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## **MEDIA RELEASE**

### **Non-compliant Building Materials Are a Risky Business**

Professional Indemnity insurance (PII) is a crucial aspect of every business – so ensuring you're adequately protected is essential. Following the increased substitution of specified products with non-compliant or non-conforming alternatives, a sharp rise in claims and commensurate losses, the PII industry has been forced to rethink how it offers cover to building professionals.

The Insurance Council of Australia has previously issued numerous alerts on this issue. Insulation Australasia has now joined them, warning the Australian building and construction industry that work involving non-conforming materials will no longer be covered by most PII policies. A decision to specify, install or work with a material later determined to be non-conforming could, in the absence of PII, cause serious financial harm to your business if you are found to be liable for its removal and replacement.

'Substitution of non-compliant building materials may sometimes be done near the final stages of construction, or without the full understanding of all parties involved, leaving an accurate account of the building's composition unaccounted for,' says Karl Sullivan, Head of Risk & Operations, Insurance Council of Australia. 'This prevents insurers from accurately assessing both a building's risk profile, as well as the liability risks that a certifier or other building professional may face.'

There have been a growing number of PII claims in recent years, many for more than \$50 million. A recent analysis of the PII market (for certifiers) shows that for every \$1 of premium collected, more than \$3.40 in claims have been paid.

Karl is concerned that the solution to this challenge requires a consistent approach from all state and territory governments, and this simply is not occurring. Each jurisdiction has approached the non-conforming materials problem in its own way, with some banning individual products and others relaxing legislation requiring PII for building professionals. A fundamental tectonic shift is required in the building design, approval, specification, construction, documentation and certification process – with a singular focus on safety and building quality at all stages. There are many stakeholders involved in these processes, often working across differing legislative requirements, the challenges are not insignificant. 'Unfortunately, the Australian building and construction industry is becoming increasingly risky for insurers – hence the recent introduction of exclusions for some liabilities and growing difficulty for owners with major building defects in finding insurance cover.'

Karl seeks to clarify several issues surrounding PII claims. 'As PII policies are generally claims-based, policy holders must be insured at the time the claim is made – *not*, as some believe, simply having insurance in place when the service or function was originally performed. It is important to notify your PII insurer if, at any time in the past, you have worked with non-conforming building products, before your PII cover is renewed with exclusions that may limit your ability to claim.

'Several states have enjoyed a recent construction boom, with an increased volume of non-compliant building materials being installed in Australian homes and commercial buildings,' advises Karl. 'This is obviously a major concern for our industry.'

Scott Gibson, Chair of Insulation Australasia, concurs. 'Although Australian Standards and the National Construction Code exist, the "cost down" approach to construction and the proliferation of the Design and Construct model has created an environment where compliance oversight and site supervision is low, leading to the substitution of unspecified products over specified ones – it's endemic,' says Scott. 'Due care must be taken to ensure all building materials and engineered solutions are fully compliant. Importantly, those substituting products for non-compliant alternative should be held accountable.

'Site Governance has been deteriorating for some time now with a lack of impartial site supervision coupled with the disempowerment of architects, engineers and certifiers across much of the construction landscape. The pursuit of cost down has overreached, contributing to a high-risk environment for building practitioners and insurers,' Scott observes.

Karl urges the wider industry to be prudent. 'If you're reviewing PI coverage, you *must* be aware of any reductions, limitations or exclusions in your cover regarding non-conforming and non-compliant building materials which may very well be imposed on your renewal. Always use only fully compliant building products; we also strongly recommend requesting third-party certification to demonstrate compliance. Don't take the risk!'



Scott Gibson | IA Chairman

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If you have any queries, please contact Insulation Australasia via [info@insulationaustralasia.org](mailto:info@insulationaustralasia.org)

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