

Property Council New Zealand

Submission on the Commerce Commission's Residential Building Supplies Market Study: Preliminary Findings and Draft Report

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For more information and further queries, please contact

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Commerce Commission’s Residential Building Supplies Market Study: Preliminary Findings and Draft Report

1. Summary

1.1 Property Council New Zealand (“Property Council”) welcomes the opportunity to provide feedback on the Commerce Commission’s Residential Building Supplies Market Study: Preliminary Findings and Draft Report.

2. Recommendations

2.1 At a high level, we recommend the following:

- Current risk, liability and insurance settings be reviewed in order to ease the burden placed on BCAs;
- Council liability be capped at 20 per cent and introduce a fairer allocation of risk and responsibility across the sector;
- Less emphasis be put on rebate schemes; and
- Commerce Commission consult with Property Council and its members to discuss aspects of the residential building supply market study in more detail.

3. Introduction

3.1. Property Council is the leading not-for-profit advocate for New Zealand’s most significant industry, property. Our organisational purpose is, “Together, shaping cities where communities thrive”.

3.2. The property sector shapes New Zealand’s social, economic and environmental fabric. Property Council advocates for the creation and retention of a well-designed, functional and sustainable built environment, in order to contribute to the overall prosperity and well-being of New Zealand.

3.3. Property is New Zealand’s largest industry and fastest growing source of employment. There are nearly \$1.6 trillion in property assets nationwide, with property providing a direct contribution to GDP of \$41.2 billion (15 percent) and employment for around 200,000 New Zealanders every year.

3.4. Property Council is the collective voice of the property industry. We connect over 10,000 property professionals and represent the interests of over 650 members organisations across the private, public and charitable sectors.

3.5. This document provides Property Council’s feedback on the Commerce Commission’s [Residential Building Supplies Market Study: Preliminary Findings and Draft Recommendations](#). Comments and recommendations are provided on issues relevant to Property Council’s members.

4. Comments on preliminary findings

4.1. We agree with the preliminary findings and look forward to outcomes in the final report. However, we are disappointed that the report’s findings were not widened to incorporate

current risk and liability settings and building products such as structural steel and steel reinforcing.

5. Introduce competition as an objective to be promoted in the building and regulatory system

5.1. We support a robust regulatory system that enhances competition. However, the benefits of having competition as an objective in the regulatory system will depend on how this objective is implemented in practice. The report notes that the regulatory system does not respond to changing markets and innovation in building products. Development will continue to be slow if the current risk and liability settings are not changed. For example, we will likely see BCAs continue to favour 'tried and tested' building products and little innovation in the market. This is further discussed below.

6. Create more compliance pathways for a broader range of key building supplies

6.1. The current regulatory system does not incentive the sector to use a broader range of key building supplies because of the current risk and liability settings. We are extremely disappointed to see that the Government has overtly ruled out reviewing such settings. Current liability settings result in overcautious and slow decision making in issuing consents and limits innovation within the sector.

6.2. Over the past five or so years, we have strongly advocated that BCAs should not be the 'last man standing' and that capping their liability and placing more onus on the industry would be a more fair and equitable approach. We continue to recommend that Council liability be capped at 20 per cent and a fairer allocation of risk and responsibility is introduced across the sector.

7. Explore ways to remove impediments to product substitution and variations

7.1. We are glad to see that the Commerce Commission is looking to remove barriers to consent variations. Our members have told us that this is of particular concern especially when faced with supply shortages in building products. For example, a developer may not know what building supplies are available especially when it is 18 months to two years out from the completion of the project and supply shortages are at an all-time high.

7.2. We believe that this can be avoided if BCAs are more flexible in when they need information from builders and developers.

8. Investigate whether the barriers to certification and appraisal can be reduced

8.1. Currently in New Zealand, the range of building products and suppliers of products are limited. Using a consistent standards framework across New Zealand whilst accepting internationally recognised products is hugely important to expand the New Zealand building products market.

8.2. We support a wider variation of products being permitted into New Zealand. This will better promote competition and encourage innovation of products. We recommend the Commerce Commission incorporate internationally recognised products when looking to strengthen our product certification scheme and support its recommendation to streamline certification processes for low-risk products.

9. Identify and develop methods to centralise information sharing about key building supplies

9.1. We have advocated for a national key building products register for some time, and we are glad that this recommendation has been adopted by the Commerce Commission.

- 9.2. A national key building products register will allow the building and construction sector to find information about products that are developed and used in New Zealand and internationally. There is currently a lack of structural incentives for companies to trial new and innovative products. We understand that there is a high degree of risk to companies that trial new products to be tested in the market, especially when accounting for where the liability may fall. With the first Emissions Reduction Plan now released, a national key building products register will help educate the sector and see businesses shift to using more low carbon materials which will see healthier homes built that are better for the environment.
- 9.3. We have long supported the establishment of an independent BCA to streamline consents. We are pleased to see the recommendation to establish an independent BCA centre of excellence. Councils are under significant pressure to issue consents with the high demand to build at scale and at pace. This will not only make the process more streamlined and less time consuming but will shift the burden off BCAs to those who have the appropriate expertise to deal with the complexities of consenting decisions.
- 10. Promote compliance with the Commerce Act, including by discouraging the use of quantity-forcing supplier-to-merchant rebates that may harm competition**
- 10.1. Although the Commerce Commission does not currently think that rebate schemes should be prohibited through legislation, we recommend that there is less emphasis on such schemes overall. We believe there is a lack of transparency on industry relationships and benefits should ultimately flow back to customers at the lowest prices.
- 10.2. Many small businesses in the sector lack significant access to capital. As a result, and considering the current regulatory approach to product liability, these small businesses are incentivised to minimise procurement risk. In effect, this leads to less efficient behaviour by remaining with the same distributors and products and reduces innovation in the marketplace.
- 11. Conclusion**
- 11.1. We broadly agree with the preliminary findings and draft recommendations and are glad to see many of our suggestions be adopted as recommendations by the Commerce Commission. However, without changes to the current risk and liability settings, we will continue to see a slow shift in behaviour by the industry and little innovation in the market.
- 11.2. Property Council would like to thank the Commerce Commission for the opportunity to provide feedback on the study. We are willing to provide our assistance throughout the study year.
- 11.3. Any further enquires do not hesitate to contact Sandamali Gunawardena, Advocacy Advisor, via email: sandamali@propertynz.co.nz or cell: 0210459871.

Yours Sincerely,



Leonie Freeman
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