Consultation submission form

Review of the Building Consent System

# Contents

[Contents 2](#_Toc109139326)

[How to make a submission 3](#_Toc109139327)

[Submitter information 5](#_Toc109139328)

[Section 1: Introduction and strategic context 7](#_Toc109139329)

[Section 2: Desirable outcomes 9](#_Toc109139330)

[Section 3: Issues with the current system 11](#_Toc109139331)

[General questions 20](#_Toc109139336)

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| The Government has commenced 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

The Ministry of Business, Innovation and Employment (MBIE) is seeking your feedback on:

* what role you think the government should have in providing assurance that buildings are healthy, durable and safe
* the desirable outcomes from the building consent system
* an initial assessment of the key issues that are barriers to achieving those outcomes.

When completing this submission form, please provide comments and reasons explaining your choices. Your feedback provides valuable information and informs decisions about the proposals.

You can submit this form by 5pm, Sunday 4 September 2022 by:

* Sending your submission as a Microsoft Word document to [**building@mbie.govt.nz**](mailto:building@mbie.govt.nz?subject=Building%20Consenting%20System%20Review)
* 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

### 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 information

MBIE may upload PDF copies of submissions received to MBIE’s website at [**www.mbie.govt.nz**](http://www.mbie.govt.nz). MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.

If your submission contains any information that is confidential or you otherwise wish us not to publish, please:

* indicate this on the front of the submission, with any confidential information clearly marked within the text
* provide a separate version excluding the relevant information for publication on our website.

Submissions remain subject to requests under the *Official Information Act 1982.* Please set out clearly in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and in particular, which parts you consider should be withheld, together with the reasons for withholding the information. MBIE will take such objections into account and will consult with submitters 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 in the cover letter or e-mail accompanying your submission 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

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| MBIE would appreciate if you would 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. |

1. About you

|  |  |
| --- | --- |
| Name: |  |

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| --- | --- |
| Email address: |  |

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

Yes  No

1. Are you making this submission on behalf of a business or organisation?

Yes  No

If yes, please tell us the title of your company/organisation.

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1. The best way to describe your role is:

Building Consent Authority  Industry organisation (please specify below

Business  Individual

Other (please specify below)

Please specify here.

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1. If you represent a Business the best way to describe it is:

Designer/ Architect  Builder

Sub-contractor  Engineer

Developer  Other (please specify below)

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1. If you are an individual the best way to describe you is:

Designer/ Architect  Builder

Sub-contractor  Engineer

Building Consent Officer  Developer

Homeowner  Other (please specify below)

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1. Privacy information

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| --- | --- |
|  | The *Privacy Act 2020* applies to 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. |
|  | MBIE may upload submissions or a summary of submissions received to MBIE’s website at [www.mbie.govt.nz](http://www.mbie.govt.nz). If you do **not** want your submission or a summary of your submission to be placed on our website, please tick the box and type an explanation below: |

|  |
| --- |
| I do not want my submission placed on MBIE’s website because… [insert reasoning here] |

1. Confidential information

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|  | I would like my submission (or identifiable parts of my submission) to be kept confidential and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE. |

If you have ticked this box, please tell us what parts of your submission are to be kept confidential.

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# Section 1: Introduction and strategic context

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| Building consent systems aim to provide assurance that buildings are healthy, durable and safe. Government intervention is typically directed at addressing the following problems that can occur in the building market:  **Information gaps:** many building owners and other users of buildings have insufficient knowledge or skill to assess the quality of building design or building work, or properly identify and manage risk.  **Risk of harm:** protecting building owners and other users from the risk of serious harm that could arise from poor design or building work.  **Cost of defects:** building defects can be very expensive to repair once work is completed. Buildings have a long life and defects may show up long after construction. It can be difficult for an owner to determine who is at fault and obtain redress. |

## Questions for the consultation

**1.** What do you think the primary focus of the building consent system should be?

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The role of government in the building process varies around the world:

* Some countries delegate specific roles to private third parties, such as the review of plans, conducting risk assessments of projects or carrying out inspections during construction.
* Australia allows private building surveyors to directly oversee building design and inspection.
* Nearly all countries surveyed by the World Bank Doing Business report allow private third-party inspections. However, the task of issuing the final permit (the equivalent of the code compliance certificate) remains largely the responsibility of local authorities.

**2.** What role should government have in providing assurance that buildings are healthy, safe and durable?

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**3.** Are there any building consent functions that could be delegated to or provided by another party?

Yes  No  Not sure

If so, please explain your response.

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# Section 2: Desirable outcomes

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| MBIE has identified four critical outcomes that the building consent system should primarily seek to achieve.  **Outcome 1: Efficiency.** The building consent system is efficient in providing assurance to building owners and users. It is risk-based, has proportionate compliance costs, and allows for innovation.  **Outcome 2: Roles and responsibilities.** Roles and responsibilities are clear and based on participants’ respective ability to identify and manage risks. All participants across the system have a good understanding of their own responsibilities and the extent they can rely on others for assurance.  **Outcome 3: Continuous improvement.** The system is responsive, flexible and agile, and seeks to continually improve through performance and system monitoring, good information flows and feedback loops.  **Outcome 4: Regulatory requirements and decisions.** Regulatory requirements are clear, and decisions are robust, predictable, transparent and broadly understood. |

## Questions for the consultation

**4.** Do you agree these four critical outcomes are necessary to ensure the building consent system provides high levels of assurance to the public that buildings are healthy, safe and durable?

Yes  Somewhat  No  Not sure

Please explain your views.

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**5.** Are there any other outcomes that are critical to ensure buildings are healthy, safe and durable?

Yes  No  Not sure

Please explain your views.

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**6.** How well is the system currently performing against the four identified outcomes? Please explain your views.

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| --- | --- | --- | --- | --- | --- |
|  | Poor | Fair | Good | Very Good | Excellent |
| Efficiency |  |  |  |  |  |
| Roles and responsibilities |  |  |  |  |  |
| Continuous improvement |  |  |  |  |  |
| Regulatory requirements and decisions |  |  |  |  |  |

Please explain your views.

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# Section 3: Issues with the current system

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| MBIE has identified five issues that are constraining the ability of the system to achieve the desirable outcomes expected of this system. In turn, this compromises the ability of the building consent system to provide assurance that building work will be ‘done right the first time’, thereby ensuring that buildings are well-made, healthy, durable and safe.  Many of these issues are complex and long-standing. While these issues are presented separately, they are intrinsically related and collectively affect the performance of the overall system.  We welcome your feedback on these issues and other any other issues. In particular, what is the cause of these issues, what are their impacts, how could a better consent system address these, and what would that system look like? |

## Issue 1: Roles, responsibilities and accountability

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| Roles and responsibilities across the system are not always well understood, accepted, applied or consistently enforced. There is sometimes an over-reliance on building consent authorities to provide assurance of compliance with the Building Code. |

## Questions for the consultation

**7.** How well understood are roles and responsibilities across the sector?

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| --- | --- | --- | --- | --- |
| Very poorly understood | Somewhat understood | Understood | Well understood | Very well understood |
|  |  |  |  |  |

Please explain your views.

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**8.** Does the building consent system allocate responsibility appropriately to those best able to identify and manage the associated risks?

Yes  Somewhat  No  Not sure

Please explain your views.

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**9.** Does the building consent system provide sufficient incentives for each party to meet their responsibilities and ‘get it right the first time’?

Yes  Somewhat  No  Not sure

Please explain your views.

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**10.** Should other parts of the sector (outside of building consent authorities) have a greater role in providing assurance that buildings are safe, durable and healthy? If yes, what would the risks and mitigations be?

Yes  No  Not sure

Please explain your views.

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If yes, what would the risks and mitigations be?

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**11.** Are some parts of the sector more prepared than others to take on more of the responsibility for providing assurance?

Yes  No  Not sure

Please explain your views.

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# Section 3: Issues with the current system

## Issue 2: Capacity and capability

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| Building consent authorities face capacity and capability constraints in dealing with an increased volume and complexity of building work. Sector workforce capacity and capability constraints can also undermine the performance of the system. |

## Questions for the consultation

**12.**How significant are building consent authority capacity and capability constraints on the performance of the system?

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| --- | --- | --- | --- | --- |
| Not significant at all | Somewhat significant | Significant | Quite Significant | Very significant |
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Please explain your views.

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What are the most significant impacts of building consent authority capability and capacity constraints on the performance of the building consent system? Please explain your views?

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**13.** How significant are sector workforce capacity and capability constraints on the performance of the system?

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| --- | --- | --- | --- | --- |
| Not significant at all | Somewhat significant | Significant | Quite Significant | Very significant |
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Please explain your views.

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What are the most significant impacts of sector workforce capability and capacity constraints on the performance of the building consent system? Please explain your views.

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**14.** How could the impacts of capacity and capability constraints be mitigated?

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**15.** Are there any barriers to a more efficient use of technical expertise across the system?

Yes  No  Not sure

Please tell us what these barriers might be.

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# Section 3: Issues with the current system

## Issue 3: System agility

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| All consents go through the same basic process, which is not always responsive to the level of risk, complexity of the building work, or type of project. The current system does not always deal well with new or innovative practices or products or the design-and-build approach. Nor is it sufficiently responsive to the building needs and aspirations of Māori. |

## Questions for the consultation

**16.** Do you agree that the consent system is not sufficiently agile for the way in which we design, procure and build today and in the future?

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| Strongly disagree | Disagree | Neither agree or disagree | Agree | Strongly agree |
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Please explain your views.

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If you agree, how does rigidity in the building consent system impact consenting outcomes and productivity in the building sector?

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**17.** What changes would you suggest to the building consent system to make it more agile?

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**18.** Does the current building consent process constrain or limit the use of traditional Māori methods of construction?

Yes  Somewhat  No  Not sure

Please explain your views.

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**19.** Does the current building consent process add constraints to the development of Māori-owned land that other landowners don’t face?

Yes  Somewhat  No  Not sure

Please explain your views.

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**20.** What Māori perspective or set of values do building consent authorities need to take into account when considering and processing consent applications for iwi/hapū/Māori-led building and construction projects?

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# Section 3: Issues with the current system

## Issue 4: Performance monitoring and system oversight

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| The performance of the system is insufficiently monitored, and information flows are poor. MBIE is not yet the strong central regulator that was contemplated in the original system design. |

## Questions for the consultation

**21.** What can be done to improve monitoring of the building consent system?

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**22.** What information or data relating to the consenting system performance would you find useful?

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**23.** Are you aware of any barriers to collecting and sharing information across the sector?

Yes  No  Not sure

Please explain your views.

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**24.** Are you aware of additional data and information sources that we could be using to inform our understanding of the system performance?

Yes  No

Please explain your views.

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**25.** Is there anything else MBIE could do to better meet its system oversight and stewardship responsibilities?

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# Section 3: Issues with the current system

## Issue 5: Fragmented implementation

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| The processing of building consent applications is devolved to territorial authorities who are building consent authorities, which has led to variability and unpredictability in the consent process and its outcomes. This fragmentation adds to the overall costs of the system due to duplication and variable processes, tools and functions being implemented across building consent authorities, and difficulties maintaining a professional workforce. |

## Questions for the consultation

**26.** Building consent processing is devolved and carried out by individual territorial authorities under the current system. How does this structure affect the consenting performance and building outcomes?

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**27.** What aspects of the current consenting system structure work well?

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**28.** What aspects of the current consenting system structure do not work well?

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**29**. How does the current devolved consenting system structure impact consent applicants and building owners?

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**30.** What improvements or changes are required to the current consenting system structure to reduce fragmentation in implementation and deliver better consenting outcomes?

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**31.** Is there any duplication or overlap between the building consent and resource consent processes, or any other legislation?

Yes  No  Not sure

Please explain your views, including any impacts.

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**32.** How could the relationship between the building consent and resource management systems be improved?

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# General questions

**33.** Do you have any other comments?

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