Construction Industry Council (CIC) Ministerial Briefing Document

Executive summary

The New Zealand Construction Industry Council (CIC) is the peak body for the building and construction industry in New Zealand. It exists to provide an industry perspective to central government on key issues affecting the majority of interests in the building industry.

The council was formally established in 2003 and draws its membership from most of the key trade associations, professional institutes, training organisation's and research bodies that operate in the industry.

This briefing paper sets out the key issues for the Construction Industry Council on a range of core policy matters. On some issues the CIC fully supports the Government's current position and actions, however on other issues, the CIC will be advocating for a change in Government direction/priorities and/or early engagement with the sector on the scoping of proposals for change.

Issues of interest to the CIC include: building legislation and regulation reform; sector education and training; licensing and registration for occupations; materials and technology research and development; industry sustainability; project procurement and contract conditions; improving the quality and cost of homes for all New Zealanders; project approval and building consenting processes; Auckland Unitary Plan; Christchurch Rebuild programme and the scope of the Resource Management Act reforms.

As a sector, the New Zealand construction industry generates approximately $30 billion in annual revenue and employs approximately 170,000 people who participate in a wide variety of occupations. As such, the construction industry plays a significant role both in the lives of the many individuals who participate in the sector and as a contributor towards New Zealand's economic health. As the Ministry of Business Innovation & Employment's, *2013 NZ Government Sectors Report* states:

> *"Construction and maintenance of infrastructure and buildings is an activity in every community in every region. In the average year construction products contribute up to 50 percent of gross fixed capital formations. The quality of infrastructure - be it transport, telecommunications or electricity networks, water storage and reticulation, schools, hospitals and recreation facilities – is critical to productivity and economic growth. Supply and quality of housing, and the built environment more generally is central to the welfare of New Zealanders.* [1]

[1] NZ Government, (2013), *NZ Government Sectors Report – Construction*, p.5.

The design and construction of houses, public and commercial buildings, such as factories, office blocks, hospitals, schools and stadiums, and core infrastructure, such as roads, sewage systems, dams and electricity and telecommunications networks, is central to economic development, economic activity and community well-being.[2] Improving the quality, function and performance of our buildings is vital to supporting New Zealand's economic growth.[3] The Canterbury and Lower North Island (Cook Strait) and upper South Island (Seddon) earthquakes have also shown the importance of the design and construction of buildings that are resilient to a range of natural environmental effects, such as earthquakes, floods and storms, both structurally and non-structurally.

The CIC would welcome a discussion and engagement with the Minister and officials on:

- **Quality and cost** - improving the quality and cost of homes for all New Zealanders
- **Procurement** - improvements to Government procurement practices, certainty on the management of risks and the use of industry accepted conditions of engagement
- **Consenting system** - implementation of a range of step-change improvements in the New Zealand consenting system, creating a focus on risk identification and transforming the system through workforce, organisational arrangements and process changes.
- **Professionalism** - increasing the level of professionalism and productivity across the building and construction industry
- **R&D investment** – Government's continued investment and co-ordination of research and development in the construction industry
- **Public liability and risk** - changes to the public liability and risk profile of the construction sector, including support for the introduction of a proportionate liability system
- **Earthquake prone buildings** - a clear, financially sustainable and pragmatic response to the Earthquake Prone Buildings legislation
- **Resource Management Act reform** - the scope and priorities for the Resource Management Act Review
- **Early engagement** - ensuring early engagement with the CIC on matters affecting the industry over the Governments term in office

[2] NZ Government, (2013), *NZ Government Sectors Report – Construction*, p.16.

[3] NZ Government, (2013), The Research Strategy for the Building and Construction Industry, p.6.

Given the complex and interrelated nature of roles and activities in the industry, the CIC would welcome a Government roundtable involving the executive of the CIC with the aim of defining a work plan, priorities and key outcomes to be addressed over the Governments' term.

Many of the issues facing the construction sector are ongoing concerns. The Canterbury Rebuild continues to pose challenges for the industry (e.g. procurement; contract terms and conditions; material specifications and standards; timely building consents). In that region, architects, designers, engineers and contractors are fully engaged in all areas of the building and construction sector with large numbers committed to the rebuild programme. Activities flowing out of the Canterbury Earthquakes Royal Commission, affecting design professionals include, developing procedures in support of post disaster management of buildings, improving areas of professional practice such as quality, assessing the new health and safety legislation impacts on industry and promoting better collaboration between architects and engineers.

It needs to be acknowledged that New Zealand continues to experience a skills shortage in the construction sector, particularly of surveyors, engineers and project managers. The Christchurch Rebuild has led to a high concentration of skills in one part of the country with corresponding gaps in other regions across New Zealand. The lack of skilled personnel means projects do not progress as quickly as they should and, as a consequence, offshore personnel are often engaged despite a lack of knowledge of local conditions, specifications and performance requirements. These gaps in the market place have existed for some years now and they need a coordinated response given the urgency and volume of construction activity programmed in Auckland and Christchurch over the next 5-10 years.

The *Research Strategy for the Building and Construction Industry, 2013*, responds to the key research challenges facing the industry and identifies the priorities. The CIC considers it vital that funding agencies have a common understanding of the industry needs and priorities for research and that the research programme is both appropriately funded and coordinated. Given the under-funding of the Productivity Partnership, the CIC is concerned that the industry Research Strategy could also become under-funded which will diminish the value and effectiveness of the work. The CIC seeks the Government's commitment to ongoing funding and support for the implementation of the Research Strategy and the identified priorities.

Also of concern to the CIC is the building and construction sector Productivity Partnership, whose aim was to seek remedies to the highly cyclical nature of the New Zealand construction industry.

The Partnership appears to have stalled and the CIC considers it to be significantly under-funded despite productivity improvements offering positive growth impacts on New Zealand's GDP[4] through a lack of funding, and this should be restarted to help smooth the 'boom and bust' cycle of the industry. The CIC welcomes all initiatives to 'smooth' these cycles through long-term planning and investment, especially by central and local government.

New Zealand cities and towns are confronted by significant long-term challenges including population growth and demographic change, climate change, increasing fuel costs and resource limitations, housing affordability, technological change, and the accelerating processes of globalisation. As concentrated centres of people and activity, cities also provide immense social and economic opportunity, as well as substantial potential to adapt to environmental pressures. The way in which governments plan and manage our cities therefore needs to respond effectively to these challenges whilst harnessing opportunities.

It is for these reasons that the CIC considers it essential for the CIC to be engaged early on the scope of the Resource Management Act review. The review needs to address the issues of urban centres, cities and infrastructure and provide outcomes, which offer investors security, infrastructure and efficiency.

Local government also has an enormous influence on how urban-environment relationships develop, and on how their urban centres, cities and towns interact with their neighbours and with the wider community. The CIC welcomes the Government asking the Productivity Commission to investigate ways to improve the way local authorities regulate to make land available for housing. Effective local governance can make cities and towns more competitive, more efficient and more attractive to investors and workers.

The CIC is continuing to seek productivity improvements in the construction sector. In Auckland, especially, there is a housing challenge, with not enough housing being built, an insufficient variety of housing types, and homes priced beyond the means of an increasing number of New Zealanders. Also of concern to the CIC are the findings of a 2014 BRANZ study[5] which identifies workmanship and compliance issues in new housing. An appropriately skilled workforce with a commitment to steadily increasing skills and qualification requirements is essential if consumer confidence in the industry is to increase.

New Zealander's need good quality, cost-effective housing. In Auckland alone, the Auckland Plan identifies that 13,000 dwellings per year will be needed to meet 2040 population projections.

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[4] every 10% productivity gain in the industry delivers an on-going 1% growth impact on New Zealand's GDP.

[5] BRANZ, (2014), BRANZ Study Report, New housing condition – a preliminary assessment, p.4.

The Auckland Housing Accord identifies between 2013-2016 that 39,000 new dwellings and home sites will be needed in Auckland. Nation-wide, 20,000-23,000 new homes are predicted to be needed over the next five years.[7] In Canterbury, 15,000 houses are needed urgently. The CIC considers that a step-change will be needed in the industry to meet these projections (i.e. design, procurement, Government regulation, products, systems and innovation, risk and liability framework, building consenting processes; industry skills and professionalism.

Urgent industry collaboration with Government and the coordination of changes/reforms affecting the building and construction sector is needed if the quality and choice of housing available is to be delivered at the levels required. Quality, affordable and well-performing homes (i.e. sustainable homes) that can be delivered right first time, on-time, should be the expectation.

Construction industry areas of focus and recommendations:

1. Housing

- There are opportunities to explore improvements around finance and innovation, urban planning provisions and regulations, and land assembly provisions.

- Implement consenting and regulatory system improvements.

- Further research is required on the quality of existing homes (resilient homes, moisture in buildings, ventilation, fire).

- Quality medium density products are required to markets, particularly in Auckland and Christchurch.

- The declaration of Special Housing Areas (SHAs) and their potential in other fast-growth areas is welcomed. Nonetheless, SHAs have resulted in resources being diverted to particular projects and areas only.

- Local government planning flexibility to enable increased density in low medium-density housing areas.

- Industry and government must work together in order to lead and deliver quality housing, more quickly for more New Zealanders for less cost. An industry/government roundtable discussion facilitated by the CIC would be helpful in removing barriers to the uptake of good quality housing options.

[7] Office of the Minister of Finance (2012) 'Response to the Productivity Commission Report on its inquiry into housing affordability' Cabinet paper.

- Urgently review local government planning and regulatory barriers. Construction demand is increasing by 10% per year for the next four years. Past booms show that when construction demand goes up, quality goes down.

- Establish nationally consistent approach to Building Consent processes for emerging panel products such as cross-laminated timber (CLT), structurally insulated panels (SIPs) and custom panels.

- Engagement of the major banks to enable first-time homebuyers access to mortgages on cost-effective transportable housing before the house is delivered and secured to site.

- Development covenants that universally allow high-quality transportable housing alongside site-built housing.

2. Design quality of urban areas

- A National Urban Policy is required that establishes the Government's objectives and directions for cities and urban centres across New Zealand. It should recognise the critical roles of Government, private sector and individuals in planning and investing in cities and urban centres. It should provide a means of improving the productivity, livability and sustainability of cities and urban centres.

- Inclusion of cities, towns and infrastructure within Section 6 and 7 of the Resource Management Act review.

3. Local government planning and funding

- The traditional reliance by territorial authorities on debt and development contributions to fund infrastructure may not be sustainable given changes in population and demographics, technology, community expectations, ageing infrastructure, the long-term nature of growth related debt, volatility of revenue streams, and changes to legislation.

- Alternative funding models for infrastructure should be considered. In addition to public private partnerships, mechanisms such as sale-and-leaseback arrangements should be explored.

- One of the development contributions principles in the LGA Amendment Act 2014 clarifies that, when calculating and requiring contributions, councils can group specific developments together by geographic area or category of land use. Although this is to be done in a manner that balances administrative efficiency (with considerations of fairness and equity), the CIC are concerned this could still undermine the causal nexus principle. CIC advocates for amendments/clarity to ensure this does not happen.

- CIC encourages Government to take action to improve nationwide efficient provision of water and wastewater services, with particular attention given to the financial capability of small community utilities to maintain improvements to distribution and treatment facilities, and urges regular checks to ensure transparency and reasonableness by local government in the imposition of 'development' charges.

- While development contributions are now receiving further scrutiny, the requirement of financial contributions under the Resource Management Act 1991 can potentially result in Councils using it as an off-setting mechanism to make up for the shortfall in development contributions collections.

- Our formal position remains that 'physical infrastructure' should be included in the Acts definition of environment so as to enable the authorities and the Environment Court in particular to take a holistic view/approach when making decisions.

4. Industry skills

- The CIC members note there is a severe shortage of tradespeople and there is a growing trend of unmanaged/unsupervised residential sites. This in turn results in a significant number of projects being non-compliant with regulatory provisions, standards and specifications, which affects the level of public assurance of project and industry quality. Improvements (control and ability) in site supervision criteria would improve industry and project quality.

- The Productivity Partnership Skills Strategy identified the shortage of management and supervision skills as one of the top barriers to productivity in the industry. This lack of skills impacts negatively on quality and health and safety. Urgent attention is needed to ensure these skills are developed, promoted and attracted to the industry. These skills are critical to improving public assurance in the industry.

- A skilled industry participant needs to be able to apply skills learnt at all levels of the workforce – teamwork, interpersonal relations, leadership, health and safety awareness, worker participation and integrate them with daily roles, equipment, technology and work processes. This is the human factor of the industry, which cannot be reduced to a simple codification or tick box approach. This integrated development and growth of the people skills in the industry, which advances workplace culture, and productivity needs to be seriously addressed by industry – TEC/MBIE/MoE and Government.

- A key finding of the Productivity Partnership established in 2010 was to 'smooth' the 'boom/bust' cyclical nature of industry and create sustainable levels of demand, which in turn enabled the retention, and development of key skills. It appears however, that the Productivity Partnership has stalled from a lack of investment and needs to be restarted if the challenges of the industry and industry confidence are to be addressed.

- The licensing of building practitioners (LBP) was introduced in 2012. The number of licenses issued has now surpassed the initial forecasts and objectives of the regulator. Government should develop this framework with some haste, so that it provides the assurance to the homeowners and customers, and value to the LBPs who have signed up, to the level of the original Government commitment.

- The CIC notes the release of the Government's *'Proposals to change the occupational regulation of engineers in New Zealand'* and endorses the general objectives of better serving the public's interest and increased accountability for engineers. Given the multi-disciplinary nature of the sector, consistency and transparency will be needed in the proposed Construction Industry Occupational Body and the allocation of roles and responsibilities between the Registration Authority and Industry Occupational Body with regard to disciplinary complaints and appeals.

5. Building Consent Authorities

- New Zealand operates under a performance based control framework, whose hierarchy is dominated by the Building Act 2004, and associated regulations.

- Building Consent Authorities (BCA's) vary in terms of capability and capacities, primarily relating to demographic and level of building activity.

- The building control framework operates as a process and is reliant on the accuracy of the inputs to produce an efficient, cost effective and consistent building performance outcome. There are complex arrays of inputs that effect compliant behaviour and therefore desired outcomes:

    - Too few qualified building surveyors, engineers, and designers
    - High use of unskilled labour, under minimal supervision
    - Lack of Regulator vision statement for the building and construction sector
    - Ambiguous policy and guidance documents issued by the Regulator (e.g. Fire systems)
    - Lack of investment by local territorial authorities in training and development of BCAs
    - Building code knowledge is low in areas of design and construction
    - Lack of available information from a single and reliable source

6. Risk and Liability

- The CIC has long argued that the current liability framework (joint and several) creates too many disincentives for the building and construction industry to fairly manage its associated risks.

- The current liability and contractual environments continue to present risks for engineers, registered architects and designers who rely upon the protection of professional indemnity and public liability insurance to practice. The current pilot project of 'risk based' consenting in Christchurch has highlighted the challenges for professionals, insurers and consenting methods when assigning project risk. Trying to manage the 'risks' through individual and Practice competencies and experience and quality assurance processes on a complex building are difficult within existing frameworks, including joint and several liability.

- The question of how liability should be allocated in civil matters, when two or more parties are held liable for damage caused to another party or plaintiff, remains controversial. The Law Commission's report recommends the retention of joint and several, despite strong submissions from industry for the adoption of a proportionate system.[8] The CIC maintains its support for Government's thorough consideration of a proportionate liability system for the building and construction sector.

- With increasing complexity in the industry (materials, standards, processes, regulations, etc.) the liability system needs to be fair, efficient, and equitable for both the plaintiff's loss but also the potential liable defendants. The current joint and several liability framework does not deliver these outcomes for the industry.

7. Health & Safety

- The impact of the new Health and Safety at Work Bill on the building and construction sector, and particular on designers, has yet to be fully realised. Although the CIC fully endorses initiatives to improve New Zealand's health and safety performance, the new obligations must be prudent and cost effective.

- The consistency of provisions across the *Health and Safety Reform Bill* needs to be finalised to provide certainty to the industry on workplace health and safety standards.

- Regulations should be completed in 'plain English' so that the construction industry's supply chains are able to easily comply.

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[8] Law Commission, (2014), *Liability of multiple defendants*, p.5.

- Consider the inclusion of health and safety practice as a key requirement in procurement decisions and then require accountability on that as part of the reporting requirement.

8. Canterbury

- The CIC recommends early involvement of all design professionals in the review of the earthquake-prone building legislation, and the continued involvement of registered architects and engineers in post-disaster recovery procedures, methods and practices.

- There is an opportunity through occupational regulation and consenting methods to align "complex buildings types" with occupational competencies. The CIC notes that the Government's, *'Proposals to change the occupational regulation of engineers in New Zealand'* could equally apply to other design professionals, which would help provide greater assurance and ensure that buildings are safe:

    - *"the right designers design the right buildings*
    - *the designers are qualified and have the experience to do so*
    - *the designers operation within the building control system*
    - *designers can be held to account for the quality of their work".*[10]

- Repair quality and public assurance needs to be provided. The industry needs to be held to account for the quality of their work.

- Christchurch, like other areas of the country, faces contractor and resourcing capacity issues.

9. Education

- Up skilling the existing workforce remains largely unaddressed. Continuing Professional Development (CPD) for licensed and registered people in the construction workforce is often light-handed but remains the only structured development for the existing workforce.

- As a result of the high volume of construction forecast in the near future, the workforce is estimated to need 6,700 additional workers year-on-year for the five years 2013 to 2018. Many of these will be largely unskilled as the industry substitutes labour for the skill they cannot recruit exacerbating the identified productivity challenges.

- There are significant challenges in addressing the shortfalls in supervision and management as well as the significant shortages in engineering and para-professional roles.

[10] MBIE, 2014, *Proposals to change the occupational regulation of engineers in New Zealand*, p.20.

- The industry is struggling to recruit and train enough technical trade apprentices to meet the need for technical skill in sufficient volume to meet forecast demand.

10. Seismic strengthening

- Issues around standards for seismic strengthening are being considered, but a lack of experts to actually undertake the scope and scale of work is an emerging issue that needs addressing.

- In addition to the lack of expertise, the costs associated with strengthening are high. Relief mechanisms such as tax credits/exemptions, and grants, to lessen the financial implications need to be made available.

CIC contacts

Alex Cutler
Chair
p. 021 343 531
e. Alex.Cutler@nzgbc.org.nz

Teena Hale Pennington
Deputy Chair
p. 027 527 5273
e. thalepennington@nzia.co.nz