



Principles and scope of a Building Product Registration Scheme

HIA response to Consultation October 2024





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About the Housing Industry Association

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. Our members are involved in delivering more than 170,000 new homes each year through the construction of new housing estates, detached homes, low & medium-density housing developments, apartment buildings and completing renovations on Australia's 9 million existing homes.

HIA members comprise a diverse mix of companies, including volume builders delivering thousands of new homes a year through to small and medium home builders delivering one or more custom built homes a year. From sole traders to multi-nationals, HIA members construct over 85 per cent of the nation's new building stock.

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into the manufacturing, supply and retail sectors.

Contributing over \$100 billion per annum and accounting for 5.8 per cent of Gross Domestic Product, the residential building industry employs over one million people, representing tens of thousands of small businesses and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

The association operates offices in 22 centres around the nation providing a wide range of advocacy, business support services and products for members, including legal, technical, planning, workplace health and safety and business compliance advice.



General comments

Thank you for the opportunity for the Housing Industry Association (HIA) to provide a response to the ABCB Building Product Framework - Consultation Paper.

This issue is extremely important for HIA and over the past decade, HIA has been advocating extensively for an improved regulatory framework governing the conformance and use of building products.

Therefore, we are pleased to see this issue being included on the ABCB Board work program and consideration by Building Ministers nationally.

Supporting tools and advocacy

HIA has worked extensively on educating industry on the NCC and State and Territory provisions through industry seminars and webinars and developing supporting resources and guides, including leading in the development of the APCC guide *Procurement of Construction Products: A guide to achieving compliance* for purchasers and specifiers (including builders and contractors) to take steps to ensure the products they receive on site are 'fit for purpose'.

Additionally, we have made several key submissions on the issue and identifying proposals to improve current regulatory controls on building products, including to the long running Senate Inquiry into Non-conforming building products¹.

Our advocacy has also more recently included, working closely with the Australian Technical Evaluation Network (ATEN) to bring together a network of selected construction experts and testing facilities to evaluate building construction products and systems as to their fitness-for-purpose².

HIA joined the *Australian Industry Group* project advisory committee for their research report *The quest for a level playing field: the non-conforming product dilemma*. Released in November 2013, the report's findings clearly show that there is a high level of industry concern about the prevalence of non-conforming building products. HIA also chaired working groups identifying the barriers to effective management.

A way forward

The Consultation Paper outlines several key proposals that have been discussed and identified in many previous reports on this issue, and HIA is supportive of progressing these reforms further.

This should include by establishing an overseeing Steering Committee including key industry representatives and manufacturers and suppliers and government representatives, this needs to extend beyond representatives on the ABCB Board itself given any proposed changes has significant practical implications for domestic manufacturers and suppliers.

This type of well-structured Steering Committee could be charged with workshopping the proposals as set out in the consultation paper, drawing on past work done by ABCB, industry groups and the consultants reports accompanying the consultation paper. And discussing the potential upside benefits and challenges directly with Building Ministers.

Extensive work has been undertaken over the past decade on the proposals under consideration in this most recent consultation including by ABCB itself, equally the proposed solutions in the Consultation Paper are not new or unique, rather they have been tabled in various forums over the past decade.

HIA believe it's time to move forward.

¹ [HIA Submission Non Conforming Building Products Senate Inquiry 2015](#)

² <https://www.swinburne.edu.au/research/platforms-initiatives/australian-technical-evaluation-network/>



Issues to resolve if a scheme is to be successful

HIA has identified a number of key matters that need to be worked through and resolved to move the proposals forward.

Many of these matters raised are not new, but if a scheme is to be successful then they require resolution and detailed consideration and with the significant advancements in technology that will only evolve further, now is the time to progress these matters.

These items are not raised as a means to circumvent the proposals for Ministers consideration, rather, these issues are threshold matters to resolve to progress the reforms so another decade does not pass discussing what needs to occur.

Within the above context of previous considerations, HIA offers the following reflections and on issues it considers still highly relevant to the success of a mandatory scheme.

Regulatory changes already progressed

It is important to acknowledge that over the past decade there has been significant regulatory changes related to building products with a particular focus on cladding on high rise buildings.

This has included a range of regulatory reforms introduced both nationally and within individual state and territories.

Changes include those to the NCC evidence of suitability provisions, the development of a supporting handbook, changes and improvements to external wall and cladding provisions, production of a new labelling standard for aluminum composite panels and greater consistency and rigour to the NCC product evidentiary requirements.

Across each state and territory, important reforms on new cladding standards and cladding bans, supply chain legislation (Queensland and NSW), increased building plans and specifications detailing and oversight requirements have all been introduced as has changes to inspections and approval processes.

Past consideration on proposal under consideration

It is also important to note that the current proposals put forward in this Consultation Paper are not new, rather each have been considered in various previous analysis, inquiries and industry associations own bodies of work.

For example, ABCB itself undertook extensive work in 2015/16 at the direction of Building Ministers, and with support of an industry Steering Committee put forward proposals to Ministers on:

- The introduction of a mandatory certification scheme for high-risk building products
- A mandatory labelling scheme
- Establishing a building product register.

Separately, HIA developed a building product register (framework), which has informed this submission and if Ministers support this proposal, could be further utilised as a basis for improvement of this current proposal.



Current product evidentiary requirements

It is important to note that which is acknowledged by the ABCB consultation paper, all products that are used as part of meeting relevant NCC provisions, are required to comply with the NCC product evidentiary requirements and satisfy one or a combination of the evidence of suitability options as set out in the NCC.

This involves either testing, certification or appraisal or technical report to support their use. To what extent this is being applied in practice and how this evidence is collected and submitted is variable.

While there is already regulation in place covering both products conformance to under state and territory building/planning legislation. How well this is currently used or understood is a separate matter.

There are, however, gaps in regulatory controls. Namely in oversight of product conformance under to NCC and Australian Standards where a product fails or does not meet the standards it purports to be satisfying.

Product conformance vs compliant use

Within this context it is important to differentiate between non-conforming products and the non-compliant use of a product.

- Non-conforming product – a product that purports to be something it is not and is marketed or supplied with the intent to deceive those who intend using it
- Product not fit for purpose – a product used in situations where it does not comply with the requirements of the NCC

To illustrate these interpretations:

- A building product labelled or described as being non-combustible but 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 non-combustible product is required under the NCC, is non-complying (i.e. it is a product used in a manner that does not comply with the NCC).

Another way to consider what is non-conforming is that it relates exclusively to the product itself. In other words, the product is not what it claims it is. The non-compliant use of a product is typically associated with decisions by those in the chain of custody around how a product is used. This could be through substitution, ignorance of the requirements or through an unintended error.

Often, these two terms are used interchangeably which is unhelpful and this distinction is very important in the discussion on improvements to building product requirements, as the measures to address these matters require different targeted actions.

Shared responsibility across supply chain

HIA is supportive of introducing the principle of supply chain legislation to better and more appropriately share and proportionate responsibility for building product conformance to the right entities within the building product manufacturer and supply chain.

Presently, the regulatory systems in place across the country places the primary responsibility for building product conformance on those at the end of supply chain being the builder and building certifier/surveyor, even though these entities have the least influence over the conformance of the product.



A builder and consumer are currently exposed in relation to things like installed products under a building contract, their rights are not protected except to the extent that a manufacturer offers third parties an express warranty on these products. This is a significant gap in the overall scheme of consumer protection as generally, building products are not covered and are therefore not controlled under the Australian Consumer Law.

Queensland introduced chain of responsibility legislation in 2018, and while the principle of this legislation was supported by industry broadly, its effectiveness has been blunted by mixing conformance and compliance issues and exclusion of some key parties in the chain of custody.

HIA would be supportive of the development of model chain of responsibility legislation being developed building on the Queensland and NSW (in the process of introducing their own chain of responsibility legislation) models that could be adopted and mirrored by each state and territory government.

Industry and the building product manufacturing sector and supply chain would suffer under nine different versions of this legislation, particularly if the same of new inconsistencies are introduced.

Establishing risk associated with building products

Unlike plumbing, electrical or gas products where there is a defined use of the product, building products can be highly versatile and the risk associated with a product is dependent on the application it is used.

For example, a timber stud could be used in a structural load bearing wall taking a point load, whereas that same piece of timber could be used for noggings in a non-load bearing wall or for a trimming on a shed.

A screw, nail or bolt, that is a critical element in a fire rated load bearing wall, or a non-loading bearing or decorative application.

Any scheme which seeks to differentiate products based on its use or risk or defining a 'designated product' to which higher product rules apply, needs to give careful consideration to excluding different uses; the most high risk potential application essentially captures all products.

Equally a scheme is built around products associated with 'structural', 'fire' or 'risk of defects' provides an almost limitless scope given the concept of risk is made of both likelihood and consequence, and the proportion of the NCC covering structure and fire safety.

In practical terms there is the question of extent any one product satisfies an obligation. For example, if wet area waterproofing were to be controlled or 'designated', would products include:

- waterproofing membrane; or
- framing; or
- structural substrate; or
- screed, topping; or
- nails and fixings; or
- metal angles; or
- floor waste; or
- joints, tapes, sealants; or
- finishes, tiling, glue and grout?



All form a critical part in a compliant waterproofing system.

These issues have always presented a challenge in establishing a scheme and international learnings that could be drawn from ABCB's own past research.

The suggested expert Steering Committee could methodically work through these issues to look at possible solutions.

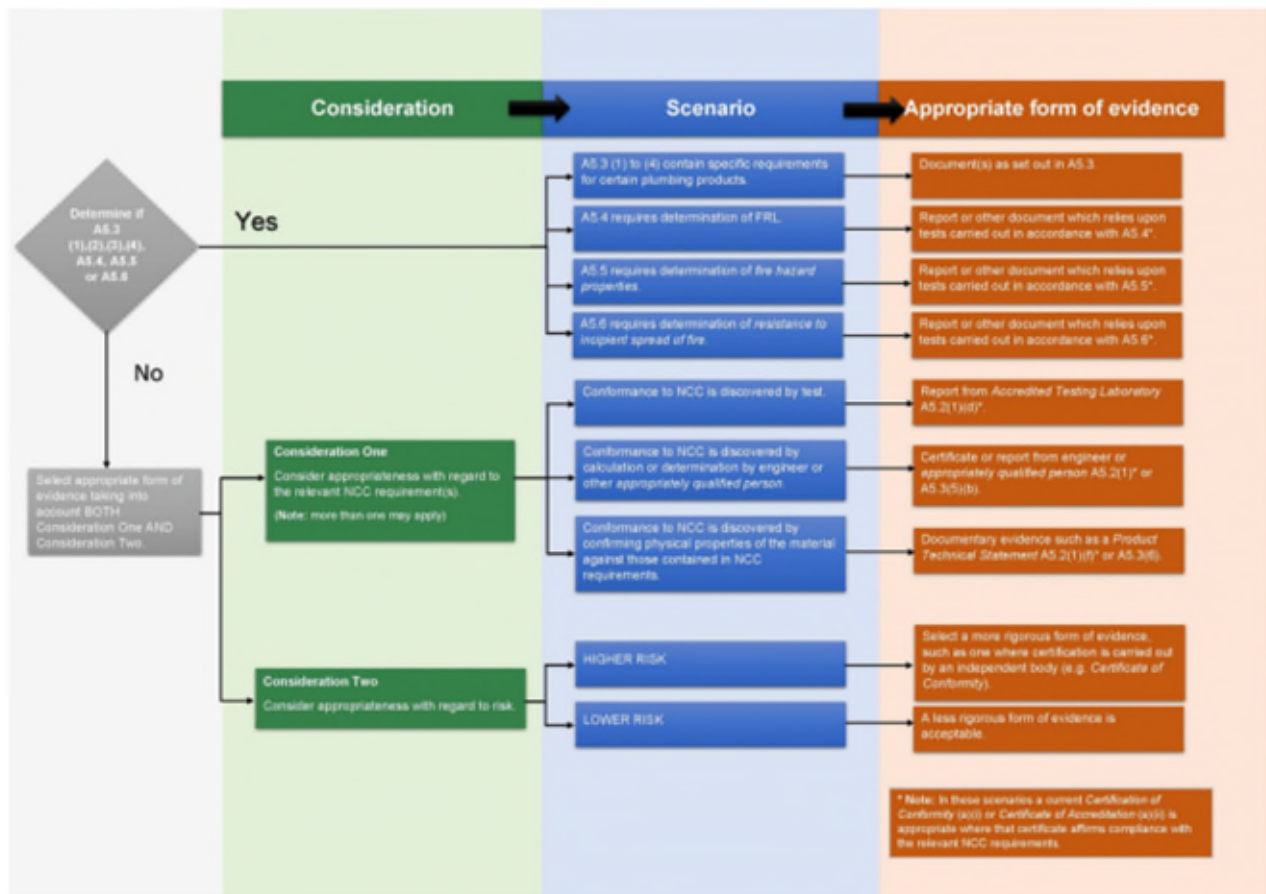
This could include building off the risk assessment framework within the ABCB *Handbook: Evidence of Suitability*³ and embedding this into the NCC itself, or when determining the appropriate evidence or tests to demonstrate a product's conformance under a deliberate and specialist consideration.

Figure 4.2 Risk assessment framework

Likelihood	Consequence			
	Insignificant	Minor	Significant	Major
Rare	Low	Low	Medium	High
Unlikely	Low	Low	Medium	High
Possible	Low	Medium	High	High
Likely	Medium	Medium	High	High

³ <https://www.abcb.gov.au/resource/handbook/evidence-suitability-handbook>

Figure 4.1 Decision flow chart



Labelling risks

The notion of building product labelling has been explored at various times including by ABCB in 2016. Since that time Standards Australia developed a standard requiring the labelling of Aluminum Composite Panels (ACPs). Other standards such as AS 1288 *Glass in buildings* and some the steel and timber standards also have labelling obligations.

At a principle level the notion of a building product label can have benefits to support compliance and be more transparent in providing conformance information to subsequent users.

Notwithstanding, there is an inherent risk of over-reliance on a 'label' or 'mark' to determine where a product is suitable to be used or not.

HIA would caution against heavy reliance on product labelling as a solution, as we have witnessed high profile failures in Australia and internationally, where practitioners have relied on the product 'label' or 'mark' rather than given detailed consideration to the specific suitability/scope of use and limitations of the product certification.

If this measure progresses to further consideration, detailed costing and a feasibility study should be undertaken with direct engagement with manufactures and suppliers.



Register capturing individual products or ‘family of products’

Similar to the notion of building product labelling, the proposal for a building product register has been explored over the years at various times including by ABCB in 2016.

HIA previously developed a building product register (framework) and this current proposal has similarities with the HIA model with a number of additional key elements missing from the current proposal.

If Ministers support this proposal, the HIA model could be further utilised as a basis for improvement of this current proposal.

Other key considerations for a product register

One of the key considerations of a product register includes:

- Whether the register require all designated products to be included, or would it be listed under a family of products – for example would it specify that a smoke alarm is a designated product and then all smoke alarms need to meet a specific evidentiary requirement?
- Or would it require each individual smoke alarm by brand be included on the register?

HIA recently discussed this matter with a window supplier who advised they have over 500,000 combinations of windows, including colours, types, frames, etc.

For many such suppliers this obligation would impose a significant expense were as proposed they to be required to pay an annual fee, or be reappraised at any time the NCC or a standard changed. The availability of testing and certification laboratories has proven a barrier to transitioning to new standards under the existing system.

Oversight and liability

A verification process for each certificate or technical declaration prior to being uploaded would require extensive resourcing and oversight for timely inclusion on a product register.

Often, product suppliers and manufacturers, builders, certifiers/surveyors have questions on relevant claims of a product. ABCB’s role and liability when responding to any product included on the register and complaints handling process would need careful consideration and its legal and technical capability need to be significantly enhanced.

If there is no validation and supporting framework on the register, and appropriate oversight it becomes questionable on the value it would provide.

Register and chain of responsibility

HIA believe that the Ministerial request that states to consider changes to accountability for product suppliers – is in itself an admission that it this a change on which the effectiveness of the scheme is highly contingent is not out-of-scope.

There is an important link that needs to be established between the register and proposed chain of responsibility for products conformance statements.

For manufacturers and suppliers putting their product statements onto the register they would need to be liable/accountable for such declarations and governments have relevant recourse where false or misleading statements are provided or a product failure occurs.

Without this, it weakens the purpose and the advantages gained from a product registration, including a practitioners ability to rely on its certification.



Any changes to building product information must be approached carefully

Building product information can come in various forms, and there can be great disparity and inconsistency in what product information has been developed for a products conformance.

This can make it extremely challenging for builders and building certifiers/surveyors to verify its suitability and ensure it's used within its intended and certified use.

HIA therefore is supportive of measures to support improved building product information and comparability, regardless of which evidence of suitability option is used.

The 2018 changes to the NCC evidence of suitability provisions, that HIA advocated for included a number of measures to bring greater consistency across each evidence option as well as an additional option for Product Technical Statements.

The move for greater consistency of building product information, needs to be balanced though, and take account of the extensive volume of existing product technical reports, certificates, etc.

Any moves to centralise information or require changes to these certificates, reports, etc. to meet new product information requirements would be significantly disruptive for affected manufacturers, suppliers, test labs and certification bodies and needs very careful consideration.

Utilising existing certification schemes

A number of industry specific and voluntary certification schemes in the Australian market have been developed to fill the void of a lack of a centralised approach and a more tailored approach to suit individual product categories.

Existing schemes include:

- ACRS Product Certification Scheme
- BSI Benchmark Product Certification
- CMI ProdCert Scheme
- EWPA Plywood and LVL, Particleboard and MDF, and Plantation Timber Schemes
- Global-Mark Certified Gas Safety Scheme
- Global-Mark Product Conformance Scheme
- National Structural Steelwork Compliance Scheme
- SAI Global StandardsMark Scheme
- UL AU Mark Scheme
- AGWA Accredited Company Program jointly with the Window Energy Ratings Scheme (WERS) would also jointly satisfy all critical elements.
- ApprovalMark Type 5 Scheme
- Bureau Veritas S-Mark (gives access to database on request only)
- CSi Product Assessment Scheme
- CSIRO Australian Paint Approval Scheme
- Warringtonfire Certifire Scheme (does not appear to be JAS-ANZ accredited)
- ATIC Scheme 10 and Scheme 21
- AGA Gas Product Scheme
- BSI Australian Gas Safety Certification Scheme



- CSIRO ActivFire Scheme
- CCS Electrical Product Safety
- IAPMO GasMark and IAPMOMark Schemes
- SAI Global Gas Safety Certification Scheme
- SGS Electrical Type Testing Scheme

Many of these schemes are JAS-ANZ accredited and already include most if not all of the key features HIA views as necessary for an effective building product conformity scheme (manufacturer as well as product validation; ongoing surveillance, renewal or expiry protocols; labelling/marketing; and a product certification register or database).

Any such product registration framework, schemes or register should be:

- building off and not replacing existing schemes
- avoiding duplication, but not seek to bring all schemes into alignment
- supporting them under a coordinating umbrella.

This should involve a mapping exercise of existing schemes and establish key overarching principles for existing and future schemes which can then enable certificates, reports, etc, issued under these schemes to be utilised on any such register.

Prefabricated and modular construction need their own solutions

HIA supports the removal of uncertainty for product suppliers, builders and approval authorities on the process for prefabricated buildings to streamline and strengthen their approvals

Our own investigation of this issue is detailed in the report *Regulatory barriers associated with prefabricated and modular construction* October 2022 and concluded position is that regulatory ambiguities for prefab and modular construction cause uncertainties for all involved parties that in turn prevent greater take-up of this form of construction.

The approval of prefabricated and modular building should be subject to a specific separate and more detailed discussion.

This should include consideration against alternatives where the system is defined based on the complexity of the proposed output; where the manufacturer is certified to produce a system based on assessment of both the components and the overall process including, design and quality control of the product to ensure compliance with NCC requirements.

Consideration should be given to the suitability and effectiveness of the New Zealand BuiltReady Scheme⁴

⁴ [BuiltReady](#).



Appendix

Specific responses to principles and scope

HIA seek to highlight the following specific comments in response to the principles proposed in the ABCB consultation paper.

The ABCB Building Product Assessment Framework in 2021 and more recently the regulatory options in this consultation paper, there are a number of features which mandatory WELS and WaterMark, and voluntary CodeMark or industry product certification schemes currently operating in Australia have in common.

These provide a reliable and transparent method of product certification that can be relied upon by the purchaser. The hallmarks that a model product certification framework/scheme should include:

Manufacturer and Product Validation:

- Identifying the product category to be managed (e.g. in-scope products).
- Establishing a technical standard for the design and manufacture of the product (adopting existing standards where appropriate or designing appropriate tests).
- Establishing the method of product testing to be undertaken for in-scope products based on a risk assessment (e.g., type testing, proof testing, production testing).
- Establishing the type of testing bodies that can undertake testing of the products (e.g., independent third-party certification for structural safety, first-party certification for non-structural products).
- Establishing the type of certification required for the tests undertaken (e.g., test certificates by testing authorities or product technical information provided by the manufacturer).

Ongoing Surveillance, Renewal, or Expiry Protocols:

- Creating a process for surveillance, confidential reporting, and auditing of the products covered by the scheme.
- Establishing appropriate penalties for enforcement of the scheme.
- Labelling/Marking:
- Requiring products to be labelled by the supplier before being offered for sale.

Product Certification Register or Database:

- Requiring the product supplier to be registered and make a declaration that the products they produce conform.
- Requiring products to be tested and relevant documents to be supplied to the scheme owner.
- Listing products in an online format that allows products to be easily checked as legitimate.

These elements are largely reflected in the proposed framework, but as proposed would need supplementing to include industry involvement in a process for establishing a technical standard for the design and manufacture of a product (or adopt existing standards where appropriate); requiring the product supplier to be registered and establishing appropriate penalties for enforcement of the scheme (by states).



Designation of products captured

HIA support a scheme which consistent with the proposal designated products would be assessed in a risk-appropriate, independent way. While this should include those related to the structural adequacy and fire safety of a building including those the report identified.

The proposed framework lacks clarity on what constitutes a 'difficult to assess/verify product' or one 'prone to defects'. While the goal is commendable, vague definitions could lead to endless competitive disputes. HIA suggests clarifying that 'a difficult to assess product' is one not covered by existing manufacturing standards.

The process for their further assessment is an important detail on which much stakeholder support will rest. Clear parameters are needed to distinguish between products of low risk, difficult to assess, and those with significant defects. Further assessment processes, while crucial, are not well-defined.

It's preferable that products not subject to Australian or trusted international standards should be reviewed by a specialist committee consisting of industry, along with ABCB and regulators, should help identify new product categories/families or suitable tests.

While HIA agree *"Generally it is a judgement for each party concerning the trade-off between upfront costs and effects"*, the report has disparate references to its contemplated costs and obligations and should remove all doubt.

Mandatory scheme

HIA understands when a supplier elects to register using a mandatory scheme this brings with it:

- a stringent test for registration (e.g. lab tests) accompanied with mandatory acceptance at building certification stage
- a robust, and potentially more expensive, evidentiary stage at registration, followed by less frequent and lower cost audits
- higher fees would be charged where registration is required for designated products.
- assessment by jurisdictions, other schemes or supplementary testing that could be initiated by the ABCB.
- products on the register would be auditable and random audits on all products on the register are envisaged to be undertaken routinely

Voluntary scheme

For voluntary schemes and for consistency with a risk-based approach, HIA understand:

- a medium assessment standard accompanied by a 'preferred' status at building certification stage
- a lower cost registration, followed by a more robust, and a potentially more costly, cost-recovered audit program (meaning the cost of the audit is paid for by the product sponsor)
- Allow self-assessment for voluntary listing by manufacturers
products on the register would be auditable and random audits on all products on the register are envisaged to be undertaken routinely
- two building product marks would be used.



Mutual recognition of existing domestic and international certifications is generally supported. Self-assessment for voluntary products is seen as appropriate.

HIA encourage a graduation of obligations between mandatory and voluntary schemes, for example that mandatory schemes require retesting after significant changes.

Other matters to consider differentiating include validity periods for certificates, being linked to the product's role and risk in the supply chain, with longer periods for lower risk categories, and no new disclosure for product changes unrelated to regulatory compliance.

Risk-based approach

Building Products capture any product under WaterMark or any material or thing associated with or could be associated with a building, implies vehicles, garden hoses clothes lines, fences and house numbers and letterboxes as in scope of concern.

It would bring more focus and priority if there were separate consideration of:

- High risk building material/component product designed or form or assembly
- Voluntary or low risk systems,
- Prefabricated or volumetric systems.

These elements will have differing levels of complexity and rigour, process used to demonstrate conformance and bring different considerations for compliant usage.

HIA believe given the diversity, there is a need to reflect the difference between building products that are manufactured off-site, prefabricated products, those using factory processes, and building products that are manufactured on-site.

Not restrict Performance Solutions

For other buildings products, the method of assessment should remain unchanged, but be enhanced with an increase in voluntary labelling and traceability.

The principles should not restrict the use of Performance Solutions and the framework should specifically address how the use of designated products where Performance Solutions may seek to vary the installation of a designated product under assessment methods and how under Evidence of Suitability this could be adequately justified.

The report on pg. 23 refers to *“new minimum requirements may be incorporated in the NCC where products are not accredited by an authorised certifier e.g. for imported structural beams”*, should be clarified if this would impose new requirements on evidence, testing or performance of the product. The scheme should be adequate to assess both local and imported products, provided they satisfy the NCC assessment criteria.

Global and Scheme Connectivity

Mandatory certification schemes currently only exist for plumbing products and electrical products (in some jurisdictions).

In relying on existing schemes and avoiding duplication, a detailed mapping exercise is necessary to clearly establish minimum standards for schemes; the ability for existing schemes to cater to missing elements where mandatory designated or high-risk products are covered.



Modern Methods of Construction

HIA supports removal of uncertainty for product suppliers, builders and approval authorities on the process for re-fabricated buildings. Our own investigation of this issue is detailed in the report *Regulatory barriers associated with prefabricated and modular construction* October 2022 concluded a position that regulatory ambiguities for pre-fabricated and modular construction cause uncertainties for all parties that in turn prevent greater take-up of this form of construction.

Applying these processes to pre-fabrication, the report suggests it could:

- *“require an initial meeting between the site and modular, the report proposes the building or systems would be treated as a product. Noting jurisdictions potential applicant and the appropriately authorised state or territory conformance assessment body to inform the potential applicant of the jurisdictions processes for approval and to arrange suitable inspection locations and times...”*

HIA have previously submitted that regulatory acceptance processes are currently unclear and vague for prefabricated 2D or volumetric designs. Further the report suggests:

- *“...include a normal assessment of a reference building product, and evidence that other offsite building products were identical or as similar as possible to the reference product.”*

This above statements and the example imply that both the assembled system would conform to the local obligations and HIA research has previously established these are unclear:

“Australia’s regulatory systems need to be updated and revised to remove the unnecessary barriers and enable greater uptake and recognition of the suitability and effectiveness of prefabricated and modular construction and facilitate an appropriate and streamlined process for the necessary approvals.”

This suggests both the individual elements or the components within a system and the final assembly would be tested. However, it is unclear if:

- both products (individual elements) and assemblies would need to conform to labelling, traceability and other obligations and if this introduces more duplication to the current system.
- Normal assessment excludes auditing management systems and facilities during application review and post-surveillance; and instead only focuses on product claims and evidence of suitability and data auditing (and perhaps retesting).

Assessment

Given the NCC and Australian Standards are written generically, many of the modular and prefabricated construction products and systems differ greatly from manufacturer to manufacturer, so a ‘normal’ single standard or specification may need to be developed specifically to that product.

The approval of prefabricated and modular building should be subject to a specific separate and more detailed discussion. This should include consideration against alternatives where the system is defined based on the complexity of the proposed output; where the manufacturer is certified to produce a system based on assessment of both the components and the overall process including, design and quality control of the product to ensure compliance with building code requirements.

This would be similar to that contemplated in New Zealand for Build Ready and the modular component manufacturers (MCM) certification scheme. Both systems authorities certify a ‘process’ for the development of a product which verifies its suitability.

Resolving these ambiguities for low rise Class 1 construction is where changes have opportunity to make the greatest difference to infill small secondary dwellings and DPUs. The process should be a priority and result in a system that is simpler and scalable.



Better Building Product Information

Outside of high-risk products or non-standard installations, most building products in Australia don't require formal appraisal or approval. Incentives for manufacturers are clearer for mandatory listings, and faster approvals assume products will be used in predictable circumstances.

HIA support the added principle of providing clear guidance on where the responsibility for the product begins after manufacturing. It is crucial to define if a product is used in accordance with the approved use, and under what circumstances the product ceases to be the manufacturer's responsibility, ensuring that builders and certifiers are not left to guess. There is a current reliance on redressing upstream deficiencies, via the last people in the supply chain being the builder and building certifier. HIA broadly support placing obligations for declarations at the appropriate participants at each stage of the supply chain.

Issues for Clarification

In principle, better product information is seen as appropriate, where it discloses regulatory claims. It's unclear if manufacturers must declare all intended uses or only where the product shouldn't be used. The latter creates more burden, while the former could lead to highly specific statements, like in cladding scenarios where the number and spacing would determine a product's suitability.

This expands the role of product literature and change management to ensure products conform to standards and are suitable for their intended use, relying on industry checks and balances, including those cited by the IBQC as important like an educated industry, inspectorate and enhanced by licensing, professional development.

Voluntary Uptake

Mandatory acceptance under CodeMark has alone not compelled large parts of the industry to register their products outside of certain categories requiring Performance Assessment (e.g. termite barriers). HIA recommends that market-driven incentives, especially from the building certification industry and their insurers, will encourage a shift over time to a voluntary register. In the meantime, longer validity periods for appraisals (e.g. of 3-5 years) and exemptions from full reporting would be necessary to reduce regulatory burden and encourage uptake.

Product Labelling and traceability

Notwithstanding the issues above, a label in future should denote fitness for purpose and certainty a product has been properly tested and documented and can at face value verify its suitability for an intended application.

The proliferation of global supply chains means it would be untenable to monitor imports at borders. However, it is not an unreasonable expectation from industry and the wider community that products retailed for an application would meet Australian laws.

A point-of-sale obligation would allow an informed group of retailers to confirm the suitability of products and be significantly more efficient check in the process and avoids passing responsibility onto the next participant in the procurement chain. Such an obligation which would allow non-conformance and claims to be tested against and provide a consistent point for control enforcement and communication or penalties.



Administration and Governance

Ministers sought states and territories to assess their individual building regulations. HIA believe that the Ministerial request that states to consider changes to accountability for product suppliers – is in itself an admission that it this is a change on which the effectiveness of the scheme is highly contingent and should not be out-of-scope.

A builder and consumer are currently exposed in relation to things like installed products under a building contract, their rights are not protected except to the extent that a manufacturer offers third parties an express warranty on these products. This is a significant gap in the overall scheme of consumer protection as generally, building products are not covered and are therefore not controlled under the Australian Consumer Law.

Administrative responsibility

Model national legislation should be drafted as a key output of the work with the aim of clarifying responsibility should remain with those making, importing, ordering and installing the building product as they will know the exact properties of each product.

HIA also broadly supports the ABCB undertaking this work in addition to training addressing guidance, curriculum and the administration of the scheme. It has proved a successful over many years as both Code and scheme administrator for CodeMark and WaterMark. This will require an increase in ABCB resources, capability, funding and updates to governance under its inter-governmental agreement.