

Market Study into Residential Building Supplies – Statement of Process

Our intended process and how you can contribute

Date: 22 November 2021



[This page has intentionally been left blank]

Introduction

Market study into residential building supplies

1. The Minister of Commerce and Consumer Affairs (Minister) has required that we carry out a market study under Part 3A of the Commerce Act 1986 (Act) into any factors that may affect competition for the supply or acquisition of key building supplies used to build the major components of residential buildings (key building supplies). For the purposes of this study, the major components of residential buildings are the foundation, flooring, roof, walls (structural and non-structural, interior and exterior) and insulation.
2. This study provides an opportunity to consider and evaluate whether competition in the residential building supplies industry is promoting outcomes that benefit New Zealand consumers over the long term.
3. The Commission acknowledges its obligations under Te Tiriti o Waitangi and is committed to engaging with Māori to hear the perspectives which are relevant to this study. We are committed to having regard to a Te Ao Māori view as part of the engagement process.
4. We expect this study will help to inform the public, the industry and Government about the nature of competition for key building supplies and how the industry operates at present.
5. We are required by the terms of reference to make the final report from this study publicly available by 6 December 2022. The final report may include recommendations that identify ways to improve competition in the sector for the long-term benefit of New Zealand consumers.

Purpose of this paper

6. This paper outlines:
 - 6.1 the process we intend to follow over the course of this study; and
 - 6.2 how you can remain informed and contribute to this study.
7. This paper does not discuss our proposed approach to responding to the terms of reference or the key issues that we may consider as part of this study. We intend to include that in a preliminary issues paper to be released for consultation in December 2021. The preliminary issues paper and stakeholders' responses to it will inform our approach and help to define the areas of focus and the issues that we will explore in this study.

Related document – Market Studies Guidelines available on our website

8. More information on the Commission’s role in undertaking a market study¹ is available in our Market Studies Guidelines, available at <https://comcom.govt.nz/about-us/our-role/competition-studies>.
9. These guidelines describe our general processes and approach to market studies under Part 3A of the Act. They may assist you to understand what a market study is and how market studies are initiated, how we run our market studies, how we will work with you, and how we deal with information gathered during a market study. They are subject to amendment from time to time.

Scope of the market study into residential building supplies

10. The terms of reference for this study have been issued by the Minister. They set out the matters we must consider and report on, and our timeframe for doing so.²
11. The terms of reference state that:³

I, Hon Dr David Clark, Minister of Commerce and Consumer Affairs, pursuant to section 51(1) in Part 3A of the Commerce Act 1986, require the Commerce Commission to carry out a competition study into any factors that may affect competition for the supply or acquisition of key building supplies used to build the major components of residential buildings.

Matters to be considered in the study may include, but are not restricted to:

- The industry structure for key building supplies covered by this study.
- The nature of competition for these key building supplies, including any industry pricing practices or acquisition requirements that impact on competition.
- Impediments to the entry or expansion of new or innovative building supplies, such as “green” buildings supplies or novel prefabricated products.

For the purposes of this study, major components of residential buildings are the foundation, flooring, roof, walls (structural and non-structural interior and exterior) and insulation.

The Commerce Commission should make its final report for this study publicly available by 6 December 2022.

Key process steps and how you can contribute to the study

12. We will be carrying out the study over the next 12 months, publishing the final report by 6 December 2022.

¹ “Competition study” is the term used under the Commerce Act 1986 to describe a “market study”, which is the term we use in this document.

² Under Section 51A of the Act, we may also exercise our discretion in relation to any ancillary matters that are related to, but not explicitly covered by, the terms of reference.

³ The terms of reference have been published in the Gazette and can be found at: <https://gazette.govt.nz/notice/id/2021-au4934>. See also: <https://www.mbie.govt.nz/business-and-employment/business/competition-regulation-and-policy/market-studies/market-study-into-residential-building-supplies/>

13. **Table 1** below sets out our intended timetable and indicative dates for this study, including key opportunities for you to contribute.

Table 1: Key process steps and how you can contribute

| Indicative dates | Key process steps | How you can contribute and remain informed |
|----------------------------|---|--|
| 22 November 2021 | Terms of reference for the study issued by the Minister and published in the Gazette. | |
| November – December 2021 | Initial engagement with some stakeholders and initial information requests sent to some stakeholders. | |
| December 2021 | Release of preliminary issues paper. This will seek feedback on our proposed approach to the terms of reference and the potential issues we may explore during this study. | You will have an opportunity to comment on our proposed approach and preliminary issues. These submissions will help inform our approach and help to define the issues that we will consider. |
| January – July 2022 | Further engagement with stakeholders and information gathering. Undertaking of analysis. | We will engage directly with stakeholders. |
| April – May 2022 | Testing information and analysis as required with stakeholders. | We will provide updates on opportunities to contribute. |
| Around July 2022 | Release of a draft report. This will include our preliminary findings on factors that may affect competition for the supply or acquisition of key building supplies used to build the major components of residential buildings and outline any options we may consider for recommendations. | You will have an opportunity to comment on the draft report. We will provide an update on submission opportunities, including details relating to any consultation conference that may be held. |
| August – November 2022 | Consideration of responses to the draft report. We may hold a consultation conference during this time. | We will provide updates on opportunities to contribute. |
| 30 November 2022 | Report back to the Minister on our findings. | |
| 6 December 2022 | Release and launch the final report. | |
| From December 2022 onwards | The Minister responds to the final report. | |

14. These indicative process steps and dates may change. We anticipate providing further details on specific steps and key opportunities for you to contribute to the study as it progresses.

Subscribe to our mailing list to remain informed about this study

15. We will be providing updates on the study on our website at <https://comcom.govt.nz/residential-building-supplies-market-study>.
16. If you have information that may assist this study, about the factors that may be affecting competition for the supply or acquisition of key building supplies, or views on the areas where we might best focus this study or the issues to explore, or would like to speak with us about the study, please email us at buildingsuppliesmarketstudy@comcom.govt.nz.
17. If you would like to be kept informed and receive updates on this study, please subscribe to our mailing list [here](#).

Gathering and managing information

18. **Table 1** notes some of the ways that we will gather and analyse information and the indicative timeframes for doing so.
19. The information you provide will help us better understand how effectively competition may be working currently for key building supplies in New Zealand. This information will inform our analysis, findings, and ultimately the final report. The final report will set out our findings and any recommendations for changes to improve the effectiveness of competition.

Targeted consultation and information requests

20. Over the course of the study, we will seek to engage directly with, and gather evidence from, a range of stakeholders we identify as having information that is relevant to the study.
21. This includes industry participants involved at the various levels of the supply chain, including manufacturers/suppliers, building supplies merchants and other retailers, product specifiers and purchasers. Stakeholders are also likely to include construction industry associations and representative bodies, government departments, Building Consent Authorities and other interested parties or market participants.
22. We will engage with tangata whenua as Tiriti o Waitangi partners and stakeholders in the study, including with whānau, hapū, iwi and Māori industry representatives, interested parties or market participants. We plan to engage with Māori early in this process and will be in contact with relevant partners and stakeholders in due course.

What will we do with information you provide?

23. Some of the information that we will need to carry out this study may not be information that is in the public domain. We expect some information we obtain will be commercially sensitive.

24. We recognise the need to ensure that you can have confidence in our use and retention of information, and we are committed to respecting any privacy, confidentiality, or commercial sensitivity attached to your information where possible.
25. There may be firms or individuals who hold relevant information, but who may be concerned if details of the assistance that they would like to provide to the Commission were to be made public. Anyone who has information relevant to the study can ask the Commission to keep their identity and/or the information provided confidential. If confidentiality is a concern, it should be raised when you first contact the Commission so we can discuss your concerns and any available protections as soon as possible.
26. We will not disclose any information we consider to be confidential or commercially sensitive in a media statement, public report, or in response to a request, unless there is countervailing public interest in doing so in a particular case. Such cases are likely to be rare and will be discussed with you in advance of any publication.
27. More information about information gathering and how we deal with information can be found in our Market Studies Guidelines and the other Commission guidance documents referred to in them.