

24 January 2017

NSW Department of Planning

**Re: Submission on proposed changes to EPA Act and Regulations**

BCA Logic Pty Ltd is a company specialising in building regulations and fire safety engineering and has been trading for 20 years. We are one of a handful of companies that inspect residential buildings for fire safety defects, including penetrations and bounding construction. We have inspected over 10,000 residential units in the past 10 years for defects.

With respect to the proposals we support the initiative of the government and the draft proposals for more accountability in the industry.

**We support:**

1. the involvement of competent fire safety practitioners in certain specialist fire safety functions – see comments below.
2. requiring submission of plans and specifications for relevant fire safety system work relating to class 2 – 9 buildings.
3. limited exemptions from compliance with some Building Code of Australia standards relating to relevant fire safety system work.
4. new critical stage inspections for class 2 – 9 buildings – see comments below;
5. requiring an Alternative (Performance) Solution report for all fire safety Alternative Solutions for class 1b – 9 buildings;
6. requiring fire safety certificates and statements to be in a form approved by the Secretary of the Department of Planning and Environment (DPE).

**We do not support:**

1. new inspections of fire safety system work relating to Class 2 and 3 buildings by Fire and Rescue NSW before occupation certificates (OCs) are issued.

It is our experience that for the past 10 years the NSW fire and Rescue have not been able to service the industry with their current roles. It is considered an expansion of their role will only add to the existing delays they cause.

As a result of their delays, they have added very little value to the industry in the past 10 years with the majority of projects being approved without their concurrence.

**1. Registration of Fire Safety Practitioners**

We do support this initiatives, however would not like to see the ‘Grandfathering’ of existing practitioners. Many of the defects we identify in building are as a result of poor installation of fire rated products from long standing fire contractors and companies.

We do support an accreditation system based on pre-defined competencies and approved educational courses. We support Recognition of Prior Learning (RPL) but it should be administered by Registered Training Organisations (RTO’s) against a national training program.

## 1. Critical Stage Inspections

We strongly agree with the proposed critical stage inspections for penetrations and bounding walls. These two areas account for over 80% of fire safety defects in residential buildings.

The concern is the supply of certifiers to carry out these works, the existing accreditation scheme, and the “grandfathering” of existing certifiers.

### a) Supply of Certifiers

There is a concern that there is already a shortage of certifiers and a large percentage of certifiers nearing retirement age. This has been well documented by the Building Professionals Board (BPB).

The existing accreditation scheme does not assist this process as it does not allow for existing practitioners to enter the scheme to do the work. To do these inspections you need to be a Grade A2 (up to 4 storeys only) or a Grade A1 certifier.

BCA Logic employs 4 Building Surveyors who specialise in bounding construction inspections and defects and do these types of inspections every week, however they are not eligible for accreditation. They meet the education requirements as they have degrees in construction management, and most have or are doing the Graduate Diploma in Building Surveying. They cannot get any level of accreditation as they do not have experience in inspecting or approving dwellings (class 1a) or undertaking approvals and inspections on at least 20 swimming pools.

The current accreditation scheme limits the supply of certifiers as to become a grade A1 or A2 you must be proficient in Class 1 and 10 buildings, however the industry has moved away from this and is now specialised.

### b) New Category of Accreditation

The proposed Legislation allows for inspections to be carried out by consent authorities which are PCA’s (private or council) and specialist accredited certifiers. It is our opinion that a new category of accreditation is required, to allow the accreditation of specialist inspectors. We note that this was carried out for E1 Swimming Pool Certifiers and recommend a similar model for bounding construction and penetration inspectors.

### c) Grandfathering of existing practitioners

It is proposed to introduce 2 new inspections which have never been required to be carried out by certifiers before, although I do note some certifiers do carry out such inspections. In the past 40 years there has been no requirement for these mandatory inspections, and therefore no University or RTO course teach the principals of these inspections.

The history of inspections in class 2 buildings in NSW is summarised below;

1974 - June 1993 - Ordinance 70 Clause 8.3 required Councils to “undertake all necessary inspections”.

1 July 1993 - Local Government Act 1993 (replacing LGA 1919)

(a) BCA 1990 adopted in NSW (replaced Ordinance 70)

(b) The BCA nor the Local government Act specified any inspections that were required to be carried out by Council.

1 July 1998 - EP+ A Act and Regulations

(c) This Act introduced private certification (PCA)

(d) Neither document required Council or private certifiers to carry out inspections.

1 January 2004 - EP+A Act Section 109E (3) (d)

(e) EP+A Regulations Clause 162A was introduced which required mandatory critical stage inspections.

(f) Inspections required for Class 2 (residential) buildings were for the following items.

- Commencement of works
- 10% of waterproofing to wet areas
- Storm water
- Completion of building

As such, there is concern that the existing A1 and A2 certifiers will be allowed to carry out inspections with no experience or training. The treatment of penetrations is a very complex process which involves the substrate, components, test reports, sizing limitations, construction sequences and tolerances to get it right. These are things that cannot be assumed to be known by all A1 and A2 certifiers.

It is strongly recommended that all A1 and A2 certifiers attend a mandatory training course developed by the BPB, prior to being endorsed to carry out such inspections. It is noted that the BPB is currently requiring this with respect to complying development.

Yours faithfully,



Allan Harriman OAM  
**Director**  
**BCA Logic Pty Ltd**