

7 August 2014

Mr Richard Potts
NSW Fair Trading
PO Box 972
Parramatta NSW 2124

Dear Richard,

Thank you for providing the Property Council of Australia with the opportunity to comment on the draft Home Building Regulation 2014 (the Regulation).

The Property Council is the nation's peak representative of the property industry. Our 2,200 members are Australia's major investors, developers and owners of commercial, residential, retail, industrial, retirement living and hotel assets worth over \$320 billion.

The Property Council does not have any comments on the Regulation. However, we note that the Regulatory Impact Statement accompanying the draft Regulation contains questions for comment. We would like to address question 13.

Is a regulation under s.18E(3) or (4) needed to clarify the definitions of major (and, by implication, minor) defect? Please give details, including suggested wording

The Regulatory Impact Statement states that it is the Government's intention that serious fire safety and water proofing defects are major defects for the purposes of s.18E of the Home Building Act 1989. This has not been clarified in the Regulation as the Government does not wish to unnecessarily increase the prescriptiveness of, and reduce the flexibility of, the regime.

The Property Council supports the Government's approach and does not recommend that the Regulation contain clarification on the definition of major defect under s.18E. Such regulations could unintentionally weaken the amended Home Building Act 1989 and be inconsistent with the intention of Parliament.

If you would like to discuss this submission further, please contact me on (02) 9033 1906 or gbyres@propertyoz.com.au, or Evelyn Subagio (NSW Policy Advisor) on (02) 9033 1909 or esubagio@propertyoz.com.au.

Yours sincerely,



Glenn Byres
NSW Executive Director
Property Council of Australia