



Australian  
Institute of  
Architects



Association of Consulting Architects  
The Business of Architecture

ABN 72 000 023 012  
The Royal Australian Institute of Architects  
trading as Australian Institute of Architects

WA Chapter  
33 Broadway  
Nedlands, Perth, WA, 6009

P: (08) 6324 3100  
beata.davey@architecture.com.au  
[architecture.com.au](http://architecture.com.au)

04 March 2022

Elizabeth Bazen  
Principal Policy Officer  
Department of Mines, Industry Regulation and Safety  
Building and Energy  
303 Sevenoaks Street  
Cannington WA 6107

Dear Elizabeth,

**RE: REFORMED PROCESS FOR APPROVING AND DOCUMENTING VARIATIONS  
UNDER THE *BUILDING ACT 2011* TO IMPLEMENT RECOMMENDATION 16 OF THE  
BUILDING CONFIDENCE REPORT**

The Australian Institute of Architects (Institute) and the Association of Consulting Architects (ACA) congratulate the Department on the proactive consultation process in reference to implementation of the recommendations of the *Building Confidence Report*. We take this opportunity to provide commentary to the proposed process as per guidance questions provided.

**Q1 & Q2 – Major and minor variations**

The identification of different processes for minor and major variations is supported. Separate processes are necessary to minimise time delay impacts for projects in construction.

We would recommend further articulation of major and minor variations to more align with the NSW Design Declaration and lodgement process<sup>1</sup>, whereby new declarations are required for variations to the five regulated designs: fire safety systems, waterproofing, building structure, building enclosure, and building services. The proposal appears to cover building's structure, fire systems and to an extent building enclosure.

Further articulation of what are major or minor variations based on a risk assessment should be considered. Variations need to be assessed holistically with impacts to light, ventilation, energy efficiency, fire and smoke resistance and compartment sizes, access and egress, exit travel distances, structural implications to other elements/systems, planning requirements, other indoor health and wellbeing benchmarks as dependant on project typologies (e.g., light levels in aged care facilities, water quality in hospitals, etc.)

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<sup>1</sup> <https://www.fairtrading.nsw.gov.au/trades-and-businesses/construction-and-trade-essentials/design-and-building-practitioners/declaration-and-lodgement-process>



Further, articulated definition will alleviate reliance on discretionary judgement of building surveyors, which will greatly benefit the profession's insurability.

As an example, refer table below.

<b>Regulated Design Area (fire, waterproofing, structure, enclosure or services)</b>	<b>Example of Variation or Comment</b>	<b>Proposed Variation (major or minor)</b>
Fire services	Wet and dry fire services, EWIS, smoke and fire compartments and elemental ratings, any other fire engineering items or DFES requirements.	Major
Waterproofing	Changes reducing the performance of the waterproofing method or materials originally specified. High risk area (e.g. basements) waterproofing system revisions.	Major
	Other waterproofing variations.	Minor
Building structure	Change in structural systems. Changes in façade structural design where wind loadings require recalculation. Change in element types that necessitate other structural system / detail redesign (e.g. wall type change that requires footing and roof connection redesign).	Major
	Replacement of singular structural elements that have like for like performance ratings (structural, fire, termite resistance) with minimal impacts to other structural elements.	Minor
Building enclosure	Relocation of external walls, change in floor area, material substitution to external cladding, relocation of internal fire/smoke walls, revisions that will require structural element redesign.	Major



	Moving doors, windows – no impact to load bearing walls, footings; impact assessment on compliance with all other requirements.	Minor
Building services	Electrical: Lux level variations for high-risk building types that may impact compliance with Australian Standards; Mechanical: Smoke extraction or stair pressurisation system variations; major variation in mechanical system design that may have reduced indoor health outcomes (indoor air quality); Building Management System: change in system Hydraulic: water filtration variations that may impact on potable water quality.	Major
	Electrical: change in light fitting types (same performance parameters); Mechanical: changes that do not impact on performance as experienced by building occupants, e.g. floor by floor systems versus central plant system, split system versus fully ducted system. Hydraulic: water / waste pipe relocations or adjustments. Wet/Dry fire services: sprinkler relocations to ensure spread, etc.	Minor

We note that some of the proposed major variations, such as change in floor area, height or building classification / use, under current planning and building regulations, would already require lodgement of amendments to the Development Applications (DA) and Building Permits (BP). We would recommend referencing planning obligations and other obligations, conditions of Building Permit, to clearly articulate effect of new policy.

### **Q3 Processes for documenting and approving variations**

#### Minor variations

We would recommend mandatory training (CPD) for builders to ensure sufficient skills and support in processing uncertified applications.

The policy is silent as to the impacts of non-compliance with this policy and whether penalties will be applied.



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### Major variations

Item 2 of the proposed process notes that any variations affecting a required fire safety system is required to be submitted to the FES Commissioner. We note that there may be instances that project envelope and/or internal layout variations may have impact to fire safety (e.g., fire or smoke compartment sizing / delineation, material substitutions, etc). We recommend further definition of when submission to the FES Commissioner will be required.

We note that the introduced process may have the unintended consequence of construction delays, with risk of associated costs of delays being transferred to building owners / Principals in the construction contracts. The matters of time and cost claims in contracts is something that could be pre-negotiated between the parties and articulated in the contract schedules / preliminaries.

We recommend that specific training and/or guidance is provided for contract administrators, project managers and architects ahead of the policy being implemented. We would recommend liaising with the State Training Board and Construction Training Fund with that regard. The Institute is a provider of practice resources and CPD to architects and is keen in partnering to deliver subsidised training for impacted professions.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Beata Davey', written in a cursive style.

**Beata Davey** RAIA

National Policy and Advocacy Manager