

**Submission
No 127**

**INQUIRY INTO REGULATION OF BUILDING
STANDARDS, BUILDING QUALITY AND BUILDING
DISPUTES**

Organisation: Dincel Construction System Pty Ltd

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Dincel Construction Systems Submission to:

**Inquiry into the regulation of building standards,
building quality and building disputes.**

To whom it may concern,

On behalf of Dincel Construction System, please accept our thanks for the opportunity to reply to this parliamentary inquiry.

Dincel Construction System is a leading Australian building material manufacturer and supply company, formed by professional engineers who possess extensive knowledge and experience in the use and application of the National Construction Code.

With regards to the terms of reference for this inquiry, please find our submission of commentary/feedback below.

The role of private certification in protecting building standards, including:

- (i) conflicts of interest**
- (ii) effectiveness of inspections**
- (iii) accountability of private certifiers**
- (iv) alternatives to private certifiers**

We note that when it comes to Private Indemnity Insurance, premiums for architects and fire engineers have at the current moment in some cases double or tripled, but for private certifiers insurance companies have completely exited the market in Australia. This can be used as a tell-tale sign of which group of people are perceived as the weakest link in the 'design/specification, construction, final approval' chain of responsibility.

As a building manufacturer, supplier, we have encountered several instances whereby certifiers are misinforming builders (intentionally or unintentionally is up for debate) when it comes to what products are or are not compliant on topics as important as fire compliance.

We can provide evidence of language being used whereby we are threatened with legal action, when we have done all full systems tests at the expense of in excess of \$250,000 to achieve full compliance as noted in our National Construction Code and it has taken our team of engineers dealing with the builder directly, educating the builder, and having the builder go directly to the building certifier as their customer for the matter to be rectified. This is one extreme example that doesn't even begin to scratch the surface of what the real problem is.

In my personal experience, it takes several years of dealing with the National Construction Code regulations before one can be at the correct expert level that would allow for effective certification of a building to be carried out.

NCC Regulations are updated regularly but CPD (Continuous Professional Development) courses currently being delivered to industry (building and construction industry in general) do not specifically mandate for NCC changes to be covered or for specific topics at the heart of the current problems (non fire compliant cladding, waterproofing and structural issues, etc). It is our recommendation that going forward, and until existing issues are resolved/minimised, that industry undertake a robust training program to get all building and construction professionals upskilled in their knowledge of our National Construction Code.

This is something that is required across the board, not just for certifiers, but also including architects, fire/structural/civil engineers and builders. Speaking from personal experience, often times it takes all of them being educated in order to avoid a non-compliant product or construction detail NOT being approved, because the perception is, that if it has been specified by an architect then it is OK, or if it has been approved by a certifier then it is OK.

But to use the Lacrosse tower fire to put things into perspective. Following the fire, non-compliant cladding was found to be used which then resulted in the builder, the certifier, the architect and the fire engineer all being liable for damages.

We also believe the Australian government should also provide a “HELP” centre to assist with the interpretation of National Construction Code and Australian Standards for all parties involved in the certification of a building design. Or at the very least the Australian Building Codes Board should ensure their help lines are manned on a full time bases instead of part time basis as per current situation.

The adequacy of consumer protections for owners and purchasers of new apartments/dwellings, and limitations on building insurance and compensation schemes, including:

- (i) **the extent of insurance coverage and limitations of existing statutory protections**
- (ii) **the effectiveness and integrity of insurance provisions under the Home Building Act 1989 (iii) liability for defects in apartment buildings**

Australia does not have a building product law. Existing consumer laws do not cover building products. The introduction of a building product law or the proposed “Duty of Care” legislation for the building industry is something that the industry or at least consumers would benefit from in light of what has happened with the Opal and Mascot Towers. This law must incorporate a principle that responsibilities are not transferable. In other words, a total blind acceptance of a certification should not make parties immune from responsibilities.

Warranty insurance needs to be extended to cover all buildings irrespective of the number of storeys.

Builders/developers responsibility must be extended in areas of fire, structural adequacy, and waterproofing/corrosion leading to loss of building life. Waterproofing alone relies on waterproof membranes which are supposed to last at the very minimum 10 years or more. We at Dincel believe waterproofing will become the next wave of “non-compliant” material issue in the industry, an issue that we believe will surpass the non-compliant cladding issue. We therefore believe that builders and developers warranties should at best, be extended beyond the life of waterproof membranes used in their projects, or at worst, be extended to a minimum of 11 years to adequately protect consumers against defects occurring as a result of waterproofing issues due to the use of non-compliant material.

Case studies related to flammable cladding on NSW buildings and the defects discovered in Mascot Towers and the Opal Tower.

With regards to ensuring fire compliant cladding is used for new or refurbished projects, one thing to note is that responsibility must be shared by all who have a hand at designing a building, constructing it and supplying material for it. Products specified must be compliant to building code regulations. Products supplied must be compliant. And building constructed must be compliant.

Speaking from personal experience, there is a lot of misinformation out in the market and this is across the board, including building product suppliers (we have examples we can supply), builders, certifiers, etc. This misinformation is at odds with the information in our National Construction Code.

To this end, for fire compliance specifically, full systems tests such as BS 8414/AS 5113 and ISO 9705 must be made mandatory. ISO 9705 already is mandatory for several products, such as ours, but we see instances whereby our competitors, one being a well-known Australian company actively referencing incorrect tests and misinforming certifiers, builders and architects.

The reason why full systems tests should be required for composite systems in particular is because the use of “Golden Samples” are very easy to accommodate with small-scale tests and it would take a fire, resulting in property damage or loss of life, for an investigation to find non-compliant product was used.

The National Construction Code - Clause C1.9(e) is intended for the material noted to be used individually, and not for composite systems. If the materials noted in Clause C1.9(e) are used to form a composite wall and/or floor system, the composite system needs to be tested in accordance with both BS 8414/AS 5113 and ISO 9705. These tests are required as the materials forming the composite system can delaminate in the event of a fire as stated in AS 5637.1 - Appendix B. This requirement needs to be effective for all façade walls, internal walls and flooring systems as delaminating liners can block the escape paths internally within the building, and delaminated liners also can be fatal during a façade wall fire incident for public passers-by and fire fighters, hampering rescue efforts.

The only Deemed-to-Satisfy test within the NCC for combustibility is AS 1530.1. This test standard was introduced in Europe nearly 100 years ago and is strictly for homogeneous materials. After 100 years, the construction industry now uses composite systems which cannot be tested in accordance with AS1530.1 (which is a small-scale test and does not represent a real fire scenario at a building façade).

Fortunately, Australia’s NCC allows for performance solutions, where performance solution is deemed equivalent to a deemed-to-satisfy solution. Fire safety of external walls and internal walls should be required to be based on BS 8414/AS 5113 (in lieu of AS 1530.1) and ISO 9705 testings respectively. Many building professionals are not aware that the NCC shows that performance solution = deemed to satisfy solution. As mentioned earlier in our submission, this is why CPD (Continuous Professional Development) courses covering the main problem areas in the industry (fire, waterproofing and structural regulations as set by our National Construction Code) must be aimed at architects, engineers, certifiers, and builders. This we believe would not be too onerous a task as they already require a minimum number of formal CPD points every year to ensure their accreditations/registrations remain current.

Another source of misinformation in the market are Codemark Certificates. Many list a myriad of assessments carried out by Fire Engineers, whereby which tests were carried out

in order to meet compliance is buried within the assessments with no recourse available to check on actual test reports which would reference which tests were used to generated the assessments. Our National Construction Code lists pathways to compliance referencing specific tests, but Codemark certification can at times make it impossible to determine which tests have been carried out.

All Codemark certifications need to be based on BS 8414/AS 5113 and ISO 9705 tests for fire compliance and state it in crystal clear terms.

All Codemark certifications need to take into account that Concrete Structures Codes (e.g. AS3600, EuroCode, ACI 318) state that waterproofing membranes/paints are not a replacement for concrete cover required for metals within the concrete. Waterproofing membranes/paints relied upon for durability purposes do not last for the building's design life. Otherwise, strata laws must incorporate conditions that all building facades must have replacement of waterproofing membranes on the façade of buildings at intervals of no more than 10 years. The applicator for the waterproofing company (who should carry necessary insurance) must provide minimum 10 years of unconditional guarantee.

Please feel free to contact me and my technical team at Dincel should you have any further queries regarding this submission.

I thank you again for the opportunity to reply with this submission.

Yours Faithfully

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