



ABCBC

Building regulator collaboration

Model terms of reference for BCR
recommendation 5

2021

Copyright

© Commonwealth of Australia and States and Territories of Australia 2021, published by the Australian Building Codes Board.



The material in this publication is licensed under a Creative Commons Attribution-4.0 International licence, with the exception of

- Any third party material
- Any trade marks, and
- Any images or photographs.

More information on this CC BY licence is set out at the Creative Commons website (creativecommons.org/licenses/by/4.0)

Enquiries about this publication can be sent to:

Australian Building Codes Board
GPO Box 2013
CANBERRA ACT 2601
Phone: 1300 134 631
Email: ncc@abcb.gov.au
Web: abcb.gov.au

Attribution

Use of all or part of this publication must include the following attribution:

© Commonwealth of Australia and States and Territories 2021, published by the Australian Building Codes Board.

Disclaimer

By accessing or using this publication, you agree to the following:

While care has been taken in the preparation of this publication, it may not be complete or up-to-date. You can ensure that you are using a complete and up-to-date version by checking the Australian Building Codes Board website (abcb.gov.au).

The Australian Building Codes Board, the Commonwealth of Australia and States and Territories of Australia do not accept any liability, including liability for negligence, for any loss (howsoever caused), damage, injury, expense or cost incurred by any person as a result of accessing, using or relying upon this publication, to the maximum extent permitted by law. No representation or warranty is made or given as to the currency, accuracy, reliability, merchantability, fitness for any purpose or completeness of this publication or any information which may appear on any linked websites, or in other linked information sources, and all such representations and warranties are excluded to the extent permitted by law.

This publication is not legal or professional advice. Persons rely upon this publication entirely at their own risk and must take responsibility for assessing the relevance and accuracy of the information in relation to their particular circumstances.

Version history

Original

Publish date: 22/4/2021

Print version: v1.0

This version

Publish date: 10/12/2021

Print version: v1.1

Details of amendments: Add preface; format text; add new cover.

Preface

The [Building Confidence Report](#) (BCR), published in April 2018, made 24 recommendations to Building Ministers to address systemic issues in the Australian building industry. Building Ministers established the BCR Implementation Team within the Office of the Australian Building Codes Board (ABCB) to work with governments and industry to respond to the recommendations with a focus on national consistency where possible.

The BCR Implementation Team's work aims to establish national best-practice models in response to BCR recommendations. If implemented, the responses will strengthen compliance with the National Construction Code (NCC), better protecting the interests of people who own, work in, live in and use Australian buildings.

All responses to BCR recommendations have been developed in accordance with the [Building Confidence National Framework](#) with input from industry and governments. Figure 1 lists the outputs developed under the Framework, and where to find them.

State and territory governments have agreed to consider implementation of all BCR endorsed responses. This process will take time depending on each government's regulatory reform agenda, and may be undertaken in stages.

The model terms of reference for *Building regulator collaboration* represents a nationally agreed response to BCR recommendation 5. This recommendation states "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)".

The BCR found, within jurisdictions, "fragmented system[s] of regulatory oversight, which is prone to duplication, confusion unclear lines of responsibility and a lack of information sharing". Committees in states were suggested as one way to meet the recommendation. The model terms of reference have been developed so they can be applied in any jurisdiction.

Figure 1 – Building Confidence Implementation Framework - Outputs



Next Steps

Implementation by state and territory governments

Governments have agreed to consider implementation of the responses. Contact the building authority in your jurisdiction for information on progress.

Each of the outputs listed in Figure 1 can be accessed on the [ABCB website](https://www.abcb.gov.au).

Contents

Preface	ii
Model terms of reference	1
1 Introduction	1
2 Aim	1
3 Objectives	1
4 Governance Arrangements	2
4.1 Membership.....	2
4.2 Chairperson	3
4.3 Advice.....	3
4.4 Meeting schedule and procedures	3
4.5 Reporting	4
5 Secretariat	4
6 Resources	4
7 Confidentiality	5

Adoption of model documents

As a model, these terms of reference do not have any force until adopted by a jurisdiction. States and territories may have regard to the content of the model. This may include amending or adopting the model for application in their jurisdiction.

The model terms of reference need to be read in conjunction with the relevant legislation in a jurisdiction. It is written in generic terms and is not intended to override legislative requirements.

Model terms of reference

1 Introduction

The [Building Confidence Report](#) (BCR) recommended jurisdictions establish formal mechanisms for collaboration and effective coordination between those with responsibility for building regulatory oversight. Jurisdictional committees was suggested as one way to meet the recommendation. These model terms of reference set arrangements for a committee that would satisfy the BCR recommendation, while allowing flexibility for implementation according to each jurisdiction's regulatory framework.

2 Aim

The aim of the [committee] is to ensure the consistent and effective implementation of building laws within the state, at all stages of the building life cycle, through collaboration and cooperation.

3 Objectives

The objectives of the [committee] are to:

1. develop and maintain procedures to improve collaboration and cooperation for approval by the [relevant Minister/s] on:
 - a. compliance and enforcement activities between [building regulatory bodies], including escalation of matters, by providing a clear pathway to expedite fair resolution of issues; and
 - b. sharing risk assessment and management practices; and
 - c. any other matter agreed by the [committee] or directed by the [relevant Minister/s] related to implementation of building regulation;
2. enable information of mutual interest to be shared between relevant Members in a timely manner, subject to statutory prohibitions or confidentiality requirements;

3. ensure that the public, building practitioners, and [building regulatory bodies] have access to consistent and accurate information to provide a clear understanding of the roles and responsibilities of each party; and
4. facilitate an open and collaborative approach that promotes prompt and effective action on building issues and provides an environment for continuous learning and the application of those learning outcomes through improved public policy, practice advice and enforcement strategies.

4 Governance Arrangements

The [committee] may be established on an administrative or statutory basis.

4.1 Membership

Membership of the [committee] should reflect the range of stakeholders involved in administering and enforcing the building laws in each state. These should include:

1. a chairperson from the [relevant state agency responsible for regulating building work], or an independent person appointed by the [relevant Minister/s];
2. a representative of each state agency responsible for implementing and enforcing building legislation and regulating building industry participants
3. a representative of the body responsible for resolving building disputes in the state (if one is in place);
4. two representatives of local government (states only), either drawn from peak bodies or selected by local governments to represent the views of councils in cities and regional areas;
5. two representatives of building surveyors or appointed by the [minister/s responsible for regulating building work], either drawn from peak bodies or individuals with standing in the profession; and
6. two representatives of fire authorities.

The [relevant minister/s] will decide:

1. Who will chair the [committee]; and

2. Which organisations will be invited to send a representative for members at 4 to 6 above.

Unless otherwise provided for above, the organisations may select who will represent their organisation at [committee] meetings. Representatives should be of sufficient seniority within their organisations to fully participate in discussion and decisions of the [committee], and should be supported through provision of necessary information, data and views by those they represent.

4.2 Chairperson

The chairperson selected by the [minister/s] may be appointed for a term of up to three years. The [minister/s] may re-appoint a chairperson for one further term of up to three years, after which a new chairperson will be selected and appointed.

If the [minister/s] appoints an independent chairperson, a remuneration package will be developed by the state or territory under their existing arrangements for similar positions (e.g. Remuneration Tribunal Determination).

4.3 Advice

The chairperson may approve the attendance of additional parties to provide advice to the [committee] as the need arises.

To assist in fulfilling its role the [committee] may agree to establish working groups, expert reference groups or ad hoc interagency groups as needed to provide operational and technical expertise to the [committee].

4.4 Meeting schedule and procedures

The [committee] will meet as required, but at least four times per year for the first two years of operation, after which a minimum of two meetings per year will be required.

The [committee] may wish to determine its own meeting rules and procedures provided it is not inconsistent with the terms of reference.

On voting, it is suggested that the [committee] seek to reach consensus, but accepts that Members may hold a range of perspectives on a particular issue and, in such circumstances, may wish to report differing views in the meeting records.

Information may also be circulated and decisions made out of session via written communications.

4.5 Reporting

The [committee] will report to the [relevant minister/s] on:

1. its activities by releasing a communique following each meeting; and
2. implementation of agreed procedures on an annual basis.

The [committee's] communique and report on implementation of agreed procedures should be made available to the public.

Expenditure of funds allocated for the [committee's] secretariat services and an independent chairperson remuneration will be included in the Annual Report of the organisation managing those funds.

5 Secretariat

Each state or territory should identify a suitable organisation to provide Secretariat support to the committee. In most cases this is expected to be the organisation providing the Chairperson, if not independent.

The Secretariat will facilitate the coordination, planning and reporting of [committee] meetings and activities. Members will provide the secretariat with the information necessary to carry out these roles.

6 Resources

The [relevant Minister/s] will ensure the Secretariat is adequately resourced to support the [committee] and funding is provided for remuneration of the Chairperson, if appointed.

Each [committee] Member will bear the administrative costs associated with preparation for and attendance at the [committee] meetings, including any sub-groups formed by the [committee].

Implementation of procedures and other activities of the [committee] will be funded by each Member, however, the [committee] should advise the [relevant Minister/s] on the likely costs implementing any activities.

7 Confidentiality

From time to time [committee] Members may be given access to confidential information or material. Confidential material will be marked accordingly.

Non-government [committee] Members will be required to sign confidentiality agreements to ensure that confidentiality is strictly maintained.