

Government response to the Commerce Commission’s market study into residential building supplies

Enhance the regulatory system

The Commission’s recommendation	Government Response
<p>1. Introduce competition as an objective to be promoted in the building regulatory system</p>	<p>AGREE IN PRINCIPLE</p> <p>The Government agrees in principle that competition should be introduced as another consideration in the building regulatory system. We also agree that competition is important for well-functioning markets which lead to and support safe, healthy and durable homes.</p> <p>Promoting competition will have implications for the broader regulatory system. How this is introduced will need to be carefully worked through and understood.</p> <p>This recommendation will be considered alongside other options as part of the building consent system review. Promoting competition as an objective in the building regulatory system complements the review’s focus on how the building consent system can be more responsive, better enable innovation and unlock productivity.</p> <p>BUT GO FURTHER</p> <p>The Government will require MBIE to monitor the prices of key building supplies in New Zealand and its impact on suppliers. MBIE will work with the Critical Materials Taskforce and other key players within the sector in developing the monitoring approach. This will enable the Government to track progress in promoting competition within the building regulatory system and consider whether further intervention is required.</p>
<p>2. Better serve Māori through the building regulatory system</p>	<p>AGREE</p> <p>The Government agrees with the issues identified and recommendations. We also agree that Māori needs can be better served by delivering on Treaty of Waitangi obligations and addressing challenges faced by Māori within the sector.</p> <p>The Construction Sector Accord Transformation Plan 2022-2025 will deliver a number of initiatives aimed at building a stronger Māori economy. These initiatives have been informed by engagements with Māori: Kōtuitiā te hono (Māori Advisory Group), Māori end-to-end supply chains, Māori SME capability development, Māori procurement panels and the Kaiako Construction Mentorship Programme.</p>

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<p>3. Create more clear compliance pathways for a broader range of key building supplies</p>	<p>AGREE The Government agrees that maintaining the health and relevancy of the Building Code is important for the overall performance of the building and construction sector.</p> <p>The Government will focus on the successful implementation of the building product information regulations and the CodeMark scheme and will monitor their effectiveness.</p> <p>In the meantime, MBIE will consider options to prioritise the use of generic conformance criteria in the Building Code acceptable solutions and verification methods, review and incorporate international standards, publish guidance information to encourage the use of alternative solutions, and evaluate and certify products from overseas bodies.</p>

Supporting sound decision-making

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<p>4. Explore ways to remove impediments to product substitution and variations</p>	<p>AGREE The Government agrees that brand specification can create barriers to competition. This was evident with the plasterboard shortages in New Zealand.</p> <p>MBIE will consider options to remove impediments to making minor changes after a building consent and/or a MultiProof certification has been issued. This will include consideration of the following:</p> <ul style="list-style-type: none"> • amending the Building (Forms) Regulations 2004 to allow product substitution options to be included in a building consent application • developing regulations to define minor customisations to increase the flexibility of the MultiProof scheme and codify aspects of MBIE's product substitution guidance. <p>BUT GO FURTHER The options discussion document on the building consent review will include options to provide guidance to support builders, architects and building consent authorities make good decisions about product substitution and variation.</p>

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<p>5. Establish a national system to share information about building products and consenting</p>	<p>AGREE The Government agrees with the issues identified relating to the consistency and availability of product information, including how products contribute to meeting New Zealand Building Code requirements.</p> <p>New building product information regulations come into force on 11 December 2023, requiring designated building products to have a consistent minimum set of information available with the product at the point of purchase and accessible online.</p> <p>In March 2023, MBIE published guidance and examples to show how manufacturers and importers and suppliers can meet the requirements of the new building product information regulations.</p> <p>The Government considers these regulations will achieve the aims of the Commission's recommendation.</p>
<p>6. Establish an education and mentoring function to facilitate a better co-ordinated and enhanced approach by building consent authorities to consenting and product approval processes</p>	<p>AGREE The <i>Building Act 2004</i> includes sufficient provisions to enable MBIE to deliver the intended outcomes without the need to establish a specific function to implement this recommendation.</p> <p>The building consent system review provides a timely opportunity to address issues identified by the Commission.</p> <p>MBIE is concurrently progressing work on a package of short-term opportunities to address aspects of this recommendation (refer paras 87-88).</p>
<p>7. Develop and implement an all-of-government strategy to coordinate and boost offsite manufacturing</p>	<p>AGREE The Government agrees that offsite manufacturing has the potential to improve productivity, innovation and competition in the New Zealand construction sector.</p> <p>We also agree that greater co-ordination across government is required for the full benefits of offsite manufacturing to be realised and to bring greater demand certainty to the sector.</p> <p>BUT GO FURTHER We propose practical actions that government can take to create a pipeline of demand to increase scale of offsite manufacturing in New Zealand.</p> <p>The Accord will task the existing cross-government offsite manufacturing forum to develop an action plan to increase the uptake of offsite manufacturing in government projects. The Accord is currently</p>

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	<p>bringing together representatives from industry to develop an action plan to support the adoption of offsite manufacturing within the sector.</p> <p>Kāinga Ora have already set a goal to increase the number of offsite manufacturing solutions they use by a minimum of 20 per cent year on year for the duration of the public housing plan. In order to drive further uptake of offsite manufacturing at scale, the Government will look to encourage other government agencies to consider setting goals to increase the number of offsite manufacturing solutions by a minimum of 10% year on year.</p>

Address strategic business conduct

The Commission's recommendation	Government Response
<p>8. Promote compliance with the <i>Commerce Act</i>, including by discouraging the use of quantity-forcing supplier-to-merchant rebates that may harm competition</p>	<p>NOTED</p> <p>This fits with the Commerce Commission's current work programme. The <i>Commerce Act</i> was recently reformed to strengthen the Commission's ability to take effective enforcement action for misuse of market power.</p> <p>The Government supports the Commission's advocacy work to promote compliance with the <i>Commerce Act</i>. No specific further actions Government are required. The Commission must act independently in the performance of its enforcement functions.</p>

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<p>9. Consider the economy-wide use of land covenants, exclusive leases and contractual provisions with similar effect</p>	<p>AGREE</p> <p>It is timely to carry out an economy-wide review of the use of land covenants and exclusive leases following competition concerns identified across all three studies the Commission has undertaken.</p> <p>Work is underway elsewhere in government which is likely to be relevant to this review. The Ministry of Housing and Urban Development (HUD) is carrying out a review of 'development-limiting covenants' (which may include, for example, covenants which restrict the size and shape of housing, and in turn may restrict urban development and densification). Changes to New Zealand's planning laws are being taken forward under the broader Resource Management reforms.</p> <p>Officials at MBIE will work to ensure that the proposed economy wide review of land covenants and exclusive leases is scoped to align with other government work, in consultation with HUD, the Ministry of Justice, the Treasury, the Ministry for the Environment, and Land Information New Zealand.</p>