

Mandatory Building and Pest Inspection Scheme

Consultation Submission

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About The Housing Industry Association

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the industry, HIA represents some 60,000 member businesses throughout Australia. The residential building industry includes land development, detached home construction, home renovations, low/medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diversity of residential builders, including the Housing 100 volume builders, small to medium builders and renovators, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry. HIA members construct over 85 per cent of the nation's new building stock.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA's mission is to:
"promote policies and provide services which enhance our members' business practices, products and profitability, consistent with the highest standards of professional and commercial conduct."

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into manufacturing, supply, and retail sectors.

The aggregate residential industry contribution to the Australian economy is over $150 billion per annum, with over one million employees in building and construction, tens of thousands of small businesses, and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis. The association operates offices in 22 centres around the nation providing a wide range of advocacy, business support including services and products to members, technical and compliance advice, training services, contracts and stationery, industry awards for excellence, and member only discounts on goods and services.

Executive Summary

HIA broadly supports the Victorian Government's objective of improving transparency and consumer confidence in residential property transactions through greater consistency, oversight and accountability in the preparation of building and pest inspection reports.

HIA considers that the issues identified in the discussion paper are not unique to pre-purchase inspections. Similar concerns relating to inspector competency, consistency of reporting, independence, professional accountability and consumer confidence also arise in relation to client initiated independent building inspections undertaken during the construction and renovation of homes.

HIA recommends that independent building inspections construction-stage which can sometimes occur on homes constructed under the regulation of the Domestic Building Contracts Act 1995 be also subject to inspection reform.

In any event, HIA support exemptions to mandatory purchases for newly constructed homes where existing regulatory approvals, inspections, statutory warranties, insurance and consumer protections already provide consumer protection.

Summary of Key Recommendations:

1. Require inspections and reports to comply with relevant the Australian Standards.
2. Introduce prescribed inspection templates and minimum requirements.
3. Require inspectors to maintain professional indemnity insurance.
4. Require for consumer protection that building and pest inspectors be licensed by the Business Licensing Authority.
5. Separate the regulation of pre-purchase building inspectors and pre-purchase pest inspectors.
6. Establish a public register of qualified inspectors.
7. Recognise and provide a simplified entry into this proposed scheme for building practitioners already registered under the Building Act 1993.
8. Consider as a further step, extending the competency, consistency of reporting, independence, professional accountability principles of the scheme to independent inspections where arranged by owners during the construction of new homes.

Consultation Questions – Responses

The following responses are provided to each theme in the Schedule of questions contained the Discussion Paper. HIA broadly supports the proposal for a seller-led procurement model subject to the following:

Theme 1 – Scope of the scheme

1. Appropriate safeguards – are implemented to maintain the independence and credibility of inspection reports. Exemptions should be included for newly constructed homes where existing regulatory approvals, inspections, statutory warranties, insurance and consumer protections already provide consumer protection.

2. Avoiding potential bias – Purchasers must have confidence that inspections are undertaken independently and without undue influence. The scheme should include measures that promote transparency, accountability and inspector independence including conflict of interest declarations, and buyers retain the ability to initiate their own report.

3. Reimbursement of the inspection cost by the successful purchaser, provided appropriate reliance rights and consumer protections are transferred with the report.

4. Clear inspection standards – Australian Standards AS 4349.1 and AS 4349.3 provide an established framework for building and pest inspections. However, there can be inconsistency in how these standards are applied in practice.

5. Transparency – Inspectors unable to access certain building components, including roof spaces, subfloors and concealed structural elements, which can limit the comprehensiveness of inspection reports. Reports should clearly communicate the scope of the inspection undertaken and any limitations.

6. Clear reporting requirements for prescribed reporting format to improve consistency, transparency and consumer understanding, and including linking findings to established standards and codes or guidelines for the assessment of defects.

7. Consider consistent regulatory framework to address the issues of competency, reporting quality, accountability and consumer confidence client-initiated construction-stage inspections as a next stage of reform.

Theme 2 – Integrity of the scheme

8. HIA acknowledges that the integrity of the scheme will be fundamental to achieving consumer confidence. Where sellers are responsible for selecting inspectors, safeguards will be required to ensure inspectors remain independent and are not perceived to be influenced by the interests of the seller. Appropriate oversight, competency requirements linked to the type of inspection and accountability mechanisms should form part of the regulatory framework including conflict of interest declarations.

9. These reforms should contemplate how clear, practical, affordable and accessible avenues for redress in the event of inaccurate or negligent inspection reports will be provided including through professional indemnity insurance requirements for inspectors operating under the scheme.

Theme 3 – Industry capability and oversight

10. HIA supports a licensing framework that will achieve a high level of consumer confidence in line with the HIA's national position statement for building consultants.

11. HIA strongly recommends that the inspection licensing regulator be the Business Licensing Authority (BLA). As the BLA licenses real estate agents and conveyancers for consumer protection reasons, it would be the most appropriate authority operating alongside Consumer Affairs Victoria (CAV) to regulate the real estate industry holistically.

12. The HIA does not recommend the Building and Plumbing Commission (BPC) be the regulator under this proposed scheme as its ability to regulate building inspection activity is limited by the Building Act 1993 which is in essence to regulate the construction of buildings. As the proposed scheme aims to provide consumer protections for the sale and purchase of real estate, the appropriate authorities would be the BLA and CAV.

13. HIA recognises that building inspections and pest inspections require different technical competencies and skill sets. Existing legislative frameworks already establish suitable cohorts of practitioners, including building inspectors under the Building Act 1993 and licensed pest control operators operating under the Public Health and Wellbeing Act 2008.

14. Registered domestic builders, building surveyors, building inspectors have already undergone an extensive process in demonstrating relevant experience and knowledge to obtain registration to operate under the Building Act 1993. HIA recommends that the proposed

scheme makes allowance for certain registered practitioners that have already been vetted by simplifying the process to obtain the license necessary to operate under the proposed scheme.

15. HIA supports the establishment of a publicly accessible register of authorised inspectors identifying whether an individual is qualified to undertake building inspections, pest inspections, or both disciplines. Such a register would provide consumers with confidence that inspectors have satisfied the relevant competency and regulatory requirements.

16. HIA recommends that consideration be given to the appropriate naming of the inspector's license under the proposed scheme to avoid consumer confusion with registered building inspectors under the Building Act 1993. HIA suggests the appropriate naming could be:
    a) 'Private Building Inspector', and
    b) 'Private Pest Inspector'.

Theme 4 – Implementation of the scheme

17. Implementation timeframes should reflect workforce capacity, regulatory readiness and the availability of qualified inspectors.

18. Appropriate transition arrangements will be required to provide certainty for industry participants and consumers and to support the effective commencement of the scheme.

19. A clear transition timetable that would allow adequate time for the industry to prepare for mandatory selling under the initial phase and any future reforms is essential.