

Reforms tackle prefab consenting

The Ministry of Business, Innovation and Employment wants to ensure that legislative reforms of the building sector support innovative modern forms of construction while ensuring that buildings are safe and durable.

IN APRIL, MBIE released a discussion paper on the Building System Legislative Reform Programme that recognised:

- buildings come in many shapes and sizes, can be simple or complex and may utilise many different modes of construction
- New Zealand's buildings depend on both building products and building methods being fit for purpose
- it is imperative to the production of safe and durable buildings that the industry identifies and specifies the right products for each situation and uses those products correctly to meet New Zealand's Building Code
- legislation needs to be flexible enough to support innovations through modern modes of construction to increase productivity while still ensuring buildings are safe and durable.

The discussion paper recognises that innovation through modern modes of construction, such as prefabrication, will increase productivity and shift the industry into the future. MBIE has been clear that regulation



must not be a significant obstacle to bringing innovative products or methods to market.

Current consenting process not working

MBIE has recognised that there are various gaps and disincentives within the current regime. In particular, the current consenting process is not designed for projects utilising prefabrication methodologies, resulting in unnecessary costs and delays.

Manufacturers having issues

Product information often lacks clear details on a product's performance. This may be because there are no penalties under the Fair Trading Act 1986 or the Building Act 2004 for manufacturers and suppliers who fail to provide product performance information. This slows down the consenting process, and consents are commonly placed on hold as a result of building consent authorities making requests for information. ➤

Prefabrication uses processes that are precise, repeatable and consistent, with the potential to create production efficiencies and ultimately lower costs of production. However, manufacturers must provide assurance of the compliance of their work each time, despite following industry practice and using robust quality assurance (QA) systems to ensure each component is compliant and manufactured correctly.

Difficulty with inspections

In-person site inspections by building consent authorities are impractical. This is because manufacturing work is usually done away from the eventual installation site, and products requiring inspection may be closed in on site following installation and no longer accessible by the time the inspectors arrive.

Variation across the country

Different building consent authorities accept different assurance mechanisms. For some, producer statements are required for each individual product, even when the process of producing all the products is the same and a robust QA system is in place.

Sometimes, two building consents are being required for the same building - one in the region where the factory is and another where the building is going to be installed on site.

The treatment of prefabrication products across authorities in New Zealand varies significantly, making it difficult for manufacturers and end users to get clarity about what they should do to demonstrate compliance or certainty that their building work is consented. This lack of clarity, consistency and certainty limits the current viability of prefabrication in New Zealand and adds time and cost for building owners.

Proposed regulatory framework

In recognition of these issues, MBIE has proposed a regulatory framework that would include:

- an enabling and manufacturing certification scheme for repeatable manufacturing processes used to produce building work
- clarifying roles and responsibilities for producers when the new framework is in place
- minimising duplication of effort by not requiring two consents of the same building work and considering whether to require authorities to accept each other's consents and Code Compliance Certificates.

Certification scheme suggestions

MBIE has suggested several features for the certification scheme including:

- checking of processes and QA by an accredited third-party certifier to determine eligibility for certification
- audits by a third party to ensure processes and QA are being consistently followed
- the ability for certification to be revoked based on unsuccessful audits or concerns about compliance.

For those who design and manufacture entire buildings, the scheme may also be able to certify the compliance of the designs, construction in accordance with the designs and compliance with the performance requirements.

MBIE has also said it should do further work to clarify the roles and responsibilities of parties once the new regulatory framework is in place to give clarity to builders and end users on how and when they need to show that their products and buildings comply with the Building Code.

Similarly, MBIE intends to develop options to minimise duplication of effort and consenting for these developments.

Stakeholders helped clarify

MBIE sought clarification from stakeholders with submissions on the following points:

- Are these the correct features for a future-proof regulatory framework?
- What would be the impact of such a regulatory framework?

- How would the proposed framework impact manufacturers?
- Would manufacturers use the certification scheme, and how would it need to be designed for it to work?
- What would be the impact of a requirement for authorities to accept one another's consents and Code Compliance Certificates?

Submissions on these questions closed at 5 pm on 16 June 2019, and MBIE released a summary of submissions in August. MBIE received 139 submissions on the modern modes of construction proposals. However, there was a low response from manufacturers, suppliers and off-site manufacturers, which made it difficult to gauge the likely uptake of a manufacturer certification scheme.

Although most submitters supported the proposed framework for modern modes of construction, there was concern about how the proposed changes to the framework would be designed and implemented, including:

- how to address the quality and variability of construction
- how to ensure risk and liability is correctly apportioned.

Submitters warned against implementing the reforms too quickly and favoured a logical and sequential change process.

Legislative changes a few years away

It is pleasing that MBIE and the industry recognise there are opportunities to develop legislation to better support innovative construction methods such as prefabrication.

It is presently unclear how long it will take for the legislation to be amended. The government is due to make policy decisions on the reform programme later in 2019, with legislative changes expected over the next 2-5 years.

It will be interesting to see if there is any meaningful substantive change. ◀