PARLIAMENT OF AUSTRALIA

Flood failure to future fairness

Report on the inquiry into insurers' responses to 2022 major floods claims

House of Representatives

Standing Committee on Economics

October 2024

CANBERRA

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Contents

Chair's foreword ..... **xi**

Abbreviations ..... **xvii**

Members ..... **xxi**

Terms of reference ..... **xxiii**

List of recommendations ..... **xxv**

Report

1. Introduction **1**

Scope and conduct of the inquiry 3

Context for the inquiry 5

Other reviews and reports 5

Government and industry initiatives 7

Structure of the report 7

Acknowledgements 8

2. The 2022 major floods **9**

What were the 2022 major floods? 9

ICA declared events 10

Monetary costs of the major floods 10

Insured costs 10

Other costs 11

Impact on individuals, communities and businesses 12

Policyholders' claims experiences immediately following floods 16

Claims handling and project management 17

Impact on vulnerable policyholders 18

Disputes 21

Overall performance 22

Challenges and obstacles to recovery 24

Labour shortages 24

Supply chain issues and material shortages 25
Difficulties sourcing replacement vehicles and temporary accommodation 26
Inconsistent expert reports 26
Recommendations throughout this report 27

3. Flood risk management in Australia 29

The prevalence of flood risk in Australia 29
The frequency and intensity of floods is increasing 29
Increasing exposure of residential and community assets to flood 30
The increasing cost of floods in Australia 31
Australia's flood risk management approach 33
Division of Government responsibilities 33
The current approach to flood risk management 34
The role of insurance in a well-functioning economy 35
Why flood insurance is difficult for insurers to provide 38
Solutions to the disaster insurance gap used around the world 42
Action taken by the Australian Government to address the disaster insurance gap in Australia 44
The regulatory framework governing general insurers 45
The legislative framework and the role of regulators and authorities 45
The self-regulatory regime 46
Flood insurance is a relatively recent phenomenon 47
Floods have historically been excluded from insurance policies 47
Committee comment 49

4. Policyholders' experiences with insurers' claims processes and handling 51

What makes a great claims experience? 52
Factors that influenced insurers' performance 53
Insurers processes to accept and deny claims 54
Interpretations and uses of key policy terms 55
Fair wear and tear and maintenance obligations 56
Awareness of maintenance expectations 58
Pre-existing damage and reasonable condition 60
Standard definitions for fair wear and tear and maintenance 61

Burden of proof and quality of reports 62
Hydrology reports 67
Quality of hydrology reports 68
Impartiality of hydrology reports 70
Options for improving access and quality of hydrology reports 70
Committee comment 72
Insurers processes to settle a claim 76
Cash settlements 76
Consumer understanding of cash settlement offers 78
Declining a cash settlement offer and the reopening of a claim 81
Scope of works 83
Other issues 84
Committee comment 85
Insurers processes to fulfill a claim 89
Oversight of third-party contractors 89
Committee comment 93
5. Insurer engagement and communications with policyholders 95
Consumer understanding of insurance policies at sign-on and renewal 96
Risk and other determinants of premiums 100
Committee comment 103
Insurer communication and engagement with policyholders 105
Insurer reach out and presence in impacted communities after the 2022 major floods 106
Information provided to policyholders about post-flood cleanup 108
Lack of timely communications about claim status 110
Meaningful updates and automated communications 114
Need for dedicated claims managers 116
Management of claims with multiple touchpoints 117
Management of vulnerable policyholders 120
Committee comment 123
6. Policyholders' experiences with internal and external dispute resolution processes 129
The importance of effective dispute resolution 129

Insurer obligations for IDR processes 130
Disclosure of IDR processes and data 132
Insurers' dispute resolution processes 134
Insurers' processes to resolve complaints 134
Concerns raised about insurers' dispute resolution processes 138
Consumer awareness of insurers' IDR processes 139
Consistency of insurers' treatment of complaints 141
Underinvestment in IDR staff 142
Complaints made to AFCA – External Dispute Resolution 143
AFCA's complaints handling processes 143
Complaints to AFCA relating to 2022 major flood claims 145
Policyholders and insurers' experiences of AFCA's processes 150
Potential improvements to the EDR process 157
Committee comment 157
7. Improving oversight of insurers' practices 161
Insurance industry oversight arrangements 161
Government regulators 161
Australian Securities and Investments Commission 161
Australian Prudential Regulation Authority 166
Australian Competition and Consumer Commission 167
Non-government entities with oversight roles 168
Australian Financial Complaints Authority 168
General Insurance Code Governance Committee and Code reviews 168
Improving enforcement 170
Stakeholder concerns 170
Enforcement of the General Insurance Code of Practice 171
Existing enforcement channels 171
Current limitations to compliance and enforcement 172
Registering the Code with ASIC 173
ASIC enforcement pathways 178
Code registration and enforceability 178
Potential contractual enforceability 182
Enhancing data collection and oversight 182

Current data reporting and its limitations 182
Giving ASIC a standing power to collect insurer data 186
Standardising data definitions 189
Code Governance Committee data and reporting arrangements 191
Committee comment 193
8. Strengthening the Government's response to floods 199
Enhancing government flood modelling and data 200
Flood modelling quality varies across local governments 201
Importance of high-quality flood data to the insurance industry 203
Public access to flood risk data 205
Community understanding of flood risk data 208
Current data sharing arrangements 211
Committee comment 213
Enhancing flood recovery arrangements 215
Disaster support across the three levels of government 216
Federal and state governments 216
Local governments 219
Opportunities to enhance the DRFA 221
Committee comment 227
Improving recovery and resilience schemes' design and delivery 228
Delays implementing recovery packages for decimated communities 228
'Teething issues' with recovery grant roll-out and eligibility criteria 232
Committee comment 240
Recognising and supporting the community sector 241
Benefits of consumer advocacy in insurance disputes 243
Essential support for the most vulnerable 244
Government funding for community flood recovery work 246
Adequacy of resourcing 247
Committee comment 249
9. Improving affordability and access to flood insurance 251
The risk profile of Australian properties 251
Increased underlying flood risk is driving up premiums 252

The structure of the general insurance market 255
Why the market for flood insurance is breaking down for the riskiest properties 256
Insurers are reducing their exposure to flood risk 256
Flood insurance is becoming increasingly unaffordable for properties with the highest risk 257
"Opt-out" insurance is becoming more difficult to obtain 260
Reduced profitability of home insurance products 262
The impact of increasing flood risk on reinsurance 264
Improving information flows about flood risk to consumers 266
Historical flooding data needs to be better communicated to current and prospective owners 266
Governments and insurers need to provide accessible, useful and consistent information about flood mitigation options to consumers 269
Reducing underlying risk to improve insurance affordability 271
Land use planning and building resilience 271
Investment in community level mitigation 274
Public and private collaboration in funding mitigation 277
Building standards 278
The role of banks in discouraging development 282
Insurer recognition of policyholders' 'building back better' 284
Premiums need to better reflect household risk mitigation 287
Buyback schemes 291
Flood Reinsurance Pool 294
The Cyclone Reinsurance Pool 294
Stakeholder views on a flood reinsurance pool 295
Insurer concerns about flood coverage within the Cyclone Reinsurance Pool 300
Options for insurance product innovation 301
Tax reform required to reduce premiums 303
Committee comment 307

Appendixes

Appendix A. List of submissions and exhibits 315

Appendix B. Public hearings and witnesses 323

Appendix C. Survey results 343

Dissenting Report from the Deputy Chair, Mr Keith Wolahan MP and Hon Kevin Hogan MP 383

Additional Comments/Dissenting Report from Hon Andrew Gee MP, Independent Federal Member for Calare 393

List of Tables

Table 2.1 2022 Major flood events insurance declarations 10

Table 2.2 Monetary costs of major flood events as of July 2024 11

Table 2.3 Major flood events closed rate summary 23

Table 4.1 Full cash settlements for home building claims exceeding $50,000 77

Table 5.1 Insurers resourcing 112

Table 6.1 IDR data elements required to be reported to ASIC 133

Table 6.2 Internal dispute resolution data from major insurers (in order of submissions received) 137

Table 6.3 Complaints closure timeframes (in order of submissions received) 139

Table 6.4 Volumes of major flood complaints to AFCA 146

Table 6.5 Stages at which major flood complaints at AFCA closed 147

Table 6.6 Outcomes of AFCA major flood complaints 148

Table 6.7 AFCA referral data for major insurers (in order of submissions received) 149

Table 8.1 Annual Recurrence Interval and Flood Probability 210

Table 9.1 Taxes and government levies applicable to home insurance by state and territory 304

Chair's foreword

In 2022, floods devastated communities right across Australia. The floods in Queensland, NSW, Victoria and Tasmania led to more than 300,000 claims being lodged – more than for any other natural disasters in Australia's history.

This report outlines the findings and recommendations from a year of investigation by the House of Representatives Standing Committee on Economics. In addition to hearing from insurance CEOs, regulators and leading consumer advocates, the Committee travelled to affected communities and heard directly from individuals, businesses and community leaders about the response by insurers and the impacts of the floods on their lives and livelihoods.

This report contains 86 recommendations that were supported by all Committee members. The implementation of these recommendations will lead to better claims management, more transparent reporting of insurer performance, lower premiums for households exposed to a high risk of flooding and improved long-term strategies for flood preparation and resilience.

This report examines the three "P"s of flood insurance: policyholders, pooling and preparation.

Policyholders need to be treated better.

Pooling mechanisms need to be strengthened.

And preparation needs to be given more priority.

Policyholders

Policyholders have a right to expect the timely and fair consideration of their claims. While many cases arising from the 2022 floods were handled well, too many were badly mishandled by insurers.

Direct witness testimony heard by the Committee, as well as case studies referenced in submissions, detailed instances of poor treatment and a range of systemic problems. Inconsistent decision-making meant neighbours received different outcomes after the same water event. Sometimes, this was the result of poor-quality expert reports commissioned by insurers. Long delays due to poor communication and disputes over causation resulted in emotional, mental health and financial strains for many families. More than two years on from the floods, many people still have not been able to move back into their homes. The Committee heard heartbreaking stories of families moving from motel to motel at short notice for months, only to end up camping in sheds and backyards after their allowance expired after 12 months – regardless of whether repairs on their home are complete. Initial offers were often too low, which was especially problematic where this involved final cash

settlements. The Committee also heard about too many cases of vulnerable people not being identified and missing out on sufficient assistance.

The ASIC and Deloitte reports of 2022 found that improvements were needed in communication, claims management, dispute resolution and the management of cash settlements. Following on from these reports, insurers have pointed to improvements in their training and IT systems. More work is needed, however, and in particular more transparency is required in relation to the effectiveness of measures undertaken by insurers. This report contains recommendations that set out new arrangements for the robust reporting of claims handling data to regulators and the publication of this data in order to hold insurers to account.

A number of recommendations adopted by the Committee relate to the General Insurance Code of Practice (the Code). The Code needs to be strengthened as a priority. The Committee recommended that the Insurance Council of Australia (ICA) register the Code with ASIC for approval and, further, that the Code become a contractually enforceable element of the policyholder's insurance contract.

In addition, the Committee recommended a number of areas where regulation could be strengthened including:

- That legislation standardise key terms across all insurance contracts, including in relation to non-flood forms of water damage, "wear and tear" and "lack of maintenance".
- That insurers should provide guidance material to consumers at emergency hubs in the immediate aftermath of floods in relation to first steps that should be taken when cleaning properties, including how to strip out the property and what evidence to collect. This guidance should be nationally consistent and consistent across all insurers.
- That the Code should set out meaningful timelines in relation to communication with customers and clearly set out what information should be provided.
- Clearer regulatory guidance in relation to the preparation of expert reports where these impact on the decision as to whether to grant a claim, including hydrology reports and technical building reports.
- A requirement that insurers provide guidance to policyholders in relation to maintenance obligations for key aspects of a residential building. This is particularly important given how many claims were rejected on the basis of insufficient maintenance.
- A requirement that insurers make a decision on whether to accept or deny the claim within 12 months and, if that does not occur, that insurers automatically pay out the claimed amount in full.
- That insurers strengthen their internal dispute resolution processes so that less cases progress to AFCA.

- That key data in relation to claims management performance be provided by insurers to ASIC quarterly and, after a natural disaster, monthly and that ASIC publish this data.

Pooling

Pooling is the key mechanism by which both private and social insurance protects people from unexpected and unpredictable negative outcomes. Premiums are pooled so as to be distributed to those adversely affected. This is the key underpinning of both public and private insurance.

The private insurance market for residential homes and small businesses has largely functioned well in relation to most natural disasters in Australia for decades. Having said that, flooding is one of the most challenging forms of natural disaster, particularly for households and businesses in high-risk areas. There is a non-diversifiable aspect of flood risk that can result in extremely high premiums for at-risk properties.

This report identifies a number of areas where pooling is either currently not functioning as well as it should or where it is under threat.

At present, insurance policies have varying lengths for the provision of temporary accommodation and, in many instances, a maximum guaranteed length that often falls short of the actual time it takes to complete the rebuild. In some policies, the cost of temporary accommodation comes out of the sum insured. This leaves a considerable amount of risk with households not well placed to manage it, particularly when they are still getting back onto their feet. This is an instance of a risk that is not being sufficiently pooled. The Committee believes that it would be better for insurers to assume the risk of how long it takes to complete works and to manage and bear the cost of temporary accommodation. This should become the default in policies.

Another area where policyholders face considerable risk is where the pre-existing condition of a material aspect of the building is unobservable. The most common example of this identified during the course of the inquiry was stumps. Policyholders often pay premiums for decades with neither the insurer nor the insured knowing the state of the stumps. It is understandably frustrating when, after a flood, the floorboards are taken up and an insured person or family is told that they will not be paid out due to the condition of the stumps. This aspect of coverage almost becomes a lottery. One could argue that too much of the responsibility for the condition of this aspect of the property is placed on consumers not aware that this is even an issue. Arguably, the underwriting of this risk is occurring after the event rather than at the time the policy is obtained. The Committee recognises that insurers should not assume the risk of all pre-existing damage. This would be inefficient and lead to higher premiums. But stumps are a tightly definable example of where there is currently too much risk being placed on households which could be pooled better. The Committee recommends that insurers should take this responsibility on unless clearly specified otherwise.

Finally, the increasingly granular, high-quality data that insurers generate and rely upon is undermining pooling, particularly at the higher risk end of the market. It is increasingly possible to accurately identify individual properties at very high risk of flooding. This results

in extremely high premiums for flood insurance for these households. Given that insurers are increasingly moving away from opt-out policies, this creates a risk that a large number of properties will not be insurable at all. Based on ICA data, around 230,000 properties are currently at a 1-in-20 year risk of flooding or higher. Over coming decades, this number will grow with climate change and continued development. It is for this reason that the Committee believes that some form of government intervention will be required. This is reflected in the fact that governments intervene in flood markets in most advanced economies. Of course, some interventions are better designed than others. This is a topic that warrants urgent consideration. The Committee sets out a number of principles to guide any intervention by government. One of them is that community and household level mitigation continue as set out below. Another is that no further development should occur in areas of high flood risk (or other natural disaster perils for that matter).

Preparation

The best way to reduce premiums is to reduce the underlying risk.

In 2014, the Productivity Commission found that around 97 per cent of natural disaster funding from the Australian and state and territory governments went towards responses after natural disasters and a mere 3 per cent was to invest in mitigation and resilience. Since the Australian Government committed to $200 million per year for the Disaster Ready Fund (DRF) and also partnered with the Queensland and NSW governments on resilience authorities, that ratio has materially improved. But it is still not where it needs to be.

The DRF offers an opportunity to substantially reduce the risk of flooding for communities exposed to a high risk of flooding. Roma offers an example of where community level mitigation coupled with price monitoring can result in significant premium reductions.

In addition to community level mitigation, there is a range of property level mitigation measures that can be effective. For high-risk properties, this includes house buybacks and investments in resilience, such as house raisings. For all properties, there is a wide range of lower cost measures such as more resilient flooring, more flood-resistant construction materials, better placed electrical equipment and on the list goes. The Bushfire Resilience Rating App should be extended to flood risk along with an obligation on insurers to reduce premiums where households reasonably prove that the mitigation works have been completed.

In addition to more mitigation at the community and household level, we need to stop the building of more homes and businesses in high-risk areas. This has been difficult due to the decentralised nature of decision-making. The Australian Government could do more in this space by publishing property level risk data for developments on newly zoned land. In addition, the government could co-operate with banks to limit or constrain borrowing to housing developments on newly approved land in areas of 1-in-100 year risk or more. More housing is being approved in inappropriate areas as this report goes to print and this needs to stop.

The Way Forward

This report includes 86 recommendations that will result in better outcomes for consumers – and, in particular, for vulnerable consumers and households at high risk of flood. This is partly a question of better claims management and partly about better long-term settings for reducing the nation's underlying risk of flood. Only if we move forward on both fronts can we truly make progress for Australians at risk of future flood events.

Finally, as Chair I would like to thank, on behalf of the entire Committee, all those who shared their experiences of the floods and their aftermath for this report. For many people it was difficult to participate in our process, particularly by giving evidence at public hearings. We acknowledge that many are still recovering from the financial and mental health toll and are very grateful that so many still found time to provide valuable insights so that others may benefit from a fairer system in the future.

Dr Daniel Mulino MP
Chair

Abbreviations

A&G	Auto & General Insurance Company Limited
ABA	Australian Banking Association
ABCB	Australian Building Codes Board
ACCC	Australian Competition and Consumer Competition
ACL	Australian credit license
ADPF	Australian Disaster Preparedness Framework
AEP	Annual Exceedance Probability
AFCA	Australian Financial Complaints Authority
AFS	Australian financial services
AFSL	Australian Financial Services Licence
AGCMF	Australian Government Crisis Management Framework
AGDRP	Australian Government Disaster Recovery Payment
Allianz	Allianz Australia Insurance Limited
APRA	Australian Prudential Regulation Authority
ARI	Average Recurrence Interval
ARPC	Australian Reinsurance Pool Corporation
AS/NZS	Australian and New Zealand Standard

ASIC	Australian Securities and Investments Commission
ASIC review	Report 768 Navigating the storm: ASIC's review of home insurance claims
BAL	Bushfire Attack Level
Banking Code	Banking Code of Practice
CAT 221	Catastrophe 221, South East Queensland and NSW floods of February and March 2022
CAT 223	Catastrophe 223, Victorian, NSW and Tasmanian floods of October 2022
CGC	General Insurance Code Governance Committee
COBA	Customer Owned Banking Association
Code	General Insurance Code of Practice
Code Review	Independent Review of the 2020 General Insurance Code of Practice
COR	Combined Operating Ratio
CPI	Consumer price index
Cyclone Pool	Cyclone Reinsurance Pool
Deloitte report	The new benchmark for catastrophe preparedness in Australia
DRA	Disaster Recovery Allowance
DRA	Disaster Relief Australia
DRF	Disaster Ready Fund
DRFA	Disaster Recovery Funding Arrangement
EDR	External dispute resolution

ESL	Emergency Services Levies
EVR	Emergency Recovery Victoria
Fact Sheet	Cash Settlement Fact Sheet
FCA	United Kingdom's Financial Conduct Authority
FTE	Full Time Equivalent
GST	Goods and Services Tax
GWP	Gross Written Premiums
Hayne Royal Commission	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
HEAS	Home Equity Access Scheme
HIP	Hazards Insurance Partnership
Hollard	Hollard Insurance Company
IAG	Insurance Australia Group
ICA	Insurance Council of Australia
IDR	Internal dispute resolution
IDT	Insurance Data Transformation project
Institute	Actuaries Institute
ISO	International Organization for Standardization
JSA	Jobs and Skills Australia
LGA	Local Government Area
Major floods	2022 major floods, comprising CAT 221, SE 222, CAT 223, and SE 224

NCC	National Construction Code
NDIR	National Disaster Insurance Review 2011
NDRRF	National Disaster Risk Reduction Framework
NEMA	National Emergency Management Agency
NFID	National Flood Insurance Database
NFIP	National Flood Insurance Program (United States)
NSDR	National Strategy for Disaster Resilience
NSW	New South Wales
PDS	Product Disclosure Statement
PEDs	Premium, excess and discount guides
QBE	QBE Insurance Australia Limited
RACQ	Royal Automobile Club of Queensland Limited
RG 183	Regulatory Guide 183 Approval of financial services sector codes of conduct
RG 271	Regulatory Guide 271 Internal Dispute Resolution
SAM	South Annular Mode
SE 222	Significant Event 222, Hunter and greater Sydney foods of July 2022
SE 224	Significant Event 224, central west NSW floods of November and December of 2022
SoWs	Scope of Works
Suncorp	Suncorp Group
UK	United Kingdom

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Terms of reference

The House of Representatives Standing Committee on Economics will inquire into matters relating to insurers' responses to recent natural disasters in Australia and report by 30 September 2024:

1 Responses of insurers to the claims resulting from major 2022 floods, including the:

   a. south-east Queensland and northern New South Wales (NSW) floods of February and March 2022;

   b. Hunter and greater Sydney floods of July 2022;

   c. Victorian, NSW and Tasmanian floods of October 2022; and

   d. central west NSW floods of November and December 2022.

2 The inquiry shall have regard to the following matters in respect of the aforementioned floods:

   e. the experiences of policyholders before, during and after making claims;

   f. the different types of insurance contracts offered by insurers and held by policyholders;

   g. timeframes for resolving claims;

   h. obstacles to resolving claims, including factors internal to insurers and external, such as access to disaster-hit regions, temporary accommodation, labour market conditions and supply chains;

   i. insurer communication with policyholders;

   j. accessibility and affordability of hydrology reports and assessments to policyholders;

   k. affordability of insurance coverage to policyholders;

   l. claimants' and insurers' experiences of internal dispute resolution processes; and

   m. the impact of land use planning decisions and disaster mitigation efforts on the availability and affordability of insurance.

3 The inquiry shall also have regard to insurer preparedness for future flood events.

4 The inquiry will take into consideration findings from other reports such as Deloitte's external review of insurers' responses to the 2022 floods, and ASIC's claims handling review.

* Note - On 3 July 2024 the House of Representatives resolved to extend the reporting date to 18 October 2024.

List of recommendations

Recommendation 1

4.113 The Committee recommends the Australian Government define the following terms in the Insurance Contracts Act 1984:

- **All major forms of water damage, including "rainfall runoff", "storm surge", "tidal surge" and "riverine flood".**
- **Key terms relating to exclusions relating to the maintenance of the property including "wear and tear" and "lack of maintenance". The Committee recommends that the Insurance Council of Australia accelerate its work with the Australian Competition and Consumer Commission in developing and approving the standardising of these terms and that consumers be provided with greater clarity in relation to the meaning of "pre-existing defect and/or damage".**

Recommendation 2

4.114 The Committee recommends that:

- **the Australian Government legislate a requirement for general insurers to provide policyholders with information regarding insurers' expectations of policyholders conducting "reasonable maintenance" to their property and the potential consequences for claim outcomes if a reasonable level of maintenance is not undertaken, and**
- **the Insurance Council of Australia in conjunction with the Australian Securities and Investments Commission and key consumer group representatives develop clear guidance regarding 'reasonable maintenance' across insurers, including for roofs, gutters, fences and stumps.**

Recommendation 3

4.115 The Committee recommends that a distinction be made in the General Insurance Code of Practice (the Code) between aspects of properties where maintenance is:

- **Observable (for example, roofs and gutters) versus where it is not observable (for example, typically, stumps).**
- **Where regular upkeep is reasonably within the remit of the householder or business versus where maintenance is infrequent, costly and highly irregular (for example, stumps).**

Where maintenance is not observable and infrequent maintenance is required, there should be a presumption of coverage by insurers unless exceptional circumstances can be established. It should be noted that this may have an impact on premiums for some policies (for example, for older houses) but that the trade-off is that it will reduce the likelihood of dramatically different outcomes for households with the same experience from the natural disaster while making no difference to the observed risk or behaviour of policyholders. This presumption should be reflected in the industry-wide guidance issued under Recommendation 2.

Recommendation 4

4.116 The Committee recommends that the Australian Government consider amending Sections 46 and 54 of the Insurance Contracts Act 1984 so as to better give effect to the original intent of the provisions. This could reduce unintended, arbitrary divergences in claims outcomes based on wear and tear and maintenance exclusions at odds with reasonable consumer understanding of their coverage.

Recommendation 5

4.117 The Committee recommends that Engineers Australia in conjunction with the Insurance Council of Australia develop guidelines for hydrologists that are providing insurers with hydrology reports relating to flood and storm claims, with a view to providing a more robust evidence base for insurers to rely on to make claim decisions. These guidelines should be shared with state and territory governments and appropriate authorities such as planning agencies and resilience authorities.

This could include the following matters:

- **The appropriate qualifications and experience of the hydrologists that are relied upon to provide expert reports.**
- **In order to better use scarce hydrologist resources, the potential for reports to jointly cover multiple properties, particularly where they are co-located and were affected by the same flow of water. Where appropriate, such reports should acknowledge differential considerations across properties.**

Recommendation 6

4.118 The Committee recommends that the Australian Securities and Investments Commission produce regulatory guidance clarifying that insurers cannot rely solely on hydrology and expert reports to deny a claim where the report has not properly linked the damage observed with the cause of the damage, consistent with Recommendations 75 - 78 of the Independent Review of the General Insurance Code of Practice (the Code).

That the Code provisions in relation to the appointment of experts be strengthened to ensure that:

- **the purpose of the Code include the intent that experts are to provide independent, detailed, clear, comprehensible and professional assessments of the cause and extent of loss.**
- **insurers be required to ensure the expertise, professionalism and independence of experts appointed by them.**
- **expert reports are in a standardised format to improve consumer accessibility and understanding.**
- **clauses 161 and 162 of the Code require the insurer to provide policyholders with any expert reports including, but not limited to, any reports that insurers have relied upon to deny a claim in whole or in part.**

Recommendation 7

4.119 The Committee recommends the Australian Government establish a mechanism for creating and funding an independent expert panel of hydrologists to undertake hydrology reports if the policyholder disputes the findings of the first report.

- **One model for such a panel could be the use of medical panels for compensation cases.**
- **Government and industry should explore how such a panel could be funded.**

Recommendation 8

4.120 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers implement mechanisms to:

- **periodically review the evidence relied upon to deny a claim based on lack of coverage under the policy or the application of an exclusion, where a hydrology and other expert report is one component of the evidence, to determine whether reports with insufficient evidence are being given too much weight in the decision to deny the claim**
- **communicate the level of quality expected by insurers to third parties providing expert reports, and**
- **more effectively identify concerns with, and provide feedback to, external experts.**

Recommendation 9

4.171 The Committee recommends the Insurance Council of Australia in consultation with the Australian Securities and Investments Commission provide guidance

to insurers about providing greater detail and clarity to policyholders on their rights and risks when an offer is made for a final cash settlement, including the risks policyholders should be aware of for the project management of repairs.

This would align with elements of recommendation 71 of the Independent Review of the General Insurance Code of Practice's Initial Report, and the Committee recommends that this recommendation be implemented in full.

Recommendation 10

4.172 The Committee recommends that the General Insurance Code of Practice provide that final cash settlements:

- **Be provided in a template form that is standardised across all insurers. The template should include a clear itemisation of all key elements of the total sum. The template be designed with input from peak consumer organisations and the Australian Securities and Investments Commission.**
- **Should include actionable, comprehensive, and transparent quotes.**
- **Should clearly identify compensation for unforeseen risks and project management risk (as identified in Recommendation 9).**

Recommendation 11

4.173 The Committee recommends that the General Insurance Code of Practice be amended to include a minimum 30 day 'cooling off period' with respect to cash settlements.

Recommendation 12

4.174 The Committee recommends that the General Insurance Code of Practice be amended to require insurers, when offering a final cash settlement, to:

- **Advise the consumer to obtain legal advice in relation to a final cash settlement;**
- **Advise the consumer of their rights to reopen a final cash settlement under the General Insurance Code of Practice and any rights they may have in respect of common law;**
- **Refer the consumer to community legal advisers and financial counsellors in the local area.**

Recommendation 13

4.175 The Committee recommends that the General Insurance Code of Practice be amended to require insurers when offering final cash settlements to include a

reasonable uplift/contingency sum to reasonably compensate policyholders for the risks they take on in project managing the repairs to their property.

Recommendation 14

4.176 The Committee recommends the General Insurance Code of Practice be amended to allow policyholders to have a 12-month period to seek a review of a final cash settlement where there is a change in the facts upon which the original determination was made.

Recommendation 15

4.177 The Committee recommends that the General Insurance Code of Practice prohibit the use of the terms "without prejudice" or "confidential" (or other misleading terms) on final cash settlement offers. This could be supplemented by regulatory guidance by the Australian Securities and Investments Commission.

Recommendation 16

4.178 The Committee recommends that a new service be offered to support vulnerable cash settlement recipients to project manage rebuilds and major repairs. This could be similar to the Service Navigator role in Queensland's Resilient Homes Fund.

Recommendation 17

4.179 The Committee recommends that the Insurance Council of Australia in consultation with the Australian Securities and Investments Commission:

- **develop standardised industry requirements for obtaining Scopes of Work to ensure common items are included and costings itemised (for example, in a template form),**
- **provide itemised costings in Scopes of Work to policyholders as part of the cash settlement offer process, and**
- **develop standardised mechanisms for insurers to implement quality control over the Scopes of Work they receive.**

Recommendation 18

4.180 The Committee recommends that there should be insurer and regulator oversight of Scopes of Work through the following mechanisms:

- **Stronger Code provisions in relation to quality of Scopes of Work (as per Recommendation 74 of the Independent Review of the General Insurance Code of Practice).**

- **Random vetting of Scopes of Work quality by the Australian Securities and Investments Commission.**

Recommendation 19

4.181 The Committee recommends that insurers amend their home insurance policies to provide fully paid temporary accommodation until the insurer has closed the claim, unless the extension of the time required can be demonstrated to be a result of behaviour on the part of the policyholder that is unreasonably causing delay;

That final cash settlements include a provision for temporary accommodation that takes account of the Scope of Works; progress on the project to date; and a reasonable uplift; and

That the cost of covering temporary accommodation should be a separate entitlement and not be funded out of the sum insured amount.

Recommendation 20

4.182 The Committee recommends the Insurance Council of Australia amend the General Insurance Code of Practice to include an appropriate mechanism for ensuring policyholders that are being provided with temporary accommodation as part of their claim have at least 3 months' notice of any proposed substantive changes to the policyholders' living situation or the insurers' payments for the accommodation.

Recommendation 21

4.208 The Committee recommends that the Insurance Council of Australia in conjunction with the Australian Securities and Investments Commission develop guidelines on how insurers can apply tighter internal controls on the oversight of building contractors, including guidelines on community expectations for industry to improve their oversight practices.

Recommendation 22

4.209 The Committee recommends the Australian Government consider appropriate regulatory or other mechanisms to reduce the instances of third-party builders and other contractors making changes to properties without the policyholder's consent, including the practice of gaining entry, removing property (strip-outs) or conducting repairs without the policyholder's knowledge or consent. Solutions should take into account the unique circumstances and challenges created by catastrophic flood events.

Recommendation 23

5.41 The Committee recommends that the Australian Government investigate mechanisms to require insurers to more clearly communicate the basis for the price of premiums. This could include:

- **at a high level, highlighting the nature of risk for the property for each major peril type (for example, a traffic light rating system)**
- **last year's premium alongside the current year's premium, along with a descriptive analysis of why there has been a change if it is material (for example, over 10 per cent). The analysis could include highlighting different factors that may influence pricing such as changes in building costs or changes in the assessment of one or more perils, or the impact of household or community level mitigation, without attaching numerical estimates to each factor.**

Recommendation 24

5.42 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers, at policy commencement and renewal, communicate key information on the consumer's policy, including:

- **A clearly highlighted plain English explanation of common obligations policyholders have under their policies and the application of certain exclusions if they are not undertaken, and**
- **general advice in relation to property maintenance and the expectations of the insurer regarding key aspects of the property such as roofs, gutters and fences, and**
- **general information around the calculation of a policyholder's sum insured and factors a policyholder may wish to consider to ensure full coverage in a total loss event.**

Recommendation 25

5.43 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers inform policyholders when they suspect the policyholder's sum insured does not cover the full rebuild costs according to their calculations, both at sign-on and renewal. The insurer should encourage the consumer to review their sum insured amount and ask them to confirm with a response.

The Committee further recommends that the General Insurance Code of Practice be strengthened to require insurers to ensure that sum insured calculators are accurate and up to date, consistent with Recommendation 56 of the Independent Review of the General Insurance Code of Practice. The calculators should include updated information on rebuild costs, including

cost increases relating to rebuilding to current building standards, and increases in labour and materials costs.

Recommendation 26

5.44 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers adopt a more flexible approach in relation to rebuilds and that, in particular, a like-for-like replacement not be required and that consumers be permitted to swap out size/scope for resilience and efficiency in "sum insured" repairs and rebuilds.

Recommendation 27

5.45 The Committee recommends that insurance brokers and insurers be required to provide clear guidance on the operation of averaging provisions to small and medium sized businesses.

The Australian Government should also consider prohibiting averaging provisions for small businesses.

Recommendation 28

5.117 The Committee recommends that all large insurers commit to having a physical presence at major emergency hubs in affected communities as soon as possible following a natural disaster.

Recommendation 29

5.118 The Committee recommends the Insurance Council of Australia in consultation with the Australian Securities and Investments Commission and state, territory and local governments:

- **Develop guidance for policyholders on the actions they can take to clean up their properties following a natural disaster.**
- **Include in the guidance any actions policyholders should take to document damage to their properties, such as taking photos to assist with their claim.**
- **Obtain a commitment from insurers that they will have regard for the guidance when assessing claims.**
- **Distribute the guidance as soon as possible to disaster-impacted local government areas.**
- **Make the guidance part of information distributed by insurers when a natural disaster occurs, including making the guidance available at recovery hubs in hard copy form.**
- **Develop debris cleanup guidance for councils.**

Recommendation 30

5.119 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers, in the immediate aftermath of a natural disaster, provide policyholders with updated information about:

- **what policyholders can expect from making a claim and the claims process,**
- **realistic time estimates for each step of the claims process, and**
- **customers' rights to challenge decisions or raise concerns about the insurers' conduct.**

This guidance should take the form of a comprehensible and standardised diagram or flowchart.

Following major flood events, insurers should also build into their systems pathways for policyholders to receive quick responses to commonly asked questions.

Recommendation 31

5.120 The Committee recommends the General Insurance Code of Practice be amended to require insurers to contact customers within 5 business days of the insurer becoming aware of a material change in the expected timing of any stage outlined in the guidance provided under Recommendation 30.

Recommendation 32

5.121 The Committee recommends, in alignment with recommendation 3 of the 2023 Deloitte report, that insurers be required to build into their staff resourcing plans, strategies to adequately increase resourcing for key services, including call centre and claims management staff, when significant or catastrophic events occur.

Recommendation 33

5.122 The Committee recommends that the General Insurance Code of Practice be amended to require insurers to provide all policyholders with access to real-time information about their claim's progress and key documentation on their claim. This could be through a mobile application or other platform.

Recommendation 34

5.123 The Committee recommends the General Insurance Code of Practice be amended to require that insurers use the 'single point of contact' claims management approach to the extent possible when responding to major

natural disasters and ensure policyholders are informed of who their assigned case manager is as soon as practicable.

The Committee further recommends that insurers be required to accommodate the preferred communication channel nominated by a policyholder during the claim processing period.

Recommendation 35

5.124 The Committee recommends that clauses 103c and 103d of the General Insurance Code of Practice be strengthened to ensure that key information is translated and available on insurers' websites and that clause 103a should specify that this includes translating and interpreting services for Indigenous Australians.

Recommendation 36

5.125 The Committee recommends that insurers invest in their IT systems to improve the storage of policyholders' key documentation and case notes, including correspondence and discussions. Case managers should also be suitably trained and resourced to implement quality record-keeping.

Recommendation 37

5.126 The Committee recommends that the Australian Securities and Investments Commission review how insurers are identifying vulnerable policyholders with a view to ensuring vulnerable policyholders are:

- **consistently being identified when they make a claim;**
- **being identified in numbers commensurate with their prevalence; and**
- **provided with appropriate support throughout the claims process.**

Recommendation 38

5.127 The Committee recommends that insurers devote additional resources to providing vulnerable customers with assistance. Insurers should evaluate the effectiveness of this assistance after each declared event.

Recommendation 39

5.128 The Committee recommends that the General Insurance Code of Practice be amended to require insurers' identification of vulnerable customers and training of staff be designed so that customer interaction is compliant with ISO 22458 2022-04, the International Organization for Standardization's document

Consumer vulnerability – Requirements and guidelines for the design and delivery of inclusive service.

Recommendation 40

5.129 The Committee recommends that insurers improve staff training to ensure staff adopt a trauma-informed approach when communicating with policyholders. This should include:

- **Explicit reference to trauma-informed policies and training in the General Insurance Code of Practice (as per Recommendation 26 of the Independent Review of the General Insurance Code of Practice).**
- **Priority should be given to the recruitment of staff with experience from natural disasters.**
- **Recording, with consent, personal information to better assist people experiencing vulnerability (as per Recommendation 27 of the Independent Review of the General Insurance Code of Practice).**
- **Clear communication, via insurer websites and other forms of communication (such as mobile applications), the types of additional supports that the insurer makes available to consumers experiencing vulnerability.**

Recommendation 41

6.137 The Committee recommends that the Australian Securities and Investment Commission update RG 271 Internal Dispute Resolution to provide further guidance on what constitutes a complaint and how complaints should be recorded. The goal should be to ensure that the definition of an internal dispute is set at a level that captures appropriately serious disputes and that this threshold is applied consistently across all insurers.

Recommendation 42

6.138 The Committee recommends that all insurers be required to establish a dedicated internal dispute resolution monitoring and review team to identify systemic issues arising through complaints and implement the Australian Financial Complaints Authority's feedback to improve internal dispute resolution and claims handling processes.

Recommendation 43

6.139 The Committee recommends that insurers put in place strategies to ensure their internal dispute resolution teams will be appropriately resourced and trained to respond to future significant natural disasters, and able to critically analyse expert reports and investigate the circumstances of the claim.

Recommendation 44

6.140 The Committee recommends that insurers improve their processes to facilitate the escalation of cases that remain unresolved after 12 months to a more experienced case manager.

Recommendation 45

6.141 The Committee recommends that all insurers create a role for a 'consumer advocate' which has oversight of and, where appropriate, involvement in, the disputes managed within the firm, cases that have moved to the Australian Financial Complaints Authority (AFCA), and claims which have taken a long period of time to resolve.

The consumer advocate should report to the Chief Executive Officer quarterly and the Board each year and provide a summary of the activities of the office over the preceding 12 months including a summary of cases where the consumer advocate was involved, the disputes that went to AFCA and the firm's overturn ratio, and where long delays occurred before the case was resolved (longer than 12 months).

Recommendation 46

7.165 The Committee recommends that the Insurance Council of Australia seek to have the General Insurance Code of Practice approved by the Australian Securities and Investments Commission after implementing any recommendations of the Independent Review of the 2020 General Insurance Code of Practice.

Recommendation 47

7.166 The Committee recommends that the General Insurance Code of Practice be incorporated as a contractually enforceable clause in insurance Product Disclosure Statements (as is the Banking Code of Practice).

Recommendation 48

7.167 The Committee recommends that the General Insurance Code Governance Committee publish aggregate data on code breaches by clause, individual insurer, and brand.

Recommendation 49

7.168 The Committee recommends that the Australian Securities and Investments Commission (ASIC) appropriately use powers that it has as a result of the

removal of the exemption of claims handling of insurance products under the Corporations Act 2001. The Committee notes that ASIC has only recently been granted such powers and they are as yet untested.

Recommendation 50

7.169 The Committee recommends that the Australian Securities and Investments Commission and the General Insurance Code Governance Committee share data so that it is possible to evaluate breaches of the General Insurance Code of Practice in the context of an insurers' overall claims profile.

Recommendation 51

7.170 The Committee recommends that the Australian Securities and Investments Commission develop and define key outcomes measures for the consumer experience, including:

- **Communication (outcome measures)**
  - **Overall customer satisfaction, such as a customer satisfaction score**
  - **Consumer comprehension of communications (random sample)**
- **Claims processing**
  - **Average time taken to respond to a customer after first making an enquiry or initiating a claim**
- **Vulnerable customers**
  - **Proportion of customers identified as vulnerable (BAU, quarterly)**
  - **Proportion of customers identified as vulnerable (designated events, monthly)**
- **Internal dispute resolution**
  - **Proportion of total cases that involved internal dispute resolution**
  - **Average time taken to resolve internal dispute cases**
- **External dispute resolution**
  - **Proportion of total cases that were referred to the Australian Financial Complaints Authority**
  - **Success rate at the Australian Financial Complaints Authority**
- **Cash settlements**
  - **Proportion of resolved cases that are final cash settlements**
- **Claims acceptance rates**
  - **Percentage of claims accepted**

- **Percentage of claims closed (at key points in time, for example 6 months, 12 months, 18 months)**

- **General Insurance Code of Practice Compliance**
  - **Breaches of the General Insurance Code of Practice per thousand claims by clause, insurer, and brand.**

Recommendation 52

7.171 The Committee recommends that legislation provide the Australian Securities and Investments Commission with sufficient data-gathering powers to obtain the information required to monitor and report on the metrics recommended in Recommendation 51.

Recommendation 53

7.172 The Committee recommends the Australian Securities and Investments Commission consider seeking data from insurers on their performance based on the metrics recommended in Recommendation 51:

- **Quarterly, for business-as-usual operations**
- **Monthly, for each declared event.**

Recommendation 54

7.173 The Committee recommends the Australian Securities and Investments Commission publish quarterly insurer and brand level data on their performance on the metrics recommended in Recommendation 51.

Recommendation 55

7.174 The Committee recommends that the Australian Securities and Investments Commission's MoneySmart life insurance claims comparison tool be extended to general insurance.

Recommendation 56

7.175 The Committee recommends that for each declared event, insurers be required to report the number of unresolved cases after 12 months to the Australian Securities and Investments Commission and the overarching strategy for resolving these cases. This report should include the total number of outstanding claims and the most common reasons for the delay.

Recommendation 57

7.176 The Committee recommends that the General Insurance Code of Practice (the Code) be reformed to implement Recommendation 63 of the Independent Review of the 2020 General Insurance Code of Practice, that is: where the insurer has not made a decision on a claim within 12 months, and the delay is not due to the consumer or other reasons beyond the control of the insurer, the Code should require the claim to be accepted.

The Committee further recommends that Australian Securities and Investments Commission consider using its powers in relation to claims management to enforce this obligation.

- **This would not be triggered where a claim has been lodged with the Australian Financial Complaints Authority.**
- **This would be triggered where internal dispute resolution has commenced but is not resolved. If the insurer has not made a decision by 12 months, the claim must be paid.**

Recommendation 58

7.177 The Committee recommends that insurers report case management key performance indicators to the Australian Securities and Investments Commission.

Recommendation 59

7.178 The Committee recommends that insurers recognise standard third-party authorisation forms and that this obligation be reflected in staff training.

Recommendation 60

7.179 The Committee recommends that, if a policy renewal falls due when there is long delay in claim handling or the completion of the project, the insurer should:

- **be required to offer a reduced form of cover, with an appropriately lower premium**
- **this cover should include public liability cover and sufficient cover for the building in its damaged state (noting that some consumers are being sent standard premium renewals, which amounts to excessive cover).**

Recommendation 61

7.180 The Committee recommends that insurers be required to ensure that people paying premiums monthly do not pay more.

Recommendation 62

8.63 The Committee recommends that the Australian Government work with state and territory governments to ensure flood maps are produced to a high standard across the nation, regardless of the size of the local government area producing the modelling. This may require:

- **increased funding for local government areas and water authorities, and**
- **the development of agreed standards to ensure that flood mapping is completed to at least an agreed minimum standard.**

That, over time, this higher quality flood modelling be made freely accessible to homeowners and the general public along with easy to understand information about flood risk exposures at each property. This may be best undertaken in the first instance by local councils and/or water authorities responsible for generating the flood modelling, consistent with Recommendation 3 of the Actuaries Institute's Funding for Flood Costs report (August 2023).

Recommendation 63

8.64 The Committee recommends that the Australian Government ultimately move towards a national, centralised, public-facing portal containing flood risk data at the household level for:

- **all households and small businesses across Australia, and**
- **all land being considered for release for development and all land that has been released for development, but not yet developed.**

Agencies tasked with developing the portal should reflect upon governments' past efforts to develop similar portals and lessons learnt. The portal should be easily accessible, user friendly and display high-quality flood risk information in a way that is readily understandable to communities.

That before data is released on such a portal for existing properties (residential and small business), that the entity creating the flood study release that data through a staged process involving appropriate community consultation and engagement.

Recommendation 64

8.65 The Committee recommends that the Australian Government commission research into effective ways of communicating flood risk to communities. The research may explore communities' understanding of the Average Recurrence Interval, categories such as High, Medium or Low flood risk, and the Annual Exceedance Probability percentage. The research should be used to establish

standard best-practice communication strategies for local governments and other stakeholders in communicating flood risk to communities.

Recommendation 65

8.66 The Committee recommends that the Australian Government continue to work with the insurance industry through the Hazards Insurance Partnership to collate:

- **data contained in the National Flood Information Database, and**
- **household-level data held by insurers (de-identified where appropriate).**

Recommendation 66

8.122 The Committee recommends that the Australian Government continue to work with the states and territories through National Cabinet to ensure that disaster and resilience funding, and non-financial support, are accessible and adequate for all councils, particularly smaller councils.

The Committee recommends that the Government work with the states and territories through National Cabinet to ensure more disaster support can be triggered at the sub-Local Government Area level when needed.

Recommendation 67

8.171 The Committee recommends a more flexible approach to post-flood grant arrangements, to expand eligibility to include some insured people, including:

- **The Australian and state governments, in consultation with local governments and the insurance industry, make design, implementation and communication improvements to recovery programs to avoid future delays due to unanticipated or poorly managed interactions with insurance claims processes.**
- **The Australian and state governments review eligibility criteria for recovery programs, including grants, to ensure they are fit for purpose. This should include consideration of extending support currently restricted to uninsured people to include some insured people, where justified by local and individual circumstances.**
- **The Australian Government investigate the advantages and risks of enabling access to the Home Equity Access Scheme for resilience improvements by people who cannot access or afford flood cover.**

Recommendation 68

8.172 The Committee recommends that all levels of government should work together to ensure that, as far as is possible, people don't need to resubmit the

same information multiple times for different disaster support. Just as insurers should aim for one point of contact, government should aim for 'tell your story once'.

Recommendation 69

8.207 The Committee acknowledges the increased funding for the community legal sector recently announced. While the focus of this funding will be for family violence services, the Committee recommends that an appropriate proportion be dedicated to natural disaster services.

Recommendation 70

9.259 The Committee recommends the Australian Government consider measures to improve the affordability of flood insurance for existing policyholders with high flood risk properties, including the appropriateness of a government supported reinsurance arrangement.

Any interventions to improve the affordability of flood insurance should be pursued in accordance with to the following interdependent principles:

- **Affordable cover for even high-risk properties. Flood insurance should be available to all Australian homeowners and body corporate lot owners at an affordable price, but with conditions.**
- **Price signals. Any assistance to affordable insurance should not compromise price signals against full cost of risk. This could be achieved by partial (but not full) reduction of the premium and/or a gradual phasing out of some assistance.**
- **Cross-subsidies. Any scheme of reinsurance support or subsidies should minimise cross-subsidisation through premiums where possible as this could raise issues of fairness (for example, low-income households cross-subsiding higher risk high-income households) and could be economically inefficient in that it may create a disincentive to insure.**
- **Phase-out. That any scheme involving public funding being devoted to a reinsurance pool or subsidies, should be phased out over time in line with ongoing investment in community and household mitigation to reduce the underlying risk over time.**
- **The underlying risk: no new developments. Governments at all three levels should commit to arrangements (including more public disclosure) to ensure that no new developments occur in high-risk areas.**
- **The underlying risk: community mitigation. Federal and State governments should commit to ongoing investment in community**

mitigation. This should include a guaranteed minimum annual investment level and the development of rigorous business cases.

- **The underlying risk: household mitigation. Households and small business should be provided with information on mitigation options and their premiums should be reduced immediately when they undertake such mitigation.**

Recommendation 71

9.260 The Committee recommends that the Australian Government work with State, Territory and local government through National Cabinet to ensure that further development does not occur in areas of 1-in-100 flood risk or greater.

The boundary for no future development should take account of climate modelling of future increases in risk, in addition to current estimates of risk.

The Committee further recommends that the Australian Government explore mechanisms that it can adopt to give effect to this unilaterally, including:

- **Publicly disclosed risk information at the individual property level, including for new developments. This could be through a range of mechanisms, including:**
  - **a portal informed by data provided to the Commonwealth government through the Hazards Insurance Partnership for all property released for development.**
- **A regulatory mechanism to discourage banks from loaning for further development at a 1/100 risk or higher (such as risk rating banks' capital to appropriately reflect flood risk; an agreement between government, the Australian Prudential Regulation Authority, and major banks that such loans will not occur, or other regulatory mechanisms). These measures could apply to lending to both developers and to residential purchasers.**
- **Access to any flood pool (or subsidies) would not be available to properties approved in high-risk areas after the creation of the scheme.**

Recommendation 72

9.261 The Committee recommends that the Australian Government work with state, territory and local governments through National Cabinet to ensure that publicly disclosed risk information at the individual property level is available through the property conveyancing process or mandated in state rental agreement regulation.

Recommendation 73

9.262 The Committee recommends that building codes and planning rules be strengthened and future-proofed to improve the resilience of communities and households, consistent with Recommendation 2 of the Actuaries Institute's Funding for Flood Costs report.

- **This should take into account not just current flood risks, but also projected increases in risks based on climate modelling**
- **Consideration should be given to the publication of a freely available disaster risk rating system.**

Recommendation 74

9.263 The Committee recommends the Australian Government continue to fund community level mitigation, ensuring at least $200 million per year ongoing.

Recommendation 75

9.264 The Committee recommends that a climate financing framework be developed in relation to government mitigation and adaptation funding. That this framework create the appropriate incentives for both public sector and private sector investment in mitigation and more resilient buildings and infrastructure. This would include:

- **Rigorous project evaluation and prioritisation, including cost benefit analysis and the incorporation of climate modelling.**
- **Strong project governance including reporting, monitoring and evaluation.**
- **Post-project price monitoring where appropriate.**
- **The development of resilience financing where feasible and appropriate.**
- **The exploration of public-private partnerships to coinvest in new or upgraded infrastructure.**

Recommendation 76

9.265 The Committee recommends the General Insurance Code of Practice be amended to require that insurers be required to consider relevant property-level mitigation measures in any new or renewing insurance policy, and to demonstrate how those measures have been reasonably reflected in the proposed premium.

After the Code is registered with the Australian Securities and Investments Commission, the Committee also recommends that the Treasurer issue a ministerial direction for the appropriate regulator to periodically review insurers' compliance with passing on premium reductions.

Recommendation 77

9.266 The Committee recommends the Australian Government consider measures to reduce household level risks, including whether it would be appropriate to extend the Bushfire Resilience Rating Home Self-Assessment App to flood risks.

Recommendation 78

9.267 The Committee recommends the Australian Government work with the Insurance Council of Australia to develop and publish advice on the mitigation measures households could undertake to improve the flood resilience of their property.

Recommendation 79

9.268 The Committee recommends the Australian Government and Insurance Council of Australia explore measures to facilitate the exchange of substantiated information about the resilience of a property to insurers, including new mitigation measures undertaken through state-based grant and loan programs.

Recommendation 80

9.269 The Committee recommends insurers facilitate options for policyholders to provide additional information to insurers about the resilience of their property to flood risks, and make further investments to better integrate reported resilience measures into the calculations of premiums.

Recommendation 81

9.270 The Committee recommends that state and territory governments develop buyback and resilience programs for households with very high flood risk and where alternative mitigation measures are unlikely to manage the risk. The Australian Government should consider working with state and territory governments, including through co-funding models, where appropriate.

Recommendation 82

9.271 The Committee recommends the Australian Government work with state and territory governments to review the operation of existing buy-back schemes to ensure they are targeted appropriately and to evaluate the outcomes for households that have received assistance.

Recommendation 83

9.272 The Committee recommends the Australian Government collaborate with state governments to implement measures to repurpose areas with high flood risk for alternative purposes, including returning developed land into a pre-developed state or repurposing land for recreational or agricultural use.

Recommendation 84

9.273 The Committee recommends that insurers explore offering innovative insurance products that have the potential to improve the operation of the insurance market, including:

- **More flexible insurance products for small business, including:**
  - **partial coverage for small businesses in high-risk areas; and**
  - **cashflow assistance or other temporary benefits that might help a small business survive the immediate aftermath of a natural disaster.**
- **Parametric insurance, particularly in high-risk areas and/or for consumers facing affordability stress.**

Recommendation 85

9.274 The Committee recommends that the New South Wales and Tasmanian governments collaborate with industry and local governments to reform emergency services levies, aiming to enhance premium affordability and reduce barriers to insurance uptake.

Recommendation 86

9.275 The Committee recommends that state and territory governments remove state-based taxes on general insurance products and shift the tax burden toward less distortionary taxes.

Where state or territory governments reduce taxes or levies on insurers, that insurers commit to passing these savings on in full through lower premiums.

1. Introduction

1.1 Insurers failed too many people in the wake of the 2022 major floods, which devastated communities across Queensland, New South Wales, Victoria, Tasmania and elsewhere. Too many families and individuals were left behind. Too many people experienced unnecessary delays in getting their lives back to normal. During its visits to communities affected by the 2022 floods, the Committee spoke to many people for whom these issues persist to this day. Many still have not been able to move back into their homes, years after the original events.

1.2 The evidence received by the Committee shows that many people experienced delays in communication, treatment that lacked empathy, inefficient document handling, poor claims management and lengthy, legalistic disputes. Cash settlements were often inadequate, leaving individuals and families with the burden of project management and the risk of cost escalation during a period of intense and sustained vulnerability. Cash settlements were sometimes accepted due to exhaustion and frustration on the part of the policyholder. Some people, who turned to their insurer in their darkest hour after paying premiums for years, felt that they became engaged in an adversarial situation with a company meant to be on their side. Some said they felt that they were forced to defend themselves when submitting claims documentation.

1.3 Where disputes arose, assessment decisions often relied on highly technical questions of hydrology or building maintenance. In addition to being complex, these disputes typically involved experts commissioned by the insurers, whose reports were of variable quality and clarity. Dispute resolution itself often led to lengthy delays and disruption. Many consumers responded to insurers' poor dispute resolution processes by bringing complaints to the Australian Financial Complaints Authority (AFCA). AFCA is now dealing with a growing workload across the insurance sector, some of which arose from the 2022 floods and much of which arose from other insurance lines where dispute resolution was impacted by the increased resourcing deployed to flood claims. Together, this is placing AFCA's systems under strain. Insurers' internal dispute resolution systems need to perform better and resolve more cases efficiently and fairly.

1.4 During the course of the inquiry, it also became clear that the regulatory framework needs reform. This should start with a wholesale strengthening of the General Insurance Code of Practice. In addition, regulators require greater powers and need to use them. In particular, greater transparency will be achieved by requiring insurers to report standardised measures to regulators and for that data to be published by insurer and brand.

1.5 These findings point to the need for systemic changes to the way insurers operate during natural disasters and a significant strengthening of regulatory powers and oversight.

1.6 This inquiry was tasked with inquiring into insurers' responses to the major flood events that occurred in 2022 across south-east Queensland, New South Wales, Victoria, Tasmania and elsewhere. These flood events were historically significant in their scale and impact, causing widespread property damage, lengthy periods of displacement, injury, as well as loss of life – with 32 individuals losing their lives due to the floods. For individuals and communities affected, the impact was not merely financial, but deeply personal and emotional too. The geographic spread of the floods covered a substantial area of eastern Australia. Across the four flood events examined by the Committee, over 300,000 insurance claims were lodged totalling almost $7.4 billion.[1] This total number of claims was unprecedented and placed great strain on insurers' claims handling systems.[2] Insurers found themselves ill-prepared for the overwhelming surge of claims.

1.7 Helping policyholders in the aftermath of natural disasters is core business for insurers. While predicting the timing and location of natural disasters is challenging and warnings are often provided with short notice, the fact that there will be disasters in the future is known to insurers. Three of the four events in 2022 involved claims numbers within the realm of what insurers should be able to handle by flexing their systems. Insurers' systems and planning should have coped far better with these events. It is worth acknowledging that the February and March 2022 floods in south-east Queensland and northern New South Wales (the insurance event known as CAT 221) generated six times the number of claims received for the average 'catastrophe' event that occurred between 2016 and 2022.[3] CAT 221 was in a different category to the other three events examined by the Committee. The difficulties associated with claims processing during CAT 221 were exacerbated by post-COVID shortages in labour, skills and materials, and increased competition for resources, particularly in the construction industry.[4]

1.8 Insurance plays an important role in the recovery of individuals, families, businesses and communities following a natural disaster. Private insurance plays a key role in the overall management of risk in society, alongside publicly funded programs at all three levels of government. It is of critical importance that private insurance markets function well and that insurance is competitively priced and comprehensive in cover, and that claims management processes are efficient and fair.

1.9 Since the 2022 major floods, some trends have arisen or continued that threaten the functioning of parts of this risk management system. Insurers and reinsurers have reassessed their exposure to flood risk to incorporate projected increases in the

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1 Insurance Council of Australia (ICA), *Submission 11*, p. [1]. *Please note, the $7.4 billion figure was provided by the Insurance Council of Australia in its initial submission to the Committee in November 2023. For more recent figures, see Table 2.2 in Chapter 2.

2 ICA, *Submission 11*, p. [23].

3 ICA, *Submission 11*, p. [17].

4 ICA, *Submission 11*, p. [20].

frequency and severity of floods resulting from warmer global temperatures. Several insurers have reduced their offerings to high-risk households and businesses or increased premiums. Consequently, many Australians living in flood-prone areas are opting out of flood cover because it is unaffordable or are finding insurance to be altogether unavailable.[5] It is predicted that 1 in 25 homes in Australia will be effectively uninsurable by 2030 due to the increased risk of extreme weather events resulting from climate change.[6] The proportion of households paying at least four weeks of their gross income on home and contents insurance annually has increased from 12 per cent in 2023 to 15 per cent in 2024.[7] These trends suggest that government will need to take a more interventionist approach to ensure that all households have access to all-peril, affordable cover.

1.10 The 2022 major flood events exposed failures in insurers' claims and complaint handling processes, as well as the challenges Australians are facing in accessing and affording insurance. For future flood events and other extreme weather catastrophes, action is required to ensure a more efficient and supportive claims experience which does not further compound victims' trauma. As Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, told the House when referring the inquiry:

> Some losses can't ever be replaced, but when people are suffering, when things have fallen apart, they're entitled to expect that the recovery won't be made harder than it needs to be. They're entitled to a process that is as simple, efficient and compassionate as possible.[8]

Scope and conduct of the inquiry

1.11 Following the reference from the House of Representatives on 7 August 2023, the House of Representatives Standing Committee on Economics commenced its inquiry into insurers' responses to 2022 major floods claims.[9] The floods covered by the inquiry include the south-east Queensland and northern New South Wales (NSW) floods of February and March 2022, the Hunter and greater Sydney floods of July 2022, the Victorian, NSW and Tasmanian floods of October 2022, and the central west NSW floods of November and December 2022. These floods will be referred to throughout this report as the 'major floods'.

1.12 The Terms of Reference required the Committee to examine the challenges faced by insurers in responding to a record number of claims. Paramount to the inquiry was the experience of policyholders before, during and after making a claim, including

5 National Emergency Management Agency, *Submission 40*, p. 2; Financial Counselling Australia, *Submission 6*, p. 3.
6 Climate Council, *Uninsurable Nation: Australia's Most Climate-Vulnerable Places*, May 2022, p. [23].
7 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk*, August 2024, p. 8.
8 Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, *House of Representatives Hansard*, 7 August 2023, p. 5739.
9 Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, *House of Representatives Hansard*, 7 August 2023, p. 5737.

timeframes and obstacles to resolving claims, as well as insurers' communications with policyholders throughout the claims process.

1.13 As part of its consideration of the full claims journey, the inquiry was to examine insurers' internal dispute resolution processes. The inquiry was to also have regard for the affordability of insurance coverage, the impact of land use planning decisions and disaster mitigation efforts on the availability and affordability of insurance and insurer preparedness for future flood events. Matters relating to the emergency response for the major floods were out of scope for this inquiry.

1.14 Over the course of the inquiry, the Committee received 108 submissions, as well as 60 supplementary submissions, from a range of stakeholders, including Australia's eight largest insurers, regulators, key departments and agencies, local councils, private individuals, and consumer advocacy groups. Other publications, documents and supplementary material were received as exhibits.

1.15 A list of submissions and exhibits is at Appendix A. The Committee also received more than 90 pieces of correspondence from private individuals and other interested parties.

1.16 The Committee conducted 23 public hearings between January and July 2024, including several hearings in locations affected by the major floods. This included hearings in Lismore, the Hawkesbury region, Eugowra, Molong and Sydney in NSW, Rochester, Heathcote and Melbourne in Victoria, Northern Tasmania, and Logan and Caboolture in Queensland, as well as Cairns and Townsville which were affected by flooding caused by Cyclone Jasper. The examination of the events that occurred in Cairns and Townsville provided a useful benchmark to determine whether the insurance industry's performance had improved in the two years following the first flooding of 2022.

1.17 The list of witnesses who appeared at the Committee's hearings is at Appendix B. Transcripts of the proceedings are available on the inquiry website[10] and video and audio recordings are available on ParlView.[11]

1.18 The Committee also conducted several site visits to people's homes, schools, factories, and hotels to see the flood damage first-hand, mitigation measures put in place to counter future floods, and to better understand the causes of disputes related to policy coverage, exclusions and assessment reports.

1.19 The Committee also invited people to share their experiences with their insurer through an online survey. Over 650 affected individuals provided feedback on their experience, which have been included throughout this report. A full summary of survey responses is at Appendix C.

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10 Hansard transcripts referenced throughout this report are taken from a mix of Official and Proof transcripts. Accuracy of verbatim evidence is not assured, however Official transcripts incorporating corrections from witnesses will be available on the Committee's website in due course.

11 Parliament of Australia, ParlView, www.aph.gov.au/News_and_Events/Watch_Read_Listen/ParlView, viewed 28 June 2024.

Context for the inquiry

1.20 On 19 July 2023, the Australian Government announced its intention to refer an inquiry into insurers' responses to the 2022 floods to a parliamentary committee.

1.21 When moving the reference for the inquiry on 7 August, Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, told the House of the unsatisfactory experiences many policyholders had raised about the claims process with their insurer following a flood in 2022. There were also concerns about the impact these disasters were having on low-income earners who are most likely to struggle to afford either mitigation work or insurance. Mr Jones requested the Committee hear from affected communities and find a way to improve people's experiences with insurance claims following natural disaster events and to look into how to deal with insurance affordability issues.[12]

1.22 This inquiry is one component of broader work being conducted to understand and reduce natural hazard risk. The devastation brought about by the floods of 2022 and other recent natural disasters have spurred the Parliament, multiple levels of government and industry into reviewing current practices, investing in disaster risk mitigation, and initiatives to improve outcomes for households and communities when a disaster occurs. Some of these recent reviews and actions are outlined below.

Other reviews and reports

1.23 Two reviews of insurers' responses to the 2022 major floods were released in 2023. Both of these reviews occurred, or were being finalised, before this inquiry was referred to the Committee. They are identified in the Terms of Reference.

1.24 In August 2023, the Australian Securities and Investments Commission (ASIC) released Report 768 *Navigating the storm: ASIC's review of home insurance claims*, which was conducted to better understand the consumer experience in home insurance claims and to assess the state of claims handling after the introduction of a new regulatory regime. The report reviewed insurers' compliance with their new regulatory obligations across the typical stages of the claims process when insurers were facing a high volume of major floods claims. ASIC observed good and bad practices across insurers and identified several areas for improvement, including better communication practices with customers, the handling of complaints, the treatment of vulnerable customers, resourcing, and project management.[13]

1.25 In October 2023, Deloitte released its report into the insurance industry's response which was commissioned by the Insurance Council of Australia. The report was

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12 Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, *House of Representatives Hansard*, 7 August 2023, www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/27158/&sid=0000, pp. 5737-5739.

13 Australian Securities and Investments Commission (ASIC), *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 3.

limited to insurers' response to CAT221.[14] Deloitte found that the scale and complexity of CAT221 challenged insurers' response and exposed weaknesses in insurer' claims and complaints handling processes. It identified critical areas for improvement, including in relation to catastrophe planning, claims and complaints handling, and communication with policyholders.[15]

1.26 In the last two years, the Actuaries Institute has released three reports on the affordability of home insurance: the *Home Insurance Affordability Update* (2023) examined the affordability of home insurance in the context of natural perils and the *Home Insurance Affordability and Home Loans at Risk* (2024) report provided updated information on household stress related to insurance premium growth, while the accompanying *Funding for Flood Costs* (2023) report looked at the affordability and availability of flood insurance.[16]

1.27 Several inquiries have been conducted into the emergency response to the major flood events of 2022 including reviews commissioned by the NSW, Victorian and Queensland state governments, which have primary responsibility for emergency management in their jurisdictions.[17] These inquiries have focused on the state's preparedness for the floods and the immediate response of emergency services and other supporting agencies. The findings and recommendations from these reviews have focused on improving emergency management protocols and systems, rescue capabilities, and public works flood mitigation infrastructure.

1.28 Two Senate select committees have also covered matters related to this inquiry: the Senate Select Committee on Australia's Disaster Resilience inquired into natural disaster preparedness and response and recovery workforce models. In its Interim Report, it recommended that this inquiry examine insurance companies' handling of flood payouts,[18] and delivered its final report in August 2024. The Senate Select Committee on the Impact of Climate Risk on Insurance Premiums and Availability was established in May 2024 to examine insurance availability and affordability relating to climate-driven disasters.[19]

1.29 This inquiry has also taken place alongside the Independent Review of the 2020 General Insurance Code of Practice (the Code Review). The General Insurance Code of Practice (the Code) sets out the minimum standards of service and conduct that general insurers must meet in their dealings with customers and is typically

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14 ICA, 'ICA commissions external review of 2022 flood response', *Media Release*, 19 April 2023.

15 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 12.

16 Actuaries Institute, *Home Insurance Affordability Update*, August 2023, https://actuaries.asn.au/docs/thought-leadership-reports/home-insurance-affordability-update.pdf.pdf?sfvrsn=7737bcf4_4;
Actuaries Institute, *Funding for Flood Costs: Affordability, Availability and Public Policy Options*, August 2023, www.actuaries.asn.au/docs/thought-leadership-reports/funding-costs-for-floods.pdf.

17 New South Wales Government, *2022 Flood Inquiry: Full Report*, 2022, p. 318; Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, 2024, p. 17; Queensland Government, *South East Queensland Rainfall and Flooding February to March 2022 Review*, 2022, p. 17.

18 The Senate Select Committee on Australia's Disaster Resilience, *Interim Report*, 14 September 2023, p. ix.

19 The Senate Select Committee on the Impact of Climate Risk on Insurance Premiums, 'Terms of Reference', www.aph.gov.au/Parliamentary_Business/Committees/Senate/Impact_of_Climate_Risk_on_Insurance/ClimateRiskonInsurance/Terms_of_Reference.

reviewed every three years. In light of this inquiry, the Code Review is being conducted in two phases. The review panel released initial findings and recommendations covering topics unrelated to floods on 6 September 2024, with further findings on topics relevant to floods expected to be released in mid-2025. [20]

1.30 This inquiry has considered the findings of these reports, in particular, the ASIC review and Deloitte report (as required by the Terms of Reference), which have provided timely, valuable insights into insurers' practices during the period under inquiry.

1.31 The considerable number of submissions, survey responses and evidence from public hearings the Committee has received and considered throughout this inquiry has built a robust foundation of evidence from which the Committee has made its recommendations.

Government and industry initiatives

1.32 In the October 2022-23 Budget, the Australian Government committed to a package of measures to strengthen Australia's disaster readiness and build resilience. Among other initiatives, the Government launched the Disaster Ready Fund (DRF), which committed $1 billion over 5 years to support resilience projects that reduce the physical and social impacts of disasters on communities.[21] The Government also established the Hazards Insurance Partnership (HIP), a collaborative partnership between government and the private sector, including the insurance industry on risk reduction, insurance affordability, and the development of a national knowledge base of mitigations to reduce vulnerability to natural disasters.[22]

1.33 Earlier this year, the Australian Government announced that an Affordability and Natural Hazard Risk Reduction Taskforce, led by the Department of Prime Minister and Cabinet, would develop an integrated, cross-government approach to minimising the impacts of disasters on the community and help address insurance costs driven by more frequent and intense weather events.[23] The Committee welcomes the Taskforce's efforts, particularly in regard to the establishment of near-term solutions to improve insurance affordability.

Structure of the report

1.34 Chapter 2 provides an overview of the 2022 major floods and their impact on affected individuals and communities.

1.35 Chapter 3 explores flood risk management in Australia and the potential challenges ahead in the context of the increasing frequency and severity of floods.

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20 ICA, 'Independent Review of the 2020 General Insurance Code of Practice', *Media Release*, 14 November 2023.

21 National Emergency Management Agency, *Submission 40*, p. 3.

22 Australian Government, October 2022-23 Budget, *Budget Paper 2*, pp. 147, 151.

23 Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, 'Insurance Affordability and Natural Hazards Risk Reduction Taskforce', *Media Release*, 31 May 2024.

1.36 Chapter 4 considers policyholders experiences with insurers' claims processes and handling and identifies areas for improvement.

1.37 Chapter 5 considers customer engagement and communication processes of insurers and identified areas for improvement.

1.38 Chapter 6 considers policyholders and insurers' experiences with internal and external dispute resolution processes.

1.39 Chapter 7 examines ongoing oversight of insurers' practices and identified areas for improvement.

1.40 Chapter 8 examines the Government's response to the major floods and identified areas for improvement.

1.41 Chapter 9 considers both short- and long-term approaches to improve insurance affordability and accessibility, as well as flood mitigation measures to improve affordability of insurance.

Acknowledgements

1.42 The Committee would like to thank all stakeholders who made submissions to the inquiry, corresponded with the Committee, completed its survey, attended public hearings, and hosted the Committee on site visits.

1.43 The Committee recognises that this report comes two years after the major floods took place. Many affected individuals and communities are continuing to endure the impacts of the floods. Shops remain closed, houses have not been rebuilt, and many people are still relying on temporary or unstable accommodation, or have relocated away from their communities. The Committee sincerely thanks the people who bravely shared their experiences and helped to inform the Committee's recommendations. This evidence provided the Committee with a deeper and more nuanced understanding of the impacts of natural disasters on individuals and communities.

2. The 2022 major floods

What were the 2022 major floods?

2.1 The 2022 major floods were a series of devastating flood events which occurred across south-east Queensland, New South Wales (NSW), Victoria, and Tasmania. Hundreds of postcodes across the four states were impacted, with some of the hardest hit areas in the Northern Rivers region, Hawkesbury-Nepean region, Central West NSW, Northern Victoria, and a number of metropolitan locations in Brisbane, Sydney and Melbourne.[1]

2.2 The floods were historically significant in scale and severity, resulting from a confluence of weather events that caused persistent and prolonged rainfall.[2] These events included back-to-back La Nina in the Pacific Ocean, a positive South Annular Mode (SAM), and a negative Indian Ocean Dipole – all of which generally result in higher rainfall, with a positive SAM especially bringing higher rainfall to eastern Australia.[3]

2.3 November 2021 was Australia's wettest month on record, limiting the capacity of soil and water catchments to hold further moisture.[4] Extreme rainfall ensued in 2022 in the same locations over several days and weeks, filling already swelled water catchments and causing significant flooding.[5] Several of the major flood events involved record-breaking rainfalls and river peaks significantly higher than previous records.[6]

2.4 The size and geographical spread of the floods ensured many major towns and regional areas were inundated,[7] with the damage far exceeding catastrophe plans that insurers, communities and local governments had in place.[8] This resulted in widespread property loss, damage to public infrastructure and harmful disruption to

1 Insurance Council of Australia (ICA), *Insurance Catastrophe Resilience Report 2021-22*, August 2022, pp. 8-16; ICA, *Insurance Catastrophe Resilience Report 2022-23* 2023, pp. 10-14.
2 ICA, *Submission 11*, p. [7].
3 Bureau of Meteorology, *Annual climate statement 2022*, 8 February 2023, www.bom.gov.au/climate/current/annual/aus/2022/.
4 Bureau of Meteorology, *Special Climate Statement 75 – Australia's wettest November on record*, 2022, p. 4.
5 ICA, *Insurance Catastrophe Resilience Report 2021-22*, August 2022, pp. 8-16; ICA, *Insurance Catastrophe Resilience Report 2022-23*, September 2023, pp. 10-14.
6 New South Wales Government, *2022 Flood Inquiry: Volume Two: Full report*, 29 July 2022, pp. 26-27; City of Greater Bendigo, *Submission 68*, p. [1].
7 Queensland Government, *South East Queensland Rainfall and Flooding February to March 2022 Review*, October 2022, p. 28.
8 ICA, *Submission 11*, p. [23].

peoples' lives. Such impacts are covered in greater detail later in this chapter, as well as throughout this report.

ICA declared events

2.5 The Insurance Council of Australia (ICA) declares 'insurance events' when an event is expected to have a material impact on normal operations for policyholders and insurers.[9] The ICA categorises events (in order of escalation) as a Significant Event, Catastrophe, or Extraordinary Catastrophe.[10] Table 2.1 shows the declarations made by the ICA for each of the 2022 major floods:[11]

Table 2.1 2022 Major flood events insurance declarations

Flood events	Declaration by ICA
South East Queensland and NSW floods of February and March	**Catastrophe 221 (CAT 221)** – declared 26 February 2022 Catastrophe declaration extended to areas of NSW impacted, 28 February 2022
Hunter and greater Sydney floods of July	**Significant Event 222 (SE 222)** – declared 5 July 2022
Victorian, NSW and Tasmanian floods of October	**Catastrophe 223 (CAT 223)** – declared 19 October 2022 Initially declared as a Significant Event, 17 October 2022
Central west NSW floods of November and December	**Significant Event 224 (SE 224)** – declared 15 November 2022

Source: Insurance Council of Australia, *Submission 11*, p. [13].

2.6 The benefit of an ICA declaration is that it signals to the insurance industry how it should prioritise its response to support policyholders impacted by the disaster. A declaration is also intended to trigger stakeholder engagement processes including community townhalls and formal data collection to better assess the impact of the insurance event.[12]

Monetary costs of the major floods

Insured costs

2.7 The major flood events saw over 300,000 insurance claims lodged, totalling over $7.7 billion of incurred costs.[13] $6.3 billion was incurred by the south-east

9 ICA, *Submission 11*, p. [4].
10 ICA, *Submission 11*, p. [4].
11 ICA, *Submission 11*, p. [13].
12 ICA, *Submission 11*, p. [4].
13 Data provided by the Insurance Council of Australia.

Queensland and northern NSW floods (CAT 221) alone.[14] According to the ICA, CAT 221 was the costliest insurance event in Australian history (in non-normalised cost when compared to historical events) and the second largest in the world in 2022.[15]

2.8 A breakdown of the claims lodged and the associated claim costs as of November 2023 for each of the major flood events is provided in Table 2.2.[16] A claim is considered 'closed' when all construction work has been completed and all payments to the policyholder have been made.[17]

Table 2.2 Monetary costs of major flood events as of July 2024

Event	Type	Claims Lodged	Claims Incurred Cost	Average Claim Cost	Closed Rate
CAT 221	Personal	220,186	$4,614,087,517	$20,955	98.78%
	Commercial	24,212	$1,705,296,105	$70,432	95.30%
	Total	**244,398**	**$6,319,383,622**	**$25,857**	**98.44%**
SE 222	Personal	22,273	$259,290,755	$11,641	98.82%
	Commercial	1,345	$37,562,720	$27,928	97.03%
	Total	**23,618**	**$296,853,475**	**$12,569**	**98.72%**
CAT 223	Personal	19,808	$684,870,324	$34,575	96.30%
	Commercial	3,082	$174,736,391	$56,696	94.29%
	Total	**22,890**	**$859,606,715**	**$37,554**	**96.03%**
SE 224	Personal	12,381	$190,306,836	$15,371	98.21%
	Commercial	2,482	$66,719,526	$26,881	96.29%
	Total	**14,863**	**$257,026,361**	**$17,293**	**97.89%**
Total		**305,769**	**$7,732,870,173**	**$24,359**	**98.25%**

Source: Data provided by the Insurance Council of Australia.

Other costs

2.9 The 2022 floods cost the economy an estimated $5 billion from lost economic activity.[18] Between February and November 2022, the Australian Government provided $3.47 billion in relief measures to individuals through the Disaster Recovery Allowance (DRA) and the Australian Government Disaster Recovery Payment (AGDRP).[19]

14 Data provided by the Insurance Council of Australia.
15 ICA, *Submission 11*, p. [17].
16 Data provided by the Insurance Council of Australia.
17 ICA, *Submission 11*, p. [15].
18 Hon Dr Jim Chalmers MP, Treasurer, 'Joint doorstop interview, Lismore, NSW', *Media Release*, 13 January 2023.
19 National Emergency Management Agency (NEMA), *Supplementary Submission 40.2*, p. 2.

2.10 The Australian Government also provided financial assistance to the states and territories through the Disaster Recovery Funding Arrangement (DRFA),[20] with $7.45 billion shared 50:50 between the Australian and state and territory governments to support disaster recovery following the major floods.[21] State and territory governments were tasked with designing, coordinating and delivering relief and recovery assistance to disaster affected communities. The grants, loans and emergency payments provided by Commonwealth and state and territory governments provided critical assistance to the uninsured and underinsured, as described in Chapter 8.

2.11 As consumer advocacy groups observed, uninsured individuals must rely on government assistance, charitable support or their own usually limited savings to repair or replace what they have lost.[22] Mr Andrew Hall, Chief Executive Officer of the ICA spoke to the Committee about the perils of disaster recovery for the uninsured:

> Not only is the impact on that person that they lose everything; they then rely on the state to be able to come in and help them get back on their feet in whichever way they can. They never do. We've got plenty of studies that show that people, without insurance, basically never can get back to the situation they were in.[23]

2.12 The Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre and Westjustice highlighted the potential causes and impacts of policyholders being underinsured:

> It is not unusual for people to find themselves underinsured after an event that destroys their home. This means that they are then responsible for the gap between the cost of repairing the damage and the payout they can expect from their insurer.
>
> …
>
> Consumers tend to let their insurance product roll over year to year without updating the sum insured amount, leaving them at risk of being underinsured when the level of risk to their property increases over time. CHOICE's research found that 85% of people have not switched insurance companies in the past three years. Some people therefore may not have an accurate sum insured, which reflects increased building and labour costs.[24]

Impact on individuals, communities and businesses

2.13 The major flood events had a devastating physical, emotional, and financial impact, placing significant strain on affected communities to recover. Although communities

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20 NEMA, *Submission 40*, p. 5.

21 NEMA, *Supplementary Submission 40.2*, p. 2.

22 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 58.

23 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 8.

24 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, pp. 54-55.

experienced varying degrees of flooding, damage to residential, commercial and agricultural properties was overall significant and widespread.[25] People were evacuated as water inundated homes and businesses, leaving personal belongings in ruins. In some cases, people had no or little warning of the flood, waking to find water already in their homes. Many of these people were forced to relocate onto roofs for safety until emergency services could attend.[26]

2.14 Most devastating was the human toll; 32 people are believed to have died during the major flood events.[27]

2.15 Communities and individuals, as well as consumer advocacy groups and local councils, spoke to the Committee extensively about the severe impacts the flood events and the ensuing insurance processes had on residents' emotional and mental wellbeing.[28] Mitchell Shire Council, overseeing townships impacted by CAT 223 noted:

> The flooding rose significantly and faster than expected, to a much higher level than predicted, with alarming and perilous changes occurring primarily throughout the night. As such, the community were caught totally off guard. We were not prepared for the speed, the height and the challenges…[29]

2.16 Financial Counselling Australia, also representing various state financial counselling associations, told the Committee:

> When the floods occurred, their homes, in which they had invested years of hard work and savings, were inundated. This experience was not only financially devastating but also emotionally traumatic. After making claims, these policyholders faced long, emotionally draining battles with insurers to secure fair settlements. The claims process, rather than providing the relief they so desperately needed, added layers of frustration, anxiety, and uncertainty.[30]

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25 ICA, *Submission 11*, p. [13]; ICA, *Insurance Catastrophe Resilience Report 2021-22*, August 2022, pp. 8-16; ICA, *Insurance Catastrophe Resilience Report 2022-23*, September 2023, pp. 10-14.

26 ICA, *Insurance Catastrophe Resilience Report 2022-23*, September 2023, p. 14.

27 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 84; ABC News, *Longest New South Wales flood operation in SES history finally over after nearly six months*, 9 March 2023, www.abc.net.au/news/2023-03-09/longest-flood-operation-in-ses-history-finally-over-in-nsw/102074328; ABC News, *Man dies in Victorian floods as floodwaters moves south in Tasmania and NSW,* 15 October 2024, www.abc.net.au/news/2022-10-15/victorian-man-dies-as-flooding-moves-south-in-tasmania-and-nsw/101540158.

28 Community Statements, *Committee Hansard*, Lismore, 11 April 2024, p. 23; Community Statements, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 17; Community Statements, *Committee Hansard*, Rochester, 18 April 2024, p. 27; Community Statements, *Committee Hansard*, Heathcote, 19 April 2024, p. 24; Community Statements, *Committee Hansard*, Molong, 7 May 2024, p. 35; Community Statements, *Committee Hansard*, Eugowra, 8 May 2024, p. 35; Mrs Louise Cormie, Portfolio Manager, Financial Stability, CatholicCare Wilcannia-Forbes, *Committee Hansard*, Eugowra, 8 May 2024, p. 2; Mrs Julia Davis, Senior Policy and Communications Officer, on behalf of Financial Rights Legal Centre, Consumer Action Law Centre, and CHOICE, *Committee Hansard*, 31 January 2024, p. 1; Mr Damien Stock, Chief Executive Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 34.

29 Ms Kellie Massouras, Manager Flood and Community Recovery, Micthell Shire Council, *Committee Hansard*, Heathcote, 19 April 2024, p. 4.

30 Financial Counselling Australia, *Submission 6*, p. 3.

2.17 Ipswich City Council echoed a similar sentiment:

> For many residents, dealing with their insurance companies after enduring such terrible flooding was a stressful, slow and dispiriting process. At a time when people are at their most vulnerable—traumatised—they are dealing with the ins and outs of an insurance claim that adds significantly to people's stress.[31]

2.18 Individuals faced significant financial loss with extensive damage to their homes; the uncertainty surrounding housing and insurance coverage caused high levels of anxiety and stress. Consumer advocacy groups and financial counselling agencies told the Committee that in the days following the floods, policyholders' ability to make decisions, particularly life-altering decisions such as whether they would seek to rebuild or relocate, were significantly inhibited by an ongoing state of shock.[32] This ability to make informed decisions in a considered manner extended to the offers of cash settlements that often flowed from disputes with builders or on scopes of work. The decisions made during this time were not always the ones policyholders believed they would have chosen, had they had more time to consider the options before them.[33]

2.19 The Local Government Area (LGA) of Brisbane suffered the greatest loss from CAT 221 at $1.38 billion, working out to be a $1,500 loss per adult resident.[34] The ICA reported that the average claim in the Brisbane LGA for CAT 221 was around $30,000.[35] The Lismore LGA suffered a $508 million loss, but with its smaller population saw a much higher loss per adult resident at almost $20,000.[36] In the Lismore LGA, claims averaged almost $80,000 for CAT 221.[37] Eugowra, impacted by SE 224, saw 80 per cent of homes damaged, with a third of the township's population having to be airlifted off their roofs to safety.[38] This was the largest civilian helicopter rescue in Australia's history.

2.20 Further, the flooding of major river systems surrounding the Campaspe shire caused the Victorian 2022 flood event to be the most devastating in Victoria's history;[39] 90

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31 Mayor Teresa Harding, Ipswich City Council, *Committee Hansard*, Logan, 10 April 2024, p. 29.

32 Ms Amy Jones, Manager, Flood Recovery and Family Violence, FamilyCare, *Committee Hansard,* Rochester, 18 April, p. 13; Ms Juanita Pope, Chief Executive Officer, Victorian Council of Social Service, *Committee Hansard,* 31 January 2024, p. 17; Ms Lylia Martion, Financial Counsellor, Anglicare Victoria, *Committee Hansard*, 1 February 2024, p. 5; Mr Tyrone Shandiman, Chairperson, Australian Consumers Insurance Lobby, *Committee Hansard*, 1 February 2024, p. 27; Mrs Melinda McInturff, Community Resilience Coordinator, Community Plus Queensland Inc., *Committee Hansard*, Logan, 10 April 2024, p. 2; Ms Madeleine Serle, President, Maribyrnong Community Recovery Association, *Committee Hansard,* Maribyrnong, 17 April 2024, p. 10.

33 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 33.

34 ICA, *Insurance Catastrophe Resilience Report 2021-22*, August 2022, p. 13.

35 ICA, *Insurance Catastrophe Resilience Report 2021-22*, August 2022, p. 13.

36 ICA, *Insurance Catastrophe Resilience Report 2021-22*, August 2022, p. 13.

37 ICA, *Insurance Catastrophe Resilience Report 2021-22*, August 2022, p. 13.

38 ABC News, *Wiped out and wanting answers*, 6 December 2022, www.abc.net.au/news/2022-12-06/how-an-extreme-flash-flood-destroyed-eugowra/101711140.

39 ICA, *Insurance Catastrophe Resilience Report 2022-23*, September 2023, p. 12.

per cent of the Rochester township was inundated.[40] A similar story unravelled in Tasmania with the flooding of Cataract Gorge in Launceston.[41]

2.21 Businesses also experienced substantial damage, such as Sunshine Sugar in the Northern Rivers which suffered a $47 million loss.[42] Crops and livestock were lost, and critical public infrastructure destroyed.[43] Local councils reported extensive damage to sports fields, community halls, car parks and schools.[44] 90 per cent of Lismore's 1,200km road network was extensively damaged, with Lismore City Council estimating costs of $150-200 million to rebuild.[45] Road closures also had negative impacts on many small businesses.[46] A number of townships were cut off as a result of transport infrastructure damage from the floods .

2.22 The loss of public spaces such as schools and sporting associations contributed to a general sense of social breakdown.[47] Lismore City Council described people feeling left behind as schools relocated and long-standing shops closed while they wait for insurance payouts or Government support to relocate:

> There are still people to this day living in North and South Lismore, who are living in caravans and living underneath their houses with tarps on their walls for privacy, facing what is going to be their third winter in what many would consider substandard living conditions. Having rain fall on their tin roof is a highly traumatic experience for these people. Their kids' schools have been uprooted and moved away. Every aspect of their lives—their corner shop that was there 2½ years ago is no longer there anymore—and everything that you take for granted in your day-to-day living is no longer there.[48]

2.23 Mr Stuart Locke, President of Go Seymour, an incorporated chamber of commerce, said that regional and remote communities were particularly affected by the damage to public infrastructure:

> …within our little microcosm of business and community, they greatly affect each other – more so when compared to a metro setting. If we lose banks and we lose

40 ICA, *Insurance Catastrophe Resilience Report 2022-23*, September 2023, p. 13.
41 ICA, *Insurance Catastrophe Resilience Report 2022-23*, September 2023, p. 10.
42 Mr Chris Connors, Chief Executive Officer, Sunshine Sugar, *Committee Hansard*, Lismore, 11 April 2024, p. 40.
43 Legislative Council Environment and Planning Committee, *The 2022 Flood Event in Victoria*, July 2024, p. 19; Lismore City Council, *Flood Response June 2022*, June 2022, p. 15; Mr Tony Carusi, President, Northern Rivers Flood Action Group, *Committee Hansard*, Lismore, 11 April 2024, p. 44.
44 Hawkesbury City Council, *Submission 25*, p. [1]; Indigo Shire Council, *Submission 26*, p. [2]; City of Greater Bendigo, *Submission 68*, p. [2]; Campaspe Shire Council, *Submission 74*, p. 1. Logan City Council, *Submission 52*, p. 1.
45 Lismore City Council, *Flood Response June 2022*, June 2022, p. 15.
46 Indigo Shire Council, *Submission 26*, p. [1]; Ms Kellie Massouras, Manager Flood and Community Recovery, Micthell Shire Council, *Committee Hansard*, Heathcote, 19 April 2024, p. 4.
47 Lismore City Council, *Flood Response June 2022*, June 2022, p. 33; Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 42.
48 Mr Steve Krieg, Mayor, Lismore City Council, *Committee Hansard*, Lismore, 11 April 2024, p. 8.

> like football clubs or whatever, you might as well just write the town off. In the case of Rochester, their football club is their lifeblood.[49]

2.24 The major floods also directly affected the agricultural industry, causing broader economic disruptions felt by all Australians.[50] The nationwide consumer price index (CPI) measure for fruit and vegetables grew by 5.8 per cent in the 2022 June quarter,[51] brought on by flood-induced agricultural losses, resulting in all Australian households spending more on produce.[52]

2.25 Having lost their homes and personal belongings, flood affected individuals were facing severe hardship. The CAT221 event alone rendered 5,000 homes uninhabitable and 14,000 people in need of emergency accommodation, at a time when the rental property vacancy rate in Brisbane was 0.7 per cent and holiday accommodation prices were rising.[53] Many people were forced to relocate into temporary accommodation and rely on essential services for supplies. Damage to critical infrastructure meant some communities were cut off entirely from recovery support for several days or weeks, leaving residents isolated and in a state of instability for extended periods of time.[54] Some regions saw repeated flood events over 2022, eroding resilience and slowing recovery efforts and drying out processes.[55] For some residents in the Hawkesbury region, the July 2022 event was the fourth time in 18 months that the region was flooded.[56]

Policyholders' claims experiences immediately following floods

2.26 Policyholders had varied experiences following the floods. Many policyholders had difficulty contacting their insurer to submit claims, with long call wait times and a lack of reception and internet service requiring travel to make calls or lodge a claim online.[57] Others experienced difficulties as a result of loss of computers or personal files. For others, lodging their claim was a quick process and that following lodgement, insurers were quick to respond, offering immediate assistance where they could such as sourcing temporary accommodation and providing ex-gratia payments while policyholders' waited for assessments and decisions on their claim.[58]

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49 Mr Stuart Locke, President, Go Seymour, *Committee Hansard*, Heathcote, 19 April 2024, p. 16.
50 The McKell Institute, *The Cost of Extreme Weather*, September 2022, p. 24.
51 The McKell Institute, *The Cost of Extreme Weather*, September 2022, p. 24.
52 Australian Bureau of Statistics, *Consumer Price Index, Australia*, 27 July 2022, www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/jun-2022.
53 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October *2023*, pp. 10 and 74.
54 ICA, *Insurance Catastrophe Resilience Report 2021-22*, August 2022, p. 11.
55 Hawkesbury City Council, *Submission 25*, p. [1].
56 Hawkesbury City Council, *Submission 25*, p. [1].
57 Dr Alan Cornick, Private capacity, *Committee Hansard*, Logan, 10 April 2024, p. 15; Ms Joanne Bradbury, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 49.
58 ICA, *Submission 11*, p. [23]; Mayor Pierce Tyson, Mayor, Moonee Valley City Council, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 3; Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 10.

2.27 Some policyholders the Committee heard from were satisfied with their claims experience, or otherwise agreed that the insurer had acted fairly and honestly.[59]

2.28 However, there were a concerning number of cases where insurers failed policyholders. The submissions received by the Committee and the oral testimony provided at public hearings makes it clear that in a considerable number of cases, insurers' communications, claims handling, case management and dispute resolution was unacceptable.

2.29 The manner in which insurers handled some claims exacerbated many policyholders' trauma and stress.[60] This group of policyholders faced a variety of issues when navigating the claims process including delays, claim denials based on poor quality or non-compelling expert reports, and inadequate cash settlement offers. Poor and inconsistent communication from insurers further drove policyholder distress. These issues are discussed in Chapters 4 and 5.

Claims handling and project management

2.30 The Australian Securities and Investments Commission (ASIC) review and Deloitte report both pointed to under-resourcing of claims handling by some insurers. This included call centres and assessors. This was corroborated by evidence received by the Committee.

2.31 There were issues in relation to the scope of policies. As identified below, this was a particular challenge for people with language issues, but there is an issue more broadly about the scope of coverage and, in particular, the scope of exclusions. This is discussed further in Chapter 4.

2.32 The ASIC review and Deloitte report also identified issues with project managing building works and the engagement of third parties more generally. This included issues relating to the development of Scope of Works (SoWs) and the management of builders and tradespeople. This was corroborated by evidence received by the Committee.

2.33 The ASIC review and Deloitte report also identified issues with expert reports, and in relation to temporary accommodation.

2.34 For example, the Deloitte report described availability pressures for emergency accommodation during the tourist season, and this inquiry heard many heartbreaking stories of flood survivors being moved from hotel to hotel at short notice—and having their accommodation payments terminated while their homes were still uninhabitable.

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[59] Mrs Merilyn Denning, Private capacity, *Committee Hansard*, Heathcote, 19 April 2024, p. 24; Committee Survey Results; Mr Ellis Knight, Private capacity, *Committee Hansard*, Heathcote, 19 April, p. 29.

[60] Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 1; Ms Philippa Heir, Managing Lawyer, Consumer Action Law Centre, *Committee Hansard*, 31 January 2024, p. 3.

Impact on vulnerable policyholders

2.35 The negative impacts of the major floods and insurers' poor claims and complaints handling was worse for vulnerable policyholders. Vulnerability can take many forms, including age, poor physical and mental health, language or literacy barriers, financial distress, and being in a remote location.[61] In the aftermath of the major floods, all impacted policyholders were arguably experiencing vulnerability. However, most insurers were identifying only 1-6 per cent of policyholders as vulnerable, who then were allocated additional support.[62] Given many of the areas seriously impacted by the major floods had older populations, low financial literacy, or were remote, this figure appeared low to the Committee, and did not align with some of the evidence received from individuals and community organisations as to the prevalence of vulnerability.

2.36 Navigating the claims and complaints process consumed a significant amount of time, effort and resources, therefore being largely inaccessible for vulnerable policyholders or those with demanding family, work or caring obligations.[63] Many policyholders who spoke to the Committee at public hearings expressed concern for policyholders impacted by the major floods who would not have had the time or support network to persist with their claim or initiate a complaint.[64] One policyholder told the Committee:

> It's a good thing that I'm retired because where the hell would a normal person that has children and other things happening in their lives get the time to be able to do that? I did spend every single waking hour on the phone…[65]

2.37 Another policyholder told the Committee:

> My partner and I were flooded in the October 2022 floods… Both of us have post-graduate education. We have relevant skills, and we've got resources and extensive networks. We still found it next to impossible to navigate the system.[66]

2.38 A Financial Counsellor at Anglicare Victoria, a social advocacy organisation, told the Committee:

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61 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 31.

62 Mr Ram Kangatharan, Group Managing Director and Chief Executive Officer, Auto & General Insurance Company Ltd, *Committee Hansard*, 22 March 2024, p. 23; Mr Paul Fahey, Chief Executive Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, p. 26.

63 Ms Aveley McCann, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 23; Ms Maureen Valent, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 42; Ms Terry Laurence, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 25; Ms Sarah Thomson, Private capacity, *Committee Hansard*, Rochester, 18 April 2024, p. 28.

64 Ms Aveley McCann, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 23; Ms Maureen Valent, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 42; Ms Terry Laurence, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 25; Ms Sarah Thomson, Private capacity, *Committee Hansard*, Rochester, 18 April 2024, p. 27.

65 Ms Maureen Valent, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 42.

66 Ms Sarah Thomson, Private capacity, *Committee Hansard*, Rochester, 18 April 2024, p. 27.

> The demographic of the people we have seen include working young-to-middle-age mortgage holders. If the assertive, knowledgeable tech-savvy people are struggling to get fair outcomes, imagine how the vulnerable people are going.[67]

2.39 Low levels of digital literacy caused some policyholders to struggle in navigating insurers' claims processes which relied heavily on email correspondence, online forms and submission portals.[68] Some local councils and community organisations activated recovery hubs which greatly benefited policyholders with low digital literacy by providing an immediate physical presence of support and in-person guidance.[69] Internet access was also an issue in some cases, suggesting aspects of the claims process are ill-fit for the disaster context:

> On the second day after the flood, someone connected a Starlink Wi-Fi at the civic centre. We stood in the foyer and tried to fill in the online insurance claim form, but soon found we needed a verification code sent to our mobile phone. We could not submit the form without it. Insurance companies should surely realise that mobile networks and internet are vulnerable during a disaster.[70]

2.40 Policyholders with low financial literacy or who did not speak English as their first language were particularly vulnerable to misunderstanding the extent of their insurance coverage and being underinsured, as well as accepting inadequate cash settlement offers.[71] Ms Madeliene Serle, President of the Maribyrnong Community Recovery Association told the Committee:

> I have a woman, who I've gotten to know, who has an excellent insurance policy. She has cover for her building for pretty close to half a million dollars. Her insurance company came in and looked at it - she's elderly, she's Italian, she has English as a second language and she does not use the internet—and they got her to agree to a settlement of $40,000 to fix her building.[72]

2.41 Some policyholders impacted by the major flood events were completely unaware that their insurance policy did not actually cover flood.[73] One survey participant wrote:

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67 Ms Kathryn Swinton, Financial Counsellor, Anglicare Victoria, *Committee Hansard*, Maribyrnong, 17 April 2023, p. 27.

68 Ms Kellie Massouras, Manager Flood and Community Recovery, Mitchell Shire Council, *Committee Hansard*, Heathcote, 19 April 2024, p. 5; Ms Latha Elenkovan, Principal Solicitor and Manager, Pine Rivers Community Legal Service, *Committee Hansard*, Caboolture, 9 April 2024 p. 22.

69 Ms Kellie Massouras, Manager Flood and Community Recovery, Mitchell Shire Council, *Committee Hansard*, Heathcote, 19 April 2024, p. 5; Ms Elly Bird, Executive Director, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, p. 30.

70 Ms Joanne Bradbury, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 49.

71 AFCA, *Submission 1*, p. 20; Financial Counselling Australia, *Submission 6*, p. 6.

72 Ms Madeleine Serle, President, Maribyrnong Community Recovery Association, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 12.

73 AFCA, *Submission 1*, p. 20; ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 10.

> We found the policy to be so confusing, hard to understand, and not clear in what we were covered for. We feel you need a degree to be able to understand the policy.[74]

2.42 Consumer advocacy groups highlighted the need for a more tailored approach to sourcing suitable temporary accommodation for vulnerable policyholders.[75] Due to the scarcity of available accommodation in impacted towns, insurers found innovative ways to allow policyholders to stay on their properties by providing caravans.[76] This solution, whilst welcomed by many policyholders, was not suitable in all instances. As an example, Financial Counselling Australia noted that for one client, the insurer arranged a standard caravan for a policyholder with serious mobility issues who was not able to use the toilet inside.[77] Having to access the builder's toilet in the dark, the policyholder had a damaging fall resulting in injury.[78] In some regions, community organisations stepped in to assist displaced and vulnerable residents.[79] For example, Resilient Lismore initiated the Two Rooms Project which involves the partial restoration of flood-impacted homes to allow residents to stay on their properties safely.[80]

2.43 A lack of timely and empathetic communication from insurers caused further distress and frustration for affected policyholders, but especially vulnerable policyholders when their cases were not managed effectively. One particularly challenging case raised by Financial Counselling Australia described a policyholder known to the insurer to be experiencing domestic violence. The insurer did not respond to calls or emails, nor appoint a case manager, thereby furthering delays and periods of uncertainty. At one point the insurer contacted the perpetrator in error, increasing the volatility of the situation.[81]

2.44 Despite insurers having measures in place to prioritise support for vulnerable customers, some vulnerable policyholders had great difficulties reaching their insurer, intensifying their vulnerability.[82] Many policyholders also noted they had to repeatedly retell their experience to different staff members at their insurance company. Legal Aid NSW observed:

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74 Committee Survey Results, Appendix C.

75 Financial Counselling Australia, *Submission 6*, p. 20.

76 Allianz Australia, *Submission 13*, p. 11; Suncorp Group, *Submission 12*, p. 9; ASIC, *Navigating the storm: ASIC's review of home insurance claims,* 16 August 2023, p. 13.

77 Financial Counselling Australia, *Submission 6*, p. 35.

78 Financial Counselling Australia, *Submission 6*, p. 35.

79 Mr Warren Lumley, Secretary, Wisemans Ferry Community Men's Shed, *Committee Hansard*, Richmond, 9 May 2024, p. 40; Ms Elly Bird, Executive Director, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, p. 30.

80 Ms Elly Bird, Executive Director, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, p. 30.

81 Financial Counselling Australia, *Submission 6*, p. 6.

82 Financial Counselling Australia, *Submission 6*, p. 6; Ms Bernadette Wright, Counsellor and Mental Health Support, Rochester Community House, *Committee Hansard*, Rochester, 18 April 2024, p. 11.

> …some insurers have required our clients experiencing vulnerability to speak to different representatives each time and repeat their story. This can be retraumatising…[83]

Disputes

2.45 The increased volume of claims handling in turn led to a rise in disputes. There was a rise in both internal and external dispute resolution (IDR and EDR respectively). IDR relates to cases in which a policyholder disputes a process or a finding or a decision made by their insurer and raises that matter with the insurer. The insurer will then resolve that dispute according to a series of steps. While each insurer has its own IDR management process, it must comply with the General Insurance Code of Practice and certain regulatory instruments (such as Regulatory Guide 271). EDR refers to situations where IDR fails to resolve the matter and a consumer takes the matter to the Australian Financial Complaints Authority (AFCA).

2.46 IDR rates rose considerably during 2022, which reflected the spike in total claims numbers. Total EDR rates also rose, but the EDR rate per thousand claims was higher for claims relating to matters other than the 2022 floods than for the events themselves. This may reflect the fact that insurers redeployed resources internally towards handing the surge of cases arising from the 2022 floods leaving less resources for other matters. While EDR success rates varied across insurers, they were generally very low in percentage terms which raised questions in relation to the fairness of IDR outcomes more broadly. More particularly, it has been suggested that many people may have simply accepted initial assessments or the outcomes of IDR when their prospects of successfully challenging those outcomes were reasonably high.

2.47 The Committee received considerable evidence in relation to problems with IDR processes. Often, these problems related to delays and the quality and clarity of external expert reports. Complicated and lengthy IDR processes often compounded post-disaster challenges for policyholders, who were already in a very vulnerable situation. Many poor IDR decisions may have gone unchallenged. It has been suggested to the Committee that many people may have simply accepted initial assessments or the outcomes of IDR when their prospects of challenging those outcomes were reasonably high. This is worthy of further examination.

2.48 Too many cases are progressing from insurers to AFCA, both in relation to major natural disasters and also cases relating to 'business as usual' claims. The surge in the number of EDR cases relating to BAU cases often arises from the redeployment of resources within insurers. While this redeployment of resources is an important aspect of coping with the surge of cases after natural disasters, handling the overall burden of IDR needs to be a part of disaster planning. While EDR success rates varied across insurers, they were generally very low in percentage terms, which raised questions in relation to the fairness of IDR outcomes more broadly. The

[83] Legal Aid NSW, *Submission 34*, p. 23.

broader increase in cases flowing to AFCA also suggests that insurers' IDR processes need to resolve more cases speedily and satisfactorily.

2.49 IDR and EDR processes are discussed in detail in Chapter 6.

Overall performance

2.50 Closure rates are an imperfect measure of insurance outcomes and claims handling. Some claims that are 'closed' involve a resolution that the consumer found to be highly unsatisfactory. And some claims that are 'open' involve a substantial amount of progress and, possibly, the person or family living in their home. An 'open' or 'not closed' case may reflect a high degree of consumer satisfaction. Even allowing for that, closure rates are a reasonable proxy (and perhaps the best single simple measure) of the time it has taken to resolve the claims arising from a natural disaster.

2.51 What is clear from Table 2.3 is that after all four major floods in 2022 a majority of claims were 'closed' after 12 months, with the proportion ranging from a high of 93.82 per cent for SE 224 to a low of 83.63 per cent for CAT 221.

Table 2.3 Major flood events closed rate summary

Months	CAT 221	SE 222	CAT 223	SE 224
1	11.39%	27.84%	16.17%	32.90%
2	17.40%	36.33%	30.70%	41.38%
3	29.59%	44.70%	41.62%	54.38%
4	36.29%	53.35%	53.14%	63.85%
5	44.09%	61.44%	61.43%	71.19%
6	54.20%	67.21%	68.02%	77.23%
7	62.15%	72.43%	72.36%	81.75%
8	68.69%	76.33%	77.60%	85.67%
9	73.96%	79.60%	81.30%	88.52%
10	78.04%	82.70%	84.57%	91.00%
11	80.67%	85.42%	87.92%	92.88%
12	83.63%	87.75%	90.06%	93.82%
13	86.19%	89.17%	91.83%	94.58%
14	88.19%	90.29%	93.61%	95.33%
15	90.15%	91.54%	95.29%	95.90%
16	91.78%	92.52%	96.16%	96.69%
17	92.99%	93.55%	96.79%	97.00%
18	94.08%	94.56%	97.15%	97.50%

Source: Data provided by the Insurance Council of Australia.

2.52 While a majority of cases were closed after 12 months in all events, the proportion of 'unclosed' cases varied considerably, from 6.1 per cent for SE 224 to 16.4 per cent for CAT 221, almost three times as much. In part, this result for CAT 221 reflected both the large volume of claims for that event and the broader macroeconomic and workforce constraints in early 2022.

2.53 Moreover, while the proportion of unclosed cases was a minority after 12 months – it still reflected a large number of cases in absolute terms. Indeed, for CAT 221, over 35,000 cases were unresolved 12 months after the event.

2.54 When citing overarching statistics, it is important to remember what it can mean for an individual, a family or a small business to not have their claim resolved after 12 months. This can mean a family still living in temporary accommodation (a caravan, or an incomplete building) a year after the event - or more than 2 years in some cases the Committee heard. It can involve children struggling to attend school or attending an unfamiliar school. It can involve financial, housing and employment uncertainty which, after such a long period of time, may result in considerable mental and physical health issues. The fact that a majority of cases are resolved within a

year doesn't take away from the experiences of tens of thousands of individuals, families and businesses whose cases drag on.

Challenges and obstacles to recovery

2.55 The unprecedented volume of claims arising from the major floods alone challenged insurers and placed immense pressure on insurers' resources, from claims assessment and processing to repairs and rebuilding. This is particularly so as insurers were already under pressure, with 85,953 open claims driven by six declared insurance events in 2021.[84] This was particularly the case for CAT 221, which involved over 220,000 claims.

2.56 While the aggregate number of claims across the 2022 floods was high, it is important to note that one of the core elements of insurers' business model is to provide individuals and businesses with assistance following natural disasters. While it is impossible to know exactly when or where disasters will occur, and how severe they will be, insurers know that there will be natural disasters in the future. Three of the flood events in 2022 were well within the range of past experience over the medium term. Insurers should have plans in place to be able to cope with natural disasters arising at any time that are within the scope of what is reasonably foreseeable.

2.57 In addition to high claims volumes, recovery was made more difficult with particularly challenging economic conditions that constrained insurers' access to labour and materials and made it difficult for insurers to hire additional staff. For policyholders, this meant a lengthy and frustrating claims and rebuild process, some of which are still ongoing more than two years after the event.

2.58 As briefly outlined above, data from the ICA suggests that over 40 per cent of major flood claims were closed within 6 months of lodgement, and 80 per cent within 12 months.[85] Although a high portion of claims were resolved within a year, tens of thousands of policyholders make up the 20 per cent which experienced considerable delays in claim assessments, dispute resolution processes, and repairs/rebuilds. These policyholders faced extended displacement and financial hardship, with no choice but to wait and withstand the uncertainty and stress.

Labour shortages

2.59 The start of 2022 was a turning point for the global economy with the lifting of COVID-19 restrictions.[86] The Deloitte report observed that advanced economies rebounded strongly and quickly, meaning businesses suddenly needed more workers.[87] With a shrunken Australian labour force due to pandemic border closures halting both international and internal migration, the unemployment rate was

84 ICA, *Submission 11*, p. [13].
85 ICA, *Submission 11*, p. [16].
86 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 67.
87 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 67.

historically low.[88] Recruitment was an issue for the Australian insurance industry, which had itself downsized from a workforce of 118,000 in 2019-20 to 101,000 in 2021-22.[89] All insurers faced significant difficulty recruiting staff and contractors in this tight labour market.

2.60 Jobs and Skills Australia's (JSA) 2023 analysis found national shortages in hydrogeologists, hydrologists, electricians, bricklayers, carpenters, painters, plasterers, tilers, and plumbers.[90] Further, data from JSA's Survey of Employers who have Recently Advertised for the 2022-23 financial year showed that the number of suitable applicants per vacancy for construction occupations was well below the average.[91]

2.61 With a historically low unemployment rate and an in-demand construction industry, there was limited availability of tradespeople to repair and rebuild homes damaged by the major floods. These challenges were felt more strongly in flood affected regional areas such as the Northern Rivers where tradespeople and suppliers themselves were significantly affected by the floods.[92]

2.62 Although some insurers allow policyholders to opt out of flood cover, these policyholders may still be covered for other types of water inundation such as storm or rainwater runoff.[93] As several of the major floods being considered for this inquiry involved both rainwater run-off and flood water, hydrology reports were required by insurers for claims covered by run off but not flood to determine if the policyholder had appropriate coverage.[94] A limited number of qualified hydrological engineers in Australia meant surge capacity was limited, contributing to the significant delays in claims processing for some policyholders.[95]

Supply chain issues and material shortages

2.63 The Deloitte report noted that although many Australian households had money to spend after two years of COVID-19 related restrictions and large-scale government support, mobility in developing countries remained strained causing supply chain issues.[96] Russia's invasion of Ukraine in February 2022 further exacerbated global economic vulnerabilities.[97]

2.64 The ICA noted there was an increasing gap between building work approved and building work completed in the 18 months before the major floods. The ICA stated that, at the start of 2022, construction trades were already in high demand and global supply-chain constraints had added to that pressure by pushing up costs and

88 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 69.
89 Data provided to the Committee by the General Insurance Code Governance Committee.
90 Jobs and Skills Australia, *Submission 42*, p. 3.
91 Jobs and Skills Australia, *Submission 42*, p. 19.
92 ICA, *Submission 11*, p. [22].
93 ICA, *Submission 11*, p. [7].
94 ICA, *Submission 11*, p. [7].
95 ICA, *Submission 11*, p. [7].
96 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 68.
97 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 14.

delaying job completions. This environment, and the scale of the flood events, meant very long delays in securing tradespeople to assess, repair and rebuild properties.[98]

2.65 These factors converged to increase delivery times and prices for construction materials, not only impacting insurers, but also policyholders who opted for a cash settlement and had to project manage their own rebuilds or repairs.

Difficulties sourcing replacement vehicles and temporary accommodation

2.66 The pandemic also impacted the market for new and used cars and rental accommodation, making it difficult for insurers to replace vehicles and source temporary accommodation for policyholders.[99] The average wait time for a new car in Australia quadrupled between January 2020 and the major flood events, reaching a high of around a five month wait in mid-2022.[100] Faced with long wait times for new vehicles, buyers turned to the used car market which caused used vehicle prices to rise to all-time highs.[101]

2.67 The accommodation rental market at the time of CAT 221 in Greater Brisbane had a historically low vacancy rate of 0.7 per cent.[102] Delays in claims handling meant that some policyholders had exhausted their temporary accommodation benefits before their claim had been finalised or construction on their home completed.[103] A lack of responsive communication from their insurer caused policyholder distress as to whether their insurer would continue to cover the costs of their accommodation.[104] This issue was particularly destabilising for young families and older people.[105] The accommodation shortage, or not being covered for temporary accommodation, meant many people were still living in caravans and sheds more than two years after they were flooded.[106]

Inconsistent expert reports

2.68 Expert reports are commissioned by insurers to determine the cause of damage to a property. They use these reports to determine whether the damage is covered by the policy. Some policies cover multiple forms of water damage, including flood – others exclude all water damage. Other common exclusions in home and contents policies include pre-existing damage, wear and tear damage or damage resulting from a lack of maintenance. All of these exclusions can create complex questions of causation.[107]

98 ICA, *Submission 11*, pp. [20-21].
99 ICA, *Submission 11*, p. [22].
100 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 72.
101 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 72.
102 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 74.
103 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 37.
104 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 37.
105 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 37.
106 Campaspe News, 'Frustrated residents seek help from state MP', 20 February 2024; Mr Steve Krieg, Mayor, Lismore City Council, *Committee Hansard*, Lismore, 11 April 2024, p. 8.
107 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 45.

2.69 Expert reports were identified as problematic in many submissions to the inquiry. Some individuals said that the expert reports relied on by their insurer to deny or limit claims were vague, unsubstantiated and/or inconsistent. A number of witnesses and submissions raised concerns that insurers relied on poor quality reports to deny claims on the basis of an exclusion, despite the reports lacking the necessary detail to justify such exclusions and claim denials.[108] As the cost of an independent expert assessment is usually upwards of $5,000 and assessors were in high demand, [109] it was not typical for policyholders to source their own second opinion.[110] Instead, policyholders were reliant on insurers sending another assessor when they raised a dispute.

2.70 Disputes over denied claims made up a sizeable proportion of internal and external disputes related to the major floods, many of which were supported by poor expert reports.[111] Disputes over denied claims also constituted a high proportion of claims not resolved after 12 months. This caused unnecessary delay and frustration for policyholders whose denied claims were overturned. Much concern has been raised for policyholders that may not have had the knowledge, energy, or time to dispute the denial of a claim based on poor, inaccurate expert reports, which has potentially left them without the financial support they were entitled to under their policy.

Recommendations throughout this report

2.71 The inquiry received and heard strong evidence that too many consumers' claims experiences following the major floods were unfair and unacceptable. Their experiences illustrate the systemic problems in claims handling and dispute resolution identified in the ASIC review and Deloitte report.

2.72 The Committee endeavours to make recommendations throughout this report for governments and insurers to implement, with the aim of ensuring that the negative impacts of the next flood event or natural disaster are not further compounded by insurers' poor claims and complaints handling. The Australian insurance industry must be able to properly support policyholders in times of crisis, even where that disaster is catastrophic in scale. The recommendations will also provide guidance for governments to address the lack of support for homeowners in flood prone areas, given the emerging issue of flood insurance accessibility and affordability.

2.73 The Committee also acknowledges that many of the issues identified in this report, and the recommendations made, are applicable to other natural disasters (such as bushfires or cyclones), or even to high-impact individual household insurance events. Therefore, even though a recommendation may only mention flood, the Committee

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108 Mrs Prue Monument, General Manager, Code Compliance and Monitoring, Australian Financial Complaints Authority; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), *Committee Hansard*, 23 February 2024, p. 10.

109 QBE Insurance Group, *Submission 17*, p. 24.

110 Ms Jacqui Cavanagh, Senior Lawyer, Financial Rights and Housing, Caxton Legal Centre, *Committee Hansard*, Caboolture, 9 April 2024, p. 21.

111 AFCA, *Submission 1*, p. 13.

encourages the Australian Government and insurers to analyse the recommendation's broader implications for best practice, and to implement the relevant response so as to have the widest possible benefit to all policyholders that may be affected by similar circumstances, regardless of peril.

3. Flood risk management in Australia

The prevalence of flood risk in Australia

The frequency and intensity of floods is increasing

3.1 Floods are a historically common natural event in Australia. They are essential to the functioning of many Australian ecosystems, driving biodiversity through the distribution of seeds and nutrients, the refilling of aquifers and wetlands, and stimulating population booms of native fauna. A changing climate, combined with urbanisation and development, have altered these naturally occurring floods.

3.2 Rising sea levels and ocean temperatures are driving more frequent and intense rainfall events. This is leading to more frequent and more powerful floods, causing more extreme impacts to the communities living in flood-prone areas and the natural ecosystems that inhabit them.[1]

3.3 These impacts are expected to worsen as the effects of climate change are realised. Munich Re's Managing Director, Scott Hawkins, shared his observations and concerns when he told the Committee:

> Climate change is increasing both the frequency and the intensity of extreme weather events. These are now occurring in areas not previously exposed. Over the past 10 years, global losses from natural disasters have been well above the long-term average…Unfortunately, there is no reason to believe that the trend of ever-increasing losses from such events will stop or even revert any time soon, because the effects of climate change will continue to develop and in many areas are likely to get worse over time.[2]

3.4 The CSIRO and Bureau of Meteorology stated in the 2022 *State of the Climate* report that 'It is expected that extreme rainfall will increase in Australia with climate change'.[3] Further stating in the 'future climate' part of the report that in coming decades Australia is projected to experience:

> More intense short-duration heavy rainfall events, even in regions where the average rainfall decreases or stays the same. This will lead to a complex mix of

1 Bureau of Meteorology and CSIRO, *State of the Climate 2022*, p. 8.
2 Mr Scott Hawkins, Managing Director, Munich Re, *Committee Hansard*, 23 February 2024, p. 15.
3 Bureau of Meteorology and CSIRO, *State of the Climate 2022*, p. 10.

> effects on streamflow, and associated flood and erosion risks, including increased risk of small-scale flash flooding.[4]

3.5 Urban and other development is also considered one of the key drivers contributing to the increasing severity of floods. Australia has a high proportion of its population located in city centres and in areas more prone to floods (such as along big rivers) and these centres are growing.[5] According to the CSIRO, the International Panel on Climate Change has projected that the compounding impacts of climate change and urban development will make cities, built-up urban areas, and small catchments particularly vulnerable especially to flash floods following heavy rainfall events.[6] Several reports published by Swiss Re also state that ongoing urbanisation, population growth, inadequate flood protection infrastructure and increased soil sealing will add to an increase in flood-related insured losses, stating:

> Over the last 20 years, the increase in soil sealing in Australia's five biggest cities has been the main contributor to a 7% increase in annual expected losses from floods.[7]

3.6 In some areas, development which has changed the natural flow of water, causing it to be redirected into areas not previously susceptible to flooding, has also contributed to more severe flooding.[8] Examples provided to the inquiry include the construction of high roads, buildings and other surface altering infrastructure, preventing water from draining away or being absorbed as it usually would.[9]

Increasing exposure of residential and community assets to flood

3.7 In addition to the increasing frequency and severity of flood events – there has been considerable growth in the value of residential, commercial and community infrastructure in areas of high risk. This has been the result of decisions made by all levels of government over decades.

3.8 In its submission, the Insurance Council of Australia (ICA) quotes Governor Macquarie in 1817 in relation to Australia's long-term planning challenges, describing flood damage as 'the inevitable consequences of [settlers']…wilful and wayward habit of placing their Residences and Stock Yards within the reach of floods.'[10] This quote reflects the fact that poor planning decisions have been made in Australia for over 200 years. While true, relying on this quote is tone deaf in the face of the shocking

4 Bureau of Meteorology and CSIRO, *State of the Climate 2022*, p. 25

5 Mr Trent Thomson, Chief Executive Officer, Australia and New Zealand, Swiss Re Asia Pty Ltd, Australia Branch, *Committee Hansard*, 15 March 2024, p. 3.

6 CSIRO, 'Understanding the causes and impacts of flooding', www.csiro.au/en/research/disasters/floods/causes-and-impacts, viewed 21 September 2024.

7 Swiss Re Institute, sigma 1/2023: 2022 natural catastrophes: lessons learned, www.swissre.com/dam/jcr:1d793484-9b96-4e54-91c3-09f8fc841bde/sigma-1-2023.pdf, p. 14.

8 Mr Nathaniel Simpson, Chief Executive Officer, Youi, *Committee Hansard*, 5 February 2024, p. 51.

9 See examples: Mr Jan Sypkens, Private capacity, *Committee Hansard*, Logan, 10 April 2024, p. 37; Mr Steuart McPherson, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 51; Mr Ellis Knight, Private capacity, *Committee Hansard*, Heathcote, 19 April 2024, p. 30.

10 Insurance Council of Australia (ICA), *Submission 11*, p. [26].

evidence heard by the Committee of failure and neglect on the part of insurers. The fact that poor planning decisions have been made in the past does highlight that we need to make better planning decisions moving forward. But these past planning errors in no way take away from the reasonable expectation of people affected by those decisions that they will be provided suitable support by insurers now and going forward.

The increasing cost of floods in Australia

3.9 The combined effect of increasingly frequent and severe floods and the building of more infrastructure in at risk areas has driven up the damage associated with flood events.

3.10 Flood events have accounted for more than 54 per cent of losses from declared insurance events in the last five years.[11] The rebuild costs after each of the 2022 floods were higher than expected as inflation, driven by disruptions in global supply chains and lingering effects from the pandemic, and increasing asset values meant replacement costs rose rapidly.[12] Shortages in skilled labour pushed costs even higher. Evidence provided to the inquiry indicates that inflation, time taken to complete projects, and delays in commencement required insurers and policyholders taking cash settlements to factor in an increase of up to 20 per cent of the rebuild cost.[13] This factor of increase was corroborated by the Australian Financial Complaints Authority (AFCA) who suggested that 'it [cash settlements] be uplifted by between 10 and 20 per cent to protect against the transfer of the risk to the complainant to have to do the works themselves, particularly if they're generally not building experts'.[14]

3.11 In recognition of the high and growing costs of disasters in Australia, there have been attempts to determine the future costs of floods to the economy. In a 2021 report prepared for the Australian Business Roundtable for Disaster Resilience and Safer Communities, Deloitte projected that in 2060 economic costs from floods would fall between $30.7 billion annually (under a low emissions scenario) and $40.2 billion (under a high emissions scenario). In both cases, Queensland is expected to incur the largest increase in costs, followed by New South Wales, with the largest increases in population centres located on major rivers.[15]

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11 ICA, *Submission 11*, pp. [7-8].

12 Mr Trent Thomson, Chief Executive Officer, Australia and New Zealand, Swiss Re Asia Pty Ltd, Australia Branch, *Committee Hansard*, 15 March 2024, p. 3.

13 Mr Brendan Dunne, Chief Customer & Operations Officer, Allianz Australia Insurance Limited, *Committee Hansard*, 9 February 2024, p. 26.

14 Ms Emma Curtis, Lead Ombudsman, Insurance, Australian Financial Complaints Authority, *Committee Hansard*, 21 February 2024, p. 36.

15 Deloitte Access Economics Report prepared for the Australian Business Roundtable for Disaster Resilience & Safer Communities, *Special report: Update to the economic costs of natural disasters in Australia 2021*, www.deloitte.com/au/en/services/economics/perspectives/building-australias-natural-disaster-resilience.html, pp. 1-12. Note: Deloitte Access Economics research is based on modelling developed by Insurance Australia Group (IAG) of Average Annual Damages (AAD) for domestic homes across Australia and joint research between IAG and the National Centre for Atmosphere Research (NCAR) of AAD at different temperature rises.

3.12 Residential and other development, particularly development in flood prone areas, will contribute to the increase in potential costs of floods. Currently, most of the costs associated with floods are attributed to a small proportion of properties in Australia. The National Flood Insurance Database[16] (NFID) informs insurers on the number of properties at risk of varying levels of flooding across Australia. The NFID currently indicates that 4.4 per cent of properties nationally are exposed to a 1 per cent, 2 per cent or 5 per cent Annual Exceedance Probability (AEP) (also known as 1-in-100, 1-in-50 and 1-in-20 year floods respectively).[17]

3.13 The 2022 floods, as well as subsequent floods in the years since, have contributed to the evidence suggesting more frequent and severe flood events. This has, in turn, caused several areas to have their flood risk ratings adjusted. Many properties on or near flood-prone areas are being reassessed as having a higher flood risk once recent historical and flood prediction models have been incorporated into the assessment.[18]

3.14 Mitigation infrastructure such as levies and channels can help reduce the damage and consequently the costs of floods, however the Committee heard that with rising sea levels, mitigation infrastructure may also be subject to decreased risk ratings over time. The Emergency Management Adviser for the City of Launceston identified diminishing risk related to its flood levee system:

> Further, if the impact of climate change is considered, insurance from a flood risk perspective becomes even more vital. From 2006 to 2090, protection from the flood levee system decreases its effectiveness from a 0.5 per cent AEP to a two per cent AEP, which is primarily driven by climate change impacts of sea level rise and more extreme rainfall events and changes in hydraulic modelling.[19]

3.15 Insurers have begun to price in the increased costs to rebuild and repair homes and the increasing risks to properties in flood prone areas. This is leading to higher premiums, with the greatest increases felt by people living in assessed high-risk areas.[20] Some policies increased so sharply following the floods[21] that it suggested insurers may have been using higher premiums as a way of formally offering

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16 The National Flood Insurance Database is an address database containing 13.7 million property addresses, overlayed with the known flood risk according to local government flood mapping

17 ICA, *Submission 11*, pp. [7-8].

18 For example: Mrs Laura-Jo Mellan, Director Planning and Environment Services, Maribyrnong City Council, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 2; discussion with Melbourne Water and the Planning Institute of Australia (Victorian division) in *Committee Hansard*, Maribyrnong, 17 April 2024, p. 39; Mr Shane Eberhardt, General Manager, Infrastructure and Assets, City of Launceston, *Committee Hansard*, Devonport, 17 July 2024, pp. 3–4; Ms Nyree Bolton, Manager, City Growth, Townsville City Council, *Committee Hansard*, Townsville, 25 July 2024, pp. 5–6; Name Withheld, *Submission 67*; Planning Institute of Australia (Victorian division), *Submission 75*, p. 8; Committee Survey Results, Appendix C. This issue is discussed further in Chapter 8.

19 Ms Lynda Robins, Emergency Management Adviser, City of Launceston, *Committee Hansard*, Devonport, 17 July 2024, p. 2.

20 ICA, *Submission 11*, p. [2].

21 See Appendix C, Committee Survey Results, Figure C.52.

coverage while know that it would not be accepted. More detail on these increases is detailed in Chapter 9.

Australia's flood risk management approach

Division of Government responsibilities

3.16 Under Australia's constitutional arrangements, state and territory governments have primary responsibility for emergency management within their jurisdiction, that is, they manage the first responders to a flood event. States and territories also have responsibility for laws, standards and policies governing flood mitigation, land planning and the management of floodplains.

3.17 Local governments are typically delegated responsibility by state governments for the planning and implementation of flood risk mitigation, as well as the operation of many flood risk mitigation assets in their Local Government Area. In doing so, the local governments must have regard for regulations set regarding the factors above.[122]

3.18 The Australian Government provides support to states and territories when coordinated assistance is requested and provides national security capabilities to prepare for and respond to events determined to be of national significance. The Australian Government also provides financial assistance to people who have been adversely affected by floods, either directly or through joint funding with state and territory governments.[23]

3.19 There are several frameworks, strategies and plans guiding the national arrangements for disaster management each covering the different phases of disaster management. These include:

- the *National Disaster Risk Reduction Framework* (NDRRF), *the Australian Disaster Preparedness Framework* (ADPF) and the *National Strategy for Disaster Resilience* (NSDR) - which provide a national approach to mitigation, adaption and improved resilience to disaster risk; and
- the Disaster Recovery Funding Arrangements (DRFA) – which supports the provision of funding for recovery following disasters of a certain scale.[24]

3.20 The Australian Government and state and territory governments also have their own disaster management frameworks which integrate and implement these national frameworks and strategies. The *Australian Government Crisis Management*

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122 See for example, Department of Planning and Environment, *Flood Risk Management Manual*, 2022, www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Floodplains/flood-risk-management-manual-220060.pdf, pp. 22-27.

23 Department of the Prime Minister and Cabinet, *Australian Government Crisis Management Framework*, September 2023, pp. 7-8.

24 National Emergency Management Agency, 'Strategies and Plans', https://nema.gov.au/about-us/policies/strategies-and-frameworks; Royal Commission into National Natural Disaster Arrangements, *Report*, www.royalcommission.gov.au/natural-disasters, 30 October 2020, pp. 76-78.

Framework (AGCMF) describes the standing arrangements for the Australian Government's response to all crises, including natural disasters.[25]

The current approach to flood risk management

3.21 Following the Royal Commission into National Natural Disaster Arrangements in 2020, which called for a national approach to disaster recovery and for the Australian Government to play a greater role in relation to natural disasters on a national scale, all levels of government have made concerted efforts to achieve a more integrated approach to flood risk management. Australian Emergency Management Ministers endorsed the Second National Action Plan in August 2023, providing direction to achieve disaster risk reduction across all sectors, for governments, industries, communities and individuals.[26]

3.22 Signalling that disaster resilience has become a priority for the Australian Government, the National Emergency Management Agency (NEMA) was created in 2022 to coordinate and align national capability to prepare for and respond to all natural disasters, including floods.[27]

3.23 The Australian Government has also established new services, including the Australian Institute for Disaster Resilience and the Australian Climate Service, to leverage the data, information and capabilities of agencies such as the Bureau of Meteorology, CSIRO, Geoscience Australia and the Australian Bureau of Statistics.[28]

3.24 Additional funding has also been provided over the medium term for mitigation projects and collaborative work, such as that being undertaken by the Hazards Insurance Partnership (HIP), to identify and implement policy solutions that reduce risk and also reduce insurance costs, with particular regard given to further investment in catchment areas with the highest risk of flooding.[29]

3.25 Following the 2022 major floods, the NSW Government established the NSW Reconstruction Authority to help communities impacted by the floods and any future disasters to recover faster, and conduct critical planning and preparation activities to reduce the impact of future disasters.[30] This model was based on the Queensland Reconstruction Authority (established following the 2011 floods), was tasked with a

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25 Department of the Prime Minister and Cabinet, *Australian Government Crisis Management Framework*, September 2023, p. 5.

26 NSW Reconstruction Authority, 'Who we are', www.nsw.gov.au/departments-and-agencies/nsw-reconstruction-authority; Queensland Reconstruction Authority, 'Rebuilding, recovering and reconnecting disaster affected communities', www.qra.qld.gov.au/about-us/strategic-plan/rebuilding-recovering-reconnecting.

27 National Emergency Management Agency, 'The National Emergency Management Agency Established', 31 August 2022, https://nema.gov.au/stories/nema-established.

28 Australian Government, *A national approach to natural disasters, November 2020: The Commonwealth Government response to the Royal Commission into National Natural Disaster Arrangements*, pp. 4-5.

29 National Emergency Management Agency, 'Hazards Insurance Partnership', https://nema.gov.au/about-us/federal-budget/hazards-insurance-partnership.

30 NSW Reconstruction Authority, 'NSW Reconstruction Authority', https://reconstruction.smartygrants.com.au.

similar program for recovery and resilience building by the Queensland Government.[31]

3.26 Two pilot programs were also established in 2022 to support eligible homeowners in south-east Queensland and the Northern Rivers region of NSW to retrofit or raise their homes to make them more disaster resilient or to apply for a voluntary buy-back of their home and relocate elsewhere. The Resilient Homes Fund has $741 million in funding provided jointly by the Queensland and Australian Government. The similar Resilient Homes Program comprises $700 million in funds from the NSW and Australian Governments and a further $100 million funded by the NSW Government for the Resilient Lands Program to relocate eligible residents to flood-safe land.[32]

3.27 Many Local Governments in Queensland and NSW affected by recent floods have also been quick to invest in better, more up-to-date flood mapping to understand the flood risks in different areas, improve decision-making by Councils, and make this information available to other stakeholders. This work has been undertaken with some (but varying) levels of financial support from State Governments.[33] In Victoria, flood mapping has been undertaken by water catchment authorities.

3.28 While there has been a general acknowledgement of the need to improve the quality of flood mapping and modelling, it is important to note that the quality of modelling varies considerably, in no small part as a result of the varying resourcing of councils. Without funding assistance from other levels of government, small regional councils in particular struggle to undertake rigorous modelling. This issue will only become more pronounced as organisations attempt to supplement their modelling with climate modelling to determine the possible trajectory of flood risk over the medium and longer-term.

The role of insurance in a well-functioning economy

3.29 Risk management is highly complex in modern societies. The task of risk management is shared between the public sector, the private sector and households. To the extent that government is involved, it involves all three levels of government in Australia. Arguably, risk management lies at the heart of the modern welfare state.

3.30 Risk management takes three main forms: risk pooling; risk reduction; and risk allocation. All three of these are used in relation to floods in Australia.

3.31 **Risk pooling** is the most commonly used means of flood risk management. It is largely undertaken by the private sector through highly regulated insurance and reinsurance companies and mutuals. Most households, companies and community/not-for-profit organisations purchase insurance that partially or fully

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31 Queensland Reconstruction Authority, *May 2022 Update*, www.qra.qld.gov.au/sites/default/files/2022-06/qra_report_-_may_2022_0.pdf.

32 National Emergency Management Agency, *Submission 40*, p. 5.

33 For example: Mayor Jon Raven, Mayor, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 22; Mayor Teresa Harding, Mayor, Ipswich City Council, *Committee Hansard*, Logan, 10 April 2024, p. 30.

covers their flood risk. Insurers pool these funds to pay out claims after events. Some local government entities also purchase insurance, although in recent years many have faced higher premiums, higher excesses and an unwillingness on the part of insurers to cover some assets.

3.32 While the majority of household and organisational risks are pooled it is important to note that a growing number of risks are not being pooled. This is resulting in partial or non-coverage for a growing number of households and businesses. During the Committee's investigations, even some large businesses are having to self-insure large parts of their operations after the 2022 floods. This trend is also reflected in local governments having to self-insure a growing proportion of their assets. This is partly due to affordability issues (for example, excesses being raised by reinsurers) and is partly due to insurers excluding certain asset classes (for example, underground pipes).

3.33 Under- or non-insurance will often result in individuals or households relying for assistance on family, friends and community. This will often involve assistance not just in relation to the immediate losses arising from the disaster – but the financial, and psychological disruption caused as individuals and families adjust, often over very long periods of time.

3.34 Home, contents and business insurance provides people and their communities with the financial resilience to recover more quickly from the shock of a natural disaster. Without insurance, people would be expected to cover the risk of natural disasters themselves, either by sacrificing savings, taking out loans, or relying on government aid. Higher levels of uninsurance in a community will slow recovery, sometimes for years.

3.35 When people find themselves in the position of having to cover a significant, unforeseen event for which they are uninsured, they are more likely to rely on coping mechanisms that can have enduring consequences to recover. This could include diverting saved funds from critical spending on healthcare, food and education towards measures like making their home a safe place to live again. A return to normal spending becomes increasingly unlikely as the frequency of similar events increases. For these reasons, higher exposure to uninsured risks, including to natural disasters, has been shown to be one of the main causes of poverty and is certainly detrimental to wellbeing.[34]

3.36 **Risk mitigation** reduces the likelihood of future floods impacting on an area. Mitigation occurs at both the community level (which is largely the responsibility of government) and the household level. At the community level, mitigation could take the form of a levee, improved stormwater management or water storage (for example, increased dam capacity). Community mitigation is typically funded by one or more levels of governments. Even local government has invested in some large and impactful mitigation projects such as the Roma and Launceston levees. Both of these materially reduced flooding risks for population centres and resulted in

[34] A de Janvry and E Sadoulet, *Development Economics: Theory and Practice*, 2nd Edition, Routledge: New York, p. 34.

premium reductions. Other forms of community level mitigation that don't include physical infrastructure include improved flood modelling and disaster planning.

3.37 Household level mitigation can include raising homes or businesses, installing water resistant flooring or improving the protection of non-water-resistant assets such as computer equipment. A significant problem in relation to household level mitigation is that insurers often don't efficiently or fairly pass on premium reductions after the household or businesses have made the investment.

3.38 Some forms of household level mitigation are funded by the public sector. Examples include house buy-backs and subsidised household resilience (for example, raisings).

3.39 **Risk allocation** is the least obvious policy tool, but it is fundamentally important in how risk is managed in modern, complex societies. For example, limited liability has underpinned capital accumulation and allocation within modern economies and is, at its heart, a risk allocation mechanism. In the case of natural disasters, ex post risk allocation occurs where one entity takes on some or all of the risk of another. This often occurs after natural disasters where the government provides income support to individuals, businesses or communities, particularly those with little or no insurance. Sometimes the scope of this assistance is set out in policy documents in advance. However, this is often not clearly defined, other than a broad expectation that after a particularly bad disaster government will step in and provide support. On many occasions the generosity of the post-disaster assistance is determined on a case-by-case basis based on the severity of the incident, the needs of the community and overarching budget constraints of the government involved. This can create considerable uncertainty for uninsured individuals and communities.

3.40 **Risk management in general** - Access to affordable insurance is also critical for a well-functioning economy and society more generally. It allows people to take seemingly ordinary risks that they might otherwise choose not to take. People can purchase homes without fear that years of savings could be forgone in the event of a fire or flood. Financial institutions are also more willing to lend and, in Australia, home loan providers often require homeowners to hold a suitable home insurance policy for the duration of the mortgage. It also allows people to confidently invest in and operate businesses that have higher risks, enabling markets to exist where it would be too high-risk without insurance.

3.41 The World Bank found that insurance, through its risk management role, plays a key role in underpinning economic stability and growth:

> The insurance activity, both as a provider of risk transfer and indemnification and as an institutional investor, may contribute to economic growth in the following ways (i) promoting financial stability, (ii) facilitating trade and commerce (the most ancient insurance activity), (iii) mobilizing domestic savings, (iv) allowing different risks to be managed more efficiently encouraging the accumulation of new

> capital, (v) fostering a more efficient allocation of domestic capital, and (vi) helping to reduce or mitigate losses.[35]

3.42 The importance of having a reliable, accessible insurance market in Australia was emphasised by insurers throughout this inquiry, with QBE's submission affirming:

> Insurance is fundamental to our economy, giving people and businesses the protection and confidence to grow and prosper. It plays a significant role in managing the financial impact of natural disasters, contributing to resilience and recovery and lessening the financial burden for governments, communities and individuals. Protecting the integrity and stability of insurance markets and ensuring the long-term sustainability of the industry is crucial.[36]

Why flood insurance is difficult for insurers to provide

3.43 There are two aspects of floods that make them difficult for private insurance to deal with. First, as natural disasters that sometimes cover very large areas, they involve, to at least a degree, "non-diversifiable risks." Second, at the more local level, flood risk is often highly concentrated, with very high pockets of risk which, if priced at an actuarially fair level, would result in unaffordable premiums.

3.44 **Pooling and diversifiable risks** - In general terms, insurance transfers some or all of a risk from an individual, business or other entity to an insurer in exchange for payment (called a premium). As part of this transaction, a contract is agreed by both parties that if an (included) event were to occur in the future, the insurer will compensate them for the loss, usually through a like-for-like replacement or a cash amount of equivalent value.

3.45 Unlike individuals, insurers can take on the risks of unforeseen events that would be too large for an individual to cover. By covering a range of risks that encompass a wide geographical area, insurers can pool their policies and effectively diversify their risk. Risk pooling relies on the idea that only a few policyholders will be impacted by a risk at any given time. If all policyholders were to experience the same event, at the same time, there is no guarantee that the insurer could cover all the losses. As non-disaster risks are independent, it is unlikely that these risks will occur simultaneously and impact the insurers' ability to pay the policyholder.

3.46 Natural disasters, however, are often incompatible with the ideal criteria for insurability, and floods are particularly problematic.[37] This "non-diversifiable" characteristic of natural disasters, particularly large ones, makes them difficult for insurers to manage. There are two key ways in which individual insurance companies manage the non-diversifiable risk associated with large natural disasters. First, they spread that risk across different regions. This is often effective, particularly for large

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35 Marco Arena, 'Does Insurance Market Activity Promote Economic Growth? A Cross-Country Study for Industrialized and Developing Countries', WPS4098, 2006, p. 2.

36 QBE Insurance Group, *Submission 17*, p. 5.

37 C Kousky, *Understanding Disaster Insurance*, 2022, Island Press: Washington DC, p. 31.

national and international insurers, although in 2022 this strategy was limited in effectiveness in that floods occurred across most of the nation. The second is to purchase reinsurance. While global reinsurance markets are highly liquid and able to take on large risks, the price charged to Australian insurers has increased materially over recent years which has placed upward pressure on Australian home and contents premiums.

3.47 Insurers' primary concern with insuring floods is that they are not an independent risk but rather spatially correlated, meaning that if one person is affected by a flood, more than likely many people are affected. The severe losses associated with significant or catastrophic floods could very well be greater than the premiums obtained for that year. For this reason, insurers may have additional measures in place to ensure their continued stability, including by holding a minimum amount of capital, or by transferring some of this risk to global firms by taking out their own insurance policies, known as reinsurance.

3.48 Reinsurance allows risks, including non-disaster risks, across many insurance companies to be pooled and diversified globally, helping to smooth the volatility of payouts associated with locally correlated events. Reinsurance arrangements vary across insurers and policy lines, but typically include the insurer taking out either proportional reinsurance, where a proportion of every risk and premium is shared between the insurer and reinsurer, or taking out excess of loss reinsurance, where losses above a certain threshold for an event are transferred to the reinsurance market. To further diversify risk, insurers commonly split coverage for different policy lines between more than one reinsurer.[38]

3.49 **Concentrated flood risks** - Floods do not occur randomly or in isolation, they are, to a certain extent, a known risk for areas close to rivers, the coastline and other watercourses. As the impacts of climate change are realised, floods will become less random and more expected in these locations. Compared to fires and other hazards, there are large numbers of households exposed to very high risks of flooding (1 in 20 or more frequent). Actuarially priced premiums for houses in this situation will typically be unaffordable. It is estimated that, in 2022, nearly 230,000 homes were exposed to a 1-in-20 risk of flooding or higher (about 1.5 per cent of properties), and nearly 675,000 (about 4.4 per cent) to a 1-in-100 risk or higher.[39] It is highly likely that this number is growing. This challenge was referred to in the 2011 Natural Disaster Insurance Review (NDIR):

> All natural disasters present a challenge for insurers. Since each event typically affects a large number of policyholders at once, a single natural disaster can have a very large impact on insurers exposed to the risk. This challenge, however, does not prevent insurers from offering cover for most natural disasters in all home insurance policies. And, in large part, insurers are able to cover these natural disasters at affordable premiums.

[38] Mr Scott Hawkins, Managing Director, Munich Re, *Committee Hansard*, 23 February 2024, pp. 15-17.
[39] ICA, *Submission 11*, p. [8].

> Flood, however, presents a unique challenge to insurers. Flood typically affects homes located close to a river or on a flood plain. As a result, the same homes are affected each time a river floods. … [W]hile the vast majority of homes are exposed to minimal flood risk, there is a small proportion of homes exposed to a high level of flood risk. … As a result of the very high premiums associated with high flood risk, insurers have often simply chosen to exclude flood cover from insurance policies.[40]

3.50 **Uncertainties in flood modelling** - The quality of flood modelling has improved over recent years, in relation to modelling undertaken by local government, water authorities and insurers themselves. This is due to higher quality and more granular underlying data and greater computational power to drive more accurate flood and climatic modelling. Insurers will often use local government flood maps as a starting point in their modelling, but will typically build on this with their own additional data and modelling – and also modelling and analysis undertaken by third parties (for example, actuaries).

3.51 As with all modelling, different model designs, assumptions and calibrations can result in different outcomes. This is particularly the case for high-risk properties. At least some of the variation in pricing that occurs in the market can arise from differing assessments of risk across insurers.[41]

3.52 The challenge of private markets providing widely accessible flood insurance is exacerbated by data and modelling limitations that constrain insurers' ability to price flood risk accurately. A paper by the Actuaries Institute's Flood Working Group in 2008 noted that 'Until recently, offering flood insurance has been considered "too hard" for most insurers', as data deficiencies and modelling complexities make 'a "perfect" pricing model…difficult, if not impossible, to achieve':

> …numerous models may exist that lead to very different outcomes. This is a particular problem for flood, compared to other perils, as there is a limited number of observed (and insured!) historical events that can be drawn on in calibrating models, and therefore a larger than usual number of assumptions are required in the modelling.[42]

3.53 These comments were echoed in Treasury's 2011 Natural Disaster Insurance Review, which acknowledged that pricing flood risk is 'a very inexact and approximate exercise'.[43] Treasury's subsequent consultation paper on flood

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40 Department of the Treasury, *Natural Disaster Insurance Review: Inquiry into flood insurance and related matters*, September 2011, p. 23.

41 Note that the Actuaries Institute in its latest insurance affordability report found a wide dispersion of premiums for given households. This is possibly due to a range of factors, including: different assessments of underlying risk; different pricing strategies (for example, varying willingness to take on more risk at a particular location); and different exclusions.

42 Institute of Actuaries of Australia Flood Working Group, *The Insurance of Flood Risks*, November 2008, pp. 18-19.

43 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters*, September 2011, pp. 57-58.

insurance reform cautioned that such challenges encouraged insurers to be very conservative in flood cover and pricing decisions:

> … it has generally only been the larger insurers with risk appetite and financial capacity, who have invested in underwriting systems to increase the availability of flood insurance. There are concerns that some insurers may be unable and/or unwilling to provide cover. Requiring all insurers to offer flood cover may result in some companies defensively pricing flood cover or simply 'redlining' flood prone areas.[44]

3.54 **Asymmetric information** - There are also issues with adverse selection and moral hazard. People that know their properties are likely to be flooded, are the most likely to want flood insurance cover (adverse selection). Insurers' may be taking on an unacceptable level of risk if they are unaware of the flood risks of their insured properties and adjust their premiums accordingly. While information asymmetry has traditionally bedevilled insurance markets (for example, motor vehicle and life) where the insured has better information than the insurer, that situation may have flipped in the case of home and contents insurance over recent decades. Insurers now have extremely detailed, household land business level risk maps which means that they may have better information than the insured (and possibly than government and other stakeholders).

3.55 Moral hazard may also be a factor in that people who feel secure in the knowledge they have flood insurance may also fail to take measures to reduce the damage to their properties. Insurers often deal with this problem through exclusions in the contract or may require certain rectification works to be undertaken by the policyholder before a claim will be processed.

3.56 Despite the protection insurers receive from built up capital and the private reinsurance market, these are not free solutions to the problems associated with flood insurance. When insurance companies draw down on their capital, they must build it back up quickly to ensure they are prepared in the event of another natural disaster. Insurers also need to pay reinsurance firms for their cover. These costs flow through to policyholders through premiums, and with the increasing costs of damage from floods in Australia, these increased costs have contributed to higher premiums, especially for people that want to take out flood insurance that have a higher risk of flooding.

3.57 Following the major floods of 2022, Australian insurers and global reinsurers have sought to collect more data to determine their level of exposure to flood risk through home and contents, commercial and other insurance lines. As a result, some insurers have stopped offering flood insurance, either as an inclusion in their policies or beyond a number of households the insurer is comfortable with, or insurers are raising premiums to better reflect the real risk underlying the policy.

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[44] Department of the Treasury, *Reforming flood insurance: A proposal to improve availability and transparency*, Consultation Paper, November 2011, p. 10.

3.58 In Chapter 9, this report will look deeper at the issues contributing to higher premiums for flood prone properties and options for the Australian Government to consider to improve the availability and affordability of flood cover for these people. While these options are designed to provide some relief, they do not propose to allow people to ignore market signals, especially when those signals clearly indicate significant risk as floods become more frequent and severe.

Solutions to the disaster insurance gap used around the world

3.59 Around the world, governments have established programs that seek to address the disaster insurance gap. These programs are often created to deal with one or more disasters responsible for the most damage to a region where insurers and reinsurers have deemed the disaster too risky to insure or will only insure in exchange for a premium that is unaffordable for most policyholders. Typically, government programs aim to increase the availability and affordability of disaster insurance either through the provision of insurance directly, or through reinsurance pools that transfer the risk from the private market to the government. Governments can help reduce premiums for policyholders, generally do not seek to achieve a profit and may be able to more effectively cross-subsidise the costs of the program.[45]

3.60 Some programs aim to cover only subsets of the population that are at the most risk from a disaster. For example, in the United States flood insurance is provided to the most high-risk communities through the National Flood Insurance Program (NFIP).

3.61 Private insurance companies provide NFIP policies to participating communities, while the Federal Emergency Management Agency, which administers the NFIP and is responsible for underwriting the insurance coverage, assumes all of the risk for floods affecting policyholders and sets the rates charged for policies. Participating communities must meet certain conditions for enrolment, including that they adopt minimum floodplain management regulations. Additionally, anyone in a high-risk location with a mortgage through a government-backed lender is required to take out a flood insurance policy.[46]

3.62 Other countries have sought to implement similar programs, combining mandates for insurers to have disaster insurance included in their policies, and allowing them to charge surcharges to consumers, while also offering public reinsurance or a government-backed guarantee fund to protect the solvency of insurers from catastrophe-induced bankruptcy.

3.63 For example, in Spain, insurers are required to include coverage for all natural disaster risks in general insurance policies. Insurance companies offset the risk by adding a surcharge to premiums and transferring risk to the public insurance consortium, Consorcio de Compensación de Seguros.[47]

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45 C Kousky, *Understanding Disaster Insurance*, 2022, Island Press: Washington DC, pp. 48-49.

46 Federal Emergency Management Agency, 'Flood Insurance', www.fema.gov/flood-insurance.

47 Consorcio de Compensación de Seguros, 'Extraordinary risk insurance: Function and objective', www.consorseguros.es/ambitos-de-actividad/seguros-de-riesgos-extraordinarios/funcion-y-objetivo.

3.64 France similarly mandates coverage for natural disasters, with premium surcharge rates set by the government, and the availability of the public reinsurance scheme, Caisse Centrale de Réassurance, protecting against catastrophe losses.[48]

3.65 New Zealand also mandates natural disaster insurance for some residential buildings whereby premiums are collected by private insurers and passed on to the Earthquake Commission to be held in a fund from which disaster insurance payouts are made when an event occurs.[49]

3.66 The United Kingdom (UK) has adopted Flood Re which requires all insurers that offer home insurance in the UK to pay a levy into the Flood Re Scheme which is used to cover the flood risks of home insurance policies. Insurers can choose to pass on the flood risk element of their policies to Flood Re for a fixed price. When a claim is made, the insurer will pay the claim and seek reimbursement from the fund.[50]

3.67 These programs are significant undertakings by any government. They usually require a dedicated organisation to work on the administration of the program, extensive data and modelling to ensure prices are fair, and monitoring following implementation to see whether the program is increasing insurance coverage while also not creating perverse incentives such as encouraging people to live in risky locations. The government also needs to be comfortable taking on the risk of a catastrophic event.

3.68 There have also been a number of private sector innovations that have arisen in recent years. For example, there are start-ups that have begun offering parametric insurance to households,[51] a solution which is primarily used in the reinsurance market.

3.69 Parametric insurance is an index-based solution whereby a premium is paid in return for a specific payout if a pre-defined event occurs. A pre-agreed payout would be made if a parameter or index threshold is reached or exceeded, such as wind speeds during a hurricane, a certain level of magnitude of an earthquake, or rainfall levels and water heights of a flood.[52] This solution has obvious benefits as it speeds up payments following a claim, removes the need for loss assessments on individual properties and reduces costs. However, they are not yet considered a viable option for households and businesses seeking full and comprehensive insurance cover. Currently, there is only one insurer offering parametric insurance for flood cover in Australia, French company, Descartes Underwriting. However, the Committee heard

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48 Caisse Centrale de Réassurance, 'Natural disasters compensation scheme', www.ccr.fr/en/-/plaquette-indemnisation-des-catastrophes-naturelles-en-france.

49 New Zealand Treasury, 'Earthquake Commission Regulatory System', www.treasury.govt.nz/information-and-services/regulation/systems-we-steward/earthquake-commission-regulatory-system.

50 Flood Re, 'How Flood Re works', www.floodre.co.uk/how-flood-re-works/.

51 For example: Raincoat, 'Enabling financial resilience from natural disasters', www.raincoat.com/, Jumpstart Insurance, 'Earthquake insurance for everyone', www.jumpstartinsurance.com/.

52 Swiss Re, Corporate Solutions, 'What is Parametric insurance?', https://corporatesolutions.swissre.com/insights/knowledge/what_is_parametric_insurance.html.

this cover can be ‘expensive’ and not necessarily feasible for people seeking flood cover.[53]

Action taken by the Australian Government to address the disaster insurance gap in Australia

3.70 The Australian Government has already taken steps to address the disaster insurance gap for cyclone and related flood damage in cyclone-prone areas. In 2022, the Australian Government sought to improve access and affordability of insurance by establishing the Cyclone Reinsurance Pool (Cyclone Pool), administered by the Australian Reinsurance Pool Corporation (ARPC). All general insurers are required to participate in the pool to maximise potential premium reductions. All large insurers have joined, and smaller insurers have until 31 December 2024. It is hoped that by introducing the pool, it will stimulate greater insurer participation in the northern Australian market.[54] The Cyclone Pool is primarily focused on storm risk, but it also covers associated flooding occurring within a period of 48 hours after the storm event (known as the Cyclone Event Period).[55] This time limit has been the subject of considerable discussion.

3.71 Alongside the scheme’s introduction, the Australian Government directed the Australian Competition and Consumer Competition (ACCC) to collect data over 5 years to monitor the impact of the pool, assess whether savings from the pool are being passed through to policyholders, and see whether the pool is delivering on its intended outcomes. The ACCC’s second monitoring report for the year 2022-2023 in December 2023 indicated no significant price effects had flowed through to consumers during this period due to damage to property from tropical cyclones in 2022–23 being relatively limited and that most large insurers had joined the Pool around or after July 2023.[56] The ACCC’s next report will analyse the impacts of the pool during the 2023-2024 period.

3.72 The Australian Government has also more recently announced it will develop an integrated, cross-government approach to minimising the impacts of disasters on the community and help address insurance costs driven by more frequent and intense weather events. This work is to be undertaken by the Affordability and Natural Hazard Risk Reduction Taskforce.[57]

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53 Mr Matthew Williamson, President, Byron Bay Chamber of Commerce, *Committee Hansard*, Lismore, 11 April 2024, p. 17.

54 Department of the Treasury, *Submission 69*, pp. 3, 5.

55 Australian Reinsurance Pool Corporation, ‘Cyclone Pool Fact Sheet’, https://arpc.gov.au/resources/cyclone-reinsurance-pool-fact-sheet/, viewed 23 August 2024.

56 Australian Competition and Consumer Commission*, Insurance monitoring: Second report following the introduction of a cyclone and cyclone-related flood damage reinsurance pool*, December 2023, p. 1.

57 Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, ‘Insurance Affordability and Natural Hazards Risk Reduction Taskforce’, *Media Release*, 31 May 2024.

The regulatory framework governing general insurers

3.73 The general insurance industry is governed by a framework of legislation, self-regulatory codes, regulators and industry bodies.

The legislative framework and the role of regulators and authorities

3.74 Retail general insurers must hold an Australian Financial Services Licence (AFSL) under the *Corporations Act 2001.* Among other things an AFSL comes with obligations for services to be provided to customers efficiently, honestly and fairly. Licensees must also have adequate arrangements in place to ensure staff are sufficiently trained and competent to provide their services, and that there are compensation arrangements and a dispute resolution system in place. This must include an internal dispute resolution process and membership of the AFCA for external dispute resolution.

3.75 It is also an offence to conduct insurance business in Australia without the proper authority required by the *Insurance Act 1973*, which compels insurers to seek a licence from the Australian Prudential Regulation Authority (APRA) in order to provide general insurance products. It is through the *Insurance Act,* one of two Acts specifically regulating the general insurance industry, that insurers are prudentially regulated and subjected to supervision by APRA.[58] General insurers are further regulated by standards issued by APRA, such as those requiring insurers to hold a minimum level of capital and requirements to report to APRA on insurers' financial positions.[59]

3.76 The second piece of legislation specifically regulating general insurers is the *Insurance Contracts Act 1984*, which regulates the terms included in general insurance contracts and related insurer conduct, and for which the Australian Securities and Investments Commission (ASIC) is the regulator.

3.77 The *Insurance Contracts Act* seeks to strike a fair balance between the interests of insurers and policyholders. It does this in part by having a duty of utmost good faith as an implied term applying to both the insurer and insured in insurance contracts, so that a breach of the duty can give rise to a claim for damages. The duty aims to ensure that each party to the insurance contract acts with fairness, decency and honesty.

3.78 As part of its role, ASIC ensures that insurers provide insurance efficiently, honestly and fairly, handle complaints properly, and uphold their obligations to policyholders. ASIC is also responsible for contraventions of consumer law by general insurers

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58 *Insurance Act 1973*. The Act also establishes a financial claims scheme for policyholders with insolvent general insurers and imposes primary responsibility for protecting the interests of policyholders on the directors and senior management of general insurers.

59 Australian Prudential Regulation Authority, 'Prudential and Reporting Standards for General insurance', www.apra.gov.au/industries/2/standards.

under the *Australian Securities and Investments Commission Act 2001* (the ASIC Act), which replicates protections under the Australian Consumer Law for financial services and products. ASIC can also issue regulatory guides that insurers must comply with, such as Regulatory Guide 271 Internal Dispute Resolution which explains what financial firms must do to have a compliant Internal Dispute Resolution system in place.

3.79 Insurers are also subject to other whole-of-economy laws such as competition laws under the *Competition and Consumer Act 2010*, with the ACCC having a role in maintaining and promoting competition and taking action against insurers for contraventions of competition law.[60] The ACCC can also be directed to inquire into and monitor prices in the insurance industry, as it was in 2017 when it was directed to inquire into the supply of insurance in northern Australia,[61] and in 2022 when it was directed to monitor prices, costs and profits relating to the supply of insurance before and after the introduction of the Cyclone Pool.[62]

3.80 AFCA is authorised under the *Corporations Act* to deal with and resolve complaints by individuals or small business consumers made about their licensed financial sector firm, including general insurers. It operates as a not-for-profit and non-government organisation and is primarily funded by member firms in the industries it regulates.

3.81 The AFCA scheme is overseen by ASIC and must comply with general considerations which are: accessibility; independence; fairness; accountability; efficiency and effectiveness. AFCA's complaint resolution service is free to consumers and its decisions are binding on financial firm members.[63] AFCA also has responsibilities to identify, resolve and report on systemic issues and serious contraventions of the law to ASIC. It supports separately funded, independent committees that monitor firms' compliance, including with relevant industry codes.

The self-regulatory regime

3.82 The ICA is the representative body for the Australian general insurance industry. Members of the ICA represent approximately 85 per cent of total premium income written by private sector general insurers, including reinsurers. The ICA's roles include declaring 'insurance events', coordinating the industry's response, conducting community consultations and collecting data.[64] More generally, the ICA works with members, consumer groups and government on matters related to general insurance.[65]

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60 Department of the Treasury, *Submission 69*, pp. 3-4.

61 Australian Competition and Consumer Commission, 'Terms of Reference for the Northern Australia insurance inquiry 2017-20', 25 May 2017, www.accc.gov.au/inquiries-and-consultations/finalised-inquiries/northern-australia-insurance-inquiry-2017-20-0/terms-of-reference.

62 Australian Government, *Competition and Consumer (Price Monitoring – General Insurance Policies) Direction 2022*, Federal Register of Legislation, 12 January 2022, paragraphs 5–6.

63 Australian Financial Complaints Authority, *Submission* 1, pp. 6-7.

64 ICA, *Submission 11*, p. [4].

65 Department of the Treasury, *Submission 69*, p. 5.

3.83 First introduced in 1994, the 2020 General Insurance Code of Practice (the Code) is the principal voluntary self-regulatory document for the general insurance industry. The Code was created and is maintained by the ICA. All ICA members that offer products covered by the Code must subscribe to the Code and other industry participants are also encouraged to subscribe.[66]

3.84 The Code covers aspects of a consumer's relationship with their insurer, including when a consumer buys insurance, makes a claim, is experiencing hardship, or makes a complaint. This includes timeframes for insurers to respond to claims, complaints and requests for information from customers. The Code also sets out the broad standards that general insurers must meet when providing services to their customers, including being open, fair and honest.[67]

3.85 The General Insurance Code Governance Committee (CGC) is an independent body that monitors compliance with the Code. The CGC is funded by industry, however, its operations are carried out by an independent secretariat that sits within AFCA. The CGC's work includes examining insurers practices and recommending improvements to practices, identifying current and emerging industry-wide problems, monitoring the effectiveness of customer remediations and applying sanctions to insurers where necessary. The CGC also conducts inquiries and publishes its findings.[68]

Flood insurance is a relatively recent phenomenon

Floods have historically been excluded from insurance policies

3.86 The availability and affordability of flood insurance is, understandably, seen as a community and public policy challenge right now. However, historical context is important.

3.87 Historically, flood has not typically been part of home and contents insurance policies in Australia.[69] For decades, industry concerns about the magnitude of exposures, a lack of consistent and reliable flood maps, the absence of mitigation and concerns about the ability of policyholders to afford flood cover, persistently kept insurers from offering coverage for flood.[70]

3.88 All levels of government and the insurance industry repeatedly reviewed the issues after almost every major flood event, largely in response to continued public dissatisfaction with a lack of available flood cover. Although several schemes were

66 Department of the Treasury, *Submission 69*, p. 5; ICA, *Submission 11*, p. [9].
67 Insurance Council of Australia, *General Insurance Code of Practice,* 5 October 2021.
68 General Insurance Code Governance Committee, *Submission 5*, p. 1.
69 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters report*, September 2011, p. 20.
70 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters report*, September 2011, p. 20.

proposed over the years, each proposal was ultimately rejected, with governments citing concerns over costs and the appropriateness of government intervention.[71]

3.89 While the Australian Government introduced standard terms and conditions for prescribed general insurance contracts through the commencement of the *Insurance Contracts Act* and *Insurance Contracts Regulations*, which included flood as a peril (as well as fire, storm, earthquake, cyclone and actions of the sea), insurers were able to exclude any standard cover items and largely continued to exclude flood from their policies. It was not until after the Wollongong flood in 1998, that some insurers moved to extend their policies to include flash flooding or partial flood cover with sub limits.[72]

3.90 The creation of the NFID in 2007 by the ICA addressed some of the concerns held by insurers around the uncertainty of exposure. Combined with pressure from public backlash following floods in the Hunter and Central Coast region in 2007 and Queensland in 2008, more insurers began to offer flood cover. Suncorp introduced flood cover on a no opt-out basis for most of its home and contents policies, followed by Zurich offering flood cover as standard and Insurance Australia Group (IAG) offering flood cover on an opt-out basis under its NRMA brand.[73] Following the Queensland floods in 2011, there was a substantial increase in flood coverage as part of home and contents and commercial insurance policies, with insurers offering for policyholders to opt-out if they didn't want, or couldn't afford, flood cover.

3.91 Today, all major insurers offer flood cover as part of their home and contents and commercial policies, however the availability of insurance for high flood risk properties is decreasing.

3.92 The high costs borne by insurers from the 2022 floods have made insurers aware of the need to manage their exposure to floods. Several insurers have reduced the maximum number of properties they will insure in certain locations. Insurers are now able to leverage more accurate, granular flood risk data to isolate higher risk properties. In doing so, they have been able to reduce their exposure by limiting the number of policies covered in an area and charging premiums that better reflect the real risk of the properties they do insure to future flood events. Consequently, many people occupying areas that flooded in 2022 have found they have been unable to renew their policies, or have been quoted premiums substantially higher than they paid previously.

3.93 A third trend has also become apparent throughout the course of this inquiry: a decreasing number of insurers are choosing to provide insurance with flood cover as an opt-out option, and where this is offered, insurers are moving to exclude related cover such as rainwater runoff.

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71 Department of the Treasury, 'The History of Flood Insurance in Australia', https://treasury.gov.au/sites/default/files/2019-03/NDIR-2011-comm-papers-Flood_Insurance_Aus.pdf, p. 5.

72 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters report*, September 2011, pp. 21-22

73 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters report,* September 2011, p. 22.

3.94 The Committee noted that of the eight largest general insurers in Australia, Suncorp, QBE, Youi, Royal Automobile Club of Queensland Limited (RACQ), and Hollard provide flood cover as standard (meaning it is mandatory) in most or all of their home and contents policies.[74]

3.95 Suncorp offers an opt-out option for flood cover for its AAMI home insurance products for high-risk customers.[75] Auto & General Insurance Company Limited (A&G) offers flood cover as an add-on option for home and contents policies for properties, including in high flood risk areas.[76]

3.96 Until recently, Allianz offered flood cover as part of relevant home and contents policies, with customers able to opt-out if they choose.[77] However, in May 2024, Allianz announced changes to its home and contents (and landlords) policies to include flood cover as standard for all new customers and existing customers with a low to moderate flood risk. Allianz's existing high flood risk customers with policies that do not have flood cover will be able to continue without flood cover, with flood cover exclusion also to include rainwater runoff. These changes will commence from late 2024.[78]

3.97 From early 2022, IAG changed its home and contents policies to bundle the inclusion or exclusion of storm surge and rainwater runoff with flood in most of their products. IAG's popular product lines, NRMA and RACV, now offer opt-out for all three events in NSW, the ACT, Victoria and Tasmania where there is a higher risk of water inundation.[79]

Committee comment

3.98 The Committee understands that the preference by some insurers to include flood cover as standard in their home and contents policies is due to some of the issues examined as part of this inquiry, including the challenges experienced when there is a need to determine whether damage to a property was caused by flood or something else when a policy doesn't include flood cover. Insurers were more likely to experience delays due to the required hydrology assessments, with claims susceptible to disputes over the cause of damage where policyholders had opted-out of flood cover. Throughout the inquiry, all insurers indicated they were aware of the issues associated with opting-out of flood cover and the insurers which held policies without flood cover during the 2022 floods were continuing to consider their response as this inquiry concluded.

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74 Suncorp Group, *Submission 12*, p. 5; QBE Insurance Group, *Submission 17*, p. 7; Youi, *Submission 14*, p. 9; RACQ Group, *Submission 15*, p. 1; Hollard Holdings Australia, *Submission 19*, p. 14.

75 Suncorp Group, *Submission 12*, p. 5.

76 Auto & General Holdings, *Submission 18*, p. 4.

77 Allianz Australia, *Submission 13*, p. 4.

78 Allianz Australia, 'Allianz to introduce flood cover as standard in home insurance policies', 14 May 2024, www.allianz.com.au/about-us/media-hub/allianz-to-introduce-flood-cover-as-standard-in-home-insurance-policies.

79 Insurance Australia Group, *Submission 16(2),* p. 1.

3.99 While removing opt-out for flood insurance may streamline those insurers' claims handling processes following a flood, there is also a real prospect that hundreds of thousands of households will be unable to afford and access any insurance at all. The inability to take out any insurance to protect against non-disaster related risks would have flow on effects for households, including by locking them into uninsurable homes and exposing them to significant financial stress if the risk eventuates. It could also impact people's access to finance, and put homeowners with mortgages in the difficult position of breaching their contract, as it is a requirement for owners to hold an insurance policy to take out a mortgage on a property.[80]

3.100 The Committee will consider the impacts of the current trends in insurance coverage further in Chapter 9, on the accessibility and affordability of flood insurance.

[80] Australian Banking Association, *Submission 71*, p. 2.

4. Policyholders' experiences with insurers' claims processes and handling

4.1 The 2022 floods highlighted significant failures on the part of insurers when dealing with their clients, some of whom are yet to return to their homes years after the floods.

4.2 The claims process can be complex and include multiple touchpoints, including third parties, which creates the risk of inconsistent experiences, and missed or repeated steps. After a claim is lodged, the claims process may include:

- Emergency make-safe works arranged by the insurer;
- Assessments of damage and causation which may require specialist reports, such as hydrology and engineering reports;
- A claims decision by the insurer;
- Scope of works setting out repairs or rebuild works to be completed;
- Repairs or replacements conducted by an appointed builder; or
- Offering of a cash settlement.[1]

4.3 This chapter discusses common issues raised with the Committee by policyholders, consumer advocacy groups, insurers, regulators and independent bodies related to the above processes and where there have been opportunities for improvement identified. The Committee acknowledges that some of these issues are not unique to the experiences of policyholders impacted by the 2022 major floods and that progress has been made by insurers to improve their processes since the floods, including improvements recommended in Deloitte's report on insurer's preparedness for CAT 221 and the Australian Securities and Investments Commission's (ASIC) review of claims handling.

4.4 Regulation of insurer's claims handling processes has undergone some changes in the last few years. Following the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry recommending insurance claims handling should not be excluded from the definition of 'financial services', the *Corporations Act 2001* was amended to make claims handling a financial service.[2]

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1 Insurance Council of Australia (ICA), 'Insurance recovery and claims process', https://insurancecouncil.com.au/resource/insurance-recovery-process/, viewed 18 August 2024.

2 *Corporations Act 2001*, s. 766A(1)(eb).

The Royal Commission identified several areas of concern regarding insurers claims handling, including cases where insurers had failed to handle claims in a fair and transparent manner, failing to act in an efficient, professional and practical manner, and breaching the insurer's duty of utmost good faith, as well as delays in claims that resulted in consumer detriment.[3]

What makes a great claims experience?

4.5 The General Insurance Code of Practice (the Code) commits the general insurance industry to the promotion of trust, integrity and respect through being clear, transparent, fair and timely in its communications with the community as well as treating the community with respect, dignity and sensitivity.[4]

4.6 For most policyholders, making a claim is the most significant interaction they will have with their insurer. In the context of a natural disaster, policyholders expect their insurer to facilitate the insurance claims process to be speedy, easy to navigate, transparent, empathetic to their experiences and responsive to their needs.

4.7 The Deloitte report found that policyholders who had a positive experience with their insurer often experienced:

- Empathy displayed by the claim handler, assessor and other staff members;
- Regular communication including timely claim progress updates;
- Proactive and efficient management of claims and active management of third-party suppliers; and
- Clear and informative communication through the process, including the provision of clear justification for adverse decisions.[5]

4.8 As part of the inquiry process, the Committee heard from individuals from local communities that were impacted by the floods. Statements from these individuals highlighted the emotional and financial impact caused by a claims process that did not meet the expectations of these policyholders.

4.9 One policyholder impacted by the floods in Maribyrnong, Victoria, summarised to the Committee their experience with the claims process:

> I'm trying my hardest. How can I settle my claim when I have responses like this? What am I doing wrong? I don't think I've done anything wrong. I have asked, asked and asked. I have exhausted every avenue. I work in the insurance industry and there are red-tape, fluffy-waffle conversations with no

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3 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report: Volume 1*, February 2019, pp. 416, 455; Department of the Treasury, *Insurance Claims Handling: Taking action on recommendation 4.8 of the Banking, Superannuation & Financial Services Royal Commission*, Consultation Paper, https://treasury.gov.au/sites/default/files/2019-03/t364638-consultation-paper.pdf, 2019, p. 5.

4 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 4.

5 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 85.

> determination—you've got to be joking me. How do genuine people on the street, who have absolutely no insurance experience, deal with this sort of BS, for want of a better word? We all know what that is. It's probably not professional to say, but that's what it is.
>
> How many claims have been settled with insurance companies not adhering to utmost good faith claims handling processes? How many genuine complaints have been ignored? How many people are fed up? After 18 months, clearly I am, honestly. How many people have just said: 'I'll take the money and I'll fix it myself. Don't worry, thanks for nothing.[6]

4.10 Another policyholder, from Eugowra in the heavily impacted Central West region of New South Wales, similarly told the Committee:

> I do believe that all insurers need to start listening or supporting their policyholders. When a policyholder goes to them, it's in that policyholder's time of need and it's about ensuring they respond with respect and dignity to ensure the policyholder is appropriately managed and dealt with through that time of need. What we've all seen is that policyholders are being treated poorly in response to their making a claim, and that's not why we take insurance. We believe that there's a backstop there, and that's why we take insurance out, to provide that level of reassurance.[7]

Factors that influenced insurers' performance

4.11 There were over 300,000 claims made in relation to the 2022 major floods, with over 230,000 claims made in relation to the first declared flood event for the year, CAT 221. The number of claims related to CAT 221 was unprecedented and added to an already high number of open claims from six declared events in 2021.[8]

4.12 The volume of claims arising from CAT 221, and the three major floods that followed, tested insurers' claims handling capabilities, including their ability to scale resources up quickly following catastrophic level natural disaster events, as well as insurers' systems and practices for managing, monitoring and escalating claims, insurers' ability to meaningfully communicate with policyholders and the adequacy of insurers' oversight of third-party contractors undertaking work on behalf of insurers when there is a very large number of claims, many of them complex.

4.13 Insurers needed to scale up their claims workforce by up to 87 per cent to meet the demands of CAT 221 at a time when demand for labour across employers remained very high. Insurers were further challenged by ongoing supply chain shortages and high demand for labour and materials in the construction industry. Rental vacancies

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6 Ms Alison Baumgart, Private capacity, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 23.
7 Mr Sean Haynes, Private capacity, *Committee Hansard*, Eugowra, 8 May 2024, p. 32.
8 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 13.

were also at historic lows in many of the regions impacted by floods.[9] The challenges and obstacles to recovery are discussed in Chapter 2.

4.14 Overall, the Committee considers that insurers resolved a high proportion of claims satisfactorily and, in most cases, performed well in challenging circumstances. The Committee heard stories of staff across all insurers meeting and often exceeding the expectations of their customers, including staff that took proactive, innovative approaches to support policyholders impacted by a flood.

4.15 The number of cases that involved poor quality of service or poor outcomes are, as a proportion of the total claims, relatively low, but still a substantial number in absolute terms. For many of the policyholders that had a poor claims management experience, their interactions with their insurer impeded their recovery and, in some cases, resulted in adverse health impacts.

4.16 This chapter focuses on common concerns raised about insurers' handling of policyholders' claims and makes recommendations for improving insurers claims handling practices.

Insurers processes to accept and deny claims

4.17 This section discusses key issues raised during the inquiry about the processes used by insurers when they assess and consider a claim.

4.18 In lodging a claim, the policyholder has the initial onus to prove, on the balance of probabilities, that the loss or damage falls within the terms of the policy. The insurer is then liable for the loss unless it shows that an exclusion or limiting condition applies. The insurer has the onus of proof in establishing the application of the exclusion, also on the balance of probabilities.[10]

4.19 Some of the most common reasons provided for complaints that were made in relation to denied claims were about the source of the initial inundation causing damage (which could be from stormwater runoff, rainwater runoff or flood) or the application of an exclusion, including a lack of maintenance and wear and tear, and whether the policyholder was covered for the event. Where questions over coverage arose, insurers generally obtained hydrology and other expert reports to inform their consideration of the claims and, if an insurer denied a claim, to support the evidence base justifying the insurer's decision. The quality and consistency of the expert reports that were informing insurers' decisions to deny claims was also an area of concern raised throughout the inquiry.

9 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 90.
10 Australian Financial Complaints Authority (AFCA), *Submission 1,* p. 23.

Interpretations and uses of key policy terms

4.20 In 2011, following significant flooding mostly in Queensland in 2010-2011, the Natural Disaster Insurance Review (NDIR) recommended a standardised definition of flood, and in 2012 a legislated definition of flood was introduced. The driving force behind this standardisation was the common experience of policyholders being affected by the same flood, both having flood cover and yet receiving different claim outcomes, which advocates argued were a result of insurers having different definitions of flood in their insurance contracts. Legal Aid Queensland told the Committee that, prior to the 2010-2011 floods, there were between 10 and 15 different definitions for flood.[11]

4.21 The term 'flood', when used in insurance contracts, is currently legislated to mean:

> the covering of normally dry land by water that has escaped or been released from the normal confines of:
>
> - any lake, or any river, creek or other natural watercourse, whether or not altered or modified; or
> - any reservoir, canal, or dam.[12]

4.22 Stakeholders agreed that the introduction of a standard definition for flood had 'significantly reduced' the number of disputes in Queensland and raised awareness among consumers about their coverage for flood[13]

4.23 A flood is not the only form of water damage experienced in a severe weather event that may be covered (or not) by an insurance policy. Most insurance policies will include terms such as 'stormwater', 'storm-surge' or 'rainwater run-off' however the exact definition of these terms may differ by insurer. More generally the common elements of other storm related definitions will extend to:

- Storm – a range of activities that can cause damage such as rain, wind, hail, snow and flash flooding as well as different types of flood events such as cyclones and tornadoes.[14]
- Storm-surge – a rise above the normal water level along a shore resulting from strong onshore winds and/or reduced atmospheric pressure, generally accompanying a tropical cyclone as it comes ashore.[15]
- Stormwater and rainwater run-off are often used interchangeably to refer to rainwater that runs off land and flows away from the area where it originally falls.[16]

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11 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 43.

12 Insurance Contracts Regulations 2017, reg 34.

13 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 43; Financial Rights Legal Centre, *Submission 27.2*, p. 4.

14 Department of the Treasury, *Standardising General Insurance Definitions*, p. 10.

15 Bureau of Meteorology, 'Storm surge', www.bom.gov.au/cyclone/tropical-cyclone-knowledge-centre/understanding/storm-surge/, viewed 3 September 2024.

16 Department of the Treasury, *Standardising General Insurance Definitions*, p. 11.

4.24 The flooding events in 2022 were caused by very significant widespread and persistent rainfall, which meant that many properties were exposed to both rainwater run-off and flood.[17]

4.25 Insurance Australia Group (IAG) noted many of its policies 'do not explicitly define rainwater run-off' as it is 'implicitly' included in the definition of storm. Further, it was noted that certain policies use slightly different definitions for storm surge.[18] While this provides options for coverage for policyholders it can contribute to confusion about coverage for flood and other water inundation events.[19]

4.26 During the inquiry, many stakeholders believed the terms 'storm surge' and 'rainwater runoff' should be standardised as flood has been. There is a view that some of the disputes that occurred prior to standardising the definition of a flood have now 'stepped sideways' into other water inundation terms. Standardising these terms, in the view of Legal Aid Queensland, would potentially resolve a lot of disputes and improve consumer's understanding of their coverage.[20] The Australian Financial Complaints Authority (AFCA) also believed there are 'some real challenges' in the way that policies are drafted and written and that any standardisation would be of benefit if it can create 'simplicity and make it easier for customers to make choice about their policies'.[21]

4.27 The Insurance Council of Australia (ICA) advised there are various considerations which may influence whether standardising definitions for other forms of water inundation would provide an overall benefit to consumers, noting that standardisation 'may provide benefits in terms of comparability of insurance coverage' but may also have an impact on competition across the sector as well as the pricing of premiums, and therefore would require careful and close consultation with industry.[22]

4.28 At the time of this inquiry, Treasury has been undertaking consultation on whether there are natural hazard terms that should be standardised when used in insurance contracts (possible terms include fire, storm, stormwater and rainwater run-off), and reviewing the standard cover regime. This work is part of a broader package of reforms announced by the Australian Government in 2022 to improve consumer understanding of insurance products.[23]

Fair wear and tear and maintenance obligations

4.29 The exclusions specified in insurance contracts determine whether a property is covered for the loss incurred when a claim is made.

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17 ICA, *Submission 11*, p. [7].
18 Insurance Australia Group, *Submission 16*, p. 17.
19 AFCA, *Submission 1*, p. 20.
20 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 44.
21 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 31.
22 ICA, *Supplementary Submission 1.1*, p. [1].
23 Department of the Treasury, 'Standard definitions and standard cover for insurance', https://treasury.gov.au/consultation/c2024-501098.

4.30 Wear and tear and exclusions are designed to keep an insurer from being liable when damage results from the natural deterioration of the property due to normal use over time, while a lack of maintenance exclusion protects insurers from being liable for a policyholder's failure to properly maintain, repair or replace deteriorated or defective parts of the property.

4.31 Insurers may cite wear and tear and poor maintenance exclusions when damage is incurred from flood events when it believes the damage would not have occurred had a part of the property been better maintained, and will not cover repairs for damage that is believed to be normal wear and tear of the property.[24]

4.32 When a policyholder lodges a claim, it is initially their responsibility to prove the loss or damage falls within the terms of the policy (on the balance of probabilities). The insurer is then liable for the loss unless it can show that an exclusion or limiting condition applies. The insurer has the onus of proof in establishing the application of the exclusion (on the balance of probabilities).[25] Where a policyholder has not maintained their property to a reasonable standard, and the insurer can show evidence that this has contributed to the level of damage that was incurred during the claim event, the insurer can deny all or part of the claim.

4.33 When taking out home and contents insurance, policyholders are in effect agreeing to maintain and ensure the adequate upkeep of their property, including to repair damage which may lead to further damage to the property in the event of a storm, flood or other extreme weather event. Exclusion clauses in insurance contracts provide incentives for owners to properly maintain their properties, thus reducing the risk of property damage when an event occurs.

4.34 However, exclusion clauses are often undefined, meaning policyholders don't necessarily know what their insurer considers a reasonable level of maintenance, and the application of an exclusion is only known when the insurer makes a decision on a claim. Insurers either provide limited information about what they consider to be a reasonable level of maintenance or advise a level of maintenance that most policyholders would find difficulty implementing in practice.

4.35 This combination of factors may underpin why claim denials based on wear and tear and lack of maintenance clauses were identified in evidence to the Committee as making up a significant proportion of the complaints that went to internal dispute resolution and on to AFCA.

4.36 Throughout the inquiry, stakeholders spoke about the issues they identified came up the most frequently during the major floods, including policyholders' lack of awareness of insurers' expectations regarding maintenance, the inconsistent application of exclusions by insurers when considering a claim, insurers placing the onus on policyholders to establish that an exclusion does not apply and reliance by insurers on poor quality expert reports.

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24 ASIC, *Navigating the storm: ASIC's review of home insurance claims,* 16 August 2023, p. 21.

25 AFCA, *Submission 1*, p. 23

Awareness of maintenance expectations

4.37 The Committee heard that often policyholders will not know what they need to do to maintain their property to a level that would be considered acceptable by their insurer to ensure they have insurance cover. [26]

4.38 For example, Caxton Legal Centre told the Committee that while many policyholders understood some maintenance of their properties was expected, such as cleaning out of gutters periodically, in its experience policyholders 'did not have an understanding on what more they could do to maintain their home'.[27] This often became an issue at the time of a claim being made. In discussions with the Committee, Caxton Legal Centre elaborated on the expectation of insurers and the understanding of consumers:

> I don't think most of us know what good maintenance on our homes is. I think there's a big gap there, and then there's of course a very big gap for older people and people with vulnerabilities. Clients are quite insulted sometimes when they're told its wear and tear or maintenance; it's almost like a personal slight against them. Also, I think people are very shocked when there is a problem at their home that they don't believe they caused where they don't feel like they did anything wrong, and therefore the insurer should cover it.[28]

4.39 Both Legal Aid Queensland and Legal Aid New South Wales also encountered policyholders who were unaware of the maintenance and wear and tear obligations under an insurance policy or were not sure what actions were required by them to meet their obligations.[29]

4.40 Various reviews on general insurance issues have also reported a lack of consumer awareness regarding the application of wear and tear and maintenance clauses in insurance contracts. ASIC's review of home insurance claims, conducted in 2023, observed that participants were generally unaware of their obligation to reasonably maintain their property, what the obligation entailed and that a claim could be denied if the condition of their property failed to meet this obligation.[30]

4.41 The Deloitte report also highlighted maintenance and wear and tear as a frequently raised friction point from its engagement with affected policyholders and community representatives. The Deloitte report noted that in some circumstances, policyholders believed that they had performed regular maintenance and that the insurers'

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26 For example: Disaster Legal Help Victoria, *Submission 7*, p. 3; Legal Aid Queensland, *Submission 8*, p. 5; Ms Tracey Blythe, Disaster Recovery Coordinator, Financial Counselling Victoria, *Committee Hansard*, 1 February 2024, p. 3.

27 Caxton Legal Centre, *Submission 28*, p. 5.

28 Ms Jacqui Cavanagh, Senior Lawyer, Financial Rights and Housing, Caxton Legal Centre, *Committee Hansard*, Caboolture, 9 April 2024, p. 24.

29 Legal Aid Queensland, *Submission 8*, p. 5; Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, Eugowra, 8 May 2024, p. 4.

30 ASIC, *Navigating the storm: ASIC's review of home insurance claims,* 16 August 2023, p. 21.

maintenance expectations were 'unreasonable' or the weather event and flooding caused the damage.[31]

4.42 The Financial Rights Legal Centre's review of general insurance definitions in 2021 found that there was 'almost no understanding' amongst policyholders about their obligations to maintain a property and that the few insurance products which articulated the appropriate maintenance required had considerable variability.[32]

4.43 Insurers acknowledged consumer awareness of their obligations to maintain their properties was low. Suncorp told the Committee that 'everyone believes their home is well maintained or has been built to code' and that insurers and policyholders views around maintenance is 'one of the big logjams' in terms of resolving complaints.[33]

4.44 To improve consumer awareness, the common recommendation from stakeholders was that insurers should provide clear guidance to policyholders on what is required to maintain their property to an adequate standard.[34] This is to ensure that at the time a claim is being made, policyholders have been made aware of the impact that a lack of maintenance can have on their claim.

4.45 Some insurers have developed or published general maintenance advice on their websites for policyholders to consider, including how often maintenance should be undertaken for certain elements of a property.[35] However, there are differences in how this information is presented to policyholders including the accessibility of the information from the insurers' website and the level of detail provided.

4.46 Legal Aid Queensland, Disaster Legal Help Victoria and Caxton Legal Centre told the Committee that all insurers should be providing clearer guidance to policyholders about maintenance clauses, including the potential for unrepaired damage to roofs, gutters or stumps to impact the outcome of a storm or flood claim.[36] This was an important action to take given the number of people that do not read the Product

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31 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 83.

32 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 46.

33 Mr Steve Johnston, Group Chief Executive Officer and Managing Director, Suncorp Group, *Committee Hansard*, 5 February 2024, p. 20.

34 For example: Byron Shire Council, *Submission 54*, p. 7; Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid New South Wales, *Committee Hansard*, Richmond, 9 May 2024, p. 33.

35 For example: Allianz, 'Your essential home maintenance guide', www.allianz.com.au/home-insurance/articles/home-insurance-maintenance-guide.html, viewed 2 September 2024; QBE, 'Why maintenance is key when it comes to home and contents insurance', www.qbe.com/au/news/why-maintenance-is-key-when-it-comes-to-home-and-contents-insurance, viewed 2 September 2024; Suncorp, 'A guide to preventative home maintenance', www.suncorp.com.au/learn-about/maintaining-a-home/guide-to-preventative-home-maintenance.html, viewed 2 September 2024; RACQ, 'Insurance explained: Why home maintenance is so important', www.racq.com.au/articles/your-place/2022/9/insurance-explained-why-home-maintenance-is-so-important, viewed 2 September 2024.

36 Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard,* 31 January 2024, p. 29; Caxton Legal Centre, *Submission 28*, pp. 2, 4, and 5.

Disclosure Statement (PDS) and are reliant on that relationship of trust that they see with their insurance company.[37]

4.47 Legal Aid Queensland suggested insurers use advertisements to inform policyholders about their maintenance obligations:

> I notice there are some ads that are starting to be put in the media—and it may be Suncorp or AAMI, I'm not sure—where they're essentially saying: 'When you arrive home, look at your roof. Do you realise the stress your roof is under in protecting you? Look after it.' I think that could be taken further, even if it's a fact sheet from insurers going: 'Do you understand for you to maintain your property properly, you need to get someone up on the roof every couple of years? You need to get someone in every two or three years.' In Queensland a big issue is stumps. You need to get someone in every two or three years to look at the stumps in order to make sure, when something goes wrong, we can help you the best.[38]

4.48 There is also evidence that many policyholders do not think about the additional costs required to maintain a property. Financial Rights Legal Centre's report on standardising general insurance definitions found that consumers believed that paying an insurance premium bought coverage without further costs. It believed more needed to be done to make homeowners aware of the costs of maintaining a property in terms of time, effort, finances and the hiring of professionals.[39]

4.49 Insurers were open to more education programs for policyholders on their maintenance obligations, for example, Auto & General Insurance Company Limited (A&G) submitted that consideration could be given to programs on maintenance and risk mitigation to reduce potential damage from weather events.[40]

Pre-existing damage and reasonable condition

4.50 The Committee received evidence in relation to fair wear and tear and maintenance issues included highlighting both insurers' and policyholders' understanding of the risks that exist within properties—particularly older properties. Elements of older properties such as roofs and stumps are more prone to deterioration, or are not regularly considered as part of maintenance by policyholders. Further, policyholders may not have a maintenance history of their property to recognise existing defects, which can only come to their attention when it comes time to make a claim.

4.51 The ICA acknowledged that consumer groups have directly raised the issue of fair wear and tear and maintenance in homes with the group. The ICA commented that

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37 Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard,* 31 January 2024, p. 29.

38 Mr Paul Holmes, Assistant Director, Disaster Relef, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 44.

39 Financial Rights Legal Centre, *Supplementary Submission 27.3,* p. [121].

40 Auto & General Holdings, *Submission 18*, p. 8.

Australia has an 'ageing housing stock', as well as housing stock that uses experimental materials that are deteriorating quickly.[41]

4.52 Consumer groups noted that many disputes in relation to fair wear and tear and maintenance exclusions occur in relation to older properties. Legal Aid New South Wales noted that older properties could not be expected to be in perfect condition compared to a newer build that adheres to better standards, and that this needed to be considered and communicated as part of reasonable maintenance expectations.[42]

4.53 Policyholders may also be unaware of the defects to their property. Financial Rights Legal Centre, CHOICE, the Consumer Action Law Centre and Westjustice highlighted that policyholders may not have the expertise to recognise issues with their property and that building standards may change over time—which insurers may use to assert a defect clause and deny a claim.[43] This reinforces the need for clearer expectations of reasonable condition for elements of properties.

4.54 If certain elements of properties are of issue to an insurer, disclosure to policyholders upfront should be a consideration. The lack of disclosure has caused frustration for many policyholders. For example, an impacted resident from Rochester, Victoria, raised that:

> The first thing I believe that needs to happen is insurance companies need to give the same full disclosure to us, their clients, as they expect from us. They state that if we omit anything, then it may further reduce any claim in the future, if not void it altogether. Why don't the insurance companies have to declare the same thing: 'If your building is more than 50 years old, we won't cover your stumps. If this isn't up to code, we won't do this repair et cetera.'[44]

Standard definitions for fair wear and tear and maintenance

4.55 Standardising fair wear and tear and maintenance exclusion terms has been suggested by consumer groups to not only improve understanding around coverage, but potentially reduce dispute rates and ensure that insurers are using these exclusions in an appropriate and consistent manner.

4.56 The potential benefits of standardising these terms has also been recognised by the insurance industry. The ICA advised at the beginning of the inquiry that it would be submitting an application for Australian Competition and Consumer Commission (ACCC) authorisation for the insurance industry to collaborate on the standardisation of 'wear and tear' and 'maintenance' clauses. Application to the ACCC is necessary to ensure that the industry complies with relevant competition laws.[45] At the time of

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41 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 4.

42 Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid New South Wales, *Committee Hansard*, Richmond, 9 May 2024, p. 33.

43 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 47.

44 Mr Stephen Harris, Private capacity, *Committee Hansard*, Rochester, 18 April 2024, p. 31.

45 ICA, *Supplementary Submission 11.2*, p. [6].

this report, the ICA had yet to seek authorisation from the ACCC to collaborate on standardising wear and tear and maintenance clauses.

4.57 The ICA noted that if the industry is authorised to collaborate on the development of common terms and common terms are established, ICA members would still need to choose to use the terms in their contracts as the ICA does not have the capacity to bind members to use particular terms.[46]

4.58 AFCA supported standardising the terms to 'support more effective communication' between insurers and policyholders but warned that 'it is necessary to temper expectations that standardisation on its own can overcome broader product complexity for consumers'.[47]

4.59 Standardisation of key terms in insurance contracts has long been argued for by consumer groups. There was broad support by consumer groups for the standardisation of the terms 'maintenance' and 'fair wear and tear' throughout the inquiry, including from Legal Aid Queensland, Disaster Legal Help Victoria, Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice.[48]

4.60 However, Financial Rights Legal Centre opposed the industry-led approach, instead arguing the Government should lead discussions to ensure full participation by other stakeholders, including consumer groups, and the scope needs to be broadened to capture related terms such as 'defect' and 'pre-existing damage'.[49]

4.61 Treasury noted that it could be of great benefit for insurers and consumers if insurers 'can come together and try to get more clarity around what expectations are for fair wear and tear in a range of different circumstances'.[50] Treasury supported an industry-led approach, noting that if a definition was to be put into legislation, it would be a 'pretty short and high-level statement' that may not be enough guidance for the range of circumstances the exclusions can be applied to.[51]

Burden of proof and quality of reports

4.62 Maintenance exclusions allow insurers to deny claims where poor maintenance contributed to or was responsible for the damage that was incurred. To be able to rely on a lack of maintenance exclusion to deny a claim, insurers need to be confident that the damage, or extent of the damage, would not have occurred had maintenance or repairs taken place. Expert reports provide insurers with information

46 ICA, *Supplementary Submission 11.2*, p. [7].
47 AFCA, *Supplementary Submission 1.2*, p. 4.
48 For example: Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee* Hansard, 31 January 2024, p. 43; Disaster Legal Help Victoria, *Submission 7*, p. 5; Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 8; AFCA, *Supplementary Submission 1.1,* p. 4.
49 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [10].
50 Mr Robb Preston, Assistant Secretary, Banking, Insurance and Credit Branch, Department of the Treasury, *Committee Hansard*, 15 March 2024, pp. 17–18 .
51 Mr Robb Preston, Assistant Secretary, Banking, Insurance and Credit Branch, Department of the Treasury, *Committee Hansard*, 15 March 2024, p. 17.

about how damage occurred, including any pre-existing damage or poor maintenance that may have contributed to or caused the damage, and are a key component of the claims assessment.

4.63 A common concern raised by policyholders as well as consumer groups was the regularity with which insurers relied on information contained in poor quality expert reports when making a decision to deny a claim based on a fair wear and tear or maintenance exclusion. The Committee heard repeated accounts of claim denials based on exclusions where the expert report did not explain how the poor maintenance or wear and tear resulted in the observed flood damage, or did not sufficiently provide evidence to verify there was a causal link.[52]

4.64 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice submitted:

> In our experience, insurers, assessors and experts assert a lack of maintenance or wear and tear with little to no evidence. Often, there is just a one line justification in the assessor's report stating the home may not have been properly maintained. It is common to see building assessments where no photographic or other evidence is provided to back up the poor maintenance or wear and tear assertions. The reports that are provided rarely, if ever, explain what maintenance should have been done, how that maintenance would have made a difference and do not outline the causation between the lack of maintenance and the end result. For example, evidence demonstrating that had the property been maintained to some reasonable extent then the damage (or most of the damage) would not have occurred.[53]

4.65 A thematic inquiry conducted by the General Insurance Code Governance Committee's (CGC) studied the claim decisions of insurers during the 2022 major floods period and found that expert reports relied on by insurers to deny claims were often poor in quality and there was inadequate quality control for the expert reports. The inquiry found that insurers overturned almost half of their decisions to deny a claim after a complaint was made.[54] It also found a 'concerning trend' in the number of claims denied because of maintenance or wear and tear exclusions, with more than half of the decisions made to deny claims based on these exclusions.[55]

4.66 At a public hearing, the CGC shared their expectations regarding the quality control of expert reports:

> As for the improvements that we would like to see, one is much greater quality assurance from general insurers in terms of the expert reports. We saw expert reports that didn't have facts and evidence that clearly linked claimed wear and

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52 For example: Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27,* p. 26; Legal Aid New South Wales, *Submission 34*, p. 18; ARC Justice, *Submission 9*, p. 3.

53 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 26.

54 General Insurance Code Governance Committee, *Submission 5*, p. 4.

55 General Insurance Code Governance Committee, *Submission 5*, p. 4.

> tear or maintenance issues to the denial of the claim. If the claim is going to be denied on those causes, we would expect the expert to be able to show a link between the two. In too many of the expert reports, that wasn't the case, and we would expect general insurers to be very much attuned to that and to make sure that the facts and evidence are clear.[56]

4.67 The Committee also heard accounts from policyholders that were initially denied based on a lack of maintenance, but where maintenance, or full replacement of property, had been conducted recently enough that it could not have feasibly contributed to the damage incurred. As ASIC told the Committee, policyholders 'should not feel like the onus of proof' is on them and that it was the responsibility of the insurer to explain it in in terms the policyholder understands and provide sufficient evidence and reasoning.[57]

4.68 For example, a case study from the Financial Rights Legal Centre detailed a policyholder who had experience damage to their roof where the insurer refused to repair it on the grounds of poor maintenance:

> …refused to repair the roof on the basis the damage was caused by poor maintenance of a rusted metal sheet on the roof. Four years ago, Joy's roof was damaged by a storm and the insurer also rejected the claim on the basis of poor maintenance. Joy said that at the time, she had repaired the roof by replacing damaged metal sheets with new metal sheets. She provided the invoices for the repair work done four years ago but the insurer hasn't budged.[58]

4.69 The Financial Rights Legal Centre believed insurers were shifting the onus to prove whether an exclusion applies onto the policyholder and requiring the policyholder to show evidence of maintenance:

> When you have a major flood—I don't care how recently your house was built—damage happens. It is the insurer's job to show that, had you recently re-sarked your chimney…the water would not come in. But they don't ever take that step. They just say, 'The roof wasn't well maintained. Claim denied.' And then the burden shifts to the customer to show, 'Actually, I just had my roof looked at two years ago. You paid a claim two years ago; you never said anything about my roof.' That's not how the law works, and insurers are completely negating their responsibility here. Of course, most customers don't find us and most customers don't go to court, and they don't realise that the burden of proof has been wrongly shifted to them.[59]

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56 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), Australian Financial Complaints Authority, *Committee Hansard*, 23 February 2024, p. 10.

57 Mr Alan Kirkland, Commissioner, Australian Securities and Investments Commission, *Committee Hansard*, 2 February 2024, p. 11.

58 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 27.

59 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 5.

4.70 Several stakeholders told the Committee about the lack of options for policyholders to share the maintenance they have conducted or report on the condition of their properties to their insurer before a claim is lodged. Community Plus Queensland noted:

> I have to take photos of my gutters or the invoice from the man that cleaned out my gutters to prove that I've done that. How many of us do that? I know that I didn't do that before. I do that now because I don't want any implication, but many of the people who are sitting behind me and people that are sitting in front of me probably don't do that. So that has been the major one that we've seen this time: the maintenance issue that you have to prove that you've maintained your property, which is a struggle for any of us to do. With double-storied houses, you can't get up and take a photo, but you can't prove yourself unless you take a photo of yourself cleaning out the gutter. I think it was clearer this time who was covered and who wasn't covered, but the maintenance issue for us was certainly a large issue.[60]

4.71 Treasury told the Committee that while expert reports are one component of a claims assessment, they should not be the only evidence relied on to inform an insurer's decision for a claim outcome.[61]

4.72 AFCA considered that setting consistent minimum standards for insurers on the scope, content and quality of expert reports whether in the form of regulatory guidance, code standards or legislative requirements, as alternative opportunities to consider to respond to identified issues with expert report quality.[62]

4.73 There was also support for mechanisms policyholders can use to advise insurers about maintenance that has been conducted or to help policyholders keep track of when they have undertaken maintenance. Stakeholders were keen to see these options being provided by insurers in addition to clearer communication from insurers about policyholders' maintenance obligations.

4.74 To improve the quality of reports and potentially reduce disputes alongside other measures such as standardising fair wear and tear and maintenance terms, stakeholders identified necessary areas for improvement. It is evident that insurers reports should be evidence based and that denying claims based on these exclusions, whether in full or partially, should be clearly explained to policyholders.

4.75 Legal Aid Queensland, in addition to having a standard definition of wear and tear and maintenance, noted it was 'incredibly rare' to see a report that adequately met the burden of proof.[63] Legal Aid Queensland put forward that these clauses should be

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60 Mrs Melinda McInturff, Community Resilience Coordinator, Community Plus Queensland, *Committee Hansard*, Logan, 10 April 2024, p. 9.

61 Mr Robb Preston, Assistant Secretary, Banking, Insurance and Credit Branch, Department of the Treasury, *Committee Hansard*, 15 March 2024, p. 18.

62 AFCA, *Supplementary Submission 1.2*, p. 5.

63 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 42.

revised in a way that insurers would need to identify the damage that had been caused, what maintenance should have been done, and the casual link between them.[64]

4.76 The CGC shared their expectation of greater detail in insurers' expert reports based on what it had seen:

> As for the improvements that we would like to see, one is much greater quality assurance from general insurers in terms of the expert reports. We saw expert reports that didn't have facts and evidence that clearly linked claimed wear and tear or maintenance issues to the denial of the claim. If the claim is going to be denied on those causes, we would expect the expert to be able to show a link between the two. In too many of the expert reports, that wasn't the case, and we would expect general insurers to be very much attuned to that and to make sure that the facts and evidence are clear.[65]

4.77 These initial observations made by the CGC were later reiterated in its August 2024 report *Oversight of External Experts*, which made seven recommendations to ensure that insurers' external experts only provide factual evidence based on the area of expertise, and do not provide recommendations on the outcome of a claim (except where delegated and appropriate); improve training and understanding of external experts; and improvements to insurers' monitoring and quality assurance processes to strike a better balance between quality, cost, and time efficiency.[66]

4.78 Another aspect of wear and tear and maintenance exclusions is the operation of section 46(2) of the *Insurance Contracts Act 1984*. Section 46(2) states that:

> Where, at the time when the contract was entered into, the insured was not aware of, and a reasonable person in the circumstances could not be expected to have been aware of, the defect or imperfection, the insurer may not rely on a provision included in the contract that has the effect of limiting or excluding the insurer's liability under the contract by reference to the condition, at a time before the contract was entered into, of the thing.[67]

4.79 There is good reason to believe that the operation of s46(2) in practice is limited by the words 'at a time before'. In a professional note, John Berrill (one of the members of the NDIR panel) has written about the impact of the decisions in *Nelson v The Hollard Insurance Company Pty Ltd* [2010] NSWSC 199 and *Zhang v Popovic* [2016] NSWSC 407. He concludes that:

> The impact of the interpretation of "by reference to the condition, at a time before the contract was entered into" in s 46(2) has allowed insurers to completely

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64 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 41.

65 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), Australian Financial Complaints Authority, *Committee Hansard*, 23 February 2024, p. 10.

66 General Insurance Code Governance Committee, *Oversight of External Experts*, August 2024.

67 *Insurance Contracts Act 1984* s. 46(2).

> bypass the consumer protections intended by s 46 by simply removing any reference to the words "pre-existing" or any other temporal wording referring to a time before the contract was entered into. …
>
> For example, for a flood claim where the insured has pre-existing defective stumps on their home which they had no knowledge of prior to taking out the policy, the effect of the case law is that the mere fact that the clause is drafted such that it could also apply to stumps which deteriorated after the policy commenced, means s 46 has no operation to the insured's claim.[68]

4.80 The operation of section 46(2) and its relationship with section 54 of the *Insurance Contracts Act 1984* is an issue that the Australian Government could usefully examine in light of how many long-running disputes in relation to wear and tear and maintenance emerged from the 2022 floods.

Hydrology reports

4.81 Hydrologists often play a critical role in the claims process for policyholders without flood cover. For insurers that allow policyholders to opt-out of flood cover, hydrology assessments are needed to distinguish between damage caused by riverine flooding and rainwater runoff. While the ultimate inundation is usually flood, it is often the initial inundation that is in dispute. A hydrology report can help to determine whether the likely source of the initial inundation was flood or not. This is because even if the initial inundation is at a low level, it can make a significant difference to the outcome for many complainants.[69] Appointed hydrologists should have the expertise and qualifications to determine the initial cause of water entry.[70]

4.82 Stakeholders raised concerns about delays in obtaining hydrology assessments, hydrology reports lacking in detail about the causation of water damage, and the impartiality of hydrologists, noting insurance firms typically contract and pay hydrologists to undertake the assessments.

Challenges in obtaining hydrology assessments

4.83 The scale and complexity of the major floods meant claims were delayed as insurers waited for assessments to determine the cause of damage.[71] For CAT 221 alone, Allianz obtained over 1,800 individual property hydrology reports with delays of 12 weeks or more for hydrologists to attend properties for site inspections.[72]

4.84 There were also delays in policyholders receiving their hydrology reports after a hydrologist attended the property. As part of the Committee's survey, respondents

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68 Berrill & Watson, 'Insurers side-stepping consumer protections in general insurance claims', www.berrillwatson.com.au/supertalk-blog/2024/september/s46-insurance-contracts-act/, 12 September 2024.

69 AFCA, 'Insurance complaints about flood claim decisions', www.afca.org.au/about-afca/publications/insurance-complaints-about-flood-claim-decisions, viewed 21 August 2024.

70 Allianz Australia, *Submission 13*, p. 11.

71 ICA, *Submission 11*, p. [7].

72 Allianz Australia, *Submission 13*, p. 11.

were asked how long it took to receive a hydrology report after a hydrologist inspected the property. 25 per cent of respondents reported that it took 3-4 months, 15 per cent reported 5-6 months, and 13 per cent reported it took longer than 6 months.[73]

4.85 Allianz advised that after consulting with AFCA, it had obtained area-wide hydrology reports for the Lismore, Casino, Broadwater, Woodburn and Mullumbimby areas to expedite claims for over 1,000 policyholders. However, policyholders still had the option to have an individual property hydrology assessment undertaken (paid for by Allianz) which most policyholders elected to have done.[74]

4.86 AFCA advises insurers that it is preferable they obtain a site-specific hydrology report for claims that may be susceptible to a dispute to ensure the denial of a claim is supported by evidence. However, where a site-specific report is not available, or obtaining one will cause unreasonable delay to the resolution of the claim or complaint, then regional or area hydrology reports may be considered as well as other contemporaneous information, such as witness reports and CCTV footage.[75]

Quality of hydrology reports

4.87 Many policyholders that required hydrology assessments on their properties described insufficient inspection processes undertaken by hydrologists or reports that didn't link the event to the cause of damage. One policyholder in Eugowra told the Committee:

> When the hydrologist came out to our place a number of weeks after the flood, she walked around our property, listened to me talk and then left. She didn't go up to the stock route or look at which way the fences fell, according to the flow of water or anything like that. She also doesn't have any photos of that in her report.[76]

4.88 They then recalled discovering that most of the hydrology reports done by same company were identical to others in town:

> There was discussion with other people in town and, when we compared our hydrology report with theirs that had been done by the same company, other than the first page, which directly related to our own individual cases, everything about the hydrology reports were the same. They were just a blanket six pages or so with no variation.[77]

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73 Appendix C, Figure C.41.
74 Allianz Australia, *Submission 13*, p. 11.
75 AFCA, 'Insurance complaints about flood claim decisions', www.afca.org.au/about-afca/publications/insurance-complaints-about-flood-claim-decisions, viewed 21 August 2024.
76 Mrs Rosemary Townsend, Private capacity, *Committee Hansard*, Eugowra, 8 May 2024, p. 35.
77 Mrs Rosemary Townsend, Private capacity, *Committee Hansard*, Eugowra, 8 May 2024, p. 35.

4.89 Mr Eccleston, a retired civil engineer in Central West NSW, noted hydrologists made recommendations to insurers without providing details about how the type of inundation caused the damage in the roughly 10 reports he reviewed for locals:

> There was very little technical discussion as to how they reached their recommendation and the results, and that left a very big hole technically and professionally. I think a lot of these hydrologist reports are wanting…One particular report endeavoured to undertake some complex modelling, but, because of the time limitations and, obviously, the funding, they admitted that they were restrained.[78]

4.90 Legal Aid New South Wales recounted cases where it believed insufficient weight had been given to eyewitness accounts about the movement of water and that more weight was given to other evidence. [79]

4.91 Policyholders also questioned the quality of reports when the reports were inconsistent for policyholders that lived near each other and when received different claim outcomes. This experience was recounted by Lismore's Mayor:

> This isn't an uncommon story in South Lismore or North Lismore. Three generations of the same family live in the same street, virtually next door to each other—same insurance company, same level of coverage, same hydrology report. One family got full coverage with home and contents; next door, the family…got contents coverage only; and the third family got no coverage at all. This is the same hydrologist, same insurance company, but three totally different outcomes in the same street of our city. This is inherently the problem we're dealing with: how can you, after one event, have such varying and different outcomes? That is not only across the Lismore CBD and the Lismore LGA; every one of our local government areas could tell you a thousand stories exactly the same as that one. Inherently this is the problem we're dealing with.[80]

4.92 AFCA received a number of complaints where an insurer had relied on an expert report in denying a claim, where the report was of poor quality or lacked sufficient information. In discussions with the Committee, AFCA commented that:

> There were cases where hydrology reports were used to deny claims but without appropriate due diligence being undertaken. For example, the report did not consider or address photographic evidence provided by the consumer or other eyewitnesses as evidence about the timing of the initial water damage. It looked to us in denying a claim under an exclusion that insurers were often shifting the onus of proof on to consumers rather than it being the other way around; we expect insurers to be able to rigorously support any decisions to deny a claim.[81]

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78 Mr David Eccleston, Private capacity, *Committee Hansard*, Molong, 7 May 2024, p. 39.

79 Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid New South Wales, *Committee Hansard*, Richmond, 9 May 2024, pp. 32–33.

80 Mr Steve Krieg, Mayor, Lismore City Council, *Committee Hansard,* Lismore, 11 April 2024, p. 5.

81 Mr Justin Untersteiner, Chief Operating officer, AFCA, *Committee Hansard*, 21 February 2024, p. 29.

4.93 When considering a complaint AFCA may undertake site visits to the policyholder's property to help collect information to decide the cause of damage, but this may not be feasible for every complaint impacted by floods.[82] In addition, AFCA's processes provide for an exchange of information, giving the policyholder access to any hydrology report or alternative information relied on by the insurer.[83]

Impartiality of hydrology reports

4.94 For policyholders that required a hydrology assessment as part of their claim, the majority relied on the hydrology report obtained by their insurer. Insurers' records show that only a small number of policyholders obtained their own hydrology reports.[84]

4.95 Some consumer advocacy groups told the Committee they were concerned about the potential for reports that reflected the interests of insurers, because insurers are the ones that pay for the hydrology reports and provide hydrologists with work following a flood event.[85]

4.96 This fear was compounded when some policyholders commissioned their own hydrology reports, only to learn their insurer would not accept the report as part of their claim.[86]

Options for improving access and quality of hydrology reports

4.97 Access to timely hydrology reports is essential for the fast resolution of a claim where there is no flood cover. To ensure the right claim outcome, it is also important for hydrology reports to include a thorough assessment and clear determination about how the damage was incurred. Hydrology reports should provide a fact-based, independent assessment, uninfluenced by the interest of either the insurer or policyholder.

4.98 Some stakeholders supported the expansion of the use of area-wide hydrology reports to speed up claims processes. Other stakeholders supported insurers improving the coordination of obtaining hydrology reports for multiple properties across brands, which Suncorp advised the Committee it does for its brands such as Apia and AAMI.[87]

4.99 Others supported the concept of insurers coordinating joint reports for an area-wide hydrology report or even property specific hydrology reports for all insured properties on the same street or in the same zone. Stakeholders noted these solutions could

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82 AFCA, 'Insurance complaints about flood claim decisions', www.afca.org.au/about-afca/publications/insurance-complaints-about-flood-claim-decisions, viewed 21 August 2024.

83 AFCA, *Submission 1*, p. 33.

84 Allianz Australia, *Submission 31*, p. 41; Hollard Holdings Australia, *Submission 19*, p. 37.

85 For example: Mr David Keen, *Submission 33*, p. [5]; Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 43.

86 Ms Bernadette Wright, Counsellor and Mental Health Support, Rochester Community House, *Committee Hansard*, Rochester, 18 April 2024, p. 15.

87 Suncorp Group, *Submission 12*, p. 37.

address the challenges posed by insurers having access to a limited number of hydrologists in Australia and help expedite claims outcomes for policyholders.

4.100 Both Engineers Australia and Suncorp told the Committee that the coordination and sharing of hydrology reports between insurers could potentially pose risks. Engineers Australia explained that while an overall joint overview report can work, street-by-street reporting can be problematic due to the complexities and differences in policies and properties, stating:

> …it may well be that the difference relates to the physics…of the structure that may well have been damaged, and understanding how that inundation has occurred. For example, one structure on one property might be set up 400 millimetres above the ground level, and not experience inundation to a certain level, whereas another property next door might be built as slab on ground with no freeboard above ground level, and it's possible that in the second case inundation occurs by way of stormwater before the floodwaters arrive. That would, in my mind, trigger such that, under the current policies, the property that was built slab on ground with no freeboard actually would get some benefit. I'm not the assessor, but that would be deemed as stormwater plus flooding, and it would probably trigger some benefit.[88]

4.101 Suncorp also saw limited value in obtaining shared reports as typography and building heights can materially vary between properties, meaning insurers may not be able to rely on it to make a claim decision.[89] However Suncorp did see opportunities for the insurance industry to coordinate the deployment of hydrologists to properties for efficiency:

> In terms of the need for a hydrologist, you really do have to have a hydrologist report for an individual risk address. There's more we can do…to provide more coordination amongst the industry. We certainly do that amongst our brands. If we need a hydrologist under Apia or AAMI we try to coordinate that so we do it once and we do it efficiently within the street or the suburb. There may be a role for us to work collaboratively with the ICA to provide a pool of hydrologists that can roll out the need for those services more efficiently.[90]

4.102 A&G also believed the ICA could be 'well positioned to play a leading role' in improving access to a centralised panel of hydrologists and would provide an opportunity to foster efficiencies and consistency across the industry.[91]

4.103 Other recommendations included the provision of a specific pathway for policyholders to dispute hydrology reports (other than going through insurer's internal dispute resolution processes or external dispute resolution), or to have hydrology

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88 Mr Chris Thomas, Member, Sydney Division Water Engineering, Engineers Australia, *Committee Hansard*, 30 July 2024, p. 19.

89 Suncorp Group, *Submission 12*, p. 37.

90 Mr Steve Johnston, Group Chief Executive Officer and Managing Director, Suncorp Group, *Committee Hansard*, 5 February 2024, p. 23.

91 Auto & General Holdings, *Submission 18*, p. 42.

reports independently reviewed, while others believed government support should be provided to fund a panel of hydrologists, because they believed this would remove the contractual relationship between insurers and hydrologists and improve outcomes for consumers. Alternatively, the panel could support assessments that are complex and may benefit from a second opinion.[92]

Committee comment

4.104 At the outset, the Committee wants to acknowledge the extensive evidence received that poor insurance claims experiences after the 2022 major floods have had profound, negative and lasting impacts. Delays in claims processes, inconsistent treatment of claimants by the same insurer, or by different insurers for people in the same location, and arbitrary application of exclusions have led to heartache, mental health impacts and financial devastation, as well as severe impacts on family and social life. Families continue to be unable to reside in their homes and participate in their communities. The variability in quality of expert reports, and their use to deny or support claims, has led to confusion, anguish and extended review processes, which have exacerbated the already heavy toll placed on affected households and individuals.

4.105 The Committee heard extensive evidence from policyholders, both through submissions and in evidence at public hearings in affected communities, that their lives had been torn apart through adversarial processes that they expected to be supportive, based on years of promptly paid insurance premiums and loyalty to their insurer. These experiences resonate through all of the evidence outlined in this report and inform the recommendations made in all chapters of this report. Insurers must improve.

4.106 While the issues discussed in this section relating to the mechanisms used by insurers to accept and deny claims are exhaustive of those raised by stakeholders throughout the inquiry, the Committee has noted various recommendations that seek to address common issues.

4.107 The Committee recognises that standardising the definition of flood has been beneficial to policyholders' understanding of their flood coverage, however these benefits are negated by the fact that insurers are able to define other forms of water damage that can occur during a flood event in different ways. Standardising other forms of water inundation would provide clarity to policyholders and potentially reduce disputes.

4.108 It is also evident to the Committee that issues relating to fair wear and tear and maintenance can be complex and frustrating for policyholders, particularly when existing damage issues with properties are not realised until they are progressing through the claim process. What is considered 'reasonable' for one property may

[92] ARC Justice, *Submission 9*, p. 7; Legal Aid Queensland, *Submission 8*, p. 10; Disaster Legal Help Victoria, *Submission 7*, p. 5.

differ to another due to a variety of factors such as age and the ability of the policyholder to observe damage.

4.109 The Committee considers that greater clarity from insurers to policyholders on what is expected of them and standardisation of these terms may assist in improving policyholders' understanding as well as encouraging better consistency and quality in the expert reports that insurers are relying on for their decision-making.

4.110 Where maintenance is not observable and is highly infrequent, the Committee is of the view that there should be a presumption of coverage by insurers unless exceptional circumstances can be established. It should be noted that this may have an impact on premiums for some policies (for example those with older houses) but that the trade-off is that it will reduce the likelihood of dramatically different outcomes for households with the same experience from the same natural disaster but no difference in their observed risk or behaviour. It may be that such a presumption may need to be limited to specific elements of buildings (for example, stumps).

4.111 On the issue of hydrology reports, the Committee believes that it remains important that those who rely on hydrology reports to determine whether they are covered for flood damage have access to timely and quality reports. While hydrology reports are less of a concern for some insurance policies offering comprehensive flood coverage that covers all forms of water inundation, hydrology reports are vital to ensuring there are more affordable insurance options for households.

4.112 There are potential avenues that could be explored for improving the deployment of hydrologists after major events to ensure that policyholders who require hydrology reports for their claim have access to timely, accurate and quality reports.

Recommendation 1

4.113 The Committee recommends the Australian Government define the following terms in the *Insurance Contracts Act 1984*:

- **All major forms of water damage, including "rainfall runoff", "storm surge", "tidal surge" and "riverine flood".**
- **Key terms relating to exclusions relating to the maintenance of the property including "wear and tear" and "lack of maintenance". The Committee recommends that the Insurance Council of Australia accelerate its work with the Australian Competition and Consumer Commission in developing and approving the standardising of these terms and that consumers be provided with greater clarity in relation to the meaning of "pre-existing defect and/or damage".**

Recommendation 2

4.114 The Committee recommends that:

- **the Australian Government legislate a requirement for general insurers to provide policyholders with information regarding insurers' expectations of policyholders conducting "reasonable maintenance" to their property and the potential consequences for claim outcomes if a reasonable level of maintenance is not undertaken, and**
- **the Insurance Council of Australia in conjunction with the Australian Securities and Investments Commission and key consumer group representatives develop clear guidance regarding 'reasonable maintenance' across insurers, including for roofs, gutters, fences and stumps.**

Recommendation 3

4.115 The Committee recommends that a distinction be made in the General Insurance Code of Practice (the Code) between aspects of properties where maintenance is:

- **Observable (for example, roofs and gutters) versus where it is not observable (for example, typically, stumps).**
- **Where regular upkeep is reasonably within the remit of the householder or business versus where maintenance is infrequent, costly and highly irregular (for example, stumps).**

Where maintenance is not observable and infrequent maintenance is required, there should be a presumption of coverage by insurers unless exceptional circumstances can be established. It should be noted that this may have an impact on premiums for some policies (for example, for older houses) but that the trade-off is that it will reduce the likelihood of dramatically different outcomes for households with the same experience from the natural disaster while making no difference to the observed risk or behaviour of policyholders. This presumption should be reflected in the industry-wide guidance issued under Recommendation 2.

Recommendation 4

4.116 The Committee recommends that the Australian Government consider amending Sections 46 and 54 of the *Insurance Contracts Act 1984* so as to better give effect to the original intent of the provisions. This could reduce unintended, arbitrary divergences in claims outcomes based on wear and tear and maintenance exclusions at odds with reasonable consumer understanding of their coverage.

Recommendation 5

4.117 The Committee recommends that Engineers Australia in conjunction with the Insurance Council of Australia develop guidelines for hydrologists that are providing insurers with hydrology reports relating to flood and storm claims,

with a view to providing a more robust evidence base for insurers to rely on to make claim decisions. These guidelines should be shared with state and territory governments and appropriate authorities such as planning agencies and resilience authorities.

This could include the following matters:

- **The appropriate qualifications and experience of the hydrologists that are relied upon to provide expert reports.**
- **In order to better use scarce hydrologist resources, the potential for reports to jointly cover multiple properties, particularly where they are co-located and were affected by the same flow of water. Where appropriate, such reports should acknowledge differential considerations across properties.**

Recommendation 6

4.118 The Committee recommends that the Australian Securities and Investments Commission produce regulatory guidance clarifying that insurers cannot rely solely on hydrology and expert reports to deny a claim where the report has not properly linked the damage observed with the cause of the damage, consistent with Recommendations 75 - 78 of the Independent Review of the General Insurance Code of Practice (the Code).

That the Code provisions in relation to the appointment of experts be strengthened to ensure that:

- **the purpose of the Code include the intent that experts are to provide independent, detailed, clear, comprehensible and professional assessments of the cause and extent of loss.**
- **insurers be required to ensure the expertise, professionalism and independence of experts appointed by them.**
- **expert reports are in a standardised format to improve consumer accessibility and understanding.**
- **clauses 161 and 162 of the Code require the insurer to provide policyholders with any expert reports including, but not limited to, any reports that insurers have relied upon to deny a claim in whole or in part.**

Recommendation 7

4.119 The Committee recommends the Australian Government establish a mechanism for creating and funding an independent expert panel of hydrologists to undertake hydrology reports if the policyholder disputes the findings of the first report.

- **One model for such a panel could be the use of medical panels for compensation cases.**

- **Government and industry should explore how such a panel could be funded.**

Recommendation 8

4.120 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers implement mechanisms to:

- **periodically review the evidence relied upon to deny a claim based on lack of coverage under the policy or the application of an exclusion, where a hydrology and other expert report is one component of the evidence, to determine whether reports with insufficient evidence are being given too much weight in the decision to deny the claim**
- **communicate the level of quality expected by insurers to third parties providing expert reports, and**
- **more effectively identify concerns with, and provide feedback to, external experts.**

Insurers processes to settle a claim

Cash settlements

4.121 When settling a claim, insurers generally have two options—to repair, replace or rebuild the damaged property or provide the policyholder with a cash settlement to manage the repair or rebuild themselves. Common reasons for cash settlements include:

- the expected cost to repair or rebuild the property is greater than the sum insured
- at the policyholder's request, and by agreement with the insurer
- the local council will not allow rebuild or repair
- the insurer can only accept a portion of the claim, for example, when parts of the damage are not covered by the policy.[93]

4.122 The Committee requested historical cash settlement data over the past 10 years from insurers. Table 4.1 shows the proportion of home building claims exceeding $50,000 that included a full cash settlement.

[93] ICA, 'Repair/Replace/Rebuild vs Cash Settlement', https://insurancecouncil.com.au/resource/repair-replace-rebuild-vs-cash-settlement/, viewed 5 August 2024.

Table 4.1 Full cash settlements for home building claims exceeding $50,000

Year	Allianz	A&G	Suncorp	IAG	Youi	RACQ	Hollard	QBE
2014	15%	N/A	39.5%	0.1%	0.2%	0.08%	0.1%	N/A
2015	11%	N/A	39.8%	0.3%	0.6%	0.20%	0.1%	N/A
2016	11%	0.1%	35.9%	0.1%	0.4%	0.09%	0.0%	N/A
2017	12%	0.1%	39.5%	0.1%	1.1%	0.23%	0.1%	N/A
2018	9%	0.2%	39.8%	0.1%	0.8%	0.43%	0.1%	N/A
2019	13%	0.3%	39.5%	0.3%	1.7%	0.83%	0.3%	N/A
2020	16%	1%	39.3%	0.6%	3.2%	3.24%	0.3%	N/A
2021	16%	1%	35%	0.4%	3%	2.12%	1.1%	0.8%
2022	19%	1.2%	32.2%	0.7%	2.5%	2.05%	1.7%	0.8%
2023	29%	1.5%	33%	1%	2.9%	3.13%	9.7%	1.8%

Source: Allianz Australia, *Supplementary Submission 13.2*, p. 4; Hollard Holdings Australia, *Supplementary Submission 19.1*, p. [2]; Auto & General Holdings, *Supplementary Submission 18.2*, p. 4; Insurance Australia Group, *Supplementary Submission 16.1,* p. 2; Suncorp Group, *Supplementary Submission 12.1*, p. 1; Youi, *Supplementary Submission 14.2*, p. 3; RACQ Group, *Supplementary Submission 15.1,* p. 4, QBE Insurance Group, *Supplementary Submission 17.3*, p. 8.

4.123 On the table above, the Committee notes a high degree of variability in the data provided, which indicates insurers are capturing data around cash settlements differently.

4.124 Cash settlements offer policyholders with a greater level of control over the repair and rebuild their home. There are no restrictions on the work an owner can undertake, such as repairing like for like, so owners have more flexibility to change aspects of their home if they wish. They may also have more control over which builders are contracted to undertake repairs as the policyholder will have a direct relationship with the builder (instead of requiring insurer authorisation of a builder when the insurer manages the repairs). Taking a cash settlement, also means policyholders have the option not to rebuild and may allow them to relocate.

4.125 However, accepting a settlement can pose several risks. Accepting a cash settlement in effect transfers the risks associated with a rebuild from the insurer to the policyholder. This isn't necessarily a concern when the policyholder has opted for a cash settlement because they have the knowledge and experience to project manage the rebuild themselves. However, for most people, project managing a rebuild or significant repairs to a home can be a challenging and often stressful task, which many people struggle with, particularly when it follows a potentially traumatic natural disaster event.

4.126 Project management risks are particularly pronounced in areas that, after a natural disaster, are experiencing conditions that make major repairs or rebuilds more difficult such as: constrained labour markets, supply chain issues and rising and volatile costs. Insurers often struggle to manage projects in such situations which

highlights how difficult it is for most households to assume responsibility for overall project management.

4.127 Cash settlements can also fail to cover the costs of repairs, if costs increase either through the discovery of previously unknown damage or as a result of rapidly rising prices for labour and materials. There may also be discrepancies between the quotes that can be obtained by an insurer through better negotiating power than an individual could achieve.

Consumer understanding of cash settlement offers

4.128 The Code commits insurers to providing policyholders with home building policies with information to help them understand their insurer's cash settlement offer and how decisions are made.[94]

4.129 Stakeholders told the Committee that there were issues with the current process for providing information to policyholders about cash settlements and that policyholders were not aware of the disadvantages of accepting cash settlements.

4.130 Since 1 January 2022 insurers have been required to provide a Cash Settlement Fact Sheet (Fact Sheet) to policyholders who are offered a cash payment to settle part or all of a general insurance claim, in accordance with the *Corporations Act 2001*.[95] The Fact Sheet must be given to the client at the time of the offer in writing, and must contain:

- options for settlement legally available under the insurance product (such as having goods repaired or replaced, or to receive a cash payment);
- contain the sum insured under the insurance product;
- the amount of the cash settlement in total and as a breakdown of each component (such as sum insured, emergency payments and ex gratia); and
- a statement that the client should consider obtaining independent legal or financial advice before agreeing to the settlement.[96]

4.131 Consumer advocates, financial counselling and legal aid groups raised concerns that that the current Fact Sheet does not provide sufficient information to ensure that policyholders who have survived a traumatic event are able to provide genuine informed consent and argued for revision of the Fact Sheet with input from consumer groups to better inform policyholders about the benefits and risks of accepting cash settlements.[97]

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94 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 28.

95 *Corporations Act 2001*, ss. 948(b)-948(f) and ss. 952(a)-9539(c).

96 ASIC, 'Claims handling and settling: how to comply with your AFS license obligations', https://asic.gov.au/for-finance-professionals/afs-licensees/applying-for-and-managing-an-afs-licence/licensing-certain-service-providers/claims-handling-and-settling-how-to-comply-with-your-afs-licence-obligations, viewed 5 August 2024, p. 25.

97 Ms Evgenia Bourova, Professor Ian Ramsay and Associate Professor Paul Ali, *Submission 57*, p. [4]; Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 35; Legal Aid Queensland, *Submission 8,* p. 7; Disaster Legal Help Victoria, *Submission 7*, p. 3.

4.132 Disaster Legal Help Victoria also advocated for the inclusion of information that the insurer is not able to guarantee the quality of work undertaken by builders following a cash settlement, and considerations for policyholders that have a mortgage.[98]

4.133 Some stakeholders believed renaming the Cash Settlement Fact Sheet to remove the term 'Settlement' would reduce confusion for policyholders who are provided with smaller emergency or partial payments throughout the claims processes.[99]

4.134 Allianz agreed the Fact Sheet should be renamed to reduce confusion, stating:

> …the word 'settlement' for a lot of people implies that this is the final outcome. We found a lot of confusion with people when we gave them a $5,000 emergency payment, or just small amounts of payment. For example, when we settle their contents before the building and we give them something called a 'settlement sheet', they are thinking, 'Is this it?'—when, in fact, we may give people multiple cash settlement fact sheets over the course of their claim as we pay various losses in cash.[100]

4.135 To streamline processes for emergency payments to people impacted by CAT 221, ASIC issued legislative relief for insurers to make emergency payments of up to $5,000 to policyholders in certain circumstances without the need to provide a Fact Sheet. Higher amounts still require the provision of the Fact Sheet, including partial, pre-settlement payments.[101]

4.136 ASIC was supportive of 'any changes that improve customer understanding' and noted that it was currently reviewing the Fact Sheet relief instrument ahead of its expiry in 2024—and that the review may provide insights on how consumers are understanding the Fact Sheet.[102]

4.137 Stakeholders also told the Committee that not enough policyholders fully understood the risks associated with taking a cash settlement and managing the rebuild process themselves. Stakeholders raised concerns about policyholders accepting cash settlements and making significant financial decisions that would have long term effects when they were still 'in shock' from the floods. Legal aid and financial counselling groups also noted that most people don't seek legal or financial advice before making decisions relating to insurance claims. As Financial Counselling Australia noted:

> If someone has been rescued from their roof and are then being offered a cash settlement within a month of their life being in danger, it's really clear to us that

98 Disaster Legal Help Victoria, *Submission 7*, p. 3.

99 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 35.

100 Mr Nicholas Scofield, Chief Corporate Affairs Officer, Allianz Australia Insurance Limited, *Committee Hansard*, 9 February 2024, p. 26.

101 ASIC, 'ASIC streamlines process for insurers to provide consumers cash in emergency situations', *Media Release,* 2 March 2022.

102 ASIC, *Supplementary Submission 35.1,* p. 10.

> they're not in the right frame of mind to be making such a large financial decision when they're still reeling from that near-death experience.[103]

4.138 Legal Aid Queensland believed policyholders offered a cash settlement should seek professional advice:

> In my utopian world, if I had enough resources, I'd want them to talk to people like me before they made a decision because, in some cases, cash settlements are perfectly appropriate for them, once we've talked through all the issues, and, in some cases, they're perfectly inappropriate. But sometimes it's only by having a discussion with somebody who's not from the insurer that you get those ideas out and you get those specific circumstances of that individual out, and that allows them to make a good decision about what's in their interests.[104]

4.139 Financial and legal aid groups considered cash settlements 'very burdensome' for some individuals, and noted that some people reported feeling pressured into accepting a cash settlement because they perceived it as an easier option than trying to navigate the claims process. Others may not have been provided with non-cash settlement options because they were only partially covered for the damage.[105]

4.140 Financial and legal advice groups suggested that stronger language and other measures relating to seeking independent financial and legal advice when provided with cash settlement information should be implemented. For example, one option would be to amend the Code so that policyholders must be provided with comprehensive information about:

- The benefits of obtaining legal and financial counselling advice
- Specific organisations that could provide the policyholder with advice, including a referral to specific providers if the consumer wishes.[106]

4.141 Similarly, Disaster Legal Help Victoria also suggested that insurers be required to provide the contact information for legal aid and financial counselling services and encourage consumers to seek it.[107]

4.142 The General Insurance Code Governance Committee (CGC) agreed that setting out the benefits of obtaining independent financial and legal advice and how to obtain it is important information for consumers to make an informed decision. However, the CGC warned there should be 'careful consideration' around the level of prescription

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103 Ms Vicki Staff, National Coordinator for Disaster Recovery, Financial Counselling Australia, *Committee Hansard*, 1 February 2024, p. 9.

104 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 46.

105 Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 36; Legal Aid Queensland, *Submission 8,* p. 7; Emergency Recovery Victoria, *Submission 31*, p. 7.

106 Financial Rights Legal Council, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 9; Legal Aid Queensland, *Submission 8*, p. 7.

107 Disaster Legal Help Victoria, *Submission 7,* p. 6.

that goes into the Code regarding directing policyholders to get independent financial and legal advice'.[108]

4.143 Similarly, the ICA cautioned that 'not all customers will want or require advice', and that additional costs and delays for policyholders would occur if there is a requirement that an insurer cannot pay a cash settled claim before legal and financial advice is sought.[109]

4.144 The Committee also heard that there were instances of insurers using terms such as 'without prejudice and 'confidential' on cash settlement offers, confusing some policyholders about whether they could seek legal or financial advice, or provide the documents to AFCA.[110]

Declining a cash settlement offer and the reopening of a claim

4.145 Policyholders and consumer groups recounted many instances of cash settlement amounts being offered by insurers which did not provide policyholders with an amount equal to their entitlements under the policy. In some cases, only a portion of the covered damage was considered in the initial offer amounts. In other instances, cover for temporary accommodation or other entitlements were not included in initial offers. Policyholders can choose to not accept cash settlement offers if they are not satisfied with the amount being offered.

4.146 Insurers may then make subsequent offers until an amount can be agreed. In several instances, the Committee heard evidence that policyholders negotiating a cash settlement amount without assistance could be offered amounts well below a fair amount several times, with many only obtaining a fair offer after seeking support from financial counsellors. It was not unheard of for offer amounts to increase by more than 50 per cent of the initial offer. Illustrating this, Financial Counsellors Australia provided data from one financial counselling service in regional Victoria that showed financial counsellors were able to negotiate a total increase of more than $3.3 million for cash payments offered to 40 clients—an average of $83,182 per client.[111] This raises questions as to whether some initial cash offers were genuine or testing whether a policyholder might accept a low-ball offer.

4.147 Some policyholders accepted offers only to discover during the rebuild process that there was more damage than initially believed and repair costs would surpass the amount accepted from the insurer. For others, rapidly rising inflation, including the costs of labour, meant the amount was no longer adequate 6 to 12 months after settlement.[112] In the instances where a cash settlement has been accepted yet is

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108 Ms Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), Australian Financial Complaints Authority, *Committee Hansard*, 22 February 2024, p. 7.

109 ICA, *Supplementary Submission 1.2*, p. [4].

110 Ms Kristy Evans, Director and Solicitor, Cheney Suthers Lawyers, *Committee Hansard*, Molong, 7 May 2024, p. 12.

111 Financial Counselling Australia, *Supplementary Submission 6.1*, p. 4.

112 Financial Counselling Australia, *Submission 6*, p. 8.

found to be inadequate later in the rebuild stage, policyholders have limited opportunities to reopen their claim with their insurer.

4.148 Policyholders may be unaware that if a claim is settled within one month after the event, they have 12 months to request a reconsideration of the cash settlement. ARC Justice and Disaster Legal Help Victoria believed insurers should provide clearer guidance to policyholders about their rights to reopen a claim within that timeframe.[113]

4.149 Some consumer groups believed there should be more options available for policyholders to reopen a claim when further damage is discovered later in the rebuild phase, such as extending the period in which a policyholder can reopen their claim in relation to a cash settlement to offers that were accepted within 12 months of the event.[114]

4.150 There was also a push for policyholders to have more rights to open a claim where an offer was accepted before the property was assessed. Anglicare Victoria described a 'second wave' of policyholders seeking assistance in Rochester and Echuca, where policyholders settled before experts assessed properties, with some properties continuing to have structural issues that the owner now needs to pay for to repair. Some of these issues may be the result of poor Scopes of Work done by insurers preferred builders, which policyholders were not able to challenge due to lack of availability of builders in the area.[115]

4.151 The Committee sought data from insurers on the percentage of cash settlements to the 2022 flood-related claims where policyholders found the amount inadequate to cover the required work and the percentage of cases where the insurer agreed to increase the cash settlement.

4.152 However, there was a lack of consistency in insurers' responses to this question. Certain caveats were raised by insurers to the Committee in their responses, particularly that the number of cases where an additional increase in cash settlement was agreed does not solely reflect inadequacy of initial payment and that unforeseen damages were common reasons to revise the cash settlement offer.[116]

4.153 The lack of comprehensive data relating to cash settlements results in an inability to fully analyse the extent of the issues. Emergency Recovery Victoria considered that

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113 Ms Kate Clohesy, Director, Strategy and Impact, ARC Justice, *Committee Hansard*, 1 February, p. 40; Disaster Legal Help Victoria, *Submission 7*, p. 6.

114 Legal Aid Queensland, *Submission 8*, pp. 7–8; Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27,* p. 9; Caxton Legal Centre, *Submission 28*, p. 7; Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 46.

115 Ms Lylia Martion, Financial Counsellor, Anglicare Victoria, *Committee Hansard*, 1 February 2024, p. 5.

116 Suncorp Group, *Supplementary Submission 12.1,* p. [9]; Allianz Australia, *Supplementary Submission 13.2*, pp. 4–5; Youi, *Supplementary Submission 14.2*, p. 3; RACQ Group, *Supplementary Submission 15.1*, pp. 4–5; Insurance Australia Group, *Supplementary Submission 16.1*, p. 2; QBE Insurance Group, *Supplementary Submission 17.3*, p. 8; Auto & General Holdings, *Supplementary Submission 18.*2, pp. 4–5; Hollard Holdings Australia, *Supplementary Submission 19.1*; p. [3].

collecting this data, and ensuring that policyholders have access to financial counselling, was a way of reducing the risks associated with cash settlements.[117]

4.154 Many of the issues discussed above were emphasised in Financial Counselling Victoria's report into the practice of cash settlements in home and contents insurance claims in response to the issues experienced in Victoria after the October 2022 floods. Key policy proposals made by Financial Counselling Victoria encompass various elements of the claims process including: standardisation to improve quality of coverage; greater flexibility in insurer rebuilds and repairs to accommodate mitigation and efficiency improvements; stronger protections around underinsurance, claims processes and cash settlements; better processes for vulnerable households in relation to cash settlements; and clearer practices for banks in administering cash settlements.[118]

Scope of works

4.155 A Scope of Work (SoW) is a document that outlines the necessary repair or rebuilding work required for a property as covered by the terms of the policy.[119] The Code sets out that if a scope of works is needed for a home building claim, insurers 'will provide you with information to help you understand how it works, its purpose and the process involved'.[120] SoWs are generally prepared by assessors, builders or engineers.

4.156 The Committee received concerning evidence from policyholders of SoWs that did not include complete documentation of the repairs needed. This included the repair work for entire rooms being missed, as well as items such as finishings, including doorknobs.[121]

4.157 Some policyholders were only provided with high level costings for their SoWs. Financial Rights Legal Centre told the Committee that some insurers redacted itemised pricing from their SoWs. Policyholders were told that the standard practice was that 'they can only get an un-redacted copy if they sign off on the SoW'.[122] This lack of transparency made it difficult for policyholders to make judgements about the reasonableness of the quotes and make an informed decision about whether to accept the cash settlement offer.

4.158 The Committee received suggestions on how to address some of the issues with SoWs. The Financial Rights Legal Centre advocated for the provision of SoWs with

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117 Emergency Recovery Victoria, *Submission 31*, p. 7.

118 Financial Counselling Victoria, *Unsettled: Climate Risk and Cash Settlements in Home Insurance*, August 2024, p. 6.

119 ICA, 'Scope of Works', https://insurancecouncil.com.au/wp-content/uploads/2023/11/4.-Fact-Sheet_Scope-of-Work3.pdf, viewed 10 September 2024.

120 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 27.

121 For example: Ms Amanda Logie, Manager, Rochester Community House, *Committee Hansard*, Rochester, 18 April 2024, p. 10; Dr Alan Cornick, Private capacity, *Committee Hansard*, Logan, 10 April 2024, p. 16; Ms Alison Phillips, Private capacity, *Committee Hansard*, Heathcote, 19 April 2024, p. 25; Mr Phillip Davis and Mrs Ann-Maree Davis, Private capacity, *Committee Hansard*, Molong, 7 May 2024, p. 32.

122 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [102].

unredacted itemised quotes and a change to the Code to reflect this commitment by insurers.[123] It also recommended insurers pursue greater standardisation of the SoWs received for cash settlement purposes.[124]

4.159 The Australian Consumers Insurance Lobby recommended that the Code should require insurers to ensure that all SoWs are complete, correct, detailed and allowed for reasonable variations.[125]

4.160 Suncorp believed insurers should make improvements around the SoWs to ensure policyholders are informed, noting the consistency with which the issue had been raised throughout the inquiry.[126] The ICA advised the Committee that it was currently working with members on where standardisation may assist consumer understanding of claims processes and would 'continue to review these options…for efficacy and practicality'.[127]

Other issues

4.161 The scale of the major floods coupled with preexisting housing shortages made it difficult for insurers to source temporary accommodation.[128] Delays in claims resolution and reconstruction also meant policyholders required temporary accommodation for unusually long periods of time.[129] Ms Libby Buckingham, Director of Thriving Communities told the Committee about the impact this had on policyholders:

> …the impact of temporary housing and unsafe housing is devastating to the people in these communities… on people's mental health, physical health, education and ability to participate in society… people are putting their lives on hold because they have very insecure housing while they wait for their claims to be heard and their permanent housing to be restored.[130]

4.162 Some insurers provided cash payments for policyholders who wished to stay with family or friends where they could not occupy their home or source long term temporary accommodation nearby, allowing them to stay near community and access work, schools, and social support.[131] However, some insurers were more flexible than others in working with policyholders to extend temporary accommodation cover and find solutions that met their needs. Stakeholders noted occasions where insurers refused to provide temporary accommodation beyond the

123 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [104].
124 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [104].
125 Australian Consumers Insurance Lobby, *Supplementary Submission 2.1*, p. 13.
126 Ms Lisa Harrison, Chief Executive Officer, Consumer Insurance, Suncorp Group, *Committee Hansard*, 5 February 2024, p. 18.
127 ICA, *Supplementary Submission 11.2*, p. [6].
128 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 25.
129 Campaspe News, 'Frustrated residents seek help from state MP', 20 February 2024; Mr Steve Krieg, Mayor, Lismore City Council, *Committee Hansard*, Lismore, 11 April 2024, p. 8.
130 Ms Libby Buckingham, Director, Thriving Communities, Victorian Council of Social Service, *Committee Hansard*, 31 January 2024, p. 18.
131 Suncorp Group, *Submission 12*, p. 9; Allianz Australia, *Submission 13*, p. 26.

policy's stipulated time period, despite claims processing and reconstruction delays being no cause of the policyholder.[132]

4.163 The Committee also heard that insurers were unable to source temporary accommodation options for policyholders with specific family, mobility or other access needs.[133] This issue was previously discussed in Chapter 2.[134] Financial Counselling Australia wrote to the Committee about an older policyholder with mobility issues:

> the insured was able to secure accommodation in a very small motel room close to his home. The motel room does not have adequate facilities to cater to the insured's mobility issues, has no cooking facilities, and no laundry facilities.[135]

4.164 Another policyholder shared with the Committee:

> My children were forced to live in share houses, and my youngest son was in year 12. We applied for 16 rentals, and, having three teenagers and two dogs, I couldn't get a rental property. They refused to find us any alternative accommodation…I ended up buying a motorhome; I parked that in my driveway and lived there for 10 months with no facilities.[136]

Committee comment

4.165 As a cash settlement transfers the risk of rebuilding from the insurer to the policyholder—who may not be able to project manage a complex task such as a rebuild after a traumatic event—the Committee is of the view that there a range of improvements that can be made to the guidance and process of cash settlements.

4.166 The Committee also notes that cash settlements often fail to cover the actual expenses required for repairs due to increases in prices or lack of available trades, as well as insurers being able to obtain lower quotes than a policyholder. Cash settlement offers made by insurers should account for these circumstances.

4.167 In addition, the establishment of cooling off periods and encouragement of financial and legal advice when policyholders are offered and considering a cash settlement are a sensible support for those in these circumstances.

4.168 Further, the experiences of some policyholders with SoWs are concerning to the Committee and highlights the need for greater clarity and more consistency in how SoWs are written and communicated to policyholders. Issues relating to expert

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132 Financial Counselling Australia, *Supplementary Submission 6.1*, p. 7.

133 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, 31 January 2024; Mrs Erin Easton, Second in Command, Family Support Worker and Community Connect Recovery, Port Douglas Community Services Network, *Committee Hansard*, Cairns, 24 July 2024, p. 5; Mrs Claire Heath, Private capacity, *Committee Hansard*, Cairns, 24 July 2024, p. 41; Ms Vicki Staff, National Coordinator for Disaster Recovery, Financial Counselling Australia, *Committee Hansard*, 1 February 2024, p. 1.

134 Financial Counselling Australia, *Supplementary Submission 6.1*, p. 8.

135 Financial Counselling Australia, *Supplementary Submission 6.1*, p. 7.

136 Ms Svea Pitman, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 51.

reports have been consistently raised throughout the inquiry and the Committee considers that work needs to be done in order to ensure that insurers take seriously the work undertaken by their assessors and other third parties.

4.169 Temporary accommodation was raised as an issue in many of the communities that the Committee visited. At the moment, policies vary widely in terms of the amount of time that policyholders are guaranteed temporary accommodation, ranging from 6 months to multiple years. This places considerable risk on some policyholders in that construction often doesn't begin until well into the guaranteed period (or even after it has finished). This exposes individuals and families to the risk that they might have to organise and fund temporary accommodation for themselves. While having a shorter period of guaranteed temporary accommodation might result in a very small reduction in premiums, it can create a significant risk of disruption.

4.170 In many communities that the Committee visited, hundreds of people are living in highly precarious situations two years or more after the original event. In general, insurers are better placed to assume and manage the risks associated with delays (whether caused by external reports, dispute resolution, building delays or any other myriad causes). The assumption of the risk associated with the length of temporary accommodation may require insurers to slightly increase some premiums, but this would appear to be a sensible pooling of a risk that currently falls heavily and randomly on some households. Any such guarantee could have suitable caveats – for example in relation to where unreasonable consumer behaviour is the cause.

Recommendation 9

4.171 The Committee recommends the Insurance Council of Australia in consultation with the Australian Securities and Investments Commission provide guidance to insurers about providing greater detail and clarity to policyholders on their rights and risks when an offer is made for a final cash settlement, including the risks policyholders should be aware of for the project management of repairs.

This would align with elements of recommendation 71 of the Independent Review of the General Insurance Code of Practice's Initial Report, and the Committee recommends that this recommendation be implemented in full.

Recommendation 10

4.172 The Committee recommends that the General Insurance Code of Practice provide that final cash settlements:

- **Be provided in a template form that is standardised across all insurers. The template should include a clear itemisation of all key elements of the total sum. The template be designed with input from peak consumer organisations and the Australian Securities and Investments Commission.**
- **Should include actionable, comprehensive, and transparent quotes.**

- **Should clearly identify compensation for unforeseen risks and project management risk (as identified in Recommendation 9).**

Recommendation 11

4.173 The Committee recommends that the General Insurance Code of Practice be amended to include a minimum 30 day 'cooling off period' with respect to cash settlements.

Recommendation 12

4.174 The Committee recommends that the General Insurance Code of Practice be amended to require insurers, when offering a final cash settlement, to:

- **Advise the consumer to obtain legal advice in relation to a final cash settlement;**
- **Advise the consumer of their rights to reopen a final cash settlement under the General Insurance Code of Practice and any rights they may have in respect of common law;**
- **Refer the consumer to community legal advisers and financial counsellors in the local area.**

Recommendation 13

4.175 The Committee recommends that the General Insurance Code of Practice be amended to require insurers when offering final cash settlements to include a reasonable uplift/contingency sum to reasonably compensate policyholders for the risks they take on in project managing the repairs to their property.

Recommendation 14

4.176 The Committee recommends the General Insurance Code of Practice be amended to allow policyholders to have a 12-month period to seek a review of a final cash settlement where there is a change in the facts upon which the original determination was made.

Recommendation 15

4.177 The Committee recommends that the General Insurance Code of Practice prohibit the use of the terms "without prejudice" or "confidential" (or other misleading terms) on final cash settlement offers. This could be supplemented by regulatory guidance by the Australian Securities and Investments Commission.

Recommendation 16

4.178 The Committee recommends that a new service be offered to support vulnerable cash settlement recipients to project manage rebuilds and major repairs. This could be similar to the Service Navigator role in Queensland's Resilient Homes Fund.

Recommendation 17

4.179 The Committee recommends that the Insurance Council of Australia in consultation with the Australian Securities and Investments Commission:

- **develop standardised industry requirements for obtaining Scopes of Work to ensure common items are included and costings itemised (for example, in a template form),**
- **provide itemised costings in Scopes of Work to policyholders as part of the cash settlement offer process, and**
- **develop standardised mechanisms for insurers to implement quality control over the Scopes of Work they receive.**

Recommendation 18

4.180 The Committee recommends that there should be insurer and regulator oversight of Scopes of Work through the following mechanisms:

- **Stronger Code provisions in relation to quality of Scopes of Work (as per Recommendation 74 of the Independent Review of the General Insurance Code of Practice).**
- **Random vetting of Scopes of Work quality by the Australian Securities and Investments Commission.**

Recommendation 19

4.181 The Committee recommends that insurers amend their home insurance policies to provide fully paid temporary accommodation until the insurer has closed the claim, unless the extension of the time required can be demonstrated to be a result of behaviour on the part of the policyholder that is unreasonably causing delay;

That final cash settlements include a provision for temporary accommodation that takes account of the Scope of Works; progress on the project to date; and a reasonable uplift; and

That the cost of covering temporary accommodation should be a separate entitlement and not be funded out of the sum insured amount.

Recommendation 20

4.182 The Committee recommends the Insurance Council of Australia amend the General Insurance Code of Practice to include an appropriate mechanism for ensuring policyholders that are being provided with temporary accommodation as part of their claim have at least 3 months' notice of any proposed substantive changes to the policyholders' living situation or the insurers' payments for the accommodation.

Insurers processes to fulfill a claim

Oversight of third-party contractors

4.183 Australian insurers, according to the Deloitte report, are more likely to manage the rebuild process than other countries. This approach reduces the burden on policyholders as they are not required to manage the rebuild themselves in what can be a challenging economic environment.[137]

4.184 The scale of the major floods required the rebuilding or repairing of thousands of properties, involving a multitude of third-party contractors such as builders and other tradespeople. This significant increase in activity required insurers to onboard additional contractors to their panels, as well as subcontracting, to meet the demand of the recovery effort. However, this increase in activity put pressure on insurers' ability to monitor the actions of their third-party contractors throughout the project management process.

4.185 The Review noted that insurers' strategic decision making during the major floods was impacted by a lack of data and information, particularly from third party suppliers—and that in some instances 'tactical solutions' were put in place to deal with gaps in information during the event.[138]

4.186 If the insurer has selected and directly authorised a repairer, the Code states that the insurer will accept responsibility for the quality of repairs. Any complaints regarding the repairers' conduct, timeliness, quality or materials used are to be handled through the internal dispute resolution process.[139] While this is the standard expected by policyholders, the Committee heard that in many instances, insurers failed to take responsibility for the poor conduct or workmanship of third parties engaged by the insurer.[140]

4.187 The Committee received evidence of concerning practices by third party providers, such as builders, and evidence on the impact it had on policyholders throughout the rebuilding or repairing process.

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137 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 33.
138 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 32.
139 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 29.
140 Legal Aid New South Wales, *Submission 34*, p. 31.

4.188 Issues raised included a lack of communication from contractors and insurers about the timing of the works, work being undertaken without permission or consent, unnecessary remediation work and inadequately trained or overwhelmed project managers.[141]

4.189 Resilient Lismore told the Committee it was a common experience in the Lismore community for work to be undertaken without the policyholder's consent or awareness. This included the removal of materials that 'didn't need to be removed or could have been approached in a different way'. Resilient Lismore told the Committee the rebuild experience had 'more of an impact…than the actual flood itself', stating:

> When I asked people about who was coming into the house, who were these people, the common answer was they didn't know who the demolition companies were. They had no idea who was coming in through the door even if they were there. There was no proof or evidence of ID or understanding or any letter delivered or dropped off or any name or any contact number given. People had no idea who these teams of people were coming through the door. They were not even understanding why they were taking things at times. The point was there was no identification. We're going back to those houses and I've asked them, 'Can you remember or can you find any correspondence,' and they can't find any correspondence either.[142]

4.190 Other examples included:

- A policyholder that experienced a subcontractor selecting appliances or fixtures without their involvement and receiving contradictory information from different contractors.[143]
- A policyholder that experienced a full strip out of their home and disposal of salvageable items without confirming their claim had been approved, where the builder had asked the policyholder to sign a waiver to commence the strip out. The replacement of salvageable items cost of over $50,000.[144]
- Subcontractors that are believed to have forced entry into the property and removed original historical elements without the knowledge or consent of the policyholder.[145]

4.191 The Committee requested information from several major insurers regarding their practices around requiring waiver documents to be signed for strip-outs or other

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141 LITMAS, *Submission 39*, p. 8.
142 Mr Johnathan Smith, Field Coordinator, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, pp. 30–31, 34.
143 Cheney Suthers Lawyers, *Submission 61*, pp. 2–3.
144 Financial Counselling Australia, *Submission 6*, p. 37.
145 Ms Kate Olivieri, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 24.

actions undertaken. Most insurers indicated that they did not require policyholders to sign documents in relation to strip-out of properties.[146]

4.192 However, it was also noted that this did not mean that third-party contractors were prohibited from obtaining the waivers themselves. For example, Hollard explained that policyholders 'may be asked' to sign authorisation for repair works where strip-out, removal and/or the disposal of non-salvageable items is involved. A service provider may request authorisation documents, and it was general practice for the service provider to supply the customer with correspondence regarding their engagement with the insurer through providing documents and other information.[147]

4.193 A&G also clarified that if a claims consultant, assessor, builder or supplier determines that a make safe strip out is required, that the builders and suppliers 'request that policyholders complete a make safe waiver'. Further, A&G noted that the purpose, effect and potential consequences of the waiver is required to be explained to the policyholder by the builder or supplier.[148]

4.194 Insurers had difficulty monitoring third-party contractors. Hollard explained that during the major floods, an overwhelmed supply chain was managed using spreadsheets and Hollard was unable to monitor when builders had gone out to properties, the status of the reports, and the due date of reports.[149]

4.195 The effectiveness of third-party suppliers themselves was out of scope for Deloitte's review, however, the Deloitte report noted that improvements in oversight had been made by insurers post-CAT 221.[150] The Deloitte report observed that at the time to CAT221, half of the insurers analysed did not have formalised operating models for roles and responsibilities, workforce planning, quality assurance and oversight of third-parties.[151]

4.196 Allianz noted it had 'significantly invested' in its oversight of third-party providers, including enhancing the management framework that governed how third-party providers are selected, onboarded and monitored. Allianz also noted that it has a dedicated team responsible for oversight of its external claims provider network and had made material investments to digitise oversight.[152]

4.197 Similarly, QBE introduced measures and uplifted guidelines for actions such as builder strip-out instructions to provide clarity and enhance communications between builders or restorers and policyholders.[153]

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146 For example: Suncorp Group, *Submission 12*, p. 27; RACQ Group, *Submission 15*, p. 9; Insurance Australia Group, *Submission 16*, p. 18; Allianz Australia, *Submission 13*, p. 30; Youi, *Submission 14*, p. 9.

147 Hollard Holdings Australia, *Submission 19*, p. 16.

148 Auto & General Holdings, *Submission 18*, p. 14.

149 Mrs Paige Vincent, Chief Operating Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, p. 17.

150 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 35.

151 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 90.

152 Allianz Australia, *Submission 13*, p. 18.

153 QBE Insurance Group, *Submission 17*, p. 6.

4.198 A&G submitted that to improve the customer experience relating to make-safe strip out works, it had undertaken a review of the process in 2023, with the revised process including: updated waivers (in plainer English), builder/supplier training, document management, consultant training and scripting, and customer FAQs.[154]

4.199 Several consumer groups and policyholders indicated that better investment, project management and oversight was still needed.[155]

4.200 The findings of ASIC's review identified project management as an area for improvement:

> Insurers must maintain adequate oversight of insurer-appointed third parties and manage the claims process for consumers. This extends to notifying consumers about the purpose, order and timing of assessors and trades attending their home.[156]

4.201 Financial Counselling Australia told the Committee that insurers should implement 'robust communication protocols' and informed consent before any major structural changes. In its submission, Financial Counselling Australia further commented that improved communication in these areas can prevent misunderstandings and unnecessary losses.[157]

4.202 The General Insurance Code Governance Committee also emphasised the importance of oversight of third parties and that insurers must 'know precisely what information its third-party contractor tells a customer about a claim'.[158]

4.203 Resilient Lismore contended to the Committee that third-party access into properties without the policyholders consent should be treated as breaking and entering and the taking of items as stealing, with penalties enforced:

> I would suggest there should be penalties. We heard from Kate that break and enter was an aspect of those people getting access to her property. Kate's story is not a standout; it is a common experience. The property owners weren't home. Access was forced. Materials were taken without consent, without permission, without knowledge. Penalties should be enforced and there should be swift pathways for property owners to seek those penalties. We again heard the police say, 'We can't actually do anything about this.' We need to regulate in a way that makes those contractors understand that they have to do things in the appropriate way.[159]

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154 Auto & General Holdings, *Submission 18*, p. 14.

155 For example: Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 1; Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 33; Legal Aid Queensland, *Submission 8*, pp. 8–9.

156 ASIC, *Submission 35*, p. 11.

157 Financial Counselling Australia, *Submission 6*, p. 9

158 General Insurance Code Governance Committee, *Submission 5*, p. 7.

159 Ms Elly Bird, Executive Director, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, p. 35.

4.204 Some policyholders argued for that there should be a contract between builders and policyholders on the conduct of repair and remediation work, however, the ICA believed it was unlikely the issues raised would be resolved this way. The ICA told the Committee that insurers would generally be expected to have more influence and leverage in negotiations with contractors than policyholders.[160] Contract requirements for residential building work in relation to price, scope of works and warranties are also generally mandated by state or territory legislation,[161] which could make the drive for more consistency more difficult to achieve.

Committee comment

4.205 While insurers outlined to the Committee improvements to their third-party oversight mechanisms in response to the 2022 major floods, the reported experiences of many impacted individuals who gave evidence to this Committee amount to damning industry failure.

4.206 The Committee recognises that there was a necessary increase in building activity, and in some instances in onboarding of new staff and contractors to cope with major flood related claims. However, this increase in capacity requirements should not result in a decrease in service expectations, or excuse inappropriate behaviour.

4.207 It is likely that future natural disaster insurance surges will create similar pressures and therefore it is essential that insurers have frameworks in place to ensure that the activities of third parties are conducted in accordance with insurers' and policyholders' expectations and in full compliance with all regulatory requirements.

Recommendation 21

4.208 The Committee recommends that the Insurance Council of Australia in conjunction with the Australian Securities and Investments Commission develop guidelines on how insurers can apply tighter internal controls on the oversight of building contractors, including guidelines on community expectations for industry to improve their oversight practices.

Recommendation 22

4.209 The Committee recommends the Australian Government consider appropriate regulatory or other mechanisms to reduce the instances of third-party builders and other contractors making changes to properties without the policyholder's consent, including the practice of gaining entry, removing property (strip-outs) or conducting repairs without the policyholder's knowledge or consent. Solutions should take into account the unique circumstances and challenges created by catastrophic flood events.

160 ICA, *Supplementary Submission 11.2*, p. [2].
161 QBE Insurance Group, *Submission 17*, p. 14.

5. Insurer engagement and communications with policyholders

5.1 The objectives of the General Insurance Code of Practice (the Code) include the promotion of better, more informed relations between insurers and policyholders.[1] The Code commits insurers to promoting trust, integrity and respect by being clear, transparent, fair and timely in their communications with the community, and to design and sell insurance products in a clear, transparent and fair manner.[2]

5.2 During the major floods, policyholders were observed regularly misunderstanding their policies and what they were covered for.[3] Stakeholders argued that insurance policies were too complex and difficult to understand, containing an array of inclusions and exclusions. Further challenging consumer understanding were the differences in insurers' definitions and interpretations of key policy terms, particularly terms related to the types of flood coverage (for example, rainwater run-off) as well as exclusions (for example, what constitutes wear and tear).

5.3 As well as issues with consumer understanding of insurance policies, consumer advocacy groups and policyholders told the Committee about difficulties receiving meaningful and timely updates on claim progress, vague and conflicting clean-up instructions in the immediate aftermath of the floods, as well as an array of other communication issues that had the effect of further increasing policyholder distress and confusion.

5.4 This chapter discusses and makes recommendations to improve insurers' engagement with policyholders at sign-on and renewal, as well as insurers' communications with policyholders before, during and following the major floods.

1 Insurance Council of Australia (ICA), *General Insurance Code of Practice,* 5 October 2021, p. 9.
2 ICA, *General Insurance Code of Practice,* 5 October 2021, pp. 4, 21.
3 Australian Financial Complaints Authority (AFCA), *Submission 1*, p. 20; Ms Latha Elenkoven, Principal Solicitor and Manager, Pine Rivers Community Legal Centre, *Committee Hansard*, Caboolture, 9 April 2024, p. 22; Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 42.

Consumer understanding of insurance policies at sign-on and renewal

5.5 Improving consumer understanding of the policy they are taking out has been a decades-long challenge for the insurance industry, exacerbated by the complexity and significant variations between policies.

5.6 The *Insurance Contracts Act 1984* requires insurers to clearly inform the insured in writing whether the contract provides insurance cover in respect of flood damage.[4] Insurers fulfill this requirement through the provision of a Product Disclosure Statement (PDS).[5] PDSs are typically complex and long, often running over 100 pages.[6]

5.7 Recent research conducted by CHOICE found that only 46 per cent of people read the PDS for their policy, and given the complexity of such documents, it is likely even less understand them.[7] In reality, policyholders make assumptions about the extent of their coverage at sign-on and rarely engage with their PDS outside of claims time.[8] The risks of ineffective disclosure include inadvertent underinsurance, a lack of understanding of the insurance product purchased, and the purchase of insurance cover which does not serve the consumer's intended purpose.[9]

5.8 The Australian Financial Complaints Authority (AFCA) found that insurers typically complied with the necessary disclosure obligations, both at sign-on and policy renewal.[10] However, AFCA also told the Committee that the variations between policies made it difficult for consumers to draw effective comparisons when considering taking out a policy.[11]

5.9 Insurers' policies vary considerably, with variations in the terms used to describe an event, such as rainwater runoff and storm surge, as well as provisions for temporary accommodation, treatment of mould, cash settlements, and exclusion clauses, such as 'lack of maintenance' and 'wear and tear'.[12]

5.10 Australian insurance policies have included a standard definition of 'flood' since regulatory changes in 2012 following the 2010-11 Queensland floods.[13] The

4 *Insurance Contracts Act 1984*, s. 37C.
5 Department of the Treasury, *Standardising natural hazard definitions and reviewing standard cover for insurance*, March 2024, p. 6.
6 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 48.
7 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 48.
8 Department of the Treasury, *Standardising natural hazard definitions and reviewing standard cover for insurance* 2024, Consultation Paper, March 2024, p. 15.
9 Department of the Treasury, *Standardising natural hazard definitions and reviewing standard cover for insurance*, March 2024, p. 6.
10 AFCA, *Submission 1*, p. 20.
11 AFCA, *Submission 1*, p. 19.
12 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 42.
13 ICA, *Submission 11*, p. [7].

Committee received evidence that this has reduced the number of disputes.[14] However, there is no legislated or consistent definition adopted by insurers for the other events that cause water damage to property. When the Committee asked how insurance firms differentiate between flood and other events, one insurer wrote:

> Many of our policies do not explicitly define rainwater run-off – in these cases, rainwater run-off is implicitly included in the more general "storm" definition… The coverage of policies with respect to flood damage varies with each policy depending on brand, location, product, and customer choices.[15]

5.11 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre and Westjustice highlighted the confusion that the lack of standardisation of terms and definitions causes:

> Comprehending these differences and applying them to one's own risk profile… is an almost impossible task even in the most ideal of circumstances. The flaws baked into the design and supply of…insurance contracts led to very real impacts upon Australians when faced with the need to rely on them – like during the 2022 floods…The general insurance market is a 'confusopoly'. Home and contents insurance consumers are faced with an almost soul crushing amount of information and choice in deciding which product to purchase to cover their risks…This reduces market transparency and leads many consumers to be unable to make a genuinely informed comparison and choice.[16]

5.12 Advance Cairns told the Committee:

> If someone's looking to insure, being able to compare apples with apples and make an assessment, rather than having to understand the intricacies of exclusions, would make that process a lot easier… many discovered that they weren't covered for flood. They thought they were; it never occurred to them they weren't.[17]

5.13 Misunderstanding of policy terms including flood, storm and rainwater runoff led to underinsurance for many policyholders, and consequently financial hardship, confusion and frustration upon receiving the outcome of a claim.[18] One of the most common examples raised was in relation to Insurance Australia Group's (IAG) changes to the policies offered under NRMA. NRMA had begun bundling optout flood cover with rainwater runoff and storm surge prior to the 2022 major floods. Many NRMA customers were not aware of this change in their policy or did not understand

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14 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 43.

15 Insurance Australia Group, *Submission 16*, p. 16, 27.

16 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 42.

17 Ms Jacinta Reddan, Chief Executive Officer, Advance Cairns, *Committee Hansard*, Cairns, 24 July 2024, p. 16.

18 Ms Karen Rollinson, Service Navigator, Encircle Community Services, *Committee Hansard*, Caboolture, 9 April 2024, p. 25; Mr Steve Loane, General Manager, Forbes Shire Council, *Committee Hansard*, Molong, 7 May 2024, p. 5; Ms Tracey Blythe, Disaster Recovery Coordinator, Financial Counselling Victoria, *Committee Hansard*, 1 February 2024, p. 3.

what the different types of water damage meant until they had to lodge a claim.[19] AFCA told the Committee that even among industry experts, there is a lack of agreement on how certain policy clauses should be interpreted.[20]

5.14 GenWest told the Committee about a policyholder who believed they were covered for flood only to discover upon submitting the claim that they were not:

> …when the flood hit, she said: 'We're okay, we're good, we're lucky. We've got insurance. We'll be fine.' But then, when she contacted the insurance company to make a claim, she found out that they don't have flood cover. That's when they broke down and realised that everything was gone. They didn't know; they had no idea—whilst living on a flood plain.[21]

5.15 The Australian Securities and Investments Commission (ASIC) observed in their 2023 review on home insurance claims that policy inclusions and exclusions were rarely known or completely understood, with some consumers assuming that flood was always covered.[22] They also found that consumers were unaware that their property required maintenance and what the obligation to reasonably maintain a property entailed, such as the reasonable maintenance of roofs and gutters.[23]

5.16 Consumer advocacy groups noted that there was almost no understanding amongst consumers regarding their obligations to maintain their home or how much 'wear and tear' justifies the denial of a claim.[24]

5.17 The actions policyholders need to undertake to ensure their claim is not denied based on a lack of maintenance exclusion is unclear. Consumer advocacy groups told the Committee that insurance staff themselves had a limited understanding of when lack of maintenance and wear and tear clauses would apply in their own policies, leading to the clauses being inconsistently applied, including within the same insurer.[25] Examples include claim denials for water damage incurred from overflowing gutters based on pre-existing gutter damage, even where gutters had been replaced within a few years of the event and owners could prove gutters had been regularly and professionally maintained.

5.18 Caxton Legal Centre told the Committee that the lack of clarity around common exclusions and what is required for policyholders to remain covered by their policies was confusing for policyholders, especially for those whose claim had been denied following the major floods:

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19 Legal Aid New South Wales, *Submission 34*, p. 13.

20 Mr Justin Understeiner, Chief Operating Officer, Australian Financial Complaints Authority, *Committee Hansard*, 21 February 2024, p. 31.

21 Ms Wennie van Riet, Project Lead, Mental Health and Wellbeing, GenWest, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 31.

22 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 10.

23 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 21.

24 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 46; Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 22.

25 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 31.

> Our clients were unaware that there were problems with maintenance at their home before they made a claim in this event. Some clients had done repair work on their home recently, and could not understand how the home was now considered to be not well maintained. There was a real gap between how clients expected their insur[ers] to respond and how they actually responded.[26]

5.19 Caxton Legal Centre also told the Committee that insurers need to improve their communication strategies so people understand their obligations:

> I think the insurers could get quite creative about the information they give people and the expectations they set of people. I don't think most of us know what good maintenance on our homes is. I think there's a big gap there, and then there's of course a very big gap for older people and people with vulnerabilities… I don't know if it's creative ads or campaigns or exactly what it is, but, if they have certain expectations that we're up on our roofs once a year or whatever it happens to be, that needs to be communicated in an effective way that's consumer tested.[27]

5.20 The Insurance Council of Australia (ICA) reported to the Committee at a public hearing that it was engaged in a review of clauses for wear and tear and maintenance, and would seek the Australian Competition and Consumer Commission's (ACCC) authorisation to standardise definitions across insurers:

> Once we've got a standardised clause that the consumer can understand, that our stakeholders, our consumer groups accept and the like, it enables us to go forward on a scalable mass campaign to talk to people about maintenance of their homes.[28]

5.21 However, other evidence highlighted challenges ensuring full consumer understanding of terms and conditions, even where insurers do communicate upfront.[29] IAG argued that ever-increasing product disclosure requirements over decades had increased the complexity of information presented to policyholders, potentially contributing to poor consumer understanding of the bundling of flood, stormwater and rainwater opt-outs by NRMA (as described above).[30]

5.22 Youi warned that in its experience, it is not possible to guarantee full customer understanding of opt-outs, regardless of the insurer's clarity of communication at the point of purchase:

> ...what we found is that it almost doesn't matter how good the conversation with the customer was up front; sometimes there's not a great understanding that

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26 Caxton Legal Centre, *Submission 28*, p. 2.

27 Ms Jacqui Cavanagh, Senior Lawyer, Financial Rights and Housing, Caxton Legal Centre, *Committee Hansard*, Caboolture, 9 April 2024, p. 24.

28 Mr Andrew Hall, Chief Executive Officer, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 4.

29 AFCA, *Submission 1*, p. 20.

30 Mr Nick Hawkins, Managing Director and Chief Executive Officer, Insurance Australia Group, *Committee Hansard*, 5 February 2024, p. 47.

> you've opted out of flood cover... From our point of view ... we can clearly understand through the voice recordings that the customer opted out of flood cover. A flood event happens. The customer is extremely disappointed that they didn't have flood cover.[31]

Risk and other determinants of premiums

5.23 The underpinnings of the pricing of insurance premiums is also a point of confusion for consumers. In its joint submission, Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre and Westjustice told the Committee that insurers do not explain how they have assessed the risk of natural hazards on a property and how this impacts the pricing of the consumer's insurance premium. These consumer advocacy groups wrote to the Committee:

> …consumers are left in the dark with respect to how those risks identified impact upon the actual premium price they are charged. They are also largely not made aware of what actions they should or could take to lower these risks…Consumers must know what the risks are to be able to act on them and should be provided with appropriately transparent pricing signals – that indicate the existence of risks with price increases and the mitigation of risks with price decreases.[32]

5.24 Insurers told the Committee they provide information on their websites and send consumers targeted communications with information explaining price increases, including sometimes through Product PEDs (premium, excess and discount guides).[33] Insurers also noted they encourage customers that have further concerns or questions surrounding pricing to contact a service representative directly.[34]

5.25 However, insurers do not provide details to consumers about how the specific risks they are exposed to are influencing the premiums they are charged. Consumer advocacy groups argued for insurers to provide consumers with more information on the makeup of premiums, including the proportion of the premium that is attributable to perils. [35]

5.26 In submissions, some insurers told the Committee they did not quantify the proportion of the price increase attributable to different factors such as upward pressure on reinsurance costs or changes in the assessment of underlying risks as it

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31 Mr Bert Bakker, Chief Operations Officer, Youi, *Committee Hansard*, 5 February 2024, p. 62.

32 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 52.

33 Auto & General Holdings, *Submission 18*, p. 52; Insurance Australia Group, *Submission 16*, p. 42; Hollard Holdings Australia, *Submission 19*, p. 47; QBE Insurance Group, *Submission 17*, p. 25; RACQ Group, *Submission 15*, p. 27; Youi, *Submission 14*, p. 35; Allianz Australia, *Submission 13*, p. 50; Suncorp Group, *Submission 12*, p. 43.

34 Auto & General Holdings, *Submission 18*, p. 52; Insurance Australia Group, *Submission 16*, p. 42; Hollard Holdings Australia, *Submission 19*, p. 47; QBE Insurance Group, *Submission 17*, p. 25; RACQ Group, *Submission 15*, p. 27; Youi, *Submission 14*, p. 35; Allianz Australia, *Submission 13*, p. 50; Suncorp Group, *Submission 12*, p. 43.

35 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 52.

is either not possible on an individual level with costs being shared across the portfolio, or because such information is commercially sensitive.[36]

5.27 As the consumer has more information about their property and contents, particularly special or unique possessions, insurers rely to some extent on consumers estimating the value of their possessions correctly when taking out insurance to ensure they are properly insured. The Code requires insurers to provide consumers with access to a calculator to estimate their sum insured when they apply for, or renew, a home building insurance product.[37] The calculators include built in estimated costs for rebuilding and repairing a property based on the risks the insurer believes a property to have, estimated rebuild costs and other factors.

5.28 Consumer advocacy groups suggested the sum insured calculators may not necessarily incorporate the most up to date information regarding inflation, updated building code requirements, or increases in labour and material costs, leading to underinsurance in some cases.[38]

5.29 In the Independent Review of the General Insurance Code of Practice (the Code Review), the panel noted that it had received a number of submissions in relation to sum insured calculators.[39] In particular, the panel noted the ACCC's Northern Australia Insurance Inquiry *Final Report* which found that the results from building sum insured calculators varied significantly across insurers, which could confuse consumers.[40] The General Insurance Code Governance Committee (CGC) proposed that insurers be required to use an up to date calculator for home and building policies, and that insurers should proactively warn customers if they appear to be underinsured.[41] Legal Aid Queensland also supported insurers being required to warn consumers of potential underinsurance.[42] This is reflected in recommendation 25.

5.30 Consumers were also sometimes unaware that the sum insured amount represents the costs to replace or rebuild their home, and not the actual purchase price of their property.[43] The reality is that consumers are mostly guessing what they believe their sum insured amount should be.[44] Some insurers observed a trend of policyholders reducing their sum insured amount compared to previous years to manage increased premium payments.[45]

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36 Allianz Australia, *Submission 13*, p. 50; Auto & General Holdings, *Submission 18*, p. 52.
37 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 21.
38 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, p. 54.
39 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, p. 35.
40 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, p. 35; Australian Competition and Consumer Commission, *Northern Australia Insurance Inquiry Final Report*, 2020, p. 448.
41 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, p. 35.
42 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, p. 35.
43 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 12.
44 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 12.
45 Insurance Australia Group, *Submission 16*, p. 41; Suncorp Group, *Submission 12*, p. 42.

5.31 The Financial Rights Legal Centre raised concerns that insurers are putting too much of the responsibility for estimating the total costs to rebuild on consumers, and not providing consumers with enough information for the consumer to estimate the coverage they need so they are not underinsured.[46] The Financial Legal Rights Centre explained:

> …consumers know very little about building costs… Insurers actually have access to a ton of this information. They have their finger on the pulse. That is their business model: they are constantly pricing and repricing and analysing and modelling risk and the cost of risk and the cost of rebuilding. So, in terms of the responsibility to ensure that your sum insured is accurate, why can't we, Australia-wide, shift some of that responsibility to the industry that has all the data as opposed to it resting with the individual consumer who only knows whatever anecdotal things they know, like, 'My neighbour built this the other day for this much, so maybe that's right?'.[47]

5.32 Commercial insurance policies may include averaging provisions that restrict the total payout to the policyholder based on the proportion of the value covered. For example, if a company insures a building asset for less than the cost of rebuilding it (for example, $2 million out of $4 million, or 50 per cent), the insurer may pay in proportion to the amount of underinsurance (50 per cent of $2 million would equate to a $1 million payout). This incentivises businesses to regularly update rebuild cost valuations on their insured assets, but potentially exposing businesses to unexpected underinsurance, especially if it coincides with high inflation in the construction sector.

5.33 The Committee heard that small and medium businesses can be left unknowingly underinsured because insurers have inadequately communicated to businesses about the averaging provisions applicable to their insurance policy.[48] Cheney Suthers Lawyers told the Committee:

> We know that, when you go to an insurer, you put all of your facts in as data online, it spits out a policy and you pay your premium. That's not enough… when they make a claim, if they're not aware about their averaging provisions… They don't realise that they're going to be hit with a major penalty at the end because they're underinsured. The Act requires insurers to clearly inform customers. Where's the clear information?[49]

5.34 Section 44 of the *Insurance Contracts Act 1984* requires an insurer to 'clearly inform' the consumer of an averaging clause in a general insurance contract (while also

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46 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 12.

47 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 12.

48 SGS Economics and Planning, *The backbone of regional and rural economies: Small business and community resilience*, 2021, p. 18.

49 Ms Kirsty Evans, Director and Solicitor, Cheney Suthers Lawyers, *Committee Hansard*, Molong, 7 May 2024, p. 15.

specifying the clause has no effect if the sum insured was at least 80 per cent of the value of the property insured).[50]

5.35 In practice, it appears averaging clauses have mostly disappeared in home and contents policies in Australia but remain in some small and medium sized business insurance products.[51]

Committee comment

5.36 The challenges around improving consumer understanding of their insurance coverage and insurance policies and terms has been ongoing for decades. Insurers have to some extent improved their communications with policyholders about their policy coverage to provide simpler, easier to understand information to consumers however, the evidence suggests that insurers need to do more to ensure their customers are properly informed about their coverage and their obligations under the policy they've taken out.

5.37 Insurers need to provide more comprehensible advice to consumers about the exclusions in their policies and expectations on policyholders to ensure an exclusion will not be applied in the event they make a claim. Insurers should be providing policyholders with general advice related to the maintenance of key aspects of a property that influence the application of an exclusion, such as the maintenance of roofs, gutters and fences. The Committee suggests necessary maintenance tasks could be communicated to policyholders through reminders sent to consumers periodically.

5.38 Insurers should also provide consumers with clearer guidance in relation to the key determinants of their premium and any material changes in their premium. Currently insurers provide consumers with the total premium they would pay if the consumer were to accept the policy. This does not provide consumers with complete information about how peril-related risks may be increasing their premiums. It is becoming increasingly important for consumers to understand the risks posed by increasingly frequent and intense weather events so they can make good decisions, including taking effective mitigation measures.

5.39 It is also important that consumers have a clearer understanding of the insurance coverage required for a rebuild of their home – either like-for-like or a more resilient rebuild. This will require sum insured calculators that provide more reliable and standardised results across insurers. In addition, insurers need to develop means of proactive communication with consumers in relation to the risk of underinsurance.

5.40 In light of such findings, the Committee makes the following recommendations to enhance clarity for consumers and improve the claims experience from sign-on.

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50 *Insurance Contracts Act 1984*, s. 44.

51 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters*, September 2011, p. 96; Professor Allan Fels AO and Professor David Cousins AM, 'Submission on Draft Recommendations', *First Interim Report of the ACCC's Northern Australia Insurance Inquiry*, 12 April 2019, p. 7.

Recommendation 23

5.41 The Committee recommends that the Australian Government investigate mechanisms to require insurers to more clearly communicate the basis for the price of premiums. This could include:

- **at a high level, highlighting the nature of risk for the property for each major peril type (for example, a traffic light rating system)**
- **last year's premium alongside the current year's premium, along with a descriptive analysis of why there has been a change if it is material (for example, over 10 per cent). The analysis could include highlighting different factors that may influence pricing such as changes in building costs or changes in the assessment of one or more perils, or the impact of household or community level mitigation, without attaching numerical estimates to each factor.**

Recommendation 24

5.42 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers, at policy commencement and renewal, communicate key information on the consumer's policy, including:

- **A clearly highlighted plain English explanation of common obligations policyholders have under their policies and the application of certain exclusions if they are not undertaken, and**
- **general advice in relation to property maintenance and the expectations of the insurer regarding key aspects of the property such as roofs, gutters and fences, and**
- **general information around the calculation of a policyholder's sum insured and factors a policyholder may wish to consider to ensure full coverage in a total loss event.**

Recommendation 25

5.43 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers inform policyholders when they suspect the policyholder's sum insured does not cover the full rebuild costs according to their calculations, both at sign-on and renewal. The insurer should encourage the consumer to review their sum insured amount and ask them to confirm with a response.

The Committee further recommends that the General Insurance Code of Practice be strengthened to require insurers to ensure that sum insured calculators are accurate and up to date, consistent with Recommendation 56 of the Independent Review of the General Insurance Code of Practice. The calculators should include updated information on rebuild costs, including

cost increases relating to rebuilding to current building standards, and increases in labour and materials costs.

Recommendation 26

5.44 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers adopt a more flexible approach in relation to rebuilds and that, in particular, a like-for-like replacement not be required and that consumers be permitted to swap out size/scope for resilience and efficiency in "sum insured" repairs and rebuilds.

Recommendation 27

5.45 The Committee recommends that insurance brokers and insurers be required to provide clear guidance on the operation of averaging provisions to small and medium sized businesses.

The Australian Government should also consider prohibiting averaging provisions for small businesses.

Insurer communication and engagement with policyholders

5.46 Good communication is central to a positive claims experience. Insurers generally took proactive steps to engage and provide ongoing support to policyholders after the floods, including the provision of urgent financial assistance at the beginning of the claims process and the identification of and support for vulnerable policyholders.[52] However, a key driver of policyholders' distress during the major floods was insurers' poor communication practices, specifically a lack of timely, meaningful and clear communications.

5.47 Both ASIC's 2023 review on home insurance claims and the Deloitte report emphasised a pressing need for insurers to improve communications to policyholders about decisions, delays, and complications.[53] The reviews found insurers were not clear, proactive or transparent in communications, often causing confusion for policyholders and misaligned expectations about next steps and timeframes.[54] For

[52] ASIC, *Navigating the storm: ASIC's review of home insurance claims 2023*, p. 9; Deloitte, *The new benchmark for catastrophe preparedness in Australia 2023*, October 2023, pp. 12-13; Suncorp Group, *Submission 12*, p. 28; Allianz Australia, *Submission 13*, p. 31; Youi, *Submission 14*, p. 11; RACQ Group, *Submission 15*, p. 10; Insurance Australia Group, *Submission 16*, p. 19; QBE Insurance Group, *Submission 17*, p. 21; Hollard Holdings Australia, *Submission 19*, p. 18.

[53] ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 9; Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 95.

[54] ASIC, *Navigating the storm: ASIC's review of home insurance claims,* 16 August 2023, p. 9; Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 32.

many policyholders, this led to significant mental, social and financial costs.[55] This was particularly the case for more vulnerable policyholders. The Committee has made recommendations later in the chapter that build on the recommendations of these reviews.

Insurer reach out and presence in impacted communities after the 2022 major floods

5.48 Insurers advised the Committee that they contacted policyholders on how to prepare and lodge their claim following the major floods through a variety of channels, including through email, outbound telephony, paid advertising, radio, television, social media, interactive voice response messaging, SMS, and on their own websites and mobile applications.[56] Disruptions to phone reception and internet, as well as power outages, made it challenging for some policyholders to contact their insurer or lodge a claim online.[57] In this way, an on-the-ground physical presence from insurers was critical in assisting such policyholders to source temporary accommodation and access emergency payments.

5.49 The ICA identified that it coordinated an on-the-ground industry presence in recovery centres in the immediate aftermath of extreme weather events once it was safe to do so.[58] Insurers' physical presence allowed better facilitation of immediate relief operations including lodging claims, booking assessments, and discussing the claims process.[59] Many insurers provided emergency payments and sourced temporary accommodation before confirming whether the policyholder was covered for the event.[60] One insurer made over $5.3 million in ex-gratia payments to 1,492 policyholders whose claims were subsequently denied in full.[61]

5.50 A physical presence in impacted communities was well received by policyholders.[62] Consumer advocacy groups observed policyholders were often able to better navigate the initial stages of recovery when guided by an in-person representative than over the phone.[63] Face-to-face assistance was particularly beneficial for policyholders who found navigating insurers' website challenging,[64] as Dr Prue Bagley, Community Engagement Officer at ARC Justice told the Committee:

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55 Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 35.

56 Suncorp Group, *Submission 12*, p. 34; Allianz Australia, *Submission 13*, p. 38; Youi, *Submission 14*, p. 20; RACQ Group, *Submission 15*, p. 20; Insurance Australia Group, *Submission 16*, p. 21; QBE Insurance Group, *Submission 17*, p. 22; Auto & General Holdings, *Submission 18*, p. 34; Hollard Holdings Australia, *Submission 19*, p. 31.

57 Legal Aid New South Wales, *Submission 34*, p. 11; Legal Aid Queensland, *Submission 8*, p. 3.

58 ICA, *Submission 11*, p. [5].

59 ICA, *Submission 11*, p. [5].

60 ICA, *Submission 11*, p. [23].

61 Allianz Australia, *Submission 13*, p. 31.

62 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 90.

63 Legal Aid New South Wales, *Submission 34*, p. 12.

64 Ms Vicki Staff, National Coordinator for Disaster Recovery, Financial Counselling Australia, *Committee Hansard*, 1 February 2024, p. 1.

> We've had people come into the recovery centre who've been sent a text message that invites them if they've got a question about their claim to access it online: 'Track your claim online.' There's a sizable chunk of the population who don't know how to do that. And there are also people who, following a traumatic event, don't want to track their claim online; they want to talk to [their insurer] about their claim.[65]

5.51 However, some communities told the Committee that emergency hubs were not set up in their towns, with people having to travel to larger centres, while some insurers weren't represented at people's nearest emergency hub or did not have a presence until weeks after the hub was established.[66] Councillor Steve Pickering of Clarence Valley Council, observed:

> I personally attended the hubs maybe three times. I did not ever see a representative of any insurance company at any of the hubs. There were representatives from state governments. There were charities. There was the Red Cross. There were church organisations… We had the Army. We had the SES. We had the RFS. There was not one insurance person.[67]

5.52 Mrs Elizabeth Richardson, General Manager at the Hawkesbury City Council also told the Committee that recovery hubs were predominantly filled with disaster relief organisations rather than insurers:

> …there may have been some one-off appearances by some of the insurers, but predominantly the recovery hubs that were set up—both at Wisemens Ferry and South Windsor—had presence from the council, New South Wales government agencies and a suite of not-for-profit organisations offering relief and assistance to the community rather than the insurers having a presence, as such.[68]

5.53 Mr Kevin Beatty, Mayor of Cabonne Council further told the Committee:

> Having this support on the ground is vital. It took over a week to re-establish the Telstra phone service in Eugowra. Eugowra residents had no access to phones to ring [insurers] and discuss their insurance.... Their presence at a station like that would have been crucial to getting that information back to them. It wasn't there and it added to the trauma…[69]

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65 Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 35.

66 Councillor Steve Pickering, Councillor, Clarence Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 4; Ms Jan Palmer, Community Engagement Officer, Gannawarra Shire Council, *Committee Hansard*, Rochester, 18 April 2024, p. 5; Mr Kevin Beatty, Mayor, Cabonne Council, *Committee Hansard*, Molong, 7 May 2024, p. 2; Mrs Elizabeth Richardson, General Manager, Hawkesbury City Council, *Committee Hansard*, Richmond, 9 May 2024, p. 3; Ms Kellie Massouras, Manager, Flood and Community Recovery, Mitchell Shire Council, *Committee Hansard*, Heathcote, 19 April 2024, p. 6; Ms Sarah Boulle, Recovery Coordinator, Byron Shire Council, *Committee Hansard*, Lismore, 11 April 2024, p. 4.

67 Councillor Steve Pickering, Councillor, Clarence Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 4

68 Mrs Elizabeth Richardson, General Manager, Hawkesbury City Council, *Committee Hansard*, Richmond, 9 May 2024, p. 3.

69 Mr Kevin Beatty, Mayor, Cabonne Council, *Committee Hansard*, Molong, 7 May 2024, p. 2.

Information provided to policyholders about post-flood cleanup

5.54 Guidance across insurers was unclear regarding when flooded property could be accessed and damaged contents and materials removed without impacts to insurance claims.[70] Whilst some policyholders were advised they could photograph the damaged items and then dispose of them, others were advised to not clean-up until an assessor had attended the property.[71] Mr Loane, General Manager at Forbes Shire Council, said there was an absence of post-flood instructions altogether:

> The insurance companies neglected to tell a lot of the folk to document and photograph the stuff they had to take out of the houses. Then they'd have a fight with them afterwards to make people justify that what they actually had to dispose of was real. People were feeling like criminals and saying, 'They don't believe us…'[72]

5.55 Inconsistent communication across insurers regarding clean-up advice caused stress and confusion among policyholders, particularly when the advice was shared with neighbours and friends that had received conflicting advice.[73] Prolonged delays in removing waste from homes led to mould growth, posing serious health risks and slowing the recovery journey. [74] In some cases, these mould issues were not covered by insurers.[75] Mr Tony Carusi, President of the Northern Rivers Flood Action Group told the Committee:

> Unfortunately, we're in a situation where a big percentage of people do not trust insurance companies… the questions were: 'Can we start to clean? Can we remove stuff from the house?' What they were told over the… phones was: 'Oh, I'm not sure,' or, 'I don't know,' or, 'Maybe you can; you'd better take photos.' There was no clear, consistent message being given to the people who were… traumatised, stressed and had nowhere to live… Having somebody on the phone not being able to give you a clear message… Eventually, some people just locked the door and said, 'I'm not going to touch anything.'[76]

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70 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 26.

71 Ballina Shire Council, *Submission 64*, p. 2; Legal Aid New South Wales, *Submission 34*, p. 21; Suncorp Group, *Submission 12*, p. 7; Youi, *Supplementary Submission 14.2*, p.12.

72 Mr Steve Loane, General Manager, Forbes Shire Council, *Committee Hansard*, Molong, 7 May 2024, p. 6.

73 Mr Christopher Barnes, Manager, Emergency Management and Public Safety, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2024, p. 4; Mr Kevin Beatty, Mayor, Cabonne Council, *Committee Hansard*, Molong, 7 May 2024, p. 2.

74 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 83; Ballina Shire Council, *Submission 64*, p. 3; Ms Tracey Blythe, Disaster Recovery Coordinator, Financial Counselling Victoria, *Committee Hansard*, 1 February 2024, p. 2; Ms Vicki Staff, National Coordinator for Disaster Recovery, Financial Counselling Australia, *Committee Hansard*, 1 February 2024, p. 7; Mr David Keane, *Submission 33*, p. [3]; Ms Annette Sheppard, President, FNQ Volunteers Inc, *Committee Hansard*, Townsville, 25 July 2024, p. 28.

75 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 80; Ms Tracey Blythe, Disaster Recovery Coordinator, Financial Counselling Victoria, *Committee Hansard*, 1 February 2024, p. 2; ARC Justice, *Submission 9*, p. 5.

76 Mr Tony Carusi, President, Northern Rivers Flood Action Group, *Committee Hansard*, Lismore, 11 April 2024, p. 41.

5.56 Legal advocacy organisations and local councils observed large volumes of debris being left outside flood damaged homes with residents hesitant to organise or allow removal until an insurance assessor had inspected their property.[77] This caused logistical inefficiencies for local councils.[78] Ms Heidi Turner, Coordinator of Disaster and Emergency Management explained the ramifications that delayed clean-ups had for the City of Gold Coast:

> …we had to go back to the same addresses time and time again because people weren't ready to relinquish their goods. With the 2022 events, the City made contact with Insurance Council Australia because we were seeking information about what residents could safely do and have a guarantee… that the insurance company would still insure their assets if they had got rid of them prior to them coming out to do assessments. Having access to that information is critical.[79]

5.57 Ballina Shire Council noted that overall costs for disaster recovery clean-up could be minimised if policyholders were informed they could take photographs and remove debris and other waste immediately, preventing local councils from having to do multiple trips to the same street and thereby increasing costs.[80] As it was difficult for policyholders to contact their insurer in the immediate aftermath of the floods due to the influx of inquiries and internet access and phone reception issues,[81] Mayor Raven of Logan City Council suggested the need for communications to be more proactive from the insurance industry:

> We need an education piece that says, 'This is what you can expect in a crisis, and this is what you can put out and what the insurance company will allow you to do,' because when everyone's trying to contact their insurer at the same time because there's a widespread flood event, it's very difficult to get through. Then you start getting rumours, and people stop putting out their materials because their neighbour has said, 'My insurer won't cover it and yours probably won't either.' Then you get this cascading effect, where no-one's wanting to clean up just in case. That early education piece should be provided by the industry…[82]

5.58 The Deloitte report recognised the need for standardised guidance across all insurers and levels of government on clean-up processes and debris removal post flood.[83] The ICA has expressed support for improved coordination.[84]

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77 Legal Aid New South Wales, *Submission 34*, p. 21.

78 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 83; Ms Heidi Turner, Coordinator, Disaster and Emergency Management, City of Gold Coast, *Committee Hansard*, Logan, 10 April 2024, p. 21; Ballina Shire Council, *Submission 64*, p. 2.

79 Ms Heidi Turner, Coordinator, Disaster and Emergency Management, City of Gold Coast, *Committee Hansard*, Logan, 10 April 2024, p. 21.

80 Ballina Shire Council, *Submission 64*, p. 2

81 Legal Aid NSW, *Submission 34*, p. 11; Ms Joanne Bradbury, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 49; Ms Jacqui Cavanagh, Senior Lawyer, Financial Rights and Housing, Caxton Legal Centre, *Committee Hansard*, Caboolture, 9 April 2024, p. 22.

82 Mayor Jon Raven, Mayor, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 21.

83 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 120.

84 ICA, *Submission 11*, p. [18].

Lack of timely communications about claim status

5.59 Although the Code notes that insurers are to be fair and timely in their communications with the community,[85] insurers' communication practices during the major floods all too often did not meet community expectations and left many policyholders feeling neglected, overwhelmed, and frustrated.[86]

5.60 Advocacy groups noted their clients repeatedly contacted their insurer and left messages, only for them to be unactioned and unacknowledged by their insurer for weeks and in some cases months.[87] Insurers would often inform policyholders they would call back within a set timeframe which frequently did not eventuate, acting to erode policyholder trust.[88]

> On day 3 we borrowed a car, drove to Byron and put in our claim with NRMA. We thought the worst was over; we were in the system. In fact, there was little that was systematic about the process to come, with the worst aspect being the difficulties communicating with the insurer and, later, the builder…the silence was just deafening.[89]

5.61 Some policyholders also spoke about needing to re-explain their situation to their insurer with each contact:

> Every time I phone and hang on the phone for an hour, I have to tell them exactly what's been going on before or ask them to read the emails I've sent. I've never had a reply to an email, text or phone call where I haven't rung up… I feel like I'm project-managing the insurance company because I can't speak to anybody or get a response from anybody.[90]

5.62 Policyholders that experienced communication delays with their insurer described the toll this took on them:

> 50 days and no phone call…You don't sleep. You don't eat properly. It affects your relationship. It affects your kids. It affects everything.[91]

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85 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 4.

86 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 18; Ms Aveley McCann, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 24; Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 35; Ms Jacqui Cavanagh, Senior Lawyer, Financial Rights and Housing, Caxton Legal Centre, *Committee Hansard*, Caboolture, 9 April 2024, p. 23. Dr Alan Cornick, Private capacity, *Committee Hansard*, Logan, 10 April 2024, p. 15; Mr Leslie Geofrey Pye, Chair, Richmond River Cane Growers Association, *Committee Hansard*, Lismore, 11 April 2024, p. 46.

87 Legal Aid New South Wales, *Submission 34*, p. 11; Legal Aid Queensland, *Submission 8*, p. 9; Caxton Legal Centre, *Submission 28*, p. 5; AFCA, *Submission 1*, p. 33.

88 Legal Aid New South Wales, *Submission 34*, p. 11; Legal Aid Queensland, *Submission 8*, p. 9; Caxton Legal Centre, *Submission 28*, p. 5; AFCA, *Submission 1*, p. 33.

89 Ms Joanne Bradbury, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 49.

90 Ms Anne Riley, Private capacity, *Committee Hansard*, Cairns, 24 July 2024, p. 39.

91 Ms Angelika Prpa, Private capacity, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 45.

5.63 The General Insurance Code of Practice (the Code) currently includes a number of provisions that set out time requirements in relation to communication. These include:

- Clause 68: if the policyholder makes a claim and the insurer requires more information, the insurer will, within 10 business days, either request further information, appoint a loss assessor or adjustor, or provide an estimate of the likely timeframe for a decision.
- Clause 70: once a claim is lodged and the process of obtaining further information and making an assessment is underway, the insurer will provide an update every 20 business days.
- Clause 71: the insurer will respond to routine inquiries within 10 business days.
- Clause 72: if a loss assessor or adjustor is appointed, then the insurer will notify the insured of this within 5 business days and inform the insured what the role of that person is.
- Clause 76: once the insurer has all required information, they will make a decision to accept or deny the claim within 10 business days and inform the insured of that decision.
- Clause 77: the decision in Clause 76 will be made within 4 months of receiving the claim, unless one of the exceptions in Clause 78 applies.[92]

5.64 There are a number of issues with these timing requirements. First, they are complex and overlapping. Second, in large natural disasters they are breached many times, without any real consequence. Finally, compliance with some of the requirements may not be to the consumer's advantage. For example, a requirement of an update every 20 days may not be useful if it does not contain meaningful information.

5.65 However, it is also important that the Code contains clear timeframes. They are a key protection for consumers. The pragmatic approach would see insurers' communications be as timely and meaningful as possible throughout the claims journey. Even during the resourcing constraints of a large natural disaster, insurers should attain capacity to respond to consumer inquiries quickly, and additionally, in a way which is helpful and understandable for consumers.

5.66 Insurers acknowledged there were significant failures in internal staff resourcing which impacted insurers' ability to administer timely communications.[93] As discussed in Chapter 2, Jobs and Skills Australia noted that during 2022, businesses across Australia struggled to hire in a historically tight labour market.[94] Vacancies were at a historic high relative to the number of employed Australians.[95] The Deloitte report found that the market for call or contact centre workers was constrained, with total

92 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 28.
93 ICA, *Submission 11*, p. [1].
94 Jobs and Skills Australia, *Submission 42*, p. 4.
95 Jobs and Skills Australia, *Submission 42*, p. 4.

vacancies ranked in the 9th percentile of all occupations in February 2022.[96] This indicates there was strong competition for claims handling staff over this period.[97]

5.67 The ratio of total full time equivalent staff members to claims varied across insurers during the major floods, from 1:197 being the lowest ratio to 1:888 being the highest.[98] ASIC sought an update on the steps insurers had taken to uplift resourcing in June 2023 and found an overall increase in the resourcing of claims handling, with some insurers increasing resources significantly more than others.[99] Some insurers also appeared to rely more heavily on temporary staff compared with other insurers.[100] The table below shows ASIC's data on insurers' resourcing since 2019 in terms of permanent and temporary claims handling FTE (Full Time Equivalent) staff numbers.[101]

Table 5.1 Insurers resourcing

Year	Claims – Permanent FTE	Claims – Temporary FTE
2019	7,779	173
2020	8,071	571
2021	7,846	1014
2022	7,965	2157
1 Jan – 30 Jun 2023	8,349	1667

Source: ASIC, *Submission 35*, p. 22.

5.68 Although insurers increased staff recruitment in response to the influx of major flood claims, AFCA found that even where insurers had increased their resources, there was a delay until new staff had reached full competency.[102] In its report, Deloitte found that the combination of a less experienced workforce and relaxed training standards impacted the quality of insurers' communications practices and claims management.[103]

5.69 Mrs Prue Monument, speaking on behalf of the General Insurance Code Governance Committee (CGC) told the Committee:

> What was clear with the increased breaches was that insurers didn't have the resourcing levels that they required. Increasing catastrophes are not a surprise. This is something that has been talked about and known about for quite some

96 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 70.
97 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 70.
98 Auto & General Holdings, *Supplementary Submission 18.3*, p. [9]; Hollard Holdings Australia, *Supplementary Submission 19.2*, p. [9]; QBE Insurance Group, *Supplementary Submission 17.4*, p. [9]; RACQ Group, *Supplementary Submission 15.2*, p. [9]; Youi, *Supplementary Submission 14.3*, p. [9]; Allianz Australia, *Submission 13.3*, p. [9]; Suncorp Group, *Supplementary Submission 12.2*, p. [9]; Insurance Australia Group, *Supplementary Submission 16.4*, p. [9].
99 Australian Securities and Investment Commission (ASIC), *Submission 35*, p. 15.
100 ASIC, *Submission 35*, p. 15.
101 ASIC, *Submission 35*, p. 22.
102 AFCA, *Submission 1*, p. 21.
103 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 17.

> time, and insurers are in the business of responding to catastrophes. We saw that their resourcing levels were such that they just weren't able to pivot and respond when they needed to.[104]

5.70 AFCA noted that:

> While some delays are inevitable when there is pressure on scarce supplies and labour, maintaining consistent and informative communication with customers helps the customer recover earlier from often traumatic events. It also reduces the risk of complaints and helps with earlier resolution of complaints when they do occur.[105]

5.71 Both AFCA and ASIC called on insurers to increase the number of permanent staff.[106] ASIC specifically urged insurers to prepare for disasters proactively rather than scaling-up resources once one has occurred.[107] The Deloitte report also recommended insurers redesign their resourcing capability for catastrophe events;[108] the ICA accepted this recommendation in principle, and has noted their commitment to commission an independent review of implementation progress by insurers in the second half of 2024.[109]

5.72 The ICA noted that insurers will need to carefully consider how the costs of future investments in operational response processes will impact on premiums.[110] For example, although Auto & General Insurance Company Limited (A&G) increased its resourcing from 146 FTE claims handling staff in January 2022 to 296 FTE in June 2023, the insurer also noted in their submission:

> Looking forward to ways to best prepare for potential similar events in the future… Operationally, it would be impractical to have staff on standby for major catastrophe events. This would increase costs and reduce affordability for A&G's customers.[111]

5.73 Similarly Royal Automobile Club of Queensland Limited (RACQ) noted:

> RACQ recognises the importance of being adequately resourced to respond to weather events and… maintains partnerships with labour hire firms to quickly employ additional support when required – a delicate balance between retaining adequate resourcing and managing premiums by not being over resourced.[112]

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104 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee, on behalf of General Insurance Code Governance Committee, AFCA, *Committee Hansard*, 23 February 2024, p. 6.

105 AFCA, *Submission 1*, p. 12.

106 AFCA, *Submission 1*, p. 5; ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 6; Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 1.

107 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 8.

108 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 118.

109 ICA, *Submission 11*, p. [1].

110 ICA, *Submission 11*, p. [3].

111 Auto & General Holdings, *Submission 18*, p. 4.

112 RACQ Group, *Submission 15*, p. 30.

Meaningful updates and automated communications

5.74 Meaningful updates regarding claim progress are important for the policyholder in planning ahead and navigating natural disaster recovery.[113] The Code requires insurers to respond to policyholders' routine enquiries about their claim's progress within 10 business days and inform policyholders about the progress of their claim at least every 20 business days.[114] The CGC reported sharp increases in violations of these Code provisions during the time of the major floods.[115]

5.75 There were 5,578 breaches of the obligation to respond to routine enquiries about a claim's progress within 10 business days in 2021-22, a 47 per cent increase on the preceding year.[116] In 2022-23, there were 28,189 breaches of the obligation to tell a customer about the progress of a claim at least every 20 business days, a 60 per cent increase on the preceding year and almost 5 times higher than the amount of breaches in 2019-2020.[117] ASIC's review on home insurance found that 55 per cent of breaches they examined were attributed to insurers breaching the requirement to update policyholders every 20 business days on the progress of their claim.[118]

5.76 Due to the volume of major flood claims, insurers' manual processes did not cope with demand as claim numbers rose and resources came under pressure.[119] With recruiting difficult in the economic context of the major floods, some submitters identified that automated communications were relied on to meet the timeframes set out in the Code.[120]

5.77 Insurers also automated various administrative tasks and processes that were previously manually handled, including email correspondence with policyholders, workflow task generation, and initial lodgement advice.[121] RACQ explained how they used automation to support ongoing communication with policyholders and meet their obligations:

> Given the scale of the event, RACQ fell short of policyholders' expectations in terms of communication early in the event and did not meet GICOP obligations at a point in time. To remedy this and support ongoing communication, we developed automated updates that were specific to each claim for the 2022 flood event, providing email and SMS updates directly to policyholders on the progress of their claim.[122]

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113 AFCA, *Submission 1*, p. 21.
114 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 28.
115 General Insurance Code Governance Committee, *Submission 5*, p. 7.
116 General Insurance Code Governance Committee, *Submission 5*, p. 7.
117 General Insurance Code Governance Committee, *Submission 5*, p. 7.
118 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, October 2023, p. 35.
119 Mr Justin Understeiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 29.
120 ARC Justice, *Submission 9*, p. 6.
121 Auto & General Holdings, *Submission 18*, p. 15; Insurance Australia Group, *Submission 16*, p. 10; Hollard Holdings Australia, *Submission 19*, p. 18; QBE Insurance Group, *Submission 17*, p. 14; RACQ Group, *Submission 15*, p. 30; Youi, *Submission 14*, p. 10; Allianz Australia, *Submission 13*, p. 30; Suncorp Group, *Submission 12*, p. 28.
122 RACQ Group, *Submission 15*, p. 20.

5.78 Although automated communications reduced dependency on surge workforce arrangements and enabled timely updates, communicating in this way sometimes meant policyholders were not receiving meaningful updates on the progress of their claim. ARC Justice observed that automated updates in many cases were not tailored enough to be helpful and that this further increased consumer frustration.[123] The Australian Consumers Insurance Lobby also submitted:

> The current requirement in the Code for insurers to communicate every 20 business days often falls short of providing real value to consumers, particularly when advocates report insurers issuing automated standard templates with no substantial updates, leading to a mere box-ticking exercise. This approach can increase consumer anxiety rather than alleviate it.[124]

5.79 Mrs Prue Monument, representing the CGC, agreed at a public hearing that automated updates which did not provide useful information to the policyholder about their claim's progress, would not be in the 'spirit' of the Code, and that the CGC would engage with insurers if a black-letter law approach came to their attention.[125] Mr Justin Understeiner, Chief Operating Officer at AFCA also spoke in support of better automation, noting it should be leveraged to support the delivery of tailored and effective communications to policyholders:

> Thinking about the future, there should be a greater investment by insurers into emerging technology that can supplement manual intervention to keep policyholders informed about what's going on. Complaints, delays and poor communication are the low-hanging fruit that insurers must address urgently.[126]

5.80 Several insurers told the Committee they have made investments in digital platforms which allow policyholders to self-access tracking information on their claim, thereby providing increased transparency on their claim's progress.[127] This is expected to empower policyholders to access information at a time convenient for them, as well as freeing up staff capacity. The Deloitte report recommended that all insurers consider an app or portal for policyholders to self-serve information on claim progress, the time until the next update and key contact details.[128] Most insurers noted they are actively developing capability and further investing in technology and automation to enhance communication practices that are both timely and effective.[129]

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123 ARC Justice, *Submission 9*, p. 7.

124 Australian Consumers Insurance Lobby Inc, *Supplementary Submission 2.1*, p. 10.

125 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee, on behalf of General Insurance Code Governance Committee, AFCA, *Committee Hansard*, 23 February 2024, p. 12.

126 Mr Justin Understeiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 29.

127 Insurance Australia Group, *Submission 16*, p. 26; Hollard Holdings Australia, *Submission 19*, p. 18; Suncorp Group, *Submission 12*, p. 11.

128 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 39.

129 Auto & General Holdings, *Submission 18*, p. 15; Insurance Australia Group, *Submission 16*, p. 10; Hollard Holdings Australia, *Submission 19*, p. 18; QBE Insurance Group, *Submission 17*, p. 14; RACQ Group, *Submission 15*, p. 30; Youi, *Submission 14*, p. 10; Allianz Australia, *Submission 13*, p. 30; Suncorp Group, *Submission 12*, p. 28.

Need for dedicated claims managers

5.81 ASIC's review found that policyholders' who had one dedicated claims manager maintaining direct contact on the progress of their claim tended to have a far better claims experience.[130]

5.82 Insurers advised that claims are generally allocated to dedicated claims managers or a small claims team.[131] They also advised they had comprehensive systems for managing claim information that enabled any staff member to understand where a claim is up to and access a record of previous communications and documentation to avoid policyholders having to retell their story.[132]

5.83 However, the Committee heard from consumer advocacy groups and a number of policyholders that some claims did not appear to have an assigned case manager, or that frequent staff movement in the claims handling area introduced discontinuity into the management of the claim.[133] Ms Sharon Keith, Program Manager at Disaster Legal Help Victoria observed:

> They are often given a different person to speak to each time if the matter hasn't been escalated to a case management process. That means they're required to tell their story over and over again.[134]

5.84 Policyholder, Royden Webb, also shared his case management experience:

> Whilst we were allocated a claims manager fairly early, we never actually spoke to her. Contact was via email, or someone else would take our calls. We decided we were being managed by a robot.[135]

5.85 Policyholders' experiences also suggest case notes were not always well-recorded. Ms Karen Rollinson, Service Navigator at Encircle Community Services told the Committee:

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130 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 11.

131 Suncorp Group, *Submission 12*, p. 35; Allianz Australia, *Submission 13*, p. 39; Youi, *Submission 14*, p. 21; RACQ Group, *Submission 15*, p. 22; Insurance Australia Group, *Submission 16*, p. 26; QBE Insurance Group, *Submission 17*, p. 23; Auto & General Holdings, *Submission 18*, p. 37; Hollard Holdings Australia, *Submission 19*, p. 33.

132 Youi, *Supplementary Submission 14.2, p. 6*; Allianz Australia, *Supplementary Submission 13.2*, pp. 6-7; QBE Insurance Group, *Supplementary Submission 17.3*, p. 10; RACQ Group, *Submission 15*, p. 17; Insurance Australia Group, *Supplementary Submission 16.1*, p. 6-7; Suncorp Group, *Supplementary Submission 12.1*, p. 3; Auto & General Holdings, *Supplementary Submission 18.2*, p. 7; Hollard Holdings Australia, *Supplementary Submission 19.1*, p. [7].

133 Ms Sarah Boulle, Recovery Coordinator, Byron Shire Council, *Committee Hansard*, Lismore, 11 April 2024, p. 3; Mr Magnus Linder, NSW and ACT State Manager, Disaster Recovery, Anglicare NSW, *Committee Hansard*, Parramatta, 10 May 2024, p. 26; Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 22; Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 41; Caxton Legal Centre, *Submission 28*, p. 5; Financial Counselling Australia, *Submission 6*, p. 23.

134 Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 23.

135 Mr Royden Webb, Private capacity, *Committee Hansard*, Rochester, 18 April 2024, p. 30.

> One thing a couple of my clients have said is they're dealing with different people all the time. The turnover of staff - one client said three months, five months, 18 months and another three months - is ongoing. They're telling their story every time that happens and having to go back over their dispute. That just retraumatises them. Having to repeat it all the time with a different person has been really stressful and time wasting.

5.86 Ms Madeleine Serle, President of the Maribyrnong Community Recovery Association, also recognised this issue:

> You need to have either the same person fairly consistently or a better file management system so that what you say does not have to be repeated… Eventually people get exhausted, and they wonder off and go, 'Okay, I'll settle; enough'.[136]

5.87 Consumer advocacy groups raised similar concerns about the consistency of good record-keeping practices by claims teams and emphasised the importance of diligent record-keeping in facilitating a more streamlined and positive claims experience, particularly when the allocated claims manager is on leave or unavailable.[137] ASIC's review reiterated that good record-keeping is critical in preventing policyholder frustration from having to re-tell their story.[138]

Management of claims with multiple touchpoints

5.88 There is no single definition of a 'complex' claim however, insurers told the Committee there are several factors that may cause an insurer to treat a claim as complex.[139] For example, the number of third parties (for example, tradespeople) involved in the rebuild or repair of property, the quantum of a claim being greater than $100,000, where indicators of vulnerability are present, or where a disputed claim has been left unresolved for a long period of time.[140]

5.89 When a claim was considered complex, all insurers advised their practice was to refer the case to specialised internal teams or case managers to progress the claim

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136 Ms Madeleine Serle, President, Maribyrnong Community Recovery Association, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 13.

137 Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 35. Ms Sarah Boulle, Recovery Coordinator, Byron Shire Council, *Committee Hansard*, Lismore, 11 April 2024, p. 3; Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 22.

138 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 11.

139 Suncorp Group, *Submission 12*, p. 33; Allianz Australia, *Submission 13*, p. 37; Youi, *Submission 14*, p. 18; RACQ Group, *Submission 15*, p. 18; Insurance Australia Group, *Submission 16*, p. 24; QBE Insurance Group, *Submission 17*, p. 22; Auto & General Holdings, *Submission 18*, p. 30; Hollard Holdings Australia, *Submission 19*, p. 29.

140 Suncorp Group, *Submission 12*, p. 33; Allianz Australia, *Submission 13*, p. 37; Youi, *Submission 14*, p. 18; RACQ Group, *Submission 15*, p. 18; Insurance Australia Group, *Submission 16*, p. 24; QBE Insurance Group, *Submission 17*, p. 22; Auto & General Holdings, *Submission 18*, p. 30; Hollard Holdings Australia, *Submission 19*, p. 29.

and provide closer management and oversight.[141] Most insurers responded to questions from the Committee that they did not have data on the amount of cases regarded as complex within their firm.[142]

5.90 The involvement of third parties such as assessors, builders and tradespersons during the claims process complicated communications and in many cases was challenging for insurers to monitor. However, managing third parties effectively is a core element of an insurer's responsibility. This forms part of insurers' overall licencing conditions, reflected in clause 86 of the Code:

> If we have selected and directly authorised a repairer to repair your damaged property, then we will accept responsibility for the quality of their work and the materials they use.[143]

5.91 Policyholders were often left uninformed regarding when third parties would be attending their property and for what purpose.[144] Occasionally, third parties would arrive late or not attend the property at all, with no warning or explanation provided.[145] The Financial Rights Legal Centre noted a case where a policyholder returned to their home and found an assessor attending without their knowledge or permission.[146] Conversely, another policyholder told the Committee:

> We were there every time they said they'd come, but they didn't turn up. The builder bullied us; he wouldn't answer the phone.[147]

5.92 Insurers sometimes asked third parties to communicate with policyholders about the progress and outcome of their claim, often resulting in mixed messages and confusion.[148] The CGC noted that where insurers delegate communication with policyholders to third parties, such as builders, proper oversight is crucial.[149]

5.93 The Committee also heard that when third party assessors attended the policyholder's property, some assessors would convey their views to policyholders on the likely outcome of their claim. When insurers' decisions did not line up with the assessor's assumptions and claims were denied or only partially accepted, this would

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141 Suncorp Group, *Submission 12*, p. 34; Allianz Australia, *Submission 13*, p. 28; Youi, *Submission 14*, p. 19; RACQ Group, *Submission 15*, p. 9; Insurance Australia Group, *Submission 16*, p. 25; Auto & General Holdings, *Submission 18*, p. 33; Hollard Holdings Australia, *Submission 19*, p. 30.

142 Suncorp Group, *Submission 12*, p. 34; Allianz Australia, *Submission 13*, p. 37; Youi, *Submission 14*, p. 18; Insurance Australia Group, *Submission 16*, p. 24; QBE Insurance Group, *Submission 17*, p. 22; Auto & General Holdings, *Submission 18*, p. 30; Hollard Holdings Australia, *Submission 19*, p. 29.

143 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 28.

144 Mr David Carter, Managing Director and Group Chief Executive Officer, Royal Automobile Club of Queensland Limited, *Committee Hansard*, 9 February 2024, p. 8; ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 6.

145 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 18.

146 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice*, Supplementary Submission 27.3*, p. [52].

147 Ms Svea Pitman, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 52.

148 Legal Aid New South Wales, *Submission 34*, p. 21.

149 General Insurance Code Governance Committee, *Submission 5*, p. 7.

result in policyholders feeling confused, shocked and disappointment.[150] Mrs Julia Davis, Senior Policy and Communications Officer at the Financial Legal Rights Centre observed:

> …we see instances all the time where assessors will come to the house and say really conflicting things, things that are basically completely opposite to what the insurer has said - sometimes in a good way, sometimes bad. Sometimes an assessor will come to someone's house and say: 'The insurer will definitely pay this claim. You can expect at least $50,000.' And then the insurer will say, 'No, we're denying the claim.' That kind of whiplash is really upsetting, obviously, but it also is confusing.[151]

5.94 AFCA and consumer advocacy groups observed insurers denying claims on the basis of recommendations made within expert reports (see Chapters 4 and 6).[152] While the CGC noted that external experts bring specialised knowledge to claim assessments and such opinions on the causes of loss or damage can be vital, they also emphasised that expertise in assessing loss or damage does not necessarily transfer to expertise in an insurer's policy terms and conditions.[153] With most insurers currently allowing external experts to make recommendations on the acceptance or denial of a claim, the CGC wrote in their report on the oversight of external experts:

> When external experts provide recommendations to accept or deny claims, there is a risk that insurers rely on the recommendations for decisions rather than carefully considering the assessment and findings on the cause of the loss or damage. This can lead to unfair or inconsistent decisions on claims. Insurers can eliminate this risk by not allowing external experts to make recommendations to accept or deny claims.[154]

5.95 The ASIC review, Deloitte report, and the CGC's report found crucial gaps in the monitoring and oversight of third parties.[155] Some insurers have since committed to improving their monitoring of third parties to provide more accurate information and updates to policyholders, by investing in greater governance tools that allow the policyholder to track and monitor the scheduling of trades.[156]

5.96 Consumer advocacy groups advocated for policyholders to be copied into insurers' correspondence with third parties. However, insurers rebuffed the notion, advising

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150 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 3.

151 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Legal Rights Centre, Committee Hansard, *Committee Hansard*, 31 January 2024, p. 3.

152 Mr Justin Understeiner, Chief Operating Officer, Australian Financial Complaints Authority, *Committee Hansard*, 21 February 2024, p. 29; Ms Philippa Heir, Managing Lawyer, Consumer Action Law Centre, *Committee Hansard*, 31 January 2024, p. 4; Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 30.

153 General Insurance Code Governance Committee, *Oversight of External Experts,* August 2024, p. 5.

154 General Insurance Code Governance Committee, *Oversight of External Experts,* August 2024, p. 5.

155 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 17; Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 84.

156 Allianz Australia, *Submission 13*, p. 18; Insurance Australia Group, *Submission 16*, p. 26; Hollard Holdings Australia, *Submission 19*, p. 8.

the volume, technicality and complexity of the correspondence would likely cause further confusion for policyholders rather than addressing communication issues or enhancing the claims experience.[157]

Management of vulnerable policyholders

5.97 Vulnerable policyholders often require additional support to ensure a positive claims experience. Clause 92 of the Code requires insurers to consider several factors to determine whether a person may be 'vulnerable', such as age, disability, mental health conditions, physical health conditions, family violence, language barriers, literacy barriers, cultural background, Aboriginal or Torres Strait Islander status, living in a remote location or experiencing financial distress.[158]

5.98 The ICA told the Committee:

> Everyone after an event is vulnerable. Probably one of the challenges the insurance sector has is when you have an event with a lot of large losses we assume everyone will be vulnerable. You then have the added complexities around age, disability, medical records or medical issues that aren't probably captured in an insurer's system at the outset when someone takes out a policy but relies on other indicators to come forward through the assessment process.[159]

5.99 The Deloitte report found that identification and management of vulnerable policyholders was challenging for insurers following a natural disaster event given most impacted individuals would be experiencing some level of vulnerability.[160] AFCA noted that for some policyholders, the major floods compounded existing states of vulnerability and impairment.[161]

5.100 Although most people are vulnerable to at least a degree following a major natural disaster, the rationale for having processes to identify people most at risk is to provide individualised and targeted assistance. Insurers estimated between 1 and 3 per cent of policyholders that made claims relating to the major floods were vulnerable.[162] While assisting vulnerable customers necessarily involves a degree of

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157 Youi, *Supplementary Submission 14.2,* p. 6; Allianz Australia, *Supplementary Submission 13.2*, p. 6-7; QBE Insurance Group, *Supplementary Submission 17.3*, p. 10; RACQ Group, *Submission 15*, p. 17; Insurance Australia Group, *Supplementary Submission 16.1*, p. 6; Suncorp Group, *Supplementary Submission 12.1*, p. 3; Auto & General Holdings, *Supplementary Submission 18.2*, p. 7; Hollard Holdings Australia, *Supplementary Submission 19.1*, p. [7].

158 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 31.

159 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 10.

160 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 30.

161 AFCA, *Submission 1*, p. 29.

162 Youi, *Submission 14*, p. 17; Allianz Australia, *Submission 13*, p. 36; QBE Insurance Group, *Submission 17*, p. 21; RACQ Group, *Submission 15*, p. 17; Suncorp Group, *Submission 12*, p. 33; Mr Ram Kangatharan, Group Managing Director and Chief Executive Officer, Auto & General Insurance Company Ltd, *Committee Hansard*, 22 March 2024, p. 23; Mr Paul Fahey, Chief Executive Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, p. 26.

triaging, the very low percentage of customers identified as vulnerable following the major floods raises questions as to whether the insurers' systems are sufficiently thorough. This is particularly the case for communities with high proportions of elderly people and people from a culturally and linguistically diverse background.

5.101 Some stakeholders believed the criteria by insurers to identify vulnerable customers should be broadened,[163] for example, the CGC supported strengthening the Code to recognise vulnerability as arising not just from personal characteristics, but also from temporary or permanent circumstances that place a person at risk of detriment.[164] The insurers argued that broadening the criteria to capture more policyholders, including those experiencing situational vulnerability post-disaster, would likely stretch the resources available to adequately support the most vulnerable policyholders.[165]

5.102 In its review, ASIC found that insurers must recognise consumers experiencing vulnerability and tailor their services to consumers who are experiencing vulnerability and treat them accordingly.[166] Some insurers had better systems in place to identify vulnerable customers than others. All insurers train front line staff to identify cues during customer interaction that may be indicative of a customer experiencing vulnerability.[167]

5.103 Other methods to identify vulnerability included the encouragement of policyholders to self-identify over the phone through interactive voice response technology and the embedding of questions regarding vulnerability in the claim lodgement process.[168] Some insurers utilised flagging systems which worked to remind staff that the flagged policyholder may require additional support and monitoring throughout the claims process.[169]

5.104 Insurers expressed mixed views on the most appropriate or accurate way for the industry to identify a policyholder as vulnerable.[170] Whilst Youi considered it appropriate for policyholders to self-identify to the insurer,[171] Allianz noted many consumers do not view themselves as vulnerable or do not wish to be viewed as

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163 AFCA, *Submission 1*, p. 29; General Insurance Code Governance Committee, *Supplementary Submission 5.2*, p. 3.

164 General Insurance Code Governance Committee, *Supplementary Submission 5.2*, p. 3

165 Suncorp Group, *Submission 12*, p. 32; Allianz Australia, *Submission 13*, p. 35; Youi, *Submission 14*, p. 17; RACQ Group, *Submission 15*, p. 16; Insurance Australia Group, *Submission 16*, p. 23; QBE Insurance Group, *Submission 17*, p. 20; Auto & General Holdings, *Submission 18*, p. 26.

166 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 9.

167 Auto & General Holdings, *Submission 18*, p. 25; Allianz Australia, *Submission 13*, p. 35; Insurance Australia Group, *Submission 16*, p. 23; Suncorp Group, *Submission 12*, p. 9; Hollard Holdings Australia, *Submission 19*, p. 27; QBE Insurance Group, *Submission 17*, p. 20; RACQ Group, *Submission 15*, p. 15; Youi, *Submission 14*, p. 16.

168 RACQ Group, *Submission 15*, p. 15; Insurance Australia Group, *Submission 16*, p. 23.

169 Suncorp Group, *Submission 12*, p. 12; QBE Insurance Group, *Submission 17*, p. 21; Hollard Holdings Australia, *Submission 19*, p. 27.

170 Youi, *Supplementary Submission 14.2*, p. 9; Allianz Australia, *Supplementary Submission 13.1*, p. 7; RACQ Group, *Supplementary Submission 15.1*, p. 7; Suncorp Group, *Supplementary Submission 12.1*, p. 4; Insurance Australia Group, *Supplementary Submission 16.1*, p. 7; Auto & General Holdings, *Supplementary Submission 18.1*, p. 7; Hollard Holdings Australia, *Supplementary Submission 19.1*, p. [8].

171 Youi, *Supplementary Submission 14.2*, p. 9

vulnerable.[172] Some insurers were against suggestions to ask policyholders to self-identify their vulnerability at the time of sign-on and renewal as vulnerability may change over time,[173] or because doing so may create a risk of prejudicial outcomes for those customers at the time of underwriting.[174]

5.105 At least one insurer told the Committee they complied with the International Standard ISO 22458 2022-04 on consumer vulnerability to define and identify vulnerable customers.[175] The International Organization for Standardization's (ISO) document on consumer vulnerability provides guidance for organisations on how to provide an inclusive service at all stages of service delivery, helping them to identify and support vulnerable consumers and minimising the risk they will experience harm.[176] In consideration of the ISO standard, Hollard defined vulnerability as:

> …the state in which an individual can be placed at risk of harm during their interaction with a service provider due to the presence of personal, situational and market environment factors.[177]

5.106 Where a policyholder was identified as vulnerable, most insurers had dedicated teams to provide more specialised assistance and refer them to internal and external support services, such as counselling services.[178] Some insurers provided hardship support for financial difficulty,[179] fast tracked claim assessments,[180] and made proactive welfare checks for policyholders they knew had lived in evacuated areas.[181] Insurers had invested in frameworks to support vulnerable policyholders, however the execution of these frameworks, due to the volume of claims and lack of training of new staff, meant the policyholder experience lacked consistency.

5.107 Consumer advocacy groups stressed the need for insurance company staff, as well as third party operators, undertaking comprehensive training in trauma-informed communication.[182] These groups observed instances of insurers communicating

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172 Allianz Australia, *Supplementary Submission 13.1*, p. 7

173 Auto & General Holdings, *Supplementary Submission 18.1*, p. 7; Hollard Holdings Australia, *Supplementary Submission 19.1*, p. [8].

174 Insurance Australia Group, *Supplementary Submission 16.1*, p. 7

175 Hollard Holdings Australia, *Submission 19*, p. 27.

176 International Organization for Standardization, *ISO 22458: 2022 Consumer vulnerability – Requirements and guidelines for the design and delivery of inclusive service*, p. 1.

177 Hollard Holdings Australia, *Submission 19*, p. 27.

178 Youi, *Submission 14*, p. 17; Allianz Australia, *Submission 13*, p. 36; QBE Insurance Group, *Submission 17*, p. 21; RACQ Group, *Submission 15*, p. 15; Suncorp Group, *Submission 12*, p. 32; Hollard Holdings Australia, *Submission 19*, p. 4; Insurance Australia Group, *Submission 16*, p. 24.

179 QBE Insurance Group, *Submission 17*, p. 21; Hollard Holdings Australia, *Submission 19*, p. 27.

180 Hollard Holdings Australia, *Submission 19*, p. 27.

181 Suncorp Group, *Submission 12*, p. 7.

182 Mr Magnus Linder, New South Wales and Australian Capital Territory State Manager, Disaster Recovery, Anglicare NSW, *Committee Hansard*, Parramatta, 10 May 2024, p. 25; Victorian Council of Social Service, *Submission 10*, p. [3]; Ms Bernadette Wright, Counsellor and Mental Health Support, Rochester Community House, *Committee Hansard*, Rochester, 18 April 2024, p. 16; Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 22; Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 1; Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee*

insensitively with policyholders, without appearing to consider the trauma being experienced by their customers.

5.108 Mrs Julia Davis, Senior Policy and Communications Officer at the Financial Rights Legal Centre further emphasised the importance of training for insurers and contractors to adopt a trauma-informed approach to communication and claims management:

> …anyone who has been through a major event like a flood is in a very vulnerable position, and anyone who is customer facing… including third-party contractors, that are going to be dealing with that person needs to have at least some base level of trauma informed training. They need to understand that someone who has been through a traumatic event is going to behave in irrational, maybe aggressive ways and that it doesn't make them a bad customer or a bad person; it means they're dealing with trauma. If you don't understand how trauma works and how it affects your decision-making and your behaviour, you are going to treat that customer in the wrong way. That is just training; it's not intuitive.[183]

5.109 Despite the Code noting insurers are to use the policyholder's preferred method of communication where possible,[184] the Committee heard that sometimes insurers were inflexible to adapting communication channels to meet vulnerable policyholder needs. Policyholders with low digital literacy can struggle to navigate the claims process given it is mostly online with a reliance on emails.[185] For other vulnerable policyholders, having to make decisions or process information over the phone was difficult.[186]

Committee comment

5.110 Evidence to the Committee shows that there were many instances where insurers treated their policyholders very poorly, often characterised by a lack of compassion, and neglect. Too often, insurers failed to provide timely and useful updates to policyholders on their claim's progress, and sometimes inadequately recorded case notes which compelled the need for policyholders to tiringly re-tell their story to different insurance staff, among other issues. There is opportunity to improve access for policyholders to view their live claim status, on their own timeframes.

5.111 For policyholders whose insurers did not employ good communication practices, it often made the claims experience distressing, with evidence provided by some policyholders indicating they had become 'claims shy' and may hesitate to submit a similar claim with their insurer were a comparable event to happen again. There was

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Hansard, 31 January 2024, p. 31; Ms Evgenia Bourova, Professor Ian Ramsay and Associate Professor Paul Ali, *Submission 57*, p. [2]; Victorian Council of Social Service, *Submission 10*, p. [2].

183 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 2.

184 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 34.

185 Legal Aid Queensland, *Submission 8*, p. 3.

186 Caxton Legal Centre, *Submission 28*, p. 5; Name Withheld, *Submission 48*, p. [3].

also some suggestion that policyholders who had a poor claims experience may choose not to insure, because they did not trust they would be covered by their policy or so they would not have the burden of chasing the insurer for updates on their claim.

5.112 The Committee notes that insurers were unable to provide data on some aspects of the claims experience discussed throughout this chapter. For example, most insurers did not maintain data on how many cases were identified as 'complex', nor did insurers collectively agree on what a 'complex' claim constitutes.[187] The Deloitte report and ASIC's review both observed a lack of data harmonisation, with the Deloitte report recommending that the ICA develop a data dictionary to enhance industry-wide reporting and investigate the feasibility of extending data capture to other claim outcome measures.[188]

5.113 The Committee also notes that insurers often struggled with managing multiple third parties, whether that be experts providing reports or builders and sub-contractors. Strengthening IT and case management systems should assist with this in the future.

5.114 The Committee also believes that the identification of vulnerable customers is an area that warrants further examination by Government and regulators. While triaging and targeting of assistance is warranted, the very low rates of vulnerability identified by insurers raises questions as to whether people who should be provided with additional help are falling between the cracks.

5.115 As mentioned in Chapter 2, the Committee recognises that most of the measures and recommendations outlined in this Chapter, as well as throughout the report, have equal applicability to all natural disasters.

5.116 After considering the evidence provided to the inquiry outlined above, the Committee has made the following recommendations for insurers to improve the effectiveness, accessibility, and timeliness of communications with policyholders. The recommendations intend to provide better management of policyholder expectations and improved support throughout the claims experience, notably through adequate resourcing and training of staff. An on-the-ground insurer presence in the immediate aftermath of a flood and standardised guidance across insurers on post-flood clean-up instructions is also pivotal to the Committee's recommendations.

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187 Suncorp Group, *Submission 12*, p. 34; Allianz Australia, *Submission 13*, p. 37; Youi, *Submission 14*, p. 18; Insurance Australia Group, *Submission 16*, p. 24; QBE Insurance Group, *Submission 17*, p. 22; Auto & General Holdings, *Submission 18*, p. 30; Hollard Holdings Australia, *Submission 19*, p. 29.

188 Deloitte, *The new benchmark for catastrophe preparedness in Australia,* October 2023, p. 40; ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, p. 13.

Recommendation 28

5.117 The Committee recommends that all large insurers commit to having a physical presence at major emergency hubs in affected communities as soon as possible following a natural disaster.

Recommendation 29

5.118 The Committee recommends the Insurance Council of Australia in consultation with the Australian Securities and Investments Commission and state, territory and local governments:

- **Develop guidance for policyholders on the actions they can take to clean up their properties following a natural disaster.**
- **Include in the guidance any actions policyholders should take to document damage to their properties, such as taking photos to assist with their claim.**
- **Obtain a commitment from insurers that they will have regard for the guidance when assessing claims.**
- **Distribute the guidance as soon as possible to disaster-impacted local government areas.**
- **Make the guidance part of information distributed by insurers when a natural disaster occurs, including making the guidance available at recovery hubs in hard copy form.**
- **Develop debris cleanup guidance for councils.**

Recommendation 30

5.119 The Committee recommends that the General Insurance Code of Practice be amended to require that insurers, in the immediate aftermath of a natural disaster, provide policyholders with updated information about:

- **what policyholders can expect from making a claim and the claims process,**
- **realistic time estimates for each step of the claims process, and**
- **customers' rights to challenge decisions or raise concerns about the insurers' conduct.**

This guidance should take the form of a comprehensible and standardised diagram or flowchart.

Following major flood events, insurers should also build into their systems pathways for policyholders to receive quick responses to commonly asked questions.

Recommendation 31

5.120 The Committee recommends the General Insurance Code of Practice be amended to require insurers to contact customers within 5 business days of the insurer becoming aware of a material change in the expected timing of any stage outlined in the guidance provided under Recommendation 30.

Recommendation 32

5.121 The Committee recommends, in alignment with recommendation 3 of the 2023 Deloitte report, that insurers be required to build into their staff resourcing plans, strategies to adequately increase resourcing for key services, including call centre and claims management staff, when significant or catastrophic events occur.

Recommendation 33

5.122 The Committee recommends that the General Insurance Code of Practice be amended to require insurers to provide all policyholders with access to real-time information about their claim's progress and key documentation on their claim. This could be through a mobile application or other platform.

Recommendation 34

5.123 The Committee recommends the General Insurance Code of Practice be amended to require that insurers use the 'single point of contact' claims management approach to the extent possible when responding to major natural disasters and ensure policyholders are informed of who their assigned case manager is as soon as practicable.

The Committee further recommends that insurers be required to accommodate the preferred communication channel nominated by a policyholder during the claim processing period.

Recommendation 35

5.124 The Committee recommends that clauses 103c and 103d of the General Insurance Code of Practice be strengthened to ensure that key information is translated and available on insurers' websites and that clause 103a should specify that this includes translating and interpreting services for Indigenous Australians.

Recommendation 36

5.125 The Committee recommends that insurers invest in their IT systems to improve the storage of policyholders' key documentation and case notes, including correspondence and discussions. Case managers should also be suitably trained and resourced to implement quality record-keeping.

Recommendation 37

5.126 The Committee recommends that the Australian Securities and Investments Commission review how insurers are identifying vulnerable policyholders with a view to ensuring vulnerable policyholders are:

- **consistently being identified when they make a claim;**
- **being identified in numbers commensurate with their prevalence; and**
- **provided with appropriate support throughout the claims process.**

Recommendation 38

5.127 The Committee recommends that insurers devote additional resources to providing vulnerable customers with assistance. Insurers should evaluate the effectiveness of this assistance after each declared event.

Recommendation 39

5.128 The Committee recommends that the General Insurance Code of Practice be amended to require insurers' identification of vulnerable customers and training of staff be designed so that customer interaction is compliant with ISO 22458 2022-04, the International Organization for Standardization's document *Consumer vulnerability – Requirements and guidelines for the design and delivery of inclusive service*.

Recommendation 40

5.129 The Committee recommends that insurers improve staff training to ensure staff adopt a trauma-informed approach when communicating with policyholders. This should include:

- **Explicit reference to trauma-informed policies and training in the General Insurance Code of Practice (as per Recommendation 26 of the Independent Review of the General Insurance Code of Practice).**
- **Priority should be given to the recruitment of staff with experience from natural disasters.**

- **Recording, with consent, personal information to better assist people experiencing vulnerability (as per Recommendation 27 of the Independent Review of the General Insurance Code of Practice).**
- **Clear communication, via insurer websites and other forms of communication (such as mobile applications), the types of additional supports that the insurer makes available to consumers experiencing vulnerability.**

6. Policyholders' experiences with internal and external dispute resolution processes

6.1 This chapter considers the experiences of policyholders and insurers with internal dispute resolution (IDR) and external dispute resolution (EDR) processes after the 2022 major floods.

The importance of effective dispute resolution

6.2 Dispute resolution processes aim to provide policyholders with an accessible and affordable means of recourse as an alternative to the court system, which is often expensive and time-consuming. For dispute resolution processes to be effective, insurers must ensure that policyholders' complaints are addressed in a timely, efficient and fair manner.

6.3 A policyholder may choose to pursue dispute resolution with their insurer for several reasons. These can include situations where the policyholder and insurer do not agree, for example, on a cash settlement offer where the policyholder believes they are entitled to more under their policy, or that their insurer should not have denied their claim and want the decision reviewed. Disputes may also be initiated due to concerns around the handling of a claim by the insurer, for example when there is a lack of responsiveness to policyholder communications, perceived unfair treatment or lengthy delays.

6.4 Common outcomes sought by policyholders making complaints could be apologies or acknowledgements, maintaining or overturning of initial decisions made by the insurer, the awarding of ex-gratia payments, or variations to settlement offers.

6.5 Following a natural disaster, having access to timely, efficient and fair dispute resolution processes is an essential part of ensuring policyholders' experience a fast recovery and the best possible claims process. A poor IDR experience can compound the trauma incurred from the disaster and potentially delay recovery even further, especially if the complaint requires the claims process to halt while the parties wait for a decision to be made.

6.6 Legal Aid New South Wales (NSW) provided insight into the experiences of some of their clients with poor IDR processes following the 2022 major floods:

> It's deeply frustrating and traumatising for clients to have to fight their insurer, when often what they're looking for from their insurer is support and help, and

> that's why they've been paying their premiums for so many years. When you come out of an event like the 2022 floods and reach out to your insurer because you think that they'll help you and then face barriers, it's incredibly troubling for those clients.[1]

6.7 The Committee received extensive evidence from policyholders, financial counsellors, community sector and private sector lawyers and community advocates on their experiences with IDR and EDR. It was made evident to the Committee that for some policyholders, the IDR and EDR processes were stressful undertakings, sometimes following or in the midst of lengthy and complex claims processes. For some, concerns that IDR or EDR processes may further delay their recovery meant they chose to accept less than satisfactory outcomes, potentially losing out on some of the entitlements under their policy.

6.8 The Committee also heard from insurers on the challenges they faced at the time of the 2022 major floods on their IDR teams, including the difficulties of recruiting and training new or reallocated staff in what can be a complex, specialised field.

6.9 It was clear to the Committee that the experiences of some policyholders could have been influenced by the level of experience and training provided to staff mobilised to address the increased demand for IDR. It was also noted that learnings from the outcomes of disputes escalated to EDR was not flowing through to IDR teams. The Committee makes recommendations at the end of this chapter for insurers to improve IDR processes more generally, but especially to ensure preparedness in the event of future natural disasters.

Insurer obligations for IDR processes

6.10 General insurers are required, as a provision of their Australian Financial Services Licence (AFSL) under the *Corporations Act 2001*, to have IDR procedures that meet the standards and requirements specified by the Australian Securities and Investments Commission (ASIC). These standards are set out in Regulatory Guide 271 *Internal Dispute Resolution* (RG 271).[2] Insurers are also required to maintain membership of the Australian Financial Complaints Authority (AFCA).[3]

6.11 The General Insurance Code of Practice 2020 (the Code) also contains commitments that signatories to the Code must meet when dealing with a complaint. As part of these regulatory standards, insurers are required to have an IDR process that adopts the definition of a complaint set out in joint Australian and New Zealand Standard

6.12 (AS/NZS) 10001:2014:

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1 Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid NSW, *Committee Hansard*, Richmond, 9 May 2024, p. 36.

2 Available at: Australian Securities and Investments Commission (ASIC), *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021.

3 *Corporations Act 2001* s. 912A(2) and s. 1017G.

> [An expression] of dissatisfaction made to or about an organization, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.[4]

6.13 While insurers may structure their IDR process depending on the nature, scale, and complexity of their business, insurers must deal with expressions of dissatisfaction that meet the definition above—including complaints made on the insurer's social media platforms.[5]

6.14 RG 271 contains important timeframe and response requirements for insurers in recognition that timeliness is 'central to effective complaint management' and a key performance measure of a financial firm's IDR process.[6] These requirements cover when insurers should acknowledge a complaint, what must be included in a response, maximum timeframes for the provision of an IDR response, and exceptions to when an insurer does not have to provide a response within the required timeframe.[7]

6.15 Insurers are also required to set clear accountabilities for complaints handling functions, including the management of systemic issues that have been identified through policyholder complaints. Insurers must:

a. encourage and enable staff to escalate possible systemic issues they identify from individual complaints;

b. regularly analyse complaint data sets to identify systemic issues;

c. promptly escalate possible systemic issues to appropriate areas within the firm for investigation and action; and

d. report internally on the outcome of investigations, including actions taken, in a timely manner.[8]

6.16 ASIC's expectation is that insurers comply with the IDR standards in RG 271 for the design, implementation, and ongoing improvement of insurers' IDR processes. The IDR standards reflect the requirements for effective complaint management in AS/NZS 10002:2014, by setting standards for:

- top-level commitment to effective, fair, and timely complaint management;
- enabling complaints;
- resourcing;
- responsiveness;
- objectivity and fairness;

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4 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 36.
5 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 13.
6 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 19.
7 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 19.
8 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 35.

- complaint management policies and procedures;
- data collection, analysis, and internal reporting; and
- continuous improvement of the IDR process.[9]

Disclosure of IDR processes and data

6.17 Commencing this year (2024), AFSL firms must report certain IDR activities and data to ASIC to allow for scrutiny and accountability on whether IDR processes are being followed and expectations met. ASIC has the power to publish the IDR data reported, down to the firm level.[10]

6.18 The IDR data required to be reported is summarised by ASIC as:

> A firm's IDR data report for a particular reporting period must include specified data in relation to each complaint received by the financial firm that:
>
> - is required to be covered, or is covered, by the firm's IDR procedure, and was either:
>   - made in the reporting period, or
>   - open at any time during the reporting period.
>
> The data provided to ASIC should reflect the status and progress of the complaint as at the closing date of the relevant reporting period.[11]

6.19 More specifically, there are sixteen different IDR data categories, with some sub-categories, that firms are required to provide:

9 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 36.
10 ASIC, *IDR data reporting handbook*, 28 April 2023, p. 3.
11 ASIC, *IDR data reporting handbook*, 28 April 2023, p. 7.

Table 6.1 IDR data elements required to be reported to ASIC

Data element number	Object class	Data element name
1	Complaint identifying information	Financial firm's complaint unique identifier
2	Complaint identifying information	Name of brand or superannuation fund that the complaint is about
3	Complainant demographics	Complainant type
4	Complainant demographics	Complainant gender
5	Complainant demographics	Complainant age
6	Complainant demographics	Complainant postcode
7	Complaint information	Complaint status
8	Complaint information	Complaint channel
9	Complaint information	Date received
10	Complaint information	Date closed
11	Complaint information	Number of days taken to resolve the complaint
12	Complaint information	Is the complaint about the authorised representative of an AFS (Australian financial services) licensee or an authorised credit representative?
13a-13c	Complaint information	Product or service
14a-14c	Complaint information	Complaint issue
15a-15c	Complaint information	Complaint outcome
16	Complaint information	Monetary remedy

Source: ASIC, IDR data reporting handbook, 28 April 2023, p. 12.

6.20 Data element 13 extends to identification of the type of insurance the compliant is in regard to.[12]

6.21 Data element 14 records the issue raised in the complaint and extends to nearly one hundred different recognised issues types (not all applicable to insurance), such as:

- Quality of advice;
- Premiums;
- Disclosure of information related to the product/service;
- Handling of financial difficulty requests;
- Cancellation of policy or reasons for declining a claim;

[12] ASIC, *IDR data reporting handbook – Table 9*: *General Insurance*, 28 April 2023, pp. 31-32.

- Disputed valuations;
- Delays in claim or complaint handling; and
- Payment issues.[13]

6.22 Data element 15 outlines the complaint outcomes, including monetary remedy, but also changes in decision, change in policy, or even withdrawal of the complaint or when a complaint is not resolved and an apology or explanation is the only outcome.[14]

6.23 ASIC is expected to release its first report on the data it has received from insurers in Q4 2024.

Insurers' dispute resolution processes

6.24 This section discusses insurers' dispute resolution processes and areas of dissatisfaction or concern raised with the Committee. The Committee received evidence from consumer groups and impacted policyholders on issues such as a lack of consumer awareness of IDR processes, inconsistency of decisions, delays in the IDR process or the communication of decisions and reported under resourcing of staff in IDR teams.

Insurers' processes to resolve complaints

6.25 Insurers have the flexibility to decide how their IDR teams are set up, how complaints are escalated to IDR and how complaints are resolved (while meeting the RG 271 requirements).

6.26 Most insurers reported their IDR processes typically involved a tiered approach, where complaints are initially dealt with by frontline claims staff before progressing through to specialised IDR teams if the complaint cannot be resolved on initial contact. As an example, Insurance Australia Group (IAG) detailed its process as follows:

> Customers are first asked to contact us via phone or email to discuss their concerns.
>
> If the complaint can't be resolved quickly, the complaint can be sent to our Customer Relations team for further consideration and decision.
>
> …
>
> All frontline employees are responsible for capturing and responding to complaints at Level 0, with unresolved complaints escalating to Level 1 which is

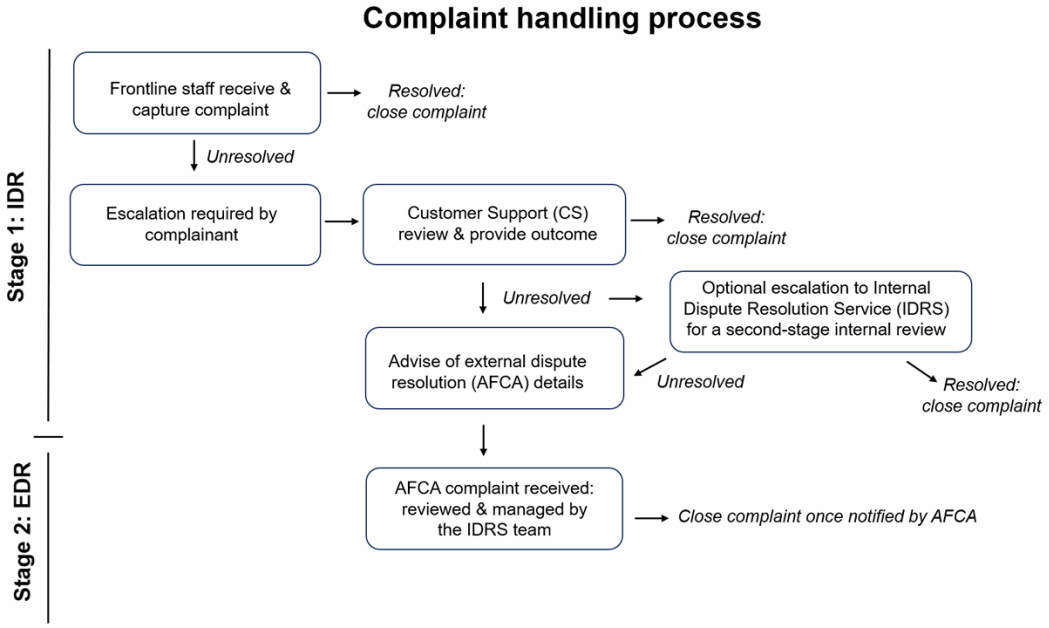
[13] ASIC, *IDR data reporting handbook – Table 17: Complaint issue*, 28 April 2023, pp. 37-39.

[14] ASIC, *IDR data reporting handbook – Table 18: Complaint outcome*, 28 April 2023, p. 40; More detail regarding IDR reporting processes, including the Handbook can be accessed at https://asic.gov.au/regulatory-resources/financial-services/dispute-resolution/internal-dispute-resolution-data-reporting/

typically managed by a Lead, Specialist or Senior, and unresolved Level 1 complaints escalating to Level 2 Customer Relations, which is the final stage of the IDR process. This process is outlined in our Product Disclosure Statements (PDS) and the relevant brand's websites.[15]

6.27 Similarly, Youi provided the following diagram to illustrate its complaints handling process.

Figure 6.1 Example complaints processing from Youi



Source: Youi, *Submission 14.3*, p. 13.

6.28 Major insurers identified that claim delays constituted a large number—if not the majority—of complaints received (where the claim decision was not being contested), including the delayed repairs, long call wait times and unresponsive or slow communication experienced by some policyholders during the claims process.[16] Many of these identified issues were discussed in Chapters 4 and 5.

6.29 Data received from major insurers regarding the percentage of major flood related claims that had an associated complaint ranged with large variation between insurers, from 3.43 per cent (IAG) to 31 per cent of claims (Suncorp).[17] This variation generally appeared to stem from the individual insurer's interpretation of what constituted a complaint and how it was recorded and dealt with. For example, to explain the comparatively high proportion of complaints reported by Suncorp, it noted:

15 Insurance Australia Group (IAG), *Submission 16*, pp. 20-21.
16 For example: Allianz Australia, *Submission 13*, p. 32; Youi, *Submission 14*, p. 8; Suncorp Group, *Submission 12*, p. 30; Hollard Holdings Australia, *Submission 19*, p. 23.
17 IAG, *Submission 16(1)*, p. 2: Suncorp Group, *Submission 12*, p. 30.

> Since 2021 Suncorp has enhanced our complaints management process to ensure that we formally record every expression of dissatisfaction by a customer as a complaint and manage it accordingly. The threshold for recording a customer complaint is low, for example if a customer expressed dissatisfaction that they were on hold waiting for their call to be answered longer than they expected, this would be logged as a complaint.
>
> With this standard in place, across the four 2022 flood events, Suncorp recorded 28,503 expressions of dissatisfaction. A complaint was logged on 31% of home claims lodged from the 2022 flood events.
>
> Of these IDR cases, 2,652 (6.7% of home claims lodged) escalated to our Internal Customer Relations (ICR) team. The balance of the IDR cases were resolved by our Home Claims team early in the complaints process.[18]

6.30 The was a similarly wide variation in the average number of days major insurers took to resolve a complaint, ranging from 5.73 days to 31.77 days.[19] Different interpretations of what is recorded as a complaint meant that it was challenging to determine from the data the extent to which other factors influenced timeframes to resolve a complaint, for example, the number of complex cases under management and staffing levels.

6.31 It is plausible that where two insurers have different thresholds for what constitutes IDR, one insurer may have a higher average number of days to resolve disputes simply because their cases are, on average, more complex than the other insurer – not because their systems are less effective. More consistent measurement of what constitutes a dispute would make it easier to compare the resolution performance across insurers.

6.32 As an overall indicator of complaints and IDR processes related to the major floods, data provided on request by the Committee from the Insurance Council of Australia (ICA) indicated that, across all personal and commercial policy class claims from their members, 32,427 out of a total of 305,769 claims included a complaint that was escalated to IDR—approximately 10.6 per cent of associated claims. Additionally, the same data identified that 2,654 claims progressed to an EDR process (0.87 per cent).[20]

6.33 Major insurers were requested by the Committee to provide data relating to IDR complaint handling and decisions. Data requested included (but was not limited to) total number of complaints handled, instances where the insurers' decision was upheld, resolution rates in full or partial favour of the policyholder and the number of unresolved cases at IDR. This data is available in detail on the Committee's website, but elements are summarised below.[21]

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18 Suncorp Group, *Submission 12*, p. 30.

19 Suncorp Group, *Submission 12,* p. 30; Youi, *Submission 14*, p. 15.

20 As per correspondence provided by the ICA on request, August 2024.

21 See: Suncorp Group, *Supplementary Submission 12.2*; Allianz Australia, *Supplementary Submission 13.3*; Youi, *Supplementary Submission 14.3;* RACQ Group, *Supplementary Submission 15.2;* Insurance Australia

Table 6.2 Internal dispute resolution data from major insurers (in order of submissions received)

Insurer	Total claims across major floods	Total number of Complaints	IDR cases as a % of total claims lodged	Decisions upheld (% of complaints)	Resolution rates (full/partial to policyholder)	Un-resolved cases
Suncorp	72,543 (includes claims with a subloss cause of 'flood')	32,261 (3,084 identified as IDR)	6%	2,119 (68.71%)	654/304	7
Allianz	37,647	13,164	15%	1,026 (7.79%) (numbers for the remaining columns are provided only related to complaints about claims decision)	410/192	98
Youi	8,547	1,154	12.29%	512 (44.36%)	342/163	8
RACQ	14,748	3,914 (937 identified as Tier 2 complaints)	6.35%	617 (65.84%)	99 (RACQ do not distinguish between full or partial favour)	221
IAG	62,524	8,223	6.08%	2,437 (29.63%)	1,207/3,589	43
QBE	13,562	1,173	30.4%	758 (64.62%)	368 (QBE do not distinguish between full or partial favour)	25
A&G	19,033 (including motor)	683	4.09%	414 (60.61%)	269 (A&G do not distinguish between full or partial favour)	7
Hollard	18,648	9,588	8%	3,036 (31.66%)	*Reported as not available	31

Source: Suncorp Group, *Supplementary Submission 12.2*; Allianz Australia, *Supplementary Submission 13.3*; Youi, *Supplementary Submission 14.3*; RACQ Group, *Supplementary Submission 15.2*; Insurance Australia Group, *Supplementary Group, Supplementary Submission 16.4*; QBE Insurance Group, *Supplementary Submission 17.4*; Auto & General Holdings, *Supplementary Submission 18.3*; Hollard Holdings Australia, *Supplementary Submission 19.2*.

Submission 16.4; QBE Insurance Group, *Supplementary Submission 17.4*; Auto & General Holdings, *Supplementary Submission 18.3*; Hollard Holdings Australia, *Supplementary Submission 19.2*.

6.34 The caveats provided, and the inconsistency in reporting on the data collected or categorised, as identified in some cases above, limited the usefulness of the data for direct comparison, but gave an overall indication of the quantum of complaints or IDR processes commenced and resolved related to major floods claims. The Committee is conscious that these inconsistencies must be taken into account when analysing this data with an eye to assessing insurer performance, or attempting to compare whether one insurer fielded more complaints, or handled IDR processes more efficiently. The inconsistency in the data provided and even the way in which individual insurers identify a complaint, or its resolution, render any such comparative analysis unhelpful or even misleading, so therefore this table (and all tables in this chapter) should not be taken as an indication of any assessment of insurer performance by the Committee.

6.35 The inconsistency of reporting and the caveats identified above, are commented on later in this chapter.

Concerns raised about insurers' dispute resolution processes

6.36 The data provided by insurers discussed above generally painted a picture of satisfactory resolution for the majority of complaints. However, throughout the inquiry, the Committee was provided with evidence that the journey of many policyholders through the complaints process was not to the standard expected. A joint submission by Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice indicated that for many policyholders the IDR experience was below people's expectations.[22]

6.37 Legal Aid Queensland outlined its experience with insurers' IDR processes, including inadequate weight being given to the policyholders' direct experience of the flood; a heavy reliance on inadequate expert reports; as well as a lack of guidance to policyholders on information needed for a proper claim review. It alleged the consequences of these issues resulted in a greater number of claims progressing to AFCA that should have been resolved at the IDR level, and in consumers no longer trusting the insurers' IDR processes.[23]

6.38 Financial Counselling Australia observed privacy breaches throughout the IDR process—such as poor handling of sensitive information, including for claims where domestic violence was known. Issues relating to privacy breaches were noted as negatively affecting policyholders' trust in their insurer.[24]

6.39 The General Insurance Code Governance Committee (CGC) published an inquiry report *Making Better Claims Decisions* in July 2023 that examined the claims

22 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 64.
23 Legal Aid Queensland, *Submission 8*, p. 8.
24 Financial Counselling Australia, *Submission 6*, p. 8.

practices of six insurers. The CGC found that in 2021-22, a quarter of denied home claims proceeded through to the IDR functions of the insurers examined. Notably, nearly half of the 11,000 complaints were later overturned in favour of the policyholder, which it considered a 'significant overturn rate' that raised questions about the quality of decision-making by insurers and the decisions made in the claims-handling process (discussed in Chapter 4).[25]

6.40 Under RG 271, insurers are required to inform policyholders who have made a complaint of the outcome of the complaint within 30 calendar days.[26] Evidence provided by insurers, which has been recreated in Table 6.3, shows a high proportion of complaints were reported as resolved within 30 days.

Table 6.3 Complaints closure timeframes (in order of submissions received)

Insurer	Under 1 month	1-6 Months	6-12 months	12+ months
Suncorp	97.7%	1.88%	0.23%	0.16%
Allianz	87.96%	11.28%	0.75%	0.02%
Youi	77.93%	16.21%	3.62%	0.69% (1.55% still open)
RACQ	82.78%	15.30%	1.11%	0.24% (0.57% unresolved)
IAG	86.6%	13.1%	0.3%	Not reported
QBE	98.28%	1.34%	0.10%	0.29%
A&G	83.57%	13.46%	2.55%	0.42%
Hollard	91.25%	8.49%	0.25%	Nil reported

Source: Suncorp Group, *Submission 12*; Allianz Australia, *Submission 13*; Youi, *Submission 14*; RACQ Group, *Submission 15*; Insurance Australia Group, *Submission 16 (1)*; QBE Insurance Group, *Supplementary Submission 17.1*; Auto & General Holdings, *Supplementary Submission 18.1*; Hollard Holdings, *Submission 19*.

Consumer awareness of insurers' IDR processes

6.41 The Code states that insurers will make information about the right to make a complaint, the internal processes for dealing with complaints, and access to EDR readily available to policyholders. This information is to be published on its website, other digital platforms and in relevant written communications.[27]

6.42 However, despite this information being available, evidence to the Committee highlighted the potential power imbalance between a policyholder and the insurer during the IDR process regarding the awareness of the processes available, and what is required for a complaint to be considered.

25 General Insurance Code Governance Committee, *Submission 5*, p. 4.
26 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 21.
27 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 38.

6.43 ASIC expressed concern that there are many policyholders who 'don't show up in the data' around complaints handling since they are unaware of their right to make a complaint or have not known how to put it forward for serious consideration.[28] The Consumer Action Law Centre similarly told the Committee that 'people don't know that they can challenge the decision, or if they do, they don't know how to go about it' when speaking about claim denials based on wear and tear and lack of maintenance exclusions.[29]

6.44 The reasons for not making a complaint vary, and it is difficult to determine how many policyholders might have been successful at overturning their insurers' decision, but who did not pursue IDR. This was a concern put forward by ARC Justice in its submission, having experience with policyholders who were reluctant to make a complaint or challenge a decision made by their insurer:

> Whilst some people simply don't know they can challenge a decision, others are reluctant to, fearing consequences including slowing the settlement process down, having an offer withdrawn or 'getting on the insurer's bad side'.[30]

6.45 The intervention and assistance of financial counsellors and legal assistance can help to address the power imbalance between policyholders and their insurer in the IDR process. The expertise of legal professionals and financial counsellors has been invaluable to policyholders in effectively articulating their case, reducing stress, ensuring that their rights are protected, as well as providing experience in negotiating with insurance companies and potentially obtain more favourable outcomes.

6.46 However, individuals should not have to pursue assistance or representation to obtain a fair, timely and effective outcome from their insurer in IDR. This concern was raised by the Consumer Action Law Centre, which stated that a policyholder should be able to make the complaint themselves and 'get the same treatment they would get if they were represented'.[31] Other submitters highlighted that many policyholders found it difficult to navigate the complaints process without assistance, given the trauma experienced.[32]

6.47 The Australian Consumers Insurance Lobby argued that there is large power imbalance between policyholders and insurers due to the nature of the IDR process, particularly when an individual is self-represented:

> …when you're a consumer and dealing with your first-ever dispute, you don't even know how the dispute process works or how to write a dispute, and you're dealing with an insurer that deals with this day on day and is very experienced in handling disputes, I do feel that there is a level of power imbalance here between consumers and insurers. And you see in the processes with internal dispute

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28 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard,* 2 February 2024, p. 16.

29 Ms Philippa Heir, Managing Lawer, Consumer Action Law Centre, *Committee Hansard,* 31 January 2024, p. 4.

30 ARC Justice, *Submission 9*, p. 8.

31 Ms Philippa Heir, Managing Lawer, Consumer Action Law Centre, *Committee Hansard,* 31 January 2024, p. 11.

32 For example: ARC Justice, *Submission 9*, p. 8; Legal Aid Queensland, *Submission 8*, p. 6.

> resolution and the complaints process through AFCA, often the consumer is self-represented in these instances, where an insurer is represented by employees who are very sophisticated and know exactly the arguments to run.[33]

Consistency of insurers' treatment of complaints

6.48 Consistency in an insurers' IDR process is crucial for both policyholders and the industry. For policyholders, it ensures fair treatment, enhancing confidence and trust in the insurer. For the industry, it enhances overall trust and industry reputation and the promotion of good business practices.

6.49 However, the experience of policyholders after the major floods, as discussed by various advocacy, financial assistance, and legal aid groups, raised a lack of consistency in IDR decision-making to the Committee as an issue. These inconsistencies ranged from how complaints were recognised by the insurer, to how they were escalated and managed.

6.50 Legal Aid NSW detailed its experience with inconsistencies in IDR to the Committee, noting that there have been instances where a client may have already attempted IDR themselves, with a different result obtained when attempted again with assistance. Legal Aid NSW further commented that:

> For some insurers, it seems to be a tick-box exercise: they've done this part, and now the client or the policyholder can go on and decide what they want to do from there. Some insurers are very engaged with the process and will make every attempt to discuss the concerns with the policyholder. So it's not all bad, but we obviously see the worst of it all. It differs from one insurer to the other.[34]

6.51 This was similar to the Consumer Action Law Centre's experience, based on reports from financial counsellors, viewing there to be a lack of consistency in decision-making within insurers and when compared across providers. The Consumer Action Law Centre additionally highlighted that policyholders often encounter 'even more challenges and stress' in the complaints process, in comparison to the claims handling process.[35] Even when there were positive experiences in IDR, it was not necessarily indicative of the quality of processes, training and systems.[36]

6.52 As mentioned earlier in this chapter, in accordance with RG 271, insurers are required to deal with expressions of dissatisfaction that meet the required definition through an IDR process.[37] Despite this, the Committee received evidence of a lack of

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33 Mr Tyrone Shandiman, Chairperson, Australian Consumers Insurance Lobby, *Committee Hansard*, 1 February, p. 33.

34 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, 31 January, p. 36.

35 Ms Philippa Heir, Managing Lawer, Consumer Action Law Centre, *Committee Hansard*, 31 January 2024, p. 5.

36 Ms Philippa Heir, Managing Lawer, Consumer Action Law Centre, *Committee Hansard*, 31 January 2024, p. 11.

37 ASIC, *Regulatory Guide 271 Internal Dispute Resolution*, 2 September 2021, p. 13.

consistency in escalating disputes to IDR. Disaster Legal Help Victoria observed many policyholders who have been in protracted claims disputes with their insurer where the insurer had failed to escalate the complaint. Additionally, Disaster Legal Help Victoria identified that it continued to be contacted by policyholders who were still navigating a claim dispute but have not been escalated to IDR.[38]

6.53 This inconsistency in identifying and escalating a complaint can create confusion and add further delays to an already lengthy process for policyholders. ARC Justice, which has assisted in lodging complaints through the required channels, explained to the Committee:

> So they will think that they've made a complaint by talking to the person that is handling their claim. But actually to make that complaint properly in order to trigger those systems, they have to go through a particular address. One of the things that we do in our work is to help people write those letters and get them to the right address so that they have lodged that complaint and they've started that clock. Others have conversations where the person will say, 'So that's okay; you're all good now' and they think their complaint is still on foot, but that's enough for the insurer to say, 'We've dealt with that and it's over.' And then the time has to start again.[39]

6.54 The inconsistent training and experience of IDR assessors was raised to the Committee as an important issue by Legal Aid New South Wales, stating that in its experience, many IDR decision letters lacked a proper explanation of exclusions relied on to deny or partially deny a complaint. When IDR staff were asked to explain how the insurer had determined an exclusion was applicable and could be relied on to deny the claim, often staff lacked the information or necessary understanding to convey this information to the policyholder.[40]

6.55 The issue of standardisation of exclusions was discussed in Chapter 4.

Underinvestment in IDR staff

6.56 Stakeholders raised concerns about insurers' resourcing of their IDR teams. AFCA pointed to the peak 21 per cent non-response rate for the insurance sector through 2022 as evidence of 'major resourcing issues' in the complaint-handling process for insurers.[41] In its submission, AFCA recommended 'immediate and enduring increases' to the resourcing of claims and complaints teams to address these issues.[42] From AFCA's perspective, the increased volume of complaints that should have been resolved at IDR level and the non-response rate indicates to the Committee that both insurers' claims, and IDR systems are being underinvested in.

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38 Disaster Legal Help Victoria, *Submission 7*, p. 3.

39 Ms Kate Clohesy, Director, Strategy and Impact, ARC Justice, *Committee Hansard*, 1 February 2024, p. 37.

40 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, 31 January, p. 33.

41 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, p. 41.

42 AFCA, *Submission 1*, p. 6.

6.57 One suggestion made by submitters was to bring forward earlier involvement of more senior or experienced staff in the IDR process as this may lead to quicker resolutions, more confidence in junior staff when handling complex issues and fairer decisions for policyholders.[43] For example, Disaster Legal Help Victoria recommended that insurers implement a protocol that necessitates the escalation of a claim to senior IDR staff if four months have elapsed since a claim was lodged and a dispute remains.[44]

6.58 Stakeholders also suggested improving the training and resourcing of IDR staff particularly with reference to the critical analysis of expert reports;[45] proactive management and detection of expressions of dissatisfaction;[46] and training around the Code on key areas such as timeframes.[47]

Complaints made to AFCA – External Dispute Resolution

AFCA's complaints handling processes

6.59 Policyholders can initiate a complaint with AFCA after first having lodged a complaint with their insurer. The IDR process does not have to be complete for a policyholder to go to AFCA, as AFCA will initially refer the complaint back to the insurer to either complete the IDR process or work directly with the policyholder to reach a resolution before progressing.

6.60 The response from insurers to the registration and referral process to AFCA is required within a certain timeframe—either to confirm that the complaint has been resolved, provide a final IDR response, or request a review of the Rules if it is believed that the complaint is outside of AFCA's jurisdiction.[48] If an insurer fails to reply by the stipulated deadline, or if the reply is inadequate, it is deemed as a 'non-response at registration'. This is documented and made public as part of AFCA's data disclosure.

6.61 Depending on the outcome from the registration and referral back to the insurer—AFCA will decide whether to close or progress the complaint through to Case Management. Not all complaints progress through each stage, as the initial

43 For example: Legal Aid Queensland, *Submission 8*, p. 12; Disaster Legal Help Victoria, *Submission 7*, p. 6.
44 Disaster Legal Help Victoria, *Submission 7*, p. 6.
45 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice *Submission 27*, p. 66.
46 Financial Counselling Australia, *Submission 6*, p. 9.
47 Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid New South Wales, *Committee Hansard*, Richmond, 9 May 2024, p. 36.
48 AFCA, *Submission 1,* p. 37.

registration and referral stage provides an opportunity for insurers to resolve the complaint without further AFCA involvement.[49]

6.62 AFCA is required to take relevant industry codes into consideration when determining what would be a fair outcome for the policyholder, including the General Insurance Code of Practice (the Code). The Code 'plays a vital role in ensuring good outcomes' for policyholders and is 'relied on directly' by AFCA in making decisions.[50] One issue with AFCA's resolution of disputes by agreement is that it is unclear what proportion of such cases are resolved in favour of the consumer or the insurer.

6.63 As highlighted by AFCA in its submission, the 'vast majority' of complaints submitted to AFCA are resolved by agreement, whether through the initial referral process or through negotiation, conciliation or a preliminary assessment provided to the insurer and the policyholder.[51]

6.64 If agreement cannot be reached through the case management progress, then a binding decision is made in the form of a Determination. A small percentage of complaints made to AFCA reach this stage. In 2022-23, only five per cent of all complaints needed to progress to a final Determination. If the insurer does not comply with a Determination and the remedies specified, AFCA must report this to ASIC.[52]

6.65 There are a range of remedies that can be awarded to as part of an AFCA determination, including payments for financial or non-financial loss.[53] The monetary compensation for loss that AFCA can award per claim relating to insurance is capped in relation to the type of loss—direct, indirect, or non-financial.[54] As set out in AFCA's Rules, as of July 2024, the limits applying to insurance companies submitted to AFCA are $6,300 per claim for both indirect financial loss and non-financial loss, and $631,500 per claim for direct financial loss (where the amount claimed by the Complainant must not exceed $1,263,000).[55]

6.66 As outlined in its submission to the inquiry, AFCA has applied non-financial loss remedies in appropriate cases involving the floods and generally 'takes a conservative approach'.[56]

6.67 In evidence to the Committee, AFCA provided examples of non-financial remedies:

> We might make an award where we require the insurer to do a scope of works and an actionable quote and to get the complainant to contribute to deciding on a

49 AFCA, *Submission 1*, p. 49; AFCA also publishes extensive complaints data on its website, available at: https://data.afca.org.au/
50 AFCA, *Submission 1*, p. 6.
51 AFCA, *Submission 1,* p. 37.
52 AFCA, 'The process we follow', www.afca.org.au/what-to-expect/the-process-we-follow, viewed 28 May 2024.
53 AFCA, *Operational Guidelines to the Rules*, 1 January 2024, Section D.
54 AFCA, 'The AFCA Approach to non-financial loss claims', www.afca.org.au/media/335/download, viewed 25 June 2024, p. 3.
55 AFCA, *Complaint Resolution Scheme Rules,* 1 July 2024, p. 42.
56 AFCA, *Submission 1*, p. 39.

> builder to do the scope of works and the quote, and we make awards around temporary accommodation and variously how the claim is going to be resolved by the insurer. So there might be a number of steps that need to be undertaken as a result of the decision that we issue.[57]

6.68 In the situation where an insurer has denied a policyholder's insurance policy claim, AFCA will apply the terms of the contract when deciding the amount to be paid in response. As outlined in its Operational Guidelines, there may be cases where AFCA considers the insurer's response to the claim as so unreasonable that it should compensate the complainant for loss incurred due to a delay in payment of the claim—even if the contract does not provide for it.[58] An additional example of this could be an incorrect denial of a claim where the complainant has incurred costs to obtain an expert opinion, such as hydrology reports—which can be considered direct financial losses.[59]

Complaints to AFCA relating to 2022 major flood claims

6.69 The volume of complaints only relating to the 2022 major floods that were progressed through to AFCA represented a small proportion of the overall claims made by impacted policyholders. More broadly, it is important to recognise that AFCA has experienced a 50 per cent rise in complaints against general insurance in the 2022-23 financial year—the highest number it has seen for general insurance in the history of external dispute resolution at AFCA.[60]

6.70 The sharp rise in disputes not relating to the major floods may have reflected the fact that at least some insurers diverted internal resources away from business as usual towards dealing with the spike of cases resulting from the floods. This highlights the fact that natural disasters can have major consequences for claims handling and dispute resolution beyond the claims directly arising the natural disaster itself.

6.71 As of September 2023 (the date of its primary submission to the inquiry), AFCA had received 3,477 complaints related to the major floods. Table 6.4 shows the breakdown of claims by major flood event. Complaints relating to home building insurance products represented 77 per cent, with home contents products representing a further 9 per cent of the total complaints.[61]

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57 Ms Emma Curtis, Lead Ombudsman, AFCA, *Committee Hansard,* 21 February 2024, p. 43.
58 AFCA, *Operational Guidelines to the Rules*, 1 January 2024, p. 158.
59 AFCA, *Operational Guidelines to the Rules*, 1 January 2024, p. 158.
60 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, p. 28.
61 AFCA, *Submission 1*, p. 12.

Table 6.4 Volumes of major flood complaints to AFCA

Flood event	Complaints received by AFCA 1/2/22 – 30/9/23	Percentage of major flood complaints	Percentage of total claims that went to EDR (as of July 2024)
South East Queensland and Northern NSW – Feb/March 2022 (CAT 221)	2,931	84%	0.9%
Hunter and Greater Sydney – July 2022 (SE 222)	233	7%	0.6%
Victoria, Tasmania and NSW – October 2022 (CAT 223)	300	9%	0.7%
Central West NSW – November/December 2022 (SE 224)	21	1%	0.4%

Source: AFCA, *Submission 1*, p. 10; data provided by the ICA.

6.72 The top five issues raised to AFCA in major flood related complaints were:

- Delays in claims handling – 36 per cent;
- Denial of a claim (exclusion/condition) – 32 per cent;
- Claim amount – 28 per cent;
- Denial of a claim – 10 per cent; and
- Service quality – 5 per cent.[62]

6.73 AFCA expressed concern to the Committee regarding the number of complaints progressing from IDR to it as an EDR process. The impact on individuals, particularly those who have experienced a natural disaster, is significant:

> …and they are having to, first of all, relive that through the claim, then they're reliving it through the internal dispute resolution process and now they're having to relive it a third time through AFCA. So you can imagine that, by the time they get to that point, we're seeing issues around mental health and high levels of general anxiety and concern as well.[63]

6.74 The most common issue AFCA observed—and is 'particularly concerned' about—are delay related complaints.[64] In its submission, AFCA observed that many consumers lose patience and confidence that their insurer will, or can respond to their complaint efficiently, effectively, and fairly after 'languishing in a claims handling process for an extended period'. [65]

62 AFCA, *Submission 1*, p. 13.
63 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 34.
64 AFCA, *Submission 1*, p. 5.
65 AFCA, *Supplementary Submission 1.2*, p. 12.

6.75 In the context of natural disasters, some delays are out of the insurers' control, such as a shortage of available tradespeople. However, AFCA's evidence to the Committee identified that the problem was not necessarily the delay itself, but the 'void of information' and lack of communication between the insurer and the policyholder regarding the delays.[66]

6.76 Additional issues relating to delays included claims staff not being easily contactable, policyholders having to engage with multiple staff, and general uncertainty regarding progress and wait times. AFCA viewed this additional distress for individuals caused by delays as being more resolvable than other complaints, with effective communication and engagement with the policyholder going 'a long way' in resolving these complaints.[67]

6.77 Evidence provided to the Committee from AFCA regarding the stages of the EDR process at which cases were closed highlights that most major flood related complaints were dealt with at the Case Management level. The rate at which cases closed at Case Management or later (65 per cent) was comparatively high compared to all general insurance complaints made in the same period (46 per cent).[68] In AFCA's view, this highlights the need for increased resources to deal with complaints:

> That shouldn't be coming to AFCA. It really shouldn't. AFCA should be a last resort. We should be here to deal with the really tricky, complex and ugly disputes that can't be resolved between the insurer and the consumer. We should not be here to try an adjudicate on a delay.[69]

6.78 Responding to the suggestion that insurers are 'outsourcing' their IDR responsibilities to AFCA, AFCA agreed that many, if not most, of the complaints that are lodged with AFCA should be resolved by insurers directly at IDR.[70] Table 6.5 below outlines AFCA's data (as of September 2023) regarding the stages in which major flood complaint cases closed in comparison to general insurance complaints for the same period.

Table 6.5 Stages at which major flood complaints at AFCA closed

Stage	Number of complaints	Percentage	Percentage for comparison*
Registration & Referral	987	34%	46%
Rules Review	23	1%	7%
Case Management	1,061	36%	27%
Preliminary View	425	15%	9%

66 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, p. 29.
67 AFCA, *Submission 1*, p. 21.
68 AFCA, *Submission 1,* p. 14.
69 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, p. 30.
70 AFCA, *Supplementary Submission 1.2,* p. 12.

Decision	420	14%	10%

Source: AFCA, *Submission 1*, p. 14.

*The last column provides figures for all general insurance complaints received by AFCA from 1/2/22 to 30/9/2023 to allow comparison with figures from the major floods.

6.79 AFCA does not have full visibility of outcomes at earlier stages of the EDR process. Table 6.6 details the outcomes of AFCA's major flood related complaints at the time of its primary submission, noting that out of the 585 complaints resolved at the Preliminary Assessment or Decision in favour of one party, 38 per cent were resolved in favour of the policyholder.[71]

Table 6.6 Outcomes of AFCA major flood complaints

Outcome	Number	Percentage	Percentage for comparison
Resolved by Financial Firm	1,261	43%	52%
Negotiation	576	20%	13%
Discontinued	391	13%	11%
Decision in favour of Financial Firm	236	8%	7%
Decision in favour of Complainant	139	5%	3%
Preliminary Assessment in favour of Financial Firm	128	4%	4%
Preliminary Assessment in favour of Complainant	82	3%	2%
Conciliation	41	1%	1%
Outside Rules	42	1%	8%
Assessment	20	1%	1%

Source: AFCA, *Submission 1*, pp. 15-16.

*The last column provides figures for all general insurance complaints received by AFCA from 1/2/22 to 30/9/2023 to allow comparison with figures from the major floods.

6.80 Supplementing the data provided by AFCA, insurers were requested by the Committee to provide information relating to decisions referred through to AFCA, including the number of cases where the insurers' decision and handling were fully or partially upheld, overturn rates in full favour of the policyholder, early resolution rates and the number of unresolved cases at AFCA by major flood event.[72]

71 AFCA, *Submission 1*, p. 15.

72 See: Suncorp Group, *Supplementary Submission 12.2*; Allianz Australia, *Supplementary Submission 13.3*; Youi, *Supplementary Submission 14.3;* RACQ Group, *Supplementary Submission 15.2;* Insurance Australia Group, *Supplementary Submission 16.4*; QBE Insurance Group, *Supplementary Submission 17.4*; Auto & General Holdings, *Supplementary Submission 18.3*; Hollard Holdings Australia, *Supplementary Submission 19.2*.

Table 6.7 AFCA referral data for major insurers (in order of submissions received)

Insurer	Number of claims to AFCA/	%age of total major flood claims	Decision upheld	Decision partially upheld	Overturned full in favour	Number of unresolved cases	Cases resolved early (%)
Suncorp	886	2%	192	84	601	56	72%
Allianz	735	2%	38	32	14	67	80%
Youi	110	1.29%	34	23	30	19	37.04%
RACQ	221 (CAT 221 only)	1.5%	45	3	8	4	72.85%
IAG	824	1.32%	28	50	17	23	86.61%
QBE	212	1.56%	18	Not provided	14	22	75%
A&G	267	1.6%	143	64	35	15	49.7%
Hollard	516	3%	16	9	12	60	No total provided, but between 90-100% for three events

Source: Suncorp Group, *Supplementary Submission 12.2*; Allianz Australia, *Supplementary Submission 13.3*; Youi, *Supplementary Submission 14.3*; RACQ Group, *Supplementary Submission 15.2*; Insurance Australia Group, *Supplementary Submission 16.4*; QBE Insurance Group, *Supplementary Submission 17.4*; Auto & General Holdings, *Supplementary Submission 18.3*; Hollard Holdings Australia, *Supplementary Submission 19.2*.

6.81 As identified in previous data representations in this chapter, the variation in results and caveats provided on data (as outlined in the submissions) hampers direct comparison of the data, but does provide an overall indicator of EDR numbers and outcomes.

6.82 Denials of claims based on expert reports, such as hydrology reports, was presented by AFCA as an issue that required more work to raise standards and quality. AFCA's experience, as outlined in their submission, is that the expert reports relied on by insurers vary in quality—and in some cases may be deficient. There was also a lack of clarification on what the role of an expert is versus the role of the insurer in decision-making.[73] AFCA was supportive of any changes to the standards and quality around expert reports, viewing any improvements as a potential to reduce the number of complaints that go through to AFCA as well as improve insurers' claims handling decisions.[74] Any such improvements would presumably also deliver better outcomes for initial claims processes, as discussed in Chapter 4.

[73] Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, p. 29.
[74] Ms Emma Curtis, Lead Ombudsman, Insurance, AFCA, *Committee Hansard*, 21 February 2024, p. 40.

6.83 In some instances, hydrology reports had been used to deny claims without appropriate due diligence being taken. In AFCA's view, it did not consider the role of experts in producing such reports to be that of decision making or to provide recommendations regarding the interpretation and application of policy provisions.[75]

6.84 The Committee inquired into whether greater access to expert reports for those navigating dispute resolution processes would enable consumers to have a more level playing field.

6.85 While AFCA agreed that there is some value in policyholders having access to expert reports in order to challenge that of their insurers', in relation to the EDR process, there 'isn't a requirement' for a policyholder to obtain an additional expert report to be successful, yet viewed there being value overall in policyholders having greater access.[76] AFCA elaborated to the Committee that it's complaint resolution process involved other sources of information to make a decision and has found cases in favour of the policyholder despite an expert report being provided.[77]

6.86 In relation to improvements to IDR processes, AFCA viewed addressing issues of complaints, delays and poor communication as 'low-hanging fruit' that insurers needed to address. Further, AFCA believe that insurers need to increase resourcing of their dispute resolution teams, as well as claims handling.[78] However, it was acknowledged that even when insurers' resources are increased, there is still a delay in full competency of staff.[79]

6.87 AFCA, concerned about insurers' ongoing capacity to resolve complaints in a timely, efficient, and effective manner, believed that there is an ongoing need for insurers to allocate more resources to complaints and claims teams, prioritise staff training and capabilities, streamline processes using technology, empower staff to settle complaints, and foster a resolution and consumer-centric culture.[80]

6.88 As an extension of this, some witnesses identified that delays in AFCA processes might be due to a lack of resourcing. Anglicare Victoria commented that AFCA processes were '…fairly user friendly for a lot of people. It's the time frames because of the backlog, especially after a big event—waiting to progress through to the next stage. That's the problem. It would be very helpful if they were better resourced'.[81]

Policyholders and insurers' experiences of AFCA's processes

6.89 Evidence provided to the Committee, from financial counsellors, legal aid groups and individuals with personal experience, regarding interactions with the EDR process

75 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, p. 30.
76 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, p. 41.
77 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 41.
78 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard,* 21 February 2024, pp. 28-29.
79 AFCA, *Submission 1*, p. 21.
80 ACFA, *Supplementary Submission 1.2*, p. 13.
81 Ms Kathryn Swinton, Financial Counsellor, Anglicare Victoria, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 30.

were generally positive and supportive of AFCA's role. However, issues such as the long-time frames to achieve dispute resolution and the potential imbalance of power when expert reports are involved in the process were raised as an area for potential improvement.

6.90 A common experience highlighted to the Committee was the pressure AFCA places on insurers to act on ongoing disputes. For example, the Committee received evidence that insurers were more likely to engage with policyholders to resolve the dispute when AFCA was involved, even after previous lengthy delays and ineffective communication between the policyholder and their insurer. This was noted by Caxton Legal Centre, which had observed that insurers made a 'greater effort to reconsider the matter' and work with the client to resolve the claim when EDR was pursued.[82]

6.91 This was also emphasised by the Australian Consumers Insurance Lobby, which stated that once a complaint reached the EDR process, insurers were faced with 'increased pressure to make the correct decisions', in contrast to IDR processes where there were fewer consequences for errors.[83]

6.92 AFCA is also considered as a 'extraordinarily valuable' institution that offered policyholders a free, step-by-step resolution process.[84] Legal Aid New South Wales was supportive of AFCA's role in EDR, explaining to the Committee that:

> There are a few comparable consumer ombudsmen. The fact that consumers can complain, that it's free, that it's a staged dispute resolution process and that it's a decision that's ultimately binding on the insurer gives incredible access to justice. It allows access to justice in a way that customers simply wouldn't have if they were relying on the court process. So we're very supportive of AFCA.[85]

6.93 Long timeframes in EDR can have significant impacts on policyholders, as EDR is often pursued after the initial claims process and IDR process with their insurer. The trauma, financial impact, uncertainty, and displacement experienced by policyholders was conveyed to the Committee through evidence provided from a range of groups that provided support.

6.94 Disaster Legal Help Victoria stated that the decision to pursue recourse through the AFCA process was a 'huge decision' to make considering the unknown timeframes for resolution:

> What that means is that people go through all of those processes of the internal dispute resolution with the insurance company, and then, if that is not successful, it goes on to AFCA. It may be six months before AFCA is able to resolve that

82 Caxton Legal Centre, *Submission 28*, p. 6.

83 Mr Tyrone Shandiman, Chairperson, Australian Consumers Insurance Lobby, *Committee Hansard*, 1 February 2024, p. 25.

84 Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid New South Wales, *Committee Hansard*, Richmond, 9 May 2024, p. 35.

85 Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid New South Wales, *Committee Hansard*, Richmond, 9 May 2024, p. 35.

> matter or decide that matter because of the sheer number of matters that are before it.
>
> So, realistically, a consumer is saying to themselves, 'Okay, is it six months, is it a year, before my matter will actually be resolved?' They are often out of home and they may be in temporary accommodation, and that could be not convenient to school or work. It could place additional burdens on family members as well…[86]

6.95 As policyholders must engage the IDR process with their insurer prior to engaging with AFCA, the unknown length of time to reach a resolution may lead to individuals deciding to accept decisions they may otherwise not have. Quicker dispute resolution and additional resourcing capacity for surge periods could potentially lead to more policyholders taking up the EDR scheme more frequently. The impact of this was raised by ARC Justice, which stated that:

> If I were to go to AFCA today, I might get a decision possibly six months down the road by the time we wait to get to the front of the queue and then for that process to work its way through. That's six months in a caravan. At some point, you have to cut your loss, and that's a decision people are making.[87]

6.96 In Legal Aid NSW's experience, often the policyholders' matter will resolve 'fairly quickly' despite lengthy negotiations at the IDR level. Informed by advice from AFCA, Legal Aid NSW told the Committee that many of the disputes it lodged end up being resolved at the registration stage. Legal Aid NSW viewed this as being 'enormously disheartening' that it takes until EDR registration to get a referral.[88]

6.97 The Committee also examined with various witnesses the potential power imbalance during the EDR process where individuals did or did not have access to expert reports, such as hydrology reports. The ability for individuals to access reports—where hydrologists, for example, are either unavailable, unaffordable, or unwilling to provide reports in high-demand periods was discussed. (the issue of expert reports is discussed further in Chapter 4).

6.98 The Committee explored with witnesses whether greater access to expert reports for individuals going through the EDR process would be beneficial and allow those who would not otherwise have access to them, a better chance at a successful EDR outcome. The Committee notes that current clauses 81 and 82 of the Code require insurers to provide information they relied on to deny a claim or not pay in full, however greater access to reports for any dispute process is desirable.

6.99 The Financial Rights Legal Centre, CHOICE, the Consumer Action Law Centre and Westjustice recommended in a joint submission that insurers should pool funds to

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86 Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 24.

87 Ms Kate Clohesy, Director, Strategy and Impact, ARC Justice, *Committee Hansard,* 1 February 2024, p. 37.

88 Ms Rebekah Doran, Senior Solicitor and Project Manager, Legal Aid New South Wales, *Committee Hansard*, Richmond, 9 May 2024, p. 35.

allow consumers to obtain independent reports in a timely manner when they have complaints with AFCA.[89]

6.100 In further discussions with the Committee, the Consumer Action Law Centre explained that there had been many instances where issues have been identified with insurers' expert reports, meaning that policyholders were able to challenge the decision without obtaining their own expert reports. It was also acknowledged that AFCA often determines that the insurer should reimburse a policyholder who has obtained their own report, however this is not viable for those who cannot afford to initially do so.[90]

6.101 The quality and variability of expert reports was also raised to the Committee as a serious issue. In Legal Aid NSW's experience, many of the AFCA outcomes it had seen saw overturning of decisions where insurers have relied on hydrologists reports that did not take into account first-hand experiences. Further,

> There are disputes around the quality of the reports that insurers are relying on in making their decisions. There are issues for our clients, especially with hydrology reports. There is a very small number of hydrologists available in Australia, and many of those hydrologists are used by insurers, so they're not necessarily going to be available for your everyday consumer. Even if they were available, the cost to have a hydrologist do a report for you is just very, very out of reach for many of our clients. So those types of matters, if they haven't already gone through AFCA, are currently in AFCA.[91]

6.102 ARC Justice viewed that access to an expert to assist in the EDR process was a challenge for individuals:

> You need to effectively have gone through the process of paying for them. If all goes well, you might get the money back from AFCA, or at least some of it. But in most instances you have to know that you need the expert, find the right expert and then have an expert that is willing to go through that process of going to AFCA for you. And one of the challenges that people we work with face is that the vast majority of experts are conflicted. So even though they might be happy to take your money and provide you a report, they won't necessarily stand up at AFCA and speak to it, because that might jeopardise work that they are already doing or want to do for insurance companies. So independence is a key problem in addition to the expense.[92]

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89 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27,* p. 9.

90 Ms Philippa Heir, Managing Lawer, Consumer Action Law Centre, *Committee Hansard,* 31 January 2024, p. 8.

91 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid NSW, *Committee Hansard,* 31 January 2024, p. 33.

92 Ms Kate Clohesy, Director, Strategy and Impact, ARC Justice, *Committee Hansard*, 1 February 2024, p. 37.

6.103 In comparison to the length of delays experienced by individuals in the dispute process, the amount of compensation AFCA can award for non-financial loss was perceived to be inadequate.

6.104 As highlighted by Legal Aid NSW in their submission, the then cap of $5,400 for non-financial loss available to compensate for unreasonable delay is inadequate when considering the 'substantial inconvenience, pain and distress' experienced, and therefore argued that the jurisdictional limit should be increased. Further, the compensation available did not appear to sufficiently disincentivise insurers from breaching the claim handling timeframes in the General Insurance Code of Practice (the Code).[93]

6.105 The Northern Rivers Community Legal Centre commented that combined with the overall length of the process, the level of non-financial compensation that is available then becomes difficult to recommend to impacted policyholders to go through the AFCA process.[94]

6.106 In response to these concerns, evidence from AFCA on non-financial loss amounts put forward the view that while AFCA is open to reviews of the award amount, AFCA is 'not a court' and its purpose is not to administer pecuniary penalties.[95] Further, citing the Treasury review of AFCA in 2021, it was determined that there was no evidence to support the existing monetary cap as inadequate and ultimately did not support an increase.[96]

6.107 The Committee also received evidence from individuals in affected communities that determinations from AFCA may not be being enforced. Mr Ken Olsson outlined experiencing difficulties with his insurance claim with NRMA and complaints processes:

> We filed a complaint with ASIC under misconduct. We filed a complaint with the Insurance Council of Australia for breach of conduct. We filed a complaint with AFCA, of course, and we were given a determination in September last year, which AFCA failed to abide under the rules to enforce. We then had the lead ombudsman, Emma, say that she could not enforce the orders.[97]

6.108 Some survey respondents also identified some issues with AFCA processes, however the majority did outline that AFCA becoming involved aided in complaints being progressed:

> AFCA ombudsman process was good but the initial process was poor. First person consistently missed deadlines she had set herself. Person who replaced her discovered multiple examples of communications not forwarded, etc, and

93 Legal Aid NSW, *Submission 34*, p. 15.
94 Mr Aran Matkevich, Solicitor, Northern Rivers Community Legal Centre, *Committee Hansard,* 11 April 2024, p. 33.
95 Mr Untersteiner, AFCA, *Committee Hansard,* 21 February 2024, p. 31.
96 Department of the Treasury, *Review of the Australian Financial Complaints Authority*, https://treasury.gov.au/publication/p2021-219154, November 2021, p. 58.
97 Mr Ken Olsson, Private capacity, *Committee Hansard*, Caboolture, 9 April 2024, p. 18.

> then found in favour of the insurer. The ombudsman found in my favour. This is for two claims dating from a flood in early 2021 and again in 2022. AFCA made their final determination only a week ago.
>
> …
>
> AFCA said they have never had a company come back trying to get out of the ruling twice. AFCA need more powers and more well trained staff, treated well so they stay. The payment for non-financial loss needs to be raised as it is no threat to the insurance companies. House prices and costs of repairs have risen. AFCA need more powers to rule, particularly if insured companies have delayed and caused more damage but their inaction. They need to be able to rule over the sum insured if the insurance company caused the damage.
>
> …
>
> Until AFCA became involved our insurers repeatedly ignored our complaints and refused parts of claim previously accepted leaving us with mouldy wet house still certified as uninhabitable today.
>
> …
>
> The only reason my insurer pulled their finger out and is repairing the property is because I lodged a complaint with AFCA.[98]

6.109 Ms Aveley McCann gave evidence to the Committee in Lismore NSW regarding her claim delays and dispute resolution process:

> After a year of back and forth, with the help of the Australian Financial Complaints Authority, AFCA, we reached a resolution in March 2023. But then silence. Five weeks of countless unanswered follow-ups later, I had to reopen my case with AFCA, and it wasn't until December 2023 that my house was finally restumped.[99]

6.110 Illustrating the frustration that many experience, the impact on claimants' wellbeing, as well as inconsistency in understanding of when EDR processes can be commenced, Ms Kate Olivieri, outlined the following to the Committee:

> Everyone says, 'Go to AFCA,' but you must pursue the complaints process with your insurer to its end before you can even apply, and AFCA is overwhelmed. Insurance companies need incentives to deal more quickly and reasonably with more disputes themselves.
>
> We were able to get a resolution with AFCA 18 months on, but the resolution did not put our house back. No one will pay us for the time spent, our mental health lost or the loss of value in our house.[100]

6.111 However, not all evidence was that EDR processes through AFCA were unfruitful:

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98 Committee Survey Results, free text entries.

99 Ms Aveley McCann, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 23.

100 Ms Kate Olivieri, Private capacity, *Committee Hansard*, Lismore, 11 April 2024, p. 25.

> We ended up going to AFCA. AFCA were very good all the way through. They were wonderful. Within probably six weeks from the time we took it to AFCA until the insurance company were told they had to pay for the bore and the hard surface clean on the outside, those two things had to be paid for in full immediately and we had so many weeks in order for the rest of the claim to be processed. We did get the money to do the bore and the concrete clean, but nothing else.[101]

6.112 Some insurers advocated for by AFCA to provide more flexibility to insurers to meet the timeframes to respond with information that has been requested by AFCA. For a standard complaint that progresses through to AFCA case management, information from the insurer is to be provided within 7-21 days.[102]

6.113 In RACQ's view, AFCA is 'reluctant' to provide extensions and does not provide guidelines in which an extension would be granted. This may impede the ability of an insurer to maintain an ongoing relationship with the policyholder. Further, RACQ viewed the timeframes imposed by AFCA as not allowing the insurer to provide responses with enough detail.[103]

6.114 IAG recommended greater timeframe flexibility, specifically during the registration and referral period and case management to allow parties to focus on resolution.[104] Another recommendation put forward by QBE is the potential consideration of whether the timeframes for responses could be extended during catastrophe events, when numbers of complaints rise.[105]

6.115 While the Committee recognises that these suggestions from insurers are intended to allow for insurers to meet dispute resolution requirements in a timely manner, the Committee does not support any change to the current 7-21 day timeframe, identifying that with dedicated and well-resourced dispute resolution teams recommended in this report, those current timeframes should be able to be met.

6.116 Finally, the Committee notes the evidence from submitters and witnesses that the current caps on non-financial loss compensation amounts is somewhat limiting on the effect that those payments can make to an affected complainant.

6.117 However, as detailed earlier in this chapter, the 2021 review of AFCA did not determine that an increase to these amounts was warranted, identifying that it was a means for AFCA to quickly compensate complainants for physical inconvenience or stress, not as a means to replace appropriate claims settlement. The Committee agrees with this finding and notes that the amount was recently increased in January 2024.

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101 Ms Maureen Valent, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 41.
102 AFCA, *Submission 1*, p. 49.
103 RACQ Group, *Submission 15,* p. 27.
104 Insurance Australia Group, *Submission 16,* p. 41.
105 QBE Insurance Group, *Submission 17,* p. 20.

Potential improvements to the EDR process

6.118 The Committee received evidence from insurers in relation to potential improvements to EDR. This evidence highlighted two potential recommendations—a formalised avenue to expedite complex or vulnerable disputes, and greater flexibility on timeframes for information directed by AFCA.

6.119 AFCA's 'Fast Track' case management process is available to complaints that are low value and single issue and are within the AFCA Rules. The Fast Track process is separate to situations involving financial difficulty. Extra information is to be provided within 7 days.[106] However, this expedited timeframe option is not available for more complex cases, or where a dispute involves a vulnerable client.

6.120 A recommendation to improve IDR put forward by insurers is for there to be more formalised opportunities to expedite complex or vulnerable disputes for immediate decision by AFCA. This would aim to improve turnaround times for decisions at EDR and improve processes, especially in cases where a timely decision would deliver more certainty to the complainant.

6.121 This was highlighted by Hollard, which stated that the current AFCA complaint process is extended by a period of around two months where the policyholder is vulnerable, or the claim is significant or complex.[107]

6.122 Greater opportunities to expedite matters to faster decision making would improve turnaround times for policyholders. Youi observed that increased opportunities to expedite matters to allow for faster decision-making at AFCA would be an improvement.[108]

Committee comment

6.123 IDR and EDR processes were highlighted as problematic throughout the evidence provided to the Committee. This related to both the quality of the decision-making and the delays in arriving at decisions. Policyholders often felt dissatisfied with the expert reports that were relied upon to deny claims. Compounding these issues is the lack of transparency in relation to both IDR and EDR and the inconsistent data that is currently being produced across insurers. The IDR data across insurers appears to be highly inconsistent in terms of what constitutes an 'internal dispute', with rates of IDR varying considerably (see Table 6.2). Even though ASIC has issued RG 271, it is not clear that this has resulted in consistent reporting of IDR prevalence and handling.

6.124 Moreover, in addition to being too frequent, the outcomes of EDR disputes are not sufficiently transparent. The ratio of claims decided by AFCA in favour of the insurer or the claimant was provided to the Committee (see Table 6.7). This data points to

106 AFCA, *Submission 1*, p. 49.
107 Hollard Holdings Australia, *Submission 19*, p. 45.
108 Youi, *Submission 14*, p. 31.

some insurers having a low 'win rate', which suggests problems in their IDR systems. However, for many insurers, a very high proportion of claims are settled before progressing to an AFCA determination (in some cases over 80 per cent are settled). In these cases, the rate of settlements that favour the insurer or the policyholder is unclear. Therefore, the win-loss ratio at AFCA for the minority of cases that make it to that stage isn't necessarily a clear indicator of the rate at which the insurer was deemed at fault across the full range of EDR cases. The data for both IDR and EDR is not sufficiently clear or consistent to make useful comparisons across insurers at present. This needs to be remedied. The new data reporting regime proposed by the Committee will go a long way to improving transparency in relation to both IDR and EDR.

6.125 The Committee acknowledges that insurers have provided evidence that they have reflected upon their performance during the major floods, including conducting internal reviews, and have sought to improve their IDR processes through increased staffing, training and resourcing, as well as improvements to technology and operating models.

6.126 Insurers asserted that they have made changes following internal reviews and in response to the findings and recommendations of the Deloitte report, which recommended insurers undertake improved workforce planning to support better timelines on complaint handling, better catastrophe resourcing and training to maintain a baseline level of skills, as well as addressing deficiencies in both claims and complaint handling systems through better technologies.[109] The Deloitte report also found that complaint handling processes were impacted by the same issues as claim handling, but to a lesser degree.[110]

6.127 While it is preferable for insurers and policyholders to resolve any issues that may arise as the claim is progressed, it is important that, when an insurer and policyholder cannot agree, policyholders can access fair and timely dispute resolution. Insurers should endeavour to continue to improve their IDR processes and resourcing in line with regulatory expectations.

6.128 It is evident to the Committee that impacted individuals, who are often displaced and have experienced significant trauma and stress, can be reluctant to pursue IDR and EDR because they believe it will add further delays to an already lengthy claims process. Delays in processing internal complaints, as well as much longer average complaint resolution timeframes with AFCA, meant some policyholders chose not to make use of the dispute resolution services available to them.

6.129 The Committee also wishes to recognise the role of consumer advocacy, financial rights and legal aid groups in assisting policyholders though IDR and EDR processes following the major floods. This was particularly important for vulnerable policyholders and policyholders with complex, long running disputes.

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109 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, pp. 38, 39.

110 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 17.

6.130 The Committee has identified several areas for improvement to make the IDR and EDR process more accessible for policyholders. Some of these recommendations align with the recommendations made in the Deloitte report on insurers preparedness for CAT 221 and ASIC's review on insurers claims handling.

6.131 The Committee has made recommendations for the insurance industry (through Code amendments or otherwise) and relevant government agencies to implement.

6.132 Given the inconsistency of information provided by insurers on the number of complaints received and timeframes for resolving complaints, the Committee is recommending ASIC update RG 271 *Internal Dispute Resolution* to provide more guidance on what constitutes a complaint and how complaints should be recorded to drive consistency in the treatment and capture of complaints by insurers, to provide more consistent outcomes for policyholders and allow ASIC to better understand how other factors (such as understaffing) may be affecting the timely resolution of complaints.

6.133 This guidance can then supplement the joint Australian and New Zealand Standard definition to allow for consistent and meaningful reporting of internal dispute resolution statistics by insurer, to both AFCA and ASIC.

6.134 The Committee believes greater consistency in identifying and tracking complaints is needed for insurers to better understand the issues being raised by policyholders, including to identify if more guidance should be issued to policyholders or their staff.

6.135 The Committee is also recommending insurers establish a dedicated dispute resolution monitoring and management team to identify systemic issues coming through in complaints and to implement AFCA's feedback to improve IDR and claims handling processes. This should be paired with the escalation of any unresolved cases to more experienced case managers after 12 months open.

6.136 Additionally, the Committee is recommending that all insurers establish a consumer advocate role, to further monitor and report on disputes to the CEO and Board, with the ability to be involved in the management and resolution of disputes where appropriate.

Recommendation 41

6.137 The Committee recommends that the Australian Securities and Investment Commission update RG 271 *Internal Dispute Resolution* to provide further guidance on what constitutes a complaint and how complaints should be recorded. The goal should be to ensure that the definition of an internal dispute is set at a level that captures appropriately serious disputes and that this threshold is applied consistently across all insurers.

Recommendation 42

6.138 The Committee recommends that all insurers be required to establish a dedicated internal dispute resolution monitoring and review team to identify systemic issues arising through complaints and implement the Australian Financial Complaints Authority's feedback to improve internal dispute resolution and claims handling processes.

Recommendation 43

6.139 The Committee recommends that insurers put in place strategies to ensure their internal dispute resolution teams will be appropriately resourced and trained to respond to future significant natural disasters, and able to critically analyse expert reports and investigate the circumstances of the claim.

Recommendation 44

6.140 The Committee recommends that insurers improve their processes to facilitate the escalation of cases that remain unresolved after 12 months to a more experienced case manager.

Recommendation 45

6.141 The Committee recommends that all insurers create a role for a 'consumer advocate' which has oversight of and, where appropriate, involvement in, the disputes managed within the firm, cases that have moved to the Australian Financial Complaints Authority (AFCA), and claims which have taken a long period of time to resolve.

The consumer advocate should report to the Chief Executive Officer quarterly and the Board each year and provide a summary of the activities of the office over the preceding 12 months including a summary of cases where the consumer advocate was involved, the disputes that went to AFCA and the firm's overturn ratio, and where long delays occurred before the case was resolved (longer than 12 months).

7. Improving oversight of insurers' practices

7.1 Oversight arrangements for the insurance industry were outside the explicit terms of reference for the inquiry. However, it is important to note that giving effect to a number of the recommendations in this report and ensuring better outcomes for consumers will depend upon appropriate regulatory oversight and enforcement.

7.2 A number of submissions to the inquiry and evidence received at hearings raised important regulatory issues and suggested important regulatory changes and strengthening. This chapter presents a brief overview of the regulatory landscape for the general insurance industry,[1] and summarises the evidence received on ways to improve transparency, accountability and compliance.

7.3 Key issues raised in evidence to this inquiry included:

- enforcement challenges, with many witnesses questioning regulators' ability to hold insurers to account for breaches of existing regulations and the General Insurance Code of Practice (the Code);
- options to support stronger enforcement, particularly through the Code; and
- the limitations of regulators' current data-gathering and reporting regimes, and options for improvement.

Insurance industry oversight arrangements

Government regulators

7.4 As was briefly identified in Chapter 3, the primary regulators with oversight of general insurance in Australia are the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA). The Australian Competition and Consumer Commission (ACCC) also plays a limited role.

Australian Securities and Investments Commission

7.5 As ASIC explains on its website:

> The Australian Securities and Investments Commission (ASIC) is Australia's financial markets conduct regulator. … ASIC regulates the conduct of Australian companies, financial markets, financial services organisations (including banks,

[1] See further: Department of the Treasury, *Submission 69*.

life and general insurers and superannuation funds) and professionals who deal in and advise on investments, superannuation, insurance, deposit-taking and credit. ASIC is also responsible for authorisations to operate in industries it regulates.[2]

7.6 Treasury told the inquiry that ASIC is 'responsible for maintaining, facilitating and improving the performance of the financial system and entities within it', including by managing the Australian financial services (AFS) licensing regime as well as 'regulating and monitoring businesses and markets operating in Australia, and taking necessary action to enforce and give effect to the law.'[3]

7.7 As identified throughout this report, insurers are AFS licensees. ASIC's regulatory remit therefore extends to enforcing insurers' obligations as licensees to provide insurance efficiently, honestly and fairly, handle complaints properly and uphold their obligations to policyholders.[4] For example, ASIC has recently published two reports focusing on insurer malpractice in relation to pricing promises and claims handling,[5] putting the industry on notice.

7.8 ASIC is also responsible for general administration of the *Insurance Contracts Act 1984*. The Act confers broad powers on ASIC to perform this role, including 'to do all things that are necessary or convenient to be done in connection with the administration of the relevant legislation' (Part IA, section 11B) and to pursue civil and criminal proceedings against insurers and issue infringement notices (Part IXA). ASIC also has step-in powers under other legislation, including the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*. These include the ability to pursue civil or criminal proceedings in the courts for serious matters, as well as administrative and other enforcement action, including:

- restrictions on licensed activity
- director disqualification
- disciplinary action
- product intervention orders
- stop orders
- public warning notices
- infringement notices
- court enforceable undertakings.[6]

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2 ASIC, 'The ASIC – APRA relationship', asic.gov.au/about-asic/what-we-do/our-role/other-regulators-and-organisations/the-asic-apra-relationship/, viewed 6 September 2024.

3 Department of the Treasury, *Submission 69*, p. 3.

4 Department of the Treasury, *Submission 69*, pp. 3-4; ASIC, *Regulatory Guide 104 - AFS licensing: Meeting the general obligations,* June 2022; *Corporations Act 2001*, s. 912A(1)(a).

5 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, 16 August 2023, and ASIC, *When the price is not right: making good on insurance pricing promises*, 23 June 2023.

6 ASIC, 'ASIC's approach to enforcement', asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-approach-to-enforcement/, viewed 8 September 2024.

7.9 The above powers are paired with a 'Why not litigate?' principle, adopted by ASIC in October 2018. As explained by the former ASIC Commissioner Sean Hughes:

> *Why Not Litigate?* means that once:
>
> - ASIC is satisfied breaches of the law are *more likely to have occurred than* not **and**
> - the facts of the case show pursuing the matter would be in the *public interest*,
> - **then** we will actively ask ourselves: *why not litigate* this matter?[7]

7.10 Following the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Hayne Royal Commission), many ASIC powers that can apply to regulation and enforcement regarding insurers were either introduced or strengthened.

7.11 The Hayne Royal Commission made 76 recommendations in its final report across seven broad themes. However, potentially the most important recommendation in relation to ASIC's ability to regulate the insurance industry is recommendation 1.15:

> **Recommendation 1.15 – Enforceable code provisions**
>
> The law should be amended to provide:
>
> - that ASIC's power to approve codes of conduct extends to codes relating to all APRA-regulated institutions and ACL [Australian credit licence] holders;
> - that industry codes of conduct approved by ASIC may include 'enforceable code provisions', which are provisions in respect of which a contravention will constitute a breach of the law;
> - that ASIC may take into consideration whether particular provisions of an industry code of conduct have been designated as 'enforceable code provisions' in determining whether to approve a code;
> - for remedies, modelled on those now set out in Part VI of the Competition and Consumer Act, for breach of an 'enforceable code provision'; and
> - for the establishment and imposition of mandatory financial services industry codes.[8]

7.12 Recommendation 1.16 also has potential implications for insurance, although it referred to the banking code of conduct developed by the Australian Banking Association (ABA) and registered with ASIC:

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7 ASIC, 'ASIC's approach to enforcement after the Royal Commission', 2 September 2019, https://asic.gov.au/about-asic/news-centre/speeches/asic-s-approach-to-enforcement-after-the-royal-commission/, viewed 7 September 2024.

8 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report: Volume 1*, February 2019, p. 24.

Recommendation 1.16 – 2019 Banking Code

In respect of the Banking Code that ASIC approved in 2018, the ABA and ASIC should take all necessary steps to have the provisions that govern the terms of the contract made or to be made between the bank and the customer or guarantor designated as 'enforceable code provisions'.[9]

7.13 As discussed later in this chapter, legislative reforms have since implemented recommendation 1.15, giving ASIC powers to enforce provisions of industry codes of conduct under certain circumstances.

7.14 As noted, ASIC has powers to regulate insurers under the granting of AFS licences. This requires that insurers provide their services 'efficiently, honestly and fairly'.[10] At the time of the Hayne Royal Commission, the handling and settlement of insurance claims was exempted from this requirement. Recommendation 4.8 provided that this exemption be removed:

> The handling and settlement of insurance claims, or potential insurance claims, should no longer be excluded from the definition of 'financial service'.[11]

7.15 In its final report, the Hayne Royal Commission referred to a number of case studies which called into question the exemption. It concluded that:

> 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.[12]

7.16 This recommendation was reflected in changes to the *Corporations Act 2001* legislated through the *Financial Sector Reform (Hayne Royal Commission Response – Protecting Consumers (2020 Measures) Act 2020*. The Explanatory Memorandum for the Bill clarified that the application of the licence conditions would capture 'a broad range of activities, from an initial inquiry before an insurance claim is lodged to the formal lodgement, assessment and settlement of an insurance claim'.[13] The *Financial Sector Reform Act* amended the *Corporations Act 2001* by adding section 761A, which gives ASIC considerable powers to regulate the provisions of claims handling, broadly defined.

7.17 ASIC's regulatory powers over insurers have expanded considerably since the Hayne Royal Commission. However, some have argued there hasn't been sufficient time to judge the efficacy of the Hayne reforms. For example, ASIC has not yet had opportunity to exercise the new power to enforce provisions of industry-developed

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9 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report: Volume 1*, February 2019, p. 24.

10 *Corporations Act 2001*, s. 912A(1)(a).

11 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report: Volume 1*, February 2019, p. 33.

12 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report: Volume 1*, February 2019, p. 309.

13 Financial Sector Reform (Hayne Royal Commission Response – Protecting Consumers (2020 Measures)) Bill 2020, *Explanatory Memorandum*, p. 133.

codes of conduct. The inquiry heard that this power is constrained by the need for industry agreement to any enforceable provisions, also heard that there are risks of unintended consequences. These issues are discussed below under 'Improving enforcement'. In addition, ASIC has not yet tested its new powers to regulate claims handling.

7.18 The Committee also heard arguments that ASIC's oversight powers could be strengthened, especially in relation to its ability to gather relevant industry data to better identify breaches or areas for investigation.

7.19 ASIC's statutory information-gathering powers derived through the *Insurance Contracts Act 1984* include the ability to require insurers to provide data and other documentation by giving notice in writing, including:

> (a) written particulars of the organisational structure and administrative arrangements of the insurer…
>
> (b) statistics relating to the nature and volume of the insurance business of the insurer…;
>
> (c) copies of any training guides, work manuals or other materials of a similar nature used by an insurer in instructing its employees or any insurance intermediaries...[14]

7.20 ASIC derives similar information-gathering powers from other sources of law, including the *Corporations Act 2001*.[15] Section 912C provides ASIC with the power to give written notices to financial services licensees to give to ASIC 'specified information'[16] about the financial services provided by the licensee or its representatives[17] or the financial services business carried on by the licensee.[18] This power has been used to some effect. For example, it was used to obtain the data that underpinned ASIC's August 2023 natural disaster claims handling review.[19] However, section 912C has a number of limitations, including:

- It does not provide for regular data provision. Most must be undertaken on an ad hoc basis.
- While the licensee must comply, it is not on a regular basis, but rather at the time specified 'if that is a reasonable time'.[20] This adds a degree of uncertainty around when ASIC will be provided each batch of data, as ASIC may have to engage in negotiations over timing with each licensee. Any such clause raises the possibility that data provision will be delayed based on each organisation's capacity to

14 *Insurance Contracts Act 1984*, Part IA, s. 11D.
15 ASIC, 'Information Sheet 145 - ASIC's compulsory information-gathering powers', asic.gov.au/about-asic/asic-investigations-and-enforcement/asic-s-compulsory-information-gathering-powers/, viewed 8 September 2024.
16 *Corporations Act 2001* s. 912C(1)
17 *Corporations Act 2001* s. 912C(1)(a)
18 *Corporations Act 2001* s. 912C(1)(b)
19 ASIC, *Navigating the storm: ASIC's review of home insurance claims*, Report 768, August 2023.
20 *Corporations Act 2001* s. 912C(3)(a)

extract and analyse each data request, based on its own system design and staffing capacity.

7.21 ASIC Commissioner Alan Kirkland explained to the Committee:

> …we don't have, at ASIC, a standing power to require provision of data. We can issue individual notices, insurer by insurer. That is a more cumbersome process.' … Other comparable regulators in other jurisdictions tend to have those powers, and it would certainly be of great assistance to us. But, in the immediate term, where possible, we work with APRA to gather that data.[21]

Australian Prudential Regulation Authority

7.22 As Australia's prudential regulator, APRA's primary remit is to manage risk in the financial system to ensure its overall stability and resilience. Its oversight of the general insurance industry therefore focuses on capital, governance and risk management. APRA oversight is also intended to protect the interests of insurance policyholders,[22] and in performing its role, APRA is required 'to balance the objectives of financial safety and efficiency, competition, contestability and competitive neutrality'.[23]

7.23 General insurers are required to provide data to APRA under the *Financial Sector (Collection of Data) Act 2001* and the related reporting standard.[24] APRA thereby has considerable power to obtain financial and macroprudential data for insurance businesses in areas such as financial performance, investments, claims, solvency and capital adequacy, as well as key commercial performance metrics such as expense ratios to give visibility into industry trends.[25]

7.24 APRA is empowered to use the data it collects to 'assist other financial sector agencies, such as ASIC, to perform their functions or exercise their powers', and it has formal data-sharing arrangements with ASIC.[26]

7.25 APRA also publishes much of the data it collects. For example, it publishes quarterly general insurance performance statistics containing aggregate summaries of financial performance, investments and capital adequacy.

7.26 Although ASIC relies on APRA for industry-level data on insurers, APRA's data collection and reporting regime has limitations. For example, when asked if APRA collects data on the consumer experience, such as insurers' comparative claims

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21 Mr Alan Kirkland, Commissioner, ASIC *Committee Hansard*, 2 February 2024, pp. 2–3.

22 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 18.

23 ASIC, 'The ASIC – APRA relationship', asic.gov.au/about-asic/what-we-do/our-role/other-regulators-and-organisations/the-asic-apra-relationship/, viewed 6 September 2024.

24 APRA, 'Reporting requirements for general insurance', www.apra.gov.au/reporting-requirements-for-general-insurance, viewed 5 September 2024.

25 APRA, *Supplementary Submission 56.1*, p. 1.

26 ASIC, 'The ASIC – APRA relationship', asic.gov.au/about-asic/what-we-do/our-role/other-regulators-and-organisations/the-asic-apra-relationship/, viewed 6 September 2024.

handling performance, APRA Executive Board Member Suzanne Smith told the Committee its data is not granular enough to provide transparency on this:

> We don't currently collect at that granular level. We're collecting more at the aggregate level…about our ability to look at performance and profitability of different lines of business.[27]

7.27 The FSCODA arrangements have a number of limitations. One is that certain information can only be publicly released with the explicit consent of the insurers. One consequence for this inquiry is that it was not possibly to obtain home and contents market share data by insurer for publication due to the timelines involved in obtaining consent. This type of information is routinely published for other parts of the financial services sector (for example, banks and superannuation funds). It is an important element of understanding market structure, such as competitive dynamics, market power and firm entry/exit. Current arrangements are highly restrictive.

7.28 Possible improvements to data-gathering and reporting powers for both ASIC and APRA are discussed in this chapter under 'Enhancing data collection and oversight'.

Australian Competition and Consumer Commission

7.29 The ACCC plays a 'limited direct role' in general insurance regulation, but has general competition law oversight across the economy. The ACCC has the power to run investigations of many types, but inquiries must generally be instigated by the Government.

7.30 Under the *Competition and Consumer Act 2010*, the ACCC's standing compulsory information-gathering powers are constrained by Part XII section 155 to investigations of suspected contraventions of the law. More proactive inquiries and information gathering require authorisation by the Government, usually through a formal direction from the Treasurer to the ACCC under Part VIIA 'Prices surveillance' to undertake a specific inquiry or to monitor prices, costs and profits across an industry.[28]

7.31 The ACCC has conducted inquiries into insurance issues on direction from the Australian Government.[29] For example, the ACCC was tasked to inquire into insurance affordability and availability in northern Australia (reporting in 2020) and has since been directed to monitor the impacts of the Government's cyclone

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27 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 23.

28 For example: Hon Dr Jim Chalmers MP, Treasurer, 'Competition and Consumer (Price Inquiry—Supermarkets) Direction 2024', 1 February 2024; Hon Dr Jim Chalmers MP, Treasurer, 'Competition and Consumer (Price Monitoring—Petroleum Fuels) Direction 2022', 14 December 2022; Hon Josh Frydenburg MP, Treasurer, 'Competition and Consumer (Price Inquiry—Digital Platforms) Direction 2020', 10 February 2020.

29 Ms Sarah Proudfoot, Acting Chief Executive Officer and Executive General Manager, Infrastructure Division, ACCC, *Committee Hansard*, 22 March 2024, p. 11.

reinsurance pool on premiums and insurance availability.[30] However, it does not monitor or regulate insurance prices generally.[31]

Non-government entities with oversight roles

7.32 The most important non-government entities with roles in insurance industry oversight are the Australian Financial Complaints Authority (AFCA) and General Insurance Code Governance Committee.

Australian Financial Complaints Authority

7.33 As discussed in Chapter 6, AFCA is the main external dispute resolution avenue for serious customer complaints against insurers. AFCA is a 'not-for-profit, non-government, industry-funded ombudsman service.'[32] However, ASIC has oversight over AFCA[33], and AFCA is required to notify ASIC and other regulators of serious contraventions of the law, and to identify, resolve and report on 'systemic issues'.[34] Further detail is covered in Chapter 6.

General Insurance Code Governance Committee and Code reviews

7.34 The General Insurance Code Governance Committee (CGC) is an arms-length, independent body created by the Insurance Council of Australia (ICA) to monitor and enforce insurers' compliance with the Code. The Code is a self-regulatory mechanism created and administered by the ICA, but with oversight by the independent CGC. The CGC is currently chaired by Veronique Ingram, PSM, former Chief Executive and Inspector-General in Bankruptcy at the Australian Financial Security Authority.[35]

7.35 In evidence to the inquiry, Treasury discussed the role of industry codes and in particular their interaction with legislation and other enforceable regulatory mechanisms. Industry codes provide:

> …an opportunity for the industry to decide that collectively they're going to go above and beyond the law. The law sets the standard that they all have to meet, and then they can create a code that enables them to say, 'Okay, we're going to go further or beyond that'. It also enables an industry to set service standards or other types of standards that might not necessarily lend themselves to legislation

30 See: ACCC 'Insurance monitoring', www.accc.gov.au/by-industry/insurance/insurance-monitoring, viewed 5 September 2024; and ACCC, 'Northern Australia insurance inquiry 2017-20', www.accc.gov.au/inquiries-and-consultations/finalised-inquiries/northern-australia-insurance-inquiry-2017-20, viewed 5 September 2024.

31 Department of the Treasury, *Submission 69*, p. 4.

32 AFCA, 'Funding', www.afca.org.au/about-afca/corporate-information/funding, viewed 8 September 2024.

33 ASIC, *RG 267 - Oversight of the Australian Financial Complaints Authority*, 2 September 2021.

34 AFCA, *Submission 1*, p. 7.

35 General Insurance Code Governance Committee, 'The Committee', insurancecode.org.au/about/about-the-code-governance-committee/, viewed 6 September 2024.

but are nonetheless important to the way that insurers engage with customers or any financial services firm engages with their customers.[36]

7.36 One of the tensions is the level of detail that is appropriate for legislation. At present, numerous specific timelines for claims handling are contained in the Code.[37] Treasury indicated that including some or all of these in a strictly enforceable manner in legislation could be complicated, 'because then you'd need a whole series of carve-outs as to when it's not appropriate'.[38] As noted above, another way in which claims handling provisions of the Code could be supplemented with more enforceable regulatory intervention would be via ASIC using its greater step-in rights since the removal of the exemption of claims handing under the *Corporations Act 2001*.

7.37 The ICA introduced the Code in 1994 as a voluntary code setting out 'the minimum standards of service and conduct that general insurers must meet in their dealings with customers',[39] such as being open, fair and honest. The Code applies to all insurers who have adopted it (termed 'subscribers'). An organisation may adopt the Code if they are a member of the ICA, a 'general insurer'[40] or approved by the ICA.[41]

7.38 The ICA says the Code is intended to be a positive influence across all aspects of the general insurance industry, encouraging higher standards for product disclosure, claims handling and investigations, relationships with people experiencing vulnerability, and meeting reporting obligations to the CGC and regulators. It also sets out the timeframes within which insurers should respond to claims, complaints and requests for information from policyholders.[42]

7.39 The CGC's responsibilities in relation to Code enforcement, sanctions and compliance are set out in Part 13 of the Code.[43] The CGC's work involves:

- examining insurers' practices;
- identifying current and emerging industry-wide problems;
- monitoring the effectiveness of customer remediation;
- recommending improvements to practices;
- applying sanctions to insurers when necessary; and

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36 Mr Danial Gaudry, Director, Insurance Unit, Department of the Treasury, *Committee Hansard*, 15 March 2024, p. 23.

37 For example, clauses 64, 68, 70–74, 76–78, 82, 121–122, 146–147, 150–151, 161, 198, 202 and 204 of the Code. See ICA, *General Insurance Code of Practice*, 5 October 2021, pp. 27–29, 35, 38, 41, 48–49.

38 Mr Danial Gaudry, Director, Insurance Unit, Department of the Treasury, *Committee Hansard*, 15 March 2024, p. 23.

39 ICA, 'Independent Review of the 2020 General Insurance Code of Practice', *Media Release*, 14 November 2023.

40 A body corporate authorised under section 12 of the *Insurance Act 1973* to carry on insurance business in Australia—APRA, *Glossary*, www.apra.gov.au/sites/default/files/Glossary-IGIS.pdf, viewed 6 September.

41 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 11.

42 Insurance Council of Australia, *What is the General Insurance Code of Practice?*, insurancecouncil.com.au/cop/, viewed 28 August 2024.

43 ICA, *General Insurance Code of Practice*, 5 October 2021, pp. 43-44.

- consulting with stakeholders and the public on issues and keeping them informed.[44]

7.40 The Code is subject to a regular three-year review cycle, with reviews to be conducted by an independent panel outside and independent of the ICA and CGC. In November 2023, the ICA announced that the 2020 version of the Code would be reviewed by 'an eminent three-person panel with backgrounds in consumer advocacy, financial regulation and the insurance industry', chaired by former APRA Deputy Chair Helen Rowell.[45]

7.41 The review's overarching principles were to: maintain and enhance consumer protections; modernise the Code; enhance customer experience, accessibility, effectiveness and efficiency; and provide customer value. The review panel consulted key stakeholders including the general insurance industry, ASIC, APRA, the CGC, AFCA and consumer representatives.[46]

7.42 The review's initial report was published in September 2024.[47] Its recommendations for strengthening the Code are noted in the context of evidence presented to this inquiry, discussed below.

Improving enforcement

Stakeholder concerns

7.43 The Committee heard criticism that ASIC or AFCA enforcement actions under existing powers are far too weak.[48] Overwhelmingly, community members and consumer advocates who gave evidence wished to see stronger enforcement action against insurers. In the words of two frustrated consumers:

> Insurance companies are not going to choose community-minded actions over profit-making actions. They are a business. The only way any change is going to be able to protect consumers is for the government to enforce that change. Otherwise, consumers will continue to have their lives destroyed.[49]

44 General Insurance Code Governance Committee, *Submission 5*, p. 1.
45 ICA, 'Independent Review of the 2020 General Insurance Code of Practice', *Media Release*, 14 November 2023. The other panellists were consumer expert Gerard Brody and insurance industry expert Paul Muir.
46 Independent Code of Practice Review, 'Independent Review of the 2020 General Insurance Code of Practice', www.codeofpracticereview.com.au, viewed 4 September 2024.
47 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024.
48 For example: Mr Roscoe Howell, *Submission 55.4* and *Submission 55.5*; Sharon and Karl Roes, *Submission 77*; Name Withheld, *Submission 96*. See also: Mr Ken Olsson, Private capacity, *Committee Hansard*, Caboolture, 9 April 2024, p. 18.
49 Sharon and Karl Roes, *Submission 77*, p. 53.

Enforcement of the General Insurance Code of Practice

Existing enforcement channels

7.44 A common theme in evidence was limits to the enforceability of the Code. ASIC does not have a role enforcing or monitoring Code compliance, though AFCA considers the Code as part of its decision-making during external dispute resolution processes, as discussed in Chapter 6.

7.45 AFCA told the Committee that 'It is hard wired into our decision-making rules that in complaints we must have regard to industry codes'.[50] However, AFCA's remit is limited to resolving individual customer complaints (for example through compensation), not regulatory enforcement. AFCA Chief Executive Officer Justin Untersteiner explained the distinction:

> If an insurer, for instance, is a signatory to the general insurance code, we can hold them to account in our complaints [decisions] for that code. … What it's not is a regulatory action, remembering that the role we play is very much about a one-to-one…complaint with the consumer. The role ASIC is playing is about enforcement. So they're two very different roles… Where you've got enforceability of a code provision that sits within the code so ASIC can manage it, that's a different consequence to the enforceability that AFCA has, which is about compensation.[51]

7.46 The issue of ASIC-enforceable code provisions is discussed further below.

7.47 The Code also has some level of enforceability through the CGC. If a Code subscriber identifies a significant breach of the Code, it must report the breach to the CGC within 10 business days. The CGC can require insurers to take corrective action related to breaches, but can also impose sanctions for 'significant' breaches, defined by reference to 'the number and frequency of similar previous breaches', the breach's actual or potential financial impact on customers, and other matters.[52] Under Clause 174 of the Code, subscribers agree that:

> The Code Governance Committee may impose additional sanctions for Significant Breaches of the Code, including requiring us to do any one or more of the following:
>
> a. compensate an individual for any direct financial loss, or damage, we caused them arising from a Significant Breach;
>
> b. publish the fact that we have committed a Significant Breach of the Code;

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50 Ms Sarah Edmondson, Executive General Manager, Regulatory, Policy and Research, AFCA *Committee Hansard*, 21 February 2024, p. 33.

51 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 33.

52 General Insurance Code Governance Committee, *Operational Guidance: Imposing sanctions under the 2020 General Insurance Code of Practice*, December 2021, https://insurancecode.org.au/resources/operational-guidance-imposing-sanctions-under-the-2020-general-insurance-code-of-practice/, p. 4.

> c. pay a community benefit payment for a Significant Breach up to a maximum of $100,000. The size of the community benefit payment must be in proportion to our gross written premium and number of customers.[53]

7.48 For example, in June 2024 the CGC announced it had issued sanctions against Allianz following an investigation into claims related to the February 2022 NSW and southeast Queensland floods. The CGC found Allianz's decisions to deny five claims were undermined by inconsistencies in the decision-making processes—specifically, failure to identify serious inconsistencies in hydrology reports, with adjacent properties insured under the same policy receiving opposite flood versus stormwater causation determinations. While the claims were eventually accepted, the CGC required Allianz to pay a $50,000 donation to a registered charity and publish details of the breach online.[54]

Current limitations to compliance and enforcement

7.49 Throughout the inquiry, stakeholders raised concerns regarding Code clauses and the way insurers are approaching compliance (see Chapters 4 and 5). The Financial Rights Legal Centre said the general insurance sector is 'falling short of community expectations and failing insurance customers', particularly those experiencing vulnerability, and that the Code should be made more prescriptive.[55] It also called for ASIC to play a significant role driving improved practices, including Code compliance.[56] The Australian Consumers Insurance Lobby suggested insurers' compliance or noncompliance with the Code depended on the culture of the organisation, and that 'there is a need for insurers to do better'.[57]

7.50 Many inquiry participants criticised the adequacy of existing enforcement channels. The Financial Rights Legal Centre reflected views heard from many other stakeholders in commenting that:

> …breaches of the code go relatively unenforced. … I think codes are a valuable tool because AFCA can enforce them as good industry practice, which makes them very powerful, and they do set standards for the whole industry. But…codes have a chronic problem across financial services, where they are not very well followed and rarely result in consequences, and that is a reality of codes. The breaches are great, and the enforcement is minimal.[58]

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53 ICA, *General Insurance Code of Practice*, 5 October 2021 p. 44.

54 General Insurance Code Governance Committee, 'Allianz Australia Insurance Limited sanctioned for non-compliance', *Media Release*, 7 June 2024.

55 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [8].

56 Financial Legal Rights Centre, *Supplementary Submission 27.2*, p. 2.

57 Mr Tyrone Shandiman, Chairperson, Australian Consumers Insurance Lobby, *Committee Hansard*, 1 February 2024, p. 29.

58 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 6. Similar views were shared by ARC Justice—see *Committee Hansard*, 1 February 2024, pp. 43–44.

7.51 The Committee makes several recommendations elsewhere in this report to strengthen the Code, including:

- that the Code allow policyholders to request reviews of cash settlement amounts within 12 months where there is a change in the facts upon which the original determination was made (Chapter 4)
- that the Code increase regulatory oversight of scopes of work, as well as requiring insurers to provide hydrology and expert reports to policyholders where insurers have relied upon them to deny a claim (Chapter 4)
- that the Code require insurers to contact customers within 10 business days of the insurer becoming aware of a material change in the expected timeline of the claims process (Chapter 5)
- that the Code's clauses on the appointment of experts be strengthened to reduce issues with poor-quality expert reports (Chapter 4)
- that the Code require insurers to provide temporary accommodation until a claim is closed (Chapter 4)
- that the Code require insurers use a 'single point of contact' claims management approach to the extent possible when responding to flood major events (Chapter 5)
- that the Code require insurers to ensure that sum insured calculators are up to date (Chapter 5).

7.52 The Committee has also made recommendations focused on improving the claims and dispute resolution experience, including through AFCA, as well as government funding arrangements (see Chapters 6 and 8).

7.53 One pathway to improve the Code's enforceability is for the ICA to register the Code with ASIC, as discussed below.

Registering the Code with ASIC

7.54 The ICA has signalled that after completing the independent Code Review process and subsequent reforms, including considering the recommendations of this inquiry, it intends to seek to register the Code with ASIC.

7.55 ASIC has powers under section 1101A of the *Corporations Act 2001*—and detailed in ASIC's Regulatory Guide 183 *Approval of financial services sector codes of conduct* (RG 183)—to 'approve' voluntary industry codes in the financial services sector, on application by the code's owner.[59] The approval of codes is optional, and historically has rarely been sought and granted.[60] However, where approval is sought and

[59] ASIC, *RG Guide 183 – Approval of financial services sector codes of conduct,* March 2013, p. 4.

[60] Department of the Treasury, *Enforceability of financial services industry codes – Consultation Paper*, 2019, p. 11.

obtained, ASIC considers this 'a signal to consumers that this is a code they can have confidence in'.[61]

7.56 ASIC explained to the Committee that for a code to be approved, it must 'do a lot more than simply restate the law'.[62] RG 183 says registered codes must provide an enhanced level of consumer protection above and beyond legislation by meeting at least one of the following criteria:

> (a) address specific industry issues and consumer problems not covered by legislation;
>
> (b) elaborate on legislation to deliver additional benefits to consumers;
>
> (c) and/or clarify what needs to be done from the perspective of a particular industry, practice or product to comply with legislation.[63]

7.57 The first broad-based industry code to be approved by ASIC was the Australian Banking Association's (ABA's) Banking Code of Practice (the 'Banking Code'), approved in 2018.[64] The ABA made significant changes to the Banking Code to meet ASIC's approval criteria, and has continued to update it to address critical gaps flagged by stakeholders.

7.58 In the case of the general insurance industry, the decision to seek ASIC approval for the Code sits with the ICA. ASIC cannot compel registration of a code.

7.59 ASIC's approval of the revised Code is not guaranteed. It will be up to the ICA to demonstrate that the Code meets the criteria of RG 183, including the following:

- 'Effective and independent code administration'
- 'Enforceable against subscribers'
- 'Compliance that is monitored and enforced'
- 'Appropriate remedies and sanctions'[65]

7.60 The ICA's submission to the Code Review Panel said the process of reforming the Code to secure ASIC approval would uplift the Code's enforceability, because ASIC would have to be satisfied by both the Code's contents and the CGC's role as the independent compliance and enforcement body.[66]

7.61 Enforceability of a code is one of the threshold criteria for ASIC approval. ASIC must be satisfied code breaches can be dealt with in an effective and independent manner, and this evaluation must consider (among other things):

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61 ASIC, *RG 183 – Approval of financial services sector codes of conduct,* March 2013, p. 4.
62 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard*, 2 February 2024, p. 4.
63 ASIC, *RG 183 – Approval of financial services sector codes of conduct,* March 2013, p. 5.
64 ASIC, 'ASIC approves the Banking Code of Practice', *Media Release*, 31 July 2018.
65 ASIC, *RG 183 – Approval of financial services sector codes of conduct,* March 2013, p. 6.
66 Insurance Council of Australia, *Independent Review Initial Consultation Paper*, https://insurancecouncil.com.au/resource/independent-review-initial-consultation-paper/, 7 June 2024, p. 36.

- whether the obligations of subscribers to the code are capable of being enforced;
- whether the applicant has effective administration systems for monitoring compliance with the code and making information obtained as a result of monitoring publicly available[67]

7.62 As set out in RG 183, ASIC defines enforceability as follows:

- subscribers of the code must agree to be contractually bound by it, including any amendments made over time;
- there is an independent body or person that is responsible for administering and enforcing the code, including appropriate sanctions;
- the code provisions provide that consumers have access to appropriate internal and external dispute resolution schemes for code breaches resulting in direct financial loss; and
- there is a broad standing to complain about any other code breach to the independent body.[68]

7.63 There is wide stakeholder support for the ICA's proposal to register the Code with ASIC. The CGC told the Committee this process was 'vital' to 'bolster confidence' in both the Code and in the CGC's independent oversight arrangements, and to enhance consumer protections and industry accountability.[69] The ACCC's final report for the Northern Australia insurance inquiry in 2020 had previously recommended that the ICA seek approval for the Code.[70] This was also one of the recommendations of the Code Review Panel in its September 2024 initial report (though the panel recommended the ICA *not* seek designation of ASIC-enforceable code provisions, as discussed below).[71] AFCA said Code approval 'gives a real signal' that the industry is 'standing behind and committing to' that code.[72] Its submission to the Code Review Panel also said ASIC approval would show consumers the Code could be trusted.[73]

7.64 The process of gaining ASIC approval for a code is demanding, and involves extensive consultation. Seeking approval is thus broadly considered evidence of an industry's commitment to strengthening their code, and ASIC reflected that granting

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67 Explanatory Memorandum, Financial Sector Reform (Hayne Royal Commission Response) Bill 2020 and Corporations (Fees) Amendment (Hayne Royal Commission Response) Bill 2020, November 2020, p. 20.

68 ASIC, *RG 183 – Approval of financial services sector codes of conduct,* March 2013, p. 9.

69 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee, (on behalf of General Insurance Code Governance Committee), AFCA, *Committee Hansard*, 23 February 2024, p. 2.

70 ACCC, *Northern Australia Insurance Inquiry, Final* Report, November 2020, p. xxvii.

71 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, pp. 61-62.

72 Ms Sarah Edmondson, Executive General Manager, Regulatory, Policy and Research, AFCA*, Committee Hansard*, 21 February 2024, pp. 33-34.

73 AFCA, *Submission to the Independent Review of the 2020 General Insurance Code of Practice (GI Code)*, June 2024, p. 2.

approval ‘gives a greater gravitas to the code itself’.[74] The CGC told the Committee having the Code approved would give an ‘added layer of rigour and confidence’ due to the stringent approval process:

> ASIC will look at the stakeholder consultation process that informed the obligations within the code, how the ICA considered that stakeholder feedback and how it has been incorporated into the promise within the code. But ASIC's approval does not just look at the code itself; ASIC's approval will also consider the enforceability of the code, so the powers which the code governance committee has, and the independence of the monitoring and oversight. That gives greater clarity and confidence to the broader community that we have an effective code and an effective compliance monitor operating at arm's length from industry.[75]

7.65 An additional advantage of registering a code with ASIC is that future amendments must also obtain ASIC approval, unless they are minor and purely technical.[76] Registering the Code with ASIC would thus help ensure any future changes strengthen consumer protections rather than watering them down.

7.66 ASIC’s regulatory guidance also states that it monitors approved codes from ‘time to time’, including by reviewing:

- periodic reporting to ASIC by the compliance committee;
- information from consumer liaison work, consumer bodies and industry consultation;
- external dispute resolution schemes;
- compliance monitoring, surveillance work and other intelligence sources;
- evidence on the results of the required regular independent code reviews.[77]

7.67 Additionally, an approved code can also be revoked if ASIC believes it no longer meets the criteria in RG 183.[78]

7.68 The Committee acknowledges the recommendation of the Independent Review of the 2020 General Insurance Code of Practice (the Code Review) to reform the Code and register it with ASIC, and that the ICA intends to pursue this process. ASIC also told the inquiry that it expects to engage closely with the Code Review Panel if the ICA follows through on its intention to apply for Code approval.[79]

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74 Mr Nathan Bourne, Senior Executive Leader, Credit, Banking and General Insurance, ASIC, *Committee Hansard*, 2 February 2024, p. 4.

75 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), AFCA, *Committee Hansard*, 23 February 2024, p. 3.

76 ASIC, *RG 183 – Approval of financial services sector codes of conduct,* March 2013, pp. 27-28.

77 ASIC, *RG 183 – Approval of financial services sector codes of conduct,* March 2013, p. 28.

78 ASIC, *RG 183 – Approval of financial services sector codes of conduct,* March 2013, p. 29.

79 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard*, 2 February 2024, p. 4.

7.69 The Code will need to be strengthened to meet ASIC's thresholds. The CGC shared its views on some of the important elements of a strengthened code, for example:

> The code must uphold the obligations for timeliness and communication; insurers must be able to meet these obligations to handle claims and provide communications to customers within time frames, especially during periods of heightened need and vulnerability for customers; and the code should remove the broad discretion for insurers to not report breaches of claims handling time frames in certain circumstances. Currently, an insurer does not have to report a breach if the insurer determines that its conduct and timeliness were reasonable in the circumstances, or an expert's report is delayed and the insurer determines that it did all that it could to obtain the report in time.[80]

7.70 The initial report of the Code Review in September 2024 makes 101 recommendations to improve the Code across key areas such as financial hardship, customer vulnerability, temporary accommodation, claims handling, cash settlements, governance and compliance, as well as enforceability.[81] The panel's recommendations include:

- defining financial hardship and vulnerability more broadly;
- requiring insurers to respect consumer communication preferences and adopt trauma-informed policies and training;
- improving consumer accessibility and understanding of expert reports; and
- making insurers commit to providing a single contact point.[82]

7.71 The panel also recommended that insurers report to the CGC the number of claims that take longer than 12 months to resolve, and that the CGC should publish these numbers transparently by individual insurer.[83] The panel further recommended that the CGC publish insurer names in regular compliance and data reports.[84]

7.72 Where an insurer has not made a decision on a claim within 12 months, the panel recommends that the Code require insurers to accept the claim—provided the delay is not due to the consumer, or other reasons beyond the insurer's control.[85]

7.73 At the time of writing, the ICA was yet to respond to these recommendations.

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80 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), AFCA, *Committee Hansard*, 23 February 2024, p. 1.

81 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, pp. 63-68.

82 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, pp. 63-68.

83 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, pp. 63-68.

84 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, pp. 63-68.

85 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, pp. 63-68.

ASIC enforcement pathways

7.74 As noted above, since the passage of the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020*, ASIC has considerably expanded powers under the *Corporations Act 2001* in relation to regulating claims handling by insurers. These powers could potentially be used in relation to matters where compliance with the Code is seen as problematic, such as failure to deal with claims in a 'timely' way as outlined in the Code.[86] Given that legislative implementation of these expanded powers was relatively recent, these powers have not yet been tested.

7.75 Additional enforcement pathways include the designation of specific provisions of the Code as enforceable by ASIC, or including the Code in insurers' contracts with policyholders.

Code registration and enforceability

7.76 Code registration with ASIC opens additional enforcement pathways, as discussed in depth in the Code Review's initial report.

7.77 The *Corporations Act 2001* and *National Consumer Credit Protection Act 2009* were amended in 2020 in response to the Hayne Royal Commission to give ASIC power to designate ASIC-enforceable code provisions in approved codes of conduct, and to impose civil penalties.[87] As mentioned earlier in the chapter, under section 1101A of the *Corporations Act 2001*, ASIC can now designate enforceable provisions as part of the code approval process if ASIC considers that:

> (a) the provision represents a commitment to a person by a subscriber to the code relating to transactions or dealings performed for, on behalf of or in relation to the person; and
>
> (b) a breach of the provision is likely to result in significant and direct detriment to the person; and
>
> (c) additional criteria prescribed by the regulations for the purposes of this paragraph (if any) are satisfied; and
>
> (d) it is appropriate to identify the provision of the code as an enforceable code provision, having regard to the matters prescribed by the regulations for the purposes of this paragraph (if any).

7.78 Pursuant to the legislation, a code provision can be identified as enforceable if:

- it represents a direct and specific commitment to customers (not a broad aspirational commitment to the public at large); and

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86 See ASIC, *INFO 253 – Claims handling and settling: How to comply with your AFS licence obligations*, May 2021, p. 14.

87 Explanatory Memorandum, Financial Sector Reform (Hayne Royal Commission Response) Bill 2020 and Corporations (Fees) Amendment (Hayne Royal Commission Response) Bill 2020, November 2020, p. 5.

- where breached, it causes significant and direct detriment to consumers—more than an inconvenience—and could include economic and non-economic loss that is direct and substantial.[88]

7.79 Enforceable provisions should therefore generally be key provisions governing the terms of a contract between the entity and the consumer, such as cooling-off periods, information provision commitments, and fees and charges.[89]

7.80 ASIC said that designating Code provisions as enforceable would expand enforcement options beyond those currently available:

> Not only does that allow AFCA to make a determination in relation to that particular provision but also ASIC could take a case in relation to that provision. ASIC could do so anyway if it's deemed to be a breach of the current law. But enforceable code provisions provide us with a greater set of tools to hold insurers accountable.[90]

7.81 ASIC explained that breaches of designated enforceable provisions could attract civil penalties or other administrative enforcement actions from ASIC, such as infringement notices. The maximum available civil penalty is 300 penalty units under the Hayne Royal Commission reforms.[91]

7.82 Section 1101AD of the *Corporations Act 2001* says ASIC may issue regulations to prescribe the criteria for designating a code provision as enforceable. However, ASIC's RG 183 'Approval of financial services sector codes of conduct' has not been updated since it was issued in 2013 (well before the Hayne Royal Commission), nor has a new guide been issued outlining ASIC's approach to its new enforceable code provisions powers.

7.83 The Hayne Royal Commission recommended that enforceable provisions be identified by industry code owners, as explained in a 2019 Treasury consultation paper; however, once approved by ASIC, designated provisions would become enforceable by statute.[92] The legislation requires that each enforceable code provision be agreed with the applicant.[93] As ASIC explained:

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88 *Corporations Act 2001,* s. 1101A(2) and 1101A(3)(b).

89 Department of the Treasury, *Submission 69*, p. 11.

90 Mr Nathan Bourne, Senior Executive Leader, Credit, Banking and General Insurance, ASIC, *Committee Hansard*, 2 February 2024, pp. 4-5.

91 *Corporations Act 2001*, s. 1101AC. See also: ASIC, *Supplementary Submission 35.1*, p. 2; Explanatory Memorandum, Financial Sector Reform (Hayne Royal Commission Response) Bill 2020 and Corporations (Fees) Amendment (Hayne Royal Commission Response) Bill 2020, November 2020, p. 26.

92 Department of the Treasury, *Enforceability of financial services industry codes: Taking action on recommendation 1.15 of the Banking, Superannuation and Financial Services Royal Commission*, Consultation Paper, March 2019, p. 7.

93 *Corporations Act 2001*, s. 1101A, paragraph (3). See also the Explanatory Memorandum, Financial Sector Reform (Hayne Royal Commission Response) Bill 2020 and Corporations (Fees) Amendment (Hayne Royal Commission Response) Bill 2020, November 2020, p. 19.

> …we have to receive an application for code approval, and it's also up to the code owner to indicate to ASIC what provisions would be useful as enforceable code provisions.[94]

7.84 A senior Treasury official elaborated:

> It's with the consent of the code owner to put forward provisions that can be enforced by ASIC. The legislation did not say that it was the role of government or a regulator to identify or to initiate which of those provisions were enforceable.[95]

7.85 Both the CGC and AFCA urged caution with respect to any enforceable provisions regime. The CGC told the Committee:

> We need to proceed with caution… With increased enforceability from ASIC, we don't want to see a further pull-back from industry on its code commitments, pulling promises back to the base level required by law. That is the risk of the unintended consequence.[96]

7.86 AFCA similarly warned:

> …one of the risks that we've observed is where you have an enforceable code provision it can create a reluctance from the industry to want to include protections within the code that become enforceable… [that is,] that industry makes a deliberate decision…to reduce the standard within the code, because they are concerned about the enforceability of that.[97]

7.87 The Financial Rights Legal Centre expressed similar concerns that codes of conduct developed by industry, but enforceable by external regulators, have 'in-built incentives' for industry to be cautious about which provisions they are willing to have designated as enforceable.[98]

7.88 The Code Review also found that industry participants may be 'discouraged from adopting robust consumer protections' in the Code if provisions are enforced. It also noted that ASIC's maximum civil penalty fine for enforceable code provision breaches would be $93,000—less than the current $100,000 the CGC can impose as a sanction.[99]

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94 Mr Nathan Bourne, Senior Executive Leader, Credit, Banking and General Insurance, ASIC, *Committee Hansard*, 2 February 2024, pp. 4-5.

95 Mr Robb Preston, Assistant Secretary, Banking, Insurance and Credit Branch, Department of the Treasury, *Committee Hansard*, 15 March 2024, p. 23.

96 Mrs Prue Monument, General Manager, Code Compliance and Monitoring, and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), AFCA, *Committee Hansard*, 23 February 2024, p. 3.

97 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 33.

98 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [131].

99 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, p. 62.

7.89 The ICA's submission to the Code Review also warned that enforceable provisions could contribute to confusion by creating a 'two-tiered' Code, which would potentially be more challenging for consumers to read and understand.[100]

7.90 The Financial Rights Legal Centre acknowledged the ICA's concerns—but said the consumer preference would be to enforce as much of the Code as possible:

> The consumer position…has consistently been that as much of any code of practice that can be made enforceable, should be made enforceable. We understand that this may not be the position of the ICA, but picking and choosing a subset of provisions from those that are able to be made enforceable is difficult if not impossible or even appropriate for consumer representatives to do. The enforceable code regime should not require us to pick winners and losers.[101]

7.91 The ICA also expressed concerns that post-Hayne regulatory arrangements for the enforcement of industry codes are still insufficiently developed. It noted that ASIC's RG 183 (issued in 2013) has not been updated since the Hayne Royal Commission to set out in detail how ASIC will give effect to its new powers, and that it is unclear how ASIC enforcement would interact with the role and responsibilities of the CGC.[102]

7.92 The Code Review did not recommend designating any Code provisions as enforceable. In its reasoning, the panel highlighted that enforceable provisions must be agreed by the applicant, and that no other industry code—including the Banking Code registered with ASIC in 2018—as yet includes enforceable provisions.[103]

7.93 The Committee notes that recommendations by the 2021 independent review of the Banking Code to designate certain provisions as enforceable were rejected by the ABA at the time in favour of an undertaking to 'work with ASIC to agree the best approach for identifying any enforceable Code provisions moving forward'.[104]

7.94 Participants in this inquiry discussed alternative ASIC enforcement mechanisms. Some submitters said enforcement options available to ASIC under other legislative powers and its existing regulatory guides were insufficiently exercised, and suggested improvements to such mechanisms.[105] This is beyond the scope of this inquiry, but the issues have received detailed attention in the recent Senate inquiry into ASIC investigation and enforcement.[106] The Code Review also considered alternative pathways to enforcing the Code—particularly contractual mechanisms, which are discussed below.

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100 ICA, *Independent Review Initial Consultation Paper*, 7 June 2024, p. 36.
101 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [131].
102 ICA, *Independent Review Initial Consultation Paper*, 7 June 2024, p. 36.
103 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, p. 62.
104 Australian Banking Association, *ABA response to recommendations of the 2021 Independent Review of the Banking Code of Practice Final Report*, February 2023, p. 2.
105 For example: Financial Rights Legal Centre, *Submission 27.3*, pp. [59–60], 103; Name Withheld, *Submission 96*; Mr Roscoe Howell, *Submission 55.5*.
106 See the Senate Standing Committee on Economics, *Inquiry into Australian Securities and Investments Commission investigation and enforcement*, Report, July 2024.

Potential contractual enforceability

7.95 An additional option to improve enforceability of the Code is for insurers to make their Code compliance obligations explicit in contracts with policyholders. This process is separate from a code being approved or enforced by ASIC.

7.96 For example, banks who have signed up to the Banking Code are required to include a statement in their contracts affirming that the Banking Code applies. As contracts are legally enforceable documents, this exposes Banking Code provisions to legal enforcement under Australian contract law.[107] The Customer Owned Banking Association (COBA) also requires its code to be incorporated into members' contracts.[108]

7.97 AFCA observed that the General Insurance Code of Practice is not currently contractually enforceable by consumers against subscribing insurers in the same way as the Banking Code. AFCA told the inquiry that making a similar reform for general insurance would expand options for consumers to pursue legal remedies through the courts, not just external dispute resolution through AFCA.[109] The Code Review echoed these comments.[110]

7.98 The Code Review also highlighted that including the Code in contracts would be an 'effective method' to persuade ASIC that Code obligations can be enforced. The Financial Rights Legal Centre also called for insurers to commit to making the Code a term of their contracts with consumers,[111] and said that if insurers decide against this, ASIC should not approve the Code.[112]

7.99 Strengthening the data and depth of information reported to the CGC and regulators—and made available for public scrutiny—is another potentially powerful option to improve oversight of insurers' conduct, as discussed below.

Enhancing data collection and oversight

Current data reporting and its limitations

7.100 Current insurance oversight arrangements require extensive data to be collected, reported and published by different players. The arrangements are varied and complex. Insurers report different data to APRA, ASIC, AFCA, the CGC and the ICA under different arrangements. The ICA provides data to AFCA. APRA and AFCA share data with ASIC. ASIC shares data with the CGC, and vice versa. Data is also

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107 Australian Banking Association, 'New Banking Code of Practice will be compulsory, binding and enforceable', *Media Release*, 26 March 2018, www.ausbanking.org.au/new-banking-code-of-practice-will-be-compulsory-binding-and-enforceable/.

108 Customer Owned Banking Association, *Code of Practice 2022*, p. 3.

109 AFCA, *Supplementary Submission 1.2*, pp. 5-6. See also: AFCA, *Submission to the Independent Review of the 2020 General Insurance Code of Practice (GI Code)*, June 2024, p. 24.

110 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, p. 62.

111 Financial Rights Legal Centre, *Supplementary Submission 27.2*, p. 3.

112 Financial Rights Legal Centre, *Supplementary Submission 27.2*, p. 3.

collected by the ACCC. Some of the available data is made public; much is not. The available data on the consumer experience—such as claims processing times and complaints—is particularly poor and inconsistent, and does not enable like-for-like performance comparisons between insurers.

7.101 The ICA itself collects data from members about declared insurance events, and provides aggregate summaries of this data to members and other stakeholders. This data includes the number, value, locations and types of claims, and how long it takes insurers to close claims. Elements of this data are published online through the ICA's Data Hub,[113] but only at the industry level and only for declared insurance events.[114]

7.102 The Committee asked APRA whether it collects data on aspects of the consumer experience such as timeliness, complaints handling and dispute resolution. APRA advised it does not currently collect data 'at that granular level':

> We currently source access to information like that through the ICA, who can give us some visibility, and through AFCA, who also are collecting information on claims and complaints... But at this point in time we don't collect it ourselves.[115]

7.103 APRA noted, however, that it does have significant powers under legislation to collect additional data, and had plains for more granular data collection[116]—as discussed later in this chapter.

7.104 ASIC has recently required insurers to report standardised internal dispute resolution data. ASIC informed the inquiry that data on the volume of complaints in internal dispute resolution and the escalation of complaints to AFCA was 'currently unknown' but would be available when ASIC publishes its first report.[117] Such data could provide insight into how insurers are recognising and dealing with complaints from policyholders, while data on the reasons for complaints could identify areas where insurers need to improve.

7.105 In accordance with ASIC's Regulatory Guide 267, AFCA must publicly report information about complaints it receives and closes against each participating insurer, including comparative complaints data. AFCA publishes the data it collects through its online 'Datacube' portal, which is updated every six months.[118] The Datacube allows consumers and other stakeholders to see the number of complaints against specific insurers, the rates at which those complaints had to be escalated to AFCA case management, and how many were resolved by either the insurer or AFCA.[119] AFCA told the inquiry that while it was pleased with current usage of the Datacube by consumers, academics and media, usage levels were constrained by low brand awareness of AFCA:

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113 ICA, 'Data hub', insurancecouncil.com.au/industry-members/data-hub/, viewed 5 September 2024.
114 ICA, *Submission 11*, p. [6].
115 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 24.
116 Mrs Suzanne Smith, Executive Board Member, APRA *Committee Hansard*, 2 February 2024, pp. 23-24.
117 AFCA, *Submission 1*, p. 36.
118 AFCA, 'About the AFCA Datacube', data.afca.org.au/about-afca/, viewed 25 August 2024.
119 Ms Edmondson, *Committee Hansard*, 21 February 2024, p. 38; AFCA Datacube, *Compare the firms*, data.afca.org.au/compare-the-firms, viewed 8 September 2024.

> …AFCA is still only five years old. We're still relatively young…compared to, say, the Tax Office or the ACCC. We do work on brand awareness. What we know is that, although that's increasing, it's still relatively low. I think only about 34 per cent of the community are aware of AFCA. … That started off at 20. … If you don't know who AFCA is, you're probably not going to be jumping on our website and looking at our AFCA Datacube. So, although we're pleased with the access that we have to the [D]atacube and the people who access it, it doesn't mean that it's necessarily widely understood that it exists.[120]

7.106 Another significant limitation is that the data only gives visibility into complaints that reach external dispute resolution. As noted by AFCA's Chief Operating Officer, 'we only see the tip of the iceberg.'[121]

7.107 AFCA's complaints data has other limitations. For example, AFCA advised that staff categorise complaints into types based on the level of detail provided by consumers when they first register a complaint, which varies greatly. AFCA also advised that 'We do not have full records of payment outcomes for all complaints that were received by AFCA', and that 'we do not routinely capture outcome amounts where a complaint closes at Registration.'[122] It also said that 'When complaints are closed by informal means such as negotiation or conciliation, the quantum of the outcome is not always known.'[123]

7.108 AFCA also said its ability to compare consumer experiences between regional and urban areas was compromised by 'the likelihood that consumers were lodging complaints away from the insured property/location'.[124] AFCA also said there are discrepancies between its data and the complaints data held by individual insurers, which is 'more timely and comprehensive'.[125]

7.109 However, even with the utmost transparency by insurers, most of the available data would be affected by additional inconsistencies. Insurers can and do provide highly granular data to oversight bodies on request, but the inconsistency of data definitions and collection processes across the industry make this data unsuitable for industry-wide analysis of performance issues. This inconsistency was highlighted and commented on in Chapter 6, but is elaborated on further below.

7.110 For example, as part of this inquiry, the Committee requested granular data from insurers on issues including claims handling, dispute resolution and consumer outcomes. Most of this data has been published as supplementary submissions. The data was appreciated, and enhanced the Committee's understanding of areas of concern. However, it did not allow the Committee to compare insurer performance in any meaningful and systematic way due to the extreme inconsistency in how insurers

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120 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 38.
121 Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 41.
122 AFCA, *Submission 1*, p. 16.
123 AFCA, *Supplementary Submission 1.1*, p. 5. See also the discussion with Mr Justin Untersteiner, Chief Operating Officer, AFCA, *Committee Hansard*, 21 February 2024, p. 32.
124 AFCA, *Supplementary Submission 1.1*, p. 5.
125 ACFA, *Submission 1,* p. 10.

define key measurables—for example, what is a 'complaint'—as well as what data they collect and how they report it. Regulators, AFCA and the CGC face the same challenge in attempting to scrutinise conduct across the industry.

7.111 Similarly, the Deloitte report regarding insurer performance after the catastrophic 2022 floods—*The New Benchmark for Catastrophe Preparedness in Australia*—noted that the data available from insurers was not sufficient for it to quantify the impacts of external factors (such as a large number of catastrophes in one year) versus issues with insurers' internal processes and operations.[126] Deloitte recommended that insurers 'improve their ability to capture and leverage data and insights to understand the impact of internal and external factors on performance during catastrophes.'[127]

7.112 In addition, much of the available data is highly aggregated. For example, although APRA collects data on insurance renewals, it advised this is limited to 'overall stats…at the highest level' with insufficient granularity to see trends in flood cover.[128] In turn, most of APRA's data is prudentially focused financial data unrelated to consumer experience issues, such as APRA's aggregate data looking at the 'performance and profitability of different lines of business'.[129]

7.113 Data available to the CGC also suffers from limitations—and the CGC is moreover constrained in what it can publish by the terms of its charter, as discussed later.

7.114 Under current data reporting arrangements, it is therefore not feasible for regulators, the CGC, the public or consumer advocates to easily and meaningfully compare insurer performance on Code compliance or other measures of ethical conduct and customer satisfaction, with the exception of AFCA complaints rates by insurer as published in AFCA's Datacube. This constraint is a major source of frustration for consumers and their advocates. As ARC Justice told the Committee:

> …there's no way for consumers to know who are the insurance companies that don't comply with the code. Quite often we get people saying to us, 'Can you tell me which are the good ones and the bad ones?'[130]

7.115 The Committee sought insurers' views on proposals for more consistent data collection and public reporting by regulators about the consumer experience. Royal Automobile Club of Queensland Limited (RACQ) was asked how it would feel about the public reporting of data showing how long each insurer takes to settle claims on average, and to resolve disputes. RACQ Chief Executive Officer David Carter replied:

> I'd welcome it. We've started sharing information in our *For the greater good report*… In that we are transparent about the things we do well and we're transparent about the areas we don't. We're transparent about customer

126 Deloitte *The new benchmark for catastrophe preparedness in Australia*, October 2023 p. 94.
127 Deloitte *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 120.
128 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 22.
129 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 23.
130 Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard,* 1 February 2024, p. 44.

> complaints, satisfaction and all of those things. I think it's really important that consumers generally are able to understand what the experiences are like. Transparency is good. It shines a light on things and encourages participants in the industry to set themselves to do well in the things that matter. … I think the other one that's important is…[the] percentage of claims accepted.[131]

7.116 The Managing Director of Allianz Australia also said, 'We would be supportive of any of those metrics or reporting that continue to lead to better customer outcomes.'[132]

7.117 APRA agreed with the value of collecting and publishing more granular performance data, including on the consumer experience, telling the Committee that 'What gets measured gets managed.'[133]

7.118 The Committee therefore considers improved data gathering and publication a critical mechanism to shine light on the extent of the issues facing policyholders. This would in turn support regulators, AFCA and the CGC to do their jobs more effectively, as well as empowering customers to 'vote with their feet', by taking their business to insurers that demonstrate the best customer satisfaction, operational and ethical track records.

7.119 Among other proposals, the Committee heard evidence on ways to strengthen ASIC's data gathering and reporting powers to address such limitations, as discussed below.

Giving ASIC a standing power to collect insurer data

7.120 ASIC told the inquiry that it finds data a 'significant challenge' in performing its oversight role.[134] ASIC can currently obtain data directly from insurers only by way of a written notice under section 912C of the *Corporations Act 2001* or on a voluntary basis. It also obtains data from other regulators' data streams, particularly APRA and AFCA.

7.121 As noted earlier in this chapter, APRA and ASIC have formal data-sharing arrangements through which ASIC benefits from APRA's broader information-gathering powers,[135] while AFCA is required to identify and report 'systemic issues'. AFCA has made efforts to enhance its ability to perform this role well, implementing an internal improvements program focused on 'proactive use of data-driven analytics to identify systemic issues, and the sharing of key insights with regulators and the financial services industry'.[136] However, AFCA's data capabilities are still maturing.

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131 Mr David Carter, Managing Director and Group Chief Executive Officer, Royal Automobile Club of Queensland Limited, *Committee Hansard*, 9 February 2024, p. 9.

132 Mr Richard Feledy, Managing Director, Allianz Australia Insurance Ltd, *Committee Hansard*, 9 February 2024, p. 27.

133 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 24.

134 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard,* 2 February 2024, p. 2.

135 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard,* pp. 2–3.

136 AFCA, *AFCA's Systemic Issues function*, https://www.afca.org.au/annual-review-systemic-issues, viewed 7 September 2024.

7.122 Meanwhile, the data ASIC periodically obtains from individual insurers on request is prone to the sorts of inconsistency issues outlined above. For example, ASIC told the inquiry that during its review into home insurance claims in 2023, although insurers voluntarily provided the data ASIC sought, different insurers had difficulty providing some data due to limitations of their systems or approaches to data collection.[137]

7.123 ASIC advised that the power to gather consistent and clearly defined data from insurers on a recurring basis—rather than by request, and limited by whatever data insurers have on hand—would put it in a stronger position to report publicly on insurers' performance and pursue enforcement.

7.124 For example, consistent insurer data reported to ASIC quarterly, half-yearly or annually (as appropriate) could allow comparisons of how long it takes different insurers to resolve claims, and how they compare on rates of complaints and cash settlements. It would also help make transparent to ASIC which insurers or issue areas deserve closer investigation or consideration of enforcement actions. ASIC stated:

> We would be in a much better position to detect what is happening, detect harm and be able to take swift enforcement action with our serious problems if we had the ability to require the provision of data and, indeed, to require that on an ongoing basis so we can monitor trends over time. Other comparable regulators in other jurisdictions tend to have those powers, and it would certainly be of great assistance to us.[138]

7.125 For comparison, the United Kingdom's Financial Conduct Authority (FCA) regularly collects and publishes data on insurance complaints and related measures. The FCA publishes complaints data every six months, also providing insurer-specific data that includes the total number of open, closed and upheld complaints. The FCA also publishes a general insurance value measures dataset, supported by the requirement for firms to report regularly to the FCA on acceptance rates, average payouts, and complaints as a percentage of claims.[139]

7.126 Regular publication of similar data by ASIC at the insurer level would allow consumer groups and media organisations to conduct their own analysis, and potentially provide rankings or ratings of insurers.[140] APRA also discussed the potential of more granular and regular data to allow regulators to produce heat maps of insurer performance across a range of criteria, as APRA has done for superannuation providers' investment returns and sustainability factors.[141] Such data would also enable all stakeholders, including regulators, to better observe industry trends over time, including changes in performance in the aftermath of catastrophes.

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137 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard*, 2 February 2024, p. 6.

138 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard,* 2 February 2024, p. 2.

139 Financial Complaints Authority, 'Firm specific complaints data', www.fca.org.uk/data/complaints-data/firm-level; and Financial Complaints Authority, 'General insurance value measures data 2023', www.fca.org.uk/data/general-insurance-value-measures-data-2023,.

140 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard,* 2 February 2024, p. 13.

141 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 24.

7.127 The Committee's view is that it would be particularly valuable for ASIC to have visibility into the number of insurance claims unresolved beyond 12 months. As discussed elsewhere in the report, such long delays have been immensely disruptive and are highly distressing to policyholders, and the Committee is concerned by the prevalence of such experiences in the aftermath of the 2022 floods.

7.128 Recommendations elsewhere underline the Committee's—and the broader community's—expectation that insurers offering cover for natural peril should be able to deal with surges in cases after a disaster with both efficiency and fairness. This standard has not been met, but the paucity of industry-wide data on the problem has hampered regulators' ability to hold insurers to account. It is imperative that ASIC be given access to the data it needs to identify insurers with a high rate of unacceptably long delays, and that insurers be required to satisfy ASIC they have credible strategies for resolving any significant backlog of unresolved claims.

7.129 If insurers accept the Code Review's recommendation that they be required to report similar data to the CGC (noted previously), harmonised reporting or data-sharing arrangements should be established between ASIC and the CGC to ensure both bodies have visibility and to avoid duplication. ASIC visibility into this data will be particularly important if insurers do not accept the Code Review's related recommendation that they be required to accept in full any claims that remain unresolved after 12 months due to factors within their control (also noted previously).[142]

7.130 However, this inquiry also heard that additional data requests from regulators could add to the administrative burden on the industry, and that any new data reporting requirements must be efficient. The Committee is aware of concerns about inefficiency and multiple reporting lines under existing arrangements, which could be compounded by new demands if implemented poorly. For example, the ICA has noted that its members are currently responding to many similar data requests from different agencies at the same time.[143] The ICA has also complained about 'double handling' in insurers' obligations to report Code breaches to the CGC and ASIC.[144]

7.131 To the extent that this report recommends that additional data be provided to ASIC, the Committee has focused on measures that, where possible, are already being collected by insurers and that meaningfully reflect consumer experiences and outcomes. This should materially improve transparency and the effectiveness of regulatory oversight with little if any additional red tape.

7.132 In relation to more general data gathering approaches, ASIC said that where possible, it would seek to pursue additional data requests through APRA, consistent with the data-sharing arrangements described earlier in this chapter:

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142 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, recommendations 63 and 64.

143 ICA, 'General Insurance Discussion Paper – Insurance Data Transformation', insurancecouncil.com.au/wp-content/uploads/2023/12/231221_ICA-Submission-to-APRA-Insurance-Data-Transformation.pdf, p. 1.

144 ICA, *Independent Review Initial Consultation Paper*, 7 June 2024, p. 36.

> We always think about, if we need data, how do we do it in a way that gives us the best insights but also balances that with the impact on industry. That's why, if there is a way for us to do that jointly with APRA, for example, then we will do that to minimise the effort that's required by industry.[145]

Standardising data definitions

7.133 The development of standard terms that insurers must use to capture key data and report it to regulators would enable more precise comparisons to be made. It would also help ensure insurers are capturing key data with comparable accuracy and to the same extent.

7.134 The Deloitte report recommended that the ICA develop a 'data dictionary' to enhance industry-wide reporting, and that it investigate the feasibility of extending data capture to claim outcome measures such as closure rates and complaints.[146]

7.135 ASIC told the Committee the lack of standard data definitions was a 'key gap in the system'.[147] ASIC said that if given a standing power to require recurring data reporting by insurers, it would use this to drive more consistent data collection across the industry, including by developing standard definitions for all data to be reported to ASIC. ASIC outlined the potential benefits:

> That would mean we'd be able to produce reports that would track trends over time and allow us to compare the performance of different insurers. It would also mean that, when there's a process like this, a committee such as this would be able to request data and get answers to the level, hopefully, that you're requiring in a consistent manner.[148]

7.136 Standardisation would also enable insurer performance to be compared via the existing MoneySmart website or a similar platform. MoneySmart is an Australian Government website that provides consumer-focused financial tools, tips and guidance. It is administered by ASIC.[149] MoneySmart's life insurance claims comparison tool enables consumers to compare life insurers based on metrics drawn from APRA data, including claim acceptance rates, average claim times, disputes per 100,000 lives insured, and the policy cancellation rate.[150] The Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice called for this to be replicated for the home and contents insurance market, and suggested that ASIC and APRA be resourced to collect and publish data on claims timeframes, outcomes and disputes.[151]

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145 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard*, 2 February 2024, p. 4.
146 Deloitte *The new benchmark for catastrophe preparedness in Australia*, October 2023, p. 40.
147 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard*, 2 February 2024, pp. 6-7.
148 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard*, 2 February 2024, pp. 6-7.
149 MoneySmart, www.moneysmart.gov.au, viewed 29 August.
150 APRA, 'Life insurance claims comparison tool', moneysmart.gov.au/how-life-insurance-works/life-insurance-claims-comparison-tool, viewed 25 August 2024.
151 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 24.

7.137 The Committee notes that ASIC and APRA are already taking steps to enhance insurance data collection as part of the Insurance Data Transformation (IDT) project. In October 2023, ASIC and APRA released two joint discussion papers on proposals to enhance data collection for the life and general insurance industries, to enable regulators, policymakers and insurers to better assess industry-wide risks.[152] APRA and ASIC highlighted that this project was in response to the fact that both agencies 'regularly experience' insight gaps where the data is either 'inflexible or insufficient' to identify key issues and risks.[153]

7.138 Home insurance will be one of the first products in scope for more in-depth data collection under the IDT project. It was selected as a priority in order to support ASIC and APRA's regulatory focus on insurance availability and affordability, claims issues, and the impact of catastrophes on consumers (among other objectives).[154]

7.139 APRA and ASIC have released a draft data dictionary for consultation, and say they are working closely with industry to ensure the proposed data collection is practical and fit for purpose.[155] The dictionary includes draft definitions of terms such as claim status (including internal and external dispute resolution identifiers), claim outcomes (including ex-gratia payments and reasons for declining a claim) and whether or not a policyholder has flood coverage.[156]

7.140 APRA and ASIC are considering timing options for the new data collection and reporting cycle, including quarterly, half-yearly or annual data collection. They have advised that the frequency may vary between different types of data, such as half-yearly for policy and claims information, but quarterly for financial data.[157]

7.141 ASIC says it intends to use the new data collected from insurers to analyse consumer outcomes following catastrophes, to identify areas of concern and to assess whether:

- products are designed to meet consumer needs and respond to availability and affordability issues;
- products are sold fairly and appropriately and are meeting consumers' expectations; and

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152 APRA, 'General and life insurance data transformation', www.apra.gov.au/general-and-life-insurance-data-transformation, viewed 26 August 2024.

153 APRA and ASIC, 'General Insurance Discussion Paper – Insurance Data Transformation', www.apra.gov.au/general-insurance-discussion-paper-insurance-data-transformation, viewed 3 September 2024.

154 APRA and ASIC, 'General Insurance Discussion Paper – Insurance Data Transformation', www.apra.gov.au/general-insurance-discussion-paper-insurance-data-transformation, viewed 3 September 2024, section 3.2.

155 APRA and ASIC, 'Appendix – General Insurance Discussion Paper Insurance Data Transformation', https://www.apra.gov.au/appendices.

156 APRA and ASIC, 'Appendix – General Insurance Discussion Paper Insurance Data Transformation', www.apra.gov.au/appendices.

157 APRA and ASIC, 'General Insurance Discussion Paper – Insurance Data Transformation', www.apra.gov.au/general-insurance-discussion-paper-insurance-data-transformation, viewed 3 September 2024, section 3.4.

- claims are handled fairly and reasonably.[158]

7.142 APRA noted the expanded data collection would potentially include data relating to the consumer experience, and to enable cross-insurer comparisons, but warned that this would take time:

> Our intention is to expand our data collections to be more granular. I say that quite easily, but it's not necessarily an easy fix that happens overnight, because it does actually involve us working with industry to scope the depth and nature of those collections and consult with industry. It also involves significant changes to systems and collections, both at the APRA level and at the industry level.[159]

7.143 ASIC likewise submitted that it is clear from its own recent research and from the Deloitte report that insurers will 'need to do a lot of work to be ready for enhanced data collection'.[160] The ICA has noted that the proposed new data collection includes data points not currently collected by ICA members, and will require a 'significant uplift' to insurers' existing systems, processes and governance frameworks.[161] However, the ICA also said that:

> Members…note the significant value of the benefits of a central agency collecting data. We acknowledge that richer data insights will strengthen [APRA and ASIC's] supervision of the general insurance industry and provide the opportunity to streamline the efforts of the industry who currently respond to similar requests for data from multiple agencies at any time.[162]

7.144 For example, the ACCC currently collects insurance data that, in the view of the ICA, is likely to overlap with the proposed IDT data collection. The ICA therefore strongly recommended harmonising data definitions across all collections to reduce duplication and the need to rework data to meet different reporting requirements.[163]

7.145 The insurance industry also provides data to the CGC.

Code Governance Committee data and reporting arrangements

7.146 The CGC performs an important role in data-gathering, particularly around Code breaches. It is empowered by its charter to collect and analyse data about insurers'

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158 APRA and ASIC, 'General Insurance Discussion Paper – Insurance Data Transformation', www.apra.gov.au/general-insurance-discussion-paper-insurance-data-transformation, viewed 3 September 2024, section 2.2

159 Mrs Suzanne Smith, Executive Board Member, Australian Prudential Regulation Authority, *Committee Hansard*, 2 February 2024, p. 24.

160 ASIC, *Submission* 35, p.14.

161 ICA, 'General Insurance Discussion Paper – Insurance Data Transformation', https://insurancecouncil.com.au/wp-content/uploads/2023/12/231221_ICA-Submission-to-APRA-Insurance-Data-Transformation.pdf, p. 1.

162 ICA, 'General Insurance Discussion Paper – Insurance Data Transformation', insurancecouncil.com.au/wp-content/uploads/2023/12/231221_ICA-Submission-to-APRA-Insurance-Data-Transformation.pdf, p. 1.

163 ICA, 'General Insurance Discussion Paper – Insurance Data Transformation', insurancecouncil.com.au/wp-content/uploads/2023/12/231221_ICA-Submission-to-APRA-Insurance-Data-Transformation.pdf, p.3.

compliance with the Code,[164] and the Code itself stipulates that insurers will cooperate with the CGC in its reviews of Code compliance and investigations of suspected breaches.[165]

7.147 The CGC's information sources include data collected annually from subscribed insurers, external dispute resolution data from AFCA and consumer groups, and notifications from insurers regarding breaches. The CGC noted that 'in large part, insurers do take these obligations seriously', evidenced by the number of breach reports it receives from insurers themselves.[166]

7.148 The CGC publishes breach data annually in aggregated format, including the most frequently breached Code provisions, along with recommendations and guidance for subscribed insurers to improve compliance. The CGC also provides statistics on breaches per 10,000 policies sold, but uses aliases to de-identify the insurers.[167]

7.149 The inquiry heard evidence on potential improvements to these arrangements.

7.150 One potential improvement is requiring insurers to report relevant data to the CGC at the brand level rather than group or underwriter level. For its most recent report, the CGC requested information from insurers on policies, claims, complaints and breaches segmented by insurance brands. The CGC said it was 'disappointing' that some insurers, including large insurers, were unable to provide this information in full. The CGC signalled that it would be seeking to further investigate propriety brands and distributor brands for future Code compliance reporting.[168] Additionally, the CGC noted that while it currently looks at breach data by calendar year, options for reporting by catastrophe or other events were of future interest.[169]

7.151 Naming and shaming insurers in CGC annual reports was also raised as another key mechanism to improve transparency and accountability around Code breaches.

7.152 The Committee heard that the CGC's charter restricts its ability to name insurers in annual data reports; it can *only* name an insurer that has breached the Code if it imposes a naming *sanction* (that is, only for the most serious breaches).[170] The CGC suggested to the Committee that the CGC charter be reformed to allow the CGC to

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164 General Insurance Code Governance Committee, *Committee Charter*, https://insurancecode.org.au/resources/committee-charter-effective-from-1-july-2021/, p. 9.

165 ICA, *General Insurance Code of Practice*, 5 October 2021, p. 44.

166 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), AFCA, *Committee Hansard*, 23 February 2024, p. 13.

167 General Insurance Code Governance Committee, *General Insurance Industry Data and Compliance Report 2022-23*, pp. 29-30.

168 General Insurance Code Governance Committee, *General Insurance Industry Data and Compliance Report 2022-23*, p. 17.

169 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), AFCA, *Committee Hansard*, 23 February 2024, p. 6.

170 General Insurance Code Governance Committee, *Submission 5*, p. 8.

also name individual insurers in its annual reports on compliance.[171] For comparison, the ABA has accepted 'in principle' a recommendation that banks be named in its regular half-yearly compliance reporting,[172] although this reform does not appear to have been implemented to date.[173] As noted previously in this chapter, the Code Review has also recommended that the CGC be authorised to publish insurers' names in its reports.[174]

Committee comment

7.153 As outlined in this chapter, oversight of the general insurance industry is still evolving. Following numerous pressure points in the history of financial services provision in the Australian market, the maturity of oversight and regulatory arrangements has progressed in reactive periods of improvement. However, the shortcomings of insurers' responses to the 2022 major floods identified in this report, as well as across all reviews conducted since that time, make clear that there is room for oversight improvement, especially in the realm of data capture and reporting consistency.

7.154 The Committee believes that consistent definitions and outcome measures for data, paired with higher-quality, more consistent, and accessible datasets, will play a key role in enabling better understanding of the issues facing policyholders and insurer performance by regulators, AFCA, the CGC and the public.

7.155 Customers cannot realistically choose to move to more ethical or capable insurers when there is no good way to identify the best and worst performers, or see how their performance has been assessed by regulators or oversight bodies.

7.156 Regulators are hampered in their ability to identify, investigate and prosecute systemic misconduct when the data is poorly suited to system-wide analysis, or making comparisons between insurers.

7.157 This dampens insurer incentives to improve on both fronts. Collecting and publishing more consistent and better data on the consumer experience across insurers will drive greater accountability for misconduct and poor performance through both regulatory and market mechanisms.

7.158 The Committee considers enhancing ASIC's powers to collect and report consistent performance data across insurers to be a key requirement.

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171 Mrs Prue Monument, General Manager, Code Compliance and Monitoring; and Chief Executive Officer, Banking Code Compliance Committee (on behalf of General Insurance Code Governance Committee), AFCA, *Committee Hansard*, 23 February 2024, p. 2.

172 ABA, 'ABA Response to BCCC Banking Code Review', www.ausbanking.org.au/report/aba-response-to-bccc-banking-code-review/, 21 October 2022, p. [1].

173 The latest available compliance report continues to use aliases to de-identify the major banks when reporting Banking Code breach numbers. See: Banking Code Compliance Committee, *Compliance with the Banking Code of Practice July to December 2023*, 14 June 2024, p. 6.

174 Independent Review of the 2020 General Insurance Code of Practice, *Initial Report*, September 2024, pp. 63-68.

7.159 The Committee considers key outcome measures for the consumer experience to include consistent communication metrics and data regarding the satisfaction of customers, claims processing, the identification of vulnerable consumers, rates of internal and external dispute resolution, the success of insurers at AFCA, claims acceptance and closure rates, and breaches of the Code. As identified throughout this chapter and report, this data is currently not collected consistently, nor is it reported in a universal manner or format.

7.160 The Committee considers the General Insurance Code of Practice an important industry self-regulation mechanism that should continue to be strengthened and upheld by industry. The Code is a living document that should seek to address issues facing consumers and provide more than aspirational promises to policyholders.

7.161 The Committee has made recommendations throughout this report that focus on areas of the Code that should be improved or strengthened. The Committee acknowledges that the Code is currently under independent review and that this inquiry will inform phase 2 of that review. The Committee welcomes the findings and recommendations of the September 2024 initial report of the Code Review. The Committee believes the panel's recommendations should inform greater efforts by industry to improve the Code.

7.162 The Committee agrees with the Code Review's recommendation that Code subscribers should be required to incorporate the Code into their contracts.

7.163 Once the Code has been strengthened, including by the above enhancement to contractual enforceability, the ICA should seek ASIC's approval for the Code, consistent with its expressed intention. Discussions between the ICA and ASIC should include consideration of the possible designation of enforceable provisions of the Code in the future, dependent on industry consultation, the outcomes of the final stage of the Code Review, and any further recommendations and reforms by government.

7.164 Further, the Committee considers the CGC to be crucial in upholding standards of enforceability and accountability. It should continue its good work to encourage integrity across the industry.

Recommendation 46

7.165 The Committee recommends that the Insurance Council of Australia seek to have the General Insurance Code of Practice approved by the Australian Securities and Investments Commission after implementing any recommendations of the Independent Review of the 2020 General Insurance Code of Practice.

Recommendation 47

7.166 The Committee recommends that the General Insurance Code of Practice be incorporated as a contractually enforceable clause in insurance Product Disclosure Statements (as is the Banking Code of Practice).

Recommendation 48

7.167 The Committee recommends that the General Insurance Code Governance Committee publish aggregate data on code breaches by clause, individual insurer, and brand.

Recommendation 49

7.168 The Committee recommends that the Australian Securities and Investments Commission (ASIC) appropriately use powers that it has as a result of the removal of the exemption of claims handling of insurance products under the *Corporations Act 2001*. The Committee notes that ASIC has only recently been granted such powers and they are as yet untested.

Recommendation 50

7.169 The Committee recommends that the Australian Securities and Investments Commission and the General Insurance Code Governance Committee share data so that it is possible to evaluate breaches of the General Insurance Code of Practice in the context of an insurers' overall claims profile.

Recommendation 51

7.170 The Committee recommends that the Australian Securities and Investments Commission develop and define key outcomes measures for the consumer experience, including:

- **Communication (outcome measures)**
  - **Overall customer satisfaction, such as a customer satisfaction score**
  - **Consumer comprehension of communications (random sample)**
- **Claims processing**
  - **Average time taken to respond to a customer after first making an enquiry or initiating a claim**
- **Vulnerable customers**
  - **Proportion of customers identified as vulnerable (BAU, quarterly)**
  - **Proportion of customers identified as vulnerable (designated events, monthly)**

- **Internal dispute resolution**
  - **Proportion of total cases that involved internal dispute resolution**
  - **Average time taken to resolve internal dispute cases**
- **External dispute resolution**
  - **Proportion of total cases that were referred to the Australian Financial Complaints Authority**
  - **Success rate at the Australian Financial Complaints Authority**
- **Cash settlements**
  - **Proportion of resolved cases that are final cash settlements**
- **Claims acceptance rates**
  - **Percentage of claims accepted**
  - **Percentage of claims closed (at key points in time, for example 6 months, 12 months, 18 months)**
- **General Insurance Code of Practice Compliance**
  - **Breaches of the General Insurance Code of Practice per thousand claims by clause, insurer, and brand.**

Recommendation 52

7.171 The Committee recommends that legislation provide the Australian Securities and Investments Commission with sufficient data-gathering powers to obtain the information required to monitor and report on the metrics recommended in Recommendation 51.

Recommendation 53

7.172 The Committee recommends the Australian Securities and Investments Commission consider seeking data from insurers on their performance based on the metrics recommended in Recommendation 51:

- **Quarterly, for business-as-usual operations**
- **Monthly, for each declared event.**

Recommendation 54

7.173 The Committee recommends the Australian Securities and Investments Commission publish quarterly insurer and brand level data on their performance on the metrics recommended in Recommendation 51.

Recommendation 55

7.174 The Committee recommends that the Australian Securities and Investments Commission's MoneySmart life insurance claims comparison tool be extended to general insurance.

Recommendation 56

7.175 The Committee recommends that for each declared event, insurers be required to report the number of unresolved cases after 12 months to the Australian Securities and Investments Commission and the overarching strategy for resolving these cases. This report should include the total number of outstanding claims and the most common reasons for the delay.

Recommendation 57

7.176 The Committee recommends that the General Insurance Code of Practice (the Code) be reformed to implement Recommendation 63 of the Independent Review of the 2020 General Insurance Code of Practice, that is: where the insurer has not made a decision on a claim within 12 months, and the delay is not due to the consumer or other reasons beyond the control of the insurer, the Code should require the claim to be accepted.

The Committee further recommends that Australian Securities and Investments Commission consider using its powers in relation to claims management to enforce this obligation.

- **This would not be triggered where a claim has been lodged with the Australian Financial Complaints Authority.**
- **This would be triggered where internal dispute resolution has commenced but is not resolved. If the insurer has not made a decision by 12 months, the claim must be paid.**

Recommendation 58

7.177 The Committee recommends that insurers report case management key performance indicators to the Australian Securities and Investments Commission.

Recommendation 59

7.178 The Committee recommends that insurers recognise standard third-party authorisation forms and that this obligation be reflected in staff training.

Recommendation 60

7.179 The Committee recommends that, if a policy renewal falls due when there is long delay in claim handling or the completion of the project, the insurer should:

- **be required to offer a reduced form of cover, with an appropriately lower premium**
- **this cover should include public liability cover and sufficient cover for the building in its damaged state (noting that some consumers are being sent standard premium renewals, which amounts to excessive cover).**

Recommendation 61

7.180 The Committee recommends that insurers be required to ensure that people paying premiums monthly do not pay more.

8. Strengthening the Government's response to floods

8.1 Though not the focus of the inquiry, participants shared insights on how the Australian, state and local governments can better support communities to prepare, respond and recover from floods. This chapter makes recommendations to improve government data collection and management; disaster recovery and resilience funding arrangements; and government funding levels for legal aid, financial counselling and the broader community sector.

8.2 Witnesses raised the need for better and more consistent flood modelling across local government areas (LGAs), which may require funding support for smaller councils. The inquiry also found broad support for the collation of available government and private sector risk and damage data—including data held by insurers—into a national database, to be made available to improve decision-making by governments, the public and insurers.

8.3 The inquiry heard that government resilience and recovery funding arrangements could be strengthened. Councils provided extensive evidence on challenges faced under existing funding arrangements. Many were concerned about the administrative and financial burden on small, regional councils under the joint Australian Government–State Disaster Recovery Funding Arrangements 2018 (DRFA).

8.4 Other evidence addressed delays and perverse outcomes in the roll-out of grants and other government recovery measures. While support programs were appreciated, inquiry participants noted inadequate prior consultation and planning, including insufficient consideration of how government programs would interact with insurance. An overriding message was that recovery arrangements should be consulted on, well developed and widely communicated before disaster strikes. The inquiry was also told eligibility restrictions on government support for insured people had created perverse outcomes, often leaving insured people materially worse off.

8.5 The Committee also heard that governments should increase funding for community sector disaster recovery work. Legal aid, financial counselling and other community organisations have absorbed a heavy burden supporting flood victims, especially those who are most vulnerable. However, the inquiry was told these organisations are unable to service the growing level of community need with current funding levels, and a more sustainable model is required.

Enhancing government flood modelling and data

8.6 Floods differ to other natural perils such as cyclones and earthquakes in that their likelihood and expected depth can be estimated more accurately at the individual address level.[1] Flood risk also tends to be more concentrated than other natural disasters, such as storm and fire. As with flood risk, the likelihood of storm and fire damage varies by property and region – and this variation of underlying risk for storm and fire can be estimated. However, there are much larger numbers of properties and regions subject to frequently recurring flooding (especially riverine flooding) and which, with actuarially fair prices, would find coverage to be unaffordable. Storm and fire risk is more diversifiable, in general.

8.7 The inquiry heard that granular flood risk data is essential to effective land use planning and zoning, as well as people's ability to make informed decisions about where to live or purchase property. Granular flood risk data also directly informs insurers' calculations of premiums. The use of ever more granular and accurate data in premium pricing for home and contents insurance has had a number of impacts, including:

- premium increases for many high-risk properties, and
- the unwinding of cross-subsidies.

8.8 Flood studies are the key source of flood risk data. They are comprehensive technical assessments of the expected extent, depth and velocity of flood water across an area. They typically incorporate aerial photography, historic records, river surveys, streamflow analysis, local knowledge and geological mapping.[2]

8.9 Local governments conduct most flood studies,[3] with funding from various sources including the DRFA, state governments and council rates. In Victoria, water authorities undertake flood studies, in consultation with relevant LGAs. The Committee heard that high-quality, up-to-date flood data depends on councils and water authorities having adequate resources to commission the work.

8.10 The inquiry was also told that flood studies and other flood risk data are held by multiple parties in a complex access environment. The Insurance Council of Australia (ICA) holds most local government and water authority flood studies for insurers' use in its National Flood Information Database (NFID).[4] This database is not publicly available due to commercial licensing arrangements.[5] Insurers also individually invest in collecting further flood risk data, most of which remains commercial in confidence.[6]

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1 Insurance Council of Australia (ICA), *Submission 11*, p. [6].
2 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, 30 July 2024, p. 89.
3 New South Wales Government, *2022 Flood Inquiry: Volume Two: Full report,* 29 July 2022, p. 279. However, local councils across urban Melbourne partner with Melbourne Water—Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. 89.
4 ICA, *Submission 11*, p. [7].
5 ICA, *Submission 11*, p. [7].
6 ICA, *Submission 11*, p. [7].

8.11 Although some local governments and states provide public access to their flood studies, typically through online portals, the Committee heard that their quality and accessibility vary. Even when good data is available, communicating flood risk in terminology understandable to the community is a challenge, with consumers having to navigate a proliferation of different risk metrics. The result is that the stakeholders with the least access to high-quality, comprehensible flood risk data are households and small businesses.

8.12 Many inquiry participants have therefore called for more accurate and consistent flood data to be collated by the Australian Government and made broadly available.

Flood modelling quality varies across local governments

8.13 The effectiveness of flood modelling relies on the availability of accurate and detailed data on historical flood events, the topological characteristics of areas at risk of inundation, and the impact of the built environment, including water management infrastructure.[7] Some councils are better resourced to undertake and regularly update their flood modelling than others, as the National Emergency Management Agency (NEMA) explained:

> What we see across Australia, in terms of the availability of high-resolution flood risk mapping, is very much driven by capability at the local council level… there is quite a difference across the nation.[8]

8.14 Sydney Water made a similar observation.[9] Variance in the quality of flood studies across local governments was also recognised by the 2020 Royal Commission into National Natural Disaster Arrangements.[10] Mayor Tyson of Moonee Valley City Council in Melbourne's northwest elaborated:

> If you look at a lot of Queensland councils, they're significantly larger and they have significantly more assets. I think the population, for example, of the Brisbane City Council area is three million, whereas for Moonee Valley City Council it would be about 130,000 and Maribyrnong about 90,000. … I don't believe that Victorian councils have the capacity to look at these issues alone, whether it be planning issues, infrastructure or futureproofing and the like.[11]

8.15 Larger councils agreed their smaller counterparts would struggle to access sufficient funding for high-quality flood modelling.[12] Sunshine Coast Council told the inquiry:

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7 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, 30 July 2024, p. 89.

8 Mr Brendan Moon, AM, Coordinator-General, National Emergency Management Agency (NEMA), *Committee Hansard*, 15 March 2024, p. 32.

9 Mrs Kate Miles, Head of System Planning and Land Acquisition, Sydney Water, *Committee Hansard*, 30 July 2024, p. 4.

10 Royal Commission into National Natural Disaster Arrangements, *Report*, 30 October 2020, p. 420.

11 Mr Pierce Tyson, Mayor, Moonee Valley City Council, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 6.

12 Mr Stephen Patey, Strategic Planning Manager, Sunshine Coast Council, *Committee Hansard*, Caboolture, 9 April 2024, p. 10; Ms Megan Gould, Acting Manager, Road Infrastructure Planning, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 25; Townsville City Council, *Submission 84*, p. 1.

> …the councils in Queensland probably have the benefit of being large with larger resources to bring to bear on these types of issues. We have spent several hundreds of thousands, if not millions, of dollars on improving our flood modelling over the last decade and implementing recommendations in response to the inquiry into the 2011 Queensland floods. So [we] do wonder how some of the smaller councils manage with their rate based constraints.[13]

8.16 This issue is even more pronounced for rural and regional councils, some of which have populations of less than 10,000 and, therefore, a revenue base that makes it challenging to afford high quality flood studies and modelling.

8.17 The inquiry heard that keeping flood maps up to date is a challenge. State and local governments have emphasised the importance of regularly updated flood studies, particularly in the context of increased development and modelling uncertainties introduced by climate change.[14] The Maribyrnong River Flood Review recommended that Melbourne Water review their flood models every 5 years and update them at least every 10 years, as well as after any major flood.[15] The Victorian 2022 flood inquiry made the same recommendation.[16] Internationally, the United Kingdom's Environment Agency and lead local authorities are required to produce and review flood maps every six years.[17]

8.18 Meeting such requirements costs money. Rural councils informed the Victorian 2022 flood inquiry that they were too resource-stretched to conduct updated flood studies, and that as a result their flood maps were outdated and inaccurate.[18] Townsville City Council said their new flood study cost $724,401, with the Queensland Reconstruction Authority contributing $500,000.[19] Logan City Council noted:

> We've had the benefit of state funding for most of our recent flood studies. That's an investment that we just wouldn't have had as a standalone council. Our ability to produce relatively accurate flood modelling has benefitted from that funding. We would have been well behind in terms of our ability to do those flood studies, so you do need that investment.[20]

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13 Mr Stephen Patey, Strategic Planning Manager, Sunshine Coast Council, *Committee Hansard*, Caboolture, 9 April 2024, p. 10.

14 New South Wales Government, *2022 Flood Inquiry: Volume Two: Full report*, p. 279; Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. 94; Planning Institute of Australia (Victoria), *Submission 75*, p. 5; Hawkesbury City Council, *Submission 25*, p. 2; Royal Commission into National Natural Disaster Arrangements, *Report*, p. 420.

15 Hon G. Tony Pagone, AM, and others, *Maribyrnong River Flood Event Independent Review*, August 2023, p. 119.

16 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, 30 July 2024, p. 94.

17 Planning Institute of Australia (Victoria), *Submission 75*, p. 8; United Kingdom Environment Agency, *Flood risk management plans 2021 to 2027: You said, we did*, 12 December 2022, www.gov.uk/government/publications/flood-risk-management-plans-2021-to-2027-you-said-we-did/.

18 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, 30 July 2024, p. 92.

19 Townsville City Council, *Submission 84*, p. 1.

20 Ms Megan Gould, Acting Manager, Road Infrastructure Planning, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 25.

8.19 Richmond Valley Council in the Northern Rivers explained how flood modelling and planning costs quickly build up for a smaller, rural council:

> …we had our draft flood model prepared two weeks prior to the 2022 flood event. After the flood event, we spent another 12 months to review that model, which cost additional money… Then from that flood model we had to do our flood planning and our risk analysis, which is another body of work which is hundreds of thousands of dollars. Certainly, council resources aren't able to and don't have that expertise to do that type of work, so we have to farm it out to consultants to do and we have to find the money to do that.[21]

8.20 The need for better funding for flood modelling was widely acknowledged in councils' evidence to this inquiry.[22] The ICA also called for increased funding for local government flood mapping[23]—which insurers heavily rely on to assess risk.[24]

8.21 The Committee heard that governments are beginning to respond to this need. For example, NEMA told the Committee about their work with state governments to assist smaller councils to access funding to improve their flood studies:

> What we have done is worked very closely with state jurisdictions to isolate those high-risk catchments that don't have a really mature approach there and essentially provide the opportunity for those states to apply for funding to resource those councils to upgrade their understanding of the flood risk.[25]

Importance of high-quality flood data to the insurance industry

8.22 Data is crucial to the functioning of any insurance market. Insurers rely on the available flood data to price risk, and hence premiums.

8.23 Insurers generally assess a property's risk of flood at an individual address level based on a variety of databases, particularly the NFID.[26] The NFID is a nation-wide property address database developed by the ICA in partnership with state and territory governments.[27] First created in 2008, the NFID aggregates flood hazard risk

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21 Ms Angela Jones, Director, Community Service Delivery, Richmond Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 8.

22 Sutherland Shire Council, *Submission 24*, pp. 2–3; Ms Megan Gould, Acting Manager, Road Infrastructure Planning, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 25; Ms Angela Jones, Director, Community Service Delivery, Richmond Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 8.

23 Insurance Council of Australia, *2024–25 Pre-Budget Submissions*, 25 January 2024, p. [4].

24 Insurance Australia Group, *Submission 16*, pp. 33–39; Youi, *Submission 14*, p. 25; Allianz Australia, *Submission 13*, p. 45; RACQ Group, *Submission 15*, p. 24; Suncorp Group, *Submission 12*, p. 40; QBE Insurance Group, *Submission 17*, p. 25; Hollard Holdings Australia, *Submission 19*, p. 42; Auto & General Holdings, *Submission 18*, p. 47.

25 Mr Brendan Moon, AM, Coordinator-General, NEMA, *Committee Hansard*, 15 March 2024, p. 32.

26 QBE Insurance Group, *Supplementary Submission 17.1*, p. 2; QBE Insurance Group, *Submission 17*, p. 25; Auto & General Holdings, *Submission 18*, pp. 47–48; Youi, *Submission 14*, p. 25; Allianz Australia, *Submission 13*, p. 45; Insurance Australia Group, *Submission 16*, p. 39; Hollard Holdings Australia, *Submission 19*, p. 42; RACQ Group, *Submission 15*, p. 24; Suncorp Group, *Submission 12*, p. 40.

27 ICA, *Submission 11*, p. [7].

metrics from various historical government flood studies.[28] The ICA told the Committee the NFID contains 13.7 million property addresses.[29] Due to commercial licensing arrangements between governments and the specialist flood risk experts who prepare the flood maps, the NFID is not a public database.[30]

8.24 Insurers use the NFID to assist in determining the flood risk to individual properties. However, the consistency and relevance of government flood data in the NFID vary. For example, the ICA advised that the NFID does not currently contain any flood mapping information for the Logan or Gold Coast LGAs.[31] Insurers usually supplement the NFID with other commercial and proprietary information sources[32] and conduct additional analysis.[33] For example, QBE noted its investment in a geospatial platform that aggregates data such as visual imagery from satellites and space-based radar.[34]

8.25 Some insurers are also using satellite imagery to accurately geolocate specific buildings on each property (as opposed to using the property centroid as the default). As with other improvements in data, this will lead to a growing dispersion in premiums – lower for some and higher for others. Even with highly granular and increasingly accurate data and ever more powerful models, insurers often disagree on the risk profile of individual properties. This is further discussed in Chapter 9.

8.26 Insurers regularly refresh their views on risk in an area when flood studies and NFID data are updated, for example to reflect changes to built infrastructure that impacts drainage or water flows.[35] Changes in local government risk data ultimately flow through to insurance availability and pricing.[36] For example, Youi described how the NFID had recently incorporated a new flood study by Wagga Wagga City Council,[37] modelling the impact of its upgraded levee system.[38] Youi said the updated data had changed its assessment of flood risk for Wagga Wagga, and that many addresses it had previously considered uninsurable were being transitioned within its underwriting acceptance criteria and pricing system.[39] However, the inquiry also heard evidence that insurers rarely adjust premiums in response to property-level mitigations by

28 ICA, *Submission 11*, p. [7].
29 ICA, *Submission 11*, p. [7].
30 ICA, *Submission 11*, p. [7]; QBE Insurance Group, *Supplementary Submission 17.1*, p. 2.
31 ICA, *Supplementary Submission 11.1*, p. [2].
32 ICA, *Submission 11*, p. [7].
33 NEMA, Communiqué of Hazard Insurance Partnership (HIP) Meeting One, 2 February 2023, p. [1].
34 QBE Insurance Group, *Supplementary Submission 17.2*, p. 2.
35 Youi, *Submission 14*, p. 25; QBE Insurance Group, *Submission 17*, p. 25; Auto & General Holdings, *Submission 18*, p. 47; Allianz Australia, *Submission 13*, p. 45; Insurance Australia Group, *Submission 16*, p. 39; Hollard Holdings Australia, *Submission 19*, p. 42; RACQ Group, *Submission 15*, p. 24; Suncorp Group, *Submission 12*, p. 40.
36 QBE Insurance Group, *Submission 17*, p. 25; Youi, *Submission 14*, p. 25; Insurance Australia Group, *Submission 16*, p. 39; Suncorp Group, *Submission 12*, p. 39; Allianz Australia, *Submission 13*, p. 50; Hollard Holdings Australia, *Submission 19*, p. 42.
37 Youi, *Submission 14*, p. 25.
38 Youi, *Submission 14*, p. 25.
39 Youi, *Submission 14*, p. 25.

policyholders.[40] Data requirements to better link premiums with property-level risk improvements are addressed in Chapter 9.

8.27 The Committee also heard that the impact on premiums from improved flood risk data can cut the other way.[41] For example, a property owner near Melbourne's Maribyrnong River told the inquiry:

> Kensington Banks Estate was built in 1996, and designed to be flood-proof as it was aligned with the current Melbourne Water's Flood modelling in mind. Melbourne Water have recently released new modelling, which retrospectively labels the estate to be a Flood Zone. … The rezoning of Kensington Banks as a flood zone harms me as my home is in the Kensington Banks estate. In May 2024 my insurance premium went up by 30%. I expect it will be raised even higher next year, due to Melbourne Water's remodelling.[42]

Public access to flood risk data

8.28 Councils undertake a range of approaches in making their flood studies accessible. Many councils maintain their own flood intelligence platforms for public use or provide information to individuals on request.[43] Logan City Council released its online Logan Flood Portal in November 2023, offering residents and businesses free access to comprehensive flood information.[44] Sutherland Shire Council said they make copies of current flood studies available online,[45] while Narrabri Shire Council said it makes flood certificates available via its WaterRIDE flood modelling program to a range of stakeholders by application.[46] However, 72 per cent of people who responded to this inquiry's flood survey said they either could not access flood risk information on their local government website or were unsure.[47]

8.29 Some state governments collate and publish flood risk data. For example, New South Wales (NSW) flood studies and plans are publicly available in static form through the SES Flood Data Portal.[48] Queensland's FloodCheck interactive map enables the public to view the likely extent of floods and historical flood data, among other risk information.[49]

8.30 In contrast, the inquiry into the 2022 floods in Victoria reported that there is no sufficiently publicly accessible statewide database on flood risk.[50] The Planning

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40 Ms Katherine O'Regan, Head, Investment and Growth, Lismore City Council, *Committee Hansard*, Lismore, 11 April 2024, p. 8.
41 Allianz Australia, *Submission 13*, p. 50.
42 Name Withheld, *Submission 67*, p. [1]; Committee Survey Results included many similar comments.
43 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. 98.
44 Logan City Council, *Submission 52*, p. 4.
45 Sutherland Shire Council, *Submission 24*, p. [2].
46 Narrabri Shire Council, *Submission 23*, p. 4.
47 Committee Survey Results.
48 New South Wales Government, *2022 Flood Inquiry: Volume Two: Full report,* p. 284.
49 Queensland Reconstruction Authority, *Flood mapping*, www.qra.qld.gov.au/publications-and-maps/maps/flood-mapping, viewed 5 September 2024.
50 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. 98.

Institute of Australia's Victorian division has described the available risk information as 'patchy and outdated…a patchwork of datasets'.[51] Victoria does upload flood risk data into its FloodZoom web-based intelligence platform,[52] but this is not a public platform—though a public-facing component may be developed in the future.[53]

8.31 The challenge of collating and communicating consistent, high-quality flood data is not new. The Australian Government's review of the 2011 floods also highlighted the lack of consistency in the way flood risk information was collected and made available to users.[54]

8.32 In response, the Australian Government established the National Flood Risk Information Portal (now the Australian Flood Risk Information Portal) in 2012, aiming to provide a national access point to flood risk data for the benefit of emergency management services, communities and others.[55] It still exists. However, none of the participants in this inquiry, including the ICA, insurers, local councils and community groups, mentioned this platform—suggesting that alternatives such as the ICA's NFID or state-based portals are preferred. There is currently no comprehensive, national, *public* flood risk database in Australia that is utilised by key stakeholders to inform risk assessments.

8.33 This inquiry found that there is still strong appetite for an effective national platform for flood risk data, consistent with the findings of the Victorian inquiry into the 2022 floods, the Australian Competition and Consumer Competition's Northern Australia insurance inquiry and the Royal Commission into National Natural Disaster Arrangements.[56]

8.34 Stakeholders discussed various benefits to having high-quality flood risk data made public and accessible through a single online location. The Planning Institute of Australia's Victorian division emphasised the value for homebuyers and developers:

> What we'd like to see is a mechanism that enables state-wide consistency and draws together the existing work done by local governments. This is the

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51 Planning Institute Australia, 'Victoria's planners do not have the information they need to prepare for floods', *Media Release*, 19 August 2022.

52 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. 96.

53 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. 96; Planning Institute of Australia (Victoria), *Submission 75*, p. 10.

54 Department of the Treasury, *Natural Disaster Insurance Review*, 14 November 2011, p. 67.

55 Geoscience Australia, *Australian Flood Risk Information Portal (AFRIP)*, www.ga.gov.au/scientific-topics/community-safety/projects/afrip, viewed 5 September 2024.

56 Ms Claudia Brumme-Smith, Chief Executive Officer, Townsville Enterprise Ltd, *Committee Hansard*, Townsville, 25 July 2024, p. 13; Narrabri Shire Council, *Submission 23*, p. 3; Ms Jane Keddie, Vice President, Victorian Division, Planning Institute of Australia, *Committee Hansard*, Maribyrnong, 17 April 2024, pp. 36–39; Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. xx; Australian Competition & Consumer Commission (ACCC), *Northern Australia Insurance Inquiry*, 28 December 2020, p. 465; Royal Commission into National Natural Disaster Arrangements, *Report*, p. 32; Mr Trent Thomson, Chief Executive Officer, Australia and New Zealand, Swiss Re Asia Pte Ltd, Australia Branch, *Committee Hansard*, 15 March 2024, p. 5; Mr Gordon Williams, Chief Executive Officer, Northern Midlands Business Association and the Kentish and Latrobe Independent Business Association, *Committee Hansard*, Devonport, 17 July 2024, p. 14; Ms Sarah McMahon, Mayor, Hawkesbury City Council, *Committee Hansard*, Richmond, 9 May 2024, p. 2.

> foundation for a comprehensive and publicly accessible dataset. All players in the development industry need certainty, and homebuyers need confidence.[57]

8.35 The Northern Midlands Business Association also told the Committee:

> The thing that we're doing at the moment as business associations is trying to get local government flood data incorporated into the state government flood data and made available through an easy-to-use application so people can make informed decisions.[58]

8.36 Accessible flood risk data can also help residents and communities better prepare for flood events on an operational level.[59] The Victorian report on the 2022 flood event in Victoria found that the lack of a statewide public database for flood risk information complicated preparedness and response efforts.[60] The report also emphasised that flood risk information should be accessible for all residents in the interests of public safety, particularly for people who are more vulnerable.[61] Awareness of flood risk can also strongly influence an individual's decision on levels of insurance held.[62]

8.37 Some households may be concerned that the release of flood risk data will have adverse consequences for their insurance premiums or property values. As noted above, when flood studies are updated, households can be alarmed to discover their property's risk profile is worse than previously believed. Local governments often bear the brunt of the resulting criticism. Survey respondents shared their frustrations:

> New modelling shows my area is now at greater risk of flooding and I expect my premium to rise exponentially…to the point where I may not be able to afford it.
>
> *
>
> The premium increase was obscene…! They claim that council flood modelling had changed…
>
> *
>
> Our property has never experienced any form of storm water or riverine flooding… Despite this our property is now listed as being at moderate risk of flooding… Now our insurance premium is charging us like we live in a flood zone and our house will wash away at any moment. We can barely afford our insurance… something needs to be done about incorrect flood maps that devalue properties that don't flood and drive up insurance prices.[63]

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57 Planning Institute of Australia, 'Victoria's planners do not have the information they need to prepare for floods', *Media Release*, 19 August 2022.

58 Mr Gordon Williams, Chief Executive Officer, Northern Midlands Business Association and the Kentish and Latrobe Independent Business Association, *Committee Hansard*, Devonport, 17 July 2024, p. 14.

59 Ms Yvette Andrews, Manager, Engagement and Strategy Development, Resilient Sydney, *Committee Hansard*, Parramatta, 10 May 2024, p. 15.

60 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. xix.

61 Legislative Council Environment and Planning Committee, *The 2022 flood event in Victoria*, p. xxiii.

62 Planning Institute of Australia (Victoria), *Submission 75*, p. 7.

63 Committee Survey Results, free text responses.

8.38 The Planning Institute of Australia recognised these challenges:

> It's a really challenging exercise to ask local governments to undertake because it is a highly emotive issue and you do get not only significant community opposition often to the application of flood overlays because of concerns about property values and insurance premiums…but it can also be highly contested through the planning process. Some of the independent planning panels that have considered flood related amendments have been huge exercises.[64]

8.39 However, the Committee notes that data from updated flood studies would generally be available already to some, if not all, insurers. Whether it is public or not, this information will often be reflected in premiums. Publishing it gives consumers access to the same information, which levels the playing field and will ultimately empower better decision-making. This goal also requires flood risk data to be consistent, clear and readily comprehensible to the community.

8.40 It is also important to note that, in addition to flood studies that model flood risk at the present time, LGAs and water authorities are increasingly undertaking and often publishing climate modelling of what flood risk will look like decades into the future. A good example of this is updated modelling for the Maribyrnong River Catchment released in mid-2024 by Melbourne Water.[65] This showed an increase in the number of homes estimated to be at a 1-in-100 year risk of flooding in the present-day 2024 scenario. It also showed a marked increase in the number of homes estimated to be at a 1-in-100 year risk (or higher, such as a 1-in-20 year risk[66]) in the median 2100 climate change scenario. The 2100 scenario is used for planning and development purposes, showing the predicted flood extent and depths under climate change in the year 2100.[67]

8.41 Climate modelling will become an increasingly important part of the analytical work required to be undertaken by LGAs or water authorities. It will be even more resource intensive than traditional flood studies.

Community understanding of flood risk data

8.42 Where flood risk data is accessible to the public, it is often misunderstood. Flood risk data is complex.[68] The NSW Reconstruction Authority told the Committee that

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64 Miss Jane Keddie, Vice President, Victorian Division, Planning Institute of Australia, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 39; Planning Institute of Australia (Victoria), *Submission 75*, p. 12.

65 Melbourne Water, 'Flood extent maps - October 2022, 2024 & 2100 scenarios and related maps', https://letstalk.melbournewater.com.au/maribyrnong-river-flood-model/maribyrnong-river-flood-model-maps, last updated 19 April 2024, viewed 21 September 2024. See also: Jacobs and Melbourne Water, *2024 Maribyrnong River Flood Modelling Project Summary Report*, 24 April 2024.

66 Jacobs and Melbourne Water, 'Appendix P. Flood Extents for simulated AEP events', *2024 Maribyrnong River Flood Model Report* (the 'Technical report'), 13 June 2024, p. 413.

67 Melbourne Water, Maribyrnong River Flood Review, www.melbournewater.com.au/services/projects/maribyrnong-river-flood-model.

68 Ms Yvette Andrews, Manager, Engagement and Strategy Development, Resilient Sydney, *Committee Hansard*, Parramatta, 10 May 2024, p. 15; Mr Anton Usher, Manager, Corporate Governance, Sutherland Shire Council, *Committee Hansard*, Parramatta, 10 May 2024, pp. 7–8.

presenting flood risk data in a way that can be widely understood and acted upon is challenging.[69] Logan City Council explained:

> Flood risk is inherently complex and individual Councils and agencies present different sources of flood risk information, such as mapping, property reports and fact sheets, using different definitions, terminology and presentation styles. This disparity can be confusing for residents and business owners.[70]

8.43 This inquiry was told that the 'Average Recurrence Interval' (ARI) is frequently misunderstood.[71] ARI describes the probability of a flood of a certain size occurring, expressed as the average time period between floods of a certain size. For example, a 1-in-100 year flood will occur *on average* once every 100 years, and equates to a one per cent chance of a flood occurring in any given year.

8.44 The Committee heard that phrases like '1-in-100 year flood' have confused many communities, with reports that some residents assume that if a 1-in-100 year flood happened last year, it will not occur again for another 99 years. In fact, the probability of another flood of such size occurring again in the following year remains unchanged at 1 per cent. As Allianz explained:

> It is possible to have several 1-in-100 year floods within a 100 year period, just as it is statistically possible to go for 100 years without a single flood.[72]

8.45 The table below shows the ARI and flood probabilities used to describe the frequency of flood events.

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69 Ms Amanda Leck, Head, Adaptation, Migration and Reconstruction, NSW Reconstruction Authority, *Committee Hansard*, 30 July 2024, p. 28.

70 Logan City Council, *Submission 52*, p. 4.

71 Mr Daniel Staley, Acting Director, Infrastructure Planning, and Manager, Development Services, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2024, p. 7; Allianz Australia, *Submission 13*, p. 6; Mr Craig Dixon, Executive General Manager, Service and Asset Lifecycle, Melbourne Water, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 39; Mr Jon Raven, Mayor, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 23.

72 Allianz Australia, *Submission 13*, p. 6.

Table 8.1 Annual Recurrence Interval and Flood Probability

ARI	In any 1-year period	In any 10-year period	In any 30-year period	In any 70-year period
50 years	1 chance in 50 (2%)	1 chance in 5.5 (18%)	1 chance in 2.2 (45%)	1 chance in 1.3 (76%)
100 years	1 chance in 100 (1%)	1 chance in 10 (10%)	1 chance in 4 (26%)	1 chance in 2 (51%)
200 years	1 chance in 200 (0.5%)	1 chance in 20 (5%)	1 chance in 7 (14%)	1 chance in 3.3 (30%)
500 years	1 chance in 500 (0.2%)	1 chance in 50 (2%)	1 chance in 17 (6%)	1 chance in 7.7 (13%)

Source: Allianz Australia, *Submission 13*, p. 6.

8.46 Although consumers frequently misunderstand the ARI, the alternatives also have problems. For example, Allianz recommended a system of simple High, Medium and Low risk categories,[73] but Mayor Jon Raven of Logan City Council said the council had found this approach unsuitable:

> …there's always a risk, when you simplify it, that you actually dilute the facts. We tried to use a low-risk, moderate-risk, high-risk model, but what gets captured in the moderate risk model are things like that one-in-2,000 annual risk. You wouldn't call that moderate, I wouldn't call that moderate, but, in a technical sense, it sits in the moderate spectrum. Again, there's a balancing point around the language that you use, giving people accurate information but not overwhelming them with technical data.[74]

8.47 The General Manager of Disaster and Emergency Management at the City of Gold Coast also stressed that flood risk needs to be communicated much more consistently across Australia:

> If we can move to more consistent language, particularly nationally—is it ARI, is it AEP [Annual Exceedance Probability], is it one in 100, is it one per cent? … [T]here are a whole range of things we can do to better unpack the technical information into what's consumable by the community, so they can understand their risk and then engage accordingly with the insurance industry.[75]

8.48 NEMA noted that it was developing a community risk reduction, education and awareness program to deliver national evidence-based guidance on communicating risk, hoping ultimately to improve households' mitigation behaviours.[76]

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73 Allianz Australia, *Submission 13*, p. 21.

74 Mr Jon Raven, Mayor, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 27.

75 Mr Mark Ryan, General Manager, Disaster and Emergency Management, and Local Disaster Coordinator, City of Gold Coast, *Committee Hansard*, Logan, 10 April 2024, p. 27.

76 NEMA, *Submission 40*, p. 4.

8.49 In addition to the overarching confusion that many in the community experience when grappling with risk measures, another factor that is worth considering is how personal experience impacts subjective perceptions of risk. A recent study on storm surges in northern Queensland found that people with direct experience of surges tended to rely on their subjective experiences when assessing risk, whereas those with little experience tended to rely more on objective measures.[77] The study found that 'experience can both facilitate and impede risk perception'.[78] Moreover, the study found that, given that the level of experience with storm surge varies across the community, 'individuals would benefit from tailored communication that emphasises personal risk and impact of events'.[79] Other studies have arrived at similar findings in relation to cyclones and storms.[80]

Current data sharing arrangements

8.50 Following the 2022 flood events, the Australian Government announced $22.6 million (over four years) for initiatives to improve the targeting of mitigation investment, reduce disaster risk, and improve insurance affordability and availability over time.[81] As part of this package, the Australian Government established the Hazards Insurance Partnership (HIP), which brings together representatives of the Australian Government and the insurance sector to tackle issues at the intersection of hazard risk and insurance, as noted in Chapters 1 and 3.[82]

8.51 The HIP collaboration has discussed data sharing proposals, including the creation of an enduring data asset to improve understanding of insurance affordability and underinsurance, and better inform policy and program design.[83] NEMA said it is also developing Australia's first National Disaster Risk Profile, to create an authoritative understanding of current national hazard risks to guide mitigation investments.[84] NEMA explained that the HIP:

> …has a number of elements…or work streams… a big one is around building a data asset and particularly around insurance and linkage and integration of insurance data with other datasets to try to construct essentially better decision-

77 Livock, Kristy et al, 'Storm surges: Exploring the role of experience and knowledge', *International Journal of Disaster Risk Reduction*, 93 (2023), p. 1.
78 Livock, Kristy et al, 'Storm surges: Exploring the role of experience and knowledge', *International Journal of Disaster Risk Reduction*, 93 (2023), p. 7.
79 Livock, Kristy et al, 'Storm surges: Exploring the role of experience and knowledge', *International Journal of Disaster Risk Reduction*, 93 (2023), p. 7.
80 Scovell, Mitchell et al, 'Personalising the message: promoting cyclone protection in North Queensland', *Australian Journal of Emergency Management*, October 2019; Scovell, Mitchell et al, 'How fringe cyclone experience affects predictions of damage severity', *Disaster Prevention and Management: an International Journal*, 30(2) 2021, pp 240-254.
81 NEMA, *Submission 40*, p. 3.
82 NEMA, Communiqué of HIP Meeting One, 2 February 2023, p. [1].
83 NEMA, *Submission 40*, p. 4.
84 NEMA, *Submission 40*, p. 4; Dr Jill Charker, Deputy Coordinator-General, Disaster Resilience and Recovery, NEMA, *Committee Hansard*, 15 March 2024, p. 29.

> making information for government and a range of other stakeholders. To date, we have got a bunch of activities on the go…around data access and sharing.[85]

8.52 HIP meeting papers note discussions around establishing bilateral data sharing agreements between governments and the insurance industry.[86] For example, insurers at the 2 February 2023 meeting, including the ICA, Insurance Australia Group (IAG), Suncorp, Royal Automobile Club of Queensland Limited (RACQ), Allianz and QBE, affirmed their willingness to share appropriate data to support targeted mitigation investment and policy design, though noting the need to ensure competition considerations are appropriately managed.[87] NEMA told the Committee:

> These initiatives recognise that while the insurance sector is a private market, there are key actions that the Australian Government (and NEMA specifically) can do to bring together relevant stakeholders, improve collaboration and data sharing, build the evidence base for how households and communities can effectively reduce risk…[and] help build a shared picture of risk.[88]

8.53 Many councils have called on the insurance industry to share the flood risk data underpinning insurance premium calculations, arguing that residents and businesses are entitled to understand the reasons behind high premiums.[89] Hawkesbury City Council stressed that the lack of open data to explain premiums causes confusion and frustration for both councils and consumers.[90]

8.54 Pressure on insurers to share their data is increasing. Resilient Sydney, a collaboration of all 33 metropolitan councils of Greater Sydney, told the Committee:

> Over decades, the insurance, reinsurance and financial industries have invested in long-term natural catastrophe models, and these models consider increased climate risk and provide a granular understanding of flood risks to inform their business decisions on tolerable risk. Data developed and held by insurers is not publicly available or shared with government land use decision-makers. State and local government do not have similar datasets.[91]

8.55 Many insurers told this inquiry that they supported a public national database on flood risk—but did not specify how much of their own data they would be willing to share.[92] Similarly, in its 2024–25 budget submission, the ICA supported the idea of a

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85 Dr Jill Charker, Deputy Coordinator-General, Disaster Resilience and Recovery, NEMA, *Committee Hansard*, 15 March 2024, p. 29.

86 See NEMA's communiqués of HIP meetings from February 2024 to May 2024, available at nema.gov.au/about-us/federal-budget/hazards-insurance-partnership, viewed 5 September 2024.

87 NEMA, Communiqué of HIP Meeting One, 2 February 2023, p. [1].

88 NEMA, *Submission 40*, p. 4.

89 Logan City Council, *Submission 52*, p. 4; Sutherland Shire Council, *Submission 24*, pp. 2–3; Ms Sarah McMahon, Mayor, Hawkesbury City Council, *Committee Hansard*, Richmond, 9 May 2024, p. 2.

90 Ms Sarah McMahon, Mayor, Hawkesbury City Council, *Committee Hansard*, Richmond, 9 May 2024, p. 2.

91 Ms Yvette Andrews, Manager, Engagement and Strategy Development, Resilient Sydney, *Committee Hansard*, Parramatta, 10 May 2024, p. 15.

92 Suncorp Group, *Submission 12*, p. 40; RACQ Group, *Submission 15*, p. 25; Insurance Australia Group, *Submission 16*, p. 27; QBE Insurance Group, *Submission 17*, p. 28.

national hazard data asset, and recommended that the Australian Government work with state, territory and local governments to update, standardise and make publicly available climate hazard data, but made no comment on insurers' contributions.[93]

8.56 The inquiry heard that at least one insurer and council are now attempting to navigate the sensitivities involved in setting up a data-sharing arrangement. The City of Moreton Bay told the Committee:

> …we've been in a number of discussions with one particular insurer…about a data-sharing agreement… The devil is in the detail in terms of identifying how we handle that data. Obviously it's sensitive commercial data from their perspective as part of a competitive insurance environment, and from our perspective we have carriage of private personal information, and we need to ensure anything we share is dealt with appropriately. From the insurance perspective, they operate under the auspices of a bank, so their data sharing regulations and framework are quite strict, almost stricter than local government. However, local government and our information technology services are also improving and constantly evolving the way that they protect and manage personal data. So it requires an ongoing discussion.[94]

Committee comment

8.57 The Committee notes that flood risk data is currently held by multiple parties in a complex ecosystem—and the stakeholders with the least access are households and small businesses. Moreover, data on property-level risk is currently being released in an ad hoc way and is of variable quality. This limits the ability of households, businesses, governments and insurers to make well-informed decisions.

8.58 The Committee acknowledges efforts by all levels of government and the insurance industry to collaborate towards improved data-sharing arrangements, including through the HIP, but notes that these efforts depend on insurers' and local governments' willingness to contribute their own data—including data held in the NFID.

8.59 The Committee also notes that useful state and national risk datasets require greater consistency and higher quality across local government flood studies. Flood risk levels also need to be communicated to consumers in a more consistent and readily comprehensible way.

8.60 Local government flood studies should also be accessible by all households and small businesses through a national public database. The Committee acknowledges that past efforts to develop similar public portals have had mixed results, and notes

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93 Insurance Council of Australia, *2024–25 Pre-Budget Submissions*, p. [4].

94 Mr Christopher Barnes, Manager, Emergency Management and Public Safety, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2024, p. 10. See also Suncorp Group, *Submission 12*, pp. 11–12.

that any new national database should be developed with extensive reflection on past efforts, in consultation with relevant stakeholders.

8.61 The Committee respects concerns expressed by community members about negative impacts on their insurance premiums and property values after new flood data is publicly released. However, releasing more high-quality data would even the playing field, giving consumers access to data that is already in the possession of insurers and some government agencies.

8.62 To address these concerns, the Committee believes that LGAs (and water authorities where relevant) should develop strategies for releasing data in a way that involves suitable community consultation and engagement. This is because, firstly, the LGAs or water authorities are best placed to do this, as they created the studies and can therefore best explain them; and secondly, the LGAs or water authorities understand local sensitivities and can therefore design nuanced consultation processes. As with flood modelling, it would be necessary to appropriately resource LGAs to undertake this consultation and engagement, particularly regional and rural LGAs with small revenue bases.

Recommendation 62

8.63 The Committee recommends that the Australian Government work with state and territory governments to ensure flood maps are produced to a high standard across the nation, regardless of the size of the local government area producing the modelling. This may require:

- **increased funding for local government areas and water authorities, and**
- **the development of agreed standards to ensure that flood mapping is completed to at least an agreed minimum standard.**

That, over time, this higher quality flood modelling be made freely accessible to homeowners and the general public along with easy to understand information about flood risk exposures at each property. This may be best undertaken in the first instance by local councils and/or water authorities responsible for generating the flood modelling, consistent with Recommendation 3 of the Actuaries Institute's Funding for Flood Costs report (August 2023).

Recommendation 63

8.64 The Committee recommends that the Australian Government ultimately move towards a national, centralised, public-facing portal containing flood risk data at the household level for:

- **all households and small businesses across Australia, and**
- **all land being considered for release for development and all land that has been released for development, but not yet developed.**

Agencies tasked with developing the portal should reflect upon governments' past efforts to develop similar portals and lessons learnt. The portal should be easily accessible, user friendly and display high-quality flood risk information in a way that is readily understandable to communities.

That before data is released on such a portal for existing properties (residential and small business), that the entity creating the flood study release that data through a staged process involving appropriate community consultation and engagement.

Recommendation 64

8.65 The Committee recommends that the Australian Government commission research into effective ways of communicating flood risk to communities. The research may explore communities' understanding of the Average Recurrence Interval, categories such as High, Medium or Low flood risk, and the Annual Exceedance Probability percentage. The research should be used to establish standard best-practice communication strategies for local governments and other stakeholders in communicating flood risk to communities.

Recommendation 65

8.66 The Committee recommends that the Australian Government continue to work with the insurance industry through the Hazards Insurance Partnership to collate:

- **data contained in the National Flood Information Database, and**
- **household-level data held by insurers (de-identified where appropriate).**

Enhancing flood recovery arrangements

8.67 The inquiry heard that the community appreciates the financial and other support provided by each level of government during and after disasters. However, witnesses questioned the adequacy and timeliness of payments under the current Disaster Recovery Funding Arrangements (DRFA) for smaller regional councils, and many councils want 'build back better' principles incorporated into routine DRFA funding.

8.68 The Committee also heard that government recovery support—including buyback and retrofitting/raising programs—needs to be proactively planned and rehearsed in advance of disasters, with ample community consultation and education. This includes the need for better consideration of how grants will interact with insurance, to avoid unnecessary delays and perverse outcomes.

8.69 This section outlines disaster support arrangements across the three levels of government, particularly through DRFA mechanisms, and suggestions for improvement. It then addresses issues with the design and delivery of specific recovery and resilience schemes.

Disaster support across the three levels of government

Federal and state governments

8.70 Constitutional authority for emergency management sits primarily with the states and territories. However, the *Australian Government Crisis Management Framework* (first released in 2012) acknowledges the role of Australian Government assistance in responding to 'nationally significant' crises.[95]

8.71 Direct Australian Government financial support for individuals after disasters includes the Australian Government Disaster Recovery Payment[96] and the Disaster Recovery Allowance,[97] both delivered via Services Australia. As NEMA explained: 'The Australian Government may activate these payments when an event is particularly severe, taking into account the severity and widespread nature of the impacts to individuals and communities.'[98]

8.72 Under the *Social Security Act 1991*, the Australian Government Disaster Relief Payment and Allowance to individuals can be authorised for locations specified by the (federal) minister with responsibility for emergency management in the event of a major disaster. Historically, ministerial disaster determinations identified affected locations at the LGA level—as was the case during the major floods.[99] More recent determinations have identified affected suburbs at the sub-LGA level.[100]

8.73 The quantum of support delivered through these payments is significant. Relief payments to individuals through the Disaster Recovery Allowance and Australian Government Disaster Recovery Payment totalled $3.47 billion across the major flood events in Queensland, NSW, Victoria and Tasmania.[101]

8.74 As noted above, the Australian Government also provides disaster funding to states and territories under the DRFA, and thereby to local governments.[102] State and local governments become eligible for Australian Government co-funding to cover many disaster response and recovery costs under the DRFA if 'a coordinated multi-agency

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95 Department of Prime Minister and Cabinet, *Australian Government Crisis Management Framework*, version 3.1, December 2021, p. 7.

96 Department of Home Affairs, *Disaster Recovery Payment*, www.disasterassist.gov.au/disaster-arrangements/disaster-recovery-payment, viewed 27 August 2024.

97 Department of Home Affairs, *Disaster Recovery Allowance*, www.disasterassist.gov.au/disaster-arrangements/disaster-recovery-allowance, viewed 27 August 2024.

98 NEMA, *Supplementary Submission 40.1*, p. 1.

99 For example: Murray Watt, Minister for Emergency Management, *Social Security (Australian Government Disaster Recovery Payment— Victorian floods – October 2022) Determination 2022 (No. 10)*, 22 December 2022, www.legislation.gov.au/F2022L01740/asmade/text, viewed 2 September 2024.

100 For example: Murray Watt, Minister for Emergency Management, *Social Security (Australian Government Disaster Recovery Payment—South East Queensland Severe Storms and Flooding—December 2023 to January 2024) (LIN 24/026) Determination 2024 (No. 4)*, 12 February 2024, www.legislation.gov.au/F2024L00169/asmade/text, viewed 2 September 2024.

101 National Emergency Management Agency, *Supplementary Submission 40.1*, p. 1.

102 Department of Home Affairs, *Disaster Recovery Funding Arrangements 2018*, www.disasterassist.gov.au/disaster-arrangements/disaster-recovery-funding-arrangements, viewed 27 August 2024.

response was required' and if 'state expenditure exceeds the small disaster criterion'[103]—currently set at $240,000 across a state per event. As noted in NSW's *Disaster Assistance Guidelines 2021*, this small disaster criterion 'applies to the whole disaster event, whether it has occurred within one Local Government Area or over a number of Local Government Areas.'[104] A state or territory must apply to the Australian Government to activate the DRFA in response to an eligible emergency, and costs are shared.

8.75 Eligible expenditures under the DRFA are extensive. The more 'routine' funding categories (A and B) include emergency support for individuals, such as emergency food, clothing or temporary accommodation; other emergency support, such as counter-disaster operations for the protection of the general public, or make-safe and reconstruction works for essential public assets; and concessional interest rate loans.

8.76 Categories C and D allow the states to seek additional Australian Government funding for exceptional measures to support the holistic recovery of a severely impacted region, community or sector. Eligible expenditure includes: community recovery funds; recovery grants for small businesses, non-profits and primary producers; and other acts of relief or recovery requested by a state in exceptional circumstances.[105]

8.77 State governments have established slightly different procedural arrangements for administering access to DRFA funds by local councils and other aid recipients. In Victoria, councils notify Emergency Recovery Victoria (ERV) of a disaster event, and ERV assesses whether the event meets the state-wide threshold for eligibility under the DRFA based on impacts across all affected LGAs. ERV contacts NEMA to request Commonwealth activation of the DRFA when it believes an event meets the threshold.[106] In Queensland, the Queensland Reconstruction Authority manages DRFA funding following a similar procedure. Queensland also has an entirely state-funded, all-hazards relief program under its State Disaster Relief Arrangements, with a separate activation process.[107] Community members' eligibility to apply for the activated support is usually advertised based on included LGAs. In NSW, the state minister for emergency services issues a formal natural disaster declaration that specifies the LGAs eligible for DRFA-funded disaster relief,[108] including specific recovery programs.[109]

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103 Department of Home Affairs, *Disaster Recovery Funding Arrangements 2018*, June 2018, p. 5.

104 Resilience NSW, *NSW Disaster Assistance Guidelines 2021*, 2021, p. 7.

105 Department of Home Affairs, *Disaster Recovery Funding Arrangements 2018*, June 2018, pp. 15–16, 21 and 22.

106 Department of Justice and Community Safety (Victoria), *Disaster Recovery Funding Arrangements (DRFA) Overview*, February 2024 (available for download from).

107 Queensland Reconstruction Authority, *Queensland Disaster Funding Guidelines*, June 2021; Queensland Reconstruction Authority, *Our role in disaster funding activations*, www.qra.qld.gov.au/disaster-funding-activations/our-role-disaster-funding-activations, viewed 4 September 2024.

108 Resilience NSW, *NSW Disaster Assistance Guidelines 2021*, 2021, p. 7.

109 For example, see NSW Government, *Natural disaster declarations from financial year 2021-22*, www.nsw.gov.au/emergency/recovery/natural-disaster-declarations/fy-2021-22, viewed 4 September 2024.

8.78 Australian and state government DRFA funding in response to the 2022 floods has been substantial, and it continues to grow. NEMA informed the Committee that $7.45 billion in 'exceptional circumstances assistance' had been funded (under categories C and D), which was 'cost-shared (50:50) between the Australian and State Governments',[110] on top of the billions in emergency payments to individuals. Some councils told the Committee in 2024 they were still assessing 2022 disaster costs for the purposes of claiming reimbursement under the DRFA, or that they were waiting on the outcome of applications (discussed below).

8.79 Federal and state funding for mitigation and resilience measures has also been increased. The $741 million Resilient Homes Fund for flood-affected Queenslanders was established in May 2022 in response to the floods, jointly funded by the Australian and Queensland Governments and administered by the Queensland Reconstruction Authority. The fund supports 'eligible homeowners to retrofit or raise their homes so they can return to their normal lives sooner after floodwaters recede, with minimal disruption to family and finances.'[111] Flood-affected Queenslanders could register to be considered for three program options: Resilient Retrofit, Home Raising or Voluntary Home Buy-Back.[112]

8.80 A similar scheme was announced for the Northern Rivers region in NSW in October 2022, co-funded by the Australian and NSW Governments. The $700 million Resilient Homes Program is administered by the NSW Reconstruction Authority and also provides financial support for rebuilding with flood hardened materials, house raising and buybacks.[113] The NSW Government also announced a $100 million Resilient Lands Program[114] to identify and acquire flood-safe land for new housing in the Northern Rivers.[115]

8.81 The Australian Government also launched its flagship Disaster Ready Fund in September 2022, and committed to investing $1 billion over five years ($200 million per year) 'in disaster mitigation infrastructure and systemic disaster risk reduction projects'.[116] The role of such mitigation and resilience initiatives to address insurance affordability problems is discussed in Chapter 9.

8.82 State governments also fund or coordinate non-financial support to flood-hit communities, such as demolition or debris removal. For example, NSW provided free structural assessments, demolition and waste removal for properties damaged in the

110 National Emergency Management Agency, *Supplementary Submission 40.1*, p. 1.
111 NEMA, *Submmission 40*, p. 4.
112 Queensland Reconstruction Authority, *Resilient Homes Fund: Voluntary Home Buy-Back program*, www.qra.qld.gov.au/resilient-homes-fund/resilient-homes-fund-voluntary-home-buy-back-program, viewed 4 September 2024.
113 NSW Government, *Resilient Homes Program frequently asked questions*, www.nsw.gov.au/departments-and-agencies/nsw-reconstruction-authority/our-work/northern-rivers/resilient-homes-program/resilient-homes-program-frequently-asked-questions, viewed 4 September 2024.
114 NEMA, *Submmission 40*, p. 4.
115 NSW Government, *Resilient Lands Program*, www.nsw.gov.au/departments-and-agencies/nsw-reconstruction-authority/our-work/northern-rivers/resilient-lands-program, viewed 4 September 2024.
116 NEMA, *Submission 40*, p. 3.

February/March 2022 floods.[117] The Victorian Government also organised for the provision of free structural assessment reports for flood-affected properties, for use to support insurance claims.[118]

8.83 State governments can also provide access portals for navigating government assistance and referrals to community services—such as the Queensland Government's standing 24/7 Community Recovery Hotline, or the Victorian Government's Flood Recovery Hotline established after the 2022 floods.[119]

8.84 State governments also delegate many of their emergency management and recovery responsibilities to local governments.

Local governments

8.85 The inquiry heard that local governments operate at the coalface of disaster resilience for their communities, from planning and preparation through to clean-up and rebuilding.

8.86 Prior to and during a flood, councils coordinate local disaster planning and response operations, often through dedicated disaster management groups.[120] Council staff are among the first boots on the ground after a flood. Comments by the Local Disaster Coordinator for the City of Gold Coast were typical of the stories shared:

> We had everyone from librarians to car parking officers knocking on the door and providing a small welfare pack, and then making them feel comfortable that the road was clear, and they were able to make their way to the [recovery] hub…[121]

8.87 Many councils also contribute to resource-sharing with their neighbours through regional emergency management clusters or similar arrangements.[122] As relayed by Lismore Mayor Steve Krieg:

> …every council pooled their resources together to get the best result for the region, to try and get the fastest recovery and emergency response. If we needed something from Richmond Valley, it was readily available. If Byron needed something from Lismore, it was readily available.[123]

8.88 Councils organised evacuation centres,[124] and in the aftermath of floods many also stood up recovery centres or hubs in partnership with state governments and

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117 NSW Government, *The Flood Property Assessment Program*, www.nsw.gov.au/emergency/floods/recover/financial-support/property-assessment-program, viewed 4 September 2024.

118 ARC Justice, *Submission 9*, p. 4.

119 Emergency Recovery Victoria, *Submission 31*, p. 4.

120 See for example: Mr Jason Membrey, Disaster Management Coordinator, Sunshine Coast Council, *Committee Hansard*, Caboolture, 9 April 2022, pp. 3–4.

121 Mr Mark Ryan, General Manager, Disaster and Emergency Management, and Local Disaster Coordinator, City of Gold Coast, *Committee Hansard*, Logan, 10 April 2024, p. 20.

122 For example: City of Greater Bendigo, *Submission 68*, p. 2.

123 Mr Steve Krieg, Mayor, Lismore City Council, *Committee Hansard*, Lismore, 11 April 2024, p. 3.

124 See for example: City of Greater Bendigo, *Submission 68*, p. 2.

community organisations.[125] These gave locals face-to-face access to representatives from state governments, Services Australia, community centres, legal aid services and financial counselling services, and in some cases insurance industry representatives. A Clarence Valley councillor told the inquiry:

> There were representatives from state governments. There were charities. There was the Red Cross. There were church organisations. We had volunteers on the ground coming in from around New South Wales to help out with the recovery. We had the Army. We had the SES. We had the RFS.[126]

8.89 As expressed by another council, such centres let residents 'access at one location the full range of support services that are available from Government and key non-government agencies.'[127]

8.90 State and local governments often worked closely in establishing these centres, and witnesses welcomed the presence of state government representatives on the ground to support residents in accessing disaster grants.[128] The Manager of Emergency Management and Public Safety for the City of Moreton Bay explained its working relationship with Queensland Government agencies:

> One of the key stakeholders in [our] local disaster management group, and at the district level, at the time of the 2022 floods, was the Department of Communities, Housing and Digital Economy. They were the lead stakeholder to establish the recovery hubs within the region. … Those recovery hubs were located in facilities which we'd identified before the event as being suitable within the area of communities which were most at risk and most vulnerable to the impacts of flooding. They provided outreach teams, additional resources, and council supported wherever required in order to establish recovery hubs both in fixed locations and pop-up hubs very close to impacted areas to try and provide the community immediate face-to-face access with recovery services.[129]

8.91 With widespread road blockages and telecommunication failures, recovery centres were essential to many residents' ability to access rapid advice, apply for disaster payments or grants, or start their insurance claim process. Mayor Jon Raven of Logan City Council told the inquiry:

> In a widescale flood event like we saw in 2022—we're a city that has two rivers—our city actually gets split into four or five different sections that all get isolated

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125 For example: the Sunshine Coast and Moreton Bay councils, as discussed in *Committee Hansard*, Caboolture, 9 April 2024, p. 4.

126 Cr Steve Pickering, Councillor, Clarence Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 4.

127 Ballina Shire Council, *Submission 64*, p. 1.

128 For example: Mr Peter Freshney, Mayor, Latrobe Council, *Committee Hansard*, Devonport, 17 July 2024, pp. 4–5; Councillor Kenneth Keith OAM, Parkes Shire Council, *Committee Hansard*, Eugowra, 8 May 2024, p. 13.

129 Mr Christopher Barnes, Manager, Emergency Management and Public Safety, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2024, p. 4.

> from each other and from our services. So those local community hubs become absolute havens for people to connect to.[130]

8.92 When floodwaters recede, councils undertake emergency make-safe repairs to essential infrastructure, including transportation, water and sewage networks. They must then restore these assets long term. If funding is activated under the DRFA, councils can apply for the reimbursement of many of these disaster-related expenses, including essential infrastructure repairs and clean-up operations.

Opportunities to enhance the DRFA

8.93 Commonwealth-, joint- and state-funded support was all broadly welcomed by participants in this inquiry. Legal Aid NSW said Australian Government disaster payments and NSW's Back Home Grant, At-Home Caravan Program and federal–NSW Resilient Homes Program had been 'critical to assist disaster affected people who do not have any or adequate insurance cover to recovery from disasters'.[131] NSW's Resilient Lands Program, the Queensland Household Resilience Program and federal–Queensland Resilient Homes Fund were also acknowledged,[132] as were Victorian Government grants.[133] Charities received valuable grants to support their communities,[134] while others noted the importance of grants for primary producers (given the prevalence of underinsurance for farmers)[135] and businesses.[136]

8.94 However, participants also suggested ways to improve the design or implementation of government financial support.

8.95 Several councils questioned the appropriateness of activation thresholds for the DRFA for small, regional communities, while other evidence highlighted disparate experiences of the benefits of recovery grant programs between flood-hit LGAs. For example, Sutherland Shire Council argued that:

> The current Commonwealth and associated State Government Disaster Recovery Funding Arrangements are dated (2018) and need review. Climatic conditions have evolved since these arrangements were established. Events can be far more localised but equally devastating to local communities yet do not qualify for disaster recovery funding relief. There can also be degrees of devastation that affects local communities and supporting services and infrastructure. This should enable a more nuanced approach to disaster recovery

130 Mr Jon Raven, Mayor, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, pp. 19–20.
131 Legal Aid NSW, *Submission 34*, p. 26.
132 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 72.
133 Mr Paul Fernee, Director, Community Wellbeing, Gannawarra Shire Council, *Committee Hansard*, Rochester, 18 April 2024, pp. 3, 9.
134 For example: Ms Elly Bird, Executive Director, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, p. 30.
135 Legal Aid Queensland, *Supplementary Submission 8.1*, p. 1.
136 Mr Chris Connors, Chief Executive Officer, Sunshine Sugar, *Committee Hansard*, Lismore, 11 April 2024, p. 40, 45.

> relief through a tiered disaster declaration process to enable easier access to some relief.[137]

8.96 The Royal Commission into National Natural Disaster Arrangements noted this issue in its 2020 final report, which observed that councils struggled to access adequate support for highly localised disasters that failed to reach the statewide threshold of $240,000 in costs (the 'small disaster criterion').

8.97 The Commission's view was that the DRFA should be reserved as a safety net for large-scale cases, but that state governments could and should activate alternative funding streams for more localised disasters. However, the Commission also noted evidence that the 'small disaster criterion' may have a disproportionate impact on less populous jurisdictions, and recommended that activation thresholds be reviewed by Australian, state and territory governments.[138]

8.98 The Commission also affirmed that 'The provision of recovery assistance, under the DRFA, should be based on need within communities, rather than being based on geographical areas which meet predefined impact indicators.'[139] However, governments tend to allocate disaster relief funding at the LGA level, as described above. This inquiry heard that this approach can be slightly ad hoc in practice.

8.99 As witnesses observed, floods rarely respect LGA boundaries.[140] The Committee heard that some disaster-hit communities in LGAs adjacent to the most obvious 'impact zones' of the 2022 floods were initially overlooked for support,[141] with different support levels activated for flooded communities on opposite sides of the LGA border.[142] The Committee also heard of mixed experiences of the federal–NSW Resilient Homes Program between LGAs in the Northern Rivers,[143] while stakeholders in disaster-prone northern Queensland noted that the federal–Queensland Resilient Homes Fund was unavailable outside the southeast corner, and called for the program's expansion.[144]

8.100 Many witnesses questioned the adequacy of current disaster response arrangements to support smaller, regional councils with limited staff and low revenue-raising capabilities, even if the LGA is eligible for DRFA and state-based support. The

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137 Sutherland Shire Council, *Submission 24*, pp. 1–2.

138 Royal Commission into National Natural Disaster Arrangements, *Report*, 28 October 2020, pp. 474–475.

139 Royal Commission into National Natural Disaster Arrangements, *Report*, 28 October 2020, p. 485.

140 Mr Brendan Moon, Coordinator-General, NEMA, *Committee Hansard*, 15 March 2024, pp. 33–34; Mrs Kate Miles, Head of System Planning and Land Acquisition, Sydney Water, *Committee Hansard*, 30 July 2024, p. 4; Annette Sheppard, President, FNQ Volunteers Inc., *Committee Hansard*, Townsville, 25 July 2024, p. 32.

141 For example: River Cares, *Submission 76*, p. 6.

142 For example: Sofie Wainwright and Mary-Louise Vince, 'Hawkesbury River residents in "forgotten" council areas overlooked for flood relief funds,' *ABC News*, 7 April 2022; Caitlin Cassidy and Cait Kelly, '"It's really insulting": NSW flood victims excluded from extra disaster payments lash out at Coalition,' *Guardian*, 10 March 2022.

143 See the discussion across Northern Rivers councils in *Committee Hansard*, Lismore, 11 April 2024, p. 10.

144 Ms Claudia Brumme-Smith, Chief Executive Officer, Townsville Enterprise Ltd, *Committee Hansard*, Townsville, 25 July 2024, p. 20.

Committee heard the challenges start with resourcing the initial emergency response, as described by Gannawarra Shire Council in northern Victoria:

> Resource-wise it is a challenge for rural councils, in particular. We had very few individuals able to support the organisations in our control centres, as an example, and definitely looked to the state to try to provide support as well. It's purely a numbers game in terms of individuals who can provide that sustained support…[145]

8.101 Funding challenges continued in the recovery phase, with witnesses questioning the adequacy of the quantum of funding made available to support smaller regional and rural communities. Reflecting on the support program the NSW Reconstruction Authority is developing for the Central West, resident Sean Haynes said: 'At this point in time, $40 million has been allocated to the Central West, which covers four local government areas… we're advocating that's definitely not enough'.[146]

8.102 The slow process required for councils to assess their disaster expenditure and secure approvals for reimbursement under the DRFA was also raised as an issue, as explained by the City of Greater Bendigo:

> The City believes it has sustained $15M in damages with over 5,700 defects identified ranging from small-scale culvert clearing through to full reconstruction of sections of sealed and unsealed roads. Approximately 80 per cent of the rural road network has some form of damage to it. … A key challenge for Local Government continues to be the significant time taken to receive Government approval to proceed with the works, which continues to delay much needed repairs to be undertaken. Under the existing DRFA framework, at this stage major rehabilitation works cannot proceed until claim approval has been provided by the [Victorian] Department of Transport and Planning.[147]

8.103 Illustrating the length of delays, Gannawarra Shire Council informed the Committee that as of April 2024, the majority of its expenses from floods in the 2022–23 financial year were still being assessed for eligibility under the DRFA.[148] Greater Shepparton City Council elaborated on the administrative burden:

> The core funding for emergency management to local government is fairly low, to say the least. It's I think in the order of $60,000 a year. It pales in comparison with the in-kind contribution. Some of that is retrievable through [Disaster Recovery] funding arrangements, but it is also a really significant administrative burden to go through that process of pulling all of those claims together and

145 Mr Paul Fernee, Director, Community Wellbeing, Gannawarra Shire Council, *Committee Hansard*, Rochester, 18 April 2024, p. 3.
146 Mr Sean Haynes, Private capacity, *Committee Hansard*, Eugowra, 8 May 2024, p. 21.
147 City of Greater Bendigo, *Submission 64*, p. 6.
148 Mr Paul Fernee, Director, Community Wellbeing, Gannawarra Shire Council, *Committee Hansard*, Rochester, 18 April 2024, p. 4.

> sifting through what can be claimed and what can't be claimed and what's merely I guess our contribution to the community at a time of great need.[149]

8.104 NEMA acknowledged councils' concerns about the accessibility and timeliness of DRFA support, with Coordinator General Mr Brendan Moon telling the inquiry that:

> All of us, through the many reviews that have been undertaken of the response and the recovery to these events from Queensland through to Victoria, recognise it's just not quick enough. It's not responsive enough. We need to change the system and work with the states to ensure that those systems are much more effective.[150]

8.105 Mr Moon noted that NEMA had since undertaken workshops with councils to better explain DRFA application processes, and promised that 'We're going to get out on the front foot and speak to councils and communities much earlier about what can be mobilised quickly and what do we need in place to get that going.'[151]

8.106 The Committee also heard that badly affected regional communities need ongoing support for years following a disaster, beyond initial funding injections. Mayor Kevin Beatty of Cabonne Council in the Central West warned: 'Whilst we have been supported by both New South Wales and [the] federal government in the immediate clean-up and recovery efforts, our communities are going to require ongoing support for a number of years.'[152]

8.107 Witnesses also noted the layers of disadvantage faced by regional, rural and remote communities,[153] leading to disproportionate mental health impacts from natural disasters.[154] The Committee heard that pockets of disadvantage may be unable to access the support needed for full recovery. Community services often cannot adequately service smaller towns or more isolated rural properties.[155] The Committee heard from the principal solicitor of TASC National, a Toowoomba-based community legal and advocacy service covering a region of some 400,000 square kilometres, who described the difficulty of maintaining services across their footprint, including:

> …the impact that…flooding has on our service delivery, particularly in the rural, regional and remote areas that we service. The impact has been significant and will continue to be significant as we push to service the smaller towns in between our offices, which are located in Toowoomba, Ipswich, Goondiwindi, Roma, Hervey Bay and Bundaberg. In the last two weeks, we've had to cancel our in-person services to the Roma office, we've had power interruptions in

149 Ms Louise Mitchell, Director, Community, Greater Shepparton City Council, *Committee Hansard*, Rochester, 18 April 2024, p. 4.
150 Mr Brendan Moon, Coordinator-General, NEMA, *Committee Hansard*, 15 March 2024, p. 35.
151 Mr Brendan Moon, Coordinator-General, NEMA, *Committee Hansard*, 15 March 2024, p. 36.
152 Mr Kevin Beatty, Mayor, Cabonne Council, *Committee Hansard*, Molong, 7 May 2024, p. 2.
153 For example: Dr Helen Haines MP, *Submission 4*, p. 9.
154 Ms Megan Inglis, Principal Solicitor, TASC National, *Committee Hansard*, Logan, 10 April 2024, p. 11.
155 For example: Name Withheld, *Submission 91*, p. [8].

> Goondiwindi, and we've had to carefully consider the risk in proceeding with our rural women's outreach legal service to Miles and Chinchilla.[156]

8.108 Witnesses also spoke of difficulties servicing large rural areas and remote communities after major floods, noting the added complications of widespread under-insurance, essential roads becoming impassable, and limited availability of emergency housing. In far north Queensland, Cook Shire Council's acting Chief Executive Officer and Local Disaster Coordinator told the inquiry:

> We're largely uninsured because of the cost of insurance in this area… The issue with this, of course, is that the shires have to pick up the burden. … [W]e'd been on standby for over two weeks prior to the cyclone coming and the rain event and then all through Christmas. … We also had Wujal Wujal [Aboriginal Shire]. Most of the people from Wujal were evacuated to Cooktown, which took up a lot of the resources and a lot of the accommodation in Cooktown. … [M]ost of the houses that were destroyed or were largely affected were in areas that had a single road to that area that was cut off. We were spending a lot of time fixing the roads. People had nowhere else to go. There were no houses available and there was no accommodation available, so they had no choice other than to muck out their houses and try and make a liveable space where they were.[157]

8.109 Large councils were sympathetic to the challenges faced by smaller counterparts under current funding arrangements, including DRFA triggers. The Chief Executive Officer of the City of Moreton Bay told the inquiry:

> …the trigger points that are now in place for smaller local governments are inhibitors for those local governments to be able to really budget well for their disaster events. They will need to ensure that they have funds set aside in a reserve that they can't really use for any other purpose, waiting for the next flood, disaster event, cyclone, fire, for anything to happen that is going to be something where there is the ability, or eligibility, to apply for funding through the Queensland Reconstruction Authority and…the disaster relief funding arrangements… For a council of our size and the Sunshine Coast, the trigger points are less of an issue. But for those smaller councils…it's going to be difficult, moving forward.[158]

8.110 The Committee also heard that small councils were more likely to struggle to fund community-level mitigation and resilience investment, particularly to protect more isolated settlements with small populations. Cook Shire Council told the inquiry:

> [S]ome of the pockets of areas that had the worst damage have quite low density populations. It's very difficult for us to go and build infrastructure and protect

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156 Ms Megan Inglis, Principal Solicitor, TASC National, *Committee Hansard*, Logan, 10 April 2024, p. 11.

157 Mr Brian Joiner, Chief Executive Officer (Acting), Cook Shire Council, *Committee Hansard*, Cairns, 24 July 2024, pp. 26–28.

158 Mr Scott Waters, Chief Executive Officer, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2024, p. 10.

> small pockets of housing; however, quite a few of the residents mentioned that they were quite happy to look into a buyback scheme and just get out of their house and leave it completely.[159]

8.111 Townsville Enterprise warned that the task of increasing resilience 'is too large to be shouldered by local governments, particularly those smaller councils in regional areas that don't have the rates-base to invest in mitigation infrastructure.'[160] Commentary that small councils also struggle to fund quality flood modelling was discussed earlier in this chapter.

8.112 Many councils wanted post-flood infrastructure repairs that are routinely funded through the DRFA to allow for resilience upgrades, rather than replacing like for like. For example, the City of Greater Bendigo welcomed the $500,000 in funding it received from the Victorian Government after the 2022 flood event for the 'reinstatement of infrastructure not eligible under the DRFA funding program to include "Build Back Better" outcomes'.[161] Mayor Peter Freshney of Latrobe Council, Tasmania, told the inquiry:

> We put a road back exactly as it was because we weren't able to upgrade it. If we were to upgrade it and build it back better we would have to bear the cost, so to have funding that is only to return like for like made available isn't in the best long-term interests of local government, local constituents and all levels of government. So, while grants are wonderful and very much appreciated, there needs to be some consideration of building back better in real terms.[162]

8.113 In addition to all of the funding issues highlighted above, local governments are facing increasing costs to insure their own assets. A number of LGAs spoke about recent trends in insurance costs, including higher premiums and rising excesses.[163] Some councils found themselves paying materially higher premiums for less coverage.[164] This was coupled with an unwillingness on the part of insurers and reinsurers to cover certain types of assets (for example, major water pipes).[165]

8.114 Reforms to the DRFA are already underway, in response to recommendations of the Royal Commission into National Natural Disaster Arrangements.[166] The

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159 Mr Brian Joiner, Chief Executive Officer (Acting), Cook Shire Council, *Committee Hansard*, Cairns, 24 July 2024, pp. 26–28, 31.

160 Townsville Enterprise, *Submission 81*, p. 4.

161 City of Greater Bendigo, *Submission 68*, p. [6].

162 Mr Peter Freshney, Mayor, Latrobe Council, *Committee Hansard*, Devonport, 17 July 2024, p. 12.

163 Mr Jason Membrey, Disaster Management Coordinator, Sunshine Coast Council, *Committee Hansard*, Caboolture, 9 April 2024, p. 2; Mr Scott Waters, Chief Executive Officer, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2024, p. 5; Mr Zac Dawes, Emergency Management Operations Officer, Townsville City Council, *Committee Hansard*, Townsville, 25 July 2024, p. 5.

164 Ms Maria Weiss, Director Community, Macedon Ranges Shire Council, *Committee Hansard*, Heathcote, 19 April 2024, p. 4.

165 Mr Gary Everson, Associate Director Service Delivery, Cairns Regional Council, *Committee Hansard*, Cairns, 24 July 2024, p. 31; Mr Andrew Armistead, Chief Executive Officer, CivicRisk Mutual, *Committee Hansard*, Parramatta, 10 May 2024, p. 2.

166 NEMA, *Disaster Recovery Funding Arrangements Review*, nema.gov.au/about-us/governance-and-reporting/reviews/DRFA, viewed 3 September 2024.

improvements being implemented are likely to be welcomed by participants in this inquiry. The DRFA have also been subjected to a recent external review through the Commonwealth-commissioned Independent Review of Commonwealth Disaster Funding (the Colvin Review). Among other matters, the review considered:

- Options to embed resilience and risk reduction into response and recovery funding and how the Commonwealth can incentivise states and territories to better manage risks and mitigate recovery costs.
- Options within Commonwealth, states and local governments (including cost sharing) to encourage greater investment in disaster risk reduction and resilience to help constrain growing disaster recovery costs.
- Processes, protocols and guidelines (e.g., funding activations, evidence and eligibility criteria, audit requirements).[167]

8.115 The review is expected to be published soon.

Committee comment

8.116 The Committee heard that Australian and state government recovery funding activated under the DRFA is widely appreciated and has real benefits.

8.117 However, more needs to be done to support councils with a small ratepayer base, particularly those servicing rural and remote communities. In regions prone to disasters, the inquiry heard that small councils are increasingly filling the breach left by a retreating insurance industry, but are unable to adequately resource flood modelling, disaster planning, emergency response or recovery operations.

8.118 The Committee notes that although the Royal Commission into National Natural Disaster Recovery Arrangements recommended the DRFA *not* be activated for highly localised events, it also stressed that state governments should still appropriately support communities facing such events. It also recommended that DRFA trigger thresholds be reviewed overall.

8.119 Inquiry participants have argued that LGA-based triggers can be too high level, and can result in pockets of disadvantage being excluded, particularly in rural and remote areas. The Committee notes that the Royal Commission stated DRFA support should be based on community need, not 'geographical areas which meet predefined impact indicators'.[168]

8.120 However, the practice of funding support being activated based on LGA boundaries remains prevalent for major state-administered recovery schemes, including ones jointly funded under the DRFA. While federal disaster declarations increasingly identify affected areas at suburb level within LGAs for the purposes of activating the

[167] NEMA, *Independent Review of Commonwealth Disaster Funding*, nema.gov.au/about-us/governance-and-reporting/reviews/Independent-Review-Disaster-Funding, viewed 3 September 2024.
[168] Royal Commission into National Natural Disaster Arrangements, *Report*, 28 October 2020, p. 485.

Australian Government Disaster Recovery Payment, arrangements for other support schemes vary between states.

8.121 The Committee is recommending that the Australian and state governments work to ensure adequate support can be triggered beneath the LGA level when needed, and that overall disaster and resilience funding arrangements meet the needs of smaller councils and their communities, particularly rural and remote communities.

Recommendation 66

8.122 The Committee recommends that the Australian Government continue to work with the states and territories through National Cabinet to ensure that disaster and resilience funding, and non-financial support, are accessible and adequate for all councils, particularly smaller councils.

The Committee recommends that the Government work with the states and territories through National Cabinet to ensure more disaster support can be triggered at the sub-Local Government Area level when needed.

Improving recovery and resilience schemes' design and delivery

8.123 The inquiry also heard that specific flood support schemes could be usefully strengthened, both in design and implementation.

8.124 The Committee heard that government deficiencies in proactively planning the delivery of recovery measures can delay flooded communities' ability to return to normal life. Witnesses highlighted unnecessary inefficiencies and waste, and confusing interactions between grant processes and insurance claims processes.

8.125 The inquiry also heard criticisms of the eligibility criteria for some grants and other flood support measures—particularly in cases where, perversely, many insured people were reported to be materially worse off than their uninsured neighbours. Such scenarios also raise long-term commercial and moral hazard issues around the growing role of governments as de facto 'insurers of last resort'.

Delays implementing recovery packages for decimated communities

8.126 In April and May 2024, the Committee visited flood-hit regional communities in NSW and Victoria that had suffered catastrophic flooding in 2022. The Committee observed that significant damage remained unrepaired, with many derelict properties and evidence of residents still camping in severely damaged homes or in backyards.

8.127 Some communities told the inquiry that progress implementing the transformative recovery plans promised by all levels of government after the floods had been marginal. When the Committee visited Lismore in April 2024, Mayor Steve Krieg spoke eloquently of governments' collective failure to deliver:

> The most traumatic thing for me as the mayor of Lismore is being nearly 2½ years post the event and **not really being able to show anyone, like yourselves, any real tangible progress that has been made** as far as recovery, relocations and the like that were talked about so vehemently directly after the event that swept through our region.
>
> There are still people to this day living in North and South Lismore, who are living in caravans and living underneath their houses with tarps on their walls for privacy, facing what is going to be their third winter in what many would consider substandard living conditions. … The thing that is most disturbing for me is that we—as a council, as a state government and as the federal government—haven't been able to implement the promises that were made early on, for whatever reason.[169] [Emphasis added]

8.128 Mayor Kevin Beatty of Cabonne Shire—which saw devastating flooding in Molong and Eugowra in November 2022—told the Committee in May 2024:

> In November '23, the New South Wales and state government announced a $100 million Central West Recovery Resilience program, which included $40 million for a resilience home package. Although the **guidelines of this package have still not been released**, council understands the elements of the package include buybacks, retrofits and house raising. The delay in the announcement of the program and the details around the guidance have been a point of frustration from many of our community members. … Unfortunately **now with an 18-month delay in this funding** the guidelines around it have meant that homeowners have been building back with unsuitable materials that do not result in more long-term resilient homes or meeting the standards of the New South Wales government. Even with retrospective funding allowed under the guideline[s] many homeowners will unlikely be able to claim it due to utilising the wrong materials.[170] [Emphasis added]

8.129 Many participants in the inquiry said government support also needed to be better coordinated, including more cohesive cooperation with the community sector and insurance companies, and better management of spontaneous volunteering.

8.130 For example, the ICA called for 'More effective coordination between government and the insurance industry … to provide faster access to government funding, consistent approaches to clean-up and debris removal, and co-incentivise investment in resilience and adaptation measures.'[171]

8.131 The Federation of Community Legal Centres Victoria told the inquiry:

> …it's about all of us, in terms of industry, government and community service organisations, having a fuller understanding of the complexity of these problems

169 Mr Steve Krieg, Mayor, City of Lismore, *Committee Hansard*, Lismore, 11 April 2024, pp. 8–9.
170 Mr Kevin Beatty, Mayor, Cabonne Council, *Committee Hansard*, Molong, 7 May 2024, p. 3.
171 ICA, *Submission 11*, p. [18].

> of disaster, the impact it has on communities and how we walk through the administrative, bureaucratic and legal processes that face these people as they try to rebuild their lives. I think it's tripartite.[172]

8.132 The Committee heard of planning and coordination issues with clean-ups, including interactions between government clean-ups and insurance claims processes and with the management of volunteer 'mud armies'. NEMA reported 'anecdotal feedback about the impact of early recovery actions, such as the clean-up and removal of debris, … on the insurance claim process.'[173] Ballina Shire Council also said:

> Council was required to respond to residents requesting free waste collection many months after we had completed the clean up because these residents had waited for their insurance provider's approval to proceed, or had a claim denied, or once the claim was settled, the insurance arrangements meant they requested this service.[174]

8.133 FNQ Volunteers Inc. and Volunteering North Queensland told the inquiry there is an urgent need for better planning around managing 'mud army' volunteers. The inquiry heard that in the aftermath of Cyclone Jasper:

> …management of the emergent volunteers [by the council] was pretty rudimentary. … In the meantime, the Cairns community had responded. They set it all up themselves. They set up a mud army—no insurance, nothing, zero. There were thousands of people who responded as volunteers to assist with this clean-up, with no insurance—high risk.
>
> We all know that when you go into a flood area where the floods have gone down, you've got untreated sewage, all sorts of stuff in that mud. It is high risk for disease. It's high risk if you cut yourself. You can end up septic. You can end up over at the hospital on a drip. My son actually ended up in hospital after one of the cyclones doing a clean-up. … So where does that leave us? What actually happens then? Because they haven't been given instructions, they put people at risk, actually, of not being able to claim on their own house insurance, because they removed the evidence. They go in with good hearts: 'I'm going to clean up. I'm going to help you. Welcome with open arms.' They shift everything out onto the footpath or whatever. The place is cleared; there's no evidence. … This issue of emergent spontaneous volunteering in the wake of a disaster needs to be sorted before the disaster. We need to have stuff in place for that assistance to happen, and it's not happening.[175]

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172 Dr Bronwyn Lay, Strategic Lead, Climate Justice Support Unit, Federation of Community Legal Centres Victoria, *Committee Hansard*, 31 January 2024, p. 24.

173 NEMA, *Submission 40*, p. 4.

174 Ballina Shire Council, *Submission 64*, p. 3.

175 Ms Annette Sheppard, President, FNQ Volunteers Inc., *Committee Hansard*, Townsville, 25 July 2024, pp. 25–26.

8.134 Mayor Jon Raven of Logan City Council also spoke about the need for better preparation in relation to volunteers prior to disaster:

> After the 2022 floods, mud army volunteers were out every single day for 33 days straight. … Volunteers were expected to sign up and sit through briefing sessions not just once at the start; they were expected to do it every day for longer than an hour… it's about trying to balance that response between keeping volunteers safe and keeping them engaged and active, because they are actually lowering the cost to government to recover from this, the cost to the community to recover and the cost to the insurance industry… Having training that volunteers could nominate for before a flood emergency happens, so that they are ready and prepared, so they can respond quicker, would be a fantastic initiative…[176]

8.135 The inquiry heard that the veterans-led volunteer organisation Disaster Relief Australia (DRA) may come to play a growing role in this space, having received Australian Government funding to expand its operations.[177] The City of Gold Coast said it had partnered with DRA to coordinate volunteering during the immediate disaster response, and that 'Our experience in this last event, around immediate response planning and coordinated and targeted effort, was a very positive one', although the council said DRA's capabilities were still developing.[178]

8.136 Meanwhile, however, the inquiry heard that levels of council and state government maturity coordinating volunteer efforts varied greatly. NEMA told the inquiry:

> Some states have highly effective arrangements, while others that haven't had many disasters haven't thought as deeply about how to manage not only spontaneous volunteers but also offers of assistance. That's something we're always working with the states on, in terms of highlighting what the additional capabilities and considerations are.[179]

8.137 NEMA also told the inquiry post-flood clean-up and rebuilding processes could benefit from greater standardisation and resource-sharing across borders:

> There are certainly some states who incorporate their clean up with their councils, using their council resources for that. … There are other states that take a different approach, in that they let the insurance companies work with their policyholders to effect clean up… [F]rom a Commonwealth perspective, having these scalable capabilities across the nation are really important. I think the events that we are seeing…are not just confined to state borders anymore—they're across the nation. … With regard to the problem with that early clean-up phase and that recovery phase, I believe there's an opportunity to look at how we can more effectively manage resources that we can quickly relocate across

176 Mayor Jon Raven, Mayor, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, p. 20.
177 NEMA, *Disaster Relief Australia*, nema.gov.au/programs/disaster-relief-australia, viewed 4 September 2024.
178 Mr Mark Ryan, General Manager, Disaster and Emergency Management, and Local Disaster Coordinator, City of Gold Coast, *Committee Hansard*, Logan, 10 April 2024, p. 20.
179 Mr Brendan Moon, Coordinator-General, NEMA, *Committee Hansard*, 15 March 2024, pp. 36–37.

> borders. We still have, for example, issues…with mobilising builders who are licenced in one state but aren't necessarily licenced in another state. That's relevant to reconnecting power.[180]

8.138 Witnesses from both the insurance sector and flood-affected communities also suggested that government data—including Rapid Damage Assessment data—could be better deployed post disaster to help inform insurers' responses[181] and to streamline grants processes,[182] including for mitigation and resilience funding and buybacks (as discussed further in Chapter 9).[183]

'Teething issues' with recovery grant roll-out and eligibility criteria

8.139 A consistent message across stakeholders was that government support and recovery arrangements—including interactions with insurance processes—need to be consulted on, planned and communicated before disaster strikes.

8.140 Many stakeholders expressed concerns with the reactive approach taken to developing major recovery programs. Local governments in the Northern Rivers observed that the Resilient Homes Program, though welcome, had been a case of 'policy on the run', resulting in delays and emergent issues with eligibility criteria.[184] Or in the words of Clarence Valley Councillor Steve Pickering: 'It's way too slow, and not enough homes are included.'[185]

8.141 The Committee heard that programs like Resilient Homes should be incorporated into a planning and investment approach across the entire 'disaster lifecycle'.[186] Disaster Legal Help Victoria recommended that retrofitting and buyback options be made available to flood-prone communities much earlier, 'not just after a disaster event when decision making is impacted by trauma'.[187]

8.142 The NSW Reconstruction Authority observed that buybacks may be an extreme choice for homeowners, and the 'decision can take a long time for some people to make', requiring governments to take a 'long-term approach of working with communities so they understand their risk and are prepared to take action'.[188] Disaster Legal Help Victoria elaborated:

> People who are traumatised are dealing now with the question of buyback schemes. Should that be a decision that they make at potentially the worst time

180 Mr Brendan Moon, Coordinator-General, NEMA, *Committee Hansard*, 15 March 2024, pp. 36–37. QBE Insurance Group made similar observations in *Submission 17*, p. 11.
181 Insurance Australia Group, *Submission 16*, p. 7.
182 Ms Joanne Bradbury, *Submission 79*, p. 1.
183 Suncorp Group, *Submission 12*, p. 19.
184 Ms Angela Jones, Director, Community Service Delivery, Richmond Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 10.
185 Cr Steve Pickering, Councillor, Clarence Valley Council, *Committee Hansard,* Lismore, 11 April 2024, p. 10.
186 For example: Caxton Legal Centre, *Submission 28*, pp. 6–7; Legal Aid NSW, *Submission 34*, p. 10.
187 Disaster Legal Help Victoria, *Submission 7*, p. 6.
188 Ms Amanda Leck, Head of Adaptation, Mitigation and Reconstruction, NSW Reconstruction Authority, *Committee Hansard*, 30 July 2024, p. 30. See also QBE, *Submission 17*, p. 12.

> of their lives? There is an enormous amount of data that government and insurance companies hold in terms of areas that are high risk and that will be, time and time again, impacted by disaster events, whether they be cyclones or floods. So what we are recommending is that, instead of waiting for people to have experienced that event and to then make the decision when traumatised, those really high-risk areas are identified now, and those discussions about options for mitigation and options to move out of those properties be discussed with people now so that they can make an informed decision and better understand the ramifications of those sorts of choices.[189]

8.143 Similar reflections and recommendations were made by other witnesses. The ICA said 'All governments should establish permanent programs for buybacks and home-raising to move people out of harm's way *before* disasters occur, reducing recovery costs for governments and affected communities.'[190] QBE called for 'Developing established standing programs and agreements with state governments on clean-up and debris removal, buy back, betterment and resilience schemes, to reduce confusion around eligibility which contributes to uncertainty and delay.'[191] IAG made similar recommendations.[192] Legal Aid NSW called for an expansion of mitigation and resilience measures, and for governments to 'consider implementing these programs in high-risk areas before as well as after disasters'.[193]

8.144 A coalition of major consumer advocacy groups recommended 'National Cabinet should agree on a clear and consistent approach to supporting relocation of communities that face high risk of natural disasters' and that 'Governments should provide funding for dangerously exposed communities to undertake consultations about ways to mitigate future risk, including the possibility of relocation.'[194] It noted:

> Currently, community engagement is occurring on an ad hoc basis, largely dependent on the strength of individual communities and local governments within the confines of existing programs such as the Queensland Resilient Homes fund and the New South Wales Resilient Homes Program. A consistent approach across Australia should be adopted with adequate funding to identify communities most at risk from natural disasters and involve them directly in the decisions being made about their future.[195]

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189 Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 27.

190 ICA, *Submission 11*, p. [27].

191 QBE Insurance Group, *Submission 17*, p. 16.

192 IAG, *Submission 16*, p. 20.

193 Legal Aid NSW, *Submission 34*, p. 10.

194 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 12.

195 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 77.

8.145 However, the Resilient Homes schemes still enjoyed broad stakeholder support, despite 'a lot of teething problems'.[196] Implementation appeared to be progressing faster and more smoothly in Queensland, showing the possibility of improvement with experience. Legal Aid Queensland told the Committee:

> Some people have had a very smooth ride; they've been able to get what they want fairly easily. For others, the process has taken what they have felt has been too long, and they have felt that they have been left in limbo. I think, to be fair, some of that is as a consequence of it being a very new scheme, and processes, once they were worked out, have worked very smoothly, but maybe there were a few teething problems initially, as people worked out what exactly it was the scheme needed in order to help them best...[197]

8.146 One of the 'teething issues' with flood grants and other support measures was unanticipated interactions with insurance processes. Insurers reported customers could not access government grants for repairs or retrofitting without proof they were not insured, or until after their insurance claim had been assessed and denied. This meant relief and repairs were delayed until after the conclusion of sometimes lengthy claims assessment processes.[198]

8.147 Conversely, the inquiry also heard evidence on hardship caused by restricting access to the Home Equity Access Scheme—which allows older Australian homeowners to take out a low-interest loan from Services Australia, using their home as security—to properties that *did* have flood insurance. Financial Counselling Australia highlighted in its submission:

> In situations where people could not afford flood insurance, the consequences took our sector by surprise… [such as] instances where homeowners were subsequently denied access to the Federal Government's Home Equity Access Scheme (HEAS), which could have provided much needed funds for property improvements, including flood resilience. … The lack of affordable insurance coverage, combined with the requirement for flood insurance to access schemes like HEAS, creates a cycle where vulnerable policyholders are left without recourse. … With so many people in the Northern Rivers not having flood insurance, they found themselves having to find ways to finance their own repairs or rebuild. Now, if you are an older Australian and you are retired and reliant on a fixed income, that's going to be very difficult for you. So the Home Equity Access Scheme is potentially a lifesaver for people in that situation. But what we found when financial counsellors tried to support people through that application process is that they were denied because they didn't have flood insurance. They

196 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid NSW, *Committee Hansard*, 31 January 2024, p. 37.

197 Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 44.

198 Insurance Australia Group, *Submission 16*, pp. 20–21; Auto & General Holdings, *Submission 18*, p. 7. An extreme example was shared by Mr Leslie Geoffrey Pye, Chair, Richmond River Cane Growers Association, *Committee Hansard*, Lismore, 11 April 2024, p. 47.

> had building insurance, but they didn't have flood cover. That immediately meant that they were not eligible for that scheme. So we have called in our submission for that to be reviewed and for people in those situations to be allowed to continue to access that scheme.[199]

8.148 Interactions between insurance claims processes and Resilient Homes grants also led to delays starting insurer-funded repairs. IAG reported that some customers had been 'hesitant to start the repair process until they had the outcome' from grant or buyback programs,[200] which was consistent with evidence from the community sector.[201] The Committee also heard that some applicants to Resilient Homes waited for more than a year to be assessed.[202] Conversely, Byron Shire Council advised that some consumers 'attempting to resolve their insurance claim may dismiss other funding grants and opportunities', assuming their claim will be successful.[203]

8.149 The ICA also reported that insurer repair works could be delayed when policyholders successfully accessed government grants because of the need for negotiations between government- and insurer-funded builders to coordinate the building works.[204] A more collaborative model eventually evolved, but this took time, and Caxton Legal Centre noted that in Queensland, 'only two insurers chose to partner with the Queensland Resilient Home Scheme, which then allowed them to do the resilient refit work on people's home while they were also rebuilding them.'[205]

8.150 Many participants in the inquiry considered the eligibility criteria for Resilient Homes and other recovery grant schemes too narrow. The Committee heard that properties too flood-prone to afford insurance, or awaiting repairs years after the floods due to protracted insurance disputes, were not considered flood prone *enough* for a buyback or resilience grant.

8.151 Others claimed the eligibility criteria for grant support excluded most community members, or blocked preventive raising/retrofitting of at-risk (but not yet flooded) properties. Miscommunication about eligibility criteria by government staff was also reported. Respondents to the inquiry survey shared their heartbreak and frustration at falling through the cracks:

> We cannot afford flood insurance [as it] was going to be over $30,000. We put in for government lifting of our house etc. post flood and have been knocked back, we [are] not a priority we have been told [and] the water was 1.8 metres in our house. Although houses either side of us have been offered a house lift. Figure that one out.

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199 Financial Counselling Australia, *Committee Hansard*, 1 February 2024, pp. 7–8.

200 IAG, *Submission 16*, p. 7; QBE Insurance Group, *Submission 17*, p. 12.

201 Mrs Melinda McInturff, Community Resilience Coordinator, Community Plus Queensland Inc., *Committee Hansard*, Logan, 10 April 2024, pp. 2, 7.

202 Ms Megan Inglis, Principal Solicitor, TASC National, *Committee Hansard*, Logan, 10 April 2024, p. 11.

203 Byron Shire Council, *Submission 54*, p. 10.

204 Mr Andrew Hall, Chief Executive Officer, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 3.

205 Caxton Legal Centre, *Submission 28*, p. 7.

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This morning I sent off with much help a final letter to NRMA requesting a cash payout of money to match the actual cost of repairs 18 [months] on. I cried because this is probably just the start of my real struggle… my family and I are unable to live in my home still and that does not look like changing anywhere in the next 2 [C]hristmases. I am emotionally exhausted. I lost all my belongings. I continue to pay insurance and rates on a house we can't live in [and] the NRRC [Northern Rivers Reconstruction Corporation, now the NSW Reconstruction Authority] is not going to help my shire and I still have a monumental battle on my hands 18 months on from the floods…

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The original increase in our policy in August 2022 was 35%. The increase this year was 118%. I have tried to obtain online quotes from other insurers and they are either exorbitant or they refuse to insure in our area. We will soon have to make the decision to drop flood… We owned the property in the 2011 flood and our insurer at the time (RACQ) rejected our claim leaving us significantly out of pocket for repairs. We applied for a buy back of the property through the resilient homes fund but have been rejected, despite having 6 properties surrounding us that have been bought back and in the process of being demolished.

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Unable to take further action for flood mitigation - the insurers had started their rebuild before the [Government] got around to determining our eligibility. We were also rejected for a buy back offer because the flood level of 1.8m in our habitable areas did not meet their criteria. House is on a slab and cannot be raised. Told we will not be offered re insurance - suburb is under an embargo (insurers words). Sourcing new insurance but cost is prohibitive, over $10k per year. Bank has said we have to have insurance otherwise in breach of mortgage contract.

*

The process broke me. The insurance process was more than a nightmare. … We have also taken measures to lift the house - unfortunately the $100,000 grants bench marked the price and out priced this for many who want to lift but are not entitled to anything from the NRRC [Northern Rivers Reconstruction Corporation]. Before the announcement people were lifting for $75,000 to $90,000 now everything is $105,000 and up not including the DA [Development Application] and planning cost required to get the quote.

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After the flood I had notification from my insurer that they were cancelling my policy because I live in a flood zone and the reassessment of the possibility of flood made my house uninsurable. … Just one day insured, next day cancelled and my property wasn't flooded, just to the footpath height (and I am 1.2m off the ground). … Also, we don't qualify for a grant to raise our house further because

> of our suburb, but yet we are uninsurable. Would we have to wait until after a flood before we can get help? Surely it makes sense to help raise houses before they are damaged?
>
> *
>
> We have a hobby farm, 180 acres without an ABN [Australian Business Number]. [For] all the government grants that were available you had to meet so many requirements, so many people like us were left and abandoned by our government.
>
> *
>
> Extremely annoyed we did not receive $1,000 x3 flood grant, when I phoned NSW [Services], I was informed that as [we] had insurance we didn't qualify, that was incorrect? My understanding now is that everyone qualified if they were affected.[206]

8.152 Byron Shire Council described how repeated knock-backs have worn down many poorer members of their community, and their lack of alternative paths to recovery:

> Lower income consumers who have their insurance claim denied have limited options to restore or raise their homes if they are not accepted into the Resilient Homes Program. … Compounding disappointments wear on consumer's mental health and they have few remaining options to restore their home. Local community organisations have advocated for low interest loans or other types of financial aid.[207]

8.153 Many inquiry participants also noted that the Resilient Homes schemes were made available in only two regions of the country, despite many other riverside communities being prone to chronic flooding. Many stakeholders called for the Resilient Homes model to be made available nationally[208]—as discussed further in Chapter 9.

8.154 The Committee also heard that the more substantial recovery grants and other support schemes were only available to the uninsured, on the assumption that people with insurance would be provided for by their insurer. However, in practice, this meant that many insured people stuck in protracted insurance disputes were *also* left stranded by governments. The Committee heard disturbing evidence that uninsured home-owners frequently experienced swifter, easier recovery journeys than those who had flood insurance.

8.155 This message was repeated across the country. In the Northern Rivers (NSW), Resilient Lismore told the Committee:

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206 Committee Survey Results, free text responses.

207 Byron Shire Council, *Submission 54*, p. 10.

208 For example: Financial Counselling Australia, *Supplementary Submission 6.1*, p. 10; Victorian Council of Social Services, *Submission 10*, pp. [4–5]; Townsville City Council, *Submission 84*, p. 2.

> …one of our big lessons is that often the insured are worse off after a disaster. The experience of insured people is that it takes longer for them to get home… Having insurance makes things worse for people because of the time delays and the treatment they receive from the companies, the lack of accountability, the lack of transparency and the lack of access to their homes. We've also witnessed the deterioration of properties because of the time that it takes…[209]

8.156 At a public hearing in Rochester (Victoria), representatives of the Gannawarra and Greater Shepparton councils reported:

> **Mr Fernee:** …There's conflict between the uninsured and the insured. For example, in Victoria those that are uninsured can receive a payment from the Department of Families, Fairness and Housing for the re-establishment of their properties for a certain amount of money, but those that are insured can't and therefore some who are uninsured are able to get back on their feet quicker than those who are insured. Because of that there are some concerns about whether they are better off having insurance or better off not having insurance. …
>
> **Ms Mitchell:** In addition, with the make-safe program after an [Emergency Recovery Victoria] structural assessment, if you were insured you weren't eligible for that.[210]

8.157 In northern Queensland, the Townsville Lot Owners group reported that after Cyclone Jasper, 'a number of people not insured were given grants to rebuild of up to $50,000',[211] while Mossman Support Services (Cairns) told the inquiry that:

> Many residents have stated, 'What's the point of insurance?' when those who weren't insured have been treated more promptly and, in some cases, with more support by the government grants. Those that were insured are not eligible for grants or government assistance.[212]

8.158 Several witnesses reflected that this pattern is sharpening conflicts around the cost burden imposed on governments and taxpayers, as well as issues of fairness and moral hazard. For example, witnesses warned that the residual risk being absorbed by all levels of government to support the uninsured was large and growing.[213] Townsville Lot Owners Group observed that this was transferring an ever greater burden to taxpayers:

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209 Ms Elly Bird, Executive Director, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, p. 30.

210 Mr Paul Fernee, Director, Community Wellbeing, Gannawarra Shire Council, *Committee Hansard*, Rochester, 18 April 2024, p. 3; Ms Louise Mitchell, Director, Community, Greater Shepparton City Council, *Committee Hansard*, Rochester, 18 April 2024, p. 9.

211 Mr Andrew Turnour, Spokesperson, Townsville Lot Owners Group, *Committee Hansard*, Townsville, 25 July 2024, p. 23.

212 Ms Therese Maloney, Community Connect Worker, Mossman Support Services, *Committee Hansard*, Cairns, 24 July 2024, p. 6.

213 For example: Mr Christopher Barnes, Manager, Emergency Management and Public Safety, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2024, p. 13.

> Effectively, the government is the insurer of last resort... and we're all paying for it. We're just not paying for it as an insurance premium. We're paying it through every other tax that we pay to the state and federal government.[214]

8.159 The inquiry heard competing views on whether governments should more fully embrace this role. An anonymous submission argued against all Australian Government disaster relief payments, saying they:

> …effectively acted as a subsidy for those living in flood-prone areas, paid for by the tax dollars of those who do not live in such areas… Unless the government intends more people to live in disaster-prone areas, and thus more people to be affected by disasters, such payments and subsidies should be avoided.[215]

8.160 A Way Forward (a community organisation in the Northern Rivers) made a similar argument against government interventions on insurance affordability on floodplains:

> We believe that in flood affected areas such as Lismore, any government policies directed at making home insurance affordable and available to residents in the flood plain would be a mistake. A big mistake… We know floods are going to get worse and the answer is not subsidising people to live there but to introduce policies that will encourage them to move out of harm's way.[216]

8.161 Communities were also alert to issues around the fairness of other cross-subsidisation arrangements (such as subsidies or reinsurance pools, discussed in Chapter 9). For example, in community workshops organised by the NSW Reconstruction Authority:

> When presented with the option of a compulsory national pool for flood, some stakeholders raised concerns regarding the fairness of lower-risk households and businesses having to contribute to a pool to support higher-risk households and businesses.[217]

8.162 The Committee also heard evidence from insurers implying that they are, in a sense, 'competing' for market share against a de facto insurance model based on government grants. For example, Allianz commented that although it was considering product innovations to improve the availability and affordability of flood cover (such as providing capped, partial cover at lower cost), 'the viability of these products is impacted by the availability of government assistance following large-scale catastrophes.'[218]

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214 Mr Andrew Turnour, Spokesperson, Townsville Lot Owners Group, *Committee Hansard*, Townsville, 25 July 2024, p. 23.

215 Name Withheld, *Submission 58*, p. [1].

216 A Way Forward, *Submission 60*, p. 1.

217 NSW Reconstruction Authority, *Submission 83*, p. 94. Janelle Saffin MP, *Submission 86*, p. [106] added that stakeholders at these workshops could however 'see the value of a national pool as a time-limited mechanism to assist the transition out of high-risk locations or to build greater flood resilience.'

218 Mr Richard Feledy, Managing Director, Allianz Australia Insurance Ltd, *Committee Hansard*, 9 February 2024, p. 15.

Committee comment

8.163 The Committee acknowledges that recovery from the historically significant 2022 major flood events continues to be a challenge for all levels of government, and that some of the worst affected communities are still suffering.

8.164 A key lesson is that government flood recovery programs, including major resilience schemes, should be consulted on, designed, rehearsed and widely communicated to community members in advance of floods. Lack of forethought on how government programs would interplay with insurance claims processes, and other coordination issues, have led to confusion and delays.

8.165 The Committee also notes that major new federal–state recovery initiatives, including the buyback, raising and retrofitting schemes in South-East Queensland and the Northern Rivers of NSW, were announced very quickly in 2022 in response to the extraordinary nature of the events. The Committee has heard that these schemes are widely supported by insurers and the community, with many witnesses calling for the model to be expanded nationally. 'Teething issues' are to an extent understandable.

8.166 However, the Committee also agrees that developing and implementing such schemes 'on the run' post disaster has contributed to extremely long delays in the recovery of the worst-hit communities—particularly the Northern Rivers, where the scheme was announced quickly but progress has been slow, and in the Central West of NSW, which was offered a similar scheme only after local lobbying (and where funding guidelines remain under development).

8.167 The Committee also notes that some government assistance is limited to uninsured households and businesses. To some degree, this reflects the need to target scarce resources, but it can have unintended consequences. For example, some insured people have very limited coverage due to caps or exclusions. Many other people may have insurance but experience lengthy claims assessment processes or disputes. This can place some insured people in a position of equal need for immediate cashflow assistance as some uninsured people. The Committee notes with concern the reports that many people with insurance were worse off following the floods.

8.168 The Committee is recommending that the Australian and state governments review eligibility restrictions for flood recovery programs based on insurance status, to determine whether these should be lifted in some cases. Moral hazard and fairness issues should be weighed very carefully in these decisions.

8.169 Conversely, the Committee also heard from the community sector that property owners without flood insurance were unable to access the Home Equity Access Scheme, blocking a potentially straightforward pathway to fund flood repairs and resilience improvements for older, lower-income Australians. The Committee is recommending that this restriction be reconsidered.

8.170 Additionally, as should be expected when applying to multiple programs of disaster support across different levels of government, the Committee is recommending that

those governments work together to ensure that people in these circumstances only have to tell their story once, to minimise further trauma and delay. The ability to update electoral information once, and for this to take effect at all three levels of government, is an example of this working in practice. It relies upon information flowing from the Australian Electoral Commission to the relevant state and territory electoral commissions. Governments should be able to enable a similar flow for those affected by natural disasters, to trigger the requisite and appropriate supports.

Recommendation 67

8.171 The Committee recommends a more flexible approach to post-flood grant arrangements, to expand eligibility to include some insured people, including:

- **The Australian and state governments, in consultation with local governments and the insurance industry, make design, implementation and communication improvements to recovery programs to avoid future delays due to unanticipated or poorly managed interactions with insurance claims processes.**
- **The Australian and state governments review eligibility criteria for recovery programs, including grants, to ensure they are fit for purpose. This should include consideration of extending support currently restricted to uninsured people to include some insured people, where justified by local and individual circumstances.**
- **The Australian Government investigate the advantages and risks of enabling access to the Home Equity Access Scheme for resilience improvements by people who cannot access or afford flood cover.**

Recommendation 68

8.172 The Committee recommends that all levels of government should work together to ensure that, as far as is possible, people don't need to resubmit the same information multiple times for different disaster support. Just as insurers should aim for one point of contact, government should aim for 'tell your story once'.

Recognising and supporting the community sector

8.173 Throughout the inquiry, the Committee saw evidence of tireless work by financial counsellors, legal aid services, community legal centres, consumer advocates, neighbourhood centres, charities and other community organisations to support some of the most vulnerable members of society after the floods.

8.174 Financial Counselling Australia said its agencies across Queensland, NSW and Victoria provided extensive recovery services, with funding support from the

Australian and state governments.[219] It said that in NSW and Queensland, its financial counsellors had 'spoken with more than 7,800 people about their service, assisted more than 1,200 flood-affected community members, and completed more than 5,700 casework sessions.'[220]

8.175 Legal Aid NSW said its Disaster Response Legal Service provided 6,049 legal services to 3,401 individuals impacted by the major floods across 93 LGAs, including 4,205 face-to-face services at recovery centres and hubs.[221] It ran a helpline and phone advice service, attended community meetings, provided community education and referrals, and coordinated statewide disaster legal help efforts.[222] In the Northern Rivers, the local Legal Aid NSW office 'attended 20 recovery centres and recovery assistance points… some for months at a time'.[223] Legal Aid NSW said it was still seeing new cases from unresolved insurance claims dating to the early 2022 floods,[224] and that insurance matters represented 49 per cent of the Disaster Response Legal Service's flood caseload.[225]

8.176 The broader community sector's contributions after the floods have been too numerous to list. As just a few examples:

- The Financial Rights Legal Centre provided 'free and independent financial counselling, legal advice and representation' through its Insurance Law Service,[226] including servicing a 53 per cent increase in calls to its Disaster Priority phoneline after the floods.[227]
- Community Plus+ and Caxton Legal supported 'floodies' in South East Queensland, 'especially for our floodies who are older, culturally or linguistically diverse or have no idea where to turn to to navigate the system'.[228]
- The Northern Rivers Community Legal Centre's office was 'completely destroyed by flood' in 2022, but its staff were still 'quickly in disaster recovery centres providing assistance in lodging insurance claims.'[229]

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219 Financial Counselling Australia, *Submission 6*, p. 2; see also Financial Counselling Australia, 'About FCA', www.financialcounsellingaustralia.org.au/about-fca/, viewed 21 September 2024.
220 Financial Counselling Australia, *Submission 6*, p. 2.
221 Legal Aid NSW, *Submission 34*, p. 6.
222 Legal Aid NSW, *Submission 34*, pp. 7–8.
223 Ms Elizabeth Lehmann, Senior Outreach Solicitor, Disaster Response Legal Service, Legal Aid NSW, *Committee Hansard*, Lismore, 11 April 2024, p. 29.
224 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, 31 January 2024, p. 31; Ms Elizabeth Lehmann, Senior Outreach Solicitor, Disaster Response Legal Service, Legal Aid NSW, *Committee Hansard*, Lismore, 11 April 2024, p. 29.
225 Disaster Response Legal Service, *Submission 34*, p. 6.
226 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 2.
227 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 6.
228 Mrs Melinda McInturff, Community Resilience Coordinator, Community Plus Queensland Inc., *Committee Hansard*, Logan, 10 April 2024, p. 2.
229 Mr Aran Matkevich, Solicitor, Northern Rivers Community Legal Centre, *Committee Hansard*, Lismore, 11 April 2024, p. 28.

- Resilient Lismore 'operated out of an undercover car park with no walls for eight months after the 2022 floods, including through the depths of winter' and 'saw many, many thousands of community members come to us for assistance.'[230]
- Disaster Legal Help Victoria attended recovery hubs and town halls in Rochester, Seymour, Echuca, Elmore, Maribyrnong and Maidstone, ran a dedicated phone advice line, and triaged and referred flood victims to pro bono legal assistance.[231] The 'vast majority' of the legal issues it dealt with related to insurance disputes.[232]
- ARC Justice 'had staff on the ground in the immediate aftermath of the floods' and still 'continues to have a regular presence at the recovery hubs in Rochester and Seymour'.[233]

Benefits of consumer advocacy in insurance disputes

8.177 Such organisations have tried to meet the desperate need for advice and representation in insurance disputes after the 2022 floods. As the Financial Rights Legal Centre observed:

> The Insurance Contracts Act is complex. The issues you are dealing with, whether there is a section 47 issue or a section 54 issue, are complex. I wouldn't expect a consumer to be able to figure that out on their own.[234]

8.178 Byron Shire Council reported that:

> Local community members have raised concerns that they, other consumers, or people they support, do not have the level of financial and legal literacy to be effective self-advocates in the insurance process.[235]

8.179 Evidence throughout the inquiry suggested advocacy by a financial counsellor, solicitor or community worker can make a dramatic difference. As mentioned in Chapter 4, Financial Counselling Australia reported that just one small agency in regional Victoria had negotiated an additional $3.3 million in total for its 40 clients—an increase of more than 70 per cent on initial insurer cash settlement offers. In one case, an initial cash settlement offer of $0 was renegotiated to nearly $400,000.[236]

8.180 The Committee also heard that advocacy helped address the systemic power imbalance between insurance companies and their customers, and to raise customer confidence about taking a dispute to the Australian Financial Complaints Authority (AFCA). ARC Justice told the Committee that:

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230 Ms Elly Bird, Executive Director, Resilient Lismore, *Committee Hansard*, Lismore, 11 April 2024, p. 30.
231 Disaster Legal Help Victoria, *Submission 7*, p. ii.
232 Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 22.
233 ARC Justice, *Submission 9*, p. 2.
234 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 11.
235 Byron Shire Council, *Submission 54*, pp. 7–8.
236 Financial Counselling Australia, *Supplementary Submission 6.1*, pp. 4–5.

> …a way of also balancing part of the score is having organisations like ARC Justice available to people to help them do that process, so they're not having to do it alone in that David and Goliath type battle… Even in going to AFCA, which is a friendly service, they still perceive it to be that adversarial system that is hard to navigate or is daunting.[237]

8.181 Other consumer advocacy organisations framed their work on insurance disputes as a check against insurer conflicts-of-interest, which could lead to unfair outcomes if insurer decisions are never challenged. Financial Counselling Victoria said:

> There's very clear evidence of very inconsistent outcomes and treatment of insured people, often in the same areas with very similar circumstances, where effectively one's been able to advocate effectively and one has not. That speaks to a real problem with the misalignment of interests between insurers and insured. The evidence therefore shows the absolute critical need of services such as financial counselling services to act as supporters for people who are in those positions.[238]

8.182 Financial Counselling Victoria shared numerous examples of unfair insurance decisions that were changed only after intervention by a financial counsellor:

> There were cases of the lack of capability of the customer to manage a rebuild; payouts inadequate to cover the disaster-inflated price of local materials and tradespeople, increased only with advocacy interventions; extraordinarily low cash settlement offers being increased from tens of thousands to hundreds of thousands, again following financial counsellor advocacy intervention… Vulnerable victims of disasters who were not engaged with financial counsellors skilled in negotiation could be at a greater disadvantage of receiving lesser insurance outcomes.[239]

8.183 Its August 2024 report *Unsettled* expanded on such evidence.[240]

Essential support for the most vulnerable

8.184 As noted elsewhere in this report, all flood victims are vulnerable, requiring a trauma-informed approach by insurer staff. Financial Counselling Victoria told the Committee that customers facing insurance disputes are:

> …people who not only do not have the resources of a large insurer but also who may have just experienced some of the most disastrous and catastrophic experiences of their lives. It is very difficult for them in ordinary circumstances to

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237 Ms Kate Clohesy, Director, Strategy and Impact, ARC Justice, *Committee Hansard*, 1 February 2024, p. 45.

238 Mr Zyl Hovenga-Wauchope, Executive Officer, Financial Counselling Victoria, *Committee Hansard*, 1 February 2024, p. 2.

239 Ms Tracey Blythe, Disaster Recovery Coordinator, Financial Counselling Victoria, *Committee Hansard*, 1 February 2024, pp. 2–3.

240 Financial Counselling Victoria, *Unsettled: Climate risk and cash settlements in home insurance*, August 2024.

> advocate effectively for their own interests, let alone in the context of having just had all of their possessions in their home destroyed.[241]

8.185 Witnesses noted that flood insurance claims were emotionally challenging even for high-functioning, articulate people in good health, and that many benefited from outside support. A senior Legal Aid NSW disaster recovery solicitor explained:

> There are so many different ways that [Legal Aid] helps them. … Speaking to an insurer—that's a simple thing for me to do, but, for somebody who's gone through such a traumatic event, it's beyond them to pick up a phone and call an insurer—even simple tasks like that.[242]

8.186 Similarly, Encircle Community Services in southeast Queensland told the inquiry:

> Some of the clients aren't even high needs clients. Some of them haven't got a complex case before the flood. I've had clients who are computer tech geniuses who are great with IT, but the second they sit down to a computer to do anything regarding the flood they just shut down and can't remember.[243]

8.187 However, some cohorts of flood victims have particularly acute needs for support, advocacy and representation to navigate flood recovery successfully. The Victorian Council of Social Service explained that the value of community sector assistance and advocacy is most evident where there are multiple layers of vulnerability:

> What we see then is that the power imbalance is where the community services sector really steps in. If people who may be of low literacy, for example, or who may be living alone or who are elderly can access a financial counsellor or legal support then they're much more equipped to travel through this process, which can be very combative.[244]

8.188 Disability, sickness or injury, homelessness, poverty, isolation and limited English language skills can all compound a person's difficulties navigating insurer and government processes. In addition, the inquiry heard that the digital literacy required to complete most application processes means there is a growing cohort of elderly and digitally unsophisticated people who need hands-on support accessing insurance and government support entitlements. A flood recovery solicitor for Tenants Queensland explained:

> …a portion of my clients say they don't have an email address; a lot of them don't have a laptop or don't know how to use it. They need that support and that support is really important. Some say, 'I just want to speak to a person.' That's

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241 Mr Zyl Hovenga-Wauchope, Executive Officer, Financial Counselling Victoria, *Committee Hansard*, 1 February 2024, p. 2.

242 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, 31 January 2024, p. 37.

243 Ms Karen Rollinson, Service Navigator, Encircle Community Services, *Committee Hansard*, Caboolture, 9 April 2024, p. 23.

244 Ms Libby Buckingham, Director, Thriving Communities, Victorian Council of Social Service, *Committee Hansard*, 31 January 2024, p. 20.

> the way they're used to resolving things and they want to resolve it by speaking to a person. They get quite frustrated when they have to upload things and use that system.[245]

8.189 The inquiry heard that the availability of in-person community support and government services at recovery hubs was particularly helpful. The Manager of Flood and Community Recovery at Mitchell Shire Council, Victoria, reported:

> The community members were being asked to upload evidence into portals via email. We know, particularly after the October 2022 incident, that in Seymour about 58 per cent of the community do not engage in a digital environment at all. They had additional stress and anxiety about how that would occur. Having the hub's presence meant they could come in and we could sit with them and work through those processes.[246]

8.190 ARC Justice echoed these comments:

> We've had people come into the recovery centre who've been sent a text message that invites them if they've got a question about their claim to access it online: 'Track your claim online.' There's a sizable chunk of the population who don't know how to do that.[247]

Government funding for community flood recovery work

8.191 State-based legal aid services are themselves state government statutory bodies, and community legal centres, financial counselling services and other community organisations typically receive government funding. This can include surge funding for flood recovery work from both federal and state governments. For example, Financial Counselling Australia reported that NSW and Queensland agencies had received funding from the Department of Social Services to provide flood recovery services twice in 2022, while agencies in Victoria received funding from Consumer Affairs Victoria and the Victorian State Department of Jobs, Skills, Industries and Regions.[248]

8.192 The 'Service Navigator' program in southeast Queensland was created to activate a network of existing community organisations to help local residents navigate government and community support services after the 2022 floods, including applying to the Resilient Homes Fund or for other major recovery grants, with DRFA funding for dedicated officers. The Committee heard from the Service Navigator at Encircle Community Services, Karen Rollinson:

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245 Ms Emma Webster, Flood Recovery Solicitor, Tenants Queensland, *Committee Hansard*, Logan, 10 April 2024, p. 6. Similar observations were made by Ms Latha Elenkovan, Principal Solicitor and Manager, Pine Rivers Community Legal Service, *Committee Hansard*, Caboolture, 9 April 2024, p. 22, and others.

246 Ms Kellie Massouras, Manager Flood and Community Recovery, Mitchell Shire Council, *Committee Hansard*, Heathcote, 19 April 2024, p. 6.

247 Dr Prue Bagley, Community Engagement Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 35.

248 Financial Counselling Australia, *Submission 6*, p. 2.

> I work with Encircle as a service navigator. The [S]ervice [N]avigator targeted rebuild [case] management service is a program that was jointly funded by the Commonwealth and state governments through DRFA throughout the whole of the Moreton Bay region and part of the modern neighbourhood centre resilience project—so all the neighbourhood centres within the region have combined to provide this service. The service navigator program had been implemented to assist community members who were affected by the 2022 flooding events. Within the disaster, some communities with wellbeing issues often needed additional assistance from agencies. They realised we needed more of a socio-economic approach. There's a lot more going on with these people than just bricks and mortar.[249]

8.193 The help provided through the program has ranged from assisting digitally unsophisticated flood victims to upload documentation to government portals,[250] to supporting clients through long-running, complex cases. Ms Rollinson noted:

> I've got a lot of clients there that are going to take 12 months or more. Some of those are still with the insurance company. One I've been working with for well over 12 months, and she's going to be ongoing for probably another 12 months or more just working her way through all the insurance stuff and moving forward from there. As we all know, disasters take up to 10 years or more to recover...[251]

Adequacy of resourcing

8.194 The Committee heard that government resourcing for such flood recovery work by legal aid services and the community sector did not come close to meeting demand. As summarised by the Victorian Council of Social Service:

> The community sector has put in a herculean effort to support people directly with their insurance problems and to help people deal with the flow-on impacts of insurance failure. … Community services have been there to help when insurance issues push people into homelessness, contribute to family breakdown or force people to return home when their property is still mouldy and unsafe. But community organisations are under pressure, both generally, with rising demand, and specifically, in disaster affected areas.[252]

8.195 The inquiry also heard that people are increasingly turning to the community sector to help them build resilience between disasters, but ongoing funding levels are

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249 Ms Karen Rollinson, Service Navigator, Encircle Community Services, *Committee Hansard*, Caboolture, 9 April 2024, p. 21. See also: CARE Goondiwindi, 'Service Navigator Targeted Rebuild Case Management', https://caregoondiwindi.org.au/programs/service-navigator/, viewed 21 September 2024.

250 Mrs Melinda McInturff, Community Resilience Coordinator, Community Plus Queensland Inc., *Committee Hansard*, Logan, 10 April 2024, p. 5.

251 Ms Karen Rollinson, Service Navigator, Encircle Community Services, *Committee Hansard*, Caboolture, 9 April 2024, p. 23.

252 Ms Juanita Pope, Chief Executive Officer, Victorian Council of Social Service, *Committee Hansard*, 31 January 2024, pp. 17–18.

inadequate for this. Asked whether their organisation was adequately resourced, the Chief Executive Officer of ARC Justice replied:

> No, in short. We do what we can with the resources that we have right now, but there's no way that we're getting to the communities across the 13 local government areas [we] support. We have some very limited funding on the back of the floods from October 2022. But one of the biggest economic, social challenges that we're seeing across all of our communities, is how to prepare for the next disaster and how to recover from the past one. … This is the new normal for us and our communities, and they're looking to us to help them prepare, and we don't have the resources to do that currently. There is, absolutely, a role for financial counsellors and community lawyers, but we are very stretched...[253]

8.196 The Financial Rights Legal Centre—which operates the national Insurance Law Service telephone advice line—also said that better resourcing would let it help many more people:

> We've got about…12 solicitors who take calls, but the funding goes up and down. At the moment, we've got appropriate funding, but finding lawyers that have the skill to give live legal advice about a complex product like insurance…who are willing to do that for a community legal centre salary and who also have call centre skills…is difficult... **We are always oversubscribed. We are never going to answer all the calls…** We give legal advice and then maybe we take five per cent of those cases on to run them ourselves, and that is only for very vulnerable customers or if it is a really interesting issue of law…[254] [Emphasis added]

8.197 The Consumer Action Law Centre[255] and Legal Aid NSW[256] also said they could not support everyone who sought assistance with flood insurance disputes.

8.198 The Committee heard that resourcing the sector to provide more assistance earlier in flood victims' recovery journeys would deliver value. A representative of the Federation of Community Legal Centres Victoria told the inquiry:

> I think it's vital that those services are considered essential in these kinds of situations. … I think that it reduces further expenditure down the road because it means that the legal resolution is shorter and the holistic wellbeing of that person and their recovery is much better. So, yes, I think that a lot more funding at that early end…needs to occur so that we don't end up with inquiries like this.[257]

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253 Mr Damian Stock, Chief Executive Officer, ARC Justice, *Committee Hansard*, 1 February 2024, p. 45.

254 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 11.

255 Ms Philippa Heir, Managing Lawyer, Consumer Action Law Centre, *Committee Hansard*, 31 January 2024, p. 11.

256 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, 31 January 2024, p. 35.

257 Dr Bronwyn Lay, Strategic Lead, Climate Justice Support Unit, Federation of Community Legal Centres Victoria, *Committee Hansard*, 31 January 2024, p. 24.

8.199 However, the Committee also heard that limiting disaster-tied funding to the immediate aftermath of floods was inadequate for complex cases that could continue for years. For example, the Service Navigator program was 'only funded till the end of June this year, so what happens to those clients that are still fighting with the insurance companies or still trying to get the supports they need after that?'[258]

8.200 The inquiry was also told that community organisations' ability to respond quickly after disasters, and support communities between disasters, was constrained by reliance on reactive, post-disaster funding injections. Legal Aid NSW explained:

> With some of the work that we do, along with many of the other consumer advocates, lots of the funding for services is event based. We can really only help those clients as long as we have the resources to help…so we would have to wait for an event to happen and then try to gear up… [I]t's not just Legal Aid NSW; it's the other legal aid commissions, but also the other consumer advocates. We want to do a lot more, but in some ways we are limited by the resources that we have…[259]

8.201 The Financial Rights Legal Centre also warned that funding for its Insurance Law Service was not ongoing, and called for a more sustainable funding model:

> Unfortunately funding for services that support consumers with insurance disputes after disasters tends to come in small bursts after major events. Funding needs to be proactive and ongoing to allow us to recruit and retain specialist insurance staff.[260]

Committee comment

8.202 The Committee expresses its appreciation for all the community organisations that contributed to this inquiry, including the frontline staff who took time to attend public hearings across regional Queensland, NSW, Victoria and Tasmania. The evidence shared has been invaluable.

8.203 Legal aid, financial counselling and other community organisations have absorbed much of the burden of supporting the most vulnerable members of the community after the 2022 floods. Without the efforts of legal aid solicitors, financial counsellors and the broader community sector, many more flood victims would have faced financial and personal ruin. The Committee acknowledges and honours this work.

8.204 The Committee has heard clearly that these organisations are unable to meet the growing community demand for their services with current funding levels. The Committee notes that for many of these organisations, caseload increases stemming

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258 Ms Karen Rollinson, Service Navigator, Encircle Community Services, *Committee Hansard*, Caboolture, 9 April 2024, p. 27.

259 Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid NSW, *Committee Hansard*, 31 January 2024, p. 38.

260 Financial Rights Legal Centre, *Supplementary Submission 27.3*, p. [3].

from the 2022 floods have persisted for years, as successive waves of consumers reach personal or financial breaking points. However, government funding tied to the 2022 major floods is drying up, while baseline funding levels do not reflect the burden of ongoing flood recovery or resilience work; nor are they adequate to sustain a standing disaster recovery capability and expertise between major events.

8.205 On 6 September, the Australian Government announced $800 million in funding over five years from 2025-26 to the legal assistance sector.[261] While this additional funding will be focused on uplifting legal services responding to gender-based violence, this package will also assist community legal services and other stakeholders providing assistance to communities after natural disasters.

8.206 The Committee is therefore recommending that a share of this funding be allocated to provide more secure and sustainable funding for the invaluable work of this sector in disaster recovery.

Recommendation 69

8.207 The Committee acknowledges the increased funding for the community legal sector recently announced. While the focus of this funding will be for family violence services, the Committee recommends that an appropriate proportion be dedicated to natural disaster services.

[261] Hon Anthony Albanese MP, Prime Minister of Australia, and Hon Mark Dreyfus KC MP, Attorney-General and Cabinet Secretary, 'National Access to Justice Partnership', *Media Release*, 6 September 2024.

9. Improving affordability and access to flood insurance

The risk profile of Australian properties

9.1 The Insurance Council of Australia (ICA) have estimated around 675,000 (4.4 per cent) properties in Australia face a greater than one per cent risk of flood each year, the equivalent of a 1-in-100 year flood risk, including around 230,000 (1.5 per cent) of properties which face a five percent flood risk, equivalent to a 1-in-20 year flood risk.[1]

9.2 As shown below in Figure 9.1, in their submission to the Committee, the ICA provided a breakdown of the distribution of varying levels of flood risk to properties by jurisdiction using the National Flood Information Database (NFID), an address database containing 13.7 million property addresses, overlayed with the known flood risk according to local government flood mapping.

Figure 9.1 Number of properties at risk by jurisdiction

State	5% AEP	2% AEP	1% AEP	PMF	5%, 2%, 1% AEP	No flood risk	Unknown exposure	Total properties
ACT	0	0	2,887	0	2,887	151,498	87,057	241,442
TAS	234	177	55	5,741	466	266,123	79,346	351,676
WA	71	201	12,711	560	12,983	1,386,609	143,903	1,544,055
NSW	123,475	37,150	44,540	188,063	205,165	3,570,472	833,265	4,796,965
SA	2,625	1,950	14,439	66,828	19,014	665,034	386,045	1,136,921
VIC	55,233	5,344	58,062	38,384	118,639	2,989,588	864,566	4,011,177
NT	859	2,448	1,821	350	5,128	75,394	31,557	112,429
QLD	46,958	35,792	227,128	236,095	309,878	1,824,210	871,812	3,241,995
AUS	229,455	83,062	361,643	536,021	674,160	10,928,928	3,297,551	15,436,660

Source: Insurance Council of Australia, Submission 11, p. [8].

9.3 The data from the NFID shows that known flood risks are concentrated on the east coast, with New South Wales (NSW), Queensland and Victoria accounting for 78.1 per cent of total properties in Australia, but representing 98.7 per cent of the properties exposed to a five percent Annual Exceedance Probability (AEP).

[1] Insurance Council of Australia (ICA), *Submission 11*, p. [8]; Mr Andrew Hall, Chief Executive Officer, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 2.

9.4 Flood damaged properties account for greater insured (and uninsured) costs than any other peril, including bushfire, storm or non-flood related cyclone damage, with the same properties often incurring the damage. The ICA explained:

> The damage from floods is disproportionate to the number of properties known to be exposed to flood risk. Despite flood events accounting for over 54 per cent of losses from declared insurance events in the last five years, only 4.4 per cent of properties nationally are exposed to 1%, 2% or 5% AEP.[2]

9.5 For many property owners whose properties are exposed to a 1 per cent or greater flood risk, they are not able to access insurance for flood at actuarially fair prices. It is projected that climate change will result in more frequent and extreme weather events and also rising sea levels. This will expose an increasingly greater number of existing properties to higher flood risk. In turn, the number of property owners that will begin to find flood insurance unaffordable will presumably continue to rise.

9.6 This growing protection gap will have wide-ranging ramifications for those affected as well as society more broadly. As Swiss Re reflected:

> What we find is that when families are affected, so affected where they lose their home, if they're insured they'll be back on their feet within 6 months to 12 months, depending on the event. But it can take up to a decade for a family that's uninsured to come back to the same economic position they were in. That's just a series of knock-on effects which aren't great for a family, a community or a government in terms of welfare...[3]

Increased underlying flood risk is driving up premiums

9.7 Short-duration, extreme rainfall events, as well as prolonged rainfall in the same location are predicted to become more common events as the climate warms.[4] This, combined with sea level rise, is expected to create more frequent flooding events and floods which are more powerful and damaging to the urban and natural environment. Properties which are the most exposed to flood, because they are located near waterways such as rivers and creeks, are likely to experience a greater number of floods, with shorter intervals between each flood and potentially much higher flood heights than has previously been recorded. The 2022 major floods provided insight into how devastating floods could become, with many property owners experiencing the highest floods to affect their region, repeated flooding, and water that lingered for months.

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2 ICA, *Submission 11*, p. [8].

3 Mr Trent Thomson, Chief Executive Officer, Australia and New Zealand, Swiss Re Asia, Australia Branch, *Committee Hansard*, 15 March 2024, p. 10.

4 Bureau of Meteorology and Commonwealth Scientific and Industrial Research Organisation, *State of the Climate 2020*, www.bom.gov.au/state-of-the-climate/documents/State-of-the-Climate-2020.pdf.

9.8 Continued development in flood prone areas is also increasing aggregate risk and compounding the impacts of flood events. In some cases, the affected buildings are historical, built many years ago before the present or future risk of flood was properly conceived. However, the inquiry also received evidence of continued urban development and expansion into flood-prone areas. For example, the Northern Midlands Business Association told the Committee:

> I have a cutting from a newspaper where…the Shire of Campaspe, near Echuca, approved some townhouses next to a river that had flooded 12 months beforehand in the same area where they approved these townhouses to be built. The insurance industry, through the Insurance Council, wrote to that council and asked if they could reverse it, because it was going to be impossible for the purchasers to get flood insurance in the future…the insurance companies often will only insure what's sudden and unforeseen. If you're building beside a river that's flooded for many years, nothing's unforeseen about that.[5]

9.9 According to the ICA, CAT 221 was the largest insured event in Australian history and the second largest insured event in the world in 2022.[6] Insurers have been increasing premiums at a faster pace in recent years, primarily to account for the increasing cost of perils, and mainly in relation to growing flood risk for properties along arterial rivers.

9.10 In addition to the rising costs of extreme weather events, the Australian Prudential Regulation Authority (APRA) also attributed rising premiums to a combination of interest rates, inflation, supply chain strain, rising housing prices and tight labour market conditions.[7]

9.11 The ICA told the Committee that the costs of natural disasters are being felt by all Australians, whether they are directly exposed to peril risk or not:

> Wherever you live in Australia, whether you're directly exposed to extreme weather impacts or not, premiums are rising because of the escalating costs of natural disasters, the growing value of our assets, inflation driving up building and vehicle repair costs and the increasing cost of capital for insurers. These pressures are not unique to Australia. They're being felt around the world, including markets with similar risks such as Canada and California.[8]

9.12 The Committee was provided with substantial evidence showing the impacts of rising flood risk on insurance costs and, by extension, premiums. Data provided by APRA shows that the most significant factor contributing to premium increases is the rise in the cost of claims.

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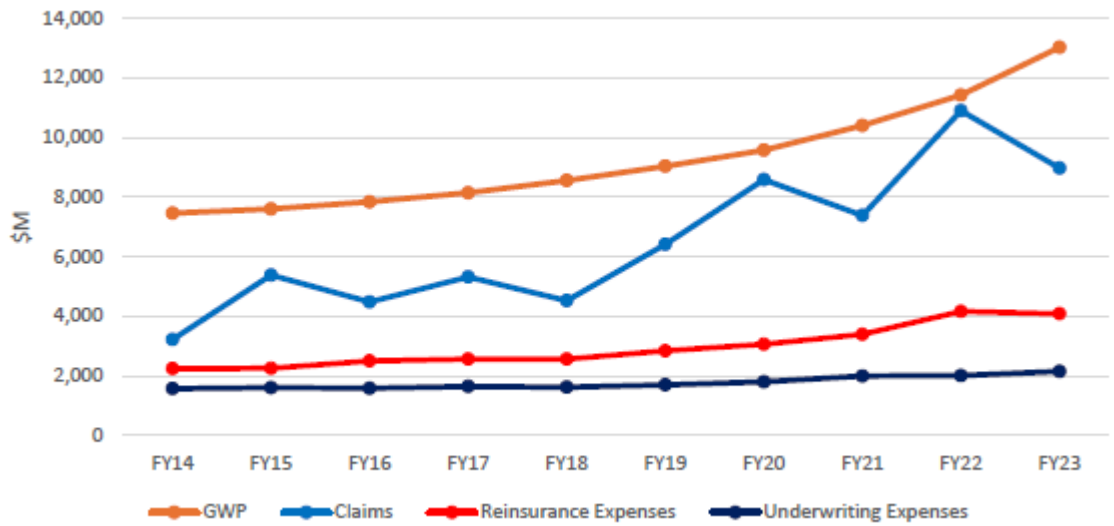
5 Mr Ian Goninon, Chairman, Northern Midlands Business Association, *Committee Hansard*, Devonport, 17 July 2024, p. 16.

6 ICA, *Submission 11,* pp. [12], [17].

7 Australian Prudential Regulation Authority, *Submission 56*, pp. 1-2.

8 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 2.

Figure 9.2 Aggregate Insurers' Policy Components - Home Insurance



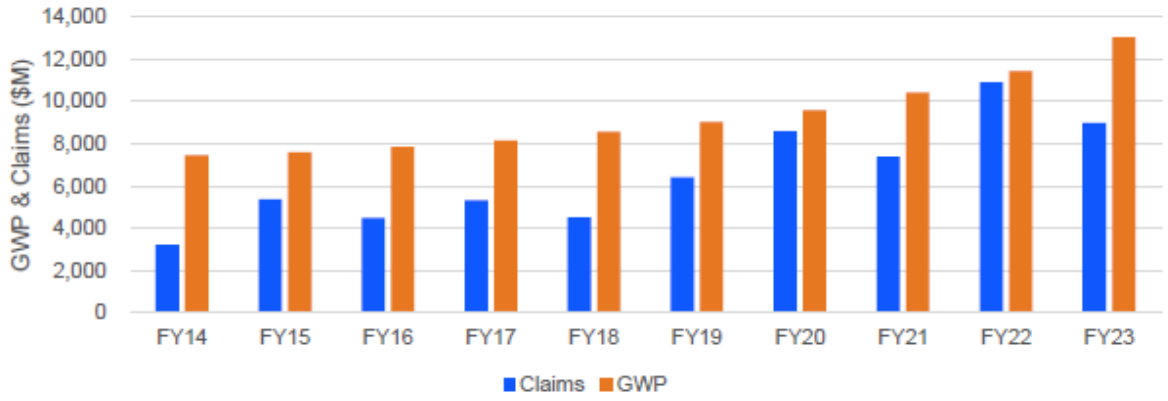
Source: Australian Prudential Regulation Authority, Supplementary Submission 56.1, p. 8, based on data from APRA Quarterly General Insurance Statistics

9.13 Figure 9.2 illustrates the relationship between Gross Written Premiums (GWP) with claims, underwriting expenses, and reinsurance expenses. In broad terms, GWP is an insurer's incoming revenue for a particular business line (home insurance in Figure 9.2). The other three lines are the "outgoings" or expenses. Of these, claims payments are both the largest and the most volatile. Where the bottom three lines (claims, reinsurance and underwriting expenses) sum to more than the top line (GWP), the insurer will be making a loss on that business line. This is reflected in Figure 9.5 below.

9.14 Figure 9.3 shows the total cost of claims to insurers and aggregate premiums for home insurance over the past decade. There has been an upward trend in total claim costs (at a much higher rate than written risks), which APRA attributes to the increased frequency and severity of extreme weather events in recent years (particularly flood), the rising number of households being impacted by these events and sustained inflation in the construction and resources sectors. Insurers have been raising premiums in response.[9]

[9] Australian Prudential Regulation Authority, *Supplementary Submission 56.1,* p. 4.

Figure 9.3 Claims and Gross Written Premiums (GWP) - Home Insurance



Source: Australian Prudential Regulation Authority, Supplementary Submission 56.1, p. 7, based on data from APRA Quarterly General Insurance Statistics

9.15 APRA provided further context in their submission, stating:

> The total value of GI [General Insurance] premiums has doubled since 2011, with GWP increasing from $34bn to $69bn. Within this, home insurance GWP has increased from $5.3bn to $13bn. In this time, however, there has not been a comparable growth in the policy numbers, indicating that premium increases for customers have been the major driver of GWP growth.[10]

9.16 It is worth noting that home insurance GWP has increased proportionately more over this period (145 per cent) than GWP for general insurance more generally (102 per cent).

The structure of the general insurance market

9.17 The Australian general insurance industry is a moderately competitive market with over 70 insurers licenced by APRA.[11] Data published by IBISWorld, indicates the market share concentration for the general insurance industry in Australia is moderate, meaning that the top four companies generate between 40 per cent and 70 per cent of industry revenue. The average concentration in the sector is 38 per cent. Home insurance makes up almost 20 per cent of industry revenue and motor vehicle insurance just over 31 per cent.[12]

9.18 APRA is able to confirm that from each of the financial years from 2018 until 2023, the top five insurers have constituted over 70 per cent of the total industry GWP in householders' insurance.

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10 Australian Prudential Regulation Authority, *Supplementary Submission 56.1,* p. 3.

11 Australian Prudential Regulation Authority, 'Register of general insurance', www.apra.gov.au/register-of-general-insurance.

12 IBISWorld, General Insurance Industry in Australia, ANZSIC K6322, January 2024, www.ibisworld.com/au/industry/general-insurance/526/#IndustryStatisticsAndTrends.

9.19 The APRA market share analysis suggests that there are a number of aspects of the general insurance market worthy of further examination. First, it is a market with a high degree of concentration. This suggests the possibility of at least some degree of market power. Second, the small market share of smaller and emerging insurers raises questions as to their capacity to take on risk. It would be worth examining whether smaller insurers are more prone to avoiding high-risk regions or properties than larger insurers (due to a smaller insurers' capacity to diversify). Thirdly, it would be worth examining whether smaller insurers lack capacity in relation to increasing their capability in areas materially impacted by natural disasters. It is possible that some of the recommendations in this report will at least partially offset any such limitations (for example, developing industry wide Q&As for distribution at all emergency relief centres and greater nationwide investment in mitigation).

9.20 While Australia's largest insurers ensure there is a strong national market for insurance, not all insurers have national coverage, with some having a larger presence in certain states or regions than others. For example, Suncorp has a significant presence in Queensland, with its headquarters located in Brisbane, while Insurance Australia Group (IAG) has a high concentration of policyholders in NSW, particularly in the regions. Smaller insurance firms are more likely to target specific areas to cover, by geography or by risk profile, which can enhance competition in and lower premiums for some policyholders. The tendency for smaller insurers to avoid offering insurance in locations with high flood risk is understood to provide some benefit to other parts of the market as the insurers could be expected to incur lower losses, which may contribute to them being able to offer lower premiums to lower risk customers, but could also be exacerbating non- or under-insurance in locations prone to floods.

9.21 There are also a range of ways general insurance products are sold to consumers. Insurers sell products directly to consumers, but there are also various intermediary channels as well, including through insurance brokers, online aggregators, other organisations (such as financial institutions) and underwriting agencies (who may manage the product value chain on behalf of the insurer).[13]

Why the market for flood insurance is breaking down for the riskiest properties

Insurers are reducing their exposure to flood risk

9.22 As identified earlier in Chapter 3, the Committee heard that in the wake of the 2022 major floods, several insurers have been re-evaluating their exposure to flood risk across their policies. As a result, several insurers have made decisions which impact the availability and affordability of flood cover for policyholders. Most insurers have adopted a combination of strategies to reduce their exposure to flood risk. This includes reducing their flood coverage (as an inclusion in their policies or beyond a

[13] Insurance Council of Australia, 'Submission to the Quality of Advice Review', 3 June 2022, p. 5.

certain number of households the insurer is comfortable covering),or raising premiums to better account for the future flood risk of the insured assets underlying the policy. Some insurers have also been exploring options such as increasing the excess or reducing coverage for some products.[14]

9.23 The ICA's NFID, combined with a concerted effort by local councils to improve the currency and granularity of flood mapping, has allowed insurers to more accurately determine the locations which carry a greater risk of flood. All large insurers are now able to estimate risk to the postcode or equivalent level and a few larger insurers are capable of estimating risk to the property level after making significant investments in data and technology. These advancements are being incorporated into insurers' risk modelling and their decisions regarding their exposure and pricing.

Flood insurance is becoming increasingly unaffordable for properties with the highest risk

9.24 Policyholders, consumer groups, insurers, regulators and other stakeholders confirmed throughout the inquiry that flood insurance is becoming increasingly unaffordable for the 4.4 per cent of properties with a 1, 2, or 5 per cent AEP.[15] An even higher proportion of households are "affordability-stressed" (15 per cent) as defined by the Actuaries Institute.[16] Policyholders who have a lower exposure to perils are the most likely to benefit from insurers' collection of more granular data through lower premiums being offered, especially if insurers' use of the data enhances competition for lower risk customers.

9.25 However, the inverse effects have already been observed by higher risk policyholders through significantly increased quotes for flood coverage and some insurers opting not to supply insurance citing limits on their exposure to flood risk or an unwillingness to offer home insurance without flood cover. APRA described the issue for high-risk households:

> Insurance, by nature, is about pooling risk so that risk is shared, and the payments by many are often reaped for the benefits of a few…My personal view is that, once you move to pricing individually like that, probably the most vulnerable people who live in the places where the risk is the highest actually are faced with increasing premiums again. So it's a bit of a vicious circle.[17]

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14 See, for example, Mr Paul Fahey, Chief Executive Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, pp. 20-21; Ms Sue Houghton, Chief Executive Officer, Australia Pacific, QBE Insurance (Australia) Ltd, *Committee Hansard*, 21 February 2024, p. 12; Mr Richard Feledy, Managing Director, Allianz Australia Insurance Limited, *Committee Hansard*, 9 February 2024, p. 27; Legal Aid Queensland, *Supplementary Submission 8.1*, p. 1.

15 Victorian Council of Social Service, *Submission 10*, p. [4]; Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 57; Legal Aid NSW, *Submission 34*, p. 13, 26; National Emergency Management Agency, *Submission 40*, p. 1; IAG, Mr Scott Hawkins, Munich Holdings of Australasia, *Committee Hansard*, 23 February 2024, p. 17

16 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk,* August 2024, p. 4.

17 Mrs Suzanne Smith, Executive Board Member, Australian Prudential Regulation Authority, *Committee Hansard*, 2 February 2024, p. 26.

> I think the key point there is the pooling concept. If you take that away, absolutely, some people would get a discount on their premiums, but, actually, it's the people who are the most exposed now—and potentially will be exposed in the future—who will see a very significant increase in their premiums as the insurers risk-rate that. Or they'll just see coverage disappearing. In a sense, that pooling concept allows the insurers to at least offer coverage where they can.[18]

9.26 Where insurers have offered optional flood cover, the difference in price with and without flood cover can be substantial (thousands or tens of thousands of dollars).[19] Responses to the Committee's survey showed that of the 273 people that indicated they had renewed a current general insurance policy, 26 (or 9.5 per cent) said their annual premium had increased by more than $5,000.[20]

9.27 Throughout the inquiry, the Committee heard many people affected by the 2022 major floods, or previous floods in recent years, were now without flood cover as part of their insurance, and in a few cases were without any insurance at all.

9.28 Allianz reported a larger proportion of its customers exposed to high flood risk were not taking out cover since the 2022 floods, with an increase from 62 per cent of customers with the highest flood risk rating not taking out cover in 2022 rising to 73 per cent in 2023. This included new customers not taking out flood cover and existing customers not renewing cover.[21]

9.29 While the Committee did not receive specific data around premium increases, the evidence received certainly supports the findings of the Actuaries Institute in the last three of its home and property insurance affordability reports released, which finds the number of households experiencing insurance affordability stress has increased year-on-year from 2022 and 2024.

9.30 In the Institute's most recent update it was revealed that in 2024, 15 per cent of households are believed to be experiencing home insurance affordability stress (determined when the annual cost of home insurance exceeds four weeks of gross household income). This finding represents a year-on-year increase from 12 per cent of households experiencing affordability stress in 2023 and 10 per cent in 2022. This equates to an increase from approximately 1 million households experiencing insurance affordability stress in 2022, to 1.24 million in 2023, to a further 1.6 million households in 2024. This represents a 30 per cent increase in the number of households experiencing affordability stress between 2023 and 2024.[22]

9.31 In its reports, the Institute attributes the increases in insurance affordability stress to the rising cost of perils, particularly flood insurance, and the correlation between

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18 Mr Jonathan Wood, Head, Insurance Risk, Australian Prudential Regulation Authority, *Committee Hansard*, 2 February 2024, p. 26.

19 Mrs Laura-Jo Mellan, Director Planning and Environment Services, Maribyrnong City Council, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 7; Legal Aid Queensland, *Submission 8*, p. 11.

20 Appendix C, Committee survey results.

21 Allianz Australia, *Submission 13*, p. 20.

22 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk,* August 2024, p. 4.

increasing premiums and lower-income households being more likely to own in more 'affordable' locations, which housing in flood-prone areas can provide.[23]

9.32 The Institute also examined the dispersion of premiums across insurers at the same property by requesting premiums from a range of insurers for particular addresses. It found that:

> The most expensive premiums offered are around four times higher than the median premium, and seven times higher than the cheapest premium. This gap increases for the most expensive policies. The cheapest premiums offered in the market can be around half the cost of the median premium.[24]

9.33 The Institute estimated that shopping around could greatly benefit consumers:

> …if households purchased the 25th percentile premium policy offered, our estimate of affordability-stressed households in 2024 would reduce from 15% (assuming a median premium) to 11%.[25]

9.34 This is an issue worthy of further study, and one which raises several questions. First, how much the price dispersion observed by the Institute is due to a difference in pricing of the underlying risk and how much of the variation is due to differences in coverage (for example, variation in excesses, limits on coverage, limits on payouts in certain situations)? Second, how often did high premiums reflect insurers going through the motion of offering a quote without wanting to offer coverage, either due to their assessment of the risk at the individual property or due to that insurer already being heavily exposed to the peril in that region? Third, what are the implications of such a wide dispersion on the competitive dynamics of the market? If only a small number of insurers are offering low premiums in a particular area, does that represent a low amount of competitive tension? And do consumer barriers to finding the full range of prices on offer reflect an additional barrier to competition?

9.35 For communities prone to flooding there is a sense that the insurance market is disappearing as cross subsidisation for higher risk properties is reduced. The Clarence Valley Council observed:

> The premiums are so specific and so targeted that some insurance companies don't even offer flood cover anymore. You can't even have it as an option. It's just not even available…the risk used to be spread amongst the community. We weren't targeted. If the Richmond River floods every seven years, the insurance companies are going: 'Your house is worth $1 million. Let's divide $1 million by seven years, and that's what your premium is—plus 20 per cent plus CPI.' To me, that's not the way that the premiums should be set.[26]

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23 Actuaries Institute, *Home Insurance Affordability Update*, August 2023, pp. 4, 15.

24 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk Report,* August 2024, p. 12.

25 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk Report,* August 2024, p. 12.

26 Councillor Steve Pickering, Councillor, Clarence Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 7.

9.36 Other stakeholders were concerned about consumers in flood prone locations experiencing increasingly unaffordable premiums when they are the most likely to be unable to afford the insurance, to move to less risky locations or to be able to afford mitigation on their properties.[27] For example, Legal Aid Queensland submitted:

> Queenslanders in flood affected areas that have experienced recurrent natural disasters are increasingly unable to afford the premiums for flood cover leaving fewer who are insured and many who have no insurance cover at all. Many areas in Southeast Queensland that are flood prone are also areas of significant economic disadvantage. Residents of these areas simply cannot afford the increased premiums being charged to insure against the risk of floods. Some consumers in Queensland are being quoted insurance premiums that provide flood cover costing in the tens of thousands of dollars. Anecdotally the highest premium LAQ is aware of some consumers who have received quotes for flood insurance in excess of $60,000 per annum.[28]

9.37 The Committee heard that local councils are also experiencing greater difficulties obtaining insurance for council-owned assets. CivicRisk Mutual, a local government insurance mutual, explained:

> The market has hardened dramatically over the last six years, since probably about 2018. Market hardening means that it's become more expensive.[29]

9.38 CivicRisk Mutual told the Committee it has had to increase the number of insurers from one to 26 for property, and increase self-insured retention (an amount that must be paid by the insured) from $1 million to $7.5 million.[30]

"Opt-out" insurance is becoming more difficult to obtain

9.39 Following the 2011 floods in South-East Queensland, some insurers in the flood insurance market moved from opt-in to opt-out. This resulted in an increase in flood insurance coverage for those households with low to moderate risk. For households with high risk of flood, opt-out enabled access to insurance at an affordable rate by opting out of flood.

9.40 However, over time, some insurers moved away from opt-out as it provided greater clarity for policyholders and reduced the level of hydrology disputes following major natural disasters. For example, in recent commentary on the state of the home insurance market in Queensland, a Royal Automobile Club of Queensland Limited (RACQ) spokesperson stated that: "Every RACQ Home and Contents Insurance policy covers loss from storm, flood, hail, fire and theft." "This creates certainty at

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27 National Insurance Brokers Association, *Submission 3*, pp. 2-3.

28 Legal Aid Queensland, *Submission 8*, p. 11.

29 Mr Andrew Armitstead, Chief Executive Officer, CivicRisk Mutual, *Committee Hansard*, Parramatta, 10 May 2024, p. 5.

30 Mr Andrew Armitstead, Chief Executive Officer, CivicRisk Mutual, *Committee Hansard*, Parramatta, 10 May 2024, p. 5.

claim time. RACQ does not permit exclusion of flood."[31] In addition to RACQ, Suncorp, QBE, Youi and Hollard told the Committee that they provide flood cover as standard in most or all of their home and contents policies.[32]

9.41 While some insurers offer opt-out, the availability of this option is limited. For example, AAMI offers opt-out for some high-risk properties, but Suncorp's flagship, self-named product doesn't. For Suncorp's main product, flood coverage is mandatory,[33] while Auto & General Insurance Company Limited (A&G) offers flood cover as an add-on option for home and contents policies.[34] The availability of opt-out appears to be declining over time as many insurers seek to avoid disputes over the cause of water damage after disasters.

9.42 During the course of the inquiry, Allianz moved away from offering opt-out insurance other than for a small number of high-risk legacy customers. On 14 May 2024, it announced that "Allianz will be changing its Householder insurance products to include flood cover as standard for all new customers of our Home Building, Contents and Landlords policies." Allianz further stated that:

> As a result of this change, existing customers with a low to moderate flood risk, and all new policyholders, will have the confidence that they are covered for flooding, regardless of whether it is caused by rainwater runoff or riverine flooding.[35]

9.43 IAG's main brand in NSW, NRMA, was cited on a number of occasions during the inquiry as requiring opt-out of all weather-related water damage, not just riverine flood and confirmed by IAG's evidence to the inquiry.[36] This was highlighted by many as causing considerable confusion among many customers.[37] But an additional dimension of this that is worth noting is that it reflects a market in which all insurers now appear to be moving away from opt-out of riverine flood. They are either mandating full coverage or allowing opt-out but for all forms of water damage.

9.44 While moving away from opt-out to standard, mandatory cover for flood may provide greater certainty, it also has the potential to lead to a situation in which hundreds of thousands of properties may not be able to secure any home and contents insurance

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31 Brendan O'Malley, The Courier Mail, 'Brisbane flood insurance jumps up to 10 times after alarming new Council maps', www.couriermail.com.au/news/queensland/brisbane-flood-insurance-jumps-up-to-10-times-after-alarming-new-council-maps/news-story/3e4a0b83e18f848929e9e8c1e19691ae, 16 September 2024.

32 RACQ Group, *Submission 15*, p. 1; Suncorp Group, *Submission 12*, p. 5; QBE Insurance Group, *Submission 17*, p. 7; Youi, *Submission 14*, p. 9; Hollard Holdings Australia, *Submission 19*, p. 14.

33 Suncorp Group, *Submission 12*, p. 5; AAMI, 'Flood cover for your home', www.aami.com.au/home-insurance/flood-cover.html; Liam Walsh, Australian Financial Review, 'Insurers on top in spats with customers about flood experts', https://www.afr.com/companies/financial-services/insurers-on-top-in-spats-with-customers-about-flood-experts-20240205-p5f2jc, 5 February 2024.

34 Auto & General Holdings, *Submission 18*, p. 4.

35 Allianz Australia, 'Allianz to introduce flood cover as standard in home insurance policies', 14 May 2024, www.allianz.com.au/about-us/media-hub/allianz-to-introduce-flood-cover-as-standard-in-home-insurance-policies.html.

36 Insurance Australia Group, *Submission 16(2)*, p. 1.

37 For example, Ms Elizabeth Lehmann, Senior Outreach Solicitor, Disaster Response Legal Service, Legal Aid NSW, *Committee Hansard*, Lismore, 11 April 2024, p. 29.

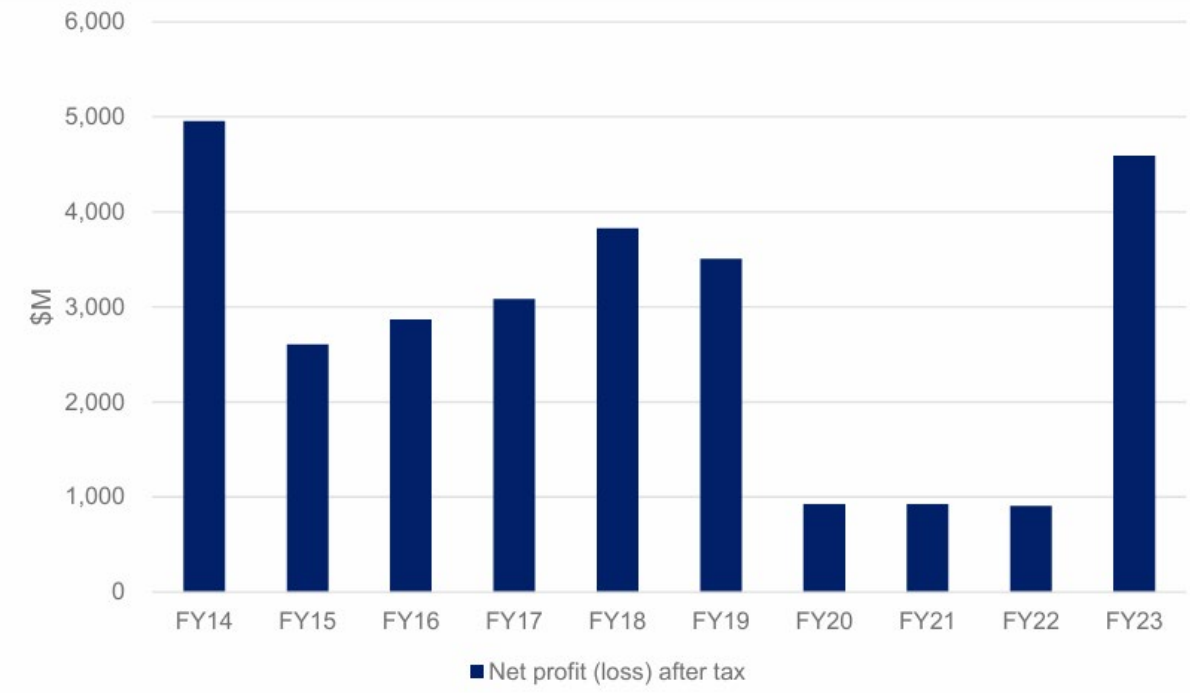
at all. It would certainly be doubtful that many (if any) of the 200,000 plus properties at 1-in-20 year risk or higher, as identified on the NFID, would be able to afford insurance. This would not be a socially acceptable outcome.

Reduced profitability of home insurance products

9.45 The Committee received evidence from insurers that the profitability of home insurance products has been declining for some time. For an insurance product to be profitable, premiums collected must be higher than incurred claims and underwriting expenses (general expenses associated with running the insurance business), as well as reinsurance costs.[38]

9.46 Following the major floods, insurers received some criticism for the industries' collective profit of $4.5 billion for the 2022-23 financial year, with some stakeholders questioning how insurance companies could have made a profit after the reported $7.7 billion in unexpected losses from claims related to the 2022 floods. Figure 9.4 shows insurers aggregate net profits after tax.

Figure 9.4 General insurers' net profit after tax



Source: Australian Prudential Regulation Authority, Supplementary Submission 56.1, p. 6, based on data from APRA Quarterly General Insurance Statistics

9.47 In public hearing evidence, the ICA attributed the profit to good returns on investments held by insurers, as well as a return to profitability in the commercial

[38] APRA, *Supplementary Submission 56.1*, p. 6.

insurance space and release of provisions that were held for COVID-19.[39] The ICA told the Committee that these lines of profitability were offsetting ongoing losses from its home and contents and motor insurance lines which was problematic for the industry.

> You want insurance products to be able to stand on their own two feet. They shouldn't be cross-subsidising each other. Home and contents needs to be a profitable business so that we can pay the claims when they fall due.[40]

9.48 APRA made similar observations, noting in its submission that despite insurers' headline profitability, claims costs were increasing for the home and motor lines of business, suggesting longer term sustainability issues in these lines of business. Figure 9.5, from APRA's submission, shows the Average Insurers' Combined Operating Ratio (COR)[41] across all product lines and home insurance. A lower COR means insurers are generating a profit from their product lines, whereas a higher COR means insurance profits are lower. A COR of greater than 100 indicates that a business line is making losses. Figure 9.5 shows that in FY20 and FY21, all product lines experienced decreased levels of profitability and since FY20, home insurance product lines have been unprofitable, despite increases in premiums over this time.[42]

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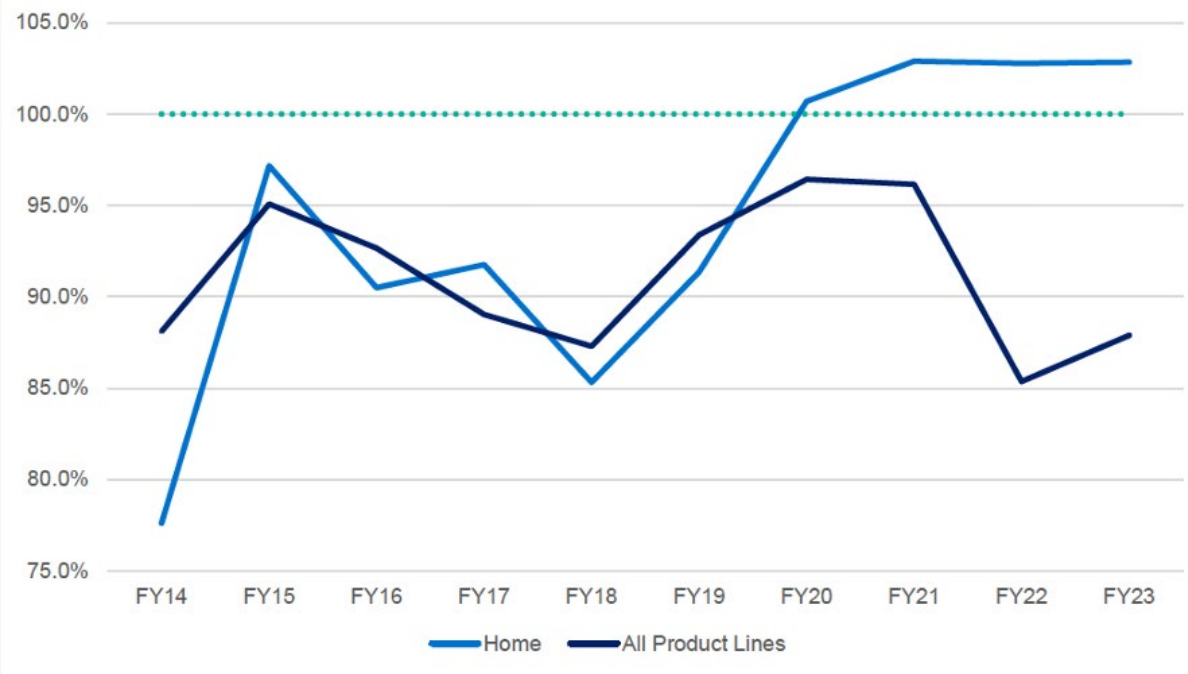
39 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 11.

40 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 15.

41 The COR measures an insurance company's underwriting profitability by comparing its incurred claims and expenses to its earned premiums. A COR below 100 per cent indicates underwriting profitability, while a COR above 100 per cent indicates underwriting losses, meaning incurred losses and expenses outstrip earned premiums.

42 APRA, *Supplementary Submission 56.1*, p. 7.

Figure 9.5 Average Insurers' Combined Operating Ratio - All Product Lines and Home Insurance



Source: Australian Prudential Regulation Authority, Supplementary Submission 56.1, p. 7, based on data from APRA Quarterly General Insurance Statistics

The impact of increasing flood risk on reinsurance

9.49 The Committee heard from insurers, reinsurers and APRA that since the 2022 major floods, reinsurance costs have increased dramatically and is one of the main drivers behind insurers increasing their premiums.

9.50 Australian insurers told the Committee that, in previous years, reinsurers were attracted to the Australian market because it allowed reinsurers to better diversify their risks and protect themselves, to an extent, against the extreme weather events specific to the northern hemisphere, in particular, the hurricanes and related flooding that impacts the United States. Some reinsurers indicated that they (and other reinsurers) have recently reassessed the diversification benefits of covering Australia. This has been one reason for increases in reinsurance cost increases.

9.51 Insurers and reinsurers attributed rising reinsurance costs to the impact of more extreme weather events, development and growing asset values contributing to rising claim costs and higher inflation.[43]

9.52 The ICA explained why reinsurers no longer see Australia as a hedge against losses as climate change takes effect:

[43] ICA, *Submission 11*, p. [2].; Mr Scott Hawkins, Managing Director, Munich Holdings of Australasia, *Committee Hansard*, 23 February 2024, p. 19.

> …our losses are sitting up there with the best of them globally as well. They point to a climate-change future, but they say in the here and now, in the climate we live in right now, we have allowed too much development to occur in peril-exposed areas, and the value of those assets have gone up enormously, particularly driven by the cost of inputs to rebuild them. [44]

9.53 The ICA told the Committee that Australian insurers had faced recent increases in their reinsurance costs of 20-30 per cent,[45] and that there is a risk of Australia being viewed as a less attractive market by reinsurers, explaining:

> Reinsurance is purchased in a global market and Australia and Australian insurers are competing with other countries for reinsurers' capital. If Australia is viewed as a less attractive destination for capital or the Australian insurance market is viewed as more volatile or less profitable than historical norms, reinsurance costs will rise. [46]

9.54 APRA noted that Australia is still an attractive market for private sector reinsurers, and that reinsurers are still willing to operate and make capital available in Australia, however reinsurers are seeking more recognition of extreme weather risks and to see steps put in place to mitigate risk.[47] APRA considered the increased costs of reinsurance in Australia as 'bringing Australia more in line with actual global standards' by increasing retentions, requiring insurers to hold more of the risk, and increasing the cost of the reinsurance component of insurers' portfolios.[48]

9.55 Reinsurers considered that increasing reinsurance costs were being driven by the increasing cost of claims, which is informing their expectations on what events could cost, and the increasing costs of buildings and repairs in recent years.[49]

9.56 Some reinsurers appeared to be more comfortable with continuing to offer reinsurance for catastrophe risks in Australia long term than others. For example, Lloyd's Australia (Lloyd's) indicated that reinsurers may begin isolating perils from other risks in the coverage they provide:

> So there are a lot of moving parts that make up the overall cost of the reinsurance. As we see the next five, 10 or 20 years evolve…If we see those perils starting to become more prevalent and more prominent in terms of the impact they're having on the direct markets, then the reinsurance and insurance

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44 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 16.

45 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 15.

46 ICA, *Submission 11*, p. [24].

47 Mrs Suzanne Smith, Executive Board Member, APRA, *Committee Hansard*, 2 February 2024, p. 23.

48 Mr Jonathan Wood, Head, Insurance Risk, APRA, *Committee Hansard*, 2 February 2024, p. 21.

49 Mr Scott Hawkins, Managing Director, Munich Holdings of Australasia, *Committee Hansard*, 23 February 2024, pp. 18-19.

> market is likely to adapt. It's likely to change and start picking out some of those peak perils, if you like, and dealing with them in isolation.[50]

9.57 Munich Re indicated there hasn't been an issue with reinsurers capacity to cover perils in Australia, partly because the total sum insured is so much less than other countries, such as in the United States:

> …what we've experienced in Australia… is that, as the total sum insured in Australia is so much less than it is in the United States, there hasn't been an issue with the capacity available for those peak risks.[51]

9.58 However, Munich Re noted Australia has comparatively high flood coverage when compared to other jurisdictions, with a higher proportion of properties located in high-risk locations:

> Australia has, most likely, higher flood coverage than in many other privately underwritten jurisdictions… we probably have a higher percentage of properties exposed to flood than other jurisdictions. If you think about the topography of Australia and where we build, historically how trade was done, we have a lot of properties built near rivers.[52]

Improving information flows about flood risk to consumers

9.59 Stakeholders wished to see more action being taken by governments and insurers to improve the availability of information about the flood risk of a property or area, and the actions consumers can take to reduce flood risk.

Historical flooding data needs to be better communicated to current and prospective owners

9.60 The Committee heard many recounts of experiences where property owners impacted by the 2022 major floods were not aware of the flood risk for their properties or that their property had flooded previously. For some people the flood that occurred in 2022 was the first time the property had been affected but, in many cases, the property had been flooded in the years or decades prior. In their responses to the Committee's survey, 55 per cent of respondents said they were either not aware of, or unsure of, their property's flood risk prior to purchasing the property or renting it.[53]

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50 Mr Chris Mackinnon, Lloyd's General Representative in Australia, Lloyd's Australia Ltd, *Committee Hansard*, 15 March 2024 p. 49.

51 Mr Scott Hawkins, Managing Director, Munich Holdings of Australasia, *Committee Hansard*, 23 February 2024, p. 19.

52 Mr Scott Hawkins, Managing Director, Munich Holdings of Australasia, *Committee Hansard*, 23 February 2024, p. 23.

53 Appendix C, Committee Survey Results.

9.61 One submission to the Committee explained that a resident in the major floods only discovered their property had been repeatedly flooded over the last decade through conversations with neighbours after purchase.[54]

9.62 In its submission, Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice identified that:

> Insurance consumers are currently told very little, if anything at all, about the specific risks that they are insuring against and how much that specific coverage costs. While there may be some risk mapping services available, the extent to which these tools are currently used by consumers is unclear.[55]

9.63 Several Councils also observed that many people's processes for conducting due diligence prior to buying a house, often one of the biggest purchases a person will make, won't include investigation into flood risk. Ipswich City Council told the Committee:

> …we often say that people spend more time doing their due diligence when buying a second-hand car than they do looking at the planning and zoning of their own homes when they go to buy [a property].[56]

9.64 Ms Venecia Wilson also shared with the Committee:

> Mandatory flood history disclosure for each property must be introduced when properties go up for sale. There is no flood history disclosure. A section 10.7 certificate, which is a zoning certificate attached at the back of a contract, is deficient and it does not give people enough information. Tenants don't get given any flood information at all. Some of these properties have been sold over and over again, and people are copping the impacts over and over again.[57]

9.65 A representative from the Central Coast Council also noted that original building approvals are rarely secured by prospective home buyers and are not required to be provided during a sale, leaving some new owners uninformed about the potential for flood damage to lower levels:

> Often, real estate agents advertise dwellings giving the impression that all living areas are approved. As a result, some buyers may not be aware of the risk unless their conveyancer brings it to their attention. The flood damage associated with these dwellings with unapproved floor levels is typically much higher and more frequent.[58]

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54 Name Withheld, *Submission 89*, p. 1.

55 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 51.

56 Mayor Teresa Harding, Mayor, Ipswich City Council, *Committee Hansard*, Logan, 10 April 2024, p. 30.

57 Ms Venecia Wilson, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 27.

58 Mr Peter Sheath, Acting Unit Manager, Environmental Management, Central Coast Council, *Committee Hansard*, Parramatta, 10 May 2024, p. 4.

9.66 CivicRisk Mutual believed policyholders should be asked to confirm whether floor areas in their dwelling are being used in accordance with the original building approval, to incite greater compliance and reduce the risk borne by insurers, as well as banks which may be holding a mortgage.[59]

9.67 51 per cent of respondents to the Committee's survey said they did not observe clauses which outlined flood risk in their sale contracts.[60]

9.68 In its 2024-25 Pre-Budget Submission, the ICA submitted that publicly available flood risk data would improve public awareness of vulnerable areas.[61] The Planning Institute of Australia (Victoria) also noted in their submission that awareness of flood risk can strongly influence an individual's decision on the purchase of property or decisions on levels of insurance held.[62]

9.69 In its Northern Australia Insurance Inquiry report, the Australian Competition and Consumer Commission (ACCC) supported the implementation of measures to improve the information provided to potential home buyers by prompting consumers to obtain an insurance estimate as part of their due diligence prior to purchasing a property. The ACCC believed this would help reduce instances of new homeowners experiencing insurance payment difficulties.[63]

9.70 The Royal Commission into National Natural Disaster Arrangements also supported measures to better communicate natural hazard risk information to the public, particularly to people that are making decisions that will affect their exposure to natural hazard risks.[64]

9.71 Many stakeholders believe governments at all levels should coordinate and contribute to a national database identifying the flood risk of properties that is searchable by the public. For example, Disaster Legal Help Victoria argued:

> The Federal Government should require one of its relevant agencies, such as the Climate Change Authority, to hold detailed flood risk information nation-wide and make it publicly accessible, so that Australians are aware of climate and disaster risk when purchasing or renting property.[65]

9.72 The NSW 2022 Flood Inquiry report recommended that an online visualisation tool be developed to display the extent of known disasters that have affected each land

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59 Mr Andrew Armitstead, Chief Executive Officer, CivicRisk Mutual, *Committee Hansard*, Parramatta, 10 May 2024, p. 4.

60 Appendix C, Committee Survey Results.

61 Insurance Council of Australia, *2024-25 Pre-Budget Submissions* 2024, p. [4].

62 Planning Institute of Australia (Victoria), *Submission 75*, p. 7.

63 Australian Competition and Consumer Commission, Northern Australia Insurance Inquiry, *Final Report*, 2020, pp. 465-466.

64 Royal Commission into National Natural Disaster Arrangements, *Final Report*, 2020, pp. 7, 110, 121.

65 Disaster Legal Help Victoria, *Submission 7*, p. 6.

parcel and title in NSW in the past.[66] It noted that this data should be revised and updated at least every two years and after each major natural disaster.[67]

9.73 Several stakeholders believed the insurance industry could assist with facilitating information about previous floods to prospective buyers by providing prospective buyers with the ability to obtain a quote without owning the property. For example, Financial Counselling Australia noted:

> …one way is that when people take out insurance they will see that flood cover is $25,000. That probably is one alert that demonstrates that they may well be in [a] flood area.[68]

Governments and insurers need to provide accessible, useful and consistent information about flood mitigation options to consumers

9.74 The Committee heard that many stakeholders are supportive of governments and insurers providing more information to consumers about the actions they can take to mitigate flood risk to their properties.[69]

9.75 Some insurers have already begun enhancing their efforts to educate policyholders and communities about the actions they can take to make their homes more resilient. For example, in 2021, Suncorp Insurance launched the One House program, a partnership with CSIRO, James Cook University and Room11 Architects, to design, prototype and test what could be Australia's most resilient home. In 2022, Suncorp also launched Resilience Road, a follow up initiative aimed at encouraging homeowners to take practical steps to strengthen and safeguard their homes against extreme weather.[70]

9.76 Allianz similarly told the Committee it had recently partnered with Disaster Relief Australia (DRA) to enable the volunteer-run nonprofit to deliver its 'Big Map' initiative to assist vulnerable communities to plan for future natural disasters, particularly fire and flood, stating:

> Using DRA's mapping and drone technology, large scale floor maps are produced profiling areas in a community at risk of fire and flooding. Community sessions enable local residents to visualise their community's and their own property's risk profile and explore ways to build resilience and reduce the impact of future disaster events. Allianz's Disaster and Recovery Team attends these sessions to help arm residents with the right information to ensure they're

66 New South Wales Government, *2022 Flood Inquiry: Volume Two: Full report,* 29 July 2022, p. 292.
67 New South Wales Government, *2022 Flood Inquiry: Volume Two: Full report,* 29 July 2022, p. 292.
68 Mr Peter Gartlan, National Coordinator, Financial Counselling Australia, *Committee Hansard*, 1 February 2024, p. 6.
69 Financial Legal Rights Centre, CHOICE, Consumer Action Law Centre, Westjustice, *Submission 27*, pp. 5-6, 11-12, 52; Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, pp. 27,30; Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance, Legal Aid New South Wales, *Committee Hansard*, 31 January 2024, p. 39; Mayor Jon Raven, Mayor, Logan City Council, *Committee Hansard*, Logan, 10 April 2024, pp. 24-25.
70 Suncorp Group, *Submission 12*, p. 13.

> adequately covered before a disaster, and provide information on how their insurer can support them after an event.[71]

9.77 The National Emergence Management Agency (NEMA) told the Committee that the hazard risk Mitigation Measures Knowledge Base being developed through the Hazards Insurance Partnership (HIP) will help provide important information to consumers about the actions they can take to mitigate risk at the household level, stating:

> The intent is to generate specific tangible interventions or actions that households can be encouraged to take to reduce their risk…We want it to be a product that the public can use, access and go, 'Okay, yes, those are actions I could take.' We're aiming to ensure that there's a user designed interface and platform for people to use—and they can access [to] that through NEMA's own website.[72]

9.78 Stakeholders were generally supportive of an app being created similar to the Bushfire Resilience Rating Home Assessment app, to inform consumers about the measures they can take to make their properties more flood resilient as part of broader efforts to improve information flowing to consumers on flood risk mitigation.

9.79 Some stakeholders believed flood risk should be disclosed on the property title so that when consumers are seeking to purchase a property, they are provided with information about the properties flood risk. This would flag to prospective homeowners the potential costs that may be incurred as part of owning the property and allow them to make more informed decisions for their future.[73]

9.80 Several insurers believed improving disclosure to property buyers about the level of flood risk a property is exposed to would help reduce the likelihood of additional development on high-risk land. [74]

9.81 Updated flood maps and flood modelling are currently being made available to communities on a somewhat ad hoc basis. Some councils and water authorities are releasing this modelling and some are not. As noted earlier, the Committee believes that the entity creating the flood maps or modelling will generally be best positioned to release it. It will have the best understanding of how the maps and modelling were created. It will also have a close relationship with the local community and will be able to release the information in a staged way that involves appropriate consultation.

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71 Allianz Australia, *Submission 13*, p. 21.

72 Dr Jill Charker, Deputy Coordinator-General, Disaster Resilience and Recovery, National Emergency Management Agency, *Committee Hansard*, 15 March 2024, pp. 29-30.

73 See, for example, Mr Paul Holmes, Assistant Director, Disaster Relief, Legal Aid Queensland, *Committee Hansard*, 31 January 2024, p. 45.

74 Youi, *Submission 14*, pp. 27-28.

Reducing underlying risk to improve insurance affordability

9.82 The 2022 major floods brought to the fore for many communities (and the stakeholders that service them) that significant, impactful steps need to be taken to reduce flood risk.

9.83 In addition to policyholders themselves, perhaps unsurprisingly, the two sectors calling the most strongly for meaningful federal and state government action were from local councils and the insurance industry. With local councils often responsible for the design and implementation of flood mitigation planning (which may be reliant on state or federal funding) and insurers having gained substantial new information through improved data collection, access to modelling and research in recent years about the projected impacts of increasingly frequent and severe floods on Australian households and businesses is increasing the call for action.

9.84 There have been several state-based inquiries into each of the major floods which have included recommendations to reduce flood risk for households. For example, the 2022 NSW Flood Inquiry made recommendations around planning decisions and mitigation efforts, including not releasing or developing land with a known disaster risk, government buybacks of high-risk properties, the relocation of people to safer areas and retrofits or home raisings to improve building resilience.[75]

9.85 The insurance industry has also released several papers and research reports preceding and following the major floods that have advocated for specific actions the government should consider to reduce underlying flood risk to help reduce the cost of insurance for policyholders.[76]

Land use planning and building resilience

9.86 Land use planning is an important measure of limiting future vulnerabilities and losses from natural disaster in areas of new development. It can also help manage growth in risk by limiting or modifying the location or features of new and existing developments to reduce the impacts of disasters on communities.[77]

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75 Legal Aid New South Wales, *Submission 34*, p. 29.

76 For example, Insurance Council of Australia, *Building Australia's Resilience – Policy recommendations for federal and state governments*, https://insurancecouncil.com.au/wp-content/uploads/2023/07/20894_ICA_Resilience-Advocacy-Asks-FINAL.pdf; Insurance Australia Group and Rhelm, *Planned Relocation: Protecting our Communities*, March 2023, www.iag.com.au/sites/default/files/Documents/About%20us/Final%20report_0.pdf.

77 Australian Institute for Disaster Resilience, *Land Use Planning for Disaster Resilient Communities*, 2020, pp. 6-7.

9.87 Many stakeholders advocated strongly for policy solutions to reduce flood risk in Australia, including investment in community mitigation infrastructure, land use planning and better building standards.[78]

9.88 The insurance industry made it clear to the Committee that insurance would not become more affordable for households and businesses if action was not taken to reduce flood risks to properties where possible by governments, communities and individual property owners.

9.89 The Insurance Council of Australia told the Committee:

> Action in these areas would both reduce the risk to individuals and communities (and in turn pressure on the insurance system) and reduce pressure on affordability over the longer term. These policy concepts have been well understood but have been kicked down the road for too long. Some will take years to fully implement and further delays will only continue exacerbate the challenges of higher migration and the future impact of climate change.[79]

9.90 In December 2022, it was announced by the National Cabinet that Planning Ministers had been tasked with developing a national standard for considering disaster and climate risk, as part of land use planning and building reform processes, declaring "that the days of developing on floodplains needs to end". Planning Ministers were to report back to National Cabinet in 2023.[80] At the time of writing, no publicly available outcomes were available from this process.

9.91 The ICA noted that moving from this general agreement to specific policies and clear direction will require strong leadership and significant effort.[81]

9.92 Hollard told the Committee that there are a range of complex interacting factors and pressures that influence land development, including in disaster-prone areas, and that reducing the likelihood of additional development occurring on high-risk land, and the risks associated with such development, requires effective land use planning by councils.[82]

9.93 Tweed Shire Council told the Committee that NSW already had planning systems in place to enable development of the flood plain for more compatible uses in more flood-prone areas, such as for recreation or for agricultural industry. [83]

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78 ICA, *Submission 11*, p. [25]; Mrs Laura-Jo Mellan, Director Planning and Environment Services, Maribyrnong City Council, *Committee Hansard*, Maribyrnong, 17 April 2024, p. 6.; Mr Ray Hayek, Owner, Jubilee Vineyard Estate, *Committee Hansard*, Richmond, 9 May 2024, p. 19.

79 ICA, *Submission 11*, p. [25].

80 Meeting of National Cabinet, *Media statement*, 9 December 2022, www.pm.gov.au/media/meeting-national-cabinet-4.

81 ICA, *Submission 11*, pp. [3], [27].

82 Hollard Holdings Australia, *Submission 19*, p. 40.

83 Mr Danny Rose, Acting Director Engineering, Tweed Shire Council, *Committee Hansard*, Lismore, 11 April 2024, p. 6.

9.94 Many councils believed they were already implementing robust policies that prevented development, or at least residential development on flood prone land.[84] For example, the Tweed Shire Council told the Committee that in accordance with the NSW Flood Risk Management Manual, local councils have generally adopted the 1-in-100 year rule for flood planning levels for residential development.[85] Of the 35 councils that participated in the inquiry, several appeared to be satisfied with restricting development for new residential builds with a 1-in-100 year flood risk, while others were concerned that the increasing frequency and intensity of floods meant the threshold would become outdated over coming decades, and new builds just outside of this risk level could become new areas impacted by floods.

9.95 Other stakeholders also questioned the broad consensus for a 1-in-100-year threshold for council approvals for new developments, with stakeholders noting that at this point in time, houses in areas rated to this threshold have flooded multiple times.

9.96 Some stakeholders argued higher thresholds are required to avoid more homes impacted by floods and rising costs. For example, the Cairns Chamber of Commerce argued:

> …we need to stop building in flood zones. That's not just in North Queensland. Lismore and places in New South Wales have had the same experiences. If we are going to build in those areas, then we need to build to withstand not just this one-in-100-years flood, because it's happened more than once in 100 years.[86]

9.97 Insurers also supported amending current land planning practices to better account for flood level modelling projected to a future time, such as 2050 or beyond.[87] For example, Melbourne Water's recently released flood modelling for the Maribyrnong River was based on a 2024 and a 2100 scenario[88].

9.98 Some councils also believed the current approach for individual councils to undertake flood mapping and modelling, usually through contracting local or independent organisations to undertake mapping, while adhering to high-level guidance, is causing a high degree of variation in the data councils are collecting and through which decisions are being made. For example, the City of Moreton Bay noted:

> A traditional approach to land use planning is based on 'go' and 'no-go' areas defined by a simple design standard, such as the one-in-100-year level, resulting in different outcomes from council to council and from state to state. This binary approach has been deficient when there have been larger and more devastating

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84 Mrs Rhonda Coghlan, Councillor, Cairns Regional Council, *Committee Hansard*, Cairns, 24 July 2024, p. 32.

85 Mr Danny Rose, Acting Director Engineering, Tweed Shire Council, *Committee Hansard*, Lismore, 11 April 2024, p. 6

86 Mr Bob Epps, Board Member, Cairns Chamber of Commerce, *Committee Hansard*, Cairns, 24 July 2024, p. 22.

87 Youi, *Submission 14*, p. 27.

88 Melbourne Water, 'Flood maps', https://letstalk.melbournewater.com.au/maribyrnong-river-flood-model/maribyrnong-river-flood-model-maps.

events than the one-in-100-year events, and it unintentionally utilises incorrect assumptions about flood risk.[89]

9.99 The City of Moreton Bay described the critical role councils play to reduce harm to communities:

> The role of councils in understanding flood behaviour, flood hazards and the risk to the community has significantly improved over the past few decades. We are now much more cognisant of flood risks that cover the full spectrum of potential flood events, from small, nuanced floods all the way to very rare, catastrophic events that can devastate communities and annihilate anything in their path. We're also more cognisant of the potential impacts of climate change. Rainfall is projected to become more intense, resulting in greater flood risks in the future. Effective land use planning can help improve resilience outcomes. Capital works and infrastructure investments can help alleviate localised flooding impacts on existing houses and potentially also make land available for more intense development, which requires significant investment from councils.[90]

Investment in community level mitigation

9.100 In 2014, the Productivity Commission released a report into natural disaster funding.[91] The report examined the three years from 2009-10 through to 2012-13. During this period, it found that the Australian government spent around $115 million on mitigation with at least $110 million of matched (mostly state) expenditure.

9.101 This figure of around $215 million is far less than the $8 billion in funding from the Australian government for post-disaster recovery with at least another $6.5 billion from state and local governments (mostly state).[92]

9.102 The Productivity Commission found that governments in Australia (at all levels) spent 97 per cent of funding cleaning up after disasters and a mere 3 per cent on pre-disaster preparation and mitigation.

9.103 Since that time, the Australian government has reweighted its effort, with a commitment to at least $200 million of investment each year into community mitigation through the Disaster Ready Fund (DRF).[93]

9.104 In addition, the Australian, Queensland and NSW governments have invested considerably in mitigation and preparedness following the 2022 floods, primarily in the Northern Rivers and SE Queensland areas. Much of this expenditure has

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89 Mr Steve Waters, Chief Executive Officer, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2022, p. 2.

90 Mr Steve Waters, Chief Executive Officer, City of Moreton Bay, *Committee Hansard*, Caboolture, 9 April 2022, p. 2.

91 Productivity Commission, *Natural Disaster Funding Arrangements*, No. 74, 17 December 2024.

92 Productivity Commission, *Natural Disaster Funding Arrangements*, p. 9.

93 Senator Hon Murray Watt, Minister for Emergency Management, 'Disaster mitigation fund because law', *Media Release*, 23 November 2022.

focused on house buybacks and resilience measures (for example, raising houses). These programs total over $1.5 billion. There are signs that similar programs might be rolled out in other areas. While this increase in mitigation and preparedness expenditure has shifted the dial, it is still skewed towards recovery and relief.

9.105 Even after this significant increase in mitigation funding, both local councils and insurers argued that further financial support is needed for councils to undertake community level, higher impact mitigation works identified through flood mapping and planning activities.

9.106 Consumer advocacy groups such as Disaster Legal Help Victoria and Legal Aid Queensland also supported the Australian Government upscaling its investment in risk reduction, focusing on the most vulnerable communities first.[94]

9.107 As identified in Chapter 8, Latrobe Council conveyed their experience of rebuilding infrastructure without being able to make changes to account for high flood risk because of cost, with the City of Greater Bendigo also arguing that public funds should be spent on 'building back better':

> It is a waste of public money to continue to rebuild to inadequate standards when investing in 'build back better' would make roads and other infrastructure far more resilient to future damage and save massive amounts of money in the longer term. The City asks that the federal government continue to discuss this issue with the Victorian government with a view to setting up a similar Betterment Fund for Victoria.[95]

9.108 Advance Cairns believed building more resilient infrastructure would require significant investment by governments:

> …it actually requires a significant investment in building road networks, bridges and infrastructure that can withstand what we know are going to be more extreme weather events, more often.[96]

9.109 IAG similarly told the Committee:

> All levels of government – led by the Federal Government – must significantly boost investment in mitigation infrastructure (such as levees and barrages) that will protect assets like homes and businesses and lower the cost of risk. The Federal Government's initiatives in the Disaster Ready Fund and the Hazards Insurance Partnership are important first steps.[97]

9.110 Whether insurers have a presence in a local market can be impacted significantly by community level flood mitigation. If measures are determined to materially reduce the flood risk for households and businesses located in the protected zone, insurers may

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94 Disaster Legal Help Victoria, *Submission 7*, p. 6; Legal Aid Queensland, *Submission 8*, p. 11

95 City of Greater Bendigo, *Submission 68*, pp. [6-7].

96 Ms Jacinta Redden, Chief Executive Officer, Advance Cairns, *Committee Hansard*, Cairns, 24 July 2024, p. 22.

97 Insurance Australia Group, *Submission 16*, p. 7.

be more willing to re-enter the local market to offer flood cover and at a lower premium to reflect the new risk level. Throughout the inquiry, the levy placed in Roma in 2012 was often quoted as an example of insurers leaving and re-entering the market once the levy was built.

> If you take Roma as the example, we had three 1-in-100-year events in Roma in three years, 2010, 2011 and 2012. That cost Suncorp $150 million. We took a decision at the time that we would cease writing home insurance premiums there until such time as the authorities invested in a levee. That was invested in. The minute the concrete started being poured, we reduced the premiums and the premiums have gone down by about 70 per cent.[98]

9.111 However, some councils have also acknowledged that due to the significant flood risks for certain areas, public mitigation works may have a limited impact on premiums. For example, the Hawkesbury City Council noted:

> Council has implemented a suite of initiatives that aim to reduce the flood risk in Hawkesbury, including reviewing and renewing planning provisions within a (draft) amended Local Environmental Plan, development of a Flood Policy and delivery of community engagement and education initiatives related to flood preparedness. It is acknowledged that these initiatives in isolation cannot entirely address the significant and well documented risk that exists in the Hawkesbury, any impact that these mitigation measures may have to reduce flood risk do not reduce the cost of premiums.[99]

9.112 Publicly funded community level mitigation measures will always be subject to overarching budget constraints. While the increase in funding by the Australian government to at least $200 million per year is welcome, it is also worth exploring the possibility of government partnering with the private sector.

9.113 The Australian Sustainable Finance Institute has advocated for public-private partnerships (PPPs) as a delivery model for community resilience investments. This could involve government and the private sector co-investing in new or upgraded infrastructure. As part of such a PPP, government would need to facilitate revenue streams for the private investor. This could take a number of forms, but would need to leave residential and/or business/community stakeholders better off.[100]

9.114 Similarly, the Actuaries Institute recommended the adoption of resilience lending by Australian banks, including through:

- the securitisation of resilience lending into mortgage-backed securities (for example, climate adaptation bonds).

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98 Mr Steve Johnston, Group Chief Executive Officer and Managing Director, Suncorp Group, *Committee Hansard*, 5 February 2024, p. 22.

99 Hawkesbury City Council, *Submission 25*, p. [2].

100 Australian Sustainable Finance Institute, 'Australian Sustainable Finance Roadmap', 2020, https://www.asfi.org.au/roadmap.

- the development by government of climate adaption taxonomies to facilitate investment.[101]

Public and private collaboration in funding mitigation

9.115 While governments have increased spending on mitigation and preparedness – and should do even more – there are limits to how much governments will be able to invest. That is why all governments should explore options to partner with the private sector. This could substantially leverage public sector balance sheets and spending.

9.116 The Actuaries Institute, in its 2024 Home Insurance Affordability and Home Loans at Risk Report (August 2024) argued that Australian, state and territory governments should consider partnering with the private sector in exploring innovative financing mechanisms. One example cited was sustainable finance instruments 'similar to the opportunity presented to lenders through climate adaptation bonds for resilience lending'.[102] Such a framework could include some of the features of the Green Bonds already implemented by the Australian and some state governments. Such mechanisms could potentially fund both community and household resilience projects. As the report noted, 'resilience measures can reduce risk which, all else being equal, enable premium reductions and thereby improve insurance affordability'.[103]

9.117 In its report Enabling Private Investment in Climate Adaptation and Resilience, the World Bank explored barriers to private sector investment in resilience measures. The key barriers identified were: (i) a lack of high-quality country-level risk and vulnerability data; (ii) limited clarity on public sector investment gaps; and (iii) low perceived returns on investment.[104] The report identified strategies for overcoming each of these gaps. It is critical that the right incentives are put in place, including in some cases the identification of reliable income streams to underpin the investment. While the World Bank report focused on climate change resilience, very similar challenges (and opportunities) present in relation to natural disaster resilience, particularly given that the increasing frequency and severity of some disasters (including flood) is so closely linked to climate change. Many of the strategies identified in the World Bank report (for example, better quality data, clearer identification of investment gaps)[105] are currently being identified and addressed by the HIP.

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101 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk Report*, August 2024, pp. 23-26.
102 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk Report*, August 2024, p. 25.
103 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk Report*, August 2024, p. 25.
104 World Bank and International Finance Corporation, *Enabling Private Investment in Climate Adaptation & Resilience: Current Status, Barriers to Investment and Blueprint for Action*, March 2021, p. 27.
105 World Bank and International Finance Corporation, *Enabling Private Investment in Climate Adaptation & Resilience: Current Status, Barriers to Investment and Blueprint for Action*, March 2021, p. 5, 28

Building standards

9.118 The Committee heard that there is some work underway by the Australian Building Codes Board (ABCB) and Standards Australia to improve construction regulation with respect to floods.

9.119 The Australian construction industry is regulated by the National Construction Code (NCC), a code which is produced and maintained by the ABCB. The ABCB is a joint initiative of the Commonwealth, state and territory governments, together with the building and plumbing industry.

9.120 In its evidence to the inquiry, the ABCB noted the Code is performance based, in that the ABCB set minimum standards to a minimum necessary level of performance for safety, health, amenity, accessibility and sustainability for new buildings.[106]

9.121 In June 2024 the Australian Government announced that Building Ministers had agreed to add climate resilience as an objective of the ABCB. This will allow the ABCB to consider future standards which will ensure buildings can better withstand more extreme weather.[107] Climate resilience will become the sixth objective of the ABCB from 1 July 2025.[108]

9.122 Standards Australia told the Committee that there is also a project underway for the adoption of ANSI/IICRC S500 as a standard on professional water damage restoration, as well as ANSI/IICRC S520 as a standard on professional mould remediation.[109] ANSI/IICRC S500 is expected to solidify best practices for responding to water damage incidents, including assessment, extraction, drying and restoration in the Australian construction industry.[110] ANSI/IICRC S520 proposes to fill a gap allowing a wide array of standards, processes and systems to be followed.[111]

9.123 The Committee heard repeated evidence from stakeholders that building standards need to be improved.

9.124 The ICA told the Committee that building standards do not account for current or future flood risk at all:

> Currently, minimum building codes in Australia are designed to preserve life in a catastrophic event, but not with the goal of preserving the property itself. As a result, homes are not built to withstand the extreme weather events of today, let

106 Mr Gary Rake, Chief Executive Officer, Australian Building Codes Board, *Committee Hansard*, 30 July 2024, p. 9.

107 Senator Hon Murray Watt, Minister for Emergency Management, Hon Ed Husic MP, Minister for Industry and Science and Hon Stephen Jones MP, Minister for Financial Services, 'Building Ministers back greater climate resilience for Australian buildings', *Media Release*, 24 July 2024.

108 Mr Gary Rake, Chief Executive Officer, Australian Building Codes Board, *Committee Hansard*, 30 July 2024, p. 9.

109 Mrs Karen Tiley-Takos, Chief Operating Officer, Standards Australia, *Committee Hansard*, 30 July 2024, p. 9.

110 Indoor Air Quality Association of Australia, *Submission 44*, p. 5.

111 Mr David Keane, *Submission 33*, p. [16].

> alone the future. Importantly, when it comes to floods, building standards do not consider resilience at all.[112]

9.125 This notion was supported by the ABCB:

> In simple terms, the planning system determines where you can build and the National Construction Code determines what you can build… In a flood designated area, we have provisions that can support building in a flood affected area, but the decision to determine what is a flood affected area is for the planning system…The objectives of the code as they stand today are focused primarily around life protection and human safety and less so around protecting the building for its own place. So, in a flood we expect that a building in a flood affected area, if built to our standards today, would be structurally sound during the flood event so that it protects the life of people who might be caught in that building. However, it won't necessarily mean the building can be occupied straight after the flood.[113]

9.126 Several stakeholders believed a flood rating system similar to the Bushfire Attack Level (BAL) should be introduced. The BAL is an Australian Government standard that measures the potential exposure of a home to bushfire which determines both the construction methods and materials that must be used in bushfire prone areas.

9.127 The Rochester Community Recovery Committee argued:

> The option may be…that we can adopt a similar flood system like the BAL systems, the bushfire attack level systems, and have a structured and tiered system so that, if you are going to live in some of these threat areas, there are different requirements around housing. Simply building up above a flood height is the optimal thing, and that minimises risk to not only property but also lives, but then there might be other requirements around housing, such as open-style development should not be located in areas susceptible to flood.[114]

9.128 A recent Centre for International Economics report released by the ICA found the three major forms of natural disasters (bushfire, cyclone and flood) created costs of around $4 billion per year. This included insured losses, uninsured losses, under-insured losses, mental health impacts, costs associated with loss of housing and employment impacts. The totals for each type of natural disaster were $2 billion for cyclones, $1.475 billion for floods, and $486 million for bushfires. The report also

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112 ICA, *Submission 11*, p. [27].

113 Mr Gary Rake, Chief Executive Officer, Australian Building Codes Board, *Committee Hansard*, 30 July 2024, p. 10.

114 Mrs Suzanne Smith, Executive Board Member, Australian Prudential Regulation Authority, *Committee Hansard*, 2 February 2024, pp. 21-22; Mr Richard Feledy, Managing Director, Allianz Australia Insurance Limited, *Committee Hansard*, 9 February 2024, p. 15; Councillor Steve Pickering, Councillor, Clarence Valley Council, *Committee Hansard*, Lismore, 11 April 2024, p. 2; Ms Venecia Wilson, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, pp. 26-27; Mr Bob Epps, Board Member, Cairns Chamber of Commerce, *Committee Hansard*, Cairns, 24 July 2024, p. 22.

found that the costs associated with these natural disasters is likely to increase significantly over time 115

9.129 In examining the economic viability of different mitigation and strengthening options for flood, the key findings of the report were that:

- Floor elevation appears the more favourable option than non-structural options due to relatively cheaper cost and higher effectiveness.
- The results are highly dependent on the frequency and intensity of flood events. For example:
  - the elevation option becomes economically viable when AEP is greater than 2.1 per cent under the current climate scenario or 1.9 per cent,
  - non-structural options would require the AEP being greater than 9.8 per cent if they can make a high impact (reduction of loss by 50 per cent) or greater than 16.1 per cent if they make a low impact (reduction of loss by 25 per cent).
- Flood risk mitigation requires a combination of effective land use planning regimes and robust building standards.
- There are instances where existing land use planning frameworks fail to adequately address the natural hazard risks faced by the built environment and communities.
- This inadequacy underscores the significance of risk-resilient building standards in mitigating costs associated with extreme weather events.[116]

9.130 Local councils that appeared during the inquiry told the Committee they had not approved any new developments in areas with a high flood risk within their Local Government Area (LGA) in recent years. [117]

9.131 Despite this claim, there is evidence of a number of developments having been approved recently where a number of properties are at a 1-in-100 year risk of flooding or higher. Recent examples include:

- the approval of 69 lots at Bulimba, in Brisbane.[118]

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115 Centre for International Economics, 'Resilience, durability and the National Construction Code – Economic Analysis: Final report, Summary', www.thecie.com.au/publications-archive/resilience-durability-and-the-national-construction-code, viewed 10 September 2024.

116 Centre for International Economics, *Resilience, durability and the National Construction Code – Economic Analysis: Final report*, pp. 79-80.

117 Mr Brian Joiner, Chief Executive Officer, Cook Shire Council, *Committee Hansard*, Cairns, 24 July 2024, p. 33.; Mrs Rhonda Coghlan, Councillor, Cairns Regional Council, *Committee Hansard*, Cairns, 24 July 2024, p. 33; Mr Paul Hoye, Acting Chief Executive Officer, Douglas Shire Council, *Committee Hansard*, Cairns, 24 July 2024, p. 33.

118 Alicia Nally, et al. ABC News, 'Building in floodplains is still not prohibited, Bulimba Barracks approved by Brisbane City Council', www.abc.net.au/news/2022-11-09/building-brisbane-floodplains-not-prohibited-bulimba-barracks/101610574, 9 November 2022; Lucy Stone, ABC News, 'Bulimba Barracks must be lifted above flood level, Shayher Group report says', www.abc.net.au/news/2021-03-05/bulimba-barracks-development-moves-ahead/13221360, 5 March 2021.

- the approval for 68 lots at a site in Richmond Valley that was significantly flooded in 2022.[119]
- a development in Hope Island (Qld) with a 1 per cent AEP depth of 60cm - 1.2m.
- multi-residential projects built on the Sunshine Coast and Gold Coast in 2019.
- Idalia in Townsville has seen significant expansion in areas affected by damaging floods in 2019 and 2024, including a mix of residential properties and further approval for the development of a new hotel.[120]
- the current construction of about 1,300 houses on the NSW Mid-North Coast in an area susceptible to flooding during heavy rain and storm events, with the possibility that 1,000 houses could be inundated above floor level during a 1 percent AEP event.

9.132 In addition, it is important that an audit be undertaken of property that has been approved but not yet developed. This could represent thousands of individual properties when fully sub-divided.

9.133 Councils also told the Committee that property owners were adding new structures or changes to existing structures in flood prone areas without council approval, noting it is both common and challenging for councils to regulate due to their limited resources. For example, Mr Joiner stated:

> We don't, as a rule, approve developments within flood prone areas; however, a lot of people within the shire just go ahead and build anyway. We either get retrospective requests for approval, or they just go ahead without a building approval and then, when something happens, we're expected to go in and help them. Just as a reminder, our shire is as big as if not bigger than Victoria. We're quite a financially stressed council, so we don't have resources to go around and do a lot of the work that we need to do to ensure compliance. We've got examples all over the shire where people just go and do what they want to do.[121]

9.134 The Australian Consumers Insurance Lobby noted government has a critical role to play to ensure regulations restrict development on floodplains and support the implementation and enforcement of zoning regulations that designate floodplains as off-limits for development.[122]

9.135 Youi recommended governments disincentivise new developments through the implementation of cost clawback mechanisms (contractual mechanisms that allow entities, usually sellers or lenders, to recover money if certain conditions of the contract are not met). It believed clawbacks should operate over parties responsible

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119 Richmond Valley Council, 'Ordinary Council Meeting for 17 December 2019: Agenda', https://richmondvalley.nsw.gov.au/wp-content/uploads/2019/12/CO_20191217_AGN_3127_AT.pdf, p. 12.

120 Queensland Rural and Industry Development Authority, 'Flooding disaster puts decades in business to the ultimate test', https://www.qrida.qld.gov.au/client-story/flooding-disaster-puts-decades-business-ultimate-test.

121 Mr Brian Joiner, Chief Executive Officer, Cook Shire Council, *Committee Hansard*, Cairns, 24 July 2024, p. 33.

122 Australian Consumers Insurance Lobby, *Submission 2*, p. 4.

for constructing and approving developments on high-risk land, with the clawback being triggered in the event of damage to the developed property (of a certain severity) having been caused by the high-risk natural peril event in question occurring after development completion.[123]

The role of banks in discouraging development

9.136 During the inquiry, the Committee was also interested to find out to what extent banks were aware of the risks they were assuming by offering mortgages for homes located in flood prone areas. While it is standard practice for lenders to require borrowers to maintain home insurance during the course of the loan, Financial Counselling Australia noted that, in practice, it was possible to take out a mortgage without consumers providing evidence of ongoing appropriate insurance to the bank, stating:

> We've been calling, with the ABA [Australian Banking Association] now for some time, for the banks to actually require evidence every year of a consumer's ongoing building insurance…the conversation becomes where and how should Australians live and to what extent, based on that, do you take on that risk…But it's about also the question of what is appropriate and adequate insurance. When you've got insurance premiums now for flood cover in the Northern Rivers that are anywhere between $15,000 and $25,000 a year, we've got a big problem. That's why I think some tradies are maybe taking on those risks. But I think there can never be enough forewarning, I suppose, about those risks.[124]

9.137 However, as the Australian Banking Association (ABA) noted in their submission, under APRA requirements APS and APG 220 – Credit Risk Management (and as part of general mortgage terms and conditions for most banks), customers must hold an insurance policy to take out a mortgage over a property. The ABA submitted:

> Insurance is checked by banks as part of the mortgage origination and verification process before settlement over a property occurs. Banks also have a range of processes they may carry out where they identify that a borrower no longer holds insurance or has removed a component of their insurance policy relevant to their property (such as the flood component of their policy).[125]

9.138 APS and APG 220 are intended to require the pooling of perils risk by the household and to leave the bank with the credit risk (which it is well placed to assess and manage).

9.139 In its 2024 home insurance affordability report, the Actuaries Institute estimated that 5 per cent of households in Australia with home loans are experiencing extreme

123 Youi, *Submission 14*, pp. 27-28.

124 Mr Peter Gartlan, National Coordinator, Financial Counselling Australia, *Committee Hansard*, 1 February 2024, p. 6.

125 Australian Banking Association, *Submission 71*, p. 2.

home insurance affordability pressures.[126] The Institute estimated that these households had around $57 billion in outstanding loan balances as at March 2024.[127] The Institute estimated that this represented 3 per cent of total home loans. The most affected areas are the northern rivers in NSW, regional Queensland and regional NSW.

9.140 Even where properties are insured, under-insurance may be an issue, particularly for households facing high premiums.

9.141 This is broadly consistent with analysis by Australia's major banks of their exposure to climate change and major perils. For example, in 2023, the Commonwealth Bank estimated 39,000 properties worth $17 billion were at a "severe physical risk" of floods along with $11 billion to cyclones and $2 billion to bushfire. Most of the properties at risk of flood were in regional NSW and Queensland. Overall, 4.6 per cent of the bank's home loan stock was exposed to a high risk of one or more of these perils.[128]

9.142 Banks typically verify insurance at the point of loan origination but do not monitor ongoing compliance. In part, this reflects the compliance costs of ongoing monitoring. To date, banks have adopted a pragmatic approach to the emerging risks in relation to insurance affordability, which the Committee believes is appropriate. Rather than exploring foreclosure options, banks are typically engaging with consumers through vulnerable customer frameworks. The Committee also understands that banks are reviewing their exposure to risk at a systemic level rather than placing pressure on individual households.

9.143 If government is to undertake the affordability and risk reduction strategies recommended in this report, then it should be possible for banks to manage this risk, so long as new properties are not added to the stock of properties that struggle to afford insurance.

9.144 Some stakeholders believed banks should be taking steps to become informed about potential flood risks before offering loans to developers, or for funding renovations which may not meet building approvals, and that information flows should be advanced to facilitate greater access by banks to relevant information for making loan decisions. For example, Youi suggested more should be done to ensure banks have access to and use flood mapping to avoid financing any new development of property in high-risk areas.[129]

9.145 The Committee for Sydney agreed that banks and other lending institutions should be giving more consideration to whether it should be lending to developers for certain projects, stating:

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126 "Extreme pressure" is defined by the Institute as a household having to spend 4 weeks or more of gross income on insurance.

127 Actuaries Institute, *Home Insurance Affordability and Home Loans at Risk Report*, August 2024, p. 22.

128 Commonwealth Bank of Australia, *Climate Report*, 2023, www.commbank.com.au/content/dam/commbank-assets/investors/2023-08/climate/2023-climate-report-spreads.pdf, p. 46.

129 Youi, *Submission 14*, p. 27.

> I think it's important that when we're thinking about financial services we don't just stop at the insurers, because while the insurance is a risk transfer it's also a pathway to mortgages, effectively. We've had these conversations with banks and financial services sectors. It's understanding that their decision-making around lending to a developer who's going to own a particular piece of property for three or five years, while they go through that development process, is a different conversation from one with a household that's proposing to take on a 30-year mortgage, because the risk profile changes. So, again, the insurer doesn't own the asset; the insurer's providing a risk transfer opportunity. The bank holds that asset against that risk.[130]

9.146 There is a range of options for banks in relation to households who have taken out mortgages and find themselves struggling to afford insurance, such as:

- resilience loans to enable households to invest in the resilience of their properties. This may make insurance affordable going forward. This could be undertaken in conjunction with the Resilient Building Council's rating system (as supported by the HIP).
- continue to work with government on more transparent and rigorous reporting of climate change and related risks, including through the Australian Sustainability Reporting Standards (ASRS).
- in conjunction with government and regulators, examining the role that banks can play in systemic responses to new developments in high-risk areas. This could include the capital treatment of such loans or an agreement that such loans should not be made.

Insurer recognition of policyholders' 'building back better'

9.147 Once a flood occurs, traditionally the objective of insurance has been to put the customer back in the same position they were in prior to the loss. Generally, policyholders that have a home insurance policy with flood cover are entitled to have the damage to the building repaired or replaced to the same condition it was in prior to it being damaged (or be cash settled).[131] Properties are required by law to be rebuilt to current building standards, however insurers are not required to rebuild houses to include modifications that make the building more resilient to floods.

9.148 Stakeholders believed insurers should change their 'like for like' policy position to a 'build back better' position to support communities to become more resilient.[132] This was reflected in recommendations 1.4, 1.5, 7.1 and 7.2 of the recently released

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130 Mr Sam Kernaghan, Director of Resilience Program, Committee for Sydney, *Committee Hansard*, Parramatta, 10 May 2024, p. 24.

131 Allianz Australia, *Submission 13*, p. 6.

132 Ms Rebecca Maple, Risk and Assurance Adviser, City of Greater Bendigo, *Committee Hansard*, Heathcote, 19 April 2024, p. 2.

report “Unsettled: Climate Risk and Cash Settlements in Home Insurance” produced by Financial Counselling Victoria.[133]

9.149 Some stakeholders, including insurers, voiced concern about the impact it may have on insurance affordability if insurers took an approach where they paid out more to rebuild properties using costlier, more resilient materials, particularly for properties that may be repeatedly affected by floods. Insurers believed the primary source of funding for building greater household level resilience should be drawn from government programs, with the funds made available for use when conducting repairs as part of a flood or storm claim.

9.150 Both the NSW and Queensland governments provided recovery grants to households through their Resilient Homes Program and Resilient Homes Fund respectively. However, as covered in Chapter 8, some stakeholders reported that it was too challenging trying to get the grant funding application to track close enough to the insurance claim’s timelines for the funds to be used as part of the insurer’s rebuild or repair of their home. The timing inconsistency also delayed the rebuild process for some stakeholders. For example, IAG reported that in some instances, flood impacted customers were hesitant to start the repair process until they had the outcome from these programs.[134]

9.151 IAG told the Committee that there is often a willingness by both the policyholder and the insurer to build back better after an event, but without supplementary government funding readily available, policyholders may have no choice but to start rebuilding with their insurer. It would like to see governments across all states and territories have pre-agreed processes in place (a ‘Build Back Better Blueprint’), ready to deploy at the time of an event should the government determine that an event triggers a grants program.[135]

9.152 Dr Helen Haines MP believed governments and insurers should work together to provide more opportunities for policyholders to rebuild their properties to be more resilient to flood:

> Insurers should work with governments to incentivise impacted policyholders to use insurance pay outs to build back better – where it is appropriate to build back. Building back better means accounting for changing risks and increasing resilience to future natural disasters. The committee should explore the appropriate role of government in this space.[136]

9.153 An alternative approach, that will not affect affordability, would be to allow greater flexibility in how a given sum insured amount is spent. With more flexibility, a given total amount could be spent on like-for-like or on an alternative, more resilient building. For example, it might make sense to rebuild a house with a smaller footprint

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133 Financial Counselling Victoria, *Unsettled: Climate Risk and Cash Settlements in Home Insurance*, August 2024, pp. 17, 39.

134 Insurance Australia Group, *Submission 16*, p. 8.

135 Insurance Australia Group, *Submission 16*, p. 8.

136 Dr Helen Haines MP, *Submission 4*, pp. 3, 7.

but more resilient (for example, raised) for the same sum. That will benefit both the householder and the insurer going forward.

9.154 Some insurers told the Committee they had moved to work more closely with the resilient homes programs during the response to the 2022 major floods, to improve outcomes for policyholders. For example, RACQ told the Committee that it had 'partnered with the Queensland Government to design and implement the jointly funded Resilient Homes Fund to build back better and repair homes to a standard that reduces the impact of future flooding'. RACQ reported at least 20 of its policyholders' homes participated in this program.[137]

9.155 Some insurers noted there are other avenues through which insurers could implement build back better policies as a priority. Suncorp told the Committee they provide policyholders with an optional benefit designed to cover the costs of building enhancements during the repair of a damaged property, which policyholders can purchase as part of their policy:

> Suncorp also offers Build it Back Better (BiBB) an additional benefit available to eligible Suncorp branded home insurance customers. This benefit is designed to cover costs associated with the purchase and installation of resiliency building enhancements that reduce the risk of damage during future weather events, for example replacing carpet with tiles, installing solid hardwood doors, and raising external services around the home such as air conditioning units.[138]

9.156 A&G also believed there were other changes that could be made to integrate a build back better approach when scoping repair work as part of a claim:

> Often the way it pans out in the claims process is our assessors would visit—I'm talking about large-scale repairs here—the building. We would get a builder's estimate of cost. The customer would probably do the same. Often a customer might brief a builder differently in terms of the scope they want to rebuild it to. We would compare that. The piece that we don't do consistently is to say, 'What component of that scope difference is a better build or a resilient build versus a customer scope requirement or a functional requirement?'[139]

9.157 As outlined later in this chapter, the Committee has made recommendations to improve recovery programs to enable the dual processes of grant applications and claims processes to be more synchronised and not hold up the rebuild of homes after a significant flood event.

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137 RACQ Group, *Submission 15*, p. 2.

138 Suncorp Group, *Submission 12*, p. 38.

139 Mr Ram Kangatharan, Group Managing Director and Chief Executive Officer, Auto & General Insurance Company Ltd, *Committee Hansard*, 22 March 2024, p. 21.

Premiums need to better reflect household risk mitigation

9.158 A significant number of stakeholders told the Committee that insurers need to better reflect household risk mitigation in the premiums offered to consumers. For example, in its joint submission, Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre, and Westjustice submitted that insurers should be required to consider relevant property-level mitigation measures in any new or renewing insurance policy, and to demonstrate how those measures have been reasonably reflected in the proposed premium.[140] The consumer groups believed there needs to be a genuine risk mitigation partnership between insurers and the insured, stating:

> If society is to benefit from the mitigation of controllable risks, there needs to be a genuine risk mitigation partnership between insurers and insureds. Consumers must know what the risks are to be able to act on them, and should be provided with appropriately transparent pricing signals – that indicate the existence of risks with price increases and the mitigation of risks with price decreases.[141]

9.159 The Royal Commission into National Natural Disaster Arrangements identified that a limitation of available data to insurers saw them lacking in their ability to recognise where risk mitigation has been undertaken, and for consumers to know which mitigation actions will be recognised.[142]

9.160 Insurers tend to be responsive to large-scale, community level risk mitigation activities, such as levees and creek diversions.[143] However, individual-level household mitigation activities often go unrecognised.[144] In response to the Committee's survey, 77 per cent of respondents said that mitigation measures they made on their property did not reduce their flood premium.[145]

9.161 Some stakeholders cited deficiencies in the data collected by insurers that is then used to calculate premiums, indicating that the capture of mitigation work completed by policyholders would be challenging for insurers. For example, the Central Coast Council spoke about insurers' collection of data on floor heights:

> …insurers quite often don't have an understanding of what the actual floor level of the building is…. insurers are able to quickly figure out, assuming the centroid of the property from the national address database: 'At this point here, what are

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140 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 11.

141 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre, and Westjustice, *Submission 27*, p. 52.

142 Royal Commission into National Natural Disaster Arrangements 2020, *Report*, 2020, p. 420; Mr Peter Sheath, Acting Unit Manager, Environmental Management, Central Coast Council, *Committee Hansard*, Parramatta, 10 May 2024, p. 11.

143 Youi, *Submission 14*, p. 25; Suncorp Group, *Submission 12*, p. 39; Insurance Australia Group, *Submission 16*, p. 39.

144 Royal Commission into National Natural Disaster Arrangements*, Report*, 2020, p. 420.

145 Appendix C, Committee Survey Results.

> all the flood levels that apply? What's the ground level?' But they don't know what the floor level is, so they generally make an assumption… That's where some of these very large premiums come in, because they're assuming something that is very different to where the floor level actually is... But they might also misunderstand where the house is on the actual property. If it's a large parcel of land, they'll just say, 'Well, let's assume that the property's in the middle.' But the house might actually be over here… so they end up with a premium of $30,000 or something…. most of the insurers don't have the manpower to go and look into each of these policies. They'll just run them off automatically, and, if people will pay them, then great; if not, then they don't have the resources to be able to negotiate on an individual residential policy.[146]

9.162 The Committee understands that at least some insurers have recently begun to more accurately plot building location on each property (rather than using the centroid as the default), although this is not universal practice yet.

9.163 Other stakeholders cited limited opportunities for policyholders to share maintenance and risk mitigation work with their insurer to the disappointment of policyholders seeking to lower their premiums. One policyholder told the Committee:

> Homeowners in bushfire-prone regions can not only obtain coverage but also benefit from reduced premiums through proactive fire mitigation measures. Regrettably, this privilege is not extended to those labelled as flood prone. Residents like myself are denied the opportunity to showcase our individual flood mitigation plans. We are unable to demonstrate proactive measures such as the ability to relocate internal contents to higher floors or even the ability to completely remove vulnerable contents off site altogether; that the external areas of our properties are well maintained, thus ensuring that debris doesn't cause damage; or that decking, fencing and retaining walls are well-maintained and structurally sound.[147]

9.164 Insurers also spoke of the limited data for them to verify that mitigations have been undertaken, or to quantify the effectiveness of those mitigations in reducing flood risk.[148] IAG believed the questions insurers asked of policyholders about the condition of their property were 'not deep enough':

> There's a communication exercise required. There's probably a greater understanding from householders around risks that actually do exist in that property, and a better way to communicate with your provider. These issues turn up, unfortunately, at the time of [a] claim.[149]

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146 Mr Peter Sheath, Acting Unit Manager, Environmental Management, Central Coast Council, *Committee Hansard*, Parramatta, 10 May 2024, p. 11.

147 Mr Scott Hinks, Private Capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 22.

148 Allianz Australia, *Submission 13*, p. 50; Hollard Holdings Australia, *Submission 19*, p. 44; Auto & General Holdings, *Submission 18*, p. 43.

149 Mr Nick Hawkins, Managing Director and Chief Executive Officer, Insurance Australia Group, *Committee Hansard*, 5 February 2024, p. 40.

9.165 Allianz also noted data limitations are the biggest obstacle for insurers in taking into consideration mitigation efforts to reduce risks.[150] Allianz explained their pricing engine cannot currently price at a more granular level, for example, by taking into consideration the exact height of the floor level of raised homes.[151]

9.166 Several local councils noted they had observed insurers not reducing premiums in response to policyholders' mitigation work on their properties, with Lismore City Council noting that communities are not incentivised to improve their property's resilience.[152] Dr Haines supported action being taken by insurers to improve the incorporation of mitigation measures to provide policyholders with the incentive to investigate and undertake mitigation work.[153]

9.167 Insurers told the Committee that the insurance industry and governments need to work together to improve data availability for insurers to be able to better detect household level risk mitigation works and evaluate the impact of different measures on the flood risk to the property so that insurers can feed that information through to premium calculations.[154] Without verifiable information about the risk mitigation activities undertaken, insurers cannot lower premiums without potentially under-pricing the risk. Insurers' requirements for verifiable data capture on household-level mitigation work was described by IAG:

> Currently, property resilience information is not systematically captured in any authoritative central database. It is typically the responsibility of the homeowner to capture property resilience information, which can often be lost when property ownership changes. This information is also not often available to tenants.
>
> Only features supported by a centralised resilient building standard would be captured, for example features identified through the Hazard Insurance Partnership Mitigation Working Group as likely to result in reduced insurance claim costs (this could also include national restoration standards so we can restore rather than replace). [155]

9.168 Youi agreed that household level mitigation and resilience measures could lead to lower premiums by making credible and certified information about such measures available to insurers in a standardised format at the address level, arguing for 'a centrally stored database and/or API service containing a set of contemporary resilience scores, by peril, for individual addresses in Australia', while also noting that the primary challenge would be in populating and certifying the "national standard format" for such resilience scores, stating:

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150 Allianz Australia, *Submission 13*, p. 50; Hollard Holdings Australia, *Submission 19*, p. 44.

151 Allianz Australia, *Submission 13*, p. 50; Hollard Holdings Australia, *Submission 19*, p. 44.

152 Ms Katherine O'Regan, Head, Investment and Growth, Lismore City Council, *Committee Hansard*, Lismore, 11 April 2024, p. 8.

153 Dr Helen Haines MP, *Submission 4*, p. 7.

154 Mr David Carter, Managing Director and Group Chief Executive Officer, Royal Automobile Club of Queensland Limited, *Committee Hansard*, 9 February 2024, p. 13; Mr Paul Fahey, Chief Executive Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, p. 27; Auto & General Holdings, *Submission 18*, p. 45.

155 Insurance Australia Group, *Submission 16*, pp. 32-33.

> Robust certification and ratification standards would be crucial to the credibility of such a centrally stored national database and requisite for utilisation by insurers.[156]

9.169 NEMA told the Committee they are working with insurers as they implement the hazard risk Mitigation Measures Knowledge Base to translate consumer actions to mitigate risk at the household level into premium reductions:

> …that link to insurance and premiums is really important. We're not there yet with this early stage of the database. At this point, we've just been focused on collating what those actions are that households can take, and then getting it into a format where that can be provided back to communities—to people… we're actually working quite closely with insurers on basically translating household actions into premium reductions, and the recognition of those by the insurers.[157]

9.170 NEMA noted that some insurers have undertaken pilots and programs to work directly with households to reduce their risk and have the mitigation activity reflected in their insurance premium.[158] NEMA also undertook a pilot program bringing together insurers' and other sources of flood hazard data to assess the impact of mitigation projects on insurance, specifically in the Bundaberg region.[159] NEMA told the Committee:

> That pilot showed the limitations of data availability and accessibility information and really demonstrated the value it would give decision-makers if we had more current and mature flood and property data to inform the risk assessments that insurers in turn need. So it had some learnings for government as well as highlighting what insurers would need to help them influence their premiums.[160]

9.171 NEMA encouraged the industry to expand on these programs and seek innovative business solutions to price mitigation 'discounts' into premiums.[161]

9.172 Some insurers have already begun testing and implementing resilience-based pricing measures to reflect reduction actions taken by policyholders. A&G have added new questions going to the elevation of homes which is being used to calculate and reduce the Cyclone Reinsurance Pool flood component of the customer's premium, where applicable.[162]

9.173 IAG told the Committee that some of its brands have implemented appropriate measures, and it planned to expand to other portfolios. IAG submitted that these

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156 Youi, *Submission 14*, pp. 24-25.

157 Dr Jill Charker, Deputy Coordinator-General, Disaster Resilience and Recovery, National Emergency Management Agency, *Committee Hansard*, 15 March 2024, p. 30.

158 National Emergency Management Agency, *Submission 40*, p. 4.

159 Dr Jill Charker, Deputy Coordinator-General, Disaster Resilience and Recovery, National Emergency Management Agency, *Committee Hansard*, 15 March 2024, p. 29.

160 Dr Jill Charker, Deputy Coordinator-General, Disaster Resilience and Recovery, National Emergency Management Agency, *Committee Hansard*, 15 March 2024, p. 29.

161 National Emergency Management Agency, *Submission 40*, p. 4.

162 Auto & General Holdings, *Submission 18*, pp. 44-45.

measures currently include adjustments to flood premiums to reflect house-raising or elevated floor levels and adjustments to cyclone premiums to reflect retrofit measures in Queensland, Western Australia and the Northern Territory, for example, roof tie-downs, roof replacements and window protection. At the time of making their submission, IAG was also considering adjustments to flood premiums to reflect household retrofitting undertaken as part of a Federal or State Government supported scheme and adjustments to bushfire premiums to reflect household bushfire resilience measures.[163]

9.174 IAG also told the Committee that the recently introduced bushfire star rating methodology underpinning the Resilient Building Council's Disaster Resilience Rating standard and Bushfire Resilience Rating Home Assessment app, launched in October 2023 could also help improve premium pricing for consumers:

> We are reviewing the standards as they have the potential to be integrated with our centralised peril pricing engine and subsequently through to our customer pricing systems.[164]

Buyback schemes

9.175 Property buyback programs allow property owners to voluntarily sell their property to the government. Programs are typically made available by government when there is extreme risk to homeowners from natural disaster events, particularly floods, where retrofits may not effectively mitigate risk and where there is not a realistic prospect of community level mitigation. This prevents homeowners from being trapped in high-risk locations because they cannot afford to build a safer structure or move to a safer location. It also prevents the turnover of the property to new, potentially uninformed owners, who then need to navigate the same issues and may also lower costs for clean-up of debris, emergency services response, in addition to rebuild costs over time. Buybacks can also help with flood mitigation, for example, if properties on a flood plain are returned to a natural state or replaced with flood mitigation infrastructure.

9.176 Throughout the inquiry, most stakeholders signalled strong support for governments to make voluntary buyback schemes available to all households that were located in areas with a high flood risk. As outlined below, stakeholders located in Queensland and NSW were particularly vocal about the desire for an expansion of the existing Resilient Homes Fund and the Resilient Homes Program, which has restricted eligibility for properties located in South-East Queensland and the Northern Rivers region respectively. There were also calls for the establishment of similar buyback schemes in other states and territories, particularly for Victoria.

9.177 The Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice considered the Queensland's Resilient Homes Fund an effective example of governments supporting people in extremely exposed communities and

163 Insurance Australia Group, *Submission 16*, p. 32.
164 Insurance Australia Group, *Submission 16*, p. 32.

advocated for the model to be expanded across Australia into communities which are exposed to high risk.[165] Other community and private organisations agreed buyback schemes should be extended to all homes where there is no other effective way of protecting against the risk, including Legal Aid NSW, Centacare Far North Queensland, Port Douglas Community Services Network and Mossman Support Services, and JLT Public Sector.[166]

9.178 The Greater Shepparton City Council believed a long-term plan to retire vulnerable properties should be contemplated and advocated for harmonisation of flood buyback schemes across Australia.

> We don't have such a scheme in Victoria at the moment. In that regard we're lagging well behind New South Wales and Queensland… It's something that we've advocated for in Greater Shepparton on the basis that in order to really meaningfully reduce the risk to individual residents there is a need to get some of our most vulnerable properties out of the floodplain.[167]

9.179 The City of Launceston told the Committee that it was about to commence its strategy to deal with floods going forward, which may include voluntary or mandatory retreat however, it was a difficult discussion to have with the community and buyback programs could provide some benefit.[168]

9.180 Townsville City Council advocated for the Voluntary Buy-Back Program to be adopted nationally,[169] while the Hawkesbury City Council supported the expansion of buyback schemes to at least the Hawkesbury region noting the repeated and significant flooding in the region during 2022. The Council also believed it would be able to use land acquired through buybacks for community benefit.[170]

9.181 Every large insurer that engaged with the inquiry told the Committee that buyback programs were needed for properties in areas with very high flood risk,[171] with several strongly supporting permanent programs for households to access.

9.182 The ICA told the Committee that all governments should establish permanent programs for buybacks and home-raising to move people out of harm's way before

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165 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 77.

166 Legal Aid New South Wales, *Submission 34*, p. 10; JLT Public Sector, *Submission 30*, p. 8; Mr Ross Contarino, Team Leader, Operations and Employment, Centacare Far North Queensland, *Committee Hansard*, Cairns, 24 July 2024, p. 13; Mrs Erin Easton, Second in Command, Family Support Worker and Community Connect Recovery Worker, Port Douglas Community Services Network, *Committee Hansard*, Cairns, 24 July 2024, p. 13; Ms Therese Maloney, Community Connect Worker, Mossman Support Services, *Committee Hansard*, Cairns, 24 July 2024, p. 13.

167 Ms Louise Mitchell, Director, Community, Greater Shepparton City Council, *Committee Hansard*, Rochester, 18 April 2024, pp. 2, 8.

168 Mr Shane Eberhardt, General Manager, Infrastructure and Assets, City of Launceston, *Committee Hansard*, Devonport, 17 July 2024, p. 10.

169 Townsville City Council, *Submission 84*, p. 2.

170 Mayor Sarah McMahon, Mayor, Mayor, Hawkesbury City Council, *Committee Hansard*, Richmond, 9 May 2024, p. 7.

171 Suncorp Group, *Submission 12*, p. 19; Hollard Holdings Australia, *Submission 19*, p. 41.

disasters occur, reducing recovery costs for governments and affected communities.[172]

9.183 A&G believed governments should be taking a preventative approach by identifying homes in extreme or very high-risk areas across Australia and providing opportunities for buybacks and relocations.[173] IAG, Youi and Allianz were similarly supportive,[174] with Allianz submitting that delayed decision-making in relation to buyback arrangements has led to sub-optimal decision-making by policyholders:

> State government land buy-back schemes initiated following the 2022 floods recognise that for a number of communities with extreme exposure to flood risk, mitigation is impractical, financially unviable or simply not possible in order to materially reduce flood risk. While these government assistance programs are very welcome, our experience with the 2022 floods is that government decisions to fund buy-backs and land swap arrangements should be part of pre-catastrophe planning and a part of ongoing State-wide programs. Delayed decision making in relation to land-swaps and buy-back arrangements have led to suboptimal decision-making by customers when they are most vulnerable, such as rebuilding in existing high risk flood areas.[175]

9.184 QBE believed permanent programs would also help reduce confusion around eligibility which contributes to uncertainty and delay.[176]

9.185 The Committee for Sydney highlighted the challenges in getting take up of buyback schemes following a single flood event, noting 'the opportunity has to coincide with the community reaching a risk tolerance or being overcome by the risk tolerance that they're not prepared to continue'. The Committee for Sydney supported governments adopting a long-term approach to buybacks, including identifying high-risk areas to target offers for buybacks after flood events occur.[177]

9.186 The Committee for Sydney also believed buybacks were important for reducing ongoing costs to the community and to the taxpayer of people remaining in the cycle of disaster.[178]

9.187 Buyback programs can also address the cycle of residents selling to new owners, who are uninformed about the risks associated with a property. Several people told the Committee about homes being advertised to sell after being repaired following the 2022 floods without clear disclosure of future flood risk. It was argued that homes

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172 ICA, *Submission 11*, p. [27].
173 Auto & General Holdings, *Submission 18*, p. 44.
174 Insurance Australia Group, *Submission 16*, p. 20; Youi, *Submission 14*, p. 2.
175 Allianz Australia, *Submission 13*, p. 21.
176 QBE Insurance Group, *Submission 17*, p. 16.
177 Mr Sam Kernaghan, Director of Resilience Program, Committee for Sydney, *Committee Hansard*, Parramatta, 10 May 2024, p. 18.
178 Mr Sam Kernaghan, Director of Resilience Program, Committee for Sydney, *Committee Hansard*, Parramatta, 10 May 2024, p. 22.

in high-risk areas should not be eligible for sale on the private market and should instead be acquired by governments when owners want to sell.[179]

9.188 Some stakeholders argued that buybacks were not a practical solution for their town or city.[180] They supported alternative approaches to reducing flood risk in their areas, including improvements to building standards so that after future floods, homes can be rebuilt with more resilient materials. There were also concerns raised about perceived lack of support provided to communities where buybacks were common following the major floods, including challenges around the viability of the township once local businesses shut down.

9.189 While the Committee believes that buyback programs should play a key role in any suite of policy responses to heightened underlying flood risk, it is important to note that it is an expensive strategy. The combined cost of the resilience programs in South-East Queensland and the northern rivers region of NSW ended up costing around $1.5 billion. Of the $741 million provided for Queensland's Resilient Homes Fund, $500 million went towards the Voluntary Home Buy-Back Program.[181] As of 24 June 2024, the Queensland Reconstruction Authority had reported 685 buyback offers had been accepted of 859 offers made.[182]

9.190 It is important to acknowledge that, even if buyback programs are extended to other states and territories, it is likely to require a long-term commitment at the national, state and territory level in order to make a significant contribution to aggregate risk reduction.

Flood Reinsurance Pool

9.191 Several stakeholders raised the possibility of the Australian Government establishing a public reinsurance pool to improve affordability of flood insurance policies for households and businesses at a higher risk of floods.

9.192 Many stakeholders pointed to the establishment of the Cyclone Reinsurance Pool (Cyclone Pool) as a precedent for government intervention to improve affordability for disaster-related insurance, noting that many of the same issues experienced by households, stratas and businesses around the lack of available and affordable insurance for cyclone and cyclone-related flood damage, are also being experienced for flood.

The Cyclone Reinsurance Pool

9.193 The Australian Reinsurance Pool Corporation (ARPC) commenced operations in 2022. It seeks to reduce the cost of reinsurance for insurers to enable delivery of lower premiums to their customers and encourage greater participation by insurers in

179 Ms Venecia Wilson, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 27.
180 Mr Les Sheather, Private capacity, *Committee Hansard*, Richmond, 9 May 2024, p. 28.
181 National Emergency Management Agency, *Supplementary Submission 40.2*, p. 3.
182 Queensland Reconstruction Authority, Media release via Facebook on 24 June 2024.

the northern Australian insurance market, to improve total insurance coverage and competition in the region.[183]

9.194 All large insurers with eligible policies have joined the Cyclone Pool (smaller insurers must join by 31 December 2024) and transferred their portfolio to the ARPC.[184] The ACCC, which has been directed to monitor the prices, costs and profits of insurers for eligible policies with the introduction of the Cyclone Pool, indicated in its second monitoring report covering the year 2022-23 that while no significant price effects had flowed through to consumers, insurance prices in northern Australia had increased by less than the rest of Australia. It was explained that the Pool is still in transition, with insurers only beginning to join the pool at the start of 2023 and most joining around or after July 2023. This timing means the early effects of the pool were unlikely to have extended to most consumers, or be reflected in the data for the 2022-23 period.

9.195 When asked for an update on the effectiveness of the Cyclone Pool in reducing premiums, representatives from Treasury indicated it was still in the 'too early to say definitively' stage, but that the evidence suggests the costs of premiums collected through the Cyclone Pool is likely lower than what the private market was charging prior to its introduction. However, one of the challenges with assessing the effectiveness of the Cyclone Pool is that it is difficult to determine how factors such as rising building costs would have impacted premiums without it being in place, meaning that the absence of a material reduction in premiums from before the Cyclone Pool was operational (a common experience recounted to the Committee) doesn't necessarily indicate the Cyclone Pool isn't reducing premiums for covered policies.[185]

9.196 The ACCC is expected to publish its third-monitoring report in December 2024, which will provide insights into the impact of the Cyclone Pool and savings for consumers for the 2023-24 period. The Cyclone Pool will also undergo a comprehensive review in 2025, three years after its commencement.[186]

Stakeholder views on a flood reinsurance pool

9.197 While acknowledging that the Cyclone Pool is both relatively new and a first of its kind to be adopted in Australia (other countries, including the US and UK have implemented government-backed flood reinsurance schemes), many stakeholders considered the significant affordability challenges around flood insurance since the 2022 major floods call for a similar response.

9.198 Many stakeholders, including some insurers, either supported a government-backed reinsurance pool, whether this meant expanding the Cyclone Pool or establishing a

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183 Australian Competition and Consumer Commission, *Insurance monitoring: Second report following the introduction of a cyclone and cyclone-related flood damage reinsurance pool,* December 2023, p. 15.

184 Australian Reinsurance Pool Corporation, 'Reinsuring terrorism and cyclones with ARPC', https://arpc.gov.au/?page_id=88.

185 Mr Robb Preston, Assistant Secretary, Banking, Insurance and Credit Branch, Department of the Treasury, *Committee Hansard*, 15 March 2024, p. 20.

186 *Terrorism and Cyclone Insurance Act 2003*, s. 41.

new Pool, or supported governments undertaking further research to better understand how a flood pool could improve affordability.

9.199 Allianz recommended a feasibility study be undertaken on the best mechanism to create a national flood reinsurance facility, noting schemes can take different forms, particularly in relation to their funding. Allianz noted that some countries have adopted insurance industry-administered pools such as the UK's Flood Re, which does not require government subsidies. Instead of government subsidies, Flood Re is funded by contributions from policyholders without any flood risk. This cross-subsidisation comes with some trade-offs in that it may make insurance less attractive more generally. Alternatively, the Cyclone Pool could be expanded to include cover for all high-risk flood nationally. [187]

9.200 The following consumer groups and councils also supported further investigation on the feasibility of a reinsurance pool for flood.

- the Australian Insurance Consumers Lobby proposed the Australian Government commission an inquiry into the feasibility of establishing a Federal Flood Reinsurance Pool to address the unique challenges posed by floods.[188]
- Disaster Legal Help Victoria believed the Australian Government should seriously consider government-supported reinsurance pools like the Cyclone Pool and/or a well-designed discount scheme as laid out in the Natural Disaster Insurance Review (NDIR) 2011 report.[189] It also proposed bringing forward the review of the Cyclone Pool to provide earlier understanding of the benefits and impacts of the pool so the benefits can be extrapolated to other extreme weather events including floods.[190]
- Ballina Shire Council recommended governments investigate options to provide a reinsurance scheme for areas that the insurance market is no longer able to cover at affordable prices.[191]
- Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice urged the inquiry to 'consider whether measures, such as widespread subsidies or an expanded government reinsurance pool, for example to flood risk, is necessary to improve insurance affordability'.[192]
- Legal Aid Queensland recommended the government consider subsidies through a pool to reduce premiums enough to make them affordable. [193]

187 Allianz Australia, *Submission 13*, pp. 21-22.
188 Australian Consumers Insurance Lobby, *Submission 2*, p. 6.
189 Disaster Legal Help Victoria, *Submission 7*, p. 6.
190 Ms Sharon Keith, Program Manager, Disaster Legal Help Victoria, *Committee Hansard*, 31 January 2024, p. 27.
191 Ballina Shire Council, *Submission 64*, p. 3.
192 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 62.
193 Legal Aid Queensland, *Submission 8*, p. 11.

9.201 Hollard noted that while they were open to the concept of a flood reinsurance pool, this was only if it applied to existing structures without eligibility for new builds. Hollard argued:

> …we agree that a flood pool is a potential solution to enable more affordable home insurance to cover existing properties in high flood-risk areas. However, it cannot extend to cover future developments in such areas…[194]

9.202 Hollard also told the Committee that if a flood reinsurance pool were introduced, it would allow them to expand their coverage for non-flood related perils for properties with high flood risk.

> If we can quarantine these 230,000 properties around the country and provide protection for those, not extending it to properties that are yet to be developed, Hollard would be looking to re-enter that market to cover all of the other perils very quickly.[195]

9.203 Allianz held similar views, stating:

> …containing the problem to what we have today and providing a solution for the current properties needs to be the priority. But equally, I think, it sends a very strong signal to all parts of the value chain—whether it be the financiers, the property developers, local council, state council or land environment council—that anything that's developed in those areas outside of that pool will not have access to it.[196]

9.204 Mr John Trowbridge, who chaired the NDIR, raised the possibility that insurers could establish a reinsurance arrangement in the form of a funding pool that operates without direct government involvement whereby insurers hold a first loss on every claim and costs could be reduced by removing taxes on the premiums collected within the pool. Mr Trowbridge argued that premiums could be lowered under this scenario as insurers would price against the shared risk.[197]

9.205 The NDIR final report proposed a system of premium discounts and a reinsurance pool. The report recommended five criteria for policyholders:

- premiums should be higher where the level of flood risk is higher (that some level of price signals be retained);
- that those homes without flood risk should not pay a flood premium;
- that there should not be cross-subsidisation of premiums between policyholders;
- that there should be some limitations on discounts for high value homes; and

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194 Mr Paul Fahey, Chief Executive Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, p. 15.

195 Mr Paul Fahey, Chief Executive Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, p. 21.

196 Mr Richard Feledy, Managing Director, Allianz Australia Insurance Limited, *Committee Hansard*, 9 February 2024, pp. 17-18.

197 Mr John Trowbridge, *Submission 38*, p. 2

- that the discount mechanism should be simple for policyholders and automated for insurers.[198]

9.206 The NDIR also recommended a model in which insurers maintained their relationship with policyholders and that they continue to insure part of the flood risk. The government intervention recommended by the NDIR would deliver premium reductions through subsidising "claims rather than premiums." The report argued:

> …the recommended approach would maximise, in expectation, the level of premium discount that can be achieved for a given level of external funding support because the support is only called upon when a claim is made upon the pool, not each year as premiums are paid. A premium subsidy to insurers, on the other hand, would probably need to be paid according to the market price. That would include subsidising the return on capital and other components of the price that are in addition to an estimate of the risk. It would rely on each individual insurer's own pricing basis and would need to be supported by some form of compliance regime.[199]

9.207 The NDIR recommended a reinsurance pool that would offer insurers a discounted premium for the portion of the flood risk covered by the pool. The NDIR proposal is for insurers to carry the 'first loss' and for the reinsurance pool to operate on an excess loss basis. The report also recommended that: "homes at high and extreme risk of flood be provided with discounts initially and that they be assessed regularly for mitigation work already undertaken and the potential for further mitigation."[200] And the report recommended that the discount be unwound over time, as is the case with some schemes in other countries, such as the UK's Flood Re.[201]

9.208 Lloyd's supported a potential reinsurance framework for a government and industry partnership in line with its 'Black Swan Re' concept paper which it believed could better protect customers from climate change impacts and other systemic risk events. Industry would pay into the fund.

9.209 Lloyd's submitted that its proposal would ensure that more of the costs of systemic event impacts are paid for by those that are protected against the events, that it would drive mitigating behaviour by pricing insurance to reflect the risk of exposure and provide capital from the private sector, to cover payouts and facilitate sustainable investment through the fund, without risk needing to be taken on by the Australian Government.[202]

9.210 In general, however, insurers and reinsurers did not support government intervention in the insurance market to reduce premiums where the reduction in the underlying

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198 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters*, September 2011, pp. 37, 55.

199 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters*, September 2011, p. 55.

200 Natural Disaster Insurance Review, *Inquiry into flood insurance and related matters*, September 2011, p. 60.

201 The review panel of the NDIR didn't set a particular phase out period, but suggested it would likely be in the order of 20 years. See the discussion earlier in this chapter.

202 Lloyd's Australia, *Submission 41*, p. 3.

risk was not the main driver for the premium reduction. Youi told the Committee it was opposed to a flood pool because it did not believe a pool would be an effective risk mitigator or address insurance affordability.

> Youi would not be supportive of measures that do not address the underlying risk. For example, Youi does not believe that insurance pools would be an effective mitigator or address affordability of insurance. An insurance pool is in effect requiring one cohort of customers to cross subsidise other customers without providing any mitigation for when natural disasters occur. Over the longer term, this will be detrimental to all customers.[203]

9.211 Munich Re also cautioned the use of a government reinsurance pool to address flood insurance affordability, noting they are primarily established when there was not enough capacity in the global reinsurance market to operate, for example with the terrorism pool, meaning that most domestic insurers would not have capacity to cover the risk. Munich Re noted there was still capacity in the global reinsurance market to cover flood (confirmed by APRA and the insurance industry throughout the inquiry). Both Munich Re and Swiss Re agreed that the other perceived benefit, reduced premiums, could only eventuate if the pool was set up to put pressure on risk reduction—simply pooling together risks will not make premiums cheaper.[204]

9.212 In the Productivity Commission's most recent 5-yearly productivity report *Advancing Prosperity*, it recommended Australian governments avoid expansion of climate-related insurance sector interventions, as it risks subsidising the movement of individuals, households and businesses into harm's way, and increasing overall adaptation costs. The Productivity Commission also recommended the phase out of the Cyclone Pool for the same reasons.[205]

9.213 Evidence from reinsurers and the Productivity Commission suggests that, should a reinsurance pool be considered, it should be in conjunction with other policy levers, such as community mitigation, household mitigation and resilience (with premium reductions) and a restriction on any new developments in high-risk areas.

9.214 Evidence was also made available to the Committee that certain design rules underpinning the Cyclone Pool could make it unsuitable for expansion to cover flood. In their *Funding Costs for Floods* report, the Actuaries Institute argued against expanding the Cyclone Pool to include broader flood risks, reasoning:

> Upon review of the characteristics of flood risk, we conclude that the funding structure and design of the Cyclone Reinsurance Pool (the Cyclone Pool) are not suitable for extension to address the current flood insurance affordability challenge. Flood risk is highly localised and disproportionately affects a relatively small number of households which are the most affordability-stressed, while

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203 Youi, *Submission 14*, p. 3.

204 Mr Hawkins, Munich Re, *Committee Hansard*, 23 February 2024, p. 20; Mr Trent Thomson, Chief Executive Officer, Australia and New Zealand, Swiss Re Asia, Australia Branch, *Committee Hansard*, 15 March 2024, pp. 11-12.

205 Productivity Commission, *5-year Productivity Inquiry report: Advancing Prosperity*, 17 March 2023, p. 30.

> cyclone risk is more geographically widespread with little differentiation between affordability-stressed and non-affordability-stressed households. Unlike cyclone, the majority of policyholders with little or no flood risk pay no flood premium, meaning it is not possible to fund a flood solution from low-risk policyholders without their costs increasing, which would be a breach of the design rules that apply to the Cyclone Pool.[206]

9.215 Mr Trowbridge noted that the outcomes of the Cyclone Pool, which will be seen in the coming years, will inform government consideration of how to support the affordability and availability of flood coverage and coverage for other natural disaster risks, including providing the government with more information about design limitations.[207]

Insurer concerns about flood coverage within the Cyclone Reinsurance Pool

9.216 Although not a focus of the inquiry, commentary was made around the 48-hour rule used to define a covered flood event in the Cyclone Pool, and how this may be impacting insurer's ability to offer affordable premiums for flood cover in northern Australia.

9.217 The Cyclone Pool covers claims for cyclone-related flood damage arising during a cyclone until 48 hours after the cyclone ends.[208] RACQ told the Committee:

> …just over 40 per cent of cyclones over a 40- or 50-year period in Australia have had more of their damage occur more than 48 hours after the cyclone ceased to be a named cyclone but typically within seven days of that time. Why are the seven days important: because that's what the global reinsurance industry typically uses, or 168 hours, as the period covered for a single event... what it means is that we have to hold some reinsurance for the time between 48 hours and one minute and seven days, and that just adds cost and complexity.[209]

9.218 The ICA similarly noted:

> These tropical cyclones turn into massive lows and will hang around for weeks. The flooding that comes out of a cyclone is often more devastating than the cyclone itself. We've got to think about that cost, because insurers still need to get that reinsurance on the global market, alongside what they now pay in a rate card to the ARPC [Australian Reinsurance Pool Corporation].[210]

9.219 The Joint Committee on Northern Australia's *First Report on the Cyclone Reinsurance Pool* has recommended the impact of the 48-hour clause on the cost of

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206 Actuaries Institute, *Funding costs for Floods: Affordability, Availability and Public Policy Options*, August 2023, www.actuaries.asn.au/docs/thought-leadership-reports/funding-costs-for-floods.pdf, p. 5.

207 Mr John Trowbridge, *Submission 38*, p. 2

208 Australian Reinsurance Pool Corporation, 'The Cyclone Pool', https://arpc.gov.au/?page_id=2265.

209 Mr David Carter, Managing Director and Group Chief Executive Officer, Royal Automobile Club of Queensland Limited, *Committee Hansard*, 9 February 2024, pp. 7-8

210 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 16.

insurance premiums and the availability of insurance in the region be reviewed as part of the 2025 review of the Cyclone Pool.[211]

Options for insurance product innovation

9.220 Internationally, there have been a number of private sector innovations to reduce the disaster coverage gap. For example, there have been a number of start-ups which have begun offering parametric insurance to households. As explained in chapter 3, parametric insurance is an index-based solution whereby a premium is paid in return for a specific payout if a pre-defined event occurs. A pre-agreed payout would be made if a parameter or index threshold is reached or exceeded, such as a certain rainfall level or water height for a flood.[212]

9.221 Parametric insurance provides a number of benefits for policyholders and insurers: it speeds up payments following a claim, removes the need for loss assessments on individual properties (as the payment is based on the measurement used, not the loss incurred) and reduces costs typically incurred throughout the processing of a claim. The availability of parametric insurance is currently very limited, with one company, Descartes Underwriting, known to be offering parametric insurance for flood cover in Australia.

9.222 The Committee heard mixed views on whether greater availability of parametric products would reduce uninsurance or underinsurance. For example, the Byron Bay Council submitted that parametric insurance should be considered, with a standardised payout amount linked to the event, rather than determining payouts based on the magnitude of loss,[213] while the Byron Bay Chamber of Commerce also told the Committee that parametric insurance can be 'expensive' and not necessarily feasible for people seeking flood cover.[214]

9.223 Nonetheless, stakeholders were generally supportive of governments and insurers trialling new parametric solutions to consumers. For example, Swiss Re submitted that it supported Australian governments working with insurers and reinsurers to facilitate innovation, including by creating a regulatory environment that enables access to a broad range of insurance solutions and providers, especially parametric/index-based solutions.[215] It also encouraged insurers to consider options for products which have a sublimit, which may be more appealing for policyholders whose properties regularly flood but have been made more resilient, such that a

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211 Joint Committee on Northern Australia, *First Report on the Cyclone Reinsurance Pool*, March 2023, pp. vii, 59.

212 Swiss Re, Corporate Solutions, 'What is Parametric insurance?', https://corporatesolutions.swissre.com/insights/knowledge/what_is_parametric_insurance.html.

213 Byron Bay Council, *Submission 64*, p. 9.

214 Mr Matthew Williamson, President, Byron Bay Chamber of Commerce, *Committee Hansard*, Lismore, 11 April 2024, p. 17.

215 Swiss Re, *Submission 20*, pp. 4-5.

smaller amount is needed to cover items such as internal fittings, rather than cover for a total sum loss.[216]

9.224 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice recommended governments expand funding for trials of microfinance insurance products (which is a common type of parametric insurance) to provide protection for people on lower incomes.[217] The consumer groups believed there were opportunities to cover the insurance gap using innovative products, and noted some insurers had made attempts to offer these products in the past, but the low success rate may indicate government financial support is required:

> I think some investment could be made into some inquiries about what products could be brought to market that would help fill this gap that we're seeing…I know that there was one major insurer who had a kit home idea a couple of years ago, but it was a product that was never going to be very profitable so they never really advertised it, and now you can't even find it anymore. So maybe there's some seed funding that needs to happen from philanthropics or from government to get these products which aren't going to be profitable products but which will help meet the gap in the market, because there are really creative ideas out there and we do not need to just stick with the very pure market, capitalist, profit-making products that we basically have at market right now.[218]

9.225 Some stakeholders also supported insurers offering a greater range of products to small businesses operating in a high-risk area, particularly where they have agreed to undertake mitigation actions to reduce the potential damage incurred from floods. Northern Midlands Business Association noted that of the 20 companies they had sought insurance from, only one company provided the option of partial coverage. It noted that for insurers to feel more comfortable offering flood insurance to businesses however, governments would first need to implement mitigation strategies to further reduce flood risk.[219]

9.226 The Byron Bay Chamber of Commerce advocated for insurers to provide capped cover with a larger excess, including policies which provide for business owners to make co-payments with the insurer, so that businesses can get trading again, stating:

> In a very practical sense, the largest asset of any business is the turnover that comes through the business. Without that turnover, they've got nothing. Getting back trading again, even if it's trading ugly, is better than not trading at all. The example might be a floor coverings business. The reality for them is that a small amount of money allows them to rewire their premises, get some stock in and

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216 Mr Trent Thomson, Chief Executive Officer, Australia and New Zealand, Swiss Re Asia, Australia Branch, *Committee Hansard*, 15 March 2024, p. 10.

217 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice, *Submission 27*, p. 11.

218 Mrs Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre, *Committee Hansard*, 31 January 2024, p. 12.

219 Mr Ian Goninon, Chairman, Northern Midlands Business Association, *Committee Hansard*, Devonport, 17 July 2024, p. 19.

> start selling carpet. Carpet's a hot property after a flood, but they miss out on the uplift post flood because they haven't had the money to get trading again, so everyone's buying their carpet out of the area. That's a double hit for that poor carpet retailer. This happens, writ large, across most businesses in the flood area.[220]

9.227 The Byron Bay Chamber of Commerce also advocated for improved Australian standards and the subsequent capture of business continuity plans or disaster response plans for floods to same way entities need to regularly check and provide evidence of adherence to fire detection systems, to give insurers confidence that buildings have been constructed with flood resilient materials and have adopted other mitigation strategies.[221]

9.228 Lismore City Council believed parametric products could assist businesses, if the data was available to take policyholders specific circumstances into account, while noting businesses would still need to mitigate against flood events that do not meet the threshold for payment.[222]

9.229 Hollard told the Committee that it advocates for insurers coming to the market with special products, including parametric insurance products, stating:

> In overseas jurisdictions there is talk around what we call parametric insurance products and so on. So, in the event of a specific flood you might provide enough funding for the customer to get back on track, but it wouldn't cover the full sum insured of their property. Both of those things [in addition to a flood reinsurance pool] are things that we would be advocating for.[223]

9.230 Allianz submitted that it is exploring options for offering parametric insurance for customers exposed to flood risk.[224]

Tax reform required to reduce premiums

9.231 In its 2023 Funding Costs for Floods report, the Actuaries Institute (the Institute) found that taxes are the next biggest single contributor to premium affordability after flood risk. Currently, taxes on insurance include Goods and Services Tax (GST) and state-based insurance taxes, stamp duty and Emergency Services Levies (ESL).[225]

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220 Mr Matthew Williamson, President, Byron Bay Chamber of Commerce, *Committee Hansard*, 11 April 2024, p. 13.

221 Mr Matthew Williamson, President, Byron Bay Chamber of Commerce, *Committee Hansard*, 11 April 2024, p. 13.

222 Ms Katherine O'Regan, Head, Investment and Growth, Lismore City Council, *Committee Hansard*, 11 April 2024, pp. 7-8.

223 Mr Paul Fahey, Chief Executive Officer, Hollard Insurance Company, *Committee Hansard*, 21 February 2024, p. 21.

224 Allianz Australia, *Submission 14*, p. 11.

225 Actuaries Institute, *Funding Costs for Floods: Affordability, Availability and Public Policy Options*, August 2023, p. 10.

9.232 In its report, the Institute recommended states and territories consider tax reform as an immediate cost reduction measure. The Institute recommended that states and territories replace stamp duty and ESL with more equitable revenue sources, suggesting property-based levies as one example (as GST is intended to be a broad-based tax across goods and services, no recommendation has been made to remove the GST).[226] Table 9.1 shows the mean taxes and government levies the Institute has estimated are applied to home insurance by state and territory.[227]

Table 9.1 Taxes and government levies applicable to home insurance by state and territory

	Estimated mean by state							
	NSW	VIC	QLD	SA	ACT	NT	TAS	WA
GST	10%	10%	10%	10%	10%	10%	10%	10%
Stamp duty	9%	10%	9%	11%	0%	10%	10%	10%
Fire and ESL	10-25%	Nil	Nil	Nil	Nil	Nil	X*	Nil
Total tax (including GST)	32-50%	21%	20%	22%	10%	21%	21%	21%

Source: Actuaries Institute, Funding for Flood Costs report, August 2023, p. 10.

*Note: Following the release of the Actuaries Institute's *Funding Costs for Floods* report, the Tasmanian Government announced it would not be moving forward with the removal of the fire and emergency services levy.

9.233 Insurers and other stakeholders advised the Committee that taxes on insurance premiums are contributing to insurance unaffordability as most of these taxes are proportional to the premium charged and therefore those who pay the highest premiums are also paying the greatest amount of tax on their insurance.

9.234 In its submission to the inquiry, the ICA has called on states and territories to abolish these taxes, citing multiple government-led and independent reviews, including the 2008 Henry Tax Review, 2020 ACCC Northern Australia Insurance Inquiry and 2020 New South Wales Review of Federal Financial Relations, which all recommended abolishing taxes on insurance.[228] The ICA has argued that the $6 billion it estimates is taken annually by states and territories through stamp duties and levies on insurance are 'unfair and distortionary', stating:

[226] Actuaries Institute, *Funding Costs for Floods, Affordability, Availability and Public Policy Options*, August 2023, p. 5.
[227] Actuaries Institute, *Funding Costs for Floods, Affordability, Availability and Public Policy Options*, August 2023, p. 10.
[228] ICA, *Submission 11*, p. [28].

> Depending on the state or territory, government taxes and charges can add 20 to 40 percent to premiums…All jurisdictions except the ACT impose stamp duty on insurance, ranging from 9-11 per cent of premiums.
>
> Insurance taxes are on top of the GST, making insurance one of the few products that is double-taxed (or tripled taxed in the case of NSW and Tasmania).[229]

9.235 The ICA noted that two states – NSW and Tasmania – continue to charge insurance customers to fund emergency services, adding a third layer of tax that increases premiums. All other jurisdictions have abolished these levies.[230]

9.236 Suncorp also submitted modelling to the Committee which indicated that:

- using 2022 tax rates, a hypothetical homeowner in a higher risk NSW zone, such as Lismore, would pay a home insurance premium of $2,459.88 including $813.96 in taxes (ESL, GST and Stamp Duty). This would be twice as much tax as the same hypothetical homeowner in a lower risk NSW zone such as Mascot, who would pay a home insurance premium of $1,683.67 including $418.60 in the same insurance taxes; and
- while most states and territories applied taxes to home and business insurance policies equally, taxes applied when businesses took out insurance in NSW and Tasmania were disproportionately higher than in other states – 55.27 per cent for businesses compared to 36.09 per cent for home insurance in NSW, and 54.88 per cent for businesses compared to 21 per cent for home insurance in Tasmania.[231]

9.237 Allianz also illustrated how taxes are adding significantly to the cost of flood insurance premiums for policyholders exposed to high flood risk:

> Allianz's flood rating models produce flood premiums of up to four percent of a home building sum insured and 13 percent for contents, before taxes. Thus, for example, the flood premium for a house insured for $500,000 could be as high as $20,000. If that homeowner wanted flood insurance for $100,000 in contents cover, the premium could be as high as $13,000. The flood premium for this possible home and contents policy with a total sum insured of $600,000 would be $33,000, before tax. Add circa 10 percent State Stamp Duty ($3,300) and 10 percent GST ($3,630) and the policyholder's after-tax premium is $39,930. If this home was in NSW, a circa 18 percent in Emergency Services Levy (ESL) would be added, taking the total after-tax flood premium to around $45,000. Of course, the non-flood premium also needs to be added which will vary due to other risk rating factors, for example, related to other potential natural perils (eg bushfire), other risks (eg burglary), building construction characteristics etc.[232]

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229 Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy, Insurance Council of Australia, *Committee Hansard*, 5 February 2024, p. 2; ICA*, Submission 11*, p. [28].

230 ICA, *Submission 11*, p. [28].

231 Suncorp Group, *Submission 12*, p. 17.

232 Allianz Australia, *Submission 13*, p. 19.

9.238 The impact of taxes applied as a percentage of premiums on the distribution of tax paid in different locations in Australia was made further apparent by RACQ:

> In Brisbane, the average premium is $2,062 for an average sum insured of $573,766. In north Queensland, the average premium is $3,624 for an average sum insured of $386,526. So north Queensland is paying about 1½ times more premium than Brisbane. Because GST and stamp duty are charged as a percentage of premium, the same average north Queensland homeowner is paying $302 of GST and $299 of stamp duty on their premium, while the average Brisbane homeowner is only paying $172 of GST and $170 of stamp duty. The north Queensland homeowner pays 70 per cent more in tax for a sum insured that is 30 per cent lower—much more tax for less asset value insured.[233]

9.239 Other insurers also supported the removal of state-based taxes and levies from insurance, including Youi, IAG, QBE, A&G and Hollard, as did the Australian Consumers Insurance Lobby.[234]

9.240 The NSW Government has announced their intention to abolish the emergency services levy (which can add up to 18 per cent to home insurance premiums and 30 per cent for commercial properties in NSW) and find a fairer way to fund emergency services.[235]

9.241 In addition to the direct impact on premiums, the broader economic impacts of insurance taxes are worth considering. Taxation systems are generally reviewed against criteria such as: fairness, efficiency, transparency, enforceability, certainty and simplicity.

9.242 The notion of efficiency is key to economic analysis and refers to the degree to which a tax distorts individuals' and firms' decisions – such as decisions in relation to labour supply, savings and investment.

9.243 The Henry Review examined a wide range of Federal and State taxes and argued in favour of significant reform to Australia's tax system. It cited computable general equilibrium (CGE) analysis which examined the welfare impacts of various taxes, through the distortionary impacts they have on behaviour. It found that insurance taxes were a highly inefficient form of taxation, with the second highest welfare losses of all taxes ranked. In contrast, municipal rates and land taxes had very low distortionary impacts and welfare losses. Therefore, revenue neutral tax reform that

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233 Mr David Carter, Managing Director and Group Chief Executive Officer, Royal Automobile Club of Queensland Limited, *Committee Hansard*, 9 February 2024, p. 3.

234 Youi, *Submission 14*, p. 2; Insurance Australia Group, *Submission 16*, p. 7, p. 42; QBE Insurance Group, *Submission 17*, p. 25; Auto & General Holdings, *Submission 18*, p. 43; Hollard Holdings Australia, *Submission 19*, p. 39; Australian Consumers Insurance Lobby, *Submission 2*, p. 5.

235 NSW Government, 'A fairer, more sustainable approach to funding our emergency services', *Media Release*, 16 November 2023, www.nsw.gov.au/media-releases/emergency-services-funding.

shifted from insurance taxes to land taxes would generate significant economic and welfare gains.[236]

9.244 The Henry Review observed that:

> Imposing specific taxes on insurance deters people from insuring their property and encourages them to bear unnecessary risks, rather than pooling risk with others. Rates of non-insurance (for building and content insurance) generally are higher at lower incomes, yet low-income people are less able to bear the risk.[237]

9.245 Insurance taxes have become a significant source of revenue for state governments. However, they are a highly inefficient and distortionary form of taxation. State governments should explore ways in which to shift to other, less distortionary sources of revenue.

Committee comment

9.246 The 2022 major floods have prompted various responses from insurers, governments, policyholders and other stakeholders, as they have come to understand the growing risks associated with extreme weather events and, in particular, the high costs caused by damage from increasingly frequent and intense floods.

9.247 As discussed in Chapter 8 and this chapter, both insurers and councils have sought to update the quality of their flood data. Several councils in areas impacted by flooding in 2022 and more recently have commissioned updated flood maps and are prioritising mitigation work to limit the impact of floods on local communities. Insurers meanwhile, have sought to incorporate updated mapping by local councils, as well as other technology, to analyse and price risk at more granular levels. In some instances, prices now reflect risk at the household or business level, or at least insurers are increasingly trending towards pricing properties to reflect the individual risks of the property, and away from cross-subsidisation by other policyholders.

9.248 Some insurers have reassessed their exposure to flood risk and implemented policies which limit their exposure, to flood risk generally, but also by location, reducing the number of insurers policyholders in high-risk areas have to choose from when seeking insurance. Some insurers have also moved to change their product offerings, either to make flood insurance a standard inclusion or to bundle flood “opt-out” to other forms of water damage.

9.249 These trends indicate the number of households and businesses at risk of not being able to afford flood insurance will increase over time as major floods become more common and insurers continue to reassess their comfort with flood risk exposure.

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236 Australia's Future Tax System Review, *Final Report*, December 2009, https://treasury.gov.au/review/the-australias-future-tax-system-review/final-report, p. 12.

237 Australia's Future Tax System Review*, Final Report*, December 2009, p. 58.

Higher global costs from perils are also likely to have an impact on prices as reinsurers seek to recover costs for more frequent, damaging catastrophe events.

9.250 In locations where opt-out is not available, houses with a high risk of flooding will potentially not be able to secure any home insurance at all. Non-insurance can have major impacts on households' ability to manage risks, including non-peril risks. It may also have flow on impacts where a considerable number of mortgage holders will be non-compliant with their obligation to hold insurance or will be unable to access mortgages tied to the property in the future.

9.251 The number of properties that will be frequently impacted by floods is also predicted to increase. Currently, the ICA estimates 250,000 homes are exposed to a 1-in-20 year or higher risk of flooding. The number of homes with this level of exposure is expected to increase, with the number of new homes to be captured dependent on factors such as the extent to which sea levels rise and the extent of any new developments in flood-prone locations.

9.252 The Committee is of the view that government intervention may be necessary to improve the affordability of flood insurance and manage the risks of households with a 1-in-20 year flood risk (or higher). However, if the Australian Government is to intervene, it should be undertaken on the basis of the overarching principles contained in Recommendation 1.

9.253 The Committee is of the view that the assumption of risk by the Commonwealth should only occur if accompanying policy measures limit and, over time, reduce the underlying risk.

9.254 Regardless of whether the government intervenes to make flood insurance more affordable for Australia's highest risk households and businesses, the Committee strongly supports further action by both governments and insurers to reduce flood risks. The evidence provided to this inquiry predicts that unless meaningful action is taken to mitigate against flood risks, more frequent and intense floods will significantly increase the insured and uninsured costs of flood-related damage. This in turn will continue driving up insurance costs for an increasingly greater number of Australian households.

9.255 In light of these findings, the Committee has made specific recommendations to the Australian Government, the ICA and insurance industry to take collective action to lessen the pressures driving up premiums, generate more affordable premiums for households, and where risk reduction is not possible, to support Australians to relocate to safer areas. These include:

- for all levels of government to work together to ensure that no further development occurs in areas of 1-in-100 flood risk or greater, with reference to climate modelling of future increases in risk. As part of this work, the Committee supports the development of measures to discourage banks from loaning for further development at a 1/100 risk or higher.

- the strengthening of building codes and planning rules to include projected increases in risks based on climate modelling as well as consumer access to a disaster risk rating system.
- ensuring at least $200 million per year ongoing in community mitigation funding, noting that significantly more is still spent on disaster recovery than disaster preparation and mitigation.
- support for the development of a climate financing framework in relation to government mitigation and adaptation funding, including exploring alternative sources of finance for mitigation projects.
- measures to facilitate the exchange of substantiated information about the resilience of a property, including new mitigation work undertaken, so that insurers can reduce premiums with confidence that there is a reduced risk to the property.
- the development and publication of advice on the mitigation measures households can undertake to improve the flood resilience of their property.
- measures to repurpose areas with high flood risk for alternative purposes, including returning developed land into a pre-developed state or repurposing land for recreational or agricultural use.
- exploration of product innovations that could help bridge the flood insurance gap, including parametric insurance solutions, as well as opportunities to improve coverage for small businesses operating in high-risk locations, including whether partial coverage could be provided.

9.256 In 2014, the Productivity Commission examined government spending on natural disasters and found that 97 per cent of spending by the Australian, state and territory governments was on recovery, compared to only 3 per cent on preparation, mitigation and resilience. These proportions would have shifted with the Australian Government now spending $200m per year on mitigation and the Australian, Queensland and NSW governments spending around $1.5 billion on resilience, mitigation and buybacks following the 2022 floods. However, government spending remains skewed towards recovery. The Committee recommends that further efforts be made at all levels of government to place more emphasis on mitigation, resilience and adaptation.

9.257 The Committee also believes that government spending on infrastructure should aim to build back better where this is feasible from an engineering perspective and represents value for money. In determining how to build back better, government should take account of not just current flood risk, but also the best available modelling of the likely trajectory of flood risk based on climate modelling.

9.258 Finally, the Committee has made recommendations to state and territory governments to remove stamp duties and remaining emergency services levies from insurance products. Taxes make up a significant portion of policyholders' premiums, with the amount of tax paid increasing as premium prices increase, contributing to the unaffordability of flood cover for properties in higher-risk locations. The Committee has also posited that where state and territory taxes are removed,

insurers need to pass on the savings gained to policyholders in full through reduced premiums.

Recommendation 70

9.259 The Committee recommends the Australian Government consider measures to improve the affordability of flood insurance for existing policyholders with high flood risk properties, including the appropriateness of a government supported reinsurance arrangement.

Any interventions to improve the affordability of flood insurance should be pursued in accordance with to the following interdependent principles:

- **Affordable cover for even high-risk properties. Flood insurance should be available to all Australian homeowners and body corporate lot owners at an affordable price, but with conditions.**
- **Price signals. Any assistance to affordable insurance should not compromise price signals against full cost of risk. This could be achieved by partial (but not full) reduction of the premium and/or a gradual phasing out of some assistance.**
- **Cross-subsidies. Any scheme of reinsurance support or subsidies should minimise cross-subsidisation through premiums where possible as this could raise issues of fairness (for example, low-income households cross-subsiding higher risk high-income households) and could be economically inefficient in that it may create a disincentive to insure.**
- **Phase-out. That any scheme involving public funding being devoted to a reinsurance pool or subsidies, should be phased out over time in line with ongoing investment in community and household mitigation to reduce the underlying risk over time.**
- **The underlying risk: no new developments. Governments at all three levels should commit to arrangements (including more public disclosure) to ensure that no new developments occur in high-risk areas.**
- **The underlying risk: community mitigation. Federal and State governments should commit to ongoing investment in community mitigation. This should include a guaranteed minimum annual investment level and the development of rigorous business cases.**
- **The underlying risk: household mitigation. Households and small business should be provided with information on mitigation options and their premiums should be reduced immediately when they undertake such mitigation.**

Recommendation 71

9.260 The Committee recommends that the Australian Government work with State, Territory and local government through National Cabinet to ensure that further development does not occur in areas of 1-in-100 flood risk or greater.

The boundary for no future development should take account of climate modelling of future increases in risk, in addition to current estimates of risk.

The Committee further recommends that the Australian Government explore mechanisms that it can adopt to give effect to this unilaterally, including:

- **Publicly disclosed risk information at the individual property level, including for new developments. This could be through a range of mechanisms, including:**
  - **a portal informed by data provided to the Commonwealth government through the Hazards Insurance Partnership for all property released for development.**
- **A regulatory mechanism to discourage banks from loaning for further development at a 1/100 risk or higher (such as risk rating banks' capital to appropriately reflect flood risk; an agreement between government, the Australian Prudential Regulation Authority, and major banks that such loans will not occur, or other regulatory mechanisms). These measures could apply to lending to both developers and to residential purchasers.**
- **Access to any flood pool (or subsidies) would not be available to properties approved in high-risk areas after the creation of the scheme.**

Recommendation 72

9.261 The Committee recommends that the Australian Government work with state, territory and local governments through National Cabinet to ensure that publicly disclosed risk information at the individual property level is available through the property conveyancing process or mandated in state rental agreement regulation.

Recommendation 73

9.262 The Committee recommends that building codes and planning rules be strengthened and future-proofed to improve the resilience of communities and households, consistent with Recommendation 2 of the Actuaries Institute's Funding for Flood Costs report.

- **This should take into account not just current flood risks, but also projected increases in risks based on climate modelling**
- **Consideration should be given to the publication of a freely available disaster risk rating system.**

Recommendation 74

9.263 The Committee recommends the Australian Government continue to fund community level mitigation, ensuring at least $200 million per year ongoing.

Recommendation 75

9.264 The Committee recommends that a climate financing framework be developed in relation to government mitigation and adaptation funding. That this framework create the appropriate incentives for both public sector and private sector investment in mitigation and more resilient buildings and infrastructure. This would include:

- **Rigorous project evaluation and prioritisation, including cost benefit analysis and the incorporation of climate modelling.**
- **Strong project governance including reporting, monitoring and evaluation.**
- **Post-project price monitoring where appropriate.**
- **The development of resilience financing where feasible and appropriate.**
- **The exploration of public-private partnerships to coinvest in new or upgraded infrastructure.**

Recommendation 76

9.265 The Committee recommends the General Insurance Code of Practice be amended to require that insurers be required to consider relevant property-level mitigation measures in any new or renewing insurance policy, and to demonstrate how those measures have been reasonably reflected in the proposed premium.

After the Code is registered with the Australian Securities and Investments Commission, the Committee also recommends that the Treasurer issue a ministerial direction for the appropriate regulator to periodically review insurers' compliance with passing on premium reductions.

Recommendation 77

9.266 The Committee recommends the Australian Government consider measures to reduce household level risks, including whether it would be appropriate to extend the Bushfire Resilience Rating Home Self-Assessment App to flood risks.

Recommendation 78

9.267 The Committee recommends the Australian Government work with the Insurance Council of Australia to develop and publish advice on the mitigation measures households could undertake to improve the flood resilience of their property.

Recommendation 79

9.268 The Committee recommends the Australian Government and Insurance Council of Australia explore measures to facilitate the exchange of substantiated information about the resilience of a property to insurers, including new mitigation measures undertaken through state-based grant and loan programs.

Recommendation 80

9.269 The Committee recommends insurers facilitate options for policyholders to provide additional information to insurers about the resilience of their property to flood risks, and make further investments to better integrate reported resilience measures into the calculations of premiums.

Recommendation 81

9.270 The Committee recommends that state and territory governments develop buyback and resilience programs for households with very high flood risk and where alternative mitigation measures are unlikely to manage the risk. The Australian Government should consider working with state and territory governments, including through co-funding models, where appropriate.

Recommendation 82

9.271 The Committee recommends the Australian Government work with state and territory governments to review the operation of existing buy-back schemes to ensure they are targeted appropriately and to evaluate the outcomes for households that have received assistance.

Recommendation 83

9.272 The Committee recommends the Australian Government collaborate with state governments to implement measures to repurpose areas with high flood risk for alternative purposes, including returning developed land into a pre-developed state or repurposing land for recreational or agricultural use.

Recommendation 84

9.273 The Committee recommends that insurers explore offering innovative insurance products that have the potential to improve the operation of the insurance market, including:

- **More flexible insurance products for small business, including:**
  - **partial coverage for small businesses in high-risk areas; and**
  - **cashflow assistance or other temporary benefits that might help a small business survive the immediate aftermath of a natural disaster.**
- **Parametric insurance, particularly in high-risk areas and/or for consumers facing affordability stress.**

Recommendation 85

9.274 The Committee recommends that the New South Wales and Tasmanian governments collaborate with industry and local governments to reform emergency services levies, aiming to enhance premium affordability and reduce barriers to insurance uptake.

Recommendation 86

9.275 The Committee recommends that state and territory governments remove state-based taxes on general insurance products and shift the tax burden toward less distortionary taxes.

Where state or territory governments reduce taxes or levies on insurers, that insurers commit to passing these savings on in full through lower premiums.

Dr Daniel Mulino MP
Chair

9 October 2024

A. List of submissions and exhibits

1 Australian Financial Complaints Authority

- 1.1 Supplementary to submission 1
- 1.2 Supplementary to submission 1

2 Australian Consumers Insurance Lobby Inc

- 2.1 Supplementary to submission 2
- 2.2 Supplementary to submission 2

3 National Insurance Brokers Association

4 Dr Helen Haines MP

5 General Insurance Code Governance Committee

- 5.1 Supplementary to submission 5
- 5.2 Supplementary to submission 5
- 5.3 Supplementary to submission 5

6 Financial Counselling Australia

- 6.1 Supplementary to submission 6

7 Disaster Legal Help Victoria

- 7.1 Supplementary to submission 7

8 Legal Aid Queensland

- 8.1 Supplementary to submission 8

9 ARC Justice

10 Victorian Council of Social Service

11 Insurance Council Of Australia

- 11.1 Supplementary to submission 11
- 11.2 Supplementary to submission 11
- 11.3 Supplementary to submission 11

12 Suncorp Group

- 12.1 Supplementary to submission 12
- 12.2 Supplementary to submission 12

13 Allianz Australia

- 13.1 Supplementary to submission 13
- 13.2 Supplementary to submission 13
- 13.3 Supplementary to submission 13

14 Youi

- 14.1 Supplementary to submission 14
- 14.2 Supplementary to submission 14
- 14.3 Supplementary to submission 14

15 RACQ Group

- 15.1 Supplementary to submission 15
- 15.2 Supplementary to submission 15
- 15.3 Supplementary to submission 15

16 Insurance Australia Group

- 16.1 Supplementary to submission 16
- 16.2 Supplementary to submission 16
- 16.3 Supplementary to submission 16
- 16.4 Supplementary to submission 16
- Attachment 1
- Attachment 2

17 QBE Insurance Group

- 17.1 Supplementary to submission 17
- 17.2 Supplementary to submission 17
- 17.3 Supplementary to submission 17
- 17.4 Supplementary to submission 17
- 17.5 Supplementary to submission 17

18 Auto & General Holdings

- 18.1 Supplementary to submission 18
- 18.2 Supplementary to submission 18
- 18.3 Supplementary to submission 18

19 Hollard Holdings Australia

- 19.1 Supplementary to submission 19
- 19.2 Supplementary to submission 19

20 Swiss Re

21 RIA Inc. Australasia

22 Rochester Community House

- 22.1 Supplementary to submission 22

23 Narrabri Shire Council

24 Sutherland Shire Council

25 Hawkesbury City Council

26 Indigo Shire Council

27 Financial Rights Legal Centre, CHOICE, Consumer Action Law Centre and Westjustice

- 27.1 Supplementary to submission 27
- 27.2 Supplementary to submission 27
- 27.3 Supplementary to submission 27
- 27.4 Supplementary to submission 27

28 Caxton Legal Centre

29 Restoration Industry Consultants

30 JLT Public Sector

31 Emergency Recovery Victoria

32 Ms Maree White

33 Mr David Keane

34 Legal Aid New South Wales

- 34.1 Supplementary to submission 34

35 Australian Securities and Investments Commission

- 35.1 Supplementary to submission 35

36 Ms Sandy Bolton MP

37 Mr John O'Donnell

38 Mr John Trowbridge

39 LITMAS

40 National Emergency Management Agency

- 40.1 Supplementary to submission 40
- 40.2 Supplementary to submission 40

41 Lloyd's Australia

- 41.1 Supplementary to submission 41

42 Jobs and Skills Australia

43 John Glazebrook

44 Indoor Air Quality Association Australia

45 Dr L Tang

- 45.1 Supplementary to submission 45

46 *Name Withheld*

47 *Name Withheld*

48 *Name Withheld*

49 The Hon Michael McCormack MP

50 Mr Andrew McDonald

51 The Northern Rivers Flood Action Group Inc

52 Logan City Council

53 *Name Withheld*

54 Byron Shire Council

55 Mr Roscoe Howell

- 55.1 Supplementary to submission 55
- 55.2 Supplementary to submission 55
- 55.3 Supplementary to submission 55
- 55.4 Supplementary to submission 55

- 55.5 Supplementary to submission 55

56 Australian Prudential Regulation Authority

- 56.1 Supplementary to submission 56

57 Ms Evgenia Bourova, Professor Ian Ramsay and Associate Professor Paul Ali

58 *Name Withheld*

59 *Name Withheld*

60 A Way Forward

61 Cheney Suthers Lawyers

62 Confidential

63 Association of Insurance Building & Engineering Consultants - AiBEC

64 Ballina Shire Council

65 *Name Withheld*

66 *Name Withheld*

67 *Name Withheld*

68 City of Greater Bendigo

69 Department of the Treasury

- 69.1 Supplementary to submission 69

70 Customer Owned Banking Association (COBA)

71 Australian Banking Association

72 Dr Hanabeth Luke

73 Mr Terry Johnston

74 Campaspe Shire Council

75 Planning Institute Australia (Victoria)

76 River Cares & Lower Hawkesbury District

77 Sharon and Karl Roes

78 myVal Pty Limited

79 Joanne Bradbury

80 Celicia Bowyer-Prandolini

81 Townsville Enterprise

82 Murrindindi Shire Council

83 NSW Reconstruction Authority

84 Townsville City Council

85 City of Launceston

- 85.1 Supplementary to submission 85
- 85.2 Supplementary to submission 85
- 85.3 Supplementary to submission 85

86 Janelle Saffin MP, Member for Lismore

87 *Name Withheld*

88 *Name Withheld*

89 *Name Withheld*

- 89.1 Supplementary to submission 89

90 *Name Withheld*

91 *Name Withheld*

92 *Name Withheld*

93 *Name Withheld*

94 *Name Withheld*

95 Elizabeth Handley

96 *Name Withheld*

97 Townsville Lot Owners Group

98 Business NSW

99 Sunshine Sugar

100 Peter Crich

101 Paul Stewart

102 Molong Express

103 *Name Withheld*

104 Uwe Morzinek

105 *Name Withheld*

106 Wes Morris

107 Sydney Water

108 Madeleine MF Serle, Maribyrnong Community Recovery Association

Exhibits received

1 Adj. Professor David King – exhibit: ‘Insurance Indicators: Centre for Disaster Studies – site visit 25 July 2024

2 Townsville Chamber of Commerce – exhibit: ‘Federal Budget Submission 2024: Insurance: the Market Failure of an Essential Service’ – public hearing 25 July 2024

3 FNQ Volunteers – exhibit: ‘FNQ Volunteers Inc. Spontaneous Volunteer Management – Disasters’ – public hearing 25 July 2024

4 City of Launceston – exhibit: ‘Recovery Exercise “Conflux” – Where two rivers collide’ – public hearing 17 July 2024

5 Rosemary Townsend – exhibit: ‘Hydrologist report Issues’ – public hearing 8 May 2024

6 Forbes Shire Council – exhibit: ‘Assorted documents and media report’ – public hearing 7 May 2024

7 Central NSW Business HQ – exhibit: ‘Review of issues impacting businesses in the Central West with a focus on those impacted by flooding’ – by email 2 May 2024

8 Mount Alexander Shire Council – exhibit: ‘ABC News article -12 April 2024 “The worst practices of the insurance industry on show in government grilling”’ – public hearing on 19 April 2024

9 Ted Fensom – exhibit: ‘Survey Report – August 2011’ – public hearing on 10 April 2024

10 ASIC – exhibit: letter to Chairs and CEOs of general insurance companies – by email 6 March 2024

B. Public hearings and witnesses

Wednesday 31 January 2024

VIDEOCONFERENCE

Financial Rights Legal Centre

- Mrs Julia Davis, Senior Policy and Communications Officer

CHOICE

- Ms Rosie Thomas, Director of Campaigns and Communications

Consumer Action Law Centre

- Ms Phillippa Heir, Managing Lawyer

Victorian Council of Social Service

- Ms Libby Buckingham, Director, Thriving Communities
- Ms Juanita Pope, Chief Executive Officer

Disaster Legal Help Victoria

- Ms Sharon Keith, Program Manager

Federation of Community Legal Centres Victoria

- Dr Bronwyn Lay, Strategic Lead, Climate Justice Support Unit

Legal Aid New South Wales

- Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance

Legal Aid Queensland

- Mr Paul Holmes, Assistant Director, Disaster Relief

Thursday 1 February 2024

VIDEOCONFERENCE

Financial Counselling Victoria

- Ms Tracey Blythe, Disaster Recovery Coordinator
- Mr Zyl Hovenga-Wauchope, Executive Officer

Anglicare Victoria

- Ms Laura Powell, Team Leader, Financial Counselling
- Ms Lylia Martion, Financial Counsellor

Financial Counselling Australia

- Ms Vicki Staff, National Coordinator, Disaster Recovery
- Mr Peter Gartlan, National Coordinator

Restoration Industry Association Australasia

- Mr Marcus Taylor, Head, Advocacy and Industry Communication
- Mr Owen Boak, President

Australian Consumers Insurance Lobby

- Mr Tyrone Shandiman, Chairperson

ARC Justice

- Dr Prue Bagley, Community Engagement Officer
- Ms Kate Clohesy, Director, Strategy and Impact
- Mr Damian Stock, Chief Executive Officer

Friday 2 February 2024

VIDEOCONFERENCE

Australian Securities and Investments Commission

- Mr Nathan Bourne, Senior Executive Leader, Credit, Banking and General Insurance
- Mr Alan Kirkland, Commissioner

Australian Prudential Regulation Authority

- Mrs Suzanne Smith, Executive Board Member
- Mr Jonathan Wood, Head, Insurance Risk

Monday 5 February 2024

VIDEOCONFERENCE or Committee Room 2R1, Parliament House, Canberra

Insurance Council Of Australia

- Mr Andrew Hall, Chief Executive Officer, Climate, Operations and Strategy
- Mrs Kylie Macfarlane, Chief Operations Officer, Climate, Operations and Stategy

Suncorp Group

- Ms Lisa Harrison, Chief Executive Officer, Consumer Insurance
- Mr Steve Johnston, Group Chief Executive Officer and Managing Director

Insurance Australia Group

- Ms Julie Batch, Chief Executive Officer, NRMA Insurance
- Mr Luke Gallagher, Executive General Manager, Direct Claims
- Mr Nick Hawkins, Managing Director and Chief Executive Officer

Youi

- Mr Bert Bakker, Chief Operations Officer
- Mr Nathaniel Simpson, Chief Executive Officer

Friday 9 February 2024

VIDEOCONFERENCE or Committee Room 2R1, Parliament House, Canberra

Royal Automobile Club of Queensland Limited

- Mr David Carter, Managing Director and Group Chief Executive Officer
- Mr Paul Goan, General Manager Property and Niche Claims
- Mr Trent Sayers, Chief Executive Officer Insurance

Allianz Australia Insurance Limited

- Mr Brendan Dunne, Chief Customer & Operations Officer
- Mr Richard Feledy, Managing Director
- Mr Nicholas Scofield, Chief Corporate Affairs Officer

Wednesday 21 February 2024

VIDEOCONFERENCE

QBE Insurance (Australia) Ltd

- Mr Jon Fox, Chief Claims Officer
- Ms Sue Houghton, Chief Executive Officer
- Mr Andrew Ziolkowski, Chief Underwriting Officer

Hollard Insurance Company

- Mrs Paige Vincent, Chief Operating Officer
- Mr Paul Fahey, Chief Executive Officer

Australian Financial Complaints Authority

- Ms Sarah Edmondson, Executive General Manager, Regulatory, Policy and Research
- Ms Emma Curtis, Lead Ombudsman
- Mr Justin Understeiner, Chief Operating Officer

Friday 23 February 2024

VIDEOCONFERENCE

General Insurance Code Governance Committee

- Mrs Joanna Ifield, Senior Manager, Code Compliance, Australian Financial Complaints Authority
- Mrs Prue Monument, General Manager, Code Compliance and Monitoring, and Chief Executive Officer, Banking Code Compliance Committee, Australian Financial Complaints Authority

Munich Holdings of Australasia Pty Ltd

- Mr Scott Hawkins, Managing Director

Friday 15 March 2024

VIDEOCONFERENCE

Swiss Re Asia Pty Ltd, Australia Branch

- Mr David Sinai, Lead Underwriter, Australia and New Zealand
- Mr Trent Thomson, Chief Executive Officer, Australia and New Zealand

Department of the Treasury

- Mr Danial Gaudry, Director, Insurance Unit
- Mr Robb Preston, Assistant Secretary, Banking, Insurance and Credit Branch

National Emergency Management Agency

- Ms Sophie Cartwright, Assistant Coordinator-General, Resilience Programs
- Ms Jill Charker, Deputy Coordinator-General, Disaster Resilience and Recovery
- Ms Karina Menday, Acting Assistant Coordinator-General
- Mr Andrew Minack, First Assistant Coordinator-General, Policy and Governance
- Mr Brendan Moon AM, Coordinator-General
- Ms Shona Rosengren, Assistant Coordinator-General, Resilience Programs
- Ms Hannah Wandel OAM, First Assistant Coordinator-General, Programs

Lloyd's Australia Ltd

- Mr Chris Mackinnon, Lloyd's General Representative in Australia

Lloyd's of London

- Mr David Sansom, Chief Risk Officer

Friday 22 March 2024

VIDEOCONFERENCE

Mr John Trowbridge, Private capacity

Australian Competition and Consumer Commission

- Mr Michael Eady, General Manager, Insurance Monitoring
- Ms Sarah Proudfoot, Acting Chief Executive Officer and Executive General Manager, Infrastructure Division

Auto & General Insurance Company Ltd

- Mrs Debora Hartley, General Manager, Home Operations
- Mr Ram Kangatharan, Group Managing Director and Chief Executive Officer

Tuesday 9 April 2024

Learning and Business Centre, Caboolture Hub
4 Hasking St
Caboolture

City of Moreton Bay

- Mr Christopher Barnes, Manager, Emergency Management and Public Safety
- Mrs Shannon Haines, Coordinator, Natural Hazards Planning Branch
- Mr Scott Waters, Chief Executive Officer
- Mr Elton Morais, Senior Legal Counsel
- Mr Daniel Staley, Acting Director, Infrastructure Planning, and Manager, Development Services
- Mr Allan Charteris, Manager, Drainage Waterways and Coastal Planning

Sunshine Coast Council

- Mr Jason Membrey, Disaster Management Coordinator
- Mr Stephen Patey, Strategic Planning Manager

Mr Glen Foran, Private capacity

Mr Karl McKeever, Private capacity

Mr Ken Olsson, Private capacity

Caxton Legal Centre

- Ms Jacqui Cavanagh, Senior Lawyer, Financial Rights and Housing Security

Pine Rivers Community Legal Service

- Ms Latha Elenkovan, Principal Solicitor and Manager

Encircle Community Services

- Ms Karen Rollinson, Service Navigator

Wednesday 10 April 2024

Beenleigh Events Centre
Kent St
Logan

Community Plus Queensland Inc.

- Mrs Melinda McInturff, Community Resilience Coordinator

Tenants Queensland

- Ms Emma Webster, Flood Recovery Solicitor

Eagleby Community and Wetlands Group

- Mr Edward (Ted) Fensom, Environmental Advisor

TASC National

- Ms Megan Inglis, Principal Solicitor

Logan City Council

- Mayor Jon Raven, Mayor
- Ms Megan Gould, Acting Manager, Road Infrastructure Planning

City of Gold Coast

- Mr Mark Ryan, General Manager, Disaster and Emergency Management, and Local Disaster Coordinator
- Mrs Patricia Apps, General Manager, 2032 Games Coordination and Deputy Local Disaster Coordinator
- Ms Heidi Turner, Coordinator, Disaster and Emergency Management

Ipswich City Council

- Mayor Teresa Harding, Mayor

Dr Alan Cornick, Private capacity

Ms Linda Fielding, Private capacity

Ms Pamela Hatchman, Private capacity

Mr Kim Norton, Private capacity

Ms Gerowyn Jensen, Private capacity

Mr Jan Sypkens, Private capacity

Thursday 11 April 2024

Invercauld House
163 Invercauld Rd
Goonellabah
Lismore

Lismore City Council

- Mayor Steve Krieg
- Ms Katherine O'Regan, Head, Investment and Growth

Richmond Valley Council

- Ms Angela Jones, Director Community Service Delivery

Byron Shire Council

- Mr Mark Arnold, General Manager
- Mrs Esmeralda Davis, Director, Corporate and Community Affairs
- Ms Sarah Boulle, Recovery Coordinator

Clarence Valley Council

- Councillor Steve Pickering, Councillor
- Councillor Debrah Novak, Councillor

Tweed Shire Council

- Mr Danny Rose, Acting Director Engineering

Business NSW

- Ms Jane Laverty, Regional Director, Northern Rivers Region

Summerland Bank

- Mr John Williams, Chief Executive Officer

Living School

- Mr John Stewart, Founder and Conductor

Business Lismore

- Mr Ben Andersen, President

Byron Bay Chamber of Commerce

- Mr Matt Williamson, President

Nickel Energy and Hotel Metropole

- Mr Nick Lake, Director

Our Future Northern Rivers

- Mr Thomas Trevan, Spokesperson
- Ms Elizabeth Trevan, Coordinator

Southern Cross University

- Dr Hanabeth Luke, Senior Lecturer, Faculty of Science and Engineering

Mr Le Khanh (Henry) Luong, Private capacity

Ms Aveley McCann, Private capacity

Ms Kate Olivieri, Private capacity

Mr Doug Foskey, Private capacity

Ms Terry Lawrence, Private capacity

Resilient Lismore

- Ms Elly Bird, Executive Director
- Mr Jonathan Smith, Field Coordinator

Social Futures

- Ms Lucie White, Program Manager Service Delivery

Legal Aid NSW

- Ms Elizabeth Lehmann, Senior Outreach Solicitor, Disaster Response Legal Service

Northern Rivers Community Legal Centre

- Ms Patricia MacFarlane, Lead Solicitor, Disaster Response and Recovery Team
- Mr Aran Matkevich, Solicitor

Northern Rivers Flood Action Group

- Mr Tony Carusi, President

- Mr Neale Hundy, Owner

Woodburn IGA and Super Cellars

- Ms Kath Cremin, Secretary and Treasurer

Woodburn Business & Community Chamber

- Mrs Tania Hundy, Vice-President

Sunshine Sugar

- Mr Chris Connors, Chief Executive Officer

Ms Joanne Bradbury, Private capacity

Belisa Pty Ltd

- Mr Richard Jones, Managing Director

Mr Colin McAndrew, Private capacity

Mr Steuart McPherson, Private capacity

Mr Paul Thomas, Private capacity

Ms Peggy O'Connor, Private capacity

Ms Svea Pitman, Private capacity

Richmond River Crane Growers Association

- Mr Leslie Geoffrey Pye, Chair

New South Wales Parliament

- Ms Janelle Saffin, Member for Lismore, and Chair, Northern Rivers Community Leaders Forum

Wednesday 17 April 2024

Maidstone Community Centre
21 Yardley St, Maidstone
Maribyrnong

Maribyrnong City Council

- Mayor Cuc Lam, Mayor
- Mrs Laura-Jo Mellan, Director, Planning and Environment Services

Moonee Valley City Council

- Mayor Pierce Tyson, Mayor
- Mr Brett Walters, Director, Strategy and Planning

Maribyrnong Community Recovery Association

- Ms Madeleine Serle, President

Community Statements

Ms Alison Baumgart, Private capacity

Mr Stan Korkliniewski, Private capacity

Mr Andrew Monteiro, Private capacity

Mr Loc Pham, Private capacity

Westjustice

- Mr Joseph Nunweek, Legal Director

GenWest

- Ms Thuy Dang, Community Engagement Officer
- Ms Wennie van Riet, Project Lead, Mental Health and Wellbeing

Anglicare Victoria

- Ms Kathryn Swinton, Financial Counsellor

Planning Institute of Australia

- Ms Jane Keddie, Vice President, Victorian Division

Melbourne Water

- Mr Michael Ballock, Mission Lead, Urban Planning and Housing Statement
- Mr Craig Dixon, Executive General Manager, Service and Asset Lifecycle
- Mr John Woodland, Head, Waterway and Catchment Services South East

Community Statements

Ms Angelika Prpa, Private capacity

Thursday 18 April 2024

Rochester Shire Hall
45 MacKay St
Rochester

Gannawarra Shire Council

- Mr Paul Fernee, Director, Community Wellbeing
- Ms Jan Palmer, Community Engagement Officer

Greater Shepparton City Council

- Ms Louise Mitchell, Director, Community

FamilyCare

- Ms Amy Jones, Manager, Flood Recovery and Family Violence

Rochester Community House

- Ms Bernadette Wright, Counsellor and Mental Health Support
- Ms Amanda Logie, Manager

EACH Partners in Wellbeing

- Mrs Kellie Davis, Small Business Financial Counsellor

Commonwealth Parliament

- Mr Sam Birrell, Member for Nicholls

Rochester Community Recovery Committee

- Mr Leigh Wilson, Chair

Mr Trevor Ashforth, Private capacity

Mr Stephen Harris, Private capacity

Mr Daniel Howe, Private capacity

Ms Wilma Howe, Private capacity

Mr Allan MacDonald, Private capacity

Ms Octavia Mackintosh, Private capacity

Mrs Shellei Sibberas, Private capacity

Ms Sarah Thomson, Private capacity

Mrs Maree Traill, Private capacity

Mr Roydon Webb, Private capacity

Friday 19 April 2024

Heathcote RSL Hall
127 High St
Heathcote

City of Greater Bendigo

- Ms Rebecca Maple, Risk and Assurance Adviser

- Mrs Kim Ross, Emergency Management Officer and Lead Municipal Recovery Manager

Mitchell Shire Council

- Ms Kellie Massouras, Manager Flood and Community Recovery
- Mr Casey Southurst, Emergency Management Coordinator

Macedon Ranges Shire Council

- Ms Amy Holmes, Manager Community Strengthening
- Mrs Setina Rockliff, Coordinator Risk and OHS
- Ms Leah Rushford, Coordinator Community Resilience and Recovery
- Ms Maria Weiss, Director Community

Mount Alexander Shire Council

- Mr Luke Ryan, Emergency Management Coordinator and Municipal Recovery Manager

Alliance Consulting

- Mr TR Keller, Managing Director

Go Seymour

- Mr Stuart Locke, President

Mrs Merilyn Denning, Private capacity

Mr Adam Griffiths, Private capacity

Mr Ellis Knight, Private capacity

Ms Alison Phillips, Private capacity

Ms Michelle Sheehan, Private capacity

Ms Joanne West, Private capacity

Mr Neville West, Private capacity

Tuesday 7 May 2024

Cabonne Community Centre, Molong

Forbes Shire Council

- Mr Steve Loane, General Manager
- Ms Phyllis Miller, Mayor

Cabonne Council

- Mr Kevin Beatty, Mayor

Cheney Suthers Lawyers

- Ms Kirsty Evans, Director and Solicitor

Molong Pharmacy

- Mr Dennis Druve, Manager

Downtown Fitness

- Ms Heba Elkurdi, Owner

Central NSW Business HQ

- Mr Rob Drage, Business Adviser

Community Panel

Mr Phillip Davis, Private capacity

Molong Post Office and Newsagency

- Mrs Kaylene Philpott, Owner, Director and Manager

Mrs Ann-Maree Davis, Private capacity

Community Statements

Mr Kelly Boucher, Private capacity

Mr Peter Crich, Private capacity

Mr David Eccleston, Private capacity

Ms Elise Jaye, Private capacity

Wednesday 8 May 2024

Eugowra Bowling Club
5 Hill Street
Eugowra

CatholicCare Wilcannia-Forbes

- Mrs Louise Cormie, Portfolio Manager, Financial Stability
- Mrs Carole Shennan, Senior Support Worker, Disaster Relief, and Financial Counsellor

Legal Aid New South Wales

- Ms Ma'ata Solofoni, Senior Solicitor, Disaster Recovery and Insurance

Parkes Shire Council

- Councillor Kenneth Keith OAM, Councillor

Eugowra Promotion and Progress Association; Eugowra Flood Recovery Committee

- Mr Sean Haynes, President; Chair

Community Panel

Mr Joshua Dawson, Private capacity

Mr Sean Haynes, Private capacity

Mr Brian Smith, Private capacity

Mrs Lesley Smith, Private capacity

Community Statements

Eugowra Self-Care Units Committee

- Mr David Hyde, Chair

Ms Ruth Nielsen, Private capacity

Mr Martin Teml, Private capacity

Mrs Rosemary Townsend, Private capacity

Community Statements

Mr Hugh Ellis, Private capacity

Mr Peter Jones, Private capacity

Mrs Carol Monahan, Private capacity

Mr David Norris, Private capacity

Mr Don Taylor, Private capacity

Thursday 9 May 2024

Richmond Club
Enigma Function Room 1, 6 East Market Street
Richmond

Hawkesbury City Council

- Ms Colleen Haron, Floodplain Management Officer
- Mrs Elizabeth Richardson, General Manager
- Mayor Sarah McMahon, Mayor

Hawkesbury Chamber of Commerce

- Ms Gabrielle Benkovich, President
- Mr Trent McMillen, Vice President

Jubilee Vineyard Estate

- Mr Ray Hayek, Owner

Turf Growers Association of NSW

- Mr Paul Saad, Vice President
- Mrs Jenny Zadro, Executive Officer

Community Statements

Mr Robert Brierley, Private capacity

Mr Sean Carroll, Private capacity

Mr Barry Gill, Private capacity

Mr Scott Hinks, Private capacity

Mr Les Sheather, Private capacity

Ms Cathy Sheridan, Private capacity

Mr William Thorn, Private capacity

Ms Venecia Wilson, Private capacity

Legal Aid New South Wales

- Ms Rebekah Doran, Senior Solicitor and Project Manager

Community Statements

Wisemen's Ferry Community Men's Shed

- Mr Warren Lumley, Secretary

Mrs Mary-Anne McGranahan, Private capacity

Mrs Danelle Myers, Private capacity

Mr Paul Stewart, Private capacity

Ms Maureen Valent, Private capacity

Friday 10 May 2024

Mantra Parramatta
Gold and Silver Room , 1 Valentine Avenue
Parramatta

Northern Beaches Council

- Mr Ben Fallowfield, Resilience and Emergency Management Coordinator and Local Emergency Management Officer

Central Coast Council

- Mr Peter Sheath, Acting Unit Manager, Environmental Management
- Mr Luke Sulkowski, Acting Director, Environment and Planning

Sutherland Shire Council

- Mr Samuel Perrau, Insurance Officer
- Mr Anton Usher, Manager, Corporate Governance

CivicRisk Mutual

- Mr Andrew Armitstead, Chief Executive Officer

Committee for Sydney

- Mr Sam Kernaghan, Director, Resilience Program

Resilient Sydney

- Ms Yvette Andrews, Engagement and Strategy Development

Anglicare NSW

- Mr Magnus Linder, NSW/ACT State Manager, Disaster Recovery

Wednesday 17 July 2024

Aberdeen Room - Paranaple Convention Centre
137 Rooke Street
Devonport

City of Launceston

- Shane Eberhardt, General Manager Infrastructure and Assets Network
- Lynda Robins, Emergency Management Advisor

Latrobe Council

- Peter Freshney, Mayor

Kentish and Latrobe Independent Business Association

- Gordon Williams, Chief Executive Officer

Northern Midlands Business Association

- Gordon Williams, Chief Executive Officer (as above)
- Ian Goninon, Chairman

Community statements

Mr Michael Perkins, Private capacity

Mr Geoff Heazlewood, Private capacity

Mrs Pascale Cotterill, Private capacity

Mr Stuart Ritchie, Private capacity

Mrs Felicity Mainwaring, Private capacity

Tamar Action Group

- Andrew Lovitt, Chair

Anglicare Tasmania

- Lynne Watson, Program Manager, Financial Resilience & Wellbeing North & North West

Deloraine Football Club

- Mr Don Tracey, President

Wednesday 24 July 2024

Cairns RSL - Catalina Room
115-119 The Esplanade
Cairns

CentaCare Far North Queensland

- Patrick Sim, Senior Worker Disaster Recovery and Resilience
- Ross Contarino, Team Leader Operations & Employment

Port Douglas Community Services Network

- Erin Easton, Family Support Worker

Mossman Support Services

- Therese Maloney, Community Connect Worker
- Tahnee De Brueys, Administrator

Advance Cairns

- Jacinta Reddan, Chief Executive Officer

Cairns Chamber of Commerce

- Bob Epps, Board Member

Cairns Regional Council

- Cr Rhonda Coghlan, Councillor

- Nick Masasso, Director Economic Development & Advocacy
- Gary Everson, Associate Director Service Delivery
- Lisa Dendle, Acting Local Recovery Coordinator

Douglas Shire Council

- Paul Hoye, Acting Chief Executive Officer

Cook Shire Council (by teleconference)

- Brian Joiner, Chief Executive Officer

Community Statements

Mr John Hannan, Private capacity

Ms Anne Riley, Private capacity

Mr Deryck Thompson, Private capacity

Mrs Claire Heath, Private capacity

Ms Danni Morache, Private capacity

Mrs Carol Danielson, Private capacity

The Third Element

- Mrs Susan (Sioux) Campbell, Principal

Thursday 25 July 2024

Townsville RSL - Jezzines Function Room
139 Charters Towers Rd
Hyde Park
Townsville

Townsville City Council

- Cr Andrew Robinson, Councillor and Chair of the Disaster Management Committee
- Zac Dawes, Emergency Management Operations Officer
- Nyree Bolton, Manager City Growth

Townsville Enterprise

- Claudia Brumme-Smith, Chief Executive Officer

Townsville Chamber of Commerce

- Heidi Turner, Chief Executive Officer

Townsville Lot Owners Group

- Andrew Turnour, Spokesperson

Volunteering North Queensland

- Margie Ryder, President

FNQ Volunteers Inc.

- Annette Sheppard, President

Tuesday 30 July 2024

VIDEOCONFERENCE

Sydney Water

- Kate Miles, Head of System Planning and Land Acquisition
- Laura Andrews, Insurance and Claims Manager

Australian Building Codes Board

- Gary Rake, Chief Executive Officer & Head of Division

Standards Australia

- Kareen Riley-Takos, Chief Operating Officer

Engineers Australia

- Chris Thomas, Member of Sydney Division Water Engineering Panel

NSW Reconstruction Authority

- Amanda Leck, Head of Adaptation, Mitigation and Reconstruction

C. Survey results

At the launch of the inquiry, the Committee decided that in order to allow the widest and most varied participation from affected individuals in flood-affected communities, as well as those that wanted to contribute to the inquiry without making a formal submission, that an online survey would be conducted.

The survey contained questions relating to a number of areas of interest to the Committee in identifying the trends in affected communities relevant to the terms of reference of the inquiry. A tip sheet to guide participants, including FAQs, was made available to maximise participation.

The survey was anonymous (to ensure adequate privacy protections, as well as to allow for concerned individuals to share their experience with the Committee) and asked questions of survey participants, that would vary in scope depending on previous answers, regarding:

- which flood you were affected by;
- how your insurer has communicated with you;
- the outcome of your claim;
- any complaints or disputes with insurers;
- time frames for claim resolutions;
- access to hydrology reports;
- flood mitigation measures; and
- your ability to obtain/renew insurance policies after flooding.

The survey was announced at the same time as the commencement of the inquiry and a link circulated by media release on 31 August 2023. The survey was hosted on the Committee's website until stakeholder engagement closed for the inquiry on 31 July 2024.

Due to the nature of the survey, not all respondents were asked each question.

The Committee notes that participants self-selected, and that the results are presented in their primary format—independent statistical analysis on the data has not been conducted.

The survey recorded 657 survey responses over 67 questions

*Note – in order to protect privacy, questions that may identify individuals or their location have not been included in the survey results summary in this appendix.

Also, please note that answers have been aggregated into wholesale results, regardless of the date on which the survey was responded to. Accordingly, time-specific answers (such as ‘how long did it take your claim to be resolved?’) will incorporate answers as provided, regardless of whether they were provided on survey launch date or at close (nearly 12 months apart).

Any answers that provide an average of ratings from 1 – 5 represent a sliding scale where the lowest figure is the least satisfaction/lowest incidence/least cost, to the highest figure being the most satisfaction/highest incidence/most cost etc.

The high number of ‘other’ answers for the age demographics question was due to an accidental overlap in age brackets at the start of the survey period, that was corrected within a week, but due to the anonymous nature of the survey could not be corrected, so has been left categorised as such.

Insurers responses to 2022 major flood claims

657 responses

Figure C.1 Which flood were you affected by?

South-East Queensland and Northern NSW	271
Hunter and Greater Sydney	71
Victoria, NSW and Tasmania	212
Central West NSW	49
Other	54

Figure C.2 Did you hold an insurance policy at the time of the flood event?

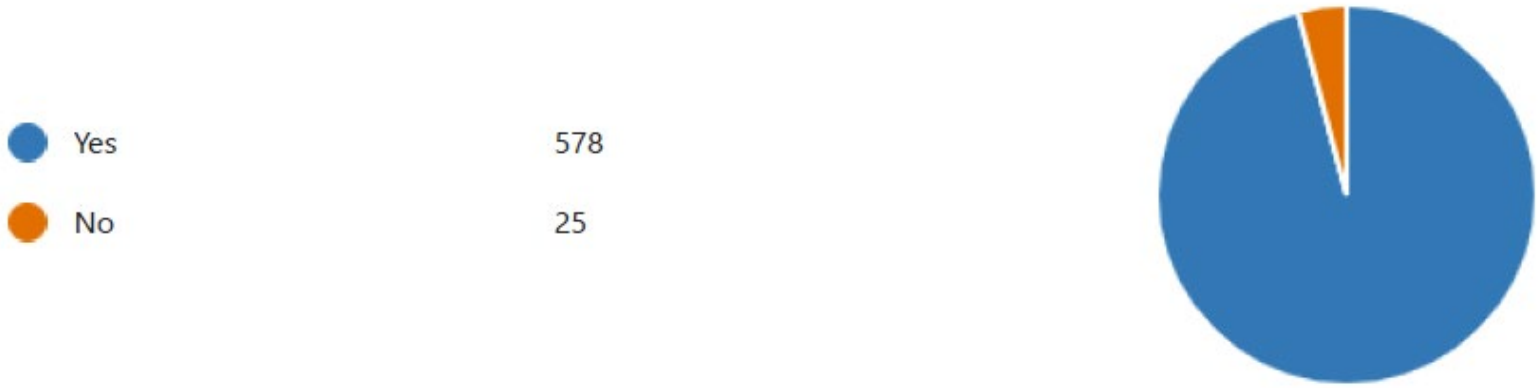


Figure C.3 Why did you not hold an insurance policy?

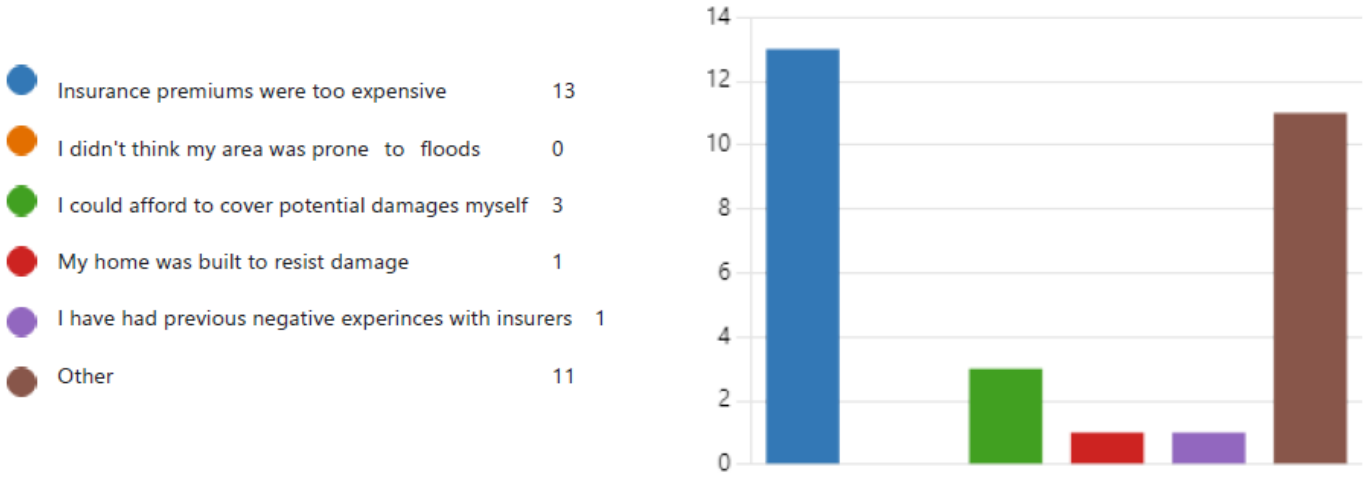
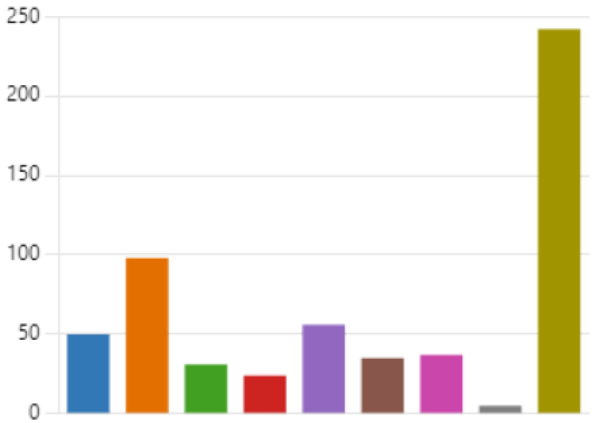


Figure C.4 Which insurance company is/was the policy with?

AAMI	50
Allianz	98
Budget Direct	31
GIO	24
NRMA	56
QBE	35
Suncorp	37
Youi	5
Other	242



Box C.1 Sample other responses

- CBA / CommInsure
- Australian Seniors
- St George Bank
- RACV
- Elders
- WFI
- CGU
- RACQ

Figure C.5 Under which insurance policy did you make a claim?

Home and contents	347
Home – Building only	63
Home – Contents only	16
Business related	18
Renters	0
Landlord	23
Comprehensive motor vehicle	2
I had a policy but did not claim	91
Other	18

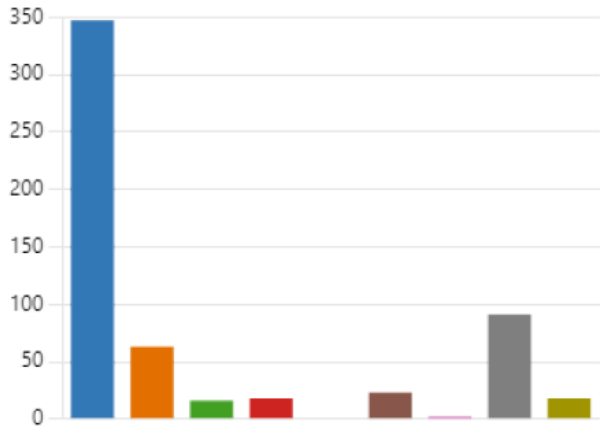
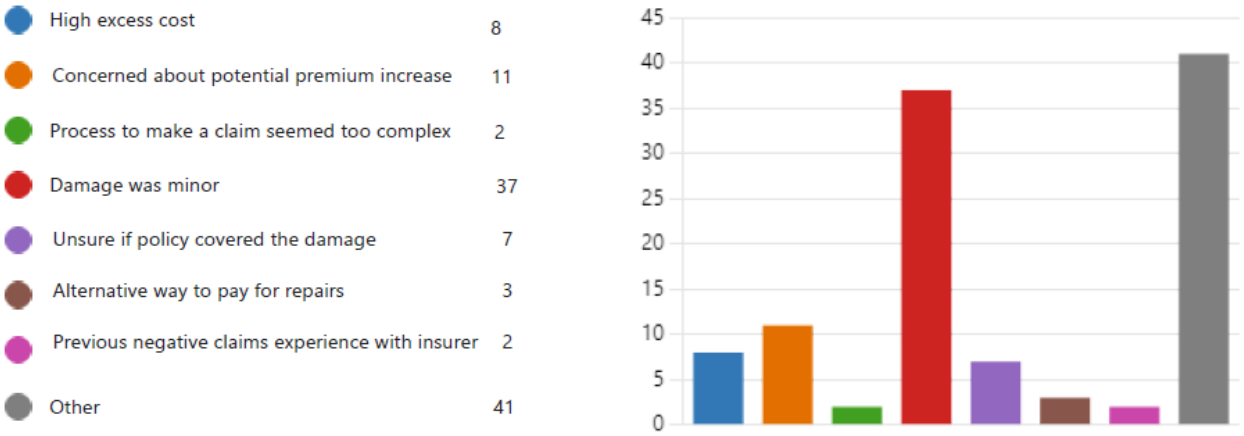


Figure C.6 Why did you not make an insurance claim? (if previous answer was no claim made)



Box C.2 Sample other responses

- "House was not damaged."
- "No damage to property."
- "House not impacted. House is well above max flood level, therefore cancelled flood cover in 2019ish after it went up 2.1k per month due to proximity to river."
- "Garden was the affected area and not covered."

Figure C.7 Which of the following best describes your level of cover for water damage?

Figure C.8 What is your primary reason for not holding flood insurance? (if not covered)

Figure C.9 Which of the following flood mitigation measures were in place before the flood?

Elevation of building foundation	128
Elevation of utilities and electrical systems	85
Installation of flood vents	10
Dry flood proofing (watertight doors etc)	17
Wet flood proofing	13
Levees and flood walls	30
Natural barriers	38
Retrofitting	7
Foundation anchoring	10
Sump pumps	13
Rainwater harvesting	57
Landscaping changes	35
Not applicable to policy	95
None of the above	191

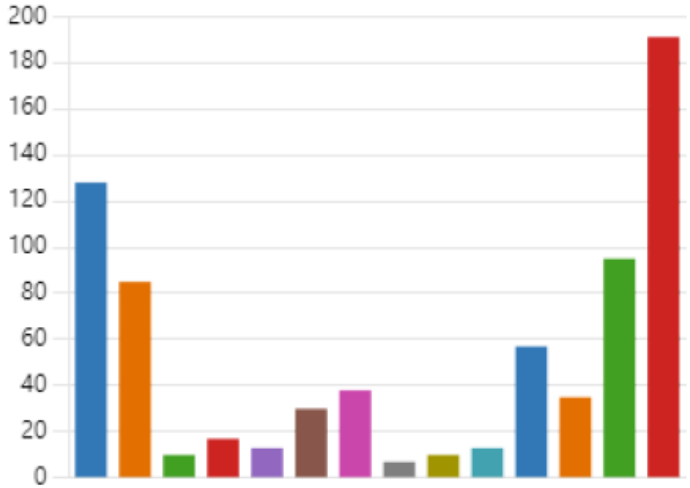


Figure C.10 Has your insurance claim been resolved?

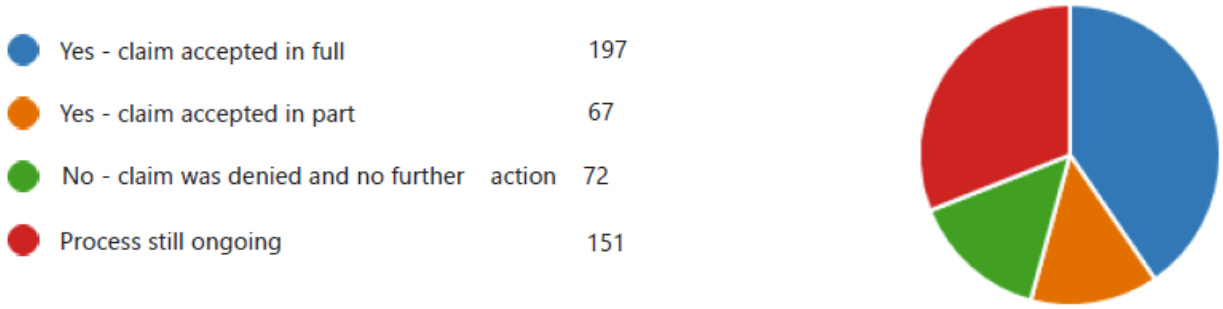


Figure C.11 How long did it take for your claim to be resolved?

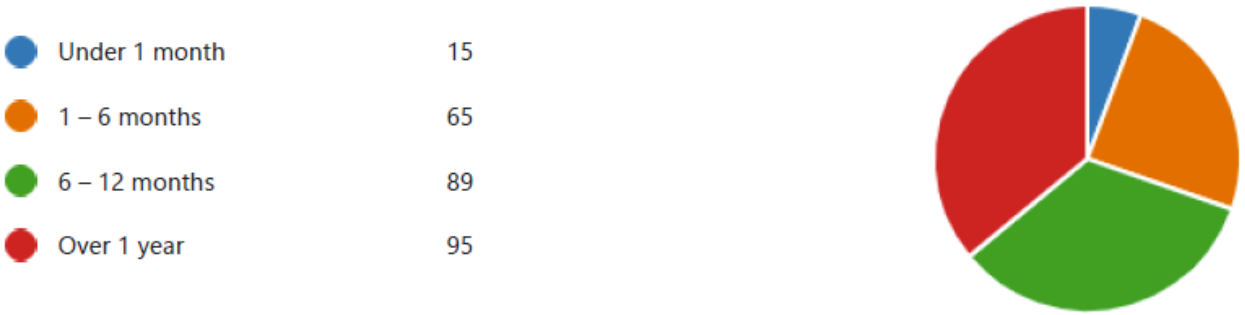


Figure C.12 How long have you been waiting for your claim to be resolved?

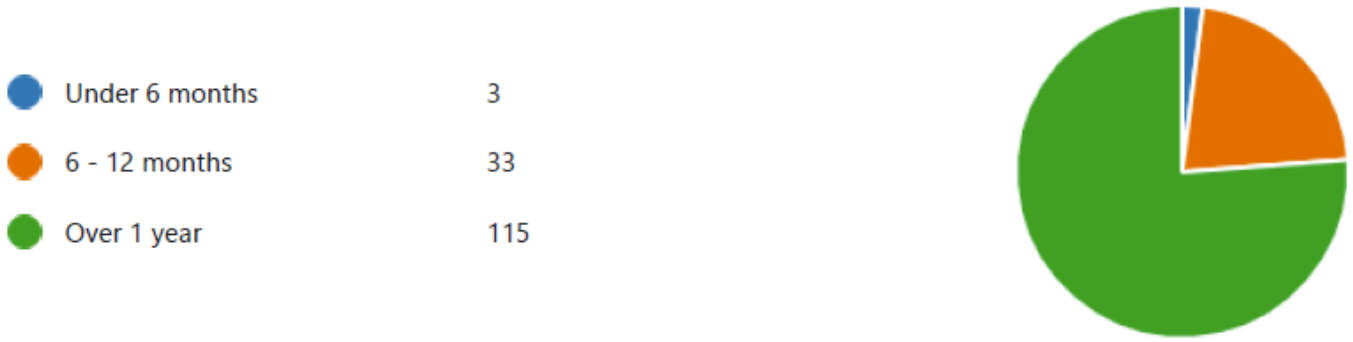
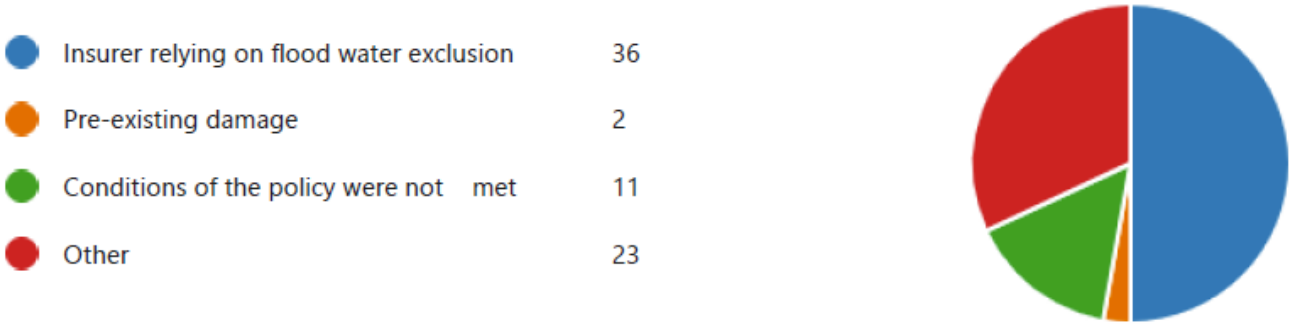


Figure C.13 What was the main reason provided by your insurer for denying your claim?



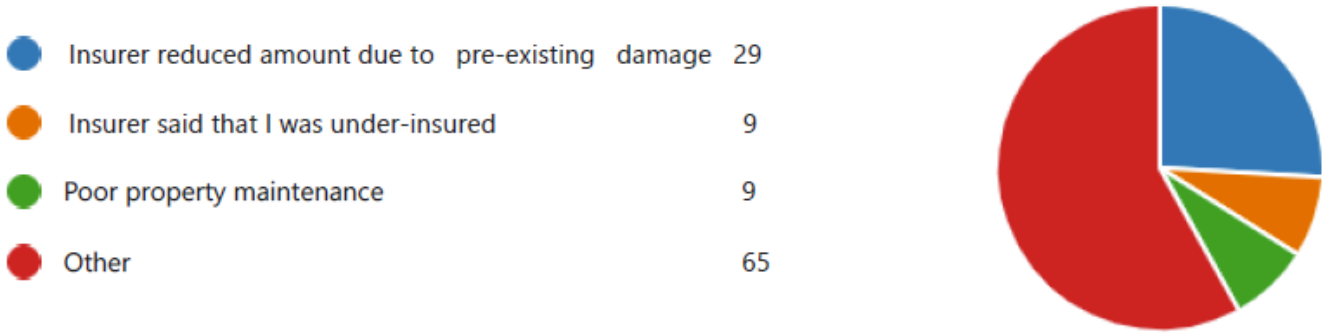
Box C.3 Sample other responses

- "House 6 years old and looks as new however AAMI sighted wear and tear."
- "That the design of our house was at fault but they had happily taken premiums for years."
- "Blamed previous owners wear and tear."

- “Claim that mould incursion was environmental and not related to storm event, despite private professional mycology firm confirming the latter was true.”

Figure C.14 Did your insurer seek to reduce the payout amount to you?

Figure C.15 What reasons did your insurer give for seeking to reduce your payout?



Box C.4 Sample other responses

- “Claims that bathrooms were not affected by flood water even though our house is one storey.”
- “Said I didn’t understand insurance.”
- “Their costings of materials and labour was far less than what we had costed independently.”
- “Age of some of the contents. They also tried to reduce the amount of work, stating it wasn’t required, when it was.”
- “They wouldn’t pay for flood coverings because I only got 2 inches in house but they paid for an air conditioner and hot water service sitting on ground.”
- “It was over the special circumstance amount and said that I had to take it.”
- “Did not cover excavation, ground prep work as part of the repair requirements, fences only partially covered.”
- “House not built to code. Section of house denied was built in 1930’s.”

Figure C.16 Please rate your satisfaction with your insurer's handling of your claim.

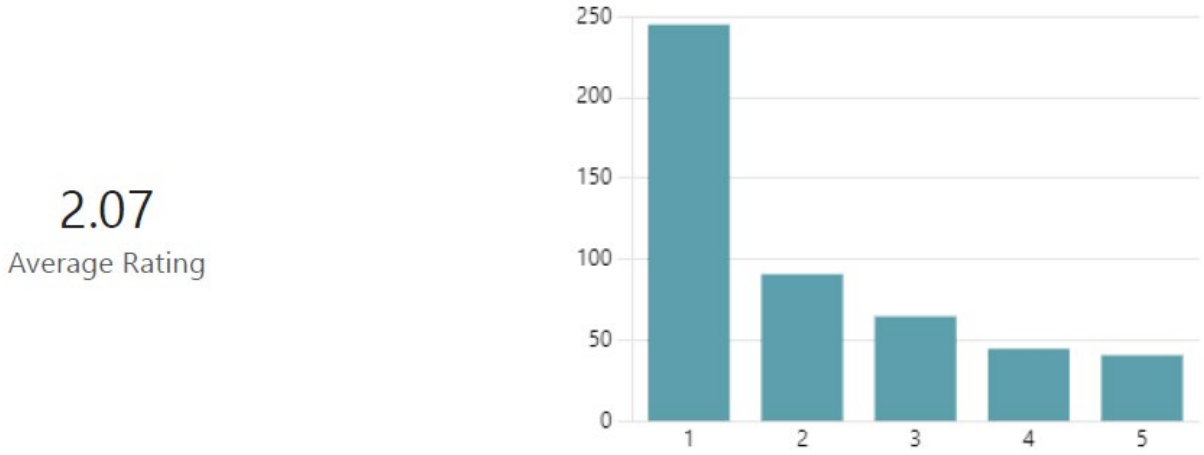


Figure C.17 Has the flood damage been repaired by your insurer?

Yes, completely	77
Yes, partially	41
No, repairs are still going	50
No, still waiting for repairs to start	91
I've used my own choice of repairer	93
No, my claim was denied	84
N/A	51

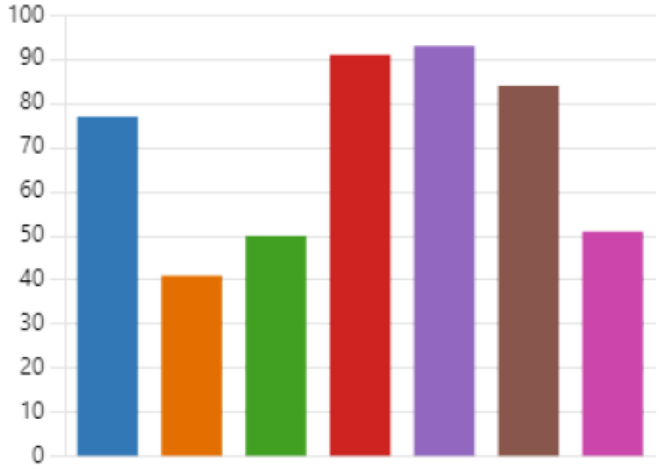


Figure C.18 After you accepted your settlement offer, how long have you been waiting for the flood damage to be repaired?

Under 1 month	0
1 - 6 months	4
6 - 12 months	6
Over 1 year	23
N/A	58

Figure C.19 After you accepted your settlement offer, when did work start to repair the flood damage?

Under 1 month	21
1 - 6 months	47
6 - 12 months	25
Over 1 year	13
N/A	12

Figure C.20 After repair work started, how long did it take for the repairs to be completed?

Under 1 month	14
1-3 months	19
3-6 months	21
6-12 months	37
Over 1 year	27

Figure C.21 After you accepted your settlement offer, when did work start to repair the flood damage?

Under 1 month	3
1 - 6 months	13
6 - 12 months	11
Over 1 year	10
N/A	13

Figure C.22 After repair work started, how long have you been waiting for it to be completed?

Under 1 month	0
1-3 months	0
3-6 months	1
6-12 months	21
Over 1 year	28

Figure C.23 How would you rate your satisfaction with your insurer's choice of builder / tradesperson to manage repairs?

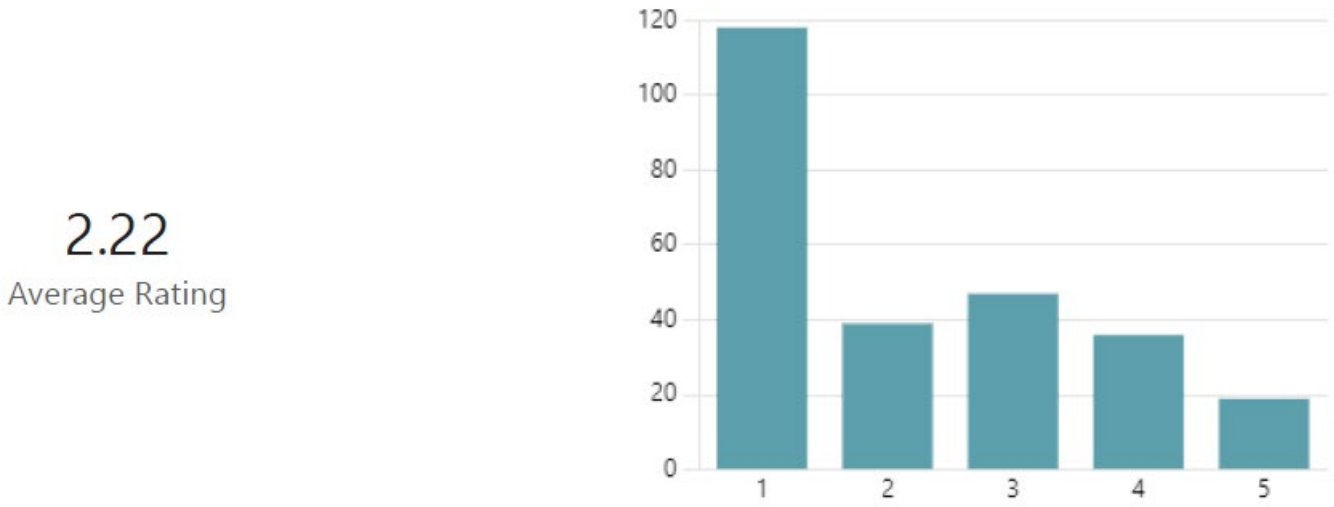


Figure C.24 Were you aware of the property's flood risk prior to purchasing/renting the property?

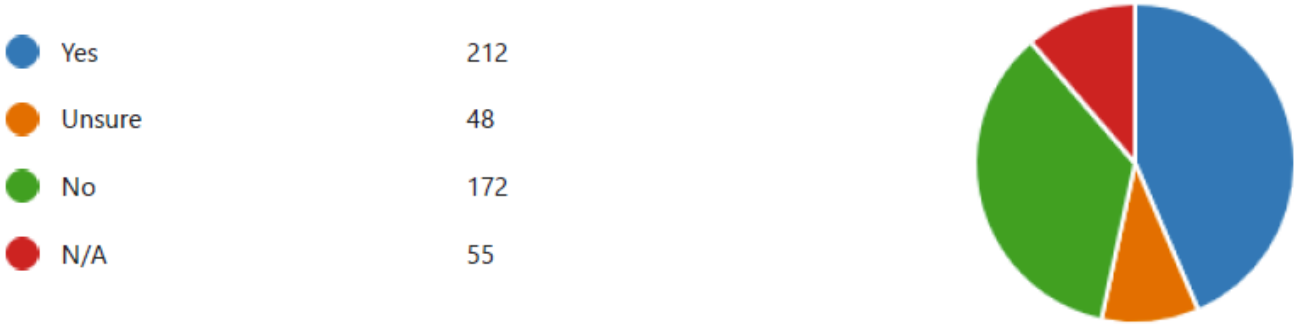


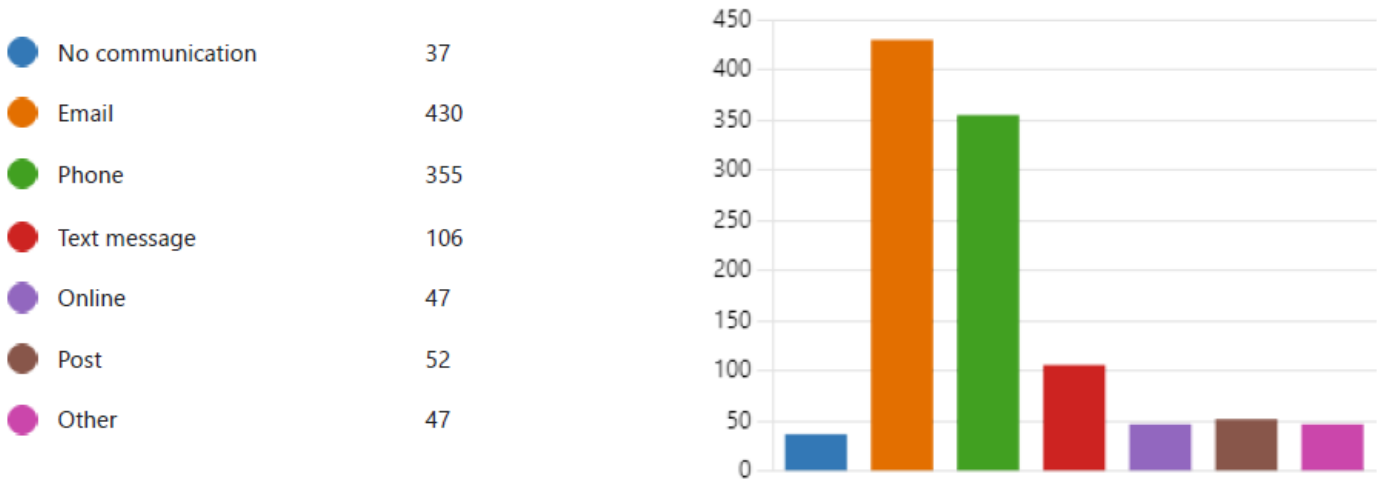
Figure C.25 Did the sale contract for the property include clauses that outlined flood risk?

Yes	55
Unsure	108
No	247
N/A	77

Figure C.26 Was information about flood risk accessible on your local government's website?

Yes	138
Unsure	197
No	111
N/A	41

Figure C.27 What methods has your insurer used to communicate with you about your claim?



Box C.5 Sample other responses

- “Insurance companies held face to face meetings at local RSL Club 8.5 months after flood.”
- “It has not been my insurer it has been me constantly chasing them via email and phone.”
- “Initially none for months.”
- “Minimal, sporadic, inconsistent, confusing emails and calls.”
- “They only contact me after I place a call to them.”
- “Lack of timely communication as can wait 10 or more days and sometimes weeks.”
- “Only in response, abusive on calls and vague on emails.”

Figure C.28 How would you rate the communication with your insurance provider in dealing with your claim?

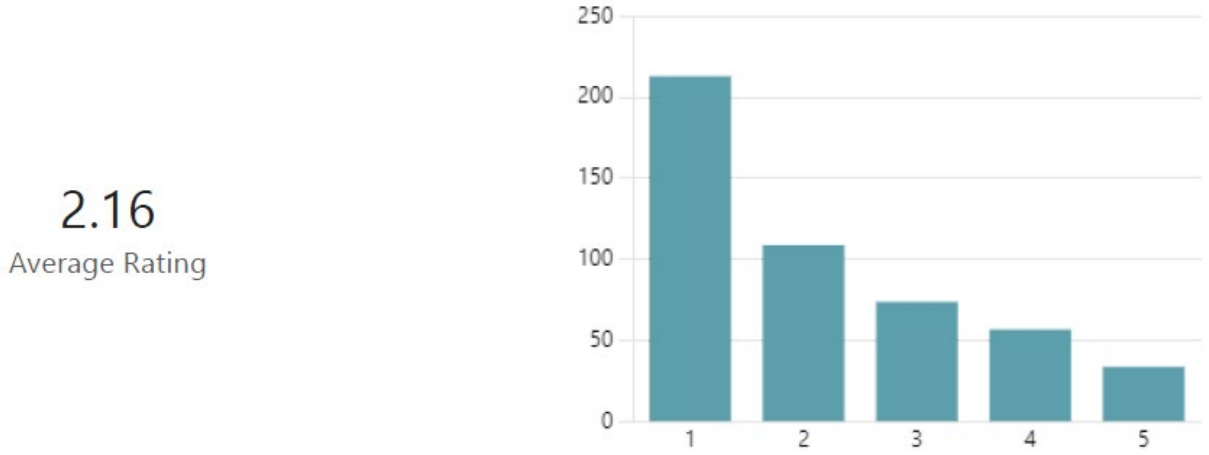


Figure C.29 How well did your insurer communicate the role of its service providers to you? (i.e. Hydrologist, Loss Assessor, Engineer, Builder)

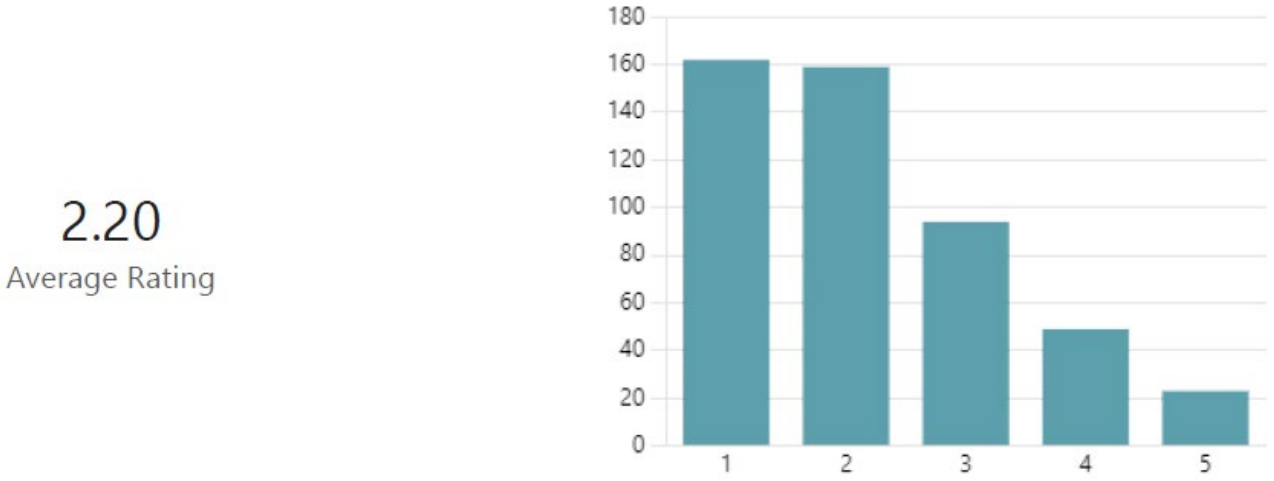


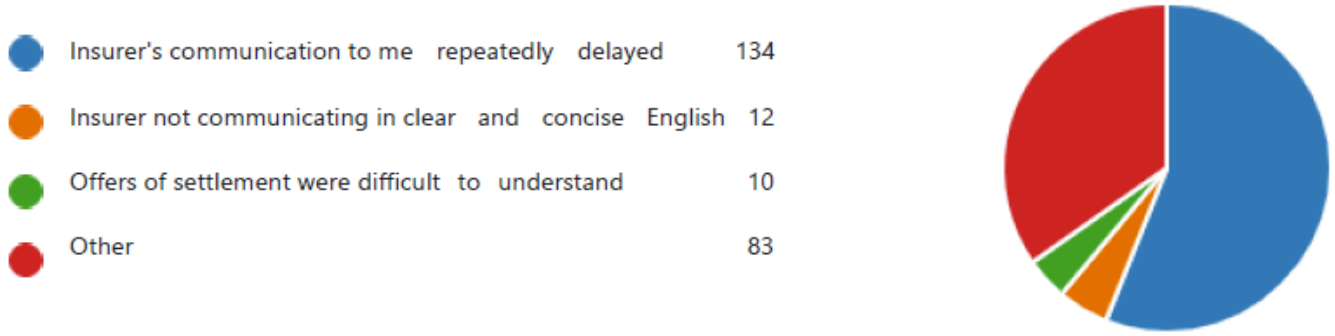
Figure C.30 Did your insurer rely on its service providers (i.e. Hydrologist, Loss Assessor, Engineer, Builder) to communicate the progress of your claim and offers of settlement to you?

Yes	155
No	156
Somewhat	176

Figure C.31 Select the comment that best reflects your experience communicating with your insurer.

Communication was as expected	75
Insurer was proactive in their communication	52
There was limited contact from my insurer	121
My insurer was difficult to contact and engage with	239

Figure C.32 Why did you have difficulties communicating with your insurer?

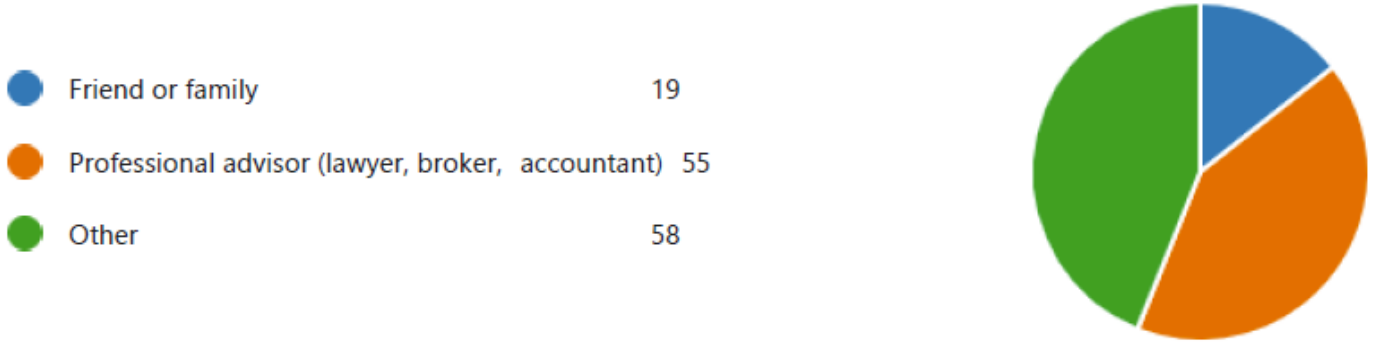


Box C.6 Sample other responses

- "Not understanding our situation."
- "Offers of settlement were difficult to understand."
- "Multiple parties involved, no single point of contact."
- "Several claims officers who did not connect with each other or check my emails."
- "Insurance workers did not make detailed notes resulting in having to have the same conversation and resent information already sent."
- "Forced to use call centres repeatedly with no direct contact numbers provided."
- "Hard to get a hold of, did not communicate clearly, couldn't provide recorded conversations in a listenable form."
- "Anyone you spoke to was unfamiliar with the case and had to read the notes and then make a judgement. Each judgement was different."
- "No response for over 8 months and then repeated hounding and bullying for reports done at our cost. Which the insurer knew where not needed but told us to get as support for our claim."

Figure C.33 Did you require any assistance when communicating with your insurer?

Figure C.34 Who provided you with assistance?



Box C.7 Sample other responses

- "MP"
- "Flood Recovery Support Worker"
- "AFCA"
- "Hired an external claims manager"

- “Insurance advocate”

Figure C.35 Did your insurer provide information about obtaining a hydrology report to assess your flood damage?

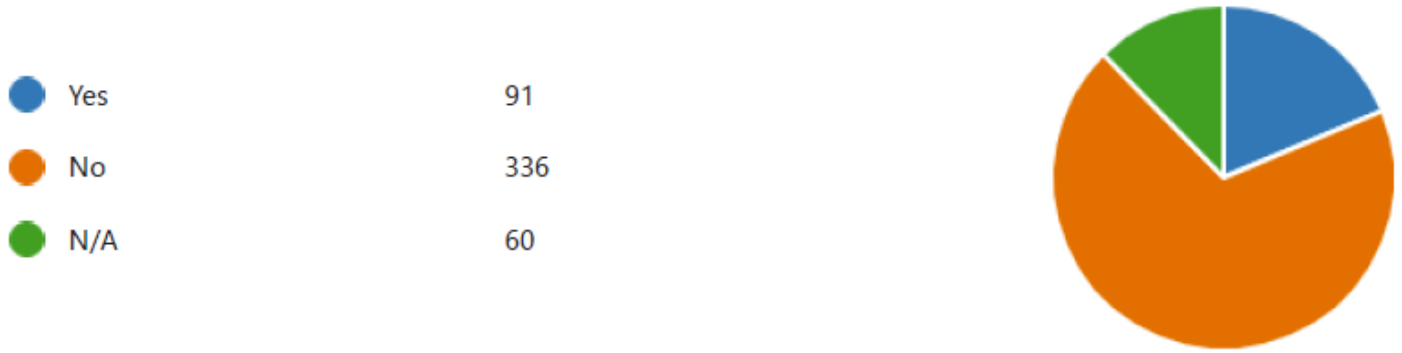


Figure C.36 Did you obtain a hydrology report as part of your flood damage assessment?

Figure C.37 How easy was it for you to access the necessary information to obtain a hydrology report?

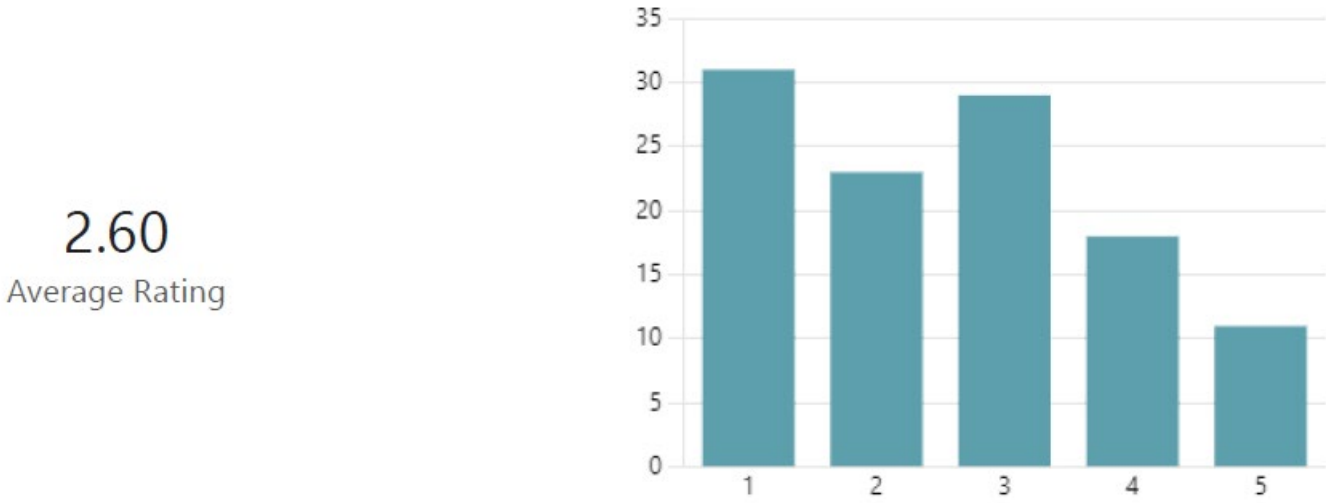


Figure C.38 Were there any costs in obtaining a hydrology report?

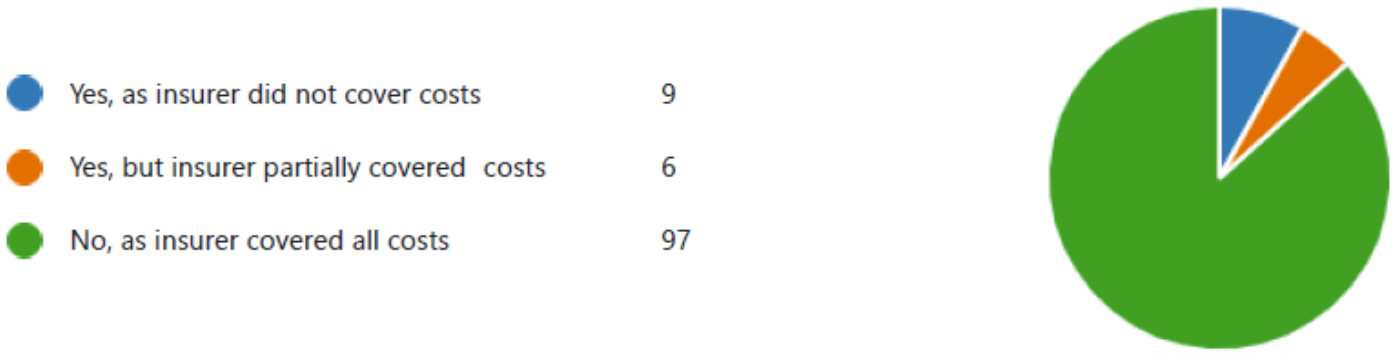


Figure C.39 How would you rate the affordability of obtaining a hydrology report?

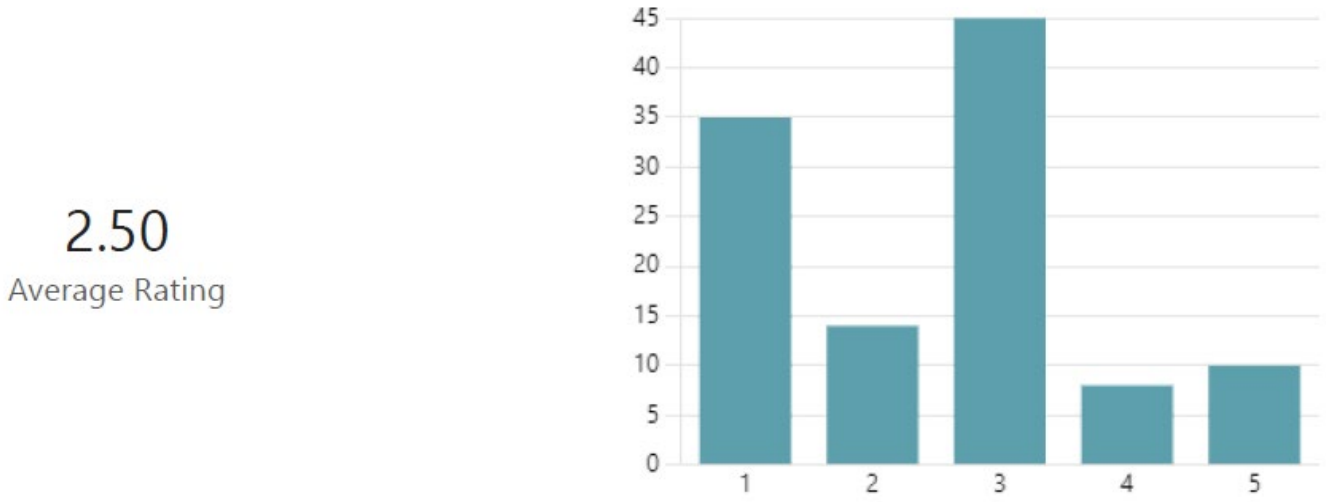


Figure C.40 Did obtaining a hydrology report help the processing of your insurance claim?

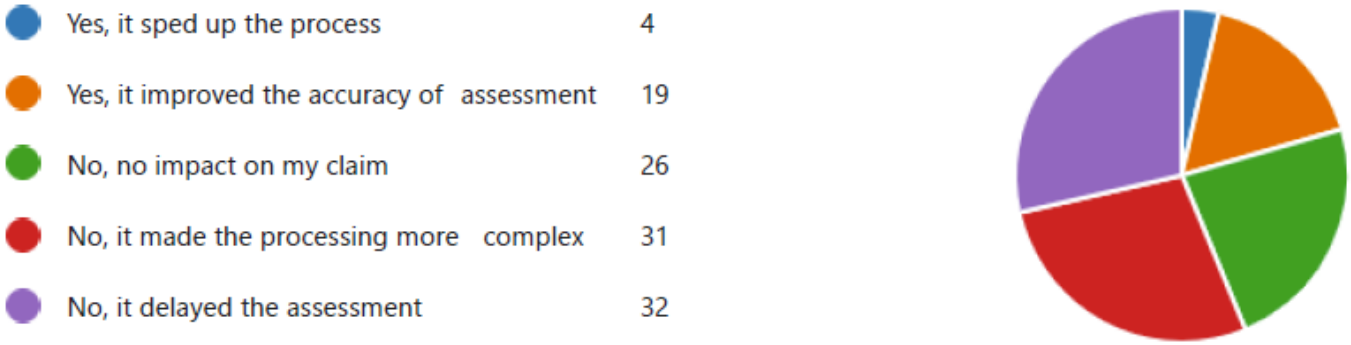


Figure C.41 How long did it take for you to receive the report after the Hydrologist inspected your property?

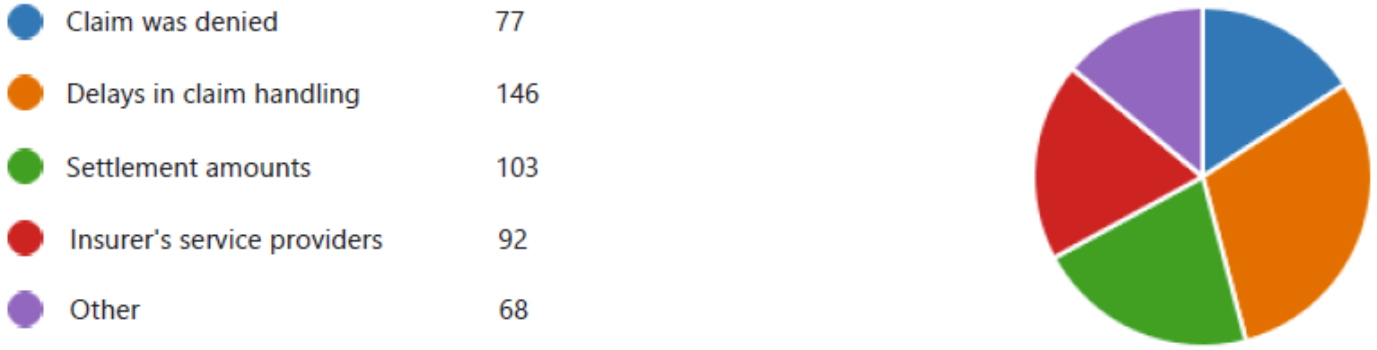
Less than 1 month	19
1-2 months	34
3-4 months	28
5-6 months	17
Greater than 6 months	14

Figure C.42 If you did not agree with the first hydrology report, were you able to get another hydrology assessment?

No - too expensive	22
No - unable to find another hydrologist	11
Yes	4
N/A - Did not dispute initial report	52
Other	23

Figure C.43 Have you lodged a complaint with your insurer regarding your claim?

Figure C.44 What was your complaint in relation to?



Box C.8 Sample other responses

- "We complained about the poor standard of reports (both scope of works and causation reports), the loss assessors and the poor communication overall."
- "Insurer kept using incorrect information and not providing information."

- “Cash settlement offer lower than the actual cost of repairs.”
- “Policy disclosure statement was misleading/ambiguous.”
- “Not treating me as a vulnerable person (health, other issues) until my first complaint.”
- “Privacy issues along with inappropriate treatment and settlement.”
- “Pressure from insurer to accept unprofessional repairs.”
- “I agreed to cash settlement, insurer wanted to pay this through my mortgage holder. Nowhere in the PDS did I say this would occur.”
- “Change from insurance company conducting repairs, then revoking that and offering a payout”
- “Breach of privacy – my insurer contacted my mortgage holder – CBA – to release my mortgage staging I had accepted settlement. At no time have I have I been asked to or accepted settlement from my insurer.”
- “Access denied to speak with team members handling my case; dismissive; disrespectful communication even after disclosing my disability.”

Figure C.45 Has your complaint been resolved?

Figure C.46 Please rate your satisfaction with your insurer's handling of your complaint.

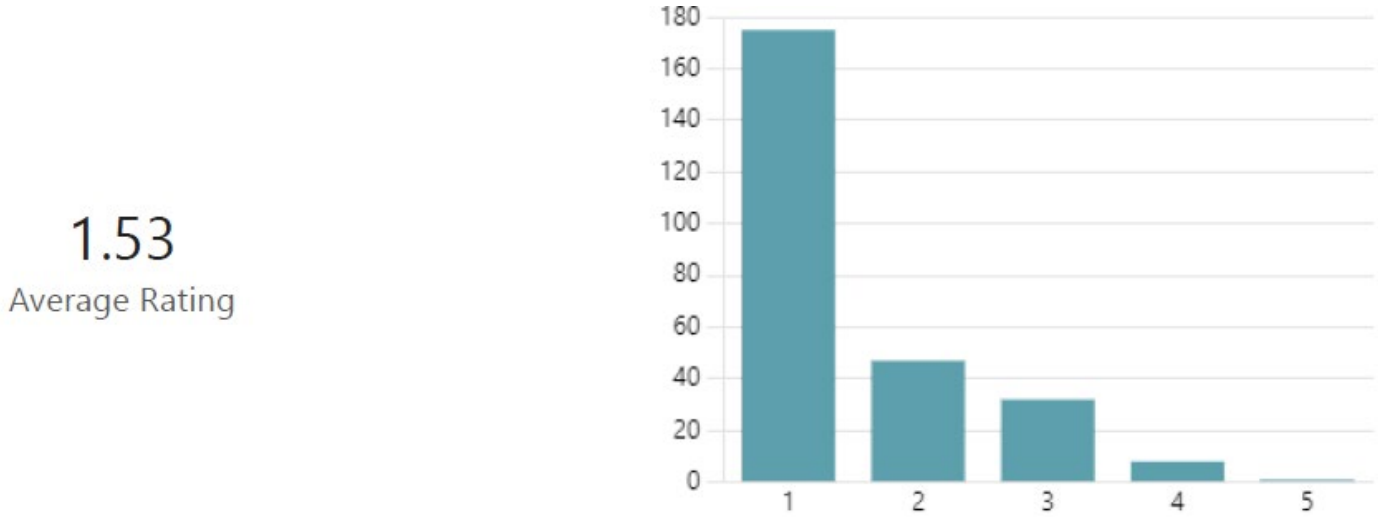


Figure C.47 Have you lodged an external dispute with the Australian Financial Complaints Authority (AFCA)?

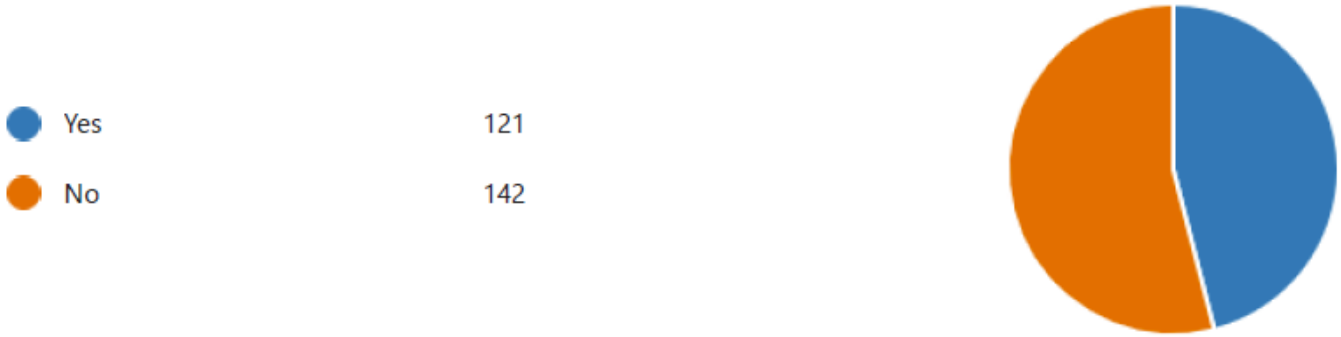


Figure C.48 Has your AFCA dispute been resolved?

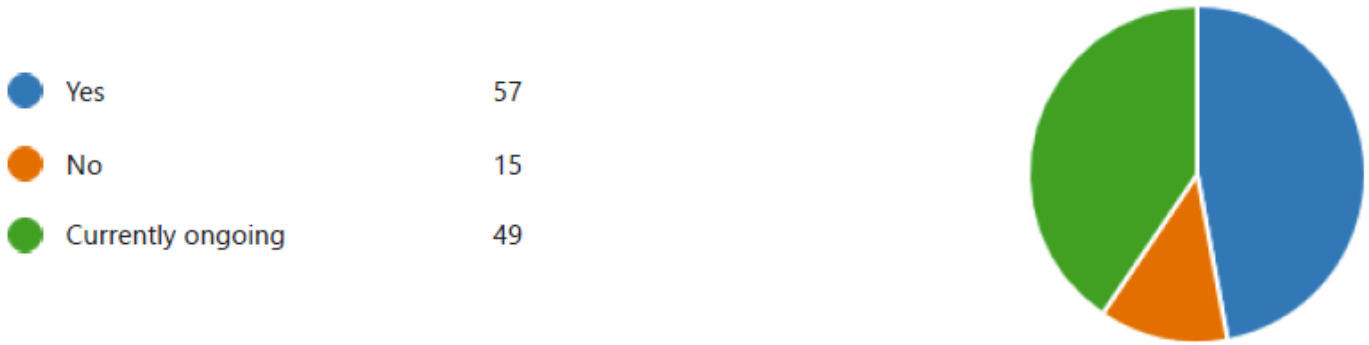


Figure C.49 Please rate your satisfaction with AFCA's handling of your dispute.

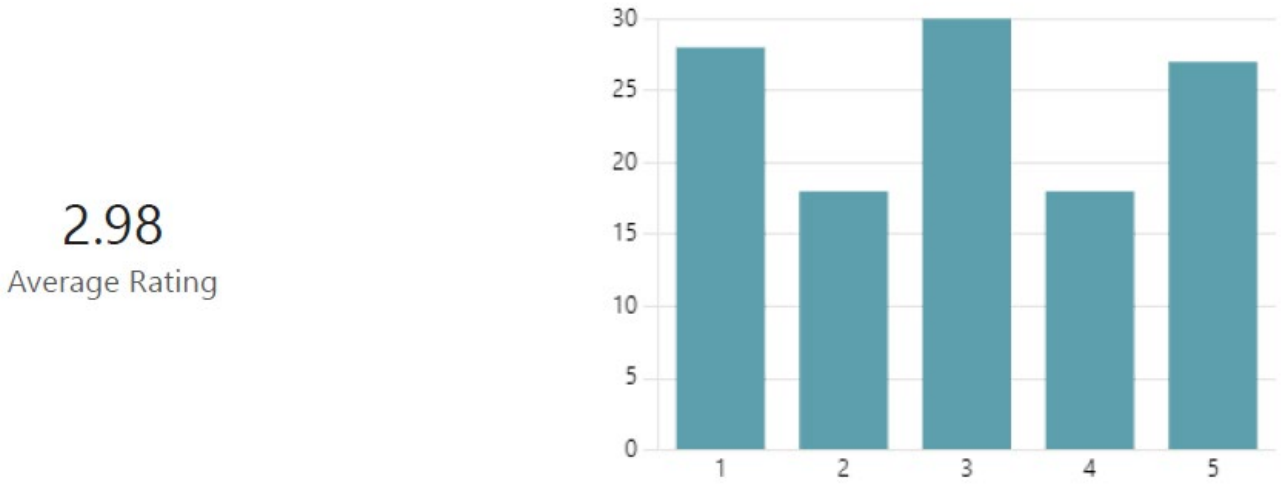


Figure C.50 Have you obtained a new policy, or renewed an existing policy since the flood event?

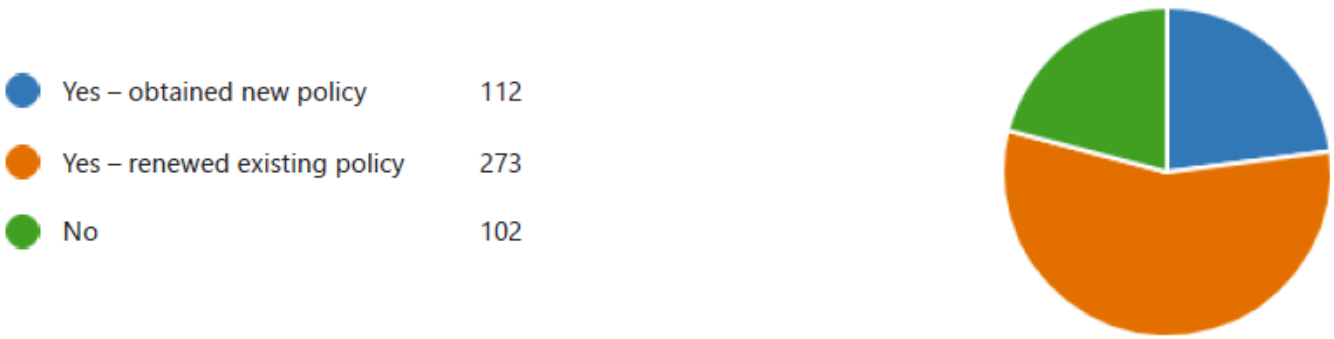
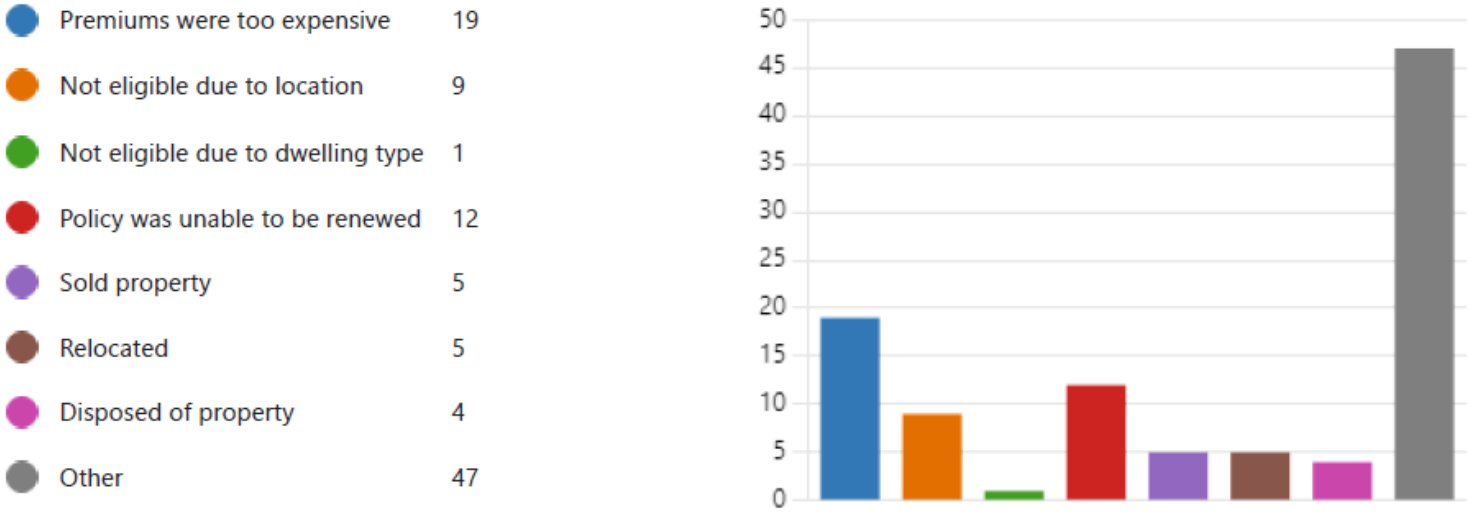


Figure C.51 What is the main reason for not obtaining/renewing the policy?



Box C.9 Sample other responses

- “Insurance companies are too difficult to deal with and won’t provide what you pay for.”
- “Current insurer not offering a renewal to us at all.”
- “Lost confidence that we’d ever be covered if it was to happen again. Also we couldn’t get building insurance as it was going to cost $32,000.”
- “They are refusing to renew policy.”
- “House demolished. Still rebuilding, therefore nothing to re insure at this point.”

Figure C.52 What was the yearly increase to your premium?

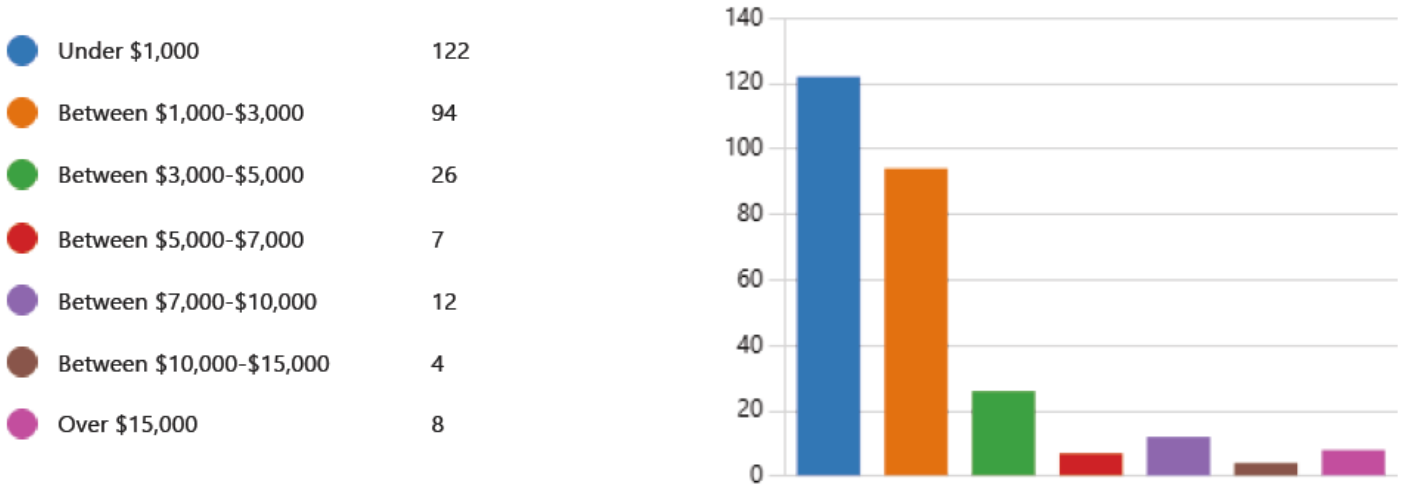


Figure C.53 What is the approximate cost of your new premium?

Under $1,000	2
Between $1,000-$3,000	33
Between $3,000-$5,000	40
Between $5,000-$7,000	20
Between $7,000-$10,000	5
Between $10,000-$15,000	7
Over $15,000	5

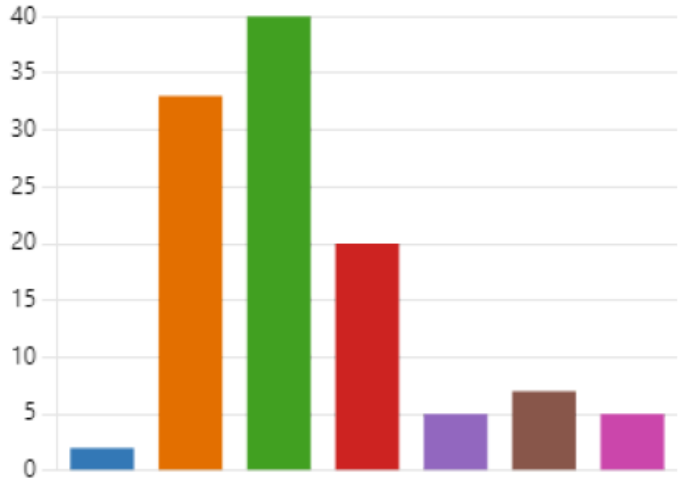


Figure C.54 Does your new or renewed policy include flood and/or storm water run-off insurance?

Yes, both flood and storm water	277
Yes, flood only	33
Yes, storm water run-off only	35
No	22
N/A	18

Figure C.55 How would you rate the affordability of your flood insurance coverage?

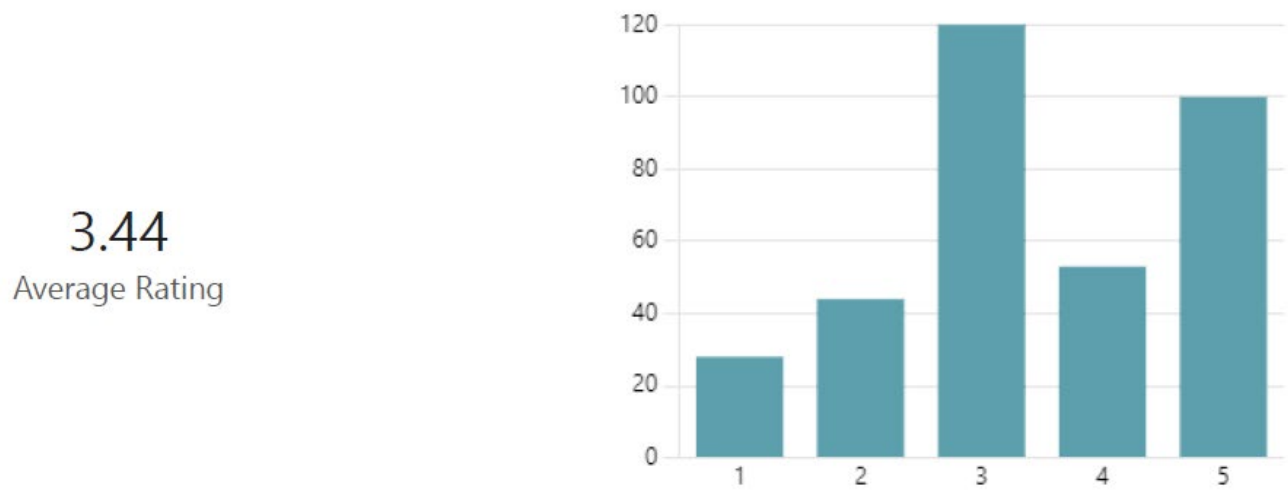


Figure C.56 Since the flood, have you taken any actions/measures to protect your property against flooding?

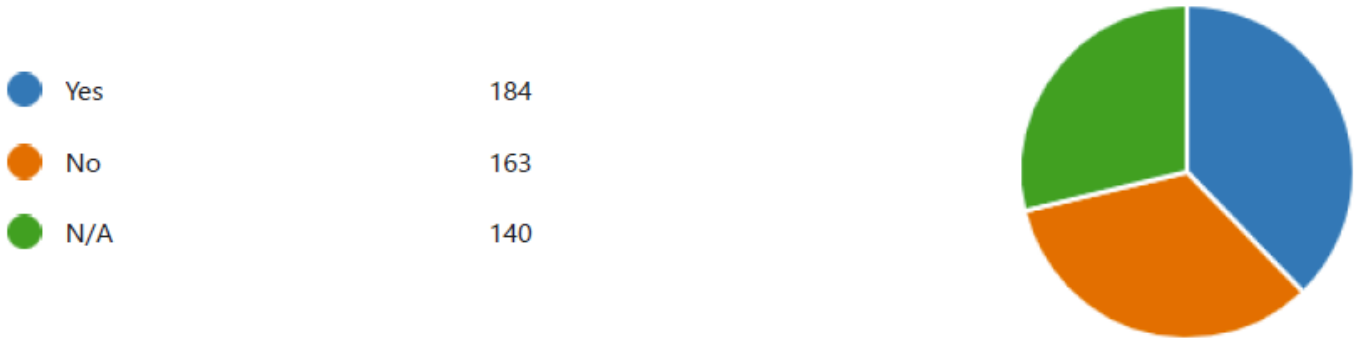
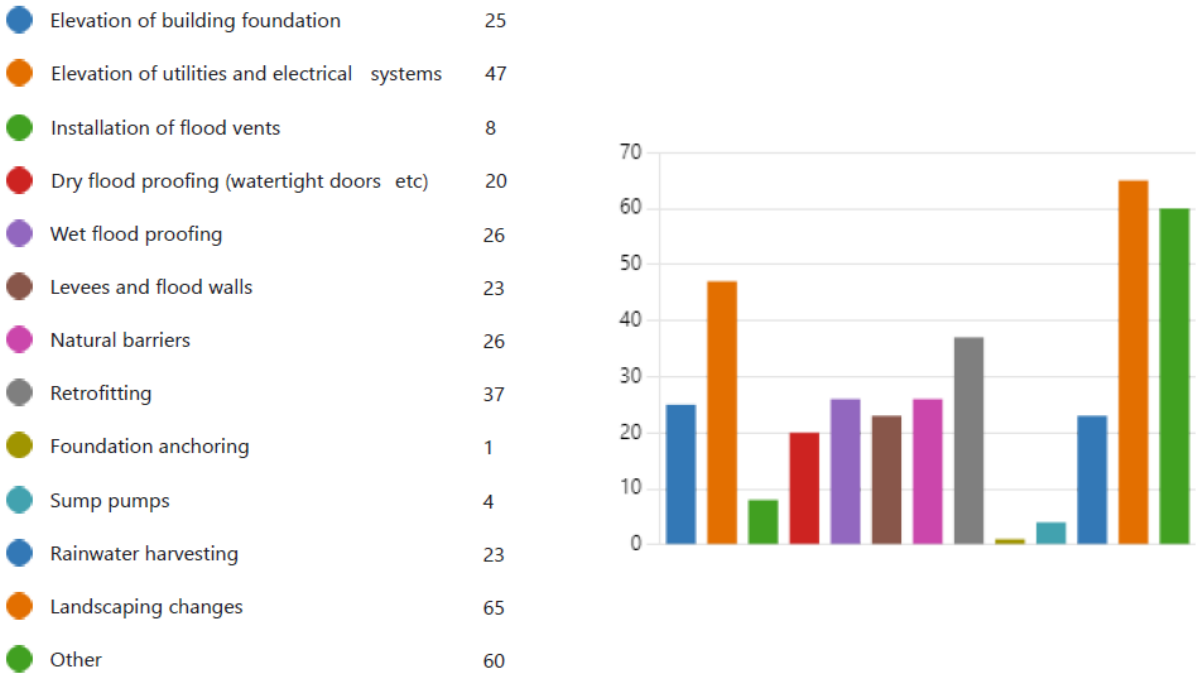


Figure C.57 Since the flood, what action/measures have you taken to protect your property against flooding?



Box C.10 Sample other responses

- “Polished concrete flooding to enable future flood water to be hosed out.”
- “New roof.”
- “~$20k waterproofing work recommended y hydrologist and condition of RACQ to re-accept claim.”
- “Removed trees that its adjusted told us we had to remove for claim.”
- “Demolish current dwelling and elevate.”

- “We did lots of research on viable ways to avoid future flooding but all options were out of our price range. We were quoted $100,000 to raise the house but it was too expensive.”

Figure C.58 Has the cost of flood insurance coverage influenced your decision to invest in flood mitigation measures?

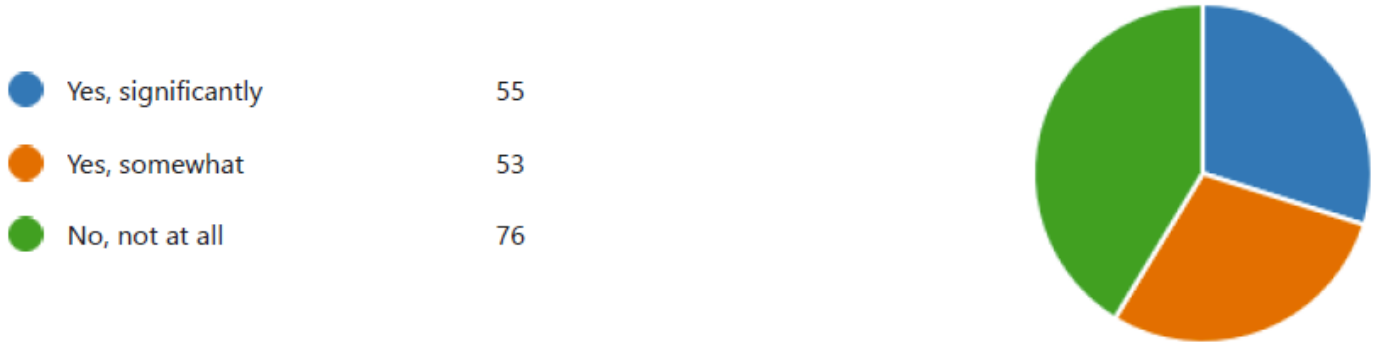


Figure C.59 Have these mitigation measures made your flood insurance policy cheaper?

Figure C.60 Have you accessed a government-funded support program to help pay for things that reduce the risk of a flood at your property?

Figure C.61 How would you rate the availability of information about measures you can take that can help protect your home or business against flooding?

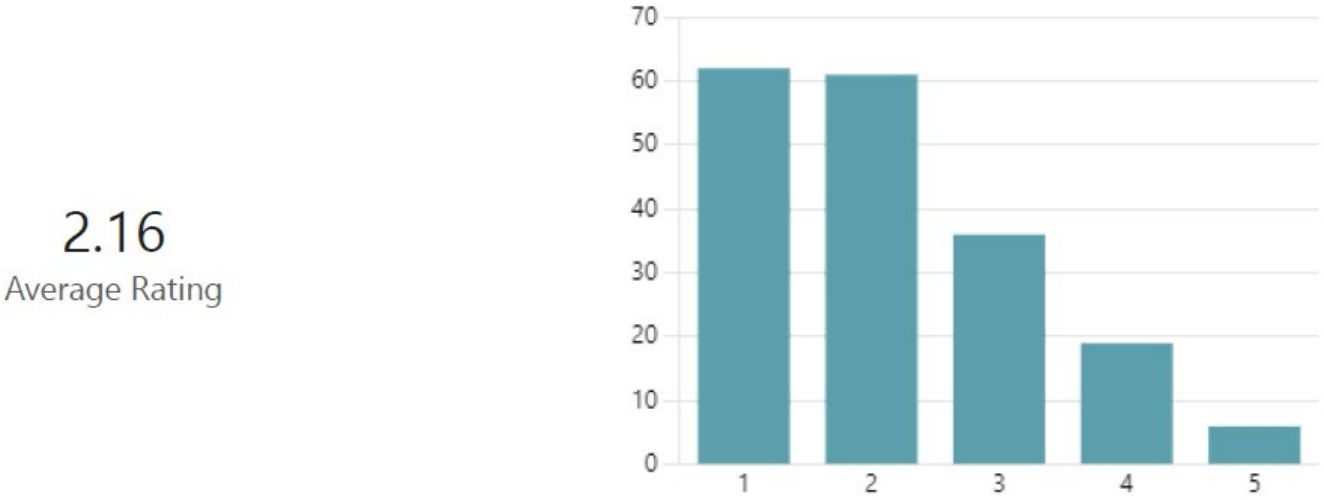


Figure C.62 Your household income bracket

Less than $20,000	31
$20,000 to $50,000	91
$50,000 to $80,000	102
$80,000 to $110,000	76
$110,000 to $150,000	83
$150,000 to $200,000	49
Over $200,000	55

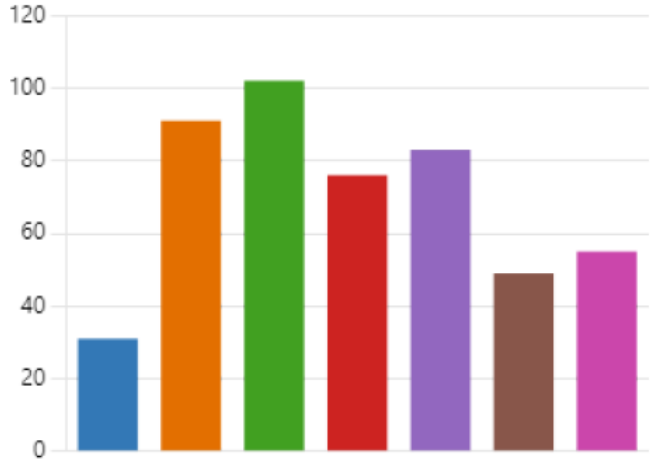
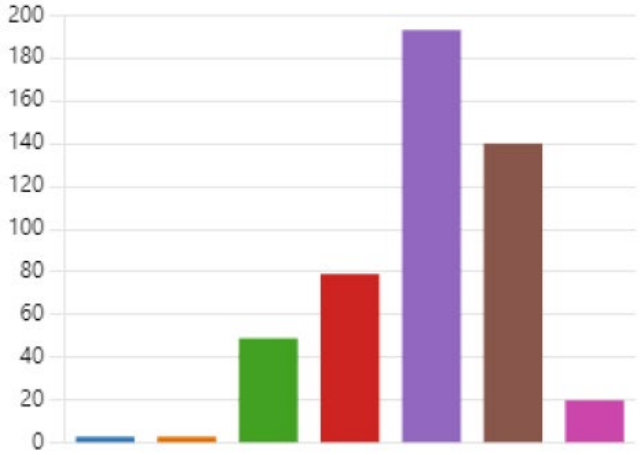


Figure C.63 Your age

18-24	3
25-29	3
30-39	49
40-49	79
50-64	193
65+	140
Other	20



Dissenting Report from the Deputy Chair, Mr Keith Wolahan MP and Hon Kevin Hogan MP

Reduce Risk, Reap the Reward - Getting the basics right in flood insurance

Introduction

This inquiry sought to investigate matters relating to insurers' responses to recent natural disasters in Australia, specifically relating to:

- South-east Queensland and Northern New South Wales (NSW) floods of February and March 2022;
- Hunter and greater Sydney floods of July 2022;
- Victorian, NSW and Tasmanian floods of October 2022; and
- Central west NSW floods of November and December 2022.

Coalition members of the Committee are grateful to Dr Daniel Mulino MP for his management of this inquiry. Dr Mulino's professionalism in conducting the inquiry and his enthusiasm for the inquiry is noted and appreciated. The Coalition appreciates the Chair's acknowledgement of the serious nature of this issue and the impact on people's lives particularly those in electorates represented by Coalition members.

Coalition members of the Standing Committee on Economics note the Inquiry's Final Report and make the following additional comments. In noting the Chair's willingness and attempts to negotiate a bipartisan report, the Coalition members seek to improve outcomes by providing a number of additional recommendations and disagree with aspects of the report in the interest of ensuring the sustainability of the insurance industry, affordability of insurance for Australians and reducing risk to the taxpayer.

It is important to recall the context in which the 2022 flooding events took place and the scale of its impacts, noting that it was the second largest insured event in the world in 2022, resulting in 240,000 claims. An additional 2,200 claims staff were employed by insurers in response to the event, but also that it followed the 2019/20 black summer bushfires, the global pandemic and associated issues. The Deloitte report findings noted:

- External factors made responding to Cat 221 particularly challenging;

- A tight labour market reinforced issues across the economy;
- Supply chain constraints for building materials remained and were tightened;
- The availability of new and used cars was limited; and
- The scale of the event tested claims processes at a scale never experienced in Australia and exposed weaknesses in insurers response that are being worked through.[1]

Coalition Comments

The Coalition Members of the House Standing Committee on Economics were pleased with the process of the Inquiry and note the diligence of the Chair. Important information was derived from the process of the inquiry on a range of pertinent issues related to the flood insurance sector, the 2022 flood response by insurers, planning, affordability and regulation.

The Inquiry was conducted over one year and received over 100 submissions. Public hearings were held in flood-affected regions of Caboolture, Logan, Lismore, Maribyrnong, Rochester, Heathcote, Molong, Eugowra, Richmond, Parramatta, Devonport, Cairns and Townsville. This enabled witnesses and key stakeholders including disaster response agencies and local government representatives to share information, and Committee members could view impacted areas.

Recent events in the United States of America, specifically Hurricane Helene and Hurricane Milton are yet to be factored into the 2025 reinsurance market and calculations on losses not yet near completion. Milton's insured losses will range from $30 billion-$50 billion (USD), the largest insured loss since Hurricane Ian in 2022 and caused $60 billion of losses. It is a reasonable assessment to suggest losses will be shifted to the reinsurance market.

The Coalition is committed to ensuring Australians have access to affordable insurance and a sustainable insurance sector.

General comments

Inflation and Insurance

The impact of high inflation on the cost and affordability of insurance cannot be underestimated. High inflation is having a significant impact on insurance costs, and the broader industry.

As a result of higher inflation, claims cost more – as prices increase. The increased cost of claims assessing, repairing and responding to claims leads to higher annual premiums.[2]

1 Deloitte, *The new benchmark for catastrophe preparedness in Australia*, October 2023
2 Swiss RE, *Submission 20*, page 1.

Insurers incorporate many different factors when setting premiums, including the need to cover future claims cost. In an environment of sticky high inflation insurers must maintain capital sufficient to cover the prospective claims over the period of which they are legally providing insurance services. Increasing premiums is the consequence of this inflation for consumers and higher premiums are used to cover anticipated higher future claim costs, as the price of goods and services increases.

Insurance prices are up approximately 16.2 per cent over the preceding 12 months (ranging from 16.6 per cent to 17.3 per cent) according to the Australian Bureau of Statistics.[3]

In their submission, the Insurance Council of Australia (ICA) noted the impact of inflation, along with other factors noted in the report, on recent premium increases in Australia. The ICA noted that higher inflation, especially in the construction sector was a critical issue on costs. In the ICA July 2024 snapshot, it was reported that the post-COVID cost of repairing or rebuilding a dwelling is now 27 per cent higher.[4]

Coalition's Additional Recommendations

Recommendation 1

The Committee recommends that insurers should continue to offer policyholders in high-risk flood areas the option to decline flood coverage while maintaining general insurance such as fire and theft protection.

Recommendation 2

The Committee recommends that Federal and State Governments address the imbalance in disaster funding, where 97% is currently allocated to response and recovery, and only 3% to mitigation. Governments at all levels must take greater action to reduce the risks of future flood events including through programs such as the Northern Rivers Resilience Initiative which will reduce the impacts of future floods, the cost of insurance and the cost of future disaster recovery.

Recommendation 3

The Committee recommends that there is a sequencing timeframe in place for the implementation of recommendations in the report, noting the onerous regulatory and reform measures currently underway in the insurance industry. It is important to note that the industry is allocating significant resources to

[3] Annual living cost increase highest for Employee households | Australian Bureau of Statistics (abs.gov.au), https://www.abs.gov.au/media-centre/media-releases/annual-living-cost-increase-highest-employee-households

[4] Insurance Council of Australia, Insurance Snapshot 2024, p. 1, https://insurancecouncil.com.au/wp-content/uploads/2024/07/INCA015-Fact-Pack_v12_No-Crop-Marks.pdf

various regulatory reform measures, and this is impacting business as usual operations with no direct link to improvements in customer service.

Planning

Flood risk can change over time due to a number of factors, including changes to the built and natural environment, updated flood mapping and risk assessment. Furthermore, the decisions by planners, including state, territory and local governments (supported by existing development regulation and processes), enables the development of residential areas in high-risk locations.

Australia needs a better approach to land use planning and harmonised planning principles that deliver a nationally consistent approach, to underpin a lower risk development environment for consumers and insurers.

Throughout the inquiry the identification of flood risk was raised by stakeholders and witnesses, along with the need to promote informed planning and development practices.

It is welcome that the report considers a review of, and increased incentives for, better land use planning, mitigation and building design to improve resilience and reduce risk. Land use planning has consistently been identified as one of the key means to reduce natural disaster risks to our communities and help build long term resilience.

There is a lack of consolidated information, or single point of truth, for urban planners, designers and builders. State/territory, local government and built environment professionals need more information to better inform their decision making and understanding of the implications of flooding and flood risk to insurance affordability.

Planners can be unsure how to participate in such processes and therefore unclear on how to properly address natural hazard risks in the land use planning process.

The Coalition welcomes the Committee's report and recommendations in relation to planning, flood mapping and the role of the state, territory and local governments.

In relation to Recommendation 5, Coalition Members welcome the sharing of guidance developed between Engineers Australia and the Insurance Council of Australia to better inform planning decisions and drive risk reduction. This is particularly important as it relates to new builds, mitigation efforts and community infrastructure. The entire risk profile begins at the point of development in high-risk areas, and this should be considered.

The Coalition cautiously welcomes Recommendation 29 and notes the development of materials that are in the "public good" and considered to be regulatory "best practice". There should be an adequate consideration of where the cost of recommendation 29 is carried.

The Coalition welcomes Recommendations 62 - 64, and notes this was supported by Coalition members of the Committee. Ensuring this information is available and standardised will ensure relevant stakeholders in the planning, building and government sectors are relying on a single source of flood information.

The Coalition acknowledges Recommendation 65 and implores the Australian Government to continue working with the ICA and the insurance sector to ensure affordability and sustainability in the sector.

Recommendations 71 – 72 are strongly welcomed by the Coalition and reflect the desires of many key stakeholders, including government and insurance bodies, and encourage a collaborative approach to risk reduction and awareness. The Coalition is committed to ensuring vulnerable Australians are not disproportionately put at risk through high risk, lower cost housing that result in higher insurance premiums and increased disadvantage as a result of disasters. The Coalition welcomes the approach of discouraging the take-up of high risk, poorly designed developments.

In relation to Recommendation 73, the Coalition cautiously accepts this approach on the basis of the review and application being in the domain of states and territories to consider the unique landscapes and built environments. Consistent with recommendations 71-72, the Australian Government should work in partnership with state/territories.

Affordability

Affordability in the insurance market and as found throughout the course of this inquiry, particularly the flood insurance market, is increasingly unaffordable for some Australians.

The Coalition is concerned that elements of this report will make insurance less affordable and impact the availability of insurance in Australia. Recommendation 23 to detail the cost composition of premiums should also include the cost of any relevant government taxes and charges, including stamp duty and regulatory imposts imposed by the three levels of government that are driving costs.

The Coalition is concerned that the consequences of shifting costs, uplifting cover, creating new regulatory requirements and other obligations on insurers will result in higher costs, passed onto consumers through increased premiums. The Coalition urges a re-think about the necessity of the obligations and/or further consultation on implementation timeframes with industry in relation to the following recommendations:

- Recommendation 13;
- Recommendation 16;
- Recommendation 19;
- Recommendation 23; and
- Recommendation 25.

The Coalition seeks to respond specifically to Recommendation 25. The Coalition is concerned this obligation could consequently increase overall premiums for policy holders and result in consumers opting out of insurance.

The report fails to reflect the impact on the cost of doing business for insurers and therefore the cost of offering insurance. An unintended consequence of the report's recommendations

will be increased premiums because of new regulatory cost imposts, leading to reduced affordability and flexibility.

There are limited measures in this report to improve affordability.

The Coalition welcomes the benefits that Recommendations 25, 44, 55 and 60 offer consumers.

Increased Regulation

Given the pursuit of more onerous obligations on insurers, the Coalition is concerned about the cost impost this will have across the insurance sector which ultimately will be passed onto consumers.

The Coalition notes Recommendation 3 and is concerned that it changes the Australian insurance landscape and will see insurers held accountable for household maintenance. A consequence of this approach could result in insurers being held responsible for inherent structural defects such as movement of property and inadequate ventilation. These are matters that are not factored into insurance premiums, and if included, would drive up the cost of insurance. It should be noted that this approach could increase the period of claims processing and require additional inspection by insurers and/or their contractors, and additional demand for evidence from the homeowner.

Generally, insurance covers the replacement or repair of aspects that have been compromised by a listed event regardless of the pre-existing condition. Insurers should take a practical approach and where they do not already do so, provide a guide to policy holders on home maintenance.

To address any potential negative change in policy holder behaviour that leads to higher risk (i.e. homeowners reduce their maintenance), it should be included in the guidance that where maintenance is lacking and/or highly infrequent, this can pose a significant risk to the integrity of the home. Insurance is a protection against the financial implications of flood (and other impositions), however insurance is not a solution to flood risk and should not be treated as such.

As noted throughout the hearings, the insurance industry has been subject to changes since the major flooding events of 2010/11. At a high level these changes have centred around providing consumers with additional information, more clarity about their rights, access to information, a stronger General Insurance Code of Practice, AFCA's establishment and the use of protections against unfair contract terms on insurance contracts, regulatory and legislative changes such as the Financial Accountability Regime, an obligation to provide a Cash Settlement Fact Sheet and claims handling included in the definition of 'financial service'.

As the ICA noted in their submission, "*The Cash Settlement Fact Sheet (CSFS) obligation commenced on 1 January 2022 as part of the response to the Financial Services Royal Commission. A CSFS is a written document that insurers must give to consumers when they are offered a cash settlement, setting out the options available to settle their claim. A CSFS*

must outline the options available to a consumer, for example having their goods repaired or replaced, or receiving a cash payment."

The insurance industry must take extra caution to not remove the agency of consumers in making financial decisions, and insurers should not be empowered to disenfranchise consumers from their legal right to select the best outcome for their circumstances, through corporate paternalism.

Specifically, the Coalition is concerned about government direction in relation to recommendations 36, 37, 39 and 40. If acceptable, a process of co-design should be undertaken with industry for development and implementation.

Business Models

The Coalition believes it is not the role of the Australian Government to determine how any business is structured, including insurance, and workforce development and planning should be left to individual firms. Recommendations 37 and 38 should be provided as guidance and as recommendations to support future flooding events, as opposed to being pursued as legal obligations. This is duplicative of the Deloitte review being implemented by the ICA to address resourcing capability, including for catastrophe events, with a focus on workforce planning, resourcing models, catastrophe onboarding, training and competency management.

Data Sharing and Standardisation

Recommendations 50 – 54

The Coalition, while cautiously supportive of this recommendation, if adopted then clear, definitive guidance should be provided and be consistent with industry standards and comparable to other financial services sectors.

Throughout the inquiry insurers noted the significant number of requests from agencies, authorities and government in relation to the data they hold. These include regulators, emergency management authorities, Treasury and Parliamentarians.

Data sharing is a complex element in public policy, and this has been exhausted across many sectors. There is no industry data standard, which makes it extremely complex, costly and inefficient for different insurers to have a single data sharing proposal. These recommendations are going to take substantial time and resources for implementation.

As per the ICA's evidence (Submission 11), it was noted "*Policy-level and claims data is collected by insurers but not submitted to the regulators on an ongoing basis so the format, data items and definitions adopted will vary from insurer to insurer and differ from what is proposed by the regulators. For example, the proposed policy-level data includes the policyholders' address ('risk street' and 'risk suburb'), home building's 'year of construction', 'building type' and policy coverage details.*"

ICA is currently working with the Australian Prudential Regulation Authority on data transformation and has noted in a submission that this will "*…require significant upfront*

investment and sustained (increased) resourcing. As such, ICA members are eager to co-design the data collection with the regulators to ensure that any future collection will effectively inform policy development, government initiatives, regulatory reform and good consumer outcomes. IDT intends to collect granular data that can be shared across government agencies, but this is separate to an insurers' Code Governance Committee data reporting obligations, and the data items and definitions are not expected to align, posing additional data collection and dissemination challenges."[5]

The cost implications and delivery timeframes should be considered and the implications for business-as-usual operations noted.

Taxes and Charges

The Coalition is committed to lower, fairer and simpler taxes and welcomes Recommendation 86 in full.

Government programs

The Coalition is generally supportive of Recommendations 81-83 and looks forward to further work being undertaken in this regard

International experience of intervention

The Coalition is deeply concerned about aspects of Recommendation 70 and does not support the broadening of government reinsurance pools.

California's insurance market demonstrates this, where the experience has seen more than half of firms offering insurance exit the market because of increased exposure to risk (high risk development), worsening weather and regulatory intervention. A consequence of this interventionist approach has resulted in less competition, lower availability of insurance offering and poorly designed regulatory settings that do not enable insurers to accurately incorporate risk into premiums.[6]

The Coalition recommends that any regulatory intervention does not impose limitations on insurers to model risk, set premiums, accordingly, impose caps on premiums or limit the insurance market's capacity to accurately price environment risk.

The Coalition notes such intervention in the United States of America, specifically in California, Florida and Texas that has had significant consequences for the insurance market and shifted the risk and cost of insurance to the taxpayer.

The Coalition notes the global experience and recommends against the establishment of an Australian Government backed flood insurance scheme, such as the National Flood

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5 General Insurance Discussion Paper – Insurance Data Transformation (insurancecouncil.com.au), https://insurancecouncil.com.au/wp-content/uploads/2023/12/231221_ICA-Submission-to-APRA-Insurance-Data-Transformation.pdf

6 CAL Fire (2024) Fire Statistics. Accessed at: Statistics | CAL FIRE, https://www.fire.ca.gov/our-impact/statistics

Insurance Program (NFIP). Under the NFIP, the Federal Government in the United States has paid more than $51 billion in flood losses, with approximately $26 billion of this paid to only 25 localities. A report by the University of Chicago[7] has identified these counties as some of the fastest growing by population, demonstrating the shifting of risk and cost to the taxpayer, which is indirectly incentivising high risk developments and resulting in a cross subsidisation.

Conclusion

The Coalition Members of the Standing Committee on Economics thank all Committee members for their participation and contributions throughout the course of this Inquiry, and also thank the Committee Secretariat for their professional support of the Inquiry.

The Coalition Members also note the considerable time and effort of all witnesses and members of the community that developed and provided submissions, attended hearings and provided witness evidence. The Coalition urges the government to avoid interventionist tendencies which have been shown to make insurance unsustainable, expensive and transferring risk to the Australian taxpayer.

Mr Garth Hamilton MP
Deputy Chair

Mr Keith Wolahan MP

Hon Kevin Hogan MP

16 October 2024

[7] Does the National Flood Insurance Program Drive Migration to Higher Risk Areas? | Journal of the Association of Environmental and Resource Economists: Vol 11, No 2 (uchicago.edu), https://www.journals.uchicago.edu/doi/10.1086/726155

Additional Comments/Dissenting Report from Hon Andrew Gee MP, Independent Federal Member for Calare

Introduction

The Committee has worked in a commendably co-operative and productive way with respect to this inquiry.

I support the recommendations made in the main report.

However, I believe that more recommendations are needed.

This additional report should be viewed as a supplementary opinion to the main report.

Reforming the insurance industry is a significant undertaking. While the main report incorporates many recommendations and amendments which I suggested, there are further recommendations that can be made to facilitate change to this industry which is so badly and obviously needed. Those additional recommendations are included in this supplementary report below.

Throughout the course of this inquiry the Committee has heard evidence from policyholders about their treatment by insurers that is deeply disturbing and disgusting.

The debilitating effects this has had on traumatised policyholders is tragic.

It must be stopped.

The NSW Central West Floods of 2022

The storms and floods that hit central western New South Wales in November 2022 were catastrophic and devastating for our region and its residents.

Two lives were tragically lost in Eugowra which was the scene of the largest helicopter rescue in Australia's history.

Across the communities of our region, including Eugowra, Molong, Cudal, Canowindra, Manildra and Wellington, infrastructure, homes and businesses were destroyed. The stress,

fear and anxiety amongst our local residents from not only having survived the ordeal of their lives, but also facing an uncertain future, was palpable.

When disaster struck, our residents naturally turned to their insurers for help, and issues arose almost immediately.

For example, NRMA had been the insurer of choice for many local residents in Eugowra yet, in the immediate aftermath of the disaster, many residents reported problems in being able to talk to claims personnel. It took the company ten long days after the disaster to arrive at Eugowra Showground with a mobile claims unit to assist homeless residents. This was a source of anger amongst residents which grew stronger as the response to the disaster unfolded.

As the exhausting days of recovery wore on, problems with insurers just grew and grew.

I held public meetings in our electorate of Calare where residents were able to tell and share their stories.

It was empowering. Residents noted striking similarities in the way in which insurers were treating their policyholders.

These included: policyholders not having key provisions in their insurance contracts explained to them; claims processing being unnecessarily dragged-out; sub-standard and inconsistent expert reports; shoddy treatment by contractors and insurance company representatives; claims being unnecessarily knocked back; and policyholders being offered and accepting “low-ball” cash settlements because they were too exhausted to fight anymore.

It was clear that the rebuilding and recovery process has been made much harder, and the tragedy much worse, by the cold-hearted and shocking response of insurers to policyholders.

There were so many issues being raised about insurers that local residents and I began calling for a parliamentary inquiry.

To the credit of the government, it called one. The announcement for this inquiry was made, appropriately, at Eugowra, in July 2023.

This inquiry soon revealed what we in the central west of New South Wales long suspected – that the experiences of our residents were not unique and that many other Australians had been through the same insurance ordeal when faced with natural disasters.

For the first time a real spotlight has been put on the industry, and what it has revealed are unconscionable and systemic industry failures that exist at every step of the insurance process.

The evidence taken by this inquiry amounts to a withering and damning indictment of the insurance industry. While some in the industry may be ashamed of it, I suspect many are not.

Communities like Eugowra are a long, long way from the boardrooms of capital cities.

While not every insurance company did the wrong thing, the hell that a number of these large insurers have put policyholders though should not be sugar-coated.

Words should not be varnished when describing it.

The narrative put forward to this inquiry by the Insurance Council of Australia and a number of insurers was, in effect, that the floods of 2022 were unprecedented. This and other excuses such as poor planning decisions since the time of Governor Macquarie and European settlement, COVID, labour shortages and the war in Ukraine, all resulted in some customers having poor experiences.

Examples of this attitude and these excuses are littered throughout the written submissions and oral testimonies of insurance industry and company representatives.

But as we know, major natural disasters are not new to Australia or insurance companies.

There is simply no excuse for what a number of these corporations did to their policyholders and the Australian public should not let these insurers get away with this arrogant spin.

When insurance company representatives came to give evidence before this inquiry there appeared to be a complete lack of insight on the part of some of them as to the pain and suffering they had inflicted upon their own customers.

Notwithstanding that an army of public relations consultants had no doubt prepared many insurance company representatives for their appearances before this inquiry, in some cases getting apologies and acknowledgments for the living hell they had put their customers through was like pulling teeth.

As I have said, some insurers did do the right thing and some did genuinely try and assist residents in our area, but the fact remains that the industry giants clearly do not like the spotlight being put on industry practices or the healthy profits that they continue to enjoy.

This profitability has come as a high cost to many of their fellow Australians.

The reality is that the Australian insurance industry has had a good thing going for a long time.

It has donated to both sides of politics. It’s a strategy that has served it well.

In the midst of healthy profits, it has been left to largely self-regulate.

Insurance companies don’t just answer to shareholders they also answer to the nation. They don’t just have insurance contracts with our residents and businesses, they also operate with a social license.

The Australian public needs to be vigilant and not be afraid to revoke their licenses to operate when egregious behaviour comes to light. This Inquiry has exposed plenty of that.

Shocking Evidence From Our Region

The evidence from policyholders about their callous treatment at the hands of insurers was truly shocking.

Ms Kirsty Evans is a solicitor from Molong, New South Wales, whose firm in Orange carried out free legal work for numerous vulnerable clients as they struggled with insurance companies. She gave evidence about one of her clients, Mr Tracy Scott:

> Mr Scott paid his insurance premiums and had his claim accepted by the insurer, however some 18 months later he is still battling to return to his home. He is a vulnerable customer and his vulnerabilities are well-known to the insurer. In circumstances where the insurer failed to communicate properly with third-party suppliers, Mr Scott is reliving his trauma all over again by having to explain himself and continues to fight to be believed by his insurer. He is now experiencing stress and ongoing trauma at the hands of his insurer.[1]
>
> …
>
> Tracy had been paying significant premiums to GIO for coverage of over $1 million during the life of his policy. His claim was accepted without issue. However, the Building Contractor GIO sent to undertake the strip out and rectification works did not meet professional standards and caused further damage to his property. The initial builder damaged the concrete slab with jack hammers, damaged wooden window sills, cracked tiles in the bathrooms, threw tiles and rubble down the drains leading to additional plumbing work, destroyed the rockery garden, and dumped building rubble and old carpet in the garden beds and lawns, so Tracy couldn't mow.[2]
>
> …
>
> Significantly, when Tracy tried to tell GIO about his concerns with the initial builder, he was accused of lying….[3]
>
> …
>
> He has said to us that he felt he had been "fobbed off as old and stupid" before our involvement. It was not until after this inspection, 10 months after the flood, that Tracy's claim was referred to a "Specialist Customer Care Team" due to his vulnerability. Why this had not been identified earlier remains unexplained.[4]
>
> …
>
> Tracy was diagnosed with internal bleeding in early February 2024, resulting from ulcers caused by stress. Tracy is convinced that the significant stress since the flood event, living in a caravan for 18 months, and dealing with the insurance claim and builders, has caused his medical condition. The chronic illness and

1 Cheney Suthers Lawyers, *Submission 61*, p. 1.
2 Cheney Suthers Lawyers, *Submission 61*, p. 1.
3 Cheney Suthers Lawyers, *Submission 61*, p. 2.
4 Cheney Suthers Lawyers, *Submission 61*, p. 2.

> pain have a significant impact on his mood and his ability to manage his PTSD. He underwent surgery on 6 May 2024.[5]

Ms Heba Elkurdi, owner of a gym in Molong that was destroyed in the floods, stated:

> My experience with the insurance company was very confusing and emotionally distressing.[6]
>
> …
>
> And then dealing with the insurance was a bit of a shock to me. I just didn't expect it to be so inconsistent. For me, the biggest thing was there was no concrete process. Dealing with the insurance was total confusion. I had no idea where I stood. I had loans and banks chasing me, memberships that I owed to members, and not know where I stood with that. How do I move forward?[7]
>
> …
>
> You tend to repeat yourself. It is quite a traumatic experience. Yes, it's just something you don't really need to go through after losing everything, but then not having the security after you've paid the premiums and you think you had security. You're pretty much out there on your own going, 'What do I do now if I lose everything?' It's pretty scary to be put in that position. Definitely case management and better understanding, and that one point of contact would have made things a lot more straightforward for me.[8]

Ms Kirsty Evans gave the following evidence about the experience of one her clients, Molong business owner, Ms Sarah Bone:

> But the continued delays, the lack of service providers in providing realistic quotes, and then the unwillingness of the service provider to actually do the work after the quote was provided caused significant delays, which means the time period for her business interruption had expired. Plus she was receiving a penalty. It's a circumstance where NRMA failed her at every level. They failed her at every single point of her claim. Her experience is why I'm here—and collectively for everyone as well—but Sarah's experience should not have to occur. It shouldn't be, 'That's one. It's enough. We accept that errors happen.' Sarah's experience should not happen to anyone ever. The insurance industry let her down.[9]

Mr Phillip Davis, who had his home destroyed in Molong gave evidence of repeated "low-ball" offers of settlement made by his insurer:

> Every time you turned around, they'd lowball you an offer. The first was $96,000 to rebuild the house, and we said no. The next one was $114,000, from memory,

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5 Cheney Suthers Lawyers, *Submission 61*, p. 3.
6 Ms Heba Elkurdi, *Committee Hansard*, 7 May 2024, Molong, p. 13.
7 Ms Heba Elkurdi, *Committee Hansard*, 7 May 2024, Molong, p. 13.
8 Ms Heba Elkurdi, *Committee Hansard*, 7 May 2024, Molong, p. 17.
9 Ms Kirsty Evans, *Committee Hansard*, 7 May 2024, Molong, p. 17.

> and I said, 'If you can build the house and repair it for that cost, you come and do it, because there's no way in the world'—the couple of people I got to quickly walk through and have a look were estimating 300 grand alone, just to fix the house back up to where it was.
>
> Then it went stagnant and nothing happened for months. You'd ring them and there'd be nothing.[10]

Mr Davis's wife, Ann-Maree, gave evidence of the tactics used by insurers to secure a cash settlement:

> They rang me. Phillip's been looking after all of the contact with the insurance company, but they rang me one day and said that they couldn't contact Phillip and they'd been trying for days. I said, 'No, that's a lie, because he's always got his phone on him.' I think they were trying to get me to agree to something, without Phillip knowing, because I was at work and Phillip was at work. I was like, 'No, you need to ring him. Don't talk to me. I'm not accepting anything without him knowing.'[11]

After a public spotlight was put on the Davis' case, the insurer agreed to build a new house which was what Mr and Mrs Davis were entitled to under their policy.

Ms Kaylene Philpott, Owner, Director and Manager of Molong Post Office and Newsagency described the stress of arguing with insurers about what was flood damage (not covered) and what was storm damage (covered) stating:

> We first lodged our claim—we waited—it was back in the December. Come February, I got a phone call at about midday saying, 'We can't help you. This is all flood water; you're not covered for flood. You've got no insurance.' With that, I went to pieces, shut the shop and said, 'I'm not going back near the place.' I took the afternoon. I just went home and I think I cried all afternoon. We'd put our hearts and souls into the business.[12]
>
> …
>
> Then we had a building assessor come out, and they did a scope of work on our building. They came back with a ridiculous offer of like $20,000, and we just went 'no way'. We replaced one counter in August 2022, and it cost us $20,000. That's just one counter.[13]

Mr Brian Smith and Mrs Lesley Smith had their house in Eugowra destroyed. They were denied their claim for footings despite evidence of a log smashing into the side of the house and nearby homes being picked up by the floodwater and floating away. They were further denied a claim for roof repairs despite evidence of a rescue helicopter hovering above it for 15 to 20 minutes with the rotor downwash causing it to sag.

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10 Mr Phillip Davis, *Committee Hansard*, 7 May 2024, Molong, p. 25.
11 Ms Ann-Maree Davis, *Committee Hansard*, 7 May 2024, Molong, p. 27.
12 Ms Kaylene Philpott, *Committee Hansard*,7 May 2024, Molong, p. 28.
13 Ms Kaylene Philpott, *Committee Hansard*,7 May 2024, Molong, pp. 28-29.

The Smiths were then subjected to months of low-ball cash settlement offers from their insurer while their house sat vacant on their property in a decaying, mouldy state.

Mrs Lesley Smith, stated at the inquiry's public hearing in Eugowra:

> It took 14 months of media coverage, help from Mr Gee and Legal Aid to finally get a settlement. While we are very grateful for the help and support, it should not have come to the point where this was needed. At no stage through the whole process were we offered a builder to come and fix our home; it was always a cash settlement. Our home has just been demolished and we are hoping to be in our new home before Christmas. We struggle to understand why the process took so long to settle and why things were refused due to the age of the building. When you take out insurance, you are asked when the house was built. If they have no intention of paying the full policy, why charge such high premiums?[14]

Mr Smith added:

> You'd explain the same thing over and over again to a different person. Instead of being given to one person to handle your case, you'd be ringing up and getting someone different, so you'd have to explain the whole thing again and then be put on hold while they checked into it. You could be on the phone with them for two or three hours, and that's wrong.
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> …
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> It's been incredibly stressful. You're put through a lot of stress for no reason. How hard is it? We pay our premiums and we're in a contract with the insurance company and, when it comes time for them to honour their side of it, they don't.
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> …
>
> It's stressful. Not only that; after our house was declared unliveable and we can't do anything with it, they're still taking premiums from us.
>
> …
>
> From the time we put the initial claim in to when we cancelled it, the house was unliveable; it was full of mould. They haven't offered to have it rebuilt for us, which is part of their deal—payment or get it rebuilt—so they haven't lived up to their part of the contract, as far as I'm concerned. It's hard to explain. It makes you very angry.[15]

Mr Hugh Ellis of Eugowra gave this evidence:

> Although we cancelled this policy, they continued to take our monthly premium for five months. They sent us a policy renewal notice, despite our policy having been cancelled. They would not return our calls or answer our emails. We were shocked at the lack of respect shown to us after being loyal customers for nearly

[14] Mrs Lesley Smith, *Committee Hansard*, 8 May 2024, Eugowra, p. 26.
[15] Mr Brian Smith, *Committee Hansard*, 8 May 2024, Eugowra, pp. 29-30.

> 40 years—where we paid hundreds of thousands of dollars to them during our time as farmers and didn't make a claim. Everything is set up in the insurer's favour. We understand that insurance companies are businesses and that they need to make money, but we would ask them to understand that we're not just a policy number.[16]

Mr David Norris said this of his family's experience in Eugowra:

> … we've had 63 years of consecutive insurance with NRMA, both the house and the hotel… 63 years is loyalty to a business. Loyalty only goes one way, and I think the townspeople of Eugowra have witnessed that firsthand.[17]

Mrs Carole Shennan, Senior Support Worker, Disaster Relief and financial councillor, CatholicCare, Wilcannia-Forbes gave this evidence at Eugowra of trauma-hit policyholders:

> What we see sitting in front of us, straight from the early stages—and it is still happening now—is there are lots of tears and lots of emotion. These people have been through an absolute disaster, and it has been extremely traumatic. A lot of people thought they were going to lose their life on that day. That's a huge life-changing event. And then to make a phone call to an insurance company, and just to be told straightaway that you're not covered for flood.
>
> …
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> They're of the years where there's trust and you expect people to have your back. As soon as they make the claim, they're told 'no'; that they didn't understand what was in their policy at all. It's never been explained to them.
>
> …
>
> As far as we know, no insurance companies have rung any clients to see how they are. There's only one insurance company that we know of that has ever done that.[18]

Mr Sean Haynes, a Eugowra homeowner, stated at the same hearing:

> I do believe that all insurers need to start listening or supporting their policyholders. When a policyholder goes to them, it's in that policyholder's time of need and it's about ensuring they respond with respect and dignity to ensure the policyholder is appropriately managed and dealt with through that time of need. What we've all seen is that policyholders are being treated poorly in response to their making a claim, and that's not why we take insurance. We believe that there's a backstop there, and that's why we take insurance out, to provide that level of reassurance…but when you're then placed in this situation that loyalty and trust you have with them disappears.[19]

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16 Mr Hugh Ellis, *Committee Hansard*, 8 May 2024, Eugowra, p. 40.
17 Mr David Norris, *Committee Hansard*, 8 May 2024, Eugowra, p. 39.
18 Mrs Carole Shennan, *Committee Hansard*, 8 May 2024, Eugowra, p. 7.
19 Mr Sean Haynes, *Committee Hansard*, 8 May 2024, Eugowra, p. 32.

Change Must Happen

As the testimony above highlights, the flood and storm events of 2022 were devastating for thousands of residents and businesspeople. Lives, homes and livelihoods were all tragically lost.

The toll taken on physical and mental health has been immense.

The reality is that there is a massive power imbalance between policyholders and insurance companies. This inquiry has exposed it.

At the end of the day, if a policyholder wants to fight a knock-back from an insurer, they're going to have to fork out big dollars for an expert hydrology report, a building report and a solicitor. If you've lost everything or your business is in ruins, there is just no prospect of fighting back.

This imbalance and disparity needs to be corrected. Change is clearly needed.

This Inquiry and reports need to be a pivotal moment in the way that insurers deal with disaster hit policyholders because one certainty that we have is these natural disasters will keep occurring.

I wish to thank all who gave evidence to this inquiry.

For many having to re-live the trauma they suffered has been very difficult.

It is my hope that by telling their stories, collectively they can be a catalyst for long-overdue change and reform to this industry.

I also extend a heartfelt thank you to the countless unsung heroes around our nation who risked their own lives to save others during these devastating disasters, and also to those who worked with such care and compassion to help so many to rebuild their lives and recover from such tragic loss. This work continues to this day.

We were privileged to meet many of these great Australians over the course of this inquiry and their kindness will never be forgotten.

Change to the insurance industry simply must happen. One issue that stands out is the need to reform the provision of sub-standard and over-priced "expert" reports which are plaguing the industry, but there are many more.

Some reforms which I support have been recommended by other bodies. For example, I am broadly supportive of the recommendations of the Independent Review of the General Insurance Code of Practice as they relate to hardship.

Further recommendations are set out in this supplementary report below.

Further Recommendations

Experts and Expert Reports

Recommendation 1

That the Insurance Council of Australia introduces a Code of Conduct for Assessors and Experts which would include provisions that the expert:

(a) has read the Code of Conduct and agrees to be bound by it;

(b) must exercise their independent, professional judgement in relation to the issues the subject of the report;

and that an expert's report must identify:

(c) the expert's qualifications as an expert on the issue, the subject of the report;

(d) the facts, and assumptions of fact, on which the opinions in the report are based;

(e) the expert's reasons for each opinion expressed;

(f) any literature or other materials utilised in support of the opinions;

(g) any examinations, tests or other investigations on which the expert has relied;

(h) what damage occurred to the property;

(i) what reasonable maintenance has not been undertaken by the consumer;

(j) whether the failure to maintain would have made a significant difference to the outcome and damage sustained to the property; and

(k) where applicable, explain the causal link between the failure to maintain and how that resulted in a material contribution to the damage sustained to the property.

Recommendation 2

That the requirement to abide by the above-mentioned Code of Conduct for Assessors and Experts be stipulated in the General Insurance Code of Practice and that this Code of Conduct also be annexed to the General Insurance Code of Practice.

Recommendation 3

That in addition to the establishment of an expert panel of hydrologists referred to in Committee Recommendation 7, a scheme be established by the Australian Government and insurers that provides for policyholders to access funds to pay for expert building reports when disputes are escalated to the Australian Financial Complaints Authority.

Recommendation 4

That external experts and third parties involved in the claims settlement process, such as cleaners and removalists, be included in the "Service Supplier" definition of the General Insurance Code of Practice.

Recommendation 5

That the General Insurance Code of Practice be amended to provide that external experts should not be permitted to make recommendations on claims decisions unless they are suitably trained and qualified claims assessors.

Recommendation 6

That the General Insurance Code of Practice be amended to provide for insurers applying greater control and oversight of the performance of building contractors, assessors and experts and the reports they prepare.

Cash Settlements

Recommendation 7

That insurers be required to update the current cash settlement factsheet with input from consumer advocates to include detailed information in plain English regarding the advantages and disadvantages of accepting a cash settlement and that this be incorporated into the General Insurance Code of Practice.

Recommendation 8

That the General Insurance Code of Practice be strengthened to provide a clear framework for the offering and acceptance of cash settlements including the information and clarity that policyholders need to fully understand the significant implications of, and risks associated with, cash settlements.

Recommendation 9

That paragraph 90 of the General Insurance Code of Practice should be amended to exclude cash settlements.

Recommendation 10

That the General Insurance Code of Practice be amended to stipulate that an insurer must provide a complete breakdown (un-redacted) of the costs covered by a cash settlement in a cash settlement offer.

Recommendation 11

That the General Insurance Code of Practice be amended to provide that when making offers of cash settlements, insurers are required to take into account the higher cost of labour and materials after disasters.

Recommendation 12

That the General Insurance Code of Practice be amended to oblige insurers to ensure that the quotations being relied upon in cash settlement offers are clearly understandable and transparent for policyholders.

Claims Handling

Recommendation 13

That insurers be required to accommodate the preferred communication mode nominated by a policyholder during the claim processing period.

Recommendation 14

That in the event of full or partial denial of a claim, insurers be required to provide to the policyholder the reason(s) for the denial and a copy of the evidence relied upon for the denial.

Recommendation 15

That the General Insurance Code of Practice be amended to provide that:

- **policyholders must be informed, consulted and approve of any major building work to be carried out on their dwellings, including the removal of fixtures and fittings ("strip-outs");**

- **insurers should be required to provide policyholders with a comprehensive explanation regarding the necessity of a strip-out, the items to be removed and the implications for the policyholder's claim; and**
- **insurers should be required to document and photograph affected areas of the dwelling before a strip-out.**

Recommendation 16

That Paragraph 81 of the General Insurance Code of Practice be strengthened by defining what amounts to sufficient reasons for a full or partial denial of a claim and requiring insurers to clearly explain their decisions in clear, plain English, rather than just referring to Product Disclosure Statements.

Recommendation 17

That paragraph 81 of the General Insurance Code of Practice be strengthened to guarantee that claims decision communications automatically include copies of assessment and expert reports that the insurer has relied on when making the decision.

Recommendation 18

That the General Insurance Code of Practice stipulates a timeframe in which an insurer must make a settlement offer on an accepted, or partially accepted, claim.

Recommendation 19

That the General Insurance Code of Practice be amended to stipulate a timeframe for an insurer to commence actioning repair/recovery work on an accepted claim.

Recommendation 20

That the General Insurance Code of Practice be amended to provide that insurers be required to move complex claim applications or claim processes unresolved after a reasonable period to a case-management system and further that the period referred to is clearly defined in the General Insurance Code of Practice.

Recommendation 21

That Paragraphs 70 and 146 of the General Insurance Code of Practice be strengthened to:

- **ensure that meaningful updates are provided to consumers, particularly where these communications are automated; and**
- **require insurers to issue regular progress reports to policyholders and regularly provide genuine information specific to the policyholder's claim. This should include an outline of the claim process, indicating steps that have been resolved and the anticipated timeframe before the next step is completed. If the insurer is unable to meet their own nominated date for progress this should trigger an internal escalation process.**

Recommendation 22

That insurers better resource and train employees to communicate with consumers in a transparent manner, clearly informing them on when their claim will be assessed and how their claim is progressing.

Recommendation 23

That Australian Security and Investments Commission's (ASIC) 2022 letter outlining its expectations of insurers with respect to claims handling and severe weather events be codified in the General Insurance Code of Practice.

Recommendation 24

That the broad discretion contained in paragraphs 77, 83 and 84 of the General Insurance Code of Practice that allows insurers to avoid claims timeframe obligations should be removed.

Recommendation 25

That ASIC and the Australian Prudential Regulation Authority be resourced to collect and publish recurrent data on claims handling timeframes, outcomes, disputes and dispute resolution across all insurers.

Accessibility/Hardship

Recommendation 26

That the General Insurance Code of Practice be amended to include obligations for insurers to consider premium hardship support options to help consumers maintain cover. In this regard consideration should be given to including options such as short-term premium waivers and discounts, deferral of premium payments, and removing the loading for monthly premiums.

Recommendation 27

That paragraph 96 of the General Insurance Code of Practice Code be strengthened to ensure that employees/consultants of insurers dealing with vulnerable consumers have the required level of expertise.

Planning and Resourcing

Recommendation 28

That all insurers be required to engage in operational scenario planning to better prepare for more frequent extreme weather events.

Recommendation 29

That in view of the increasing frequency and impact of severe weather events, insurers should allocate adequate ongoing resourcing to their claims handling, complaints management and dispute resolution functions.

Insurance Policies

Recommendation 30

That the General Insurance Code of Practice be amended to require insurers to provide policyholders with a plain English explanation of the policy and its terms upon the taking out of an insurance policy and at each renewal of that policy.

Recommendation 31

That the General Insurance Code of Practice be amended to provide that when claims are denied based on existing "wear and tear" or lack of maintenance, insurers must:

- **provide clear evidence of the maintenance that was alleged to be lacking;**
- **explain how that maintenance would have prevented the loss; and**
- **demonstrate the link between the loss and the wear and tear or lack of maintenance.**

Recommendation 32

That the General Insurance Code of Practice be amended to provide that insurers be required to tell consumers what is required by an insured for a property to be maintained, including the minimum actions they need to take to avoid not being covered because they have failed to 'maintain' their property.

Recommendation 33

That the General Insurance Code of Practice be amended to provide that insurers must notify policyholders (either at the time of taking out a policy or at renewal), when they are of the opinion that they are underinsured or that the sum insured no longer covers the full cost of rebuilding.

Transparency/Enforceability

Recommendation 34

That the General Insurance Code of Practice be amended to strengthen and provide greater transparency on breaches, the reporting of breaches and sanctions.

Recommendation 35

That the General Insurance Code of Practice be made mandatory for all insurers as well as being contractually enforceable by consumers against insurers.

Recommendation 36

That the Australian Government provide place-based community legal centres and financial counsellors to be provided with ongoing, adequate funding to engage and inform community members about their rights in relation to insurance policies in preparation for, and in response to, disasters.

Recommendation 37

That the General Insurance Code of Practice be amended to require insurers to:

- **identify the components of an insurance premium that are based on natural hazard risks for new and renewing home and contents policies;**
- **provide full explanations of any premium increases that relate to risk;**

- **share all known natural hazard risks impacting a property with the policyholder in a plain English format; and**
- **reflect any risk mitigation measures in the premium and explain this to the policyholder.**

Recommendation 38

With respect to Committee Recommendation 46, not only should the General Insurance Code of Practice be approved by ASIC, but there should also be designation of enforceable code provisions.

Hon Andrew Gee MP
Independent Federal Member for Calare

16 October 2024