



24 November 2017

Director, Legislative Updates
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001
Via email: Regulation.Review@planning.nsw.gov.au

Dear Sir/Madam

Re: Review of the Environmental Planning & Assessment Regulation 2000

The Australian Institute of Building Surveyors (AIBS) is recognised nationally and internationally as the peak professional body representing building surveying practitioners in Australia and has been granted the charter to be recognised as the Australian Chapter of the International Codes Council (ICC), a global council dedicated to developing model codes and standards for the design, build and compliance process resulting in safe, sustainable, affordable and resilient buildings which benefit public safety and industry needs.

AIBS welcomes the opportunity to provide comment on the review and remake of the NSW Environmental Planning and Assessment Regulation 2000 (the EPAR). The regulation is long overdue for review and it is the view of AIBS that most regulatory schemes operating in Australia are in need of reform. Our Building Regulatory Reform Policy sets out our views about this issue and is attached for reference. In this instance, our comments are limited to matters of interest and concern for building surveyors (including certifiers) in NSW.

In that regard, the comment that the Government is fast tracking reforms to building regulation is noted, however in relation to this matter:

- Where are the reforms? The Government has recently implemented some fire safety regulation changes however, this has been presented as only a 1st step towards a strengthened building regulation system for NSW. Nothing else has surfaced. At present, it appears that the Government is taking a piecemeal approach to reform. As has been previously requested in other submissions to the Government, industry wants to see the complete intended reform package and the strategy for implementation. It is the view of AIBS that a holistic approach needs to be taken to building regulatory reform if a successful system is to be achieved.
- A substantial part of the EPAR is dedicated to building regulation yet this is downplayed by the issues paper. How will it be treated in the remade EPAR?
- NSW has an integrated planning and building system, and this is not changed by the Environmental Planning and Assessment Amendment Bill 2017 (the Bill) recently submitted to Parliament. Yet the issues paper makes no mention of this or of how the current uncomfortable relationship between planning and building will be resolved. Part A1 of our Policy describes

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reasons why we believe it is important that building regulation be codified in a dedicated Act and we can see in the current situation in NSW examples of how this would assist in resolving industry concerns with the current system.

For example, the need for approval and hence independent checking of development for compliance with technical standards is currently determined by planning instruments and principally based on planning criteria. Also, assessment of building issues is occurring at development application assessment stage (e.g. see clauses 93 and 94) in an ad-hoc and sometimes insufficient manner. This is meant to be a merit assessment stage not a building detail assessment stage. Furthermore, complying development is still problematic and treated inconsistently with development that requires a full approval (i.e. a DC and CC).

Part B3 of our Policy describes what we believe is the ideal process to be followed in respect of coordination of various regulatory inputs into the design verification process.

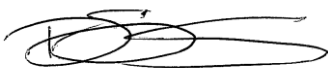
We note that the Bill includes some significant reforms for building and subdivision regulation (e.g. a new occupation certificate regime, new directions by certifiers, a building manual, subdivision works certificates, expanded regulation making powers). Why are these not mentioned in any detail in the issues paper, and how are they intended to be addressed in the remake of the EPAR?

Our Building Regulatory Reform Policy sets out how we believe a regulatory system should ideally deal with such processes at Part D1 in relation to occupation certification, at Part A7 in relation to enforcement, inclusive of directions to be given by building surveyors undertaking an assessment function, Parts D2, D3 and A12 in relation to the establishment of an information record which might take the place of a building manual.

AIBS trusts that these matters are being dealt with and managed, and industry will be informed and consulted in due course.

The AIBS NSW/ACT Chapter Committee would welcome the opportunity to discuss this further or provide any additional clarification with regard to any of the comments submitted or any of the positions set out in our Building Regulatory Reform Policy.

Yours faithfully
Australian Institute of Building Surveyors



Damian O'Shannassy, FAIBS
Chapter President – NSW/ACT

Encl. AIBS Policy – Building Regulatory Reform in Australia