

AUSTRALIAN CAPITAL TERRITORY

BUILDING ACT 1972

BUILDING ACT (APPLICATION FORM FOR FIDELITY FUND SCHEME) DETERMINATION 2002

Disallowable Instrument DI2002-50

EXPLANATORY STATEMENT

Division 5A.4 of the *Building Act 1972* (the Act), as inserted by the *Building Amendment Act 2002* contains provisions relating to a fidelity fund scheme that will provide consumer protection under the Act. Section 58H of the Act deals with an application for approval of a fidelity fund scheme. Section 58K of the Act allows the Minister administering the Act to determine approval criteria for an application for approval of a scheme and section 58O allows the Minister to determine prudential standards for the operation of a scheme. Clause 2 of the approval criteria requires an application to be in a form determined by the Minister and makes that determination a disallowable instrument. This is a determination of that form.

The form asks for the following information:

Applicant details

Contact details for an applicant are required by clause 2 of the approval criteria.

A service address for the fidelity fund scheme

This is required by section 58V of the Act.

The name of a contact person for the application

This requirement is intended to simplify any request for further information.

A copy of the executed trust deed for the fidelity fund scheme

This is required by section 58H of the Act. Clause 3 of the approval criteria states how the copy provided is to be authenticated.

Information showing that the trust deed complies with clauses 4 to 8 of the approval criteria

Clauses 4 to 8 of the approval criteria set out a number of matters that must be provided for in the trust deed. These include details of the nature and organisation of the consumer protection to be provided.

Information showing that the fidelity fund scheme complies with clause 14 of the approval criteria

Clause 2 of the approval criteria requires information about compliance with the prudential standards. Clause 14 of the approval criteria specifies matters that a scheme must be able to comply with from the time it is approved, including the prudential standards. The effect is that a scheme cannot be approved until it is able to operate and to comply with the prudential standards.

Information showing that the fidelity fund scheme complies with any determination under clause 12 of the approval criteria

Clause 12 of the approval criteria allows the determination of additional matters to be complied with by a fidelity fund scheme. No determination is currently in force.

Contact details for each trustee

These are required by clause 2 of the approval criteria.

Information showing that each trustee complies with clause 11 of the approval criteria

Clause 2 of the approval criteria requires information of this kind. Clause 11 of the approval criteria sets out details of the eligibility of persons to be trustees.

Trustees' signatures

These are required by Section 58H of the Act.