

28 September 2015

Independent Review of the Building Professionals Act 2005 – Draft Report August 2015

E: policy@bpb.nsw.gov.au

Attention: Independent Review, Mr Michael Lambert

Dear Mr Lambert,

Independent Review of the Building Professionals Act 2005 – Draft Report August 2015

The Urban Taskforce has reviewed the draft Report and we have provided a number of comments for your consideration.

1. National consistency is preferred

We note that the NSW approach to national building standards, licensing building practitioners and use of private certifiers differs from the approach of other states and territories in some instances. Wherever possible, the NSW approach should be made consistent with 'best practice'.

2. The current fragmented approach to building regulation should be resolved

Currently, NSW has a relatively fragmented administrative structure, with building regulation spread across several areas of the Department of Planning and Environment, NSW Fair Trading and the Building Professionals Board. This fragmentation is causing confusion and dissatisfaction for the community and the property development industry and creates an ineffective and inefficient system.

The Report proposes to restructure the administration of building regulation based on the principles of good administration, including the consolidation of all like functions, creating an Office of Building Regulation. The Urban Taskforce acknowledges the benefits of creating a single administrative body and highlights the need to ensure that this is not a costly and time consuming process, and that this does not inadvertently introduce excessive regulation.

3. NSW should consolidate relevant legislation into one 'building regulation and certification act'

NSW is the only jurisdiction not to have a separate piece of legislation to cover building regulation and other associated areas. The relevant sections of the *Environmental Planning and Assessment Act 1979* and the *Home Building Act 1989* should be combined in a separate building act, in line with other states.

4. NSW should accredit a broader range of skills to act as certifiers

There is notable absence of building and critical systems design and the installation and commissioning of critical building elements for complex buildings. The Urban Taskforce supports introducing a broader range of qualified persons who can be accredited to provide certain specialised certification services.

5. NSW should increase resourcing for building regulation and certification however the private sector should not be relied upon supply funding for this

The resourcing of the building regulation and certification process is significantly lower than either of the major States (Victoria and Queensland) and there is less reliance in NSW on industry funding of the function. Given the already excessive cost of property development in NSW, we do not support additional fees and levies as a primary means of raising funding for enhanced resourcing of building regulation functions.

6. Current building regulation legislation is complex and should be simplified

The Urban Taskforce believes that the current legislation governing building certification and regulation is very complex and prescriptive, and is dispersed throughout several acts and regulations. Other jurisdictions have consolidated building legislation into one act.

Current building legislation should be reviewed, updated where necessary and consolidated into a single act.

7. An online system should be developed for building regulation and certification processes

At the moment, a large amount of building regulation and certification processes are paper based, which is an outdated and inefficient means of processing information. An online system, including electronic lodgement of applications and approvals should be developed. This would enable this information to be shared quickly and easily. The proposed Office of Building Regulation would be able to hold all information on building projects, including certificates issued and inspection reports. The proposed online building manual is also supported, provided that this does not impose requirements upon a developer to maintain the building manual once the building is completed and sold.

8. Fire safety assessment needs improving

The Report proposes reforms to make the approach to fire safety assessment more effective, including prioritisation of safety issues. The Urban Taskforce supports reforms to improve the system and recognises and supports the need to ensure the safety of buildings.

Reforms to improve fire safety should be undertaken in a manner which will limit any unnecessarily costly or onerous requirements upon the developer while ensuring the fire safety of the building is of the highest standard.

9. An industry strategy to support certifiers is needed

Currently, certification is not an attractive career choice for a number of reasons, particularly the high cost of professional indemnity insurance, lack of ongoing professional support and risk and liability. There is a significant risk that due to the ageing of the workforce, the number of certifiers will decrease as certifiers retire and

the industry will not have a sufficient number of suitably skilled certifiers to replace them.

This will have implications upon the cost of property development and place pressure on the remaining certifiers. A strong industry strategy is needed to make certification an appealing career choice. The Urban Taskforce support reforms to improve education, training and support for certifiers.

10. The use of specialists to support certifiers is supported

The Urban Taskforce supports the use of specialists to support certifiers. There should be a broadening of the range of activities that are subject to accredited certification. In the area of building certification too much reliance and responsibility is placed solely on the building certifier. There is a need to allow building certifiers to draw on specialised accredited certifiers in the areas of town planning, building design and the design, installation and commissioning of critical building elements and systems.

In many instances the building certifier may not have the required specialist expertise to certify the critical building systems and elements and is not in a position to rely on a suitable qualified and accredited party. This creates a significant weakness in the certification process. The solution is to identify and accredit suitably qualified and experienced person to install and commission critical building systems and elements. For critical building systems and elements for commercial buildings there should be a requirement for those that design, install or commission such work that they are suitably accredited, have professional indemnity insurance cover and certify their work.

11. A Minister for Building regulation is not needed

The Urban Taskforce notes the suggestion that the state government appoint a 'Minister for Building Regulation' to have oversight of the industry. We believe that this is not required and that the creation of an Office of Building Regulation will provide sufficient coordination and leadership.

12. Industry professional indemnity is supported

The Urban Taskforce supports the proposal to enhance the coverage and sustainability of professional indemnity insurance for certifiers. The introduction of an industry scheme with approved insurers and active risk management scheme would greatly assist in alleviating the burden placed upon certifiers and would make building certification a more appealing career choice.

13. The Urban Taskforce supports the independence and professionalism of certifiers

At times there can be perceived conflict of interest for a certifier between their regulatory responsibility and their commercial interest which depends on being recommended for the role by the builder or developer. The Report acknowledges that the majority of certifiers are seeking to do the 'right thing in the right way' and recommends improvements to accountability and transparency as the best process to manage this.

The proposal to develop and maintain a practice guide which sets out best practice requirements for certifiers, is regularly updated and supported by training programs is


supported. The Urban Taskforce supports the promotion of standards, independence and professionalism in the certification industry.

The Urban Taskforce believes the Report provides a through, comprehensive and insightful analysis of a highly complex area of regulation and we commend the excellent work completed by Michael Lambert and his team so far.

We are always willing to work closely with the Government to provide a development industry perspective on building regulation and certification. Please feel free to contact me on telephone number 9238 3927 to discuss this further.

Yours sincerely

Urban Taskforce Australia

A handwritten signature in blue ink, appearing to read 'Chris Johnson', with a long horizontal flourish extending to the right.

Chris Johnson AM
Chief Executive Officer