Submission form: Building Amendment Bill proposals for regulations for Building Product Information Requirements, the modular component manufacturer certification scheme, and the product certification scheme

Submitter information

MBIE would appreciate if you would provide some information about yourself. If you choose to provide information in the section below it will be used to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

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This is the completed submitter information from Building Officials Institute of New Zealand (BOINZ) and we wish to emphasise the following points.

1. BOINZ is extremely concerned that:
   - the proposed MCM scheme allows for manufacturers to self-certify their own work, which could be whole houses
   - the confusing nature of having two types of MCM certificate; with only the design and manufacture certificate being self-certifying.
   - building work covered by design and manufacture MCM certificates are exempt from requiring a building consent and because a territorial authority is not required to have records of exempt building work, TA property files will be bereft of vital public good, consumer-necessary, building information.
2. BOINZ would like the opportunity to speak to this submission.

Building Product Information Requirements

Supply chain responsibilities to meet Building Product Information Requirements

1. Do you think the split of responsibilities across the supply chain for information requirements is clear?

☐ Yes ☒ Yes, with changes ☐ No ☐ Not sure/No preference

Please explain your views.

Yes, we support that Building Product Information should be created by the manufacturer or importer for resellers, designers, contractors, and installers to use to understand whether a product complies with regulation. Resellers should only be responsible for ensuring the product information is available when the product is stocked and sold.

However, when the product is altered, modified, or changed, the Building Product Information must be updated by the manufacturer/importer and disseminated to users. There is no time expectation stated on when this new information should to be available.

BOINZ looks to international models for best practice, and we strenuously disagree with the approach of adopting a single size fits all approach to the complex and wide range of products in respect of health and safety. MBIE cannot and should not ignore industry requests for independent third-party certification for the critical building products in the areas of structure, cladding, fire protection and health.

BOINZ recommends that manufacturer's self-certification should not be permitted for critical product because the current reliance on independent checking by BCAs is working. Assisting BCAs by having adequate product information readily available will help BCAs operate more efficiently and ensure that building products used are fit for purpose.

We are supportive of including tradespeople as re-sellers to ensure that the prescribed building product information is available for the product they install, and hence are selling.

2. Do you agree with the proposal that manufacturers and importers should be responsible for producing information for the building products they supply in order to comply with information requirements?

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

Manufacturers/importers should provide at least a minimal level of Building Product Information for their products. However, for the critical areas of structure, cladding, fire protection and health independent third-party certification should be adopted, and this should be seen as an urgent issue.

3. Do you agree with the proposal that distributors and retailers should be responsible for ensuring building products they supply comply with information requirements?

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

Yes, it is reasonable for distributors and retailers to be responsible for checking the product information meets the Building Product Information requirements. Additionally, it is appropriate that

distributors and retailers provide, or direct customers to, the Building Product Information for the products they are selling.

Distributors and retailers should not have to check that the product complies with what is stated on the Building Product Information because it is the manufacturers/importers responsibility for the accuracy of the product information.

However, distributors and retailers must not actively misrepresent or fail in their duty to disclose and mitigate misinformation in respect of a product.

4. Do you agree with MBIE's assessment of the likely impacts of the proposed information requirements on (1) manufacturers and importers, and (2) distributors and retailers? If not, what impacts do you think the proposals will have on these two groups?

Manufacturers and importers:

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Distributors and retailers:

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

1) For some manufacturers/importers there will be an initial set-up time and cost for Building Product Information requirements to be collected, collated, and published. Consideration needs to be given to the cost of loading product information into digital databases. BOINZ suggests that "Building Code Hub" be considered as the national vehicle to promote access to product information because it already exists, is independent and MBIE managed, and links to information on providers website, in this case the sites of the manufacturers or importers. Following this establishment phase, only updating the Product Information will be required when a product is changed.
2) There should be no cost to distributors and retailer for the cost of developing and maintaining product information, other than at point of supply.

Responsible manufacturers currently have good Building Product Information published. For example;

- Winstone Wallboards for Gib Board
- Hardie Iplex for plumbing pipes and fittings
- Marley for plumbing pipes and fittings.

Content of information to be provided about building products

5. Does the minimum set of information required for all building products look reasonable? If not, what information requirements should be added or removed?

☐ Yes ☒ Yes, with changes ☐ No ☐ Not sure/No preference

Building Product Information Requirements

The description of a building product on Page 21 of the discussion document has confused and frustrate many to the extent that we believe that MBIE must bring a simplified clarification of a definition of "product".

Therefore, BOINZ has assumed for this submission that building product information is required for all building products and this includes:

- Product that fits within the definition of restricted building work
- Product that would require to be installed under a building consent
- Product that would be installed as part of building work exempt from requiring a building consent

How building product contribute to Building Code compliance

How building products contribute to Building Code compliance must be clearly and accurately explained because the Building Code does not regulate products.

The Building Code sets the performance for completed buildings and building work. The closest the Building Code gets to a product is a building element.

By way of background, building products fit into the building regulatory regime in the following manner.

All building work must comply with the performances of the Building Code (Building Act 2004, s17 and s18), which is the first schedule to the Building Regulations 1992. Being performance based the Building Code states what the completed building work must achieve, and hence is not generally written at building product level.

The Building Act s19 contains the pathways to Building Code compliance that the BCA, which if followed, must accept. There is no reason why Building Code compliance claims cannot use the same pathways, providing they are appropriate for product.

It is important to note that Alternative Solutions are not in section 19 and that this pathway must remain open for new and innovative building products and building systems.

Building Product Information – General principles

BOINZ suggests that the recommendations below be included in the definition of Building Product Information, and correspondingly in MBIE's proposed guidance, which in BOINZ's view, must include guidance on the development of Alternative Solutions.

BOINZ suggest the technical and compliance section of the Building Product Information should be based on the following general principles:

- Evidence on contributing to comply with specialist/specific Building Code clauses, accounting for specific requirements such as; slip resistance (D1 Access) not contaminating potable water (G12 Water supplies), indoor air quality (G4 - Ventilation), not growing harmful organisms (G4 - Legionella), not allowing undue dampness (E2 - External moisture and E3 – Internal moisture). Note: these are all product related requirements.
- If the manufacturing Standard, or documentation, does not address Structure, Durability and Hazards then the following will also need to be considered and documented.
  - Contribution to complying with Building Code clause B1 for structure, accounting for the forces that the product will withstand, including pressure, impact, temperature etc
  - Contribution to complying with Building Code clause B2 for durability, accounting for the difficulty to detect failure, ease of access and ability to replace or repair
  - Contribution to complying with Building Code clause F2 for hazardous building products, accounting for the possibility the product could cause injury, illness or have a negative effect on wellbeing

Therefore, combining the information above, Building Product Information should include:

1. Description and purpose of the building product
2. The details of the manufacturer or importer (the organisation responsible for the product)
3. Any warrantee or guarantee for the building product
4. Statement about warnings and bans if there is a warning or ban.
5. Design requirements and how the product contributes to Building Code compliance
6. Installation requirements to ensure the completed building work complies with the Building Code
7. Maintenance requirements, including those necessary for compliance with Building Code clause B2 Durability
8. How the product contributes to compliance with specialist/specific Building Code clauses, accounting for specific requirements such as; slip resistance (D1 Access), not contaminating potable water (G12 Water supplies), indoor air quality (G4 - Ventilation), not growing harmful organisms (G4 - Legionella), not allowing undue dampness (E2 - External moisture and E3 – Internal moisture)
9. If the Standard, or documentation, does not address Structure, Durability and Hazards then the following will also need to be considered and documented.
    - Compliance with Building Code clause B1 for structure, accounting for the forces that the product will withstand, including pressure, impact, temperature etc
    - Compliance with Building Code clause B2 for durability, accounting for the difficulty to detect failure, ease of access and ability to replace or repair
    - Compliance with Building Code clause H2 for hazardous building products, accounting for the possibility the product could cause injury, illness or have a negative effect on wellbeing

Pathways to Building Code compliance relating to products

The current pathways that a BCA must accept as complying with the Building Code are in the Building Act **section 19** are:

Pathway regulated under s20 – this pathway regulates prescribed acceptable solutions, prescribed verification methods or building methods, methods of construction, building design, or building materials (building methods or products) that have a current product certificate issued under section 269. There are currently no regulations for this pathway.

Acceptable Solution pathway – applies for product manufactured to Standards referenced in an acceptable solution. It complies with the Building Code and can claim compliance by referencing the acceptable solution on the Building Product Information. The installation of this product will comply with the Acceptable Solution. The manufacturer/importer may wish to include in the Building Product Information any clarification of the scope, design information, installation information and special conditions.

Verification method pathway – applies for a product manufactured to Standards referenced in a verification method. It complies with the Building Code and can claim compliance by referencing the verification method on the Building Product Information. The installation of this product will comply with the verification method. The manufacturer/importer may wish to include in the Building Product Information any clarification of the scope, design information, installation information and special conditions.

Determination pathway – this pathway is not generally used to endorse products. However, Determinations can be about installation of products and building systems.

Multi-Proof pathway – products included as part of a Multi-Proof approval, referenced by name or manufacturing standard and has been evaluated as complying with the Building Code. However, this is

approval for a building, and not a product, and compliance with the Building Code cannot be claimed because a product is referenced within a Multi-Proof.

Product certification pathway – products that have CodeMark certification have been evaluated for Building Code compliance.

Electricity and gas certificates pathway – products included in electrical and gas work are required to be approved products under electricity and gas regulation.

MCM certificate pathway – this new pathway is introduced via the Bill and applies to modular component manufacturer certificates issued by a registered MCM and does not apply to products.

Taking into account the above, only Acceptable Solutions (AS), Verification Methods (VM) and Product Certification (CM) are viable pathways for product in s19 of the Act.

BOINZ recommends, as a first step in enabling Building Code compliance for products, that MBIE expand the list of product and manufacturing Standards referenced in the Acceptable Solutions and Verification Methods. This will simplify the information and pathway to compliance to be detailed on the Building Product Information.

Alternative solutions

An Alternative Solution for products is a pathway where the products are not referenced in the Acceptable Solutions, or Verification Methods, and not CodeMarked.

If using an Alternative Solution, a manufacturer/importer should use the *Building Product Information - General Principles* above to complete the development of a Building Product Information.

BOINZ example of what product information could look like

Please see below a suggested Building Product Information format, showing:

- Example 1 using an Acceptable Solution, Verification Method or CodeMark, and
- Example 2 using an Alternative Solution.

	Example 1	Example 2
Building Product Information	**AS, VM or Codemark**	**Alternative Solution**
Date:	insert	insert
Product name:	insert name	ABC kitchen faucet (tapware)
Product description/purpose	insert description	chromed brass, kitchen faucet for use in food preparation and utensil washing
Manufacturing Standard	Included in AS, VM or CM	AS/NZS 3718 (Not in AS,VM or CM)
Manufacturer/Importer		
Name:	Insert name	XYZ Ltd
Address:	Insert Address	Auckland
Postal address:	Insert Address	PO Box 999 Auckland
Telephone:	Number	(09) www yyyy
Email:	address	ABC@ gmail.com
Website:	web site	www.ABC.co.nz
Claiming Building Code compliance		
Claim for specific building Code clause 1	Included in AS, VM or CM	G12 Water Supplies
Properties		OK for potable water, complies with AS/NZS 4020
Properties		DZ brass
Claim for specific building Code clause 2	Included in AS, VM or CM	G3 Food preparation and prevention of contamination
Properties		kitchen sink required in housing
Check specific clause claim above covers:		
B1 Structure	Included in AS, VM or CM	included in AS/NZS 3718
B2 Durability	Included in AS, VM or CM	included in AS/NZS 3718
H2 Hazardous building materials	Included in AS, VM or CM	included in AS/NZS 3718
Scope:		
In scope:	Included in AS, VM or CM	Domestic use
Out of scope:	Included in AS, VM or CM	Commercial use
Component of a system:	System name	
System designed to:	Included in AS, VM or CM	Hot and cold water systems designed to G12/AS1 or AS/NZS 3500 parts 1 and 4
System installed to:	Included in AS, VM or CM	Hot and cold water systems designed to G12/AS1 or AS/NZS 3500 parts 1 and 4
Maintenance to:	Included in AS, VM or CM	ABC Manual 18/5/2021
Special conditions:	Included in AS, VM or CM	30 micron filter to be installed in the pipework prior to the faucet.

Possible future requirements

The minimum set of requirements seems reasonable at present, however future requirements introduced under the Building for Climate Change workstream are likely to require additional information regarding embodied carbon, whether the product is recyclable and how the product is to be dealt with at the end of its service life.

6. Do you agree with the proposal that manufacturers and importers must make claims about how their building product meets relevant Building Code clauses?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

As mentioned in reply to Question 5 there is a fundamental problem in that products cannot comply with the Building Code, rather can only contribute to the Building Code compliance.

BOINZ has concerns in respect of manufacturer testing for critical product being acceptable under this proposal and reiterates that independent third -party certification based on tests by an ISO/IEC 17025 accredited testing organisation monitored by an ISO/IEC 17065 accredited product evaluation company be adopted for the critical building products in the areas of structure, cladding, fire protection and health.

7. What challenges would manufacturers and importers face in making claims about how the building product meets relevant Building Code clauses?

Product manufacturers/importers are not able to make claims about compliance with Building Code clauses because the Building Code performances are about completed buildings and building work. However, manufacturers/importers could claim that their product contributes to Building Code clause performance within the products performance, limitations, and scope.

Most product manufacturers/importers do not have an in-depth knowledge of NZ Building Regulation and Building Code and how their product may contribute to Building Code compliance. BOINZ suggests that MBIE guidance on Building Product Information (BPI) should make clear that Manufacturers/importers should be claiming how their building product contributes to compliance with the Building Code.

What can BPI statement cover?

> **For example:** A range of products is made to AS/NZS 1260: 2017 *PVC-U pipes and fittings for drain, waste, and vent pipes* by 3 manufacturers in NZ, and also imported from 4 manufacturers in Australia. (7 in total)
>
> If one Building Product Information statement can cover all the sizes of pipes and fittings in this Standard per manufacturer, then, a single BPI statement will be required from each of the NZ manufacturers (3) and the importers (4) will need to supply a BPI statement for each of the manufacturers in Australia. The result is a total **7 BPI statements**.
>
> **Alternatively**, if BPI statements are required for each product in the standard, it will mean a BPI statement for each pipe size and every single fitting, type, and size. An estimate of the number of BPI statement is approximately 150 certificates per manufacturer for the range of pipes and fittings in the Standard. As there are 3 NZ manufactures and 4 importers, there are 7 providers of 150 products, and will need statements. The result is **1050 BPI statements**.
>
> That is 1050 BPI statements compared with 7 BPI statements for the same number of products.

How does MBIE make allowance for manufacturers who provide excellent product information? For example, here is the link to the information from Hardie Iplex for pipes and fitting made to AS/NZS 1260. https://www.iplex.co.nz/assets/Uploads/Iplex-Plumbing-DWV-Pipes-and-Fittings-Systems-Guide.pdf

Also here is the link to the information from Marley. https://www.marley.co.nz/wp-content/uploads/dlm_uploads/2016/04/Complete-Product-Catalogue-June-2021.pdf (in the section from page 18)

8. Do you agree with the proposal to require manufacturers and importers to use the compliance pathways listed in section 19 of the Building Act 2004 to illustrate compliance with the Building Code?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

The pathways; Acceptable Solution, Verification Method and Product Certification are applicable to products as described in the answer to Question 5. The Alternative Solution pathway to Building Code compliance must continue to be available for the development of new and innovative products and this is not in section 19.

BOINZ rebukes and strongly disagrees with the statement on page 33 of the discussion document regarding mandatory certification, namely: 'mandating certification can be unnecessary restrictive on a market without delivering further certainty that can be achieved by other means'.

BOINZ contends that some products are so critical to the integrity of a building that greater assurance (certainty) should be required. This is exactly the argument for mandating restricted building work. From a systems perspective it makes little sense to mandate that critical work be undertaken by LBPs but not mandate independent 3rd party certification for the critical building products associated with restricted building work.

We strenuously request MBIE consider their position in respect of a small but critical range of products in the critical building product area of structure, cladding, fire, and health, given many of these products are sourced from offshore and may well not be fit for purpose in respect of NZ Standards. The issues are well documented and the certification cost is low for volume product. Relying on manufacturer statements is not the best practice for these critical products. Independent third-party certification delivers a level playing field in respect of critical product compliance. Without this provision and the high level of technical complexity associated with many of these critical products, the lack of specialised technical expertise across all sectors in New Zealand means there is no clarity in respect of product differentiation (the opposite of what MBIE has stated on page 35).

9. What other requirements or guidance would you recommend to ensure the information provided is relevant and accurate?

BOINZ supports MBIEs new investigation powers and enforcement action to investigate claims about building product information that may be inaccurate, misleading, or fraudulent.

Supply chain data and information standards

10. Do you agree with MBIE's assessment of the likely impacts on manufacturers and importers of the requirement to make evidenced claims about the Building Code compliance of their products? If not, what impacts do you think the proposals will have on manufacturers and importers?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Most major manufacturers provide good building product information; however it will not be structured/formatted in the same way as proposed, or likely in a format similar to their competitors information. Additionally, it is unlikely that it will be showing how their product contributes to Building Code compliance.

Building Product information for most manufacturers/importers will be a standard part of their business practice. However, smaller, newer, and inexperienced manufacturers and importer may struggle to produce the necessary information in the short term.

Again, the missing link is in the critical product area where independent third-party certification would ameliorate the lack of technical expertise on the ground to make informed and comparative decisions.

11. Do you agree that all information requirements should be met prior to supply of a building product and that information be kept up to date with the latest version of that product? If not, what other requirements do you think would be reasonable?

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

BOINZ supports that building product information is available at product launch and is kept up-to-date.

MBIE will understand the nature and complexity of this task from the regular updating of the Acceptable Solutions and Verification Methods and the Standards they reference.

MBIE however, needs to invest in a national information database that provides for information monitoring at input based on a standard electronic format, cyclic review notifications for manufacturers/importers, that allows for a system of offences and penalties that recognise, information fraud and misinformation. We would suggest that any such penalties and offences take into account the impact on the users of the information and the cost implications for each user group.

12. Do you agree that all information should be provided in structured data and accessible across the supply chain and by MBIE?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

Requiring structured data is sensible from a users and BCA perspective, however manufacturers that have large inventories and existing good product data should be given adequate time to change their documentation format.

BOINZ suggest that MBIE consider using their Building Code Hub portal to host Building Product Information. Building Code Hub is an established system/search facility for building related documents and could be easily extended to cover this function for regulatory and public good. One advantage is that product information is hosted on the manufacturer/importer web site and Building Code Hub is only involved when information changes. Building Code Hub could be the one source of all building product information.

Building Code Hub is a search facility and MBIE should not carry any responsibility for product information or the updating thereof.

13. Do you think it is reasonable to require all information to be disclosed about building products to be made available online?

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

BOINZ agrees the product information should be readily available and online, as covered in Question 12. Most companies in New Zealand are using the internet to publish their technical information. However, the updating obligations do not currently exist, which impacts on unsuspecting users.

Detailed product evaluation, assurance and third-party certification reports being made available on-line would assist BCAs, design, engineering, and construct professional to achieve surety, economies, consenting efficiencies and importantly public confidence.

14. Do you agree with the proposal for all building products to have a unique identifiable code that links it to the information provided online?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

BOINZ supports individual product marking, particularly if it can be linked with existing barcode/QR code marking.

BOINZ also supports and encourages links to online information for complex to install products, or products that are installed as part of a system, such as the waterproofing membrane installed under tiles.

In term of marking location BOINZ would support product information links on both the product and its packaging. The advantages of the dual approach ensure the conditions for use always follows the product from purchase to installation. This also allows for many loose products on a building site to be identified for future use, thereby reducing building waste, due to lack of identification.

Transition period

15. Do you agree with proposal for an 18 month transition period after building product information requirement regulations are made before they come into force? If not, what would be a reasonable timeframe?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

BOINZ suggest that the implementation timeline be reconsidered after the impacts and workload for manufacturers and importers and the development of a data information portal by MBIE has been established. (See answer to Question 11).

Modular component manufacturer certification scheme

Prescribing the kinds of building products that would be 'modular components' and scopes of certification

1. Do you agree with the proposed approach to prescribe offsite manufactured building elements such as open frames and trusses, enclosed panels/units, volumetric structures, and whole buildings as 'modular components'?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

BOINZ agrees defining modular components for the purpose of increasing clarity, quality, and efficiency of the New Zealand building process.

BOINZ recommends that general principles for MCM and defining characteristics be added to reflect the current situation and be transferrable to new technologies.

We see a gap, however. BOINZ would like clarification if the off-site includes "off-shore" manufacture? We ask this question because it is not clear how the responsibility of the overseas suppliers is regulated when compared with the NZ MCMs.

2. To what extent do you think there is benefit in developing a system to guide how modular component manufacturer certifiction bodies describe the scope of a modular component manufacturer's certification?

BOINZ supports the development of a system guide. This brings consistency in understanding the certification process, confidence in the certification process outcomes, particularly in respect of building designers, construction procurers, BCAs and ultimately the building owner. In other words, a transparent delivery pathway for Building Code compliant manufactured components.

The proposed scheme will advantage manufacturers producing more complex building components and complete buildings/houses through the ongoing efficiencies that MCM certification delivers.

BCAs must be able to continue accepting independent third-party certification in parallel with the MCM certification.

3. Which, if any, of the proposed options on which to base the proposed scope of certification system do you prefer?

☒ Option 1 ☐ Option 2 ☐ Option 3 ☐ Not sure/no preference

Please explain your views.

BOINZ prefers Option 1 because it is simpler and hence will be easier to understand, implement and regulate.

Modular component manufacturer certification body accreditation and registration

4. Do you think the proposed regulatory settings provide confidence in the certification bodies that would be accredited and registered within the modular component manufacturer certification scheme?

Proposed regulatory settings to be accredited:

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Proposed regulatory settings to be registered:

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Please explain your views.

Building work is complex and carries high risk.

BOINZ wishes to emphasise that for the scheme to work successfully and effectively the personnel at all levels will need a demonstrable knowledge of the New Zealand building system for and within both certification and registration within the certifying body and the MCM QA systems.

We would also expect to see a sustainable hierarchy/succession planning within the business ensuring a continuation of technical and regulatory competence.

It is important that certification bodies are accredited to and are compliant with ISO 17065: 2012 Conformity Assessment.

5. How do you think the proposed regulatory settings for certification bodies might affect their uptake of the modular component manufacturer certification scheme?

Certification bodies through the rigour of their robust processes generally enhance manufacturers systems and processes. While not an absolute "critical friend" per se, the manufacturer takes continual improvement from the regularity of the formal certification process.

We would advocate MBIE heavily promoting the scheme to drive public pressure and demand for a manufacturing commitment to the MCM scheme.

Modular component manufacturer certification and registration

6. Do you think the proposed regulatory settings provide confidence in the modular component manufacturers that would be certified and registered within the scheme?

Proposed regulatory settings to be certified:

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Proposed regulatory settings to be registered:

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Please explain your views.

BOINZ wishes to emphasise that for the scheme to work successfully and effectively the personnel at all levels will need a demonstrable knowledge of the New Zealand building system for and within both certification and registration. We would also expect to see a sustainable hierarchy/succession planning within the business ensuring a continuation of technical and regulatory competence.

Modular component manufacturer certification scheme

7. Do you think the proposed regulatory settings for modular component manufacturers provide for adequate consumer protection?

☐ Yes ☐ Yes, with changes ☒ No ☐ Not sure/No preference

Please explain your views.

BOINZ is concerned about how the MCM process will fit within the NZ building consent and Building Code compliance system because as proposed it does not contain enough protection for consumers.

We draw our concern in respect to the diagrams in the discussion document and in particular what status does MCM certificates have.

Figure 4: MCM Certified to manufacture only.

These are the concerns in relation to Figure 4.

The sections for Design, Building consent application, and Manufacture, site work and installation are the same as the present NZ Building system. BOINZ has assumed that "site work" is building work, other than the module components, rather than the work on the land, such as landscaping and driveways.

BOINZ is concerned about the MCM issuing a manufacturing certificate, which effectively certifies, in the eyes of the public, the assembly and installation of modular components. Why should a BCA have to accept a MCM certificate for anything other than the manufactured component (not the installed component)?

Is it appropriate for a frame manufacturer to certify the installation, which is for high wind zone design, fastening, bracing and insulation? If the manufactured component is a wall panel, does the MCM certify the fastening for the high wind zone in absentia?

Why does the MCM certificate, when issued for code compliance certificate (CCC), certify that the component meets the MCM Standard, when the components have to be manufactured to consent designs? The Building Act s94(1)(a) requires the BCA to issue the CCC if it is satisfied on reasonable grounds that the building work complies with the building consent. The BCA will grant and issue the building consent if the application complies with the Building Code. Where is the requirement that MCMs Standards must comply with the Building Code?

***BOINZ recommends** that for consistency the MCM certificate is issued to the BCA, so the BCA can issue the CCC, and that the MCM should be certifying that the components comply with the building consent.*

Figure 5: MCM Certified to design and manufacture.

These are the concerns for Figure 5.

Building consent application section

It is not clearly stated that the MCM design and manufacture certificate must certify compliance with the Building Code to comply with Building Act 2004 s17. We are concerned that the MCM certificate lodged as part of the Building Consent application allows the manufacturing of the components before the consent is granted and issued. In addition, the BCA cannot change the design of modular components. Therefore, when is the modular components checked and verified for Building Code compliance?

Code Compliance certificate application section

When the MCM certificate is issued to the BCA for a CCC, Figure 5 states that it is certified to MCM's standards, meaning that it is possible for building work that does not comply with the Building Code to be issued with a CCC. This is a significant concern which could lead to building failures because the proposed process does not comply with the Building Act s17.

BOINZ recommends *that the consumer be protected by using the BCA to independently evaluate that MCM certificates comply with the Building Consent and hence the Building Code.*

BOINZ recommends *that for consistency the MCM design and manufacture certificate be issued to the BCA, so the BCA can issue the CCC. The MCM should be certifying that the components comply with the building consent to align with the consenting process for non-MCM building work.*

Two types of MCM Certificate

We wish to make the comment that the industry may struggle with the two types of MCM certificate that each have different status.

Manufacturers have equivalent status to BCAs?

Assuming our interpretation above in this question is correct, MCMs will have as detailed in the Bill, the same status as BCAs for establishing compliance with the Building Code. BCAs are certified and registered under a similar regime to that proposed for MCMs. Introducing MCMs to this status differs from the introduction for BCAs in 2006, because BCAs were already undertaking the work that they were subsequently accredited and registered for. MCMs, particularly at the 3D component level, are currently not involved in establishing compliance with the Building Code. If this is MBIEs intent, a considerable MCM resource and technical expertise will be required to ensure that MCMs have this capability.

BOINZ contends that MCMs are not ready for this role, which can be evidenced by the number of RFIs issued and replied to before building consents are granted. This similarly applies before a MultiProof certificate is issued and it is logical to be the same in respect of MCM certificates.

BOINZ recommends *that BCAs retain their independent role in establishing Building Code compliance for building consent applications for compliance with the Building Code, and for compliance with the building consent before issuing the CCC. It is unfortunate this consideration was not made in respect of the Bill's outcome.*

Records

The TA/BCA is the office of record for building system information. As we have not seen the detail of MCM certificates, BOINZ is not sure what information will be on the BCA files for access by future building owners. This is an important public good function and vital for future building alterations, additions, and changes of use.

BOINZ strongly recommends *that MCM certificates and construction details be filed with the BCA prior to the issue of a CCC.*

Longevity

Territorial Authorities and their BCA are established organisations in New Zealand's regulatory systems and perform public good functions, such as keeping of records. Please refer the concerns in respect of record maintenance failures in Australia with their move to independent building certification. BCAs are the only organisations with guaranteed longevity that can preserve this information and hence the current provision in the Building Act.

BOINZ recommends *that MCM certificates and construction details are lodged with the BCAs for future public access.*

Recording decisions

In the product certification part of this consultation there is a requirement for product certification bodies to record decisions, the reasons, and outcomes of those decisions. This is as vital for consumer protection in relation to MCM certificates, as it is to product certification in respect of transparency and cost minimalization, should there be a legal challenge.

BOINZ strongly recommends *that recording of decisions is added to the modular construction manufacturer requirements.*

Business driver

Consumers will be better protected by independent reviews if BCAs consent and inspect building work. A BCA, as part of a territorial authority, has an independent public good and regulatory perspective. Alternatively, this can be compared to an MCM, which is a private business with greater commercial motives, possibly permitting substandard work.

The BCA is the only organisation in the building chain that has an independent public good and regulatory perspective or responsibility.

BOINZ recommends *that BCAs, not manufacturers, sign-off building work for a Code Compliance Certificate.*

8. How might the proposed regulatory settings for modular component manufacturers have different impacts for different kinds of manufacturers that may wish to participate in the scheme?

Government revoked private Building Certifiers because they were not performing adequately. The Building Act 2004 contains provision for Private BCAs. However, currently there is only one private BCA, a crown agency and there no non-government BCAs because of insurability issues, given the high liability risks.

Do the proposals, as stated, give an MCM the ability to certify their own work complies with the Building Code? If so, their insurance must to be at a level equivalent to private BCAs.

BOINZ recommends that MCMs are not given the responsibility to certify building work.

9. To what extent do you think modular component manufacturers will benefit from the proposed regulatory settings, and what costs do you think they might face when trying to meet the proposed settings?

Manufacturers should carefully consider the risk vs opportunity environment before committing to the MCM pathway. Establishment costs and ongoing auditing costs will need consideration. Large, volume-based manufacturers will likely be early adopters, as will high end quality manufacturers. Therefore, to facilitate uptake we would encourage MBIE to provide as much guidance to produce an increase in public confidence in building quality outcomes as soon as possible. See also answer to Question 11.

Audits within the modular component manufacturer scheme

10. Do you agree with the proposal that auditing parties will use a prescribed risk assessment to decide the frequency and type of audits they will use for those being audited?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

In principle we agree with having a prescribed risk assessment process. However, there should be built in ability for flexibility, including random audits, to check for consistent compliance.

BOINZ strongly recommends that a demonstrable understanding of the Building System must be included in the risk assessment and assessed and attained at each audit.

11. What costs do you think the proposed audit requirements might have for modular component manufacturers, given that the fees for audits would be set through contract between the manufacturer and its modular component manufacturer certification body?

BOINZ considers that ongoing audit cost are a necessary part of the regime and manufacturers will take this into account before they join. Certification also delivers efficiencies, which often compensate for the additional cost of an audit regime.

12. Do you agree with modular component manufacturer certification bodies and modular component manufacturers having three months to make changes outlined in an audit report following an audit? Please explain your views.

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

BOINZ considers 3 months to be a suitable time to make changes following an audit. The reputation of the scheme demands a realistic time limitation to rectify shortcomings. Bonafide extensions on agreed complexities should negotiated on a case-by-case basis and achieved. Similarly, avoidance and repeated delaying tactics should result in loss of certification.

Modular component manufacturer's certificates

13. Do you support manufacturers being responsible for transportation, storage and assembly of modular components that they manufacture within the modular component manufacturer certification scheme? What impacts might this have on manufacturers?

☐ Yes ☐ Yes, with changes ☐ No ☒ Not sure/No preference

In preparing the answer to this question we uncovered uncertainties.

BOINZ agrees with the manufacturer having a responsibility for the transportation, storage, and assembly of components, but only where the manufacturers contract of service contains delivery, storage, and assembly to and on-site.

Throughout this submission BOINZ have maintained the view that BCAs should undertake the inspections for the integration/assembly of manufactured components into the building.

For example, a frame manufacturer can make and deliver the frames to site, but before the CCC is issued, it has to be established that the fixings, bracing and connections, etc., comply with the building consent for wind, earthquake, other loadings, and so forth. We think it is unfair that the frame manufacturer (MCM) is asked to certify the installation that they may not have contracted or had any input into.

Taking another example: We believe it is reasonable for an MCM to certify the whole house made in their factory and delivered to site. The BCA will undertake the inspection for foundation and services and the MCM can certify their own work, which could include all other building work.

In conclusion, we contend there is no one-size-fits-all solution to how an MCM can contribute to certification of their components.

14. To what extent do you think the information that is proposed to be required on manufacturer's certificates will provide clarity for different parties within the modular component manufacturer certification scheme?

Throughout this submission BOINZ has taken the position that compliance with the Building Code must be established before the building consent is granted and issued and compliance with the building consent is established before the CCC is issued, as required by the Building Act.

The discussion document has the MCM certificates stating the 'MCM standards used', and this is not related to Building Code compliance or to building consent compliance.

BOINZ contends that the proposal is fundamentally flawed.

BOINZ recommends major changes to the MCM process so that it is consistent with the processes contained in the Building Act relating to the application and granting of building consents and CCCs.

15. What costs do you anticipate that providing the proposed information on manufacturer's certificates might have?

Good manufacturers will be able to provide the information for a manufacturer's certification. Therefore, the cost would be minimal to transfer and incorporate.

Product certification scheme

Implement registration requirements for product certification bodies

1. Do you consider that the proposed fit and proper test and notification requirements would be effective criteria to establish if a product certification body should operate in the scheme?

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Please explain your views.

BOINZ supports the inclusion of a "fit and proper" test similar to the test for private BCAs as a requirement of registration of PCBs.

2. Do you agree with the proposal to not prescribe an adequate means test or other product certification body registration criteria at this stage? Please explain your views.

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

BOINZ supports the inclusion of an adequate means test for Registration. We would also expect that internationally recognised and credible accreditation bodies that have bonafide technical track records be given due consideration in respect of not creating unnecessary barriers. E.g. ICC/ES, ACRS, CARES, DIBT etc.

BOINZ also supports that all PCBs notify MBIE of changes to key personnel, or other circumstances that may impact its registration.

3. Do you consider that MBIE has proposed the right requirements for what must go on an application for product certification body registration?

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

BOINZ supports the registration criteria and would add accreditations to ISO/IEC 17065 by an internationally recognised and credible organisation should be acceptable to MBIE.

Implement registration requirements for certificates

4. Do you agree with the MBIE's assessment that the proposals for certificate information will improve the usability of product certificates?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

BOINZ supports the production and use of clear and meaningful product certificates. It is important that the certificate holder's contact information can be easily found and used. Because the certificate has the holder's website, it is important that the PCB ensure that contact information is on the certificate holder's website and is correct.

5. Are there any gaps or issues with current certificates that MBIE have missed that should be addressed by changes to Regulation 14 or Schedule 2?

BOINZ suggests that the purpose of product certificates is included in the wording on the certificate. We suggest "This certificate demonstrates that [product name] , if installed in accordance with the conditions [where the conditions are on the certificate] will contribute to complying with the Building Code performances listed [below?]."

We would also suggest the inclusion of a re-evaluation date for the product be on the certificate.

Improve scheme requirements for product certification body accreditation

6. Do you consider that the product certification body accreditation proposals will improve the alignment of scheme documents?

☐ Yes ☒ Yes, with changes ☐ No ☐ Not sure/No preference

Please explain your views.

BOINZ recommends that for the accreditation process be undertaken to comply with ISO/IEC 17065 only and that any supplementary requirements be incorporated in the registration process. This means accreditation will be to the Standard and avoid any international complications and extra accreditation certifying work.

BOINZ wishes to emphasise the importance of having employees and contractors with a demonstrable understanding of the New Zealand building systems and Building Code compliance.

7. Do you consider there will be any compliance issues with the product certification body accreditation proposals? If so, what are they?

☒ Yes ☐ No ☐ Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

See response to Question 8

BOINZ supports the inclusion of recording of decisions as part of PCB accreditation.

This should also be added to the MCM scheme.

8. What further clarification related to the proposal to require product certification bodies to only accept test reports from competent testing facilities may be required?

BOINZ agrees with the definition of competent test facility and supports the acceptance of test reports from competent test facilities, only if they are accredited to ISO/IEC 17025.

9. Do you agree with proposal 8 to revoke existing Regulation 7A?

☐ Yes, I agree ☒ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

BOINZ suggests that Regulation 7A be amended, not revoked, by removing reference to ISO 9001: 2015 and replacing it with ISO/IEC 17065.

Strengthen requirements for product certification body audits and reviews of certificates

10. Does the proposal related to product certification body audits and reviews of certificates look reasonable? If not, what requirements should be amended, added or removed?

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Please explain your views.

BOINZ supports the PCB annual audit scheme as audits are an essential part of the quality control and product consistency process. This will align the PCB scheme with the MCM scheme.

Additionally, the review process provides public confidence in the scheme.

11. What cost impacts do you consider the product certification body audit proposals will have? Will costs change compared to the current requirements?

BOINZ suggests that the cost should be minor for a company that is already using ISO/IEC 17065 and operating efficiently. The cost will inevitably be paid by the manufacturers and thereby part of the product costing equation.

12. Is three years the correct minimum frequency for certification review?

☐ Yes ☒ No ☐ Not sure/No preference

Please explain your views.

BOINZ supports regular risk based reviews with a maximum duration being 3-years, based on performance.

Regulated fees for the modular component manufacturer certification scheme and the product certification scheme

Registration fees for modular component manufacturer certification scheme

1. Do you agree with MBIE's estimated cost drivers for modular component manufacturer certification body and modular component manufacturer registration?

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

2. To what extent might the prescribed registration fees create a barrier to entry and ongoing participation in the scheme?

The proposed fees are reasonable and would be unlikely to cause a barrier to entry.

Fees are a cost of doing business and will need to be factored into product cost recovery models.

Accreditation and audit fees for modular component manufacturer certification scheme

3. Do you agree with MBIE's assumption that the fee structure and level for assessing modular component manufacturer certification body accreditation is comparable to that for assessing building consent authority accreditation?

☐ Yes, I agree ☐ I agree in part ☒ No, I don't agree ☐ Not sure/no preference

Please explain your views.

Accreditation bodies should set their fee structures

4. Do you agree with MBIE's proposed fee structure for modular component manufacturer certification body accreditation and audits?

☐ Yes, I agree ☐ I agree in part ☒ No, I don't agree ☐ Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Accreditation bodies should set their fee structures. Every assessment carries its own levels of complexity.

5. To what extent might the prescribed audit fees create a barrier to entry and ongoing participation in the scheme?

Fees will need to be factored into the business overheads and recovered from customers.

Fees will be off-set by the business efficiency gained by the rigour of participating in the scheme.

Registration fees for product certification scheme

6. Do you agree with MBIE's assessment of the options for structuring registration fees for product certification bodies and certificates? Please explain your views.

☒ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

The fees appear reasonable.

7. Do you consider that the proposed fees for registration of product certification bodies and certificates are set at the right level? Please explain your views.

☒ Yes ☐ Yes, with changes ☐ No ☐ Not sure/No preference

Please explain your views.

The fees are set at the right level.

Accreditation and audit fees for product certification scheme

8. Would the proposed fees for product certification body accreditation and audits of product certification bodies create any practical issues? If so, what would the issues be?

☐ Yes ☒ No ☐ Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

No known issues

9. Do you consider that the proposed fees for product certification body accreditation and audits of product certification bodies are set at the right level?

☒ Yes ☐ No ☐ Not sure/No preference

Please explain your views.

Fees appear reasonable

Expected impacts

10. Will the prescribed fees have a significant impact on the costs of participating in the schemes?

☐ Yes ☒ No ☐ Not sure/No preference

Is there anything you would like to tell us about the reason(s) for your choice?

They should not cause significant impact.

Fees will need to be factored into the business overheads and recovered from customers.

Fees will be off-set by the business efficiency gained by the rigour of the scheme.

11. Do you have any other comments on the proposals?

Regulated fees for the modular component manufacturer certification scheme and the product certification scheme

At a high level we support the product certification scheme, however we have a number of concerns as listed below.

The high level of administrative focus at the expense of technical focus is a serious concern. In particular, we see the position in respect of independent third-party certification for critical product in the areas of structure, cladding, fire, and health potentially being a significant contributor to building failures going forward and unnecessary ongoing costs to building owners and occupiers. A one size fits all approach to product certification is a damming indictment on a reality perspective that is missing from your analysis.

We will encourage clarity of process and requirements universally applied to Standards ISO/IEC 17065 and ISO/IEC 17011 as well as ISO/IEC 17020 and ISO/IEC 17025 so that what is proposed is best practice and not unnecessarily duplicated.