



Effect of the *Building Act 2011* on Compliance Costs in Western Australia

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Abstract

The *Building Act 2011* commenced in Western Australia on 2 April 2012. It introduced private certification for design and construction compliance, and reduced fees and timeframes for local governments to issue permits. This research project assessed the effect of the Act on the time and cost of building approvals in WA, using an internet-based, self-completion survey to obtain feedback from people on their experience of the new building approvals process.

This research compared the cost of approval for 16 building projects under the new and old approvals processes. The research concluded that the new approvals process appears to be cost-neutral for the building industry as a whole. However, the cost of approval for the 11 building projects studied valued up to \$1 million, particularly alterations to existing buildings, is an average of 4.0 times greater under the new approvals process.

Introduction

The *Building Act 2011* commenced in Western Australia on 2 April 2012, and introduced significant changes to the building approvals process for the WA building industry. (O'Brien 2012a) The changes were introduced to improve regulations governing the building industry, and bring WA practice into line with National Competition Policy requirements. (Department of Housing and Works 2005) The changes include private certification for design and construction compliance, and reduced fees and timeframes for local governments to issue permits. One year on, this research conducted a post-implementation review of the *Building Act 2011*, and analysed the effect of the new approvals process on the time and cost of building approvals in WA.

This research is warranted because no impact analysis was undertaken on the *Building Act 2011* before its implementation. This was because the cost of obtaining building approvals under the *Building Act 2011* was anticipated to be comparable to the cost of the approvals process under the existing *Local Government (Miscellaneous Provisions) Act 1960*. (Department of Housing and Works 2005) Impact analysis was not mandatory for new legislation in WA until 1 December 2009; (Department of Treasury 2010) the *Building Bill* received Cabinet endorsement before this date. The impact of complying with the requirements of the *Building Act 2011*, compared with the requirements of the *Local Government (Miscellaneous Provisions) Act 1960*, has therefore not been analysed.

Objectives

The objective of this research project is to conduct a post-implementation review of the effect of the *Building Act 2011* on the time and cost of obtaining building approvals, and test whether the intent of the Act is being achieved. Two of the objectives of the *Building Act 2011* are: to provide a comprehensive system of building control in WA, and reduce building approval times. One of the means the Act introduced to meet these objectives is the use of private-sector registered building surveyors to certify building plans and specifications. (Department of Commerce 2011) This research assessed the effect of private certification on the time and cost of obtaining approvals for building work. Data collected through this research was used to compare the time and cost of getting approval under the *Building Act 2011* with previous requirements under the *Local Government (Miscellaneous Provisions) Act 1960*.

Hypothesis

This research hypothesised that for lower-value building projects, particularly alterations to existing buildings, obtaining approvals under the *Building Act 2011* is likely to be more costly than the approvals process previously prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*.

Methodology

This research undertook a comparative study of the time and cost of the building approvals process in WA under both the *Building Act 2011* and the *Local Government (Miscellaneous Provisions) Act 1960*. Data was gathered for this study through the use of an internet-based, self-completion survey. People who have obtained building approvals under the *Building Act 2011* were surveyed to obtain project-specific details regarding the time and cost of obtaining certification and approvals. The project details were then analysed to compare the cost of building approvals under the two acts.

Limitations

This research is limited by scale. The *Building Act 2011* is part of a suite of new legislation and associated regulations. (O'Brien 2011) This legislation introduced 'significant and wide-ranging changes to the building regulatory environment' in WA. (Department of Housing and Works 2005 p1) This research assessed the effect of the *Building Act 2011* on the time and cost of obtaining building approvals within one year of the commencement of the Act. However, further research, including longer-term consultation and feedback from a greater number of people, is required to assess the effects of all changes introduced by this suite of legislation.

Literature Review

Building Legislation Reform in Australia

In 1993, a review of the Australian Government's national competition policy found that 'The greatest impediment to enhanced competition in many key sectors of the economy are the restrictions imposed through government regulation' (Hilmer 1993 p xxix) To reduce regulatory restrictions on competition, 'all state and territory governments undertook to identify their existing legislation that restricted competition, and to review, and where appropriate, reform that legislation.' (National Competition Council 2007) Building legislation, including WA's *Local Government (Miscellaneous Provisions) Act 1960*, was identified for reform because building certification and approvals could only be obtained through local governments, which restricted competition from the private sector. A significant change that was adopted to encourage competition in the building approvals process was the introduction of private certification, which allowed private building surveyors to assess and certify building designs as complying with building codes and standards. (Productivity Commission 2004) Each Australian state and territory government has since adopted private certification. (See Table 1)

| Jurisdiction | Private certification |
|------------------------------|-----------------------|
| Northern Territory | 1993 |
| South Australia | 1993 |
| Victoria | 1993 |
| New South Wales | 1998 |
| Queensland | 1998 |
| Australian Capital Territory | 1999 |
| Tasmania | 2004 |
| Western Australia | 2012 |

Table 1 Adoption dates of private certification for building approvals in each jurisdiction of Australia (Productivity Commission 2004)

Western Australia was the last jurisdiction in Australia to introduce private certification. Comparatively, the governments of Victoria, Queensland, and the Australian Capital Territory reformed their building legislation and introduced private certification in 1993, 1998 and 1999, respectively. These jurisdictions have evaluated the operation of building approvals processes that incorporate the use of private certifiers, and assessed the efficacy of private certification in delivering compliant buildings.

Queensland's *Building Act 1975* was reviewed in 2003; one of the issues this review assessed was the operation of Queensland's private certification process. The review found that there was inadequate communication between builders, private certifiers and building owners. It was found that owners did not generally understand the role of the private certifier, and builders often engaged a certifier without the owner's knowledge or consent. The report recommended a number of amendments be made to the Act relating to the professional conduct and management of private certifiers. (Department of Local Government and Planning 2003)

A similar review of building legislation was undertaken in 2010 by the Australian Capital Territory government, prompted by 'complaints about sub-standard building work on residential buildings' (ACT Planning and Land Authority 2010 p6) This report recommended a complete, long-term review of the ACT's *Building Act 2004*, particularly in relation to the maintenance of essential safety systems in existing buildings. (ACT Planning and Land Authority 2010) The report recognised, however, that delivering safe, compliant buildings requires support from both the building industry and building owners, as well as an appropriate regulatory framework:

Increasing regulatory involvement needs to be supported by an industry-wide commitment to higher standards of work and to quality training and education. The regulatory system is not intended to compensate for a lack of skills, knowledge and experience. ... [Building owners] must also take appropriate and timely action to address problems. (ACT Planning and Land Authority 2010 p5)

The Victorian state government introduced a competitive building permit system in 1994, 'as part of reforms designed to speed up the building approval system'. (Victorian Auditor General 2011 p vii) When this system was reviewed in 2011, the Victorian Auditor General found that:

Ninety-six per cent of permits examined did not comply with minimum statutory building and safety standards ... [revealing] a system marked by confusion and inadequate practice, including lack of transparency and accountability for decisions made. (2011 p viii)

The report concluded that the failure of the building approvals process to achieve compliant buildings was mainly a result of ineffective monitoring and enforcement of the building control system by the Victorian Building Commission. (Victorian Auditor General 2011)

The findings of these three legislative reviews confirm that 'the State's building regulation framework and prescribed building standards heavily influence the quality, safety and cost of work in the market.' (Department of Housing and Works 2005 p15) When the legislative framework regulating building control fails to operate as intended, the outcome can be unsafe, noncompliant buildings. The conclusions of these studies from Queensland, Victoria and the Australian Capital Territory demonstrate that building legislation requires continual monitoring and review to ensure that it's operating as intended.

Building Legislation Reform in Western Australia

The *Building Act 2011* commenced in Western Australia on 2 April 2012. Amongst other changes, the Act enables private certification for building approvals to be used for the first time in WA, bringing WA building approval practices into line with the national competition policy, and other states and territories. (See Table 1)

Despite careful planning and preparation, following the commencement of the *Building Act 2011* some confusion arose amongst industry practitioners and permit authorities relating to the application of various clauses. This confusion resulted in building approvals being delayed, causing cash-flow problems for the building industry, particularly within the housing sector. (Parker and Wright 2012; Lague 2012a; Iacomella 2012a; Trenwith 2012; ABC News 2012; Australian Institute of Building Surveyors 2012) The WA Building Commission, the body responsible for administering the Act, worked to address these problems. They produced a Ministerial Order (O'Brien 2012b), an amendment bill (Iacomella 2012b) and a number of industry bulletins (Department of Commerce 2012a, 2012b, 2012c, 2012d, 2012e, 2012f, 2012g, 2012h, 2012i, 2013a, 2013b, 2013c) to assist industry practitioners and permit authorities to interpret the requirements of the Act. These measures have served to alleviate the initial disruption caused by the *Building Act 2011*, particularly for the housing sector. Issues within the commercial building sector have not been so prominently spotlighted in the media, so less is known about the effect of the Act on commercial buildings.

Building Approvals Process in WA

Prior to the introduction of the *Building Act 2011*, building in WA was legislated through the *Local Government (Miscellaneous Provisions) Act 1960* and *Building Regulations 1989*. The *Building Act 2011* introduced a number of significant changes to the building approvals process in WA, including private certification of compliance, and revised timeframes and fees for local governments to issue permits. The previous and current building approvals processes in WA are compared in this section, and summarised in Table 2.

| | | Local Government (Miscellaneous Provisions) Act 1960 | Building Act 2011 |
|------|-----------------------|---|--|
| Fees | Certification fee | Combined fee, 0.2% of construction value, excluding GST, but not less than \$85 | Subject to market rates |
| | Building permit fee | | 0.09% of construction value, including GST, but not less than \$90 |
| | Occupancy permit fee | Not specified | \$90 |
| Time | Certification time | 35 days | Subject to market availability |
| | Building permit time | | 10 business days |
| | Occupancy permit time | Not specified | 10 business days |

Table 2 Comparison of prescribed fees and timeframes for certification and permits for commercial construction (class 2-9 buildings) under the Local Government (Miscellaneous Provisions) Act 1960 and the Building Act 2011

Private certification is now required for all building permit applications for class 2-9 buildings.¹ Under the previous building approvals process, prescribed by the *Local Government (Miscellaneous Provisions) Act 1960*, uncertified plans and specifications for all proposed building work were submitted to the relevant local government. The local

¹ Building classes are defined by the Building Code of Australia volume 1 part A3 Classification of buildings and structures (Australian Building Code Board 2011)

government building surveyors would certify the design before issuing a building licence.² The *Building Act 2011* separates the approvals process into two steps for class 2-9 building work. First, building owners are required to engage a private building surveyor to assess and certify the compliance of proposed building work. Then a certified permit application is submitted to the relevant permit authority, usually the local government, to obtain a building permit. (*Building Act 2011*; *Building Regulations 2012*)

The timeframe for a permit authority to issue a building permit has been reduced under the *Building Act 2011*. When an uncertified building licence application was submitted under the *Local Government (Miscellaneous Provisions) Act 1960*, local government building surveyors had 35 days³ to certify the building design and issue a building licence. (*Local Government (Miscellaneous Provisions) Act 1960* s374) When a certified building permit application is submitted under the *Building Act 2011*, the permit authority has 10 business days⁴ to issue a building permit. (*Building Regulations 2012* r20(2)) The timeframe for private certification is not prescribed by the Act; it varies according to the complexity of the project and the availability of the certifier.

The fee for the permit authority to issue a permit has been reduced under the *Building Act 2011*. Under the *Local Government (Miscellaneous Provisions) Act 1960*, for class 2-9 building work the fee prescribed for local government to certify the design and issue a building licence was 0.2 per cent of the construction value, excluding GST, but not less than \$85. (*Building Regulations 1989* r.24) Under the *Building Act 2011*, the fee for the permit authority to issue a building permit is 0.09 per cent of the construction value, including GST, but not less than \$90. (*Building Regulations 2012* schedule 2) The fee for private certification is subject to market rates.

A fee and timeframe for issuing occupancy permits has been prescribed under the *Building Act 2011*. The *Building Regulations 1989* (r20(4)) required owners of class 2-9 buildings to obtain a certificate of classification before occupying a new building, however no fee or timeframe was prescribed for this process. The *Building Act 2011* requires building owners to obtain private certification of construction compliance, and then an occupancy permit, before occupying new building work. (*Building Act 2011* s.41) The cost and timeframe for private certification of construction compliance is subject to market rates and availability. The permit authority fee for an occupancy permit is \$90, and the permit authority has 10 business days to issue an occupancy permit.

The changes introduced through the *Building Act 2011* were expected to have a positive effect on the cost and time required to obtain building approvals. It was anticipated that the market rate for private certification would be approximately 0.1% of the construction value, making the total cost of permits under the *Building Act 2011* comparable to the 0.2% fee prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*. (Department of Housing and Works 2005) The time taken to demonstrate compliance under the new process was expected to be significantly shorter. (Productivity Commission 2004) Private certification enables the building surveyor to be engaged early in the design process, working with the design team to produce compliant plans and specifications, and allowing certification to be scheduled concurrently with other project documentation activities. Early certification, and the subsequently reduced timeframe for permit authorities to issue permits, means that approvals can be obtained faster and construction projects can begin sooner.

² A building approval in WA was called a 'building licence' under the *Local Government (Miscellaneous Provisions) Act 1960*, and is now known as a 'building permit' under the *Building Act 2011*. These terms are synonymous.

³ Or 60 days, 'in the case of land to which the *Heritage of Western Australia Act 1990* applies' (*Local Government (Miscellaneous Provisions) Act 1960* s374(2a))

⁴ 'Business day' means a day other than a Saturday, a Sunday or a public holiday (*Building Regulations 2012* r3)

This research project tested the effect of these changes to the building approvals process, comparing the time and cost of the two-step, private certification and permit process in the *Building Act 2011* with the requirements prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*.

Methodology

Data Collection

To assess the effects of the *Building Act 2011*, feedback was required from people who have been involved in obtaining building permits under the new legislation. Feedback was obtained through the use of a self-completion survey, administered electronically via SurveyMonkey's internet-based survey service to provide the greatest convenience for respondents. (SurveyMonkey 2013) A self-completion survey gives respondents a greater degree of anonymity, which has been found to increase the level of honesty in responses. (Brace 2008) While responses to a self-completion survey can over-represent people who have extreme views, it's been found that typically the more important the topic is to the respondent, the higher the response rate, and also that business people are more likely to respond to a survey than house-holders. (Self, Roche and Hill 2012) As the *Building Act 2011* is a high-profile, important topic to the WA building industry, and responses to this survey are sought mainly from business people, a self-completion survey was judged to be an appropriate method to obtain data for this research.

The survey questions were developed using best-practice market research principles, as detailed by Self, Roche and Hill (2012) and Brace. (2008) The questions used unbiased wording and flow logically through the different subject areas. (Brace 2008) The questions were unambiguous, and included a variety of open and closed questions, with mutually-exclusive pre-coded options for respondents to select from, as well as space to write comments. (Self, Roche and Hill 2012) By including a variety of question and answer types, the survey aimed to encourage respondents to provide the maximum amount of feedback on the effects of the *Building Act 2011*, obtaining useful feedback even from respondents who were unable, or unwilling, to answer every question.

After the questions were drafted, the survey was formatted into SurveyMonkey's website. The pre-coded options were listed in drop-down boxes. Drop-down boxes have been found to cause respondents to give more thought to their answers than radio buttons do, resulting in a greater dispersion of responses. (Hogg and Masztal, cited in Brace 2009) The write-in boxes, where respondents could answer open questions, were formatted to give respondents ample space to write their comments. Respondents were only required to answer the first two questions: 'Have you been involved in the design or construction of a building project since 2 April 2012?' and 'Have you been involved in a building project that required a building permit?' These two questions were routed; if respondents selected 'No', then they were taken directly to the final page of the survey and asked if they had any general comments on the new approvals process. No other answers were required fields in the survey, so respondents could choose not to answer some questions and still be able to navigate to the next screen. This was done to minimise the chance of respondents not completing the survey because they were unable, or unwilling, to answer any one question.

Data Analysis

Once the survey was operational online, it was tested by six people for content, clarity and useability, before the larger-scale study was undertaken, as recommended by Brace. (2008) The survey was tested by three people who are familiar with the *Building Act 2011*, who checked the content and validity of the questions in assessing the effect of the Act. It was also tested by three people who are unfamiliar with the Act and building terminology, who assessed the questions for clarity and intelligibility. Some amendments were made to the survey in light of the feedback received during testing.

After the survey was tested and revised, the larger-scale study was undertaken. This involved advertising and distributing an internet link for the survey to the target audience, seeking their responses. The target audience for the survey was identified as being everyone who has been involved in obtaining building permits in WA since 2 April 2012. This audience is very broad; it includes building owners, tenants, project managers, architects, building designers, building surveyors and builders. The survey was advertised and distributed to the target audience by email and through the internet, by enlisting the help of a number of government and industry organisations to contact various groups within the target audience. The WA Building Commission advertised the survey on their website. (Department of Commerce 2013d) And a number of industry organisations advertised it to their members by email, including the WA chapter of the Australian Institute of Architects, the Property Council of Australia, the Swimming Pool and Spa Association and the Building Designers Association of WA. These organisations have already been actively involved in implementing and monitoring the *Building Act 2011* (Iacomella 2012a; Lague 2012a; Parker and Wright 2012; Trenwith 2012) It is therefore likely that they, and their members, have an interest in providing feedback for a review of the Act. Further, they represent groups likely to undertake projects of varying size (from minor building modifications to construction of new buildings for private and public use) and so provide a reasonable cross section of the building industry. The survey was available for online completion from July to September 2013.

In total, 29 survey responses were received that contained useful feedback. The distribution methods used, particularly advertising the survey on the Building Commission's website, mean that it's not possible to know how many people within the target audience were made aware of the survey, and therefore not possible to calculate the response rate. It can be assumed that the 29 responses received represent a relatively small percentage of a target audience that includes most of the building industry practitioners in WA, however Holbrook, Krosnick and Pfent (2008) found that increased response rates are not closely related to increased data quality. The data collected through the 29 survey responses received is therefore still likely to be relevant in assessing the effects of the *Building Act 2011*.

Results

Cost of Certification

Of the 29 survey responses received, 16 included sufficient detail on construction and certification costs to compare the cost of approval under the *Building Act 2011* with the *Local Government (Miscellaneous Provisions) Act 1960*. Building projects included offices, shops, public buildings and incidental structures, with construction costs ranging from \$9,999 to \$18,000,000. There were only two projects for which the cost of approval under the *Building Act 2011* was less than that of the *Local Government (Miscellaneous Provisions) Act 1960* (See Table 3).

Private certification appears to have resulted in a significant increase in the cost of building approvals for projects under \$1 million, especially alterations and additions to existing buildings. (See Figures 1 and 2) For the 16 projects studied here, the cost of approval under the *Building Act 2011* ranged from 0.6 - 9.7 times the cost of approval under the *Local Government (Miscellaneous Provisions) Act 1960*. The average cost of approval across all 16 projects is 3.1 times greater under the *Building Act 2011*. For the 11 building projects valued up to \$1 million, the cost of approval under the *Building Act 2011* is an average of 4.0 times greater than the cost of approval under the *Local Government (Miscellaneous Provisions) Act 1960*.

| | | Local Govt (Misc Provisions) Act 1960 | | Building Act 2011 | | | | | |
|------------------------------------|------------------------------|---|---------------------------|------------------------|---------------------------------|------------------------------|-------------------------|----------------------------|---------------------------|
| Project description | Construction value (inc GST) | Building licence (Class 2-9 - 0.2%; class 1 & 10 - 0.35%) | Total compliance cost (%) | Design compliance cost | Building permit (0.09% or \$90) | Construction compliance cost | Occupancy permit (\$90) | Total compliance cost (\$) | Total compliance cost (%) |
| Incidental structure (class 10) | \$9,999 | \$85 | 0.85 | \$150 | \$90 | NA | NA | \$240 | 2.40 |
| Install swimming pool (class 10) | \$29,999 | \$85 | 0.28 | \$220 | \$90 | NA | NA | \$310 | 1.03 |
| Office fitout (class 5) | \$49,999 | \$91 | 0.18 | \$450 | \$90 | \$250 | \$90 | \$880 | 1.76 |
| New storage shed (class 7b) | \$104,075 | \$189 | 0.18 | \$385 | \$94 | \$385 | \$90 | \$954 | 0.92 |
| Office fitout (class 5) | \$155,000 | \$282 | 0.18 | \$726 | \$140 | \$545 | \$90 | \$1,500 | 0.97 |
| Staff training room (class 9b) | \$199,999 | \$364 | 0.18 | \$935 | \$180 | \$825 | \$90 | \$2,030 | 1.02 |
| Library alteration (class 9b) | \$249,999 | \$455 | 0.18 | \$450 | \$225 | \$250 | \$90 | \$1,015 | 0.41 |
| Pump and tank enclosure (class 10) | \$307,930 | \$980 | 0.32 | \$800 | \$277 | NA | NA | \$1,077 | 0.35 |
| Machinery shed (class 7b) | \$317,058 | \$576 | 0.18 | \$285 | \$285 | \$375 | \$90 | \$1,035 | 0.33 |
| Office fitout (class 5) | \$349,999 | \$636 | 0.18 | \$600 | \$315 | \$600 | \$90 | \$1,605 | 0.46 |
| Hospital alteration (class 9b) | \$1,000,000 | \$1,818 | 0.18 | \$3,000 | \$900 | \$3,000 | \$90 | \$6,990 | 0.70 |
| Single house (class 1a) | \$1,254,000 | \$3,990 | 0.32 | \$4,500 | \$1,129 | NA | NA | \$5,629 | 0.45 |
| Group home (class 1b) | \$2,200,000 | \$7,000 | 0.32 | \$1,133 | \$1,980 | \$443 | \$90 | \$3,645 | 0.17 |
| Classroom building (class 9b) | \$2,407,000 | \$4,376 | 0.18 | \$2,750 | \$2,166 | Don't know | \$90 | \$5,006 | 0.21 |
| School addition (class 9b) | \$5,100,000 | \$9,273 | 0.18 | \$5,050 | \$4,590 | \$5,050 | \$90 | \$14,780 | 0.29 |
| Shopping centre addition (class 6) | \$18,000,000 | \$32,727 | 0.18 | \$2,750 | \$16,200 | \$600 | \$90 | \$19,640 | 0.11 |

Table 3 Data for 16 building projects constructed since 2 April 2012 with construction values and compliance costs under the Building Act 2011 and the Local Government (Miscellaneous Provisions) Act 1960, where the greater compliance cost is marked in red.

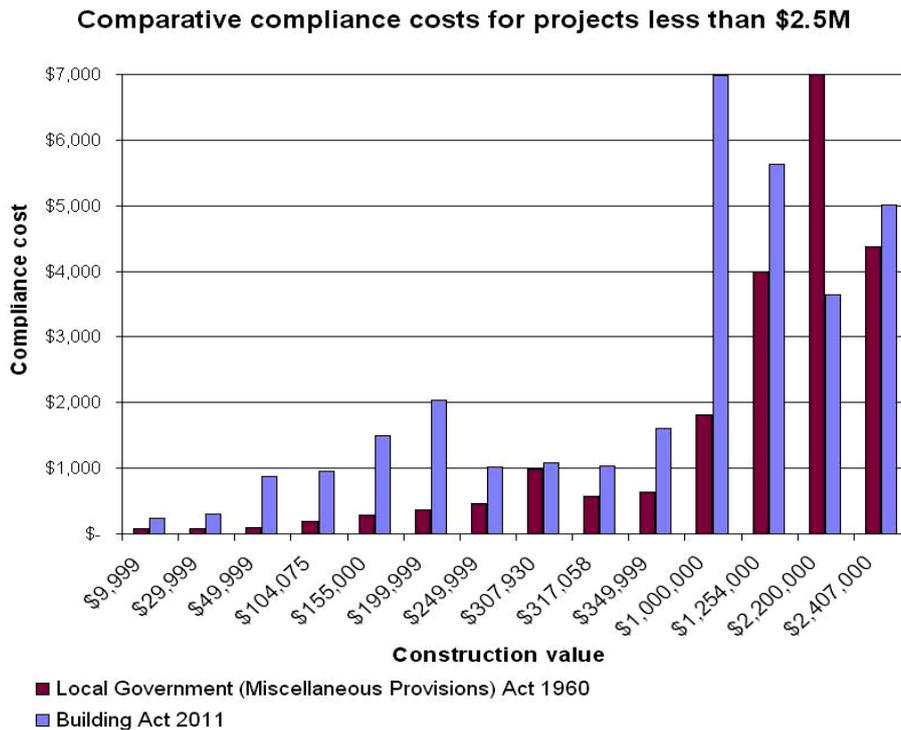


Figure 1 Comparative compliance costs under the Local Government (Miscellaneous Provisions) Act 1960 and the Building Act 2011, for 14 projects with construction values less than \$2.5 million.

Note: the two highest-value projects were left off this figure to show the smaller projects more clearly on the figure scale.

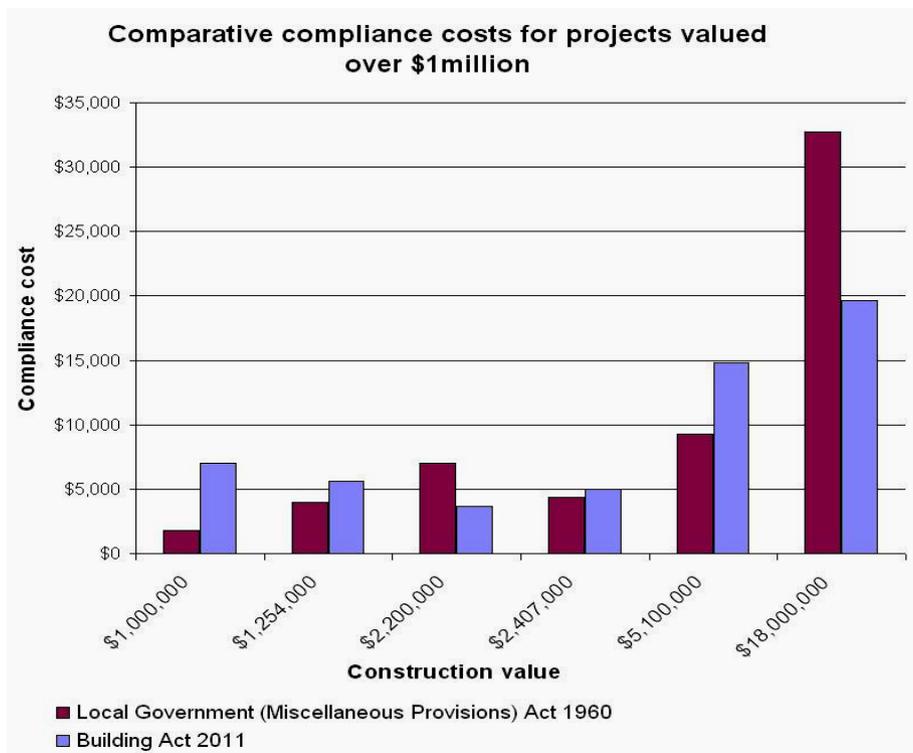


Figure 2 Comparative compliance costs under the Local Government (Miscellaneous Provisions) Act 1960 and the Building Act 2011, for 6 projects with construction values over \$1 million.

Note: the ten lower-value projects were left off this figure because they did not show up clearly on the figure scale.

The main reason for the increase in compliance costs for projects under \$1 million, particularly alterations to existing buildings, is that certification costs are now subject to market rates, rather than prescribed as a percentage of the construction value. The cost of certification for smaller projects is necessarily a higher percentage of the construction cost, particularly for more complex projects such as alterations to existing buildings, which require more time for the building surveyor to assess and certify. Certification and approvals for the 16 projects studied here cost, on average, 3.1 times more under the new approvals process, with one project to fit out an office building costing 9.7 times more: \$880 compared to \$91 under the previous legislation. Comments from respondents confirm that obtaining approvals for alterations to existing buildings is a problem under the *Building Act 2011*:

If the whole of the building doesn't comply with 'current' regulations, [this] has caused extensive delays and even the cancellation of projects, because [of] the cost to make the 'whole' facility compliant to 'current' requirements, even if it was compliant at the time of construction.

This increased cost of approval for smaller projects is a reflection of the true value of the resources required for a building surveyor to assess and certify the projects. Under the *Local Government (Miscellaneous Provisions) Act 1960*, all building work was certified by the relevant local government for a prescribed percentage fee, and the greater cost of certifying small projects was partially subsidised by the fees from large projects. (See Figure 3)



Figure 3 Comparison of compliance costs under the Local Government (Miscellaneous Provisions) Act 1960 and the Building Act 2011, for 16 building projects, expressed as a percentage of the construction value.

While the cost of certifying small projects has increased, the cost for larger projects has decreased because market rates for private certification are less than the previously-prescribed percentage fee. For two of the largest projects studied, the cost of approval under the *Building Act 2011* was significantly reduced. For a group home costing \$2.2 million, the cost of approval under the *Building Act 2011* was \$3,645, compared with \$7,000 under the *Local Government (Miscellaneous Provisions) Act 1960*; this represents a saving of \$3,355 or 48%. And for a shopping centre addition costing \$18 million, the cost of approval under the *Building Act 2011* was \$19,640, compared with \$32,727 under the *Local Government (Miscellaneous Provisions) Act 1960*; this represents a saving of \$13,087 or 40 per cent.

The increased cost to certify the small projects in this study was balanced by cost savings for larger projects. While 14 of the 16 projects studied here were more expensive under the *Building Act 2011* than under the *Local Government (Miscellaneous Provisions) Act 1960*, the total cost to the building industry appears to be comparable under the two acts. The total cost of approval for these 16 projects is \$66,336 under the *Building Act 2011*, compared with \$62,927 under the *Local Government (Miscellaneous Provisions) Act 1960*. This represents a difference of only \$3,409, or 5.1 per cent. The increased cost to certify small projects therefore appears to be balanced by the cost savings in the certification of larger projects, so that the total cost of the *Building Act 2011* to the building industry as a whole appears to be neutral. However, further research is required to verify that the trend demonstrated by the 16 projects analysed in this report is applicable to the whole building industry.

While the cost of certification is now a fair compensation for the work required, the building permit fee remains fixed at 0.09 per cent of the construction cost but not less than \$90. (*Building Regulations 2012* schedule 2) The equity of the new approvals process could be enhanced by introducing a more cost-reflective fee structure for building permits, too, either by placing a cap on the 0.09 per cent fee that the permit authority charge for issuing a building permit, or introducing a sliding fee scale for large projects. The permit authority's role in issuing permits for privately-certified applications is essentially administrative, and for large projects 0.09 per cent of the construction cost represents a fee that is disproportionately high in relation to the work required to issue the permit. Now that the cost of certifying smaller projects has increased to reflect the value of the resources required to undertake the work, it would be a more equitable arrangement for the building industry if the building permit fee for large projects was adjusted to better reflect the cost of issuing the permit. Further research would be required to determine a reasonable maximum fee for permit authorities to receive, or develop a sliding fee scale for larger projects.

Time spent on Certification

While the cost of approvals has increased for most of the 16 projects surveyed, the time taken for a building permit to be issued has decreased. From 35 days, or five weeks, under the *Local Government (Miscellaneous Provisions) Act 1960*, respondents reported that 83 per cent building permits were issued within 10 business days, or two weeks under the *Building Act 2011*.⁵ This time saved in obtaining a building permit is partially offset by the addition of 10 extra days at the end of the construction period to obtain an occupancy permit, but still represents a significant time saving for the building industry (See Figure 4).

The time taken by permit authorities to issue occupancy permits is less certain at this point. Only 38 per cent of respondents reported that their occupancy permits were issued within 10 business days, while 24 per cent did not know, and 31 per cent skipped this question. (See Figure 4) However, only 7 per cent of respondents reported that their occupancy permits took more than 10 days to issue, so this level of uncertainty regarding the time taken to issue occupancy permits may be due to the fact that the *Building Act 2011* has only been in operation for one year, and fewer occupancy permits have been issued than building permits. As more projects are completed and more occupancy permits are obtained, more reliable data can be sought regarding the length of time required to obtain the permits.

The time taken both to obtain private certification of construction compliance and to issue occupancy permits should be monitored. There is less leeway at the end of a construction project to schedule tasks concurrently, so both the private certification and permit stages can potentially cause delays for a building project. This view is confirmed by one respondent, who observed that:

⁵ The time required to obtain private certification under the *Building Act 2011* is not included in this calculation of the time taken to obtain a permit. It is assumed that certification of the design can be undertaken concurrently with other documentation and administrative tasks.

gaining occupancy permit straight after PC [Practical Completion] can be difficult to manage.

Monitoring occupancy permit requirements is necessary to ensure that the 10-day timeframe allowed to issue permits is reasonable, and that permit requirements do not unduly delay the occupation of buildings at the completion of construction. It's likely that any delays caused by occupancy permit requirements will be monitored and reported by industry practitioners and organisations. The Property Council of Australia, for example, have already lobbied on behalf of their members when occupancy permit requirements initially caused expensive delays for commercial building fitouts. (Iacomella 2012a, 2012b; Property Council of Australia 2012)

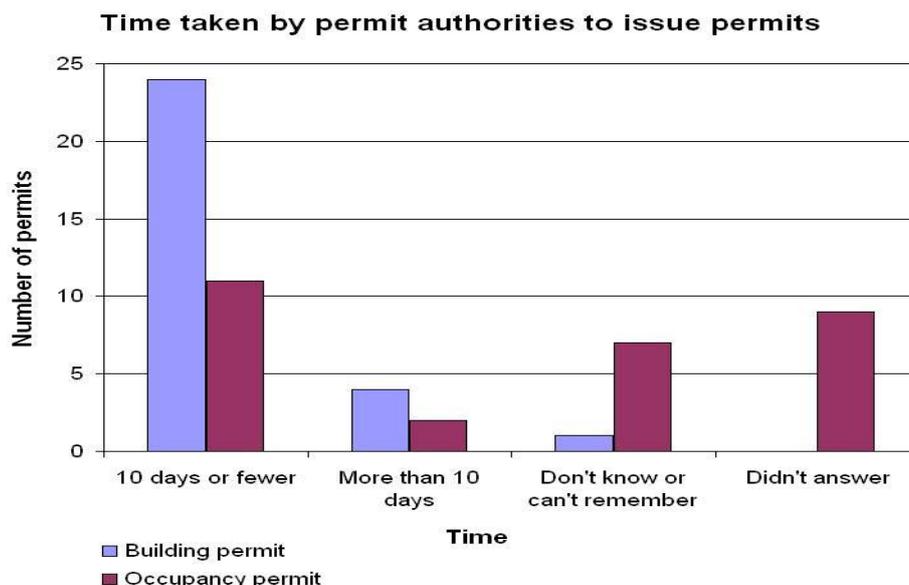


Figure 4 Time taken by permit authorities to issue building and occupancy permits under the Building Act 2011

Where building and occupancy permits took longer than 10 days to issue, comments from respondents indicate that this was mainly due to the permit application being incomplete. Explanations of why the permit took longer than 10 days to issue include:

A number of clarifications and obtaining the required signature

Requests for additional information for Health and Engineering matters

Request for clearance of planning conditions

It appears that, when complete permit applications are submitted, permit authorities are successful in meeting the required 10-day turnaround period for issuing building and occupancy permits.

Conclusion

As a result of this research, it is apparent that the new building approvals process introduced through the *Building Act 2011* has affected building projects in WA in a number of ways. The hypothesis underlying this research – that for lower-value projects, particularly alterations to existing buildings, the new approvals process is likely to be more costly – has been supported by the analysis of the 16 building projects studied in this report. The 16 building projects studied indicate that the average cost of approval for projects valued up to \$1 million

is 4.0 times greater under the *Building Act 2011* than under the *Local Government (Miscellaneous Provisions) Act 1960*. Conversely, the introduction of private certification has reduced the cost of approvals for larger projects. The cost of the *Building Act 2011* for the building industry as a whole therefore appears to be neutral, with the reduced cost for larger projects offsetting the increased cost for smaller projects. The new approvals process has also succeeded in reducing the time required to obtain building permits, with most permits now being issued within two weeks under the *Building Act 2011*, instead of five weeks under the *Local Government (Miscellaneous Provisions) Act 1960*.

With continued monitoring and review by the Building Commission, and longer-term consultation and feedback from building industry practitioners, particularly in relation to alterations to existing buildings, the *Building Act 2011* will deliver a more streamlined approvals process and a greater level of safety and accountability in the built environment for Western Australia.

Further research is needed to determine if the increased cost of approval for projects valued under \$1 million, demonstrated by the 16 projects analysed in this report, is applicable to the whole building industry and is generally balanced by cost savings for larger projects.

Further research is also required to identify what maximum fee would be reasonable for permit authorities to receive and if the Building Commission should consider setting a maximum value to cap the 0.09 the building permit fee. There is also a need for the Building Commission to liaise with building industry practitioners and organisations to monitor occupancy permit requirements, to ensure that the 10-day timeframe to issue occupancy permits is being met, and does not delay the occupation of buildings.

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