Regulatory Impact Statement: Building Product Information Requirements

Coversheet

Purpose of Document	
Decision sought:	Policy approval to pursue regulations under the *Building Act 2004* to implement building product information requirements. This will give effect to amendments made by the *Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021*.
Advising agencies:	Ministry for Business, Innovation and Employment
Proposing Ministers:	Minister for Building and Construction
Date finalised:	12 October 2021

Problem Definition

Building owners, homeowners and consumers want to have confidence that the building products they use, and buildings they live in, are safe and fit for purpose.

A lack of consistent and readily available building product information, including how products contribute to New Zealand Building Code (Building Code) compliance, can lead to poor product selection, or incorrect installation, use or maintenance, which can increase the risk of building or product failure. These issues increase the cost of building through consenting delays and rework in order to achieve Building Code compliance.

To help address these issues, the *Building Act 2004* (Building Act) was recently amended by the *Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021* (Building Amendment Act) to introduce regulation-making powers to require information for building products.

Regulations are needed to implement the new building products information requirements, which will address the problems identified above.

Executive Summary

Preferred option

This regulatory impact statement identifies the preferred option for building product information requirements as being to introduce regulations that:

- Set out responsibilities on suppliers for the manufacture or import of a building product and the distribution and/or retail only of a building product
- Establish a proportionate, tiered approach to mandatory minimum building product information requirements under three different classes of products

- Require claims about whether a building product meets or contributes to all relevant Building Code clauses for the stated scope and limitations of use
- Require all claims about Building Code compliance to illustrate how this is achieved
- Require that all information requirements be met prior to supply of the product, and that information is kept up to date with the latest version of a product
- Require all information required to be disclosed about building products to be made freely available online, and ensure that the product is clearly linked with its corresponding online information
- Provide an 18 month transition period after building product information regulations are made before they come into force.

Introduction to current building reforms

The Government's Building System Legislative Reform Programme (the reform programme), which commenced in 2019, aims to achieve three linked, mutually reinforcing outcomes:

- a high performing building sector that builds it right the first time
- construction of safe and durable buildings using quality products and methods
- an efficient regulatory system that people have confidence in.

In September 2019, Cabinet agreed to a number of proposals intended to improve building product information as part of the first phase of the reform programme. The Building Act was recently amended to provide for these changes.

Regulation-making powers for building product information

As well as providing for a new voluntary modular component manufacturer scheme and a strengthened product certification scheme (CodeMark), the Building Amendment Act introduced regulation-making powers for building product information requirements.

The Building Amendment Act also introduced new powers for the regulator (Ministry of Business, Innovation and Employment (MBIE)) to undertake investigations. Previously, MBIE relied on the goodwill of businesses to provide any information requested. Under new legislative powers, MBIE can require information or documents in relation to enforcement action or the exercising of the chief executive's powers (section 207A of the Building Act). This change is vital to ensure the effectiveness of any building product information requirement regulations that are made.

The responsibility of builders[1] was also clarified, with amendments to state that builders are responsible for ensuring all building products and building methods used in building work are used in a manner that complies with the Building Code, and any building consent and associated plans and specifications (sections 14E(2) and 14E(2A) of the Building Act).

[1] A builder is defined as any person who carries out building work, and can include carpenters, plumbers, and other tradespersons.

In order to give full effect to these legislative changes and achieve the intended benefits, MBIE proposes that regulations are made to establish minimum building product information requirements[2]. The regulations will set out **who** must disclose the information to whom, **what** information must be disclosed in relation to a building product and how it must be verified, and **how** the information must be disclosed. A transition period to enable the sector to implement the requirements is also proposed.

This Regulatory Impact Statement (RIS) provides two options for the regulations, which are analysed alongside the status quo.

Why better building product information is needed

Poor building product information can lead to delays in consenting, increased costs, and poor building outcomes if the products chosen are not fit for purpose. The introduction of building product information requirements will ensure there is a minimum level of product information available for building products that contribute to building performance.

This information will be used by designers, engineers, tradespeople, building consent authorities (BCAs) and consumers, and will provide confidence that the products used are fit for purpose and contribute to ensuring safe and durable buildings. The information is also vital to building consent applications. A lack of sufficient detail about a product's expected performance is a common reason for BCAs to request further information. This can lead to delays in consenting and costs to BCAs, builders and building owners.

Recent media coverage has also highlighted the need for building owners, homeowners and consumers to have confidence that the building products they use are safe and fit for purpose. For instance, concerns have been raised about tapware leaching lead into sanitary water.[3]

Better information on building products will help designers and builders to choose the right products and install them in the way intended. This will, in turn, reduce the risk of product-related building defects or rework requirements throughout the building process. The requirements will also support more efficient consenting by reducing the number of requests for further information BCAs need to make.

When combined with other recent legislative changes, the new requirements for a minimum level of building product information will:

- clarify the roles and responsibilities for the supply and use of building products and methods
- make it easier to hold people to account for false or misleading representations in relation to building products
- help provide greater confidence to participants in the building system about the performance and any limitations in the scope of use of building products
- make it easier to identify any warnings or bans in relation to building products.

[2] MBIE is separately proposing regulations for both the modular component manufacturer certification scheme and CodeMark, which are covered by separate Regulatory Impact Statements.

[3] https://www.stuff.co.nz/business/125723837/master-plumbers-concerned-about-lead-remnants-in-taps

Stakeholder consultation

From April to June 2021, MBIE conducted public consultation on the proposals for building product information regulations. There was broad support for the regulatory proposals, though stakeholders identified a number of opportunities to refine the detail of the regulations.

Key among these is clarifying the scope of products captured by the information requirements and the level of information required for certain products. Specifically, many stakeholders considered that the information requirements should:

- only capture information that is critical to building performance i.e. information that specifically relates to performance requirements in the Building Code
- be scalable for different classes of building products, such as custom-made building products, for example, window units or frames and trusses.

Options

Three options are considered to address the problems identified above.

- *Option One* – Do not make regulations (maintain the status quo).
- *Option Two* – Make regulations for building product information requirements, which would require a minimum set of information common to all building products to be made available by manufacturers, importers, distributors and retailers (MBIE public discussion document[4] proposals). This information would include how the building product is expected to contribute to compliance with the Building Code.
- *Option Three (**preferred**)* – Similar to *Option Two*, this option would make regulations for building product information requirements, however, some amendments in relation to the kinds of products captured by the information requirements and the format of information provided have been made in response to stakeholder feedback.

Benefits and costs

Benefits will accrue primarily to building product users – designers, builders and consumers – as well as BCAs, which use the information to inform building consents. These benefits include:

- avoided delays during the consent application process, for example, where an application is rejected or further information requested due to insufficient information about building products listed on the application
- avoided delays from failed inspections, such as where a BCA is not satisfied the correct product has been installed or considers that it has been incorrectly installed
- avoided additional inspection fees, where re-inspections are required to confirm identified issues have been corrected
- avoided cost of rework, such as where a non-conforming product is used, or where a product has not been properly installed or adequately maintained

[4] https://www.mbie.govt.nz/have-your-say/building-system-reform/

- avoided search time for designers, engineers and builders, as the information they need about building product performance is more readily available.

There will also be wider long-term benefits once the full package of building legislative reform is implemented. These include increased confidence in building products and the building sector, as less rework and fewer building defects signals better quality, safer and more durable buildings.

The proposed regulations will primarily impact suppliers in terms of costs. Manufacturers and importers will be required to prepare the required information and include it with their products, as well as make it available online. Distributors and retailers will be required to ensure the information is included with each product they supply (but will not be required to verify the information provided). There will also be some compliance and enforcement costs for MBIE, as the regulator.

To support this analysis, MBIE procured a comprehensive cost benefit analysis that shows the benefits are likely to outweigh the costs of the regulations. A benefit-to-cost ratio (BCR) of greater than 1:1 but less than 2:1 is expected.

Implementation

MBIE has developed an implementation plan that will support, inform and educate the industry on the new building product information requirements, and ensure the sector is ready when the regulations come into force. Stakeholder engagement has been key throughout the development of these proposals. This will continue to be an important factor in ensuring that the new requirements are implemented as effectively and efficiently as possible.

In terms of compliance and enforcement, MBIE, as the regulator for the building system, will shift its operational duties from a focus on promoting product assurance (noting that demonstrating product compliance with the Building Code is currently voluntary) to enforcing the building product information requirements. Having good quality information will also address some key gaps in the current regulatory system, and improve MBIE's ability to investigate specific building products both in relation to adherence to the new building product information requirements and where false or misleading representations on products may have been made.

Limitations and Constraints on Analysis

The scope of the options analysed is limited by the regulation-making powers in the Building Amendment Act. Those powers enable regulations to specify: what information must be disclosed in relation to the building product; who must disclose the information and to whom; and when the information must be disclosed. This means that some suggestions received by stakeholders during consultation, such as compulsory third-party testing, verification or certification of products are beyond the scope of what can be considered under the Act's new regulation-making powers. Other suggestions may be considered as part of MBIE's other building system functions, such as updating the Building Code.

The constraints on this analysis are limited by two factors:

- There is a lack of detailed information or data on the number of requests for information BCAs make about building products during the consenting process. As such, the cost benefit analysis includes some assumptions on the frequency and nature of requests for further information.
- The number of building products on the market can only be estimated. The cost benefit analysis for *Option Two* used an upper estimate of 600,000 building products, however, recent stakeholder engagement and further research suggest lower estimates may be more likely. Sensitivity analysis on the benefit to cost ratio has been undertaken to recalculate the ratio to reflect 300,000 and 100,000 products on the market. Under these scenarios, the BCR increases from 1.11 for 600,000 products to 1.6 for 100,000 products.

Responsible Manager(s) (completed by relevant manager)
Amy Moorhead Manager Building Policy Building System Performance Ministry of Business, Innovation and Employment 12 October 2021

Quality Assurance (completed by QA panel)	
Reviewing Agency:	MBIE Regulatory Impact Analysis Review Panel
Panel Assessment & Comment:	MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Impact Statement prepared by MBIE. The Panel considers that the information and analysis summarised in the Impact Summary meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Current situation

1. The building sector is vital to New Zealand's economic success and the wellbeing of New Zealanders. It employs 10 per cent of the national workforce (278,300 people)[5], and contributed 6.3 per cent of gross domestic product ($15.8 billion) in the year ending March 2021.[6]

2. The sector faces a number of challenges, including low productivity, inefficient practices and processes, skill and labour shortages, business vulnerability and poor health and safety.

3. A range of initiatives is underway to lift the efficiency and quality of building in New Zealand. As part of the reform programme, problems identified in relation to building products include that:

    - product information often lacks clear detail on the product's performance
    - the roles and responsibilities for building products and methods are not clear
    - manufacturers and suppliers have disincentives to provide product information
    - MBIE has to rely on voluntary cooperation when it investigates building products and methods.

4. This particular initiative aims to address the problem of key information gaps about how building products are expected to perform in relation to the performance requirements of the Building Code.

5. The Building Code is an integral component of New Zealand's building regulatory framework, which is provided by the *Building Act 2004*.[7]

Recent regulatory history

6. In September 2019, Cabinet agreed to a number of proposals intended to improve building product information as part of the first phase of the reform programme. MBIE consulted on these proposed changes from April to June 2019.[8]

7. The Building Amendment Act, which was passed into law on 7 June 2021, introduced new regulation-making powers for building product information, including:

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[5] https://www.mbie.govt.nz/dmsdocument/13358-construction-factsheet-january-2021

[6] https://www.stats.govt.nz/information-releases/gross-domestic-product-march-2021-quarter

[7] https://www.building.govt.nz/building-code-compliance/how-the-building-code-works/nz-regulatory-framework/

[8] The Regulatory Impact Statement for the 2019 consultation is available online: https://www.mbie.govt.nz/dmsdocument/7024-ris-building-law-reforms-phase-one-proactiverelease-pdf

- what information must be disclosed in relation to a building product
- who is responsible for disclosing the information, to whom, and when
- how and when information must be disclosed, verified, stored, and to what information management standards.

8. Regulations made under these provisions may:
    - prescribe requirements for a particular building product or a class or classes of building products
    - prescribe different requirements for different building products or classes of building products
    - prescribe different requirements for different manufacturers, suppliers, or other persons, or classes of such persons
    - otherwise make different provision for different cases on any differential basis.
9. Regulations are now needed to support and implement the initial set of minimum building product information requirements.

Building products and the need for information

10. MBIE has identified four key levers in the building regulatory system – people, products, processes and performance. Building products are central to the safety and durability of buildings, and should therefore be reliable, durable and fit for purpose.
11. The Building Amendment Act defines a building product as anything that could be used as a component of a building and sets out several considerations for determining whether a product could be expected to be used as a component of a building.[9]
12. Building products come in many shapes and sizes.
    - *Simple through to complex* – products can range from a nail to a prefabricated panel made up of multiple components. Modular component manufacturers can produce products that range from factory-made bathroom pods to complete houses produced by 3D concrete printers.
    - *Single or multiple uses* – a product's use determines how it contributes to the overall performance of a building. Identifying and specifying the right product – and using it correctly – requires technical knowledge of the building product and New Zealand's Building Code.
    - *Different sources* – products can be made in New Zealand or imported by wholesalers, retailers or building owners.

[9] This section of the Building Amendment Act also enables declarations to be made via Order in Council that a particular product is or is not a building product. However, these powers are not proposed to be utilised as part of the proposals considered in this RIS. These regulation-making provisions were included to ensure the definitions capture new and emerging technologies and can be adjusted to reflect the complexity of the range of products and methods and any changes over time.

13. One often cited estimate is that there are around 600,000 building products on the market. This estimate was used as the basis for the cost benefit analysis for *Option Two* (proposals for regulations that were consulted on). However, recent stakeholder engagement and further analysis suggest lower estimates, for example:

    - Carters estimated that the requirements could apply to around 100,000 building products.
    - The GS1 National Product Catalogue has 82,000 DIY and building products.[10]
    - PlaceMakers (which uses the GS1 catalogue) carries over 74,000 product lines.
    - Bunnings carries 45,000, with a further 20,000 available for special order.

14. Some product lines will be duplicates between these stores, and many will not be building products, for example, housewares, cleaning supplies, outdoor equipment and so on.

15. Sensitivity analysis has been undertaken to assess the impact on the BCR for *Option Two* if the number of building products is 100,000 or 300,000 (refer to Annex 1).

16. As building products are critical to building performance, there should be sufficient information about them to inform product selection, consenting, installation and maintenance. Under consumer protection and commercial law, building products must be fit for purpose. However, there are no currently mandatory requirements for manufacturers to provide building product information under either the *Fair Trading Act 1986* (Fair Trading Act) or the Building Act.

17. While building product manufacturers are not required to make any claims about the expected performance of their products in relation to the Building Code, if they elect to do so, then they must be able to prove those claims under the Fair Trading Act.

18. Many manufacturers do provide information about their building products, and some even have them certified under CodeMark.[11] However, the information provided is not always consistent or sufficiently detailed to inform sound decision-making.

19. This is contributing to inefficiencies in the building sector and the building regulatory system. MBIE has identified this as a key regulatory gap.

Users of building product information

20. The primary users of building product information are designers, builders, building owners, and BCAs.

    - **Designers'** plans and specifications must be sufficient to result in building work that complies with the Building Code. Accordingly, designers must also

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[10] Dodwell, D., Page, I. & Curtis, M (2017). *Electronic traceability of New Zealand construction products: Feasibility and opportunities.* BRANZ Study Report SR365. Judgeford, New Zealand: BRANZ Ltd.

[11] CodeMark is a voluntary product certification scheme that shows how a building product meets the requirements of the New Zealand Building Code. Products are assessed by accredited product certification bodies and issued with a product certificate. The product certificate details similar information to that being proposed in the building product information regulations, with the certification process providing an additional level of product assurance for product users and BCAs.

ensure that the products and methods they specify will comply with the Building Code.

- **Builders** are responsible for making sure their work complies with the Building Code, the building consent and the related plans and specifications. This includes making sure that all the products they use comply with the Building Code.
- **Building owners** are responsible for obtaining the necessary consents for the building work. Permission must also be obtained from the relevant BCA if they want to replace a building product in the signed-off consent with a different product (product substitution). Building owners are responsible for maintaining their buildings – some products may have specific maintenance requirements.

21. BCAs rely on product information to understand how specific products will affect the performance of the building when assessing the plans against Building Code requirements. When BCAs don't have the information they need to assess a building consent application, they will generally issue a request for further information. This can slow the consent down until the required information is provided, which may take several weeks in some cases.

Status quo

22. From April to June 2021, MBIE publicly consulted on a proposed set of minimum building product information requirements to be implemented under new regulation-making powers in the Building Amendment Act.[12]

23. These regulations will give effect to the parts of the Building Amendment Act that relate to building product information. The proposed regulations also form a key part of the broader reform programme, which aims to increase consumer confidence in the building system and make it safer and more predictable to build.

24. Without action to address the lack of consistency in available building product information, the problems identified above will continue to exist and the broader benefits of the reform programme may not be fully realised.

What is the policy problem or opportunity?

The quality of building product information is variable

25. Information about building products is important to inform decision-making when designing buildings (i.e. ensuring products being used are fit for purpose), ensure products are installed and maintained correctly, and support the assessment of consent applications.

26. Currently, not all products are provided with sufficient information to provide clarity and certainty about what the product is intended to be used for, how it should be used and any limitations on its use. Where this information is provided, it is not always clearly linked to relevant Building Code clauses.

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12 The discussion document can be accessed at: https://www.mbie.govt.nz/dmsdocument/14150-building-amendment-bill-proposals-for-regulations-discussion-document

27. Where information is insufficient or incomplete, sector participants may use judgement, familiarity or brand awareness to exercise discretion over whether a product is suitable.

28. Current building regulation settings in New Zealand do not regulate what building products can be produced or imported into New Zealand. Instead building products are regulated at the point of inclusion in a building consent application. At this point in the build process, the designer is responsible for submitting a building consent application that would result in a code compliant build.

29. The design and specifications of building products affects their anticipated performance, and therefore must be taken into account when designers and builders develop building plans and select the products needed to undertake the build.

30. Plans and specifications are assessed by BCAs to ensure the proposed building work will comply with the Building Code. When the BCA is satisfied, it will issue a building consent for the work to proceed. If a building is built to the consented plans and receives a code compliance certificate, it confirms the requirements of the Building Code have been met. Throughout this process, both the building plans and the specific products used to construct the building are assessed for compliance with relevant performance requirements in the Building Code.

31. The lack of consistent, comprehensive building product information about all products is leading to a number of problems, which are outlined below.

Product information often lacks clear detail on performance and other important details

32. New Zealand needs buildings that are safe and durable. Buildings must comply with the Building Code, and high quality product information is key. Designers and builders rely on good product information when making design and installation decisions. BCAs rely on product information to understand how it will affect the performance of the building when assessing it against Building Code requirements.

33. Currently, information on building products is inconsistent and often lacks technical detail needed to assess the expected performance of the building product. Liability for claims made about product performance discourages product suppliers from making such claims about their products.

34. Building product information also often lacks the detail that designers and builders need when specifying and using products. Stakeholders have told MBIE that product information is often marketing material that doesn't include information on code compliance and installation or maintenance requirements.

35. Because this information is necessary to support the appropriate use of building products, poor information can lead to situations where building products are not appropriate for their intended use or will not perform as needed.

Poor quality product information slows down the consent process

36. The consent process can be slowed down when BCAs don't have the information they need to assess a building consent application. Requests for additional information lead to delays in the consent being issued while the information is sought and submitted by the applicant and assessed by the BCA.

37. BCAs have advised that the use of imported building products has increased the frequency of these delays because manufacturers supply product technical statements and testing information as a way to justify compliance with the Building Code, but testing often can't be verified.

Manufacturers and suppliers have disincentives to provide product information

38. The Fair Trading Act and the Building Act make a manufacturer or supplier liable for the accuracy of any information that is provided about a product. However, there is presently no requirement to provide relevant information, so some suppliers simply elect not to do so.

Regulations are needed to implement recent amendments to the Building Act, improve building product information and support a more efficient building sector

39. There is an opportunity to improve the efficiency of designing, consenting and building processes by addressing common causes of defects and delays. The regulations will implement recent amendments to the Building Act and support the aims of the wider reform programme.

40. Better information on building products can support more informed decision-making, help designers and builders to choose the right products and install them in the way intended, and support faster consenting.

41. This will produce better outcomes for building owners and increase the broader community confidence in the building sector.

What objectives are sought in relation to the policy problem?

42. In order to address these problems, MBIE has identified the following objectives:

- Designers, builders and product manufacturers understand their roles and responsibilities, and are able to be held accountable for the building products they manufacture, select or use.
- Trusted, quality information about building products is available.
- Designers and builders choose products that meet the requirements of the Building Code.
- Products are installed correctly to reduce the risk of defects in building work.
- BCAs have the information they need to efficiently consent and inspect.

43. Any building product information requirements also need to be flexible enough to support innovation that increases productivity and ensure that buildings are safe and durable.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

44. MBIE has considered the assessment criteria in Table 1 below when developing proposals for regulations.

Table 1: Assessment criteria for proposals for building product information requirements

Criteria	Description of criteria	To achieve this, the regulations should ensure that:
Confidence	System participants (including product users, manufacturers and BCAs) have confidence in building products and how they will perform once installed.	Sufficient information is available for all building products that contribute to the Building Code's performance-based objectives. Product information meets the needs of all key users, including designers, builders, building owners and BCAs.
Certainty and clarity	The regulatory framework has clear processes and responsibilities for suppliers (including manufacturers, importers, distributors and retailers) and have reasonable compliance costs.	The building product information requirements and who is responsible for meeting regulatory obligations are clearly stated. The regulations also ensure this information is freely available and accessible.
Cost effective	The benefits of the proposal outweigh the risks and costs.	The benefits to building product users outweigh the costs to suppliers (noting these costs may be passed on to consumers, at least in part), and costs do not deter suppliers from manufacturing or importing products for the New Zealand market.
Proportionate	The proposals are proportionate in the way they treat regulated parties.	Robust building product information is available to assist building product users to comply with the Building Code and help ensure new buildings are safe and durable without placing overly onerous requirements on suppliers.
Flexible	There is enough flexibility to allow regulated parties to provide building product information in a way that works for their operation.	The information requirements are scalable according to classes of products, so that the relevant information is provided for building products in a way that minimises costs for individual businesses, and requirements for how the information must be provided are flexible for suppliers so long as consistent information is available to user.

What is the scope for identifying options?

45. The Building Amendment Act introduced regulation-making powers to establish mandatory building product information requirements. Specifically, Section 84 provides that regulations can be made under section 402 of the Building Act to prescribe information requirements for a building product that specify:

- what information must be disclosed, who must disclose the information and to whom, and when the information must be disclosed
- the information to be disclosed, which may include information about: the building product; manufacturer, supplier or other person connected with the supply of the product; the installation, use, maintenance, or disposal of the building product; and any warnings, bans, or other restrictions in force in relation to the building product

- the form and manner in which information must be disclosed; how information must be obtained or verified before it is disclosed; requirements for reviewing and updating information; requirements for retaining copies of, or keeping records about, information; any other requirements that are necessary or desirable to administer and enforce compliance with the information requirements.

46. Regulations made under this section of the Building Amendment Act may:

- prescribe requirements for a particular building product or a class or classes of building products
- prescribe different requirements for different building products or classes of building products
- prescribe different requirements for different manufacturers, suppliers, or other persons, or classes of such persons
- otherwise make different provision for different cases on any differential basis.

47. Any other options or initiatives outside of the scope of these regulation-making powers cannot be considered. For example, mandatory certification of building products was considered prior to the introduction of the Building Amendment Act into Parliament, but this option was not progressed. The combination of new building product information requirements and offences under the Building Amendment Act will ensure that product suppliers will make claims about the performance of their building products and that they are accountable for the accuracy of those claims.

48. In the case of tapware, for example, this would mean making claims about adherence to the relevant standards for sanitary plumbing products, which manufacturers would have to be able to prove if asked by MBIE. The changes in the Building Amendment Act are therefore expected to achieve a similar outcome to mandatory certification, without the costs and other impacts of a mandatory certification scheme.

49. It should also be noted that this regulatory proposal is just one initiative in a much broader programme to bring about building sector reform.

What options are being considered?

50. Three options are considered below:

- **Option One (status quo)** – do not make regulations, and the benefits sought by including regulatory powers in the Building Amendment Act are not realised.
- **Option Two** – a set of regulations for minimum information requirements on building products is made in line with those proposed in the MBIE public discussion document. Under this option, a basic minimum set of information would be required to be provided with all building products that have Building Code compliance requirements. Manufacturers and importers would be required to make claims about whether their building products meets or contributes to all relevant Building Code clauses for the stated scope and limitations of use, and illustrate how this is achieved. This option also proposes a series of supply chain data and information standard requirements to be met in making the information available to product users online,

including that the information must be available in a structured data format and each product must have a unique identifiable code.

- **Option Three** (**preferred**) – a set of regulations for minimum information requirements on building products is made that are modified from *Option Two* based on consultation feedback and further exploration of the issues and potential solutions. Under this option, differing information requirements would be prescribed for three classes of products. Manufacturers and importers would still be required to make claims about whether their building products meets or contributes to all relevant Building Code clauses for the stated scope and limitations of use, and illustrate how this is achieved. However, different classes of products will ensure that meeting these requirements is not overly onerous for certain types of manufacturers, while still ensuring the intent of the regulations is achieved. Product information must be freely and readily available online, but a unique identifiable code and structure data format will not be mandatory.

Option One – No regulation are made (status quo)

51. This option is equivalent to the status quo as discussed in Section 1. That is, no regulations are made to support the intent of the changes made by the Building Amendment Act.

52. Under the status quo, the quality of building product information will remain variable, though some of the intended benefits of the Building Amendment Act in relation to products will occur without regulations, for example:

    - Section 10 clarifies builders' responsibilities in relation to building products.
    - Section 55 introduces the power for the chief executive of MBIE to require any person to provide any information or document required to support investigations, for example, in relation to a potential product warning or ban.
    - A number of penalties have been revised up to better deter substandard work or poor behaviour, particularly for larger organisations.

53. However, manufacturers and suppliers will still not have any legally enforceable responsibilities in building law. There is currently no requirement to provide relevant and sufficient information in relation the intended use, and scope and limitations of such products, though any information provided must be accurate (as per the Fair Trading Act). As a result, some suppliers simply avoid providing information.

54. Designers and builders have a responsibility to assess and select the right products to achieve compliance with the Building Code, however, do not always have adequate information to make informed decisions. A number of participants rely on BCAs to undertake quality assurance at the consenting and inspection stages. Gaps in responsibilities can make it difficult to hold people accountable.

Outcomes of Option One

55. With the Building Amendment Act provisions described above, MBIE will be better placed to pursue investigations into building products. However, if the new regulation-making powers are not also used, low incentives on suppliers to meet demand for consistent, accurate information about building products will remain. There will continue to be inefficiencies and delays as building consent applications are placed

on hold until the information needed to process them is sourced. Delays in consenting have been estimated to cost close to $1,600 a week.[13]

56. The sector will continue to face potential costs and delays due to failed inspections and rework, and additional inspection costs to ensure the appropriate remediation has taken place. Other problems may not be identified until after completion, representing a cost impact to the builder to rectify the issue and a time and inconvenience cost to consumers. BRANZ surveys consistently report a large majority of new homeowners having to get tradespeople to come back to fix defects after they have moved in[14].

57. There is an expectation that regulations will be made 15 months after the passage of the Building Amendment Act (i.e. by 7 September 2022). It is also important that all aspects of the programme are pursued to maximise the sector wide benefits, such as increased confidence in the sector.

Option Two – Introduce a set of regulations for minimum building product information requirements in line with those proposed in the MBIE public discussion document

58. *Option Two* encompasses the proposals presented in MBIE's public discussion document, which was released for public consultation from April until June 2021. It has also been tested with a comprehensive cost benefit analysis.

59. It includes a series of proposed regulations to be made under the Building Act, which are outlined in Table 2 below. These requirements would apply to any building products that could reasonably be expected to contribute to Building Code compliance, for example, products that would be specified in a building consent application and checked by BCAs. They will not apply to, for example, handles on cupboards, carpets or other such components that are not critical to building performance in any reasonably expected application.

Table 2: Option Two regulatory proposals

Category	Proposals for regulations	How the proposals meet the objectives for scheme regulations
Supply chain responsibilities to meet building product information requirements	Set out responsibilities on suppliers for the manufacture or import of a building product and the distribution and/or retail only of a building product, namely that: • New Zealand based suppliers responsible for the manufacture or import of a building product must collate, produce and disclose the required product information in accordance with the information requirements. • New Zealand based suppliers responsible for the distribution and/or retail only of a building product must ensure that those products meet information requirements and that the information is available to all those they distribute or sell the product to before it is sold.	This will ensure that there are clear roles and responsibilities for those that manufacture and supply building products into the New Zealand market. Each participant in the supply chain will have a role that ensures the correct information is being supplied with each building product.

[13] Sapere. (2021). *Cost benefit analyses of proposed building system regulations*.

[14] For example, the 2018 survey reports that 80 per cent of respondents called back their builder to fix defects. Brunsden, N and Lockyer, O. (2019) *New Home Owners' Satisfaction Survey 2018.* BRANZ Study Report SR421.

Content of information to be provided about building products	Require a minimum set of information to be provided for relevant building products.	This will ensure consistent information is available for all relevant building products to better inform potential consumers ahead of their product choices.
	Require claims about whether a building product meets or contributes to all relevant Building Code clauses for the stated scope and limitations of use.	This will ensure trusted, quality information about building products is available, which will assist designers and builders to choose products that meet a building's performance requirements, and that BCAs have the information they need to efficiently consent and inspect new buildings.
	Require all claims about Building Code compliance to illustrate how this is achieved by making reference to: • compliance pathways listed in section 19 of the Building Act • any other international standards or technical drawing that details the standard to which a product was manufactured • the physical properties of the product, or how the product is expected to be used.	This will ensure trusted, quality information about building products is available, which will assist designers and builders to choose products that meet a building's performance requirements, and that BCAs have the information they need to efficiently consent and inspect new buildings.
Supply chain data and information standards	Require that all information requirements be met prior to supply of the product, and that information is kept up to date with the latest version of a product.	This will ensure the most up to date information about building products is available, further ensuring that information is trusted, quality information.
	Require information to be stored in a structured data format that is accessible across the supply chain and by MBIE.	This will ensure up to date information about building products is available to a range of users, including those who wish to incorporate the information into design/engineering software or to undertake research into building products. This would also support MBIE's regulatory role by making information available in a way that can be more easily analysed.
	Require all information required to be disclosed about building products to be made available online.	This will ensure information is readily available to those who need it, and will further support the quality of information as manufacturers and importers can make detailed information such as design drawings or installation schematics available online.
	Require all building products to have a unique identifiable code that links it to the information provided online.	This will ensure information is readily available to those who need it, as it will be easily identifiable online.
Transition period	Provide an 18 month transition period after building product information regulations are made before they come into force.	This will ensure manufacturers and importers have time to develop the required information for current products or products in development. Additional testing may be required and manufacturers require a lead in time to update packaging or information to be included with products. It will also ensure distributors and retailers will have time to establish systems to check the information is included with each product it supplies.

60. Only a basic set of information common to relevant building products is proposed as a starting point to ensure all product information provided meets the same minimum level. *Option Two* proposes that the set of information to be required for building products is:

- a description of the building product (such as what the product is called and used for, and the manufacturer if made overseas) and a product identifier (for example, a Global Trade Item Number, if available)
- the details of the manufacturer or importer, including a New Zealand Business Number or Global Location Number where applicable
- the expected Building Code performance of a building product or its contribution to Building Code requirements within its intended scope of use, along with any limitations on its use (including demonstrating this through appropriate means)
- any design and installation requirements
- any maintenance requirements of a building product
- any warranty or guarantee provided for the building product
- either a statement confirming the product is not subject to a warning or ban under the Building Act, or a description of any warning or ban that has been made in relation to the product.

61. Under this option, there would be no product information requirements on the following:

- products certified by CodeMark
- modular components manufactured under the modular component manufacturing scheme.

62. This is because appropriate levels of product assurance is provided either by the product certification scheme or the modular component manufacturing scheme.

63. More detailed information about *Option Two*, including detailed analysis on the benefits of the proposals, is available in Annex 2.

Benefits and Costs of Option Two

64. The primary beneficiaries of the proposals will be designers, builders, consumers and BCAs. These benefits are largely in the form of avoided delays, as well as avoided rework and inspection costs. There will also be savings to designers, builders and BCAs in the form of avoided search time. These benefits have been estimated to be $177.5 million (NPV[15]) over 11 years.[16]

65. The majority of costs will be incurred by suppliers (manufacturers, importers, distributors and retailers), with a smaller cost to MBIE as the regulator (for implementation, guidance, monitoring and enforcement). These costs have been

[15] Net present value.

[16] Sapere. (2021). *Cost benefit analyses of proposed building system regulations*.

estimated at $159.7 million (NPV) over 11 years.[17] It is likely that these costs, at least in part, will be passed on to consumers through higher prices.

66. Annex 1 provides further detail on the cost benefit analysis for *Option Two*.

Risks associated with Option Two

67. MBIE has identified two key risks associated with *Option Two*:

- A potential risk raised during consultation is that some suppliers may elect to withdraw from the market, rather than comply with the regulations. However, feedback from the sector also shows that many manufacturers already have the required information and may already comply with requirements, or need only minor amendments to ensure the information is provided in the appropriate format.
- As with any regulation, there is a risk that some costs may be passed on to product users, particularly for products where little information is currently provided, as the implementation costs will be higher. However, the cost benefit analysis shows that the cost of regulation per product is relatively low, and the benefits, such as faster consenting, fewer inspection failures and fewer defects to rectify in future will be broadly shared by a range of participants in the sector.

68. The cost benefit analysis also shows that benefits associated with the new information requirements outweigh the costs and the risks. Further, there was broad support for the regulations overall. Major retailers have advised MBIE that they support the regulations and are already planning to implement them, though also noted that sufficient transition time will be essential to support successful implementation.

69. Stakeholder feedback also indicated that more consistent product information may make it easier for new and innovative products to compete with established products, as it will be easier to compare products.

Option Three – Introduce a modified set of regulations for minimum information requirements on building products, based on stakeholder feedback (preferred)

70. *Option Three* is a modified version of *Option Two*. It includes a series of proposed regulations to be made under the Building Act, which are outlined in Table 3 below.

71. These modifications incorporate stakeholder feedback and further policy development since the release of MBIE's public discussion document.

[17] Ibid.

Table 3: Option Three regulatory proposals

Category	Proposal
Supply chain responsibilities to meet building product information requirements	Set out responsibilities on suppliers for the manufacture or import of a building product and the distribution and/or retail only of a building product (**no change**).
Content of information to be provided about building products	Establish a proportionate, tiered approach to mandatory minimum building product information requirements under different classes: • Batch- or mass-produced building products that contribute to Building Code compliance (Class 1). • Custom-made building products that contribute to Building Code compliance, and that are made-to-order, non-repeatable products with specifications or performance requirements that are tailored to each order (Class 2). • Gas and electrical products regulated under the *Electricity Act 1992* or *Gas Act 1992* and any associated regulations (Class 3). Under this option, there would also be no product information requirements for frames and trusses that are manufactured off site in accordance with an acceptable solution or verification method under the Building Code. Like *Option Two*, there would be no product information requirements on the following: • products certified by CodeMark • modular components manufactured under the modular component manufacturing scheme.[18]
	Require claims about whether a building product meets or contributes to all relevant Building Code clauses for the stated scope and limitations of use (**no change**).
	Require all claims about Building Code compliance to illustrate how this is achieved by making reference to: • compliance pathways listed in section 19 of the Building Act • any other international standards or technical drawing that details the standard to which a product was manufactured • the physical properties of the product, or how the product is expected to be used (**no change**).
Supply chain data and information standards	Require that all information requirements be met prior to supply of the product, and that information is kept up to date with the latest version of a product (**no change**).
	Require all information required to be disclosed about building products to be made freely available online, and ensure that the product is clearly linked with its corresponding online information (**amended**).
Transition period	Provide an 18 month transition period after building product information regulations are made before they come into force (**no change**).

[18] This is because appropriate levels of product assurance is provided either by the product certification scheme or the modular component manufacturing scheme.

72. The key difference between *Options Two* and *Three* is the introduction of a proportionate, tiered approach where the minimum information requirements would vary between different classes of products: batch or mass produced products, custom-made building products, and products with some similar regulatory requirements under other legislation.

73. Some stakeholders advised that *Option Two* would be unduly onerous for custom-made products, and that providing all of the information proposed for each unit produced would add little value, as the performance specifications to achieve Building Code compliance are determined prior to ordering. For gas and electrical products, stakeholder engagement suggested that much of the information proposed is already required under the Electricity or Gas Acts.

74. Under *Option Three*, the proposals that product information is provided in a structured data format and that each product must have a unique identifiable code have been removed. Stakeholder feedback was mixed on these proposals, though a number of submissions highlighted concerns about the cost and ability of manufacturers to do this. Other feedback included that the purpose or benefits of these proposals were unclear or didn't seem to benefit key users of the information.

75. There are no changes proposed to the supply chain responsibilities or transition period. Changes proposed to be incorporated into *Option Three* with regard to the different classes of building products and digital requirements are discussed further below.

Content of information to be provided about building products

Warranty or guarantee information

76. Only information generic to all building products is proposed as a starting point to ensure all product information provided is meeting the same minimum level.

77. Some stakeholders noted that explicit warranties or guarantees are not required for all products as a matter of law. Where warranties or guarantees are provided, they represent a contract between the warrantor/guarantor and the purchaser or end user. Including such information in the regulations could be confusing as it may:

    - not be clear who the contracting parties are, particularly where an importer is preparing the information for a product with a warranty provided by an overseas manufacturer
    - be confused with the durability requirements of the Building Code; further, where a warranty or guarantee is explicitly provided but is for a shorter period than would be reasonably expected for the life of a product, then consumer law provides for remedies even if the warranty or guarantee has "expired".

78. The proposed requirement to include information about warranties or guarantees is therefore removed under *Option Three*.

Introducing different classes of products

79. *Option Three* proposes to introduce a proportionate, tiered approach where the information requirements would vary according to which class each building product belongs to:

- Class 1: batch- or mass-produced products that are typically available for retail or wholesale purchase, such as fixings, nail plates, structural timber, roofing, flashings and cladding.
- Class 2: custom-made lines of products, such as external windows and doors, that are made to order to client specifications and vary in dimensions or to meet design, installation and/or location requirements (e.g. to accommodate wind or climate zone requirements).
- Class 3: gas and electrical products regulated under the Electricity and Gas Acts and associated regulations, such as water heaters and products required to be registered on the Gas Appliance Supplier Declaration database.

80. As with *Option Two*, products with a current CodeMark product certificate and modular components manufactured by a certified modular component manufacturer will not have to provide building product information.

81. *Option Three* will also not require building product information for frames and trusses where they are produced in accordance with acceptable solutions and verification methods under the Building Code.

82. Introducing a more targeted and tiered approach to the building product information requirements, alongside the proposal to omit frames and trusses from the proposed information requirements, will ensure the level of regulation on building product manufacturers is proportionate. That is, the amended requirements will not impose information requirements on classes of building products where it is not feasible or practicable to do so.

Class 1: Batch or mass produced products

83. For Class 1 products, the standard set of information required will be as proposed in *Option Two*, except for warranty or guarantee information. Class 1 products will also include products that may be made to order, but where the product design and specifications are pre-determined and the product is not customisable (such as products made by smaller suppliers or with low sales volumes).

Class 2: Custom-made products

84. For Class 2 products, the standard set of information required will be the same as for Class 1 products, but will apply to lines of products (for example, a suite of window products), rather than the individual units that are custom-made to order. The information prepared for such product lines will need to be made available prior to units being available to order.

85. Class 2 has been developed in response to stakeholder feedback. Stakeholders in the window and glass industry, in particular, were concerned the requirements would be overly onerous for the kinds of products they make, as each unit ordered and fabricated may be required to have a unique set of information prepared for it.

86. Further, the manufacturer or fabricator usually doesn't control the design specifications. These are determined by builders, designers or building owners, who must order units with the right specifications and install them in the right way to achieve Building Code compliance. Providing the information with a unit that has already been ordered or fabricated would also mean the information is not made available in a timely manner. It may assist with installation and maintenance requirements, but not performance specifications to inform product selection.

87. There are other examples of such products that MBIE has identified, such as pre-cast concrete panels. Annex 3 provides further information about how such products are designed and fabricated.

88. Product information requirements for Class 2 products also reflect that a base level of information can be provided for custom-made products, while acknowledging that additional performance specifications are usually required to be made at the individual unit level to achieve Building Code compliance (for example, safety glass or window stays).

89. This will ensure that designers, builders and consumers have access to information to inform their decisions about which base product line to select, while enabling manufacturers to provide clear advice about the scope and limitations of use of their products, for example, advising that additional specifications may be required to achieve the required level of building performance.

Class 3: Certain gas and electrical products

90. Electrical and gas products that have building code performance requirements and that are also regulated under the Electricity Act, Gas Act and associated regulations would only have to provide any information that is not already disclosed under these existing legislative frameworks (for example, gas appliance supplier declaration requirements under the Gas (Safety and Measurement) Regulations 2010).

91. Under these regimes, gas and electrical appliances provide a range of information (e.g. safety and installation information) that is substantially similar to the requirements proposed for building products. Information requirements under the proposed regulations will therefore be limited to a description of the product (including a product identifier), information in relation to Building Code performance (not already covered by information disclosure requirements under the Gas Act or Electricity Act and associated regulations), and any warnings or bans in place for the product.

92. Only requiring information that is not already provided for such products will ensure that the proposed building product regulations do not substantially duplicate existing legislation or create gaps between the current disclosure requirements and proposed regulations. The requirements are only expected to a small subset of the products regulated under the Electricity and Gas Acts and associated regulations, as many such products do not have building code implications (e.g. gas barbecues and portable electrical appliances).

No information requirements for frames and trusses

93. Under this option, there would be no information requirements for frames and trusses that are manufactured in accordance with an acceptable solution or verification method under the Building Code (e.g. *NZS3604 Timber-framed buildings*).

94. Frame and truss stakeholders raised similar concerns to external windows and door manufacturers, namely that each set of frames and trusses fabricated may be required to have a unique set of information prepared. This would be overly onerous for fabricators and the information would not be timely for designers and builders.

95. Further, fabricators have little control over the building code compliance of a particular building, as the designer or builder determines the requirements for frames and trusses and orders them to be fabricated in line with those requirements. Annex 3 provides further information on the design and ordering process.

96. In contrast with external windows and doors, which have product lines or suites and a number of customisations that can be made to meet either Building Code requirements or consumer preferences, frames and trusses are more simple products. They are less complex, relatively simple to make and have little variability in the way they are fabricated. That is, there are very few specifications to choose from. They are also easy to inspect once installed, which BCAs do prior to roofing and cladding being applied, and there are no maintenance requirements.

97. Following further investigation and discussions with key stakeholders, MBIE has determined that there would be no additional benefit in applying building product information requirements to the offsite fabrication of frames and trusses. This is because the current processes, such as the way frames are engineered and inspection requirements, alongside the requirements of relevant standards that guide production and installation, provide sufficient product assurance.

Digital requirements for information about building products

98. While there was clear support for making the building product information available prior to supply, ensuring it is kept up to date, and is available online, there was less stakeholder support for providing information in a structured data format and with a unique product identifier.

99. Concerns included the cost impact and that if the product identifier was required to be marked on the product, this could impact aesthetics for the home owner. Some stakeholders also felt there was no clear benefit from these proposals, or that the benefit would not be to the sector itself, but to MBIE or other third party stakeholders. Others considered it would only be useful in conjunction with a central product register or database.

100. One BCA was concerned that if a building consent applicant referred to structured data on a manufacturer's website, rather than including the information with the application, it could actually increase the processing time.

Structured data format and unique product identifier

101. This option was initially proposed to due inconsistency in digital product data creating duplication of effort across the supply chain to access, input and process information. After considering feedback and further analysis, MBIE has concluded that introducing structured data and unique product identifiers would likely have little additional benefit without the introduction of a central product register, which is not being pursued at this time.

102. Digital product data[19] and electronic traceability[20] can have information accessibility benefits. However, further work would be required to determine what a structured data format would look like and there are risks in attempting to prescribe this in regulation.

[19] https://www.branz.co.nz/pubs/research-reports/er56/

[20] https://www.branz.co.nz/pubs/research-reports/sr365/

103. Such initiatives do not require regulations to be pursued, and are best owned and progressed through voluntary, industry-led initiatives, with MBIE support as appropriate.

104. It is therefore proposed instead that the regulations will require information about building products to be available prior to sale of the product, kept up to date with the latest version of the product, and made freely available online, and that the correct online information can be easily sourced in relation to a particular product.

105. This approach will ensure that the policy intent of ensuring that building products can be linked to their information online is achieved without mandating that each product must have a unique identifiable code. It will instead be at manufacturers' discretion how this is achieved, though this could include the use of a Global Trade Item Number (GTIN), a QR code, or a distinguishable model/part number.

Impact on costs and benefits of these changes

106. MBIE expects the benefits of *Option Three* to be similar to *Option Two*. This is because the information required to support the intent of the proposed regulations will be available to those who most need it at the appropriate point in the product selection and installation process, as well as the compliance process.

107. There may be slightly longer search times for designers, builders and BCA officers by not requiring information to be in a structured data format or have a unique product identifier. The overall benefits of avoided search time were calculated as being $62.5 million (NPV) over 11 years. MBIE does not anticipate a significant loss of this benefit.

108. There will be a reduction in costs under *Option Three*, as some of the implementation costs associated with the digital information proposals will be avoided, alongside an overall reduction in administrative burden compared to *Option Two*.

109. The cost benefit analysis for *Option Two* identified the costs of putting the data into the prescribed format and procuring and maintaining a unique identifier as being $28.5 million (NPV) over 11 years. Not having these requirements represents an implementation cost saving, though some businesses may still elect to use a GTIN or similar to meet the requirements.

110. Further, as noted in relation to the costs of *Option Two*, smaller businesses are likely to face a disproportionate cost impact. Flexibility in how suppliers can meet requirements to make information publicly accessible will mitigate costs on smaller enterprises, allowing them to find ways to meet requirements in a way that will fit their business model.

Stakeholder feedback

111. From April to June 2021, MBIE undertook consultation on a public discussion document. This has been supplemented with ongoing direct engagement with key stakeholders, in particular, the Window and Glass Association of New Zealand and Frame and Truss Manufacturers Association, both of which had significant concerns about the feasibility and potential impact of Option Two on their industries. This ongoing consultation has been key to informing the development of Option Three.

112. Fifty-seven submissions were received, the majority of which supported the proposed building product information requirements in full or part. Submitters included:

- 18 industry organisations
- six product manufacturers and three distributors
- four building companies and two architecture/engineering companies
- five building consent authorities.

113. The balance of submissions were from a range of businesses and individuals in the building and construction sector (noting that some submissions were only relevant to separate proposals being made in relation to modular component manufacturing and product certification, or CodeMark).

Supply chain responsibilities to meet building product information requirements

114. Feedback from consultation on this proposal was largely in agreement with the proposed responsibilities on suppliers. A number of manufacturers that submitted noted that the proposal broadly aligned with the information they were already supplying with their products, and therefore didn't anticipate issues with meeting the requirements.[21]

115. However, several submissions noted that achieving compliance with the Building Code is a shared responsibility, and that manufacturers may not have line of sight of all the applications of their product. There is an obligation on others, such as designers, builders and BCAs, to also ensure the correct products are selected and installed in buildings. This will be clarified in the requirements and in guidance once the regulations are made.

116. Another key area of feedback was that the proposed building product information requirements should apply only to products that are critical to building performance, i.e. those that support compliance with the Building Code. This was the intention and both Options Two and Three now clarify this.

117. Other concerns included that the information may change after it is checked by suppliers and without them becoming aware, and that there is a lack of clarity on who is liable for incorrect or incomplete information when non-compliance of a product is identified. Section 84 of the Building Amendment Act will insert defence provisions into the Building Act for failing to comply with the requirements, such as if the failure was due to reasonable reliance on information supplied to the defendant by another person.

Information required to be included with products

118. Feedback on the proposed information requirements was broadly supportive. Suggested amendments included the exclusion of warranties, and inclusion of operational and embodied carbon, waste/recycling, emissions and other environmental impact information. Work is underway via the Building for Climate Change programme, which will explore building regulations in relation to climate change and may lead to amended building product information requirements in due course.

[21] This is recognised in the cost benefit analysis for the proposed regulations, which estimated that 64.4 per cent of manufacturers and importers already have the information required.

119. Of the small number that disagreed with the requirements, feedback was most commonly that the information requirements would not be feasible for custom-made products. This feedback has been addressed by *Option Three*.

120. A number of submitters called for third party certification of products, third party verification of testing results and/or MBIE playing a role in terms of routinely auditing product information and testing products to confirm the information associated with them is correct. Compulsory third party certification is outside of the scope of the regulations and not provided for in the Building Act. Voluntary product certification is currently available through CodeMark.

121. Third party verification of testing results is also not considered necessary. In order to make claims about building product performance, manufacturers will most often refer to relevant New Zealand, Australian or international standards, which typically reference appropriate and robust testing mechanisms in order to ensure the standard is being met.

122. Through new powers of investigation, MBIE will be able to request documentation, including testing results, to ensure products are adhering to the building product information requirements. If MBIE is not satisfied with the methods used to verify expected Building Code performance, then it may pursue its own testing as part of an investigation into a particular product, though this is rarely necessary.

Digital requirements for information about building products

123. The proposals to produce the information prior to supply and to have the information available online were the most widely supported out of all nine proposals. In addition, a number of submissions noted the need to keep information up to date, and to maintain information about older products.

124. However, with regard to the proposed structured data format requirement, some stakeholders felt it was unclear what problem the proposal is trying to solve, or that the benefits expected to flow to the building industry, as opposed to the central regulator, were not clear.

125. A substantial number of submitters called for a single national product register, most likely to be operated by MBIE, so that building product information could be found in a single place online and some duplication of effort could be avoided. Conversely, some submitters did not support such a register, noting the potential cost implications, particularly if the cost was passed on to the sector.

126. The Government has already decided not to pursue a national product register at this stage so it is out of scope of the regulations. The potential benefits from a register are highly dependent on the information being up-to-date and accurate. Given the number of building products in the market, the costs of administering and maintaining the register are likely to be prohibitive.

127. A number of product databases for building products already exist in New Zealand, and are an option for manufacturers or importers who do not wish to establish or maintain a suitable web presence.

Transition period

128. Feedback received through the consultation period was somewhat supportive of an 18 month timeframe for implementation, though nine out of 57 submitters did not support this proposal. Alternatives were proposed range from two years up to five years.

129. Some submitters considered that smaller suppliers may need more time to comply, or that there should be discretion in the use of enforcement initially, such as providing opportunities to address identified issues and ensuring MBIE is available to provide advice about how to achieve compliance. MBIE's Product Assurance Compliance Strategy will guide compliance and enforcement. One of the three pillars of this strategy is education. (Refer to Section 3 for further detail.)

130. While the regulations should take effect as soon as practicable, it is clear from stakeholder feedback (both through the consultation process and conversations between MBIE and key stakeholders) that the timeframe cannot be shortened. For example, one stakeholder has commented that the new information requirements could compound the current supply chain disruptions due to Covid-19.

131. On balance, MBIE considers that 18 months is a reasonable timeframe to allow industry to adjust to the new information requirements.

How do the options compare to the status quo?

Refer to key over the page	Option One – Status Quo	Option Two – Package of building product regulations in MBIE discussion document	Option Three – Amended package of building product regulations to incorporate stakeholder feedback
Confidence	0 Building sector confidence remains static, or potentially declines as further building product defects are identified	++ Building sector confidence increases due to a clear government mandate for minimum building product information	++ Building sector confidence increases due to a clear government mandate for minimum building product information
Certainty and clarity	0 Requirements for suppliers do not change and no compliance costs incurred, but building product users will not have the information they need to adequately inform decisions	++ Building product users have greater confidence in the products they are using	++ Building product users have greater confidence in the products they are using
Cost effective	0 Given the BCR of Options Two and Three is greater than 1, this is not a cost effective option	0/+ While the benefits will be similar to *Option Three*, the costs to suppliers of custom-made products may be much greater than assumed in the cost benefit analysis	+ With a modest BCR, net benefits that can be quantified are not substantial, though show there is merit in pursuing the regulations to ensure better building product information is available to the building sector and consumers
Proportionate	0	0/+ The costs to suppliers of custom-made products would be disproportionate to other suppliers, without a commensurate increase in benefits	++ *Option Three* will achieve similar benefits to *Option Two*, while ensuring costs to suppliers of different classes of products are proportionate
Flexible	0	+ Suppliers have flexibility in the methods they use to demonstrate expected Building Code performance, and can specify any limitations	++ Suppliers have flexibility in the methods they use to demonstrate expected Building Code performance, and can specify any limitations, as well as how they make the information available online Suppliers of custom-made products can meet the requirements in way that is better suited to their business model
Overall assessment	0	+	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

132. *Option Three* is recommended as the best option to address the problems identified in Section 1. It will achieve similar outcomes and is likely deliver a somewhat higher net benefit than *Option Two*.

133. This assessment is primarily based on the potential significant cost impacts of requiring custom-made products to have building product information in line with the proposals in *Option Two*.

134. *Option Two* would also be more costly for suppliers across the board due to the requirements for structured data and a unique product identifier.

135. The benefits of either *Option Two* or *Option Three* are very similar, and both are much greater than *Option One*.

Key:	
++	much better than the status quo
+	better than the status quo
0	about the same as the status quo
-	worse than the status quo
- -	much worse than the status quo

What are the marginal costs and benefits of Option Three?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Building product manufacturers and suppliers	Manufacturers and suppliers will face the majority of overall costs. In particular, while many manufacturers and suppliers already provide the required information, there will be an upfront cost for those who do not to produce the required product information for existing products and publish it online. Ongoing costs will include maintaining that information and developing information for new products.	$80.8 million (npv) over 11 years **Note**: Cost benefit analysis showed costs of $109.3 million for *Option Two*, which included $28.5 million for putting the data into the prescribed format and procuring a unique product identifier, which will not be required under *Option Three*[22]	Medium/High – MBIE has under taken a cost benefit analysis to assess the costs and benefits of the proposed regulations, though this included costs associated with proposals that are not being pursued under *Option Three*.
Building product distributors and retailers	Distributors and retailers may face a small initial cost to establish systems to check product information, with the majority of their costs being ongoing compliance costs once the regulations are in force and product checking commences.	$39.0 million (npv) over 11 years	High – MBIE has under taken a cost benefit analysis to assess the costs and benefits of the proposed regulations
Building sector regulator (MBIE)	MBIE will face a small implementation cost to develop guidance and undertake communications to ensure the sector is aware of the new requirements. Monitoring and enforcement costs on an ongoing basis will be more substantial.	$11.5 million (npv) over 11 years	High – MBIE has under taken a cost benefit analysis to assess the costs and benefits of the proposed regulations
Total monetised costs	MBIE has undertaken a cost benefit analysis to inform monetised costs.	$131.2 million (npv) over 11 years	High – MBIE has under taken a cost benefit analysis to assess the costs and benefits of the proposed regulations
Non-monetised costs	No substantial non-monetised costs have been identified.	Low	High – No qualitative costs were identified in the cost benefit analysis

[22] These costs have been removed here to give better indication of the potential costs of *Option Three*. MBIE considers there may be some additional costs for businesses to put the information online, particularly where they don't currently have an online presence, but expects these costs to be low.

Additional benefits of the preferred option compared to taking no action			
Building consumers	Building consumers will experience ongoing benefits through avoiding the costs associated with additional inspection fees, avoided rework, and avoided building delays (caused by consent, inspection and rework issues), along with increased confidence in building work. These costs include re-inspection fees and other costs associated with delays while consumers wait for building completion.	$177.5 million (npv) over 11 years **Note**: this figure assumes no loss of benefit as a result of not requiring structured data and a unique product identifier[23]	Medium-high – MBIE has under taken a cost benefit analysis to assess the costs and benefits of the proposed regulations, though this included benefits associated with proposals that are not being pursued under *Option Three*.
Builders	The benefits to builders are avoided delays from inspections or consenting applications, which can impact builders land holding costs, interest payments on loans and profits because delays or rework may mean that they build less.		
Architects, builders, engineers and BCAs	The benefits to those researching and choosing building products, as well as consenting their use, is avoided search time due to the online availability of consistent building product information, in particular, how the building product is expected to perform in relation to the Building Code.		
Broader community	The benefits will be increased confidence in the construction sector because less rework is undertaken, signalling better quality and more durable buildings.	Medium This benefit is also reliant on the impact of other elements of the building sector reforms currently underway	Medium – this is a qualitative benefit that was not able to be assessed as part of the BCR
Total monetised benefits	MBIE has undertaken a cost benefit analysis to inform monetised costs.	$177.5 million (npv) over 11 years	High – MBIE has under taken a cost benefit analysis to assess the costs and benefits of the proposed regulations
Non-monetised benefits	As noted above, the primary non-monetised benefit will be increased community confidence in the construction sector.	Medium	Medium

[23] While there may be a slight reduction in search time benefits from removing the structured data requirements, MBIE expects that this benefit loss will be small.

Section 3: Delivering an option

How will the new arrangements be implemented?

136. As the new requirements will be mandatory for building products captured by the regulations, implementation will be critical for ensuring compliance and that the benefits will be achieved.

137. Implementation will have two key aspects:

- Ensuring the sector understands and is ready to implement the information requirements when the regulations come into force, which will primarily be through education activities.
- Preparations within MBIE, as the regulator, to ensure it is ready to commence its monitoring, compliance and enforcement role.

138. With the proposed transition period, there is significant lead time to plan for and commence implementation. The planned activities are discussed briefly below, noting that these may be adapted or amended as necessary due to any change in timeframes or the emergence of additional needs highlighted by the sector.

Implementation plan

139. MBIE has developed an implementation plan, which has the following objectives:

- Support, inform and educate the industry of the change through an information and education campaign to ensure external audiences are aware of the changes and their new obligations. This would include guidance materials and resources, plus activity to communicate/ promote resources across the sector.
- Engage with internal and external stakeholders so they are aware of the change, and are supported throughout the implementation phase.
- Ensure the sector is ready for the change once the regulations come into force

140. The kinds of activities that will be pursued to achieve these objectives include:

- Development of a compliance function and strategy, business processes and procedures for compliance and complaints.
- Communication, information and education tasks – including the development of education and other information to educate stakeholders and ensure that behavioural change is influenced and sector participants are complying.
- Identify MBIE's role in industry-led initiatives to pursue digital transformation to improve productivity, for example, through common information systems or product databases.

141. The plan identifies a number of phases, including estimated timeframes, as well as the resources required to adequately support implementation. It is also supported by other internal activities within MBIE, such as an information and education plan.

142. The implementation project team will continue to regularly engage with key stakeholders within the building sector. This engagement will help the project team to design and develop the necessary business processes and requirements, as well as inform guidance and education requirements.

Compliance and enforcement

143. With the new powers to require information and documentation, and the offences and penalties associated with the information requirements, MBIE's operational duties will shift from a focus on promoting product assurance, as demonstrating product compliance with the Building Code is currently voluntary, to enforcing the building product information requirements.

144. Failure to comply with the building product information requirements can lead to a fine of up to $10,000 for an individual and $30,000 for a body corporate. Making false or misleading representations in relation to building products can lead to fines of up to $200,000 for an individual and $600,000 for a body corporate.

145. MBIE's existing Product Assurance Compliance Strategy will be used as a basis for compliance and enforcement of the new building product information requirements. Previous experience in running investigations into building products will also be valuable in implementing the regulations.

146. The current Strategy has three pillars:

- *Engagement* – maintaining a stakeholder register, engaging with key stakeholders on a regular basis (e.g. BRANZ) and attending conferences and industry events.
- *Education* – providing accessible, timely information via the Building Performance website, providing in-depth guidance and information, and responding to queries through a products inbox and the Building CodeHub.
- *Enablement* – providing opportunities for regulated parties to be exposed to industry best practice and regulatory requirements, and linking regulated parties with appropriate industry advisors.

147. Enforcement has not historically formed part of the Strategy. The Building System Assurance team has already commenced revisions to incorporate the recent legislative changes and develop an approach for enforcing the regulations once they are made. Further revision and refinement is likely between now and the end of the transition period for the new regulations, as this is approximately two years away.

148. The proposed regulations address some key gaps in the regulatory system that will further supporting the Building System Assurance function, including:

- having good quality information, which is becoming increasingly crucial in making decisions about unfamiliar products, especially as the range and complexity of building products and methods available continues to increase
- improving the timeliness and quality of regulatory decision-making
- providing stronger measures to respond to non-compliance, with specific offences associated with the new building product information requirements, as well as the ability for the regulator to require information or documents.

149. There are potential overlaps with the enforcement responsibilities for MBIE and the Commerce Commission. MBIE will work with the Commerce Commission to identify how these enforcement responsibilities should be split and develop a memorandum of understanding between the two organisations.

BCAs as co-regulators

150. BCAs are co-regulators in the building system. The roles, responsibilities and functions of BCAs would not be directly changed by the proposed changes. However, some of the changes (such as requiring information about building products) are expected to affect how BCAs make decisions about building consents and their enforcement functions.

151. Overall, this is expected to produce benefits for BCAs, including reducing the number of requests for information they need to make when assessing consent applications, which will enable them to approve consents in a more timely way and free up resources to better meet the growing demand for consents.

How will the new arrangements be monitored, evaluated, and reviewed?

152. The implementation plan discussed in the previous section includes the development of a post implementation review assessment to evaluate the policy and changes and implementation activity.

153. An intervention logic model for the building system legislative reform programme was developed in 2019 (refer to Annex 4), and MBIE is currently in the process of reviewing this model. An evaluation framework is being developed, taking into consideration the following factors for the effectiveness of the building product information requirements:

- desktop review or sampling of building product information available online against the regulatory requirements
- feedback from BCAs or other parties
- complaints or other feedback received by MBIE regarding building product information
- non-conformance identified through MBIE's compliance and enforcement activities.

Annex 1: Costs benefit analysis (Option Two)

MBIE procured a comprehensive and cost benefit analysis to support this RIS. Over an 11-year period, the benefit-to-cost (BCR) ratio was calculated to be positive, at 1.11.

Benefits of the proposals

The main beneficiaries of the proposed regulations are builders, designers, engineers, BCAs, and consumers, as well as the broader community. The benefits of the proposed regulations are outlined in Table 4 below.

Table 4: Quantitative and qualitative benefits of Option Two

Benefit	Description
Avoided additional inspection fees	BCAs undertake building inspections throughout the building process to ensure that the construction is occurring in accordance with the consented plans and specifications. An inspection may fail due to an incorrect product being used or a product being installed incorrectly. Re-inspection after the issue has been addressed is required, which incurs an additional cost.
Avoided delays from failed inspections	Should an inspection fail, there is often a delay in the building process while the issue is addressed and re-inspected. In some cases, other work may continue and the building process may not be substantially delayed, however, in others, the overall build time could be extended by several weeks. This may have a cost impact on the builder, as they cannot build as many houses, and the owner, for example, additional rent payments while they wait for occupation.
Avoided delays from consenting applications	If there is insufficient information about building products with a consent application, BCAs may reject the application or request more information, both of which delay the process to achieve consent and commence building.
Avoided rework costs from the use of non-conforming products	Non-conforming building products are sometimes used because of a lack of information about when they should be used and how they contribute to Building Code compliance. Better information will ensure that products are fit for purpose, and used, installed and maintained correctly, which will reduce rework costs.
Avoided search time for users of building products	Ensuring consistent information is available online for all building products, including the use of a unique identifier to ensure the correct product information is being viewed, will save time for designers, builders, engineers, BCA officers and other users of building products.
Increased confidence in the construction sector (qualitative benefits)	Improved stewardship will lead to an improved regulatory operating environment for regulated parties. This will, in turn, increase consumer confidence that the government is appropriately regulating the building industry and making it safer and more predictable to build. Designers and builders will have increased confidence in specifying and using a product. Less rework signals better quality and more durable buildings, which will support increased confidence in the construction sector. There will also be fewer accidents and injuries from product failures. Such benefits are difficult to quantify, and will also be attributable to the broader building sector reforms underway.

Cost impact of proposals

The cost impact of the regulations almost entirely falls on suppliers (manufacturer, importers, distributors and retailers). These costs include:

- producing the required information
- ensuring the information is provided with products and online
- putting data into the prescribed format
- procuring and maintaining a unique product identifier.

In addition, MBIE will incur implementation, guidance, monitoring and enforcement costs.

Summary of costs and benefits

Table 5 below shows the quantitative costs and benefits of the proposals under *Option Two*.

Table 5: Quantitative costs and benefits of Option Two

	NPV ($million)
Costs	
Manufacturers & importers	
One-off compliance costs	$24.8
Ongoing compliance costs	$56.0
Putting data into prescribed format	$23.2
Unique identifier	$5.3
Distributors and retailers	
Ongoing compliance costs	$39.0
MBIE	
Implementation & guidance costs	$0.4
Monitoring & enforcement	$11.1
Total costs	**$159.7**
Benefits	
Avoided delays from failed inspections	$46.6
Avoided delays from consenting applications	$15.1
Avoided additional inspection fees	$1.9
Avoided rework from NCP	$51.4
Avoided search time	$62.5
Total benefits	**$177.5**
NPV	**$17.8**[24]
BCR	**1.11**

[24] The net present value is determined by discounting cash flows at Treasury's recommended discount rate for regulatory proposals, which was five per cent per annum at the time of writing.

Benefit-to-cost ratio

While the overall BCR of 1.11 is not strong, the cost benefit analysis also considered a number of different scenarios (sensitivity analysis) and their impact on the BCR. This found that the BCR would increase if, for example:

- compliance costs were lower (0.3 per cent rather than 0.4 per cent of building product sector turnover), then the BCR would be 1.22
- more people used the information (32,000 engineers as opposed to 19,952[25]), then the BCR would be 1.20
- 70 per cent of failed inspections due to building product typology were avoided, then the BCR would be 1.44.

Conversely, sensitivity analysis showed that if:

- retailers spend 30 minutes per day checking labels, rather than 20 minutes, the BCR would be 0.99
- only 30 per cent of failed inspections due to building product typology were avoided, then the BCR would be 0.90.

Sensitivity testing was also undertaken on the BCR to factor in a lower number of products (refer to discussion in Section 1). If there are 300,000 products, and 8,800 manufacturers (instead of 1,000), then the BCR would be 1.3. If there are 100,000 products and 8,000 manufacturers, then the BCR would be 1.6.

MBIE considers that the BCR will, in fact, exceed 1.11, and could be as high as 1.6. Further, the BCR only captures quantifiable costs and benefits; qualitative benefits are expected to include increased confidence in the construction sector because less rework is undertaken, signalling better quality and more durable buildings.

[25] There are variable data sources on the number of engineers in New Zealand, the BCR was reassessed using different source for this sensitivity analysis.

Annex 2: Detailed description of proposals for building product information requirements as set out in MBIE's public discussion document (Option Two)

The following provides a detailed description and analysis of the proposals contained in MBIE's public discussion document[26] (*Option Two*) under each of the four categories of proposals.

Supply chain responsibilities to meet building product information requirements

Option Two proposes to set out in regulations the roles and responsibilities of those who manufacture and/or import building products and those who distribute and/or retail building products, including that:

- New Zealand based suppliers responsible for the manufacture or import of a building product must collate, produce and disclose the required product information in accordance with the information requirements.
- New Zealand based suppliers responsible for the distribution and/or retail only of a building product must ensure that those products meet information requirements and that the information is available to all those they distribute or sell the product to before it is sold.

Setting specific requirements across the supply chain relating to producing and evidencing claims is intended to provide clarity about the role manufacturers, importers, distributors and retailers play. This will also enable people to be held to account for the building products they supply and their use.

Many product manufacturers and suppliers already provide information beyond the proposed minimum standards. There is no intention to encourage these groups to reduce the level of information they supply. Rather, it aims to create a level playing field where all manufacturers and suppliers provide a consistent minimum level of product information. It will also give other parties in the system – designers, builders, BCAs – the information they need to carry out their responsibilities.

The cost impacts of *Option Two* will primarily affect manufacturers/importers and distributors/retailers due to the responsibilities they will each have in relation to the information requirements of building products. The estimated cost impact across the sector is detailed in Annex 1.

Experience in the European market indicates that requirements such as these will disproportionately affect small and medium enterprises. The impact on smaller manufacturers will likely be greater due to economies of scale and because some may not currently have basic technology capabilities, which will be necessary to comply with the proposals to have the information available online and in a structured data format.

There will also be some minor cost impacts to MBIE, as the regulatory body that will be monitoring and enforcing the regulations (refer to Annex 4).

[26] https://www.mbie.govt.nz/have-your-say/building-system-reform/

Content of information to be provided about building products

Only information generic to all building products is proposed as a starting point to ensure all product information provided is meeting the same minimum level. *Option Two* proposes that the minimum set of information to be required in relation to building products is:

- a description of the building product
- the details of the manufacturer or importer including a New Zealand Business Number or Global Location Number where applicable
- the expected Building Code performance of a building product within the scope and limitations of use
- any design and installation requirements
- any maintenance requirements of a building product
- any warranty or guarantee provided for the building product
- a statement as to whether a product is subject to a warning or ban under the Building Act.

The requirements to make statements about scope, limitations, and maintenance and installation requirements are principle based, which ensures flexibility in the requirements to reflect the complexity of products. For instance, simple products such as nails and treated wood would require only a simple set of information and the evidence needed to be able to substantiate claims would be relatively straightforward. For more complex products, such as window units or bathroom pods, information required would be more complex, covering the many aspects of the product's features. This would inherently require a higher level of evidence to be able to substantiate claims made about the product's use.

These requirements are similar to those recommended for inclusion in Product Technical Statements, which are voluntary statements introduced around 10 years ago. Some large, and primarily domestic, manufacturers use these, often in conjunction with a third-party product catalogue service. These provide a subscription style service where, for a fee, manufacturers can develop and upload product technical statements on a third party website so they are available in a central location, alongside many other products, for designers and building practitioners to access.

Building Code performance

Option Two proposes that each product identifies the Building Code clauses it complies with, or contributes to compliance with (where a number of products work in conjunction with each other to achieve compliance).

The Building Code sets out performance clauses in relation to general provisions, stability, protection from fire, access, moisture, safety of users, services and facilities and energy efficiency. All building work in New Zealand must comply with the Building Code, even if it doesn't require a building consent. This ensures buildings are safe, healthy and durable for everyone who uses them.

MBIE considers that building product suppliers should be required to specify the Building Code clauses that their product relates to. This means that the supplier must consider the nature of their product, the scope and limitations they have set for it, and the role it plays in the overall building when deciding what Building Code clauses to reference.

It is important to note that a building product cannot, in isolation, achieve Building Code compliance, as compliance is based on a number of different products coming together to create a building. Suppliers also cannot be expected to anticipate every single use of their products and, despite the additional information proposed to be included with products, some consumers may ultimately elect to use the product in an unorthodox manner.

However, additional information about expected Building Code performance will provide guidance and identify parameters on the use of a product, helping to ensure more appropriate products are selected and used within their intended scope and limitations, and in conjunction with other appropriate products to achieve overall Building Code compliance.

Manufacturers are generally well placed to do this, given they are responsible for the design and manufacture of products, and must be able to substantiate any claims they make about a product's performance. The key change will be that manufacturers will be required to make claims about performance and substantiate those claims. Currently, they may stay silent on performance and are therefore not required to provide evidence about the suitability of their product for various applications.

Many suppliers already include such information with their products, and the main change will be to ensure that they provide the information in a way that meets the requirements. This may lead to a small cost for compiling and accessing the information from existing records and providing it in accordance with regulations. For smaller suppliers, there will likely be a higher cost barrier to set up systems and cover initial costs of developing systems and processes to meet information requirements.

Importers do not necessarily do the kind of testing required to substantiate claims about Building Code compliance, but they do regularly retrieve this information from overseas manufacturers to fulfil current obligations. Importers may need to undertake greater due diligence to ensure that they have the product information they need and can be confident that the product will perform as the manufacturer claims. They may, for some products, need to seek additional appraisals or third party testing to assure the quality and performance of products, if this has not already been done to the standard set by information requirements.

Evidence to illustrate claims about Building Code performance

Option Two proposes that claims about Building Code are substantiated by making reference to compliance pathways listed in section 19 of the Building Act or other relevant international standards or technical drawings that details the physical properties of the product or how the product is expected to be used.

The Building Act provides a number of pathways to compliance, which include acceptable solutions and verification methods. These most often refer to New Zealand or Australian Standards, but may also refer to other New Zealand and international publications, including international standards. Where a product meets a relevant standard or adheres to the requirements specified in other publications, it is likely to meet the requirements of a section 19 compliance pathway and thus meet the performance requirements of the Building Code that the standard or publication covers.

Where there is not a relevant acceptable solution or verification method, then the product would be required to provide other evidence of its suitability for a particular building, in the context of Building Code performance requirements.

Different products can illustrate their expected performance or physical properties in other ways. For instance, a cladding system for the external walls of a high rise building may have technical drawings with structural, fire and weather tightness ratings. It is expected that the product would have been tested in accordance with its installation instructions within its scope and limitations of use.

For many products, producer statements signed off by a certified practitioner, third party testing or appraisals of testing completed overseas to comparable standards would be appropriate. In practice, this means that the evidence being used to substantiate claims

needs to be sufficient enough to also satisfy investigations about a building product under existing settings.

Benefits of the information requirements for building products

The overarching aim of the proposed information requirements is to ensure building products are fit for their intended purpose. Designers, builders and homeowners should have access to the information they need to ensure that products are selected and used correctly, so that their building work is compliant with the Building Code.

The proposed changes are expected to reduce inefficiencies in the design process because more information will be available to designers. Designers would have easier access to product information, including any product limitations, they need when designing buildings. This would enable informed decisions on what products to use and how to use them with other products.

The new building product information requirements are also expected to bridge the gap between manufacturer and installer by including clear information about the scope and limitation of use, design and installation requirements, and any maintenance requirements. Having this information consistently provided with building products should prompt installers to seek and review this information at the point of installation. The proposed changes are therefore expected to reduce building inspection failures or instances where remediation of work is required.

Information about product maintenance would help building owners to maintain their buildings. They would also have greater confidence that those involved in building work have made good decisions about the products used.

Retailers would also be able to make informed choices about the products they decide to stock, and will have greater assurance that the products they sell will be fit for purpose, as they know manufacturers and importers can be held to account for providing false or misleading information, or making unsubstantiated representations. Access to information will also support them to provide advice to customers on product choice, and installation and maintenance requirements.

While manufacturers and importers will bear the majority of the costs of implementing the information requirements, they will also benefit from a reduced risk to their reputation from product failure.

Finally, implementing the building product information requirements would support MBIE's role as the building sector regulator, as it would have better access to the information it needs to make decisions on the performance of a building product. Offences and penalties under the Building Amendment Act mean manufacturers and importers can be held to account for inaccurate or unsubstantiated information where they have not adhered to the regulations and supplied a building product that is not fit for its described purpose or will not perform as intended.

Supply chain data and information standards

Option Two proposes a number of ways that data should be stored and made accessible, with the intention of ensuring that information is freely available and readily accessible across the supply chain and to all building product users.

MBIE would also benefit from greater visibility of the number and type of products available. There are gaps in available information about the quantity of products sold, and where they are currently stored or have been included in building work. This impacts the ability to track building products for monitoring and enforcement, as well as to inform new policy decisions.

It is sensible to specify that the information requirements for building products are met prior to supply, as the information should inform the selection of the product. In the digital age, it also makes sense to specify that this information be made available online.

Designers, builders and consumers alike are more and more frequently researching products online before purchasing, and want to compare information and specifications about products from the office or home, rather than spend time going from one retail or wholesale outlet to another. It also means the information can be compared side-by-side, rather than relying on recall from a visit to view a product in person.

The amount of information that can be included with a product or its packaging may be limited by factors such as the size of the product relative to the information (i.e. in the case of a small product/package that has many pages of specifications, and possibly installation and maintenance requirements), or by its format (such a large technical drawings).

Option Two therefore also proposes to require all building products to have a unique identifiable code that links it to the information provided online, and to require information to be stored in a structured data format that is accessible across the supply chain and by MBIE. This means that large documents, technical information or technical drawings could be solely provided online, rather than being required to be physically included with the product, provided they are readily available and easily identifiable.

These requirements are intended to make building products easier to track, and help the building and construction sector realise productivity gains, enable modern technology solutions (including building information modelling and digital consenting)[27], and enable more reliable information for making regulatory decisions in future.

Benefits of supply chain data and information standards

The key immediate and direct benefits of requiring a unique product number would be that the online product information is readily matched to the product (provided the number is clearly marked on the product or any packaging).

Available analysis suggests that gains in productivity would also be available through reduced effort to produce, share and use product information when standardised information and a common information structure is implemented.

The information could also be used to inform research or be used by other parties looking for machine readable information to input into design or engineering software.

[27] https://www.branz.co.nz/pubs/research-reports/er56/

The use of unique product numbers, such as the Global Trade Item Number, also has the potential to open up electronic traceability systems and other systems that could improve productivity. For example, BRANZ has identified that a traceability system could reduce defects and rework caused by poor product substitution, and find installed products in the event that a defect is identified after the build is complete[28].

Achieving such benefits would require significant industry buy in (for example, additional requirements would include marking products with a barcode or similar), investment in other technology (scanners, app development and so on), as well as a single national catalogue or database. It would also likely require suppliers to provide information additional to the minimum regulatory requirements proposed in this RIS.

Transition period

An 18 month transitional period is proposed in order to provide the sector with sufficient time to make the changes required to their systems and processes. This means businesses will have up to 18 months to begin complying with the regulations after they are made, noting that much of the sector has been aware of these forthcoming requirements since as early as 2019.

Anecdotal feedback from some major suppliers is that they are already preparing for the regulations, though they require certainty about what the regulations will require in order to fully commence the implementation phase.

Delaying the commencement would delay the benefits of having consistent information provided with all building products. The building sector is currently facing a broad set of challenges, many of which will take some time to address. In particular, demand for building consents has been rising steadily since 2011.[29] Initiatives to streamline the consenting process and prevent delays due to information requests, rework and re-inspection will speed up both consenting and build times, so it is important they are pursued as soon as practicable.

[28] https://www.branz.co.nz/pubs/research-reports/sr365/

[29] https://www.stats.govt.nz/information-releases/building-consents-issued-june-2021

Annex 3: Custom-made products case studies

This section outlines the ordering and production processes for two key custom-made products that are common to the vast majority of buildings: external windows and doors, and frames and trusses.

External windows and doors

Figure 1 outlines the process for fabricating external windows and doors. Similar processes may be followed for other products that are custom-made, such a pre-cast concrete panels or other unique, site-specific building features.

Figure 1: External window and door ordering and fabrication process

Builders and designers will use information from window system manufacturers to determine which broad suite of window/door options it will order from. These suites of window are tested to an appropriate standard (usually NZS 4211). Manufacturers of window systems will licence fabricators to make these windows. The builder or designer will provide one or more fabricators with the plans and individual window/door unit requirements to get a quote and choose a fabricator.

Each window or door unit is unique to each building due to site specific characteristics and plan variations, which can change the requirements of the Building Code that must be met (e.g. in relation to wind or climate zone) or may relate to consumer preferences (such as colour or lock choice). Many of the design and specification decisions to meet the performance requirements of the Building Code are made in advance of consent, ordering and fabrication of the product.

While window fabricators are familiar with reading plans and understanding Building Code requirements and may offer advice to customers through the quoting process, they are ultimately not responsible for ensuring the window meets the Code's requirements. Fabricators will make what is ordered by the designer or builder, who have the responsibility for ensuring that the specification they make will meet or exceed the Building Code requirements.

Changes to the base specifications established by manufacturers of window systems can be made by the fabricator to ensure Building Code compliance (e.g. safety glass, the use of opening restrictors for windows above a certain height, ensuring the glass is appropriate for the site's wind zone), however, changes made should not detract from the specifications needed to ensure each window unit continues to comply with the relevant standard its product suite has been tested to.

Nearly all external windows and doors in New Zealand are custom-made. They are not available as an "off the shelf" products (with some exceptions, such as skylight windows), which is due to both the variability in Building Code requirements depending on the site and customer preferences.

Window fabricators that MBIE engaged with during the policy development process advised that New Zealand consumers have a very strong preference for unique house and window designs. For this reason, there is also a very limited second-hand market for such products, as units used in one house will typically not be suitable for another, both due to the variable dimensions used, and that Building Code requirements can be different for different sites.

Frames and trusses

Frames and trusses can be built onsite by a licensed building practitioner, however, more often than not builders or designers will order these to be fabricated offsite. Fabricators will use designs or plans to make components to the required specifications and deliver them to be assembled onsite by the builder.

Typically, the selection of fabricator will be based on price, any existing relationship and/or availability. There are no product lines or options that builders, designers or customers can choose from. Occasionally consumers may express a preference for a particular type of wood (e.g. Douglas fir over radiata pine), though there are very few structural timber options available overall. Some sites will require the use of galvanised steel components to prevent corrosion. However, on the whole, there is little variability in the components used, and the proposed building product information requirements will apply to these components, which will help inform their correct application and use.

Timber frames and trusses manufactured offsite will generally adhere to *NZS 3604 Timber-framed buildings*, as this is accepted as being compliant with the Building Code. A very limited number of inputs are used, and the construction of components is relatively uncomplicated.

NZS 3604 sets out a range of requirements in order for frames and trusses to meet the standard, including information requirements in the form of producer and design statements. The plans will be specified by the designer or builder, and Mitek and Pryda (the only two providers of engineering systems for timber frames and trusses) provide engineering support. Fabricators have little control over the building code compliance of a particular building.

These structures are easily inspected by BCAs as part of the inspection process during building (i.e. prior to the roofing and cladding being applied) and any defects must be fixed before the building can continue.

There are effectively no maintenance requirements, as frames and trusses are both internally and externally covered, though if a home owner became aware of any potential issues, these would naturally require investigation. Because of the lack of ability to maintain or periodically inspect frames and trusses once the building is complete, the Building Code (objective B2) requires that frames and trusses are durable for a period of 50 years.

Annex 4: Intervention logic