



Submission

Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026 (NT)



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AIBS
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Introduction

About the Australian Institute of Building Surveyors (AIBS)

The Australian Institute of Building Surveyors (AIBS) is recognised nationally and internationally as the peak professional body representing building surveying practitioners in Australia. AIBS is committed to ensuring a safer Australia through the continuous improvement and development of the building surveying profession. AIBS' overarching objective can be summarised as: *to achieve the highest standard of professionalism through professional development, including education pathways and training, and advocacy in representing the profession and establishing standards.*

The AIBS Professional Standards Scheme for building surveyors operates across all states and territories and is a legislative instrument that obliges AIBS to monitor, enforce and improve the professional standards of members under the Scheme, thereby reducing risk for consumers of professional services. The AIBS Professional Standards Scheme upholds the professional standards of Scheme members and ensures that clients have access to appropriately qualified and skilled building surveying practitioners for representation and advice.

As a recognised occupational association, AIBS sets professional standards, accredits building surveyors and represents the profession nationally. This work ensures building surveyors uphold the highest levels of competence and integrity, while giving governments, industry and the community confidence in the work they perform.

Contact

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Preparation

This submission has been prepared in response to an invitation to provide a submission to an inquiry into the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026 by the Legislation Scrutiny Committee of the Legislative Assembly of the Northern Territory.

Overview

AIBS notes that the Amendment Bill misses an opportunity to reduce red tape associated with the process of registering practitioners to provide statutory building surveying services in the Northern Territory. Currently, the NT government has to determine if a practitioner holds the necessary educational and experience qualifications together with the requisite insurance cover to address the registration requirements. There is an opportunity for the registration process to leverage membership with professional associations as demonstration of these qualifications and thereby shorten the time needed and cost to assess applications for registration.

Other than the absence of any proposal to address the registration process, there are a number of matters where AIBS believes the Bill could be improved.

Provided in the detailed section of this submission are specific recommendations regarding amendments to the Bill which we believe will deliver a better outcome regarding reduction of regulatory burden and in respect of consumer outcomes as a result.

AIBS is happy to assist further if required and invites any request for additional information or clarification of any point in or arising from this submission. Please contact us at your convenience.

In detail

As noted in the overview, there is no proposal to amend requirements to allow for recognition of practitioners holding accreditation with professional associations in the registration process. AIBS proposes the following is added to the Bill:

Sections 23 and 24 of the Building Act 1993 provide a head of power for the Building Practitioner's Board to receive an application from an individual or a corporation for registration. Section 4A(1)(a) designates a building certifier as a category of building practitioner. Section 24 goes on to prescribe the matters that the Building Practitioners Board must be satisfied about before deciding to grant practitioner registration. These matters include the qualifications and experience of the person (Section 24(1)(b)).

Regulation 39A of the Building Regulations 1993 sets out that a Building Certifier as a category of building practitioner has two sub-categories pursuant to Section 4A(2)(b) of the Building Act 1993.



Regulation 40 of the Building Regulations 1993 prescribes a minimum level of professional indemnity insurance that is required to be held by building practitioners.

All of these matters are considered and address by AIBS in determining if it should accredit persons and admit them to membership pursuant to the Australian Institute of Building Surveyors Professional Standards Scheme for Building Surveyors, which has been in operation in the Northern Territory since June 2021.

Given that there is already a head power to assess the credentials of applicants for registration by the Building Practitioners Board, there is an opportunity to reduce duplication by allowing the Building Practitioners Board to accept an Accreditation issued by AIBS as evidence of having met the experience, qualifications and insurance requirements for registration and to then consider only the remaining matters in Section 24(1) – fit and proper person, compliance with conditions of registration, and payment of the requisite fees.

AIBS proposes the addition of a new sub-section as follows:

Insert after (d):

(1A) A person holding a current certificate of Accreditation as a participating member of a Professional Standards Scheme of relevance to the practitioner category registration sought shall be taken to have demonstrated they have met requirements of the Building Practitioners board regarding experience, qualifications and professional indemnity insurance cover.

The following section sets out other recommendations that AIBS makes in relation to improving the Bill.

Building Act 1993

Commencement

Section 2 of the Amendment Bill sets out requirements related to commencement of the amendments. AIBS recommends that commencement of Section 40 of the Amendment Bill is subject to a delayed adoption, particularly the expansion of the certificate of existence processes to buildings built after 1 May 2016 and that are of any age and required to be constructed to Importance Level 3 or 4.

The purpose of the delayed adoption is to allow industry time to properly understand what is involved in the expanded scope of work that will potentially be presented by applicants, and additionally, to understand how this work will interact with requirements arising via Sections 55 and 59 of the Building Act 1993 related to the granting of building permits. AIBS proposes an 18 month delay to the adoption of these amendments.



Definitions

The proposed replacement of the definition of 'a mobile structure' as a temporary building is not supported. The definition includes an exclusion from the definition and by doing so has confused the definition.

As drafted, it can be read in two ways – 1) that shipping containers are excluded from the definition of temporary structures, with all other items listed after the reference to the excluded item being part of the definition; or 2) that everything listed after a mobile structure is excluded from the definition of a temporary structure.

It is proposed that the definition be amended to remove the exclusion, with any exclusion to be referenced as a note to the definition or similar to convey meaning without adulterating the legal definition of a temporary structure.

Building Advisory Committee

The proposal at Section 6 of the Bill will, if adopted, have the effect of diminishment of the role and function of the Building Advisory Committee.

AIBS notes that the change will remove an ability for the Building Advisory Committee to alert the Minister to matters that the Building Advisory Committee believes the Minister ought to know of. By limiting the Building Advisory Committee to only reporting to the Minister on matters the Minister has requested the committee to report about, there may be instances where the Minister is not able to be properly informed about matters of relevance to their portfolio.

Whilst the Building Advisory Committee retains an investigative role, it should have the ability to report matters of relevance to the Minister.

AIBS does not support the proposed change at Section 6.

Powers of Director to investigate

Proposed Division 1A Clause 25D provides an unfettered power to initiate an investigation about anything or anyone at any time, provided it can be linked to compliance with the Act and Regulations. AIBS believes this is not appropriate.

There should be a requirement for the Director to have a reasonable basis upon which to decide to investigate. Providing such a requirement in addition to the power to investigate freely will empower the role because it will make clear the circumstances where the allocation of resources toward an investigation is appropriate. That will reduce opportunities for those seeking to infringe upon the Director's capacity to investigate by making complaints to public accountability entities about how public resources are expended.

Such a mechanism will also ensure natural justice processes for those subject to investigation are respected by decisions to investigate and that persons in the role of director are not tempted to fish for issues where this may serve a political purpose or other external influence



that may arise. Limits on powers to investigate should be viewed as providing an important integrity protection for the role of Director when undertaking investigations.

Disclosing complaints

Section 9 proposes the removal of a requirement for the Director to furnish the practitioner with a copy of the complaint raised against them. Whilst still obliging the Director to provide the nature of the complaint and a description of the purpose of an intended investigation, it is not the same as disclosing the actual complaint. This appears to impinge on the natural justice principles that should be followed when raising an issue, the outcome of which could be significant detriment to the practitioner.

AIBS is not convinced this is appropriate and does not support this change.

Immunity from prosecution for required disclosure

Sections 10 and 11 include a protections for any person who is compelled to provide information, answers, or documents to the Director during an investigation. Those protections are limited to 'any criminal proceeding, other than a proceeding for an offence against this Act.'

AIBS notes that there are powers of entry and search available to authorised officers and NT police, pursuant to Section 162 of Part 14 of the Act. Presumably the Minister would appoint the Director as an authorised officer so that the same powers could be exercised by the Director. In this case, the ability to investigate exists in duplicate in this Act if the proposed investigative powers are to be adopted as proposed except that the exemptions from prosecution differ.

If a person who is compelled to provide information is not exempt from prosecution pursuant to this Bill, as well as in relation to any other criminal proceedings (however such may arise), there is a significant potential for issues arising around natural justice outcomes arising from this Bill.

The purpose of including requirements that compel a person to provide information is to allow an investigator to extract information from someone on the periphery of a matter so that the investigation can get to the bottom of what has happened. The information gathered through such processes, whilst inadmissible, can inform the need for an application for a search warrant whereby evidence can be collected in an admissible form relating to the person or persons who are significantly responsible. By not providing an exemption from prosecution in relation to the Building Act, there is a risk that an investigation may be hampered with further prosecution for failing to supply information becoming live.

AIBS recommends exempting a person providing information from any action where that information may be used against them. This is able to be achieved by removing all words after the comma in each clause beginning with the word 'However'.

Requirements for issue of inspection report

Section 18 contemplates omission of the words 'in all material respects' from two subsections of Section 63 of the Act. This will have the effect of narrowing the circumstances when an inspection certificate is to be issued. In particular, the circumstances go from something that is



less precise than full compliance to those where one is 'satisfied that the building work has been carried out in accordance...'. Because building surveyors and the Director are not on site at all times observing all work that occurs across the entire site at all times, it is not possible to be satisfied to the standard that is proposed.

AIBS recommends the deletion of the words as proposed is also undertaken together with the insertion of the words '*on a reasonable basis*' after the word 'satisfied' so that it is clear that the point at which a certificate of inspection can be issued is somewhat removed from having to be absolutely satisfied of compliance. The Regulations can be amended to set out what a reasonable basis for satisfaction of compliance might be if there is not an ability for the Director to issue guidance around how to interpret such a requirement in satisfaction of practitioner needs for clarity.

Additionally, AIBS notes that the requirement is for a certificate to be provided within 14 days of the inspection. We note that this is often not likely to work where an inspection may have taken place but the work cannot be verified as compliant until the Certifier has been furnished with additional information which may take longer than 14 days to be provided. AIBS recommends that instead of linking the timeframe to the date of the inspection, that the timeframe runs from the date that the Certifier determines that the inspection result is satisfactory.

Granting Occupancy Permit

Sections 70(1) and Section 72 are proposed to be amended by the removal of the words 'in all material respects' so that these clauses too will become absolute regarding the circumstances about which occupation can be authorised. This is not appropriate as it is not possible for a building certifier to be so satisfied.

AIBS proposes that the requirements are amended as proposed together with the insertion of the words 'reasonably satisfied' after the word 'unless' in Section 70(1) and omitting the words following 'occupation' in Section 72.

For section 70(1) this will ensure that the standard of knowledge of the building surveyor about the compliance status of the building will not be an obstacle to gaining authorisation to occupy a building without compromising the legislative intent regarding a level of scrutiny regarding the standard of compliance that has actually been achieved before a building is occupied.

Section 72 will no longer make any statement about the standard of compliance of the building and concentrate solely on the suitability of the building for occupation. This approach is not dissimilar to the approach taken in other jurisdictions and will remove an unnecessary burden on practitioners. Currently, any defect that can be linked to compliance can be attached to a building surveyor for a decision to authorise occupation where it can be shown to fail to meet the 'in all material respects' terminology. This situation will worsen if the proposed deletion proceeds without reasonable consequential amendment to ensure the building surveyor is not unreasonably burdened by this clause.

AIBS notes also that the word 'permit' is used in the headings and the clauses which will make these clauses inconsistent with terminology used as a result of an amendment described in Section 19 of the Amendment Bill.



Building Certifier's Recommendation to the Director

Section 23 proposes amendment to Section 72E(1) by the insertion of a new sub-clause (1A) which will involve the certifier in ensuring that when a recommendation is made by the certifier that the applicant's fee is provided with the recommendation. AIBS is concerned that this will create unnecessary administrative burden on building surveyors when performing this function and that the requirement to ensuring the fee is paid should instead be included in Section 72F(2) as an additional matter for the Director to be satisfied is in place before granting a Certificate of Existence.

Additionally, AIBS does not support the proposed insertion of sub-clause 72E(5) as this will also create unnecessary complication of the work of the building surveyor in determining if a recommendation should be made.

Granting certificate of existence

AIBS does not support the proposed amendment of Section 72F(2)(a) as proposed. AIBS proposes that the amendment is instead to insert the words 'section 72E(2) and the prescribed fee; and'. This will ensure that the prescribed fee is paid before the Director determines to issue a certificate of existence and will remove any obligation on the building surveyor to consider if someone has done something they cannot ask them to do.

Exemption certificate and prescribed certification

Section 25 of the Bill proposes insertion of a cross reference to a new form of certificate that is proposed, by Section 15 of the Amendment Bill, to be inserted into the list of things a certifier or the Director may rely upon when exercising their role. Because the listed items are not mandatory, there is no reason that Section 73A should provide an ability to exempt someone from having to provide any of the items in Section 40.

AIBS proposes that the Amendment Bill is amended so that Section 25 instead reads as follows:

Section 73A(2)(a)

Omit, renumber remaining sub-sections (a)(b) and (c) respectively.

Part 25 – Transitional provisions

Proposed section 212(7) references 'occupational certification'. AIBS recommends that this is amended to say 'occupation certificate'.

Proposed section 212(8) references 'occupational certification'. AIBS recommends that this is amended to say 'occupation permit'.

Schedule 3

Section 29(8) of the Bill proposes replacement of Clauses 10 and 11 of Schedule 3. The proposed Clause 11(2)(b)(i) includes the words '*the proposed building work will comply with the fire safety matters in the National Construction Code and Australian Standards relevant to the building work*'. AIBS is concerned that this is an excessive obligation on building surveyors



which may obstruct practitioners from reasonably satisfying this requirement. If they sign and someone later finds that something isn't as declared, the building surveyor could be made liable for work they had no ability to know or control.

An equivalent issue arises with the proposed wording of Clause 11(2)(b)(ii).

Additionally, the reference to "Australian Standards" limits the documents that are referenced by the National Construction Code so that important requirements are not required to be covered by the proposed written notice.

AIBS recommends that this clause is amended as follows:

(b) *a written notice stating that:*

- (i) in the case the grant of a building permit – the Certifier is reasonably satisfied that the proposed building work will comply with the fire safety matters in the National Construction Code and referenced documents relevant to the building work specified in the report provided by the Service; or*
- (ii) in the case the grant of an occupancy certification – The Certifier is reasonably satisfied that the building work complies with the fire safety matters in the National Construction Code and referenced documents relevant to the building work specified in the report provided by the Service; and*

Division 2 – Amendment of Building Regulations 1993

Definitions

Section 31 proposes the insertion of a new definition into the Building Regulations related to Australian Standards. Whilst this is not opposed, AIBS notes that the definition for 'Building Code' is outdated. It should reference the National Construction Code and each of the referenced documents that it calls up. This will ensure it is clear that the ABCB Housing Provisions Standard is able to be used in the Northern Territory, along side Australian and other Standards that are referenced in Volumes One and Two as may be applicable.

There may also need to be an additional definition added for 'Referenced Document' being a document that is called up via the National Construction Code.

Payment of fees for Building Advisory Committee

Section 32 of the Bill proposes the insertion of a new Regulation compelling the payment of a fee. Currently the Regulations lack a requirement to pay a fee for making an application to the BAC and there is no authority given for the BAC to set fees outside of the general powers provided in the Act. This is proposed to be inserted in a Regulation that addresses which bodies are to be recognised as accrediting persons or bodies and is therefore not appropriate to be inserted in this part of the Regulations.



AIBS recommends that a new Regulation created pursuant to powers available to do so via Schedule 1 sub clause 6 of the Building Act 1993 which establishes the fee to be paid as set out in Schedule 1 (as proposed via Section 48 of the Bill) to the Regulations and also sets out when it must be paid and any other relevant particulars.

Criteria to be complied with

Section 40 of the Bill proposes the replacement of Regulation 19E. Proposed Regulation 19E(c)(i) references 'leaving a building'. This terminology is uncommon and may cause confusion.

AIBS recommends the use of terminology that is more consistent with the National Construction Code such as 'egress' or 'evacuation'.

Schedule 2

Section 49 of the Bill proposes amendments to Schedule 2. In respect of the changes related to the NTRFS, AIBS recommends that Column 2 includes technical criteria further defining when a referral is required so that only applications of relevance are required to be referred. In particular, AIBS recommends that referrals to the NTRFS are required for buildings:

- in excess of 2,000m², or
- with a rise in storeys of more than 2, or
- with a basement, or
- used for accommodation where more than 20 beds are provided, or
- where a performance solution is proposed related to firefighting facilities.

Additionally, there should also be a referral mechanism established that allows for the NTRFS to engage as a stakeholder in the development of a Performance Based Design Brief pursuant to NCC Clause A2G2(4).

AIBS also recommends that the current column 3 text and the proposed column 3 text in the Bill is omitted and replaced with the following:

Operational matters including fire fighting water supply, access for fire fighting appliances, fire fighting equipment needs, smoke hazard management and control equipment, exit and emergency lighting, and facilities related to the orderly evacuation of buildings.

In closing

AIBS is committed to working with government, industry and key stakeholders to continually improve the building regulatory system throughout Australia.

Please contact us for any clarification or further information that may assist.



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