



Department of Local Government,
Industry Regulation and Safety
Building and Energy

Reforming Western Australia's Home Building Contract Laws: Discussion Paper



Contents

Disclaimer	2
Glossary	3
Background	5
The consultation and review process	6
What we have heard so far during the review	7
Proposed reforms and improvements	10
Consumer and industry knowledge of the home building contract laws.....	10
Jurisdictional limits of the HBC Act.....	11
Financial limits on remedial orders.....	12
Deposit limits.....	13
Cooling-off periods.....	14
Price escalations – Statutory framework.....	15
Price escalations – Complaints process.....	17
Progress payments and defined stages.....	19
Limitation periods for remedial work complaints.....	20
Limitation period clarification for price escalation complaints.....	21
Early mediation and conciliation conferences.....	22
Site access to building site – Harmonisation with WHS requirements.....	23
Standing of registered builders and owner-builders to make complaints.....	24
Prohibition on caveats in residential building contracts.....	25
Notice of the proposed complaint and provision of evidence.....	26
General inspections.....	26
Inspection reports and the SAT.....	27
Powers of the Building Commissioner to issue warnings.....	28
Accreditation framework for building inspectors.....	29
HBC Act penalties for offences.....	30
Appendix 1	31

Disclaimer

This document discusses proposed reforms to Western Australia’s home building contract laws.

Every care has been taken to ensure accuracy in the preparation of this document. The contents of this document do not constitute legal advice or legal information. This document should not be used as a substitute for a related Act, Regulations or professional advice.

For access to legislation in force in Western Australia, visit the official Parliamentary Counsel’s Office website at: www.legislation.wa.gov.au.

Glossary

ABS WA Housing Construction Price Index	The Australian Bureau of Statistics index which measures changes in the cost of constructing a house in Western Australia over time. 6427.0 Producer Price Index – Table 17. Output of the Construction Industries – House Construction Western Australia (Series A2333757A).
ABS WA Residential Construction Inputs Index	The Australian Bureau of Statistics index which measure changes in the cost of residential construction inputs in the Perth market over time. 6427.0 Producer Price Index – Table 18. Input to the House Construction Industry – All groups – Perth (Series A2390606F).
BAL	Bushfire attack level
BRO	Building remedy order
BSCRA Act	<i>Building Services (Complaint Resolution and Administration) Act 2011</i>
BSR Act	<i>Building Services (Registration) Act 2011</i>
Building Commissioner	Statutory office created under the BSCRA Act and vested with various regulatory responsibilities, including resolving some building disputes.
Building permit	An approval, given under the <i>Building Act 2011</i> , which authorises specified building work to be carried out.
Building service complaint	A complaint about a building service made under the BSCRA Act.
Certified building permit application	An application for a building permit that is supported with a certificate of design compliance from a private building surveyor. A certified building permit application can be made for any building or incidental structure.
Class 1 building	A class of building within the National Construction Code classification system made up of Class 1a buildings (detached houses, townhouses and rowhouses) and Class 1b buildings (boarding houses, guest houses and short-term holiday accommodation).
Class 10 building or structure	A class of building within the National Construction Code classification system made up of Class 10a building (private garages, carports, sheds, or similar non-habitable structures), Class 10b structures (fences, masts, antennas, retaining walls, swimming pools, or similar) and Class 10c structures (a private bushfire shelter associated with but not attached to a residence).
Cost plus contract	A contract under which a builder is entitled to recover an amount that is not determined at the time when the contract is entered into, that includes the actual cost of materials and labour plus a percentage of that cost, a specified sum, or both.
FPAA	Fire Protection Association Australia

HBC Act	<i>Home Building Contracts Act 1991</i>
HBWC complaint	Home building work contract complaint made under the BSCRA Act
HBWCRO	Home building work contract remedy order
HII	Home indemnity insurance, a type of insurance required under the HBC Act which protects homeowners and their successors in title.
Home building work contract	A contract between a builder and a homeowner for the performance by the builder of home building work, but does not include a cost plus contract or contracts below \$7,500 or above \$500,000.
LGIRS	The Department of Local Government, Industry Regulation and Safety
Minister	The Minister for Commerce
Notice for the homeowner	A notice, required under the HBC Act, to be given by a builder to a homeowner before they enter a home building work contract.
Owner builder	An individual who is not a registered builder but has been given special approval to be the builder for their own building project.
Permit authority	A regulatory authority responsible for issuing building permits and enforcing building standards within a geographic area (typically a local government)
PPA	Preparation of plans agreement
Registered builder	A building contractor registered under the <i>Building Services (Registration) Act 2011</i> .
SAT	The State Administrative Tribunal
Uncertified building permit application	An application for a building permit where the permit authority arranges the certificate of design compliance. An uncertified building permit application can only be made for Class 1 and 10 buildings and incidental structures.
WALGA	The Western Australian Local Government Association
WHS	Work health and safety
WHS Act	<i>Work Health and Safety Act 2020</i>
WHS Regulations	Work Health and Safety (General) Regulations 2022

Background

On 2 July 2025, the Minister for Commerce announced a review of Western Australia's home building contract laws to ensure these laws are achieving the right balance and remain fit for purpose, and to identify opportunities for improvements.

The Hon. Dan Caddy MLC, Parliamentary Secretary to the Minister, is leading the review and is being supported by LGIRS.

The review is considering:

- the whole of the HBC Act (except Part 3A, which deals with HII); and
- the dispute resolution process established under Parts 2 and 3 of the BSCRA Act.

Defined legislation, technical terms and acronyms used in this discussion paper are explained in the glossary.

The terms of reference for the review can be found on the Western Australian Government website [here](#)¹.

Broadly, the HBC Act is an important piece of consumer protection legislation that regulates contracts for the carrying out of home building work in Western Australia, to ensure they are fair and reasonable for all parties. Equivalent legislation exists in all other Australian states and territories.

The BSCRA Act provides for an efficient and contemporary complaint resolution system for building services delivered in Western Australia, including complaints related to breaches of home building contracts by either party.

The BSCRA Act establishes the statutory office of the Building Commissioner who is principally responsible for resolving disputes concerning building services and home building work contracts, and investigating and auditing the activities of regulated building service providers (e.g. builders, painters, building surveyors and engineers).

The dispute resolution process for building service and HBWC complaints is designed to be an informal and low-cost alternative to court or arbitration. The majority of complaints are resolved by the Building Commissioner with binding orders issued, but complex or costly matters are referred to the SAT for resolution.



¹ www.wa.gov.au/media/152597/download?inline

The consultation and review process

The review of home building contract laws is being undertaken in three phases.

Phase 1

Inquiry Phase Completed

The first phase of the review focused on identifying current challenges experienced by consumers and building industry participants with the home building contracts regulatory framework.

This phase involved extensive consumer and building industry surveys, stakeholder workshops and consideration of written submissions received.

Phase 2

Discussion Phase Current Phase

The current phase of the review now seeks public feedback on a set of proposed reforms to address key issues identified during the Inquiry Phase, along with any broader feedback on the home building contract laws.

Phase 3

Recommendations Phase (Recommendations paper) Upcoming

Feedback to the proposed reforms in this paper, and other issues, will inform the final report and recommendations presented by the Parliamentary Secretary to the Minister.

Have your say

There is no specified format for you to provide comments on the proposed reforms in this paper.

An online survey has been prepared to assist you with preparing a response. Alternatively, you are welcome to write a letter or email outlining your views and responses to the various proposals in this paper.

Please provide your submission before 5:00pm (WST), **24 June 2026**, by completing the online survey [here](#)¹ or alternatively, emailing hbc.lawreview@lgirs.wa.gov.au.

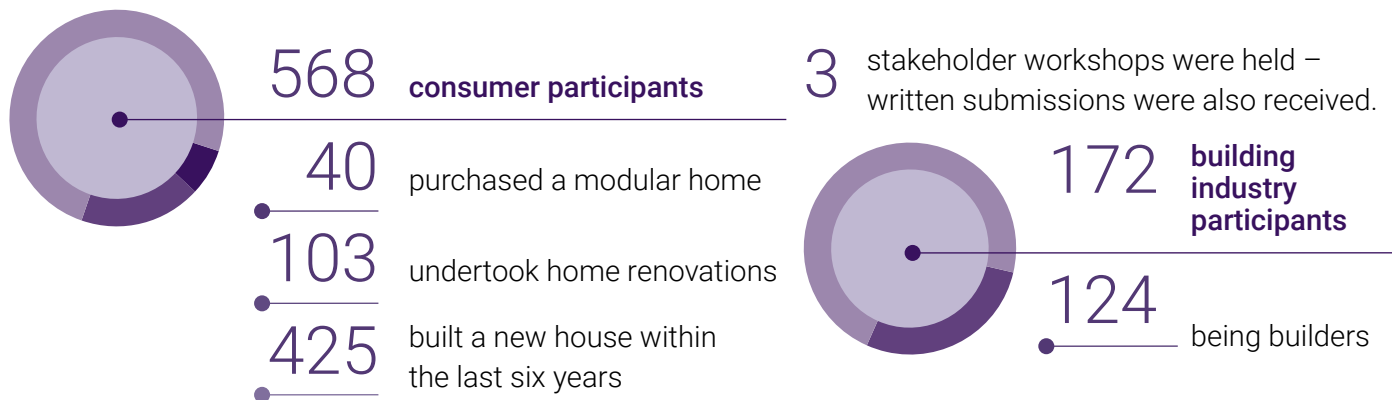
Please note that this is a public consultation process and the comments in your submission may appear in future publications. If you would prefer your name to remain confidential, please indicate this in your submission. As all submissions received can be subject to freedom of information requests, please do not include any personal or confidential information that you do not wish to become publicly available.



¹ consultation.dmirs.wa.gov.au/building-and-energy/home-building-contract-laws-discussion-paper

What we have heard so far during the review

As part of the inquiry phase, consumers and building industry participants took part in online surveys.



Consumers surveyed

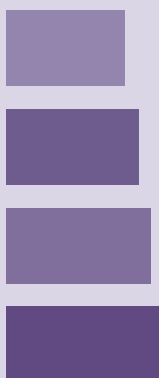
94% read their home building contracts.

47% did not feel confident they understood their contracts.

34% felt their home building contract favoured the builder.

18% felt the contract favoured the consumer.

48% building a new home reported a price increase after contract signed, of those:



- 66% reported a price increase of greater than five per cent of the contract value.
- 69% felt pressured to accept the price increase.
- 72% reported a price increase due to finance approval not being evidenced within 45 working days of contract.
- 77% reported a price increase due to land titles not being provided within 45 working days of contract.

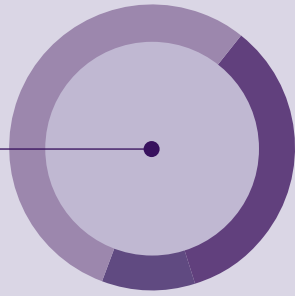
47% had concerns about signing a home building contract with a builder. Main concerns included:

- Timelines
- Contractual delays
- Price increases
- Unfavourable terms
- Lack of understanding of contract

58% did, or wished they did, seek assistance with their home building contract. Legal costs quoted ranged between \$500 to \$20,000.

59%

experienced delays in commencing work, of those:



32%

stated the delay was due to a delay in the council issuing a building permit.

20%

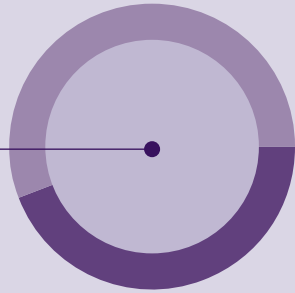
reported delays in getting water and sewage connected.

6%

reported delays due to being unable to provide the certificate of title in time.

71%

reported experiencing problems with their contracts (other than delays and price increases).



56%

were resolved.

44%

did not have all issues resolved.

59%

took matter further.

41%

did not take the matter further. Reasons included maintaining working relationship with builder, and lacking time and confidence to do so.

54%

supported home building work contracts having a cooling-off period.

82%

were aware that they could lodge a complaint with their builder.



18%

were aware that they could lodge a complaint with the Building Commissioner.

26%

wished they had a better understanding of build or renovation process before starting, including, obtaining advice on plans, cost of materials, contractual rights to price increases and construction timeframes.

32%

wanted to or did terminate their contracts.

Of those who wanted to but did not, main reasons were the cost of termination and/or starting again and feeling they had no choice or lacked support.

42%

were unaware of LGIRS' role in:

- helping with building disputes; and/or
- providing resources to homeowners to help them understand their rights.

64%

contacted LGIRS for assistance with unresolved problems with builder.

Alternative avenues used to resolve problems included the use of lawyers, mediation, expert determination, courts and arbitration. Cost of legal advice ranged from \$1,000 to \$50,000.

Building Industry participants surveyed

12%

believed they have a thorough understanding of the HBC Act.

7%

believed they have a thorough understanding of the BSCRA Act.

49%

felt they understood at least most of the HBC Act.

26%

felt they understood most of the BSCRA Act.



34%

were in favour of a cooling-off period, with 10 business days being the most common suggestion.

81%

felt the HBC Act should be changed to expressly state when a builder can or cannot issue a price increase.

88%



felt the Building Commissioner should be given the power to issue public warnings where there are multiple complaints about the same issue, organisation or person.

58%

felt the 6.5 per cent ceiling for deposits is not fair.

50%

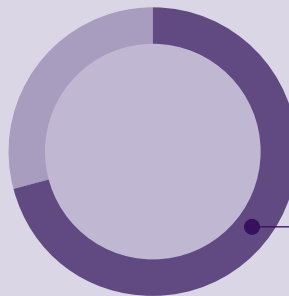
of participants surveyed had been involved in the BSCRA Act complaints process, with most having been the subject of the complaint.

74%

supported the HBC Act upper threshold of \$500,000 being increased to a higher amount.

71%

found the BSCRA Act dispute process moderately, very or extremely easy to follow.



Proposed reforms and improvements

Consumer and industry knowledge of the home building contract laws

Access to clear, reliable and consolidated information is essential to ensuring both consumers and building industry participants in the Western Australian home building sector understand their rights, responsibilities and obligations. While a range of information is available, it is often fragmented, inconsistent, out of date or difficult to navigate.

Additionally, contracts in the home building sector are often lengthy, complex and filled with legal and technical terminology that can be difficult for consumers to interpret without support. This complexity contributes to confusion about key contract terms, payment schedules and dispute resolution processes, which can lead to preventable issues and disputes.

Consumers surveyed have found it challenging to identify and interpret the specific information relevant to their situation. Similarly, some builders (particularly small builders) may not completely understand their obligations under the legislation. This can lead to unintentional non-compliance or poor communication with their clients, further eroding trust in the sector.

Throughout the Inquiry Phase of this review, common themes that emerged included that there is currently a lack of knowledge across the home building sector. This was particularly the case with respect to contractual obligations, regulatory requirements and the overall building process. It was also noted that access to free legal advice was limited.

This gap has contributed to recurring issues such as contractual disputes, construction delays and unmet expectations for both builders and homeowners.

The stakeholder feedback received highlights the need for legal, regulatory and contractual rights and obligations to be communicated to homeowners and builders in a more transparent and accessible way.

Improving the clarity of contractual documentation and ensuring consistent, easy to understand guidance and advice across the sector will improve understanding, reduce the risk of disputes and help set more realistic expectations from the outset.

Proposed reform

- Increase the accessibility, ease of use and transparency of home building information provided by LGIRS, by providing information in one centralised online location (a 'WA Home Building HQ').
- Establish a two-year pilot program with suitable legal aid services to provide assistance to consumers in understanding their rights under home building work contracts and how to utilise the BSCRA Act complaints process.



Jurisdictional limits of the HBC Act

Building contracts are regulated by the HBC Act when they relate to the performance of home building work and meet certain jurisdictional thresholds. When the HBC Act was enacted, the monetary thresholds were set to capture fixed-price contracts for works valued between \$6,000 and \$200,000. These thresholds were revised on 29 June 2007, to capture contracts for works valued between \$7,500 and \$500,000 respectively.

Since 2007, the cost of constructing a new home has increased substantially. This is reflected in the ABS WA Housing Construction Price Index which indicates a 133.2 per cent increase in the cost of building a home between 30 June 2007 to 31 December 2025. Due to this rise in construction costs, the proportion of home building contracts covered by the HBC Act has progressively decreased. Looking at HII data, the proportion of home building contracts valued under \$500,000,

and therefore covered, has fallen from 94 per cent in 2014, to 82 per cent in 2024 (LGIRS does not have applicable data going back to 2007).

Homeowners whose contracts are not captured by the HBC Act do not benefit from the rights and protections established by the HBC Act. This includes the effective loss of access to the BSCRA Act dispute resolution process in relation to HBWC complaints, which is designed to provide an accessible and efficient mechanism to resolving contractual disputes between homeowners and builders.

Across Australia, states and territories apply varying monetary thresholds and regulatory frameworks to home building contracts. Western Australia remains the only jurisdiction to impose an upper limit on the value of contracts covered by home building legislation.

Proposed reform

Home building contract laws are amended to:

- change threshold values under the HBC Act to increase the lower threshold to \$10,000 and increase the upper threshold to \$800,000; and
- expressly provide that the thresholds are to be reviewed on a three-yearly basis reporting through to the Minister, to ensure they remain relevant and reflective of the prevailing market conditions.



Increasing the lower jurisdictional value threshold to \$10,000 removes the cross-over with the alternative low-cost minor case claims facility of the Magistrates Court of Western Australia.

Increasing the upper jurisdictional value threshold to \$800,000 accounts for the increase in construction costs since 2007 and the decreasing proportion of home building contracts covered by the HBC Act.

In not proposing a higher increase, regard has been had to fixed-price controls being identified as a cause of financial distress for builders during recent periods of high inflation, and there being a value point at which consumers should reasonably be expected to appropriately contribute to the protection of their own interests.

Financial limits on remedial orders

In resolving a complaint made under the BSCRA Act, the Building Commissioner and SAT are empowered to issue orders in the form of:

- BROs – A remedy for faulty or unsatisfactory work.
- HBWCROs – A remedy for breaches of contract or HBC Act obligations.

These orders provide an accessible, low-cost remedy, without the need for formal court proceedings. Orders issued by the Building Commissioner or SAT must be complied with and can be enforced in a similar manner as a court order. Failure to comply with an order, without a reasonable excuse, is also an offence and may be treated as grounds for disciplinary action where the non-compliant party holds an occupational licence (e.g. a builder or painter).

The Building Commissioner can issue a BRO or HBWCRO for remedial work or payments valued up to \$100,000 and valued over \$100,000 with the consent of the disputing parties.

The SAT can issue a BRO for remedial work or payments valued up to \$500,000 against an unregistered entity, with no limits applicable for a BRO against a registered building service provider (e.g. a registered builder). The SAT can issue a HBWCRO valued up to \$500,000.

These limits have not been reviewed or updated since 2011. As with the HBC Act jurisdictional thresholds discussed earlier, inflation has effectively eroded the coverage of these orders, and by extension, the practical utility of the BSCRA Act dispute resolution process. This has gradually pushed building disputes out of:

- the Building Commissioner's jurisdiction and into the SAT's, increasing dispute resolution costs, time and procedural complexity; and
- the BSCRA Act framework, entirely on the higher end, and either into the court system or caused consumers to give up on seeking a remedy.

To ensure the BSCRA Act dispute resolution process remains fit for purpose, the limits applying to Building Commissioner and SAT orders need to be increased.

Proposed reform

Home building contract laws are amended to:

- increase the value of BROs and HBWCROs which the Building Commissioner can issue, without consent of the disputing parties, from \$100,000 to \$200,000; and
- increase the value of HBWCROs that the SAT can issue from \$500,000 to \$800,000.



Deposit limits

The HBC Act regulates deposits that can be taken under home building work contracts by setting limits intended to protect consumers.

Deposits are generally limited to 6.5 per cent of the total amount payable under a home building work contract up to 20 per cent of the total amount payable under a home building work contract where the work is principally cabinetry work and at least 50 per cent of the value of the contract is for off-site work.

Separate rules apply to deposits for the purchase of modular and prefabricated homes however, the regulation of modular and prefabricated homes is outside the scope of this review.

According to building industry participants surveyed, upfront costs have increased significantly since the 6.5 per cent limit was first set in 1991. That limit included costs associated with energy rating, acoustic and other reports, preparation and lodgement of permits with public utilities and the local government authorities, geotechnical surveys, fire zoning, HII premiums, compliance with expanded worker health and safety obligations and other administrative matters.

Some building industry participants surveyed advised that builders were having to cover upfront costs, above the 6.5 per cent limit, out of their

own funds and wait to recoup these amounts from later progress payments, sometimes many months later. Of the building industry participants surveyed who considered the 6.5 per cent limit to be inadequate, more than half suggested a deposit limit of 10 per cent to cover a builder's costs.

Under the HII scheme, from 1997 to 2022, homeowners were covered for lost deposit of up to \$20,000 in the event of a builder's death, disappearance or insolvency. This meant that, depending on the value of a home building work contract, part of a deposit provided by a homeowner to a builder was insured and part was uninsured (e.g. 6.5 per cent on a \$500,000 contract is \$32,500, of which \$12,500 was uninsured).

In 2022, the Western Australian Government doubled the level of HII cover across the board, including raising the cover for loss of deposit to \$40,000. Increasing the upper value limit for home building work contracts from \$500,000 to \$800,000, as is proposed earlier in this paper, will see some deposits again become partially uninsured (e.g. 6.5 per cent on an \$800,000 contract is \$52,000, of which \$12,000 would be uninsured). An increase to the deposit limit would further increase the uninsured component of a homeowner's deposit.

Proposed reform

Home building contracts laws are amended to increase the deposit amount under a home building work contract to 10 per cent (capped at \$40,000) to cover additional upfront builders' costs.

This would effectively see 10 per cent deposits permissible on home building work contracts valued up to \$400,000, with that percentage falling in relative terms for higher value contracts.



Contract value	Maximum deposit under reform proposal
\$200,000	\$20,000 (10%)
\$300,000	\$30,000 (10%)
\$400,000	\$40,000 (10%)
\$500,000	\$40,000 (8%)
\$600,000	\$40,000 (6.7%)
\$615,000	\$40,000 (6.5%)
\$700,000	\$40,000 (5.7%)
\$800,000	\$40,000 (5%)

Cooling-off periods

A 'cooling-off period' is a short period of time, after signing a contract, within which a consumer can withdraw from a contract without incurring substantial liability for breach of contract. A cooling-off period can be created within the terms of a contract or through legislation.

Western Australia's home building contract laws do not include a cooling-off period for home building work contracts. By contrast, Victoria, New South Wales, Queensland, South Australia and Tasmania all require five business-day cooling-off periods in residential building contracts. In these jurisdictions, where homeowners exercise their right to withdraw from the contract during the cooling off period, the builder is entitled to be compensated for their out-of-pocket expenses incurred to that date or a reasonable price for the work carried out under the contract to that date. Any deposits paid to the builder must otherwise be returned.

Should cooling-off periods be introduced for home building work contracts, an owner that terminates their contract would be able to seek to recover monies paid to builder through the BSCRA Act complaints process. Disputes related to a builder's entitlement to compensation could also be managed through the BSCRA Act complaints process.

It is noted that prior to signing a building contract, it is common practice for drawing up of plans and technical papers to be performed under a separate PPA. A PPA may also cover a range of other services such as site inspection, preparation of an estimate or budget, arranging a site survey and arranging engineering drawings. This reform proposal does not include PPAs, as they are not covered by the HBC Act.

Cooling-off periods

WA	Vic	NSW	Qld	ACT	NT	SA	Tas
None	5 days	5 days	5 days	None	None	5 days	5 days

Proposed reform

Home building contract laws are amended to:

- imply an owner's cooling-off period into home building work contracts of five working days;
- outline that if the owner exercises their right to terminate the contract during the cooling-off period, the builder is entitled to be compensated for 'out of pocket expenses' incurred under the contract to the date the contract is ended; and
- stipulate that any monies paid to the builder must otherwise be returned.



Price escalations – Statutory framework

A builder cannot pass on price increases under a home building work contract except in limited circumstances set out in the HBC Act. Such circumstances include, but are not limited to, a delay in the commencement of building work beyond 45 working days after the contract is entered into, either:

- caused solely by a failure of the owner to comply with certain contractual conditions (e.g. evidence of finance approval or the owner's title to the land); or
- which occurs without any failure on part of the homeowner or builder.

A delay beyond 45 working days, which is not the fault of the builder, will entitle the builder to seek a price increase to cover changes in labour and/or material costs to be incurred by the builder.

Builders are obliged under the HBC Act to do all things reasonably necessary to ensure that building work commences within 45 working days of the contract being entered into. Where a builder submits their building permit application to the applicable local government permit authority within 20 working days, with all necessary documentation, they are deemed-to-satisfy this obligation.

Once received, a local government permit authority has 10 working days to determine certified building permit applications and 25 working days to determine uncertified building permit applications – where further information is not required. Where a permit authority needs further information, the builder has up to 21 days to provide it. It is noted that, most high-volume project builders submit certified building permit applications.



According to WALGA data¹ for the 2023–24 financial year, 39.2 per cent of certified building permit applications and 51.7 per cent of uncertified building permit applications required further information. As building work cannot commence prior to the issue of a building permit, this data strongly suggests that building work was not commenced within 45 working days on a significant proportion of home building work contracts in the 2023–24 financial year and potentially exposed homeowners to the risk of price escalation.

A homeowner failing to provide evidence of land title within 45 working days after the contract is entered into is considered to be a homeowner caused delay for which the builder may seek a price increase. Many first-home buyers enter a 'land and

home package', where the land sale contract and home building work contract are signed at the same time. In these arrangements, the property developer, not the homeowner, is responsible for applying for and obtaining the land title certificate. When the developer delays this process, the homeowner can still face a price increase, even though they have no control over the timing of the release of the land title certificate. In essence, the delay may not be caused by the homeowner.

Support for increasing the 45 working day time frame was not limited to consumers surveyed. Forty-six per cent of building industry participants surveyed supported the 45 working day period being increased.

Proposed reform

Home building contract laws are amended to:

- increase period after which a delay in commencement of building work is grounds for price escalation from 45 working days to 60 working days; and
- remove the provision of land titles as reason for an owner cause of delay from the HBC Act and entitlement for the builder to claim a price escalation.



¹ Local Government Performance Monitoring Project | WALGA -

[walga.asn.au/policy-and-advocacy/our-policy-areas/planning-and-building/local-government-performance-monitoring-project](https://www.walga.asn.au/policy-and-advocacy/our-policy-areas/planning-and-building/local-government-performance-monitoring-project)

Price escalations – Complaints process

Where a builder is entitled under the HBC Act to increase the contract price on an otherwise fixed-price home building work contract, the increase must not be excessive or unjustified. If a homeowner believes that a claimed increase is excessive and/or unjustified, they may lodge a complaint under the BSCRA Act to have the matter determined.

Further, if the increase notified by the builder to the homeowner amounts to an increase of more than five per cent of the overall contract price, the HBC Act gives the homeowner the right to terminate the contract, provided they do so within 10 working days of the builder giving notice of the price increase. Where a home building work contract is terminated in such a manner, the homeowner is liable to compensate the builder for reasonable costs incurred by the builder up to that date.

This right of termination is suggestive of a builder giving a single price increase notice immediately following the end of the delay to the building work commencing, otherwise a homeowner's right to terminate would seemingly be worthless. Notwithstanding, the HBC Act does not expressly address:

- when a builder may notify a price increase; or
- whether a builder is restrained to a single price increase (or whether they could notify a further price increase if material and labour prices later increase more than anticipated).

If homeowners contest a builder's notified price increase through the BSCRA Act complaint process, the Building Commissioner must assess whether the increase was unjustified or excessive. If the price increase is triggered by one of the grounds set out in the HBC Act, it will generally be found to be justified. Whether a price increase is excessive is a more difficult matter to determine, and is regularly the subject of protracted disputes, with homeowners complaining of a lack of transparency or capacity to mitigate cost increases.

Building industry participants surveyed suggested that the HBC Act should include a requirement for price increases to be supported by evidence, as well as set limits to the level of increase that can be passed on.

In the absence of a builder being able to demonstrate actual increases in the costs, linking the amount of the price increase to an independent benchmark, such as the ABS WA Residential Construction Inputs Index, may provide a more transparent and efficient method in resolving price increase complaints for both parties.



Proposed reform



Home building contract laws are amended to:

- Expressly limit the time within which a builder may notify a homeowner of a price increase on account of a delay to the commencement of work under to the home building work contract prior to works commencing on site.
- Void any additional price increase notices when a builder has already been given a price increase notice for the same circumstance.
- Without limiting what price increase a builder may claim, deem a price increase to not be excessive where it does not exceed the pro-rated ABS WA Residential Construction Inputs Index for the nearest preceding 12-month period.

For example, if construction inputs increase by eight per cent in the nearest preceding 12-month period, a price increase to account for a 3-month delay to the commencement of work would be deemed to not be excessive provided it did not amount to an increase of more than 2 per cent of the contract price (i.e. 8 per cent x 3/12).

- Provide a price increase (greater than that determined by reference to the above index-linked methodology) will not be considered excessive where the builder supports the claimed increases with evidence demonstrating the actual changes in costs that will be incurred (e.g. original and revised supplier quotes).
- Harmonise section 10 (deposits and progress payments) of the HBC Act with Schedule 1 price increase complaints to ensure consistency between provisions.



Progress payments and defined stages

The HBC Act regulates progress payments under home building work contracts. Progress payments in home building work contracts must represent genuine payments for work already performed or materials or services already supplied. Within home building work contracts to build a new home, progress payments generally follow defined stages of the build, with banks or lenders releasing funds to the homeowner or builder once each stage is completed. Progress payments in new home building contracts provide certainty to contracting parties by specifying when and what proportion of payment must be made when a defined stage is completed.

Currently in Western Australia, progress payment stages under home building work contracts are not prescribed and parties are left to agree upon milestones. For new home builds, progress payment stages are often agreed in conjunction with the financial institution that is providing finance to the project. This can lead to varying, and at times unclear, progress payment stages, depending on the practices of the particular builder or lender. As a result, homeowners can be left without a clear understanding of what each progress payment stage entails, which may lead to disputes during the build, including with lenders, regarding whether a defined stage has been reached or not.

Victoria and the Northern Territory currently prescribe residential construction progress payment stages in legislation or regulations. By doing so, this ensures consistency and transparency, and can give homeowners more control over the construction process by allowing them to refer to clearly prescribed stages. In Victoria, parties can opt out of the prescribed residential construction progress payment stages.

As part of this review, financial institutions were consulted through two national banking associations. Three-quarters of member banks surveyed from these associations supported Western Australia defining progress milestones and prescribing progress payment schedules in legislation or regulations, similar to Victoria. Reasons outlined for supporting the above included certainty, transparency, streamlining the process and consumer protection by giving homeowners more control in the progress of the build.

Proposed reform

Home building contract laws are amended to allow defined progress payment stages to be prescribed in regulations, similar to the Victorian model.



Limitation periods for remedial work complaints

Under the BSCRA Act, building service complaints must be lodged within six years of completion (or 15 years for complaints relating to Typlex pipes), while HBWC complaints are (generally) to be made within three years from the date the cause of action arose or the breach first occurred.

Where remedial work is undertaken by a registered builder, the limitation period is effectively reset, providing a further six years to address any issues arising from the remedial work performed itself.

This timeframe reset however does not currently extend to remedial work carried out by an unregistered builder (i.e., most tradespersons). Once the original limitation period expires on the work performed by an unregistered builder, the owner has no avenue for recourse through the complaints process in relation to defective remedial work performed by an unregistered builder, regardless of when the remedial work was undertaken (unless the owner paid for this remedial work). This creates a gap in protections for owners under the home building contract laws.

Proposed reform

Home building contract laws are amended to clarify that:

- the six-year complaints time period restarts only with respect to the remedial work done (not the initial whole works); and
- unregistered builders will be responsible for specific remedial works performed for an additional six years from when the works were last complete, regardless of whether works were carried out for gain or reward (to make consistent with registered builders).



Limitation period clarification for price escalation complaints

On 1 September 2025, the Notice for the Home Owner prescribed form was updated to clarify the homeowner had three years from receiving the notice of the price increase to lodge a complaint with the Building Commissioner.

While noting the above clarification, there is still a lack of clarity under the BSCRA Act, including the limitation period under section 6 of the BSCRA Act, regarding HBC Act Schedule 1, clause 5 (price increase) complaints.

Further to the above, the HBC Act section 17(b) states that an owner has the right to lodge a complaint under Schedule 1 for compensation due to builder's failure to obtain the builder permit and other necessary approvals within 45 working

days of the contract date. Currently, Schedule 1 does not provide this right. Schedule 1 goes on to provide for rights of the owner and builder in clause 4, however, this does not cover rights of the owner to seek compensation for delay where the builder has caused or contributed to the delay.

To resolve this issue, it is proposed that a right be created for the owner to seek compensation for delay where the builder has caused the delay.

Proposed reform

Home building contract laws are amended to:

- expressly set out the limitation period of three years in relation to HBC Act price increase complaints; and
- in relation to price increase complaints, create a right for the owner to seek compensation for delay where the builder has caused the delay.



Early mediation and conciliation conferences

Currently, conciliation conferences are carried out as part of the building complaints process under the BSCRA Act. Conciliation conferences facilitate the opportunity for parties, often the homeowner and builder, to attend a meeting with a trained conciliator to work to resolve building service and HBWC complaints. Conciliation conferences support building complaints being resolved by the Building Commissioner in a timely, focused and amicable manner.

In the last two years, over 80 per cent of complaints conciliated by the Building Commissioner resulted in a resolution of the dispute with parties reaching an agreement and the Building Commissioner issuing an order. Over that same time, most complaints referred to conciliation involved HBWC contractual disputes.

Consumer and building industry participants surveyed believed that early mediations or conciliations conducted by the Building Commissioner will reduce the costs and time taken to resolve building service and home building contract disputes. Half of building industry participants surveyed who had participated in conciliations run by the Building Commissioner found it to be a fair process. Industry associations supported the option of early mediation to attempt to resolve disputes in a timely and cost-effective manner.

HBWC complaints are usually time sensitive, relating to disputes regarding the suspension of works, price increases and non-payment under the building contract. Delays in resolving these types of complaints can negatively impact both owners and builders. For these reasons, parties are often motivated to resolve these disputes in a timely manner. Presently, conciliations can only take place once certain administrative and statutory steps have first been taken (for example, the acceptance of complaint, consideration of parties' evidence and preparation of an investigation report). Due to these requirements, this process can take time, which is not ideal for many HBWC complaints.

Generally, the Building Commissioner conducts site inspections for building service (workmanship) complaints. The inspector's report commissioned by the Building Commissioner is then provided to the parties to allow them to consider the inspector's findings.

Currently, once a conciliation takes place, the Building Commissioner only has the option to continue investigating aspects of the complaint that have not been dealt with in conciliation. Where a conciliation has taken place prior to a site inspection, there is no option for an inspection to occur after the conciliation.

Proposed reform

Home building contract laws are amended to:

- allow for early (voluntary) mediation for HBWC complaints pre-acceptance;
- allow complaints to continue with the Building Commissioner post conciliation conference; and
- permit inspections commissioned by the Building Commissioner at any point (e.g.: before and after conciliation).

To support the reforms, additional funding will be sought for LGIRS to increase the number of trained conciliators and establish an expert panel to deal with complex HBWC early mediations (similar to the Small Business Development Corporation model) and general conciliations.



Site access to building site – Harmonisation with WHS requirements

Currently the HBC Act provides homeowners, and any authorised person acting on their behalf, with a right of access to home building work. Under the HBC Act, any contractual terms that restrict or prohibit such access is void, except where access is limited to normal business hours or where it would unreasonably impede or interfere with the building work (section 26(2)). However, the interaction between this provision and the WHS obligations is currently unclear.

Under the WHS Act, individuals must comply, so far as reasonably able, with any reasonable instruction issued by the person conducting the business to ensure WHS compliance. A builder has

an obligation to secure the site where construction work is being carried out from unauthorised access in accordance with the WHS Regulations. Greater clarity is needed to ensure that rights under the HBC Act do not conflict with a builder's obligations under WHS laws.

The HBC Act does not presently require a minimum notice period or provide for any notice requirements to access the site of the home building work. Adding a minimum-notice requirement for homeowners or authorised persons may help support better communication and coordination between the parties.

Proposed reform

Home building contract laws are amended to:

- ensure harmonisation with the WHS Act and WHS Regulations, so that the owner or authorised persons must comply with any reasonable WHS safety requirements;
- clarify that reasonable requirements do not include proof of insurances or white card, etc; and
- require a minimum notice period to the builder of 48 hours, unless otherwise agreed between the parties.



Standing of registered builders and owner-builders to make complaints

An owner-builder is a person who manages building work and carries out the certain types of building work on their property. Owner-builders are in a similar position to that of typical homeowners, particularly in terms of bargaining power and experience in engaging with the building industry.

Unlike registered builders, owner-builders are generally not regular participants in the building industry and often may not possess the commercial knowledge or relevant expertise necessary to navigate complex contractual or technical issues. As a result, they may face difficulty enforcing their rights or resolving disputes without regulatory support. Providing owner-builders with access to complaint mechanisms would help ensure they receive protections consistent with those afforded to homeowners – supporting fairer outcomes for individuals undertaking building work on their property.

Jurisdictional comparisons indicate a clear trend towards allowing owner-builders access to complaint pathways. The Australian Capital

Territory, Queensland, New South Wales, Northern Territory and South Australia all allow owner-builders to lodge complaints regarding defective or incomplete work. Victoria and Tasmania are the only jurisdictions that expressly prohibit such complaints.

In contrast, registered builders engaging with other registered builders/painters do so within a commercial environment where both parties are presumed to have the necessary expertise and bargaining power to manage contractual relationships.

Disputes between registered builders/painters are therefore considered commercial in nature and are more appropriately resolved through existing legal or contractual avenues such as litigation, private dispute resolution mechanisms, or negotiated settlement. Allowing registered builders/painters to lodge complaints against other registered builders/painters provides limited regulatory value.

Proposed reform

Home building contract laws are amended to clarify that:

- owner-builders should be considered a consumer in the normal sense and may be permitted to make a complaint against a builder for HBWC complaints or building service complaints; and
- registered building service providers do not have a right to lodge a building complaint against another registered building service provider under the BSCRA Act.



Prohibition on caveats in residential building contracts

There are currently no provisions in the HBC Act that prohibit a builder from lodging a caveat over a homeowner's land. In some standard building contracts, builders are granted an express contractual right to lodge a caveat to secure payment or other contractual entitlements. While this practice has become more common in certain parts of the industry, it raises significant consumer protection concerns due to the substantial impact a caveat can have on an owner's property rights and financial position.

Reviewing the approaches taken interstate, New South Wales, Queensland and Victoria all expressly prohibit builders from lodging caveats in connection with residential building contracts. Caveats can create a significant imbalance of power, allowing builders to exert disproportionate leverage over homeowners – especially those

who lack a clear understanding of their legal rights to challenge a caveat. In Queensland, improper use of a caveat attracts a penalty of up to 100 penalty units (currently equating to \$16,690).

Caveats can restrict an owner's ability to sell or refinance their property, even where the underlying dispute relates to contested claims or incomplete work. This can place homeowners in a vulnerable position and may compel them to accept unfavourable outcomes simply to have the caveat removed. As such, the continued availability of caveats within the home building work building contracts raises questions about fairness, proportionality and the appropriate balance between securing builder entitlements and protecting consumers' rights.

Proposed reform

Home building contract laws are amended to prohibit caveats in home building work contracts and impose a fine penalty of \$25,000 for improperly imposing a caveat in connection with a home building work contract.



Notice of the proposed complaint and provision of evidence

The BSCRA Regulations require that, at least 14 calendar days before making a complaint to the Building Commissioner, the complainant provides the respondent with written notice of the proposed complaint, including a description of the remedy the complainant proposes to seek and the evidence upon which the complainant proposes to rely.

The requirement to provide a written description of the evidence upon which the complainant proposes to rely is causing unnecessary administrative delays and confusion, as the complainant may not always have access to site. The Building Commissioner's appointed inspectors conduct site inspections on all complaints, so the burden of evidence is not necessary.

Proposed reform

Home building contract laws are amended to remove the mandatory requirement to provide a written description of the evidence to support the complaint before the Building Commissioner accepts a complaint.



General inspections

Under the BSCRA Act, a registered building service provider who has carried out a building service may make a request to the Building Commissioner for a general inspection of the building service.

These general inspections are available to registered builders as a proactive measure to prevent complaints from arising and are primarily used to educate the industry in relation to relevant building standards with regards to the construction works performed.

Currently, there is no requirement in legislation for the Building Commissioner to provide a written record of the inspection to the building service provider. A written record of the site inspection from the Building Commissioner may assist the builder in the early resolution of potential disputes with homeowners.

Proposed reform

Home building contract laws are amended to include a provision that after a general inspection is completed, the registered building service provider may request from the Building Commissioner (or authorised person) a written record of the inspection.



Inspection reports and the SAT

Under the BSCRA Act, inspections are generally carried out by the Building Commissioner during the complaints process to assess the issues of complaint against the relevant contractual requirements, building codes and standards. Once the inspection takes place, the parties are provided with a copy of the Building Commissioner's inspection report, which assists in the resolution of the complaint. In many instances, the inspection report forms the basis of proposed or final orders made by the Building Commissioner.

In cases where a matter has been inspected and assessed by the Building Commissioner and the dispute escalates to the SAT, there is currently no statutory obligation for the SAT to have regard to the inspection report. In some instances, the SAT may require a copy of the inspection report. On other occasions, the parties may or may not choose to submit the inspection report. Hearings

are conducted on a 'de novo basis', meaning the SAT considers the matter from the start, without a requirement to consider the Building Commissioner's assessment of the evidence to-date. For the above reasons, the SAT may or may not have regard to the inspection report prepared by the Building Commissioner. Currently, a uniform approach is not followed.

It is not uncommon for a complaint to involve multiple issues, some of which may have been proposed for dismissal by the Building Commissioner due to the complaint issues not being substantiated during the inspection. Given the inspections and assessment of the complaint has been performed by the Building Commissioner, the above reports should be considered a relevant resource in the resolution of BSCRA Act complaints before the SAT.

Proposed reform

Home building contract laws are amended to require the SAT to have regard to building inspection reports prepared by the Building Commissioner when determining matters under the BSCRA Act.



Powers of the Building Commissioner to issue warnings

The Building Commissioner has powers to issue warnings about unsatisfactory or dangerous building services, unfair business practices and other matters which adversely affect, or may adversely affect, the interests of consumers in connection with the acquisition by them of building services.

Public warnings act to inform or warn the community about unsatisfactory or inappropriate conduct of building service providers and to protect the public from personal or financial harm.

Following a number of high-profile builder insolvencies in recent years, it has been brought to light that the Building Commissioner does not currently have sufficient powers to issue warnings in circumstances where a builder has had multiple complaints made against them.

Feedback received from a consumer surveyed included feeling “absolutely let down” that there was no warning from the Building Commissioner with respect to builders who had received complaints against them.

Proposed reform

Home building contract laws are amended to broaden the powers of the Building Commissioner to:

- issue public warnings where frequent complaints have been received about the same issue or building service provider;
- make clear that a warning can be issued whether or not a complaint has been made; and
- include provision for the Building Commissioner to give the person concerned a reasonable opportunity to make representations, following a notice for proposing to issue the warning, to ensure procedural fairness.



Accreditation framework for building inspectors

During the Inquiry Phase of this review, stakeholders proposed enhancing regulation of private building inspectors in Western Australia.

The building industry reported that some private building inspectors engaged by homeowners to inspect home building work either under construction or at practical completion, have varying levels of qualifications and have prepared reports containing factual inaccuracies and referenced incorrect codes or standards. This has led to confusion and disputes regarding the quality of works performed.

Mandatory registration of building inspectors under the BSR Act, similar to builders and building surveyors, is outside of the terms of reference for the review and considered likely to impose significant and unnecessary costs on the building industry and Western Australian Government.

Instead, it is proposed that the HBC Act is amended to expand the scope of regulation to include an accreditation scheme for persons engaged under home building contracts to perform inspections during, or at the end of, the works. The scheme would not apply to building inspections performed under conditions in sales contracts for existing dwellings.

Only individuals accredited by approved assessment entities would be permitted to carry out inspections of home building work during the performance of the contract, unless the person is the owner, financier (or their representative) or another person performing a regulatory function, or the works are performed under an exempt contract (e.g. home building contracts with the Housing Authority).

Assessment entities will be approved by the Building Commissioner and be required to assess, monitor and accredit persons as building inspectors, including administering ongoing or periodical accreditation requirements and continued professional development.

Approved assessment entities will be required to undertake proactive sample audits of persons accredited as building inspectors and be expected to remove accreditation from those who consistently fail to meet acceptable standards.

This accreditation scheme will be similar to BAL assessors, who carry out an evaluation of a property's threat from bushfire for the purposes of building and planning laws and are accredited by the FPAA.

Proposed reform

Home building contract laws are amended (and/or other enactments) to establish an industry-based accreditation scheme for building inspectors performing staged or completion inspections under home building contracts.

As the proposed reform was not explored in depth during the Inquiry Phase of the review, feedback is sought on general and specific parameters that should apply to any accreditation scheme.



HBC Act penalties for offences

The HBC Act contains penalties for a range of offences related to home building work contracts.

These penalties have not kept pace to ensure they are an effective deterrent and remain sufficient

to eliminate any financial gain or benefit from non-compliance. In some cases, the HBC Act's penalties for offences are substantially lower than similar offences in other jurisdictions.

Proposed reform

Home building contract laws are amended to increase penalties as set out in Appendix 1.



Appendix 1

HBC Act Specified offence		Current penalty	Proposed penalty
Section 4(4)	Contracts must be in writing; prescribed explanatory notice must be given	\$2,000	\$10,000
Section 5(2)	Owner to be given copy of contract	\$500	\$5,000
Section 5(3)	Owner to be given copy of contract (within 10 days)	\$10,000	\$25,000
Section 7 (3)	Variation of contract to be in writing and given to owner	\$500	\$5,000
Section 10(1)	Deposits and progress payments, limits on terms as to (enter into a contract)	\$10,000	\$25,000
Section 10(5)	Deposits and progress payments, limits on terms as to (under a contract)	\$10,000	\$25,000
Section 12(1)	Understatement of prime cost items etc. by builder, offence	\$10,000	\$25,000
Section 13(1)	Rise-and-fall clause prohibited	\$10,000	\$25,000
Section 14(1)	Cost plus contracts, requirements as to	\$10,000	\$25,000
Section 25C(1)	Builder doing residential building work without insurance or corresponding cover	\$10,000	\$25,000
Section 25C(2)	Builder doing residential building work without insurance or corresponding cover	\$10,000	\$25,000
Section 25F	Sale by owner-builder, restrictions on	\$10,000	\$25,000
Section 25FA(1)	Sale by certain owner-builders, further restrictions on (builder under repealed Act)	\$10,000	\$25,000
Section 25FA(2A)	Sale by certain owner-builders, further restrictions on (building service contractor)	\$10,000	\$25,000
Section 26(1)	Inspection by owner etc. of building work, prevention of etc.	\$1,000	\$10,000
Section 28(3)	Contracting out prohibited	\$10,000	\$25,000

Government of Western Australia

**Department of Local Government,
Industry Regulation and Safety**

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