



THE LANDSCAPE — ASSOCIATION —

1 June 2020

Ms Jessica Robinson
Director, Pricing
Independent Pricing and Regulatory Tribunal (IPART)
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Dear Ms Robinson

Re: IPART Review of Home Building Compensation Insurance Program

I write on behalf of the landscaping industry in NSW (and the ACT). The Landscape Association is the peak industry body representing those who construct and maintain our green spaces both residential and commercial/civic. Throughout this submission, I refer to our members as 'contractors'. They are the builders of outdoor spaces. The landscaping industry in NSW alone contributes more than \$1.68billion into the NSW economy annually, contains over 4,200 business which in turn provide employment for in excess of 64,000 people.

To begin, I would like to note that we first became aware of IPART's review of the HBC program via a 'reminder' email dated 25 May 2020 – one week prior to the deadline for submissions. Therefore, this submission has been prepared without detailed or adequate consultation with our members and stakeholders. For this reason, I would like to express my willingness and desire to be involved in further discussions regarding the revision of this program.

Issues

I note that many of the issues with the program as it currently exists have been detailed in the information provided by IPART as part of the consultation process. These issues include:

- The onerous nature of the eligibility qualification process.
- The requirement for contractors to provide detailed financial documentation – both personal and business, including over long-terms. This limits the ability for newer contractors to obtain HBC cover.
- The growth-limiting nature of the current program, whereby pre-set limits are placed on the value of work which can be undertaken.
- The impact on the market of contractors who may choose not to seek or hold the relevant HBC insurance due to the difficulties involved in obtaining eligibility or cover.

In addition, we note the issue related specifically to landscaping wherein soft-scape works are included in the scope for HBC insurance. Soft-scape works include the installation of soils and other media as well as plant materials. These elements of an overall project can represent a significant proportion of the overall project fee, yet they do not represent a risk

which can be mitigated by the HBC insurance. Soft-scape works are complete once installed, can be taken over at any stage by a new contractor, and do not have any lingering warranty issues. These elements of a landscaping contract should therefore be excluded from the calculations related to eligibility for HBC insurance, maximum caps on value of works a contractor can carry out and in the \$20,000 threshold per contract after which HBC insurance is required.

This submission does not reiterate the issues as already identified, but proposes a change to the overall program, in response to the fact sheet and other documentation provided.

Proposed new program framework

I note the request by IPART for the submission of creative measures which address the known issues with the current program framework. To that end, I propose that consideration be given to the very broad-brush suggestion put below. Note that the short lead time given has meant that this proposal is not yet backed by detailed research or conceptual development. I again reiterate my desire to support any efforts to conduct such work as part of the next-steps to be undertaken by IPART.

A complete re-think of HBC:

- The current scheme ceases to exist.
- In its place, a levy program is developed.
- The levy program is applied to all construction projects.
- Using the figures quoted in the fact sheet supplied, there are approximately 350 claims p/a with a maximum payout of \$340,000 per claim. This means the payout cost p/a is up to \$119million. (The figures showing the value of all works undertaken each year is not given).
- The levy would be calculated based on: the total value of works undertaken, divided by the annual payout cost.
- This could be calculated annually, semi-annually or quarterly, and the levy amount for the coming period would be set based on actual figures for the previous period.
- The levy would be applied to every project, without the need for any eligibility process to be undertaken, or for annual updates to be processed.
- Contractors would (continue to) pass the HBC levy cost on to clients.
- Project values could be verified via a link to ATO records in a similar way to the processing of BAS.
- For landscape contractors, soft-scape works would not be considered in HBC levy calculations.

The introduction of on-site reviews and other measures to mitigate risk, as suggested in the fact sheet document, are encouraged. The aim should be of course, to ensure quality of works throughout and mitigate risk of contractors exiting the market part-way through works. The levy would vary in direct correlation to the actual cost of the scheme.

Benefits of this levy approach:

- There is no need to attract private insurers to the scheme.
- There is an enormous saving in the administration of the eligibility qualification and review process.
- This approach would bring about a more level playing field for all – no need to differentiate high/low risk builders.
- There is less impediment for younger/newer contractors to enter the market and get a start, leading to greater competition.

- The opportunity for contractors to simply carry out work without HBC insurance is eliminated.
- There is no risk of exposure to the NSW Government by the scheme being underfunded.

As noted earlier, we have not had the opportunity in the past week to research and fully develop this concept. However, I again express our desire as an industry body to participate in the next steps undertaken in order to ensure representation of our industry in the final outcome and to achieve the optimum outcome for all construction industries.

We thank you for your consideration. We would be more than happy to discuss this with you at any time and look forward to receiving updates on next steps.

Your sincerely

A handwritten signature in cursive script, appearing to read 'Julie Krieger'.

Julie Krieger
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