

NSW Legislative Council – Public Accountability Committee – Regulation of building standards, building quality and building disputes

Questions on Notice – Responses from the Association of Accredited Certifiers (AAC)

For further information do not hesitate to contact AAC CEO, Jill Brookfield.

QUESTION 1 – Page 20

The CHAIR: *There is a number of trigger points, not just above three storeys.*

Mr TUXFORD: *I would say it is something that will need to be looked at in more detail to try to find where is the place to bring them in. It would seem to be that there is not adequate on-site supervision across the board, and I guess that is what a clerk of works would provide to you. I want to go back to make a point—*

The Hon. MATTHEW MASON-COX: *Can you go away and give us your considered view as to where those trigger points are?*

The Hon. TREVOR KHAN: *Not right now!*

The CHAIR: *On notice, I think.*

The Hon. MATTHEW MASON-COX: *You guys are saddled with a lot of responsibility, whether you like it or not.*

Mr TUXFORD: *We can give it some consideration.*

The Hon. MATTHEW MASON-COX: *Obviously the insurance and how that all trickles through is very important, but where do you think the trigger points are? It has been put to us that maybe it should be where home warranty insurance ends. There are some issues there. The complexity of the building, you have mentioned. What other factors might be relevant? I think it would be useful for us to understand your view on this.*

The CHAIR: *I am sorry; that is a request to both organisations. Mr Hardy, would you be happy to consider that, as well?*

Mr HARDY: *More than happy.*

The Hon. JOHN GRAHAM: *Also any views about the potential cost implications. You may or may not be able to go into detail on that, but I think you can draw attention to that.*

Mr MARINELLI: *We can ask about that.*

ANSWER 1

Clerk of works role

Historically, clerks of works were involved with more specialised projects and architects were generally the superintendent of works, where there was a necessity for more involved oversight.

These roles required knowledge of design specification and construction.

There are useful overseas' examples of how a system involving clerks of works could operate, including the UK and Singapore.

The UK's Institute of Clerks of Works and Construction Inspectorate defines and outlines the responsibilities of the role [here](#).

The Singapore system mandates the inspection and full-time presence of engineers, and other building professionals on the structural side of the construction, based on the project cost of works.

The roles and responsibilities of these professionals are outlined in the Building Controls Act – which can be found [here](#).

Further useful information is found in the Building Control Regulations 2003 – found [here](#).

Supervisory role for residential projects

For residential projects, a supervisory role (i.e. of the appropriate skill level being either an internal or external supervisor) is still very important. Persons with the supervisory skills need to be managing only a maximum of 15 – 20 projects at one time.

Possible cost

Feedback from a NSW-based industry participant has been that the cost of a clerk of works would be in the order of \$150,000 to \$250,000 per annum if employed as an individual. It may be more if it is a company or consultancy.

This is provided there is anyone that can fulfil the role as the expertise has been greatly eroded and very few people exist in industry that can carry out this role. Of course, any requirement for such a role must include a requirement to hold Professional Indemnity insurance.

For larger residential housing construction companies there may be the need to employ additional site supervisors to match the abovementioned recommended ratios.

QUESTION 2 – Page 26

The Hon. MATTHEW MASON-COX: *The fact that we have a claims made policy system and excluding of cladding and moving down the track just a quick comment—and perhaps you could take this on notice—in relation to dealing with the overhang from cladding of buildings currently in the market place and the implications of that in relation to insurance, given we have a claims made policy arrangement and the exclusion of those clad buildings, potential liability that attaches thereto, the impact of that as an overhang on the market?*

The CHAIR: *You can take that on notice within seven days.*

ANSWER 2

The main impact on the market of cladding overhang is that Professional Indemnity (PI) insurance premiums sky-rocket and almost all insurers pull out of the market.

If there is a lack of affordable PI insurance available, Accredited Certifiers will lose their accreditation (which requires compliant PI insurance) and there will be a shortage of Accredited Certifiers in NSW, which will lead to the construction industry grinding to a halt.

An additional perverse outcome is that without PI insurance which includes cover for cladding Accredited Certifiers cannot advise building owners on what should happen to the cladding on their building nor on its removal. So, the issue of cladding would be unresolvable.

Historic cladding claims also expose individual Accredited Certifiers to massive liability risk, potentially long-after they have retired.