

21 January 2020

Ms Jessica Robinson
Independent Pricing & Regulatory Tribunal
Level 15, 2-24 Rawson Place
SYDNEY NSW 2000

**SUBMISSION REGARDING TERMS OF REFERENCE RELATING TO IPART'S REVIEW INTO
HOME BUILDING COMPENSATION IN NSW**

Dear Ms Robinson,

I write in relation to the Independent Pricing & Regulatory Tribunal's (IPART) terms of reference in relation to a review requested by the Minister for Customer Service, the Hon. Victor Dominello into the home building compensation scheme (HBCF) in New South Wales.

I have worked in the building and construction industry in Australia and New Zealand for over fifty years and have spent the last twenty years as a broker of home building compensation (formerly home warranty insurance). Accordingly, I am well placed to provide the Tribunal with information relating to the building industry and home building compensation scheme from both a historical and contemporary perspective.

I am lodging this submission on behalf of SecureBuild Australia (SecureBuild). SecureBuild has developed a new and innovative home building compensation offering that has been designed to:

- Significantly increase consumer protection;
- Provide effective support to builders;
- Produce better building outcomes;
- Significantly reduce defects and overpayments by homeowners;
- Significantly, reduce claims and claims exposures;
- Deliver a profitable and sustainable scheme with lower premium; and
- Ultimately provide cover to the owners of high-rise apartments

SecureBuild has reviewed the terms of reference for the review submitted by Minister Dominello and submits that IPART's review of the home building compensation scheme would benefit significantly from the inclusion of the following elements within its terms of reference:

1. The impracticality of Part 6B of the *Home Building Act 1989*; and
2. A thorough comparison of the NSW HBCF scheme with similar schemes operating in other jurisdictions, in particular, Queensland, Victoria and the United Kingdom

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1. The impracticality of Part 6B of the *Home Building Act 1989*

Following considerable industry and community consultation, in June 2017 the NSW Government passed amendments to the *Home Building Act 1989* (HBA) which, amongst other things, made provision for entry of non-insurance providers into the HBC market.

The making of these provisions within the HBC was, in part, due to an acknowledgement from the industry and government that, given the history of the scheme in NSW, there was little appetite from insurance underwriters to enter the HBC market to provide home building compensation products to homeowners.

In this regard, where the NSW Government was willing to allow entry into the HBC market by non-insurer providers, the Australia Prudential Regulatory Authority (APRA) opposed this position indicating that all providers of HBC in NSW were required to be insurance underwriters licensed by it under the *Insurance Act 1973*.

IPART's review would benefit from exploring the interrelationship between Commonwealth and NSW laws that existing within this environment.

In fact, it is this interrelationship that presents a major barrier to entry and disincentive for new providers to enter the HBC market in NSW. For example, any provider of HBC in NSW would be required to be licensed, regulated and be subject to substantial compliance and regulatory costs from the following government bodies:

- The Australian Prudential Regulatory Authority (APRA) – licensing, prudential requirements and quarterly reporting;
- The Australia Securities & Investment Commission (ASIC) – licensing as a managed investment scheme, quarterly reporting; and
- NSW State Insurance Regulatory Authority (SIRA) – licensing, real-time reporting.

2. A thorough comparison of the NSW HBCF scheme with similar scheme operating in other jurisdictions, in particular, Queensland, Victoria and the United Kingdom

In developing its innovative approach to providing home building compensation, SecureBuild commissioned major research into the provision of home building compensation in other jurisdictions.

This research revealed that, contrary to the NSW experience, other jurisdictions had profitable and sustainable home building compensation schemes. Our research revealed a common feature of those jurisdictions was that attention was being paid to risk mitigation strategies designed to reduce building defects and overpayment of builders by their homeowner clients.

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For these reasons, it is our submission that IPART's terms of reference should include a thorough comparison of the NSW scheme with those schemes operating well elsewhere. SecureBuild would be more than happy to provide IPART with the research that it has conducted to assist it with this comparative analysis.

We look forward to lodging submissions as part of the review process. Please feel free to contact me should you require further information or wish to speak to me regarding any aspect of our submission.

Yours sincerely,

