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31 October 2025

Committee Secretariat  
Legislative Scrutiny Committee  
GPO Box 3721  
Darwin NT 0801

By email: [LSC@nt.gov.au](mailto:LSC@nt.gov.au)

Dear Committee Secretariat,

## **RE: Building Legislation Amendment (Fidelity Fund) Bill 2025**

The Housing Industry Association (HIA) takes this opportunity to respond to the *Building Legislation Amendment (Fidelity Fund) Bill 2025* (the Bill).

We are broadly supportive of Government's introduction of the Bill and commend the Government for progressing long overdue reforms to the Fidelity Fund NT. However, we believe more can be done to address the ongoing issues with the Fidelity Fund, both via amendments to the Bill and by taking immediate steps to address industry's concerns.

### **Industry concerns**

HIA has raised concerns regarding the operation and oversight of the Fidelity Fund NT for many years. A detailed account of these issues was provided in our letter to the Acting Deputy Information Commissioner, on 4 February 2025. This letter was also provided to the Legislative Scrutiny Committee on 30 October 2025. HIA refers to and reiterates these positions with respect to the Bill.

There are several issues that are of particular concern:

- delays and refusal to issue certificates;
- a lack of transparency in decision making;
- perceived bias; and
- non-compliance with the legislative requirements.

### **Housing affordability and productivity**

Inaction on these issues will have a direct impact on the industry's ability to respond to the current critical shortfall in housing and to push up the cost of delivering a home. This includes the exacerbation of excessive taxation on housing as outlined in the March 2025 Centre for International Economics Report on [Taxation of the housing sector](#).

Furthermore, the Productivity Commission's [Interim report on creating a more dynamic and resilient economy](#) calls for Government principles and processes that drive regulation that supports economic dynamism, and to enhance regulatory practice to deliver growth, competition and innovation. Steps taken by government to advance legislative amendments should be taken with the view to removing unnecessary regulatory burden and boosting productivity.

## **Proposed amendments to the Bill**

### **Governance and oversight**

To strengthen the integrity of the Fidelity Fund NT, a review of trustee appointments and governance structures should be undertaken to ensure independence and impartiality.

We acknowledge the need for continuation of trustees under the proposed s.210, however the Bill should require the immediate Ministerial review of trustees' ability to satisfy the requirements of their role. The review should occur not more than 30 days from the date of commencement, if not sooner, and in accordance with the proposed s.54DBA.

### **Financial information**

The *Building (RBI and Fidelity Fund Schemes) Regulations 2012* (the Regulations), Part 3.4, Division 2, should be amended to include a specific requirement for information included in the financial records and annual accounts to be made publicly available. This should include at a minimum, a summary of the funds held and anticipated liabilities to demonstrate the Fund's ability to respond to a catastrophic claim event. Alternatively, this may be specified by the Minister by Gazette under r.73(2)(b).

Additionally, it is necessary for Government to consider a requirement for financial reports to include a detailed account of payments made to trustees, including salaries, fees, entitlements and other benefits. Under r.34 and subject to the construction of the trust deed, trustees may have considerable scope to make payments to themselves out of the trust funds. While it may be at the discretion of the Minister whether this information is made available publicly, it is in the public interest that at least the Minister is accountable for the oversight of appropriate payments to trustees.

To address growing concerns the Fidelity Fund NT presently holds insufficient funds to respond to a catastrophic claim event, HIA calls on Government to confirm the Fund's financial position. Government has the ability, based on the information it has or should have under the existing laws, to reassure industry and consumers that proper adequate protections remain in place. If the Government does not have the information necessary to make this announcement, it must take immediate steps to rectify the issue and prevent it from recurring, whether under the existing provisions or if necessary, by ensuring the legislative amendments include sufficient powers to do so. Failing this reconsideration of other home indemnity insurance models may be warranted.

### **Review and appeals**

Under the proposed r.61(3)(e), the Minister will have the power to review applications for certificates received by the scheme with respect to the financial position of the scheme. This provision should be broader to allow the Minister to request and review any applications for certificates, irrespective of its relationship to the scheme's financials.

Further, there must be the right for applicants to appeal or apply for a review of a decision regarding a certificate. It is not presently apparent whether there is a process for review or formal appeal of a decision by the Fidelity Fund NT. This must be addressed, whether in the legislation or by ensuring information and guidance on how to navigate any existing processes is made readily available. Review and appeal rights should be available through the Fidelity Fund NT and via a point of escalation, whether to the Minister, a court or tribunal.

Clear and comprehensive information must also be provided to assist applicants in navigating the review or appeal process.

### **Necessary operational commitments**

While the Bill is considered a positive step towards greater oversight and transparency of the Fidelity Fund NT, industry productivity is still stifled by delays and rejections, with no clear end in sight. Government must take immediate action to ensure industry is on track to deliver on housing targets and avoid any further erosion of industry capacity.

## **Applications and certificates**

- A review should be undertaken into:
  - the numbers of certificates issued on a periodic basis;
  - the timeframes for assessment and determination;
  - any systemic issues within the Fidelity Fund NT that may contribute to prolonged timeframes or unjustified rejections;
  - the number and frequency of certificates necessary in order to achieve Government’s housing objectives; and
  - measures to support for building businesses in meeting the eligibility criteria to obtain the necessary Fidelity Fund certificates to meet Government’s housing objectives.
- Performance metrics should be established around the timing for assessment of applications and issue of certificates to manage future performance and to determine whether any amendments need to be made to existing systems.
- Applicants should be supported though out the application process, including:
  - education and clear information on the requirements and process for application;
  - proactive assistance with applications that may be lacking the necessary information;
  - in the event a builder is deemed to be eligible for a reduced level of coverage, a range of options should be provided to assist the builder in improving their eligibility; and
  - meaningful feedback must be provided to applicants whose applications are ultimately declined.

## **Review of prior decisions**

To address any consternation with respect to prior limitations or rejections, it will be necessary to audit and reconsider any previous rejections, under a lens focussed on progressing the housing agenda.

With some businesses still recovering from challenges faced during the pandemic, as well as many new businesses entering the industry, Government must be mindful its appetite for risk and methods of assessment cannot be the same as they were five years ago. Again, with the priority to advance the delivery of housing, a review of the financial assessment frameworks is necessary to avoid unnecessary barriers.

## **Compliance review**

It remains unclear whether the Fidelity Fund NT is now compliant with all requirements under the existing legislation. If not, it is incumbent upon Government to require compliance and ensure the Fund remains compliant in future.

## **Perception of bias**

Despite the positive improvements to the existing scheme arrangement proposed under the Bill, and further as listed above, there remains a challenge around the perceived bias and the degree of separation between MBA NT, and the Fidelity Fund and its trustees. Government must also consider how it intends to address this. One option may be in the eligibility criteria for trustees, under r.31.

## **The need for a competitive market**

The establishment of a competitive market may go some way to addressing concerns regarding bias. The legislation already contemplates the operation of a domestic building insurance scheme in NT under Part 5A, Division 3 and we would contend that it is an appropriate time to consider the opportunity to approve an insurance product in NT.

## **Timing**

HIA supports a robust and comprehensive consultation process to ensure the new laws are effective, practical and avoid unintended consequences. However, timely introduction of the reforms will help address the ongoing issues with the Fidelity Fund NT, in addition to the necessary immediate actions.

## **Education and training**

HIA remains available to discuss ways in which we can support government in the provision of education, training and information to industry.

Should you wish to discuss further, please don't hesitate to contact me on [REDACTED] or by email,

[REDACTED].

Yours sincerely

HOUSING INDUSTRY ASSOCIATION LIMITED



Luis Espinoza  
Executive Director Northern Territory