



Australian Government

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Department of Innovation  
Industry, Science and Research

**Productivity Commission Study:  
Impacts of COAG reforms – business  
regulation, and vocational education and  
training and transitions from school**

**Public Submission**

**By the Department of Innovation, Industry,  
Science and Research**

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## INTRODUCTION

The Department of Innovation, Industry, Science and Research (the Department) welcomes the opportunity to provide a submission to this study.

The Department's policies and programs are complementary to the COAG reform agenda, and aim to help Australian businesses adopt an innovation culture and increase productivity and competitiveness across the economy. A key strategy underpinning the Department's work is reducing the regulatory burden on business.

The Department, through the COAG Business Regulation and Competition Working Group (BRCWG), is involved in helping to deliver a seamless national economy. Under the *National Partnership Agreement to Deliver a Seamless National Economy* the Department has involvement in a number of the BRCWG regulation priority areas. The key reform areas for the Department are: national system of trade measurement; the National Construction Code (building regulation reform); chemicals and plastics regulation; and ABN/Business Names Registration.

The Department is also one of the agencies involved in the delivery of the Standard Business Reporting (SBR) reform initiative. The Department, through VANguard, provides the authentication mechanisms to enable secure business-to-government online transactions. Accordingly, VANguard provides the authentication services to the SBR program. VANguard reduces the compliance burden for business by facilitating access to government online services and modern business practices, while providing the assurance that the information is secure. The Department supports the SBR reform and the ensuing simplification and streamlining of business regulatory reporting requirements.

Another reform initiative on the BRCWG agenda is retail tenancy leases. The Department is helping to drive retail tenancy reform and is working with state and territory governments to identify deliverable projects following the Government's response to the 2008 Productivity Commission inquiry into the retail tenancy market.

The Department also played a major role in conjunction with the Department of Foreign Affairs and Trade and the Department of Agriculture, Fisheries and Forestry, to facilitate wine labelling reform.

The Vocational Education and Training (VET) reforms being progressed through COAG complement the Department's endeavours in facilitating innovation through enhanced capability. Skills development including management skills is a significant interest to Australian industry. Skills development effectively increases labour market efficiency, productivity, innovation, and ensures increased utilisation of human capital. Accordingly, the Department actively engages with key stakeholders to ensure that industry, small business and innovation priorities are incorporated into skills development policies and programs, including skilled migration. Ensuring policies are targeted at areas that will generate the most efficient outcomes will maximise workforce participation and productivity.

The Department's submission is focused on three areas:

- national trade measurement;
- the National Construction Code; and
- vocational education and training reforms.

## **National Trade Measurement**

### *Background*

On 13 April 2007, COAG agreed to the establishment of a national system of trade measurement. The national system would be funded and administered by the Commonwealth. A three year transition period was agreed, with Commonwealth administration commencing on 1 July 2010. The National Measurement Institute (NMI) – a Division within the Department – was responsible for coordinating transition arrangements, establishing the national system of trade measurement, and managing the ongoing operation of the new system.

Responsibility for Australia's trade measurement system was previously shared between the Commonwealth, state and territory governments. It was widely acknowledged that such arrangements imposed avoidable regulatory costs on industry, consumers and government. COAG noted that establishing a national trade measurement system would be a catalyst to improving productivity in Australia. COAG further noted it would facilitate the adoption of newer and more efficient technologies, aid in responding effectively to new demands for trade measurement infrastructure, and support the maintenance of a viable skills base in the trade measurement workforce<sup>1</sup>.

### *The national system of trade measurement*

On 1 July 2010, the new national system of trade measurement commenced under the administration and regulatory oversight of NMI. The new system was the culmination of three years of work undertaken by nine project teams and numerous working groups, from Commonwealth, state and territory governments, to streamline trade measurement regulations. The new national scheme replaced eight state and territory trade measurement systems and removed inconsistencies in the interpretation and administration of the trade measurement regulations.

Amendments to the *National Measurement Act 1960* (the Act) and the preparation of new National Trade Measurement Regulations were achieved in time for the scheduled transition date under the *National Partnership Agreement to Deliver a Seamless National Economy Implementation Plan*. The overarching legislative framework for National Trade Measurement, established by amendments to the Act, was given Royal Assent on 8 December 2008. The National Trade Measurement Regulations were made by the Executive Council on 7 September 2009 and listed on the Federal Register of Legislative Instruments on 11 September 2009.

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<sup>1</sup> Council of Australian Governments, 2007, Communiqué

### *Reporting on the success of the reform*

To mark the one year anniversary of the new scheme, NMI released a report<sup>2</sup> on the transition to the national trade measurement scheme. The report covers all aspects of the project. It provides an insight into the reform process, documents key findings, outlines the residual issues and details some of the lessons learnt through the reform process. The report provides valuable insights into the management and oversight of a significant, complex, cross-jurisdictional regulatory reform. It is a comprehensive account of the transition process. The insights and key findings of the report could be applied to any project where the functions and responsibilities are being transferred from the states and territories to the Commonwealth. The Productivity Commission study: *Impacts of COAG reforms*, will complement NMI's current reporting process.

NMI is engaged in an evaluation process (post-implementation review) to assess the performance of the new national trade measurement system. The evaluation will extend over the next three years and will provide a comparison of post-transition services by jurisdictions against each jurisdiction's pre-transition services. The measures used for comparisons will be qualitative and quantitative.

In addition, NMI is establishing a national model for trade measurement. This model will include a national database that will:

- register in excess of 2000 employees of servicing licensees;
- monitor the performance of 250 000 measuring instruments;
- log over 5000 calls; and
- report on 1900 enquiries and 1100 complaints per year.

Since the commencement of the new national system of trade measurement, NMI has continued to recruit trade measurement officers and provide nationally recognised training to NMI staff and employees of servicing licensees. NMI has engaged in these activities to address the widespread shortage of skills and to ensure that the quality of services is maintained.

In addition, the NMI has commenced a targeted national review into trade measurement-related industries, which in some states and territories have not traditionally been a focus of attention. Examples include landscaping and public weigh bridges. Furthermore, NMI is working closely with some industries to finalise issues which were not able to be resolved prior to the introduction of the new national system of trade measurement. Examples include grain moisture measurement in the grain industry and quantity measurement of frozen seafood.

The ongoing work of the NMI will ensure the efficiencies of national reform are maintained and that the national system continues to operate effectively.

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<sup>2</sup> National Measurement Institute, [www.measurement.gov.au/Documents/NTMTransitionReport.pdf](http://www.measurement.gov.au/Documents/NTMTransitionReport.pdf)  
2011

## National Construction Code

### *Background*

In July 2008, COAG agreed to the development of a National Construction Code (NCC) on building, plumbing, electrical and telecommunications standards.<sup>3</sup> Developing the NCC will result in the consolidation of all on-site construction regulation into a single document. As a first step, reflecting the recommendations of a Regulation Impact Statement on the NCC, COAG subsequently agreed to integrate the Building Code of Australia (BCA) and the Plumbing Code of Australia (PCA) into a single document<sup>4</sup> to address areas of overlap and inconsistency between the two codes.

Prior to the adoption of the NCC, building and plumbing standards of practice were regulated through separate legislative and administrative arrangements. Building was regulated by state and territory governments, with the BCA as the primary code. The BCA was referenced in all state and territory building acts or regulations. State and territory governments also regulated plumbing standards; however, not all used the PCA as the primary code. Unlike building, plumbing regulators had not agreed (through an Inter-Governmental Agreement (IGA) or similar) to the adoption of a national code. While regulated separately, building and plumbing regulation are inherently linked, with both setting standards of practice for on-site construction of buildings<sup>5</sup>. The NCC was therefore designed to facilitate consistent outcomes and work towards achieving consistent objectives across all jurisdictions.

The NCC is being implemented via a phased approach. On 1 May 2011, the Australian Building Codes Board (ABCB) released the inaugural NCC Series, comprising the BCA Volume One and Two (Commercial and Residential), and the PCA, as Volume Three. This is the first phase of consolidating all on-site construction requirements into a single code.

As at September 2011 most jurisdictions had adopted the NCC. The remaining jurisdictions – New South Wales, Western Australia and the Northern Territory – are expected to reference the plumbing requirements (the PCA) in their respective legislation by 1 May 2012. This is in line with the October 2012 milestone as outlined in the Implementation Plan for the *National Partnership Agreement to Deliver a Seamless National Economy*.

The NCC continues a period of sustained building regulation reform and building code development over the last 40 years. Prior to the NCC, the last major reform was the introduction of the performance-based BCA in 1996. Additional background information on building regulation reform and the current institutional arrangements is provided at **Attachment A**.

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<sup>3</sup> Council of Australian Governments', July 2008, Communiqué: Business Regulation and Competition Working Group Meeting outcome

<sup>4</sup> Council of Australian Governments', December 2009, Communiqué

<sup>5</sup> Allen Consulting Group, 2009, Regulation Impact Statement for a National Construction Code

### *Impact of the National Construction Code*

The NCC provides for a nationally consistent and integrated approach to building and plumbing regulations. This will reduce the compliance burden on design professions and trades, for instance, where a single set of building and plumbing regulatory requirements across the country will apply.

It is too early to assess the broad impact of the NCC on the Australian economy. The NCC is in its infancy and, as outlined previously, national introduction of the NCC is not yet complete. As such, the quantitative data on the flow-on effects is limited. That said, over time, the NCC is anticipated to deliver benefits and cost savings through:

- efficiency gains from removing overlap and inconsistency between the building and plumbing codes;
- gains through an improved regulatory framework for plumbing standards, from more consistent adoption of performance-based standards and use of impact analysis;
- greater opportunities for efficient and innovative design solutions with a more consistent code; and
- broader benefits from complementing other reform initiatives, such as national licensing and reforms in the training sector.

With the ABCB facilitating national coordination, the NCC is expected to result in more effective regulatory solutions for industry and the broader community. For example, issues such as sustainability and climate change will now be addressed in a more holistic manner. This will ensure national consistency which, in turn, will generate flow on efficiencies in the built environment.

Additionally, the NCC will be maintained and updated on an annual basis. This is consistent with the NCC Implementation Plan and includes a process of ongoing harmonisation and integration. This will also ensure that the benefits of national harmonisation are maintained.

### *Incorporating the Plumbing Code of Australia into the National Construction Code*

The PCA was developed as a model code in 2004. It was referenced by a limited number of jurisdictions in their respective plumbing regulations, either in whole or part. The majority of jurisdictions referenced various versions and/or parts of the Standards Australia's suite, AS/NZS 3500, as well as a number of other standards.

The PCA had not been updated since its inception. Unlike the BCA, which benefited from annual updates, the PCA did not evolve with the regulation reforms in the built environment. The National Plumbing Regulator's Forum<sup>6</sup> – the body responsible for

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<sup>6</sup> The NPRF comprises member organisations across each Australian state and territory and New Zealand: NSW (NSW Fair Trading and NSW Office of Water); Victoria (Plumbing Industry Commission); Queensland (Dept of Local Government and Planning); WA (Plumbers Licensing Board); SA (SA Water Corporation and Office of Consumer Business Affairs); TAS (Workplace Standards Tasmania – Dept of Justice); NT (Dept of Planning and Infrastructure); ACT (ACT

its development – had insufficient resources and funding to undertake a review process.

As a result of COAG's 2008 agreement to develop the NCC, the PCA was thoroughly reviewed and revised. Areas of regulatory overlap and duplication with the BCA were identified and action undertaken to address the overlaps. The agreement to reference a single plumbing code through the NCC resulted in the elimination of many variations arising from the application of a uniform set of deemed-to-satisfy solutions through standards, such as the AS/NZS 3500 suite. Under ABCB protocols for referencing standards, there will now be much closer public scrutiny of proposed changes to these standards.

A further ongoing process will be undertaken to separate policy matters from referenced standards for transfer to the NCC or state-based administrations, as appropriate. This will result in responsibility for such matters moving from standards committees to the Board of the ABCB or jurisdictions.

These changes have been achieved through the provision of resources supported by best practice regulation decision-making processes by the ABCB. The agreement by the Building Ministers' Forum (BMF) to increase funding to the ABCB, to support the implementation of the NCC and its ongoing development, underpins the commitment of all governments to the reform process.

#### *WaterMark Certification Scheme*

The WaterMark Certification Scheme (WMCS) is the Australian certification scheme for plumbing and draining products to demonstrate that they comply with the applicable standards. It is recognised throughout Australia by plumbing regulatory bodies for demonstrating compliance with the PCA. The WMCS is mandated by all states and territories through plumbing licensing regulation. It is a significant reference document in the PCA's requirements in the NCC.

Prior to the implementation of the NCC, the WMCS was operated and managed by Standards Australia. With the development of the NCC, Standards Australia was required to relinquish its role in administering the WMCS, including ownership of the certification mark.

As part of the NCC implementation process, the BMF agreed to transfer responsibility of the WMCS to the ABCB, on a full cost recovery basis. This decision was based on the need for a nationally consistent approach to the administration of the WMCS. The BMF identified the previous deficiencies in the operation and management of the WMCS and decided that the ABCB would facilitate efficiencies in its administration.

The increased efficiencies will stem from improvements in the operation of the WMCS in a number of areas:

- strengthened compliance monitoring activities;
- revenue collection and cost recovery;



- management of technical enquiries, complaints and appeals processes;
- decision-making processes relating to product certification;
- IT infrastructure and database management; and
- promotion of the WMCS.

The ABCB is in the process of addressing many of the above issues during the WMCS transition period. Once implemented, industry will benefit from a scheme that is simple to access and understand, efficient in its operation and a more equitable distribution of charges.

#### *Opportunities and issues for future NCC reforms*

Phase one of the NCC implementation incorporated building and plumbing requirements into the NCC. The ABCB is currently undertaking a preliminary scoping study to consider the possible inclusion of gasfitting into the NCC. The outcomes of the scoping study will be used to inform the BMF of the relative merit and scope for such work to proceed.

There a number of issues that policy makers and regulators will need to consider and address as additional codes are assessed for possible integration into the NCC. Each code has a different regulatory framework, operating at varying degrees of efficiency and effectiveness. A ‘one size fits all’ approach is unlikely to be suitable. For example, some codes may not be suited to conversion to a performance-based code. Also, the current regulatory framework may be acceptable and therefore it may not be necessary for the ABCB to assume full responsibility for maintaining an additional code. In this case, alternative options for administration may need to be considered. Ultimately, it is preferable that a measured approach be applied for each successive reform. It should build on lessons learned from previous reforms and allow time for jurisdictions to adjust to new regulatory and administrative systems.

#### *Local government interventions*

Industry has identified the impact of local government intervention as a significant area of concern affecting construction costs and housing affordability. To this end, the Department looks forward to the findings of the Commission’s study on *Business Regulation Benchmarking: Role of Local Government*.

The problem of local government regulatory interventions over and above the minimum necessary requirements of the BCA has been well documented. In 2004, the Commission’s Research Report, *Reform of Building Regulation*, found that local governments, through their planning approval processes, are imposing regulations on building. Following the release of this report, the ABCB undertook an empirical pilot study to test the veracity of the Commission’s finding. The ABCB study, albeit based on a small sample, confirmed that local governments were imposing building regulation that added up to 14 per cent to the cost of building a home.

In 2006, following COAG agreement to the National Reform Agenda, the BMF identified local government interventions into building regulations as an area in need of reform. The BMF also noted that COAG may need to take further action in the

event of slow progress. On 4 July 2008 the BMF endorsed a principles based approach to managing local government interventions. This was forwarded to the Local Government and Planning Ministers' Council; however, this Council was dissolved before these actions were complete.

The current IGA for the ABCB and the agreed in-principle IGA (expected to be signed by all jurisdictions by the end of 2011) both endorse a more structured approach (known as the 'gateway' model) towards the issue of local government intervention. The COAG Reform Council has also expressed an interest in this matter.

## **Vocational Education and Training**

### *Background*

The Vocational Education and Training (VET) reforms and transition initiatives being progressed through COAG comprise one element of COAG'S human capital stream. Agreed in 2006 as part of the National Reform Agenda, the human capital stream (in relation to VET reform) aims to lift productivity and raise workforce participation.

In 2008, COAG agreed to a National Skills and Workforce Development Agreement. Commencing in 2009, it set out the commitment between the Commonwealth, states and territories to work towards increasing the skill levels of all Australians. The outcomes contained within the Agreement, whilst ambitious, target the long term.

The Department supports the broad targets of the *National Agreement for Skills and Workforce Development* to halve the proportion of Australians without qualifications at Certification III level or above by 2020; and to double the number of higher level (diploma and advanced diploma) qualification completions by 2020. The Department also supports the quality, transparency, equity and efficiency objectives and the goal to increase Year 12 retention rates, including through the Trades Training in Schools program.

### *Reform potential*

These targets are expected to improve participation and productivity performance. Increasing educational performance – including through VET attainment – is particularly important at a time of faltering productivity growth. The Department has an interest in ensuring that skills flow through to innovation and productivity in the workplace. In terms of managing the challenges of a 'patchwork' economy, appropriate and targeted up-skilling of the Australian workforce will help the non mining sectors of the economy to remain resilient at a time of structural change.

The recent report *VET and the Diffusion and Implementation of Innovation*<sup>7</sup> highlights the role that VET plays in stimulating innovation. It is the VET system's role in

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<sup>7</sup> Dalitz, R, Toner, P & Turpin, T 2011, *VET and the diffusion and implementation of innovation in the mining, solar energy and computer games sector*, National Centre for Vocational Education Research, Adelaide.

laying the groundwork for foundational knowledge, theory and building the capacity to learn (rather than competency-based learning), that is most important in stimulating innovation and productivity. An effective combination of workforce skills, including those acquired through VET, infrastructure and innovation will ultimately drive productivity growth.

### *Issues for ongoing reform*

The Department considers there are a number of issues that require attention in the ongoing implementation of VET reforms. Scarce funding and resources need to be directed to higher priority level qualifications. Technical standards, especially for science, technology, engineering and maths (STEM) workers, are increasingly onerous. Gains to innovation and productivity are more likely to be maximised where VET students can pursue high quality courses with an emphasis on Diploma and Advanced Diploma attainment. In addition, the challenge of climate change and an increasing demand for ‘green skills’ will require workers with competent environmental knowledge to move into trades and other occupations. For example, the Allen Consulting Group mid-term review of the *Productivity Places Program*<sup>8</sup> identifies concerns that the funding model has led to an emphasis on lower-cost courses.

There also needs to be adequate articulation between VET and higher education. In many cases, VET qualifications will complement rather than be a substitute for university education. The technical vocational skills available through the national VET system can often better accommodate workers to precise standards required to pursue a particular career. For example, VET qualifications in business management or accounting can make a self-employed engineer or lawyer more productive. A national quality training place entitlement should not impede those who wish to pursue both a VET and a university qualification. Complementary VET and higher education systems will also facilitate the goal of achieving more efficient and workplace-relevant skills which in turn promotes greater workplace productivity.

Teacher quality is paramount. Recent research by the Grattan Institute indicates that investment in schools to boost student performance arguably provides the best return on investment to boost productivity. Studies have also shown that high-quality teaching can overcome social and cultural barriers to learning. The quality of VET teaching is no less important than teaching in schools. In this context, the Department supports increasing the proportion of VET teachers with a Certificate IV in Training and Assessment. This is an effective method to help address the poor completion rates for VET qualifications in Australia.

The Department also supports measures to ensure that VET reform is demand-driven to meet the needs of both students and industry. In particular, linkages should be developed wherever possible between vocational training institutes and local industry and employer groups. It is essential that training is responsive to the employment conditions and industry needs on the ground. This will maximise employment outcomes for VET graduates. Workplace relevant training adjusted to local customer

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<sup>8</sup> The Allen Consulting Group 2010, *Mid-term Review of the National Partnership Agreement for the Productivity Places Program*, Allen Consulting Group, Melbourne

and employer needs will also maximise productivity outcomes for industry. The Department's Industry Innovation Councils and Enterprise Connect, industry groups and local chambers of commerce, should be engaged in this process as appropriate.

Finally, management quality is critical to the effective utilisation of the skills of individual workers and therefore plays a role in driving workplace innovation and productivity. The *Management Matters in Australia*<sup>9</sup> report, commissioned by the Department and released in 2009, highlights the importance of effective management skills to the productivity performance of enterprises. The VET system needs to ensure that business owners, particularly small business owners, have access to appropriate qualifications in business management and operations.

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<sup>9</sup> Department of Innovation, Industry, Science and Research, 2009, *Management Matters in Australia: just how productive are we?* Canberra

## BACKGROUND

### Building Regulatory Reform

Building regulation reform has been an iterative process for a number of decades. The working arrangement of the Building Ministers' Forum (BMF) and the Australian Building Codes Board (ABCB) demonstrates a model of Commonwealth, State and Territory cooperation that has proven to be remarkably successful and resilient to external pressures, but sufficiently flexible to adapt to changing societal expectations.

Ultimately, the success of building regulation reform has been underpinned by establishing a reputation for implementation of regulatory change through: robust assessment processes and strong consultative processes with state-based regulators and a broad range of stakeholders. Evidencing the strong commitment to best practice regulation, the ABCB has prepared numerous Regulation Impact Statements, both at the consultation and decision making stage, and all have complied in full with the COAG best practice regulation requirements<sup>10</sup>.

The building regulation landscape has altered markedly since the nine Governments first agreed to develop a national set of building requirements. The Building Code of Australia (BCA) has evolved from a 'prescriptive' regulation (or code) to a 'performance-based' code. This evolution has facilitated innovative building design and product solutions for the built environment. The traditional role of health and life safety in building regulation has now expanded to include societal objectives, such as disabled access to buildings and improved energy efficiency requirements.

### Institutional Arrangements for the NCC

The BMF is an ad hoc forum of Commonwealth, State and Territory Ministers responsible for building and plumbing regulation (i.e. the NCC). Its primary function is to oversight the operation of the ABCB. This is achieved through an intergovernmental agreement (IGA), which commenced in 1994, was subsequently amended in 2001, and revised in 2006, following independent reviews in 2000 and by the Commission in 2004. There is currently in principle agreement for a new IGA, to reflect the establishment and ongoing operation of the NCC through the ABCB. The IGA is currently with BMF members for signing, expected by the end of 2011.

The ABCB is a joint Commonwealth, State and Territory entity operating under the Department portfolio by way of an IGA agreed by the BMF. Established in 1994, the ABCB has provided a stable platform to drive a nationally consistent approach to the regulatory reform agenda in a policy area that is the constitutional domain of state and territory governments. The Board of the ABCB is comprised of 15 members comprising: an independent Chair, based on majority support from the jurisdictions; officials from the nine jurisdictions; a representative from the Australian Local Government Association and four industry representatives. ABCB intellectual property is jointly owned by the nine governments through a legally binding deed.

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<sup>10</sup> OBPR, 2010, 2009, 2008, *Best Practice Regulation Report 2009-10, 2008-2009, 2007-08*