

Perceived deficiencies and policing of Building Regulations: An Australian perspective

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Overview

- Building Control legislation in Australia
- The Building Code of Australia (BCA)
- The regulatory framework in Victoria
- Regulation of compliance
- Regulation of quality standards
- Policing of the system
- Conclusions

Introduction

- 1994 switched to a descriptive performance based approach.
- Rationale - achieve buildings that were healthy, safe and sustainable at a lower cost & encourage technological innovation
- anecdotal evidence from practitioners questions
 1. Has it lead to a reduction in the policing of the system?
 2. Has it reduced the authority of the inspector in Australia.
- Dutch experience building control (van der Heijden, 2007)

Privatisation of Building Control

- Inspections less stringent
- Previously inspected details passed over.
- Leads to discrepancies;
 1. built work from plans
 2. defective
 3. incomplete work
- Authority of the BS reduced
- Building Owner is the person(s) building the property. Role is clouded and the Registered BS may be perceived to be in the employment of the builder even if she/he is independent (Reddaway, 2006).
- Compounded by a shortage of qualified BSs (Wilkinson & Zillante, 2006).
- Has lead to independent qualified building inspectors undertaking building inspections for RBS's.

Building Control in Australia

Legislative Structure

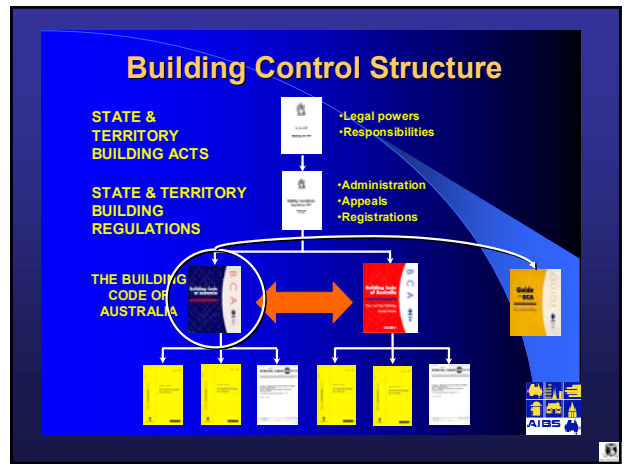
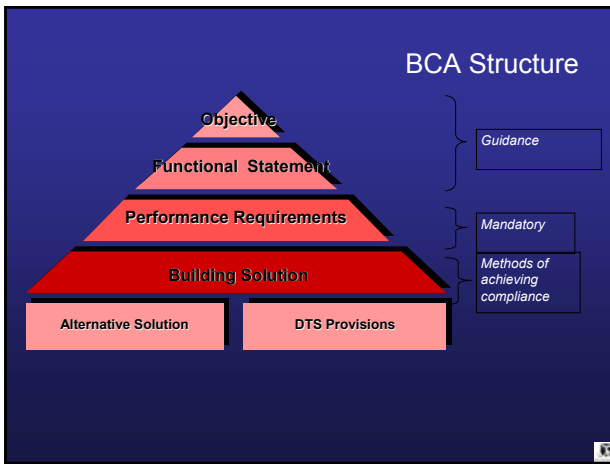
AUSTRALIAN (Federal) GOVERNMENT
 ACTS & REGULATIONS
 -Disability Discrimination Act

STATE & TERRITORY GOVERNMENT
 ACTS
 -Building Act
 REGULATIONS
 -Building Regulations

LOCAL GOVERNMENT
 PLANNING SCHEMES
 -Siting Controls
 -Building Heights
 -Building and Land Uses

The Building Code of Australia (BCA)

- Goal is the **achievement** and **maintenance** of acceptable standards of structural sufficiency, safety (including fire), health and amenity for the benefit of the community (BCA, 2006).
- Technical provisions for the design and construction of buildings and other structures,
 - covering structure,
 - fire resistance,
 - access and egress,
 - services and equipment,
 - aspects of health and amenity.
- BCA is a performance document



- ### The regulatory framework in Victoria
- The Building Act 1993 and Building Regulations 2006.
 - Regs call up BCA and the BCA references the ASs.
 - Separately the Domestic Contracts Building Act 1993 regulates contracts in domestic construction.
 - Building Commission responsible for enforcement - can prosecute.
 - BC holds enquiries against building practitioners.
 - Building Appeals Board hears disputes on interpretation of the Regulations & standards and conduct of practitioners.
 - Building and Conciliation Victoria mediate disputes (no legal enforcement status).
 - Victorian Civil and Administrative Tribunal (VCAT) hears building disputes and awards legal judgement.

- ### Compliance issues
- Building Act 93 –occupancy permits issued plans show building will substantially or fully comply.
 - Is something less than full compliance legally acceptable? Where do you draw the line?
 - **Dutch experience:** 12 – 16% authorities carried out control of permit applications adequately.
 - 7 – 11% of building inspections adequately carried out.
 - Info missing or incomplete in 45% of 2003 (27% 2004)
 - 2003 69% applications had no visible checks (47% '04)
 - Big difference in quality of inspections noted
 - No empirical study of Australian practice

- ### Observations of the Australian system
- BC is able to prosecute for breaches also BPB
 - Good in theory - needs resourcing
 - Number of complaints is low: 2005-6 24 cases
 - No permits
 - No registration
 - Lack of insurance cover
 - Is this true picture?
 - Understaffing is an issue (like Dutch)
 - Excessive workloads
 - Ageing workforce
 - Qualifications
 - Anecdotal evidence – problems exist on small and large problems, problems are getting worse, some examples, implications

- ### Conclusions and implications
1. At worst goals of BCA could be compromised
 2. Post privatisation changes
 3. Empirical research is required though will be difficult
 4. Effects of Toomey Case on BSs in Victoria
 5. Computerisation of Dutch system has improved situation there
 6. Community loses out when buildings become less safe and amenable to occupants