



## Non-conforming building products (NCBPs) and non-complying products (NCPs)

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### Background

All building work in Australia must meet certain performance and legal requirements to ensure it is safe, healthy and durable. In recent years concerns have been raised about the risks of using substandard 'non-conforming' products or materials (NCBPs), or using products and materials incorrectly 'non-complying' (NCPs). There are particular concerns around the health and safety risks associated with the use of NCBPs and NCPs. Some recently identified products include structural steel, electrical cabling (Infinity cables), roof panelling products found to contain chrysotile asbestos and external cladding systems.

On 23 June 2015, the Australian Senate referred the issue of NCBPs to the Senate Economics Reference Committee. The Committee released its interim report '[Safety – not a matter of good luck](#)' on 4 May 2016. The Senate Committee is due to hand down its interim report by 6 September 2017 and the final report by 31 October 2017.

Health and safety risks posed by NCBPs and NCPs continue to be a priority for the Building Ministers' Forum (BMF), chaired by the Assistant Minister for Industry, innovation and Science and comprising all relevant State and Territory Ministers. The BMF established the Senior Officers' Group to focus on strategies for addressing NCBPs and report on ways to minimise the risks to consumers, businesses and the community associated with the failure of building products to conform to relevant laws and regulations and at the point of import.

The Australian Institute of Architects has made [a number of recommendations](#) to the Senate Committee and is actively monitoring government actions to keep members informed.

The Institute's National Practice Committee has requested the Acumen Content Review Panel develop a Practice Note that will contain detailed guidance to assist members to avoid using NCBPs and NCPs.

### Ensuring products conform and comply

The requirements for building products are set through the [National Construction Code \(NCC\)](#), state and territory building and planning laws and other specialist regulatory regimes including consumer law, electrical, and gas regulations.

All building products and materials must be 'fit for purpose' under the NCC. The NCC requires that **evidence** of suitability be established to demonstrate that a material, design or construction meets a performance requirement or deemed-to-satisfy provision. Planning and building regulation laws in each jurisdiction give legal effect to the NCC. These laws generally require compliance with the NCC as a condition of building approval being granted.

The Institute has made a number of recommendations to government with regard to mandating the use of appropriate expertise throughout all stages of the design and construction process with special provisions for authorisation of product substitution, stressing the importance of the role of architects in the specification and selection of materials.



The Australian Building Codes Board (ABCB) has advised that architects, designers, engineers and other specialists may have specific obligations or duties to check and assure that the right products are used, and are used correctly. They advise that architects, designers, engineers and other specialists involved in the planning and design of building and construction must ensure that they understand and specify the performance requirements of building elements and materials. Design consultants must design buildings to comply with the [NCC](#) and the relevant state requirements. This includes the specification of building products which meet the performance requirements of the NCC. There are also a wide range of procurement methodologies and project structures that will determine specific obligations for architects.

The ABCB further advises that there are a range of methods and schemes that can be used to test and prove that a building product or material is genuine and will do what it is intended to do. There are six (6) different types of substantiation or evidence that can be used to verify that a product conforms and complies with the NCC:

1. Certificate of Conformity by [CodeMark](#) or [WaterMark](#)
2. Certificate of Accreditation from a State or Territory Accreditation authority
3. Certificate from an appropriately qualified person
4. Certificate from a product certification body accredited by [JAS-ANZ](#)
5. Report registered by a registered testing authority in Australia
6. Other documentary evidence

For detailed information about compliance and conformity assessment, the ABCB recommends that reference be made to the Australasian Procurement and Construction Council [Guide to Procurement of Construction Products](#).

## Further information

There are a number of state government and industry resources that can be accessed for further information.

- The Building Products Innovation Council has produced a [Substitution of Construction Products Guide](#)
- The [Housing Industry Association](#) has a number of information sheets that provide further detail about ensuring a product is fit for purpose.
- [NATSPEC](#) is also developing a National Construction Product Register of products which have evidence of conformity to relevant Australian and international standards. It is due to be launched in 2017.
- Additional information on the Building Ministers' Forum can be found on the [Australian Government's Department of Industry, Innovation and Science website](#)

The following provides links to information for each state and territory:

[Australian Capital Territory](#)  
[New South Wales](#)  
[Northern Territory](#)  
[Queensland](#)

[South Australia](#)  
[Tasmania](#)  
[Victoria](#)  
[Western Australia](#)