PRODUCTIVITY COMMISSION REVIEW OF

BUILDING REGULATION REFORM

VICTORIAN GOVERNMENT SUBMISSION

May 2004

Productivity Commission Review of Building Regulation Reform

Victorian Government Submission

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Part 1 Body of Submission

1 Introduction

This submission is the Victorian Government's response to the Productivity Commission Issues Paper (March 2004) on the Review of Building Regulation Reform.

The Victorian Government is a signatory to the 1994 Inter-Government Agreement (IGA) between the Commonwealth, State and Territory Governments on building regulation reform, and is a member of the Australian Building Codes Board (ABCB) that was formed under this agreement.

The Victorian Government has been committed to the national approach to building regulation reform, as demonstrated by this Government's take-up of the Building Code of Australia (BCA), a key initiative of the ABCB.

The Victorian Government sees building regulation reform as an ongoing responsibility, and supports the continuation of a national approach to this. The ABCB has provided an effective means of achieving reform of and advances in building regulation at a national level. The ABCB provides an appropriate model for an ongoing national approach to building regulation.

It is relevant to note that on 20 April 2004, the Victorian Government announced the establishment of the Victorian Competition and Efficiency Competition (VCEC). The VCEC will be this State's foremost advisory body on business regulation reform, and will examine opportunities to improve Victoria's competitive position. One of the Commission's first two inquiries is into regulation of the housing construction sector. While the VCEC inquiry will focus specifically on regulatory impediments in the Victorian housing construction sector, it will benefit greatly from the findings of the Productivity Commission's review in relation to national building regulation reform.

2 Background & Scope of the Productivity Commission study

Previous reviews of the IGA and ABCB have, in general, appropriately canvassed issues and identified opportunities for building regulation reform. The ABCB has been dutiful in following up outcomes and recommendations of previous reviews, given the context of the broad agenda of the ABCB and the associated reviews.

The role of the ABCB has been limited by the scope of the existing IGA. This review provides the opportunity for the role of the ABCB to be expanded to ensure that it maintains it relevance by being able to respond to emerging issues relevant to building regulation.

3 The Commission's approach

3.1 Effectiveness

The ABCB Mission statement

The ABCB's mission statement has been appropriate given the current scope and responsibilities of the ABCB. The mission statement could, however, more clearly reflect the ABCB's responsibilities to facilitate building regulation reform.

Obviously, if the ABCB's future role and scope were to be expanded, the mission statement would need to respond to the new circumstances.

Community expectations

Community expectations are dynamic, and evolve as new issues come to the fore. The ABCB's membership and program of consultation has enabled it to remain attuned to community expectations over time.

Definition of 'amenity' in the BCA

The definition of 'amenity' in the BCA is particularly relevant to residential building development. The dynamic nature of residential development over recent years, particularly resulting from the housing boom, has raised expectations in relation to 'amenity'. There is increasing pressure for the building regulation system to address a broader range of amenity issues than it has traditionally dealt with, and it is anticipated that this trend will continue. These increasing amenity expectations encompass the realms of both occupiers of the building, and non-occupiers who may be impacted upon by a building.

To appropriately respond to this, the definition of the term 'amenity' within the BCA should be reviewed, with a view to expanding its scope, rather than more narrowly defining it. The definition could be expanded to address amenity matters that have more traditionally been the territory of planning, and could include expectations in relation to comfort and freedom from nuisance, but not appearance.

National consistency

Building construction matters lend themselves to a national approach in relation to standards, regulations and guidelines. Jurisdictional boundaries have little bearing on the technical aspects of building construction. Whereas geographic, climatic and/or natural phenomena provide commonalities that form an appropriate basis for regulation.

National consistency in building regulation provides for efficiencies to be achieved by all stakeholders, and thus cost effective outcomes. Nationally consistent building regulations effectively create a single national market, providing opportunities for the building industry to optimise economies of scale.

It is the responsibility of State and Territory jurisdictions to ensure that harmonisation of administrative legislation is embraced. Further progress in achieving this could be encouraged by more specifically addressing this in any new IGA.

Despite the advantages of a nationally consistent approach to building regulation, scope needs to be provided to allow for local variations to respond to local circumstances. The BCA currently acts as a minimum standard, providing scope for States and Territories to specify higher standards where there is a local need or demand.

The ability to respond to local circumstances does give rise to circumstances of intractable differences in regulation. It is inevitable that, in a country of 20 million people, significant geographical and climatic variation, and cultural diversity, there will be different and, at times, conflicting expectations about aspects covered in the BCA. For example, a community that has recently experienced significant building damage caused by riverine flooding may develop a higher expectation that the protection against flooding should be afforded by building regulation, than a community that has not experienced such an event.

Quantitative & qualitative indicators

The concept of quantitative or qualitative indicators of the measure of performance of the ABCB and in fact any building regulatory area does not currently exist. The Building Commission is currently undertaking a large project to develop quantitative and qualitative indicators through its 'Pulse' project, which has recently been launched in Victoria.

Previously, the ABCB has used the following approaches in assessing performance:

- Quantitative: Calculation of post-completion cost savings.
- Qualitative: Survey of suppliers and customers.

3.2 Productivity

Separating the effects of building regulation reform on building industry productivity from other factors is difficult. In many instances, the effects of other factors, such as industrial relations, will have greater productivity impacts than would building regulation reform.

3.3 Efficiency

If the objectives of the ABCB were to be changed to achieve greater efficiency of outcomes, the objectives could more explicitly address the following range of matters:

- Sustainability;
- Administration;
- Interface of planning and building regulation.

4 Institutional arrangements

Processes for delivering efficient and effective outcomes

The key factors in achieving efficient and cost effective regulatory outcomes are consultation, communication and education.

Setting regulatory standards is assisted by industry, government and community involvement in the assessment and development of regulatory proposals, receiving regular feedback from Code users, monitoring complaints and appeals from the community to various State bodies, including the courts and Coronial inquiries and researching the performance of buildings subjected to extreme events.

The BCA is now amended annually (on 1 May each year) to reflect changes in building practices, usage and technology. The BCA change process follows an agreed procedure that is both consultative and transparent as possible, while respecting confidentiality.

The ABCB undertakes regulatory impact analyses for major changes to the BCA. This is in accordance with the COAG *Principles and Guidelines*. A draft or consultation Regulatory Impact Statement (RIS) is prepared for public comment, and, at the conclusion of the consultation period, a final RIS is prepared to assist the Board in its deliberations. All RISs are submitted to the Office of Regulatory Review (ORR) for review and sign-off prior to release. ORR assess the adequacy of the analysis contained in each RIS and whether the RIS complies with the Government's requirements. The ABCB consults with ORR to ensure that the level of analysis contained in the RIS is adequate and commensurate with the magnitude of the likely impacts.

The ABCB consults widely with government, industry and other stakeholders. The ABCB invites public comment on draft RISs. RISs are published on the ABCB website; ABCB mailing list subscribers receive notification of all new documents and website content; BCA subscribers receive the quarterly Australian Building Regulation Bulletin (ABRB) that contains project updates; and the Building Codes Committee, State and Territory Administrations and relevant working groups receive direct notification of the RIS.

The commencement of RIS processes early in the development of regulatory change proposals enables the ABCB to identify key impacts and work toward more efficient and cost effective solutions. Comments received during the RIS consultation period assist in the refinement of BCA proposals.

In *Regulation and its Review 2002 – 03*, the Productivity Commission cites the ABCB RIS processes for the Energy Efficiency Measures for Housing as an example where regulatory best practice requirements have been met.

Examples of regulatory proposals for which RIS have been prepared include the Energy Efficiency Measures for Housing; Energy Efficiency Measures for Class 2, 3 and 4 Buildings; Sound Insulation Provisions; Fire Hazard Properties of building Materials and Assemblies; and the Disability Standards for Access to Premises.

Since 1997, in its Annual Report *Regulation and its Review*, the Productivity Commission has consistently reported on ABCB matters where the COAG RIS requirements were applied and met.

Operation of planning and building processes

Within Victoria the planning and building processes operate well together. This is assisted through the legislative and regulatory framework, which include requirements to minimise conflicts between the two systems.

In general, the opportunity exists for the interface between planning and building regulation to be better defined to minimise avoidable overlaps.

Local councils & additional building requirements

Local variations to building construction requirements are not appropriate, as they compromise intra-state uniformity and add to costs of construction and administration.

In Victoria, section 13 of the *Building Act* 1993 and section 123 of *the Local Government Act* 1989 (schedule 8) render a local law ineffective or liable to revocation if it provides for a matter in the building regulations or a matter for which a regulation may be made under the Building Act.

4.1 The Australian Building Codes Board

ABCB funding and charging arrangements

Revenue to fund the ABCB activities comes from three primary sources – the Australian Government, State and Territory Governments and cost recovery activities of the ABCB.

Victoria provides approximately $330,000 per annum in funding.

The ABCB's cost recovery strategy was the subject of a public review and joint decision by all nine governments that supported the 50/50 approach to public and commercial funding for the ABCB's activities. The opportunity exists for improved funding at the national level; such as through increasing the proportion derived from the sale of products and services.

ABCB structure and membership

There is no demonstrable need for change to the structure or level of industry membership of the ABCB. However, consideration needs to be given to amending the selection procedure to ensure that peak building industry bodies can be represented.

Should sustainability become a major and ongoing item on the ABCB agenda some consideration could be given to enhancing expertise of the ABCB in the field of sustainability.

Role of Australian Government in national reform

The direct involvement of the Australian Government in the ABCB has contributed to the achievement of the Board's reform agenda. The ABCB provides a positive example of a successful federal/state relationship, where both levels of Government derive mutual benefit. The continued involvement of the Australian Government is supported.

4.2 Code-making processes

The ABCB has recently brought the standards making processes into a generic BCA referenced document protocol. This modification provides for satisfactory outcomes.

International alignment

Provided Australian competitiveness is not hindered, greater alignment of standards with those from other countries would be desirable. To facilitate adoption of such standards it would be important for the ABCB to be involved, particularly within the region, to influence their development.

The Australian system provides some international alignment, for example with New Zealand, but such standards are not widely available.

Implementation of BCA across jurisdictions

There are differences in the allocation of responsibilities within different States and Territories making a consistent administrative approach a challenge.

Other models in the first world countries vary from the centralist building regulatory authority to that where the equivalent of the ABCB is a separate body. In Canada the IRCC produces the proposed technical requirements and each Province (equivalent of State or Territory) determines which technical provisions will apply. Similarly in the US, where there are predominantly two Code organisations, a State can adopt whichever Code it believes is appropriate in whole or in Part.

In Japan where there are two tiers of government, there is very strict Standard Building Law, which is made and decreed by the Ministry of Land, Infrastructure and Transport (MLIT). Local government in Japan does not have input into the development of the legislation.

New Zealand has until recently had a separate Board, the Building Industry Authority (BIA) which was independent of Government. It developed technical legislation, which was implemented by local government. However the BIA has now been brought back under a government department, to improve accountability.

As a model the ABCB is unique in that it has an optimal level of input and commitment of the Federal and all State and Territory governments, while having regard to individual State and Territory sovereignty.

Evaluation of the costs and benefits of reform proposals

In general, the regulatory impact analysis system for changes to the BCA works well. The ORR criteria, which presumably represent best practice, are being met. However, it is recognised that there is the opportunity for further improvement in the cost-benefit analysis system.

5 Assessing the Code

5.1 Code objectives

The ABCB has generally succeeded in achieving its objectives as set out in the IGA. An example of this is the performance-based approach of the BCA and the capacity that a national technical document provides to minimise State and Territory variations.

Currently the objectives of the ABCB do not conflict with each other, however as emerging issues come to the forefront eg. sustainability, access versus cost, then there will be some level of conflict that needs to be addressed, which would require the implementation of flexibility within the objectives to determine a methodology to resolve these conflicts.

To date the move to performance and the acceptance of alternative solutions are a key component of deregulation. It is envisaged that future projects that have been highlighted by the ABCB would also contribute to deregulation ie. National Harmonisation of Administrative Framework, Future Building Code, Research programs.

5.2 Coverage of the Code

Building access for people with disabilities

The ABCB, Standards Australia and the Human Rights and Equal Opportunity Commission have been working together towards common access to premises provisions in the BCA , Australian Standards and the Access to Premises Standard respectively.

A 'Premises Standard' is a preferable approach to meeting building access requirements under the Disability Discrimination Act (DDA), in comparison to the alternative of setting standards based on complaints made through the DDA processes. Alternatives to the Premises Standard approach have been considered by the ABCB. The course chosen based on Australian Government policy on developing a DDA Standard, for access to premises, is the most suitable approach.

In April 2004, the Building Commission commenced research with the ABCB towards a consistent national policy, and possibly regulatory approach, to accessible housing standards. A draft report is anticipated by mid 2005. It is envisaged that access provisions would be placed in the BCA , which considers access from a site boundary to and within a building.

It is too early to determine whether the Administrative Protocol is effective, however an appropriate performance indicator would be the number of DDA complaints which arise once the Protocol is in place.

Energy efficiency

Energy efficiency has been introduced into the BCA to meet community expectations.

The Cooperative Research Centre for Construction Innovation research study into 'Sustainability and the BCA' conducted workshops throughout Australia and consulted with the ABCB and its technical committees to develop the following definition: *Sustainability – in building construction means 'a way of building that reduces the negative health and environmental impacts caused by the design and construction process, by buildings or by the built environment'*[1].

In regard to the nature of regulations, there does not need to be a choice between prescription and performance. It is open to designers or manufacturers to develop prescriptive solutions to meet performance standards, but prescriptive requirements provide less flexibility.

Fire safety

Generally the objectives of the BCA and fire authorities' regulation in the States and Territories are aligned in regards to human safety, however they are at variance in regard to property protection. This may be a matter that would need to be addressed in future BCA amendments.

Each State and Territory has fire service legislation in one form or another. The goals of this legislation generally relate to the protection of life, property and the environment.

The objectives of the legislation that calls up the BCA and the fire service legislation are different. It is up to the proponent constructing the building to meet the various requirements, such as building/planning legislation, environmental legislation etc. Meeting the BCA is only one of the requirements.

There is no conflict, but rather a difference in the objectives, all of which need to be met.

If these different objectives are to be reconciled, it must be at a State and Territory level. One way for this to occur could be for State and Territory Governments to require the ABCB to develop technical provisions to meet the objectives of the fire service legislation. Alternatively, better coordination of the roles of the fire service and building/planning legislation could assist.

[1] CRC Construction Innovation Wesite link: http://www.construction-innovation.info/Sustainability%20and%20the%20Building%20Code%20of%20Australia%20[Oct%2003]1.pdf

Sustainability

The Victorian Government sees 'sustainability' as a key issue facing the development industry. Buildings have been identified as having a significant impact on the environment, through resource consumption (including water and energy) and waste generation[2].

In its paper *Background Document - Green Star Environmental Rating System for Buildings* the Green Building Council of Australia identifies that "*the property industry is well placed to deliver significant long-term environmental improvements using a broad range of measures. More importantly it is unique in that it can directly influence and create behavioural changes at all stages of the supply chain. However, there are inherent barriers within the industry that often act to ensure that efficiency measures are not adopted, despite the fact that a strong business case can be made for their implementation….*".

Energy efficiency is only one element of the sustainability agenda. Other elements that require further consideration in relation to the building regulation system include:

- Water efficiency
- Reuse of materials
- Indoor environmental quality
- Reuse of in-situ heritage listed buildings

The Victorian Government supports continuing the promotion of the issue of sustainability as a key agenda item for the ABCB.

Occupational health and safety

The future work program for the ABCB could include addressing the harmonisation of occupational health and safety issues in relation to technical building matters (ie "safe design").

Other areas

Other emerging areas of interest in regard to building regulation include:

- enhanced amenity, particularly noise attenuation from all sources;
- problems relating to an ageing population; and
- whether a greater focus is needed on property protection rather than confining the BCA to items affecting human safety and health.

[2] '*Environmentally Sustainable Buildings: Challenges and Policies*' – a report by the OECD, 2003

6 Delivering outcomes

6.1 Implementing the Code

Accessibility of the Code

It is appropriate to charge for access to the BCA. One of the key beneficiaries of the Code is the building industry, which also comprises the primary users of the Code. It is considered fair and reasonable that this sector contribute to the cost of production, maintenance and amendment of the Code.

Through its representation on the ABCB, the Victorian Government will continue to seek to influence the ABCB to examine ways of marketing the BCA to maximise its uptake and utilisation, and to improve accessibility to the Code.

Administration and enforcement

Information regarding the administration of building regulation in Victoria is provided in Part 2 of this submission.

Victoria adopted the Model Building Act as the basis for the Building Act 1993. The reasons why some other States and Territories have not adopted this framework at the time, is for each individual State and Territory to answer in their own right. The review of the IGA could be extended to include this process and for commitment by all relevant Ministers.

In regard to costs of non-uniformity in the administration of the BCA, there are no published figures to quantify such costs.

The compliance checks in the Victorian building system are satisfactory and effective, as the Victorian Building Regulations require inspections at prescribed stages of the construction process by the permit issuing authority to demonstrate compliance with the building permit and approved drawings.

The dispute resolution process for Building Regulations in Victoria is managed via the Building Appeals Board (BAB). The BAB has not received any complaints to indicate that there are any systemic problems in the dispute resolution process in Victoria. The Victorian BAB regime has been extremely successful and effective since its inception in 1945. The Victorian Government sees merit in maintaining this jurisdiction at a State level.

Private certification has improved accountability within the building approvals system, because the system of private certification has been accompanied by liability reform and registration requirements, which provide checks and balances that apply to both private building surveyors and municipal building surveyors. The Building Commission also provides direct oversight of the activities of registered practitioners and assists to resolve any jurisdictional issues.

6.2 Reforming the risk & liability landscape

Liability reforms

Victoria has proportionate liability and requires that building practitioners such as draftpersons, builders, engineers, building surveyors and building inspectors be registered and carry prescribed professional indemnity insurance. Commercial builders are required to carry structural defects insurance, while domestic builders are required to carry domestic building insurance. Architects are also required to carry professional indemnity insurance, although they are registered under a separate Act.

Liability changes and registration requirements have made it possible for a larger number of building professionals to obtain insurance at a reasonable cost. The involvement of the ABCB is through their education role, in ensuring that the competencies of certifiers continue to improve through the development of courses and presentation of changes to the BCA.

Quality Assurance accreditation is becoming increasingly popular mechanism for risk management. Victoria also has a system of pre-qualification for builders tendering for government funded projects, which is designed as a risk management process.

Certification of buildings

As highlighted in the Issues Paper, the ABCB is involved in the introduction of private certification through the development of the National Accreditation Framework. As Victoria's Building Act 1993 is based on the Model Building Act, privatisation has been an inherent part of our process since 1994 for full privatisation and prior to that in partial privatisation.

In Victoria private certifiers can issue building permits, carry out inspections and issue occupancy permits. They are required to take action to achieve compliance in the event of a breach of regulation in the same manner as a municipal building surveyor. The only differences are that a private building surveyor cannot take legal proceedings for a failure to comply with the regulations and must refer this to the Building Commission. Also, only a municipal building surveyor can issue an emergency order if a building is a danger to life or property. Municipal building surveyors also carry out safety inspections of existing buildings accessible to the public on behalf of their councils.

Both private and municipal building surveyors are required to register as a building surveyor with the Building Practitioners Board and be covered by professional indemnity insurance either personally or through their employer. The same qualifications of a degree and 4 years experience are prescribed for private and municipal building surveyors.

The KPMG report prepared for the Mid-term Review of the ABCB in 1999 indicated that private certification has benefited the industry by accelerating approval processes. It found that benefits arise because certification of private sector certifiers lessens reliance on under-resourced Local and State Departments. It reported that nearly all participants acknowledged that elapsed time had been reduced although the number of person hours for design review

and certification may be unchanged or even greater. Estimates of timesavings differed from respondent to respondent, with some (eg. Telstra Dome), suggesting that delays of 3 or 4 months might have occurred previously. Others believed that approval delays previously were absorbed by juggling other construction tasks to use this time productively, although this resulted in "more grey hairs" but not ultimate delay to the project (Brisbane Convention Centre). It sensed that private certification has significantly reduced pressures on design.

Specific benefits noted during the study include a new mode of operation where the building surveyor who issues the design compliance certificate is a member of the design team from the point of project inception. This mode of operation provides an early warning mechanism to architects and developers and avoids costly remedial action. It also avoids any tendency toward an adversarial relationship between architects and developers and the certification authority. The sustained, continuing involvement of certifiers in the process of design and approval makes design under the performance based BCA much more flexible and time effective. Previously, approval proceeded in a stepwise manner, with distinct approval steps for structure, facade and finishes. Also, approval time has been significantly reduced as construction can proceed in tandem with the staged approval process.

The ongoing involvement and interactive relationship between designers and certifiers has provided much greater design flexibility. When certification responsibility rested with councils, designers were loathe to seek variations unless absolutely necessary because of the timing implications of repeated passes through the approval system. Considerable time is saved because there are now more private certifiers and they are arguably more responsive to demand. In times of high demand in the past, approval times would inevitably be lengthened. Private certifiers on the other hand are inclined to make themselves available to meet demand thereby significantly speeding approval cycles. On occasion, the private certification system can make available a higher level of expertise.

In the past, if a complex project was being designed for a regional area, the local council (municipal building surveyor) would have certification responsibilities despite potentially never having been involved in a project of that type or magnitude before. This system placed considerable pressure on the certifying authority and was inclined to promote conservatism and also to introduce delays. However, KPMG found that private certification also faces challenges:

- *the potential for commercial pressures to be brought to bear on a certifier as certifiers are now paid by the developer or builder whereas under previous arrangements, independent tribunals or local council employees (who were not involved commercially with the building) issued the certificates.*

Generally it is believed standards for private certifiers are adequate, but there is room for improvement. As Victoria has had a system of registration of building practitioners since the introduction of the Building Act 1993 (refer to Part 2), together with the requirements under our Building Regulations specifying who can approve Alternative Solutions in relation to fire systems, standards have generally been adequate. The level of complaints about private building certifiers compared to building work is minimal.

An evaluation of the impact of competency standards and the framework in regard to certification is needed. The transportability of qualifications in the industry across Australia and mutual recognition, together with the complexities of assessing complex technological change is highlighted by:

- Accreditations that are not recognised throughout Australia. With the ever-increasing mobility of the construction and development sector, this imposes difficulties and inefficiencies. There is also a lack of uniform standards for competency and accreditation, eg. fire safety engineers.
- Relaxation of the certification system which places a heavy burden of responsibility on private certifiers to assess engineering and design submissions pursuant to performance standards. As new technologies and materials emerge and modelling techniques become ever more sophisticated, the ability of private certifiers to evaluate and verify performance-based designs must inevitably come under pressure.

6.3 Awareness and research

Anecdotal evidence indicates that awareness and uptake of the BCA is improving every year, however there is scope to improve accessibility. The ABCB is developing strategies to achieve this.

Opportunities always exist to improve education and training for building practitioners, particularly in regard to the small builder sector. The existing industry associations provide the greatest opportunity to provide ongoing education within this sector. Undergraduate and trades training needs to keep pace with advancements in building construction and regulation. However given the packed curriculum of these training courses, priorities will need to be carefully considered.

The ABCB's research program has provided considerable benefits to the industry to date. These include providing appropriate and cost-efficient provisions for a range of building construction matters. The purpose of the ABCB research and development program is to undertake research to inform the development of regulatory and non-regulatory proposals for building design and construction. Given that, and to avoid duplication of research effort, it is essential that the ABCB conduct and coordinate research on behalf of stakeholders. It is anticipated that the current research program will continue to provide similar benefits.

7 Conclusions & Recommendations

Some may argue that the original federal objective of establishing a national building code has been met, therefore the responsibility can be handed back to the States and Territories, and industry. However should this occur, it is likely that the States and Territories will feel less constrained about pursuing local agendas to the overall detriment of the Australian building industry, the professions and ultimately, consumers.

It is imperative that the existing BCA continue to be maintained, refined and enhanced. If this was not done at a national level, it would be necessary for Victoria and all other States and Territories to carry out this task thus ultimately leading to a loss of uniformity and the subsequent disbenefit to developers, practitioners and the building industry generally.

National consistency in building regulation provides considerable benefits in regard to efficiencies, and the resulting cost-effective outcomes. All stakeholders derive benefit from national consistency.

The ABCB provides a positive example of successful Federal/State/Territory relationship. There are sound reasons for the Australian Government to remain as a major participant in the ABCB and to continue to match the States' and Territories' financial contributions.

There is no demonstrable need for change to the structure or level of industry membership of the ABCB, although review of the selection procedure should be undertaken to ensure that peak building industry bodies are able to nominate candidates for consideration for membership.

Key challenges facing the building industry include responding to the issue of sustainability and disability access. These items should be brought forward as high-priority items for the ABCB.

This Victorian Government supports –

(i) Continuation of the Australian Building Codes Board (ABCB) beyond the mid 2005 expiry date for the current Inter Government Agreement;

(ii) Continuation of the Australian Government's participation and funding contribution;

(iii) Maintenance of the current level of industry representation on the ABCB, but that consideration needs to be given to amend the selection procedure to ensure that the peak building industry bodies are adequately represented; and

(iv) The matters of sustainability and disability access continuing to be a high priority on the ABCB's agenda.

Part 2 The Building Control System in Victoria

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Part 2 The Building Control System in Victoria

PREAMBLE

The building regulation system in Victoria has been developed during the 1990's into a leading model for other Australian States and Territories as well as for other countries. The innovations introduced and described herein have assisted Victorian building owners and the building industry generally in the provision of buildings that are healthy, safe, habitable and energy efficient. The system is such that buildings may be erected in the most efficient and cost effective manner.

8 THE CURRENT GOVERNMENT FRAMEWORK

8.1 Australia's Constitution

The Commonwealth of Australia was founded on 1 January 1901. This event consummated over 10 years of discussions and compromises between a number of disparate British colonies. The basis of this new nation was its Constitution, which is still in force largely unchanged nearly one century later.

The Australian Constitution sets out the roles, responsibilities and powers of the Commonwealth Government. By standard convention, matters not mentioned in the Constitution remain the responsibility of the six States, as the former colonies are now called.

The Constitution does not mention matters regarding the safety, health and amenity of people in buildings. Accordingly, responsibility for these core building regulatory matters rests with the State Governments and the two major territories

8.2 State–based building regulatory systems

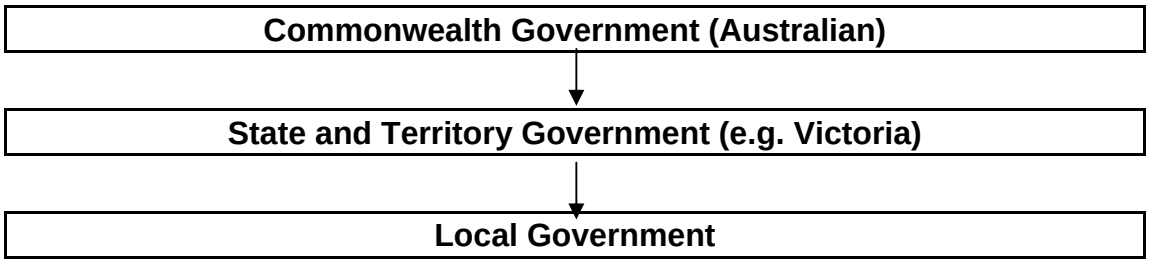
One outcome of the States and Territories having responsibility for building regulatory matters has been eight separate Acts of Parliament, and eight quite distinct building regulatory systems. At various times, this situation has been even more complex. Some States delegated many of their building regulatory powers to their municipal councils, which effectively enacted their own building regulatory systems by way of council by-laws. There have been times when Australia has had over 900 councils.

8.3 Victoria

Victoria has a State Government and the State is divided into 79 municipal districts which are administered by municipal councils.

Victorian building control related legislation is generally subordinate to Commonwealth Government legislation, however it overrides any council local laws.

Tiers of Government in Australia



8.4 The Building Commission

The Building Commission is a statutory body, funded by a building permit levy regime, and is set up under a Victorian Act of Parliament – The Building Act 1993. The Building Commission reports to and advises the Victorian Minister for Planning on building control matters. It also provides administrative support for the Building Advisory Council, Building Regulations Advisory Committee, Building Practitioners Board and Building Appeals Board as well as providing funding for a number of building control related research projects.

9 HIERARCHY OF BUILDING CONTROL DOCUMENTS

9.1 The Building Act 1993

The Victorian building regulation system stems from the Building Act 1993 which establishes the Building Commission. The objects of the Building Act 1993 include:

- To establish, maintain and improve standards for the construction and maintenance of buildings.
- To facilitate the adoption and efficient application of national uniform building standards; and the accreditation of building products, construction methods, building designs, building components and building systems.
- To enhance the amenity of buildings and protect the safety and health of people who use buildings and places of public entertainment.
- To facilitate and promote the cost-effective construction of buildings and construction of environmentally and energy efficient buildings.
- To provide an efficient and effective system for issuing building and occupancy permits and administering and enforcing related building and safety matters and resolving building disputes.
- To regulate building practitioners.

9.2 The Building Regulations 1994

It is through the Building Act 1993 that the Building Regulations 1994 are made. The Regulations (which are also prepared by the Building Commission) contain, amongst other things, the requirements relating to building permits,

building inspections, occupancy permits, enforcement of the Regulations and maintenance of buildings.

The prime objectives of these Regulations are based on the objects of the ***Building Act 1993***. These include:

- prescribing standards for the construction and demolition of buildings;
- prescribing matters relating to the use and maintenance of buildings and places of public entertainment;
- prescribing matters relating to the accreditation of building products, construction methods, designs, components and systems;
- prescribing standards of safety for places of public entertainment; and
- prescribing qualifications and other matters relating to the registration of building practitioners.

The Building Regulations adopt the Building Code of Australia as a reference document that forms part of the Building Regulations, thus giving it legal status.

9.3 The Building Code of Australia (BCA)

The BCA is produced and maintained by the Australian Building Codes Board (ABCB) on behalf of the Commonwealth Government and each State and Territory Government.

The BCA is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia. It is fully performance-based and it allows for state variations to provide additional requirements or cater for specific community expectations.

Traditionally, building codes have been written in prescriptive terms. They have described how buildings and components must be assembled. For example, 'use 100 x 50 hardwood studs at 450mm spacing.' It is a benefit to all parties to have pre-determined solutions like this. However, requirements of this nature have tended to limit innovation.

The BCA enables greater flexibility, innovation and clarity, and is performance orientated in its approach. The performance-based approach defines the way of achieving a specified outcome without prescribing a particular method. For example, "access must be provided, to the degree necessary, to enable safe movement of people to and within buildings."

9.4 Australian Standards and other Codes

A standard is a published document which sets out technical specifications or other criteria necessary to ensure that a material or method will consistently do the job it is intended to do.

Today there are over 5700 Australian Standards, each one adding to the economic efficiency of Australian enterprise and to the well being of the wider Australian community.

Standards have no legal status in the building control hierarchy unless they are referenced in the BCA. There are currently over 80 Australian Standards and other Codes directly referenced in this way.

9.5 Minister's Guidelines

The Building Act under section 188 empowers the Minister to issue guidelines on various matters and in particular the functions of municipal building surveyors and private building surveyors under the Act and the building regulations. The Minister can also issue guidelines in respect of fees to be charged for applications for permits and approvals (and any fees to be charged under the Act and regulations), charges to be made for services provided by the Commission, and the circumstances in which a building surveyor (municipal or private) should seek assistance from the fire brigade in preparing a building notice or building order. The guidelines relating to fees may specify, minimum or maximum fees, different fees for different classes of cases, ensuring that they are published in the Government Gazette.

Schematic representation of hierarchy

Building Act 1993

Prepared by the Building Commission. Enacted by the Victorian Parliament. Enforced and administered by councils/municipal building surveyors/private building surveyors and the Building Commission.

↓

Building Regulations 1994

Prepared by the Building Commission, Made by the Governor in Council. Enforced and administered by local Government and private building surveyors

↓

Building Code of Australia

Prepared by the Australian Building Codes Board, and administered by states and territories.

↓

Australian Standards and other Codes

Prepared by Standards Australia and other organisations and referenced in the BCA

↓

Minister's Guidelines

Prepared by the Building Commission for the Minister

10 PURPOSE OF BUILDING CONTROLS

The purpose of building controls is reflected in the objectives and functions of the Building Commission.

An objective of the Commission includes the taking the lead role in Victoria in the development and application of building law to ensure the design, construction and maintenance of safe, habitable and energy efficient buildings.

The Commission's functions in summary generally are to:

- Provide and oversee a building regulatory system, which can operate without delays and costs.
- Provide and efficiently manage building regulatory reform in accordance with government priorities.
- Set minimum standards for the design, construction and maintenance of buildings.
- Provide and deliver services and products, which inform, educate and are relevant to the needs of its clients.
- Ensure that Victoria effectively contributes to the program of national building regulatory reform.
- Provide administrative support and maintenance of cost-effective operations for the:

  Building Advisory Council (BAC) – The BAC is a senior industry based advisory group which advises the Minister on:

  - The administration of the Building Act and Regulations;
  - The impact on the building regulations system established by the Building Act, of regulations made under any other Act; and
  - Issues relating to the building permit levy.

  Building Regulations Advisory Committee (BRAC) – The BRAC is a committee of building industry representatives which principally advises the Minister on draft regulations and accredits building products, construction methods or designs, components or systems connected with building work.

  Building Appeals Board (BAB) } The BAB and BPB are dealt with in some detail later in this document.

  Building Practitioners Board (BPB) }

11 BUILDINGS TO WHICH CONTROLS APPLY

All building work must comply with the Act, Regulations and the BCA unless specifically exempted.

11.1 Examples of Classes of buildings

Class 1a	A single dwelling. Eg. A detached house
Class 1b	A small boarding house
Class 2	Two or more sole-occupancy units
Class 3	A residential building
Class 4	A dwelling in a building of another class. Eg. A caretaker's flat
Class 5	An office building used for professional or commercial purposes
Class 6	A shop for the sale of retail goods
Class 7a	A carpark
Class 7b	A warehouse
Class 8	A factory or laboratory
Class 9a	A health-care building
Class 9b	An assembly building
Class 9c	An aged care building
Class 10a	A non-habitable building. Eg. A carport, shed, private garage
Class 10b	A structure. Eg. A fence, mast, free-standing wall, swimming pool

11.2 Exemptions from the Regulations

The *Building Regulations 1994* outline the situation where a building permit and an occupancy permit are not required and where minor building work is exempt from certain requirements under the Act and Regulations.

Examples of exemptions include:

- Construction or demolition of non-habitable buildings having a cost of less than $5000
- Alterations to any building having a cost of less than $5000
- Pergolas associated with houses

- Garden sheds less than 10 m²
- Masts, poles, antennae, aerials, subject to certain conditions
- Certain fences

Note that the above exemptions are given on the basis that the building owner must still ensure that certain siting and safety measures are complied with.

11.3 Binding of the Crown

The Crown in right of the State of Victoria, under section 217 of the Building Act, is bound is required to comply with the building permit, inspection, and occupancy permit provisions of the Building Act and Building Regulations and pay the building permit levy as would any private building owner.

However, the Crown is not subject to the general enforcement provisions that may be applied in the event of a non-complying building or building work.

Certain high security type Crown buildings are exempt from the requirement to lodge permit documents with the relevant council in order to maintain the safety of the occupants (i.e. in the case of women's refuges) or in order to limit the access to plans of buildings such as prisons.

The Crown is also exempt (subject to certain safety conditions) from the building permit process in respect of the re-erection of any relocatable building used as a school and which has a floor area not more than 300m².

11.4 Controls applicable existing buildings

The safety expectations of the community change over time and therefore it becomes necessary to review the safety of existing buildings. Hence the introduction of the following controls:

Existing swimming pools constructed prior to 8 April 1991 must comply with certain requirements, set out in the Building Regulations. All new pools must be fenced in accordance with current BCA requirements.

Install self-contained smoke alarms by 1 February 1999.

Sprinkler systems were required to be installed in existing residential care buildings by 1 August 2002.

Alterations and change of use

New buildings must comply with all current requirements. Existing buildings are subject to maintenance requirements and enforcement of safety and building standards.

If the alterations to existing buildings completed within the past 3 years represent more than half the original volume of the building the entire building must be brought into conformity with the Regulations. The relevant building surveyor may consent to partial compliance with the regulations in respect of any alteration to a building after having taken into account the requirements necessary to make reasonable provision for the amenity of the building and the

safety and health of persons using the building and avoiding the spread of fire to or from any adjoining building.

A penalty applies if the use of a building or place of public entertainment changes and the requirements of the Regulations applicable to the new use are not met.

12 THE ROLE OF THE BUILDING SURVEYOR

The Act allows building permits to be issued by either municipal building surveyors (council) or private building surveyors. The owner or his or her representative can choose any municipal or private building surveyor to issue the building permit. Permits can even be issued by building surveyors of councils outside the municipal district where the building is to be constructed.

When selecting the appropriate building surveyor, the decision may be based on the competency of the building surveyor for the particular type of project and the fee that will be charged for issuing the building permit and carrying out the required inspections.

Once a building surveyor has been appointed to issue a building permit and has commenced to issue the permit, that surveyor must follow the project through to the end by carrying out the building inspections and issuing either the occupancy permit or the certificate of final inspection. The appointment of a private building surveyor cannot be terminated and another private building surveyor cannot be appointed without the written consent of the Commission.

If a building project for which a private building surveyor has been appointed is aborted either before the building work commences or during construction, the owner has to give notice of this to the Commission and the relevant municipal council. The private building surveyor's engagement will then be deemed to be terminated.

This process ensures that there is a clear demarcation and separation of the building surveyor's functions and liabilities. Accordingly, if an applicant engages a private building surveyor to assume responsibility for the issue of building permits, there is no legal avenue to involve the council.

13 PERMITS AND INSPECTIONS

13.1 Applying for a building permit

An application for a building permit to construct a building must be made on a prescribed form and contain sufficient information. The appropriate fee and at least 3 copies of drawings, specifications and allotment plans in accordance with the Regulations must accompany the application. Additional information may be requested. In the case of alterations, differentiation between new and existing building work must be clear.

13.2 Issue of building permit

Under the Act, the building surveyor cannot issue the building permit until any required consent(s) by a reporting authority such as the council or drainage authority is received. The consent(s) could be in relation to such matters including building over an easement or siting of a carport. It is also a requirement that a building permit cannot be issued until a relevant planning permit (if required) is obtained or is to be granted at the same time as the building permit is issued.

Building work relating to houses, outbuildings and swimming pools should commence within 6 months and be completed within 24 months of the date of issue of the building permit, except in the case of swimming pools which must be completed within 6 months after commencement of the building work. For all other buildings commencement should occur within 12 months and be completed within 36 months of the date of issue of the building permit except for re-erection of a building which must be completed within 12 months of the date of the issue of the building permit. A building permit period may be extended if it is warranted.

13.3 Inspections at mandatory notification stages

The responsibility for inspection of building work rests with the building surveyor who issued the building permit. The Regulations require the building surveyor to carry out four mandatory inspections (provided the work being inspected is a component of the building work).

The inspections are:

- Prior to placing a footing;
- Completion of framework;
- Prior to placing an insitu reinforced concrete member nominated by the building surveyor; and
- Final, upon completion of all building work.

The building surveyor must state on the building permit which mandatory inspections will be required. Nothing prevents the building surveyor from varying the above inspections or carrying out additional inspections if he or she so desires.

Additionally, the building surveyor of the relevant municipal council has the right to carry out inspections at any time, and serve building notices on any building work or building on being notified that a mandatory notification stage has been completed.

Inspections may result in causing building work to be demolished, opened, cut into or tested. After inspection the relevant building surveyor or his agent may direct the person in charge of the building work to carry out work so that the building work complies with the building permit, the Act or the Regulations. These directions may be given orally or in writing.

13.4 Certificate of final inspection

In cases where no occupancy permit is required, such as in fitouts or minor alterations, the relevant building surveyor will issue a certificate of final inspection. This occurs when all building work has been completed and the relevant building surveyor has been notified.

The relevant building surveyor must issue a certificate of final inspection following the final mandatory inspection if all the directions in relation to building work have been complied with. It should be borne in mind that this certificate does not imply that the building work complies with the Act or the Regulations.

13.5 Occupancy permits

A person cannot occupy a building unless the building surveyor who issued the building permit has issued the occupancy permit. The occupancy permit, which the owner or owner's agent must apply for, can be issued once the building is in a state fit for occupation. An occupancy permit does not mean that the building complies with the Act and Regulations, only that it is suitable for occupation.

13.6 Lodgement of documents

The building surveyor is required to lodge relevant documents, exemptions, reports, determinations and notices, together with the permit, with the council within 7 days after the issue of a building permit and within 7 days after the issue of an occupancy permit.

14 LINKAGE TO PLANNING APPROVALS PROCESS

A building surveyor can refuse to issue a building permit where he is of the opinion that a relevant planning permit has not been obtained.

In November 2001 section 24 of the *Building Act 1993* was amended to provide more explicit requirements to help achieve an integrated approach to the operation of the building and planning permit system.

The relevant building surveyor is now prohibited from issuing a building permit unless satisfied that a relevant planning permit or prescribed approval has been obtained and the building permit is consistent with the permit or approval.

Where a building regulation covers a siting matter and is inconsistent with a planning scheme under the Planning and Environment Act 1987, the Building Act 1993 provides that the two must be read so as to resolve the inconsistency. Where this cannot be done, the building regulation becomes inoperative to the extent of the inconsistency in that municipal district for the period that the planning scheme is in force. Where there is no inconsistency then the regulation must be complied with in addition to the provision of a planning scheme.

A detailed Practice Note was also issued to assist in interpreting the requirement relating to consistency and focuses on the need to ensure that

building permit plans include construction details required by the planning permit or prescribed approval and any conditions they contain.

15 REPORTING AUTHORITIES

A reporting authority is a body or person (other than a municipal building surveyor or private building surveyor to whom an application is made) that is required by the Regulations or by any other Act or regulations to report on, or consent to, an application for a permit. Currently the Building Regulations nominate the following reporting authorities:

- Chief officer
- Council
- Electricity supply authority
- Executive Director under the ***Heritage Act 1995***

The Regulations also require in the case of building over easements, the consent and report to be obtained as necessary from the drainage authority, sewerage authority, or gas supply authority.

Applications for building permits must be accompanied by reports and consents from the above authorities as appropriate. The report and consent of the chief officer must accompany the application for an occupancy permit:

- If he or she was a reporting authority in respect of the application for the building permit which required the issue of the occupancy permit; or
- In relation to the transmission signal of alarms required to be connected to the fire brigade.

The report and consent of the council must be obtained in relation to the installation of a soil and waste disposal reticulation system in an unsewered area.

If the relevant building surveyor issues an occupancy permit which differs from or fails to implement the recommendations in the reporting authority's report the relevant building surveyor must notify the reporting authority without delay of the permit and give the reporting authority a copy of the permit.

16 BUILDING APPEALS BOARD

The Building Appeals Board is an independent body established under the Building Act 1993.

The Board is empowered to determine any matter relating to the Building Regulations 1994, the Building Code of Australia and specified provisions of the Building Act 1993, including the hearing of disputes placed before it by the Building Practitioners Board.

An application may be made to the Building Appeals Board for a determination that a provision of the building regulations does not apply or applies with modifications to a building or land.

There is a right of appeal to the Building Appeals Board concerning decisions that have been made by persons (such as building surveyors) having the power to decide certain matters under the Act as follows:

- Building and occupancy permits
- Temporary occupation of buildings
- Private building surveyors
- Protection work
- Building notices and orders
- Appeals against decisions of Building Practitioners Board
- Building Regulations

Applicants may also request the Board to make a determination in respect of a proposal to use an alternative solution to the deemed-to-satisfy provisions in the Building Code of Australia. The Board must decide whether that alternative solution complies with the relevant performance requirements of the BCA.

17 LIABILITY FOR FAULTY WORK

17.1 Liability

The liability period under the ***Building Act 1993*** is set at a 10-year limitation period that commences upon issue of an occupancy permit. Owners should ensure that a thorough inspection of the building is carried out prior to the end of the 10-year liability period.

The liability regime provides that no person will have to pay any more than the judicial apportionment of damages. The doctrine of joint and several liability has been replaced by this regime.

17.2 Registration and insurance

The Building Practitioners Board, established under the Building Act, is the registration body. Registered practitioners have to provide the Board on each anniversary of registration with evidence of the required insurance policy and pay an annual fee. They will then receive a Building Practitioners Certificate.

All building surveyors, building inspectors, engineers, quantity surveyors, draftspersons, builders, demolishers and supervisors of temporary structures must be registered with the Building Practitioners Board. Registration is based on experience, qualifications and evidence of a current insurance policy.

To be registered, building practitioners must carry insurance. Depending on the practitioner's profession, the insurance could be professional indemnity, defect liability or public liability. The purpose of the insurance is to ensure that each practitioner is able to contribute his or her share should a claim for

damages arise and therefore, it is in the client's interest to use only registered practitioners.

17.3 Owner builders

Quite often, an owner is persuaded to obtain a building permit as an owner builder. The argument generally is that the owner can save money. However, this may not be the case. An owner-builder has no access to builder's liability protection should something go wrong. In addition, to sell a home before the prescribed liability period has ended the following is required:

- Provision of a report to the new owner on the condition of the building from either an architect, registered building surveyor, building inspector or a registered engineer to the new owner. The report must not be dated more than 6 months before entering into the contract to sell the building; and
- Provide the purchaser with insurance covering the remainder of the liability period.

17.4 Certificates of Compliance

A building surveyor is entitled to rely on a certificate issued by certain registered building practitioners to the effect that the building work complies with the provisions of the Act.

A building surveyor is exempt from liability if he or she relies upon the certificate, provided that reliance was determined in good faith.

A certificate must be in accordance with the relevant Form in relation to the design or part design of a building, and in accordance with the relevant Form in relation to the inspection of building work.

18 FUNDING OF BUILDING COMMISSION

18.1 Building permit levy

The funding of the Building Commission is mainly based on the user pays principle. In this regard the Commission manages a fund comprising a general account and a permit levy account to pay for the running costs of the Commission and the Boards established under this Act. All money received by the Commission must be paid into this fund.

A building permit levy of 0.128 cents for every dollar of the cost of building work over $10,000 is required to be paid by the applicant to the building surveyor before the building permit is issued.

The building surveyor must keep meticulous records of levy money received and the records are to be available for audit by the Commission. Money received must be promptly forwarded to the Commission and periodic returns must be lodged.

18.2 Other fees

Fees are also charged in respect of the functions carried out by the Building Appeals Board, Building Practitioners Board and Building Regulations Advisory Committee.

Excess funding is returned to the industry through the financial support for relevant research projects.

19 MAINTENANCE OF EXISTING BUILDINGS

Buildings are required to be maintained to ensure the ongoing safety of building occupants.

The regulations that relate to maintenance of buildings (excluding Class 1a buildings) are divided into two divisions – buildings that were built before 1 July 1994 and buildings that were built on or after 1 July 1994.

Buildings built on or after 1 July 1994

Maintenance is required to ensure every essential service of a building continues to perform at the same level of operation that existed at the time of commissioning and at the time of the issue of the occupancy permit.

Essential services are the life and fire safety items installed or constructed in a building. They include all traditional fire services such as sprinklers, mechanical services etc., but also include passive fire safety items such as fire doors, fire rated structure etc. and other building infrastructure items such as paths of travel to exits.

It is a building owner's responsibility to maintain records of maintenance checks and complete an annual essential services report. Inspection of the maintenance records (i.e. Essential services report) may be carried out by the municipal building surveyor or chief officer.

Buildings built prior to 1 July 1994

A building owner is responsible to ensure that safety equipment, safety fittings or safety measures are required to be maintained in a state which enables them to fulfil their purpose. Exits and paths of travel to exits are also required to be kept functional so as egress from the building is maintained.

20 ENFORCEMENT PROVISIONS

20.1 Building notices/building orders and emergency orders

In order to enforce the requirements of the Act and Regulations in case of non-compliance, building surveyors are given power to issue building notices, building orders. Only municipal building surveyors have power to issue emergency orders.

Building notices are served on a building owner to request an explanation for a contravention of the Act or Regulations or in respect of some form of danger to the public or building occupants.

Building orders and emergency orders require the owner or occupiers of a building to take action to attend to the non-complying or dangerous matter or to evacuate the building.

The Regulations govern the procedures that must be followed regarding the issue of such notices and orders. The provisions enable municipal building surveyors to deal swiftly with matters that pose a threat to life or property. The provisions also enable private building surveyors to issue building notices and orders on their owner clients.

The powers are extensive and potent. For instance, police assistance can be requested by municipal building surveyors to assist with evacuation.

A building order can be issued to stop work if the work endangers the life, safety or health of anyone, and if the owner refuses to comply with the order served by a private building surveyor, the matter must be referred to the Building Commission.

If a building order or emergency order is breached, monetary penalties will be imposed by the Courts.

The Building Commission may direct that where a municipal building surveyor or private building surveyor has not satisfactorily carried out their function, that the building surveyor take the action specified by the Commission.

20.2 Infringement notices

If it is believed that a person has committed an offence in respect of a building or land then an infringement notice may be served on the owner or occupier. Such notices incur 'on the spot' fines and if the building owner decides to refuse to pay, he or she will be required to have the matter dealt with by the Courts. The Commissioner, chief officer or municipal building surveyor, depending on the circumstances may issue an infringement notice.

Infringement notices can be issued for non-compliance relating to the following matters:

- Safety of existing swimming pools
- Self-contained smoke alarms
- Fire sprinklers in residential care buildings
- Requirements to maintain essential services
- Owner's responsibility to maintain essential services
- Safety of equipment, fittings and other safety measures
- Maintenance of exits

21 ACCREDITATION

An object of the Act is to facilitate the accreditation of building products, construction methods, building designs, building components and building systems.

Accreditation of building products allows for the ready acceptance of new building products, systems and decisions and also allows for the recognition of accredited products interstate. For example, it used to be impossible to design a bathtub which would conform with the building codes of every jurisdiction because there was no uniform code. The system of accreditation whereby a product can be sold and used nationally promotes economic harmony and efficiency.

The Building Regulations Advisory Committee or a prescribed body (The Australian Building Codes Board) accredits building products.

Accreditation is subject to any conditions or variations imposed by the Building Regulations Advisory Committee.

A person may apply to the Building Regulations Advisory Committee to have a building product accredited. The accreditation may at any time be revoked.

A building surveyor has to recognise accredited products, methods and designs that are used in building work.

21.1 National Accreditation (Certificates of Conformity)

The Australian Building Codes Board (ABCB) has established the Australian Building Products and Systems Certification Scheme.

A national system for the certification of products and systems is necessary since the introduction of performance provisions into the BCA 1996. Performance provisions provide statements of what a building or building material or component **must do** rather than what it **must be**. Performance provisions allow the widest possible scope for innovation: any product or system that can do the job can be used. The Certification Scheme has been established to assist architects, builders and local authorities to know whether the product or system will fulfil the requirements of the BCA.

This is where certification comes in. A nationally certified building product or system is legally recognised throughout Australia as complying with the relevant clauses of the BCA.

22 CONCLUSION

The foregoing information has dealt with numerous issues that may require further explanation in respect of any one or more of these issues. The Building Commission can provide such additional information as required either via our home page on the internet (www.buildingcommission.com.au) or by contacting our office by telephone on: 61 3 9285 6400 or facsimile on: 61 3 9285 6410**.**