



Submission to the Inquiry into Small Business Insurance

Classification: Public

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Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

Thank you for the opportunity to make a submission to the Inquiry into small business insurance. Please note that our submission also supports the submission made by Ovens Valley Insurance Brokers.

A little about the Alpine Valley, NE Victoria

The Chamber represents the collective interests of small and micro businesses across the Alpine Shire including Bright, Porepunkah, Wandiligong, Harrietville, and surrounding communities. Our membership reflects the full spectrum of a regional economy: retail, trades, tourism, hospitality, accommodation, outdoor recreation, agriculture, and professional services.

Most businesses operating within the Shire are small or micro enterprises. These businesses form the backbone of our regional economy, providing employment, supporting community life, and underpinning the visitor economy that sustains the Alpine region year-round.

A note about small business in rural and regional areas. These businesses are usually much more involved in the day-to-day operation of their business and are usually time poor and unable to prioritise the effort required to investigate alternative options that enhance their bottom line.

The key problems in our region

Affordability has moved beyond normal market cycles. Local evidence shows insurance premium increases from around 30 per cent to over 500 per cent over recent years, with some policyholders unable to obtain cover at any price. For many businesses, insurance is now a major operating cost and, for some, second only to wages.

Examples:

- Motel risk, Bright: premium \$3,780 (2022) to \$12,975 (2026), with excess increasing to \$5,000.
- Motel risk, Bright: premium \$7,595 (2021) to \$30,420 (2025), with insurer not offering terms and only one option available.
- Property owner of restaurant, Bright: premium \$2,735 (2022) to \$10,435 (2026).

Availability is declining and exclusions are widening, especially in the outdoor/adventure industries. Members report reduced insurer participation in accommodation, outdoor recreation, seasonal operators, and community events. This reduction in competition increases vulnerability to sudden repricing and non-renewal outcomes.

Examples:

- Motorcycle and 4 Wheel Drive Guide, Bright: unable to source business insurance or public liability for Motorcycle business, which has been wound up. 4WD guide business about to close as it is summer seasonal trade but has to pay for a full year's insurance.
- Motorcycle and Self-drive 4 Wheel Drive Guide, Keiwa Valley: Currently unable to find an underwriter for the motorcycle business which is about to close. Was able to find an underwriter for self-drive 4WD tours but had to start a completely new business with associated costs and overheads
- Vinyard and Winery, Porepunkah: Vinyard located 1.5 kms outside of township. Although well cleared with firebreaks, no longer able to find an underwriter for bushfire insurance

Note: During research for this submission, public liability insurance by the peak body, Motorcycle Australia, might be available to underwrite the two motorcycle tour company examples. Both businesses have been advised by the chamber. This demonstrates the importance of education that is required by business, as well as the success of specialist sector insurance pools.

The drivers are structural, not behavioural. The evidence points to a market failure driven by catastrophe modelling, reinsurance costs, and insurer accumulation limits, rather than individual risk behaviour. Once geographic accumulation caps are reached, insurers may decline renewals regardless of claims history. Bright's profile also includes flood exposure which compounds pricing and underwriting appetite because multi-peril locations increase insurer capital requirements. Even where owners invest in bushfire or flood mitigation, premiums do not reliably fall and cover is not guaranteed, which undermines incentives for risk reduction.

Examples:

- Computer says no – Postcode 3741: Bright is located at 319m and is located in a valley with access to rivers for firefighting purposes and has not had a major event in 10 years. Mt Hotham is located at 1861m and has been at risk of bushfires multiple times in the past 10 years – yet Bright has the same fire likelihood factor applied.

Response to the Terms of Reference

Access to insurance coverage that meets contemporary business needs. The Chamber's members require cover that matches the reality of a regional visitor economy. Key stress points include:

- Public liability insurance is essential for hospitality, accommodation, trades, tourism, and community events. Current issues include mandated high limits imposed by land managers and councils, high premiums in tourism and hospitality settings, and reduced appetite in regional and high-risk areas. These requirements are often set without clear, evidence-based proportionality.
- Professional indemnity insurance including guides, instructors, consultants and IT providers are facing narrowing coverage, exclusions, and rising premiums.
- Property, business interruption, and tourism property in bushfire and flood exposed regions face extreme premium escalation, insurer withdrawal, and excesses that make claims impractical. Business interruption is often unaffordable or unavailable in high-risk regions, and policy wording complexity creates misunderstanding and uninsurable outcomes. Short stay accommodation and tourism property insurance is especially constrained, with some insurers withdrawing from entire postcodes.
- Cyber and management liability premiums are rising rapidly and exclusions are increasing, with many small businesses priced out. Management liability is often poorly understood by Small and Medium Enterprises (SMEs) while premiums rise with litigation trends.

Affordability and availability across regions, including high risk industries. The Chamber's position is that the affordability crisis is now constraining regional economic development and resilience. The pricing signals are increasingly disconnected from local mitigation action due to reinsurance and catastrophe modelling settings. The sectors most impacted in our region include accommodation, hospitality, outdoor recreation and community events.

Adequacy of the regulatory framework in addressing modern insurance challenges. The Chamber is not seeking to compel insurers to underwrite at a loss. The concern is that the current framework does not deliver workable outcomes in specific regional risk zones and does not provide SMEs with sufficient transparency and pathways to reduce risk and be recognised for doing so.

Key gaps observed:

- Limited transparency on why premiums move sharply year to year, including the extent to which increases are driven by reinsurance and accumulation decisions rather than the individual risk.
- Inconsistent recognition of mitigation actions, resulting in poor incentives and reduced community resilience.
- Liability settings and litigation economics that increase the cost base of liability lines, particularly for tourism and adventure activities.

Tort Law Settings Continue to Distort Risk Pricing

Australia's tort environment remains a significant driver of insurer conservatism. Even in sectors with strong safety systems and low incident frequency, the severity risk associated with litigation, legal costs, and precedent driven settlements exerts disproportionate influence on pricing.

This creates a structural mismatch:

- Low incident frequency, but
- High perceived severity risk due to legal uncertainty

Insurers price for worst case legal exposure rather than operational reality.

Waivers, Tort exposure, and the role of the “no win no fee” market. A recurring view among members is that participant waivers should materially reduce liability risk and therefore reduce insurance premiums. In practice, waivers are conditional and frequently not determinative. They can fail due to statutory constraints, drafting defects, poor incorporation into the contract, or factual findings that the operator fell below the reasonable standard of care. Courts will still examine systems of supervision, equipment, site controls, decision making, and participant management.

See:

- [Insight Vacations Pty Ltd v Young \[2011\] HCA 16](#)
- [Motorcycling Events Group Australia Pty Ltd v Kelly \[2013\] NSWCA 361](#)
- [Marks v Skydive Holdings Pty Ltd \[2021\] VSC 21](#)

This matters because public liability pricing is driven by expected claims cost, including legal costs, not by whether a waiver exists in principle. The “no win no fee” legal market amplifies this effect in three ways.

- First, conditional fee arrangements reduce upfront cost barriers for claimants. Where there is a credible negligence pathway, the claimant can commence or threaten proceedings with limited immediate cost, particularly in matters where the defendant is insured. This increases the frequency of claims and disputes that proceed beyond early complaint stages, which in turn drives insurer and reinsurer loss cost assumptions.
- Second, litigation funding and class action business models can scale disputes where fact patterns repeat, where policy wordings are common, or where an incident class exists. While most adventure and event claims are not class actions, the wider market effect is that plaintiff side legal infrastructure is well developed, well capitalised, and responsive to opportunities. Insurers price to the system level reality of dispute frequency and cost, including defence costs and settlement dynamics, rather than to a small business's intent to rely on waivers.
- Finally, some underwriters have preset limits on claims for which they will not litigate. Understanding these limits may encourage false or frivolous claims targeted at that amount. These claims significantly reduce the insurance pool for legitimate claims.

For regional small businesses, the result is that waivers are not an effective substitute for affordable liability insurance. Operators still require cover because a waiver does not prevent a tort claim being made, and because the economics of conditional fee representation mean claims are more likely to be pursued where any plausible negligence allegation exists.

Recommendations

1. Establish national consistency and proportionality in public liability requirements. Adopt nationally consistent maximum public liability limits by activity tier to reduce unnecessary over insurance, support insurer participation, and improve affordability for community events and SMEs. The Chamber proposes:
 - a. Low risk activities: \$2 million
 - b. Moderate risk activities: \$4 million
 - c. Higher risk activities: \$5 million only where evidenced by a risk assessment
 - d. Major events: \$10 million (not applicable to typical small regional events)
2. Establish market drivers that allow a business to obtain professional and public liability insurance during the period of operation by seasonal adventure tourism.
 - a. Fund region/locality specific hazard modelling and mitigation planning.
 - b. Incentivise businesses to participate in industry groups that can encourage compliance with state and federal risk requirements
 - c. Incentivise risk reduction measures (e.g., fire resistant retrofits, flood proofing, vegetation management).
 - d. Require insurers to transparently show how mitigation actions reduce premiums.
 - e. Support councils and communities to implement practical, evidence-based Insurance resilience projects.
3. Consider a government backed natural disaster reinsurance mechanism for non-cyclone perils impacting SMEs.
 - a. The local evidence identifies reinsurance cost and accumulation limits as primary drivers of withdrawal and pricing, suggesting a policy role for a targeted reinsurance backstop to restore market participation in designated high-risk regions.
4. Fund localised risk reduction and require transparent mitigation recognition.
 - a. Fund locality specific hazard modelling and practical mitigation programs and require insurers to transparently demonstrate how verified mitigation reduces premiums or improves terms.
5. Implement a national insurance literacy programme for SMEs and community organisations.
 - a. Develop a national programme covering how premiums are calculated, exclusions, risk reduction strategies, and comparing policies, with sector modules for tourism and outdoor recreation.
6. Support alternative models where the commercial market has failed
 - a. Support evaluation and pilots for mutual risk pools, structured self-insurance (for larger operators or groups), and other alternative models where traditional cover is unavailable.
 - b. Consider the New Zealand Accident Compensation Corporation (ACC) 'no-fault' model for adventure tourism – avoiding the trap of the program being so complicated it leads to market concentration and a lack of competition.
7. Review tort settings and litigation cost drivers that distort liability pricing.
 - a. Commence a federally led review, with states and territories, of the interaction between civil liability settings, costs rules, and claims management practices that contribute to liability severity and expense.
 - b. The objective should be to improve predictability and proportionality, while preserving fair access to justice. This review should explicitly recognise that waivers are not determinative and should consider whether current settings create incentives for disputes to escalate even where risk warnings exist and risks are inherent to the activity.

8. GST relief for primary residence insurance in high-risk regions.
 - a. Remove GST from home and contents insurance for primary residences to provide immediate relief, reduce underinsurance, and improve community recovery capacity. This measure supports the resilience of the workforce that underpins regional small business and tourism.

Closing

Insurance affordability and availability in the Alpine Shire is becoming a binding constraint on small business viability, the visitor economy, and community events. The Chamber requests that the Committee prioritise practical reforms that improve proportionality in liability requirements, increase transparency and mitigation recognition, and evaluate targeted mechanisms to restore affordability and market participation where structural failure is evident. The Chamber also asks that the Committee consider how litigation economics interact with waiver effectiveness and tort exposure, because this directly affects the pricing and availability of liability cover for regional tourism and adventure businesses.

Contact

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