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## Consultation Paper on HBC Construction Type Definitions

I am writing to you on behalf of the Housing Industry Association (HIA) in response to the consultation paper released by SIRA in August titled the 'Consultation Paper on HBC Construction Type Definitions Under s.103ED of the *Home Building Act 1989*'.

The Consultation Paper sets out proposed options for contractors (and their customers) to be charged lower premiums on average for lower risk types of projects, and higher premiums on average for higher risk types of projects. HIA agrees that premium rates should be determined by the different level of risks associated with different types of work.

HIA supports this consultation which focuses on how risks and costs are apportioned across different types of construction projects. HIA understands therefore that any changes across the construction types should not result in changes that would affect the overall costs or benefits of the scheme as a whole.

HIA supports Option 2A and sees that adopting this approach would improve the allocation of cost and risk across the scheme. HIA has sought input from approved icare Distributor HIA Insurance Services on this issue and they also support Option 2A.

HIA elaborates on this and other matters raised in the consultation paper below.

### Option 1

Option 1 proposes that SIRA cease prescribing uniform construction types for icare and any new insurer. This approach would see each insurer being responsible for defining the construction types against which they propose to price their premiums.

Independent Pricing and Regulatory Tribunal's (IPART) review of the Home Building Compensation Fund (HBCF) last year found that the regulations of premiums for new market entrants are

unnecessarily prescriptive. This was also held out as a disincentive for private insurers to enter the NSW Home Building Compensation market.

HIA opposes Option 1 and has a number of concerns with this proposal.

- No impact on private entrants

Without further structural change to the HBCF there is no evidence that greater flexibility regarding the setting of premiums would incentivise private insurers to enter the NSW HBCF market.

- Inappropriate discretion

This approach would give icare significant discretion with a lack of any clarity or certainty about costs for certain building types. This would simply further aggravate the existing issues of lack of transparency regarding the operation of icare.

- Regulatory challenges

This proposal also presents regulatory challenges for both icare and SIRA in overseeing the potential complexity to the premium filling processes.

In the event that icare were required to define its own construction categories for premium purposes, industry consultation should be made about proposed future amendments.

### **Options 2A and Option 2B**

Options 2A and Option 2B see SIRA continuing to prescribe construction types, with some changes, including deleting one construction type and adjusting the definitions for the remaining eight construction types. HIA understands that both Options 2A and 2B attempt to reclassify work in a similar way, but Option 2B involves SIRA defining premium categories by reference to the Building Code of Australia and 'major elements' of a building.

HIA supports proposed Option 2A.

This option would offer more consistent pricing for similar projects regardless of land title while also attempting to better reflect 'major defect' risk in its premium setting practices for renovations or alterations and additions to existing homes.

This approach appears to clarify the distinction between 'renovations' (work done to an existing building that is non-structural) or 'alterations and additions' (work that is structural) to reflect the 2015 amendments to the *Home Building Act 1989* (Act) whereby statutory warranties and insurance under the Act was amended to cover 'major defects' for 6 years after the completion of work and 2 years for other losses.

Option 2A would also see a long standing issue regarding the premium base rates that apply to multi-dwelling construction addressed.

Currently the premiums associated with the construction of a duplex differs significantly for dwellings that are subject to Torrens title subdivision and those that are subject to strata or community title, being 1.0030% and 6.2501% of the construction cost (including GST and stamp duty insurance) respectively. HIA's view is that the premium base rates for these two categories should be treated the same as for example, a strata duplex presents no greater risk when compared to a Torrens duplex.

Option 2B attempts to reclassify work by reference to the National Construction Code (NCC).

While this approach might be risky for insurers who are not familiar with the NCC and accordingly make the definitions harder to understand this option is the second preferable option following option 2A.

### **Other comments**

HIA has identified that under C09, a secondary dwelling, when constructed in connection with a primary dwelling requires its own certificate of insurance under the HBCF. This means, for example that if a granny flat, is built at the same time as a new dwelling, two certificates of insurance are required.

HIA submits that in these circumstances applicants should not be required to apply for two certificates principally on the basis that:

- Pursuant to the *Environmental Planning and Assessment Act 1979*, this dwelling is not a subdivided dwelling (the land cannot be subdivided into two separate titles) and hence should not require an insurance policy of its own.
- Secondary dwellings cannot be sold as a separate property and accordingly, only one HBCF certificate should be required.

Accordingly, a secondary dwelling which is part of a primary dwelling and form part of the same contract, should only be required to apply for one certificate of insurance as opposed to two certificates.

If you require further information on this matter please do not hesitate to contact [hia.com.au](http://hia.com.au) or [9978 3333](tel:99783333)

Yours sincerely  
HOUSING INDUSTRY ASSOCIATION LIMITED

ExecutiveDirector