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**Via Email**

### **Submission to Inquiry into the practices of the insurance industry**

**To: the Australian Small Business and Family Ombudsman;**

Thank you for the opportunity to contribute to the Inquiry into the practices of the insurance industry and their impacts on small businesses.

This submission is made for and on behalf of the Whitsunday Charter Boat Industry Association (WCBIA). The WCBIA is the peak industry body representing a multi-million-dollar marine tourism sector in the Whitsunday region of the Great Barrier Reef Marine Park. Our 23 members employ 525 staff and comprise day and overnight operators across the full spectrum of domestic and international markets, incorporating all types of marine tours, from boutique products to backpacker trips. Notwithstanding the significant financial contribution to state and federal coffers our members make, these operations are primarily small businesses, owned and operated by couples and family groups.

#### **Comment to the Terms of Reference:**

##### ***1. The availability and coverage of insurance policies provided to small business;***

The Whitsundays' commercial fleet currently comprises around 350 vessels, divided into those that are skippered and crewed, and 'bareboats', which are essentially available for 'hire and drive', by members of the public. These two commercial sectors are understandably viewed differently by the insurance industry.

Skippered vessels are seen as being lower risk than hire and drive vessels, although the premiums are not necessarily significantly less as a monetary 'reward' or reflection of this. Skippered vessels are limited in their choice of insurers, as more withdraw from the North Queensland market, citing the region's occurrence of severe weather events. The result is an alarming trend towards a monopoly market, sky-rocketing premiums and increasing cyclone-related deductibles. This is despite the fact all commercial operators are actively mitigating their risk, and have documented cyclone plans as part of their Safety Management Systems.



Bareboat vessels are considered by insurers to be higher risk, as although professionally managed they are 'driven' by members of the public. Because of the increased risk of accidents they are seen as less profitable to insurers and there is now only one underwriter (NTI) covering the Whitsundays' fleet of around 160 bareboat vessels, spread between five main companies and a few smaller individual operations. Prior to Cyclone Debbie in 2017, bareboat companies had the choice of one other insurer, but following the Category 5 storm, QBE pulled out.

The Whitsundays' marine tourism industry is impacted not only by limitations on the availability and coverage of commercial insurance, but also limitations on those vessels in the area that are privately owned. The Whitsundays has the highest level of private boat ownership in the state and is also a popular area for visiting pleasure craft. None of these vessel owners can now purchase insurance to keep their boats on swing moorings in the area. Some are finding it difficult to purchase insurance that will let them traverse the area at all, regardless of whether they are on a swing mooring or in a marina. In many cases this is linked to the annual 'cyclone season' and 'named storms'.

The repercussions of this on the small business community in marine tourism are vast. When a named storm approaches the coast, a private vessel owner who cannot afford to keep their vessel in the marina long-term, was previously insured and could therefore retreat to the marina on a short-term basis for the duration of the storm. Marinas require proof of insurance as a condition of entry. This vessel owner's third-party policy was previously adequate. Now they cannot obtain insurance they are in a catch-22 of being barred entry to the marinas and having to remain on the mooring grid at severe risk. Some of the moorings are potentially under-engineered; there are vessels in poor condition whose deck hardware gives way even when the mooring withstands the forces at play; and although ultimately our vessel owner may have done everything in his or her power to properly secure their asset, the domino effect from other vessels is unavoidable. Airlie Beach has many well documented cases of boats ending up on the rocks or beaches in cyclones, storms, and even just higher northerly winds. These images are broadcast globally, causing reputational damage to the commercial fleet and broader tourism industry. The entire area is then seen as high risk, all premiums go up, and insurers withdraw.

With only one insurer and no other choice, there is significant fear that the bareboat companies could find themselves in the same situation as the recreational fleet. The fear that this then snowballs to the skippered fleet is also omnipresent.

## ***2. Insurance policy affordability;***

Insurers should arguably have greater confidence in the skippered charter fleet as these vessels are under the command of suitably qualified personnel. All Domestic Commercial Vessels – including bareboats - must abide by standards set by the national regulator, AMSA.



All commercial operators in the Whitsundays have done a considerable amount of work on risk mitigation since Cyclone Debbie, yet the premiums across the fleets continue to rise significantly, and underwriters do not take this into account.

One of our members, who is a single vessel operator with small passenger numbers and a modest-sized boat, reported an increase of over 20% in their hull insurance when they recently came to renew the policy, along with a rise in the cyclone excess to \$8,000. Being a skippered operation, their broker was able to find them an alternative provider with better terms but the premium was almost \$6,000. Their feedback was that on hull insurance of over \$200,000, the premium was 3.4%, plus the larger cyclone excess.

There is also the exacerbated financial impact of COVID-19 to consider. Costs are rising yet commercial operators' income has been slashed to around 10% due to ongoing border closures. They are in a cash negative trading position on top of months of zero income during lockdown. Of note is that premiums continued to be charged during this period of complete commercial inactivity, despite the fact there was arguably no risk. As the commercial operators literally run out of money, they – like the recreational vessel owner – can no longer afford the marina berthing fees. Their options are to keep the vessel on anchor or swing mooring, which then changes their cover. At present a commercial boat can be covered on a swing mooring where a recreational vessel here cannot. There is no guarantee this proviso will remain.

### ***3. The role of brokers in getting the right coverage;***

Most, if not all of the WCBIA's members are using a broker to negotiate their policies and terms.

### ***4. Contract changes that have not been agreed to and whether they amount to Unfair Contract Terms;***

The WCBIA is not aware of any at this stage, however this would be worth looking into further in the context of Cyclone Debbie and how this event altered the region's insurance landscape.

### ***5. Timeliness of insurance payouts and effectiveness of dispute resolution frameworks;***

The WCBIA does not have this information currently, but if needed could survey the association's members for additional feedback.

### ***6. The effectiveness of relevant codes of conduct and legislation, including if applicable penalties are adequate;***

The insurance industry needs a catastrophe fund underwritten by the Federal and possibly State Governments, supported by a small levy on all products sold.



This would need to be similar to the funds set up for terrorism event, and would cover cyclones, bush fires, floods and earthquakes, with clear definitions and excesses. Ideally this would bring down reinsurance costs, and premiums for postcodes in the tropics and fire-prone areas would not be out of line with other destinations- not to mention the fact they would still be able to purchase cover. This needs to apply to land and marine products.

Specific to the marine sector, the Queensland Government established a 'War on Wrecks' taskforce, whose primary focus was to ensure the state's waterways were free of derelict vessels posing a hazard to navigation and the environment. An interim report has just been released, and is attached. A commitment from the Queensland Government to adopt the recommendations in this report should be considered risk mitigation of a high level and encourage providers back to areas like the Whitsundays. Recommendation 10 relates specifically to insurance and should be noted, as should the root cause analysis on page 20 of the report. In accordance with the previous paragraph in this submission (about the need for a government underwritten fund), a fundamental root cause identified was that the current market-driven insurance model is not appropriate.

Another noteworthy fact in relation to legislation is that commercial and recreational vessel insurances are covered by two different Acts. It is our understanding a number of providers see this as prohibitive to broadening their offering.

### ***7. Any other related matters;***

It is our submission that all vessel owners should be required to have insurance but that this is impossible to achieve while premiums continue to rise and providers evaporate.

The economic benefits to government, business and taxpayers, are obvious – if a vessel is abandoned and sinks at the mooring, or drags ashore, the state, and therefore ultimately the taxpayer, does not have to pay. The insurance provider can also nominate exclusions such as the months permitted, a cyclone/storm plan and whether the boat is unattended or not.

Insurance companies should not be allowed to pay out the boat owner if a boat is ashore and a permanent loss until the removal from the shore is complete. Without this proviso, the boat owner has no incentive to remove the wreck.

Mooring holders are using a prime piece of Australian real estate in a protected bay for a nominal fee. If a vehicle owner drives to a national park or state forest they need insurance cover for the 4WD.

If the boat is so unseaworthy that it cannot get cover it should not be on the water.



Lastly, If the public knew how much of their taxpayers' money, (State and Local Government particularly) has been spent on cleaning the shore and harbours of wrecked or abandoned boats, there might be an appetite to introduce a levy. Mooring registration fees need to be increased so compliance and administration is cost-neutral and the government has the funds to monitor and enforce compliance. Mooring owners need to held account if the hardware is not maintained. Reform of government policy to improve standards and thereby reduce risk is paramount to assisting insurance providers in mitigating the risk on their side. Ideally this then leads to greater choice and more reasonable premiums for the small business and recreational community.

***In conclusion:***

I trust that the above information is useful to the Inquiry and hope we can look forward to the adoption of suggested solutions to the challenges now faced.

Please do not hesitate to contact me if I can be of any further assistance and thank you once again for the opportunity to make a submission to the Insurance Industry Inquiry.

Yours Faithfully,

Sharon Smallwood  
Executive Secretary  
For and on behalf of the Whitsunday Charter Boat Industry Association (WCBIA)