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Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Inquiry into non-conforming building products – Additional terms of reference

On behalf of the Housing Industry Association (HIA), I would like to provide the following supplementary submission to the Committee in relation to the Inquiry into non-conforming building products. These comments are intended to respond to the additional term of reference in relation to the implications of the non-compliant use of external cladding materials in Australia.

Australia's National Construction Code (NCC) requires cladding installed on high rise buildings to either be non-combustible (tested to Australian Standard AS 1530.1) or be able to demonstrate that it has the ability to resist the spread of fire (this is usually done through a full scale façade assembly fire testing standard).

This requirement has been in place for many years and whilst other countries building codes differ the concept of external walls of high rise buildings being either non-combustible (or having limited combustibility) is common across most developed countries building regulations.

Recent international façade fire events have highlighted the significant potential implications that can arise where non-compliant external wall cladding materials are used on high rise buildings.

In relation to the Lacrosse apartment building fire in Melbourne in 2014, as set out in HIA's original submission to the Committee, we understand that the cladding used on the building did not comply with the NCC with respect to the type and manner of attachment to the building façade.

Whilst this was an unacceptable situation, and the Victorian Building Authority is continuing its investigation into whom was at fault for the incorrect use of the panels, it is essential to recognise that this situation reflects the non-compliant use of a building product. This is not an example of a non-conforming building product.

Following the Lacrosse fire, Building Ministers undertook two bodies of work in relation to product conformity and product use with the objective for enhanced fire safety in Australian high rise buildings.

In particular, Building Ministers directed the Australian Building Codes Board (ABCB) to undertake a number of actions in relation to non-compliant use of building products to reduce the risk of fire spreading in high rise buildings.

This work has been undertaken in parallel with the work of the Senior Officers Group (SOG) who were tasked with investigating and developing a national strategic response to non-conforming building products.

The work of the SOG on non-conforming products has been progressing slower than industry would have anticipated, however recently two of the eight recommended actions from their report on strategies to address non-conforming products have progressed. These being:

- the establishment of a national website hub on non-conforming products, which includes a reporting form for people to submit if they detect a non-conforming product; and
- the release of a draft Bill by the Queensland Government on non-conforming building products, which includes chain of responsibility requirements for some people in the supply chain. It is understood that this Bill may be model being considered by other states and territories.

In respect to the work of the ABCB on non-compliant use of building products, which is relevant to this additional term in the Inquiry, Ministers have endorsed the implementation of a comprehensive package of measures to address fire safety in high rise buildings.

The comprehensive package of measures acknowledges that there is not a single solution to the issue rather that a number of measures that can act together to improve the system as a whole. The package of measures includes:

- Referencing a contemporary and rigorous testing standard AS 5113, developed based on international best practice, for full scale testing of the fire performance of external façade systems, which is particularly relevant for new and innovative building systems.
- Providing contemporary and clear NCC requirements to improve application and compliance
- Increasing industry awareness of the need to be cognisant to the potential risks associated with non-compliance.
- Developing revised and contemporary NCC 'Evidence of Suitability' requirements for materials and products
- Providing practitioners with the tools and material to support Code compliance, which includes:
 - Releasing a National Advisory Note on the appropriate selection and use of cladding on buildings
 - Developing a non-mandatory National Product Assurance Handbook
 - Improving product compliance documentation, such as encouraging the development of Product Technical Statements.
- Improvements to the ABCB certification scheme for building products – CodeMark.
- Enhanced on-site checking, auditing and enforcement.

HIA understands that the majority of these measures are intended to be incorporated into the next edition of NCC or released concurrently. These actions all have the potential to reduce the incorrect use of external wall cladding.

HIA has supported the proposed actions to date by the ABCB on high risk buildings and has provided direct input to many of the changes expected to be included in the NCC in 2019.

In addition to the work being undertaken on building products by the SOG and the ABCB, Ministers at their meeting on 30 June agreed to commission an expert to examine the broader compliance and enforcement problems with the building & construction systems affecting the implementation of the NCC. This process also has the potential to address the issue of non-compliant use of building products.

HIA's original submission to the Inquiry outlined a series of gaps and weaknesses in the current regulatory framework for the manufacture, supply and use of conforming building products in Australia. This submission also confirmed that there are many elements of this framework that are appropriate and that what industry needs is not more regulations rather better administration of the current regulations.

In relation to non-compliant use of building products, HIA's original submission identifies that existing state building regulations provide many elements intended to manage this risk. The key issue in the appropriate management of these elements is consistent interpretation supported by ongoing enforcement and auditing. The potential for harmonisation or alignment of state and territory building administration systems that support the application of the NCC remains a matter for state governments and the other parties responsible for oversight of building approvals.

If you would like to discuss these comments in more detail, HIA would be pleased to meet with the Committee. I can be contacted on [REDACTED]

Yours sincerely

HOUSING INDUSTRY ASSOCIATION LIMITED

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