



## Fact Sheet

# Release of the Draft Report on the Home Building Compensation Fund

18 September 2020

The Government has asked IPART to review the efficiency and effectiveness of the scheme for homeowners currently covered, including:

- ▼ the scheme's incentives for builders to undertake good risk management and business practices
- ▼ whether the scheme needs to further mitigate builders' insolvency risk
- ▼ any unnecessary regulatory or administrative burdens for builders.

We are now seeking feedback on our draft findings and draft recommendations.

## Builders must take out home building cover on behalf of homeowners

The scheme compensates homeowners up to \$340,000 if their builder is unable to complete work or fix defects because they have become insolvent, died, disappeared or had their licence suspended for failing to comply with an order made by a court or the NSW Civil and Administrative Tribunal. To fund any claims that may arise, builders take out cover for home building projects over \$20,000 (except for the construction of multi-dwellings over three-storeys, which are excluded by the scheme).

Currently, icare is the only home building compensation provider in NSW. icare manages its exposure to claims by assessing the financial position of builders that undertake work covered by the scheme. It uses this information to:

- ▼ place limits on the value and number of projects that the builder can have under construction at any time
- ▼ place limits on the maximum contract for any individual project
- ▼ place conditions on builders, such as a requirement to inject additional finances into their business
- ▼ determine the premium that applies to the builder according to their individual risk.

**In making our draft recommendations we consulted a number of stakeholders, including builders and industry associations**

### As a monopoly, icare should be more tightly regulated

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#### icare should be subject to independent price regulation

Our draft recommendation is that an independent regulator should determine icare's premiums for the HBCF to ensure they reflect efficient costs. This could be done by SIRA, as the scheme regulator. Alternatively, IPART, as the NSW pricing regulator, could be given the on-going role of determining icare's HBCF premiums.

#### SIRA should review and determine icare's builder eligibility assessment model and claims handling processes

We have heard from builders that icare's eligibility assessment is onerous and lacks transparency. Builders find it difficult to understand how information sought by icare is used to determine an eligibility profile, the builder's individual loading/discount and any applicable conditions (such as injecting capital into their business). Builders also told us that there can be significant variability in the time taken to resolve eligibility issues.

We are also recommending that SIRA increase its regulatory oversight of icare by:

- ▼ reviewing and determining icare's eligibility model and claims handling processes so that they reasonably reflect the practices that a commercial provider would adopt in a competitive market
- ▼ establishing appropriate KPIs against which it can measure icare's performance in resolving eligibility issues and finalising claims in a timely manner.

#### icare should provide more transparency and information on its eligibility assessment process

We are also recommending that icare:

- ▼ explains in plain language in the Builder Eligibility/Change form and Builder Self Service Portal,<sup>1</sup> why certain information is sought and how it is used to determine a builder's eligibility
- ▼ explains in plain language how a builder's information is used to determine their eligibility profile and individual loading/discount, including any conditions of eligibility
- ▼ periodically updates work done by the former Department of Finance, Services and Innovation's Data Analytics Centre (DAC) in 2016, to ensure that risk factors used to predict builder insolvency are up to date, and that icare is asking for the minimum information necessary to manage icare's exposure without unduly burdening builders
- ▼ reviews its dispute resolution process to ensure issues are resolved in a timely manner.

### Builders should be able to choose to use a broker

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The use of brokers should be voluntary for builders. Currently, builders must go through a broker to seek eligibility with icare under the scheme. This could add around 15% to the cost of cover.

Our draft recommendation is that builders should have more options regarding how they manage their obligations under the scheme. This would provide greater incentives for brokers to demonstrate value for money, placing downward pressure on their fees, as well as allowing builders to avoid these costs entirely.



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<sup>1</sup> The Builder Self Service Portal allows builders to input their financial information, purchase certificates of insurance, view their open job limits and view when their next eligibility review is scheduled.

## Builders want a choice of providers in the market

Despite the scheme being opened to new entrants in 2018, icare faces no competitive pressure to improve its product or service because builders have no other choice of provider.

We have made draft recommendations to make it easier for new providers to enter the market. In the longer term, this will provide builders with more choice and improve incentives for icare to provide an efficient product and quality service.

## Builders need better information about the HBCF

We have made a draft recommendation that SIRA provide more guidance for the building industry about the scope and operation of the HBCF, including:

- ▼ whether swimming pool and spa equipment with manufacturer's warranties and soft scape landscaping works require HBCF cover
- ▼ how contracts should be drawn up to ensure that items that do not require HBCF cover are not unintentionally included in a project's value
- ▼ how contracts should be drawn up to allow for variations in the cost of HBCF if the exact contract price is not known at the time the contract is signed
- ▼ whether subcontractors are also required to take out HBCF cover in addition to the head contractor
- ▼ whether HBCF cover is required for renovations and alterations in multi-unit complexes.

## Have your say on our draft recommendations

We are seeking feedback on our draft recommendations by 16 October 2020. Instructions on how to make a submission are here.

Stakeholders are welcome to attend a virtual public hearing on 29 September 2020 - register here.

After we have received feedback on our draft report, we will make our final findings and recommendations to the NSW Government by November 2020. The Government has discretion about whether it implements those recommendations.

