

Development and Approval of a Code of Conduct

Victorian Building Authority

August 2017

ABOUT CODES OF CONDUCT

Under the *Building Act 1993* (the Act), the Victorian Building Authority (VBA) has the power to prepare Codes of Conduct (Code) for categories and classes of building practitioners.

A breach of a Code prepared or approved by the VBA by any practitioner in the category or class that it applies to may be grounds for disciplinary action. There is no requirement for any group (such as an industry association) representing a category or class of building practitioners to advise the VBA of any breach or potential breach of a Code by one of their members.

PREPARING CODES OF CONDUCT

The VBA may consider preparing a Code of Conduct in circumstances where:

- There is evidence of systemic market failure
- The VBA determines there is a need to codify the competencies, scope of duties and conduct of a particular class or category of building practitioner
- The VBA forms the view that a Code could encourage a high-risk category or class of practitioner to modify existing practices, and
- Existing regulations and enforcement tools are failing to address systemic industry non-compliance.

APPROVING CODES OF CONDUCT

The VBA has the authority to approve a Code of Conduct submitted by a group purporting to represent a category or class of building practitioners.

Image 1 provides an overview of the process for development and approval of a Code.

The VBA initial and formal assessments will be made against the Criteria for Approval set out below.

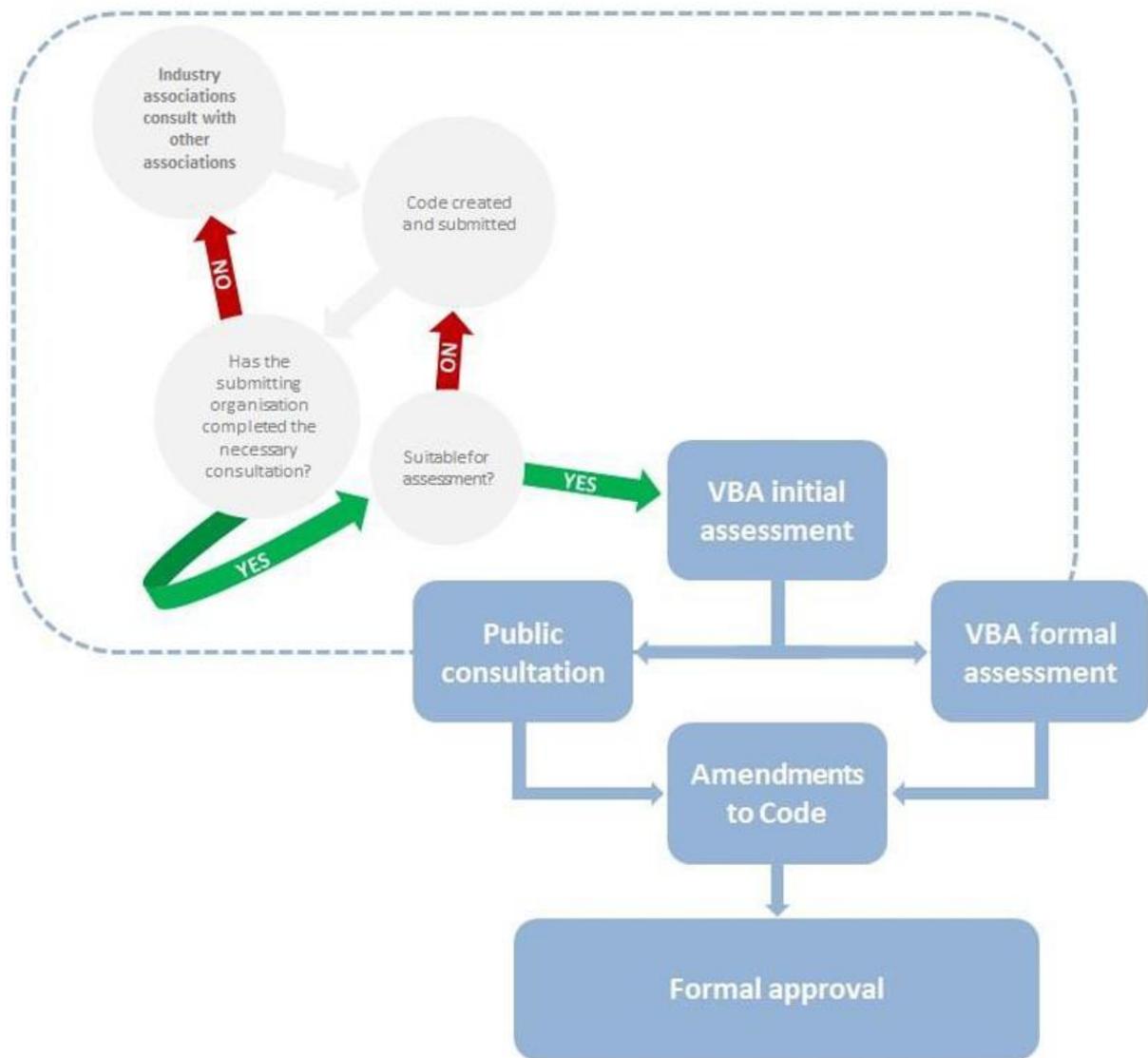


Image 1 Code of Conduct Development and Approval Process

CRITERIA FOR CODE APPROVAL

These Criteria have been developed to outline to building industry groups or professional associations and other groups purporting to represent a category or class of building practitioners how the VBA will assess any Code for approval under section 177(1) of the Building Act.

Where more than one professional association or industry group represents the interests of a category or class of building practitioners, the VBA requires those groups or associations to reach consensus on the content of the Code. This will ensure a unified approach to the Code is adopted by the relevant category or class of building practitioners.

The following tables outline the Criteria that the VBA will use to assess any Code of Conduct submitted for approval.

CATEGORY OR CLASS SPECIFIC

The Code represents a recognised category or class of building practitioner that can be registered by the VBA.

The Code has been drafted and submitted by building industry groups or professional associations and/or other groups purporting to represent a category or class of building practitioners.

The organisation submitting the Code for approval can demonstrate that it has reached consensus about the content of the Code with other relevant industry associations.

The Code doesn't include any matters that are outside the practitioner's authorised scope of works (competence).

COMPLIANCE AND ENFORCEMENT

Code rules are drafted in definitive terms, for example do not include language such as "It would be preferable if practitioners, where possible...".

Code rules can demonstrate how the Code's objectives will be achieved.

Compliance with the Code rules can be assessed, inspected or audited.

There are no elements of the Code that the building practitioner cannot comply with (either through unclear wording, definitions or covering areas beyond their areas of competency).

Breaches of the Code could be successfully investigated and permit recommendations for disciplinary action to be made.

The Code addresses any specific areas of concern that the VBA may have that relate to that category or class.

LEGAL AND REGULATORY

The Code requires a building practitioner to comply with all applicable legal obligations under the Building Act and other laws relevant to their conduct as a building practitioner.

The Code does not limit in any way a building practitioner's responsibilities under the Building Act or any other legislation or at general law.

The Code has been subject to consultation between the VBA and the organisation submitting the Code for approval.

COMPLAINTS AND DISPUTES REGARDING CODES OF CONDUCT

The Code outlines an effective process for dealing promptly and appropriately with disputes or complaints related to the Code of Conduct.

The Code details relevant external (non-VBA) sources for dealing promptly and appropriately with disputes or complaints related to the Code of Conduct.

REVIEW

A Code states that a review of the Code will be undertaken as required from time to time.

EFFECTIVE DATE

The Code nominates a date that it takes effect.

Note: this can be the date the Code is gazetted or a date nominated in the Code.

PUBLISHING A CODE OF CONDUCT

Regardless of whether a Code has been prepared or approved by the VBA, the VBA will advise all practitioners who will be bound by it that the Code is now in place.