



COVERSHEET

Minister	Hon Chris Penk	Portfolio	Building and Construction
Title of Cabinet paper	Removing barriers to overseas building products	Date to be published	9 May 2024

List of documents that have been proactively released

Date	Title	Author
19 March 2024	Removing barriers to overseas building products	Office of Minister for Building and Construction
19 March 2024	Appendix One: Removing barriers to overseas building products infographics	Office of Minister for Building and Construction
19 March 2024	Regulatory Impact Statement: Mandating approval of overseas building products	Ministry of Business, Innovation and Employment
19 March 2024	Regulatory Impact Statement: Removing impediments to product substitution and variations	Ministry of Business, Innovation and Employment
19 March 2024	EXP-24-MIN-0008 Minute	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of Confidential advice to Government.



Cabinet Expenditure and Regulatory Review Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Removing Barriers to Overseas Building Products

Portfolio Building and Construction

On 19 March 2024, the Cabinet Expenditure and Regulatory Review Committee:

Background

- 1 **noted** that the Government's commitments for the Building and Construction portfolio include a proposal to:
 - 1.1 mandate the approval of building materials and product systems meeting international standards equivalent to New Zealand's; and
 - 1.2 define 'minor variation' in the Building Act 2004 to avoid consents for negligible product or design changes;
- 2 **noted** that removing barriers to high-quality products entering the New Zealand market and being used in building work can help improve competition, lower the cost of building products, and provide greater resilience to supply disruptions;
- 3 **noted** that removing barriers to responding flexibly to minor variations to building consents and approved MultiProof designs can speed up consenting processes and reduce costs;

Recognising the certification of building products from overseas jurisdictions

- 4 **agreed** to amend the Building Act to enable regulations to be made by Order in Council specifying criteria that must be satisfied before a standards organisation or certification scheme is recognised;
- 5 **agreed** to amend the Building Act to enable the Minister for Building and Construction to recognise groups of standards from standards organisation (as defined in the Standards and Accreditation Act 2015) and standards certification schemes by *Gazette* notice;

Creating a building product equivalence specification regulatory instrument to streamline Acceptable Solutions and Verification Methods

- 6 **noted** that recognising more international standards that can be used with acceptable solutions and verification methods will provide a clear compliance pathway for a broader range of products and increase competition in the building products market;

- 7 **agreed** to amend the Building Act to enable the Chief Executive of the Ministry of Business, Innovation and Employment (the Chief Executive), by notice in the *Gazette*, to specify the building product specifications, including international standards that can be used in relation to building products or building methods deemed to comply with the requirements cited in acceptable solutions and verification methods;

Mandating the acceptance of products certified overseas

- 8 **noted** that section 262(2) of the Building Act allows the Chief Executive to recognise overseas certification of building products, but that changes to the Act are needed to facilitate its use;
- 9 **agreed** to amend section 19(1) of the Building Act so that any overseas certifications recognised by the Chief Executive under section 262(2) of the Act must be accepted by building consent authorities as contributing to Building Code compliance;
- 10 **agreed** to amend the Building Act so that section 262(2) applies to a class or classes of products, and schemes, as well as individual products;
- 11 **agreed** to amend section 262(3) so that subsection (2) applies only if the Chief Executive is satisfied that the building products or building methods concerned meet the prescribed criteria and standards for recognition of overseas certification schemes;
- 12 **agreed** to amend the Building Act to enable regulations to be made by Order in Council prescribing the criteria and standards for recognition of overseas certification schemes;

Defining minor customisations and variations

- 13 **agreed** to amend the Building (Minor Variations) Regulations 2009 to clarify the definition of minor variation by incorporating key considerations, such as equivalence of building product performance or flow-on impacts on the building system designed;
- 14 **agreed** to amend the building consent forms regulations to clarify that building consent applicants may specify suitable comparable building product options, should they choose to do so;
- 15 **agreed** to use the regulation making power under section 402(1)(c) of the Building Act to make regulations to define ‘minor customisation’, to ensure that a minor change to a MultiProof approved design and plans at the consent application stage does not render the MultiProof approval inapplicable to that building consent application;

Liability

- 16 **agreed** to amend section 390 of the Building Act to provide protection to persons providing advice to the Chief Executive to support either of the following, as exists for some other functions and powers carried out by the Chief Executive:
- 16.1 a section 262(2) decision;
- 16.2 a building product equivalency specification decision;
- 17 **agreed** to amend section 392 of the Building Act to ensure that building consent authorities are not liable for anything done or omitted to be done in good faith in reliance on either of the following, which they would be mandated to accept under section 19(1):
- 17.1 a *Gazette* notice issued under section 262(2);

17.2 a building product equivalency specification;

- 18 **agreed** to amend section 392 of the Building Act to ensure that building consent authorities are not liable for anything done or omitted to be done in good faith in reliance on a claim by a manufacturer under the Building (Building Product Information Requirements) Regulations 2022 that describes the performance of the building product if the product has been certified under an approved certification scheme to a standard set by a recognised standards organisation;

Next steps

- 19 **authorised** the Minister for Building and Construction to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;
- 20 **authorised** the Minister for Building and Construction to make decisions and further clarify matters consistent with the above paragraphs, on any issues which may arise during the drafting process;
- 21 **noted** the importance of adequate consultation on further design and implementation of the above proposals with the construction sector, local authorities, and other stakeholders;
- 22 **noted** that other amendments consistent with Cabinet's decisions relating to the paper under EXP-24-SUB-0008 are likely to be needed and that these may include amendments in relation to the function to publish by *Gazette* and provisions to provide information and education on building products and substitution consistent with the current responsibilities;
- 23 **noted** that a category 4 priority is being sought for the Building (Product Certification) Amendment Bill on the 2024 Legislation Programme (to be passed by the end of 2024 if possible);
- 24 **agreed** to include the amendments to the Building Act outlined under EXP-24-MIN-0008 in the Building (Product Certification) Amendment Bill.

Sam Moffett
Committee Secretary

Present:

Rt Hon Christopher Luxon
Rt Hon Winston Peters
Hon David Seymour (Chair)
Hon Nicola Willis
Hon Shane Jones
Hon Chris Bishop
Hon Dr Shane Reti
Hon Simeon Brown
Hon Erica Stanford
Hon Louise Upston
Hon Mark Mitchell
Hon Casey Costello
Hon Simon Watts
Hon Chris Penk
Hon Andrew Bayly
Hon Andrew Hoggard
Hon Mark Patterson

Officials present from:

Office of the Prime Minister
Officials Committee for EXP
Office of the Minister for Building and Construction
Ministry of Business, Innovation and Employment

