

21 December 2022

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Mr Peter Koutsoukis Chair Safer Buildings Taskforce Department of Energy and Public Works

Email: <u>SBTaskforce@epw.qld.gov.au</u>

Dear Peter,

## Rectification of combustible cladding – Stakeholder briefing paper

Master Builders thanks the Safer Buildings Taskforce for engaging with stakeholders in relation to rectifying combustible cladding in Queensland.

We understand that next steps for the Taskforce are to receive any submissions by 21 December 2022 followed by advice to the Minister regarding the following matters:

- Should the government take action to ensure that privately owned buildings, identified with a cladding fire risk (CFR) rectify that risk and make them safe?
- Should support and guidance be provided to owners and building industry practitioners on how to rectify in accordance with best practice and, if so, what form should that take?

Master Builders provides the attached submission in response to the above.

While the attached submission is limited to the issues raised in the stakeholder briefing paper, we consider that it is also important for governments around Australia to address the underlying causes of the combustible cladding problem experienced in Australian buildings and give consideration to the National Building Products Assurance Framework produced by the Australian Building Codes Board as part of the Building Confidence Review.

Master Builders welcomes further discussions on this important topic.

Regards,

Paul Bidwell CEO

Copy to: Ainslie Barron, Assistant Director General, Building Policy Department of Energy and Public Works <u>Ainslie.barron@epw.qld.gov.au</u>

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## **Rectification of combustible cladding**

This submission is provided in response to the Safer Buildings Taskforce request for submissions on the *Rectification of combustible cladding: Stakeholder Briefing Paper*.

The stakeholder briefing paper and subsequent workshop identified issues for consideration including the nature and funding of rectification work.

The Taskforce will be providing advice to the Minister regarding the following matters:

- Should the government take action to ensure that privately owned buildings, identified with a cladding fire risk (CFR) rectify that risk and make them safe?
- Should support and guidance be provided to owners and building industry practitioners on how to rectify in accordance with best practice and, if so, what form should that take?

This submission seeks to provide industry insight to inform the answers to these questions.

## Should government take action to ensure privately owned buildings with CFR rectify that risk and make them safe?

Master Builders does not currently hold a position as to whether Queensland should introduce a mandatory requirement on building owners to rectify cladding. We note that no other jurisdiction has mandated building owners rectify combustible cladding.

Master Builders submits, however, that before settling on a position on whether to mandate rectification of building with combustible cladding that there are a number of elements that government must also consider. Specifically:

 Timing must be a key consideration given there are in the order of 1,000 buildings likely to be impacted. Driving a sharp increase in demand for the trades and materials to undertake this work will both drive up the price for the building owners and other construction projects being undertaken and lead to shortages. After two years of supply chain shocks it is imperative government policy consider impacts on supply and pricing of labour and materials.



- 2. Government must ensure the viability of obtaining certification for cladding rectification works. Few certifiers have the necessary professional indemnity insurance coverage for this type of work.
- 3. Similarly, the impact on the remaining insurers who provide professional indemnity insurance cover to industry participants must also be considered. The building supply chain cannot withstand a further exodus of insurers from the market should the risk of providing cover be assessed as being too great.
- 4. With respect to enforcement of any mandate, Master Builders notes that responsibility has been vested in the Queensland Building and Construction Commission (QBCC) to date for the implementation of the regulated checklist process. It is not considered the best use of resources for the building industry regulator to be given any further responsibilities for mandated rectification.

The QBCC Governance Review 2022 (Varghese Report) examined the roles and responsibilities of the QBCC. The Report followed many years of the expansion of functions of the QBCC which has resulted in a failed regulator, unable to carry out any of its functions well, and unable to be financially sustainable. Going forward, any further enforcement responsibilities allocated to the QBCC should not compromise its key responsibilities to prevent or mitigate:

- defective or incomplete building work; and
- failure to pay money due and owing to building industry participants.

The activities of the QBCC should be limited to only those which help secure these specific ends.

- 5. Should government decide to establish a fund or loan scheme for building owners to rectify cladding, Master Builders submits it should not be provided by way of a levy on building projects. Any levy would be a further cost on new construction, further challenging the viability of new construction. In particular, there should not be any levy on build contracts for residential projects as this will drive up the cost of Queensland homes at a time when housing affordability is in crisis.
- 6. Building industry participants responsible for the specification and installation of cladding that was compliant with the National Construction Code (NCC) at the time of installation (whether deemed-to-satisfy or performance solution) are not liable (and should not be pursued) for any costs associated with rectification of that cladding. This applies even if the cladding is found to not comply with subsequent versions of the NCC. Industry was building to the rules at the time.



In deciding the next steps, government must be cognisant of how the problem evolved. The *Discussion Paper: Draft National Building Products Assurance Framework*<sup>1</sup> (Discussion Paper) documented this and found that it was a problem whose origins can be found across the whole building system – product testing, project documentation, regulation and compliance. We had a system that was proven to be slow to react, with many fires and many lives lost before the rules were changed and decisive action taken.

The Discussion Paper highlighted that governments in Australia first considered the issue in 2010 (seven years before the Grenfell Tower fire) when there was a building fire in Shanghai, China that resulted in 58 deaths<sup>2</sup>. This fire led to the ACT Fire Brigade and the Australian Building Codes Board starting to investigate whether aluminium composite panel (ACP) with a PE core complied with the NCC but no conclusion was reached.

It was not until NCC 2016 that changes began to be made in the building rules. NCC 2016 included amendments to Specification C1.10 Clause 4, which referenced AS 5637.1 making it a requirement that the correct test be selected. Prior to this, some manufacturers and laboratories had been using this omission to select a less rigorous test (AS 1530 Part 1).

The Grenfell fire spurred action and in 2018, the NCC 2016 was amended (Amendment 1) in relation to the use of combustible materials on external walls. These changes included changing the word "laminate" to "lamina" to require that each layer of a composite material must be non-combustible and introducing a new testing method requiring the whole wall testing (AS 5113) addressing inappropriate testing protocols.

In 2019, a number of CodeMark certificates related to cladding were withdrawn with no clarity provided to those who had relied on those certificates in their projects.

Most recently has been state and territory action to ban different types of cladding with PE cores.

It is important to acknowledge this history in considering solutions and how to avoid future scenarios.

## • Should support and guidance be provided to owners and building industry practitioners on how to rectify in accordance with best practice and, if so, what form should that take?

The briefing paper identifies the motivations of the 15 per cent of building owners who have already rectified their cladding. Support and guidance should be provided that recognises

<sup>&</sup>lt;sup>1</sup> <u>Discussion paper: Draft National Building Product Assurance Framework - A Response to the Building</u> <u>Confidence Report - Australian Building Codes Board - Citizen Space (abcb.gov.au)</u>

<sup>&</sup>lt;sup>2</sup> Bo Yuan Chen, T. et al, *Fire Risk Assessment of Combustible Exterior Cladding Using a Collective Numerical Database*, 2019, p. 3



these motivators in supporting the remaining owners in taking action. The support should be targeted in recognition of the unique set of circumstances each of these owners will be facing.

Master Builders supports the establishment of a Cladding Support Unit to facilitate access to experienced building practitioners to provide assistance with the interpretation of requirements and guidance on cladding rectification solutions directed particularly at higher risk buildings.

The publication of a Rectification Guide will also be an important in helping to share the lessons learned and guide building owners through the process.

Master Builders Queensland 20 December 2022