MITRE 10 (NEW ZEALAND)'S RESPONSE TO THE PRELIMINARY ISSUES PAPER

Confidential material in this response has been removed. Its location in the document is denoted by [ ].

In responding to the Preliminary Issues Paper, Mitre 10 (New Zealand) Limited (**Mitre 10 NZ**) has focused on questions, and aspects of key building supplies, on which we are able to provide meaningful input based on our experience and the evidence we hold. We have not sought to respond to all questions, or cover all issues that might be relevant to the market study.

	QUESTION	MITRE 10 NZ'S COMMENTS
	Questions on the importance of building supplies to New Zealanders	
1	What impact is the current level of competition in the building supplies industry having on New Zealand businesses and the general public?	**The impact of the cost of building supplies should not be overstated** As the Commerce Commission (***Commission***) notes, building materials have been estimated to be less than a quarter of the total cost to build a house (16-24%).[1] Therefore, while the cost of building supplies, and the level of competition in the building supplies industry, is a part of the overall puzzle to solve the housing challenges faced in New Zealand, it is only one part of the puzzle. **Mitre 10 NZ's competitive context** Mitre 10 NZ's cooperative member stores (**Members**) (supported by Mitre 10 NZ) work hard to differentiate their trade offer and maintain their competitive positioning, in the face of a number of challenges detailed in this submission [ ]. For example, we seek to differentiate our offer and compete by supporting new entrant suppliers into product markets characterised by high concentration – see further below in response to question 30 – Mitre 10 NZ has attempted to promote and encourage uptake of

[1] Commerce Commission "Residential building supplies market study: Preliminary Issues Paper" (17 December 2021) (**Preliminary Issues Paper**) at [39]; Deloitte Access Economics "Cost of residential housing development: A focus on building materials" (December 2018) at page 13 (**Deloitte Report**). Note the Commission says this has been estimated at 20%. Deloitte applies a different definition of building supplies than the Commission, focusing on five key products, being insulation, cement, steel roofing, timber framing and plaster board.

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		USG Boral plasterboard products and Cemintel fibre cement products and has been successful in supporting the entry of Bradford Gold insulation.
		
		Members compete with:
		
		• national merchants (which stock a similar range of products in similar locations as Member stores, two of which have the additional advantage of vertically integrated supply),
		
		• other market participants such as:
		
		  ○ specialist competitors (either based in a certain location or in relation to a certain product line),
		
		  ○ product manufacturers (which supply directly), and
		
		  ○ online merchants which also provide an important source of competition.
		
		This is discussed further in response to questions 4b, 5 and 5a below. These competitors provide constraints both at the national level and on an individual store basis.
		
		The constraints Member stores face are enhanced by customer behaviour. Trade customers face no barriers to "shopping around". For example, many hold accounts with multiple merchants and seek pricing and quotes from more than one merchant, as well as present merchants with quotes from their competitors in order to drive sharper pricing.
		
		Another important feature of current market conditions is considerable pressure around the availability of supply.
		
		Suppliers
		At the functional level of our suppliers, concentration varies by product but Mitre 10 NZ

	QUESTION	MITRE 10 NZ'S COMMENTS
		considers some markets are highly concentrated – we provide more detail below in response to question 29. There are also high barriers to entry in building supplies generally, which affect suppliers of new and innovative products in response to questions 30 and 33.
2	How important is it for us to consider building supplies for renovations separately from building supplies used for new builds?	Mitre 10 NZ agrees with the Commission's position in paragraph 38 of the Preliminary Issues Paper, that conceptually the study could cover key building supplies for both new builds and renovations. However, in practice it is likely to be appropriate to focus on new builds where there are differences. This approach would be consistent with the Terms of Reference and is a reasonable approach to take: • as the Commission notes, renovations are a small proportion of the value of consented work,[2] and • the key insights and information gathered from new builds will likely be applicable to renovations, and as such including renovations is unlikely to make any material difference to the Commission's findings.
	Questions on the supply chain for residential building supplies in New Zealand	
4	How does our high-level summary of the supply chain fit with your understanding?	Mitre 10 NZ generally agrees with the high-level summary of the supply chain for residential building materials as set in Figure 1 of the Preliminary Issues Paper. Mitre 10 NZ only makes one additional point regarding instances where the general merchant is also the importer – see our response to question 4a below.

[2] Preliminary Issues Paper at [37]; Stats NZ "Building consents issues: September 2021" (2 November 2021). Mitre 10 NZ notes, for the Commission's reference, that a material number of renovations do not require building consent (e.g. certain work on a kitchen or bathroom) and consequently are not included in the statistics the Commission cites. Nevertheless, the Terms of Reference refer to key building supplies to build the "major components" of residential buildings. Mitre 10 NZ considers "major component" would generally imply work of a type that requires consent, and as such the majority of renovations that do not require consent would appropriately fall outside of the study.

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4a	Are there any other key steps in the supply chain we should consider? If so, please explain how these steps fit into the supply chain.	We note that in some instances the general merchant will also be the importer. This is not currently represented in Figure 1 of the Preliminary Issues Paper. In our experience, merchant imports only occur in a small fraction of the building envelope [ ] In addition, the products that merchants import are currently typically more decorative elements of the building envelope, which do not form part of the Commission's study. However, it is worth noting this feature, particularly given merchant imports may become more important in the future. For example, [ ].
4b	Are there building supplies relevant to this study that have different supply chain structures? If so, please describe these building supplies and how the supply chain differs?	Mitre 10 NZ considers that, while they are acknowledged in the Preliminary Issues Paper, the various forms of direct supply are worthy of additional comment. Direct supply disintermediates merchants, so has a different supply chain structure (but based on our understanding does not currently account for a significant share of total sales of any building supplies products). **Direct sales by manufacturers** Direct sales by manufacturers are rightly included in the high-level summary of the supply chain (at Figure 1 of the Preliminary Issues Paper). While Mitre 10 NZ does not have good visibility of the percentage of total sales which are made directly, anecdotally, we observe an increasing number of builders and tradespeople wishing to import directly. This trend is likely influenced by the increase in demand seen in New Zealand. However, particularly where they involve products that are new to New Zealand, direct imports are likely constrained by the regulatory barriers to entry identified elsewhere in our responses (see in particular our responses to questions 49-54).

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		Direct sales also appear to be currently focused around specific product categories. Examples include: • ***window joinery:*** manufacturers almost entirely supply directly to market. In New Zealand, window joinery is predominantly aluminium, with New Zealand based extruders (die holders) providing proprietary window system profiles to their own joinery fabrication franchisee brands. Mitre 10 NZ estimates there are more than 20 franchised brands e.g. Altus (formerly Fletcher Windows and Doors) supplies directly through its Vistalite, Nebulite, Fisher and Rylock franchisee brands, • ***timber:*** timber merchants have traditionally sold directly to market, in particular with specialty products such as cladding, structural plywood, decorative plywood, tropical hardwoods and decking hardwoods. Examples include Hermpac, BBS Timber & Panels and Rosenfeld Kidson. These suppliers commonly sell to the builder, including smaller builders (not just larger group builders), and • ***steel:*** United Steel and Fletcher Easy Steel provide accounts for tradespeople to procure products directly. **Supply, fix and install services** Mitre 10 NZ is aware that a number of manufacturers of key building supplies offer to "supply, fix and install" their products directly to customers. This can also take another form whereby manufacturers sell their products to installers directly, which then offer "supply and install" packages to customers. In these models, Mitre 10 NZ's competitors are the manufacturers and installers, as we are offering the same (or substitutable) products, e.g. Global Linings, Mammoth Insulation, Ultra Interior Linings and Metalcraft Roofing.

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		Online retailers In recent years, a number of online focused businesses have emerged. These businesses are generally more targeted toward consumer products, but businesses such as Trade Tested, Trade Depot, Pricewise Insulation and Esulate offer certain key building supplies.
5	How does our characterisation of the key participants and the other key stakeholders in the residential building materials supply chain fit with your understanding?	Mitre 10 NZ agrees the Commission has identified accurately many of the key participants and stakeholders in the residential building materials supply chain. As noted above, Member stores supported by Mitre 10 NZ compete with: ○ national merchants, which stock a similar range of products and have stores in similar locations to Mitre 10 NZ (including Carters and PlaceMakers which are both part of vertically integrated suppliers), ○ specialist competitors, which are smaller merchants or retailers who are either based in a certain location or supply a certain product line, ○ manufacturers either supplying directly or offering supply, fix and install services, and ○ online retailers. **National merchants** The national merchants, PlaceMakers, Carters (which operate as part of vertically integrated supply chains through Fletchers and Carter Holt Harvey respectively), Bunnings Warehouse and ITM each have an extensive store presence throughout New Zealand. All of the national merchants also have e-commerce capability to varying degrees. While not having the scale of these merchants, we also view BuildLink as a competing national merchant. The national merchants typically stock all of the key building supplies, with the breadth of their range dependent on the size and location of the relevant store. Bunnings Warehouse, in

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		particular, has a trade offer that is often complemented by a retail facing offer that is similar to the range offered by Mitre 10 NZ. Every Member store has at least one national merchant operating in close proximity and in many cases a number of national merchants are present. In our experience, many trade customers hold credit accounts at more than one merchant. This allows trade customers to shop across more than one merchant with a view to ensuring pricing competitiveness and supply continuity. **Specialist competitors** Specialist merchants are characterised by their focus on a particular type or range of products. They do not tend to seek to carry the same range as national merchants, but often have a deeper range of a more narrow set of products. Examples include Woodmart, Harts Fasteners, Rosenfeld Kidson, BBS Timbers, Herman Pacific, South Pacific Timber, JA Building Supplies and ITI Timspec. While specialist merchants often operate from a single store, there are examples of specialist merchants which operate throughout a particular region or on a national basis, such as Woodmart, JA Building Supplies and Akarana Timbers.[3] **Direct supply** Mitre 10 NZ faces competition at the distribution level from manufacturers that supply customers directly, manufacturers offering supply, fix and install services and online retailers. More detail is provided in our response to question 4b.

[3] Taking the wider definition of building supplies [ ], Dulux Trade Centre (selling paint), JA Russell and Ideal Electrical (electrical supplies), Plumbing World (plumbing supplies), Reece and Mico (Part of the Fletcher Group) are also relevant specialist merchants.

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5a	Are there any other key participants or stakeholders that play a major role in the industry? If so, please explain the role of these participants or stakeholders.	See our response to questions 4b and 5. In addition, international imports and relationships play a key role in all aspects of wholesale supply. While the Commission correctly identifies that international building supplies companies that import into New Zealand are key participants in the supply chain, Mitre 10 NZ wishes to draw the Commission's attention to the fact that international companies also play an important role in products that are manufactured in New Zealand. Most products manufactured in New Zealand have some constituent products or materials which must be imported from overseas. For example, the gypsum in plasterboard comes from Australia as there is no domestic supply, and timber treatment products are imported from overseas. Another way international companies play an important role in domestic manufacturing is that some manufacturers license their intellectual property from overseas (for example, Pink® is licensed to Tasman Insulation, the manufacturer of Pink® Batts®, by Owens Corning an overseas brand. Pink® is presumably subject to licence fees).
6	Is the structure of the supply chain changing or evolving? If so, please explain how and over what time horizon this is likely to occur?	See our response to questions 4b and 5, above. In addition, infill housing, medium density housing and town housing have become more common and in our view this trend is likely to continue. It is already leading to an increase in "cookie cutter" and prefabricated building and a demand for other types of products to meet the Building Code requirements. However, this trend has led to only minimal changes to the supply chain and its structure, that is: ○ prefabricated housing currently, for the most part, utilises the same materials as conventional construction (although as this evolves and design improves, materials will be redefined),

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		○ changes to housing density will require different solutions and products to meet Building Code requirements e.g. firewalls and acoustics, and ○ such housing is still built by predominantly the same market participants/builders (although some small to medium developers may only employ one or two contractors to carry out their work, effectively resulting in some consolidation at that level of the supply chain). As such, the supply chain is not changing in a way which is likely to materially change the issues identified by the Commission in the Preliminary Issues Paper. For completeness, while it has not materially altered the supply chain, the introduction of prefabricated wall elements allows the redesign of the building envelope, which increases the demand for some building products and reduces the need for others – for more detail, see our response to question 10 below.
	Questions on the scope of "key building supplies" to be considered in the study	
7	Do you agree or disagree with our preliminary view on the "key building supplies" in scope for this study, as described in paragraphs 49-52 and Table 1? Please explain your reasoning.	Mitre 10 NZ's view is that, subject to our response to question 8 below, the building supplies listed in Table 1 of the Preliminary Issues Paper accurately capture the key building supplies that form part of the building envelope. Mitre 10 NZ does not consider that the Commission should investigate more broadly than the building supplies listed in Table 1.
8	If we focus on a narrower selection of building supplies to assess certain issues, are the factors set out in paragraph 55.1-55.5 appropriate to guide our focus? Are there any other factors we should also consider?	We accept that Table 1 broadly encompasses key building supplies. Mitre 10 NZ also considers that applying the factors listed at paragraph 55 could helpfully identify a subset of products from Table 1 that is worthy of particular focus or priority. Applying the relevant factors set out in paragraph 55:

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		• ***Significant portion of overall cost*** – Mitre 10 NZ agrees that the Commission's study should focus on key building supplies that represent a significant proportion of the overall cost of the building envelope. For example, interior linings, framing timber and wall cladding.[4] • ***Number of manufacturers or suppliers*** – Mitre 10 NZ agrees that the Commission should focus on key building supplies that are only available from a limited number of suppliers. For example, plasterboard, fibre cement cladding and insulation. • ***Substitutability*** – Mitre 10 NZ agrees that the Commission should focus on building supplies where there are few existing alternatives and/or where entry or expansion of new or innovative materials could have an impact on competition. For example, plasterboard or fibre cement cladding. • ***Building supplies that are new or innovative or becoming more prevalent*** – Mitre 10 NZ considers that this should be a relevant factor to the extent that the above three criteria apply, and to the extent they are particularly affected by barriers to entry and expansion. Examples of new and innovative products are set out in our response to questions 16 and 31 below. Mitre 10 NZ considers that the Commission should focus on key building supplies where there are barriers to entry in the market e.g. where bundling or tying creates challenges for new entrants, or where cultural factors exist, such as customer preference for products they have used in the past (as discussed further in our response to question 56a). For the avoidance of doubt, to the extent products that would otherwise fall outside the definition of key building supplies are included as part of a bundle with, or tied to, a key building supply, such products should form part of the study. See further our response to questions 30 and 42 below.

[4] BRANZ *E626 – New house price model update ay April 2012* at pages 23 and 24; Deloitte Report at pages 74 and 75.

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9	Which key building supplies do you think should be assessed in greater detail, or otherwise prioritised? Please explain your reasoning.	Mitre 10 NZ considers that priorities can be determined based on the Commission's factors listed at paragraph 55 of the Preliminary Issues Paper – see our response to question 8 above.
10	How will key building supplies evolve in the future? Will different materials become more important?	Mitre 10 NZ expects the introduction of prefabricated wall elements to allow the redesign of the building envelope, reducing wastage and optimising performance. This evolution is already taking place and will continue to increase the demand for some building products and reduce the need for others. For example: • using a glulam 90 x 45 framing with rigid air barrier reduces the need for nogs and dwangs and allow the spacing of the studs to be greater, while achieving the same structural specifications. This reduces the amount of timber required in the building, but consequently increases the amount of insulation required to fill the space, • intertenancy walls require increased acoustic performance meaning potentially different types of linings and insulation are required to meet performance criteria, and • the use of modular plumbing and electrical systems eliminates the need for prewiring and plumbing, leaving only the fit-off of front of wall items. This reduces labour requirements while maintaining quality. Thermal performance of dwellings will continue to evolve, as products are redesigned to meet new levels of performance. This could impact product sourcing and distribution costs.
	Questions on the unique characteristics of building in New Zealand	
11	Are the characteristics set out above an accurate reflection of residential	The Commission has identified some of the unique characteristics of building in New Zealand at paragraph 62 of the Preliminary Issues Paper. Mitre 10 NZ comments on each:

	QUESTION	MITRE 10 NZ'S COMMENTS
	building in New Zealand? Please explain your reasoning.	• ***Performance and durability requirements:*** the environment in New Zealand has led to a number of unique elements in the Building Code to manage performance and durability. In addition to mitigating the risks of earthquakes and wind, there are also requirements associated with water and the fact that many houses are built in coastal regions (e.g. coastal considerations mean we use a significant amount of stainless steel – residential buildings within 500m of the ocean require stainless steel). As set out in our response to question 12 below, past issues such as leaky buildings have also caused the Building Code to be made more stringent. While recognising the challenges that New Zealand faces, Mitre 10 NZ considers that these should not be overstated, and that other countries face at least some of the same challenges. We discuss potential implications of this in response to questions 49 - 54. • ***Traditionally more bespoke nature of housing stock***: Mitre 10 NZ agrees that this has traditionally been the case. However, we are starting to observe more prefabricated and "cookie-cutter" houses to allow for the increase in higher density housing. We discuss the potential impacts of this development in response to questions 6 and 10. • ***Plasterboard used to support the structural integrity of buildings:*** As flexible building wraps make way for more rigid products, enabling early "close in" of homes, the use of plasterboard for bracing may not be necessary. However, it remains to be seen whether and how such an evolution will occur e.g. given regulatory factors (discussed further below in our response to questions 49 – 54). • ***Specifiers (including architects, engineers and designers):*** specifiers commonly specify a brand of building supply in plans presented for building consents, rather than a generic product type. Where this occurs, builders are reluctant to substitute the specified brand for another. We provide further information in response to question 56a.

	QUESTION	MITRE 10 NZ'S COMMENTS
12	Are there any other characteristics of residential building in New Zealand which are important for us to understand?	Mitre 10 NZ identifies the following unique characteristics of building in New Zealand which we consider the Commission would usefully take into account when conducting its analysis: • as described in more detail above in response to question 5a, international imports and relationships play a key role in domestic manufacturing. In particular, most products manufactured in New Zealand have some constituent products or materials which must be imported from overseas. In addition, many companies who manufacturer products in New Zealand use intellectual property from an overseas company, • as noted above in response to question 11, the Building Code is stringent and bespoke to New Zealand, including because of the ongoing influence of past issues such as leaky buildings, • it is common for specifiers (such as architects, engineers, designers) and builders in New Zealand to be conservative in their specification and use of building supplies. This is due to familiarity bias (ie relying on products they know and trust) combined with the risk that new products may not be signed off by Councils adding time and cost to the project. Additionally, manufacturers and suppliers work hard to ensure incumbent products are easy to use (including by providing training and support). This is discussed further in our response to question 56a, and • there is an increase in higher density housing in New Zealand. This has impacted and will increasingly impact the profile of building supplies which are used in New Zealand – see Mitre's 10's response to questions 6 and 10.
	Questions on the demand and supply chain pressures on residential construction	
13	Does our summary of the external pressures facing the residential construction industry accurately reflect	Mitre 10 NZ agrees with the Commission's summary of the external pressures facing the industry (set out in the Preliminary Issues Paper at paragraphs [64] – [69]). We make the following additional points:

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	the current situation? Please explain why/why not.	• ***demand:*** as the Commission notes, rising land price inflation and housing supply shortages are increasing the need for residential housing to be built at scale.[5] This has led to unprecedented demand for building supplies in New Zealand, • ***domestic freight/logistics:*** domestic freight and logistics are placing pressure on demand as it can be difficult to transport supplies around the country. Freight and logistics are often arranged by 3PL (third party logistics) companies. Even prior to Covid-19 demand for these services exceeded supply. Covid-19 has added to these problems causing 3PL companies to become overwhelmed. An associated issue is the stockpiling that occurs in response to issues with receiving stock on time, • ***domestic manufacturers' reliance on international imports:*** international supply chain disruptions do not only impact the building supplies being imported directly into New Zealand, but also the building supplies being manufactured in New Zealand as most manufacturing processes rely on imported products – see our response to question 5a, • ***labour shortages:*** there are labour shortages within the trades and at the manufacturing level which are unlikely to be remedied in the short term.[6] For example, many timber mills rely on migrant labour which has been very difficult to source, particularly during the response to COVID-19, • ***the export market:*** changes in demand from the export market can have an impact on domestic manufacturing. For example, in relation to timber products, particularly industrial grades of timber, the top section of the tree cannot be used in New Zealand and instead is exported (e.g. to China) where there is demand for it. The bottom part of the tree is supplied in New Zealand. If demand from China drops, a logger may

[5] Preliminary Issues Paper at [69].

[6] We note that the Government has initiated schemes in an attempt to improve these concerns, particularly geared towards getting more people into the trades.

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		decide not to cut the tree, at all at the relevant time, on the basis that it would not be fully utilised. Alternatively, if the logger does cut the tree, the price for the bottom section will be higher (to cover costs where the full tree is not utilised), and • ***climate change and, relatedly, rainfall levels:*** these factors affect sea levels and flood plain sizes, which lead to issues including availability of land, and increased foundation, substructure, roofing, draining and waste requirements. It is a combination of the above factors, as well as those set out in the Commission's summary, which are contributing to the demand and supply chain challenges faced by the industry.
14	To what extent are these external factors temporary or likely to continue in the long term?	Mitre 10 NZ estimates that, demand and supply chain challenges are likely to continue for at least 18 to 24 months, and more likely longer. Based on the factors above, Mitre 10 NZ considers that demand, domestic freight and logistics, labour shortages and issues with export markets are exacerbated by the impacts of Covid-19. This means that as we recover from the pandemic these issues may become less of a concern. However, climate change and rainfall levels and reliance on the international market are likely to continue in the long term. All of these external pressures, whether caused by Covid-19 or long term issues, are complicated and unlikely to be solved easily or in the near future.
15	Would an increased use of technology, such as prefabricated housing, help to address some of the longer term pressures facing the industry? Please explain why/why not.	As set out above in our response to question 6, even though "cookie cutter" building and prefabrication may have some impact on the structure of the supply chain, the supply chain is not evolving or changing in a way which is likely to materially change the issues identified in the Preliminary Issues Paper. Mitre 10 NZ expects that a key impact of prefabricated housing, as explained in more detail in our response to question 10, is to allow the redesign of the building envelope, reducing

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		wastage and optimising performance. This evolution is and will continue to increase the demand for some building products and reduce the need for others.
16	Please describe any other examples of innovative technologies or approaches that could increase efficiency in the sector over the longer term.	In Mitre 10 NZ's experience, the building supplies industry is frequently coming up with new and innovative technologies and approaches that could increase the efficiency of the sector over the long term. This includes the development of new products. Some recent examples of new products, some of which have been adopted in New Zealand and others which have not, include: • ***engineered timber (laminated timber)***: engineered timber is geared towards in-factory component (walls and floors) production to reduce build time, reduce waste on sites and make the build process more efficient. These are especially geared towards multi-unit and multi-residential construction. There are a number of different types of engineered timber that are available in the market,[7] • ***timber preservatives:*** new technologies for timber preservation are frequently being developed. The most common preservatives used in New Zealand are Boron, LOSP and CCA (and various derivatives of these). New Zealand has the highest per capita use of preservative timber treatment, so it is at the forefront of research and testing of alternatives, • ***alternative cladding solutions:*** there are a number of alternative cladding solutions available internationally that are either not used in New Zealand, or only restricted volumes are available (e.g. Swisspearl or Cemintel Territory) which are more sustainable and can be used in higher density buildings, and

[7] Examples of this include Glulam, CLT (Cross Laminated Timber), LVL (Laminated Veneer Lumber), which are produced in New Zealand. OSB (oriented strand board), which is not produced in New Zealand, but is gaining traction in New Zealand for flooring. And PSL (parallel strand lumber), LSL (laminated strand lumber) and OSL (oriented strand lumber) which are not produced in New Zealand and not currently imported for mainstream application.

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		• ***rigid air barriers systems***: can be used to allow the outer aspect of a building to be closed off so inside work can begin sooner. This was not traditionally used in New Zealand, however, it is becoming more common.
	Questions on the evolving regulatory framework around residential construction	
18	How might the regulatory changes described in paragraphs 74 and 75 affect the demand for or supply of certain types of residential building supplies?	Mitre 10 NZ has identified a number of issues with the current regulatory regime in its response to questions 49 to 54 below. At a high level, Mitre 10 NZ considers that the current regulatory regime imposes excessive compliance burden on suppliers which acts as a barrier to entry for new entrants and as a consequence protects existing suppliers' position. In its Preliminary Issues Paper, the Commission identifies regulatory changes that may affect the demand for or supply of residential building supplies. These are: • ***Building Code updates*** – as the Commission notes, MBIE continually reviews and updates the Building Code. These reviews continue to incorporate new verification methods and standards for building products. In theory, this may allow for greater supply of new building products. • When reviewing Building Code standards, MBIE assembles a working group which represents relevant stakeholder groups and, if consensus can be achieved, recommends amendments. Consensus of the working group is required for amendments to be recommended. [ ]. • ***Building (Building Products, Methods, Modular Components and Other Matters) Amendment Act 2021*** - the key changes include: o changes to the CodeMark framework including a more robust product certification scheme and MBIE having increased regulatory oversight. These

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		changes could lead to a greater confidence in new products which have been certified under the CodeMark scheme. Leading to greater demand for these products. However, at the same time, could also cause greater regulatory burden for suppliers attempting to certify their products. Therefore, reducing supply of key building supplies, ○ mandating minimum information requirements for building products. This could increase the demand for new products, due to specifiers having more information available, and ○ a new voluntary certification scheme for Modular Component Manufacturers (such as prefabricated houses). This could lead to greater supply of pre-fabricated houses. • The ***Building for Climate Change Programme*** which aims to help lower greenhouse gas emissions across the building and construction sector by setting mandatory requirements for reporting on whole of life carbon emissions and setting energy efficiency standards will likely increase demand for new and innovative products which focus on "green" products. • ***Amendments to the RMA*** which may facilitate higher-density residential housing. To the extent that this increases the number of houses being built, it will lead to an increase in demand for key building supplies. As set out in response to question 6, higher density and pre-fabricated houses predominantly use the same building supplies as conventional housing, so we would not expect this change to greatly change the type of key building supplies that consumers demand. Mitre 10 NZ acknowledges and supports the Government in looking to make changes to improve the regulatory regime. However, Mitre 10 NZ does not consider that the regulatory changes described in paragraphs 74 – 75 address the issues facing the industry. In particular:

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		• Mitre 10 NZ considers that further work is required to appropriately balance the requirement to build safe houses with the regulatory burden. When considering what standards are appropriate, Mitre 10 NZ suggests a goal of aligning New Zealand's regulatory requirements with overseas standards where possible and appropriate. This is particularly the case with respect to Australia, which faces some of the same climate and other building challenges, and has a generally similar legal and cultural framework. Regulatory alignment would make entry into the New Zealand market easier and more attractive for international suppliers (particularly suppliers that are already active in Australia), without unnecessarily compromising safety. • Cultural factors operate in addition to regulatory and standards systems to exacerbate this barrier to entry. That is, even where a new product becomes available, specifiers (such as architects, engineers and designers) often have a familiarity bias, such that they tend to prefer products that they have used in the past and trust. Further detail is provided on this in response to question 56a. Additionally, manufacturers and suppliers work hard to ensure incumbent products are easy to use (including by providing training and support). Until there are effective reforms coupled with well managed processes to help get new products to market effectively it is difficult to say that the reforms set out above will improve competitive conditions. Furthermore, it is important to ensure that any reforms also require, or lead to, a change in behaviour across relevant parts of the industry.
20	Does the regulatory environment pose challenges to the introduction of prefabricated products? If so, please explain where you see the issues and whether these will be addressed by the latest regulatory reforms.	First, as Mitre 10 NZ explains in its response to questions 49 – 54 below, the current regulatory and standards systems make it difficult to introduce new products generally. These issues arise to the extent prefabrication requires new products to be introduced. Mitre 10 NZ's understanding is that currently prefabricated housing largely utilises the same materials as conventional construction, however, this may become more of an issue as the prefabrication process evolves and design improves, as materials will be refined.

	QUESTION	MITRE 10 NZ'S COMMENTS
		Secondly, the current regulatory environment makes it difficult for prefabrication plants to achieve sign off of various elements of their build, adding to the expense of establishing a prefabrication plant. In part, because the current inspection process for new builds requires each element of the building process to be signed off by the Council before the next phase proceeds. With prefabrication multiple elements are completed simultaneously, requiring more flexibility in terms of sign off. That said, Mitre 10 NZ understands that the changes in the Building (Building Products and Methods, Modular Components and Other Matters) Amendment Act 2021 may reduce the compliance burden.
	Questions on impact of climate change for building supplies	
21	What are the most important "green" building supplies for us to focus on? Why are these important?	Mitre 10 NZ does not consider that the Commission should focus exclusively on particular products as "green", because in practice there is a range of factors that contribute to the extent to which any building supplies product can be considered to be "green". Factors include: • the energy cost to manufacture a product (embodied carbon), • the life cycle of the product (how long the product lasts), and • the product's utilisation and the wastage associated with it (whether the waste product can be recycled or reused). As such, rather than only focusing on particular "green" products, focus should also be on reducing the embodied carbon in products, products which support more sustainable energy use (such as solar and warmer and drier homes), and the lifecycle of products to reduce the amount of construction waste currently going to landfill.

	QUESTION	MITRE 10 NZ'S COMMENTS
22	Please describe any other ways in which building for climate change might drive change and innovation in the residential construction sector.	Between 40% and 50% of what ends up in landfill is demolition and construction waste.[8] Although it may not be central to a competition analysis, except to the extent innovation is hindered by barriers to entry, Mitre 10 NZ would like to draw the Commission's attention to the considerable amount of work that is being done (and still needs to be done) to consider building supplies that can be reused or recycled at the end of a product's life. Current work, including by local Councils, Mitre 10 NZ and other industry participants, includes the development of reusable timber packet covers and recycling polystyrene to create underfloor insulation. Additionally, increasing house prefabrication can be beneficial to the environment due to the significant reduction in waste through the production process.
	Questions on our high-level approach for our market study into residential building supplies	
23	Do you have any comments on our proposed high-level approach to the study as discussed in paragraphs 83 to 87 above?	Mitre 10 NZ agrees that the focus of the Commission's study should be on directly assessing factors affecting competition, including industry structure, the nature of competition and impediments to entry or expansion. Factors affecting competition are the key determinants of whether outcomes are competitive or otherwise. Focusing on outcomes such as margins can, even at best, only provide a clue that competition might not be working as well as it should. Analysing factors affecting competition is likely to yield useful information on competition for the supply and acquisition of key building supplies, rather than any particular outcome such as margin or price. Factors affecting competition are observable, and do not rely on a benchmark of reasonableness or comparison, which are likely to be complex and controversial. For example, a barrier to entry can be identified, and an assessment can be made as to whether it can easily and appropriately be lowered, without needing to establish what such a barrier "should" look like.

[8] Level.org.nz (developed by BRANZ) *Minimising Waste: Construction and demolition produce large amounts of waste* (https://www.level.org.nz/material-use/minimising-waste/#:~:text=Construction%20and%20demolition%20waste%20makes,of%20four%20tonnes%20of%20waste.&text=K%C4%81inga%20Ora%20has%20a%20target,in%20its%20large%20development%20projects).

	QUESTION	MITRE 10 NZ'S COMMENTS
		On the other hand, for example, in assessing whether prices are consistent with what would be observed in a workably competitive market, it is necessary to consider a benchmark of reasonableness. To take just one complexity, as described in more detail elsewhere in this submission, New Zealand has unique conditions and factors such as the Building Code, which can be expected to have an effect on costs relative to other countries. As such, and setting aside the feasibility of obtaining suitable data, a direct comparison with prices in (say) Australia would need to somehow measure and control for this factor.
24	Would international comparisons of key building supplies prices provide insights into the level of competition in the industry? Why/Why not?	Comparing the New Zealand market to international markets would be a challenging process due to the small size of the market and because of the number of unique characteristics (see Mitre 10 NZ's response to questions 11 and 12 for further detail regarding these unique characteristics, as well as the response to question 23). International comparisons are less likely to be revealing compared to focusing on factors affecting competition in New Zealand.
26	Would assessing the margins of the manufacturers and/or merchant sales of key building supplies provide insights into the level of competition? Why/Why not?	Mitre 10 NZ does not consider that assessing margins at the merchant level will provide significant insights into competition. Difficulties in calculating margin, as well as determining what is a "competitive" margin for any particular product, means such an exercise is likely to be complex and ultimately unlikely to provide material insights. Even in the calculation exercise it would be necessary to take account of customer mix, product mix, cost of goods, rebates, volumes and other factors – see also our response to question 23. The more appropriate focus for a competition study, and more likely to yield useful insights, is to examine the conditions of competition (including market structure and conduct) at relevant levels of the supply chain. It is also important to take account of the fact that, in many product markets, factors beyond price and margin are relevant features of competition. These include, in particular, service, quality and reliability of supply.

	QUESTION	MITRE 10 NZ'S COMMENTS
	Questions on concentration	
28	On what geographic basis (e.g., local, regional, national) should we assess the concentration of key building supplies. Please explain your view.	Even though domestic manufacturing tends to take place in major metropolitan areas, key suppliers have a national presence (with some exceptions such as the presence of local timber suppliers), and so supplier concentration does not vary materially by geography. At the merchant level there are, national, regional and local competitors, and national and local elements of competition (e.g. Mitre 10 NZ provides services to Members nationally and each store competes in its local area). All elements should be taken into account in the Commission's assessment. We note the Commission's comment at paragraph 93 of the Preliminary Issues Paper that there are "only five major building merchants". This comes off the back of the comments on supplier concentration. As set out in response to question 1 we consider that competitive constraints are operating well at the merchant level and therefore, this should not be a major focus of the Commission's study.
29	Are there any key building supplies which stand out as having a limited choice of suppliers? If so, please explain which building supplies.	There are several building supplies products where there is a small number of suppliers. These include: • ***plasterboard:*** Winstone Wallboards is the predominant supplier of plasterboard,[9] • ***fibre cement cladding (unfinished) and flat sheet linings:*** James Hardie has a large share of supply, with a limited share held by:

[9] Deloitte Report at pages 12 and 89.

	QUESTION	MITRE 10 NZ'S COMMENTS
		○ Cemintel in the supply of flat sheet linings. [ ], and ○ Pacific Build (with Shera weatherboard and Eterpan panel cladding) in the supply of raw un-finished fibre cement claddings, • ***concrete***: there are several suppliers of certified concrete, but only two main suppliers of bagged concrete, Firth Dricon (a Fletcher Building company) and the Cemix group, and • ***reinforcing steel***: while there are four major suppliers of reinforcing steel in New Zealand, which supply a combination of New Zealand manufactured product and imported product, Pacific Steel produces the feedstock for all of the New Zealand manufactured product.
30	What are the barriers to importers of key building supplies competing effectively with domestic manufacturers?	For the purposes of a competition analysis, the key distinction is not between importers and domestic manufacturers of key building supplies, but between existing suppliers and new entrants. The key barriers to entrants competing effectively with existing suppliers include: • ***regulatory barriers***: there are significant costs associated with meeting New Zealand's regulatory and standards requirements relative to the size of the market. This issue is discussed in more detail in response to questions 20 and 49 – 54, • ***cultural factors***: customers (including engineers and architects) are typically conservative, preferring to continue to use products they have used before rather than new products. This barrier is linked to regulatory barriers, as (along with brand loyalty and/or familiarity bias) it is commonly exacerbated by customers' concern that new

	QUESTION	MITRE 10 NZ'S COMMENTS
		products may not be accepted by the relevant Council which would add time and cost to the project. It is also exacerbated by large brands that encourage customer stickiness by investing significantly in relationships with architects and others, including networking and providing training and support (further detail is provided in our response to question 56a), and • ***bundling and tying***: such practices make it difficult for new suppliers if they do not already have a wider offering. Furthermore, customers that are required to purchase certain products because of bundling requirements are limited in the new products they are able to try. Examples of offshore brands which have struggled to enter into the New Zealand market include: • ***USG Boral***: USG Boral, a large construction materials supplier in Australia, attempted to enter the New Zealand market in 2018 before leaving in November 2021. USG Boral supplied plasterboard, light gauge metal and ceiling tile from sites in Auckland, Wellington and Christchurch.[10] [ ]. When leaving the market, USG Boral's Country Manager noted that the New Zealand market has "presented several significant challenges to a new market entrant such as us", despite USG Boral's global scale capabilities. • ***Cemintel***: Cemintel is a brand of fibre cement products offered by CSR (including through Mitre 10 NZ). It has struggled to achieve material penetration as an alternative to James Hardie's product. In Mitre 10 NZ's observation, the reasons it has struggled include the regulatory and cultural factors (set out in response to this

[10] http://www.hardwarejournal.co.nz/articles/2021/august/04/usg-boral-quits-nz-market/

	QUESTION	MITRE 10 NZ'S COMMENTS
		question above). For example, the cost of ensuring Building Code compliance for each individual product is very significant, and would be incurred in full despite the fact that relevant products are already compliant in Australia, to Australian standards. Currently, based on demand projections Cemintel has sought certification for some, but not all, of its products. • ***Knauf Plasterboard***: Knauf is a large German building supplies manufacturer which entered the New Zealand market in 2013/2014 with its plasterboard brand after winning a government contract to help with the rebuild of Christchurch after the earthquakes. It scaled back its plasterboard operations in 2014 after struggling to gain traction in the local market, taking longer to secure approval for its products and facing resistance getting into stores that had established relationships with existing firms. An example of a brand that was able to enter the market, with Mitre 10's help, is CSR entering the New Zealand insulation market through its Bradford Gold brand. Two factors were critical to its entry. The first was the Government stimulus programme for warmer homes, following the global financial crisis, without which new entry and expansion may not have been possible. The programme paved the way for a number of new brands to enter the market including CSR (with its Bradford Gold brand), Knauf and PGF. Secondly, Mitre 10 NZ actively assisted Bradford Gold to maintain and expand its presence in New Zealand market. [ ]. In Mitre 10 NZ's view, the supply of insulation is now materially more competitive.
31	Are there building supplies you are aware of that are not available in New Zealand, but you think would benefit New Zealanders? Please describe these supplies and benefits	In our response to question 16 above, Mitre 10 NZ sets out a number of new innovative products, noting that some are available in New Zealand, some are available but have not been widely adopted, and some are not yet available in New Zealand. These include additional types of engineered timber and alternative cladding solutions.

	QUESTION	MITRE 10 NZ'S COMMENTS
33	What are the main barriers to new providers of key building supplies establishing domestic manufacturing in New Zealand?	As noted above, in Mitre 10 NZ's view, the key distinction is between existing and new entrant suppliers, rather than whether or not local manufacturing occurs. Establishing domestic manufacturing is affected by the barriers outlined above in response to question 30, adapted as follows: • ***small scale:*** given New Zealand's limited population size and demand, it is often not worth the significant investment costs of a supplier establishing manufacturing facilities in New Zealand, and • ***compliance costs:*** despite the small size of our market, the costs to establishing and maintaining domestic manufacturing are high, including regulatory costs of compliance, including with the Building Code and Health and Safety requirements.
34	Are customers, (for example, merchants when purchasing from wholesalers, or builders when purchasing from merchants) able to constrain their suppliers due to their own size or negotiating position? Please explain why/why not?	**Merchants purchasing from wholesalers** Mitre 10 NZ (and its Member stores) have very limited ability to constrain suppliers. For example, a number of suppliers, particularly where they supply products and a brand that Members "must stock", and operate in a concentrated market (see our response to question 29 above), have a high degree of power to negotiate higher prices or lower rebates. These products include plasterboard and fibre cement cladding, which Members need to supply in order to present a credible trade offering in the area of key building supplies. [ ]. **Builders purchasing from merchants** As set out in response to questions 1 and 5 above, Mitre 10 NZ must work hard to support its Members, and Members themselves must work hard, to maintain a competitive position.

	QUESTION	MITRE 10 NZ'S COMMENTS
		Many customers hold accounts with multiple merchants and shop around for the best offer. Generally, customers will not close old accounts with merchants, so they retain the option to shop around and can easily move between merchants when sourcing products. Factors that Members compete on include: • ***price:*** in terms of price, customers will often bring in quotes from competitors in order to get the best deal, • ***supply:*** price is not the only important element, and a number of other considerations are relevant to customers and may materially influence their decision of who to deal with. With the issues currently facing the market, availability of supply is an important factor for who a customer will deal with, and • ***quality, service and broader relationship:*** customers' relationships with merchants are very important. Builders will rely on a merchant to support them managing their projects, including ensuring that the right products are ordered in advance. This means that builders often have a preferred merchant that they will frequently work with. However, in Mitre 10 NZ's experience builders tend not to give any merchant all of their business so as to maintain competitive pressure. In Mitre 10 NZ's experience, when builders choose to make Mitre 10 stores their preferred merchant, this tends to be driven by relationship factors, such as the level of service provided, rather than purely price.
	Questions on vertical integration	
35	Does vertical integration act as a barrier to entry/expansion for independent rivals? Does this differ for	As the Commission is aware, the supplier markets in which the vertically integrated merchants participate are highly concentrated and as such the impact of vertical integration is likely to be one to which the Commission appropriately devotes attention.

	QUESTION	MITRE 10 NZ'S COMMENTS
	different building supplies? Please explain your view.	
36	Is being vertically integrated necessary to compete effectively in this sector? Please explain your view.	Mitre 10 NZ does not consider it necessary to be vertically integrated in order to compete in the sector, as evidenced by its own continued participation. However, in certain situations non-vertically integrated market participants are disadvantaged.
37	What are the benefits in this industry to being vertically integrated? Do consumers benefit from this?	Mitre 10 NZ recognises that there are theoretical benefits to vertical integration, of which the Commission will be well aware. In the context of the market study, it will be important for the Commission to investigate whether and to what extent these benefits eventuate in practice.
	Questions on vertical arrangements	
39	What forms do supplier rebates and loyalty payments typically take in this industry? (eg, monetary, non-monetary, lump sum etc.) Does this vary by type of building supply? If so, please explain how.	Some suppliers agree flat or tiered rebates with Mitre 10 NZ. In the context of key building supplies for trade customers, [ ].
40	Do rebates / loyalty payments usually relate to one product or category of product, or are they often applied across multiple products or product categories?	Supplier rebates and loyalty payments are typically calculated by supplier (i.e. total spend on all products purchased from a supplier) rather than by product, or product category.
41	Do rebates / loyalty payments inform or restrict a merchant's or builder's decision about which product(s) to	***Merchants' purchasing decisions*** [ ].

	QUESTION	MITRE 10 NZ'S COMMENTS
	acquire? If so, how significant is this consideration?	[ ].
42	Is tying of products or product "systems" a prevalent practice? What levels of the supply chain are characterised by tying arrangements?	In Mitre 10 NZ's experience, "tying" or "bundling" of products or product systems does occur at the wholesaler/supplier level of the supply chain e.g. where a supplier specifies that its warranty will only be valid if it is used with specified other products. Mitre 10 NZ is not aware of this practice occurring in a widespread manner at the merchant level and does not engage in the practice itself. [ ].
43	Are exclusivity agreements prevalent? What levels of the supply chain are characterised by exclusivity agreements?	**Supplier supplying exclusively to merchants** Mitre 10 NZ does not understand exclusivity agreements to be prevalent in key building supplies. [ ].
44	Do the benefits of rebates and pricing pass through to end-consumers? Why/Why not?	Rebates form part of the net price that Mitre 10 NZ pays and accordingly are factored directly or indirectly into pricing to customers. In any event, as set out in response to question 39 above, rebates on key building supplies tend not to make up a significant proportion of total price.
	Questions on accommodating behaviour	

	QUESTION	MITRE 10 NZ'S COMMENTS
46	Is accommodating behaviour likely to be an issue in this industry? Please explain why/why not.	**Merchant level** Mitre 10 NZ is not aware of any accommodating behaviour taking place at the merchant level of the key building supplies market and does not consider that accommodating behaviour would be feasible due to the number of national merchants, the wide range of key building supplies and variations in pricing (much of which is not visible to competitors) meaning that any kind of coherent movement in prices is unlikely. **Supplier / wholesaler level** While Mitre 10 NZ does not have full visibility, it does not perceive accommodating behaviour to be a material issue.
47	How transparent is pricing for key building supplies?	**Merchant level** At the merchant level, there is limited price transparency between competitors (except to the extent a limited number of suppliers means that Mitre 10 NZ might assume material supplier price increases are also being imposed on other merchants). For trade customers, [ ]. Also, the wide range of key building supplies that each of the merchants provide makes it difficult to keep track of competitors' prices. Mitre 10 NZ notes that [ ]. Dynamic pricing means that prices often vary from job to job.
	Questions on regulatory and standards systems	
49	Do the regulatory and standards systems (e.g. product accreditation framework, building code and standards or consent process) make it	**Difficulties with current regulatory and standards systems** As the Commission recognises, ensuring buildings are structurally sound and safe to live in is important. As such, regulation of building materials, standard setting and specifications play a

	QUESTION	MITRE 10 NZ'S COMMENTS
	easy or difficult for new and innovative building supplies to enter the New Zealand market and establish a presence? Please explain any difficulties posed and your view on whether it would be beneficial to make it easier for new suppliers to enter the New Zealand market.	substantial and vital role in key building supplies.[11] However, it is also important to recognise that regulatory and standards systems impose a compliance burden on businesses which add cost and operate as a barrier to entry. The burden imposed by such standards often disproportionately affects smaller and emerging businesses, and can make it difficult for small businesses or prospective new entrants to compete.[12] Against that background, Mitre 10 NZ agrees that regulatory and standards systems make it difficult for new and innovative building supplies to enter the New Zealand market. Mitre 10 NZ considers the Building Code and product requirements to be overly restrictive, particularly taking account of the small size of the New Zealand market and cultural factors leading to a preference for previously used products (see our response to question 56a below). Even accepting that New Zealand has unique characteristics (e.g. the role of earthquakes, wind and water), Mitre 10 NZ considers that in some respects the requirements extend beyond what is necessary, or at least are unnecessarily bespoke. Other, larger markets also exhibit some of these characteristics and have standards in place to respond to them. When considering what standards are appropriate, relevant authorities could usefully seek to align New Zealand's regulatory requirements with overseas standards (particularly Australia) where possible and appropriate. This could make entry into the New Zealand market easier and more attractive for international suppliers (particularly suppliers that are already active in Australia), without unnecessarily compromising safety. This barrier is exacerbated by:

[11] Preliminary Issues Paper at [123]

[12] Preliminary Issues Paper at [126].

	QUESTION	MITRE 10 NZ'S COMMENTS
		• the size of the New Zealand market. New and innovative suppliers are less likely to invest in the cost of bringing products up to specification for New Zealand, where the small size of the market means that there is limited potential benefit in doing so, and • cultural factors. As noted above, even if a new product becomes available, customers (including architects, builders and engineers) continue specifying products that they are familiar with and which are known to perform appropriately. This is likely due to familiarity bias (i.e. relying on products they know and trust) as well as the risk that new products may not be signed off by Councils which would add time and cost to the project.[13] Additionally, the education and support offered to specifiers by existing suppliers means that new products are unable to enjoy the ease with which incumbent products are specified. **Manufacturers that have exited the market** As the Commission notes in its Preliminary Issues Paper, in recent years, large international building supplies manufacturers have entered the New Zealand market intending to remain in the long-term, but have exited after a relatively short time.[14] In Mitre 10 NZ's view, strict regulatory requirements and cultural factors are likely to have played a part in these manufacturers leaving the market (see the examples provided in response to questions 30 and 49 above). Mitre 10 NZ anticipates there will be other entities that have considered entering, or attempted to enter, the New Zealand market, but have decided not to, or have failed in doing so, due to the burden of New Zealand's bespoke regulatory requirements and cultural factors leading to a preference for previously used products.

[13] Deloitte Report at pages 11 and 81.

[14] Preliminary Issues Paper at [127].

	QUESTION	MITRE 10 NZ'S COMMENTS
		It would be beneficial to make it easier for new suppliers to enter the market As set out in our answer questions 18 – 20 above, Mitre 10 NZ considers it would be beneficial to make it easier for new suppliers to enter the market. However, regulatory reform alone will not be sufficient to drive the level of change required. The key to any reforms being successful will be to ensure that the reforms lead to a change in behaviour.
50	What impact does the current regulatory environment have in encouraging or discouraging a move to "green" building supplies?	As set out in response to question 49 above, the regulatory environment makes it difficult for new and innovative products to enter the New Zealand market. This also applies to "green" building supplies. The restrictive regulatory requirements, small market and cultural factors discourage a move to "green" building supplies. Mitre 10 NZ wants to encourage substitution and innovation (which is evident from our strong history of attempting to facilitate entry by new suppliers into concentrated markets), but not at the cost of quality or compliance with Code. Any product made available needs to be fit for purpose. Regulatory standards need to allow for ways of encouraging innovation and green products, as long as they can be seen as being fit for purpose. An example is prefabrication. House prefabrication can be beneficial to the environment due to the significant reduction in waste through the production process. However, as we explained above in response to question 20, regulatory compliance burden adds to the already high costs of establishing and running prefabrication plants. This means that a prefabricator would require large amounts of throughput before the cost would be justified. Another example is the treatment of timber. As set out in response to question 22 above, timber is already seen as a "greener" product (as compared to steel and concrete). NZS3640 sets out the treatment standards for timber products. Mitre 10 NZ considers that this standard should be reviewed for alternative treatment methods, limiting the use of toxic substances. As set out above in response to question 18, MBIE proposed changes to NZS3640 which may have reduced complexity or allowed for the introduction of new products. [ ].

	QUESTION	MITRE 10 NZ'S COMMENTS
51	Does the current regulatory regime favour incumbent suppliers over new entrants? If so, please explain how.	For the reasons set out in question 49 above, Mitre 10 NZ considers that the current regulatory regime favours existing suppliers over new entrants. For the most part, existing suppliers have long histories in New Zealand (for example, Fletchers was first established in 1915). This means that they either faced a lesser regulatory burden at the time of entering the market or have been able to absorb the cost of regulatory compliance incrementally over time as regulatory standards have been added to. Additionally, these incumbents were making these decisions in a market in which they were already established and were participating in the regulatory reforms themselves. This contrasts with new entrants, which face high up-front compliance costs at the time that they are trying to enter a new market and are unable to shape the regime they face.
	Questions on behavioural impediments	
55	Who are the key decision-makers for key building supplies?	Key building supplies are predominantly used for construction or renovation of houses. This means the end-customer will be the homeowner. However, generally the homeowner will not be the key decision maker. Reviewing each of the decision-makers for key building supplies: • ***specifiers (including architects, engineers and designers):*** these will generally be the key decision-makers when specifying which products are to be used, • ***end-customers (i.e. the homeowner):*** homeowners typically do not have any significant input into the structural aspect of the house.[15] Rather they typically focus on the visual aspects, including overall design and fixtures and fittings going into the house (which largely fall outside the scope of the market study). For example, it would be unusual for a homeowner to have a view on the type of structural timber used in

[15] Deloitte Report at pages 11 and 81.

	QUESTION	MITRE 10 NZ'S COMMENTS
		construction. That said, some customers have more technical knowledge and are interested in the type of products that are used, or in a particular characteristic of a product, such as how environmentally friendly it is or what product is more likely to give them a warm/dry home. In that case, the architect will likely consult with the customer on what product would be used, • ***builders:*** to the extent that an architect or customer has not specified the product to be used, the builder can select what product to use. A builder will typically only select a product if the architect has provided product specifications rather than specified particular products to be used. A builder will typically not substitute products where a particular product has been specified. A key reason is the risk of not achieving Council sign off or facing liability for faulty products, and • ***merchants:*** where a builder is deciding between products, merchants may assist or provide guidance, but they will generally have very limited power or influence.
56	How do decision-makers choose the most appropriate building supplies to use?	Mitre 10 NZ understands that specifiers will take into account a range of factors when choosing the most appropriate key building supplies to use. One of these will be brands that the specifier is familiar with. This is likely due to familiarity bias (as set out below), as well as the training and support available from the brand in question.
56a	Do decision-makers default to choosing building supplies which have been used in the past? If so, please explain why.	In Mitre 10 NZ's experience, specifiers commonly choose products from suppliers that they are familiar with rather than new and innovative products. This is likely due to familiarity bias (i.e. relying on products they know and trust) and possible compliance issues. As mentioned in Deloitte's 2018 report on the Cost of residential housing: [16]

[16] Deloitte Report at pages 11 and 81.

	QUESTION	MITRE 10 NZ'S COMMENTS
		Interviews suggested that architects and builders have an incentive to specify building materials guaranteed to be accepted by councils. *Architects and builders prefer building materials that they know and trust due to the risks associated with testing new products such as changing consents or rework, both of which add cost and time to a project. This in effect lessens competition as it increases barriers to new operators and new innovative products from entering the market.* Additionally, the education and support offered to specifiers by existing suppliers means that new products are unable to enjoy the ease with which incumbent products are specified. This dynamic means that there is a strong incumbency bias. It can be difficult for new and innovative suppliers to get specifiers comfortable with using their products.
56b	Do decision-makers on key building supplies have full information available to them to make informed decisions? How costly is it to obtain this information?	Specifiers will generally have a lot of information available to them on products and suppliers that they commonly use. However, one of the difficulties that new and innovative suppliers face is getting their products in front of decision makers. Whether or not specifiers are aware of new and innovative products, and the benefits of those products, will often depend on how successful the supplier is at marketing the products.
56c	What role do warranties or other guarantees have in the decision to choose the key building supplies?	In our experience, warranties and other guarantees do influence choices in key building supplies. They provide a degree of comfort, although in practice it is important to understand the detail of guarantees and what can lead to them being voided. Warranties and guarantees may directly influence choice of key building supplies where, as discussed in response to question 42 above, products must be used together for a warranty to be valid.

	QUESTION	**MITRE 10 NZ'S COMMENTS**
57	Do the incentives of the decision-makers on key building supplies align with the interests of consumers?	This is difficult to answer definitively, particularly given Mitre 10 NZ does not consider itself or its Member stores to have a material decision-making role. However, Mitre 10 NZ considers that incentives of decision-makers on key building supplies may not be aligned as they will have different priorities and motivations. End customers are likely to be focused on price, value and quality depending on their budget. Architects, for example, while influenced by the quality of their design may also be motivated to protect their reputation and reduce the risk of having things go wrong, particularly when it comes to using new innovative products. This risk is exacerbated by the large expenses that may be faced in the case of product failure.
58	Are there any other factors we should be aware of in considering decision-makers' behaviour in respect of building supplies?	Decision-makers have a relationship of trust and confidence with end-users, merchants and suppliers. As is clear from the foregoing, the products chosen often are dependent on a range of factors, not just price.