

## ***National Uniformity***

Since the Rudd Government was elected, the COAG process has evolved into a far more collaborative forum.

This has delivered some initial reforms in areas such as water supply, personal property law, and Federal financial relations.

However, many other areas still require urgent reform.

### **Harmonising Occupational Health and Safety (OHS) Laws**

The Government's National Review into Model Occupational Health and Safety Laws has already handed down findings that would significantly improve the treatment of OHS in Australia.

A follow-up report is due at the end of January.

Unfortunately state and territory governments have already indicated they will not agree to more uniformity.

The Property Council urges the Government, through COAG, to push for greater national consistency in OHS rules, regulations, and procedures.

### **Building Codes Reform**

The Property Council welcomes the current review of the Intergovernmental Agreement governing the Australian Building Codes Board and the proposal to create a National Construction Code.

We believe that all regulations influencing the construction of a building – particularly those covering building, plumbing, and telecommunications – should be located in the one Code.

### **Property Law Reform**

**Australia has already recognised the benefits** of introducing uniform laws, through the successful implementation of **Corporations Law** reforms.

The Property Council believes a **CLERP-style** (Corporate Law Economic Reform Program) approach **to property law reform is a high priority.**

In an effort to achieve greater uniformity, the Property Law Reform Alliance has been working on a **Uniform Torrens Title Act** for adoption by state and territory governments.

**The Voice of Leadership**

The Alliance is also working on reforms to the following areas of property law:

- conveyancing;
- documentation;
- leasing;
- finance;
- powers of attorney; and,
- professional standards.

The Property Council endorses the Australian Government's commitment to provide incentives to states or territories that harmonise their regulations, based on a national competition policy model.

We believe that property-related laws and procedures should be included as priorities for harmonisation.

### **eGovernment**

Electronic initiatives provide excellent opportunities to improve the delivery of services to consumers without red tape.

The Property Council commends three priority projects:

- **electronic Conveyancing**, through the National Electronic Conveyancing System (NeCS) – enabling the transfer of property titles – already supported by the Australian Government;
- **electronic Development Assessment (eDA)** – facilitating the online lodgement and processing of development applications – already supported by the Australian Government; and,
- **sensory law**, for which a pilot study should be conducted. Sensory law is the electronic codification of planning rules utilising computer graphics.

### **Improving Insurance**

Australia's insurance system needs an **overhaul**.

Some of the huge potential reform benefits include:

- lower cost, more reasonably priced coverage for consumers;
- greater legislative consistency across the country;
- greater choice and more flexible options for policyholders;



- reduced litigation and an increased emphasis on individual responsibility; and,
- clearer information on the level of coverage available to the insured.

Reforms to this market will make it more attractive for individuals and businesses to commit to appropriate insurance coverage.

### **The Terrorism Insurance Scheme**

Australia has a world class terrorism insurance scheme.

This has enabled businesses to obtain affordable cover against potential terrorism events.

The property sector strongly supports the retention of the Terrorism Insurance Act and the Australian Reinsurance Pool Corporation it established.

#### **Deregulate for a Seamless Economy – Recommendations:**

- First:** Pursue nationally uniform OHS rules, regulations, and procedures through COAG, such as:
- limiting the recovery powers of WorkCover authorities by requiring compulsory settlement meetings or a mediation process before any litigation action can be initiated;
  - requiring WorkCover authorities to recognise the concept of contributory negligence when assessing claims for compensation, rather than treating each case as 'no fault' on the part of the injured party.
- Second:** **Conduct an inquiry into property laws** through COAG to identify strategies for achieving national uniformity. The inquiry should pay particular attention to the potential for **CLERP-style legislation**.
- Third:** Demonstrate commitment to eGovernment by:
- continuing to fund the Secretariat of the National eConveyancing System (**NeCS**) to allow it to complete its work;
  - funding, through the Development Assessment Forum, the **ongoing implementation and management** of the electronic development assessment (**eDA**) protocol; and
  - funding a pilot study into the potential for electronic sensory law-based planning.
- Fourth:** Commit to a strategy for improving the insurance market in Australia, through:

- continued access to the Australian market by foreign insurers, provided they are licensed in a jurisdiction that has a comparable prudential regime or with which Australia has a double tax treaty;
- exempting single parent captive insurers from APRA regulation, because they only have one client. APRA's prudential regime should be applied to premiums that require a prospectus –wholesale insurance should automatically be exempt; and
- abandoning the insurance exemption criteria proposed by the last government.

**Fifth:** The Business Regulation and Competition Working Group should review current state and territory approaches to insurance and compensation, particularly:

- the retention of the key elements of the 2002 tort law reforms, including proportionate liability and the defence of contributory negligence;
- the development of a matrix to guide compensation decisions;
- a review of the law of negligence; and
- the potential for aggregating taxes and levies on insurance premiums into a single charge, calculated with a standard formula, with any taxes levied only on the cost of the untaxed premium.

**Sixth:** Amend the Terrorism Insurance Act to allow for reviews of the Act every ten years, rather than every three. Current deductible rates should be retained until this new review date has been reached.

**Sources:**

*A National Approach to Occupational Health and Safety*, Property Council of Australia Submission to the National Review into Model Occupational Health and Safety Laws (July, 2008)

*Review of the Intergovernmental Agreement for the Australian Building Codes Board and National Construction Code implementation*, Property Council of Australia Submission to the Allens Consulting Group (January, 2009)

*Draft Table of Contents for Uniform Torrens Title Act*, Property Law Reform Alliance (2009, forthcoming)

*www.plra.com.au*, Property Law Reform Alliance (2008)

*The Move to eDA*, Development Assessment Forum (September, 2007)

*Benefit Cost Analysis for Electronic Development Assessment*,  
Development Assessment Forum (May, 2004)

*Implementation Options for National Standard Communications Protocol  
for Electronic Development Assessment*, Development Assessment Forum  
(May, 2004)

*d\_City Thinking Kit – Tools for Designing Prosperous, Sustainable &  
Liveable Cities, Version 3.0*, Property Council of Australia (November,  
2008)

*Terrorism Insurance Act Review*, Property Council of Australia submission  
to the Treasury (May, 2006)

*Terrorism Insurance Act Review – Supplementary Information*, Property  
Council of Australia submission to the Treasury (June, 2006)

*Terrorism Insurance Act Review – Draft Regulations*, Property Council of  
Australia submission to the Treasury (January, 2007)