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## INTRODUCTION

An effective system of building regulation promotes quality, safe, compliant buildings, provides a high level of consumer protection and confidence and, if implemented properly, can provide greater efficiencies and limit what is generally seen as unnecessary 'red tape.'

This AIBS Policy on Building Regulatory Reform in Australia seeks to identify and define the key components of an effective building regulatory system and to demonstrate that within such a system many aspects are interconnected and support each other.

AIBS believes that this policy represents best practice in a building regulatory system. However, AIBS also recognises that there may be practical limitations to its implementation. Examples of these limitations include barriers within the Australian constitution and the current complex regulatory environment.

This policy recognises that there have been significant advances in the building and construction industry over the past 30 years that have not been matched by significant advances in the regulatory framework and approach.

This policy seeks to provide a guide to a more contemporary framework and approach to the building regulatory environment in Australia.

*To assist in navigating this policy document, interactive links to each section have been included within the front cover page. When viewing the cover page, click on any section heading to be taken to the relevant entry within the document. A return link to the cover has been included at the bottom of each page*

## About AIBS

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

AIBS is a national organisation with over 2000 members operating across all Australian States and Territories.

AIBS members play an essential role in the building and construction industry in Australia.

AIBS is committed to ensuring a safe built environment for all Australians through continuous improvement and professional development of building surveying.

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## DEFINITIONS

The following words or phrases used in this document are defined here:

<b>Accreditation</b>	A process of vetting qualifications and experience as adequate to demonstrate meeting competency benchmarks
<b>Building Minister's Forum</b>	A body of Ministers from the Commonwealth, State and Territory Governments established pursuant to the Intergovernmental Agreement
<b>Design Solution Pathways</b>	Options for demonstrating compliance with performance based requirements
<b>Inspection Hold Points</b>	Stages of building work where the work must cease for a specified period to allow an inspection or other compliance verification process to be undertaken
<b>Inspection Notification</b>	A stage of building work where a notice must be provided advising of the reaching of a stage of work but without a need for work to cease
<b>Intergovernmental Agreement</b>	An agreement between the Commonwealth, State and Territory governments related to administration of building matters
<b>Licensing</b>	A process of recognising trade or similar qualifications (involving practical skill attainment)
<b>Oversight Body</b>	A regulatory authority responsible for the registration, licensing and auditing of professionals and other practitioners
<b>Performance Based</b>	Requirements that by their wording provide a compliance threshold without specifying how compliance is to be achieved
<b>Practitioners</b>	People who perform work or provide services who are not professionals and may or may not be tradespersons
<b>Prescriptive</b>	Requirements that by their wording instruct on how compliance is to be achieved
<b>Professional Bodies</b>	An incorporated organisation which represents the collective interests of a category of professionals
<b>Professional Standards Scheme</b>	As defined by the Professional Standards Council
<b>Professionals</b>	Persons who are degree qualified and are eligible for registration
<b>Protective Works</b>	Work or other measures that are taken to protect the public or adjacent properties from risks arising from the undertaking of building work
<b>Registered / Registration</b>	A process of acknowledging that a professional person is accredited and is appropriately recognised for practice in a jurisdiction
<b>Statutory Building Surveyors</b>	Building surveyors who perform a regulatory role conferred on an individual or organisation by legislation

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## THE ROLE OF THE BUILDING SURVEYOR

The role of building surveyors has evolved into many professional disciplines within the building industry to include:

- assessing, approving, and inspecting building works;
- assessing compliance with legislative requirements, approval of building and use changes, determining upgrades for existing buildings, building audits, compliance, and enforcement matters beyond the building approval process;
- facilitating the regulatory approval process;
- acting as a consultant on design, fire safety, energy efficiency and access solutions; and
- providing education and expert witness services in support of the legal process.

The profession will continue to evolve and grow as the skills and abilities are incorporated into new and developing construction and building management roles within the community.

Building surveyors often have a statutory responsibility for ensuring buildings are safe to occupy, energy efficient, accessible and are suitable for occupation. As part of this responsibility, they review, analyse and assess plans for compliance to current standards, conduct inspections, issue relevant legislative permits and approvals and undertake enforcement.

They are required to be competent in local government, State and Territory legislation, guidelines, codes, policies and ministerial directions, as well as the National Construction Code and associated Australian Standards. They also need to keep abreast of technological and innovative changes in the building industry.

Building surveyors are engaged in public and private roles ranging from local government to sole practice or large multi-national firms.

The responsibilities of building surveying professionals extend well beyond office based statutory functions. Building surveying is also a 'hands-on' role where onsite inspections are carried out at specified intervals during the building process to ensure existing and new buildings are structurally sound, fit for purpose and able to be occupied. Therefore, the competency of the individual building surveyor is central to safeguarding all sections of the community.

The role of the building surveyor is largely misunderstood by the public, not only because of the inconsistencies in the terminology government uses for licensed / registered / accredited building surveyors who are often referred to as certifiers but also because of the vastly differing requirements of the legislation which govern the activities of building surveyors across the eight national jurisdictions.

Building surveying is a recognised qualification and those with a building surveying qualification should be referred to as building surveyors. Building surveyors undertake a number of roles, but the most common is what is currently referred to as 'certification'.

Building surveyors undertaking legislated certification roles as statutory authorities should be referred to as 'Statutory<sup>1</sup> Building Surveyors' not certifiers. This is especially so where the current

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<sup>1</sup> This term is preferred to terms such as 'accredited' or 'regulatory' or 'certifier'.

term of *certifiers* related to the role of building surveyors, are often confused with *certifiers* who undertake the role of certifying specific products or equipment such as fire services.

The generic use of the term building surveyor across all functions of the profession will provide greater consistency and understanding of the role that the profession of building surveying plays.

AIBS believes that it is essential to strengthen the profession by ensuring that the:

- roles and responsibilities of building surveyors are clearly defined;
- competencies and skills required of a building surveyor are clearly defined nationally; and
- professional structure supporting building surveying is recognised by governments.

A professional structure will provide for greater consumer protection and provide governments and regulators with increased risk mitigation strategies in the vital role performed by building surveyors.

In principle, AIBS supports three levels of building surveyors<sup>2</sup>:

**Level 1** is a professional tertiary qualified (AQF level 7 or above) building surveyor with at least three years of relevant experience at that level and who can undertake the assessment, approval and inspection of all buildings.

**Level 2** is a para-professional with an Advanced Diploma qualification (AQF level 6 minimum) and at least 2 years of relevant experience and who can undertake the assessment, approval and inspection of all classes of buildings that are not more than 2000m<sup>2</sup> or 3 storeys.

**Level 3** is a level that was previously defined by a diploma qualification (AQF level 5), which is no longer available and has been replaced by a recognised skill subset of the Advanced Diploma. Along with the diploma or the skillset qualification and 6 months experience, a building surveyor can be accredited for registration limited to assessment and inspection of class 1 & 10 buildings up to 500m<sup>2</sup> and not more than 2 storeys.

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<sup>2</sup> See AIBS Accreditation Scheme for more details

## PART A: BUILDING REGULATORY PLATFORM

A1

### SINGLE DEDICATED BUILDING ACT

**AIBS supports a single dedicated Building Act overseen by a dedicated Building Minister with responsibility for maintenance of the Building Act, Regulations and the policy and regulatory bodies required to implement it.**

Having legislation standalone from other Acts (e.g. planning) ensures requirements are easily found and provides a single information point for all requirements related to the construction of a building. This mitigates compliance costs by simplifying the process of identifying responsibilities.

A dedicated Act supports a stronger economy by facilitating the transfer of professionals and practitioners between jurisdictions who do not have to overcome jurisdictional differences before they can practice or understand obligations and local technical requirements.

There are core issues requiring a consistent approach that a dedicated building Act and Regulations must contain including, but not limited to, the following:

- protection of life, safety, health and amenity for the community in relation to the standard of the built environment;
- statutory functions;
- identification of all practitioners and their role in the regulatory system<sup>3</sup>;
- identification of all building surveying consultancy roles;
- participation in the provision of design and construction services;
- insurance and licensing requirements;
- a clear framework for the control of materials, products and technical standards;
- the type of approval required for different works and activities;
- the process by which such an approval is obtained;
- responsibility for the issue of approvals and the undertaking of inspections;
- a mandatory inspection regime;
- a dispute resolution mechanism;
- a robust enforcement scheme; and
- mandatory maintenance requirements for existing buildings.

Governments have continued to incorporate the governance of building control within their planning departments. Planning and building have vastly different requirements and it can be said that the national decline of building regulatory systems is in part due to State and Territory decisions to place control with planning departments.

By prescribing statutory functions of building surveyors respect for the process is strengthened, resourcing of the function is more readily assured and the expectations of the community and industry are managed and met.

<sup>3</sup> Bodies with professional standards schemes would be recognised via this mechanism

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Whilst a Minister with responsibility for the building control system may have other portfolios, there should be an independent, dedicated department which supports the Minister in the development of policy, practices and regulations for building control.

Regulatory co-ordination is an important consideration during the pre-construction phase. The legislative framework needs to codify how planning and other legislative inputs are to relate to the process. The process of ensuring legislative inputs to the building control system must be made simple so that everyone can understand how each different requirement influences the other. This should also be consistent nationally in respect to process and the level of interaction between complementary requirements. (See B3)

### A2

### POLICY & REGULATORY BODIES

#### **AIBS supports the separation of the functions of policy formulation and regulatory administration under the proposed Building Act**

The regulatory administration function should be adequately resourced to support the following:

- administration of an efficient and centralised approval and referral system;
- the provision of timely education, compliance and enforcement;
- registration, oversight and auditing of all building practitioners;
- dispute resolution mechanisms such as a tribunal or arbitrator working in conjunction with an auditor with responsibility for ensuring adherence to requirements by practitioners; and
- meaningful stakeholder consultation which necessitates genuine dialogue with both consumer and industry representatives.

### A3

### JURISDICTIONAL HARMONISATION

#### **AIBS supports greater regulatory harmonisation and consistency of technical standards and the way they are legislated by Federal, State and Territory governments.**

Currently in Australia there is a National Construction Code (NCC) with variations, which is legislated in no less than eleven different ways by the eight States and Territories and the Commonwealth Departments of Defence and Federal Airports.

This inhibits interjurisdictional transfer of professionals and therefore hinders productivity and competitive influences on the efficiency of the building industry. It also sets up a lack of consistency for industry and community, leading to increased compliance burdens and therefore costs to consumers.

There are numerous building surveyors and building surveying firms working across borders and the inconsistencies that exist between respective State and Territory jurisdictions can lead to avoidable problems in interpreting legislation and how the NCC applies to each respective jurisdiction.

While more stringent technical requirements may be appropriate for buildings in particular areas because of special considerations, for example in areas prone to cyclones, snow or floods, there is

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no reason why the way these requirements are referenced by building regulations cannot be consistent across all jurisdictions.

AIBS supports the immediate alignment of the following:

- the National Construction Code (NCC) and other legislated technical standards;
- the legislative framework to deal with product substitution / variations;
- swimming pool regulations;
- practitioner registration;
- continued Professional Development (CPD);
- mandatory inspections;
- ongoing auditing of existing buildings;
- ongoing auditing of practitioner conduct; and
- an auditing program of those procuring and installing building products.

AIBS supports a single national legislative approach, or at least for each State and Territory to adopt a model version in its legislative scheme (See A1).

AIBS believes that eliminating the differences in administrative provisions would lead to a reduction in compliance cost to industry and therefore to the consumer.

### A4

### BMF / INTERGOVERNMENTAL AGREEMENT

**AIBS supports an Intergovernmental Agreement on the establishment and maintenance of the Building Minister's Forum (BMF). The BMF should have unlimited ability to agree upon and adopt measures related to support and control of the building and construction industry including the establishment, maintenance and management of a national building and construction industry research body tasked with identification of new technology, systems, materials and regulatory approaches.**

Maintenance of the Intergovernmental Agreement and a commitment to consistent administration of the requirements related to the conduct of building work is crucial to the success of the national economy in these times of increasing innovation and global competitiveness. This is relevant for Australia's industries and services sectors alike, wherever productive output depends on buildings.

AIBS believes the BMF is a valuable mechanism for ensuring national consistency of requirements related to the building and construction industry.

A robust national building regulatory system must keep pace with new technology. Australia's building industry is rapidly changing. Already we are seeing off-site manufacture and inspections. AIBS supports prevention of importation of manufactured building products without appropriate checks and balances, including independent certification and verification systems. Ideally, evidence of conformity should be accessible via a central database or system.

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AIBS believes the Intergovernmental Agreement should be expanded to include establishment of a national body to oversee a National Accreditation Scheme for all building professionals and practitioners (See A5).

A5

## NATIONAL ACCREDITATION AND LICENSING SCHEME

**AIBS supports a nationally consistent approach to the accreditation and registration of professionals and the licensing of other practitioners in the building and construction industry.**

All professionals must be accredited and registered.

Other than professionals, a practitioner is a person who is qualified and licensed. A person cannot participate in the building and construction industry without being registered or licensed.

A National Building Accreditation Authority (BAA) must be established under the Intergovernmental Agreement (Refer A4) to recognise and manage national accreditation schemes for professionals. Professional bodies would have responsibility for the development of respective accreditation schemes.

### **Accreditation**

Any professional must be nationally accredited to be able to be registered in any jurisdiction. This accreditation must be nationally consistent and subsequently recognised in every jurisdiction.

The BAA should operate on guidelines similar to that of the Professional Standards Council who accredit professional schemes. Organisations representing building industry professionals and which operate national accreditation schemes should be subject to a strict audit regime managed by the BAA.

The criteria for accreditation must include purpose specific qualifications and experience together with mandatory insurance, an overarching integrity regime and a mandatory Continued Professional Development (CPD) program. Professional standards schemes may impose additional criteria for accreditation.

Any Professional Standards Schemes for building professionals operating nationally should be recognised automatically.

### **Registration**

Once accredited, a professional must be registered in any jurisdiction to practice.

Accredited professionals may only practice in those jurisdictions in which they are registered and would be subject to the conditions of each jurisdiction where they practice.

Irrespective of where a building surveyor or other professional is employed, they must be accredited and registered.

A registration regime must include an oversight body comprising appropriately qualified and experienced disciplinary arbiters who can adjudicate over issues of professional misconduct. These bodies should have the benefit of legal advice to ensure that natural justice is applied, legal precedents are followed and the public interest is protected.

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A registration regime must have appropriate penalty and punitive powers such as fines, powers of suspension and, where there is corruption, reference to criminal investigatory bodies. The magnitude of the penalties must be such that they act as deterrents.

Any disciplinary action in which there is a suspension or de-registration, withdrawal of a registration of a professional must be automatically recognised across jurisdictions and also trigger action in respect of the accreditation of the professional concerned.

***Accredited and Registered Building Professionals should include (but not be limited to):***

- Building surveyors
- Engineers
- Architects
- Fire engineers
- Auditors and regulatory officials
- Project managers
- Quantity surveyors
- Geotechnical engineers

***Licensing***

Once qualified, a practitioner other than a professional, must be licensed in any jurisdiction to practice.

Qualified practitioners, other than professionals, may only practice in those jurisdictions in which they are licensed and would be subject to the conditions of each jurisdiction where they practice.

Irrespective of where practitioners are employed, they must be qualified and licensed.

A licensing regime must include an oversight body comprising appropriately qualified and experienced disciplinary arbiters who can adjudicate over issues of practitioner misconduct. These bodies should have the benefit of legal advice to ensure that natural justice is applied, legal precedents are followed and the public interest is protected.

The payment of annual licence fees or levies should be sufficient to ensure the adequate administration and management of a licencing scheme.

Auditing must apply to all licensed practitioners (See A9).

***Qualified and Licensed Building Practitioners should include (but not be limited to):***

- Plumbers
- Electricians
- Builders
- Designers
- Draftspersons
- Essential safety measure maintenance practitioner
- Energy assessors
- Maintenance contractors
- Estimators
- Persons providing a soil classification service

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## A6

## NATIONAL PRODUCT CERTIFICATION SYSTEM

**AIBS supports a national body responsible for the co-ordination and publication of technical data related to building products, supported by a regime of testing of the evidence to prove claims of suitability.**

Testing by an Australian registered testing authority should be the only means of demonstrating conformity.

An ongoing and proactive system of random auditing and testing of high risk products undertaken by registered testing bodies should be introduced, with significant penalties for those found to be involved in the supply or manufacture of non-conforming products.

Once a product has been found to be compliant, all testing details and evidence of suitability should be made available via a central body responsible for the co-ordination and publication of that information. Such a move will ensure that the most up to date information is readily accessible to all involved in the design and assessment processes (See A12).

## A7

## ENFORCEMENT SYSTEM

**AIBS supports the establishment of an authority for enforcement actions to ensure compliance.**

Proper enforcement requires a full and detailed expression of how the enforcement activities are to be undertaken, when, and by whom. Enforcement activities require effective resourcing to ensure the desired outcomes are achieved.

The authority should follow the compliance continuum approach which includes:

- provision of educational activities;
- compliance actions;
- enforcement actions;
- mediation processes;
- civil proceedings in a court; and
- prosecution for transgressions involving criminal activities.

A regulatory risk differentiation model would be of benefit to professionals and other practitioners, state governments and industry and should form part of the enforcement system.

The enforcement system should link to the auditing system (See A9) so that enforcement actions involving a registered professional or licensed practitioner are automatically recognised across all jurisdictions.

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## A8

## INSURANCE

**AIBS supports mandatory insurance for all registered building professionals and licensed practitioners, commensurate with the extent to which the professional is responsible for any loss and sufficient to provide protection to the consumer.**

Insurance often provides the only means by which consumers can access appropriate compensation within the building and construction industry. Insurance cover must therefore be mandatory for all professionals and other practitioners.

The minimum level of cover obtained should reflect the actuarial needs of the professionals and other practitioners involved, rather than an arbitrary value defined in legislation.

Limitations should be clearly set out regarding time-frames in which initiation of legal proceedings for defective building work must occur. The time-frames for bringing an action should be consistent for all professionals and other practitioners.

There must be liability apportionment among multiple parties and limitation of the liability of individual defendants to their judicially assessed share of the overall responsibility. No single practitioner should be made to pay more than the share of the liability for which they are responsible.

#### ***Professional indemnity***

Cover levels for professionals operating within a professional standards scheme must match the pre-determined guidelines for establishing suitable cover within the respective scheme.

Governments should underwrite cover for those participating within professional standards schemes.

Cover levels for registered professionals who operate outside a professional standards scheme shall be self-determined and subject to approval from a registration regime.

#### ***Run off***

There should be a cap on liability periods and these must be nationally consistent across all registered professionals and licensed practitioners.

#### ***Builders' warranty***

The legislative scheme must identify and prescribe adequate consumer protection insurance cover for defects, completion of work and other relevant matters for all building types. This is crucial to ensuring a claim can be made against the person most responsible.

Insurance cover should be project / building specific and there should be controls that prevent phoenixing by company directors as a means of avoiding responsibility.

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## A9

**MANDATORY AUDITING SCHEME**

**AIBS supports a mandatory and nationally consistent auditing scheme to underpin a national accreditation and licensing system. It must apply to all professionals and other practitioners and relate to process, procedure and work performed.**

Auditing is effectively a commitment by government to the consumer and general public that the building regulatory system is meeting community expectations of compliant and safe buildings.

The entity responsible for auditing must have a sound regime of the highest standards in relation to audit procedures and powers of investigation. It must employ appropriately qualified and experienced auditors and be sufficiently resourced to ensure that a program of regular random auditing can be undertaken and that compliant conduct can be encouraged by a range of means including prosecutions.

An effective auditing regime must include all trades, practitioners and professionals involved in the building and construction process.

Audits must relate to the:

- processes followed;
- statutory functions;
- information that must be obtained before decisions are made; and
- technical detail of the work performed including on site audits of the specific work that was the subject of the practitioner's input (See C1).

This is essential for the practitioners involved in undertaking work but should also include professionals and other practitioners involved in accepting work as compliant by, for example, the conduct of inspections.

The cost of auditing should be covered by the professionals and other practitioners subject to audit.

## A10

**NATIONAL CONSTRUCTION CODE**

**AIBS supports the adoption of a performance based, uniform set of technical building requirements nationally within a framework which prohibits departures from the national approach by State or Territory authorities.**

The National Construction Code (NCC) is a performance based suite of technical requirements. This is subordinate to the proposed Building Act via direct adoption and is supported in its objectives where no State or Territory variations or other forms of prescription of technical requirement outside of the NCC occur.

In order to ensure that the technical requirements keep pace with industry innovation, there needs to be a timely cycle of amendment. The Australian Building Codes Board currently facilitates this process, subject to oversight by the Building Minister's Forum within the terms of the intergovernmental agreement.

AIBS supports this approach to management of technical requirements in the NCC.

AIBS also supports ensuring that all technical requirements are available free of charge, with improved education for all users of the NCC.

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**A11****REFERENCED STANDARDS**

**AIBS supports referencing freely available technical standards within the National Construction Code.**

The referencing of standards as an acceptable construction manual within the National Construction Code (NCC) should be the only means by which technical standards are prescribed. That is, if a standard is not given legal effect by being listed in the NCC, irrespective of how old the referenced standard is, the referenced standard should be the only requirement necessary to be satisfied at law.

It is impractical for all technical requirements to be provided in a single reference document. Most buildings will involve only a small proportion of the array of technical standards that have mandatory status. Therefore, the common core of requirements should be contained in the NCC and specific technical requirements contained in convenient secondary reference manuals.

Like the NCC, these should be available free of charge.

**A12****CENTRAL NATIONAL INFORMATION REPOSITORY**

**AIBS supports the establishment of a Central National Information Repository providing information about:**

- site history;
- approvals including for construction and occupation;
- maintenance requirements;
- maintenance activity performed;
- other compliance information;
- products and systems approved for use;
- who can practice and in what capacity;
- a professional's or practitioner's conduct history; and
- all relevant approvals required by companion legislation for any given proposal.

Ready access to the history of a building site can be an invaluable information source in all phases of the life cycle of the building.

A Central National Information Repository will make building related document retention standards consistent. This will also provide a reliable record of building work and become a useful resource to industry and consumers alike.

A Central National Information Repository would also ensure that disciplinary action against professional and other practitioners, including any impact on their ability to practice, is freely available across all jurisdictions.

If industry and consumers are able to access a single source of information about developments that are proposed or approved, about products that are approved for use in those developments and the circumstances in which products can safely or appropriately be used, the efficiency of our economy will be enhanced.

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## PART B: PRE-CONSTRUCTION

B1

### ASSESSMENT SYSTEM

**AIBS supports a legislative building control scheme that allows for the choice of prescriptive and performance based design solution pathways that can only be assessed by registered statutory building surveyors operating in a deregulated fee environment.**

Statutory building surveying assessment services should be available within a secure competitive environment, free of anti-competitive influence.

Performance assessment should be supported by independent peer review panels, where deemed appropriate by the statutory building surveyor performing the assessment.

Building surveyors should prescribe:

- mandatory inspection hold points;
- inspection notification schedules; and
- any other compliance verification requirements identified through assessment.

Critical elements of work, where inspection is crucial ahead of work continuing, will necessitate the prescription of a hold point. Less critical elements of work will necessitate the prescription of a notification point only. There are other matters that may require prescription by the building surveyor including the imposition of conditions which restrict use, or the like, of the completed building, or ongoing maintenance requirements.

To underpin the integrity of the building surveyor in the design assessment process, building surveyors must have certainty of their engagement. Once engaged, there should be a legislated process of disengagement. This will ensure that the highest standards of probity are upheld which will, in turn, prevent owners and developers from seeking to corrupt the assessment system.

To further support the integrity of the assessment system, the setting of a fee for statutory building surveying assessment services should be left to the market.

Where public building surveyors provide statutory assessment services in competition with private building surveyors, those services must comply with the requirements and obligations of “Competitive Neutrality” and be subject to and part of any audit (See A9).

This ensures the highest standards of integrity are upheld and remuneration of building surveyors can truly reflect the level of risk that is managed through the design assessment process.

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## B2

## APPROVAL SYSTEM

**Unless building work is identified as exempt, AIBS supports a legislative imperative for an approval to be obtained before building work may commence.**

The processes to be observed as part of the approval system should be clear in respect of administrative steps required. The documentation and other key information that forms part of the decision-making process should be subject to the judgement of registered building surveyors undertaking statutory building surveying functions in accordance with the legislative requirements. This aspect of the process must be subject to audit (See A9).

Building surveyors should be the final point in the approval process. Therefore, only when all other requirements have been met, and the building surveyor is satisfied with the design and documentation, should it be approved. Registration requirements apply (See A5).

The building surveyor who assesses and approves the plans should be responsible for identifying when the building work is to be inspected from a design risk perspective. A program of mandatory inspections is created to give some surety that work is being carried out in accordance with the approved documentation. Where registered building surveyors and an appropriate auditing program are involved, there is no need for separation between those who assess and approve an application and those who inspect the work.

The legislative scheme should mandate the nomination of hold points, inspections and any other compliance verification requirements by the building surveyor at the time of issue of design approval in addition to any inspections or notifications that are deemed mandatory in response to the project type (See B1 and C2).

## B3

## REGULATORY CO-ORDINATION

**AIBS supports harmonisation of the regulatory control framework that can be accessed and understood via a central portal.**

The creation of new or altered buildings or a change in building use may trigger requirements to be satisfied within multiple legislation. It may be necessary to obtain planning consents, a liquor licence, environmental licences and many others which could materially impact upon the design of the proposed work. The interrelationships between legislative interests should be clearly detailed and prioritised to minimise the risk of redesign following assessment of any other stage.

Identification and determination of the sequence of approvals should be facilitated via the Central National Information Repository (See A12).

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## B4

## DESIGN LODGEMENT SYSTEM

**AIBS supports a standardised nationally consistent electronic lodgement platform integrated with a central portal.**

Maintenance of a comprehensive record of all proposals to construct or alter buildings, including the use of existing buildings, is vital. It must also include evidence that the proposal has been properly evaluated against technical requirements and other legislative matters.

Technology is advancing at a rapid rate and this has certainly been observed in the building and construction industry over the last decade. The building and construction industry is moving rapidly to an online environment where information sharing is more readily achieved at a lower cost and within shorter time-frames. The design lodgement systems must be capable of supporting innovation and new developments in the way people and industry seek information and communicate.

Having a uniform, standardised way of lodging technical information about a development will allow industry to arrange its data to suit, fostering efficient communication across platforms. Rather than specifying the forms to be filled in, there should be a specification of the minimum data elements to be provided and a standardised data format. Such a process will facilitate ease of information sharing through an information portal (See A12), which will assist industry to be more efficient.

## B5

## DESIGN MANAGEMENT SYSTEM

**AIBS supports a design process that supports appropriate communication of a proposal within an ethical environment by registered professionals.**

All professionals and other practitioners, engaged in providing design services and documentation, must be registered or licensed (See A5). Building surveyors who are consulted on design points during the design phase must not undertake a statutory role in the same project to ensure there is no conflict of interest.

***Project documentation***

A building application must contain sufficient information to show that the proposal will comply with legislative requirements. Designers must be accountable via audit (See A9) for ensuring that they take all steps necessary to ensure that the work they produce meets this standard.

***Conflict of interest***

Building surveyors engaged to provide advice during the design stage, particularly on how to achieve compliance, cannot then accept an engagement in a statutory role for the same project without being in conflict because they would essentially be assessing and approving their own design input.

Building surveyors can also be engaged and provide compliance advice during the design stage where that engagement is limited to providing compliance advice on requirements only, leaving the design team to make decisions about how to comply. No conflict arises when the same building surveyor is subsequently engaged in relation to a statutory role.

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## PART C: CONSTRUCTION

C1

### ONSITE ACCOUNTABILITY SYSTEM

**AIBS supports on site random audit inspections of the work of registered professionals and licensed practitioners, undertaken by dedicated building regulators or authorised audit bodies.**

Such audits are to be undertaken by the regulatory authority separate to any mandatory inspections (See C2) and are to be undertaken to ensure registered professionals and licensed practitioners are operating in accordance with their registration or licence and skillset.

The legislative scheme should include a code of practice for all professionals and other practitioners against which on site performance will be measured. On site auditing is part of the mandatory auditing regime (See A9).

On site audits will involve all professionals and other practitioners and also reference the national product certification scheme (See A6) and the occupancy approval system (See D1) as part of an integrated approach to ensuring an appropriate standard of construction is achieved.

Adverse audit results may prevent professionals and practitioners from working (See A5).

C2

### MANDATORY INSPECTIONS

**AIBS supports mandatory inspection powers with sufficient regularity and rigour for registered building surveyors who are required to inspect building work, as part of a range of measures, to ensure building work is compliant.**

Registered professionals and licensed practitioners must be required to provide safe access to building sites by registered building surveyors who are performing statutory roles at all reasonable times and without notice. There should be provision for the statutory building surveyor to direct others to provide assistance as may be required.

Inspections should be carried out as frequently as reasonably possible. While it is not possible to inspect every aspect of a building, decisions about when inspections are carried out must be underpinned by an outcome focused risk based approach utilising statistical methods to ensure a meaningful sample size is achieved.

To ensure clarity regarding the need for inspections to be undertaken, AIBS supports the inclusion within legislation of a list of core inspection types for typical projects, which will be added to by the statutory building surveyor (See B1 and B2).

The legislated core inspections should differ for the various building classifications, reflecting the different levels of risk.

The legislated core inspections that will always be undertaken for all projects should be clearly stated as being minimum or base line inspections so that there is widespread acceptance that additional inspections that become mandatory by nomination of the statutory building surveyor are equally important and normalised within construction practice.

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Simply, the statutory building surveyor who has assessed and approved a proposal is best placed and ultimately responsible for nominating the mandatory inspections required beyond the core list of inspections and for nominating who will undertake those inspections. Issues to be considered in determining the mandatory inspections of a specific project would include, but not be limited to, the design risks (See B2) and level of skill and experience of the contractors and builder involved.

AIBS is developing a list of core inspections and a code of practice to assist building surveyors to determine what additional mandatory inspections may be required and who is best placed to undertake those inspections.

AIBS supports inspections of building work by professionals to determine compliance with technical requirements. In some instances, other practitioners may undertake inspections, however they must be appropriately qualified and have qualifications consistent with the AQF framework within an accreditation scheme (See A5).

AIBS also supports inspections during construction by other professionals and / or other practitioners with prescribed qualifications. The role and influence of inspections via private engagement shall allow mandatory inspection programs to take into account the increased scrutiny the project is subjected to, with mandatory inspections reflecting matters of greatest community interest.

Core and mandatory inspections carried out for or on behalf of the statutory building surveyor do not:

- provide quality assurance;
- replace the traditional 'clerk of works' role; or
- ensure that the work has proceeded in accordance with contractual obligations.

### C3

### PROTECTIVE WORKS

**AIBS supports a nationally consistent approach to measures designed to protect the public and adjacent property from building sites.**

There should be a national standard which controls and guides protective works. By the codification of such works, the building industry can proceed with certainty regarding planning the delivery of a building project. Consumers can be assured that an appropriate and consistent standard will be provided around building sites and the insurance industry will observe a reduction in the level of risk requiring cover in relation to the delivery of building projects.

Statutory building surveyors will have less concerns in the management of public safety around building sites as the site will be far less likely to cause a threat to public safety and to therefore require compliance or enforcement actions.

Further, the publication of a guide will be a useful reference point for building surveyors when seeking to improve the understanding of builders and other site personnel about protective works for public safety and also adjoining properties.

The frequency of disputes between neighbours will similarly be reduced by the presence of a protective works code or guideline as it will be clear where and when the appropriate measures are required and installed.

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## PART D: POST-CONSTRUCTION

D1

### COMPLETION OF CONSTRUCTION & OCCUPANCY APPROVALS

**AIBS supports a clear uniform legislative definition of a completion of construction and occupancy approval system and the roles of the relevant professionals and other practitioners in these processes.**

AIBS supports that completion of construction and occupation approvals should only be issued by a statutory building surveyor.

It is the view of AIBS that all building work should be subject to a requirement for verification of completion of construction and approval for occupation, with few exceptions, these exceptions requiring a certificate of completion only.

The process of vetting the suitability of a building prior to occupation is the final opportunity to ensure that the community is not placed at risk by a building that is unfit for occupation. It is a vital part of consumer protection and a robust, modern building regulatory system.

There is no single professional or other practitioner who has the capability or actual presence on any building site to be able to say with absolute certainty that any building has been constructed in a way that conforms with all the technical requirements, the approval documentation or even the contract documentation. For this reason, the approach must be holistic and involve only competent professionals and other practitioners who are operating under strict audit schemes which include penalties for inadequate performance (See A9). Appropriate time must be prescribed to support due attention to this process.

The role of a statutory building surveyor in this process is to co-ordinate the myriad of documentation and other types of evidence that demonstrate a building is completed, and where applicable, fit for occupation. A building surveyor must be able to rely upon the certificates issued to them as true and correct, in good faith.

The completion and occupancy approval process is the point at which all elements of the system must come together to secure a robust outcome. These elements include the audit program supporting the licensing scheme, the inspection system which supports the approval system and established technical requirements, the onsite accountability system which ultimately supports the quality of the outcome.

There is no other point in the construction process where the collaboration of all professionals and other practitioners in the supply chain is more important.

It is the statutory building surveyor who is capable of ensuring this collaboration occurs, but only where the legislative system provides the scope to do so.

Approvals authorising occupation must also set out the relevant ongoing maintenance activities for critical aspects of the building related to the building's approved use. Such maintenance activities will ensure ongoing suitability for occupation and will have been determined as part of the approval system (See B2).

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The legislative scheme must provide for a readily accessible information source for each building to facilitate appropriate action by the building owner, their successors, fire and other authorities, contractors, or even building occupants, as and when appropriate (See A12).

D2

OCCUPANCY MAINTENANCE SYSTEM

**AIBS supports a mandatory requirement for documenting and therefore providing evidence that the regular maintenance of essential safety equipment and features in a building has been carried out.**

Buildings today are complex, including performance solutions, systems of services and sophisticated materials. Modern buildings often include automated management systems which keep the building operating at an optimum level of performance in all weather conditions and in support of multiple use configurations, where buildings can be used for one purpose Monday to Friday and a different use on the weekend.

This complexity requires identification (See B2) and notification of a level of maintenance which is subject to inspection (See D3) to ensure buildings continue to deliver adequate levels of performance throughout their lifespan.

Some of that maintenance is necessary to ensure elements of the building will perform as intended during an emergency.

D3

POST-CONSTRUCTION INSPECTION REGIME

**AIBS supports a requirement for post occupation inspections to confirm compliance with maintenance requirements and compliance with any conditions of approval or occupation with ongoing effect.**

Post occupation inspections by relevant authorities will ensure that the use of the building remains compatible with the design intent and substantive conditions of approval and occupation.

AIBS believes that there should be a mandatory requirement for evidencing that regular maintenance of essential safety equipment and features in a building has been conducted (See D2) and routine auditing of such maintenance work is necessary to ensure community safety.

Audits and inspections should be tied to the enforcement program (See A7). Adverse audit and inspection results leading to enforcement actions will also result in registration or licensing implications (See A9 and A5 respectively).

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