



September 2018

**CONFORMANCE
POLICY AND
INFRASTRUCTURE
REVIEW**

**Issues and
Opportunities
Paper**

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Executive summary

This issues paper is a product of Ministry of Business, Innovation and Employment's (MBIE) Conformance Policy and Infrastructure Review. The purpose of the review is to consider the health, performance and use of New Zealand's conformance infrastructure.

In December 2017, the Minister of Commerce and Consumer Affairs directed MBIE to check that the conformance infrastructure is effectively supporting the economy, the wellbeing of people and the environment.

Conformity assessments check that goods, services, personnel and systems meet standards or regulations:

- Businesses use conformity assessment services to improve their sustainability, lift productivity or increase consumer confidence.
- The infrastructure provides information to consumers that helps them choose the goods or services that best fit their needs.
- Regulators rely on the experience and skills of conformance experts to check that goods, services and practices are safe and sustainable.

This paper presents the review's findings. The purpose of the paper is to provide a basis for a public discussion of the findings, and identify potential changes that could be made to improve the operation of the conformance infrastructure. The review involved consultation with stakeholders through a survey, a series of in depth research interviews and a regulator forum. It forms part of MBIE's proactive approach to monitoring its regulatory systems in accordance with MBIE's regulatory stewardship obligations. We considered:

- accreditation infrastructure performance
- conformity assessment body infrastructure performance
- use of third party conformity assessments and accreditation in regulations and by regulators
- the effectiveness of conformity assessments and accreditation for international trade
- the sustainability, future challenges and opportunities for the conformance infrastructure.

The Conformance Policy and Infrastructure Review has not revealed fundamental structural or legislative problems with the conformance infrastructure. On balance, we consider that the overall infrastructure is sound, fit for purpose and in keeping with the size of our economy.

Key findings about the strengths, areas for improvement and areas for vigilance are set out below.

Areas of strength

- The New Zealand conformance and accreditation infrastructure is generally functioning well and fit for purpose. It is consistent with international practice.
- Conformity assessment services are highly valued for trade because they support New Zealand's exporters to get their goods into overseas markets. The international outreach work of International Accreditation New Zealand (IANZ) and Joint Accreditation System of Australia and New Zealand (JAS-ANZ) is particularly valued by our exporters.
- Conformity assessments play an important role in making firms more productive by improving the quality of their processes. Generally, people are satisfied with the quality of the conformance services they receive.

Areas for further work and improvement

- There are shortcomings with some regulatory use of the conformance infrastructure. Issues of role clarity and variation in regulatory design and practice can lead to poor outcomes in some regulatory schemes. There are opportunities to learn from successful regulatory practice and improve regulators' understanding of the conformance infrastructure.
 - For example, work is underway within MBIE to improve the regulatory arrangements for building products (which include conformity assessments and accreditation). These arrangements have recently had media attention and were raised as a concern during the review. Further work should consider any broader learnings for the conformance system from these and other regulatory experiences.
- Conformity assessments are creating delays for some businesses. There is an opportunity to consider the efficiency and timeliness of services. The small size of New Zealand's market may be causing these delays because businesses have to wait for their services to become available or seek services from overseas. There is also potentially some unmet demand for conformity assessments. This highly technical and specialist sector is also facing skills constraints.
- Businesses and conformity assessment bodies are concerned about the reliability of overseas conformity assessments for some products imported into New Zealand.

Areas for vigilance

- MBIE, government agencies and the conformance sector need to remain vigilant and keep up to date with change. Increasing digitalisation and automation will probably create challenges for the current manual conformity assessment techniques. New technologies and changing societal expectations may displace demand for some types of assessment and increase demand for others. For example, as machine learning develops and is used to a greater extent in manufacturing, the conformity assessments of these processes will likely change; or consumer demand for climate change action by companies may increase demand for certification of carbon emissions.
- These disruptions can render standards and regulations underpinning conformity assessments obsolete as well. The agility of regulators and standard setters is important to the sustainability of the conformance infrastructure. Investing in international outreach remains highly valuable and keeps New Zealand abreast of change.

What this means

These positive overall findings do not mean we can be complacent or take for granted the infrastructure as it stands. There are clear areas of risk and opportunities for improvement. There are consistent concerns about the regulatory use of the conformance infrastructure and an opportunity to improve regulatory practice – including the objectives, design, oversight and implementation of regulations involving conformity assessments.

The conformance sector is facing skills shortages and there is potentially unmet demand which will need to be addressed. The sector will need to adapt its approaches and techniques to support changing ways of doing business and consumer expectations. Continual international engagement at all levels of the infrastructure is required to ensure strong performance.

Next Steps

This paper is part of our ongoing discussion with the conformance sector, and we expect other issues and opportunities to emerge in response. We intend to work with the sector to lift the

performance of the infrastructure. MBIE will use these findings as a basis for co-designing policy options with the conformance sector to improve outcomes for New Zealanders. In particular, MBIE wants to increase the understanding and visibility of the conformance infrastructure, and work with regulated sectors to create best practice guidance. Risk mitigation will also be a priority for the areas such as the possible skills shortages and unmet demand for conformity assessment services.

PART I: CONTEXT AND PURPOSE

1 Introduction to the conformance infrastructure and this paper

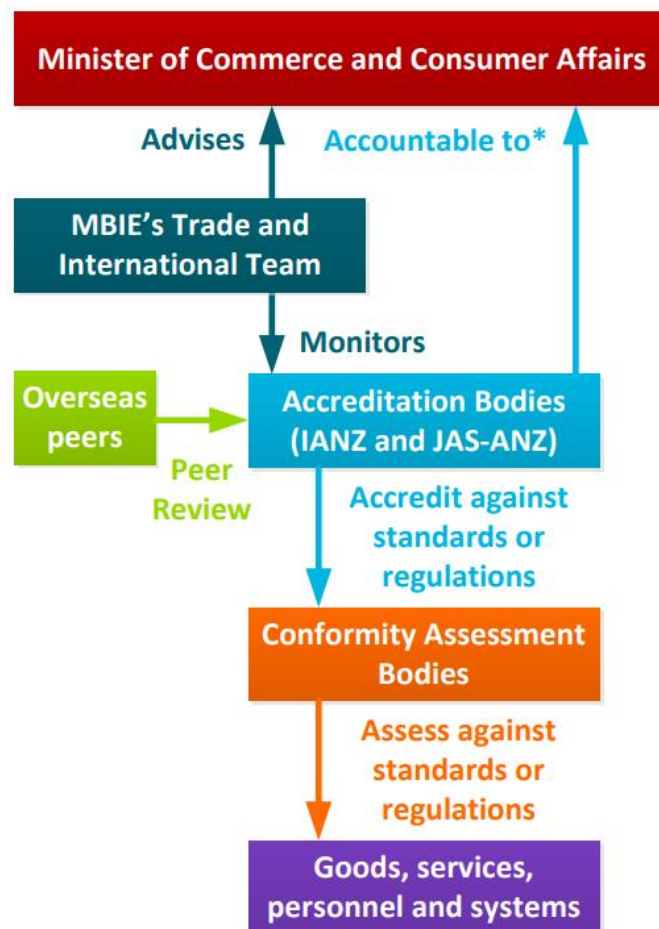
1.1 Overview

This issues paper is a product of MBIE’s Conformance Policy and Infrastructure Review. The purpose is to outline the review’s findings about health, performance and use of New Zealand’s conformance infrastructure.

1.2 Introduction to conformance

Conformance is important for New Zealand’s prosperity, international reputation and quality of life. Conformance is the term used internationally for assessments that determine whether goods, services, personnel or systems meet relevant standards and regulatory requirements. These assessments are called conformity assessments. The conformance infrastructure includes the legal arrangements for these assessments. It also includes the organisations that oversee and carry them out. They are used by a range of businesses and organisations to check their goods, services, personnel and systems.

Figure 1 – Key players in the conformance infrastructure



* JAS-ANZ is jointly accountable to the Australian Minister and monitored by the relevant Australian Department.

Key objectives of the conformance infrastructure are to:

- support commerce and trade, for example, by providing information to consumers and traders about the quality of goods and services
- keep people safe, for example, by upholding professional standards in risky industries
- help protect the environment, for example, by requiring manufacturers to demonstrate that their goods comply with energy efficiency and other standards.

The above points illustrate the significance of the infrastructure. The Government has a range of interests. This includes legal oversight of IANZ and JAS-ANZ

The conformance infrastructure falls within the Minister of Commerce and Consumer Affairs' (the Minister) portfolio responsibilities. MBIE's Trade and International Team manages standards and conformance as a regulatory system and has regulatory stewardship responsibility for it under the State Sector Act 1988. MBIE is also a regulator that includes conformance requirements in a number of its regulations. References to 'MBIE' in this paper relate to its conformance system responsibilities. Reference to 'MBIE regulation', relate to its responsibilities as a regulator.

Annex one provides an introduction to conformance. **Annex two** explains the international context for conformance. People interested in this detail or who are not familiar with the conformance infrastructure may wish to read these annexes first.

1.3 Introduction to the Conformance Policy and Infrastructure Review

The review was initiated by the Minister in December 2017, after a recommendation by MBIE, to help meet regulatory stewardship obligations, including proactively monitoring regulatory systems. The Minister approved the terms of reference attached at **Annex three**. The review has been a consultative process, involving:

- in-depth research interviews with a representative sample of 30 key stakeholders
- a sector-wide survey of providers and users of conformity assessment services
- discussions with a range of regulatory agencies
- desktop analysis and a review of relevant New Zealand and overseas literature.

We have prioritised a consultative approach because the conformance infrastructure includes a wide range of stakeholders and spans government, industry and consumers. To get a full picture of the infrastructure it is necessary to talk to people outside the government who have direct experiences with it.

1.4 Scope of the Review

The scope of the review included identifying the effectiveness and sustainability of New Zealand's conformance infrastructure and placing it in the context of the global standards and conformance infrastructure. It included considering:

- the regulatory and normative frameworks that underpin the infrastructure
- the way the infrastructure is being used by people, businesses and government
- emerging international practice and benchmarks for regulatory infrastructures.

The scope excluded the standards infrastructure as this was comprehensively reviewed in 2012. The scope did not directly include New Zealand's measurement infrastructure (metrology). Assessing the performance of specific regulations that use the conformance infrastructure was out of scope. It also excluded directly reviewing the performance of conformity assessment bodies. We did not target the aviation and transport sectors, which operate separately from the general conformance infrastructure.

1.5 Structure of this paper

The following sections deal with the supply of conformity assessment services:

- Section 3 – Accreditation infrastructure performance
- Section 4 – Conformity assessment body infrastructure performance

The paper then covers the demand for conformity assessment:

- Section 5 – Regulatory use of third party conformity assessment and accreditation
- Section 6 – Conformity assessment and accreditation for international trade

The paper concludes with: Section 7 – Sustainability, challenges and opportunities for the conformance infrastructure.

The annexes provide background information, including an explanation of key conformance concepts in Annex one, and an explanation of the international context for conformance in Annex two. Annex three sets out the terms of reference and Annex four contains a Glossary of Terms and Acronyms.

1.6 Purpose of this paper and next steps

This paper details specific issues and opportunities, and points out possible courses of action in terms of policy. It does not detail specific options, or commit the Minister or MBIE to a particular course of action.

The purpose of this paper is to set out the findings about what is working well and what can be improved, and to provide a basis for a public discussion. It will help identify potential changes that could be made to improve the operation of the conformance infrastructure.

PART II: CRITERIA AND OBJECTIVES

2 Analytical criteria and policy objectives

2.1 Overview

This review treats New Zealand's conformance infrastructure as a system where services are supplied by conformity assessment bodies (CABs), which perform conformity assessments, and accreditation bodies, which provide assurance about CABs' competence. Demand comes from consumers, businesses, service providers, industry bodies and regulators. We considered the current arrangements for the supply of conformity assessment and accreditation services, the nature of the demand for those services and the challenges ahead for the infrastructure.

2.2 Criteria and objectives

The objectives of the review are to ensure that the infrastructure is working well to support a strong economy, the wellbeing of people and the environment. We sought to answer the questions: how is the infrastructure performing; and is the infrastructure sustainable (ie will it continue to perform effectively)? To answer those questions, the review gathered evidence from participants in the infrastructure about:

- how the infrastructure is structured to provide services (supply side)
- how people use the infrastructure (demand side)
- what works well in the infrastructure
- opportunities for improvement
- future challenges to the infrastructure.

We also applied MBIE's regulatory stewardship framework to our analysis of MBIE's regulatory stewardship role and the regulatory use of conformance infrastructure. Key concepts of this framework include that:

- a regulatory system will be most effective when the roles played by each participant in the infrastructure are clear
- regulators must provide clear and strategic leadership of their regulatory systems
- high-quality information is essential for effectively monitoring how a regulatory system is performing and for identifying emerging risks or issues.

PART III: CONFORMANCE REVIEW FINDINGS

3 Accreditation infrastructure performance

3.1 Overview

Accreditation bodies provide an authoritative check that CABs are competent, reliable and have the correct systems in place to carry out conformity assessments. We found that the current infrastructure arrangements are generally perceived as working well and being fit for purpose. New Zealand's accreditation bodies have positive reputations gained through their domestic work and international engagement, and this increases the acceptance of their assessments.

3.2 New Zealand's accreditation body architecture

Conformance infrastructure arrangements vary from country to country. A typical feature is the presence of government mandated accreditation bodies, which are usually at arm's length from government in OECD countries. They usually accredit a diverse range of conformity assessment bodies, including both private companies and government institutions.

Standard for accreditation bodies

ISO/IEC 17011:2017 is the standard for accreditation bodies accrediting conformity assessment bodies. It specifies requirements for the competence, consistent operation and impartiality of accreditation bodies assessing and accrediting conformity assessment bodies.

There was very little feedback or concern from stakeholders during the review about the structure of the infrastructure in regards to accreditation bodies. It is generally accepted, and is not top of mind for the sector. We heard from stakeholders that the infrastructure makes sense and is 'fit for purpose' given New Zealand's market size. We also heard that New Zealand is in step with international comparators.

Accreditation bodies

New Zealand is somewhat unusual, but not unique, in having two (rather than one, or multiple) major domestic accreditation bodies. In practice, the relevant specialisation across the two accreditation bodies provides a separation and the potential for competition in service provision is limited to inspection body accreditation.

IANZ is a national accreditation body. It is operationally independent of Government. Its Board, the Accreditation Council, is an autonomous crown entity established under the Standards and Accreditation Act 2015. JAS-ANZ is a joint New Zealand-Australia agency operating on both sides of the Tasman, which was established under an international treaty agreement with the Government of Australia.

Additionally, the International Society for Quality in Health Care Incorporated (ISQua), a multi-national non-governmental organisation, is recognised by the New Zealand Ministry of Health to accredit bodies that audit publicly funded health care providers. ISQua is not recognised as an official national accreditation body in New Zealand or overseas, but provides third party assessment services for CABs in the health sector internationally.

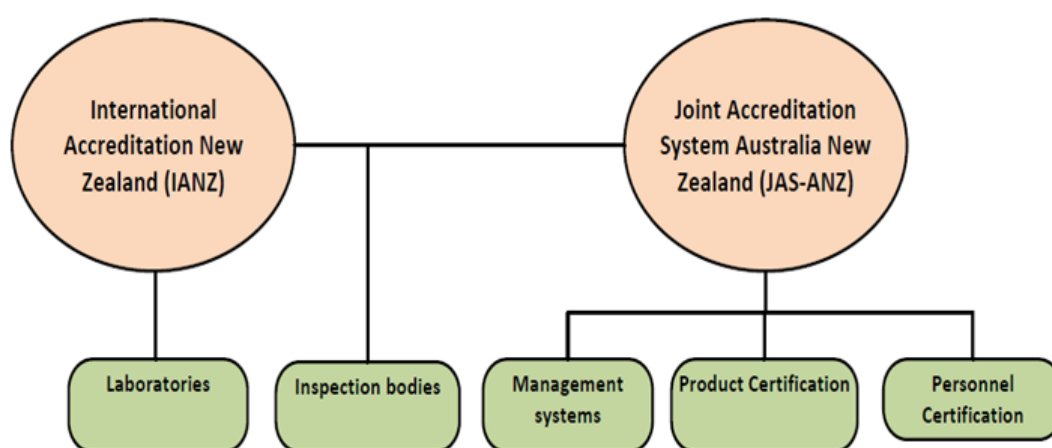
Internationally, Governments tend to opt for either a single accreditation body, competing accreditation bodies, or multiple bodies which monopolise accreditation activities in specific areas. There is no correlation between this architecture and market size. Singapore, Malaysia and China for example have a single integrated accreditation body. The United States, Thailand and Japan are among a small number of countries with multiple competing accreditation

bodies.¹ Developing countries often locate standards and accreditation bodies within central government departments.

New Zealand accreditation body functions

Figure 2 shows the accreditation functions of IANZ and JAS-ANZ. They each have responsibility for specific types of conformity assessment or conformity assessment bodies under the legislation and treaty. IANZ is responsible for laboratory and radiology accreditation. JAS-ANZ is responsible for management systems, product and personnel certifications. They both provide inspection body accreditation. JAS-ANZ is also responsible for accrediting validation and verification assessments.

Figure 2 – Accreditation body functions



Additionally, ISQua is mandated by the Ministry of Health to accredit CABs auditing public health services in competition with JAS-ANZ.

Accreditation body funding

IANZ and JAS-ANZ are completely self-funded through fees and returns on commercial activities. Similar funding arrangements prevail overseas. These are predominately set on a cost recovery basis, or occasionally dictated by regulation.

IANZ governance and accountability

The Accreditation Council (the Council) is established under the Standards and Accreditation Act 2015 as an Autonomous Crown Entity. The Council operates IANZ to carry out its accreditation functions. The Council is governed by a board. Its functions include promoting good practice in conformity assessment and laboratory testing, and to develop and maintain accreditation schemes. The Board comprises five to seven members appointed by the Minister on advice from MBIE’s Trade and International Team.

The Crown Entity status frames the relationship between the Council and the responsible Minister. The Minister oversees the Crown's interests in the Council and remains answerable for its performance. The Minister sets policy direction and annual expectations.

MBIE’s Trade and International Team is responsible for monitoring the Council. Typically, this involves providing advice to the Minister on appointments to the board, providing comment

¹ Australian Productivity Commission. 2006. Standard Setting and Laboratory Accreditation. Page 191.

on accountability documents, and maintaining a relationship with the chair and chief executive. These monitoring arrangements are carried out within the relevant policy team.

This model provides both operational independence and accountability to the Minister, through the board appointments and direction-setting mechanisms.

JAS-ANZ governance and accountability

JAS-ANZ is a distinct governmental organisation globally, and a testament to the close cooperation between New Zealand and Australia. JAS-ANZ is established under an International Treaty agreement between the two countries, originally ratified in 1990.² The agreement, last revised in 1998, sets out JAS-ANZ's functions, governance and accountability arrangements. It is governed by a Board. Its functions include accrediting management systems certification, product certification, personnel certification and inspection bodies in Australia and New Zealand.

The Board comprises ten members, six appointed by the Australian Minister and three by the New Zealand Minister. The Chief Executive of JAS-ANZ is a member of the Board – which is uncommon for New Zealand public sector boards based on the practice of separating governance and management. In the case of JAS-ANZ, this has benefits of ensuring close knowledge of the business on the Board. The Board membership is gender-balanced and includes a government official from each country.

The Board delivers a statement of corporate intent to the Minister each financial year. The statement may be modified by written notice from the Ministers. The Board also provides an annual report to Ministers. MBIE manages the Government's relationship with JAS-ANZ and supports the appointment and accountability processes.

The model is not as proximate to government as the Crown Entity model. However, it also provides both operational independence and accountability to Ministers, through the board appointments and direction-setting mechanisms.

Example – International comparisons of accreditation body governance and accountability

Accreditation body governance and accountability arrangements are unique from country to country. They are particular institutional policies, settings and circumstances. International comparisons include:

- Singapore – the Singapore Accreditation Council (SAC) is the national accreditation body of Singapore. It is managed by the Government agency Enterprise Singapore. Enterprise Singapore also administers the Singapore Standards Council and provides a range of other services to support business growth.
- Australia – the National Association of Testing Authorities (NATA) is a non-profit, membership based company. A Memorandum of Understanding (MoU) provides the mechanism through which the Australian Government influences NATA's activities. The MoU outlines the purpose of the laboratory accreditation sector and places specific undertakings on both the Australian Government and NATA.

² Ministry of Foreign Affairs and Trade. Agreement between New Zealand and Australia concerning the Establishment of the Governing Board, Technical Advisory Council and Accreditation Review Board of the Joint Accreditation System of Australia and New Zealand. Accessed from: www.treaties.mfat.govt.nz/search/details/t/1319/.

As a multi-jurisdictional accreditation body JAS-ANZ is comparable to the Gulf Accreditation Council which services the Gulf States.

- United Kingdom – United Kingdom Accreditation System is a non-profit-distributing private company, limited by guarantee. UKAS operates under a Memorandum of Understanding with the UK Government, through the Secretary of State for Department for Business, Energy & Industrial Strategy.

The accreditation body architecture works well overall, but there are opportunities for operational improvements

We did not hear concerns about the overall governance and accountability arrangements. The Accreditation Council operates under the well-established Crown Entities model. JAS-ANZ demonstrates the unique and broad trans-Tasman commitment to close economic relations and regulatory cooperation. We note the JAS-ANZ Treaty is now 20 years old. However, this was not raised as a concern during the review.

Some regulators saw merit in the accreditation bodies having a greater, cross-sectoral performance improvement role (eg by identifying and reporting on broader conformance sector improvement opportunities, gaps and trends). MBIE should further explore this as an opportunity.

We considered MBIE procedures for the statutory monitoring of IANZ and managing the unique relationship with JAS-ANZ. MBIE could consider improving its monitoring and relationship management, and adopt consistent procedures. For example, MBIE could use the relevant reporting mechanisms to better understand what the accreditation bodies consider key challenges and priorities, and the connections with Government policy objectives. MBIE should develop options to recalibrate its monitoring to ensure that it is appropriately prioritised and is informed by key issues for the conformance sector, Crown Entity monitoring best practice and Government priorities.

Both IANZ and JAS-ANZ noted a very positive relationship with MBIE. There are opportunities for MBIE to attend IANZ Board meetings on a semi-formal basis to stay more up to date with IANZ's activities; and to contribute to the development of JAS-ANZ's statement of corporate intent.

MBIE should also raise awareness amongst interested parties of its monitoring and oversight roles. MBIE should establish processes to receive more information from these parties that is relevant to its monitoring and regulatory stewardship functions (eg, information about accreditation body performance).

Finding – accreditation body architecture

While there is no single international model or benchmark for conformance infrastructure, New Zealand's architecture is fit for purpose, works well and is broadly in line with international norms. Having two major accreditation bodies works well for New Zealand and is widely accepted.

There are opportunities to improve MBIE's monitoring and relationships with the accreditation bodies to ensure that their activities are appropriately prioritised, aligned and informed by broader economic objectives and government priorities.

Let us know

Where should MBIE focus its coordination and guidance efforts?

3.3 Accreditation body relationships and coordination

There are no legal requirements or policy expectations for the relationship between the accreditation bodies. MBIE convenes an informal quality infrastructure group (the Standards, Accreditation and Metrology group) which has representation from standards, accreditation and metrology agencies on a quarterly basis. This is a mechanism for the agencies to share and discuss common issues.

Example – Cooperation in Australia

By comparison, there are more formal cooperation arrangements in Australia largely driven by the Department of Industry, Innovation and Science (DIIS). These include the Technical Infrastructure Alliance (TIA) which provides a forum for cooperation between the four infrastructure bodies and alignment of their respective programs with major policies and departmental initiatives.

DIIS is also the sponsor of a Commonwealth Standards and Conformity Advisory Group (CSCAG), and according to JAS-ANZ, plays a critical role in fostering understanding between regulatory bodies, relevant public policy initiatives and the Technical Infrastructure organisations.

IANZ and JAS-ANZ indicated during the review that they work well together when required, and that they regularly have constructive communications. The shared inspection body accreditation functions could be perceived as an impediment to greater levels of cooperation on broader conformance sector issues and their outreach functions.

We note that the product certification bodies certified by JAS-ANZ use the services of IANZ accredited laboratories and those of other accreditation bodies related to IANZ through International Laboratory Accreditation Cooperation and Asia-Pacific Laboratory Accreditation Cooperation arrangements. While we are not aware of specific problems in this area, it is a particular area of common interest and where their activities intersect. Further work should be undertaken to consider the alignment of services in the area.

Supporting a strong relationship and coordination between IANZ and JAS-ANZ can help lift the performance of the conformance infrastructure, for example by coordinating responses to common issues (eg regulator capability deficiencies). These arrangements in New Zealand appear to be ad-hoc and inconsistent compared to Australia. In this context, MBIE should consider the merits of setting out clearer requirements or expectations for accreditation body relationships and coordination, and the way that it supports such coordination. The accreditation bodies should also be encouraged to identify particular opportunities for improvement.

JAS-ANZ and ISQua both accredit Designated Auditing Agencies on a competitive basis in the health care sector. Designated Auditing Agencies are conformity assessment bodies that have been approved by the Ministry of Health to audit certain healthcare providers (eg aged residential care). The Ministry, as the responsible regulator, manages and coordinates the scheme. These relationships and coordination were not within the direct scope of the review. However we have worked with the Ministry of Health during the process and shared our findings with it.

Finding – accreditation body relationships and coordination

There is an opportunity to explore ways of strengthening the relationship between accreditation bodies to support their conformance sector leadership roles. These include promoting the development and maintenance of good practice in conformity assessment.

3.4 Accreditation body international outreach

Both accreditation bodies' legal purposes include working internationally to advance the recognition and acceptance of New Zealand's conformance infrastructure:

- IANZ is required to: *develop and maintain international recognition and acceptance of the Council's accreditation scheme; and to maintain appropriate international relationships consistent with the Council's functions.*
- JAS-ANZ is required to: *enhance the acceptance and value of JAS-ANZ services in other countries.*

IANZ and JAS-ANZ compare favourably with other national accreditation bodies in terms of international outreach. JAS-ANZ and IANZ are active participants in the key international accreditation body networks. We also heard from exporters that New Zealand's conformity assessments are respected overseas.

IANZ has signed Mutual Recognition Agreements with 100 countries, and it aims to increase this to 105 in 2019.³ IANZ is a founding member of the International Laboratory Accreditation Cooperation. JAS-ANZ is an active member of the key accreditation organisations including the International Accreditation Forum, International Laboratory Accreditation Cooperation, the Pacific Accreditation Cooperation, and the Asia Pacific Laboratory Accreditation Cooperation. JAS-ANZ is a signatory to the International Laboratory Accreditation Cooperation and the Asia Pacific Laboratory Accreditation Cooperation MRAs for Inspection.

We note that JAS-ANZ operates an internal group on international engagement that comprises members of the Governing Board, Management team, Certification bodies and scheme owners. It provides advice to the Governing Board on matters relating to international engagement and international reputation and is specifically concerned to ensure that JAS-ANZ's engagement is aligned with the interests and objectives of DIIS and MBIE as principal stakeholders in the accreditation system.

More recently JAS-ANZ has taken on management roles in some of the International Electrotechnical Commission conformity schemes with the specific aim of ensuring that the process of notifying variations in domestic standards is accurately reflected in these systems.

Most CABs also appreciated the international reputation and recognition enjoyed by New Zealand's accreditation bodies, such as the recognition through International Laboratory Accreditation Cooperation and Asia-Pacific Laboratory Accreditation Cooperation. A CAB that operates internationally as well as domestically commented during the review that accreditation bodies in New Zealand are globally recognised by their peers and could be considered as world-leading in terms of responsiveness, minimising the bureaucracy often associated with communications and non-technical interactions.

The literature indicates that some overseas governments provide funding contributions to their accreditation bodies' participation in activities deemed to be in the public interest.⁴ In New Zealand, the current funding arrangements in respect of international outreach do not appear to disincentivise IANZ and JAS-ANZ's international participation, which is a core function under their legal frameworks. Both are clearly active and take leadership roles

³ Accreditation Council. (2018). Statement of Performance Expectations: for the year ended 30 June 2019.

⁴ United Kingdom – the Department of Trade and Industry provides funding for most of UKAS' participation in international committees. Canada – the Standards Council of Canada also allocates funds for international participation from its general budget. United States – NVLAP receives a federal government contribution for its international participation.

internationally. While this requires effort and resource, it is encouraging that the organisations continue to prioritise international outreach and work. Users of accredited conformity assessments clearly derive a benefit from such international participation activities in terms of the international acceptance and credibility of their test results, and ultimately the acceptance of their goods and services overseas.

The literature we reviewed indicated that the competitive approach to accreditation in the United States sometimes resulted in CABs needing to be accredited by multiple bodies in order to have their goods recognised in different markets, which can increase costs for business. This occurs where accreditation bodies each have specific international recognition and acceptance agreements and arrangements in place. This problem is not apparent in the New Zealand infrastructure where the two major accreditation bodies have broad international recognition and limited functional overlap.

Finding – accreditation body international outreach

The accreditation bodies have effective international outreach, which is valued by CABs. New Zealand’s accreditation bodies have positive reputations gained through their international engagement, and their accreditation services have global recognition.

3.5 Quality of accreditation body services

CABs that we heard from during the review were generally positive about the quality of accreditation body services, and they considered that the accreditation process helps them to improve. It is important to note that CABs may have negative views of accreditation bodies because accreditation bodies challenge CABs’ competence and question their systems. This can make accreditation bodies’ adverse decisions unpopular, but it is important that accreditation bodies are rigorous, impartial and maintain a high standard for CABs. There is still room for improvement, particularly in regards to efficiency measures, including consistency and tailoring the accreditation process to different types of CABs.

This section provides an overview of CABs’ views of accreditation bodies, with a sectoral analysis of the comments about IANZ. The sectoral analysis of IANZ’s accreditation process indicates that laboratory services, agriculture, fishing and forestry sectors have a more positive experience, compared to the transport and electricity sectors. The small sample size of JAS-ANZ means the findings should be read as merely indicative.

Example – Communication with CABs in Australia

In Australia the Association of Accredited Certification Bodies (AACB) and Independent International Organisation for Certification (IIOC) provides a regular quarterly meeting, at which progress reports are given and process improvements are discussed between CABs and JAS-ANZ.

Current issues include:

- Formulating revisions to the Accreditation Manual
- Use of self-declarations against some procedures
- Overhaul of transition arrangements
- Extension of accreditation cycle from 4 to 5 years

Members of the IIOC and AACB are also included on JAS-ANZ's Technical Advisory Council and report back to their respective members. AACB and IIOC members also participate in JAS-ANZ sponsored projects such as:

- Advisory video on the use of test and certification reports
- Trial of self-evaluation as part of the accreditation process
- Auditor education and development
- Advice on content of future training programs

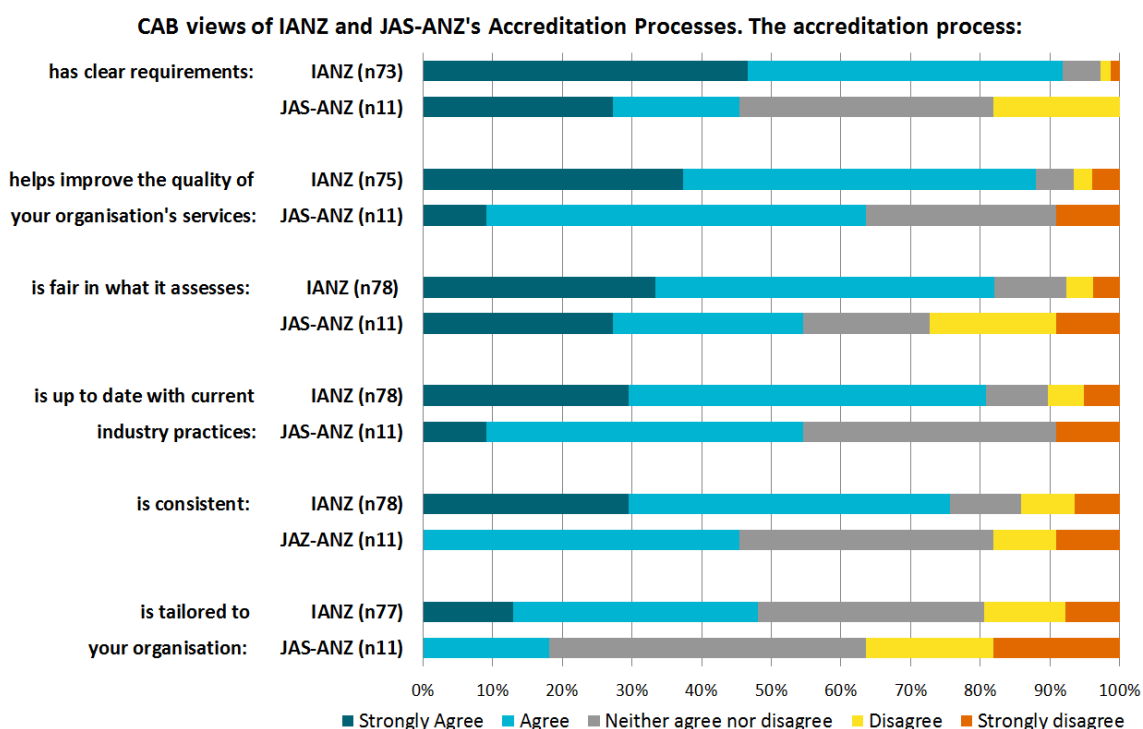
Why CABs seek accreditation and the value that they want out of accreditation

We found that CABs seeking IANZ accreditation are generally focused on domestic markets and are predominantly using accreditation to meet regulatory requirements. Giving consumers confidence is a close secondary motivation. On the other hand, CABs seeking JAS-ANZ accreditation are typically focused on consumers' perspectives of their services. Just under half of all CABs were seeking accreditation to improve the quality of their services.

CABs seeking JAS-ANZ accreditation are less likely to be doing so in order to meet regulatory requirements than CABs seeking IANZ accreditation, because of their different functions. IANZ accreditation operates more often in sectors where accreditation is mandatory. JAS-ANZ indicates that about 80 per cent of its work is non-regulatory, ie it is predominantly about businesses and organisations seeking to demonstrate their credentials to supply chains (domestic and international).

CAB perceptions of the accreditation process

The graph below provides a snapshot of the overall views of IANZ and JAS-ANZ accreditation processes. The aim was to provide a comprehensive picture of participants' experiences with the accreditation process and where there may be opportunities for additional value, or increased efficiency. Note that the samples were not controlled and may not be representative. In particular, there is a very small sample of JAS-ANZ CABs, with 11 respondents, but that forms about a third of JAS-ANZ accredited CABs active in New Zealand, and these CABs service a variety of sectors.



Respondents generally reported that IANZ and JAS-ANZ accreditation helped improve their services. This suggests that the accreditation bodies are successfully carrying out their quality improvement functions. There is a very positive view of IANZ's accreditation process, with a vast majority of positive responses across all indicators except in regard to how the process is tailored to the organisation. A much higher proportion of JAS-ANZ CABs were neutral, selecting neither agree nor disagree, but the positive views outweighed negative to a significant extent across nearly all indicators. Further work is needed to understand the reasons for the responses.

Example – accreditation and quality improvement

Of IANZ's new clients in the past 10 years, 62 percent had no quality systems in place before seeking accreditation.⁵ Many originally said they had no idea whether or not they met their legal and technical obligations. At least a third offered no formal training or professional development for their staff.

Participants were asked to identify what worked well in the accreditation process and a large number simply said that the general process worked well. The following quotations illustrate these types of responses:

The accreditation process is very thorough, including providing goals and recommendations for process improvement.

The actual audit itself and the ensuing discussions around how we can better manage our processes.

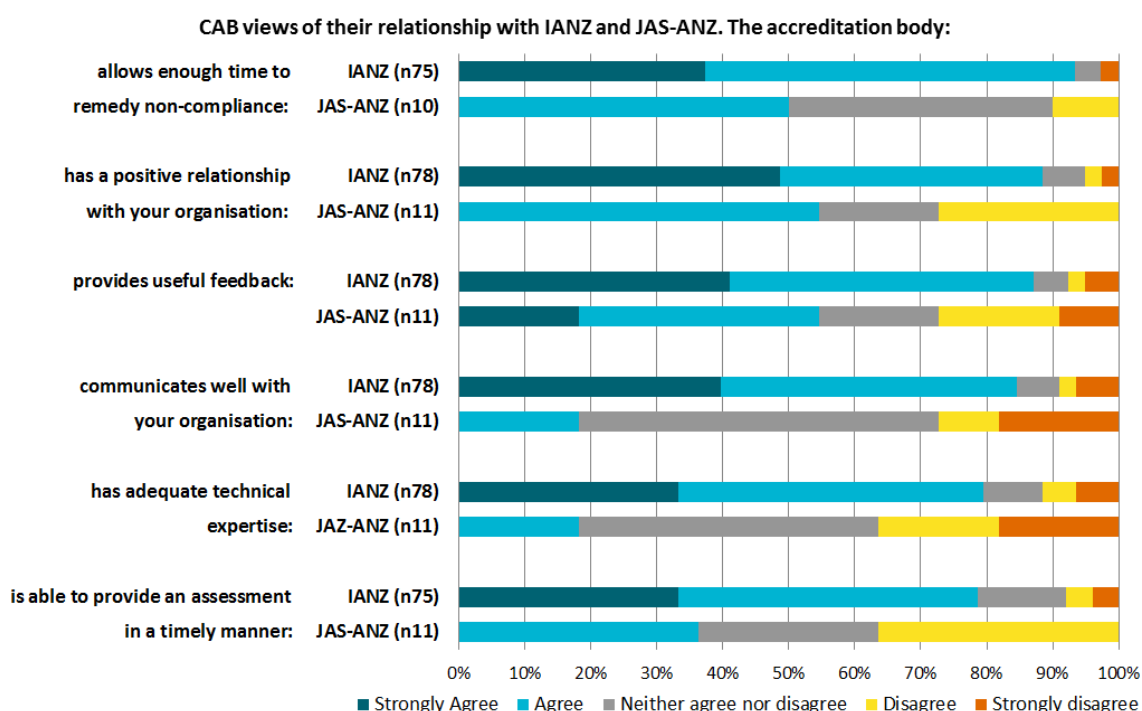
Having accreditation lifts the certification / auditing process an extra level, by ensuring that all certified audit bodies are performing at the required level.

While the positive results are reassuring, negative responses in some of these measures are worth considering. The responses in regard to consistency and how well the process is tailored to organisations indicate that consistency and efficiency are areas of concern. Suggestions for improvement were provided in the open questions and more of the suggestions refer to consistency and efficiency than any other area. Some of the suggestions include:

- tailoring the assessment to the size of the organisation
- improving consistency of assessors and assessments across an industry
- reducing the amount of paperwork or making it electronic.

⁵ IANZ. Why Seek Accreditation? Retrieved on 16 August 2018 from: www.ianz.govt.nz/about/about-ianz/accreditation-whats-in-it-for-me/

This graph provides a snapshot of how CABs view IANZ and JAS-ANZ. It looks into CABs' interactions with the accreditation bodies.



CABs generally have a positive view of the accreditation bodies and their working relationships with IANZ and JAS-ANZ. Most respondents across all sectors said that IANZ communicates well with their organisations. IANZ could most improve on providing timely assessments. There is room for JAS-ANZ to consider its communication with CABs, and build more confidence amongst clients about the adequacy of its technical expertise.

There are two ways of looking at the feedback on technical expertise. IANZ and JAS-ANZ assessors should have expertise in carrying out accreditation assessments, but both organisations also bring in technical experts from the CAB's industry when conducting an assessment. The suggestions for improvement mainly referred to the industry experts, and they identified problems with finding the technical experts in New Zealand's small market. For example, one participant commented that "it is increasingly difficult to find good technical assessors to look at the technical aspects of our accreditation". This issue relates to the sustainability of the conformance infrastructure. The comments relating to accreditation body knowledge were more positive, for example:

"The Lead assessor ensures a thorough and methodical approach to the assessment including well documented and specific criteria."

"Very knowledgeable and helpful assessors that provide useful feedback for us to further build on."

Some CABs noted that technical experts provide added value by identifying areas where technological improvements can be made. Increasing the supply of technical experts could also help to reduce assessment delays.

A common suggestion for improvement was for the accreditation bodies to provide more timely responses and feedback. However, there were as many positive comments as there were suggestions for improvements in this regard. A couple of these suggestions for improvements are:

“Assessors are very busy and sometimes replies to queries are delayed.”

“Time between onsite assessment and issuing of assessment report could be better.”

Several respondents identified communications generally as a positive experience, with one participant saying that “audit and communications around audits are pleasurable”. On the other hand, a few participants said that the accreditation bodies are resistant to feedback.

Finding – client perceptions of accreditation body services

CABs generally have a positive view of the accreditation bodies and their working relationships with IANZ and JAS-ANZ. Most respondents across all sectors said that IANZ communicates well with their organisations. IANZ could most improve on providing timely assessments. There is room for JAS-ANZ to consider its communication with CABs and build more confidence among clients about the adequacy of its technical expertise.

Let us know

What do you think could be done to make accreditation processes more consistent?

What could be done to make accreditation work better for different types and sizes of CABs without making the accreditation process less effective?

4 Conformity assessment body infrastructure performance

4.1 Overview

CABs judge whether a particular product, process or service meets a standard or complies with a regulatory requirement. This section focuses on the operation and performance of the CAB market.

4.2 Conformity assessment market

Drivers of demand for conformity assessments

Users of conformity assessment services have different motivations for undertaking an assessment. We found that the main reason conformity assessment users are undertaking a conformity assessment is to meet legal and regulatory requirements. This is particularly true for small businesses.

Organisations from the laboratory services, agriculture, fishing and forestry sectors are very focused on meeting legal and regulatory requirements. The focus of organisations in other sectors is more evenly spread between meeting legal and regulatory requirements and improving the quality of their goods, services and/or systems.

Availability of conformity assessment services

New Zealand has approximately 600 accredited CABs. MBIE does not have data on the number of non-accredited CABs active as many operate outside the infrastructure overseen by government. A 2011 study of predominantly developed countries noted that Australia and New Zealand, when considered as a single entity, have a low number of accredited CABs per capita, ranking 42 out of 55 countries.⁶ Further analysis is required to understand how this affects the provision of services in New Zealand.

Approximately 50 per cent of businesses surveyed by MBIE indicated that there were not enough CABs to choose from in New Zealand, and 20 per cent of business said the number of CABs is sufficient. The availability of services was a particular concern in the health care and social assistance, and laboratory services sectors.

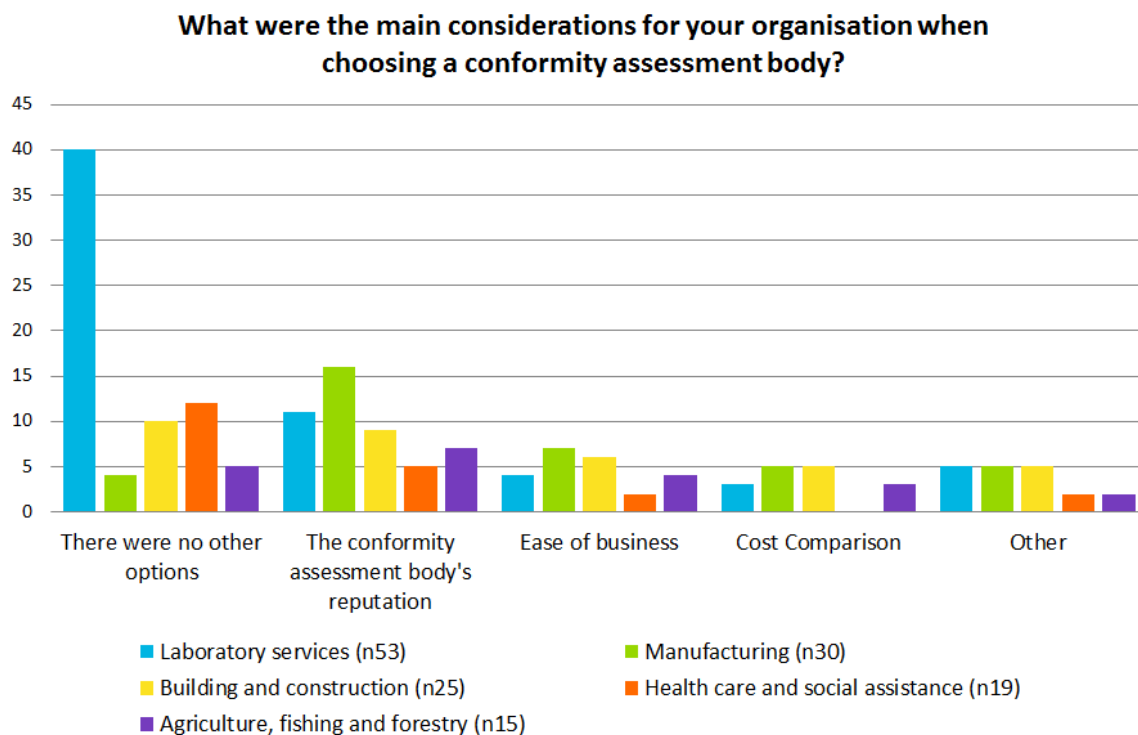
Competition and selection of CABs

The small size of New Zealand's economy and the limited availability of the necessary, often highly specialised, technical expertise means competition is not always feasible and users of conformity assessment services may not always have a choice. The accreditation bodies provide an important check on CABs in monopoly positions.

CABs indicated that business is generally derived through passive means such as word-of-mouth, repeat business, relationships and referrals from other clients.

⁶ Ulrich Harnes-Liedtke and Juan José Oteiza Di Matteo. (2011). Measuring Quality Infrastructure. Physikalisch-Technische Bundesanstalt. Page 34.

This graph shows that there is sectoral variation in what organisations consider when choosing a CAB. Many organisations from the laboratory services, health care and social assistance sectors believe that there are no other CABs to choose from.



The lack of options might be a matter of perception rather than a true shortage of supply. JAS-ANZ noted that many businesses are surprised by the number of CABs available when they ask JAS-ANZ directly.

Finding – conformity assessment body market

Organisations mainly undertake conformity assessments to meet regulatory requirements or improve the quality of their goods, systems or services.

There is potentially an unmet demand for conformity assessment services, but some of this may be a result of a lack of visibility of CAB services.

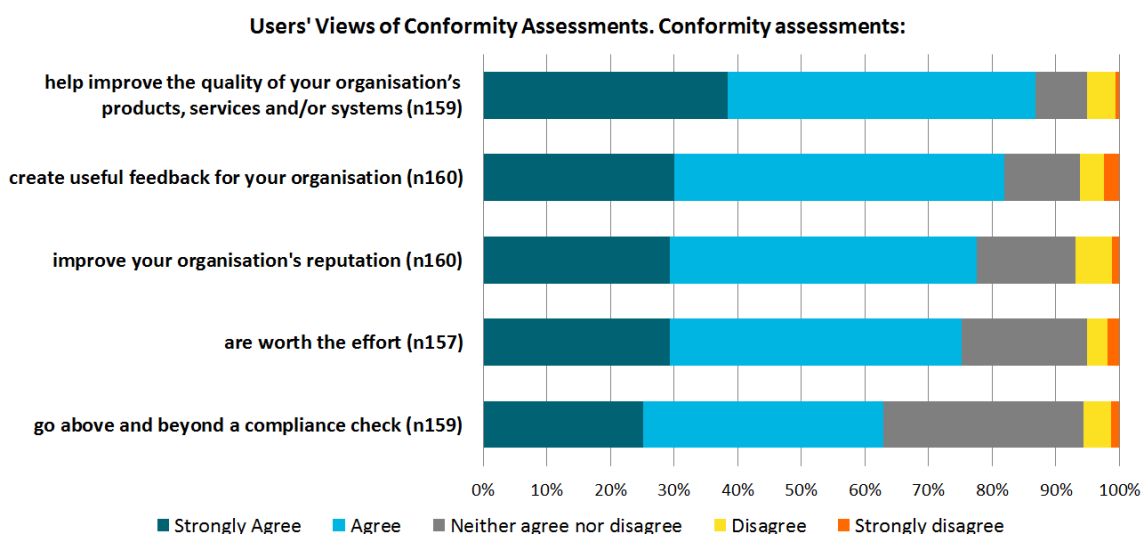
Let us know

See the consultation question in section 7.4

4.3 Quality and value of conformity assessment body services

Organisations mainly undergo conformity assessments to meet regulatory requirements and improve the quality of their goods, services and systems. This section sets out the views of organisations which undergo conformity assessment services. The results are largely positive, indicating that organisations do see value in undertaking a conformity assessment. In fact, there were very few negative responses, with less than 8 per cent of all indicators showing a negative response.

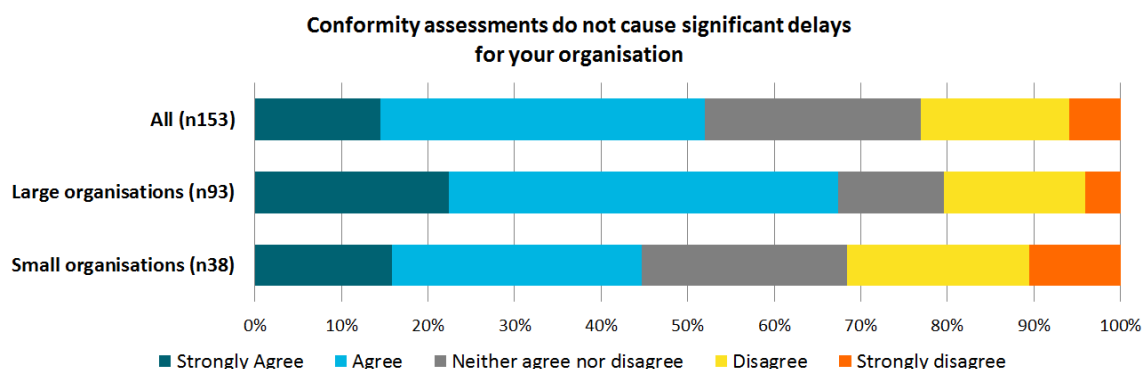
The following graph provides a snapshot of conformity assessment service users' views of the value of conformity assessments.



These results are positive, especially when considering that many organisations mainly undergo conformity assessments to meet regulatory obligations. The perceived added value from conformity assessments is of particular note, with more than 85 per cent of respondents indicating that conformity assessments help to improve the quality of their products, services and/or systems.

There is some potential to increase the value of assessments so that they go beyond a compliance check, as conformity assessments can include quality and systems improvement aspects. However, this will depend on the object and purpose of the assessment. For some conformity assessments a straightforward compliance check is appropriate and all that is required.

There are concerns around the delays that conformity assessments cause for organisations, as can be seen in the graph below. Smaller organisations particularly see conformity assessments as causing significant delays. This issue may be related to limited number of CABs in New Zealand's market.



We heard that a compliance mentality rather than a continuous improvement mentality among CABs was an issue. We were informed that CABs can fail to take a bigger picture view. A bigger picture approach can identify issues and trends that are not apparent at the micro-level. There is an opportunity for this mind-set to shift and for CABs to work more strategically to look for added-value and innovation.

Finding – Quality and value of conformity assessment body services

Users do find value in the conformity assessment process, particularly in the feedback provided and how assessments help improve the quality of goods, services and systems.

Conformity assessments are causing significant delays for some businesses, and small businesses in particular.

Let us know

What is causing delays (eg is it a lack of available CABs or inefficient processes)?

How can the speed and efficiency of assessments be improved?

4.4 Roles and responsibilities of Telarc

Our terms of reference specifically include consideration of the roles and responsibilities of Telarc. Telarc is a CAB established as a Crown Entity subsidiary in accordance with the Crown Entities Act 2004, with its own Board of Directors, Chief Executive and staff. Telarc provides conformity assessment services in the areas of medicine, forestry, the environment, food, health and safety, quality systems and public safety. Telarc is owned by the Accreditation Council which governs IANZ. Separation between Telarc and IANZ in respect of accreditation is a requirement of the international standard for accreditation bodies (ISO/IEC 17011).⁷ On that basis, Telarc is accredited to carry out its conformity assessments by JAS-ANZ. IANZ thereby avoids any conflict of interest with Telarc as it does not accredit any certification bodies at all (including Telarc). IANZ notes that in respect of Telarc it is subject to and fully meets the related body criteria set out in the ISO/IEC 17011 standard.

In the last financial year, Telarc increased its revenue across all major programme areas. In 2017, Telarc contributed around \$1.3m to the Accreditation Council. IANZ notes that the largest revenue increase (integrated certification) was driven by increased demand for an impartial, third party intervention to carry out a variety of assessment types across a diverse range of industries.⁸ The 2018/19 financial year will be the first time that Telarc's revenue is subject to taxation.

The review identified no substantive concerns about Telarc's roles and responsibilities. We also heard from regulators that there was some value in the Crown retaining a stake in Telarc, in that it has the flexibility to take into consideration broader public good issues or objectives as opposed to business/profit objectives and can provide conformity assessments where the market might not fill the need in New Zealand. We heard that some regulators valued Telarc in this respect.

The government has a stake in a number of other CABs, such as the medical testing laboratories of district health boards and AsureQuality which provides food safety and biosecurity services worldwide. This is not unexpected in the New Zealand context where such CABs have public service origins, or continue to provide public services.

⁷ We note that the European Union has legislated that there must be no financial involvement between accreditation bodies and CABs to provide a clear separation between the two types of body and avoid actual or perceived conflicts of interests.

⁸ Accreditation Council. (2018). Statement of Performance Expectations: for the year ended 30 June 2019.

Finding – roles and responsibilities of Telarc

Government ownership of a CAB is not unusual internationally and no concerns have been raised about this arrangement. New Zealand’s arrangements are in line with other APEC economies. There are clear arrangements in place to manage real or perceived conflicts of interest. Telarc is a significant financial asset for the Accreditation Council. Telarc is able to provide conformity assessments where the market might not fill the need in New Zealand.

5 Regulatory use of third party conformity assessment and accreditation

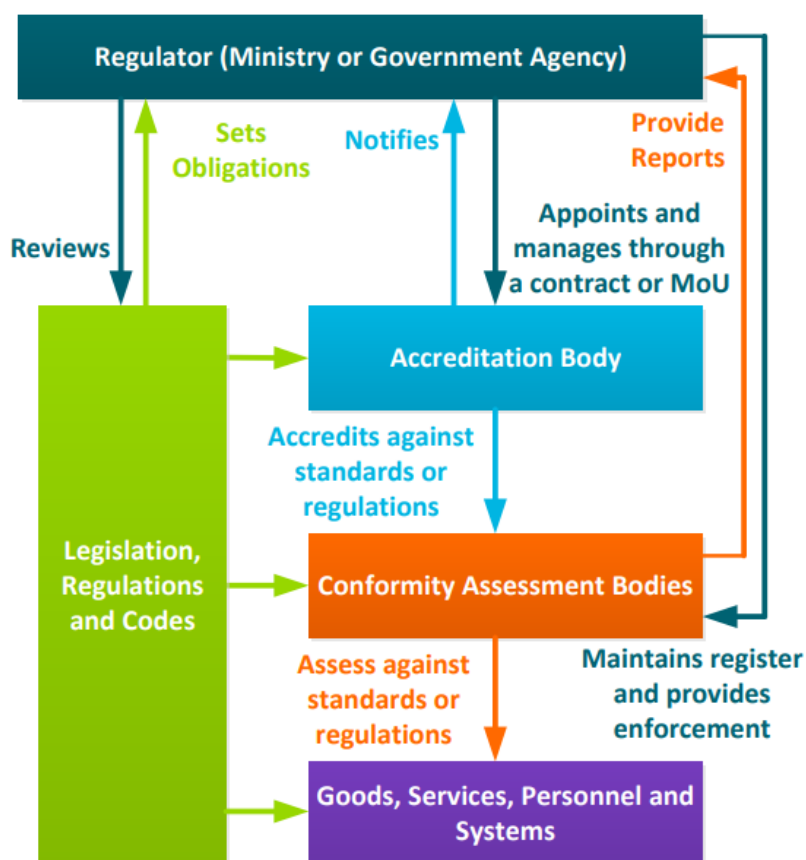
5.1 Overview

The conformance infrastructure is commonly used by governments around the world to help deliver public policy objectives, particularly where compliance can be determined via conformity assessment techniques. Regulators use the infrastructure and expertise of accreditation bodies and CABs to improve their efficiency and effectiveness and the robustness of checks. Many stakeholders identified the relationship between certain regulatory schemes and the conformance infrastructure as an area of concern during the review.

We focused on regulations that include requirements for third party conformity assessments; many more will simply specify that the subject of the regulation must meet a standard, without any corresponding requirement for third party assessment.

Mandatory third party accreditation and conformity assessments are particularly apparent in higher risk regulatory schemes, where there are risks to human health and safety; for example, adventure activities, building, health care and drinking water. Figure 3 shows how these regulatory schemes are commonly arranged.

Figure 3 – Common features of New Zealand’s regulatory schemes that use third party accreditation



The Survey was used to identify whether certain concerns are confined to particular schemes or systemic to the conformance infrastructure. The findings include lessons learnt from different regulatory schemes where the same concerns or good practices are apparent.

Regulatory stewardship

MBIE manages standards and conformance as a regulatory system given its regulatory stewardship responsibility under the State Sector Act 1988. Regulatory stewardship is an organisational priority. This involves treating regulations as assets, managing them in a way that maintains or enhances their value, and investing in people's capability. Key initiatives include information-sharing, dispute resolution, regulatory qualifications, the multi-agency 'G-Reg' network, and the Better for Business programme.⁹

5.2 International good practice for use of conformity assessment in regulations

Using the conformance infrastructure can reduce the resources agencies need to maintain regulatory schemes because it delegates certain regulatory functions, makes use of expertise and skill sets of conformance specialists, and provides a user pays mechanism. Using organisations that specialise in assessment techniques, such as auditing and testing, can increase regulatory efficiency and effectiveness.

At the same time, conformity assessments impose significant costs on regulated parties. So they are not suited to all circumstances. ISO guidance recommends using good regulatory practice principles to determine if conformity assessment provides the best possible option for achieving the desired regulatory outcomes and to avoid onerous or unnecessary procedures.¹⁰ In New Zealand, this means using robust regulatory impact analysis to underpin decisions. ISO also recommends risk-based approaches, and that the compliance costs of conformity assessment and accreditation requirements are proportionate to the risks and potential consequences. For New Zealand regulators, this means acknowledging that conformity assessments and accreditation can carry costs and take time and should only be used when necessary.

International good practice guidance for regulators

The ISO guidance is a useful resource for New Zealand regulators. It affirms the broader importance of efforts across the New Zealand public sector to implement good regulatory practice, and regulatory stewardship initiatives and disciplines. It highlights that conformity assessment and accreditation are not suited to all situations. Broader improvements to domestic regulatory practice support best practice for use and implementation of conformity assessments in regulations.

5.3 Regulatory use of conformity assessment in New Zealand

The conformance infrastructure is widely used by regulators. A stocktake by MBIE as part of the review identified 30 regulatory schemes that involve third party accreditation.

Regulatory requirements and practice vary across the schemes. This is not unexpected, as the schemes have been developed separately at different times, for different purposes and under different circumstances.

Typically, regulations involve conformance infrastructure by reference to a standard or by way of provisions that incorporate conformity assessment institutions or practices. Many of the regulatory schemes that use the conformance infrastructure include a requirement for the relevant conformity assessment activity to be accredited. The delegation of particular regulatory functions is a common feature of these regimes. This means regulators use other

⁹ Ministry of Business, Innovation and Employment. (2018). MBIE's Priorities 2018/19. Page 17.

¹⁰ International Organisation for Standardisation. Using ISO/CASCO standards in regulations. Page 28. Retrieved from: https://www.iso.org/sites/cascoregulators/03_considerations.html.

bodies to make judgements about organisations' systems and performance, and thereby contribute to the achievement of regulatory outcomes.

Both conformity assessment bodies and accreditation bodies raised general concerns about some regulators having insufficient and inconsistent knowledge of the conformance infrastructure.

Certain characteristics of New Zealand's regulatory system were another source of concern. There are differing views about the 'set and forget mentality' and performance-based regulations which have been raised in the Productivity Commission's 2014 Inquiry, *Regulatory Institutions and Practices*.¹¹ There were also concerns that some regulations enable non-accredited conformity assessment bodies to operate and that this can result in lower quality assessments that are less rigorous but cheaper.

Concerns were also raised about the potential for duplication of assessments and issues where regulations diverge from standards meaning that relevant parties may need to meet two separate sets of similar requirements.¹² For example, a regulator and a third party conformity assessment body might conduct similar assessments, resulting in unnecessary duplication of effort and cost for businesses. Some regulators could improve the efficiency of their regulatory schemes and reduce the burden on businesses by working with CABs to reduce duplication of assessments. We are aware of efforts by regulators to address these issues; MPI for example is working to reduce the number of assessments and duplication.

We found a strong appetite for more guidance targeted at regulators and support to lift regulator capabilities and practices. Following the Productivity Commission's 2014 Inquiry, there has been concerted work by central and local government to improve the whole regulatory system. The MBIE-led G-Reg network and associated qualification will go some way to meeting this need in terms of broader good regulatory practice – but opportunities remain for conformance-specific capability building.

Occasionally disputes or differing interpretations between regulators and accreditation bodies can occur. This may include regulator concerns about accreditation body actions and accreditation body concerns about regulator actions. Additionally, some regulators considered that MBIE, in its conformance infrastructure oversight function, did not always provide adequate support or guidance. Avoiding issues requires investment in establishing and maintaining constructive relationships. There may be merit in a dispute resolution mechanism/or third party support that could be brought into action where the two parties are unable to reach an agreement.

Finding – regulatory use of conformity assessment in New Zealand

Overall, there is a need to lift the understanding and capability of regulators and for MBIE to provide more high-level conformance-specific support.

Let us know

How could regulators work with conformity assessments bodies more effectively?

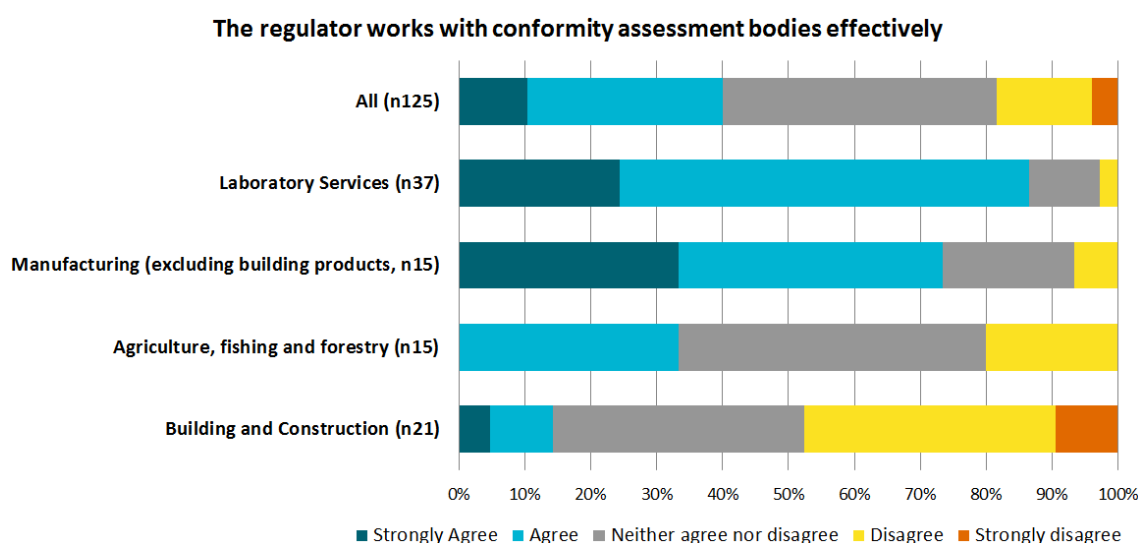
¹¹ The New Zealand Productivity Commission identified a "set and forget" mentality in New Zealand, which includes not having strong processes for reviewing regulatory regimes. Performance-based regulation "establishes mandatory goals rather than enforcing prescriptive standards", and is intended to allow for innovation and technological change. Peter John Mumford, "Enhancing Performance-Based Regulation: Lessons from New Zealand's Building Control System", Victoria University of Wellington, 2010. Retrieved from: www.victoria.ac.nz/vbs/research-services/documents/PeterMumford.pdf.

¹² David Moore, Preston Davies and Emma Doust. 2018. Insights into the operation of New Zealand's conformance system. Sapere. Page 21.

5.4 Roles and responsibilities

Responsibility for the performance of a regulatory regime lies with the regulator. Even if a regulator delegates some of its assessment functions to third parties, the regulator remains the steward of the regulatory scheme. This means that the regulator should clarify the roles and responsibilities of the key players and monitor their performance to ensure their regulatory scheme achieves its objectives.

When regulators fail to work effectively with accreditation bodies and CABs, it can create unnecessary burdens for assessed organisations, or substandard goods and services may enter the market. The graph below shows organisations' perceptions about the effectiveness of regulators' cooperation with CABs.



While there are relatively few concerns about how regulators work with CABs overall, this varies significantly by sector. The finding that the building and construction regulator is not working effectively with CABs is consistent with the qualitative information we received. MBIE's Building teams are already working with the building sector to address the concerns they have and lift the performance of this regulatory scheme. Operational and regulatory improvements are being made while a review of building product regulation and assurance is being undertaken in consultation with stakeholders.

The survey found that most organisations that are required to undergo conformity assessments think that the role of a CAB is to check that organisations comply with standards or regulations. This is indeed the core function of a CAB, but a regulator might want CABs to assist them in a broader role. Very few assessed organisations thought that it was the CABs' role to assist regulators to meet their regulatory objectives. If a regulator wants CABs to assist it with objectives beyond compliance checks and quality improvement, then they should clarify this and inform their sector.

CABs indicated very strongly that their roles and responsibilities are clear, and that there are clear requirements for them to conduct their assessments against. CABs and the organisations they assess also appreciate guidance about regulatory obligations from the regulator. CABs indicated that the accreditation process helps them to improve the quality of their services, which is a key benefit of using third party accreditation in regulatory schemes. In the feedback about IANZ's accreditation process, CABs said that it goes above and beyond a compliance check, which suggests that IANZ is helping CABs to do more than meet the minimum requirements.

In some regulatory schemes, regulators have been relying on accreditation as a check on CABs. This means that the regulator may not be adequately informed about the performance of their regulatory scheme. However, there is an emerging trend towards registering or licensing CABs. This recognises the benefits of more active oversight by the regulator. It allows the regulator to retain control over who can provide conformity assessments, and they can require CABs to comply with certain registration conditions – in addition to the underlying conformity assessment requirements. Registers also increase the visibility of CABs, improving businesses' ability to find a CAB which provides the services they need.

When the information about CAB and business performance is held by the regulator, they can maintain their records even when there is change. For example, if a construction business that uses cranes changes its CAB, the new CAB will not automatically have access to the past performance of that construction business which can be useful when conducting a new assessment. When the regulator holds that information, they can provide it to the new CAB and make new assessments more effective and efficient.

Finding – roles and responsibilities

Some regulators are working effectively with CABs, while others could improve their coordination with CABs. There is particular room for improvement in the building and construction sector, which the building regulator is aware of. CABs are generally confident about their roles and responsibilities, and they have clear standards to assess against. The continuous quality improvement aspects of accreditation add value to conformity assessments. There is merit in regulators checking regulations to avoid unnecessary duplication of assessments.

Let us know

How could regulators work with CABs to avoid duplicating assessments?

5.5 Information flows

Regulators need information about the performance of their regulatory schemes in order to ensure they meet their regulatory objectives. This includes monitoring the performance of the accreditation body and the CABs, and considering whether the assessments are resulting in the desired outcomes. CABs do not automatically share information about their own performance with regulators, and it is generally not in a CAB's interest to disclose information when they are underperforming. The regulator can get information from accreditation bodies because accreditation bodies collect information about CABs' performance when they conduct accreditation assessments, but this information is not automatically made available to regulators.

Some regulators have raised concerns about their inability to get enough information from accreditation bodies about the performance of CABs in their regulatory schemes. For example, they might not be able to find out why a CAB has had its accreditation suspended. This can be a serious problem where there are a limited number of CABs operating in a regulatory scheme, as it can cause significant delays for organisations.

The accreditation bodies indicated that they have no concerns about sharing information that is relevant to the performance of the regulatory scheme. The regulator should establish information-sharing requirements with legal standing if they want to receive information from accreditation bodies which will help the regulator to meet their regulatory objectives.

Regulators normally set information sharing requirements in their MoU or contract with the accreditation body. Some regulators set up regular reporting, which seems to be effective, and others approach accreditation bodies whenever they have a concern. Regulators benefit

from being informed before something significant happens so that they can be proactive. MBIE can work with the accreditation bodies to find out the best settings for ensuring that regulators are consistently given consequential information as early as possible.

We are aware that JAS-ANZ, for example, is currently building its evaluation capabilities so that it can provide a general analysis of the performance of its accreditation schemes. There is an opportunity for MBIE to work with the accreditation bodies and regulators to identify common information needs and the merits of a consistent framework for information sharing.

Finding – information flows

Regulators should establish information sharing requirements that automatically provide them with the information they need to discharge their regulatory stewardship obligations. MBIE could work with the accreditation bodies to ensure the settings are in place for all regulators to receive timely consequential information about their regulatory schemes.

Let us know

How do we ensure that information flows in regulatory schemes to the organisations which need it?

6 Conformity assessment and accreditation for international trade

6.1 Overview

Conformance infrastructure supports exporters to get their goods into overseas markets and gain the trust of overseas regulators. It also provides an important check on the quality of imported goods.

We heard that New Zealand’s conformance infrastructure is effectively supporting exporters. However, there were some concerns about imports of goods that have been assessed by conformity assessment bodies overseas. For example, some stakeholders said that there were instances of inadequate test sampling or misleading use of certification.

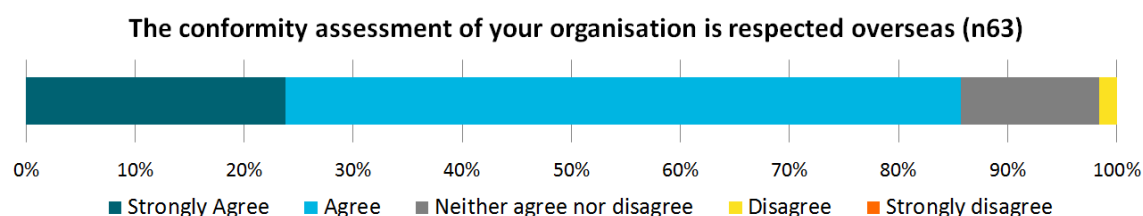
6.2 The value of conformity assessments for exporters

We heard that the conformance infrastructure and the activities of CABs are helping New Zealand’s exporters. The international reputation of our accreditation bodies supported this position, as CABs have their accreditation recognised around the world.

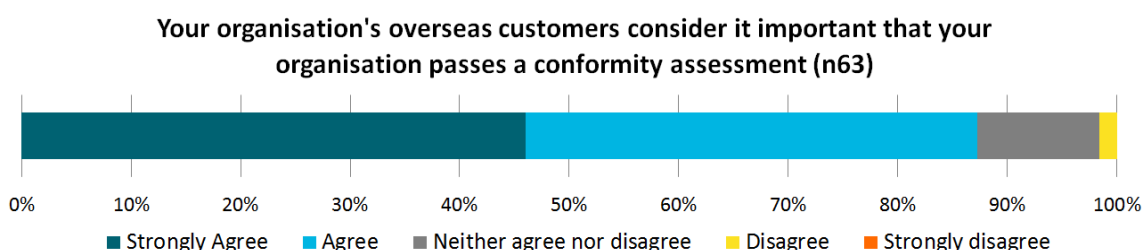
A significant proportion of New Zealand’s external trade is made up of food goods intended for human consumption. The requirements for food safety are often more stringent than other goods, meaning that a system of verification and testing is important for gaining access to markets and also for maintaining the ability to sell into markets over time. The conformance infrastructure can support exports by:

- assisting exporters to have their goods and services accepted overseas, as exporters can demonstrate that they meet the requirements of different governments
- providing verification of claims around ethical or environmental credentials
- independently assuring overseas customers about the quality of a product or service
- providing traceability for goods, which is the ability to trace goods through all stages of production, processing and distribution
- allowing New Zealanders to have their qualifications recognised overseas so they can provide services to different markets

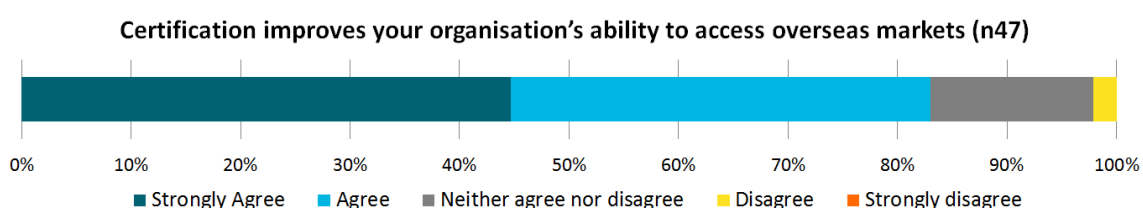
We found that conformity assessments are helping exporters to get their goods and services into overseas markets, or to improve their marketability for consumers in overseas markets. Exporting stakeholders said that New Zealand’s conformity assessments are respected overseas, as seen in the following graph.



The significance for exporters of having New Zealand’s conformity assessments accepted overseas is evident in the following graph, which shows that exporters believe conformity assessments are important for their overseas customers.



There were only a couple of complaints about how effectively New Zealand’s conformity assessments support trade, and the vast majority of feedback was positive.



Certification is often used by exporters as a clear assurance that they meet a standard, and where certification is recognised overseas, it should help the exporter get their goods or services into a market. The survey results indicate that certification generally improves market access, but there is still some room for improvement as about 17 per cent of respondents did not agree that certification helped.

Finding – value of conformity assessments for users

The way that the conformance infrastructure supports trade is a valuable strength, without which many firms would find it difficult to export their goods and services.

Let us know

Based on your experience, could the conformance infrastructure provide better support for exporters?

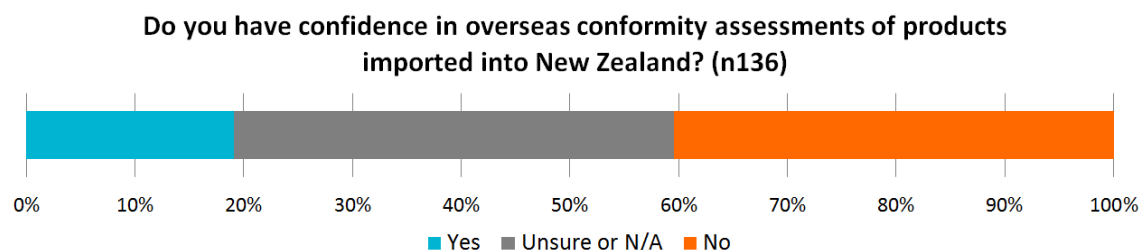
6.3 Perspectives on the quality of imported products

Stakeholders raised concerns throughout the review that some imported products assessed by CABs overseas lacked credibility or do not conform to the claimed standards.

The quality of imported products is managed in a number of ways, for example:

- The Commerce Commission investigates businesses making false or misleading representations about products.
- Some imported products are regulated or controlled in New Zealand.
- MBIE’s Trade and International team has responsibility for policy on Mutual Recognition Arrangements. Where New Zealand has a Mutual Recognition Arrangement with another country, producers in that country can have their products accepted into New Zealand if they are assessed by a CAB with the recognised accreditation.
- IANZ and JAS-ANZ work with their peers and international organisations to raise the quality of conformity assessments.

We asked CABs and conformity assessment service users whether they had confidence in overseas conformity assessment of products imported into New Zealand. The results are shown below.



Many respondents were unsure. This may be because they have no direct experience with the product. We found that CABs servicing the building, construction and manufacturing sectors have less confidence in overseas conformity assessments than CABs in laboratory services.

Some CABs said that their level of confidence depended on the country where the conformity assessment was performed. These results are consistent with what we have heard from CABs earlier in the review about imported products. More evidence is required to determine whether these concerns relate to specific products that do not comply with standards, or whether organisations are uncertain about conformity assessment processes overseas.

These relatively low levels of confidence are a concern, particularly as they relate to inputs into important parts of our economy. Further work is necessary to understand the reasons for the concerns, how widespread any problems are, and actions to improve trust and confidence. The concerns highlight the continued importance of New Zealand’s international outreach work, in particular work to promote and implement good practice internationally.

Finding – confidence in overseas conformity assessments of imported products

A significant proportion of stakeholders are not confident in overseas conformity assessments of products imported into New Zealand. Further work is necessary to understand the reasons for the concerns and appropriate response options.

Let us know

Why do you think people are not confident in overseas assessments?

What do you think can be done to improve confidence in these assessments?

7 Sustainability, challenges and opportunities for the conformance infrastructure

7.1 Overview

This section discusses the sustainability of the conformance infrastructure and looks ahead to consider its resilience, adaptability to future demand and our ability to meet New Zealand’s economic objectives. This section also considers how the conformance infrastructure can contribute to the Government’s priorities.

7.2 Government policy priorities and conformance infrastructure

The scope of the review included considering how the conformance infrastructure can support Government priorities. The table below sets out a selection of relevant priorities and, based on the findings of the review, how they are supported by the conformance infrastructure.

Table 1 below shows that there is a strong connection between the Government’s economic priorities and the functions of the conformance infrastructure. There are opportunities for the Government to leverage the infrastructure to achieve its goals for New Zealand.

Table 1: Government policy priorities and conformance infrastructure

Government priorities ¹³	How conformance supports them
Sustainable economic development	Can provide assurances about how a good was produced.
Increasing exports	Ticket to trade – helps New Zealand firms access overseas markets.
Encouraging the economy to flourish (but not at the expense of damaging our natural resources or peoples’ well-being)	Can be used to encourage and reward sustainable practices and to sanction or discourage unsustainable practices.
More productive economy	Improves firm productivity. Quality improvement is a major outcome of conformity assessments.
High quality trade agreements (that protect New Zealand’s sovereignty and retain the right to make laws in the public interest)	Standards and conformance are a key foundation of the ‘Technical Barriers to Trade’ chapters of free trade agreements.

¹³ Prime Minister RT Hon Jacinda Ardern. 2017. Speech from the Throne. Accessed from: www.beehive.govt.nz/speech/speech-throne-2017

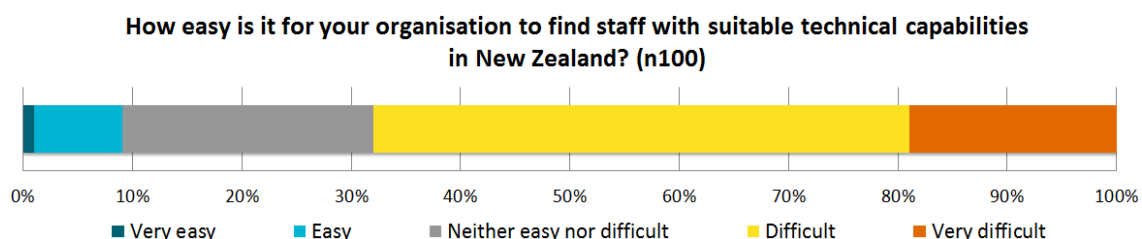
7.3 Skills constraints are a key issue for the conformance sector

CABs and accreditation bodies identified difficulties with finding and retaining suitable staff. Potential causes for this are:

- capability is hard to source, as most of the skills are acquired on the job
- the pool of suitable assessors is limited because assessors need to have aptitude as well as experience
- New Zealand has a small market for highly-specialised skills
- the auditing workforce tends to have been in place for some time, meaning that opportunities for progression and openings are limited.

Given the limited number of staff, movement across organisations is common. One issue was the lack of domestic expertise for accreditation bodies to use in their assessments, which increases costs and delays for CABs. On the other hand, CABs and businesses can benefit when technical experts from overseas attend assessments because technical experts share their experiences with the latest technology.¹⁴

Given its size and location, New Zealand has relatively limited competition in many markets and a lack of depth or capability among expert professions and advisers. This increases the risks that regulatory systems where their effectiveness relies on well-developed markets for information and readily available specialised expertise may not be as effective. The following graph shows how easy it is for CABs to find staff with suitable technical capabilities in New Zealand.



The results clearly indicate that CABs in all sectors are having difficulties finding staff with suitable technical capabilities in New Zealand. CABs that assess buildings, construction and water services are finding it more difficult than CABs that assess health care, social services and laboratory services. Further work is needed to understand the underlying reasons.

Survey participants were also asked to identify the percentage of their staff which could consider retiring within the next five years. This question was included because stakeholders had also indicated that the conformity assessor population was ageing. More than 40 percent of respondents said up to one fifth of their employees could consider retiring within the next five years. This is concerning given the difficulty CABs have finding suitable staff. The proportion of staff nearing retirement age was higher in smaller organisations.

¹⁴ David Moore, Preston Davies and Emma Doust. 2018. Insights into the operation of New Zealand's conformance system. Sapere. Page 18.

Finding – skills constraints

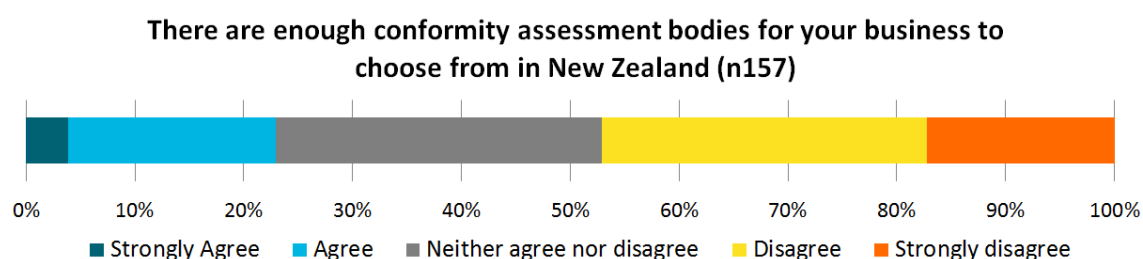
Skills constraints are a key sustainability issue for the New Zealand conformance sector.

Let us know

What can be done to attract, train and retain skilled people to work in the conformance sector?

7.4 Potential unmet demand for conformity assessment services

Many assessed organisations identified a shortage of available CABs and said that conformity assessments cause delays. The following graph shows that only 23 per cent of assessed organisations agree that there are enough conformity assessment bodies for them to choose from in New Zealand.



Organisations in the agriculture, fishing and forestry sectors had the most positive response, while organisations in the health care and social assistance sector had the most negative response. It would be useful to know more specifically where these gaps lie as a next step.

The short supply of CABs may be contributing to the delays faced by conformity assessment users. About a quarter of assessed organisations said that conformity assessments cause them significant delays, with small organisations experiencing more delays than large organisations. Further work is needed to understand the source of the delays.

There is a risk that a decline in the number of CABs or the short supply of skilled staff will create further delays for assessed organisations. This would have a negative effect on the productivity of New Zealand's businesses.

Finding – Potential unmet demand for services

Many organisations identified a shortage of CABs for them to choose from.

Let us know

How can the supply of services be improved?

What assessment services would you like to have more readily available in New Zealand? 7.5 Understanding of the infrastructure and confidence in it

Understanding

The conformance infrastructure is not widely understood outside the sector. Aspects of the infrastructure mean consumers may not make a choice which is in their best interest. End-users/consumers:¹⁵

- do not always understand accreditation and the value it provides, as it is complex and difficult to understand without direct experience

¹⁵ David Moore, Preston Davies and Emma Doust. 2018. Insights into the operation of New Zealand's conformance system. Sapere. Page 26.

- may assume all certificates (ie those from accredited and non-accredited providers) are of equal quality
- may assume that all certificates issued by accredited bodies are for accredited service areas, when CABs are only accredited to certify particular goods and services.

Some operators may take advantage of this opacity and misrepresent the standards or conformity that they have attained. Some such cases have resulted in prosecution in New Zealand.

Confidence

It is essential that users have confidence in the infrastructure, otherwise it cannot carry out its basic functions, such as increasing confidence in products and removing information asymmetry. A failure to remove accreditation or recognition where there is a serious problem can undermine confidence in the scheme. Continued trust and confidence is a critical success factor in the continued sustainability of the system.

CABs said that the assessed organisations have confidence in the conformance system, but that this confidence may result from a lack of knowledge about the system. They said that assessed organisations and end-users tend to have a low level of knowledge about the conformance system and they may trust the system unless there is something obviously wrong. We can at least conclude that there are not obvious failings leading to a lack of trust in most aspects of the conformance infrastructure.

Example – Building product conformance

The regulatory arrangements for building products have recently received media attention were consistently raised as a concern during the review, particularly in respect of imported and CodeMark products. For some people we spoke to, these building product-related issues were undermining their confidence in the conformance infrastructure as a whole.

The arrangements provide three mechanisms for product assurance: self-assertion by a manufacturer or supplier, third party assessment and the CodeMark scheme. CodeMark is a voluntary scheme that relies on accreditation of the certification bodies that undertake product evaluations and issue product certificates where a product complies with the New Zealand Building Code clause(s) relevant to its intended use.

The Building System Performance branch in MBIE is reviewing both the CodeMark scheme and the settings for the wider building product regulatory and assurance systems. The objective of the building products review is to ensure that building products when used appropriately, contribute to safe and durable buildings.

MBIE's Trade and International team will consider any broader learnings about the conformance system from this work.

Effective and good quality regulatory arrangements in specific sectors are important to confidence in the system as a whole.

We have not heard concerns about system confidence from non-regulatory users of New Zealand's conformance infrastructure. The only concerns we have from voluntary users are in regards to imported products that are assessed overseas. As noted above, some CABs also raised concerns about these imported products. There is a risk that a loss of confidence in overseas conformity assessments of imported products may lead consumers to question domestic assessments as well.

Some CABs raised concerns about the quality of their competitors, claiming that their competitors are not always meeting the same standards. However, conformity assessment

service users have not generally raised concerns, and confidence in the overall system remains.

Finding - Understanding of and confidence in the system

Increasing the wider understanding of the system and the levels of assurance it offers would contribute to its sustainability.

The structure of the conformance infrastructure, where accreditation bodies accredit multiple sectors, means that a loss of confidence in conformity assessments in one sector may spill over to conformity assessments in other sectors and the broader infrastructure.

Let us know

How could MBIE work with other government agencies the sector to increase the visibility and understanding about the value of conformity assessments and accreditation?

7.5 Technological and economic transformation

Our conformance infrastructure provides services to businesses that help them respond to some of today's most significant challenges. Businesses can use conformance services to improve their sustainability, lift productivity or to improve the quality of their goods and services. Conformity assessments can significantly contribute to a productive, efficient and sustainable economy.

MBIE, other government agencies and the conformity assessment sector need to remain vigilant and keep up with changes. Increasing digitalisation and automation may create challenges for the current manual conformity assessment techniques. New technologies may displace demand for some types of assessment and increase demand for others. For example, as machine learning develops and is used to a greater extent in manufacturing, conformity assessments of these manufacturing processes will likely change. New expectations can also be disruptive. For example, consumer demand for climate change action by companies may increase demand for certification of carbon emissions.

These disruptions can render obsolete the standards and regulations against which conformance is assessed. The sustainability of the conformance infrastructure depends on the agility of regulators and standard setters.

The infrastructure supports our society and economy. Investing in international outreach remains highly valuable and helps to keep New Zealand's conformance infrastructure up to date.

Finding - Technological, economic transformation and transition

The actors in the system need to remain agile and responsive to social, technological and economic change.

Let us know

What are your ideas for ensuring New Zealand's conformance sector remains responsive to change?

8 Summary of findings

The following is a compilation of the findings of the Conformance Policy and Infrastructure Review. These are intended to promote a discussion about issues and opportunities to lift the performance of New Zealand's conformance infrastructure.

Accreditation body architecture: While there is no single international model or benchmark for conformance infrastructure, New Zealand's architecture is fit for purpose, works well and is broadly in line with international norms. Having two major accreditation bodies works well for New Zealand and is widely accepted.

There are gaps and opportunities to improve MBIE's monitoring and relationship with the accreditation bodies to ensure that their activities are appropriately prioritised, aligned and informed by broader economic objectives and government priorities.

Accreditation body relationships: There is an opportunity to explore ways of strengthening the accreditation body relationships to support their conformance sector leadership roles. These include promoting the development and maintenance of good practice in conformity assessment.

Accreditation body international outreach: The accreditation bodies have effective international outreach, which is valued by CABs. New Zealand's accreditation bodies have positive reputations gained through their international engagement and their accreditation services have global recognition.

Client perceptions of accreditation body services: CABs generally have a positive view of the accreditation bodies and their working relationships with IANZ and JAS-ANZ. Most respondents across all sectors said that IANZ communicates well with their organisations. IANZ could most improve on providing timely assessments. There is room for JAS-ANZ to consider its communication with CABs and build more confidence among clients about the adequacy of its technical expertise.

Conformity assessment body market: Organisations mainly undertake conformity assessments to meet regulatory requirements or improve the quality of their products, systems or services. There is potentially an unmet demand for conformity assessment services, but some of this may be a result of a lack of visibility of CAB services.

Quality and value of conformity assessment body services: Users find value in the conformity assessment process, particularly in the feedback provided and how assessments help improve the quality of products, services and systems. Conformity assessments are causing significant delays for some businesses, and small businesses in particular.

Roles and responsibilities of Telarc: Government ownership of a CAB is not unusual internationally and no concerns were raised about this arrangement. New Zealand's arrangements are in line with other APEC economies. There are clear arrangements in place to manage real or perceived conflicts of interest. Telarc is a significant financial asset for the Accreditation Council. Telarc is able to provide conformity assessments where the market might not fill the need in New Zealand.

Regulatory use of conformance in New Zealand: Overall, there is a need to lift the understanding and capability of regulators and for MBIE to provide more high-level conformance-specific support.

Roles and responsibilities in regulatory schemes: Some regulators are working effectively with CABs, while others could improve their coordination with CABs. There is particular room for improvement in the building and construction sector, which the building regulator is aware of. CABs are generally confident about their roles and responsibilities, and they have clear standards to assess against. The continuous quality improvement aspects of accreditation add value to conformity assessments. There is merit in regulators checking regulations to avoid unnecessary duplication of assessments.

Information flows in regulatory schemes: Regulators should establish information sharing requirements which automatically provide them with the information they need to discharge their regulatory stewardship obligations. MBIE could work with the accreditation bodies to ensure the settings are in place for all regulators to receive timely consequential information about their regulatory schemes.

Value of conformity assessments for users: The conformance infrastructure's support for trade is a particular and valuable strength, without which, many firms would not be able to export.

Confidence in imported products: A significant proportion of survey respondents are not confident in overseas conformity assessments of products imported into New Zealand. Further work is necessary to understand the reasons for the concerns and appropriate response options.

Conformance sector facing skills constraints: Skills constraints are a key sustainability issue for the New Zealand conformance sector.

Potential unmet demand for conformity assessment services: Many organisations identified a shortage of CABs for them to choose from.

Understanding of and confidence in the system: Increasing the wider understanding of the system and the levels of assurance it offers would contribute to its sustainability. The structure of the conformance infrastructure, where accreditation bodies accredit multiple sectors, means that a loss of confidence in conformity assessments in one sector may spill over to conformity assessments in other sectors and the broader infrastructure.

Technological, economic transformation and transition: The actors in the system need to remain agile and responsive to social, technological and economic change to support its sustainability.

9 Questions for consultation

Your responses to the following questions will help us make changes to enhance the conformance infrastructure. Send your responses or any other feedback to conformancereview@mbie.govt.nz.

Accreditation body relationships and coordination

Where should MBIE focus its coordination and guidance efforts?

Client perceptions of accreditation body services

What do you think could be done to make accreditation processes more consistent?

What could be done to make accreditation work better for different types and sizes of CABs without making the accreditation process less effective?

Conformity assessment body market

How can the supply of conformity assessment services be improved?

What conformity assessment services would you like to have more readily available in New Zealand?

Quality and value of conformity assessment body services

What is causing delays (eg is it a lack of available CABs or inefficient processes)?

How can the speed and efficiency of assessments be improved?

Regulatory use of conformity assessment in New Zealand

How could regulators work with conformity assessments bodies more effectively?

Regulatory roles and responsibilities

How could regulators work with CABs to avoid duplicating assessments?

Information flows in regulatory systems

How do we ensure that information flows in regulatory schemes to the organisations which need it?

Value of conformity assessments for exporters

Based on your experience, could the conformance infrastructure provide better support for exporters?

Confidence in imported products

Why do you think people are not confident in overseas assessments?

What do you think can be done to improve confidence in these assessments?

Skills constraints

What can be done to attract, train and retain skilled people to work in the conformance sector?

Understanding of and confidence in the system

How could MBIE work with other government agencies the sector to increase the visibility and understanding about the value of conformity assessments and accreditation?

Technological, economic transformation and transition

What are your ideas for ensuring New Zealand's conformance sector remains responsive to change?

Submissions remain subject to request under the Official Information Act 1982. Please clearly indicate in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and which parts you consider should be withheld, together with the reasons for withholding the information. MBIE will take such information into account and will consult with submitters when responding to requests under the Official Information Act 1982.

Annex 1 – Introduction to Conformance

A1.1 Overview

This annex gives an overview of New Zealand’s conformance infrastructure and of the concepts and institutions that underpin it.¹⁶

A1.2 Conformance infrastructure is the arrangements and institutions for conformity assessment and accreditation

New Zealand’s conformance infrastructure includes the arrangements and institutions for conformity assessment and accreditation. The infrastructure provides public benefits. For example, it can be used to help achieve public policy outcomes like safe buildings and safe drinking water. It also provides private benefits. For example, it can be used to generate a price premium for products.

New Zealand’s infrastructure is part of a broader global infrastructure. Conformance infrastructure is present in most countries. It is promoted by multinational organisations and is enshrined in international law. The global context is discussed in Annex 2.

A1.3 Conformance gives assurance that standards and requirements are met

Conformance is judging whether a particular good, service, person or system meets a standard or complies with a regulatory requirement. Standards (which can be international, joint Australia-New Zealand, domestic or private) and conformance are inextricably linked.¹⁷

A1.4 Conformance can be voluntary or mandatory

Conformance is used to assess goods, services, personnel and systems on both voluntary and mandatory bases.

Voluntary use occurs when there is no legal requirement to pass a conformity assessment in New Zealand or overseas. Businesses voluntarily undertake conformity assessments to help with quality control and compatibility, increase value, improve consistency, or demonstrate particular qualities and credentials (eg certified organic products).

Mandatory use occurs where the demonstration of conformance is required by New Zealand or overseas law. In that way, it is a mechanism for achieving public policy outcomes, such as public safety (eg food safety), environmental protection (eg energy efficiency) and reducing the risk of harm to people (eg toy safety).

The principal ways that regulators require the use of conformity assessments are by referencing standards in their regulations, prescribing bespoke requirements, or a combination of these. A significant proportion of regulations have a direct or indirect relationship with the conformance infrastructure.

A1.5 Conformance is judged through application of certain assessment techniques

¹⁶ For further reading, refer to MBIE’s *Guide to New Zealand’s Standards and Conformance System* (2018).

¹⁷ Collectively standards and conformance are often referred to as ‘quality infrastructure’ or ‘technical infrastructure’.

Conformity assessment techniques are used to determine whether standards or requirements are met. The main techniques are:

- Assessment – eg of an organisation’s technical competence
- Management Systems Auditing – eg of a management system within an organisation
- Evaluation – eg of a product, process or service against specific requirements
- Examination – eg of a person’s competence
- Inspection – eg of an installation or of a product or service in use
- Testing – eg of a product characteristic
- Calibration – eg of a product or piece of equipment.

A1.6 A claim of conformity can be made when a standard and requirement is demonstrably met

After the application of one or more of the techniques to generate evidence that a requirement be fulfilled, organisations can make a claim of conformity. A claim of conformity can either be made by a producer claiming conformity, a customer declaring conformity, or a specialist conformity assessment body verifying conformity depending on the required level of assurance. Conformity is often demonstrated with a mark or certificate of conformity.

Example – SPCA Blue Tick®

SPCA Blue Tick® is the SPCA New Zealand’s voluntary conformance scheme based on a private standard. It certifies that eggs, chicken and pork produced in New Zealand have been farmed to the scheme’s animal welfare standards. The SPCA Blue Tick® will issue a 'Certificate of Approval' for farms that successfully pass welfare audits. Certified producers are able then to display the tick as a mark of conformity on their products, giving assurance to consumers.¹⁸

One of the underlying principles of conformity assessment is that the organisation which owns or controls the object of assessment has the primary responsibility for its conformity.¹⁹

A1.7 Conformity assessment bodies and accreditation bodies underpin the infrastructure

CABs are a core part of the conformance infrastructure. They specialise in carrying out conformity assessments to verify conformity. They typically provide these services to clients for a fee.

Accreditation bodies check that CABs are competent and reliable. They typically have a government derived mandate. Accreditation is a specific conformity assessment activity involving the independent third-party assessment of CABs for a fee. It generally involves the use of auditing techniques by assessment teams including experts in the organisational aspects, such as management systems and also in the technical activities of the body.²⁰ Accreditation bodies are at the top of the confidence pyramid, there is no higher level body to assess conformity.²¹ CABs may seek accreditation voluntarily to provide assurance to their clients, or may be required by law to maintain accreditation to perform certain mandatory conformity assessments.

¹⁸ SPCA NZ. Retrieved from: <http://spcabluetick.org.nz/>

¹⁹ International Organisation for Standardisation. Using ISO/CASCO standards in regulations. Page 14. Retrieved from: https://www.iso.org/sites/cascoregulators/03_considerations.html.

²⁰ The criteria for accreditation bodies are specified in *ISO/IEC 17011:2017*.

²¹ International Organisation for Standardisation and United Nations Industrial Development Organisation. Building Trust: the Conformity Assessment Toolbox. Page 86. Retrieved from www.iso.org

Annex 2 – Introduction to the trade and international conformance context

A2.1 Overview

This annex introduces the international conformance context.

A2.2 International arrangements and norms

Conformance is an important part of the global trading system and product supply chains. It is a cornerstone of robust economic development. It provides traders and consumers with assurances about the quality of goods. Effective and trusted conformance infrastructure helps New Zealand businesses to access overseas markets for their goods.

New Zealand contributes to international bodies involved in the promotion and advancement of conformance infrastructure around the world. These include the World Trade Organisation (WTO) and the International Organization for Standardization (ISO). New Zealand also participates in international work advancing conformity assessment within regional trade and cooperation arrangements such as Asia-Pacific Economic Cooperation (APEC). For example, New Zealand is an active member of APEC's Sub-Committee on Standards and Conformance.

Much of this international work involves implementing and advancing good regulatory practice and supporting other countries to develop their standards and conformance infrastructure.

Example – APEC Sub-Committee on Standards and Conformance

New Zealand sits on the APEC Sub-Committee on Standards and Conformance (SCSC). The SCSC was established in 1994 to help reduce the negative effects that differing standards and conformance arrangements have on trade and investment flows in the Asia-Pacific Region. In this way, the SCSC helps to achieve APEC's trade and investment liberalisation and facilitation agenda. Nominated representatives from specialist regional bodies such as the Asia-Pacific Laboratory Accreditation Cooperation (APLAC), the Asia-Pacific Legal Metrology Forum (APLMF), the Asia-Pacific Metrology Program (APMP), the Pacific Accreditation Cooperation (PAC), and the Pacific Area Standards Congress (PASC) participate in SCSC meetings as expert regional bodies responsible for the development of standards and conformance infrastructure in the Asia-Pacific region. To round out the international involvement, ISO and IEC also participate in SCSC meetings.

A2.3 World Trade Organisation obligations

New Zealand is party to the WTO Agreement on Technical Barriers to Trade. The agreement came into force in 1995 with the establishment of the WTO and binds all WTO members. It commits members to ensuring that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade. Members are also encouraged to accept the results of conformity assessments performed in other members' territories to facilitate trade. At the same time, it recognises members' rights to regulate trade to protect legitimate domestic interests. These interests include: national security; the prevention of deceptive practices; and the protection of human health and safety, animal and plant life, and the environment.

A2.4 Governmental mutual recognition agreements on conformity assessment

Governmental mutual recognition agreements (MRAs) on conformity assessment are instruments that facilitate market access for exporters by reducing the time and costs associated with demonstrating conformance. Generally, MRAs provide for trading partners to recognise each other's conformance test results and mandatory certificates for certain products. They enable nominated conformity assessment bodies to inspect, test and certify products against the relevant overseas requirements prior to export.

A2.5 International accreditation body networks

JAS-ANZ and IANZ are active participants in the key international accreditation body networks. These are discussed in depth in part 3.4 above.

The standard for accreditation authorities is *ISO/IEC 17011 Conformity Assessment – General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies*.

Accreditation authorities are checked against the standard via peer review. APLAC and ILAC also have their own additional specific membership criteria that members are evaluated against.

Every four years IANZ and JAS-ANZ receive a full peer evaluation from its regional Asia Pacific Laboratory Accreditation Cooperation partners. This evaluation is a requirement of continuing membership of the ILAC MRA. IANZ last evaluation was completed in March 2015. These networks are intended to develop and maintain confidence in the international conformance infrastructure and share best practice.

Annex 3 – Terms of reference: Conformance Policy and Infrastructure Review

The Ministry of Business, Innovation & Employment (MBIE) is reviewing New Zealand's conformance system to ensure it is working well to support a strong economy, the wellbeing of people and the environment, and Government priorities.

Definition and purpose of conformance infrastructure

New Zealand's conformance infrastructure is made up of regulations, institutions and arrangements for assessing conformity. Conformity assessment is the mechanism for assuring that goods, services and practices that claim to meet a relevant standard actually have met the standard.

New Zealand's conformance infrastructure includes two third party accreditation bodies and numerous conformity assessment bodies. The accreditation bodies, which certify and oversee the conformity assessment bodies, are International Accreditation New Zealand (IANZ) and the Joint Accreditation System of Australia and New Zealand (JAS-ANZ).

The system aims to protect people and the environment from harm and support competitive trade by giving people:

- assurance that goods, services and practices meet standards, requirements and quality expectations; and
- confidence that the accreditation and audit system that oversees conformity assessment is effective.

Purpose of review

The purpose of this review is to understand and prepare advice about the health of New Zealand's conformance system, how it is performing and how it is being used by people, businesses and regulators. It is a priority for the Minister of Commerce and Consumer Affairs (the Minister). It supports MBIE's regulatory stewardship responsibility to take a proactive approach to monitoring its regulatory systems. The end product will be a mid-2018 review report to the Minister with advice on the status quo, opportunities for change, and next steps.

In scope

The review comprises an initial phase of work that will describe the effectiveness and sustainability of New Zealand's conformance system and place it in context of the global standards and conformance system. It includes considering:

- the regulatory and normative frameworks that underpin the system;
- the way the system is being used by people, businesses and government; and
- emerging international practice and benchmarks for regulatory systems.

Subject to the agreement and direction of the Minister, MBIE would consider any detailed options or proposals for change and draft a Cabinet paper later as a subsequent project (next phase).

Key questions within scope

Accreditation and conformity assessment can be tools used in a wide range of regulatory systems, or can be used voluntarily by firms. The review will look at where and when accreditation and conformity assessment is used and what value this adds to the economy. It will consider the following questions of use and effectiveness:

- Where is third party accreditation currently being used in regulation?
- When and how should regulators be using third party accreditation?
- Is there sufficient understanding and confidence among regulators, firms and consumers about the role of accreditation and conformity assessment, including the voluntary use of third party conformity assessment?
- Does New Zealand have sufficient quality, breadth and depth of conformity assessment bodies?
- How well equipped are our accreditation bodies to proactively identify opportunities for accreditation and conformity assessment to deliver additional value to the economy?
- How effective is conformance policy in reducing barriers to trade?
- How valid are the conformance system's underlying assumptions about the desirability of third party accreditation and the small size of the New Zealand market requiring the present infrastructure?
- How may new and emerging technologies impact on the conformance system?

New Zealand's accreditation system differs to some other countries in that services are provided by two recognised authorities, IANZ and JAS-ANZ. The review will consider the following questions of sustainability:

- What are the advantages and disadvantages in having two accreditation bodies (with, in some cases, overlapping functions)?
- What are international expectations in this area?
- How well do IANZ and JAS-ANZ work together? What is the extent and effectiveness of their international outreach activity, and relationships with government?

The review will also consider the role and responsibilities of Telarc Limited. Telarc Limited is a conformity assessment body and subsidiary of the Accreditation Council (which also operates IANZ).

Out of scope

The scope excludes reviewing the standards system that was reviewed in 2012. The scope will take account of but not directly include New Zealand's measurement system (i.e. legal and physical metrology). The review will inevitably identify sector specific technical conformance issues and challenges, but the scope excludes assessing and diagnosing problems with sectoral regulatory regimes that come into contact with conformance infrastructure. It includes considering the role of conformity assessment bodies in the infrastructure, but excludes directly reviewing the performance of the bodies.

Approach

The review involves targeted stakeholder engagement and desktop research and analysis. A steering group of up to eight experts and senior policy practitioners from MBIE and a selection of other relevant government agencies will guide the review.

Stakeholder engagement is important because the conformance system spans government, industry and consumers. Close involvement of key stakeholders in assessing the effectiveness and sustainability of conformance infrastructure will result in better evidence and information about the performance of the infrastructure, including any opportunities for improvements.

The main stakeholder engagement activity will be a pulse-check survey of stakeholders in line with the key questions above. The review team will summarise and analyse the responses along with its own findings. In addition, the review team will prioritise regular engagement meetings with IANZ and JAS-ANZ and other relevant government agencies and industry bodies.

Timeframe and deliverables

The first phase deliverable, a report with advice on the effectiveness and sustainability of the conformance infrastructure, opportunities and next steps, will be provided to the Minister in August 2018.

Addendum to Terms of Reference: Conformance Policy and Infrastructure Review (26 September 2018)

This addendum extends the existing *Terms of Reference: Conformance Policy and Infrastructure Review* to cover a second phase of work (phase two). Phase two involves the development of policy options to improve the overall performance of New Zealand's conformance infrastructure. The options will be based on the findings of phase detailed in *Conformance Policy and Infrastructure Review: Issues and Opportunities Paper*.

MBIE will remain responsible for the work and the Trade and International team will continue to manage it as a priority. The work will include public consultation and further targeted engagement with organisations involved in conformance. The Review will conclude with the finalisation of policy options for Government consideration in early 2019.

Annex 4 – Glossary of Terms and Acronyms

APLAC	Asia-Pacific Laboratory Accreditation Cooperation
CAB	Conformity Assessment Body
IAF	International Accreditation Forum
IANZ	International Accreditation New Zealand
ILAC	International Laboratory Accreditation Cooperation
ISO	International Standards Organisation
ISQua	International Society for Quality in Health Care
JAS-ANZ	Joint Accreditation System of Australia and New Zealand
MBIE	Ministry of Business, Innovation and Employment
MRA	Mutual Recognition Arrangement