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By email to: cbos.info@justice.tas.gov.au

Re: Revised Residential Building Consumer Guide

Dear Brendon,

The Tasmanian Chapter of the Australian Institute of Architects (the Institute) would like to thank you for the opportunity to provide feedback on the *Revised Residential Building Consumer Guide*.

The Institute understands the need for these updates and is supportive of moves to ensure consumer protection. The Institute has the following comments and questions.

1. Noting on page 5 it states: *Owners and builders are free to agree to the number and timing of the progress payments. These payments must be clearly stated in the contract and be proportionate to the value of work performed. In other words, your builder cannot ask you to pay more than 50 per cent of the contract price, until at least half of the work has actually been completed.* The Institute questions whether this is a new requirement, and also questions how

the payment “*proportionate to the value of work performed*” is actually assessed when there is no contract administrator. This also does not reflect the wording of the *Directors Determination – Mandatory Contract Provisions* definitions and guidance reviewed by the Institute earlier this year. This also does not appear to make allowance for monthly progress claims. Ideally this should reflect the changes (that are soon to be advertised).

Description	Requirement	Explanatory Notes
Progress payments	If progress payments are to be claimed, the contract must clearly specify and detail the stages related to the progress of the work performed, and the percentage (%) of the contract price applicable to that stage.	<p><i>Example 1 - Progress Payment Stages:</i></p> <ul style="list-style-type: none"> - Deposit 5% - Base Stage 10% - Frame Stage 15% - Lock-up/enclosed Stage 35% - Fixing Stage 20% - Practical Completion 15% <p><i>Example 2 - Progress Payment Stages:</i></p> <ul style="list-style-type: none"> - Deposit 5% - Base Stage 20% - Lock-up Stage 45% - Practical Completion 30% <p>Note: the total stage payments plus the deposit must equal the total contract price.</p>
Progress payments warning	The contract must include a warning that states that under section 42 of Act, all progress payments must directly relate to the progress of the work performed under the contract at the building site.	

2. As per above for mediation, the document is silent on how disputes are resolved (Dispute Resolution Options) when there is an architect acting as contract administrator. The Guide (see section on page 5 - *Practical Completion, Defects and Acceptable Standards*) is also silent on the matter of retention amounts and defects liability period if an ABIC contract is being used. The Institute notes that only disputes relating to defects appear to be listed. There may be other disputes which should be covered by this document including (but not limited to): payment disputes, certification disputes, damage to third party property disputes, construction methodology disputes, documentation/design disputes, etc.

3. The Consumer Guide is silent on payment – the Institute recommends providing guidance of when payment should be made, what to do if payment is requested for defective works or items not yet installed and reference the State’s Security of Payment legislation.

Thank you for the opportunity to provide feedback on the amendments. Please contact us if you would like to discuss any of the points raised further.

Kind regards,



Daniel Lane
President, Tasmanian Chapter
Australian Institute of Architects



Jennifer Nichols
Executive Director, Tasmanian Chapter
Australian Institute of Architects

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with over 14,000 members across Australia and overseas. The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture. The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design. To learn more about the Institute, log on to www.architecture.com.au.