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Senate Economics References Committee  
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CANBERRA ACT 2600  
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## **Submission to the Senate Economics References Committee Inquiry into non-conforming building products**

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment to the Senate Economics References Committee Inquiry into non-conforming products (NCPs) in the building sector.

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on the sustainable development and use of Australia's forest, wood and paper products. Our member companies manufacture building and other products to Australia's stringent regulations and standards for supplying into domestic markets in competition with significant and increasing amounts of imported wood products.

The majority of these imported wood products are destined for use in the Australian building industry. A proportion of these imported wood products do not conform to Australia's stringent regulations and standards resulting in an uneven playing field in the market and the products themselves being unsafe.

Key recommendations identified in this submission are:

1. that an 'Independent Compliance Body' be set up and resourced appropriately within the ACCC to investigate documented non-trivial complaints and prosecute these incidents where appropriate;
2. improve the product recall system to better address occurrences of NCPs; and
3. better allocate resources to regulatory systems that address NCPs, and relevant environmental and product safety standards.

Yours sincerely



**Ross Hampton**  
Chief Executive Officer



## **Submission to the Senate Economics References Committee Inquiry into non-conforming building products**

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

The forest, wood and paper products industry is Australia's 6<sup>th</sup> largest manufacturing industry with an annual turnover of \$21 billion. It contributes around 0.6% to Australia's gross domestic product and 6.7% of manufacturing output. The forest products industry directly supports around 120,000 jobs along the supply chain including truss and frame fabricators, and an additional 180,000 jobs through flow-on economic activity.

Our member companies manufacture building and other products to Australia's stringent regulations and standards for supplying into domestic markets in competition with significant and increasing amounts of imported wood products.

The majority of these imported wood products are destined for use in the Australian building industry. A proportion of these imported products do not conform to Australia's stringent regulations and standards resulting in an uneven playing field in the market and the products themselves being unsafe.

Australian manufacturers have produced annually around 5 million cubic metres of sawn timber and 1.5 million cubic metres of engineered wood products (EWPs) in recent years. In 2013-14, imports of sawn timber were 786 300 m<sup>3</sup> (\$468.5m in value) and imports of EWPs were 547 500 m<sup>3</sup> (\$370m in value) including 287 000 cubic metres (\$209m in value) of plywood mainly sourced from Asia<sup>1</sup>.

Given the ongoing volume of imports and competitive pressures faced by domestic producers such as the high Australian dollar and high domestic environmental and social standards, it is essential that the regulatory framework for non-conforming products (e.g. failure to meet minimum Australian standards for environment, product use and safety) be rigorously applied.

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<sup>1</sup> ABARES 2015, [www.agriculture.gov.au/abares](http://www.agriculture.gov.au/abares)

AFPA is significantly concerned about the risks of sub-standard and non-conforming building products, as highlighted initially by a report into non-conforming products (NCPs) used in the building and construction sector (Australian Industry Group 2013)<sup>2</sup>.

The report identifies gaps and weaknesses in the conformance framework through inadequate surveillance, verification and enforcement, and outlines the results of a national survey that found that 92% of company respondents reported NCPs in their supply chain.

In the case of engineered wood products (EWPs), the report specifically points to the prevalence of NCPs in the structural plywood market. The Engineered Wood Products Association of Australasia (EWPAA) reported on the following issues of concern:

- a lack of consistent and routine testing of products to Australian standards;
- in the case of structural plywood, instances of formaldehyde used in resin systems and of watered down resins;
- a lack of appropriate labelling;
- occurrences of incorrect and fraudulent labelling; and
- instances of understrength products.

The EWPAA currently administers a 'Quality Control and Product Certification' program for product predictability, reliability and durability, and has routinely tested imported products against their stated compliance with relevant Australian standards. EWPAA also conducts ad-hoc testing of non-member (i.e. generally imported) products.

The EWPAA has reported that their continued market surveillance and targeted check testing has resulted in a significant proportion of samples failing to meet safety standards. Additionally, respondents reported that the NCP volume and the number of organisations responsible for placing it onto the market were both growing (Australian Industry Group 2013).

For example, samples of imported formwork plywood were recently assessed against the F17 and product standard AS6669 with 50% of samples breaking well beneath the loads that the supplier claimed were fit for purpose. These failures led to further investigations that showed the core veneers to contain 'non-structural' end joints which are totally prohibited under the Formwork Plywood Standard AS6669 (Figure 1).

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<sup>2</sup> Australian Industry Group (2013). *'The quest for a level playing field: the non-conforming building product dilemma.'*

**Figure 1.** Imported plywood formwork that failed compliance tests against the Australian standard



Source: Engineered Wood Products Association of Australasia (EWPAA) testing laboratory.

Australia has extremely good product standards via either the Australian or joint Australian/New Zealand standards system. These standards reflect the product characteristics necessary to provide safe and reliable performance. The Building Code of Australia references many of these standards.

The provisions in the *Competition and Consumer Act* (2010) adequately addresses misleading product information, including brands and markings that do not represent the properties of a product. However, industry is frustrated by the failure to police existing regulations in order to prevent the use of non-compliant building products. Unfortunately the lack of adequate product surveillance coupled with the lack of financial disincentives for importing and/or selling non-compliant product, generate a situation where non-compliance levels are significant and the public is potentially put at risk.

The risks of NCPs in building projects (e.g. plywood, steel, plastics, electrical, glass and aluminium) is a significant issue in terms of workplace health and public safety as well as the direct economic costs of product failure.

AFFPA notes that the various levels of government are beginning to address the important issue of non-conforming building products in the Australian market, including previous national meetings being held with building industry leaders and also the recent forum of State building Ministers. Effective and equitable reform of the current framework needs to be the intended outcome.

The Australian Competition and Consumer Commission (ACCC) is the independent Commonwealth statutory authority whose role it is to promote competition and fair trading by enforcing the *Competition and Consumer Act* (2010).

Significant financial penalties need to be imposed where it is proved that an organisation is either selling non-compliant product, or where they are importing it directly for use in Australia.

AFPA recognises that the ACCC is the appropriate organisation to fulfil this function, as the *Competition and Consumer Act (2010)* provides the relevant legislative framework. However, AFPA recommends that an 'Independent Compliance Body' be established and resourced appropriately within the ACCC to investigate documented non-trivial complaints and prosecute these incidents where appropriate.

It is proposed that the 'Independent Compliance Body' would:

- assess all documented non-trivial complaints related to product non-compliance;
- organise independent testing to prove the complaint within a legal context; and
- prosecute breaches of non-compliant sale or first use of the NCPs.

**Recommendations:**

1. that an 'Independent Compliance Body' be established and resourced appropriately within the ACCC to investigate documented non-trivial complaints and prosecute these incidents where appropriate;
2. improve the product recall system to better address occurrences of NCPs; and
3. better allocate resources to regulatory systems that address NCPs, and relevant environmental and product safety standards.