



Australian Government

Department of Infrastructure, Regional Development and Cities

Department of Infrastructure, Regional
Development and Cities Submission to the

Australian Competition and Consumer
Commission's Northern Australia Insurance
Inquiry's First Interim Report

April 2019

Insurance in the Indian Ocean Territories

Christmas Island (CI) and the Cocos (Keeling) Islands (CKI), collectively known as the Indian Ocean Territories (IOT), are external territories of Australia. The Department of Infrastructure, Regional Development and Cities (the Department) administers the territories on behalf of the Minister with responsibility for territories. The Australian Government also has a state government-type role. Western Australian laws are applied under the *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955*.

CI's economy has been subject to boom-bust cycles over the years and traditionally relied on phosphate mining and government services. The economy of the CKI is largely reliant on tourism and government services. The Australian Government is supporting growth and diversification in both economies, including by undertaking a Strategic Assessment of CI under national environment legislation, progressing work to release Crown land for commercial and residential development on CI, funding a Regional Investment Officer to identify economic development opportunities, supporting marketing of the IOT as a tourism destination, funding the local training organisation for training and skills development, and funding a Strategic Plan each for CI and the CKI. A key constraint to economic diversity is lack of available and affordable insurance. As there are no regulatory obstacles for Australian insurers operating in the IOT, this appears to be a case of market failure.

The impacts of lack of available and affordable insurance are widespread, and include:

- limiting property owners' ability to sell their properties, as buyers may be unwilling to purchase a property for which they may not be able to obtain insurance. Anecdotal advice is that banks will not lend for residential property without evidence of insurance;
- limiting investors' willingness to construct new housing, contributing to a lack of housing and overcrowding in established dwellings, particularly on the CKI;
- limiting investors' willingness to establish or grow businesses, including in the tourism industry, given they may not be able to obtain insurance;
- limiting ability to raise finance for businesses;
- limiting ability to house visiting tradespeople, when required, as there is a lack of excess housing stock, particularly on the CKI. This means tradespeople may need to stay in accommodation intended for tourists, negatively impacting tourism operators and raising trade costs;
- limiting the ability for current accommodation providers to sell their businesses. Anecdotal advice is that a number of accommodation providers are ageing and wish to return to mainland Australia, however are concerned that they will be unable to sell their businesses;
- creating gaps in cover when consumers purchase insurance available to them, regardless of whether it meets their needs; and
- contributing to general business and property owner anxiety about insurance costs, availability and cover.

Parliamentary Committee Inquiries

Several Parliamentary Committee inquiries have explored issues around insurance in the IOT.

The Joint Standing Committee on Northern Australia's (JSCNA) 2014 report 'Pivot North Inquiry into the Development of Northern Australia – Final Report' highlighted lack of affordable insurance as an impediment to the development of Northern Australia, including the IOT. While Northern

Australia is known to have significant flooding, cyclone and other natural risks, the JSCNA's view was that natural risks did not fully account for the disparity between insurance premiums in the north and south of Australia.

Recommendation 6 stated:

The Committee recommends that the Australian Government take measures to reduce insurance premiums back to an affordable level, which could include increasing competition in the insurance market in Northern Australia. The Australian Government has particular responsibility for the Indian Ocean Territories, but should also conduct negotiations with the governments of the Northern Territory, Western Australia and Queensland, with a view to allowing the Territory Insurance Office to extend its coverage across Northern Australia including the Torres Strait Islands.

The Australian Government agreed in part with this recommendation, noting that it was considering the findings of the Northern Australia Insurance Premiums Taskforce. It also noted that the ACCC had been directed to inquire into the insurance market in Northern Australia.

In 2015, the Joint Standing Committee on the National Capital and External Territories inquired into governance in the IOT. Its 2016 report 'Governance in the Indian Ocean Territories – Final Report: Economic Development and Governance', acknowledged the inability to access affordable insurance as a significant barrier to economic development. It noted that: "According to submitters, it is difficult and costly to insure business and property on Christmas and the Cocos (Keeling) Islands. In this regard, the IOT is no different to the northern regions of mainland Australia".

A possible cause for the lack of affordable insurance is the IOT's vulnerability to cyclones and a lack of data about their occurrence. Given insurance underwriting is data-driven, it was suggested by Mr Alan Whitely in his submission to the Inquiry, that "in some instances this will result in [insurance underwriters] simply declining to offer cover, and in other cases will see their models manually manipulated to provide the required input data. Due to their inherent conservativeness, these manual inputs will always lead to grossly inflated premiums".

In 2018, the JSCNA revisited insurance in its report 'Northern Horizons – Unleashing Our Tourism Potential'.

Recommendation 16 stated:

The Committee recommends that the Australian Government, in partnership with the state and territories, analyse the impact of high insurance costs on tourism investment in Northern Australia (particularly since the privatisation of the Territory Insurance Office) and implement measures to reduce insurance premiums; and that insurance be made available for homes and businesses in the Indian Ocean Territories to stimulate business investment.

The Australian Government response is yet to be tabled.

Unauthorised Foreign Insurers

The Northern Australia Insurance Premiums Taskforce was established in 2015 as part of the response to significant increases in insurance premiums in areas of Northern Australia subject to

cyclone risk. While the Report mainly addressed insurance in relation to cyclone risk, it noted that owners or occupiers of private homes on the CKI's West Island faced particular difficulties in accessing insurance due to scale and remoteness. The Report noted that such unique situations show the need for "tailored solutions", one of which may be to provide IOT residents and businesses with access to insurance through Unauthorised Foreign Insurers (UFIs).

The Department notes the ACCC's caution in supporting UFI's participation in Australian insurance markets, given potential risks to consumers. However, these risks need to be considered in the context of risks borne by consumers and businesses from lack of insurance coverage for such things as cyclones, major weather events and fire. They should also be considered in the context of economic benefits resulting from the delivery of appropriate insurance arrangements.

The Department encourages the ACCC to further analyse the use of UFIs, develop strategies to mitigate risk, and consider options to ensure appropriate regulation. This work should build on the work of the Northern Australia Insurance Premiums Taskforce. The Department recommends that the Final Report include reference to this work and provide recommendations on the feasibility of using (or not using) UFIs.

The Department would welcome recommendations on alternative options to improve accessibility of insurance to Northern Australian communities, including the IOT.

Comments on Draft Recommendations

The Department welcomes the opportunity to provide a submission to the Australian Competition and Consumer Commission's (ACCC) Northern Australia insurance inquiry.

The terms of reference of the ACCC Northern Australia insurance inquiry do not include the IOT, however the Department recognises similarities in the insurance markets of mainland Northern Australia studied by the ACCC and those of CI and the CKI.

The Department anticipates that the learnings from the Northern Australia insurance inquiry, particularly those that focus on measures that may improve affordability and availability of insurance, would broadly apply to CI and the CKI.

The Department broadly supports the draft recommendations proposed in the ACCC's First Interim Report. If implemented nationally, inclusive of CI and the CKI, the draft recommendations will ensure Australian consumers are better informed about insurance products. The Department provides the following comments:

Draft Recommendation 4: National home insurance comparison website

The government should consider developing a national home insurance comparison website. It should require the participation of all insurers active in relevant markets, allow consumers to compare policies by features, and make it quick and easy for consumers to act on the results.

The Department partially supports this draft recommendation. This may provide IOT consumers with improved access to information about available insurance providers in their area, noting that even with full insurer participation, there may be little or no choice available. The Department notes,

however, concerns raised by Allianz in its submission to the ACCC that a national home insurance comparison website may exacerbate premiums in high risk areas and reduce competition. The Department recommends evidence for these concerns be explored prior to implementation of this recommendation.

The Department requests that any national home insurance comparison website include External Territories of Australia, including CI and the CKI.

Draft Recommendation 5: Renewal notices should give 28 days' notice

The Insurance Contracts Act should be amended to require insurers to provide renewal notices for home, contents and strata insurance no less than 28 days before the expiration of their insurance coverage.

The Department supports this draft recommendation. This would provide consumers in the IOT more time to enquire with different insurers before deciding whether to renew coverage with the same insurer. If consumers in the IOT rely on post for insurance renewal notifications, implementation of this recommendation could make a significant difference, given limited opportunities for mail delivery compared to metropolitan centres. Additionally, if the renewal premium is higher than anticipated, 28 days' notice will provide more time to make the necessary funds available.

Draft Recommendation 7: Consider likely insurance costs before purchasing real estate

States and territories should implement measures to prompt consumers to investigate insurance costs when they are considering purchasing real estate. As a first step, states and territories should include a statement in a statutory information disclosure for a real estate transaction advising any potential purchaser to obtain an insurance estimate as part of their due diligence. If recommendation 5 (to review and mandate standard cover) is accepted, states and territories should mandate that a current home (building) insurance premium based on the standard cover product be listed in a statutory information disclosure for a real estate transaction.

The Department supports this draft recommendation on the basis of providing greater transparency to buyers. However, the Department notes that given high insurance costs in the IOT and the lack of availability of insurance in some instances, any implementation of this draft recommendation should include transition measures to mitigate against short-term negative effects on property prices that may result from deterring property purchases.

Draft Recommendation 11: Giving consumers more control over how claims are settled

The Insurance Contracts Act should be amended to provide consumers with the right to choose whether their home insurance claim is settled through a cash settlement or by proceeding with a repair/rebuild managed by the insurer.

The Department supports this draft recommendation. It supports the requirement that insurers be required to disclose the implications of accepting cash settlements, including that cash payouts may not adequately cover costs of repair or rebuild. This would be a particular concern in the IOT, where costs of waste removal and construction are generally higher than on mainland Australia.

Draft Recommendation 12: Clearly stated mitigation discounts

The Insurance Contracts Regulations should be amended to require insurer quotes and renewal notices for a property to expressly show what discounts have been applied (if any) to reflect mitigation measures undertaken on that property.

The Department supports this draft recommendation. Quantifying benefits of appropriate mitigation activities would inform and encourage further mitigation measures in the IOT. The Department acknowledges the ACCC's statement that governments at all levels have a role to play in supporting mitigation. In the IOT, the Department ensures buildings are built appropriately for the region, undertakes maintenance and upgrade programs for Departmental buildings, undertakes erosion mitigation measures to protect coastlines adjacent to residential properties, prepares properties for each cyclone season and contributes to regional cyclone management planning.

Draft Recommendation 13: Information on mitigation works that could reduce premiums

The Insurance Contracts Regulations should be amended to require insurer quotes and renewal notices for home insurance to provide a schedule of mitigation measures which customers of the insurer have undertaken for properties with similar characteristics in order to improve their risk rating. This should include a guide to the premium reductions (in percentage terms) that consumers have received for undertaking these measures.

The Department supports this draft recommendation. It notes that in some remote locations such as the IOT, the cost of mitigation measures may outweigh benefits received from an improved risk rating, but that providing relevant information allows consumers to make informed decisions. The Department also suggests that information about potential costs of each mitigation measure should be included alongside any such schedule, if available.