



Mr A Bullock  
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Dear Mr Bullock

**RE: CodeMark Certificate CM20029**

In your letter dated 28 November 2019, you requested that the Scheme Owner review your client's complaints about the claims contained in CodeMark Certificate of Conformity CM20029 on the Insulbreak product and the decision by JAS-ANZ contained in its letter dated 14 October 2019.

As you are aware, this CodeMark Certificate of Conformity was superseded during the course of my review and replaced by CM20029/1, which operates and applies to products from its date of issue on 25 February 2020. On 17 April 2020, you requested that the validity of CM20029/1 be considered within the scope of your request. Technically this review cannot consider something that did not exist during the time of your client's complaint, as JAS-ANZ never undertook a review against CM20029/1. However, to assist your client, and in recognising that the new CM20029/1 exists, at least in part as a result of the JAS-ANZ review, albeit developed after you initiated your client's request to us, I have agreed to consider the new CM20029/1 (consistent with the email correspondence to you of 17 April 2020).

Unless otherwise noted, all references to National Construction Code (NCC) provisions in this review are to those in NCC 2016 Volume One Amendment 1.

Review:

I advise that the review undertaken by me has now been completed. The review addressed the claims made on Certificate of Conformity CM20029 (as allowed under Rule 57 of the CodeMark Australia Scheme Rules).

Evidence considered:

I requested information from JAS-ANZ and undertook a preliminary assessment of that information. I analysed the evidence in the information provided, JAS-ANZ's process for investigating the complaint and the conclusions reached by JAS-ANZ in respect of the matters raised in the complaint. My staff held meetings with JAS-ANZ in February 2020 in relation to the information provided and asked further questions, the response to which have also been considered.

Conclusions:

I conclude some of the claims made on Certificate of Conformity CM20029 were not clear.

I conclude the process used by JAS-ANZ to investigate your client's complaint while appropriate, ought to have been more open and responsive to your concerns and explained further the action being undertaken to develop a new Certificate of Conformity.

I conclude your complaint and JAS-ANZ's response have led to the development of a new Certificate of Conformity CM20029/1 for the Insulbreak product. I further find that the issuing of the new Certificate of Conformity CM20029/1 in relation to the Insulbreak product is appropriate in these circumstances.

Finally, while I consider the new Certificate of Conformity CM20029/1 addresses many of your client's concerns, there is one matter regarding the new certificate that I have raised with the Certification Body, through JAS-ANZ. I consider this concern will need addressing to better meet the outcome of this review and the intention behind the directions set out in the ABCB's *Information required on a Certificate of Conformity*.

#### Reasons:

The full reasons for my findings are set out below under three headings to respond to the specific matters your client has raised in your request.

#### **Compliance with NCC Volume One J1.3(d) and J1.5(c) – thermal break**

Your client complains that the Insulbreak 65 product was marketed as being 6.5 mm thick, but it can only meet an R-value of R0.2 at 7 mm thick. It is a requirement in NCC Volume One J1.3(d) and J1.5(c) that a product used as a thermal break must have an R-value of R0.2.

I find the Certificate CM20029 correctly identifies in Table A1 of Appendix A that, of all the products covered by the Certificate, only the Insulbreak product has a use as a thermal break and therefore is the only product required to meet this R-value. I also find that there is a discrepancy in the B2 reports provided to support this claim and in the evidence I have been provided with.

I agree that the testing undertaken on the Insulbreak 65 product in 2017 was not at a thickness of 6.5mm. I find that there was a discrepancy between the Certificate and the product's marketing material as that product was marketed as being 'nominally' 6.5mm thick in 2017. During JAS-ANZ's investigation of your client's complaint in 2019, this discrepancy was addressed by the manufacturer who amended the marketing material to be consistent with the manufacturing specifications for the product. Changes to the product description and the product's new name being Insulbreak 70 were also made during that year and are now reflected in CM20029/1.

There is substance in your client's complaint that even though the product may achieve an R-value of R0.2 at 7 mm thick, such a measurement fails to take into account compression. JAS-ANZ sought advice from its technical advisor on this matter and I have accepted that technical advice. The substance of this technical advice is as follows.

At the time the Certificate was issued, AS/NZS 4859.1-2002 (the edition of that standard referenced in NCC 2016 Amendment 1) did not provide definitive guidance on compression of test samples. Therefore, there was no standard compression Insulbreak 65 needed to meet at the point in time when the Certificate was issued.

However, in 2018, the relevant standard defined a compressible material as one that can be compressed by 20% or more at 2 kPa applied pressure. I have considered and accepted the Expanded Polystyrene (EPS) Industry Alliance position that in the construction industry, EPS typically has a compressive strength of 10 to 25 psi (i.e. 69 - 172 kPa). In addition, I have

considered advice on whether the product Insulbreak 65 would be compressible as defined in AS/NZS 4859.1-2018.

ASTM C518, which AS/NZS 4859.1 identifies as an acceptable test method for determining R-values, does not specify the applied force to be used during a test. Instead, it states that a means shall be provided to determine the average separation between the heating and cooling plate surfaces during operation. Rigid specimens generally act as the spacers themselves, and plate separation is determined by their thickness at operating temperature. In this case, a small constant force is generally applied to hold the plates against the specimen. It is unlikely that a pressure greater than 2.5 kPa will be required.

I accept this advice and conclude there were no grounds for JAS-ANZ to take any further action in respect of this matter.

### **Compliance with FP1.4 – penetration of water**

In your letter, your client complains that compliance of the product with FP1.4 has been certified in circumstances that are apt to mislead (i.e. as though the product alone could satisfy the Performance Requirement). You claim that this could mislead users into believing that the Performance Requirement need not be separately satisfied at a building level.

I agree that the general nature of this claim is not consistent with the intent of the instructions in the ABCB's *Information required on a Certificate of Conformity*.

However, the Certificate requires the product to be installed in accordance with referenced manufacturer's installation instructions. These instructions clearly show the product being used in conjunction with other building elements and the process for setting that up. In my opinion, there is no likelihood of a reasonable person who relies on the Certificate being misled into thinking that a waterproof external wall or roof of a building can consist only of the certified product without any other building element.

In my opinion, this matter is not sufficient justification to require withdrawal of the Certificate. However, for absolute clarity, I will expect the claim of compliance with FP1.4 to be expressed in line with the intent of the instructions in the ABCB's *Information required on a Certificate of Conformity*, when the Certificate is next amended or reissued. As stated in my conclusions, I have raised this with the Certification Body, through JAS-ANZ.

Finally, I have addressed your complaint regarding the status of Verification Method FV1. I do not consider your statement that FP1.4 can only be satisfied through compliance with FV1 (in other words, its use is mandatory) to be correct. I refer you to NCC A0.5 which provides a Verification Method is only one of several types of assessment methods that can be used to determine if a solution complies with the relevant Performance Requirement.

### **Request for documents**

Another complaint made by your client was that the Certification Body refused to provide your client with copies of the supporting documents referred to in the Certificate.

As you are aware, the ABCB's *CodeMark Protocol for the Assessment of Products against BCA Performance Requirements* states that documentation relied on in making a determination that the product will meet the Performance Requirements "...should be available

on request and its availability highlighted on the Certificate of Conformity". I make two points about this statement.


The Protocol uses "must" to indicate requirements that are mandatory and "should" to indicate requirements that are desirable but not mandatory. This approach is consistent with that used in the NCC itself where "should" is used for non-mandatory matters (like guidance material).

The second point I make is that supporting documents, such as testing results, are critical to the integrity and transparency of the CodeMark Australia Scheme and the veracity of those documents is crucial. However, the ABCB recognises that balanced against these concerns are the legitimate business interests of Scheme users and testing facilities including the protection of intellectual property for products, commercial in confidence material, commercially valuable information and other business confidentiality matters. For these reasons, the Protocol does not mandate a requirement to provide supporting documentation to the public. The only exception to this is that supporting documents of any kind must always be immediately available to JAS-ANZ upon request, to protect the integrity behind the Scheme.

Because the provision of documentation is not mandatory under the Protocol, I cannot demand that the Certification Body provide your client with copies of the documentation. However, I have requested that the Certification Body provide me with justification for their finding that the relevant supporting documentation referred to in the Certificate is commercial in confidence and their reliance on this reasoning when refusing to make this documentation available to your client.

As advised by JAS-ANZ in its letter to you dated 14 October 2019, the ABCB is considering revising this aspect of the Protocol to provide further clarity on this issue.

Yours sincerely



Neil Savery  
Chief Executive Officer

26 June 2020