



Small
Business
Commissioner

Small Business Commissioner

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OUT19/4083

Mr. Luke Spear

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Submission in response to the Consultation Paper on Insurance Claims Handling

Dear Mr. Spear,

The Office of the NSW Small Business Commission (OSBC) is focussed on supporting and improving the operating environment for small businesses throughout NSW. The OSBC advocates on behalf of small businesses, provides mediation and dispute resolution services, speaks up for small business in government, and makes it easier to do business through policy harmonisation and regulatory reform.

The OSBC has witnessed the impacts of insurers acting inefficiently, dishonestly and unfairly after receiving claims from small businesses.

Small businesses, like individuals, face a significant power imbalance when dealing with the financial services industry. After making an insurance claim, small businesses rely on prompt claim payments in times of need – these payments allow the doors to stay open, as businesses need to maintain cash flow. Unfortunately, the OSBC's experience does not suggest that this payment, prompt or otherwise, can be relied upon.

We have seen first-hand the devastating effects of floods, bushfires and other natural disasters on small businesses, and the suffering that follows. Unfortunately, this suffering does not subside with the flood waters or the flames. Instead, small businesses are often confronted with a protracted battle to secure payments from

their insurance companies once they have issued a claim. We have observed that insurers will employ any and all methods to delay or refuse payment.

Justice delayed is justice denied, and for a small business attempting to recover from a natural disaster, this denial can - and often does - mean the end of that business.

In the event their claim is denied, small businesses have the option of appealing this decision. The ensuing process of review involves an internal dispute resolution procedure, followed by an external dispute resolution procedure (in the event the dispute is still not resolved).

This process is complicated and legalistic, and takes an unreasonably long time to reach conclusion, particularly given many small businesses so desperately need cash flow to recover from a disaster. For example, businesses impacted by the flooding caused by Cyclone Debbie were still waiting for the final outcome of their disputes over a year after initially lodging their claim.

For many small businesses, in the absence of receiving these expected payments promptly, closing the doors is the only option. In addition to the personal toll on the small business owner, this costs local communities jobs, skills and economic activity, compiles the physical damage caused by natural disasters, and prolonging the time taken to recover.

Disaster has impacted small businesses across the state and country. Improvement in the practices of insurers is desperately needed to help ease their road to recovery.

The OSBC has been on the ground to hear stories of hardship across the state and the country:

- In 2016, we visited businesses affected by storms and flooding in Picton, the Hunter, Coonabarabran, Forbes and Parkes.
- In 2017, we assisted businesses in the Northern Rivers region that felt the full force of Cyclone Debbie, as the resultant flooding ravaged Lismore, Murwillumbah and other towns (see [Case Study](#)). This culminated in the OSBC taking 135 cases to the Financial Ombudsman Service (FOS) for review.
- In 2018, businesses in Tathra and Bega Valley were devastated by the impacts of the major bushfires.
- Less than one month ago, we were on the ground to help businesses crippled by the one-in-100 year flooding event in Townsville, Queensland.

These businesses, still operating in the wake of the disaster, required assistance from the OSBC with any and all of the following tasks:

- Filling out forms for the purposes of lodging insurance claims
- Filling out forms for the purposes of lodging disaster relief claims
- Understanding the insurance claims handling and settling processes
- Understanding the dispute resolution services available to businesses in the event of a declined claim

Small businesses found each of these tasks difficult to understand and cope with, particularly while attempting to rebuild and recover. Without our assistance, many would not have been in a position to continuing operating.

The existing legal protections of insurance customers, many of whom are small businesses, are inadequate. Current laws reinforce the power imbalance at play.

More generally speaking, existing regulation of the insurance industry is inadequate. As the current legislation does not reflect that claims handling is a financial service, the only major legal protection available to businesses is the duty of utmost good faith. This states that both parties to an insurance contract owe each other a duty of utmost good faith in all their dealings. This is an implied term in every insurance contract.

However, as both parties are subject to this legal requirement equally, this offers greater protection to the resource-rich insurer, rather than the financially-constrained insured. That is, insurers can take comfort in the fact that the insured, whether an individual or small business, is unlikely to successfully sue their insurer to enforce their legal rights. This is reinforced by the fact that litigation is often too costly and time consuming for small businesses and individuals to pursue. What's more, evidence suggests insurance customers do not know the duty exists, let alone how to use it to protect their rights.¹

Simply put, the insured parties have neither the time, knowledge nor finances to enforce their rights in court. The power imbalance at play severely curtails the ability of the insured to access justice.

Indeed, the Consumer Action Law Centre said in 2018 that it was unaware of any significant case law involving an individual successfully pursuing an insurer on the basis of the duty.²

This lack of protection is further highlighted by the cases taken to the FOS. Evidence collated by the Consumer Action Law Centre (CALC) established that the insured was found to have breached the duty at five times the rate of the insurer. Of the cases considered by CALC, more than 80 per cent involved alleged breaches of the duty by the insured.³

The Australian Government acknowledged the deficiencies of the operation of the duty in 2013, by granting the Australian Securities and Investment Commission (ASIC) the power to take action against an insurer for breach of the duty in relation to handling or settlement of claims.⁴ The change was made on the basis that:

“Under the current law, parties to a contract of insurance may enforce compliance with this implied duty of utmost good faith through private legal action. However, this may present too great an expense for some parties and

¹ Consumer Action Law Centre (2018). Denied – Levelling the playing field to make insurance fair. February 2018. p. 12. https://policy.consumeraction.org.au/wp-content/uploads/sites/13/2018/02/180111_Denied_Digital-Report.pdf

² Ibid. p. 12.

³ Consumer Action Law Centre (2018). Denied – Levelling the playing field to make insurance fair. February 2018. p. 8. https://policy.consumeraction.org.au/wp-content/uploads/sites/13/2018/02/180111_Denied_Digital-Report.pdf

⁴ Insurance Contracts Amendment Act 2013 (Cth). Part 1. <https://www.legislation.gov.au/Details/C2013A00075>

does not provide long-term solutions to systemic breaches of utmost good faith committed over time.”⁵

However, ASIC can only take licensing action in relation to a breach of the duty, meaning they can only suspend, cancel or impose a condition on an Australian Financial Services Licensee (AFSL). ASIC cannot impose any other sanctions, such as civil penalties.⁶ ASIC has not yet pursued any insurer under the power.

Insurance contracts also lay outside the scope of the current unfair contract term protections. Whilst changes have been proposed⁷, individuals and small businesses cannot yet rely on these protections to ensure terms of contracts do not create further power imbalances.

ASIC has called for the government to provide it with the power to apply civil penalties in the event of breaches of the duty of utmost good faith.^{8,9} They have also recommended that the unfair contract term protections be expanded to bring insurance contracts into scope.¹⁰ Whilst outside the scope of this consultation, in the OSBC’s view, these necessary changes should be considered as a priority for Treasury moving forward.

Making this change would align the law with reality — the handling and settlement of insurance claims is a financial service, and it should be treated as such.

This proposed change would be one step to improving outcomes for small businesses making insurance claims. AFSL holders should be legislatively required to provide their services efficiently, honestly and fairly. They should be required to adequately manage any conflicts of interest that may arise in the provision of these services. Plainly, for insurers, financial services include the handling and settlement of claims. For customers, this represents the most critical component of an insurer’s services.

ASIC should have regulatory oversight in this area. Recent history demonstrates that improvements are desperately needed (see [Case Study](#)). It is also vitally important that small businesses can access the Australian Financial and Complaints Authority (AFCA) in the event they have a complaint regarding how a claim was handled or settled. If the proposed change was made in the fashion that the OSBC recommends, this would be the case.

For these reasons, we broadly support the proposal outlined by Treasury.

⁵ Insurance Contracts Amendment Bill 2013. Explanatory Memorandum. Paragraph 1.6.

http://www5.austlii.edu.au/au/legis/cth/bill_em/icab2013310/memo_0.html

⁶ ASIC (2018). Module 6 Policy Submission, 27 [110]. <https://financialservices.royalcommission.gov.au/Submissions/Documents/Round-6-written-submissions/POL.9006.0001.0192.pdf>

⁷ The Hon Stuart Robert MP (2019). Media release - Further strengthening the unfair contract term protections for small businesses. 28 March 2019. <http://srr.ministers.treasury.gov.au/media-release/037-2019/>

⁸ ASIC (2017). ASIC Enforcement Review Taskforce Report – December 2017. See Recommendation 43. <https://treasury.gov.au/sites/default/files/2019-03/ASIC-Enforcement-Review-Report.pdf>

⁹ ASIC (2018). Module 6 Policy Submission, 27 [110]. p. 1. <https://financialservices.royalcommission.gov.au/Submissions/Documents/Round-6-written-submissions/POL.9006.0001.0192.pdf>

¹⁰ ASIC (2018). Module 6 Policy Submission, 27 [110]. p. 1. <https://financialservices.royalcommission.gov.au/Submissions/Documents/Round-6-written-submissions/POL.9006.0001.0192.pdf>

It is clear to the OSBC that the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry has highlighted business practices that reflect the paramount importance of profit, not customers. As the fallout from the findings of the Royal Commission continue, it is vital that the government take a more proactive stance in monitoring and regulation.

The OSBC strongly endorses the Commissioner's recommendation, and his sentiments, that the handling and settlement of insurance claims should no longer be excluded from the definition of 'financial service'. In Commissioner Hayne's words:

"There can be no basis in principle or in practice to say that obliging an insurer to handle claims efficiently, honestly and fairly is to impose on the individual insurer, or the industry more generally, a burden it should not bear. If it were to be said that it would place an extra burden of cost on one or more insurers or on the industry generally, the argument would itself be the most powerful demonstration of the need to impose the obligation. The argument can be made only if claims handling is not now conducted efficiently, honestly and fairly. And if that is the case, it should no longer be tolerated by the industry or by the law."¹¹

We therefore also broadly **support** the Treasury's proposal to give effect to this recommendation, on the understanding that common small business insurances are covered by the changes.

Our recommendations (below) reflect our responses to the consultation questions and paper more generally. We also provide additional comments for Treasury's consideration. As their advocate, we have identified several key issues NSW small businesses face when they are dealing with insurers. We would encourage Treasury to have regard for these in their ongoing work.

¹¹ Hayne (2019) Final Report – Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Vol 1 p. 309

Recommendation 1: Remove Regulation 7.1.33 in the *Corporations Regulations 2001* (Cth). To provide clarity, define 'handling and settling an insurance claim' under s766 of the *Corporations Act 2001* (Cth) as a new financial service.

Recommendation 2: Define 'handling and settling an insurance claim' using existing legislative powers, and ensure that the introduced definition covers all components of the handling and settling process.

This would include those services currently outlined in Regulation 7.1.33:

- Negotiating settlement amounts
- Interpreting relevant policy provisions
- Preparing estimates of loss or damage and/or value or appropriate repair
- Making recommendations on mitigation of loss
- Making recommendations on increases in limits or different cover options to protect against the same loss in the future
- Implementing claims strategy such as the making of claims under alternate policies

Additionally, this would include:

- Assessing claims against the claimant's policy
- Communicating with the claimant (and AFCA if applicable) regarding the claim
- Dealing with all necessary, required and relevant documentation

Ensure that, for the purposes of the definition, a self-insurance arrangement through which a person manages financial risk is excluded.

Recommendation 3: Expand section 761G(5) of the *Corporations Act 2001* (Cth) to include common business insurances under the definition of 'retail clients'. This would include, at a minimum, the following insurance types:

- Professional indemnity/liability
- Public liability
- Commercial vehicle
- Property
- Business continuity/interruption
- Equipment and/or stock insurance

Recommendation 4: As per the requests of ASIC^{12,13}, more significant penalties should be available to address misconduct in relation to insurance claims handling. The *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Bill 2018* (Cth)¹⁴ should form the basis of the penalties made available.

¹² ASIC (2018). Module 6 Policy Submission, 27 [110]. https://financialservices.royalcommission.gov.au/Submissions/Documents/Round-6-written-submissions/POL_9006.0001.0192.pdf

¹³ ASIC (2016). Life insurance claims: an industry review. Report 498. p. 11. <https://download.asic.gov.au/media/4042220/rep498-published-12-october-2016a.pdf>

¹⁴ Explanatory Memorandum - Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Bill 2018 (Cth). https://parlinfo.aph.gov.au/parlinfo/download/legislation/ems/r6213_ems_17aa08fb-610b-4eef-ae53-cc157e44fb58/upload_pdf/688007.pdf;fileType=application%2Fpdf

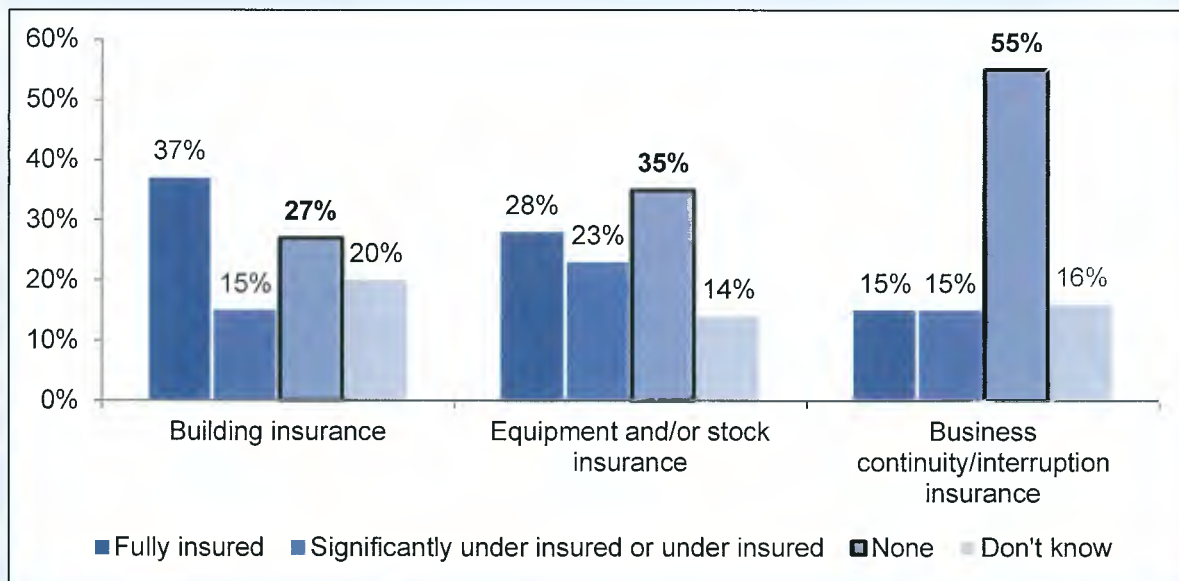
Case Study: businesses affected by Lismore and Murwillumbah 2017 flooding event.

In 2017, the OSBC was on the ground to assist businesses in Lismore and Murwillumbah affected by flooding caused by Cyclone Debbie. The damage was immense. In Tweed Shire alone, nearly 350 businesses, employing nearly 1000 people, were affected.¹⁵ Business properties and stock were destroyed by flood waters, causing tens of millions of dollars of damage.¹⁶ Floodwaters submerged the entirety of the ground floor of businesses.¹⁷

The OSBC, in conjunction with other areas of the NSW Department of Industry, conducted a survey, securing nearly a thousand responses from small businesses. It highlighted the significant level of damage done:

- 61 per cent reported damaged premises, with one in four estimating the loss at between \$5,000 and \$40,000.
- 51 per cent reported destroyed equipment and/or stock, with nearly a third reporting estimating damage or loss of equipment and/or stock at between \$5,000 and \$40,000.
- Nearly a third of respondents estimated their total loss of revenue due to the disaster was between \$5,000 and \$20,000.
- Nearly one in four businesses intended to either close the business (3.3 per cent), move the business to a new location (4.8 per cent) or didn't know what the future held for their business (13.8 per cent).

Our survey also identified an alarmingly high rate of underinsurance, or total lack of insurance. Many others were not sure if they were insured.



¹⁵ Tweed Shire Council (2018). Tweed Link – Issue 1068 – 21 August 2018.

https://www.tweed.nsw.gov.au/Controls/TweedLink/Documents/Tweed_Link_1068_21%20Aug_web.pdf

¹⁶ Hansen, J. (2017). Cyclone Debbie aftermath: Lismore floods tear heart out of city business zone. <https://www.dailytelegraph.com.au/news/nsw/cyclone-debbie-aftermath-lismore-floods-tear-heart-out-of-city-business-zone/news-story/90b578312ce2ab830ae8fc6b3a1bd2ef>

¹⁷ ABC (2017). NSW flooding: Lismore ordered to evacuate, Murwillumbah residents stuck on roofs. <https://www.abc.net.au/news/2017-03-31/floods-hit-northern-nsw-with-heavy-rain,-winds,-floods/8402788>

When assisting those businesses that did have insurance, we identified wide-ranging inappropriate practices by insurance companies. These included:

- Consistently interpreting policy cover definitions in their favour, to the detriment of small businesses
- A lack of proper assessments and prioritisation of residential claims above business claims
- Assessors not considering reporting against claims on a case-by-case
- Major delays, of up to 12 months, for cases to go through internal dispute resolution processes.

During this time the overwhelmed small businesses did not receive adequate assistance and were unable to make decisions and proceed in their recovery as they awaited the outcome of their claim. This uncertainty contributed to the distress of small business owners.

We advocated on behalf of 135 businesses, helping them with their denied insurance claims. We met with the FOS to initiate a review of the declined insurance claims and helped small business operators in Lismore and Murwillumbah complete the significant number of FOS applications. A significant number of the claims were upheld in favour of the business owner, highlighting the systemic issues at play.

A business owner's perspective – Chantal Waters, owner and operator of Tweed Creative Studios.

A winner of the Tweed Shire Business Excellence Award 2015, Chantal Waters has owned and operated Tweed Creative Studios in Murwillumbah for many years. It is an entertainment, art and creative hub for artists.

The business offers music lessons, tutorials, and instrument repair services, and is filled with music collectables, equipment and local art. Chantal's business was devastated by the North Coast floods on 30 March 2017.

The flood water caused significant damage to her property, equipment and stock. Following the flood, Chantal struggled to get the business back up and running.

Chantal firmly believes that the OSBC's visit to Murwillumbah to help out after the floods made all the difference in having her Category C disaster funding application approved. OSBC staff helped her to quantify her losses and complete her application. The OSBC also made sure Chantal could maintain cash flow for her business during the recovery process.

'The response from the OSBC was amazing and my business would not be trading if not for the help provided by the OSBC with filling out the application forms for Category C funding,' said Chantal.

Chantal's application for Category C disaster grant funding was successful. On 1 July Tweed Creative Studios officially re-opened its doors.

Additional issues for consideration

The insurance industry needs longer term reform.

Our experience in assisting small businesses affected by disasters has led us to the view that reform of the insurance industry is desperately needed. Insurers act with impunity, whilst the insured has limited capacity to protect their rights. Despite many attempts to work with the industry to reform, we have seen no meaningful change from insurers in their dealings with small businesses.

Ultimately, it is communities that bear the cost of the improper practices of insurers. As small businesses collapse, employment opportunities in local towns dwindle. This has particular implications for regional and remote communities, where job opportunities are often already limited. As natural disasters become more prevalent and intense, the importance of addressing these issues increases.

The OSBC is aware of a range of issues small businesses experience in their dealings with insurance companies. While efficient insurance claims handling can make the difference between a disaster-impacted business bouncing back or closing its doors, we find this is just one aspect of the significant issues small businesses repeatedly experience with their insurers. The other issues small businesses experience in their interactions with insurers are discussed below. We consider that these issues are reflective of an imbalance between insurers and small businesses that has led to inequity and ongoing poor treatment of many small businesses by insurers, and offer suggestions for changes to level the playing field.

The General Insurance Code of Practice 2014

Like other voluntary codes in the financial services industry, the General Insurance Code of Practice (the Code) has proven largely ineffective in promoting higher service standards and protecting customers. The Code suffers from similar deficiencies as those exhibited by the Banking Code of Practice 2019 – in particular, a lack of specificity and enforceability.

The Code, in its current form, does not speak directly to the interactions between small businesses and insurers. Small businesses consistently tell us that they find dealing with insurance companies difficult and confusing. In our experience, residential claims seem to be dealt with in a timely manner, whilst small businesses are left to fend for themselves. This is punctuated by the fact that the Code, like the *Corporations Act 2001* (Cth), does not impose obligations on insurers in relation to common small business insurance products.¹⁸

The Code must speak to the small business experience of insurance. Insurers must engage with claimants in a customer-focussed manner, and respond to claims in a timely fashion, taking account of the cash flow issues that plague small businesses. These requirements must be laid out in the Code, and be written in plain English, to ensure small businesses can understand what they should expect from their insurer.

In our view, at a minimum, voluntary codes of practice must include sanctions that create meaningful deterrence and ensure provisions are complied with. For these sanctions to be effective, oversight bodies must be willing to apply these sanctions in

¹⁸ Insurance Council of Australia (2014). General Insurance Code of Practice 2014. p. 22. See definition of Retail Insurance.

the face of breaches. Currently, neither the General Insurance Code of Practice nor the Banking Code of Practice achieves this.

An updated General Insurance Code of Practice is currently being drafted after a review process. We understand that the Insurance Council of Australia will seek ASIC-approval upon its release. We call on ASIC not to grant this approval unless the following conditions are satisfied.

- All sanctions listed in Regulatory Guidance 183¹⁹ are provided for specifically in the Code. These sanctions are:
 - Formal warnings
 - Public naming of the non-complying organisations
 - Corrective advertising orders
 - Fines
 - Suspension or expulsion from the industry association
 - Suspension or termination of subscription to the Code.
- ASIC has confidence that the oversight body will apply these sanctions when necessary, particularly in the event of wilful or repeated breaches.

We also call on the Government to provide ASIC with the powers to establish and impose mandatory financial services industry codes, along with the other powers outlined in Recommendation 1.15²⁰ of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

Increasing transparency in the insurance market

Small businesses often find making an informed decision regarding which insurance policy best suits their needs a difficult task. Product disclosure statements (PDS) are often long and difficult to understand. A 2008 survey of insurance customers found that more than seven in ten found PDS too long or difficult to understand.²¹ Often small businesses misunderstand what their insurance policy covers, with disastrous effects.

Previously, steps have been taken to address this confusion in relation to home building and contents insurance contracts. The *Insurance Contracts Act 1984* (Cth) and the *Insurance Contracts Regulations 2017* (Cth) require that insurers provide a one page 'Key Fact Sheet' to customers when entering a home buildings or contents insurance contract²². The fact sheet clearly identifies:

- What is and is not covered under the contract
- The conditions, exclusions and limits for each of the components of the contract
- The excesses, legal liability, cooling off period and maximum level of cover offered by the insurer

This document should also be provided to customers entering into other general insurance contracts, including common small business insurances.

¹⁹ ASIC (2013). Regulatory Guide 183 – Approval of financial services codes of conduct. p. 17. <https://download.asic.gov.au/media/1241015/rg183-published-1-march-2013.pdf>

²⁰ Hayne (2019) Final Report – Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Vol 1 p. 24

²¹ Insurance Council of Australia (2015). Too Long; Didn't Read – Enhancing General Insurance Disclosure. Report of the Effective Disclosure Taskforce to Insurance Council Board. <http://www.insurancecouncil.com.au/assets/Effective%20Disclosure%20Report.pdf>

²² Insurance Contracts Regulations 2017 – Schedule 5—Key Facts Sheets <https://www.legislation.gov.au/Details/F2017L01658>

Additionally, the OSBC has noted the recent release of ASIC's Life Insurance Claims Comparison Tool. The tool provides a comparison of the performance of insurers across various life insurance products, considering the following metrics:

- Claims accepted rate
- Average claim time
- Disputes per 100,000 lives insured
- Policy cancellation rate

The tool uses data collected by the Australian Prudential Regulation Authority (APRA), and aims to provide a 'new level of transparency and accountability'.²³

This should be expanded to cover general insurance products, including common business insurance products. This would facilitate a more evidence-driven discussion regarding small business insurance concerns – there is currently limited data available in this area.

These steps would allow small businesses to make a more informed decision when purchasing insurance, and to understand what they are, and are not, covered for.

Alternative models to mitigate risks

Many small businesses are reporting to the OSBC that, in the face of high cost insurance products, they are looking for alternative ways to mitigate their risk. This is particularly evident in communities that are often affected by natural disasters.

Many small businesses are self-insuring against risks, rather than purchasing an insurance product. This was heard from businesses in Townsville, Queensland, after the recent floods, and from businesses on the North Coast of NSW, after the flooding event caused by Cyclone Debbie.

In a survey of small-to-medium sized enterprises, the Insurance Council of Australia found that self-insuring against a risk was a significant reason for not purchasing insurance across many product categories. For instance, 13 per cent of respondents reported that they did not purchase machinery breakdown insurance because they had self-insured against the risk.²⁴

The OSBC also sees the need for an alternative insurance product to be developed that addresses the specific circumstances that affect small businesses. This could include elements of the self-insurance model, and a pro-rata payment.

Natural disaster relief funding

We have heard from many small businesses impacted by natural disasters that the current disaster relief funding is inadequate and not fit-for-purpose. Many highlight that the length of time taken for funding to reach them is too long, at a time when cash flow is desperately needed.

²³ ASIC (2019). 19-070MR APRA and ASIC publish world-leading life insurance data.

²⁴ Insurance Council of Australia (2015). Non-insurance in the small to medium sized enterprise sector. <http://www.insurancecouncil.com.au/assets/report/2015%20-%20non-insurance%20in%20the%20small%20to%20medium%20sized%20enterprise%20sector.pdf>

In addition, in the view of the OSBC, the thresholds at which disaster funding can be accessed are prohibitively high. These thresholds need to be reassessed, to ensure that communities, individuals and small businesses receive adequate assistance and support.

Assessors, hydrologists and brokers

The OSBC has observed concerning conduct by assessors, hydrologists and brokers in relation to small business insurance.

Assessors and hydrologists play an important role in the process of handling and settling insurance claims. In relation to small businesses impacted by disasters, assessors and hydrologists prepare reports that often determine the outcome of claims. These assessors and hydrologists are directly contracted by insurers.

During the 2017 North Coast flooding event, the OSBC observed that one company prepared the vast majority of hydrologist reports. We also received evidence that hydrologist reports were not prepared on a case-by-case basis, resulting in some claims being rejected on the basis of advice prepared by a hydrologist that had never inspected the property in question.

In the OSBC's view, insurers need to adequately manage any conflicts of interest that may arise due to relationship between the outcomes of claims and the reports prepared by assessors and hydrologists. The Code should address this.

In addition, all reports should be prepared on a case-by-case basis. Applying reports to multiple claims does not demonstrate the necessary due diligence, and does not meet the expectations of their customers.

As the majority of insurance products purchased by small businesses are facilitated by brokers, the accuracy of their advice is critical. Unfortunately, we have received anecdotal evidence from small businesses that their brokers misinformed them when purchasing. Brokers, as key small business advisors, must be adequately trained and informed. The National Insurance Brokers Association should take further steps to ensure this.

Insurers' contracting practices after natural disasters

Currently, insurers utilise pre-approved tradespeople to carry out repair works that are needed after a disaster. In the OSBC's view, insurers must do more to support local communities in their recovery – contracting local tradespeople would be one way to achieve this.

The Insurance Council of Australia should work with insurers to establish practices that give first preference to local tradespeople for necessary repair works. This should formulate part of the Insurance Council's stated role in "providing liaison between insurers, assessors, brokers, trades, suppliers at an industry level on issues of collective importance to delivering services to the impacted community".²⁵

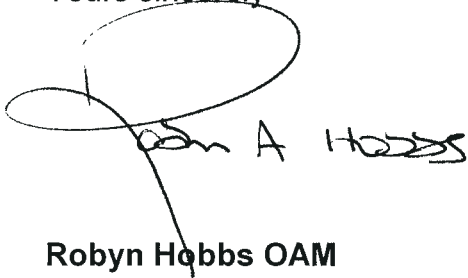
²⁵ Insurance Council of Australia (2019). ICA Catastrophe Arrangements. <http://www.insurancecouncil.com.au/for-consumers/catastrophe-arrangements>

As the voice for small business in NSW, the OSBC would welcome the opportunity to work with the Treasury to identify and explore practical measures to improve outcomes for small businesses in their dealings with insurers.

To this end, I will be in Canberra on Tuesday the 9th of May, and welcome the opportunity to discuss my concerns with the relevant Treasury officials.

To discuss this submission and arrange this meeting, please do not hesitate to contact James Davis, Advisor, Advocacy and Strategic Projects on 02 8222 4883 or james.davis@smallbusiness.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Robyn A Hobbs". The signature is written in a cursive style with a large, looping initial 'R'.

Robyn Hobbs OAM

NSW Small Business Commissioner

5 April 2019