



Economic Regulation Authority
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Via email: publicsubmissions@erawa.com.au

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To Whom It May Concern: IN CONFIDENCE

RE: Inquiry into Western Australia's Home Indemnity Insurance Arrangements

This is a very brief submission intended to highlight some of the difficulties in the current system as it pertains to small contracts and smaller residential builders and offer perhaps a simpler alternative.

Currently as a small individually registered building contractor focusing on projects less than \$50,000 and frequently under \$30,000 we are paying close to a \$1,000 to insure the project on average between 2-3% of the projects cost. A project for \$20,001 will cost (approx \$800) nearly as much as one for \$300,000 and yet if priced at \$19,999.99 no protection is necessary and if the project is a free standing carport over \$20,000 - that is not attached to the house - then we do not require home indemnity insurance at all.

These premium levels are higher than corporate builders even though we have shown the insurer and Building Commission our financial capacity by way of personal assets at risk are more than adequate to cover our failure - meaning even should such a failure occur, the insurer is likely protected - whereas in a corporate builder situation the insurer will be at significant risk of high claims should they fail.

Further as per the Home Building Contracts Act (HBCA) we are only permitted to charge a 6.5% deposit (or \$1,950 on a \$30,000 contract) and as other payments are linked to work performed or material deliveries there is limited risk of significant loss to the client should we be unable to complete a project. As an individual my assets are at risk in such a situation - something the insurer is clearly aware of before insuring - so the likely claims on the insurer from *non completion* if correctly underwritten are small. The Building Commission also evaluates financial viability of registered builders prior to license renewal.

This completion risk, is I believe, analogous to deposits client place on furniture and equipment or other large consumer purchases. There have been a number of major failures incurring significant loss of deposit money in those consumer goods sectors in recent years but this has not led to government mandating any forms of purchase insurance. Obviously where the risk is of a significant level there may be a case for insurance but tiered more effectively to the level of risk instead of ease of for the underwriter and not just in residential building.

The other major area of risk cover - structural failure within 6 years is going to primarily depend on quality of work performed in the first instance and then financial capacity to pay if a problem occurs.

Before deciding to reward incompetence by forcing the competent and scrupulous to subsidise the incompetent or unscrupulous there should be a thorough analysis of what the type of claims and values and spread is among the various categories of builders eg. large, small, specialised, and owner builders etc.

The residential building regulatory regime adopted in WA appears rigorous and complex in the licensing cycle but with little quality control/assurance factored into the actual building (residential) stage - although more auditing is proposed by the Building Commission.



This is an approach which reinforces the pre-existing dichotomy - good builders will already be doing the right thing, the others will not be caught unless a flagrant event occurs and so the good builders/consumers pay and the bad builders have a cheap or free ride. In any event the consumer pays ultimately with the costs for the added layer of insurance and difficulties that incompetent builders create.

If we are to continue that approach - and it may be economically attractive to do so - then instead of the current complexity of seeking insurance through a private monopoly provider, a simpler, fairer and I believe less expensive (all factor cost) method would be to spread the cost over building licenses issued say on a % of contract basis by just adding to the existing building levy.

No insurers, no brokers no endless form filling to seek insurance - the levy changes but the collection is provided for already. The Building Commission is currently dealing with issues raised by consumers against builders in circumstances where the builder is not performing as required under contractor legislation including completion and structural issues among other things.

In addition all building work under \$20,000 (or to an appropriate floor level) currently not undertaken by a registered builder and not insured will be protected against inappropriate conduct by unregistered builders. A great percentage of the building services industry operates seemingly in ignorance (deliberate or otherwise) of the HBCA and Home indemnity requirements and this will provide additional consumer protections and spread the costs over a larger base. The Building Commission could easily provide easily accessible web site data regarding claims against builders etc as a way of empowering consumers to choose wisely.

The Building Commission already evaluates qualifications, prior good conduct, and financial records of builders with license renewal or issue with new builders even requiring the presenting of business plans to the Commission and the evaluation of those plans. Although I am not sure that evaluating business plans is an appropriate use of the Commissions resources in most situations.

The Commission/Councils can police poor workmanship either subsequent to problems occurring or via ongoing audit/quality assurance approach or an approach in between. The cost of the adopted approach will obviously be borne by the consumer but that is another issue.

Yours Sincerely

Steve Thornton