

**DAY 1 - RESIDENTIAL BUILDING SUPPLIES MARKET STUDY
CONFERENCE**

27 September 2022

Session 1: Enhancing the Regulatory System

Mr Devonshire: Tēnā tātau, huihui nei tēnei o ngā rangi.

Nau mai haere mai ki tō tātau nei he inau mai ki tō tātau nei korero e pa ana ki to tātau nei hanga whare, nga rauemi hanga whare tēnā koutou.

Nau mai, haere mai whakatau mai, nau mai, haere mai, whakatau mai ki tēnei Kaupapa.

Te mahi tutahi maku ko te tūwhera tēnei hui, no reira maku e tuwhera te hui nei.

[Karakia]

Mai e te tipua, mai e te tawhito, mai e te kāhui ariki, mai e tawhiwhi atu ki a koe e Tāne.

Tāne whakapiripiri, tāne te wānanga, tāne te waiora, tāne nuiarangi, taonga mai te wheiao ki tea o marama, haumei e hui e taiki e.

Tuarau ka mihi au ki ngā tāngata whenua o tēnei whenua, a Te atiawa, Taranaki whānui, ki a tika ki a mihi atu ki a rātau. Rātau e manaakitia I ngā manuhiri, nga rāwaho I roto tonu te Poneke nei, whanganui a tara, mihi nui ki a rātau.

Tuta rua, tuatoru mihi tonu ki ngā mate, ko tērā tō tātau nei Kuini Irihapeti, te mihi tonu ki a ia i tērā hui inanahi rā, tona rā whakamaumahara ki a ia, I mihi tonu ki tena tō

37 tātau nei Puhi Ariki, tō tātau nei kuini moe mai
 38 rā, moe mai ra rātau katoa ngā mate o te wā, piri
 39 tonu ki tēnā tō tātau nei ariki no Ingarangi ko
 40 Maanu Paul tērā, tiamana tāwhito o te kaunihera
 41 māori, e mihi tonu ki a ia, me ngā mate katoa, ko
 42 te kōrero, rātau te hunga mate ki a rātau, tātau
 43 te hunga ora ki a tātau. Mauri ora ki a tātau I
 44 tēnei wā.

45 Nau mai haere mai ki te kōmihana
 46 Tauhokohoko, ki tēnei hui, ki tēnei korero e pa
 47 ana te Kaupapa nei, ngā take hanga whare, e
 48 whakaaro tonu au ki tētahi o ngā whakatauki.

49 A, ka hinga kainga tahi, ka tu kainga rua,
 50 he kōrero tēna mō ngā kainga, mo ngā hanga whare,
 51 heoi anō ka huri ki te reo pākehā, ki te
 52 whakamārama, whakamohio te katoa, ko tēnei tū nei
 53 hei māngai mō tō tātau tumu whakarae, Adrienne,
 54 tae noa ki tō tātau nei tiamana, kore I kōnei I
 55 tēnei wā ko Anna Rawlings, no reira tēnā koutou,
 56 huri ki te reo pākeha mō te ā poto, tēnā koutou
 57 welcome to you all). Welcome on behalf of Anna
 58 Rawlings, our Commissioners that we have here,
 59 our Chief Executive Adrienne Meikle, to this
 60 session, the Conference on Market Studies around
 61 building supplies.

62 Just in the opening statement there I used
 63 the karakia that in the Māori world is a karakia
 64 Tāne, one of our deities in our world and in
 65 terms of our world Tāne is a person that
 66 constructs houses, so I think it's very
 67 appropriate to refer to Tāne in terms of this
 68 conference, starting this conference in terms of
 69 the construction of houses. Tāne Whakapiripiri
 70 is a person that brings people together
 71 underneath the house. Tāne te Wānanga is the

72 conversations and debates we have in looking for
 73 knowledge and new knowledge. Tāne te Waiora is
 74 hopefully at the end of the session - not
 75 hopefully but at the end of the conference, that
 76 we find some solutions. And Tānenui a Rangi is
 77 moving to a space where we can all move forward
 78 together. The four types of Tane, so it is
 79 appropriate to have that.

80 Also acknowledging those who have passed,
 81 obviously Queen Elizabeth, we had the day
 82 yesterday in remembrance of the Queen and all
 83 those that have passed, including in terms of the
 84 Māori world a man called Maanu Paul who was a
 85 major rangatira in our world who was the
 86 ex-Chairman of the NZ Māori Council and a few
 87 other things and did a lot in terms of our space,
 88 Maanu Paul, I acknowledge all those that have
 89 gone beyond the veil.

90 The last thing I use is a Whakatauki. A
 91 Whakatauki is a ka hinga kainga tahi, ka tū kainga rua
 92 that talks about when the first house falls, another
 93 house stands. So, as we move from one place, we have
 94 another place to go to, to call home and shelter, and I
 95 think that again is appropriate to this conference and
 96 fits well with the conference.

97 To all that have come today, all our visitors, I
 98 acknowledge you all. I acknowledge our tāngata whenua
 99 Te Atiawa, Taranaki whānui, I acknowledge them as the
 100 mana whenua of this region and this rohe.

101 And again on behalf of Anna who can't be with us
 102 today, John and Bryan and Derek and our Chief Executive
 103 Adrienne, I welcome you all to the Conference. Kia ora
 104 tatou.

105 **Ms Meikle: Tihei mauri ora, e ngā mana, e nga rau**
 106 **Rangatira mā tēnā koutou, tēna koutou, tēnā**

107 koutou katoa., Ko au te tumu whakarae o Te
108 Kōmihana Tauhokohoko, Ko Adrienne Meikle tōku
109 ingoa.

110 Good morning everyone, and thank you very much for
111 joining us today. I am Adrienne Meikle the
112 Chief Executive of the Commerce Commission. Thank you,
113 PJ, for that mihi in opening this morning.

114 So, welcome to our Conference. This is on our
115 draft report on Residential Building Supplies Market
116 Study. Hopefully you are all in the right place and we
117 are looking forward to discussion with you over what is
118 the next couple of days.

119 In welcoming you, I want to offer the apologies of
120 Anna Rawlings, our Chair, she has had a bereavement in
121 her family and she would like to be here but is unable
122 to be so, so our thoughts are with Anna at this time.

123 With me today, are our Commissioners, Dr John
124 Small and Derek Johnston and our Associate Commissioner
125 Bryan Chapple, who has recently joined the Commission.
126 They will be Chairing various sessions throughout the
127 Conference and leading the engagement with you around
128 questions and feedback.

129 A number of Commission staff are also joining us
130 and will be here throughout the conference. Many of
131 them will be known to you, especially those who have
132 made contributions to our study so far.

133 So, PJ Devonshire, our Pou Ārahi from our
134 Strategy, Governance and Engagement branch.

135 Antonia Horrocks, General Manager of Competition
136 and Consumer, whose flight was a little delayed and she
137 will be here shortly.

138 Oliver Meech, Market Studies Manager.

139 And over at the back Matthew Bailey, where has he
140 gone? Kia ora Matthew. Our Principal Advisor.

141 Online we've also got a number of people but also
142 our Chief Economist, Lin Johnson, who is located in
143 Sydney and she's dialing in today.

144 I just want to reiterate before carrying on, our
145 deep appreciation for the time and energy that many of
146 you have already put into making submissions and having
147 conversations with our staff around the draft report,
148 so thank you for that.

149 This is a hybrid conference, so we've got people
150 here in the room but we've also got people calling in
151 via Zoom. And the public sessions, including this one,
152 are being webcast, so just letting you know that.

153 So, thank you for making the time to be here,
154 either in the room or in the virtual room.

155 I want to briefly summarise the context of the
156 matters that we will be looking to discuss over the
157 next few days and then I will work into talking about
158 some of our matters associated with our process around
159 this conference.

160 The Minister of Commerce and Consumer Affairs, The
161 Honourable Dr David Clark, asked us to carry out this
162 study and our final report is due on the 6th of
163 December this year. The Commerce Act requires us to
164 publish the draft report, that's the one that we
165 published in August, and to have regard to comments or
166 submissions on that draft, and that's why we are here
167 today.

168 The purpose of the study is to identify and assess
169 any factors that may affect competition for the supply
170 or acquisition of key building supplies used to build
171 the major components of residential buildings. If we
172 find that competition is not working effectively, we
173 may make recommendations to improve competition for the
174 benefit of New Zealand consumers over the long-term.

175 A couple of things about what the study is not.
176 So, the study is not an investigation into whether
177 aspects of the Commerce Act have been breached, neither
178 is it an exercise in industry regulation. We do
179 undertake though forms of investigations as part of our
180 work at the Commission and the Ministry of Business,
181 Innovation and Employment looks at industry regulation.

182 Our market study role is a little different.
183 Market studies look at the factors affecting
184 competition, to see whether competition is working
185 effectively and if not, why not.

186 We look into the structure of the market, the
187 conduct of the participants and the resulting
188 performance of the market itself and, if required, we
189 may make recommendations on how competition could work
190 better.

191 Ultimately, the overriding aim of the study is the
192 same as the purpose in the Commerce Act under which we
193 operate; to promote competition for the long-term
194 benefits of consumers in New Zealand.

195 Our preliminary views expressed in the draft
196 report, is that competition for the supply and
197 acquisition of key building supplies is not working as
198 well as it could, if it were easier for building
199 products to be introduced and for competing suppliers
200 to expand their businesses. We have also proposed
201 draft recommendations aimed at improving competition
202 for key building supplies.

203 It's important to note that the views on the state
204 of competition for key building supplies in our draft
205 report are preliminary, and our consultation process,
206 of which this is part, is integral to enabling us to
207 reach our final conclusions and to refine our
208 recommendations.

209 Not all of the draft recommendations that we have
210 so far identified will necessarily find their way into
211 the final report and neither will all of our draft
212 findings necessarily take the same form in our final
213 report.

214 We have received 26 submissions on the draft
215 report and that's come from a range of submitters.
216 This conference provides an opportunity for us to
217 discuss aspects of those submissions with you. It also
218 provides us with the opportunity to hear a little more
219 from one another so that we can better understand the
220 differing perspectives in the room.

221 We encourage you to share your thoughts over the
222 coming days and also in submissions following the
223 conference. Where issues arise that are not already
224 addressed or where you have additional information that
225 may assist us, please make that available.

226 We can only take account of information that we
227 receive through the process. So, if you or others in
228 the industry who you are aware of have information that
229 may be relevant that they want to provide, please do
230 encourage them to contact us and make that information
231 available.

232 Following the conference, we will ask for final
233 submissions, including cross-submissions, by Thursday
234 the 13th of October. This is to allow us time to
235 consider comments in those final submissions before our
236 final report on the 6th of December this year.

237 We may also have additional questions for parties
238 relating to issues arising out of the conference or out
239 of the draft report and submissions, and we will ask
240 those as we go through.

241 So, how's this conference going to run? I will
242 spend a few minutes explaining how this process will
243 work.

244 Firstly, we have divided the conference over the
245 next few days up into sessions. The agenda has been
246 circulated and is available for you and for those of
247 you online, it is posted on our website.

248 We are going to start today with sessions focused
249 on our preliminary findings and draft recommendations
250 regarding the building regulatory system and whether
251 and how improvements might be made to improve
252 competition for key building supplies.

253 Tomorrow, we will discuss strategic business
254 conduct, including the impact of vertical integration
255 and quantity-forcing rebates.

256 In the afternoon session, competition for green
257 building supplies, off-site manufacturing and
258 government procurement, all with a focus on the
259 relevance of competition for key building supplies.

260 On Thursday, we have the morning session reserved
261 for overrun, in case there are any additional topics or
262 matters that we wish to discuss.

263 We then conclude the conference with a Māori
264 caucus session, to continue the engagement and kōrero
265 we had from a hui Māori that we hosted earlier this
266 year in April.

267 In each session, there will be a Chair which will
268 be one of the Commissioners and the Chair of the
269 session will lead the discussion and questioning.
270 Other Commissioners and staff may also have questions
271 as the sessions progress.

272 Some questions will be directed to the room,
273 actual and virtual, inviting comments from any
274 interested parties, and some may be directed to
275 particular parties in relation to a particular matter
276 or perspective.

277 We will be looking to continue to collect
278 information and listen to views and to focus discussion

279 around points that we want to better understand, to
280 test our problem definition or to try and advance some
281 potential solutions.

282 The session Chairs will look to invite comments
283 from any interested parties we wish to contribute based
284 around our questions.

285 We do hope there will be ample time for everybody
286 to contribute.

287 One thing in relation to that is we don't see this
288 as a forum to re-represent your written submissions.
289 Please be assured we have read and considered them all.
290 Instead, today we will be discussing issues. If you
291 are referring to a point in your submission, then
292 please feel free to identify where it appears in your
293 submission in order that we can find that reference
294 later.

295 When you first speak at a session, please identify
296 yourself briefly by name and organisation for the
297 purposes of our transcription service and so that
298 others attending the conference or watching on the web
299 cast will know who you are.

300 We don't provide for parties to question other
301 attendees of the conference but we expect that we can
302 and we will provide some time for people to comment on
303 issues raised by others.

304 We may also round out the sessions with an
305 opportunity for some final comments from interested
306 parties.

307 We will endeavour to hear from everyone interested
308 in the discussion. However, if time does not allow, we
309 will note your interest and we will come back and
310 follow-up with you after, at a time that best works for
311 you.

312 For those who may not yet have identified the
313 submissions that we have already received, public

314 versions are available on the Commerce Commission
315 website.

316 There are three further matters that are important
317 to touch on before we come to our final administrative
318 matters.

319 The first, given the objectives of the conference,
320 the amount of time spent on the issue at the
321 conference, we just want to make clear to you does not
322 necessarily reflect the importance of the issue in our
323 final report.

324 Some of the issues are more complex than others
325 and there are some issues of which there is a lot of
326 agreement already.

327 Just because we do not discuss an issue, this does
328 not mean it is not important, and it may just mean we
329 don't have any questions to ask or that it might, in
330 fact, be a matter that's best discussed another way,
331 perhaps in a private session to protect commercial
332 sensitivity.

333 Secondly, we're very mindful that as all of you
334 are aware, MBIE is the central regulatory steward of
335 the building regulatory system, is separately
336 conducting a review of the Building Consent system.
337 That review commenced in July, shortly before we
338 published our draft report.

339 The two processes, MBIE's review and this market
340 study, each have different focuses.

341 MBIE's review focus is on the Building Consent
342 system and how compliance with the Building Code is
343 verified. The scope of MBIE's review includes all
344 elements of the Building Consent system, the
345 institutions and regulatory practice, as well as system
346 management, its structure and governance.

347 Our focus here is on competition for key building
348 supplies, for building products, demonstrating

349 compliance with the Building Code is, as we have
350 identified in our draft report, highly relevant to the
351 competition for building supplies.

352 We are not precluded from considering
353 recommendations in relation to the Building Code
354 system.

355 We are not considering directly the design of the
356 Building Consent system, though we are considering the
357 effects that the system has on competition for key
358 building supplies. The Building Code and consenting
359 system regulates building work, our market study is
360 about building products.

361 The two processes clearly do intersect. The
362 issues and the impacts of the behaviours that are
363 influenced by the Building Consent system are closely
364 intertwined with the effects on competition for
365 building supplies.

366 It's not possible to neatly separate the two
367 things and we will remain mindful that MBIE is
368 conducting its own process.

369 Thirdly, plasterboard. Winstone Wallboards' GIB
370 branded plasterboard in particular. It's featured
371 predominantly in the media over the latter part of the
372 study so far. This is due to the supply constraints
373 seen this year and the impact that has had for builders
374 and for merchants. We have observed and we're mindful
375 of both MBIE's actions in relation to plasterboard and
376 the government's appointment of a taskforce to look at
377 solutions to the plasterboard supply constraints.

378 This study, as I have said already, is about
379 building supplies. It has a broader scope than
380 plasterboard. We don't intend to duplicate MBIE's work
381 or that of the plasterboard's taskforce.

382 Having said that, some of the experience in
383 relation to plasterboard may be useful in informing our

384 views in relation to competition for key building
385 supplies more generally, and we have sought to direct
386 our draft recommendations towards improving competition
387 for key building supplies in general, not towards
388 plasterboard or any other case study supplies that we
389 have looked at in particular.

390 Lastly, I'm going to quickly cover some
391 administrative matters before we start on the real
392 mahi. These relate to confidentiality, recording of
393 the sessions, media and the conduct of breaks.

394 It is really important to us that our process is
395 transparent and that parties have the opportunity to
396 hear from one another and to test views of one another.
397 I have mentioned already though that some of the
398 information people may wish to provide us may be
399 commercially sensitive or confidential. If there is
400 material that you want to share with the Commission but
401 it is confidential, commercially sensitive, and it
402 ought not be raised in this public forum, please say so
403 and we will curb the discussion and Commission staff
404 will be in contact with you in order to have a closed
405 session.

406 In relation to recording. The public sessions
407 will be recorded for the purposes of creating a
408 transcript of each session. This includes the Māori
409 caucus session on Thursday. Because our sessions will
410 be transcribed, it's helpful to speak at a normal but
411 deliberate pace, they tell me here, to enable our
412 transcriber to pick up clearly what we will be saying.

413 For those of you joining on Zoom, if you are in
414 the room with others, it's important that only one of
415 you speaks at a time and that if you can, you minimise
416 background noise near the microphone, such as the
417 shuffling of papers.

418 We will not be publishing a recording of the
419 conference but will post the session transcripts on our
420 website as soon as we can.

421 For media, kia ora media, we welcome media members
422 here today who are joining us to observe the conference
423 session. We ask that if anyone is recording part of
424 the session, that they do so for the purposes of
425 notetaking and not for publishing. If you have any
426 queries about that, please be in contact with our comms
427 team at communications@comcom.govt.nz.

428 As you will see from the agenda, breaks have been
429 scheduled during the day. If any matters arising
430 during the conference that you would like to discuss
431 with a member of our staff, then you can contact them
432 here, or you can also email them during the day and
433 they will talk to you during a break or at the end of
434 the day. And that general email is:
435 buildingsuppliesmarketstudy@comcom.govt.nz.

436 If you have any documents or material that you are
437 referring to for the first time during your
438 contribution to the conference, please also send it to
439 that email address. So, that's:
440 buildingsuppliesmarketstudy@comcom.govt.nz.

441 This is so we can ensure that those materials are
442 properly processed into the record for the Commission
443 and they can be appropriately referred to in our
444 transcript.

445 For the record, the Chair of the session may ask
446 you to identify the document as you speak so that it
447 can be readily identified later. You may be pleased to
448 know that that concludes the introductory remarks for
449 the conference, and it does now free us up to get on
450 with the real mahi.

451 Thank you again for your interest in the study and
452 your thoughtful contribution so far, we are looking

453 forward to this continued dialogue with you and hearing
454 from others for the first time in person. I would now
455 like to pass to Dr John Small to begin our first
456 session on enhancing the regulatory system. Kia ora,
457 John.

458 **Dr Small:** Kia ora. Thank you Adrienne and good
459 morning, everyone. Lovely to be here for this
460 first session. What we're going to do in this
461 session is really, to focus on the highest level
462 finding that we have in the draft report, which
463 is that the building regulatory system is just
464 making it too difficult for rival building
465 suppliers to get into the market and have the
466 opportunity to compete against well-established
467 products.

468 The draft report outlines some of the complexity
469 of the regulatory system and the way it's supplied and
470 we discuss features of the Building Code system that
471 are unique or bespoke to New Zealand and how the system
472 influences the decision-making behaviour of designers,
473 builders and BCAs.

474 The core objectives of the building regulatory
475 system are about delivering safe, healthy and durable
476 homes. And while innovation is regarded as important,
477 competition and innovation, in our view, are
478 effectively discouraged by the regulatory system.

479 Well-established building products and methods
480 which we have used, described as tried and tested, are
481 too difficult to challenge, even when rival products
482 can deliver safe, healthy and durable homes.

483 So, our draft view is that making competition an
484 express objective of the regulatory system would be one
485 useful way of responding to this core finding.

486 We think competition in building products could be
487 promoted and enhanced without undermining the existing

488 core objectives of safe, healthy and durable homes, and
489 we think more competition in key building supplies over
490 time would tend to reduce prices, enhance resilience,
491 improve quality, service and innovation.

492 Some submissions have queried whether promoting
493 competition is an appropriate objective for the
494 building regulatory system, arguing that quality,
495 safety and durability must take precedence. We
496 certainly agree that quality, safety and durability are
497 crucial criteria for the system. The last thing that
498 we need is another round of building failure.

499 So, we are keen to engage in this session with
500 submitters who told us that competition should not be
501 an objective in the regulatory system. That will be
502 our first topic this morning.

503 And then if we have time, we would also like to
504 engage with parties who went the other way and said
505 that our first recommendation didn't go far enough and
506 three such arguments were made by submitters who
507 favoured three specific additions in addition to our
508 list of draft recommendations. Namely, changes to
509 liability, risk and insurance settings; a first
510 principles redesign of the code system to align it with
511 the Building Codes of other countries; and
512 consolidation in the number of BCAs. So, those are the
513 topics that we will work through this morning.

514 Starting with the first one, where it was
515 suggested that if we just make competition an
516 objective, then that would give some more prominence to
517 it and lead to some better outcomes.

518 So, we said competition should be made an express
519 objective, clearly it shouldn't trump the core
520 objectives but we are inclined to the view that
521 promoting competition can sit alongside them as a
522 relevant consideration.

523 So, several parties disagreed with this submission
524 suggesting it might go too far. And in reading those
525 submissions, we wonder whether the main concern is
526 really about how who promote competition, how can we
527 give more prominence to competition without
528 compromising quality, safety and durability.

529 So, I've got some particular questions, one for
530 NASH, which is the steel framing group, one for BRANZ
531 and one for the Master Builders association.

532 We will start with BRANZ perhaps. I believe that
533 we've got some people from BRANZ online and so BRANZ
534 indicated support for the core objective - support for
535 the recommendation, providing the core objectives are
536 not compromised. But went further and suggested that
537 to ensure both are achieved, a "first principles
538 redesign" is needed. I wonder whether BRANZ could help
539 us kick things off by expanding on that suggestion and
540 perhaps clarify where you sit on the overall first
541 recommendation? I think somebody from BRANZ, there's
542 people from BRANZ online, I believe, but they will need
543 to raise their hand in order to get promoted up into
544 the panelists group.

545 While that's happening, I believe the BRANZ people
546 are Chelydra Percy and Karla Falloon, if one of those
547 could put your hand up, please, or just get promoted?
548 Our IT people are doing the promotion as we speak.

549 While that's happening, I'll put the question to
550 NASH and I think the NASH people is Alastair Fleming.
551 Alastair Fleming is online, I believe, so if he could
552 be promoted.

553 NASH has expressed the view that this is not an
554 appropriate requirement for the building regulatory
555 system and so, we're keen to hear from NASH about why
556 that is. That's Alistair Fleming. This is going to be
557 somewhat difficult, I think, because we have a large

558 number of people online that need to be brought into
559 it.

560 Having given those two groups notice of the
561 questions, let me do the third one as well, while we're
562 getting people into a position where they can comment.
563 The third one is from the Registered Master Builders
564 Association who express similar concerns and were
565 suggesting that, seemed to be suggesting that this
566 wouldn't be enough by itself, I think, and that BCA
567 consolidation is needed. So, maybe they could comment
568 on that submission, I hope?

569 Did the IT people get those names? Oh, they need
570 to accept, okay. Perhaps I'll throw it open to the
571 room while we're getting people through to the point
572 where they can talk, would anybody like to comment on
573 that first over-arching recommendation about promoting
574 competition being an express objective; is it too
575 little or too much, or just in that Goldilocks zone,
576 perhaps? Anybody got a view on that?

577 **Mr Edwards:** My name is Tex Edwards I am from
578 Monopoly Watch. We are concerned with
579 competition in building in general. We respect
580 the Commission's research and report. On the
581 matter of competition, we understand we're just
582 looking at building materials. We have to start
583 from the top of the pyramid of the problem here,
584 the problem that we're trying to solve is in
585 New Zealand, in the economy market segment of
586 construction, we pay approximately four times the
587 international benchmark price for affordable
588 homes. And so, at the top of the pyramid, if a
589 consumer is paying four times too much for his
590 home, we have to go down into the myriad of death
591 by a thousand cuts in construction, and unpick
592 this death by a thousand cuts and go to the major

593 lead items in construction, of what can we do to
594 get the New Zealand consumer closer to his OECD
595 benchmark on construction costs?

596 It is absolutely critical that the final report
597 show that competition must be an objective of the new
598 BCA arrangement and that a declaration of competition
599 is documented in the final report because when we look
600 at who is attending this conference and who is
601 supporting the current market structure, which isn't
602 helping the consumer, it's not in the long-term
603 benefits of consumers, we are surrounded by incumbents
604 who are preserving their patch. And this conference
605 and this final report is step one in a very long
606 pathway of reforming an industry where consumers in
607 New Zealand are paying four times more than they should
608 do for house construction. Thank you.

609 **Dr Small:** Thank you, so that's certainly an
610 endorsement of the suggestion, thank you. Thank
611 you, Tex. Could I just make sure the microphones
612 are working for the participants there, so people
613 online can hear? That's all good, great.

614 Okay, I don't see any of the people that I asked
615 for comment popping up as participants at this point,
616 so I might just move on.

617 I think, it certainly seemed to us that people who
618 objected to that recommendation, did so because they
619 thought it would compromise the other objectives, and
620 so I just -

621 **Ms Meikle:** We have one hand up, Sarah Walker.

622 **Dr Small:** We have one hand up, thanks. Okay, thank
623 you, is that Sarah? Who is the hand up? I can't
624 see. Whoever has their hand up, could they talk,
625 please?

626 **Ms Walker:** Hi, it's Sarah from Master Builders
627 here.

628 **Dr Small:** Thanks, Sarah. Welcome.

629 **Ms Walker:** Thank you for giving us the opportunity
630 to speak. I think what our view is that we're
631 not opposed to obviously competition in this area
632 at all. I think how you roll that out and the
633 way that's implemented is what we were probably
634 concerned with a little bit in our submissions.

635 So, we probably wouldn't want to see that
636 competition side of things maybe promoted up to being
637 an objective because we think that would complicate the
638 other objectives. But also, who's going to manage that
639 from a government perspective. And our view is MBIE as
640 a regulator is probably not in the position to be
641 adequately doing that role at the moment. They've got
642 the consenting issues in front of them and managing
643 that in a massive consenting review, for us we would
644 see that as problematic at the moment. So, adding this
645 layer to them as well, we don't think would be a good
646 thing to do and also would probably just over
647 complicate an already over complicated system.

648 For us, we would prefer competition stays with the
649 Commerce Commission which has all the expertise in that
650 area and we are just not sure that promoting it up to
651 an objective, rather than having it as an outcome or an
652 output of a really good well operating regulatory
653 system, is kind of probably where we're sitting.

654 **Dr Small:** Thanks for that. Do I take from that,
655 that the various mechanisms that we discussed, I
656 am getting ahead of myself a little bit here, the
657 various mechanisms that we discussed about how
658 competition might be promoted in the regulatory
659 system, are things that you're keener on than
660 this high level one. So, for example, opening up
661 more pathways for acceptable solutions and that
662 kind of thing, is that -

663 **Ms Walker:** Yeah, I think that would be fair to say.

664 I mean, if you raise and elevate competition to
665 an objective level, then you need that enforced,
666 you need it to be able to be measured, it needs
667 to have a proper infrastructure coming behind it
668 to actually what are we delivering around that,
669 how do we do that, how do we enforce that, what
670 are the measures arounds it? And we don't see
671 that MBIE have the capability or technical
672 resourcing to be able to do that. So, it's
673 probably more just a, in some ways, practical
674 concern, but also we probably see it, again as I
675 said, as an output of a well-functioning system.

676 So, our view is if we can get the system operating
677 right, then hopefully these things like really good
678 competition would hopefully resolve themselves to a
679 large extent.

680 **Dr Small:** Okay, I think I understand what you're
681 saying there. Would anyone else like to comment
682 on that? Yes, Andreas?

683 **Mr Heuser:** Andreas Heuser, Castalia, representing
684 Affordable Building Coalition. I just want to
685 add to that. If you look at the building
686 regulatory system, we endorse the recommendation
687 to include competition as an objective but the
688 way that building regulations are produced, I
689 guess, it involves a cost benefit analysis at the
690 regulatory making level and there's no incentive
691 on the people making the regulations to consider
692 cost. And cost - so, benefits are always very
693 clear, you know, and there are often, you know,
694 very laudable aims behind some of these
695 regulations around double glazing insulation
696 standards. But the additional cost of that - but
697 the additional costs of those very desirable

698 things, like improved insulation standards,
699 aren't always rigorously tested, and we rely on,
700 for example, the Treasury to review regulatory
701 impact statements and so forth.

702 So, I think that could feature as part of your
703 thinking in the final report; how well that system is
704 functioning.

705 **Dr Small:** Yes, thanks. You don't think that - that
706 is an interesting, that goes a little further
707 than I think we were in the draft, because we
708 were - I think what we were saying, it's
709 not - there's a process for implementing the
710 durability, safety, healthiness of homes and so
711 on, and that we might not really delve into that,
712 but just ask that whatever you do in that regard,
713 you try and do it in a way - you try and ensure
714 that there are several products that can meet
715 that test, rather than just one, for example, so.
716 But that's a helpful contribution, Mr Heuser.
717 Does anyone else want to comment on that?

718 Okay, thank you. Right, let's move on then, I
719 think that's helpful.

720 Let's move on to the topic of liability, risk and
721 insurance, and I raise this with a little trepidation.

722 In our draft report, we noted we contemplated
723 making recommendations regarding potential changes to
724 the liability regime faced by BCAs and the introduction
725 of a building warranty insurance scheme, that we
726 contemplated doing so. And the reason is that
727 liability, risk and insurance settings may be an
728 impediment to competition if they cause excessively
729 risk averse behaviour on behalf of BCA and potentially
730 other participants in the system as well. And this in
731 turn restricts the approval and adoption of new or
732 innovative products.

733 All parties here will be aware that MBIE has in
734 its review of the Building Consent system, expressed a
735 clear position on the policy position on this, risk and
736 liability and insurance in the building sector
737 statement that MBIE released alongside its discussion
738 document for the Building Consent review.

739 In light of the Policy Position Statement which
740 came out in July this year, we did not make a draft
741 recommendation regarding potential changes to the
742 liability regime. We did suggest that in any further
743 consideration of the liability regime applying to
744 building industry participants, it would be appropriate
745 for the government to take account of competition
746 objectives.

747 Several submissions have commented on this and
748 noting the importance of liability, risk and insurance
749 and the relevance for competition for building
750 supplies.

751 Several specific suggestions were made, including
752 a liability cap for BCAs and a guarantee or insurance
753 scheme to shift some liability away from BCAs while
754 ensuring homeowners remain protected.

755 We are keen to hear parties' views on these
756 issues. Obviously, again, these are ultimately matters
757 for MBIE as the central regulator to determine but, to
758 the extent there is a direct relevance to competition
759 for key building supplies, our Terms of Reference do
760 permit us obviously to consider this from a competition
761 perspective.

762 So, I have questions here for Taituarā and the
763 New Zealand Green Building Council and also for
764 Fletcher Building on this topic but we're also
765 obviously interested in more general comments as well.

766 So, the first question basically, open one, do
767 parties consider that liability and risk settings have
768 to change in order to promote competition?

769 Taituarā suggested, in particular, that a
770 proportionate liability scheme or if maintaining joint
771 and several liability, then some sort of a cap on BCA
772 liability. If we've got anyone from Taituarā here, I
773 am keen to hear any comment on that? I am not sure if
774 we have but I do know we've got a couple of folk from
775 Auckland Council who may wish to venture a view on this
776 topic and are already in the panellists list. Feel
777 free to raise your hand if you're willing to comment on
778 that?

779 And the Green Building Council suggested
780 that - also suggested a cap on the liability for
781 Building Inspector BCAs, we are keen to hear about that
782 but I am not sure we do have Green Building Council
783 here. Oh, here we go, who do we have? Ian McCormick
784 from Auckland City. Thank you, Ian, welcome.

785 **Mr McCormick:** Kia ora katoa. Thank you for an
786 opportunity to speak on this matter. Certainly,
787 from an Auckland Council perspective, we
788 certainly support a liability cap for BCAs. One
789 of the things we recognise is increasingly the
790 scale of some of the building defect claims that
791 the ratepayers we are associated with are
792 beginning to get larger and larger and are very
793 substantial now indeed.

794 It's worth reflecting as well that when Building
795 Consent Authorities are considering compliance with the
796 Building Code of products and systems as part of a
797 Building Consent, we are also mindful of determination
798 and judicial decisions regarding I guess the level, the
799 threshold of satisfaction as to whether or not a

800 product complies with the Building Code, and that's
801 certainly top of mind.

802 One of the things that characterises our building
803 regulatory system in New Zealand compared to other
804 jurisdictions around the world which I have had an
805 opportunity to observe over the years, is the liability
806 of Building Consent Authorities and the scale of it. I
807 certainly do believe that the burden of that liability
808 on a BCA does end up impacting the way that some
809 participants engage in the Building Consenting system,
810 in that in some cases they have the ability to create
811 liability shelters to be able to phoenix their building
812 entities that they are using to engage in the industry.
813 And it affects the decisions that they make in some
814 cases. They don't have that same, I guess, liability.

815 So, when they make risk based decisions, they are
816 probably not fully exposed to I guess the consequences
817 of those risks. And I think an improvement in that
818 area would be a great one.

819 As soon as we end up capping liability for BCAs
820 and end up putting more emphasis on the insurance
821 industry, I think we would see building investors
822 wanting to protect themselves more and they will be
823 considering and engaging more in insurance than they
824 possibly do at the moment, and I think that would be a
825 good thing. But the only consequence at the moment,
826 would be it would end up increasing the cost of
827 building in the short-term for a number of reasons.

828 I think, one, because an insurer would want to
829 understand, I think, who would be the people or
830 entities that they would want to put lessor reduced
831 premiums for? So, they would look not only at the
832 track record of the entity but also what is the quality
833 assurance system that that organisation is using to
834 ensure the quality of the outputs?

835 When you look at the residential sector, in many
836 cases that quality assurance system, that robust
837 process of checking to make sure that Building Consent
838 applications are complete, that quality assurance
839 system is checking to make sure that the construction
840 work is complete, is sometimes not as robust as they
841 should be. Thank you.

842 **Dr Small:** That is a multifaceted contribution,
843 thank you very much. Does anyone care to comment
844 on Ian's issues there? I've got some comments
845 myself but anyone in the room? Okay, Tex, yep.

846 **Mr Edwards:** Thank you for Auckland Council's
847 comments. On this matter I think it's time to
848 look at international benchmarks for what other
849 countries do. And third party private insurers
850 have taken the pressure off Councils. Councils
851 are undefendable and yet they're used - they
852 participate as the blame game in the industry,
853 blame it on the Council if there are any errors
854 made on a building site. And when we look at the
855 international benchmarks on how building
856 liability is managed, we see these large scalable
857 builders, particularly in public housing, that
858 have private insurers that are very well
859 capitalised, that have 10, 20, 30 year guarantees
860 in the private insurance market.

861 And it's an area where the private sector
862 could actually perform or do better than the
863 public sector here. So, I think the
864 international benchmarks on private insurance is
865 what needs to be looked at in the final report.
866 Thank you.

867 **Dr Small:** That's interesting.

868 **Dr Johnston:** I think the point is well made that if
869 there's going to be a cap on Council's liability,

870 somebody else is going to have to pick up the
871 liability. My question is, what's the depth of
872 the insurance market here in New Zealand? Is
873 there a deep enough insurance market available in
874 New Zealand, to cover that sort of liability?

875 **Mr Edwards:** Is that a question, Commissioner?

876 **Dr Johnston:** Yes, it is.

877 **Mr Edwards:** How I see that occurring, is that in
878 the evolving economy market segment of
879 construction, which we don't have in New Zealand,
880 we use luxury and premium bespoke housing
881 building techniques to build economy houses. We
882 use Aston Martin manufacturing techniques to
883 build Toyota Corollas, essentially.

884 But as we emerge into a better portfolio of
885 government contracts for mass production of
886 houses, particularly in the order of magnitude
887 intervention we have seen in the market as we
888 have gone from building 100 state houses a year
889 to building 7,000 next year. These houses, once
890 they're managed into the private insurance
891 market, it's a new the market that would evolve,
892 and you would see the evolution of
893 well-capitalised builders, institutional
894 builders, in this new market segment. It's
895 joining the dots.

896 We know building is a death by a thousand
897 cuts, but early in the submission process we saw
898 that everybody argued whether we liked in
899 New Zealand bespoke houses or one-offs or if we
900 like standardised houses. If you're homeless,
901 obviously you like standardised.

902 **Dr Johnston:** Thanks.

903 **Dr Small:** We have someone else on the screen here,
904 I am not sure who it is. It is Peter Laurenson,
905 also from Auckland Council, I believe.

906 **Mr Laurenson:** Thanks very much, I didn't want to
907 capitalise our opportunity but just in terms of
908 the last speaker as well, to give a direction
909 we'll probably drop in a note in writing after
910 the conference. It's about international best
911 practice around sharing liability across.

912 I make reference to British Columbia and
913 Canada has a system that's called Letters of
914 Assurance and they are 20 odd years into this
915 process. The basic principle, what it does is it
916 recognises that each of the component people
917 within a construction project have a role to
918 play, be that the local authority, the engineer,
919 the architect, the insurer, and so on. And what
920 this - in their jurisdiction what's happened is
921 that bit of legislation says at the start of a
922 building project there must be this definition of
923 where those liabilities sit. And it's probably
924 quite an advanced setting from just one case of a
925 set percentage of capping, which we do favour. I
926 know that was part of Taituarās' submission, but
927 it's actually quite a progressive way of dealing
928 with projects that have a better level of quality
929 assurance as Ian mentioned, and we see it on a
930 day by day process.

931 Some jobs, if you like, are set up on to
932 fail at the front, when they don't have that sort
933 of - we favour that sort of approach where
934 there's a clear definition at the front of a job
935 about where that liability should sit. And I
936 think that probably comes through most of the

937 rest of the day on the topics you've got, where
938 one item alone won't do it.

939 But, for example, we're very much in favour
940 of the structure of competition. So, when you
941 get to talk about the product register, that may
942 well be curated by a central body but has a lot
943 of expertise fed into it, so it can be current
944 and kept up-to-date and so on. So, we can speak
945 more to that later but it's just thrown in, there
946 is a good international basis for setting up a
947 system that defines at the front end where
948 liability may sit best.

949 **Dr Small:** Thanks, yes, all right.

950 **Mr Chapple:** I have a follow-up question, partly to
951 Tex and also partly to Ian, about you both, I
952 think, implicitly noted that or explicitly that
953 the liability will then go somewhere else, if you
954 cap it in one place it will go somewhere else.

955 So, you know, do you think that will push the
956 desire to use products that people feel comfortable
957 with, rather than the innovative things to someone
958 else? So, will the insurer then, for example, if
959 there's a private insurer, look to restrict their
960 liability by just using things they're certain of? I
961 guess my question is, at least in the short-term, will
962 you not actually get the outcome you're looking for in
963 terms of greater competition and innovation from that?

964 **Mr Edwards:** I really like the question. The
965 question is, will that stifle innovation and new
966 products?

967 **Mr Chapple:** Will you push that stifling somewhere
968 else?

969 **Mr Edwards:** And my response to that is it's all
970 joining the dots, actually. Later on when we
971 talk about OSM targets and scale in government

972 procurement, it's an honourable process of the
973 Commission to start such a big industry. This
974 time on Thursday night we will not fix the
975 industry unfortunately but I see that if we go to
976 scalable government contracts in the scalable
977 assembly of social houses, we've got an iteration
978 stage over several years, like in most government
979 policy changes we've got a glide path, and it
980 will be a glide path in Kāinga Ora scalable
981 contractors to premium contractors and a glide
982 path in industry liability.

983 And if I may make a single comment to draw
984 people's attention to the matter, is that actually, the
985 liability would go back to other people in the value
986 chain because today, we have a system that's
987 institutionally blame game on the Council. Go to a
988 building site, it's the Council's fault, the bloody
989 weather is the Council's fault, everything is the
990 Council's fault. The moment you have a private sector
991 insurer charging the builder for his quality, then some
992 of its liability and onus on correct process will go
993 back up the value chain. It is a glide path. Thank
994 you.

995 **Dr Small:** That's very interesting. Would another
996 predictable outcome of this be a degree of some
997 change in the evolution in the structure of the
998 construction industry, do you think? Towards
999 more at scale, larger capitalised builders, I'm
1000 thinking of Peter Laurenson's suggestion about
1001 the scheme where you sit down at the start and
1002 talk about liability and allocate risk. It may
1003 not be well-suited to, you know, a one-man band
1004 building operation.

1005 **Mr Edwards:** 200% correct, Dr Small. That's our
1006 point and that's what industry colleague Andreas

1007 and myself from ABC and Monopoly Watch, is
 1008 that - and I didn't want to go off-piste on this
 1009 particular matter but as we join the dots of the
 1010 construction industry, the major problem before
 1011 the Commission is that it's costing the taxpayer
 1012 approximately \$4,000 a square metre to assemble
 1013 social houses, in the same quality, with the same
 1014 heat ratios, that are \$1,000 a square metre
 1015 anywhere else in the world.

1016 Monopoly Watch and ABC attended 32
 1017 international house factories to look at
 1018 international best practice, and we think the
 1019 transformation glide path that the Commission
 1020 might catalogue in its final report, would
 1021 include this pathway to scale at the government
 1022 contractor level, scale and continuity
 1023 which - scale is not 20 houses, scale is not 200
 1024 houses, scale of 20,000 houses over 7 years, and
 1025 then we can attach this private sector insurance
 1026 to it.

1027 I closed off my comment with one remark,
 1028 Commissioner Small. It's a Kāinga Ora colleague
 1029 mentioned to me, their exact comments were, if you have
 1030 \$500 million of capital in your house assembly
 1031 construction company, you're going to solve most
 1032 problems. I close off with that comment.

1033 **Dr Small:** Thanks, that's really helpful
 1034 conversation, thank you.

1035 Closely related to that, is the, I guess it's
 1036 almost an alternative I suppose to insurance, this idea
 1037 of a compulsory home warranty guarantee, which was
 1038 suggested by Taituarā and also by Fletcher Building.
 1039 Maybe I will bring Fletcher Building into this at this
 1040 point and ask how would you see that working in
 1041 practice, a mandatory guarantee for residential

1042 building work, would you care to elaborate on what you
1043 think and how that might work?

1044 **Mr Clarke:** Good morning, my name is Andrew Clarke
1045 from Fletcher Building. We sort of enter the
1046 question from that conservatism seems to be the
1047 issue and the weight of submissions through to
1048 you on this topic is that there is, because
1049 liability is driving the conservative decision,
1050 well then how do we solve that?

1051 And then we said to ourselves, would something
1052 like that work? You know, we get completely the
1053 complexity of it, and I think an earlier question from
1054 the Commissioner that it just might shift the
1055 conservatism from a BCA consenting authority to
1056 insurer. I think that's a very real live consequence
1057 that would need to be managed.

1058 But we just had a theoretical question going,
1059 there's an upfront cost, there would be a premium,
1060 which would then increase the immediate cost, perhaps
1061 it would lower the overall cost through the life of a
1062 home or a building or renovation.

1063 It is worth, we just thought it was worth testing
1064 because of the fundamental question, the starting point
1065 question was conservatism was driving an anti
1066 competitive, a lower competitive impact. Therefore,
1067 what do you do about that?

1068 And the unintended consequence might be you do
1069 something about it but it causes exactly the same
1070 outcome. We think that's a real issue. We look across
1071 particularly Australia and see somewhere like
1072 proportionate liability has been introduced, it's a
1073 tricky, difficult thing. It's one of the only pieces
1074 of legislation in the last 20 years that the states
1075 can't agree on in Australia.

1076 So, there's seven different proportionate
1077 liability regimes, so vested are they in protecting
1078 their particular way of thinking about it. They've all
1079 got one but all have a different one. It's very rare
1080 in Australia now.

1081 So, introducing proportionate liability is an
1082 option, that's being looked at by the Law Reform
1083 Commission and so on and it's not simply adopted. So,
1084 then you go to a simplistic, a blunt instrument like
1085 insurance or warranty, it has an upfront cost. Perhaps
1086 in a competition question, which is what we should be
1087 focused here in market studies on products, may not
1088 produce the outcome. So, we put it forward with some
1089 real sense that it wasn't a good solution. It might be
1090 a solution to a construction problem but this is a
1091 market study about products and it might not drive the
1092 behaviours that we think it should.

1093 That's a bit of a complex answer to a simple
1094 question but that's why we put it forward as something
1095 worth thinking about.

1096 **Dr Small:** Thanks for that. Bearing in mind
1097 Commissioner Johnson's question earlier, do you
1098 see that as being a scheme that's privately run
1099 and privately insured, or would you think it
1100 would be a government scheme? I'm really putting
1101 you on the spot.

1102 **Mr Clarke:** Yeah, if it was a government scheme, it
1103 would be just moving it from one form of
1104 government to another. To be effective, if there
1105 was private insurance, then I think to points
1106 made elsewhere, there may be parts of the
1107 construction industry that are more open to
1108 private insurance and less - once you get a
1109 proper OSM industry, it should be more insurable
1110 than having a liability regime because it's a

1111 manufacturing process, as opposed to a
1112 construction process.

1113 **Dr Small:** Okay, thank you, that's really helpful.
1114 There was one other discussion also made by
1115 Fletchers about the ability of, and it touches on
1116 what Ian, I think from Auckland Council,
1117 mentioned about phoenixing, you suggested that
1118 the ability of builders and developers to
1119 liquidate might be tempered in some way.

1120 **Mr Clarke:** Look, again, it was a suggestion made as
1121 a theoretical contribution. It doesn't apply to
1122 our business, or our industry, or our
1123 manufacturing, or distribution businesses per se,
1124 but we see it occur and we see the cost of it.
1125 It feels that if you can make it harder to occur,
1126 the genuine phoenixing feeling as opposed to a
1127 genuine trouble- but if there is a phoenixing
1128 process enabling liability to increase for other
1129 participants in the industry, particularly BCAs,
1130 then reducing the ability for a phoenixing to
1131 occur should reduce a consequential risk for
1132 other people. It felt fairly self-evident in the
1133 simplistic statement.

1134 **Dr Small:** I agree. Presumably, these things may go
1135 together, right, which is that to the extent that
1136 there's compulsion to have some insurance, that
1137 will drive reputation based construction?

1138 **Mr Clarke:** Yep.

1139 **Dr Small:** Which will lean against phoenixing, yeah,
1140 okay. Anything else? That's really helpful,
1141 anything else on that general topic that anyone
1142 would like to raise or comment on? There's a
1143 hand up, excellent, on the screen. Peter, thank
1144 you.

1145 **Mr Laurenson:** I guess, look, just in relation to
1146 that last topic about phoenixing, I think there's
1147 also a really good opportunity for improvement
1148 for people selecting professionals that work for
1149 them, to understand what their level of expertise
1150 is. And so, that's also related if there is a
1151 better engineer, better builder, in terms of
1152 someone doing the work, something that
1153 strengthens the need for those people to have
1154 longevity of service within their profession and
1155 to direct carefully about what scope of work they
1156 can do would be a good thing to, I guess,
1157 mandate, to actually have a structure that
1158 requires. Most of those requirements are
1159 voluntary and I do know that MBIE are looking at
1160 that in terms of occupation regulation and what
1161 the components are.

1162 Because our frustration from an Territorial
1163 Authority and BCA perspective, someone could actually
1164 do some poor work in the industry, and then phoenix a
1165 company and pop up somewhere else and there isn't that
1166 opportunity to clearly define - it's just related to
1167 phoenix again identifying good people in the industry
1168 that can do good work.

1169 **Dr Small:** So, that's sort of a reputation system
1170 remedy, is it? That something like no cowboys,
1171 but more officially run, or something like that,
1172 is that what you're thinking of?

1173 **Mr Laurenson:** Yes, and identifying those that
1174 perhaps need to retrain or find another industry
1175 to work in if they're particularly poor, and that
1176 is right across the whole gambit of all
1177 professions. We are probably as New Zealanders
1178 not as good at calling out one of our colleagues
1179 and putting them through a disciplinary type

1180 process. Of course, the Court system is the
1181 final disciplinary one, so if we can avoid more
1182 people getting into that system by better
1183 identification upfront, that would be useful.

1184 **Dr Small:** Thanks for that. I believe we've got
1185 online someone from the Architects Association,
1186 Teena Hale Pennington? Welcome.

1187 **Ms Pennington:** Kia ora.

1188 **Dr Small:** Kia ora.

1189 **Ms Pennington:** I just have a couple of comments to
1190 make in relation to the conversation around
1191 liability and I'll probably start with Peter's
1192 one that he just mentioned.

1193 One of the challenges in the system is the tension
1194 and disconnect between occupational licensing of an
1195 individual, vis-a-vis a practice.

1196 So, you get expectations of quality set at an
1197 individual level but the insured party is the business
1198 or the entity.

1199 So, one of the challenges that you see play out in
1200 the architectural community is increasing professional
1201 indemnity insurance costs and you see that policy
1202 change and iterate every year and it needs to be in
1203 place as a requirement for a 6 year minimum timeframe.

1204 But you see insurers increasingly becoming
1205 interested in the types of products that they will
1206 cover or exclude from policies.

1207 If we take an example of aluminium composite
1208 panels, we often see now that is an exclusion in a
1209 policy, so that decisions that were taken and based on
1210 the best available information at the time, then become
1211 uncovered in terms of liability policies.

1212 So, the earlier question about where does the
1213 total liability go if you introduce a cap? Presumably,
1214 it goes to other parties. And I think the issue at the

1215 moment is that one of the other parties in the chain is
1216 the design community. And the design community often
1217 picks up a large share of the liability that is placed
1218 on a project and are often not responsible for the
1219 decisions that are taken on a project.

1220 So, if we take some practical examples.
1221 Substitution might be a decision taken by the
1222 contractor which doesn't have any reference or
1223 engagement or discussion with the designer but they
1224 make that decision.

1225 The other is up until now we haven't had a minimum
1226 benchmark on the expectations of product information.
1227 So, we know MBIE has introduced legislation to improve
1228 the minimum quality of information that is available,
1229 such that designers can make more informed decisions.

1230 And I think the other interesting issue from the
1231 designer's perspective is that they are balancing a
1232 multitude of issues. Not only are they trying to meet
1233 performance expectations of the Building Act, they're
1234 also trying to balance safety demand considerations of
1235 the Health and Safety legislation.

1236 So, they've got a multiple accountabilities from a
1237 legal framework that often are influenced or altered by
1238 other parties who may not share and that could be the
1239 client and make decisions which ultimately may come
1240 back to the designer.

1241 So, I think those things are worth bearing in
1242 mind. We are and have been strong advocates of a
1243 proportionate scheme and that's probably all I'll say
1244 on that.

1245 **Dr Small:** Thanks for that, that's very helpful.
1246 The substitutions you're talking about must be
1247 what's known as minor variations, I suppose, are
1248 they? They fall into that category?

1249 **Ms Pennington:** Sorry, in relation to substitutions,
1250 it could be decisions where the architect
1251 services may only have partial services. So,
1252 they've sought to gain Building Consent, then
1253 decisions are taken in terms of the build and
1254 they're taken by another party. But the
1255 liability chain still reaches back through to the
1256 party who was involved at the beginning.

1257 **Dr Small:** Okay, yeah, I'm with you there, thank
1258 you. And just on the first point that you
1259 started off on, which was the distinction between
1260 architects who are actually doing the work and
1261 the firm that they work for, I didn't quite catch
1262 the closing of the loop on that one, so could you
1263 repeat that? Was this about the fact that it's
1264 the practice that holds the insurance, and does
1265 the insurer then become concerned about who's
1266 doing the actual work; is that the point?

1267 **Ms Pennington:** No, the point was in terms of we
1268 have an occupational regulation scheme that's
1269 setup for individuals. So, individuals are
1270 deemed to be competent but the insured party is
1271 the business or the practice and there is no
1272 matching.

1273 So, the question is, should the occupational
1274 licensing extend to businesses so that you get the full
1275 complete circle of quality of work, assurance in terms
1276 of quality of business, reputation, ability to fund, be
1277 in existence and operation and remedy and rectify any
1278 issues should they emerge?

1279 **Dr Small:** Thank you, that's great, got it.
1280 Anything more on that topic? That was really
1281 very helpful.

1282 **Mr Chapple:** Peter, you had your hand up earlier, is
1283 there anything you wanted to raise?

1284 **Dr Small:** It looks like he's taken it down.

1285 **Mr Edwards:** If I can make one small comment. Page
1286 37 of the draft report has got a fabulous chart
1287 on the start scalable builders in New Zealand.
1288 If we're looking at changing liability, it's the
1289 large scalable builders where that liability
1290 would change first because there would be
1291 economic benefit passed back to their consumers
1292 but also they have the resources to resolve these
1293 matters. And it's a continuing submission point,
1294 I hope we don't bore you over the next three days
1295 on this matter, the development of economy market
1296 segment construction industry in the assembly of
1297 social houses or economy houses, residential
1298 houses, is a key theme because a lot of the
1299 points of the draft report come back to this
1300 fundamental problem that we don't have economy
1301 market segment in New Zealand. It's like if we
1302 were a tourist country and we didn't have Easy
1303 Jet and Virgin Air, Asia Jet flying here, it
1304 would be a problem. I share that with you
1305 because this chart actually helps solve that one.

1306 **Dr Small:** Thanks for that. We certainly hear you
1307 large and clear on the economy's segment and it's
1308 directly the other side of the bespoke housing
1309 coin, isn't it, the alternative to that, so
1310 thanks for that.

1311 Okay. I wonder if I could, we will move on now, I
1312 think, that's helpful discussion on risk and liability.

1313 We will move on to some suggestions that we need a
1314 rather more radical reforms than what we were
1315 suggesting in the draft report with regards the
1316 regulatory system, and I really am keen for BRANZ to
1317 make a comment here. I am not sure if we have them in
1318 the participant list but, BRANZ, your submission was

1319 reasonably well stimulating, provocative on this point,
1320 suggesting that a first principles redesign of the
1321 Building Code system and, indeed, aligning the Building
1322 Code with overseas Building Codes, that's a pretty
1323 fundamental reform, more so than we proposed. It goes
1324 further, for example, than cross-referencing
1325 international standards for building products in
1326 existing compliance pathways which most parties seem to
1327 support.

1328 So, if possible, I am keen to hear from BRANZ
1329 about that suggestion. And also, or in the
1330 alternative, I suppose, the Registered Masters Builders
1331 had something similar to say. So, we have somebody
1332 with their hand up now, who is that? Oh, nice. Hi,
1333 Chelydra Percy?

1334 **Ms Percy:** Hi, I'm Chelydra Percy, I'm the
1335 Chief Executive of BRANZ.

1336 **Dr Small:** Welcome.

1337 **Ms Percy:** I think fundamentally, what we are trying
1338 to say is that we think that there is the
1339 potential that there's an undiagnosed root cause
1340 in this whole building system that goes beyond
1341 your remit in terms of the building market
1342 materials supply and we've said similar things to
1343 MBIE in their review of the consenting system.

1344 We're not convinced that the regulatory
1345 environment that was designed is working as it was
1346 intended, and we thought that the John Gardiner report
1347 that you commissioned was quite insightful, in terms of
1348 pointing out that the Building Act and regulation, and
1349 all the submissions and all those sorts of things, that
1350 that whole system hadn't been fully implemented, and we
1351 think that there is potentially an issue that it hasn't
1352 been fully implemented because it can't be fully
1353 implemented.

I think we're lauded internationally as having this amazing performance based Code, but we have this big gap about what performance means. And so, when we have the default of knowing what performance means. We know for some products what performance means. That's easy, that becomes the tried and tested and true, that's what people use. But when something else, a new product comes into the market, or attempts to come into the market, the inability to understand what performance looks like and to trust that information is driving a whole lot of behavioural issues in the market.

And just demanding people to choose more products or reducing, changing liability, we don't think is going to address these issues widely enough.

Dr Small: Thanks for that. I didn't actually, I must say I didn't from your submission get the point which you've just made, which is the proposition that perhaps the reason that previous suggested reforms weren't implemented is because it's impossible and so, that's quite challenging.

I guess what you're saying is that this is not just a matter of creating more compliance pathways and easier access to certification; is that right, have I got that right? That doing those things is not enough?

Ms Percy: Yeah. I think we weren't as sharp in our articulation of that point I've just made, that I have submitted to. The thinking we've gone through. It's not like you've misread our submission. It's a hypothesis, so we're an evidence based organisation, so we haven't got the full evidence for it. We think that work needs to be done. But yes, fundamentally, we're saying that the work that's required to create those compliance pathways, that creates the

1389 certainty about what performance of a product
1390 looks like, we think that process is fraught.
1391 That it takes a long time, it's political, it's
1392 difficult to get agreement, it's subject to
1393 capture from certain parts of the market.

1394 Potentially people argue that it's captured
1395 by the bigger players. I don't know if there's
1396 sufficient evidence for that but it's one of the
1397 many allegations. And we think that by having a
1398 recommendation which says let's put more
1399 compliance pathways in, that it could work
1400 eventually but it could take a very, very long
1401 time, and once again we'll focus on the easy ones
1402 first and it will leave the really new and
1403 innovative products still in the exact same
1404 position, which is a very difficult and very
1405 expensive process to provide enough assurance
1406 into the market that their product can and will
1407 work.

1408 So, yeah, we think it's a Clayton solution.

1409 **Dr Small:** Okay. Somebody else has got their hand
1410 up, I can't see who that is, it's Peter
1411 Laurenson, perhaps we can get Peter to comment on
1412 this, I think there's potential here for a rich
1413 discussion.

1414 **Mr Laurenson:** Thank you very much. I will just add
1415 one thing to the debate or to the discussion
1416 actually. We have submitted on this to the MBIE
1417 consultation just recently, and that is to start
1418 with, if we bring it back to product-based and
1419 product systems, it will be very helpful to have
1420 what is the risk involved? What is the risk
1421 based approach to having a free market of easy
1422 competition versus some level of checking of
1423 quality and performance?

1424 And so, it's a matter, we would like to, there's a
1425 little bit of this coming in the regulation that MBIE
1426 are putting in place with the building products
1427 information. So, someone looking at some steel used in
1428 a structure would not - it wouldn't take long to
1429 realise that is a higher risk in terms of its failure
1430 than perhaps a paint coating on an internal surface.

1431 We think there could be some real value in having
1432 not a wide view of that, people getting different
1433 ideas, but from a regulated point of view, saying,
1434 "These are the range of products and systems that
1435 should be more regulated and should be harder to
1436 approach". So, a true risk-based approach. I think
1437 that would link into what Chelydra has been saying ,
1438 the performance level required to meet there can be
1439 strictly enforced, and there might be some other ones
1440 where we say, "Actually, it doesn't have a high
1441 consequence of failure", be that in terms of the cost
1442 or the longevity, how often it takes to repair a
1443 product or to maintain it.

1444 So, we'll just throw into the mix that having a
1445 system that identifies the type of risk and what our
1446 appetite for that would be, would be a good thing to
1447 build into a regulatory system.

1448 **Mr Chapple:** Can I just follow-up on that, Peter.
1449 So, I think that probably each individual here
1450 knows something about the building system, would
1451 be able to have a list of where they think you
1452 can take more risk and where you can't. How
1453 straightforward do you think it would be to get
1454 agreement about that? Because, you know, that's
1455 a spectrum ultimately, rather than a black and
1456 white line somewhere?

1457 **Mr Laurensen:** I think there is some good
1458 international practice on that. In Europe they

1459 have classes and classifications of product
1460 systems, one in Norway I think researched a while
1461 ago, and it is, it's an 80/20 principle, you
1462 don't have to solve the whole problem before
1463 having a system that you could agree here's a key
1464 component.

1465 It is really important, I think we can agree
1466 there are different types of risk in there quite
1467 quickly. The level of work to do it I think
1468 should be a collaborative approach and I think,
1469 you know, I've seen it in Australia, they have
1470 had a good process of identifying what they
1471 should work on over a period of time over their
1472 Building Code reviews. Not going to get full
1473 consensus but I think you'd get agreement about
1474 what the scope is reasonably quickly.

1475 **Mr Chapple:** Thank you.

1476 **Dr Small:** I think we've got some material coming up
1477 later on, on that matter of risk based
1478 assessments. Could I just go back to the - that
1479 concept of differentiating by risk category,
1480 that's working within the current system, rather
1481 than disposing of it or rather than radical sort
1482 of realignment of the system with foreign
1483 jurisdictions.

1484 I would just - I am quite keen that to receive any
1485 information about how that further step of alignment,
1486 rather than fixing what we've got here, trying
1487 expressly to model it on some other jurisdictions or to
1488 get it more aligned so as to solve or avoid the risk
1489 that what we're trying to do here might actually be
1490 impossible, so I would be really keen for BRANZ, if you
1491 could, and anybody else who feels that way, to put in
1492 something to us by way of a cross-submission after the

1493 conference on that point. I think that would be very
1494 helpful.

1495 I wonder if anyone else wants to comment on that?
1496 Registered Master Builders have made some comments on
1497 this. Fletcher Building have said you don't believe
1498 the system is broken but improvements can be made. I
1499 wonder about, you know, where you think those are best
1500 focused.

1501 Tex, you've obviously suggested the system is
1502 fractured and fragmented, and so any comments you've
1503 got on that would be helpful as well. No hands up on
1504 screen, so the floor is yours, if you wish to
1505 contribute?

1506 **Mr Heuser:** You have suggested that you would like a
1507 cross-submission that looks at other
1508 jurisdictions. I think it's important to note
1509 that the building regulatory system and liability
1510 system doesn't exist in a silo. We should look
1511 at other jurisdictions to understand not only
1512 that but also the market structure that exist in
1513 other jurisdictions and also the cost in other
1514 jurisdictions. So, benchmarking of costs to
1515 other jurisdictions was something that was
1516 missing and we've made that point. I didn't see
1517 it on the agenda, so I thought I'd just - given
1518 you are interested in looking at other
1519 jurisdictions, I think that's an area where we
1520 might not just look at this in a siloed manner.

1521 **Dr Small:** I take the point, Andreas. I think there
1522 was really in relation to the proposal that we
1523 may be barking up the wrong tree here in trying
1524 to fix the regulatory system that we've got. And
1525 obviously, in any of these comparatives, there's
1526 a major question of how, if we're going to pick a
1527 direction and go there, how do we get there from

1528 here, type of thing. So, the transition issue is
1529 really important as well.

1530 Ian has his hand up.

1531 **Mr McCormick:** If we think about our system and
1532 consider that just Auckland Council is delivering
1533 just under a quarter of a million building
1534 inspections on constructive works a year, with a
1535 20% fail rate, that's got to be a concern, I
1536 think, for everybody. And I think, you know, we
1537 need to start thinking about how can we start
1538 moving the system towards something that, you
1539 know, would work better?

1540 One of the things, from my perspective, would be a
1541 focus on vetting quality assurance systems and making
1542 it a requirement within the residential construction
1543 sector in some way. And, you know, maybe part of the
1544 answer might be looking at a system similar to Artisan
1545 that BRANZ has been working with in the industry, which
1546 is not a remote inspections tool but something that's
1547 designed to support someone to be able to create a
1548 bespoke quality assurance system to manage the quality
1549 of their work on their construction site, rather than
1550 having to rely so heavily on BCAs. That would enable
1551 increasingly insurance companies to have more
1552 confidence to understand how to put premiums in place
1553 for builders that not only can demonstrate that
1554 individually they're competent but also they have a
1555 quality assurance system that manages the quality of
1556 the work that people are doing on their site, that
1557 they're responsible for.

1558 Also, for example, in the design area, some
1559 systems in place whereby roles and responsibilities for
1560 folk in the system are understood early on and that
1561 people are actually investors. People who are
1562 investing their money are actually looking for that

1563 quality mark, would enable I guess us to start moving
1564 the industry moving forward.

1565 You know, investing in things like, you know,
1566 Codes of Practice in a way similar to the work that my
1567 colleague Peter Laurenson is working with NZIA at the
1568 moment on a quality documents process, whereby we would
1569 agree, I guess, what a quality Building Consent
1570 application, a complete one would look like, how plans
1571 should be laid out etc., so that, you know, right at
1572 the early stage we've got a common understanding across
1573 the industry of what quality looks like.

1574 And also, enable that to be driven into the
1575 curriculum of industry related qualifications in a way
1576 that it's done at the moment. I think there's this
1577 huge opportunity to do that. It sets us up for being
1578 able to move to a system where we don't end up with
1579 this basically totally unique and arguably unusual way
1580 of approaching where we're doing a quarter of a million
1581 building inspections to check people's work. I mean,
1582 it's crazy.

1583 **Dr Small:** Thanks for that, greatly appreciated. I
1584 see your hand is up Chelydra, I realise that I've
1585 run this over time by 15 minutes, so we probably
1586 should go to the break now and resume but we'll
1587 resume with the same topic. So, we're scheduled
1588 for half -

1589 **Ms Walker:** It's Sarah Walker from RMBA. It's hard
1590 to hear, the sound is quite quiet. I don't know
1591 if you can do something over the break but if we
1592 can improve the sound at your end, that would be
1593 really great, thank you.

1594 **Dr Small:** Is that for everybody's mics or?

1595 **Ms Walker:** Largely your's, I think.

1596 **Dr Small:** Oh, okay, thank you. I'll just start
1597 shouting. Okay, that's great. We'll go to the
1598 break and we'll come back at 11.00. Thank you.

1599

1600

1601 **Conference adjourned from 10.30 a.m. until**
1602 **11.00 a.m.**

1603

1604

1605

1606 **Session 2: Enhancing the regulatory system**

1607

1608

1609 **Dr Small:** Welcome back everyone. It's a personal
1610 best record for me, it's the first time I've ever
1611 been asked to speak louder, so I'm going to.
1612 I'd like to cover off a couple of hangover pieces
1613 from the last session. Chelydra was about to make a
1614 comment. Also, I'd like to go back to Teena from the
1615 Architects Institute, just to go back to that point
1616 about liabilities for substitutions which we didn't
1617 quite nail, I don't think. But anyway, thank you,
1618 Chelydra.

1619 **Chelydra Percy:** I wanted to reinforce Ian's point
1620 about quality assurance systems in the building
1621 construction industry. I agree with everything
1622 he said and I would add to that, that the point
1623 about quality assurance system like Artisan that
1624 we have designed and tried to implement, it also
1625 provides a permanent record of the building
1626 quality, so using photographic and documentary
1627 evidence, which ideally means there would be
1628 photographs that should be available on a LIM one
1629 day, so anytime anyone is buying a house or a
1630 building, they should be able to go back right

1631 inside the walls and see what products and who
1632 built it and how well they built it.

1633 It also goes to the liability issue as well,
1634 because it has the potential for insurance companies to
1635 be able to access a really massive dataset over time,
1636 that gives them ability to understand and rate a
1637 builder or a product line through being able to see use
1638 over time and performance over time.

1639 And it's the kind of data that really would
1640 support a more thriving insurance sector to support
1641 builders and product manufacturers and distributors as
1642 well.

1643 **Dr Small:** Thanks for that, that's helpful. Teena,
1644 if you're still there, could we get you back
1645 because we realised in the break that we didn't
1646 quite understand fully your point about how
1647 architects end up being liable for changes that
1648 are made downstream that are not just minor
1649 variations. I think you said that it was, what I
1650 heard was it was something to do with a partial
1651 brief, that the architects have a partial brief,
1652 and that some other aspects of the building that
1653 weren't within that brief failed and you end up
1654 with a liability for it. I think that's what I
1655 heard but once I consulted with my lawyer
1656 colleague, Dr Johnston, we had some questions
1657 about that. If you're there, please raise your
1658 hand, otherwise we might just have to follow-up
1659 with you later, which looks like the case.

1660 Okay, all right, let's go to the last topic from
1661 the first session, and I don't want to spend too much
1662 time on this because I would like to try and get back
1663 onto our Conference schedule.

1664 The question about BCA consolidation essentially
1665 has been raised by several parties. Obviously, you

1666 know, this is a diverse sector, 67 BCAs nationally, and
1667 we've heard a lot of information about consistency of
1668 implementation, interpretation, fragmentation and all
1669 of this is on MBIE's agenda for the review of the
1670 consenting system but we would, nevertheless, be keen
1671 to hear from people who have said and suggested that
1672 there needs to be some consolidation in that sector and
1673 that that would be an important way to get consistency.
1674 We think it's about consistency anyway but do tell us
1675 if we've got that wrong.

1676 So, the people who have commented on this so far
1677 are the Master Builders Association, Fletcher Building
1678 have supported BCA consolidation, Tex Edwards has
1679 supported it and Taituarā also has listed some benefits
1680 of it. Do any of those parties want to kick us off? I
1681 don't think this needs a lot of attention but any
1682 comments would be very welcome.

1683 **Mr Edwards:** Simultaneous to review of
1684 consolidation, which is long overdue, it doesn't
1685 make sense at the moment, we need a fundamental
1686 top down 100% review of BRANZ. BRANZ is the
1687 unifying force that sits inside BCAs. BCAs are
1688 entitled by statute to charge a levy, so Keith
1689 Holyoake in the 70s set it up, it hasn't been
1690 reviewed since. BRANZ has become a private
1691 university. BRANZ creates credible work but it's
1692 been misguided and the numbers speak for
1693 themselves, in terms of BRANZ's performance.
1694 When I mean the numbers, forget the fact that the
1695 revenue of BRANZ has gone up by \$10 million and
1696 it's a \$30 million private university with a levy
1697 on BCAs, which is a levy on consumers.

1698 BRANZ is not working in consumers' interests.
1699 It's lost its way in this complex journey and I close

1700 off on that point, that BRANZ should be simultaneously
1701 reviewed to BCAs.

1702 **Dr Small:** Because of the levy funding which comes
1703 from BCAs, is your point?

1704 **Mr Edwards:** Yes, because the levy comes from the
1705 BCAs because the numbers speak for themselves in
1706 the cost of construction. Because of the some of
1707 the miss-steps we've had in building substitution
1708 issues, I'll cover it off in my submissions to
1709 save time.

1710 **Dr Small:** Okay, thanks. Anybody else care to
1711 comment on that?

1712 **Mr Clarke:** I think for us, consolidation per se
1713 isn't the point. I think it's efficiency and
1714 certainty for our customers and their customers.
1715 So, we would directionally support it. I know we
1716 use the word consolidation in our submissions but
1717 it's not of itself the issue. It's how do you
1718 make sure the consenting process is efficient and
1719 effective for everybody, clear and transparent?
1720 There are a number of submissions made to you by
1721 other people that we would jump on board with,
1722 whether they can compete with each other, whether
1723 you can privatise; all those things are healthy
1724 and able to provide a more competitive product
1725 environment. We are not trying to stray down
1726 into the construction element.

1727 **Dr Small:** Okay, thanks for that, that's helpful.
1728 It's the outcome that we seek, which is
1729 consistency and efficiency.

1730 **Mr Clarke:** Yes.

1731 **Dr Small:** And structure may be related to that but
1732 not necessarily, I think.

1733 **Mr Heuser:** My point around consistency of
1734 application, there are dozens of District Courts

1735 around the country that follow the precedent
1736 system from Courts above them. We found in the
1737 plasterboard task force that setting firm
1738 guidance from above from MBIE led to a more
1739 uniform application of product substitution rules
1740 for plasterboard throughout all the BCAs,
1741 avoiding the instance of rogue BCAs, maybe not
1742 rogue but inconsistent interpretation of rules.

1743 Formalising that precedent following system and
1744 enforcing a bit more rigour and ensuring consistency
1745 and less wide discretion, application of wide
1746 discretion.

1747 **Dr Small:** Okay, thank you. Kevin, were you going
1748 to make a comment on this?

1749 **Mr van Hest:** That is exactly what I was going to
1750 say. Not consolidating BCAs emerges like we had
1751 with all those Councils consolidation but a sort
1752 of an over, I suppose it should be MBIE that
1753 should be doing this, but some sort of
1754 over-arching BCA that accepts products. We're
1755 finding that our systems, for example, are
1756 accepted in some places and not in others and
1757 there's inconsistencies in their interpretation
1758 of things, so there should be a more over-arching
1759 body of some sort, which I thought would be MBIE
1760 but you mentioned there are rogue ones that don't
1761 follow the rules anyway, so yeah.

1762 **Dr Small:** Okay, thanks. A couple of comments
1763 online. One from someone we haven't heard from
1764 yet this morning, that's Simon White, so we'll go
1765 to you first, Simon.

1766 **Mr White:** Yeah, hello. I am a Director of the
1767 Combined Buildings Supplies Co-operative, we've
1768 got Carl Taylor there. Just on the idea of
1769 combining the BCAs, one of the issues to think

1770 about is whatever change you want to implement,
1771 it's going to be extremely difficult for
1772 complicated structure, where you've got 67 BCAs
1773 associated with Councils, so that's part of the
1774 reasoning we are suggesting that having a centre
1775 of expertise so you can drive change through the
1776 structure.

1777 The other aspect which we also think would be
1778 ideal, would be to recognise that BCAs or Councils are
1779 actually monopolies. So, there's less drive to make
1780 changes or to be innovative, and, you know, obviously
1781 alongside there are liability risks. So, it would be
1782 also good to be able to have an element of competition,
1783 so ideally you'd look internationally to see other
1784 practices that apply, in Australia in particular.

1785 **Dr Small:** Thanks, Simon. Yeah, I think that's
1786 helpful. I think it's the outcomes, as I said
1787 before, that we're after here.

1788 Ian, for final comment on this topic? I
1789 reiterate, we are going to talk about BCAs in a
1790 subsequent session in more detail, so we may be
1791 slightly getting ahead of ourselves here, but, Ian, if
1792 you would like to make a comment on this particular
1793 point?

1794 **Mr McCormick:** Auckland's Council's position is that
1795 the benefits of consolidated BCAs would need to
1796 exceed the costs. And also, it's probably worth
1797 just recognising that we make use of the services
1798 of other BCAs to assist with consenting from time
1799 to time, when they are able to assist us. We
1800 also deliver inspections, and what my colleagues
1801 said around the country and often make use of
1802 that in Auckland as well.

1803 We generally find there's not a lot of
1804 difference in terms of the technical

1805 decision-making and a greater degree of variation
1806 isn't between our BCAs making decisions, I would
1807 suggest. It's mainly variation in the way that
1808 designers prepare their plans and their plan
1809 layouts, and I guess the completeness of those
1810 applications, have a lot more variation there.

1811 So, you may find that consolidating BCAs is
1812 not going to address fundamental issues around, I
1813 suppose, common understandings of what a
1814 completed application looks like, against
1815 standardisation of planned layouts.

1816 **Dr Small:** Thank you very much. Okay, let's move
1817 along now to what was, sort of session 2, where
1818 we'd like to sort of address our draft
1819 recommendations 3, 4 and 5.

1820 There's a few topics here. One is about more
1821 compliance pathways for a broader range of supplies.
1822 One is about making product substitutions and
1823 variations easier, and the other one is about reducing
1824 barriers to certification and appraisal.

1825 In general, submissions were in support of these
1826 three recommendations. A number of submissions
1827 emphasised the importance of ensuring the core
1828 objectives in the building regulatory system are also
1829 maintained, and of course we agree with that.

1830 Some submitters expressed different views,
1831 including that additional compliance pathways will be a
1832 highly resource intensive exercise and impose a burden
1833 which may land with MBIE. And that product
1834 substitutions by minor variations should only be
1835 considered very carefully or should be considered very
1836 carefully when the suppliers are part of a building
1837 system. I think this was Fletcher's point.

1838 We are just interested to hear a bit more about
1839 those topics.

Regarding more compliance pathways, we touched on a number of ways in the draft report that we could get more compliance pathways, including updating and developing more Acceptable Solutions and Verification Methods. Cross-referencing international standards into existing Acceptable Solutions and Verification Methods. And promoting the alignment of these instruments with international standards where possible. Enabling international bodies to certify products as compliant with the Code. Further guidance, which would be published by MBIE. And setting product performance criteria in the relevant pathway documents.

So, we're keen to hear if there's any thoughts from the people present about prioritisation of these things, which of these potential solutions seem most promising and worth pushing on with.

Maybe just an open question to start with from anybody in the room or online for any comments about that set of topics. Would anybody like to make a comment on any of that material as a specific note?

I'll go to specific questions then.

Perhaps for BRANZ, first of all, BRANZ pointed out that developing more compliance pathways will have resource implications for MBIE and suggested that while it's a good idea in theory, it might be not a good idea in practice. At least, that's the way I interpreted their submission.

I wonder if you could comment further on this concern and where perhaps you think effort would be more appropriately directed at this time? And also, correct me if I've got it wrong about what you're saying?

No, I think you've got it absolutely right, and we were picking up a little bit on one of the points that John Gardiner made in his report on the side, where he

1875 talked about how the Building Act had been reviewed and
1876 hadn't been fully implemented, it was reviewed again
1877 and recommendations were made to fully implement and
1878 those hadn't been implemented.

1879 We think there's this unfortunate thing we tend to
1880 do in many parts of New Zealand system, not just
1881 building construction, which is have great well intent
1882 and meaningful reports, here's action points for people
1883 to do, but the resources aren't there, the priorities
1884 aren't there. When we think about the amount of work
1885 that MBIE has to do just around building for climate
1886 change regulatory programme, which is really, really
1887 important and is going to add complexity into this
1888 whole product, information product choice scenario, we
1889 just are really concerned that we're setting the system
1890 up to fail again, that in 10 years time we'll come back
1891 and go, yep, it was the right thing theoretically to do
1892 but there wasn't the resources, or capability or the
1893 speed of the system because it's not just about MBIE,
1894 any of these compliance pathways require significant
1895 input from an industry already well under the pump in
1896 terms of their ability to meet the demand for their
1897 work, let alone for all the consultation that's going
1898 on.

1899 In the past 12 months, as an organisation around
1900 building construction, we have responded to something
1901 like 14 or 15 consultation submissions from the
1902 government. That doesn't include all the work we have
1903 to do to support standards work and things like that.
1904 So, we're just asking you to be really realistic about
1905 if you think that this is going to drive new change,
1906 rather than theoretically, then it has to be a
1907 realistic action that's been placed.

1908 **Dr Small:** Thanks for that. Listen, while you're
1909 there, I wonder if I could just explore in the

1910 same general set of recommendations. On the one
1911 about product substitution and variations, you
1912 had similar views, and there was a comment there
1913 that - which I think is similar to what you just
1914 said, that you're concerned that reliance on MBIE
1915 to implement the recommendations will take too
1916 long.

1917 I wondered whether maybe, I don't want to
1918 put words in your mouth so please feel free to
1919 spit them out, but were you suggesting that some
1920 other party could do this, or just that maybe
1921 there's some other thing that should be done?

1922 **Ms Percy:** Look, I don't think we did have a
1923 recommendation on how it could be done better, to
1924 be honest. I don't think we know and have a
1925 better idea. We certainly would have put it in
1926 if we had thought about that. I think part of it
1927 goes back to my point earlier in the day and our
1928 point earlier in the submission, which is have we
1929 created a system that is so overly complex, that
1930 we have made something that is potentially
1931 unimplementable.

1932 And, you know, in which case, if that were
1933 true, I know it is a hypotheses but if that were
1934 true, then we're just kind of reinforcing a
1935 system that's already broken by trying to
1936 do - you know, the definition of insanity, doing
1937 the same thing and expecting a different outcome,
1938 and that's what we're a little bit worried about.

1939 **Dr Small:** Okay, thank you. Anybody online who
1940 wants to discuss any of these issues, now would
1941 be the time to put your hand up.

1942 I guess, failing that, I wonder whether anybody
1943 has got particular views on what is the best way to
1944 ensure that compliance pathways do continue to stay

1945 flexible and up-to-date over time? Are there any gains
 1946 to be had by, I guess a general question about our
 1947 recommendations in this area, about more pathways
 1948 aligning with foreign compliance arrangements,
 1949 international - using international certifying
 1950 agencies.

1951 Peter Laurenson, from Auckland Council?

1952 **Mr Laurenson:** Thank you very much. Yes, I think
 1953 this is related to a number of those comments,
 1954 and it is in terms of whilst the focus is on
 1955 increased competition, the pathway aspect
 1956 verifying which pathway has a place within the
 1957 regulatory system is important.

1958 So, if you're looking from a designer's
 1959 perspective about which way do I go, do I have
 1960 something that complies with the New Zealand standard,
 1961 for example? There's that element of standards being
 1962 separate to the work that BRANZ does and to the work
 1963 that MBIE does. From a BCA perspective, we have some
 1964 sympathy for the designers to know which compliance
 1965 pathway do I get that actually has an absolute
 1966 assurance? We know that the CodeMark system is the
 1967 only one referenced within the Building Act that's
 1968 deemed to comply with the Building Act and so,
 1969 over-arching we would like to see, I think this is
 1970 where your other comments in relation to the national
 1971 register and what I made mention earlier about what is
 1972 the appropriate risk-based decision to make?

1973 I guess what I'm saying, the compliance pathway,
 1974 all good, thumbs up, it's just what level of assurance
 1975 does that pathway have? I know some earlier
 1976 investigations the Commerce Commission has been
 1977 involved with in the building products industry around
 1978 things like steel or mesh, all those things in the
 1979 past, it's not absolutely clear that a standard that

1980 checks manufacturing quality is a prerequisite in the
1981 Building Code. All right? It's only one way of
1982 meeting compliance but there could be more work done in
1983 this space if the industry says, "Here is a
1984 particularly important product that we must have
1985 assurance of and that is the one compliance path or two
1986 compliance pathways and you can't deviate away from
1987 that". It brings in that quality aspect.

1988 **Dr Small:** That's a good point and it's consistent,
1989 I think, with what BRANZ was saying about the
1990 burden and the cost of creating these things. It
1991 goes, I guess, to the issue of prioritisation and
1992 how, is there a system and what is the system and
1993 could it be improved for picking the products or
1994 the product categories for which more compliance
1995 pathways would be particularly useful, so that's
1996 something on which we'd be keen to hear any
1997 views.

1998 **Mr Laurenson:** And the last point about that,
1999 because we'd like to remove some duplication of
2000 effort, so I think we focused even more. It
2001 might be the point from BRANZ about the industry
2002 is busy, we do put our hands up for a range of
2003 those things, so a little bit more direction on
2004 that strategically focused type of products would
2005 be assistance to the whole industry, and
2006 particularly back to the design community when
2007 they're picking, way before it gets into a BCA,
2008 if they have confidence of the route that they
2009 take, that would be a huge efficiency and
2010 accuracy gain.

2011 **Dr Small:** Right, yeah, thank you. Moving on
2012 slightly from the question of more compliance
2013 pathways to the issue of making substitutions and
2014 variations easier. One of the things we talked

2015 about here was reducing specification by brand
2016 and the other one was trying to increase the
2017 flexibility of the MultiProof scheme.

2018 And so, I wonder whether the BRANZ specification
2019 might be something that Kevin from Elephant Board might
2020 be interested in contributing to? Have you got a
2021 comment on that issue, Kevin?

2022 **Mr van Hest:** Well, just further to the submission
2023 about allowing possibly more than one brand on
2024 the plan at the design consent stage so people
2025 have choices during construction. Because it can
2026 still be difficult for a builder to decide which
2027 product is okay, so I get that, but if there was
2028 choices at design consent stage, the whole point
2029 of us being here is to try and get more
2030 competition in the market.

2031 So, if you can do that.

2032 **Dr Small:** That would be a way of essentially
2033 avoiding the need for a product substitution post
2034 consent because two brands or two systems might
2035 be jointly consented, is that what you're
2036 suggesting?

2037 **Mr van Hest:** Some products seem to be easily
2038 substituted. A good example is R2.2 Pink Bats is
2039 on the plan and the builder puts up R2.2 Bradford
2040 Gold, and no-one blinks. That's really easy.

2041 **Dr Small:** It is a brand issue, brand substitution
2042 issue?

2043 **Mr van Hest:** Yeah, and it's about local knowledge,
2044 I guess, if the inspector says that's okay. But
2045 you have a 60 minute fire system from one
2046 plasterboard manufacturer, switched from a 60
2047 minute fire system to another, one that's been
2048 around 34 years, and the question keeps popping
2049 up, is this stuff okay?

2050 So, there's a behaviour thing going on there
2051 with substitution, something more and not so easy
2052 to pinpoint. And I don't quite know how to solve
2053 that. Maybe that register thing which we will be
2054 coming up to, some sort of resource that people
2055 can make decisions on-site if that product or
2056 system is okay.

2057 I note Building Inspectors, they are all online
2058 while they're doing inspections, they have their
2059 tablets, they can easily go into something and go, yep,
2060 that's fine. So, that was done but it would require
2061 products to be on some sort of "these ones are okay"
2062 register.

2063 **Dr Small:** Or these ones are functionally equivalent
2064 to those ones?

2065 **Mr van Hest:** Or more interestingly, we find we show
2066 our path to compliance with our product or
2067 system, and again and again and again and again,
2068 instead of it just being done once, which maybe
2069 all the BCAs can look at, it's been accepted,
2070 it's been looked at, that's okay, tick, tick.
2071 So, there's inconsistencies.

2072 So, for example, say a James Hardie fire
2073 system is specified, then it's just immediately
2074 accepted. Why? It's not BRANZ appraised, it
2075 doesn't have a CodeMark, but it's okay. Though
2076 that doesn't happen with us or possibly others, I
2077 don't know.

2078 **Dr Small:** Do you mean it's not certified?

2079 **Mr van Hest:** I'm sure it works, I'm talking about
2080 there's no CodeMark or BRANZ appraisal, but the
2081 systems are accepted because, you know, they've
2082 been around a long time. Whereas, there's not a
2083 consistency. If people substitute one brand of
2084 plasterboard with another, it's consistently

2085 questioned again and again and again, it's
2086 incredibly frustrating. I don't know how many
2087 times I've sent a fire report of a system, they
2088 must have 100,000 copies and they keep asking for
2089 the same thing.

2090 So, something needs to change fundamentally
2091 in that substitution world. People substituting
2092 in something that's been substituted to - "A" has
2093 been changed to "B" and "B" has already been
2094 accepted many, many times, so why is it so
2095 difficult to go to "B" each time? So, that needs
2096 to - something needs to change there.

2097 **Dr Small:** Yep. Andreas, were you going to make a
2098 comment on that?

2099 **Mr Heuser:** It was just really to point out that the
2100 plasterboard taskforce encouraged MBIE to issue a
2101 Product Substitution Guidance Note that just
2102 listed a series of plasterboard products which
2103 could be substituted as minor variations, I
2104 believe. And it was just that act of making that
2105 known, that went a long way to encouraging BCAs
2106 to act in a more consistent manner. But I think
2107 the solution needs to be something to systemise
2108 that a bit more and reinforce that and avoid
2109 these sort of anomalies that happen quite
2110 frequently, according to Mr van Hest.

2111 **Mr van Hest:** Yeah, what MBIE did was just list a
2112 bunch of products or plasterboard products that
2113 comply to AS/NZS 2588 which is probably one of
2114 the easiest standards worldwide for any
2115 plasterboard manufacturer to get. It's four
2116 things, edge hardness, humidified deflection,
2117 nail pull, and I always forget the fourth one.
2118 It was great that they did that. So people can
2119 use all these plasterboards from all over the

2120 world purely for decorative purposes but 90% of
2121 the time plasterboard is needed for bracing and
2122 fire and more complex situations.

2123 So, it, sort of, was helpful but, in fact,
2124 Councils allowed these other brands for years actually,
2125 they've been in the market. There's lots of different,
2126 small players that brought in product that were used to
2127 line the garage or something, you know, for someone,
2128 but it's this other area. The key ones are bracing,
2129 fire and noise control, they're the three meaty ones
2130 really, there's not really anything else. But the
2131 difficulty of substituting there, you know, we've shown
2132 what we've shown in our reports, we've shown our
2133 bracing test, our Peak 21 tests also 100 times but it's
2134 difficult each time for people to go from A to B on
2135 that point each time.

2136 Whereas, some products, there's no blinking.
2137 Like, insulation, for example, or cement, you know, you
2138 can go from Golden Bay to Wholesome Cement in your
2139 foundations and nobody blinks. As long as it's 25 MPa,
2140 there's no minor variation made. But boy, the world
2141 comes to an end when you're changing the plasterboard,
2142 there's something very funny about that. I don't know
2143 what's going on. Anyway -

2144 **Dr Small:** Some of these things or the solutions you
2145 are hinting at are probably more appropriate for
2146 the afternoon session today. I notice we have
2147 Mark Johnson from Floor NZ online who is waiting
2148 to speak to us. Keen to hear from you, Mark.

2149 **Mr Johnston:** You are looking at the pathways in and
2150 around Acceptable Solutions and Verifications but
2151 what we are seeing is so much of our work has to
2152 come down the alternative solution pipeline, and
2153 that in itself is where it becomes very
2154 confusing. In fact, you're at the mercy of

2155 individual BCA or consenting authorities and even
2156 within those organisations, individual
2157 inspectors' interpretation as to whether or not a
2158 product is suitable or not.

2159 So, it would be interesting to see some work done
2160 around the clarification, around simplifying, you know,
2161 how or when products are suitable.

2162 I note with interest, the building or the building
2163 product information requirements, the building regs
2164 that came through earlier this year, should go some way
2165 towards addressing some of the concerns around the
2166 information that's required with product, which I think
2167 will help the cause.

2168 But we still see that that whole alternative
2169 solution side is still very confusing and it's
2170 difficult to get some of these products across the
2171 line, and it slows down the consenting process.

2172 **Dr Small:** Have you got specific examples of that,
2173 that you can share with us, Mark?

2174 **Mr Johnston:** Not too much here but we'll come back
2175 to that as well. It's just the uncertainty that
2176 we see from a number of our members and it's not
2177 necessarily from a distributor or from a supply
2178 perspective, it's when it gets to retail when
2179 they're dealing with the consumers or end users.
2180 And remember, what we are dealing with is very
2181 late in the build process and in a lot of cases
2182 floor coverings are not chosen or specified at
2183 the time of the original consent. It is
2184 something which provides a fair amount of
2185 confusion. Not confusion necessarily but there's
2186 some work involved in and around that. Some of
2187 our suppliers have had issues in and around
2188 individual consenting authorities. Not major but
2189 we still see it as being problematic and it's

2190 caused a fair amount of work within the
2191 organisations.

2192 **Dr Small:** Thank you. Perhaps I could ask Fletchers
2193 for a comment on your submission on this point,
2194 which I sort of read to be about unpicking parts
2195 of a system. Was it intended to go further than
2196 that as regards concerns over substitution or was
2197 that it?

2198 **Mr Clarke:** No, I think we certainly wanted that
2199 point to be understood. We start with this
2200 concept on this topic, which is we should be
2201 trying to make it easy for customers, whether
2202 that customer is a builder or a designer.

2203 And we have said this consistently through this
2204 study, that allowing choice in a number of different
2205 ways, is a good thing. Allowing to specify by brand,
2206 is okay. Allowing it to be done by standard or quality
2207 or some code, should be fine.

2208 Whatever assists people to get there quickly, we
2209 would like not to labour that point, to the point where
2210 we're saying you've got to put two products on
2211 everything, because I think that adds cost, adds delay.
2212 Certainly, we have no drama with allowing alternates.
2213 If a designer puts our product by name, and there's an
2214 alternate product that can be met to hit the same
2215 specifications, we've always said that's fine, we can
2216 compete on the other side of that.

2217 We don't think this is the issue that's stopping
2218 competition and creating its own impediments, although
2219 we don't want to let it go.

2220 We've had the same view about the whole of the
2221 system, a system to a system, but not inside a system.
2222 Once you start to unpick a system and take a particular
2223 product out and put another one in the system, then the

2224 whole point of a system falls away, and we can pick
2225 that up again tomorrow when Hamish is here.

2226 We see that as an important distinction. It's
2227 nuanced but we feel it is a very important one and runs
2228 all the way through to a liability question,
2229 guarantees, warranties and things like that would then
2230 flow. We think it's just a commonsense point; taking
2231 part of a system and then allowing product substitution
2232 within it and still calling it a system and expecting
2233 the system provider to stand behind it is unrealistic.

2234 **Dr Small:** I will come to you in a minute, Tex. I
2235 think the suggestion that Kevin was making, was
2236 that - not that you should be required to have
2237 two things on the consent but you should be
2238 allowed to. I gather your comment is you would
2239 be fine with that?

2240 **Mr Clarke:** Yeah, again, whatever is easy for people
2241 to be efficient and effective and then create
2242 competition where competition should be able to
2243 be competed with in service, product and quality.

2244 **Dr Small:** Thanks.

2245 **Mr Edwards:** Tex Edwards, Kiwi Infrastructure here.
2246 In our research of international house building
2247 factories and where we looked at 32 international
2248 factories around the world, we found out that
2249 when you have competition in a gateway product
2250 like plasterboard, real competition, the
2251 long-term benefit of the competition is not just
2252 reducing the cost per square metre from \$8 a
2253 square metre to \$3 a square metre, it's actually
2254 a seven fold increase in productivity and
2255 installation time.

2256 So, I bring that to the Commission's
2257 attention to try and draw the dots and laser
2258 focus in on a critical item, plasterboard. In

2259 other markets where there's vigorous competition
2260 in plasterboard, there is a five to seven fold
2261 improvement in productivity in installation time.
2262 A plasterboard sheet isn't \$8 a square metre or
2263 \$30 a sheet, it's actually \$150 of installation.
2264 You've got installing, plastering systems,
2265 painting systems. In a perfect world, it would
2266 be a robot and they'd do it in three minutes. In
2267 Kiwiland, we spend an extra \$30 a square metre
2268 plastering, \$30 a square metre painting, \$20 a
2269 square metre installing. And I urge the
2270 Commission to try and join the dots on government
2271 procurement processes and the impact it had in
2272 the plasterboard inquiry. The scale that's
2273 required, my industry colleague Kevin here,
2274 possibly a sub-scale but a scalable Elephant
2275 Board would see an improvement in productivity.
2276 And vertical integration, vertical integration of
2277 manufacturers, distributors and construction
2278 companies impacts this critical market. And
2279 sometimes it's intellectually lazy to discuss
2280 plasterboard in New Zealand because my industry
2281 colleagues on my left here have 95% market share
2282 and they over-service the market. But I urge the
2283 Commission to unpick and dig deep into this
2284 because of the productivity benefit which is
2285 order of magnitude larger than price.

2286 **Dr Small:** Can I just drill into that a little
2287 because I've never heard plasterboard referred to
2288 as a gateway product before. How does this work?
2289 If I understand what you're saying, the
2290 observation is that in places where there is
2291 perhaps more robust or more product on product
2292 competition in plasterboard, that in those
2293 jurisdictions there are also lower costs for

2294 other things, such as plastering and painting and
2295 so on?

2296 **Mr Heuser:** 200% correct, yes.

2297 **Dr Small:** Is that just correlation though? Is that
2298 just these are jurisdictions where the whole
2299 system is working really well and the
2300 plasterboard aspect is one aspect of it? You're
2301 not suggesting it's causative?

2302 **Mr Heuser:** I think this is a top five issue for the
2303 Commission from Kiwi Infrastructure's
2304 perspective, in that when you have competition in
2305 building materials, it's well canvassed, 25% of
2306 the cost is residential construction, 75% is
2307 labour. When you have competition
2308 internationally in materials, large building
2309 material manufacturers don't necessarily compete
2310 on price and quality, they're all the same price
2311 and all the same quality; they compete on
2312 installation time.

2313 So, Bob the Builder or Diana the Builder, he or
2314 she goes to the product that is quickest to install.
2315 Actually, it's not just plasterboard, a really good one
2316 is to look at the international guttering market. You
2317 look at Marley Gutters and what have you. But staying
2318 on focus, I urge the Commission in their final report
2319 to canvass the possible productivity differential,
2320 productivity improvement, of installation of
2321 plasterboard because the cost of plasterboard isn't the
2322 cost of the sheet or, as a CEO of Fletchers would tell
2323 us, he's delivering it up the stairs and round the
2324 corner. The real issue is he's got to install it, \$20
2325 a square metre, paint it \$30 a square metre, he's got
2326 to plaster it.

2327 **Dr Small:** Okay, thanks.

2328 **Mr Heuser:** And those systems around that, they
2329 compete and they take out that labour cost. So,
2330 you might save 2% in the cost of construction
2331 because your Gib Board plasterboard price comes
2332 down but you're saving a dramatic amount because
2333 of competition, the long-term benefit of Kevin's
2334 competition.

2335 **Dr Small:** Okay, thanks. There's a hand up online,
2336 so I'll go there and then I think I may go to the
2337 certification and appraisal issues. Peter?

2338 **Mr Laurenson:** I'll keep it brief for you. I am
2339 supporting what Kevin was talking about earlier,
2340 this approach to removing duplication of effort
2341 of providing time and time again, and so I
2342 totally agree with that.

2343 I think the thing I might be help with is a
2344 comment from Teena Hale Pennington from NZIA,
2345 your question to her about when things do get
2346 substituted after the consent documentation is
2347 replaced, why does that have an impact?

2348 I think it can be about the fact it's that
2349 differentiation between products and systems and the
2350 role that they play. And so, just replacing a product
2351 which has all the same attributes, that's fine but
2352 where it forms part of a system and we know there's
2353 been internationally some failures around things,
2354 Grenfell Tower taught us all ACP panel are not the same
2355 and decisions made without the full understanding of
2356 why a particular type of system was installed can lead
2357 to real problems down the track.

2358 Some products can be easily swapped over. My
2359 point earlier, what is the risk of considering it? We
2360 support what Kevin is saying, about trying to make
2361 those a straightforward piece of plasterboard anywhere
2362 in the house has the same compliance decision but

2363 something that has a bracing calculation may not be the
2364 same between manufacturers.

2365 Your original question, could it be possible
2366 having more than one brand on a consent application? I
2367 believe there absolutely could be. The designer needs
2368 to be confident everything they're putting into their
2369 design is demonstrated by both of those brands or
2370 multiple brands.

2371 **Dr Small:** Yes, both systems have to be compliant,
2372 yeah, I'm with you, yep.

2373 **Mr Heuser:** In Affordable Building Coalition's
2374 submissions on this point about the relationship
2375 between building product markets and productivity
2376 in the construction sector, section 4 of our
2377 submission on preliminary issues has that and we
2378 refer extensively to the literature on that.

2379 And then just on plasterboard being a gateway
2380 product, that's in our regulatory barriers to entry
2381 submission as well.

2382 **Dr Small:** Thank you, thanks for that. I must have
2383 forgotten it. Thanks, okay. We're going to
2384 break at 12.00, to keep us back on schedule.
2385 There's one more topic to deal with here, which
2386 is reducing barriers to certification and
2387 appraisal.

2388 This is something that lots of parties in our
2389 engagements have expressed concern at, the cost of
2390 certification and appraisal as product assurance
2391 pathways.

2392 Obviously, there's a strong function in the system
2393 for these appraisals. They are important for product
2394 assurance and confidence and compliance.

2395 One option is risk-based certification, a tiered
2396 or streamlined approach for CodeMark certification

2397 based on risk. That's come up a little bit already
2398 today. Some parties have supported that idea.

2399 Another may be to look at the cost structure of
2400 the CodeMark scheme. We understand for MBIE this was
2401 done recently in connection with the Building Amendment
2402 Act.

2403 And then there's also certification by
2404 international bodies that was raised in the draft
2405 report, along with potential for some subsidisation of
2406 the cost of certification or appraisal, which might be
2407 potentially arguable, depending on the public benefits
2408 of doing so. So, I guess, there's an open question
2409 here about whether there's anything that we've missed
2410 as a way of making certification and appraisal easier
2411 or reducing its cost? So, I am keen to hear from
2412 anybody who's got anything to add to their submission
2413 on that.

2414 I think we've covered or we've touched on risk-
2415 based appraisal and different tiers but if anyone has
2416 anything further to add on that, we would be keen to
2417 hear.

2418 I wonder whether Mitre 10 might like to comment on
2419 whether product assurance costs had anything to do with
2420 the exit of Boral and Cemintel that you mentioned in
2421 your submission?

2422 And I also wanted to talk with Fletcher Building
2423 about "forum shopping" risks which you mention in your
2424 submission and BRANZ about international certification.

2425 So, there's a lot that we could talk about there
2426 but I'm going to wait for hands to come up on the
2427 screen and for any indication that anybody here is
2428 willing to talk to any of those topics. That is a
2429 menu, if you like.

2430 Is there anybody who would like to kick us off on
2431 any of those points or shall I just ask maybe
2432 Fletchers?

2433 **Mr Clarke:** The forum shopping comment was really to
2434 ensure there's two things that we see through the
2435 submissions and they tend to get conflated, in
2436 our view.

2437 The first is about international certification
2438 processes. One way to think about that is having an
2439 international body certify a New Zealand standard.

2440 **Dr Small:** Yes.

2441 **Mr Clarke:** We would have no drama with that. That
2442 would be a process that had an international
2443 body, that the New Zealand government indicated
2444 it was perfectly capable of giving the
2445 certification it needed as if it were a
2446 New Zealand body. That would be relatively rare
2447 for an international importer, producer,
2448 manufacturer to do that and go and certify this
2449 product in these countries including New Zealand.
2450 But if it were to occur, that would be fine.

2451 You will see we say when we get to the
2452 registration process later in the seminar, if
2453 that was coordinated and very public and clear
2454 that occurred, that would create a competitive
2455 impulse that would be positive for the economy
2456 here.

2457 The second is a different way to think about it,
2458 which is would a product or a system that is certified
2459 in a local country, a different country, would
2460 New Zealand accept that as is, where is, kick and lift
2461 it and bring straight to New Zealand and say that's
2462 good to go?

2463 We again have no theoretical issue with that, if
2464 that was something the New Zealand Government through

2465 its agency said that is a perfectly acceptable product,
2466 a window, door, plasterboard, timber truss or a product
2467 of a particular type. If that was to happen, again as
2468 long as that was open and transparent and public, that
2469 would be a good thing for the economy here.

2470 From our perspective, that would be a positive for
2471 competition. So, either of those things are fine,
2472 they're just different.

2473 **Dr Small:** Yes.

2474 **Mr Clarke:** The submissions you receive tend to jump
2475 between the two and we think there's quite a
2476 different regulatory regime required to keep
2477 those two things up and running but we would
2478 support them directionally.

2479 **Dr Small:** That's a very helpful categorisation
2480 there and I think it's relevant to - the first
2481 part of that is relevant to a submission that we
2482 got from BRANZ, I am not sure if BRANZ is still
2483 here, I hope so. To the effect that I think the
2484 comment was to the effect that you don't see the
2485 New Zealand certification market, if I could put
2486 it that way, as being attractive for foreign
2487 certifiers, I wondered whether that was about an
2488 assumption that the way such competition would
2489 work would be that a foreign certifier would come
2490 to New Zealand, setup business here and work
2491 under the CodeMark system, as opposed to being
2492 designated externally or certificated by MBIE as
2493 being capable of certifying perhaps in their own
2494 jurisdiction products that could then be used in
2495 New Zealand. Did that make sense?

2496 **Ms Percy:** Yeah, it did, it did. No, there wasn't
2497 that assumption behind it, that they would come
2498 and setup in New Zealand. We, in our commercial
2499 arm, do product certification for Australia and

2500 it doesn't require anyone to endorse us as a
2501 certifier or anything like that under the BRANZ
2502 appraisal scheme or actually under the CodeMark
2503 for Australia as well.

2504 Our point was more that this is another one what
2505 we think is one of these false friends. We think this
2506 is an easy quick win but actually, why would you do it
2507 as a product certifier? Why would you come to
2508 New Zealand? Why would you want to be involved in
2509 this? We have a really complex code that's really hard
2510 to understand. Picking up on the Floor New Zealand
2511 point before, particularly once you get into
2512 alternative solutions, where there is no criteria, you
2513 have to design a criteria. So, you know, you would do
2514 it, you might do it for the really easy stuff but we
2515 don't need help with the really easy stuff, that's
2516 already able to be done.

2517 The other thing is, I think Kevin in his point
2518 before, is really pertinent here. We've got a whole
2519 lot of product information that is internationally
2520 tested, all that sort of stuff, available right now and
2521 individual BCAs and even the individual Building
2522 Consenting Officers in those choose to not accept that
2523 information or ask for it over and over and over again.

2524 So, having more of that information isn't going to
2525 change, necessarily change that underlying behaviour
2526 was part of our point.

2527 We have been approached by many jurisdictions to
2528 go and work in their jurisdictions and certify products
2529 for them but there's a huge barrier in terms of your
2530 liability, your risk, your own warranty behind it, your
2531 ability to trust the information you're being provided.
2532 It is a business that if we thought we could get out of
2533 it, we looked at getting out of this business 8 or
2534 10 years ago, and in fact decided if we did that, we

2535 were going to potentially make the system perform worse
2536 in it.

2537 So, yeah, good luck. I just think, you know,
2538 don't put too much weight on it. Do it but don't put
2539 too much weight on it that it will change anything
2540 because it is a bit of a bum job, to be honest.

2541 **Dr Small:** Thanks, that's really helpful and a great
2542 elaboration for me of your submission.

2543 Going back to the way Andrew Clarke characterised
2544 things, I take it that you would think that the second
2545 of his two options would be a more attractive one,
2546 namely there's some product overseas that's certified
2547 against an overseas code and we find some way of making
2548 it, therefore, certified for New Zealand as well?

2549 **Ms Percy:** Yeah, again though, we have to be a bit
2550 careful about being simplistic about that as an
2551 idea. That's okay if our codes line up but, you
2552 know, for example in New Zealand, we require
2553 certain products to have a durability requirement
2554 of 15 years. When we do an appraisal for the
2555 same product in Australia, there's no performance
2556 requirement at all. So, you know, that's part of
2557 the challenge, is that when a product comes to
2558 New Zealand, if it's 15 or 50 years, they are not
2559 required to demonstrate that over there and their
2560 information to that extent isn't relevant.

2561 So, is that about certification alignment or is
2562 that about code alignment?

2563 **Dr Small:** I take your point. It brings us back to
2564 your original point, right, which is that code
2565 alignment would be desirable?

2566 **Ms Percy:** In certain places it could be.

2567 **Dr Small:** Yeah, okay. Any other thoughts from the
2568 room on this topic or from online?

2569 **Mr Clarke:** Just to confuse things a little further,
2570 we are concerned about other policy settings for
2571 the government. I am thinking climate change.
2572 In this context, if we took a product or a system
2573 directly from overseas, with all the BRANZ
2574 qualifications in mind, as a manufacturer here we
2575 want to be really careful that we don't import
2576 carbon and export jobs. We are very mindful that
2577 an overseas setting for its own sake and context
2578 might have a different carbon, a different
2579 climate change setting. I'm not trying to
2580 undercut the point but I feel like it is a
2581 countervailing point we need to take into the
2582 round.

2583 **Dr Small:** I think that's a point well made and it's
2584 one that came up in our case study on cement in
2585 particular, where we looked at that very closely.
2586 I think it's a fair point, thank you.

2587 There is a hand up online, it's Grant
2588 Fraser. Welcome Grant.

2589 **Mr Fraser:** Yes, it's Grant Fraser from Mitre 10. I
2590 just note there was the question that was asked
2591 before regarding USG Boral and the cost of
2592 compliance. I think it's hard to answer that
2593 definitively. I think there's a variety of
2594 factors that led to the withdrawal in the market
2595 but I think cost of compliance would have been
2596 one of them. Absolutely take the point of the
2597 other participants' comments around this area,
2598 there's definitely complexity to it. But the
2599 more that we can remove those types of barriers
2600 and be able to encourage the competition,
2601 obviously we see that as being a good thing.

2602 **Dr Small:** Thank you, Grant, that's helpful.
2603 Commissioner Chapple has a question or comment?

2604 **Mr Chapple:** No, I wasn't intending to but I have
2605 got one, I will take the opportunity, seeing as
2606 you have given me the floor, thanks, John.

2607 I was just reflecting on some of the discussion
2608 about the international dimension. And this is not
2609 unique to this sector versus any other, right, where
2610 there's sometimes a trade-off between do we want
2611 something that is bespoke for our environment and
2612 situation, versus being willing to give up the ability
2613 to influence that and take things that are used
2614 offshore.

2615 So, I just wondered whether people had thoughts
2616 about whether there's something particular in this
2617 sector that means you are less interested in bespoke
2618 standards? Because that is the underlying heart of
2619 this question about whether or not you accept
2620 international certification of one sort or another,
2621 right? Whether you want to trade-off along those
2622 points.

2623 **Mr Clarke:** From our perspective, we do see some
2624 ability to recognise New Zealand has made
2625 choices. In cement, for example, we put
2626 submissions to you that shows the cement
2627 standards in this country are different to around
2628 the world. Is that right? It's a function of
2629 the distance you have to travel and the smaller
2630 trucks and load bearing across the bridges and
2631 all those things, all go into why the chemistry
2632 of the concrete that gets poured ultimately is
2633 different to what it is in Europe. All those
2634 things are connected.

2635 If you changed to an international standard, that
2636 would have ramifications right through the supply chain
2637 domestically. Fundamentally, we sit here and go we
2638 don't have a problem, we're not advocating for a

2639 protectionist style New Zealand is different, needs a
2640 different methodology for everything. We don't believe
2641 that. Timber is another one. We're not in timber but
2642 we look at that and go nothing we do is exported.
2643 That's just a truism. We don't have an export market
2644 to send anything to but other people have export
2645 markets they can send to New Zealand. If we want to
2646 facilitate that for our benefit, then do we want to
2647 just accept those products as they are, in which case
2648 we'll have to make a change but that will change for
2649 the domestic manufacturers as well.

2650 We're just trying to be practical about this. In
2651 a competition forum, we'd say we're up for the
2652 competition. How it manifests will be quite
2653 complicated but we just don't want to give the
2654 impression we're trying to be protectionist in any way
2655 at all.

2656 **Dr Small:** Obviously, there's a big transitional
2657 issue too in trying to get alignment because we
2658 are in a position currently where we're very not
2659 aligned. Yeah.

2660 Okay. We're pretty much on the hour, it's time to
2661 break, unless there's any last comments?

2662 **Mr Edwards:** Can I make a comment? I'm getting
2663 confused because some of the complexity I don't
2664 see as being a part of decision-making in the
2665 final report because climate change is coming and
2666 inevitably, New Zealand is going to head towards
2667 having EPC ratings or building Warrant of
2668 Fitnesses or something, that's a little way out
2669 in the future. Any decisions or transformation
2670 we would make today in the final report must lead
2671 to where we're going on climate change.

2672 I urge the Commission to look at the climate
2673 change changes in the construction industry as an

2674 opportunity for a greenfields start, a review, a clean
2675 sheet of paper of how we would regulate and choreograph
2676 the market. And specifically, the Commissioners'
2677 comment about the economy market segment, which is
2678 where we're failing consumers most.

2679 I see the - I got confused with my colleague from
2680 Fletchers and BRANZ's comments about the added
2681 complexity. I see added simplicity as a consequence of
2682 this pathway to climate change tidy up and EPC ratings,
2683 Energy Performance Certificates in buildings or
2684 buildings' Warrant of Fitnesses in 10 or 15 years time.
2685 We are not talking about the weather, we're talking
2686 about substantial change in the way we regulate
2687 building compliance. I see it simpler. I'm getting
2688 it - that's my comment, thank you.

2689 **Dr Small:** Okay, point taken, thank you. All right.
2690 Thank you very much indeed, that's a really
2691 helpful morning, we will break now for an hour
2692 and come back to the third session at 1.00, thank
2693 you.

2694

2695

2696 **Conference adjourned from 12.02 p.m. until**
2697 **1.00 p.m.**

2698

2699

2700

2701 **Session 3: Supporting sound decision-making**

2702

2703

2704 **Dr Johnston:** Good afternoon, everybody, welcome
2705 back to the afternoon session. In this session,
2706 we're going to be focusing on our draft
2707 recommendation to support sound decision-making.

2708 In our draft report, we found there was no central
2709 repository for building product information and we
2710 suggested a national products register or database
2711 could act as the primary reference source for
2712 information about building products.

2713 We suggested it could encourage and incentivise
2714 the sharing of information about new or innovative
2715 building products and methods.

2716 We also found there could be inconsistencies both
2717 between BCAs and within BCAs, in terms of which
2718 building products and methods they accept as compliant
2719 with the Building Code.

2720 We understand BCAs already have a range of formal
2721 and informal mechanisms for sharing information, both
2722 between and within BCAs, but we believe there may be
2723 options to expand and formalise those arrangements.

2724 So, based on our findings, our draft
2725 recommendations were to firstly, create a centralised
2726 repository for information about building products and
2727 consenting.

2728 And secondly, establish a Building Consent
2729 Authority centre of excellence to facilitate a better
2730 co-ordinated and enhanced approach by Building Consent
2731 Authorities for consenting and product approval
2732 processes.

2733 Submissions were largely supportive of a
2734 centralised database, although some noted there could
2735 be challenges drawing the information together and
2736 maintaining this. Submissions were also supportive of
2737 the BCA centre of excellence suggestion but pointed out
2738 potential challenges around practicalities, such as
2739 structure and funding.

2740 So, first of all, I suggest we start off with a
2741 discussion on the national building products register

2742 or database and then move on to the BCA centre of
2743 excellence.

2744 In terms of the national building products
2745 register, our draft recommendation is to create a
2746 centralised repository for information about building
2747 products and consenting.

2748 The premise is that introducing some form of
2749 centrally operated national products register will
2750 firstly, encourage, enable and incentivise the sharing
2751 of information about new or innovative products and
2752 building methods.

2753 Secondly, it will enable greater understanding of
2754 how Acceptable Solutions and Verification Methods apply
2755 to products and how they are being implemented in
2756 practice.

2757 And thirdly, it will enable sharing of information
2758 about new or innovative key building supplies, where
2759 BCAs have approved them for use in alternative
2760 solutions and any difficulties that have been
2761 encountered in the use of these building supplies in
2762 consented projects.

2763 Exploring whether it's practical to build and
2764 maintain such a data set and how this might be achieved
2765 is key to the discussion this afternoon.

2766 Our draft report suggested that the responsibility
2767 for this would lie with MBIE and that third party
2768 contractors would likely be relied upon to build and
2769 maintain that repository but I think some of the
2770 submitters have different views on how this might be
2771 achieved.

2772 On the whole, submitters agreed better access to
2773 quality, digital and standardised product information
2774 has benefits, particularly to support competition from
2775 lesser known products. The main concerns raised
2776 related to whether it would be practical (or possible)

2777 to implement and maintain a national product register
2778 or database and whether it is a good use of resources.

2779 So, we are therefore keen to hear from you this
2780 afternoon as to how this might be achieved.

2781 So, before moving on to the proposal itself, I
2782 would like to open up to the room and discuss the
2783 issues that are being encountered at present, so we
2784 really have a good handle on what those issues are with
2785 the current system.

2786 Is it about accessing information with building
2787 products or MBIE's recent proposals going to address
2788 that? Is it regarding accessibility of information?
2789 Is it that the information is in various sources but
2790 not centralised? Is it that supplier information is
2791 available but not accessible to all parties who need
2792 it, only accessible to some or others of designers,
2793 builders and BCAs?

2794 Is it about lack of information as to where
2795 products have been used in alternative solutions?

2796 Is it with the quality completeness or reliability
2797 or format of the information or is it all of the above?

2798 I would like to open the floor up for people to
2799 share their thoughts on where the real areas of
2800 problems are that we're trying to deal with before we
2801 turn to what solutions there might be.

2802 Anyone keen to kick off the discussion?

2803 **Mr Taylor:** Yeah, I will, Carl Taylor from CBS
2804 Co-operative. From a builder's point of view, on
2805 the ground it's still very hard to get the
2806 information when we are doing a minor variation,
2807 so our co-operative believes a centralised area
2808 where we can also get the information that MBIE
2809 are using and the Councils are using, just so
2810 it's easier so we can get on and build houses
2811 because it is very hard.

2812 **Dr Johnston:** Can you be more specific? Is it
2813 particular information you have trouble getting
2814 hold of?

2815 **Mr Taylor:** Just the technical information can be
2816 hard to track down sometimes, particularly the
2817 guys on-site when they are making the changes.
2818 And one of the products brought up this morning
2819 was changing the insulation, pink to yellow or
2820 whatever. Some BCAs make it easier than others
2821 to do that and if we can get that information
2822 simply, then we can build more effectively and
2823 faster.

2824 **Dr Johnston:** The BCAs that make it easy, what do
2825 they do, as compared to those that don't do it?

2826 **Mr Taylor:** It is a lack of consistency between the
2827 BCAs with that information. Some BCAs wouldn't
2828 even blink an eye to that change, where others,
2829 it's the absolute end of the world, which makes
2830 it cost prohibitive to change.

2831 **Dr Johnston:** Thanks for that. Ian McCormick, I see
2832 you've put your hand up, I would be interested in
2833 your perspective on this?

2834 **Mr McCormick:** Thank you. One of the big challenges
2835 for us is (connection lost) - we understand how
2836 they comply with the Building Code, not only in
2837 themselves but also as part of whatever system
2838 they're being proposed to be part of. And, quite
2839 often, one of the challenges we have with
2840 products that we don't see so often, they often
2841 don't have evidence of how they actually fit into
2842 the types of systems we've got in New Zealand.
2843 So, for example, a lot of timber framing which
2844 may be in the United States, they don't see as
2845 much of. Often a lot of those products, the
2846 suppliers and the manufacturers don't actually

2847 test them in the sorts of systems we're likely to
2848 use here because it's just not worth their money
2849 of doing it, yeah, it's not worth the investment
2850 or they don't see that it is. So, that's one of
2851 the challenges.

2852 So, the idea with this, if you're having an
2853 understanding of how those products can be used and in
2854 what systems, and ideally we are suggesting that MBIE
2855 would be a good owner for that database, it would just
2856 make it easier for us to locate that information.

2857 Quite often, what we find is that we've got
2858 information from suppliers or manufacturers on a
2859 product but they're all in a different information
2860 format. It's sometimes quite difficult to understand
2861 what Building Codes they actually comply with and in
2862 some cases, it's what they don't talk about, which is
2863 actually the problem area. You know, we've seen in the
2864 past, for example CodeMarks, where it will identify a
2865 number of different code clauses that it actually will
2866 comply with and then it's silent on some other ones,
2867 which normally quite often always be required, like for
2868 example compliance against some of the fire codes.

2869 So, we're sort of seeing that some tool like this
2870 would be quite useful. I know in the United States, I
2871 think it's in Canada, they have a system where they've
2872 got an incorporated society of some description that
2873 actually does reviews on products, it actually provides
2874 that information, and they do it through that vehicle,
2875 so there's no liability on any entity for providing
2876 that information, so it's done in a robust way but they
2877 mitigate against liability that they eventually get if
2878 something was found to be wrong with that product and a
2879 whole lot of people have made a decision based on the
2880 information they're providing.

2881 There's some fishhooks I guess, it's creating this
2882 product register but certainly, you know, conceptually,
2883 there would be some real advantages that would really
2884 speed things up and you'd get greater levels of
2885 consistency.

2886 **Dr Johnston:** So, in terms of this product register,
2887 if you're looking at a product coming from
2888 overseas, you would capture information as to
2889 where it had been used potentially, what tests
2890 had been done, even if they may not be identical
2891 to the New Zealand product, so that you could
2892 make some judgements as to whether or not to
2893 approve it or use it here?

2894 **Mr McCormick:** Presumably, I mean, a process could
2895 involve the information that relates to that
2896 product and the way it's provided in that
2897 systematic way. At the end of the day, if that
2898 entity had to go about making all of those
2899 inquiries themselves, it would take a long time.

2900 I've got, you know, like, at least one FTE but
2901 possibly two that do nothing else other than do
2902 research on products as part of Building Consents and,
2903 again, the real big challenge for us is so often, you
2904 know, it's really hard to find the evidence that
2905 actually will support the compliance of that product in
2906 the sorts of systems that are being proposed, and
2907 that's where I guess that's a real challenge.

2908 There may be evidence that it can comply but can
2909 it comply in that system that's being proposed there?

2910 I guess, capturing that information in a way that
2911 makes or requiring the information to be supplied in a
2912 way that makes it easier, I think would be useful.

2913 **Dr Johnston:** And what about, from your perspective,
2914 capturing information as to where it's been
2915 approved for use by another BCA, is that -

2916 **Mr McCormick:** So, the question would be, of course,
2917 how much rigour has gone into capturing that
2918 information? So, I guess, we'd have to make sure
2919 we were confident because as soon as we start
2920 accepting whatever that is, you know, we would
2921 want to be confident it has rigour behind that,
2922 and we would want to understand what that rigour
2923 was.

2924 There are very clear requirements and
2925 thresholds that we're required to be satisfied
2926 to, based on poor judgements and determinations,
2927 so merely having a BCA saying, "Yeah, we used it
2928 before, it's fine" -

2929 **Dr Johnston:** I understand that but would that
2930 process, that interaction between BCAs, that
2931 rigour, just actually increase the quality of
2932 testing across the BCAs generally?

2933 **Mr McCormick:** I mean, we do talk with one another.
2934 Like, if we are aware, for example, that a
2935 particular product has consistently been used in
2936 Christchurch, we will be talking to Christchurch
2937 quite early in the piece and understanding what
2938 evidence they've got in terms of how they can
2939 rely on it. It would just make it easier to do
2940 it.

2941 **Dr Johnston:** That's really interesting to hear
2942 that, thanks, Ian.

2943 Mark Johnston, you've got your hand up, we
2944 would be certainly be interested to hear from
2945 your perspective?

2946 **Mr Johnston:** I would urge the parties to actually
2947 have a look at the changes that are coming
2948 through under the Building Amendment Act,
2949 particularly around the building, the regs that
2950 specifically relate to the requirements being

2951 placed on suppliers of products and the
2952 information that's available because a lot of
2953 what we're talking about here, I think has
2954 already being covered within that.

2955 I think the one point of difference though, is it
2956 doesn't look like there's an appetite to include a
2957 national products register and somewhere in my reading,
2958 and I will dig it out for you, I suspect that MBIE
2959 looked at it at one stage, and it may be worth going
2960 back to them because I think there was a reluctance
2961 from MBIE, I'm talking about a case here, to actually
2962 be involved in running the register but yes, I think
2963 the register would be a good idea. But a lot of the
2964 information that you are asking about will be provided
2965 at the front end by importers, distributors, retailers
2966 and everyone else under the Building Product
2967 Information Requirement Regs 2022, so it's something we
2968 need to look at.

2969 **Dr Johnston:** I think, as you say, a lot of it will
2970 be available. The question is whether it's all
2971 available readily in one place and whether having
2972 it available in one place will make a difference?

2973 **Mr Johnston:** Yeah. At this point in time, it
2974 doesn't look like a likely requirement to have it
2975 all available in one place but there are specific
2976 requirements around having it available, you
2977 know, through internet and various digital forms
2978 as well, but certainly centralising that would be
2979 of use. Again, my concerns and I think the
2980 membership concerns would possibly be around
2981 potential costs involved with that. Although I
2982 do agree with it in principle, that it would be a
2983 good idea.

2984 **Dr Johnston:** Thanks for that, Mark.

2985 Peter Laurenson, do you want to join the
2986 discussion?

2987 **Mr Laurenson:** Thank you, yes, hopefully some things
2988 to assist. I think the thing, I think we're all
2989 on that same sort of track that it's actually of
2990 advantage. Primarily, the advantage is for the
2991 designers in the community, so in terms of them
2992 being able to go somewhere before it even comes
2993 near a BCA, that is the real benefit ahead of
2994 time. I think what that would then allow to
2995 happen is those particularly innovatable,
2996 particularly new ones, yes, there would be an
2997 input from BCAs as well as designers.

2998 So, if this system could be, I repeat my thing
2999 from earlier in the morning too, it should be fit for
3000 purpose. So, in actual fact, the level of rigour
3001 required for a paint system that doesn't have to
3002 perform in colour is quite different to one which is
3003 protected for fire rating or something like that. So,
3004 that aspect of saying it's not a one size fits all and
3005 I think it was Mark that mentioned, yes, you're quite
3006 right, Mark, that MBIE, we have submitted probably 30
3007 times over the last 10 years about the fact that this
3008 will be a good thing to do. The issue that MBIE came
3009 back with was there were so many thousands of products,
3010 it was too big a task to do all at once. Our belief is
3011 structure it, agree on those ones that should be done
3012 first, which ones give the best bang for buck in terms
3013 of for our colleagues, in the construction sector, and
3014 deal with those first. Pull together the information
3015 from wise minds already out in the industry but I think
3016 where the Commission is going in terms of having a
3017 register is a good thing.

3018 There is one last bit of detail that I think is
3019 very important, and that is what role does it also have

3020 to require testing to prove - and your question was
3021 about should we rely upon it in another jurisdiction?
3022 In a lot of cases, yes, that is totally appropriate.
3023 We have quite a bit of work alongside our colleagues in
3024 Australia when they were doing their non-conforming
3025 products analysis and one of the main examples they
3026 used was the printing cable saga which happened in
3027 Australia, was put forward as complying with all the
3028 tests, came with certificate data, subsequently was
3029 found that it was actually not up to that standard and
3030 caused quite a disruption for the industry, in terms
3031 of, in fact right to the end of potentially harming
3032 people. So, it's a matter of what is the risk but
3033 having one place to go to.

3034 Section 14 of the Building Act requires designers
3035 to decide whether it complies with the Building Code
3036 before it submits it to a BCA. Unfortunately, that
3037 doesn't happen often enough. Sometimes it does,
3038 sometimes it doesn't. So, yeah, I understand the
3039 gentleman was mentioning before about on a building
3040 site not being able to get the information; well, the
3041 information has to be available somewhere. We just
3042 can't have a situation of inferior products being able
3043 to be used without someone standing behind it.

3044 **Dr Johnston:** Thanks for that, Peter. Well, I think
3045 there seems to be general consensus around the
3046 room that a database would be of some benefit. I
3047 think if anybody following this in terms of
3048 submissions following the Conference, we would
3049 certainly be interested in further thoughts from
3050 people on what should be in such a register or
3051 database and anything that shouldn't be in the
3052 database.

3053 **Mr Allison:** That is an interesting question. Nick
3054 Allison, General Manager GS1 here. There's a lot

3055 of products in the market, so maybe there's half
3056 a million products circulating the New Zealand
3057 market in building and hardware, so maybe there's
3058 another four or five million globally.

3059 So, there's a lot of products if you're
3060 wanting - if your objective is to promote
3061 competition that you ideally want to facilitate
3062 into the market.

3063 I wouldn't underrate the difficulty in defining
3064 the scope of that, if there's a centralised database
3065 inside MBIE, you've got to decide what is the scope of
3066 the products you're going to have in there? Once you
3067 do that, you possibly risk defaulting to known products
3068 again, which you're trying to get away from, right?

3069 So, that's one of the issues of having a
3070 centralised database and many governments have put
3071 together centralised databases but they cannot possibly
3072 capture the amount of data you will need to capture.

3073 And, as you heard from John, he is one FTE working
3074 on just researching product data and that multiplied
3075 across the sector, is very, very costly and it's a big
3076 productivity drain, it's either in pdfs or paper and
3077 it's hard to find or these days on websites.

3078 **Dr Johnston:** I think your submission was actually
3079 suggesting moving away from a centralised
3080 depository to a decentralised depository?

3081 **Mr Allison:** Correct.

3082 **Dr Johnston:** Which I find very interesting and I
3083 wonder if you could outline for us at a high
3084 level how that would work, the benefits of that,
3085 whether it's been used offshore and any risks
3086 associated with it?

3087 **Mr Allison:** Sure, conceptually I can do that but,
3088 yes, you're following a well proven track where
3089 governments put together centralised registries

3090 but, in fact, what's happening now at the cutting
3091 edge, I suppose, in Europe and Scandinavian
3092 countries and elsewhere, is people are adopting
3093 standards as new ISO Standards around how to
3094 organise and format data. And people pointed out
3095 that problems with format is really challenging.
3096 Identification is really challenging. How you
3097 access that data in a digital format and share
3098 that data is really challenging. There's a new
3099 suite of standards, sort of, come out in that
3100 area and some are legislated for because, at the
3101 end of the day, you want the private sector to
3102 produce and enrich that data in a way that a
3103 regulator might want that data enriched.

3104 So, if certain standards around fire safety are
3105 really, really important, then, yeah, they can be
3106 required and they can be required to be input into a
3107 digital ecosystem, if you will, where that data is
3108 available and shared. And it's put in once and it's
3109 used millions and millions of times, so there's a
3110 productivity saving. Right?

3111 So, right now, all the main government
3112 departments, to take one example, have their own
3113 databases. They ask manufacturers and others and
3114 distributors to fill in their Excel spreadsheet and the
3115 data is used once or twice and that kind of work just
3116 keeps going. So, we want to get away from that and
3117 create a digital system, you fundamentally have to
3118 introduce standards which provide standards around
3119 formatting and structure. These are international
3120 standards, not New Zealand Standards, is what you need
3121 to do and it needs to be done in a private/public
3122 partnership.

3123 **Dr Johnston:** Can you point us to overseas
3124 jurisdictions where that's happening?

3125 **Mr Allison:** Perhaps Scandinavian countries are the
3126 best countries and I can provide you with
3127 information after this on that. But this is well
3128 understood now. You're not going to be able to
3129 exchange data and create a marketplace for people
3130 enriching and serving all the building industry
3131 here, unless you do have some agreement on
3132 standards, yeah.

3133 **Dr Johnston:** Ordinarily the focus as to what
3134 products you concentrate on?

3135 **Mr Allison:** Well, I'm challenging that. I think
3136 that's very, very difficult doing a risk analysis
3137 in the building sector, you know. When does a
3138 fixing become a risk? It depends, it's part of a
3139 building system, all of these things are part of
3140 systems, of course, and if that fixing is, you
3141 know, attached to a bannister that it shouldn't
3142 be, for example, and it rusts, which actually
3143 happened to me, you know, that's because of an
3144 error in the way that that object has been
3145 applied and getting the data around, all the data
3146 around how the object should be put in there,
3147 would be a big job. That's risky, yes, but
3148 getting the data to ameliorate that risk I am
3149 suggesting is really, really huge. What products
3150 are risky? I think that could be a debate we
3151 could be here for a long time on.

3152 **Dr Johnston:** John, Bryan, have you got any
3153 questions on that?

3154 **Dr Small:** I've got one. In the draft report, we
3155 identified several existing but partial databases
3156 of product information that are out there
3157 already. Could you just tell us whether your
3158 system would be a substitute for those or whether
3159 it would in some sense knit them together?

3160 **Mr Allison:** Okay, good question. Look, I mean,
3161 there's quite a few businesses in the existing
3162 ecosystem, we call them data aggregators, who
3163 enrich data for all sorts of purposes, for
3164 architects, for specification, for different
3165 sub-sectors, for advertising work, so there's
3166 quite a few providers. We ourselves have 9,000
3167 members and we provide data to the major
3168 retailers in this sector, so we have a particular
3169 niche where we provide product. I'm talking
3170 product data here.

3171 No, we're not suggesting we takeover the world at
3172 all. We're fundamentally a standards business and we
3173 don't operate in all those other sectors and never
3174 will.

3175 We are suggesting that data should be able to be
3176 exchanged between all of those data providers to lower
3177 everybody's costs and to provide a much better service
3178 to the building sector.

3179 **Dr Johnston:** Yes, my follow-on question really
3180 comes out of BRANZ's submission, which was that
3181 they signalled some scepticism about whether
3182 information sharing alone will enhance
3183 decision-making across the sector, given the risk
3184 averse nature of the way the sector operates.
3185 And they say that really translates into a need
3186 for the building system participants to have a
3187 high level of confidence, not just in the data
3188 that's on the database, but also the participant
3189 who's provided that and the verifier of the
3190 information.

3191 So, I'd like to open up the question more
3192 generally, as to how one gets a degree of confidence in
3193 both the information that's on a database and the
3194 parties that are providing it? I am not sure whether,

3195 Nick, you've got any particular perspectives from a
3196 decentralised database?

3197 **Mr Allison:** Yes. Briefly, you need a governance
3198 mechanism that allows validation of your data.
3199 You don't get away from that. And so, you need a
3200 governance mechanism agreed with industry that
3201 enables the fact that that product has been
3202 verified for that purpose. And once the data is
3203 available, remember it's now available to
3204 everybody in the marketplace, and that's very
3205 different to what's happening right now. So, I
3206 don't want to get into any detail on that but,
3207 yes, a validation verification mechanism needs to
3208 be developed.

3209 **Dr Johnston:** Would that be something other than the
3210 product pathways that exist at the moment?

3211 **Mr Allison:** Well, yes, in one respect. You know,
3212 certainly what we envisage is not a closed
3213 database, where you can only have your product in
3214 there if it's regulated and run by the
3215 government. We're suggesting that you harness
3216 commercial incentives to put lots of products in
3217 there and so, you end up with different levels of
3218 validation here.

3219 You know, so, imported products may be making no
3220 compliance claims relative to the Building Code or
3221 verification against domestic compliance pathways. But
3222 they may simply be citing, for example, equivalent
3223 standards from Europe to New Zealand Standards, right?
3224 So, I think there's the issue of verification, there's
3225 different levels, you know, from a first party claim to
3226 a kind of Rolls Royce verification system.

3227 **Dr Johnston:** Does anyone else have thoughts they
3228 want to contribute on this aspect of the
3229 discussion?

3230 **Mr Clarke:** I think, from our perspective, we
3231 certainly see the benefits of an easily
3232 accessible uniform quality database and encourage
3233 that. The question is, is it a gateway? If it's
3234 not there, what happens? Does it just mean the
3235 market doesn't have the quality of information to
3236 support or is there a compulsory, in order to
3237 have your product available for sale in
3238 New Zealand, it's got to be on the database? I
3239 think there's a couple of threshold questions.

3240 As long as - you know, we're a New Zealand based
3241 manufacturing business, so we've got a genuine
3242 incentive to see transparency and equality and
3243 equivalence. We are not requiring everyone to hit the
3244 same standards but if this is a database for
3245 information, should everybody who has a product
3246 available for sale in this country have to go into it,
3247 who's going to upload the data, information? I think
3248 there's quite a bit in that but that's not to detract
3249 from the essential point, that if it was there and the
3250 basic level of information was available, our earlier
3251 point, ease of use, making it easy for the customers,
3252 we'd support that.

3253 We see the challenges and the costs but I think
3254 we're supportive of the direction.

3255 **Dr Johnston:** Thanks for that, Andrew. John and I
3256 were debating that very question just before the
3257 session kicked off as to whether the database or
3258 repository should be obligatory in order to play
3259 in the New Zealand market. We didn't reach a
3260 concluded view but certainly thought that once
3261 there was a database there, the commercial
3262 incentive was on people to get their products on
3263 there and provide confidence in the quality of
3264 the information. Have others got other thoughts?

3265 I guess just to round out this part of the
3266 discussion, BRANZ in its submission - sorry, we've got
3267 someone online. Alistair Fleming, I see you've got
3268 your hand up? Would you like to join us?

3269 **Mr Fleming:** Good afternoon. I only have one
3270 comment relating to the database, and that is
3271 that the period of time that the data should be
3272 collected for or kept. Buildings are meant to
3273 last 50 years as per the Building Code, new
3274 products are being released all the time. Is it
3275 going to be an administrative nightmare
3276 maintaining data for extended periods as new
3277 products come out?

3278 I can imagine if there are issues with products,
3279 that people will want to go to the time that the
3280 product was specified and installed, and the
3281 information that relates to that installation. Thank
3282 you.

3283 **Dr Johnston:** Thanks. I think that raises, sort of,
3284 a broader question just about how one goes about
3285 maintaining the database, making sure it's
3286 current? That out of date information is taken
3287 off it and what liability associated with data
3288 that's on the database but I don't think we have
3289 time to get into all of that this afternoon but
3290 there's certainly some issues that need to be
3291 worked through.

3292 Ian, you've got another contribution to make on
3293 this?

3294 **Mr McCormick:** Thank you. Just quickly too, it's
3295 one of the challenges that we see quite often, as
3296 products change over time, sometimes the
3297 specification changes as well. As a result, that
3298 leads to - (connection lost).

3299 **Mr Meech Small:** Sorry to interrupt, we are losing
3300 you on the audio when you go back from the
3301 microphone.

3302 **Mr McCormick:** Apologies, is that working?

3303 **Mr Meech:** Just come a little closer.

3304 **Mr McCormick:** Can you hear me now?

3305 **Mr Meech:** Yes.

3306 **Mr McCormick:** I guess one of the challenges is over
3307 time different versions of specifications come
3308 out for products and it's really important for
3309 BCAs to understand what that change is, and the
3310 changes in the way that fixing detail that now
3311 should be used or not used, it changes over time,
3312 and I guess the need to be able to keep that
3313 up-to-date. (Connection lost). You also want to
3314 it be able to be relied on by Councils, so that
3315 if you're using certain products, you won't need
3316 to give any more information. That would save an
3317 awful lot of time and a lot of uploading and
3318 downloading of specifications.

3319 **Dr Johnston:** So, to deal with that Ian, for
3320 example, if the system was you don't have to be
3321 on a register, it's completely voluntary but if
3322 you are, then you've got to keep your information
3323 up-to-date? Would that -

3324 **Mr McCormick:** Yep, I would say there would be a
3325 need to do that and it would be a burden
3326 otherwise.

3327 **Dr Johnston:** Thanks. Has anyone else got any
3328 comments or thoughts they want to add on this
3329 question of the information in the database
3330 before we move on to the centre of excellence?

3331 **Mr Allison:** I think the updating issue that Ian has
3332 raised is very, very significant because there
3333 are endless versions of products that come out

3334 and, you know, it's very hard for a centralised
3335 database to keep things up-to-date. You know,
3336 what are you going to do? Email everybody every
3337 day, find out what's happening. It's quite
3338 difficult and you want all of those versions
3339 captured. In fact, you want to harness the
3340 private sector if you can to do that, so that as
3341 a new version of a product comes into market, it
3342 goes through a process where it's updated because
3343 it's needed.

3344 **Dr Johnston:** Just another question for you while it
3345 comes to mind, how do you ensure that what goes
3346 on there in the first place is quality
3347 information that has the information that the BCA
3348 and others want, rather than being primarily
3349 marketing fluff, if I can call it that?

3350 **Mr Allison:** Okay, so there's two issues. I've
3351 already dealt with the validation verification
3352 issue that's got to me worked through, but you're
3353 really talking about making sure there's relevant
3354 information. And you really need to have what
3355 you call metadata, which is think about a product
3356 description. You know, this product is
3357 wallboard. So, you need basic information, so
3358 that everybody recognises once they open up the
3359 data what product they are looking at, right?
3360 The brand name, for example.

3361 And then after that, it depends on - the data is
3362 potentially in this area huge. I mean, we're talking
3363 maybe 1500-2000 different attributes per product, so
3364 that's where I'm talking about, where you need to go
3365 and harness that data loading where it's being used for
3366 particular purposes in the market, otherwise you could
3367 end up with a very large compliance cost.

3368 But certainly, the industry at the end of the day
3369 and the government needs to agree on what that metadata
3370 is and then the regulator needs to say, "Well actually,
3371 this is a critical standard that every product that's
3372 being used for", I don't know, fire proofing, I'm
3373 making it up, okay, needs to have associated with it.
3374 And so, all of those suppliers would load that. So,
3375 you don't try and do this in one big bang. It's get
3376 your metadata right, get your standards right and go
3377 forward from there to extend your data as needed. You
3378 know, be surgical.

3379 **Dr Johnston:** Yep, that makes sense to me anyway.
3380 John, did you have something you want to add?

3381 **Dr Small:** Yeah, I just want to come back again to
3382 this point about the existing ones, the ones who
3383 these people have already built some kind of a
3384 business in housing this sort of data.

3385 Am I hearing you right, Nick, that the GS1
3386 approach for those people, would be essentially to say,
3387 "That's a nice database you've got there, we're
3388 interested in these rows of information and if you can
3389 provide these rows of information, that can be imported
3390 into this, sort of, decentralised but centralised
3391 system"; is that it more or less?

3392 **Mr Allison:** Exactly. And something we haven't
3393 talked about here which is important because
3394 somebody just raised the issue of all the legacy
3395 data, there's millions and millions of products
3396 in the existing housing stock, for example. But
3397 you've got to start somewhere, so as you go
3398 forward and you digitise this and, yes, you do
3399 have to keep those versions, this information
3400 flows into building information management
3401 systems, it can flow into facilities management
3402 systems. And so, really, we need to think very

3403 long-term here. Sure, when you start out you're
3404 not going to be covering much of the market of
3405 data, maybe 1%, given the stock of data. But,
3406 you know, as you go forward, the productivity
3407 gains would continue to rollout.

3408 **Dr Johnston:** Thanks, Ian. I think that's been a
3409 very intriguing and I think very useful
3410 discussion in terms of thinking about how we
3411 might go forward in this area.

3412 Peter, you've got something that - I've
3413 missed you there, sorry?

3414 **Mr Laurenson:** That's okay, just a very quick one to
3415 add. I hope it's not too negative a comment at
3416 the end. I think it's important that a system
3417 needs to have the ability to record where things
3418 aren't appropriate too. So, I am referring to
3419 the fact that of course within the Act there's
3420 the ability for warnings and bans to be across
3421 the industry and I think it's really important.
3422 Sometimes with failures that we have experienced
3423 with a particular item, it's really important to
3424 be able to deal with that very quickly in the
3425 industry. So, the capture of information, I
3426 totally agree with what's been said about that,
3427 having a standard for that. I guess you could
3428 say it's wanting to have Wikipedia but with
3429 monitoring because you don't want just uninformed
3430 information to go in there but it does need to
3431 cover the end of what happens when things go
3432 wrong and what are products that we know should
3433 not be allowed in the New Zealand market because
3434 of a particular aspect that we have that someone
3435 else doesn't have?

3436 **Dr Johnston:** Yep, I couldn't agree more, Peter, so
3437 I think all that sort of information is going to

3438 have to be captured on that repository and it is
3439 a question then of who has responsibility for
3440 adding that, whether it's a Wikipedia type
3441 approach or a regulator.

3442 Anyway, let's move on to the BCA centre of
3443 excellence. As I've already said, our recommendation
3444 was to establish a Building Consent authority centre of
3445 excellence to facilitate a better co-ordinate and
3446 enhanced approach by BCAs to consenting and product
3447 approval processes.

3448 We thought that would expand and formalise
3449 existing information sharing between BCAs, particularly
3450 around new or innovative products and methods. We also
3451 thought it could potentially enable the development of
3452 a risk framework for BCAs to assess non-compliance
3453 risk, to get some more consistency around risk
3454 assessment of products and perhaps also enable better
3455 sharing of information about new or innovative building
3456 products, where BCAs have approved them for use in
3457 alternative solutions and any difficulties which have
3458 been encountered in the use of those products.

3459 As I said earlier, submissions were generally
3460 supportive of the BCA centre of excellence concept.
3461 So, I guess, I'd like to just kick off by saying, you
3462 know, from the different perspectives of people in the
3463 room, what do they see as what a BCA centre of
3464 excellence could usefully do to add to the environment
3465 we've got at the moment?

3466 I think in this morning's discussion Auckland City
3467 Council made a couple of suggestions, I am not sure if
3468 it was directed at the centre of excellence per se but
3469 they suggested that there was potential for a common
3470 understanding of a consent application format to be
3471 developed and standardisation of plan layouts. It
3472 seems to me, those are the sorts of things that if

3473 there was a BCA centre of excellence, those could
3474 readily be evolved through a BCA centre of excellence,
3475 rather than each BCA doing its own thing or having a
3476 slightly different format.

3477 But I just want to open it up to the room as to
3478 where they think a BCA centre of excellence might add
3479 value here? Tex?

3480 **Mr Edwards:** I would argue the case that it sits
3481 with Andreas and my submissions that you have
3482 increased segmentation of our current residential
3483 building industry. The Conference is about
3484 competition in residential building supplies and
3485 we touched earlier on this evolution of social
3486 house construction economy market segment.

3487 And to answer your question, Dr Johnston,
3488 there would be a tremendous focus on this new
3489 market segment evolving because that's where
3490 regulation can take cost out and create
3491 competition, so it's segmentation of this economy
3492 market segment and the social housing asset
3493 class, the standardised buildings that would be
3494 built against international best practice price.

3495 **Dr Johnston:** Are you saying that the first job of a
3496 BCA centre of excellence should be to look at
3497 what they can do to get some standardisation
3498 consistency and get approvals flowing for the
3499 economy class housing?

3500 **Mr Edwards:** 100% because that's where the easiest,
3501 lowest hanging fruit in an industry
3502 transformation is, in both building materials,
3503 productivity and regulation, yes.

3504 **Dr Johnston:** Do others have thoughts on where a BCA
3505 centre of excellence could be useful? Ian?

3506 **Mr McCormick:** Thank you. So, one of the things
3507 that I think we often make a mistake is where we

3508 focus too much on the building consenting system
3509 and not on the more broader design and
3510 construction specifically. I would suggest a
3511 system that's been setup in many ways to address
3512 probably known challenges of the building system
3513 in the past and also, some of the same issues
3514 that currently exist and some of the things that
3515 make it not work that well are actually because
3516 of those same fundamental and underlying factors.
3517 So, I think anything we do that's going to
3518 actually really make a major difference would
3519 involve improving the way we design and construct
3520 buildings. That's just works of which the BCA is
3521 only part of it.

3522 So, that initiative that I mentioned earlier
3523 regarding quality documents which my colleague
3524 Peter Laurenson is leading with Peter Townsend
3525 from NZIA and Auckland University, is actually
3526 looking at just how do we understand the best
3527 sort of plan layouts for residential building
3528 might be? How would we put it together? What
3529 are the other documents that we should provide?
3530 And also, it's got a flow on effect to the
3531 curriculum, for example, for the Bachelor of
3532 Architecture, you know, our construction
3533 management courses, those types of things.

3534 That is the sort of initiative that really makes a
3535 really big difference. How do we as a collective
3536 industry work together in the best way to make things
3537 work?

3538 So, the quality assurance piece that I talked
3539 about earlier, I think is pivotal as well. You know,
3540 like, why would we not have a robust, in some cases
3541 consistent - well, relatively consistent quality
3542 assurance system in terms of how we construct

3543 residential buildings across the board? Why isn't
3544 everyone using tools like an Artisan type thing that
3545 captures all that information, enables it to be shared,
3546 enables BCAs to be able to step out and reduce
3547 regulatory oversight because people can be confident
3548 it's going to be quality work, it's going to be
3549 compliant because, hey, they're following that regime
3550 and maybe there's some kind of certification regime
3551 that deals with that. It just puts more reliance on
3552 the industry working really well.

3553 Within the industry, we have some of the best
3554 builders in the world and we've got other ones that
3555 need more help. We have some of the best designers in
3556 the world and we have got some folk that need more
3557 help. And it's difficult sometimes standing back a
3558 couple of paces to mentally recognise which is which
3559 and often, even though you've got the best designer in
3560 the world working away, and I think Teena almost said
3561 it, there's things that happen to those initial plans,
3562 there's things that happen during the process which
3563 actually tend to compromise potentially their outcome.
3564 And how do you control that? I think you control it
3565 through a quality assurance type system. You know, the
3566 answer to that isn't just looking at the BCAs, it's
3567 looking at how do we collectively in the industry do a
3568 better job in terms of the way we do things and how can
3569 MBIE set a framework up in a way that gets, you know,
3570 us to that point quick?

3571 I know we're doing some work on it but it's
3572 certainly taking - it's a big job and it's taking a
3573 long time.

3574 I think if we focus too much on BCAs, I think
3575 we'll miss the things that will really make a big
3576 difference.

3577 **Dr Johnston:** Okay. Brent, welcome.

3578 **Mr Reihana:** Thank you, Brent Reihana, National
3579 Māori Authority. I take your point, Ian and also
3580 Tex, in talking about the BCAs and how we can go
3581 a little bit further and do a little bit more
3582 that will add value.

3583 And I take the point of one of the earlier
3584 comments, talking about how BCAs were monopolised by
3585 the local bodies and Councils, and possibly there's a
3586 mechanism there that can be unhinged to give it a
3587 broader perspective.

3588 But I do hear that is a central body and possibly
3589 in terms of - we were just talking about digitising
3590 databases, possibly there's a mechanism where we can
3591 share that information too, so that we do get
3592 standardisation.

3593 But I like what I'm hearing from Ian and, you
3594 know, going a little bit broader, and I think that will
3595 add value and I think those are some of the initiatives
3596 that I'd like to certainly investigate. Thank you.

3597 **Dr Johnston:** Thank you, Brent. Peter?

3598 **Mr Laurensen:** Thank you, Brent, that's absolutely
3599 useful. We have some systems that work now very
3600 well with some applicants where they do
3601 repeatable types of designs and there's also a
3602 lot of work that MBIE have done around the
3603 modular construction sector which is useful in
3604 the residential sector. And so, one thing that
3605 we tell applicants often, is that last year there
3606 was 21,000-22,000 building consents issued just
3607 by our Authority alone. Those have all been
3608 assessed to be Building Code compliant and are
3609 all available live for people to look at and to
3610 access.

3611 So, I've had situations where people have taken a
3612 design from someone's house down the street, used that

3613 as the fundamental basis for their design, including
3614 the documentation that shows how it complies. If they
3615 do that and they demonstrate that is their method of
3616 compliance, they will receive a Building Consent in the
3617 same fashion.

3618 So, we do have to look at ourselves across why we
3619 are bespoke in certain areas. That is not to remove
3620 the option for competition. In actual fact, if you
3621 have a standardised design, which Ian talks about, we
3622 really, I'm excited by this work we're doing with BCAs,
3623 architects and the education sector together, that
3624 piece of work will actually be owned by MBIE. BRANZ
3625 are helping us with systems for funding for that as
3626 well. So, inside the next year, we'll have a structure
3627 how that works and it will define what is in a set of
3628 plans, what is in a Producer Statement, what is in a
3629 technical piece of information, which I think adds into
3630 the stuff around capturing it digitally.

3631 So, if we have the agreement of what it should
3632 look like, it's actually all for the design community,
3633 it is actually really for the consumer and if they
3634 choose to have standardised type approaches, even now
3635 we allow for that within the BCA system and it does
3636 actually receive a financial benefit when they go
3637 through.

3638 We have a thing we call master independence, so we
3639 put all the assessment into the main, our colleagues
3640 from Fletchers will know that, they utilise that
3641 system. We assess the main one and then the ability of
3642 the other 10 or 11 below it don't have to have the same
3643 level of rigour because we've checked that design.

3644 So, we would encourage it's a good thing to put
3645 across the industry.

3646 **Dr Johnston:** So, Peter, if I understand you
3647 correctly, what you're saying is that's being

3648 done in one BCA, your BCA at the moment, but a
3649 centre of excellence could pick that up and
3650 encourage its use right across the BCAs
3651 nationally; is that where you see benefit coming?

3652 **Mr Laurenson:** Absolutely right but I would tinge
3653 that with the fact it's even better when it's
3654 done across the design community first because we
3655 don't make the decision about what buildings are
3656 being done. So, what we're saying is we'll do
3657 this project to get a better framework of how an
3658 application is made but the decision about why to
3659 use that version needs to be done early in the
3660 piece between the consumer and the designer.

3661 Some colleagues earlier mentioned about
3662 what's going to be happening with climate change
3663 and how the importance of looking at carbon
3664 within building supplies and how that works, that
3665 is not a role for BCA to lead. We need to be
3666 supporting it but the decision about what is
3667 good, better and best, what products should be
3668 used, should be done at that early design stage.

3669 **Dr Johnston:** Yep. And what other benefits do
3670 people see from a BCA centre of excellence? What
3671 are some of the things that people think a centre
3672 of excellence could be doing that would add
3673 value? We have had some good suggestions
3674 already.

3675 **Mr Edwards:** In 20 years' time, 95% of houses are
3676 going to have electric car charging facilities,
3677 solar panels, zone drone letterbox delivery
3678 mechanisms, and a centre of excellence can start
3679 on these new innovations because there's lots of
3680 areas where actual costs have come out and it's
3681 an area to take cost out, which is a funny word
3682 in this environment.

3683 **Dr Johnston:** We've talked about sharing of
3684 information through the database. The things
3685 that a centre of excellence could do in terms of
3686 enhancing sharing of information between BCAs?
3687 Simon?

3688 **Mr White:** Just picking up on - I mean, there are a
3689 lot of good ideas that are coming through but I
3690 just want to highlight that execution is actually
3691 going to be the biggest challenge and to execute
3692 the changes CBS Co-operative actually - you know,
3693 we totally agree with the centre of expertise or
3694 excellence, however you want to describe it, but
3695 it's going to have to have a structural ability
3696 to ensure the changes occur across all of those
3697 BCAs. Without that, nothing will happen.

3698 I recall there was a Productivity Commission
3699 review of this industry several years ago, I can't
3700 remember whether it was 10 years ago, with lots of
3701 recommendations and I don't think anything happened.
3702 So, I think, you know, having one central point that
3703 co-ordinates whatever the right solution is to having
3704 the information available, best practices applied
3705 across all the BCAs, is fundamentally important and I
3706 think, you know, our view is that you need to have a
3707 firm authoritative line from the centre of excellence
3708 that runs this and maybe a dotted line back to the
3709 Councils, to actually get a change to occur because it
3710 won't because fundamentally, the existing BCAs are
3711 monopolies, they don't have competition and they have
3712 less incentive to actually change and it's hard enough
3713 in a private organisation facing keeping its customers
3714 and making a profit to make a change.

3715 **Dr Johnston:** Thank you for that, Simon. I was just
3716 about to come to you to get you to elaborate on
3717 your comment earlier this morning that the

3718 benefit from a centre of excellence was driving
3719 change through BCAs. I was going to ask how you
3720 go about driving change through BCAs?

3721 **Mr White:** Yes. I come from, I am now involved in a
3722 co-operative but I come from the corporate world
3723 where I've been through significant change in
3724 management, probably the most important ones are
3725 where you've got a merger of two banks. I was
3726 involved in the Trustbank/Westpac merger and you
3727 have a steering committee setup and there's
3728 regular reporting and accountability and you
3729 bring in the A team of people who can assist,
3730 like McKinsey's we used in that case, to actually
3731 enable the changes to occur across technology,
3732 which is clearly a big issue that everybody has
3733 identified, and to actually get it to happen.
3734 So, I really encourage that because if it's a
3735 fragmented approach to the changes you want to
3736 make, I don't think they'll happen, just like
3737 nothing really happened out of the Productivity
3738 Commission's review, who had good findings but
3739 poor solutions.

3740 **Dr Johnston:** Thanks for that, Simon. I think
3741 you're on the money there in terms of saying you
3742 need to make sure that it actually carries
3743 through and that change drives through the BCAs
3744 and we have to think about how that's achieved
3745 and implemented.

3746 Do other people have thoughts on how one can go
3747 about ensuring that change can be driven from a centre
3748 of excellence through BCAs?

3749 Any particular thoughts on how a centre of
3750 excellence might be structured or funded to ensure
3751 consistency across BCAs. Are there any local
3752 differences across the country that need to be thought

3753 about when you're thinking about a centre of
3754 excellence?

3755 Anything else on BCAs, centre of excellence
3756 generally? John?

3757 **Dr Small:** While we're just, you know, spitballing
3758 here, what about a centre of excellence for BCAs
3759 that was also an accreditation body for BCAs;
3760 would that potentially provide the incentive that
3761 Simon is referring to or is that a silly idea?

3762 **Dr Johnston:** Ian and Peter have got their hands up.
3763 I will come to Ian first.

3764 **Mr McCormick:** I guess, one of the challenges at the
3765 moment, of course, would be I guess a lot of the
3766 BCAs end up, well there's a lot of scope for the
3767 way that, for example, you deliver a portal for a
3768 digital application. You know, a lot of scope
3769 for I guess how you setup the data sets to
3770 capture information, what information you capture
3771 over and above what's, I suppose, a specific
3772 requirement under an Act. And, I guess, there's
3773 an opportunity there for a lot more guidance or
3774 direction to be provided that would enable BCAs
3775 to actually make the changes they need, they can
3776 see the changes they need to make when they
3777 upgrade the systems, they're making them to that,
3778 I guess, known state. That's one of the
3779 challenges.

3780 It also probably gets us back a little bit towards
3781 that liability question as well. So, you end up
3782 providing direct guidance or start telling BCAs how
3783 they are required to interpret or take a particular
3784 position. Potentially, there's liability associated
3785 with that as well and I guess maybe there's a reason
3786 why that level of direction isn't provided. We get
3787 back to the liability question quite quickly again.

3788 **Dr Johnston:** Yep, Bryan and I were just debating
3789 that very question, you know, where does
3790 liability sit? Is it with the centre of
3791 excellence or is it with the BCAs or
3792 proportionate liability?

3793 **Mr McCormick:** So, don't make the mistake of
3794 thinking the BCAs aren't talking to one another.
3795 I mean we've got forums where the metros get
3796 together every quarter talking about issues,
3797 product systems, you know, what can be learnt
3798 from each other and, I guess, there's change that
3799 occurs through that. But certainly, I think it's
3800 more a direct guidance or direction that would
3801 probably provide more assistance.

3802 **Dr Johnston:** Ian, is there any particular area you
3803 would like to see BCAs talk more on?

3804 **Mr McCormick:** Well, I think, like at the moment,
3805 one of the key ones would be I think datasets, so
3806 what are the key datasets that all BCAs are
3807 creating their portals should be compliant with
3808 because BCAs invest huge amounts of money into
3809 their IT systems but they are always having to
3810 upgrade them, there's always change happening to
3811 them. If we knew what we need to move to as we
3812 do that, we'd be able to make those changes as
3813 part of the work we're doing in many cases, so it
3814 would be a lot more consistent.

3815 **Dr Johnston:** That is a good point, thank you for
3816 that, Ian, I appreciate I put you on the spot a
3817 bit but thank you for that. I will go to Peter
3818 and then to Simon.

3819 **Mr Laurenson:** I was going to add one thing in terms
3820 of the centre of excellence and in terms of the
3821 standardised approach. I should have mentioned
3822 earlier one of my roles with Auckland Council, I

3823 am actually the National President of the
3824 Building Officials Institute of New Zealand,
3825 there's about 1300 members, so it does a lot of
3826 training and can share things across. The issue
3827 Ian raises though is in terms of the delivery of
3828 decisions which is at a BCA level and has that
3829 responsibility of liability, that does sit with
3830 BCA, so there has to be a clear line on that.

3831 But there's definitely an opportunity for
3832 technical information. That's why, you know, there is
3833 a happy marriage there for both BCAs and for us as a
3834 profession to have a private register that we can go to
3835 that has a level of oversight and it has input into it.
3836 So, it's not divulging to someone else. It's actually
3837 having the input but then actually not having to
3838 reinvent the wheel every time that it comes through.
3839 But, yeah, so you couldn't divorce this decision from
3840 that aspect of liability.

3841 It is also true that we do have a range of work
3842 that we do, do currently for other Territorial
3843 Authorities and vice versa. You mentioned above
3844 inspections and the process of consents, so that's
3845 where resources are available and if there's a way of
3846 formalising that more, it must add value to
3847 particularly some of those smaller BCAs that don't have
3848 access to the same - we've got fire engineers on our
3849 team, we've got people who specialise in plumbing and
3850 drainage, some of the areas don't do that and they
3851 currently do pick up the phone or do a check. So,
3852 having some formality around that, we would be
3853 encouraging.

3854 **Dr Johnston:** Yeah, that certainly sounds to have
3855 some real benefit. Simon?

3856 **Mr White:** Yeah, so, obviously, there's a lot of
3857 discussion trying to get into the details of the

3858 actual how we do this, which is good to get those
3859 ideas on the table but it does highlight to me
3860 when I'm listening to that discussion, that once
3861 you've decided what changes need to be made at a
3862 high level, such as a centre of excellence, that
3863 information, you know, having all the information
3864 available in one place, to actually get it to
3865 then happen, I think you need to have a look at
3866 the structure of a change management approach
3867 which I would suggest would be you decide on a
3868 steering committee which is the appropriate
3869 representatives from the public and private
3870 sector, that has the full range of coverage, and
3871 then you support that with somebody like - I'm
3872 not advertising McKinsey's, I have nothing to do
3873 with them personally but there are others, Boston
3874 Consulting Group, that have the ability to
3875 facilitate a change management process but also
3876 help work through the details of the plan with
3877 all the subject matter expertise and people who
3878 know what won't work and will work.

3879 So, I think if you can actually agree on the basic
3880 principles of what needs to change, then the detail
3881 follows from a proper change management structure, and
3882 that's the way I would suggest it's done.

3883 **Dr Johnston:** That's a very useful suggestion, thank
3884 you, Simon.

3885 **Mr Allison:** Just to comment on the point? A
3886 comment on the point that was made around BCAs
3887 all running different portals and different
3888 databases. It comes back to agreeing on a common
3889 set of what we call structured data standards and
3890 those are available internationally, along with
3891 international standards.

3892 So, in fact, you don't need to merge all of those
3893 databases together to be able to share data. You just
3894 actually need to use the same data standards and
3895 structures.

3896 **Dr Johnston:** Thank you for that. That's brought me
3897 to the end of the questions I was particularly
3898 wanting to cover. Bryan, John, do you have
3899 anything?

3900 **Dr Small:** No, I don't think so, thank you.

3901 **Dr Johnston:** Before we wrap this session up, I will
3902 just ask if anybody has any additional thoughts
3903 they've had over the last while they've been
3904 sitting there on either of the questions of the
3905 database or the centre of excellence that they
3906 want to share or get off their chest before we
3907 bring this session to a close?

3908 If not, thank you very much for your attendance
3909 and I look forward to seeing you here at 9.00 tomorrow
3910 morning. Thank you.

3911

3912

Conference adjourned at 2.02 p.m.