BUILDING PERFORMANCE

Summary of submissions

Building System Reform proposals for regulations on:

- Building product information requirements
- Modular component manufacturer scheme
- Product certification

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MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

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Contents

List of acronyms

Acronym	Meaning
Building Code	New Zealand Building Code
GLN	Global Location Number
MBIE	Ministry of Business, Innovation and Employment
MCM	Modular component manufacturer
NZBN	New Zealand Business Number
PCB	Product Certification Body

1. Background and context

On 28 April 2021, MBIE released a public discussion document on proposals for regulations to implement new regulation-making powers in the *Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021* (the Building Amendment Act).

Feedback was sought to help ensure that final regulatory proposals are fit for purpose, proportionate, cost-effective and sufficiently flexible to enable innovation.

This document summarises the submissions received on the proposals for regulations.

1.1. What the regulations will cover

New regulations are needed to support and implement provisions in the new Building Amendment Act, which sets out a framework for:

- new mandatory building product information requirements that will enable designers and builders to choose the right products and install them in the way intended. Better product information will also help support consenting decisions by building consent authorities
- a voluntary modular component manufacturer scheme, to enable modular component manufacturers who meet specified criteria and standards to be certified and registered to produce modular components within a defined scope of practice
- a strengthened product certification scheme (CodeMark), to improve confidence that certified building products and methods will comply with the Building Code.

The proposals for regulations provide the detail to implement the building product information requirements, modular component manufacturer scheme and strengthened product certification scheme, namely:

- the content of the information to be provided, and when and by whom, for the building product information requirements
- accreditation, certification and registration criteria for the modular component manufacturer scheme
- accreditation, certification and registration criteria for the strengthened CodeMark scheme
- audit requirements for the modular component manufacturer and CodeMark schemes
- regulated fees for the modular component manufacturer and CodeMark schemes.

2. Feedback was sought via a public discussion document and targeted stakeholder meetings

2.1. A public discussion document was released

MBIE published a public discussion document outlining a set of proposals for regulations to support and implement the building product information requirements, modular component manufacturer scheme and strengthened product certification scheme on 28 April 2021.

The discussion document and submission form can be accessed at: https://www.mbie.govt.nz/have-your-say/building-system-reform/

To promote opportunities for feedback, more than 4,000 notifications regarding the consultation were sent to stakeholders who may have had an interest in the proposals. The consultation was also promoted online via two LinkedIn posts, which included a video. The discussion document was downloaded 836 times.

The consultation period ended on 18 June 2021.

2.2. Targeted stakeholder engagement meetings were held

MBIE met with a range of stakeholders prior to, and after, releasing the discussion document to seek preliminary feedback and to help shape the proposals in the discussion document.

To promote the discussion document and encourage feedback, MBIE held targeted meeting with stakeholders, including building consent authorities, PrefabNZ (now called 'OffsiteNZ'), JAS-ANZ, Taituarā – Local Government Professionals Aotearoa (formerly SOLGM), industry associations, and large retailers.

2.3. The World Trade Organisation was notified

In May 2021, MBIE notified World Trade Organisation members of proposed regulations on building product information requirements to be made under the Building Amendment Act. MBIE was advised that this notification was a requirement of the World Trade Organisation Technical Barriers to Trade Agreement.

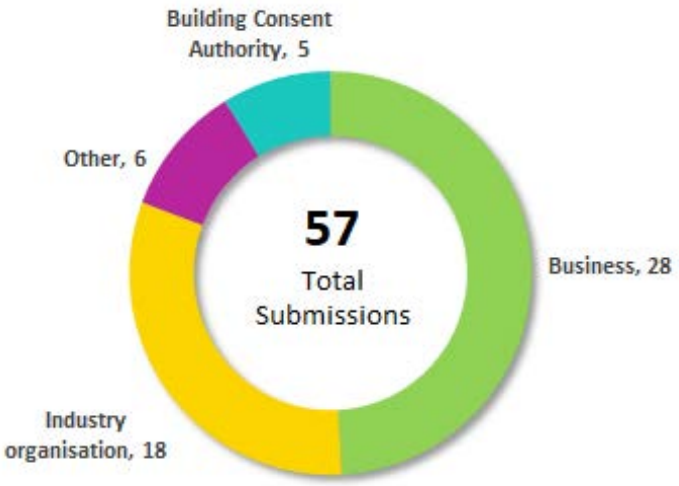
The minimum required 60 day consultation period closed on 2 July 2021. MBIE did not receive any responses from World Trade Organisation members regarding the regulatory proposals, and no further action is required in respect of the Technical Barriers to Trade Agreement.

3. Feedback was received from a range of stakeholders

Between April and June 2021, 57 submissions on the proposals for regulations were received from a range of stakeholders.

Figure 1, below, summarises the submissions received by stakeholder category.

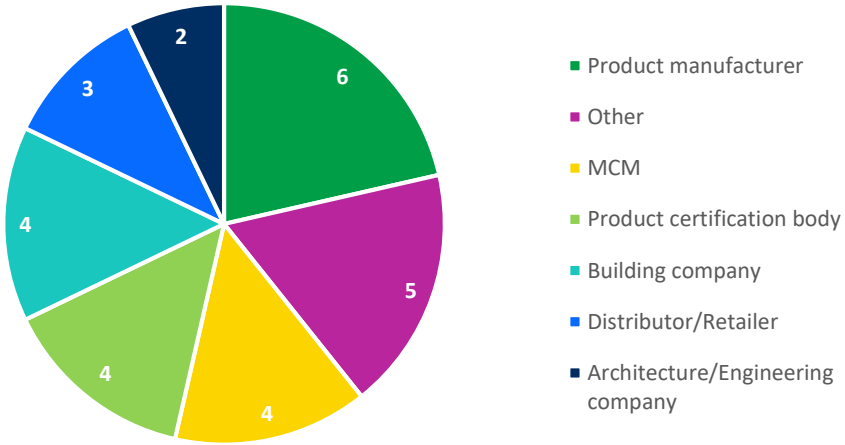
Figure 1: Submitters by category



The largest number of submissions came from businesses, and of those businesses, product manufacturers made the most submissions. Figure 2, below, provides a more detailed breakdown of the categories of businesses that submitted on the proposals.

These businesses included modular component manufacturers, product certification bodies, building companies, retailers and distributors, and architecture and engineering companies. Submissions were also received from a law firm, an accreditation body, a product library, a not-for-profit organisation, and consultancy firms.

Figure 2: The number and categories of businesses that submitted on the proposals



Eighteen industry organisations submitted on the proposals. These organisations represented a range of stakeholders from across the building and construction sector, including builders,

architects and plumbers; the timber and concrete industries; frame and truss manufacturers; and window and glass manufacturers.

Five building consent authorities from across New Zealand submitted on the proposals.

Annex 1 provides a full list of submitters.

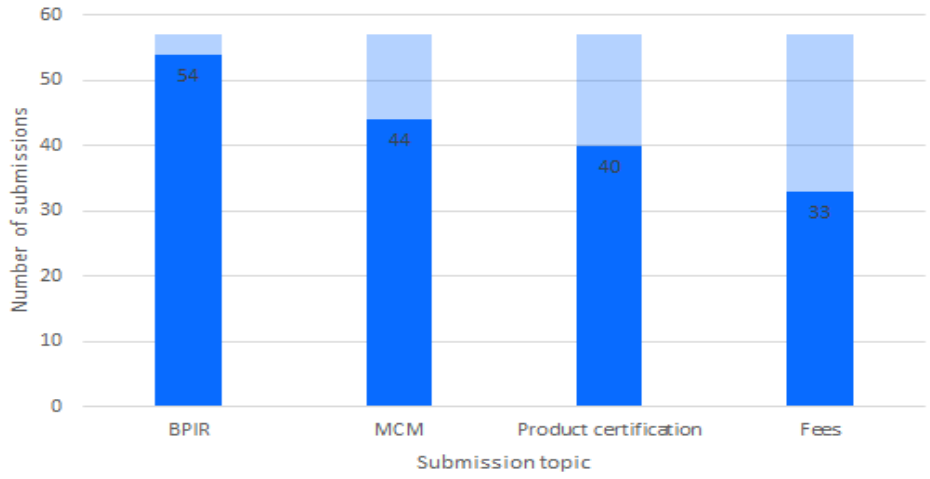
4. Number of submissions by topic and overall level of agreement with proposals

As shown in Figure 3 below, of the 57 submissions made on the proposals:

- 54 commented on proposals relating to the building product information requirements,
- 44 commented on the modular component manufacturer scheme,
- 40 commented on product certification, and
- 33 commented on the regulated fees.

Most submitters commented on more than one topic.

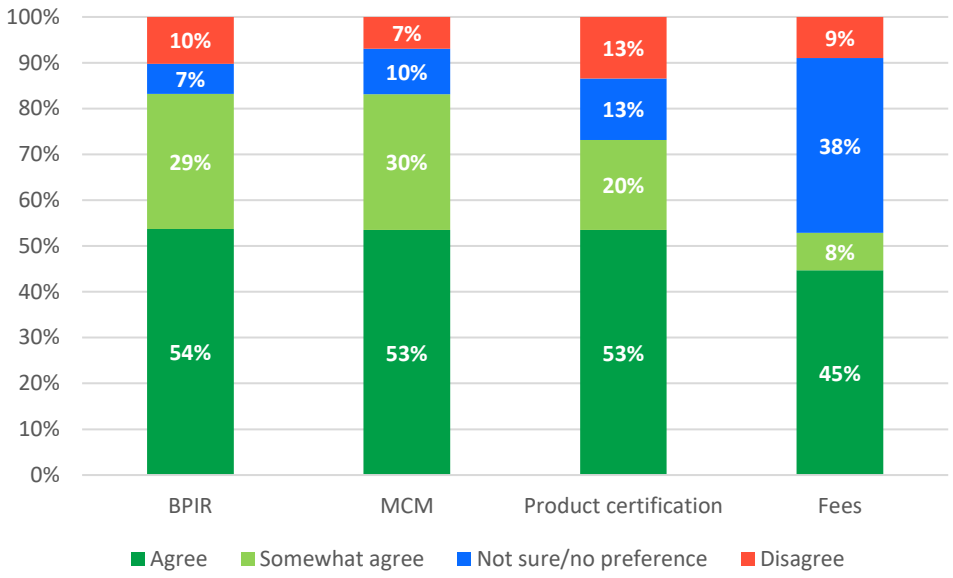
Figure 3: Number of submissions by topic as proportion of all submissions



Although the number of submissions received is small, Figure 4 below shows a breakdown of the level of stakeholder agreement with the proposals by topic area.

The majority of submitters agreed or somewhat agreed with the proposals for regulations for all topics. The level of agreement was highest for building product information requirements proposals. Over a third of submissions on regulated fees proposals selected ‘not sure/no preference’.

Figure 4: Average stakeholder agreement with proposals by topic



5. Key themes raised in submissions on the discussion document

This section is a summary of key themes and concerns raised in the submissions received. More detailed analysis, including an assessment of the numbers of submitters supporting or opposing each of the proposals, is provided in Section 6 of this report.

5.1. Building product information requirements

- Some submitters recommended that the proposed building product information requirements should apply only to products that are critical to building performance, i.e. those that relate to the Building Code and must be approved through consenting processes.
- Concerns were raised about the application of the requirements in certain industries, as some product types are typically made-to-order and unique to the building and site requirements. This could mean that manufacturers are required to produce a set of information for each individual product made. Submitters were concerned that this would place undue burden on affected manufacturers and the information would likely be redundant by the time it is made available, as key decisions would already have been made about the specifications for those products at the time they were ordered.
- A few submitters noted that a product cannot comply with the Building Code alone, as it is the complete system of products selected, and how they are installed and work together, that achieve Building Code compliance. Related points were made that building code compliance is a shared responsibility, and that manufacturers and importers may not be able to foresee every possible end use of the product.
- Most submitters felt that 18 months was the correct length for the transition period, and one submitter felt that the period should be shortened to 12 months. In contrast, some submitters felt that 18 months was not long enough due to the scale of work required to prepare the product information.

5.2. Modular component manufacturer scheme

- Some submitters were concerned about the inclusion of open frames and trusses in the kinds of building products that would be prescribed as ‘modular components’. These submitters proposed excluding open frames and trusses from the scheme.
- A few submissions stated that it is unnecessary to define scopes of certification for manufacturers. These submitters argued that scopes of certification should be determined on a case-by-case basis by modular component manufacturer certification bodies.
- Most submitters who expressed their support for the proposed regulatory setting for accreditation and certification within the modular component manufacturer scheme, did so on the basis that the scheme would be consistent with relevant international standards.

- A few submitters raised concerns regarding the level of accountability for modular component manufacturer certification bodies, particularly with there being no requirement to satisfy an adequate means test for those bodies.

5.3. Product certification scheme

- Most submitters supported the proposed registration criteria, including a fit and proper person test. Concerns were raised that the proposed test would not work for all product certification bodies' (PCBs) corporate structures and should be refined.
- Most submitters who expressed a preference supported the proposal to rely on ISO/IEC 17065 for requirements related to quality management systems.
- Several submitters noted that there needs to be flexibility for PCBs where a testing facility is not accredited for the test, and that this should be principles-based rather than prescriptive.
- Mixed feedback was provided on the minimum frequency of certification reviews. Some submitters raised concerns about cost, and several submitters suggested a risk-based approach would be more appropriate.

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

- Most submitters agreed that the registration fees for product certification and the modular component manufacturer scheme looked reasonable, and would not create any significant barriers to entering the schemes.
- The product certification accreditation body, JAS-ANZ, noted the proposal for accreditation and audit fees for product certification did not reflect their costs of delivering the scheme. JAS-ANZ also noted that the modular component manufacturer accreditation and audit fees should reflect revised product certification proposals.

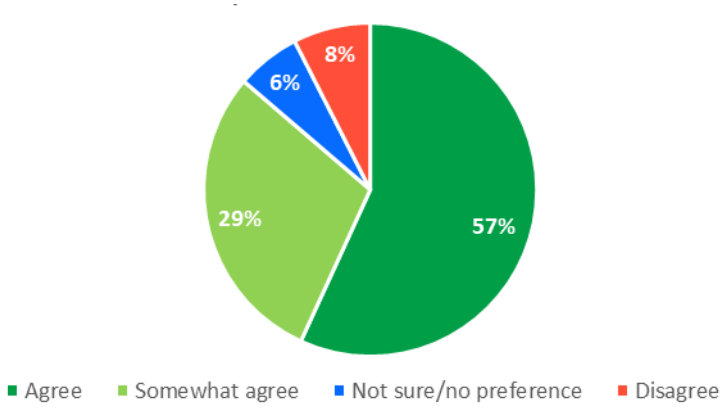
6. Overview of submissions by topic

6.1. Building product information requirements

6.1.1. Supply chain responsibilities to meet building product information requirements

The majority of submitters agreed with the proposed responsibilities for manufacturers, importers, distributors and retailers, with a further 29 percent somewhat agreeing with the proposals (see Figure 5). There was slightly less support overall for the proposed requirements for distributors and retailers.

Figure 5: Stakeholder feedback on supply chain responsibilities to meet the building product information requirements



Submitters raised a number of concerns about the responsibilities on manufacturers and importers, including that importers may not be held to the same standards as local manufacturers; manufacturers may be required to release intellectual property (including by Lockwood Group Limited and Global-Mark); and the costs of regulation may restrict the supply of building products into the New Zealand market (Dunedin City Council).

Submitters also raised concerns about the responsibilities on distributors and retailers, including that an unreasonable cost would be imposed on retailers and passed on to consumers; the requirements should not apply to products already selected by a customer and purchased via a special order (including by the Window and Glass Association of New Zealand and Altus NZ Limited); and information previously provided and checked by distributors/retailers could change without their knowledge.

Some submitters also noted that some distributors/retailers may lack technical understanding of product requirements and compliance obligations, and that there would be some inefficiencies, with multiple distributors and retailers checking information for the same products.

Some submitters agreed that tradespeople should face the same obligations as distributors and retailers, while other submitters referred to tradespeople as an end user of the information. One submitter suggested that the definition of 'tradespeople', as a key end user of building product information, and their role should be clarified.

Eight submissions stated that the definition of 'building products' should be refined. Suggestions included focussing on high-risk products or products that are subject to Building

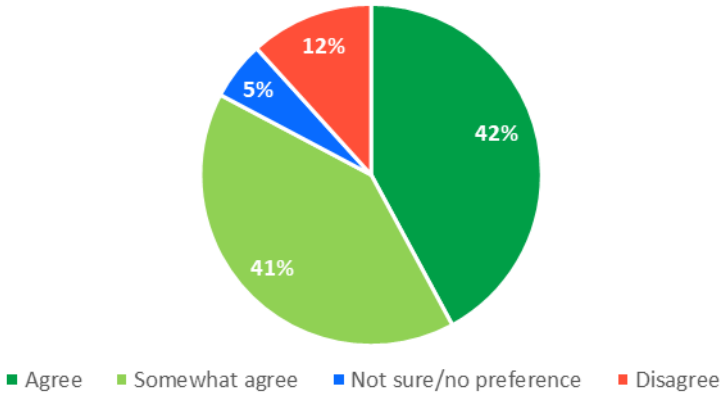
Code compliance through the consenting process, and introducing different requirements for different product categories.

Submitters also suggested that education and guidance about the requirements would be beneficial.

6.1.2. Content of information to be provided about building products

The majority of submitters that submitted on this topic area agreed or somewhat agreed with the proposed set of information to be provided about building products, the requirement to make claims about how the building product meets relevant Building Code clauses, and the requirement for manufacturers and importers to use the compliance pathways set out in section 19 of the Building Act 2004 to illustrate compliance with the Building Code (see Figure 6 below).

Figure 6: Stakeholder feedback on the content of information to be provided, requirement to make claims about Building Code compliance and requirement to use compliance pathways



A minimum set of information to be provided for building products

Submitters were largely supportive of the proposed content of information to be provided about building products, with some suggested amendments, including:

- the inclusion of operational and embodied carbon, waste/recycling, emissions and other environmental impact information (five submitters)
- the exclusion of warranties (five submitters)
- maintenance requirements should include those necessary for compliance with Building Code clause B2 Durability (two submitters).

Two submitters said that full material composition lists should be provided to contribute to health information, while other submitters (six) were concerned about the potential intellectual property implications of releasing data, particularly for small and medium enterprises.

A number of challenges were identified, including ensuring manufacturers fully understand the Building Code requirements; regulatory costs, particularly for smaller entities; and verifying overseas manufacturers' and importers' evidence and testing.

Of those who disagreed, comments included that the information requirements would not be feasible or relevant for made-to-order products, and that it would be too onerous to provide information about performance against each Building Code clause.

Require claims about whether a building product meets or contributes to all relevant Building Code clauses

In terms of the interaction with the Building Code, including the use of compliance pathways in section 19 of the Building Act, the following issues or suggestions were raised:

- Not all products have a clear pathway or standard to demonstrate compliance with. Alternative solutions and reference to other relevant international standards should remain an option (eight submitters).
- Misinterpretation of the Code could result in unsafe products or unsafe installation (four submitters).
- Overseas manufacturers/importers may claim compliance with international standards and assume that is sufficient to meet New Zealand requirements when it may not be (five submitters). However, three submitters considered that international standards should be accepted where comparable to New Zealand requirements.
- Overseas manufacturers may withdraw products from the New Zealand market, or not introduce new products (six submitters).
- Updates to the Building Code and standards associated with acceptable solutions and verification methods may change, so that product information no longer complies (four submitters).

Nine submitters noted that building products cannot meet the Building Code in isolation, and compliance will depend on the interaction with other components or products, as well as installation. Some submitters, including EBOSS, considered the information should refer to relevant Building Code performance clauses, not the broader objective numbers.

A number of suggestions were made about ways to ensure the information provided is relevant and accurate, including suggested guidance topics and requests for templates.

Likely impact on manufacturers and importers

Most submitters agreed with the stated likely impact on manufacturers and importers of making evidence claims about Building Code compliance. Those that disagreed made a range of comments, including that costs have been understated; low risk products will be unnecessarily captured; the sector does not have the capacity or capability to make evidenced claims; and there will be little additional benefit for some products e.g. frames and trusses.

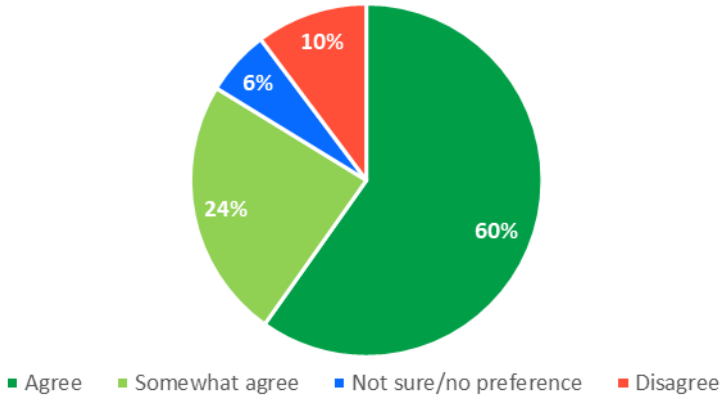
Challenges that the sector may face in meeting the requirements, or other impact, included:

- testing facilities may be unable to meet increased demand
- the level of detail may vary between different suppliers of the same type of product
- regulations may discourage investment in innovative building product development
- manufacturers and importers may need external support to meet the requirements, which is currently in short supply.

6.1.3. Supply chain data and information standards

The majority of submitters that commented on this topic area agreed with the proposals relating to supply chain data and information standards (see Figure 7), with a further 24 percent somewhat agreeing.

Figure 7: Stakeholder feedback on proposals relating to supply chain data and information standards



Information to be kept up-to-date

MBIE proposed that information be kept up date with the latest version of a product. Submitters made a number of comments on this proposal, including that it may be beneficial for information relating to previous versions of a product to remain online for a period of time, and that further guidance is needed as to what changes necessitate an update.

Information to be made available online

Submitters were generally supportive of the proposal that information be made available online. However, some submitters raised concerns about the administrative burden and cost impact, particularly on small businesses and those that do not currently have an online presence.

Submitters also suggested that consideration should be given to archiving information, and that it would be preferable to have all similar information in one accessible database.

Four submitters noted that the information should be made *freely* available.

Information to be provided in structured data format

Submitters who agreed that information should be provided in a structured data format noted that it would ensure information is consistent and significantly improve information accessibility, lower information costs and improve productivity. However, other submitters noted that reliance on industry websites should be sufficient.

Submitters made a number of comments, such as:

- meeting the requirements would likely be a big task for manufacturers
- a building consent applicant may refer to the manufacturer's website, rather than including the information in applications, which may increase processing times
- some products are manufactured for specific jobs and there will be no value in making this information broadly available across the supply chain
- the role that product sellers on websites such as Trade Me play

- mandating the storage of information in a particular way could be problematic, particular for small businesses or sole suppliers.

Unique identifiable code

MBIE asked whether submitters agreed with the proposal that all building products have a unique identifiable code that links to the online information.

There was an assumption by some submitters that the requirement was for the code or number to be printed on each product, while others assumed it would be a barcode. Many submitters were opposed to such a requirement. However, a number of submitters did support the individual marking of products.

Some of the comments or challenges raised included:

- the requirements should be for the inclusion of a global trade item number, or another unique numerical identifier that is compliant with ISO/IEC 15459-6 or NZS ISO/IEC 15459.6:2019, which would be unique worldwide to each product
- the level at which the product number will be required e.g. will individual codes be required for each colour option of a product, or for both left- and right-hand versions
- when new codes would be required e.g. whether minor changes require a new code.

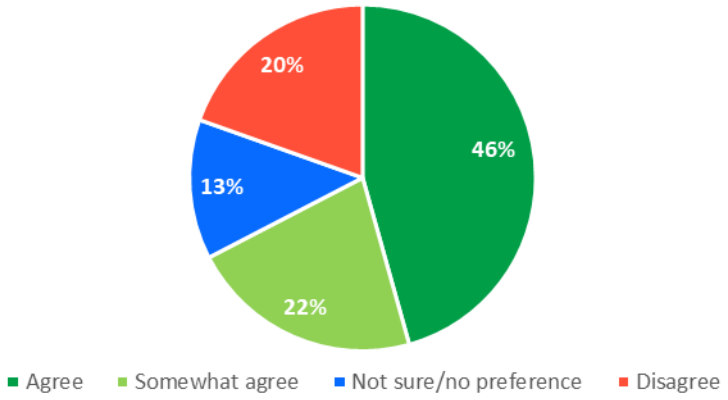
Of those that disagreed (nine submitters), some suggested that a unique product number may be confusing, as products will be assigned an internal identification number by the manufacturer. Others said that finding it on a building when built will be problematic; and that it would be unfeasible for made-to-order products as a new number would be needed for each product in an order.

Some submitters noted that there was no information in the proposal on who would issue the code and what the cost would be.

6.1.4. Transition period

The majority of submitters agreed or somewhat agreed with the proposed timeframe for transition of 18 months (see Figure 8).

Figure 8: Stakeholder feedback on proposed transition period



Nine submitters did not agree with the proposed timeframe for transition (18 months), all stating that it was not long enough due to the scale of work required to prepare the product information.

Timeframes of up to five years were mentioned in the comments, along with suggestions that the regulations be phased in, for example prioritising some products initially. Others were concerned that Building Code updates could be occurring at the same time, which would overwhelm some affected parties. A further six submitters said they were not sure or had no preference.

Those agreeing or agreeing in part (31 of 46 submitters) stated that:

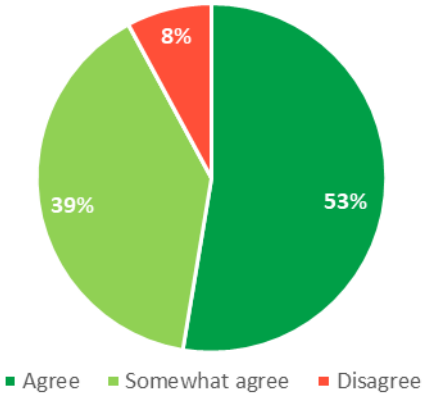
- 18 months seems about right, and only one submitter thought a shorter period of 12 months should be pursued to achieve the benefits sooner
- most good suppliers would be meeting or almost meeting the requirements already
- smaller suppliers may need more time to comply
- there should be discretion in the use of enforcement initially, such as providing opportunities to address identified issues and ensuring MBIE is available to provide advice about how to achieve compliance
- concerns about the regulatory burden of simultaneous implementation of Building Code updates, as well as other forthcoming requirements.

6.2. Modular component manufacturer (MCM) scheme

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

The majority of submitters who commented on this topic area agreed with the proposal to prescribe the kinds of building products that would be 'modular components' (see Figure 9 below). There were 38 responses to the question "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?' Of these, 35 agreed or somewhat agreed with the proposed approach.

Figure 9: Stakeholder feedback on proposed definition of 'modular component'



Prescribing open frames and trusses as modular components

The most common concern, raised by six submitters, was the inclusion of open frames and trusses in the kinds of building products that would be prescribed as modular components.

Submitters who opposed the inclusion of open frames and trusses stated that the challenges being addressed through the scheme did not reflect the experiences of open frame and truss manufacturers, who the Frame and Truss Manufacturers' Association of New Zealand noted were already operating successfully under the traditional consenting system.

Submitters also expressed concern that open frames and trusses did not fit the intent of the scheme, as by nature they are open and available to inspect. Submitters felt that there might also be increased compliance costs across the supply chain, which would ultimately be borne by consumers.

Scopes of certification will provide consistency and clarity across the building system

Submitters who commented on the scopes of certification largely supported the proposal to establish a system to guide modular component manufacturer certification bodies in certifying modular component manufacturers to certain scopes of practice. Most submitters that commented on this proposal, including JAS-ANZ, recognised that guidance would provide consistency across the building system and instil confidence in the scheme. This is a non-regulatory proposal.

Opposing submissions from two certification bodies and one consulting company commented that scopes of certification should be determined on a case-by-case basis by certification bodies, depending on the complexity of the modular components being produced.

Thirty-two submitters selected a response when asked for their preferred option (if any) on which to base the scope of certification. The majority of submitters chose Option 1, followed by Option 3 (see Table 1 below).

Submitters commented that the scopes of certification need to reflect the level of risk and complexity associated with modular components, while being flexible enough to allow for innovation.

Table 1: Responses to Question 3 - Proposed scope of the certification scheme

Option 1: Base proposed scope on modular component categories	**Option 2:** Base proposed scope on modular component typologies	**Option 3**: Base proposed scope on modular component, building use and material complexity	**Not sure/no preference**
14	4	9	5

Option 1 provides flexibility for innovation

Submitters that preferred Option 1 included building consent authorities, PrefabNZ, industry organisations, a retailer and distributor, and a not for profit organisation.

Fourteen submitters considered Option 1 to be simpler and easier to understand, implement and regulate than the other two options. Submitters also recognised that Option 1 allows manufacturers flexibility to innovate, as opposed to a prescriptive approach.

One building consent authority expressed concern that Option 1 would lead to manufacturers working outside their competency and increase the risk of failure. However, another submitter argued that the modular components being produced would be linked to their approved manufacturing processes and quality assurance systems, so would not create this risk.

Option 2 provides the right level of complexity

Two submitters who preferred Option 2 stated that it provided the right level of complexity and that it would work better for the New Zealand building industry.

Option 3 reflects the risks and complexity associated with building work

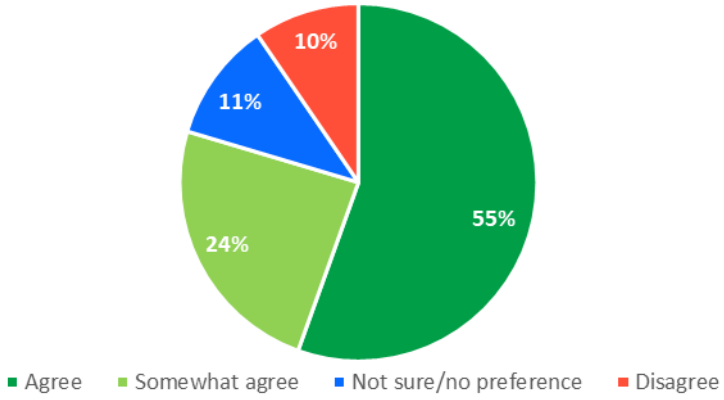
Nine submitters expressed their support for Option 3, as it best reflects the associated risk and complexity of modular components by providing the most robust system with the least chance of failure.

One construction business expressed support for Option 3 on the basis that off-site manufacturing would primarily be used for scale, which would treat simple design group housing differently to complex architectural houses.

6.2.2. Modular component manufacturer certification body accreditation and registration

Of those who commented on this topic area, most agreed that the proposed regulatory settings to be accredited (24 of 31 submitters) and registered (20 of 27 submitters) would provide confidence in the certification bodies that would be accredited and registered within the scheme (see Figure 10 below).

Figure 10: Stakeholder feedback on proposed regulations for modular component manufacturer certification body accreditation and registration



Submitters who agreed with the proposals for accreditation commented on the importance of having robust and fit for purpose quality assurance systems, as well as people with relevant experience. This would give confidence that the scheme is robust, protects consumers and maintains the trust of scheme participants, users and the general public.

The most common concern raised by submitters was in relation to the settings required to instil confidence in the scheme. In particular, submitters emphasised the importance of certification bodies being accredited to, or compliant with, ISO17056:2012 to ensure quality management meets international best practice and New Zealand consumers are appropriately protected. This would also avoid the use of less rigorous processes that could put the safety or confidence in the scheme at risk.

Other concerns raised by submitters included:

- the level of accountability for modular component manufacturer certification bodies, particularly with there being no requirement to satisfy an adequate means test
- the regulatory settings for the modular component manufacturer scheme needs to be the same as far as practical as for product certification (CodeMark) to reduce the barriers for product certification bodies to participate.

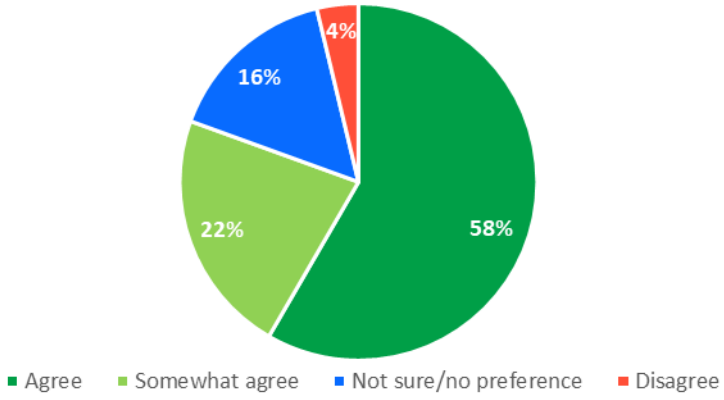
One submitter commented that the proposed regulatory settings should be relatively straightforward for existing product certification bodies to take up the scheme.

When asked how the proposed regulatory settings for certification bodies might affect the uptake of the scheme, submitters expressed that this would be largely dependent on the cost and ease of compliance, especially for smaller participants.

6.2.3. Modular component manufacturer certification and registration

Most submitters agreed or somewhat agreed that the proposed regulatory settings will provide confidence in certified modular component manufacturers that would be certified (34 of the 38 submitters) and registered (30 of the 34 submitters) within the scheme (see Figure 11 below).

Figure 11: Stakeholder feedback on proposed regulations for modular component manufacturer certification and registration



Certification requirements

The majority of submitters identified manufacturers having robust quality assurance systems as a benefit of the scheme, as it would ensure confidence that products are code compliant and reduce the risk of compliance issues. Submitters also identified that the scheme will provide manufacturers with certainty that code compliance certificates can be obtained at the end of a building project. Four submitters supported the proposals on the basis that the relevant international standards would be referenced.

Compliance costs were identified by submitters as the main factor that may affect the uptake of the scheme. Submitters also thought the liability being placed on manufacturers may deter some manufacturers from joining the scheme.

Consumer protection

The majority of submitters (23 of 36), including JAS-ANZ, PrefabNZ and all the building consent authorities that submitted, agreed or somewhat agreed that the proposed regulatory settings will provide for adequate consumer protection.

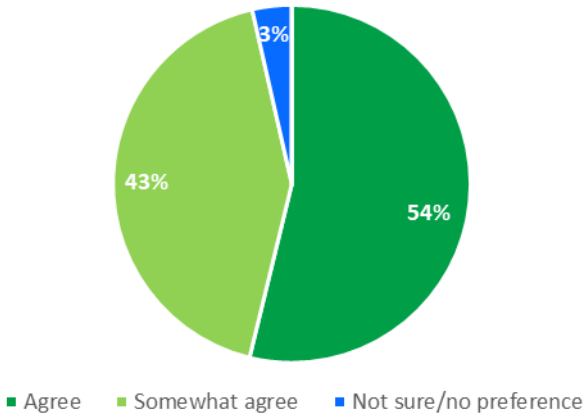
Most submitters commented on the importance of ensuring the regulatory settings are consistent with the relevant international standards and of regular audits to protect consumers. Submitters recognised that the proposals will place a high level of scrutiny on scheme participants, which will provide consumers with protection. SAI Global commented in support of the proposal to include the assessment of a manufacturer's financial capability and stability, as this provides some level of consumer protection if issues arise.

Submitters who did not agree commented that the proposals would not stop businesses from releasing products that are not code compliant, and that passing the risk from building consent authorities to manufacturers was not the same as consumer protection. The Insurance Council of New Zealand commented that MBIE should be mindful of how offshore entities participating in the scheme might satisfy the adequate means test.

6.2.4. Audits within the modular component manufacturer scheme

The majority of submitters were largely supportive of the proposals for audits within the modular component manufacturer scheme (see Figure 12 below).

Figure 12: Stakeholder feedback on modular component manufacturer audit proposals



When asked whether they agreed with using a prescribed risk assessment to decide the frequency and type of audits that would be used, all 29 submitters agreed or somewhat agreed. Most submitters agreed that the prescribed risk assessment would provide certainty regarding the auditing process to the parties being audited.

A number of submitters proposed that audit types and frequency should reference appropriate international standards.

The most concern was raised in relation to the proposal for certification bodies and manufacturers to have three months to make changes outlined in an audit report. Of the 29 submitters who responded, 22 agreed or somewhat agreed with this proposal. The majority of submitters thought that the three month timeframe was reasonable and provided sufficient time to address issues identified in the audit report.

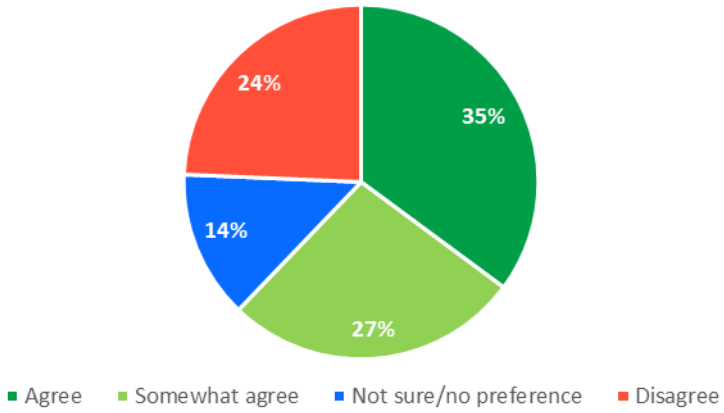
Although largely supportive, a number of submitters highlighted the need to be flexible in instances where issues were more substantial. A few submitters were concerned that prescribing a timeframe would be inflexible, and does not take into consideration the time it would take to go through the disputes process.

One submitter questioned the requirement for a formal audit certificate, highlighting that the accepted practice is for the certification body to issue a certificate of conformity once the audit and any other conditions of the certificate have been completed.

6.2.5. Modular component manufacturer certificates

The majority of submitters agreed or somewhat agreed with the modular component manufacturer being responsible for the transportation, storage and assembly of modular components that they manufacture (see Figure 13 below). Of the 29 submitters that responded, 22 agreed or somewhat agreed with this proposal.

Figure 13: Stakeholder feedback on proposal for modular component manufacturer to be responsible for transportation, storage and assembly of modular components



Some submitters, including Lockwood and Auckland Council, thought it was unfair to expect manufacturers to be responsible for the transportation, storage and assembly of modular components if they do not have control over the process. An example that was provided was frame and truss manufacturers.

Conversely, a number of submitters were supportive of this proposal as it keeps responsibility in one place, where it is best managed. PrefabNZ commented that most offsite manufacturers prefer an end-to-end solution to ensure quality control. However, in future the industry may develop a "kit of parts" model, where a modular component is used by a third party.

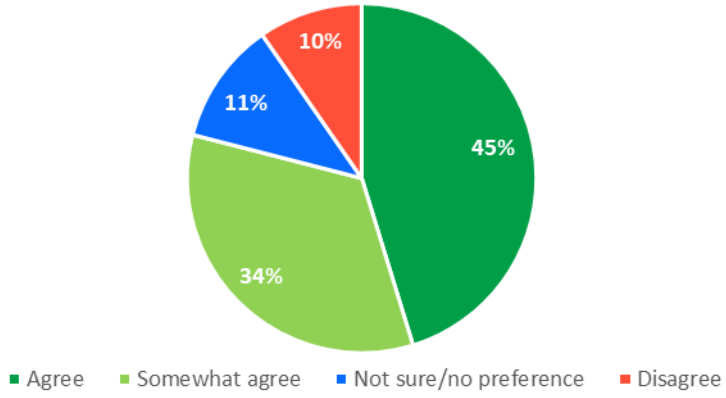
A number of submitters, including GlobalMark and Bureau Veritas, proposed that the responsibility for transportation, storage and assembly be determined based on the manufacturer's contract of services.

6.3. Product certification scheme

6.3.1. Implement new registration requirements for product certification bodies

Thirty-eight submitters provided comment on this topic area. The majority of submitters agreed or somewhat agreed with the proposals for new registration requirements for product certification bodies, as shown in Figure 14.

Figure 14: Stakeholder feedback on proposed new registration requirements for product certification bodies



Of these 38 submitters, 34, including JAS-ANZ and SAI Global, supported the proposed fit and proper test in full or in part. Four submitters noted the fit and proper test needs to work for a wide range of product certification bodies' (PCBs) corporate structures, and that the proposed reach of the test may be unmanageable.

Twenty-one submitters supported the proposal to not introduce an adequate means test as part of registration requirements. In contrast, eight submitters, including the Building Officials Institute of New Zealand, disagreed with the proposal and suggested introducing an adequate means test.

Of those who commented and supported an adequate means test, reasons given included ensuring the PCB has the means to put errors or omissions right so that building consent authorities are not liable, and that PCBs' decisions are relied upon financially.

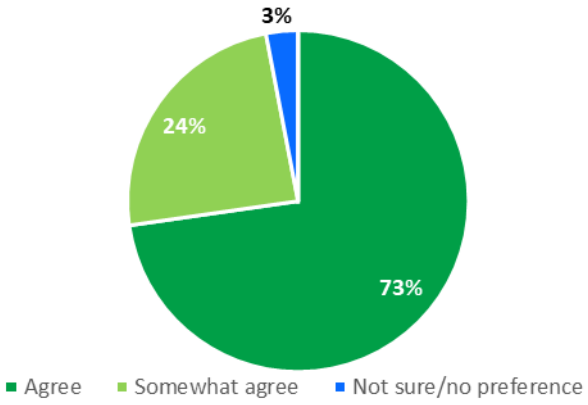
Four submitters who commented supported not prescribing an adequate means test as part of registration. Reasons given included that it should be part of accreditation, and that ISO/IEC 17065 has financial stability and resource requirements. One submitter noted that some consideration should be given to adequate means but not at expense of good/new products being certified.

Some submitters suggested further accountability for PCBs for poor performance or loss resulting from PCBs breaching their processes.

6.3.2. Implement new registration requirements for certificates

Thirty-six submitters provided comment on this topic area. The majority of submitters (24) agreed with the proposals and a further eight submitters agreed with the proposals in part (see Figure 15 below).

Figure 15: Stakeholder feedback on proposed new registration requirements for certificates



One submitter did not support moving supporting information into the main body of the certificate as it would impact the certificate's usability.

Four submitters suggested the legal company name and company number of the certificate holder should be included, including any parent company in New Zealand or overseas. Two submitters disagreed with removing the requirement for certificate holders to have New Zealand contact details stated on the certificate.

Three submitters, including SAI Global, suggested certificates should have renewal/re-evaluation dates.

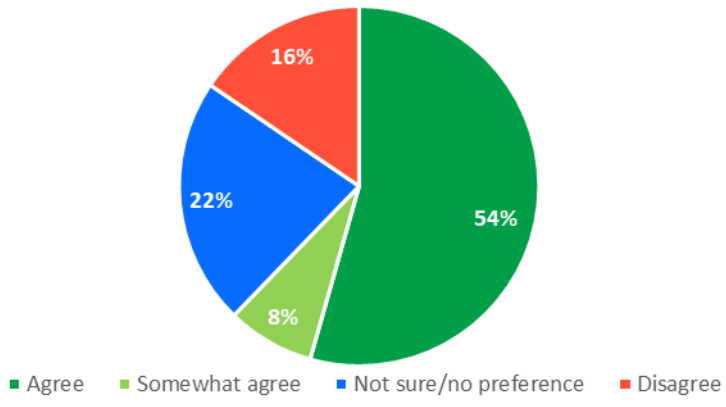
Three submitters suggested MBIE should not use registration of certificates to second-guess the certification decision.

Building consent authorities noted that additional information in a prescribed format should allow faster and more accurate assessments of certificates. Building consent authorities also noted the information must be able to be understood quickly by non-technical people – with enough detail to make informed decisions – and that the requirements would need to be implemented correctly.

6.3.3. Improve requirements for product certification body accreditation

A total of 37 submitters provided comment on this topic area. The majority of submissions agreed with the proposals, while 22 percent of submitters selecting not sure/no preference (see Figure 16 below).

Figure 16: Stakeholder feedback on proposed requirements for PCB accreditation



Thirteen submitters, including the Registered Master Builders Association and Te Kāhui Whaihanga New Zealand Institute of Architects, suggested there would be compliance issues with the accreditation proposals. Some submitters noted increased costs would be paid by the manufacturer. Seven submitters suggested there would be no compliance issues.

A further 28 submitters, including Global-Mark, supported the proposal to rely on ISO17065 for requirements related to quality management systems. Two submitters disagreed with this proposal and suggested keeping the requirement to be accredited to ISO9001 in addition to compliance with ISO17065.

Of those who commented, four submitters agreed there needs to be flexibility for PCBs where a testing facility is not certified for the test, and that this should be principles-based. Three submitters suggested competent testing facilities should be accredited.

Three submitters suggested PCBs should have adequate staff and contractors who have a demonstrable understanding of the New Zealand building system and code compliance.

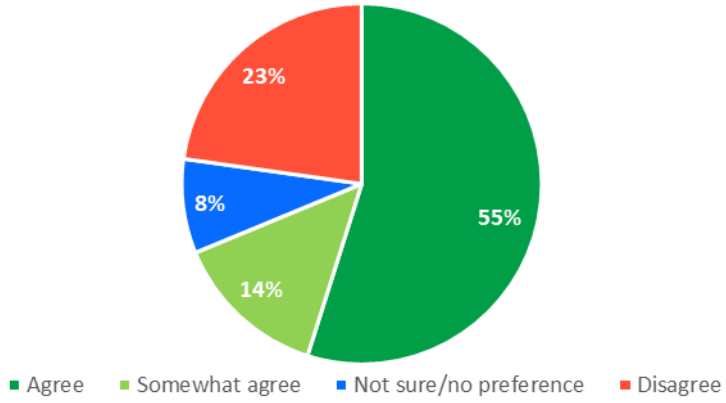
A further three submitters suggested the requirement for PCBs to have procedures related to their decisions needs further parameters to avoid the requirement becoming unmanageable.

Two submitters suggested that accreditation should relate only to compliance with ISO/IEC 17065, and any further criteria should be part of registration.

6.3.4. Strengthen requirements for product certification body audits and reviews of certificates

Thirty-eight submitters provided comment on this topic area. The majority of submitters agreed with the proposed requirements for PCB audits and reviews of certificates – specifically, that the proposals looked reasonable and that three years was the correct minimum frequency for certification review (see Figure 17 below.

Figure 17: Stakeholder feedback on proposed requirements for PCB audits and reviews of certificates



Twenty-one submitters, including Fletcher Residential & Clever Core New Zealand, agreed that the audit proposals look reasonable. 10 submitters agreed in part, and 2 submitters disagreed.

Eighteen submitters agreed that three years was the correct minimum frequency for certification reviews. Fourteen submitters disagreed. Of those who commented, 13 submitters suggested that the frequency of certification reviews should be risk-based, with 3 years being the maximum duration.

A number of submitters suggested focusing on risk rather than prescribing frequency. Three submitters, including Building Confidence and Tekton, suggested a risk-based framework, where an annual review determines if something has changed and triggers an in-depth review only when needed. Four submitters, including a building consent authority and the New Zealand Building Industry Federation, questioned whether annual reviews are necessary for low-risk products.

A number of submitters commented on cost. Six submitters suggested the proposal may increase cost, and one submitter, a building consent authority, was concerned that the requirements may be too onerous and act as a deterrent to the scheme.

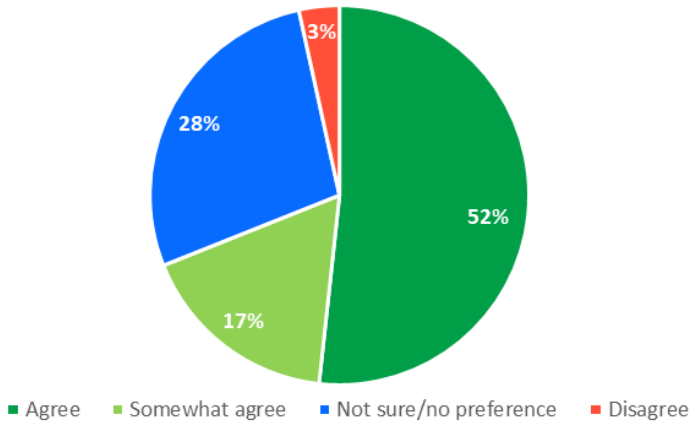
Three submitters suggested there will be no change in costs, and four submitters noted that costs will be borne by the manufacturer and may be passed to the consumer.

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

6.4.1. Registration and audit fees for the modular component manufacturer scheme

The majority of submitters (20 or 29 submitters) that submitted on this topic area, including PrefabNZ, agreed or somewhat agreed with the estimated cost drivers for the registration of modular component manufacturer certification bodies and manufacturers (see Figure 18 below). Of those who answered this question, five submitters provided comment.

Figure 18: Stakeholder feedback on estimated cost drivers for modular component manufacturer certification body certification and modular component manufacturer registration



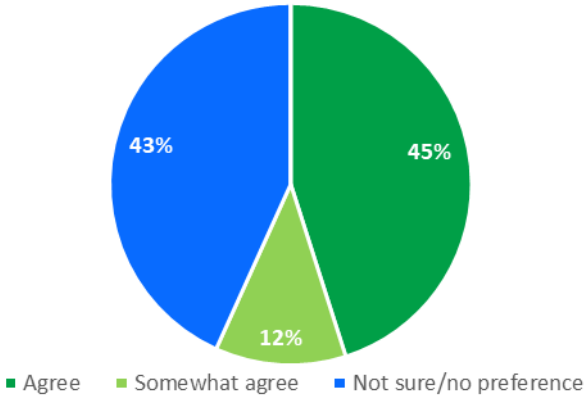
The Dunedin City Council commented that fees should not be capped as it would allow organisations to cross-subsidise, and instead applicants should pay the full costs. Other suggestions from submitters included adopted a pro-rata cost structure and removing the requirement for manufacturers to be registered.

Most submitters, including the Registered Master Builders Association and the Building Officials Institute of New Zealand, did not think the registration fees would create significant barriers to participation as they are fairly low.

6.4.2. Accreditation and audit fees for the modular component manufacturer scheme

Of the 29 submitters who commented on this topic area, the majority agreed or somewhat agreed with the proposed fee structure for accreditation and audits (see Figure 19 below). This was balanced with 12 submitters who were not sure or had no preference, with Fletcher Building Ltd. commenting that it is difficult to answer until they have a better understanding of the nature of assessment and certification.

Figure 19: Stakeholder feedback on accreditation and audit fees proposals for the modular component manufacturer scheme



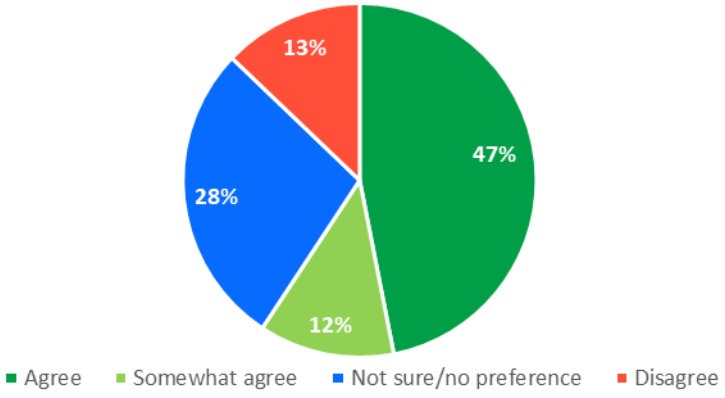
The International Code Council and Building Officials Institute of New Zealand disagreed with the proposed fees structure for accreditation and audits, commenting that fees should be set by the accreditation body based upon their knowledge of the scheme and the required audits.

Four submitters raised concerns about the costs of accreditation and audits being a barrier to entry.

6.4.3. Registration fees for product certification

The majority of submitters who commented on this topic area agreed or somewhat agreed with the proposals.

Figure 20: Stakeholder feedback on proposed registration fees for product certification



Twenty-one submitters supported the proposed structure for registration fees in full or in part, and 17 submitters supported the proposed fee levels for product certification registration in full or in part.

Most submitters who commented on registration fees for product certification, including SAI Global and the Building Official Institute of New Zealand, agreed they appear reasonable. Two submitters, including Tekton Consulting and Global-Mark, suggested the fees were not set at the right level.

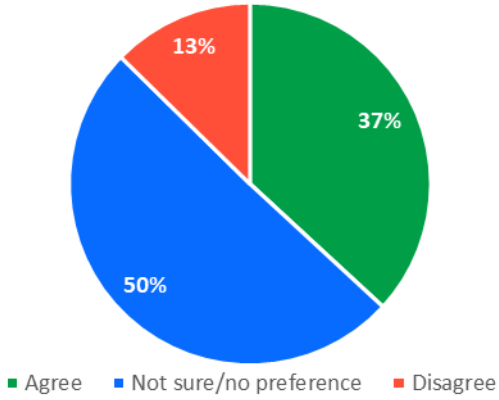
Some submitters, including Dunedin City Council, raised concerns about cross-subsidisation, including that a capped fee may lead to cross-subsidisation and that there is a risk that the flat fee for certificate registration may be raised across the board in response to one poor actor.

Some submitters suggested MBIE should not review a certificate's information before registering, rather that registration should be an administrative task or that MBIE should approve a PCB's certificate template during registration instead.

6.4.4. Accreditation and audit fees for product certification

Just over one-third of submissions on this topic area agreed with the proposed accreditation and audit fees for product certification, while one-half of submissions selected not sure/no preference.

Figure 21: Stakeholder feedback on accreditation and audit fees for product certification



Nine submitters suggested the accreditation and audit fees would not create any compliance issues, while six submitters, including JAS-ANZ, suggested there would be compliance issues.

Thirteen submitters agreed that the proposed accreditation and audit fees were set at the right level. Two submitters, including JAS-ANZ, suggested they were not set at the right level. JAS-ANZ, the product certification accreditation body, noted the proposal does not reflect accurate costs of delivering the scheme, as it is based on a fee schedule established in 2014 and currently under review. Any fee structure would need to consider the actual costs of delivery.

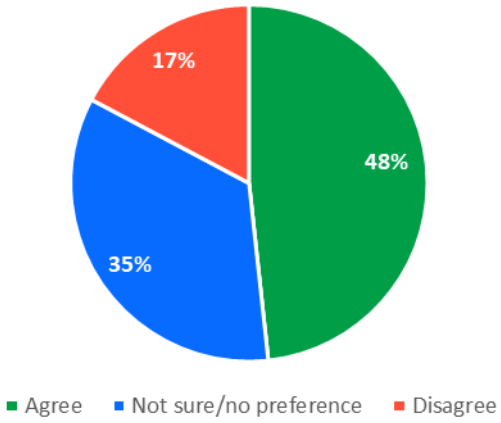
Some submitters raised concerns about the costs of accreditation or noted that PCBs are likely to pass these costs on to their clients.

6.4.5. Expected impacts of proposals for regulated fees

Of the 29 submitters who answered this question on the expected impact of prescribed fees on the costs of participating in the modular component manufacturer or product certification schemes, just under one-half of submitters (14 submitters) stated that the prescribed fees would have no impact on the costs of participation (see Figure 22 below). This is consistent with the comments that were made in relation to the proposals for regulated fees.

In contrast, five submitters thought that the prescribed fees would have a significant impact on the costs of participating in the schemes. Ten submitters were not sure or had no preference.

Figure 22: Stakeholder feedback on expected impact of prescribed fees on participation in modular component manufacturer and product certification schemes



6.5. Matters not within scope

6.5.1. Changes to the Building Code

A number of submitters suggested that changes to the New Zealand Building Code should be made, or that A/NZ Standards should be revised, or additional standards should be included in the Building Code. This was particularly in relation to the proposed building product information requirements, which will require the performance of products to be linked to the Building Code.

The building code is updated annually through a process that includes public consultation. More information on this process can be found on MBIE's Building Performance website: https://www.building.govt.nz/building-code-compliance/annual-building-code-updates/.

6.5.2. Incorporating environmental or climate information into product information (for example, emissions, embodied and operational carbon, and waste/recycling information)

Suggestions to include climate impact information were often made in reference to the Building for Climate Change programme being undertaken by MBIE.

Once any regulatory requirements for climate change-related initiatives are set, then the building product information requirements could be reviewed if it was thought necessary to support those requirements, for example via the minimum set of information to be provided.

6.5.3. Product substitution requirements

A number of submitters commented on product substitution, with the key theme being that processes and requirements should be developed for product substitution to ensure building performance and code compliance is not compromised.

Product substitution is already subject to checks by building consent authorities to ensure that they are suitable and that the project continues to comply with the Building Code. More information on this issue can be found on MBIE's Building Performance website: https://www.building.govt.nz/projects-and-consents/build-to-the-consent/making-changes-to-your-plans/product-substitution-and-variations/.

The building product information requirements are expected to support this established process, as it will be easier to compare products and make it clearer how any products being substituted support Building Code compliance.

6.5.4. National product register

A substantial number of submitters called for a single national product register, most likely to be operated by MBIE, so that building product information could be found in a single place online.

The Government has decided not to pursue a national product register at this time. Product databases for building products already exist in New Zealand. The cost of setting up and maintaining a government-led product register would be significant, and is expected to far outweigh benefits.

It is also worth noting that some submitters did not support such a register, noting the potential cost implications, particularly if the cost was passed on to the sector.

6.5.5. Third party verification or certification of claims

There were a substantial number of calls for third party certification of products, third party verification of testing results and/or MBIE playing a role in terms of routinely auditing product information and testing products to confirm the information associated with them is correct.

Compulsory third party testing is outside of the scope of the regulations and not provided for in the Building Act, as this would effectively be a mandatory product certification scheme. Product certification is currently available through CodeMark, though this is a voluntary scheme.

6.5.6. Disagreement with regulation-making powers

A number of submitters proposed that the audit types and frequency should not be defined by the regulator.

Annex 1: List of Submitters

Organisation/Individual	Stakeholder type	Stakeholder sub-category
Michael Lowe	Individual	Architect
Nuralite Waterproofing Ltd.	Business	Distributor
Chamberlain Homes	Business	Building company
Aupurit Plumbing Systems Limited	Business	Product manufacturer
Dunedin City Council Building Consent Authority	BCA	Building consent authority
Stafford Hardware Ltd.	Business	Retailer
Hamilton City Council Staff	BCA	Building consent authority Staff
Independent Building Supplies Ltd.	Business	Distributor
Skill Building Co Ltd	Business	Architect
Commerce Commission	Independent Crown entity	
Japan Homes	Business	Building company
New Zealand Timber Industry Federation	Industry organisation	
Fraser Thomas Limited	Individual	Engineer
Window & Glass Association	Industry organisation	
Wellington City Council Building Compliance & Consent	BCA	
Metals New Zealand	Industry organisation	
Altus NZ Ltd	Business	Product manufacturer
NZ Construction Ltd	Business	Building company
Property Council New Zealand	Industry organisation	
Master Plumbers Gasfitters & Drainlayers NZ Inc.	Industry organisation	
International Code Council (USA)	Not for profit	
Fletcher Building Ltd	Business	Building company
JAS-ANZ	Business	Accreditation body
BRANZ	Business	Product certification body
Volcalite - Pumice Industries & Reid Construction	Business	Product manufacturer
PrefabNZ	Industry organisation	Modular component manufacturer
Roofing Association of New Zealand	Industry organisation	
Geothermal Engineering Limited	Business	Engineering company
Carter Holt Harvey	Business	Product manufacturer
New Zealand Building Industry Federation	Industry organisation	

EuroWindows Ltd	Business	Product manufacturer
New Zealand Institute of Building	Industry organisation	
Lockwood Group Limited	Business	Modular component manufacturer
Duncan Cotterill	Business	Law firm
Te Kāhui Whaihanga New Zealand Institute of Architects	Industry organisation	
SAI Global Pty Limited	Business	Product certification body
New Zealand Construction Industry Council	Industry organisation	
Whanganui District Council	BCA	
Taituarā — Local Government Professionals Aotearoa	Industry organisation	
Registered Master Builders Association	Industry organisation	
Fletcher Residential Limited & Clever Core New Zealand Limited	Business	Modular component manufacturer
GS1 New Zealand	Business	
New Zealand Specialist Trade Contractors Federation (STCF)	Industry organisation	
TLC Modular & Construction (NZ) Pty Limited	Business	Modular component manufacturer
Building Officials Institute of NZ	Industry organisation	
Juken New Zealand Ltd	Business	Product manufacturer
EBOSS	Business	
Insurance Council of New Zealand	Other	
Frame and Truss Manufacturers Association of New Zealand	Industry organisation	
Build Insight Ltd - this is my personal opinion	Individual	
Concrete New Zealand	Industry organisation	
Wood Processors and Manufacturers	Industry organisation	
Building Confidence Ltd	Business	
Bureau Veritas	Business	Product certification body
Auckland Council	BCA	
Global-Mark	Business	Product certification body
Tekton Consulting	Business	