



Building Confidence

Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia

Peter Shergold and Bronwyn Weir

February 2018

Building Products Industry Council

Building Leaders Industry Brief 2020

Bronwyn Weir

An update of progress on the implementation of the BCR and what it means for building product suppliers and regulators charged with overseeing compliance

19 Feb 2020



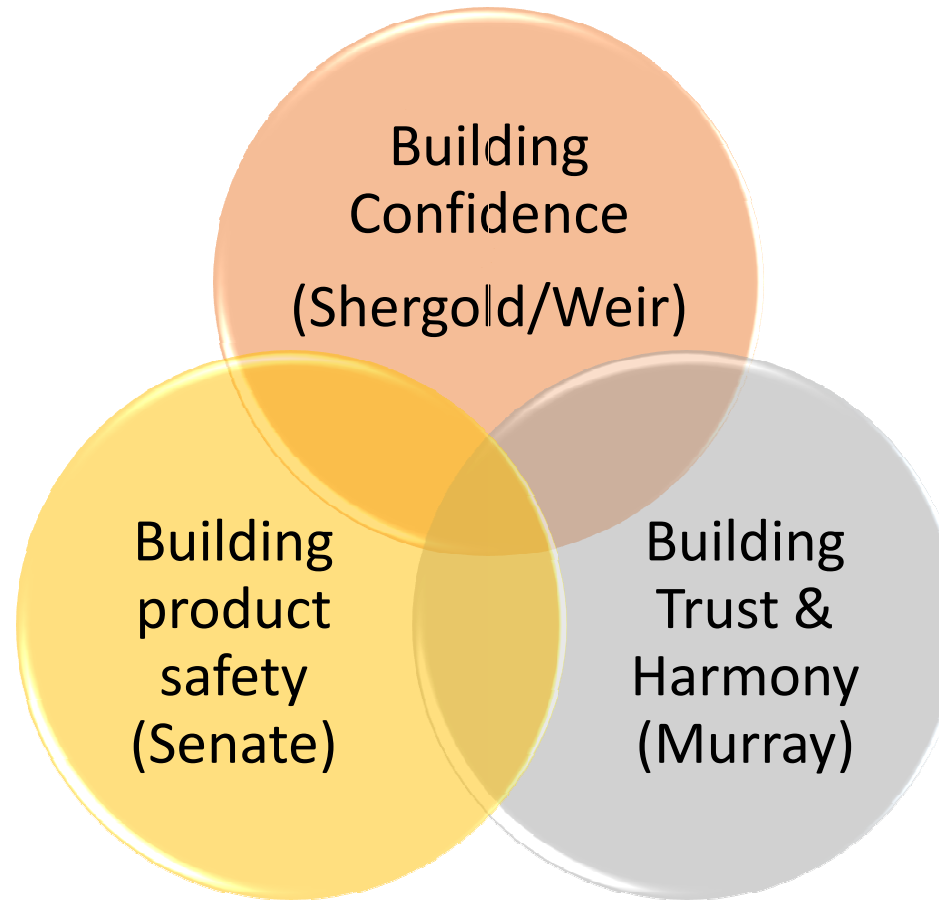
Overview

- Relevant reports
- Overview of the issues
- Response – building products
- Response – BCR



The 'package' of reports

National Reports
issued
Feb, May and Nov
2018

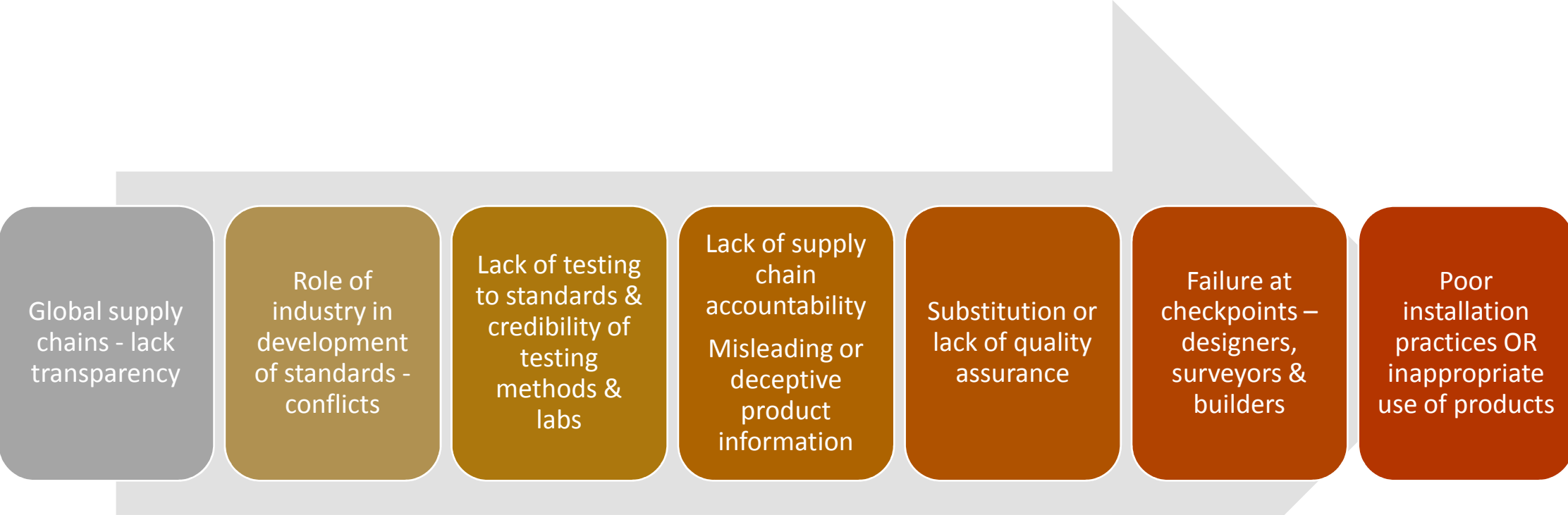


Owners
Corps

Ongoing
maintenance

Insolvency
& anti-
phoenixing

Building Product Safety – Pain Points



Regulatory Responses

- Supply chain laws (Qld)
 - Duty to supply compliant **and** safe products
 - Duty to provide accurate product information
 - Duty rests with directors/boards
- Duty of Care (NSW)
- Strengthen the product certification scheme
- Improving scrutiny by designers, surveyors, builders (gates)
 - Evidence of suitability requirements
 - Competency, conduct
 - Increased regulation and enforcement
- Digital solutions, records, traceability, quality assurance

Context for BCR?

- BCR – Aug 2017-Feb 2018
- Senate inquiry into non-conforming products 2015-2018
 - reports May 16, **Sept 17, Nov 17**, Final report Dec 18
- ABCB tasked with reporting on compulsory product certification scheme – July 2015
- New supply chain laws in Qld - **Aug 2017**
- SOG tasked with reporting on compulsory product certification scheme, national register of products and product labelling – **Oct 2017**
- NSW Building Product Safety Act – **Nov 2017**
- Tasmania ACP with PE 'high risk building product' - **Dec 2017**
- NSW and Cth pilot program to track the supply and installation of ACP – **Dec 2017**



What did the BCR say about regulating building products?

- *That the BMF agrees its position on the establishment of a compulsory product certification system for high-risk building products.... once agreed make it a priority to implement (Rec 21 p 36)*
- *Regulation of the building product supply chain is warranted and product recall and/or prohibition powers should exist for high risk products. (relation to Rec 6 p 21)*



Post BCR - Cladding 'bans'

Jurisdiction	Date	Products	Action	Buildings	Comments
Romania	27 Dec 17	ACP with PE core & rendered PE products (EPS)	Determined to be 'high risk building product'	Type A or B	Must seek approval from Gov to use product
South Aust	13 Feb 18	metal panel or lining formed with an aluminium, or similar thin metal sheet material, with any type of core material	Defined as 'designated building product'	Type A or B	Must lodge a notice with council with prescribed info about the use of the product prior to commencing work
Victoria	15 Aug 18	Panel with >30% PE or EPS	Surveyor must not issue BP where 'prescribed product' proposed for use	Type A or B	Must get determination from BAB to allow use. Sept 18 – Minister given power to prohibit use of high risk external wall cladding products (not yet used)

Post BCR - Cladding 'bans'

Jurisdiction	Date	Products	Action	Buildings	Comments
WA	15 Aug 18	ACP with >30% PE	Prohibit the use	Type A or B	Exemption if pass AS1530.1 or AS5113
Western Aust	6 Oct 18	New standard for non-combustible external walls. Must meet DTS or if a perf solution is proposed related to CP2 it must meet AS5113 but need not meet debris test in AS5113 provided there is a provision for safe evacuation		Type A or B	Can apply for an exemption. Does not apply to remedial work on buildings with combustible cladding
Queensland	18 Oct 18	ACP with >30% EPS in external wall	Prohibit the use	ACP – all buildings EPS – Type A or B	ACP with > 30% can be retained in cladding rectification if there is an alternative solution
ACT & NT	No 'bans' but have issued guidance about amendments to NCC and obligation to comply				

PI pullout chips away at building industry's foundations

June 2019



15 July 2019

Industry groups call for urgent Austr building regulation

NATIONAL NSW DEVELOPMENT OUTRAGE

'It hasn't worked': Premier ad industry is failing

By Jacob Saulwick, Megan Gorrey and Lisa Visentin

July 10, 2019 - 6:31pm



340 View all comments

Premier Gladys Berejiklian says the sy: after *the Herald* revealed the evacuat

As the state opposition called for an in defects emerging in the city, Ms Berej know there's a problem."

NEWS

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THE WEEKEND AUSTRALIAN

Sunday, July 21, 2019 Today's Paper

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Cladding debacle: Josh Frydenberg dismisses Victoria's call for help on \$600m bill

By RACHEL BAXENDALE
VICTORIAN POLITICAL
REPORTER
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JULY 18 2019 - 10:24AM

Minister s

Daniel McCulloch



THE CONVERSATION

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Ministers fiddle while buildings crack and burn

July 19, 2019 3:34pm AEST

Commitment to implementation of the BCR

Building Ministers
Forum

Australian Building
Codes Board (17)

ABCB
IMPLEMENTATION
TEAM

Expert Panel (6)

Industry Leaders
Group (15)

<https://www.abcb.gov.au/Initiatives/All/building-confidence-report-implementation-team>
<https://www.industry.gov.au/sites/default/files/building-ministers-forum-communiqué-december-2019.pdf>

BCR Implementation priorities (Dec 19)

- Amendments to NCC
 - Best practice process for development of performance solutions
 - Enhanced provisions relating to 'evidence of suitability'
- Development of CPD content on the NCC for a range of practitioners
- 'complex buildings'
- New technical standard for labelling of ACP (NCC 2020)
- National code of conduct for building surveyors (Rec 10)
- National specification for the content of building manuals (Rec 20)
- Model provisions for roles and responsibilities for documenting and approving performance solutions (various recs)
- National data-sharing framework (rec 12)

New South Wales

Design Building Practitioners Bill - Part 3 - Duty of Care – section 31

A person who carries out **construction work** has a duty to exercise reasonable care to avoid economic loss caused by defects—

- (a) in or related to a building for which the work is done, and
- (b) arising from the construction work.

Duty is owed to owners and subsequent owners of class 1, 2, 3 and 10 buildings

Construction work includes the supply and manufacture of **building products** (as defined in the Building Product Safety Act)

Part 2 of Sched 1- Applies to construction work carried out before the commencement of the new provisions:

- But not if a proceeding already commenced against any person
- loss apparent within past 6 years
- But not if date of completion of work >10 years ago – other than in relation to supply & manufacture of building products

New South Wales

- Parliamentary Inquiry – Regulation of buildings standards, building quality and disputes (July 19 – interim report Nov 19)
- Appointment of Building Commissioner – David Chandler
- *Professional Engineers Bill* (also Parliamentary Inquiry into the Bill)
- New powers to prevent issue occupation certificates (being developed)
- 2017 reforms to laws on certifiers to be implemented
- Future plans - 6 pillars – legislation & regulation, risk ratings, education overhaul, procurement, digitisation, research

<https://www.customerservice.nsw.gov.au/about-us/media-releases/ministerial-releases/plan-unveiled-for-the-future-of-building-and-construction>

Victoria

Cladding rectification funding - \$600m

Cladding Safety Victoria

Legislative reforms – cladding related powers, trades registration, swimming pools

New State Building Surveyor appointed – Andrew Cialini

Inspecting sites for 10% of building permits, audits of building surveyors

Expert panel to lead comprehensive review of Vic building system (11 Dec)

Queensland

- Queensland Building Plan - 2017

https://www.hpw.qld.gov.au/data/assets/pdf_file/0024/4839/qldbuidingplan.pdf

- Building Industry Fairness – security of payment, project bank accounts
- Reforms to Building Act - certifiers
- Supply chain laws since 2017 – 300 complaints to NCBP unit

<https://www.qbcc.qld.gov.au/media-releases/false-claims-fire-testing-reports-frequent-focus-specialist-unit>

Activity at State level

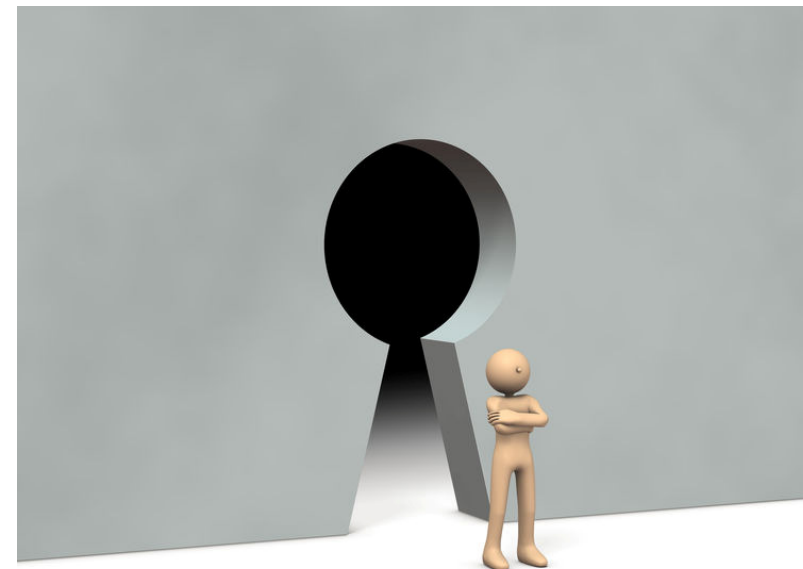
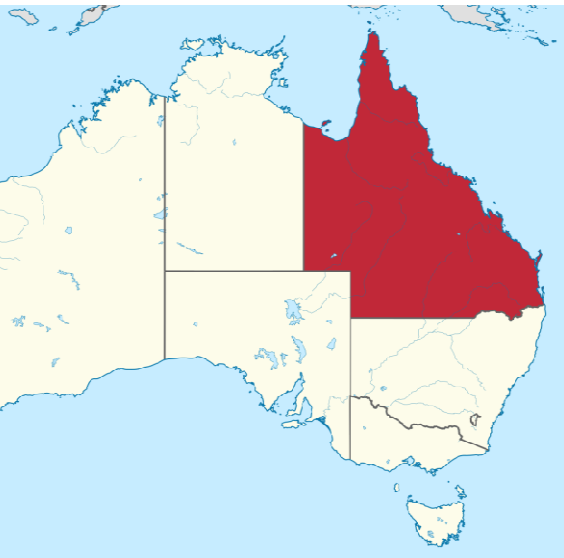
Western Australia

- Consultation Regulatory Impact Statements
 - Single residential buildings – private certification (closed Dec 19)
 - Approvals process for commercial buildings (open till April 20)
 - Registration issues (under development)

Australian Capital Territory

- Parliamentary Inquiry into building quality (2018-2020)
- Director liability, new regulatory powers, increased obligations on certifiers - *Building and Construction Legislation Act 2019* (Nov)

Watch this space





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