14 June 2019

# Metals New Zealand submission to Building Legislative Reform discussion paper April 2019

email to: **building@mbie.govt.nz**

# Feedback on Building Legislative Reform

### Introduction

### Metals New Zealand has prepared this submission having consulted with its member organisations (listed at the end of this submission) and some of the member organisations are also making submissions on their own account.

### Metals New Zealand congratulates MBIE on commencing reform process and Metals New Zealand largely supports the proposed reforms.

### Metals New Zealand supports government focus on the three outcomes – detailed on page 9 of the document – namely,

* Safe & durable buildings
* An efficient regulatory system that people have confidence in
* A high performing building sector that builds it right first time.

### Before responding to the specific questions posed by the discussion document Metals New Zealand would like to make the following comments re the MBIE process for and content of the discussion document.

**Review Process.** A robust, transparent and objective review process is critical for a successful outcome. Metals New Zealand, having consulted with other sector member organisations and the Construction Industry Council members, is disappointed that the review process has not consulted widely with the sector in a robust, transparent and objective manner.

Metals New Zealand’s only engagement with the process was a meeting we called in partnership with the Society for Materials New Zealand with MBIE on the subject of non-conforming products. This was our sole engagement with the reform process. Anecdotal feedback from other member organisations across the sector suggests their experience is no different.

Across the construction sector there is a wealth of practical experience of the issues, what works and what doesn’t. Metals New Zealand is disappointed that review process appears to draw more from the perspective of policy writers in MBIE than practitioners across the sector.

We would ask that future consultation on the reform process be more widely based.

### The building consent process is central to achieving the three outcomes

* Safe & durable buildings
* An efficient regulatory system that people have confidence in
* A high performing building sector that builds it right first time,

### and “*a sustained transformation of the industry”.* Surprisingly the building consent process is absent from the reform agenda.

### For most parties engaged in the development, design and construction processes, it is the uncertainty created through current building consent processes and the resulting impact upon timelines and construction costs which is the major issue impeding current delivery of projects.

### Metals New Zealand encourages the Minister to direct MBIE to include a review of the building consent process within the current reform process as the building consent process is central to the three outcomes government is seeking and without a reformed building consent process government will not achieve “*a sustained transformation of the industry”*.

### Building Products & Methods

***2.1*** *Do you agree with expanding the purpose of the Building Act to include the regulation of building products and methods and their use?*

Metals New Zealand supports expanding the purpose of the Act to include regulation of building products and methods and their use as critical to delivering the three outcomes government is seeking.

***2.2*** *Do you agree with the proposed definition of ‘building product’?*

Yes

***2.3*** *Do you agree with the proposed definition of ‘building method’?*

Yes

***2.4*** *Do these definitions provide sufficient scope to account for new and emerging technologies?*

Yes

***2.5*** *Do you support the proposal to require manufacturers and suppliers to supply information about building products?*

Definitely. The minimum information requirements should also include appropriate warranty, material safety data and sustainability credentials – for example EPDs (environmental product declarations), and environmental labels.

***2.6 For designers, builders and building consent authorities:***  *Will the proposed minimum information requirements for building products help you make good decisions about products?*

No comment

***2.7 For designers, builders and building consent authorities:***  *Do you need any other information to help you decide whether a building product will result in building work that complies with the building code?*

No comment

***2.8 For manufacturers and suppliers:***  *How closely do the proposed minimum information requirements reflect what you already provide?*

Responsible manufacturers have already been supplying this / a greater level of information for some time. However we would raise the question as to why MBIE has not sought minimum levels of product assurance (for example third party accreditation systems) relative to the critical importance of the product or system.

***2.9 For manufacturers and suppliers:***  *Will there be an impact on your business to provide the proposed minimum product information for your products?*

No, it is how our responsible manufacturers / suppliers operate – in a transparent and consistent manner.

***2.10 For manufacturers and suppliers:***  *What is your estimated cost increase? Please include any relevant information on how you calculated your estimate (eg the number of products you produce or supply).*

No additional cost.

***2.11*** *Do you support the proposals to clarify roles and responsibilities for manufacturers, suppliers, designers and builders?*

Certainly. Clarity and transparency of roles and responsibilities is critical to achieving the three key outcomes.



***2.12*** *Is the current threshold and process for variations appropriate for all circumstances?*

Yes, it is appropriate for major variations to require a formal variation process akin to a new building consent. Minor variations need to be noted on the consent file

***2.13*** *Do you support the proposal to give MBIE the power to compel information to support investigations?*

Certainly. We support MBIE having the power to compel information within a reasonable timeframe.

***2.14*** *Would MBIE’s ability to compel information about building products or methods and share this with other regulators have unintended consequences? If so, what might these unintended consequences be?*

We would encourage MBIE to be openly sharing information with other regulators, particularly Customs. We are not aware of any unintended consequences which would detract from government achieving its three outcomes.

***2.15*** *Do you think the impact of the proposed changes to the regulation of building products and building methods would be positive or negative? What do you think the impact might be****?***

Positive. It sets clear expectations for all suppliers and manufacturers (both local or overseas) and controls product substitution. The impact will be to move New Zealand forward on the journey to delivering safe and durable buildings, every time.

***2.16*** *How do you think the proposed changes to the regulation of building products and building methods would change how you and your business/organisation operates?*

Not aware of any changes required for responsible manufacturers and suppliers.

***2.17*** *How long do you think the transition period for product information needs to be to ensure manufacturers and suppliers are prepared for the changes?*

A transition period of no greater than 6 months would be more than adequate.

***2.18*** *How long do you think the transition period for the changes to responsibilities needs to be so that people are prepared for the changes?*

A transition period of no greater than 6 months would be more than adequate.

***2.19*** *If the clarified roles and responsibilities came into force before the minimum requirements for product information, what would be the impact?*

No impact, as you state in your discussion document – the proposal is to clarify responsibilities not create new liabilities.

***2.20 For product manufacturers and suppliers:*** *Would the changes proposed to the framework for product certification make product certification a more attractive compliance pathway for your products?*

Metals New Zealand supports proposed changes to make the Codemark system more robust by allowing for regulations to set requirements as defined in section 6. However we would note that only one of the current certification bodies is a New Zealand entity and the Codemark certification process comes at a considerable cost.

 For specific applications MBIE should also include Industry Codes of Practice which have been developed by reputable industry bodies to deliver solutions compliant with relevant clauses of the Code – for example New Zealand Metal Roofing Association Code of Practice for Roofing.

We would encourage MBIE to adopt successful industry third party certification schemes and work with the sector to facilitate wider uptake of industry led third party certification models.

HERA has a wholly owned entity, HERA Certifications, which certifies against various standards. Included is the Steel Fabrication Certification (SFC) programme. In Europe, a complete building would be considered a “product” so there does seem to be some relevance here that requires further consideration.

Steel Fabrication Certification (SFC) is a certification scheme to ensure participating steel fabricators and component manufacturers have the capability to manufacture product to the requirements of AS/NZS 5131 (Structural Steelwork – Fabrication and Erection). SFC provides procurers and specifiers with not only greater certainty of product quality, but that they are dealing with a company who has proven procedures and personnel that, together, represent international best practice.

The SFC scheme provides independent expert certification of New Zealand fabrication and component manufacturing companies to ensure they have the appropriate quality management systems in place that enables them to consistently produce compliant fabricated product of the required standard.

***2.21 For designers:*** *How would the proposed settings to the framework for product certification impact your product specification in building designs?*

No comment

***2.22 For building consent authorities:*** *Would the changes to the product certification scheme’s settings increase your confidence that a product with a product certificate will perform as intended?*

No comment

***2.23*** *Are these the correct features for a future-proofed regulatory framework for MMC?*

Metals New Zealand supports enabling a manufacturer certification scheme for repeatable manufacturing processes used to produce building work. It is important that this is a third party certified scheme, which is certified by an independent, internationally accredited certifying body.

MBIE need to ensure that the completed MMC component meets the same performance criteria as “building products’ and methods as defined in Section 2 of the discussion document ensuring performance is consistent with that expected from traditionally built structures. In particular MBIE needs to ensure that the final location of the dwelling and the specific design requirements for the location (as required by the Building Code) are incorporated in any manufacturer certification scheme, ensuring MMC components meet specific location requirements.

The third party certification system detailed in 2.20 above is one such avenue to achieve the required performance.

***2.24*** *What would be the impact of such a regulatory framework for MMC?*

It is critically important that the performance of the finished product is consistent with the requirements of the Building Code.

***2.25 For manufacturers of MMC, including off-site manufacture:*** *How would the proposed framework impact your business?*

No comment

***2.26*** *For manufacturers of MMC, including off-site manufacture: Would you use the manufacturer certification scheme, and how would it need to be designed to work for you?*

No comment

***2.27 For building consent authorities:*** *What would be the impact of a requirement for BCAs to accept one another’s consents and Code Compliance Certificates?*

No comment

### Occupational Regulation

Metals New Zealand supports occupational regulation which is developed by government, in partnership with the relevant member bodies.

To successfully achieve **“*a sustained transformation of the industry”*** we need the perspectives from both the policy makers and the respective professional and trade organisations.

We need to ensure that the proposed regulatory framework provides confidence to home owners and to Building Consent Authorities.

**3.1 Builders**

We would suggest to MBIE that a reshape/review should include the investigation of introducing a contractor licence for company owners – who under the current structure gain most of the rewards (i.e. profit) but take the least risk under the scheme.

MBIE should consider how the scheme also deals with supervision and ensures that what is proposed aligns with basic contractual obligations, (under the New Zealand law).

**3.2 Engineers.**

Metals New Zealand supports the intent to reduce risks to public safety resulting from **substantial engineering work.**

**Metals New Zealand would expect that this be done in partnership with the engineering profession through their membership organisation. Licensing needs to sit alongside professional self-regulation and must be flexible enough to accommodate all engineering** disciplines and related professions.

A strong and credible quality mark for all engineering professionals belongs with the profession, not regulated by government.

Metals New Zealand supports Engineering New Zealand in their request

 *that the Government take time to design a strong and sustainable solution that works for everyone*

***– all engineers, all members of the public – all of the time.***

### Risk and Liability

Metals New Zealand supports government’s proposal to produce fairer outcomes when things go wrong and to bring about changes in participant behaviour.

Metals New Zealand supports the proposal to require guarantee and insurance products for residential new builds and significant alterations. We would encourage MBIE to look at successful models overseas, eg United Kingdom, where information re failures is collated and used to inform future building code review with respect to building methods and building product performance. .

### Building Levy

Metals New Zealand **does not support the reduction** in levy rate from $2.01 to $1.50. Savings to home purchaser would be minimal. A saving of $158.10 on $310,000 house is minimal.

Funds are better invested by MBIE in support for existing joint Australia New Zealand Standards, several of which have been recently disjointed owing to a lack of funds.

### Offences, Penalties and public notification

Metals New Zealand broadly agrees with the three proposed changes to offences and penalties in the Building Act, consistent with the penalties under the Health & Safety Act 201

Please acknowledge receipt:

Nick Collins

Chief Executive

Metals New Zealand.

nick@metals.org.nz

### Metals member organisations

|  |  |
| --- | --- |
| A picture containing clipart  Description automatically generated[www.hera.org.nz](http://www.hera.org.nz)  | The New Zealand Heavy Engineering Research Association (HERA) was established in 1979 as a non-profit research organisation dedicated to serving the needs of the metals-based industries in New Zealand. Its membership consists of approximately 600 companies representing metals-based fabrication and manufacturing companies, the associated design and consulting industry, related education providers, and the supporting material supply and services industry. HERA is base funded through an industry generated R&D contribution in the form of a levy on heavy steel and welding consumables administered by the Heavy Engineering Research Levy (HERL) Act. HERA’s current research is in the areas of steel construction, general heavy engineering industry development and welding fabrication innovation. HERA works with other research providers such as universities, independent research organisations and CRIs to deliver its programmes. |
| [www.scnz.org](http://www.scnz.org) | Steel Construction New Zealand Inc. (SCNZ) aims to advance the interests of New Zealand’s diverse steel construction industry by promoting the benefits of steel solutions in building and infrastructure projects. Members include manufacturers of structural steel and steel products, distributors, fabricators, designers, detailers, galvanisers, and paint and building supply companies. SCNZ provides its members with technical advice on the latest in steel design trends and standards, networking opportunities, and a representative voice with key industry and Government decision-makers.  |
| [www.galvanizing.org.nz](http://www.galvanizing.org.nz)  | The Galvanizing Association of New Zealand (GANZ) represents the core of New Zealand’s galvanising specialists. Its mission is to promote the environmental sustainability of its product and to maintain the highest standards of quality and service in support of New Zealand construction and engineering industries through its international affiliations. |
| [www.castingtechnologynz.org](http://www.castingtechnologynz.org)  | Casting Technology New Zealand (CTNZ) aims to be a major contributor to the success and prosperity of the metal casting industry. The organisation is an advocate for maintaining high industry standards and encourages members to participate in quality training programmes. It provides a network for technical and business activities among its membership at national and international levels. At a Government level, CTNZ keeps abreast of legislation relevant to the metal casting industry and, importantly, represents the industry’s position on issues affecting the sector.  |
| www.metalroofing.org.nz  | The New Zealand Metal Roofing Manufacturers Association Inc. (NZMRM) represents companies that roll-form steel and other metals for roofing and cladding purposes. Commonly known as ‘Rollformers’, NZMRM has 30 member companies. Members are involved in producing a wide range of profiled product, both painted and unpainted. The Association is active in the development and promotion of industry standards, and in conducting research that promotes the use of metal roofing and cladding.  |
| www.nashnz.org.nz | Formed in New Zealand and Australia in 1982, the National Association of Steel-Framed Housing (NASH) is an advocate for all forms of low and medium rise steel-framed construction. NASH represents the interests of suppliers, practitioners and customers of steel-framing systems, and provides a representative voice for the sector at Government level.  |
| www.nzssda.org.nz | The New Zealand Stainless Steel Development Association (NZSSDA) was formed in 1998 to promote and develop the stainless steel market in New Zealand. Its members include engineers, architects, fabricators, merchants and end-users with an interest in the supply or application of stainless steels. NZSSDA supports and encourages technical excellence in the industry and provides specialised training courses on stainless steel for the New Zealand market. |
|  | New Zealand’s major aluminium extrusion companies work collaboratively, (supported by Metals NZ), on areas of common interest which include fair and free trade, non-conforming products, government procurement and sustainability. |
|  | The Sustainable Steel Council (SSC) was reconstituted by Metals NZ, HERA, SCNZ, NZMRM, NZSSDA, NASH, New Zealand Steel, Fletcher Steel and Steel and Tube in 2018. Members of the Sustainable Steel Council are committed to a vision where steel is valued as a critical enabler in New Zealand’s journey to a low emission economy. The vision is achieved by a financially sound industry taking leadership in delivering to the living standards framework, measured across human, social, natural and financial / infrastructure capitals. |

.