

Effectiveness and efficiency of the Home Building Compensation Fund in NSW

The Home building compensation fund is established under the *Home Building Act 1989*. The scheme compensates homeowners if their builder is unable to complete building work or fix defects because of insolvency, death, disappearance or licence suspension for non-compliance with a money order made by a court or the tribunal in favour of the homeowner.

The scheme applies to residential building work projects over \$20,000 (including GST) unless exempt, such as the construction of new houses, terraces, villas, multi-units up to three storeys in height, as well as home renovations and swimming pool building.

The scheme is regulated by the State Insurance Regulatory Authority (SIRA). The sole insurer currently offering cover under the scheme is Insurance and Care NSW (icare) on behalf of the NSW Self Insurance Corporation. Legislative amendments mean that since 2018, new providers can apply to SIRA for a licence to join the scheme.

The NSW Government is currently undertaking extensive work to reform the building and construction industry. The Building Commissioner has been appointed to lead the implementation of the reforms and advise Government on any additional reforms that may be needed to ensure better protections for homeowners and to lift building standards across NSW.

IPART review

I, Victor Dominello, Minister for Customer Service, pursuant to Section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992*, request that the Independent Pricing and Regulatory Tribunal (IPART) conduct an investigation in accordance with these 'terms of reference'.

Task

IPART should review the effectiveness and efficiency of the home building compensation fund in protecting consumers who are currently covered under the scheme.

In particular, IPART should investigate:

- the scheme's incentives for building industry participants to undertake good risk management and encourages good business practices
- whether the scheme needs to further mitigate builders' insolvency risk, for example through enhanced information collection in relation to builder progress payments, critical stage inspections, and issuance of compliance certificates or other measures
- any other impediments to private sector participation in providing insurance through the home building compensation scheme
- whether there are unnecessary regulatory or administrative burdens and barriers to entry for building industry participants

In investigating and making recommendations on the scheme, IPART should have regard to:

- a) the need for the scheme to provide an adequate level of protection to customers having regard to the other measures that are likely to contribute to the efficient and effective protection of customers
- b) the need to encourage confidence in the market for construction of residential dwellings
- c) the costs and benefits of any proposed changes to ensure an efficient and financially sustainable outcome
- d) the coordinated approach by the NSW Government to fix the failures of the statutory warranty and home building compensation schemes
- e) developments in other jurisdictions.

Procedure

IPART should undertake public consultation. IPART will consult stakeholders on the draft terms of reference and recommend final terms of reference to the Minister within six weeks of receipt of the draft.

A draft report should be publicly released for comment with a final report to be provided to the Minister for Customer Service within six months after finalisation of the terms of reference.



The Hon. Victor Michael Dominello, MP