

TERMS OF REFERENCE

The Review

The Hon Robert Stokes MP, the Assistant Minister for Planning (**Minister**), requests Mr Michael Lambert (**Reviewer**) to:

- undertake a review of the *Building Professionals Act 2005* (**Act**) under section 97 of that Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives, and
- examine the Independent Pricing and Regulatory Tribunal reviews into **Licence Rationale and Design** and **Local Government Compliance and Enforcement** (**IPART reviews**) and identify any implications or outcomes from those reviews which relate to building regulation reform, and
- review any other report produced since the Act was assented to which relates to building regulation reform or the certification of building work.

The Minister requests that the review of the Act be undertaken on his behalf in accordance with these Terms of Reference (**Terms**).

This review presents an opportunity to deal with the broader issues relating to building regulation reform discussed in the IPART reviews and in other reports or enquiries.

The review will include the actions, consultation and considerations set out in these Terms.

1. Policy Objectives

The Reviewer is to confirm the policy objectives of the Act.

In order to understand the policy objectives, the Reviewer is to have regard to (but is not limited to):

- (i) the Act as made and legislation that has amended the Act.
- (ii) Parliamentary Second Reading Speeches in relation to the Act and amending legislation
- (iii) the 2002 report by the Joint Select Committee on the Quality of Buildings
- (iv) such other policy documents as may be provided to the Reviewer by the Department of Planning and Environment (**Department**) or the Building Professionals Board (**BPB**).

2. Validity of Policy Objectives

The Reviewer is to consider whether the policy objectives of the Act are still valid and whether there are new policy objectives that should be pursued.

The Reviewer is also to consider whether there are other policy objectives relating to building regulation generally that should be pursued.

The Reviewer must have regard to (but is not limited to) the reports and reviews listed in **Annexure A**.

To assist the Reviewer in undertaking the review and to undertake stakeholder consultation, the Department will:

- (a) make arrangements for the Reviewer to confer in private sessions and/or group sessions (as determined to be appropriate by the Reviewer) with:
 - (i) the stakeholder groups listed in **Part 1, Annexure B**.
 - (ii) the BPB personnel listed in **Part 2, Annexure B**.
 - (iii) the personnel of the Department listed in **Part 3, Annexure B**
 - (iv) such other persons or organisations as required by the Reviewer

- (b) arrange for notices to be published in newspapers in the locations listed in **Annexure C** advising that the review is being conducted and inviting written public submissions and/or attendance at public forums to be held in those locations
- (c) arrange for public forums to be conducted, at which the Reviewer will be the Convenor, in the locations listed in **Annexure C**.
- (d) provide such administrative or other support as the Reviewer may require.

3. Draft Report

The Reviewer is to prepare a draft report which sets out:

- (a) the Reviewer's conclusions as to:
 - (i) which of the policy objectives of the Act continue to be valid,
 - (ii) which of the policy objectives are no longer valid,
 - (iii) whether the current provisions of the Act are appropriate for securing those policy objectives which remain valid.
- (b) the Reviewer's recommendations as to new or additional policy objectives which should be pursued or adopted. In this regard, the recommendations that may be made are not to be limited to policy objectives for the Act, and may include recommendations relating to building regulation generally.
- (c) the Reviewer's recommendations as to the nature of legislative amendments or provisions which may be required to implement any recommended new or additional policy. In this regard the recommendations that may be made are not limited to the Act, and may include recommendations for the amendment of other legislation or the introduction of new legislation. In making any such recommendation the Reviewer should seek the assistance and input of the personnel of the BPB and Department listed in **Part 4, Annexure B**.

4. Public Exhibition

The Reviewer will provide the draft report to the Department which will publish it on the website of the BPB and the Department and invite final written public comment for a period of 28 days.

5. Final Report

The Reviewer will consider all written public submissions received and prepare a final report for the information of the Minister.

For the purpose of preparing the final report the Reviewer will identify viable options for reforms to the Act and/or building regulation generally.

The Department will assist the Reviewer to obtain the services of an appropriately qualified person to conduct a costs benefit study of the options.

The Reviewer will have regard to the costs benefits studies when preparing the final report.

The final report will include indicate the Reviewer's preferred option for reform.

6. Governance

The Reviewer will commence the review by October 2014

The Reviewer will provide monthly progress updates to the Secretary of the Department (**Secretary**).

The draft report is to be provided to the Secretary by2015

The final report is to be provided to the Secretary by 31 October 2015

ANNEXURE A

- ***Building Certification and Regulation-Serving a New Planning System for NSW***
Author George Maltabarow.
- Independent Pricing and Regulatory Tribunal draft reports titled ***Licence Rationale and Design*** and ***Local Government Compliance and Enforcement***.
- Draft ***Home Building Regulation 2014*** and associated Regulatory Impact Statement.

ANNEXURE B

Part 1

Association of Accredited Certifiers
Australian Institute of Building Surveyors
Office of Local Government
Development and Environmental Professional's Association
Australian Institute of Building
Urban Development Institute of Australia
Property Council of Australia
University of Technology, Sydney
University of Western Sydney
University of Newcastle
TAFE NSW
Engineers Australia
Planning Institute of Australia
Australian Institute of Architects (NSW)
Building Designers Association of Australia
The Institution of Surveyors NSW
Australian Building Codes Board
Business Council of Australia
Fire Protection Association Aust
Insurance Council Aust
Local Government Association NSW
National Fire Industry Association
Strata Community Association NSW
Owners Corporation Network
Fire and Rescue NSW
Fair Trading NSW
Division of Local Government, Department of Premier and Cabinet
Swimming Pools and Spas Alliance
Master Builders Association
Housing Industry Association

Part 2

Members of the Board
Manager
Team Leaders

Part 3

The Secretary
Deputy Secretary People and Business
Executive Director, Corporate and Executive Services
Director, Legal Services
Director, Building Systems Unit
Team Leader, Building Systems Unit
Director, Local Plans, Codes and Development Guides
Manager, Codes and Complying Development

Part 4

BPB Personnel
President, BPB
Manager, BPB

Department Personnel

The Secretary
Deputy Secretary People and Business
Executive Director, Corporate and Executive Services
Director, Legal Services

ANNEXURE C

Sydney

Newcastle

Wollongong

Ballina

Batemans Bay

Wagga

Dubbo

Tamworth