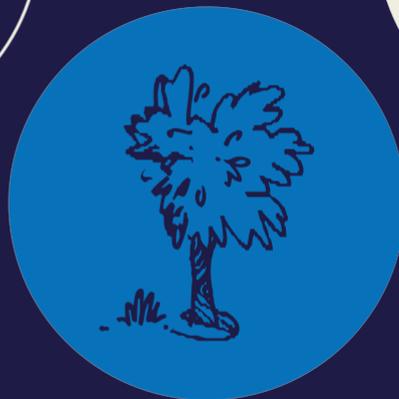
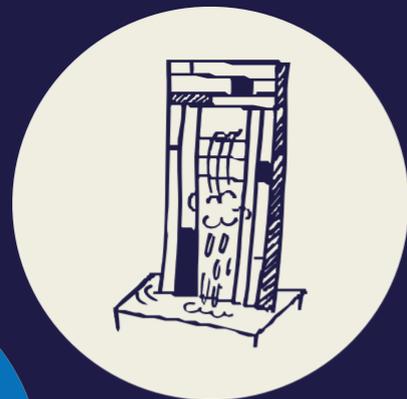


HAMILTON CITY COUNCIL – STAFF SUBMISSION

Building Performance: Options Paper – Review of the Building Consent System (June 2023)

Ministry of Business, Innovation and Employment



28 August 2023



**Hamilton
City Council**
Te kaunihera o Kirikiriroa

Improving the Wellbeing of Hamiltonians

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- **A city that's easy to live in**
- **A city where our people thrive**
- **A central city where our people love to be**
- **A fun city with lots to do**
- **A green city**

The topic of this submission is aligned to the priority **A city where our people thrive**.

Council Approval and Reference

This staff submission was approved by Hamilton City Council's Chief Executive on 28 August 2023.

Hamilton City Council Reference D-4795087 - Submission # 745.

It should be noted that the following submission is from staff at Hamilton City Council and does not therefore necessarily represent the views of the Council itself.

Introduction

1. Hamilton City Council staff would like to thank the Ministry of Business, Innovation and Employment for the opportunity to make a submission to the **Building Performance: Options Paper - Review of the Building Consent System (June 2023)**.
2. The response/feedback from Hamilton City Council staff is outlined in the Ministry of Business, Innovation and Employment's official submission form - copy attached.

Further Information and Opportunity to Discuss Our Submission

3. Should the Ministry of Business, Innovation and Employment require clarification of the submission from Hamilton City Council staff, or additional information, please contact **Alister Arcus** (Principal Building Advisor – Building Control Unit) on **07 838 6881** or email alister.arcus@hcc.govt.nz in the first instance.
4. **Hamilton City Council representatives would welcome the opportunity to discuss the content of this submission in more detail with the Ministry of Business, Innovation and Employment.**

Yours faithfully



Lance Vervoort
CHIEF EXECUTIVE

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Consultation submission form

REVIEW OF THE BUILDING CONSENT SYSTEM: OPTIONS PAPER

June 2023



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How to make a submission

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:

Organisation and role (if submitting on behalf of a company or organisation)

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)

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:

[E.g. I do not wish for part/all of my submission to be release because of privacy or commercial sensitivity]

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?

Option 5: The promotion of competition is specifically incorporated into MBIE's regulatory stewardship framework for the building system.

The responsibility for product determination is the designer and happens before the regulatory consent and build process. Searching for more than one product should be at the design level.

We believe there are more desirable methods to promote competition. The legislation (and regulatory authorities) is supposed to be neutral and agnostic to business competition. Including competition in legislation seems to be at odds, as does requiring the regulatory agency's role in promoting this, apart from an easier pathway to substitutions.

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?

Stronger Commerce Commission powers to restrict monopoly behaviours.

Easier compliance pathways such as overseas certification to allow additional products access to the New Zealand market.

There are mechanisms that currently exist to facilitate a relatively risk-free substitution pathway. We would encourage further work in respect of options in this area, rather than a blanket guidance document on product substitution, which inherently is likely to carry interpretation risks.

MBIE is taking on responsibility to ensure claims made about product performance are reliable. We would encourage a proactive monitoring.

Consultation questions

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

Nil.

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.

Only Option 5 as above.

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

Consultation questions

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.

This is a complex and multipronged issue that needs careful consideration of all the aspects of competition and product substitution. We agree with the following options:

Option 1: Monitor and if warranted, update or add to MBIE guidance on product substitution and the building consent process &:

Option 3: Modify the definition of a minor variation under the *Building (Minor Variations) Regulations 2009* to codify aspects of MBIE's product substitution guidance, such as clarifying when a variation does not 'deviate significantly' from the plans and specifications to which the building consent relates.

Allow approved product substitutions (under guidance) to be approved by onsite inspection (noted within their inspection checklists) and documented as part of the final wash at Code Compliance Certificate stage, rather than a minor variation application to be reviewed in house during construction.

Has a correlation with the National Competency regime that Building Control Authorities (BCAs) have to ensure technical staff have the correct competencies been considered? Currently, the BCA auditors do not accept that the inspection staff are 'competent' to process plans for compliance with the Building Code. This needs to be changed to accept that to carry out inspections, inspectors are required to have the ability to review and vet plans on site and therefore should be automatically considered competent to approve variations if they are of a minor nature.

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?

Easier access for product substitution, as long as they are appropriate to the project.

Risk due to the lack of proper consideration around the proposed product substitution and incorrect installation if the process is rushed for the sake of speed.

Often sellers out of the back of a container or applicants who are trying to value engineer their projects will pressure owners/certifiers into accepting products that are not suitable for their locations. This has been apparent, in the past, where imported, non-tested products have been used and found wanting e.g.: in high-risk areas such as cladding systems, lead tapware etc.

Risk assessing product use should be considered e.g.: low risk such as non-structural plasterboard where the consequence of failure is low could be given an easier consideration.

High risk areas such as claddings should be given a more robust approval process.

Consultation questions

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

As these go through a regular audit an allowance for substitution, this seems like a reasonable option.

However, we are concerned the impact on a minor variation may fall on the BCAs. As the majority of the technical documentation and decisions are not provided to BCAs, therefore, introducing minor variation will be difficult for BCAs to apply when they do not know what the basis of compliance was on.

Consideration should be given to the approval process for these to include multiple products in the approval process with a tick box to allow the multiproof owner to indicate the product(s) being used at lodgement.

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

Making product substitution approvals onsite with the building inspector rather than going through an approval process in-house. This could be recorded as a decision on an inspection checklist and documentation supplied as part of the Code Compliance Certificate sign off.

Another option could be to accept 'as-built' documentation at the end of the construction, to allow an accurate record of how this building was constructed.

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.

Why isn't this called a Producer Statement in line with Question 18 onwards?

Have a single mechanism to ensure that the design experts/industry to provide certification for their design rather than multiple types.

This appears to be light on mechanisms for liability, like the Restricted Building regime and largely left to the BCAs to report bad actors.

We do however agree that a first step in strengthening the roles and responsibility outcomes would be significantly improved guidance from the central regulator.

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.

Larger group builders and construction companies use project managers and site supervisors. We would have thought that this would be a suitable option for larger projects within the Res 3 and Com 2 or 3 types of projects.

Consultation questions

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

Minimal risks attached to Options 1 and 2. And with regard to Option 3, a transparent approach ensures appropriate apportionment of responsibility and risk.

The onus is however still left to the BCAs to carry out any monitoring and enforcement, rather than the industry as a whole.

Stronger powers to hold designers to account.

High cost and complexity in carrying out enforcement. Too hard to carry out often.

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.

The industry needs to be led by appropriately experienced people who have a demonstrated competency and can be subject to censure by a professional body, much like CPEng engineers.

Levels of competency should be incorporated, much like BCAs.

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?

All compliance pathways listed on the declaration: consider removing these for the application form including Climate Change requirements.

Include experience level of designer e.g.: registration number.

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.

One declaration to reduce complexity in the application.

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

Supplied at building consent lodgement.

Consultation questions

Authors should be currently approved, designing to their competency or counter-signed by another designer with the requisite competency.

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?

Suitably experienced/qualified people.

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

Accreditation of the design fraternity.

We strongly encourage MBIE the licensing of construction companies e.g., home building companies, large commercial builders etc. If a construction company's license was introduced, this would also hold those companies responsible.

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.

We strongly believe Producer Statements should again be referenced in legislation.

Prescriptive requirements for the more engineering and professional industries that BCAs rely on as part of design and installation e.g.: CPEng engineers.

Nonprescriptive for other specialist industries where BCAs rely on producer statements e.g.: waterproofing membranes but where some degree of guidance and competence is required.

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

Producer Statements notify the BCAs that the designs carried out or work inspected by specialists who have an appropriate qualification or experience in the building codes and standards pertinent to this Producer Statement.

This provides a BCA the ability to accept on reasonable grounds, specialist design/installation without the need for a peer review for simpler installations with a PS1, PS3 and where appropriate PS4, provided the authors demonstrate appropriate experience/qualifications e.g.: CPEng # within their discipline.

Also allows the BCA to accept, on reasonable grounds a peer review and PS2 for complex design/installation (PS4) as per above.

BCAs instinctively rely of producer statements as a means of applying 'reasonable grounds' to the decisions they need to make. Most BCAs do not have specialists or experts such as engineers, to determine compliance. Having to obtain regulatory reviews from private companies, to determine compliance for specialist parts of a design, is costly and takes time.

Producer Statement authors need to be accountable to their design and by adding this to the Building Act this will add weight to this.

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

Yes No Not sure

Consultation questions

Please explain your views.

Producer Statements should only be authored by suitably experienced people. Engineering NZ will only allow CPEng engineers to use their Producer Statement template.

Specialist high risk trades such as waterproofing membrane installers or alternative solution cladding systems need to show evidence of appropriate experience or training qualifications: consider having a register of trades or high-risk applications with minimum requirements to approve authors - MBIE to manage.

Authors should be held to account with adequate provisions for prosecution.

Authors must hold suitable and adequate insurance.

A requirement for designers to supply a Producer Statement rather than having to ask for this - a mandatory requirement in all cases as there is a reluctance (for legal or insurance reasons?) for specialists to issue a Producer Statement and there are significant charges for supplying these as an 'option' currently.

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

Current experience and affiliates (e.g.: CPEng).

Possess appropriate qualifications, training and experience, as well as ongoing competency.

Insurance cover for indemnity.

Completeness of documentation e.g.: code clauses assessed, signed, and dated.

Area of expertise.

22. What other risks need to be managed?

Bad actors.

Industry needs to respond with appropriate training and upskilling to the importance of these documentations.

Authentication of Producer Statements, a system should be developed for this process.

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?

Any guidance by MBIE will assist BCAs to make the correct risk-based decisions to speed up the approval process.

BCAs will not take a lessor risk-based approach until there are significant changes to risk and liability between all players - a maximum cap on BCA liability.

The industry needs to step up in performance. We don't believe the construction industry is yet mature enough for risk-based consenting. A lift in capability and competency across both the design and construction sectors is required.

Questions about self-certification

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

Without appropriate liability weighing, will BCAs still be largely exposed even with self-certification?

Appropriate insurance to cover self-certification e.g.: 10 years after completion.

Self-certifiers need appropriate level of experience/skill. Will this require a competency model and minimum qualifications?

Consultation questions

At this time, we cannot support self-certification without fully understanding the risk and liability settings and greater detail around a proposed resume.

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.

Again, we believe the pathway to achieve this is fraught with risk, there is enough detail to fully determine at this time.

Appropriate level of experience/qualifications of certifiers.

Who carried out the audits?

Will there be insurance cover available to cover current certification and for a timeframe that covers potential failures - 10 years as per the Building Act?

What are the actions/remedies for bad actors?

Where does liability lie?

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?

Certifiers going into liquidation: where does future liability lie? Insurance cover?

Complex or bespoke construction: clarification as to the limit of any self-certified work. Will it be components of a project or full construction?

Who manages alternative solutions?

Certifiers working beyond their experience level/scope.

As they are paid by the owner, the potential pressure to 'look the other way' or get someone who will?

Questions about commercial consent

Consultation questions

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

Clarification as to what is a 'Commercial Consent' in the context of a Com 3 project. e.g.: does the installation of a toilet or hand basin in a Com 3 hospital, Com 3 work? Or is this just Com 1 because of its simple nature?

Complex Com 3 work is normally carried out by highly professional consultants, with appropriate peer reviews and constructed by large competent contractors.

By nature of the building complexity creates risk, while these builds often have highly competent and engaged project teams, risk is inherent and when/should things go wrong the costs and impacts can be significant.

However, there is the risk operators will work outside their competency levels. We see less competent consultants/contractors carrying out complex work, where they are clearly not competent to do so. This is often driven by owner expectations around budgets. There is a risk of non-compliant work and requires a lot of BCA overview.

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

Completed by the design consultants/head contractor.

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.

There needs to be a clear set of expectations for those who choose to go down the commercial consenting route. These should include, but not limited to appropriate levels of quality assurance systems, appropriately experienced/qualified staff, and appropriate insurance.

What level of construction should sit within the commercial consent? What is Com 3 work?

There is need for a lot more research and guidance before considering implement.

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

Yes Somewhat No Not sure

Please explain your views

Consultation questions

We support clear roles and responsibilities, but also support the inclusion of roles and responsibilities for all in the design build pathway including developers.

Quality Control is always going to be a risk. We would advocate a key role a 'Clerk of Works' type role. This is someone who acts on behalf of the building owner to ensure the contractual duties are performed by all parties, and any design deviations are properly agreed, documented, and adhered to.

Just focusing on Quality Assurance compliance is unlikely guarantee poor build outcomes and protect under Joint and Several Liability. BCAs must retain the ability to monitor design and build compliance before issuance of a certificate.

Clarifications as to liability between participants - BCA liability should be less.

Questions of proportion of liability between participants and appropriate insurance.

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.

The risks are extensive in terms of alignment of skill sets across commercial and BCA environments, until there is capacity within the sector. The potential could be that build activity is slowed down. For Commercial 3 type projects, there are already known capacity issues in the areas of structure, fire, and facade systems.

There needs to be a clear system which allocates responsibility and liability to enable the appropriate risk balance. The current Joint and Several Liability regime is not fit for purpose. Therefore, while we are aware Joint and Several Liability is out of the scope in this consultation, we would also advocate for a comprehensive insurance protection to end users and owners.

Criteria may also be complex and difficult to get across the line, this could slow the sector.

Does the industry want this, will there be by in?

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

Consultation questions

The original 4 consenting systems was too complex and should be repealed.

There is a lot of detailed regulations, guidance and policy required to fully appreciate the benefits and disbenefits across the industry.

We welcome further discussions around the detail and consideration of our comments made above.

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

Consultation questions

Pro-forma and guidance by MBIE to support this. Any guidance is supported. However, this should not negate necessary legislation and code changes.

A review of application and processing systems using a single technology platform is a highly desirable outcome but is likely to be too complex to be successful with so many different systems in place. Consider starting with a front-end portal as a nationwide rollout, providing support to each BCA to implement. This can then connect to existing platforms in the background but provides a consistent front end.

Remote inspection technology has not been taken up by industry during pilots - too much extra work and perceived liability. It should be a tool in the toolbox for remote applications and emergency situations, where getting BCA inspectors out on a job is difficult.

We support more centralised and affordable training. BOINZ should be supported to rollout for training opportunities for the industry including, but not limited to: competency assessments, national qualifications to support Regulation 18, chartering, and continuing professional development.

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

We note that MBIE has financially supported initiatives for consistency in the past but has not supported BCO training outside emergency management. This is a significant cost to BCAs and is challenged in a tight local government environment.

Inconsistent training provided to staff by each BCA - training needs could be centralised through BOINZ.

Smaller BCAs also struggle to resource, proposed changes need to be affordable.

We again question whether the industry is ready for this?

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

Technology is a significant enabler but currently holds BCAs back due to prioritisation in the local government environment. A consistent platform would underpin BCA operations and deliver cost efficiencies while reducing risks but importantly allow the sector to quickly respond to market change and needs. MBIE support in this space would effectively contribute to greater collaboration and better outcomes and reporting and monitoring for MBIE. This in turn would improve customer interface and satisfaction in the system.

We would also encourage MBIE to do more to enable the sharing of resources, capability, and capacity. This would add significant efficiencies, limit uneconomic use of resources, and deliver efficient compliance outcomes where risk is appropriately managed.

Questions about boosting capacity and capability

Consultation questions

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

Centres of excellence should be regionally based. Consider the Metros to be the centres of excellence in the regions as they will have the staff resources and capability to carry out the highest complex projects and can support the smaller BCAs in their region.

Reduce the accreditation requirements for smaller BCAs with the centres of excellence picking up the small number of complex projects in these regions.

Shared services are supported, as mentioned above, MBIE investment in this space would help unlock opportunities.

It is challenging to delegate workflows and services, as mentioned above, support in the technology space would enable this.

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

Smaller BCAs struggle to resource and the more complex accreditation requirements are onerous.

MBIE funding the BCA accreditation resume and centralised training.

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

As already mentioned above, we believe the biggest enablers centre around standardised technology and reporting, enabling/incentivising BCA collaboration and centralised training, competency/licencing.

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?

There are numerous barriers. Territorial authorities set fees in slightly different ways due to different drivers, some political and some commercial. Most councils have a split between user pays supplemented by rates funding. We support an ability for voluntary consolidation, but obstacles traditionally have been with the Local Government Act, political drivers and risk and liability.

Other barriers include:

- Differences in technology platforms.
- Regionalisation between Councils and difficulties in amalgamations as demonstrated in the past attempts.
- BCAs have to carry Council overheads and have little control over this.
- BCAs sit within each Councils umbrella. This means that they are under the control of the elected members - they have little control over their direction.
- BCAs are a separation entity, administering national legislation, and there should be more autonomy to manage budgeting/financial management and set fees etc.
- Transfer of powers: who is liable?

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

We support all the options above. Careful consideration needs to be given to barriers and risks, and change needs to be managed in a measured and deliberate way.

Consultation questions

A national body should be considered for Crown agencies only e.g.: Ministry of Education etc where there are large nationwide building portfolios.

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

Legislation changes.

Insurance.

Liability.

Whole of Council costs included in fees.

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

The need for smaller and under resourced BCAs to contract building consent work out is only increasing. This should be encouraged, supported, and underpinned by legislative change.

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, as long as MBIE act proactively to manage bad actors in the industry, communicate with the industry and support all players.

Currently MBIE is seen as being a bit 'hands off' when there are issues in the industry. It is often left to BCAs to manage crisis, such as the current engineering concerns.

44. What initiatives should be prioritised and why?

- Proactively responding to the issues, risks and opportunities identified.
- Ensuring that quality information, education and guidance is provided to the sector.

These are areas the sector is currently struggling and would support the industry for future change.

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

A great outcome for the sector would be more flexible use of the building levy to benefit initiatives, training, and technology. This would obviously need to be for the wider benefit of the sector and be reportable.

Consultation questions

Closer relationships between MBIE and BCAs, key contacts, relationship management etc. There seems to be a lot of staff change across MBIE and the teams who interact with BCA staff. It would be nice to be kept up to date as this also impacts on the consistency of service.

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.

Te Tiriti o Waitangi is our founding document and thus needs to be acknowledged and supported. This is a good response to address equity issues for the first nations people.

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

All options are positive, but the centre of excellence is a good way to lift aspirations and get Māori, Iwi, and companies to lead the charge for traditional and new building techniques and projects.

Creating a Centre of Excellence for Māori would help provide guidance and advice for Māori-led projects. We believe it is important that such a facility allows for two-way education pathways, where both MBIE and the BCAs (the regulators) and client/client representative have a better understanding of each other’s desires and perspectives.

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

Consultation questions

The biggest risk is getting buy in by Māori into any process that is established by Government. That is why these options need to be developed by Māori, led, and run by Māori. This should result in a greater buy-in.

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

As per question 48, there are already examples of where Marae have implemented information sessions with local government representatives, to educate their tribal members on such processes such as resource consents, building consents and the like. These roadshows were organised by Marae leaders for their people and were considered successful. Refer: Te Whanau A Apanui: Pahaoa Marae.

We would further add that a national resource would link building and resource consent issues ensuring cultural consistency across ministries.

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?

Refer Question 48 - We can't answer this. This needs to be developed by Maori.

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

Refer Question 48 - We can't answer this. This needs to be developed by Maori.

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?

We would encourage a review of the consistency of natural hazards. We would also note the definitions of natural hazards are different across various legislation.

The Building Act and Resource Management Act have been developed independently; and hence they don't integrate well. Greater integration of the regulatory frameworks that deals with building and resource consent overlaps is recommended.

The use if the PIM is a quick and inexpensive option to be considered. We would support making the PIM compulsory for certain types of projects, such as new buildings and where there are increases in onsite footage which may impact on land use. The compulsion should include a requirement that building consents cannot be accepted for lodgement until the PIM has been issued.

General comments

53. Do you have any other comments?