

24 May 2023

Dear member,

A lot has happened in our industry over the past few weeks. AIBS has been active publicly in the news media and here is a [link](#) to just one of the media reports. Meanwhile we have continued to advocate for members and the profession of building surveying with government representatives. This communique is to inform you of some of the developments and the work AIBS has undertaken on your behalf.

The collapse of Porter Davis Homes was well publicised as was the failure of the Victorian Building Authority to monitor the practice of builders accepting deposits from homeowners without taking out Domestic Warranty Insurance. There were further reports about virtual inspections by VBA auditors.

The VBA's CEO Sue Eddy resigned and the Premier Daniel Andrews released a statement on Tuesday 16 May in which he announced the appointment of Better Regulation Commissioner Anna Cronin as the new VBA CEO.

AIBS welcomes the appointment of Ms Cronin to the helm of the VBA and we believe there will be positive changes under her leadership. We have worked with Ms Cronin over the past two years on developing the reforms to Victoria's building industry, many of which are now captured in the Building Legislation Amendment Bill 2023, which is currently before Parliament.

It is widely known that AIBS has held major concerns about the VBA's approach to regulating our industry. Members of the Victoria Chapter will recall that in June 2022, AIBS released a [public statement of no confidence in the Victorian Building Authority](#). We received considerable criticism from the VBA and some other stakeholders at the time but we stood by our statement, the contents of which are supported by evidence provided by you, the members and from documented representations made by AIBS to the VBA.

Our position regarding how the building industry should be regulated in Victoria is also explained in the [AIBS Policy: Building Regulatory Reform in Australia](#) which was first published in 2017 and last updated in 2019. The key difference between the way the VBA is established and what AIBS believes is ideal is that the VBA is responsible for both compliance and licensing. AIBS would like to see all regulators around the country keeping these roles as separate functions.

We have and will continue to advocate around our policy going forward including via the following:

#### **Meeting with the Minister**

AIBS met with the new Minister for Planning, Sonya Kilkenny. We were impressed with the Minister's stated intention of further reforming the building and construction industry in Victoria with the overall aim of improving outcomes for consumers of building services.

In particular, we discussed with the minister the plans AIBS has to increase the capacity of the building surveying workforce across Australia and in Victoria where the shortage of building surveyors is very serious. We briefly outlined our new national campaign to promote the profession to be launched in Victoria at the AIBS Professional Development Day on 13 July 2023. We also discussed establishing the AIBS Professional Standards Scheme, and the AIBS Accreditation Scheme that underpins it, as a pathway for registration in Victoria, AIBS's provision of continuing professional development and the quality and relevant training we provide.

#### **Premier's media statement**

The [media statement by Premier Daniel Andrews](#) titled *Building Reforms to Protect Victorians* contained some new information such as the appointment of the new VBA CEO and proposed measures to tighten the oversight of builder compliance with the Domestic Building Contracts Act 1995.

Most of the reforms mentioned in the media statement concerned those already in progress via the *Building Legislation Amendment Reform Bill 2023* which is before the Parliament. We sought clarification from the Premier's office of the statement that reforms would include "strengthening oversight of building surveyors." We have been informed that the statement refers to reforms already in progress in the Bill. These include strengthening the role of the State Building Surveyor, mandating the provision of a building manual, and requiring the Relevant Building Surveyor to provide owners with a statement at the time of appointment setting out the role and function of a building surveyor. AIBS supports those proposed reforms.

**AIBS supports proper oversight of current DWI requirements.** Currently builders are required to obtain DWI insurance prior to collecting deposits from home owners and commencing to build. This applies to all dwellings and residential apartment buildings up to three storeys. As far as we are aware, there has been little or no oversight of this and home owners have been left with no insurance when something goes wrong including the collapse of the builder. In determining the future of the VBA's functions, the State Government must ensure that the function responsible for overseeing compliance and enforcement is properly tasked and resourced to ensure consumers are protected and receive their legislated DWI rights.

#### **AIBS seeks a restructure and expansion of Domestic Warranty Insurance (DWI).**

AIBS notes and fully supports the Premier's intention to strengthen the oversight of DWI provisions for single dwellings. However, the issue of there being no DWI available for owners of buildings over three storeys remains an ongoing concern for consumers and building surveyors. AIBS intends to continue our advocacy for the State Government to introduce DWI for those buildings.

We believe it is essential that all consumers, including purchasers of apartments, have access to DWI. It is not acceptable that some consumers are denied cover or that such insurance cover is available in very narrow circumstances and provides minimal levels of cover relative to the cost of defect remediation.

AIBS considers that DWI should be available as a first resort and owners of apartments in multi-storey buildings should be included in the current DWI arrangements in Victoria. It makes no sense for apartment owners to be excluded and places the Relevant

Building Surveyor in a position where claims are made against them not because they have any responsibility for the defect, but because the RBS's insurers will respond with a settlement offer on the basis that this is cheaper than fighting the claim. This causes underwriters to view building surveyors as high risk and if the underwriters are willing to continue in the market, it will be at a significantly increased cost for building surveyors. AIBS has been voicing concerns about this type of insurance for many years. The warranty insurance product should be adequate to cover the actual cost of remediation of any defective work, inclusive of any costs for relocation or the like that a consumer would otherwise have to endure while their home is repaired. Such an improvement would benefit consumers and building surveyors.

### **Accountability of participants in the supply chain including developers**

AIBS will continue to advocate for greater accountability for all in the building supply chain. In order to reduce the likelihood of defective work in the first instance, developers, builders and project managers must be made accountable for the role they play in delivery of building developments. Currently there is no requirement for the major participants in the supply chain to be held accountable. It is often their decisions which lead to a building defect impacting individual consumers, which is particularly damaging as there is no direct contractual relationship between the developer and the consumer who has bought a home from a previous owner.

Governments in New South Wales and Queensland have both identified this issue and are planning or have already taken steps to ensure consumers are not disadvantaged by shoddy developers and project management practices. The NSW government has established an independent rating tool that consumers can use to gauge the professionalism of the practitioners who have been involved in any particular development, from the development company itself right down the supply side of any development. The Queensland government is giving serious consideration to a registration scheme that will ensure that vulnerable consumers are able to identify and hold developers to account for building defects.

AIBS will encourage the Victorian Government to investigate its opportunities to better regulate developers, builders and project managers through a licensing or registration scheme.

### **Regulatory arrangements**

A fundamental reason why the VBA lost its direction is that it was conflicted internally as an organisation tasked with registering practitioners and engaging in auditing and compliance of those same practitioners. This has led to the VBA taking on the role of the accuser in cases of alleged wrongdoing, while also sitting in judgement of the accusation and deciding penalties to be applied. This type of arrangement would not be accepted in any other properly functioning regulatory scenario. As outlined earlier, AIBS has an adopted policy position regarding separation of these key functions. Accordingly, AIBS is advocating for the VBA's functions to be divided into multiple entities, one having responsibility for compliance and enforcement, dealing with the standards of design and construction work undertaken throughout Victoria, and another responsible for the registration and licensing of those working in the industry.

With this structure, each unit will have a clear direction, exclusive use of dedicated funding and therefore an unambiguous capacity to deliver outcomes that benefit Victorian consumers.

**Broader advocacy objectives**

The above are some of the essential reforms AIBS believes are required urgently. However, over the longer term we believe industry and consumers could benefit from further reforms including:

- Provide greater support to the statutory building surveyor, a role created by government to assist government;
- Educate industry about the role of the statutory building surveyor;
- Make it illegal for developers including government and builders to require a statutory building surveyor to enter into an agreement – owner engagement only;
- Implement legislation which supports security of engagement for statutory building surveyors;
- Prohibit contractual trigger points tied to mandatory notification stages so the statutory building surveyor is not subjected to claims for construction delays;
- Regulation of the role of site supervisors, construction managers, and project managers to ensure proper monitoring of compliance with technical and contractual requirements, particularly the standard of workmanship and materials relevant to progress payment stages; and
- A robust product assurance scheme.

**AIBS Professional Development Day – 13 July 2023**

This year, the AIBS Professional Development Day will be bigger and better than ever. The day will include the national launch of an AIBS campaign to attract new recruits to building surveying. We're working on the campaign resources now and attendees on the day will be the first to see them.

We're very pleased that Anna Cronin has accepted our invitation to attend and speak on the day and this will be the first opportunity to hear from Ms Cronin in her new role as VBA CEO.

Of course, the day will include all of the must know professional updates and information as usual so make sure you reserve the day in your calendar now. Registration will be opening very soon.

**In conclusion**

The above outlines just some of the activities we have undertaken and intend to continue to pursue on behalf of AIBS members in Victoria. We plan to seek a meeting with Ms Cronin in her new role at the VBA and will continue to work with her and Minister Sonya Kilkeny to achieve industry reform that will improve outcomes for consumers of building services in Victoria which, we believe will in turn be positive for AIBS members working in Victoria.

If you have any questions, please get in touch [here](#) with the members of the Victoria Chapter Committee who are here to help you.

**Troy Olds**  
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**Wayne Liddy**  
Vice President & Director-VIC