



Submission

Australian Government
Productivity Commission
Housing Supply Regulation



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AIBS
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OF BUILDING SURVEYORS



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Introduction

About the Australian Institute of Building Surveyors (AIBS)

The Australian Institute of Building Surveyors (AIBS) is recognised nationally and internationally as the peak professional body representing building surveying practitioners in Australia. AIBS is committed to ensuring a safer Australia through the continuous improvement and development of the building surveying profession. AIBS' overarching objective can be summarised as: *to achieve the highest standard of professionalism through professional development, including education pathways and training, and advocacy in representing the profession and establishing standards.*

The AIBS Professional Standards Scheme 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 and ensures that clients have access to appropriately qualified and skilled building surveying practitioners for representation and advice.

As a recognised occupational association, AIBS sets professional standards, accredits building surveyors and represents the profession nationally. This work ensures building surveyors uphold the highest levels of competence and integrity, while giving governments, industry and the community confidence in the work they perform.

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Preparation

This submission has been prepared in response to a public call for submissions made by the Productivity Commission.

Overview

AIBS notes the limited scope of this inquiry confines it to:

- approval processes,
- availability and use of land for housing, and
- processes and frameworks to deliver new and utilise existing housing-enabling infrastructure.

Our submission seeks to express the point of view of building surveyors about this scope of review and points out that there are additional considerations that are related to this scope but are not expressly addressed by the call for submissions.

Accordingly, we wish to also bring to the attention of the Productivity Commission significant impediments to residential housing supply arising from regulation of the sector that do not fall neatly within the three broad descriptors of the scope of this review.

The first of these is **the supply of building surveyors** willing to undertake statutory building surveying work within the sector. Building surveyors are critical to obtaining authorisation to commence construction (building approvals, building permits, and the like) and when construction is complete, building surveyors are again critical to obtaining authorisation to occupy those buildings. Availability of building surveyors is heavily impacted by a range of regulatory impediments to practice. We will elaborate on these in the detail section of this submission. A shortage of practitioners available to undertake statutory approval functions will delay the whole sector and cause considerable productivity impediment.

Additionally, the productivity impacts of inadequately resourced, competent, and motivated regulators incapable of adequately undertaking **compliance and enforcement actions** across Australia is profound. Many well-meaning practitioners are priced out of the market by sub-par practices that are largely going unchecked by regulators, driving high rates of building defects that significantly inflate the cost of housing supply through the cost of remediation of that work. There have been far too few efforts made to quantify this effect on Australian productivity. AIBS urges the Productivity Commission to take this opportunity to do what it can to quantify this effect within this study. From this it would be opportune for the Productivity Commission to make recommendations about funding and resourcing of compliance and enforcement activities as a cost-effective means of gaining multiple percentage points of improvement to sector productivity.



The detail section of this submission will describe the relatively small investments needed to improve compliance across the residential sector and how this could result in substantive improvement in the supply of housing at a lower cost to the consumer, more than justifying the investment in compliance.

This submission also provides details on how AIBS considers reforms could be made to address the expressed terms of the scope of the review.

Should any additional information or clarification of any points raised by this submission be desired, we are happy to assist. Please contact us at your earliest convenience.

In detail

This section of the submission provides details related to the points made in the overview section.

Approval processes

AIBS notes there are a range of matters that impact productivity within the residential sector arising from matters that can loosely be grouped into the category of approval processes. Our submission has grouped member responses to the call for comments around key themes of issues that have been expressed. In relation to approval processes there are two main themes.

The first relates to the complexity of legislative controls related to land use planning approvals and how these interact with the legislative controls for building technical compliance.

The second provides information about the infrastructure that is provided to varying degrees across the country to support the management and movement of data related to applications for authorisation of construction and occupation of buildings in Australia.

Planning legislation complexity as a barrier to productivity

The Queensland Productivity Commission (QPC) issued a final report making recommendations that are subsequently informing what are known as the Building Regulation Renovation reforms in Queensland. Whilst the Queensland Government had the opportunity to pick up recommend reforms that would help to resolve some of these issues, it didn't. Instead, the Queensland Government is looking to further empower local governments rather than restrict them so that the current issues with local regulatory variation is set to continue if not worsen.

The Queensland Premier and Queensland's Building Minister have referenced the Equal Partners in Government Agreement as their reason for taking this direction. This outcome will result in more complex and more inconsistent pathways for construction in Queensland as each local



government potentially becomes empowered to create local bylaws and processes that complicate development in local jurisdictions.

One example of this is the development of the Queensland Housing Code, which is intended to provide design and siting provisions for building work in Queensland. The proposed amendment to this document includes a provision to allow councils to voluntarily adopt the code's provisions or to establish their own provisions. It will also allow councils to simply not adopt any provisions and then have their own codes in an unprescribed format. Such codes are seldom discoverable by persons from outside the council area seeking to understand what is required, typical of developers, builders, architects, consultants and building surveyors looking to offer statutory services on a private basis.

Queensland is not alone in permitting high degrees of variability of requirements for housing across different local government areas. The arguments against allowing establishment of '*as of right*' type approaches to permitting residential developments to proceed without the need for a costly and protracted land use planning consenting process are often about local character, local amenity or local heritage and how these might be impacted adversely by the establishment of an '*as of right*' framework.

The Northern Territory has provided a substantive '*as of right*' framework for more than 30 years. There, housing is rarely needing to be referred to the planning authority for a land use assessment as most residential buildings are designed and constructed in accord with the '*as of right*' framework and able to be processed by the building surveyor with respect to the technical requirements only. Approval timeframes in the Northern Territory are easily the fastest in the country. Most houses are approved in the Northern Territory within 24 hours of an application having been made.

Systems support infrastructure

Most States and Territories have invested in some level of document management system that is used to track and manage applications for approval. In some cases, this is a single portal environment covering the entire jurisdiction and relates to land use planning, building, and a range of other approval requirements. In other jurisdictions, such systems are instituted differently from local council to local council. Hobart City Council is a case in point and even that system is not able to deal with all applications.

A Building / Development Portal can streamline documentation access and lodgement. It can provide the regulator with access to data collection for analysis. In Victoria, the State Building Surveyor has been able to extract data from the system operating in Victoria related to the numbers of inspections each practitioner is conducting per day and where each of those inspections are carried out. From this data, they learned that some practitioners have found a way to inspect between 50 and 60 buildings in a day across a 500km radius around



Melbourne, therefore likely detecting non-compliant practices that would otherwise likely go undetected.

In South Australia, an applicant can lodge an application for any form of development and upload plans and other documentation appurtenant to that application. They can then nominate who they wish to engage to undertake assessment of that application with respect to both land use planning or building technical compliance. They can also nominate a builder for the project, pay all relevant levies and fees and upload any documents of relevance such as homeowner's warranty insurance certificates and the like. The portal will also receive information about mandatory notifications and any consequent inspections that have been conducted.

Currently, few portals have the capacity to recognise individual licensed or registered persons who undertake work on any given site which would better enable linkages to licensing and registration schemes so that defective work would offer implications for license or registration renewal. This is an important motivator for compliant conduct where it is available.

In concept, the portal would support information capture through the value chain, with the builder able to load the build contract, appoint trades, pay home warranty insurance, long service leave, training levies etc., which can all be tracked through the portal. Trades could sign in and make declarations about their work, removing the requirement for analogue forms currently being used in several jurisdictions.

Productivity of statutory building surveyors would be improved by uploading data from in house application tracking software to a single government portal. It would also improve because building surveyors would no longer be required to administer matters that the jurisdiction has traditionally cast to the building surveyor as the last step in the approval process – collection of levies, citing insurance certificates and the like. The Portal will simply refuse to allow an approval to issue until all requirements for uploading such items have been met by the applicant.

In Queensland, where there is no such system, practitioners are reporting that they have administration officers spending up to 30 minutes manually uploading data and documents through each council individual portal, with technical officers having to trawl through application documentation to confirm all administrative matters related to payment of levies and insurance etc., are in place.

The lack of an electronic system slows down the process of assessing and approving applications for new building work. The cost of administering jurisdictional requirements that are outside of the legislative responsibility of building surveyors is also substantive. Where there are portals in place, there may also be opportunities for further improvement. Members are reporting significant timeframes are involved in interacting with some portal systems.



It is clear to AIBS that there should be a concerted investment made in establishing an efficient and effective portal environment that supports application processing in order that application processing can move into the digital age and all the advantages this offers.

The supply of building surveyors

For years, AIBS has been tracking the number of building surveyors registered to provide statutory building surveying services in Australia. It hasn't moved substantively in over a decade, despite significant numbers retiring, indicating that the rates of attraction of new entrants to the profession are only just enough to maintain numbers. If demand for building surveying services is to grow in line with expansion of supply of housing, there will therefore be a shortage of building surveyors available to do this work.

In this section of the submission key factors impacting the availability of building surveyors are discussed. The importance of the availability of building surveyors is the first point to note. Following this we describe the key issues that impact attraction and retention of building surveyors to statutory building surveying work, being the availability of professional indemnity insurance and the cost of this, and also the nature of regulation of practice and how this is in need of reform to support both better consumer outcomes and higher rates of retention of practitioners to the sector.

Why consider availability

The availability of building surveyors impacts approval processes. Every building that requires an approval to be built is assessed and authorised for construction and occupation by a building surveyor. In Queensland, a recent assessment noted that there are around 200 practitioners registered to provide statutory building surveying services who are involved in supply. When contemplating the total value of work approved in Queensland per annum, this means that each building surveyor is responsible for approving around \$50m worth of work per year.

The number of building surveyors actively involved in statutory building surveying work in each jurisdiction is not known. AIBS is able to provide numbers of people registered to do this work in each jurisdiction, and in aggregate this is about 5,000 people. Not all of these people are engaged in the supply of statutory building surveying services. Anecdotally, we understand that in some jurisdictions, participation rates are considerably lower than others owing to other factors also discussed in this section.

Of the \$320bn – \$325bn worth of work on construction per annum in Australia, about \$100bn to \$105bn relates to the residential sector. AIBS does not have access to data that will allow an understanding of the proportion of residential work that is approved by the 5,000 people registered to undertake statutory building surveying work in Australia. Simply dividing \$100bn



by 5000 indicates that the minimum level of responsibility per building surveyor per year is \$20m. The cost of construction of the average house in Australia is around \$250,000. At this rate, it is reasonable to assume that every building surveyor in Australia is approving at least 80 houses per year. The actual number is considerably higher because participation in statutory service delivery is lower than 100% of the 5,000 registered practitioners.

On these raw numbers, it is not hard to imagine that any contraction in the number of building surveyors available to undertake statutory building surveying services in Australia will quickly begin to impact the availability of approvals.

There are several factors impacting attraction and retention of building surveyors in Australia.

Managing Risk and Professional Indemnity Insurance

The professional indemnity insurance market has been a key factor impacting attraction and retention. All jurisdictions require building surveyors to carry professional indemnity insurance as a pre-cursor to registration. Historically, the availability of this cover has been difficult, particularly in the wake of calamitous events such as the Lacrosse building fire in Melbourne of 2014 and acutely following the Grenfell Tower fire in London in 2017. The consequence of each of these events was that underwriters determined that it was necessary to manage exposure by refusing professional indemnity cover for cladding on buildings.

AIBS members established the Australian Institute of Building Surveyors Professional Standards Scheme, approved pursuant to the Professional Standards Act (NSW) and adopted nationally. This provides a legislated cap to liability for building surveyors who are part of the scheme, with capping established by review of insurance claims data over a 10-year period. Our members enjoy a capped liability of \$2m for practitioners engaged in all forms of work including residential apartment buildings or \$1m for practitioners who confine their services to low rise residential buildings, and this has provided significant improvement in the availability and feasibility of professional indemnity insurance for our members.

The market has also been willing to offer insurance, at a higher cost, to those who sit outside of our membership, noting that those practitioners are not subject to capped liability. We understand that this is because of the work we have done to demonstrate professionalism, they now see the risk posed by insuring building surveyors differently from previous, with those able to answer the questions they pose about risk mitigation gaining access to cover.

Despite these improvements in the market, insurance costs remain as a significant deterrent to entry into practice, and as a practitioner spends an increasing numbers of years in the sector, their back catalogue of projects grows and so too does the potential for a claim, so that their insurance costs also increase, effectively encouraging an exit from practice whilst run off cover for ongoing exposure is affordable.



Management of the risk of a claim is difficult. There are no controls that might limit the scope of matters over which a consumer may make a claim against a building surveyor and because of this, building surveyors are frequently joined in any claim that a consumer may make arising from any loss that a consumer may have suffered related to building work. This includes claims for aspects of the quality of work which may be a matter of relevance pursuant to the contract they have with their builder but not a matter of consequence regarding regulation of building work. For example, claims for cracked paving around the dwelling, efflorescence staining on brickwork, and like matters. Building surveyors often find that their insurer will settle such claims because this is more economic than defending the claim in the Courts. Risk management is therefore largely out of the hands of the building surveyor, a significant factor in decisions about market participation.

Practitioner regulation

Building surveying practice is important to regulate carefully. If no-one is watching those in charge of such a function, it is prone to derailment. Regulators attend to this responsibility inconsistently between jurisdictions, and also inconsistently from practitioner to practitioner, as well as between regulatory officers. Often, disciplinary actions are initiated on the interpretation of highly complex technical requirements and legislative interaction made by individual officers within the regulatory body. There are insufficient or non-existent internal review processes that test the robustness of an allegation of wrongdoing before it is foisted upon a practitioner.

There are several instances where show cause notices and the like have been issued to practitioners without proper consideration of the need for the action or for the accuracy of the interpretations the action is based upon.

The implications of this go beyond the attendant resourcing of the preparation of a response from archival documents that have had to be retrieved involving considerable cost and time. The impact also goes beyond the opportunity cost of this time away from assessment of applications, which often is not a consideration of regulators who generally lack a regulatory policy that guides what actions will be taken under which circumstances, particularly around the protection or achievement of improved consumer outcomes.

The Victorian Building and Plumbing Commission has a public facing policy about what it will do and the circumstances where it will act, which references consumer outcomes as the primary driver of investigative and regulatory actions.

Other jurisdictions may have similar foundations to their regulation of the profession however these are often not published and do not all have consumer outcomes as the primary driver of action.



Despite the Victorian government's approach, currently they are seeking to take action against a host of building practitioners who have been involved in the advent of combustible cladding on high rise buildings. Show cause notices have been issued to practitioners for work they have been involved with up to 15 years prior, following a recent amendment to a limitation period that extended the time within which actions could be taken from 10 years to 15 years.

Many practitioners do not have insurance cover that will respond to these actions.

This course of action is highly visible to all practitioners across the sector and rightly acts to deter the practices that have led to the actions being taken, but also has the unintended effect to disquiet the remaining cohort of practitioners about the certainty of practice that would otherwise exist. This is because the taking of action will not change consumer outcomes. The cladding risks that existed have been remediated and the cost of this was funded by the Victorian government via a purpose made fund of \$600m together with a development levy that has collected more than that amount and continues to apply raising additional funds for a purpose that no longer exists. There is no consumer benefit from taking the actions that are being taken.

The widespread nature of cladding defects arose from a sector wide blindness to the issue that evolved over a decade or so, with full visibility to the regulator who itself approved the installation of the very same products on its own building. Rather than note there has been an issue across industry, the Regulator has chosen to deflect criticism from its failures and saddle the sector with additional risk to ongoing practice.

Practitioners are understandably wondering where the next hit will come from and how they will bear the load. Many are simply noting the uncertain climate is no longer something they are prepared to tolerate and finding a means to exit from the supply of statutory building surveying services to the sector.

The attitude and approach to regulation of the profession is also hampering AIBS efforts to attract people to the profession of building surveying. This is a growing problem. The age profile of building surveyors within our membership is approximately 50% over the age of 48 years. This has not shifted much in more than 10 years. With a significant number of practitioners approaching retirement age and significant detractions from entry into the profession, AIBS is concerned that supply of building surveyors will soon become an acute issue for the sector to manage.

Compliance and enforcement actions

In this section of the submission, we will further describe the role of regulators in undertaking compliance and enforcement actions for all sector practitioners, not just building surveyors, and why this is relevant to the productivity of the residential sector in Australia by impacting the approval process as well as diverting resources away from constructing new buildings.



In the absence of a regulator to enforce requirements established in law, there is little point in regulating something. The absence of adequate regulation of the sector will prevent those who wish to participate on a compliant basis from winning work ahead of those who are prepared to access the market on a non-compliant basis. It will also establish consequences of non-compliant work for consumers, where it fails to ensure those responsible for compliance take that responsibility. Compliance and enforcement activity therefore supports housing supply by two means, the first being to ensure a minimum benchmark of performance is available to establish a sound basis of competitive participation, and secondly, by mitigating the risk of re-work and repairs faced by consumers and so that more productive effort can be put toward new work.

It takes a particular kind of regulator to be able to achieve this.

In Australia, there are significant variations in the capacity of regulators to effectively regulate the sector. This responsibility is often split between State and Territory governments and the Local Government sector. In some states this responsibility is also one that the State has transferred in part to private building surveyors.

South Australia has possibly the smallest regulatory department in the country. The Building and Plumbing Commission in Victoria has one of the largest departments in the country, with similar numbers employed by the Queensland Building and Construction Commission in Queensland. There are about 400 people employed in compliance and enforcement roles by the NSW Building Commission in the regulation of a limited scope of buildings there, with similar numbers engaged in another arm of the NSW regulator dealing with the remaining set of buildings. Whilst the numbers employed by Qld, NSW and Victoria are substantive, these numbers must be considered relative to the quantum of work performed in those jurisdictions. Additionally, many of the people in those entities are not building surveyors. They may hold related qualifications in construction, architecture, engineering, or specific trades, with consequent limited capacity to understand the breadth and depth of compliance that a building surveyor can provide.

In NSW, there are more than 17 separate legislative instruments that regulate construction in that State. AIBS has said in the past that this legislative environment is so complex that it protects both the Ministers responsible for the legislative regime and the practitioners who might fall foul of complying with the legislative requirements relevant to them. This is because the Ministers can point to the plethora of requirements and say that it isn't their fault because they have regulated this extensively. Regulators will struggle to work out which legislative requirements have been breached and to initiate compliance and enforcement actions that are robust enough to survive the Court process. Practitioners need only prove on the balance of probabilities that it wasn't their fault to avoid a penalty, and with such complex interactions



between the various legislative instruments, it is not hard to demonstrate that they acted in good faith in an excessively complex environment.

Bodies with responsibility for compliance and enforcement need to have a consumer outcome centric focus to that work. There needs also to be an appropriate allocation of resources to the undertaking of that work, both in terms of having on staff appropriate numbers of sufficiently qualified and experienced people to properly understand compliance and also with respect to the monetary resources needed to bring matters to Courts so that decisions about conduct can be made with penalties imposed for wrongdoing.

The regulators need to be regulated. There needs to be a requirement imposed on each to ensure that the actions taken are designed to derive a tangible consumer benefit and that when actions could be taken to derive a consumer benefit that they are actually taken and not left because of a lack of motivation or financial resource to undertake the action.

The NSW building commission costs about \$145m per year to run. The return on that investment is thought to be at least \$290m per year in defect avoidance. The reality of how much benefit is derived from investments in compliance and enforcement is not known. With some estimates of up to 20% of all investment made in construction in Australia being spent on remediation of defective work, with a study by CIE into the cost of remediation of waterproofing defects for Class 2 (apartment) buildings alone calculated at \$2.5bn per year, it is clear that there is much productivity benefit to be derived from improvement of the rate of compliance throughout Australia.

Defect mitigation

In this section of the submission, we will describe the costs of defects and their mitigation to the Australian economy.

[Redacted]

Where defects are reduced, all of the time spent by trades remedying defects would be available for allocation to additional new building works. The benefit of eliminating defects should be calculated not only in the cost of the defect remediation avoided, but also in the reduced opportunity cost to the sector from re-deployment of resources to defect remediation.



Tracking of those responsible for defective work is a key part of this effort. Establishing an electronic document lodgement system that also tracks which licensed and registered practitioners have been involved in each project creates opportunities for cheap compliance and enforcement investigation.

When a regulator identifies defective work, they would instantly be able to identify how many sites the individuals involved have been working on, and what upcoming projects they have to allow for further audits of their work. This would allow for targeted responses to those producing defective works. Such a portal would also reduce unlicensed works.

Regulators should take note when a volume house builder makes an application using a different company each time they do so. This is a risk transfer strategy that some builders employ to protect the main business in the event that one of their projects goes off the rails. The liability is contained within the company that was established for that project only, and the parent company is isolated from the problems.

Regulators should also take note when Directors of failed companies turn up in new companies that establish to undertake further development work.

Regulators should also take note where builders undertake work beyond the scope of an authorisation that has been issued or ahead of an authorisation they anticipate to be issued.

Each of these points appear to be of low consequence to broader consumer outcomes, however to an individual consumer, these are financially and emotionally devastating. Regulators who fail to act on isolated non-compliant conduct permit the development of a sector that serves the risk mitigation aspirations of builders far more than those of consumers. This impacts decisions about sector participation, with those adverse to competing on a basis that does not serve consumer interests disinclined to join. Productivity is therefore curtailed in multiple ways as described above again.

Availability and use of land for housing

See the responses provided to consultation questions for details of AIBS views on this aspect of the review.

Housing-enabling infrastructure

See the responses provided to consultation questions for details of AIBS views on this aspect of the review.



Consultation question responses

This section of the submission provides responses to the consultation questions raised in the call for submissions paper.

1. Which regulatory reforms should governments prioritise to get more homes built more quickly?

1a. Harmonisation of technical requirements and legislative requirements governing how construction authorisations and authority to occupy a building are issued. Currently, there is little consistency beyond the ability of public (typically local government) and private participation in the process, and in the case of West Australia, even that fundamental point is different with private practitioners not able to make decisions and instead only permitted to provide a certification that can be accepted by the public permit authority if it chooses to do so or for that assessment to be repeated by the public authority – they get the same fee either way. The variation in technical requirements arising from different timing of adoption of the NCC and also arising from the establishment of jurisdiction specific variations to technical requirements both within and outside of the NCC is also a cause of significant cost and delay to the approval processes across the country. It also significantly impedes the introduction of products, materials and systems that might otherwise be used to improve the productivity of the construction sector in Australia.

1b. Each of the States and Territories should adopt a national licensing and registration framework providing a common benchmark for qualification leading to defined levels of participation in the sector with disciplinary action taken in one jurisdiction impacting the ability to practice in all jurisdictions. The Automatic Mutual Recognition processes defined in the Mutual Recognition Act Cth 1992 are not universally adopted across Australia and the differences in licensing and registration structures across the country are also hampering the benefits of this legislation. More must be done to address worker portability, to enhance the ability of the public and industry to understand who can do which types of work and for regulators to effectively police poor practitioners.

1c. Efforts to eliminate overlap and conflation of land use planning requirements and technical building controls should be prioritised. Additionally, efforts should be made to relieve building surveyors from the burden of verification of a raft of administrative matters that are unrelated to the compliance of a building with technical requirements, the core responsibility of a building surveyor. Currently, every jurisdiction sees the building surveyor's assessment as the final step in authorisation of construction and as such obliges the building surveyor to cite builder's warranty insurance certificates, receipts for payment of construction industry training levies, and like matters of no consequence to building surveying assessment, because it is merely convenient for regulators to have a building surveyor undertake these verifications on behalf of the regulator at that stage of the approval process. There are significant conflicts between land use planning controls and building controls, matters related to bushfire protection and stormwater management are prime amongst these. Often, a planning control will dictate the standard to which a dwelling must resist the effects of bushfire, a point that must also be addressed to verify



compliance with technical requirements related to authorisation of construction by a building surveyor.

What evidence (case studies and data) can you provide to support your answer?

1a. See [Appendix A](#) ABCB NCC BCA 2025 State and Territory Variations which describes only the variations that are incorporated into the NCC. Other technical requirements arise through jurisdictional legislation. See [Appendix B](#) summary of State and Territory provisions that describe the functions of building surveyors prepared in collaboration between AIBS and Bronwyn Weir which illustrates just one aspect of variation that exists in legislation in Australia.

1b. AIBS does not collect data related to this issue and is unable to provide evidence beyond anecdotal descriptors of the problem. A building surveyor who is registered in one jurisdiction is able to utilise Automatic Mutual Recognition processes in jurisdictions other than Queensland. To avoid complications and delays in practicing in a jurisdiction outside of the home jurisdiction, most building surveyors seek mutual-recognition based registration. This often takes considerable time to resolve, often with bespoke conditions on practice that attempt to reconcile the differences in legislative authority that are able to be exercised by practitioners with exactly the same qualifications across the home and visiting jurisdictions.

1c. The cost of managing administrative functions on behalf of regulators is considerable, often 50% or more of the fees charged for statutory building surveying services are driven by such work. Additional to that, building surveyors who fail to observe each of these steps precisely have been subjected to disciplinary actions with penalties applied. These costs are then amortised across future applications and a factor is added to fees quoted to cover future actions of this type. Very often, the land use planning assessment criteria will result in a higher standard of construction being required than would be the case if this was left only to the building assessment process. The resulting increase in cost of the dwelling can be in the order of thousands of dollars and depending on the size of the dwelling and quantum of the difference in outcome can exceed \$10,000 per dwelling. In aggregation, the management of administrative elements and conflicting requirements is often cited by those departing statutory building surveying service delivery as a key reason for doing so. This is depleting the number of building surveyors willing to offer these services and there will come a point where saturation of work vs service providers will be reached such that approval timeframes and costs will significantly increase. Error rates will also likely increase with increasing workloads on a smaller and smaller cohort of building surveyors willing to undertake statutory building surveying work.

2. Which steps of the housing regulatory approvals process are the most onerous, time consuming and costly?

Our anecdotal understanding is that land use planning approvals are where the greatest delays are occurring. As a particular example, Section 33 of the Building Act 1975 (QLD) is a significant hindrance because there are 77 local town plans across the state. A building surveyor operating privately in Queensland will need to ensure compliance with the requirements of this legislative provision for each of those 77 councils they accept work within, an iterative process that could be addressed by the adoption of a significantly greater level of 'as of right' development controls that are applicable state wide. AIBS does



not collect data that would enable us to answer this question beyond the level provided in this submission.

Why?

There is a lack of consistent 'as of right' type land use planning controls across Australia. Such controls typically provide a set of well-defined rules governing design for designated land use zones which, if followed, permit progression to other stages of authorisation of construction without obtaining a land use planning permit or approval first. If someone fails to follow the criteria, the issues are often remediated in response to a complaint having been raised by effective enforcement of the requirements. Expansion of the forms of residential building that can be built on residential zoned land will improve approval timeframes substantially.

We understand that approval timeframes where 'as of right' provisions are not met are highly variable between different council areas. Our members have singled out the following as examples from Queensland: Rockhampton, Central Highlands, and Gladstone average around 10 business days. Livingstone averages around 3 months, having opted to use Section 33. The Noosa region have applications that have taken upwards of 6 months. AIBS made a submission to the Queensland Productivity Commission inclusive of a submission from a private building surveyor operating in Queensland that highlighted the inconsistency of application of town planning land use requirements within individual councils let alone across the state. A copy of this submission is included at [Appendix C](#).

How could the burden be reduced without compromising regulatory objectives?

With the implementation of consistent 'as of right' planning land use approval exemptions, it is essential that planning authorities, as well as building regulators, are resourced adequately to proactively determine if requirements are being followed, in addition to the demand for regulatory attention to complaints and reports of failures to follow requirements. This regulatory action should be sufficient to ensure that a statistically significant sample is reviewed so that errant work is likely to be detected and then addressed by enforcement actions as a deterrent to others contemplating flexing the rules. It is also essential that regulators spend resources on educating and informing the sector about what is required and other compliance expectations. A combination of education and compliance / enforcement is known to drive the highest rates of voluntary compliance. See [Stephen Scimonello's PHD research](#) for more information.

3. Which recent reforms to approvals (for example, fast-track pathways, coordination bodies, AI-assistance) have been the most and least effective in increasing new housing supply? AIBS does not have data that would support an ability to answer this question.
4. Which specific zoning and land-use controls most limit the supply of new housing? What are the benefits to consider of specific land-use controls? How does this vary across particular Australian jurisdictions or areas? AIBS does not have data that would support an ability to answer this question.



5. How important are land release arrangements (including subdivision and titling) in limiting housing supply in an area, relative to other zoning and land-use controls?

AIBS does not have data that would support an ability to answer this question. Anecdotally, AIBS notes that a trend toward smaller and smaller allotments in areas earmarked for higher density living has the perverse effect of limiting dwelling density. There is a minimum allotment size where the land area cannot sustain multi-residential buildings so that the maximum number of dwellings per allotment will be one. If the minimum allotment area allowed for areas earmarked for high density living were aligned with the minimum area necessary to viably construct a multi-residential building (apartment, flats etc.) it would become feasible for the same land area to support significantly greater numbers of dwellings per unit area. Planning authorities seem not to understand this paradox and are ready to carve up land into impossibly small parcels that cannot sustain the population densities that they say they are supporting by allowing allotment creation at that rate.

6. How do development contributions and contributions frameworks affect project feasibility and new housing supply?

AIBS has not data that will allow an answer to this question to be provided.

7. What other regulations relating to housing-enabling infrastructure should be a priority for reform to increase new housing supply?

AIBS notes that many town planning controls require the establishment of trees in front or rear or both yards to a dwelling. This is intended to provide social infrastructure, driving an improvement in tree canopy cover available within a new suburb or on divided properties which enhances amenity and reduces heat island effects of a newly developed area. Trees remove moisture from the soil at a faster rate than evaporation alone will do so that subdivisions established on soils with high clay contents where changes in moisture content will result in a change in soil volume are also driving an increase in the cost of the design of foundations to resist differential soil movements in the foundations of the building. There should be no requirement to plant trees on allotments where clay soils are present in the foundation layers. Instead, such areas should have parkland requirements so that foundation designs are not needing to compensate for tree effects, reducing the cost of housing supply by \$10,000+ per dwelling.

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.



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