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Senate Enquiry into non-conforming building products

Please find below the submission to the above enquiry from the Bureau of Steel Manufacturers of Australia (BOSMA).

BOSMA SUBMISSION TO SENATE ENQUIRY INTO NON-CONFORMING BUILDING PRODUCTS

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1. EXECUTIVE SUMMARY

The Bureau of Steel Manufacturers of Australia (BOSMA) is the peak body representing the Australian steel manufacturers OneSteel, an Arrium business, and BlueScope Steel. BOSMA members supply the majority of steel mill products used in the Australian domestic market. (See section 2 for Australian steel industry structure.) OneSteel and BlueScope together employ around 12,000 people in Australia while total employment in the steel sector, both upstream and downstream, was estimated to be around over 100,000 (ABS 2011).

The sale of non-conforming building products in Australia is a form of unfair trade, by which companies whose products do not conform to Standards and building requirements undermine the viability of those firms whose products do conform, while imposing additional and unnecessary costs on the economy, and creating unacceptable risks to public safety. This is not a level playing field.

In BOSMA's opinion non-compliant steel being supplied into construction is part of an overall problem in establishing product conformity to the Australian Standards specified. There is evidence from a range of sources that some steels being supplied into projects are non-compliant with specifications and standards. There needs to be a better overall product conformity system and in the case of high risk construction safety related products like steel, there needs to be Government support.

The BOSMA position is that regardless of source of product, members of the supply chain must ensure that the steel products used in risk critical structural applications have been supplied from steel mill manufacturers which have Third Party Certification of their manufacturing output, demonstrating compliance with the relevant Standards. This is particularly important for high risk structural applications in construction where steel mill products are relied upon for the structural integrity of the building.

BOSMA is not calling for increased regulation but support from Government of the systems already in place driven by industry need and with a proven track record. Frameworks such as this are well understood and accepted by competent steel mills worldwide, as Third Party Certificates of Product Compliance are already for them a low cost "reduced red tape" method of demonstrating compliance to Standards and correct test certificate data and identifying markings.

The definition BOSMA is using for non-conforming steels and steel building products covers the following:

- Products that do not meet regulatory, Australian or industry standards
- Products that are not fit for their intended purpose
- Products that are not of acceptable quality
- Products that contain false or misleading claims
- Products that have false documentation
- Products that are counterfeit

The current systems and frameworks are inadequate to ensure that steels and steel building products meet the Standards called up in the National Construction Code (NCC) or specified in non-building construction projects. Standards Australia develops Australian Standards but

does not have a direct role in ensuring the compliance of products or services with these standards. Australia trades in a global marketplace, but Australia does not mandate certified product conformity and compliance requirements to Standards. So while Standards are called up, the ineffective framework for surveillance and enforcement essentially relies on the goodwill of the suppliers to provide compliant product.

As there is no effective regulatory mechanism for checking compliance to Australian Standards, a voluntary third party certification authority has been established - the Australasian Certification Authority for Reinforcing and Structural Steels (ACRS), which certifies the majority of reinforcing and structural steel products supplied into the Australian construction market from both local and overseas suppliers. In addition Steelwork Compliance Australia (SCA) has been established as a certifying authority for structural steelwork to Australian Standards. However as certification is voluntary, a significant proportion of steel product supply, particularly when supplied as components in pre-fabricated or modular assemblies, is not subject to checking for compliance.

Non-compliant steel is a particularly serious concern in high risk applications for steel mill products such as concrete framed and steel framed buildings and structures.

BOSMA sees the impact of non-conforming building products as follows:

- Reduced manufacturing volumes for building products manufacturers who comply with standards, as their sales are undermined by cheaper products from manufacturers and suppliers who do not comply
- Reduced prices and margins for manufacturers who comply with relevant Standards forced to compete with cheaper non-compliant products
- Reduced employment, skills and development opportunities at manufacturers who comply with relevant Standards
- Compromised building site safety and efficiency
- Difficulties in determining the base steel and weldability compliance of key structural components for prefabricated and modular elements.
- Project delays and extra costs due to rectification works and possible additional testing
- Substitution of steels with differing strengths and grades, leading to weldability problems e.g. the addition of Boron in steels can cause cold cracking when welded unless the materials are appropriately prepared; also design intent can be compromised, and faulty galvanising and painting can lead to corrosion of steel
- Reduced building durability e.g. galvanised and painted components with metallic coatings below requirements
- *Reduced ability for domestic manufacturers to generate the requisite economies of scale to be globally competitive and maintain employment, and thus lose our domestic manufacturing base and skill development opportunities.*

The current framework of building approvals and voluntary Standards does not give confidence to users and specifiers that compliant material is being supplied. The onus is on them to check and test and investigate to put their minds at rest, as the regulatory framework does not mandate compliance. Building Surveyors and Design Engineers have a myriad of items for signing off on a project, and even high risk items are not mandated for sign off by regulators. It is important there is a framework for easy checking of compliance. (Examples are given in Attachment 1 - Section 4 of non-conforming products in a range of steel product areas.)

A recognised international method of ensuring this is to mandate Third Party Product Certificates of Compliance be used to assure quality compliance of ongoing production output. Third Party Product Certification provides a level of confidence for governments, certifiers and users across the world who are grappling with the issue of how to ensure compliance with specifications, and avoid the costs of rework and litigation.

This position is non-discriminatory, follows established international models for product certification, and is inclusive of imported steel mill steels, regardless of country of origin. Its purpose is to provide a transparent level playing field for all steel mill suppliers for high risk products, while minimising the immense risks of non-conforming products.

Steel products are supplied at different levels of the supply chains and in different ways:

- Reinforcing, pre-stressing, structural and tubular steel ex steel mill manufacture
- Alloy, coated and other refined steel products ex steel mill or specialised processor
- Prefabricated end-use products and pre-assembled modules that are directly imported
- Steel building products and other products using steel

(See Attachment 1 - Section 6 for the differing ways in which non-compliant product can enter the different supply chains.)

Mandating compliance to Standards, and ensuring the building approval process is dependent on adherence to Standards, would be of great assistance in providing stakeholders with certainty about whether a product conforms, and ensuring that conforming products are used and installed properly.

Suppliers, users, specifiers and certifiers all need effective processes in place to reduce the risks, as they take responsibility for construction product quality and the consequences if product failures occur. Government needs to support everyone involved in the building process to put in place the necessary legislative, regulatory, assurance and penalty framework so that all stakeholders can reduce their risks and liabilities, which encompass safety, cost of repairs, penalties and legal expenses to name just a few of the exposures.

BOSMA recommends action by the Government to recognise risk based Third Party Product Certification of building products and construction materials as an effective and transparent means of determining compliance. In the steel sector BOSMA recommends that the Government recognises robust Third Party Product Certification schemes such as the Australasian Certification Authority for Reinforcing and Structural Steels (ACRS) or equivalents for demonstrating compliance.

Improving systems to ensure test certificate data and product marking requirements are met would also benefit builders, certifiers and end users.

Procurement and specification bodies should demonstrate that the steel products used in risk critical structural applications have been sourced from a steel mill certified by ACRS or an equivalent product certification body. Frameworks such as this are well understood and accepted by competent steel mills worldwide, as Third Party Certificates of Product Compliance are already for them a low cost “reduced red tape” method of demonstrating compliance. Endorsement by Governments of Third Party Product Certification Schemes is exercised in the European Union by recognition of the Certifiers (Conformity Assessment Bodies) as “Notified Bodies for Third Party Product Certification”. The opportunity for

Government in Australia is to do the same, as it will “reduce red tape” and provide an easy to use solution with which steel mills worldwide are familiar.

BOSMA also supports the initiatives proposed by the Construction Product Alliance (CPA) in relation to the impact of non-conforming building products on the public interest and building approval processes, in their submission to the COAG Building Ministers Forum.

More detailed information on the following subjects is contained in the two Attachments to this submission:

Attachment 1

- BOSMA & Steel Industry Structure
- Non-conforming Products in Steel
- Examples of non-conforming products in steel
- The Economic Impact of non-conforming products
- The impact of non-conforming building products on industry supply chains
- Improvements to the Building Product Conformance Framework

Attachment 2:

- Non-conforming steel product examples

Thank you for the opportunity to make a submission to Senate inquiry into non-conforming building products. Please do not hesitate to contact me if you have any questions about our submission. We will be pleased to answer any questions and provide further clarity.

Yours faithfully,

David Armston FAICD
Executive Director & Secretary