



# PUBLICATION

## Draft Report on the Inquiry into Western Australia's Home Indemnity Insurance Arrangements

### INVITATION FOR SUBMISSIONS

The Economic Regulation Authority (the Authority) has today released its [Draft Report](#) for the Inquiry into Western Australia's Home Indemnity Insurance Arrangements.

#### Background

On 5 June 2012, the Treasurer of Western Australia gave written notice to the Authority to undertake an inquiry into the effectiveness of Western Australia's home indemnity insurance arrangements.

The Draft Report incorporates the findings from an extensive public consultation process, including submissions received in response to an issues paper and consultation with numerous organisations in the building, insurance, government and consumer sectors. Commercially sensitive information in the Draft Report has been redacted for confidentiality reasons.

#### Home Indemnity Insurance in Western Australia

In Western Australia, the provisions of the *Home Building Contracts Act 1991* and its associated regulations make it mandatory for all home builders who build for another person to hold home indemnity insurance when undertaking building work valued in excess of \$20,000.

The insurance provides financial protection to consumers who incur losses due to the death, disappearance or insolvency of their builder, either during the period in which the construction is being undertaken (referred to as the construction period) or as a result of defective work that becomes apparent within six years of completion of construction (referred to as the warranty period).

The cost of construction of an average house in Western Australia is approximately \$250,000. Based on the current pricing structures of QBE and Calliden, a premium for such a house is in the order of \$1,000. This cost, which in most cases is borne by consumers, equates to 0.4 per cent of the total cost of construction.

#### Evaluation of the Existing Arrangements

The Authority considers that there is a case for the continuation of some form of Government policy intervention to protect consumers against potential losses arising from the death, disappearance or insolvency of their builder. However, after reviewing the existing home indemnity insurance arrangements in Western Australia, the Authority concluded that the current arrangements cannot be relied upon to provide a long term and stable consumer protection mechanism.

The existing model depends on private sector insurers providing insurance for consumers against the loss of deposit, incomplete work and defective work. However, the model has not elicited a competitive supply response from private insurers, with only two insurers (QBE and Calliden) participating in the home indemnity insurance market in Western Australia. The Authority considers that there is a real possibility under existing arrangements that either insurer may exit the market in the near term. Such an outcome would be detrimental to consumers, builders and the State Government.

### **The Authority's Recommended Model**

The Authority recommends that the existing model be replaced by one that separates construction period risk coverage from warranty period risk coverage. Under this model, the Authority recommends that:

- private sector insurers provide insurance to cover construction period risks and that this portion of the insurance be mandatory such that builders are required to hold the appropriate insurance before commencing work; and
- the building industry (through the building industry associations) becomes a provider of warranty period risk insurance.

The Authority considers that a model based on the above framework is superior to the other models it assessed (nine in total) and that its implementation would deliver affordable protection to consumers and net benefits to the community.

### **Ground Subsidence**

The Terms of Reference require the Authority to consider the merits of including ground subsidence protection in the State's home indemnity insurance arrangements. After reviewing the matter, the Authority concluded that the State's home indemnity insurance arrangements should not be broadened to include coverage for costs incurred by consumers due to instances of no fault ground subsidence.

### **Submissions**

Submissions on any matter raised in this Draft Report or in response to any matters in the Terms of Reference should be in both written and electronic form (where possible) and addressed to:

Inquiry into Western Australia's Home Indemnity Insurance Arrangements  
Economic Regulation Authority  
PO Box 8469  
Perth Business Centre  
PERTH WA 6849

Email: [publicsubmissions@erawa.com.au](mailto:publicsubmissions@erawa.com.au)  
Fax: (08) 6557 7999

Submissions must be received by 4:00pm (WST) on 13 May 2013.

### **Confidentiality**

In general, all submissions from interested parties will be treated as being in the public domain and placed on the Authority's website. Where an interested party wishes to make a submission in confidence, it should clearly indicate the parts of the submission for which

confidentiality is claimed. Any claim of confidentiality will be considered in accordance with the provisions of the *Economic Regulation Authority Act 2003*.

The publication of a submission on the Authority's website shall not be taken as indicating that the Authority has knowledge either actual or constructive of the contents of a particular submission and, in particular, whether the submission in whole or part contains information of a confidential nature and no duty of confidence will arise for the Authority.

For further information contact:

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4 April 2013