# Reforms to the approval process for commercial buildings in Western Australia - submission template

This submission template is designed to be read in conjunction with the consultation regulatory impact statement *Reforms to the approval process for commercial buildings in Western Australia*.

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| **COVER SHEET FOR SUBMISSIONS** **Please complete and submit your submission by 5pm WST on Friday 3 April 2020** |
| Email submissions to: commercial.buildings@dmirs.wa.gov.au  |
|  |
| Contact name: |  |
| Organisation: |  |
| Position: |  |
| Email: |  |
| Phone:  |  | Mobile:  |  |
| Postal address: |   |
| Length of submission (number of pages, including this cover sheet):  |
| Are you making this submission as: (please select one of the following categories) |
| [ ]  Industry participant | [ ]  Business | [ ]  Permit Authority |
| [ ]  Community organisation | [ ]  Industry organisation | [ ]  Individual |
| [ ]  Other (please specify):  |
| Which of the following industry sectors is relevant to you: (pick one or more) |
| [ ]  Building design[ ]  Building certification [ ]  Building construction | [ ]  Building owner[ ]  Permit authority[ ]  Other (please specify):  |
| What specifically do you or your business do? |
| Approximately how many people work for the business or organisation in WA? |
| [ ]  Fewer than five employees | [ ]  Five to 20 employees | [ ]  21 to 100 employees | [ ]  100+ employees | [ ]  n.a. |
| Do you operate across two or more states or territories? | [ ]  Yes |   |
| Approximately how many people work for the business or organisation interstate? |
| [ ]  Fewer than five employees | [ ]  Five to 20 employees | [ ]  21 to 100 employees | [ ]  100+ employees | [ ]  n.a. |
| Are you making this submission as an individual?What personal experience do you have in, or with, the building industry?  |

Please note:

* When reading and commenting on the CRIS, please feel free to focus only on the areas that are relevant to you. A number of questions are included throughout the CRIS. These questions aim to make it easier for stakeholders to make comments. It is not expected that all respondents will respond to all questions and proposals.
* Submissions can be emailed to commercial.building@dmirs.wa.gov.au or posted in hard copy to the following address:

Commercial Building Approval Review

Policy and Legislation Branch

Building and Energy

Department of Mines, Industry Regulation and Safety

Locked Bag 100

EAST PERTH WA 6892

* All submissions will be placed on the Department of Mines, Industry Regulation and Safety website and may be quoted in future publications, unless clearly marked as CONFIDENTIAL.
* As submissions will be subject to freedom of information rules, please do not include any personal or confidential information that you do not wish to become available to the public.
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## Preliminary Questions: Cost of the Problem (p17)

1. Do you think that non-compliant building work is a problem? Why, or why not?
2. Have you experienced any increased costs caused by non-compliant building work? Please specify, if you are able.

## Regulators’ monitoring and enforcement powers

**Proposal 1: Amend the Code of Practice: Safe design of buildings and structures to address non-conforming and non-compliant building products.**

1. Do you support Proposal 1? Why, or why not?
2. Can you provide any examples where non-complying or non-conforming building products have caused problems for a building project?
3. Do you foresee any other costs or benefits to implementing this proposal?

**Proposal 2: Amend the Building Regulations to mandate the Code of Practice: Safe Design of Buildings and Structures as an applicable standard for all classes of building.**

1. Do you support Proposal 2? Why, or why not?
2. Do you foresee any disadvantages or costs to implement this proposal?

**Proposal 3: Amend the Building Services (Complaint Resolution and Administration) Act 2011 to empower the Building Commissioner to prescribe requirements on technical matters.**

1. Do you support Proposal 3? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

**Proposal 4: Amend the Building Act and the BSCRA Act to empower the Building Commissioner’s inspectors to enter and inspect any building site.**

1. Do you support Proposal 4? Why, or why not?
2. Do you foresee any other costs or benefits to implementing Proposal 4?

### Proposal 5: Amend the definition of dangerous situation in the BSCRA Act to empower the Building Commissioner to remedy any situation where there is a high risk to people, property or the environment from the carrying out of a building service.

1. Do you support Proposal 5? Why, or why not?
2. Do you foresee any other costs or benefits to implementing Proposal 5?

## Fire authority consultation

### Proposal 6: Amend the Building Regulations to require that documentation of fire safety performance solutions must include a fire engineering brief and fire engineering report, in accordance with the International Fire Engineering Guidelines’ process.

1. Do you support Proposal 6? Please specify why, or why not.
2. Do you think this proposal is likely to increase documentation costs? If so, by how much?
3. Do you foresee any other disadvantages or costs to implement this proposal?

### Proposal 7: Amend the Building Regulations to provide that the FES Commissioner may issue a certificate at any time confirming that a building design meets operational requirements.

1. Do you support Proposal 7, in whole or in part? Please specify.
2. What do you think should be the maximum allowable timeframe to elapse between the date of the FES Commissioner’s certificate, and submitting the building permit application?

### Proposal 8: Amend the Building Regulations to clarify that the FES Commissioner’s written advice must be considered and responded to no matter when it is provided.

1. Do you support Proposal 8? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 9: Amend the Building Regulations to clarify the information that must be included when responding to the FES Commissioner’s advice.

1. Do you support Proposal 9? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

## Building surveyors’ conflicts of interest

### Proposal 10: Amend the definition of ‘independent building surveyor’ in the Building Act to require that a building surveyor must be independent of anyone whose work they certify.

1. Do you support Proposal 10? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?
3. Can you think of any other measures to address building surveyors’ conflict of interest?

### Proposal 11: Introduce a mandatory Code of Practice for registered building surveyors in WA.

1. Do you support Proposal 11? Why, or why not?
2. Do you agree with the 15 responsibilities listed? What would you add or delete?
3. Do you foresee any other costs or benefits to implementing this proposal?

## Supervisory powers for building surveyors

### Proposal 12: Amend the Building Act to require that a building surveying contractor’s contract must extend for the duration of a construction project, must incorporate a prescribed scope of services, and may not be terminated early except in certain prescribed circumstances.

1. Do you support Proposal 12? Why, or why not?
2. Do you think the proposed scope of services is appropriate? Are there any items that should be added to, or deleted from, the list?
3. Do you think the proposed conditions to terminate a building surveyor’s contract are appropriate? What would you add or delete?
4. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 13: Amend the Building Act to require that a building surveyor must be paid for work undertaken, even if they are unable to issue a certificate of compliance because the building design or construction does not comply with the applicable standards.

1. Do you support Proposal 13? Why, or why not?
2. Should private building surveyors have any additional supervisory powers or reporting obligations?
3. Are there any other reforms necessary to support private building surveyors to certify building compliance?
4. Do you foresee any other costs or benefits to implementing this proposal?
5. Do you think the proposed conditions to terminate a building surveyor’s contract are appropriate? Please specify.

## Building documentation requirements

### Proposal 14: Amend the Building Regulations to require that supporting documents specified in a certificate of compliance must demonstrate how the building work will comply with each applicable building standard.

1. Do you support Proposal 14, in whole or in part? Please specify.
2. Do you think this proposal is likely to increase documentation costs in the long term? If so, by how much?
3. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 15: Amend the Building Regulations to require that all supporting documents referenced in a certificate of compliance must state the author’s name, and registration number if applicable.

1. Do you support proposal 15? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 16: Amend the Building Regulations to prescribe the information that must be included in documents supporting a permit application.

1. Do you support proposal 16? Why, or why not?
2. Do you think this proposal is likely to increase documentation costs in the long term? If so, by how much?
3. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 17: Amend the Building Regulations to prescribe that when completing the CDC, building surveyors must include the revision number or date of the supporting documents.

1. Do you support proposal 17? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 18: Amend the Building Regulations to prescribe that any occupancy or maintenance conditions that must be met, to ensure compliance over the life of a building, are stated on the certificates of design and construction compliance, and the occupancy permit.

1. Do you support Proposal 18? Why, or why not?
2. Do you agree with the proposed list of conditions to be stated on certificates of compliance and occupancy permits? Are there any items you think should be added or deleted from this list?
3. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 19: Amend the Building Act to require that a builder’s notice of completion is not required for building work that requires an occupancy permit.

1. Do you support Proposal 19? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

## Performance solutions

### Proposal 20: Amend building legislation to prescribe documentation requirements for performance solutions.

1. Do you support Proposal 20, in whole or in part? Please specify.
2. Do you think the proposed documentation to support a CDC is appropriate? If not, what changes do you suggest?
3. Do you think this proposal is likely to increase documentation costs in the long term? If so, by how much?
4. Do you foresee any other costs or benefits to implementing this proposal?
5. Do you think any performance solutions should be subject to third-party review? Please specify?
6. Do you think the new requirements governing performance solutions, proposed in the NCC 2019 Amendment 1, will remove the need to implement Proposal 20?

## Retrospective building approval

### Proposal 21: Amend the Building Act to prescribe a process for retrospective approval of performance solutions.

1. Do you support Proposal 21? Why, or why not?
2. Do you think the proposed documentation to support a certificate of compliance is appropriate? If not, what changes do you suggest?
3. Do you think this proposal is likely to increase documentation costs in the long term? If so, by how much?
4. Do you think that retrospective performance solutions should be subject to independent third-party review?
5. Do you foresee any other costs or benefits to implementing this proposal?

### Proposal 22: Require certain types of unauthorised or non-compliant work to be reported to permit authorities and Building and Energy.

1. Do you support Proposal 22? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?
3. What types of non-compliant work do you think should be required to be reported?

### Proposal 23: Amend the Building Act to require a certificate of construction compliance to certify that the building meets applicable standards.

1. Do you support proposal 23? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

## Variations during construction

### Proposal 24: Amend the Building Act to provide a process to manage variations to the approved design during construction.

1. Do you support Proposal 24? Why, or why not?
2. Do you think the three steps proposed above, to document, certify and approve variations, are reasonable? If not, what changes do you suggest?
3. Do you think the proposed process to manage variations that are begun without approval is likely to result in compliant building work? Why, or why not?
4. Do you think Proposal 24 will address the issues presented by design-and-construct projects? Is there anything you would add or change to better address these projects?
5. Do you foresee any other costs or benefits to implementing this proposal?

## Third-party review

### Proposal 25: Amend the Building Act to require independent, third-party reviews for high-risk design elements.

1. Do you support proposal 25, in whole or in part? Please specify.
2. Do you think the proposed triggers and review requirements identified in table 2 are appropriate? Is there anything that you would add or delete?
3. Do you support reviewers being engaged privately? Why, or why not?
4. Do you think the proposed conditions to engage and terminate a reviewer are sufficient?
5. Do you foresee any other costs or benefits to implementing this proposal?
6. Proposal 25 is for independent peer review of medium-high risk design elements. Do you think there is a need for expert review, undertaken by a proof engineer appointed by the regulator, for any types of design work? Please specify.

## Mandatory inspections

1. Do you think the tests required for active fire safety systems are adequate?
2. Is there any inspection or test that you’d add for active fire safety systems?
3. What building professions do you think are qualified to undertake inspections?
4. Do you think WA has enough appropriately qualified people to inspect all building work?

### Proposal 26: Amend the Building Act and Regulations to mandate inspections for all class 2-9 buildings, via either Option A or Option B.

1. Do you think the proposed inspection notification stages in Table 9 are appropriate? If not, what amendments would you suggest?
2. Should active fire safety systems form part of the prescribed inspection stages? If so, please specify which active systems.
3. How does inspection sampling currently occur in practice?
4. How do you think inspection samples should be defined for each of the prescribed notification stages in Table 9?
5. Do you think an inspection regime should require inspections of any types of off-site manufacture or prefabrication work? Please specify.
6. Do you think risk-based inspection regimes should be subject to review?
7. Do you support the proposed process for rectifying non-compliance? If not, what changes do you suggest?

### Option A: The certifying building surveyor identifies inspection requirements in accordance with legislation. Inspection requirements are noted on the CDC and building permit. The builder notifies the permit authority at stages identified on the building permit. The permit authority manages all inspections and issues the CCC.

1. Do you support Option A, either in whole or in part? Please specify.
2. Do you foresee any other costs or benefits to implementing this option?
3. Do you support permit authorities being responsible for all mandatory inspections? Why, or why not?

### Option B: The certifying building surveyor identifies inspection requirements in accordance with legislation. Inspection requirements are noted on the CDC and building permit. The builder notifies the building surveyor at the stages identified on the building permit. Inspections are done by the design engineers and building surveyor for the project. Details of all inspections must be attached to the CCC, and accompany the occupancy permit application.

1. Do you support Option B, either in whole or in part? Please specify.
2. Do you think the controls proposed are enough to make private-sector inspections accountable?
3. Do you foresee any other costs or benefits to implementing this option?

**Proposal 27: Amend the Building Regulations to state that required inspections, as identified on the building permit, are ‘notifiable stages’ at which the builder may face disciplinary action if unreasonable and/or significant areas of non-compliance are found.**

1. Do you support Proposal 27? Why, or why not?
2. Do you foresee any other costs or benefits to implementing this proposal?

## Building manual for building documentation and operational information

**Proposal 28: Amend the Building Act to provide for digital building manuals for all buildings.**

1. Remembering that this proposal is still in the early stages, do you support Proposal 28? Why, or why not?
2. Please provide your opinion on, or answers to, the list of implementation questions, A-I, above.
3. Do you foresee any other costs or benefits to implementing this proposal?

## Implementation and evaluation

1. Do you think online surveys are an appropriate way to obtain feedback from industry on the operation of these reforms? If not, how do you think the reforms’ effectiveness should be evaluated?