

Attachment 1- High level issues to be considered in general review of Act (if not before)

Suggested reform	Benefit
<p>Remove gaps in consumer protection under current insurance and dispute resolution arrangements including the huge gap in consumer protection and insurance for high rise residential towers</p>	<ul style="list-style-type: none"> • Domestic Building Insurance (DBI) does not apply to buildings over three stories. While the Ministerial Order on DBI is issued by the Minister for Planning it is understood that the Minister for Finance has general responsibility within government for insurance issues. The extension of DBI to buildings in excess of three stories has always been regarded as prohibitively expensive. This expense may now have to be re-evaluated in light of the costs that will accrue to the state in funding cladding rectification. • Further the cost of DBI is always impacted by the effectiveness of front-end measures that lower the likelihood that the insurance product will need to be called upon. Front end measures that may lower the likelihood of DBI being called upon in multi-story buildings may include: <ul style="list-style-type: none"> ⇒ The single regulator reform and changes to inspection and certification regimes advocated in this policy document; ⇒ Disciplinary consequences for personal registration of directors of corporations that go insolvent or cease to exist, and which leave seriously non-compliant building work; ⇒ More effective front-end dispute resolution including binding dispute resolution orders (as per the Domestic Building Dispute Resolution Victoria Model).
<p>Improve standards and training requirements for building surveyors and/or other registered building practitioners.</p>	<p>The government is in the process of implementing a mandatory continuous professional development scheme.</p>
<p>Tougher and speedier penalties for builders who fail to comply with orders or directions to rectify defective building work including the possibility of mandatory suspension or mandatory partial suspension for certain breaches, especially those where a building practitioner has been required to rectify non-compliant works and has failed to do so.</p>	<ul style="list-style-type: none"> • Recent amendments to the Building Act have aimed to simplify and speed up the disciplinary process, and to increase the grounds for discipline and the range of disciplinary sanctions available. • However, sanctions are subject to review by VCAT and there is some concern that the Tribunal may take an overly lenient approach if matters are left completely within its discretion. • If this proves to be the result, there may be a case for mandating suspension or partial suspension of a registered building practitioner in certain circumstances, such as where the practitioner has been ordered to rectify non-compliant works and has failed to do so.

	<ul style="list-style-type: none"> • Building practitioners who act in this manner are, by virtue of such conduct, self-evidently a risk to future consumers of building services.
<p>Move the Building Appeals Board (BAB) to VCAT.</p>	<ul style="list-style-type: none"> • The problem with BAB tied to VBA is mainly one of perception of lack of transparency and independence. • There is a perception in the industry that the BAB is not independent of VBA, and more likely is an arm of VBA. • Many people refer to BAB as VBA. BAB support staff are VBA employees. • Further to this, decisions of the VBA can be appealed to the BAB. This is particularly so in cases where the VBA is appointed as the MBS. • The VBA is not expert in running a tribunal. • VCAT on the other hand is expert in running a tribunal, and have the internal resources, human, technical and legal, to operate a professional tribunal.
<p>Create a separate Plumbing body</p>	<ul style="list-style-type: none"> • Government may perceive that there are some efficiencies of scale in having building and plumbing regulated by the same regulator. • However, VMBSG is of the view that whatever efficiencies may exist are outweighed by the advantages of having specialist regulators. • VMBSG notes that electricians, who also perform work in the construction industry are regulated separately. • There is no greater confluence between building and plumbing than there is between building and electrical work.
<p>Future registration consequences for building practitioners who leave non-compliant uninsured work</p> <p>The cladding taskforce recommendations do not address the problem created by builder insolvency or where a corporation has been wound up because it was a single purpose vehicle created for</p>	<p>At least in the future, these individuals need to be held accountable in terms of their personal registration where they have directed companies that have left uninsured, non-compliant building work and those companies have ceased to exist, whether due to insolvency or any other reason.</p> <p>This should be grounds to suspend or cancel the individual's registration unless the individual can show that, under the particular circumstances, they were not responsible for leaving the non-compliant, uninsured work.</p>

construction of a single building project. Neither does this issue appear to be directly addressed in the Shergold-Weir report.

While the federal government is responsible for the general regulation of corporations, the Building Act contains provisions governing registration of both individuals and bodies corporate.

For bodies corporate to be registered they must have at least one director who has appropriate personal registration.