

Home building eligibility consultation summary

October 2017

Introduction

In August 2017, the State Insurance Regulatory Authority (SIRA) called for stakeholder comment in response to its *Home building eligibility guidelines: discussion paper*.

The consultation period opened on 18 August and closed 15 September 2017.

Ten submissions were received. This paper provides a high level summary of the key themes articulated in those submissions. All non-confidential submissions are available on our website.

Submissions

Source	Number of submissions
Consumer	2
Contractor	5
Insurer	1
Associations	1
Other	1
Total	10

Background and context

Stakeholders were invited to respond to a number of questions on seven eligibility focus areas. In addition stakeholders were invited to comment more broadly on eligibility issues or concerns.

Key themes

Stakeholders suggested that SIRA should consider reviewing the assessment of eligibility profiles to take into account quantitative and qualitative risk factors. Submissions focused on increased flexibility, transparency, consistency and clarity of assessable risk factors and the application of the guidelines.

Discussion paper focus areas

Why have eligibility standards?

Most submissions received supported the view that Home Building Compensation (HBC) licensed providers should have the flexibility to set their own standards with SIRA setting minimum standards. Some stakeholders were of the view that SIRA should be more prescriptive and set detailed standards and criteria for HBC licensed providers. There was also a view that eligibility standards for compulsory cover should be more prescriptive whereas more flexibility should be given to other innovative products offered.

Some stakeholders suggested that eligibility profiles be portable between HBC licensed providers.

With regard to information sharing (of eligibility profiles) between HBC licensed providers, the majority of submissions were of the view that SIRA should set clear guidelines about the type of information that is required to be shared. Some suggested

that high level data on technical, financial, business capabilities and past breaches (such as NCAT orders), and 'phoenixing' should be shared between HBC licensed providers. There was also support for eligibility profiles to be recorded on a public database.

How eligibility affects builders and why it must be fair?

Some submissions noted that the current guidelines were complex, and that frequent financial reviews were negatively impacting upon businesses. These submissions emphasised the importance of making eligibility criteria more transparent. Submissions suggested that the following risk areas be considered, in addition to financial and management risks, when calculating eligibility profiles:

- trading history, including HBC claims, phoenixing and directors conduct
- business risk – licencing history, cyclical patterns, type of business, industry risk benchmarking, level of supervision, quality and skill of contractors (assessed via the number of complaints in relation to defective work).

Managing / excluding risks versus pricing risks

Most submissions supported a flexible approach towards thresholds where contractors are denied eligibility so that they could be accommodated with higher premiums or increased supervision. If contractors were to be accommodated in such instances, some submissions requested higher regulation to prevent consumers bearing the higher risk of the contractor by higher premiums being passed onto them. Other submissions did not support flexibility if eligibility was denied.

A number of submissions supported the proposal that eligibility profiles should be flexible so that consideration could be given to increasing job limits without the need for a further eligibility assessment. Stakeholders recommended that this be subject to profile limits and a sliding scale, and not result in consumers paying higher premiums. The stakeholders who were not supportive of contractors taking on work beyond their current limit were of the view that if the risk was realised, higher premiums would not offset the risk. They also suggested the higher premiums would negatively impact the consumer.

Comments received on the dispute resolution processes highlighted the need for the dispute resolution to be clear, speedy, and transparent, and include an independent review process.

Eligibility and new builders

Submissions provided a range of suggestions to ensure that HBC licensed providers best support and encourage new and small contractors to be classified as eligible under the new HBC Scheme.

Some submissions suggested continuing with the Building Contract Review Program, introducing other high supervision programs, or offering educational and mentoring programs for new builders. Others recommended incentivising high performance by reducing premiums or offering discounts. A few of the stakeholders also proposed concentrating on non-financial eligibility criteria for new builders, as the financial factors are often their greatest obstacle.

Eligibility and regional or cross-border businesses

Submissions highlighted a general consensus that contractors who operate in NSW as well as other jurisdictions face challenges in complying with multiple different eligibility criteria. In light of this, there are additional costs and compliance issues that further complicate the eligibility process.

Submissions recommended a variety of ways to better support these contractors who operate across NSW's border regions, such as setting common criteria, sharing information between jurisdictions, and educating HBC stakeholders about the laws and regulations of other states and territories. Additionally, some submissions identified that prescribing minimum standards may assist in developing cross border uniformity. This would provide HBC licensed providers with the discretion to recognise the risks in specific geographic locations.

Although some submissions recommended varying eligibility requirements depending on the regional location, there was greater support to have uniform eligibility criteria across regional and metropolitan locations.

Eligibility and new HBC products

Some submissions were in favour of the Authority's guidelines specifying different eligibility standards depending on the type of product offered, and some were against it, preferring that HBC licensed providers be afforded the flexibility to include eligibility standards that they deem to be appropriate.

Eligibility data and analytics

Most submissions were supportive of requiring HBC licensed providers to collect certain data from contractors in order to contribute to predicting insolvency.

There was endorsement for the Authority to develop a framework to enable uniformity of data analytics. Submissions considered uniform data requirements to be beneficial to the consumer, as it would accurately reflect risk. Other submissions raised concerns about HBC licensed providers relying on third parties to provide underwriting tools. They commented that this may create an unintended liability for SIRA if their predictive risk tool failed, or was perceived to fail, and had a negative impact upon the home building industry.

The *Home building eligibility guidelines: discussion paper* acknowledged the benefits of publishing data and information to consumers, contractors and other parties. A number of submissions favoured making the following information publicly available:

- eligibility status of the contractor, and
- type of work that they were eligible for (licence category and work category).

Other submissions argued that the name of the HBC licensed provider, contractor turnover limit, or disciplinary history may be valuable to make publicly available. The consent of contractors was also taken into consideration by some stakeholders to ensure alignment with privacy laws.

Next steps

The information provided through this public consultation will be used to develop detailed eligibility guidelines, with a view to finalising and implementing new eligibility guidelines by January 2018.

The Authority will continue to consult and engage with stakeholders through the development and implementation phases.

Any questions or enquiries in relation to this submissions summary or the 2017 home building compensation reform should be emailed to hbcreform@sira.nsw.gov.au

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