

Submission to the Commerce  
Commission on the residential  
building supplies market study  
draft report

# On behalf of Mike Greer & Tex Edwards

September 2022



## 1.0 Introduction

The following sets out Mike and Tex's response to the Commission's draft report for the Residential Building Supplies Market Study and is further to their submission with respect to the Preliminary Issues Paper for the Residential Building Suppliers Market Study December 2021.

We have not commented on contents of the draft report in its entirety, rather we have elected to focus on what we believe to be the most pertinent sections from within the draft report, and in which we believe the Commerce Commission could consider.

Scale alone won't transform the system. Changes across a wide range of sub-sectors to the market (and a willingness to change by those in the industry), will be required to achieve transformational change.

We thank the Commerce Commission for undertaking the market study.

## 2.0 Regulatory and Standard Systems

The regulatory and standards system in New Zealand is currently fractured and operates in a fragmented and in a silo-based approach.

This approach creates barriers which are key contributing factors to the uncompetitive nature of New Zealand building supply market, as well as contributing to low productivity in the construction sector.

### 2.1 Commission's recommendations

- We agree in principle with the Commission's preliminary findings; however, we are concerned by the lack of recommendation to drive profound change to the regulatory system with urgency and under mandate.
- There are currently too many Building Consent Authorities in New Zealand and the incentive and desire to drive meaningful change is currently weak and diluted by vested interests.
- There is a general lack of appetite by Building Consent Authorities to look at new regulatory options (or approve new products and systems) based on a culture of ensuring that Councils are protected from any possible form of inbound litigation.
- If Building Consent Authorities are left to drive change, progress will be slow and mired by bureaucracy and competing personal agenda. This will result in a system with further fractures and less desirable outputs.
- We note that the Commission's report cites the term "tried and tested" when referencing products currently used in the New Zealand market. We believe that this is baseless statement and one that should more accurately referenced using the correct economical terms of 'incumbent market products that benefit from market power and network effects'.

## 2.2 Driving change

The Commission has also not considered the role that the Building Consent Authorities have in contributing to the high costs of construction, namely through:

- A focus on preventing building failure (a legacy from the leaky homes crisis), rather than an openness to consider the use of materials and systems which can contribute to higher performing housing solutions i.e., an unwillingness to consider products outside of 'tried and tested business as usual' solutions.
- Regulatory changes don't appear to consider the cost impact on construction costs, only compliance with specific clauses within the legislation.
- There is no consideration for carbon emissions and how Building Consent Authorities can facilitate an industry shift in response to the MBIE-led Building for Climate Change programme. Reducing carbon emissions in the construction sector will require the sector to act and think differently.
- Whilst Building Consent Authorities have a mandate to process building consent applications within 20 working days, there is currently no penalties if these timeframes are not met. Additionally, Building Consent Authorities charge their time on an hourly basis which therefore encourages longer processing times. In this instance, legislation and business practices are not sufficiently aligned.
- Building Consent Authorities have an opportunity to become an enabler in building performance by encouraging the use of new products at all levels – suppliers, merchants, designers and construction companies. However, there is currently no desire or incentive for Building Consent Authorities to act as sector leaders in this way.
- By working together (or as one), Building Consent Authorities could play an integral part in speeding up the consenting process. Currently there is no guarantee that a consent granted by one Building Consent Authority would be approved by another. Information provided to one Building Consent Authority is generally not considered satisfactory by another, yet the consents are all processed against the same metrics.

## 3.0 Innovation and responding to change

Currently friction exists in the construction industry between Governments desire to facilitate change and respond to domestic initiatives such as the MBIE-led Building for Climate Change programme.

Whilst the Commission has acknowledged that a desire to change exists, there is currently no impetus to do so at any level of the sector.

### 3.1 Barriers to driving change

- As mentioned in Section 2, there are currently no incentives for Building Consent Authorities to facilitate the use of new and or innovative building products.
- Existing suppliers currently have a monopoly with respect to product availability. Currently there is no need for them to consider investing time and money researching new and or innovative building products.

- Where innovative products exist but are not currently used in New Zealand, the regulatory process (product accreditation framework, building code and standards or consent process) is complex to navigate. It is also worth noting, that often independent testing from overseas is not considered acceptable in New Zealand, even in instances where the offshore building code assessment and building performance criteria is higher than in New Zealand.
- Additionally, merchant barriers (a willingness to stock new products, distribution, and pricing) actively work against success. Merchants can also use their scale and size to lobby (directly or indirectly) to actively discourage competition.
- Designers and builders are discouraged from specifying non-standard products that could drive industry change due to the points noted below. For those that take the risk of specifying non-standard products, there are cost and time implications (both at a consultancy level but also at the construction cost level):
  - Familiarity bias towards well-known and or trusted products by Building Consent Authorities
  - Concerns that new products may not be accepted by Building Consent Authorities (or in the case of builders, may not be able to claim against product warranties)
  - Ambiguity with respect to the Building Code and a fractured approach to consent processing across the 67 Building Consent Authorities
  - Incentives by suppliers and merchants to use their products and discourage the new of new products and ideas. This is particularly relevant when considered in conjunction with the points above.

### 3.2 Utilisation of overseas knowledge and experience

In our opinion, the report highlights the obstinate approach to the utilisation of new and innovative products prevalent in the sector, namely at the regulatory and compliance level as well as at a supplier and merchant level.

There is a desire to invest in alternative methods of construction (and by default products) by construction companies and institutional investors, however the current model ensures that this is discouraged and made as lengthy, costly, and arduous as possible. We would question, why this is seen as acceptable behaviour.

We note, that:

- There is a lack of alignment with international standards in our regulatory system, often requiring additional re-testing at significant cost.
- In some cases, products performing at levels higher than our building code are being reengineered to a lower level to meet our compliance standards.
- With respect to products manufactured off site in their entirety (e.g., wall panels), there is widespread skepticism by Building Consent Authorities, that manufactures are in fact manufacturing their product as specified and to meet our Building Code. This is despite being reputable long-standing organisations often with internationally recognised practices such as ISO accreditations.

- The current mindset is preventing the new house market (and by default home occupiers) from benefiting from increased housing performance. There seems to be a level of acceptance that 'we know best' rather than considering how we can draw on internal experience and knowledge to bring greater performance to New Zealand homes. Currently the New Zealand Building Code is inferior to other international countries we compare ourselves to (UK, Canada, Australia, Ireland, Denmark, and other European countries) however there is a lack of impetus to drive change for the benefit of all New Zealanders.

We note that the behaviours referenced above in relation to new and innovative products, extend to alternative methods of construction, namely offsite manufacturing, and prefabrication. Whilst these behaviours may be driven by the culture of ensuring that Councils are protected from any possible form of inbound litigation, they are hampering progress and advancement in the construction sector. There needs to be transformational change to elevate New Zealand building performance, by enabling compliance pathways for higher performing building products and systems from offshore markets.

Whilst the Commission's draft report highlights the potential benefits associated with offsite manufacturing and prefabrication (and its potential to disrupt the market), we believe there is an obligation on the Commission to undertake an empirical review of the sector, with the findings to be included in the final report. In our opinion, the key outputs would cover the below and would provide clear guidance for the offsite manufacturing and prefabrication sector:

- What level of Government support should be, by way of percentage of total Government spending on new housing supply. This would be considered the pipeline minimum.
- How much a scalable factory costs.
- What the minimum scale is to make investment in a new factory worthwhile.
- What level of reduced costs should be available to a scalable operator

## 4.0 Benchmarking against international best practice

We note that the Commission has not undertaken an independent benchmark assessment for either New Zealand prices of building supplies, or sector productivity on an international level.

Whilst the draft report has considered the competitiveness of the current suppliers and merchants operating in New Zealand, it has not given due consideration to whether the base price of supplies is in fact competitive.

In our opinion this is a significant shortfall in the draft report.

### 4.1 Lost opportunity

Benchmarking New Zealand building supply costs against the international market is critical to understanding the potential scale of the competition issues that exist in New Zealand. Without undertaking this process, the findings of the Commission are arbitrary and only consider theoretical competition issues.

Given that the Commission has undertaken an international benchmarking analysis for its market research into the retail supermarket sector, it would be seen as appropriate to do the same for building supply products.

We note that the Commission has relied on the Fletcher Building funded Deloitte report, rather than undertaking an independent and impartial study of its own. We would question the reliability of the report, given that Deloitte had the ability to influence the outcome of the report in favour of its client, but systematically choosing locations to compare to New Zealand which provide a view in line with the current level of costs in New Zealand.

On this basis, we would consider that the report is unreliable and should not be referenced for a market study of this scale and which will influence the \$18b sector.

Additionally, we feel that the Commission has accepted that the New Zealand market is as it is and has failed to give consideration to other market structures in other countries to which we compare ourselves (UK, Canada, Australia, Ireland, Denmark, and other European countries) and how these could drive industry transformation.

#### 4.2 Benefits of international benchmarking

The benefits of international benchmarking are significant and should not be ignored.

- It is widely acknowledged within the industry that New Zealand's building material costs are consistently higher than other countries such as Australia, the United States and Great Britain. Whilst an argument could be made that the construction sectors are significantly larger than New Zealand's that should not be viewed as an acceptable (or the only) reason for high construction costs in New Zealand.
- Competitor countries have a number of similarities with New Zealand (namely in its merchant and supplier operations), but also have large vertically integrated building assemblers.
- These companies (by comparison to New Zealand), reduce the number of 'hands' within the supply chain from supplier to consumer. This reduces the number of times margin is added to products helping to drive reduced construction costs and increasing housing affordability.

### 5.0 Kāinga Ora

We believe that Kāinga Ora have a responsibility to help drive sector change and increase competition in the construction sector.

As noted in the draft report, Kāinga Ora, through its work programme to develop and provide social housing, it is the end consumer of key building supplies in New Zealand and is responsible for approximately 7 to 8% of new homes built in New Zealand each year through its construction partners. We see this number increasing as Kāinga Ora expand construction into a shrinking market. We estimate that Kāinga Ora could in time, be responsible for approximately 12% of all new house construction.

## 5.1 Influencing change for good

- Kāinga Ora is in a unique position. Not only does it build housing for New Zealand communities at significant scale, but it also has its own consenting authority.
- By controlling and having influence over two significant phases of the construction process, it is our belief that Kāinga Ora could play a significant role in transformational sector change.
- Kāinga Ora's own appetite for new and innovative products would appear to be low and those that are of interest are subject to an onerous review and approval process (outside of any regulatory approvals) which discourages innovation.
- Building Momentum, Kāinga Ora's construction plan for the future, sets out some of ways the organisation can influence change, but in our opinion doesn't endeavor to respond to some of the pressing issues facing the sector, such as ever-increasing building costs and barriers to implementing innovation.
- Kāinga Ora has national supply agreements and supplier panels and is ideally placed to facilitate market competition and innovation at a supplier level which builders working for Kāinga Ora could take advantage of.
- Given that Kāinga Ora is responsible for the expenditure of taxpayer's money, we would see that the organisation has a moral obligation and mandate not only to improve building performance (such as through its initiatives such as Homestar 6 standards), but that it should be leading the way in ensuring that the construction sector is as competitive and as cost effective as it can be, as well as driving innovation and being open to change.
- With every dollar of competitiveness gained in the sector, more houses can be built which in turn help reduce the public housing waiting list (26,664 applicants as at 30 June 2022).

## 6.0 Conclusion

In our view, the Commerce Commissions draft report highlights some areas of the building supplies market that are not working well and some of the reasoning for this.

However, we do feel that there are several factors that have not been considered and we look forward to continuing to engage with the Commission on these important matters.

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