



State Insurance Regulatory Authority
HBCF Review Team
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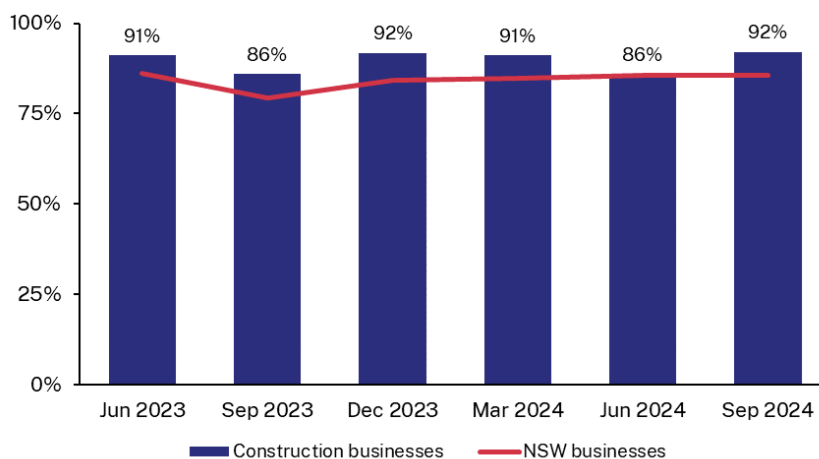
Dear Mrs Bronwyn Weir

Thank you for the opportunity to provide feedback on the review of the State's Home Building Compensation scheme (HBC) and supporting information. The NSW Small Business Commissioner ('the Commission') is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution across NSW.

As acknowledged in the supporting materials, the construction industry faces several contemporary and ongoing challenges including capacity constraints, cash flow challenges, cost escalations and uncertainty in future contract offerings. Construction industry insolvencies remain elevated, and small business subcontractors have provided feedback about a growing reluctance to engage with developers and builders, citing concerns about insolvencies and non-payment.

According to the Commission's Momentum Survey, around 90 per cent of small businesses in the construction industry over the past 12 months have reported rising business input costs, including insurance, as a major concern (See Chart 1). Cost pressures in construction exceed those in all other industries, placing a significant strain on small businesses. Smaller enterprises are finding it difficult to raise prices to cover rising expenses and profit margins are diminishing, particularly where there are no cheaper alternatives, contributing to solvency issues.

Chart 1: Percentage of businesses 'very' and 'somewhat concerned' about the cost of business inputs



Consultation and consideration of small business perspectives

The Commission welcomes the comprehensive approach to engaging a diverse range of stakeholders and expertise as part of this review, including engagement of industry experts as part of the Advisory Panel. The Commission recently conducted a [Review of small business experiences with regulatory policymaking](#). Feedback from this review suggests small businesses perceive their perspectives to be frequently underrepresented in policymaking due to their size, limited capacity for engaging in complex policy discussions, or low levels of engagement.

The Commission notes that housing affordability objectives, including affordable construction, rely on new and growing firms to ensure competitive pricing and a cost structure free from onerous conditions that add unnecessary cost. While it is important to manage risk in the system, including to ensure consumer confidence in the industry, careful balancing of costs and benefits is required.

The Commission encourages consideration of the HBC scheme through the lens of how various scheme features impact smaller firms engaging in building work, particularly where requirements pose barriers to entry or administrative requirements which are overly onerous and unnecessary to delivering on the objectives of the scheme. This could be achieved through preparation of a Small Business Impact Statement (SBIS) to accompany any recommended changes, as described in the Commission's [Rightsizing regulation report](#).

Reduce existing obligations and restrictions

The Commission welcomes consideration of opportunities to reduce regulatory and administrative burden associated with the scheme, such as thresholds triggering legal obligations and compliance requirements. For example, the \$20,000 threshold for requiring insurance under HBC has not changed since 2012, despite the cost of building work having increased over the last decade. Ongoing periodic reviews should also be undertaken to ensure the threshold reflects contemporary developments in the construction industry as well as what represents a reasonable amount of risk for consumers to bear.

While the Commission acknowledges questions relating to risk require careful consideration and actuarial assessment, it may be beneficial to increase thresholds that enable businesses to qualify for automated assessment of their Certificate of Eligibility. This could include raising the allowable 'Open Job Value' or easing specific conditions imposed on eligible businesses. The Commission has received feedback that current limits on job numbers and values are limiting small builders' job opportunities, causing them to miss out on revenue and potential growth. The existence of these caps is discouraging smaller businesses from competing and pursuing larger projects. Furthermore, restricting the number of contracts that a small business can secure often forces them to raise prices to remain viable, placing them at a distinct disadvantage compared to larger businesses that benefit from economies of scale. The Commission encourages holistic consideration of the policy framework to ensure small businesses are not unfairly disadvantaged or face conditions that make it overly onerous for high quality smaller firms.

Thank you for the opportunity to make a submission.

Yours sincerely

Chris Lamont
Commissioner
NSW Small Business Commission

Date: 11/11/24