BUILDING PERFORMANCE

Summary of Submissions

Removing barriers to overseas building products

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
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Te Kāwanatanga o Aotearoa
New Zealand Government

Contents

1.What was proposed

The discussion document, titled *Removing barriers to overseas building products*, related to a package of proposed changes to the *Building Act 2004* to improve competition and lower costs of building in New Zealand.[1] These included:

- making it easier to use building products that meet overseas standards
- streamlining the citing of international standards
- mandating acceptance of products certified overseas.

These changes aim to create clearer compliance pathways for key building supplies and make it easier for designers and market participants to use new or competing building supplies from overseas.

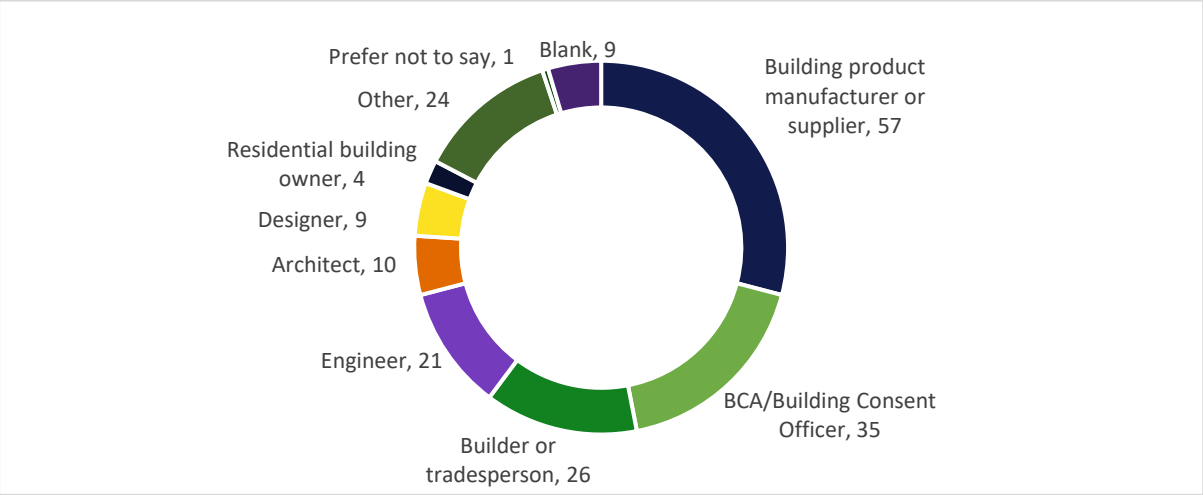
The Ministry of Business, Innovation and Employment (MBIE) sought feedback on the options for implementation and the criteria for the exercise of powers created by these changes. The consultation ran from 31 May to 27 June 2024, with a total of 196 responses received. 175 of these were received via SurveyMonkey and 21 were received via email.

In some instances, submitters provided an answer to a question that was more relevant to another question. When this happened, MBIE officials analysed their submission in relation to the initial question being submitted on.

Who submitted?

Feedback targeted individuals and businesses operating within the building and construction industry.

Fig. 1: Roles of submitters



[1] Removing Barriers to Overseas Building Products (mbie.govt.nz)

The roles of respondents varied, with the majority of responses coming from building product manufacturers/suppliers, building consent officers, tradespeople and other roles (e.g., industry bodies, consultants and product certifiers).

Building product manufacturers/suppliers was the largest group of submitters with 57 submissions, equating to approximately 29 per cent.

Those who identified as building consent officers contributed 35 submissions (18 per cent), while tradespeople (26 submissions/ 13 per cent), other industry figures (24 submissions/12 per cent), and engineers (21 submissions/11 per cent) were the next three largest submitter groups.

Architects submitted 10 responses and designers submitted nine responses, each accounting for approximately five per cent of submitters.

Meaning of terms used

This document is designed to give readers a general idea of the number of submitters making similar comments throughout the document. The numerical values of terms used are outlined in the table below:

Term	Number of submissions
One/single/a	1
A couple/ a few	2 – 3
Several/ a number of	4 – 7
Group or a collection	8 – 15
Some, many, or a large number	Up to 50% of submitters
Most or the majority	Over 50% of submitters

Weighted averages explained

This summary of submissions uses weighted averages to explain the level of support for the options presented for each question. With the discussion document being structured in a way that asked submitters to provide a favourability ranking. For example, for the options provided for Question 1, submitters could choose between 'Should definitely include', 'May consider including' and 'Should not include', as well as an option for those who did not know.

Submissions were then assigned a numerical value based off whether submitters believed a factor should definitely be included (1), may be included (0.5), or should not be included at all (0). This provided MBIE with the data to calculate weighted averages showing the level of support for each factor.

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

Section One of the discussion document, *Making it easier to use building products that meet overseas standards,* outlined the Government's plans to amend the Act to enable the Minister for Building and Construction to recognise groups of standards from overseas standards organisations and standards certification schemes.

This option would provide guidance to designers, builders, building owners and building consent authorities about what standards from overseas standards organisations could be considered for a specification of building products that will comply with the Building Code.

It would also remove the need for designers, builders, building owners and building consent authorities to verify the adequacy of a standard or the robustness of a standards certification scheme and allow them to rely on what has been certified.

This will make it easier for any building product that has met an appropriate standard to be specified in a building design.

Examples of possible organisations that could be recognised include Standards Australia, British Standards Institute, International Organisation for Standardisation, and the American Society for Testing and Materials.

Section One contained one question.

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

Question 1 sought feedback on the factors to be considered before recognising building product standard organisations. This was important as pre-determined factors will directly influence the quality of international standard organisations that can be used in the New Zealand market.

Regulations will be required which prescribe decision-making criteria for the recognition of standards and standard certification schemes. The development of these criteria will be informed by this consultation.

In total, 187 submitters provided an answer to this question.

Four possible factors were provided to submitters. Submitters were asked to rate each option on a scale of how important it was that they are included.

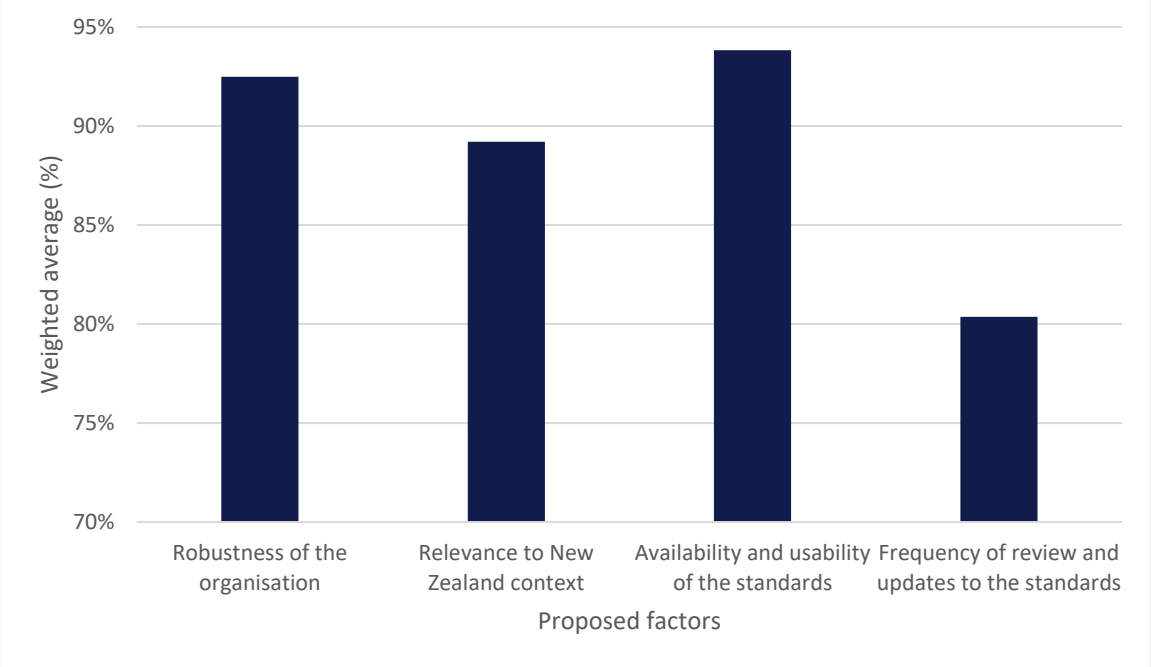
- **Factor 1:** The robustness of overseas standards organisations and standards certification schemes, including their processes for development and publication of standards.
- **Factor 2:** The relevance of any standards/certifications issued by those entities to an Aotearoa/New Zealand context.

- **Factor 3:** The availability and usability of the standards, including whether English language translations are provided by the organisation.
- **Factor 4:** Frequency of review and updates to the standards or how long the certification of products remains valid.

Submitters were largely in support of the decision-making criteria

The robustness of overseas standards organisations and standards certification schemes was highlighted as an important factor to include in the decision-making process, with a weighted average of 92 per cent. Submitters commented that historical issues and track records of overseas organisations were crucial to review. Additionally, submitters, including key industry bodies, outlined that international accreditation and a good global reputation are also important indicators of an organisations robustness.

Fig. 2: Which factors should be included when recognising building product standards organisations?



Submitters responded positively to considering the relevance of any standards or certifications to an Aotearoa New Zealand context in decision-making. This factor received a weighted average of 89 per cent. Submitters expressed strong interest in overseas organisations and their products being able to comply with New Zealand Building Code requirements, being comparable to New Zealand organisations, and also being suitable for New Zealand's climate conditions. Key industry bodies demonstrated support for these factors as well.

> *"The organisations or standards should come from countries with similar performance expectations to New Zealand. They should be assessing building products for performance under similar conditions as they are likely to experience*

in New Zealand, with particular attention paid to seismic and weather-related performance."

Submitter 188 (Tradesperson)

The availability and usability of standards was regarded as the most important factor.

The availability and usability of standards received a weighted average of 94 per cent favourability from submitters. Submitters considered that data on product performance and information on product testing should be accessible and transparent. Submitters also highlighted that the costs to use overseas products/standards be reasonable.

"Manufacturers should provide PS3 or Product statement [so] that it complies with NZBC."

Submitter 70 (Building consent officer)

The frequency of review and updates received the lowest weighted score with 80 per cent. Of the submitters who voted on this specific factor, only 63 per cent commented that it should definitely be included in the decision-making process. Those in favour mentioned that overseas products or standards must be thoroughly reviewed by individual, separate bodies for certification. Submitters suggested this include reviews of labs, testing methods and scientific research.

Submitters identified other factors to consider

Submitters identified several other factors for MBIE to consider. Liability was a factor that received several submissions. Submitters raised concerns on who liability falls on if a product or standard fails. A few submitters suggested that councils should not be the main entity liable for a product or standards failure and that the Joint and Several Liability Scheme be reviewed to hold others accountable and protect consumers.

Severity of consequences also received support from several submitters. Submitters considered that overseas organisations that provide important, life-saving products or standards (e.g., fire-safety products) should be subject to higher scrutiny and review.

Several submitters indicated that the scope of the scheme should extend beyond Australian organisations. European organisations and products, such as plumbing products from the German Technical and Scientific Association or Gas and Water were suggested. There were also a few submissions that highlighted Asian organisations, particularly those in China (for example, GuoBiao Standards), as better alternatives.

"We have seen many failures to piping systems in NZ due to the use of lower benchmark certification like WaterMark, that is generally a watered down equivalent of a Europe standard. The result is critical aspects been removed or overlooked when producing AS/NZS standards. It's worth noting EU standards are updated regularly in comparison to AS/NZS standards."

Submitter 38 (Building product manufacturer or supplier)

One industry body suggested creating a priority order for standards/products based off importance and cost of failure. High priority products, those that contribute to structural safety, fire safety and health of building users, should be prioritised. Lower priority products, those that are easy to access and replace like tapware should not be prioritised.

There was some overlap with other questions in submissions

There was some overlap between Question 1 and Questions 2 and 3. Many people submitted responses that focused on specific products and standards themselves, rather than providing comments relating to overseas products or standards organisations.

There was also some overlap between Question 1 and Question 5. Several submitters in Question 1 made the point that reviewing bodies must be separate from the overseas organisation. These reviewing bodies must thoroughly certify that overseas products meet compliance in New Zealand, e.g., by checking labs and testing methods. While important, this point falls more under the realm of Question 5, which asks what factors should be considered before specifying appropriate product certification schemes.

3.Streamlining the citing of international standards

Section Two of the discussion document covered amending the Building Act to enable a new regulatory instrument – the building product specification – to be published. This will contain all the building product specifications and standards that can be used with acceptable solutions and verification methods to demonstrate Building Code compliance.

This instrument would reduce the burden for designers, product manufacturers and building consent authorities using products tested to standards from overseas. If a product complies with the specification in its intended use and is used as a part of an acceptable solution or verification method, it must be accepted by Building Consent Authorities, as complying with the Building Code.

For example, the existing Acceptable Solution C/AS2 for fire protection contains an appendix list of fire testing standards and specifications for products. Should the building product specification be published, other suitable overseas standards that provide an equivalent or better level of fire protection and performance will be accessible for domestic use as well.

Section Two contained three questions, covering:

- what product standards should be prioritised
- what products would be a higher risk to buildings due to failure or misuse
- what factors should be included when evaluating and comparing overseas standards.

Like Question 1, submissions from each question were assigned a numerical value between 0 – 1 based off submitter's responses in terms of priority (Question 2), risk level (Question 3), or whether or not it should be included (Question 4). This provided MBIE with the data to calculate weighted averages showing the level of support for each factor.

Questions 2 and 3: What types of product standards should MBIE prioritise in its review of international standards? What types of products do you consider to be higher risk to buildings due to their failure or misuse?

Question 2 and 3 asked submitters about what types of product standards that MBIE should prioritise in its review of international standards, as well as which products they consider to be higher risk due to potential failure or misuse.

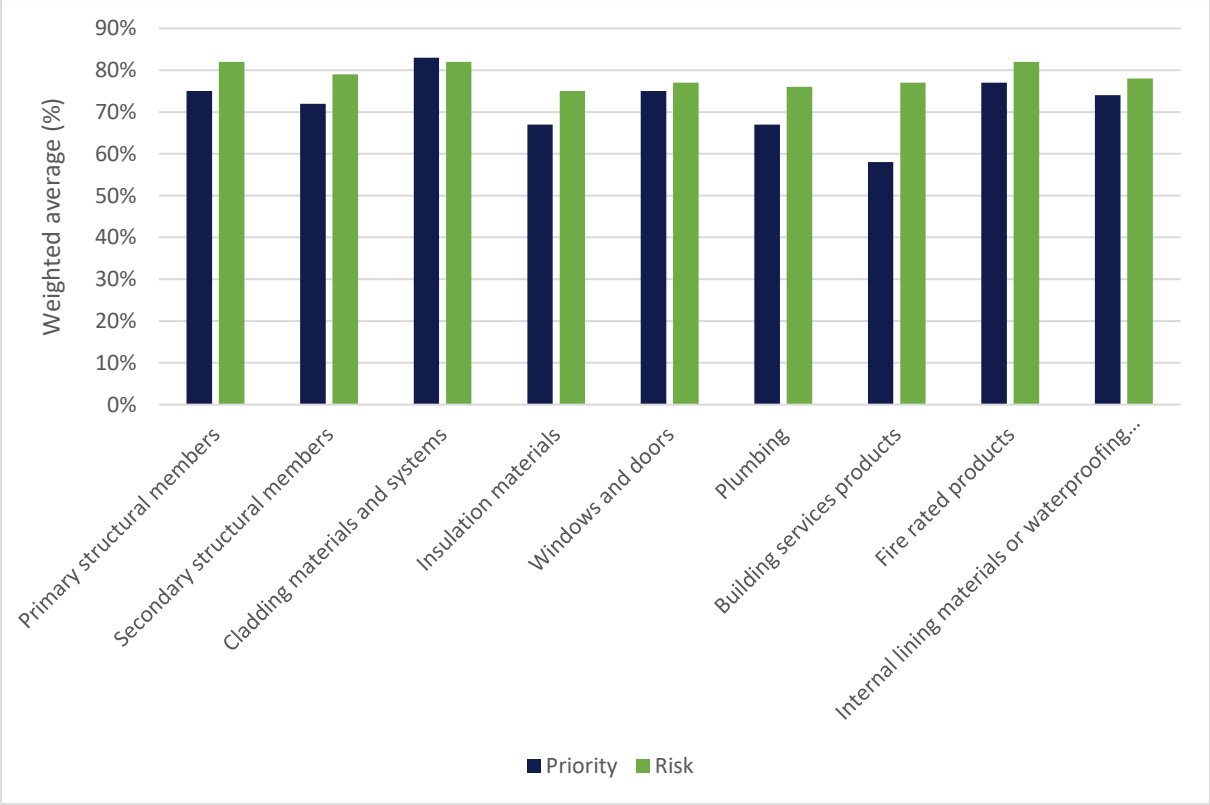
In total, 177 submitters provided an answer to Question 2 and 167 submitters provided an answer to Question 3.

MBIE presented submitters with a range of potential products that could be prioritised when considering international products. MBIE also asked submitters to submit on the risk level of each product, with potential risks relating to life safety or economic losses. The product categories listed in the discussion document were:

- primary structural members (seismic and gravity elements)
- secondary structural members (internal framing, curtain wall framing, stairs, barriers)
- cladding materials and systems including underlays, wraps, and other components
- insulation materials
- windows and doors
- plumbing (pipes, taps and fixtures)
- building services products including HVAC equipment, fans, luminaires, light fittings
- fire rated products including passive fire stopping
- internal lining materials or waterproofing materials.

Overall, submitters scored the majority of products as high risk and gave mixed opinions on the priority of products.

Fig 3: Perceived priority and risk for each product/standard type



Cladding materials, primary structural members, and fire rated products received the highest level of support for prioritisation, but also for risk

Cladding materials and systems, including underlays, wraps and other components, received the highest weighted average for priority with 83 per cent. This was the only product category that scored higher in priority than in risk, with a weighted average of risk of 82 per cent.

Primary structural members and fire rated products also received 82 per cent for risk, making them first equal alongside cladding materials and systems for risk. Primary structural members received a

priority score of 75 per cent, and fire rated products received a priority score of 77 per cent. These results show that cladding materials and systems, primary structural members and fire rated products are considered by submitters to be the three most important, but also riskiest, products for MBIE's consideration.

Aside from cladding materials and systems, all other products' risk averages were higher than their priority averages.

Insulation materials, windows and doors and internal linings or waterproofing materials appear to balance perceived risk and priority relative to other product categories.

Secondary structural members received a 72 per cent weighted average for priority, and a 79 per cent weighted average for risk. Submissions indicated that is it the second highest in terms of risk after cladding materials, primary structural members and fire rated products.

Windows and doors were fourth in terms of priority with 75 per cent and held a risk average of 77 per cent.

The scores for internal lining materials or waterproofing materials placed the product type in the middle of all products in terms of priority and risk. These products received 74 per cent for priority and 78 per cent for risk.

Plumbing products were the second lowest for both priority (67 per cent) and risk (76 per cent). Insulation materials were in the bottom half of products for both priority (67 per cent) and risk (75 per cent). Building services products received the lowest score for priority with 58 per cent and received 77 per cent for risk.

Submitters also suggested other types of products to consider

Submitters highlighted a collection of other products and standards that MBIE should prioritise and exercise caution around.

A number of submitters suggested officials should focus on products that are new and not used or considered in New Zealand. In contrast, several submitters suggested that products with high demand and use in the New Zealand market should be considered.

A group of submitters recommended beginning the scheme by focusing on importing low-risk products and moving to high-risk products once the industry has adjusted and grown comfortable with the changes.

> *"There have been historical issues in New Zealand in the past with overseas product failures, such as copper pipes and reinforcing for bridges, so we need to make sure that we have a robust system in place with lower risk items before MBIE consider this process for higher risk products."*
>
> *Submitter 76 (Building Consent Officer)*

Some submitters outlined specific products to avoid due to their high risk, namely electrical components and specified systems.

"Failure of plumbing services or electrical products can be fatal to the occupants. Failure in fire rated products could also be life threatening and we would need to consider some claddings in this regard also as it has become apparent that there have been systemic failures over recent years."

Submitter 73 (Building Consent Officer)

A large group of submitters outlined that the severity of any health consequences from a product's possible failure must be considered.

"Other factors in prioritisation should be the risk and consequences of failure of the products, particularly if they are not installed correctly and there is no technical support for installation present in New Zealand."

Submitter 72 (Building Consent Officer)

Like Question 1, many submitters in Questions 2 and 3 outlined suitability with New Zealand's climate conditions and compatibility with Building Code requirements as key factors to consider.

"MBIE should prioritise product standards that will ensure the appropriateness of the product for New Zealand conditions, such as their performance in earthquakes, high sea spray zones, geothermal zones, and resistance to our high UV light levels. Ideally, imported products or building systems should be subjected to rigorous checks to ensure the standard or certifications are compatible with or exceed New Zealand standards."

Submitter 188 (Industry Body)

A collection of submitters also highlighted the importance of plumbing and drainage products being considered, with one submitter calling it "a quick win". A couple of others also suggested that acoustic ceiling and wall materials be included.

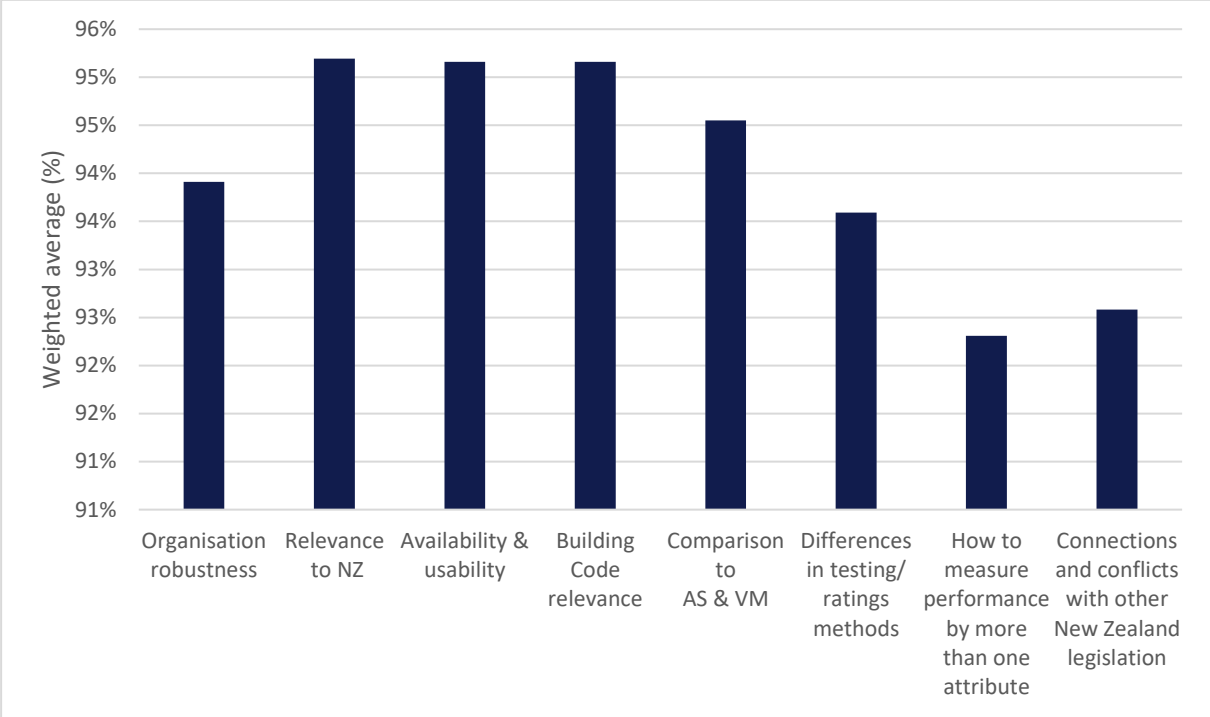
Question 4: What factors should MBIE consider when evaluating and comparing overseas building product standards?

Question 4 asked what factors needed to be taken into account when evaluating and comparing overseas building product standards.

In total, 168 submitters provided an answer to this question

Again, MBIE presented submitters with a range of potential options that could be considered when evaluating standards.

Fig 4: Factors to be included when comparing overseas building product standards



All options received near-unanimous support from those who submitted, with each one receiving broadly the same amount of support from submitters as the rest.

Submitters were asked to provide any other factors they felt were most important.

The most popular responses reiterated the ones suggested by MBIE. Many submitters pointed out the importance of standards having relevance to a New Zealand context, in particular highlighting that just because a standard works in another jurisdiction does not mean that it will automatically work here in New Zealand, and that therefore this must be analysed as part of the process. Some submitters went beyond this and specified the importance of climate-specific factors.

> *"Climatic conditions in New Zealand, which can be extremely varied even on a single building. This includes consideration of NZ's high UV levels that may not be the same where the product standard originates."*
>
> *Submitter 90, Building consent authority*

Some respondents suggested that standards should only be accepted from jurisdictions that are as rigorous as testing in New Zealand, and that the first test any standard should face is how it compares with a New Zealand equivalent. Some of these responses crossed over with responses received for Question 5.

Another common response was based around concerns that the New Zealand Building Code was not developed enough to handle more overseas standards. Concerns about this included worries that cherry-picking one standard rather than adopting the entire system could void any effectiveness,

while a few other submitters were concerned that the way some overseas standards are developed versus how the Building Code is developed will not allow overseas standards to be effective.

> *"Most current standards that are citied in the NZBC within the area of design and supply of structural timber components have been developed through either Standards New Zealand or combined Australian/New Zealand Standards ran* [sic] *out of Standards Australia. When developing New Zealand standards and joint Australian / New Zealand standards, the standards committees are advised to at first case consider the adoption of ISO standards.... in many cases international standards may not meet the functional and performance requirements of the NZ Building Code to ensure the standards are fit for purpose. Similar consideration should be given to any proposed adoption of international standards."*
>
> *Submitter 126 (Building product manufacturer/supplier)*

Another key factor that was raised was how easy to use the standards were. A handful of submitters who suggested this also highlighted a need for the standards to be in English.

Finally, a couple of submitters said that there was no need to vet standards and that, if a standard was good enough to be used overseas, then it was good enough to be used in New Zealand.

4.Mandating acceptance of products certified overseas

Section Three covered how certain overseas standards could be mandated for acceptance here in New Zealand.

Currently, the Building Act enables the Chief Executive of MBIE to specify certifications of building products or building methods provided by persons outside Aotearoa/New Zealand that are to be treated as product certifications in Aotearoa/New Zealand (CodeMark).

To increase flexibility and enable effective implementation of existing provisions, the Building Act will be amended to:

- enable the Chief Executive of MBIE to be able to specify entire schemes, or classes or groups of products
- remove existing requirements for certification and add a regulation-making power to set criteria for the recognition of certified products
- require building consent authorities to accept the certified overseas products as establishing compliance with the Building Code.

There will also be decision making-criteria in regulations to guide the Chief Executive's decisions. Increasing flexibility of the Chief Executive would increase the range of products that can be used in New Zealand; for example, specifying products certified under the Australian WaterMark certification scheme would open up our markets to plumbing products that are currently approved for use in Australia, of which there are currently over 200,000.

The weighted average was calculated using the same method as for Question 1.

Section 3 had one question.

Question 5: What factors should MBIE consider before specifying appropriate product certification schemes?

Question 5 asked submitters what factors needed to be taken into account by MBIE before overseas product specification schemes were mandated by MBIE.

In total, 166 submitters provided an answer to this question.

As part of the question, nine possible factors were provided to submitters, who were asked whether each factor should be included in MBIE's decision-making when considering which overseas jurisdictions to include.

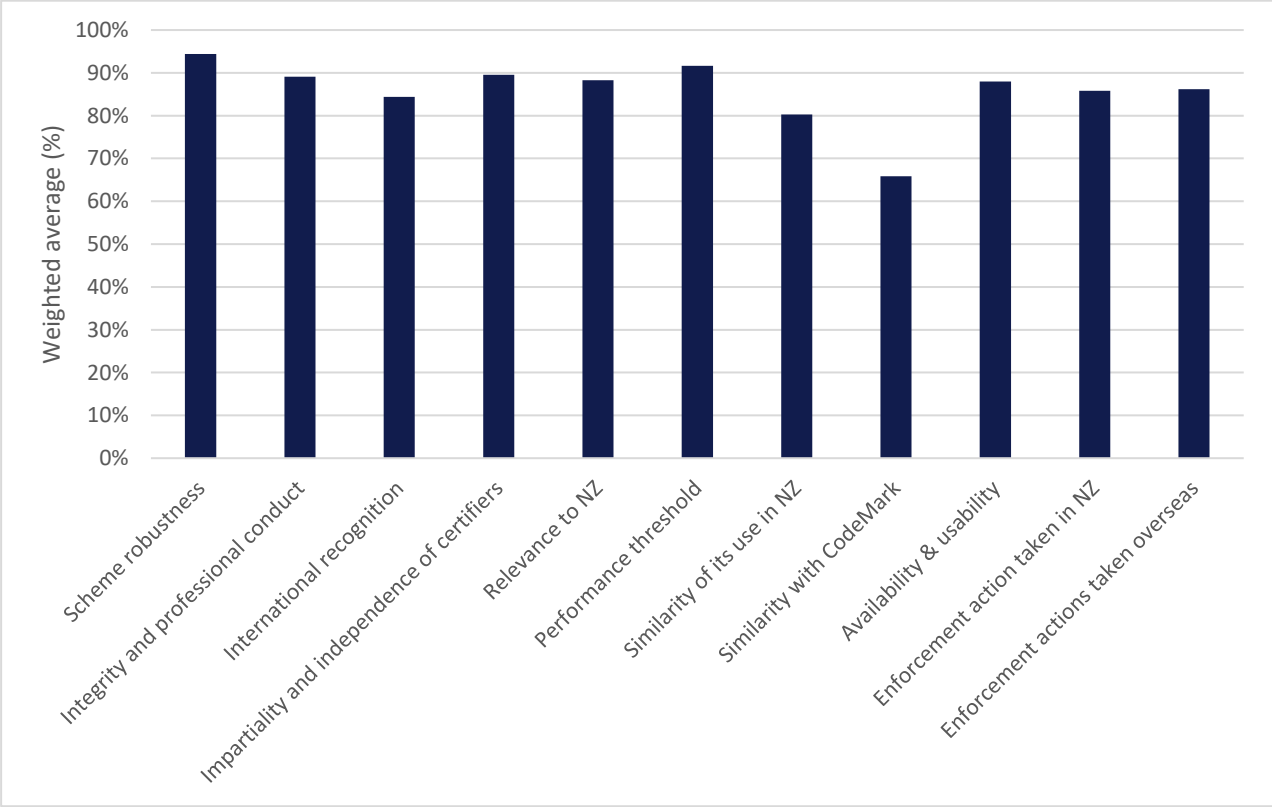
Submitters considered it was most important to determine how robust the overseas schemes being assessed for specification are.

The most popular factor to be included was how robust the overseas scheme was. Some respondents showed concern that mandating schemes that did not have an adequately robust system could result in failures reminiscent of the leaky homes crisis in 2008.

Other popular responses included the performance threshold of the products in question, especially when compared to the New Zealand Building Code and New Zealand standards, and the importance of ensuring that those determining which schemes should be mandated were impartial from the process.

Overall, all factors suggested were broadly supported by the majority of submitters on this question, with the exception of the similarity of an overseas scheme with CodeMark. Similarity with CodeMark was more divisive, with some submitters saying that CodeMark should be the standard for which overseas schemes should be assessed, whereas other submitters suggested that CodeMark was not a satisfactory mark of compliance and that therefore it should not be used in this instance. One submitter said that the compliance requirements for CodeMark were too strict, and therefore would be more of a barrier.

Fig. 5: Factors to be considered before specifying appropriate product certification schemes:



In addition to the above suggestions, submitters were asked if any other factors could be included.

The most popular additional factor suggested by submitters was how liability would be addressed, and where it fell if a product mandated from an overseas scheme failed here in New Zealand. Different aspects of liability that were raised included:

- whether those who used the imported products would be held liable if they were defective, or whether liability could be pursued against the international supplier

- whether importers should have mandatory insurance to cover failures, or perhaps a separate accreditation before they can be used
- Would the liability structure be similar to that of CodeMark.

> *"Overseas product will probably be sourced from overseas suppliers, who will provide the technical support locally, who will carry the liability for failure, who will educate designers of the way overseas products are tested and the substrates they are tested in compared to the substrates utilized in NZ construction."*
>
> *Submitter 41 (Building product manufacturer/supplier)*

The discussion document notes that there would always be a level of risk using any overseas products here, as there is with using any product. The Building Act contains consumer protections for products used in residential building work, which would be extended to products recognised under these international schemes.

Other factors raised by submitters in this question reiterated those included in the prepopulated options.

This included ensuring that the regimes that are mandated are trustworthy and of a similar quality to New Zealand's system. Other factors that submitters recommended were addressed as part of this included utilising third-party accreditation, such as ISO, when determining which regimes will be accepted, and recommending that the mandate be regularly reassessed to ensure that the regime(s) in question are of the same standard they were when first accepted.

> *"Ongoing assessment/audit of the manufactured product and system to ensure the ongoing performance levels are met."*
>
> *Submitter 135 (Building product manufacturer/supplier)*

One solution that was proposed was only accepting regimes in certain product classes, instead of across the board.

Another factor that was mentioned by a few submitters was ensuring that the standards that were approved had a relevance to New Zealand. One submitter highlighted that just because a regime had a good reputation internationally did not mean that it would be right for use in New Zealand, while a few others submitted that this needed to be the first thing that was addressed when deciding whether to mandate a scheme here.

5.Summary of feedback and analysis

MBIE appreciates the time and effort that was put into the submissions received and considers that this is reflected in the quality of the submissions.

In summary, there was broad support for the options for implementation and the criteria for the exercise of powers created by these changes.

Each of the three initiatives, and their respective questions, received positive and constructive responses. There were several key themes from submitters that ran across each of the initiatives.

These themes revolved around how liability would be addressed, the suitability and comparability of overseas products to the New Zealand climate and Building Code, whether overseas organisations are trusted, accredited and regularly reviewed, the severity of consequences if products/standards are to fail, and if the scope should be extended to include countries and products beyond just Australia.

Feedback was insightful into industry thinking and opinions and is being taken into account as policy development continues.