



## Building Confidence

Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia

Peter Shergold and Bronwyn Weir

February 2018

# Building Confidence Report Update on Progress

Bronwyn Weir

Building Products Industry Council

Industry Leaders Briefing 2022

19 May 2022

# Overview

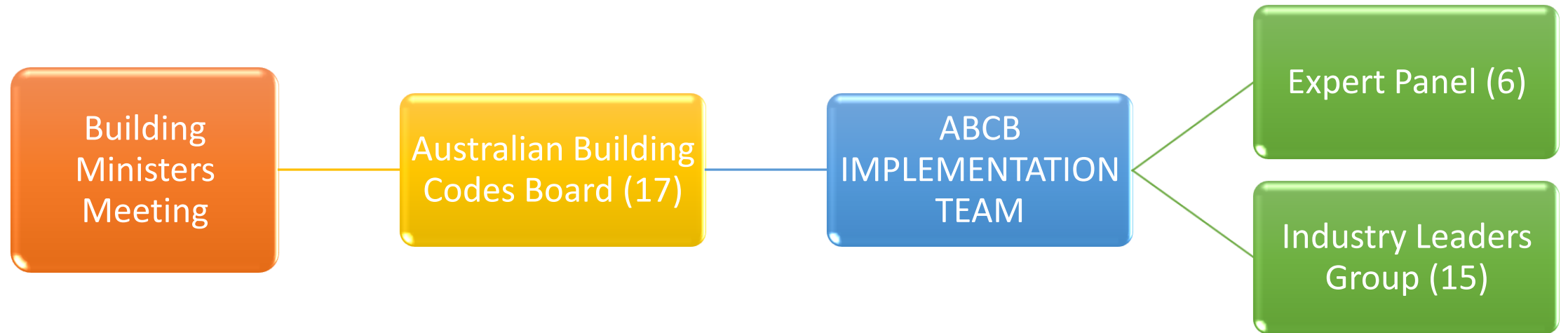
- What's happened since Feb 2018?
- The ABCB's model guidance
- Progress by each government
- What it means for the building products industry
- UK update



# What's happened since the BCR was issued?



# July 2019 – Ministers established BCR Implementation team



“Developing and reporting on a National Framework for the implementation of the BCR recommendations as well as the design, construction and certification of complex buildings”



# Work of ABCB BCR Implementation Team

- Completed December 2021
- 19 Outputs - <https://www.abcb.gov.au/initiatives/bcr/bcr-outputs>
- Frameworks e.g.
  - National Registration Framework
  - Building approvals processes
  - Regulatory practice
- Codes of conduct – building surveyors and fire safety engineers

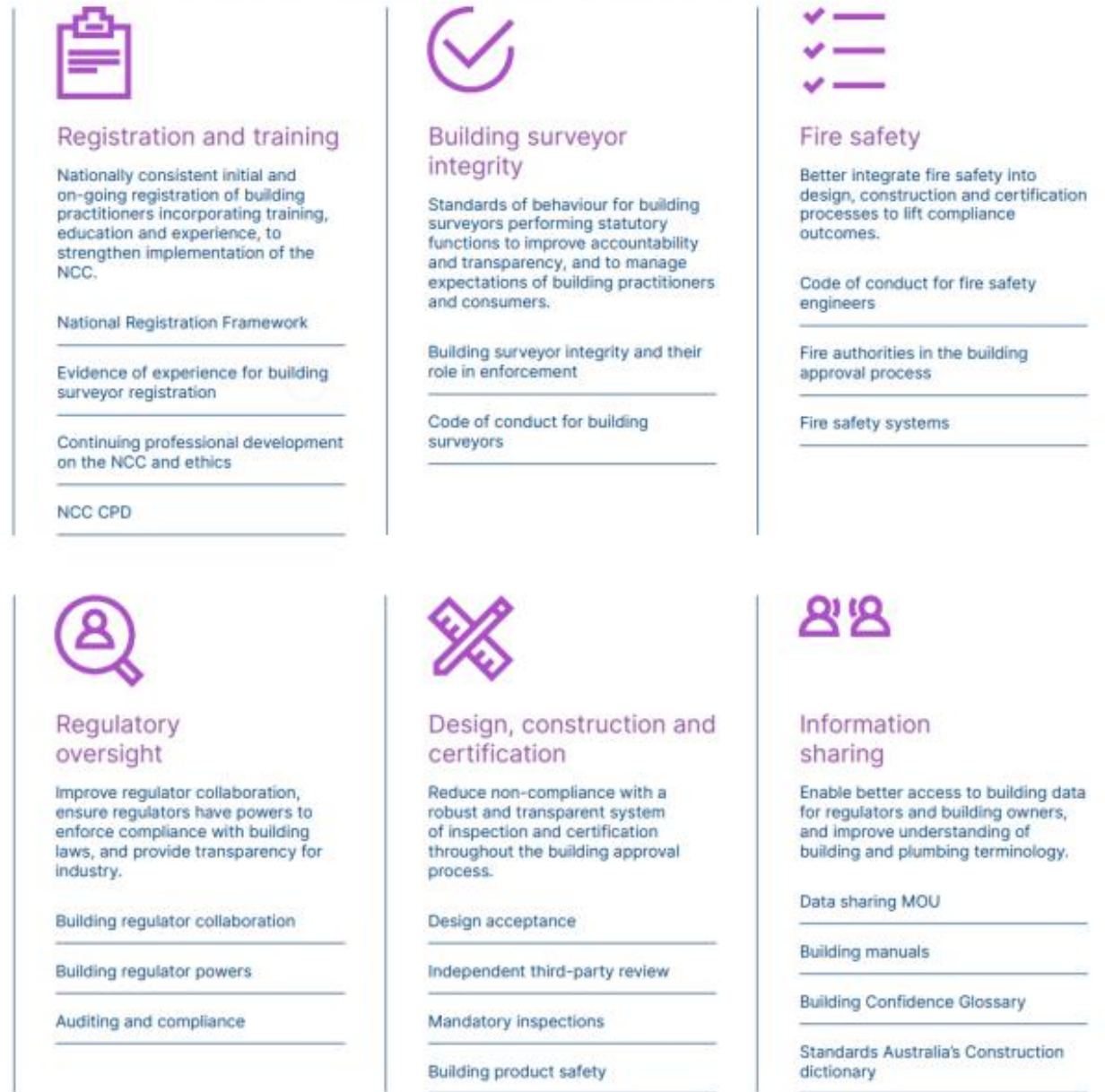


REPORT

## Building Confidence Report

A case for intervention

Figure 1 Building Confidence Implementation Framework - Outputs





Progress by  
each  
government

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# High level analysis



## Delays in implementation

- Using up 'tolerance' for reform on other policy priorities (cladding, trades reg, security of payment, consumer protection)
- Conducting their own reviews – which have tended to say BCR should be implemented
- Possibly thinking they have meet recs when they haven't
- Lack of transparency about not wanting to implement certain recs
- Were waiting for ABCB to finish its work
- COST to government!! – funding models

# High level analysis



| Recommendations   | Comments   |
|---|--|
| Rec 1& 2 – nationally consistent registration scheme – National Registration Framework now published showing entry requirements for each of the proposed categories | Qld, Vic and Tas have broad schemes but none match the NRF –<br>NSW – have added engineers/designers |
| Rec 3 – Compulsory Professional Development   | Tasmania – others talking eg Qld pilot<br>NSW making good progress on content                        |
| Rec 4 – supporting career pathways for buildings surveyors/certifiers   | Vic, Tas and Qld? – new programs   |
| Rec 5, 6, 7, 9 & 11 – Regulating more effectively with a focus on commercial (class 2) including recalibrating the role of private certifiers                       | NSW and Victoria – increased efforts bit with very different programs<br>WA & Qld – worth a mention  |
| Rec 8 – role of fire authorities & code of conduct for fire safety engineers  | No changes yet   |
| Rec 10 – Code of conduct for Building Surveyors/Certifiers  | All – new or refreshed, WA has draft out   |



# High level analysis



| Recommendations   | Comments   |
|---|--|
| Rec 12 – centralised digital lodgement of building approval docs    | NSW, SA, Tas – ACT & NT were already doing it  |
| Rec 14 & 15 – tackling abuse of the performance based code          | NCC – most require PS to be highlighted and documented – enforcement?  |
| Rec 13, 16 – tackling abuse of the D&C contracting model            | NSW (ACT?)   |
| Rec 17 – Mandatory independent third party review of complex design | NT – first movers  |
| Rec 18 – Mandatory inspections of complex buildings                 | Some talk but no action  |
| Rec 19 – mandating the role of fire safety practitioners            | Qld & NSW some way – NSW more changes coming   |
| Rec 20 – Building manual  | NSW, Vic, WA – talking about it  |
| Rec 21 – Regulation of building product safety                      | NCC evidence of suitability provisions<br>No change to voluntary product accreditation framework<br>Massive gap – Qld out front with supply chain laws, no followers |



# Western Australia

<https://www.commerce.wa.gov.au/building-and-energy/building-industry-reforms-our-work-national-building-confidence-report>

- **Consultation Regulatory Impact Statements**
  - Single residential buildings – private certification (closed Dec 19) – decided not to move to ‘full’ private certification
  - Approvals process for commercial buildings (Closed June 20) – further paper under development
  - Registration of builders, supervisors and project managers (closed Jan 21)
  - Registration of engineers (closed Dec 20)
- **April 2022 – Decision that WA will move to registration of engineers – likely to take 3-5 years**
- **5<sup>th</sup> Discussion paper due soon - recs 1, 6, 13-18, 20 – maybe over next 12 months a decision on reforms for these recs will be made**
- **Draft Code of Conduct for building surveyors – very close to National Model Code**



# Western Australia – Regulatory Practice



Government of Western Australia  
Department of Mines, Industry Regulation and Safety



## Audit priorities statement 2021–2022

**Building and Energy Audit Strategy**  
Taking a risk-based approach to  
minimising harm



- 2021-22 Audit strategy published
  - Class 1 – roof tiedowns and frames (44 inspections)
  - balustrades – class 1a, 2 & 3
  - passive fire – class 2
  - management & supervision questionnaire on renewal of reg
  - Building surveyors – 80 certificates





Off-the-plan developments have garnered a lot of criticism based off the faults of a few developments, but one man is hoping to change that. Photo: Peter Rae


# Meet the man on a mission to restore buyers' trust in off-the-plan homes

SUE WILLIAMS DOMAIN REPORTER | SEP 24, 2021

**f** To some, he's a knight in shining armour. To others, he's the devil incarnate.

**t** But wherever anyone stands on the rampaging NSW Building

PREMIUM




**David Chandler OAM**  
NSW Building Commissioner at NSW Department of Customer Service

[View full profile](#)

**David Chandler OAM** • 1st  
NSW Building Commissioner at NSW Department of Customer Service  
2w • 🌐

Did you get your Construction Management degree in an Easter show bag? I put this question to a young site manager this week just after he and his project manager had given our NSW [#FairTrading](#) Inspectors a safety site induction spiel. The usual suspects were in attendance including the developer, building company proprietor, structural engineer, certifier and site staff. The usual exchanges of how glad they were we had come and how committed to the [#CONSTRUCTNSW](#) reforms they were. Its nearly 3-years since the reform journey commenced. Despite it being well known that site managers normally get drilled about their



**David Chandler OAM** • 1st  
NSW Building Commissioner at NSW Department of Customer Service  
21h • 🌐

There's not much left on the carcass after some [#lawyers](#) are finished. We regularly get messages from lawyers that yet another developer or builder has gone belly up. Unfortunately that is long after they have chewed the carcass to a point where there is little or no meat left on the bone. Often these lawyers have been gnawing away at Strata Owner Corporation expense for years. This week [Next Construction Pty Ltd](#) was the process referred. At about the same time the



# New South Wales



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## The Office of the NSW Building Commissioner

We're delivering once-in-a-generation reform of the building and construction industry.

### What we do

We are improving the quality of construction of residential apartment buildings and restoring trust in the industry through the Construct NSW strategy. [Read more about Construct NSW.](#)



## *Design Building Practitioners Act 2020 (progress on recs 1, 12, 13, 16)*

- Register designers (including engineers)
- Declared designs – by registered ‘designers’
- Building Compliance Declaration – by ‘builder’
- Lodgement of ‘declared’ documents in electronic portal
- Duty of Care reforms – easier for OCs and purchasers to sue designers, engineers, builders and **product manufacturers**



# New South Wales - Regulatory Practice

- *Residential Apartment Buildings (Enforcement Powers) Act (rec 6 & 7)*
- Existing buildings and building sites – 133 audits commenced (45 completed)
- Prevent issuing of Occupation Certificate where there are substantial defects
- Making the developer accountable for rectification
- 30 Developments with Orders
  - 18 prohibition orders
  - 23 Rectification orders
  - 10 stop work orders
  - 1 enforceable undertaking
  - 20 written directions notices
- Powerful media presence to compliment activities



# New South Wales

- Certifier Practice Standard – class 2 buildings (Engineers under development)
- Construct NSW – TAFE - 2hr micro credentials with assessment **28,000 enrolments!**
- Digital transformation
  - Risk based intelligence – internal tool
  - e planning portal – mandatory
  - Strata portal
  - KPMG Building Assurance – market driven
- iCERT Rating scheme – market driven
- Push towards a decennial insurance product



# New South Wales – next tranche of legislation

- Building Bill (to establish clear competency and accountability for all design and building practitioners)
- Creation of a Building Compliance Enforcement Bill (to supersede RAB Act)
- Expand the DBP scheme to class 3 and 9c buildings
- Holistic fire safety system, bringing all requirements for fire safety under a single framework
- A comprehensive regulatory framework for pre-fabricated and modular buildings and building parts







# Victoria

- A number of Act changes since 2018 – mostly unrelated to BCR
- VBA improved regulatory practice
  - State Building Surveyor
  - Investment in risk based intelligence data
  - Producing regular reports on its activities
  - Inspecting sites for 10% of building permits (12K),
  - Audits of building surveyors
  - Education program (10,000 attendees)
  - Annual conference for building surveyors
- Code of Conduct for building surveyors ( 1 Jan 21)





**Anna Cronin (Chairperson)**

Anna is Victoria's first Commissioner for Better Regulation, appointed by the Victorian Government in 2015. She was given the additional role of Red Tape Commissioner in 2018. Anna has worked in economist, executive and leadership roles in Commonwealth and State governments.



**Dame Judith Hackitt**

Dame Judith was the Chair of the Independent Review of Building Regulations and Fire Safety commissioned by the United Kingdom Government and is Chair of manufacturing trade body Make UK. An engineer by profession, Dame Judith holds a degree in chemical engineering from Imperial College, London.

# Victoria

## Expert Panel Review of Vic Building System

- Enhance Registration Scheme – to align to NRF?
- Supports to increase building surveyor numbers
- Risk based building approval – some elements of permit process for class 2 will go back to Local Gov, mandatory inspections, third party review
- Boosting role of local government - municipal control plans and mandatory reporting by councils to state gov on their building control functions
- Consumer Protection – new body
- Data data data – rec 12 and 20



# Queensland

- Safer Buildings Taskforce
  - Cladding & BCR Implementation

<https://www.epw.qld.gov.au/about/initiatives/safer-buildings-taskforce#:~:text=The%20Safer%20Buildings%20Taskforce%20was,ensure%20the%20safety%20of%20Queensland's>

- Queensland Building Plan updated 2021

<https://www.epw.qld.gov.au/about/strategy/building-plan/update>

- Review of QBCC governance - in progress
- Review of role of developers - in progress
- New QBCC Commissioner – Anissa Levy



# Queensland

- Reforms to Building Act & Regs 2020
  - role of certifiers and relationship with owners
  - Documentation of performance solutions
  - Declarations by designers
- Revised Code of Conduct for building certifiers (Oct 20)
- Trial of CPD program late 2021 topics
  - Safety Obligations
  - Reporting on minimum financial requirements
- Five new streams of fire protection licenses (May 21)
- Focus has been on – financial viability, Building Industry Fairness – security of payment, project bank accounts





# Northern Territory

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Announced 4 March 21

- mandatory third party review of structural design for 'complex buildings'
- mandatory CPD for practitioners
- registration of commercial builders
- increased penalties for disciplinary breaches
- increased capacity within government for audits with the appointment of a structural engineer

[https://dipl.nt.gov.au/data/assets/pdf\\_file/0003/980607/building-reform-consultation-papers-fact-sheet.pdf](https://dipl.nt.gov.au/data/assets/pdf_file/0003/980607/building-reform-consultation-papers-fact-sheet.pdf)



# Northern Territory

## Independent Third Party Review

- From Jan 2022
- Guidelines and Fact Sheet issued
- Required for ‘significant and complex buildings and building work’
  - ABCB ‘building complexity’
  - E.g. Class 2 with 3 or more storeys, more than 25m, occupied by >100 people
- Conducted by NT registered certifying engineer (structural)
  - Endorsement to registration required
  - Min 10 years experience
  - Chartered Professional Engineer – EA



<https://nt.gov.au/property/building/build-or-renovate-your-home/building-and-renovating-permits-and-processes/independent-third-party-review-structural-design>



# South Australia

- Significant planning reforms
- Accreditation scheme for building surveyors (April 2019)
- New policy for inspection of buildings by Councils
  - At least 1 inspection of 66% of class 1 buildings
  - At least 1 inspection of 50% of farm buildings or shed >500m<sup>2</sup>
  - At least 1 inspection of 90% of class 2-9 buildings
  - 100% of swimming pools/barriers
- New requirement to have a certificate of occupancy for class 1 buildings
- Electronic lodgment of building rules consent, inspection requests and applications for OC – **April 22**

[https://plan.sa.gov.au/\\_data/assets/pdf\\_file/0008/699029/Guide\\_-\\_Verify\\_a\\_Building\\_Consent.pdf](https://plan.sa.gov.au/_data/assets/pdf_file/0008/699029/Guide_-_Verify_a_Building_Consent.pdf)



# Tasmania



- Only jurisdiction that requires are registered/licensed persons to undertake compulsory CPD (2020)
- Minor legislation reforms post BCR
  - Code of conduct for building surveyors
  - Refinements to what was a relatively new scheme (2017)
- Planning reforms and IT development for electronic lodgment – phase 2 will provide for electronic lodgment of building approval documents – due 2022







# Australian Capital Territory

- Parliamentary Inquiry into building quality (2018-2020) – ACT gov submissions summarise BCR progress
- Director liability, new regulatory powers, increased obligations on certifiers, strengthened licensing processes - *Building and Construction Legislation Act 2019* (Nov)
- Code of practice for building surveyors – Sept 2019
- Guidelines for licensed builders – June 2020
- Guidelines for minimum documentation for approvals and inspections
- Announced 22 July 2020
  - Private certification will no longer be an option for ‘complex multi unit’ buildings. The ACT government will issue these approvals
  - Registration of developers



# What does this mean for building product industry?

- Changes to NCC and increased scrutiny on system has led to **increased expectation** on manufactures/suppliers to provide evidence that their products are suitable for use
- National Building Product Assurance Framework – Nov 2021 meeting

*Ministers discussed a draft Building Product Assurance Framework, developed by the Australian Buildings Code Board, which looked at possible opportunities to strengthen evidence requirements in the National Construction Code, improve information on appropriate product use in new buildings, increase sharing of intelligence between jurisdictions, and new approaches to enforcement and compliance. **Ministers agreed that Senior Officials along with the Australian Buildings Code Board will undertake further work on this issue and will report back to Ministers in 2022 for consideration.***

# International interest

- UK establishing a new Building Product Safety Regulator
- Review - weaknesses in testing regime and how to prevent abuse of the system
- Recent passage of Building Safety Bill
- International Building Quality Centre paper and video





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