

BCR Implementation Team
Australian Building Codes Board

Submitted via online portal

Dear BCR Implementation Team

Submission in response to the Australian Building Codes Board *Discussion paper: National Registration Framework for Building Practitioners, August 2020*

The Professional Standards Councils of each state and territory welcomes the opportunity to make a submission to the Australian Building Codes Board's (ABCBB) discussion paper on a draft National Registration Framework (NRF) for Building Practitioners. The Councils support the objectives of the draft NRF. What follows are some ideas about how the Councils can use their legislative mandate¹ to help enhance public confidence in the building industry and bolster the benefits of an NRF. The Councils consider that occupational licensing is more effective when it is supported and reinforced by robust professional standards regulation.

Professional standards regulation

The Councils suggest that statutorily based professional standards schemes operated by occupational associations can complement the registration of building practitioners as formulated in the draft NRF. A professional standards scheme is a disallowable instrument underpinned by an occupational association's commitments to monitor, enforce and improve the professional standards of its members.

Professional standards schemes enable occupational associations to proactively identify, regulate and address competence and conduct issues by improving professional standards that better protect consumers in line with the expectations of the wider community.

Professional standards schemes are direct consumer protection mechanisms. In 1994, when the original legislation was introduced in the NSW Parliament, the Minister stated:

“There will be considerable benefits to consumers from choosing to deal with a professional who is part of a scheme under the legislation. First, the consumer will be certain that the professional holds appropriate indemnity insurance and, in the event, that a claim arises, the consumer will know that there are funds available to meet the claim. Second, the consumer will be sure that the professional is a participant in ongoing risk management strategies. Third, the consumer benefits by having recourse to a complaints system in the event of being dissatisfied with the professional's service”.²

A central feature of the professional standards regulatory system is the collection of comprehensive data on a profession-wide basis about claims and complaints, enabling risk

¹ Under professional standards legislation of each state and territory; for example, *Professional Standards Act 1994 (NSW)*

² New South Wales, Parliamentary Debates, Legislative Council, 14 September 1994, (J P Hannaford, Attorney General, Minister for Justice, and Vice President of the Executive Council).

management strategies to systemically improve professional practice and reduce the risk that consumers will suffer loss. Schemes aim to sustain and embed improvements in professional standards so that members of occupational associations are held accountable. It requires and encourages associations and their members to implement a range of measures to improve professional standards and practices – from effective risk management strategies, to codes of ethics and complaints handling systems – for better consumer protection.

Professional standards regulation by occupational associations has an important role to play alongside occupational licensing. It can have a fortifying effect on the competence, conduct and culture of building professionals.

National consistency

The Councils note that the NRF is not proposed to be required to be adopted and implemented in its entirety or pure form. The Board's Discussion Paper advocates strongly for national consistency by, *inter alia*, adopting 'industry accreditation schemes' (at page 8) to respond to local building regulation issues. The national system of harmonised professional standards legislation can facilitate national consistency through multi-jurisdictional coverage and co-ordination of responsibilities across jurisdictions.

Incorporating reliance upon practitioner participation in an approved professional standards scheme in the eligibility arrangements for registration presents opportunities to:

- reduce duplication of compliance requirements across multiple regulators in their relevant jurisdictions, and their attendant costs
- strengthen practitioner accountability and enforcement measures
- remove undesirable complexity to encourage proactive industry participation
- introduce the benefits of a continuous improvement approach to setting and raising occupational standards so that consumers are better protected.

At present the RICS Valuers (RICSV), the Australian Property Institute Valuers Limited (APIV) and Association of Consulting Surveyors (ACSN) are the only associations operating schemes across the built environment. Other associations, such as the Australian Institute of Building Surveyors (AIBS) and the Association of Accredited Certifiers (AAC) have issued public statements which express their intentions to apply for a scheme. It is noted that AIBS and AAC are accreditation bodies, who oversee the administration of 'industry accreditation schemes'.

Improving competence, conduct and culture

While the draft NRF is focused on regulating eligibility as well as right and scope of practice, the professional standards regime is focused on rewarding good behaviour and delivering continuous improvement in the professional standards of practitioners. The Councils submit that the professional standards regime offers a complementary and effective vehicle to meet increased public demand for robust consumer protection and towards professionalising industry occupations through proactive self-regulation.

Occupational associations lead the culture of their membership through peer accountability and proximity to those delivering professional services. In a rapidly changing industry

environment, occupational associations are uniquely placed as a regulator of their members to identify emerging competence and conduct issues through statutorily mandated risk management reporting and other regulatory initiatives. Associations are then well-equipped to deliver flexible and efficient risk responses which are in line with the interests of the public.

Professional indemnity insurance

The draft NRF does not deal with professional indemnity insurance for building practitioners.

A central feature of a professional standards scheme is the mandatory requirement for practitioners subject to the scheme to hold professional indemnity insurance to the standard established by the occupational association and supervised by the Councils.

Industry consumers can then be assured that, wherever they are in Australia, in the event that a claim arises, there are funds available to meet the claim, and that practitioners are subject to risk management systems so that failures in professional standards that may give rise to claims for negligence are reduced in future.

Further information

We commend the professional standards regime to you as a potentially powerful part of the regulatory architecture needed to enhance public trust and confidence in the building industry through effective regulation of practitioners. Further information about the Councils' role and the national system of professional standards regulation is available at: www.psc.gov.au.

The Professional Standards Authority is available to discuss this submission and how we may be able to be of further assistance. Please contact me by telephone on <<redacted>> or by email at <<redacted>>.

Yours sincerely

Roxane Marcelle-Shaw
Chief Executive Officer
on behalf of the Professional Standards Councils

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