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## Draft Terms of Reference - Review of Home Building Compensation in NSW

HIA refers to the Draft Terms of Reference (Draft ToR) issued by the Independent Pricing and Regulatory Tribunal of NSW (IPART) in December 2019 on behalf of the Minister for Customer Service Victor Dominello to review insurance under the home building compensation fund in NSW.

HIA provides this correspondence in response to the invitation to interested parties to provide submissions in response to the Draft ToR.

HIA proposes a number of changes to the Draft ToR and also recommends the inclusion of an additional two terms of reference.

### Proposed changes to Draft ToR

*Term of reference (a) - ensure that the scheme provides for incentives for risk management and encourages good business practice.*

HIA proposes that term of reference (a) be amended as follows:

*ensure that the scheme provides ~~for~~ incentives to industry participants who undertake ~~for~~ good risk management and ~~encourages good~~ business practice*

These changes are proposed on the basis that there should be a clear nexus between the behaviour of industry participants and any incentives provided by the scheme.

*Term of reference (b) - encourage confidence in the market for construction of residential dwellings.*

HIA proposes that term of reference (b) be amended as follows:

*encourage confidence in the market for construction of residential dwellings more broadly than just that available under home building compensation insurance*

HIA was concerned that, in its current form, term of reference (d) may just relate to an investigation of, and recommendations in relation to, just the Home Building Compensation scheme. HIA sees that it is critical that a variety of matters beyond the Home Building Compensation scheme be considered when examining how to encourage confidence in the market.

*Term of reference (d) - identify any unnecessary regulatory or administrative burdens and barriers to entry*

HIA proposes that term of reference (d) be amended as follows:

*identify any unnecessary regulatory or administrative burdens and barriers to entry for industry participants and private insurers*

In this instance, HIA hold the view that clearly identifying the parties potentially affected by the operation of the Home Building Compensation scheme would assist in focusing IPART's investigation and better equip IPART to make impactful recommendations.

*Term of reference (g) - consider whether enhanced information collection in relation to builder progress payments, critical stage inspections and issuance of compliance certificates could be used to better mitigate insolvency risks.*

HIA proposes that term of reference (g) be replaced with the following:

*Consider any and all measures which could better mitigate insolvency risks*

HIA is concerned that the specificity of current term of reference (g) may unduly restrict IPART's investigation and recommendations. HIA's proposed change does not prevent the considerations of those matters currently contained in term of reference (g) but will provide an express opportunity for other options to be put forward.

#### **Additional Terms of Reference**

HIA also proposes the inclusion of two additional terms of reference outlined below.

***Proposed additional term of reference 1:*** *Consider previous reforms to the NSW home building compensation fund, their impact on industry participants, the government and private insurers and why they did not achieve their stated objectives.*

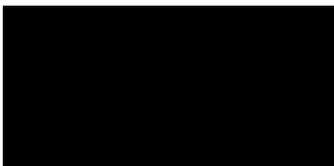
It is important that the IPART review specifically consider and assess previous reforms to the Home Building Compensation scheme. It would seem undesirable and ill-advised to make further recommendations without carrying out such an exercise.

***Proposed additional term of reference 2:*** *Consider any other measures that could contribute to ensuring the long term viability of insurance under the home building compensation fund in NSW.*

Critical to the operation of the fund is its long term viability. Seeking a broad range of views, specifically on how this might be achieved to help inform IPART's review, would seem of paramount importance.

Please contact Guy Noble on (02) 9978 3333 if you wish to discuss this further.

Yours sincerely  
HOUSING INDUSTRY ASSOCIATION LIMITED



David Bare  
Executive Director

cc Matt Dawson, Chief of Staff to Minister Dominello

