

**Subject:** Supplementary Submission -Andris Blums - Home Warranty Insurance Scheme Financials

Dear Senator Hurley  
Chair ,  
Senate Economics Committee

Please accept this supplementary submission .My previous 2 part submission incorporated comments on the finances of BWI ,sourced from the limited tit bits in the public domain and it incorporated links to that information as does this one also

NSW/BEECHWOOD HOMES COLLAPSE

This letter from Mr Andrew Gavrielatos ,NSW OFT [M08-1155 reply.pdf \(63KB\)](#) advises that if a BWI claim against a insurer exceeds\$10 million then the govt would be liable to pay the excess .

**The collapse of RCP a Qld builder earlier this year is estimated to cost the Qld Building Services Authority about \$10 million in claims .In Qld even if the claim total came to \$15 or \$20 million this would be paid on the basis that there would be no recourse to state govt funds .**

**In fact in the event that Qld BSA has a fund shortage due to a catastrophic collapse like Beechwood it has always paid a fee to private insurers annually to cover such an event .No such event has ever occurred .The same was true of the Victorian equivalent to the QBSA ,the Housing Guarantee Fund Ltd .The HGF was a privately owned HIA/MBA owned joint venture company set up under govt legislation similar in scope and intent to the Qld model .**

**One of 3 such long standing QBSA insurers for this catastrophic insurance is Suncorps the owner of Vero .Vero is the NSW BWI insurer for Beechwood Homes**

**The number of homes involved in the Beechwood collapse substantially exceed the RCP collapse in Qld and on that basis one would expect that claims would substantially exceed \$10 million . In this case it involves insolvency only and the coverage in NSW is not as comprehensive as Qld . We would still thou expect that the claims total for Beechwood would exceed \$10 million and possibly head towards \$15 to \$20million in this instance**

**Under the present arrangements my immediate suspicion was that the NSW government will be required to cough up the excess over \$10 million for the Beechwood homes collapse for a NIL/FREEBY re insurance fee**

**Subsequently Ms Burney the NSW Minister for Fair Trading in a media release dated 16/5/08 states that that is not the case .But,to date there is no evidence that the equivalent Vic/n BWI arrangements would not involve govt funds to bail out the insurers if claims exceeded \$10 million**

**Ms Burney states in the media release of 16/5/08 that 'Any additional amount required will be covered by the NSW govt's catastrophic reinsurance arrangements which are funded through the premiums on written policies '**

**[080516 - beechwood rebuttal.pdf \(20KB\)](#) media release issued by Phyllis Sakinofsky [mailto:Phyllis.Sakinofsky@burney.minister.nsw.gov.au]**

**So what is this re insurance arrangement in NSW. It is in the public interest that the details be provided to the Senate when NSW OFT gives evidence to the committee**

**On the understanding that the levy on premiums is confined to BWI policies and are a %age of the policy value then the NSW govt is in a ideal position to advise the committee not only on the number of policies written annually but also the total value of those policies sold in NSW.Thus verifying or exposing any falsehoods re the current data published by NSW OFT by cross checking with data that cannot be corrupted in its form or presentation**

**Further it may answer the question whether this re insurance arrangement is on a commercial arm length basis . NSW should be asked to provide this information at the public hearing in Sydney 13/6/08**

**It has been put to me that in this instance ,the collapse of Beechwood Homes will not invoke the \$10 million excess trigger as the NSW govt position will be that Beechwood involves 3 separate legal entities and it is hoped that each entities deficiency will be less than the \$10 million trigger .**

**On this point we will have to wait and see but my expectation would be that the 3 entities combined will exceed the \$10 million excess trigger .If that is the case Vero could dispute this interpretation and argue Beechwood is a single event and the excess trigger has been triggered .If that is the case, this issue can only be settled by the courts as any negotiated deal would raise issues that could be grist for a Independent Commission Against Corruption investigation**

**On this occasssion ,I suspect in view of the Senate inquiry for public relations purpose Vero has already declared the builder is insolvent even before the receiver Deloitte places the company in liquidation .Liquidation being a requirement hurdle for Vero to accept a valid claim .**

**I wonder if the receiver can on sell the Beechwood business and structure with its can of worms thus avoiding liquidation .What will be Vero's claim payment policy then be ,to pay or revert to kind, deny liability as first line of defence .To deny liability would be in conformity with vero's past practice and legal obligations under the policy terms . To date that position is well documented on the public record including submissions to the Senate .**

**But in not denying liability before liquidation of Beechwood Homes opens up a can of worms for Vero/Suncorps .Will we see a class action by agrieved shareholders and other stakeholders against Vero[Suncorps] for breaches of its fiduciary duties to them .**

**And will anybody buy the Beechwood business if it still contains the can of worms insured by Vero**

**According to the property review 29/5/08 the Beechwood collapse involves 300 uncompleted homes ,400 who have paid a deposit ,plus another 300 in no mans land**

**So the issue is what will Vero do re the 300 consumers who have not necessarily entered yet into a formally binding building contract but have preliminary agreements to prepare plans and seek planning permission and paid a fee of \$2000 to \$5000 for Beechwood to do this preliminary work**

**On the face of it Vero has no liability to these 300 consumers as no contract to build is in existence and any purchaser of the Beechwood carcase can exclude in part or in whole these consumers ,particularly were the money, now unrecoverable has been paid and no work done or the work is still incomplete in preparing pre contract documentation**

**So what happens to these NSW consumers if the purchaser of the Beechwood carcase for any reason does not include them in the deal , they become as I read it unsecured creditors involving upto \$1.5 million**

**If the past is a guide to the future ,particularly if the NSW govt position that Beechwood Homes is 3 separate insurable events is up held I would expect based on the current corporate culture within Vero that claimants will be put thru the hoops to minimise claim outcomes , out of public sight.**

**The question is will the NSW OFT intervene on behalf of the Beechwood victims and more broadly on behalf of all victims under the current arrangements and declare such past Vero conduct as documented to date as un acceptable and unconscienable as of now on a retrospective basis**

**Clearly many of the victim submissions to inquiries like this one are based on the premise that Vero for commercial purposes assesses claims in bad faith not as required in law in good faith**

**It is a interesting development but Vero has apparently in this instance re Beechwood recognised its legal obligation of acting in good faith in relation to insurance contracts by jumping the gun and not awaiting the , NOT inevitable trigger of liquidation . See Garcia pdf in my previous submission on the issue of good faith under insurance contracts.**

**So why should Vero now not be required to invoke the precedent it has established re Beechwood and invoke the same principle of good faith in relation to other individual cases were it knows the claim is valid and on behalf of consumers liquidate the builder or waive the liquidation so a claim can be processed and paid .Robert Siebert is a case in point**

## NSW CLAIMS DATA

[Opposition scaremongering over Beechwood a disgrace...](#) put out by the NSW OFT 15/5/08 on their website tells us that in the 3 years to March 08 the OFT had received 119 complaints re Beechwood which one presumes is an indicator of defective work of 13% or so % on 300 houses probably under construction at any one time with 400 in the pipeline at the time of collapse. The interpretation of these figures depends on one's assumptions but the assumptions are I believe to be reasonably founded.

13% complaint rate is I suspect above a long term norm for the industry. In the case of the HGF in Vic it was in the 10 to 12 % range, with about 1/2 converting into claims and about 2/3rds valid with the balance failing largely on technical grounds, e.g. out of time.

It is in the nature of the industry as liquidity problems unfold that corners are cut and defect rates increase. So one would expect that the claims Vero processes will possibly now have an elevated incidence involving defects and that claims for all 3 Beechwood events combined will exceed \$10 million.

This document also advises us that in the 5 1/2 years to the end of 2007, some 1250 claims have been lodged in NSW, \$12 million paid out and \$7 million set aside for unfinalised claims. Say \$21 million all up. This equates to a payout of just under \$4 million a year based on an industry claim of a NSW premium pool of \$40 million, well below the QBSA payout ratio of \$26 million based on a \$64 million premium pool in 06/07.

Minister John Lender let slip in the Vic/n Legislative Council, 13 Sept 05 based on advice apparently from the Victorian Competition and Efficiency Commission with the implication that the information was sourced from the insurers, that is Vero that the Vic premium pool was in the order of \$90 million annually at that time. Thus it is reasonable to believe that the NSW premium pool is of at least a similar size and not \$40 million.

**Mr LENDERS** -- Thank you, President, for your assistance, and for the assistance of the Leader of The Nationals. I would happily talk at length on builders warranty insurance. We have had the situation of market failure and we stabilised the market, which by now means that we have six market insurers -- and I heard on Stateline the other day that it was eight. I am delighted that there are more builders warranty insurers in the Victorian market now. Mr Hall's specific question was how many claims were put in. I would challenge his figure of \$120 million in premiums because I think he has overshot the mark by about 20 or 30 per cent.

**A NSW premium pool of \$40 or a more likely \$100 million plus with a pay out ratio of 10% or 4% for substantially inferior coverage compares badly with the Qld scheme and its superior coverage**

**Further the QBSA pays out over 2000 claims a year compared to 1250 lodged in 5 1/2 years in NSW of which if we accept the 38% payout ratio in the [insurancenews.com.au](http://insurancenews.com.au) link ,gives us approximately 500 successful claims or less tha 100 per year**

**Not a flattering comparison on any financial or consumer protection criteria**

**NSW OFT - quarterly bwi data ,for period ending 31/12/07.**

**My main submission includes the links for the 3 previous posted quarterly figures .**

### **December 2007 - Home Warranty Insurance Scheme Report**

It is believed that 90% of builders pay the highest level of BWI premiums ,which in the case of Vero is category 3 [Rate card examples incorporated by link in my main submission].

Anecodetal evidence indicates that volume builders ,like Beechwood pay a fraction of the premiums that non volume builders pay .If this is correct then the average premium paid as claimed in NSW in the OFT figures could be significantly distorted downwards as I suspect is the case based on Vero category 3 rate cards

This puzzle could easily be solved in terms of revealing the total premium pool in NSW ,by simply expanding the information already provide to NSW OFT in the quartely figures for 31/12/07 , " Table A 1 - number of builders eligibilities by turnover band " by incorporating additional information ,That is the total premium paid and number of policies issued in each band and in addition each insurance providers applicable rate card for that band

This provision of rate cards posted as an adjunct to Table 1 A I am sure will engender the usual painful and nonsensical responses from the rent seekers on the usual fallacious grounds that this is proprietary information . That position is clearly a nonsense

- a] The equivelent QBSA rate card is in the public domain on the net
- b] The private insurer rate cards are provided to industry participants such as builders and are thus already in the public domain
- c]The NSW OFT has a responsibility to ensure there is a transparent market that is accountable ,transparent and a level playing field and that consumers are able to make informed choices as to choice of builder based on access to all relevant market information including insurance options and premium costs

Simply put if the insurers supplying the existing information for Table 1A can already provide that information by band then the provision of the additional information should involve little or no big deal .To do so is in the interest of public accountability and transparency .

It is even probable that this additional information is already available in a compiled form in part or in whole at the company level and is being deleted at the compilation stage, particularly in relation to the premium charged as per rate cards in each band

There is no validity in claiming commercial in confidence or some other reason not to release this additional information into the public domain and the committee should seek it as part of its deliberations either directly from the insurers or thru the NSW OFT.

In any case NSW should incorporate this additional data in future data tables and the senate should request the Insurance Council of Australia [ICA] to provide with its submission all the rate cards on behalf of its members as part of the details it enumerates about the different state schemes

ICA should also be asked the basis of the claim by Vero on Vero's website that states the national BWI premium pool is \$100 million

#### INDUSTRY CALL for REFORM

When insurance industry publications call for reform as does 'Insurancenews.com.au.' below then the architects and supporters of post HIH BWI have to in its defence produce the evidence that on all comparative criteria they have a superior product to the QBSA. In terms of methodology, we can discount the Vero web site table purporting to do so as fatally flawed and self serving

The only valid comparison would be a comparison between the procedures and outcomes in the Qld collapse RCP and Beechwood, using timelines and monetary/building completion outcomes

We already have a telling example. In the case of RCP the QBSA was monitoring the situation and immediately on collapse started contacting all effected consumers to reassure them and start the claims process. In contrast with Beechwood, were Vero and the NSW OFT aware months in advance of problems. No evidence they were. Did they swing immediately into action, again no. Did Vero or NSW OFT contact effected consumers directly, again no, a press release does not qualify and so it goes.

Will we discover in a months time that the Qld situation has been largely resolved in the favour of consumers, probably yes. What about Vero? Will we discover they have had further legal advice on the issue of insolvency and there obligations and further that it will now take some considerable time to restart the work for those lucky enough not to have become unsecured creditors. Very probably.

I believe it is incumbent on the supporters of last resort, that is Vero, HIA, NSW OFT, Vic CAV, Vic Building Commission to name a few to provide the evidence as to why privatised BWI is a superior form of consumer protection to the Qld scheme.

To date no such evidence has been produced by them so such comparative studies/evidence does not exist. Its non existence is convenient as any cost and/or social community benefit analysis or comparison will reveal that the private last resort product is substantially inferior on all criteria to the Qld scheme except on the grounds of excessive, greedy and unconscionable profitability

I have advised Dr Ron Silberberg by email that the HIA as one of the architect of the post HIH BWI mandatory consumer fraud that the HIA at the committee hearings in Sydney 13/6/08 should advise the committee that after due deliberation and in view of its new voluntary position re Tasmanian based on the evidence of BWI adverse effects on both builders and consumers that the current arrangements be terminated and the Qld model be implemented nation wide

If Dr Silberberg disagrees as to the above outcome, that is the Qld model then he

should provide on the day in the public domain the financial business plan that clearly demonstrates that even a voluntary Tasmanian alternative is superior to the Qld model in all respects ,based on fact not fiction or ideology .

In support he should also be required to table the complete details of HIA business enmeshment ,direct and indirect with the insurers ,like Vero ,including past and present directorships ,financial statements etc since privatisation of state based legislated schemes in the mid 90's .That includes full disclosure of conflict of interest

### [Insurers fail the home warranty test](#)

#### HIA REFORM LITMUS TEST

The link below is a private compilation of HIA Insurance Service [HIAIS]vero rates .The table is a bit incomplete but the figures do confirm anecdotal evidence to the effect that post HIH there was not only a reduction in the events covered by BWI but there was also a substantial increase in premiums that would appear to be unjustifiable based on the available figures for first resort premiums prior to the HIH collapse

But of more interest is for the HIA to supply the complete set of HIAIS Vero rate card data for all categories for the period 2000 to 2007 to the committee at the Sydney hearing with a break down of total sales of BWI as a %'age in each rate category and the total premium for each category .This info should be readily available as part of normal accounting /manegament reporting

The most recent QBSA rate cards when compared to recent Vero cat 3 ,clearly indicates that the QBSA provides superior consumer protection at a lower cost . In fact the QBSA annual reports since 2000 show no quantum leap in premiums attributable as a direct result of the HIH collapse, in fact no effect .

Based on the QBSA presentation already to the committee the QBSA if asked I suspect may answer that post the HIH collapse in fact some aspects of its coverage has been expanded or claim payment restriction criteria loosened

### [PremiumComparison.pdf \(69KB\)](#)

It is interesting to note that the QBSA annual reports show no HIH collapse spike in premiums .as is the case with the private insurers

Therefore it is a valid conclusion that Vero and its business cohorts as a result of the HIH collapse set in motion a deliberate policy re BWI to abused and exploit their temporary market power so as to gouge and abuse on false and deceptive grounds consumers and state govts to the detriment of the broader community .

In my view the tweedledee tweedledum of the HIA/MBA policy's and conduct of the past 30 plus years re consumers has not only been deliberate in producing consumer detriment but disgraceful and in this instance post HIH so abusively outragrageous that they have lost total credibility and as in the Qld model they should be structurally excluded permanently from any further participation in the delivery of consumer protection viz the building industry

QBSA -EXTRACTS FROM ANNUAL REPORTS [Value for money section -premium comparison data]

2000/01 - premium for contract value of \$200000

\$1200 - qld

\$477- 1926 -nsw/vic [subject to builders financial situation ]

2001/02- source of comparison, national review of hbwi and consumer protection ,june 2002. average premiums posted feb 2002



\$431- qld  
 \$770 - nsw  
 \$580- vic  
 \$660 - tas  
 the following states provide a lower level of insurance protection  
 \$195- sa  
 \$315 - wa  
 \$545 -act

The figures would seem to indicate that private insurer 1st resort is more expensive in premium terms to consumers than the qld equivalent .

2002/2003 -Post HIH only Qld is 1st resort .Note the substantial increase in NSW premiums and reduction in coverage in last resort

premium comparison nsw and qld  
 a] nsw rates based on category 3  
 b]all rates effective 1/7/03

coverage	nsw	qld
-\$25000	\$1740	\$160
\$75000	\$1913	\$480
\$150000	\$2430	\$960
\$500000	\$4775	\$1280

2003/2004

Contract Value	Qld Premium	Interstate range
\$160,000	\$1,024	\$1,363 - 6,433
\$250,000	\$1,280	\$1,715 - 8,429
\$500,000	\$1,280	\$2,262 - 11,037
\$750,000	\$ 1,280	Price on application
Higher values	\$1,280	Price on application

Queensland premiums remain substantially cheaper than the private sector schemes in other states.

■ **Home Warranty Insurance**

Premium comparison with interstate

*The range of Interstate figures provided are based across all categories of licensees Interstate and Qld rates effective 1 July 2004.*

Evidence of market failure/price gouging

2004/2005

## INSURANCE

Despite the increase in the number of underwriters providing home warranty insurance interstate and a return to "competitive" premiums, Queenslanders continued to enjoy cost effective home warranty premiums.

The range of interstate figures provided is across all licence categories interstate. Rates are effective 1 July 2005.

### Premium Comparison with interstate

Contract Value	Qld Premium	Interstate Premium Range
\$	\$	\$
20 000	145	561 - 693
50 000	362	651 - 693
100 000	725	808 - 904
175 000	1 269	1 028 - 1 103
200 000	1 450	1 028 - 1 102
250 000	1 450	1 193 - 1 270
500 000	1 450	1 689 - 1 963
750 000	1 450	2 095 - 2 194
1 000 000	1 450	2 310 - 2 456
<b>Higher values</b>	1 450-	POA

2005/2006

CONTRACT VALUE- 20 000 QLD PREMIUMS 145 INTERSTATE PREMIUM RANGE 561 - 693

50 000	362	651 - 693
100 000	725	808 - 904
150 000	1 087.50	901 - 1 003
200 000	1 450	1 028 - 1 102

2006/2007

From 1 October 2006 the maximum indemnity

available to consumers was increased from

\$200 000 to \$400 000 and remains excess

free

For further explanation of the figures ,ask QBSA .I suspect that the comparison data is no longer readily available as of 06/07. In any case as the majority of builders by number and total market share are not volume builders and pay category 3 ,the only valid comparison would be as a range in 04/05

Yours Andris Blums

30/5/08

P.S I would appreciate the opportunity to give further evidence to the committee by appearing directly before it