

## **Proposed Improvements to the *Building Regulations 1994***

Information on the Regulatory Impact Statement process  
prepared for stakeholder forum on 17 February 2003



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## 1. Background

Research undertaken by the Building Commission, in conjunction with stakeholders, during 2002 has identified a number of specific issues in terms of the ability of elements of the regulations to achieve their underlying objectives. As a result, it is considered that there is a probable need for substantive regulatory changes in relation to five elements of the Building Regulations 1994. These are:

- Smoke alarm requirements in respect of Class 1b, Class 3 and Class 9a<sup>1</sup> buildings constructed prior to August 1997;
- Fire safety standards in shared accommodation buildings;
- Regulatory requirements in relation to the maintenance of essential services, as set out in Part 11 of the Building Regulations 1994;
- Swimming pool barriers for existing Class 2 and 3 buildings;
- Exemptions from building practitioner registration requirements for re-blockers and re-stumpers solely undertaking domestic building work under the value of \$5000.

Initial work conducted by the Building Commission, including preliminary stakeholder consultations, has led to the formation of currently preferred positions in relation to addressing the above issues. However, these remain subject to change as a result of further stakeholder input.

***Input from stakeholders is sought to assist in the decision-making process leading to the finalisation of the regulations. In addition to the stakeholder seminar, written comments or submissions will be received until [7 March 2003].***

## 2. Regulatory amendments and RIS requirements

If it is determined that the above issues require changes to the Building Regulations 1994, a Regulatory Impact Statement (RIS) will need to be prepared in relation to the regulations. This is required by the *Subordinate Legislation Act 1994* for all substantive regulation. The attached appendix (Appendix 2) provides details concerning the RIS process. In brief, an RIS must assess the costs and benefits of all proposed regulations and compare them with the likely costs and benefits of all feasible alternatives to the regulations. Thus, stakeholder input is sought in relation to the likely costs and benefits of making changes in the above areas. Such material would assist the Building Commission in determining the feasibility of changes in these areas and in preparing an RIS, were regulatory changes to be proposed.

Where existing regulations are being amended or replaced, the RIS is generally required to consider the costs and benefits of the proposed new regulations on an *incremental* basis. That is, it is not necessary to assess all the costs and benefits of the proposed

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<sup>1</sup> Relevant building classifications from the Building Code of Australia are set out in Appendix 1.

regulations. Instead, it is sufficient to show how these costs and benefits vary from those currently incurred as a result of the existing regulations.

This examination of incremental effects should include both substantive requirements (i.e. what must be done to comply with the regulations themselves) and procedural or administrative issues (i.e. the accompanying “red tape” requirements).

Given these requirements, any RIS in respect of proposed regulatory changes would focus on the differences between the existing requirements in each area and the proposed requirements.

### **3. Main regulatory changes – current preferred option**

As noted above, initial analysis conducted by the Building Commission has led to preferred positions being identified in relation to the five main regulatory objectives, subject to further consultation with stakeholders and additional benefit/cost analysis being conducted. This document sets out the proposed approach to analysing the impacts of each of these preferred options and some initial estimates of the costs, where available. Comments are sought from stakeholders in particular in relation to the following issues:

- Whether the proposed approach to analysing the benefits and costs of the changes is sufficiently comprehensive;
- If not, what other issues ought to be taken into consideration;
- Whether the proposed data sources and methods of estimation are appropriate; and
- If not, what other data sources are available or other methods of analysis might be employed.

In particular, any data stakeholders may be able to provide to assist the analytical process is sought. Data will be kept confidential where requested.

#### ***Identification and analysis of alternatives***

As noted above, the RIS to be completed if proposed regulatory changes are put forward must identify and assess all feasible alternative means of achieving the regulatory objectives. Given the fact that the elements of the current Regulations identified as being in need of improvement represent a disparate set of discrete changes to the existing regulations, the identification and analysis of alternatives will be conducted on a “regulation by regulation” basis. In relation to a number of these issues, it is not anticipated that any feasible alternatives will be able to be identified. Where alternatives have been identified to date, they are noted in the following discussion of the main substantive regulatory proposals. Stakeholders are requested to assist by identifying additional alternatives where possible.

### **3.1. Improving smoke alarm requirements – Classes 1b, 3 and 9a buildings**

It is considered that existing smoke alarm requirements in relation to Classes 1b, 3 and 9a buildings are not wholly adequate. The currently preferred option in relation to this problem is to amend the regulations to require hard-wired smoke alarms or a smoke detection system to be fitted to all Class 1b and Class 3 buildings as well as all Class 9a residential care buildings. There are currently no retrospective smoke alarm requirements in relation to Class 9a buildings constructed before August 1997, while the existing requirement for Class 1b and 3 buildings constructed prior to that date is only for the installation of battery powered alarms. The effect of the change would be to raise the minimum requirement for pre- August 1997 buildings in these Classes to a level consistent with that applicable to post- August 1997 Class 1b, 3 and 9a buildings.

Data on the number of buildings affected is likely to be estimated via reference to the total stock of these buildings. Estimates of the average cost of compliance have been supplied by the Metropolitan Fire Brigade. The MFB obtained information from three industry sources, plus one published source. These sources indicated a total (supply and fit) price for installation of a single hard-wired smoke detector of between \$189 and \$235. The average cost calculated was \$208. Installation of subsequent units can be expected to be less expensive, due to scale economies. However, the minimum cost of the smoke detector itself is estimated at \$82.50.

The number of units required per building must be estimated with regard to the requirements of the relevant Practice Note to be issued by the Building Commission. In general terms, this requires the following:

- For Class 1b buildings, a single alarm must be located between “each area containing bedrooms and the remainder of the dwelling”. Alarms must be located on each storey of the building.
- Class 3 buildings must comply with the provisions for Class 1 and 2 buildings *and in addition* must have a smoke alarm installed in all other habitable rooms. In public lobbies etc, smoke alarms must be installed not more than 5m from any wall and there must not be more than 10m between detectors.

It should be noted that the total number and placement of smoke alarms that would be required under this proposal is identical to that currently required in respect of battery powered alarms for Class 1b and Class 3 buildings. Thus, for currently complying buildings in these classes, the requirement will be to replace existing battery powered alarms with hard-wired alarms.

Available data on the current incidence of smoke alarms in Class 9a residential care buildings is only partial, but suggests that, for at least some use categories within Class 9a, there is already a high level of compliance with the proposed requirement. In particular, MFB data, based on call-outs to fire incidents, indicate that there is a high level of fitment of smoke alarms in Class 9a nursing homes: of 58 incidents recorded, 50 premises were fitted with smoke alarms, while only 1 of the 50 used a battery only smoke alarm. This suggests that the additional compliance costs of the regulation may be quite low in this part of the sector. However, it is likely that other Class 9a buildings have lower

penetration rates for hard-wired alarms and so may incur substantially higher compliance costs.

### **Alternatives**

The main alternatives for discussion in the RIS are the options of relying on battery-operated smoke alarms and the option of mandating alternative fire safety measures.

### **Questions:**

- *Are there other options that should also be considered?*
- *What are your views on the appropriateness of these options, vis-à-vis the currently preferred option of requiring hard-wired smoke alarms?*
- *What are your views on the likely average costs of installing hard-wired smoke alarms? Alternatively, if you own an affected building or buildings, can you estimate the costs that are likely to be incurred in relation to your buildings?*
- *Is it likely to be a feasible and useful approach to estimating these costs to use a “model building”, as discussed below in relation to sprinkler installation.*

## **3.2. Improving fire safety in shared accommodation buildings**

Recent events, including the Childers backpackers' hostel fire, suggest that level of fire safety required by the regulations in shared accommodation buildings is not adequate. The currently preferred solution in this regard is to regulate to mandate the fitment of sprinkler systems in all shared accommodation buildings. This proposal is recognised as being likely to be the single most costly (therefore important, in RIS terms) potential change to the regulations. Data on sprinkler costs have been received from several sources. First, the MFB has provided data on the average cost per unit area of retro-fitting sprinklers and on the incidence and consequences of fires in sprinklered and unsprinklered buildings of the relevant types.

Second, a recently prepared RIS from Queensland has derived a “model building” for use in estimating likely sprinkler installation costs, as well as a range of data on the benefits of different fire safety initiatives (including sprinkler installation, either alone or in combination with other measures).

Third, research has been undertaken by the consultant, in consultation with MFB and Building Commission staff, to provide estimates of the likely number of premises affected.

### **Cost of sprinkler installation – data sources**

The Queensland RIS' cost estimates were based on a “model premises”, which was developed following a review of around 40 premises (initially identified by a survey) and a more detailed analysis of the characteristics of 6 of those premises<sup>2</sup>. The “model premises” was determined to have 20 rooms and a residential area of 360m<sup>2</sup>. The per

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<sup>2</sup> Phone conversation with Bruce Robb, Queensland Department of Local Government and Planning, 10 September, 2002.

premises cost of sprinkler installation can therefore be estimated using this “model premises”.

The Melbourne Metropolitan Fire and Emergency Services Board (MFESB) has prepared a document entitled *Cost of Installing Residential Sprinkler Systems*<sup>3</sup>, which cites and analyses a number of different cost estimates in order to arrive at a “best estimate” of the cost of retrofitting residential sprinkler systems of \$30/m<sup>2</sup>. Estimates cited ranged from a low of \$12/m<sup>2</sup> – as used in the Queensland RIS – to a United Kingdom based estimate of \$46/m<sup>2</sup>. However, the latter figure was not regarded as indicative in an Australian context, due to significantly different cost structures in the United Kingdom. The former figure of \$12 was also found to be too low in the context of Queensland stakeholder consultations. The remaining estimates cited by the MFESB are substantially closer to the final estimate of \$30/m<sup>2</sup>.

The MFESB estimates that sprinklers are currently fitted in 40 per cent of multi-storey budget accommodation premises. Multi-story budget accommodation premises – which would be affected by the proposed regulations – make up approximately 87 per cent of all budget accommodation premises.

### **Average cost per premises**

The average cost to this group can be calculated by applying the Queensland “model premises” to the MFESB estimate of the cost per square metre of sprinkler installation. If it is presumed that each premises has a “residential area” of 360 m<sup>2</sup> on average, and that the base case cost estimate of sprinkler installation is equal to \$30 per m<sup>2</sup> then the expected installation cost per premises is equal to:

$$360 \times 30 = \$10,800.$$

### **Sensitivity analysis**

Sensitivity analysis can be conducted with regard to the cost per unit area of the sprinkler systems. *Applying the estimates used in the Queensland RIS, of \$12 per m<sup>2</sup> would reduce the average installation cost of a sprinkler system to \$4,320 per premises.* This can be considered to be a lower bound estimate. However, as noted above, discussions with Queensland officials indicate that consultation comments strongly suggested that these estimates were too low, with a *likely average cost of installation in the range of \$5,000 to \$7,000 per premises.*

An upper bound estimate can be obtained by applying the UK based estimate of \$46 per m<sup>2</sup>, cited in the MFESB document. This would imply an average installation cost of \$16,560 per premises. However, MFESB regards this figure as inapplicable to Australia, given substantially different costs – partially due to exchange rate differences – between Australia and the United Kingdom.

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<sup>3</sup> *Cost of Installing Residential Sprinkler Systems* Mark Swiney. MFESB, Melbourne, September 2002.

### ***Number of premises affected***

Estimates of the total costs of the sprinkler requirements require estimation of the number of premises likely to be affected. A search of the Yellow Pages on-line directory provides the following categories likely to be affected, with the numbers of premises in parentheses:

1. Backpackers' accommodation (98 premises).
2. Special accommodation homes (334 premises).
3. Retirement villages (200 premises).
4. Homes and hostels (497 premises).
5. Nursing homes (430 premises).
6. Hotels (non-metropolitan)<sup>4</sup> (913 premises).

The total number of premises in these six accommodation types is 2,472. This can be benchmarked against the number of premises identified in Queensland in the course of preparing their 2001 RIS in relation to fire safety in budget accommodation<sup>5</sup>. The Queensland total was 1,431 premises. Given the comparative size of the Victorian and Queensland economies, these data seem to be broadly consistent, both in total and in terms of the breakdown between categories.

Thus, the number of premises potentially affected by the regulations is 2,472. However, both Special Accommodation Homes and Nursing Homes are currently required to be sprinklered and so would not be affected by the proposal. Moreover, it is likely that a substantial proportion of the non-metropolitan hotels would be unaffected because they have no rooms accommodating three or more persons and would not accommodate more than twelve persons in total. In the absence of specific data, it is assumed that one quarter of non-metropolitan hotels will fall into this category. Thus, 228 premises will fall outside the ambit of the proposal. When this number, plus the total of 764 Special Accommodation Houses and Nursing Homes is subtracted, a possible total of 1,480 premises remains that would potentially be affected. It is assumed that all premises in the remaining categories are likely to be affected. However, applying the above estimate that only 87 per cent of premises in the budget accommodation categories are multi-storey will further reduce the number of affected premises to 1,288.

Of this group, the MFESB data suggests that 40 per cent already have sprinklers installed<sup>6</sup>. *Thus, the number of premises potentially affected by the proposed regulatory change would be 773.*

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<sup>4</sup> It has been assumed that no metropolitan (i.e. Melbourne) hotels provide accommodation

<sup>5</sup> *Regulatory Impact Statement: Proposed Amendments to Building Fire Safety Legislation in Budget Accommodation*. Department of Local Government and Planning, Government of Queensland, July 2001.

<sup>6</sup> It is assumed that budget accommodation premises with sprinklers installed are no less likely to yield calls to the MFB than those without sprinklers. Given that MFESB data indicates that many calls are to relatively small fires, and that 40% of calls are to sprinklered premises, this assumption seems sustainable.

Thus, if 773 premises are affected, the likely one off cost of installing sprinklers would total:

$$773 \times \$10,800 = \$8,348,400$$

### **Alternatives**

The discussion of alternatives will draw heavily on the relevant Queensland RIS, which identified a range of options combining different actions to improve overall fire safety performance. These options are:

- Implement a **comprehensive fire safety framework**, based on the BCA prescriptive life safety requirements and embracing engineering, fire resistance, egress and fire fighting equipment requirements. This option is assessed by Queensland authorities as likely to be 90% effective in achieving life safety and 95% effective in achieving property protection.
- Require compliance with **BCA performance life safety requirements**. This would rely on installation of a sprinkler system in preference to upgrading fire resistance of building elements and would be supplemented by suitable egress, early warning and fire fighting equipment requirements. (Estimated as 95% effective in achieving life safety and 85% effective in property protection).
- Install a sprinkler system, fire fighting equipment and early warning, together with emergency lighting to assist egress. (Estimated as 85% effective in achieving both life safety and property protection).
- Provide suitable egress, fire fighting equipment and early warning systems only. (Estimated 65% effective in achieving life safety and 45% effective in terms of property protection).
- Provide exit lighting and early warning (i.e. hard wired alarms) only. (Estimated 60% effective in achieving life safety and 20% effective in terms of property protection).

### **Questions**

- *Do you believe that the above estimates fairly reflect the costs that would be incurred if regulations were to require fitment of sprinklers in shared accommodation buildings?*
- *If not, what are your views on the likely costs of such a regulatory change?*
- *Do you believe that the likely costs of mandating the installation of sprinklers are feasible and proportionate, given the need to improve fire safety in these buildings?*
- *Do the alternatives foreshadowed above for consideration constitute the full range of feasible alternatives for improving fire safety in shared accommodation buildings?*
- *If not, what additional alternatives should be considered?*
- *What do you believe to be the most appropriate option for improving fire safety in shared accommodation buildings?*

### **3.3. Improving requirements in relation to the maintenance of essential services**

It is considered that there are a number of deficiencies in relation to the current regulatory requirements for demonstrating the maintenance procedures carried out on buildings' essential services. The preferred proposal in relation to this objective is to insert a new Part 11 of the regulations, covering the maintenance of essential services. The proposed new Part 11 is substantially different in appearance to the existing Part. However, the changes largely constitute clarifications of existing requirements and changes that are consequential on other regulatory amendments. In the aggregate, the Building Commission believes that the substitution of the new Part 11 will have little or no net cost impact, by comparison with the existing Part 11. The following summarises the identified deficiencies, the options considered and the proposed changes. :

#### **Issue 1**

The adoption of different Essential Services requirements (in Part 11 of the Building Regulations 1994) for buildings constructed after May 1994 (Division 1 buildings) and those constructed before May 1994 (Division 2 buildings) can create uncertainty for building owners/occupiers. Problems arise where owners and facility managers have buildings required to comply with both Divisions and /or buildings built prior to 1994 with alterations or additions carried out post 1994. It is often unclear which requirements must be met in particular situations. Delineating which parts of a building are subject to Division 1 requirements and which parts are subject to Division 2 can be virtually impossible, especially in the case of larger buildings that have had many alterations or additions over time.

#### **Options**

- Provide explanatory material to assist in minimizing confusion.
- Remove the distinction between Division 1 and Division 2 buildings for Part 11 purposes and have uniform requirements for all buildings.

#### **Preferred Option**

- No longer differentiate between the old Division 1 and Division 2. This would imply that:
  - An annual Essential Services Report would be required (Form 15) for all buildings.
  - Where alterations/additions were carried out, a Schedule of Essential Services would be issued at Occupancy Permit/Certificate of Final Inspection stage, which would relate to the entire building.

## **Issue 2**

Inspectors are frequently unable to inspect all passive essential services due to those passive essential services being covered over or inaccessible. Current regulations require those passive measures to be inspected, notwithstanding that inspection is not feasible in such cases.

### **Options**

- Do nothing.
- Distinguish between passive measures that can be inspected and maintained and those that are not.
- Do not require an inspection of any passive essential services.

### **Preferred Option**

- Distinguish passive essential services that can and cannot be inspected and maintained; and.
- Provide that only those passive essential services that are readily accessible (i.e. not covered over or otherwise inaccessible) are required to be inspected.

## **Issue 3**

Exits are often blocked by occupiers. Owners are unable to control the day to day actions of occupiers, while the existing Part 11 places the onus for keeping exits clear on the building owner.

### **Options**

- Do nothing. Owners would remain responsible for keeping exits clear.
- Make occupiers responsible.
- Make both occupiers and owners responsible.

### **Preferred Option**

- Make both occupiers and owners responsible and allow discretion to the inspector to determine who is responsible for specific breaches at the time of detection of the breach.

## **Issue 4**

Any alteration or addition to a building or any change of occupancy requires maintenance of new essential services to be specified. This results in the “Wall of Certificates” over time, highlighting the regulations’ current inability to consolidate requirements or align inspections.

### **Options**

- Do nothing.
- Provide a methodology for consolidation.

### **Preferred Option**

- Provide a methodology for consolidation, including checks and balances to ensure that the system is not abused for the purpose of reducing requirements. One possible methodology would be to constitute the maintenance requirements as a schedule of Essential Services, which would be attached to the Occupancy Permit or CoFI, but would allow for consolidation as it would remain a separate document.

### **Issue 5**

Poorly prepared or incorrect Occupancy Permit conditions or determinations are being reported when follow on inspections are undertaken. The Act and regulations currently contain no flexibility to amend or correct Occupancy Permit conditions or requirements after the issue of the Occupancy Permit. However, separating the maintenance of essential services requirements as an attached Schedule, as proposed in Issue 4 above, would address this issue without the need for legislative amendment.

### **Options**

- Do nothing.
- Provide for the update and rectification of essential services requirement via the creation of a separate Schedule of Essential Services, with checks and balances to ensure that this is not abused.

### **Preferred Option**

- Provide for maintenance requirements to be updated by separating maintenance requirements from the Occupancy Permit/CoFI so that a separate Schedule of Essential Services is created and is able to be updated as required.
- This will also facilitate updates when further changes occur to the building. This solution is consistent with the preferred option in relation to Issue 4, above.
- Provide checks and balances to ensure that the process is not abused and does not reduce requirements.

### **Issue 6**

As a follow on from Issue 5: if the preferred option is to be followed in that case, the next question raised would be, 'Who should consolidate/update and what checks and balances are to be put in place'?

### **Options**

- Building Surveyors
- Fire Engineers
- Municipal Building Surveyors only
- Go through a report and consent processes to Fire Authority
- Building Appeals Board (BAB)

### **Preferred Option**

- A process has already been established for the relevant building surveyor to specify the requirements for essential services, this would be similar to current functions, i.e. a Building Surveyor should be able to perform this function.

- Where maintenance proposals are put forward that are outside the scope of the Building Commission's Practice Note 29, application for approval of the proposal should be made to the Building Approvals Board.

## **Issue 7**

Many owners or facility managers do not have sufficient documentation about their buildings to be able to nominate or identify correctly the essential services/safety measures in their buildings nor the requirements for those essential services/safety measures, especially for older buildings.

### **Options**

- Owner to remain solely responsible for identification of relevant services/facilities. No further guidance to be provided on how to go about obtaining this information. Owners to make their own arrangements.
- Do not require compliance in cases where these services cannot be located/identified.
- Provide guidance to owners/facility managers by requiring the production of a Schedule of Essential Services to identify, nominate essential services/ safety measures and their requirements.

### **Preferred Options**

- Provide a requirement for every building to have developed a one off Schedule of Essential Services to list and specify requirements for essential services/safety equipment or installations, together with their requirements for maintenance.

## **Issue 8**

There is a low level of auditing and enforcement of Maintenance of Essential Service requirements by councils, with this being cited as a major contribution to the low compliance level identified in the Zenith Report.

### **Options**

- Better Education of industry and councils regarding their responsibilities.
- Alternative policing arrangements.
- Provide assistance to councils.

## **Preferred Options**

- This is a complex issue which goes beyond just a single solution and it is believed that a combination of the following measures should be considered:
  - Provide a copy of the Schedule of Essential Services requirements to council. This will permit Council, if it chooses, to keep track of buildings within its Municipality.
  - Provide education to industry and property owners through seminars and guidance publications. This should ease the council enforcement task by clarifying obligations.
  - Provide a risk management framework to aid authorities and councils so that the council or authority can in the short term address high risk areas.

## **Issue 9**

Where buildings have been altered and extended over time, inspection and maintenance requirements are likely to become “out of sequence” (i.e. the same inspection required at differing dates). The current regulations do not provide a mechanism for the consolidation of Annual Essential Services Reports.

### **Options**

- Do nothing.
- Provide a mechanism for consolidation with checks and balances. This will provide the capability for a building owner to align inspections and reduce cost. However, checks and balances are required to ensure that it is not taken as an opportunity to reduce the maintenance requirements.

### **Preferred Option**

- Provide a mechanism for consolidation, with appropriate checks and balances.

## **Issue 10**

Should the Schedule of Essential Services continue to be issued at the OP/CoFI stage, as at present, or should it be issued at the Building Permit stage before being confirmed/amended/reissued at OP/CoFI stage (n.b. the latter option is currently under consideration at the national level).

### **Options**

- Do nothing- continue to issue Schedule of Essential Services at OP/CoFI.
- Issue Schedule of Essential Services at Building Permit stage then reissue at OP/CoFI.

### **Preferred Option**

- Schedule of Essential Services to continue to be issued at Occupancy Permit OP and at Certificate of Final Inspection CoFI– as per current requirements.

### **Issue 11**

There is currently no certainty that certain documents currently used to specify maintenance standards (e.g. Practice Notes or Australian Standards) have legal standing. Hence, there is uncertainty as to whether the regulations are complied with in practice where these documents are used.

### **Options**

- Do nothing.
- Specify documents that are accepted for this purpose in order to provide certainty of compliance for practitioners.

### **Preferred Option**

- Specify accepted documents.

### **Issue 12**

Alternative Solutions, where used, are not listed on any documentation. Thus, there is no record of the use of an Alternative Solution and, similarly, no record of any special essential service requirements that have to be complied with.

### **Options**

- Do nothing.
- Require flagging of Alternative Solutions on OP/CoFI and Schedule of Essential Services.

### **Preferred Option**

- Require flagging of Alternative Solution on OP/CoFI and Schedule of Essential Services.

### **Issue 13**

There is an anomaly between Class 2 and Class 4 buildings in relation to maintenance of essential services. Both classes are residential occupancies, where people are sleeping and the potential risk of fatality is similar. However, whereas maintenance of essential services requirements exist for Class 2 buildings, there is no equivalent requirement for Class 4 occupancies. This anomaly is exacerbated where the other building classification with which the Class 4 is associated has requirements for maintenance of essential services to be undertaken. In such cases, even where maintenance personnel check the other parts of the building, they are not required to check the Class 4 part of the occupancy.

## Options

- Do nothing.
- Remove anomaly and bring Class 4 in line with other classifications.

## Preferred Option

- Remove anomaly and bring Class 4 in line with other classifications.

## Issue 14

Owners complain that after fire authorities carry out an inspection on their premises they have no feedback from the inspection. If there are problems they then do not hear about them until they receive a notice from the Council.

## Options

- Do nothing.
- Provide scope for the fire authority to provide a copy of the report directly to the building owner.

## Preferred Option

- Provide scope for the fire authority to provide a copy of the report to the owner.

## Questions

- *Do you agree with the above conclusions [Issues 1 to 14] regarding the preferred options?*
- *Can you identify other, preferred alternative means of meeting the objectives underlying the Part 11 changes?*
- *Which, if any, of the proposed options would be likely to have significant cost impacts?*
- *Can you provide any indications of the likely size of these costs?*

## 3.4. Swimming pool barriers for Class 2 and 3 buildings

Swimming pool safety requirements for Class 2 and 3 buildings where the pool was constructed before 8 April 1991 are believed to be inadequate, particularly in relation to those currently applicable to Class 1 buildings. It is therefore proposed to implement swimming pool barrier requirements for Class 2 and 3 buildings, consistent with those currently applicable to Class 1 buildings.

The costing of such a requirement would be based on costings previously developed in the Regulatory Impact Statement context, in connection with Class 1 buildings. The cost elements identified include:

- Application for building permit (not quantified).
- Materials cost for fence construction: \$170 - \$300 per 3m panel.
- Labour for fence construction: average \$2,000.
- Gate (supply and install): \$500.

Based on these elements, total costs are estimated at around \$6,700 for a 12.5m pool and \$11,500 for a 25m pool.

### **Alternatives**

The option currently under consideration provides a lower compliance standard for existing pools, vis-à-vis new pools, consistent with the equivalent provision governing Class 1 buildings. The main alternative would be to impose a requirement that all existing pools meet the same standards as are applicable to new pools. This alternative is not at present considered practicable due to the higher costs involved in retro-fitting (vs new construction) and the limited feasibility of requiring owners of existing buildings to undertake expensive upgrading works outside the context of major renovation work.

### **Questions**

- *Do you support the costings approach outlined above?*
- *If not, what alternative costings do you think more realistic?*
- *Are there any other alternative approaches that merit consideration?*
- *Do you believe that the proposal to require isolation fencing for swimming pools in Class 2 and Class 3 buildings is appropriate and proportionate, given the risks associated with these pools?*
- *If not, what alternative approach do you believe should be preferred?*

## **3.5. Exemptions from registration for re-blockers and re-stumpers**

It is considered that the current exemption from building practitioner registration requirements for re-blockers and re-stumpers who only carry out works with a value of less than \$5,000 on domestic buildings is unjustified, given the nature of this work and the implications of poor workmanship in this area. The preferred option in relation to re-blockers and re-stumpers is to remove their existing exemption from registration where they carry out works with a value of less than \$5,000. The anticipated costs of this change are largely confined to the administrative costs associated with registration with the Building Practitioners' Board – which are recovered via registration fees – and the time costs to re-stumpers and re-blockers in obtaining and renewing registration. The anticipated benefits would relate to improved consumer protection and an ability to regulate the activities of this group through potential de-registration of poor performers.

### ***Alternatives***

The main alternative considered in this regard was the option of lowering the exemption threshold from the existing \$5,000 limit. This would have the advantage of ensuring that those who undertook only relatively small repair works did not need to meet the registration requirements. However, it is considered that few re-stumpers/re-blockers would specialise solely in this area, hence there would be little merit in maintaining the exemption.

### ***Questions***

- *Are there other identifiable costs associated with the proposed extension of the registration requirement to re-stumpers?*
- *If so, can you provide details on their likely nature and extent?*
- *Do you believe that removal of this exemption from practitioner registration requirements is appropriate and justified?*
- *If not, are there other alternatives that should be considered?*
- *Can you provide any data on the likely costs and benefits of any such alternatives?*

## Appendix 1: Classification of Buildings

Buildings are classified in accordance with the Building Code of Australia 1996 as follows:

**Class 1:** one or more buildings which in association constitute-

- (a) **Class 1a** - a single dwelling being-
  - (i) a detached house; or
  - (ii) one or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, town house or villa unit; or
- (b) **Class 1b** - a boarding house, guest house, hostel or the like with a total floor area not exceeding 300 m<sup>2</sup> and in which not more than 12 persons would ordinarily be resident,

which is not located above or below another dwelling or another Class of building other than a private garage.

**Class 2:** a building containing 2 or more sole-occupancy units each being a separate dwelling.

**Class 3:** a residential building, other than a building of Class 1 or 2, which is a common place of long term or transient living for a number of unrelated persons, including-

- (a) a boarding-house, guest house, hostel, lodging-house or backpackers accommodation; or
- (b) a residential part of an hotel or motel; or
- (c) a residential part of a school; or
- (d) accommodation for the aged, children or people with disabilities; or
- (e) a residential part of a health-care building which accommodates members of staff; or
- (f) a residential part of a detention centre.

**Class 4:** a dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building.

**Class 5:** an office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.

**Class 6:** a shop or other building for the sale of goods by retail or the supply of services direct to the public, including-

- (a) an eating room, cafe, restaurant, milk or soft-drink bar; or
- (b) a dining room, bar, shop or kiosk part of a hotel or motel; or
- (c) a hairdresser's or barber's shop, public laundry, or undertaker's establishment; or
- (d) market or sale room, showroom, or service station.

**Class 7:** a building which is-

- (a) **Class 7a** - a carpark; or
- (b) **Class 7b** - for storage, or display of goods or produce for sale by wholesale.

**Class 8:** a laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale, or gain.

**Class 9:** a building of a public nature-

- (a) **Class 9a** - a health-care building; including those parts of the building set aside as a laboratory; or
- (b) **Class 9b** - an assembly building, including a trade workshop, laboratory or the like in a primary or secondary school, but excluding any other parts of the building that are of another Class; or
- (c) **Class 9c** - an aged care building.

**Class 10:** a non-habitable building or structure-

- (a) **Class 10a** - a non-habitable building being a private garage, carport, shed, or the like; or
- (b) **Class 10b** - a structure being a fence, mast, antenna, retaining or free-standing wall, swimming pool, or the like.

## **Appendix 2: The RIS process**

The Subordinate Legislation Act requires that all substantive regulations should be the subject of an RIS. The RIS must be completed, verified as meeting the specific requirements of the Act, and released as the basis for a public consultation process before proposed regulations are finalised and implemented.

The RIS is intended to demonstrate several things. First, it must show that there is a need to make a regulation. Second, it must show that the proposed regulations are expected to yield benefits greater than the costs they impose. Third, it must show that there is no alternative regulation or other policy action that would yield greater net benefits (i.e. benefits minus costs) than the proposed regulations. In sum, the RIS is expected to show, in comparative terms, that a particular regulation constitutes the best possible means of addressing an identified problem.

The RIS process is also designed to ensure transparency and accountability. This is the key purpose of the consultation requirement. Widespread consultation allows the RIS analysis, and the resulting conclusions, to be challenged and should assist in improving regulatory quality in a systematic way. The Subordinate Legislation Act requires the RIS and a copy of the proposed regulations to be made available on request and requires the regulatory agency to receive comments from any interested party (including members of the public) during a minimum 28 day period. It also requires the regulator to show that these comments have been taken into account in finalising the proposed regulation.

The quality of the RIS is ultimately the responsibility of the Minister who is responsible for the regulations. However, the Minister must obtain independent advice from a competent body (usually the Office of Regulation Reform) to the effect that the RIS meets the standards set out in Section 10 of the Subordinate Legislation Act.