

Toward Strengthening the Product Assurance Framework
April, 2017

***The Australian Building Codes Board describes non-conforming products as: Products that purport to be something they are not and are marketed or supplied with the intent to deceive those who intend using them***

The issue of Product Assurance has been to the fore in the New Zealand and Australian construction sectors for the past two years, catalysed by a surge of non-conforming imported building products. In recent months this attention has been particularly focused upon steel conformance with Standards and the NZ Building Code, however other product areas have also come into question, including electrical cabling, glass, claddings, plumbing materials (especially pipe), and roofing tiles.

Auckland Council has voiced considerable concern around this issue, as confirmed in the Taylor Report. The Council has also drawn attention to what it regards as an undue amount of product substitution on site without resort to regulatory consent and compliance processes. Such substitution can be difficult to identify unless product or material wrapping is present on site as an indicative guide of the items used.

This paper seeks to address the non-conformance issue by a strengthening of the product assurance framework through two areas. These are:

- Amending Section 14G of the Building Act to make absolutely clear a statement of compliance with NZ Building Code is mandatory for all products and/or systems brought to market;
- Recognising the internationally accepted three tiers of assurance with the additional possibility of making a minimum entry level for certain products and/or systems according to their considered importance to the integrity of a build.

These actions we believe would remove the ability of a manufacturer or importer to claim in the event of non-conformance that no assertion of compliance with the NZ Building Code was claimed and therefore no offence was committed. However, a mandatory statement of compliance would, in the event of non-conformance, unequivocally bring the manufacturer/importer clearly within the scope of the Fair Trading Act, Sale of Goods Act, Consumer Guarantees Act and the Building Act.

The proposed assurance layers to be covered in regulation, perhaps legislation, are captured in the diagram below:

<b>THREE TIER ASSURANCE SCHEME</b>		
<b>SECTION 14G OF THE BUILDING ACT (NZBC Compliance statement requirement)</b>		
<b>FEATURE/ENTRY LEVEL</b>	<b>TIER</b>	<b>RISK</b>
Simple compliance statement Base level entry  Required by all products/systems as a minimum	First Party certification (Assurance provided by the producer or importer)	Low
Technical, opinion based Generally a snapshot in time with no regular ongoing testing  For high importance, non-life safety critical, products or systems	Second Party certification  (Assurance provided by an expert party eg. BRANZ, CPEng etc)	Medium
Audit based in conjunction with technical backup Regular ongoing testing incl random sample testing Independent body is also audited  For critical products or systems that directly impact on Life Safety (Structure/Fire)	Third Party certification (Assurance provided by an audited independent body eg. ACRS; JASANZ; IANZ; ISO; CodeMark	High

Issues to be defined going forward include identifying the ranges of products and systems that fit into each of these categories, where a minimum assurance level might apply, the wording for legislative change and associated regulation.

BIF sees the legislative and regulatory requirements of introducing such a scheme as minimal, in light of the benefits to be obtained by industry, consumers and regulators, and believe this can be implemented with little overall expense impact on the sector. Key to its success, however, will be the enhanced enforcement of the requirements.

It should be emphasised that this proposal is in no way intended to operate as a barrier to importation of products and materials. It is solely intended to lift across-the-board conformance with New Zealand Building Code and associated Standards and should apply to all building products and systems entering the market, whether locally produced or imported. The cost impact on products and systems available on the market should be minimal.

It is also our view that that any forum or consultation in regard to this should also discuss the issue of “Product Substitution” which is considered by industry participants, including BRANZ, and Auckland Council, to be occurring at a rate detrimental to quality industry performance.

**Bruce Kohn**