Western Australian
Auditor General's Report

Local Government Building Approvals

Report 28: June 2018-19

Office of the Auditor General
Western Australia

7th Floor Albert Facey House
469 Wellington Street, Perth

Mail to:
Perth BC, PO Box 8489
PERTH WA 6849

T: 08 6557 7500

F: 08 6557 7600

E: info@audit.wa.gov.au

W: www.audit.wa.gov.au

National Relay Service TTY: 13 36 77
(to assist people with hearing and voice impairment)

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Local Government Building Approvals

Report 28
June 2018-19

THE PRESIDENT
LEGISLATIVE COUNCIL

THE SPEAKER
LEGISLATIVE ASSEMBLY

LOCAL GOVERNMENT BUILDING APPROVALS

This report has been prepared for submission to Parliament under the provisions of section 25 of the *Auditor General Act 200*6.

This was a narrow scope performance audit, conducted under section 18 of the *Auditor General Act 2006* and in accordance with Australian Auditing and Assurance Standards. Narrow scope performance audits have a tight focus and generally target compliance with legislation, public sector policies and accepted good practice.

The audit objective was to determine if local government entities effectively regulate residential building permits.

I wish to acknowledge the cooperation of staff at the local and state government entities included in this audit.

CAROLINE SPENCER
AUDITOR GENERAL
26 June 2019

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Auditor General's overview

In 2016, my office tabled a report on the *Regulation of Builders and Building Surveyors* focussed on the Building Commission's (now the Building and Energy Division within the Department of Mines, Industry Regulation and Safety) regulatory functions. This current audit recognises the important role that local government entities have to control building activities in their areas through approval of building permits, and monitoring and enforcement of compliance with those permits.

I was pleased to find that the local government entities reviewed in the audit were properly assessing permit applications against requirements in the *Building Act 2011* and issuing most building permits within the legislated timeframes. The audit also identified opportunities for local government entities to strengthen their controls to reduce the risks of inappropriate permit approvals, and improve the transparency of their building control activities.

It was however disappointing to find that local government entities undertake limited monitoring and inspections of building works, and that compliance issues were not always resolved quickly. The *Building Act 2011* provides local government entities with compliance and enforcement powers that can assist with ensuring buildings comply with permits and are safe, but that also act as a significant deterrent to anyone contemplating non-compliance. However, we found these powers were little used.

I note that the Building and Energy Division is considering regulatory reforms to address compliance and enforcement shortcomings identified in the 2018 Shergold Weir report *Building Confidence.* A key part of this work is the development of a consultation paper with options for independent inspections at key stages of building works. I will watch with interest how state and local government entities and the building industry collaborate to implement measures to protect the quality and safety of homes in WA.

I encourage all local government entities to use Appendix 2 as a guide to improve their building control functions.

Executive summary

Introduction

The objective of this audit was to determine if local government (LG) entities effectively regulate residential building permits (permits). The specific lines of inquiry were:

- Do LG entities adequately assess permit applications?
- Do LG entities effectively monitor and enforce compliance with permits?

We audited the following 4 LG entities in metropolitan and regional Western Australia (WA) that had issued a large number of permits, and the Building and Energy Division (formerly the Building Commission) within the Department of Mines, Industry Regulation and Safety:

- City of Albany (Albany)
- City of Gosnells (Gosnells)
- City of Joondalup (Joondalup)
- City of Mandurah (Mandurah).

Background

A permit is usually required for construction or renovation of any building. This includes new houses, carports and sheds. The permit process is legislated under the *Building Act 2011* (Act). In 2017-18, all LG entities in WA issued around 18,400 permits for residential buildings. Of these, nearly 13,500 related to new houses with a total value of more than $3.8 billion.

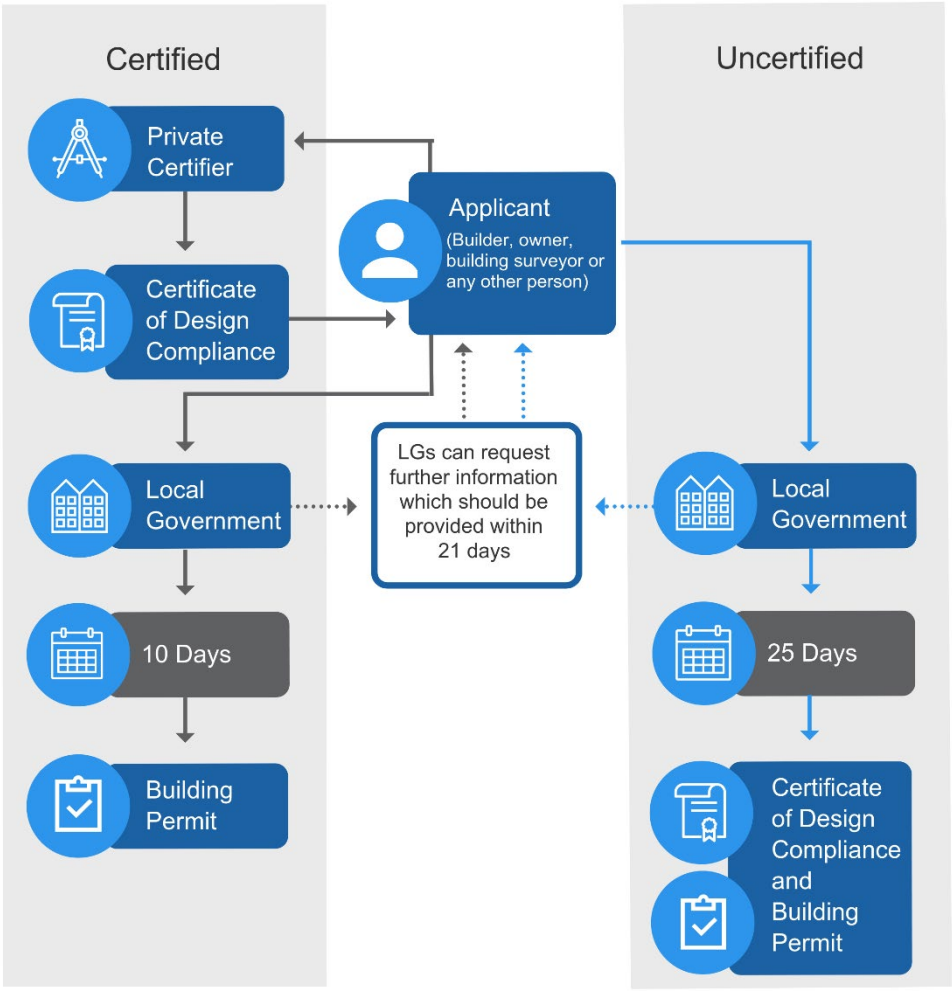
To get a permit, either a certified or an uncertified application must be lodged with the relevant LG entity, along with the fee prescribed in the Building Regulations 2012[1]. A permit can be issued when building plans meet the requirements of the Act, the Building Code of Australia (Code)[2], and planning and other required approvals. LG entities must assess certified applications within 10 business days and uncertified applications within 25 business days, unless the applicant and the LG entity agree in writing to extend the time. Figure 1 summarises the permit process.

If information in the application is missing or incorrect, LG entities can request information informally (via email or phone), or formally based on the Act's requirements. LG entities can only formally request information and 'pause the clock' for up to 21 days, once. Thereafter, LG entities have the remainder of the 10 or 25 days to process the application.

If LG entities do not meet the timeframes or the agreed extended time, they must refund the application fee, but may still process the application. The clock stops when the permit is issued. A permit is valid for 2 years unless otherwise specified or extended.

[1] A certified application costs 0.19% of the estimated value of building works while an uncertified application costs 0.32%. The minimum fee payable is $97.70

[2] Sets quality and safety standards for the design and construction of buildings and other structures throughout Australia



Source: OAG

Figure 1: Building permit process under the *Building Act 2011*

LG entities are required under the Act to keep a public register of permits and records of approved plans for owners and relevant parties to inspect.

Construction in all states and territories is a regulated activity. In WA, the Act gives LG entities the power to monitor and inspect building works to ensure compliance with the permit, but does not mandate any particular level of monitoring or inspections. The Act also provides LG entities with the power to issue building orders to remedy or stop building works, and prosecute builders and owners for non-compliance. Failing to comply with a building order carries a penalty of up to $50,000 for a first offence and up to $100,000 and 12 months imprisonment for subsequent offences.

The Building and Energy Division (B&E), supports the functions of the Building Commissioner legislated in the Act. B&E administers the Act and provides advice to LG entities and the building industry. It also regulates builders and surveyors through the issue of licences, monitoring compliance with building laws, and complaint processes. B&E can investigate alleged breaches of building laws, take disciplinary action against builders, and refer building non-compliance matters to LG entities. We audited how B&E regulates builders and surveyors in our 2016 *Regulation of Builders and Building Surveyors*[3] audit.

[3] Report 12: June 2016: Regulation of Builders and Building Surveyors

Since July 2016, B&E has collected permit information from LG entities such as details of builders, application processing times (including start-pause-stop clock and reasons), permit decisions, and conditions. This information is stored in B&E's Building Permit Database (Permit Database).

Conclusion

All 4 LG entities in our sample adequately assessed applications and issued nearly all permits within legislated timeframes between July 2016 and June 2018. They also improved timeliness of approvals over the last 4 financial years. However, different approaches to when LG entities started, paused and stopped the clock raise concerns about the accuracy and comparability of these processing times. Key controls to promote transparent and accountable decision-making had also either not been implemented or were not effectively managed.

The LG entities monitored and inspected building projects to identify non-compliance but the limited extent of this work meant they do not confidently know if building works in their area comply with requirements of permits. All LG entities we reviewed relied on complaints from the community and others as the primary means of identifying instances of non-compliance. Resolution of these issues was not always timely with some matters taking years to finalise.

Key findings

LG entities adequately assessed permit applications, but could improve their processes

The LG entities assessed permit applications against requirements in the Act. Our review of 100 applications received between July 2016 and June 2018 across the LG entities, found permit processes were followed and decisions recorded in their systems. Permits were issued only when applications contained the required supporting documents and approvals.

However, we identified control weaknesses that could result in applicants receiving preferential treatment, biased decisions and permits that had not been properly authorised. We found:

- none of the LG entities recorded conflicts of interest related to applications. We note staff declare interests annually to comply with the *Local Government Act 1995*, however these did not cover conflicts of interest relating to permits
- at Mandurah, staff could approve and issue permits without being authorised to do so
- Joondalup had 9 different positions, including administration officers and personal assistants, authorised to approve permits.

The LG entities used different processes and interpretations of the Act to receive and assess applications. Builders we spoke with confirmed our observations and told us about the impact of this on their operations. These different practices can limit the consistency and efficiency of approval processes. For example:

- all 4 LG entities provided online application lodgement and tracking facilities, but Joondalup required one-off applicants to apply by e-mail or over the counter
- Gosnells reviewed all certified applications in detail while the other 3 LG entities only checked these applications for completeness. The Act does not require LG entities to check the Certificate of Design Compliance (CDC) or prohibit them from doing so

- Albany paused the clock for informal requests, which is contrary to the Act, and Joondalup stopped the clock after application assessments were complete, but before issuing permits. These practices can provide misleading information on the number of days taken to issue permits. Both LG entities advised they had adopted compliant practices as a result of the audit.

B&E received around $2.5 million of State funding to deliver an electronic lodgement and assessment system by 2017-18 to standardise the permit approvals processes. However, the system has not been developed. B&E told us that it consulted with large LG entities during the audit and found a lack of support for the system as LG entities had already modified their systems and processes to align with the permit approval requirements of the Act.

Most permits were issued on time

The LG entities issued most permits on time. Between July 2016 and June 2018, about 98% of applications were assessed within the required timeframes. Nearly all had a permit issued. This helps builders and owners to plan building works, and avoid potential losses and delays. We also found the LG entities improved the timeliness of permit approvals in the past 4 financial years.

The LG entities took around 3 times longer to issue permits when they received incomplete and incorrect applications and had to wait for more information from applicants. Most of the LG entities' information requests we reviewed related to:

- missing or inadequate information in the CDC
- home indemnity insurance and other approvals such as owner builder approval, or water services notifications.

Applicants can avoid delays in permit approvals if they submit complete and correct applications.

LG entities provided limited building activity information to B&E, community and industry stakeholders. The limited use of the Permit Database amongst LG entities means comprehensive building data is not collected across the sector. For example, only 8 metropolitan LG entities, including Gosnells, report data online to the Permit Database. A lack of reporting makes it difficult for B&E and other stakeholders to assess performance against legislated permit timeframes and other building control activities.

LG entities do not effectively monitor and enforce compliance with permits

The LG entities monitored and inspected building progress but this work was limited. Albany monitored permit expiry, Gosnells inspected footings, and Joondalup and Mandurah carried out one-off compliance activities on a small sample of building works. None regularly monitor or inspect at other stages of works. This is concerning given B&E's most recent inspection of 337 new houses found that nearly 30% to 50% of key building stages did not satisfactorily comply with building standards. This included non-compliant slab, roof and bushfire area requirements that may lead to future building quality and safety issues.

The LG entities did not always resolve community concerns about building works in a timely manner. Our review of 43 complaints found 6 compliance matters were not resolved in a timely manner across Albany, Joondalup and Mandurah. These 3 LG entities often granted extensions to owners and builders to comply. Albany had 1 matter which took 7 years to resolve.

Recommendations

Under section 7.12A of the *Local Government Act 1995*, the 4 sampled LG entities are required to prepare an action plan addressing significant matters arising from the audit relevant to their entity. This should be submitted to the Minister for Local Government within 3 months of this report being received by the local government, and published on the LG entity's website within 14 days after giving the report to the Minister. This action plan should address the recommendations below that are relevant to their entity.

1. Albany, Gosnells, Joondalup and Mandurah should:
    a. require written declarations of interest from assessment staff, and ensure appropriate mitigation action is taken for any conflicts
    b. improve the transparency of their building control activities by providing information about permits, monitoring and enforcement activities, and building related complaints to B&E, community and industry stakeholders
    c. develop and implement a risk-based approach to monitor and inspect building works
    d. improve guidance to staff on how to prioritise and manage building related complaints and enforcement activities to resolve community concerns and non-compliance issues in a timely way.
2. Joondalup and Mandurah should limit the authority and delegation to issue permits only to appropriately trained staff who assess and issue permits.
3. Albany and Joondalup should only start, pause and stop the clock in accordance with the requirements of the Act.
4. B&E should consult further with LG entities and stakeholders:
    a. on ways to assist LG entities to implement consistent practices
    b. to determine if it will progress or cease development of the centralised e-lodgement and assessment system.

Response: Agreed

Implementation timeframe: by December 2019

Response from audited local government entities

All 4 LG entities supported the audit findings and generally accepted our recommendations.

The LG entities advised they intend to implement audit recommendations in the near future, with some already being addressed.

Appendix 3 includes the full responses from the LG entities.

Response from the Building and Energy Division

The Department of Mines, Industry Regulation and Safety's, Building and Energy Division is comfortable with the findings of the report and supports the recommendations.

Appendix 3 includes the full response from B&E.

Audit focus and scope

The audit objective was to determine if local government (LG) entities effectively regulate residential building permits (permits).

The specific lines of inquiry were:

- Do LG entities adequately assess permit applications?
- Do LG entities effectively monitor and enforce compliance with permits?

The following 4 LG entities were included in the audit:

- City of Albany (Albany)
- City of Gosnells (Gosnells)
- City of Joondalup (Joondalup)
- City of Mandurah (Mandurah).

The audit also included the Building and Energy Division (B&E) within the Department of Mines, Industry Regulation and Safety. We spoke with key staff who deal with coordination, compliance, complaints, the Building Permit Database and policy matters.

The audit focussed on the regulation of permits for new houses and major renovations requiring LG entity approval. We did not review approvals for planning, demolitions and commercial buildings or other building activities like patios, retaining walls and swimming pools. The audit did not assess how builders inspect the quality of their own work.

We audited permit approvals, monitoring and enforcement of compliance with the permits for the 2016-17 and 2017-18 financial years. At each LG entity, we tested 25 permit applications and at least 10 complaints. We also reviewed and assessed:

- policies and procedures for permit approvals, monitoring, complaints and enforcement, and declarations of conflict of interest and gifts
- the timeliness of approving permits against legislated 10 and 25 day timeframes
- monitoring and inspection activities
- enforcement actions
- complaints management.

We also consulted with a range of stakeholders including:

- Master Builders Association
- Housing Industry Association
- WA Local Government Association
- LG Professionals WA
- Building surveyors
- 2 building companies that operate across a number of LG entities in WA.

This performance audit was conducted under section 18 of the *Auditor General Act 2006* and in accordance with Australian Standard on Assurance Engagements ASAE 3500 *Performance Engagements*. We complied with the independence and other relevant ethical requirements related to assurance engagements. Performance audits primarily focus on the effective management of state and local government programs and activities. The approximate cost of undertaking the audit and reporting was $340,000.

Findings

LG entities adequately assessed permit applications, but can improve their processes

All 4 LG entities ensured applications met the Act's requirements before issuing a permit. However, we identified some weak controls which reduce the transparency and accountability of permit decisions. LG entities also receive and assess applications differently which affect the consistency and efficiency of the approvals process.

LG entities only issued permits when legislative requirements were met

The LG entities had suitable permit systems and processes in place to receive applications and assess them against requirements in the Act (Appendix 1). Their systems and checklists prompted staff to complete step-by-step checks of all applications. We reviewed 100 permit applications across the 4 LG entities and found processes were followed to check that applications:

- were complete and included plans, fees and other supporting documents such as engineering reports and relevant insurances
- met requirements for any specific conditions like owner builder or health approvals
- had an appropriate bushfire attack level assessment for buildings within a bushfire prone area
- contained correct information on the builder, surveyor and the applicant.

This ensured permits were issued only when applications contained the supporting documents and approvals needed under the Act.

Weak controls may lead to inappropriate permit approvals

Conflicts of interest are not recorded and managed transparently

We found none of the LG entities recorded actual, potential or perceived conflicts of interest that arose when assessing permit applications. LG entities told us that staff only declared conflicts of interest verbally, to their supervisor, who then assigned the application to someone else. As a result, we were not able to determine if conflicts of interest were declared and managed appropriately. It is good practice to record conflicts of interest and actions taken to manage them.

Conflicts of interest may arise for assessment staff when they:

- are in relationships, or familiar with builders or owners. This is more likely when staff live in the local government area or have worked at the LG entity for some time
- have had past grievances with an owner, builder or private surveyor.

We note that LG entity staff complete an annual declaration on conflicts to comply with the *Local Government Act 1995*. However, these declarations did not cover conflicts of interest relating to permits.

Conflicts of interest can lead to biased or improper assessments. During the audit, the LG entities acknowledged these risks and said they would consider processes to record assessed conflicts of interest for each application.

Inadequate approval controls increase the risk of unauthorised issue of permits

Joondalup and Mandurah did not have adequate controls over the issue of permits. We found:

- Joondalup had 9 different positions (including administration officers and personal assistants) authorised to approve permits. Joondalup advised it is reviewing these delegations to remove any unnecessary or excessive delegated authority.
- At Mandurah, permit system users could approve and issue permits without delegated authority to do so. Although Mandurah requires its surveyors to sign a monthly declaration stating they completed the applications, this does not fully mitigate the risk of unauthorised permit approvals in the system.

Processes and systems differ across LG entities which leads to inefficiencies

Applications are lodged differently

The process to apply for a permit and pay fees varied across the LG entities we reviewed. For example:

- although all the LG entities allowed applicants to submit and track applications online, Joondalup required one-off applicants to apply by email or over the counter
- the LG entities used different ways to pay application fees. Gosnells charged fees via a monthly account, while Joondalup sent email invoices with credit card or BPAY options.

Builders told us that some LG entities did not accept emailed applications and only accepted in person or posted applications, and had different document requirements and payment methods. They spoke about the inefficiencies, confusion and delays this created in applying for permits, particularly for builders who lodge applications across multiple LG entities.

In July 2015, the State provided around $2.5 million to B&E to develop a centralised e-lodgement system to provide better access and consistency for lodgement and assessment of applications. The system had not been developed despite an implementation date by 2017-18, due to other priorities. B&E discussed its system proposal with 11 LG entities in February 2019, which together issued about 50% of permits in 2017-18. B&E told us that the LG entities were not supportive of the proposal as they had already modified their own systems and processes.

LG entities assessed certified applications with varying rigour, creating uncertainty for applicants

The LG entities assessed certified applications with varying rigour. Three limited their assessment to a high level review of the completeness of applications, whereas Gosnells sometimes reviewed information, such as the Certificate of Design Compliance (CDC), in more detail when it had concerns about compliance with the Code, or applications contained errors. Builders we spoke with told us about the impact of this on their operations. While we found these different practices reduced the consistency of approval processes across the LG entities it did not impact the timeliness of approvals. Gosnells still assessed most of these applications within the required 10 days. The Act does not require LG entities to check the CDC or prohibit them from doing so.

Two LG entities incorrectly recorded application processing times

Albany and Joondalup incorrectly paused and stopped the clock when assessing applications. These practices can result in misleading information on the number of days taken to issue permits. We found:

- Albany paused the clock for informal requests. This occurred in 4 of the 25 applications we reviewed. Other LG entities only paused the clock for formal requests, which is consistent with the Act. We found that despite this incorrect practice, Albany issued nearly all permits within 10 and 25 days. Albany told us it no longer pauses the clock for informal requests
- 3 LG entities stopped the clock when they issued the permit. In contrast, Joondalup stopped the clock when the surveyor completed the assessment but issued the permit only after a review of the assessment. In the last 2 financial years in Joondalup, this resulted in a time lag of 0 to 80 days for 1,231 certified applications, with only 17 permits issued after 10 days. Joondalup advised they had discontinued this practice since January 2019.

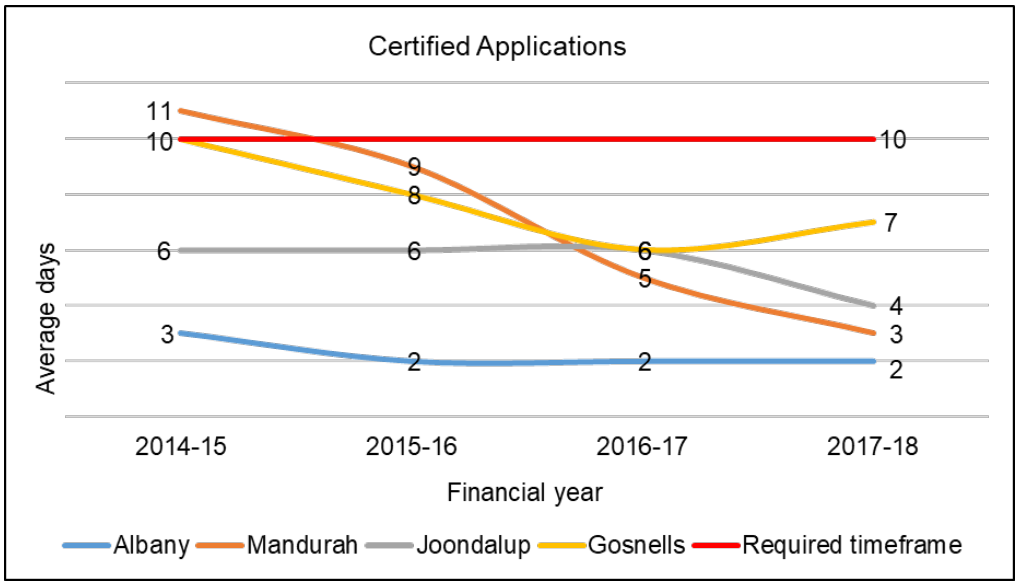
Most permits were issued on time

LG entities issued permits in required timeframes

Between July 2016 and June 2018, the LG entities assessed applications and issued most permits within the required timeframes. We calculated the time taken to issue permits and found:

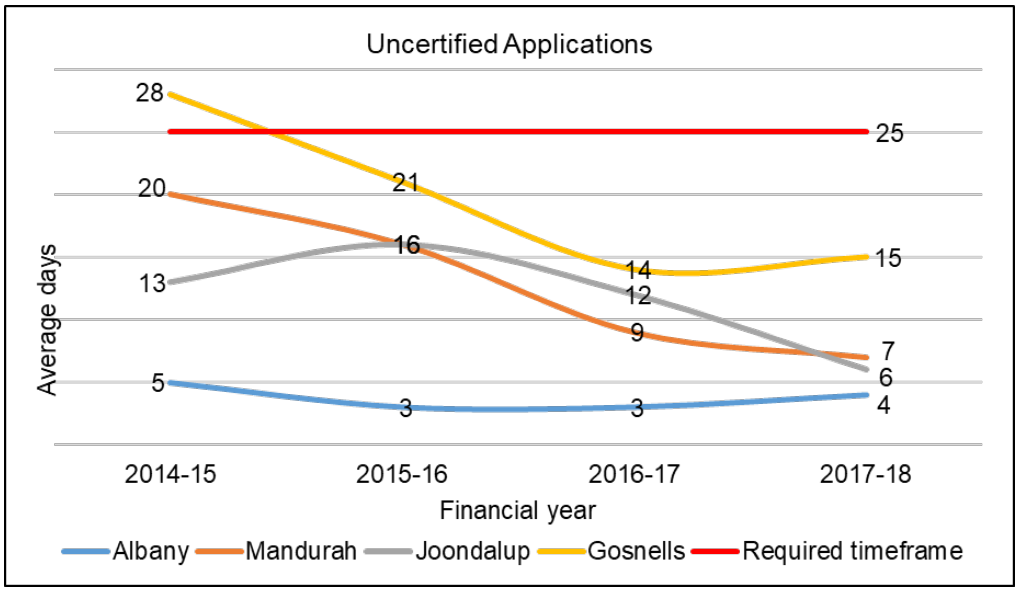
- about 98% of the 3,736 certified applications were assessed within 10 days. Nearly all had a permit issued
- about 98% of the 1,069 uncertified applications were assessed within 25 days. Nearly all had a permit issued.

All LG entities have improved the timeliness of their assessments over the last 4 financial years (Figures 2 and 3). Our review of approved and refused applications showed Albany and Joondalup had relatively consistent assessment times, while Mandurah and Gosnells improved over the last 2-3 years in part due to lower numbers of applications. Between July 2014 and June 2018, the number of applications received by the 4 LG entities declined by 35%.



Source: OAG using data from LG entities

Figure 2: Average time to assess certified applications



Source: OAG using data from LG entities

Figure 3: Average time to assess uncertified applications

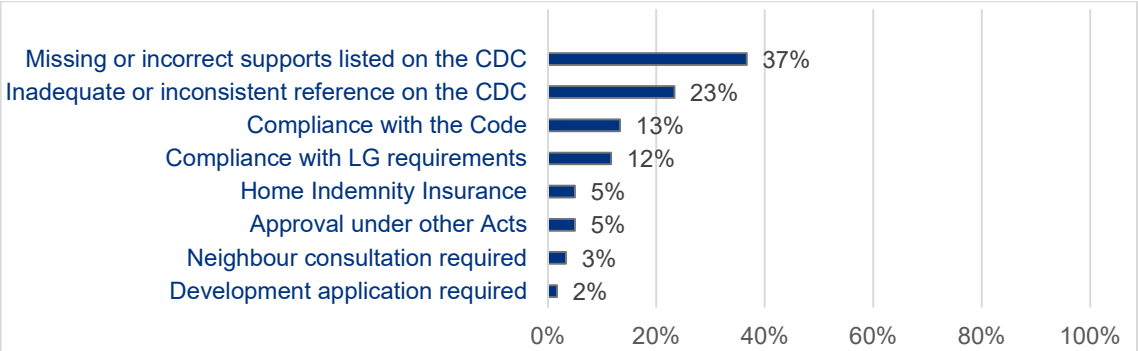
A future rise in building activity could put LG entities who take longer to issue permits at risk of not meeting the timeframes. Delays in issuing permits affect planning of building works and can lead to increased costs for applicants, particularly when they are renting and holding land.

Incomplete and incorrect applications often result in longer approval times

We found the LG entities took about 3 times longer to issue permits when they had to wait for more information from an applicant to assess an application. Around 75% of the information requests we reviewed related to incomplete or incorrect applications. This meant the majority of applicants could have avoided delays in their permit approvals if they had submitted complete and correct applications.

We reviewed 60 information requests for certified applications (Figure 4) and found:

- 60% related to missing or inadequate supporting information in the CDC
- another 15% related to incomplete applications such as mandatory information on home indemnity insurance or approvals required under building or health legislation.



	Mandurah	Gosnells	Joondalup	Albany	Total
Number of information items requested (examined by OAG)	24	20	11	5	60

Source: OAG using information from LG entities

Figure 4: Reasons for information requests by the LG entities

In the last 2 financial years the LG entities formally requested more information for around 38% of certified and 47% of uncertified applications. While these requests allowed LG entities to pause the clock for up to 21 days, it did add to the overall elapsed time to process applications.

Some requests for minor administrative errors could be resolved by informal requests (phone or email), which do not pause the clock. For instance, Albany adopted this approach advising us that they found it more efficient and customer-focused. In the last 2 financial years, Albany made fewer formal requests (32%) than the other LG entities (42%).

Reporting of permit information could be improved

All LG entities provided limited permit information to B&E, community and industry stakeholders. B&E's Permit Database aimed to fill this gap by collecting permit information from LG entities in a consistent format and more efficiently, but:

- only 8 metropolitan LG entities including Gosnells report data online to the Permit Database
- another 88 LG entities from regional WA report manually to the Permit Database, however these entities represent only a small proportion of permit approvals.

B&E told us that metropolitan LG entities do not report to the Permit Database because online reporting requires changes to the LG entities' permit systems, and manual reporting was not practical due to the large number of applications they received. A lack of reporting makes it difficult for B&E to assess LG entities' performance against legislated permit timeframes and other building control activities. This also impairs transparency and accountability on this important aspect of regulation by public sector entities.

We also found LG entities could provide more permit information to the community and industry stakeholders. Although all LG entities included the number and value of permits issued in their annual reports, only Mandurah reported the percentage of permits approved within the required timeframes, and none included information on complaints, monitoring or enforcement activities. This meant ratepayers had little information on how LG entities manage and regulate permits.

LG entities do not effectively monitor and enforce compliance with permits

The LG entities carried out limited monitoring, inspections and enforcement to ensure building works complied with permits. They identified most compliance matters through complaints but did not always take timely action to resolve them. The lack of monitoring and appropriate enforcement meant LG entities could not identify and address non-compliant building works or resolve community concerns in an effective and timely way.

Builders must also ensure their work complies with the permit and the Code, and submit a completion certificate to the LG entity within 7 days of finishing building works. Builders are legally responsible for faulty and defective work for up to 6 years after completion.

LG entities carry out limited monitoring and inspections of building work

None of the 4 LG entities had a formal policy or program to monitor and inspect building works, nor did they conduct monitoring or inspections at all key stages of building works. However, we found Albany monitored permit expiry, Gosnells inspected footings, and Joondalup and Mandurah did one-off projects on a small sample of building works (Figure 5). The Act gives LG entities power to monitor and inspect building works to ensure compliance

with permits. However, the Act does not require LG entities to inspect building works at key stages of construction.

The LG entities had not assessed the effectiveness of their existing compliance activities to understand whether they should continue their current work, or allocate resources to other quality and safety risks arising from non-compliance. LG entities advised that resource constraints and their inability to recover costs from current application fees limited the extent of their compliance work. A risk-based monitoring program could help LG entities use their limited resources to target the most serious and likely risks, and thereby provide better assurance that houses are well built and safe to live in.

Gosnells is the only LG entity that requires footings inspections. In the last 2 financial years, they inspected 760 sites.

Albany actively worked with owners and builders to ensure permits were extended before they expired. They use geographic information system data and site visits to assess the status of construction and compliance with permits.

Mandurah did a one-off compliance project on roof tie downs. They inspected 22 sites and found 86% (19/22) of roof tie downs were non-compliant. Mandurah advised the builders about the defects and did some follow-up inspections.

Joondalup's building manager did one-off site visits with surveyors as part of a training exercise. They identified some non-compliance and recorded these as complaints to be followed up by compliance staff.

Source: OAG using information from LG entities

Figure 5: Examples of monitoring by LG entities

Each year B&E inspects a small number of building works at key stages of construction. In the last 2 financial years, B&E inspected 337 new houses (1.2% out of nearly 28,500 approvals) and found nearly 30% to 50% of key stages did not satisfactorily comply with the Code or permit. For example, slab, roof and bushfire readiness issues were areas of identified shortcoming. These findings highlight the need for monitoring and inspections of building work to enhance compliance and provide safeguards to the community so that new houses meet quality and safety standards.

During our audit, B&E told us that it is preparing a consultation paper, which considers independent inspections. This will include options on who could do inspections, at what stages of construction, and the fees or costs. Other states, except for South Australia, require independent inspections at 4 to 6 key stages and most use private building surveyors to carry out these inspections. South Australian building law requires LG entities to inspect a certain percentage of building works every year.

LG entities could improve complaints processes to achieve more timely compliance

While all LG entities properly investigated complaints, they did not always take timely action to resolve community concerns about building works. In our review of 43 complaints about matters including building without a permit, deviation from the approved plans, and dangerous state of a building or structure, we found:

- 6 compliance matters across Albany, Joondalup and Mandurah took between 8 months and 7 years to be resolved. These LG entities often allowed builders and owners extensions to the required compliance time. Albany had 1 matter which commenced in 2011 and was resolved in 2018
- 10 complainants were not advised of the outcome. This sometimes led to follow up complaints for matters that were already being dealt with. Not advising complainants of the outcome is likely to result in a perception of unsatisfactory customer service and ineffective regulation.

Timely and appropriate enforcement action by LG entities deters non-compliance and sends a strong message to builders and owners who do not comply with permits. In the last 2 financial years Gosnells, Joondalup and Mandurah issued 24 building orders, of which 20 were issued by Gosnells. In the same period, the 3 LG entities prosecuted 8 matters. Penalties totalled $122,000. However, Albany has not issued a building order or prosecuted a matter since the Act was introduced.

LG entities advised that they preferred an informal approach (education and warning letters) to maintain a softer image in the community. They also told us that a lack of resources, staff time and other costs limit their ability to take formal enforcement actions (building orders and prosecution).

Appendix 1 – Building permit application checklist

Information required to accompany certified and uncertified applications

Item	Certified	Uncertified
Certificate of Design Compliance	✓	✗
Copy of each technical certificate used by the building surveyor in the Certificate of Design Compliance (if any)	✓	✗
All prescribed authorities have been obtained[4]	✓	✓
Heritage notifications	✓	✓
Water services notifications	✓	✓
Consent/court order for encroachments and/or for work affecting other land	✓	✓
2 copies of final plans (working drawings) and specifications	✓	✓
Evidence of payment of the Building and Construction Industry Training Fund Levy	✓	✓
Evidence of home indemnity insurance/s	✓	✓
Building Services Levy	✓	✓
Building Permit fee	✓	✓
Met the requirements of the relevant local government building permit checklist	✓	✓

Source: OAG using information from B&E

[4] For example, if the building work is defined as 'development' under s.4 of the *Planning and Development Act 2005* each relevant approval under the Act.

Appendix 2 – Better practice principles

The following table shows key principles on which our audit focused. Our listed expectations are not exhaustive and do not cover all of the *Building Act 2011* (Act) and other compliance requirements.

Regulating building approvals		
Stage	**Principle**	**Our expectation (what we expected to see)**
Receive application	Lodgement and payment systems	• LG entity website provides adequate guidance to permit applicants. • Online system to lodge and pay for permit applicants. • Ability to track all applications online.

Assess application	Staff guidance	• Policies and procedures which:
		  ○ align with current legislation and building codes
		  ○ explain the LG entity's interpretation of key terms of the Act
		  ○ include guidance for staff to effectively manage permit assessments.

	Conflicts of interest	• Assess actual, potential or perceived conflicts of interest for each application. • Record whether a conflict of interest exists or not. • Record decisions and actions taken to manage any conflict of interest.
	Further information requests	• Where appropriate, use informal requests (phone or email) to resolve minor administrative errors more quickly.
	Quality review	• Review of assessment by a senior staff member, preferably a building surveyor.

	Record timeframes	• Staff start, pause and stop the clock as required by the Act. Particularly:
		  ○ pause clock for formal requests only
		  ○ ensure clock is paused only once
		  ○ ensure further information provided by the applicant is correct before re-starting the clock
		  ○ stop the clock when the permit is issued.

Issue permit	Staff delegations	• Delegate relevant staff with the authority to approve and issue permits. • Only delegated staff to have access to the permit system's approval and issue tasks.

Stage	Principle	Our expectation (what we expected to see)

Permit compliance	Monitoring	• Policies and procedures explain LG entity's regulatory approach and guidance on how to monitor and inspect building works, for example the nature and extent of possible monitoring and compliance enforcement actions including desktop review and on-site inspections.
		• Risk-based program for monitoring and inspections. Consider:
		  ○ compliance risks during permit assessments (e.g. owner builders may lack building experience)
		  ○ compliance history of the applicant, builder or surveyor
		  ○ results of previous inspections and complaints
		  ○ local risks such as site conditions and types of dwelling
		  ○ other resources like B&E's website to identify builders and surveyors warned, fined or prosecuted for non-compliance.

	Complaints management	• Staff guidance on how to assess risks, assign a rating and prioritise complaints. • Timely referral of compliance matters to relevant staff. • Provide feedback to the complainant.

	Enforcement	• Policies and procedures on enforcement.
		• Consider appropriate enforcement method on a case by case basis:
		  ○ informal (education, warning letters)
		  ○ formal (building order, prosecution).
		• Follow up to ensure action is taken to remedy the non-compliance.
		• Escalate matters to senior staff if previous enforcement action did not achieve compliance.

Reporting	Performance information	• Report permit approvals, monitoring and enforcement data to B&E.
		• Provide key performance information to relevant stakeholders and the community. This could include information on:
		  ○ number and value of permit applications received
		  ○ time taken to issue permits
		  ○ monitoring and inspection activities
		  ○ building related complaints
		  ○ number of non-compliance issues identified and resolved
		  ○ number of building orders and prosecutions.

Source: OAG

Appendix 3 – Full responses from audited entities

City of Albany

We appreciate both the OAG's acknowledgement of what we are doing well, as a well as identifying some improvement opportunities. We were especially proud of our very short turnaround times in relation to the other audited local governments and intend to continue to provide a high level of service to our community.

In relation to the recommendations made, we provide the following comment that we will include in the Action Plan required under 7.12A of the Local Government Act 1995:

City of Albany's specific responses to recommendations

1a. Noted.

1b. Subject to privacy considerations, our reporting processes have been modified to comply with these requirements.

1c. We will continue to comply with legislative requirements.

1d. The City of Albany has a Regulatory Compliance Policy and Guideline to ensure these recommendations are met.

3. The City of Albany agree to this and have implemented processes to immediately comply.

City of Gosnells

The City views the building control function as critical for ensuring community safety. In this regard, the speed of processing applications should not be a key metric. Instead, the City believes the community expect a vigorous assessment of building applications and the City is pleased that the OAG has recognised this while also noting the City complies with statutory timeframes.

The City notes that mandatory inspections of building construction is not required under current legislation. The City is not opposed to mandatory building inspections, but if this outcome is desired, the function should be self-funded to ensure that the wider community is not asked to pay for a function which has a very specific benefit.

The City acknowledges the dialogue with the OAG during the Performance Audit and is pleased that many of the City's comments have been accepted.

City of Joondalup

The City of Joondalup ("the City") supports the Office of the Auditor General (OAG) and its responsibility for carrying out performance audits within local governments. Prior to being included as one of the local governments in this audit, the City has found value in reviewing previous OAG reports to determine if any issues affecting other local governments exist at the City and if improvements to the control environment are necessary.

The City appreciates the opportunity to participate in the Local Government Building Approvals Performance Audit and accepts all the recommendations made by the OAG which will be, or already have been implemented to improve the City's systems for assessing building permit applications and build a more effective monitoring and enforcement regime to improve compliance.

The City is always willing to cooperate with any other government entities, including the Building Commission (now known as Building and Energy within the Department of Mines,

Industry Regulation and Safety) and the building industry, to improve the regulation of building permits and introduce a more consistent approach across the entire local government sector for the benefit of all stakeholders.

City of Joondalup's specific responses to recommendations

1a. Written declarations of interest from assessment staff was implemented in April 2019.

1b. The City will consider appropriate ways to inform the community and industry on these matters. Permit information is already provided to the Building Commission (Building and Energy). Information on the number, value and type (residential or non-residential) of building permits is already included in the City's Annual Report.

1c. As the current fee structure is cost neutral, if this approach is to be progressed there needs to be recognition in the statutory fee structure of the costs that would be incurred in applying this approach.

1d. A protocol to provide improved guidance will be developed.

2. Agree and implemented. Permits have always been determined by appropriately qualified and trained staff, and this delegation was only to allow for the administrative issuing of permits.

   To provide better clarity around the delegation (*Building Act 2011* – Granting Building and Demolition Permit Applications, Building Approval Certificates, Building Certificate Strata, Occupancy Permits) it has been amended to reflect firstly its administrative intent, and secondly by providing a new condition that clarifies the delegation is restricted to administratively granting certificates and permits that have the relevant certifications of building compliance, construction compliance and/or design compliance, as certified and issued by a person meeting the qualification requirements of the Building Services (Registration) Regulations 2011.

   Some sub-delegations from the Chief Executive Officer to employees have been removed as they do not form part of the building application approval process.

3. Agree and implemented. This practice ceased on 17 January 2019 and the time now being recorded accurately reflects the date a building application is received until the issue of the permit.

City of Mandurah

In acknowledging the findings and recommendations of this report, the City of Mandurah is broadly supportive of the recommendation to initiate building inspections. However, it is important that, despite the presence of localised activity, this is regulator-driven, consistent across all local governments and proposes a fee structure which enables local governments to recoup the cost of inspections.

Building and Energy Division

The Department of Mines, Industry Regulation and Safety's Building and Energy Division is comfortable with the findings of the report and supports the recommendations.

Building and Energy's specific responses to recommendations

1. Building and Energy agrees unconditionally with these recommendations 1. a, b, c and d.

2. Building and Energy agrees with recommendations 2 and 3. We suggest the recommendations should apply generally to all local government permit authorities, not just the four audited.

3. As above.

4. Agree with a, and b by December 2019. Building and Energy has been working with local government permit authorities on ways to implement more consistent practices. The goal is to align practices as a first step which will then pave the way for further streamlining of the permit application and approval processes.

   In 2015, the former Building Commission published a "Guide to the building approvals process in Western Australia" to assist local government authorities, consumers and the building industry understand the permit application and approval process as prescribed under the Building Act.

   Building and Energy will consult with local government permit authorities on the merits of further publications and other mechanisms to improve consistency in these processes.

Auditor General's Reports

Report number	Reports	Date tabled
27	Opinion on Ministerial Notification	20 June 2019
26	Opinions on Ministerial Notifications	19 June 2019
25	PathWest Laboratory Information System Replacement	19 June 2019
24	Verifying Employee Identity and Credentials	19 June 2019
23	Improving Aboriginal Children's Ear Health	12 June 2019
22	Opinions on Ministerial Notifications	5 June 2019
21	Engaging Consultants to Provide Strategic Advice	5 June 2019
20	Information Systems Audit Report 2019	15 May 2019
19	Audit Results Report – Annual 2018 Financial Audits	15 May 2019
18	Firearm Controls	15 May 2019
17	Records Management in Local Government	9 April 2019
16	Management of Supplier Master Files	7 March 2019
15	Audit Results Report Annual 2017-18 Financial Audits of Local Government Entities	7 March 2019
14	Opinions on Ministerial Notifications	13 February 2019
13	Opinion on Ministerial Notification	23 January 2019
12	Managing Disruptive Behaviour in Public Housing	20 December 2018
11	Opinions on Ministerial Notifications	20 December 2018
10	Opinions on Ministerial Notifications	18 December 2018
9	Treatment Services for People with Methamphetamine Dependence	18 December 2018
8	Opinions on Ministerial Notifications	10 December 2018
7	Audit Results Report – Annual 2017-18 Financial Audits of State Government Entities	8 November 2018
6	Opinion on Ministerial Notification	31 October 2018
5	Local Government Procurement	11 October 2018

Report number	Reports	Date tabled
4	Opinions on Ministerial Notifications	30 August 2018
3	Implementation of the GovNext-ICT Program	30 August 2018
2	Young People Leaving Care	22 August 2018
1	Information Systems Audit Report 2018	21 August 2018

Office of the Auditor General
Western Australia

7th Floor Albert Facey House
469 Wellington Street, Perth

Mail to:
Perth BC, PO Box 8489
PERTH WA 6849

T: 08 6557 7500

F: 08 6557 7600

E: info@audit.wa.gov.au

W: www.audit.wa.gov.au

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