



19 July 2017  
Sydney

**Senate Economics References Committee  
Inquiry into non-conforming building products (NCBP)  
External cladding.**

**Opening Statement – Timothy Tuxford AIBS President**

On behalf of the Board and members of the Australian Institute of Building Surveyors (AIBS), I thank the Committee for the opportunity to make a written submission and to appear before this public hearing to represent the profession of building surveying.

In Australia, it is now known that the use of non-compliant cladding is not limited to a few isolated cases. Media reports indicate that in NSW up to 2500 buildings could have dangerous cladding on them, while anecdotal evidence suggests there could also be thousands of buildings in Victoria. The Queensland Government has recently convened an Audit Taskforce to assess buildings with aluminium composite cladding constructed some time ago over a 10 year period between 1994 and 2004.

This is a systemic problem and detailed research and investigation is needed to identify the root-cause of why non-compliant external wall cladding has been installed on so many buildings in Australia over the past 30 years. Some possible reasons could include:

- Incorrect or misleading marketing of the various products;
- A historic acceptance by building practitioners that the material was non-combustible and compliant;
- Confusion and inconsistency with the application of the National Construction Code (NCC);
- Ambiguities in the NCC that permit differing interpretations;
- Variations to the NCC over time with an increasing reliance on 'performance based solutions' in lieu of 'deemed-to-satisfy' provisions;
- Compliant products being specified and approved, and then being substituted with non-compliant products at the construction phase;
- Incorrect, fraudulent or inadequate documentation and certificates;
- Lack of knowledge of building practitioners in the design, construction and inspection phases; and

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- The demise of the former 'Clerk of Works' role.

Building surveyors have a crucial role to play in the building regulatory system and we want to contribute positively to finding solutions to the current issues and for this reason, our written submission contains a number of recommendations.

Over the years, governments have introduced measures to cut red-tape and entered into free trade agreements with other countries, leading to a greater variety of building products in the marketplace. As is readily evident in a number of our cities across the country, the landscape of the built environment has changed significantly in recent times.

These changes have brought all kinds of issues for all building practitioners. For example, an emerging area of concern for the regulatory system and consumers is the issue of Professional Indemnity (PI) Insurance. The current public debate on external cladding is already having a negative impact with AIBS recently being advised that some insurance companies are inserting exclusions relating to external cladding and non-complying building products into insurance policies.

AIBS believes there is a clear need for regulatory reform, but unlike the current situation where each State is undertaking their own individual reforms, there needs to be a more harmonised and consistent national approach.

These reforms should focus on such things as a more consistent approach across borders to mandatory inspection and auditing regimes, along with the licensing and registration of all building professionals and practitioners.

We all need to improve to keep pace with the modern building industry. That means all of us – regulators, suppliers, basically all professionals involved including building surveyors.

**So, what are we doing to ensure best practice among building surveyors into the future?**

Right now, AIBS is developing a Professional Standards Scheme for building surveyors.

We expect this Scheme will provide increased consumer protection and contribute to an improved building regulatory system in Australia.

A Professional Standards Scheme will further establish the competencies and skills required of a building surveyor which, as it is now, vary from state to state and in some jurisdictions, are not clearly defined.

However, for the scheme to be successful, it must be supported by governments and regulators.

Finally, I would like to emphasise that the Australian public must be protected through safe, compliant buildings and that will only be achieved

through buy-in by everyone involved in the building and construction industry working together to improve the system and professional practices across the board.

Thank you again for this opportunity to appear before this committee. We hope, through our submissions and our recommendations, we can make a positive contribution to addressing the issues related to the use of non-conforming building products and non-compliant wall cladding.





**19 July 2017  
Sydney**

**Senate Standing Committees on Economics  
An inquiry into the effects of non-conforming building products  
on the Australian building and construction industry**

**The use of non-compliant external cladding materials in Australia**

Opening Address of Dr Darryl O'Brien, AIBS National Representative - Non-Conforming Building Products.

In the Middle-Ages, the Roman Catholic Church introduced the concept of papal indulgences, a means by which good works on earth could lead to immediate salvation. By the 16<sup>th</sup> century this practice had evolved to a situation by which indulgences were sold as a form of confessional insurance to the faithful.

In 2017, we may be sceptical that payment to a higher authority could provide the faithful with insurance for the afterlife, but in many ways our reliance on certification and test reports for building materials are similarly based on faith, not evidence.

The failures of the product testing and certification structure for building materials represent a systemic failure of the regulatory authorities to respond to the fundamental shift from a domestic supply chain to a global supply network.

To illustrate, comparison of the 1990 NCC Evidence of Suitability rules that govern building material compliance (when the first uniform BCA was introduced) with today show only minor housekeeping changes. However, in 1990, Australia manufactured the following motor vehicles:

- Holden,
- Ford,
- Toyota,
- Mitsubishi, and
- Nissan

Today only Holden is left and they are ceasing domestic operations later this year. This fundamental change in the manufacturing base in response to globalisation means that in 2017 a great majority of products entering the domestic market come from overseas supply networks.

I have been involved in researching the question of NCBP's since late 2013 and my PhD thesis examined the ability of the BCA to respond to change. In short, my testimony is based on evidence and fact, not opinion.

Whilst today we are discussing the reasons for, and prevalence of, non-compliant external cladding materials in Australia to a large extent this represents the canary in the coal mine in relation to NCBP's. If there are significant incidents of non-compliant

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external cladding in the domestic market, there is no reason to imagine the same concerns do not exist for the range of systems and products that comprise the modern Australian building.

This is because the same systems and laws that allowed the importation and use of non-compliant external cladding apply to all other imported building products.

Building surveyors take our role ensuring that buildings the community live and work in are safe and healthy extremely seriously. However, to do this we need effective tools and processes, including a more stringent inspection and testing regime for high risk building products.

I am acutely aware of the valuable time of the Committee and should point out that this represents only a brief summary of the complex issue. However, attached as Appendix G of the AIBS submission is a copy of a recent research paper that I have published in the spring 2017 edition of the Journal of Building Survey, Appraisal and Valuation. This paper identifies the issues surrounding NCBP's and suggests some ways forward to deal with this challenging problem.