

#	Focus Question	SecureBuild's Response
1	<p>Should the eligibility guidelines give HBC providers the flexibility to set their own standards within certain limits to issue an eligibility profile, as long as they can demonstrate they meet certain principles. Or should SIRA prescribe in detail the standards and criteria that all HBC providers must apply?</p>	<p>As outlined in the discussion paper, SIRA's eligibility guidelines will need to accommodate a more diverse range of product offerings and HBC providers.</p> <p>Accordingly, SIRA should <b>not</b> prescriptively prescribe the eligibility criteria for HBC providers to apply for the following reasons:</p> <ul style="list-style-type: none"> <li>• HBC providers will be forced to provide the same homogenous offering. The Government has indicated that the reforms would provide builders with choice via product differentiation. This will not occur if eligibility criteria are set centrally by SIRA.</li> <li>• It is highly unlikely that providers will enter the market if eligibility is set by SIRA. Insurers and AIP's understand the risks and are in a far better position than SIRA to determine how to manage those risks.</li> <li>• The prescriptive setting of eligibility by SIRA may leave it open to litigation from providers should they lead to poor outcomes;</li> <li>• SIRA would leave itself open to litigation and criticism from builders and the building industry for ineffective and inflexible eligibility criteria that lead to poor outcomes; and</li> <li>• It would prevent or, at the very least, stymie innovation.</li> </ul> <p>Optimal outcomes will be delivered only if eligibility is defined and set by each insurer or AIP based upon how they intend to treat and mitigate the risks posed by each builder seeking cover. Proceeding in this way, the market will provide builders with choice in both the nature of the cover provided and the premiums that they pass onto their customers.</p> <p>The acceptable treatment of risks by each insurer and AIP (as set out within their eligibility or underwriting guidelines lodged with SIRA) can be assessed by SIRA as part of the licensing and quarterly reporting processes contained within the Act. SIRA's assessment of each provider's underwriting will allow it to query various aspects to ensure that it is confident in the provider's treatment of risk. This assessment would be linked to SIRA's determination of each providers prudential capitalization and financial profile.</p> <p>In addition to setting out the process for filing and reviewing each providers eligibility process, the guidelines set by SIRA should focus on setting eligibility 'principles' for providers to adhere to. The two key principles should be:</p> <ol style="list-style-type: none"> <li>1. Transparency; and</li> <li>2. Simplicity.</li> </ol>

**RESPONSE TO THE NSW STATE INSURANCE REGULATORY AUTHORITY DISCUSSION PAPER  
HOME BUILDING ELIGIBILITY GUIDELINES**

		<p>The lack of transparency and the difficulty in understanding the underwriting approach taken by iCare, and private underwriters prior to that, have been the vexing issue for the building industry since the 1990's.</p> <p>More specifically, the guidelines set by SIRA should require all providers to publish simple and easy to understand prospectuses on their respective eligibility and other processes, so that builders can understand the requirements to be met and be able to hold providers to account for errant decisions regarding the granting (or refusal) of HBC cover.</p>
2	<p>Should contractor eligibility profiles be portable between HBC providers, so that a contractor may buy HBC insurance from any provider without needing to be reassessed?</p>	<p>Yes, there will be a need for the sharing of eligibility profiles to allow builders to obtain cover from more than one provider. The need to share profile information will also be particularly important in ensuring that builders are not able to 'over insure' by obtaining an unsustainable level of turnover by simultaneously having eligibility with several providers.</p> <p>The shared profiles should be at a 'base' level agreed upon by all providers. Those providers who wish to can do further due diligence. Nevertheless, the sharing of a builder's base profile will significantly reduce red tape, cost and burden for builders.</p> <p>The sharing of profiles would only occur upon consent being granted by the builder.</p>
3	<p>SIRA intends to collect and share some information between HBC providers to help manage scheme-wide risks and potentially reduce the amount of information that a contractor would need to resupply when applying to a new provider for HBC insurance. What information should SIRA require be shared? What information should SIRA not share? Please provide reasons.</p>	<p>We would recommend that the information collected and shared include:</p> <ul style="list-style-type: none"> <li>• the HBC provider with whom the builder holds eligibility;</li> <li>• the turnover limits (restrictions) relating to that eligibility;</li> <li>• the current number of projects that fall within the builder's turnover limit;</li> <li>• the dollar value of those project that fall within the builder's turnover limit;</li> <li>• the Builders License details (this would include key builder business details, licence number, year of issue and whether the licence is currently active or not); and</li> <li>• historical details including any details of prior claims or complaints made against the builder.</li> </ul> <p>SIRA should not share information regarding:</p> <ul style="list-style-type: none"> <li>• the commercial terms between the HBC provider and the builder;</li> <li>• the risk rating assessment of the builder;</li> <li>• other private or commercial sensitive information regarding the builder's business</li> </ul>

**RESPONSE TO THE NSW STATE INSURANCE REGULATORY AUTHORITY DISCUSSION PAPER  
HOME BUILDING ELIGIBILITY GUIDELINES**

4	Should HBC providers be obliged to offer insurance to any contractor who meets that provider's eligibility criteria (or should they retain some discretion)?	<p>HBC providers should be able to retain some discretion as they are the ones accepting the risk presented by the contractor.</p> <p>Decisions to refuse cover should be reviewable both internally within the provider's review processes with an external review being available by SIRA. These two review processes should ensure that decisions are being made in line with the eligibility criteria published by the provider and SIRA.</p>
5	What aspects of the current eligibility system are the most difficult or costly to comply with? Please provide examples or estimates of relevant costs.	<p>The two most costly aspects of the current eligibility system are financial reviews and the obtaining of bonds, bank guarantees and securities.</p> <p>Builders require the assistance of accountants to complete the financial reviews currently required by the system. The level of effort required to prepare responses to financial review request range from \$5000 to \$15,000 (per review).</p> <p>Bonds, bank guarantees and other securities can be significant ranging from thousands to hundreds of thousands. The use of these requirements has grown substantially over the past three years.</p> <p>There is the additional cost to builders in relation to lost revenue streams occurring due to the considerable time it currently takes to complete reviews of turnover limits. It is not unusual for these reviews of eligibility limits to take weeks, if not months.</p> <p>These unacceptable delays represent lost revenue streams for the builder and lost productivity for the NSW economy.</p>
6	Are there any requirements of the current eligibility system that are difficult to understand or can improve to provide more transparency about what contractors can do to improve assessment outcomes?	<p>Yes. As mentioned in response to Q1, the financial and capital requirements are incomprehensible and not easily understood by builders, their brokers and accountants. In frustration, most builders defer eligibility applications and reviews to their brokers and accountants.</p> <p>If financial and capital (NTA) thresholds are going to be utilized to determine eligibility then these need to be clear, transparent and understood by all. There should be no ambiguity. The builder should be able to quickly determine whether they do or do not meet an eligibility requirement, and if they don't, what they need to do in order to do so.</p> <p>The threshold requirements for cover together with the limits or restrictions that may be attached to the granting of cover need to be understood up front to avoid disappointment later.</p>

**RESPONSE TO THE NSW STATE INSURANCE REGULATORY AUTHORITY DISCUSSION PAPER  
HOME BUILDING ELIGIBILITY GUIDELINES**

7	Is there particular information or other requirements of the eligibility system that you think are not effective at reducing risk or should be reviewed? Please advise which they are and your reasons.	<p>Bonds, bank guarantees, securities and sureties not only represent a significant barrier to builders obtaining cover, they could also precipitate the very thing that they are attempting to mitigate against – an insolvency event!</p> <p>Requiring a builder to lock away ‘paid up’ capital that would be better utilized in their business is a highly irrational risk mitigation measure by a provider.</p> <p>The provision of ‘static’ point in time financial information by the builder also has its limitations. A builder’s financial situation can change very rapidly. Relying upon costly quarterly or annual financial reviews from builders of itself is highly ineffective at mitigating the risk of an insolvency event.</p>
8	Are there matters not currently considered in the eligibility process that should be considered? What are they and why?	There are other approaches to mitigating the risks faced by home owners when building or renovating a home other than focusing on the financials of builders.
9	Do you agree that eligibility methodology should be transparent (public) and based on objective and evidence-based elements (please give reasons)?	<p>Yes. As mentioned previously, each provider should be required to publish a simple and easy to understand document or flow chart of the eligibility criteria they employ in determining cover.</p> <p>Perhaps one of the keys to delivering this outcome would be for providers to explain to their customers each aspect of their eligibility methodology. By proceeding in this way, builders can shop around to secure a provider whose approach to eligibility (underwriting) best suits them.</p>
10	What factors should be considered in the eligibility risk assessment?	<p>Given the nature of HC cover, the four key assessment factors are:</p> <ol style="list-style-type: none"> <li>1. Licensing history;</li> <li>2. Insolvency/bankruptcy history;</li> <li>3. Building Project history;</li> <li>4. Minimum Financial Requirements (MFR) to determine level of cover; and</li> <li>5. Trader/supplier credit reference information.</li> </ol>
11	Which factors are most important and why?	<p>For individual builders (sole traders) an applicant’s licensing history and building project history are the most critical. The longer the history of the builder in building and managing building projects with a good record, the less likely that they will produce poor (defective building work outcomes)</p> <p>For partnership and companies, insolvency and bankruptcy history become important due to people attempting to avoid their responsibilities.</p>

**RESPONSE TO THE NSW STATE INSURANCE REGULATORY AUTHORITY DISCUSSION PAPER  
HOME BUILDING ELIGIBILITY GUIDELINES**

12	<p>The current eligibility system can restrict contractors to certain types of work as outlined in the seven factors, above. Are there issues with this approach or the particular categories that are used?</p>	<p>No there aren't issues with these building work categories. These building work types aptly categorise the main project types within the building industry. Each building work type or category represents are different level of building complexity and therefore risk for the home owner and HBC provider to consider. Some of the building work types require different skills sets and capabilities. Accordingly, the risk represented by each building work type requires a different risk treatment and premium setting.</p>
13	<p>Could the threshold where contractors are denied eligibility be made more flexible if contractors were charged a higher premium or were subject to risk controls such as greater supervision of the contractor by the HBC provider? If so, how should SIRA regulate such arrangements?</p>	<p>Yes, most definitely. A provider who undertakes risk mitigating inspections and other activities may be willing and able to provide cover to a builder who has been deemed ineligible for cover by another provider who does not undertake such activities. Similarly, these providers may be more flexible in the turnover limits applied to builders.</p> <p>There is no need for SIRA to impose any greater regulatory requirements on such a provider. These providers are simply applying a different (and potentially more effective) approach to minimizing the chances that a homeowner will suffer a loss.</p> <p>As is the case with any other provider, SIRA would ensure that the provider adheres to the eligibility (underwriting) that it has lodged with it and that the eligibility criteria does not unduly expose consumers and the scheme to unnecessary risk.</p>
14	<p>Could eligibility profiles give contractors scope to take on extra work beyond their current limit? For example: if they were willing to pay a higher premium for HBC insurance or were subject to risk controls such as greater supervision of the contractor by the HBC provider? If so, how should SIRA regulate such arrangements?</p>	<p>Yes, most definitely. The application of different approaches to mitigating risk will allow providers to offer different eligibility offerings to builders. This may include flexible turnover limits.</p> <p>This is one of the key reasons why SIRA should not centrally prescribe eligibility criteria within its guidelines.</p> <p>Again, there is no need for SIRA to impose any greater regulatory requirements on such a provider. These providers are simply applying a different (and potentially more effective) approach to minimizing the chances that a homeowner will suffer a loss.</p>
15	<p>Are the current dispute resolution mechanisms to resolve eligibility decision disputes appropriate? Are there any material issues and what could be done to address them?</p> <p>Note: we have asked related questions about pricing in our discussion paper on premium guidelines.</p>	<p>Improving the transparency and communication of eligibility requirements will go a long way to reducing the level of disputation. The vast majority of disputes arise due to the lack of understanding of the requirements.</p> <p>The dispute resolution mechanisms need to be clear and provide the grievant with an independent (arm's length) review process should they require it.</p>

**RESPONSE TO THE NSW STATE INSURANCE REGULATORY AUTHORITY DISCUSSION PAPER  
HOME BUILDING ELIGIBILITY GUIDELINES**

16	How can the eligibility guidelines best support or encourage HBC providers to include better access for new and small contractors to be classified as eligible, while ensuring that homeowners and the scheme are not exposed to unreasonable risks?	<p>Not be too prescriptive and therefore allow for innovation and product differentiation to occur.</p> <p>New builders, in particular, find it very difficult to obtain affordable eligibility under the current underwriting environment that solely focused on the financials of the builder. New providers will provide new builders with new pathways to obtaining the level of eligibility they need to start off in the industry which are not solely focused on financial information.</p> <p>As SIRA will be receiving regular reporting, it will be able to track the performance of all providers. It will be able to adjust the capital and other requirements (including additional contribution to the HBIGF) of any provider to ensure that homeowners and the scheme are not exposed to unreasonable risk.</p>
17	In terms of getting and maintaining eligibility under the current scheme, what specific challenges do contractors face when operating across NSW's borders?	They face the requirement to meet dissimilar financial criteria in addition to separate financial reporting requirements. The former leads to confusion and the latter addition cost burden.
18	How can the eligibility guidelines better support contractors who operate across NSW's border regions?	<p>It would be good to be able to deliver this outcome for builders. However, it would be difficult to achieve as each jurisdiction applies different approaches to licensing, risk and underwriting.</p> <p>For this to be achieved, agreement regarding the information sharing and the setting of common criteria between jurisdictions would be required. This has been something that has eluded COAG and the Building Ministers Forum for over a decade.</p>
19	Should the eligibility requirements vary for contractors who work in regional locations?	A regional discount to premium has been in place for several years. This was as a result of actuarial analysis that showed a lower occurrence of insolvency and defective building work in regional areas. Eligibility criteria is the same for regional builders as it is for metropolitan builders. While there may be scope to provide a regional approach to assessing eligibility, it is simpler to apply the discount to premium which rewards regional builders and home owners.
20	Should the guidelines specify different eligibility standards depending on the type of product to be offered? For example, if the HBC provider proposes to perform quality assurance checks and oversight progress payments, could the standard to issue an eligibility profile be lowered to reflect these risk controls?	SIRA's guidelines need not specify the different standards, but rather be flexible enough for these approaches to be developed, brought forward and approved by SIRA.

**RESPONSE TO THE NSW STATE INSURANCE REGULATORY AUTHORITY DISCUSSION PAPER  
HOME BUILDING ELIGIBILITY GUIDELINES**

21	Should the eligibility guidelines specify appropriate standards for any additional insurance products (in excess of minimum HBC insurance requirements) that HBC providers might want to incorporate?	No. SIRA's guidelines should focus on ensuring providers meeting standard requirements.
22	Whatever the eligibility standards, should SIRA require that HBC providers collect certain data from contractors that contributes to predicting insolvency or other relevant factors?	Yes. Such a data collection and analytical exercise would be beneficial to all providers, the industry and Government.
23	Designing and building suitable systems to integrate data and apply analytics will take time and resources. What data projects should SIRA prioritise to support the HBC scheme?	Builder eligibility data and claims data (defect causation and insolvency precursor)
24	Should SIRA develop assessment tools and make these available to all HBC providers to support their eligibility assessments, or should it be up to individual HBC providers to decide whether and how to apply their own data analytics models?	Each provider should already have developed its assessment tools prior to entering the market and SIRA should not get involved in developing assessment tools. SIRA's investment in data analytics should focus on those matters that will benefit all providers as set out within question 22.
25	SIRA may seek to use data to improve how the eligibility requirements apply to different contractors (e.g. so that the process is less burdensome for some contractors). How can SIRA best support HBC providers with such an approach?	SIRA could do this. However, the providers will ultimately determine the eligibility processes based upon their individual claims experience.
26	What information about contractor eligibility should SIRA make publicly available? In what ways and what formats should the data be made available?	<p>The information made publicly available should include:</p> <ul style="list-style-type: none"> <li>• the eligibility status of the builder;</li> <li>• the type of work they can carry out; and</li> <li>• the name of their HBC provider(s).</li> </ul> <p>The builder's turnover limit could be made available, but that would not necessarily be of assistance to home owners.</p> <p>In any event, this information (data) needs to be available from whatever point the homeowner seeks the information from government (i.e. FT website licence check, NSW Construction Assist or SIRA). In other words, these should all be linked together to provide the home owner with a 'sole source of truth' regarding the builder.</p>

**RESPONSE TO THE NSW STATE INSURANCE REGULATORY AUTHORITY DISCUSSION PAPER  
HOME BUILDING ELIGIBILITY GUIDELINES**