



**Submission**

**National Competition Policy analysis 2025  
Interim Report July 2025**

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### **Who we are**

The Australian Institute of Building Surveyors (AIBS) is recognised nationally and internationally as the peak professional body representing building surveying practitioners in Australia.

### **Our Mission**

AIBS is committed to ensuring a safer Australia through continuous improvement and development of the profession of Building Surveying. The overarching objective of the Institute can best be summarised as follows:

*To achieve the highest standard of professionalism through Professional Development, such as education pathways and training, and Advocacy in representing the profession and establishing standards.*

### **Professional Standards**

The Australian Institute of Building Surveyors (AIBS) Professional Standards Schemes for Building Surveyors operates across all states and territories and is a legislative instrument that obliges AIBS, to monitor, enforce and improve the professional standards of members under the Scheme, thereby reducing risk for consumers of professional services.

The AIBS Professional Standards Scheme upholds the professional standards of Scheme Members, who are building surveyors, and ensures that clients have access to appropriately qualified and skilled building surveyor practitioners for representation and advice.

## **Preparation**

This submission has been prepared in response to the public release of the interim report for public consultation purposes.

## **Overview**

Noting that the request made of the Productivity Commission by the Treasurer relates to competition policy, AIBS believes that it is imperative that competition policy is established in full view of the benefit that derives from appropriate regulation of the building sector. Effective regulation of the sector is a priority identified by Australian governments, reflective of the need to not only deliver more affordable housing at higher rates of supply, but also to preserve investments and consumer rights by ensuring what is delivered is safe, compliant, and fit for purpose.

Therefore, AIBS is of the view that an approach to competition policy reform centred on reduction in red tape runs the risk of failing to provide an acceptable approach to the setting of the reform agenda. AIBS contends that the approach to revision of the national competition policy should focus on harmonisation of regulatory controls into a nationally consistent approach to sector regulation, looking for opportunities to optimise regulatory controls to be more effectual and efficient at driving significantly higher standards of voluntary compliance, being the optimal means of achieving safe, compliant and fit for purpose buildings.

Compliance is key to participation, influencing both attraction and retention of existing participants to the sector. Many have left or are contemplating leaving the sector because of the state of the regulatory environment that is operating and within which each must find a way to operate. There are far too many practitioners ready to undercut requirements to lift returns on projects in full expectation that this will not be challenged by regulators. The environment this creates is not conducive to profitable participation by conscientious practitioners in the long term.

By ensuring sensible approaches to sector participation are once again viable, greater participation in the sector will occur, and the certainty that sound regulation of the sector provides will allow for confident private investment in innovation and modernisation of the sector. These are central keys to both competition and sector productivity.

With a sound approach to sector regulation, the opportunities to realise supply and affordability objectives will be enhanced by:

- Greater sector participation leading to increased competition across the sector;
- Reduction in undercutting risks to the sector; and
- The minimisation of defect remediation works from the cost of building procurement.

Removal of regulation tagged by self-interested parties as red tape will make it cheaper to not comply. It won't improve the outcomes that consumers and governments demand. Reform aimed at delivering effective and effectual regulation of the sector provides a far stronger basis for the setting of national competition policy going forward.

AIBS urges the final report is centred on this approach to regulatory reform.

With increasing globalisation of supply likely to evolve within the construction industry, there will also be an increasing risk of influence over regulatory authorities by firms with significant magnitude necessary to achieve the kinds of economies of scale necessary to drive down costs across the sector. This has important implications for regulation of the sector. AIBS believes there is a need for this review to contemplate how Australian governments should prepare and galvanise their resistance to such influence.

Compliance and enforcement actions are most likely to be impacted. In order to overcome this, there should be consideration given to establishment of mechanisms to isolate compliance and enforcement functions of government from political influence. This can be achieved in many ways, one of which is described in the detailed section within this submission.

In relation to rationalisation of all occupational licenses, AIBS believes this is a key component of a wider approach to a reform that is necessary, and is therefore a reform area that AIBS supports.

In relation to standardisation, AIBS believes standardisation is a critical part of establishing technical infrastructure essential to supporting consumer and investor confidence as well as to supporting confidence in industry participation. AIBS cautions that there are potential risks to certainty and significant cost burdens that arise with referencing international standards.

As the construction industry tends to a more global posture, so too does the technical infrastructure that underpins the sector. AIBS supports encouragement of a global perspective in local standardisation processes. The setting of an Australian competition policy agenda should not contemplate the diminishment of a sovereign capability to deliver standardisation bespoke to the needs of Australian industry and regulators.

AIBS is available should there be any need for additional information or clarification of any point raised in this submission. Please contact either Sid Gokani or Jeremy Turner should this be desired. The following section of this submission provides additional detail in support of the points made in the overview above.

## **In Detail**

### Compliance and enforcement:

Remediation of defective construction work has been quantified by the Centre for International Economics at about \$2.5 billion per annum in Australia. This cost is approximately equivalent to 1% of the contribution of the sector to Australia's GDP. These points were set out in the report it was commissioned to provide to the Australian Building Codes Board in 2021 related to work the Australian Building Codes Board was asked to do by Building Ministers to assist jurisdictions to better understand the pathway toward implementation of the recommendations contained in the Building Confidence report by Professor Peter Shergold and Ms Bronwyn Weir of 2018.

Irrespective of the views on the topic each of these provided, it stands to reason that an improvement in the efficacy of sector regulation will reduce the rate of defects. With fewer defects needing remediation more firms can focus on undertaking new work. This lifts competition in the sector and simultaneously enhances productivity.

The opportunities for improved productivity are not the only benefit. Improved rates of compliance and better-quality outputs will flow from a refreshed focus on driving higher rates of compliance and better performance.

If people who currently undercut the market through ineffectual regulation of the sector are allowed to continue to do so unabated, competitive forces will drive a lower standard of work to occur across the sector. This happens because, in order to remain part of the sector, firms cannot compete on price if they do not condescend to the minimum standards of performance that prevail.

Absent effective control, those who are not willing to compromise their standards are moving to alternative areas of the sector, or into other sectors altogether, so that over time it could end up that only those who are willing to compromise standards are left competing for the work available. Perversely, with fewer participating firms, the remaining firms end up being paid more for doing lower standards of work.

Sector regulation is currently derived from three distinct sources:

<b>Regulatory centre</b>	<b>Role</b>
1. State and Territory regulators	<ul style="list-style-type: none"><li>• Establish statutory bodies such as:<ul style="list-style-type: none"><li>○ building commissions,</li><li>○ licensing bodies,</li><li>○ safety authorities, and such like;</li></ul></li><li>• Perform statutory functions such as the authorisation of construction or the authorisation of occupation of buildings;</li><li>• Undertake compliance and enforcement action where nonconformity has been alleged;</li><li>• Initiate actions seeking punitive penalties where offending is alleged.</li></ul>
2. Local government	<p>Perform functions within statutory limitations such as:</p> <ul style="list-style-type: none"><li>• the authorisation of construction or the authorisation of occupation of buildings;</li><li>• the undertaking of inspections during the progress of construction and post occupancy to verify ongoing compliance with safety requirements and the like;</li><li>• undertake compliance and enforcement action where nonconformity has been alleged,</li><li>• initiate actions seeking punitive penalties where offending is alleged.</li></ul>
3. Private authorities having jurisdiction	<p>Perform functions within statutory limits such as:</p> <ul style="list-style-type: none"><li>• the authorisation of construction of buildings;</li><li>• the authorisation of occupation of buildings;</li><li>• undertake mandatory inspection of stages of construction work;</li><li>• undertake a degree of compliance and enforcement actions where noncompliance is alleged.</li></ul>

Within this structure the funding of the activities of each body responsible for compliance and enforcement differs. For states and territories, the role is funded from public funds allocated to relevant departments for this purpose. For local government, funding comes principally from allocation of rates and other revenues derived by local government and made available to relevant departments, including fees charged to those undertaking developments, together with a degree of funding from state and territory governments supporting local government to implement government policy.

For private authorities, funding comes from the collection of fees from applicants for construction authorisation or authorisation of occupation.

Rationalisation of the responsibility for regulation of the industry would provide benefit. It should not be left to private building surveyors undertaking statutory functions as authorities having jurisdiction to have to fund compliance and enforcement actions from funds they receive from their clients.

State governments must ensure that they adequately fund the implementation of state legislation if this is to be performed by local government, or take full responsibility for the compliance, enforcement, and prosecutions necessary to ensure their legislation is effectual at regulating the sector.

Consideration should be given to the capacity of governments, particularly of local government, to effectively regulate an increasingly global sector with substantial economies of scale and significant influence that goes with increased scale.

There are several options available that could galvanise the regulatory capacity of government. Regulation of the sector by bespoke entities adequately and independently resourced, or similar mechanisms that achieve the same outcome, will become essential if the community and investors are to have ongoing confidence in the sector to supply compliant, safe, and fit for purpose buildings. Such entities cannot exist at a local level. This necessitates an approach that could be more like a national entity with local offices, which would be significantly more immune to influence.

Another approach is an oversight body, akin to that which has been put in place in Victoria via the Building Special Advisory Panel. Information about how these panels are established, their role, and their make up can be found here: <https://www.vba.vic.gov.au/about/special-advisory-panels>.

Essentially, an oversight body would ensure a degree of public accountability and transparency for regulatory bodies. This will drive a higher resistance to influence because it will be obvious to the community. Where necessary an oversight body could call out inadequate carriage of responsibility and cause political pressure aimed at overcoming the influence that has been exerted to repel regulatory attention.

Technical and legislative policy setting should continue to be the prerogative of states and territories, but could be improved by expansion of the framework provided by the Intergovernmental Agreement Establishing the Australian Building Codes Board. If the ABCB were empowered to bring states and territories closer together around a unified approach to jurisdictional legislation, significant advancement of effective and efficient industry regulation could be achieved.

#### Licensing:

AIBS has long held a policy position related to a nationally consistent approach to registration and licensing. AIBS supports the recommendations in this regard that were provided by the Australian Building Codes Board's Implementation Taskforce which published a National Registration Framework in 2021. AIBS recommends that the productivity commission support that approach to establishment of a nationally consistent approach to licensing in Australia.

#### Standardisation:

From a building surveying perspective, opening Australia to internationally developed standards will add considerably to the cost of assessment of proposed work ahead of decisions about construction authorisation. This is because it will necessitate building surveyors accessing multiple sets of standards from global suppliers for essentially the same type of work that is required to be regulated.

The training and development pressures that this could present will also be substantive. Standards are constantly in need of updating to reflect the latest knowledge relevant to the subject matter. This will drive building surveyors to spend more time and money doing training on changes to technical standards in each and every one of the jurisdictions where standards development was acceptable within Australia, not just the Australian versions of those standards as is currently the case.

AIBS instead recommends that the productivity commission recommendations focus on supporting Standards Australia and the Australian Building Codes Board to capitalise on the state of the art that is available internationally in a responsive way that supports adoption of global innovation within Australia.

It is noted that the draft of the National Construction Code 2025, proposed to be introduced in Australia at an indeterminate time (requires endorsement of Building Ministers who have not met to decide this yet), includes a mechanism for recognising state of the art developments in published standards that are not yet referenced in the National Construction Code. This is a significant improvement in the capacity of Australia's technical infrastructure to be more agile.

AIBS therefore supports augmentation of the international focus of the current processes for standards development in Australia.

### **In closing**

AIBS is committed to working with government, industry and key stakeholders to continually improve the building regulatory system throughout Australia.

Please contact us for any clarification or further information that may assist.