



THE LANDSCAPE ASSOCIATION

December 2020

IPART Makes Recommendations for HBCF Insurance Scheme Reform

TLA Summary of Recommendations:

- 1 SIRA report on costs as part of its annual performance monitoring review so that icare's costs can be more easily tracked over time, and compared with costs of the schemes in other states.
- 2 That Fair Trading develop a program of proactive investigations and audits of building work in the low rise residential sector, similar to the approach being taken by the Building Commissioner in relation to apartment buildings.
- 3 Fair Trading and NCAT should collect information and publicly report on the number and type of complaints (including construction type, issue type, value of rectification and other costs), and the time taken to resolve them.
- 4 That the NSW Government amend section 8 of the Home Building Act to cap the deposits for residential works over \$20,000 at 5%.
- 5 That the NSW amend section 8A (2)(a) of the Home Building Act so that the value of progress payments paid upon the completion of specified stage of work (as a proportion of the total value of the contract) must reflect the costs of completing that stage of work (as a proportion of total costs).
- 6 Service standards should be introduced for Fair Trading for the time taken to resolve disputes, for example, 80% of disputes resolved within 28 days, average length of time to resolve disputes is 28 days or less. The service standards for NCAT hearing and resolving a dispute should include shorter time frames, for example, 80% of matters are finalised within 6 months (instead of 18 months, as it currently the case).
- 7 The lodgement of a complaint or dispute with Fair Trading or NCAT for a specified defect within the warranty period preserve a claim for insurance in relation to that defect.
- 8 The NSW Government amends section 104A of the Home Building Act 1989 and associated Regulation to allow alternative indemnity providers to offer a discretionary (non-insurance) product.

The Landscape Association

PO Box 5274, Greystanes NSW 2145

☎ 02 9630 4844 ✉ team@landscapeassociation.com.au

A.B.N: 3711 653 2957

www.landscapeassociation.com.au



THE LANDSCAPE — ASSOCIATION —

- 9 That the Government amends section 105F of the Home Building Act 1989 to provide that SIRA is not required to consider specified prudential matters where such matters are also required to be considered by APRA in determining an authorisation to carry on an insurance business under the Insurance Act .
- 10 That the NSW Government:
- limits the application of sections 103BD to 103BG of the Home Building Act 1989 that regulate premium pricing to the default market incumbent, icare
 - removes the requirement for SIRA to approve private insurers and providers' eligibility models, in favour of a market monitoring arrangement where SIRA reports on market participants' performance against high-level principles
- This should be reviewed in five years or earlier if the market composition has changed considerably.
- 11 That the NSW Government requires icare to make available separate cost-reflective construction period and warranty period products so that a new entrant could provide cover for one period only.
- 12 That the NSW Government amends the Home Building Act 1989 to require an independent regulator to determine icare's premiums for the HBCF to ensure they reflect efficient costs. SIRA's role, as the scheme regulator, could be expanded to provide it with determination powers. Alternatively, IPART, as the NSW pricing regulator, could be given the on-going role of determining icare's HBCF premiums.
- 13 The NSW Government amends the Home Building Act 1989 to require SIRA to determine icare's builder eligibility assessment and claims handling processes.
- 14 SIRA establishes appropriate KPIs against which it can measure and publicly report on icare's performance in resolving eligibility issues and finalising claims in a timely manner.
- 15 icare provides greater transparency in how it undertakes its eligibility assessments and how it determines individual builder loading/discounts used in risk-adjusted premiums.
- 16 icare:
- Provides information in plain language in the Builder Eligibility/Change application form or the Builder Self Service Portal, why particular information is sought and how it would be used in determining a builder's eligibility.
 - Provides information in plain language on how the information provided by building businesses was used to determine their eligibility profile and their individual loading/discount, including any conditions of eligibility.
 - Makes clear any adjustments that have been made to take into account any industry specific circumstances, for example, the adjustment for a pool builder in determining their eligibility to account for 'sleeper pools'.

The Landscape Association

PO Box 5274, Greystanes NSW 2145

☎ 02 9630 4844 ✉ team@landscapeassociation.com.au

A.B.N: 3711 653 2957

www.landscapeassociation.com.au



THE LANDSCAPE ASSOCIATION

- Periodically updates the work undertaken by the Data Analytics Centre in 2016, to examine whether the factors previously identified and currently used, continue to be significant in predicting builder insolvency, and if there is scope to reduce the amount of information sought without necessarily increasing risk.
- 17 icare reviews its dispute resolution processes to resolve eligibility issues in a more streamlined and timely manner.
- 18 icare's premium calculator provide the estimated premium for each building business to help homeowners better manage their costs.
- 19 icare changes its operating model to allow for building businesses to apply for eligibility and purchase certificates of insurance directly, rather than require that a broker is used for these functions. This would allow the use of brokers to become voluntary under the scheme, providing building businesses with more options on how they manage their HBCF obligations.
- 20 The NSW Government amends the Home Building Act 1989:
 - to make clear that soft-scape landscaping works are not residential building works
 - to make clear that contracts can be separated or itemised so that HBCF cover is only required for residential building works
 - so that the threshold for requiring HBCF cover refers to the value of residential building works, rather than the contract price.
- 21 SIRA produces guidance for the building industry that addresses the following questions:
 - For contracts that require HBCF cover, whether items such as soft-scape landscape works and pool equipment can be excluded from HBC requirements
 - How to allow for variations in the cost of HBCF in contracts, if the exact contract price is not known at the time the contract is signed
 - Whether head contractors can require subcontractors to also purchase HBCF cover for subcontracted residential works exceeding \$20,000
 - Whether HBCF cover is required for alterations and renovations for multi-units above three storeys.
- 22 The NSW Government exempts single dwellings from mandatory HBCF cover if the value of residential building works is greater than \$2 million, or other amount as determined by the Minister. icare would continue to offer cover for these dwellings, which could be purchased on a voluntary basis.

The Landscape Association

PO Box 5274, Greystanes NSW 2145

☎ 02 9630 4844 ✉ team@landscapeassociation.com.au

A.B.N: 3711 653 2957

www.landscapeassociation.com.au