



# **Building Confidence Report**

Implementation Plan

Building Ministers' Forum

March 2019

# Contents

Overview .....	3
Approach to reforms.....	3
National priority reforms .....	4
Industry involvement.....	4
Timeframes .....	4
Recommendations.....	5
New South Wales.....	8
Victoria.....	11
Queensland .....	14
Western Australia .....	17
South Australia.....	19
Tasmania.....	22
Australian Capital Territory.....	24
Northern Territory .....	26
Australian Building Codes Board (ABCB).....	27

# Overview

The tragic fire at Grenfell Tower in London in June 2017 raised global concerns about building safety and industry compliance with required standards. Australia is not immune as shown by the recent Neo200 apartment and 2014 Lacrosse apartment fires in Melbourne, and building issues in the Opal Tower building in Sydney.

Australian governments—Commonwealth, state and territory—are strongly committed to ensuring the safety of Australia's buildings through effective regulation, certification and enforcement, and working with the sector to support industry-led initiatives to improve practice and compliance. Through the Building Ministers' Forum (BMF), jurisdictions have worked together to identify and address immediate safety issues, and to assess the broader compliance and enforcement problems within the industry.

Following the Grenfell Tower tragedy in 2017, Ministers took immediate action to prevent the misuse of aluminium composite panels in Australia. The BMF undertook a number of coordinated actions in response to cladding that did not meet Australia's standards, focusing on high-rise buildings.

The BMF commissioned the *Building Confidence* report, an independent expert examination of the broader compliance and enforcement problems within Australia's building and construction system. The report concluded that there are a number of significant systematic deficiencies with Australia's building industry culture and Australia's governance arrangements, and made 24 recommendations to address these (see **Table 1**).

The BMF provided in-principle support for the report and identified national priorities. This implementation plan seeks to reaffirm Australian governments' commitment to delivering reforms that will restore the community's confidence in the nation's building and construction industry. It sets out:

- national priority reforms
- a summary of reforms underway in each jurisdiction
- planned reforms and proposed timeframes for each jurisdiction
- industry involvement in the process.

Implementation of the reforms will evolve over time to respond to new, innovative approaches and emerging policy priorities. The BMF is committed to consistent and concerted effort over the next few years to devise and implement comprehensive solutions involving government and industry. As such, this plan will be regularly reviewed by the BMF, with updated reports from jurisdictions provided to the BMF at least annually, or sooner if required.

## Approach to reforms

This document outlines a roadmap for reforms, including target timeframes in each jurisdiction to implement recommendations. This approach acknowledges that implementation and timing will need to be tailored to varying regulatory systems.

It also takes into account that, while all states and territories are committed to making reforms, they are not all at the same stage. Some jurisdictions have regulatory systems that require fewer changes, while other will require more significant reforms to respond to the recommendations.

**Table 1** provides a snapshot of each jurisdiction's position on the recommendations.

Each state and territory chapter provides more detail on reforms that are underway, proposed reforms and implementation timeframes. There is also a chapter on reforms being led by the Australian Building Codes Board (ABCB).

## National priority reforms

The BMF prioritised six recommendations that would benefit from a consistent national approach. These priorities address integrity of building surveyors, responsibilities of design practitioners, and consistent registration and training requirements for building practitioners (recommendations 1, 2, 9–11, and 13).

The ABCB will lead work on a further five recommendations, taking a national approach (recommendations 2, 3, 8, 14 and 22). These recommendations address education and training initiatives, the suitability of the International Fire Engineering Guidelines, the development of Performance Solutions Guidelines, and a national dictionary of terminology.

National does not mean a one-size-fits-all approach—but it does mean all jurisdictions will consider adopting reforms consistent with those in place or proposed in other jurisdictions, to maximise consistency of the overall response.

The Senior Officers' Group (SOG) has scoped the priority projects, based on a comparative analysis of each jurisdiction's regulatory model, to determine the current measures in place that address the recommendations, the extent of differences in legislative/regulatory systems and possibilities for further alignment. Wherever possible, jurisdictions will adopt reforms consistent with those in place or proposed in other jurisdictions.

The coordinating bodies identified in **Table 1** (SOG, ABCB and the Building Regulators' Forum (BRF)) will provide progress reports to the BMF to give confidence to Ministers and the Australian community that systemic issues in the building industry are being addressed in a timely way.

## Industry involvement

The BMF will work closely with industry peak bodies and professional associations to implement recommendations, in particular those addressing professional development, career pathways, post-construction information management and the approval and review of designs/performance solutions (recommendations 3, 4, 15–17, and 20).

Jurisdictions and coordinating bodies will engage industry as needed, including through workshops, reform working groups and written submissions.

## Timeframes

State and territory timeframes take into account factors such as:

- mitigating risks to public safety
- the extent of work required by each jurisdiction to give effect to the recommendations
- the importance of the recommendation to the overarching goal of a more robust regulatory system
- sequencing of work – i.e. whether the recommendation needs to be implemented before, after or at the same time as another one
- industry feedback (and in some cases, research findings).

# Recommendations

Table 1: Snapshot of jurisdiction's positions by recommendation

Building Confidence Report Recommendation	BMF priority	Coord Body	Jurisdiction position							
			S Support NS Not Supported AI Already Implemented			IPS In-Principle Support UC Under Consideration PI Partially Implemented				
			NSW	Vic	Qld	WA	SA	Tas	ACT	NT
1. That each jurisdiction requires the registration of the following categories of building practitioners involved in the design, construction and maintenance of buildings:										
<ul style="list-style-type: none"> <li>• Builder</li> <li>• Site or Project Manager</li> <li>• Building Surveyor</li> <li>• Building Inspector</li> <li>• Architect</li> <li>• Engineer</li> <li>• Designer/ Draftsperson</li> <li>• Plumber</li> <li>• Fire Safety Practitioner</li> </ul>	✓	SOG	PI	IPS	PI	PI	PI	AI	PI	PI
2. That each jurisdiction prescribes consistent requirements for the registration of building practitioners including:										
<ul style="list-style-type: none"> <li>• certificated training which includes compulsory training on the operation and use of the NCC as it applies to each category of registration;</li> <li>• additional competency and experience requirements;</li> <li>• where it is available, compulsory insurance in the form of professional indemnity and/or warranty insurance together with financial viability requirements where appropriate; and</li> <li>• evidence of practitioner integrity, based on an assessment of fit-and-proper person requirements.</li> </ul>	✓	SOG/ ABCB	PI	IPS	PI	IPS	PI	AI	PI	PI
3. That each jurisdiction requires all practitioners to undertake compulsory Continuing Professional Development (CPD) on the NCC.		SOG/ ABCB	IPS	IPS	IPS	IPS	IPS	AI	PI	IPS
4. That each jurisdiction establishes a supervised training scheme which provides a defined pathway for becoming a registered building surveyor.		SOG/ BRF	UC	IPS	AI	IPS	IPS	AI	UC	IPS
5. That each state establishes formal mechanisms for a more collaborative and effective partnership between those with responsibility for regulatory oversight, including relevant state government bodies, local governments and private building surveyors (if they have an enforcement role).		BRF	IPS	S	S	IPS	PI	IPS	N/A	N/A

Building Confidence Report Implementation Plan

Building Confidence Report Recommendation	BMF priority	Coord Body	Jurisdiction position							
			<i>S Support NS Not Supported AI Already Implemented</i>			<i>IPS In-Principle Support UC Under Consideration PI Partially Implemented</i>				
			NSW	Vic	Qld	WA	SA	Tas	ACT	NT
6. That each jurisdiction give regulators a broad suite of powers to monitor buildings and building work so that, as necessary, they can take strong compliance and enforcement action.		SOG/ BRF	AI	IPS	AI	IPS	AI	AI	PI	AI
7. That each jurisdiction makes public its audit strategy for regulatory oversight of the construction of Commercial buildings, with annual reporting on audit findings and outcomes.		BRF	PI	IPS	PI	IPS	IPS	PI	PI	PI
8. That, consistent with the International Fire Engineering Guidelines (IFEG), each jurisdiction requires developers, architects, builders, engineers and building surveyors to engage with fire authorities as part of the design process.		ABCB	PI	IPS	PI	IPS	AI	AI	AI	AI
9. That each jurisdiction establishes minimum statutory controls to mitigate conflicts of interest and increase transparency of the engagement and responsibilities of private building surveyors.	✓	SOG	AI	AI	PI	IPS	AI	AI	PI	PI
10. That each jurisdiction put in place a code of conduct for building surveyors which addresses the key matters which, if contravened, would be a ground for a disciplinary inquiry.	✓	SOG	AI	IPS	AI	IPS	S	AI	PI	AI
11. That each jurisdiction provides private building surveyors with enhanced supervisory powers and mandatory reporting obligations.	✓	SOG	PI	IPS	PI	IPS	UC	AI	AI	PI
12. That each jurisdiction establishes a building information database that provides a centralised source of building design and construction documentation.		SOG	PI	IPS	PI	IPS	S	S	PI	AI
13. That each jurisdiction requires building approval documentation to be prepared by appropriate categories of registered practitioners, demonstrating that the proposed building complies with the National Construction Code.	✓	SOG	PI & IPS	IPS	IPS	IPS	PI & IPS	AI	UC	AI
14. That each jurisdiction sets out the information which must be included in performance solutions, specifying in occupancy certificates the circumstances in which performance solutions have been used and for what purpose.		ABCB	PI & IPS	AI	AI	IPS	PI & IPS	PI	PI	AI
15. That each jurisdiction provides a transparent and robust process for the approval of performance solutions for constructed building work.		SOG	UC	AI	PI	IPS	IPS	PI	UC	AI

## Building Confidence Report Implementation Plan

Building Confidence Report Recommendation	BMF priority	Coord Body	Jurisdiction position							
			<i>S Support NS Not Supported AI Already Implemented</i>			<i>IPS In-Principle Support UC Under Consideration PI Partially Implemented</i>				
			NSW	Vic	Qld	WA	SA	Tas	ACT	NT
16. That each jurisdiction provides for a building compliance process which incorporates clear obligations for the ongoing approval of amended documentation by the appointed building surveyor throughout a project.		SOG/ BRF	IPS	IPS	PI	IPS	IPS	AI	AI	IPS
17. That each jurisdiction requires genuine independent third party review for specified components of designs and/or certain types of buildings.		SOG	IPS & PI	IPS	IPS	IPS	UC	AI	UC	IPS
18. That each jurisdiction requires on-site inspections of building work at identified notification stages.		SOG/ BRF	AI & UC	AI	AI	IPS	IPS	AI	AI	PI
19. That each jurisdiction requires registered fire safety practitioners to design, install and certify the fire safety systems necessary in Commercial buildings.		SOG	PI & UC	IPS	PI	IPS	AI	PI	UC	IPS
20. That each jurisdiction requires that there be a comprehensive building manual for Commercial buildings that should be lodged with the building owners and made available to successive purchasers of the building.		SOG	S	IPS	PI	IPS	IPS	S	PI	IPS
21. That the BMF agree its position on the establishment of a compulsory product certification system for high-risk building products.		SOG	The BMF supports this recommendation, and has directed the SOG to continue its strategic response to this issue. <sup>1</sup>							
22. That the BMF develop a national dictionary of terminology to assist jurisdictions, industry and consumers to understand the range of terminology used to describe the same or similar terms and processes in different jurisdictions.		ABCB	The BMF supports this recommendation and has directed the ABCB to progress this recommendation.							
23. That the BMF acknowledges that the above recommendations are designed to form a coherent package and that they be implemented by all jurisdictions progressively over the next three years.	✓	SOG	The BMF supports these recommendations, as set out in this implementation plan.							
24. That the BMF prioritise the preparation of a plan for the implementation of the recommendations against which each jurisdiction will report annually.	✓	SOG								

<sup>1</sup> SOG [Strategies to address risks related to non-conforming building products: implementation plan](#).

# New South Wales

## Overview

The NSW Government is committed to strengthening the building and construction sector through its announcement on 10 February 2019 of a response to the *Building Confidence* report, which complements other reforms underway in the sector.<sup>2</sup>

The NSW Government is progressing or has already introduced the majority of the reforms outlined in the report, particularly in relation to certification, and has committed to further reform.

The NSW Government will continue to work closely with other jurisdictions to promote best practice across all Australian states and territories.

## Reforms underway

### Introduction of the Building Products (Safety) Act 2017 (the BPS Act)

On 18 December 2017, the NSW Government introduced the BPS Act as part of its 10-point plan for fire safety. The BPS Act provides enhanced powers to monitor and restrict the use of unsafe building products in NSW. The powers under the BPS Act promote the safety of residential, commercial and industrial buildings by enabling the NSW Government to ban the unsafe use of a building product. In addition, the legislation gives councils increased powers to require the rectification of buildings that are a risk to public safety.

On 15 August 2018, the Commissioner for Fair Trading published a building product use ban for aluminium composite panels comprised of a core of greater than 30 per cent polyethylene in any external cladding, external wall, external insulation, façade or rendered finish in certain multi-storey buildings, subject to specific exceptions (the cladding ban).

Under the BPS Act, it is an offence for a person to cause a building product to be used in contravention of the cladding ban. It is also an offence for a person, in trade or commerce, to represent that a building product is suitable for use in a building if that use would contravene the cladding ban.

### Four-point plan to improve the certification industry

On 30 December 2018, the NSW Government announced a four-point plan focussed on compliance and enforcement reforms to improve certification. The four-point plan includes:

- a compliance blitz with 25–30 per cent of the industry to be audited every year
- a new disciplinary policy that will see certifiers penalised for not complying with relevant legislation or negligently signing off on a building which is unsafe or structurally unsound
- better protection for strata buildings, with certifiers unable to work on new strata developments if they have breached the code of conduct in the previous 12 months, regarding building quality and
- increased transparency, which will include more information for homeowners about a certifier's disciplinary record on an enhanced public register, and the provision of information to prospective buyers of off-the-plan developments about a certifier's disciplinary history.

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<sup>2</sup> The NSW Government has released its own [response](#) to the report which is available on the Fair Trading website.

## A new legislative framework for certifiers in the *Building and Development Certifiers Act 2018* (the BDC Act)

The BDC Act delivers on the NSW Government's commitment to overhaul certifier regulation in its response to the statutory review of the *Building Professionals Act 2005* (the 'Lambert Review'). The BDC Act, which will be supported by new regulations, strengthens compliance in the sector by:

- clarifying certifiers' roles and responsibilities through the introduction of a certifier practice guide
- improving the independence of certifiers through revised conflict of interest provisions and attaching penalties to breaches of the code of conduct
- introducing powers for the Secretary to accept undertakings, issue warning notices about non-compliant certifiers, apply for injunctions to the Land and Environment Court, and issue conditions on the suspension or cancellation of a certifier's registration, in addition to conditions on a registration which is in force and
- increasing the maximum penalty for the issue of false certificates from \$30,000 to \$1.1 million and/or two years imprisonment.

## Amendments to the Environmental Planning and Assessment Act 1979 (the EP&A Act)

On 1 October 2017, the NSW Government introduced reforms to the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) to strengthen fire safety regulation and the NSW certification system. Under the EP&A Regulation, an accredited 'competent fire safety practitioner' must be used to:

- endorse plans and specifications for relevant fire safety systems
- endorse fire safety performance solution reports
- endorse exemptions to the Building Code of Australia (BCA) for minor works to existing relevant fire safety systems and
- assess the ongoing performance of essential fire safety measure in a building.

New requirements were also introduced to improve the process for assessing and approving fire safety performance solutions and certain additional mandatory inspections during construction have been specified. In addition, new powers to inspect multi-unit residential buildings projects have been provided to Fire and Rescue NSW.

Amendments to the EP&A Regulation are currently being developed to operationalise the new building provisions in the EP&A Act. This includes revised procedures for issuing occupation certificates and the added flexibility of issuing a compliance certificate as an authorised alternative to an occupation certificate in certain circumstances. Reforms are also proposed to improve principal certifier obligations to proactively manage non-compliances, by providing clarity around the role and functions of principal certifiers and supporting the enforcement role of councils.

## Planned reforms

### The NSW Government response to the *Building Confidence* report

The NSW Government response to the report supports the majority of the report's recommendations and outlines the following specific reforms to require that:

- building designers, architects, engineers and other building practitioners who provide final designs and/or specifications of elements of buildings to declare that the building plans specify a building which will comply with building regulations, including the BCA
- builders declare that buildings are constructed in accordance with the building plans and
- only authorised practitioners who are registered can declare: plans, how any performance solutions comply with the BCA, and that a final building complies with its plans.

The NSW Government will appoint a Building Commissioner to act as the consolidated building regulator in NSW who will investigate and take disciplinary action against practitioners who engage in improper conduct.

The NSW Government will also clarify the law to ensure that building practitioners owe a common law duty of care to owners' corporations and subsequent residential homeowners, as well as unsophisticated development clients, to ensure that they have the right to compensation where a building practitioner has been negligent.

## Timeframes

Reform	Associated recommendation	Timeframe
The NSW Government response to the report	1, 2, 3, 6, 7, 12, 13, 14, 15, 16	Medium to long-term
Four-point plan to improve the certification industry	6, 7, 9, 10, 11	Medium
Development of a new legislative framework for certifiers through the BDC Act and supporting regulations	1, 2, 6, 9, 10, 11	Medium
Amendments to the EP&A Act	1, 5, 8, 11, 12, 14, 17, 19, 20	Competent fire safety practitioner reforms: nil (implemented) Remainder: medium
Introduction of the BPS Act	5, 6	Nil – implemented

## Next steps

The NSW Government will develop the above reforms in conjunction with stakeholder consultation to ensure that these reforms are developed and implemented effectively. Ongoing work will be required to ensure that the reforms can be implemented in the proposed timeframes.

# Victoria

## Overview

The Victorian Government is committed to ensuring Victorians can live in houses, townhouses and apartments that are liveable, safe and compliant. The safety of building occupants is the top priority, which is why Victoria has put considerable focus on the cladding audit and rectification program and establishing a robust regime of proactive inspections of building projects.

The state's principal building regulator, the Victorian Building Authority (VBA), has directed significant resources into increasing its proactive inspection regime so that it will inspect at least 10 per cent of building work each and every year going forward.

The *Building Confidence* report complements the findings of the *Victorian Cladding Taskforce Interim Report*. The recommendations from these reports continue to be a focus for continuing reform. Victoria agrees that more work is to be done to fully respond to the issues affecting the building industry as articulated in these reports to meet community expectations.

The Victorian Government will continue to work closely with other jurisdictions to promote best practice across all Australian states and territories.

## Reforms underway

The Government has been implementing a program of reform since 2015 aimed at improving industry performance and consumer protections.

### Actions to address the non-compliant use of cladding in Victoria

The Victorian Cladding Taskforce was established by the Victorian Government to assess the extent of non-compliant cladding use on Victorian buildings, advise on the rectification of buildings which are identified to have non-compliant cladding and recommend changes to the regulatory system.

On the advice from the Victorian Cladding Taskforce, the Minister for Planning introduced *Minister's Guideline MG-14: Issue of building permits where building work involves the use of certain cladding products* (MG-14). This provides that a building surveyor should not issue a building permit for proposed building work which includes the installation of certain high-risk products unless the Building Appeals Board has determined that the proposed application complies. The *Building Amendment (Registration of Building Trades and Other Matters) Act 2018* provided the Minister the power to ban high-risk cladding products. However, it is considered that a national approach to this issue will be more effective and easier for industry to comply with.

The Victorian Government has also been advocating at a national level for more action on issues related to cladding. As part of this, and following the BMF in February 2019, the Victorian Minister for Planning advocated for more action on issues related to cladding at a national level. Victoria is leading efforts to deliver a national ban on the misuse of combustible cladding products to provide greater certainty. In the interim, Victoria is considering whether MG-14 needs strengthening to respond to emerging product and product certification issues.

## Enhanced enforcement and compliance activities

The VBA, with support from local government, the Metropolitan Fire Authority, the Country Fire Authority and building owners or owners' corporations, prioritised an urgent audit of 1,369 planning permits in response to recommendations made by the co-chairs of the Victorian Cladding Taskforce in their November 2017 interim report.

The VBA has communicated directly with more than 25,000 building practitioners on multiple occasions, to increase awareness of building regulations, to provide advice about the operation of MG-14 and mobilise a specialist team to manage the audit process.

## **Building Amendment (Enforcement and Other Measures) Act 2017 (the 2017 Act)**

The 2017 Act amended the *Building Act 1993* to:

- make reforms to the entry and information-gathering powers of the VBA and municipal councils to facilitate proactive monitoring of compliance and ensure that the entry and information-gathering powers effectively support industry regulation and public safety objectives
- significantly increase penalties for carrying out building work in a manner which does not accord with the building permit or for carrying out work without a permit
- improve the accessibility of building practitioner registration and discipline history to ensure that consumers are better informed
- increase the rigour around the inspection of building work.

## The Victorian Building Regulations 2018

The Building Regulations 2018 came into operation on 2 June 2018. The Building Regulations form an essential part of the overall building control system, underpinning many of the obligations and expectations set in the *Building Act 1993*.

These regulations replaced the previous building regulations and followed an extensive evaluation, review and industry and stakeholder consultation process. They include a significant number of improvements, the most significant of those are:

- establishing clear requirements relating to the assessment of performance solutions by a building surveyor, which require the building surveyor to detail the performance requirements which the performance solution is designed to achieve and detail the method of assessment
- changes to mandatory building inspections, which include requiring inspection of fire and smoke resisting building elements with the aim of improving compliance through the construction phase.

## **Building Amendment (Registration of Building Trades and Other Matters) Act 2018 (the 2018 Act)**

The 2018 Act amended the *Building Act 1993* to:

- establish a framework for the registration of trades and sub-contractors to prescribe types of building work that can only be carried out by people who hold the requisite skills and experience. The objective of this scheme is to facilitate greater accountability for the work being carried out and ensure that appropriate disciplinary actions can be taken for non-compliance. Regulations necessary to support the operation of this change are being developed.

- provide for the Minister to specify classes of buildings for which the VBA can act as a municipally building authority, in particular to manage cladding rectification
- enhance the VBA's enforcement powers, including enabling destructive testing where necessary to assess compliance.

The 2018 Act also provides the framework for Cladding Rectification Agreements, a three-way voluntary agreement between an owner or owners' corporation, lender and municipal council to fund cladding rectification works.

## Planned reforms and timeframes

In 2019–20, the Victorian Government will continue to tackle reform areas which are essential to public health and safety. Priority areas include responding to concerns with gas heaters and carbon monoxide poisoning and ensuring appropriate fencing of swimming pools and spas.

Victoria will initiate work to implement a scheme for continuing professional development for registered building practitioners, licensed building employees and licensed and registered plumbers.

Victoria is also considering ways to provide greater protection for consumers who purchase properties which have defects, including by looking at options to tackle phoenixing activity by developers.

## Next steps

In addition, to the *Building Confidence* report, the Victoria Government has been considering the findings of the *Victorian Cladding Taskforce Interim Report*. Findings from both reports were consistent, in particular finding that there are broad cultural and regulatory issues in the building sector, with systemic failures across:

- the product supply chain from manufacturing, marketing, import, supply, sale and purchase
- the building and construction process from design, specification, procurement, installation, building and construction and maintenance
- regulation itself, particularly in the level and adequacy of compliance and enforcement.

It is this work, in concert with the *Building Confidence* report, which is framing the Government's current consideration of a broader reform program. The Victorian Government will further develop its future reform agenda in conjunction with appropriate stakeholder consultation to ensure that these reforms are developed and implemented effectively.

# Queensland

## Overview

Queensland has an existing, robust regulatory framework and supports the findings and recommendations in the *Building Confidence* report. Through this framework, Queensland has already implemented or partially implemented 16 of the report's recommendations and provides support or in-principle support for the remainder.

The recommendations in the report complement an established reform agenda. The Queensland Building Plan, released after extensive consultation in October 2017, delivered a plan to change culture and practice in the building and construction industry, strengthen the existing system and improve consumer confidence in the industry.

Certification plays a critical role by ensuring buildings are constructed to required standards and are safe to occupy. Queensland has already proposed a reform agenda that will advance confidence in the certification industry.

In January 2019, the Minister for Housing and Public Works, Minister for Digital Technology, and Minister for Sport, announced that reform for building certification was a priority for the Queensland Government and that these reforms would focus on strengthening independence, improving professional standards and compliance, and enhancing regulatory oversight.

Given initiatives already implemented under the Queensland Building Plan—for example, addressing the use of non-conforming building products—and given the state's existing robust regulatory framework, the Queensland Government is well-placed to deliver on all the *Building Confidence* report's recommendations.

A key focus for the BMF has also been non-conforming building products. In 2017, the Queensland Parliament passed the *Building and Construction (Non-conforming Building Products – Chain of Responsibility and Other Matters) Amendment Act 2017* (NCBP Act), which commenced on 1 November 2017. The NCBP Act was the first of its kind in Australia and created a chain of responsibility, placing obligations on participants in the building product supply chain.

The final report of the Senate inquiry into non-conforming building products released on 4 December 2018 recommends that other states and territories pass legislation similar to this law (recommendation 6). The findings of the *Building Confidence* report look across all parts of the industry and the Queensland Government calls on all jurisdictions to do this.

By chairing the SOG, Queensland will continue to play a key coordinating role for the BMF in monitoring implementation of this reform agenda as well as encouraging national consistency where possible and encouraging the use of emerging or 'best practice' models from all jurisdictions.

## Reforms underway and planned reforms

Through its existing robust regulatory framework Queensland has implemented a number of the report's recommendations and through reforms already delivered or outlined in the Queensland Building Plan. A number of the recommendations are supported in-principle as they come with additional costs and will require consultation and regulatory impact assessments.

In 2016, the Queensland Government commenced a comprehensive examination of this regulatory system with a focus on ensuring Queenslanders have the utmost confidence in this state's built environment.

After an extensive and comprehensive public and industry consultation process, the Queensland Government delivered the Queensland Building Plan in October 2017. The reforms identified in this plan aim to strengthen the existing system and improve consumer confidence in the industry.

The recommendations in the report complement the reforms already committed to in the Queensland Building Plan which range through building product safety, security of payments and the important issue of building certification.

### **Building certification reforms**

Queensland proposes to enhance the certification framework by strengthening the independence of the certifier, improving professional standards and compliance and enhancing regulatory oversight. The Queensland Government is considering a range of legislative reforms—to be introduced in a number of phases—addressing such certification issues.

Reforms proposed through the first phase include: encouraging the building owner to be more engaged in the certification process, for example by allowing for the owner to request additional inspections; introducing a demerit point system for certifiers; restricting complaints made against a certifier to those within six years, where there are no health and safety matters involved; and introducing mandatory lapsing periods for building development approvals.

### **Non-conforming building products**

The Queensland Building and Construction Commission (QBCC) now has increased powers to investigate the use of non-conforming building products and take action against non-compliance. If required, the Queensland Minister will be able to issue warnings about products and recall products. Queensland's strong stance on non-conforming building products has set an innovative precedent, with other states and territories investigating ways to follow suit. These powers were exercised in May 2018 to issue a state-wide product recall of Clark Rubber's unsafe pool fence, following an investigation by the QBCC, leading to a subsequent national recall of this particular non-conforming product.

### **Increased powers for the state regulator**

Laws recently passed by the Queensland Government give the independent building industry regulator, the QBCC, expanded powers to uphold compliance and protect consumers and licensees who do the right thing. The QBCC is committed to enhancing confidence in the State's building and construction industry.

### **Recommendation 12**

Queensland supports the development of a Building Information Documentation system as it aligns strategically with both the regulatory role of the state's regulator (the QBCC) and the effective implementation of the Queensland Building Plan. Potential benefits of such a system may include responding to concerns over documented plan variations or changes; ensuring certification inspections are carried out at key stages of design and construction; highlighting architectural or engineering plans in conflict with the NCC and reducing problematic product substitution, during construction. This is also a recommendation where a nationally consistent approach presents real potential.

## Timeframes

Reforms	Associated recommendation	Timeframe
Registration of building practitioners	1	Medium
Consistent requirements for registration	2	Medium
Continuing Professional Development	3	Medium
Career paths for building surveyors	4	Implemented
Improving collaboration between regulators	5	Short
Effective regulatory powers	6	Implemented
Strategy for the proactive regulation of commercial buildings	7	Medium
Collaboration with fire authorities in development of fire safety design	8	Medium
Integrity of private building surveyors	9	Medium
Codes of conduct for building surveyors	10	Implemented
Role of building surveyors in enforcement	11	Short
Collecting and sharing data and intelligence	12	Medium
Responsibility of design practitioners	13	Medium
Adequate documentation for performance solutions	14	Implemented
Approval of performance solutions for constructed building work	15	Medium
Approval of documentation throughout the construction process	16	Medium
Independent third-party review	17	Short
Mandatory inspections	18	Implemented
Inspection and certification of fire safety systems	19	Short
A building manual for Commercial buildings	20	Medium
Building product safety	21	Short
Dictionary of terminology	22	Short
Implementation of the recommendations	23	Short
Implementation Plan	24	Short

## Next steps

Reforms outlined in the Queensland Building Plan and in response to this report see a multi-year delivery program requiring a combination of consultation, administrative, regulatory and legislative amendments to support a change of practice and culture in the building and construction industry.

# Western Australia

## Overview

The Western Australian Government supports the recommendations in the *Building Confidence* report (BCR). It is committed to address the shortcomings identified in the regulation of the building and construction sector.

Consequently, Western Australia has initiated three distinct projects to consider options for reform:

1. review of the residential building approval process (BCA Class 1a and 10)
2. review of registration requirements for the building industry and
3. review of the commercial building approval process (BCA Class 2 to 9).

These projects will consider most of the BCR recommendations. The recommendations pertaining to addressing conflict of interest issues between private building surveyors and developers/builders in jurisdictions that have “full private certification” will be considered, once the ongoing review of the residential building approval process has been completed.

Western Australia will continue to work with other jurisdictions on priority areas of reform.

## Reforms underway

In December 2018, the Western Australian Government amended the Building Regulations 2012 to require “all external walls to meet the non-combustibility requirements of the Deemed-to-Satisfy provisions of the NCC”. The amended legislation effectively prevents the use of ‘performance solutions’ wherever the NCC requires external walls to be non-combustible. Performance solutions can only be used when:

- the solution is verified using the Verification Method CV3 in Amendment 1 of the NCC or
- the Building Commissioner has provided an exemption for a specific building.

These changes address the risk of fire spread via a combustible cladding as well as the risk of fire spread via any other components of the external wall such as combustible insulation.

Western Australia is also undertaking a review of the building approval process for residential buildings. The BCR recommendations as applicable to residential dwellings are being considered as part of this initiative.

## Planned reforms

### A review of the residential building approval process

A consultation regulatory impact statement on improving the building approvals process for single residential dwellings (BCA Class 1a and 10) is being prepared. It will consider three options: the status quo, full private certification with all the safeguards recommended by the BCR and options to improve the current system.

## A review of registration requirements for the building industry

The BCR has proposed extensive changes to registration requirements for a range of occupations. Western Australia has commenced a two-stage review which will consider the BCR recommendations. It will also examine the current registration requirements for registered building practitioners.

Stage 1 will review registration requirements for builders and building-related engineers. Stage 2 will consider the introduction of registration of building designers and changes for architects. Stage 2 will also examine the registration requirements for building surveyors.

## A review of the commercial building approval process

Western Australia is planning to commence a review of the commercial building approvals process for BCA Class 2 to 9 around June 2019.

## Timeframes

Many BCR recommendations involve amendments to Western Australian statutes. As a result, regulatory impact assessment processes and state-based consultation will need to be undertaken and approval by the WA Cabinet and Parliament sought.

Reform	Associated recommendation	Timeframe
Review of the residential building approval process	1 (building inspectors), 6, 9, 11, 13–16, 18.	Medium to long-term
Review of registration requirements for the building industry	Stage 1 will consider 1–3, 6 and 13 (builders, engineers) Stage 2 will consider 1–4, 6, 9–11 and 13 (building surveyors, architects, building designers).	Medium to long-term
Review of the commercial building approvals process	1 (fire safety practitioners), 6, 8, 12–20.	Medium to long-term

A public audit strategy for regulatory oversight of BCA Class 2 to 9 buildings is under development (recommendation 7). Western Australia is also looking at the feasibility of a centralised “building permit database” which will consider recommendation 12 of the BCR.

## Next steps

The Western Australian Government will consult extensively with stakeholders throughout the above reforms.

As next steps, consultation regulatory impact statements will be released on the following:

- review of the residential building approval process
- review of the registration requirements for the building industry for builders
- review of the proposed registration requirements for building-related engineers and
- review of the commercial building approval process.

# South Australia

## Overview

The South Australian Government is committed to ensuring that the built environment is safe, healthy and liveable for all South Australians now and into the future. The safety of building occupants is the top priority, which is why South Australia is continuing to audit buildings that may be clad with aluminium composite panels, has adopted legislation aimed at improving practitioner accountability and is developing a risk-based proactive inspection regime.

These measures, along with a number of other complementary measures outlined below, form the basis of South Australia's ongoing response to the *Building Confidence* report and build upon recent reforms such as the *Development (Building Cladding) Variation Regulations 2018*, which address shortfalls with building documentation, notifications prior to building work commencing and the substitution of building products.

The South Australian Government will continue to work closely with other jurisdictions to promote best practice across all Australian states and territories.

## Reforms underway

### Improved building controls to deliver a safe, high-quality built environment

The new *Planning, Development and Infrastructure Act 2016* (PDI Act) introduces a number of changes to the way that building and construction is undertaken in South Australia and aims to ensure that the standards of assessment and compliance activity undertaken by practitioners in the building sector are improved.

### A new accredited professionals scheme

On 1 April 2019, a new accredited professionals scheme will take effect in South Australia. The new Scheme aims to improve the accountability of decision-makers in the development system and will ensure that decision-makers are appropriately qualified to make key decisions and that a high standard of ethical conduct and professionalism is met. An improved code of conduct—which builds on the existing ICAC provisions—will provide an additional integrity threshold.

Under the new Scheme, building professionals who are involved in assessing development applications will be expected to maintain minimum standards of professional practice, hold all necessary insurance, comply with an improved code of conduct, participate in annual technical and administrative compliance checks and undertake specified units of continuing professional development.

The new Scheme will also include revised procedures for complaints and investigations.

### Revision of building regulations

In January 2019 the draft *Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019* were released for public consultation. The Regulations broadly set out the operational requirements for the development assessment system in South Australia.

The Regulations will be amended by way of a staged process, with the initial draft changes aimed at addressing regulatory gaps and clarifying the roles and responsibilities of parties to an application. Proposed changes include:

- additional expiation fines and increased penalties for failure to provide mandatory notifications, essential safety provisions and Statements of Compliance
- a Certificate of Occupancy for new houses
- requirements for applications to provide comprehensive detail about the owner, the builder and the private certifier prior to the application progressing.

Consultation on the draft Regulations closes on 1 March 2019, with a scheduled implementation date of 1 July 2019.

## Planned reforms

### Creation of new Council inspection policies

A state-wide Council inspection policy will be developed by the State Planning Commission to ensure a more consistent and increased level of compliance across the State. These will be tailored to meet a range of Council requirements. This will build on existing requirements to inspect swimming pool safety barriers and roof trusses.

These policies are expected to be in place by July 2020.

### Accreditation of additional building professionals

Further consideration will be given to the role that engineers and fire safety practitioners should play in the design, assessment, inspection and sign-off of buildings, particularly buildings with a high-risk occupancy profile. This will build on existing requirements for sprinkler installers to be licensed with Consumer and Business Services.

### Revision of building regulations

Further regulatory reforms will focus on:

- prescribing documentation that must be submitted to justify performance-based solutions
- greater clarity about post-approval processes and responsibilities.

### Delivery of the state-wide ePlanning platform for development assessment

South Australia will shortly move to a system where all development applications across the State will be lodged via the SA Planning Portal. The portal will become the ‘one-stop-shop’ for building practitioner registration, building approvals and building inspection records. All Ministerial Building Standards, building regulations and council inspection policies will also be housed on the SA Planning Portal which is due for implementation from November 2019.

Improved monitoring and reporting through new performance indicators will be part of the ePlanning platform, which will provide improved transparency around the effectiveness of the building system and the ability to monitor policy and practitioner trends.

## Timeframes

Reform	Associated recommendation	Timeframe
Accredited professionals scheme	1, 2, 3, 4, 9, 10, 13, 17, 19	Medium to long-term
Revision of building regulations	5, 8, 14, 15, 16, 20	Short to medium-term
Creation of new Council inspection policies	6, 7, 11, 18	Short term
Delivery of the state-wide ePlanning platform for development assessment	1, 8, 12	Medium to long-term

## Next steps

The South Australian Government will develop the above reforms in conjunction with key stakeholders to ensure that the reforms are developed and implemented effectively. Ongoing work will be required to ensure that the reforms can be implemented in the proposed timeframes.

# Tasmania

## Overview

During 2015–16 Tasmania undertook a building reform program that resulted in the *Building Act 2016*, which came into force on 1 January 2017. Many of the recommendations from the *Building Confidence* report were implemented through the *Building Act 2016*, the *Occupational Licensing Act 2005* and associated regulations. Recommendations 1–4, 7–11, 13 and 15–18 have been fully implemented under either one of these Acts. Priority recommendations set by the BMF (1, 2, 9–11, 13 and 24) have been fully implemented in Tasmania and recommendation 23 is fully supported.

Work is continuing on recommendations that have either been partially implemented or supported. Tasmania is currently supporting reforms to the implementation of a nationally consistent model, and is participating in SOG working groups for the priority recommendations.

## Reforms underway

Work is currently underway to fully implement the recommendations that have already been partially implemented in Tasmania. Tasmania does have licensing requirements for most of the practitioners involved in building work, but not for building inspector and site/project manager. The category of Building Inspector has been drafted and is currently in stakeholder consultation. The category of site/project manager will be considered at a later stage, although the licensing requirements for builders is considered to adequately address this need in the short-term.

To implement recommendation 12, funded work has commenced on the development of an online portal that will result in a database of building work in Tasmania and is expected to be online in 2021.

During the reform program in 2015–16, the proposal of a building manual for commercial buildings was not adopted, however, the work will now be used to implement recommendation 20.

Inclusion of performance solutions information on occupancy permits is supported and the implementation is under review.

Tasmania has implemented a process that requires specified high-risk building products to undergo a state accreditation process. In support of recommendation 21, Tasmania will continue to work at a national level for a consistent approach to be adopted nationally.

## Planned reforms

Reforms are currently being implemented or considered in the remaining five recommendations that Tasmania supports. Some of these recommendations will require a national approach.

Reforms are being considered for a more collaborative approach between relevant bodies with regulatory oversight. A working group was established during the reform program in 2015–16, comprising state and local government, industry and the Tasmanian Fire Service. Whilst these working groups have continued during the implementation of the reforms, a more structured framework for the ongoing activities will be established.

Support will be given to the creation of a national dictionary of building terminology through involvement in the ABCB Board and building/plumbing codes committees. Tasmania will continue to work through the BMF and SOG to implement the recommendations of the *Building Confidence* report.

## Timeframes

Reform	Associated recommendation	Timeframe
Building Inspector Licence	1	Short term (2019)
Online Building Portal	12	Long term (2021)
Performance Solutions/Occupancy Certificates	14	Short term (2019)
Commercial Building Manual	20	Long term (2021)
High Risk Building Products	21	Medium to long-term

## Next steps

- Stakeholder feedback and consultation is ongoing through industry forums and continuing professional development events.
- An additional licensing category of building inspector, supervised by a building surveyor, is under consideration and out for stakeholder feedback.
- Tender for the next stage of the Planning and Building Portal project.
- Development of requirements for the inclusion of performance solution information on occupancy certificates.

# Australian Capital Territory

## Overview

The ACT Government completed a review of its building regulatory system in 2015 (the Review). As a result of the Review, the Territory has implemented, and continues to implement, reforms to strengthen the integrity of the system. The ACT Government has delivered and is progressing a range of reforms that respond to the recommendations of the *Building Confidence* report.

The current *Improving the ACT Building Regulatory System* program includes a comprehensive set of reforms targeting issues such as design and documentation, practitioner regulation, supervision and regulatory oversight of building projects, client protections such as insurance and warranties, dispute resolution and contracting practices. The ACT Government will continue to work closely with jurisdictions on best practice.

## Current system and completed reforms

The ACT's building regulatory system already includes many of the powers and processes suggested in the Building Confidence Report. Some of these have been in place for many years, while others have been introduced as a result of the ACT Review. Reforms to date include:

- expanded powers for the regulator to refuse or condition a construction licence
- new powers to require licensees to undertake skills assessment
- a framework for the regulator to direct construction licence holders in particular licence classes to undertake specified training
- new offences and increased penalties for failing to comply with the ACT Building Act, building code and with a rectification order
- creation of a public register of disciplinary information about licensees
- improved information gathering powers for investigators.

Under the current reform program the ACT Government has also:

- made further restrictions on the types of qualifications and experience required to gain an ACT building licence
- introduced new provisions and powers to help prevent 'phoenixing' in ACT construction licensees and people shifting their operations between existing licences
- clarified the roles of building certifiers and the obligations of corporate and partnership construction licensees in legislation
- created new grounds for occupational discipline and automatic suspensions of a construction licence
- expanded statutory warranties to all residential buildings
- increased maximum payments that can be imposed in an occupational discipline order
- introduced new reporting related to changes in a licensee's eligibility, including on financial grounds.

Following a pilot of licence exams for certain residential builder licences, the ACT Government has extended licence examinations to the main builder licence categories. This means that all applicants for a new ACT licence will need to pass an examination before they are issued a licence.

The examinations cover the licensee's obligations under building laws and fundamental skills such as the ability to read and interpret legislation and technical documents applying to building work. Examinations can also be applied to existing licensees at the time of renewal, particularly licensees with rectification orders or whose work is not compliant with building standards.

In addition to the reform agenda, the ACT Government has improved the way that compliance is monitored on building work and how complaints about building work are managed. Government building inspectors attend the sites of complaints usually within five days, to quickly determine if further action is necessary.

## Planned reforms

Priority reforms for 2019 include:

- new information and documentation guidelines for building approval applicants (relevant to recommendations 13 and 14)
- codes of practice for builders and building surveyors to improve supervision and consistency in stage inspections during construction (relevant to recommendations 9, 10, 16 and 18)
- education and training courses for practitioners on the ACT building regulatory system and building standards (relates to recommendations 1, 3 and 4) and
- rolling out a new risk-based auditing system (relates to recommendations 6 and 7).

The ACT Government will also consult further on licensing scopes, insurance and accountability of design practitioners preparing plans, specifications and other reports for building approvals (relates to recommendations 1, 2, 13, 17 and 19). It will also consider additional powers and protections to address problems with defective work, including licensees winding up or discontinuing their business without rectifying substantial defects (relevant to recommendations 6 and 7).

In relation to recommendation 15, which is to provide a process for the approval of a performance solution for constructed building work, in the ACT's system a building approval is for proposed building work and cannot be issued retrospectively. This recommendation will be considered in relation to processes for final certification of buildings with unapproved work.

The ACT has an existing database where all building approval documents and a range of certificates and inspection information is stored (recommendation 20).

With one level of ACT Government and one building regulatory agency, the ACT considers that establishing further regulatory bodies (recommendation 5) is not needed in the Territory.

## Timeframes and next steps

All reforms in the current *Improving the ACT Building Regulatory System* program will be completed by mid-2020. Upgrades to the existing database to capture additional information on building projects are expected to be completed in the medium term.

Further information on the ACT's reforms including alerts about opportunities for input can be found at:

[https://www.planning.act.gov.au/topics/current\\_projects/act\\_building\\_regulatory\\_system\\_review](https://www.planning.act.gov.au/topics/current_projects/act_building_regulatory_system_review).

# Northern Territory

## Overview

The Northern Territory Government is committed to providing a robust building regulation system based on best practice. Significant reforms were undertaken in 2016 to improve compliance outcomes, and work is being done to identify ways to further enhance the system using a risk-based and outcome-focussed approach.

Consultation with local industry regarding the *Building Confidence* report in late 2018 showed that stakeholders recognise that reform is required and that an industry-wide approach is preferred.

## Reforms underway

Work is underway to review frameworks relating to enforcement that will be viable if implemented in the context of a small jurisdiction.

## Planned reforms

Recommendations 1, 2, 7, 9, 11 and 18 have been partially implemented already. Implementation of recommendations 3, 4, 16, 17, 19 and 20 is supported in-principle. Of those, recommendations 1, 2, 3, 19 and 20 will require a nationally harmonised response and the NT is committed to working with the SOG, BRF and ABCB.

Reforms to fully implement remaining recommendations 4, 7, 9, 11, 16, 17 and 18 on a risk-based and outcome-focussed basis will be developed by reviewing frameworks in other jurisdictions that have already implemented those recommendations.

## Timeframes

The reforms below will require detailed policy investigation and development in the short to medium-term and legislative reforms will be implemented in the third year of the implementation plan to allow for further consultation with industry and the normal legislative amendment process to take place.

Reform	Associated recommendation	Timeframe
Registration and training of practitioners	1, 2, 3 and 4	Long-term
Roles and responsibilities of regulators	7	Long-term
Integrity of building certifiers	9 and 11	Long-term
Adequacy of documentation and record keeping	16 and 17	Long-term
Inspection regimes	18 and 19	Long-term
Post-construction information management	20	Long-term

## Next steps

The Northern Territory Government has commenced investigations and policy development for the identified reforms above and will prepare a building reform package for industry and community consultation in the latter half of 2019.

# Australian Building Codes Board (ABCB)

## Overview

Whilst not a regulator in its own right, the ABCB plays a key role in national infrastructure for building regulation, helping support decisions of the BMF and acting as a COAG reform vehicle.

As part of its consideration of the *Building Confidence* report and having regard to the charter of the ABCB, the BMF requested that the ABCB conduct work in relation to five of the report's recommendations, in coordination with the SOG, as outlined below.

This work will align with the strategic priorities of the ABCB, which include improved safety and code compliance, and a well understood and utilised code, through improved NCC access, awareness, understanding and use.

## Reforms underway

### Education (parts of Recommendations 2 and 3)

Work is underway to scope an enhanced education and awareness program. This project will look to develop digitally focused resources for Continuing Professional Development (CPD) units targeting existing practitioners in the building and plumbing sectors. This complements existing work by the ABCB to improve base level understanding of the NCC through free online access to the code, generic supporting materials, seminars and base level NCC education materials.

This would be expanded to include NCC curriculum content for relevant vocational courses, coordinated with professional membership organisations responsible for accrediting these courses.

Through this work a foundation can be laid for establishing core competencies in the application of the NCC, which can be linked by the states and territories to licencing and registration of practitioners.

### International Fire Engineering Guidelines (IFEG) (Recommendation 8)

A review of the IFEG, which established acceptable practice for documenting fire safety Performance Solutions, has commenced. As part of this exercise, it has been agreed in-principle that the process for developing Performance Solutions contained in the IFEG could be referenced in the NCC Governing Requirements. This would help establish minimum levels of documentation, as well as greater consistency, in the preparation of Performance Solutions. In parallel but separate to this work, the IFEG will be updated with international contemporary guidance to ensure its ongoing suitability for use in Australia.

### Development of Performance Solutions Guideline (Recommendation 14)

The *Building Confidence* report noted that the standard of documentation supporting Performance Solutions is poor. Recommendation 14 states: "That each jurisdiction sets out the information which must be included in performance solutions, specifying in occupancy certificates the circumstances in which performance solutions have been used and for what purpose."

To implement this recommendation, the report suggests there should be a national best practice guide for documenting Performance Solutions that could be adopted by jurisdiction and given legislative force. In response and having regards to the IFEG work, it is intended to refine the ABCB's existing '*Development of Performance Solutions Guidelines*' with the intention of jurisdictions agreeing to its use as a national template.

## National Dictionary of Terminology (Recommendation 22)

To deliver on recommendation 22, it is intended to expand the scope of an existing project between the ABCB and Standards Australia, which involves developing a national dictionary of terminology for NCC defined terms and referenced standards. A proto-type tool has been developed to highlight current terminology inconsistencies and is expected to be released for broader testing/exposure shortly.

A subsequent body of work to consolidate terminology amongst the states, territories and the NCC, to be led by the ABCB, will follow, which will necessitate coordination with SOG to achieve national consistency.

## Planned reforms

### Education

As part of the enhanced education and awareness work the ABCB is looking to explore partnership opportunities for developing content for CPD units with relevant industry bodies and options for input into relevant course curriculum.

## Timeframes

Reform	Associated recommendation	Timeframe
Developing curriculum, tools and online resources to assist engaging and training practitioners on the operation of the NCC, including developing CPD units on the NCC	2,3	Short term
Review and update (as necessary) the International Fire Engineering Guidelines (IFEG) to align with contemporary practice and investigate if the ‘Development of Performance Solutions Guideline’ document could be used as a national template for developing Performance Solutions.	8, 14	Short term
Develop a digital platform between the NCC and referenced standards and develop a national dictionary of terminology	22	Medium term

## Next steps

- Finalise the scope of the enhanced education and awareness program for ABCB and BMF endorsement. Pending this endorsement, commence a development and implementation program from 2019–20.
- Review IFEG and develop draft Code provisions for consultations, and consider for inclusion in NCC 2022.
- Produce State 1 consolidation and consistency of terms and definitions for consultation, and consider for inclusion in NCC 2022; and commence analysis and dialogue with states and territories on Stage 2 consolidation and consistency of terms and definitions.