



Australian Institute of Building Surveyors

25 June 2012

Dr Warren Mundy
Presiding Commissioner
Performance Benchmarking
Australian Business Regulation
Productivity Commission
PO Box 1428
CANBERRA CITY ACT 2601

Dear Dr Mundy,

Re: Business Regulation Benchmarking: Role of Local Government as Regulator

The Australian Institute of Building Surveyors (AIBS), as the peak body in Australia representing Building Surveyors, appreciates the opportunity to respond to the comments made in this report.

In overview, the AIBS supports the view that there are several areas of Local Government (LG) control that have an impact on building control in all of the LG jurisdictions. However, in general these requirements are usually seen to be in the interest of the communities within the jurisdictions and, in many cases, the powers of the LG to make rules or to have requirements outside those of the state legislation are limited.

The AIBS supports private certification as a process in obtaining approvals. The AIBS has an accreditation scheme which uses the National Accreditation Framework (NAF) as the benchmark to standards of building surveying and is a COAG endorsed structure. Despite being endorsed by COAG, there is not a requirement in all states to have the AIBS accreditation. All states have a separate licencing or registration system and in most states the AIBS accreditation is acceptable to meet the minimum level for registration. Consistency in registration of building surveyors in all states is something the AIBS has been working towards for many years.

The National Construction Code (NCC) contains the Building Code of Australia (BCA) which is the tool that Building Surveyors use for applying the standards to building to be constructed or existing buildings to maintain the minimum standards. The legislative framework that is used to call up the NCC and BCA differs from state to state, as do the penalties that may apply for any breaches of the legislation. Building Surveyors must work within the legislative framework relative to the jurisdiction in which they are operating. As previously noted, each state has a different registration regime, thus requiring a Building Surveyor working in more than one jurisdiction to be registered more than once, thus increasing overheads and training requirements, and hence fees to be charged for the services. Again, as previously noted, the AIBS has been calling for governments to align legislation so there is consistency and constancy in the application of the law.

As stated in the overview, the role of the LG is generally to maintain a level of community acceptance and standard in the jurisdiction of their control. In many cases this requires adoption of Town Planning Schemes, local laws, policies and other standards to achieve the acceptable level of acceptance for that community. Whilst being limited by legislation and administration requirements from government agencies to ensure that additional legal requirements applied are both reasonable and necessary, there appears to be some LG's who have been able to adopt, and have in place, additional requirements over and above the BCA. These are generally introduced under the control environmental health or town planning and adds to the difficulty when working in more than one jurisdiction.

The Building Surveyors role is to ensure that the life safety of the building's occupants is protected. The BCA separates buildings into 10 classifications. It is the classifications and size of the building that determines the level of safety built into or required to be present in a building. Ensuring documentation is correct and that all of the appropriate standards have been met prior to an approval to build is issued is only the first step in the process of maintaining the minimum standards for a building. There is an expectation from the community and the consumer that a building is checked during construction and after construction to ensure that the minimum standards of safety for the building are maintained. The AIBS supports the requirement for minimum mandatory inspections during construction and continued certification of compliance for the safety features included in the design of the building. Not all states have this regime in place, and this is another area that lacks consistency across all states.

The AIBS supports an open market for pricing as this ensures that the consumer is treated fairly and can, with certainty, have faith that Building Surveyors who are accredited through the AIBS have a minimum standard of competency that will ensure value for money. Jurisdictions where fees are prescribed in legislation tend to have "the dollar" as the driver for the service delivered, in that practitioners who are not bound by the ethical boundaries of a professional organisation, such as the AIBS, might only allocate the minimum time to the project based on the fees permitted to be charged.

In summary, the AIBS sees that there is a role for LG's in maintaining a certain standard for their communities. However, in relation to building control, there should be limits on the powers and elements that can be introduced over and above the state legislation. State legislation should be aligned so that each state has the same legislative requirements and penalties and enforcement of noncompliance can be consistent. Fees set by legislation restrict competitiveness and as such are not beneficial to the consumer. The consumer has an expectation that their product (a building) has been designed and meets the minimum standards for a building as set by the BCA, and it is the role of the Building Surveyor to ensure that this is the case. Although this is one of the most important roles in the life of the building, it is variable dependent upon the jurisdiction in which the building is located.

Yours sincerely
Australian Institute of Building Surveyors

Terry Bush
National President