National Voluntary Certification Scheme for Manufacturers of Modern Methods of Construction – Issues paper

HIA Submission

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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, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the industry, HIA represents some 60,000 member businesses throughout Australia. The residential building industry includes land development, detached home construction, home renovations, low/medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diversity of residential builders, including the Housing 100 volume builders, small to medium builders and renovators, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry. HIA members construct over 85 per cent of the nation's new building stock.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA's mission is to:

> *"promote policies and provide services which enhance our members' business practices, products and profitability, consistent with the highest standards of professional and commercial conduct."*

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 manufacturing, supply, and retail sectors.

The aggregate residential industry contribution to the Australian economy is over $150 billion per annum, with over one million employees in building and construction, 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.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis. The association operates offices in 22 centres around the nation providing a wide range of advocacy, business support including services and products to members, technical and compliance advice, training services, contracts and stationery, industry awards for excellence, and member only discounts on goods and services.

Introduction

The increased use of prefabricated building solutions within the construction sector can contribute to an increase in productivity and supply leading to improved housing affordability.

HIA are supportive of prefabricated building and have made significant contributions to the discussion on and their acceptance in Australia in our '*Regulatory barriers associated with prefabricated and modular construction'* report.

Regulatory ambiguities and inconsistencies for prefabricated and modular construction creates a level of uncertainty and results in an environment that inhibits growth. The HIA report included 10 recommendations aimed to provide practical steps to remove barriers and advance its uptake. Over the past 12-18 months, several of the initiatives have been committed to by federal and state governments.

It is pleasing to see the issues being further discussed in this paper, addressing these barriers will require a commitment to a consistent and co-ordinated approach from all levels of government. HIA has made submissions to the Victorian and NSW governments which underscore the role in resolving the issues.

Definitions and limitations will exclude certain forms of construction from its scope. HIA recognise this is so the scheme is manageable, but for these forms of construction and building products, there will remain inconsistent assessment and acceptance. The limitations should be clearly identified through the scheme's development.

HIA support a scheme which streamlines compliance and ensures quality of the off-site construction to provide confidence not only to regulators but also the broader community. A national voluntary certification scheme supported by clear definitions could provide the foundation for addressing some of these barriers and concerns.

For any voluntary scheme to be effective, it must be clear, efficient and cost effective to encourage manufacturers to participate. A complex scheme would limit its uptake and waste an opportunity to increase prefabrication in Australia. In summary of HIA recommends:

- **Establishing nationally consistent definitions** which guide the scope of the scheme agreed upon by industry and regulators.
- **Enhancing principles of the scheme to be efficient**, proportional, and cost-effective to encourage participation apply commensurate assessment and compliance burdens not duplicating existing systems.
- **Ensuring national recognition of certificates of conformity** to avoid undermining the scheme's effectiveness.
- **Considering tiered categories** of MMC (e.g. components vs. whole buildings) which will require tailored certification approaches to reflect their complexity and risk.
- **Recognising both self-certification and third-party certification play a role in** balancing rigour and practicality, ensuring quality while avoiding inefficiencies in offsite inspections.
- **Clarifying how design vs. product compliance** will be managed, especially when building classification and site-specific factors are unknown at the point of manufacture.
- **Prioritising a review of standards and measures which cater to low-rise Class 1 construction** to address acute shortages and allow for scalable development of the scheme while recognising its use in other applications.
- **Balancing traceability** benefits against its complexity and cost.
- **Identifying suitable pathways** for products not catered to under the scheme.

Responses to Issues Paper Discussion

Support for a Nationally Consistent Approach

The use of prefabrication within the construction sector is increasing. However as identified in the HIA Report '*Regulatory barriers associated with prefabricated and modular construction'* (HIA Report*)* there is a range of existing barriers preventing the increased uptake. Regulatory ambiguities and inconsistencies across jurisdictions are some of the key barriers that have been identified.

A national voluntary certification scheme for Modern Methods of Construction (MMC) underpinned by nationally consistent definitions has potential to address some of these barriers if carefully managed. It can provide a greater level of certainty to manufacturers and increase confidence in the sector. This in turn could encourage greater investment, enhance productivity and contribute to the increased supply of housing across Australia.

Definitions are Critical

The different approaches taken by jurisdictions to the regulation of MMC and prefabricated construction are a significant barrier at present. This has been highlighted in various reviews and publications including the HIA report. This increases the administrative burden for manufacturers and hampers businesses working across borders.

The development of nationally consistent definitions for MMC is fundamental to a unified national regulatory framework. Consistent definitions will reduce complexity and provide certainty to manufacturers, suppliers and industry. It will also assist in defining the scope for MMC and possibly encourage greater uptake in the use of MMC.

It is important though that the definitions are supported by industry and regulators. Development of definitions needs to occur as part of the early-stage work as they will heavily influence the scope, exclusions and direction of any future regulatory approaches and certification scheme. In this way it will also define aspects of prefabrication which are not catered for under a streamlined process or those that will rely on current legislative pathways.

Modern methods of construction, while useful as a conglomerate is a relative term to give scope to the discussion, it creates a false distinction – modern compared to what?

Prefabrication, modular and 2D and 3D systems could be justified as NCC definitions to describe the important characteristic differences of the methods covered by the scheme.

Categories like those adopted under the Cast Constructions working group in the UK are likely to be more useful for this purpose.

The definitions should be iterated with amendments to ensure that building products are not inadvertently regulated again by the reforms in a way which is unjustified. For example, recognition to already complaint DTS standards or other third-party certification for products incorporated into modular buildings.

Principles of the Proposed Scheme

The principles of the proposed scheme are generally supported. The following comments are provided in relation to some of the principles:

Principle 1 – Voluntary, self-funded and cost neutral

A certification scheme that is both voluntary and self-funded is supported in principle. However, there is some concern with both the initial and ongoing viability of such a scheme. which it is foreseeable in the initial stages high administrative costs relative to the number of participants costs could be high, similar challenges have been experienced by the CodeMark, which has at times struggled to remain viable.

The broad continuum of MMC construction which includes not only 2D but also 3D construction is a key component of the proposed scheme but will create further complexities and risks over and above those seen in other product certification schemes.

If manufacturers and suppliers perceive the costs of participating in the scheme outweigh any potential benefits, it is unlikely to be embraced by incumbent or new entrants.

Where existing regulatory systems already facilitate MMC, manufacturers have suggested that there would be limited desire or justification to participate in the scheme. Manufacturers also noted that if the scheme requirements exceed the minimum regulatory requirements within a jurisdiction, they could impose unnecessary compliance burden, cost, and delays.

If the scheme simply replicates or is just an alternative to existing systems, it is unlikely to provide sufficient incentives for manufacturers to participate.

HIA believe that it is therefore critical that any scheme add to its principles efficient and proportional to ensure the scheme balances regulatory certainty while encouraging higher levels of industry participation. This will embed a clear objective into the design of the scheme to attract industry participation and ensure the scheme is effective and efficient.

Principle 3 – Accountability

Related to the above the issue of consistency in scrutiny of regulatory pathways needs to be considered. Some states consider production methods which are likely to fit within the purview of the scheme as transportable dwellings. Greater use has the potential to place manufacturers and builders on a similar footing and subject to similar obligations.

Currently, the regulatory systems place the primary responsibility for building product conformance on those at the end of supply chain (a builder and building certifier/surveyor), even where they have least influence over the conformance of some manufactured products.

Better sharing of obligations would stem from manufacturers having the ability to offer third party or declarations of compliance on their products.

Principle 4 - Traceability

Enabling traceability within MMC could as noted in the Issues Paper could assist with the identification of defects in the future.

There is an inherent risk of over-reliance on an earlier certification to determine where a product is suitable to be used or not. HIA would caution against heavy reliance on traceability rather suitability should be the focus. There have been high profile failures when an over reliance on ‘marks’ as product certification.

Traceability also adds to costs and increases the administrative burden, potentially acting as a disincentive to the scheme, and also creates inconsistencies between MMC and traditional forms of construction.

As the establishment of this aspect is likely to be complex, it may be more appropriate to focus in the first instance on suitability and the development of a traceability framework to a later stage.

Principle 5 - Interoperability

HIA support this principle noting the primary consideration must be alignment with the NCC and state and territory planning and building certification regimes, but also those schemes which currently assure products, which could be used under a hybrid approach.

Scheme Operation

The proposed scheme intends to provide for the accreditation of manufacturers and the issue of certificates of conformity for prefabricated and modular buildings and components constructed offsite. Understanding how this process will work and integrate for the broad range of categories of MMC is crucial to assessing the practicality, effectiveness and viability of the proposed scheme.

Whilst it is intended that the manufacturer will be accredited, there is still some critical areas where further detail is needed. This includes:

1. How the process for the issuance of the certificates of conformity will operate and how will currency be administered.
2. Who will issue certificates, a manufacturer, a certification body.
3. What licences will apply for those issuing certificates and who administers them.
4. Will the certificates of conformity only address construction, or will it also include design compliance.

MMC can range from prefabricated systems such as wall and roof cassettes through to whole buildings or sections of buildings. It is therefore likely that proportional application of standards and the certification process will be needed to reflect the level of complexity within each of the systems.

An understanding of how the scheme will be structured and is intended to operate will be important to guiding the future development of the scheme.

Relationship to other Certification Schemes

Under the evidence of suitability framework in Part A5 of the NCC, certificates of conformity are recognised as having the highest level of rigour. This reflects that certificates are issued by a certification body following a detailed and independent assessment. It anticipated that certificates of conformity under the proposed scheme are intended to have a similar level of recognition.

If accredited manufacturers were able to issue their own certificates of conformity, it could create some inconsistencies with other recognised methods of evidence of suitability. There is a risk this could undermine other conformity assessment systems like CodeMark Australia, where the certification process is more rigorous.

Noting that MMC includes whole buildings or sections of buildings, any scheme must include appropriate checks and balances that are proportional to the end product's place within the building. For some MMC, certificates could in essence be likened to a product technical statement's place in the evidence of suitability

hierarchy. It would also provide more consistency between MMC and traditional construction methods and the associated products and systems, which is consistent with the risk based application of the NCC.

Scope of the Scheme – Products and Buildings

HIA welcomes the paper's aspiration for a consistent national regulatory approach. A clearer pathway for both in-scope and out-of-scope construction techniques is a desirable outcome of defining the new scheme.

HIA suggest the scheme could be limited to specific types of MMC like modular buildings or pods that are beyond the scope of those existing schemes and regulatory pathways.

Tiny homes and other wheeled transportable buildings often struggle to meet the NCC's DtS provisions and may also fall partly under transport regulations. Clearly defining what the initiative will cover is key to establishing its scope and limitations.

This could result in a more defined scheme that is simpler and less costly to administer. HIA supports the notion that there will be a need for different regulatory approaches taken depending on the predominant construction technique. But, in all cases streamlining the approach must be the desired outcome of the work.

The potential scope of MMC can include systems and complete building modules. Noting the differences in these types of MMC, the suitability of a single level scheme is unlikely and HIA would encourage a tiered assessment.

In the first instance resolving the standards, inspection points and design of the scheme for low rise Class 1 construction. This type of construction poses both the greatest demand and challenges and therefore will provide the best opportunity to make the greatest difference to infill small secondary dwellings and Dependent Persons Units should be a priority and result in a system that is simpler to launch and is scalable.

Whilst housing needs to be the clear focus of the scheme, prefabrication is also common within other sectors of the construction industry. This includes prefabricated buildings used for temporary offices, school classrooms and the like or prefabricated components such as wall panels. Any framework should therefore contemplate how components/modules or buildings irrespective of the building classification or intended use. This would provide consistency but also enhance the longer term viability of the scheme by increasing the scope of buildings or components included in the scheme.

Scope of conformity - Design Compliance vs Product Compliance

The report recognises the scope is dictated by definitional considerations, and "certification will be based on defined terms and aligned with recognised sets of quality and assurance frameworks that meet global standards". However, it is uncertain how, in particular, how it will manage certain practical realities like the issue of design compliance which is a key consideration in the development of the scheme.

Currently, for a manufacturer to provide an NCC compliance declaration they first need to know the NCC building classification which is dependent on use. As this may not be known at the time of manufacture (and particular for the case of those 'standardised' components or designs) this will be a key challenge in verifying compliance with agreed standards.

Similarly, a single archetype MMC building could have different end uses. For example:

- A demountable building could be used as classroom in a school, or it could be used as an office space.

- A residential type of module could be used for SDA accommodation or short-term accommodation or aged care.
- A bathroom pod used in a variety of classes.

The classification applied will impact on the various compliance requirements for the building needs. The NCC triggers are often geographically and site or state and orientation specific including, structural wind loads, exposure to natural hazards, and energy efficiency.

A certificate of conformity issued by a manufacturer could be based on a range of classifications, applications, climates zones or orientations for which the prefabricated element or prefabricated building has demonstrated compliance. This may be viable for simple structures but whole buildings are more complex.

Alternatively, if the certificate of conformity is only intended to 'replace' the onsite certification or inspection functions, an understanding is needed in terms of how design compliance is assessed how the responsibility will be integrated into the state and territory certification framework.

State and territory regulatory schemes can currently impact the wider adoption of prefabrication given their reliance on land or a 'site' or building work to trigger assessment, and approval. Without adequate knowledge of the specific site and intended location, certification and agreed standards cannot be determined. In this regard, even the scheme is subservient to earlier stages of decision making which will mean manufacturers will face similar challenges to those which come from determining NCC compliance of a transportable or relocatable buildings the scheme may exclude.

Inspections and Certification

There are significant variations across the country in the way prefabricated and modular buildings are currently inspected and certified. A balanced approached that provides for quality and compliance whilst reflecting the nature of MMC will increase uptake and improve consumer confidence.

The type and nature of the certification will depend on the category of MMC. Different approaches may be required for prefabricated components when compared to prefabricated buildings.

The HIA report identified that traditional certification authority inspection at offsite manufacturing facilities is impractical and inefficient. Manufacturer self-certification would be less complex, but it alone may not provide a suitable level of rigour to ensure compliance and quality. It may also provide a regulatory inconsistency when compared to traditional construction.

Depending on the category, a more appropriate framework maybe to include a combination of self-certification and third-party certification.

A useful addition to the paper would be an outline of a framework (to identify overlapping or redundant steps) and how they might differ (for example):

For prefabricated buildings:

- Third party certification confirming that the plans and specifications for the building comply with the requirements of the NCC for the relevant building classification/s and
- Certification from the manufacturer that the building has been constructed in accordance with the plans and specifications and the requirements of the Building Code of Australia.
- Inspection and certification of the floor, wall and roof framing by a professional engineer.

- Certification of the waterproofing by a licensed contractor.
- Onsite certification of elements not covered by earlier stages.

For prefabricated elements:

- Third party certification that a prototype of the prefabricated elements meets declared provisions of the NCC
- Certification from the manufacturer that the prefabricated element is consistent with the prototype.
- Onsite certification of elements not covered by earlier stages that the element has been installed in accordance with the manufacturer's requirements and instructions.

Independent third-party assessment and auditing of the manufacturers would also be undertaken by the certification body to ensure compliance and quality assurance, and more discussion on this issue as suggested above is required.

In all cases, the assessment should aim to resolve what level of verification and recertification is required as part of the final onsite certification and if efficiencies are achieved.

A factor that must also be considered in terms of the NCC and Standards is the relocatable nature of many prefabricated buildings.

Tiny homes or other transportable dwellings buildings on wheels are unlikely to fully meet the DtS requirements of the NCC. In some cases, these structures may also be covered in part under transport regulations in each state and territory. How the NCC is applied and to which structures will require further analysis.

Furthermore, if performance solutions are proposed how the process for assessing and documenting those solutions are assessed and documented will need to be considered.

HIA has previously recommended that a national industry taskforce is set up to further investigate the issue, particularly the supply chain roles and responsibilities and the inter-relationship with inspection and product certification (Recommendations 5 and 7 of the HIA report).

Traceability

Whilst the benefits of a traceability framework are noted whether those benefits justify the potential costs would need a more detailed assessment considering the streamlining objective.

Costs associated with the establishment, implementation and ongoing administration of a traceability framework could be significant which would reduce some of the potential benefits of MMC. The benefits are also somewhat limited by the small proportion of MMC within the construction sector at present. HIA offer the following points for future consideration on traceability:

- Is it intended to cover just the end component or prefabricated building or do each of the elements within the component or building need to be individually traceable?
- How can it be considered effective given both the hybrid approach to construction where MMC might be only one element?
- Where will the information be stored and how is it intended to be accessed?

If the system is overly complex or administratively burdensome it will act as a barrier to adoption of the voluntary scheme. Any proposals to include traceability requirements should therefore be balanced against its impost and considered in light of the wider regulatory framework.

State and Territory Barriers to recognition of Certificates of Conformity

The Issues Paper identifies the uncertainty created by the inconsistent regulatory frameworks across jurisdictions. This is likely to have a significant impact on the operation of any voluntary certification scheme.

Even aspects as simple as differences in the point of adoption of the NCC (date relevant application is made versus the date of approval) could lead to implementation issues and needs to be considered as part of the scheme development.

For a voluntary certification to be effective, it needs to be supported by nationally consistent mandatory acceptance provisions. This would provide a greater level of certainty and encourage manufacturers to invest in the scheme.

It is not only common but arguably intended for modular buildings to be relocated to a different site after a period of time. For prefabricated buildings that are being relocated, it is likely NCC requirements will also change with different uses, and time due to amendments since the original installation occurred. Rendering the existing prefabricated building non-compliant against the new NCC; but equally unable to be practically and simply upgraded to comply.

The regulatory framework therefore needs to account for this potential relocation between construction and the point of installation.

A key feature of the original CodeMark Scheme was state and territory legislation prescribing the mandatory acceptance of CodeMark Certificates which should be a feature this scheme adopts.

NCC and Other Standards

HIA question the reliance on existing standards and the ABCB Handbook as adequate guidance on achieving the NCC obligations for MMC. HIA encourage participation with Standards Australia to consider mapping NCC requirements and identify MMC-specific gaps and liaising with related technical committees for their input and guidance.

Some forces will dominate others in building design (like wind), any certification to a standard that is not overtly capturing things which are important to prefab like structural stability when being moved could pose a risk to workers or leave it open to others to define new and different standards to follow. These forces will influence which materials are used and how modules are constructed, could matter as much as minimum loading standards.

A review of existing NCC-referenced standards for gaps; should avoid duplicating new regulation and ensure objective measures to assess the form of construction.

Gaining consensus on how to consider factors which are important to performance (and their quantification) for input into decisions on compliance should also be priority. Currently, the NCC does not overtly describe these obligations and regulators and industry have little obvious sign posting on which factors are invariable constraints. It should therefore be a priority for disclosure how loading considerations during transportation and assembly; minimum rigidity requirements during lifting; maximum dimensions and weights for transport factors should be taken into account.