

The Allen Consulting Group

Regulation Impact Statement for a National Construction Code

CONSULTATION RIS

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Consultation RIS to The Australian Government Department of Innovation Industry Science and Research

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Executive summary

This Consultation Regulation Impact Statement (RIS) provides an assessment of the proposal to develop a National Construction Code (NCC), consolidating building and plumbing standards into one code.

A business case for a NCC was developed in May 2008 (ACG 2008). This study tested the proposal of bringing all on-site construction requirements (building, plumbing, electrical and telecommunications) into the one code. The study recommended that a NCC should be implemented, with the greatest benefits derived from combining building and plumbing codes. This was the recommended first stage of implementation of the NCC. An implementation plan for the NCC was developed by Allen Consulting Group, and provided for agreement by COAG.

This Consultation RIS provides an assessment of the proposal for a NCC combining building and plumbing technical standards, the most likely model being a consolidation of the Building Code of Australia (BCA) and the Plumbing Code of Australia (PCA) (as a starting point). While this consolidated code has not as yet been developed, this Consultation RIS tests the most likely composition of the first version of the consolidated code.

The Consultation RIS follows the COAG (2007) guide for best practice regulation, by first identifying the problem, considering feasible policy options and assessing the impact of options for change.

Consultations for the RIS have been conducted as part of the review of the Intergovernmental Agreement (IGA) for the Australian Building Codes Board (ABCB). This review is assessing both the proposal for a NCC and how the next IGA should be formulated. The Consultation RIS has been informed by outcomes from the IGA review, the report of which was delivered to government at the beginning of March 2009.

Identified problems with the current regulatory arrangements

Building and plumbing standards of practice are currently regulated through separate legislative and administrative arrangements. Building is regulated by State and Territory governments, with the BCA as the primary code referenced in all State and Territory building Acts or regulations.

State and Territory governments also regulate plumbing standards, however, not all use the PCA as the primary code. Unlike building, plumbing regulators have not agreed (through an IGA) to the adoption of a national code.

While regulated separately, building and plumbing regulation are inherently linked, with both setting standards of practice for on-site construction of buildings. These standards should, therefore require consistent outcomes and work towards achieving consistent objectives.

In practice, analysis for this Consultation RIS found that there are several areas of overlap and some inconsistent requirements between building and plumbing codes (particularly for non-residential construction). Overlap of technical standards, in itself, is not necessarily a problem; some overlap is likely to be necessary in many contexts (as builders and plumbers each work to produce a finished product that requires both construction and plumbing installation). Overlapping codes, however, do present a problem where:

- there are inconsistencies between required outcomes from codes
- there is no established practice for managing inconsistencies as they occur (that is, inconsistencies may be managed well in some cases but poorly in others, thereby increasing the risk of poor outcomes).

Inconsistencies between on-site technical standards can create confusion, distort on-site practices (therefore increasing costs), and, in some cases, can lead to work being re-done to ensure compliance with all codes. These issues are most significant in the non-residential sector, where there is more extensive use of performance-based solutions, and less similarity between projects.

In addition to the problems of overlapping and inconsistent standards, the current regulatory approach to building and plumbing:

- includes a mixture of performance-based and prescriptive approaches, and variations in processes for setting regulation (particularly in relation to the use of impact analysis)
- is a complex system with which to manage future challenges, as separate codes must be updated and be consistent with each other (such as the current challenges of addressing sustainability policy objectives in both building and plumbing technical standards)
- is supported by a range of different administrative systems, with each State and Territory adopting their own approach to administering standards. This variation in administration imposes unnecessary costs on businesses that operate across multiple jurisdictions.

The proposal for a NCC

At the time of drafting this Consultation RIS, COAG has supported the proposal for a NCC. How a NCC would be developed and maintained, however, is yet to be determined. Consultations that were conducted for the IGA review tested with stakeholders how they consider a NCC should be implemented.

Consultations with stakeholders have found greatest support for a model of a NCC that:

- consolidates building and plumbing standards from the BCA and PCA as a first step, with areas of overlap and duplication reduced over a transition period
- is developed in a performance-based style consistent with the current BCA
- is supported by an IGA similar to that currently used for the BCA, which should reflect the inclusion of plumbing standards.

There are several elements of this model that are addressed in the Report of the IGA review. These include the governance model, the funding model and commitments in the IGA (for example, in relation to variation reduction and harmonisation of administrative systems). This Consultation RIS reflects the outcomes of the Report, though the final IGA agreed by governments may differ from the model recommended by the review.

Potential impact of a NCC

Consultations for this RIS tested with stakeholders the likely costs and benefits of a NCC. A majority of stakeholders support consolidation of building and plumbing into one code, which they consider will provide benefits through:

- costs savings through efficiency gains from removing overlap and inconsistency between codes (primarily for the non-residential sector)
- gains through an improved regulatory framework for plumbing standards, from more consistent adoption of performance-based standards and use of impact analysis
- greater opportunities for innovation with a more consistent code.
- broader benefits from complementing other reform initiatives, such as national licensing and reforms in the training sector.

Broad agreement on building and plumbing consolidation, however, is contingent on there being adequate representation of plumbing interests.

The costs of a NCC will primarily be transition costs for industry and government. These costs for industry (which includes builders, plumbers, building surveyors and architects) are time costs for individuals to understand their obligations under a NCC (to the extent to which they differ from the current arrangements). This Consultation RIS estimates that this cost will be in the range of \$68 per person in these industries — \$13.12 million in total. These costs will be lower where such transition can be embedded in the current updating and education programs for the BCA and PCA.

Costs for government will primarily be those associated with legislative and administrative changes to manage a NCC. These will vary considerably across jurisdictions, with New South Wales and South Australia likely to incur the highest transition costs due to the structure of their current administrative arrangements.

Comparing the likely costs against the potential for benefits, the NCC would only need to achieve efficiency gains in the non-residential sector of around 0.8 per cent of the value of construction to cover all transition costs incurred by industry and government. Feedback from stakeholders suggests that such gains are achievable. That said, it is important to note that the NCC, while supported, was not considered as the most pressing issue facing the industry¹. As such, the gains from the NCC were expected to be modest, but considered to be the next ‘obvious step’ in the progress of achieving more efficient and effective regulation.

¹ This broader set of issues are discussed in the Report for the IGA review.

Further, many stakeholders considered that, to achieve significant gains from a NCC, and justify the costs of its development, the initiative needs to provide an impetus to reform in other aspects of building and plumbing regulation. This includes more efficient and consistent administration of building and plumbing regulation, both within and between States and Territories.

Opportunity for stakeholders to comment

This Consultation RIS is being provided to stakeholders for comment. Comments can be made on any aspect of the Consultation RIS. Of particular importance is feedback from stakeholders on:

1. *The extent of the 'problem'* — has the problem been accurately represented in this Consultation RIS? Stakeholders are strongly encouraged to supply data and/or examples to support their views about the extent of the problem.
2. *The options assessed in this Consultation RIS to address the problem* — are there other feasible policy options that should also be considered in the assessment?
3. *The assessment of costs and benefits of options* — does the assessment fully reflect all potential costs and benefits of the option assessed?

Written comments on the Consultation RIS can be provided:

- *via email* (preferred) to: IGAreview@allenconsult.com.au
- *in hard copy* to: The Allen Consulting Group
GPO Box 418
Canberra ACT 2601

The deadline for written comments is COB, **23 June 2009**.

Chapter 1

The nature and extent of the problem

Best practice regulation aims to address failures in market outcomes at minimum cost to consumers and industry. In order to make a case for government intervention, a RIS must first establish the problem that the proposed regulations are seeking to address. This is necessary to ensure that options considered (whether regulatory or not) can directly address the problem, and establish an objective framework within which the relative performance of options can be compared. The RIS should clearly identify the fundamental problems that need to be addressed.

In this regard, COAG best practice regulation guidelines (COAG 2007) require a RIS to:

- present evidence on the magnitude (scale and scope) of the problem
- document relevant existing regulation at all levels of government, and demonstrate that it is not adequately addressing the problem
- identify the relevant risks and explain why it may be appropriate for government to act to reduce them
- present a clear case for considering that additional government action may be warranted, taking into account existing regulation and any risk issues.

This chapter considers the extent to which the current regulatory framework for on-site construction is achieving the intended outcomes (the objectives of regulation) at the minimum cost to business and consumers. That is, whether the current arrangements are the most effective and efficient way to regulate on-site construction practice. The chapter assesses:

- the rationale for government intervention in construction of buildings
- how building construction (specifically building and plumbing practice) is currently regulated in Australia
- the identified problems with the current arrangements for building and plumbing regulations, with a particular focus on the interaction between building and plumbing standards.

1.1 The rationale for government intervention

Construction of commercial, residential and public buildings has long been regulated in Australia. There is an established rationale for such regulation, on the basis that:

- consumers of buildings often do not have all the necessary information or knowledge to assess the safety and quality of a building they purchase — especially for residential property which is typically an infrequent purchase
- important aspects of the safety of a building — including structural soundness, protection against fire and the safety of materials, are difficult to observe once a building is completed

- there are split incentives in the building process — where those making the decisions about building construction do not reap the rewards nor bear the costs of these decisions (energy efficiency being a good example). Split incentives can limit investment in quality or innovation (Productivity Commission 2004).

The Productivity Commission, in its 2004 review of building regulation, noted that regulation alone is not the sole potential tool to address these problems. For instance, consumers can purchase professional advice and/or purchase insurance to lower their risks of purchasing an unsafe or low quality building. It is uncertain, however, the degree to which consumers would invest in such assurances voluntarily. Some consumers may consider that it is the role of government to ensure a minimum level of safety and quality in buildings, and therefore may not wish to leave such a role to the private sector solely. Further, the transfer of ownership of buildings over time means that consumers are not always in a position to understand potential risks, and therefore may not act to address these risks sufficiently.

The mere presence of information asymmetries or externalities does not automatically justify government intervention. Market failures are an everyday event; buyers are rarely as informed as sellers, and most transactions have consequences for third parties. For example, the Wallis Inquiry noted that:

There is nothing unusual about asymmetry of information available to a supplier and a consumer. Many products or services are complex, difficult to compare, have considerable importance for the well-being of their customers or are provided over a period of time. (Financial System Inquiry 1996, p.97)

Furthermore, in the context of consideration of professional regulation, the Productivity Commission has noted that:

The need for government regulatory intervention does not immediately follow from the identification of information deficiencies: information deficiencies are pervasive yet most markets continue to function reasonably efficiently. ... it is not generally efficient to eliminate all negative externalities or promote infinitely large quantities of positive externalities. In many cases, externalities do not create significant problems (Productivity Commission 2000, p. 64).

Assessing the need for government regulation requires the identification of the potential harm that could result from a decision based on incomplete information or a decision that has negative consequences for third parties.

In broad terms, government intervention can be justified where the potential harm is significant (for example, where the nature of the risks posed by a particular transaction would have serious consequences). In assessing the significance of the harm,² there must be consideration not only of the potential consequences, but also:

- whether or not the impacts are reversible
- whether the risk is involuntary or voluntary
- the likelihood of that harmful outcome occurring.

² The significance of the harm can refer to significant harm to a few people or moderate harm to a large number of people.

In the case of building construction, the key issue is risk of harm occurring to building occupants from unsafe buildings. Further, occupants may not be willingly taking on these risks, because they have insufficient knowledge or information to understand the safety of the building they are occupying.

1.2 The current regulatory framework for building and plumbing standards

Regulation of standards of practice for on-site building and plumbing is a critical component in the regulation of the construction industries. Standards of practice, set in legislation, provide the minimum requirements that builders and plumbers must meet. Other components (not assessed in this Consultation RIS) are building certification, occupational licensing and the national training and qualifications framework.

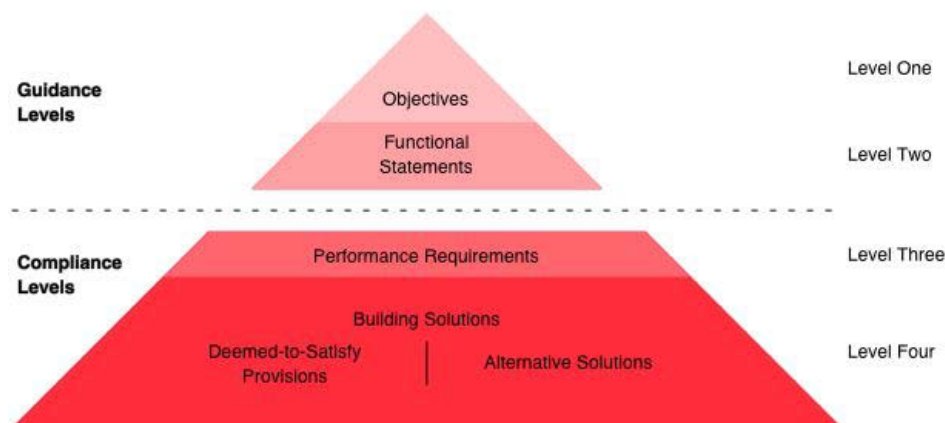
Regulation of building standards

Regulation of building standards in Australia is principally the responsibility of State and Territory governments. Each jurisdiction legislates building standards (that is, the requirements for the safe construction of a building) through the Building Code of Australia (BCA), referenced by State and Territory legislation. State and Territory legislation may, however, vary or add to the BCA. Local governments also regulate building through planning by-laws and (in some states) through enforcement activities.

The BCA categorises buildings across 10 classes (ranging from single dwellings to non-habitable structures) and covers such matters as ‘structure, fire resistance, access and egress, services and equipment, and energy efficiency, as well as certain aspects of health and amenity’ (ABCB 2008b). It is a ‘performance-based’ code with a four-level hierarchy (see Figure 1.1). The first two levels are guidance levels, outlining why particular matters are regulated, and how a building could be expected to satisfy these objectives. Levels Three and Four are compliance levels, describing:

- minimum levels of performance (rather than specific) that must be met by building materials, components, design factors and construction methods
- means of achieving these performance requirements — either prescriptively (though existing ‘deemed-to-satisfy provisions’) or innovatively (though an ‘alternative solution’ that can be demonstrated to meet the performance requirements of the BCA).

Figure 1.1

BCA FRAMEWORK

The Australian Building Codes Board (ABCB) produces and maintains the BCA. The Board consists of representatives from industry, the Australian Government, all State and Territory Governments and Local Government (a total of 15).

The BCA has no legal force of its own. It is brought into operation by enabling regulatory legislation in each State and Territory. State and Territory Governments retain the right to make variations to the BCA and/or introduce requirements above and beyond the BCA in their jurisdictions (see Appendix A for a diagrammatic representation of the building regulatory framework).

The current BCA framework is the result of more than 20 years effort to develop a national approach to building regulation. In consultations for this RIS, both government and industry stakeholders acknowledged the progress that has been made, and the value to the building industry of the BCA (compared with the previous system of State and Territory codes). This value is derived both from having one code adopted in each State and Territory (albeit with some variations), and the BCA being a performance-based regulatory approach, which provides greater flexibility for designers and builders (particularly for non-residential buildings).

Regulation of plumbing standards

In Australia, the regulation of plumbing standards, as with building, is the responsibility of State and Territory governments. Each jurisdiction has legislation that requires plumbing professionals to install and maintain plumbing infrastructure to particular standards. The objective of this regulation is to ensure public safety (through maintaining the safety of potable water and ensuring safe management of sewerage and waste water).

The key technical standard for plumbing is AS/NZS 3500 *Plumbing and Draining* (Parts 1-4 2003, and Part 5 2000). This standard underpins all regulated plumbing codes in Australia. AS/NZ 3500 is, however, a prescriptive standard, not a performance-based approach. In 2004 the National Plumbing Regulators Forum (NPRF) worked with the ABCB to develop a Plumbing Code of Australia (PCA) — a performance-based plumbing code similar to the BCA.

The PCA covers the ‘design, construction, installation, replacement, repair, alteration and maintenance of plumbing and drainage installations throughout Australia’ and the ‘requirements for the use of material and products in plumbing and drainage installations’ (NPRF 2004).

The structure of the PCA is consistent with that of the BCA. Specifically, it consists of two guidance levels (Objectives and Functional Statements) and two compliance levels (Performance Requirements and Solutions). As a performance-based code, the Solutions level of the PCA both provides deemed-to-satisfy provisions and allows for alternative solutions. The key standard referenced by the PCA is AS/NZS 3500.

The NPRF produces and maintains the PCA. Unlike the ABCB, the NPRF was not established by an IGA and has no executive powers. Rather, it is a cooperative arrangement between the plumbing regulators of the States and Territories (and New Zealand). The NPRF does not have sufficient resources to review and amend the PCA to the same degree as the ABCB does in their support of the BCA. There is no formal IGA supporting the implementation of the PCA, and therefore no formal commitment from jurisdictions to use the PCA as the primary code for plumbing standards (unlike the BCA).

Five jurisdictions currently call up the PCA (see Table 1.1), though most of these do not reference the full PCA, but specific parts. The extent to which certain parts of the PCA are referenced by jurisdictions relates to their own regulatory framework. Some parts of the PCA cover aspects of plumbing which are not regulated for in some jurisdictions. Therefore, not all parts of the PCA are required for all jurisdictions, leading to the current approach of specifying particular parts of the PCA to reference.

The remaining three jurisdictions (New South Wales, Northern Territory and Western Australia) reference AS/NZS 3500 at least in part and with modifications (see Appendix A for more detail about the various plumbing regulatory frameworks). AS/NZS 3500, thus, provides a degree of commonality in plumbing regulation across the jurisdictions – despite the mixed adoption of the PCA.

Table 1.1

ADOPTION OF THE PLUMBING CODE OF AUSTRALIA BY PLUMBING REGULATORS

Jurisdiction	Adopted the PCA?
ACT	Yes , Parts A, B, C and G.
Qld	Yes , Parts A, B, C and G. The <i>Queensland Plumbing and Wastewater Code</i> prevails over the PCA in cases of inconsistency.
SA	Yes , Parts A, B, C, F2 and G.
Tas	Yes , the <i>Tasmanian Plumbing Code</i> references and varies the PCA.
Vic	Yes , Parts A, B, C, D (with restrictions), E and G.
NSW	No . The various agencies responsible for plumbing regulation in the State call up the <i>New South Wales Code of Practice for Plumbing and Draining</i> . This document adopts 'AS 3500:2003 and amendments and Part 5 2000'.
NT	No . The Territory's <i>Building Regulations</i> call up AS 3500 'published by the Standards Association of Australia as amended from time to time.'
WA	No . The State's regulations call up AS 3500:2003 Parts 1, 2 and 4.

Note: This table specifies the use of the PCA by regulators responsible for regulation of plumbing practices. The PCA may be used by reference by health regulators in regulating on-site waste water management.

Source: Allen Consulting Group research of relevant legislation and regulation, supported by stakeholder consultations.

In 2007, the House of Representatives Standing Committee on Environment and Heritage inquired into the regulation of plumbing product quality in Australia, examining in particular:

- the appropriateness and effectiveness of the current plumbing product quality regulatory arrangements
- scale of environmental benefits from controlling plumbing product quality
- trade implications of controlling plumbing product quality
- potential improvements to the plumbing quality regulatory system
- the appropriate level of government to administer plumbing product quality regulation, that is, the states (as is now) or the Commonwealth.

The report from this inquiry, *Managing the Flow*, recommended that:

- the National Plumbing Regulators Forum, take a lead role in exploring, in consultation with government and industry stakeholders, options to improve the audit and enforcement profile for ensuring plumbing product quality in Australia ...
- COAG explore options for constituting a national coordinating body that can take responsibility for improving the coordination and cohesion of regulatory arrangements for controlling plumbing product quality in Australia, including the mandatory schemes, relevant standards and their application across jurisdictions.

The Australian Government's response to *Managing the Flow* and its recommendations has been prepared, but was not released at the time of drafting this Consultation RIS.

1.3 Identified problems with current arrangements

Separate building and plumbing codes overlap and are inconsistent in some aspects

Plumbing and building are not mutually exclusive activities. As the Productivity Commission noted in 2004, '[o]n-site plumbing is an integral part of the building and construction process and most plumbing is carried out in a building context'. It is therefore not surprising that the plumbing and building codes apply technical standards to a number of similar aspects of building construction. These include: stormwater; roof guttering; disability access; and the installation of rainwater tanks, sprinkler fittings, and flexible fittings.

Overlap of technical standards in itself is not necessarily a problem, and is likely to be necessary in many contexts (as builders and plumbers each work to produce a finished product that requires both construction and plumbing installation). Overlapping codes, however, do present a problem where they lead to inconsistent regulatory requirements.

The Productivity Commission (2007) Research Report on performance benchmarking of business regulation, drawing on the work of the 2006 Regulation Taskforce, identifies inconsistent regulatory requirements as a source of unnecessary regulatory burden – the latter being defined as 'the extent to which the compliance costs of regulation exceed what is necessary to achieve the policy objectives underlying the regulation.'

Inconsistent regulatory requirements between building and plumbing standards can increase costs for industry by:

- generating uncertainty over precedence (i.e. which code applies) and responsibility (i.e. which trade and regulator is accountable for certifying that a work item meets relevant standards)
- changes in on-site practices, as builders and plumbers devise solutions to meet different technical standards
- in some cases, leading to work being re-done to ensure compliance with all codes.

Consultations for this RIS tested with stakeholders the extent to which inconsistencies between the BCA and PCA (or AS/NZ 3500) are a problem. Stakeholders reported that such inconsistencies are a problem, but not an extensive one. Stakeholders also reported that uncertainty caused by areas of overlap is more likely to occur in the non-residential sector, where there is a greater reliance on performance-based solutions and, in turn, greater interpretation of the boundaries between building, plumbing and design. Some examples of inconsistencies between the codes include:

- the BCA and PCA reference different Australian Standards relating to fire hydrants and fire hose reels
- the BCA only requires disability access in specific circumstances, whereas the PCA requires all taps to comply with disability standards

- the codes duplicate requirements in areas, such as stormwater and drainage systems, heating ventilation and air conditioning and some heated water energy efficiency requirements.

Consultations for this RIS also attempted to quantify the costs associated with the inconsistencies between the BCA and PCA (or AS/NZ 3500), through a data request sent out to government and industry stakeholders. Responses indicate that, while inconsistencies exist, industry is not able to quantify their impact. Further comment on this issue will be sought through this Consultation RIS.

Areas of overlap between the BCA and PCA (or AS/NZS 3500) can also be problematic if they lead to the duplication of compliance and administration. This primarily involves building and plumbing regulators certifying the same aspect of a construction site. It can also involve the development of policy and technical standards.

Duplication of compliance and administration can increase costs for government (as they are replicating the expenditure of resources administering the same aspect of on-site construction) and compliance costs for industry (as they need to navigate two administrative systems for the same aspect of on-site construction). Consultations for this RIS attempted to quantify the costs associated with the duplication of regulator effort, though no industry estimates are available.

A further practical problem with current regulatory arrangements for on-site construction is the cross-border inconsistencies *within* the building and plumbing codes. These are not numerous – given the efforts of the ABCB to reduce variations to the BCA, and the universal adoption of AS 3500. Nonetheless, inconsistencies within the plumbing and building codes can impose costs on practitioners — particularly if they operate across multiple jurisdictions (for example, see Table 1.2).

Table 1.2

BCA CROSS-BORDER VARIATIONS AND OPERATIONAL DIFFICULTIES

Question		%
'Does your organization operate or ever conduct work in more than one state?'	Yes	32
	No	68
For those that said yes to the previous question: 'Does the existence of variations in the BCA between States and Territories make it more difficult for your organization to operate across the borders than would otherwise be the case?'	Yes	49
	No	47

Source: Di Marzio Research 2008, 'A research report on Building Code of Australia subscribers', for the Australian Building Codes Board, October, South Melbourne, p.14.

There is a mixture of regulatory approaches in on-site construction standards

There are currently significant differences in the management of building and plumbing standards in terms of:

- how they developed, reviewed and updated
- the style, or approach, used in codes.

As noted earlier, building standards are currently more progressed than plumbing standards in relation to the degree of national uniformity and the use of a performance-based regulatory approach. The development and amendment of plumbing standards also does not currently adopt an impact analysis (or cost-benefit analysis) to the same degree as the BCA. New South Wales, Western Australia and the Northern Territory each use prescriptive standards or codes for plumbing rather than performance-based regulations.

In consultations for this RIS, stakeholders consistently made this comparison between building and plumbing, noting:

- plumbing has achieved lower rates of adoption of the PCA, with greater inter-jurisdiction variations on plumbing standards than building standards
- the NPRF does not have the resources of the ABCB to support impact analysis, development and maintenance of measurable performance-based standards

These issues have implications both for effectiveness of plumbing regulation and how it interacts with the BCA. In particular, where a performance-based approach in the BCA may be used, benefits from this flexibility may be limited where the relevant plumbing standard does not also allow for a performance-based solution.

The current framework is not appropriate to manage future challenges

The construction industry is facing a number of challenges that are likely to impact on traditional practice. Two of the most important and pressing of these are:

- Sustainability — severe water restrictions in many jurisdictions have brought new regulations around sustainability of water resources, and improved household water efficiency. Key areas of overlap between plumbing and building regulation (rain water tanks, roof plumbing, storm water etc) now have a growing importance.
- Disability access — how the built environment can better facilitate the movement of people with disability.

Government may determine, through policy decisions, that building standards should reflect particular community objectives (such as sustainability of disability access). Under the current regulatory framework, reflecting these new policy objectives in standards requires changes across multiple codes and legislation. In consultations for this RIS, stakeholders noted that sustainability issues in particular were not being managed consistently across building and plumbing standards. This was an area where stakeholders noted a common building and plumbing code would allow a more consistent policy approach to sustainable building design and water efficiency.

Administration of technical standards varies across States and Territories

A key, though often overlooked, aspect of regulating on-site construction is administration – that is, the range of tools used by jurisdictions to achieve compliance with the requirements’ of on-site technical standards ‘and the enforcement mechanisms used in cases of non-compliance’ (Productivity Commission 2004). Administrative systems can thus involve licensing and registration schemes, approval and inspection regimes, and training programmes. The States and Territories have responsibility for administering plumbing and building regulation in Australia.

In contrast to the progress that has been made in developing consistent technical standards for on-site construction (such as through the development of the BCA), Australia does not have a consistent administrative system for applying these standards. The extent of coordination of administration differs considerably across States and Territories, with some jurisdictions (Victoria, Queensland, Tasmania, Australian Capital Territory and the Northern Territory) combining agency and Ministerial responsibility for building and plumbing standards. The most complex administrative system is in New South Wales, where building and plumbing regulation are housed in separate agencies, and where plumbing regulation is administered through five water utilities and local councils. NSW is currently undertaking a review of the institutional and technical arrangements for regulating plumbing and drainage which may change the way plumbing is regulated in the State. The outcomes of the review may impact on any future transition to a NCC.

Variations in administrative arrangements impose costs to industry (and ultimately consumers) where there is a need to understand and operate within different administrative requirements. These differences include practices for development applications, building applications, appeals, certification and insurance. An Allen Consulting Group study conducted in 2002 estimated that harmonisation of building administration alone could result in savings to the community of between \$214 million and \$402 million per year across the economy. These savings would likely be realised by:

- government, in the form of reduced costs associated with the approval, development and ongoing regulation of buildings
- industry, in the form of lower compliance costs, greater economies scale and increased certainty
- consumers, in the form of reduced building times, greater certainty, and improved quality and safety of buildings.

Chapter 2

Objective of government action

Prior to assessing options to address the identified problems, it is important to establish the objectives of government action. This objective should be independent of any individual solution, and be sufficiently broad to allow consideration of a range of alternative solutions.

This Consultation RIS involves assessing a proposal to amend an existing regulatory framework. As such, the intent of government action is to improve the effectiveness of the current regulatory framework in achieving its objectives. The common objective of both building and plumbing regulation is to ensure the sustainability, health, safety and amenity of buildings by establishing minimum standards for construction and redevelopment or refurbishment of buildings.³ This objective is currently addressed through regulation of standards of practice (in combination with other regulation, such as occupational licensing).

For this Consultation RIS, the objective of government action is therefore to improve the effectiveness and efficiency of the current approach ensuring standards of practice.

³ The objective of the Australian Building Codes Board is to 'establish building codes and standards that are the minimum necessary to achieve relevant health, safety, amenity and sustainability objectives efficiently' (ABCB 2006)

Chapter 3

Options that may achieve the government objective

As part of the RIS process, it is necessary to describe and consider the different options that can be used to achieve the stated objective. COAG guidelines for best practice regulation require that options considered represent the spectrum of regulatory approaches — including regulatory, co-regulation and non-regulatory approaches.

3.4 The base case — maintain current approach

Cost-benefit analysis seeks to estimate the incremental or induced impacts to stakeholders that can be directly attributed to the proposed options. In order to do so, it is necessary to have some idea of what would have happened if none of these options were exercised — effectively, if the current approach were maintained. In this assessment, the current approach includes not only a continuation of actions (that is, extrapolating the past into the future) but also reported future policies that can reasonably be expected to have an impact on the problems identified in chapter 2.

For this RIS, the base case approach would involve maintaining separate codes for building and plumbing standards. The current administrative frameworks would be maintained, though may be influenced by other reforms such as a national licensing framework.

3.5 Proposal for a National Construction covering building and plumbing standards

The main option being assessed in this RIS is the consolidation of building and plumbing standards into a National Construction Code. The details of this proposal, including the specific technical standards within a NCC, have yet to be finalised, and therefore cannot be tested in this RIS. At this stage, the NCC model most strongly supported by stakeholders is one that:

- brings together building and plumbing standards from the BCA and PCA as a first step, with areas of overlap and duplication reduced over a transition period
- is developed in a performance-based style consistent with the current BCA
- is supported by an IGA similar to that currently used for the BCA, which should reflect the inclusion of plumbing standards.

A majority of industry stakeholders support a model which includes plumbing standards as a third volume of the new NCC, allowing plumbers to easily identify those standards which pertain directly to them (as is the case currently with the separation of housing provisions in the BCA Volume 2).

Another suggested approach for formatting a NCC was to have a 'Section K' in the NCC for plumbing. This would help to integrate building and plumbing codes by using common definitions and standards references. Under this suggestion, each NCC section could be sold separately, so that specialist trades/professions would not have to purchase the entire code.

There are several elements of this model that are addressed in the Report of the IGA review, which was provided to government in March 2009. These include the governance model, the funding model and commitments in the IGA (for example, in relation to variation reduction and harmonisation of administrative systems). This Consultation RIS reflects the findings and conclusions of the Report, where appropriate.

Consistent with the NCC Implementation Plan, this RIS is considering two implementation sub-options.

Sub-Option 1

This would involve the addition of the PCA to the BCA as a separate volume, making little if any changes to the two individual codes but with the view to addressing issues of consistency and overlap in subsequent versions of the NCC.

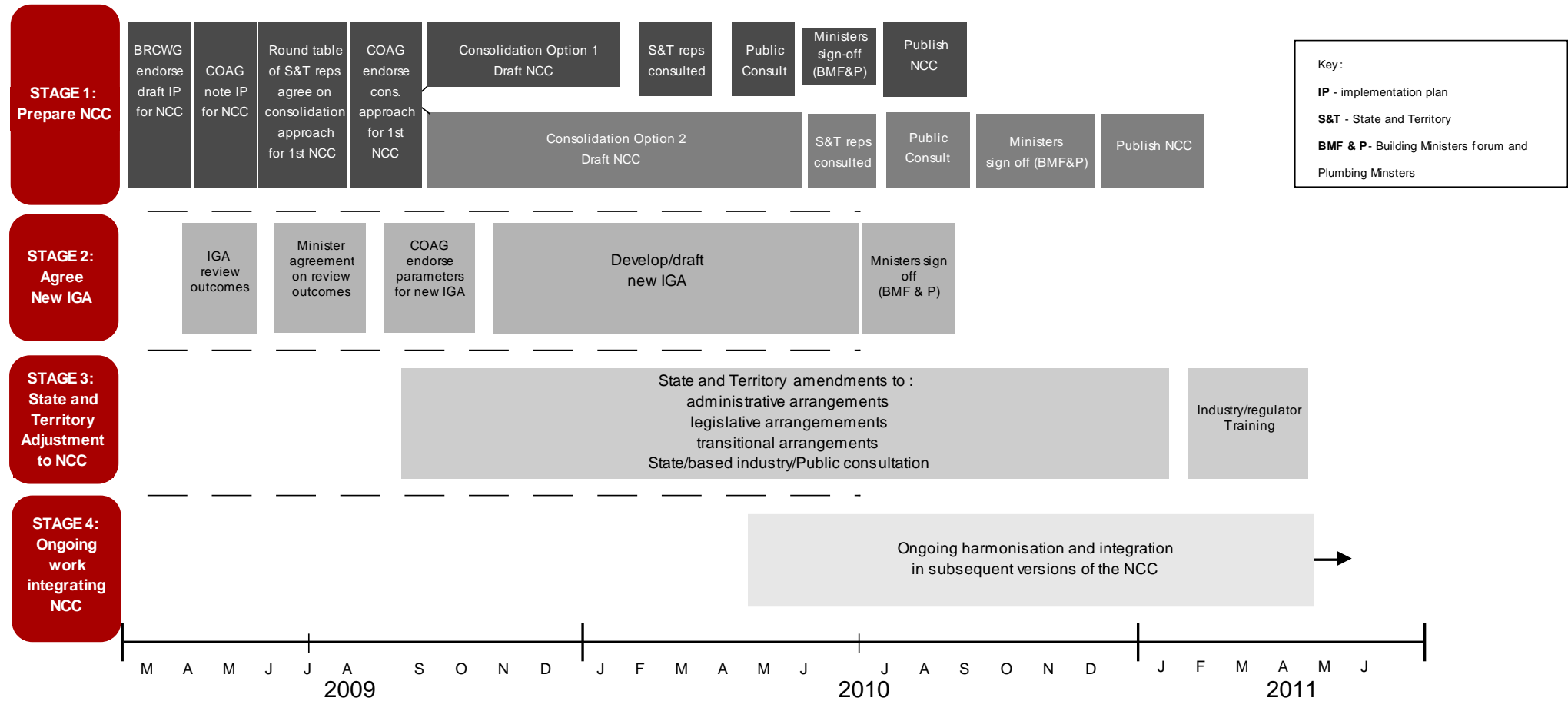
Sub-Option 2

This would involve a more substantial consolidation that aims to merge the two codes including identifying and addressing areas of inconsistency and overlap prior to publishing the first version of the NCC. The time required to implement this sub-option (in terms of time taken by government to develop the code itself) is expected to be longer than for Sub-Option 1 (as shown in the implementation timeline).

Figure 3.1 provides a proposed timeline for implementing the NCC, including the different requirements for sub-options 1 and 2.

Figure 3.2

NCC IMPLEMENTATION STAGES AND SUB-OPTIONS



3.6 Other potential policy options

This RIS also considered other quasi-regulatory and non-regulatory options. These options, however, are not considered to be sufficiently feasible to assess further.

A co-regulatory, or quasi-regulatory approach to consider is where government and industry work together to develop guidelines or a code of practice to clearly set out the inter-relationship between building and plumbing codes. This option was not considered feasible because it was incompatible with the current regulatory model, particularly for building regulation, which already includes strong industry involvement in standard setting. Such an approach may also exacerbate the identified problems by adding an additional layer of complication to the system, rather than improving efficiency.

To address the identified problems, non-regulatory options may be information or education campaigners or programs which inform builders and plumbers about how to work with multiple codes, what to do in cases where there are inconsistencies and how to work with performance based regulation. Industry associations report that they already provide such education for their members, informing them of the BCA and educating them on working with regulations more broadly. A barrier to further use of information tools in this context is that they rely on voluntary take-up. Information tools also have no influence on the underlying regulatory requirements, meaning that they are limited in their ability to address inefficiencies in regulation.

These options are limited in their effectiveness because they are not able to address the underlying problems in the current regulatory approach. The following assessment therefore considers two options — maintain the current regulatory framework or implement a NCC.

Chapter 4

Impact analysis

4.7 Introduction

The impact analysis in a RIS should assess all potential costs and benefits of options for change, and provide a basis for the recommended approach. Costs and benefits assessed should include both quantifiable and non-quantifiable impacts.

This RIS for consultation identifies the types of costs and benefits derived from a NCC, and in some instances provide estimates of these costs. This analysis is focused on the proposal of a NCC as a consolidation of the BCA and PCA — effectively the first consolidated version of the NCC, planned for release in 2010. Revisions to the NCC beyond 2010 will be the subject of future RIS analysis.

4.8 Impact on industry compliance costs

Building and plumbing practitioners and businesses already incur compliance costs from regulation of standards of practice (where they comply with current codes and standards). Assessing the compliance costs on business of a NCC therefore needs to identify the *additional* costs of compliance imposed due to the introduction of NCC — compared with maintaining the current arrangements (separate codes).

The OBPR Business Cost Calculator identifies eight types of costs to business from government intervention (such as new regulation):

- *Notification*: costs of reporting transactions before or after the event
- *Education*: maintaining awareness of regulations and regulatory changes
- *Permission*: applying for and obtaining permission
- *Purchases*: materials and equipment required for compliance
- *Record keeping*: keeping statutory documents up-to-date
- *Enforcement*: facilitation of audits and inspections
- *Publication and documentation*: displays and labels
- *Procedural*: required compliance activities such as fire drills and safety inspections.

Consultations with stakeholders suggest that there are three potential types of compliance costs of a NCC:

- transition costs for practitioners — builders, plumbers, designers, architects and engineers
- costs of technical change, where a NCC sets technical standards that differ from the current arrangements (either from the BCA, PCA or other plumbing code adopted in a particular State or Territory)
- costs of purchasing a NCC – builders, plumbers, designers, architects and engineers.

Costs of transition to a NCC

At a minimum, the introduction of a NCC would impose adjustment costs on industry. Those professionals and trades-people who use either the BCA or plumbing codes will incur time costs of getting up-to-date with the new code. This cost will be incurred through an individual reviewing the code themselves, or attending a seminar or training session on the NCC.

These costs are not expected to differ between Sub-Option 1 and Sub-Option 2 for implementation of a NCC, though the timeframe of when costs may be incurred will be later for Sub-Option 2. This assumption is based on the need for industry to incur a one-off cost to adapt to the new model, with future costs of changes to the code similar to those already incurred through the current revision processes of the BCA and plumbing regulation. In this sense, whichever implementation approach is adopted, there will be an initial 'step change' cost for practitioners to adapt to operating under an NCC, including a potential new governance model for the NCC.

Estimating practitioners potentially impacted by transition to a NCC

Estimating transition costs for industry in moving to a NCC requires data on the number of practitioners who may incur these costs. Analysis for this RIS found a range of potential data sources on individuals by occupation, though the variation of estimates is broad.

ABS Labour Force data is the primary data source for the estimates in this RIS, which was chosen because it provides a reasonably consistent estimate approach across States and Territories. Using ABS classifications, 'builders' have been classified as individuals working under five different occupational classifications. Plumber data is drawn from the ABS plumber classification.

In comments on a Draft RIS, the ACT and Queensland have provided alternative estimates of practitioners in their jurisdiction based on licence data (for Queensland the adjustment was made to the plumbing estimate only). There was a further suggestion that data collected for the national licensing initiative be used in this analysis. This option was explored, with the National Licensing Scheme RIS providing some estimate for builders and plumbers and gasfitters (as a combined category). The RIS notes, however, that these numbers are considered to be 'minimum number of licences held as data is difficult to confirm and not all State and Territory figures have been provided'.

Using licence data is potentially problematic because licensing arrangements differ across jurisdictions, and some occupations which are not licensed may still need to be included in estimates for this Consultation RIS (for instance, bricklayers are not licensed in all jurisdictions). Further, updated data from the ACT and Queensland based on licence data does not provide a good indication of whether the ABS numbers are consistently higher or lower than licence data (as ACT numbers were revised up and Queensland numbers were revised down).

Taking these methodological issues into account, estimates for numbers of employed are provided in Table 4.1. These estimates are primarily based on the ABS, with some data that has been directly provided by jurisdictions. These data will be further tested with stakeholders in the consultation phase of this RIS.

Table 4.3

NUMBERS OF EMPLOYED, BY OCCUPATION AND STATE (000s)

Occupation	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	TOTAL
Builders	70.7	54.6	52.7	13.8	18	5.1	2.5	2.4	219.8
Plumbers	20.1	21.4	14.6	2.2	9.5	1.8	0.9	1.6	72.1
Building Surveyors	1	0.7	0.7	0.2	0.3	0.1	0.03	0.05	3.1
Architects	6.9	5.2	3.1	0.8	1.1	0.1	0.1	0.3	17.6

Source: ABS (2008c); ACT Submission; Architects Board of South Australia (2008); Qld Submission.

Notes: The number of building surveyors is based on a national estimate of 3 000 (supplied by the Australian Institute of Building Surveyors), divided across the States and Territories using the ratio for builders, as well as estimates provided by the ACT. The *Builders* group is the sum of Construction Managers, Bricklayers and Stonemasons, Carpenters and Joiners and Roof Tilers. Architects estimate comes from the Australian Council of the Built Environment Design Professions Ltd (2008) and figures from the Architects Board of South Australia.

Table 4.2 outlines estimated transition costs for industry. These estimates provide an indication of the likely costs by occupation and jurisdiction. They have been derived using data on the number of persons in each industry, the cost of labour, and the likely required investment due to the introduction of the NCC.

The transition costs are likely to vary across jurisdictions, particularly for plumbers (given the variation in plumbing standards under current arrangements). To account for this variation, the cost estimates vary by State and Territory.

Table 4.4

ESTIMATED COST TO INDUSTRY OF TRANSITION TO NCC (\$'000)

	Builders	Plumbers	Building Surveyors	Architects	TOTAL per jurisdiction
NSW	2 539	1 805	48	330	4 722
VIC	1 961	769	37	249	3 016
QLD	1 893	527	36	148	2 603
WA	646	853	12	53	1 564
SA	496	79	9	37	621
TAS	183	65	3	5	256
NT	90	81	2	5	177
ACT	86	57	2	15	160
Total per occupation	7 894	4 234	149	843	
TOTAL					\$13 120

Source: Allen Consulting Group estimates.

Estimates in Table 4.2 are based on Table 4.1 and the following assumptions:

- builders, building surveyors, architects across Australia will require two hours to bring themselves up-to-date on the NCC

- plumbers in jurisdictions that already have a performance-based plumbing code (ACT, Qld, SA, Tasmania and Victoria) will only require two hours to adjust to the NCC, while plumbers in the remaining jurisdictions (NSW, NT and WA) will require five hours
- the cost estimates do not assume that all professionals or trades-people will incur these costs — it is assumed that 60 per cent of builders and plumbers and 80 percent for building surveyors and architects will incur costs of transition to a NCC (see Box 4.1)
- the cost of labour is based on an average hourly rate of \$29.93 – using the ABS’s full time ordinary adult earnings in the private sector and assuming a 37 hour week.

Box 4.1

INDUSTRY ENGAGEMENT WITH THE BCA AND PCA

Our estimate that 60 per cent of builders will incur transition costs in moving to a NCC is based on the following assumptions:

- according to a survey conducted by Master Building Australia (MBA) of its membership, 78 per cent of respondents had access to the BCA
- a proportion of those builders that have access to the BCA would not necessarily use the code (at least beyond a superficial interaction) due to the nature of their on-site responsibilities. For example, they may be skilled labourers (such as bricklayers) who are familiar with the standards relevant to their trade, but rely on a contractor or construction manager to ensure compliance with the BCA.

While we do not have similar data to that of the MBA survey for surveyors and architects, we assume that a greater proportion of these professions are likely to use the BCA, given the centrality of the code to the performance of their respective duties. Hence, we estimate that 80 per cent of architects and surveyors are likely to incur transition costs.

We do not have access to data about what proportion of plumbers have access and/or use the PCA. Accordingly, we have assumed that a similar proportion of plumbers as builders will incur transition costs – that is, 60 per cent.

We invite stakeholders to provide us with additional data to refine these estimates further, where possible.

Source: Master Builders Australia (2004)

It is important to note that the BCA is currently updated on an annual basis and that mechanisms already exist to help building practitioners keep themselves up to date with these changes. It is therefore likely that these estimates are an *upper bound* of potential costs incurred. Transition costs for the NCC could be lower if the process of adjusting to the NCC can be conducted through existing updating and education processes in place for the BCA (in the case of builders).

Potential costs to industry of technical changes

Another area where there may be costs from the NCC is where it leads to changes to technical standards, which require adjustment by industry. Such changes may occur if a deemed-to-satisfy solution is changed. For plumbing, in some jurisdictions where the NCC brings performance-based regulation for the first time, there may be costs due to the NCC referencing deemed-to-satisfy solutions that are different from the current code. That said, the performance-based framework is designed to provide flexibility for industry, and the deemed-to-satisfy solutions are not prescribed (and therefore shouldn't be treated as required standards).

In consultations for this RIS, stakeholders were asked:

- whether bringing the BCA and PCA into a single code would lead to significant changes to technical practice for builders and plumbers
- to provide an indication of potential costs from such changes.

The general view from stakeholders is that technical changes under the NCC would be minimal and the underlying standards of the BCA and PCA/AS 3500 will remain the same. A number of possible technical changes were identified (see Box 4.2), but their impact is not likely to be significant.

Box 4.2

EXAMPLES OF POSSIBLE TECHNICAL CHANGES

'A specific example of a technical change includes the requirement in the Plumbing Regulations 2008 to conduct air testing of sanitary drains at properties not provided with non-drinking water. This change to an Australian Standard has been included in the Plumbing Regulations to conserve water in consideration of Victoria's water shortage.' (Victorian Plumbing Industry Commission, 2008)

'A proposal to consolidate the BCA and PCA would require changes in technical building standards in WA. Building standards adopted through building legislation do not currently include technical plumbing requirements. WA has not yet adopted the PCA and calls up the relevant Australian Standard directly.' (Western Australian Department of Housing and Works, 2008).

Source: Various submissions.

Furthermore, no stakeholders were able to provide data on potential costs of technical changes, with the majority indicating that there should not be any significant change in standards of practice.

Costs of purchasing a NCC

The ABCB currently sells copies of the BCA, with prices varying depending on format (hardcopy, DVD-ROM, or online), levels of access (in the case of online versions), and number of volumes purchased. The PCA is currently sold through SAI Global in two formats (see Table 4.3).

Table 4.5

CURRENT BCA AND PCA PURCHASING OPTIONS AND PRICES

Item	Format	Price
<i>BCA 2008, Volume One (Class 2 to Class 9 Buildings) & Volume Two (Class 1 & Class 10 Buildings)</i>	Hardcopy, online and DVD-ROM	\$495
	Hardcopy and online	\$265
	DVD-ROM	\$265
	DVD-ROM – additional user-license	\$150
	Online – additional user-license	\$150
	Online – 30 consecutive days of access	\$40
	Online – occasional access (a total of 12 days over 12 months)	\$40
<i>BCA 2008, Housing Provisions (Volume Two – Class 1 & Class 10 Buildings)</i>	Hardcopy	\$150
	DVD-ROM	\$150
<i>PCA 2004</i>	Hardcopy	\$93.50
	PDF	\$84.15

Source: ABCB (2008a); SAI Global (2009).

Note: Practitioners can only buy online access to the BCA if they already have a hardcopy of the code.

The extent to which a NCC will impose additional purchasing costs on building and plumbing practitioners will depend on which funding model the Commonwealth, State and Territory Governments agree on as part of the new IGA for the NCC. One approach would be to carryover the current funding model of the ABCB. This comprises government contributions and sales of the BCA (the latter of which accounts for roughly 65 per cent of the ABCB's budget).

An alternative approach would be for a NCC to be made freely available online, with hardcopy versions charged on a cost-recovery basis. The shortfall in funding would be made up by a proportional increase in contributions from all governments. The Report of the IGA review recommends this funding model for the new IGA.

Under both funding models, a NCC would not impose additional purchasing costs on building practitioners, as they are already required to buy annual updates of the BCA. The recommended funding model of the IGA Review Report would reduce purchasing costs for building practitioners, as:

- a proportion of practitioners will access a NCC freely online
- cost-recovery prices for a NCC are likely to be significantly less than the current prices of the BCA.

Under both funding models, a NCC would impose additional purchasing costs on plumbers. They will be moving from a regulatory environment where they either are not required to buy the PCA or are required to buy the PCA, but not regular updates (the PCA has not been updated since its introduction in 2004), to a regulatory environment where all plumbers will be required to buy a frequently-updated NCC.

Under the current funding model, we estimate the additional purchasing costs for plumbers to be \$6.49 million each time the NCC is updated, based on the following assumptions:

- there are 72 100 plumbers across Australia (see Table 4.1)
- only 60 per cent of plumbers will incur the costs of purchasing a NCC (we have assumed that a similar proportion of plumbers will incur purchasing costs as will incur transition costs – see Box 4.1 above)
- a hard-copy or DVD-ROM of the relevant plumbing elements of a NCC will cost the same as Volume Two of the BCA (\$150)

Under the recommended funding model of the IGA Review Report, we estimate the additional purchasing costs for plumbers to be \$606 000 each time the NCC is updated, based on the following assumptions:

- there are 72 100 plumbers across Australia (see Table 4.1)
- only 60 per cent of plumbers will incur the costs of purchasing a NCC (we have assumed that a similar proportion of plumbers will incur purchasing costs as will incur transition costs – see Box 4.1 above)
- 28 per cent of plumbers will purchase a hardcopy of the relevant plumbing elements of a NCC (according to the ABS, 72 percent of Australians aged 15 years and over accessed the internet from home or work during 2007-08)
- a hardcopy of the relevant plumbing elements of a NCC charged at cost-recovery prices will cost one third of Volume Two of the BCA (\$50).

For the purposes of calculating costs and benefits as part of this Consultation RIS, we assume that the recommended funding model of the Report of the IGA review will be adopted.

4.9 Impact on administrative costs

There are two types of administrative costs associated with the NCC: implementation costs and on-going costs of maintaining the new code. These are discussed in turn below.

Implementation costs

Development of the NCC

In the first instance, the Commonwealth, State and Territory Governments will incur costs of developing a NCC. According to the NCC Implementation Plan, the development of a NCC will involve:

- an initial roundtable of representatives of building and plumbing regulators from the Commonwealth, State and Territory governments to agree on the structure and regulatory approach of the NCC
- the convening of a small group of building and plumbing technical experts to consolidate the BCA and PCA/AS 3500 – based on the guidance provided by the initial roundtable meeting
- stakeholder consultation on the consolidated code

- subjecting the draft NCC to a Regulatory Impact Assessment
- Ministerial endorsement of the NCC.

Key expenses associated with this process include:

- the time of government personnel to attend meetings and committees (it is not known at this stage how many personnel will be required, or for how long)
- airfares, accommodation and living expenses for government personnel to attend meetings/committees
- costs of seconding technical experts if not government employees (e.g. salaries, airfares, accommodation and living expenses)
- stakeholder consultation costs – this is likely to involve printing and distributing copies of the draft NCC, establishing a website, and organising forums in all capital cities and key regional areas
- undertaking a RIS of the technical changes in the NCC.

The overall cost associated with developing a NCC will vary depending on which implementation sub-option is chosen. Will Sub-Option 1 simply aims to combine the BCA and PCA with little if any changes to the individual codes, Sub-Option 2 would involve a more substantial consolidation of the building and plumbing codes. The latter sub-option would thus likely impose greater administrative costs in developing a NCC than the former. These costs would primarily be:

- extra time and associated expenses for the small group of technical experts to consolidate the BCA and PCA
- time and associated expenses for possible additional meetings of the regulator roundtable.

This Consultation RIS estimates that the *implementation* cost of developing a NCC under Sub-Option 2 would be 2-3 times the cost of that under Sub-Option 1, driven by the increase time costs and expenses for government agencies to undertake the consolidation of technical elements of the BCA and plumbing codes prior to release of the first NCC.

Establishment of NCC governance arrangements

The Report of the IGA review recommends that:

- governance of a NCC be provided with Ministerial Council oversight
- an independent Board be established with membership of between 8-10 individuals
- the Building Cods Committee be replaced with expert sub-committees, convened at request by the Board
- the Office will provide support to the Board and sub-committees, advice when required, and manage the publication of the NCC.

There are costs associated with establishing these governance arrangements. It would be inappropriate, however, to attribute these costs to a NCC. The primary driver of the recommendations listed above is not the NCC, but the findings and conclusions of the IGA review.

Legislative changes

The implementation of the NCC will require legislative change across State and Territory governments. At a minimum, all jurisdictions will have to amend building Acts and regulations to reference the NCC, rather than the BCA. The adoption of the NCC in plumbing Acts and regulations will likely require a more extensive lexical modification. This would involve referencing the relevant volumes of the NCC and removing all other technical on-site technical requirements covered by the NCC (assuming that all State and Territory plumbing variations will be listed in an appendix to the national code).

For some jurisdictions, depending on their chosen implementation strategy, further legislative costs could include:

- reviewing existing Acts, regulations and planning policies to uncover the best approach to implementing the NCC
- transferring responsibility for building and plumbing to a single agency
- transferring responsibility for building and plumbing to a single Minister.

Given the current administrative structures in New South Wales and South Australia, these states are likely to incur greater legislative costs relative to the other States and Territories.

Administrative changes

For those State and Territory governments which have entrusted responsibility for building and plumbing regulation in a single agency (such as the Australian Capital Territory, the Northern Territory, Queensland, Tasmania and Victoria) the administrative costs in implementing the NCC are likely to be minimal.

The costs for Western Australia are also likely to be minimal, given that the State is already going through the process of reforming its *Building Act* and consolidating responsibility for plumbing and building regulation into a single agency.

For the remaining jurisdictions (New South Wales and South Australia), the administrative costs will be dependent on how they choose to proceed with implementing the NCC. Specifically, both jurisdictions are likely to incur greater administrative costs if they choose to consolidate the current bodies responsible for building and plumbing regulation into a single agency. New South Wales is also likely to incur greater costs if it chooses to consolidate responsibility for plumbing regulation into a single agency.

The Report of the IGA review recommends the development of an implementation plan by 2012 to progress the harmonisation of NCC administrative systems. This would define the goal of harmonisation, identify priorities, and establish commitments and timeframes for the States and Territories. It would not be appropriate to attribute the costs associated with developing and executing this implementation plan to the NCC, as its key drivers are the findings and conclusion of the IGA review.

Communication and training

The Commonwealth, State and Territory governments will need to:

- provide training for their own staff and other relevant government personnel (such as those in local government) about the NCC
- communicate the introduction of the NCC and its implications to industry associations and practitioners more generally.

It is likely that industry associations will also undertake significant communicative and educative campaigns; reducing the cost requirements for government.

Communication and training costs are likely to be greater for those jurisdictions that are unfamiliar with a performance-based approach to plumbing regulation (New South Wales, the Northern Territory and Western Australia).

Building Codes Queensland estimate that its one-off training and communication costs will be \$250 000.

Breakdown of administrative and legislative costs by jurisdiction

Table 4.4 provides a synopsis of the costs that the State and Territory Governments will likely confront in developing, implementing and maintaining a NCC. Sources of data for this summary include:

- consultations with building and plumbing regulators
- submissions from State and Territory governments.

Box 4.3 is linked with Table 4.4, in that it provides a breakdown of the possible models that New South Wales might adopt in order to implement a NCC. The New South Wales Government provided us with these models in their submission to this Consultation RIS.

Table 4.6

SUMMARY OF EXPECTED ADMINISTRATION COSTS

Jurisdiction	Expected Costs
ACT	<ul style="list-style-type: none"> • ACT involvement in developing the NCC. • Minor legislative changes to reference the NCC. • Communication and training for government officials and industry.
NSW	<ul style="list-style-type: none"> • The costs for NSW are dependent on which model the State adopts to implement the NCC (see Box 4.3). • In all scenarios, NSW would incur costs in helping to develop the NCC. • Each Model would impose costs relating to legislative review and consolidation, policy development and the transfer of Ministerial responsibilities and staff. These costs would be greater for Models A and C. • Administrative changes (and associated costs) would involve: <ul style="list-style-type: none"> – establishing a new consolidated agency (not applicable to Model B) – potential additional NSW monetary contributions to an enhanced ABCB – possible enhancement/expansion of current committees, boards, consultation forums relevant to building and plumbing matters/controls. • Each Model would impose costs relating to communication and training for government officials and industry. This would also involve costs to implement and support a performance-based plumbing code.
NT	<ul style="list-style-type: none"> • There is no indication of the costs facing NT at this stage. The Territory's single <i>Building Act</i> and consolidated building/plumbing regulatory body will likely mitigate costs. The move to a performance-based model of plumbing regulation may increase communication and training costs.
QLD	<ul style="list-style-type: none"> • BCQ involvement in developing the NCC. • Building and plumbing are already combined within BCQ. Legislative changes would only be required for the gas aspect of plumbing, and to adopt the NCC in regulations • Communication and training for the government officials and industry – an estimated one-off cost of \$250 000. • Additional QLD monetary contributions to an enhanced ABCB.
SA	<ul style="list-style-type: none"> • Costs will accrue as a result of administrative changes necessary to implement a NCC. The degree of these costs will depend on whether the NCC is in one volume, or two separate volumes for building and plumbing. Due to the fact that plumbing and building are administered separately in SA, one NCC document would create difficulties and would force SA into merging their building and plumbing regulations, which would involve a costly and lengthy (up to 2 years) cabinet approval process. If NCC was in two separate volumes, then only minimal changes would be required to the SA regulations, which would be a straightforward, less costly and relatively quick (1 year max) process.
Tas	<ul style="list-style-type: none"> • Will be costs to government, councils and certifiers as changes are implemented, e.g. in relation to training and administrative changes. • Maybe costs associated with training builders and plumbers re the NCC.
Vic	<ul style="list-style-type: none"> • Industry training in new NCC. • Purchase of new copies of the NCC.
WA	<ul style="list-style-type: none"> • WA involvement in developing the NCC. • WA is already in the process of reforming its building legislation. This involves establishing a new, consolidated agency for plumbing and building that will be the responsibility of a single Minister. Additional administrative costs for implementing the NCC are thus likely to be minor. • Minor legislative changes to reference the NCC. • Communication and training for government officials and industry. WA indicated that these costs might be significant, given that the State is unfamiliar with a performance-based regulatory approach to plumbing. • Additional WA monetary contributions to an enhanced ABCB.

Source: ACG analysis of input from State and Territory agencies in consultations and written submissions.

Box 4.3

POSSIBLE MODELS FOR IMPLEMENTING THE NCC – NEW SOUTH WALES**Model A – Partial integration**

Model A would involve a partial integration of building and plumbing controls and would require consolidated legislative arrangements for building and plumbing controls.

Generally, it would involve:

- one NSW Minister and one NSW Government agency responsible for: policy development and implementation, and Code/Standard development and implementation
- separate NSW Government agency/agencies responsible for licensing/ registration/ accreditation of practitioners (and associated functions, eg, complaints investigation, auditing, education and training).

Model B – Separate arrangements

Model B would involve separate legislative arrangements and administrative controls for the building and plumbing industries.

Generally, it would involve separate NSW Ministers and NSW Government agencies responsible for:

- policy development and implementation
- code/Standard development and implementation
- licensing/ registration/ accreditation of practitioners (and associated functions, eg, complaints investigation, auditing, education and training).

Model C – Full integration

Model C would involve full integration of building and plumbing controls and would involve consolidated legislative arrangements.

Generally, it would involve one NSW Minister and one agency responsible for:

- policy development and implementation
- code/Standard development and implementation
- licensing/ registration/ accreditation of practitioners (and associated functions, e.g., complaints investigation, auditing, education and training).

The above models assume that the plumbing component of the NCC will be the Plumbing Code of Australia (PCA), or some similar performance – based approach. The PCA uses a performance-based approach to the regulation of plumbing standards. This is a new approach for many NSW plumbing practitioners and may require the implementation of government run support mechanisms.

A transitional period is likely to be required for stakeholders, which would vary depending on the model adopted. This is more likely to be necessary for the plumbing industry (including regulatory functions) than the building industry.

Source: New South Wales Department of Premier and Cabinet (officer level comments) (2008)

Ongoing costs

There are two primary types of ongoing costs associated with a NCC. The first of these is the cost of administering building and plumbing regulation in the States and Territories. This ongoing cost is unlikely to increase, as existing administrative systems would not necessarily need to be changed as a result of implementing a NCC. It is possible that the States and Territories may incur additional costs if they choose to harmonise their administrative systems (in line with the recommendation of the Report of the IGA review). It would not be appropriate, however, to attribute these costs to the NCC, as the new IGA is likely to play a greater role in facilitating the goal of harmonisation.

The second type of ongoing cost is that of maintaining and updating a NCC. At present, the ABCB and NPRF incur costs in administering the BCA and PCA, respectively. Moving to a NCC is likely to increase this type of ongoing cost relative to current expenditure as:

- the NPRF (due to structural and financial constraints) does not review the PCA annually
- the plumbing components of a NCC, in contrast, are likely to be subject to such levels of regulatory appraisal.

However, when tested with stakeholders, this likely increase in the ongoing cost of maintaining and updating a NCC was generally thought to be similar to the current costs of maintaining building and plumbing frameworks separately.

A final point is that, if governments agree to the recommended funding model in the Report of the IGA review (which relies less on sales of the Code), their annual contribution to the NCC model would increase from what they currently contribute to the ABCB and (if relevant) the NPRF. This increase, however, should not be attributed to the NCC, as the primary driver of the recommended funding model is the findings and conclusion of the Report of the IGA review.

4.10 Benefits

A majority of stakeholders consulted support the introduction of a NCC, and considered that the key benefits from a NCC would be:

- Improved consistency between building and plumbing practice, as the ABCB Chairman reported in his submission to the IGA review:

A model along the lines of the NCC would bring greater consistency and scrutiny to the "whole of building" process. It would overcome duplication where this now exists and reduce compliance costs. It would also bring Australia in to line with best international practice in the regulation of buildings (ABCB Chair submission, p.23).

- Gains through a better framework for regulation of the plumbing industry, provided through an IGA for plumbing and a framework to develop and maintain a national performance-based standard. The experience of the BCA in this context was that moving to performance-based regulation alone reduced costs for large scale building projects by between 1 and 5 per cent. While there are some performance-based standards in plumbing regulations already, bringing consistency to this approach, and bringing it in line with BCA framework, should provide further benefits (Productivity Commission 2004).
- Improved regulatory conditions for innovation at the national level, as a result of potential harmonisation of standard across jurisdictions. Such innovation will assist in addressing future policy changes, including climate change.

Such benefits were considered to be most relevant for the non-residential sector, with potential for only small gains in the residential sector (due to low mobility of the sector across jurisdictions and greater use of deemed-to-satisfy standards rather than performance-based solutions in construction practice).

Actual benefits achieved will depend both on the model adopted and the extent that the NCC initiative is able to drive further reform, particularly in relation to administration of standards. The business case for the NCC recommended that COAG:

use the National Construction Code as an opportunity to pursue further reform in variations across State, Territory and Local Governments in both technical standards and administration (ACG 2008).

Though, there is greater potential for the new IGA to affect greater reform of administrative systems than the NCC itself. As aforementioned, the Report of the IGA review recommended the new IGA commit governments to developing an implementation plan to progress harmonisation of administrative systems.

It is important to note, however, that the NCC will not necessarily reduce cross-border inconsistencies within the plumbing and building codes. Other factors, such as the flexibility of the NCC model to react to change and the willingness of the jurisdictions to limit variations, will also play key roles.

Potential benefits based on implementation sub-options

This Consultation RIS is considering two sub-options for implementing the NCC (see Chapter 3). The key difference between these sub-options is the degree to which the *initial* consolidation process of bringing together the BCA and plumbing codes addresses all potential overlaps, areas for streamlining and inconsistencies.

The extent to which one sub-option is more beneficial than the other depends on the extent of consolidation — effectively it relates to the extent of the problem detailed earlier in this Consultation RIS. If the extent of inconsistency and overlaps are considerable, then Sub-Option 1 may not be address the problem to any significant degree. That said, while Sub-Option 1 is expected, in the first phase, to involve relatively minor consolidation of codes, it is anticipated that the process of annual review of the NCC will address remaining issues over time (similar to the process used to develop the BCA itself, where the first code was an amalgam of all State and Territory building Acts and regulations, but over time it was streamlined, with overlaps, duplications and inconsistencies reduced).

In considering this Consultation RIS, stakeholder views on the relative benefits of these implementation sub-options are being sought.

4.11 Summary of costs and benefits

A summary of the types and scale of potential costs and benefits from a NCC is set out in Table 4.5.

Table 4.7

SUMMARY OF POTENTIAL COSTS AND BENEFITS FROM THE NCC

Costs	Benefits
Administrative costs of developing first version of the NCC and agreeing new IGA (expected in the range of \$100,000 per jurisdiction)	Savings through efficiency gains from removing overlap and inconsistency between codes (primarily for the non-residential sector)
Changes to legislation and administrative arrangements	Gains through an improved regulatory framework for plumbing standards, such as through more consistent adoption of performance-based standards and use of impact analysis
Communication and education costs for government	Greater opportunities for innovation through a more consistent code
Transition costs for industry — estimated \$13.12 million	Broader benefits from complementing other reform initiatives, such as national licensing and reforms in the training sector
Costs of technical change — expected to be minimal	
Costs to plumbers of purchasing a NCC over the first five years (assuming the Code is updated annually) — \$3.03 million	

The summary above highlights the difficulty of comparing costs and benefits when the benefits are not as readily estimated as the costs. Based on the analysis in this chapter, the total cost of implementing a NCC is likely to be in the range of \$19-21million over the first five years, depending on costs of administrative and legislative changes for government.

One method of assessing the potential for a net benefit from a proposal is to determine under what circumstances that benefits would cover costs— that is, what is the breakeven point where sufficient benefit would be achieved? In the case of a NCC, the costs incurred represent a very small proportion of the value of construction in Australia. Focusing on the non-residential sector, where stakeholders indicate efficiency gains can be achieved, an efficiency gain of 0.8 per cent or greater would be sufficient to achieve a net benefit from introducing a NCC.⁴

⁴ Based on a cost of \$21 million for a NCC and a total value of non-residential construction of \$27.9 billion – ABS (2008b) estimates.

Chapter 5

Compliance with National Competition Policy Principles

The *Competition Policy Agreements* establishes requirements for all new legislation adopted by jurisdictions that are party to the agreements. The guiding principle of the *Competition Policy Agreements* is set out in Clause 5(1). This states that:

legislation (including Acts, enactments, Ordinances or regulations) should not restrict competition unless it can be demonstrated that:

- (a) the benefits of the restriction to the community as a whole outweigh the costs; and
- (b) the objectives of the legislation can only be achieved by restricting competition.

Clause 5(5) provides a specific obligation on parties to the agreement regarding newly proposed legislation:

Each Party will require proposals for new legislation that restricts competition to be accompanied by evidence that the legislation is consistent with the principle set out in subclause (1).

Consequently, Regulatory Impact Statements must demonstrate that the proposed regulatory instrument is consistent with these National Competition Policy obligations.

An analysis of the proposed NCC suggests that the establishment of the NCC will not restrict competition among suppliers (i.e. builders, plumbers, building surveyors, and designers/architects). This is evident in three key respects.

First, the NCC is unlikely to affect the number and range of suppliers. The NCC does not grant exclusive rights, establish a license or affect public procurement procedures. The national code will impose transition costs on suppliers (see Section 4.2 above); but these are not significant and should apply equally to all supplies – at least within jurisdictions. The NCC, above anything else, should improve labour mobility within the construction industry by helping to harmonise plumbing and building standards (and possibly even administrative arrangements).

Second, the NCC is unlikely to change the ability of suppliers to compete. It will not affect pricing or marketing within the industry and, as discussed above, its associated costs will apply to all suppliers. The NCC may affect standards in certain jurisdictions – particularly those that have not already adopted the PCA. It is unlikely, however, that the NCC will significantly alter standards – given that the BCA and AS 3500 are likely to form the basis of the NCC’s technical requirements.

Third, the NCC is unlikely to alter suppliers’ incentives to compete vigorously. It will not: (1) create a self-regulatory or co-regulatory regime; (2) impact on customer mobility; (3) require the publishing of pricing information; and (4) exempt any activity from general competition law.

Chapter 6

Consultation

6.12 Consultation to date

As part of undertaking this Consultation RIS and the broader review of the Intergovernmental Agreement (IGA) of the Australian Building Codes Board (ABCB), Allen Consulting Group consulted with stakeholders from across the States and Territories. Appendix B lists the people and organisations with which we consulted, as well as the submissions we have received to date. Appendix C comprises the information requests that we sent to stakeholders as part of our consultations.

6.13 Future consultation

This Consultation RIS is being provided to stakeholders for comment. Comments can be made on any aspect of the Consultation RIS. Of particular importance is feedback from stakeholders on:

1. *The extent of the 'problem'* — has the problem been accurately represented in this Consultation RIS? Stakeholders are strongly encouraged to supply data and/or examples to support their views about the extent of the problem.
2. *The options assessed in this Consultation RIS to address the problem* — are there other feasible policy options that should also be considered in the assessment?
3. *The assessment of costs and benefits of options* — does the assessment fully reflect all potential costs and benefits of the option assessed?

Written comments on the Consultation RIS can be provided:

- *via email* (preferred) to: IGAreview@allenconsult.com.au
- *in hard copy* to: The Allen Consulting Group
GPO Box 418
Canberra ACT 2601

The deadline for written comments is COB, **23 June 2009**.

Chapter 7

Conclusion and recommended option

This Consultation RIS provides an assessment of the proposal for a National Construction Code, and the costs and benefits of the introduction of a consolidated code based on the BCA and PCA. The final RIS will be in a position to provide further rigour in this regard as:

- it will reflect recommendations from the NCC implementation plan and review of the IGA, both of which will provide more clarity around the NCC model itself
- it will be informed by stakeholder comment to this Consultation RIS, and submissions to the IGA review which should provide further information on the potential impact of a NCC and a new IGA.

The comparison of potential costs and benefits in the previous chapter shows that the NCC needs to achieve relatively small efficiency gains to achieve a net benefit. Whether the NCC proposal will achieve more than modest benefits through improved efficiency will depend on the extent to which it is a driver for broader reform of regulation of building and plumbing, particularly in relation to achieving greater consistency in administrative frameworks and reducing variations in standards across all levels of government.

Equally important, benefits can be achieved where the NCC provides a framework for governments to meet new policy challenges, such as climate change. The NCC is also consistent with current COAG initiatives driving a national approach to regulation, such as the national licensing reforms currently being developed by the COAG Skill Recognition Steering Committee.

Chapter 8

Implementation and review

8.14 Implementation

The NCC Implementation Plan outlines four stages for implementing the NCC.

Stage 1: Development of the NCC

This stage would involve:

- agreement from governments on the structure of the NCC and the approach to consolidating building and plumbing codes, through a roundtable of Commonwealth, State and Territory government representatives
- an initial consolidation of technical standards, to be conducted by a small group of technical experts
- consultation on the consolidated code with State and Territory government representatives, followed by full public consultation
- endorsement of the NCC by relevant Ministers (the Building Ministers Forum [BMF] and Ministers responsible for plumbing, where not on the BMF)
- publication of the new NCC.

As Figure 8.1 illustrates, the proposed timing of this stage is dependent on which implementation sub-option the Commonwealth, State and Territory governments choose to pursue.

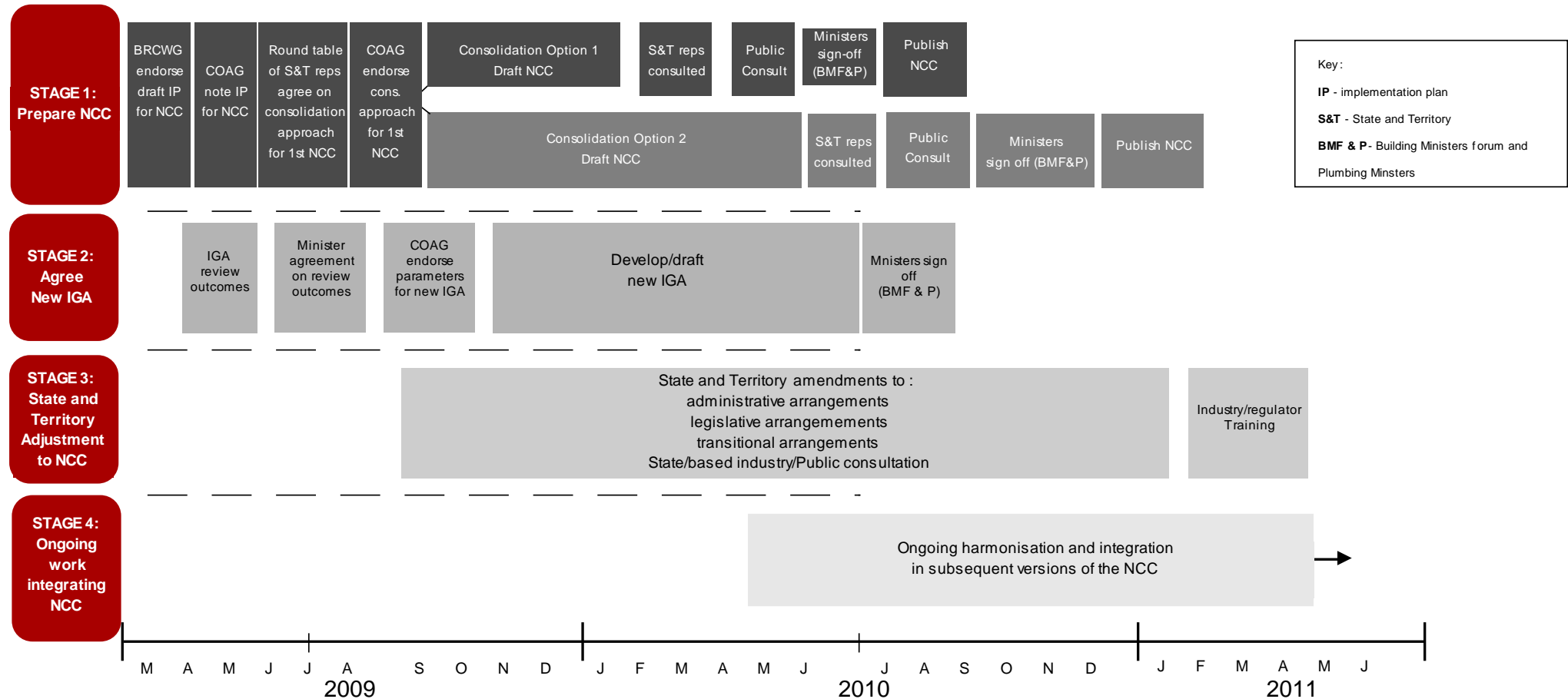
Stage 2: Agreeing a new Intergovernmental Agreement for the NCC

This stage would involve:

- government consideration of recommendations from current IGA review (by March 2009)
- relevant Ministers agree implementation and broad parameters for new IGA (by May 2009)
- development and agreement of NCC IGA and NCC implementation, including Ministerial sign-off (by June 2010).

Figure 8.3

NCC IMPLEMENTATION STAGES AND SUB-OPTIONS



Stage 3: State and Territory implementation of the NCC

Once the NCC and NCC IGA are agreed, they will need to be implemented by State and Territory Governments through their administration and legislative arrangements. The mechanics of this stage will vary across the jurisdictions, but should include the following elements:

- review and amendment of legislation (Acts and regulations) to reference the NCC (mid-2010 to early-2011)
- review and possibly modify administrative arrangements to reflect the NCC and NCC IGA and other reform objectives (in conjunction with legislative review)
- review and implement communication/training mechanisms and processes (ongoing).

Stage 4: Ongoing integration and harmonisation

Further refinement of the NCC will be required in subsequent years to streamline the document, as was the case in the development of the BCA. This could be conducted through a periodic review process, as is currently the case with the BCA. How this process should work, including the frequency of review of the NCC, will be considered in the IGA review report.

Aside from refinement of the NCC itself, integration of the code into State and Territory legislation, with minimal variation, is likely to be an on-going process. As was the case with the adoption of the BCA, there will need to be a process of reviewing variations to the NCC and setting timeframes to address them (most likely in relation to plumbing). Commitments to variation reduction will also be an issue covered in the IGA review report.

8.15 Review

If the NCC falls under a similar regulatory arrangement to the current Intergovernmental Agreement for the BCA, it will be subject to:

- annual reviews – primarily related to the quality and scope of technical standards
- five-yearly reviews – primarily related to governance arrangements, as well as questions about the appropriateness and effectiveness of the code.

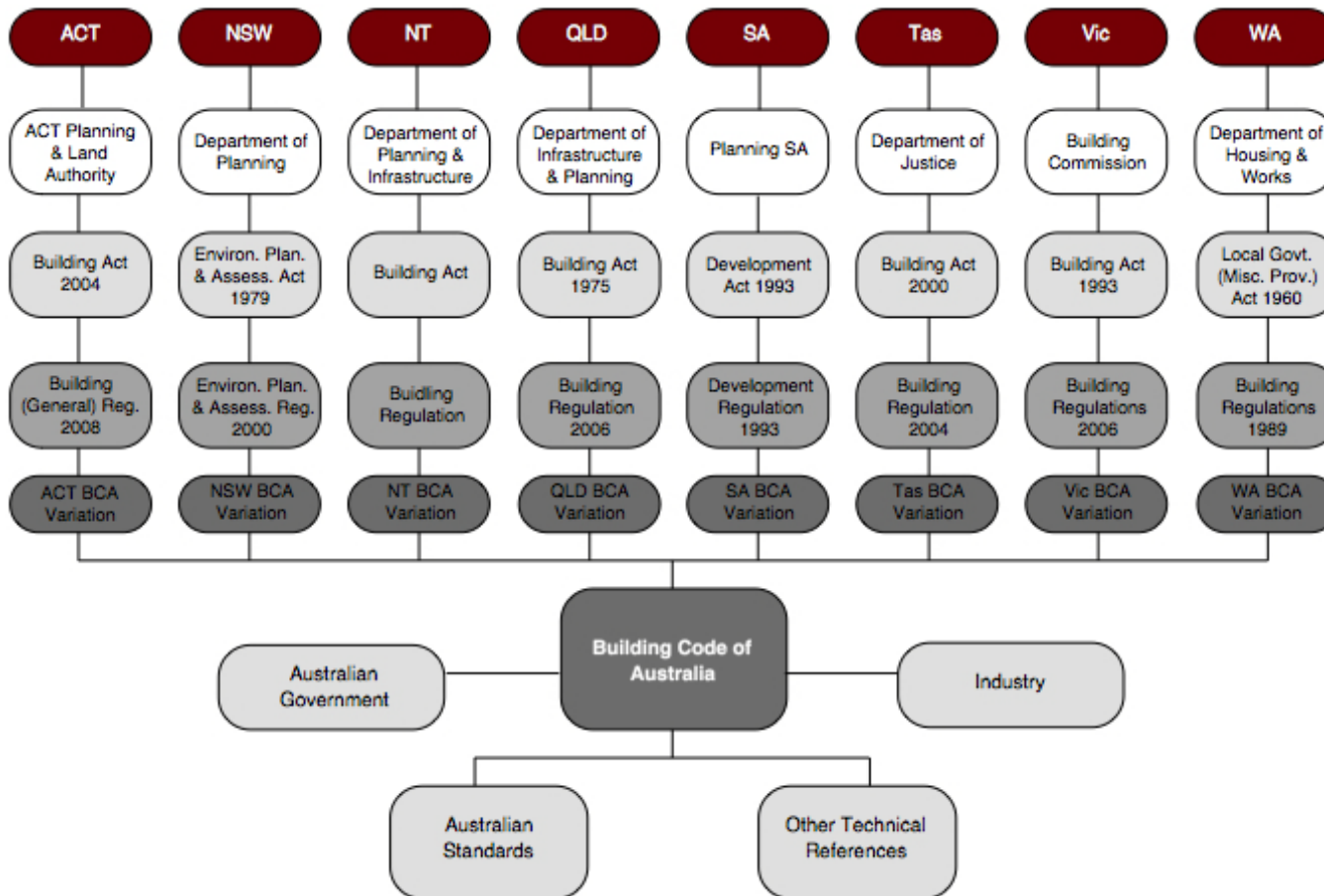
Appendix A

Regulatory frameworks

The following tables provide a mapping of current administrative arrangements or building and plumbing in Australia.

Figure A.1

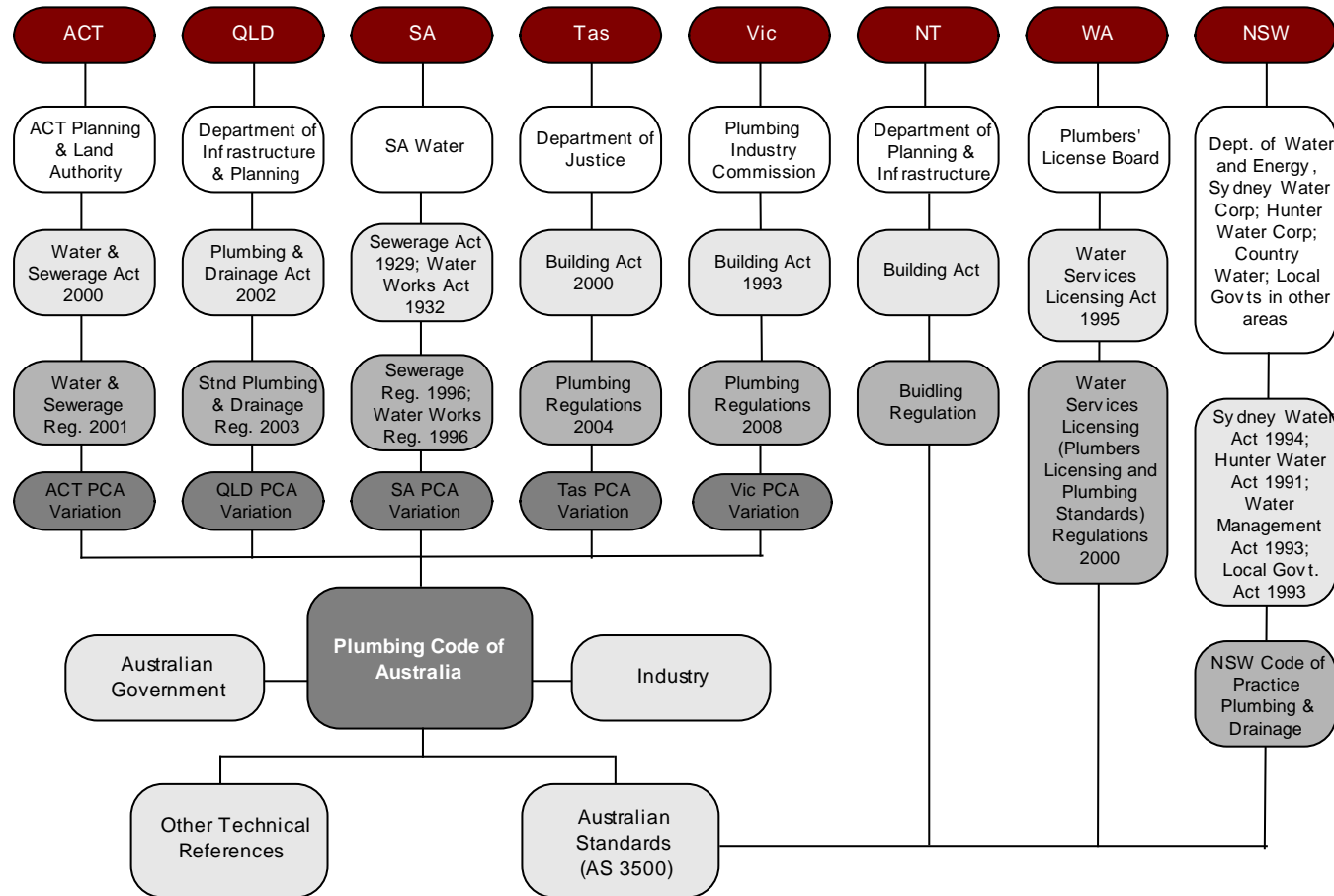
AUSTRALIA'S BUILDING REGULATORY FRAMEWORK



Source: Allen Consulting Group

Figure A.2

AUSTRALIA'S PLUMBING REGULATORY FRAMEWORK



Source: Allen Consulting Group

Appendix B

Stakeholder Input

B.1 List of Interviewees

Table B.1

CONSULTATIONS CONDUCTED

	Name	Position	Organisation
	Brian Ashe	Manager	Australian Building Codes Board
	Darren Atkinson	Project Manager	Australian Building Codes Board
	Trent Bourne	Manager	Australian Building Codes Board
	Kim Burton		Australian Building Codes Board
	Ivan Donaldson	General Manager	Australian Building Codes Board
	Jerry Howard		Master Builders Association ACT
	Steve Hudson		Australian Building Codes Board
	Matthew McDonald	Project Manager	Australian Building Codes Board
	John Miller	Executive Director	Master Builders Association ACT
ACT	Kevin Newhouse		Australian Building Codes Board
	Yvonne Noordhuis		Australian Building Codes Board
	Craig Simmons	Manager, Construction Policy and Regulation	ACT Planning and Land Authority
	Kristin Tomkins	Executive Director, Building Policy	Housing Industry Association
	Ian Carruthers	Adaptation and Land Manager	Commonwealth Department of Climate Change
	Michael Green		Department of Innovation, Industry, Science and Research
	Martin Dwyer		Engineers Australia
	Ross Carter	Renewable Energy and Efficiency	Commonwealth Department of Water, Heritage and the Arts
	Mark Davis	Renewable Energy and Efficiency	Commonwealth Department of Water, Heritage and the Arts

	Radmilia Ristic	Office of Best Practice Regulation	Commonwealth Department of Finance and Deregulation
	Diane Deane		Commonwealth Department of Water, Heritage and the Arts
NSW	Steve Durnford		Department of Planning, New South Wales
	Graham Huxley	Chairman	Australian Building Codes Board
	Chris Johnson	Executive Director	Cities and Centres, Department of Planning, New South Wales
	Peter Meredith	Director, Housing	Master Builders Association NSW
	Paul Naylor	General Manager	Master Plumbers Association of NSW
	Kevin Skauge	Chief Executive Officer	Australian Institute of Building Surveyors
	Paul Waterhouse		Property Council of Australia
	Troy Williams	Chief Executive Officer	Australian Institute of Building
	Peter Barda		Australian Construction Industry Forum
	Jim Barrett		Australian Constructors Association
	John McCarthy	Group Property Executive	AEH Property Group
	Caroline Pidcock	Director	Pidcock Architecture and Sustainability
	Jeff House		Green Building Council of Australia
	Shaun McBride		Local Government Association of NSW and Shires Association of NSW
	David Sharp		Building Products Innovation Council
QLD	Darren Barlow	Director, Housing	Master Builders Queensland
	Glen Brumby	Executive Director, Building Codes Queensland	Department of Infrastructure and Planning, Queensland
	Lance Glare	Manager, Building Legislation and Standards Branch	Department of Infrastructure and Planning, Queensland
	Michael McGuinness	Manager, Plumbing Legislation and Standards Branch	Department of Infrastructure and Planning, Queensland
	Gavin McCullagh		Local Government Association of Queensland
	Adrian Hart		Master Plumbers Association of Queensland
S A	Andrew Clarke	Executive Officer	Plumbing Industry

	Jeffrey Clark	Development Services Officer	Association SA SA Water
	Peter Day		SA Water
	Don Freeman	Manager, Building Policy	Planning SA
	Victoria Gailit	Senior Policy Officer	Local Government Association of South Australia
Tas	Christopher Atkins	Executive Director	Master Builders Association Tasmania
	Adrian Cowie	Executive Director	Master Plumbers Tasmania
	Liz Gillam	Senior Policy Officer	Local Government Association of Tasmania
	Alan Humphreys	Principal Plumbing Advisory Officer, Building Standards and Regulation	Department of Justice Tasmania, Workplace Standards Tasmania
	Graeme Hunt	Manager, Building Standards and Regulation	Department of Justice Tasmania, Workplace Standards Tasmania
	Michael Kerschbaum	Manager, Technical Services	Master Builders Association Tasmania
	Barry Neilsen	Director	Pitt & Sherry Tasmania
	Robert Pearce	Director, Policy, Planning and Services	Department of Justice Tasmania, Workplace Standards Tasmania
	Tony Rowel	Building Advisory Officer, Building Standards and Regulation	Department of Justice Tasmania, Workplace Standards Tasmania
Vic	Andrew Andreou	Acting Executive Manager Community Infrastructure	Country Fire Authority
	Tony Arnel	Building/Plumbing Commissioner	Building Commission and Plumbing Industry Commission, Victoria
	Peter Beckford	Acting Director, Regulation, Development and Compliance, Building Commission	Building Commission and Plumbing Industry Commission, Victoria
	Naomi Brown	Chief Executive Officer	Australasian Fire and Emergency Service Authorities Council
	Adam Dalrymple	Commander, Manager Structural Fire Safety	Metropolitan Fire and Emergency Services Board
	Vin Ebejer	General Manger	Master Plumbers and Mechanical Services Association of Australia
	Jarrold Edwards	Executive Manager, Community Safety Technical Department	Metropolitan Fire and Emergency Services Board
	Ross Hodge	Previous Executive Director	Fire Protection Association Australia
	Peter Johnson	National President	Fire Protection Association Australia

	Shayne LaCombre	General Manager, Plumbing Industry Commission	Building Commission and Plumbing Industry Commission, Victoria
	Rob Llewellyn	Managing Director	International Fire Protection
	Geoff Woolcock	Director	Master Builders Association Victoria
WA	Romina De Santis	Technical and Training Manager	Master Builders Association of Western Australia
	Peter Gow	Executive Director, Building Industry Development	Department of Housing and Works, Western Australia
	Michael McLean	Director	Master Builders Association of Western Australia
	Vanessa Morris		Department of Housing and Works, Western Australia
	Phil Payne	Manager	Plumbers Licensing Board, Western Australia
	Murray Thomas	Chief Executive Officer	Master Plumbers and Gasfitters Association of Western Australia
	Donielle Watt	Policy Officer	Department of Housing and Works, Western Australia
	Nabil Yazdani	Manager, Building Codes and Regulation	Department of Housing and Works, Western Australia
	Beryl Foster		West Australian Local Government Association
NT	Graham Kemp	General Manager	Master Builders and Plumbers Association
	Rod Applegate	Executive Director, Building and Planning	Department of Infrastructure, Planning and Environment

B.2 List of submissions

Table B.2

NCC RIS AND IGA ABCB SUBMISSIONS

Submission no.	Title	Author
1	'Building Codes Queensland Submission' (October 2008)	Building Codes Queensland Division, Queensland Department of Infrastructure and Planning
2	'AIBS comments on the draft RIS' (October 2008)	Australian Institute of Building Surveyors (AIBS)
3	'NSW Officer level inputs for preparation of the National Construction Code draft RIS' (October 2008)	New South Wales Department of Premier and Cabinet
4	'Review of the Inter Governmental Agreement for the Australian Building Codes Board: ABCB Chairman's Submission' (October 2008)	Chairman of ABCB
5	'Inter-Governmental Agreement (IGA) for the Australian Building Codes Board (ABCB) and National Construction Code (NCC)' (October 2008)	Master Builders Queensland
6	'Initial submission: Review of Intergovernmental Agreement for the Australian Building Codes Board' (November 2008)	Insurance Council of Australia (ICA)
7	'Submission on the Discussion Paper for the Review of the Intergovernmental Agreement for the Australian Building Codes Board' (November 2008)	Master Builders Association of New South Wales
8	'Final submission: Review of Intergovernmental Agreement for the Australian Building Codes Board' (November 2008)	Insurance Council of Australia (ICA)
9	'Review of Intergovernmental Agreement for the Australian Building Codes Board' (November 2008)	Building Products Innovation Council (BPIC)
10	'RE: Allen Consulting Review – ABCB Intergovernmental agreement review' (November 2008)	Australian Institute of Building (AIB)
11	'Submission by the Housing Industry Association' (December 2008)	Housing Industry Association (HIA)
12	Submission: Review of the Intergovernmental Agreement for Australian Building Codes Board and National Construction Code Implementation' (December 2008)	Master Plumbers and Mechanical Contractors Association of NSW
13	Submission: Review of the Intergovernmental Agreement for Australian Building Codes Board and National Construction Code Implementation' (December 2008)	Master Plumbers and Gasfitters Association of Western Australia
14	'Inter-Governmental Agreement (IGA) for	Australasian Fire and

	the Australian Building Codes Board (ABCB) and National Construction Code (NIC)' (December 2008)	Emergency Service Authorities Council (AFAC)
15	'Review of the Intergovernmental Agreement for the Australian Building Codes Board and National Construction Code implementation' (December 2008)	Western Australian Department of Housing and Works
16	'National Construction Code – Comments & Recommendations' (December 2008)	Western Australian Department of Housing and Works
17	'NSW Officer Level Comments on the Review of the Intergovernmental Agreement for the Australian Building Codes Board and National Construction Code Implementation' (December 2008)	New South Wales Department of Premier and Cabinet
18	'Review of the Intergovernmental Agreement for the Australian Building Codes Board and National Construction Code implementation' (December 2008)	Victoria Plumbing Industry Commission
19	'Review of the Intergovernmental Agreement for the Australian Building Codes Board and National Construction Code implementation' (December 2008)	Victoria Building Commission
20	'FPA Australia – Response to the review of the Intergovernmental Agreement (IGA) of the Australian Building Codes Board (ABCB)' (December 2008)	Fire Protection Association Australia (FPA Australia)
21	'Submission' (December 2008)	Royal Institution of Chartered Surveyors Oceania (RICS Oceania)
22	'Re: Review of the Intergovernmental Agreement of the Australian Building Codes Board' (December 2008)	United Firefighters Union (UFU), Victorian Branch
23	'Review of the Intergovernmental Agreement for the Australian Building Codes Board and National Construction Code implementation' (January 2009)	Property Council of Australia

Appendix C

Information request

The following is an example of the discussion paper that we sent to stakeholders as part of our consultative process for both the NCC RIS and review of the IGA ABCB.

The Allen Consulting Group has been commissioned to conduct a review of the Intergovernmental Agreement (IGA) of the Australian Building Codes Board (ABCB).

This paper serves three important purposes:

it provides information on the context for this review

- it includes a set of questions to guide interviews and submissions, and
- it includes a request for data to inform cost-benefit analysis.

C.1 Review background and context

The building regulation environment is changing rapidly, driven by factors such as climate change and sustainability policies, the ageing population, trends towards national regulatory reform and reducing regulatory burden on business.

Most immediate is the consolidation of on-site construction standards within a National Construction Code (NCC). In its meeting of 3 July 2008 COAG agreed to the implementation of a National Construction Code, the first stage of which would be to consolidate technical standards for building and plumbing. The proposed approach is for the NCC to be a consolidation of the Building Code of Australia (BCA) technical plumbing regulations, managed under the current model for management of the BCA (the ABCB model).

The NCC has implications both for the composition of the new code and the management of the regulatory framework. The current framework for managing the regulation of buildings in Australia is the Intergovernmental Agreement for the ABCB, which sets out:

- the respective roles for governments in building regulation
- how the BCA will be adopted by State and Territory governments
- governance, funding and administrative arrangements for the ABCB as the body which maintains the BCA and progresses the IGA objectives.

Implementing the NCC will require changes to the current IGA, at a minimum to reflect the involvement of the plumbing sector. The current review of the IGA provides a valuable opportunity for a more comprehensive assessment of the current model — is the current IGA the best model to manage the NCC and future challenges facing the building and plumbing sectors? Answering this question requires an assessment of the effectiveness of the current IGA — whether is it achieving its objectives, and if not, what changes are required to make the IGA more effective.

C.2 Review components and approach

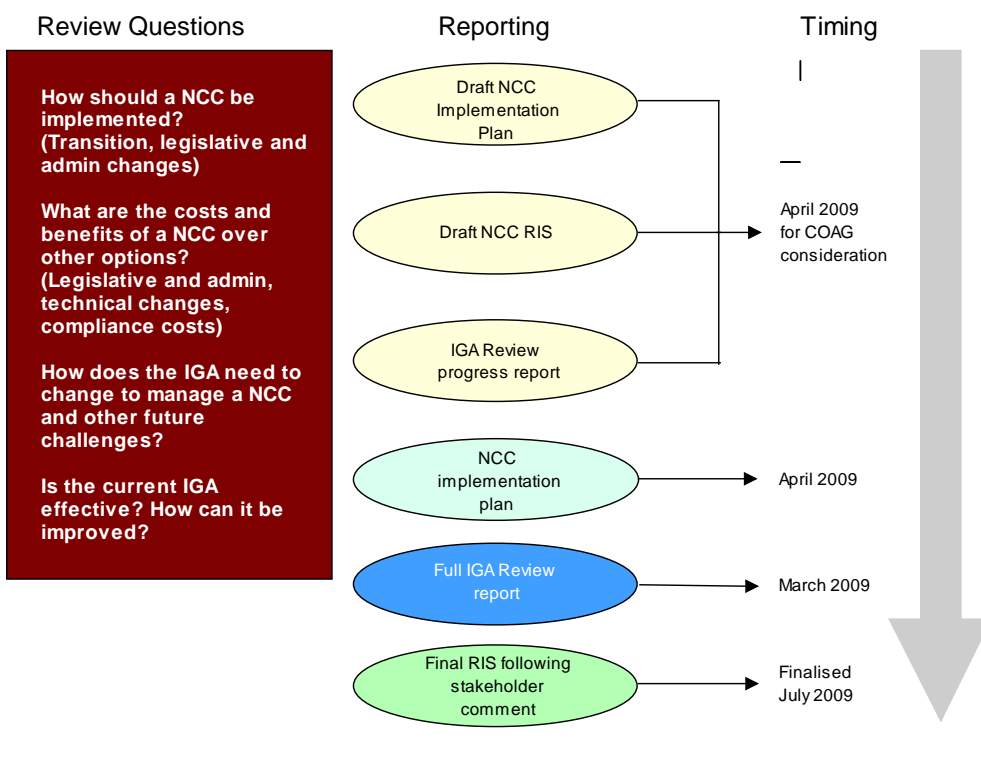
This review has two key components

1. An implementation strategy and Regulation Impact Statement (RIS) for the NCC, which will be a component of the future regulatory environment within which the IGA will need to operate
2. A comprehensive review of the IGA to assess whether the current approach is the most effective to meet future challenges, including supporting the new NCC when implemented.

Figure C.3 illustrates the linkages between these components, reporting and timing for this review. The review questions set out the logic of the issues to be addressed. Essentially, the NCC implementation plan and RIS are addressing the ‘mechanics’ of implementing the NCC, whereas the IGA review component is taking a step back to test whether the current management model for building regulation is working effectively, and whether it is the best model to manage the proposed NCC.

Figure C.1

FRAMEWORK FOR THIS REVIEW



It is important to note that this review is focused on the IGA (effectively the mechanisms to administer and manage the implementation of the BCA) rather than technical standards within the BCA itself. Technical standards will be considered as part of the NCC analysis, but only to the extent to that developing the NCC changes technical standards (where changes are necessary to be consistent with the new Code).

C.3 Participating in this review

It is important that stakeholders participate in this review. We are seeking stakeholder input in the following ways.

Interviews

Stakeholders will have been contacted requesting an interview with the review team. These interviews will seek to cover those issues set out in the attached questions. Interviews are being conducted early in the review timeframe, with stakeholders able to provide comments and data to the review following interviews with the review team.

Interviews with building sector stakeholders will cover both the implementation of the NCC and the effectiveness of the current IGA. Interviews with plumbing sector stakeholders will focus primarily on the NCC implementation issues, though will also cover how a new IGA should be developed to respond to the needs of the plumbing sector.

Request for data on NCC impacts

Included in this paper is a request for data on NCC impacts. These questions are seeking information to support the Draft RIS that will go to COAG in November. The data request tests with stakeholders what the likely costs and benefits would be of implementing the NCC.

To meet COAG deadlines, data for the draft RIS must be provided by **COB Tuesday 28 October 2008**. Responses should be sent by email to **IGAreview@allenconsult.com.au**.

Written submissions

We welcome written submissions to this review from all stakeholders. Providing a submission presents a valuable opportunity for stakeholder to participate in the review. Submissions can be structured around the questions in this paper, or focused on a sub-set of issues that your organisation wishes to bring to the attention of the review team.

Submissions can be made to the review until **COB Wednesday 3 December 2008**. They can be sent:

By email (preferred) to: **IGAreview@allenconsult.com.au**

By fax to: 02 6230 0149

By mail to: att: Sharon Kennard
 The Allen Consulting Group
 GPO Box 418
 Canberra 2601

Issues for stakeholders

C.4 Implementation of a National Construction Code

The proposed NCC model is:

- the BCA and technical plumbing regulations brought together in a consolidated code
- a transition period for States and Territories to adopt the new code in legislation
- national implementation of the new code managed using a model similar to that currently in place for building regulation (with an IGA and a Board).

This review is seeking stakeholder views on the expected impact of the NCC, and on how the NCC should be implemented.

Questions

1. For your State/Territory, what *legislative* changes would be required to manage the implementation of the NCC, as proposed? Would there need to be changes to Ministerial responsibilities?
2. For your State/Territory, what *administrative* changes would be required to manage the implementation of the NCC, as proposed?
3. Would a proposal to consolidate the BCA and the PCA require changes in *technical building standards* in your State or Territory?
4. If technical changes are required, can you provide examples of these?
5. Will the NCC lead to costs or benefits to industry (both within your State/Territory and nationally)? What form would these costs or benefits take?
6. For government, are there benefits in administration of a consolidated code (compared with separate codes)?
7. It is proposed that there would be a transition period for the implementation of the NCC. What is an appropriate length for a transition period?

C.5 Review of the current IGA

The IGA provides a framework for the management of building regulation in Australia. This review has been tasked with reviewing the effectiveness of the current IGA, and assessing the best model for a revised IGA supporting a new NCC.

Achieving a nationally consistent approach to building regulation

The current IGA sets out the commitment of Commonwealth, State and Territory governments to:

- adopting the BCA by reference on a national basis through relevant State and Territory legislation

- restricting any new variations to particular geographical, geological or climatic factors
- harmonising the approach to the administration of the BCA across Australia
- seeking similar commitments from local governments where they have any administrative responsibility for regulating the building industry.

This review will assess the extent to which these commitments have been met.

Questions

8. Data from the ABCB suggests a recent growth in State and Territory variations to the BCA. What are the reasons behind this trend?

9. Is there a role for State and Territory variations in a new IGA supporting the NCC? Should the current arrangements for variations be continued for the new code?

10. What mechanisms in a new IGA would assist in reducing the number of variations to the NCC, to promote national consistency?

11. Has there been progress towards harmonisation of administration since the introduction of the current IGA in 2006? Should harmonised administration be an objective of the new IGA and Board under the NCC?

12. In your State or Territory, are local governments able to make variations to the BCA in planning laws? If yes, what is the role of the State government in monitoring or limiting these variations?

Governance

Implementing the NCC would require changes to governance arrangements to provide representation of the plumbing sector. At a minimum this would require changes to Board membership. This process does, however, provide an opportunity to assess other aspects of the current governance arrangement.

13. How will current governance arrangements for the BCA need to change to reflect the implementation of the NCC? For example, what would be an appropriate 'Board' structure?

14. Is the current Board structure operating effectively to support the commitments in the IGA and objectives of the ABCB? Other than bringing in plumbing representatives, do you have other suggested changes to Board structure or representation?

15. The current IGA establishes the functions of the ABCB. Are these functions appropriate for the objectives of the ABCB? Would you recommend any changes to these functions?

16. Is the current governance structure effective in managing building regulation issues as they arise? Are current decision making processes responsive to the needs of the building industry?

17. The Building Minister's Forum currently has Ministerial responsibility for the ABCB and the IGA. Should Ministerial arrangements change with the implementation of the NCC?

Funding model

The current arrangements provide the ABCB with around 25 per cent of its funding through direct contributions from the Commonwealth, state and territory governments, with the remaining funding coming from sales of the BCA.

18. Should the ABCB (or equivalent body under the NCC) be relying on BCA sales as their main source of funding?

19. Is it appropriate to charge a fee for access to the BCA? Does this fee have any impact on industry practice?

20. Are there other funding models which you consider would be more appropriate for a new IGA supporting the NCC?

References to Australian Standards

Both the BCA and PCA include references to Australian Standards in their text. Standards Australia manages the development of these Australian Standards, which are available for sale from SAI Global.

21. What are the advantages and disadvantages of the current use of references to Australian Standards in the BCA and PCA?

22. What options are available to address identified disadvantages to the use of Australian Standards references? Is there a role for references to Australian Standards within the NCC?

Ability to respond to future challenges

A key task of this review is to advise government on how well the current IGA will be able to manage future challenges.

23. How responsive is the current model for building regulation to emerging policy areas?

24. Has the model performed well in the recent period in managing emerging issues, such as climate change?

25. If not, how can a revised IGA be structured to be more responsive to change, without impacting on other objectives (such as achieving best practice regulation)?

Costs and Benefits of the NCC — building sector

The following tables set out the areas where we are seeking estimates of costs and benefits of the implementation of the NCC.

C.6 Costs

For this analysis, we are seeking from government and industry stakeholders an indication of:

- the type of costs likely to be incurred

- the scale of costs (for instance a dollar range or minimum or maximum expected cost)
- which stakeholders are likely to incur costs (at the highest level, whether costs will be incurred by industry or government).

We recognise that not all costs will be able to be quantified, but an indicator of the likely types of cost and their distribution is very important in a RIS analysis. The following table provides a template for stakeholders to report likely costs. The following table sets out areas identified by the review as being potential costs of the implementation of the NCC. Please add or subtract from this list as you consider relevant.

Table 8.8

ESTIMATED COSTS OF IMPLEMENTING THE NCC — BUILDING SECTOR

	Details on type of costs incurred	Incurred by...	Cost estimate
Costs of legislative change For example: -amendments to legislation -changes to Ministerial arrangements			
Costs of administrative changes			
Costs of changes to technical plumbing standards			
Costs of compliance for industry For example, incremental increases of: - purchase of new code - time taken to familiarise with new code - staff training costs - other			
Other costs or impacts (e.g. effect on the ability of one company or sector to compete with another) [PLEASE add as appropriate]			

C.7 Benefits

Estimates of benefits are inherently more difficult than costs to estimate. The RIS analysis will need to identify the types of benefits that are likely to be achieved through the NCC, and whether these benefits are sufficient to achieve a net benefit. The following table provides examples of the potential categories of benefit that may apply to the NCC. We are seeking from stakeholders an indication of:

- whether these types of benefit are likely to be achieved through the NCC
- if they are feasible, what parties would benefit
- the scale of potential benefits over the long term (over 20 years).

We understand that benefit estimates are difficult to provide, but at a minimum we are seeking an indication from stakeholders of the probable benefits from the NCC.

Table 8.9

ESTIMATED BENEFITS OF IMPLEMENTING THE NCC — BUILDING SECTOR

Examples of benefits	Relevance of these benefits?	Accruing to..	Potential scale of benefits
Efficiency gains to governments through consolidation of administration for building and plumbing			
Reduced costs to firms operating at a national level (through more consistent regulation)			
Efficiency gains on-site in operating from one code			
Economies of scale in building products			
Other benefits (e.g. environmental benefits from improved clarity of water supply regulation)			
[PLEASE add as appropriate]			

Appendix D

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