

State Insurance Regulatory Authority  
Home Building Compensation Reform  
Via email: [HBCreform@sira.nsw.gov.au](mailto:HBCreform@sira.nsw.gov.au)

16 August 2022

### **Submission: Home building compensation reform Discussion Paper**

This submission has been prepared by the Community Housing Industry Association NSW (CHIA NSW) in response to reform idea 9 in the home building compensation reform Discussion Paper (the Discussion Paper) released by the State Insurance Regulatory Authority (SIRA).

CHIA NSW is the industry peak body representing 94 registered, not-for-profit community housing providers (CHPs) in NSW. Our members currently own or manage more than 54,000 homes across NSW for individuals and families who cannot afford to rent or purchase a home on the private market. Since 2012, CHPs have delivered more than 5,300 new homes across NSW, representing an investment of over \$1.82 billion.

CHIA NSW welcomes reform idea 9 to provide an automatic exemption from home building compensation (HBC) insurance to housing services provided by community housing providers. Responses to the relevant Discussion Paper questions are below.

**Question 18:** *Should building work be exempt from insurance if there will be no beneficiary, because the homes will be used to provide social or affordable housing or specialist disability accommodation?*

CHIA NSW supports this proposal. As stated in the Discussion Paper, HBC insurance is an additional cost to CHPs for no benefit. As the CHP retains ownership of the homes they develop, there is no party able to claim on the insurance. Our members have advised that HBC insurance can add \$200,000 to the cost of developing new social and affordable housing.

While the *Home Building Act 1989* allows developers or building businesses to apply to SIRA for an exemption, the process is time consuming and costly. It can also delay commencement of the building works, further increasing costs and slowing the delivery of social and affordable housing. In addition, the process for seeking an exemption is not widely understood. Given the small number of exemption applications that SIRA receives it is likely that many CHPs are unaware they may be eligible and are paying for HBC insurance unnecessarily.

Extending the automatic exemption from HBC insurance to CHPs would increase certainty, reduce costs, and prevent delays in delivering social and affordable housing where it is needed. It would also bring the community housing sector in line with public sector agencies.

**Question 19:** *Should this insurance exemption be limited to building work done on behalf of charities that provide housing services, so that there is no profit motive to sell the homes without insurance?*

CHIA NSW supports this proposal. CHPs are registered under the National Regulatory System for Community Housing (NRSCH), and many are also registered with the Australian Charities and Not-for-

Profits Commission. Their purpose is the provision of social and affordable housing, and there is no profit motive to sell the homes without insurance.

For clarity, the insurance exemption should also apply to Aboriginal Community Housing Providers (ACHPs). This includes those ACHPs registered under NRSCH and the NSW Local Scheme, as well as those operating under (a) or (b) below. While some ACHPs are registered under the NRSCH, there are a range of other ACHPs (approximately another 140 in NSW) that are not registered under NRSCH but that have either of the following provisions in place:

- a) that the organisation is a registered Aboriginal Corporation which has enshrined in its Constitution that a key object of its operation is the provision of low cost (social and/or affordable) housing for Aboriginal families; or
- b) that the organisation is a Local Aboriginal Land Council with standing under the *NSW Aboriginal Land Rights Act (ALRA) 1983* and has approval under ALRA from the NSW Aboriginal Land Council (NSWALC) to operate low cost (social and/or affordable) housing under a Community Benefits Scheme (Residential Accommodation) - a legislated provision.

Despite not being NRSCH registered, organisations operating either under (a) or (b) would satisfy the requirement to develop and hold residential properties for Aboriginal people and their families to live in, thereby operating for the collective benefit of Aboriginal communities based on unmet housing needs.

As an additional precaution for organisations entitled to an exemption, a requirement for HBC insurance to be payable (on a pro-rata basis) could be imposed if the home is sold within the statutory warranty period (six years for major defects in the work and two years for other losses from the date of completion of work).

**Question 20:** *Should this insurance exemption only apply to work where the conditions of planning consent or restrictions on the use of the land require that the homes must be used for housing services?*

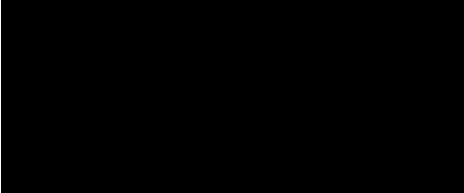
CHIA NSW does not support the exemption only applying in these circumstances. The conditions applied to social and affordable housing development will vary depending on the planning pathway it is delivered through. There may be instances where a planning condition or restriction on title requiring the homes to be used for housing services are not applied. For example, CHPs may deliver new social and affordable housing through the complying development pathway, such as dual occupancies. The conditions of consent applied to such development are prescribed under NSW planning legislation and do not include the option of applying a restriction requiring homes to be used for housing services, even where that is the intended use.

Limiting the insurance exemption to only apply where the conditions of planning consent or restrictions on the use of the land require that the homes must be used for housing services could result in certain types of housing delivered by CHPs becoming liable for HBC insurance, contrary to the intent of the proposals. This would increase costs, complexity, and uncertainty for CHPs.

Instead, the conditions proposed in Questions 18 and 19 provide sufficient safeguards to exempt social and affordable housing and specialist disability accommodation from HBC insurance.

CHIA NSW appreciates the opportunity to provide feedback on the Discussion Paper. Please contact [REDACTED] to discuss our response further.

Kind regards



[REDACTED]  
**Chief Executive Officer**