



**STANDARDS
AUSTRALIA**

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20 May 2004

The Commissioner
Study into Reform of Building Regulation
Productivity Commission
PO Box 80
Belconnen ACT 2616

Dear Sir,

**STANDARDS AUSTRALIA SUBMISSION TO STUDY INTO REFORM OF
BUILDING REGULATION**

Introduction

Standards Australia is pleased to make a written submission to the Study into Reform of Building Regulation. This submission follows a meeting with staff of the Productivity Commission on 6 May 2004 in Sydney.

Standards Australia (SAI) plays an important role in building regulation by providing technical solutions to the performance requirements of the Building Code of Australia. These technical solutions are in the form of Australian Standards developed by technical committees under our transparency/consensus process with a balance of interests, including the Australian Building Codes Board (ABCB). The ABCB and all relevant interests, through representation on these technical committees, are involved in the development of the standards referenced in the Building Code of Australia (BCA), including voting to approve the standards for publication. In addition, the ABCB Building Codes Committee approve each standard, be it a new standard or a revision of an existing referenced standard, for referencing in the BCA.

Due to the important relationship between the BCA and Australian Standards, the ABCB and Standards Australia have a Memorandum of Understanding, signed on 12 November 2003 and expires on 30 June 2005, the purpose being -

"The ABCB and Standards Australia wish to consolidate their already effective working relationship both to enhance consistency between the Building Code of Australia and the Australian Standards which it references, and to assist both organizations in their tasks of reflecting community, industry and Government needs and requirements. The Memorandum of Understanding is intended to provide the basis for co-operation between the ABCB and Standards Australia in the development of Australian Standards"

A copy of the Memorandum of Understanding is given in Annex A to this submission. This Memorandum of Understanding with the ABCB complements the over-arching Memorandum of Understanding with the Commonwealth that, amongst other things, acknowledges Standards Australia as the peak Australian non-government standards development body and encourages governments and their agencies to refer to Australian standards where appropriate.

This is the third Memorandum of Understanding between the two organizations, the first two were signed on 10 October 1997 and 30 June 2000

Key points to the ABCB/SAI relationship

- Standards Australia and the Australian Building Codes Board have a close and effective relationship and the Memorandum of Understanding provides the framework for the relationship. The effectiveness of this relationship is shown by the fact that, Standards Australia as an independent non government organization, can develop Australian Standards that are referenced as, deemed to comply solutions to the BCA.
- The link between the activities of Standards Australia and the Australian Building Codes Board enables the two organizations to work in an integrated manner to ensure a safe and sustainable environment, contribute to the efficiency of the building industry, and contribute to the use of Australian standards on a regional basis.
- Standards Australia is able to provide, through its contracted service delivery publications provider, SAI Global, access for practitioners to the electronic Building Code of Australia and referenced standards. This electronic form provides greater and more timely access, and thus contributing to greater adherence to the Building Code of Australia

Points for Consideration

- The two organizations need to continue to work together to utilize the strengths of the Standards Australia transparency/consensus process to provide deemed to comply solutions to the BCA.
- There is a need to ensure adequate resources for the ABCB to participate in the standards development process for standards to be referenced in the Building Code of Australia. Fundamental to the standards process is the participation of interested parties in all stages to ensure an outcome for the benefit of government, industry and the community.
- The referencing of other national and international standards in the BCA should be in the context of value in having such standards prior adopted as Australian Standards by the SAI transparency/consensus process to ensure their applicability to all sectors of the Australian building industry.

Comments on specific matters in the Issues Paper

Clause 2.1 - Is it feasible for all communities and individuals to use the national standard as their baseline, with the option of altering the standards where this better meets community or individual preferred trade offs between price and quality How

difficult/desirable is it for individuals or communities to enforce a higher standard than that in the Code

Where thought appropriate, specification of criteria beyond that considered appropriate for the BCA can be, and often are, included in Australian Standards for voluntary application.

Clause 2.1 - What quantitative and qualitative indicators would facilitate assessing performance against some or all of the ten objectives of the ABCB - Objective 1 "Establish codes, standards and regulatory systems that are as far as practicable: consistent between States and territories, cost effective, performance based, and based on modern and efficient building practices"

The Standards Australia process ensures that Australian Standards be they uniquely developed in Australia or adoptions/adaptations of other national and international standards, meet Objective 1.

Clause 3.2 - "Standards Australia has stated that in the area of building and construction 'no significant International Standards exist'

This is taken out of context and mostly refers to the area of design standards where the international standards development community is faced with significantly different standards in North America and Europe. 11 % of Australian Standards in the building area are harmonized with international standards.

Clause 3.2 - " Would greater alignment with Standards from other countries be desirable"

See comment under Clause 2.1 above.

Clause 4.2 - Is it more effective and efficient to use performance or prescriptive based standards to achieve energy-efficiency objectives

While performance based regulations and referenced standards are recognised as more efficient and effective as they do not limit innovation, it has to be recognised that the vast majority of building works are not subject to individual design and thus there is always a need for one or two "deemed to comply" prescriptive standard solutions.

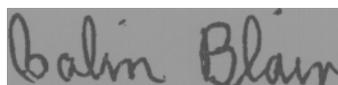
Clause 5.1 - "The Code references Australian Standards, access to which incurs and extra charge.

Standards Australia's economic viability is based on imposing modest prices for Australian Standards; international benchmarking of the price of standards indicate that Australian Standards are amongst the lowest priced in the world. Standards Australia does not charge for the development of Standards.

Restructure of Standards Australia

Annex B provides details of the restructure of Standards Australia and clarifies that the role of Standards Australia is unchanged in relation to the constitution, governance structure, implementation of the Memorandum of Understanding, the operation of the technical committees, and the standards development process.

Yours sincerely,



Colin Blair
Acting Chief Executive

ANNEX B

A New Era of Australian Standardization

Following separation of the commercial activities of the former Standards Australia into a separate company, SAI Global, and the floating of that company on the Australian Stock Exchange on December, Standards Australia has entered a new era in its 81-year history of facilitation to industry, business, government and the professions.

The resulting restructure has strengthened the capacity of Standard Australia to go forward as Australia's national standards body in a more secure economic environment. It has also enhanced our capacity to focus on our core business, which is to facilitate consensus based solutions that result in the development of Australian Standards®, International Standards, and related products and services in the national interest.

In an economy of the size of Australia, history has shown that the sale of standards and directly related documents has generated insufficient funds to operate a multi discipline standards development body despite the tremendous and world leading marketing techniques developed within Standards Australia. Over the past 25 years or so, as government funding has diminished substantially in actual and real terms, Standards Australia has sought other income generation activities to enable it to maintain its broad base standards development coverage; this has included a variety of standards and conformance related assurance, education, publishing and professional services.

The restructure has unlocked the potential of Standards Australia to undertake its activities in the national interest with less exposure to less of the risks that the development of these addition services has involved. The result of the SAI Global Initial Public Offering [IPO] and the associated restructure is that Standards Australia will have an asset base of more than \$130M in built assets, equity in SAI Global (40% share holding) and cash investments that will provide a substantial funding base for the future, effectively in the form of an endowment,

Standards Australia will retain ownership of the intellectual property of the standards and other products it develops while outsourcing publication and delivery, under controlled pricing and availability criteria, to its delivery partner, SAI Global. Standards Australia will maintain its current Constitution, Membership, Council, international and regional affiliations (ISO, IEC, PASC, etc), MoU with the Commonwealth Government along with its existing standards development committee and Standards Sector Board structure.

The Board of the new Standards Australia does not, however, intend to "sit on its hands" and stagnate. The Board looks forward to expanding the organization's capacity to develop consensus-based solution both in our traditional areas and in new areas. In doing so, we intend to involve you, our important stakeholders, all of the way. To this end, we will be holding a series of national forums to consult with members and other key stakeholders regarding the activities and priorities and feedback from these forums will be used as the basis for a new national standards strategy. In the meantime if you would like to find out more about Standards Australia please visit our new website www.standards.org.au.

MEMORANDUM OF UNDERSTANDING

between

AUSTRALIAN BUILDING CODES BOARD

and

STANDARDS AUSTRALIA INTERNATIONAL LIMITED

This **Memorandum of Understanding** (referred to in this document as "Memorandum") is made on

this *12th* day of *November*, 2003

BETWEEN

The **AUSTRALIAN BUILDING CODES BOARD** (referred to in this document as 'ABCB'), established by agreement between the Commonwealth, State and Territory Governments and based in Canberra, Australian Capital Territory

AND

STANDARDS AUSTRALIA INTERNATIONAL LIMITED (ABN 85 087 326 690) referred to in this document as 'SAI' or Standards Australia), a public company limited by guarantee, having its head office at 286 Sussex Street Sydney, New South Wales:

IT IS AGREED as follows:

1. PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING:

The ABCB and Standards Australia wish to consolidate their already effective working relationship both to enhance consistency between the Building Code of Australia and the Australian Standards which it references, and to assist both organizations in their tasks of reflecting community, industry and Government needs and requirements. The Memorandum of Understanding is intended to provide the basis for co-operation between the ABCB and Standards Australia in the development of Australian Standards.

2. RECOGNITION AND DEFINITIONS

- 2.1 The ABCB is the peak national building regulatory body, and was established by an inter-government agreement signed by the Commonwealth, State and Territory Building Regulatory Ministers. It reports directly to these Ministers, and comprises the most senior officers responsible for building regulatory matters in each jurisdiction, in conjunction with industry and Local Government representatives.

- 2.2 The ABCB's mission, as stated in the inter-government agreement, is to provide for efficiency and cost effectiveness in meeting community expectations for health, safety and amenity in the design, construction and use of buildings through the creation of nationally consistent building codes, standards, regulatory requirements and regulatory systems.
- 2.3 One of the key means by which the ABCB achieves its mission is through the development, upgrading and maintenance of the Building Code of Australia (BCA), which all States and Territories use as the basis of their technical requirements for the construction of buildings. The BCA, being a performance based building code, provides for technical solutions, that are contained in the document, referenced standards and other referenced documents, to deliver one path of compliance with the Performance Provisions. These documents are identified, for the purpose of legislation, as Regulatory Documents. The development, upgrading and maintenance of the BCA is carried out through the Building Codes Committee (BCC) of the ABCB.
- 2.4 Standards Australia is an independent organisation, which prepares and publishes most of the voluntary technical and business Standards used in Australia. Its primary role is to prepare Standards through an open process of consultation and consensus in which all interested parties from a variety of industries are invited to participate. Through a Memorandum of Understanding, it is recognised by the Commonwealth Government as the peak non-government Standards development body.

In co-operation with other standards and conformance technical infrastructure bodies, Standards Australia's mission is to excel in meeting national needs for contemporary, internationally aligned Standards and related services, which enhance the nation's economic efficiency and international competitiveness, and fulfil the community's demand for a safe and sustainable environment.

- 2.5 The BCA references some Australian Standards in full or in part and legislative status in the building regulatory field is only given to the full Australian Standards or those parts of Australian Standards which are referenced in the BCA. The ABCB will not reference any standard or part of a standard in the BCA which does not fully accord with the ABCB's requirements for regulatory documents.
- 2.6 Australian Standards are prepared to have clearly identifiable outcomes and, wherever possible, contain quantitative performance based criteria that specify outcomes rather than inputs or other prescriptive requirements. Australian Standards can also contain detailed technical specifications that offer "deemed to satisfy" solutions to the quantitative performance based criteria
- 2.7 The following definitions apply in this Memorandum:
- (1) Standard -- means a document, established by consensus and approved by a recognised body, which provides for common and repeated use, rules, guidelines or characteristics for activities or results, aimed at the achievement of the optimum degree of order in a given context. (ISO/IEC *Guide 2 Standardization and Related Activities - General Vocabulary*).

- (2) Australian Standard -- means a standard issued by or under the authority of SAL *'Australian Standard'* is a registered trademark of SAI. Australian standards are consensus based voluntary documents with which compliance is not mandatory unless incorporated into law or called up in contractual arrangements (Memorandum of Understanding between Commonwealth of Australia and Standards Australia International Limited).
- (3) Primary Reference Standard -- means an Australian Standard directly referenced in whole or in part in the Building Code of Australia
- (4) Secondary Referenced Standard - means an Australian Standard that a Primary Referenced Standard makes reference to
- (5) Tertiary Referenced Standard - means an Australian Standard that a Secondary Referenced Standard makes reference to
- (6) Building Code of Australia (or BCA) means the document of that name produced, amended, maintained and updated from time to time by the ABCB: and
- (7) Regulatory Document - means any technical solution that has been developed in accordance with the ABCB Protocol for Referenced Documents and delivers a process and outcome for achieving compliance with the Mandatory Requirements of the BCA.

2.8 This Memorandum expands upon the Memorandum of Understanding between the Commonwealth Government and Standards Australia as it applies to the relationship between Standards Australia and ABCB.

3. MANAGEMENT FUNCTIONS

- 3.1 To facilitate co-operation, SAI shall ensure that there is continuous senior membership on Standards Australia's Council and the Joint Building Standards Sector Board. The ABCB will ensure that SAI are continuous observer members to Building Codes Committee. Six monthly meetings are to be held between senior executives. The ABCB shall make its best endeavours to seek representation on the SAI Standards Development Board. The ABCB will invite the Chief Executive of SAI or his/her representative to attend an ABCB Board meeting on an annual basis.
- 3.2 SAI and the ABCB will provide to each other technical assistance, advice and comment when requested by the other party on initiatives, draft documents, regulatory documents and the like.
- 3.3 Senior representatives of SAI and the ABCB will meet regularly but at intervals not greater than six months to:
 - (1) Examine issues of relevance to both organisations, identify and resolve any issues, and undertake any necessary strategic planning; and
 - (2) Review matters on Australian Standards relating to the BCA.

- 3.4 SAI and the ABCB will co-operate to resolve any problems which may arise through discussion and, if necessary, by special meetings. This principle will apply to the resolution of any disputes between the parties, particularly those involving complex technical issues.
- 3.5 SAI and the ABCB agree to progressively review the interaction required, that is additional to the normal SAI standards development process, in the light of experience and in particular will review all interaction protocols within twelve months of the signing of the Memorandum of Understanding

4. DEVELOPMENT OF PRIMARY REFERENCE

STANDARDS 4.1 General

- (1) Both SAI and the ABCB will identify Australian Standards at the new project stage, public comment stage, or any other stage, which when published could conflict with or be used to over-ride any provision in either the BCA or Australian Standards referenced in the BCA. Both SAI and the ABCB will seek to ensure, given the consensus principles under which SAI operates, that such conflict or over-riding does not occur in published Australian Standards. However it is recognized that the BCA overrules in any difference arising between it and any Australian Standard.
- (2) When preparing Australian Standards which are or are likely to be referenced in the BCA, Standards Australia's Committees will maximize the use of accepted international standards, in accordance with SAI Standardization Guide 7 *Adoption of International Standards*.

4.2 Selection of New Projects

- (1) The instigation of projects for new standardization topics and revisions of and amendments to existing standards will be in accordance with Standardization Guide 1, *Preparing Standards*.
- (2) The ABCB, through its representation on the relevant Technical Committees, may comment during the initial Committee circulation of a proposal for a new project, prior to submission to the Joint Technical Management Group, and the relevant Standards Sector Board. Where such a proposal is for a revision of, or amendment to, an existing primary referenced standard, then it will include identification of major changes required and the necessity for and impact of such changes. SAI will allow the ABCB a period of 6 weeks for the evaluation of such new projects as described in 4.2(l).
- (3) The approval process for a new Australian Standard referenced or likely to be referenced in the BCA will, have regard to the balance of costs and benefits involved and where appropriate a cost/benefit analysis will be undertaken.

- (4) If considered necessary, the ABCB will undertake a regulatory impact statement for new standards or new editions of standards to be referenced in the BCA. Where possible SAI committees will identify costs and benefits associated with the development or revision of a standard to assist the ABCB with regulatory impact statements

4.3 Committee Constitution

- (1) The constitution of Committees will be in accordance with *Standardization Guide I Preparing Standards*.

The ABCB will nominate representation on all committees engaged in the preparation of primary reference standards and relevant secondary and tertiary references. The nominees will canvass the broader ABCB representation, will actively participate in discussion and drafting, will arrange and co-ordinate, in a timely manner, comment from parties considered relevant by the ABCB during the public review period, and will co-ordinate voting by the ABCB in the postal ballot.

- (2) SAI will provide the ABCB with a committee draft, prior to the pre-public comment draft as read only electronic copy or hardcopy, and will allow the ABCB 6 weeks for commenting on the document. Any comment received, will be reviewed by the relevant committee prior to issuing the draft for public comment.
- (3) SAI will provide a read only electronic copy or hardcopy, of postal ballot drafts, including an Annex containing identification of the major changes introduced and the reasons for the major changes during the revision of the document. The ABCB will be allowed 7 weeks for the review and voting by the Building Codes Committee on the postal ballot draft.
- (4) When SAI and the ABCB consider it desirable, SAI agrees to extend public comment to allow for further consultation by the ABCB with appropriate parties.

4.4 Drafting of Australian Standards

- (1) Primary, referenced standards will be drafted in accordance with the consensus process of SAI with the addition of the special milestone review needs listed above. Such a process meets the needs of The ABCB publication, *Protocol for the Development of BCA Referenced Documents*
- (2) SAI will endeavour to limit secondary and tertiary referencing to those cases where compliance with the referenced standard is essential to the achievement of the objective of the primary reference.

In those cases where cross referencing is simply to alert the user to the existence of other standards on related subjects, these standards references will be located in an Informative Appendix at the back of the standard.

- (3) SAI will endeavour to revise secondary and tertiary references once they are identified in the primary reference as soon as possible and will develop a system to automatically warn the responsible technical committee of such requirement.
- (4) Drafts of primary referenced standards will include an Annex detailing all major changes, and the necessity for, and impact of, such changes. Drafts of secondary and tertiary referenced standards will identify major changes in the Preface to the Standard.
- (5) Where SAI includes performance parameters for structures other than those covered by the BCA they will be in a separate Part of a primary, secondary or tertiary referenced standard and shall be written so as not to be misinterpreted as BCA text
- (6) Standards that are intended for referencing in the BCA should only be developed as performance based standards where appropriate and as agreed to by ABCB and SAI.
- (7) It is through the BCA that the State and Territory regulators set performance requirements which reflect public policy and societal goals.

4.5 Consensus

- (1) Australian Standards referenced, or likely to be referenced in the BCA, will be developed or revised in accordance with Standards Australia's normal consensus procedures, as set out in Standardization Guide No. 1 *Preparing Standards*.

4.6 Publication

- (1) New and amended Standards to be referenced in the BCA will be considered for approval for referencing by the Building Codes Committee as soon as possible after postal ballot voting has been completed and consensus achieved. Standards approved for referencing will be published as soon as possible, with a statement detailing the BCA Amendment in which they are intended for reference.
- (2) Where agreed by SAI, the ABCB may include excerpts from Australian Standards in the BCA. This will be of particular use when only small portions, ie a paragraph to two, of a Standard is referenced in the BCA.

5. VARIATION

This memorandum may be varied by agreement of the parties, and any such variation shall be set out in writing and signed by both parties.

6. DURATION OF MEMORANDUM AND TERMINATION

The Memorandum shall remain in force until 30 June 2005. However, ABCB or SAI may terminate the Memorandum at any time if ABCB is instructed to do so by its member Governments and SAI if required by its Board. Prior to its expiry the Parties will review the performance of this Memorandum with a view to securing a subsequent MoU.

7. NOTICES

7.1 Notices or communications by SAI to the ABCB about this Memorandum shall be addressed to the ABCB as follows, unless otherwise notified in writing by the ABCB to SAI:

The Executive Director Australian
Building Codes Board GPO Box
9839
CANBERRA ACT 2601

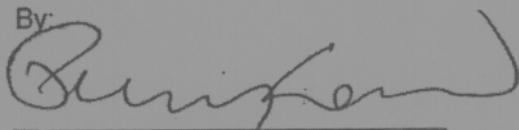
7.2 Notices or communications by the ABCB to SAI shall be addressed to Standards Australia as follows, unless otherwise notified in writing by SAI to the ABCB:

The Chief Executive
Standards Australia International
GPO Box 5420
SYDNEY NSW 2001

This Memorandum is executed on the date noted above.

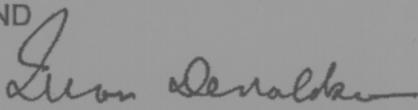
SIGNED for and on behalf of
AUSTRALIAN BUILDING CODES
BOARD

By:



Peter Laver Chairman

AND



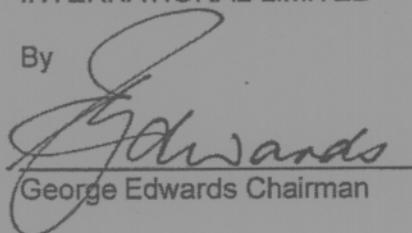
Ivan Donaldson, Executive Director

In the presence of:



SIGNED for and on behalf of
STANDARDS AUSTRALIA
INTERNATIONAL LIMITED

By



George Edwards Chairman

AND



Ross Wraight, Chief Executive

In the presence of:

