



COVERSHEET

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| Minister | Hon Dr Megan Woods | Portfolio | Building and Construction |
| Title of Cabinet paper | Building Consent System Review: Release of Options Paper | Date to be published | 27 July 2023 |

| List of documents that have been proactively released | | |
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| Date | Title | Author |
| May 2023 | Building Consent System Review: Release of Options Paper | Office of Minister for Building and Construction |
| 31 May 2023 | Building Consent System Review: Release of Options Paper DEV-23-MIN-0090 Minute | Cabinet Office |

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of confidential advice to Government.

In Confidence

Office of the Minister for Building and Construction
Cabinet Economic Development Committee

Building Consent System Review: Release of Options Paper

Proposal

- 1 This paper seeks agreement to release:
 - 1.1 the *Building Consent System Review: Options Paper* for public consultation, to test possible high-level options to reform the building consent system; and
 - 1.2 the final version of the policy position statement *Risk, Liability and Insurance in the Building Sector*, to provide clarity on the Government's position on the risk, liability and insurance settings for the building and construction industry.

Relation to government priorities

- 2 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.
- 3 The building consent system review was identified as a commitment in the Labour 2020 Election Manifesto.

Executive Summary

- 4 A review of the building consent system is currently underway. The review aims to modernise the system to provide assurance to building owners and users that building work will be done right the first time. This ensures that buildings are well-made, healthy, durable and safe.
- 5 In July 2022, the Ministry of Business, Innovation and Employment (MBIE) released the issues discussion document *Review of the Building Consent System* for public consultation. This document aimed to build a shared understanding of system-wide issues as a basis for system-wide change. MBIE subsequently prepared a summary of submissions, which was publicly released on the MBIE website in December 2022.¹
- 6 MBIE has since developed a range of high-level options, approaches and pathways to reform and improve the building consent system.
- 7 I seek agreement to publicly consult on these options in the *Building Consent System Review: Options Paper*. The options paper provides a 'menu' of high-

¹ <https://www.mbie.govt.nz/dmsdocument/25836-building-consent-system-review-summary-of-submissions>

level options and outlines their respective benefits, costs and risks. The options paper indicates preferred options where policy work is sufficiently advanced: these options could be prioritised for system change. The options paper also identified options to address some of the recommendations from the Commerce Commission's market study into residential building supplies. Feedback from submitters will inform decisions on a preferred package of options for system change, and the detailed design of those options.

- 8 I seek agreement to release the options paper on or shortly after 7 June 2023. Public consultation will occur for a minimum of eight weeks.
- 9 I also seek agreement to release the final policy position statement *Risk, Liability and Insurance in the Building Sector* at the same time. This document provides clarity on the Government's position on the risk, liability and insurance settings for the building and construction industry and provides important context for the options paper.
- 10 I intend to report back to Cabinet in Confidential advice to Government with findings from public consultation and a proposed approach for the next phase of the review (development of preferred options for system change).

Background

- 11 The purpose of the building consent system is to provide assurance that buildings comply with the minimum performance requirements under the Building Code.
- 12 The Government's pre-election manifesto committed to delivering a better building consent system to ensure that New Zealanders have access to secure, healthy and affordable housing.
- 13 A review of the building consent system is currently underway. The aim of the review is to modernise the system to provide assurance to building owners and users that building work will be done right the first time. This ensures that buildings are well-made, healthy, durable and safe. This review supports the Government's Economic Plan, in particular, the shift to transform our housing market to unlock productivity growth and make houses more affordable.
- 14 This review is timely for two reasons:
 - 14.1 building consent authorities have recently been under significant pressure to cope with substantial growth in consent numbers and the increasing complexity and diversity of building types
 - 14.2 Government initiatives aimed at increasing the supply of affordable housing and speeding up the scale and pace of building and construction are placing additional pressures on the current system.

Stakeholder feedback on the issues discussion document *Review of the Building Consent System*

- 15 In July 2022, I released an issues discussion document *Review of the Building Consent System* for public consultation. The issues discussion document sought feedback on the key issues and desirable outcomes for the current building consent system.
- 16 Public consultation took place between 21 July and 4 September 2022. A total of 264 submissions were received from a wide range of participants across the sector, including building consent authorities, building control officers and contractors, industry organisations, builders, engineers, architects, tradespeople and homeowners.
- 17 On balance, most submitters broadly agreed that the current building consent system is not fundamentally broken. However, there are several aspects that are inefficient and frustrating, and there are opportunities for improvement.
- 18 MBIE released a summary of the submissions received in December 2022. The key themes that emerged from the submissions are outlined below.

Feedback on the four proposed desirable outcomes for the building consent system

- 19 The issues discussion document identified four critical outcomes that the building consent system should seek to achieve: efficiency; clear roles and responsibilities; continuous improvement; and clear regulatory requirements and robust decisions. A majority of submitters agreed that these four outcomes are necessary to ensure the system provides high levels of assurance that buildings are healthy, safe and durable.
- 20 Most submitters rated the current system's performance against the four outcomes as poor or fair. The key reasons related to delays with processing and booking inspections; the number of requests for information; and inconsistencies with interpretations, processes and systems.

Feedback on issues with the current system

- 21 There were wide-ranging views on the issues identified as constraining the ability of the building consent system to achieve the desirable outcomes. In some cases, there was also disagreement on their underlying causes. However, consistent and dominant themes included:
 - 21.1 building consent authorities hold too much responsibility and other parts of the sector should be encouraged to take on more responsibility
 - 21.2 there are weak incentives for the sector to get design and building work 'right the first time'
 - 21.3 roles and responsibilities across the building system are not well understood

- 21.4 capacity and capability constraints within the sector and building consent authorities are affecting the performance of the consent system and building outcomes
 - 21.5 rigidity in the building consent system is stifling innovation
 - 21.6 having one consent process for all building types is causing frustration for the sector and building consent authorities
 - 21.7 differences in application requirements, processes, systems and interpretation, both between and within building consent authorities, creates confusion, frustration and uncertainty for owners, designers and builders
 - 21.8 system monitoring is too focused on detailed auditing of building consent authorities rather than monitoring the performance of system outcomes.
- 22 There was less agreement on other issues. For example, while few submitters thought there were sufficient incentives to get work 'right the first time', only 14 submitters thought there was a culture where practitioners were relying on building consent authorities for quality assurance. Others commented on confusion about what getting work 'right the first time' looks like.
- 23 Overall, submissions on the issues discussion document indicated that there were unnecessary costs in the system, which directly and indirectly impacted on the cost of building. This included delays and duplication of work, inconsistent processes and decision-making, poor incentives and accountability to get building work done right the first time. The cumulative effect of these inefficiencies means build costs are more than they need to be. The options contained in the options paper aim to address these issues, both directly and indirectly.

Proposal for public consultation on options to reform the building consent system

- 24 Public consultation in 2022 has allowed officials to develop a range of options to reform the building consent system.
- 25 I propose to release a further discussion document *Building Consent System Review: Options Paper* for public consultation, on or soon after 7 June 2023, for a period of eight weeks.
- 26 I also seek authorisation to approve the final release date of the options paper, and to make minor and technical changes to the options paper and any supporting documents before release.
- 27 The purpose of this consultation is to inform and refine options to improve the building consent system, in order to determine a set of policy proposals for system change, and the detailed design of those options.

- 28 Public consultation will target all participants of the building consent system, including consumers, building product manufacturers, building consent authorities, peak bodies, building professionals, building owners and building product users.
- 29 Following consultation, MBIE will analyse the submissions received and propose an approach for the next phase of the review (development of policy proposals for system change). Depending on feedback and the outcome of this analysis, this may involve progressing with the preferred options identified in this paper, and undertaking further consultation on the more complex policy options, which require additional input on the detailed design.
- 30 The development of the options paper, as well as the options and approaches it considers, are set out in the next section.

Development of the *Building Consent System Review: Options Paper*

- 31 The options paper considers and seeks to test possible high-level options to reform the building consent system. For areas of reform where policy work is sufficiently advanced, preferred options have been indicated. However, this does not preclude the consideration of other options; all options are on the table.
- 32 The options paper seeks in-depth feedback from the wider sector on all the options that have been identified and their respective benefits, risks, costs and disadvantages. It also invites suggestions of other options that should be considered in this review. Feedback will inform decisions on a preferred package of options for system change, and the detailed design of those options.
- 33 The options paper draws on insights from submissions on the issues discussion document, as well as evaluation and research undertaken on sector trends, how work is done in international jurisdictions, and findings from previous reviews of the building regulatory system.
- 34 MBIE also undertook informal engagements with key stakeholders (including the Building Consent System Review Sector Reference Group, local government, peak bodies, industry organisations and Māori in the workforce) to further refine and shape the high-level options being considered in the options paper.
- 35 The options contained in the options paper, as a whole, aim to make the building consent system more efficient and to ensure that compliance costs are proportionate. This contributes to the goals of greater productivity and housing affordability.
- 36 Overall, any improvements to the building consent system that increase efficiency and remove time delays could improve affordability. A system that provides greater certainty as to what can be built, and how consent applications will be treated by building consent authorities, will result in fewer

delays, improved productivity and reduced holding costs for developers and builders. This can all have positive impacts on housing affordability.

- 37 The options paper is attached at Appendix 1 and covers options under the following areas of reform:
- 37.1 **strengthening roles and responsibilities**: clarifying who does what and closing any gaps with new roles or responsibilities
 - 37.2 **new pathways for providing assurance**: considering options for alternative ways to provide assurance (eg self-certification)
 - 37.3 **better delivery of building consent services**: improving consistency and increasing efficiency within the service delivery aspects of the building consent system
 - 37.4 **better performance monitoring and system stewardship**: strengthening MBIE's oversight of the system and improving performance monitoring
 - 37.5 **better responding to the needs and aspirations of Māori**: ensuring the system incorporates Māori perspectives and sufficiently responds to Māori needs and aspirations
 - 37.6 **addressing the interface between the building and resource consent processes**: considering overlaps with the resource management system.
- 38 The key options and approaches outlined in the options paper are summarised as follows.

Strengthening roles and responsibilities

- 39 Roles and responsibilities across the building consent system are not well understood. Submissions on the issues discussion document indicated building consent authorities hold too much responsibility for providing assurance of compliance with the Building Code, and there are weak incentives on other system participants to get building work 'right the first time'. Submissions also indicated that project management on-site can lack cohesion, with no one person responsible for the sequencing and coordination of the work.
- 40 The options paper outlines the following options to address these issues:
- 40.1 requiring declarations of design compliance to strengthen responsibilities of designers and improve confidence in design work (preferred)
 - 40.2 clarifying the use of producer statements to develop a clear, consistent and coherent approach to the status of these statements (preferred)

- 40.3 creating responsibilities for on-site coordination and sequencing of building work to address the lack of cohesion in project management on-site
- 40.4 publishing guidance to improve system participants' understanding of their roles and responsibilities (preferred).

New pathways for providing assurance

- 41 Submitters on the issues discussion document supported some shift of assurance from building consent authorities to other participants who have the requisite expertise and are well-placed to manage risk.
- 42 The options paper proposes two new assurance pathways (which are both preferred options) that shift accountability from building consent authorities to elsewhere in the sector where risk can be appropriately managed:
 - 42.1 Self-certification: Allowing accredited companies (such as group home builders that build significant volumes of homes based on templates) or approved professionals (such as qualified tradespeople) to self-certify building work so that building consent authorities do not need to review plans and/or inspect work.
 - 42.2 Commercial consent: Basing the consent on a project-specific risk profile and quality assurance process agreed by the applicant and the building consent authority. The building consent authority would audit the quality assurance process to ensure it is being followed.

Repealing the risk-based consenting regime under the Building Amendment Act 2012

- 43 The *Building Amendment Act 2012* contains a 'risk-based consenting' regime alongside other improvements to the building consent system. This introduced three new consents (low-risk, simple residential and commercial) to sit alongside the standard consent process.
- 44 The risk-based consenting regime has sat on the statute book without being brought into force. This is because of the following reasons:
 - 44.1 The then Government set a range of pre-conditions that had to be met in order for the risk-based consenting provisions to come into force, including greater awareness of the Building Code, competent building practitioners, enhanced consumer protection measures, and an effective monitoring regime. Not all pre-conditions have been sufficiently met.
 - 44.2 There were concerns about workforce capability, whether the new consents appropriately manage risk, and whether the regime's benefits would outweigh its compliance costs.
- 45 The sector and the *Building Act 2004* have evolved significantly since 2012. The proposed new assurance pathways address the same issues of system flexibility and risk calibration that the 2012 risk-based consenting provisions

were intended to fix. The options paper therefore proposes that the 2012 risk-based consenting provisions should be repealed.

Better delivery of building consent services

46 The processing of building consent applications is devolved to territorial authorities. This leads to variability and unpredictability in the building consent process and its outcomes. Public consultation indicated that stakeholders would like greater consistency across the country to promote economies of scale and reduce duplication and cost.

47 Confidential advice to Government



48 I believe that a similar level of benefit can be achieved, and the desirable outcomes met, through a range of other voluntary initiatives that will be less disruptive. Moreover, excluding options for more substantive reform to the current delivery model does not prevent such initiatives from taking place in the future. The Government could still consider options for mandatory reform of the current building consent delivery model if the options identified in the options paper are found to be insufficient, or there is strong demand for more substantive reform.

49 Taking this into account, the options paper considers options to address inconsistency across the building consent system and capacity and capability issues, under the following broad themes:

49.1 providing greater national direction and consistency within the current structure to increase predictability and transparency for applicants across the country

- 49.2 boosting capacity and capability across building consent authorities and building greater collective capability across the country
 - 49.3 supporting building consent authorities to achieve economies of scale by reducing duplication and costs for individual building consent authorities.
- 50 The options in this section are not set out as a package, nor are they mutually exclusive. Through the proposed consultation process, feedback will be sought on which options stakeholders think would best support the efficient and effective operation of the building consent system, with a focus on improving consistency and alleviating capability and capacity constraints.

Better performance monitoring and system stewardship

- 51 Public consultation indicated that current monitoring via accreditation audits is too narrowly focused on building consent authority processes, and that more comprehensive monitoring is required to identify issues.
- 52 Feedback also indicated that MBIE, as central building regulator, could engage more proactively with the sector to better understand problem areas and trends. Information gathered through a more proactive approach could be used to develop improved guidance and information to support consistency across the system.
- 53 The options paper acknowledges that MBIE needs to take a more proactive role as central regulator and steward. It outlines the following key areas that need to be strengthened:
- 53.1 Developing better systems to collect information that will help to identify key issues, risks and opportunities, and how well the building consent system is delivering on its desired outcomes.
 - 53.2 Proactively responding to the issues, risks and opportunities identified. This includes using the full range of tools we have available to ensure that regulation is kept up-to-date and the building consent system remains fit for purpose.
 - 53.3 Ensuring that quality information, education and guidance is provided to the sector. While MBIE has made recent improvements in this area, it will continue to identify information needs, and improve the timeliness and accessibility of information.
- 54 All of the above stewardship functions are important. As such, the options paper does not present these functions as options, and instead seeks feedback on how MBIE should fulfil and strengthen its role as steward, and any additional areas it should focus on.

Better responding to the needs and aspirations of Māori

- 55 Public consultation and targeted engagement with Māori in the sector indicated that most of the challenges that Māori face are in the earlier stages of the wider building process, particularly the financing and planning stages. Despite this, Māori also face challenges in the building consent system.
- 56 The challenges that Māori face in the building consent system have been identified as deriving from two key issues:
- 56.1 Relationship issues: Māori can find it difficult communicating with building consent authorities, as well as working with numerous different agencies to develop their land. There is an ongoing process of building relationships and trust between Māori and councils.
- 56.2 Capacity and capability issues: There is a need to improve building consent authorities' understanding of Māori culture and practices. There is also a need to improve the capacity and capability of Māori in the workforce, as some are unsure of how to navigate the building consent process.
- 57 The options paper sets out the following options to address these two key issues:
- 57.1 creating a navigator role within building consent authorities to guide Māori through the building consent process and facilitate better relationships between Māori and building consent authorities
- 57.2 establishing a centre of excellence for Māori-led building projects to lift the capacity and capability of building consent authorities
- 57.3 publishing MBIE guidance on topics such as Māori engagement for building consent authorities, to lift the capacity and capability of building consent authorities.

Improving the interface between the building and resource consent processes

- 58 Many building projects are subject to a building consent under the *Building Act 2004* and a resource consent under the *Resource Management Act 1991*. 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. Concerns have been raised that where projects require both building and resource consents, applicants face two processes that may address similar matters, leading to duplication and additional costs.
- 59 The options paper outlines the reforms occurring in the resource management space that will reduce the occurrence of unnecessary overlaps between the two consent processes. Additionally, it considers other reforms that may impact the interface between the two consent processes, such as the Affordable Water Reforms and the Review into the Future for Local Government.

- 60 The options paper recommends better promotion of the use of project information memorandums to help consent applicants navigate the two consent processes.

Alignment with the Commerce Commission’s market study

- 61 On 6 December 2022, the Commerce Commission published its final report on the market study into residential building supplies. The Commerce Commission concluded that competition is not working as well as it could be and considered that it should be easier for building products to be introduced and for competing suppliers to expand their businesses.

- 62 The Government response to the market study noted that the review of the building consent system will help address some of the issues that the Commerce Commission has identified and will consider some of the Commerce Commission’s final recommendations.

- 63 Where relevant, the options paper indicates which of the high-level options being considered to reform the building consent system align with findings and recommendations from the Commerce Commission’s market study into residential building supplies.

- 64 The options paper also specifically considers options to address the following recommendations from the Commerce Commission’s market study:

64.1 **recommendation one:** introducing competition as an objective to be promoted in the building regulatory system

64.2 **recommendation four:** removing impediments to product substitution and variations.

- 65 The details of these options are summarised as follows.

Recommendation one: introducing competition as an objective to be promoted in the building regulatory system

- 66 The Commerce Commission recommended promoting competition as another objective of the building regulatory system, to be evaluated alongside safety, health and durability.

- 67 To address the Commerce Commission’s recommendation, the options paper considers the following options to promote and give more prominence to competition in the building regulatory system:

67.1 including competition as a purpose under the *Building Act 2004*

67.2 including competition as a principle to be applied in performing functions or duties, or exercising powers, under the *Building Act 2004* (preferred)

67.3 including competition as a procedural requirement for acceptable solutions, verification methods, warnings and bans

- 67.4 MBIE issuing guidance to territorial authorities on promoting competition in the building regulatory system and decision-making (preferred)
 - 67.5 incorporating and promoting competition into MBIE's regulatory stewardship framework for the building regulatory system.
- 68 These above options are not mutually exclusive, and it may be appropriate to progress a combination of the options following consultation.

Recommendation four: removing impediments to product substitution and variations

- 69 The Commerce Commission considered that making product substitution easier would promote competition by allowing more changes to building products after a building consent had been granted.
- 70 The Commerce Commission recommended:
- 70.1 exploring ways to reduce specification by brand
 - 70.2 increasing flexibility in the MultiProof scheme.

Reducing specification by brand: Product substitution and variations to consents

- 71 Building products are often specified by brand in applications for building consents. Once a building consent has been granted, there is a process for 'minor variations' that does not require a formal amendment to a building consent.
- 72 To address the Commerce Commission's recommendations, the options paper proposes the following package of preferred options to reduce brand specification in building consent applications, and to make it easier to substitute products after a building consent has been granted:
- 72.1 monitoring and, if warranted, updating or adding to MBIE guidance on product substitution and the building consent process
 - 72.2 modifying building consent forms under the *Building (Forms) Regulations 2004* to include suitable alternative brands/product options
 - 72.3 modifying the definition of a 'minor variation' under the *Building (Minor Variations) Regulations 2009* to codify aspects of MBIE's product substitution guidance.

Increasing flexibility in the MultiProof scheme

- 73 A MultiProof is a statement by MBIE that a set of plans and specifications for a building complies with the Building Code. Building consent authorities must accept a MultiProof certificate as evidence of compliance with the Building Code if the conditions in the MultiProof certificate are met.

- 74 In its guidance, MBIE already encourages applicants to include in their MultiProof application any alternative products they may wish to use. These alternatives are permitted variations.
- 75 To support increased flexibility in the MultiProof scheme, the options paper proposes the following package of preferred options:
- 75.1 MBIE issuing updated guidance and education on the MultiProof scheme
 - 75.2 making new regulations to define a ‘minor customisation’ to a MultiProof that can be made prior to a building consent application.

Final policy position statement on *Risk, Liability and Insurance in the Building Sector*

- 76 The initial policy position statement on *Risk, Liability and Insurance in the Building Sector* was released alongside the issues discussion document in July 2022. This provided clarity on the Government’s position on the risk, liability and insurance settings for the building and construction industry, and helped stakeholders to contextualise their feedback on the future direction of the building consent system.
- 77 While formal submissions on the initial policy position statement were not sought, MBIE welcomed feedback from interested stakeholders to help inform further thinking on the building consent system review. Cabinet agreed to see the policy position statement again in order to finalise it for publication.
- 78 Many submitters on the issues discussion document considered that risk, liability and insurance issues should still be addressed as part of the building consent system review. The key issue raised by these submitters was the need to shift away from the current joint and several liability rule for allocating liability for damages in civil matters to a proportionate liability rule.² This feedback has been considered and reflected in the updated and final policy position statement (attached as Appendix 2).
- 79 There are no substantive changes to the final policy position statement. My position on the risk, liability and insurance settings for the building and construction industry remains unchanged. This is because I consider that good risk management focuses on ensuring that the inputs into the building process are high quality, rather than focusing on liability when things go wrong. Ensuring that all of the inputs into the building process are sound will reduce the risk of building failure and claims over time.

Financial Implications

- 80 There are no financial implications from the proposal to release and consult on the options paper.

² Under the proportionate liability rule, defendants are liable only for the proportion of the loss or damage that a court determines is just, taking into account each defendant’s relative level of fault or comparative responsibility.

81 The extent of future financial implications will be assessed as part of the development of the final package of policy proposals following public consultation on the options paper.

82 Confidential advice to Government

83 For other areas where no preferred options are indicated, further policy work and consultation would be required before assessing the extent of any financial implications.

Legislative Implications

84 There are no legislative implications from the proposal to release and consult on the options paper.

85 Following the outcome of public consultation on the options paper, changes to the amendments to the *Building Act 2004* and its associated regulations may be required when policy decisions are sought.

Impact Analysis

Regulatory Impact Statement

86 The Treasury's Regulatory Impact Analysis team has determined that the proposal to release this options paper is exempt from the requirement to provide a Regulatory Impact Statement (RIS). The exemption is based on advice that the options paper includes the key features of an interim RIS.

87 MBIE's Quality Assurance panel has reviewed the options paper and confirms that it substitutes as an interim RIS. The options paper is likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to inform subsequent decisions.

Climate Implications of Policy Assessment

88 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

89 Confidential advice to Government

90 Confidential advice to Government

Human Rights

- 91 The proposals in this paper have no implications under the *New Zealand Bill of Rights Act 1990* or the *Human Rights Act 1993*. There are no gender or disability implications arising from this paper.

Consultation

- 92 MBIE consulted with the following government agencies on the draft Cabinet paper and the draft options paper: Department of the Prime Minister and Cabinet; the Treasury; Ministry of Justice; Ministry of Housing and Urban Development; Kāinga Ora; Ministry for the Environment; Ministry of Social Development; Ministry of Education; Ministry of Health; Ministry of Defence; Ministry of Transport; Manatū Taonga Ministry for Culture and Heritage; Te Puni Kōkiri; Department of Internal Affairs; Department of Corrections; Ministry for Pacific Peoples; Commerce Commission; Ministry for Primary Industries; Department of Conservation; and Statistics New Zealand.
- 93 The options paper has been informed by MBIE's consultation with stakeholders across the building and construction sector, including building consent authorities, industry bodies and tradespeople. MBIE has also engaged with the Building Consent Review Sector Reference Group; building consent authority cluster groups; sector organisations such as Registered Master Builders, Master Plumbers and Engineering New Zealand; and Māori in the sector workforce.

Communications

- 94 I will issue a press release to accompany the release of the options paper. The options paper and the final policy position statement will be made publicly available on MBIE's website.

Proactive Release

- 95 I propose to release this Cabinet paper and associated Cabinet Minute in full.

Recommendations

The Minister for Building and Construction recommends that the Committee:

- 1 **note** that following public consultation on the issues discussion document in 2022, MBIE has developed a set of potential options for system change;
- 2 **agree** to the release of the attached *Building Consent System Review: Options Paper* for public consultation;

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- 3 **note** that as part of the Government response to the Commerce Commission's market study on residential building supplies, the review of the building consent system will consider options to take forward some of the Commerce Commission's recommendations;
- 4 **agree** to release the final policy position statement *Risk, Liability and Insurance in the Building Sector* at the same time as the options paper, to clarify the Government's position on the risk, liability and insurance settings for the building and construction industry;
- 5 **authorise** the Minister for Building and Construction to make minor and technical amendments and editorial changes to the options paper and supporting documents before they are released;
- 6 **note** that the Minister for Building and Construction intends to release the options paper on or soon after 7 June 2023, and will issue a press release;
- 7 **direct** MBIE, in consultation with the Ministry of Housing and Urban Development and the Treasury, to analyse how options for reforming the system can improve productivity and affordability;
- 8 **note** that the Minister for Building and Construction intends to report back to Cabinet in ^{Confidential} _{advice to} _{Government} with outcomes from the consultation and policy proposals to reform the building consent system, some of which may require further consultation;
- 9 **agree** to proactively release this Cabinet paper and associated minute within 30 business days of the Cabinet decision.

Authorised for lodgement

Hon Dr Megan Woods

Minister for Building and Construction

Appendices

Appendix 1: *Building Consent System Review: Options Paper*

Appendix 2: *Risk, Liability and Insurance in the Building Sector: Policy Position Statement*