



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**



WALGA Convention and Exhibition

**Improving the WA regulatory framework and
building control**

Tuesday, 4 October 2022

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BACKGROUND AND CONTEXT

Who are we?



- Amalgamation of former Building Commission and Energy Safety within broader DMIRS
- Our role in building regulation is confined by legislation
- B&E is primarily responsible for:
 - Investigation and auditing of regulated building services (builder, building surveying and painter work);
 - Investigation of disciplinary matters against regulated building service providers and recommendations to licensing body – Building Services Board
 - Industry development and education on building standards and building policies
 - Advice to Government on building regulation and policy
 - Administration of other Acts (incl. security of payment laws, home building contracts laws etc)
- B&E provides general advice on the administration of building standards and building regulations to local government, but is not responsible for building control and approvals.
- Under the State's building legislation this responsibility rests with local governments and other permit authorities.

BCR Report



- WA Government supported in principle the 24 recommendations of the BCR and agreed to review our existing building regulatory framework to determine if, and how, the recommendations could be implemented.
- This was made a priority project for Building and Energy.
- Given the size and scale of the recommendations, Ministerial approval has been granted for a three-stage approach to the review/reform work.
- Five overarching policy principles have guided our review work taken from the themes



Stages of our reviews



Stage 1 (Priority)

Registration of building engineers, Code of Conduct for Building Surveyors and Pro-active Audit and Compliance program

Stage 2

Building design/approval and builder/building surveyor registration reforms

Stage 3*

* Will not commence until completion of Stage 1 and 2

Registration of building designers and fire safety contractors

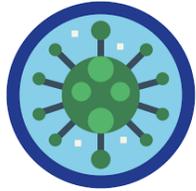
Context of the work to date



Review of building regulatory framework has been undertaken within the context of a number of important considerations. Specifically:

1. Regulatory Impact Assessment process ⇒ economic impact assessment and consultation with local stakeholders on reforms must take place. The costs and benefits of regulation need to be appropriately considered and evaluated.
2. Differences with WA's building regulatory framework ⇒ Local Government still plays an important role in building control. Important that any reforms account for our local conditions.
3. ABCB national guidance models ⇒ Building Ministers requested the ABCB to work on national guidance or models for jurisdictions to consider in implementing BCR recommendations. These were finalised in Dec 21.
4. Market challenges ⇒ COVID-19 and unprecedented market pressures means there is a need to stage the way reforms are considered and implemented to avoid (where possible) exacerbating problems.

What have we done to date?



COVID 19 – Changes in Govt. priorities and impact on industry

ABCB national models released

Dec 2021

2019

Release of
CRIS
Residential

2020

Release of
CRIS
Commercial

2020

Release of
CRIS Building
Engineers

2020

Release of
CRIS Builders
Registration

2022

DRIS Building
Engineers
finalised and
publicly
released

2022

Building
Surveyor Code
of Conduct
released.

To commence
operation in 12
months

2022

DRIS Building
Better
(Stage 2)
being finalised



Am. Regs have
been released
for public
comment

UPDATE: Stage 1 – Registration of Building Engineers

Registration of Building Engineers



- D-RIS released in July 2022
- Building engineers to be registered under the BSR Act in both contractor/practitioner across various levels and classes



- Consultation draft of the Amending Regulations released for public comment in August 2022 – closing date is 24 October 2022
- Building Engineer practitioners to be registered in 3 levels across 4 classes
 - Professional, technician and associate levels
 - Structural, fire safety, civil and mechanical
- Building engineering contractors to be registered across only 3 levels:
 - Professional, technician and associate.
- Each Contractor to have a Nominated Supervisor in the same level. Must also ensure work is supervised and managed by practitioner in right level and category.
- CPD regime to apply



- Anticipated that Amending Regulations will be published by or before December 2023, will then commence operation over a 4 year implementation/transition period during which people will be able to continue working unregistered but will need to apply for and obtain registration by certain cut-off dates.
- Changes to administrative processes, IT systems and Government funding for new resources will also be required.

Other reforms delivered



- Code of Conduct for building surveyors published in April 2022 under s.95 of the *Building Services (Compliant Resolution and Administration) Act 2011* – will commence operation in April 2023.
- In 2021, Building and Energy developed and released our 4 year Building Compliance Audit Strategy 2021 and our Audit Priorities Statement 2021-22 ⇒ we are now delivering on this strategy and priorities.

UPDATE: Stage 2 – Building Better

Building Better reforms



- Review of all feedback from CRIS Residential, CRIS Commercial and CRIS Builders has been completed. The various recommendations for reform have been refined based on consideration of feedback and ABCB guidance.



- A significant independent economic impact analysis of the reforms being considered has been completed by Centre for International Economics.
- The Decision Regulatory Impact Statement is now being finalised and anticipated to be provided to the Minister for consideration by the end of 2022.



- If recommendations accepted by Government, will require substantial law reform and passage of legislation through the Parliament.

Recommendations being considered



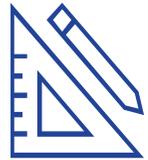
While the recommendations would need to be accepted by Government, reforms under consideration include:



- mandatory notifiable stage inspections for all new BCA Class 1 to 9 buildings;
- increasing requirements for design documentation, including minimum requirements and future registration requirements for certain classes of building design work;
- clarifying the role of the FES Commissioner in the fire safety design process for BCA Class 2-9 buildings;
- requiring building manuals for certain Class 2 buildings;
- improving process to document and approve variations;
- independent third-party engineering review of structural and fire safety designs for BCA Class 2 buildings above 25m in effective height;



Recommendations being considered *(Cont.)*



- Certificates of design and construction compliance to state any maintenance or occupancy conditions for performance solutions;
- requirements for building surveyors' engagement, including Code of Practice;
- requiring building permits for prescribed high-risk structures including retaining walls of certain dimensions;
- requiring new Class 1b buildings to obtain both certificates of construction compliance and occupancy permits;
- requirement for permit authority to respond to Building and Energy notice about serious non-compliances;
- various administrative and enforcement reforms;
- a two-tiered model of registration for builders (with grandfathering)
- mandatory Continued Professional Development for registered builders and building surveyors on the NCC
- extending builder registration requirements to remote and regional areas of Western Australia, within and adjacent to SW Land Division.

Implementation



- Extent of these reforms would be quite significant and will take time to implement. But, no guarantee that all will be accepted by Government given state of the industry and other reforms taking place.



- New legislation will need to be drafted and passed by the Parliament. Supporting regulations will also be required in some cases.



- Draft legislation likely to be released at some point for comment. Will assist with understanding the technical details



- Implementation is likely to then be staged over a number of years (3-5) to allow industry, government and community time to adapt. Initial focus likely to be on high risk buildings (apartment buildings) and inspections of Class 1a buildings.
- Staging will take place into the regional areas.

Potential Impacts/Considerations for Local Governments

If accepted by Government?



- Local Governments will retain building control powers.
- Likely to be an enhanced role in mandatory notifiable stage inspections for uncertified building permit applications (only).
- Local Governments will need to engage building surveyor to act as the SBS for the term of the permit and manage/oversee inspections. Can be fully contracted or done 'in house' and fees to be paid upfront at fully cost recovery/commercial rate paid.
- Greater confidence in the design and construction of buildings for which permits are granted, including mandatory critical stage inspections (certified and uncertified) and enhanced design documentation requirements, including registration of designers.
- Likely increase in applications to amend building permit due to formal process for major variations during construction. Fees will apply.
- Local Governments to be empowered to report information to the FES Commissioner (about buildings) and to accreditation bodies (about the conduct of accredited people, e.g. BAL assessors)
- Local Governments to be empowered to serve infringement notices within 12 months of an offence occurring (not 3 weeks).