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Mr Tony Hinton
Commissioner
Productivity Commission
PO Box 80
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Dear Mr Hinton

REFORM OF BUILDING REGULATION - DRAFT RESEARCH REPORT VICTORIAN GOVERNMENT SUBMISSION

I am writing on behalf of the Victorian Government to make a submission in response to the Productivity Commission's Draft Research Report on the Reform of Building Regulation, released in August 2004 for public consultation and input.

I note that the Building Commission Victoria has made a separate submission to the Productivity Commission on this matter. The Building Commission's submission reflects the Victorian Government position.

The Victorian Government notes that the draft findings and recommendations of the Productivity Commission in general support this Government's key recommendations made in its submission of August 2004 in response to the Issues Paper.

In response to the findings and recommendations in the Draft Research Report the Victorian Government makes the following comment:

Renaming of the Australian Building Codes Board (ABCB)

The proposed new name 'Australian Building Regulation Board' understates the breadth of the ABCB's role, which extends beyond regulation to include education and information sharing. The proposed name change is not supported.

Funding of the ABCB

It is recommended that the funding arrangements from States and Territories be reviewed. The option of a base contribution in combination with a pro rata contribution is recommended for serious consideration.



Charging for the Building Code of Australia (BCA)

The recommendation that the BCA should be provided free of charge is not supported.

There is no direct evidence that the cost of the BCA is the disincentive preventing its further dissemination. It may be that the format of the BCA or lack of understanding of its role provides greater hindrances than the cost.

A nationally consistent building code has 'public good' characteristics, including greater confidence in the building industry, the benefits of research and greater access to buildings for all members of society. As such there is an argument that the 'public good' elements of the code should be funded by contributions from governments.

However, the BCA also has 'private good' elements. Users of the Code (i.e. the building industry) gain direct benefits from there being a consistent Code for all States and Territories. This enables the building industry to operate more efficiently and profitably by using a codified set of technical requirements.

Not every level of the building industry requires direct or immediate access to the fine detail of the BCA. Building permit plans and associated specifications, rather than the BCA, are the key sources of guidance on building sites.

The BCA also avoids the need to create and document job specific technical requirements for each building project, and limits the potential for litigation arising from building related disputes.

Charging for the BCA on the basis that it has some 'private good' elements is therefore warranted.

However, the Victorian Government supports further exploration of opportunities for improving access to the BCA, such as access via the internet.

Insurance sector issues relating to building and development of a national template for home building contracts

Except in Victoria, where the Minister for Planning and the Building Commission also have major involvement, these issues are generally the sole responsibility of the various Ministers for Consumer Affairs.

The involvement of the ABCB in domestic building contract and insurance issues is not seen as being part of the ABCB's core business. The expansion of the involvement of the ABCB into areas of consumer protection, such as insurance and domestic building contracts, is not supported.

Training arrangements

With regard to training arrangements, the ABCB should take a more active role in the provision of information, especially in relation to changes to the BCA.

Harmonisation and consistency of administration

Victoria generally supports the principles of consistency in the administration of building regulations across States and Territories where it can be demonstrated that inconsistency is generating inefficiencies or negative externalities.

Some of the proposed areas for harmonisation (eg. agreement on consistent terminology) should be relatively straightforward and are unlikely to generate any significant disagreement at the ABCB Board level. However, harmonisation of matters such as registration of building practitioners would represent a significant change to the status quo and a more significant administrative burden, with the gains likely to be marginal.

Adoption of harmonisation as part of the ABCB's work program should be considered having regard to the ABCB's relative priorities.

Erosion of national consistency by local governments

Victoria supports the need to avoid the erosion of national consistency by local government. However, the agenda for the ABCB (in regard to recommendation 6.9) should look more broadly at the powers and processes of Local Government (such as local laws), rather than only focussing on the planning approval process.

We reaffirm that the Victorian legislation and systems relating to planning and local laws provide adequate safeguards for the Building Regulations and the BCA.

Independence of the ABCB

The Victorian Government supports the recommendation that a Memorandum of Understanding be signed between the ABCB and the Department of Industry Tourism and Resources to address concerns of independence, with a view to the ABCB eventually being established as a separate legal entity.

If you have any queries regarding this submission please contact Sarah McDonald, Senior Policy Officer, Built Environment Group, on telephone (03) 9655 6929 or e-mail sarah.mcdonald@dse.vic.gov.au.

Yours sincerely

PROF LYNDSEY NEILSON
Secretary