

Feedback by

Hamilton City Council Staff

BUILDING AMENDMENT BILL - PROPOSALS FOR REGULATIONS FOR BUILDING PRODUCT INFORMATION REQUIREMENTS, THE MODULAR COMPONENT MANUFACTURER CERTIFICATION SCHEME, AND THE PRODUCT CERTIFICATION SCHEME - DISCUSSION DOCUMENT ON BUILDING SYSTEM REFORM (APRIL 2021)

4 June 2021

It should be noted that the following feedback is from staff at Hamilton City Council and does not necessarily represent the views of the Council itself.

1.0 INTRODUCTION

- 1.1 Staff at Hamilton City Council would like to thank the Ministry of Business, Innovation and Employment for the opportunity to provide feedback to the April 2021 discussion document on Building System Reform - ***Building Amendment Bill - Proposals for Regulations for Building Product Information Requirements, the Modular Component Manufacturer Certification Scheme, and the Product Certification Scheme.***
- 1.2 We have completed the official feedback form provided by the Ministry of Business, Innovation and Employment - this is attached.

2.0 FURTHER INFORMATION AND OPPORTUNITY TO DISCUSS OUR FEEDBACK

- 2.1 Should the Ministry of Business, Innovation and Employment require clarification of the feedback provided, or additional information, please contact **Alister Arcus** (Senior Building Project Advisor) on 07 838 6681 or email alister.arcus@hcc.govt.nz in the first instance.
- 2.2 Hamilton City Council staff would welcome the opportunity to discuss the content of our feedback with the Ministry of Business, Innovation and Employment in more detail.

Yours faithfully



Richard Briggs
CHIEF EXECUTIVE

How to submit this form

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

The Ministry of Business, Innovation and Employment (MBIE) would like your feedback on proposals for regulations for Building Product Information Requirements, the modular component manufacturer certification scheme, and the product certification scheme (CodeMark). Please provide your feedback by **5pm, on 11 June 2021**.

When completing this submission form, please provide comments and reasons explaining your choices. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

Instructions

To make a submission you will need to:

1. Fill out your name, email address, phone number and organisation.
2. Fill out your responses to the discussion document questions. You can answer any or all of these questions in the [discussion document](#). Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
 - i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act.
 - ii. Indicate this on the front of your submission (e.g. the first page header may state "In Confidence"). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
 - iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

How to submit this form

4. Submit your feedback:

i. As a Microsoft Word document by email to building@mbie.govt.nz with subject line:
Consultation: Building Amendment Bill proposals for regulations

ii. By mailing your submission to:

Consultation: Building Amendment Bill proposals for regulations
Building System Performance
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473

Wellington 6140
New Zealand

Submitter information

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.

Your name, email address, phone number and organisation

Name: Alister Arcus

Email address: alister.arcus@hcc.govt.nz

Phone number: 022 177 5023

Organisation: Hamilton City Council

- The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.
- MBIE may upload submissions or a summary of submissions received to MBIE's website at www.mbie.govt.nz. If you do **not** want your submission or a summary of your submission to be placed on our website, please tick the box and type an explanation below:

I do not want my submission placed on MBIE's website because... [insert reasoning here]

Please check if your submission contains confidential information

- I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE.

Building Product Information Requirements

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.

It feels correct that the local importer/manufacturee needs to supply the relevant information to confirm the system meets the Building Code. The responsibility of the distributor/retailer/tradesperson is to ensure they supply the correct product - all should protect the end user.

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.

Agree that it needs to be more than a glossy brochure, and needs to be easily sourced, in plain English so that non-technical/lay people can easily confirm fitness for purpose/correct usage.

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.

Product substitution/lack of identifying a correct product is vital. Product labelling is vital to confirm that the product matches the literature that is attached to it at purchase.

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

Building Product Information Requirements

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

Hopefully this regime will be seen as a best practice and will be regarded as the only way to source compliant systems. It may limit the amount of imported materials with no certification, as consumers will shy away from these because of the risk of future failures. BCAs will be reliant on product certifications (as they do now with the likes of BRANZ and CodeMark certification). Large manufacturers from New Zealand and oversea already carry out Quality Assurance on their systems and so it should be reasonably easy to supply to the New Zealand environment. The only other issues would relate to converting overseas certifications to the New Zealand environment. Smaller players will struggle.

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

The content of the information will be important to allow a reasonable assessment of the system without making it too onerous on the manufacturer, such as the level of details based on risk or complexity. E2 is highly complex and systems in this area need a lot more robust assessment and therefore the content of information/testing needs to be more comprehensive.

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?

The principled approach relies on the integrity of the applicants and their willingness to obtain and supply the necessary details and certifications to allow for customers and certifying agencies to be satisfied on reasonable grounds that these will comply with the New Zealand Building Code. The challenge will be that each manufacturer/importer/supplier will have their own view on what is a reasonable level of proof of compliance (and guidance to these). In addition, the organisation that reviews and certifies this (MBIE?) needs to be consistent and fair in approving these systems without making it too lenient nor too difficult.

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

Challenges include difficulties in using overseas products and being able to dovetail international certifications within the New Zealand Building Code requirements, as well as encouraging manufacturers to engage with this and getting them to see the benefits of this. Cost may be an issue. The big players will be able to absorb the costs, but smaller players may not see value in this, and these are the ones that can cause significant issues within the New Zealand building environment.

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

Building Product Information Requirements

Please explain your views.

This will be a consistent and well used pathway. We agree with this proposal.

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

The challenge is to get the applicants to provide robust and relevant information to the certifier. BCAs have often struggled, in the past, to get accurate, relevant and correct information to certify systems.

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?

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?

Absolutely, and regular audits and re-assessments to ensure that systems are still fit for purpose.

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.

Easy to read, understand and available for all participants who need the information to be able to make informed decisions.

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?

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

Building Product Information Requirements

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

Any system that allows for ease of identification and confirms its status as an assessed and therefore suitable system, is desirable.

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

Modular component manufacturer certification scheme

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.

This happens now with truss and frame manufacturers and to extend this to panels other modular components is a welcome addition.

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

Speeds up compliance/construction times. Economies of scale will allow the costs of the system to be absorbed within the process and offset by the speedier pathway to completion.

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.

This is an easier option than the other two.

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.

Having a robust and fit for purpose Quality Assurance system as well as people with the relevant experience to be able to carry out certifications is important to give confidence to MBIE and certification organisations as well as the general public that there has been a robust and accurate assessment carried out on a system.

Modular component manufacturer certification scheme

5. How do you think the proposed regulatory settings for certification bodies might affect their

Dependent on complexity/cost of gaining certification. This will impact on those manufacturers/importers willingness to take this up. Larger organisations can probably pick out their suite of existing documentations for their systems and have them altered to fit within the New Zealand system, or use their current certifications in New Zealand such as BRANZ or CodeMark certifications. This issue will be getting other players and smaller manufacturers to buy into this scheme. The key is marketing the benefits of using products/systems that have been certified, particularly for the high risk/visible areas such as cladding systems or fire safety, where the importance of such 'approved' systems will pressure the other non-certified companies to jump on board for fear of losing market share.

uptake of the modular component manufacturer certification 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.

A robust certification/registration allows for a degree of self-management, and some hand off from the regulatory oversight, speeding up the consenting process, and transferring some of any potential liability to the manufacturer.

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.

Provided MBIE stand behind this in a manner that supports are consumer concerns - implement bans and supports any legal means.

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?

Unsure.

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?

Benefits as per response to 5 above. Not sure of likely costs.

Modular component manufacturer certification scheme

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.

Must keep an ongoing review of the manufacturing quality to ensure that these are to at least the same level as the approved system/product. A prescribed assessment is important to provide consistency of review. Frequency could depend on the relative risk profile of the system/product.

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?

Unknown - cost could be a barrier to smaller players, but it needs to be robust enough to have value to the designer/certifier/end user.

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.

Speedier resolution is desirable to ensure that non-compliant systems/products in the market are eliminated.

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

This will provide an end-to-end pathway for the regulatory authorities to be satisfied that the final modular components have been manufactured, transported, assembled and completed to allow the BCAs to issue the Code Compliance Certificate on reasonable grounds. Whilst the manufacture of the modular component can be controlled in a factory setting, the transportation and erection on-site will be unique to each site and therefore, dependent on the scale of the component, should be the responsibility of the certificate holder.

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?

Modular component manufacturer certification scheme

As long as the information is provided in a way that can be easily understood by various audiences whose level of technical ability is low, to allow ease of interpretation.

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

Unknown.

Product certification scheme

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.

Agree with this as there has been some concerns that some of the current/previous certification organisations may not have had sufficient experience or quality systems to be able to adequately certify products.

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.

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?

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?

Provided that the information provided is in such a manner that it can be understood by non-technical people so they can make informed decisions. It needs to be detailed enough to allow the regulator (BCA) to make the correct decisions in a speedy manner.

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?

No.

Product certification scheme

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.

Closing gaps and consistency in the registration requirements. Having the right PCB to carry this out with appropriate and experienced staff.

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?

Provided there is robust and consistent assessments and certifications.

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?

Would overseas certifications be acceptable, and if so what, if any, gaps would need to be closed to allow these into the New Zealand environment?

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.

Using ISO standards aligns with international requirements and is considered a better way forward.

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.

1 x audit per year for product/method seems excessive. Perhaps consideration of a risk profile of the product/method could be considered with longer audit requirements for low risk – is this too complex to police?

Product certification scheme

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

Unknown.

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

Yes No Not sure/No preference

Please explain your views.

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

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?

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.

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?

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

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

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.

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?

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.

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?

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