

27 June 2024

Ministry for Building, Innovation and Employment
building@mbie.govt.nz

Re Submission on ‘Removing barriers to using overseas building products’

Council would like to thank the Ministry for the opportunity to engage on preliminary considerations for making changes to current standards and requirements with the aim of removing barriers for using overseas building products.

Council supports Government’s intention to streamline processes and open-up markets within the building industry to help reduce the cost of building, both residential and commercial. In principle, therefore, Council supports the proposals put forward in the discussion document. However, this support and our comments should be taken alongside concerns around how:

- Overall risk is allocated and shared across the building system.
- Actions and compliance are incentivised, to ensure good faith actors, to ensure the feasibility and safety of removing barriers to using overseas building products in building New Zealand.

These points are expanded on below.

Making it easier to use building products that meet overseas standards.

Question: 1: What factors should be included in the decision making before recognising building product standard organisations?

Council response:

- We support in principle the approach as outlined in the consultation document, where the initial focus is to recognise overseas standards, and related organisations. We see these organisations are already noted in many of New Zealand Building Code clauses, so it makes sense to confirm these as establishing reasonable grounds for compliance with the Building Act and Regulations. We see this as a natural progression in strengthening

the operation of our performance-based building code. However, we note this is only preliminary consultation and look forward to seeing more detail on this proposal.

- We recommend ensuring, when considering these standards, that testing the methodologies cited in the standards aligns with “New Zealand conditions” such as high UV levels, or corrosive environments in volcanic zones. Consideration should also be given to assessing if the installation / construction methodologies noted in these standards align with or are similar to New Zealand construction practices.
- We note that consumer protections are outlined on page 7 of the Discussion document. However, these still rely heavily on council driven compliance. While Council supports the idea of consumer protection, we believe its efficacy continues to be skewed by the existing joint and several liability scheme in the new building sector, that leaves councils as the last man standing and facilitates avoidance of responsibility by other system players.
- To counter this, Council recommends that as part of this process, consideration is given to reviewing the joint and several liability scheme with the intention of introducing a proportional liability scheme that will better reflect the provisions set out on page 7, and appropriately capture all parties listed in section 3(b) of the Act and all manufacturers and importers of building products and systems.

Streamlining the citing of international standards

Question 2: What types of product standards should MBIE prioritise in its review of international standards?

Council Response:

- We agree in principle with the suggested approach as outlined in the discussion document with a focus on standards for building materials that contribute to the main costs for construction such as structural members, external wall and roof claddings, joinery, internal linings, insulation, and plumbing products.
- We suggest you also consider relevant standards that support modular construction that may expedite construction times and help deliver more affordable buildings (housing, commercial).

Question 3: What types of products do you consider to be higher risk to buildings due to their failure or misuse?

Council response:

- We consider higher risks products to be any product or system, that if it is misused or fails will impact on
 - structural stability,
 - spread of fire
 - acoustic management
 - external & internal moisture management
 - thermal performance.

This may be a risk to life safety or significant economic losses.

Question 4: What factors should MBIE consider when evaluating and comparing overseas building product standards?

Council response:

- We reinforce our recommendation that you test that the methodologies cited in the standards aligns with “New Zealand conditions” such as high UV levels, or corrosive environments in volcanic zones. Consideration should also be given to assessing if the installation / construction methodologies noted in these standards align with or are similar to New Zealand construction practices.
- We recommend as part of this process, that consideration is given to any increased risk that may occur to different actors in the system, due to the current joint and several liability scheme that exists across the building sector. It is likely products will be introduced into the New Zealand construction market where there will be little (or no) understanding about the performance or limitations of the product or building system and we are concerned councils will (again) bear the brunt of new litigation due to the misuse of materials or building systems introduced as a result of adopting overseas standards.
- Prior to the implementation of this scheme, we recommend that MBIE undertake a review of the level of skills and competency across the construction sector for the purpose of identifying additional national guidance and training that will be required in order to minimise the risks associated with implementing this proposal.

Mandating acceptance of products certified overseas:

Question5: What factors should MBIE consider before specifying appropriate product certification schemes?

Council response:

- We support in principle the proposal to enable the Chief Executive of MBIE to be able to specify entire schemes or classes or groups of products. As previously noted, our concern is around ensuring any products or systems approved under this scheme will be suitable for New Zealand conditions.
- We look forward to seeing more detail on how MBIE intends to monitor these products and systems to ensure that if there are any changes to the testing methodologies or requirements for use or installation that these changes will be raised with councils and the wider construction sector.

Concluding comments

If the proposals to remove barriers to overseas products are to be safe, and over the long-term, economically effective, Council contends that for section 3 of the Building Act to be met:

- Further clarity is required on the roles and responsibilities of manufacturers and importers around consumer protections.
- There will need to be necessary checks and balances within the system to ensure product quality and specifications are maintained over time.
- That this responsibility should not fall on councils but should remain the responsibility of the manufacturers and importers providing the products or building systems.

- If the proposals are to be taken forward, then manufactures and importers of building products and systems will need to be added to this list.

Any short-term gain will be quickly lost if consumers are left with shoddy buildings and manufacturers and importers cannot be held to account, especially when the manufacturers and certifiers are based overseas and are not bound by New Zealand consumer protection laws. Council believes review and change is absolutely imperative if the proposals for *“Making it easier to build granny flats”* are progressed. If overlaid with options for allowing more products to be used without council “oversight” via the consenting process, then it’s likely to cause issues down the track with the misuse of products or use of products that are not fit for purpose. In driving for greater and more affordable housing supply New Zealand cannot afford to misstep with another ‘leaky buildings’ scenario.

We thank you for this opportunity to provide feedback on this crucial change to the building control system.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Darren Edwards', with a stylized flourish at the end.

Darren Edwards
Chief Executive
Kapiti coast District Council