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DRAFT

NOT A STATEMENT OF GOVERNMENT POLICY

New Zealand's Approach to Joint Australia-New Zealand Standards

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1. Executive Summary

1.1 Explanation of document

1. This document outlines the findings of an analysis of New Zealand's approach to the development and review of joint Australia-New Zealand standards. The analysis was conducted between May and August 2018 by the Ministry of Business, Innovation and Employment's (MBIE) Trade and International team (the team), which is responsible for providing policy advice on standards-related issues to the Minister of Commerce and Consumer Affairs.
2. Section 2 outlines the context and background to the analysis, and identifies the key issues that have arisen. Section 3 shows the team's assessment of the value of joint standard development, and how to determine whether New Zealand should participate in a proposed development or review of a joint standard. Section 4 shows the team's assessment of the various funding options for commissioning fees for joint standards, in cases where New Zealand's participation in that standard is deemed valuable. Section 5 shows the team's assessment of the need for a strategic and collaborative approach to standards development. Section 6 provides the team's recommendations.

1.2 Context of analysis

3. Standards are published documents setting out agreed technical specifications for products, systems or services. Standards can be developed domestically, jointly with Australia, or internationally.
4. Standards New Zealand develops joint standards in collaboration with Standards Australia. In 2016, Standards New Zealand and Standards Australia introduced commissioning fees to cover the marginal costs incurred as a result of each other's participation in cases where one is the secretariat. Standards Australia is the secretariat for the vast majority of joint standard development committees. In accordance with its frameworks, Standards New Zealand seeks cost recovery from those most likely to directly benefit from a standard. This can be the industry or regulator that requests New Zealand involvement.
5. BusinessNZ and a variety of other industry and regulatory stakeholders have expressed concern that since the introduction of the commissioning fees, in some cases New Zealand industry has not been able to provide the required funds. This has led to some standards becoming 'dejointed,' where existing joint standards are reviewed and amended without formal participation by New Zealand parties, becoming Australia-only standards. These stakeholders requested a fresh assessment of the value of the joint standard system, and how the commissioning fees should be funded.

1.3 Research methods

6. To conduct this analysis, the team conducted over 40 in-depth interviews with a broad range of stakeholders, including regulators, manufacturers, industry associations, licensing boards, government agencies and standards committee participants. During these interviews, the team

asked about the unique value of joint standards; how to determine who should pay the commissioning fee for standard development and review projects; and the main issues, if any, with the joint standards system.

7. Following the interviews, the team developed and analysed options. The team then developed recommendations in collaboration with Standards New Zealand and regulators including Building Performance, WorkSafe (including their Energy Safety function), Land Information New Zealand and the Energy and Electricity Conservation Authority.

1.4 Summary of key findings from interviews

8. Generally, the team found a broad level of support for the joint standards system. However, there was concern among both industry and regulators around the lack of clear guidelines on participation and funding of joint standard development and review.
9. The main concerns that have been raised by stakeholders include:
 - a) some valuable standards are becoming dejointed due to lack of funding, which has negative flow-on effects for business certainty and consumer assurance
 - b) some industry representatives consider it unfair that industry is asked to pay for the development and review of some standards that provide a degree of public benefit
 - c) some regulators that are not members of relevant standard development committees feel they have little influence or forward insight into the standards that are proposed by Standards Australia for development or review
 - d) industries and regulators find it challenging to identify funding for commissioning fees within the period required (Standards Australia typically provides Standards New Zealand with a 6 week period to decide whether New Zealand will participate in a particular standard).

1.5 Summary of options analysed

10. In assessing the value of joint standards, the team considered various alternatives to joint standards, including:
 - a) using international or foreign standards,
 - b) using Australia-only standards,
 - c) developing domestic New Zealand standards (preferably adopted or adapted from international standards),
 - d) using the earlier version of a standard prior to dejointing, and
 - e) using alternatives to standards.
11. In assessing how to determine who should pay the commissioning fee for the development or review of joint standards, the team considered a variety of potential funding sources, including

cost recovery through sale of standard documents, levy and regulatory funding, industry funding and taxpayer funding. As a private organisation providing secretariat services, it is for Standards Australia to determine the level of fees it charges to New Zealand for participating in the joint committees that Standards Australia hosts.

12. In assessing how to ensure that there is a strategic and collaborative approach to joint standard development, the team considered options for improving the forward notification of standard development proposals, including methods to improve information flows between interested parties and the ability of interested parties to plan ahead.

1.6 Summary of recommendations

13. The recommendations of this report are targeted towards cases where Standards Australia determines that it will develop or review a standard; and asks Standards New Zealand whether New Zealand will participate. However, many of the recommendations, such as the guidelines on the costs and benefits of alternatives to joint standards, can be applied in other circumstances. These other circumstances may include cases where New Zealand regulators or industries see a need for a new standard, and seek guidelines for determining whether to use an international standard, develop a joint standard, or develop a domestic standard.
14. The regulators that collaborated in the review have agreed to follow the guidelines for determining funding and improving the collaborative approach discussed below.

1.6.1 Guidelines for determining whether to participate in joint standard development and review

15. As a result of the analysis, the team recommends that it is preferable for New Zealand to consider participating in developing a joint standard in cases where an international standard may not exist or may not be appropriate in the New Zealand environment, and where a domestic standard is likely to be more expensive to develop and more disruptive to international trade. Use by regulators of earlier versions of joint standards prior to dejointing is generally not a preferred solution as these can become out of date, cause confusion, and result in barriers to trans-Tasman trade.

1.6.2 Guidelines for determining funding for any commissioning fees

16. In determining the funding of joint standards, the team recommends that:
 - If a joint standard is cited or intended to be cited by regulators, for example in regulations or best practice guidance, then the regulator responsible for the regulations should pay the commissioning fee for any development or review, unless the proposed project meets certain criteria meaning that the regulator should not pay
 - If a joint standard is not cited in regulations, or the standard is cited in regulations but it meets the criteria for the regulator not to pay, then the industry that benefits from the standard should be asked to pay.

1.6.3 Improving the strategic and collaborative approach to joint standard development and review

17. To improve the strategic and collaborative approach to joint standard development, the team recommends that:
- Regulators should endeavour to consult with industry at key decision-making stages, to ensure they are informed and able to influence key standard development committees.
 - Regulators should assess which standards within their regulations they are likely to pay the commissioning fee for, if the standard were to be reviewed, and to budget accordingly.
 - Industry should identify the standards that it deems valuable but for which any commissioning fee is unlikely to be funded by regulators, and budget accordingly.
 - If a regulator determines that it will not fund the commissioning fee for review of a standard that is cited within regulations for which it is responsible, then the regulator should provide an explanation and evidence of that to interested parties, including industry and Standards New Zealand.
 - Regulators should endeavour to either participate, or to maintain ongoing communications with at least one participant on the joint standards development committees that are most relevant to their area. This will allow regulators to have an advance view of the standards likely to be developed and reviewed.
 - Regulators and industry should notify Standards New Zealand of the standards they are particularly interested in. Standards New Zealand will provide updates on these standards as notified by Standards Australia.
18. These recommendations are explained and expanded in section 6 of this report.

1.7 Scope of the analysis

19. Some stakeholders raised other issues within the joint standards system, including:
- the cost of providing participants for joint standard development committees, including their time, travel expenses and accommodation
 - a lack of technical expertise and succession planning for participants
 - a perceived lack of regulator, territorial authority, consumer and user representation on joint standard development committees
 - the cost of purchasing standard documents
 - a perceived lack of transparency in how commissioning fees are set
 - challenges in communication between industry, regulators, Standards New Zealand and Standards Australia, and
 - issues with the citation of standards within the Building Code.
20. Although these issues are all related to the joint standards system, they are not directly within the scope of this review. Some of the issues, such as those relating to Standards Australia's processes, are outside the control of the New Zealand Government. Comments by stakeholders

on other issues, such as with the citation of standards within the Building Code, have been shared with the relevant parts of Government.

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2. Background to the analysis

21. This section explains the context to the review, including the purpose of standards, the history of joint standard development, and the introduction of fees for New Zealand participation in joint standard development and review.
22. A more detailed description of New Zealand's standards and conformance system is available in the *Guide to New Zealand's Standards and Conformance System*, published on the MBIE website here: www.mbie.govt.nz/info-services/business/standards-conformance/documents-image-library/standards-and-conformance-system-guide.pdf

2.1 Purpose and use of standards within New Zealand

23. Standards are published documents setting out agreed technical specifications for products, systems or services. Standards can cover a wide variety of subjects, including design, safety, specifications, performance, and quality of products. Some industries use standards to provide assurance on the quality of their products, systems or services. Compliance with standards may be an important factor in sales promotion and certification. Use of standards is generally voluntary, but can be made mandatory if the Government refers to the standard in regulations, or they can be encouraged if a regulator refers to the standards in best practice guidelines or as an acceptable solution in regulations.
24. New Zealand Standards use the identifier NZS. Joint Australia-New Zealand Standards use the identifier AS/NZS. In addition to NZS and AS/NZS, New Zealand industries and regulators can use foreign standards, such as Australian Standards (AS) or British Standards (BS), and international standards, such as those created by the International Standards Organisation (ISO) or the International Electrotechnical Commission (IEC).
25. New Zealand regulators may cite multiple equivalent standards to meet a regulatory requirement. In particular, where no international standard exists there may be several national standards that are cited as meeting an applicable requirement. For example, a significant number of European and North American Standards are recognised in the gas product safety regime.
26. The New Zealand Standards Executive is an independent body that oversees the development and adoption of standards in New Zealand in accordance with the *Standards and Accreditation Act 2015*. Standards New Zealand is the operational arm of the New Zealand Standards Executive. It is a unit within MBIE, and specialises in managing the development of standards; and also publishing and selling New Zealand, joint Australia-New Zealand, and some international standards. The Standards Approval Board is an independent statutory board responsible for approving membership of standards development committees, and approving the standards developed by these committees.

2.2 History of joint standard development

2.2.1 Single Economic Market between Australia and New Zealand

27. Australia has historically been New Zealand's largest export and import market for goods and services. New Zealand and Australia have committed to creating a seamless trans-Tasman economic environment, making it as easy for New Zealanders to do business in Australia as it is to do business in New Zealand, and vice versa. This is referred to as the Single Economic Market.
28. Recognising the close ties between the two economies, Standards New Zealand cooperates closely with Standards Australia to develop joint Australia-New Zealand standards. Standards Australia is Australia's primary standards body, and is non-governmental. Developing and adopting joint standards has provided the technical foundation for a shared system promoting safety, interoperability, sustainability and trade.
29. The Trans-Tasman Mutual Recognition Arrangement (TTMRA) between New Zealand and Australia requires that goods that may legally be sold in one economy may legally be sold in the other, regardless of differences in standards or other sale-related regulatory requirements; and that persons registered to practise an occupation in one economy can practise in the other economy regardless of differences in registration requirements. Joint standards make the operation of the TTMRA smoother. Joint standards for products take into account both the Australian and New Zealand environments, and therefore products made and installed to those standards can operate safely in both economies. Joint standards for design and installation of products minimise risks incurred when product installers, such as electrical workers, operate in both countries.
30. Other benefits of joint standards are that they can:
 - contribute to alignment of regulatory frameworks
 - result in lower costs to businesses that operate across the Tasman
 - enable improved competitiveness, reflecting longer production runs and lower compliance costs from being able to manufacture to a single standard
 - enable information sharing, influencing and relationship building across the Tasman
 - give Australia and New Zealand a unified platform from which to influence standards internationally.
31. Joint standards account for 35 per cent of the Australian catalogue and 80 per cent of the New Zealand catalogue. As of 2017 there are 2538 joint standards, and 707 New Zealand-only standards in the New Zealand standards catalogue.

2.2.2 Process for developing joint standards

32. Joint standards are developed and reviewed through technical committees. Standards Australia is the secretariat for 431 committees, and Standards New Zealand is the secretariat for three.
33. Each committee covers a subject area, and can be responsible for a number of standards within that area that are often interrelated. The committee participants include central and local

government representatives, industry representatives, technical experts and other interested parties. Each year, these committees develop some new standards, review some existing standards, amend the text of existing standards, adopt modified versions of international standards, and directly adopt some international standards.

34. Standards development or review projects can be proposed to Standards Australia by the public or by technical committees. Standards Australia then compiles a prioritisation list. It sends this prioritisation list to Standards New Zealand and interested parties twice a year to request New Zealand involvement. At this point, Standards New Zealand can indicate whether New Zealand will participate in these projects. In addition, Standards Australia may also propose a number of standards 'out of round.'
35. Of the standard development projects for which Standards Australia invited Standards New Zealand to participate in 2017:
 - 5 were for the development of new standards
 - 37 were for revisions to existing AS or AS/NZS standards.
 - 27 were for amendments to existing AS or AS/NZS standards
 - 8 were for modified international adoptions
 - 67 were for identical international adoptions (or to revise existing AS/NZS versions of international standards)

2.2.3 Relationship between joint standards and international standards

36. New Zealand and Australia are both signatories to the World Trade Organisation (WTO) Technical Barriers to Trade agreement. The agreement notes that where standards are to be used as part of regulation, the member shall use existing international standards as a basis for the regulations; and it is only in circumstances where the international standards would be ineffective or inappropriate to achieve policy objectives such as safety, health, environmental protection or national security that a member can disregard this rule.
37. Reflecting the WTO Technical Barriers to Trade Agreement, the New Zealand *Standards and Accreditation Act 2015* requires there to be good reasons for any differences between New Zealand standards and international standards where a New Zealand Standard is based on an international standard. Standards must not create unnecessary obstacles to international trade and investment. The Act also requires the Standards Approval Board to ensure that New Zealand Standards do not unnecessarily duplicate the standards development work of other national or international standards organisations.
38. For Australia and New Zealand, the primary objective is, wherever possible, to adopt an existing international standard. However, sometimes a domestic or joint standard may be required. Most joint Australia-New Zealand standards are developed as adaptations of international or foreign standards, to incorporate specific Australian and/or New Zealand conditions. Where an international standard exists, there may be clauses in the standard that are not appropriate for the Australian and/or New Zealand environment. A number of examples of such issues were provided by stakeholders, including:

- Technical issues, such as the size of pipes used in New Zealand plumbing systems, the prevalence of low pressure hot water systems, specific plug designs, voltages and construction methods
- Environmental issues, where the New Zealand environment differs from the conditions on which the standard is based, such as the degree of seismic activity
- Cultural issues, such as considering Te Tiriti o Waitangi and tikanga Māori.¹

2.3 Fees for New Zealand participation in joint standard development and review

39. In 2016, under the *Standards and Accreditation Act 2015*, responsibility for standards development was transferred from the Standards Council of New Zealand to MBIE. Within MBIE, the standards development function is undertaken by the New Zealand Standards Executive, an independent statutory office. The Standards New Zealand team within MBIE is responsible for supporting the work of the NZSE on a day-to-day basis. The changes took effect on 1 March 2016. At that time, Standards Australia and Standards New Zealand recommitted to their partnership by reviewing the Copyright Agreement between them.
40. Until 2016, New Zealand was not required to financially support Standards Australia in its role as secretariat of joint standard committees. Upon receiving a request from Standards Australia for New Zealand's participation in a joint standard, Standards New Zealand would ask the relevant regulator(s), industry(s) and any other interested parties to provide assurance that there were enough New Zealand experts to participate in development of the standard (there is a minimum requirement of two New Zealand participants for a standard to be joint).
41. As Standards Australia is the Secretariat for a vastly larger number of standards development committees (431 as opposed to three), there was a perception among some that New Zealand was 'free-riding' on Standards Australia's standard development process.
42. As part of the revised Copyright Agreement in 2016, Standards Australia and Standards New Zealand agreed on a system which allows for the allocation of costs across standards development based on resource. This is additional to the time given to the process by contributors. Standards Australia and Standards New Zealand now pay each other commissioning fees for projects where the other holds the secretariat, with the aim of recovering the incremental costs incurred to develop a joint standard, as opposed to a national standard. The fees can be between AUD 3,295 and AUD 32,950 per standard, and vary depending on the perceived complexity of the standard, and its 'type' (ie whether the proposal is for development of a new standard, modification of an international standard, or revision of an existing standard).
43. The Standards Development and Accreditation Committee, which evaluates proposals to Standards Australia, determines the project type and complexity when a project is approved. When Standards Australia invites Standards New Zealand to consult on new projects, the fees listed reflect the complexity and type at that stage.

¹ Te Tiriti o Waitangi (The Treaty of Waitangi) is New Zealand's founding document, and outlines obligations made by the Crown to Māori. Tikanga Māori are Māori customs and traditions, and are protected within Te Tiriti.

44. In accordance with the principles underlying fee-setting in the Standards and Accreditation Act and Standards New Zealand's cost recovery framework, Standards New Zealand seeks recovery of the new commissioning fees from those most likely to directly benefit from a standard. This is typically the industry or regulator that requests New Zealand involvement. The fees can be co-funded by several parties.
45. Since Standards New Zealand became part of MBIE and the new commissioning fee has been introduced, Standards New Zealand also asks the relevant regulator(s), industry(s) and/or other interested party(s) to provide assurance that:
- there is a need for the standard
 - the standard doesn't duplicate an existing international or foreign standard
 - a means of funding for the commissioning fee has been identified.
46. If none of the contacted parties can provide a sufficient case for the standard and a way of achieving funding is not identified, then the standard becomes dejointed. This has created issues with standards that some interested parties consider essential, being dejointed because of a lack of ability to pay.
47. In 2017, a variety of New Zealand stakeholders, particularly those from industries relating to the building sector, expressed concern that since the introduction of the new fees, in some cases industry associations have not been able to gather the required funding, and therefore some valuable joint standards are being dejointed.
48. In 2017, Standards Australia proposed a total of 144 joint projects, with the requested commissioning fees totalling AUD 1,079,600. Of these, New Zealand did not, or could not, pay the commissioning fee for 95 projects (66 per cent, with commissioning fees totalling AUD 487,800), and so the standards were dejointed and continued as AS-only standards. In some of these cases, New Zealand industry or regulators would have actively decided not to participate because they did not feel that the joint standards were required. Funding for the commissioning fees for New Zealand participation was confirmed for 25 standards, of which Energy Safety, EECA and Building Performance were the most frequent funders.
49. In response to the concerns over the fees and subsequent dejointing of standards, the Minister of Commerce and Consumer Affairs agreed that the team would reassess New Zealand's approach to the development and review of joint Australia-New Zealand standards.
50. In May 2018, while the team was conducting this analysis, Standards Australia and Standards New Zealand reached an agreement that the commissioning fee for identical adoptions of international standards fee would be waived for a trial period of one year. Previously this fee varied between AUD 1977 for a simple international identical adoption project, and AUD 2966 for a complex international identical adoption project. In 2017, 67 projects (nearly half of all projects) were proposed for identical international adoptions. New Zealand opted out of 59 of these projects in 2017, and participated in 8. Two proposed projects were cancelled.

2.4 Key issues identified within scope

51. The main concerns that have been raised by stakeholders include:
- a) Some valuable standards are becoming dejointed which can have negative flow-on effects for business certainty and consumer assurance.
 - b) Some industry representatives consider it unfair that industry is asked to pay for the development/review of some standards that provide a degree of public benefit.
 - c) Some regulators that are not members of relevant standard development committees feel they have little influence or forward insight into the standards that are proposed to be reviewed by Standards Australia, which is a particular concern when those standards are cited within those regulators' regulations.
 - d) Industries find it challenging to plan ahead to account for commissioning fees they may need to pay in future; Standards Australia typically provides Standards New Zealand with around 6 weeks to find funding for a particular standard.

3. Value to New Zealand of Joint Standard Development

- 52. When the joint standards system was introduced in the 1990s, the rationale for joint standard development was the reduction of trade barriers and further advancement of the single economic market between New Zealand and Australia. This was an operational decision made by Standards New Zealand and Standards Australia, and not a policy decision.
- 53. However, the international environment has changed significantly since the joint standards system was developed. More international standards are available, and Australia and New Zealand have diverged in some aspects of the standards environment. Additionally, changing trade patterns, including an increase in New Zealand's trade with Asia, mean that trans-Tasman trade is now a lower proportion of total New Zealand trade.
- 54. It is also necessary to consider that with the rapid pace of technological advancement, the use of standards is also changing.
- 55. Although joint standards have served New Zealand well the past twenty five years, their use may decrease over time. It is important to analyse the value of joint standard development to New Zealand, for now and for the foreseeable future.

3.1 Alternatives to participation in AS/NZS committees

- 56. In order to assess the value of joint standards in today's environment, and to consider the best pathway to take for New Zealand's approach to standards in future, there is a need to compare the current use of joint standards against alternative approaches.
- 57. Almost all stakeholders affirmed the value of joint Australia-New Zealand standards. However, they also identified a number of alternatives to joint standards that may be appropriate in some circumstances. These alternatives can be used when New Zealand declines to participate in a joint standard that Standards Australia proposes, and Standards Australia proceeds to develop that standard without New Zealand input as an Australian Standard.
- 58. Alternatives include:
 - a) New Zealand regulators and/or industry can use the new Australian Standard in which it has not participated
 - b) (in cases of a review) New Zealand regulators and/or industry can continue to use the joint standard as it stood prior to updating
 - c) New Zealand regulators and/or industry can use an international or foreign standard instead
 - d) Standards New Zealand can develop a domestic standard which regulators and/or industry can use
 - e) New Zealand regulators and/or industry can use an alternative to a standard.

3.1.1 New Zealand can use the new Australian Standard that it has not participated in developing

59. The first option is that New Zealand can use the new Australian standard that it has not participated in developing. This is appropriate in cases where New Zealand does not have specific conditions different from Australia, and so the Australian standard can be directly applied to New Zealand.
60. A specific condition could include:
- a) different technical environment (such as the size of pipes used in New Zealand plumbing systems being different from those used in Australia, the existence of Accident Compensation Corporation, different levels of water pressure);
 - b) different physical environments (such as the degree of seismic activity in New Zealand, weather and durability issues, wind-zones, bird-species)
 - c) different cultural environments (such as the need to consider the Treaty of Waitangi and Māori tikanga).
61. Joint standards will either consider such factors within the general standard, or will have New Zealand-specific clauses.
62. Stakeholders have noted that if New Zealand does not participate, and a standard is dejointed, then Australian participants are unlikely to voluntarily incorporate New Zealand-specific clauses or factors relating to New Zealand into the standard. Therefore, the standard may become unusable in the New Zealand environment. To make such standards usable, they may need to be adapted into domestic New Zealand standards, through a New Zealand standards development process, which can be far more costly than the commissioning fee.
63. Some stakeholders, particularly those from manufacturing industries, said that currently, almost all joint standards require incorporation of an aspect of New Zealand's specific conditions. Many Australian Standards are already cited in regulations and used in New Zealand, and for these standards New Zealand has already determined that there is no need for New Zealand input, such as *AS 1530 Fire Test to Building Materials*.

3.1.2 In the case of a review, New Zealand can continue to use and/or cite the earlier version of the AS/NZS, as it stood prior to dejointing

64. The second option is for New Zealand to continue using and citing the earlier version of the standard, as it stood prior to updating and dejointing.
65. A number of stakeholders considered that some of the proposals for review of standards from Standards Australia are minor and unnecessary, and that there is no need for New Zealand to support an update of the standard. Additionally, for standards cited in regulation, some proposed updates may be inconsistent with the objectives of the regulation. In these cases, regulators may choose to continue citing the earlier version of the standard as it stood prior to updating and dejointing.

66. However, stakeholders noted that in many cases this is not practical or sustainable over time, due to the barriers that are then created between Australia and New Zealand; the obstacle to innovation and adaptation; and confusion for consumers and trade professionals operating in both Australia and New Zealand.

3.1.3 New Zealand can use and/or cite an international or foreign standard instead

67. In many sectors, there are international standards or other national standards available, including those developed by the International Standards Organisation, the International Electro-technical Commission, the European Committee for Standardisation (CEN), the British Standards Institute and others. The use of international standards is always the first option, in accordance with our commitments under the World Trade Organisation and the Standards and Accreditation Act. International standards can contribute to the reduction of trade barriers.
68. However, in some sectors, New Zealand has specific technical, physical or cultural environmental circumstances that mean that foreign and international standards cannot be used as-is, but should be adapted. In most cases, it is more cost effective for New Zealand to make these adaptations in a joint standard committee, rather than in a domestic New Zealand standard committee, because the commissioning fee for joint modification of international standards tends to be lower than the cost of modifying an international standard domestically, and the joint process allows access to a greater pool of expertise.
69. One method for ensuring that international standards are appropriate for New Zealand's environment is to participate in their development. Standards New Zealand currently has a fund, drawing from Vote Commerce and Consumer Affairs, to assist New Zealanders to participate in international standard development. This fund is provided to recognise the broad public value in New Zealand participation in the international standard development environment. However, stakeholders noted that international standards are hard to influence to incorporate New Zealand's environmental conditions, because there are a large number of participants and the standards need to be applicable to a broad range of environments.
70. For identical adoptions of international standards, the standard becomes adopted as an AS/NZS, but the text does not change. The benefits of this, as opposed to simply using the international standard, are that the joint adoption process raises the visibility of the standard and provides assurance to standard users that the standard is appropriate for use in New Zealand; and that it is easier and cheaper for standard users to access AS/NZS standard documents rather than international standard documents. As the commissioning fee for New Zealand participation in joint identical adoptions of international standards is currently waived, there will be fewer concerns relating to the funding of these projects.

3.1.4 New Zealand can develop a domestic standard

71. The fourth alternative to joint standard development is the development of domestic standards. However, in many cases a joint approach to the development of a standard allows for the participation of a greater breadth and depth of expertise, leading to higher quality standards than if developed with solely New Zealand participants. Secondly, the use of domestic standards instead of joint standards may raise trade barriers between Australia and New Zealand.

Additionally, development of a domestic standard usually costs more than the commissioning fee for New Zealand participation in joint standard development.

3.1.5 New Zealand can decide not to use a standard, or to use an alternative to a standard

72. The final alternative is for New Zealand to decide not to use a standard, or to use an alternative to a standard. In some cases, Standards Australia proposes development of standards that could be considered unnecessary. In these cases, especially when the standard is not cited in regulations, there may be less of an imperative for New Zealand to participate in those standard projects.
73. Even in cases where the standard *is* cited within regulations, or is otherwise deemed necessary, there may be other approaches. Industry associations sometimes propose alternatives such as industry developing its own guidelines that regulators can then use and cite, or developing databases of regulator-approved products.
74. Regulators have proposed alternatives such as incorporating technical specifications, developed by the regulator, directly into the regulations, rather than using a standard. This alternative can be timely and affordable, but may be disadvantaged by there being more limited technical expertise than in joint standard development.

3.2 Unique value of AS/NZS

75. A number of benefits of joint Australia-New Zealand standards were outlined in section 2, including that they can:
 - support the integration of a single trans-Tasman economic market
 - reinforce the Trans-Tasman Mutual Recognition Arrangement
 - contribute to alignment of regulatory frameworks
 - result in lower costs to businesses that operate across the Tasman
 - enable improved competitiveness, reflecting longer production runs and lower compliance costs from being able to manufacture to a single standard
 - enable information sharing and relationship building
 - give Australia and New Zealand a unified platform from which to influence standards internationally.
76. While there are several alternatives to joint standards, the team considers that each alternative has a variety of disadvantages. Participation in joint standard development enables access to a larger pool of technical expertise and involves lower costs, when compared to developing a domestic standard. Participation in joint standards also allows unique New Zealand conditions to be reflected in the joint standard, which may not be possible when using an international or Australia-only standard.
77. Therefore, while the use of an international standard should always be the preferred option, joint standards are preferable in situations for which an international standard may not exist or be appropriate in the New Zealand environment, and where a domestic standard is likely to be more expensive to develop and more disruptive to international trade.

4. Funding Model for AS/NZS Committee Participation Fees

4.1 Funding models

78. There are four potential sources of funding for the commissioning fee for joint standards:
- Cost recovery through sale of standards documents
 - Regulator funding, using a levy if appropriate
 - Industry funding, including from significant manufacturers or service providers, or from industry associations
 - Government funding
79. In principle, those parties deemed most likely to benefit from the standard should be asked to pay. This is consistent with the principles underlying fee-setting as provided for in the *Standards and Accreditation Act 2015*, which is consistent with the Government's general approach to setting charges in the public sector.
80. However, in practice it can be difficult to determine who benefits from a standard because, for example, there may be a wide range of beneficiaries covering multiple sectors, including regulatory, industry and public stakeholders.

4.1.1 Cost recovery through sale of standards documents

81. Standard users are the most direct beneficiaries of standard development. Where feasible, Standards New Zealand has recovered costs through sales of standards documents for joint standards. This has occurred for three projects in the last two years, including one which was funded primarily by New Zealand stakeholders with Standards New Zealand meeting the remaining cost to achieve participation.
82. The current process is that where there is strong stakeholder interest and a clear benefit to New Zealand participation in a project, but funding does not appear to be available, Standards New Zealand will consider whether cost recovery through sales is possible. The feasibility of this approach is determined by looking at previous sales over the past five years, or, if it is a new standard, by looking at sales for similar standards against the cost of the fees.

4.1.2 Regulator funding, using a levy if appropriate

83. In 2017, regulators were the largest funders of the joint standard commissioning fees. Of the 25 joint standard developments that were confirmed in 2017, 22 were paid for by regulators.
84. In a number of the regulatory frameworks that reference standards, the regulator receives funding from levies paid by consumers or by businesses. For example, Building Performance administers the Building Levy, which is paid as part of a building consent application, and WorkSafe's Energy Safety administers part of the Electricity Authority Levy which is paid through consumers' power bills. Where funding the development of standards is within the purpose for which the levy is collected, the regulator may use the levy funding.

85. In many cases, standards provide a degree of public benefit, including by promoting health and safety or reducing environmental impacts. In particular, if a standard is cited in regulation or within best-practice guidance, a regulator has at that time made a decision that the standard provides a means of meeting a regulatory objective.
86. However, a proposed review of a standard that is cited in regulations or best-practice guidance may not meet a New Zealand need, for example because the proposed review may be undertaken specifically to meet an Australian need, or the proposed review may lead to a standard that is more stringent than the regulator sees as necessary. Therefore, a regulator may not always pay the commissioning fee for review of standards cited within its regulations or best-practice guidance.
87. In cases where a standard is used in multiple regulations or guidelines there can be difficulties in determining who should be responsible for paying commissioning fees for joint standard review.
88. In cases where a standard is not cited in regulations, it may be difficult to identify which regulators, if any, may have an interest in the standard.

4.1.3 Industry funding, including from significant manufacturers or service providers, or from industry associations

89. In many cases, industry is the key beneficiary of the development of a joint standard, particularly those that are not cited in regulations. Standards provide industry with a way to indicate quality to consumers, and can therefore increase sales and trade. Additionally, joint standards can reduce costs of trans-Tasman trade in goods and services for industry. By participating in joint standard development, industry can ensure that the standard is fit-for-purpose and that its interests are recognised in the final document. For example, a manufacturer can influence the standard to ensure it reflects their current practices and therefore reduce any costs for adjusting processes.
90. However, it can be challenging to identify who from the private sector is likely to benefit from the standard. There may be a risk of free-riding where an industry may be identified as the beneficiary, and therefore the relevant industry association is asked to pay, but those not within the industry association still benefit to some extent from the standard. Additionally, some industries do not have an organised representative body; or if they do, the representative body may be unwilling or unable to provide funding.

4.1.4 Government funding

91. In 2017, the total commissioning fees for all projects for development and review of joint standards proposed by Standards Australia were AUD 1,079,600. Some stakeholders have suggested that government funding should be used to cover all commissioning fees for joint standards. This could eliminate concerns around funding, and the timeframe issues faced when seeking confirmation of New Zealand participation.
92. However, this model would put the approach to joint standards out-of-step with New Zealand's approach to domestic and international standards, which both require funding from those who commission the development of the standard. Additionally, the current mechanism of requesting

funding ensures that standard proposals are assessed critically, and only participated in if there is a substantial benefit to New Zealand.

4.1.5 Summary of recommendations on funding model for standards commissioning fees

93. The team recommends that, if the commissioning fee can likely be covered by sales of the standards document, then this should be the primary consideration for funding for the commissioning fee.
94. If this is not possible, but a standard is cited in regulations or is intended to be cited in regulations, the commissioning fee for its development or review should be paid for by the regulator responsible for those regulations, using a levy if appropriate. This is because the regulator has already determined that there is a need for a standard, and that the joint standard is the best way to meet that need. However, there are some exceptions to this general principle, including if there is not a public need for the standard; there is a better alternative than the joint standard; or the update is unnecessary or does not align with the regulatory framework. These exceptions are expanded in Section 6: Recommendations.
95. The team recommends that, if the commissioning fee for a joint standard cannot be funded through sale of standards documents and the standard is not cited (or intended to be cited) within regulations, then the commissioning fee for any reviews should be paid for by the industry deemed most to benefit from the standard. This is because the regulator has already determined that there is not a specific need for a standard, or that if there is a need, a joint standard is not the best way to meet that need. Of course, the regulator, if there is one, is able to volunteer to pay (using a levy if available) the commissioning fee for reviews of standards not cited in regulations if they deem that there is a benefit to New Zealand of the joint status of the standard.

5. Strategic and Collaborative Approach to Joint Standard Development

96. During consultation, some stakeholders suggested that aspects of the approach to joint standards development could be more strategic and collaborative. In particular, stakeholders suggested that there is scope for Standards New Zealand, Standards Australia, regulators and industry to work more collaboratively during standards processes, such as determining which standards to participate in and how commissioning fees for participation should be funded.
97. Additionally, stakeholders considered that increased collaboration between stakeholders would pave the way for a more strategic approach to joint standard development.
98. During consultation, regulatory and industry stakeholders expressed their desire to have more time to determine whether to participate in each joint standard proposal.
99. During consultation, regulatory stakeholders expressed a desire to be consulted by Standards Australia earlier in the process if a standard proposed for review is cited within their regulations

5.1 Time for New Zealand to decide on participation and funding

100. Stakeholders raised issues with the amount of time allowed for them to decide on participation and find funding in joint standard development projects.
101. Standards Australia typically provides Standards New Zealand six weeks to decide whether New Zealand will participate in joint standard development. During these six weeks, Standards New Zealand will identify stakeholders (both regulator and industry) and enquire whether they would like to participate in the standard and pay the commissioning fee. If the stakeholders deem the standard valuable, then Standards New Zealand asks them to provide assurance of an appropriate funding source for the commissioning fee and to compile a case explaining the value of the standards to New Zealand. As the timeframe is short, in 2017 some standards projects that industry deemed valuable were dejected as industry did not have enough time to identify funding for the project.
102. As increasing the amount of time allowed to Standards New Zealand to seek funding is a decision to be made by Standards Australia, the key approach that New Zealand can take is to increase the ability of New Zealand (including Standards New Zealand, regulators and industry) to respond within a short timeframe.
103. In order to increase the ability of New Zealand to respond within a short timeframe:
 - a) regulators and industry can identify and prioritise the standards within their subject area
 - b) regulators can assess which standards within their regulations they are likely to pay the commissioning fee for, if the standard were to be reviewed, and to budget accordingly
 - c) industry can recognise the standards that it deems valuable but for which any commissioning fee is unlikely to be funded by regulators, and budget accordingly

- d) industry and regulators can ensure consistent communication over the commissioning fee for any new joint standard development proposals.
- 104. Consistent communications between regulators and industry is essential to ensure this collaborative and strategic approach to standard development.
- 105. Increasing the amount of time allowed to Standards New Zealand to seek funding is a decision to be made by Standards Australia.

5.2 Regulator involvement in decisions to review standards cited in regulations

- 106. Regulators noted that sometimes Standards Australia decides to review a standard that is cited within their regulations without consultation with that regulator. In these cases, the regulator may feel compelled to fund the review of a standard which it does not consider to be necessary; or to continue citing an outdated standard which can lead to trade barriers between Australia and New Zealand.
- 107. Regulators have therefore requested greater involvement in decisions to review standards cited in their regulations.
- 108. One way for regulators to have greater input before standard review proposals are agreed is to participate in joint standard technical committees. It is within these committees that proposals for standard reviews are made and considered.
- 109. Standards New Zealand invites regulators to inform Standards New Zealand of their priority standards cited in regulations. Standards New Zealand will then seek to discuss with Standards Australia opportunities for early provision of information to regulators where there are plans for these priority standards to be reviewed.

6. Recommendations

110. In accordance with the analysis above, the team has developed three areas of recommendations. These concern:
- i. Deciding whether to participate in joint standard development and review
 - ii. Funding for any commissioning fees
 - iii. Improving the strategic and collaborative approach to joint standard development

6.1 Deciding whether to participate in joint standard development and review

111. As a result of the analysis, the team recommends that it is preferable for New Zealand to consider participating in developing a joint standard in cases where an international standard may not exist or may not be appropriate in the New Zealand environment, and where a domestic standard is likely to be more expensive to develop than a joint standard, or more disruptive to international trade. Use of earlier versions of joint standards prior to dejointing is not a preferred solution as these can become out of date, cause confusion, and result in barriers to trade.

6.2 Funding for any commissioning fees

112. Concerning the funding the commissioning fee for joint standards, the team recommends that if the commissioning fee can be recovered through sale of standard documents, this should be the first avenue for cost recovery. If the commissioning fee cannot be recovered through sale of standard documents, and the proposal is for review of a joint standard cited in regulations, then the regulator responsible for the regulations should pay the commissioning fee for any review, because if a regulator has chosen to cite a standard within its regulation, then that regulator has determined that the standard is an appropriate means of meeting a regulatory objective. Exceptions to the situation where the regulator should pay are:
- a) An equivalent international/foreign standard exists that would be appropriate for New Zealand without adaptation, or with a minor adaptation that can occur within regulations.
 - b) If the standard proceeds as an AS without New Zealand influence, it is likely to be appropriate for the New Zealand environment, because there are no specific New Zealand conditions (eg there are no seismic factors for the standard).
 - c) A domestic standard would better meet New Zealand's needs, including being more affordable, more appropriate and/or more conducive to international trade.
 - d) If a standard cited as an acceptable solution/best practice guidance is being reviewed, the specifications in the standard exceed, or are likely to exceed, what is required in the regulations.

- e) The update is unnecessary from a regulatory viewpoint and no significant issues (including impacts on safety, environment, trade, costs and innovation) will arise from the regulator continuing to cite the earlier version of the standard, prior to dejointing and updating.
113. If a joint standard is not cited in regulations, or the standard is cited in regulations but one of the exceptions above applies, then the industry should be asked to pay any commissioning fee for New Zealand's participation. However, if there is an interested regulator, it may in general *choose* to pay, for example because the regulator may consider itself likely to use the standard in regulation following its development/review, or the regulator considers that there is a public benefit for the standard that warrants regulator funding; ie there are significant health, safety, environmental, durability, information imbalance or other issues of the public interest at play.
114. These recommendations are summarised in the flowchart at Annex 1.

6.3 Improving the strategic and collaborative approach to joint standard development

115. To improve the strategic and collaborative approach to joint standard development, the team recommends that:
- Industry and regulators should take a proactive approach to standard development and review
 - Regulators should endeavour to consult with industry at key decision-making stages, to ensure that both the regulator and the industry are thoroughly informed and able to influence key standard development committees
 - If a regulator decides that it will not fund the commissioning fee for review of a standard that is cited within regulations for which it is responsible, then the regulator should provide an explanation to interested parties, including industry and Standards New Zealand
 - To allow industries and regulators to proactively plan ahead with regard to funding commissioning fees for joint standards, regulators should endeavor to indicate to industry which standards cited or referenced within regulations and guidance are likely to attract regulator funding should they come up for review
 - Regulators should endeavour to either participate, or to maintain ongoing communications with at least one participant on the joint standards development committees that are most relevant to their area. This will allow regulators to have an advance view of the standards likely to be reviewed and developed in their areas.

ANNEX 1: DETERMINING FUNDING OF JOINT STANDARD COMMISSIONING FEE

