

---

**From:** Robert Hart

**Sent:** Thursday, 25 July 2019 2:08 PM

**Subject:** building reform

As agreed in our conversations I submit my thoughts on how best to effect reform.

Some general observations:

1. The public needs to be better educated about the role of Private Certifiers as Principal Certifying Authorities. The PC's primary responsibility is to see that the (a) building has been constructed in accordance with the Conditions of Development Consent. The PC is not required, nor is he/she able to certify that critical building elements have been constructed/installed in accordance with the BCA and good building practice. The criticisms levelled at certifiers in regard to their supposed shortcomings are totally misguided. Certifiers are NOT trained in the 13 or 14 disciplines which account for the most critical building elements, yet they are having to provide certificates of occupancy based upon certification by sub-contractors that their trade work or areas of responsibility has/have been correctly installed and in accordance with the BCA and good building practice.
2. The "Building Stronger Foundations" discussion paper has quite clearly been written by persons who have no real understanding of how the industry works. For example: to suggest that designers declare that plans comply with the BCA is an exercise in futility because this is how the system actually works:
  - A developer engages an architect to design a building and to prepare plans sufficient to enable lodgement of a development application with Council. Architects will always design buildings which comply with the BCA.
  - When the plans are approved, the developer approaches a builder (or a number of builders) seeking a price to construct the development on a "Design & Construct" basis. The price/s submitted are based upon DA drawings only; there are no detailed construction certificate drawings provided. If more than one builder has been approached the situation is then competitive. It has often been asserted that if a builder prices to do a job properly he will never win the tender. So the builder prices the job based upon a series of assumptions (his!). The successful builder will then engage a drafting service to prepare "Construction Certificate" drawings sufficient to submit to a private certifier for consent. The obvious problem here is that (a) the drawings produced by the drafting service do not in many cases reflect the design as prepared by the architect, (b) the drawings prepared by the drafting service may not be detailed to describe elements that conform to the BCA and (c) the PCA is not paid to critically examine the quality of documentation provided (nor is he/she required to do so)
  - In summary, any statutory requirement for a "Declaration" that plans comply with the provisions of the BCA would be open to exactly the same abuse that is presently rife throughout the industry. There is absolutely no point in having statutory provisions or any form of legislation unless there is a professional "policeman" on the job to inspect and to certify compliance.
  - In former times it was the architect to whom all other professions in the building disciplines were subservient; it was the architect who was the principal inspector of every element of the built form and the services installed therein. That is no longer the case and more is the pity. Unfortunately that situation will never again be because (a) The architect has been relegated to a design role only, (b) the faculties of architecture at the universities teach neither construction methods nor contract administration and (c) the "Design & Construct" approach is entirely focussed on price and programme rather than quality of construction. Price is the primary driver towards an outcome which is simply occasioned by the entire tender/pricing process.

**SO, how can the problems in the industry be rectified so as to produce properly constructed buildings and restore public confidence. The answer is simple, understood by all of the industry professionals and not difficult to implement if there is sufficient political will.**

- Establish an office of Building Regulation under the auspices of the Dept. of Finance. This is where a building commissioner (If it is felt necessary to appoint such) could reside. Under no circumstances should the carriage of reforms be placed in the hands of Fair Trading.
- Of the 21 disciplines involved in securing development consent and delivery of a project, 13 are related to the construction phase and involve the critical building elements; architect, the various branches of engineering, fire services and the like.
- Each of the critical building elements must be designed by a suitably qualified and accredited professional
- The professional person who designs the element (waterproofing, fire services, flashings, structure [steel,concrete]) etc. must inspect and supervise the execution of the work related to the design, certify on completion that it conforms to the design and complies with the BCA. **That person must then be accountable.**
- At completion of each element, or phase, or at the completion of the project, each of the professionals who certify the critical building elements can provide a certificate to the Principal Certifying Authority who in turn, can then provide a certificate of occupancy confident in the knowledge that the building and all of its parts have been constructed in accordance with the approved design, the BCA and good building practice.
- The practice of “Self Certification” by sub-contractors must be abolished at the earliest date; it is one of the major contributors to faulty construction and defects; both latent and patent.
- Regulation needs to be enacted which mandates that builders engage and utilise the services of professional consultants for the design of the critical building elements.

**The seven bullet points above represent as a group, the single most important reform that can be achieved. There are numerous subsidiary and peripheral issues which will flow from this basic suite of reforms; issues with insurance, as-built drawings, the appointment of on-site supervisors and /or clerks of works among other things.**

**UNLESS THE PERSON WHO DESIGNS IT, INSPECTS IT, SUPERVISES IT AND CERTIFIIES IT, THERE IS LITTLE OR NO POINT IN ATTEMPTING TO IMPLEMENT ANY REFORM; IT JUST WON'T PRODUCE ANY DEGREE OF SATISFACTORY OUTCOME.**

Kind regards  
**ROBERT HART**  
Consultant

**RICKARD ENGINEERING** SYDNEY • LONDON • DUBAI  
STRUCTURAL | CIVIL | FAÇADE | DIAGNOSTICS | BUILDING DISPUTE RESOLUTION  
Suite 5, 121 Military Road, Neutral Bay NSW 2089, Sydney, Australia

W: [rickardengineering.com](http://rickardengineering.com)

