

Impact Summary: Building Consent Exemptions: Possible amendments to Schedule 1 of the Building Act 2004

SECTION 1: GENERAL INFORMATION

Purpose
<p>The Ministry of Business, Innovation and Employment (MBIE) is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing:</p> <ul style="list-style-type: none">• final decisions to proceed with a policy change to be taken by Cabinet.
Key Limitations or Constraints on Analysis
<p>Quality of data and assumptions</p> <p>A key limitation on the quantitative analysis relates to the volume of building work that could be undertaken and the time spent on processing consent applications for that building work in the proposed exemption package. The quantitative cost benefit analysis relies on a series of assumptions:</p> <ul style="list-style-type: none">• The quantitative analysis is based on Wellington City Council consenting fees, with a maximum value of work up to \$20,000.• The volume of work undertaken is based on submissions from councils. All councils were invited to submit. All of the main metro councils provided a submission (Auckland, Wellington, Christchurch, Dunedin, Waikato cluster). Submissions were also received from rural and provincial councils. The following councils provided actual volume information: Waimakariri, Upper Hutt, Tasman, Dunedin, Timaru, Whangarei, Whakatane, Horowhenua, Buller, Christchurch, Grey, Waimate, Waitaki, and Western Bay of Plenty. These areas represent 11 per cent of the country's volumes, which were then extrapolated nationally.• The projected savings includes avoidance of building consent application fees, inspection fees and Code compliance fees.• The projected savings exclude any costs that could arise associated with reworking or fixing any work in the event of non-compliance with the Building Code, insurance, fire risk, Resource Management Act breaches, Certificate of Acceptance application increases and mitigations. <p>Compliance with other legislation</p> <p>In targeted consultation there was generally good support for the package of proposals, and overall, submitters agreed with MBIE's assessment of risks (81% agreed or partly agreed) and conditions associated with the proposals (58% agreed or partly agreed).</p>

There was considerable comment on individual proposed exemptions in the package, and MBIE has used this feedback to inform changes to the detail of the proposals.

MBIE notes that many submissions on individual proposed exemptions from the targeted consultation undertaken included comment on risks that are out of scope of Schedule 1 of the Building Act (e.g. comments on compliance with district plans and the Resource Management Act 1991).

Building work that does not require a building consent must still comply with the Building Code and other legislative requirements, such as those under the Resource Management Act 1991.

MBIE's current building consent exemption guidance advises owners to always check with the council if there are any district plan/resource consent implications, and that if a resource consent is required owners should get this before starting any building work.

Responsible Manager (signature and date)

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Building, Resources and Markets
Ministry of Business, Innovation and Employment

Date: 21 April 2020

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

Expanding the list of building consent exemptions under Schedule 1 of the Building Act 2004

The Government's [Building System Legislative Reform Programme](#) provides an opportunity to extend the list of building consent exemptions in Schedule 1 of the Building Act 2004 (the Act) and improve the operation of existing exemptions, to improve the effectiveness, efficiency and clarity of the building regulatory system. Extending the list of building consent exemptions in Schedule 1 will also help to improve the productivity of the sector, supporting the COVID-19 recovery.

Annex 1 outlines the draft Intervention Logic Model for Building System Legislative Reform Programme and shows where the exemptions work fits in the larger programme of reforms.

Building consent exemptions under Schedule 1 of the Act

The Building Act 2004 (the Act) requires that a person must not carry out any building work except in accordance with a building consent. However, building consent exemptions under [Schedule 1](#) of the Act recognise that minor and low-risk building work may not need to be subject to the requirements of the building consent process. MBIE publishes [guidance](#) to building owners, designers, builders and territorial authorities (TAs) to support the current list of building consent exemptions in Schedule 1.

Appropriately specified building consent exemptions under Schedule 1 result in improved efficiency and effectiveness of the building regulatory system. They remove the need for Building Consent Authorities (BCAs) to review the design and construction of that work, so BCAs can focus their time and resources on building work that presents a higher risk to people and property. By not requiring a building consent and subsequent inspections for exempted work, homeowners and building owners benefit from savings in cost and time.

Building consent exemptions under Schedule 1 have been in use since the Building Act 2004 came into force (the Building Act 1991 also included building consent exemptions). Building consent exemptions in Schedule 1 of the Act have been added to over time.

There are currently 43 exemptions under Schedule 1 covering three categories of building work:

- specified types of building work no matter who carries it out, for example general maintenance work or building work on unoccupied detached buildings
- some building work carried out by an authorised person (defined in [section 42A](#) of the Building Act) under the Plumbers, Gasfitters and Drainlayers Act 2006
- some building work if it is designed, or the design reviewed, by a registered chartered professional engineer, and the building work is carried out in accordance with that design.

[Section 41](#) of the Building Act allows for the list of building consent exemptions in Schedule 1 to be added to at any time by Order in Council.

The process MBIE followed in developing proposals for additional Schedule 1 building consent exemptions

To help MBIE identify possible additional exemptions, the Ministry spoke to seven BCAs in 2019.¹ Following those discussions, to help streamline the building regulatory system with minimal additional risk to people and property MBIE developed a package of additional exemptions that covers a wide range of building work carried out in urban and rural areas. As part of this work a risk assessment was undertaken that considered risk of physical injury from structural failure; risks to access, use and wellbeing if the structure was unable to be used as intended due to failure or fire; and risk of economic loss if the structure fails or is inaccessible leading to damage not being covered by insurance.

Each of the additional exemptions in the package was designed to have a risk profile consistent with the current exemptions in Schedule 1 of the Act (i.e. low risk), with exemption conditions to manage risk analogous to those that are used for other Schedule 1 exemptions. This is illustrated in the table below as an example for one of the proposed exempted items.

Table 1: Risks to people and property from increasing the existing single-storey detached building exemption in Schedule 1 from 10 square metres to 20 square metres

	Structural instability (light weight)	Structural instability (heavy weight)	Foundation instability	Overtipping instability or uplift	Fire safety
Risks relying on current mitigations in Schedule 1	Medium	High	Medium	Low	Low
Risks with additional proposed mitigations (Chartered Professional Engineer)	Low	Low	Low	Low	Low

As part of this work MBIE also identified a need to review its current [guidance](#) on the existing exemptions, including its guidance to TAs on their discretionary powers to issue exemptions (see discussion below), to improve effectiveness.

MBIE then sought feedback on the package of proposals through a consultation paper sent to 79 key stakeholders, including all territorial and regional authority BCAs, Local Government New Zealand (LGNZ), Property Council, Insulation Association of New Zealand, Engineering New Zealand, New Zealand Institute of Architects, Master Builders, Certified Builders, Federated Farmers, Irrigation NZ, Home Owners and Buyers Association (HOBANZ), and the Insurance Council.

The four week targeted consultation ran from 13 September to 11 October 2019 and attracted 40 unique submissions on the proposals, a 50 per cent response rate. The consultation only sought feedback on the proposed new exemptions and was not a review of the existing 43 exemptions in Schedule 1.

¹ Wellington City Council, Christchurch City Council, Dunedin City Council, Timaru District Council, New Plymouth District Council, Tasman District Council and Kaikoura District Council.

All of the main metro councils provided a submission (Auckland, Wellington, Christchurch, Dunedin, Waikato cluster). Submissions were also received from rural and provincial councils, as well as others in the sector. Feedback received and how it has been incorporated into the final proposed package is discussed in more detail in section 5 of this Impact Statement. The full list of stakeholders that responded to the targeted consultation is in Annex 2.

Building work in Schedule 1 must still comply with the Building Code and other applicable legislation

Building work that does not require a building consent must still comply with the Building Code and other legislative requirements, such as those under the Resource Management Act 1991, the Electricity Act 1992 and the Health and Safety at Work Act 2015 ([section 42A](#) of the Building Act refers). MBIE's current building consent exemptions guidance advises owners to always check with the council if there are any district plan/resource consent implications, and that if a resource consent is required owners should get this before starting any building work.

For listed Schedule 1 exemptions, building owners do not need to contact their council or apply for a consent to proceed with their building work.

In addition to the listed exemptions, territorial or regional authorities have discretion to exempt work from a building consent if they consider that:

- the completed building work is likely to comply with the Building Code, or
- people or any other buildings are unlikely to be endangered if the completed building work does not comply with the building code.

Should building work not comply with the Building Code, TAs have a range of powers under the Act, including the ability to issue a notice to fix for the work regardless of whether the work has consent.

2.2 Who is affected and how?

Expanding the list of building consent exemptions in Schedule 1 of the Act (and reviewing and updating building consent exemption guidance) will affect:

- Building owners;
- BCAs;
- Building practitioners (including Licensed Building Practitioners and Chartered Professional Engineers); and
- Product manufacturers/suppliers.

Not requiring a building consent for building work places greater reliance on building owners, designers and builders, and building product manufacturers to ensure that work complies with the Building Code. It also enables BCAs to focus their time and resources on reviewing the design and construction of building work that presents a higher risk to people and property. Finally, not requiring a building consent recognises that some designers, such as Chartered Professional Engineers or Licensed Building Practitioners, are well placed to manage the

risks associated with certain types of work on the basis that they are trained, qualified and regulated².

2.3 Are there any constraints on the scope for decision making?

This work is part of Government's Building System Legislative Reform Programme. The RIS for the first phase of that work is available here: <https://www.mbie.govt.nz/document-library/>.

This work is not a full review of existing exemptions in Schedule 1 of the Building Act 2004.

² See Chartered Professional Engineers of New Zealand Act 2002 and Part 4 of the Building Act 2004 for further information. Improvements to occupational regulation are also being considered as part of the Building System Legislative Reform Programme.

Section 3: Options identification

3.1 What options have been considered?

Criteria

MBIE has assessed the options against the following criteria:

Criteria	Measure
Effectiveness	<ul style="list-style-type: none"> – Is the risk to building users and other buildings low? – Are the risks such that it is reasonable for the building owner to manage them? – Would the building work comply with the Building Code?
Efficiency	<ul style="list-style-type: none"> – Can the building work be progressed more quickly without oversight by a BCA? – Does the nature of the work require oversight by the BCA? – Are the conditions commensurate with the proposed exemptions?
Certainty	<ul style="list-style-type: none"> – Will the exemptions provide clarity and certainty on what building work does not need a building consent?

OPTION 1: Status Quo

The status quo is the 43 building consent exemptions under Schedule 1 of the Act. MBIE's [guidance](#) to building owners, designers, builders and TAs to support the current list of building consent exemptions in Schedule 1 is also part of the status quo.

PROS	CONS
No additional health and safety risks to building users and risks of damage to other property in the event of non-compliance with the Building Code.	Missed opportunity to improve the efficiency and effectiveness of the building regulatory system resulting in: <ul style="list-style-type: none"> • Savings in cost and time to homeowners, building owners and BCAs • BCAs will be able to focus time and resources on building work that presents a higher risk to people and property.

OPTION 2: Implement proposed package of exemptions and review and update building consent exemption guidance

The package proposes 13 new Schedule 1 exemptions. The first set of proposed amendments in the package relate to:

- Single-storey detached buildings (e.g. sleepouts, garages, sheds and greenhouses);
 - › Two separate exemptions are proposed, one with a maximum floor area of 15 square metres (lightweight walls) and one with a maximum floor area of either 20 square metres or 25 or 30 square metres (with the involvement of a Chartered Professional Engineer)
- Carports with a maximum floor area of 40 square metres;

- Awnings with a maximum size of 30 square metres;
- Verandas and porches with a maximum size of 30 square metres;
- Outdoor fireplaces;
- Water storage bladders;
- Short-span bridges and pipe supporting structures;
- Ground-mounted solar array panels.

The second set of proposed amendments in the exemption package relate to work carried out in a rural zone (as defined in clause 41 of Schedule 1³):

- Detached single-storey pole sheds and hay barns.

Some of the proposed exemption amendments above include a requirement for design to be carried out or supervised by a Chartered Professional Engineer so they have a risk profile consistent with other exemptions in Schedule 1 (i.e. low risk). In practice, some of the proposed exemptions, such as carports, solar array panels, and single-storey detached buildings will be purchased in kit-set form or as prefabricated components where the design is a one-time sign-off by a Chartered Professional Engineer as part of the product development process before sale.

A further exemption is proposed as part of the package that would also require an amendment to the Building Act 2004, as the proposal would change the structure of the exemptions. The proposed amendment is for single-storey detached buildings with a maximum floor area of either 20 square metres or 25 or 30 square metres to be exempt, where the design and construction is carried out or supervised by a Licensed Building Practitioner (with the appropriate licence class). This proposal has a risk profile consistent with other exemptions in Schedule 1 (i.e. low risk).

The full list of proposals in the package and how they relate to any existing building consent exemptions is outlined in Annex 1.

The package also includes a review and update of MBIE’s guidance to building owners on the exemptions, and its guidance to TAs on their discretionary powers to issue exemptions. The update will include plans to improve the accessibility and reach of guidance.

PROS	CONS
<p>Improved efficiency and effectiveness of the building regulatory system resulting in:</p> <ul style="list-style-type: none"> • Savings in cost and time to homeowners, building owners and BCAs • BCAs will be able to focus time and resources on building work that presents a higher risk to people and property. 	<p>Additional health and safety risks to building users and risks of damage to other property in the event of non-compliance with the Building Code.</p>

³ Under this clause, a rural zone means any zone or area (other than a rural residential area) that, in the district plan of the territorial authority in whose district the building work is to be undertaken, is described as a rural zone, rural resource area, or rural environment, or by words of similar meaning.

Provides a direct link to the Chartered Professional Engineer and Licensed Building Practitioner regime, recognising the competence of some of these professionals to manage some risks.	Because there is no requirement for owners to inform councils about work that has been undertaken under listed Schedule 1 exemptions there is no formal record of that work.
Promotes greater use of kit-set and prefabricated building components.	

A variant of Option 2 could include increasing the maximum floor area of the proposed single-storey detached building exemptions to 20 square metres with lightweight walls and to more than 30 square metres with the involvement of a Chartered Professional Engineer or Licensed Building Practitioner. This variant of Option 2 would potentially allow more building work to be carried out without a building consent resulting in savings in cost and time to building owners and BCAs. However, increasing the maximum floor area would create potential additional health and safety risks to building users or neighbouring properties from a structural stability and fire safety perspective, as the buildings will be heavier and larger. The assurance gained by having the risk mitigations of a Chartered Professional Engineer or Licensed Building Practitioner has certain limits and extending the exemption more than 30 square metres would require some independent assessment by a BCA and therefore a building consent. Therefore this variant of Option 2 is not proposed.

3.2 Which of these options is the proposed approach?

Option 2 is the proposed approach.

Assessment criteria	Option 1	Option 2
Effectiveness	✓	✓ ✓
Efficiency	✓	✓ ✓
Certainty	✓	✓ ✓

The Government's [Building System Legislative Reform Programme](#) provides an opportunity to extend the list of building consent exemptions in Schedule 1 of the Building Act 2004 (the Act) and improve the operation of existing exemptions, to improve the effectiveness, efficiency and clarity of the building regulatory system. Extending the list of building consent exemptions in Schedule 1 will also help to improve the productivity of the sector, supporting the COVID-19 recovery.

Implementing the proposed exemptions (and reviewing and updating the current guidance) would improve the efficiency and effectiveness of the building regulatory system, enable BCAs to focus their time and effort on building work that presents a higher risk to people and property, and save homeowners and building owners time and costs associated with obtaining building consents.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties (identify)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (e.g. compliance rates), risks	Impact: \$m present value, for monetised impacts; high, medium or low for non-monetised impacts
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Additional costs of proposed approach, compared to taking no action

Regulated parties	Understanding of the exemptions and the potential risks. Future owners may not have visibility of work as there is no requirement for work done under an exemption to be recorded.	low
Regulators	Levy reduction for MBIE (central regulator).	\$0.3m pa.
Wider government	Reduction in consent fees for BCAs.	\$14.4 - \$17.7m p.a.
Other parties	n/a	
Total Monetised Cost		\$14.7 - \$18m p.a.
Non-monetised costs		Low

Expected benefits of proposed approach, compared to taking no action

Regulated parties	Consent fees and building levy savings to homeowners.* *Based on actual building consent volumes provided by 10 councils ⁴ , MBIE estimates that, under this package, building consents will not be needed for up to 9,000 incidences annually. However, exact consent numbers are unknown due to the collective nature of consenting (i.e. one	\$14.7- \$18m p.a.
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⁴ All Councils were invited to submit and the following councils provided submissions and actual volumes Waimakariri, Upper Hutt, Tasman, Dunedin, Timaru, Whangarei, Whakatane, Horowhenua, Buller, Christchurch, Grey, Waimate, Waitaki, and Western Bay of Plenty. These areas represent 11 per cent of the country's volumes, which were then extrapolated nationally.

	consent can be for multiple pieces of work, some of which are proposed to be exempt).	
Regulators	Improved efficiency and effectiveness of building regulatory system.	medium
Wider government	BCAs estimated to save 70,000 to 100,000 hours pa. BCAs will be able to focus time and effort on building work that presents a higher risk to people and property.* *Based on actual building consent volumes provided by 10 councils ⁵ , MBIE estimates that, under this package, building consents will not be needed for up to 9,000 incidences annually. However, exact consent numbers are unknown due to the collective nature of consenting (i.e. one consent can be for multiple pieces of work, some of which are proposed to be exempt).	medium
Other parties	n/a	
Total Monetised Benefit		\$14.7 - \$18m p.a.
Non-monetised benefits		medium

4.2 What other impacts is this approach likely to have?

The summary of costs and benefits outlined earlier assumes that all work is executed correctly and according to the Building Code. It excludes risks and costs associated with rework in the event of non-compliance with the Building Code. It also excludes risks and costs in the event of non-compliance with district plans/RMA and other legislation as other legislation deals with these issues.

Extending building consent exemptions in Schedule 1 of the Building Act creates additional health and safety risks to building users and risks of damage to other property in the event of non-compliance with the Building Code.

The review and update of Schedule 1 exemption [guidance](#) is expected to reduce the probability of non-compliance of building work with Building Code. Conditions in some of the exemptions for certain work to be carried out or reviewed by a Chartered Professional Engineer or Licensed Building Practitioner also reduce the probability of non-compliance of

⁵ All Councils were invited to submit and the following councils provided submissions and actual volumes Waimakariri, Upper Hutt, Tasman, Dunedin, Timaru, Whangarei, Whakatane, Horowhenua, Buller, Christchurch, Grey, Waimate, Waitaki, and Western Bay of Plenty. These areas represent 11 per cent of the country's volumes, which were then extrapolated nationally.

building work with the Building Code.

Combined with the other conditions on the proposed exemptions, MBIE considers the overall risk to people and property associated with the proposed exemptions to be low.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

Who was consulted

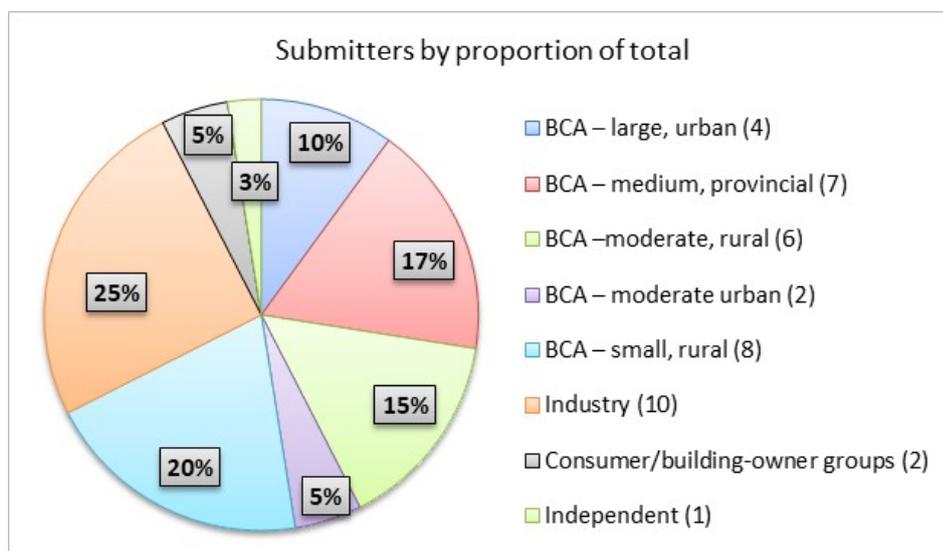
As noted in Section 2, MBIE spoke to seven BCAs to help the Ministry identify possible additional exemptions.

MBIE then undertook targeted consultation on the proposals with territorial and regional authority BCAs, Local Government New Zealand (LGNZ), Property Council, Insulation Association of New Zealand, Engineering New Zealand, New Zealand Institute of Architects, Master Builders, Certified Builders, Federated Farmers, Irrigation NZ, Home Owners and Buyers Association (HOBANZ), and the Insurance Council for four weeks from 13 September 2019 to 11 October 2019.

These stakeholders were identified for targeted consultation for the broad range of perspectives they could bring to the consultation, including local building regulator, building owner, building practitioner, rural and insurance perspectives.

MBIE received a 50 per cent response rate (40 submissions) to its targeted consultation paper. All of the main metro councils provided a submission (Auckland, Wellington, Christchurch, Dunedin, Waikato cluster). Submissions were also received from rural and provincial councils. The full list of stakeholders that responded is in Annex 2.

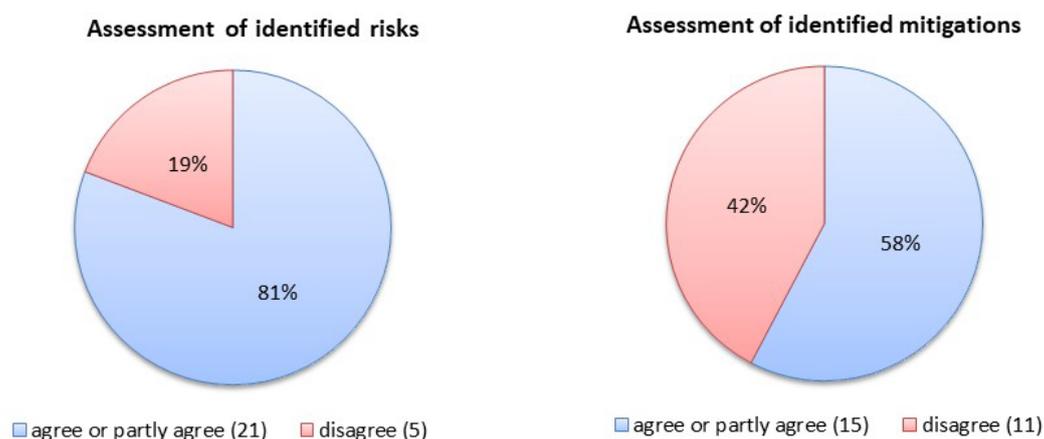
Figure 1: Submitters by proportion of total



Stakeholder views and how the proposals were modified in response

There was generally good support for the package of proposals, and overall, submitters agreed with MBIE's assessment of risks and conditions associated with the proposals. Submitters responded positively when asked if they agreed with the MBIE's assessment of the risks and proposed conditions (Figure 2 refers).

Figure 2: Agreement with MBIE's assessment of identified risk and mitigations



There was considerable comment on individual proposed exemptions, and MBIE has used this feedback to inform changes to the detail of the proposals. These changes include refinements to the conditions for the proposed exemptions (such as those for short-span bridges and pole shed and hay barns, and a new proposal to exempt verandas and porches) – see Table 2 for further information.

MBIE notes that many submissions on individual proposed exemptions in Table 2 include comment on risks that are out of scope of Schedule 1 of the Act (e.g. comments on district plans and the Resource Management Act 1991).

MBIE's current building consent exemption guidance advises owners to always check with the council if there are any district plan/resource consent implications, and that if a resource consent is required owners should get this before starting any building work.

Installing insulation in external walls of standalone residential buildings

As part of the package for targeted consultation, views were sought on a proposed Schedule 1 exemption for installing insulation in external walls of standalone residential buildings. This proposal was the most contentious in the package, receiving strong comments from industry stakeholders. Auckland Council disagreed with the proposal altogether, seeing it as 'step too far', and advised MBIE not to progress it further.

Feedback, particularly from industry experts, highlighted that MBIE's original risk assessment underestimated the risks associated with laypeople breaching the integrity of an external wall. Additionally, the consequences of non-compliant work (such as the accumulation of moisture inside a wall cavity) could remain hidden from current and future homeowners, and cause critical damage to the structure of a house. Industry experts also commented that there were few or no insulation products that were both water repellent and fire retardant. This was intended to be key condition of the proposed exemption.

Submissions from the insulation industry supported the proposal in principle as they would be keen to carry out this kind of insulation work without the need to apply for a building consent. However, that support came with strong caveats that the only way to reduce risk to acceptable levels would be if the:

- installation was carried out by trained and certified people;
- exemption included a condition requiring installation work to be carried out in accordance with NZS 4246 (or a relevant CodeMark or BRANZ Appraisal).

Based on feedback from submissions, this possible exemption has not been progressed as part of the proposed package of Schedule 1 exemptions.

Table 2: Final proposals following consideration of submissions

	Existing exemption in Schedule 1 of the Building Act 2004	Exemptions proposed in consultation paper	Summary of submissions on individual proposals in the package of exemptions	Comment and final proposal following consultation
<p>Single-storey detached buildings</p>	<p><i>Clause 3: Single-storey detached buildings not exceeding 10 square metres in floor area</i></p> <p>(1) Building work in connection with any detached building that—</p> <p>(a) is not more than 1 storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 3.5 metres above the floor level); and</p> <p>(b) does not exceed 10 square metres in floor area; and</p> <p>(c) does not contain sanitary facilities or facilities for the storage of potable water; and</p> <p>(d) does not include sleeping accommodation, unless the building is used in connection with a dwelling and does not contain any cooking facilities.</p> <p>(2) However, subclause (1) does not include building work in connection with a building that is</p>	<p><i>Single-storey detached buildings not exceeding 15 square metres in floor area</i></p> <p>It is proposed to include a <i>new</i> exemption for single-storey detached buildings with a maximum floor area of 15 square metres. The exemption will have the same conditions as the existing exemption, as well as a requirement that only light weight wall claddings with a mass no greater than 30 kg per square metre are used.</p> <p><i>Single-storey detached buildings not exceeding 20 square metres in floor area</i></p> <p>It is proposed to include a <i>new</i> exemption for single-storey detached buildings with a maximum floor area of 20 square metres. The exemption will have the same conditions as the existing exemption (including that it can be constructed using any materials), as well as a</p>	<p>Of the nine submitters who specifically commented on the proposed conditions, six disagreed. Respondents who disagreed with the proposal expressed concerns that the exemption:</p> <ul style="list-style-type: none"> • circumvented council planning laws; • could fetter rights of future owners; • would result in no record of the building for council/LIM; • could be used for itinerant housing; • could be converted into a standalone dwelling at a later date with only an added kitchen and/or bathroom needing consent; • would cost councils more in remedial work than was saved by the upfront exemption. <p>The Registered Master Builders Association suggested increasing the proposed sizes for single-storey detached buildings if a</p>	<p>Comment</p> <p>Some of the issues raised are beyond the scope of the current exemption proposals and Schedule 1. Exempt work still needs to comply with the Building Code to the extent required by the Building Act. Exemptions under Schedule 1 do not negate requirements to comply with other legislation (e.g. RMA/district plan). However, the submissions have highlighted the need to raise awareness of these issues in the Exemption Guidance material.</p> <p>No changes have been made to the 15 square metre proposed exemption involving lightweight walls. MBIE considers the larger proposed exemption involving a Chartered Professional Engineer could be either 20 square metres or 25 or 30 square metres. The other matters raised will be considered in the update of the MBIE guidance that will be published when the regulations</p>

	<p>closer than the measure of its own height to any residential building or to any legal boundary.</p>	<p>requirement that the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the building work is carried out in accordance with that design.</p> <p>Where the buildings under the new exemptions outlined above are used for sleeping accommodation, they must have smoke alarms.</p>	<p>Chartered Professional Engineer would be involved or if LBPs were enabled to undertake the design and construction.</p>	<p>come into force.</p>
<p>Carports up to 40 square metres</p>	<p><i>Clause 18: Carports</i></p> <p>Building work in connection with a carport that—</p> <p>(a) is on the ground level; and</p> <p>(b) does not exceed 20 square metres in floor area.</p>	<p><i>Carports not exceeding 40 square metres</i></p> <p>It is proposed to include a <i>new</i> exemption for carports with a maximum floor area of 40 square metres. The exemption will have the same conditions as the existing exemption, as well as a requirement that the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the building work is carried out in accordance with that design.</p>	<p>Of the seven submitters who commented, four disagreed with the proposed conditions. Three suggested adding a minimum distance from boundary condition, two commented on the need for clarification of what constitutes a “carport” (i.e. a limit to the number of sides that can be closed in) and how to measure areas (e.g. are eaves included in floor area measurement).</p> <p>Only the Registered Master Builders Association suggested increasing the proposed size for carports if a Chartered Professional Engineer would be involved or if LBPs carried out the design and construction.</p>	<p>Comment</p> <p>The existing exemption for carports in Schedule 1 does not have a distance to boundary condition. MBIE considers that the existing proposed conditions appropriately manage risks to people and property.</p> <p>No changes have been made to the proposal. Updated Guidance will provide more information on some of the points raised.</p>

<p>Awnings up to 30 square metres</p>	<p><i>Clause 16: Awnings</i></p> <p>Building work in connection with an awning that—</p> <p>(a) is on or attached to an existing building; and</p> <p>(b) is on the ground or first-storey level of the building; and</p> <p>(c) does not exceed 20 square metres in size; and</p> <p>(d) does not overhang any area accessible by the public, including private areas with limited public access, for example, restaurants and bars.</p>	<p><i>Awnings not exceeding 30 square metres</i></p> <p>It is proposed to include a <i>new</i> exemption for awnings with a maximum size of 30 square metres. The exemption will have the same conditions as the existing exemption, with the exception that it only applies to awnings on the ground-floor of a building, as well as a requirement that the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the building work is carried out in accordance with that design.</p>	<p>Christchurch City Council commented that the current exemption for porches and verandas (Schedule 1, clause 17) has the same wording as the exemptions for awnings (Schedule 1, clause 16).</p> <p>Only the Registered Master Builders Association suggested increasing the proposed size for awnings if a Chartered Professional Engineer would be involved or if LBP's were enabled to undertake the design and construction.</p>	<p>Comment</p> <p>MBIE considers that the existing proposed conditions appropriately manage risks to people and property.</p> <p>No changes to the conditions for the proposed awning exemption have been made. The conditions are proportionate to the additional risks the bigger and heavier structures may pose to people and other property in the event of failure.</p> <p>A new exemption for porches and verandas has been added to the package with the same conditions as those for the proposed awning exemption, since the risk profile and conditions for porches and verandas are the same as those for awnings.</p>
<p>Outdoor fireplaces</p>	<p>N/A</p>	<p><i>Outdoor fireplaces</i></p> <p>It is proposed to include a <i>new</i> exemption for building work in connection with a standalone permanent fireplace or oven that:</p> <ul style="list-style-type: none"> • is located at least 1 metre away from any legal boundary or building; and • has a maximum height of 2.5 metres from the ground; and • has a maximum cooking surface of 1 square metre; and 	<p>Of the six submitters who commented, only two disagreed with the proposed conditions. Those who disagreed suggested increasing the minimum distance from boundary requirement, considering mitigations for fuel type and risks specific types pose, and voiced concerns about compliance with regional council air plan rules.</p>	<p>Comment</p> <p>MBIE considers that the existing proposed conditions appropriately manage risks to people and property.</p> <p>No changes have been made to the proposal. Exemptions under Schedule 1 do not negate requirements to comply with other legislation (e.g. district plan or regional council air plan).</p>

		<ul style="list-style-type: none"> • is supported on the ground and not covered by any roof or wall and; • smoke produced is disposed of in a way which avoids creating a nuisance or hazard to people and other property. 		
Water storage bladders	<p><i>Clause 23: Tanks and pools</i></p> <p>Building work in connection with a tank or pool and any structure in support of the tank or pool, including any tank or pool that is part of any other building for which a building consent is required, that—</p> <p>(a) does not exceed 500 litres capacity and is supported not more than 4 metres above the supporting ground; or</p> <p>(b) does not exceed 1 000 litres capacity and is supported not more than 3 metres above the supporting ground; or</p> <p>(c) does not exceed 2 000 litres capacity and is supported not more than 2 metres above the supporting ground; or</p> <p>(d) does not exceed 4 000 litres capacity and is supported not more than 1 metre above the supporting ground; or</p> <p>(e) does not exceed 8 000 litres</p>	<p><i>Water storage bladders</i></p> <p>It is proposed to include a <i>new</i> exemption for building work in connection with a flexible water storage bladder that:</p> <ul style="list-style-type: none"> • is supported directly by the ground; and • is located a minimum distance of 100 metres from any legal boundary or residential building; and • has a maximum height of 2 metres from the ground; and • does not exceed 200,000 litres capacity; and • is only used for irrigation or firefighting purposes. 	<p>Of the 6 submitters who commented, three disagreed with the proposed conditions. Christchurch City Council noted that they thought these could already be effectively approved through the current discretionary exemption process (Schedule 1(2)).</p> <p>Suggested further conditions included that the bladders be secured to the ground, and that the minimum distance be increased to 200 metres.</p>	<p>Comment</p> <p>Exemption under Schedule 1(2) requires an owner to apply to the council, whereas a specified exemption does not. MBIE considers that the existing proposed conditions appropriately manage risks to people and property.</p> <p>No changes have been made to the proposal.</p>

	<p>capacity and is supported not more than 0.5 metres above the supporting ground; or</p> <p>(f) does not exceed 16 000 litres capacity and is supported not more than 0.25 metres above the supporting ground; or</p> <p>(g) does not exceed 35 000 litres capacity and is supported directly by the ground.</p>			
<p>Short-span bridges and pipe supporting structures</p>	<p><i>Clause 24: Decks, platforms, bridges, boardwalks, etc</i></p> <p>Building work in connection with a deck, platform, bridge, boardwalk, or the like from which it is not possible to fall more than 1.5 metres even if it collapses.</p>	<p><i>Short-span bridges and pipe supporting structures</i></p> <p>It is proposed to include a <i>new</i> exemption for bridges where the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the building work is carried out in accordance with that design, and it:</p> <ul style="list-style-type: none"> • is not possible to fall more than 3 metres; and • has a span of less than 6 metres; and • does not span above a road, a rail and an area with a public access; and • is not used by the general public. <p>It is also proposed to include a</p>	<p>Of the eight submitters who commented on short-span bridges, five commented on the need to address Building Code clause F4 (safety from falling).</p> <p>Structural Engineering Society New Zealand was not in support of the proposal because of a lack of Acceptable Solutions or Verification Methods for bridges under clause B1 of the Building Code.</p>	<p>The proposed exemption for short-span bridges has been amended: a requirement for a Building Code compliant barrier has been added. A minor change to clarify the language of one of the conditions has also been made. The development of guidance to support the proposed exemption will be important.</p>

		<p><i>new</i> exemption for building work in connection with a support structure for a pipe that:</p> <ul style="list-style-type: none"> • is constructed on private land without public access; and • is located a minimum distance of 5 metres from any residential building, public road, rail or legal boundary; and • is supported on the ground; and • is supporting a single pipe with maximum 300 mm diameter; and • has a distance from the top point of pipe to the ground that does not exceed 1 metre; and • supports a pipe that transfers only water. 		
<p>Ground-mounted solar array panels</p>	N/A	<p><i>Ground-mounted solar array panels</i></p> <p>It is proposed to include a <i>new</i> exemption for building work in connection with ground-mounted solar array panels where:</p> <ul style="list-style-type: none"> • design wind speeds do not exceed 44 m/s (calculated using Building Code Verification Method B1/ VM1); or where the panels are located in a wind zone no greater than 'high', as defined 	<p>Of the nine submitters who commented on the proposed exemption for rural areas, three disagreed with the proposed conditions. Respondents raised concerns about electrical work (i.e. that it should be undertaken by a competent person in accordance with relevant legislation) and reflectivity issues.</p> <p>Of the 18 submitters that answered the question on whether ground-mounted solar array</p>	<p>Comment</p> <p>MBIE considers that the existing proposed conditions appropriately manage risks to people and property in rural areas.</p> <p>Exemptions under Schedule 1 do not negate requirements to comply with other legislation (e.g. Electricity Act, RMA).</p> <p>No changes have been made to the proposed exemption in rural areas.</p>

		<p>in Building Code Acceptable Solution B1/AS1; and</p> <ul style="list-style-type: none"> • the panels are supported on the ground; and • the panels are attached by more than a single post to the ground; and • the distance from the top point of panels to the ground does not exceed 4 metres; and • the panels are located a minimum distance of 5 metres away from any residential building, public road, rail or legal boundary; and • the work is carried out in a rural zone (using the definition in clause 41 of Schedule 1). 	<p>panels should be allowed outside rural zones, 13 said yes. Six respondents strongly suggested the need for Chartered Professional Engineer involvement; other respondents suggested additional conditions like restricting the exemption to low or medium wind zones in non-rural zones, or limiting the size of panels in non-rural zones.</p>	<p>The exemption for ground-mounted solar array panels has been extended to include residential and urban areas. The risk profile of these structures is similar to carports.</p> <p>To manage increased risk to people and property outside rural areas, additional conditions (consistent with carports) have been added for residential and urban areas:</p> <ul style="list-style-type: none"> • restricting the exemption to panels up to 20 square metres in size without Chartered Professional Engineer oversight; and • restricting the exemption to panels up to 40 square metres with Chartered Professional Engineer oversight.
<p>Single-storey pole sheds and hay barns</p>	<p>N/A</p>	<p><i>Detached single-storey pole sheds and hay barns</i></p> <p>It is proposed to include a <i>new</i> exemption for building work in connection with a pole shed or a hay barn where the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the</p>	<p>Of the seven submitters who commented, four disagreed with the proposed conditions. Those who disagreed voiced concerns about barns getting turned into dwellings, builders pushing beyond the exemption's limits, and work breaching district plans. Respondents also raised the need for clarification as to how the maximum height would be</p>	<p>Comment</p> <p>Exemptions under Schedule 1 of the Building Act do not negate requirements to comply with other legislation (e.g. RMA/district plans).</p> <p>The height condition for pole sheds has been increased from the originally proposed 3.5m to 4m at its highest point. This change</p>

		<p>building work is carried out in accordance with that design, and:</p> <ul style="list-style-type: none"> • design wind speeds do not exceed 44 m/s (calculated using Building Code Verification Method B1/ VM1); or where the panels are located in a wind zone no greater than 'high', as defined in Building Code Acceptable Solution B1/AS1 ; and • the building is not more than 1 storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 3.5 metres above the floor level); and • the maximum unsupported roof span in any direction does not exceed 6 metres; and • the building does not exceed 110 square metres in floor area; and • the building has a minimum distance from any residential building, public road, rail, or any legal boundary at least equal to the measure of its own height; and • the building is not subject to the Hazardous Substances and New Organism Act 1996; and • the building is not accessible 	<p>measured and from what point.</p> <p>Federated Farmers of NZ commented that the requirement for the building height to be no more than 3.5 metres above the floor level would likely capture many hay sheds and suggested that the limit should be higher. They also suggested that the height limit be increased to seven metres.</p>	<p>reflects that not all pole sheds will have level or flat roofs.</p>
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		<p>by the public, for example, indoor market and barn sale; and</p> <ul style="list-style-type: none"> the work is carried out in a rural zone (using the definition in clause 41 of Schedule 1). 		
<p>Single-storey detached buildings (LBP exemption)</p>	<p><i>Clause 3: Single-storey detached buildings not exceeding 10 square metres in floor area</i></p> <p>(1) Building work in connection with any detached building that—</p> <p>(a) is not more than 1 storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 3.5 metres above the floor level); and</p> <p>(b) does not exceed 10 square metres in floor area; and</p> <p>(c) does not contain sanitary facilities or facilities for the storage of potable water; and</p> <p>(d) does not include sleeping accommodation, unless the building is used in connection with a dwelling and does not contain any cooking facilities.</p> <p>(2) However, subclause (1) does not include building work in connection with a building that is closer than the measure of its own height to any residential building or to any legal boundary.</p>	<p><i>Single-storey detached buildings not exceeding 20 square metres in floor area</i></p> <p>It is proposed to include a <i>new</i> exemption for single-storey detached buildings with a maximum floor area of 20 square metres. The exemption will have the same conditions as the existing exemption (including that it can be constructed using any materials), as well as a requirement that the design and construction is carried out or supervised by a Licensed Building Practitioner (with the appropriate licence class).</p> <p>Where the buildings under this new exemption are used for sleeping accommodation, they must also have smoke alarms.</p>	<p>Of the four submitters who commented, two disagreed with the proposed conditions and raised concerns about the competency of Licensed Building Practitioners and the operation of the scheme itself. It is also worth noting that many respondents raised concerns about Licensed Building Practitioner competence throughout their submissions. There was a strong theme that Licensed Building Practitioners were not ready to do this work yet, and the scheme would need to be strengthened first.</p>	<p>Comment</p> <p>The LBP proposal is complementary to the Building System Legislation Reform Programme which will address concerns about Licensed Building Practitioner competence. This proposal requires a change to Act.</p> <p>MBIE considers that the proposed exemption involving a Licensed Building Practitioner could be either 20 square metres or 25 or 30 square metres.</p>

As well as specific comments and feedback on the proposed exemptions, a number of broader themes could be identified from the submissions.

Table 3: Key themes

Themes	Submissions	Comment
The need for clear guidance on exemptions	Many submitters commented on the need for clear information on exemptions in MBIE Guidance, such as how to interpret ‘floor area’ or how to measure heights.	New guidance to support the proposed exemptions was always intended. MBIE has started work to develop better, clearer guidance not just for the proposed new exemptions, but also for current exemptions already included in Schedule 1.
Short-term benefits of exemptions may lead to longer-term costs	Some feedback from BCAs talked about how some of the proposals might cause problems in the future. For example, failures of exempted building work could cost councils more to remediate than was initially saved by the exemption.	Any work exempted from the building consent process has been assessed as minor or low-risk. The conditions that have been developed, and clear guidance are considered sufficient to mitigate any risk to an acceptable level.
Lack of confidence in the industry to undertake exempted work	Several submitters indicated a lack of confidence in the capabilities and skills of people in the industry to undertake exempted work (especially Licensed Building Practitioners).	Ongoing work under the Building System Legislation Reform Programme will help address occupational issues about competency, accountability, and clear roles and responsibility if things go wrong.
Concerns about interface of Schedule 1 exemptions with RMA	A recurring theme through the submissions was that the proposed exemptions would circumvent the Resource Management Act and other legislation, or that they could contradict current clauses of the Building Code.	Schedule 1 exemptions only exempt a building owner from the need to get a building consent. The building work still needs to comply with the Building Code and meet any other relevant legislation, including the Resource Management Act. MBIE’s current building consent exemption guidance advises owners to always check with the council if there are any district plan/resource consent implications, and that if a resource consent is required owners should get this before starting any building work.
Wider review of the Building Act and Schedule 1	Three of the submissions (including Christchurch City Council) commented on the need for a wider review of the Building Act and Schedule 1, and criticised current legislation as being “outdated and in need of a full review”. For example, in the way the system deals with alternative housing (tiny homes), and the trend towards higher-density living.	This work was not a review of the existing 43 exemptions in Schedule 1. However, ongoing work on the wider Building System Legislative Reform Programme will help to address some of the underlying issues behind these concerns.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

How the proposals will be given effect

With the exception of the third set of proposed exemptions, the proposals will be given effect by an Order in Council. Section 41 of the Building Act enables the list of building consent exemptions in Schedule 1 to be extended or clarified by Order in Council.

The third set of proposed exemptions requires an amendment to the Act as it would change the structure of the Schedule 1 exemptions. It is intended that this progresses as part of Building System Legislative Reform package that will amend the Building Act. It could also be included in an omnibus Bill if such a vehicle was available as part of a COVID-19 recovery package.

When the proposals will be given effect

The additional building consent exemptions (first two sets of proposed exemptions) are expected to come into force in August 2020. The third set of exemptions would come into force after an amendment to the Building Act is made. The Minister for Building and Construction intends to introduce a Bill to amend the Building Act to give effect to phase 1 of the Building System Legislative Reform Programme early in 2020.

Implementation risks and mitigation

Key risks in implementing the proposed exemptions include risks associated with owners understanding the exemptions and their conditions, practitioner skills, and product quality. To mitigate the first risk, MBIE will be updating its guidance to building owners on the exemptions, and its guidance to BCAs on their discretionary powers to issue exemptions. The Building System Legislative Reform Programme work being done to improve the regulation of people and products will mitigate the final two risks.

Section 7: Monitoring, evaluation and review

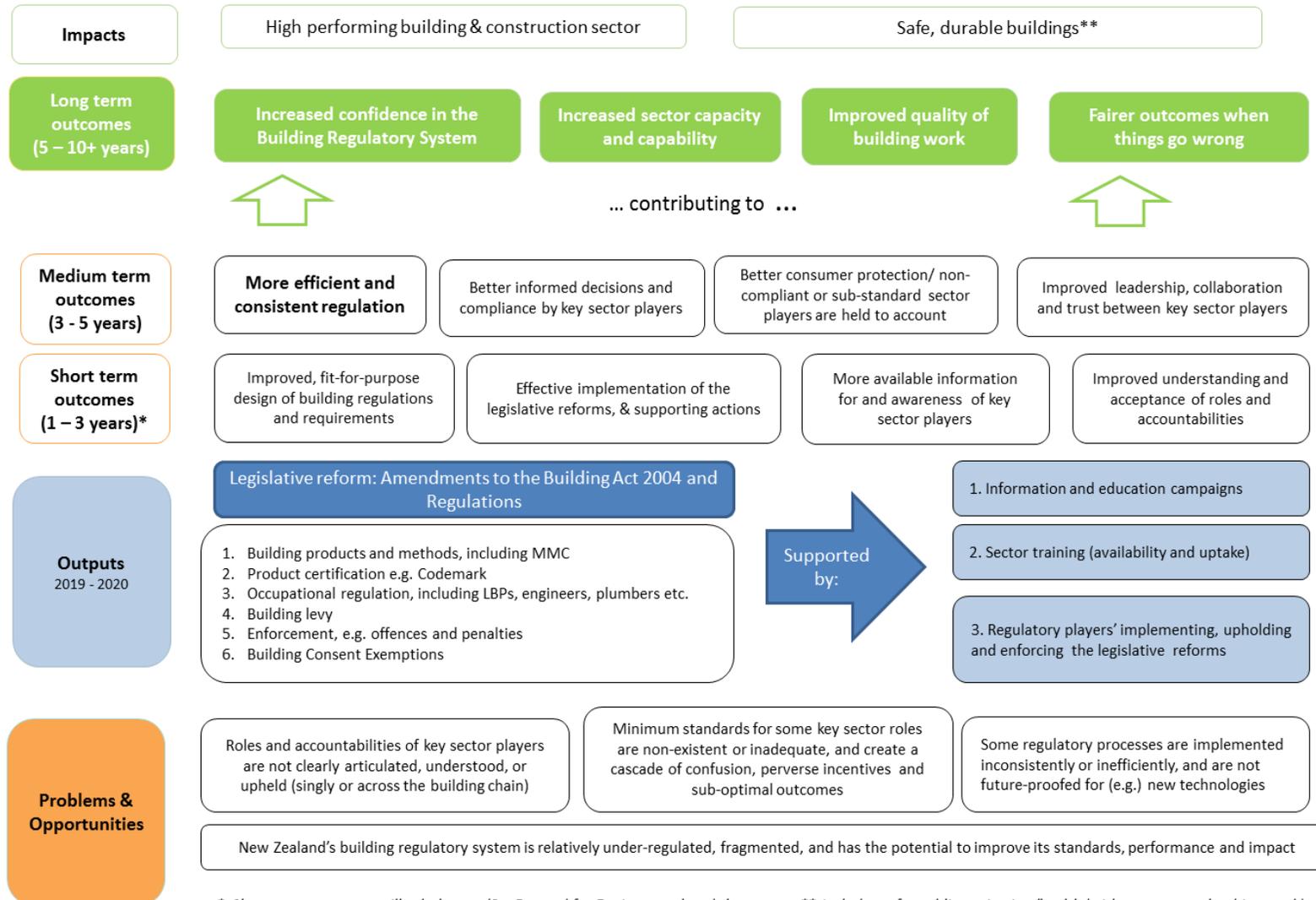
7.1 How will the impact of the new arrangements be monitored?

The monitoring and evaluation of these changes will form part of the Building System Legislative Reform Programme work. The RIS for the first phase of that work is available here: <https://www.mbie.govt.nz/document-library/>. See Annex 1 for the draft Intervention Logic Model for Building System Legislative Reform Programme.

7.2 When and how will the new arrangements be reviewed?

The review of these changes will form part of the Building System Legislative Reform Programme work. The RIS for the first phase of that work is available here: <https://www.mbie.govt.nz/document-library/>. See Annex 1 for the draft Intervention Logic Model for Building System Legislative Reform Programme.

DRAFT Logic Model for Legislative Reform Programme



* Short term outcomes will take longer (3 – 5 years) for Engineers-related changes. ** Includes safer public sanitation/health (with competent plumbing work)

Annex 2: List of submitters on targeted consultation document

Building Consent Authorities (BCAs)	Wairoa District Council
Auckland Council	Waitaki District Council
Buller District Council	Wellington City Council
Christchurch City Council	Western Bay of Plenty District Council
Dunedin City Council	Whakatāne District Council
Far North District Council	Whanganui District Council
Gore District Council	Whangarei District Council
Grey District Council	Other (non-BCAs)
Horowhenua District Council	Autex Industries Ltd
Kāpiti Coast District Council	Eco Insulation Systems Limited
Manawatu District Council	Elite Insulation
New Plymouth District Council	Federated Farmers of NZ
Otorohanga District Council	HOBANZ
Palmerston North City Council	Insulation Association NZ
Selwyn District Council	Insulation Wellington
Tasman District Council	Knauf Insulation
Timaru District Council	Registered Master Builders Association
Upper Hutt City Council	Safe-R Insulation
Waikato Building Consent Group Cluster: Hauraki DC, Matamata-Piako DC, Waitomo DC, Otorohanga DC, Waipa DC, Waikato DC, Thames Coromandel DC, Hamilton City Council	Insurance Council of NZ
Waimakariri District Council	Building Control Officer
Waimate District Council	Engineering NZ