



**ABCB**

# Principles and scope of a Building Product Registration Scheme (Scheme)

Discussion paper



## Discussion paper

September 2024

### The Australian Building Codes Board

The Australian Building Codes Board (ABCB) is a standards setting body responsible for the National Construction Code (NCC), WaterMark and CodeMark Certification Schemes.

The ABCB is a joint initiative of all levels of government in Australia, together with the construction industry. Its mission is to oversee issues relating to health, safety, amenity, accessibility and sustainability in building.

For more information visit the [ABCB website](#).

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### Version history

#### Original

Publish date: July 2024  
Print version: 0.1

#### This version

Publish date: 4 September 2024  
Print version: Consultation  
Details of amendments:

## Foreword

On 21 June 2024 Building Ministers directed the ABCB to develop a proposal for their consideration to establish:

- a. a national building product register that requires mandatory information and registration of building products; and
- b. a mandatory product labelling and traceability scheme, to be incorporated into the ABCB's existing certification schemes, and evidence of suitability framework.

This discussion paper on the proposed principles and scope of a Building Product Registration Scheme (Scheme) is the first step in developing that proposal.

In the period between the Building Ministers' Meeting in June 2024 and the publication of this discussion paper, we have received many questions from manufacturers, suppliers and user of building products, asking about the scope, operation and commencement of the scheme.

It is important to note that *no decision has yet been made*.

Feedback received in response to this discussion paper will be considered by the ABCB and Building Ministers prior to any further decision being taken.

To help interested parties understand the potential parameters, we have prepared a reasonably detailed proposal for discussion. It is intended to stimulate the discussion. It should not be read as a pre-determined final form for any scheme. It is presented as a framework against which comments and alternate proposals can be shaped.

If a new scheme were to be created, it is likely to require several more years of design and development, in partnership with industry and jurisdictions, followed by an implementation period that enables a smooth and efficient transition.

The design proposal presented in the Discussion Paper would:

- increase consumer confidence in the safety and quality of products
- boost the construction industry's competitiveness and adaptability
- promote greater building product conformity and compliance with the National Construction Code (NCC)
- assist in resource efficiency, and
- contribute to a stronger, more resilient economy.

A key measure of success of the proposed Scheme would be an increased use of quality building products that are used in the right way to improve construction quality and integrity.

A national approach for building product selection can enhance construction productivity, foster innovation and economic growth and improve the quality of life of all Australians. By encouraging the use of high-quality, efficient, and conforming materials, this national framework can lead to safer and more trust in buildings. It can result in streamlined building product selection processes, including using existing processes where appropriate, reduced construction delays and costs, and lower long-term expenses for building owners and tenants.

The Australian Building Codes Board (ABCB) is a standards setting body responsible for the National Construction Code (NCC), Watermark and CodeMark certification schemes. As Chair and Chief Executive, we are pleased to present this Discussion Paper and we invite feedback from all interested stakeholders. Information on how to provide feedback and make a submission is presented on page 29.

After receiving feedback we will provide further advice to Building Ministers.



Glenys Beachamp AO PSM and Gary Rake

# Introduction

## Why do we need a Building Product Registration Scheme?

Like many parts of the world, Australia has experienced problems with building products, or the way they are used, not complying with the National Construction Code (NCC). This can result in:

- unnecessary expense in construction
- products being used in a way that is not compliant with the NCC (e.g. installation)
- flow-on costs associated with replacement or remediation due to insufficient building product information and poor choice of products
- slow and/or inaccurate building product choices for NCC conformance
- inferior products in construction and renovation, and/or
- dangerous products in construction and renovation (e.g. flammable cladding).

The purpose of a national Building Product Registration Scheme (Scheme) is to address these problems which can result in unacceptable risks to Australians' lives and wellbeing, unnecessary costs and a lack of confidence in building products and the construction sector more generally. In addressing those concerns, an option proposed is that the Scheme be operated by the ABCB on behalf of all jurisdictions.

## Background

The 2014 the Lacrosse building fire in Melbourne's docklands and the 2017 the Grenfell Tower fire in London, resulting in 72 deaths, illustrate the importance of building products conforming with building codes as both involved combustible cladding.

The Building Ministers' Meeting (BMM) oversees policy issues affecting Australia's building and construction industries and its predecessor had commissioned work on building products that was accelerated due to these cladding issues.

The resulting highly influential report concerning building products in Australia was the February 2018 *Building Confidence Report* by Professor Peter Shergold AC and Bronwyn Weir which assessed a range of building issues.

The Building Ministers established a *Building Confidence Report* implementation team to work with governments and industry to respond to the recommendations with a focus on national consistency where possible. This team produced a Building Confidence National Framework in 2021.

Work on a specific recommendation from this national framework 'that Building Ministers agree a position on the establishment of a compulsory product certification system for high-risk products' recommended three reforms. The first two reforms that are sought to be addressed by the Scheme relate firstly to product labelling, traceability and information, and secondly to a National Designated Building Product Register.

The third recommended reform, of enhanced accountability for product suppliers is being separately examined by states and territories and is out-of-scope for this Scheme. While the Scheme may be more effective with enhanced accountability of product suppliers, it is not contingent on changes to accountability by states and territories and is likely to be effective regardless of any change.

Similarly state and territory assessment of building approvals and compliance is out-of-scope for this Scheme.

In order to progress specific recommended reform, the April 2024 *Building Products Assurance Framework – Regulatory Options* report (framework report) was commissioned by the Senior Officials Group supporting the ABCB. It was provided as input to BMM for consideration in June. The framework report recommended the proposed building landscape:

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

This discussion paper sets out the principles and scope of a proposed Scheme, based to a large extent on this framework report, for comment.

## Stakeholder feedback

### Why are we seeking feedback now?

Building Ministers have sought the ABCB to develop a proposal for their consideration to establish a national building product register that requires mandatory information and registration of building products and a mandatory product labelling and traceability scheme, to be incorporated into the ABCB's existing certification schemes and evidence of suitability framework.

Also there are significant costs arising from not implementing a Scheme rapidly:

- a) The framework report found that 'In general, there is a sound in-principle case to recover the cost of compliance and enforcement activities from suppliers through user charges.'
- b) In all costed cases the benefits significantly outweighed the costs. The costs included compliance and enforcement, website costs, product identifier and labelling costs. The benefits ranged from \$1.202b to \$2.428b with costs ranging from \$0.1301b to \$0.2892b.

### What feedback are we seeking?

We are seeking feedback on:

- the level of support for the proposed Scheme
- minimum information and access to test results
- risk-based approach to NCC conformance



- designation of complex offsite/modular products
- principles for operation and sustainability
- options and any changes to the proposed Scheme, and
- any other issues.

This discussion paper is on proposed principles and parameters of a Building Product Registration Scheme. Assumptions and propositions about how it would work are to assist interested parties in providing feedback on options they prefer and why.

Relevant questions are at the end of each part and overall questions are at the end of the paper. A consolidated list of questions is at Appendix C.

### **How to make a submission?**

Submissions should be made on our [consultation hub](#) by **Thursday 3 October 2024 at 11:59pm Eastern Standard Time**.

If you wish to discuss this paper please contact [ncc@abcb.gov.au](mailto:ncc@abcb.gov.au).

### **Detailed problem statement**

There is significant evidence that there is a lack of NCC compliance. As part of the framework report the Centre for International Economics (CIE) estimated that, based on the examination of a random selection of products, the prevalence of non-conforming and non-complying building defects in Australia and the associated costs incurred were \$658.8m in 2023 dollars. The framework report including the CIE estimates have been released alongside this discussion paper for transparency.

As far back as 2013 an Australian Industry Group Report, *The quest for a level playing field: The non-conforming building products dilemma* found that 45% of their survey respondents indicated that non-conforming building products had adversely affected respondents' revenue/margins and employment numbers.

The [Queensland Non-Conforming Building Products Audit Taskforce identified](#) documentation of building products as a key issue:

No single point of reference exists that accurately reflects building approvals and construction documentation. Those records that do exist, provide limited insight into the type of structure erected or the cladding materials used.

CIE estimated, using assumptions and ABS data, that the cost of building surveyor's extra time due to a lack of proper information on building products in Australia is \$136m each year and could be \$150m each year by 2034. This is in the context of Australian building products often being part of global products and supply chains which are frequently opaque.

Other estimates confirm that cost of remediation of inappropriate or dangerous building products can be high. For instance, [cladding Safety Victoria was established by the Victorian Government](#)

‘to deliver a \$600 million investment to tackle the issue of combustible cladding on privately-owned residential apartment buildings across Victoria’.

## Structure of a proposed Scheme

To navigate a proposed Scheme this paper is structured in five key areas:

1. **Intent of the proposed Scheme**
2. **Better building product information**
3. **Risk-based approach to demonstrating NCC conformance**
4. **Transparent processes**
5. **How the Scheme would operate on a sustainable basis**

This Scheme would be primarily concerned with building products that are assessed as conforming to the NCC. However, a small number of common incorrect uses are also proposed to be included as examples of ‘non-complying’ product uses under the NCC for all building products. Also, the Scheme would require increased building product installation information to improve compliance.

The proposed Scheme would operate by:

- requiring all building products to have minimum information available in a standardised format. Proposed minimum information would include evidence that the product conforms to the NCC. Building products would be traceable through labelling, digital identifiers and a product register
- introducing a risk-based category of ‘designated products’ in the NCC to increase industry and consumer trust in building products. The designated products category would be determined by the Board in consultation with jurisdictions through a combined assessment of building products’ uses, safety and risk of defects
- establishing a national register, with mandatory registration of building products in the designated products category while other products may be registered on a voluntary, self-assessed basis. State and territory governments would continue to have authority to grant construction approvals and undertake enforcement activities to ensure compliance with the NCC. The register would be operated on their behalf by the Board, and
- leveraging existing processes where appropriate to avoid unnecessary duplication and demonstrate robust compliance with the NCC. The Scheme is not designed to duplicate appropriate industry and other assessment schemes that are working well, and to ensure sustainability cost recovery processes would be implemented.

## How did we get here?

There have been a number of building product failures in Australia and overseas.



As discussed above, a highly influential report concerning building products in Australia was the February 2018 Senate *Building Confidence Report* by Professor Peter Shergold AC and Bronwyn Weir.

There has also been a large amount of collaborative work by jurisdiction senior officers in progressing reform.

The Queensland and the NSW Governments have implemented chain of responsibility laws and there have been numerous other regulatory reforms and schemes proposed at an industry or academic level across jurisdictions.

The *Building Confidence Report* made 24 recommendations including that ‘the Building Ministers’ Forum agrees its position on the establishment of a compulsory product certification system for high-risk building products’.

In April 2024 the resulting *Building Products Assurance Framework – Regulatory Options* report was provided as input to Building Ministers who tasked ABCB to work on a proposed national scheme on behalf of jurisdictions (this discussion paper presents options to include on the proposed Scheme).

Further detail is at Appendix B. However, to maintain brevity, many other important initiatives have not been referenced such as the National Construction Product Register.

## What makes this proposed Scheme different from previous proposed schemes?

There have been many building product schemes proposed over the years.

This Scheme is different because:

1. the proposed Scheme would have national coverage and be linked to NCC evidence of suitability requirements and auditing by building regulators
2. it would be underpinned by NCC reforms including
  - a. mandatory labelling and traceability for all building products
  - b. minimum product information requirements for all building products, and
  - c. mandatory inclusion of designated products with risk-based, independent and verifiable evidence, and voluntary inclusion for all other building products on a public, national, building product register
3. it would be designed to promote consumer and industry confidence, facilitating transparent market choice and increasing building product conformance
4. the proposed building product register would recognise existing appropriate schemes e.g. WaterMark, and
5. Building Ministers have requested the design of the proposed scheme for their further consideration in late 2024.

Assessment would continue to be by states and territories, with supplementary assessment by ABCB if appropriate.

## Proposed roles and responsibilities under the Scheme?

**State and territory governments** are already assessing opportunities to incorporate key elements of chain of responsibility requirements.

The Commonwealth asks jurisdictions also assess:

1. whether amendments are needed to existing processes to be risk-appropriate, independent and verifiable for designated products; and
2. their enforcement strategies in the light of this proposal.

The **ABCB** would be the Scheme owner and administrator. It would operate the register on a cost-recovery basis on behalf of jurisdictions and conduct validation, supplementary verification and testing as appropriate.

**Manufacturers** would provide the following:

1. Minimum required information on all their building products in the standardised format on the register or on a webpage clearly controlled by the manufacturer that can be linked to the national register.

Where no existing website is available and it is not required to be on the register or will not be voluntarily listed on it, an accessible public product webpage with the specified content must be created by the manufacturer.

2. Labelling and digital identifiers for all building products on a mandatory basis as specified to allow traceability and transparency where product substitution occurs.
3. Mandatory register entries for designated building products.
4. Voluntary register entries for other building products.

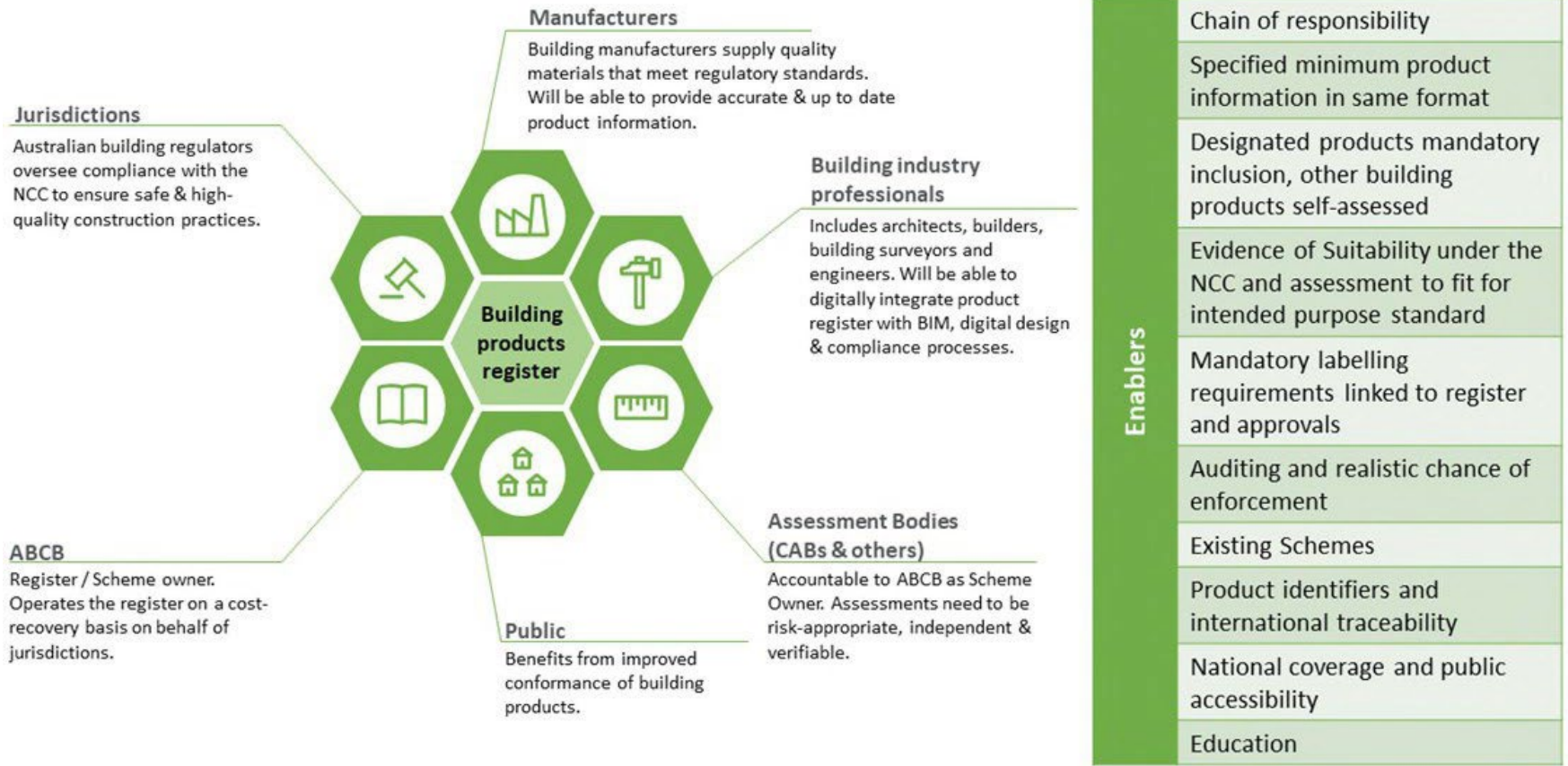
**Building industry professionals** - including architects, builders, building surveyors and engineers would consider digitally integrating information on the product register with building information modelling, digital design and compliance processes. These could include product selection, ordering and substitution processes and verification processes for building products received on site.

**Assessment bodies and existing certification schemes** would examine their processes to ensure that they are risk-appropriate, independent and verifiable.

**Consumers** would have access to building product information through the register and product labelling and would be able to use increased and better traced building product information in their purchasing and renovation decisions.

A diagram below outlines the Scheme.

# Principles & scope for a building product scheme



This discussion paper outlines the proposed principles and parameters of a Building Product Registration Scheme. Assumptions and propositions about how a Scheme might work are presented to assist interested parties in providing feedback.

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# 1 Intent of the Scheme

## 1.1 Aims

### 1.1.1 Principles

To establish a risk-based product conformance Scheme for all building products to verify their performance against NCC standards.

Require transparency through public standardised product traceability with minimum required information in a specified format for all building products for buildings in Australia.

Establish a national register with designated products being required to be placed on the register by the manufacturer. Other products can be placed on the register by the manufacturer but this would be voluntary.

A key element of the Scheme is data integrity.

Interoperability, international traceability and global and scheme connectivity where feasible.

The Scheme would be fully cost recovered without unnecessary duplication.

Jurisdictions would continue to assess compliance of building products with NCC requirements, however the ABCB may provide supplementary assessment against the national register in appropriate cases.

### 1.1.2 What this could mean

The Scheme would:

- include risk-based assessments including structural and defect risks - mandatory for designated products, voluntary for other products
- have a clear process for revising ratings for products when necessary, including a process for determining that a product must transfer to the 'designated product' part of the register where it has previously been included on the self-assessed part of the register. Reasons for revised ratings could include evidence emerging in relation to the product type or category
- be a single source for the verification of:
  - evidence of suitability of products and essential attributes against NCC standards
  - product claims
  - acceptance for building approval/conformance purposes
  - chain of responsibility, and
- provide an effective audit, compliance and remediation process.



The Scheme would increase building quality and streamline building approvals (using previous information or assessments to decrease assessment times and cost) and increase building fitness for purpose and safety by increasing the availability of conformance evidence and focusing on designated products. It would also improve construction outcome certainty through increased product conformity.

Note that building products can include plumbing products eligible for WaterMark. This is because for the purposes of this discussion paper, a building product is any material or other thing associated with, or that could be associated, with a building.

## 1.2 Key focus and limitations

### 1.2.1 Principles

- Evidence for a new NCC category of designated products would be:
  - risk appropriate
  - independent, and
  - verifiable.
- The Scheme would ensure that evidence requirements are at a rigorous level for designated products. This is a risk-based mechanism to increase the focus on ongoing building fitness for intended purposes of building products (e.g. effectiveness of a fire safety system for a building type).
- Other building products (non-designated building products) may be voluntarily registered and self-assessed, however evidence relating to minimum required information and product claims must be held by the registrant and produced to jurisdictions or the ABCB upon request.
- Under the Scheme, conformance obligations in legislation would continue to be implemented by jurisdictions, considering any changes resulting from a new category of designated products.
- The Scheme operator would also have administrative penalties relating to the register.
- The Scheme would expand available building product information with minimum information requirements for all building products. All known compliance issues, regardless of number, should be specified as part of minimum information.
- A small number of examples (e.g. 3-5) of common compliance issues (e.g. specifying plain steel roofing within 50m of salt water) would be identified by manufacturers for all products as part of minimum information. This small number would assist in rapid listing of products.
- The Scheme would focus on the performance of building products, that is conformance. It is not designed to focus other issues at this stage.

### 1.2.2 What this could mean

Amendments may be required to other schemes, such as CodeMark, to seek extra detail for designated products.

Building products that do not conform to the NCC are the focus of this Scheme, whereas preventing non-complying uses would continue to be addressed through state and territory laws.

An example helps to illustrate the difference. A building product that is:

- labelled or described as being non-combustible but which is actually combustible is a non-conforming building product, or

- combustible, and described as such, but is used in a situation where a non-combustible product is required under the NCC, is not fit for purpose and is a non-complying product.

## 1.3 Benefits to industry and consumers

### 1.3.1 Principle

The Scheme would be designed for faster, better and more accurate building product information.

This would promote streamlined and faster approvals using evidence processes to provide a level playing field and facilitate market driven choices.

### 1.3.2 What this could mean

The benefits would include better quality housing, greater assurance of conformance, faster selection of conforming building products and increased certainty of demand for conforming building products.

Voluntary listing could help manufacturers provide an accessible source of information about conforming product to building professionals.

Building industry professionals would more easily be able to more readily access conformity information and digitally integrate building product information into design and site management processes. They would also be able to find appropriate building products that have evidence of suitability under the NCC if they are on the register. This would also encourage market driven building product transparency. The Scheme is also designed to provide better installation information.

Home renovators would have better building product information, evidence on the performance of products, clear installation information and a small number of common examples of non-compliance.

It may be that there are greater system benefits, e.g. a mix of appropriate conforming building products may be identified for faster construction in priority areas such as social housing.

## 1.4 Benefits to regulators

### 1.4.1 Principle

The Scheme would facilitate more efficient regulation by providing better focus for investigations and enforcement.

### 1.4.2 What this could mean

By providing greater product information in a standardised manner, the overall aim is to reduce building product conformance issues through improved fit-for-purpose decisions by building professionals.

The Scheme ensures that evidence requirements are at a rigorous level for designated products and facilitates approval authorities using information from other sources, including other jurisdictions, to expedite their assessment.

The risk-based information would assist in jurisdictions':

- approval processes, as better product information would facilitate fit for intended purpose assessments, and
- enforcement risk assessments, as increased product risk clarity assists in identifying where enforcement resources are best applied.

## 1.5 Questions on intent.

- Do you agree with all the principles for the intent of the Scheme?
- What other options or changes do you propose for the intent of the Scheme and why?

## 2 Better building product information

### 2.1 Minimum information

#### 2.1.1 Principles

Minimum and standardised information is needed for transparency, compliance decision-making, installation, enforcement, product tracing, product acceptance and use by responsible persons. It is also needed for auditing, marketing verification, warnings, remediation, use, recall if needed, information sharing and register operation and integrity.

This minimum information would be a requirement for all building products, not just those required to be put in the register. It is a key reform that product information be both consistently presented and widely available.

There would be an onus on manufacturers to update the information for any substantive changes and to retain access to historical information.

#### 2.1.2 What this could mean

The minimum information provided by building product manufacturers should be in plain English and in a standardised format to avoid difficult to find and/or use information. It would also be in a form that can be used to facilitate traceability.

The minimum information would include:

- support and product details
  - trade and brand name(s), catalogue numbers, model identification and details of all integral components with their respective licence numbers, and
  - legal, trade names, ABN where applicable, and any other relevant entities (e.g. importer)
- product/design description
- statement of product purpose and intended use
  - limitations on use (either as a system as a whole or an individual building component, whichever is relevant)
- NCC conformity declaration
  - reference to the applicable specification to which the product was evaluated and relevant details (e.g. summary test results – i.e. date passed, type of test and any use conditions)
  - conditions on its use (either as a system as a whole or an individual building component, whichever is relevant)



- a link to lodged, granted and non-granted approval details and use information and certificates (for both active and previous authorisations)
- robust design, handling, storage, construction (or installation) and maintenance (where applicable) instructions for compliance. Known risks in installation should be explicitly addressed
- a global interoperable digital identifier on product (e.g. barcode or QR code that conforms with an appropriate standard for unique identification such as GTIN) linking to the register or manufacturer-created and maintained product page
- a small number (e.g. 3-5) of examples of common compliance issues (e.g. specifying plain steel roofing not within 50m of salt water)
- in addition all known compliance issues, regardless of number, should be specified
- warranty details
- either a statement that the product is not subject to any warnings or bans, or a description of warnings or bans applicable to the product
- a link to certifiers, or if appropriate jurisdictions, complaints process, and
- version control.

Manufacturers should be given the option to include other information, e.g. Environmentally Sustainable Design (ESD) information.

All manufacturers would be required to include their building products in the standardised format. This would be on the register for designated products and on the register if other products are self-registered on a voluntary basis. Alternatively for other products, it would be required to be on a building product webpage clearly controlled by the manufacturer. Where no existing website can be used one would be required to be created by the manufacturer.

Evidence in relation to building product claims and NCC compliance must be held by the manufacturer and made available to jurisdictions and/or the ABCB on request if not on the register.

Variations to products (other than non-consequential variations that do not affect fitness of the product for the intended purpose, e.g. colour in some circumstances) requires evidence of suitability under the NCC.

Any changes to the product (other than inconsequential changes such as to packaging) would require a new entry and assessment to maintain Scheme robustness and trust.

Penalties or administrative incentives may be needed to ensure that all minimum information is supplied and updated in a timely manner (e.g. a small payment required within 10 working days for updating the register and/or indications on the register that the information may be out of

date, with charges/penalties increasing to the suspension of registration(s) in more serious cases and restoring certifications once the information is complete.)

## 2.2 Questions on minimum information.

- Do you agree with the minimum information principle for better building information?
- What other options or changes do you propose to the minimum information and why?
- Should full test results be accessible and if not, why?

# 3 Risk-based approach to demonstrating NCC conformance

## 3.1 Assessment

### 3.1.1 Principle

Assessment would be proportionate to risk.

Assessment of designated products would be risk-appropriate, independent and verifiable.

Other building products would be assessed as they currently are.

### 3.1.2 What this could mean

1. As the focus of the proposed Scheme is on building product conformance and this relates to compliance, the tests would be specified by the body with responsibility for each of these. Many tests would be specified directly through the NCC and its requirements.
2. The designated products category would be determined by the Board in consultation with jurisdictions through a combined assessment of building products for structural integrity, safety and risk of defects.
  - a) Designated products are likely to be fire safety systems (e.g. smoke alarms, fire rated panels, fire collars and dampers), structural and waterproofing elements (e.g. structural steel beams and waterproofing products for multi-story buildings) and difficult to assess/verify products.
  - b) To ensure that designated products assessment is appropriate, new minimum requirements may be incorporated in the NCC where products are not accredited by an authorised certifier e.g. for imported structural beams.
  - c) The Scheme would leverage existing processes to the extent appropriate to avoid unnecessary duplication and fill in gaps to demonstrate robust compliance with the NCC.
    - For example ABCB and jurisdictions could assess, and if appropriate recognise, programs such as the ACRS steel certification scheme which is JASANZ accredited.
  - d) There would be a discount for registration, and/or mutual recognition, for products that are already part of compliance schemes, e.g. products assessed or deemed compliant with jurisdiction building requirements, through CodeMark, WaterMark, gas, steel and electrical schemes. The Scheme is not designed to duplicate appropriate industry and other assessment schemes that are working well, although some amendments may be required in some cases for the designated products category.

- e) Recognising appropriate international assessment could also be incorporated.
3. Other products are not required to be on the register and provided they comply with approvals from states and territories, can still be used (e.g. bricks).
  4. Other products can be self-registered on a voluntary basis on the basis of evidence in relation to building product claims and NCC compliance (e.g. bolts, and the mandatory information is likely to include load specifications and evidence in support of this).
  5. This is similar to the approach that the Therapeutic Goods Administration for lower risk products (e.g. vitamins).
  6. Evidence used for self registration must be held by the manufacturer and made available to jurisdictions and/or the ABCB on request.
  7. Regular auditing is designed to address fraudulent products so they could be removed from the register and if appropriate other measures could flow. These include auditing of other products listed by the manufacturer at their expense and referral to jurisdictions if appropriate. This approach is used in other schemes, e.g. the Therapeutic Goods Administration has a range of auditing systems in place.
  8. Under the Scheme conformance and compliance legislation enforcement remains with jurisdictions, considering any changes resulting from a new category of designated products in the NCC.
  9. The Scheme operator would also have administrative penalties relating to the register.
  10. There are various options relating to levels of upfront evidence upfront and the effect it has. Generally it is a judgement for each party concerning the trade-off between upfront costs and effects. Questions at the end of this paper seek an indication of each party's preference.
    - a) Which option would you prefer:
      - 1) a stringent test for registration (e.g. lab tests) accompanied with mandatory acceptance at building certification stage, or
      - 2) a medium assessment standard accompanied by a 'preferred' status at building certification stage?
    - b) Similarly which option would you prefer:
      - 1) a robust, and potentially more expensive, evidentiary stage at registration, followed by less frequent and lower cost audits, or
      - 2) a lower cost registration, followed by a more robust, and a potentially more costly, cost-recovered audit program (meaning the cost of the audit is paid for by the product sponsor)?

## 3.2 Modern methods of construction and offsite/modular

### 3.2.1 Principles

The Scheme would be able to cater for a variety of issues such as modern methods of construction, including complex offsite/modular building products.

For modern methods of manufacturing and complex offsite/modular building products jurisdictions could:

- require an initial meeting between the potential applicant and the appropriately authorised state or territory conformance assessment body to inform the potential applicant of the jurisdictions processes for approval and to arrange suitable inspection locations and times, and
- include a normal assessment of a reference building product, and evidence that other offsite building products were identical or as similar as possible to the reference product.

The Scheme could help increase the use of offsite manufacturing by reducing regulatory uncertainty for product suppliers, builders and approval authorities.

### 3.2.2 What this could mean

- An example of offsite manufacture could be a wall system (that could allow a different number of windows and sizes). This may be able to be regulated like biosimilars are regulated by the Therapeutic Goods Administration. If the similar products conform with specifications required by building regulators (e.g. load bearing, water systems) then they may be able to be an approved product, but a separate approval may be needed for use (e.g. installation is appropriate at a specific site).
- Offsite assessment could include a normal assessment of the product(s), that is a reference product, as well as evidence that other offsite products were identical or as similar as possible to the reference product with:
  - quality input systems to ensure the ongoing quality of manufacturing inputs
  - quality manufacturing systems akin to Good Manufacturing Practice requirements for pharmaceutical production
  - quality transport, contractor and installation systems (e.g. registered installers using accurate and robust instructions), and
  - an auditing schedule determined by jurisdictions to reflect risk (e.g. greater auditing earlier in the process for designated products).
    - The auditing schedule may be more regular initially due to the risk of an insufficiently similar building product being introduced to the market.



- Other Australian jurisdictions could use the existing information on the modern method of construction including an offsite/modular product or products on the register from the original jurisdiction's assessment to increase the efficiency of their own assessment.

Note that the ABCB is:

- finalising a handbook on existing treatment of modern methods of construction, including modular and prefabricated products that will be released separately, and
- progressing work concurrently for BMM on an approach to offsite/modular building and this approach could be implemented or augmented through this Scheme.

### 3.3 Questions on a risk-based approach to NCC compliance.

- Do you agree with all the principles for a risk-based approach to demonstrating NCC conformance?
- What other options or changes do you propose to a risk-based approach to demonstrating NCC compliance and why?
- Do you view modern methods of construction and complex offsite/modular products as being designated products and if so why/why not'?
- Would you prefer:
  - a. a stringent test for registration (e.g. lab tests) accompanied with mandatory acceptance at building certification stage, or
  - b. a medium assessment standard accompanied by a 'preferred' status at building certification stage,
  - c. and why?
- Similarly would you prefer:
  - a. a robust, and potentially more expensive, evidentiary stage at registration, followed by less frequent and lower cost audits, or
  - b. a lower cost registration, followed by a more robust, and a potentially more costly, cost-recovered audit program (meaning the cost of the audit is paid for by the product sponsor),
  - c. and why?

# 4 Transparent processes

## 4.1 Traceability

### 4.1.1 Principle

- All building products (not just those on the register) would include a global interoperable digital identifier on the product (e.g. barcode or QR code that conforms with an appropriate standard for unique identification) that links to minimum and standardised information. This is either a link to the corresponding entry on the register for designated or voluntarily registered products, or to the corresponding manufacturer-created and maintained public webpage for other building products.

### 4.1.2 What this could mean

- If manufacturers produce one or more:
  - designated product(s) they would need to link each via a global interoperable digital identifier to their minimum and standardised information on that product to a corresponding web entry on the public register, and
  - non-designated building product(s) that they decide to put on the public register on a self-assessment basis, they would need to link each via a global interoperable digital identifier to their minimum and standardised information on that product to a corresponding web entry on the public register.
- Industry manufacturers would be required to create and maintain a webpage for each building product(s) they manufacture that is not on the register. They would need to link each via a global interoperable digital identifier to their minimum and standardised information to the corresponding public product webpage.
- All parties would be able to verify that building products, including that the products:
  - have been delivered to site and are as specified
  - are imported as specified, and/or
  - have been installed as specified.
- An option is to have verification and traceability independently audited by whoever is operating the Scheme.
- Improvements in building product traceability will also assist in addressing counterfeit products.
- Amendments could be required with penalties relating to the register and referrals to jurisdictions for substantive issues.

## 4.2 Transparency and information sharing

### 4.2.1 Principles

- Require public specified product information in a common format for all building products in Australia.
- Require that the minimum information be on the public register web entry where it is a designated product, on the public register web entry where there is a voluntary entry on the register or on a public product webpage clearly controlled by the manufacturer.
- The ABCB or jurisdictions would be able to require and share with jurisdictions information from manufacturers to improve building product conformance and compliance and related purposes.
  - This could include information to enable register integrity and accuracy, product monitoring and remediation, checking of system health, Scheme reporting, suggesting improvements and engaging on technical issues if required.

### 4.2.2 What this could mean

- Explicit NCC requirements for specified building product information in a common format.
- A requirement for manufacturers to update entries that include minimum information in a common format and timely manner, either through editing a register entry or via manufacturers created and maintained webpage.
- Having an explicit mechanism to share information between jurisdictions and ABCB within the Scheme rules.

## 4.3 Data integrity and interoperability

### 4.3.1 Principle

Part of the cost of the Scheme includes ensuring that minimum required information is linked to, or on, the registry, and it is full, accessible, accurate, verified and updated.

### 4.3.2 What this could mean

- Proactive checking of product information and supporting material would be part of managing the Scheme.
  - States and Territories are separately examining enhanced accountability for product suppliers but whoever manages the Scheme has penalty options detailed under cost recovery and auditing below.
- The ABCB would actively monitor issues that arise with building products and inform jurisdictions of substantive issues.
- As previously stated, amendments could be required with penalties relating to the register and referrals to jurisdictions for substantive issues.
- Data interoperability should be explored such as machine-readable building product codes where appropriate.

## 4.4 Global and scheme connectivity

### 4.4.1 Principles

The Scheme would be interoperable with other schemes, national and international initiatives where appropriate (noting cost considerations), to avoid becoming an isolated or a stranded asset, as well as to lower the regulatory burden on manufacturers and suppliers having to comply with multiple conformity schemes and directives.

As it appears that most building products are imported, global traceability and connectivity can identify the source of products, aid in compliance (e.g. through identification of relevant standards and regulations) and assist in Scheme and policy development.

### 4.4.2 What this could mean

A particular issue is that offsite manufacture of complex building products appears to be increasingly prevalent. This can result in:

- a high risk of non-compliance
- large commitments to purchase potentially non-conforming products, and
- difficulties in assessment against the NCC for compliance.

Increased systematic building product information, particularly relating to NCC conformity and compliance would be needed.

If there is mutual recognition of comparable assessment by overseas-based schemes, global building product traceability is crucial.

Exploration should be undertaken regarding the Scheme for global interoperable digital identifier interoperability with:

- international schemes that could include European Union Digital Product Passports (DPP) and the UN Transparency Protocol (UNTP)
- national government product schemes that could include NABERS (embodied Carbon), NT Deemed to Comply Manual and Watermark, and
- existing industry schemes (for example Australasian Certification Authority for Reinforcing and Structural Steels (ACRS), Window Energy Rating Scheme (WERS) and Particleboard and Fibreboard product Certification Scheme).

Australia could recognise future appropriate schemes (this is being considered by other jurisdictions, see the New Zealand Building (Product Certification) Amendment Bill [intended to be passed before the end of 2024](#)).

## 4.5 Questions on transparency and information sharing.

- Do you agree with all the principles for transparency and information sharing?
- What other options or changes do you propose to transparency and information sharing and why?

# 5 Scheme Operation and sustainability

## 5.1 Summary

### 5.1.1 Principles

The Scheme would:

- promote public, accurate, reliable, transparent and updated information on all building products – with registration being mandatory for designated products and voluntary for other products
- improve the ability of jurisdictions to ensure building product compliance, including through mandatory labelling and better access to evidence
- increase confidence within industry about the suitability of products and efficiency of approval pathways
- operate on a cost-recovery basis, and
- be enforced through penalties such as removal of products from the register by the ABCB, evidence of suitability, advertising provisions and amendments to penalties and the chain of responsibility laws through jurisdictions where appropriate.

### 5.1.2 What this could mean

- The ABCB would operate the Scheme on a national basis on behalf of jurisdictions. The ABCB is likely to be appropriate to operate the Scheme as it administers the NCC and it would address an issue for industry operation of the proposed Scheme, namely management of conflicts of interest.
- Jurisdictions include regulators and building surveyors and building certifiers where appropriate.
- Building products would include plumbing products in buildings and the Scheme would link to individual products under the WaterMark Scheme.
- Initial acceptance/approval fees and annual registration fees paid by building product manufacturers would reflect whether registration was required or voluntary.
  - Higher fees would be charged where registration is required for designated products, and lower fees would be charged for voluntary self-registration. This reflects the increased verification needed for more rigorous NCC requirements for designated products. Note that all products on the register would be auditable and random audits on all products on the register are envisaged to be undertaken routinely.



- Duplication is to be avoided where possible, with active existing assessments applying to building products and relating to NCC requirements to be used where appropriate.
- The ABCB would define designated products in the Scheme in consultation with jurisdictions, and as per the assessment principle.
- The Scheme would set criteria for minimum information that is updated by the manufacturer for all building products.
- Anyone would be able to access product information and the register online. In addition, anyone would be able to access product information and the register through mandatory use of global Interoperable digital identifiers (through barcodes or similar technologies) on building products.
- Two building product marks would be used, one for designated products and another for self-assessed products. Assessment (other than self-assessment for voluntary listing by manufacturers) would be by jurisdictions, other schemes or supplementary testing that could be initiated by the ABCB.
- The Scheme funding arrangements would be as follows:
  - revenue is generated through product owner fees for registering product(s), and
  - operational costs, including post registration management, auditing, referrals to jurisdictions for compliance action and Scheme oversight would be accounted for from registration revenue.
- Fee reductions for registration and mutual recognition could be applied for existing or other appropriate certification schemes (domestic and overseas).
  - For the purposes of transparency the building product would be listed on the Scheme but providing the certification scheme assessment met the evidence requirements as per the NCC it could link to that listing.
  - For example, the proposed Scheme would link to a tap approved under the WaterMark scheme to avoid duplication.

## 5.2 Scheme trust, education and promotion

### 5.2.1 Principles

- The Scheme could be promoted through two marks, one for certified conformity assessed products and one for listed (self-assessed) products that require supporting information to be held by manufacturers
- The Scheme would be interoperable with appropriate existing schemes and systems
- There would be an onus on manufacturers to update the information on the register for any substantive changes
- Prominent links to complaint handling by jurisdictions and/or correction and/or updating of the register or incorrect labelling could also enhance trust in the Scheme
- Education and promotional materials would provide clear messaging about the role of the Scheme in building assessment
- The ABCB would conduct validation, supplementary verification and testing as appropriate to increase trust in the Scheme

### 5.2.2 What this could mean

There are several Scheme features to enable trusted building product information:

- the Scheme would require specified product information in the same format on all building products
- NCC changes would require evidence for designated products to be risk appropriate, independent, and verifiable
- NCC changes would require that supporting information for building products be required to be held by manufacturers and be provided to jurisdiction(s) and the ABCB on request
- there would be an onus on manufacturers to update the information on the register for any substantive changes
- the ABCB's role in the Scheme would incorporate register integrity and accuracy checks. It would also include provisions for supplementary testing if required, and
- appropriate penalties would be needed for unsupported building product advertising claims or potentially misleading claims about the status of building products in relation to the Scheme, the NCC, assessment(s) or approvals.

Messaging would make clear that:

- jurisdictions still conduct all construction approvals and that the Scheme would be operated nationally on their behalf

- designated products require mandatory assessment and these are determined by the ABCB in consultation with jurisdictions through a combined assessment of structural, safety and defect risk, and
- other products that are listed by manufacturer would require supporting information and there would be penalties for unsupported or potentially misleading product claims.

Education materials (and training if appropriate) focussing on builders, manufacturers, other building professionals and the public (including home renovators).

## 5.3 Register model

### 5.3.1 Principle

The 2024 Centre of International Economics model report indicated that using the CodeMark register as a basis for costing suggested that additional costs are 'likely to be relatively modest, possibly less than \$1 million dollars' (page 71).

### 5.3.2 What this could mean

- Registry costs depend on functionality.
- A distributed/network IT model and/or Application Program Interface (API) for the register could be examined in relation to cost, speed of updating, ability to provide a single source of product data truth and interoperability.
- An option that could be explored by jurisdictions would be to require digital identifiers or other product codes for building products used on the register, to be required in applications and approval processes.
  - If there is an issue with the building product the ABCB could issue a notice to jurisdictions with relevant product codes. Jurisdictions could do a search of site approvals/audits to determine if the same product codes came up in specific sites. This is so further steps (e.g. site reassessment, warnings, remediation etc) could be made.
  - Jurisdictions may wish to require the use of the same product codes to facilitate product notifications for individual sites and/or to improve their compliance strategy.
  - Confidential information (e.g. full tests) would not necessarily be held on the register, it could continue to reside with or in jurisdictions and conformance testing or accreditation bodies where applicable.

## 5.4 Cost recovery and Auditing

### 5.4.1 Principle

Full cost recovery of the Scheme through registrations.

### 5.4.2 What this could mean

- The Scheme would be funded through cost recovery.
- Registration of products in the designated category would be mandatory on the register and other products can be registered on a voluntary basis.
- Fees would be charged to register and the fee scale would depend on whether the product is designated. This reflects the increased verification needed for more rigorous NCC requirements for designated products.
- Registration fees need to cover the costs of education, promotion, administration, undertaking registration compliance audits, issuing remediation orders, and reviews to feed into Building Ministers periodic reviews of the Scheme.
- The register operator would be responsible for auditing register entries, while states and territories would remain responsible for auditing construction sites.
- Registration fees should also cover preparing formal referrals to jurisdictions for compliance/enforcement action.
- Auditing could include checking building products were installed as approved and monitoring and testing of designated products.
- Any re-testing would be supplementary (e.g. if new evidence in relation to a building product in common use became evident).
- The frequency of auditing needs to ensure that there is a realistic chance of audit and application of penalties if appropriate so that there is an incentive for industry to participate in the Scheme.
- It may be necessary to include separate, additional, audit fees for follow up audits after remediation orders are issued.
- Auditing of products registered on a voluntary basis would routinely require supporting information held by the manufacturer to be produced to the ABCB or jurisdictions on request.

## 5.5 Incentives to participate in the Scheme

### 5.5.1 Principles

- Better standardised product information would reduce queries and increases appropriate selection.
- Designated products as specified by the NCC must be on the register.
- A reasonable chance of audit by jurisdictions for non-conforming designated and other products and the chance of significant penalties, is an incentive for industry to comply.
- Faster and cheaper approvals through using conforming products would make assessment more efficient – such as using a product that has been previously assessed for a comparable use.
- Registering building products would make them easier to find by building professionals and renovators and therefore increases the chance that it is purchased and used.

### 5.5.2 What this could mean

- Jurisdictions would benefit through greater compliance assurance, information sharing and ability to focus resources better on areas of risk through Scheme information.
- Implementing chain of responsibility by jurisdictions would provide clearer responsibility where it is not already in place. Possible responsible entities could be: designer, architect, manufacturer, importer, supplier, engineer, company site supervisor, subcontractors, installers or supervisors thereof and surveyors.
- There would be an incentive to be on the register voluntarily to make the product easy to find and therefore buy and use, especially in a product substitution situation, e.g. if searching for a building product for a 2-hour fire rated plasterboard an appropriate item on the register would be easily found, information verified and purchased.
- The Scheme is designed to be a trusted source of information that is up to date. For instance, in some circumstances the ABCB may remove products from the register (e.g. penalties for insufficient updates for substantive changes).

## 5.6 Reporting

### 5.6.1 Principle

There would be mandatory reporting to a jurisdiction regulator for product compliance issues.

### 5.6.2 What this could mean

Mandatory reporting to jurisdictions could include that of product non-compliance, of voluntary product recalls, and of safety occupier product complaints. Existing models could be used where in place. Jurisdictions would share this reporting with ABCB and other jurisdictions.

Mandatory reporting would be subject to information sharing arrangements between jurisdictions and ABCB. As building product issues are likely to be relevant to all jurisdictions then reports with substantive issues should be shared in a timely manner by default.

## 5.7 Penalties

### 5.7.1 Principle

Penalties in jurisdiction legislation may be needed (see above for incentives to participate in the Scheme).

### 5.7.2 What this could mean

Jurisdictions could have powers to:

- obtain information, to search and seize (e.g. for fraudulent products) and to direct that a remedy be made, and
- prohibit, warn, forfeit products, fine, suspend or retract certificates, refer for prosecution, and/or require changes to marketing.

The ABCB could have administrative powers to:

- warn, suspend, delete, prevent or amend register entries and require remediation of, or update to entry(s) and refer matters to jurisdictions and/or bodies related to promotions,
- apply compliance-based fees (for example additional fees related to register integrity and compliance actions) and/or publish lists of those deregistered, and
- ensure register integrity and in relation to marketing regarding the registry and building product claims.



## 5.8 Updating and renewal

### 5.8.1 Principle

The Scheme would be kept up to date via real-time updatable entries required by industry, regular registrations and re-registration (that considers previous evidence provision).

### 5.8.2 What this could mean

- Annual renewal is envisaged to ensure that product information is updated, evidence is appropriate and the Scheme remains current.
- The ability for manufacturers to update entries either via a website with information in a common format or through editing of a register entry, is contemplated as part of the Scheme. Updates that are substantive would be required to be made in a timely manner.
- Previous entries would be available on the Scheme for transparency, but would be marked as inactive or similar.

## 5.9 Oversight

### 5.9.1 Principle

The Scheme would be subject to periodic oversight by Building Ministers through Building Ministers Meetings.

### 5.9.2 What this could mean

- An annual report on the Scheme usage and performance would be provided to Building Ministers Meeting.
- The Scheme would be periodically reviewed, with opportunities for improvements presented to the Building Ministers Meeting.

## 5.10 Questions on operation and sustainability

- Do you agree with all the principles for scheme operation and sustainability?
- What options or changes do you propose for scheme operation and sustainability and why?

## 6 Overall questions

In addition to the specific questions above, we also seek overall feedback.

- What is the level of your support for the proposed Scheme?
- Any other comments?

A consolidated list of questions is at Appendix C.

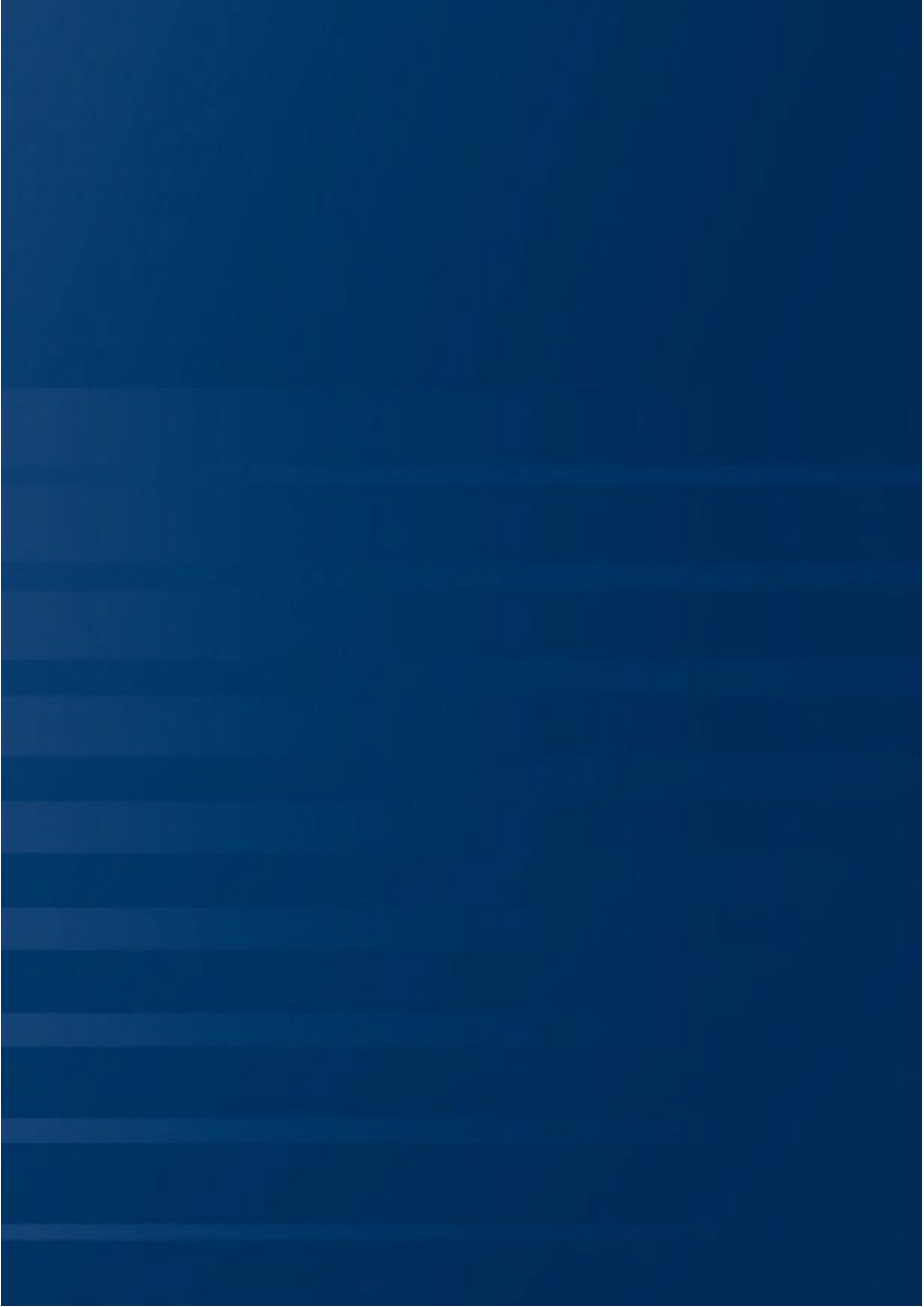
As previously stated, submissions should be made on our [consultation hub](#) by **Thursday 3 October 2024 at 11:59pm Eastern Standard Time**.

### Using this document

Abbreviations used in this discussion paper are in Appendix A.

Abbreviated information about how we got here is in Appendix B.

Consolidated questions are at Appendix C.



# Appendix A

## Abbreviations

The following table, Table A.1 contains abbreviations used in this document.

**Table A.1 Example Abbreviations**

<b>Abbreviation</b>	<b>Meaning</b>
ABCB	Australian Building Codes Board
ABS	Australian Bureau of Statistics
ESD	Environmentally Sustainable Design
EST	Eastern Standard Time
NCC	National Construction Code

# Appendix B

## How we got here?

How we got here has been at least partly a result of a wide range of building product failures. A brief history includes the following.

- In 2014 the Lacrosse building in Melbourne’s docklands with combustible cladding caught fire.
- In December 2015 the Australian Procurement and Construction Council released [Procurement of Construction Products: A guide to achieving compliance](#).
- In 2016 The Building Ministers Forum agreed to the development and implementation of a range of measures to help address risks associated with external cladding products on high rise buildings.
- In 2017 the Grenfell Tower fire in London, where 72 residents lost their lives, resulted in the expedition of these measures.
- In 2017 Queensland [passed building chain of responsibility laws](#).
- In 2018 a report regarding these and related measures was released, [Building Confidence—Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia](#), by Professor Peter Shergold AC and Bronwyn Weir.
- In 2019 the Senior Officials Group commissioned a report by Professor Russell Kenley on *Reforms to achieve performing building products: guidance for managing compliance and conformance*.
- In 2021 a Building Confidence National Framework was released. This was a result of work arising from Building Ministers establishing a *Building Confidence Report* implementation team to work with governments and industry to respond to the recommendations with a focus on national consistency where possible.
- In early 2023 the [National Building Products coalition was established](#).
- In February 2023 International Building Quality Centre published a [Building Products Performance Good Practice Regulatory Framework](#).
- In November 2023 [NSW Building Chain of responsibility reforms were passed](#).
- The April 2024 *Building Products Assurance Framework – Regulatory Options* report (framework report) was commissioned by senior officials from Weir Legal & Consulting. It was provided as input to BMM for consideration in June. The framework report recommended the proposed building landscape:

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

The framework report has been released alongside this discussion paper for transparency.

- In June 2024 [Building Ministers](#) agreed to further the implementation of the *Building Confidence Report* by considering a national scheme supporting the safety and reliability of building products.
- In July 2024 the [National Building Product Coalition](#) published the *[Traceability and Digitalisation of Building Product Information](#)* to explore options.
- This August 2024 discussion paper sets out the principles and scope of a proposed Scheme, based to a large extent on the framework report, for comment.



# Appendix C

## Consolidated questions

1. What is the level of your support for the proposed Scheme?
2. What other options or changes do you propose on the intent of the Scheme and why?
3. Do you agree with all the principles for the intent of the Scheme?
4. What other options or changes do you propose for the intent of the Scheme and why?
5. Do you agree with the minimum information principle for better building information?
6. What other options or changes do you propose to the minimum information and why?
7. Should full test results be accessible and if not, why?
8. Do you agree with all the principles for a risk-based approach to demonstrating NCC conformance?
9. What other options or changes do you propose to a risk-based approach to demonstrating NCC conformance and why?
10. Do you view modern methods of construction and complex offsite/modular products as being designated products and if so why/why not'?
11. Would you prefer:
  - a. a stringent test for registration (e.g. lab tests) accompanied with mandatory acceptance at building certification stage, or
  - b. a medium assessment standard accompanied by a 'preferred' status at building certification stage,
  - c. and why?
12. Would you prefer:
  - a. a robust, and potentially more expensive, evidentiary stage at registration, followed by less frequent and lower cost audits, or
  - b. a lower cost registration, followed by a more robust, and a potentially more costly, cost-recovered audit program (meaning the cost of the audit is paid for by the product sponsor),
  - c. and why?
13. Do you agree with all the principles for transparency and information sharing?
14. What other options or changes do you propose to transparency and information sharing and why?
15. Do you agree with all the principles for scheme operation and sustainability?

16. What options or changes do you propose for scheme operation and sustainability and why?

17. Any other comments?