

Regulatory Impact Statement: Mandating approval of overseas building products

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing final Cabinet decisions on the drafting of changes to the Building Act 2004 to implement mandating approval of overseas building products
Advising agencies:	Ministry of Business, Innovation and Employment
Proposing Ministers:	Minister of Building and Construction
Date finalised:	14 March 2024
Opportunity Definition	
<p>There is an opportunity to remove barriers to high-quality building products entering the New Zealand market and being used in building work. This can help ensure consumers pay the lowest prices possible for building products and can support greater resilience to supply disruptions.</p> <p>This opportunity can be realised by making our regulatory system place greater weight on international and overseas systems for recognition of overseas products where these are equivalent to New Zealand requirements and reducing the extent to which New Zealand certification is also required.</p>	
Executive Summary	
<p>New Zealand has high building costs. The costs of building have risen 41.3 per cent¹ since 2019 and it is about 50 per cent more expensive per square metre to build a standalone house in New Zealand than in Australia.²</p> <p>New Zealand also imports about 90 per cent of all building products (or components) sold in the country, which provides choice but also makes the sector vulnerable to price changes and supply chain disruption. Product shortages caused by disruptions to supply chains in 2022 have largely been resolved, and significant price increases for building products (45 per cent over the past two years, as of December 2023) now look to be stabilising.</p> <p>There are barriers to high-quality products and materials entering the New Zealand market and being used. The Commerce Commission's market study³ into residential building supplies found that competition for the supply and acquisition of key building supplies is not working as well as it could. These barriers lead to high prices and a lack of choice of building products, and low confidence in the performance of products that are in use.</p> <p>To address these barriers to competition, the Commerce Commission recommended that the building regulatory system needed to create clear compliance pathways for more key</p>	

¹ The 41.3% represents the cumulative increase since the fourth quarter of 2019. This mostly occurred in 2021 and 2022.

² Noting that standalone houses in Australia tend to be bigger than in New Zealand, and it is typical for the price per square metre to reduce as size increases. The average cost to build in New Zealand includes demolition costs and 15% GST, whereas the Australian figure excludes demolition costs and includes 10% GST.

³ [Commerce Commission - Market study into residential building supplies \(comcom.govt.nz\)](https://www.comcom.govt.nz/commerce-commission-market-study-into-residential-building-supplies)

building supplies and make it easier for designers and market participants to use new or competing building supplies.

The Government has committed to “*strengthen competition for building materials with automatic approval for appropriately certified building materials from the US, Europe, the UK and Australia*” through legislative change.

There is significant flexibility in the building regulatory system to use a range of building products in building work. This is because the Building Code is performance based – any product can be used so long as the designer can provide evidence to a building consent authority that the building work will comply with the performance requirements of the Building Code, if built in line with the plans and specifications that accompany the consent application. Designers specify the building products that will be used.

There are several pathways to provide assurance about the performance of building products and that when used in building work they will lead to code-compliant work. Of those pathways, some must be accepted by a building consent authority as establishing compliance with the Building Code. These include CodeMark certification or compliance with an Acceptable Solution or Verification Method.

There are also initiatives in progress or recently completed that can promote competition and innovation in the building products market (e.g., new building product information requirements). These are detailed in paragraphs 19-22.

Despite this flexibility in the regulatory system and taking into account the recommendations of the Commerce Commission’s market study, the Ministry of Business, Innovation and Employment (MBIE) considers that more needs to be done to remove barriers to high-quality building products entering the New Zealand market and being used in building work, therefore increasing competition, lowering prices, and supporting greater supply resilience.

To remove barriers to high-quality building products entering the New Zealand market and meet secondary objectives, the following five options (in addition to the counterfactual) have been identified:

- Counterfactual: The initiatives already in progress or recently completed.
- Option 1: More resourcing for Acceptable Solutions and Verification Methods to fast-track existing processes. An enhanced counterfactual, with dedicated resourcing to update and develop more Acceptable Solutions and Verification Methods, including better reflecting international standards.
- Option 2: Recognise overseas standards and certification schemes. The Minister would recognise standards organisations and certification schemes, proposed building work would still be assessed for compliance, and there would be no need for building consent authorities to verify adequacy of the standard or certification schemes.
- Option 3: Create a new regulatory instrument under the Building Act, the Building Product Equivalency Specifications. This would specify what international standards or specifications must be considered as equivalent to those used in New Zealand and contain cited standards or specifications from the Acceptable Solutions and Verification Methods.
- Option 4: Amend the Building Act to make the section 262(2) function more flexible and effective. This would certify products for design by mandating that building

consent authorities must accept products that have been approved through product certification schemes and tested to building codes or regulations from overseas.

- Option 5: Combine Options 2, 3, and 4. A combined approach to target different levels of the product assurance system, recognising more standards and certification schemes and providing further compliance pathways.

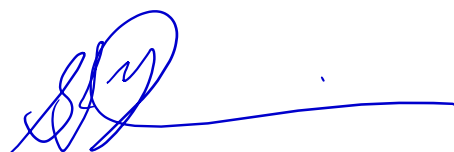
MBIE prefers Option 5 because it uses a combination of measures to strengthen competition and allows for more sources of building materials that can lead to better prices for consumers and provide greater resilience to supply disruptions. This option will also provide clarity to the sector in selecting products and give confidence in overseas products that can be accepted and used.

Limitations and Constraints on Analysis

This analysis is constrained by the limited time available to consult on the policy proposals and develop costings for their implementation. This risk is mitigated because potential options have been informed by the Commerce Commission market study into residential building supplies, which conducted consultation with sector participants. The policy proposals in this analysis were also campaigned on as part of the 2023 election manifestos of the National Party and Act Party.

Analysis on the impact of intervention is further constrained by non-regulatory factors, such as the cost of importation, out of scope products with no certification in overseas markets, the level of assurance required, skills needed to use the building product, and the suitability of products for use in New Zealand. These are discussed further in Section 2 of this analysis.

Responsible Manager(s) (completed by relevant manager)



14./03/2024

Suzannah Toulmin

Manager, Building Policy

Building System Performance

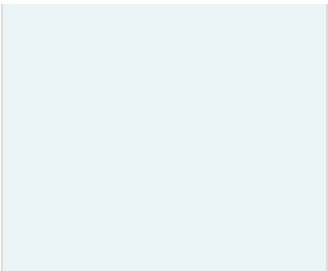
Ministry of Business, Innovation and Employment

Quality Assurance (completed by QA panel)

Reviewing Agency: MBIE

Panel Assessment & Comment: The Regulatory Impact Analysis Review Panel at The Ministry of Business, Innovation and Employment (MBIE) has reviewed the Regulatory Impact Assessment Mandating approval of overseas building products and associated supporting material, and we have determined that the paper Partially Meets the criteria. The panel has given the RIS a partially meets due to the following:

- The proposals have been informed by consultation by the Commerce Commission on the high-level



competition issues, but in the time available MBIE has not been able to consult with sector participants on the specific proposed solutions.

- The Panel considers the proposed Select Committee process will be critical to ensuring further public input into the proposals and mitigating risks and impacts.

Section 1: Diagnosing the policy problem

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

1. Currently, there are a range of compliance pathways for building products entering the New Zealand market and being used in building work. However, the Commerce Commission's market study found despite flexibility to use new and innovative products, it is too slow, costly, and uncertain to get them accepted for general use.

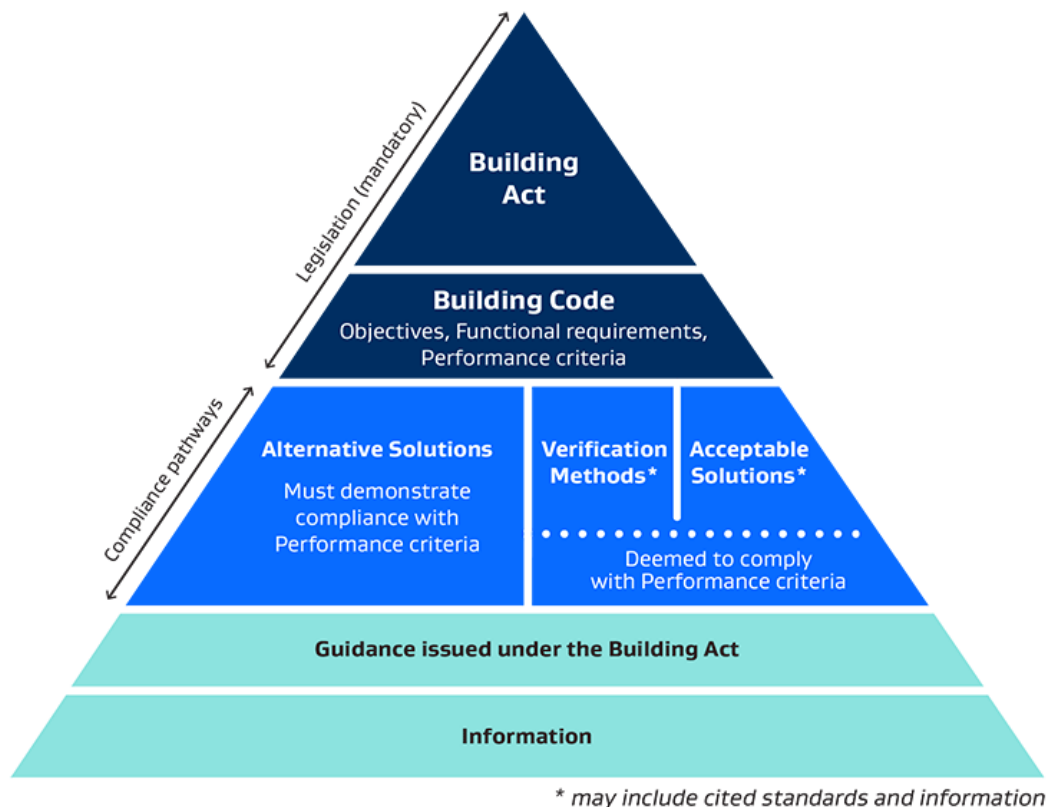
Current compliance pathways for building products entering the New Zealand market and being used in building work

2. When building products are used in building work, that work must comply with the Building Code. As the Building Code is performance-based, it allows for innovative building solutions to be developed and used, provided they meet its performance requirements. Any product from any country can be used so long as the designer can provide evidence to show that the building work will be code compliant if built in accordance with the plans and specifications.
3. The Building Code regulates the performance of the building as a whole. Compliance with the Building Code is achieved through the use the building products along with methods of design and construction. Each building product is used for a specific purpose to design a building. The design of the building dictates what the building product must do.
4. There are no mandatory requirements for how building products are certified. Manufacturers may choose voluntary ways to demonstrate that their products are suitable for use in buildings.
5. Manufacturers and suppliers may use a range of mechanisms, including seeking product appraisals (e.g., from the Building Research Association of New Zealand (BRANZ) or other providers) or providing appropriate technical information.
6. For building consent applications, building consent authorities check the plans and specifications to ensure the building work complies with the Building Code. This includes products specified in the plans, as they need to be confident that the use of the product will achieve code compliance. They will also check that the products are detailed in line with manufacturer information.
7. Compliance with the Building Code is supported by standards cited in Acceptable Solutions and Verification Methods. This is the method most residential designers use to comply with the Code.
8. Acceptable Solutions and Verification Methods set criteria for when and how products can be used, but the performance of specific products is set within cited standards themselves. For example, the standards set out what a product is, and the acceptable

solution shows how a product is joined to other products to become a building system, such as proprietary weatherboard attached to timber framing.

9. There are several pathways manufacturers, suppliers, and designers can use to provide assurance about the performance of building products and that when used in building work they will lead to code-compliant work.
10. The pathways that must be accepted by a building consent authority as establishing compliance with the Building Code are set out in Section 19(1) of the Building Act. These include but are not limited to:
 - (a) compliance with regulations referred to in section 20 (which may specify there is only one means of complying with the Building Code)
 - (b) compliance with an acceptable solution
 - (ba) compliance with a verification method
 - (c) a determination to that effect made by the chief executive under subpart 1 of Part 3
 - (ca) a current national multiple-use approval issued under section 30F, if every relevant condition in that national multiple-use approval is met (MultiProof)
 - (d) a current registered product certificate, if every relevant condition in that product certificate is met (CodeMark).
11. These pathways provide a high level of assurance of building code compliance. More detail on Acceptable Solutions and Verification Methods, MultiProof, and CodeMark is attached at Annex 1.

Figure 1: Building Code regulatory framework



12. On 11 December 2023, new Building Product Information Requirements (BPIR) came into force requiring a consistent level of minimum product information from

manufacturers and suppliers to be publicly available. These requirements include how building products can be used to contribute to compliance with the Building Code to support better decision-making by building consent authorities and product specifiers and users.

13. Manufacturers and suppliers can include reference to standards, both international and domestic. A minimum level of consistent information will make it easier for building consent authorities to check if building work using the building products will comply with the relevant Building Code clauses and make the consent process more efficient by reducing the number of requests for further information.
14. However, Building Product Information Requirements are not registered or checked by a central body for accuracy and rely on the manufacturers to make accurate claims about Building Code compliance. Minimum information may also not be sufficient to support a design, meaning building consent authorities have grounds to ask for further information. False or misleading claims can be investigated by MBIE.

The Commerce Commission market study into residential building supplies

15. The Commerce Commission's market study into residential building supplies⁴ found that competition for the supply and acquisition of key building supplies is not working as well as it could if it was easier for building products to be introduced and for competing suppliers to expand their businesses. The study found despite flexibility to use new and innovative products, it is too slow, costly, and uncertain to get them accepted for general use.
16. The study also found that the supply of many key building supplies is often highly concentrated. Some categories of key building supplies, for example plasterboard and fibre cement, have only one or two main suppliers. However, concentration in supply of some key products has fallen in recent years (i.e., the number of suppliers has grown).
17. The Commerce Commission's report made nine recommendations to improve competition for building supplies. Recommendation 3 was to: "*create more clear compliance pathways for a broader range of key building supplies*" and included several possible approaches:
 - updating and developing more Acceptable Solutions and Verification Methods, including to better reflect international standards
 - expanding the range of product certification schemes that can issue product certificates deemed compliant with the Building Code
 - investigating reducing further barriers to certification and appraisal, for example introducing streamlined certification process for low-risk products
 - developing guidance that, for key buildings, identifies the appropriate Building Code clauses and the possible means of proving compliance with those clauses.
18. MBIE has a range of work underway in response to these recommendations, including policy work on streamlining the building consent system.

Other ongoing initiatives

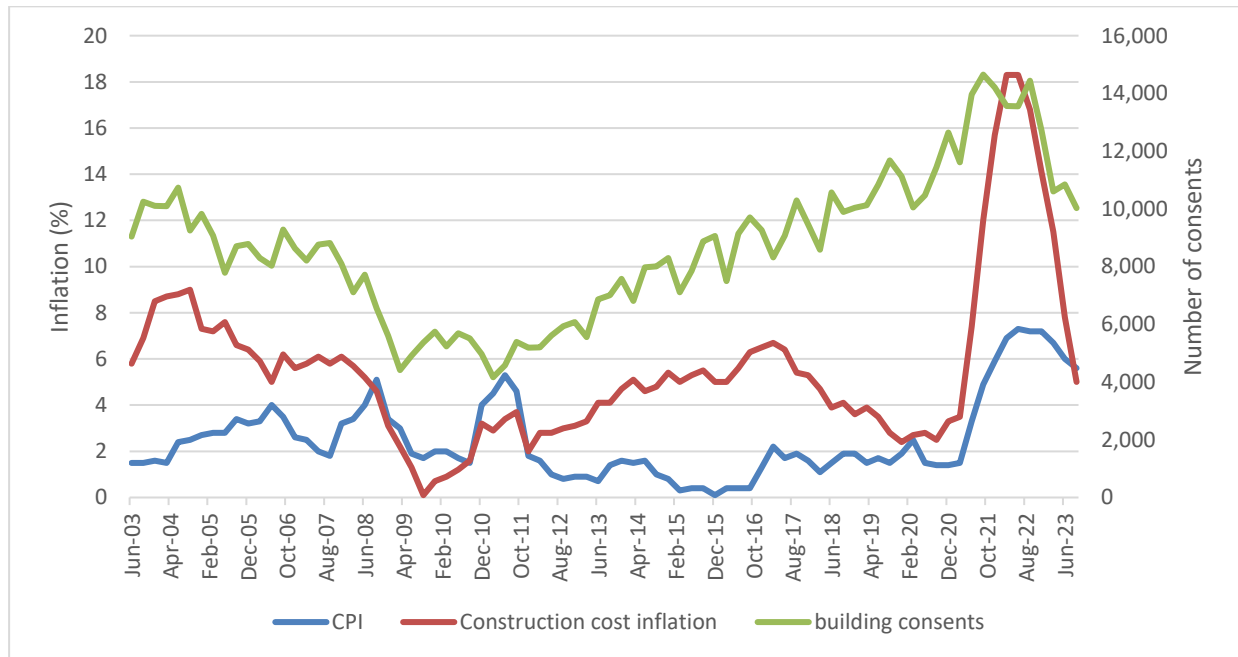
19. The sector has changed since the publication of the Commerce Commission's market study with the resolution of the plasterboard shortage and the lifting of COVID-19 supply chain restrictions. Building consent applications have slowed from record levels

⁴ [Commerce Commission - Market study into residential building supplies \(comcom.govt.nz\)](https://www.comcom.govt.nz/market-study-into-residential-building-supplies)

and construction price increases have declined sharply below the rate of inflation (Figure 2).

20. Any improvements to the building consent system that increase efficiency and competition, remove time delays, and ensure that building materials are affordable will help address the housing crisis and facilitate an increase in residential building. However, as the Commerce Commission noted, the building regulatory system is not working as well as it could if it was easier for building products to be introduced and for competing suppliers to expand their businesses.

Figure 2: Rate of inflation (CPI), construction cost inflation, and number of building consent applications, by quarter



21. Several ongoing or recently completed initiatives can support more efficient consenting and promote competition and innovation, including in response to the Commerce Commission’s market study recommendations. These initiatives include:

- **Strengthening CodeMark** under the Building Act to increase confidence and provide greater oversight.
- Convening a **Critical Materials Taskforce** to advise on key issues with construction materials and provide more responsive intelligence.
- Introducing the **BuiltReady scheme**, which streamlines the consenting process for offsite manufacturing for certified modular component manufacturers. BuiltReady is a deemed to comply pathway.
- Introducing **Building Product Information Requirements**, which commenced on 11 December 2023 and will provide a consistent level of minimum product information, including on how building products can be used to contribute to compliance with the Building Code.
- Publishing **product substitution guidance** to support designers, specifiers, and building consent authorities. This includes guidance on suitable alternative plasterboard products when there were issues with supply of the primary brand.

- Increasing **reference to international standards in Acceptable Solutions and Verification Methods**, which must be accepted by building consent authorities as evidence of compliance with the Building Code.
 - **Streamlining the building consent system**, including looking at whether competition should be included as an objective of the building consent system, removing barriers to product substitution and variations (including improving the flexibility of MultiProof), better delivery of building consent services, and alternative consenting and assurance pathways.
22. In addition, MBIE is also exploring ways to support greater uptake of voluntary product certification (CodeMark). These initiatives will continue unchanged under the counterfactual scenario.

Government commitments

23. MBIE understands that the Government wants to lower the cost of building materials by removing barriers to high-quality products entering the New Zealand market and being used in building work. Strengthening competition and allowing for more sources of building materials can lead to better prices for consumers and provide greater resilience to supply disruptions. This is particularly critical to support the Government's *Going for Growth* housing policy, led by the Minister for Housing (Hon Chris Bishop).
24. As part of its 100-point economic plan, the Government has committed to: *“strengthen competition for building materials with automatic approval for appropriately certified building materials from the US, Europe, the UK and Australia.”* The National Party's Better Building and Construction Policy expands on this commitment:
- *“Require building materials and product systems that meet international standards equivalent to those of New Zealand to be approved here*
 - *American, European, British and Australian standards will be automatically approved for use in New Zealand.*
 - *MBIE must be notified of all newly imported building materials for approval.”*
25. Work is also underway on the Government commitments to shift the context within which products are certificated, notably work on options to enable more consistent processes and decision-making across building consent authorities, self-certification, building defects insurance, and reducing potential council liability for building performance.

What is the policy opportunity or problem?

26. Despite ongoing and recently completed initiatives, there are still barriers in the building regulatory system to high-quality products and materials entering the New Zealand market and being used. For instance, New Zealand's performance-based system enables a greater degree of flexibility and innovation than a prescriptive system, but builders and building consent authorities are often looking to manage risks and their own liability and they need certainty to do this. Building consent authorities can, but are not required to, accept overseas certifications of products as evidence of compliance with the Building Code.
27. As a result, it can be too slow, costly, and uncertain to get some building products accepted for general use, which leads to high prices and a lack of choice of building products, and low confidence in the performance of products that are in use. These

barriers also mean that competition for the supply of key building supplies is not working as well as it could, as found by the Commerce Commission's market study.

Standards cited in Acceptable Solutions and Verification Methods are a barrier to competition

28. The Commerce Commission highlighted the standards cited in the Acceptable Solutions and Verification Methods as another barrier to competition, as designers, builders, and building consent authorities rely on familiar products tested to those standards. Two products may perform similarly but could be tested to different standards. This means that building consent authorities must assess equivalency for each individual product and consent application, resulting in duplication of efforts.
29. The current process required under section 29 of the Building Act for updating the standards (including incorporation of products certified overseas) in the Acceptable Solutions and Verification Methods documents is lengthy and resource intensive, including development of options, cost-benefit analysis, public consultation, and submission analysis. This process can take two to four years from start to finish and all stages are required under section 29 of the Building Act.
30. Standards across other jurisdictions are published with various names, numbers, terminology, requirements, and in different languages so it is often hard for designers, manufacturers, and building consent authorities to establish equivalency.

CodeMark is robust but expensive

31. CodeMark is a voluntary product certification scheme that provides an easy and robust way to show a building product or building method meets the requirements of the Building Code. A CodeMark certificate must be accepted by building consent authorities to show that building products and systems will meet the requirements of the Building Code.
32. However, there are several reasons why it is not a complete solution on its own:
 - the use of CodeMark is not mandatory and it can be expensive
 - the New Zealand market is too small for some international products to go through a CodeMark exercise when they have already achieved certification overseas or been tested against an equivalent standard
 - there are other compliance pathways that manufacturers, suppliers, and designers can use to provide evidence to building consent authorities that when those products are used, that work will comply with the Building Code
 - incorporating a CodeMark into a design may require additional evidence that the building as a whole complies with the Building Code
 - BRANZ testing is perceived as being the gold standard in New Zealand, when there are overseas tests that perform equally well.

Familiarity bias and liability settings mean sector participants rely on what they know will be granted consent

33. Familiarity bias – people choosing products they have confidence will perform and will be accepted by building consent authorities – plays an important role. Submitters on the Commerce Commission's study generally agreed that specifiers (architects,

engineers, designers) and builders have familiarity bias, which makes entry and expansion of new building supplies difficult.

34. This bias is often driven by concerns that new products may not be accepted by building consent authorities due to concerns about liability if the product or building work does not perform, and that decisions can vary between different building consent authorities. In the case of builders, they may not be able to claim against product warranties when products fail, and suppliers have exited.
35. Submitters to the Commerce Commission also agreed that building consent authorities have a similar familiarity bias towards trusted products because this simplifies consent evaluation and reduces liability risk.
36. While a product certified to a standard referenced in the Acceptable Solutions and Verification Methods must be accepted as code compliant, if an alternative solution is used, building consent authorities may seek further assurance or one authority may accept it, but another may not.

The Building Act allows for overseas certification of building products to be accepted in New Zealand, but this power has never been used

37. In addition to the compliance pathways set out in section 19(1) of the Building Act, section 262(2) allows for the Chief Executive of MBIE to recognise overseas certification of building products as if they were product certifications under the Building Act (specifying certifications by way of *Gazette* notice). However, this power has never been used.
38. Before using this power, section 262(3) of the Act requires that MBIE's Chief Executive must determine equivalency with the New Zealand system, that is, they must be satisfied that the building method or product meets the prescribed criteria and standards for certification. These are set in regulations and scheme rules under the CodeMark scheme and include compliance with provisions of the Building Code that are relevant to the intended use of the product. As these are specific to the New Zealand Building Code, they effectively mean a certificate holder must apply to the Chief Executive, limiting the ability to proactively recognise schemes.
39. The Chief Executive cannot act proactively and cannot recognise entire schemes, or classes or groups of products.
40. MBIE carried out some initial investigations of this power as part of the plasterboard shortage in 2022. It found that third-party certification of typical plasterboard products was not common overseas and viable products that complied with the Building Code were identified. That issue was able to be effectively managed through MBIE guidance.
41. The intention of the section 262(2) power was to allow for recognition of overseas-certified products that meet the standards of New Zealand-certified products.

The section 262(2) power cannot be used under the status quo

42. MBIE is not currently aware of any product certification schemes that could be recognised under the current section 262(2) criteria for certification. Section 262(2) cannot realistically be used now without legislative change because:
 - *Gazette* notices issued under section 262(2) are not listed in section 19(1) as matters a building consent authority must accept as establishing compliance with the Building Code.

- Section 262(2) does not currently allow for a class or classes of products certified by overseas certification bodies (or schemes) as well as individual products, which limits its flexibility.
- To approve certification of a product under section 262(2), MBIE's Chief Executive may need to seek external advice from building material experts. Under section 390, protections for persons providing advice to MBIE to support its determinations function and its building failure investigation function are included to support the provision of these services (sections 390(1)(c) and (ca) of the Act). However, no equivalent protections exist regarding s262(2) advice.
- Section 392(1) states that no civil proceedings may be brought against a building consent authority for anything done or omitted to be done in good faith in reliance on any of the listed documents, including things they must accept under section 19(1). This list does not include *Gazette* notices issued under section 262(2).

What objectives are sought in relation to the policy problem?

43. The primary objective sought in relation to the policy problem is to remove barriers to high-quality building products entering the New Zealand market. Removing these barriers will:
- lower the cost of building products
 - strengthen competition in the building products market
 - strengthen resilience to supply disruptions
 - increase flexibility and efficiency in the building consent system
 - improve the supply of affordable housing.

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

Assessment Criteria

44. MBIE has considered the assessment criteria in Table 1 below when developing the policy proposals contained in this analysis.

Table 1: Assessment criteria for policy proposals

Criteria:	Description of Criteria:
Effectiveness	<p>Addresses barriers to overseas products entering New Zealand and delivers on the Government’s objectives, including:</p> <ul style="list-style-type: none"> • Competition and innovation: The market for building products in New Zealand enables competition between suppliers and new high-quality products being brought to market and used. • Prices of products: The prices of building products are as low as sustainably possible, with the view of reducing the cost of construction in New Zealand. • Resilience to supply chain disruptions: The market for building products can maintain supply during disruptions to supply chains.
Confidence	<p>Building system participants (including product users, manufacturers, and building consent authorities) have confidence in building products and how they will perform once installed.</p> <p>System participants are confident in MBIE’s oversight of the system, including its ability to make improvements where necessary and respond to faults.</p>
Certainty, clarity, and consistency	<p>The regulatory framework has clear roles and responsibilities for suppliers (including manufacturers, importers, distributors, and retailers) and regulatory bodies (including MBIE and territorial authorities).</p> <p>The regulatory framework facilitates consistent decision making by regulatory bodies (including MBIE and building consent authorities).</p>
Efficiency	<p>The cost, time, and effort to comply with regulatory requirements for system participants (manufacturers, suppliers, building consent authorities) are not overly burdensome.</p> <p>The initial and ongoing financial and resourcing costs for MBIE (e.g., to determine equivalent overseas standards) associated with the initiative are manageable.</p>
Agility and flexibility	<p>It is easy and quick to make changes based on new or emerging information about the risks of a product or classes of products, or robustness of a certification scheme, to minimise the risk of widespread building failure and respond if something does go wrong.</p>

45. The assessment criteria are generally complementary, but there may be some trade-offs required. For example, high confidence may come at the cost of greater flexibility. The assessment criteria are weighted equally.
46. These criteria have been selected for the following reasons:
- **Effectiveness:** Strengthening competition and lowering prices of building materials is a priority for the Government. There is a need to ensure the path for product approvals is smoothed as soon as possible in support of the Government's goals for the *Going for Growth* housing policy.
 - **Confidence:** A key symptom of a lack of high-quality building products and low competition is that confidence among builders and building consent authorities of the performance of new building materials is often low.
 - **Certainty, clarity, and consistency:** A key aim of the Government's commitments is to speed up consents and reduce the number of requests for information from building consent authorities to homeowners. This criterion seeks to measure whether the options address this issue and improve consistency in decision-making.
 - **Efficiency:** We need to understand how much each option will cost MBIE, building consent authorities, suppliers, and other sector participants in terms of implementation and operational expenditure, including resourcing implications. Sector participants (manufacturers/suppliers, building consent authorities, builders, and others) should be easily able to comply with any new regulatory requirements.
 - **Agility and flexibility:** There needs to be a quick way to act on new or emerging information about the risks of a product or classes of products, or robustness of a certification scheme, to minimise the risk of widespread building failure.

What scope will options be considered within?

47. Regulatory and non-regulatory options are considered within scope of this analysis. Options that complement ongoing initiatives to achieve the objectives identified (paragraph 43) are also within scope.
48. Continuing with ongoing initiatives without any further change is captured as the counterfactual. A discussion of these ongoing initiatives can be found in paragraphs 19-22.

What options are being considered?

The counterfactual

49. MBIE recognises that the building consent system needs to be more efficient and flexible. The initiatives described above (paragraphs 19-22) aim to support more efficient consenting and promote competition and innovation, including in response to the Commerce Commission's market study.
50. Nevertheless, The Commerce Commission's market study identified some limitations with current compliance pathways that act as barriers to overseas products entering the market, including:
- Where a building product fits within an Acceptable Solution or Verification Method and cited standard, those products appear to be more readily specified and used

in residential building designs compared to competing products that do not fit within a similarly clear compliance pathway. Familiar products are much more likely to have clear compliance pathways.

- Competing products are less likely to be readily used without a clear compliance pathway.

51. As outlined earlier, the Commerce Commission highlighted the standards cited in the Acceptable Solutions and Verification Methods as a barrier to competition. Designers, builders, and building consent authorities rely on familiar products tested to those standards.

Option 1 – More resourcing for Acceptable Solutions and Verification Methods to fast-track existing processes

52. This option is essentially an enhanced counterfactual. MBIE could dedicate more resourcing to existing Acceptable Solutions and Verification Methods processes to make those processes faster. This aims to ensure new or innovative products and systems can be better introduced to the standard method of building in New Zealand.

53. This option links to the Commerce Commission’s recommendation to “*create more clear compliance pathways for a broader range of key building supplies*”, by updating and developing more Acceptable Solutions and Verification Methods, including to better reflect international standards.

Option 2 – Recognise overseas standards and certification schemes

54. This option would fast-track overseas certified products, removing uncertainty and making it easier for overseas standards from trusted jurisdictions to be incorporated into building designs. It creates an easier pathway for the largest number of products to be used in building designs in New Zealand, while retaining confidence that the final building design will be code compliant.

55. The key elements of this option are:

- The Minister would recognise groups of standards from overseas standards organisations and certification schemes by *Gazette* notice. Regulations would specify the criteria for recognising a standards organisation or certification scheme. The Minister could also amend or revoke such notices by *Gazette* notice if there were issues with a scheme.
- The proposed building work would still be assessed for compliance with the Building Code. Designers could choose the compliance pathway and would need to show how the product will be used with other products and methods.
- It removes the need to verify the adequacy of the standard or certification schemes, allowing designers, builders, and building consent authorities to be confident that unfamiliar products have been tested to a reputable standard from trusted jurisdictions.

56. Manufacturers and suppliers could choose to reference recognised standards and certification schemes when making claims required under the Building (Building Product Information Requirements) Regulations 2022.
57. If designers do not follow a pre-approved design (Acceptable Solution or Verification Method, or MultiProof) they would need to show how the building work, including specified products, will comply with the Building Code.
58. Building consent authorities would still need to check designs as an alternative solution, but this process should be easier because:
 - they can have more confidence that the product does what is claimed. They can rely on the robustness of the certification process and will not need to determine whether certification was by a reliable body or against a reliable standard.
 - they will not be held liable for relying in good faith on information that must be disclosed under the Building (Building Product Information Requirements) Regulations 2022.

Option 3 – Create a new regulatory instrument under the Building Act, the *Building Product Equivalency Specifications*

59. Option 3 proposes to create a new regulatory instrument in the Building Act (the *Building Product Equivalency Specifications*). It would:
 - specify what international building product standards or specifications must be considered as equivalent to those used in New Zealand
 - contain the cited building product standards or specifications from the Acceptable Solutions and Verification Methods.
60. If any product complies with an equivalent standard for its specific purpose, the building can comply with the Acceptable Solutions and Verification Methods and the building must be accepted. This is intended to streamline recognition of equivalent or better international standards, fast-track the consent processes, and reduce the burden for designers and building consent authorities using new products.
61. The new instrument would contain all standards and specifications and sit alongside the existing Acceptable Solutions and Verification Methods, which would then refer to the published list of building product standards or specifications deemed equivalent.
62. The Acceptable Solutions and Verification Methods documents would specify the performance of the buildings and when certain product types are to be used, and the building product equivalency specifications would contain the details for the equivalent standards or specifications for each product type.
63. This will help designers, product manufacturers, and building consent authorities determine the equivalency of overseas standards and reduce reliance on familiar products.
64. The *Building Product Equivalency Specifications* would be issued by the Chief Executive of MBIE by *Gazette* notice. This option combines regulatory and non-regulatory changes, as it requires legislative change and changes to Acceptable Solutions and Verification Methods.
65. This approach would:
 - increase the number of overseas product standards and specifications that must be accepted, enabling more products to be used confidently

- address risk averse behaviour of designers who may otherwise not choose to specify standards from overseas or not cited in Acceptable Solutions and Verification Methods, as MBIE would do the work to establish equivalency
- align with overseas product certification, enabling MBIE to recognise products certified under international certification schemes that are unlikely to have major negative impacts
- make the regulatory system more agile and responsive when accepting new products, support both domestic and international suppliers to get their products to market in New Zealand
- maintain MBIE's ability to respond to issues
- make the current process to update Acceptable Solutions and Verification Methods to recognise overseas building product standards or specifications easier, especially to reference overseas standards and save time on consultation (reducing the process from at least two years to three to eight months)
- be functionally the same as existing requirements in the Acceptable Solutions and Verification Methods (i.e. requiring building consent authorities to accept them).

Option 4 – Amend the Building Act to make the section 262(2) function more flexible and effective

66. This option is about certifying products for design by mandating that building consent authorities must automatically accept products that have been approved through product certification schemes and tested to building codes or regulations from overseas (equivalent to New Zealand's).
67. This option would increase flexibility and enable effective implementation, by enabling the Chief Executive of MBIE to proactively recognise overseas certification schemes, as well as groups or classes of products (via *Gazette* notice). Building consent authorities would be mandated to accept all product certifications covered by the *Gazette* notice as evidence of compliance with the Building Code.
68. Regulations would prescribe the criteria and standards for recognition of overseas certification schemes, which would be less restrictive than the current prescribed criteria and standards for certification.
69. This would enable the Chief Executive to mandate that building consent authorities must accept products certified by schemes like New Zealand's product certification scheme, such as WaterMark Australia. This would open the New Zealand market to more of the plumbing products approved for use in Australia⁵, increasing the range of products available and driving down prices.
70. Where Option 2 enables recognition of more standards and certification schemes, this option provides for another compliance pathway.
71. There is a risk that this option could negatively affect the viability of the CodeMark scheme, and its product certification bodies, as well as the existing compliance

⁵ Ongoing access to more than 200,000 products approved through WaterMark.

pathways available to domestic producers. Additionally, some building owners may have to litigate with the overseas product certifiers if a product fails.

Option 5 – Combine Options 2, 3, and 4

72. This option combines recognising overseas standards and certification schemes (Option 2), the new regulatory instrument, the *Building Product Equivalency Specifications* (Option 3), and amending the Building Act to make the section 262(2) power more flexible and effective (Option 4).
73. These changes aim to complement each other by reducing regulatory barriers to building products from overseas jurisdictions being accepted by building consent authorities, while mitigating risks posed to consumers from substandard building work. The risk of building failure is low as the obligation is still on designers to show that the product is fit for purpose in its intended use and complies with the Building Code.
74. A combined approach targets each level of the product assurance system. Option 2 enables recognition of more standards and certification schemes, Option 3 provides a compliance pathway for designs relying on those overseas standards, and Option 4 provides another compliance pathway.
75. Recognising overseas certification schemes, as well as groups or classes of products, will provide confidence in building products. The Building Product Equivalency Specifications will provide confidence that products will comply with the New Zealand Building Code.
76. All three options will encourage designers to better consider how the product they are specifying performs and how it contributes to complying with the Building Code. Introducing all options together gives designers a choice of options depending on their level of risk of the product not being accepted as complying.
77. The combined option will also mean that New Zealand suppliers and manufacturers are able to compete equally in the new market environment and to test their products against widely accepted overseas standards (instead of New Zealand based standards), facilitating easier access to overseas markets.
78. [Placeholder] While progressing multiple options simultaneously may be complex for MBIE to implement, and potentially for sector participants to understand the benefits and limitations, each option would be implemented within different timeframes and have co-benefits.
79. This option provides different tools and enables MBIE to use them. As part of implementation, MBIE will need to make decisions about how and when it uses these tools, considering the relative benefits and costs of each.
80. Section 3 provides more detail on how the combined option will be implemented through the same legislative vehicle, and how MBIE will support the sector to understand the options, what they mean for them, and how to apply them.

How do the options compare to the counterfactual?

Table 2: Comparison of options

	Counterfactual	Option 1 – More resourcing for Acceptable Solutions and Verification Methods to fast-track existing processes	Option 2 – Recognise overseas standards and certification schemes	Option 3 – New regulatory instrument (<i>Building Product Equivalency Specifications</i>)	Option 4 – Amend the Building Act to make the section 262(2) function more flexible and effective	Option 5 – Combine options 2, 3, and 4
Effectiveness	0 Work underway will help address barriers to competition and innovation, improve resilience to supply disruptions, and lower prices (through increased competition).	+	+	++	+	++
		Same benefits as work underway, but faster. Dependent on other factors discussed in paragraph 85.	Creates easier path for the greatest number of overseas products to be used in designs. Identifies widest range of products that can be specified in NZ.	Increases the number of international product standards or specifications referenced by AS/VMs that BCAs must recognise. Supports domestic and international suppliers.	BCAs must accept products from recognised schemes, but criteria limit the number of schemes recognised. Dependent on other factors discussed in paragraph 85.	2, 3, and 4 combined. Most effective as it targets different levels of product approvals.
Confidence	0 Building sector confidence in overseas building products expected to increase over time.	+	+	+	+	++
		More overseas standards cited in AS/VMs and faster processes.	Designers, builders, and BCAs can rely on unfamiliar products that have been tested to a reputable standard	Aligns with overseas product certification – confidence that unfamiliar products will be accepted by BCAs if they follow AS/VM pathway.	More confidence that overseas building products will meet Code requirements.	2, 3, and 4 combined. Confidence in products themselves and that products will comply with Code.

			from trusted jurisdictions.		Recommended by Commerce Commission.	
Certainty, clarity, and consistency	0 No new obligations on sector. BuiltReady and CodeMark certified products must be accepted by BCAs. Building Product Information Requirements came into effect 11 December 2023. Other guidance on overseas certifications is not mandatory.	++ Aligns with how products are certified overseas. Incorporating international standards into AS/VMs and processing faster.	+ Unfamiliar products from certain jurisdictions certified known to meet standards, but BCAs still need to assess code compliance. BCAs not liable for relying in good faith on information disclosed under BPIR regulations	++ Same as Option 2. BCAs not liable for relying in good faith on information disclosed under BPIR regulations.	++ BCAs mandated to accept all product certifications covered by <i>Gazette</i> notice as evidence of code compliance.	++ 2, 3, and 4 combined. Clarity for sector in selecting products.
Efficiency	0 No additional costs to MBIE. No additional compliance costs or regulatory burden relating to the approval of overseas products.	0/+ Extra MBIE resource required. No additional compliance costs or regulatory burden.	0 Significant upfront costs to MBIE to implement changes. Time savings for BCAs and no extra compliance costs for designers.	+/> Upfront cost to MBIE to implement changes (resourcing, expert advice, purchasing standards). Lower ongoing costs for BCAs to evaluate and identify equivalent standards.	+ Upfront and ongoing cost to MBIE. Less restrictive than current criteria and standards – easier to comply.	++ 2, 3, and 4 combined. Complex to implement all options. Easier for BCAs to process consents, lower burden for designers using new products.
Agility and flexibility	0	0	+	+	+	+

	Work underway aims to make the building consent system more flexible.	MBIE slightly more agile with greater resourcing dedicated to publishing AS/VMs.	Flexibility to mandate, suspend, or revoke through <i>Gazette</i> notice.	MBIE able to respond to new products or issues, but time consuming to evaluate individual standards compared to jurisdictions. Easier to update AS/VMs than current or Option 1.	Flexibility to respond to new product certification bodies or to remove bodies through <i>Gazette</i> notice.	2, 3, and 4 combined. MBIE can proactively identify standards.
Overall assessment against desired outcomes	0 Will help to streamline building consents, strengthen competition for building products, and lead to better prices and greater resilience to supply disruptions.	+	+	++	+	++
		Similar impact to counterfactual, but slightly faster. Fewer risks than other options but impact not as direct or quick.	Enables recognition of greatest range of standards. Gives confidence that products meet tested standard but plans still need to be assessed for code compliance.	Direct compliance pathway for greater range of products. Creates reliance on an ongoing function.	Direct compliance pathway, but limited scope of schemes recognised. Potential risk to CodeMark and overseas litigation.	Complementary approach targeting different levels likely to yield most benefit.

Key:

- ++ much better than counterfactual
- + better than counterfactual
- 0 about the same as counterfactual
- worse than counterfactual
- much worse than counterfactual

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

81. MBIE's preferred approach is Option 5 – combining options 2, 3, and 4. That is, recognise overseas standards and certification schemes (2), create a new regulatory instrument, the *Building Product Equivalency Specifications* (3), and amend the Building Act to make the section 262(2) power more flexible and effective (4).
82. This option best meets the criteria outlined in Table 1 and compared in Table 2.
83. Combining the options as a package in this way would produce greater benefits than the individual options would achieve alone, as it would target each level of the product assurance system (standards, certification schemes, and compliance pathways). A combined approach would make it easier for building consent authorities to process consents, give MBIE the flexibility to proactively identify standards, and provide clarity for the sector in selecting products.

Limitations on analysis

84. The analysis of a preferred option is constrained by non-regulatory factors that will influence the achievement of objectives (paragraph 43) and performance against the criteria identified in Table 1.
85. These non-regulatory factors impact the decisions of importers or overseas building product manufacturers to pursue a compliance pathway or bring a product into the New Zealand market, as follows:
 - The ability to access a retail network for a building product: This will impact a decision to bring a product into the New Zealand market. The proposed regulatory change will not impact accessibility to a retail network.
 - Cost of importation: New Zealand is a small geographically isolated market. The reduction of regulatory barriers by the preferred option may not impact the economics of importing building products.
 - Increased competition with no reduction in cost of building products: The preferred option aims to increase competition for high-quality building products and reduce regulatory barriers to these entering the market. However, this may not reduce the cost of building products. Increased competition may lead to increased consumer choice and increased availability of high-quality building products.
 - Some products do not have certification in overseas markets and therefore will not be in scope of the preferred option.
 - Some importers and overseas manufacturers will not require the level of assurance that the preferred option provides. This will impact how widely used the preferred option is used by importers and overseas manufacturers.
 - Local knowledge of designers and builders to use the building product: Some products may require specialist skills, trades, or training that may not be available in New Zealand.
 - The suitability or compatibility of products for use in New Zealand construction practice: While the options aim to enable more products to be used, if they do not

fit with how we build in New Zealand, or meet certain requirements (e.g., seismic), they may still not be used.

86. The preferred option will provide another avenue of product assurance and will perform positively against the criteria. However, the limitations identified above may impact the certainty and extent of how positively the preferred option will perform against the criteria.
87. One of the objectives is to increase the supply of affordable housing. There are limitations on the options achieving this that are outside the scope of this analysis, for example local government infrastructure challenges and zoning changes.

Limitations on consultation

88. MBIE has also not been able to consult with sector participants and key stakeholders to understand how the preferred option may impact them. This is due to the urgency with which the Government's commitment is being progressed. However, some of the policy proposals in this analysis were campaigned on as part of the 2023 election manifestos of the National Party and Act Party.
89. As outlined earlier, the options have also been informed by the Commerce Commission's market study into residential building supplies and the submissions made on that study. The Commission engaged with a range of industry stakeholders and interested parties, including building supplies merchants, manufacturers, and importers, building industry representatives, government agencies, industry bodies, and Māori partners.
90. The Commission sought responses on several papers, including a preliminary issues paper, a scoping paper, and the draft report. It also conducted a consultation conference and asked interested parties to complete surveys.
91. The main limitation of the Commerce Commission's consultation for this analysis was that it focused on understanding the high-level problem with competition, rather than specific solutions. However, it did seek feedback on its recommendations, which have informed the development of the options in this analysis.

What are the marginal costs and benefits of the option?

Table 3: Impact of the preferred option

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Importers and overseas manufacturers of building products	Importers already required to supply information about products by Building (Building Product Information Requirements) Regulations 2022 (e.g., technical specifications). May choose to reference recognised standards and certification schemes. Evidence certainty limited by no consultation.	Low	Medium
Central Government (Ministry of Business, Innovation and Employment)	MBIE expects to fund implementation from baseline budget and to scale to the funding available. Will need to re-prioritise resources to recognise standards.	Low	Medium
Building Consent Authorities	May require internal guidance and/or training. Still need to check the product complies with the Building Code. Evidence certainty limited by no consultation.	Low	Low
Product certification bodies (Under CodeMark and JASANZ)	May impact CodeMark and willingness to work on the scheme. Evidence certainty limited by no consultation.	Medium	Low

Overseas product certification bodies	No additional regulatory burden.	Nil	High
Homeowners, consumers, builders, users of building products	Cost to understand new scheme and requirements. Low risk of building failure, obligation still on designers to prove compliance. Evidence certainty limited by no consultation.	Low	Medium
Total monetised costs		-	-
Non-monetised costs	Cost to the Crown initially anticipated to be met through MBIE baselines and to scale to the funding available.	Medium	Medium. The Commerce Commission provides evidence of costs but there are other non-regulatory factors.
Additional benefits of the preferred option compared to taking no action			
Importers and overseas manufacturers of building products	Ongoing benefit – faster consenting, more certainty, and reduced regulatory barriers, making it easier to bring products to New Zealand. Does not address non-regulatory factors. Evidence certainty limited by no consultation.	Medium	Low
Central Government (Ministry of Business, Innovation and Employment)	Reduced frequency of updating AS/VMs.	Nil	High
Building Consent Authorities	Reduced scope of role consenting building work when an approved product is used, improved confidence in overseas products, consistent decision-making, reduced risk of liability.	Medium	Low

	Evidence certainty limited by no consultation.		
Product certification bodies (Under CodeMark and JASANZ)		Nil	High
Overseas product certification bodies	May increase attractiveness of overseas certificates, as products recognised under section 262(2) of the Building Act have a direct pathway to compliance.	Low	High
Homeowners, consumers, builders, users of building products	Ongoing, improved access to high quality building products. Lower cost of building products. Easier path through building consent process. Dependant on non-regulatory factors. Evidence certainty limited by no consultation.	Medium	Low
Non-monetised benefits		Medium	Medium. The Commerce Commission provides evidence of benefits but there are non-regulatory factors.

Section 3: Delivering an option

How will the new arrangements be implemented?

92. If the preferred option is pursued (Option 5), the proposed amendments to the *Building Act 2004* will be drafted and given effect through the Building (Product Certification) Amendment Bill. This will be introduced to the House of Representatives in mid to late 2024.
93. Confidential advice to Government
The Bill may go through a slightly shorter Select Committee process (6-8 weeks) but will still allow time for public submissions.
94. While each element of Option 5 will commence around the same time, the lead time for each will differ. MBIE will develop suitable resources to help ensure the transition into these options is as smooth as possible and it can react quickly to the sector's needs if gaps in understanding are identified at any stage.
95. The changes to legislation will be communicated through public communications (e.g., Ministerial press release) and targeted communications to key stakeholders. MBIE is also in regular contact with building consent authorities and will be available to actively respond to any queries regarding the change.
96. Technical expertise will be required to consider what countries, standards organisations, and certification schemes can be recognised. MBIE will also be responsible for identifying, evaluating, and purchasing equivalent international standards. This will include proactively identifying standards that can be specified in the Building Product Equivalency Specifications. This will operate similarly to, and work with, Acceptable Solutions and Verification Methods.
97. Recognition of groups of standards from overseas standards organisations and standards certification schemes by *Gazette* notice will be the power of the Minister for Building and Construction. A regulation making power will set criteria for how this power should be used.
98. The function to recognise entire schemes, or classes or groups of products will be the responsibility of the Chief Executive of MBIE. This will be supported by a regulation making power to set criteria for how this responsibility should be used.
99. MBIE will be developing an implementation plan for each element of Option 5 that will detail what work is required to support decision-makers using the powers outlined above. For example, MBIE can identify international standards that may meet the performance criteria in the Building Code, but these will need to be reviewed to confirm they are compatible with New Zealand conditions.
100. [Placeholder] Relatedly, MBIE needs to understand how it will prioritise the different tools offered by each element of Option 5 and whether this requires any resource reallocation.

Non-regulatory work

101. Ongoing work is outlined in paragraphs 19-22. In particular, MBIE is increasing reference to international standards in Acceptable Solutions and Verification Methods, which must be accepted by building consent authorities as evidence of compliance with

the Building Code. It is also exploring ways to support greater uptake of voluntary product certification (CodeMark).

102. MBIE is responsible for developing and monitoring Acceptable Solutions and Verification Methods. Any changes to Acceptable Solutions and Verification Methods must follow the procedures and minimum timeframes set out in sections 29 and 409 of the Building Act. This includes a requirement to consult.

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

103. This proposal, if agreed to, will be integrated into the existing regulatory system. One of MBIE's key roles as the system steward and central regulator is to monitor the performance of the building regulatory system.
104. The Government is looking at ways to improve monitoring and get better performance data. Cabinet has agreed for the Minister of Building and Construction to instruct building consent authorities to report information already held for Q1 2024 and develop a plan to improve the monitoring of the building consent system and report back with complete data later in 2024. MBIE will use these findings and future data to evaluate the ongoing impact of the implemented option(s).

Annex 1: Acceptable Solutions and Verification Methods, MultiProof, and CodeMark

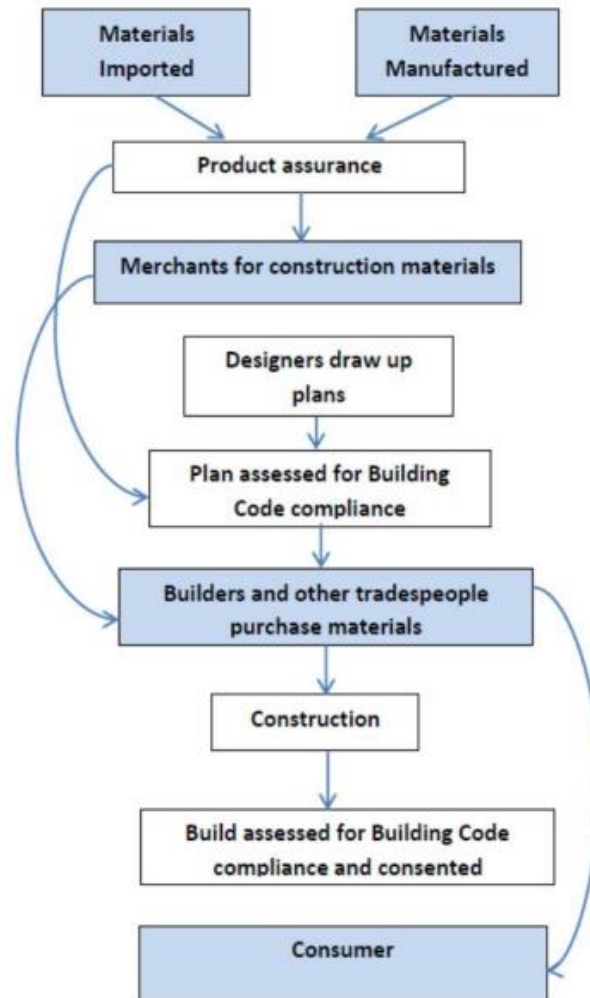
What are Acceptable Solutions and Verification Methods?

105. Designs that comply with Acceptable Solutions and Verification Methods must be accepted by building consent authorities as complying with the Building Code (under section 19(1)(b) and (ba) of the Building Act). Building Code clauses generally have one or more Acceptable Solution and may also have more than one Verification Method.
106. Acceptable Solutions give specific construction details, often for commonly used building materials, systems, and methods. Verification Methods are tests or calculation methods that prescribe one means of compliance.
107. Standards are one of the sources of information that MBIE cites when developing Acceptable Solutions and Verification Methods. The use of these documents, and the standards cited by them, is not mandatory.
108. Standards are used in building design and construction in several ways:
 - manufacturing specifications to make products meet a specific purpose (e.g., chemical composition, density, and weight)
 - testing products to different measurements (e.g., strength, weathertightness, fire resistance)
 - designing systems and buildings (e.g., design approaches, engineering calculations, connection details)
 - installation of products (e.g., fixings and fasteners, wiring details, pipe layouts, and fittings).
109. The standards process has been used both in New Zealand and internationally for decades. Standards are used to support building design, product manufacturing, and product testing. There are approximately 450 standards referenced in Acceptable Solutions and Verification Methods currently. Of these, approximately 25 per cent are

New Zealand standards, 35 per cent are Australian or joint New Zealand-Australian standards, and the remaining 40 per cent are other international standards.

110. While Acceptable Solutions and Verification Methods support the use of certain building methods, they are not typically building product specific.

Figure 2: High level summary of the construction process



What is an Alternative Solution?

111. Not all building work is provided for in the Acceptable Solutions and Verification Methods. An alternative solution is all or part of a building design that demonstrates compliance with the Building Code but differs completely or partially from the Acceptable Solutions or Verification Methods.
112. If a designer chooses not to follow a pre-approved pathway, the obligation falls on the designer to provide sufficient evidence to demonstrate compliance. This could include products certified to overseas standards, but which do not have information how they comply with the New Zealand Building Code.
113. Demonstrating compliance directly with the clause(s) of the Building Code is, by definition, an alternative solution.

What is MultiProof?

114. A National Multiple-Use Approval (MultiProof) is a statement by MBIE that a set of plans and specifications for a building complies with the Building Code. To be eligible,

an applicant must have the intention and the ability to build an approved design at least 10 times over two years.

115. Under the Building Act, only MBIE can issue MultiProof certificates. Building consent authorities must accept a MultiProof certificate under section 19(1) of the Building Act, however, each consent must be granted individually and include site-specific information. As at 28 February 2024, there were 566 certificates on the MultiProof register.
116. Building consent applications that contain MultiProof approvals have a longer initial processing timeframe (one-off 40 working days for MBIE's MultiProof assessment plus 10 working days for the building consent authority consent) than a typical building consent processed by a building consent authority (20 working days). However, the one-off processing time for MultiProof approval creates efficiencies with multiple use. Once the MultiProof approval is obtained, it can be used as many times as needed, with the shorter 10 working day building consent authority consenting timeframe.

What is CodeMark and how does it work?

117. CodeMark is a voluntary product certification scheme that provides an easily understood and robust way to show a building product or building method meets the requirements of the Building Code. In New Zealand, a CodeMark certificate must be accepted by building consent authorities to show that building products and systems will meet the requirements of the Building Code.
118. CodeMark was developed in 2008 by the Australian Building Codes Board (ABCB), in consultation with the former Department of Building and Housing in New Zealand, Australian State and Territory governments, industry groups and certification bodies. The scheme was developed in response to the increasing integration of the building products market between Australia and New Zealand.
119. Under CodeMark, product certification is carried out by product certification bodies that are accredited by the Joint Accreditation System of Australia and New Zealand (JASANZ). International standards are used as part of the requirements to be accredited as a product certification body under CodeMark.⁶
120. In New Zealand, product certification bodies are also registered with MBIE and the criteria and standards for product certification are set out in regulations and scheme rules under the Building Act (see Regulation 12 of the Building (Product Certification) Regulations 2022).
121. Four private entities currently provide certification services under CodeMark in New Zealand – Bureau Veritas, SAI Global, Global-Mark and BRANZ. The first three of these product certification bodies are based in Australia. All four also operate under CodeMark Australia.

Current uptake of CodeMark

⁶ ISO/IEC 17065: 2012(AU) / 2013(NZ) *Conformity assessment – requirements for bodies certifying products, processes and services.*

122. There are 169 active products on the CodeMark register⁷ in New Zealand, and 220 products on the CodeMark Australia register (as at 28 February 2024).
123. There are several reasons why manufacturers of overseas-certified products may choose to use, or not use, CodeMark:
- the use of CodeMark is not mandatory and it can be expensive
 - there are other compliance pathways that manufacturers and suppliers and designers can use to provide evidence to building consent authorities that when those products are used, that work will comply with the Building Code
 - incorporating a CodeMark into a design may require additional evidence that the building as a whole complies with the Building Code.
124. CodeMark is suitable for any building product or method but is particularly beneficial to manufacturers and suppliers of products that are innovative, new to the market, or would have serious consequences if they failed. In the past this has included, for example, membrane roofing and exterior cladding products. However, this level of assurance is not typically required for some common or well-established products that have a good track record and proven in-service performance.
125. Building products with CodeMark certificates are excluded from the recently commenced building product information requirements, which may potentially lead to an increase in CodeMark applications as implementation of these requirements proceeds.

⁷ There are 170 products on the register, but one is suspended.