

INQUIRY INTO FURTHER INQUIRY INTO THE REGULATION OF BUILDING STANDARDS

Organisation: National Fire Industry Association

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NSW Legislative Council's Public Accountability Committee - Further Inquiry Into The Regulation of Building Standards

Submission

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Executive Summary

The NSW Legislative Council's Public Accountability Committee - Further Inquiry Into The Regulation of Building Standards is greatly welcomed by the NFIA.

The National Fire Industry Association (NFIA) is an Australia-wide community of commercial fire protection contractors, their people, suppliers, and industry stakeholders representing a wide and varied membership from the smallest sub-contractor through to large Australia-wide construction and service businesses. Our members work at the frontline of fire protection with an estimated 80 per cent of the fire protection work undertaken in Australia is completed by members of NFIA.

NFIA believes that an appropriate regulatory framework should be one that protects the safety of the community and property, provides adequate consumer protection, recognises, and accommodates industry practice and standards, requires registration of practitioners, and is linked to the national training package framework.

Whilst NFIA are supportive of the changes that have been made with regards to building standards by the NSW Government in the last year, particularly regulation of Design through the introduction of the Design & Building Practitioners Act, there is still significant need for improvement in the regulation of building standards in the State.

Whilst comment is provided in our submission on both flammable cladding and private certification it is the belief of the NFIA that these issues, whilst significant and worthy of inquiry, are symptomatic rather than causal and so we also submit information on the broader issues of concern. We have also provided a series of recommendations for the inquiry.

Recommendations

1. Any response from the inquiry **not look at flammable cladding in isolation and instead considers the importance of best practice Fire Protection Systems as our community's first response to a fire event in the built environment.** These systems have helped mean that a life has never been lost in an Australian building with a Wet Fire Protection (e.g., sprinkler) System.
2. Any response from the inquiry **consider the introduction of a Certifier classification in Fire Protection requiring a recognised Certificate IV qualification.**
3. Any response from the inquiry **consider the introduction of a commissioning certificate on new installations or major retrofits of Fire Protection Systems.**
4. Any response from the enquiry **consider the introduction of a best practice Fire Protection Regulatory Framework including registration for Design, Install and Maintain, Inspect and Test, and Certification) as well as introducing a specific Contractors Licence, all underpinned by ASQA qualifications.**

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Introduction

The NSW Legislative Council's Public Accountability Committee - Further Inquiry Into The Regulation of Building Standards is greatly welcomed by the NFIA. Whilst we are supportive of the changes that have been made with regards to building standards by the NSW Government in the last year, particularly regulation of Design through the introduction of the Design & Building Practitioners Act, there is still significant need for improvement in the regulation of building standards in the State.

We appreciate the committee's specific questioning on flammable cladding and whilst NFIA is primarily concerned with the issue of Fire Protection; the issues we face with the regulation of building standards are endemic to the industry.

In Australia many lives have been lost to fire in the last 25 years:

Victoria – Kew Cottage 7 April 1996, 9 lives lost

Queensland –Childers Backpacker Hostel 23 June 2003, 15 lives lost

New South Wales –Bankstown apartment fire 7 April 1996, 1 life lost

These events, and similar tragedies and fire disasters such as Melbourne's Lacrosse fire, show how impactful Fire can be to our communities' safety.

Besides the human risk, there is also a substantial financial cost to the community due to building fires costs Australian business millions of dollars due to property damage, fines, compensation, and insurance premiums. Many businesses find that they are not able to recover from the effects of a fire.

The Australian Fire Protection Industry

Fire protection in Australia is typically achieved via three means:

- Active fire protection (fire sprinklers, fire hydrants and fire alarm systems);
- Passive fire protection (fire rated walls, floors and ceilings and fire sealing); and
- Education.

The Fire Protection Services industry contributes over \$2.5 billion to the Australian economy every year. Over 2000 businesses pay nearly \$700 million in wages each year and industry revenue is projected to increase at an annualised rate of 1.5% over the five years through 2025-26, to reach \$2.7 billion.

The IBISWorld Industry Report OD5424 Fire Protection Services in Australia (November 2020), claims that despite the presence of vertically integrated multinational giants, the industry has a low level of market share concentration. The two major companies have a combined market share of only 10% and are both part of large multinational companies operating globally across several related industries. Twenty years ago, the two major companies are estimated to have had 80% of the market.



There are numerous regional and local players that construct, install and service fire protection systems to small, medium, and major buildings across the full scope of class 2 to 9 buildings as well as higher risk facilities such as fuel depots, harbours, and similar developments. Over half the industry enterprises employ between one and 19 people. As the minor players have increased their share of the total market, the industry has become more diverse, while also growing substantially.

Where twenty years ago, the two major companies offered a form of institutionalised but limited “industry” training to their people, it could be argued that the industry was less in need of regulation. However, as the industry has grown substantially and its make-up evolved it is now predominately made up of many more, smaller independent contracting companies. That market growth and diversification has provided customers with better contractor choices, better outcomes, and better pricing but, at the same time, raised the need for more over-arching regulation.

The National Fire Industry Association (NFIA)

The National Fire Industry Association (NFIA) is an Australia-wide community of commercial fire protection contractors, their people, suppliers, and industry stakeholders representing a wide and varied membership from the smallest sub-contractor through to large Australia-wide construction and service businesses. Our members work at the frontline of fire protection with an estimated 80 per cent of the fire protection work undertaken in Australia is completed by members of NFIA.

NFIA utilises the resources of other Australian and International industry organisations and associations.

NFIA is committed to the delivery of quality fire protection practitioners across all aspects of fire protection safety. To this end, NFIA has sponsored and supported the growth of the world leading fire industry Registered Training Organisation, Fire Industry Training, which now delivers fire industry required training for all of Australia at its campuses in Brisbane, Melbourne, and Sydney.

NFIA believes that an appropriate regulatory framework should be one that protects the safety of the community and property, provides adequate consumer protection, recognises, and accommodates industry practice and standards, requires registration of practitioners, and is linked to the national training package framework.

Submission

The terms of reference for the committee's inquiry are to:

- a) the efficacy and adequacy of the government's regulation of building standards and specifically,
 - (i) the cost, effectiveness and safety concerns arising from the use of flammable cladding,
 - (ii) private certification of and engineering reports for construction projects, and
- b) any other related matter.

Whilst comment is provided in our submission on both flammable cladding and private certification it is the belief of the NFIA that these issues, whilst significant and worthy of inquiry, are symptomatic rather than causal and so we also submit information on the broader issues of concern.

Flammable Cladding

NFIA's imperative is to save lives and minimise fire damage. NFIA is committed to the delivery of competent, skilled persons for the fire protection industry. Over the past 20 years there have been at least 20 high rise fires internationally that spread through exterior wall assemblies (cladding, insulation, wall) containing combustible components. These have happened in cities as disparate as Shanghai, Dubai, Melbourne, and London to name but a few of the more high-profile examples.

The 2014 fire at the Lacrosse Building in Melbourne, highlighted the fire safety risks arising from the non-compliant use of cladding products – specifically aluminium composite panels – as external wall cladding on high rise residential buildings in Australia.

While the fire started on an eighth-floor balcony it took just 11 minutes to travel up 13 floors to the building's roof. The most high-profile tragedy occurred at Grenfell Tower, London which claimed over 70 lives. This returned the focus to the cladding issue as the growth of the fire is believed to have been accelerated by the building's exterior cladding.

External cladding products are typically fixed to the exterior of buildings to be decorative, provide weatherproofing or contribute to energy efficiency outcomes. The cladding is not usually load-bearing, and most products are considered light weight and relatively easy to install. A frequently used external cladding product in Australia and internationally is the Aluminium Composite Panel (ACP). Aluminium composite panels are sandwich-type panels consisting of two aluminium faces and a core material, typically being polyethylene, mineral-based material, or a combination of both. Panel thicknesses typically range between 3 and 5 mm. Many of these products are marketed as architectural building panels. There are several different products on the market that appear outwardly similar, yet there is a difference in the core materials used. The core material affects the fire performance of the panel. Materials with a higher proportion mineral core are generally considered to have better fire performance than those with a polyethylene core or low proportion mineral core.

Under severe fire conditions timber chars, concrete spalls, steel melts, glass breaks and plastics burn. But polyethylene, which is a plastic, behaves differently to most structural building materials. Polyethylene becomes fuel. It does not spall, break, fall or

melt: it inflames and spreads fire. Tall building façades clad with panels where a thin veneer of aluminium is mounted on a polyethylene core, can potentially transfer a fire, very quickly from one floor to the next, with terrible consequences. Products with a high proportion mineral core may have increased fire performance, but would still be considered combustible, unless they have been tested and proven to be non-combustible.

The NSW Cladding Taskforce has audited 185,000 building records and to date 4127 buildings have been inspected. 3755 buildings have been cleared and 372 are currently under review. An estimated 225 buildings have been identified as requiring removal of external flammable cladding through Project Remediate. However, this is a voluntary program offering interest free loans over 10 years to eligible building owners. Project Remediate is still appointing contractors and no actual remedial work is due to commence until early 2022.

Recommendation

Any response from the inquiry not look at flammable cladding in isolation and instead considers the importance of best practice Fire Protection Systems. These systems have helped mean that a life has never been lost in an Australian building with a Wet Fire Protection (e.g., sprinkler) System. These systems are our community's first line of response to a fire in the built environment.

The Fire Protection System of a building is more than the sum of its parts. External cladding issue puts greater requirements on the rest of the Fire Protection System. However, even if all flammable external cladding was removed from buildings in NSW, there would still be flammable materials in the building. Whilst we would obviously advocate for the removal of external cladding and minimal use of flammable materials in any building the reality is that fire will always be a risk and the greatest mitigation is appropriate Fire Protection Systems that have been designed, installed, certified and maintained by people with the appropriate training and qualifications.

Private Certification

The Building and Development Certifiers Act 2018 commenced on 1 July 2020 and has seen private certifiers move from a 'accredited' to 'registered' and has seen a change in the approach to conflict of interests with the introduction of the 'reasonable person test'.

It has now been a year since this regulation was introduced and it is difficult to comment on how successful it has been to date. Developers are motivated to complete buildings quickly and to settle the sale of the units as expediently as possible; certifiers on the other hand are dependent on developers for their livelihood. Whilst fundamentally NFIA understands the need for private certification and understands that the system works better than prior to the privatisation of certification by the Labor party in the 1990's, there is still room for improvement in the system. Again, the Building and Development Certifiers Act provides the remit for proactive investigation, audit, and action by Fair Trading however at this point the full affects of that have not been felt by the market.

The Building and Development Certifiers Act is intended to work in tandem with the Environmental Planning and Assessment Act with regards to Accredited Practitioners – Fire

Safety. This has seen the introduction of a privately run accreditation scheme that has not been well received by practitioners on the ground within the industry. This scheme also sees transitional registration in place for the short term and with future requirements of only a selection of ASQ Certificate Level II Qualification units for the signing of the Annual Fire Safety Statement for some of the State and Country's most significant and important buildings. In real terms this means that someone could be signing off buildings such as those developed at Barangaroo with only a handful of days of formal training to achieve the requisite qualifications.

Certification was recognised as a critical function of the Building Confidence Report where Recommendation 19 of that report stated:

"that each jurisdiction requires registered fire safety practitioners to design, install and certify the fire safety systems necessary in commercial buildings"

Indeed, the Australian Building Codes Board released the *Inspection and certification of fire safety systems Installation Discussion paper on BCR recommendation 19* this month so this focus on improving certification is being discussed at a Commonwealth level where the BCR Implementation Team, established by Building Ministers, is seeking to developing a nationally consistent model.

Fire Protection has a specialist Certificate IV level qualification that is current required to undertake certificate work in Queensland and is also being considered by other States.

Commissioning

Certification under the current legislation applies to the endorsing of plans, fire safety performance solutions and the assessment of ongoing performance of essential fire safety measures through the Annual Fire Safety Statement. However, NFIA considers that there is a gap between the design of a Fire Safety System and its first annual test as currently covered with the installation of the design. If a commissioning certificate was issued instead of an installer statement on new installations or major retrofits this would be another step removed from the certifier providing them greater confidence. It would also reduce red tape and the duplication of work with the certifier having to get a separate accredited practitioner to sign off. It would also create greater accountability for the installer/commissioner. It is our view that this commissioning certificate should be signed by a responsible person with the specialist Fire Protection Certificate IV qualification in Certification.

Recommendations

Any response from the inquiry consider the introduction of a Certifier classification in Fire Protection requiring a recognised Certificate IV qualification as a move away from a handful of days physical training to sign off our most important buildings.

Any response from the inquiry consider the introduction of a commissioning certificate on new installations or major retrofits of Fire Protection Systems as a move away from a lack of regulation in this area.

Fire Protection Regulatory Framework

NFIA firmly believes a consumer protection based licencing framework requires clear and succinct specialist registration and licencing classes to reduce the risk of regulators failing to capture non-qualified persons engaging in Fire Protection work.

A building's Fire Protection system is our community's first response to the life threatening event of a fire. It is these systems that assist our communities exiting a building safely and fire fighters accessing the source of the fire. Although of life critical importance, many aspects of this industry remain unregulated here in New South Wales, despite other jurisdictions recognising the importance of an appropriate professional and business licensing framework.

The fire protection industry as a sector comprised of several individual streams and the associated design, install, maintain, inspect, testing and certification work. These streams include:

- Water based active
- Special hazards
- Electrical
- Portables
- Passive

The Fire Protection framework should follow the recommendations of the 'Building Confidence Report', which was adopted by the Australian Building Minister's Forum. The most advanced State when it comes to Fire Protection Regulation is Queensland who earlier this year introduced changes to their Fire Protection Licensing. Their system recognises the 5 separate streams of Fire Protection Work (Water based, Special Hazard, Electrical, Portable and Passive) as well the respective roles for each stream (Design, Install and Maintain, Inspect and Test, and Certification) as well as introducing a Contractors Licence with specific units of competency requirements in areas such as estimation, financial management and a basic legal understanding designed to minimise the number of companies in the industry that can run themselves to the ground and then phoenix leaving others to pay the price.

It is the view of the NFIA that each of these registration classes should be based on nationally recognised (ASQA) qualifications of an appropriate level for their complexity and responsibility, for example a Diploma for Design as recognised in the Design & Building Practitioners Act and a Certificate IV for Certification as previously mentioned.

Fire Protection Systems do not work in isolation. Whilst there may be different streams where they interact with each other, they impact on each other. While flammable cladding remains on building in New South Wales it puts greater pressure on the other aspects of that buildings Fire Protection System to protect our community. Wherever the system is weakest is where the fire will penetrate and that is why it is so important that the Fire Protection System be considered in its totality rather than as a subset of independent skills. It is why it is so important that New South Wales steps forward with a more wholistic regulatory framework for Fire Protection and why that framework must be based on ASQA qualifications.



Recommendation

Any response from the enquiry consider the introduction of a best practice Fire Protection Regulatory Framework including registration for Design, Install and Maintain, Inspect and Test, and Certification) as well as introducing a specific Contractors Licence, all underpinned by ASQA qualifications.

Thank you for your consideration.



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