



MASTER BUILDERS
NORTHERN TERRITORY

**Submission to the Legislative Scrutiny Committee
Building Legislation Amendment (Fidelity Fund) Bill 2025**

Master Builders Northern Territory

Date: 4 November 2025

To: The Chair, Legislative Scrutiny Committee
Northern Territory Legislative Assembly

1. Introduction

Our comments below address the Bill in accordance with the Committee's Terms of Reference (adopted 15 October 2024).

Master Builders Northern Territory (MBNT) appreciates the opportunity to provide this submission to the Legislative Scrutiny Committee regarding the Building Legislation Amendment (Fidelity Fund) Bill 2025 (Serial 45).

MBNT represents local builders, contractors, and construction businesses across the Northern Territory. We share a commitment with the Northern Territory Government to building a stronger, safer, and more sustainable Territory. A well-functioning and confident construction industry is fundamental to achieving this.

Master Builders Northern Territory acknowledges that the original legislative framework, the NT Building Act 1993 and the Building (RBI and Fidelity Fund Schemes) Regulations 2012 was established on the basis that scheme operators would function with a degree of independence from Government. This model ensured that while the Minister retained an important oversight role - operational risk assessment, financial management and individual eligibility decisions sat with the approved scheme.

MBNT notes there is limited visibility regarding the Risk Management Framework governing the NT Fidelity Fund. Clarity around how risk is identified, assessed, and managed is essential to maintaining industry confidence and ensuring the scheme operates fairly and consistently.

Feedback from Members and Stakeholders indicates increasing concern regarding how assessment decisions are applied in practice. The absence of a clearly articulated and accessible risk assessment framework including how assessments are undertaken, what criteria are used, and how outcomes are benchmarked contributes to the perception that builders are not being assessed on an equal basis.

MBNT, on behalf of members suggests that the assessment framework should be open and communicated to applicants. Builders should also receive meaningful feedback outlining the basis for decisions and opportunities for improvement. This would support capability uplift, rather than simply resulting in adverse outcomes without a pathway for remediation.

These proposed legislative amendments, while important, should not be positioned as the sole solution to broader structural issues within the construction regulatory environment. Ensuring effective oversight depends on the Department of Lands, Planning and Environment having appropriate capability, expertise, and clearly defined regulatory tools to manage licensing, compliance, and enforcement. Without this uplift, legislative reform alone will not fully achieve the intended policy objectives.

MBNT supports clarity, accountability, and strong consumer protections, but reform must also maintain appropriate separation between government oversight of the scheme and the operational independence required for it to function effectively.

Once there is a shared understanding of the risk framework, and once the Government strengthens its regulatory capability to manage conduct and compliance at the source, the Fidelity Fund can return to its original and appropriate purpose: a consumer protection instrument, not a perceived de-facto regulator or a mechanism determining market participation. The Fidelity Fund must ultimately remain the final safeguard for Territory homeowners.,

Recommendation: MBNT supports the establishment of a clearly defined and publicly accessible risk management framework that clarifies the criteria, methodology, and decision pathways used to assess risk within the scheme, providing builders with certainty, consistency, and confidence that risk is being applied fairly and comparably across the industry. Greater visibility of the approach taken would also help demonstrate the prudential discipline and governance expected of an approved scheme.

2. Overview of the Bill

The Building Legislation Amendment (Fidelity Fund) Bill 2025 proposes amendments to this

Key elements include:

- Requiring Ministerial approval of trustees, including powers to approve, refuse, or revoke appointments.
- Establishing a Minister's Observer with powers to attend trustee meetings and access all scheme documents.
- Broadened ministerial powers to include management and operational oversight of the scheme.
- Providing detailed provisions for trustee appointments, revocations, and reporting obligations.
- Transitional provisions confirming current trustees are taken to have been approved under the new Act.

While MBNT recognises the intent to modernise the regulatory framework and enhance accountability, the Bill also introduces several broad discretionary powers which, if not appropriately defined and supported by clear criteria, could create uncertainty for scheme operators, trustees and beneficiaries.

3. Analysis Against Legislative Scrutiny Committee Terms of Reference

3.1 Rights and Liberties of Individuals

Although the Bill does not directly impose obligations on individuals, it indirectly affects the rights and interests of Territory builders, consumers, and fund beneficiaries who rely on the Fidelity Fund's stability. Expanded ministerial discretion in approving or revoking trustee appointments could introduce operational instability if applied without clear criteria or procedural safeguards.

Recommendation: That eligibility criteria and grounds for trustee approval or revocation be explicitly set out in the Regulations, with decisions required to be objective, transparent, and reviewable.

3.2 Administrative Powers and Natural Justice

The Bill increases administrative power through the introduction of discretionary ministerial approvals, revocation powers, and appointment of an observer with access to internal records. However, it does not outline procedural fairness mechanisms for trustees subject to ministerial decision-making.

Recommendation: Include a statutory requirement for procedural fairness, ensuring trustees are provided with notice, an opportunity to respond, and written reasons prior to any adverse decision being made.

3.3 Delegation of Powers

While the Bill enables delegation of administrative powers, it does not specify who may exercise these functions on the Minister's behalf. Without definition, this could lead to inconsistent or inappropriate delegation.

Recommendation: Limit delegated powers to senior public officers with relevant qualifications or experience, ensuring decisions are made by appropriately accountable persons.

3.4 Clarity and Drafting

Several provisions would benefit from clarification to avoid misinterpretation. This includes defining the boundaries of both the Minister's and the Minister's Observer roles, setting decision timeframes, and clarifying cross-references between the Act and Regulations.

Recommendation: Insert supporting regulation or guidance to limit both the Minister's and the Minister's Observer's access to only what is reasonably necessary for the performance of their statutory functions, and require strict statutory confidentiality protections over any applicant's commercial, financial, and personal information.

4. Conclusion

Master Builders Northern Territory supports strengthened clarity in the operation of the Fidelity Fund on behalf of members. MBNT recommends that any proposed changes be accompanied by appropriate checks and balances to maintain confidence, independence and procedural fairness in the governance of the Fund.

MBNT appreciates the opportunity to contribute to this review and remains committed to working collaboratively with Government to support a transparent, effective and sustainable Fidelity Fund system that protects consumers, supports fair treatment of builders, and upholds confidence in the Northern Territory construction sector.