

Senior Officers' Group Secretariat
Department of Housing & Public Works
GPO Box 2457
Brisbane QLD 4001
Email: BCQ-NCP SOG@hpw.qld.gov.au



Australian Institute of Architects

14 April 2016

Dear Sir/Madam

The Australian Institute of Architects (the Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 12,000 members across Australia and overseas. We appreciate the opportunity to provide feedback on the Senior Officers' Group report on strategies to address risks related to non-conforming building products.

The Institute has made significant efforts to raise awareness amongst its members on Safety in Design, which includes material selections. The ongoing CPD training facilitated by the Institute regularly includes material safety and liability training. As a rule, responsible Architects are specifying products supplied locally by reputable suppliers. Relevant test results and data sheets are readily available for these materials. The weakness is often found in material substitutions. Often these are sourced overseas and are provided with test results and data sheets from their country of origin. In many cases this data does not comply with Australian requirements.

The Institute believes that there is a need to reform the current system to provide specifiers, purchasers, installers and certifiers with a clear mechanism to determine whether products are fit-for-purpose as defined under the National Construction Code. We also believe that actions need to be taken to remove non-conforming products at the point of sale and to proactively identify and remove from our buildings non-conforming products. One immediate solution to prevent further use of non-conforming products is for regulators to enforce existing regulations, which requires the appropriate resources to implement proper enforcement processes.

We note that the recommendations have been agreed by the Building Ministers' Forum, and you are not seeking input on the recommendations themselves, but rather advice on how they might be implemented. We would like to offer the following comments.

Recommendation 1 (Note roles and responsibilities of regulatory authorities and absence of an effective overarching framework for identifying and addressing NCBPs)

No comment

Recommendation 2 (Support for improvements to the regulatory framework to enhance the powers of building regulators to respond to incidences of NCBPs)

This recommendation is very broad in scope and the lack of detail limits our ability to comment to any great extent. The Institute believes that there is a clear need for a mechanism for specifiers, purchasers, installers and certifiers to determine whether products are fit-for-purpose as defined under the National Construction Code. However, before introducing new regulations, the existing regulations need to be better understood and enforced.

The main barrier to enforcement would appear to be a lack of resources at a state and territory level. Other issues that must be overcome are:

- inconsistency between jurisdictions
- fragmented administration
- multiple regulators
- lack of clarity in documentation requirements amongst jurisdictions

Recommendation 3 (Establishment of a national forum of building regulators, implementation of education strategies and development of a national website)

The Institute believes that it is critical to have nationally consistent regulations, including enforcement provisions, to allow governments to control the use of non-conforming building products. A centralised information source and education strategies for all participants in the building and construction industry is supported as an important first step. The institute would welcome government collaboration with industry on events and materials and regular bulletins would greatly assist our members to keep up to date.

Recommendation 4 (Mechanisms to provide the Commonwealth to enable proportionate action to be taken based on the risk posed by a nonconforming product and an information sharing arrangement between jurisdictions)

No Comment

Recommendation 5 (Standards review and a national A national register of high risk building products that require third party certification)

The Institute sees great value in reviewing existing standards referenced in the National Building Code, but is concerned that the industry contribution to standards setting committees is often dominated by the manufacturers rather than product users/installers. As well, many product standards do not require testing of a product to ensure that it meets the standard.

A national register of high risk building products that require third party certification would be welcomed.

Recommendation 6 (Independent research to be undertaken, including manufacturer and random off-the-shelf product testing, to improve the evidence base)

This recommendation is one of the most important of the report. Information supplied is largely anecdotal, so the true extent of product non-compliance is unknown. We currently have very little information about what materials are non-conforming, which makes it almost impossible to manage in any meaningful way.

In February of this year, the Institute conducted an on-line survey over a 2 week period on product substitution from what was initially specified. The survey did not attempt to analyse in what way substituted products were non-compliant. The response rate was small, but we believe the information provided is indicative of what is happening across the industry.

The survey identified that a very significant proportion of substitution was not treated in the anticipated way under most building contracts in that there was no request for approval by the designer/specifier.

Rather, somewhere between 40 and 50% of the substitution that came to the designer/specifier's attention, had done so by means other than approval being requested before substitution. Other results include:

- 50% of respondents said the substitution had a cost saving intention
- Other reasons included inadequate ordering time by the contractor or subcontractor to acquire the specified product or material, and substitution because the substituted product was claimed to be equal to the specified one
- Between 40 and 45% of responses suggest the substitution would not have been brought to the architect's attention substitutions occurred (or would have occurred if it had not been discovered by them) because they, as architect, were not consulted

Importantly, that proportion only indicates what substitution has come to the designer/specifier's attention without approval being requested. The amount of *actual* substitution occurring in proportion to this is unknown.

Recommendation 7 (Note the value and importance of existing building industry initiatives)

No comment

Thank you for the opportunity to provide comment. Please do not hesitate to contact me if the Institute can assist in any way.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jon Clements", followed by a period.

Jon Clements FRAIA
National President