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New Zealand Certified Builders Association

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Submission on the Building Amendment Bill

Summary of our position

New Zealand Certified Builders (NZCB) supports most of the Building Amendment Bill (the Bill), but recommends taking a different approach to repealing the Building Research Levy, by instead modernising the Levy to include strengthened accountability, transparency and reporting by BRANZ to MBIE.

In short, we:

- support proportionate liability, mandatory home warranties, mandatory professional indemnity insurance for designers, faster consenting pathways and easier collaboration between councils;
- recommend the warranty regime be built around industry-led products, as the Bill currently proposes;
- oppose replacing the current BRANZ research funding model with an MBIE-overseen contestable fund.

NZCB would like the opportunity to speak to this submission before the Committee.

About NZCB

NZCB is a membership association representing around 2,300 small-to-medium residential building businesses around the country. Our members are highly qualified and must hold a minimum of Level 4 Carpentry before being allowed to join.

The Association is part of the broader NZCB Group. The Group owns Halo Guarantees Ltd, which offers the Halo 10-Year Guarantee.

The three proposals we support

Component No 1. Improving accountability and shifting risk for more efficient building system
NZCB strongly supports the proposed change to proportionate liability. It is a fairer system for allocating responsibility, should make councils less risk-averse when considering building plans, and as a result will speed up the consenting process.

Under the current joint and several liability approach, councils (and so ratepayers) are left to pick up the bill when a builder could not be held to account for the component of a building failure they had liability for, for example if they are no longer trading, or are not willing to contribute to making good. That made councils understandably cautious when approving building plans, which slowed consenting and added cost for homeowners.

NZCB supports the two key legislative requirements to enable the shift to Proportional Liability as set out in the Bill:

- Mandatory home warranties and the proposed minimum cover of one year for defects and ten years for structural defects. Proportionate liability only works if homeowners are protected when a builder is unable or unwilling to put things right. The proposed mandatory warranties for new houses, multi-unit residential buildings up to ten metres, and renovations of $100,000 or more provide that protection. They also help remove operators who come and go without taking responsibility for their work. This protects homeowners and the reputation of the industry.
- Mandatory professional indemnity insurance for designers. Designers are part of the chain of responsibility, and proportionate liability is only meaningful if each party can meet its share of a claim.

NZCB believes an industry-led Home Warranty arrangement is the right model

The Bill requires Home Warranty providers to register with MBIE and meet minimum cover requirements. NZCB supports this approach and notes there are three existing Home Warranty providers operating in the New Zealand market. The two market leaders, NZCB's Halo, and the Registered Master Builders Association (RMBA) Master Build Guarantee, provide a 'builder as first responder' approach that provides quick and cost-effective pathways for homeowners to seek remediation of a building issue.

By MBIE's estimates over 40% of new homes in New Zealand carry a Home Warranty, with the existing market players having the capacity to bridge the gap to service 100% of eligible new home builds, even without additional Home Warranty providers entering the market, which MBIE have signaled there will be.

We are concerned by commentary that the regime should be based on a government-backed scheme like those operating in Australia. We ask the Committee to prefer the industry-led warranty product approach as the Bill proposes, for two reasons.

1. Relying on major international insurers would put premiums beyond what homeowners can afford. Cover backed by a major international insurer such as Lloyds would be priced to reflect the insurer's own risk appetite and reinsurance costs, not the actual claims record of New Zealand builders.

The only private insurer currently offering a product in this market (underwritten by Lloyds) charges considerably more than the warranties offered by NZCB and RMBA. For example, a $1m build costs around $6,000 with the Lloyds backed product, compared with $2,360 (incl. GST) for the Halo Guarantee.

We are concerned that these elevated prices would add a significant sum to every new build and renovation covered by the Bill, at a time when affordability is already the central concern. It would work against the Bill's aim of making building easier and more affordable.

2. A government-backed scheme like those in Australia does not suit New Zealand. We do not think such a scheme makes sense here, for the following reasons.

    - *Purpose.* The point of moving to proportionate liability was to take the burden off councils, and therefore ratepayers, when something goes wrong. A government-backed scheme would simply move that burden to taxpayers. It would not remove the cost of defective building, only change who pays for it, and it would weaken the incentive on builders to get the work right.
    - *Scale.* New Zealand does not have the population or volume of building work to spread the financial burden adequately. Australian schemes operate across much larger populations and construction markets. A smaller pool leaves the scheme exposed to a few large claims.
    - *Cost.* We understand MBIE has used the Queensland Home Warranty Scheme as a model for a similar scheme here. In our view the Queensland model does not provide for a competitive market; a consequence is that premiums for the Queensland Home Warranty are substantially higher that the two main New Zealand home warranty products.

      As an example, a $1m build would cost a homeowner in Queensland $10,992.80, while a $1m build in New Zealand carries a Halo Guarantee premium of $2,360 with RMBA's product providing similar pricing.

Component No 2. Removing barriers to BCA consolidation and collaboration

We support the proposal to remove the requirement for a Territorial Authority (a council) to be a Building Consent Authority (BCA), and to enable councils to either transfer or delegate their BCA functions.

An outcome of the Voluntary BCA aspect of the Bill will be that the number of BCAs will reduce, with consolidation of existing BCAs and transferal of a council's BCA functions in entirety, leading to a smaller number of BCAs with better capability and experience. Doing so should reduce duplication and improve consistency of decisions across the country, which is a long-standing concern for our members who work across several districts.

Component No 4. Targeted amendments to simplify building process.

NZCB supports the new fast-track pathway (ten-day consenting vs. standard 20-days) for eligible solar-equipped and sustainable homes and eliminating the requirement for a PIM to be required when a small stand-alone dwelling is manufactured off-site.

These changes will reduce delay and cost for builders and homeowners.

The proposal we do not support

Component No 3. Modernising and streamlining building sector funding

NZCB agrees that the Building Research Levy should be modernised. However, we do not support transferring responsibility for determining building research priorities and allocating research funding to MBIE. This would concentrate responsibility for both the regulatory system and the allocation of industry-funded research within the same government agency. NZCB considers that maintaining appropriate independence between the regulator and the setting of industry research priorities is important.

Instead, we propose that:

- the Building Research Levy remain a separate, ring-fenced levy, dedicated to building and construction research;
- BRANZ continue its current role of engaging with industry to identify research priorities and allocating research funding accordingly; and
- the Building Research Levy Act be modernised to strengthen accountability, transparency and reporting by BRANZ to MBIE and levy payers on how levy funds are allocated, the research undertaken, and the outcomes achieved.

Conclusion

NZCB supports the overall direction of the Bill and believes it will make building easier, faster and fairer.

We ask the Committee to modify the *'Modernising and streamlining builder sector funding'* component of the Bill, by preserving the existing Building Research Levy arrangements that would see the BRANZ role stay in place. Instead, we recommend modernising the Building Research Levy Act 1969 to strengthen accountability, transparency and reporting of BRANZ back to MBIE.

NZCB thanks the Committee for the opportunity to submit and would welcome the chance to appear in support of this submission.