

Submission 101 - Engineered Wood Products Association of Australasia Ltd.

Engineered Wood Products Association of Australasia Ltd made submission 12 to the inquiry into non-conforming building products in the 44th Parliament.

This document is intended as a supplementary submission to the original submission 12.

All submissions received in the 44th Parliament can be accessed via the following link:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Non-conforming_products/Submissions



JANUARY 2017

SUBMISSION

SENATE INQUIRY INTO NON-CONFORMING BUILDING PRODUCTS

INTRODUCTION

The following submission is in response to the Senate Inquiry into non-conforming building products.

The Engineered Wood Products Association of Australasia Ltd (EWPAA) is an industry-driven organisation, voluntarily funded by plywood, LVL, particleboard and MDF manufacturers in Australia, New Zealand, Fiji and Papua New Guinea. It is one of a few organisations which represents both domestic timber processors and importers. The EWPAA is also supported by affiliate members in Australia and New Zealand who are suppliers of goods and services to the industry.

The EWPAA has developed and maintains a high level of respect across the broad range of our contacts and clients both domestically and internationally as an industry-wide organisation with an emphasis on industry self-help. The range of products manufactured and merchandised by Association members include interior and exterior plywood products, structural plywoods used for formwork, residential and commercial flooring, wind and earthquake bracing, and feature cladding; and Laminated Veneer Lumber and I-beam products used in both commercial and residential structures.

The market development program coordinated by the EWPAA on behalf of its members, comprises quality control, product certification, chain of custody certification, education and training, standards and codes development, technical promotion, research and development; and market maintenance.

SUMMARY

The EWPAA conducted 24495 tests on certified plywood, Laminated Veneer Lumber, particleboard and MDF, and 484 tests on non-certified imported products in the period January 2013 to August 2015.

28% of imported panel products were found to not meet Australian Standards, compared to 1.5% non-compliance of certified product from Australia and New Zealand. [Source: EWPAA submission to senate enquiry into non-conforming building products, Aug 2015].

Direct importation of building products by developers/builders is an increasing source of concern as it is becoming more commonplace and there is generally no opportunity to check compliance. Examples of this are the direct importation of Fibre cement products from China containing asbestos and formwork plywood that has a substantially lower strength than what branding or documentation states.

Australian companies are unable to compete with imported non-compliant product, as it is more expensive to produce building products that:

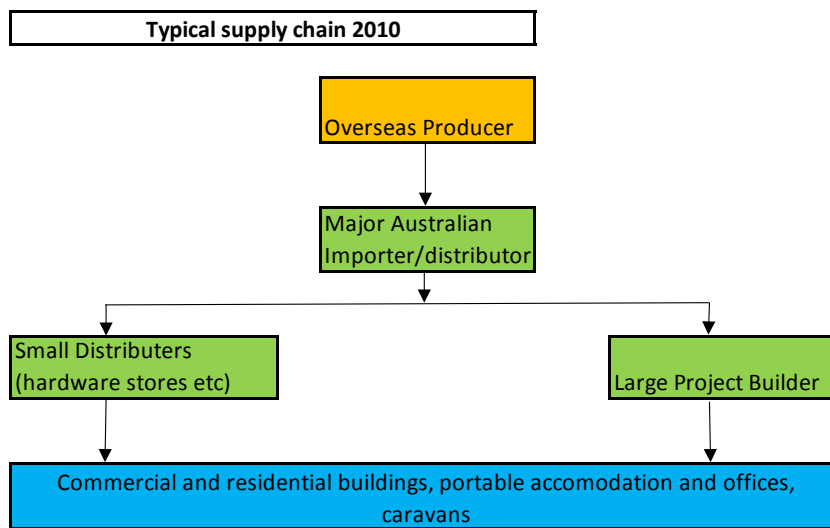
- Meet the National Construction Code (NCC) requirements for air quality, particularly with respect to carcinogen off-gassing.
- Meet the Department of Health National Industrial Chemicals Notification and Assessment Scheme (NICNAS) recommendations for a maximum emission class of E1 to ensure worker safety during remanufacture into cabinetry and furnishings.
- Meet strength and durability properties required to ensure safe construction and acceptable structural integrity of buildings in major high load events such as storms, cyclones and occupant activities.

Australia has stronger legislation in place to protect trees in foreign countries being illegally logged than legislation to protect the health and safety of its citizens from wilful or reckless importation of dangerous and/or mislabelled building products.

MAJOR AREAS OF SAFETY CONCERNS FROM NON-COMPLIANCE BASED ON TESTING RESULTS

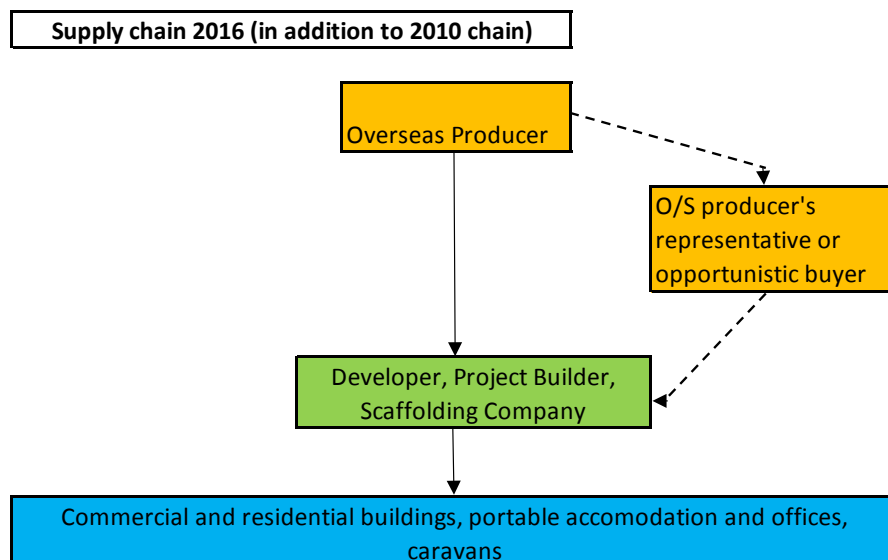
Product	Where used	Non-conformance issue	Consequence of non-conformance
Formwork plywood	Concrete pours on medium and high rise residential and commercial buildings	Inadequate bending and shear strength	Death, injury from collapse.
LVL formwork and scaffolding	Concrete pours, scaffold planks low, medium and high rise residential and commercial buildings	Inadequate bending strength	Death, injury from collapse or breakage.
Plywood, particleboard and MDF	Interior cabinets, furnishings, portable office and accommodation buildings, schools, trains, buses and caravans	Excessive carcinogenic emissions (formaldehyde) Water resistance of cabinets	Respiratory Illness, cancer. Premature failure of product
Plywood, LVL, particleboard and MDF	Structural applications e.g. flooring, bracing, deck beams, roofing members.	Inadequate strength. Excessive deflection. Durability of glues used.	Death or injury from structural collapse during high load events (storms, cyclonic winds, people loads on decks). Replacement costs. Insurers cost and premium costs. Premature serviceability failure.

CHANGES TO SUPPLY CHAIN HAS INCREASED RISK OF NON-COMPLIANCE



2010 Characteristics:

The major Australian Importer/Distributor was instrumental in maintaining quality standards of the overseas manufacturer since their own long term viability depended on this and they were accessible for legal action.



2016 Characteristics:

Ephemeral arrangements significantly reduce legal exposure in Australia, with little incentive to maintain manufacturing quality standards. There is a lack of a “deep pocket” Australian company to pay for rectification and long term performance issues.

Shortening of supply chain will become more frequent as companies attempt to reduce cost.

LEGISLATIVE FRAMEWORK REQUIREMENTS

The *Competition and Consumer Protection Act 2010* has demonstrably not been an effective deterrent to prevent misrepresentation of product. Misleading branding, false documentation and false certification are all issues that the ACCC struggles with in the environment of direct import by project leaders and ephemeral supply chains. The Act has failed to deter and has been unable to prosecute particularly with lower profile cases or sporadic misrepresentation of product.

The *Illegal Logging Prohibition Act 2012* has been successful in deterring the import of timber products derived from illegally logged forest in foreign countries. It is an offence to import any log or timber product unless the importer undertakes due diligence to establish the legality of supply. Further, the onus is on any reseller of imported timber products to conduct their own due diligence to establish legality, even if they are not involved with the importation.

For example, if a retailer sells kwila decking (a common durable tropical hardwood) it must have established the legality of supply even if they purchased it from an importer or local distributor. The key elements in the success of this legislation in changing the behaviour of importers and resellers has been:

- Ownership by the Federal Department of Agriculture and Water Resources has provided clear communication, administrative and legal direction
- A “deemed to satisfy” method of conducting due diligence through Chain of Custody certification of suppliers which has removed the need for increased administration for resellers purchasing timber products.
- Any and all parties that sell timber products are responsible for ensuring compliance with the requirements of the Act. This deals with the problem of ephemeral and opportunistic supply chains.

Drafting of legislation to protect citizens from the impact of non-conforming building products therefore needs to encompass the 3 elements of ownership, a deemed to satisfy due diligence system through credible product certification, and the allocation of responsibility of all parties involved to comply with legislation.

It is recommended that legislation be enacted to protect the health safety of Australian citizens in such a way that responsibility for compliance rests with all parties in the supply chain. The *Illegal Logging Prohibition Act 2012* has demonstrated that this is both possible and effective and could be used as a starting point for drafting.