

The following answers to the CRIS entitled 'Reforms to the building approval process' were prepared by Andrew Booth BE (Civil) MAIB MIEAust Registered Building Practitioner 9179. Andrew has worked in WA construction for 39 years, been a registered builder for 27 years and a full-time building inspector for 17 years.

The answers were reviewed and approved by the Committee of InspectWA (the Association of Building and Property Inspectors in WA Inc).

The answers submitted form the views of professional independent building inspectors and the impact of the proposed changes to the building inspection profession.

## PREAMBLE

No consultation with the building inspection industry regarding mandatory inspections has been carried out prior to the preparation of this CRIS.

This submission is to convey the views of the building inspection industry on these matters.

In essence, InspectWA see the requirement for mandatory inspections, inspections carried out by suitability qualified professionals that **do not** pose a conflict of interest.

E.g. if a Private Certifier is responsible for both the approval and compliance of the build and also retained by the Builder, chances are issues maybe "swept under the carpet" as not to expose fault in certification and/or ruin the commercial relationship between Certifier and Builder. [M1]



### Questions for consultation

1. Do you consider that the current approvals process under the Building Act creates unnecessary delays? If yes, please tell us why.
2. If you answered yes, what do you consider to be the primary cause of delays (e.g. planning requirements, inconsistent policies, lack of clear forms and guidance)?
3. Regardless of the reform options outlined in Chapter 5 of this CRIS, should it be mandatory to submit evidence of planning compliance from the relevant LGA (i.e. development approval, or a 'deemed to comply' check single houses) with a building permit application? Please provide reasons for your view.
4. What (if anything) could be done to ensure building permit applications contain all required information?

1. Not considered in this submission, beyond the expertise of a building inspector.
2. Not considered in this submission, beyond the expertise of a building inspector.
3. Not considered in this submission, beyond the expertise of a building inspector.
4. There is anecdotal evidence that if a building permit application is lodged by an independent certifier that the documents receive less or little scrutiny by the LGA. In an ideal world, where

there is no conflict of interest between the certifier and the builder, or the certifier and the developer, the certifier would be acting in the best interest of the consumer and there would be little requirement for the LGA to scrutinise documents. But in today's world, where the end consumer is not the customer (or repeat customer) of the certifier there is real opportunity for documents not to be adequately reviewed or scrutinised, especially when competitive cost pressures are placed on certifiers.

The ramifications for most NCC non-compliance generally falls back on the builder, not the certifier, as the regulator more often than not says to the Building Contractor words to the effect of “despite what’s shown on the plans, you should have known as a Builder that this particular issue contravenes the NCC and should not have been built this way. You should have raised a variation with your client to build it correctly”. So, if the ramification for errors in documents falls on the Building Contractor, there is little checking by the certifier of details, especially in a cost-competitive environment.

In the opinion of InspectWA, the responsibility of documents reflecting the NCC requirements should rest with the LGA – certifiers may expedite the situation to collate and prepare the documents, and approval fees adjusted accordingly, but final responsibility should rest with the LGA.<sup>[M2]</sup><sup>[AB3]</sup>



### Questions for consultation

5. Do you consider that the current approvals process under the Building Act ensures adequate levels of compliance with the NCC? If yes, please tell us why.
6. If you answered no, what do you consider to be the causes for inadequate levels of compliance with the NCC?

No, the current approval process does not ensure adequate levels of compliance with the NCC. This is because the current approvals process relies on the premise that compliance with the NCC will fall into place in the built form if the approved documents are of sufficient detail and are compliant because the people carrying out that work are able to do that which is described in accordance with that information, plus the manufacturer's instructions.<sup>[M4]</sup>

The builder and the trades under a builder regularly fail to deliver the outcomes described in what may be a perfect set of documents because of a distinct lack of knowledge, experience and economic will to know specifically and by inference the imperatives that the approved documents describe.

Added to this, performance solutions are proffered by consultants to describe localised custom and practice which contradict either the NCC or the manufacturer's requirements.

For example, the fixing of plasterboard ceilings using 25mm screws is being accepted as a performance solution when the manufacturer requires 32mm screws. Yet anecdotally, ceilings are falling within the first ten years of life. The practice of using shorter screws is being used because reportedly the longer screws regularly jam the fixing guns, causing delays to

productivity. To maintain productivity inappropriate fixings are mandated by performance solution.[DCHW5]

The positioning of vapour barriers half-way down the inside of a strip footing is being accepted as a performance solution based on a theory that the position of the water table being x metres away from the underside of the slab reduces the moisture source and the improper use of a extract from AS2870 describing an edge beam detail not a footing and slab detail to say that not isolating the footing from the slab is OK. This describes a practice which is used by 95% of concretors because it looks better during pouring and negates having to cut strips of black polythene and install it under slab mesh which has previously been laid prior to pouring the footings.

In the opinion of InspectWA, the inadequate levels of compliance with the NCC in the residential building industry are

- i. the result of years of some builders and trades not keeping up with the NCC and Australian Standards (primarily due to the cost of those documents),
- ii. all trades after roof framing doing what they have always done in terms of work practice with reference to the documents only for scope, not detail. For example, ceiling fixers would look at the addenda only to see what type of cornice and where special cornice is to go, and the plans only to determine whether external areas such as garage, portico or alfresco have a plasterboard ceiling or not.
- iii. Building supervisors being performance-assessed for production, not the number of defects in the work, and certainly not for quality of workmanship.
- iv. Anecdotal evidence that trade apprentices are taught to bring quality down to the level to which they are picked up by supervisors as being unsatisfactory, in order to maximise speed and profit,
- v. Trade prices have increased only by approximately 50% over 20 years, causing trades to cut corners where they see that they can to make a reasonable living. The current downturn in work due to low numbers of building starts is exacerbating this problem, as contractors now cut each other further to maintain workflow.

Added to the above, inspections of completed work by persons other than by the Builder is only being carried out on an adhoc basis, initiated by the Owner. A regime of mandatory inspections would increase surveillance and reporting of building problems.

There is no evidence that Registered Builders do not have the skill set to build in accordance with requirements. To propose this as an issue would represent a fundamental failure of the current WA Builders Registration Scheme. So, it must be accepted that Registered Builders have the required skill sets.

In disputes via the WA Building Commission and State Administrative Tribunal both forums accept Independent Expert Reports from WA Registered Builders as appropriate evidence, further endorsing the skill sets of WA Registered Builders

The failings in the current system are not that WA Registered Builders have the required skill sets it is simply that they are not applying them to appropriately monitoring the trades on

construction sites. There are insufficient motivations or penalties on builders to sufficiently monitor trades. This is the key issue. The solution needs to be found via independent validation of the required key works during construction and some form of reporting mechanism for material breaches which can be viewed not only by Regulators but by Consumers.

Certification is not the answer. Little has been done to define what Certification is now (or proposed to be) and to what extent it is required. For example, in a slab inspection does the Certifier have to validate the composition of the concrete used, location of the pad on the site, depth of pad, type and metallurgical content of reinforcement steel, amount and location of the steel, etc. etc. The cost of true "Certification" could be extensive. Further, Certification simply removes responsibility and liability from the Builder.

The Alternative to Certification is visual inspection to validate Compliance. We recommended that this is the preferred model. WA Building Inspectors have been undertaking these types of inspections on WA constructions for more than 20 years with clear benefits to Consumers and Builders. The inspections are cost effective and add substantial value.

The Certification Model has been utilised to approve Strata Properties for many years. based on our Association's experience, the Certification of Compliance by Builder Surveyors of the key facets of construction has produced the results that we see today.



### **Question for consultation**

**7. Do you support the business as usual option? Please provide reasons for your view.**

InspectWA would support the business as usual approach to building approvals, with the addition of mandatory inspections in some form.

In the opinion of InspectWA, the failure to deliver outcomes in line with the NCC is less a problem with documentation, and more a problem with performance of Building Contractors and trades.

Mandatory inspections could help with education of trades as to the actual requirements in an environment where that learning is not optional, it's a requirement.



## Questions for consultation

8. Do you support Option 2? Please explain your answer.
9. Are there elements of Option 2 that you do not support? If yes, please tell us which elements you do not support, and why.

InspectWA does not support full private certification as to remove the review of the LGA removes a checking process on documents, checking which provides a benefit for the end consumer rather than the builder. [DCHW6]

InspectWA does not support issuing of building permits as this would allow approval of works which reflect benefits to third parties other than the consumer, such as the builder or the developer. The Building Commission is already investigating issues of private building surveyors certifying roofs which leak as compliant, for the benefit of the builder. If private certifiers issue the building permit as well, this problem could become more prevalent. In the same way that there are moves to introduce mandatory inspections to review the work of the builder, the LGA should remain as the mandatory inspector of the building permit documents.

InspectWA does support mandatory inspections, but not by the certifier. Mandatory inspections by the certifier could reveal problems with the certified documents which then are swept under the carpet for a variety of reasons. If 'sunlight' is to be applied to building work, it should be true independent inspection by persons working for the consumer. Mandatory inspections by a certifier working for the builder is also not likely to be impartial, as there would always be one eye on the continuity of work and one eye on the job at hand. Mandatory inspections should be carried out by an independent building inspector, a separate and distinct profession as identified on page 15 of the BCR. Building inspectors would be required to be registered – to ensure a level of training, to ensure a level of experience, to ensure appropriate insurances are in place, to ensure compliance with a Code of Ethics and to ensure CPD.

InspectWA does support the inspector being able to issue rectification orders throughout the build and would like to see those as notifiable events. Notification would enlighten the Building Commission and the LGA as to what types of problems are occurring regularly; repeat notification would alert the Building Commission as to the competence of the Building Contractor. [DCHW7][AB8]

InspectWA would support the independent Building Inspector lodging completion documents with the LGA, again to ensure that the consumer has confidence that the works are completed in accordance with the NCC, from a party who had not also had a hand in the construction or a hand in approving the documents. The completion inspection would be carried out once the Builder has made the declaration that the Works are complete and that they comply with the certified documents. [DCHW9][AB10]

InspectWA would not support Building Inspectors being contracted by the private certifier to perform their role, as the role could be compromised by the promise of future work. It would be recommended that inspectors are either direct employees of an LGA or are part of a pool of

contractors to the LGA. Contractors to the LGA could be drawn from the pool on a random rotational basis to avoid bias.

InspectWA would support ongoing professional development (CPD) for certifiers.<sup>[DCHW11][AB12]</sup>

InspectWA would support implementation of conflict of interest provisions for certifiers, both at design documentation stage and at building inspection stage.<sup>[DCHW13][AB14]</sup>

InspectWA would support mandatory reporting to LGA on all inspections, whether good or bad. This would establish data for the Building Commission and possibly the general public on the ability of the Builder to deliver on the required NCC outcomes.<sup>[DCHW15][AB16]</sup>

InspectWA would support a minimum level of documentation which demonstrates compliance with the NCC (including performance solutions). InspectWA would also support a minimum level of documentation which demonstrates compliance with the manufacturer's recommendations for installation of products. For example, buildings of timber-framed construction would show detailing showing how the cladding is to be finished against windows, how the cladding is to be finished above ground levels etc or at least clearly reference those documents.

InspectWA would support requirements for certifiers to document, record and endorse verified performance solutions on the CDC.

InspectWA would support requirements for certifiers to document and approve variations made during the build, ideally prior to them being built. Owners are to sign consent on variations prior to submission to the LGA.

A statement is made on page 34 that this Option 2 does not include registration of other professions. In order to implement the recommendations of the BCR Recommendation 1, it is intended that Building Inspectors (amongst 9 other professions) be registered. InspectWA strongly recommends that Building Inspectors be registered in order to undertake mandatory inspections within a known framework.

InspectWA's view is that Building Inspectors would be existing Building Practitioners with a suitable professional indemnity insurance, abiding by a Code of Ethics for the profession.

Text Box



## Questions for consultation

10. What specific information do you think should be required in order for design documentation to sufficiently detail compliance with the NCC and thus ensure that builders can more easily build in accordance with the building standards?
11. Do you agree that the minimum standard of design documentation requirements set out in the Director's Specified List under section 20(1)(d) of the *Building Act 2016* (Tas) are a suitable model? If no, please tell us why.
12. Do you support the proposal that the Building Act should require compliance with the minimum standard for design documentation prior to the granting of a building permit? If no, please tell us why.
13. Should the building surveyor be required to make a written statement about how each performance solution meets applicable building standards and what assessment methods have been used to make this determination? If no, please tell us why.
14. Do you agree with the identified costs, benefits and assumptions used in the above cost benefit analysis? If no, please tell us why.

10. Design documentation for Class1a buildings should include:
  - i. Site survey,
  - ii. Retaining wall plans (including engineering) where boundary levels are proposed to change by more than 100mm,
  - iii. Existing House Plan and Elevations if an extension or renovation,
  - iv. Temporary works or specialised support structures required after demolition before construction of an extension or renovation,
  - v. Proposed House Plan of all levels showing proposed floor level in relation to survey datums
  - vi. Proposed Elevations
  - vii. Sections north-south and east-west
  - viii. Boundary wall sections at ground and roof
  - ix. Roof plan including downpipe locations
  - x. Electrical plan
  - xi. Cladding details at windows and ground
  - xii. 1:50 elevations of all walls to all wet areas
  - xiii. Site specific engineering plans
  - xiv. Site specific engineering Site Investigation information
  - xv. Energy assessment
  - xvi. Glazing and ventilation calculations
  - xvii. Specification and completed addenda to specification
11. The Tasmanian model would be a suitable model, with the change of Wind Speed to Wind Rating (N1, N2, N3 etc).
12. InspectWA would support a prescribed minimum level of documentation, as if left to the digression of the certifier there may not be enough documentation for the Building Inspector.



13. InspectWA would support a written statement from the building certifier about each performance to ensure that the certifier understands why the performance solution has been used in lieu of a Deemed to Satisfy solution.
14. InspectWA would not agree with the cost benefit analysis in that:
- i. The cost to the certifier would be \$0 as the cost would be passed onto the consumer
  - ii. The cost to the consumer of \$1900-2200 is not realistic, in that increased documentation charges would be \$455 alone and \$1500-\$1800 for inspection charges is realistic only if the inspector is an LGA employee. Even using the rate of \$125 per hour (as per building surveyors), assuming 3 shorter inspections and one final inspection, assuming 0.5 hours travelling per inspection, 1 hour report-writing per inspection would only allow approx. 1 hour per short inspection two hours per PCI. Interim inspections for InspectWA inspectors would normally be minimum 1.5 hours with PCI inspection 2-3 hours. Independent inspectors charge \$200-\$300 per hour.



### Questions for consultation

15. Should mandatory inspections apply to every single residential dwelling build in WA if Option 2 is progressed? If no, please tell us what alternative system could be implemented to ensure adequate assessment of compliance with building standards during the build?
16. Should mandatory inspections for single residential dwellings include all of the four stages proposed? If no, please tell us why.
17. Should there be alternative or additional mandatory inspections to the four proposed stages? If yes, please provide details.
18. Should the Building Act prescribe inspection elements that must be covered in the final inspection? If yes, please outline.
19. Do you agree with the identified costs, benefits and assumptions used in the cost benefit analysis for this Key Element of Option 2? If no, please tell us why.

15. InspectWA would recommend that builders work to achieve particular inspection ratings, whereby the number of inspections are reduced for those builders who achieve compliance on every inspection on a regular basis. [M17] In the experience of InspectWA, the threat of future inspection helps lift the standard of work, as trades will tend to deliver work which exceeds compliance levels if they know that there is a possibility of future inspection.

In order to achieve this system, mandatory reporting of all inspections to a central database would allow LGA's to assess how many and what type of inspections will be required for each build. In turn better builders will have reduced Building Permit fees because less inspections are required.



InspectWA would recommend that over time all houses have a final inspection and at least two other interim inspections. In order to benchmark builders and to provide education to trades and builders, every house should have every inspection for the first three years.

16. InspectWA would recommend that the firewall inspection be included as part of the framing inspection and final inspection.

InspectWA would recommend that the Stage 3 inspection be changed to be one carried out at waterproofing stage, to include wet area waterproofing, hardwall plaster, external cladding details, roof claddings, guttering and downpipe compliance.

17. see item 16

18. InspectWA would recommend that the Building Act prescribe that the LGA describe inspection elements that must be covered in all of the staged inspections and especially the final inspection. The LGA would be able to include items of local significance (such as drainage and sewer requirements) as well as tailoring the checklist to the type of construction and the level of risk of each NCC requirement.

19. InspectWA would not agree that the cost per mandatory inspection would be approximately \$200, unless the inspections are carried out by LGA employees using a software reporting package provided by the Building Commission.



### Questions for consultation

20. Do you support a requirement to apply to the certifier for formal approval of variations to the design made during the build? If no, please tell us why.
21. Should the requirement apply to all variations made, or only those that are identified as involving a material change? Please provide reasons for your answer.
22. Do you agree with the identified costs, benefits and assumptions in the cost benefit analysis for this Key element of Option 2? If not, please tell us why.

20. InspectWA would support a requirement for the certifier to formally approve all variations found by the Building Inspector and submit those to the LGA for approval.

21. InspectWA would support a requirement for the certifier to formally approve all variations found by the Building Inspector and submit those to the LGA for approval. Variations can make a difference to planning considerations, energy ratings, ventilation requirements, fire risk, even with subtle changes such as a change in colour. Because the ramifications of change are not immediately obvious to the tradesman, builder, or Owner, review by a third party is essential.

22. The costings appear based around doing one final variation after the build is complete to describe the finished build. This makes no allowance for costs associated with lack of compliance and may breed a frame of mind that anything can be done during the build as it can all be covered by a variation at the end. In the experience of InspectWA builders, the number of projects with

variations is much higher than 8 per cent, the timing of those variations is usually after council submission and before construction, due to changes requested by Owners. It is also more common that Builder makes changes during construction to suit detailing not anticipated by the Builder. These types of variations should be consented to by the Owner prior to construction, and certifier submission to the LGA should be part of that process.



### Question for consultation

23. Do you agree with the identified costs and benefits for this Key element of Option 2? If not, please tell us why.

23. InspectWA does not agree with the cost benefit analysis.

The cost for record keeping will be passed onto the consumer in the proposed model, through fees passed onto the Owner by the Certifier.

The cost for record keeping could be paid by Government (reimbursed by levies on Certifiers and Building Inspectors per document if the reporting was standardised, computerised and centrally held by the Building Commission. By doing that the Building Commission could easily change the forms to describe their requirements if needed, keep tabs on overall types and frequency of issues, and maintain accurate records for the Commission's inspectorate to use if reviewing Builder performance.



### Questions for consultation

24. How should LGAs be funded to carry out enforcement functions? Please explain your answer.

25. Do you agree with the identified costs, benefits and assumptions for this Key Element of Option 2? If not, please tell us why.

24. InspectWA would envisage that the cost of LGA enforcement would be funded as it should be currently. It is the responsibility of LGA to enforce building standards. If the LGA's are underfunded, they should increase Building Permit fees accordingly.

25. Yes

requirements are met prior to the LCA granting a building permit



### Questions for consultation

26. Question 3 of this CRIS seeks comment on verifying planning compliance. Please tell us if you support a requirement to submit evidence of planning compliance with a building permit application as part of Option 3, and why?
27. Is there merit in exploring a fast-track approval process such as that described above?
28. If you answered yes to Question 27, what do you consider to be the key conditions that would need to be met in order to allow construction to commence? Are these key conditions able to be clearly defined?
29. Please provide any suggestions for an alternative fast-track process that could be considered.

26. Not considered in this submission, beyond the expertise of a building inspector.
27. Not considered in this submission, beyond the expertise of a building inspector.
28. Not considered in this submission, beyond the expertise of a building inspector.
29. Not considered in this submission, beyond the expertise of a building inspector.



### Questions for consultation

30. Do you support Option 3? Please give reasons for your answer.
31. Are there elements of Option 3 that you do not support? If so, which elements and why?

30. In working through the questions to Option 2 it is apparent that InspectWA supports a modified version of Option 3.

31. InspectWA does not support the following elements of the Option 3:

Record keeping would be fragmented, each council working in silos. Centralised record keeping with the Building Commission would be recommended, with standardised software.

Building Inspection would not be recognised as a distinct profession, different in its skills and attributes to building surveying.

Inspection of the fire-rated walls should happen with inspections 2 and 4, separate inspection is recommended to review waterproofing, hardwall plaster, external cladding details, roof claddings, guttering and downpipe compliance.



### Question for consultation

32. Under Option 3, do you support the proposal that compliance with minimum standards for design documentation should be required prior to the granting of a building permit? If no, please tell us why.

32. Yes



### Questions for consultation

33. If Option 3 is adopted, should mandatory inspections apply to every single residential dwelling build in WA, or a sample of builds? Please provide reasons for your answer.

34. If a sample of builds is preferred, how should the sample be selected?

33. Yes, as described in our answer to questions 15-19.

34. InspectWA would recommend a sample of builds be applied to builders who have demonstrated a regular high compliance rate. Those builders would still require a PCI inspection, but have a reduced number of random other interim inspections, dependent on the LGA recommendation.

Very good builders      Inspection 2 and 4

Good builders      Inspection 2,3 and 4

New builders and average builders      Inspections 1,2,3 and 4



### Questions for consultation

35. Do you support a requirement that variations to the design made during the build must be submitted to the permit authority for formal approval? If no, please tell us why.

35. Yes, see answers 20-22.