BUILDING PERFORMANCE

Consultation submission form

REVIEW OF THE BUILDING CONSENT SYSTEM: OPTIONS PAPER

June 2023

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Te Kāwanatanga o Aotearoa
New Zealand Government

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The Government is undertaking a substantive review of the building consent system. A better building consent system is a key priority of the Government and is necessary to support transformation of our housing market to unlock productivity growth and make houses more affordable.

The aim of the review of the building consent system is to modernise the system to provide assurance to building owners and users that building work will be done right the first time, thereby ensuring that buildings are well-made, healthy, durable and safe.

How to make a submission

MBIE seeks written submissions on this options paper by 7 August 2023.

Your submission may respond to any or all of the questions in this options paper. Please provide comments and reasons explaining your choices. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Your feedback will help to inform decisions on options that should be progressed in the next phase of the review, the detailed design of those options, and valuable feedback on options that require further consideration.

You can submit this form by 5pm, Monday 7th August 2023 by:

- Sending your submission as a **Microsoft Word document** to **building@mbie.govt.nz**
- Mailing your submission to:

  Consultation: Review of the Building Consent System
  Building System Performance
  Building, Resources and Markets
  Ministry of Business, Innovation and Employment
  PO Box 1473

  Wellington 6140
  New Zealand

Please include your contact details in the cover letter or e-mail accompanying your submission.

*Alternatively, you can respond to the questions by using this **online survey form.***

Please direct any questions that you have in relation to the submissions process to building@mbie.govt.nz.

Use of information

The information provided in submissions will be used to inform MBIE's policy development process and will inform advice to Ministers on the review of the building consent system. We may contact submitters directly if we require clarification of any matters in submissions.

Release of submissions on MBIE website

MBIE may upload copies of submissions received to MBIE's website at **www.mbie.govt.nz**.

MBIE will consider you to have consented to uploading your submission unless you **clearly specify** otherwise in question E, below.

If there are *specific* pieces of information within your submission that you do not wish us to publish for privacy or commercial reasons, please **clearly mark** this in your submission.

Release of information under the Official Information Act

The *Official Information Act 1982* specifies that information is to be made available upon request unless there are sufficient grounds for withholding it. If we receive a request, we cannot guarantee that feedback you provide us will not be made public. Any decision to withhold information requested under the OIA is reviewable by the Ombudsman.

In addition to the instructions above on releasing submissions on the MBIE website, please explain clearly in question E which parts you consider should be withheld from official information act requests, and your reasons (for example, privacy or commercial sensitivity).

MBIE will take your reasons into account when responding to requests under the *Official Information Act 1982*.

Private information

The *Privacy Act 2020* establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review. Please clearly indicate if you do not wish your name, or any other personal information, to be included in any summary of submissions that MBIE may publish.

Submitter information

Please provide some information about yourself. If you choose to provide information in the "About you" section below it will be used to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

A. About you

Name:	Julien Leys
Organisation and role (if submitting on behalf of a company or organisation)	Building Industry Federation of NZ
Email address:	

B. Are you happy for MBIE to contact you if we have questions about your submission?

☒ Yes ☐ No

C. Please clearly indicate if you are making this submission as an individual, or on behalf of a company or organisation.

☐ Individual ☒ Company/Organisation

D. The best way to describe you or your organisation is:

☐ Designer/ Architect ☐ Builder

☐ Sub-contractor ☐ Engineer

☐ Building Consent Officer/Authority ☐ Developer

☐ Homeowner ☐ Business (please specify industry below)

☒ Industry organisation (please specify below)

☐ Other (please specify below)

NZ Building Industry Federation

Submitter information

E. Privacy and official information:
The *Privacy Act 2020* and the *Official Information Act 1982* apply to all submissions received by MBIE. Please note that submissions from public sector organisations cannot be treated as private submissions.

☐ Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish or release under the *Official Information Act 1982*.

☐ MBIE may publish or release your submission on MBIE's website or through an Official Information Act request. If you do **not** want your submission or specific parts of your submission to be released, please tick the box and provide an explanation below of which parts of your submission should be withheld from release:

Insert reasoning here and indicate which parts of your submission should be withheld:

Consultation questions

Chapter 2 – Promoting competition in the building regulatory system

The Commerce Commission recommends that promoting competition be included as an objective in the building regulatory system, to be evaluated alongside safety, health and durability—without compromising those essential objectives.

Chapter 2 presents potential regulatory and non-regulatory options that would promote and give competition more prominence in the building regulatory system.

MBIE's preferred option is to progress options 2 (**introduce competition as a regulatory principle**) and 4 (**issue guidance on promoting competition**) together as a package.

Questions about promoting competition:

1. What options are more likely to promote and give competition more prominence in the building regulatory system and its decision-making, given the costs and risks?

The Building Industry Federation of NZ (BIF NZ) believes that competition in the built environment is a positive outcome to be pursued, but also that measures designed to promote competition must not risk failure to achieve the primary aim of ensuring that buildings and materials meet the requisite standard of the Building Code.

BIF NZ agrees with the Commerce Commission's finding in the Market Study Residential Housing that competition should be an aim throughout the built environment, including in the consenting process, but does not support its inclusion as a purpose or principle of the Building Act. It considers that the focus of the Act should remain primarily on ensuring that New Zealand buildings are safe, healthy and durable. Inclusion of competition as a purpose or principle of equal weight risks leading to unwise trade-offs between the essential focuses of the Act and a desire to foster competition.

BIF NZ believes that competition can be appropriately enhanced in the building industry by the pursuit of some or all of the specific initiatives identified by the Commerce Commission's market study, such as streamlining of consent processes, increased compliance pathways, and reducing barriers to certification and appraisal of new products.

The Building Consent process is a slow and costly exercise for most participants and products and so the regulatory compliance process can be streamlined, and efficiencies introduced through the introduction of competition. Product substitution is slow and expensive and is a barrier to a more competitive building products market where the cost of building and construction will reduce. More range and innovation in the building products market will lead to competition.

But pursuit of these specific initiatives does not require the purposes or principles of the Act to be amended.

2. Are there other regulatory and non-regulatory options that would promote and give competition more prominence in the building regulatory system and its decision-making?

MBIE and Industry need to continue to collaborate, including with initiatives like the Critical Materials Task Force, to identify and expand on the opportunities to facilitate increased product substitution and ensure that a wider range of building products is available that meet New Zealand Standards and requirements. More product substitution will increase New Zealand's building supply chain resilience and ensure that we are not dependent on only a few manufacturers or distributors for essential materials needed to deliver homes and infrastructure in New Zealand.

3. What other options or potential combinations would work together to give effect to competition as an objective in the building regulatory system?

BIF NZ believes that the New Zealand building materials supply chain is competitive. But given increasing competition has been highlighted as desirable in the building regulatory system, the real issue is how that can be done appropriately, and consistently with the existing purposes of the Building Act and the broader building regulatory systems.

Enhancing competition is not simply about it making easier to import a greater variety of products. It is critical to consider how these materials and goods are or will be reviewed and certified to ensure they perform to the standards required by the New Zealand Building Code. Those processes must be robust, but also not so onerous that they become an inappropriate barrier to entry.

Consistent application of Code and other performance requirements across BCAs, and alignment between that and review, appraisal and certification practices, is a critical enabler of that efficiency. At present, differing standards or approaches across consenting authorities creates churn and uncertainty for importers and manufacturers, and disincentivises product substitution or the supply of new or innovative building materials.

We suggest that to better achieve an enhanced level of competition additional consultation or research is required with the importers, distributors and manufacturers of building products to better understand the import drivers and process barriers, as well as ensure that the rules around compliance are clear and applied consistently and effectively.

MBIE could also update the industry and in particular importers, distributors and manufacturers of building products with case studies or guidance where there are documented cases of non-complying or non-conforming products so that mistakes are not repeated. It may well be in some cases that these mistakes or examples are signposts to barriers or impediments to how the regulatory system is limiting competition. In these instances, MBIE and the Commerce Commission could collaborate with industry to reduce or remove these barriers without legislative intervention.

BIF NZ concurs with other industry participants that there needs to be clear signalling of the future reform trajectory through draft Acceptable Solutions, allowing the manufacturing market to respond in a timely fashion – for example the BFCC embodied carbon work programme which clearly signals embodied caps and reporting - refer https://www.building.govt.nz/assets/Uploads/getting-started/building-forclimate-change/work-programme-building-for-climate-change.pdf

4. Do you agree with MBIE's preferred approach to progress options 2 (introduce competition as a regulatory principle) and 4 (issue guidance on promoting competition) as a package?

☐ Yes ☐ Somewhat ☒ No ☐ Not sure

Please explain your views.

No, largely because of our concern that inclusion of competition as an equally-weighted "principle" under the Act has uncertain consequences (as noted in the consultation paper itself) and potentially incentivises unwise "trading off" of important product compliance requirements in favour of perceived enhancements to competition.

Chapter 3 – Removing impediments to product substitution and variations

The Commerce Commission considered that making product substitution easier would promote competition by allowing more changes to products after consent had been granted.

Chapter 3 presents options to help make the process for product substitutions and variations to consented building work more effective and efficient, and to increase flexibility in the MultiProof scheme.

MBIE's preferred approach is to progress all of the following options:

Product Substitution:

- Update **guidance** on product substitution.
- Modify the **building consent forms** to expressly allow alternative brands or products.
- Modify the **definition of minor variations** under regulations.

MultiProof scheme:

- Issue **guidance** and/or educational material.
- Make new regulations to **define 'minor customisation'** for MultiProof.

Questions about product substitutions, variations and MultiProof

5. Do you agree with MBIE's preferred approach to progress all the options to improve product substitutions and variations (including for MultiProof) together as a package?

☐ Yes ☒ Somewhat ☐ No ☐ Not sure

Please explain your views.

BIF NZ agrees product substitution should be facilitated at far as possible, but only provided product substitutions do not compromise achieving the minimum performance standards required by the Building Code for the building in question.

The supply chain issues that arose during COVID-19 as disruption to international freight greatly affected the delivery and quantum of building products being imported into New Zealand highlighted the limitations of reliance on a few brands of critical materials. It is worth noting that New Zealand imports around 90% of its building and construction materials used in the built environment.

However, product substitution is not always (or even often) straightforward, and there is no one-size-fits-all approach. Certain highly generic product classes, subject to a well-known New Zealand Standard, may favour relatively easy substitution. More complex proprietary products, or those which form part of a system (for example, a fire-rated wall system), may be difficult to substitute because the equivalence of substitute products is much harder to establish, or the interactions between the elements of the relevant system is unclear.

It is worth noting that the post-Christchurch environment, where the then Government sought to reduce costs by allowing for cheaper but similar products to be used in a tested system, led to numerous failures because the substituted materials did not have the same performance characteristics as that tested. BIF NZ believes that any moves to allow for product substitution must ensure we do not repeat these past mistakes. The consequences and costs would be significant.

These difficulties need to be taken into account when considering whether a proposed product substitution is appropriate, particularly where that happens mid-construction. We see this making the proposed Option 3 more difficult than it might seem – whether a proposed substitution "deviates significantly" from the existing plans and specifications will be in many cases a complex question.

At present, BCAs ultimately decide if a substitution can be effected as a minor variation or not. This should remain the case, as BCAs have the best knowledge and resources to determine product compliance in individual cases. But BCAs may benefit from enhanced guidance around how to approach this and other decisions relating to proposed substitutions. We would suggest there should be consultation with BCAs around whether the presently available information is sufficient to enable good decisions around substitution, and if not, how that information gap can be addressed.

NZ BIF would endorse a "dual specification" approach as a competitive mechanism in situations where substitution risks can be mitigated if there were disruptions to the supply chain. Dual specification would also be a possible solution to substitution barriers created by implied warranties.

In that regard, we concur with NZCIC's call for MBIE to consider the implications of implied warranties under section 362i of the Building Act, where there is a requirement that the building work will be carried out in accordance with the plans and specifications contained in the relevant contract, and in accordance with the relevant Building Consent. A product substitution may create a discrepancy between these requirements.

MBIE should also develop/expand the current acceptable solutions that publish the key performance characteristics that are generic for a kind of material e.g. bracing values for plaster board that is manufactured to AS/NZS Standard. These characteristics will apply to any plasterboard that is manufactured to a common standard, regardless of its brand.

Similarly the reliance on a specific brand of a building hardware material can also be removed by publishing a few options in acceptable solutions e.g. capacity of an hold down bolt manufactured to few specific sizes and shapes. These options will remove the reliance on one specific brand of hardware that is included in a system.

However, BIF NZ questions whether a field for voluntary specification of potential substitute products in the standard building consent form will make a significant difference on its own. It is more likely simply to become an unused part of the form in many cases.

6. What impacts will the options regarding product substitution and variations to consents have? What are the risks with these options and how should these be managed?

There must be careful decision-making around whether substituted products will still meet their required performance requirements ,both individually and as part of the completed building.

The risks could be huge depending upon how crucial the product/component is in terms of its application in a building. The risk can only be managed by following an approach where the performance characteristics are measured/evaluated for substitution.

7. What impacts will the options regarding MultiProof have? What are the risks with these options and how should these be managed?

BIF NZ understands there has been overall a poor uptake of MultiProof and has not been very popular due to various complexities involved in the scheme and therefore the impact of product substitution is expected to be minor only on MultiProof.

8. Are there any other options to improve the system and make product substitutions and variations to consents, and MultiProof, more effective and efficient?

No

Chapter 4 – Strengthening roles and responsibilities

Chapter 4 presents options to improve participants' understanding of their roles and responsibilities, address regulatory gaps and ensure participants can be held to account, and clarify the role of producer statements. Together, these options will help ensure risks are appropriately identified and managed and that building work is done right first time.

MBIE's preferred approach is to progress the following options:

- Publish **guidance** to improve system participants' understanding of their roles and responsibilities.
- Require all designers to provide a **declaration of design compliance** to strengthen responsibilities of designers.

Questions about strengthening roles and responsibilities

9. Do you agree with MBIE's preferred approach to progress options 1 (guidance) and 2 (declaration of design compliance requirement) as a package?

☒ Yes ☐ Somewhat ☐ No ☐ Not sure

Please explain your views.

We agree with MBIE's preferred approach of adopting Options 1 and 2 as well as additional training an ensuring recognised qualifications to be an LBP designer.

It would be helpful if research was undertaken to gather the level of understanding of the industry of the Building Act and Code.

10. Should there be a requirement for a person to be responsible for managing the sequencing and coordination of building work on site (option 3)?

☒ Yes ☐ No ☐ Not sure

Please explain your views.

We agree with this requirement but query what would be the timeframe for design and implementation of the system. No doubt it would need a qualified LBP Site Licence holder to be able to manage this work on site.

11. What are the risks with these options and how should these be managed?

In our view there would be few risks with Options 1 and 2 and if there was someone supervising works as per Option 3 then there would be minimal risk here as well.

12. Do you agree the declaration of design compliance should be submitted by a person subject to competency assessments and complaints and disciplinary processes?

☒ Yes ☐ Somewhat ☐ No ☐ Not sure

Please explain your views.

BIF NZ agrees.

13. What information should be provided in a declaration of design compliance? Would the detail and type of information required in Form2A (Certificate of design work) be sufficient?

We believe the information in Form 2A would be sufficient albeit it could be expanded with future building for climate change references.

14. Should the declaration of design compliance replace the certificate of design work (for restricted building work)?

☐ Yes ☐ No ☒ Not sure

Please explain your views.

NA

15. When might a design coordination statement be required? What should be the responsibilities and accountabilities of the person providing the design coordination statement?

NA

16. Should there be restrictions on who can carry out the on-site sequencing and coordination role? Would the site licence be sufficient to fulfil this function?

Yes – see answer to Question 10 above.

17. What other options should be considered to clarify responsibilities and strengthen accountability?

NA

Questions about producer statements

MBIE's preferred approach is to progress the following option:

- Clarify the use of **producer statements** through non-prescriptive legislation and guidance.

18. Do you agree with MBIE's preferred approach to progress option 2 (non-prescriptive legislation and guidance)?

☐ Yes ☐ Somewhat ☒ No ☐ Not sure

Please explain your views.

BIF feels Option 3 (Prescriptive regulation) is best and that there is a sufficient basis to increase the usage of Producer Statements.

However, this is an area that needs further investigation to better determine who is appropriately experienced and/or qualified to issue a Producer Statement, and whether the appropriate liability and insurance arrangements are in place to ensure qualified persons are willing to do so.

19. What should be the purpose of producer statements and what weight should be given to them?

Producer statements should be designed to make the system more efficient based and be given reasonable degree of authority.

20. Should there be restrictions on who can provide a producer statement?

☒ Yes ☐ No ☐ Not sure

Please explain your views.

There needs to be a limitation and standards as to who is appropriately experienced and/or qualified to issue a Producer Statement

21. What is the appropriate criteria to assess the reliability of producer statements?

More work needs to be done by MBIE and industry to determine this.

22. What other risks need to be managed?

Chapter 5 – New assurance pathways

Chapter 5 identifies options that would assist building consent authorities to take a more risk-based approach. This includes two formal assurance pathways that would shift some of the building consent authority assurance role to other participants with the required expertise to manage risk appropriately: self-certification and commercial consent.

MBIE's preferred approach is to progress all of the following options:

- Provide guidance to building consent authorities to take a more **risk-based approach** under current regulatory settings.
- Create two new assurance pathways: certification by **accredited companies** or by **approved professionals.**
- **New commercial building consent** to provide an alternative regulated consent process for some commercial projects.
- **Repeal the Building Amendment Act 2012** consent regime to consider these new pathways.

Question about taking a more risk-based approach

23. To what extent would MBIE guidance assist building consent authorities to better take a risk-based approach under existing regulatory settings?

BIF NZ considers much can be done to find a better way of ensuring BCA's achieve a consistent approach to a risk-based approach. Key to delivering the required level of consistency will be introducing best in class systems that ensure buildings are compliant and are aligned to MBIE's overall risk-based management. These systems need to be consistent, and consistently applied, across all BCAs.

BCAs are not unfamiliar with working within a risk-based environment and so if this is a means of improving the efficiency then MBIE Guidance should draw on example of best practices across BCA national network but also provide detail as to how a framework for assessing non-compliance risk would operate and be implemented in practice.

It should also be noted that in the last several years that BCAs have suffered dramatic churn of staff especially in the senior inspectors who have joined independent third-party verification agencies. These Certifiers are usually accredited to deliver consistency, robustness, and regulatory in product compliance.

Questions about self-certification

24. To what extent would self-certification align assurance with risk levels and sector skills?

BIF NZ supports some level of self-accreditation, where this is underpinned by a peer-reviewed accreditation programme for those doing so, involving third-party verification of the processes, competence and understanding of the self-certifier. Independent third-party organisations can collaborate closely with MBIE / BCAs to deliver capability, competency, consistency as well as the information necessary for code compliance certificates. Moreover, these third-party organisations will also be able to alert the Regulator to any instances of failure so there will be stringent enforcement and penalties for any gaps in responsibility.

25. MBIE has identified three desired outcomes for certification (high confidence that work complies with the Building Code, remedy for non-compliant work and that careless or incompetent certifiers are identified and held to account), Do you agree with the three proposed outcomes and the means to meet these outcomes?

☐ Yes ☒ Somewhat ☐ No ☐ Not sure

Please explain your views.

We concur with MBIE's emphasis on ensuring that self-certifying participants possess thorough knowledge of the Building Code. Ultimately a robust accredited pathway would need to be supported by MBIE's performance monitoring, continual skills development, and proactive auditing.

BIF NZ supports maintaining adherence to continuous improvement in the built environment through consistent and regular performance monitoring. In term of what success would look like regarding self-certification and third-party accreditation, it will be ongoing monitoring the performance of the desired outcomes by MBIE.

To ensure that we achieve a level of competent and highly skilled certifiers it will be important that regular professional development is part of certification requirements, and that this is monitored between industry bodies and MBIE.

26. What are the potential risks for self-certification and how should these be managed? Is there any type of work that should not be able to be self-certified?

Self-certification inevitably carried some degree of risk, but BIF NZ considers that those risks can be appropriately managed through ongoing education, monitoring, and assessment of those permitted to self-certify. Third-party assessment and accreditation of self-certifiers will support these requirements.

Thew criteria for accreditation to self-certify, and the ongoing management of that accreditation would need to be designed to appropriately incentivise self-certifiers to resist any financial or professional pressure brought to bear by an owner / developer.

Questions about commercial consent

27. To what extent would the commercial consent process align assurance with risk levels, the respective skills of sector professionals and building consent authorities?

BIF NZ submits that commercial consent process is well aligned from a risk perspective and established within the design and build area of the construction sector. Larger construction companies have quality control processes which are audited and have track records of successful builds which are all familiar to BCAs with whom they collaborate closely to achieve these outcomes.

This close collaboration between vertical construction companies and BCAs means that there exists a good relationship and knowledge of how to assess commercial risk from assessment of quality systems, sourcing product and technical data and working with peer reviewers.

BIF NZ supports MBIE's proposal that BCA's introduce audit programmes to mitigate risks in the design and construction quality assurance systems.

We also think that BCAs are better placed to assess the level of commitment to a commercial pathway option assuming that there are robust and clear guidelines are in place.

28. Would it enable a more agile and responsive approach to dealing with design changes as construction progresses?

☐ Yes ☒ Somewhat ☐ No ☐ Not sure

Please explain your views

The priority in any build or construction project must be to ensure a compliant pathway. Achieving an outcome which includes agility and responsiveness must be a secondary, though desirable, consideration or outcome.

As discussed above, compliance and successful outcomes via commercial consents are best achieved if this includes self-certification supported by mandatory third-party accreditation. Thus within this framework design changes could be managed to deliver more agile outcomes, although there would need to be recognition that particular types of construction have different levels of risk and so this should be the critical determinant rather the type of building per se. This would support participants being able to nominate areas of building work that are appropriate for self-certification while also allowing for detailed design aspects to be managed differently depending on level of experience and track record for specialised work such as installing fire control systems.

29. What should be the scope of the commercial pathway? Should it be mandatory for Commercial 3 buildings and voluntary for Commercial 1 and 2 buildings?

Please explain your views.

BIF NZ concurs with CIC that a proposed voluntary trialling for Commercial 1 and Commercial 2 buildings but with tight entry requirements for a select number of practitioners would be a better scope for the commercial pathway, including undertaking pilots to assess how performance delivery is achieved by participants. We also agree that in both the Commercial and

Residential voluntary approached suggested, no formalisation of either should exist without trialling, analysis and subsequent agreement with BCAs and industry.

30. Do you agree with the proposed roles, responsibilities and accountabilities?

☐ Yes ☐ Somewhat ☒ No ☐ Not sure

Please explain your views

It would be helpful if there was additional definition of existing roles and responsibilities as they currently stand in the Building Act and what these would look like in the proposed new environment.

We recognise that many of the contractual disputes in the sector in the last decade have been due to the poor coordination of design variations, product substitution and contractual rights between parties by the 'engineer to the contract'. We believe the key professionals in the proposed roles that would best achieve desired outcomes are Builders and Designers who have the skills and experience fitting needed levels of responsibility and accountability to monitor the construction process and have the ability to prepared accurate declarations.

Quality assurance and compliance are essential outcomes for the built environment but we question whether and if any number of professional individuals have the capacity for this holistic oversight and if so then the BCA's should continue to have responsibility for monitoring design and build compliance.

31. What would be the risks with the commercial consent pathway and how should they be managed? Please comment on entry requirements, site coordination, overall responsibility for the quality assurance system, third party review and what (if any) protections would be needed for owners of commercial buildings.

Coordination of all the risks and number of participants involved in the commercial consent pathway is extensive and complex. For example, many approved designs are not shared equally or evenly across all parties to a project and so various participants often are not on the same page given lack of version control. When this includes various specialists from acoustic technicians to fire engineers then issues arising from working from different versions can be problematic. Only a robust process of allocating correct levels of responsibility based on experience and coordination of information can ensure consistent quality control good outcomes.

Unfortunately, the sector has been plagued in recent years through high profile disputes and liquidations brought about through the unfair allocation of responsibility, risk and liability.

Question about new pathways to provide assurance

32. Do you agree with MBIE's preferred approach to progress policy work on the detailed design of the two new assurance pathways, repeal the inactive risk-based consenting provisions in the Building Amendment Act 2012 and issue guidance for building consent authorities?

☐ Yes ☐ Somewhat ☒ No ☐ Not sure

Please explain your views

We do not believe that MBIE should progress this policy work for new assurance pathways but rather work to improve and amend the current provisions.

Chapter 6 – Better delivery of building consent services

Submissions on the issues discussion document indicated that stakeholders would like greater consistency across the country to promote economies of scale and reduce duplication and cost. There are also significant capacity and capability constraints in the sector.

Chapter 6 considers options to address inconsistency across the building consent system and capacity and capability issues, under the following themes:

- providing greater **national direction and consistency** to increase predictability and transparency for applicants across the country
- **boosting capacity and capability** across building consent authorities and building greater collective capability across the country
- supporting building consent authorities to **achieve economies of scale** by reducing duplication and costs for individual building consent authorities.

Questions about providing greater national direction and consistency

The options in this section seek to **increase the consistency, transparency and predictability** of the process for applicants across Aotearoa New Zealand:

- Ensure **nationally consistent processes and requirements**
- **Review building consent application and processing systems** to identify nationwide technology approaches
- Support uptake of **remote inspection technology**
- **Centralise training for building control officers**.

33. Which options would best support consistency and predictability given costs, risks and implementation timeframes? Please select one or more of the following:

☒ Ensure nationally consistent processes and requirements

☒ Review building consent application and processing systems

☒ Support uptake of remote inspection technology

☒ Centralise training for building control officers

Please explain your views

In BIF NZ view the four proposals are all valid and necessary. We feel that best practice outcomes will arise from collaboration between MBIE, BCAs and industry to identify, quantify, and develop robust approaches.

34. What other costs and risks need to be considered?

NA

35. Are there any other options that would support consistency and predictability?

The best way of achieving consistency and predictability by participants working with the consent process in the Building Act and the Building Code is through investment in ongoing education of professionals, LBPs and others involved in the pathway.

Questions about boosting capacity and capability

The options in this section seek to **alleviate capacity and capability constraints** across building consent authorities and build greater collective capability across the country:

- Establish **centres of excellence** or other central advisory function
- Identify opportunities for **shared workflows and services** between building consent authorities
- **Centralised resource of specialist expertise** or building consent officers to fill capability gaps.

36. Which options would most alleviate capacity and capability constraints given costs, risks and implementation timeframes? Please select one or more of the following:

☒ Establish centres of excellence

☒ Identify opportunities for shared workflows or services

☐ Centralised resource of specialist expertise

Please explain your views

We favour centres of excellence and MBIE providing direction to BCA's deliver consistency in consenting.

Centres of excellence will improve New Zealand's future capability to deliver large construction projects. For example, projects such as major public infrastructure works are a highly complex

scope of work requiring long term JV partnerships and technical expertise to support a successful consent and build outcome.

37. What other costs and risks need to be considered?

As above, BIF NZ supports BCA coordination as being the best way to deliver the skills and the experience needed to ensure optimum levels of capacity and capability sharing.

38. Are there any other options that would alleviate capacity and capability constraints?

MBIE could support capacity/capability building by additional funding including into initiatives such as more research. This research could highlight the importance of supporting BCA capacity and capability which drives quality outcomes of New Zealand's built environment.

Questions about achieving greater economies of scale

The options in this section support building consent authorities to **achieve economies of scale** by reducing duplication and costs:

- **Identify and address barriers to voluntary consolidation and transfer**
- Support a **voluntary pilot to consolidate or transfer** building consent authority functions
- Investigate the viability of establishing a **national body to operate alongside local building consent authorities.**

39. What are the biggest barriers to voluntary consolidation? How could these be overcome?

The Building Act has been prepared so that BCAs and local government authorities adopt a singular responsibility.

40. Which options would best support building consent authorities to achieve greater economies of scale given costs, risks and implementation timeframes? Please select one or more of the following:

☒ Identify and address barriers to voluntary consolidation and transfer

☐ Support a voluntary pilot

☐ Investigate the viability of establishing a national body

Please explain your views

NA

41. What other costs and risks need to be considered?

NA

42. Are there any other options that would support building consent authorities to achieve greater economies of scale?

NA

Chapter 7 – Better performance monitoring and system stewardship

Chapter 7 presents a set of interrelated initiatives to fulfil our responsibility as steward of the building consent system.

MBIE acknowledges the need to take a more proactive role as central regulator and steward. This means taking a proactive and collaborative approach to monitoring and maintaining the regulatory system and keeping well informed of issues, risks and opportunities.

MBIE will focus on initiatives in the following areas:

- **Developing better systems to collect information** that will help to identify key issues, risks and opportunities.
- **Proactively responding to the issues, risks and opportunities** identified.
- Ensuring that **quality information, education and guidance** is provided to the sector.

Questions about system stewardship

43. Will these initiatives enable MBIE to become a better steward and central regulator and help achieve the desirable outcomes? Please explain your views.

Yes. Building regulatory stewardship and leadership in key areas will be crucial in coming years as technology and data collection for improved product assurance will be important for MBIE to take a lead on. This outcome will only be possible if MBIE has close collaboration and understanding of the building sector, ensures it has competent people and expertise and remains committed to education through guidance.

44. What initiatives should be prioritised and why?

Engagement with a wider range of people / participants nationwide (not just Wellington) and more collaboration with the industry should be a priority.

MBIE should be a source of truth for information and provide regular updates and guidance to industry.

45. What else does MBIE need to do to become a better steward and central regulator?

Ease of access to information and advice as well as making processes more affordable for industry.

Consultation questions

Chapter 8 – Better responding to the needs and aspirations of Māori

Chapter 8 focuses on options to address the capacity and capability and relationship issues that Māori face in the building consent system. The options also link to recommendation two of the Commerce Commission's market study into residential building supplies, which states that Māori should be better served through the building regulatory system.

The options being considered are:

- Establish a **navigator role** within building consent authorities to guide Māori through the building consent system.
- Create a new **centre of excellence** for Māori-led building and construction projects.
- **Guidance and advice** for building consent authorities regarding building consent applications from Māori.

Questions about responding to the needs and aspirations of Māori

46. Will these options help address the issues that Māori face in the building consent system?

☐ Yes ☐ Somewhat ☐ No ☒ Not sure

Please explain your views.

We are unsure – perhaps more research is needed to answer this question to see if there are any gaps in the needs of Māori?

47. Which of the three options identified would have the most impact for Māori? Please explain your views.

A Centre of Excellence for Māori to provide guidance and advice for Māori-led projects would have the most impact.

48. What are the risks with these options and how should they be managed?

If a better understanding of Māori needs is not determined through peer reviewed research would be the biggest risk.

49. Where should the navigator role sit and what responsibilities should it have? Should it include assisting Māori through the wider building process?

Navigator(s) should be specialists with knowledge of Māori design and the consent process who can best determine how to collaborate with BCAs.

50. What should be the scope, function and responsibilities of the centre of excellence? What participation should Māori in the workforce have in this centre of excellence?

To provide an agreed framework that is consistent with the Building Act and which provides respected advice.

51. What other options to improve the system and make it more responsive to Māori needs and aspirations should be considered?

Leaning from hero projects and case studies about Māori building projects.

Chapter 9 – Addressing the interface between the building and resource consent systems

While processes for assessing applications for building and resource consents consider different matters, there can be overlaps between the two consent processes due to the interface between buildings and land. This sometimes causes confusion about which requirement falls under which consent process.

Chapter 9 outlines how current reforms will help reduce unnecessary overlaps between building and resource consent systems and how the use of project information memorandums can help consent applicants navigate the two consent processes. The question in this chapter seeks feedback on anything else that could address overlap issues.

Question about addressing the interface between the building and resource consent systems

52. What other options to address the issues arising from overlaps between the building and resource consent processes should be considered?

Improved integration between the Building Act and Resource Management Act.

General comments

53. Do you have any other comments?

In general, we note that the current level of building inspectors' skills and their understanding of various building materials/its application in the building is not always of a high standard. Due to lack of their own understanding / knowledge, they keep on filing the building inspections which are incomplete. This is huge wastage of builder time, and it is one key reason for the builders to demand much higher labour rates to cover their lost time. MBIE must audit the current inspections data and analyse how to plug this waste of resources and bring down the cost of construction.