



RESPONSE TO THE BUILDING CONFIDENCE REPORT

SUBMISSION TO THE BUILDING MINISTERS OF AUSTRALIA

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ABOUT US



Consult Australia is the industry association representing consulting firms operating in the built and natural environment sectors. These services include design, engineering, architecture, technology, survey, legal and management solutions for individual consumers through to major companies in the private and public sector including local, state and federal governments. We represent an industry comprising some 48,000 firms across Australia, ranging from sole practitioners through to some of Australia's top 500 firms with combined revenue exceeding \$40 billion a year.

Some of our member firms include:



EXECUTIVE SUMMARY

Consult Australia congratulates the Building Ministers of Australia for commissioning Professor Peter Shergold and Ms Bronwyn Weir to undertake an assessment of the effectiveness of compliance and enforcement systems for the building and construction industry across Australia.

A productive, competitive and healthy building and construction industry must have certainty in its operating environment. This requires transparent and informed policy making by governments, and consistent enforcement application, where intervention is deemed necessary. Above all else this provides public confidence in the policymakers, regulators, and the industry.

The current response by governments to the use of aluminium composite cladding on buildings is unfortunately an example of inconsistency and a lack of transparency and consultation with industry. This has created significant uncertainty for building owners and occupiers. Insurers have responded by either refusing to underwrite buildings with such cladding or charging exorbitant premiums.

It is unclear where the cost should lie for remediation work. In August 2018 the Australian Financial Review reported that Builder Hickory Group has put subsidiary H Buildings into voluntary administration just days before the subsidiary was due to face a \$13 million tribunal claim by 133 owners of apartments, in Melbourne's inner-east Richmond, to replace the combustible cladding on four residential buildings.

It is the risk of claims like this, which is driving insurers to exclude building cladding and non-conforming product claims from Professional Indemnity (PI) Insurance for professional service providers.

In the building and construction industry professional service providers are seen as the party with the 'deepest pockets' because of their PI Insurance policies, so they are typically targets of litigation regardless of whether they contributed to the loss or damage claimed.

This means that engineering firms specialising in fire safety and façades are facing closure arising from the insurance industry's reaction or must significantly limit their service offerings, as the availability of PI Insurance without exclusions for cladding or 'non-conforming building products' (definition unclear) has all but dried-up. Under state and territory-based building licensing laws it is a breach of these laws to practice without PI Insurance cover. These firms provide critical input into building design but will be forced to cease work in the absence of insurance. Many are sole traders or in small businesses.

In addition, building surveying practitioners are reliant on PI insurance, both from a business risk management perspective and to meet their licensing requirements. If they are prevented from continuing to operate because of non-compliant PI insurance, major disruption will be experienced in the high-rise development industry throughout Australia.

Litigation in relation to building cladding or 'non-conforming products' (yet to be identified or quantified), is in the best interests of no one, with homeowners and industry participants locked in extended, costly and stressful litigation. The costs of this type of litigation can be seen in both the Canadian and New Zealand building industries, which have both suffered 'leaky building' problems. More than \$4billion has been spent on remediation in Canada, and up to \$23billion (upper estimate) in New Zealand. In both countries a hybrid industry of specialist lawyers and moisture diagnostic consultants has developed capitalising on the situation.

It is critical that governments take quick action to restore public confidence in the building industry. This must include helping building owners understand what if any action they need to take in relation to their building. Where remedial action is needed, building owners need to be offered support for their costs. The regulatory response should also provide clear pathways for remediation actions supported by technical guidelines that are endorsed by experts.

Governments must also ensure that policies and media statements are not exacerbating the situation, for example by requiring the display of a notice that the building is an affected private building.

In addition, governments need to consider the rules in relation to licensed building practitioners and PI Insurance to ensure that professionals in the building sector are not forced out of business due to the failure of the insurance market to provide adequate cover, notably fire safety and façade engineering and design.

Governments must also ensure that the tort and liability reforms introduced in 2002-06 regarding proportionate liability are adhered to, so that professionals are not severally liable for the tortious behaviour of other parties.

The actions taken by governments must be done transparently and in consultation with industry, but most importantly consistently and in unison to ensure that the interests of all Australians are met. Variation in the statutory framework and the approvals process across jurisdictions is one of the biggest risks to public safety because of the lack of certainty and consistency that this creates across the building industry.

This submission sets out recommendations to immediately address these issues and the actions required in relation to recommendations made in the Building Confidence report by Peter Shergold and Bronwyn Weir (S&W).

REGISTRATION OF BUILDING PRACTITIONERS AND CONSISTENT REQUIREMENTS FOR REGISTRATION S&W RECOMMENDATIONS 1&2

Registration of building practitioners will set a baseline of requirements for those practitioners required to participate. However, it is important to note that a system of licensing or registration in and of itself will not markedly increase public safety. The more important and effective impact on public safety will come from clear and unambiguous codes of construction and Australian Standards for professionals to follow, together with continued professional development, verification, and enforcement of standards and practice in the building industry.

Mutual recognition must be a pre-requisite for any/all registration/licensing regimes across Australia for the following reasons:

- Businesses in Australia do not simply operate in a single state. Companies of all sizes that provide professional services do so nationally in many cases. Mobility is particularly required given the cyclical nature of the industries in which businesses in the built and natural environment operate;
- The cost of registration and compliance reporting in each and every jurisdiction would be excessive for businesses operating in more than one state/territory. A business should only be required to pay a single fee for registration and meet a single set of compliance requirements;
- Each additional regulatory cost to businesses increases the cost of business in Australia, particularly if a multiple fees and compliance regimes are duplicated across jurisdictions. This is a constraint on productivity and increases costs to clients/consumers of professional services;
- We do not have the size of population to support or warrant a multiplicity of different regulatory standards across the country – governments should be working together on single point of entry systems for registration and compliance reporting in order to reduce the cost to the taxpayer of running separate systems across multiple jurisdictions.

Professional Indemnity (PI) Insurance Requirements

Whilst the insurance market has withdrawn from providing cover for building cladding and non-conforming building products, there is little point mandating that building practitioners hold PI Insurance. However, the consequences of this are significant because successive governments have recognised that it is contrary to the public interest for professional service providers to practice while uninsured. This is because providers of professional services are not significant asset owners. In the absence of any insurance, it would be unlikely therefore that consumers could recover full compensation from a profession consulting practitioner (or business) if successful legal action is pursued.

In 2002-06 a package of tort and liability reforms were introduced across jurisdictions in Australia. This was a response to a similar retraction in the PI Insurance market following the collapse of the insurer HIH.

For example, at the time of the HIH collapse around 30 of Consult Australia's largest member firms were unable to obtain PI Insurance. Consult Australia members were one of several professional service sectors adversely impacted by this event.

The Proportionate Liability Legislation was enacted (via State/Territory Civil Liability Acts of Parliament) as one of two measures designed to regain stability in the insurance market. The intention was to stop plaintiffs from suing only the party believed to have the 'deepest pockets' (i.e. the ones holding PI Insurance) regardless of their contribution to the loss/damage.

This reform replaced the doctrine of 'joint and several' liability with the fairer system of 'proportionate' liability, meaning that the plaintiff would need to sue any and all contributors to the loss/damage in order to claim compensation based on each party's contribution to the loss/damage, as determined by the court.

This equitable approach was due to be enacted across all states and territories, however when the legislation was implemented at a state-level, a crucial difference emerged between the jurisdictions. While Queensland expressly prohibited the practice of 'contracting out' of the legislation, other jurisdictions for example, NSW, Western Australia and Tasmania allowed it (the remaining jurisdictions' legislation are silent on the issue).

Ensuring that all the parties retain their right to Proportionate Liability by prohibiting contracting out (the Queensland model) is an immediate step that jurisdictions can take to will assist in rebuilding the confidence of the insurance industry in the Australian market. This would also be in line with the original intention of the legislation.

Consult Australia is disappointed to report that it is commonplace for government agencies when procuring the services of professional consulting firms (including building practitioners) in NSW, Western Australia and Tasmania to require the consulting firm to contract out of their right to Proportionate Liability. Due to the market power of the government agency, the professional consultant is given no choice but to accept this or lose the contract/tender. This behaviour sets the tone across the industry as it creates the 'norm'.

Support for owners

In response to the widespread 'leaky building syndrome' in New Zealand the Government introduced the Financial Assistance Package (FAP)¹, which operated between 2011 and 2016. This was brought in through amendments to the Weathertight Homes Resolution Services Act 2006 to provide:

- Owners of dwelling houses that are leaky buildings with access to speedy, flexible and cost-effective procedures for the assessment and resolution of claims relating to those buildings; and
- For certain matters relating to the provision of a package of financial assistance measures to facilitate the repairs of those buildings².

Owners could make a claim based on the type of property owned:

¹ <https://www.building.govt.nz/resolving-problems/resolution-options/weathertight-services/fap/>

² <http://www.legislation.govt.nz/act/public/2006/0084/latest/DLM403537.html>

- Stand-alone – standard freehold single property.
- Stand-alone complex - which can include where the property is on a cross-lease or units where there is no common property.
- Multi-unit complex - which can include a group of units with affected common areas.

The scheme provided up to a 25% contribution from the government and up to a further 25% from council towards repair.

Governments need to consider the introduction of a support package for homeowners in Australia to reduce the negative costs and impact associated with legal action. Substantial claims are starting to emerge in Australia connected to the use of aluminium composite cladding with more likely to follow. In one of those cases it has been reported that a building company, H Buildings, has gone into voluntary administration because of a cladding claim³.

Consult Australia Recommendations

- a) Mutual recognition must be a pre-requisite of any licensing/registration system, i.e. on payment of a single fee a business will be automatically licensed in all states. If required, the business should also be able to provide a single compliance report on all its activities to the authority where the fee is paid. The authority should then share this with the other relevant jurisdictions.
- b) Licensing authorities should work together to put in place a single point of entry for registration and compliance reporting. The technology to support this is available and would reduce the cost to governments and the taxpayer.
- c) As a priority, all jurisdictions (Queensland excepted) should amend their Civil Liability Acts to prohibit the contracting out of Proportionate Liability, in line with the Queensland model.
- d) Governments to provide a financial assistance package for owners of buildings requiring cladding rectification work.

CONTINUING PROFESSIONAL DEVELOPMENT

S&W RECOMMENDATION 3

Consult Australia agrees with the recommendation that there should be compulsory continuing professional development (CPD) on the National Construction Code (NCC).

There does need to be flexibility regarding the topics covered to ensure that both the topic and content is appropriate and relevant. This also needs to be sector specific, noting the content needed for professional engineers (for example) will differ from the content needed for installers/fitters.

³ Australian Financial Review: Article 'Hickory puts unit into administration days ahead of \$13m VCAT cladding claim', 27 August 2018.

We agree with the Building Confidence Report that regulators and industry should work together to track issue hotspots to ensure that a proactive approach is taken to CPD content. We also agree that industry associations can play an important role in providing CPD.

Consult Australia Recommendations

- a) Compulsory CPD requirements on the NCC should be introduced. CPD can be delivered by industry associations tailored as appropriate to the industry sector.
- b) Industry and regulators should work together to track issue hotspots to ensure that a proactive approach is taken to CPD content.

CAREER PATHS FOR BUILDING SURVEYORS

S&W RECOMMENDATION 4

The challenge of attracting people into becoming a building surveyor has become more challenging than ever before given the current uncertainty of the liabilities that they may face, particularly given the contraction of the PI Insurance market. This has been driven by the uncertainty of what is considered a conforming/non-conforming product now and in the future.

Consult Australia gives in principle support to the recommendation however, we believe that there is little or no incentive to come into the industry at present. This will improve if governments take action to step in to resolve the PI Insurance market situation.

Consult Australia Recommendations

- a) As a priority, governments must work together to resolve the PI Insurance market situation to ensure that building surveyors are appropriately covered by PI Insurance.

IMPROVING COLLABORATION BETWEEN BUILDING SURVEYORS

S&W RECOMMENDATION 5

Consult Australia believes that appropriate regulatory oversight is key to rebuilding public confidence. The Building Confidence Report highlights the key problems here, in that there is a lack of clarity regarding ownership of complaints, and a lack of timely follow up and enforcement.

The Report also touches on the commercial pressure that building surveyors encounter regarding sign-off. As a result, some surveyors are pushing sign-off to the engineer(s)/designer(s) involved in the project, which is not appropriate as they will not have had the access to the site, or oversight of the installation/methodologies used, required for sign-off. This is the role of the building surveyor not the engineer/designer. The contraction of the insurance market will exacerbate this issue, as Building Surveyors will not be able to insure the risk involved in providing their sign-off.

Consult Australia Recommendations

- a) As a priority, Recommendation 5 be implemented, which is that each state establish formal mechanisms for a more collaborative and effective partnership between those with responsibility for regulatory oversight, including relevant state government bodies, local governments and private building surveyors.
- b) As a priority, governments must work together to resolve the PI Insurance market situation to ensure that building surveyors are appropriately covered by PI Insurance.

EFFECTIVE REGULATORY POWERS AND STRATEGY FOR THE PROACTIVE REGULATION OF COMMERCIAL BUILDINGS

S&W RECOMMENDATIONS 6&7

Consult Australia agrees that regulators should have a suite of powers to monitor building work in order to ensure compliance and take enforcement action as needed. Consult Australia also agrees that there should be a clear audit strategy for regulatory oversight of the construction of commercial buildings.

Where we differ from the Building Confidence Report is that we believe there must be greater consistency between jurisdictions regarding the powers and the enforcement action taken. Lack of consistency creates uncertainty across the industry, which is not in the best interests of either the industry or public confidence.

The Report notes under 'further observations' (page 21) that product recall and/or prohibition powers should exist for high-risk building products. Consult Australia believes that this power should be centralised in order to avoid the situation of a product ban being adopted in one jurisdiction but not others. This can easily create confusion and unintended consequences that should best be avoided. A centralised body may determine that a targeted geographical ban is required due to the circumstances/risks that may be unique to that particular environment, but such decisions need to be made based on robust analysis.

Consult Australia Recommendations

- a) Regulators should have a suite of powers to monitor building work in order to ensure compliance and take enforcement action as needed.
- b) Regulators should follow a nationally consistent set of guidelines on monitoring and enforcement to ensure consistency of application, and regularly share learnings and insights.
- c) Product recall and prohibition powers should be handled by a nationally centralised body to ensure appropriate application and consistency.

COLLABORATION WITH FIRE AUTHORITIES IN THE DEVELOPMENT OF FIRE SAFETY DESIGN

S&W RECOMMENDATION 8

Consult Australia agrees that there should be collaboration between the fire authorities and the parties involved in design and construction. This is already the case in New South Wales. It does need to be recognised however, that the fire authorities are not design experts and have no qualifications in this regard.

It would not be appropriate for a fire authority to have final sign-off of the design, and they should not be considered the default approval body. At present there is limited transparency regarding their policies/procedures and the process for feedback. For example, it should be a requirement that the fire authority set out in writing clear reasoning for objecting to the design. For example:

- Does the design contravene fire safety policy (with details provided)?
- Does the design fail to meet performance requirements (with details provided)?

Consult Australia Recommendations

- a) Fire authorities must be engaged, where appropriate, in a timely manner as part of the design process and provide a clearly defined service for involvement in the design process;
- b) Fire authorities are to develop and publish statements relating to fire-fighting procedures and/or fire brigade concerns relating to aspects associated with the Australian Building Codes Board (ABCB) objectives of the Building Code of Australia (BCA) relating to fire. These statements should be for use with the design industry.
- c) Where the fire authority has concerns, the reasoning for those concerns must be clearly set out in writing, denoting whether they are due to policy considerations or performance requirements, setting out sufficient detail for the designer to understand and respond to;
- d) Where the building practitioner must make a decision relating to an engineering aspect then the building practitioner must be given the power (by legislation) to appoint a peer reviewer for the design or aspects therein.

INTEGRITY OF PRIVATE BUILDING SURVEYORS & CODES OF CONDUCT FOR BUILDING SURVEYORS

S&W RECOMMENDATION 9 & 10

Consult Australia agrees that there needs to be clear delineation between the role of the building certifier and the project owners/participants to ensure that no conflicts of interest arise. We also agree that a Model Code of Conduct should be developed and adopted by all jurisdictions for building surveyors. It is important that there is national consistency regarding Code content, so that there are a single set of clear guidelines across the country.

Consult Australia Recommendations

- a) Jurisdictions adopt Recommendations 9 and 10 of the Building Confidence report, ensuring that there is national consistency of the both the role and the code compliance rules that apply to building surveyors.

ROLE OF THE BUILDING SURVEYORS IN ENFORCEMENT

S&W RECOMMENDATION 11

Consult Australia agrees that building surveyors could be given additional supervisory powers and mandatory reporting obligations, however we do not agree that information should be provided anonymously. It is important that regulatory powers are exercised transparently to ensure that all parties rights are observed and protected.

We believe that the introduction of a nationally consistent Code of Conduct, mandatory reporting requirements, and greater independence, will strengthen the role of the building certifier. It should never be necessary for a role involving a compliance function to report anonymously, as it allows personal interests/grievances into the process and cannot be considered a reliable enough source of information on which to base education and audit activity.

Consult Australia notes that the Institution of Structural Engineers has launched 'CROSS-AUS'⁴, which allows construction professionals to make confidential reports about structure failures and safety concerns. The purpose of this is to publish information that can be distributed (after all identifiable details are removed) to help facilitate knowledge sharing, and can be used to inform safety improvement measures.

Consult Australia Recommendations

- a) Jurisdictions provide private building survey enhanced supervisory powers and mandatory reporting obligations. The enhanced supervisory powers are to be open and transparent and should not allow for anonymous reporting.

COLLECTING AND SHARING DATA AND INTELLIGENCE

S&W RECOMMENDATION 12

Consult Australia strongly supports the Building Confidence Report's recommendation that there be a building information database that provides a centralised source of building design and construction documentation. This recommendation will provide substantial benefits to building owners and building and construction practitioners regarding building maintenance.

⁴ <https://www.cross-aus.org.au/>

As Professor Shergold and Ms Weir observe in the Building Confidence Report, there will also be a knock-on benefit regarding insurance if buildings are better maintained.

Access to the data will need to be controlled, however Consult Australia believes that this can be resolved in a straightforward manner using appropriate technology and the adoption clear policy around access and restrictions.

Consult Australia Recommendations

- a) Jurisdictions adopt the Building Confidence recommendation to establish a building information database and develop a clear policy around access and security.

RESPONSIBILITY OF DESIGNERS

S&W RECOMMENDATION 13

Consult Australia does not believe that registration or licensing of designers will materially affect the quality of design documentation. Knowledge of the NCC should start with education and at present Consult Australia believes that there is a gap in the formal education of designers because the NCC (to the best of our knowledge) does not feature in undergraduate degree courses. The NCC does form part of some courses of study for para-professionals, but not design degree courses (i.e. architecture or engineering). Consult Australia believes that some foundational knowledge of the NCC and BCA should form part of an undergraduate design degree. This foundation can then be developed in the workplace through Continuing Professional Development. Education, training and knowledge investment is more outcome focused and should be central to the reform agenda.

Consult Australia believes that this recommendation does not account for the role of the product supplier/manufacturer. We believe that there needs to be more stringent rules regarding the methods used to certify product compliance. There needs to be far greater rigour around testing and results of products so that designers and installers can be confident in the product. The supplier/manufacturer must be appropriately accountable.

This is also important because it is the product supplier/manufacturer that will provide guidance on the proper installation and performance of that product, rather than the designer/architect.

The Building Confidence Report references an example of a plumbing installation (page 29) where insufficient design is provided by the hydraulics engineer, however we do not believe that the example reflects what happens in practice. Whilst the hydraulics engineer will provide advice on the overall design, the design documentation may not provide the detailed design required for installation, because this will be influenced by the product used and the manufacturer/supplier's instructions on how it is to be installed to operate effectively. The hydraulics engineer is not part of this process, this level of detailed design is done by the plumber.

Engineers do not in all cases specify which products are to be used, nor will they be on site to oversee the installation. The design documentation therefore, is not in all cases proof of compliance with the NCC.

What is in the design and what happens when the design is implemented can change (sometimes significantly). This is why the Building Surveyor must be across what happens on site.

Consult Australia Recommendations

- a) Foundation knowledge of the NCC and BCA should be included in architect and engineering undergraduate degrees.
- b) Jurisdictions should review the stringency of certification obligations for suppliers/manufacturers of products in regard to their conformance with the NCC.
- c) Jurisdictions to clearly reflect in their approach to the reforms that responsibility for NCC compliance rests with the builder/contractor, which the building surveyor then verifies.
Designers have a role to play in recommending an approach, however their responsibility for NCC compliance must be proportionate to their genuine influence over the selection of products and the building/construction/installation methodologies.

ADEQUATE DOCUMENTATION FOR PERFORMANCE SOLUTIONS RECOMMENDATIONS 14 & 15

Consult Australia has the following comments to make in response to Recommendations 14 and 15 in the Building Confidence Report regarding performance solutions:

- Performance solutions are an important methodology, which allows innovation to be applied to issues where a problem has no clear standard solution.
- Fire safety engineers should develop a fire strategy for the building and identify and review the Deemed To Satisfy provisions for relevance, as well as identifying Performance Solutions and the supporting analysis and evidence.
- Consult Australia supports the recommendation for a national best practice guideline for documenting performance solutions, provided it does not include prescriptive requirements that could impinge on innovation.
- We agree that where performance solutions are agreed retrospectively, a peer review could be conducted to ensure that they are being applied appropriately and not to avoid compliance.
- Recommendation 14 will be helped through the implementation of Recommendation 16, by more rigorous design documentation and approvals process throughout the construction process to reduce the occurrence of non-compliances during construction.

APPROVAL OF DOCUMENTATION THROUGHOUT THE CONSTRUCTION PROCESS

RECOMMENDATION 16

Consult Australia's comments in relation to this recommendation reflect those provided under Recommendation 13 in regard to the 'Responsibility of Designers', in that the designer is only one practitioner of many involved in the delivery of a building.

The Building Confidence Report on Page 31 highlights comments made by various industry bodies that specialist practitioners may be engaged for complex design work when the detailed specifications have not yet been prepared. Later when products are specified the original designer may not be consulted to consider their effect. Consult Australia agrees that this is common place. The design can move on significantly and the designer initially involved will have no awareness of changes made and in some cases their engagement may have finished, so they are no longer involved in the project going forward.

This is a symptom of 'Design and Construct' contracts used by an owner to engage a contractor, who in turn engages a consultant (or consultants) to undertake design work independent of each other. This method of contracting typically does not encourage communication between the consultants, subconsultants, contractors and subcontractors involved in the project.

Consult Australia agrees with the recommendation that there needs to be clear obligations for the approval of amended documentation by the building surveyor throughout the project. We also agree with Professor Shergold and Ms Weirs' observation that implementation will be challenging and will require a change in both contracting practices and behaviour in order to effect change.

INDEPENDENT THIRD-PARTY REVIEW, MANDATORY INSPECTIONS AND FIRE SAFETY SYSTEM INSTALLATION

Recommendation 17-19

Whilst Consult Australia does not oppose the concept of peer review, we believe that the core issue lies with the building not conforming with the design due to changes made during construction, rather than issues with the design itself. We would be very concerned, therefore if the building surveyor was not involved in assessing whether the installation of the fire safety design (and other aspects of the design) had been followed during construction. This should be supported by an appropriate system of mandatory inspections to support and review the actions of the building surveyor.

Consult Australia agrees that peer review may be appropriate in certain circumstances, i.e. type and class of building, but should not be necessary in all cases.

It is important for policymakers to note that practically it will be challenging to resource peer reviews for all buildings, given the specialist nature of this discipline of design. The effectiveness of a peer review is synonymous with the skills, expertise and knowledge of the reviewer. The same is true for inspectors. This approach needs to be supported by appropriate training and Continuous Professional Development requirements.

Furthermore, resourcing peer reviews will also be challenging given the lack of available PI insurance cover for fire safety engineers and designers.

Consult Australia Recommendations

- a) Jurisdictions should review the number and capacity of practitioners available to perform peer reviews and perform inspections to ensure that the recommendations can be appropriately resourced, and the intended outcome achieved.
- b) The building surveyor should remain involved to ensure that the fire safety design (and other aspects of the design) is followed during the construction process together with independent review as appropriate in order to support the building surveyor.
- c) Jurisdictions must have regard to the capacity and availability of PI Insurance for professionals and enact appropriate policy measures to respond to the contraction in the market to ensure that professionals can continue to operate.

A BUILDING MANUAL FOR COMMERCIAL BUILDINGS

RECOMMENDATION 20

Consult Australia strongly agrees that a comprehensive building manual should be available to the building owner and subsequent owner. This should be held digitally via a secure service to which access is granted on proof of ownership. We also believe that this should include high-rise residential buildings also.

This will ensure a better system of maintenance. Owners should also be required to lodge maintenance reports and any subsequent changes to the building over time to ensure that the information is accurate and up to date.

Consult Australia Recommendations

- a) Recommendation 20 should also be adopted for high-rise domestic buildings.
- b) Records should be kept digitally with secure access given only on proof of ownership.
- c) Owners should be required to lodge maintenance reports and subsequent changes to the building to ensure that the information passed onto future owners is accurate.

BUILDING PRODUCT SAFETY

RECOMMENDATION 21

Consult Australia believes that this Recommendation is a priority. It is the current uncertainty about non-conforming products and the extent to which they have been used in existing buildings that is driving the insurance market's response to exclude cover within PI Insurance Policies.

It is critical that suppliers and manufacturers take responsibility for the products they are putting into the market place. A mandatory system of certification demonstrating compliance with the NCC is critical.

Certification of products demonstrating compliance with the NCC (e.g Codemark) should focus on compliance with the Deemed to Satisfy Provisions and should not include generic desktop certification against the Performance Requirements of the NCC, particularly where they impact on the life safety aspects of the NCC. Performance Assessments should take the building specific issues into consideration.

An independent body should hold suppliers and manufacturers to account (including powers for investigation and accountability including financial or other) for mis-representing or using mis-leading practices (such as marketing material) regarding the standards and safety of their products.

Consult Australia Recommendations

- a) Recommendation 21 be adopted as a priority.

DICTIONARY OF TERMINOLOGY & IMPLEMENTATION RECOMMENDATIONS 22 TO 24

Consult Australia agrees with Recommendations 22 to 24 regarding consistency of terminology across the jurisdictions, and the need for both industry consultation and cost-benefit analysis. We also agree that a single implementation plan and progress report should be published showing the actions and activities being undertaken in each jurisdiction. These recommendations will be extremely beneficial in terms of industry participation and contribution to the desired outcomes.

CONTACT

We would welcome any opportunity to further discuss the issues raised in this submission. To do so, please contact Nicola Grayson, Director of Policy and Government Relations on 02 8252 6707 or email: nicola@consultaaustralia.com.au