



## COVERSHEET

<b>Minister</b>	Hon Chris Penk	<b>Portfolio</b>	Building and Construction
<b>Title of Cabinet paper</b>	Exploring options for self-certification of building work	<b>Date to be published</b>	29 October 2024

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
September 2024	Exploring options for self-certification of building work	Office of Minister for Building and Construction
18 September 2024	Exploring options for self-certification of building work ECO-24-0199 Minute	Cabinet Office

### Information redacted

**YES**

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

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

## In Confidence

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

## Exploring options for self-certification of building work

### Proposal

- 1 This paper seeks agreement to investigate options for shifting assurance roles away from building consent authorities, subject to appropriate safeguards to reduce risk. This includes exploring options for a potential self-certification scheme for approved building professionals.
- 2 In addition to self-certification, I am also continuing to develop other options to alleviate the burden on building consent authorities to improve productivity, reduce unnecessary burdens and shift assurance roles. This includes consent free pathways ('granny flats' and considering the role of insurance), mandatory use of remote inspections and non-regulatory options (e.g. encouraging building consent authorities to take a risk-based approach to consenting).

### Relation to government priorities

- 3 This relates to the Government's commitment to "Go for Housing Growth" by making it easier and more affordable to build in New Zealand. Further work on self-certification supports the Government's commitment to increase housing supply by improving efficiency and competition in the building system, reducing barriers and driving down costs.

### Executive summary

- 4 In March 2024, I set out for Cabinet a programme of work to make it easier to build in New Zealand. One component of this work programme included quicker and more efficient pathways for low-risk building work including self-certification and 'granny flats', and I agreed to report back to Cabinet on the policy direction for this work in Quarter 3, 2024 [ECO-24-MIN-0019 and CAB-24-MIN-0069 refers].
- 5 As noted in the March Cabinet paper, self-certification is not the only option for changing how building consent authorities can assure building work to address the issues of delays building a home. This is one element of a programme of work which looks at assurance roles and responsibilities (see appendix 1) to streamline the building consent system.
- 6 Looking at how self-certification can be used more broadly in the building sector recognises that building consent authorities should not be the only

ones responsible, and liable for compliance with the building code. While third party checks are key to mitigating the risks of mistakes and negligent work not being picked up, it may not be necessary in all circumstances.

- 7 At present, building consent authorities are responsible for assuring that all building work is compliant with the Building Code through issuing a building consent, undertaking inspections of building work and providing a code compliance certificate. The current exception is for gasfitting and electrical work where a form of self-certification exists.
- 8 Broadening the use of self-certification to include other building-related trades would transfer responsibility for assuring compliance and quality of work to those who are more appropriately placed to do so (e.g. with the required expertise, competence and direct influence). This would help to reduce pressure on the consent system and reduce wait times for consent processing and inspections during periods of high demand. Where work is self-certified, council liability will be reduced, or eliminated, depending on their residual role in the scheme.
- 9 As the assurance role of building consent authorities for some building work would be transferred to approved professionals in the sector, a self-certification scheme would need to be designed carefully with strong checks and balances to ensure building work is compliant and that there are adequate protections for consumers, and for the system overall.
- 10 I seek Cabinet's approval to progress further work to explore the potential for a self-certification scheme, including the scope for an opt-in scheme and recommended key safeguards. These would be aimed at strengthening the competency of building professionals, making sure consumers have a remedy for non-compliant work and careless or incompetent self-certifiers are identified and are subject to disciplinary action.

## Background

*Self-certification does not preclude other options for changing how building consent authorities can assure building work*

- 11 In this context, self-certification is used as a broad term to refer to options where building consent authorities are not the only ones responsible, and liable, for certifying compliance with the building code.
- 12 The work to date has not precluded other options, including the status quo or other assurance pathways for compliance with the building code to be checked. Self-certification is not identified as the only option to address the issues of delays building a home by changing how assurance in the building regulatory system works. This is one element of a programme of work to look at assurance roles and responsibilities (see **Appendix 1**) to streamline the building consent system.

- 13 Further, this paper does not propose to narrow down what self-certification is. If self-certification was agreed to broadly, there are multiple ways this could be designed and delivered.

*Currently, only building consent authorities are permitted to perform building consenting and certifying functions under the Building Act*

- 14 For most types of building work this means checking to ensure that an application for a building consent complies with the building code, issuing consents, as well as undertaking inspections to provide reasonable grounds to assure that building work has been carried out in accordance with the building consent for that work. It also includes issuing a final code compliance certificate.
- 15 The exception is for gasfitting and electrical work which can be self-certified. This means that building consent authorities do not need to review or inspect gasfitting or electrical work to ensure compliance with the building code, or sign it off, and councils therefore cannot be liable for any defects relating to self-certified work.

*The 2023 review of the building consent system identified self-certification as an option that could improve efficiency within the building consent system and strengthen accountability for professionals undertaking building work*

- 16 The Ministry of Business, Innovation and Employment (MBIE) publicly consulted on an option for an opt-in self-certification scheme for accredited companies and approved professionals in all building trades as part of the *Building Consent System Review Options discussion document* in 2023.
- 17 This option set out for building work to be certified by the approved professional who does the building work, or an accredited company contracted to deliver the building work. Depending on the design of the scheme and the role of the building consent authority, certification would need to be accepted by the building consent authority as establishing compliance with the Building Code.
- 18 There was broad in-principle support from many submitters for the proposal, subject to having strong safeguards in place to manage the risks. These risks include the potential for poor building quality to go unchecked, consumer loss and difficulties in attributing liability when things go wrong.

*Self-certification could reduce pressure on the consent system, particularly during times of high demand*

- 19 The concentration of responsibility on building consent authorities often causes delays, particularly when there is a lack of capacity during times of high demand. These delays can increase other costs associated with building work. For example, if a building contractor cannot use the machinery it has hired, or a future homeowner needs to pay rent for longer.

- 20 Self-certification could help reduce pressure by reducing the volume of consenting activity that building consent authorities need to deal with. It could also enable building consent authorities to focus their building control resources on higher risk work.
- 21 While self-certification will streamline the building process for building professionals who opt-in, they will also be accountable for that work and be held liable when things go wrong. A building consent authority would not be liable for defects related to self-certified work as they are not responsible for assuring that work is compliant.

### **Potential scope of the self-certification scheme**

- 22 Further work will be undertaken, including consultation with key stakeholders to identify the scope of a potential self-certification scheme which could:
- enable a broad range of groups to be eligible to apply (both individual practitioners and accredited companies);
  - require that participants in the scheme can demonstrate an appropriate, specified level of competency and experience, and be trustworthy; and
  - limit the type of work that can be self-certified to lower risk activities (i.e. work on a simple residential dwelling).

*A broad number of different entities could be eligible for self-certification, but with a high bar for competency and capability*

- 23 A broad, enabling legislative framework would likely need to be set up for self-certification in the Building Act for any building professional who works on residential dwellings. This would allow accredited companies (such as group home builders) and approved persons (any individual building professional with proven competencies and experiences) to certify work they have carried out.
- 24 This may require changes to settings under existing registration and licensing regimes, for example if a new “certifying” licence class or endorsement was required to implement the policy.
- 25 To address risks that could arise with the quality of building, appropriate eligibility criteria would need to be in place, which may include requiring an applicant to have:
- specified technical competency such as knowledge of building code;
  - a minimum number of years of practical experience; and
  - have a proven track demonstrating financial stability and regulatory compliance.
- 26 Companies would need to demonstrate that the key people in control of the company meet the above criteria, have relevant qualifications, and

have robust systems and processes in place to manage the quality of their employee's work.

*Self certification would be restricted to work associated with a simple, standalone residential dwelling*

- 27 Self-certification of building work could focus on a simple residential dwelling or any building work in a household unit or a simple-unit residential building. This targets lighter-touch regulatory requirements where building work is likely to be simpler and more straightforward, unlike a complex multi-story building.
- 28 For individual practitioners they would only be able to certify work within their level of competence, and companies would be limited to the scope of work they are accredited to self-certify.
- 29 Additionally, self-certification could be rolled out for any building work in a residential building that a professional is authorised to do under an occupational licensing regime. For example, Master Plumbers has been advocating for qualifying plumbers and drainlayers to self-certify.
- 30 Previous consultation has suggested that design work should not be included in a self-certification scheme. There are also concerns that at present, designers have varying levels of capability in interpreting and designing to the building code, as well as varied understanding of their obligations to produce a design for builders to work to.
- 31 This issue was also highlighted in a recent independent report based on data from building consent authorities which showed that that most requests for information are caused by missing or incorrect information (81 per cent). Of this, 66 per cent of these were for missing information in relation to specifications or calculations from drawings to show how the performance requirements of the building code will be met.<sup>1</sup>
- 32 I propose that officials engage with key stakeholders, to further test whether design work for simple residential buildings should be excluded from the self-certification scheme, or whether this work could be included with appropriate risk mitigations.

### **Proposed safeguards for a potential self-certification scheme**

*Self-certification will shift accountability for assurance to other sector participants*

- 33 There are poor incentives for participants to get building work right the first time, which can create inefficiencies. For example, many sector participants place a high level of reliance on building consent authorities for ensuring compliance. This can slow things down when building consent authorities need to issue requests for further information or undertake additional inspections.

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<sup>1</sup> Hōete (2023) ModelDocs - Transforming Building Consenting Behaviour for Better Housing 2023.

I N C O N F I D E N C E

- 34 Building consent authorities also assume a level of responsibility that can be disproportionate to their role compared to those who are involved in building design and construction. Authorities can be unfairly burdened as they are not always best placed or have the necessary expertise to manage the risks.
- 35 As self-certification would remove or reduce the third-party review role of building consent authorities, it will be important to have other adequate mechanisms for maintaining confidence that self-certified work will comply with the building code.
- 36 Three key safeguards I see as critical for the design of a potential scheme are:
- 36.1 Strengthening the competency of building professionals
  - 36.2 Consumers have a remedy for non-compliant work.
  - 36.3 Careless or incompetent self-certifiers are identified and subject to disciplinary action
- 37 Inappropriate regulatory safeguards for self-certification were a key contributing factor to weathertight homes issues.<sup>2</sup> Therefore, it is also critical that changes are managed carefully to avoid defects and building failure that can be stressful and costly to address. It will also be important to have other adequate measures in place for detecting design and/or construction errors.
- 38 As discussed at ECO on 11 September 2023, in relation to structural reform of the building consent system, there is a preference to reduce the amount of work that requires a building consent and expand the market for building defects insurance to support this. Insurance will play an important role in any changes to the assurance role of building consent authorities. However, as we have learnt from the weathertight homes issues, other key regulatory safeguards will also be required to reduce the risks of defects occurring in the first place, such as monitoring and robust oversight of self-certified work through auditing.
- 39 I recommend that Cabinet note these safeguards will be critical for any shift in the assurance role of building consent authorities to professionals in the sector to ensure the risks of self-certification are appropriately mitigated and consumers are adequately protected. Examples of how safeguards could be designed for the scheme are set out in **Appendix 2**, Table 1.
- 40 While I want this system to be agile and responsive to changes in the way New Zealanders build it is also critical that changes are managed to also avoid defects and building failure that can be stressful and costly to address.

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<sup>2</sup> Hunn Report (2002) Report of the Overview Group on the weathertightness of building to the Building Industry Authority

*Strengthening the competency of building professionals*

- 41 A condition for those self-certifying would be that a strong quality assurance process is in place, and for a potential scheme to be supported by proactive auditing to monitor compliance of, and remediate quality issues with self-certified work.
- 42 The competency of building professionals could also be improved through strengthening existing registration and licensing regimes. Further work would need to be undertaken to identify what changes could be implemented to support increased skills and competency in the sector to support those who are self-certifying work. This would address concerns around the considerable variability across building professionals in terms of skill level and work quality.
- 43 This will also provide an opportunity to look at what other changes could be progressed to accommodate proposed changes for 'granny flats' and support the uptake of remote inspections in the sector.
- 44 To accommodate all these changes, complementary changes may also be required to ensure regulators have the right tools to hold incompetent and negligent building professionals to account. For example, penalties for non-compliance might need to be adjusted to ensure that they are proportionate to the level of potential harm caused by poor quality building work that is self-certified.

*Consumers have a remedy for non-compliant work*

- 45 In general, consumers have significantly less information than builders and can face significant transaction costs to seek redress when things go wrong.
- 46 An appropriate safeguard would be that those who apply to become self-certifiers would need to meet an 'adequate means' test to cover civil liabilities for non-compliant work. This could include a requirement for building defects insurance or an adequate warranty, or demonstration of other sufficient financial means such as certain level of capital.
- 47 There are existing protections in place for consumers under Part 4A of the Building Act 2004, including minimum terms and conditions, implied warranties and disclosure requirements. However, the recent Building Consumer Protection Review (2022) identified that the current measures need to be strengthened, to better support consumers to manage risks. Seeking redress when things go wrong is still difficult, complex and costly for consumers.
- 48 Further work would also need to be undertaken to determine how these measures can be strengthened to support consumers to manage any increased risk that might arise through the introduction of self-certification and other changes to the building consent system. Building professionals have a greater incentive to take care when consumers have the right tools



to enforce their rights and sufficient information to make choices that will manage their risks.

*Careless or incompetent self-certifiers are identified and subject to disciplinary action*

- 49 The ability to hold building professionals to account, and to prevent careless or negligent building professionals from continuing to operate will be a critical component of any self-certification scheme. This will require strengthening existing registration and licensing requirements for building professionals.
- 50 An appropriate safeguard would be ensuring approved professionals and accredited companies are subject to complaints and disciplinary processes, have proven processes to manage conflicts of interest and will be required to meet fit and proper person requirements. There will also be measures in place that will enable de-registration if work does not comply with the law.

#### **A residual role for building consent authorities**

- 51 My officials are exploring a number of different legislative options for the role of building consent authorities under a potential self-certification scheme. This ranges from completely removing a building consent authority from the consent process through to still issuing a building consent and a code compliance certificate on completion of the building work.
- 52 A key consideration is that current consent milestones are used for a broad variety of purposes. For example, a building consent:
  - 52.1 can be a requirement for access to finance and insurance, or as part of payment schedules to builders);
  - 52.2 is used by central and local government as the trigger for council development contributions;
  - 52.3 can be a formal record of building work and is used for collection of the building levy.
- 53 In addition, Statistics New Zealand relies on the data from issuing of code compliance certificates and building consents as part of its function to provide statistics on the quarterly value of building work and Gross Domestic Product (GDP).
- 54 If building consent authorities were still to have some oversight through issuing a building consent and final code compliance certificate, consideration would need to be given to how this will impact their liability in relation to work that is self-certified.

## Insurance

- 55 It is intended that the design and viability of any form of self-certification scheme will be informed through consultation with the insurance industry to determine the likelihood that the insurance sector will expand its offerings to support implementation of the scheme.
- 56 This will require work to address the conditions that have hampered the emergence of a viable insurance market in New Zealand. Confidential advice to Government
- 57 Further, stakeholders have raised concerns that if new insurers enter the market to support implementation of self-certification, the costs of the insurance products might be too high.

## Implementation

### *The oversight body for the scheme*

- 58 Further work is required to explore options for oversight and accreditation and determine the most suitable governance arrangements to ensure there is satisfactory monitoring and auditing of work for both individual practitioners and firms. This will also help to determine potential establishment and administrative costs that will be associated with the oversight mechanisms of the scheme.

### *Sector readiness should be a key consideration in implementation timing and approach*

- 59 Any options that redistribute responsibility in the building consent system will depend on others being prepared, competent and able to take on that responsibility. While there was broad in-principle support from submitters to establish a self-certification pathway for approved professionals and accredited companies, there were also concerns about the readiness of the sector to take on the additional responsibilities and accountabilities.
- 60 There are a number of options for how an opt-in self-certification scheme for all construction trades could be rolled out. For example, a phased approach could see certain trades or people and companies who already have good quality assurance systems in place, the right competencies and a good track record, sufficient capital, and capacity to remedy defects, enter the scheme first.
- 61 If there is less appetite for the risks associated with self-certification, or if the costs of establishing the scheme are prohibitive, there is also a potential opportunity to use the changes set out in the 'granny flats' proposal as a way of "testing" self-certification on a smaller scale with less risk involved.

- 62 A full cost benefit analysis will be developed to determine overall benefits (such as time and money savings to building sector participants) and costs (one-off and establishment costs, and where costs get shifted in the system e.g. where risk and liability is transferred).

### Next Steps

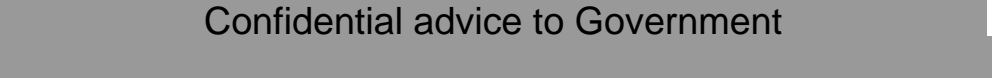


- 63 The next steps are to develop more detailed options for design. This includes the extent to which the assurance role of building consent authorities is removed and subsequent legislative options, more detailed criteria for the scheme, a formal assessment of costs and benefits, and targeted stakeholder engagement. Officials will also continue to explore other options for reducing delays by shifting assurance away from building consent authorities.
- 64 If Cabinet directs officials to explore policy options for a potential self-certification scheme, my officials will undertake targeted consultation on the scope, options and more detailed design and viability with key stakeholders.

### Cost-of-living Implications

- 65 There are no direct cost-of-living implications arising from this paper.

### Financial Implications

- 66 There are no direct financial implications arising from this paper. This paper seeks agreement to progress a forward work programme to investigate options development with respect to self-certification. No regulatory or system changes are proposed at this time.
- 67 Establishing a self-certification scheme will have financial implications for regulated persons and for the Government. While this policy is still in its very early stages of scoping, it is likely that ongoing costs of the scheme would be funded through cost recovery from regulated persons – those who are approved or accredited to self-certify. Fees and levies would be set by the Minister by way of regulations.
- 68 I expect there will be upfront costs for Government to establish the scheme and to cover any funding shortfall as building professionals apply to be approved or accredited to self-certify. This funding would need to be allocated through reprioritisation, or provisioned for through budget processes.
- 69 The oversight mechanisms of the scheme will also need to be funded as there is currently no other body, other than building consent authorities, with powers to undertake active audits and monitoring of building work.

- 70  Confidential advice to Government   
 but this will require further investigation and advice

- 71 Following detailed policy design work, including regulatory impact analysis, I will advise Cabinet on the financial implications of any final proposal and potential options for funding.

### **Legislative Implications**

- 72 There are no legislative implications arising from this paper. Legislative implications will be considered and outlined in future Cabinet papers.

### **Impact Analysis**

#### **Regulatory Impact Statement**

- 73 There are no regulatory proposals in this paper, and therefore Cabinet's impact analysis requirements do not apply. Final policy proposals will include a Regulatory Impact Statement, including potential cost and benefits of a self-certification scheme and the varying options for implementing it.

#### **Climate Implications of Policy Assessment**

- 74 Proposals will be assessed for climate impacts during development.

#### **Population Implications**

- 75 There are no population implications arising from this paper.

#### **Human Rights**

- 76 There are no Human Rights implications arising from this paper.

#### **Use of external Resources**

- 77 No external resources were used in the preparation of this paper.

#### **Consultation**

- 78 The following agencies were consulted on this paper: Department of Internal Affairs; Department of Prime Minister and Cabinet; Department of Corrections; Department of Conservation; Ministry of Housing and Urban Development; Ministry of Education; Ministry for Culture and Heritage; Te Puni Kōkiri; WorkSafe New Zealand; Ministry for Pacific Peoples; The Treasury; Ministry of Health; Ministry for the Environment; Ministry of Transport; Ministry of Defence; Ministry for Primary Industries; Ministry of Social Development; Land Information New Zealand; Statistics New Zealand; Ministry for Regulation.
- 79 Statistics New Zealand has highlighted that data collected through the current building consent and code compliance certificate process is fundamental to many of our core statistics including monthly building consents issued, the quarterly value of building work put in place, and Gross Domestic Product (GDP).

## Communications

- 80 Following decisions in this paper, I intend to make a public announcement about progressing work to explore options for a broad opt-in self-certification scheme.

## Proactive Release

- 81 I intend to release this Cabinet paper proactively, subject to redaction as appropriate under the Official Information Act 1982.

## Recommendations

The Minister for Building and Construction recommends that the Committee:

- 82 **Note** that exploring options to broaden the use of self-certification in the building sector is part of a programme of work to deliver an efficient, competitive building regulatory system and reduce overall building costs, including initiatives for a quicker and more efficient pathways for low-risk building work.
- 83 **Note** that an opt-in self-certification scheme in the building sector may help to reduce pressure on the consent system and reduce wait times for consent processing and inspections during periods of high demand.
- 84 **Note** that self-certification would remove or reduce the third-party review role of building consent authorities, and that it will be important to have other adequate mechanisms for detecting design and /or construction errors to avoid defects and building failure.
- 85 **Direct** officials to explore policy options for a potential self-certification scheme.
- 86 **Note** that options for self-certification have not been narrowed and further work will be undertaken to identify the scope of a potential self-certification scheme which could:
- 86.1 allow a broad range of building professionals be eligible to apply (both individual practitioners and accredited companies)
  - 86.2 require that participants meet specified eligibility requirements including being able to demonstrate an appropriate, specified level of competency and experience, and be trustworthy; and
  - 86.3 limit the type of work that can be self-certified to lower risk activities (i.e. work on a simple residential dwelling)
- 87 **Note** that further work will be undertaken to ensure the following three safeguards are improved when considering options to support a potential self-certification scheme, these being:
- 87.1 Strengthened competency of building professionals.

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- 87.2 Consumers have a remedy for non-compliant work.
- 87.3 The capacity for careless or incompetent self-certifiers to be identified and subject to disciplinary action
- 88 **Note** that if a potential scheme is progressed, it will require that those self-certifying will:
  - 88.1 have in place strong quality assurance processes and systems;
  - 88.2 meet an 'adequate means' test to cover civil liabilities for non-compliant work; and
  - 88.3 have proven processes to manage conflicts of interest and meet fit and proper person requirements.
- 89 **Note** that officials will explore oversight mechanisms for a potential scheme, including appropriate powers to undertake proactive auditing and spot checks to monitor compliance.
- 90 **Note** that current registration and licensing regimes for building professionals (including complaints and disciplinary processes) and consumer protection measures are inadequate to mitigate the risk of building failure introduced by removing third-party assurance processes.
- 91 **Direct** officials to undertake further work to identify:
  - 91.1 where existing registration and licensing regimes for building professionals (including competency requirements and complaints and disciplinary processes) can be improved to ensure that they are fit for purpose to accommodate self-certification and other changes within the building control system; and
  - 91.2 how consumer protection measures in Part 4A of the Building Act 2004 can be strengthened to accommodate self-certification and other changes, and can provide the right supports for consumers to manage their risks and enforce their right.
  - 91.3 explore the role of insurance in relation to self-certification to ensure there is adequate warranties and insurance to support reduced building consent authority oversight, including whether there is an appetite for insurers to expand the current offerings in response to a self-certification scheme if there were the right conditions in place and how these might be achieved.
- 92 **Note** that granny flats provides an opportunity to test self-certification on a smaller scale and with less risk involved is there is there is less appetite for the risks associated with self-certification, or if the costs of establishing the scheme are prohibitive.
- 93 **Note** that decisions still need to be made about whether there will be a residual role for building consent authorities within the scheme.

Authorised for lodgement

Hon Chris Penk

Minister for Building and Construction

## Appendix 1: Short-term actions to make it easier, cheaper and faster to build

BUILDING PERFORMANCE
Supporting housing growth by reducing the time and cost to build


**GOVERNMENT PRIORITY**  
Going for Housing Growth

**Supports** Fixing the housing crisis


**CHALLENGES IN BUILDING AND CONSTRUCTION**

- Delays and duplication of work
- Poor incentives and accountability to get building work right first time
- Inconsistent processes and decision-making
- Competition for key building supplies is limited


HOW WE WILL ACHIEVE THIS




Increase competition




Drive down costs of building materials



Streamline building consents



Improve consistency of decision-making



Reduce regulatory barriers

### Short-term actions to make it easier, cheaper and faster to build...

What do we propose to do		Outcome
Increased consistency with international standards and product approvals	➔	Increase competition for building products and supply chain resilience
Clarify the definition of minor variations to building consents	➔	Make it easier to substitute building products
Making it easier to build a small, simple dwelling ('granny flats')	➔	Increase the supply of small housing in New Zealand
Remote inspections	➔	Reduce delays in the building process by increasing uptake of remote inspections
Define minor customisation to MultiProof approval	➔	A more flexible MultiProof scheme for presenting building designs
Producer statements (professional opinions on building work)	➔	Recognise these as formal statements under the Building Act to reduce the amount of checking building consent authorities need to do

#### Plus implementing existing schemes...

- Building consent exemptions for low-risk work
- BuiltReady and MultiProof fast track pathways for offsite manufacturers and repeatable designs
- Building Product Information Requirements to inform decision-making
- CodeMark product certification scheme to support innovative products
- Building consent authority accreditation scheme

#### ...and improving the current system

- Ensuring accountability and competency of professionals
- Improving performance monitoring

### ...while we consider broader structural reform...

- Delivering a consistent and seamless experience across building consent authorities
- Explore the role of public and private insurance
- Streamlining commercial consenting

### ...helping to improve broader public interest outcomes in building and construction

OUTCOMES



Buildings are healthy, safe and durable



System is efficient, risk-based, has proportionate compliance costs and enables innovation



Roles and responsibilities are clear, appropriate and understood



System is responsive to change and continuously improves



Regulatory requirements and decisions are robust, predictable, transparent and understood

Supports Going for Housing Growth commitments alongside actions in infrastructure and the resource management and planning systems



## Appendix 2: Proposed safeguards and design elements of the scheme

The possible safeguards being considered for achieving the proposed outcomes are outlined in Table 1 below:

Desired outcome	Means to achieve outcome	
	Accredited company route	Approved professional route
High confidence that self-certified work complies with the Building Code	Company / approved professional has appropriate QA systems.	
	There are processes and requirements in place to ensure self-certifiers: <ul style="list-style-type: none"> <li>• are competent in certification;</li> <li>• have a good current understanding of Building Code requirements;</li> <li>• are subject to ongoing performance monitoring and continued training/experience requirements; and</li> <li>• keep robust records to enable effective audit.</li> </ul>	
	There is a proactive audit regime (formal audits and spot checks) to monitor compliance.	
Consumers have a remedy for non-compliant work	There are appropriate disputes and complaints processes.	
	Company has adequate means to cover civil liabilities for non-compliant work.	Consumer has access to a remedy for non-compliant work.
Careless or incompetent self-certifiers are identified and subject to disciplinary action	Entry criteria: “fit and proper person” requirements	
	Company has appropriate: <ul style="list-style-type: none"> <li>• complaints processes</li> <li>• human resources processes</li> </ul>	There are appropriate: <ul style="list-style-type: none"> <li>• complaints processes</li> <li>• disciplinary processes</li> </ul>
	Company has policy and processes to identify and manage conflicts of interest.	There is an enforceable code of ethics to deal with poor behaviour, including conflicts of interest.

The recommended safeguards/outcomes are based on:

- Findings of the Sapere report on self-certification in construction industry trades prepared for MBIE as part of the statutory review of the Plumbers, Gasfitters, and Drainlayers Act 2006.<sup>3</sup>
- Outcomes used for the establishment of the BuiltReady scheme.
- Examples of successful self-certification schemes in other jurisdictions which include common elements such as frequent auditing, continuing professional development, adequate consumer protection and remedies, competency testing, and strict penalties for non-compliance.<sup>4</sup>

<sup>3</sup> Sapere (2020) Self-certification in construction industry trades

<sup>4</sup> Success for self-certification models used in other jurisdictions has been the result of comprehensive risk mitigations. The Sapere report analysed overseas models such as the Competent Persons Scheme (UK), Certified Professional Program (Canada), and various self-certification schemes across Australia. The report identified elements that were important to these schemes’ success.

- Confidential advice to Government  
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<sup>5</sup> Confidential advice to Government  
<sup>6</sup> Confidential advice to Government