

An agreement

between

The Commonwealth of Australia

The States

and

The Territories

to establish

THE AUSTRALIAN BUILDING CODES BOARD

March 1994

An AGREEMENT made this first day of March, one thousand, nine hundred and ninety-four to establish the AUSTRALIAN BUILDING CODES BOARD.

SIGNATORIES

Senator the Hon Peter Cook
Minister for Industry, Technology & Regional Development

The Hon Garry West, MP
Minister for Local Government & Co-operatives
New South Wales

The Hon Rob Maclellan, MLA
Minister for Planning
Victoria

The Hon Terence Mackenroth, MLA
Minister for Housing, Local Government & Planning
Queensland

The Hon John Oswald, MP
Minister for Housing, Urban Development and Local Government Relations
South Australia

The Hon Paul Omodei, MLA
Minister for Local Government
Western Australia

The Hon Thomas John Cleary, MLA
Minister for Local Government
Tasmania

The Hon Steve Hatton, MLA
Minister for Lands, Housing & Local Government
Northern Territory

The Hon Bill Wood, MLA
Minister for the Environment, Land & Planning
Australian Capital Territory

AN AGREEMENT made this first day of March, one thousand nine hundred and ninety-four between – THE COMMONWEALTH OF AUSTRALIA (in this Agreement called “the Commonwealth”),

THE STATES OF NEW SOUTH WALES, VICTORIA, QUEENSLAND, SOUTH AUSTRALIA, WESTERN AUSTRALIA and TASMANIA (in this agreement called individually a “State” and collectively “the States”) and

THE NORTHERN TERRITORY AND THE AUSTRALIAN CAPITAL TERRITORY (in this agreement called individually a “Territory” and collectively “the Territories”).

(A) The respective Ministers of the Commonwealth, the States and the Territories, meeting in a national council known as the Planning, Housing and Local Government Ministerial Council (“the Council”), have determined that a nationally consistent regulatory framework should be developed, and in particular that:-

- (i) building regulation be as uniform as possible between the States and Territories and that the technical source of such regulation be the Building Code of Australia (“BCA”) as varied from time to time, or its replacement;
- (ii) additions or variations of technical provisions of the BCA by the States and Territories be limited, so far as is possible;
- (iii) more efficient and simplified building regulatory systems be developed; and
- (iv) national acceptance and adoption of technology be encouraged and supported;

and have further agreed to establish a representative Board to be known as the Australian Building Codes Board (“the Board”), or such other name as determined by the Council, with a mission 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;

(B) The objectives to which the proceedings and operations of the Board are to be directed (“the Objectives”) are:-

- (i) to establish codes, standards and regulatory systems that are, as far as practicable:-
 - consistent between States and Territories;
 - cost-effective;
 - performance-based; and
 - incorporate modern and efficient building practices;
 - (ii) to ensure that building requirements are based on minimum, least-cost solutions commensurate with regulatory objectives of health, safety and amenity;
 - (iii) to examine and promote opportunities for deregulation wherever possible;
 - (iv) to undertake research to ensure that solutions are soundly based with particular emphasis on innovations and lowering costs;
 - (v) to undertake effective consultation and liaison with industry to achieve transparency in the reform process;
 - (vi) to simplify the wording of building requirements to achieve user friendliness and plain language style;
 - (vii) to co-ordinate and integrate reform activities with those of other agencies to ensure consistency of approach and to encourage consolidation into the BCA of all mandatory requirements affecting buildings;
 - (viii) to create an efficient regulatory environment to encourage an internationally competitive building and construction industry; and
 - (ix) to perform such other matters ancillary or incidental to such objects as the Board shall from time to time deem fit.
- (C) The provisions of this Agreement are not intended to create legally binding or enforceable arrangements between the parties or to derogate from the rights and powers of the Commonwealth, States or Territories or any of their respective agencies or authorities.
- (D) The Council has established Standing Orders providing for the administration of the Board and implementation of the Objectives;
- (E) The Commonwealth, the States and the Territories are prepared to contribute towards the cost of maintaining and operating the Board in accordance with the

provisions of this Agreement and of the Standing Orders from time to time so established.

- (F) Subject to Recital (C) the Commonwealth, the States and the Territories wish to make a formal agreement in order to give effect to agreements and arrangements relating to the formation of the Board and its operations.

NOW IT IS HEREBY AGREED as follows -

PART 1 — Preliminary

- 1.1 This Agreement shall come into force when it has been executed by all of the parties (“the commencement date”).
- 1.2 The proceedings, decisions or actions taken by any interim Board established by all the parties in advance of this Agreement are adopted and confirmed as proceedings, decisions or actions taken by the Board established by this Agreement.

PART II — Interpretation

- 2.1 A reference in this Agreement to a Minister includes:-
- (a) a Minister or other member of the Federal Executive Council;
 - (b) a Minister of the relevant State or Territory; or
 - (c) a person nominated by a Minister as his or her representative from time to time.
- 2.2 A reference in this Agreement to “Administration” shall mean the Department of State or other Statutory Body responsible for building regulatory matters for the Commonwealth and each of the States and Territories.

PART III — Establishment of Board

- 3.1 The proceedings and operations of the Board established by this Agreement shall be directed to the achievement of the Objectives set out in Recital (B) of this Agreement.
- 3.2 Subject to the availability of funds, the Board may deal with such matters or arrange for the performance of such tasks related to the Objectives as the Board may, from time to time, deem necessary.

3.3 The Board shall consist of the following members:-

- (a) the principal officer of each Administration;
- (b) a representative of the Australian Local Government Association; and
- (c) three representatives of the building and construction industry as appointed by the Council.

3.4 A member of the Board may appoint a deputy.

3.5 The responsibilities, proceedings and conduct of the Board shall be as laid down by Standing Orders.

PART IV — Financial Arrangements

4.1 The financial arrangements set out in this Part shall be based upon annual budgets approved by the Council.

4.2 The monies of the Board (“funds”) shall consist of contributions by all of the parties in accordance with this Part and other monies arising from the operations of the Board.

4.3 Available funds may be applied only under the authority of the Board and for the purposes of the achievement of the Objectives of the Board as set out in this Agreement.

4.4 The amount of funds agreed in this Part to be contributed shall be allocated among the parties as follows:-

- (a) the Commonwealth contribution shall be one half of the amount; and
- (b) the States and the Territories shall contribute one half of the amount in proportions according to the values of their respective total building approvals for the financial year two years preceding the determination. The values of building approvals shall be as determined by the Australian Bureau of Statistics.

4.5 Contributions of funds by members shall be payable as soon as practicable after the commencement of the relevant financial year.

4.6 The financial arrangements set out in this Part shall not prevent the Board developing forward programs for regulatory reform.

PART V — Administrative Arrangements

- 5.1 An Executive Director (“the ED”) shall be appointed by the Board to co-ordinate the activities of the Board, carry out and manage the implementation of Board directives and decisions, and to manage and implement the reform program in accordance with the functions in Standing Orders.
- 5.2 The parties shall, through their respective administrations, facilitate the work of the Board as set out in Standing Orders.
- 5.3 There shall be a Building Codes Committee (“the Committee”) the composition of which shall be as determined by Standing Orders.
- 5.4 The Board may delegate such of its functions and authorities in such a manner as it considers appropriate. The provisions of this Clause shall not extend to its power of delegation.
- 5.5 Administrations on behalf of and in accordance with the determinations of the Board, may engage consultants or staff, or second staff, to carry out tasks associated with the functions of the Board.

PART VI — General

- 6.1 The operations of the Board and the administration of this Agreement shall be reviewed within five years from the commencement date of this Agreement.

PART VII — Standing Orders

- 7.1 The Standing Orders provided in this Agreement shall be determined by the Council and shall be applicable, as at the commencement date, for the purposes of the operation and implementation of the provisions of this Agreement.
- 7.2 The Standing Orders may be varied from time to time by the Council and references in this Agreement to Standing Orders are to be read as references to those Standing Orders as for the time being so varied.