

February 2016

***Response to Reform of the Home Building Compensation Fund
Discussion Paper – December 2015***

Home Modifications Australia (MOD.A) is the national peak and representative body for the providers of home modifications for across the country.

Our response to the NSW Fair Trading's discussion paper *Reform of the Home Building Compensation Fund*, released in December 2015, identifies issues raised in the paper that directly impact on our constituents and their clients, the majority of whom are aged and/or have a disability and who may be significantly impacted by any increase in costs which may flow from changes made to the current HBCF.

The Home Building Compensation Fund (HBCF) insurance has a substantive impact on all home modification work conducted in NSW valued above \$20,000. The exemption in the NSW Home Building Regulation (Home Building Amendment (Insurance Exemption) Regulation 2015) for all work done under the (previous) Home and Community Care (HACC) Programme only now refers to work funded under the Community Care Support Programme (CCSP), which remains funded by the NSW State Government. The majority of home modifications in NSW are done utilising Commonwealth aged care funding, and for this work the exemption does not apply (since January 2016), and HBCF insurance is required for work over the value of \$20,000. Between now and the middle of 2019 the National Disability Insurance Scheme (NDIS) will progressively rollout across NSW and take over the function of funding home modifications for younger people with disability. As the NDIS is a Commonwealth funded scheme the exemption will progressively cease to have effect, and all providers of home modifications will need to have HBCF insurance for work that requires it.

MOD.A has informed its members of the discussion paper and has sought their input for this response, as well as encouraging member organisations to directly respond.

Summary of reform options

The table below outlines MOD.A's response to the reform options in the discussion paper (see Executive Summary pp. 8-9):

Option	Response	Rationale
1. Premium pricing	Reject	Any increase in premiums will directly impact on the consumer. Those requiring home modifications in excess of \$20,000 are some of the most vulnerable members of the community. Any increase in premium cost may negatively impact their decision to go ahead with modifications designed to improve their wellbeing and independence. Irrespective, we do not agree with the wholesale increase of premiums across all types of work – it would seem more logical to only increase those premiums related to type of work that constitutes the majority of claims against the scheme.
2. Reduce coverage period for major defects	Reject (until safeguards are built in)	Reducing the coverage period for major defects from 6 to 4 years may impact on clients who rely greatly on the functional integrity of the work done, and may also have contributed extensively toward it and may not be in a position to contribute more. We would want to see safeguards built in to ensure that work is done optimally in the first place, and that there is some recourse to claim if defects showed up beyond the four0year timeframe. There seems to be evidence that most claims are made within 7 years of the issue of certificates, but this does not indicate how many are within 4 years (the proposed term), nor does it relate specifically to work done for home modifications.
3. Replace combined cover with separate cover for non-completion and defects	Support	The option to split the cover into non-completion and defects appears to be a sensible proposal, affording lower premiums and broad consumer protection. It would be particularly appropriate for home modifications, where there is little history of non-commencements. This could serve to reduce the potential cost increase proposed in Option 1.
4. Adopt a voluntary model of insurance	Reject	MOD.A does not support a voluntary approach, which would be working counter to the trend across States in Australia. Whilst Tasmania has a voluntary approach, they are currently redrafting the regulatory framework for home building which will require greater adherence to relevant standards of compliance to ensure certification. Given the risk to vulnerable individuals who require home modifications, MOD.A does not advocate the dropping of HBCF insurance for work over the current threshold.
5. Split cover into mandatory for non-completion and voluntary for defective work	Reject	For the same reasons given in Option 4 MOD.A does not support a split cover approach, with mandatory insurance for non-completion and voluntary for defective work. This would again render more vulnerable those clients who have contributed greatly to the cost of their home modification. For this reason we do not support the Western Australia approach, and believe that approach will be problematic when more home modifications are available to home owners in that State with the rollout of the NDIS and home-based aged care.

6. Increase the costs threshold for requiring insurance	Reject	<p>The option of increasing the threshold at which HBCF insurance is required, above the current level of \$20,000, would take NSW well beyond that of other states and territories. The current figure is not particularly significant in terms of home modification work that is done for older people or people with disability. Typically bathroom modifications cost less than this figure, and more extensive renovations to multiple rooms are significantly over this figure. Ideally the figure would be reduced, as claims made to MOD.A's Rectification Fund have tended to be for the remediation of work done on bathrooms. Inability to track builders who need to rectify their work could have significant impact in the future if more and more bathroom and similar renovations are being done to enable people to remain in their homes, and this would be exacerbated by an inability to claim insurance where builders were not able to be found.</p>
7. Limit the requirements for insurance to certain types of building work	Support (with dispensation made for common home modifications work)	<p>The option to limit the requirement for insurance to certain types of building work appears sensible, particularly if certain work like swimming pools and fencing are excluded in the future. The hope of MOD.A would be that many modifications would qualify under the definition of "significant structural renovations", as the work done on homes to enable people to remain living there is inevitably significant to their functional independence. We are concerned, however, that common work such as the building of ramps, may not qualify under this definition, and alternative methods to ramps, "berming" which is a form of landscaping, may also be excluded because of its association with an excluded category. Some consideration of the impact of the individual and the function of the build must be taken into consideration when it is determined whether or not HBCF insurance is required.</p>
8. Remove cover for low-rise units	Support	<p>Removing cover for low-rise multi-units and replacing with the new strata building defects regime would have little or no impact on the delivery of home modifications and the protection provided to clients. MOD.A is broadly supportive of this measure, particularly if the new strata building defects regime is strengthened to ensure that adequate provision is made for the access to older people and people with disability, and for the provision of individual home modifications whenever they are required.</p>
9. Adopt a fee-for-service model for distribution	Support	<p>The abolition of brokers and fees, other than for specific and requested services, appears to make sense, and would reduce costs all around including for those who provided home modifications above the threshold value.</p>
10. Have Government "direct-sell" the product	Support	<p>The Government "direct-sell" model appears able to work in tandem with Option 9, and should reduce costs. The main point is that brokers' commission is costly, and we would do well to avoid it. The increased administrative fees would be absorbed into the costs of premiums, and if this still is less overall than is currently paid as brokerage fees then this is a savings worth making.</p>
11. Test the market for outsourced management services	Support	<p>The option of separating and outsourcing the assessment and management services is worth looking at, as long as offering this to the market will genuinely reduce costs. As the intent of NSW Fair Trading is to significantly reduce the cost burden of HBCF insurance, there is a question about the attractiveness of the sector to the private market.</p>

<p>12. Create license classes to reflect the scale and risk of relevant work</p>	<p>Support (with aspects of home modifications regarded as (a) specific tier(s))</p>	<p>There is some logic to the proposal to change the structure of the licensing system through the introduction of tiers of licenses associated with the type and complexity (and value) of the work undertaken. The change would require significant work to understand the type of skills and qualifications needed, for example, to undertake work that renders homes functionally accessible and to operate within an environment where some of the occupants are elderly, unwell or in other ways quite vulnerable. The characteristics of the client should be taken into account if these tiers are introduced. MOD.A would also want to ensure that organisations who have previously delivered home modifications and express a wish to continue this sort of work are given every opportunity to reform their governance and management structures in line with the requirements of any altered licensing regime. It will be important to determine if this option is being pursued, as organisations involved in this kind of work are already facing significant pressure to alter their operations to meet the altered demand of disability and aged care through individual packages as opposed to block-funding. Changes to licensing requirements would be better implemented during this period of change rather than required after organisations have transitioned to meet the challenges of the sector.</p>
<p>13. Requirements for company contractor licenses</p>	<p>Uncertain</p>	<p>The option to change license eligibility for privately held companies and require that a director hold the license, rather than an employee, may have implications for home modification providers, in particular those which operate as multi-service outlets (MSOs) with a range of skills required to fulfil governance requirements. Changes made in Option 12 are likely to have an impact here too, as the current capacity of home modification providers differs markedly in terms of the range, complexity and scope of jobs that they do. The majority would be doing work that mainly fell outside licensing and insurance requirements. As reforms are introduced in both aged care and disability, and as competition within the sector and from outside the sector is gradually encouraged, some smaller services (particularly in metropolitan locations) are well placed to grow and expand the range of the modifications they provide. There is, therefore, more rather than less likelihood that services will be across both small and large jobs, with a very different licensing regime required for each. This may be difficult for some organisations to manage, given that they have traditionally operated as Not For Profit (NFP) entities, and MOD.A would be disappointed if this was the principle factor in determining their future business plans.</p>
<p>14. Transfer insurance eligibility into the licensing process</p>	<p>Uncertain</p>	<p>The option of transferring insurance eligibility into the licensing process, and requiring a financial assessment of the licensed builder may impact negatively on home modification providers (as NFPs – see 13), and drive some out of business, given the level of assets that would be required to secure access to insurance as part of the requirements of the license. If this resulted in current providers dropping out due to an inability to meet the requirements this would be for MOD.A, as in this time of growth and reform we would want to see more rather than less specialisation in the home modification sector to meet rising demand. Reduced competition and loss of expertise could serve to reduce quality and increase costs. Separate license classes, with appropriate insurance costs attached to each, may mitigate this problem, although potentially holding multiple classes of license may be problematic for those services which want to extend the scope of home modifications available.</p>

15. Narrow the scope of activities licensed and regulated under the <i>Home Building Act 1989</i>	Support (with home modifications as specific license tier)	There is an argument for supporting the option to narrow the scope of activities licensed under the Home Building Act, and some work like excavation work may be usefully exempted. MOD.A believes, however, that home modification work should perhaps attract a new and separate licensing requirement (in line with Options 12 and 13), in order to ensure greater consumer protection than is currently available. If a special category was established this could have specific qualification and financial requirements attached to it.
16. Refocus continuing professional development to address risk areas	Support	Refocusing professional development on risk areas could be applied to home modifications, particularly if the option of establishing a specific home modifications license category (see 15 above) was adopted. MOD.A is working on the development of a national quality standard for home modifications, and a requirement to address this standard could be made mandatory for providers who wish to be licensed and deliver home modifications.
17. Enhanced supervision requirements for licensees	Support	Enhanced supervision requirements for licensees is likely to lead to an improvement in quality, and previously MOD.A, when it operated as the NSW HMMS State Council provided certification to many home modification jobs in NSW. The proposed new quality standard will require evidence of quality management of every stage of a build and appropriate sign off by licensed tradespeople over sub-contractors, as one element of compliance. Within this framework there is scope for enhanced supervision across all aspects of home modifications, and MOD.A would be supportive of this expectation being built into the development of a specific licensing category for home modifications (see 13).
18. Random or risk-targeted inspections of licensees	Support (but include major renovations)	Random or risk-targeted inspections of licensees would help to improve quality, but could perhaps be extended to cover renovation and modifications as well as newly constructed dwellings. Inspections would work well with a continuous improvement cycle embedded within MOD.A's quality standard.

Models

Section E (pp. 41-42) identifies five models which incorporate the above options, and MOD.A provides a response to each below:

MODEL 1	Support	MOD.A generally supports initiatives that improve the sustainability of the Scheme, however, we would argue that the focus should be on administrative cost reduction with raised premiums limited to those types of work responsible for the majority of claims against the Scheme.
MODEL 2	Support	MOD.A would support efforts to reduce Scheme coverage limited to the exclusion of certain types of work and buildings, and also through the reduction in administration costs. Some of the proposals regarding the reduction in period of coverage for new and substantially renovated work could have a negative impact on clients who undertake extensive renovations (particularly bathrooms) which typically take some time to reveal structural flaws.
MODEL 3	Reject	The model includes some options which we support, particularly splitting premiums. But the outcome of reduced client coverage does not afford the level of consumer protection MOD.A believes is necessary as human services (in this case particularly aged care and disability) move into a consumer-directed and person-centred approach, relying much more on the client to choose and bear the consequences of that choice.
MODEL 4	Reject	MOD.A supports a mandatory scheme, mainly from the point of view of affording protection to consumers, and a safeguard which will ensure that work done that is unfit for purpose can be rectified, to ensure people can age in place.
MODEL 5	Reject	MOD.A supports a mandatory scheme, for the reasons outlined above.

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