



## **Australian Institute of Building Submission to the Draft Productivity Commission Report *Performance Benchmarking of Australian Business Regulation: The Role of Local Government as Regulator***

### **Introduction**

The Australian Institute of Building (AIB) welcomes the opportunity to respond to the Draft Productivity Commission Report *Performance Benchmarking of Australian Business Regulation: The Role of Local Government as Regulator*. The AIB is keen to see more efficient and thorough building standards managed by well-developed local government regulation, and congratulates the Productivity Commission for investigating this issue.

The leading building and construction practices identified in the draft report on page 295 are (with AIB feedback underneath):

### **Charging regimes for building applications**

- **charging regimes for obtaining building approval based on the actual time taken for the assessment to reflect the actual resource cost to local governments and to avoid potential cross-subsidies between different types of building applications and between building and non-regulatory local government services**

While setting approval fees based on time spent may seem logical and sensible at first glance, the benefit of a set fee is that all parties know where they stand, rather than developers and/or builders questioning whether the supposed time taken by council staff for the inspection has been well spent. A set fee can also be easily budgeted for. Whether the fees are set, or are based on time spent, there are a number of other factors that need to be taken into account.

In Victoria, New South Wales and Queensland, building approvals are performed by private building surveyors, and it would be beneficial if in all jurisdictions there existed a choice between council staff and private building surveyors to perform the approvals.

The NSW Department of Planning via the Building Professionals Board are currently looking at the matter identified in the above leading practice in its entirety. An AIB representative is currently the only builder representative on the working party looking at accreditation for certifier categories of A1 to A4. This representative's aim is to get acceptance by the Building Professionals Board to allow A4 status be granted to Chartered Builders, but not licensed builders.

## **Building standards**

- **A gateway approach (similar to that used in Queensland and Victoria) to scrutinising building standards that are higher than those agreed through the Australian Building Codes Board or subjecting proposed standards to an independent cost-benefit assessment before their introduction**

The gateway approach is preferable, but standards and regulations need to be improved, as many certifiers have often never been builders. It should be mandatory for certifiers to have the appropriate qualifications, preferably at bachelor degree level, and if not diploma level as a minimum. Holding only Cert IV qualifications is unacceptable for certifiers. Furthermore, certifiers' role should be to check for faults, not suggest how they should be fixed. Generally, the standards outlined in the Australian Building Codes Board (ABCB) should be the widely known and accepted standard nationwide, with some separate state-specific standards allowed for differing environmental conditions.

Regarding building certification, a situation exists in New South Wales whereby:

- On average 20 per cent of certifiers in local government have acceptable qualifications, and the situation is only marginally better with private building surveyors who undertake certifying work. The public perception of certifiers is that they are quality inspectors and that is sometimes not the case.
- A number of developers that have "skirted around" the various Acts and have delivered sub-standard products. These actions by developers harm the reputation of the building profession.

A major issue facing the building and construction industry are breaches of the Building Code of Australia (BCA). This has usually come about by lack of knowledge by builders, and lack of easy access to the BCA. The result of the government's desire to make what is for them 'loose change' from selling the BCA, is that sub-standard construction is occurring across the country. As a priority, the ABCB needs to make this publication freely available with a better education program established. Even universities have to pay the full licence fees for the BCA, and as an example, at one university, the result is that students have great difficulty accessing around 30 licensed copies shared amongst 850 to 1000 construction management students.

## **Managing construction site activity**

- **using enforceable conditions or standards in the regulation and management of construction site activity, with the conditions being flexible enough to deal with genuine differences in local environmental circumstances**

AIB is in general agreement with this leading practice, and flexibility to deal with genuine differences in local environmental circumstances is beneficial. Individual certifiers should be licenced and accredited, rather than just the firms being accountable.

The issue of excessive regulation and 'red tape' is one of concern for the building and construction industry, and as a whole the industry is over-regulated. In the past many buildings were well-built with a minimum of regulation. A situation now exists where builders are overly consumed with various regulations and obtaining various certificates, such as OH&S, environmental and other administrative matters, that the building process becomes cost-prohibitive. While the matters the regulation is concerning are usually significant, the processes should be made more efficient so that their impact on cost and time are kept to a minimum, without lowering standards.

- **Implementing consistent guidelines or enforceable standards across areas not covered by the National Construction Code or other legislative instruments specifically in relation to construction site management**

Nationally consistent guidelines, and nationally consistent licencing, would be the preferred situation. The Building Commission of Victoria's *Guide to Standards and Tolerances 2007* plays a positive role in Victoria, giving certainty to builders and customers alike. This is seen by the AIB as an appropriate model for adoption nationally. However, builders should still have some level of control to deal with unforeseen situations as they arise. Level of control should be enhanced to the same level as regulatory control e.g. period inspections for structures such as fire escape stairs.

### **Building inspections**

- **Moving to risk-based building inspections**
- **The approach to building inspections being contemplated by Western Australia which offers a more cost-effective means of regulating building compliance without compromising the integrity of the building process**

There is a definite role for mandatory council inspections, and industry should generally not be able to self-certify for critical stages in the construction process. The choice and flexibility to use private building surveyor inspectors would be preferable, rather than just the local council, but they should be undertaken by highly-qualified individuals, who would lose their licence if they are shown to be guilty of malpractice. Generally, a tougher regime is preferable to ensure higher standards are adhered to.

Moving to mandatory critical stage inspections by licenced/accredited building certifiers before the imposition of further risk based inspections would be a better means of ensuring the integrity of the building process.

Builders have usually taken the risk, and often the developers pass this risk to sub-contractors of dubious credentials. Thus, their warranties have little meaning and workmanship is often sub-standard. Developers have the means of retaining control over their developments within the time of their statutory responsibilities, and then they often dispose of their assets to Owners Corporations who take over subsequent repairs and costs.

In Western Australia, there is more onus put on private building surveyors for inspections, and as a result there are two sets of documents. There is then, in effect, not less certification, but an outsourcing of certification. This system in WA is supported by the AIB.

### **Further Information**

For further information, please contact the AIB Chief Executive Officer or Policy & Advocacy Manager on (02) 6247 7433 or [ceo@aib.org.au](mailto:ceo@aib.org.au) or [policy@aib.org.au](mailto:policy@aib.org.au)

## Appendix 1

### About the AIB

Founded in 1951, the AIB is the leading institute for building and construction professionals, acknowledged for its ability to bring individuals together who share a common interest in improving the standing of the building profession and their career within Australia and overseas.

The AIB is incorporated by Royal Charter and is the preeminent professional body for building professionals in Australia and the Asia-Pacific region.

Recognised as the accrediting body for building and construction degrees at educational institutions, the AIB has a long and proud history of supporting and servicing the building profession. For more than fifty years, the Institute has worked with the building and construction industry, government, universities and allied stakeholders to promote the building profession, support the development of university courses in building and construction whilst promoting the use of innovative building techniques and a best-practice regulatory environment.

AIB is proud of its role in promoting the exchange of information amongst individuals and accomplishes this through publications including the *Construct* magazine and the Australasian Journal of Construction Economics & Building (AJCEB).

The AIB also has an extensive continuing professional development program in Australia and overseas and facilitates the annual AIB Professional Excellence in Building Awards Program.

For further information please go to [www.aib.org.au](http://www.aib.org.au)