



Third Submission to the  
Senate Economics Reference Committee

# Non-Conforming Building Products Inquiry

Prepared by:

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## Statement

This third submission supports the Senate Inquiry into Non-Conforming Building Product (NCBP) as the prevalence of building products not meeting relevant Australian standards and codes has increased significantly and is in step with increased global sourcing and purchasing practices in recent years.

The Building Products Innovation Council (BPIC) is submitting these comments on behalf of its member organisations, Australia's leading building products industries and related services, many of whom have also submitted their own individual responses.

BPIC would urge the Inquiry to bear in mind that NCBPs are a persistent and endemic problem in the building industry. Therefore the strategy and tactics required to eliminate them must work across the building spectrum and not product group by product group, or as a reflexive response to a recent crisis (such as the Grenfell Towers fire in the UK). While there is much concern about high-profile issues like non-conforming cladding, these instances can have the effect of overshadowing a broad supply-chain and construction problem.

The well documented incidence of non-compliant cladding in both Melbourne and Sydney buildings serves to highlight the need for all governments to work collectively to address the issue of non-conforming building products entering the Australian market place.

The Grenfell fire and the previous Lacrosse fire in Melbourne, also serve to highlight that the regulatory framework currently in place in Australia is only as good as the enforcement processes put in place by the relevant regulatory authorities.

Unfortunately these building fires have led to a false public and government perception that there are 'high-risk' products being used in buildings: i.e. products that are somehow inherently dangerous. The cladding audits already done in Melbourne and Sydney confirm that while some buildings might contain clearly non-conforming products, BPIC and the wider building products industry wishes to make it clear, that the issue is not only non-conforming products, but also conforming products that are used in inappropriate designs and forms of construction (non-compliant applications).

While the National Construction Code (NCC) has focused on ensuring that products meet minimum standards and code compliance, far less emphasis has been placed on ensuring that products are used only for the purposes for which they are intended. This is a significant weakness in the current code and regulatory regimes in Australia that requires immediate attention.

Our first submission to the Inquiry emphasised this and made a range of recommendations (Please refer to **Attachment 1 - Summary of BPIC Recommendations**) that the Federal and State governments should adopt. We are somewhat surprised that given the urgency of the situation, and after the passage of two years, few of these recommendations have been implemented.

The building products industry in Australia is and has always been self-reliant and self-funded. The building products industry is confident that the measures outlined in the our original submission to the Inquiry will help create a level playing field in the Australian building industry for all participants. This of course will in turn lead to good outcomes for consumers and tax payers, as well as strengthen the national economy.

# The Role of BPIC

The Building Products Innovation Council (BPIC) is a national peak body representing Australia's leading building products industries and related services (listed in the footer of this document) in:

Steel	Gypsum Board	Concrete	Glass
Insulation	Timber Products	Roof Tiles	
Windows	Clay Bricks	Concrete Masonry	
Cement	Housing Industry	Insulated Panels	

BPIC's members and associated companies directly employ over 200,000 Australians with more than 470,000 employed indirectly. Their collective industries are worth over \$54B in annual production to the Australian economy. The Council is a not for profit organisation governed by a Board of Directors comprised of representatives from its member organisations.

The Council's primary objective is to provide coordinated representation of the building products industry to interested parties including Government, the construction industry, and the general public. We also provide a forum for discussion, information sharing and policy formulation among major product categories in the building industry.

BPIC's mission is to:

- Promote the efficient production and use of building products within a nationally consistent regulatory environment.
- Develop policy and make submissions or representations to governments, industry and the community on agreed technical standards, codes and regulatory issues of mutual concern to Members.
- Promote the innovative use of building products.

The Council works to fulfill these aims by gathering and supplying practical and current industry information on behalf of BPIC member organisations and other organisations and companies that are not members but follow BPIC through various means. This industry-wide approach to responding to regulatory issues, helps to ensure that Governments are informed of potential problems in the building industry and are provided with appropriate industry-considered responses.

BPIC also encourages investment in skills formation, product development and industry research by helping to identify and remove regulatory impediments to innovation. We commission research into technical codes, standards and regulations as well as matters of mutual interest to the building products industry, and promote the capabilities of the building products industry through industry-run forums, exhibitions and conventions.

# Attachment 1 – Summary of BPIC Recommendations

- Improve policing and enforcement of existing regulations
  1. Extend the scope of the definition of consumer goods to include building products, which are used in residential building work giving the ACCC authority to act.
  2. Seek jurisdictions to mandate inspections of buildings by qualified building inspectors during construction.
  3. Establish a National register that documents issues that can be dealt with by a body with authority to act on NCP issues.
  4. Map out and eliminate overlapping non-conformance responsibilities between the Commonwealth, State/Territory and Local Governments.
  5. State and territory consumer affairs agencies to collect non-conforming products information as part of their dispute resolution processes.
- Strengthen independent verification and assessment systems
  6. Establish an Independent Compliance Body within the ACCC to investigate documented and serious NCP complaints and prosecute where appropriate.
  7. Government endorsement and common labelling of existing third party product certification schemes that meet minimum Australasian Procurement and Construction Council (APCC) requirements.
  8. Re-establish the CSIRO Building, Construction and Engineering Division along with its associated testing facilities.
  9. Promote the ABCB to prepare guidance information on the types of evidence of suitability and the building products that should be aligned with each type of evidence based on their risk.
  10. State and Territory building regulators to revisit the benefits of national harmonisation of the administrative framework for building approvals.
- Boost surveillance and screening of imported building products
  11. Federal agencies with responsibilities to manage the importation of building products are required to monitor or seek evidence that a building product meets relevant Australian technical standards.
  12. Throughout the surveillance process introduce anonymity for those reporting NCP along with qualified review of the matter reported.
  13. Empower industry organisations that already have market surveillance mechanisms in place, such that they can formalize a testing regime for all products within their sector with funding provided by a portion of penalties imposed on NCP suppliers or from a 1% levy on all construction (e.g. BRANZ in New Zealand).

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14. Introduce a reliable level of identification of the source of imported product inputs through compulsory labeling (traceability).
  15. Standardise recall powers across Jurisdictional regulators.
- Impose severe restrictions and penalties on non-conforming building products
    16. Impose severe financial penalties where it is proved that an organisation is knowingly selling non-compliant product, installing it, or importing it directly for use in Australia.
    17. Consider state-run schemes where buildings are inspected for product conformity and those found deliberately procuring, installing or certifying offending products are subject to legal action.
  - Take other related action
    18. Establish a National Register of Certified Construction Products (NRCCP) to inform the industry and building professionals.
    19. Promote Australian product manufacturers to create detailed “or equivalent” performance specifications for their products with designers and specifiers encouraged to use them.