

## NDIR Submission from Christopher Trimblett

John Trowbridge & others,

I very much enjoyed the seminar today and commend you on the work you have done so far and as suggested by you provide a short written summary of my thoughts and suggestions, some of which were canvassed at the seminar.

In my view (and probably the governments) because there are so many issues to be addressed, it is important to prioritise those issues which can provide the greatest impact to the consumer in the short term, as well as putting in place a 'menu' of long term goals, how they can be addressed and by whom (including representatives of all major interested groups). This I believe is what you are achieving in this consultative process.

Having been part of the insurance industry for over 45 years working in the UK, Asia and Australia, unsurprisingly most, but not all of my suggestions and comments, have an insurance bias.

I have concentrated on those issue which perhaps did not get as much airing at the seminar as I would have liked (time limitations) and which may affect your (and others) thoughts on priorities relative to some insurance solutions for house and contents owners:

1. Whilst it was agreed that councils probably have a significant role to play, it is perhaps unfair to make them responsible for the 'sins of the past'. My suggestion is to 'stop the bleeding' and make councils legally liable for all building permissions given within areas that come within a 100 year flood zone (or some other reasonable measure). The onus being on the council to ensure they investigate fully (if they are not already aware) of such zones within their jurisdictions. This need not prevent building in flood zones but may change the criteria for their construction i.e. to have adequate foundations and that the lowest floor level is above the 100 year flood level (at the time of the issuing of the building permit), this may mean building on stilts. Unfortunately today too much emphasis is given to appearance over practicality. Whilst this approach could not be implemented immediately perhaps some future date 1 January 2012 could be considered as a starting date (short notice I grant you but councils should already be thinking in this way and if not this will make them start that thought process).
2. Akin to this would be the need to ensure (mandate) that councils insure their Professional Indemnity liability in relation to flood exposures as identified above up to an amount (policy limit of liability & deductible) to be determined. Premium would reflect risk and this would therefore encourage councils to mitigate their exposure. A further sophistication of this might be for there to be a 'Pool' for councils flood PI exposure, thus corralling the premium to an insurer or panel of insurers that want to participate. This exposure to be 'risk rated' on systems, procedures and actions taken to mitigate and prevent flood exposures within each councils jurisdiction as well as the inherent exposure (which if just related to ongoing and not past exposures should be minimal for proactive councils).
3. Convert the Terrorism Pool to a Disaster Pool and phase in over a 5 year period (so as not to penalise state governments too much in the early stages on loss of income that although received is not put back into the insurance/ insurance related industry) replacement of FSL and Stamp Duty charges (on ALL insurance transactions) to a Disaster Levy. Such levy to have oversight of how it is used (among other responsibilities) in times of more than one disaster, to be with an independent body under the auspices of the Federal Government ( I have mingled State & Federal issues here so this may need some further thought). As clearly the major populous states of NSW & Victoria will provide the greater levy income this should not affect how and where the proceeds are spent, it being for the good of Australia and Australians wherever they reside.
4. On the issue of 'Flood', its definition and how and to what extent insurance is provided I believe both a short and long term strategy is required. The short term fix can be replaced by the long term fix once sufficiently detailed flood exposure information is available. The short term fix helps to use the basic premise of insurance and that is 'to fund the losses of the few by spreading the risk among the many'. Because Flood on its own is mainly focused on only a few,

I believe it is in the best interest of spreading the risk to make any loss where 'Water' is the major **end result** cause of the loss (not necessarily proximate cause as this is too complex to understand even for most in the insurance and legal fraternities) the insured peril. This overcomes the need to differentiate between various forms of water losses. Thus those that suffer damage through burst pipes, storm run off or flood will all be treated the same - damage by 'Water'. By adopting this approach we are involving all insureds not just those in flood prone areas. There 'may be room' for say an opt 'down' to a sub-limit of 50% of the Sum Insured for 'Water' claims if insurance premiums are that much of an issue (this would at least give consumers some comfort that they will get some money in the event of a loss, although this may be a step too far in the early stages). Actual reinstatement should also not be made mandatory but allowing cash settlements made on a reinstatement value basis (there will need to be some protection for insurers against the moral hazard built into this recommendation) . As stated earlier this is a short term fix to ensure consumers can understand more readily what is covered and what is excluded until a long term answer to how flood itself is treated and will work within an insurance policy. There should be compulsory 'Water' cover for all who insure residential buildings, with those who don't insure their building subject to pay higher rates to their council. Rates notices could include two amounts (those with flood insurance and those without) with an insurance renewal certificate or other evidence of cover attached to rates payments or the higher rate applies. Insurers will not be able to cancel policies during the period of insurance unless the building is sold. Insurers will need to advise the appropriate councils of cancelled building insurance. Confirmation that purchasers of houses have building insurance will need to be provided to conveyancers in the 'settlement' process. Conveyancers being legally liable for not getting the appropriate verification.

5. If the final decision on how the Flood issue is to be dealt with going forward is by a Flood Insurance Pool, then on looking at Figure 4 on page 21 of your June 2011 paper, you may want to look in more detail on how this will be managed and who contributes what. One model may include the Insured having to bear as an excess either a fixed amount &/or a percentage of any loss whichever is the greater. As a part pay back for subsidised premiums in the high risk areas (in 100 year flood zones) the insured needs to have some skin in the game, which if structured correctly could encourage mitigation work. As to those subsidising the pool, if Insurers are to be both premium setters, initial claims payers and 'top up' claims providers this to me is double dipping on those insurers unless the insurers on the right of the diagram refers to all general/ householder property insurers (other than those already taking say a minimum prescribed amount of the up front risks in those zones). Certainly councils (via rates which should be capped to maximum increases and a portion of which is earmarked and set aside for flood losses), State Governments (through FSL & Stamp Duty revenue or its gradual replacement by a Disaster Levy) & the Federal Government (via authority over a restructured Terrorism Pool income & other future 'disaster' allocations in future budgets) should be responsible in percentages yet to be calculated? Both upper tiers of government could further subsidise those councils on a needs basis provided those councils are meeting reasonable (to be determined) flood/ disaster funds from rates each year.
6. On the issue of 'renters' and contents insurance; one consideration may be to have 'owners' automatically insure say 10% of the building value as 'renters' contents which could be excess free and be triggered as excess insurance to the renters own contents policy (if any). Clearly this would be difficult to price by the insurance industry however using the experience of their usual book of business as a guide this should not pose insurmountable problems. No doubt this would have flow on effects to the level of rents however if the cover is seen as being required this is at least one possible answer. Owners who rent their properties will of course have the benefit of tax deductions for their increased insurance premiums.
7. Under insurance; this is a huge issue for the insurance industry and not just in relation to flood or natural disasters and is worthy of a totally separate review. As I suggested at the seminar estimating the value of rebuilding a house is not an easy task without professional help (which is unlikely to be sort given the cost of the valuation and then most likely increased premiums as the values rise). For claims the answer is simply i.e. automatically insured for reinstatement or replace (R&R) cost, the harder issue is how does the insurer get sufficient premium for this increased exposure. There is no easy answer to this. My thought was that it is easier for the owner to get a 'market value' of the house from the real estate industry (essentially given for free if the owner were selling the property) and although there are other inherent

problems with this i.e. such market value valuations may also be inaccurate and the value will include land values to some degree, so the insurance industry will need to adjust their premium rating models to allow for these 'variables' (I'm not sure subsidies should be considered here but I suppose it is an option in the early years). Also noting that even with its inherent problems real estate industry valuations will be better in most instances than the current 40% under valuation being experienced by the insurance industry and the consequent poor publicity it receives from the general public when claims are not paid in full. With commercial property insurance the 'Co-insurance clause' is often only applied if values are more than 20% under valued. If this variation were allowed for house price valuation then real estate valuations would in most cases be sufficiently reliable. Noting that this is a premium price setting mechanism not a claims settling mechanism. If insurers want some added protection on these valuations again perhaps if the insurer can prove that the real estate valuation were more than 25% under valued then they could have some recourse for the difference between that 75% value and the true value, however if the value was given gratuitously then this would not seem a viable option. There is a gain a need for some further thought as it would mean real estate valuers would perhaps need to be more accurate (accountable) which is not a bad thing and may also push up their Professional Indemnity insurance costs, however this would depend on the professional qualifications and experience of their 'valuer' employees. As a plus for the real estate agents, such valuation visits to potential future 'selling clients' would create a pipeline for their future growth. Alternatively a nominal fixed fee for real estate agents may need to be established but that is another issue.

8. As an insurance broker I saw many claim denials from insurers from the floods in SE Queensland that were patently poorly worded, partly because they had not been investigated sufficiently. I appreciate that when widespread catastrophes happen the logistics to handle them isn't always there to adequately cope in a timely fashion as expected by the community. This has happened in the past and will no doubt occur again in the future. I would like to propose a 'formal' Commonwealth Register of retired loss assessors and technical insurance and claims personnel that could be mobilised in the event of such catastrophes. I know we brought in assessors from overseas to help undertake investigation of losses but the policy coverage they were used to assessing in their own countries were not always the same as the policies we are used to seeing in Australia and the added costs are greater than using locals. If we had such a register that was managed by 'perhaps the Institute of Loss Adjusters (for adjusters) &/or the ICA (technical insurance & claims personnel)?' then they could arrange for briefings of those on the register that were willing and able to work immediately an incident occurred (or looked likely to occur). Regional seminars could be arranged to identify the major issues in the various policies that relate to the type of catastrophe and also perhaps supply a template of issues (and report formats) that need to be answered and responded to (of course leaving an area for other loss specific issues to be raised) within their investigations.
9. There are so many issues within the gamut of your review but perhaps the last one I want to deal with in this email is the 'communication' issue. In this age of 'information overload' and prescriptive legal requirements relative to insurance such as Privacy, Complaints Procedures, Duty of Disclosure to name just 3, providing written information with renewals is not something that can be relied on that consumers will read or the few that do read will FULLY understand. This I believe received full consensus from the seminar. To me this is not just an insurance or a catastrophe specific issue, so although I know we are in unanimous agreement that the current system does not work, I believe another review committee, which should be led by the legal profession, with a remit to consider practical ways of overcoming the obvious legal ramifications of either not providing information or providing too much information and whether there is a need to amend legislation to create a workable solution is warranted?

Obviously I have only touched on a few of the issues, all of which need further fleshing out. I have not included some where there was unanimous agreement on the way forward i.e. gathering accurate and detailed flood and 'other disaster' exposure information and mapping, however I trust that what I have provided is of some interest to you and may form part of your thinking when drafting your final report.

Kind regards

Chris Trimblett

## Second email sent

Gentlemen,

Further to my email yesterday as regards point 6, unfortunately my mind got ahead of my fingers as on re-reading that point I had left out some important points which would make it more coherent. I have re-written point 6 below for greater clarity:

6. If the final decision on how the Flood issue is to be dealt with going forward is by a Flood Insurance Pool and considering the ICA's objection to this concept, perhaps on using Figure 4 on page 21 of your June 2011 paper as a guide you may want to look in more detail on how a Pool could be run as a 'Reinsurance' after an initial excess (by the Insured) and a pre-agreed maximum limit any one loss (by the initial direct insurer). Taking this a step further, perhaps even making the Pool a catastrophe reinsurer above a certain aggregate? One model may include the Insured having to bear as an excess either as a fixed amount &/or a percentage of any loss whichever is the greater. As a part pay back for subsidised premiums in the high risk areas (in 100 year flood zones) the insured needs to have some skin in the game, which if structured correctly should encourage mitigation work (say premium/ excess reductions for flood mitigation work to the property with such costs subsidised on a 50-50 or some other equitable basis). As to those subsidising the reinsurance pool, if the direct Insurers are to be both premium setters, initial claims payers and 'top up' claims providers (this latter amount being from the reinsurance Pool) if the direct insurers are also to be part of the Pool then this to me would be double dipping on those insurers unless the insurers on the right of the only referred to all general/ householder property insurers (other than those already taking say a minimum prescribed amount of the up front risks in those zones). Certainly councils (via rates which should be capped to maximum percentage increase per annum and a portion of which specifically earmarked for flood losses/ mitigation), State Governments (through FSL & Stamp Duty revenue or its gradual replacement by a Disaster Levy) & the Federal Government (via authority over a restructured Terrorism Pool income & other future 'disaster' allocations in future budgets) should be responsible in proportions yet to be calculated? Both upper tiers of government could further subsidise those councils on a needs basis provided those councils are meeting reasonable (to be determined) flood/ disaster funds from rates each year.

I hope the basics of the 'reinsurance pool' idea is a little better explained this time around?

Regards

Chris