AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

Northern Australia Insurance Inquiry

ISSUES PAPER

24 October 2017

Table of contents

About the inquiry

Northern Australia is vulnerable to significant environmental catastrophe risk, particularly cyclones. Insurance acts to enhance the economic and social resilience of local communities in case of disaster. The substantial increases in insurance premiums across northern Australia since 2010-11 have drawn much concern from locals and growing scrutiny from governments.

On 25 May 2017, the Treasurer, the Hon Scott Morrison MP, directed the Australian Competition and Consumer Commission (ACCC) to hold an inquiry into the supply of residential building (home), contents and strata insurance products to consumers in northern Australia (the inquiry).

We are looking at a range of issues and concerns common to insurance in northern Australia:

- Insurance pricing, the key cost components of insurance, and insurer profitability
- The competitiveness of markets, including the behaviours and practices of insurers
- Consumer engagement with insurance markets including barriers to consumer choice
- Other regulatory issues that may not be supporting the development of competitive markets for insurance in northern Australia

Our inquiry will involve broad public consultation, including seeking feedback in response to this paper, holding public forums and meeting with interested parties. There are a number of groups with a strong interest in our inquiry—the insurance industry, regulators, governments, consumer advocacy groups and communities across northern Australia.

This is an important opportunity for you all to have a say.

Why this inquiry will be different

A number of reviews have considered, and reported on, related concerns in recent years. This inquiry will be fundamentally different for two key reasons.

Firstly, the ACCC will issue notices requiring persons to provide us with specified information relevant to an inquiry and those persons must comply with this request. We will use these powers to require insurers to provide information that past reviews have not been able to access.

Secondly, this inquiry will focus closely on competition, regulation and consumer protection. We will examine the structure of the industry and behaviour of market participants. Where we uncover concerns about potential breaches of the Competition and Consumer Act, we will take action.

Our inquiry will provide a detailed understanding of the insurance market in northern Australia. Our goal is to assist governments and industry stakeholders to address insurance affordability, promote better informed and more competitive insurance markets and make a difference for consumers in northern Australia.

Northern Australia

For the purposes of this inquiry, northern Australia has the meaning given in section 5 of the *Northern Australia Infrastructure Facility Act 2016*.

This broadly corresponds with the Northern Territory, those parts of Western Australia and Queensland that are north of the Tropic of Capricorn, and some areas just south of the tropic, including Carnarvon and Gladstone.

Figure 1. Map of northern Australia

Timetable

24 October 2017	Release of Issues Paper
Late Nov to early Dec 2017	Public forums. See below.
21 December 2017	Due date for responses to this Issues Paper
30 November 2018	First Interim report to be provided to the Treasurer
30 November 2019	Second interim report to be provided to the Treasurer
30 November 2020	Final report to be provided to the Treasurer

How to participate

Engagement with all stakeholders, including consumers and communities across the different regions of northern Australia, will be very important to this inquiry. There are many ways to share your views and experiences.

Make a written submission to this Issues Paper

This Issues Paper invites feedback on a number of issues. We encourage you to raise other issues relevant to the terms of reference (see Appendix A). The questions raised are a guide. They are not exhaustive and you do not need to comment on all questions. We have noted when questions are targeted at particular audiences, although feedback from all stakeholders is welcome.

We have grouped the topics of most interest to consumers in Section 3. Consumers may choose to focus on Section 3. Your views are important even if you do not have insurance.

Tips for making a submission

- If you are sharing your experience, please be specific about:
    - your geographic location (suburb or nearest town)
    - type of insurance product you are referring to (i.e. home, contents or strata)
    - the insurer/s you are referring to.
- 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.
- Please provide examples (including local and overseas), evidence, and data where available.

Submissions close **5pm 21 December 2017**. Submissions should be emailed to insurance@accc.gov.au

Respond to the issues paper online via the ACCC Consultation Hub

Individual consumers can choose to make a written submission to this issues paper, or instead choose to complete an online questionnaire.

The online questionnaire is a streamlined process designed to make it easier for consumers to have a say on the issues that might be most relevant to consumers. The questionnaire is available on the ACCC's Consultation Hub: www.accc.gov.au/consultation

This inquiry is a public process, so responses will ordinarily be published on the ACCC website as submissions to the inquiry. You need to expressly state if you do not want us to publish your name. See 'Treatment of Information' below for further information about the confidentiality arrangements for the inquiry.

Contribute by phone

If you are unable to make a written submission or provide feedback via the ACCC's Consultation Hub, we can arrange a time to call you to take an oral submission by telephone. Our contact details are at the end of this section.

Attend a public forum

We will hold public forums across northern Australia. We have currently scheduled the following locations. We will publish further details, including time and location, on our website or you may contact us directly by phone or email.

Location	Date (2017)
Townsville	Wednesday 15 November
Cairns	Thursday 16 November
Darwin	Wednesday 22 November
Alice Springs	Thursday 23 November
Broome	Wednesday 29 November
Karratha	Thursday 30 November
Rockhampton	Tuesday 5 December
Mackay	Wednesday 6 December

Formal information gathering and hearings

Where appropriate, the ACCC will use its information gathering powers to require information from relevant persons. We will directly contact some industry participants to request specific information. The ACCC has powers under Part VIIA of the Competition and Consumer Act 2010 (CCA) to compel certain information from industry participants where required. We may also hold formal hearings where invited parties provide sworn evidence to the ACCC.

Treatment of information

We prefer that all submissions are publicly available, to facilitate an informed, transparent and robust consultation process. Accordingly, submissions that are not confidential will be posted on the ACCC website.

The CCA allows interested parties that provide written feedback to the Inquiry to make claims for confidentiality in certain circumstances. We will consider all claims for confidentiality and if we determine that a claim is not valid, we will provide parties with an opportunity to revise or withdraw their submission.

A summary of our approach to managing claims of confidentiality is at Appendix B. For further information about the ACCC's approach to obtaining, using and disclosing information collected using its statutory powers, please refer to 'The ACCC & AER information policy: collection and disclosure of information', which is available on our website.[1]

Contact us

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Webpage: https://www.accc.gov.au/insurance

[1] https://www.accc.gov.au/publications/accc-aer-information-policy-collection-and-disclosure-of-information

1. Costs, premiums and profits for insurance in northern Australia

This chapter of our paper is for all stakeholders. It is particularly an opportunity for industry to provide views on the pricing and availability of insurance in northern Australia; the key cost components of supplying insurance; the profitability of insurers in northern Australian insurance markets over time; and the extent to which profits are commensurate with risk.

1.1. The key cost components of supplying insurance

An insurance premium is the price a consumer pays for an insurance product. Among other things, an insurance premium will be set with regard to the costs of supplying insurance, taxes and levies, and an overall pricing strategy.

Costs associated with supplying insurance include claims on a policy, reinsurance costs, commissions paid to intermediaries such as brokers, and other expenses such as marketing, underwriting and administration.

A key cost component of supplying insurance is the costs associated with paying out claims. Claims costs are, by definition, uncertain. Accordingly, when setting an insurance premium, insurers must estimate the 'expected claims costs'.

One of the ways in which insurers manage risks is to purchase reinsurance. This allows an insurer to transfer some of the risks they have written to the reinsurer. This assists in smoothing losses from claims, and freeing up an insurer's capital to allow it to lower their prices or write more insurance policies. Insurers pay a premium to reinsurers.

Insurers employ underwriters and actuaries to price risk and decide what risks to accept into their portfolio (i.e. by writing an insurance policy against the risk).One source of information that insurers use to assess risks and claims costs is historical data about claims. Information and modelling that allows insurers to more accurately price risks may be a key competitive advantage. Further, improvements in data, computing power and modelling have allowed insurers to increasingly set premiums and allocate costs to an individual insurance policy in accordance with the risk the policy brings to the insurer's pool.[2]

The ACCC will be exploring a range of issues relating to risk including how risk assessments are undertaken in northern Australia, the information and assumptions included in modelling and how this has changed over time.

1.2 Premiums in northern Australia

In recent years, there have been significant increases in premiums for home, contents and strata insurance in northern Australia.

[2] Northern Australia Insurance Premiums Taskforce, *Final Report*, November 2015, p.18; Australian Government Actuary, *Report on investigation into strata title insurance price rises in north Queensland*, October 2012, p.10.

Examples of premium increases in northern Australia as identified in previous reports.[3]

North Queensland strata insurance: the Australian Government Actuary (AGA) calculated that average ‘premium rates’ increased by over 300 per cent over the five year period from 2007 to 2012.[4]

North Queensland home and contents insurance: The AGA calculated that average ‘premium rates’ increased by around 80 per cent, mainly between 2008-09 and 2012-13.[5]

Darwin strata insurance: The AGA calculated that average ‘premium rates’ increased by about 60 per cent over the three years between 2009-10 and 2012-13.[6]

Northern Western Australia home building: the Northern Australia Insurance Premiums Taskforce reported that premiums across a range of towns had increased by between 60 and 100 per cent between 2011 and 2015.[7]

Previous reports have looked at the drivers of recent increases in insurance premiums.

Examples of findings in previous reports about the drivers of premium increases.

Risk / cost allocation. The AGA and Northern Australia Insurance Premiums Taskforce found that insurers were increasingly setting premiums in accordance with the catastrophe risk of the individual policy, e.g. in relation to the allocation of reinsurance costs, and that this has been facilitated by improvements in data, computing power and modelling.[8]

Higher reinsurance costs. APRA and the AGA reported that reinsurance costs increased following the substantial portion of claims recovered under those policies due to catastrophe events in 2010/11 in northern Australia and elsewhere. However, the AGA noted that the increase in reinsurance costs was not of a magnitude to fully explain the increases in premiums (for strata insurance in north Queensland).[9]

Historical under-pricing. The AGA found that recent catastrophe events had highlighted that there was historical under-pricing for strata insurance in north Queensland. The AGA suggested that “a lack of sophistication and rigour in the pricing methodologies” being applied to the north Queensland strata business segment could be one reason that contributed to under-pricing. The AGA went on to say this was possibly because strata was a small part of the insurers’ businesses and it was likely the losses arising from recent catastrophic events “focussed the attention of insurers who are now bringing more rigour to the process”.[10]

The ACCC will examine how insurers set insurance premiums, including the drivers of premium increases in recent years in northern Australia. The ACCC can issue a compulsory notice requiring certain persons to provide us with specified information about pricing decisions.

[3] Publicly available data does not provide an overview of insurance premiums in all regions of northern Australia and for each of residential home, contents and strata insurance products. Throughout the course of the Inquiry, the ACCC will be collecting data to analyse the pricing and availability of residential building, contents and strata insurance to consumers across all regions in northern Australia.

[4] The premium rate refers to the amount of premium per $1000 sum insured. The AGA calculated the average premium rate across three insurers, CGU, Suncorp and Zurich. Australian Government Actuary, *Report on investigation into strata title insurance price rises in north Queensland*, October 2012, p.4.

[5] The AGA collected data from five insurers: Allianz, IAG Group, QBE, RACQI and Suncorp. The premium rate was a weighted average (weighted by aggregate exposure of individual insurers in each region) of the premium rates implied within the data. Australian Government Actuary, *Report on home and contents insurance prices in north Queensland*, November 2014, p. 3,7,8.

[6] The AGA collected data from six insurers: Territory Insurance Office, QBE, Allianz, CGU, Suncorp (including Longitude underwritten by Vero) and Zurich. Australian Government Actuary, *Second report on strata title insurance price rises in north Queensland,* June 2014, p. 22,23.

[7] The Northern Australia Insurance Premiums Taskforce said these rises were indicated by Western Australia government data but no source was provided. Northern Australia Insurance Premiums Taskforce, *Final Report*, November 2015, p.20.

[8] Northern Australia Insurance Premiums Taskforce, *Final Report*, November 2015, p.18,19; Australian Government Actuary, *Report on investigation into strata title insurance price rises in north Queensland*, October 2012, p.7-10,16.

[9] APRA, *Insight,* Issue three, 2012, p.6-7,13; Australian Government Actuary, *Report on investigation into strata title insurance price rises in north Queensland*, October 2012, p.8-10,12.

[10] Australian Government Actuary, *Report on investigation into strata title insurance price rises in north Queensland*, October 2012, p.7,16.

1.3 Profitability in northern Australian insurance markets

As part of the Inquiry, the ACCC will investigate the profitability of insurers in northern Australian insurance markets through time and the extent to which profits are, or are expected to be, commensurate with risk.

The ACCC will consider the publicly available data on key cost components, premiums, loss ratios and other data necessary to measure profitability. APRA publishes data on a quarterly basis, which it collects from authorised general insurers in Australia. In this data set are many of the key variables that the ACCC will use to investigate these issues. However, APRA's data is not disaggregated by regions in northern Australia and by residential building, contents and strata insurance. Where necessary, the ACCC will need to supplement APRA's data with its own collection of information.

1. Your views on costs, premiums and profits

The ACCC seeks feedback from all interested parties on the following questions.

1. **How have the key cost components of insurance pricing in northern Australia (particularly catastrophe risk) changed over time?**
    - How have insurers responded to any changes in key cost components over time?
    - What factors could have a significant impact on the key cost components in the future?
    - What differences in key cost components exist across:
        - residential building, contents and strata insurance products?
        - different parts of northern Australia?
        - northern Australia compared to other regions in Australia?
    - What are the economies of scale and scope in supplying insurance in northern Australia? What impact does this have on insurers' costs?
2. **How is insurance for consumers in northern Australia priced?**
    - How has the price faced by consumers changed over time for home, contents and / or strata insurance?
    - How do insurers price risk in northern Australia (including the key information sources, types of modelling undertaken and different market participants involved in this process)? How has this changed over time?
    - To what extent (if any) are there cross-subsidies between consumers in northern Australia and other parts of Australia? Between regions within northern Australia?
    - What else informs the process by which insurers set prices for insurance products?
    - Are there any anomalies in how insurance products are priced in northern Australia?
3. **How has the profitability in northern Australian insurance markets changed over time?**
    - What are appropriate measures of profitability in the general insurance industry? Over what time period should profitability be considered?
    - How do insurers allocate costs to determine profitability in a particular region / market? Has this changed over time?
    - Has the level of profitability in northern Australian insurance markets been commensurate with risk?

2. The competitiveness of markets for insurance in northern Australia

This chapter focuses on the supply-side of the market to assess the competitiveness for home, contents and strata insurance in northern Australia. It explores the various participants involved in supplying insurance products to consumers and their relationships, the ways insurers currently compete for consumers, and the existence and extent of any potential barriers to entry, exit and expansion. Section 3 explores a range of issues related to how consumers interact with the market.

Competition can deliver positive outcomes for consumers in the pricing and availability of insurance and the terms and conditions on which insurance is supplied.

Effectively functioning and competitive markets for the supply of insurance products depends on a range of factors related to the interaction of market participants on both the supply and demand side of the market.

Insurance markets are more likely to deliver benefits to consumers when insurers face robust competition in setting their terms and conditions (including premium levels). This condition is likely to be met when there is a credible threat that an insurer's rivals could expand, or a new entrant could enter, and capture its market share. Additionally, effective competition requires consumers who are well informed and engaged in the market: they search for better offers and do not face material impediments to switching to a rival insurer that offers superior value.[11]

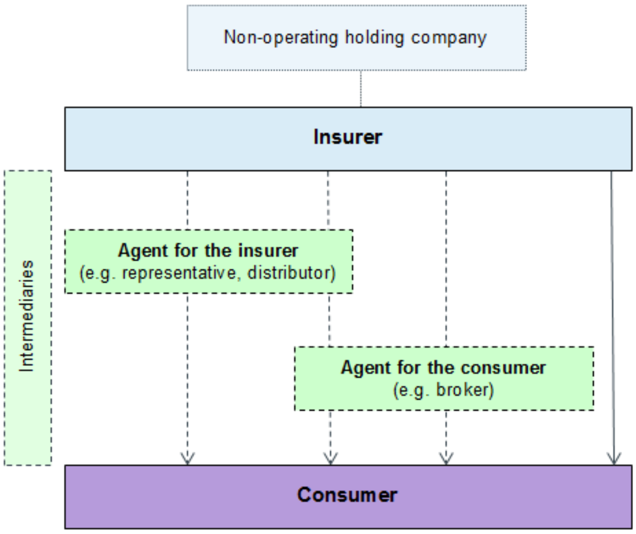
2.1. Structure of markets for the supply of insurance to consumers

General insurers may supply insurance products to consumers directly under their company name or a different trading name, or through a representative, a distributor or an agent acting on their behalf. Consumers may also purchase insurance products through a broker or agent acting on behalf of the consumer.

Figure 2 illustrates this market structure. Below the figure is a high level overview of each of these market participants.

[11] The relationship between consumer behaviour and competition in insurance markets is discussed in: Professor Allan Fels AO and Professor David Cousins AM, Submission to the Senate Economics References Committee Inquiry into Australia's General Insurance Industry, May 2017.

Figure 2. Overview of market structure for the supply of insurance to consumers



Overview of market participants

Insurers must be authorised by APRA under s 12 of the *Insurance Act 1973 (Cth)* to carry on insurance business in Australia, and must hold an Australian Financial Services Licence to provide financial services (including insurance) to retail clients.[12]

Some insurers are owned by a parent company. Such a parent company must usually be authorised by APRA as a non-operating holding company (NOHC) under the *Insurance Act 1973.*[13] The Act restricts the activities of a NOHC to the ownership and control of any insurers that are its subsidiaries.

Insurers can sell their products to consumers either directly or through an intermediary who sells, or arranges for the sale, of the products on their behalf. An intermediary may be called a representative, a distributor or an agent depending on the arrangement used. Such arrangements between insurers and their intermediaries can be complex and the licensing and disclosure requirements applicable will depend on the type of services that the intermediary provides and the type of arrangement between it and the insurer.[14]

In some cases, a broker may act as agent for the insurer under one of the above arrangements. Typically, however, brokers act on behalf of their client (e.g. a consumer) to select and arrange insurance. Brokers may provide a range of other financial services to consumers including:

- assistance in assessing and managing the consumer's risks
- advising on the appropriate insurance product for the consumer's circumstances
- acting on behalf of the consumer to settle a claim.[15]

[12] Section 3 of the *Insurance Act 1973* defines an 'insurance business' to mean 'the business of undertaking, by way of insurance, in respect of any loss or damage…contingent upon the happening of a specified event'.

[13] See, s 18 of the *Insurance Act, 1973,* and APRA, *Guidelines on Authorisation of Non-Operating Holding Companies of General Insurers,* December 2007.

[14] Examples of such arrangements include the insurer authorising another business to provide financial services on their behalf using the 'authorised representative' arrangements under the *Corporations Act 2001* or using the distributor arrangements set out under ASIC Corporations (Basic Deposit General Insurance Product Distribution) Instrument 2015/682.

[15] Insurance Brokers Code of Practice, p.4.

Commissions payable to market intermediaries

An insurer may pay intermediaries, such as representatives, distributors, other agents acting on their behalf and brokers a commission for their activities in arranging insurance. A price comparison website may also receive a fee or commission where a consumer uses their service to obtain insurance. A strata manager may take a share of the commission indirectly through an arrangement with the broker.

Commissions and other benefits that an intermediary might receive, may affect their incentives in relation to the advice they provide, and where they arrange for the consumer's cover to be placed.

Countervailing power

Insurers are less likely to face robust competition in setting their terms and conditions (including price) when consumers (and those acting on their behalf) do not have countervailing power—that is, meaningful bargaining power and an ability to credibly threaten to switch to another insurer that offers superior value.

An individual consumer may have limited countervailing power for a variety of reasons such as:

- being an individual consumer they represent a very small portion of the insurer's business;
- there may be a limited number of insurers operating in the consumer's area; or
- the consumer faces impediments to switching suppliers (see section 3.3).

Brokers may have relatively greater countervailing power because they are well-informed about insurance markets and different insurance products. However, the ACCC has previously noted that brokers' bargaining power may be limited because of the reasonably fragmented nature of the brokerage industry and that intermediaries (including brokers and distributors) accounted for approximately only 25 to 35 per cent of premium written for personal lines insurance.[16]

While some insurance customers such as commercial customers and strata managers / body corporates are likely to organise insurance through a broker;[17] individual consumers may be less likely to do so, particularly for their residential building (home) and contents insurance.[18]

The ACCC is interested in further exploring the relationships between the market participants involved the supply of general insurance products to consumers in northern Australia.

Other markets within the insurance industry

The insurance industry encompasses a range of other areas including reinsurance and claims handling / processing. These have important relationships to the supply of insurance to consumers. For example, they are an important input in the cost components of insurance pricing and the reputation of the insurer. Therefore, any potential competition or regulatory

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[16] ACCC, Public Competition Assessment Suncorp Metway Limited - proposed acquisition of Promina Group, 12 January 2007, p.8.

[17] For some types of insurance, such as strata insurance, a strata manager or body corporate may use an underwriting agency. These agencies have various relationships with insurers, brokers and consumers – for example, the agency may act on behalf of an insurer or a consumer or the agency may have arrangements with more than one insurer.

Professor Allan Fels AO and Professor David Cousins AM, Submission to the Senate Economics References Committee Inquiry into Australia's General Insurance Industry, May 2017; Insurance Council of Australia, Submission to the Senate Economics References Committee Inquiry into Australia's General Insurance Industry, 17 February 2017, p.11.

[18] Section three discusses the various information sources private individuals may use to search for, and compare, insurance products, such as price comparison websites.

issues or market impediments in these other parts of the general insurance industry could have important flow-on effects for the supply of insurance to consumers.

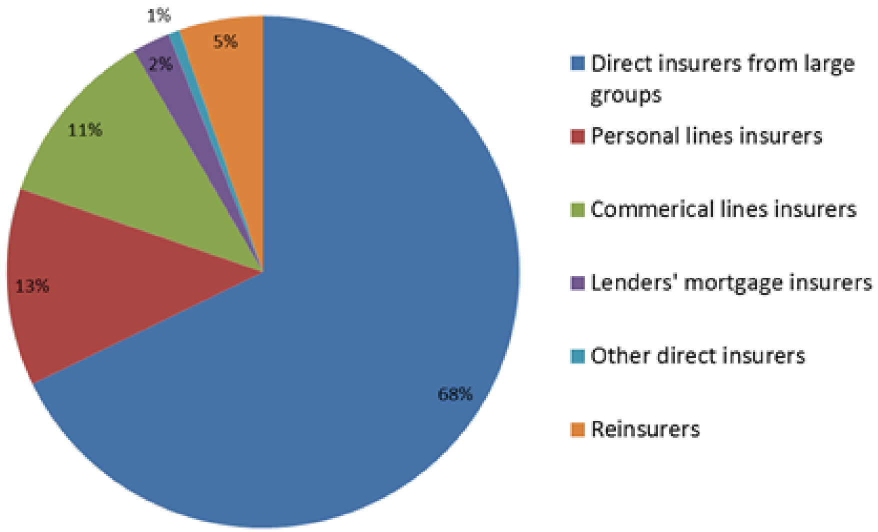
2.2. Nature of competition

There are currently 82 insurers authorised to conduct new or renewal general insurance business in Australia.[19] Insurers in four large groups made up the majority share of total gross written premium (68 per cent) in the year ended June 2017 (see figure 3).[20] This includes insurers that are part of Allianz Australia Limited, Insurance Australia Group Limited, QBE Insurance Group Limited and Suncorp Insurance Holdings Limited.[21]

For the narrower product market definition of, 'householders insurance', the five largest insurers made up 80 per cent of gross written premium as at June 2017.[22]

There are, however, fewer insurers operating in northern Australia, particularly for home and contents insurance. This may be due to a number of factors including the underlying risk and capital requirements.[23]

Figure 3. Share of total gross written premium for the year ended June 2017 (approximately $45.4 billion) [24]



[19] APRA register of insurers authorised to conduct new or renewal business in Australia as at 17 October 2017. There are a further 14 insurers who are only authorised to conduct run-off business.

[20] Gross written premium is one potential measure of market share in the general insurance industry. The ACCC will be exploring the nature of competition in the industry to determine the most appropriate measure.

[21] APRA categories insurers based on their predominant line of business. Accordingly, APRA first categories insurers as either direct insurers or reinsurers. Second, direct insurers are then further classified as one of the following: insurers in large groups, lenders' mortgage insurers, personal lines insurers, commercial lines insurers, or other direct insurers. Insurers in large groups are those insurers that are a subsidiary of a large diversified group where the insurers in the group collectively make up at least 10 per cent of industry gross earned premium. See APRA, *Statistics Selected Feature: Segmentation of general insurance entities*, December 2016 (released 16 February 2017).

[22] APRA defines 'householders insurance' to include "common domestic policies inclusive of contents, personal property, arson, burglary and public liability normally attached to such policies".

APRA, submission to the Productivity Commission's inquiry into competition in Australia's financial system, September 2017, p.14.

[23] Insurance Council of Australia, Submission to the Commonwealth Government's discussion paper on addressing the high cost of home and strata insurance in north Queensland, 27 May 2014, p.10.

[24] APRA publishes data on gross written premium in total and per risk (e.g. houseowners / householders) and per category of insurer (e.g. personal lines insurer). The ACCC will collect data that will provide a more disaggregated overview of market shares in different regions of Australia and for residential building, contents and strata insurance, respectively.

When developing an insurance product, an insurer can vary more than just the premium in order to compete. For example, an insurer may adjust the level of excess, the level of cover (such as the option to opt out of flood insurance), provide multi-policy discounts, or leverage their experience in claims handling or brand strength.[25]

Insurers may sell their insurance products through a number of different brands that they own or by leveraging an intermediary's brand – an intermediary may also leverage the insurer's brand. The use of branding assists in targeting different segments of consumers. However, a multitude of insurance brands may give a misleading impression of the degree of competition in a market where ownership of the brands is relatively concentrated.

As outlined in section 2.1 above, brokers are an avenue through which an insurer can supply their insurance products to consumers, with the broker arranging and placing cover with an insurer. Accordingly, insurers may compete for the endorsement of brokers (for example, by paying higher rates of commission).

Vigorous and effective competitors can assist in facilitating competitive tension in a market. Previous reports have stated that some insurers, such as those referred to as, the 'challenger brands' have been aggressively seeking to gain market share since entering the market.[26] However, these challenger brands can also avoid relatively riskier markets such as those in northern Australia.

2.3 Barriers to entry, exit and expansion

Barriers to entry, exit and expansion are an important determinant of the competitiveness of a market. The barriers can indicate the extent to which incumbent insurers are likely to feel constrained by their competitors or potential new entrants in their decision-making (e.g. around price, availability and the terms and conditions on which insurance is supplied).

There are many potential barriers to entry, exit and expansion for residential building, contents and strata insurance products in northern Australia. Some potential examples are set out below.

- Prudential capital requirements, and other regulatory requirements such as the need to be authorised to carry on insurance business in Australia and to hold a financial services licence to conduct a financial services business.
- The risk concentration in an insurer's portfolio. For example, an insurer with a significant proportion of its portfolio made up of one type of risk (e.g. in a geographical area), may not want to continue to expand its market share in that risk because of the implications for its expected claims costs, reinsurance costs and potential implications for its prudential capital requirement (e.g. by way of APRA's insurance risk concentration charge).[27]
- Access to historical information needed to price risk.[28]

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[25] See examples provided in: Insurance Council of Australia, Submission to the Senate Economic References Committee Inquiry into Australia's General Insurance Industry, 17 February 2017, p.3; QBE Australia and New Zealand, Submission to the Senate Inquiry into Australia's General Insurance Industry, February 2017, p.15.

[26] See for example: ACCC, *Public Competition Assessment Suncorp Metway Limited - proposed acquisition of Promina Group*, 12 January 2007, p.8,9; APRA, *Insight,* issue two, 2014, p.27; ACCC, *Mergers Register: Insurance Australia Group Ltd – proposed acquisition of Wesfarmers' insurance underwriting business*, March 2014; Roy Morgan Research, *New brands on the rise in general insurance*, 17 May 2013, accessed 7 September 2017; <http://www.roymorgan.com/findings/new-brands-rise-in-general-insurance-201305170545>; Accenture, *Standing Tall – How Australian insurers can achieve profitable growth in a challenging market*, 2013.

[27] See for example, Allianz, Submission to the Senate Economic References Committee Inquiry into Australia's General Insurance Industry, p.9.

[28] ACCC, *Public Competition Assessment Suncorp Metway Limited - proposed acquisition of Promina Group*, 12 January 2007, p.8.

- The ability to leverage an existing brand and the extent of any supply side substitution – for example the relative ease with which an insurer supplying:
    - home, contents and / or strata insurance outside northern Australia, could commence supplying insurance in northern Australia.
    - another type of insurance (e.g. health or motor insurance), or a company supplying another type of financial service such as a bank, could commence supplying home, contents and / or strata insurance.[29]
- Actual and potential competition from unauthorised foreign insurers.

2. Your views on the competitiveness of markets for insurance

The ACCC seeks feedback from all interested parties on the following questions:

4. Which insurers are currently supplying home / contents / strata insurance in northern Australia?

- Have insurers entered or exited markets for the supply of insurance products in northern Australia (within the last ten years)? What were the reasons insurers exited these markets?

5. What are the most relevant measures for market concentration and the level of competition in markets for insurance in northern Australia?

6. How competitive are markets for insurance in northern Australia?

- How does this vary across:
    - different regions of northern Australia?
    - residential building, contents and strata insurance?

7. How are insurance products marketed in northern Australia?

8. What strategies are used by insurers to retain and attract customers?

- To what extent do insurers use:
    - discounts for new customers?
    - 'loyalty' discounts for existing customers?
    - discounts for consumers bundling multiple insurance products?
    - price discrimination?
    - product differentiation?

9. How independently are decisions made relating to insurance pricing, availability, and terms and conditions, between an insurer's subsidiaries and / or brands? Between insurers within a large insurance group?

10. To what extent do intermediaries (including brokers and agents) and / or consumers have countervailing power (meaningful bargaining power and the ability to credibly threaten to switch to another supplier of insurance) in relation to insurance pricing, availability and terms and conditions?

11. What impact does the payment of commissions to intermediaries have on the competitiveness of markets for insurance in northern Australia?

12. How competitive are markets for reinsurance?

13. Is there any evidence of anti-competitive conduct by industry participants, including collusive conduct and misuse of market power, in northern Australian insurance markets? Are there any factors that increase the potential for such conduct to occur in the future?

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[29] ACCC, *Public Competition Assessment Suncorp Metway Limited - proposed acquisition of Promina Group*, 12 January 2007, p.7,8.

14. **What are the barriers to entry, expansion and / or exit in the supply of insurance in northern Australia?**
    - How significant are these barriers? Do these barriers differ:
        - between different regions in northern Australia?
        - between different types of insurance products (home, contents and strata)?
15. **Are there factors that could disrupt markets for insurance in northern Australia in the future? How likely are these to occur?**
16. **What are the impediments to improved competition in markets for insurance in northern Australia?**

3. Consumers' experience with insurance

This chapter of our paper is for all stakeholders. But it is especially an opportunity for consumers across northern Australia to share your experiences of what is important in your decisions about insurance generally, how you got information, and how easy the information was to understand. We also want to know specifically if you have had difficulty getting insurance in your town, have felt the pressure of rising prices or had an experience with switching insurers or making a claim. Financial counsellors and consumer advocates may also have valuable insights to share.

A well-functioning market needs confident and engaged consumers. It relies on consumers having access to the information they need, in a way they can understand, so they can make good decisions about products they buy. This is especially true of insurance, where information can be difficult to understand, offers hard to compare, and policies expensive to purchase.

For some consumers, insurance is not even a choice: owners of strata title properties are usually required to hold insurance by state and territory laws (often paid through the body corporate)[30] and banks often require building insurance as a condition of taking out a mortgage. Contents insurance is usually optional.

For consumers who face devastating losses to their home or belongings, the decisions they made about insurance in the past could have a big impact on their capacity to recover their losses now or in the future.

3.1. What is important to a consumer's choice of insurance generally?

Differences in coverage, limits, exclusions, and options can contribute to a high degree of variation between different insurance products. It is the consumer's responsibility to assess their needs and find a product that suits them. While some consumers will ask an insurance broker to assist them, many others will not.

> Recent research undertaken for the Insurance Council of Australia found that consumers focused most on price over policy detail. Many consumers do not consider the specific risks they need to cover when purchasing insurance. Those who are exposed to high cyclone risk are more likely to consider this in their purchase. Policy holders who had previously made claims were typically better informed and more likely to read the product disclosure statement.[31]

Price: How much is the premium? How much is the excess? Any discounts?

The price, or the 'premium', is a key focus for consumers looking at their insurance options. But price should not be the only point of focus – the other terms and conditions of the policy are also important. These are discussed in the next section.

> An **insurance premium** is influenced by a range of factors, including:
>
> - the value or **sum insured** of the building and/or contents
> - the **level** of cover (what risks or events are covered by the policy)
> - the **risk** of damage and the extent of that damage (for example flood/storm risks, age of buildings, whether the building meets cyclone standards, presence of security features, crime levels, fire risk rating, tenant or owner occupied, past claims)
> - the **excess,** which is the amount the consumer needs to pay to make a claim.

[30] See Chapter 4 of this issues paper for a discussion of strata laws.

Insurers may have different types of excesses, and some policies may have more than one applicable excess. Varying the excess is one way to reduce the premium – agreeing to pay more in the event of any future claim will create an upfront saving in a premium now.

Most insurers offer a discount for combining home and contents insurance. Some might offer discounts for also holding other forms of insurance (e.g. motor vehicle insurance), being a loyal customer or not making a claim. However some insurers might also take advantage of a customer's loyalty and instead target discounts towards potential new customers. It pays for consumers to check their renewal notices carefully, and do an online quote to see what 'new' customers are offered.

Consumers who regularly shop around for what they need can make a saving – this is common in all industries where businesses strongly compete for new customers and market share.

Taking deliberate actions to reduce risk of damage or loss (i.e. risk mitigation) can also help reduce the price paid for insurance. Risk mitigation for households is discussed at Section 3.4 (and also at Chapter 4).

Policy detail: What is insured? Which events are included and excluded?

Insurers offer different types and levels of cover. In most cases, the consumer needs to calculate and nominate the dollar value (i.e. the sum insured) of cover for their house and/or contents, and to decide which policy type is best for them.

> According to the Understand Insurance survey, most households (70 per cent) guess the value of their contents themselves. And almost half (45 per cent) admitted they had no idea how much their contents were worth, or thought their valuation was out by more than $5,000.[32]

In addition to valuing their possessions, consumers also need to think about the key features they want, or can afford, to include in their policy. A sum insured policy will set a maximum level of cover and any payout is limited with reference to that amount. There could be limits for individual items or events. The insurer may reserve the right to decide if it will rebuild, replace or pay.

> A **safety net** policy will pay a specified percentage above the sum insured amount. Insurers are increasingly offering a safety net policy in case a consumer under-insures.
>
> A **total replacement** policy will pay all reasonable costs to repair, replace or rebuild (taking into account policy exclusions).
>
> **Defined (or insured) events**: policies typically offer cover for damage or loss due to events such as fire; explosions; flood; earthquake; tsunami; storms; lightning strike; theft; vandalism; and water or liquid damage from burst pipes and similar.
>
> **Accidental damage**: some policies can cover damage that occurs suddenly due to an unexpected and unintentional action.[33]
>
> **Fusion protection**: some policies can cover burn out of electric motors that are part of general contents.
>
> **Portable contents cover:** some policies can cover personal items both inside your home and outside your home.

The 2010/11 Queensland floods brought national attention to the availability and affordability of flood cover. In flood risk areas, flood contributes significantly to the affordability of insurance. Some insurers make flood cover a compulsory part of the home and contents

[32] Insurance Council of Australia, Understand Insurance Blog, Renting? Make sure you have the right insurance, 22 June 2016, viewed 25 August 2017, http://understandinsurance.com.au/blog/renting-make-sure-you-have-the-right-insurance

[33] Many policies may not list 'cyclone' as a defined event, but cover the events that occur as a result of a cyclone - flood, storm and actions of the sea.

insurance policy, usually due to the location and risk of flooding. Other policies include it by default but allow consumers to opt-out. Some policies will specify flood coverage up to a fixed limit. Some insurers do not offer flood coverage at all.

What is the role of customer service and claims handling reputation?

Building and maintaining trust is important in business. It is especially important in insurance when the most extensive interactions a consumer has with their insurer usually happen at a time of great loss and vulnerability for the consumer.

Customer service however, begins much earlier than a claim – it begins at the initial point of marketing, such as an online or telephone quote or inquiry. Immediately insurers have an obligation to represent the information they provide fairly, accurately and transparently and at least meet all minimum disclosure obligations.

While it may only be when facing a significant loss that a consumer really put their insurer's customer service and claims handling to the test, in towns where natural disasters are not infrequent, word of mouth and social media are powerful spreaders of bad and good experiences.

3.1 Your views about choosing insurance

We are interested in what choices consumers have and how they decide which home, contents or strata insurance products to purchase. These questions are addressed to consumers, but we welcome views from all interested parties. The following questions are a guide.

17. Is price the focus of your decision?

- Did you know about the price of insurance in your town before you moved there?
- How important is price in your decision? Has price changed a lot in recent years?
- Have you tried to get a lower price, for example through a higher excess, reducing your cover, or through a non-claim loyalty bonus?
- What is the impact of high prices on your local community?

18. How much choice do you have?

- Where you live, how much choice is there between insurers?
- Do you think different insurers offer different policies (i.e. is coverage different?)

19. What are you covered for?

- Can you get the sort of insurance that you want?
- Do you want flood insurance? Why or why not? Can you get it?
- How confident are you that you know what you are covered for and what limits you have?
- If you have made a claim, were you covered for what you thought you were?

20. How important is customer service and claims handling reputation?

- How much do other peoples' experience with insurers matter in your choice?
- How important is an insurer's claims handling reputation to your choice?
- How much does customer service matter to you?

21. Have you seen an insurer behaving in way that you think is unfair or confusing?

22. Has an insurer told you that they won't insure you or renew your insurance policy? If they have, what were the reasons they gave you?

3.2. Do consumers have enough information and can they understand it?

It is not simply the availability of information itself that empowers consumers – rather how accessible that information is. Too much or poorly presented information can be overwhelming and confusing. Even if good information is available, not knowing how to find it or how to use it can be a significant barrier.

> Recent research undertaken for the Insurance Council of Australia found that most consumers don't read the product disclosure statement (PDS) before purchasing a policy. Most consumers believed they had considered all of the details when buying insurance, even though most do not look into exclusions and limits. Policy renewal letters were the most trusted and commonly used document for insurance customers. While most consumers were confident they understand the detail of their policy, actual understanding of exclusions and limits were poor.[34]

How do consumers get information about insurance?

Consumers can find and receive information about their insurance options from a range of sources, including:

- product disclosure statements (PDS)
- key facts sheets (KFS)
- policy renewal letters from current insurers
- brokers
- online and telephone generated quotes and information from potential insurers
- commercial comparison and switching websites
- government websites (such as MoneySmart[35] and North Queensland Home Insurance comparison website[36])
- a body corporate committee or manager
- banks and lenders (who may require home insurance as a condition of finance)
- media and advertising
- word of mouth.

Receiving the information at the right time is a key factor in determining how useful that information actually is to a consumer.

How useful is the information?

Financial products, including insurance, are complex. Terminology and language are often confusing. Being able to confidently understand and compare insurance policies can challenge even the most experienced consumer.

The challenges are especially significant for consumers who may be time poor, have difficulty with reading or numeracy, have limited access to the internet or English language skills, or who have a vision or other disability whose needs are not accommodated for.

If a consumer does not have a good understanding of the features of their policy and what specifically is included or excluded, they could end up financially devastated if a disaster occurs. For the insurer, it could attract negative publicity and result in a long and costly dispute. They might also be at risk of breaching the law in the way they did, or didn't, represent or disclose information clearly to the consumer.

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[34] Insurance Council of Australia, Media release: Cutting-edge consumer research points insurers towards sharper customer engagement, 17 February 2017.

[35] www.moneysmart.gov.au

[36] http://nqhomeinsurance.gov.au/

Making information clearer and easier

Initiatives designed to make consumer decision making easier and fairer are increasingly recognised as an important part of making markets work better for consumers. Initiatives can be driven by industry or communities, and where this isn't enough, the government can also require businesses to provide and present information in a certain way.

Following are some examples of recent initiatives to improve information accessibility and transparency for consumers in insurance:

- The Insurance Contracts Act was amended in 2014 to standardise the way flood is defined across the industry.
- Key Fact Sheets (KFS) became mandatory from 2014. The KFS summarises the key features of insurance policies to make it easier to compare policies from different insurers, and to better understand what they are, and are not, covered for.
- In 2015, the Australian Government launched the **North Queensland Home Insurance comparison** website for home and contents insurance in North Queensland (see http://nqhomeinsurance.gov.au/).

There is no one-size-fits-all approach to information. A big issue for this inquiry is how well consumers can find the information they need and whether that information is transparent and reasonably easy for them to understand.

The needs of all consumers are important – including people with limited access to technology and the internet, people with limited English, literacy or numeracy skills, and any other need or disadvantage that might make it harder to understand how to choose the right insurance.

The Insurance Council of Australia, through its Effective Disclosure Taskforce, has been working to understand and improve the way insurers engage with, and disclose information to, consumers.

3.2 Your views on finding and using the information that you need

We are interested in how consumers find and receive information about insurance options (home, strata and contents) and how easy that information is to understand. We welcome views from all stakeholders. The following questions are a guide.

23. What information is given to you by insurers and how useful is it?

- Does your insurer provide information to help you choose? Is it provided when you need it?
- Does your renewal notice tell you how much price has changed?
- Do insurers explain how premiums have been calculated and the reason for price changes?
- What could insurers do to make it easier to understand their products?

24. Where else do you see or look for information?

- How much effort is it to look for better or cheaper policies? How could it be easier?
- What sort of advertising or marketing do you see and where?
- If you need help with understanding your insurance, who can you ask?
- Have you used websites, tools or calculators to help research or compare, which ones?
- Do you know about the North Queensland Home Insurance website? Is it helpful?

25. Have you used, or considered using, a broker?

- Why did you decide to use a broker? Or if you didn't use one after thinking about it, why not?
- Did it make it easier for you to get a policy that you were more confident suited your needs?

26. How well are insurers meeting the information needs of all consumers?

- Could you get information in another language, or by using a translator or TTY service?
- Do insurers have a branch in your town/region or do they visit so you can talk to them?
- What about consumers in very remote areas? Is mail, phone or internet access an issue?

27. What are the information needs of strata unit owners and body corporate managers?

- How difficult is it to get transparent and useful information about strata insurance?
- How transparent is the information provided to strata unit owners?

28. Have you seen examples of tools, technology or information sharing overseas or in other industries that could make it easier to understand insurance?

3.3. Switching insurers

Competition encourages insurers to be innovative, to offer the sorts of products that consumers are demanding and to charge a reasonable price. If a consumer finds a product that suits their needs better, they can switch to the insurer that is offering that product. The amount of switching can provide helpful information about how much competition there is in the market.

Switching, however, relies on consumers having reasonable access to clear information so they can make an informed decision (as discussed in Section 3.1). But sometimes there are other barriers or deterrents that discourage consumers switching, such as paperwork and setting up new accounts.

Switching also relies on consumers having a choice between a range of insurers offering different products. The availability of insurance, and therefore the potential for consumers to shop around, varies across northern Australia.

We are interested in the switching activity of consumers in northern Australia — why some consumers have decided to switch insurer, and why other consumers decided not to.

3.3 Your views on switching insurers

We are interested in why consumers think about switching, whether there are barriers to switching, and whether switching saves money. We welcome views from all stakeholders. The following questions are a guide.

29. If you have considered switching insurance in recent years:

- Did you consider switching policies with the same insurer, to a different insurer, or both?
- How did you find and compare policies?
- Did you use the North Queensland Home Insurance website to compare policies?
- How many quotes did you compare?
- Was it a lot of effort?
- How does the use of standard definitions, such as for ‘flood’, make it easier to compare?
- Was your focus on price or coverage or both?
- Why did you decide to switch or not switch?
- Did you think about using a broker to help you?

3.4. How are consumers and insurers trying to improve affordability of insurance?

There are a number of broad approaches consumers and insurers can take to manage concerns about rising prices in northern Australia. These include:

- Consumers switching to different insurers and/or products (see Section 3.3)
- Consumer and community actions to reduce the risk and size of damage
- Insurers designing different and more affordable insurance products
- Insurers making cost more manageable, such as through flexible payment options.

Section 4 of this paper considers measures that regulators, governments and industry could consider to improve the affordability and availability of insurance over the longer term.

Reducing the risk and cost of damage from natural disasters

Reducing the risk and extent of damage (**risk mitigation**) can help to reduce insurance premiums now and into the future. Risk mitigation is a responsibility shared by consumers, property-owners, communities, insurers and governments.

Long term residents of areas prone to significant weather events may be experienced in preparing for the weather conditions of the north. But residents newer to high risk zones or renters moving between unfamiliar properties may be less knowledgeable about simple and low cost measures they can take. Renters face different challenges as they have less control over the changes they can make to the property they live in.

There is strong opportunity for community education and awareness initiatives to help residents understand actions they can take to reduce the risk and/or size of damage:

- Simple low-cost measures: minor claims can often be prevented with thorough and careful preparation, including attending to fencing damage, loose shade cloths, unfixed objects in gardens and water ingress. After-market bracing for roller doors could save between $1,500 and $10,000 in the event of a cyclone.[37]
- Retrofits and renovations: Research has shown that addressing weaknesses in modern homes could reduce cyclone damage bills by 8 per cent. For example, around 90 per cent of modern homes have roller doors, and Suncorp estimated their failure contributes to almost one in three large claims.[38]
- Building a new home or unit: Consumers may not understand the difference between a minimum building standard and best-practice standard, what options they have in building a new home, and how upfront expenses may pay-off over the long run or in a single damaging event.

Insurers are beginning to develop approaches that recognise the individual characteristics of houses and offering premium reductions and discounts to customers who have been able to invest in structural improvements to make their homes more resilient to damage.

[37] Suncorp Insurance, Cyclone Testing Station, Urbis, *Build to Last*, a Protecting the North Initiative, 2015
[38] Suncorp Insurance, Cyclone Testing Station, Urbis, *Build to Last*, a Protecting the North Initiative, 2015.

Designing insurance to meet more consumers' needs

Consumer groups, including the Brotherhood of St Laurence and Consumer Action Law Centre, have previously advocated for targeted products that focus on the needs of tenants and low-income residents to lower the barriers to the uptake of insurance for these groups.

> According to a 2016 survey of 1000 Australian households undertaken for Understand Insurance, more than half (54 per cent) of renters have no contents insurance.[39]
>
> Separate research has found that many properties without contents insurance are rented by people on low-incomes, including those living on welfare benefits or those living in public or social housing, young people, single people, and people from ethnic and migrant backgrounds.[40]

Most insurers have a minimum level of cover for contents. Some households could pay more if they choose a policy with a minimum cover that is higher than what they need.

> According to Good Shepherd, one in five adults in Australia goes without general insurance protection for their household contents, car or home. Many of these people are uninsured, not because they don't want insurance, but because they can't afford traditional cover.[41]

The pressure of steep price premiums in northern Australia in particular puts a higher demand on targeted products that allow residents to at least be able to protect their most essential belongings, even if not everything. Low-income households usually have the least capacity to replace damaged belongings that are not insured.

> Good Shepherd Microfinance has worked with insurance companies to create affordable and simple insurance policies. Consumers can choose between insuring contents that are worth between $10,000 and $20,000, or a single item (like a fridge or television). These policies have flexible payments options and some premiums can even be deducted from Centrelink benefits.[42] For example, Essentials by AAI[43] and Insurance4That.[44]

Some insurers are developing sophisticated capabilities that are allowing them to provide tailored premiums to individual situations – for lower risk houses, this can save money.

Flexible billing and the availability of Centrepay

Cost is an important part of affordability. But affordability is more than just cost. It is also about practices that can make the same cost more manageable, such as flexible payment options that better match a household's cash flow and budget cycle.

Consumer groups have previously raised concerns about the low prevalence of mainstream insurers offering Centrepay as a billing option for Centrelink recipients.[45] Unlike direct debits which can be risky for low-income consumers (for example due to timing mismatch between deposited and withdrawn funds), Centrepay instalments match exactly with the cycle of a recipient's Centrelink payments. Centrepay is widely available in other industries supplying essential household goods and services.

The Consumer Action Law Centre has also previously raised concern that excesses for low income consumers are not always arranged as 'deductibles', which means consumers may have to make an up-front payment in order for their claim to be processed.[46]

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[39] Understand Insurance, www.understandinsurance.com.au is an initiative of the Insurance Council of Australia,

[40] Consumer Action Law Centre, Submission to the Senate Economics Reference Committee's inquiry into, Australia's General Insurance Industry, 10 February 2017.

[41] Good Shepherd Microfinance, viewed 30 August 2017, http://goodshepherdmicrofinance.org.au/services/good-insurance/.

[42] Good Shepherd Microfinance, viewed 30 August 2017, http://goodshepherdmicrofinance.org.au/services/good-insurance/.

[43] Essentials by AAI: https://www.essentialsbyaai.com.au/.

[44] Insurance4That: https://insurance4that.com.au/.

[45] Consumer Action Law Centre, response to the Natural Disaster Insurance Review (NDIR) Issues Paper, 18 August 2011

[46] Consumer Action Law Centre, response to the Natural Disaster Insurance Review (NDIR) Issues Paper, 18 August 2011

3.4 Your views on what consumers and insurers can do to improve affordability?

We are interested in how consumers and insurers are responding to concerns about affordability. We welcome views from all stakeholders. The following questions are a guide.

30. Have you considered making alterations to your home, or building a new home to a higher standard, to reduce the risk of storm or cyclone damage?

- How did you find out about building for your local conditions?
- How did you decide that it was a ‘worthwhile’ investment?
- If you made any alterations, did this have any impact on your insurance premium? Has it already, or will it, save you money in the long run?
- If you didn’t go ahead, why not?

31. What are insurers doing and could they do more to help?

- Has your insurer told you how much you could save on your premium by taking action to make your house or belongings safer?
- Do you have billing options? Can you choose to pay fortnightly or monthly? How much extra does it cost to pay fortnightly or monthly?
- Can you get help if you are facing payment difficulties? Who can get a payment plan?
- Does your insurer offer Centrepay to eligible customers?
- Have you seen innovation? For example, does your insurer offer new or different policies to suit tenants, households on a low income, or people with only a small amount to insure?

32. What are you doing to manage the cost of insurance?

- Have rising premiums motivated you to spend more effort looking for better policy options?
- Have you, or would you, reduce your level of coverage to save? Who else can you get help from?

Your views – anything else?

33. If you have a view or experience as a consumer to share that you haven’t already covered in another question, please tell us about it.

4. Risk mitigation

The role of mitigation has been a significant area of interest in recent years and this chapter is an opportunity for stakeholders to share their views on the role mitigation can play in improving affordability for consumers.

Mitigation is often proposed as a means to achieve permanent reductions in insurance premiums by reducing both the size and frequency of claims. Mitigation is essentially strategic and proactive measures taken in advance to remove or reduce the impacts and risks of hazards.

> The Northern Australian Insurance Premiums Taskforce reported that insurance companies estimate that mitigation actions could reduce premiums for some properties by up to 20 per cent.[47]

Mitigation works can be undertaken privately, by individuals, to protect their own property and publicly, by governments, to protect the interests of the broader community. Public mitigation works can be:

- Structural (or 'hard') measures involve physical or engineering works to lessen the effects of an environmental hazard, such as improvements to drainage infrastructure to protect against flooding
- Non-structural ('soft') measures involve strategic approaches such as town planning policies, building codes, and research and education initiatives.

4.1. Building for resilience

The Australian Building Codes Board (ABCB) sets the minimum requirements for the design, construction and performance of buildings. It does this through the National Construction Code, which comprises the Building Code of Australia (building code) and the Plumbing Code of Australia. It is the role of each state and territory to adopt and enforce the recommended standards.

Regulations are only changed where the ABCB is satisfied the benefits exceed the cost. Further, where it can, the ABCB looks to promote alternatives to regulation, such as non-mandatory guides. As a result, the regulations establish *minimum* standards, but not necessarily best practice standards.

> In 1974, Cyclone Tracy caused 65 deaths and hundreds of millions of dollars of damage to 70 per cent of Darwin's homes (90 per cent in some areas). It prompted regulatory change to improve the construction processes that attach the roof to the house, making houses more resistant to severe wind damage.
>
> Analysis after cyclones Vance (1999), Larry (2006) and Yasi (2011) showed that the updated regulations have resulted in much less building damage and consequent loss of life. During Cyclone Yasi, for example, 12 per cent of older homes suffered severe roof damage, but only 3 per cent of newer homes.
>
> Residents of Innisfail faced the full brunt of Cyclone Larry in 2006 with wind gusts of 240 kilometres an hour. The rebuild brought many damaged houses in the town up to modern, cyclone resilient standards. When Cyclone Yasi crossed the coast with similar wind speeds five years later, claims from Innisfail were half the cost of those nearby towns that did not experience the post-Cyclone Larry rebuild.[48]

In Western Australia, building codes have required standards to meet a category four cyclone since 1974, a reason put forward for claims being much lower in Western Australia as a whole in comparison to other cyclone prone regions.[49]

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[48] Suncorp Insurance, Cyclone Testing Station, Urbis, *Build to Last*, a Protecting the North Initiative, 2015.
[49] Regional Development Australia, *Study on insurance and banking in the Pilbara*, August 2015.

Queensland introduced modern building codes in 1982 and there are an estimated 100,000 homes built before this date that may not meet current wind load codes.[50] Some stakeholders proposed government funding of a retrofit program targeting older housing as one of the most effective ways to keep insurance affordable.[51]

> The Insurance Council of Australia commissioned research in 2015 that proposed a seven-year $361 million scheme to retrofit vulnerable buildings in Queensland. The ICA report, *A Third Way*, reported it would cost between $12,000 and $15,000 per house to fit over-battens, and proposed a role for a government subsidy.

In contrast to wind events, there are currently no Australian housing design standards for resisting storm tides. The Queensland Government's guidelines on 'Rebuilding in storm tide prone areas', proposes design considerations for improved storm tide resilience to complement existing Australian standards for wind loads.

Also, the building code only covers structural elements of a home, which means that building materials used in non-structural elements of a building are not required to meet equivalent standards of wind resilience. For example, the Australian Standards for windows and doors do not require resilience to the same wind speeds and are often the first to fail during a cyclone.[52]

> A 2002 report to the Council of Australia Governments (COAG) found that across 67 flood mitigation projects funded by the Australia Government, savings of $2.10 had been achieved for every dollar invested. In areas of particularly high risk, the benefits for investment may be even greater.[53]

Land use planning provides an opportunity to reduce exposure to hazards and risk by controlling where development occurs.

Both the Natural Disasters in Australia report and the National Bushfire Inquiry, written for the Council of Australian Governments (COAG), noted land use planning as a significant mitigation measure for limiting disaster losses, and therefore likely insurance premiums in areas of new development.[54]

Highly effective land use planning requires a cooperative and collaborative approach between local and state and territory governments. For example, through shared mapping, data and information.

4.2. Educating for resilience

Home owners and residents of areas vulnerable to cyclones and related natural disasters need to be aware of what hazards and risks are addressed by building standards, and which ones are not. Mass public education and awareness initiatives can support local communities to be much more proactive in determining what level of risk is appropriate to their individual circumstances and what action they can take.

> The Queensland Government, in partnership with the Queensland Reconstruction Authority and leading cyclone and architecture experts at James Cook University's Cyclone Testing Station, CSIRO, Australian Institute of Architects, GHD and Cassowary Coast Regional Council have developed guidance materials for properties affected by natural disasters. The guides contain practical recommendations for communities rebuilding in storm tide prone areas, as well as advice

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[50] Suncorp Insurance, Cyclone Testing Station, Urbis, *Build to Last*, a Protecting the North Initiative, 2015.

[51] Australian Business Roundtable for Disaster Resilience and Safer Communities White Paper, *Building our nation's resilience to natural disasters*, through Deloitte Access Economics, June 2013.

[52] Suncorp Insurance, Cyclone Testing Station, Urbis, *Build to Last*, a Protecting the North Initiative, 2015

[53] Council of Australian Governments, 2002, *Natural Disasters in Australia: Reforming mitigation, relief and recovery arrangements*.

[54] Local Government Land Use Planning and Risk Mitigation: National Research Paper: December 2006, available at http://alga.asn.au/site/misc/alga/downloads/emergency_mgm/LGLUP.pdf

on cyclone safety and storm tide measures.[55] A separate guide is for properties that are rebuilding in areas along the coast that are prone to experience severe wind events.[56] The authors consider the guides will benefit communities around Australia and anywhere in the world where serious storms like typhoons and hurricanes are prevalent.

Insurers are developing new systems to better recognise mitigation activities. For example, Suncorp's online home and contents insurance quote calculator considers whether or not a consumer residing in northern Queensland has undertaken mitigation action and prepared themselves for the effects of cyclones.

4. Your views on mitigation

We welcome views from all stakeholders interested on the following questions.

34. To what extent could more investment in household mitigation activities contribute to addressing concerns about the affordability and availability of insurance?

- How significantly could risk (and premiums) be reduced with mass private mitigation activities?
- In which type of properties does most mitigation activity occur (e.g. old, new, strata, houses etc.)? Where does it not occur?
- What unique issues do renters face? Which risks can they, and can't they, mitigate?
- Do landlords invest in mitigation?

35. What are the barriers to households and property owners undertaking private mitigation?

- Is there a lack of awareness about the risks, options, costs, and benefits?
- How important is upfront cost and an uncertain pay-off period in a household's decision?
- Is there a lack of awareness of the difference between minimum building standards and best practice?
- Is there concern that mitigation works will have flow on effects through raising a property's value (such as higher local government rates)?
- Are property owners concerned about affecting the aesthetics of their property?

36. What role does the insurance industry have in promoting and contributing to public and private mitigation initiatives?

- How do insurers educate their customers about the risk mitigation activities they can undertake?
- How do insurers recognise and incentivise households that have undertaken mitigation works (either in a new build or retrofit)?
- Do insurers commit to a long-term premium discount following a retrofit or is it a one-off?
- How do insurers contribute to public mitigation activities, for example by sharing data and information that can assist public planning and mass education?

37. To what extent could stronger investment in public mitigation activities contribute to addressing concerns about the affordability and availability of insurance?

- What should be the focus of public mitigation? Education, research, public works, or incentives?
- How effective has recent or current public mitigation activities been in reducing premiums?
- How effective are partnerships between government and industry?
- Could public mitigation activities act to encourage new insurers to enter markets in northern Australia?

[55] The Queensland Reconstruction Authority, Planning for a stronger, more resilient North Queensland, *Part 1 - Rebuilding in storm tide prone areas: Tully Heads and Hull Heads*

[56] The Queensland Reconstruction Authority, Planning for a stronger, more resilient North Queensland, Part 2 - *Wind resistant housing*

5. Regulation

This chapter of our paper is for all stakeholders. It is particularly an opportunity for industry and regulators to provide views on how regulation could, or should, evolve to better address concerns about the affordability and availability of home, contents and strata insurance across northern Australia. This is a broad issue and broad feedback is welcome. Areas of recent interest include unfair contract terms, taxation and data sharing.

Regulation in insurance serves to promote beneficial competition, ensure insurers are able to meet their obligations, and protect the interests of consumers. The general insurance industry in Australia is governed by a number of laws (most importantly the Insurance Act 1973, the Insurance Contracts Act 1984 and the Corporations Act 2001). The regulatory environment is supported by the voluntary General Insurance Code of Practice 2014. Appendix C sets out the framework in more detail.

Strata insurance is compulsory in the Northern Territory and Queensland under strata title or owners corporation legislation. In Western Australia the strata company must usually purchase strata insurance, but it can elect not to take out strata title insurance in some circumstances. A summary of the strata titles acts of each jurisdiction is at Appendix C.

Table 1. Key regulations for general insurance

Regulation	Main instrument	Regulator
Prudential regulation	Insurance Act 1973	Australian Prudential and Regulatory Authority (APRA)
Contract regulation	Insurance Contracts Act 1984	Australian Securities and Investments Commission (ASIC)
Financial services	Corporations Act 2001	Australian Securities and Investments Commission (ASIC)
Consumer protection	Australian Securities and Investments Commission Act 2001	Australian Securities and Investments Commission (ASIC)
Competition regulation	Competition and Consumer Act 2010	Australian Competition and Consumer Commission (ACCC)
Industry code of practice	General Insurance Code of Practice 2014	Voluntary, entered into with the Insurance Council of Australia and monitored by the General Insurance Code Governance Committee (CGC)

5.1. Information, disclosure and transparency

Section 3 of this paper discussed the importance of consumers having access to clear, transparent and understandable information. A range of recent initiatives intended to promote this objective, including key fact sheets, the North Queensland Home Insurance website, and the ICA’s work on effective disclosure, are discussed as part of that section.

Regulation of the content and manner of information provision to consumers (and potential consumer) must continue to keep pace with the innovations and developments in the insurance industry, and an evolving understanding of consumer behaviour.

5.2. Unfair contract terms

In 2010, unfair contract term provisions were inserted into both the *Competition and Consumer Act 2010* and the *Australian Securities and Investments Commission Act 2001*. These laws are designed to protect consumers from unfair terms in circumstances where they have little or no opportunity to negotiate with the business, such as with standard form contracts.

The unfair contract term laws apply to most financial products and services but they do not currently apply to insurance contracts regulated by the *Insurance Contracts Act 1984 (Cth)* such as home, contents and strata insurance.[57],[58]

While the Insurance Contracts Act contains its own protections for consumers (such as the duty to act in the ‘utmost good faith’ and specific disclosure requirements), they are not the same as unfair contract term laws.

In its 2017 report on its review of the Australian Consumer Law, Consumer Affairs Australia and New Zealand (CAANZ) commented that these protections have not been shown to provide equal or greater consumer protection. CAANZ went further to recommend that the unfair contract terms protections be applied to insurance contracts to strengthen, clarify and harmonise the rights and remedies available to consumers and increase options for redress.[59]

Consumer stakeholders have previously advocated for the exemption to be abolished.[60] Some industry stakeholders have raised concern that any proposal may affect the scope of insurance policy coverage (due to uncertainty about the terms that would be captured) and the availability of reinsurance (due to greater exposure to potential liability). It was said this could, in turn, lead to higher premiums for consumers.

5.3. Data availability and use

Advances in technology are providing insurance businesses with significantly improved access to detailed data about individual consumers.

However just as data advancements raises new possibilities in more sophisticated risk identification, risk assessment and risk mitigation techniques, it also raises new concerns with issues of access, sharing, trust and privacy.

> The Productivity Commission released its report on Data Availability and Use in May 2017.[61] The report offers guidance on where the benefits of greater data use may be most evident, and how governments could generate community understanding of the costs, risks, and benefits associated with data sharing and use. It includes a recommendation for a new Comprehensive Right for consumers that would give individuals opportunities for active use of their own data and represent fundamental reform to Australia's competition policy in a digital world.

[57] Section 15 of the *Insurance Contract Act 1984* provides that insurance contracts are not capable of being made the subject of relief under any other Act (including the *Australian Securities Investment Commission Act 2001*) on grounds including that the contract is unfair. Therefore the unfair contract term provisions of the *Australian Securities Investment Commission Act 2001* do not apply to insurance contracts regulated by the *Insurance Contract Act 1984.*

[58] In 2012, the Australian Government announced its intention to legislate to extend the protections from unfair terms in the Australian Securities Investment Commission Act 2001 to contracts for general insurance, however the resulting bill, the Insurance Contracts Amendment (Unfair Terms) Bill 2013 (Cth) lapsed at dissolution of the House of Representatives in 2013.

[59] CAANZ acknowledges that while consumer affairs ministers can endorse this proposal, the decision to implement it ultimately lies with the Commonwealth Minister responsible for administering the ASIC Act and the Insurance Contracts Act.

[60] Submissions by the Consumer Action Law Centre (CALC) and Financial Rights Legal Centre (FRLC) to The Senate Economics Reference Committee, Australia’s General Insurance Industry, February 2017

[61] Productivity Commission, Productivity Commission Inquiry Report on Data availability and Use, No.82, 31 March 2017, http://www.pc.gov.au/inquiries/completed/data-access/report

5.4. Taxes, levies and stamp duties

The combination of stamp duties, GST, and in some states, levies to help fund emergency services, can significantly inflate the cost of insurance premiums.

Many stakeholders have argued there is a clear social and economic case for eliminating or at least reducing taxes, levies and stamp duties on insurance.[62] This is based on recognition of the benefits of insurance to the economy and community generally and of the role of the tax system in encouraging insurance coverage. They argue that taxes on insurance are particularly inefficient and they contribute to non-insurance and under-insurance, particularly for lower income and vulnerable consumer groups.

> The Insurance Council of Australia commissioned two papers[63] that examined the abolition of stamp duties on insurance contracts. The research found removing state-based premium taxes would lead to 242,000 more Australian households taking out contents insurance and 38,000 buying house insurance.[64]

Stamp duty attracts particular attention for its link to affordability concerns, as it charged as a flat percentage of the insurance premium. So rather than a direct link to the value of the insured property (per se) or a person's capacity to pay, stamp duty is linked to the price of the insurance. A person in a low flood risk area with a house worth $1 million could be paying $1000 for insurance including $100 for stamp duty. However a person in a high risk flood area with a house worth $350,000 could be paying $5000 per year for insurance including $500 for stamp duty.

The ACT is currently the only jurisdiction that has phased out all of its insurance-based taxes, including stamp duty. Queensland increased its stamp duty on retail insurance from 5 per cent to 9 per cent in 2013. In all other states and territories stamp duty is at 10 or 11 per cent.

5. Your views on regulation

We welcome views from interested parties on the following questions.

38. To what extent could the regulatory requirements relating to information, disclosure and transparency be improved?

- What is the appropriate role for voluntary industry self-regulation of information provision?
- What is the appropriate role for mandatory government regulation of information provision?
- How is innovation and technology providing new opportunities for improved engagement and information provision?
- What lessons can be learned from overseas and other industries?

39. To what extent does the exemption of insurance from unfair contract terms laws have on affordability and availability of insurance?

- What impact would removal of the exemption have on the affordability and availability of insurances?
- What does the exemption achieve for consumers?
- Is the exemption necessary to protect industry?

40. What role should regulation play in how insurers manage consumers' personal data?

- To what extent do, or should, consumers have access to the information held about them by

[62] The Review of Australia's Future Tax System (also known as the "Henry review") said "all specific taxes on insurance products, including the fire services levy, should be abolished." See: Australia's future tax system: Final Report, Part 2: Detailed analysis, Chapter E: Enhancing social and market outcomes, 2 May 2010, p.474.

[63] Deloitte Access Economics Report for the Insurance Council of Australia, *Impact of removing stamp duties on insurance*, October 2015

[64] Dr Richard Tooth Report for the Insurance Council of Australia, *Analysis of demand for home and contents insurance*, August 2015

their insurer?

- How do, or should, consumers have an opportunity to verify that any information held about them is correct and complete?
- Can consumers control how their information is shared with third parties?
- To what extent should consumers be denied policies or services because they refuse to share information?
- To what extent should insurers be permitted to discriminate on the basis of individual risk?
- How could consumers use their own information to their advantage?

41. How material are taxes, levies and duties to the affordability of insurance in northern Australia?

Appendix A. Terms of reference

COMMONWEALTH OF AUSTRALIA

COMPETITION AND CONSUMER ACT 2010

INQUIRY INTO THE SUPPLY OF INSURANCE IN NORTHERN AUSTRALIA

I, Scott Morrison, Treasurer, pursuant to subsection 95H(1) of the *Competition and Consumer Act 2010*, hereby require the Australian Competition and Consumer Commission to hold an inquiry into the supply, by persons in the insurance industry, of residential building, contents and strata insurance products ("insurance") to consumers in northern Australia.

Matters to be considered by the inquiry shall include, but not be restricted to:

i. the pricing and availability of insurance to consumers in northern Australia;

ii. the key cost components of insurance pricing in northern Australia and how they have changed over time, particularly catastrophe risk;

iii. the terms and conditions on which insurance in supplied;

iv. the competitiveness of markets for insurance in northern Australia;

v. the existence and extent of any barriers to entry, expansion and/or exit in the supply of insurance in northern Australia;

vi. any impediments to consumer choice, including transaction costs, a lack of transparent information, or other factors;

vii. identifying any regulatory issues, or market participant behaviour or practices that may not be supporting the development of competitive markets for insurance in northern Australia; and

viii. the profitability of insurers through time and the extent to which profits are, or are expected to be commensurate with risk.

To inform its inquiry, the ACCC should monitor the activities of the insurance industry in northern Australia for a period of three years, commencing on 1 July 2017.

Northern Australia means the area defined has the meaning given in section 5 of the *Northern Australia Infrastructure Facility Act 2016*.

The ACCC should make use of publicly available information on the insurance industry, including that published by the Australian Prudential Regulation Authority, where appropriate.

This is not to be an inquiry in relation to supply by any particular person or persons.

The inquiry is to commence on 1 July 2017. The ACCC is to submit interim reports to me by 30 November 2018 and 30 November 2019. The inquiry is to be completed and a final report submitted to me by 30 November 2020.

DATED THIS 25th DAY OF May 2017

SCOTT MORRISON

Treasurer

Appendix B. Making a submission – treatment of information

We prefer that all submissions are publicly available, to facilitate an informed, transparent and robust consultation process. Accordingly, submissions that are not confidential will be posted on the ACCC website.

The *Competition and Consumer Act 2010* allows interested parties that provide written feedback to the Inquiry to make claims for confidentiality in certain circumstances. Where appropriate, we invite parties to discuss confidentiality issues further 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 from the party if the disclosure of information would damage their 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 parties 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 & AER information policy, which is available on our website at

https://www.accc.gov.au/publications/accc-aer-information-policy-collection-and-disclosure-of-information

Appendix C. Regulatory framework

Summary of regulatory framework for insurance

Prudential regulation – the *Insurance Act 1973*: administered by the Australian Prudential Regulatory Authority (APRA), it requires a company carrying on an insurance business in Australia to be authorised by APRA. This Act also provides APRA with its prudential regulation powers, including the ability to make prudential standards and collect and monitor information.[65]

Financial service regulation – the *Corporations Act 2001*: administered by the Australian Securities and Investments Commission (ASIC), it imposes requirements on the provision of financial services and products to consumers, including some contracts of insurance.[66] There are also relevant requirements that relate to financial services licences, information and disclosure, as well the requirement to provide a Product Disclosure Statement (PDS).[67]

Contract regulation – the *Insurance Contracts Act 1984*: sets out the requirements relating to insurance contracts, including obligations on insurers and insureds. Most provisions apply to home, contents and some strata title insurance. The Act imposes good faith and disclosure duties, sets out standard cover for a range of insurance contracts, and imposes obligations on insurers to provide consumers with certain information.[68]

***Australian Securities and Investments Commission (ASIC) Act 2001*:** sets out the consumer protection regime for financial products and services, which including some contracts of insurance.[69] The ASIC Act includes provisions prohibiting unconscionable conduct, misleading or deceptive conduct, and making false or misleading representations.[70]

The *Competition and Consumer Act 2010*: enforced by the ACCC, the CCA regulates the manner in which businesses interact with each other, for example by prohibiting anti-competitive behaviour, to ensure competition is not unduly restricted, and prohibiting mergers that would have the effect, or be likely to have the effect, of substantially lessening competition.

The General Insurance Code of Practice is a voluntary self-regulating code. It sets out the standards that general insurers must meet when providing services to their customers, for example when consumers are buying insurance, making claims, experiencing financial hardship, requesting information, or wanting to make a complaint. The Code is monitored by the General Insurance Code Governance Committee (CGC).

Financial Ombudsman Services (FOS) is the accredited dispute resolution service that assists consumers with resolving disputes with insurance providers. The FOS provides secretariat services to the CGC, which monitors the conduct of insurance companies under the General Insurance Code of Practice.

Summary of strata regulation

Queensland - *Body Corporate and Community Management Act 1997*: This Act provides the regulation module applying to a community titles scheme may require the body corporate to put in place insurance for the scheme (s 189). The Act provides different regulation modules may apply to different community titles schemes, and where no other regulation module applies, the *Body Corporate and the Community Management (Standard Module)*

[65] ss. 12, 32, 38.
[66] See section 764A, some exclusions apply.
[67] s 1012A(3)
[68] Sections 13, 21, 37, 37G.
[69] ss 12BA and 12BAA.
[70] ss 12CB, 12DA, 12DB.

Regulation 2008 will apply.[71] These Regulations require a body corporate to insure the common property and the body corporate assets for their full replacement value (r 178). Such a policy must cover damage and costs incidental to restatement or replacement of insured buildings, including the cost of taking away debris and other fees, and must provide for the reinstatement of property to its condition when new. The owners of strata units must each contribute a proportionate amount to the premium. The insurance of the building (depending on the type of subdivision) is also specified by these Regulations (Chapter 8, Part 9).

Northern Territory - *Unit Title Scheme Act*: This Act requires that a body corporate must insure common property (s 52), and that the policy must 'insure against all reasonable costs for the reinstatement of any damaged common property'. Reinstatement of the damaged common property is the work that is required for restoring it to substantially the same condition as existed immediately before it was damaged (s 53).[72]

Western Australia – *Strata Titles Act 1985*: The requirements for strata title insurance in WA depend on the type of building. For a single tier strata title scheme, the strata company must take out insurance of common property buildings (to their replacement value), and damage to common property, unless the company unanimously decides not to (s 53C). For non-single tier strata schemes (i.e. multi-storey buildings), the strata company must take out insurance for the building to its replacement value against certain events (such as fire, storm and tempest, and lightening), and insurance for damage to any common property (s 54).

[71] See subsection 21(6) of the *Body Corporate and Community Management Act 1997* and sub-regulation 3(1) of the *Body Corporate and the Community Management (Standard Module) Regulation 2008*.

[72] Insurance requirements can also apply under the *Unit Titles Act (NT).*