

24 August 2018



MASTER BUILDERS
A U S T R A L I A

The Hon Craig Laundy MP
Chair, Building Ministers Forum
Minister for Small and Family Business
The Workplace and Deregulation
Parliament House
CANBERRA ACT 2600

Dear Minister,

Building Confidence Report: Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia

Master Builders is writing to you as Chair of the Building Ministers Forum (BMF) to provide initial feedback on recommendations in the *Building Confidence Report*. Master Builders also welcomes BMF agreement on establishing an industry forum on implementation of the *Building Confidence Report* and Master Builders looks forward to participating and future forums.

The *Building Confidence* report provides a pragmatic response on options for best practice whilst acknowledging one size does not fit all. Builders need consistency and clarity and not a never ending cycle of regulatory reform. To this end, articulating broad objectives and options for jurisdictions to cooperatively work towards implementing, in conjunction with the reform pathways they have already embarked on, is a sensible way forward.

Master Builders has several key areas that it considers jurisdictions could work towards implementing as a priority. These include:

- recognition of the whole value chain in the regulatory process;
- a focus on best practice in building inspection, education and training;
- adequate project documentation; and a
- centralised information source for product information.

Master Builders recommends BMF develop a matrix that shows consistencies and gaps across jurisdictions against recommendations in the *Building Confidence* report that can be shared with industry. This might be a good starting point for government and industry to contemplate the scale of implementing recommendations, what recommendations could be implemented faster than others and where there is shared support for measures to be implemented.

Some areas that Master Builders considers should be a focus to progress as a priority include the following:

- Recommendations 2, 3 and 4 regarding compulsory training on the NCC, continuing professional development opportunities and supporting career paths for building surveyors:

This should be a priority for jurisdictions to address training quality and support increasing demand for training in the sector.

- Recommendations 13, 14 and 15 regarding responsibility for design practitioners and project documentation for performance solutions: Recommendation 13 recognises and makes accountable other parties in the value chain which Master Builders has long advocated for; and with a number of states already requiring documentation of performance solutions, a national best practice guide could be developed to support consistent application across jurisdictions.
- Recommendation 18 regarding mandatory inspection: A key objective of any response should be enabling the building inspection process to provide best practice advice to industry with a focus on avoiding issues of non-compliance.
- Recommendation 21 regarding product information: the information along the product supply chain needs to be significantly improved if the construction industry is to be able to choose the right products for use in the right place. A number of processes are underway that should continue as a priority, be reviewed and considered in the implementation of this recommendation.
- Recommendation 22 regarding a dictionary of terminology: This work has already been started, could be fast tracked and provide an easy win on the use of consistent terminology across jurisdictions.

We note Master Builders Queensland and Victoria have provided written feedback to their respective building ministers. This document draws on material from these submissions whilst reflecting a national perspective. Both are attached for reference.

I have also copied this letter to all members of the Building Ministers Forum.

Master Builders has outlined in more detail responses against each of the recommendations.

Registration and training of practitioners (Recommendations 1 to 4)

Recommendation 1: Registration of Building Practitioners

That each jurisdiction requires the registration of the following categories of building practitioners involved in the design, construction and maintenance of buildings. Proposed defined categories of building practitioners include: builder, site manager, engineer, surveyor, inspector, architect, designer/draftsperson, plumber, fire safety practitioner.

Master Builders notes that on the modern construction site the majority of work is completed by trade contractors and supports a system that captures key categories of trades as well as categories defined in the recommendation. We note the report does not exclude the additional categories and leaves the option for jurisdictions to choose to register. Master Builders Victoria and ACT will continue advocacy on this front with their respective jurisdictions.

Master Builders acknowledges that national consistency is a sensible goal but is realistic about its limitations given previous attempts to introduce national consistency have failed. Further consultation with industry would be a welcome step to assist reaching a view on the full range of appropriate disciplines.

Recommendation 2: Consistent requirements for registration

That each jurisdiction prescribes consistent requirements for the registration of building practitioners including:

- *Certified training which include compulsory training on the operation and use of the NCC as it applies to each category of registration;*
- *Additional competency and experience requirement*
- *Where available, compulsory insurance in the form of profession indemnity and/or warranty insurance together with financial viability requirement where appropriate; and*
- *Evidence of practitioner integrity, based on an assessment of fit and proper person requirements,*

Master Builders supports national consistency as a sensible goal but is realistic about its limitations given previous attempts to introduce national consistency have failed. Further consultation with industry would be a welcome step to assist reaching a view on and developing best practice requirements to support disciplines.

Master Builders supports the NCC being compulsory for each category of licensing and registration; expanded competency and experience requirements; addressing training quality to support the enormous increase in Certificate IV in Building and Construction; and insurance arrangements already in place.

Master Builders welcomes other building practitioners such as architects, engineers and building surveyors being held to the same standard as builders and provision of a statutory government role in auditing and disciplining of these professions.

Recommendation 3: Continuing Professional Development

That each jurisdiction requires all practitioners to undertaken compulsory Continuing Professional Development on the National Construction Code.

Master Builders supports targeted, mandatory continuing professional development. Master Builders member jurisdictions are already working to develop CPD products for builders and tradespeople. Targeted learning of genuine products to improve competence is required and should be extended beyond the NCC to other areas such as business management skills and security of payment.

Master Builders would be interested in being part of further industry consultation on the development of this recommendation.

Recommendation 4: Career paths for building surveyors

That each jurisdiction establishes a supervised training scheme which provides a defined pathway for becoming a registered building surveyor.

Master Builders supports this recommendation because declining numbers of building surveyors is a concern shared by industry. This problem is currently being compounded by insurance uncertainty and pressure.

Master Builders would be interested in being part of further industry consultation on the development of this recommendation.

Roles and responsibilities of regulators (Recommendations 5 to 7)

Recommendation 5: Improving collaboration between regulators

That each state establishes formal mechanisms for a more collaborative and effective partnership between those with responsibility for regulatory oversight, including relevant state government bodies, local governments and private building surveyors (if they have an enforcement role).

Master Builders supports clear roles and responsibilities for state government, local governments and private building surveyors in providing regulatory oversight. It is also important that each regulator is appropriately resourced.

While there is a collaborative relationship amongst regulators for the oversight of the building and construction industry, there is an opportunity to achieve better outcomes through improved collaboration across all industry stakeholders.

The building inspection process could play a role in the provision of best practice advice to industry through information sharing and education, with a greater focus on avoiding issues of non-compliance.

Recommendation 6: Effective regulatory powers

That each jurisdiction give regulators a broad suite of powers to monitor buildings and building work so that, as necessary, they can take strong compliance and enforcement action.

States and territories are strengthening powers to monitor buildings and building work. The exception is the power to audit the performance of practitioners registered by other bodies such as engineers and architects. Master Builders believes that all building professionals should be held to the same high standard and in support of this we note that the *Building Confidence Report* has recommended performance audit powers over all registered practitioners.

Master Builders has advocated for more powers to regulate the supply chain which has been adopted in Queensland. Given it's early days for the Queensland legislation, it's appropriate that the legislation is given time to be tested before other states and territories consider similar reforms. Master Builders supports a broader adoption being a matter for respective governments to decide.

Master Builders consider regulators could improve the quality of their communication with industry on technical and operational knowledge. The building inspection process could play a role in the provision of best practice advice to industry through information sharing and education, with a greater focus on avoiding issues of non-compliance.

Recommendation 7: Strategy for the proactive regulation of Commercial buildings

That each jurisdiction makes public its audit strategy for regulatory oversight of the construction of Commercial buildings, with annual reporting on audit findings and outcomes.

Master Builders supports a more transparent audit process and strategic reporting on inspection outcomes that's available to industry and regulators. The formation of the Building Regulators Forum that reports to BMF is a step in the right direction in terms of coordinating action and exchanging experiences.

States are already making information publicly available on audit strategies and on high risk products. More coordination across jurisdictions, a centralised point with key information and annual reporting by regulators of outcomes and learnings would assist in sharing critical information.

Master Builders considers regulators could improve the quality of their communication with industry on technical and operational knowledge. The building inspection process could play a role in the provision of best practice advice to industry through information sharing and education, with a greater focus on avoiding issues of non-compliance.

Master Builders considers commercial and multi-storey residential should be the focus of any work going forward.

Role of fire authorities in the building design and approvals process (Recommendation 8)

Recommendation 8: Collaboration with fire authorities in the development of fire safety design

That, consistent with the International Fire Engineering Guidelines, each jurisdiction requires developers, architects, builders, engineers and building surveyors to engage with fire authorities as part of the design process.

Master Builders supports fire authorities having an input in the building approval process. It is important that the involvement is appropriate to the project. There is particularly value in their role as an advice agency.

Master Builders supports, in principle, a Code of Conduct for fire engineers based on the updated International Fire Engineering Guidelines and would welcome the opportunity to be consulted further.

Integrity of private building surveyors (Recommendations 9 to 11)

Recommendation 9: Integrity of private building surveyors

That each jurisdiction establishes minimum statutory controls to mitigate conflicts of interest and increase transparency of the engagement and responsibilities of private building surveyors.

Controls intended to manage conflict of interest must be carefully considered as the potential for unintended consequences is great.

Building surveyors (certifiers) perform an important and clearly defined regulatory function. Any reform should allow builders to continue to have authority to make a recommendation and to engage.

Reform options introduced in Victoria require the owner to engage the building surveyor whilst the builder has the right to coordinate the surveyor for building works undertaken. There might be benefit in testing how this reform applies before other jurisdictions consider adopting similar reforms.

Master Builders agrees that the certifier cannot have another interest in the project and support some limits being put in place. At the same time there is value in the certifier advising early in the process on how to achieve compliance and this should be allowed to continue.

Education programs targeting improved industry knowledge and understanding could form part of a targeted CPD program. This might be linked to a Code of Conduct as per recommendation 10.

Owners should receive copies of the final documents.

Recommendation 10: Code of Conduct for building surveyors

That each jurisdiction put in place a code of conduct for building surveyors which addresses the key matters which, if contravened, would be a ground for a disciplinary inquiry.

Master Builders supports a Code of Conduct for building surveyors and would welcome the opportunity to be engaged in the process. Forms of this already exist in some jurisdictions and could be better coordinated in a nationally consistent code. Industry needs to be central to the development of the code.

Recommendation 11: Role of building surveyors in enforcement

That each jurisdiction provides private building surveyors with enhanced supervisory powers and mandatory reporting obligations.

Master Builders is opposed to broad supervision powers for building surveyors because surveyors are not appointed to act as a site supervisor and should not carry out duties akin to a project manager.

There is scope to strengthen requirements regarding mandatory reporting but this needs careful consideration given the complexity of commercial building. Mandatory reporting requirements also need to be matched by the regulators' capacity to investigate and take action once a report is made. This must be achieved in a cost effective way, without adding to licensing and insurance costs borne by the contractor.

Master Builders supports efforts to assist building surveyors in carrying out their regulatory role, including training, help desks and other support.

Collecting and sharing building information and intelligence (Recommendation 12)

Recommendation 12: Collecting and sharing data and intelligence

That each jurisdiction establishes a building information database that provides a centralised source of building design and construction documentation.

Master Builders supports better processes for collection and sharing of building design and construction documentation.

Master Builders recommends that if this data is collected, the intellectual property of businesses should be protected and not made broadly available and the cost-benefit of this should be taken into account in any outcomes from this recommendation.

While there is value in a centralised building information database, we expect that it can only be achieved at a significant cost. Building manuals (Recommendation 20), along with advancing the quality of project documentation (Recommendation 13) and the take up of Building Information Modelling would be more realistic steps towards the goal of better building information.

Databases to assist building practitioners in their decision making would be a more proactive response and help mistakes not to be made in the first place. To this end, Master Builders and other industry stakeholders have long advocated for a product certification database to help in the selection and appropriate use of compliant building products (Recommendation 21).

In addition to this Master Builders NSW is piloting with JAS-ANZ and QualityTrade, a certified products business to business online market place with funding from the NSW Government Building Partnerships Program. The pilot is seeking to resolve the lack of digital infrastructure and a central, trusted means of confirming accredited certification of businesses and building products.

Adequacy of documentation and record keeping (Recommendations 13 to 17)

Recommendation 13: Responsibility of design practitioners

That each jurisdiction requires building approval documentation to be prepared by appropriate categories of registered practitioners, demonstrating that the proposed building complies with the National Construction Code.

Master Builders in its submission to the expert panel called for increased attention on the role played by those who supply and specify building products (importers, distributors and wholesalers, architects, building designers and engineers).

Master Builders has long been an advocate for quality project documentation. Quality documentation goes to the heart of build quality. We believe that if we are to get buildings right that the investment needs to be made in getting it right up front. Documentation also needs to be practical and appropriate to the project.

Designers, architects and engineers must have a legislated duty to prepare documentation which demonstrates that the proposed building will comply with the NCC. To this end Master Builders welcomes recommendations for jurisdictions to require design documentation that adequately demonstrates compliance with the NCC; includes relevant certificates of conformity, accreditation and other prescribed material; requires a declaration of NCC compliance from each registered practitioner responsible.

Recommendation 14: Adequate documentation for performance solutions

That each jurisdiction sets out the information which must be included in performance solutions, specifying in an occupancy certificate the circumstances in which performance solutions have been used and for what purpose.

It is imperative that we get the documentation of performance solutions right, if we are to address non-compliance. Master Builders supports the development of a national best-practice guide for documenting performance solutions that is given legislative force.

This recommendation should be given a high priority for implementation by all states and territories. While some states already require this for example in Victoria in a certificate of occupancy and

Queensland in a certificate of classification, there is more that needs to be done to ensure that the information is robust and transparent.

Master Builders would welcome the opportunity to assist in the implementation of this recommendation.

Recommendation 15: Approval of performance solutions for construction building work

That each jurisdiction provides a transparent and robust process for the approval of performance solutions for constructed building work.

In the majority of cases an alternative solution is likely to have implications for how the building is to be used and maintained and for insurance contracts. It is also likely to be a variation on the original scope of works. It is therefore important that the owner be notified.

Master Builders supports this recommendation. Answers to recommendation 14 are also applicable to this recommendation.

Recommendation 16: Approval of documentation throughout the construction process

That each jurisdiction provides for a building compliance process which incorporates clear obligations for the approval of amended documentation by the appointed building surveyor throughout a project.

Master Builders agrees that there needs to be a process for any changes to an approved performance solution to be properly checked. This should be supported by better education for industry professionals on the documentation throughout the building process. Apportioning legislative responsibility to design practitioners (recommendation 13) and collective responsibility for certification throughout the building process also enhances outcomes for this recommendation.

Recommendation 17: Independent third party review

That each jurisdiction requires genuine independent third party review for specified components of designs and/or certain types of buildings.

Master Builders is opposed to mandatory third party review. This is the responsibility of the certifier and should be left to their professional judgment. A better response would be to strengthen and improve the chain of responsibility rather than add mandatory review onto the surveyor certification process. Any code of conduct developed for building surveyors as an outcome of recommendation 10 might provide guidance on when to seek and parties to consider for third party review.

Inspection Regimes (Recommendation 18-19)

Recommendation 18: Mandatory inspections

That each jurisdiction requires on-site inspections of building work at identified notification stages.

Master Builders supports this recommendation and encourages further engagement with industry on implementation.

Of particular importance, will be further developing a building inspection process that provides best practice advice to industry with of a focus on avoiding issues of compliance.

The Building Regulator Forum established to support the work of the BMF should continue to share information on approaches adopted by states and territories. Documenting the approaches adopted across jurisdictions, tracking outcomes and sharing this with industry could advance best practice for inspections.

Recommendation 19: Inspection and certification of fire safety installation

That each jurisdiction requires registered fire safety practitioners to design, install and certify the fire safety systems necessary in Commercial buildings.

Master Builders supports this recommendation.

Post-construction information management (Recommendation 20)

Recommendation 20: A building manual for commercial buildings

That each jurisdiction requires that there be a comprehensive building manual for commercial buildings that should be lodged with the building owners and made available to successive purchasers of the building.

Master Builders supports comprehensive building manuals being provided to the owner at the end of the project. This will be a more effective mechanism for ensuring a safe building for occupants than providing piecemeal information throughout the construction process.

We have concerns with the potential cost impact of this recommendation. This would be mitigated by the increased uptake of BIM. We therefore recommend government assistance with increasing take-up of this technology.

We note that some jurisdictions already require Council to retain copies of approved documentation as part of the building permit/occupancy process. Manuals might build on and be consistent with these requirements that detail for example information on performance requirements.

Building product safety (Recommendation 21)

Recommendation 21: Building product safety

That the Building Ministers' Forum agrees its position on the establishment of a compulsory products certification system for high-risk products.

Master Builders has long advocated for improved product certification across all product types and strongly supports this recommendation and acknowledges a number of processes underway to deliver on this recommendation.

Databases to assist building practitioners in their decision making would be a more proactive response and help mistakes not to be made in the first place.

Master Builders in its submission to the expert panel process recommended the development of a centralised building product certification system that provides a central store of product compliance

information and registry of building products to ensure there is certainty when establishing evidence of product suitability.

Master Builders also encourages the use of Product Technical Statements across all building products. It is a tool that can provide consistent, easy to understand information on the use of products in regulated building work. We recommend that builders and contractors request them from suppliers before accepting or installing building products. We are also working with manufacturers and suppliers to encourage their use.

In addition to this Master Builders NSW is piloting with JAS-ANZ and QualityTrade, a certified products business to business online market place with funding from the NSW Government Building Partnerships Program. The pilot is seeking to resolve the lack of digital infrastructure and a central, trusted means of confirming accredited certification of businesses and building products.

The Senior Officials Group leading work in this space around labelling of aluminium cladded products is a start towards implementing this recommendation. Master Builders recommended a more effective system for product labelling combined with consistent information on product technical statements could be adopted for high risk products but would need to be subject to cost-benefit analysis.

Outcomes from the various processes underway need to be reviewed and considered in the implementation of this recommendation.

Implementation of recommendations (Recommendations 22 to 24)

Recommendation 22: Dictionary of terminology

That the Building Ministers' Forum develop a national dictionary of terminology to assist jurisdictions, industry and consumers to understand the range of terminology used to describe the same or similar terms and processes in different jurisdictions.

Master Builders supports this recommendation. A national 'dictionary of terminology' will improve understanding across state borders and should be an outcome that is easy to achieve. We understand that this is work that has been undertaken in the past and could be used as a starting point.

Recommendation 23: Implementation of the recommendations

That the Building Minister's Forum acknowledges that the above recommendation are designed to form a coherent package and that they be implemented by all jurisdictions progressively over the next three years.

Master Builders welcomes the opportunity to participate in the process. Whilst there's a need for consistency and clarity Master Builders is conscious of reform fatigue where states have been progressively implementing reforms to respond to concerns around building quality.

Master Builders recommends BMF develop a matrix that shows consistencies and gaps across jurisdictions against recommendations in the *Building Confidence Report* that can be shared with industry. This might be a good starting point for government and industry to contemplate the scale of implementing recommendations, what recommendations could be implemented faster than others and where there is shared support for measures to be implemented.

Recommendation 24: Implementation plan

That the Building Ministers' Forum priorities the preparation of a plan for the implement of the recommendation against which each jurisdiction will report annually.

Master Builders supports this recommendation and welcomes the opportunity for industry to engage throughout the implementation period directly with BMF.

In developing the implementation plan governments must consider the impact on affordability. A rigorous cost-benefit analysis of all proposed regulatory requirements must be conducted prior to them being introduced.

Yours sincerely



Denita Wawn

Chief Executive Officer

cc Mr Mick Gentleman MLA, ACT Minister for Planning
The Hon Anthony Roberts MP, NSW Minister for Planning
The Hon Matthew Kean MP, NSW Minister for Innovation and Better Regulation
The Hon Nicole Manison MLA, NT Deputy Chief Minister and Minister for Infrastructure, Planning and Logistics
The Hon Mick de Brenni MP, Queensland Minister for Housing and Public Works
The Hon. Stephan Karl Knoll, South Australian Minister for Transport, Infrastructure and Local Government, Minister for Planning
The Hon. David James Speirs, South Australian Minister for Environment and Water
The Hon Guy Barnett MP, Tasmanian Minister for Building and Construction
The Hon Richard Wynne MP, Victorian Minister for Planning
The Hon Bill Johnston MLA, Western Australian Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement

6 July 2018

Hon Mick de Brenni MP
Minister for Housing and Public Works
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Minister for Sport
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Dear Minister,

Building Confidence: Improving the effectiveness of compliance and enforcement system for the building and construction industry across Australia

Thank you for the opportunity to provide feedback on this important review. Master Builders would like to offer the following comments on the recommendations contained in the review.

Recommendation 1: Registration of building practitioners

That each jurisdiction requires the registration of the following categories of building practitioners involved in the design, construction and maintenance of buildings:

- *Builders*
- *Site or project manager*
- *Building surveyor*
- *Building inspector*
- *Architect*
- *Engineer*
- *Designer / draftsman*
- *Plumber*
- *Fire safety practitioners*

Queensland already benefits from a comprehensive system of contractor licensing and professional registration. Specifically, the three professions identified in the report as needing to be registered are already licensed in Queensland.

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The Queensland approach can therefore serve as a model for the other states in developing 'complimentary provisions'.

There are also great benefits derived from ensuring that the accountability and regulatory oversight of architects is consistent with other categories of building practitioners. They design and specify products and in a number of instances they act as the project manager. Master Builders therefore supports change to the legislation where necessary to achieve this goal.

National consistency of registration is a sensible goal but not a priority.

Recommendation 2: Consistent requirements for registration

That each jurisdiction prescribes consistent requirements for the registration of building practitioners including:

- *certificated training which include compulsory training on the operation and use of the NCC as it applies to each category of registration;*
- *additional competency and experience requirement;*
- *where it is available, compulsory insurance in the form of professional indemnity and/or warranty insurance together with financial viability requirement where appropriate; and*
- *evidence of practitioner integrity, based on an assessment of fit-and-proper person requirements.*

From nationally consistent registration, it flows that the requirements for registration should also be nationally consistent. Again, we believe that the Queensland system of building contractor licensing and professional registration provides a workable model.

Further, we support appropriate training on the NCC being compulsory to each category of licensing and registration.

We support expanded competency and experience requirements where they are identified as being necessary.

Also important will be addressing the quality of training that underpins registration. For example, the falling quality in training that has accompanied the enormous increase in Certificate IV in Building & Construction training providers must be addressed as a priority. We recommend that jurisdictions look to introduce a formal assessment as part of the licensing process for Low Rise Builders as is currently in place in Victoria and the ACT.

We support the compulsory insurance and financial viability requirements already in place in Queensland.

Evidence of practitioner integrity by way of a fit and proper assessment has long been a requirement in Queensland and works well. Master Builders also supports the continuation of the Queensland system of minimum financial requirements for building contractors.

There is clearly a statutory role for the government in auditing and disciplining engineers, architects and building surveyors; professions where the accreditation by their industry body is

the basis of their registration. We welcome other building practitioners being held to the same high standard as construction licensees.

Recommendation 3: Continuing Professional Development

That each jurisdiction requires all practitioners to undertake compulsory Continuing Professional Development on the National Construction Code.

Master Builders has long advocated for the introduction of a targeted, compulsory CPD program for licensees. We agree that it is essential for CPD to provide for “targeted learning on topics of genuine relevance to improve the competence of practitioners”.

Similarly, we would welcome better mechanisms to identify reoccurring compliance issues to feed into the CPD system.

We are well placed and stand ready to assist in the delivery of CPD.

While we recognise it is beyond the scope of this review, it is important that any program extends beyond training on the NCC to include business management skills and help address the important problem of security of payment.

Recommendation 4: Career paths for building surveyors

That each jurisdiction establishes a supervised training scheme which provides a defined pathway for becoming a registered building surveyor.

The declining numbers of building surveyors is a concern shared by industry. We therefore support the recommendation for supervised training schemes to provide a defined pathway to becoming a building surveyor, in the expectation that it will achieve the goal of encouraging practitioners to “aspire to achieving that status”. Government incentives would be a significant benefit in this area.

Recommendation 5: Improving collaboration between regulators

That each state establishes formal mechanisms for a more collaborative and effective partnership between those with responsibility for regulatory oversight, including relevant state government bodies, local governments and private building surveyors (if they have an enforcement role).

Master Builders supports clear roles and responsibilities for state government, local governments and private building surveyors in providing regulatory oversight.

It is also important that each regulator is appropriately resourced to adequately fulfil their assigned role.

Queensland legislation already provides “provides clear statement of responsibility for each authority”.

While there is a collaborative relationship amongst regulators for the oversight of the building and construction industry, there is an opportunity to achieve better outcomes through improved collaboration across all industry stakeholders.

Recommendation 6: Effective regulatory powers

That each jurisdiction give regulators a broad suite of powers to monitor buildings and building work so that, as necessary, they can take strong compliance and enforcement action.

The QBCC now has a broad suite of powers to monitor buildings and building work with the passing of the Building and Construction Legislation (Non-conforming Building Products—Chain of Responsibility and Other Matters) Amendment Act 2017.

The exception is the power to audit the performance of practitioners registered by other bodies such as engineers and architects. Master Builders believes that all building professionals should be held to the same high standard.

Recommendation 7: Strategy for the proactive regulation of Commercial buildings

That each jurisdiction makes public its audit strategy for regulatory oversight of the construction of Commercial buildings, with annual reporting on audit findings and outcomes.

Master Builders supports the current QBCC audit strategy that is publicly available on their website. The statutory powers to take action in support of the strategy and a public register of any enforcement action are also in place.

The QBCC's Annual Report could include a report on the "outcomes and learnings" from the audits.

Recommendation 8: Collaboration with fire authorities in the development of fire safety design

That, consistent with the International Fire Engineering Guidelines, each jurisdiction requires developers, architects, builders, engineers and building surveyors to engage with fire authorities as part of the design process.

Master Builders supports the Queensland Fire and Rescue Service having an input in the building approval process. It is important that the involvement is appropriate to the project.

The Queensland system where the Queensland Fire and Rescue Service has a mandatory role as an advice agency at the building approval and building certification stages works well and we recommend that this be considered for adoption by the other states.

We are opposed to any form of mandatory involvement outside these two stages as it would not be feasible nor cost effective for either industry or the fire service.

The Queensland Fire and Rescue Service 'right of appeal' already exists through the Queensland Planning and Environment Court.

We support, in principle, a Code of Conduct for fire engineers based on the updated International Fire Engineering Guidelines.

Recommendation 9: Integrity of private building surveyors

That each jurisdiction establishes minimum statutory controls to mitigate conflicts of interest and increase transparency of the engagement and responsibilities of private building surveyors.

Controls intended to manage conflict of interest must be carefully considered as the potential for unintended consequences is great.

Building surveyors (certifiers) perform an important and clearly defined regulatory function.

Under the terms of building contracts, the builder controls the building site and the execution of the building works. Certification is an integral part of building work and therefore should remain the builder's responsibility. The builder also has the right expertise to engage and coordinate the certifier for the building works being undertaken.

Where the owner has engaged the certifier it is unrealistic to expect that they would be directed to address all issues with a project, including those of quality which are outside the regulatory function and not appropriate.

Master Builders does not support the requirement to have QBCC approval to disengage a building surveyor. While recognising the role of the certifier as the regulator, there to protect the public interest, adding QBCC approval would only add delays and costs to construction. As an alternative, we recommend that the QBCC monitor whether there are contractors abusing their role and require that certifiers notify the QBCC when they are disengaged.

We accept that the certifier cannot have another interest in the project and support some limits being put in place. At the same time there is value in the certifier advising early in the process on how to achieve compliance and this should be allowed to continue.

We support there being checks in place before accepting certificates such as Form 15s. We regularly work with our members to advise on their own checks that they should have in place and would welcome the government's support in this area. Education programs targeting improved industry knowledge and understanding on the use of Form 15s and 16s could form part of a targeted CPD program.

We support the owner receiving copies of the final documents (as per Recommendation 20). Documents should not be forwarded during construction as this can lead to unnecessary delays.

In Queensland the owner has an effective right of appeal in being able to refer any concerns with the certification to the QBCC and onto QCAT.

Recommendation 10: Code of Conduct for building surveyors

That each jurisdiction put in place a code of conduct for building surveyors which addresses the key matters which, if contravened, would be a ground for a disciplinary inquiry.

Master Builders supports a Code of Conduct for building surveyors.

In Queensland there is the “Code of conduct for building certifiers” with which they must comply and by which their performance may be measured. A breach of the Code may constitute unsatisfactory conduct or professional misconduct under the *Building Act 1975 (Section 32)*.

Master Builders also recommends that a demerit point system for building surveyors be introduced, similar to the one that exists for other licensees as another means for the Commission to address misconduct by building surveyors.

Recommendation 11: Role of building surveyors in enforcement

That each jurisdiction provides private building surveyors with enhanced supervisory powers and mandatory reporting obligations.

In Queensland building surveyors have enforcement powers to stop work in the case of noncompliant or defective work until the point of giving the final inspection certificate or certificate of classification. If the enforcement notice is not complied with the local authority must be notified. To be effective, the responsibility to prosecute these offences must sit with a local authority or a state regulator.

There is scope to strengthen requirements regarding mandatory reporting but this needs careful consideration given the complexity of commercial building. Mandatory reporting requirements also need to be matched by the regulators’ capacity to investigate and take action once a report is made. This must be achieved in a cost effective way, without adding to licensing and insurance costs borne by the contractor.

Master Builders is opposed to broad supervision powers for building surveyors as that is beyond their role as a regulator. They are not there to act as the owner’s site supervisor.

We support all efforts to assist building surveyors in carrying out their regulatory role, including training, help desks and other support.

When it comes referrals that are made to the relevant regulator, we have confidence in their ability to prioritise their own workload appropriately.

Recommendation 12: Collecting and sharing data and intelligence

That each jurisdiction establishes a building information database that provides a centralise source of building design and construction documentation.

While there is value in a centralised building information database, we expect that it can only be achieved at a significant cost. Building manuals (Recommendation 20), along with advancing the

quality of project documentation (Recommendation 13) and the take up of Building Information Modelling would be more realistic steps towards the goal of better building information.

This is also a reactive response and is only likely to address problems after mistakes have been made.

Databases to assist building practitioners in their decision making would be more proactive response and help mistakes not to be made in the first place. To this end, Master Builders has long advocated for a product certification database to help in selecting compliant building products (Recommendation 21).

Recommendation 13: Responsibility of design practitioners

That each jurisdiction requires building approval documentation to be prepared by appropriate categories of registered practitioners, demonstrating that the proposed building complies with the National Construction Code.

Master Builders has long been an advocate for quality project documentation. Quality documentation goes to the heart of build quality. We believe that if we are to get buildings right that the investment needs to be made in getting it right up front. Documentation also needs to be practical and appropriate to the project.

We recommend the document “*Getting it Right First Time*” prepared by a Queensland industry-wide taskforce as a starting point for further work in this important area.

Designers, architects and engineers must have a legislated duty to prepare documentation which demonstrates that the proposed building will comply with the NCC.

Recommendation 14: Adequate documentation for performance solutions

That each jurisdiction sets out the information which must be included in performance solutions, specifying in occupancy certificate the circumstances in which performance solutions have been used and for what purpose.

It is imperative that we get the documentation of performance solutions right, if we are to address non-compliance. We strongly support the development of a national best-practice guide for documenting performance solutions that is given legislative force.

We suggest that this recommendation be given a high priority in the implementation plan.

Recommendation 15: Approval of performance solutions for construction building work

That each jurisdiction provides a transparent and robust process for the approval of performance solutions for constructed building work.

In the majority of cases an alternative solution is likely to have implications for how the building it to be used and maintained, insurance contracts. It is also likely to be a variation on the original scope of works. It is therefore important that the owner be notified.

Including the owner will also assist in the reduction of product or system substitution by the builder.

Including a list of all performance solutions on the occupancy certificate (in Queensland the Form 11: Certificate of Classification) could be a practical way to improve documentation in this area.

Recommendation 16: Approval of documentation throughout the construction process

That each jurisdiction provides for a building compliance process which incorporates clear obligations for the approval of amended documentation by the appointed building surveyor throughout a project.

We agree that there needs to be a process for any changes to an approved performance solution to be properly checked.

Recommendation 17: Independent third party review

That each jurisdiction requires genuine independent third party review for specified components of designs and/or certain types of buildings.

We are opposed to mandatory third party review. This is the responsibility of the certifier and should be left to their professional judgment. On projects where the certifier feels it is appropriate we would support their decision.

Recommendation 18: Mandatory inspections

That each jurisdiction requires on-site inspections of building work at identified notification stages.

The current Queensland legislative requirements for mandatory inspections are adequate.

For commercial construction in Queensland “Guidelines for inspection for class 2 to 9 buildings” are already in place and should be considered in developing a national guide.

Recommendation 19: Inspection and certification of fire safety installation

That each jurisdiction requires registered fire safety practitioners to design, install and certify the fire safety systems necessary in Commercial buildings.

We support the Queensland system where licensees and registered persons design, install and certify fire safety systems in commercial buildings.

Recommendation 20: A building manual for commercial buildings

That each jurisdiction requires that there be a comprehensive building manual for Commercial buildings that should be lodged with the building owners and made available to successive purchasers of the building.

Master Builders supports comprehensive building manuals being provided to the owner at the end of the project. This will be a more effective mechanism for ensuring a safe building for occupants than providing piecemeal information throughout the construction process.

We have concerns with the potential cost impact of this recommendation. This would be mitigated by the increased uptake of BIM. We therefore recommend government assistance with increasing take-up of this technology.

Recommendation 21: Building product safety

That the Building Ministers' Forum agrees its position on the establishment of a compulsory products certification system for high-risk products.

Master Builders has long advocated for improved product certification across all product types and strongly supports this recommendation.

While addressing high-risk products is an important first step, it is also important that the system is flexible to improve product information across all products types and able to incorporate new products.

Recommendation 22: Dictionary of terminology

That the Building Ministers' Forum develop a national dictionary of terminology to assist jurisdictions, industry and consumers to understand the range of terminology used to describe the same or similar terms and processes in different jurisdictions.

A national 'dictionary of terminology' will improve understanding across state borders and should be an outcome that is easy to achieve. We understand that this is work that has been undertaken in the past and could be used as a starting point.

Recommendation 23: Implementation of the recommendations

That the Building Minister's Forum acknowledges that the above recommendation are designed to form a coherent package and that they be implemented by all jurisdictions progressively over the next three years.

We acknowledge that the recommendations are intended to form a coherent package, to be executed in their entirety over a three year period.

Seeking “national consistency whilst also empowering jurisdictions to implement change in their own way” is a practical and realistic approach.

Recommendation 24: Implementation plan

That the Building Ministers' Forum priorities the preparation of a plan for the implement of the recommendation against which each jurisdiction will report annually.

In developing the implementation plan government must consider the impact on affordability. With all of the QBCC's resources directly provided by the industry in the form of license fees and insurance premiums, any increase in resource requirements will directly add to the cost of new construction.

A rigorous cost-benefit analysis of all proposed regulatory requirements must therefore be conducted prior to them being introduced.

Thank you for the opportunity to provide input to this review. Please do not hesitate to contact me if I can provide any further information.

Regards,



Paul Bidwell
Deputy CEO

BUILDING CONFIDENCE: SHERGOLD-WEIR REPORT

SUBMISSION: MASTER BUILDERS VICTORIA

14 August 2018

Master Builders Victoria welcomes the opportunity to provide feedback on the report from Peter Shergold and Bronwyn Weir: *Building Confidence: Improving the effectiveness of compliance and enforcement system for the building and construction industry across Australia*, February 2018 (Shergold-Weir report).

Master Builders Victoria supports many of the recommendations of the review, including the need for mandatory practitioner registration and continuing professional development (CPD) as well as greater accountability for practitioners and the regulators across the whole supply chain. We make the following points by way of general comment:

1. National principles or benchmarks

We note that the Shergold-Weir report does not endorse a 'one size fits all' solution. This is consistent with our view. We agree with the statement that: *"Each jurisdiction can meet its governance responsibilities in its own manner, under the cooperative oversight of the BMF."* We also strongly support the recommendations that a national best practice model be established for aspects of the building system (e.g. mandatory trades licensing, mandatory CPD, regulator auditing processes). This should take the form of a type of benchmark without mandated rules or legislation, especially where the state laws or systems are the same or substantially similar. Each jurisdiction can then work towards those best practices according to their own requirements.

National consistency in building legislation and regulation, for example in relation to trades registration, is desirable but could take years to achieve and may be impossible in many cases. We recommend that all states work towards a nationally consistent approach, whether through benchmarks or their own legislative reforms. In Victoria we would be concerned that progress with regulatory system improvements in this state might be reversed. We have long been lobbying for mandatory trades registration and would not like progress to be stalled by new requirements for national consistency.

2. Focus on best practice and an ambulance 'at the top of the cliff.'

In relation to recommendations about regulatory powers, the Victorian Building Authority (VBA) has been given many powers of inspection, entry, discipline etc. Master Builders Victoria considers that even with significant powers the VBA was unaware of the scale and impact of a major industry challenge like non-complaint cladding. This originated as a technical knowledge issue, not in respect of ineffectual powers and controls. The solution to industry challenges does not lie in giving regulators more powers. The answer is to provide more resources to educate and gather intelligence. This can then be provided as guidance to industry about potential trends or emerging issues. The Victorian Cladding Taskforce

recommended a State Building Inspector be appointed within the VBA as a leading expert to provide the very best technical knowledge. We support this recommendation and consider this could be one of the best practices in the systems across the country. The State Building inspectors could also share intelligence to ensure that the issues around compliance are avoided in the future.

In 2018 significant changes to the Building Act 1993 and building regulations were enacted in Victoria. The legislation included changes such as additional mandatory inspections related to fire and pool safety and increased obligations on building surveyors with respect to conflict of interest. The legislative changes in Victoria align with a number of the recommendations raised in the Shergold-Weir report. While we still see significant value in the report the Victorian changes are a good example of state-based solutions in action. The recent enactment of this legislation also illustrates where mandated national consistency in laws would be costly and inefficient.

3. Importance of the whole value chain in building and construction

The solution to many of the issues facing the building industry do not lie in increasing accountability at the end of certification process. There is a risk that overloading one category of building professional, such as surveyors, will merely exacerbate existing pressure points and create unrealistic expectations and liability concerns. We believe the entire certification process from beginning to end needs to be a strong chain of skilled building professionals relying on each other's professional assessments and mutual assurance. There are numerous professionals in the certification chain, at very least suppliers, designers and architects but also other groups such as disability consultants, fire inspectors and energy raters. If we want to aim for a best practice certification process, the responsibility of all professions in the chain should be considered.

Master Builders Victoria also endorses the Master Builders Australia submission, but has specific responses in relation to the Victorian system. Master Builders Victoria's responses to individual recommendations are contained in the following document.



Recommendation 1: Registration of building practitioners

That each jurisdiction requires the registration of the following categories of building practitioners involved in the design, construction and maintenance of buildings:

- *Builders*
- *Site or project manager*
- *Building surveyor*
- *Building inspector*
- *Architect*
- *Engineer*
- *Designer / draftsman*
- *Plumber*
- *Fire safety practitioners*

In Victoria there is a system of registration that captures most of the categories referenced in the Shergold-Weir report but there are key categories of tradesperson such as carpenter, bricklayer and waterproofer that the report does not reference. Master Builders Victoria has lobbied for a system of mandatory trades registration based on the existing DB-L categories of registration, to ensure that greater skill, safety and quality outcomes are delivered in the industry. In addition, greater accountability should be developed for practitioners across the supply chain such as suppliers, designers and architects.

Consistent with point 1 at the beginning of this submission, national consistency of registration is a sensible goal but not a priority.

Recommendation 2: Consistent requirements for registration

That each jurisdiction prescribes consistent requirements for the registration of building practitioners including:

- *certificated training which include compulsory training on the operation and use of the NCC as it applies to each category of registration;*
- *additional competency and experience requirement;*
- *where it is available, compulsory insurance in the form of professional indemnity and/or warranty insurance together with financial viability requirement where appropriate; and*
- *evidence of practitioner integrity, based on an assessment of fit-and-proper person requirements.*

Consistent with our point 1 at the beginning of this document, we strongly support the development of best practices. This would require jurisdictions to have mandatory practitioner registration for key categories. Consistency of system and implementation is desirable but it is not a priority.

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Master Builders Victoria supports existing skills and qualifications testing systems as well as other tests such as fit-and-proper person and financial viability within the Victorian building practitioner registration system. This is already set up to register building practitioners including Domestic Builder Limited (DB-Ls) but certain categories do not at present require mandatory registration. Master Builders Victoria has been lobbying for the introduction of mandatory trades registration (e.g. DB-Ls like carpenters, waterproofers etc)

Also important will be addressing the quality of training that underpins registration. For example, the falling quality in training that has accompanied the enormous increase in Certificate IV in Building & Construction training providers must be addressed as a priority. Industry training RTOs like Master Builders Victoria should be recognised across the country for the superior deliverables and outcomes they provide. Further, we support appropriate training on the NCC being compulsory to each category of registration.

Master Builders Victoria has established the Building Leadership Simulation Centre (BLSC), one of three in the world. The centre provides a controlled simulation environment that accelerates learning through the immediate application of skills and knowledge. This dramatically improves learning retention while eliminating the risks inherent in a real-world setting, such as injury, cost and damage to future business. For industry to flourish we need to be embracing the innovation from industry itself and more heavily utilising the BLSC.

There is clearly a statutory role for the government in auditing and disciplining architects and professions where accreditation by their industry body is the basis of their registration. We welcome other building practitioners being held to the same high standard as registered building practitioners.

Recommendation 3: Continuing Professional Development

That each jurisdiction requires all practitioners to undertake compulsory Continuing Professional Development on the National Construction Code.

Master Builders Victoria has long advocated for the introduction of mandatory CPD programs for registered practitioners – which would include but not be limited to appropriate NCC topics. We agree that it is essential for CPD to provide for “targeted learning on topics of genuine relevance to improve the competence of practitioners”.

One of the continuing frustrations for builders throughout Australia, particularly small businesses, is the lack of free access to all Australian building codes and standards. While we note the NCC is now available on the ABCB website there are a range of codes that require subscriptions for access. Not only does this hamper easy compliance with regulation, the codes are regulatory instruments and should be freely available to those working to observe them.

Similarly, we would welcome better mechanisms to identify reoccurring compliance issues to feed into the CPD system – such as the State Building Inspector role outlined in Point 2 on the first page of this submission.

We have been working with the VBA to develop a system of CPD for builders and tradespeople – and stand ready to support its implementation.

Recommendation 4: Career paths for building surveyors

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That each jurisdiction establishes a supervised training scheme which provides a defined pathway for becoming a registered building surveyor.

The declining numbers of building surveyors is a concern shared by industry. In Victoria, there is a great concern that whilst there is a pathway to becoming a registered practitioner there are a lack of trainers and providers available and disincentives to entering the career path because of insurance and other pressures upon surveyors. This issue needs addressing urgently including provision of Government incentives.

Registered training organisations like Master Builders can play a role in providing a solution to these skill shortages and we encourage governments at all levels to consider opportunities for meaningful partnership with industry in training.

Recommendation 5: Improving collaboration between regulators

That each state establishes formal mechanisms for a more collaborative and effective partnership between those with responsibility for regulatory oversight, including relevant state government bodies, local governments and private building surveyors (if they have an enforcement role).

Master Builders Victoria supports clear roles and responsibilities for state government, local governments and private building surveyors in providing regulatory oversight. It is also important that each regulator is appropriately resourced to fulfil their assigned role.

While there is a collaborative relationship amongst regulators for the oversight of the building and construction industry, there is an opportunity to achieve better outcomes through improved collaboration across all industry stakeholders.

In addition, there is a role as outlined in Point 2 on the first page of this submission – for State Building Inspectors to play an information sharing and educative role across the country.

Recommendation 6: Effective regulatory powers

That each jurisdiction give regulators a broad suite of powers to monitor buildings and building work so that, as necessary, they can take strong compliance and enforcement action.

The VBA has a broad suite of powers to monitor buildings and building work, which have been enhanced through the amendments to the *Building Act 1993* and the implementation of the *Building Regulations 2018*.

The exception is the power to audit the performance of practitioners registered by other bodies such as architects. Master Builders Victoria believes that all building professionals should be held to the same high standard.

Although Master Builders Victoria supports compliance standards in the construction industry it does consider that regulators must improve quality of communication with industry and technical and operational knowledge in order to better communicate with the industry generally.



We do not consider that expansion of enforcement powers is the ultimate solution to improved outcomes. Enforcement is an ‘ambulance at the bottom of the cliff’ solution because it is slow to identify systemic problems and focuses on after-the-fact compliance. In addition, there is little in the proposed enforcement powers proposed in the report that does not already exist in Victoria.

The report recognises the challenges facing the building industry and the supply chain is systemic. A more contemporary approach by government is to recognise that the ‘ambulance at the top of the cliff’ is a consultative, industry partnership approach with the building industry.

Recommendation 7: Strategy for the proactive regulation of Commercial buildings

That each jurisdiction makes public its audit strategy for regulatory oversight of the construction of Commercial buildings, with annual reporting on audit findings and outcomes.

Master Builders Victoria supports a more transparent audit strategy as well as reporting strategically about the “outcomes and learnings” from inspections by the VBA. In particular, commercial and multi-story residential buildings need to be given more focus by the VBA.

The VBA currently conducts proactive inspections as does Consumer Affairs Victoria and WorkSafe relevant to their areas of expertise. Master Builders Victoria welcomes proactive inspections and audit processes as part of quality assurance within the system. We also note the findings of the Victorian Cladding Taskforce which was taken up by government to require the VBA to inspect more of Victoria’s buildings each year, from less than 2% of buildings to up to 10%.

Recommendation 8: Collaboration with fire authorities in the development of fire safety design.

That, consistent with the International Fire Engineering Guidelines, each jurisdiction requires developers, architects, builders, engineers and building surveyors to engage with fire authorities as part of the design process.

Master Builders Victoria supports fire authorities having an input in the building approval process. It is important that the involvement is appropriate to the project. In Victoria, in addition to a certification process there are systems in place for consultative meetings between fire authorities, architects, builders, engineers and building surveyors to consider compliance with safety design.

We believe the apparent diminishment of technical operational expertise within regulators and the significant strain on building surveyors may be partly alleviated by such advisory services. However, if a number of advisory services exist within a jurisdiction they should be co-ordinated and the limits of their authority/liability must be clear to industry.

Recommendation 9: Integrity of private building surveyors

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That each jurisdiction establishes minimum statutory controls to mitigate conflicts of interest and increase transparency of the engagement and responsibilities of private building surveyors.

Controls intended to manage conflict of interest must be carefully considered as the potential for unintended consequences is great. Building surveyors (certifiers) perform an important and clearly defined regulatory function in Victoria.

Recent reforms in Victoria have been undertaken to require the owner to engage the building surveyor whilst the builder has the right to coordinate the surveyor for the building works being undertaken. Conflict of interest provisions for surveyors were enhanced in 2018 with a related party prohibition. Building surveyors are registered practitioners with the VBA and therefore are subject to the disciplinary process within the Victorian system.

Ensuring that surveyors are given information and have appropriate CPD requirements would also ensure the skills and quality of building surveyors is delivered.

Recommendation 10: Code of Conduct for building surveyors

That each jurisdiction put in place a code of conduct for building surveyors which addresses the key matters which, if contravened, would be a ground for a disciplinary inquiry.

In Victoria, industry associations for practitioners – like Master Builders – have Codes of Conduct for their members. Additionally, there are significant legal requirements imposed on registered practitioners, as well as disciplinary and dispute resolution processes. Ensuring the practitioner registration and legal obligations are understood by registered practitioners, should be the primary focus of reforms.

Recommendation 11: Role of building surveyors in enforcement

That each jurisdiction provides private building surveyors with enhanced supervisory powers and mandatory reporting obligations.

Master Builders Victoria is opposed to broadened supervision responsibility for building surveyors because surveyors are not appointed to act as the owner's site supervisor and should not carry out duties akin to a project manager.

Aside from proposed mandatory reporting requirements, it is difficult to see what enhanced supervisory powers are contemplated by the review. Consistent with point 4 at the beginning of our submission building surveyors are not the only link in the chain of the certification process. We have concerns that more obligations and will also burden to a profession that is currently reporting considerable pressure and future skill shortage.

Recommendation 12: Collecting and sharing data and intelligence

That each jurisdiction establishes a building information database that provides a centralised source of building design and construction documentation.



We support the better coordination of information but the cost/benefit of this proposal should be taken into account against higher priority matters in the report.

We note that the Australian Boards Building Code certified products register and the Codemark Scheme already exist at a national level and recommend that the review take this into account when considering the merits of a jurisdiction by jurisdiction option. Master Builders Australia outlines the information and certification model that might be considered in this context.

Recommendation 13: Responsibility of design practitioners

That each jurisdiction requires building approval documentation to be prepared by appropriate categories of registered practitioners, demonstrating that the proposed building complies with the National Construction Code.

Quality project documentation is the basis for build quality. Low quality documentation leads to inefficiency, cost overruns, and adversarial behaviour.

We also consider there is merit in introducing CPD for designers and other professions around regulatory compliance which would help reduce heavy reliance on surveyors during the process.

Recommendation 14: Adequate documentation for performance solutions

That each jurisdiction sets out the information which must be included in performance solutions, specifying in occupancy certificate the circumstances in which performance solutions have been used and for what purpose.

This matter has been appropriately addressed in Victoria as part of the recent changes to legislation (see particularly regulation 38 of the Building Regulations 2018 and referenced on Form 16 of the regulations.)

Recommendation 15: Approval of performance solutions for construction building work

That each jurisdiction provides a transparent and robust process for the approval of performance solutions for constructed building work.

Please see answer in Recommendation 14 (above)

Recommendation 16: Approval of documentation throughout the construction process

That each jurisdiction provides for a building compliance process which incorporates clear obligations for the approval of amended documentation by the appointed building surveyor throughout a project.

This is another example of our point 4 at the outset of this submission relating to the collective responsibility for certification throughout the process. We agree that documentation must be clear throughout the process but consider the building surveyor is only one link in an overall process, albeit a critical one. Better education on



documentation is a priority for all building industry professionals to understand the relevance and importance of documentation at all stages in the process.

Recommendation 17: Independent third party review

That each jurisdiction requires genuine independent third party review for specified components of designs and/or certain types of buildings.

We are opposed to mandatory third party review and prescribing where types or designs of buildings must be subject to third party review. The discretion to determine third party review should be left to professional judgment which is a better than trying to mandate on the basis of complexity or in relation to design or type of building. This recommendation is also relevant to our point 4 at the outset of this paper and we consider it preferable to strengthen and improve the chain of responsibility, rather than add mandatory review onto the surveyor certification process.

Recommendation 18: Mandatory inspections

That each jurisdiction requires on-site inspections of building work at identified notification stages.

The mandatory certification stages for building work have been changed in Victoria to meet this requirement in 2018. It is understood these changes were based on risk as they vary for different classifications of building work.

Recommendation 19: Inspection and certification of fire safety installation

That each jurisdiction requires registered fire safety practitioners to design, install and certify the fire safety systems necessary in Commercial buildings.

We support the recommendation that the Fire Engineer certify the proposed fire safety system and inspects and certifies that the works on site comply with the designs.

Recommendation 20: A building manual for commercial buildings

That each jurisdiction requires that there be a comprehensive building manual for Commercial buildings that should be lodged with the building owners and made available to successive purchasers of the building.

We understand that Regulation 49 of the Victorian building regulations requires that a copy of the approved documentation as part of the building permit/occupancy process is maintained by councils until such time as the building is demolished or removed. Given that the ownership of a building can readily change it reasonable that council be the document holder.



Recommendation 21: Building product safety

That the Building Ministers' Forum agrees its position on the establishment of a compulsory products certification system for high-risk products.

Master Builders Victoria supports this position. We recommend the review specifically consider the role of manufacturers who can be reluctant to provide appropriate data that demonstrates compliance and construction appropriate requirements. Master Builders Victoria recommends it be mandated that manufacturers allow industry access to this data. In the alternative we recommend that government creates a register of certified products with consistent accreditation documentation for industry assessment and review. This should be considered in the context of a national system as part of the BMF process (and the Master Builders Australia submission highlights a process for this).

Recommendation 22: Dictionary of terminology

That the Building Ministers' Forum develop a national dictionary of terminology to assist jurisdictions, industry and consumers to understand the range of terminology used to describe the same or similar terms and processes in different jurisdictions.

We support this kind of initiative as another step toward a consistent national terminology for building – to the extent it doesn't create further complications (e.g. licensing vs. registration might mean the same thing in different jurisdictions).

Recommendation 23: Implementation of the recommendations

That the Building Minister's Forum acknowledges that the above recommendation are designed to form a coherent package and that they be implemented by all jurisdictions progressively over the next three years.

We specifically reference our point 1 at the outset of this submission and the acknowledgement by the review that one size will not fit all. Master Builders Victoria supports a national initiative toward best practice but considers elements of the process must be discretionary and jurisdictions must have the option to make their best choices when looking at the overall scheme. We would prefer to identify areas of commonality to work toward (such as Recommendations 21 and 22) and areas in which compliance is substantially achieved and would otherwise be duplicated (for example conflict of interests legislation for building surveyors).

It must be acknowledged that the legislation in Victoria has only recently been re-drafted and implemented. Those new provisions address a significant number of the recommendations in the Shergold-Weir report.

Recommendation 24: Implementation plan

That the Building Ministers' Forum priorities the preparation of a plan for the implement of the recommendation against which each jurisdiction will report annually.

We agree that an implementation plan is a sensible next step, subject to our comments that we prefer to identify areas of commonality to work toward and ensure we do not duplicate areas in which compliance is substantially achieved through state based legislation.

