

Chapter 1

Introduction

1.1 On 23 June 2015, the Senate referred the matter of non-conforming building products to the Economics References Committee for inquiry and report by 12 October 2015.¹ The committee was granted a number of extensions and the inquiry lapsed at the dissolution of the 44th Parliament. The committee tabled an interim report, *Safety—'not just a matter of good luck'* on 4 May 2016. On 11 October 2016, the Senate agreed to the committee's recommendation that this inquiry be re-adopted in the 45th Parliament.

1.2 Under its terms of reference, the committee was to inquire into:

- (a) the economic impact of non-conforming building products on the Australian building and construction industry;
- (b) the impact of non-conforming building products on:
 - (i) industry supply chains, including importers, manufacturers and fabricators,
 - (ii) workplace safety and any associated risks,
 - (iii) costs passed on to customers, including any insurance and compliance costs, and
 - (iv) the overall quality of Australian buildings;
- (c) possible improvements to the current regulatory frameworks for ensuring that building products conform to Australian standards, with particular reference to the effectiveness of:
 - (i) policing and enforcement of existing regulations,
 - (ii) independent verification and assessment systems,
 - (iii) surveillance and screening of imported building products, and
 - (iv) restrictions and penalties imposed on non-conforming building products; and
- (d) any other related matters.²

1.3 On 13 October 2016, as part of its broader inquiry, the committee resolved to inquire into the illegal importation of products containing asbestos. The committee adopted the following additional terms of reference for this part of the inquiry:

The illegal importation of products containing asbestos and its impact on the health and safety of the Australian community, with particular reference to:

1 *Journals of the Senate*, No. 100, 23 June 2015, p. 2766.

2 *Journals of the Senate*, No. 100, 23 June 2015, p. 2766.

- (a) the prevalence and sources of illegally imported products containing asbestos;
- (a) the effect of illegally imported products containing asbestos on:
 - (i) industry supply chains, including importers, manufacturers and fabricators, and
 - (ii) workplace and public safety and any associated risks;
- (b) possible improvements to the current regulatory frameworks for ensuring products containing asbestos are not illegally imported to Australia, with particular reference to the effectiveness of:
 - (i) policing, enforcement, surveillance and screening of imported products, including restrictions and penalties imposed on importers and end users of products containing asbestos;
 - (ii) preventing exposure and protecting the health and safety of workers and other people affected by the illegal importation of products containing asbestos,
 - (iii) establishing responsibility for remediation of sites where illegally imported products containing asbestos has been found;
 - (iv) coordination between Commonwealth, state and territory governments and the role of the Australian Government in coordinating a strategic approach to preventing the importation of products containing asbestos;
- (c) any other related matters.³

1.4 In light of the tragic fire at the Grenfell Tower in London in June 2017, the committee agreed to prepare an additional interim report on the implications of the use of non-compliant external cladding materials in Australia as a priority. On 17 August 2017, the Senate agreed to extend the reporting dates for the interim report on asbestos and the final reporting date.

1.5 The committee's reporting dates have changed as follows:

- 6 September 2017: Interim report—external cladding materials;
- 31 October 2017: Interim report—asbestos; and
- 30 April 2018: Final inquiry report.

Conduct of inquiry

1.6 The committee advertised the inquiry on its website and in *The Australian*. It also wrote to relevant stakeholders and interested parties inviting submissions.

3 *Journals of the Senate*, No. 12, 7 November 2016, p. 379. The committee presented an interim report on 18 October 2016 containing the additional terms of reference. The Senate adopted the additional terms of reference on 7 November 2017.

1.7 The committee has received 162 submissions, as well as a number of supplementary submissions. The submissions range from government departments and agencies, peak industry bodies, unions, individuals working in the industry and consumers.

1.8 Public hearings were held on:

- 13 November 2015 in Canberra;
- 15 February 2016 in Melbourne;
- 30 January 2017 in Brisbane (asbestos);
- 9 March 2017 in Perth (asbestos);
- 14 July 2017 in Melbourne (asbestos and cladding);
- 19 July 2017 in Sydney (cladding); and
- 31 July 2017 in Adelaide (asbestos and cladding).

1.9 References to the Committee Hansard for the July 2017 hearings are to the Proof Hansard and page numbers may vary between the Proof and Official Hansard transcripts.

Definition of non-conforming and non-complying building products

1.10 Although the terms of reference relate to non-conforming building products, the committee also received evidence relating to non-compliant building products.

- Non-conforming building products are 'products and materials that claim to be something they are not; do not meet required [Australian] standards for their intended use; or are marketed or supplied with the intent to deceive those who use them'.⁴
- Non-compliant building products are products that are 'used in situations where they do not comply with the requirements of the National Construction Code [NCC]. A building product can be both non-conforming and non-compliant'.⁵

1.11 The Australian Building Codes Board (ABCB) illustrated the distinction between non-conforming and non-compliant building products with the following example:

A building product that is labelled or described as being non-combustible but which is combustible is a non-conforming product. A building product that is combustible, and described as such, but is used in a situation where a

4 Senior Officers' Group, *Strategies to address risks related to non-conforming building product*, p. 4, available at <http://www.hpw.qld.gov.au/construction/BuildingPlumbing/Building/Pages/NonConformingBuildingProducts.aspx> (accessed 30 August 2017).

5 Senior Officers' Group, *Strategies to address risks related to non-conforming building product*, p. 4, available at <http://www.hpw.qld.gov.au/construction/BuildingPlumbing/Building/Pages/NonConformingBuildingProducts.aspx> (accessed 30 August 2017).

non-combustible product is required under the NCC, is not fit for purpose (it is a non-complying product).⁶

1.12 A product that is non-conforming and/or non-compliant can pose serious risks to the integrity of a building, the safety and welfare of those on the construction site and the ultimate inhabitants of the building. For example, the Building Ministers' Forum (BMF) recognises:

The issue of non-conforming building products (NCBP), whether domestically manufactured or imported is an important and complex issue. It can have life safety, health, economic, legal and social consequences.⁷

1.13 The issue of non-conforming building products affects a range of sectors—construction, manufacturing, imports and retail.

Structure of report

1.14 This report comprises four chapters, including this introductory chapter:

- Chapter 2 provides an overview of the November 2014 fire in Melbourne Dockland's Lacrosse apartment building and the Grenfell Tower fire in London; the issues which have been highlighted by these fires and the Commonwealth, state and territory responses.
- Chapter 3 focuses on a range of matters that have contributed to the issues of non-compliance and non-conformity in building products in Australia and the regulatory framework.
- Chapter 4 discusses accountability and enforcement in the building industry.

6 Australian Building Codes Board, *Submission 49*, p. 4.

7 Department of Industry Innovation and Science, 'Building Ministers' Forum', <https://industry.gov.au/industry/IndustrySectors/buildingandconstruction/Pages/default.aspx> (accessed 12 July 2017).