around how mitigation measures undertaken by residents will impact their premiums. We believe implementing recommendations 27 and 28 will go some way to achieve this.

Two private natural disaster risk mitigation initiatives have received government support:

- The Queensland Government Household Resilience Package provided eligible coastal households with grants of up to \$11 250 to fund risk mitigation measures such as roof replacement, and strengthening of windows and doors.⁷⁷ The Queensland Government released a statement saying that more than 800 applications for funding have been approved, including 58 in the Rockhampton region, 381 in Townsville, 162 in Cairns, 133 in Mackay and 74 in Bundaberg.⁷⁸

77 <https://www.qld.gov.au/housing/buying-owning-home/financial-help-concessions/household-resilience-program>.

78 <http://statements.qld.gov.au/Statement/2018/10/23/cq-info-sessions-to-be-held-about-20-million-program-to-protect-homes-against-cyclones>.

- James Cook University was funded to operate the North Queensland Strata Title Inspection Program. The program will allow inspections to identify specific building issues that could lead to extreme weather damage and subsequent insurance claims, and identifies remediation options. The Inspection and Assessment Program accepted registrations from 1 April 2019.⁷⁹

Our first interim report identified the scale of explicit mitigation discounts that some insurers make available to consumers that have undertaken mitigation activities for their properties. We have sought additional information from insurers in northern Australia on their approach to mitigation measures generally.

Public mitigation measures

Public mitigation measures are investments by governments in largescale mitigation projects, such as the installation of flood levees, well-maintained drainage networks, dredging of rivers and appropriate management of dams. Public mitigation measures tend to be for flood risk which is often more predictable and manageable than other types of risk. An example of a public mitigation work is the flood levee in Roma, Queensland.

Funding for public mitigation measures can come from local, state or territory, and/or federal governments. In order to improve governments' abilities to assess and select appropriate mitigation locations, we recommended the insurance industry work with governments to identify specific public mitigation works that could be undertaken and insurers should provide estimates of the premium reductions they anticipate should the works proceed (recommendation 14).

The Commonwealth Government has committed \$130.5 million over five years from 2019–20, to support a national partnership agreement to support the states and territories to implement disaster risk initiatives.⁸⁰

On 31 March 2019, the Commonwealth and Queensland Governments announced a \$242 million long-term recovery package, which aims to support communities impacted by the Queensland floods. This includes approximately \$120 million in funding to improve community resilience to natural hazard risk, including through a public infrastructure betterment fund, a resilience grants program, and programs to support community awareness and education.⁸¹

However, while funding for public mitigation works is welcomed, it is not yet clear how much of the long-term recovery package funding will be used to undertake large scale projects specifically designed to mitigate risks. We also note the Productivity Commission's recommendation for the Australian Government to fund \$200 million a year (to be matched by the states) for mitigation in its 2014 Inquiry Report into Natural Disaster Funding Arrangements.⁸²

We have also sought further information from insurers on how they have responded to public mitigation works.

Other potential measures

The measures discussed above do not include all potential measures that may address affordability and accessibility concerns. We would like to hear from stakeholders on any potential measures that may improve insurance affordability and availability, whether or not they are listed above.

79 <https://www.jcu.edu.au/cyclone-testing-station/strata-project>.

80 <https://minister.homeaffairs.gov.au/lindareynolds/Pages/reducing-australias-disaster-risk.aspx>.

81 <https://minister.homeaffairs.gov.au/lindareynolds/Pages/242-million-recovery-package-to-support-queensland-communities.aspx>.

82 <https://www.pc.gov.au/inquiries/completed/disaster-funding/report/disaster-funding-volume1.pdf>.

Questions on focus area 1—measures to improve affordability and availability

What measure(s) do you think have the greatest potential to improve insurance affordability and accessibility in northern Australia? In responding, please consider the following:

1. What are the key advantages and disadvantages of the measure(s)?
2. How should the measure(s) be structured, including:
 - a. Which risk/perils should the measure(s) apply to?
 - b. What geographic area should the measure(s) apply to (e.g. only northern Australia, or all of Australia)?
 - c. How should eligibility for assistance under the measure(s) (if it is targeted directly at consumers) be determined?
 - d. What other considerations are important for the design of the measure(s)?
3. What would be the costs of the measure(s)?
4. How should the measure(s) be funded?
5. What impact would the measure(s) have on:
 - a. premiums
 - b. insurance availability
 - c. the incentives of consumers and of insurers
 - d. competition in, or the operation of, insurance markets
 - e. the regulatory burden on insurers?
6. Would the benefits of the measure(s) be passed through to consumers? Would any additional safeguards be required to ensure that this occurred?
7. Are there any similar international measures that the ACCC should consider?
8. How long should any measure(s) be in place for, and where relevant how should they be phased out?

4.2 Focus area 2: Case studies

In the first interim report, we proposed to undertake more detailed analysis of premiums for home, contents and strata insurance in a number of regions to gain a better understanding of where consumers face acute challenges in the availability of affordable insurance products.

A number of case study areas have been selected. These areas are:

- Townsville (postcodes 4810, 4811, 4812, 4814, 4815, 4817)
- Cooktown (postcode 4895)
- Airlie Beach and certain other areas affected by Cyclone Debbie (postcodes 4740, 4741, 4798, 4799, 4800, 4802, 4803)
- Port Hedland and surrounding areas (postcodes 6721, 6722)
- Kununurra (postcode 6743)
- Katherine (postcode 850)
- Alice Springs (postcode 870).

These areas represent the geographic and socio-economic diversity of northern Australia, and include areas with one or more of the following features:

- adversely impacted by a natural disaster
- where premiums have changed significantly over time
- with a large spread in retail premiums
- where there has been a large decline in the number of risks written.

More detailed information and data on these areas is being obtained from insurers, including policy level premium and claims data.

4.3 Focus area 3: Examination of premium adjustments

Insurers often make adjustments to the technical premium (the estimate cost of providing an insurance product along with a profit margin/return on capital) for a variety of reasons, such as managing their risk exposure and competitive positioning. We refer to these adjustments as 'premium adjustments'. Premium adjustments often reflect the insurer's broader objectives, and are not directly related to the individual risk of a property. They are not visible to consumers and can mean some consumers face premiums which are higher than the technical rate.

We are continuing to examine the effects of premium adjustments on retail premiums in northern Australia as part of focus area 3. We are currently seeking additional information from insurers on the scale of premium adjustments and other components of retail premiums. This will help us to better understand how premium adjustments are affecting consumers and price signals in northern Australia.

In particular, we are considering how insurers are using premium adjustments to set premiums for new versus existing customers. In our interim report we noted that some insurers appeared to be making adjustments to their technical premiums so that existing customers paid more than new customers for similar policies. We are currently seeking more detailed information from insurers on this issue. We are also seeking additional information on the reasons that these types of premium adjustments are used by insurers, and also considering how price discrimination between new and existing customers is dealt with in other industries.

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

In the first interim report, we found that while barriers to entry for an insurer not currently active in Australia are significant, the barriers facing an existing insurer from entering (or re-entering) northern Australian markets are considerably lower. Despite this, and improvements in profitability, there was little indication that such insurers are contemplating this. We want to understand the reasons for this and how any barriers we identify could be addressed.

To date we have undertaken a number of actions to further our understanding of the barriers to expansion or re-entry relevant to northern Australia. This includes liaising with the prudential regulator APRA, reviewing relevant information obtained in the latest round of submissions, and engaging with new entities seeking to establish a presence in north Queensland insurance markets.

We have also identified insurers who are active in the relevant product lines but largely exclude northern Australia. We are engaging with these insurers to examine the reasons for their current geographic product distribution and what is required for entry into northern Australia.

In addition, we have engaged and plan to further consult with entities who are, or may be attempting, to enter northern Australian markets but are yet to have a license approved by APRA.

4.5 Focus area 5: Understanding and addressing non-insurance

High rates of private insurance are socially beneficial, not only in terms of the efficiencies of risk pooling, but also in reducing the reliance on governments and charities to support the personal hardship that arises when uninsured property is damaged or destroyed. Particularly in disaster situations affecting a large number of people.

This focus area is about exploring the extent and reasons for non-insurance. We are considering what measures insurers have taken, and could take to make insurance more accessible.

Most notably, we have commissioned research to inform our understanding of the extent of, and reasons for, non-insurance and underinsurance throughout northern Australia, including among consumers who identify as Aboriginal or Torres Strait Islander. The research will help us to provide a more complete assessment of the accessibility and performance of home and contents insurance markets in northern Australia. Following the flood event in and around Townsville in February 2019, we have identified Townsville as a specific geographic area of interest for this research. In parallel with our inquiry, we will also consider the extent on non-insurance among small businesses in Townsville.

To complement our survey work, we are undertaking an analysis of data obtained from insurers and the ABS Census to identify, at a postcode level, changes in the rates of non-insurance throughout northern Australia over time. We are also looking at the relationships between average household income, premiums, and the rates of non-insurance.

Finally, we are gathering information from insurers about any policies and practices they have in place they are undertaking to improve the accessibility of insurance to low income consumers, and/or support consumers experience payment difficulties and financial hardship.

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

Engagement with all stakeholders, including consumers and communities across the different regions of northern Australia, continues to be very important to our inquiry.

The questions raised with measures to improve affordability and availability are only a guide: they are not exhaustive and you do not need to comment on all questions. However, if you are commenting directly in response to one of the listed questions, please indicate the relevant question number(s) alongside your response.

Please email submissions to insurance@acc.gov.au by Friday 6 September 2019.

This inquiry is a public process, so responses will ordinarily be published on the ACCC website as submissions to the inquiry. This is important to facilitate a transparent and robust consultation process.

If you are making a submission as an **individual** (such as local resident or property owner), you may request that we do not publish your name. If you do not want us to publish your name, you must clearly tell us. Otherwise we will publish your name with your submission.

If you are a **business or organisation**, we will generally publish those details. The Competition and Consumer Act does, however, allow interested parties to make claims for confidentiality over written feedback in certain circumstances. How we treat information provided to the inquiry is outlined below.

We request that you provide your submission in electronic form, either in PDF or Microsoft Word format, which allows the submission to be text searched.

If you are unable to make a written submission, we can arrange a time to call you to take an oral submission by telephone.

Our contact details

Telephone: ACCC Infocentre 1300 302 502

Email: insurance@acc.gov.au

Post: ACCC Northern Australia Insurance Inquiry, GPO Box 520, Melbourne, VIC 3001.

Webpage: www.accc.gov.au/insurance

Treatment of information

We prefer that all submissions are publicly available, to facilitate an informed, transparent and robust consultation process. Submissions be published on the ACCC website, unless we have accepted a claim for confidentiality.

The *Competition and Consumer Act 2010* allows interested parties to make claims for confidentiality in certain circumstances. We invite parties to discuss confidentiality issues with us in advance of providing written feedback.

Any information that parties would like to claim confidentiality over should be provided in a separate document and should be clearly marked as 'confidential' on every page. Reasons must be provided in support of the claim for confidentiality, so that we can properly consider whether the claim is justified.

The ACCC can accept a claim of confidentiality if the disclosure of information would damage a party's competitive position. If we are satisfied that the confidentiality claim is justified, we must keep that information confidential unless we consider that disclosure of the information is necessary in the public interest.

If the ACCC considers that the confidentiality claim cannot be upheld, we will provide the party with an opportunity to withdraw part or all of their feedback. If a party elects not to withdraw the information then we may disclose the information publicly.

If the ACCC subsequently considers that disclosure of the information that has initially been treated as confidential may be necessary in the public interest, the ACCC will consult with the party providing the information, before any such disclosure is made.

For further information regarding our use and disclosure of information provided to us, see the ACCC and AER information policy, which is available on our website at: www.accc.gov.au/publications/acc-aer-information-policy-collection-and-disclosure-of-information.

Appendix A—List of Recommendations

Recommendations 1 to 15 were made in the first interim report. Recommendations 16 to 28 have been finalised in this update report following consideration of stakeholder responses to the draft recommendations made in the first interim report.

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

The governments of Western Australia, the Northern Territory and Queensland abolish stamp duties on home, contents and strata insurance products. State and territory revenue needs could be more equitably met through other means.

It has been widely acknowledged that stamp duties on insurance contracts are an inefficient form of taxation. This recommendation is in line with recommendations from previous inquiries into insurance and taxation issues.

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

If stamp duties on insurance are maintained, the Western Australia, the Northern Territory and Queensland governments should reduce their burden on consumers in higher risk areas by levying stamp duties for home, contents and strata insurance with reference to the sum insured value, rather than the premium level.

In any case, they should also direct a portion of revenue from stamp duties on insurance products towards measures to improve affordability for low income consumers or to fund mitigation works.

Re-basing stamp duty to be levied on sums insured will make it fairer to consumers living in higher risk areas.

Governments have previously received and continue to enjoy a windfall gain from the growth of insurance premiums in northern Australia. Directing revenue from stamp duties to public mitigation works should only be considered where insurers have provided estimates of premium reductions that would result from such works, and commit to reporting against these where work is undertaken (see recommendation 14).

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

The Insurance Contracts Act should be amended to require insurers to report regularly to ASIC on the brands that they underwrite, and in which postcodes new business has been written for home, contents and strata insurance products.

This will provide greater transparency on which insurers underwrite which brands and assist consumers searching for alternative suppliers in their area. This would build on the Productivity Commission's recommendation in the recent inquiry into competition in the Australian financial system that insurers should provide an up-to-date list of the brands they underwrite to ASIC and that ASIC should transparently publish this information as a list on its website (PC recommendation 14.2).

Recommendation 4: Standardise definitions of prescribed events

The Treasury's review of the standard cover regime should develop a proposal to standardise the definitions of prescribed events (including 'action of the sea', 'impacts' and 'storm') to enable greater certainty for consumers and comparability of products.

New standard definitions should be drafted in a way that removes potential gaps in coverage between prescribed events, avoids the introduction of ambiguous concepts, and does not unnecessarily limit insurers' scope for future beneficial product innovation.

Recommendation 5: Review and mandate standard cover

The Treasury's review of the standard cover regime should develop a proposal to mandate that insurers offering home insurance/contents insurance products should also offer a home insurance/contents insurance product that does not deviate (through inclusions/exclusions) from the revised standard cover terms in the Insurance Contracts Regulations.

By ensuring there is one common product from each insurer (but not necessarily each brand), consumers could easily benchmark insurers against each other. This should not limit an insurer from offering other products that provide cover that differs from the standard cover product but insurers should be required to clearly indicate how these products differ from their standard cover product.

Recommendation 6: Unfair contract term protections should apply to insurance

The unfair contract term protections in the Australian Securities and Investments Commission Act should apply to insurance contracts regulated by the Insurance Contracts Act.

The government is currently consulting on this change (which it has agreed to in principle).

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

The Insurance Contracts Regulations should be amended to require insurers to clearly inform consumers about the Australian Government's MoneySmart website (www.moneysmart.gov.au). A link to MoneySmart using uniform text should be provided on new quotes and renewal notices.

MoneySmart includes information to help consumers understand insurance. This is an important opportunity to raise awareness of the usefulness of this website.

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

The Insurance Council of Australia should engage with ASIC to gain a clearer understanding about the nature and type of information insurers can give to consumers within the meaning of providing general financial advice.

This would ensure that insurers are not refraining from providing general information, for example about rebuilding costs and building valuations, which would assist a consumer make an informed decision about their own situation.

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

The Insurance Contracts Regulations should be amended to require that insurers clearly disclose the types of costs that will count towards the sum insured amount for buildings (such as the costs of demolition, debris removal or for professional fees) where these are not provided for through a separate allowance under the policy. This information should be provided on any sum insured calculators used by the insurer and alongside the sum insured figure.

This will help consumers understand why and how calculator estimations can differ and empower them to make more informed decisions about their nominated sum insured. It should be provided alongside the sum insured amount for a property, including in quotes for new policies, renewals and on certificates of insurance.

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

The Insurance Contracts Regulations should be amended to require that renewal notices for home, contents and strata insurance clearly disclose the premium, the sum insured and any excess of the expiring policy. Insurers should also provide this information upon request.

This will allow consumers to easily identify how the insurer proposes to vary these terms from the previous year and seek explanation of any changes.

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

The Corporations Regulations should be amended to remove the exemption for general insurance retail products from the conflicted remuneration provisions as they apply to insurance brokers.

Commissions and other benefits given to insurance brokers can give rise to an unacceptable conflict of interest. As is already the case for other financial products, insurance brokers should be prohibited from receiving commissions and other benefits where these create a conflict with a broker's obligation to act in the best interest of their clients. Disclosure alone is insufficient to address these conflicts.

Recommendation 12: Better information for consumers lodging a claim

The General Insurance Code of Practice should be amended to require that at the time a consumer lodges a claim, an insurer or its agent must clearly inform the consumer of the insurer's claim handling policy, and expressly refer to:

- how the insurer will assess the validity of the consumer's claim
- the insurer's preferred repairer policy and in what circumstances a consumer can use their preferred repairer
- how decisions are made on cash settlements
- who will be managing the claim (for example, the name and contact details of a contracted claims company if relevant)
- the fact that the loss adjuster is acting on behalf of the insurer and not the consumer
- the consumer's right to make a complaint to the insurer and the Australian Financial Complaints Authority.

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

The Insurance Council of Australia (ICA) work with ASIC to obtain its approval for the General Insurance Code of Practice.

The ICA has indicated in its recent Code of Practice Final Review Report that in order to meet the requirements for ASIC approval it will make a number of changes to the Code. The ICA should work with ASIC to ensure that these changes are sufficient to meet at least the minimum standards in Regulatory Guide 183 to obtain ASIC approval.

Recommendation 14: Public mitigation works and expected premium reductions

The insurance industry should work with governments to identify specific public mitigation works (e.g. flood levees) that could be undertaken and insurers should provide estimates of the premium reductions they anticipate should the works proceed.

Actual premium reductions following such works should also be publicly reported by insurers, measured against their estimates.

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

The Australian Building Codes Board expressly consider measures that better protect the interiors and contents of residential buildings from damage caused by natural hazard risk (such as, wind-driven water ingress around doors and windows during and following storms).

When assessing the costs and benefits of potential code amendments, the ABCB should also consider the potential longer term impacts on insurance premiums.

Recommendation 16: Insurers should estimate a sum insured for customers (page 8)

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.

Recommendation 17: Prominently publish PDSs and KFSs online with product offerings (page 9)

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.

Recommendation 18: Disclose premium impacts of optional inclusions or exclusions (page 11)

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.

Recommendation 19: National home insurance comparison website (page 13)

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.

Recommendation 20: Renewal notices should give 28 days' notice (page 15)

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.

Recommendation 21: Disclosure where premium increases are capped (page 17)

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 22: Consider likely insurance costs before purchasing real estate (page 18)

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 23: Requesting personal information held by insurers (page 19)

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 24: Strata managers to be remunerated by body corporate only (page 22)

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.

Recommendation 25: Clear disclosure of products considered and remuneration (page 24)

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 26: Giving consumers more control over how home (building) claims are settled (page 27)

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.

Recommendation 27: Clearly stated mitigation discounts (page 29)

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.

Recommendation 28: Information on mitigation works that could reduce premiums (page 30)

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.



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