

## SHAME, SHAME, SHAME, SHAME.....

*Non-Conforming Building Products; the system is failing us all dismally*

### Introduction

There would not be too many people who have not heard about the tragic events of the Grenfell fire which took the lives of so many innocent people in the UK. We had our own fires here, both in Melbourne, one at Lacrosse Towers and one at Neo 200, both in Melbourne by chance.

I think these fires and the publicity that pursued regarding so called combustible cladding made our Governments enact some legislation regarding defective building products; encompassing both Non-Conforming Building Products and Non-Complying Products; often referred to as NCBP's and NCP's.

I think the dramatic footage of Aluminium Composite Panels filled with combustible PE core, and the spate of fire that continue to make the news globally, has made people aware that something is amiss.

This article is not about cladding alone, sadly there are many other products being sold that fit into this category.

*I am going to discuss some of my personal experiences with the system here in Australia which in the most part is failing the consumer.*

## What is an NCBP & NCP?

The following definitions come from the ABCB web page

<https://www.abcb.gov.au/NCBP/Non-conforming-building-products/What-are-non-conforming-building-products>

Non-conforming building products (NCBPs) and materials are those that:

- claim to be something they are not;
- do not meet required standards for their intended use; or
- are marketed or supplied with the intent to deceive those who use them.

Non-compliant products (NCPs) and materials which are products or materials used in situations where they do not comply with the requirements of the National Construction Code, NCC.

Are you confused with the difference?

I am a little and I can only infer that NCBP's relate to **suppliers** of building products providing materials which make false claims and try to deceive those buying and using the building products.

In term of NCP's, I am not sure but I think these are different because in this case the **installer** might be using the products in a manner which does not comply with the NCC?

## What is an example of NCBPs and NCPs?

### NCBPs

A building product that is labelled or described as being non-combustible but which is combustible is a non-conforming building product.

### NCPs

A building product that is combustible, and described as such, but is used in a situation where a non-combustible product is required under the NCC, is not fit for purpose and is a non-complying product.

## Legislations, Regulations and effective implementation

Well done to Governments in each State & Territory for enacting new Legislation or improving old Legislation to provide some mechanism to deal with NCBP's.

Sadly, each State & Territory has its own Legislation and associated Regulations to deal with NCBP's

***The most important thing to get some necessary change in behaviour is to implement some systems and adequate resources to deal NCBP's.***

In my humble opinion, the system is BROKEN. There are inadequate resources and very little or in some cases no appetite to roll up the sleeves and do something about the NCBP's, well at least for anything but cladding.

There is some serious media pressure relating to cladding and there is all sorts of activity going on in regards to removing the cladding NCBP's; or are they NCP's? Who knows????

So, what about cladding?

There were 2 or 3 major suppliers of Aluminium Composite Panels, ACP's, prior to awareness being promoted that at least ACP's with purely PE core (I'll call them ACP-FE) are very dangerous when used as external cladding as part of high rise building facades.

So, were these AC-FE's an NCBP? Were they an NCP? Whose fault was it that they were sold and used?

Should the building owners replace it and have to pay for the privilege?

Wouldn't you think the Government would deal with this; at least to help sort out the root cause?

Well, I think they have just made it worse by not addressing the root cause and letting things stay in limbo so to speak and the courts having to decide, as strata bodies sue builders, who sue consultants and we await for precedents.

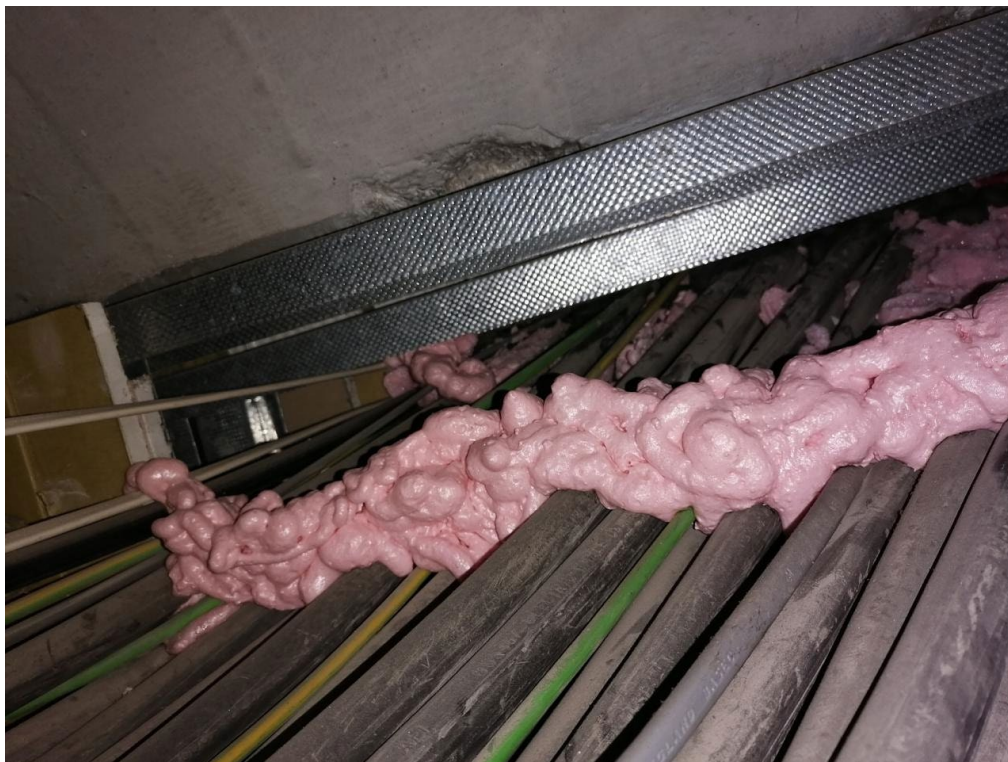
Whilst in the meantime, the same supplier who supplied the ACP-FE's are now able to sell the replacement products and to date the NCBP supply issue has not been adequately dealt with.

This sadly is being left to class action having to be taken by all those poor building owners who have to replace the NCBP / ACP-FE cladding on the building they happen to live in.

## It's more than just cladding

There are many on Non-Conforming Building Products and sadly many of these also pose a threat to life safety just like combustible cladding. Let's take a look at one topical example.

Let's discuss aerosol applied pink and yellow foams being promoted as fire rated foams; that is to stop fire from spreading from one part of a building to another.



For those who do not know, these have little or no fire containment attributes, but are easy to apply and are widely sold by dozens of manufacturers and suppliers as so called Fire Rated or FR Foams.

# ARTICLE: NCBP DEBACLE

By John Rakic

Here is just one example of a product being supplied locally here into Australia



Are these products either a NCBP or NCP; or neither?

# ARTICLE: NCBP DEBACLE

By John Rakic

Let's go back to the definitions?

## NCBP

Non-conforming building products (NCBPs) and materials are those that:

- claim to be something they are not;
- do not meet required standards for their intended use; or
- are marketed or supplied with the intent to deceive those who use them.

**"claim to be something they are not"**

Are they fire rated foams?

**"do not meet required standards for their intended use"**

Approved to AS1530 Part 4 – for what applications?

Up to 4 hours fire rated – when and how?

**"are marketed or supplied with the intent to deceive those who use them"**

What do you think?

If I told you the only application where a 4 hour fire rating could be achieved was in a 200mm concrete slab, fully filled with foam to only a maximum of 10mm width, would you answer by YES or NO?

## NCP

Non-compliant products (NCPs) and materials which are products or materials used in situations where they do not comply with the requirements of the National Construction Code, NCC.

I would say that in nearly every application of so called FR aerosol foam, sold and installed, that they are all NCP's

## *So, who is at fault?*

Here is where the blame game merry-go-round begins.....

The manufacturer and supplier say the installer should have read the installation instructions and test reports; that is if they have any?

The installer says, the manufacturer told me I could use it, or perhaps that everyone is using them?

The Builder says the certifier should have picked it up?

The fire inspection company want to rip it out and put something compliant in

The building owner says Why do I have to pay for it?

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## So, what do the NCBP and NCP Government bodies say?

For the record, I have made formal complaint to various Government bodies regarding some products I deem to be blatant NCBP's and NCP's

Here is what they say or do?

- We will look into it.....2 or 3 years pass by and nothing
- Has anyone died? NO – OK let us know if someone does?
- Is there is an approval to AS1530 Part 4- Yes? – OK then the problem is with the fire test laboratory – take it up with them? We wrote to the fire test laboratory and they say we can't talk to you about it to you
- In one instance we independently fire tested the product which failed dismally and presented the test results to Government – Government departments all except QBCC in QLD said they had no resources to deal with the complaint – QLD independently fire tested the product themselves and it failed dismally too; they recalled the product and the manufacturer appealed the finding and it is buried in the Administrative Appeals process; this who process is now coming on 2 years since inception

## What can I conclude personally?

The system is TOTALLY broken sadly.

The Government has not got a system to deal with NCBP's and NCP's in a timely and professional manner

Once one or more manufacturers and supplier are penalised and the results published, there may be more concerns over the consequences when supplying an NCBP or installing an NCP.

Some would ask, if you can't beat them, join them, but I refuse to sell a aerosol applied type and so called FR foam and I continue to spend Trafalgar's money on system fire testing whilst other have one or no real fire tests and sell more product than we do in some instances

It is nice to sleep at night

Will justice prevail; probably? I might be dead before that, but my children might have a better regulatory system to allow them to sell Trafalgar products and systems in.....

Shame, shame, shame, shame.....