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## Building consent system overhaul – Government sets its sights on building consenting authorities

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In a recent slew of announcements, the Government has unveiled transformative reforms aimed at streamlining the building consent system and boosting efficiency in New Zealand's struggling building sector.

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On 29 September 2024, the Minister for Building and Construction, Chris Penk, announced that the Government is beginning to investigate options for a major reform to building consenting.

The Government considers this reform necessary to combat increasing building costs and productivity concerns, and incentivise sector growth and development. There are also concerns over inconsistent practices and building code interpretations across the 67 building consenting authorities (BCAs), a barrier to standardisation of design, construction techniques and build quality.

### Proposal for building consent authority reform

In what would be the most significant shake-up of the building consent system since the 1991 reforms, the Government is exploring three key changes:

1. **Voluntary consolidation** Councils will be able to group together to deliver building control functions more effectively. A number of councils already pool some resources but barriers exist to full integration. This approach focuses on removing those barriers.
2. **Regional BCAs** By replacing the current 67 district and city council BCAs with a smaller number of regional BCAs, the Government aims to improve consistency, through entities with the critical mass to also drive economies of scale.
3. **Single point of contact** An entity will be established to receive consent applications, but building inspections will be contracted out to existing BCAs or private consenting providers, encouraging competition and specialisation.

When asked by Newstalk ZB about the timing of possible legislation, the Minister said:

Whether we are going along the lines of allowing councils that already want to band together and have done some work along those lines ... that would be relatively short, that would be as early as the start of next year... but if you were going to more of a single point of contact across the country, potentially setting up a new entity for doing that, then maybe its going to be a bit longer, either way we want to move really quickly, we've been having conversations all year about it, it's not like this is the start line, we are quite well advanced, even though we are saying now formally we want to engage and get some thoughts on those particular three options we've narrowed down to.

Arguably, the most significant part of Minister Penk's announcement is that the Government is also reviewing liability settings, with an opportunity to reconsider the liability of BCAs and the duties of care owed by BCAs under the new regime. If these changes were to gain traction, they have the potential to bar claims against BCAs (as is already the case in some other jurisdictions) or limit such claims. The ability to bring claims against BCAs for negligence in relation to building consent activities has become part of the New Zealand legal and construction landscape over the past few decades, with regular actions being brought against BCAs. Legislative intervention to protect BCAs from claims in negligence represents a "watch this space" event for the whole construction sector.

In the Minister's opinion, the risk of negligence claims has led to BCAs taking a conservative and risk-averse approach, negatively impacting productivity, increasing construction costs and delaying project consenting and completion. He states that the Government's overarching ambition is to move towards a more enabling, risk-based and proportionate approach to consenting.

### **Immediate changes (minor variations)**

On 1 October 2024, the Minister announced immediate changes to the Building Regulations to clarify the definition of a "minor variation" and introduce a definition of "minor customisation". These changes are part of a move to enable small changes (such as the substitution of products) to be made to building plans without the need to apply for a building consent amendment, introducing greater flexibility for architects, builders and owners.

### **Public consultation**

This was followed on 2 October 2024, by the Government's release of its [public discussion document](#), setting out wider proposals to reduce delays in the building inspection process. Previously signalled in July, the document centres around plans to increase the use of remote inspections to make the building and consenting process more efficient and affordable. The implementation of remote inspections by default seeks to improve productivity by reducing the need for inspectors to travel, in turn allowing more inspections to take place in a day, and resources to be shared across regions, improving access, efficiency and consistency.

Public consultation is now open and will run until 29 November 2024. BCAs, homeowners and other construction stakeholders are encouraged to offer feedback on options which include:

- requiring BCAs to use remote inspections as the default approach;
- requiring BCAs to have the systems and capability to conduct remote inspections;
- non-regulatory initiatives to lift inspection productivity; and
- creating a new offence to deter deceptive behaviour during a remote inspection and give BCAs more confidence to inspect remotely.

This overhaul takes place in the context of the Government's broader reforms to the building sector, including such as promoting competition in the building supplies industry through the introduction of the Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill, on which the Transport and Infrastructure Committee is currently receiving public submissions until 14 November 2024.

### **Get in touch**

Reform of this scale is rare and the implications will be wide-reaching. Greenwood Roche will be following these developments closely, supporting our clients to submit on and navigate the changes. Reach out to one of our team below for advice on how these changes could impact your projects. Clicking on their name below will take you through to their profile on our website where you will find their contact details.

[Barry Walker](#), [Amy Rutherford](#), [James Riddoch](#), [Rob Harris](#), [Geoff White](#), [Jordan Ropati](#), [Tanya Young](#)

Go to <https://www.mbie.govt.nz/have-your-say/consultation-on-increasing-the-use-of-remote->

[inspections-in-the-building-consent-process](#) for the discussion document.

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