



Reforming Western Australia's Home Building Contract Laws – Survey Response

Western Australia

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Do you support the following 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'). Please provide further information.

Yes / ~~Partially Support~~ / No

MEA supports the establishment of a centralised online platform to improve the accessibility, transparency and ease of navigating home building information. A single, authoritative source would assist consumers and industry participants to better understand their rights, responsibilities and available protections, while promoting greater confidence and consistency across the home building sector.

Do you support the following proposed reform: 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. Please provide further information.

~~Yes~~ / Partially Support / ~~No~~

This would assist in improved understanding of rights and navigating the BSCRA Act complaints process. However, small contractors should also be afforded access to appropriate resources, support and guidance, recognising that they often face similar challenges in understanding and engaging with the regulatory framework and dispute resolution processes. Although existing small business advisory and dispute resolution services are available in Western Australia, there remains a gap in specialist assistance for small contractors navigating home building disputes under this framework.

Jurisdictional Limits of the HBC Act

Do you support the following proposed reform: Home building contract laws are amended to change threshold values under the HBC Act to increase the lower threshold from \$7,500 to \$10,000. Please provide further information.

Yes / ~~Partially Support~~ / ~~No~~

MEA considers that updating the threshold will improve regulatory relevance and reduce unnecessary administrative burden for low-value works, while ensuring that higher-value residential building contracts remain appropriately captured within the legislative framework.

Do you support the following proposed reform: Home building contract laws are amended to change threshold values under the HBC Act to increase the upper threshold from \$500,000 to \$800,000. Please provide further information.

~~Yes~~ / **Partially Support** / ~~No~~

MEA considers that increasing the upper threshold from \$500,000 to \$800,000 should be carefully assessed to ensure it maintains a proportionate balance between regulatory coverage, industry compliance burden, and access to appropriate consumer protections.

MEA notes that threshold settings directly determine which contracts are captured within the HBC Act framework and should be adjusted in a way that remains both current and appropriately balanced for homeowners and contractors.

Do you support the following proposed reform: Home building contract laws are amended to 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. Please provide further information.

Yes / ~~Partially Support~~ / No

Provided any changes are made with public consultation and appropriate transition periods for the thresholds is offered (i.e. new contracts entered into from a set date).

Financial Limits and Remedial Orders

Do you support the following proposed reform: Home building contract laws are amended to increase the value of building remedy orders and home building work contract remedy orders which the Building Commissioner can issue, without consent of the disputing parties, from \$100,000 to \$200,000. Please provide further information.

Yes / ~~Partially Support~~ / No

While MEA acknowledges the intent to improve the efficiency of dispute resolution, increasing the threshold for non-consensual orders significantly expands the scope of unilateral decision-making in higher-value and often more complex contractual disputes.

MEA considers that as dispute values increase, greater emphasis should be placed on procedural fairness and party consent, with higher-value matters more appropriately resolved through agreed outcomes or external review mechanisms rather than expanded administrative determination powers.

Do you support the following proposed reform: Home building contract laws are amended to increase the value of home building work contract remedy orders that the State Administrative Tribunal can issue from \$500,000 to \$800,000. Please provide further information.

Yes / ~~Partially Support~~ / No

Deposit Limits

Do you support the following 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.* Please provide further information.

Yes / ~~Partially Support~~ / No

Contractors are facing increasing upfront costs and are often required to carry significant financial risk associated with delayed or non-payment by homeowners. We therefore support increasing the deposit threshold limit. However, given the relative value of the deposit declines from 10 per cent to as little as 5 per cent for higher-value contracts, consideration should be given to increasing the maximum deposit cap to better reflect these realities. Any such increase should continue to strike an appropriate balance between improving contractor cash flow and maintaining consumer confidence and protections.

Cooling Off Periods

Do you support the following 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.*

Yes / **Partially Support** / No

It is essential that a builder's entitlement to compensation is clearly defined and extends beyond direct out-of-pocket expenses to encompass all reasonable costs incurred in reliance on the contract, including administrative, design and project commencement activities. Any reforms should ensure the financial consequences of a consumer exercising their cooling-off rights are not unfairly transferred to contractors.

Price Escalations – Statutory Framework

Do you support the following 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*. Please provide further information.

Yes / ~~Partially Support~~ / **No**

MEA does not support the proposed increase in the contract commencement timeframe from 45 working days to 60 working days. While MEA acknowledges the

intent to provide flexibility where delays are outside the owner's control, the proposal does not adequately account for circumstances where delays are attributable to the homeowner, such as financial readiness or design changes.

The existing 45-day period is already a reasonable and operationally necessary timeframe that enables contractors to schedule works with certainty while managing competing commitments. Contractors frequently forego alternative work opportunities to honour agreed start dates, and extending this period would further increase opportunity costs and commercial uncertainty.

On this basis, MEA considers the current arrangements remain appropriate and should be retained.

Do you support the following proposed reform: Home building contract laws are amended to *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*. Please provide further information.

Yes / Partially Support / **No**

Where there are concerns regarding compliance with commencement timeframes that are outside the homeowner's control, including circumstances identified by property developers, LGIRS should address these anomalies in a targeted manner rather than shifting associated risk onto builders. In such cases, consideration should be given to allocating responsibility to the relevant party responsible for the delay, including property developers where appropriate, to ensure costs and contractual obligations are not unfairly transferred to builders.

Price Escalations – Complaints Process

Do you support the following proposed reform 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 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. $8\% \times 3/12$).*
- *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).*

Please provide further information.

~~Yes~~ **Partially Support** ~~No~~

MEA acknowledges the intent of the proposed reforms to improve transparency and certainty for consumers in relation to price increases arising from delays to commencement of works. However, the framework may be overly rigid in practice, particularly given construction delays and cost impacts are often non-linear and

subject to evolving supply chain and labour conditions. While the use of the ABS Residential Construction Inputs Index provides a useful benchmark, it may not fully reflect project-specific or acute cost fluctuations, making the ability to substantiate actual cost increases with evidence an important safeguard.

On balance, MEA considers that greater flexibility is required to ensure legitimate cost increases can still be recovered without undermining commercial viability or distorting real construction cost pressures.

MEA encourages members to include contractual clauses that account for potential price fluctuations, particularly in light of recent volatility in oil prices which has significantly impacted transport and material costs. Such provisions are an important mechanism to manage commercial risk in an environment of ongoing cost uncertainty. MEA considers that similar guidance and practical support should also be made available by government to all contractors to ensure consistent understanding and application across the industry.

Do you support the following proposed reform: Home building contract laws are amended to *Harmonise section 10 (deposits and progress payments) of the HBC Act with Schedule 1 price increase complaints to ensure consistency between provisions.* Please provide further information.

Yes / **Partially Support** / No

MEA supports the use of the ABS WA Residential Construction Inputs Index as a reference point to inform assessments of whether a price increase is excessive, as it provides an objective and consistent benchmark. However, it should not be applied as a strict or determinative measure in isolation, as it may not fully reflect project-specific cost movements, timing impacts, or acute volatility in materials, transport and labour costs. A hybrid approach that also allows for evidence-based substantiation of actual cost increases is therefore essential to ensure the framework remains fair and commercially realistic.

Progress Payments and Defined Stages

Do you support the following proposed reform: Home building contract laws are amended to *allow defined progress payment stages to be prescribed in regulations, similar to the Victorian model*. Please provide further information.

Yes / ~~Partially Support~~ / No

MEA supports, in principle, the ability for defined progress payment stages to be prescribed in regulations, as this may improve clarity, consistency and transparency for both homeowners and contractors. However, any prescribed model should retain sufficient flexibility to accommodate differing project types and construction methodologies, and ensure payment stages appropriately align with actual cost exposure and work completed. Consideration should therefore be given to allowing reasonable variation mechanisms to avoid unintended cash flow pressures on contractors, particularly in non-standard builds.

Limitation Periods for Remedial Work Complaints

Do you support the following proposed reform: Home building contract laws are amended to:

- *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).*

~~Yes~~ / ~~Partially Support~~ / **No**

MEA does not support this proposal. Australian Consumer Law already provides statutory consumer guarantees requiring services to be carried out with due care and skill, which in MEA's view provides a reasonable timeframe for identifying defects arising from poor workmanship. Extending liability to six years risks exposing contractors to prolonged and potentially unmeritorious claims, particularly in circumstances where issues may arise from factors outside their control or where records and evidence become increasingly difficult to verify over time.

MEA is also concerned about unintended consequences for contractors engaged to rectify defective or incompetent work completed by others, including unlicensed or untraceable individuals, where extending liability may result in unfair exposure for remedial work outside their original scope of responsibility.

Limitation Period Clarification for Price Escalation Complaints

Do you support the following 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*. Please provide further information.

Yes / ~~Partially Support~~ / ~~No~~

This will assist in reducing ambiguity around dispute timeframes and ensure issues are raised while relevant evidence and project records remain reasonably accessible.

Do you support the following proposed reform: Home building contract laws are amended to *in relation to price increase complaints, create a right for the owner to seek compensation for delay where the builder has caused the delay*. Please provide further information.

~~Yes~~ / **Partially Support** / ~~No~~

MEA has concerns regarding the proposed creation of a broad right for owners to seek compensation for delay where the builder has caused the delay, particularly in

circumstances where delay causation may be complex, shared, or outside the builder's control.

Any such right must be clearly defined, including appropriate thresholds for establishing causation and safeguards to prevent overlap or duplication with existing price increase and delay provisions. MEA considers that clear and balanced attribution of responsibility is essential to ensure contractors are not exposed to disproportionate or unsubstantiated delay-related claims.

Early Mediation and Conciliation Conferences

Do you support the following proposed reform: Home building contract laws are amended to:

- *allow for early (voluntary) mediation for home building work contract complaints pre-acceptance;*
- *allow complaints to continue with the Building Commissioner post conciliation conference.*

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 home building work contract early mediations, similar to the Small Business Development Corporation model, and general conciliations.

Please provide further information.

Yes / ~~Partially Support~~ / No

MEA supports the introduction of early, voluntary mediation for HBWC complaints, recognising that many disputes are time-sensitive and that earlier intervention has the potential to reduce costs, delays, and escalation for both homeowners and builders. However, it is essential that participation in early mediation remains genuinely

voluntary and is supported by appropriate gatekeeping mechanisms to ensure parties are not inappropriately or prematurely drawn into the process without reasonable grounds. Safeguards should be in place to prevent the process being triggered in a manner that is vexatious, premature, or not supported by sufficient material, while still preserving accessible pathways for legitimate disputes.

Do you support the following proposed reform: Home building contract laws are amended to *permit inspections commissioned by the Building Commissioner at any point (e.g.: before and after conciliation)*. Please provide further information.

~~Yes~~ / **Partially Support** / ~~No~~

While greater flexibility may improve responsiveness and assist in timely resolution of disputes, MEA considers it important that inspections are undertaken in a targeted and proportionate manner to avoid unnecessary disruption to live works and to ensure assessments are made with appropriate context and completeness of information. For example, inspections conducted mid-construction may not reflect final finishes or rectification works, while unplanned site access can disrupt sequencing of trades, delay subcontractor scheduling, and create inefficiencies where works are already in progress or near completion.

Site Access to Building Site – Harmonisation with Work Health and Safety Requirements

Do you support the following proposed reform: Home building contract laws are amended to:

- *ensure harmonisation with Work Health and Safety Act 2020 and Work Health and Safety (General) Regulations 2022, so that the owner or authorised persons must comply with any reasonable Work Health and Safety requirements;*

- *clarify that reasonable requirements do not include proof of insurances or white card, etc.*

Please provide further information.

Yes / ~~Partially Support~~ / No

Clarifying that homeowners and authorised persons must comply with reasonable WHS requirements will improve site safety and provide greater certainty for all parties involved in construction activities.

MEA also supports clarification that “reasonable requirements” do not extend to demands such as proof of insurance or white card verification, as these matters are already regulated through separate legislative and licensing frameworks and should not be duplicated through site access provisions.

Do you support the following proposed reform: Home building contract laws are amended to *require a minimum notice period to the builder of 48 hours, unless otherwise agreed between the parties.* Please provide further information.

Yes / ~~Partially Support~~ / No

MEA supports the introduction of a 48-hour minimum notice period for site access by homeowners or authorised persons, unless otherwise agreed between the parties. A minimum notice requirement will improve coordination on active worksites, reduce disruption to sequencing of trades, and support safer and more efficient site management. MEA considers this a practical and balanced measure that enhances communication without unreasonably limiting legitimate site access rights.

Prohibition on Caveats in Residential Building Contracts

Notice of the Proposed Complaint and Provision of Evidence

Do you support the following 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*. Please provide further information.

~~Yes~~ / **Partially Support** / ~~No~~

MEA does not support the blanket removal of the requirement to provide evidence in support of a complaint prior to lodgement. However, MEA considers that a more proportionate approach would be to require a brief summary of the evidence relied upon, rather than full evidentiary detail. This would help ensure complaints are sufficiently particularised to allow respondents to understand the basis of the claim and prepare accordingly, while reducing unnecessary administrative burden on complainants.

General Inspections

Do you support the following 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*. Please provide further information.

Yes / ~~Partially Support~~ / ~~No~~

Providing a clear written record will improve transparency, assist builders in addressing issues early, and support more efficient resolution of potential disputes with homeowners.

Inspection Reports and the State Administrative Tribunal

Do you support the following proposed reform: Home building contract laws are amended to *require the State Administrative Tribunal to have regard to building inspection reports prepared by the Building Commissioner when determining matters under the BSCRA Act*. Please provide further information.

Yes / ~~Partially Support~~ / No

These reports provide an important contemporaneous assessment of the issues in dispute and should be treated as a relevant evidentiary resource to promote consistency and efficiency, while avoiding unnecessary duplication of investigative effort.

However, MEA notes that such reports should not be treated as determinative, and the SAT should retain discretion to undertake further investigation or seek additional evidence where gaps or inadequacies are identified, to ensure matters are determined on a complete and accurate factual basis.

HBC Act Penalties for Offences

Do you support the following proposed reform: *Home building contract laws are amended to increase penalties as set out in Appendix 1*. Please provide further information.

Yes / ~~Partially Support~~ / No

Other Comments and Feedback

Rise and Fall Clauses

MEA notes the prohibition on rise-and-fall clauses in residential building contracts under s 13 of the *HBC Act*. This can place contractors in a challenging position in the context of significant global market volatility. Recent geopolitical and economic events serves as an example which have resulted in unpredictable fluctuations in oil prices, which in turn have driven increases in transport, shipping, and material costs that are

difficult to accurately forecast at the time of contracting. In this environment, requiring builders on residential projects to absorb all cost escalation risk over the life of a project may be commercially unfair and can expose contractors to significant and unforeseen financial pressures.