

DEPARTMENT OF HOUSING AND PUBLIC WORKS
Building Industry Fairness Reforms Implementation and Evaluation Panel
Terms of Reference



Introduction

The *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act) received royal assent on 10 November 2017. The BIF Act includes a suite of reforms including the introduction of project bank accounts, improved provisions for progress payments and subcontractor's charges and changes to the adjudication registry. The objective of these reforms is to improve the security of payment for subcontractors and support long term industry growth and efficiencies.

Project bank accounts (PBAs) will be implemented in three phases, with the first phase of implementation of PBAs, applying to government building and construction projects between \$1 million - \$10 million, commencing on 1 March 2018. Phase 2 of PBAs applying to all building and construction projects valued over \$1 million and Phase 3 extending application of PBAs to cover lower tiers of subcontractors will commence at a later date.

In relation to PBAs specifically, the government has committed to an evaluation of Phase 1 of PBA implementation to inform roll out of PBAs to the private sector.

The BIF Act requires that a review of the operation and effectiveness of the 2017 suite of building and construction industry reforms be conducted and that a report on the outcome of the review be tabled by the Minister in Parliament. The BIF Act requires that the review be started no later than 1 September 2018. The Building Industry Fairness Reforms Implementation and Evaluation Panel (the Panel) has been established early to ensure appropriate opportunity for industry stakeholders to engage with the process.

Section 12 of the *Building Industry Fairness (Security of Payment) Regulation 2018* prescribed the *Building and Construction Legislation (Non-Conforming Building Products – Chain of Responsibility and Other Matters) Amendment Act 2017* as part of the 2017 suite of building and construction reforms for the purposes of the review.

Objective

Established under s200A of *Building Industry Fairness (Security of Payment) Act 2017*, the Panel will be established to support the review of the operation and effectiveness of the 2017 suite of building and construction reforms.

Terms of Reference

The Panel will work with the government, building and construction industry and other stakeholders to determine:

1. the effectiveness of the governments implementation of the suite of building industry reforms;
2. the effectiveness of the legislative framework in achieving policy intent;

3. opportunities to realise improved security of payment outcomes for industry prior to the commencement of project bank accounts in the private sector; and
4. the indicative economic impacts and outcomes of the building industry reforms.

Scope and functions

The Panel will be appointed to provide external and independent advice and for ensuring stakeholder and community access to the evaluation process. The Panel will be responsible for the following:

- a) agreeing in consultation with the Minister and the Department the Panel's evaluation plan, work program and stakeholder engagement plan;
- b) advising on the overarching design and direction of the evaluation of the suite of building reforms;
- c) making recommendations to the Minister for establishment and membership of an Industry Reference Group to advise the Panel and support the evaluation process;
- d) agreeing data metrics and overseeing the collection of baseline, benchmark and cost-benefit data;
- e) consulting with building industry stakeholders;
- f) reviewing reports of external consultants engaged by the Department to undertake evaluation programs and data analysis; and
- g) reporting to the Minister on the findings of evaluation programs at agreed milestones.

The Department of Housing and Public Works will provide secretariat support to the Panel as required.

It is expected the Panel will meet at least every six weeks (excluding holidays periods) for the duration of the appointment in accordance with the Panel's agreed work programs and Stakeholder engagement plan.

Commencement and Duration

The Panel is not intended to continue beyond the introduction of project bank accounts in the private sector. Panel members will be appointed for a term of approximately 12 months commencing on 14 May 2018.

The Minister must table in Parliament a report on the outcome of the review as soon as practicable after the review is completed (S200A(5)).

Remuneration

The Chair and members of the Panel will be remunerated under a consultancy arrangement and are eligible to be reimbursed for reasonable out of pocket expenses including domestic travel, accommodation costs, motor vehicle allowances and meals.