

Discussion paper: Mandatory Inspections - A response to the Building Confidence Report

Overview

Building Ministers authorised an assessment of the effectiveness of compliance and enforcement systems for the building and construction industry across Australia. The resulting **Building Confidence Report** https://www.industry.gov.au/sites/default/files/July%202018/document/pdf/building_ministers_forum_expert_assessment_-_building_confidence.pdf (BCR) notes that there are significant differences across jurisdictions in the number of inspections required and the notification stages. This ranges from no mandatory inspections to very few inspections for domestic buildings. For commercial buildings many jurisdictions rely on the statutory building surveyor to determine what inspections are appropriate. This makes it difficult for regulators to know what level of oversight is occurring, whether it is adequate and if National Construction Code (NCC) compliance is being achieved. Understandably, the current process doesn't provide the public with confidence in the regulatory system or in the compliance of constructed buildings.

The BCR Implementation Team has developed a discussion paper in response to BCR Recommendation 18, which proposes **'that each jurisdiction requires mandatory on-site inspections of building work at identified notification stages'**.

The discussion paper proposes a draft model process that prescribes an approach for minimum inspections proportionate to building complexity (risk) as a means of improving building outcomes through greater regulatory compliance. The risk-based approach would also determine additional inspection stages such as those relating to specific Performance Solutions or complex commercial buildings. The draft model details the proposed approach and how it is anticipated to work in practice.

Please note: The definition of building complexity has been redefined in this paper, following an extensive **consultation process** [engagement/definition-for-building-complexity/](#) and supported by Building Ministers for inclusion in the NCC 2022 Public Comment Draft.

The discussion paper can be downloaded below.

Why we are consulting

The BCR Implementation Team has developed a discussion paper for mandatory inspections. This discussion paper covers:

- the process for conducting minimum mandatory inspections;
- scope of minimum mandatory inspections including notification stages (timing), frequency and extent (percentage) of inspections;
- roles and responsibilities of the statutory building surveyor and the designer in the process; and
- documentation for inspections.

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Feedback on draft model will improve the rigour of the work by capturing the views of regulators, industry and the public, and will test measures developed to help increase compliance with the NCC, state and territory legislation and NCC referenced documents.

Providing comment

Comments on the discussion paper are open until **11:59PM AEDT Sunday 28 February 2021**. Only comments submitted using the online form will be considered.

A preview of the consultation form is provided below.

If you have a question about this consultation, please contact [**bcrimplementationteam@abcb.gov.au**](mailto:bcrimplementationteam@abcb.gov.au).

Information Collection

1 Important: Please ensure that you have read and understood the below statements before proceeding

Privacy Collection Statement

The Australian Building Codes Board (ABCB) is bound by the Australian Privacy Principles (APPs) outlined in Schedule 1 of the *Privacy Act 1988* (Cth) (Privacy Act), which regulates how entities may collect, use, disclose and store personal information.

Your personal and sensitive information is being collected by the ABCB Office to assist the ABCB to carry out its functions, to inform the consultation process and for other purposes including to communicate with individuals or organisations about their submission.

The personal and sensitive information collected as part of the submission process may be disclosed to and used by the following individuals or organisations:

- the Department of Industry, Science, Energy and Resources or the ABCB Office, and the staff of the Department and the ABCB Office;
- the ABCB, its committees and any working groups established by the ABCB, and their staff and advisors;
- the Commonwealth Government, and State and Territory Ministers responsible for building regulation and policy, and their staff and advisors;
- other Commonwealth or State and Territory government departments and agencies;
- any consultant or contractor engaged by the ABCB for the purpose of undertaking work in respect of the subject matter of the submission process.
- any organisation for any authorised purpose with your express consent, for the purposes set out above.

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If you have an enquiry or request relating to your personal information, please contact:

Privacy Contact Officer
Australian Building Codes Board
GPO Box 2013
Canberra ACT 2601

Confidential Information Statement Australian Building Codes Board

All submissions and comments will be published unless they are marked 'commercial-in-confidence'. However, any contact details you provide within your submission will be redacted prior to the submission being published.

In order to promote debate and transparency, the ABCB prefers that all submissions and comments be provided in a way that does not require confidentiality to be maintained. However, it recognises that in some circumstances you may want to provide information in confidence.

It is the responsibility of the person making the submission to ensure that any 'commercial-in-confidence' information is clearly identified. Please consider if you can structure your response to keep only some parts confidential. If only part of your submission is confidential, you can provide the confidential part as a separate submission so that the ABCB can publish the non-confidential part of the submission.

Where confidentiality is requested for an entire submission, it will not be published by the ABCB, nor will your name or organisation details; however, see the comments below regarding Regulation Impact Statements.

Please note that we may still disclose the confidential part of your submission to any of the above identified users of the information as part of the consultation process and we will use reasonable efforts to ensure that the recipients keep the submission confidential.

Submissions for Regulation Impact Statements will be made public in accordance with the Council of Australian Government's **Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies** <<https://www.pmc.gov.au/resource-centre/regulation/best-practice-regulation-guide-ministerial-councils-and-national-standard-setting-bodies>> . A summary of the views expressed in the submissions will be published as part of the Regulation Impact Statement.

The ABCB or the ABCB Office may also disclose confidential information in circumstances where:

- we are required or authorised by law disclose it;
- you agree to the information being disclosed; or
- someone other than you has made the confidential information public.

Your submission, comments, opinions and responses will not be published if the ABCB or the ABCB Office considers that your submission, comments, opinions and responses may contain potentially defamatory statements or other offensive comments.

2 By making a submission to this consultation you agree to the collection of the information you provide in your submission; and the use and disclosure of the information you provide in your submission as outlined above.

(Required)

Please select only one item

- Publish response
- Publish response anonymously (this will remove personal identifiers including, name and organisation)
- Do not publish

Personal Information

3 What is your name?

(Required)

4 What is your email address?

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

(Required)

5 On whose behalf are you making this submission?

Please select only one item

- I am making this submission on my own behalf I am making this submission on behalf of a business
 I am making this submission on behalf of an industry body
 I am making this submission on behalf of a government agency

6 What is your organisation (if relevant)?

7 Which best describes your industry sector?

Please select only one item

- Building Commercial Building Residential Building Commercial and Residential
 Building and plumbing products Building Certification/Surveying Architecture and design
 Engineering Plumbing Compliance, testing and accreditation Legal and Finance
 Specialist - disability access Specialist - energy efficiency Specialist - fire safety
 Specialist - health Specialist - hydraulic/plumbing Student/apprentices
 Trades and other construction services Education Community and Non-Government organisations
 Government General Public Other

If other, please specify

8 Please select your state or territory

Please select only one item

- ACT NSW NT Qld SA Tas Vic WA

9 If you work in the building industry, in which state or territory do you undertake the most work?

Please select only one item

- ACT NSW NT Qld SA Tas Vic WA
 NA - I do not work in the building industry

This Discussion Paper proposes terminology which, if agreed by the ABCB and Building Ministers, would be consolidated into a Preferred Terms Publication for adoption into State and Territory laws. Current legislative terminology used across Australia has been considered when developing the proposed terminology. The agreed terminology used in the Preferred Terms Publication would not be legal definitions unless adopted by jurisdictions.

10 What are your views on the definition proposed for mandatory inspections?

Definition: Mandatory inspection

Mandatory inspection is defined as the independent assessment of building work, at the prescribed notification stages, to verify that the building work has been carried out in accordance with the approved building documentation and relevant building legislation.

11 What are your views on the definition proposed for Certificate of Compliance?

Definition: Certificate of Compliance

Certificate of Compliance is a certificate issued by a prescribed person for a prescribed component or element of design or construction which, if accepted by the statutory building surveyor, may give the statutory building surveyor immunity in relation to the matters certified.

12 Do you agree the risk based model is the correct approach to identify the types of mandatory inspections for a building?

Please select only one item

Yes No Maybe

If no/maybe, what is an alternative approach to determine the types of mandatory inspections for a building? (Note: each complexity level prescribes minimum mandatory inspections to be carried out.)

Determining minimum mandatory inspections

13 Should there be minimum mandatory inspections for commercial buildings or should it be determined at the discretion of the statutory building surveyor?

Please select only one item

Minimum mandatory inspections Discretion of the statutory building surveyor Other

Please expand on your answer.

14 Do you agree on the list of mandatory inspections for each building complexity (BC) level?
Are there any other inspections that need to be included as part of this list of minimum mandatory inspections?

Table 1: Minimum mandatory inspections for differed BC levels

Please select only one item

Yes - agree with the list No - changes needed Maybe

If no/maybe, how should the list be changed?

15 Do you think all the parts of the fire safety systems have been identified for minimum mandatory inspections?

Please select only one item

Yes No

If no, please provide the additional fire safety inspections you would include.

Are there other critical fire safety inspections or tests that you would include in the list?

Who conducts the inspections

16 Who do you believe is competent to conduct the inspections?

Do higher building complexity (BC) levels require independent inspectors (note the BCR highlights issues with regards to conflict of interest and competency issues)?

	Very Low	Low	Medium	High	Very High
Appointed statutory building surveyor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent building surveyor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent designer and/or consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Designer who participated in the building design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire systems installers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Are there other practitioners suited to conduct inspections? If so please list them below and the BC levels they are suited for.

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17 Who do you think is best placed to determine notification stages (timing of inspections)?

	Very Low	Low	Medium	High	Very High
Appointed statutory building surveyor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent building surveyor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent designer and/or consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Designer who participated in the building design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire systems installers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Are there other practitioners suited to determine notification stages? If so please list them below and the BC levels they are suited for.

What percentage of the construction is inspected

18 What percentage of the building construction should be inspected for different BC levels?

It is recommended that building complexity (BC) levels have a greater percentage of the construction inspected.

For example, should ALL or only a percentage of the footings be inspected at the excavation stage and again once the steel reinforcement has been put into place?

	Very Low	Low	Medium	High	Very High
0-50% of the building construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
100% of the building construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statutory building surveyor can exercise judgement on how much of the building construction must be inspected	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Designer prescribes the percentage of inspection as a guideline for the statutory building surveyor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Are there different amounts of inspection or different ways to determine inspection requirements? If so please list them below and the BC levels they should be applied to.

19 Should there be guidance on determining the percentage that must be followed?

The guidance might have a sliding scale of percentage based on storeys or similar.

Please select only one item

Yes No Unsure

If yes, please specify and for which BC level.

20 Do you think there are elements where there needs to be multiple inspections for the same element?

For example, in the case of a lightweight fire rated wall should inspections occur pre and post sheeting?

Please select only one item

Yes No Unsure

If yes, please nominate elements and suggested multiple inspections stages.

What happens in the event of non-compliance

21 Does the proposed approach address all the issues related to mandatory inspections?

Please select only one item

Yes No Maybe

If No/maybe, what items are missing to ensure mandatory inspections are compliant and meets the requirements of BCR Recommendation 18?

Other considerations

22 Do you have any further comments?

23 Supporting documentation

Supporting documentation, such as diagrams, research papers or other information, can be uploaded here to substantiate your comments. Supporting documentation will not be published.

Please attach a copy of any documents you wish to include to this printout.

File upload No.1

Please attach a copy of any documents you wish to include to this printout.

File upload No.2

Please attach a copy of any documents you wish to include to this printout.

File upload No.3

Please provide supporting documentation in .doc, docx or PDF format.

If you would like to provide more than two files, please email copies to bcrimplementationteam@abcb.gov.au, stating the name and email address associated with your submission.