

Friday 10th June 2022

Department of Justice
Office of the Secretary
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NIBA Submission: Tasmanian Home Warranty Insurance Consultation Paper

Purchasing a new home is the largest investment many Tasmanians will make. With average property prices in Tasmania at an all-time high, it is more important than ever that Tasmanians are protected if something goes wrong.

NIBA supports the re-introduction of the Tasmanian Home Warranty Insurance scheme, to protect homeowners against incomplete or defective building works. However, NIBA notes that without strong building codes and reforms to prevent illegal phoenixing¹ activity, the long-term viability of the scheme is likely to be jeopardised.

[About NIBA](#)

NIBA is the peak representative body for the intermediated general insurance industry. NIBA represents approximately 450 member firms and 15,000 individual brokers including large, multinational insurance brokers, Australian broker networks, and small to medium-sized businesses located in cities and regional areas right around Australia.

NIBA aims to promote the role of insurance brokers and the role they play in supporting and advising their clients on risk and insurance matters. NIBA provides this knowledge and expertise to governments and government agencies to promote understanding of the operation of general insurance markets.

General insurance brokers work with their clients to –

- understand, assess, and manage their risks;
- develop appropriate risk-transfer and risk financing strategies;
- seek cover from insurance markets that meet the above needs and strategies in a cost-effective manner;
act as the client's advocate during a claim;
- assist with renewing insurance and recommend changes;

In performing these duties, insurance brokers act as agents of their clients and have statutory, common law and professional obligations to act in the best interests of their clients at all times. At times, brokers may act on behalf of an insurer when providing certain services. When this occurs, brokers have a duty to communicate this to their clients.

¹ Illegal phoenix activity occurs where a new company is created to continue the business of an existing company that has been deliberately liquidated to avoid liabilities (such as statutory warranties for building works) or outstanding debts, including taxes, creditors and employee entitlements.

NIBA member firms all hold an Australian financial services licence (**AFSL**), issued by the Australian Securities and Investments Commission (**ASIC**) under the *Corporations Act 2001 (Cth)*, which enables them to deal in and/or advise on risk insurance products.

Insurance brokers represent the interests of the purchasers of insurance, the policyholders, and not those of insurance companies. Consequently, comments made by NIBA and its members are made on behalf of its members and the public that purchases insurance, not on behalf of insurance companies.

[NIBA Responses to consultation questions](#)

Do you think the proposed parameters, including 'last resort', claim value limits and application triggers, are appropriate for the HWI in Tasmania? Why?

Last Resort scheme

NIBA notes that after the *Housing Indemnity Amendment Act 2008* removed the requirement for Home Warranty Insurance it was assumed that homeowners who wished to take out such insurance on a voluntary basis would be able to do so by sourcing a suitable product from the private market.

In reality, this assumption has proven to be false with homeowners unable to protect themselves and their largest investment against incomplete or defective building works.

NIBA supports the introduction of the home warranty insurance scheme as a last resort scheme as the most effective way to balance the benefit to homeowners with the economic impact premiums have on property prices. First-resort schemes (such as those that exist in Queensland) significantly increase the cost associated with building or renovating a home.

NIBA notes that both New South Wales and Victoria previously operated a first resort scheme similar to the one currently in place in Queensland however these schemes were abandoned due to a lack of availability.

Additionally, while academically speaking first-resort schemes and last-resort schemes respond very differently, practically speaking they operate in a very similar way. If the builder is still available to complete or rectify the work, homeowners can seek recourse under relevant state legislation. This practice is consistent with the expectation of insurers that policyholders will have already exhausted all avenues of appeal prior to claiming on their insurance policies.

Claim Value limits

The maximum amount homeowners are able to claim under the home warranty scheme in their state ranges from 9 per cent of the median capital city house price in the Australian Capital Territory to 37 per cent in Victoria. The maximum claim value in most states is more than 25 per cent of the median house price in the respective states' capital city.

	Maximum claim value	Median Capital house price
NSW	340000	1,120,836
ACT	85000	940,026
VIC	300000	806,196
QLD	200,000	779,895
SA	150,000	628,744
WA	100,000	555,538
TAS	200,000	738,399

Under the proposed model, the maximum claim amount represents 27 per cent of the median house price in Hobart. This amount is broadly consistent with the maximum claim value of other schemes and is likely to provide adequate cover to the majority of affected homeowners.

Do you consider that the proposed way forward, of Tasmania implementing a framework for a contract manager model in the short term is appropriate?

In NIBA's view, a contract manager model is the most appropriate model for the scheme to operate under due to the relatively short period of time within which the scheme can be established.

Do you support a legislative approach that provides for competition over time?

NIBA supports a legislative approach that provides for competition over time where doing so is likely to or expected to result in consumer benefit or savings to the scheme.

Conclusion

NIBA looks forward to further consultation with government as details of the scheme are confirmed, including the proposed pricing model and underwriting criteria of the scheme.

Should you have any queries about any queries, or wish to discuss any aspect of this submission please don't hesitate to contact me or my office.

Yours sincerely,



Philip Kewin
Chief Executive Officer
National Insurance Brokers Association