

**BUILDING
PERFORMANCE**

Review of the Building Consent System

Options Discussion Document
Summary of Submissions

FEBRUARY 2024





**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Ministry of Business, Innovation and Employment (MBIE) Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

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Introduction

MBIE is conducting a review of the building consent system to address long standing issues impacting the consenting process. 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, thereby ensuring that buildings are well-made, healthy, durable, and safe. The review also supports the Government's goals to create a streamlined building consent system, and support innovation in the building and construction sector.

In addition, the review responds to two of the Commerce Commission's recommendations from its market study into residential building supplies – to promote competition as an objective of the building regulatory and to remove impediments to product substitution and variations.

The way in which we design and build is changing – previously new homes were mainly detached, single storey dwellings but there has been a significant shift to building multi-story units including townhouses and apartments. Design, procurement and building processes have also changed because of this. Building and housing types have become increasingly diverse, and the relevant building and construction trades have become more specialised. This demand for different types of buildings has increased to address demographic changes and pressures on housing affordability. In addition, increasing demand for faster consenting also creates a tension with the need for robust assurance systems to prevent building defects.

Consultation has been conducted in two phases. An issues discussion document, published in 2022 and options discussion document released in June 2023. The building consent review issues paper in 2022 found there were unnecessary costs in the system that directly and indirectly impact on the cost of building. This included delays and duplication of work, inconsistent processes and decision-making, limited accountability, and poor incentives to get building work right first time. The cumulative effect of these inefficiencies means build costs are more than they need to be.

This review aims to address these issues, both directly and indirectly through identifying ways to streamline consenting and reduce costs.

Following the release of an issues discussion document on July 2022, MBIE released an options discussion document for public consultation in June 2023. The high-level options were developed in response to the feedback received from the building sector on the issues paper, as well as evaluation and research on sector trends, how building work is regulated in other jurisdictions, and findings from previous reviews of the building regulatory system.

MBIE identified some preferred options or packages of options that could be prioritised, but others may require further policy design and consultation. The options paper sought feedback on these options, and other suggestions, to help inform the detailed design phase of the building consent review, including the benefits and costs.

This document summarises the submissions made on the options paper. All documents related to the previous issues discussion document are available at: <https://www.mbie.govt.nz/have-your-say/building-consent-system-review/>.

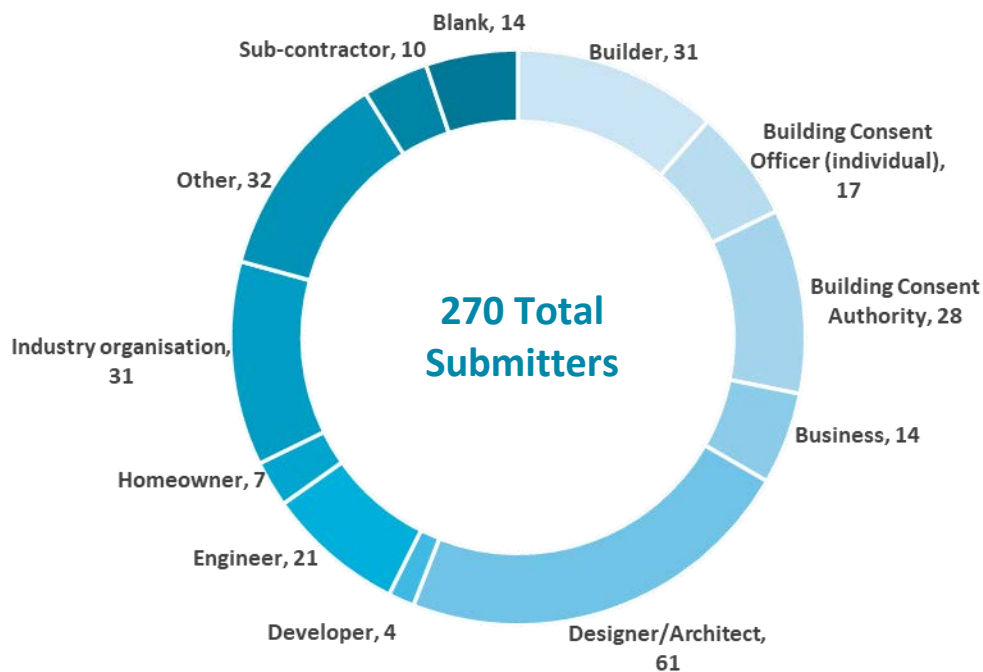
FEEDBACK WAS RECEIVED FROM A WIDE RANGE OF STAKEHOLDERS

Public consultation began on 22 June 2023, with submissions open for just over eight weeks until 21 August 2023. A total of 53 questions were asked in the options paper.

To promote opportunities for feedback, MBIE released a media statement and emailed stakeholders who may have had an interest in the review of the building consent system. In addition, MBIE ran a publicity campaign and advertised the consultation on social media and the radio.

A total of 270 submissions were received from a range of stakeholders, with good representation across the building and construction sector. Figure 1 summarises the submissions received by stakeholder category (Annex 1 provides a full list of submitters).

Figure 1: Submitters by sub-sector



Twenty-eight BCAs submitted, including 25 of the 67 building consent authorities and building consent authority cluster group. Additionally, 17 submissions were received from individual building control officers. Thirty-one industry organisations made submissions, representing a range of stakeholders across the building and construction sector including plumbers, gasfitters, and drainlayers; roofing, flooring, and frame manufacturers; and local government. 7 submissions were made by homeowners. Excluding “Other”, designers and architects comprised the largest group of submitters (61), followed by industry organisations (31), builders (31), and engineers (21).

Key themes from submissions — What does the sector support?

There was:

- a good response to the options discussion document with 270 submissions received from a broad range and representation of stakeholders from the building and construction sector and broader public
- weak support for statutory change to promote and give prominence to competition in the building regulatory system, but strong support for non-regulatory approaches
- strong support for removing impediments to product substitution and variation, but also an acknowledgement of the need to carefully consider the performance of a product when substituting
- general agreement that the roles and responsibilities of participants in the building sector need to be strengthened and made clearer, particularly for designers
- strong support for clarifying the role and legal status of producer statements
- broad in-principle support to establish a self-certification pathway for approved professionals and accredited companies, and a new commercial consent pathway, but concerns about the readiness of the sector to take on the additional responsibilities and accountabilities
- general agreement that the performance of the building consent system could be improved and made more efficient and streamlined. Specifically, there was strong support for improving consistency of consent services at a national level, particularly through nationally consistent processes and requirements and centralised training for building control officers.
- strong support for boosting capability and capacity across the building consent system through more coordination and joined-up service delivery, including through shared workflows or service arrangements and a centralised resource of expertise
- broad agreement that MBIE needs to improve its oversight and stewardship functions, and better drive improvements in the performance of the regulatory system through more collaboration, better monitoring and being more responsiveness to issues and risks
- mixed views on whether Māori face additional barriers across the wider building process and the intent of the options for the building consent system to be more responsive to Māori needs and aspirations; namely capacity, capability, and relationship issues.

Chapter 2: Promoting competition in the building regulatory system

Giving competition a more prominent position in the building regulatory system and its decision-making supports the policy objective of safe, healthy and durable buildings.

The Commerce Commission’s market study into residential building supplies found that competition for the supply and acquisition of key building supplies is not working as well as it could. The Commission recommended that competition be given more prominence in the building regulatory system and its decision-making, and that promoting competition be included as another objective of the building regulatory system, to be evaluated alongside building safety, health, and durability.

The options paper identified five options to give effect to the Commerce Commission recommendation and identified MBIE’s preferred approach as options 2 and 4:

- including competition as a purpose in the Building Act (option 1)
- include competition as a principle to be applied in performing functions or duties, or exercising powers, under the Building Act (option 2)
- include competition as a procedural requirement for acceptable solutions, verification methods, warnings, and bans (option 3)
- MBIE issuing guidance to territorial authorities on promoting competition in the building regulatory system and its decision-making (option 4)
- incorporate the promotion of competition into MBIE’s regulatory stewardship framework for the building system (option 5).

Submitters were asked if they agreed with MBIE’s preferred approach. There were 169 responses to this question, including 21 BCAs.

Only 34 per cent of submitters supported MBIE’s preferred options and 20 per cent somewhat agreed. Five per cent were not sure. Forty-one per cent of submitters did not support MBIEs preferred approach.

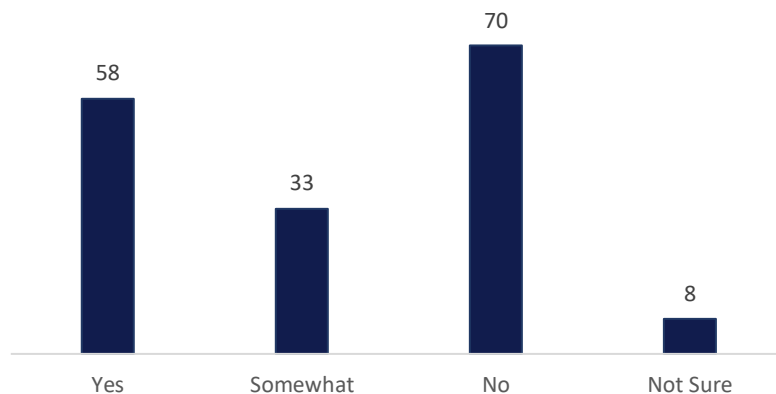


Figure 2: Do you agree with MBIE’s preferred approach to progress options 2 (introduce competition as a regulatory principle) and 4 (issue guidance on promoting competition) as a package?

Some submitters supportive of MBIE's preferred approach considered that incorporating a competition principle struck the right balance of giving prominence to competition in the building regulatory system while, at the same time, not undermining the overriding objective of the building regulatory system to ensure buildings are safe, durable and healthy.

There was strong support for non-regulatory options, including issuing MBIE guidance to territorial authorities on promoting competition (option 4) and incorporating the promotion of competition into MBIE's regulatory stewardship framework for the building system (option 5).

The main concerns of submitters opposed to MBIE's preferred options included the following:

- introducing competition as an objective in the building regulatory system would undermine the overriding objective of ensuring that buildings are safe, healthy, and durable
- unclear on how a competition principle in the Building Act would work in practice
- greater competition will lead to a "race to the bottom" and poor-quality building products and outcomes
- competition can be achieved through other means: for example, easier pathways for alternative solutions would result in more competition in the building supplies and products market
- concern about competition between regulators and a return to the failed 1991 building certifiers regulatory regime.

Submitters also noted that there is already scope for competition within existing Building Act principles – particularly in relation to allowing innovation (section 4(2)(g)) and cost of building considerations (section 4(2)(e)). Even if a new competition principle was inserted, some submitters questioned whether this would make a measurable difference for consenting outcomes.

Irrespective of their stated position on MBIE's preferred approach, a group of submitters felt that they required greater clarity from MBIE regarding what the options might look like in practice, including guidance and the introduction of a competition principle in the Building Act.

OTHER BROADER OPTIONS TO PROMOTE COMPETITION

A wide range of submitters suggested other non-regulatory options to promote competition. Common suggestions included:

- competition between building consent authorities
- reducing regulatory barriers to entry for foreign building products for use in New Zealand
- privatisation of certification and consenting functions, like the approach taken by the State of Victoria
- establishing a national system to share information about building products.

Some submitters reflected that the current system for liability might be particularly influencing participant decision-making during the consent process, with a perception that 'familiar' products were more likely to be consented faster than new or overseas products.

Chapter 3: Removing impediments to product substitution and variations

Making the process for product substitutions and variations to consented building work more effective and efficient supports competition in building products, can help to reduce the time, cost, and complexity to build, and supports desirable outcomes for the building consent system.

While current processes help to prevent inappropriate product substitutions and ensure code compliance, there is scope for improvement.

MBIE identified a package of options that responds to recommendation 4 of the Commerce Commission’s market study into residential building supplies. This is supported by new minimum building product information requirements that commenced in December 2023. The package of options comprised:

- **Exploring ways to reduce specification by brand**
 - monitoring and updating (if needed) recently issued product substitution guidance¹
 - amending the building consent form to add a place for applicants to specify suitable alternative products (if they choose to)
 - clarifying the definition of a ‘minor variation’ to a building consent in regulations.
- **Increasing the flexibility of the MultiProof scheme:**
 - Updating the current MultiProof guidance and creating a definition in regulations allowing for ‘minor customisations’ to be made to a MultiProof before consent, using the definition of a ‘minor variation’ to a building consent as a starting point.

Submitters were asked whether they agreed with the preferred approach (i.e. progress all proposed options as a package), for their views on impacts and any risks and mitigations, and whether they considered other options were worth exploring.

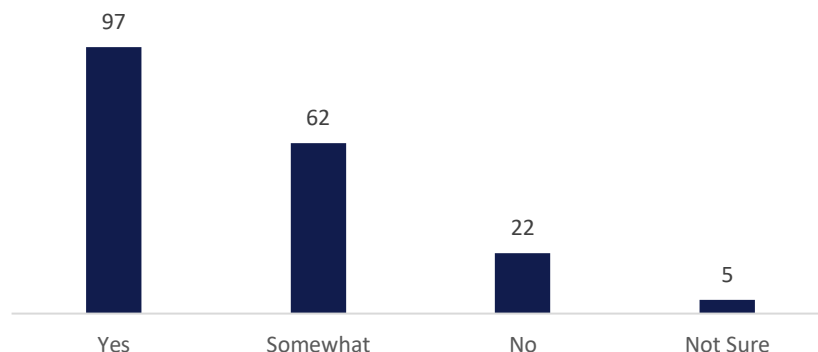


Figure 3: Do you agree with the preferred approach?

¹ [Product substitution guidance \(building.govt.nz\)](https://www.building.govt.nz/product-substitution-guidance). See also [Product Substitution - Plasterboard \(building.govt.nz\)](https://www.building.govt.nz/product-substitution-plasterboard) and [Building Consent Guidance](https://www.building.govt.nz/building-consent-guidance).

MBIE received 202 submissions on this chapter. Ninety-seven submitters agreed and 62 somewhat agreed with the preferred approach. There were 22 submitters that did not agree.

IMPACTS, RISKS AND MITIGATIONS

Some common themes raised in submissions on the preferred approach for product substitution and variations to consents, and MultiProof, included:

MBIE should carefully consider product performance

One hundred and twelve submitters – regardless of whether they agree with the preferred approach – commented on the importance of carefully considering the performance of a product when substituting building products.

Clear guidance and rules are crucial

A large number of submissions also raised the importance of having clear guidance alongside clear rules to ensure there is consistency across applicants and building consent authorities as to what constitutes a suitable alternative to a building product.

Submissions commented on the key role that clear guidance plays in clarifying what the rules mean (i.e. legislation and regulations), and how they should be applied by both applicants and building consent authorities. This includes MultiProof, for which submissions asked for clear guidance and education to raise awareness and understanding of the scheme across the industry and building consent authorities, and for MBIE to create a definition of ‘minor customisation’.

There were mixed views on the proposed option to modify building consent forms and MultiProof

Submitters suggested in response to the proposed option to modify building consent forms to add a place for applicants to specify suitable alternative products, that it was likely, at least in the short term, to increase upfront processing time and cost. Some submitters commented that they preferred ‘dual specification’ rather than making variations to consents easier to avoid any issues later on should defects arise. It was suggested that ‘dual specification’ should be done through the consent application’s supporting documentation rather than by amending the building consent form. Other submitters preferred that the consent forms remain unchanged.

Some submitters suggested that the Building (Forms) Regulations 2004 need to be reviewed as the consent forms seem outdated, with no requirement for building consent authorities to capture and, later on, share information.

Eleven submitters commented that current uptake on MultiProof was low. However, there was significant support for the options to increase the flexibility of MultiProof – submitters generally commented that the proposals would likely help streamline the building consent system. It was also suggested that defining a ‘minor customisation’ to a MultiProof could effectively defeat the purpose of a MultiProof certificate and create confusion for applicants and building consent authorities.

OTHER ISSUES AND IMPACTS

Inspections

Some submitters commented that there needs to be quality inspections to ensure substitutions and installations onsite are compliant. A few submitters supported remote inspections, facilitated by technology, as some inspections require inspectors with specific competence who may not be available. Others suggested inspectors should approve minor variations onsite, which could become part of an inspector’s training requirement.

ALTERNATIVE OPTIONS

Submissions raised several options that were not part of the preferred approach. Common suggestions were:

- Creating more alternative compliance pathways to support applicants to get a building consent. Chapter 5 of the options paper included proposals for new assurance pathways. However, the building code and acceptable solutions and verification methods are out of scope of this review.
- Consider compulsory insurance for designers or 'non-approved' building products so that liability does not rest on building consent authorities, but rather the designers choosing a replacement product are accountable and liable for potential building failures.
- MBIE to create and maintain a national product register to make it easier for applicants and building consent authorities to know which products are considered suitable alternatives. The concept of a national register of building products has previously been considered as part of earlier building consent reforms in 2021.

New building product information requirements that commenced in December 2023 require manufacturers or importers to make a statement about how their building product may contribute to building code compliance and to disclose that information online.

Chapter 4: Strengthening roles and responsibilities

Improving participants’ understanding of their roles and responsibilities, addressing regulatory gaps and clarifying the role of producer statements, will help ensure risks are appropriately identified and managed, thereby ensuring work is done right first time.

There is broad consensus across the sector that roles and responsibilities are not well understood, that 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’.

On-site project management can lack cohesion, with no one person responsible for the sequencing and coordination of the work, and there is no certainty, clarity or consistency about the role and purpose of producer statements, who should be able to provide them and how they should be used because they have no legal status in the Building Act. This also creates uncertainty for building consent authorities about the extent to which they can rely on producer statements.

The options paper highlighted gaps in the allocation of regulatory responsibilities, and sought feedback on the following options:

Options to improve clarity of roles and responsibilities and strengthen accountability	Options to clarify the role of producer statements
<p>Option 1 (non-regulatory): Publish further guidance to address identified gaps in participants’ understanding of their responsibilities (preferred)</p> <p>Option 2 (regulatory): require all designers to provide a declaration of design compliance with the application for a building consent (preferred)</p> <p>Option 3 (regulatory): Requiring someone to be responsible for on-site coordination and sequencing of building work.</p>	<p>Option 1: Centralise and update MBIE guidance on producer statements</p> <p>Option 2: Amend the Building Act to refer to producer statements and how they should be used, through non-prescriptive legislation (preferred)</p> <p>Option 3: Prescribe all aspects of producer statements in the Building Act including who can issue them and what they must be required for.</p>

Submitters were asked whether they agree with MBIE’s preferred approach to progress option 1 and 2 as a package for clarifying roles and responsibilities, and for clarifying the role of producer statements through non-prescriptive legislation. MBIE also sought feedback from submitters to inform detailed policy design. There was strong engagement from the sector on this chapter with 198 submissions, including 23 building consent authorities.

Overall, there was general agreement from submitters that more clarity is needed on participant’s roles and responsibilities as well as the need to strengthen accountability for designers and for someone to be responsible for on-site sequencing of building work to ensure risks are appropriately identified and managed and that work is done right first time.

There was also strong support from submitters on the need to clarify the role of producer statements in legislation in terms of their purpose, use and who can provide them. Most submitters were of the view there should be at least some restrictions on who can provide a producer statement.

REQUIRING ALL DESIGNERS TO PROVIDE A DECLARATION OF DESIGN COMPLIANCE

There were 190 responses to this question from submitters.

There was strong support for requiring all designers to provide a declaration of design compliance

Eighty-two submitters supported the preferred approach (for the declaration of design compliance and guidance). Many submitters agreed that this would strengthen accountability of designers and ensure quality plans and specifications, enabling a faster more streamlined system.

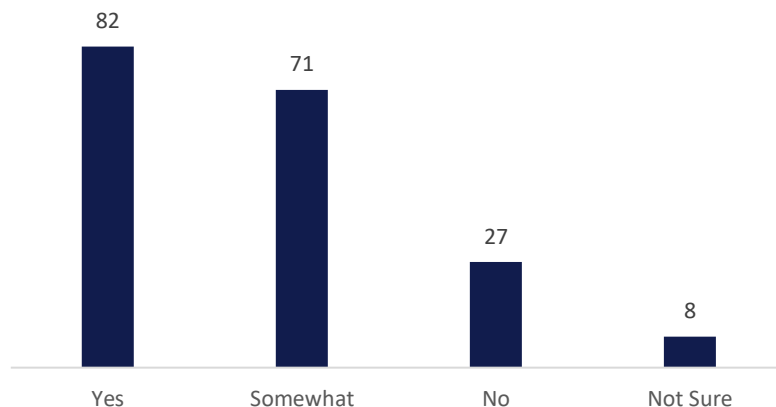


Figure 4: Do you agree with MBIE's preferred approach to progress guidance and require a declaration of design compliance from all designers?

Seventy-one submitters somewhat agreed with the preferred approach, with the main reason being that they thought the design declaration on its own would be sufficient. Twenty-seven submitters did not support the proposed option including the majority of designers who submitted on this question. Reasons provided by submitters who did not agree with the proposed option (which generally overlapped with risks identified by submitters) were:

- a design declaration of compliance provides no additional benefit and would create more paperwork and associated compliance costs which is not necessary due to overlaps with the existing requirement for designers to provide a design memorandum, and producer statements which some submitters viewed serving a similar purpose
- that there should be a single mechanism for design experts/industry to provide certification of their designs rather than creating additional forms
- that this option will not improve the quality of design work without changes to existing occupational licencing regimes including strong competency assurance framework that includes a robust auditing and complaints process, strong disciplinary action, and increased competency requirements for designers.

Most submitters that agreed with MBIE's preferred approach agreed the design declaration of compliance should be submitted by a person subject to competency assessments and complaints and disciplinary processes. Submitters also commented that this would need to be supported by a strengthened occupational licencing regime for designers including adequate complaints and disciplinary processes, sufficient penalties, and adequate competency testing.

Submitters had mixed views on what information should be provided in the declaration, with most agreeing it needed to cover all relevant code clauses. While many agreed it could be a modification of the current design memorandum, others suggested it include some or all of the information required by the producer statement for design.

Many submitters also suggested specific items that should be included in the form, with the most common being:

- a design summary or description of the means of compliance, by building code clause
- an indication of the level of competency, qualifications or experience of the designer
- an indication of level of insurance cover, or other evidence of adequate means to cover any civil liabilities.

Submitters had mixed views on whether the declaration of design compliance should also replace the current certificate of design work (for design work that is restricted building work). Of the 174 submitters that responded to this question, 75 agreed, 46 disagreed and 53 were not sure. Many of those that agreed with replacing the certificate of design work thought a single form that could be used for all design work would be simpler and at less risk of causing confusion for the users.

Design coordination of plans and specifications

The options paper also sought feedback on the types of scenarios where a design coordination statement might be required, and the responsibilities and accountabilities of the person providing the design coordination statement.

Common suggestions included where there are multiple designers involved in the project, or for complex or commercial consents. Some submitters did not support making this a mandatory requirement in any scenario, while others noted it is already required in some cases by building consent authorities or the client.

Many submitters did not comment on the responsibilities and accountabilities of the person providing the design coordination statement, and the views of those that did were mixed. While some suggested the person should be responsible for ensuring alignment or integration of the different design elements, others suggested the responsibility for design coordination should not fall on a single person and that any coordination statement should be signed-off by all parties involved in the design. Submitters also noted many designers may be reluctant to take responsibility for coordination, due to concerns about taking on additional risk and liability.

ON-SITE COORDINATION AND SEQUENCING OF BUILDING WORK

There was strong in-principle support for requiring someone to be responsible for managing the on-site coordination and sequencing of building work

Submitters were asked if there should be a requirement for a person to be responsible for managing the on-site coordination and sequencing of building work.

Of the 183 that responded to this question 126 agreed, 32 were not sure (including six who said it depends on the job), and 25 did not agree.

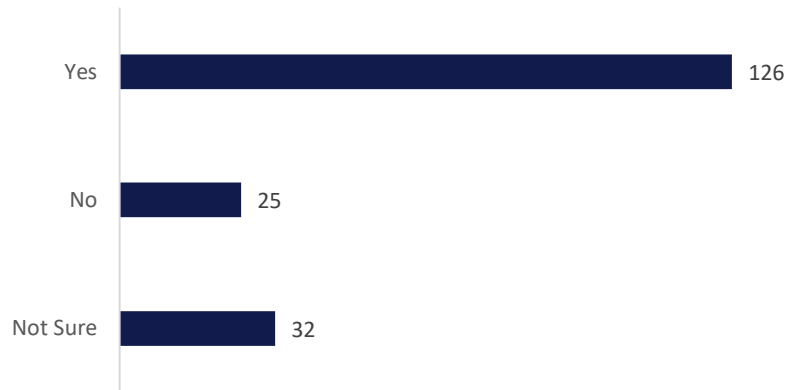


Figure 5: Should there be a requirement for a person to be responsible for on-site sequencing and coordination of building work?

Many submitters agreed there is often fragmentation on building sites as there is no one person responsible or accountable for the sequencing and coordination of building work.

Submitters generally thought the preferred approach would address a regulatory gap and reduce the likelihood of faults and defects occurring but were concerned about costs for the building industry to meet this requirement including whether there would be enough adequately skilled people to do this work. Some submitters were of the view that these increased costs would be passed onto consumers. Conversely, some submitters highlighted that ensuring building work is better coordinated and sequenced will help reduce time and costs for homeowners as there would be less delays and a reduced likelihood of defects.

Some submitters proposed that homeowners (if they have experience in building or engineering) could take on this role with an exemption.

Submitters were also asked if there should be restrictions on who can carry out on-site sequencing and coordination. Over half of submitters that commented on this question agreed there should be restrictions on who can perform this role.

The most common reasons of those opposed to someone responsible for on-site sequencing and coordination were:

- it's impractical to require one person to take on the role when so many trades are involved
- there would likely be increased costs for consumers
- the potential cost and availability of indemnity insurance to cover any additional liability arising from clarification of responsibilities.

Some submitters were of the view that construction workers need to know how to manage, coordinate, and sequence building works on-site to reduce the need for this role. A small group of submitters stated on-site sequencing and coordination is already done by the builder, project manager or client.

Over half of submitters thought there should be restrictions on who can carry out on-site sequencing and coordination and many of these submitters agree it should be a person with a site licence

Submitters were also asked whether there should be restrictions on who can carry out the on-site sequencing and coordination role, and if the current site licence would be sufficient to fulfil this function.

Of the 141 submitters that responded to this question 74 thought there should be restrictions, 15 did not.

Some submitters were unsure if there should be restrictions, stating that it would depend on the size and complexity of the build, as well as the integrity of the Licenced Building Practitioner scheme which these submitters identified as needing improvements.

Common reasons submitters provided by those who did not see a need for restrictions, included that this is already covered by the existing site licence, there are many competent builders unqualified in project management that are capable of carry out this role, competencies are more important than a site licence and that regulating at this level will slow down the flow of building work.

Fifty-two submitters agreed that the site licence would be provide a sufficient framework but from this group, 27 submitters were of the view there would need to be changes/improvements to the site licence to make it suitable. These changes included requiring additional competency requirements, experience and potentially qualifications as well as regular monitoring of the site licence holder's performance.

Many submitters also highlighted the need to work through and to ensure that the market can deliver competent, experienced people with site licences. Some submitters also commented on the need for a phased approach for the introduction of any new requirements to mitigate these risks.

PRODUCER STATEMENTS

Submitters strongly support introducing producer statements to the Building Act and many prefer more prescriptive legislation

Producer statements are widely used but they have no legal status in the Building Act. There is no certainty, clarity, or consistency about the purpose of producer statements, who should be able to provide them and how they should be used. This also creates uncertainty for building consent authorities about the extent to which they can rely on producer statements.

Submitters were asked if they agree with MBIE's preferred approach to introduce producer statements to the Building Act with non-prescriptive legislation, together with guidance.

Of the 190 submitters who responded to this question, 60 submitters supported MBIE's preferred approach. Forty-eight submitters, while supporting the introduction of producer statements to the Building Act, preferred a more prescriptive approach in the legislation particularly in terms of prescribing who can issue producer statements, as well as when they should be prescribed, and to a lesser extent the form and content of the statement.

Some submitters commented on the potential overlap between the design declaration and producer statements and that they need to be considered as part of an overall assurance system.

Twenty-two submitters did not support the introduction of producer statements to the Building Act. Common reasons for this included that the producer statement system is too complicated, that it should be up to building consent authorities to determine the worth of a producer statement, that there is an over-reliance on producer statements, that producer statements create an unnecessary burden of compliance and that the existing system is working well as it is. Some submitters also commented that complaints to professional bodies take a long time to progress while authors can continue to operate, and that there is also no consistent auditing system for producer statements.

Seventeen submitters preferred MBIE guidance without introducing producer statements to the Building Act.

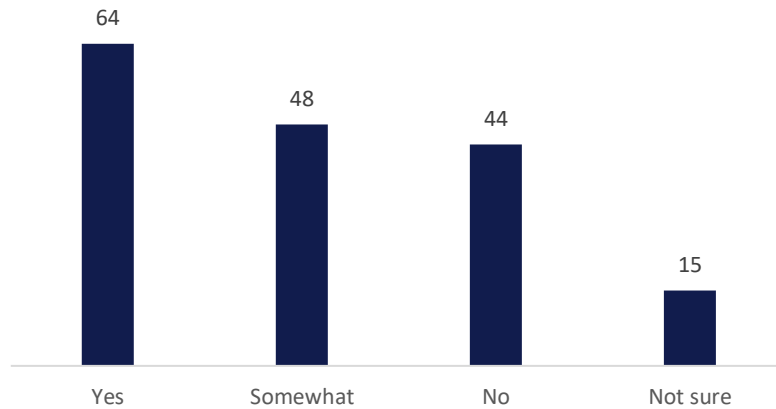


Figure 6: Do you agree with MBIE's preferred approach to progress option 2 (non-prescriptive legislation and guidance)?

Submitters were also asked if there should be restrictions on who can provide a producer statement. Most submitters agreed, while a small number were not sure or did not agree. In terms of the restrictions on who can provide a producer statement common suggestions included:

- engineers and other qualified design professionals who are subject to a complaints and disciplinary process and have appropriate professional indemnity insurance
- those doing specialist design work and monitoring of that work
- other descriptions included qualified professionals, suitably experienced people and people licenced in that particular trade.

Submitters were also asked what the purpose and weight of producer statements should be.

Submitters generally agreed with the purpose of producer statements as set out in the options paper including to provide assurance for building consent authorities that the design or work complies with the Building Code reduces duplication of effort and provides consistency. A small group of submitters were of the view that the purpose of producer statements set out by Engineering New Zealand in its practice note 1 adequately describes the purpose of producer statements for engineering work.²

In terms of weight, only 25 submitters responded to this question. Of the submitters that commented on weight, they were mostly of the view that discretionary or extra weight should be applied to producer statements rather than giving them full weight. A few submitters thought they should be weighted according to their importance or complexity.

There was strong support for the proposed criteria to assess the reliability of producer statements

Submitters were asked what the appropriate criteria is to assess the reliability of producer statements.

The majority of submitters agreed either in full or in part with the proposed criteria to assess the reliability of producer statements set out in the options paper with particular emphasis given to the competency of the

² Engineering New Zealand Practice Note includes being able to:

- identify the person and the organisation they represent taking responsibility for the design work undertaken by them
- provide an opinion based on stated reasonable grounds that aspects of design of a building achieve compliance with the building code
- be able to be relied upon by a building consent authority or another building practitioner to assist decision making but not as sole basis for decision.

producer statement author (including qualifications, professional affiliations such as memberships and registrations), experience and the author's scope of skills and expertise.

Chapter 5: New assurance pathways

A consent system that more closely calibrates cost and effort to the level of risk would be more efficient and effective. Assurance roles should be done by those with the requisite specialist expertise and who are best placed to manage risk.

Building consent authorities hold too much responsibility for overseeing compliance with the Building Code and there are weak incentives to get building work right the first time. The options paper identified four high-level options:

1. develop guidance to support building consent authorities take a better risk-based approach to decision-making
2. introduce self-certification pathways for approved professionals and accredited companies
3. introduce a new consent pathway for commercial buildings
4. repeal the inactive risk-based consenting regime established under the Building Amendment Act 2012 (subject to self-certification and the commercial consent pathway being progressed).

Submitters were asked whether the proposed options would align assurance with risk levels and skills, what the potential risks and mitigations are, as well as questions to inform the detailed design of these options.

Just over half of submitters agreed or somewhat agreed with MBIE's preferred approach to progress all options as a package. These submitters generally supported repealing the in-active risk-based consenting regime on the basis that the new assurance pathways would be progressed. Submitters recognised that the sector has changed since the 2012 risk-based consenting regime was developed and the new assurance pathways provides an opportunity to ensure the right checks and balances are in place to manage potential risks.

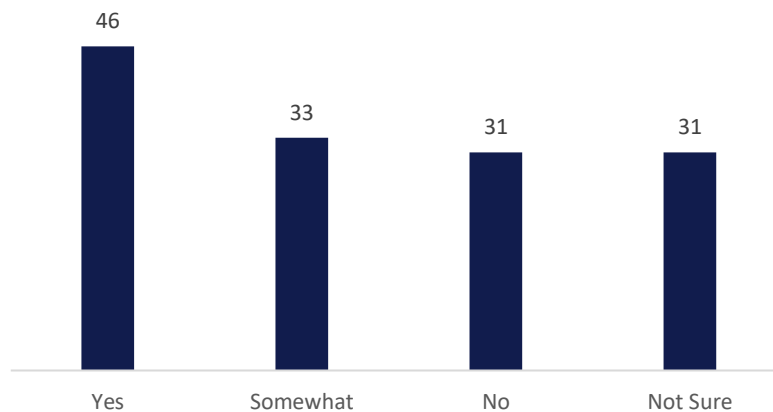


Figure 7: Do you agree with MBIE's preferred approach?

Of those who were not sure, the most common reasons provided were concerns with how the detail may increase complexity and costs and the need for further consideration and engagement on the detail. Those who disagreed with MBIE's preferred approach did so on the basis that they did not agree with one or more of the proposed options.

Consistent concerns were also raised across all options relating to the sector's readiness to take on extra responsibilities and accountabilities and the impact of removing building consent authorities' role in monitoring compliance. To address these concerns, submitters emphasised the importance of ensuring strict

entry requirements, requiring regular monitoring, implementing a robust auditing regime, and creating hard penalties to disincentivise non-compliance.

OPTION ONE: GUIDANCE TO SUPPORT BUILDING CONSENT AUTHORITIES

Effectiveness of guidance is dependent on building consent authorities' appetite for risk

The overall consensus from submitters is that MBIE guidance could be helpful in providing consistency in decision-making across building consent authorities and provide additional support in assessing risk. However, 19 submitters noted that the effectiveness of guidance is dependent on building consent authorities' appetite for risk and their confidence in the sectors capabilities.

Some building consent authorities commented that they already adopt a risk-based approach, and this is often shared within cluster groups. However, they acknowledged that guidance could be helpful to improve consistency of decision-making.

OPTION TWO: INTRODUCE NEW SELF-CERTIFICATION PATHWAYS

Submitters were broadly supportive of introducing self-certification, as long as a sufficient enabling and protective framework is established around the scheme.

Most submitters agreed with the desired outcomes for self-certification and the means to achieve them

MBIE identified three desired outcomes for self-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).

Most submitters agreed or somewhat agreed on the desired outcomes. A small portion of submitters were either not sure or disagreed with the proposals.

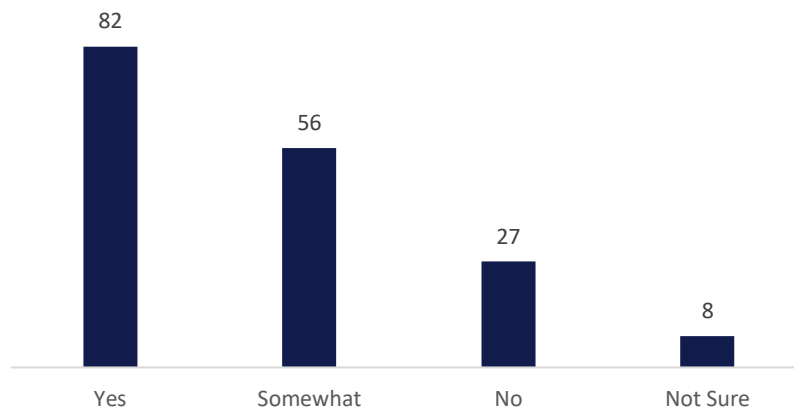


Figure 8: Do you agree with the three proposed outcomes and the means to meet these outcomes?

A key theme amongst those submitters who somewhat agreed was that they agreed with the desired outcomes but were not confident that the proposed means would lead to achieving them. These submitters wanted more detailed information about how a self-certification system would be implemented, monitored and enforced.

Both those who agreed and disagreed with the proposals re-iterated the importance of ensuring any self-certification scheme was supported by accreditation, quality assurance, and an enforcement regime, as identified by the options paper.

Submitters identified a number of risks with introducing self-certification

The two most common risks identified by submitters who disagreed with the self-certification proposals was that they believed self-certification could expose the system to abuse by individuals or companies who have a conflict of interest between compliant work and financial gain. These submitters suggested consenting should remain with building consent authorities. Further, without sufficient skills and knowledge, self-certification could lead to non-compliant certification practices due to insufficient and inconsistent competency which exists in the sector, and across different professions.

Other risks identified by submitters include:

- mandatory insurance requirements are necessary to protect consumers but are reliant on the availability of such insurance in the market which is very limited
- liability may still fall on building consent authorities for work they have not overseen or certified
- the benefits may not outweigh the costs that come with self-certification (e.g. insurance).

Submitters broadly agreed the proposals outlined in the options paper would provide sufficient mitigation of risks; noting they would protect consumers, prevent building authorities from being liable for work they have not certified, and may lead to an increase in the quality of building work across the sector.

Other mitigations identified by submitters include:

- a national register of all those who can self-certify should be publicly available and should include details of their insurance
- self-certification should be phased in over time and trialed first on low-risk work
- instead of focusing on remedying already non-compliant work, the focus should instead be on avoiding mistakes to begin with or identifying them early on.

Submitters identified three key types of work that should be excluded from a self-certification scheme:

- high-risk or complex building work (e.g. structural, fire design, weathertightness)
- critical infrastructure (e.g. schools and hospitals)
- design and architecture work.

A small portion of submitters were of the view that there should be no restrictions on the types of work that can be self-certified. These submitters stated that with a sufficiently rigorous system in place, self-certification should be able to be used on all types of work. Some also suggested that having no restrictions in place would avoid complication and ensure responsibility is taken on by self-certifiers.

OPTION THREE: INTRODUCE A NEW CONSENT PATHWAY FOR COMMERCIAL BUILDINGS

Commercial projects are currently subject to the same building consent process as residential homes. In practice, many of these projects are commissioned by well-informed clients, and are designed, built, supervised and peer reviewed by experienced, contractually accountable professionals. Some building consent authorities may lack the in-house technical expertise to carry out detailed design checks and inspections, and instead rely heavily on third-party review of design and specifications, as documented in producer statements.

This option proposed an alternative regulated consent process for some commercial projects.

Submitters were divided on whether the commercial building consent pathway would better align assurance and risk with expertise

Submitters broadly agreed in-principle with the proposed commercial building consent pathway, noting that further engagement is needed at the detailed design stage to ensure risks are appropriately managed and the pathway is robust.

Ninety-two submitters either agreed or somewhat agreed that the pathway would enable a more agile and responsive approach to dealing with design changes as construction progresses. However, this was on the condition that the appropriate checks and balances are in place to ensure any design changes are Building Code compliant (e.g. providing clear documentation of design changes and construction records and ensuring robust quality assurance systems).

Twenty-six submitters commented on the sector's readiness to take on extra responsibility. The key concerns raised were:

- history of issues with commercial buildings and existing failure rates for inspections
- cost pressures leading to the sector working outside their competency
- pressure from profit-driven clients to cut corners if compliance isn't being monitored
- sector lacks experience working with quality assurance systems.

Submitters also identified a number of risks relating to the sectors readiness. This included their ability to manage quality assurance systems and the potential for dispute over responsibility. Submitters also raised concerns with current practices relating to design coordination, with practitioners often all working on different design versions without coordination or version control, which could be exacerbated through the commercial consent pathway.

To mitigate these risks, submitters suggested improving existing coordination of final designs and emphasised the importance of the proposed project/site coordination role to ensure responsibilities are understood and compliance evidence is coordinated. Submitters also thought it was important to include design and construction professionals in monitoring to ensure shared responsibility and accountability for any declarations.

Other mitigations identified by submitters included:

- setting a high entry bar to reflect the significant risk level associated with commercial projects
- ensuring there are means to address unethical behaviour and those operating beyond their competency level
- provide better education and training to improve sector and building consent authorities understanding of quality assurance systems
- frequently monitor compliance with quality assurance systems and ensure a robust auditing regime is in place to ensure there is confidence in compliance.

Roles, responsibilities and accountabilities need to be clearly defined and delineated

MBIE consulted on the following roles within the commercial building consent pathway: design and construction professionals, owners, building consent authorities, project/site coordination, and overall responsibility. One hundred and twenty-six submitters responded to this question.

Submitters commented that there is a need to provide clear definitions of roles and responsibilities and the consequences of not adequately performing these roles. Submitters also stated that accountabilities for each role needs to be clearly delineated to ensure participants understand their responsibilities and liability.

Many submitters were concerned with the impact of shifting the role of building consent authorities

Three quarters of those who commented on the role of building consent authorities raised concerns with the proposed shift in their responsibilities. The main themes covered include:

- building consent authorities should retain the ability to monitor compliance to reduce the risk of non-compliance
- conducting audits on compliance with quality assurance systems goes beyond the expertise of building consent authorities and may lead to inconsistencies across building consent authorities.

Differing views were provided on when third-party reviews should be required. Responses ranged from requiring it for all projects, determining this based on the complexity of the project and requiring this throughout all phases of a project.

Responsibility of commercial building owners

Submitters agreed that commercial building owners should have overall responsibility for the quality assurance system as they are responsible for employing appropriately qualified and experience professionals. However, submitters disagreed with owners being responsible for providing building consent authorities with all supporting compliance declarations, noting this should be the responsibility of someone more qualified.

The majority of submitters were of the view that owners did not need special protections outside the existing disputes regime, third-party review and ensuring tight entry requirements. This is due to the building owner being responsible for employing appropriate professionals, differentiating them from a domestic dwelling owner. However, it was identified that commercial projects can unfairly pass costs onto subsequent owners who have limited options for safeguarding their interest after the project is complete if mistakes or issues are identified.

Submitters had differing views on what the scope of the commercial consent pathway should be

Fifty-two submitters provided a view on the proposed scope of the commercial pathway. Most submitters (thirty-five) supported voluntary participation to some extent to ensure only those who are competent are able to participate. This would also give the sector the flexibility to choose. Those who supported mandatory participation (29 submitters) were of the view that the pathway would appropriately manage complexity within commercial projects and their associated risks.

Eleven submitters thought that the scope should be determined based on risk rather than competency levels, and should consider skill level, experience, use of building, owner and ability to follow quality assurance systems.

Submitters were divided on whether residential buildings should be within scope of the commercial pathway. Views ranged from needing to exclude residential buildings (e.g. hotels and apartments) due to the risks to public safety and including them due to the complexity of building work not being determined by the use of a building.

Chapter 6: More efficient and streamlined delivery of building consent services

The delivery of building consent services should be as consistent as possible, achieve economies of scale in delivery, and reduce duplication and unnecessary costs.

This chapter identified 10 initiatives in three categories, reflecting the key outcomes sought for the delivery of the building consent system. MBIE did not identify any preferred options as policy work is not advanced enough at this stage. For each outcome or category, submitters were asked which options would best deliver the desired outcome, what the costs and risks were, and whether there are other options MBIE should consider.

Category A: Providing greater national direction and consistency	Category B: Boosting capacity and capability across the system	Category C: Supporting building consent authorities to achieve greater economies of scale
<ol style="list-style-type: none"> 1. nationally consistent processes and requirements 2. review consent application and processing systems (IT) 3. support uptake of remote inspection 4. centralised training for building control officers 	<ol style="list-style-type: none"> 1. centre(s) of excellence or other advisory function 2. shared workflows or shared service arrangements 3. centralised resource of specialist expertise 	<ol style="list-style-type: none"> 1. address barriers to voluntary consolidation 2. pilot voluntary consolidation or transfer of functions 3. investigate a national building consent authority

It is difficult to separate out or analyse these options into bounded categories as there are distinct overlaps and crossovers between them, with most addressing multiple issues and outcomes. For example, shared workflows or shared service arrangements (Category B) will also achieve greater economies of scale (Category C) and greater consistency (Category A).

MBIE heard from building consent authorities through submissions and targeted engagement that initiatives should mainly target consent applicants (i.e. designers, homeowners) to improve understanding of the requirements. However, most acknowledged that different building consent authority processes can make consent applications challenging and lead to different decisions. In contrast, many individual submitters believed that changes should target the regulators (i.e. MBIE and building consent authorities) or the consent system, including processes, practices, training, and legislation.

COMMON THEMES

As many of these categories and options overlap in terms of issues they address, submissions raised some common themes that focus on building consent functions or institutional or system capability:

- Submitters generally agreed that the delivery of the building consent system could be improved.
- There was strong support for improving consistency of consent services at a national level, particularly through nationally consistent processes and requirements and centralised training for building control officers. Consistency was also identified as a key benefit of several other options.

- There was strong support for boosting capability and capacity across the system through more coordination and joined-up service delivery, including through shared workflows or service arrangements and a centralised resource of expertise.
- Views were mixed on options around consolidation and aggregation, but some building consent authorities have indicated a willingness to explore voluntary consolidation or a national consenting body to sit alongside and support local building consent authorities with complex consents and work overflow.
- Building consent authorities were generally more supportive of all options.

CATEGORY A: PROVIDING GREATER NATIONAL DIRECTION AND CONSISTENCY

Submitters strongly supported improving consistency of consent services at a national level

Two hundred and eight submitters responded to all questions in this category. Twenty-five building consent authorities responded.

Most submitters thought consistency across and within building consent authorities was important and that the options were a good way of achieving it.

Of the 208 responses, 176 supported nationally consistent processes and requirements. It was generally seen as the most effective and easiest option to implement, however some submitters noted that a national consent system would be expensive and time consuming to create. Only 32 did not support it or were not sure.

A review of consent systems and centralised training for building control officers were supported by 142 and 143 submitters respectively, plus an additional submission explicitly supporting the latter³. Generally, submitters felt that these two options would improve consistency by targeting building consent authorities (option 2), building control officers and potentially other tradespeople (option 4). Some submitters thought both a review of consent systems and training should be done on an ongoing basis. A few also saw training as an opportunity to standardise core skills while simultaneously allowing for the development of specialist knowledge where necessary. It was generally seen as easy to implement compared to other options.

Submitters were divided on supporting the uptake of remote inspection – 95 said yes and 113 said no or were not sure. Of those who said no or not sure, 21 believed it has its place but there are liability risks, and it should only be used for certain purposes with proper controls and standards to prevent misuse, including having complementary in-person inspections.

The level of support from building consent authorities was similar, with the majority saying yes to nationally consistent processes and requirements, reviewing consent application and processing systems (IT), and centralised training for building control officers.

There were a few additional comments about the need to prioritise the most cost-effective options, and the ability of ongoing consent system improvements and training to support smaller building consent authorities. Some building consent authorities are already using remote inspection technology or recognised that it has benefits when used in certain situations, but there are circumstances where it may not be suitable.

³ This was a written submission that only commented on centralised training for building control officers and made no comment on other options.

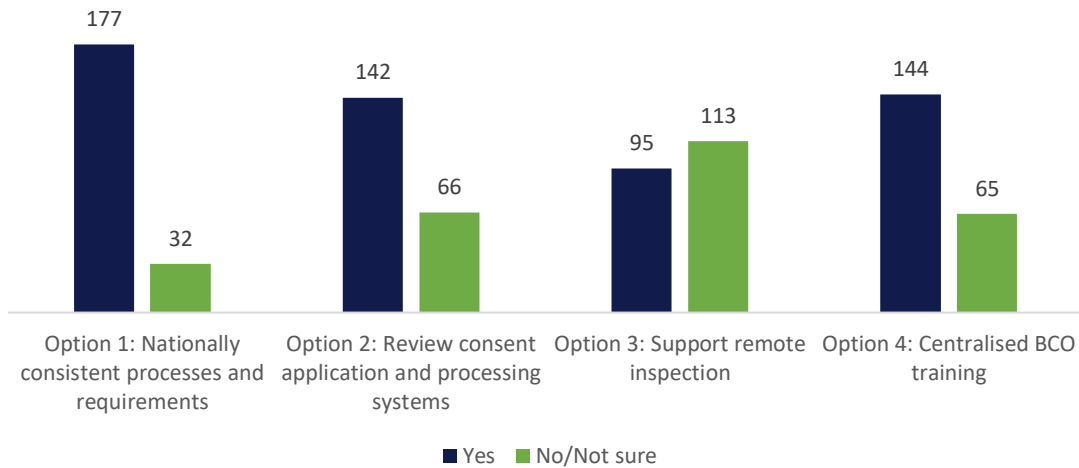


Figure 10: Which options would best support consistency and predictability given costs, risks and implementation timeframes?⁴

Other options

Submitters suggested a range of other options. The most common ones were:

- Create a national online consenting portal or system. There were also a couple of related comments that data standardisation would improve the evidence base for the consenting system.
- MBIE should provide consistent templates, codes of practice, FAQs, and other guides, and support building consent authorities to align their processes.
- MBIE should investigate a national qualification or degree for building control, potentially supported by a register of qualified people, with training offered by an external organisation. There were also comments suggesting accredited training from suppliers for licensed building practitioners, designers, and certifiers.
- Non-council entities such as private companies should be more easily enabled to process consents or conduct inspections, provided they are qualified and have insurance.

A small number of submitters suggested building consent authorities should more widely accept Building Information Modelling-based consents and that quality assurance models should be updated across councils.

CATEGORY B: BOOSTING CAPACITY AND CAPABILITY ACROSS THE SYSTEM

There was strong support for boosting capacity and capability through more coordination and joined-up service delivery

One hundred and eighty-eight submitters responded to all questions in this category. Twenty-three building consent authorities responded.

Of the 188 responses, 90 supported a centre(s) of excellence and 98 did not or were not sure. Reasons for supporting it included, among other things, better information sharing among councils, supporting building consent authorities to process consents more quickly accurately, and the availability of specialists to process complex consents or support building consent authorities during periods of high demand.

Two-thirds of submitters supported shared workflows or service arrangements and a central resource of expertise. While more people supported a central pool of expertise than a centre of excellence, some

⁴ Discrepancies between some numbers in the graphs and text are due to written submissions that specifically commented only on certain options and did not provide a view on the alternatives.

submitters recognised that they could serve similar functions, for example processing complex consents, and could potentially be combined into one service or entity.

Reasons for supporting shared workflows or shared workforce arrangements included the standardisation of systems, better alignment between building consent authorities, and sharing resources and workload. A couple of submitters thought shared workflows could become unwieldy and slow the process down due to poor coordination, or that there were risks around data privacy and security.

Similar to Category A, building consent authorities were more supportive of all options – if done properly they could lift capability for the medium to long term as well as provide support in times of high demand. Thirteen supported option one, 19 supported option two, and 15 supported option three. Some building consent authorities commented that, while shared workflows and service arrangements is a good option, many building consent authorities already have informal sharing arrangements in place through cluster groups or the movement of building control officers to neighbouring building consent authorities to help meet high demand.

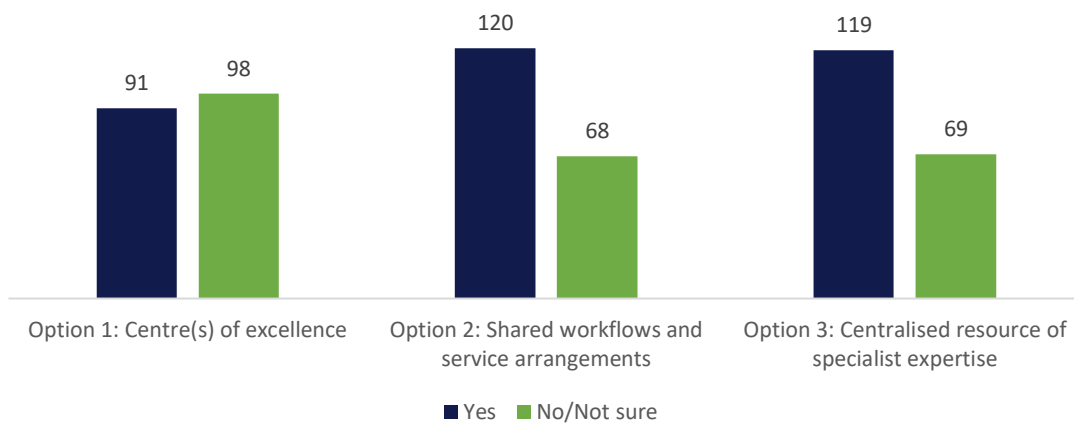


Figure 11: Which options would best support consistency and predictability given costs, risks and implementation timeframes?

Risks and other options

Submitters' responses to the other questions in this category revealed the following themes:

- A central resource of expertise and/or a centre(s) of excellence could either be regionally based or have a central hub.
- These options could divert resources away from councils, potentially leading to a loss of local knowledge or slowing down consents.
- MBIE should facilitate greater collaboration between building consent authorities or enhance shared services using existing structures and processes, rather than creating a new entity.
- National training should be offered, with an additional focus on developing quality assurance and design skills among building control officers.
- Building consent authorities need to hire trained, experienced building control officers and try to pay them more where possible.
- Categorise consents based on complexity and change the processing timeframes to align with complexity.

CATEGORY C: SUPPORTING BUILDING CONSENT AUTHORITIES TO ACHIEVE GREATER ECONOMIES OF SCALE

Submitters were divided on consolidation and aggregation, but building consent authorities generally supported making voluntary consolidation easier

One hundred and sixty submitters responded to all questions in this category. Twenty-three building consent authorities responded. Overall, support for these options was much lower compared to options in the other two categories and there were many comments that viewed consistency, capacity, and capability as the real benefits of these options.

Of the 160 responses, 68 supported addressing barriers to consolidation, 50 supported a voluntary consolidation pilot, and 84 supported investigating a national consenting body.

Again, building consent authorities were more supportive of all options compared to the overall results. Addressing barriers to consolidation and investigating a national consenting body were supported by 14 building consent authorities. They were evenly split on a voluntary consolidation pilot. As noted in the common themes above, some BCAs have indicated a willingness to explore voluntary consolidation or transfer of building consent functions. There were also a few comments that pathways to consolidation or shared service arrangements could be made clearer.

Twenty-two submitters supported some form of amalgamation or centralised approach, by either reducing the number of councils or creating one national body or specialist centre to support councils. These came largely from industry bodies or individuals.

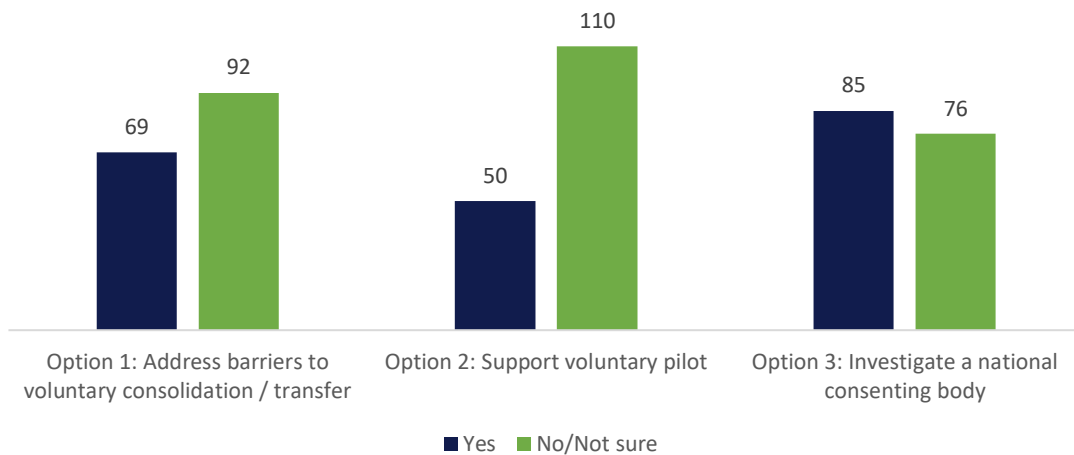


Figure 12: Which options would best support building consent authorities to achieve greater economies of scale given costs, risks and implementation timeframes?

Risks and other options

There were several common themes in submitters' explanations and suggestions for other options which included the following:

- Liability of the council, professional, or homeowner was a commonly identified barrier to consolidation. Twenty-four submitters suggested reviewing legislation or regulatory settings to make consolidation easier, most of which specifically referred to the distribution of liability when councils transfer functions.
- Building consent authority accreditation requirements, including IANZ auditing, are a barrier to consolidation and MBIE should review the accreditation scheme.
- Impacts on building consent authority resourcing and a potential loss of local knowledge or control, and the costs to building consent authorities and potential wider impacts on council funding, were common concerns. Some submitters thought standardised consenting fees could help alleviate funding issues.

- MBIE should take a more active role to support consolidation through incentives or enforcement, or encourage better collaboration, shared services, and possible pathways to consolidation and/or shared services rather than full consolidation.
- The options in categories A and B are better for improving consistency.

Eight submitters specifically opposed any form of centralisation.

Chapter 7: Better performance monitoring and system stewardship

Better performance monitoring and information will enable MBIE to be a better steward of the building consent regulatory system.

This chapter proposed three initiatives:

- MBIE obtaining more and better information about the issues facing, and performance of, the building consent system.
- On the basis of available information, MBIE being more responsive to issues, risks, and opportunities through action.
- MBIE providing better direction, education, and quality guidance to the building sector. This includes identifying where further information is required by the sector and improving the quality and accessibility of that information.

Submitters were asked:

1. whether these three initiatives would enable MBIE to become a better steward and central regulator
2. which initiatives should be prioritised and why
3. if there was anything else MBIE needs to do to become a better steward and central regulator.

Broadly speaking, submitters agreed that MBIE could improve its oversight and stewardship functions. Submitters largely agreed that the three proposed initiatives would be worthwhile and contribute to improved stewardship and oversight. Overall, submitters felt that:

- MBIE must take a stronger role to improve performance of the regulatory system
- System performance improvements needs to include system participants through collaboration
- better monitoring and increased responsiveness to issues go hand-in-hand
- providing good information is crucial, but all three initiatives need to work in tandem.

There was strong engagement from BCAs and other system participants

One hundred and forty-five submitters responded to questions from this chapter. Of these, 63 came from individuals, 58 from organisations, and 24 were from building consent authorities.

One hundred and thirty-one submitters responded to question one about whether the three proposed initiatives would enable MBIE to become a better steward and central regulator. Of these, 71 agreed the initiatives would have the desired effect, while five disagreed and eight were unsure. Thirty-six submissions didn't indicate their level of agreement and only provided recommendations. All submissions from building consent authorities supported these initiatives.

One hundred and seventeen submitters responded to question two about which of the initiatives should be prioritised. The following priorities were identified:

- providing quality information to the sector
- better collaboration with BCAs and the sector
- providing a national BCA or national system
- obtaining better information
- acting on available information
- all three proposed initiatives equally, and
- upskilling BCAs.

Building consent authorities primarily supported prioritising the three initiatives as a package. Where building consent authorities recommended prioritising specific initiatives, they recommended prioritising obtaining better information (monitoring building consent authorities and the sector for issues) and providing better information (often noting that this information should address the findings from monitoring and identified issues).

One hundred and fourteen submitters responded to question three inviting them to suggest other things MBIE needs to do to become a better steward and central regulator.

MBIE must take a stronger role to drive improvements in the regulatory system

Across the three questions, 48 submitters expressed support for MBIE taking a stronger role as regulatory steward and central regulator. Many submitters considered MBIE to have a “hands-off” approach with building consent authorities, contributing to problems including inconsistency, risk aversion, and timeliness and capacity issues.

Submissions from building consent authorities indicated a need for MBIE to take a stronger role, including collaborating better with building consent authorities and making it easier for them to raise issues with MBIE. Building consent authorities also emphasised the importance of MBIE acting on the issues raised and providing better and more frequent guidance, as well as improving performance monitoring of the building consent authorities themselves.

Submitters also said that MBIE needs to better understand its role and what tools it has available to drive better consistency across system outcomes.

Submitters were particularly keen for MBIE to focus on driving consistency in the building consent system, suggesting several ways to best achieve this. Recommendations included stronger central coordination of the consenting system by MBIE as well as better and more frequent guidance provided to building consent authorities and the sector. Several submissions recommended implementing a national building consent authority or national system, which is considered as part of *Chapter 6 – Better Delivery of Building Consent Services*. Many of the comments made in these submissions reflected a desire by system participants for the central regulator (in this case MBIE) to take a stronger role in driving national consistency.

Several submitters indicated concerns about the capacity and capability of system participants. This included raising concerns about the capability within MBIE to respond to the needs of the sector, providing negative feedback about their experiences with MBIE, and calling for better delivery of building consent services.

System change requires effective collaboration with system participants

For many submitters, a strong central regulator and effective collaboration at the system level go hand-in-hand. While MBIE’s relationship with building consent authorities was the focus for many, submitters identified that better collaboration across the system as a whole would be equally beneficial.

Across the three questions, 50 submitters recommended MBIE improve its consultation and collaboration across the system. Of these, 18 focused on engagement with building consent authorities, 20 focused on engagement with the sector and 11 focused on engagement with all system participants.

The reasons given focussed on two main ideas. First, stronger engagement would help MBIE better understand the issues faced by the sector and building consent authorities and use this to better direct interventions. Second, MBIE needs to work more closely with participants such as building consent authorities to help resolve issues rather than forcing them to rely on the determinations process or, alternatively, attempt to resolve complex issues in-house. Submitters noted that this contributes to inconsistency.

Several submissions indicated that stronger mechanisms for collaboration are needed. Submitters identified opportunities such as creating dedicated contacts at MBIE for each region to help align building consent authorities and sector participants, and better processes for raising issues and concerns with MBIE to make

sure they are acted on if necessary – particularly where guidance or changes to the Building Code may be necessary.

Better monitoring and increased responsiveness to issues go hand-in-hand

Across the three questions, 41 submitters raised monitoring as a key issue. Of these, 13 focused on monitoring building consent authority performance while eight focused on monitoring sector performance. Submitters agreed that without good monitoring, MBIE can't accurately identify issues in the sector and provide support and guidance where it's needed.

Submissions relating to monitoring building consent authorities included recommendations around updating the audit and accreditation system. Submissions focusing on monitoring the sector recommended strengthening monitoring of the quality of work and level of understanding of requirements at the building consent authority level. Broadly speaking, submitters favoured changes to system monitoring that would make information more standardised and output-focused and thought doing so would help drive consistency.

Across the three questions, 19 submitters indicated that MBIE needs to be more proactive when it comes to solving emerging issues in the system. Submitters largely agreed that even with more robust monitoring, MBIE needs to become more proactive about identified issues. Submitters emphasised that when MBIE makes a change to the system, such as amending the Building Code, it creates an opportunity to be proactive in its implementation – in particular, supplying guidance to steward everyone through changes.

Providing good information is crucial, but all three initiatives need to work in tandem

Across the three questions, 65 submissions said MBIE should focus on providing quality information, guidance, and education. Of these, 10 submitters specifically focused on information for building consent authorities, eight submitters focused on information for the sector, and four submitters suggested better use of the Determinations process for improving information.

Overall, submitters were positive about the guidance MBIE has provided to date but considered MBIE can provide it more often and more effectively. Clear, accessible information helps participants understand processes and requirements, making expectations clearer. Submitters suggested that a lack of good guidance puts an undue burden on building consent authorities, creating risk and inconsistency. Submitters also made the link between better monitoring, collaboration, and guidance. Quick and accurate identification of issues via monitoring and collaboration would allow MBIE to address them effectively with targeted guidance.

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

The building system should be more responsive to Māori building needs and aspirations and should address challenges that Māori face in the system, namely, capacity and capability and relationship issues.

The options paper identified three options to address the issues that Māori face in the building consent system:

1. Create a navigator role
2. Establish a centre of excellence for Māori-led construction projects
3. Publish guidance (written in collaboration with Māori).

One hundred and forty-nine submitters responded to this chapter. There was a strong preference from Māori to engage more directly through face-to-face communication rather than through a formal written submission process.

Of the 149 submitters, 77 agreed that Māori face barriers across the wider building process and/or were broadly supportive of the intent of the options. Twenty-two submitters were neutral and 50 did not support the general intent of the options. Many of those who did not support the options did not perceive that Māori faced unique issues and thought that everyone using the building consent system should get the same support, or assumed that MBIE was planning to establish a separate consent system for Māori (which was not the intent of the proposed options).

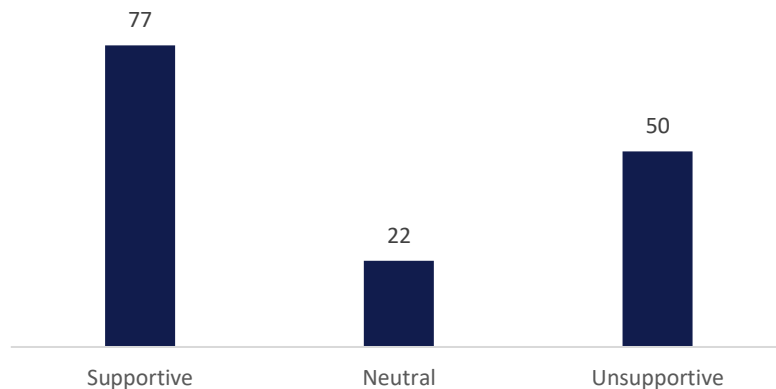


Figure 13: Level of support for the general intent of the options

Submitters were asked whether the options would help address issues that Māori face in the building consent system, which option would have the most impact, what risks exist and mitigations for these, and whether there are other options that could make the system more responsive to Māori aspirations. There were also two specific questions about the navigator role and centre of excellence.

COMMON THEMES

- Fifty-one percent of submitters supported the intent of the options and/or agreed that there are barriers for Māori in the building process that need addressing.

- Submitters who agreed there are unique barriers faced by Māori stressed the need to address issues around financing and multiple ownership of land, planning issues, and building code issues, whether through these options or by other means.
- Many of the submitters who agreed that Māori face unique barriers thought that for these or other options to be successful there should be sufficient consultation and partnering with Māori.
- Around a third of submitters thought that many participants struggle with the building consent system and there should be equal support for all participants.

SUMMARY OF RESPONSES

There were mixed views on whether the proposed options would help address issues that Māori face in the building consent system

136 submitters responded to this question. The breakdown of responses is shown in the graph below.

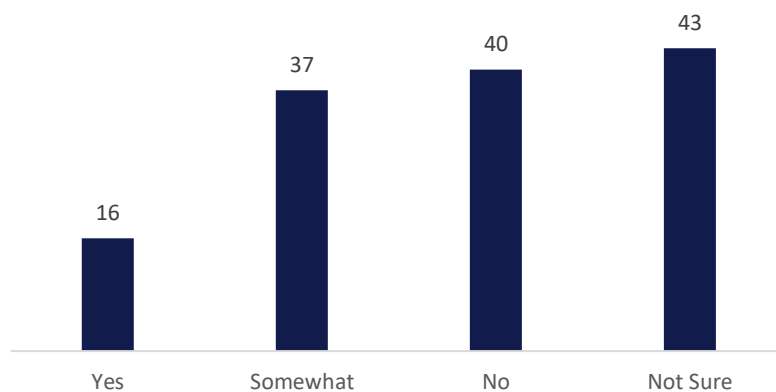


Figure 14: Will the options help address the issues?

Responses were fairly evenly split between no, not sure, and somewhat, with 16 submitters responding 'yes'. However, 36 of those who responded 'not sure' or 'somewhat' still supported the intent of the options in-principle.

Twenty-six of the 40 submitters who said 'no' wanted equal support for all participants. Other reasons for not supporting the options included concerns about Building Code compliance, that land and planning issues should be the focus, and that the options may duplicate existing arrangements.

Ten of the 43 submitters who were 'not sure' considered that they were not qualified to respond and/or that MBIE should consult further with Māori on the options (a key theme across all questions). Other reasons included the need to provide support to all participants and to focus on specific issues with land, planning and the building code.

Eleven of the 37 submitters who thought the options could 'somewhat' address the issues were generally supportive of the intent but encouraged more research and consultation with Māori. Other reasons included the need to ensure equality and again, to address land and planning issues.

Of those who responded 'yes' to this question, themes included the importance of acknowledging Te Tiriti o Waitangi and partnering with Māori to develop options, and better enabling Māori design and building approaches.

Submitters views were divided on the options that would have the most impact

Eighty-one people responded to this question.

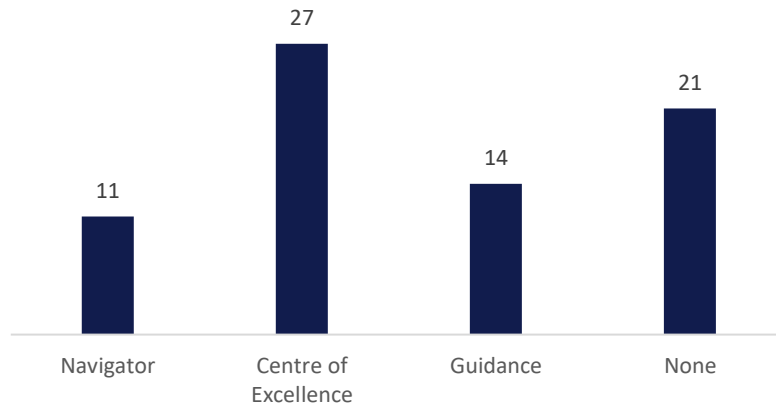


Figure 15: Which options will have the greatest impact?

The **centre of excellence** received the most support. The main reasons were that it could:

- provide opportunities for all participants, including building consent authorities and Māori to learn from each other about Māori design principles, compliance matters, and to develop cultural capability
- be a hub for navigators and for consulting with Māori on their perspectives, issues and emerging trends
- serve as a centralised source of consistent guidance and information.

Only a few submitters commented on the role of Māori in a centre of excellence, but those who did encouraged active involvement and sufficient consultation and to ensure those involved are suitably qualified.

Twelve submitters chose the **navigator** option, mainly due to its personal face-to-face nature. Some of the reasons that less people selected this option were high costs of having positions across the country and that it could duplicate existing arrangements in some councils.

Some submitters thought that navigators should sit in a centre of excellence (or other central entity) to maximise the skills of the limited pool of people with both technical expertise and an understanding of Te Ao Māori. Conversely, others thought that a local presence in councils, or regionally, was better.

Submitters saw navigators acting as connector-collaborators to support trust and build positive relationships, promote Te Tiriti o Waitangi and Te Ao Māori, help navigate building code requirements, and to interface with MBIE around guidance on Māori design principles. A few submitters suggested the role should also help to address wider issues such as land and planning matters.

Submitters encouraged sufficient research, active consultation, and involvement of Māori to ensure the roles are set up appropriately and evolve to meet changing needs.

Fourteen submitters chose the **guidance** option, largely because it could increase the sector's understanding of Māori aspirations, culture, and traditions. A small number of submitters suggested trying guidance first and monitoring its effect.

Twenty-one submitters opposed the options, primarily due to wanting a system that is equal for all. Eight submitters urged MBIE to consult further with Māori on the options that would have the most impact – which was a common suggestion across responses to all questions.

Risks

Thirty-two submitters thought that there was a risk of creating division. A number of these submitters interpreted the options as creating a different system for Māori, which was not the intent. Fifteen submitters

cited risks of poor implementation, including insufficient research and engagement with Māori, not setting systems up properly, and not reviewing regularly.

Nine submitters urged MBIE to be careful about offering project-specific advice and the consequent liability that could accompany it. Eight submitters, while generally not opposed, wanted to ensure that a high level of compliance was maintained if the use of traditional methods was to be more supported.

Other options to make the system more responsive to Māori needs and aspirations

Fifty-six submitters responded to this question. Fifteen submitters suggested that MBIE should consider introducing more acceptable solutions and/or support the development of a New Zealand standard to better enable Māori design and building methods. Connected to this was the need to reduce regulatory cost barriers.

Eight submitters suggested the use of case studies and exemplars of Māori-led building projects to support knowledge sharing and greater understanding for all participants.

Recurring themes across submissions were that:

- wider issues related to land and planning matters should be addressed, either through these options, or by other means
- further research, consultation, and partnering with Māori is needed to better understand which options could make the most positive impact.

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

There are opportunities to reduce the occurrence of unnecessary overlaps between the building and resource consent processes, and ensure applicants are better informed.

Chapter 9 noted that reform of the resource management system could help reduce the occurrence of unnecessary overlaps between the two consent processes, while promotion of the use of project information memorandums⁵ could also help applicants navigate the two processes.

Submitters were asked what other options should be considered to address issues arising from the overlaps between the building and resource consent processes.

One hundred and ninety-three submitters answered this question.

Twenty-six submissions supported encouraging the uptake of project information memorandums, with just under half of these suggesting they should it be mandatory to apply for a project information memorandum before applying for a building consent.

Twenty-seven submitters suggested it should be a requirement for resource consent to be obtained or applied for before building consent.

Fifty-five submitters suggested options that would reduce the need to supply duplicate information for both consent processes. Common suggestions included:

- training resource consent and building consent processing teams to be familiar with both consents and their requirements
- enabling council departments to share information between resource consent and building consent applications
- developing a user-friendly online portal that manages both resource consents and building consents; the portal could automatically collate and distribute application information to the appropriate teams.

Twenty-five submitters suggested that applying for a resource consent and building consent should be a single process, managed by a single team within councils.

While some submitters suggested combining both regulatory systems into a single framework or piece of legislation, there was much greater support for keeping the processes distinct and separate. Those that favoured keeping the processes distinct suggested that issues relating to the overlap could be addressed through education and guidance to building owners, the industry and territorial authorities.

Some submitters suggested MBIE carry out a formal review to assess overlaps and areas of potential consolidation between the Resource Management Act, the Building Act and other legislation. However, a

⁵ A project information memorandum (PIM) provides information about land and about the requirements of other Acts that might be relevant to proposed building work, including the *Resource Management Act 1991*. A territorial authority issues a PIM following an application by the owner.

similar number suggested waiting until reforms of the resource management system have been completed, before making any further changes.

Twenty submissions stressed the importance of needing to manage natural hazards at the planning stage and the need to resolve the differences in how natural hazards are treated between resource consents and building consents.

Matters raised that are out of scope

Many submitters commented on issues or made suggestions that were out of scope of the review. The most common ones are outlined below:

- Suggestions to make changes to the Building Code, including requiring compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances NZECP34:2001.
- Suggestions to change the competency standards for regulated occupations.
- Changes to liability settings (including reducing liability for building consent authorities).
- Changes that fall under the scope of the resource management system or water management systems.
- Comments on the natural hazard provisions, including how they are applied by territorial authorities.
- Suggestions to consider incentives to encourage designers and builders to go beyond the minimum standards in the Building Code.
- Matters after the issuing of Code Compliance Certificates, including the ongoing monitoring of on-site stormwater and wastewater systems.
- The creation of a national register of products or alternative solutions.

Annex 1: Submitter details

SUBMITTER DETAILS		
Organisation/Individual	Stakeholder type	Stakeholder sub-category
Access Elevators	Company/Organisation	Business
Adam Thornton	Individual	-
aj design	Company/Organisation	Designer/Architect
Altex Coatings	Company/Organisation	Other
Amanda Drumm	Individual	Designer/Architect
Andrew Frankum	Individual	-
Andrew Toulson	Individual	Designer/Architect
Architectural Designers NZ (ADNZ)	Company/Organisation	Industry organisation
Architecture Cubed Limited	Company/Organisation	Designer/Architect
Architecture Prime Ltd	Company/Organisation	Designer/Architect
Architecture27	Company/Organisation	Designer/Architect
Arkcon Ltd.	Company/Organisation	Builder
Association of Consulting and Engineering NZ (ACE)	Company/Organisation	Industry organisation
Auckland Council	Company/Organisation	Building Consent Officer/Authority
BECA	Company/Organisation	Designer/Architect
Bevan Mckeich Builders	Company/Organisation	Builder
Bevan Philip	Individual	-
BGT Structures Ltd	Company/Organisation	Engineer

Bill Leslie	Individual	Builder
BOINZ	Company/Organisation	Other
BRANZ	Company/Organisation	Other
Bruce Mitchinson	Individual	Designer/Architect
Bryan McKay	Individual	Building Consent Officer/Authority
Bryant Builders Ltd	Company/Organisation	Builder
Building Confidence Ltd	Company/Organisation	Other
Building Industry Federation of NZ	Company/Organisation	Industry organisation
Carl Graham	Individual	Other
Carla McDougall	Individual	Sub-contractor
Carterton District Council	Company/Organisation	Building Consent Officer/Authority
Certa Engineering Ltd	Company/Organisation	Engineer
Chamberlain Carpentry and Joinery Ltd	Company/Organisation	Builder
Chatterton Builders	Company/Organisation	Builder
Christchurch City Council	Company/Organisation	Building Consent Officer/Authority
Cilla Cooper	Individual	Designer/Architect
Codify Asset Solutions Ltd	Company/Organisation	Other
Comfortech Building Performance Solutions	Company/Organisation	Business
comins plumbing	Company/Organisation	Sub-contractor
ComplyNZ Ltd	Company/Organisation	Industry organisation

Consentium	Company/Organisation	Building Consent Officer/Authority
Damien McGill	Individual	Engineer
Darran Hewitt	Individual	-
Darryl Jenkins	Individual	-
Dave DeGray	Individual	Designer/Architect
Dave Launder	Individual	Designer/Architect
David Strong	Individual	Sub-contractor
David Whitfield	Individual	-
Dbc Design and Building Compliance	Company/Organisation	Designer/Architect
Design Hub	Company/Organisation	Designer/Architect
Dion Marriott	Individual	Engineer
Dunedin City Council	Company/Organisation	Building Consent Officer/Authority
DYC Architecture	Company/Organisation	Designer/Architect
Eddy Saul	Individual	Business
Electricity Networks Aotearoa	Company/Organisation	Industry organisation
Eljay Design Consultants 2017 Limited	Company/Organisation	Designer/Architect
Engineering NZ	Company/Organisation	Industry organisation
etch	Company/Organisation	Designer/Architect
Farsight NZ LP	Company/Organisation	Industry organisation
Fat Hippo Design Group	Company/Organisation	Designer/Architect

Fire and Emergency NZ	Company/Organisation	Other
Fire Protection Association	Company/Organisation	Industry organisation
Fletcher Building	Company/Organisation	Developer
Fletcher Steel Ltd	Company/Organisation	Business
Food distributor	Company/Organisation	Other
Frame and Truss Manufacturers Assn.	Company/Organisation	Industry organisation
Freeman 1983Ltd	Company/Organisation	Developer
Garry Cruickshank	Individual	Building Consent Officer/Authority
Glenn	Individual	Engineer
GO architecture ltd	Company/Organisation	Designer/Architect
Gordon Moller	Individual	Designer/Architect
Greg Chesson	Individual	Designer/Architect
Guy Puke-Mason	Individual	Building Consent Officer/Authority
Hamilton City Council	Company/Organisation	Building Consent Officer/Authority
Harangi Kim	Individual	Designer/Architect
Heber AhMu	Individual	Designer/Architect
Helen Chung	Individual	Other
Heybrook Building Ltd	Company/Organisation	Builder
Hi TEC homes ltd	Company/Organisation	Builder
Holmes NZ LP	Company/Organisation	Other
Home Owners and Buyers Association	Company/Organisation	Industry organisation

Hutt City Council	Company/Organisation	Building Consent Officer/Authority
IANZ	Company/Organisation	Other
Insurance Council of New Zealand	Company/Organisation	Industry organisation
Invercargill City Council	Company/Organisation	Building Consent Officer/Authority
ITM Mosgiel	Company/Organisation	Business
Jason King	Individual	Other
JCY Architects	Company/Organisation	Designer/Architect
Johannes Dimyadi	Individual	Other
John Calder	Individual	Homeowner
John Hill	Individual	Builder
John Hudson	Individual	Other
John Newsome	Individual	Building Consent Officer/Authority
John Tait	Individual	Building Consent Officer/Authority
Johnathon Preston	Individual	Engineer
JPA Ltd	Company/Organisation	Designer/Architect
JVL Contractors Limited	Company/Organisation	Designer/Architect
Kapiti Coast District Council	Company/Organisation	Building Consent Officer/Authority
Kawerau District Council	Company/Organisation	Building Consent Officer/Authority
Kent Huxford	Individual	Engineer
KW Architectural Design	Company/Organisation	Designer/Architect

Larry Bellamy	Individual	Engineer
Lindsay	Individual	Builder
Luke Ashley	Individual	Builder
Lumberbank	Company/Organisation	Business
Mackenzie District Council	Company/Organisation	Building Consent Officer/Authority
Makers of Architecture	Company/Organisation	Designer/Architect
Manawatu District Council	Company/Organisation	Building Consent Officer/Authority
Mark Stericker	Individual	Building Consent Officer/Authority
Martin Hartley	Individual	Business
Master Brick and Blocklayers NZ	Company/Organisation	Industry organisation
Master Plumbers	Company/Organisation	Industry organisation
Masterplan Architectural Ltd	Company/Organisation	Designer/Architect
Mat Caird	Individual	Designer/Architect
Matt Hopson	Individual	Builder
Matuakore Toheriri Tibble	Individual	Sub-contractor
Mayor, Western Bay of Plenty council	Company/Organisation	Building Consent Officer/Authority
Metlifecare	Company/Organisation	-
Milestone Homes Nelson Bays	Company/Organisation	Business
Miri Robinson	Individual	Homeowner
MiTek NZ Ltd	Company/Organisation	Engineer

moore architecture ltd	Company/Organisation	Designer/Architect
Name not provided	Company/Organisation	Designer/Architect
Name not provided	Company/Organisation	Designer/ Architect
National Association of Steel-Framed Housing INC (NASH)	Company/Organisation	Industry organisation
Neville Paterson	Individual	Engineer
New Zealand Certified Builders	Company/Organisation	Industry organisation
New Zealand Structural Engineering Society (SESOC)	Company/Organisation	Engineer
Nicholas Taransky	Individual	Homeowner
Nick Adams	Individual	Builder
Nikki Clark	Individual	Building Consent Officer/Authority
Northpower	Company/Organisation	Other
NZ Construction Industry Council	Company/Organisation	Industry organisation
NZ Geotechnical Society	Company/Organisation	Industry organisation
NZ Green Building Council	Company/Organisation	Industry organisation
NZ Heavy Haulage Association Inc	Company/Organisation	Industry organisation
NZ Infrastructure Commission	Company/Organisation	Other
NZ Institute of Architects	Company/Organisation	Industry organisation
NZ Registered Architects Board	Company/Organisation	Other
NZSEE	Company/Organisation	Industry organisation
Oliver Mason	Individual	Builder

Orion New Zealand	Company/Organisation	Other
Performance Based Compliance	Company/Organisation	Building Consent Officer/Authority
Pete Richards	Individual	Designer/Architect
Peter Featherstone	Individual	Designer/ Architect
Peter Gwilliam	Individual	-
Peter Reddin	Individual	Engineer
Phil Close	Individual	Builder
Phillip Bone	Individual	Building Consent Officer/Authority
Pinfold Architects Ltd	Company/Organisation	Designer/Architect
Powerco	Company/Organisation	Business
Pragma Designer Homes	Company/Organisation	Designer/Architect
Property Council NZ	Company/Organisation	Industry organisation
QA audit NZ	Company/Organisation	Other
Queenstown Lakes District Council	Company/Organisation	Building Consent Officer/Authority
Queenstown Plumbing & Gas Ltd	Company/Organisation	Sub-contractor
Rangitikei District Council	Company/Organisation	Building Consent Officer/Authority
Reform Architecture	Company/Organisation	Designer/ Architect
Registered Master Builders	Company/Organisation	Industry organisation
Reon Taylor	Individual	Builder
Resene	Company/Organisation	Other

Richard Martin	Individual	Builder
Rick Pettit	Individual	-
Riverton Plumbing	Company/Organisation	Business
Rob Bennett	Individual	Designer/Architect
Rob d'Auvergne	Individual	Designer/Architect
Rob Gibson	Individual	Builder
Roger Walker	Individual	Designer/Architect
Roofing Association NZ Inc	Company/Organisation	Industry organisation
Sam Wood	Individual	Other
Scott Brown	Individual	-
Sean O'Shea	Individual	Other
Selwyn District Council	Company/Organisation	Building Consent Officer/Authority
Shape Construction	Company/Organisation	Other
Simpli	Company/Organisation	Sub-contractor
South Wairarapa District Council	Company/Organisation	Building Consent Officer/Authority
Southland District Council	Company/Organisation	Building Consent Officer/Authority
Sr Arch Group	Company/Organisation	Industry organisation
Stan Randle	Individual	Sub-contractor
Steven Kovacic	Individual	Designer/Architect
Stuart Hayman	Individual	Industry organisation

Sublime Architecture	Company/Organisation	Designer/ Architect
Taituara	Company/Organisation	Industry organisation
Tasman District Council	Company/Organisation	Building Consent Officer/Authority
Taumata Arowai	Company/Organisation	Other
Tauranga City Council	Company/Organisation	Building Consent Officer/Authority
Terry Mounsey	Individual	Sub-contractor
Terry Wilson	Individual	Homeowner
Third Bearing Ltd	Company/Organisation	Other
Tim Barton	Individual	Designer/Architect
Tim Stewart	Individual	Builder
Timaru District Council	Company/Organisation	Building Consent Officer/Authority
Tom Lanigan	Individual	Engineer
Transpower	Company/Organisation	Industry organisation
Travis Grey	Individual	Designer/Architect
Upper Hutt City Council	Company/Organisation	Building Consent Officer/Authority
Vector	Company/Organisation	Other
Vepo bop ltd	Company/Organisation	Business
Vogue Design	Company/Organisation	Industry organisation
Wade construction Ltd	Company/Organisation	Builder
Waikato Building Code (Colab)	Company/Organisation	Building Consent Officer/Authority

Waikato Master Plumbers Branch	Company/Organisation	Industry organisation
Waimakariri District Council	Company/Organisation	Building Consent Officer/Authority
Waitaki District Council	Company/Organisation	Building Consent Officer/Authority
Warren Thompson	Individual	Sub-contractor
Water New Zealand	Company/Organisation	Other
WEL Network Ltd	Company/Organisation	Other
Wellington City Council	Company/Organisation	Building Consent Officer/Authority
Whangarei District Council	Company/Organisation	Building Consent Officer/Authority
Willis Bond and Company Ltd.	Company/Organisation	Developer
Winstone Wallboards Ltd	Company/Organisation	Business
Yvette Harris	Individual	Other
Zyte Ltd	Company/Organisation	Industry organisation



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