

Consultation submission form

REVIEW OF THE BUILDING CONSENT SYSTEM: OPTIONS PAPER

June 2023



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How to make a submission

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

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

How to make a submission

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

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

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

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

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

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

Wellington 6140
New Zealand

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

Alternatively, you can respond to the questions by using this [online survey form](#).

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

Use of information

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

Release of submissions on MBIE website

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

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

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

Release of information under the Official Information Act

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

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

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

Private information

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

Submitter information

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

A. About you

Name: Julia Byers

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

The Association of Consulting and Engineering New Zealand (ACE New Zealand) is a firm-based membership organisation representing over 255 professional services firms working across the built and natural environment – from large global firms to employee-owned SMEs. Our members employ approximately 15,000 staff, including engineers, project managers, planners, scientists, architects, surveyors and other technical disciplines. Our teams work together to advise, design and deliver on critical technology, policies and practices, and construction and infrastructure across the built and natural environment in Aotearoa.

Email address: julia@acenz.org.nz

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

☒ Yes

☐ No

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

☐ Individual

☒ Company/Organisation

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

☐ Designer/ Architect

☐ Builder

☐ Sub-contractor

☐ Engineer

☐ Building Consent Officer/Authority

☐ Developer

☐ Homeowner

☐ Business (please specify industry below)

☒ Industry organisation (please specify below)

Submitter information

☐ Other (please specify below)

E. Privacy and official information:

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

- ☐ Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish or release under the *Official Information Act 1982*.
- ☐ MBIE may publish or release your submission on MBIE's website or through an Official Information Act request. If you do **not** want your submission or specific parts of your submission to be released, please tick the box and provide an explanation below of which parts of your submission should be withheld from release:

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

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

Consultation questions

Chapter 2 – Promoting competition in the building regulatory system

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

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

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

Questions about promoting competition:

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

ACE New Zealand does not support Government giving competition more prominence in the building regulatory system and reinforce Engineering New Zealand's submission on these points.

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

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

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

☐ Yes

☐ Somewhat

☐ No

☐ Not sure

Please explain your views.

Chapter 3 – Removing impediments to product substitution and variations

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

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

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

Product Substitution:

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

MultiProof scheme:

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

Questions about product substitutions, variations and MultiProof

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

☐ Yes ☒ Somewhat ☐ No ☐ Not sure

Please explain your views.

ACE considers introducing more agility into the building consent system is important for efficiency and innovation, and central to supporting the sector to meet our sustainability goals. Our members spend a significant amount of time making variations and product substitutions after a consent has been granted, particularly in more complex projects, and the current consenting processes around these can add time and costs to a project which deters from the use of substitutions.

However, we would like to emphasise that any change to product substitution and variation rules needs to be sufficiently robust so as not to introduce any risk into the system. In particular, the system needs to be sufficiently robust to ensure product quality, safety, and 'fit for purpose' for New Zealand conditions and standards, such as seismicity, climate etc to avoid systemic issues like

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we saw with the “leaky buildings” crisis, and recent examples relating to imported seismic-grade steel failing to meet New Zealand standards.

It is our view that the process MBIE undertook to issue guidance relating to plasterboard substitution in 2022 was a good example of how this process can be done well.

ACE supports MBIE’s preferred approach to progress all options together to provide both short and long term steps to improving the product substitution and variations processes.

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

As above, there is risk that too much flexibility introduces too much risk into the system.

As noted in the options paper, allowing product substitution may also introduce greater uncertainty into the system leading to delays and cost increases due to time spend researching. This may be managed through approved supplier lists.

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

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

Chapter 4 – Strengthening roles and responsibilities

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

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

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

Questions about strengthening roles and responsibilities

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

☐ Yes ☒ Somewhat ☐ No ☐ Not sure

Please explain your views.

ACE supports introducing the requirement for all designers to provide a declaration that they believe on reasonable grounds their design work complies with the building code. We consider this will help lift the quality of all design work submitted for building consent and better allocate responsibility to those best able to identify and manage the associated risks.

However, we consider there needs to be clear guidance of these requirements, as well as appropriate accountability mechanisms.

It is ACE's view that, while the changes set out in this chapter may help strengthen the building consent process, the first step for improving the system should be for MBIE to strengthen its stewardship role, then the capability and consistency in the BCAs, before considering what additional levers are needed at the operational level of the firm, designer, and through construction. It is our concern that while roles and responsibilities may be allocated and shared, risks are disproportionately shifted which may have unintended consequences for liability and warranties.

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

☒ Yes ☐ No ☐ Not sure

Please explain your views.

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Currently during the construction stage there can be a lack of clarity around who is responsible, with often no one taking overall responsibility for a project and an over reliance on BCAs to perform an onsite quality control role. ACE considers the proposed requirement for a person to be responsible for managing the sequencing and coordination of building work would help provide for better sequencing and coordination of subtrades on site and forward planning of work, resulting in improved quality. However, it cannot be the responsibility of this person to provide quality control of the work of others, and there must be clear guidance relating to the role and scope of this position not being to provide quality control of the work of others.

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

ACE considers there is risk the qualifications and scope of these roles will become overly prescriptive resulting in additional hurdles and costs, particularly for smaller projects. The requirements need to be kept clear and simple, and not add additional liability or transfer risk onto other players in the system where it is not warranted.

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

☒ Yes

☐ Somewhat

☐ No

☐ Not sure

Please explain your views.

ACE considers there needs to be a clear pathway to hold someone to account for substandard designs or work, as this will ensure responsibility is better allocated to the person with relevant expertise. We consider that unless there is a way to hold designers to account the requirement of a design declaration will have limited impact.

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

ACE considers that the information required should be the same as that currently required for a CPEng signing a producer statement, in particular, clarity of the scope of works being signed off and the competence of the author and their affiliation to ACE New Zealand, which requires its member firms to have quality assurance processes, to develop the competence of their people, and to hold appropriate levels of professional indemnity and public liability insurances. Ideally, this would also be accompanied by a design features report which is a detailed document detailing the main parameters used in the design.

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

☒ Yes

☐ No

☐ Not sure

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Please explain your views.

ACE considers that the declaration of design compliance and the certificate of design work would ultimately serve the same purpose in providing a declaration of compliance with the Code, and therefore should be combined to avoid duplication.

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

ACE considers a design coordination statement could be used in situations where the primary designer has relied on design input from designs from other disciplines (such as engineers of various disciplines), or situations where there are multiple designers from different firms working on a larger project. However, any designer should remain responsible for ensuring compliance of their own designs.

Projects our members are involved in often include many different engineering professionals (engineers and engineering technicians, technologists, and/or geologists) of varying experience levels working alongside professionals from other disciplines in a collaborative way, across multiple decision points, in complex environments where we are dealing with unique designs based on variable and assumed factors. Within this context, we see collective decisions being made by a multi-disciplinary team, rather than decisions being directed by a single professional.

We would not like to see a move away from collaborative multi-consultant and multi-disciplined project teams working together to achieve holistic outcomes for their clients.

A coordination statement could be used to assist BCAs in understanding what information has been relied on but the BCA would still be required to satisfy itself, on reasonable grounds, each design element complies with the Code.

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

ACE considers that the responsibility for on-site coordination should be limited to someone who can be held to account if something goes wrong. ACE considers that consideration should be given to requiring that person to have a high level of qualification and quality assurance procedures to be in place (eg, chartered professional engineer).

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

ACE would like to see a more consistent approach by BCAs in how they make an assessment to seek peer review, considering factors including scale, complexity, value, importance levels, ground conditions etc. The lack of consistency across BCAs is one of the key blockers to efficiency and innovation in the current building consent system.

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Our members would also like to see greater attention placed on design firms being able to demonstrate their own internal QA processes and peer reviews to BCAs, to avoid duplication of QA and peer review through the consenting process.

Questions about producer statements

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

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

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

☐ Yes ☒ Somewhat ☐ No ☐ Not sure

Please explain your views.

ACE considers the Building Act should be amended to refer to the producer statements and how they should be used. Our members consider this will help bring more consistency to the way BCAs process building consents.

It is our view that this should be accompanied with very clear guidance on who can sign producer statements and what they are required for to help drive consistency in the quality of producer statements and reduce variation in the way BCAs rely on them. As noted above, the lack of consistency across BCAs is one of the key blockers to efficiency and innovation in the current building consent system.

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

Producer statements should be used as a tool for assessing compliance with the Building Code, but not the sole means upon which a BCA assesses compliance with the Code. We agree with MBIE that BCAs should remain responsible for deciding whether the reasonable grounds test for issuing a consent or code compliance certificate is met, and that producer statements are one tool that can help BCAs make these decisions. A BCA should still be required to take reasonable steps to satisfy itself as to the adequacy of the design or construction. In this respect, we think producer statements would sit within the discretionary weight or extra weight element of the continuum in the discussion document.

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

☒ Yes ☐ No ☐ Not sure

Please explain your views.

Producer statements should only be used by regulated professions so that there is a way to monitor and regulate their use. This will require clarity around how this would be managed in design firms who do not employ a chartered professional engineer.

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

Reliability of producer statements should be based on the engineering professional signing it on behalf of the issuing firm being a Chartered Professional Engineer. While we agree that whether an author has adequate indemnity insurance is irrelevant to whether their producer statement is sufficiently accurate and reliable to inform a decision about compliance, we consider that confirmation of current Professional Indemnity insurance cover remains an important aspect for consideration because it provides assurance about a firm's quality systems and accountability.

22. What other risks need to be managed?

There needs to be processes which protect against inappropriate use of producer statements, including fraud. The use of online electronic forms is possibly one way to provide for the use of secure signatures for engineers submitting producer statements to councils.

Chapter 5 – New assurance pathways

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

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

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

Question about taking a more risk-based approach

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

Currently BCAs take a varied approach to how they assess building consents, including how they interpret the Code. While a risk-based approach is already taken in some areas, such as where PS2s are provided for structural/fire/façade/Geotech, we would like to see a more consistent approach to have BCAs manage risk and support the development of guidance to assist BCAs to better take a risk-based approach. As noted above, the lack of consistency across BCAs is one of the key blockers to efficiency and innovation in the current building consent system.

Questions about self-certification

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

ACE considers there is potential for significant risk in introducing a self-certification pathway for designers and does not support this approach for designers and design firms.

Delivery of high-quality services and certainty work complies with the Building Code requires competent professionals working within competent systems. The building design and development system is complex and requires, for example, firms with fit for purpose quality assurance systems and strong cultures of compliance and professionalism, up to date and relevant standards, and robust environmental settings including consenting processes, procurement, and fair transfer of risk.

Design firms are only one part of the system, and we need to be mindful that any self-certification requirements may have unintended consequences on designers' liability and their ability to obtain professional indemnity insurance. This needs to be much more carefully thought through.

ACE members are required, as part of our membership rules, to have robust quality assurance systems in place and a complaints process, and our experience is that, in general, robust quality assurance systems and external peer review processes capture issues well. Further, many of our firms opt into quality accreditation programmes and are ISO 9001 (Quality Management System) certified and/or are required to submit evidence of their quality assurance systems to their insurer for insurance renewals each year. Technical design issues, which are to be expected as our members work across complex engineering projects and systems, are identified, and captured in review and checking processes.

However, the reality of the work ACE members do means that no matter what quality assurance system is in place we will still see problems arising because our work is complex, situations are unknown and designs are often based on a set of assumptions and risks, and our members are part of a wider team of professionals working to ensure a building is compliant with the Building Code.

ACE is concerned that a self-certification system for designers and design firms would potentially introduce another level of bureaucracy to the system with limited benefits given the assurance processes already operating across design firms, and would be complicated because of the nature of interdisciplinary relationships that often make up a design team. We also consider the proposal

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runs contrary to MBIE's earlier statement that it supports BCAs retaining responsibility for assuring themselves, on reasonable grounds, of compliance.

In the design environment, we think the proposed Declaration of Design Compliance is sufficient. Any additional self-certification requirements would add risk to the insurability of design firms and their work, add unnecessary cost into the system for limited benefit that will be passed on to clients, is inefficient, and would promote defensive practice discouraging innovation – all of which run counter to MBIE's proposed outcomes from this review.

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

☐ Yes

☒ Somewhat

☐ No

☐ Not sure

Please explain your views.

See comments above. While ACE supports the three outcomes, we do not agree with the proposed certification pathways for designers and design firms.

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

As above, ACE does not support the proposed certification pathways for designers and design firms. A self-certification requirement for designers and design firms will provide little towards high quality design outcomes and introduce layers of bureaucracy that ultimately bring more cost and time into the system and run counter to the overall objectives of this review. It will also favour larger firms over smaller ones which affects the health of the market.

If our goal is quality and efficiency, in the design environment that is best achieved through the proposed changes to producer statements, and Declarations of Design Compliance in relevant situations, supplemented by a stronger stewardship role by MBIE and increased capability and consistency in BCAs.

Questions about commercial consent

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

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ACE agrees that commercial projects generally involve well informed clients engaging firms with robust quality assurance systems in place that include several checks of any output, including for many projects external peer review.

It is our view that the proposed process is generally the process that occurs on most large commercial projects.

It is our concern that developing a commercial consent process would add another layer of complexity which would be potentially costly for our members, resulting in some of our smaller member firms being priced out of some of the larger projects. This runs counter to our need to ensure a healthy market in New Zealand's construction and infrastructure sector.

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

☐ Yes ☐ Somewhat ☐ No ☒ Not sure

Please explain your views

As above, we are concerned that this would not necessarily result in more efficiencies, especially for more complex projects.

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

Please explain your views.

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

☐ Yes ☐ Somewhat ☒ No ☐ Not sure

Please explain your views

31. What would be the risks with the commercial consent pathway and how should they be managed? Please comment on entry requirements, site coordination, overall responsibility for the

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quality assurance system, third party review and what (if any) protections would be needed for owners of commercial buildings.

ACE considers there would need to be more technical expertise/resources available in the building consent process to review and monitor commercial consents.

Question about new pathways to provide assurance

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

☐ Yes ☐ Somewhat ☐ No ☒ Not sure

Please explain your views

We do not support this in so far as it is proposed for designers and design firms, for the reasons set out above.

Chapter 6 – Better delivery of building consent services

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

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

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

Questions about providing greater national direction and consistency

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

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

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

- ☒ Ensure nationally consistent processes and requirements
- ☒ Review building consent application and processing systems
- ☒ Support uptake of remote inspection technology
- ☒ Centralise training for building control officers

Please explain your views

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ACE supports the progressing all the above options to achieve greater capability and consistency in building consenting processes, strengthening the role and system for developing standards.

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

Any changes to the operation of BCAs, such as widespread uptake of digital technologies, needs to be done in a way that does not disadvantage small business and encourages a healthy market. This means consistent tools and approaches across BCAs (ideally a nationally coordinated approach) with clear consideration to any cost transfer to businesses needing to meet and comply with new requirements.

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

Questions about boosting capacity and capability

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

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

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

- ☒ Establish centres of excellence
- ☒ Identify opportunities for shared workflows or services
- ☒ Centralised resource of specialist expertise

Please explain your views

ACE supports establishing centres for excellence, and a centralised resource of specialist expertise, and considers this will help increase capability and capacity in BCAs and allow for more consistency and predictability in the consenting system, which will ultimately save the public and clients time

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and money. An example of where this is type of arrangement is already established and working well is the Waikato Regional Council processing consents for all large dams in the North Island.

A national digital system will greatly support opportunities for shared workflows and services between BCAs, as well as simplify building consent processes for designers/constructors. A national system will also allow greater investment in system security.

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

There is need to ensure there is adequate and appropriate technical expertise in any system that is set up.

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

Providing clearer exemption pathways for highly specialised work undertaken by specialist designers.

Ensuring all guidance documents are up to date and developed with the appropriate technical expertise.

Questions about achieving greater economies of scale

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

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

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

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

- ☒ Identify and address barriers to voluntary consolidation and transfer
- ☒ Support a voluntary pilot
- ☒ Investigate the viability of establishing a national body

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Please explain your views

ACE would support exploring the above options.

We consider there would be clear benefit of establishing a national body, which would be responsible for processing complex and high importance applications. This would help address the issues relating to capability and expertise in many BCAs and would also help improve consistency and efficiency in how applications are assessed and managed.

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

There needs to be clear guidance with how a national body would work alongside local BCAs to ensure there is local/regional involvement.

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

Chapter 7 – Better performance monitoring and system stewardship

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

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

MBIE will focus on initiatives in the following areas:

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

Questions about system stewardship

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

ACE considers standardised data collection and improved feedback mechanisms will help MBIE better understand issues and trends, as well as provide more targeted guidance to address problem areas. There is a need to ensure that guidance is available to guide current good industry practice.

However, it is our view that the focus needs to be on proactively identifying the issues, risks and opportunities, not just responding to them. The above options are focused on data collection and responding to the issues, rather than proactively leading us to a consenting process that is fit for the future, sustainable, resilient, digitally driven, and consistent.

ACE considers there is a role for a stronger relationship between MBIE and the relevant associations and technical societies to identify and flag emerging issues and opportunities.

44. What initiatives should be prioritised and why?

As above, it is our view that the focus needs to be on proactively identifying the issues, risks and opportunities, not just responding to them.

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

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ACE considers MBIE could be more proactive with poorer performing BCAs to help drive consistency and improved service to the public.

MBIE could acknowledge it has a greater role to play in providing/endorsing industry guidance. As noted above, ACE considers there is a role for associations and technical societies to flag emerging issues and opportunities.

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

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

The options being considered are:

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

Questions about responding to the needs and aspirations of Māori

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

☐ Yes

☐ Somewhat

☐ No

☐ Not sure

Please explain your views.

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

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

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

Consultation questions

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

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

ACE considers these to be important questions for consideration, and ones that are best addressed by Iwi Māori working in and engaging with the building system. The timeframes for this submission have not enabled us to engage meaningfully with our members on these questions. However, ACE is happy to provide an avenue for MBIE to engage with Māori leaders in our membership on these issues and we invite MBIE to reach out to us for this purpose.

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

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

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

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

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

The critical interface between the building and resource management acts and their implementation needs to have an elevated importance. Stronger, specific guidance needs to be provided by MBIE about how to navigate overlaps. This reform is an opportunity to do this.

General comments

53. Do you have any other comments?

While sustainable use of resources is at the heart of the resource consent system, more could be done to include the principles of sustainability and resilience in the proposed building consent reforms, especially considering the likely demands that climate change will impose on built infrastructure. We are happy to assist MBIE to engage with our members on this issue.