14 November 2024

Building Industry Federation of New Zealand (www.bifnz.co.nz)
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Submission for the Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill

1. Introduction

1.1. The Building Industry Federation (**BIF**) of New Zealand (www.bifnz.co.nz) wishes to make the following comments and recommendations about the Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill (**the Bill**). Representatives of BIF also wish to appear in person to speak to this submission.

1.2. BIF is an independent organisation representing building industry participants, including manufacturers, importers and distributors of building products, construction and housing companies, and legal, financial, and other service providers operating in relation to the building industry and building product supply chain.

1.3. Established in 2001, BIF is dedicated to supporting, promoting, and advancing the needs of the wider building industry and building product supply chain. BIF seeks to promote the common needs of diverse participants in the building industry and building product supply chain by promoting quality, efficiency, and high industry standards in relations to building products supplied and used in New Zealand, and fostering growth across the New Zealand building industry.

2. Background

2.1 The building supply chain in New Zealand imports approximately 90% of all building materials used in New Zealand buildings. Following the supply chain disruption of the COVID pandemic, New Zealand importers and distributors source building

products from a broader and more diverse range of international markets. This diversification is part of the growing resilience of the sector.

2.2 Several reports, including the Deloitte Access Economics Report[1] underscore the importance of key materials (concrete to steel to timber) in every new build, but also that building materials still only make up approximately 19%-23% of the total cost of a build. In BIF's view, it is important to keep this second point clearly in mind when assessing the cost/benefit of the Bill. An incremental impact on the price of a single building product will have only a very small impact on the overall price of a new build. Such small reductions are still desirable, but not at the cost of substantially increased risks to quality and performance.

2.3 For example, we note that if the overall reduction in building product costs through easier use of imported products was 10% (for example), that would decrease the cost of a new build by only approximately 2% (or $15,000 on a $750,000 total build cost). Not all (or any) of that saving will necessarily be passed on to the end consumer. While desirable, these relatively modest reductions do not justify a meaningful increase in risk to quality of performance of the finished building.

3. Summary

3.1 Our key submissions are:

3.1.1 We support the intention of the Bill to remove barriers to overseas building products entering New Zealand's market and being used in New Zealand buildings and thereby increasing the range of good-quality building products that can be used in New Zealand. But it is critical that implementation of that policy intent does not come at the cost of quality, efficiency, and high industry standards for the products and materials used in New Zealand's built environment.

[1] Cost of residential housing development: A focus on building materials, December 2018.

3.1.2 The success or failure of the Bill will depend almost entirely on the transparency, rigour and technical validity of the prescribed criteria and process established by regulations. It will be essential to get those regulations right. There must be full transparency and consistency in the criteria and the process taken to determine how overseas Standards or certification schemes are recognised and the criteria used in regulations to assess whether standards or schemes meet the New Zealand Building Code.

3.1.3 BIF suggests that that an advisory board or advisory council should be established to advise the Minster and Chief Executive on their decision-making under the Bill. This will ensure that the industry voice is heard, and that decisions are made with the benefit of up to date, technically accurate information.

3.1.4 Approval of any overseas Standard, or certification scheme should be subject to a statutory monitoring requirement, requiring review of the relevant approvals at defined intervals.

3.1.5 BIF is concerned that the proposed building product specification instrument (**BPS**) is likely to add more complexity than it removes, and that the proposal also underestimates the technical complexity of the issues involved in referencing standards in specific Acceptable Solutions and Verification Methods.

4. Discussion

4.1 BIF supports in principle streamlining the citing of international standards or certification schemes for building products, as part of moves to reduce the time and resource needed to incorporate products certified to overseas standards or certification schemes into New Zealand building construction, and to support building consenting processes in relation to those products.

Liability and Compliance

4.2 As presently drafted, the Bill contains relatively wide "safe harbours" for those involved in the process of certifying overseas Standards or certification

schemes, those who then use products reliant on those Standards or certifications, and Building Consent Authorities (**BCAs**) who rely in good faith on claims of compliance with approved standards or overseas certification schemes.

4.3 While these safe harbours may be appropriate from a policy perspective, they highlight the importance of "getting right" the initial decisions on what products, Standards or certification schemes to approve.

4.4 If poor decisions are made and similarly poor-quality building products or associated construction methods end up in widespread use, the effect of the Bill is that there will be limited recourse available to New Zealand homeowners for losses suffered as a result – particularly if the importer of the product does not have the will or the means to stand behind their products. Overseas product manufacturers will be practically difficult to pursue for most New Zealanders.

4.5 It follows that the "prescribed criteria" for decisions under proposed sections 272HA to 272HC will be critical to the successful implementation of the Bill and its underlying policy. The Bill currently allows a two-year process for development of regulations specifying these prescribed criteria. It will be essential to get these regulations right.

4.6 The proposed liability exemptions noted above also mean that manufacturers, importers, or suppliers of building products may face increased liability if products do not meet the recognised standards (even where some of those parties, such as importers of overseas products, have similarly relied on certifications to approved Standards or certification schemes). It is at least possible that this increased risk may be reflected in higher prices, diminishing the intended economic benefits of the Bill.

4.7 Finally, we note that it is not entirely clear who is intended to be captured by the liability exemption in proposed s272HA(3) for those who "use" a relevant building product or method. It is not clear whether specification of a product by an owner

or designer, for example, amounts to "use". By comparison, the only reference to "use" of a building product or method in ss14A-14G of the Act is in s14E, referring to the work of builders. The intended scope of this liability exemption should be clarified.

Approval of overseas Standards and certification bodies: alignment and consistency

4.8 These proposals aim to increase the range of products that can be used in New Zealand and streamline building consenting processes, but they also introduce potential risks related to the recognition and acceptance of overseas Standards and certification schemes.

4.9 There must be a clear and rigorous framework to ensure alignment of equivalent overseas Standards with the requirements of the New Zealand Building Code, and the performance of those products in the context of the New Zealand environment and construction methods.

4.10 It is also important to recognise that many building products are components of larger assemblies or systems. An imported product may not perform as claimed if other assembly components vary from the originally-tested overseas assembly. The makeup of the assembly as a whole will need to be considered to establish equivalence and performance. For example, a sheet material tested on a frame overseas might use different framing materials and configurations, fasteners and finishing materials when actually installed in New Zealand and so its performance may not be the same as tested.

4.11 It is notable that the chief executive currently has the power to recognise overseas certifications of building products and methods as product certifications for the purpose of the Act: section 262(2) and (3). As far as we are aware this power has not been used, due to the lack of any regulations specifying the "prescribed criteria" for that approval.

4.12 Put simply, the success of the Bill will turn on the quality of the regulations promulgated under it, and on the quality of the implementation of those regulations. With that in mind, BIF suggests:

4.12.1.1 There should be an advisory board or advisory council of industry representatives established to provide advice to the Minister and chief executive in performing their respective functions under the Bill. This body would be a necessary check on the considerable power and responsibility in the hands of those decision-makers and help ensure that the information used in making decisions under the Bill is up to date, technically valid, tested, compliant with New Zealand Building Code requirements and expectations, and peer reviewed.

4.12.1.2 We suggest that members of such an advisory council should be elected for a 24-month term only and should be recognised building materials experts with relevant experience in the New Zealand building industry and/or membership of relevant Standards New Zealand Technical Committees.

4.12.1.3 We also suggest that the Bill should be amended to provide for ongoing monitoring and review of approvals, at specified intervals. This will help mitigate the risk of changes to approved overseas Standards or certification schemes following their approval under the Bill. It will also force proactive consideration of the performance of approved Standards and certification schemes once adopted in the New Zealand context.

Building Product Specifications

4.13 The Bill introduces a new instrument called a "building product specification" (**BPS**) intended to streamline the citing of international Standards for use in Acceptable Solutions and Verification Methods establishing a means of compliance with the Building Code.

4.14 We note that the same result could be achieved under existing legislation simply by amending or adding Acceptable Solutions or Verification Methods. This is a

simpler and clearer way to clarify the compliance pathways for building products. We question whether the BPS is simply another layer of compliance documentation that creates complexity without adding substantially to ease of use.

4.15 More significantly, BIF is concerned that the intention to adjust Acceptable Solutions, Verification Methods such that references to Standards are removed and replaced with a direction to the proposed BPS may have unintended consequences.

4.16 In particular, an assumption underlying the BPS appears to be that the various overseas Standards to be listed will be substantially equivalent in all respects, to the point that they are interchangeable. Similarly, the BPS concept appears to assume that all uses of the given product will require the same performance specifications, such that compliance with the listed Standards will be adequate for all applications.

4.17 This is not necessarily the case. International versions of similar Standards are often slightly different. Those differences may or may not matter. And they may matter in some applications, but not in others. A "one size fits all" approach, divorced from the specific context of the Acceptable Solution or Verification Method at issue, is unlikely to be workable or technically valid.

4.18 Conversely, if the BPS is intended to specify different standards that are appropriate for reference in different Acceptable Solutions or Verification Methods, then we suggest those matters are best left to be dealt with in the specific Compliance Documents themselves, rather than being extracted to a separate document. Putting relevant information in two documents rather than one appears likely to add complexity and potential for error, without an obvious countervailing benefit.

4.19 Further, BIF is concerned that NZ Standards currently cited in the Acceptable Solutions such as NZS 3404 – Steel Structures and NZS 3604 – Timber-framed

buildings may also be adjusted to refer to the BPS instead of Standards currently nominated in those documents. Such adjustment would be contrary to the consensus based, technical review by a panel of industry-based experts (the current process used by standards committees in NZ and internationally) on which the Standard was based.

Yours sincerely



Julien Leys
Chief Executive