

Submission
No 62

**INQUIRY INTO REGULATION OF BUILDING
STANDARDS, BUILDING QUALITY AND BUILDING
DISPUTES**

Organisation: Australian Institute of Quantity Surveyors

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Submission

Inquiry into the regulation of building standards, building quality and building disputes



Submission by Australian Institute of Quantity Surveyors (AIQS)

25th July 2019

About Australian Institute of Quantity Surveyors (AIQS)

AIQS is the peak professional standards body for built environment cost professionals with over 4,000 members, globally. Through leadership, standards, education (including compulsory continual professional development), communications, independent complaints handling and disciplinary procedures and a code of conduct, AIQS ensures that its members are dedicated to maintaining the highest standards of professional excellence.

AIQS's education, professional and technical standards are adopted as benchmarks by Governments and corporations across Australia and internationally. These standards establish best practice risk management tools for the protection of our members and their clients. Publications include the Australian and New Zealand Standard Method of Measurement, Detailed Building Measurement, Australian Cost Management Manual, Building Cost Index and Practice Standards and Guidance Notes such as the ANZ BIM Best Practice Guidelines and Construction Financing Reports Guidance Note. Improved practices yield better results in terms of time, cost, and quality to clients on all construction projects.

Responding to the Terms of Reference

(a) the role of private certification in protecting building standards, including:

- (i) conflicts of interest
- (ii) effectiveness of inspections
- (iii) accountability of private certifiers
- (iv) alternatives to private certifiers,

There is a shortage of skilled professionals across the construction industry. Unqualified individuals are undertaking inspections without the required knowledge, experience and/or credentials. Generally, the risks within building design and certification are high and the margins are low. This creates competition across the industry in a 'race to the bottom' – firms are utilising graduates and less experienced professionals more and more.

The quantity surveying industry needs to be actively involved in decision making. Within several sectors (including multi-residential) quantity surveyors have only a secondary involvement in the planning side of projects. Quantity surveyors should be engaged at the initial beginning of a project and then continue through inspections through to certifications. It needs to be defined who can sign off on Occupation Certificate. AIQS are positioned to suggest guidelines around this subject.

(b) the adequacy of consumer protections for owners and purchasers of new apartments/dwellings, and limitations on building insurance and compensation schemes, including:

- (i) the extent of insurance coverage and limitations of existing statutory protections
- (ii) the effectiveness and integrity of insurance provisions under the Home Building Act 1989

(iii) liability for defects in apartment buildings.

(c) the role of strata committees in responding to building defects discovered in common property, including the protections offered for all strata owners in disputes that impact on only a minority of strata owners,

(d) case studies related to flammable cladding on NSW buildings and the defects discovered in Mascot Towers and the Opal Tower,

(e) the current status and degree of implementation of recommendations of reports into the building industry including the Lambert report 2016, the Shergold/Weir report 2018 and the Opal Tower investigation final report 2019, and

It is of the view of AIQS that an independent Clerk of Works (CW) must be reinstated to the requirements of developments within defined sectors. The CW could be appointed by the Building Commissioner (*recommended in the Shergold - Weir Building Confidence Report*) although there are likely entities already established with the ability to administer the appointment of a CW. The cost of this engagement would be offset by the availability of a third-party entity reviewing the project works minimising the likelihood of issues on site. Ideally a CW should be on site during work hours, however a realistic view of an agreed time spent on site is suitable.

The CW would be independent and have a non-biased position. It was noted that the method of having a CW was very effective and primarily used in the 60s and 70s – the reinstatement of this CW combined with the integration of WHS would reduce costly issues and improve safety on sites.

(f) any other related matter

Variations to Design

There are questions on the macro definition of a 'major' variation within the construction industry. The extent to which a variation would be defined as 'major' was dependent on the project sector, value of works, duration and contract type (at a minimum). By way of example, the definition of a major variation on a commercial project within the Sydney CBD under a Design & Construct (D&C) contract would differ to a major variation of a home builder renovating a house in Sydney's West. The clients in both situations would be exposed to varying levels of risk with the impost of variations. The discussion of major variations continued to whether the variation affects the design integrity.

Contractors may not flag variations as this may constrain projects through cost or time and may not always be passed on to the client. There are limited incentives for contractors to raise variations at the present time as this may even delay when the contractor is paid.

It is of the view of AIQS that the Building Commissioner should be advised of any variations by the quantity surveyor who should ideally be the first point of call and should be responsible for relaying the variations. When engaged by responsible developers, a quantity surveyor is involved in the design process to ensure correct design metrics and efficiencies prior to development applications to minimise future variations.

A framework needs to be established at a sector level to separate variation types e.g. multi-residential developments variations filtered to:

- I. structural (including waterproofing)
- II. architectural
- III. services
- IV. envelope.

Types of variations and permission to action variations is largely based on the type of contract in place. If the contract is, say a D&C contract, the responsibility should be on to the main contractor.

AIQS can provide to the industry a clear definition between the different types of variations and make this available to the industry.

Sincerely

Grant Warner
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Australian Institute of Quantity Surveyors

25th July 2019