

Property Council New Zealand

Submission on

Building System Reform (Phase II)

14 June 2021

For more information and further queries, please contact

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Consultation: Building Amendment Bill proposals for regulation
Building System Performance
Building, Resources and Markets
Ministry of Business, Innovation and Employment
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Building System Reform (Phase II)

1. Recommendations Summary

1.1. Property Council New Zealand (“Property Council”) welcomes an opportunity to provide feedback on the [Building System Reform \(Phase II\)](#). While we support the intention of the Ministry of Business Innovation and Employment (“MBIE”) to lift performance of the regulatory system and drive better outcomes for the sector and for New Zealanders, further work is required to ensure the reform serves its purpose.

1.2. We recommend the following:

Overall approach to the consultation process:

- Provide more flexibility when designing future consultation materials to allow submitters to raise other pertinent and potentially innovative content;

Part Two: Building Productive Information Requirements:

- Develop a standardised national form to building product information requirements that can be adopted by local government;

Part Three: Modular Component Manufacturer Certification Scheme

- Introduce a liability cap of 20 per cent for local government for building products to ensure a fairer allocation of risk and liability across the sector;

Part Four: Product Certification Scheme:

- Incorporate internationally recognised products when looking to strengthen New Zealand product certification scheme

Additional comments:

- Ensure alignment between the Building System Reform and the wider work programme (e.g. Building Code updates, recommendations for the Climate Change Commission, Resource Management Reform and other relevant programmes); and
- Ensure that the current issues in the building sector (e.g. shortage of building materials) are reflected in the Building System Reform’s proposals.

2. Introduction

- 2.1. Property Council's purpose is; "Together, shaping cities where communities thrive". We believe in the creation and retention of well-designed, functional and sustainable built environments which contribute to New Zealand's overall prosperity. We support policies that provide a framework to enhance economic growth, development, liveability and growing communities.
- 2.2. Property is currently New Zealand's largest industry with a direct contribution to GDP of \$41.2 billion (15 per cent). The property sector is a foundation of New Zealand's economy and caters for growth by developing, building and owning all types of property.
- 2.3. Property Council is the leading not-for-profit advocate for New Zealand's largest industry – property. Connecting people from throughout the country and across all property disciplines is what makes our organisation unique. We connect over 10,000 property professionals, championing the interests of over 600 member companies who have a collective \$50 billion investment in New Zealand property.
- 2.4. This submission provides Property Council's feedback on the [Building System Reform: Discussion Document](#) ("discussion document"). Comments and recommendations are provided on those issues that are relevant to Property Council and its members.

3. Overall approach to the consultation process

- 3.1. Property Council welcomes an opportunity to provide feedback on the discussion document. However, we are concerned with an overarching approach the MBIE has taken when designing its consultation process. Particularly, discussion materials do not allow for any extra general commentary outside of prescriptive questions. This stifles opportunities for submitters to raise other pertinent and potentially innovative content. We recommend the MBIE provide more flexibility when designing its future consultation processes to be able to capture a quality range of ideas.

4. Part Two: Building Product Information Requirements

- 4.1. Currently, there are no mandatory requirements to provide information about a building product being sold. Therefore, the MBIE proposes a suite of regulations to introduce requirements for a basic set of information for all building products. While we support the proposed information requirements, we can foresee some unintended consequences.
- 4.2. The main area of concern for our members is variation between council plans and policies which creates difficulty for applicants and developers (e.g. extra time and cost). As indicated in the discussion document, the MBIE will provide clear guidance to support the industry to meet information requirements. To ensure compliance with the proposed requirements and consistency around the country, we recommend the MBIE develop a standardised national form to building product information requirements that can be adopted by local government.

5. Part Three: Modular Component Manufacturer Certification Scheme

- 5.1. The legislative framework for the Modular component manufacturer certification scheme defines the roles and responsibilities for different parties and clarifies responsibility and potential liability in the event of a building or modular component defect. While we support the intention of clarifying key responsibilities, we are concerned that the proposal fails to address an industry-wide issue as

local government becomes the ‘last man standing’ when things go wrong. As a result, local government will continue to be risk adverse as if all parties fall over, they will continue to hold a significant portion of risk.

- 5.2. Over the last few years, we have highlighted the issues with the current risk and liability settings. Our members have told us that they are willing to hold a fair and proportionate part of the risk when manufacturing, designing or developing their products and buildings. There are a number of ways in which this could be implemented, and many were looked at as part of MBIE’s Building System Legislative Reform Programme in 2019. There are also several international examples of how this works with insurance providers being involved and seeking compensation from at fault parties while capping local authorities’ liability to 20 per cent.
- 5.3. In our previous submission back in 2019 we supported the MBIE’s proposal of capping council liability at 20 per cent which would likely incentivise more consents (something that is particularly important in today’s housing crisis environment). The proposal to cap council liability was also supported by local authorities throughout New Zealand. Therefore, we urge the MBIE review its recent position on risk and liability and recommend introduction of a liability cap of 20 per cent for local government for building products to ensure a fairer allocation of risk and liability across the sector.

6. Part Four: Product Certification Scheme

- 6.1. MBIE aims to strengthen the product certification scheme to ensure scheme parties operate within a regulatory framework that has clear and consistent requirements. We support the MBIE’s intention of ensuring a consistent standards framework across New Zealand as this will remedy a number of issues with the current process.
- 6.2. While we are supportive of the MBIE’s intention, we wish to see this framework widened to incorporate a range of building products and suppliers of products. Currently, the range of building products and suppliers of products within New Zealand is limited. We believe expanding the current system to accept internationally recognised products is critical to expand New Zealand’s building product market. It is particularly important given the current situation with the shortage of building materials. A wider range of, and access to, products in New Zealand will promote competition (in terms of price and quality of products) and encourage innovation. This could potentially be funded by the use of the building levy.

7. Additional comments

- 7.1. A lot of work has been done over the last several months, including the Building Code update 2021, Climate Change Commission advice, Building for Climate Change, Resource Management reform and many other work programmes. Therefore, it is important to ensure that these programmes (and what the Government is trying to achieve through them) align with each other. This will help ensure consistency of recommendations and delivery of better outcomes for the Building System Reform.

7.2. Other factors, such as shortage and increased cost of building materials¹ should also be reflected in the Building System Reform to ensure that the Government is addressing the current issues in the building sector. Therefore, it is important that we do not take a siloed approach and look at the wider picture of the issues we are currently facing and the overarching Government's work programme to ensure the Building System Reform delivers on the objectives the Government has set for it.

8. Conclusion

- 8.1. We support the intention of the MBIE to lift performance of the regulatory system and drive better outcomes for the sector and for New Zealanders. However, there are parts of the proposals that require further refinement to ensure the Building System Reform serves its purpose.
- 8.2. This includes development of a standardised national form to building product information requirements that can be adopted by local government; introduction of a liability cap of 20 per cent for local government for building products to ensure a fairer allocation of risk and liability across the sector; incorporation of internationally recognised products to strengthen the New Zealand product certification scheme. It is also important that there is an alignment between the Building System Reform and wider work programme to ensure consistency and quality of outcomes for all.
- 8.3. Property Council would like to thank the Ministry of Business Innovation and Employment for an opportunity to provide feedback on the Building System Reform (Phase II). **We also wish to be heard in support of our submission.**
- 8.4. For any further queries contact Natalia Tropicova, Senior Advocacy Advisor, via email: natalia@propertynz.co.nz or cell: 021863015.

Yours sincerely,



Leonie Freeman
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Property Council New Zealand

¹ This shortage prompts warnings of another leaky home crisis as some builders have to use any products, they can get access to. Retrieved from <https://www.tvnz.co.nz/one-news/new-zealand/shortage-building-materials-prompts-warnings-another-leaky-home-crisis>