

The Building Ministers Meeting has requested

'A nationally consistent and coordinated system of building product assurance and regulation to ensure that building products are manufactured, supplied and utilised in compliance and conformance with laws, codes, standards to deliver trustworthy buildings.'

Current landscape

ESTIMATED NUMBER OF BUILDING PRODUCTS  **700,000**

TOTAL POSITIVE IMPACT OF REFORMS  **\$242.8 million/year**



Qld has had **chain of responsibility laws since 2017**

NSW **passed chain of responsibility laws in 2023**

Australian consumer law has **limited application to building products**. ACCC recommends specialist regulation.

**All jurisdictions require 'gatekeepers'** to check that products specified, approved and installed have 'evidence of suitability' (EoS) as per National Construction Code (NCC)

**No regulation or accountability** directed at product suppliers (outside of Qld)

**Evidence of poor compliance with EoS** (eg cladding) – difficult for gatekeepers to prevent use of non-conforming products. Substitution also common.

**Currently no mandatory labelling requirements**. Only Qld (and NSW) mandate minimum information requirements.

Proposed landscape

Enhance current building approval processes by creating standardised requirements for labelling, traceability and product information and improving access to that information for designers, certified, installers and consumers



**Reform 1 – Product labelling, traceability and information**

Establish mandatory labelling, traceability and minimum information requirements for all building products through priority amendments to the NCC – ensuring the requirements apply consistently across Australia.



**Reform 2 – National Designated Building Product Register**

Establish a national designated building products register for products associated with high rates of defects and safety. The register would be administered by the ABCB and a cost recovery model would pay for administration, compliance and enforcement.



**Reform 3 – Enhanced accountability for product suppliers**

Complement the current building approval processes by expanding the operation of 'chain of responsibility laws' across Australia. This will bring greater accountability to the product industry through express obligations on them to supply compliant, safe products. The laws should be expanded to create harmonised regulation using model or mirror legislation based on the current Qld and NSW schemes.

The 3 key reforms set out above could be progressed either collectively or independently. Any one of them will bring economic benefit to industry and consumers. All three will result in a comprehensive suite of laws to ensure the use of compliant and safe building products and would conservatively result in a net positive impact of \$242.8 million per year.



**Traceability, labelling and information**

This should include mandating the use of global interoperable identifiers (eg barcodes or similar) which will mitigate against inappropriate substitution and enable productivity gains. The reforms could become a mechanism for encouraging or mandating transparency on sustainability credentials of products (as is occurring in the EU).



**Designated products register determined to be cost-effective and consistent with best practice cost recovery principles**

- Initially for fire safety products, structural steel, timber and glass, and waterproofing products (estimated to be 52K products)
- Industry funded through registration charges used for administration, audit and enforcement (estimated fee \$190/product)
- Complements & enhances mandatory traceability & labelling requirements & enforcement by jurisdictions
- Enables stakeholders to easily search for registered products & access links to mandatory information & labelling

Cost Benefit Analysis over a 10 year period at net present value

	OPTION 9	OPTION 10	OPTION 11	OPTION 12
	Mandatory website address for product plus any identifier on product label	Mandatory website address on product label plus any identifier on product label	Mandatory website address for products plus global digital identifier (ie barcode or similar) on label	Mandatory website address on product label plus global digital identifier (ie barcode or similar)
Product labelling options for all building products	\$ million	\$ million	\$ million	\$ million
<b>BENEFITS</b>				
Avoided defect-related costs from improved product selection	747.4	747.4	747.4	747.4
Avoided defect-related costs from product substitution (product labelling)	0.0	692.9	0.0	692.9
Avoided defect-related costs from product substitution (interoperable digital identifier)	0.0	0.0	692.9	692.9
Building surveyor time savings	584.7	584.7	584.7	584.7
<b>Total benefits</b>	<b>1,332.2</b>	<b>2,025.1</b>	<b>2,025.1</b>	<b>2,717.9</b>
<b>COSTS</b>				
Compliance and enforcement costs	54.7	54.7	54.7	54.7
Website costs	75.4	75.4	75.4	75.4
Product identifier costs	0.0	0.0	142.8	142.8
Labelling costs	0.0	16.3	0.0	16.3
<b>Total costs</b>	<b>130.1</b>	<b>146.4</b>	<b>272.9</b>	<b>289.2</b>
<b>Net impact</b>	<b>1,202.11</b>	<b>1,878.61</b>	<b>1,752.21</b>	<b>2,428.82</b>



**Enhance regulation of off-site construction**

- Prioritise the development of a suite of standards that would apply to off-site construction which can apply across Australia through incorporation into the NCC;
- Include in the mirror/model laws proposed under option 1 and 2 above, provisions to ensure state and territory schemes:
  - refer to and capture off site construction in their definitions of building work; and
  - provide for how these methods are to be assessed and certified offsite as well as during transportation and installation on site.

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### Summary of Methodology

Scope of project based on Building Products Assurance Framework (created by ABCB as part of BCR Implementation work)

- Review of current building product regulation schemes in Aust including for electrical and gas equipment, WaterMark and CodeMark
- Consider international literature and schemes in EU, NZ & UK
- Undertake consultation
- Develop regulatory options for
  - Enhancing compliance and enforcement of building products in Australia;
  - Improving information sharing with conformity assessment bodies;
  - Mandating labelling, traceability, and minimum information requirements
- Research and advise on regulatory issues for modular/off site construction
- Not included – reforms to evidence of suitability requirements, CodeMark or conformity assessment generally
- Undertake economic analysis of regulatory options (as appropriate) informed by stakeholder consultation and research

### National coordination body

BENEFITS	POSSIBLE ROLES	POTENTIAL MODELS
Global building products market	Stakeholder information, alerts, recalls or other actions taken by jurisdictions	Body established under a new IGA
Consistency & harmonisation for industry	Centralised complaints process	ABCB – amended IGA
Coordinated complaints mechanism, oversight, auditing	Stakeholder engagement, administration of relevant NCC provisions and standards	Legislate for a Federal body (similar to FSANZ, TGA)
Centralised data collection for intelligence	Administration of ‘designated products’ register – funded by industry	Part of Australian Consumer Law (ACCC)



### Summary of regulatory options proposed in report

#### MODEL LAWS OR KEY CRITERIA – OPTIONS 1 AND 2

Option 1	Develop model or mirror legislation
Option 2	Agree on key elements to be included

#### GOVERNANCE MODELS FOR NATIONAL COORDINATION – OPTIONS 3, 4 AND 5

	ACCC	Informal BRF/SOG ABCB webpage	ABCB amend IGA	New body IGA/ legal entity	Federal statutory body
<b>Building Regulators</b> Each jurisdiction enacts BP specific laws	NA	Option 3A	Option 3B	Option 3C	Option 3D
<b>ACL or Building Regulators</b> Each jurisdiction nominates which Regulator	NA	Option 4A	Option 4B	Option 4C	NA
<b>Australian Consumer Law</b> Rely on existing ACL framework	Option 5	NA	NA	NA	NA

#### DESIGNATED PRODUCTS REGISTER – OPTIONS 6 AND 7

	Fire safety systems <sup>1</sup>	Reinforcing and structural steel	Structural timber	Glass	Waterproofing products
Self-registration model	Option 6A	Option 6B	Option 6C	Option 6D	Option 6E
CAB assessment model	Option 7A	Option 7B	Option 7C	Option 7D	Option 7E

#### Option 8 – Enhance information sharing through

- amendments to scheme rules;
- establish information sharing powers agreement(s); and/or
- rely on investigative powers to require information from CABs to support enforcement activities

#### PRODUCT IDENTIFIERS AND MINIMUM INFORMATION REQUIREMENTS – OPTIONS 9 TO 12

Labelling options	Can be any product identifier	Must be interoperable digital identifier (e.g. GTIN)
Must have minimum information accessible via a website (address not required on product)	Option 9	Option 11
Must have website address on product or package	Option 10	Option 12

#### LABELLING OPTIONS ACHIEVED VIA NCC – OPTIONS 13 AND 14

Option 13	Single standard applying to all products (unless they already have a specific standard for labelling)
Option 14	Product specific labelling requirements introduced in all standards referenced in the NCC

#### MANDATING LABELLING AND MINIMUM INFORMATION REQUIREMENTS – OPTIONS 15 AND 16

Option 15	The NCC
Option 16	In state and territory legislation

#### Modular Construction – Option 17

To ensure the proper regulation of off-site instruction:

- prioritise the development of a suite of standards that would apply to off-site construction which can apply across Australia through incorporation into the NCC;
- include in the mirror/model laws proposed under option 1 and 2 above, provisions to ensure state and territory schemes:
  - refer to and capture off site construction in their definitions of building work; and
  - provide for how these methods are to be assessed and certified offsite as well as during transportation and installation on site.

<sup>1</sup> Active fire safety system equipment, fire doors, internal and external cladding products, passive fire protection products, fire sealants and stopping products, fire rated flooring products.