

THE HON JULIA GILLARD MP
DEPUTY PRIME MINISTER

Parliament House
Canberra ACT 2600

The Hon. John Lloyd
Australian Building and Construction Commissioner
GPO Box 9927
MELBOURNE VIC 3001

Dear Mr Lloyd

Directions in Relation to Coercive Powers

Section 11 of the *Building and Construction Industry Improvement Act 2005* (the Act) provides, amongst other things, that the Minister may give written directions to the ABC Commissioner specifying the manner in which the ABC Commissioner must exercise or perform the powers or functions of the ABC Commissioner under the Act. This letter constitutes such a direction under section 11. I direct that you:

- a. permit a legal representative referred to in subsection 52(3) of the Act:
 - i. to sit and speak with a person referred to in paragraph 52(1)(e) of the Act at all times,
 - ii. to speak on behalf of that person, and
 - iii. to be given the time and privacy to consult and advise that person;
- b. comply with Appendix B of the *Legal Services Directions* (the Commonwealth's obligation to act as a model litigant);
- c. provide a reasonable opportunity for an objection to be raised to a particular exercise of the section 52 power and allow any such objection to be tested in an appropriate court or tribunal;
- d. before issuing a notice under section 52, provide to a nominated individual a report describing the person proposed to be subject to the notice, the purpose of seeking the notice, whether the purpose can be achieved in another way, the likely effect on the person of the issue of the notice and the time within which you consider the notice should be issued; and
- e. having provided the report outlined above and before issuing a notice under section 52, consider written advice prepared by the nominated individual setting out:

- i. his or her assessment against the criteria set out in paragraph d; and
- ii. taking these criteria into account and the requirements of the Act, his or her view on whether a notice should be issued.

These directions will take effect from 3 August 2009 to allow you to put the necessary mechanisms in place. I will provide you with a list of nominated individuals prior to that date. It is intended that the list will comprise named Presidential Members of the AAT who would act in their personal capacity. Please contact Mr Craig Carmody from my Office if you wish to discuss this direction.

Yours sincerely

(signature)

Julia Gillard
Minister for Employment and Workplace Relations

17 JUN 2009