CPD Webinar series

ASSESSING THE SUITABILITY OF BUILDING PRODUCTS AND MATERIALS UNDER THE NCC - WHAT STEPS SHOULD ARCHITECTS TAKE?

Speaker | **FRANCES HALL**
SPECIAL COUNSEL
WEIR LEGAL & CONSULTING

ā rbv

Architects
Registration Board
of Victoria

Acknowledgment of Country

We respectfully acknowledge the Traditional Owners of the lands wherever attendees are situated, in particular the Wurundjeri People of the Kulin Nation, and pay our respects to their Elders past and present.

CPD Questionnaire

- Attending this webinar live and submitting this form will qualify you for 1 hour formal CPD. Certificates will be sent to the email address used to complete this form, please ensure your name and contact details are correct. This form will close 24 hours after the webinar has commenced.
- Certificates will be issued within 1 week of the closure of the quiz.

https://forms.office.com/r/UeJJiCeJwm

ARBV CPD Webinar Quiz - 25 June 2025

Outline

How is the use of building products governed?

What does the Architects Act in Victoria require of architects in terms of specifying compliant products and materials?

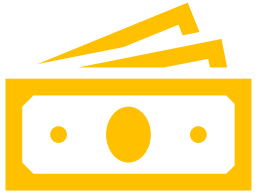
What specific steps or processes should architects have in place to ensure that they are fulfilling their obligations in relation to product suitability?

Potential future developments in building product regulation

Need for building product innovation

Climate change

Housing shortage



Increased construction costs

Regulation of building products

Risks when specifying materials or products

Those products need to be used in a way that meets legislative requirements

Architects have professional conduct obligations when specifying materials or products

Why does regulation of building products matter?

https://www.reddit.com/r/vintageads/comments/r2cng5/70s_ad_for_asbestos/

WHEN THE FIRE ALARM WENT OFF, IT TOOK TWO HOURS TO EVACUATE NEW YORK'S WORLD TRADE CENTRE.

The bigger the building, the more important fire-proofing becomes.

That's why today's buildings have asbestos-cement walls and even floors containing asbestos.

Asbestos contains fire, cannot burn and holds up after metal and glass have melted down, giving vital time for people to escape.

You'll also find asbestos sealing plumbing joints, insulating heating pipes, electric motors and emergency generators.

Asbestos. We couldn't live the way we do without it.

ASBESTOS

When life depends on it, you use asbestos.

Asbestos Corporation Limited,
Sun Life Building,
Montréal, Québec H3B 2X6,
Canada.

Represented by:
Becker & Haag (GmbH & Co.)
P.O. Box 100 548, Spadenteich 1-3
2000 Hamburg 1, Germany **(FOR WEST GERMANY, EAST GERMANY, AUSTRIA AND HUNGARY)**
Other representatives world-wide.


https://twitter.com/Natalie_Oxford/status/874835244989513729/photo/1
SIXTH FORM

Regulatory failure at Grenfell

1972

Grenfell Tower – 24 storey tower block. Constructed in 1972, completed in 1974.

2015–2016

Renovated in 2015-2016 – new windows, thermal insulation and new ACP cladding on the exterior walls

14 June 2017

Fire broke out on 14 June 2017 – went up the exterior walls. 72 people died in the building.

Sep. 2024

Phase 2 report September 2024 - highly critical of the certification process of the cladding and insulation products and the product manufacturer’s conduct

How legislation governs product suitability

National Construction Code first published 1996 - updated every few years.

Under section 16 of the Building Act, building work must be carried out in accordance with the Act, the Regulations and any building permit issued for the building work.

In Victoria, the Building Regulations 2018, made under the Building Act 1993, incorporate by reference the NCC.

In order to comply with the Regulations, building work must comply with the NCC. This includes both the method of construction and the products and materials used.

Australian Consumer Law – Products must be ‘fit for purpose’

What do we mean by ‘building products’?

Which products are regulated?

- Products can range from a single item e.g. a fastening to a system e.g. a Hebel wall system
- Not all products used in a building are regulated
- Products are regulated when their use is relevant to whether the performance requirement is met
- This will vary between:
  - Classes of building; and
  - Types of construction

Building products that are regulated

Examples:

- External wall cladding - Type A construction requires external cladding products to be non-combustible
- Plumbing products must meet AS/NZS 4020, but only where the use is for drinking water
- Wall systems – a number of panel wall systems are accredited to demonstrate compliance with the NCC

What about prefabricated components or modular construction?

- Use of prefabricated components egg bathroom or kitchen pods that are made offsite and then fixed into a building
- Entire modular apartments may be constructed offsite and then craned onto site
- No specific rules for offsite or modular construction – elements and products must meet any applicable NCC requirements

NCC compliance pathway

Part A2G1 – Compliance is achieved by complying with the performance requirements

Performance requirements can be complied with by a deemed to satisfy (DTS) solution or by a performance solution

An assessment of compliance may require evidence of suitability of a material, product, form of construction or design

Part A5G3 of the NCC sets out 6 pathways to document evidence of suitability for Volumes 1 and 2 of the NCC.

Part A5G4 provides pathways for plumbing products used for drinking water

Suitability Pathways for building products under A5G3

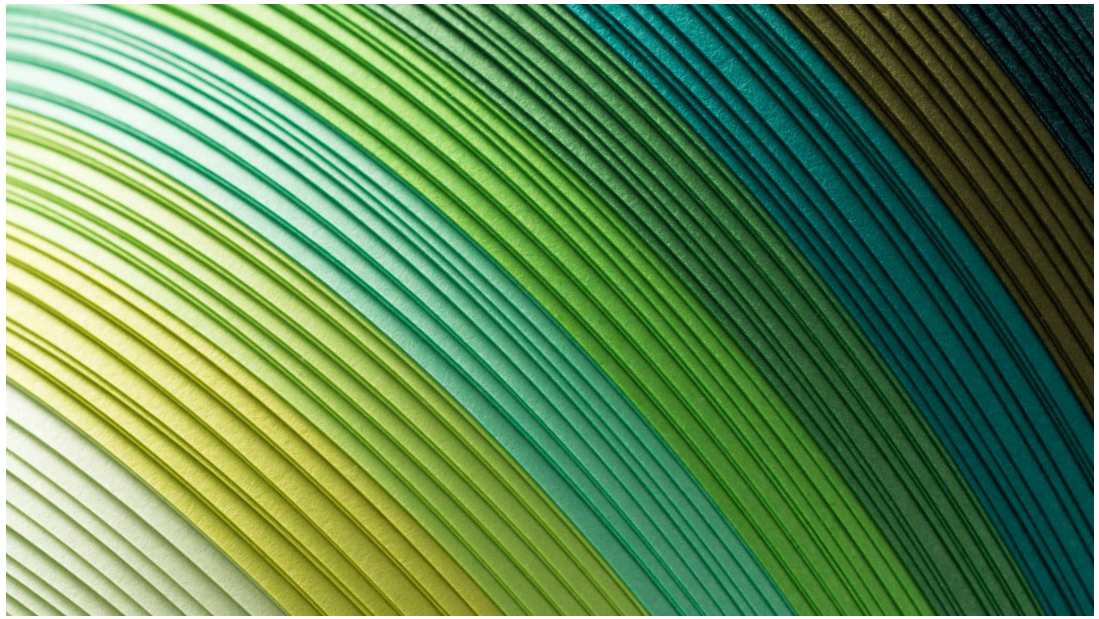
- CodeMark Certificate of Conformity
- Certificate of Accreditation
- Certificate from a certification body
- Report from an Accredited Testing Laboratory
- Certificate or report from a professional engineer or other appropriately qualified person
- Other form of evidence such as a Product Technical Statement

Suitability pathways for plumbing products under A5G4

- Depending on the type, composition and use of the product:
  - Test report
  - WaterMark Licence
  - Certificate
- Risk assessment
- Evidence to show that the design meets the DTS provisions, OR
- Certification of a performance solution

Suitability pathways – the good and the bad

The good:
Recognition that all products are not the same and they can be used in many different ways
Not all products need an expensive certification process
Allows for innovation – new products can be assessed and used
The bad:
Complicated
Test results and certification may be misunderstood, misrepresented, misapplied



QUESTION 1

Which codes or laws govern building product compliance in Victoria?

a) Australian Consumer Law

b) Building Act

c) National Construction Code

d) All of the above, depending on context

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Pathway 1: CodeMark Certification Scheme

Administered by the Australian Building Codes Board (ABCB)

Nationally accepted

Certificate of Conformity may be issued for a new or innovative product

Certificate may be issued by an accredited CodeMark conformity body

The certification is then listed on the JASANZ register

Certificate of Conformity

Certification Body:

CMI CERTIFICATION
ABN: 81 663 250 815
JAS-ANZ Accreditation
No. Z4450210AK
PO Box 273,
Palmwoods Qld 4555
Australia
P: +61 7 5445 2199
www.cmicert.com.au
office@cmicert.com.au

Certificate Holder:

2022 Environmental Science AU Pty Ltd
Trading as Envu™
ABN: 49 656 513 923
Suite 2.06, Level 2, 737 Burwood Road
Hawthorn East, VIC 3123 Australia
P: 1800 024 209
www.au.envu.com
technicalsupport.australia@envu.com

Certificate number: CM40380

THIS IS TO CERTIFY THAT

KORDON® TERMITE SYSTEM

Type and/or use of product:

Termite Management System and damp-proof course and flashing material.

Description of product:

The KORDON® TERMITE SYSTEM comprises a non-woven polyester fibre webbing, impregnated with deltamethrin synthetic pyrethroid laminated between two UV stabilized polyethylene films approximately 2mm thick. Refer A2 below for further information.

COMPLIES WITH THE FOLLOWING BCA PROVISIONS AND STATE OR TERRITORY VARIATION(S) **BCA 2022**

	Volume One		Volume Two	
Performance Requirement(s):	Not Applicable		Not Applicable	
Deemed-to-Satisfy Provision(s):	B1D4(i)	Termite Risk Management	H1D3(3)	Termite Management System
	F1D6(2)(b)	Damp-proofing	H2D4(2)(c)	Damp-proof courses and flashings — material
State or territory variation(s):	NT, QLD & WA B1D4, SA F1D6		QLD H1D3(3), SA H2D4(2)	

SUBJECT TO THE FOLLOWING LIMITATIONS AND CONDITIONS AND THE PRODUCT TECHNICAL DATA IN APPENDIX A AND EVALUATION STATEMENTS IN APPENDIX B

Limitations and conditions:

1. The KORDON® TERMITE SYSTEM is to be installed by authorised operators, trained and licensed by Envu™ in accordance with the Kordon Training Reference Manual 2023-1 and the relevant state and territory regulations. When used as a damp-proof course or flashing, the installation must comply with Part 5.7.4 of the ABCB Housing Provisions and it must be continuous through the wall or pier with no penetration of the material.
2. When used in conjunction with a concrete slab, the concrete slab must be designed and constructed in accordance with the requirements of AS 2870-2011 Residential slabs and footings or AS 3600-2014 - Concrete Structures.

Building classification/s:

Classes 1,2,3,4,5,6,7,8,9 & 10

Richard Donarski – CMI

Don Grehan – Unrestricted Building Certifier

Date of issue: 20/08/2024

Date of expiry: 20/08/2027

3. In accordance with State or Territory Advisory notices, additional termite risk management measures must be included in areas where *Mastotermes Darwiniensis* are prevalent.
4. Inspections must be undertaken in accordance with recommendations as outlined in AS 3660.2-2017 or AS 4349.3-2010.
5. 50 years established via service life predictions in accordance with Section 5 of AS 3660.3:2014.
6. The use of the certified product/system is subject to these Limitations and Conditions and must be read in conjunction with the Scope of Certification below.

Scope of certification: The CodeMark Scheme is a building product certification scheme. The rules of the Scheme are available at the ABCB website www.abcb.gov.au. This Certificate of Conformity is to confirm that the relevant requirements of the Building Code of Australia (BCA) as claimed against have been met. The responsibility for the product performance and its fitness for the intended use remain with the Certificate Holder. The certification is not transferrable to a manufacturer not listed on Appendix A of this certificate.

Only criteria as identified within this Certificate of Conformity can be used for CodeMark certification claims. Where other claims are made in a client's Installation Manual, Website or other documents that are outside the criteria on this Certificate of Conformity, such criteria cannot be used or claimed to meet the requirements of this CodeMark certification.

The NCC defines a Performance Solution as one that complies with the Performance Requirements by means other than a Deemed-to-Satisfy Solution. A Building Solution that relies on a CodeMark Certificate of Conformity that certifies a product against the Performance Requirements cannot be considered as Deemed-to-Satisfy Solution.

This Certificate of Conformity may only relate to a part of a Performance Solution. In these circumstances other evidence of suitability is needed to demonstrate that the relevant Performance Requirements have been met. The relevant provisions of the Governing Requirements in Part A of the NCC will also need to be satisfied.

This Certificate of Conformity is issued based on the evidence of compliance as detailed herein. Any deviation from the specifications contained in this Certificate of Conformity is outside of this document's scope and the installation of the certified product will not be covered by this Certificate of Conformity.

Disclaimer: The Scheme Owner, Scheme Administrator and Scheme Accreditation Body do not make any representations, warranties or guarantees, and accept no legal liability whatsoever arising from or connected to, the accuracy, reliability, currency or completeness of any material contained within this certificate; and the Scheme Owner, Scheme Administrator and Scheme Accreditation Body disclaim to the extent permitted by law, all liability (including negligence) for claims of losses, expenses, damages and costs arising as a result of the use of the product(s) referred to in this certificate.

When using the CodeMark logo in relation to or on the product/system, the Certificate Holder makes a declaration of compliance with the Scope of Certification and confirms that the product is identical to the product certified herein. In issuing this Certificate of Conformity, CMI Certification Pty Ltd (CMI) has relied on the experience and expertise of external bodies (laboratories and technical experts).

Nothing in this document should be construed as a warranty or guarantee by CMI, and the only applicable warranties will be those provided by the Certificate Holder.

Certificate of Conformity

APPENDIX A – PRODUCT TECHNICAL DATA

A1 Type and intended use of product

As per page 1.

A2 Description of product

The KORDON® TERMITE SYSTEM consists of a synthetic fibrous web approximately 2mm thick and treated with Deltamethrin, is laminated to a top orange plastic layer 200µm membrane. A bottom black LDPE layer 50µm thick is laminated to the system.

- Kordon® TB – A building perimeter and building service penetration termite management system.
- Kordon® TMB – Used as a continuous barrier with concrete slab-on-ground.
- Kordon® – Available in various preformed sizes for placement over pipe penetrations.

A3 Product specification

The KORDON® TERMITE SYSTEM meets the requirements of AS 3660.1:2014 and its testing has been confirmed to meet the requirements of AS 3660.3:2014, section 5.5 Treated Sheet.

The KORDON® TERMITE SYSTEM contains 4g/kg Deltamethrin (equivalent to 2g/m^2 Deltamethrin).

A4 Manufacturer and manufacturing plant(s)

This field is optional. Contact the Certificate Holder for more information.

A5 Installation requirements

Instalation of the KORDON® TERMITE SYSTEM must be by authorised operators, trained and licensed by Envu™ in accordance with the Kordon Training Reference Manual 2023-1.

When used as a damp-proof course or flashing, the installation must comply with Part 5.7.4 of the ABCB Housing Provisions and it must be continuous through the wall or pier with no penetration of the material.

Inspections must be undertaken in accordance with recommendations as outlined in AS 3660.2-2017 or AS 4349.3-2010.

The builder is to treat the building's termite protection as a part of the building process and therefore included in the construction program.

A6 Other relevant technical data

No other relevant technical data.

Certificate of Conformity

APPENDIX B – EVALUATION STATEMENTS

B1 Evaluation methods

1. Termite Management, Damp Proof Courses and Flashing Provisions A5G3(1)(e)&(f). Reports from appropriately qualified persons and another form of documentary evidence that demonstrates that the certified system fulfils specific requirements of the BCA.

B2 Reports

1. Technical Opinion, John French B.Sc(For).,M.Sc (Entomology), Ph.D (Forest Entomology) PMT-O-12490, compliance with Section 5.5 of AS 3660.3:2014; Dated 31/07/2018. Report provides evidence for compliance with B1D4(i) and H1D3(3) and F1D6(2)(b) & H2D4(2)(c) for impervious sheet material in accordance with AS 3660.1.
2. Australian Timber & Pest Research Pty Ltd, Technical Opinion – Mr Scott Kleinschmidt in relation to the manufacture of the Kordon product; Dated 18/11/2021.
3. Australian Pesticides and Veterinary Medicines Authority (APVMA); APVMA approval 60759; Product: KORDON TERMITE SYSTEM; Registration provides evidence of compliance where a chemical termite management system is used, the chemical must be included on the appropriate authority's pesticides register as per H1D3(3) via Part 3.4 of the ABCB Housing Provisions (3.4.2(d)).

The Certificate Holder has chosen not to make the above evidence of compliance publicly available, due to the documents being considered commercial in confidence.

Pathway 2:Certificate of Accreditation: BRAC

Building Regulations Advisory Committee in Victoria accredits building products – accreditation is for Victoria only.

Certificate of Accreditation is proof that a product meets the performance requirements of the NCC

Under section 15 of the Victorian Building Act a building surveyor must accept the use of a product, method, design, component or system where the use complies with a BRAC accreditation

Using a BRAC accredited product or system is a performance solution that requires a performance-based report

Pathway 3:Certificate from a private certification body

Joint accreditation system of Aus and NZ (JAS-ANZ) can accredit conformity assessment bodies (CABs) to certify products

Numerous CABs in Australia that certify building products

What to look for if presented with a CAB certificate:

What use the certification relates to – does it match your proposed use?	Does the certificate reference the applicable Aus Standard or NCC clause?	Is it current? Look at when it was issued and when it will expire

bsi.

By Royal Charter

Certificate

This is to certify that	Firebox Australia Pty Ltd
ABN	75 116 370 793
Head Office Address	Lot 5 / 19 Balook Drive Beresfield, New South Wales, 2322 Australia
Holds Certificate Number	BMP 520104 (ID3119)

Is authorised to use the BSI registered Benchmark Product Certification Trademark, on products identified in the Product Certification Schedule that is attached to this Product Certification Certificate. Such products have been Type Tested and are manufactured under the Product Certification Requirements monitored by BSI to ensure that the manufacturing process has the capability to consistently produce products in compliance with and are Certified to:

AS/NZS 1841.3:2007 Portable fire extinguishers - Specific requirements for wet chemical type extinguishers

For and on behalf of BSI

Marc Barnes, Managing Director, BSI Group ANZ Pty Ltd

Originally registered	Latest issue	Expiry date
23/03/2006	14/06/2017	22/01/2021

benchmark PRODUCT CERTIFICATION
QUALITY CERTIFIED PRODUCTS

JAS-ANZ

...making excellence a habit.

The use of this certificate and of the Benchmark Product Certification mark trademark is subject to the Client complying with the BSI Mark Requirements, and Terms and Conditions. BSI Group ANZ Pty Ltd, Suite 2, Level 7, 15 Talavera Road, Macquarie Park, NSW 2113
The validity of this certificate can be checked at website: www.bsi-global.com/clientdirectory and the JASANZ website: www.jas-anz.org/register. This certificate remains the property of BSI and must be returned upon its request. Template updated August 2014

bsi.

By Royal Charter

Schedule

This schedule supports the Product Certification Certificate for	Firebox Australia Pty Ltd
ABN/Local Business Number	75 116 370 793
Head Office Address	Lot 5 / 19 Balook Drive Beresfield, New South Wales, 2322 Australia
Holds Certificate Number	BMP 520104 (ID3119)
Standard	AS/NZS 1841.3:2007 Portable fire extinguishers - Specific requirements for wet chemical type extinguishers
Issue date	14/06/2017

Model	BSI Review date	Description
FB20WC	28/03/2011	2L 1A: 3F Fire Rating Wet Chemical Type Extinguisher
FB70WC	30/05/2017	7L 3A: 4F Fire Rating Wet Chemical Type Extinguisher

Pathway 4: Test report from an accredited laboratory

Can be used to show a product meets an Australian Standard

National Association of Testing Authorities Australia (NATA) is an accrediting body in Australia for laboratories

For example AS1503.1 Test for non-combustibility for external wall products

Certificate of Test

QUOTE No.: NC8516 **REPORT No.: FNC12773**

COMBUSTIBILITY TEST FOR MATERIALS IN ACCORDANCE WITH AS 1530.1-1994

SPONSOR:
Trafalgar Group Pty Ltd
26A Ferndell Street
SOUTH GRANVILLE NSW 2142
AUSTRALIA

DESCRIPTION OF TEST SAMPLE:
The sponsor described the tested specimen as a stone wool insulation material comprised of stone wool, binder and mineral oil. The stone wool insulation material is a component of the Siderise CWFS Cavity Barrier insulation product.

Nominal thickness: 120 mm (50 mm for the test)
Nominal density: 75 kg/m^3
Colour: yellow

TEST PROCEDURE:
Five (5) samples were tested in accordance with Australian Standard 1530 Methods for fire tests on building materials, components and structures, Part 1- 1994: Combustibility Test for Materials.

An alternative suitable insulating material was used to fill the annular space between the furnace tubes, as specified in Clause 4.2 of ISO 1182:2010.

RESULTS:
The following calculated results were obtained, refer also to Summary of measurements:

Arithmetic mean	$= \frac{\Sigma\, results}{5}$
Mean furnace thermocouple temperature rise (°C)	3.22
Mean specimen centre thermocouple temperature rise (°C)	3.08
Mean specimen surface thermocouple temperature rise (°C)	3.77
Mean duration of sustained flaming (s)	0
Mean mass loss (%)	2.14

DESIGNATION:
The material is **NOT** deemed combustible according to the test criteria specified in Clause 3.4 of AS 1530.1-1994.

These test results relate only to the behaviour of the test specimens of the material under the particular conditions of the test and they are not intended to be the sole criterion for assessing the potential fire hazard of the material in use.

DATE OF TEST: 28 June 2021

Issued on the 23rd day of July 2021 without alterations or additions.

Faustin Molina
Testing Officer

Stephen Smith
Team Leader, Reaction to Fire & Façade Fire Laboratory

End of Report

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NATA Accredited Laboratory
Number: 165
Corporate Site No 3625
Accredited for compliance with ISO/IEC 17025 - Testing.

CSIRO INFRASTRUCTURE TECHNOLOGIES

14 Julius Avenue, Riverside Corporate Park, North Ryde NSW 2113 AUSTRALIA
Telephone: 61 2 9490 5444 Facsimile: 61 2 9490 5555 www.csiro.au

SUMMARY OF MEASUREMENTS AND OBSERVATIONS OF SAMPLES UNDER TEST C12773

Parameters	Symbol or expression	Unit symbol	Sample Number				
			1	2	3	4	5
Initial specimen mass	m_{si}	g	4.96	5.30	5.45	5.17	5.41
Final specimen mass	m_{sf}	g	4.84	5.19	5.42	5.02	5.26
Mass loss	$\Delta m = \frac{Msi - Msf}{Msi} \times 100$	%	2.42	2.08	0.55	2.90	2.77
Total duration of sustained flaming	Cumulative total of duration of flaming*	s	0	0	0	0	0
Initial furnace thermocouple temperature	T_{fi}	°C	754	749	748	747	745
Maximum furnace thermocouple temperature	T_{fm}	°C	784	769	773	765	768
Final furnace thermocouple temperature	T_{ff}	°C	774	768	772	763	766
Furnace thermocouple temperature rise	$\Delta Tf = Tfm - Tff$	°C	10	1	1	2	2
Maximum specimen centre thermocouple temperature	T_{cm}	°C	751	741	754	747	736
Final specimen centre thermocouple temperature	T_{cf}	°C	744	738.6	754	745	732
Specimen centre thermocouple temperature rise	$\Delta Tc = Tcm - Tcf$	°C	7	2	0	2	4
Maximum specimen surface thermocouple temperature	T_{cm}	°C	773	773	770	769	770
Final specimen surface thermocouple temperature	T_{sf}	°C	764	770	769	766	767
Specimen surface thermocouple temperature rise	$\Delta Ts = Tcm - Tsf$	°C	9	3	1	3	3
Test duration	-	min	30	30	30	30	30

- Any individual duration flaming less than 5 seconds was discarded

End of Test Certificate

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Pathway 5: Certificate or report from engineer or other qualified person

- Engineering report or certification must:
  - Provide the basis on which suitability has been verified; and
  - Reference the standards, specifications or other docs relied on in verifying suitability
- Section 238 Building Act in Victoria – engineer or other qualified building practitioner can issue a certificate of compliance in relation to a building design compliance

Pathway 6: Product technical statement

Material provided by the manufacturer of the building product.

It is a declaration of compliance

Technical document – not an advertising brochure

It should state:

- The applicable provisions of the NCC with which it complies
- The basis on which this conclusion has been drawn
- A statement of the application and intended use of the product
- The limitations and conditions of the statement of compliance

Limits of certification

Is limited to the use specified in the certification – can’t assume compliance for uses beyond that description

Does not include ‘green’ or other sustainability certification

Is limited to the time period specified in the certification

There may be different products within a range made by the manufacturer – the certification must apply to the exact product type proposed to be used

QUESTION 2

How can an architect satisfy themselves a building product is compliant?

a) Rely on product manufacturer information

b) Assess any product certification material and raise it with the builder

c) Assess any product certification material and raise it with the RBS

d) Assess any product certification material and raise it with the client

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Case Study:What the Grenfell Report tells us

- Phase 2 report focussed on the regulatory regime for building work and building products. UK system is similar to Australia.
- Significant failings by the government department who procured the redevelopment of the building and who had been warned about ACP
- Failure by the testing laboratory that was testing cladding products
- Deliberate manipulation of testing process and misrepresentation of test data by those who manufactured and sold it
- False advertising claims about products
- Certifying bodies failed to rigorously check material when certifying products
- Failure by inspectors who inspected the building work

Cladding Safety Victoria: What their data tells us

Lacrosse fire resulted in Statewide Cladding Audit and establishment of CSV

CSV have reviewed plans and permits for over 1000 apartment buildings

They published a report in 2024 regarding its analysis of the compliance of the building design for the apartment buildings

Apart from its analysis about the lack of knowledge about cladding compliance at the relevant time the report also concluded that the DTS pathway for compliance was not well understood.

What are the obligations of an architect in relation to specification of products?

Architects Act and Code of Conduct imposes obligations on architects to act:

- carefully and competently
- professionally
- to a standard of a competent member of the profession

National standards of competency for architects which set criteria for registration as an architect impose knowledge requirements for the application of building codes and standards.

How much knowledge of NCC requirements is required of architects?

Architects Act does not specify a level of knowledge – it requires competent and professional conduct

That doesn’t impose a standard of knowledge of the NCC that is equivalent to a building surveyor

A competent and professional architect must have enough knowledge of the NCC to know how compliance is achieved

How much knowledge is required of architects? Cont.

- Architects must have a level of knowledge of the NCC that enables them to:
  - Understand the evidence of suitability pathway
  - Prepare a design and a specification that accounts for NCC requirements
  - Liaise with other consultants and the relevant building surveyor to ensure compliance

QUESTION 3

True or false: When a product has been on the market for a while and its use is accepted you don’t need to verify its compliance.

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What steps should architects take?

Turn your mind to the question of compliance of the product – look at any certifications yourself. Critically assess what is being relied on.

Ensure that your design and specification requires that the products used be compliant – be specific about the exact type of product

Raise the question of compliance with the RBS and make sure they have signed off on it

Have an internal QA process or a checklist to ensure that those steps are followed for every project and documented.

Whose responsibility is it to ensure compliance?

Architects have obligations under the Architects Act to carry out their work competently and professionally

Building Surveyors have the statutory function of assessing compliance of designs and of the completed building work

Builders have a statutory warranty for domestic building work to use products that are suitable and fit for purpose and generally to comply with the Act and the Regulations, including the NCC

Possible for all of those parties to be held to owe a duty of care to an owner or a subsequent purchaser

What about in a D&C procurement?

Where a builder seeks approval for a material or product:

- Have the builder provide any relevant certifications or test reports
- Ensure that those certifications match the proposed use for this project
- Assess it against any compliance requirements in the specification
- If the product is a proposed substitution, refer it to the RBS to make sure they have considered whether it is compliant.

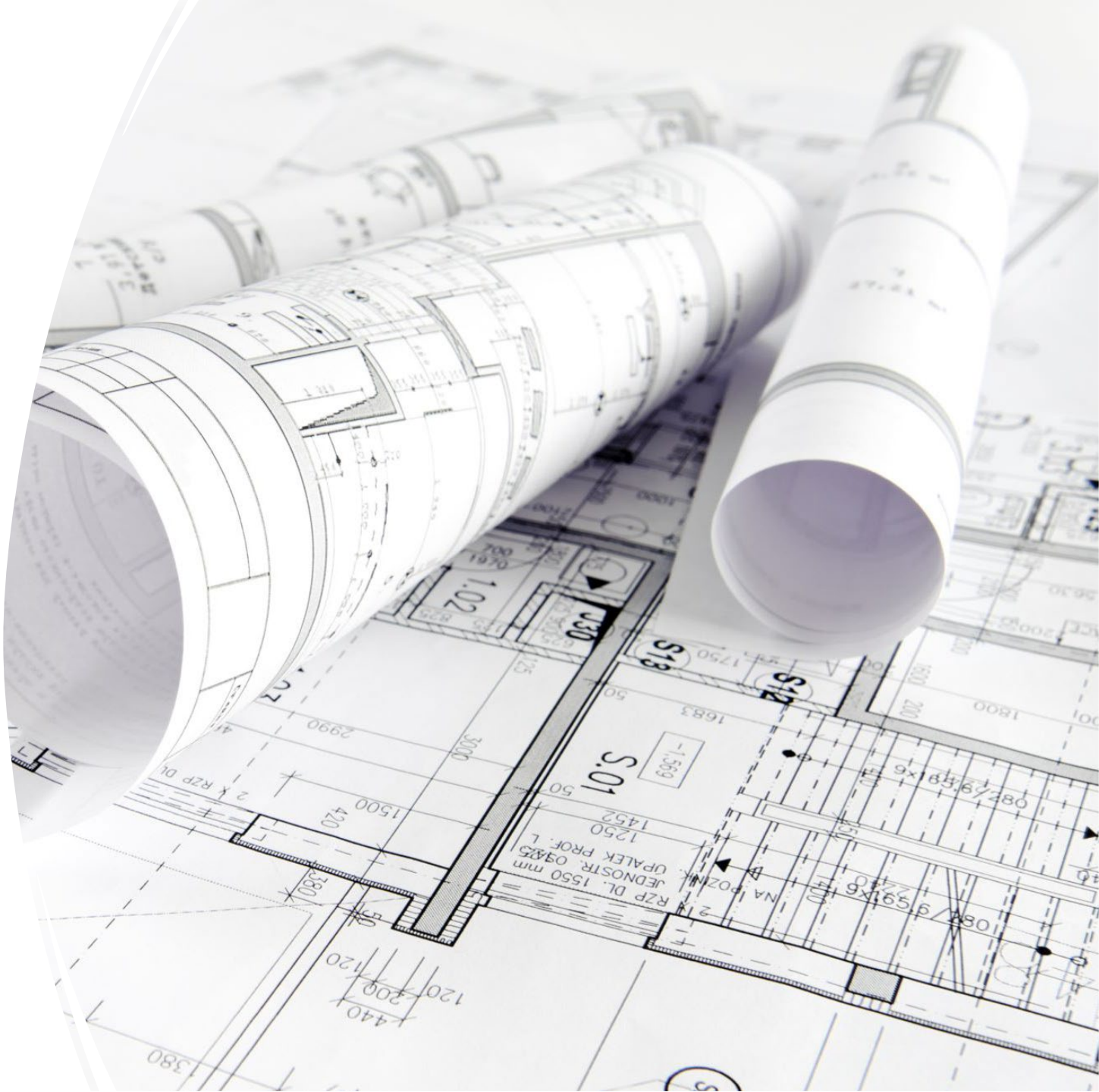
QUESTION 4

Whose obligation is it to ensure that building products used in a project are compliant?

a) The architect, because they have specified the products to be used
b) The builder because they are required to construct a building that is compliant with the NCC and to use products that are suitable
c) The building surveyor because they are required to assess whether the design and the building work are compliant
d) All of the above

Compliance and risk mitigation for architects

- Liaise with the relevant building surveyor and any relevant other consultants such as engineers to ensure that they are aware of the proposed use of the product and have incorporated that into their work.
- Keep yourself informed about the compliance regime for products – look out for VBA or ABCB warnings or guidance documents
- Train your staff on these issues
- Keep notes of your processes in incorporating specific products into your design
- Ask questions of the building surveyor where unsure



QUESTION 5

What is the best way to avoid risk in building product selection?

a) Document your process of product selection

b) Liaise with consultant engineers and with the RBS

c) Carefully read all relevant certifications or assessments

d) All of the above

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How does the system improve?

New building manual requirement to be issued with the OP – to include as-built documentation, product information, certificates, commissioning info

Better documentation and coordination by architect and building surveyors

Changes required:

- make the certification process easier to understand
- make product information more accessible

Developments in Australian building product regulation

2020 Senate inquiry into non-conforming building products

In 2021, the ABCB published the Building Product Assurance Framework, with the aim of moving towards improving building product compliance with the NCC

June 2024 Building Ministers Meeting directed ABCB to prepare a proposal for:

- National building product register requiring mandatory information and registration of building products;
- Mandatory product labelling and traceability scheme to be incorporated into the existing certification schemes

UK proposed reforms

Reforms are at consultation stage. Proposed reforms include:

- Government ‘library’ for product information including test results and certificates of compliance
- Digital product passport for hazardous products
- Obligations on supply chain participants
- Stronger third party testing and certification
- Onus on manufacturers and consumer ability to seek compensation for misleading behaviour or faulty products

EU Digital Product Passport

- Proposed law is at consultation stage.
- Proposed digital product passport would include:
  - Information on origin, materials, environmental impact
  - Unique product identifier
  - Compliance documentation
  - User manuals
  - Safety instructions
  - Guidance on product disposal

Benefits of reform

- Reduce complexity which may then reduce expense
- Leads to improved quality of products used
- Avoids flow on costs of remediation or replacement of inappropriate products
- Avoids danger associated with non-compliant use e.g. combustible cladding
- Cost benefit analysis shows significant benefit to reforms in Australia (at least $1b)

QUESTION 6

True or False: Likely reform in Australia to building product regulation will require a digital product passport.

ARBV CPD Webinar Quiz - 25 June 2025

Useful resources

- ABCB evidence of suitability handbook:
  https://www.abcb.gov.au/sites/default/files/resources/2024/NCC%202022%20%20Evidence%20of%20suitability%20handbook.pdf
- BRAC Product Accreditation Register: https://www.vba.vic.gov.au/building/building-regulations-advisory-committee/product-accreditation-register
- JASANZ website: https://www.jasanz.org/
- CodeMark Register:

https://register.jasanz.org/codemark-register

Any questions?

Architects
Registration Board
of Victoria

ARCHITECTS REGISTRATION BOARD OF VICTORIA

Address
Level 10, 533 Little Lonsdale Street
Melbourne VIC 3000
Phone number
03 9417 4444
Email
registrar@arbv.vic.gov.au