

15TH October 2020

To whom it may concern,

Review of home building compensation in NSW

I am writing to provide feedback to the review/draft IPART report of home building compensation in NSW.

The submission is provided as more of a response to my extreme dissatisfaction regarding the bureaucratic administration of the fund processes, such as the lack of clarity/transparency and time taken with eligibility reviews, rather than expressing any comprehensive view regarding the plusses and minuses of the HBCF itself.

I support the draft report, its findings and welcome the majority of the reports suggested recommendations.

Due to various circumstances leading to this late submission I am only able to provide a summary point submission at this stage however I would be happy to elaborate on any of the points made should IPART require further information. I will provide some comments directed towards the "list of draft recommendations" in the report, my responses will be made under the same point number as used in the report.

Barrington Housing Group Pty Limited was established in 2003 and is a multi award winning building company operating out of Wollongong NSW. The business has won many HIA design awards for our homes, our business has also been awarded the NSW HIA Professional Builder Award three times as well as being a finalist in other years. I am the sole director of the company. I have experience in dealing with local and state Govt. and chaired the Illawarra chapter of the HIA for a number of years.

List of Draft Recommendations

1. To many petty issues end up in NCAT unnecessarily clogging up the court. Fair Trading needs to be given greater powers to resolve matters with say a dollar value of up to \$50,000 via a site mediation process between builder and client. Fair Trading is appointed as the umpire and their findings are final and binding. At present we see too many consumers/builders not accepting the findings of Fair Trading after in many cases an already lengthy process, changing this will provide greater certainty to all and provide a timely/efficient resolution and end point to many matters. Enforcement can be through licensing if the builder does not comply. Avoidance of defects can be managed by better enforcement/compliance around licensing/certification and progress payment approval.
2. Random audits be taken reviewing the compliance with certification stages of low rise homes to check that the required standards and codes are being met on site by builders and the trades that builders engage. Accountability needs to go beyond just the principle contractor if we want to build a better culture with our tradespeople. Trades and builders receive warnings and penalties if required standards are not met, license restrictions could apply for multiple ongoing/serious breaches. Mandatory education to improve skills could also be used here. A focus on how the certification process could better assist in avoiding/addressing defects could also help.



3. I see little value here other than adding a lot of unnecessary cost, this would also be complex to manage! Fair Trading penalties/breach notices can be posted against trades or builders online so that consumers can be informed. Where multiple ongoing breaches occur then license restrictions and eventual cancellation should be considered.
4. Agree.
5. Agree.
6. Brokers should only be used for straight forward administrative and operational matters. Eligibility reviews that do not look favorable for the builder require a direct line of connection to the HBCF case manager so that an efficient process can be established with clarity/transparency to efficiently resolve any matter. The case manager can also exercise discretion to ensure a builders business is not unfairly penalised if the matter can be resolved over an acceptable timeframe. The current situation of builder not being able to directly talk to HBCF to resolve issues is unacceptable!

Our business has experienced lengthy time delays regarding eligibility reviews with inappropriate restrictions unnecessarily imposed due to short term issues such as ANTA deficiency relating to lumpy property asset sales, we have a strong credible trading history and this should be considered against short term business financial fluctuations.

Such issues could/should have been firstly discussed with me to see if they could have been fairly resolved and to give assurance to HBCF that they were being addressed to their satisfaction. The restrictions imposed essentially stopped Barrington's capacity to access home warranty and to trade. This is a very draconian approach by HBCF given we had clients about to go to site and we had to advise clients of a delay to the construction of their home. Why should consumers also be penalised? How does a business explain such an approach to their client so late in the process without generation of a lack of confidence and uncertainty? These issues can be damaging to a business and are too important and difficult to deal with remotely via a broker.

Once restrictions are in place, they then seem very difficult to unwind, and not often until reputational and commercial damage has been done to the business, such is what happened to Barrington. I do not see how these current hardline practices benefit anyone including HBCF? A supporting letter from our auditors KPMG was provided to HBCF highlighting how Barrington was addressing the ANTA shortfall and we are still waiting for restrictions to be lifted after providing assurances from such a credible financial advisor.

HBCF needs to allow greater flexibility/understanding as businesses readjust portfolios/corporate structures etc. Building businesses are not static entities and are much more than a set of calculations at any given time. All other avenues should be explored with a business owner before imposing restrictions that further damage the business and in fact create a greater risk to HBCF such as potential insolvency.

The current practices of HBCF in restricting trade could send a small builder to the wall rather than providing support to allow them to trade out off any short term financial issue, this needs urgent review! Restriction of trade should be a "last resort" option and should only be used where it is apparent that the business is a material financial risk and cannot trade out of any short term financial issue.

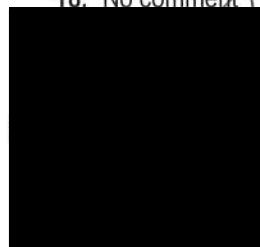


7. I agree with some form of rating system to rank a builders risk if warranty becomes an "opt in" choice for consumers (which I support) however careful consideration is required. A financially strong builder may not necessarily be a "good or better" builder than a smaller builder and the scheme could favor larger builders in the marketplace over smaller builders. There is a greater philosophical question here regarding how home warranty may be favoring an industry where only the wealthy can becoming builders, is that truly what we want? Perhaps a better approach considers defect/claim history as a major part of the rating scheme, there is often a correlation with defects to financial issues anyway?
8. Would support this approach, subject to the detail.
9. Agreed
10. No comment due to lack of understanding of this issue
11. Agree, this is a very good idea and offers greater consumer choice
12. Agree that some form of independent oversight is required
13. Agree, iCARE/HBCF lacks accountability
14. Agree
15. Lack of transparency and clarity around eligibility issues is a major issue for builders. The scheme has become so complex that builders struggle to understand it and therefore struggle to know what to do to achieve compliance for business growth etc.

Eligibility reviews should also involve direct communication between builders and the fund. The eligibility requirements for various turnover limits need to be distilled down to a set of simple financial metrics that are published to the builders. This will assist with clarity and would help facilitate medium and long term financial planning for building businesses to achieve desired growth to take on future projects.

I feel the costly current attempt of micro managing builders via external accounting firms such as PWC etc is not working very well. When only less than 50% of the value of all premiums collected is left for consumers after paying expensive administrative costs of the fund then I believe we have a problem. The current complexity and high administrative costs of running the fund are unacceptable!

16. Agree
17. Agree, direct communication with the fund and builder will help achieve this. An agreed timeframe needs to be mandated!
18. No comment



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