

# Understanding the effectiveness of consumer protection measures in the building sector

MBIE

## BACKGROUND

# The Building System Legislative Reform Programme aims to improve the quality of building work and provide fairer outcomes when issues occur.

To inform phase three, MBIE are evaluating consumer protection measures in the Building Act 2004 and the dispute resolution services.

MBIE is evaluating the current consumer protection and dispute resolution provisions to determine:

1. If these measures are working as intended, including the extent to which homeowners and builders are aware, understand and use them.
2. Whether these measures are still fit-for-purpose for the current market.
3. What improvements could be made to better protect consumers if building work goes wrong

TRA have partnered with MBIE in a multi-stage research process looking at consumer protection measures from a consumer and builder perspective.

# What we did

## 1. Audit

### PURPOSE

To align ourselves with internal workstreams.

### WHAT WE DID

During this stage TRA reviewed contextual data and information, looking into any existing research and insights.

## 2. Quantitative

### PURPOSE

1. To understand the real experience of building from a homeowner perspective - including the number of people who have a contract in place with their builder/contractor.
2. To identify the number of people who have had issues with their build, what the issues were and the resolution that took place.
3. To determine overall awareness and understanding of the consumer protection measures - including what's working and not working from a user perspective.

### WHAT WE DID

A 10-minute online survey.

### THE FINAL SAMPLE INCLUDED

Total n=412.

Homeowners n=201:

- Built
- Currently building
- Intend to build
- Bought from a developer/on seller
- Subsequent owners

Renovators n=119:

- Major
- Minor

Builders n=92.

## 3. Qualitative

### PURPOSE

1. Further understanding of the current state – how consumer protection measures are used and fit into people's lives.
2. Understanding of how decisions are made and influenced in the build process, including key moments and channels that matter.
3. Identifying barriers to engagement in consumer protection measures, and levers and opportunities we can leverage to support stronger uptake, or new initiatives to consider.

### WHAT WE DID

5 × focus groups:

- Renovators
  - Bought off the plans
  - Builders x 2
  - Standalone home builders
- 12 × paired interviews, covering:
- Disputes
  - Renovators (large and small)
  - Standalone home builders
  - Bought off the plans
  - Subsequent buyers
  - Builders

### The final sample included a range of:

- Types of build and stages in the build, as above
- Locations across New Zealand
- Ethnicities, including more recent migrants
- Gender, age and life-stage
- First time owners and experienced owners



# Objectives

## Understand the broader context

- The relationship between homeowners and builders (from both homeowners' and builders' perspectives), whether it was positive, or if issues arose, what were they and how they impacted the relationship and overall quality of the building work.
- The steps homeowners take when looking to engage a builder including information/advice sought, from where and whom, and the key drivers in their decision making.
- Overall satisfaction with quality of their building work, including the nature of any defects experienced.

## Homeowners' awareness, understanding and current behaviours regarding risks and disputes:

- Homeowners' awareness of the risks involved in the building process, and understanding of roles and responsibilities.
- Awareness/use of dispute resolution options and satisfaction with these services.

## Understanding disputes – What happens when something goes wrong:

- Outcomes of any disputes including homeowners ability to get financial redress if things go wrong.

## Understand the effectiveness of the current tools and measures – and opportunities to improve them:

- Homeowners' and builders' awareness and understanding of the consumer protection measures and compliance with these (use of contracts, disclosure information, checklists, the provision of prescribed information, and implied warranties).
- Whether the information disclosed to the customer was easy to access and understand.
- The tools used by homeowners and building contractors for protection against risks - such as guarantees, warranties, indemnity insurance or the reliance on the BCA for quality assurance.

# Executive Summary

## 1

### The context is changing.

There's been an increase in building consents with a particular increase in multi-unit dwellings. This has led to pressure on our builders and labour supply in the building sector. In addition, the effects of Covid-19 have meant materials are in short supply too.

## 2

### For the most part, people are getting through their builds without encountering significant issues. When things do go wrong, they are often small issues, and the builder is likely to fix them.

- Only 23% of homeowners have had something go wrong in their build, 42% of the issues are cosmetic defects or timeline delays compared to only 12% who had an issue that was non-compliant building work and only 3% that had major issues.
- 57% of those who had an issue, the builder fixed the problem.

## 3

### However, not all consumer protection measures are connecting with people in the way they were intended.

Key barriers:

1. Shallow awareness and a 'blind trust' in the measures.
2. Measures are sometimes being misrepresented, or presented as an offering over and above public protection.
3. Homeowners are not always receiving or engaging with preventative measures (in particular, the disclosure statement and prescribed checklist).
4. Dispute measures are a last resort that is only worth pursuing for major issues, leaving a gap where people feel they lack options to help progress the build if something goes wrong.
5. Builders can struggle to meet their obligations because their focus can tend towards being on the job or 'on the tools'. Their ability to meet their obligations is also impacted by other players' decisions and actions (homeowners, architects and sub-contractors).

# Executive Summary

## 4

### There are some specific considerations for the existing protection measures.

#### Prescribed checklist

- Consider including developers as a provider of the checklist.
- Reconsider the current format and include relevant variations for homeowners completing renovations and those buying off the plans.

#### Disclosure statement

- The disclosure statement is not currently being used as a early stage due diligence measure. Consider providing information about builders earlier in the build process when homeowners are deciding between builders.
- Consider providing subsequent providers with some of the prescribed information that can be found in the disclosure statement as a 'provision of prescribed post-build information' so they are fully informed of what is protecting them.
- Consider including developers as a provider of the disclosure statement.

#### Contracts

- Consider options for providing protection for work under \$30k such as encouraging the use of contracts for work under \$30k.
- Increase awareness of mandatory contract requirements for building work over \$30k.
- Ensure homeowners understand their contract and that they are confident to amend or update unfavourable clauses with support from a lawyer or trusted advisor/information.
- Explore options that will provide further protection or support for homeowners that are purchasing from developers. In particular, those who are being negatively affected by the sunset clause.

#### 12 month defect period

- Consider the role and responsibility of sub-contractors and architects in delivering to this measure.
- Consider how to prevent misrepresentations and/or misattribution of the defect repair period.

#### 10 year warranty

- Consider the role and responsibility of sub-contractors and architects in delivering to this measure.
- Consider how to prevent misrepresentations and/or misattribution of the defect repair period.

#### Dispute resolution mechanisms

- Adjust the role of dispute mechanisms (or add additional services) to help get the build back on track, rather than a last resort for major issues at the end.
- Consider using disputes data as a public record to help homeowners with due diligence.

# Executive Summary

## 5

Effectiveness of the measures also comes down to how we implement them for real people in the real world context.

### PEOPLE-CENTRIC POLICY IMPLEMENTATION

#### MBIE CONNECTING WITH HOMEOWNERS

- 1 Empower homeowners with knowledge
- 2 Make it engaging – emotive, visual and salient
- 3 Moments and messengers that matter

#### SUPPORTING THE BUILDER-HOMEOWNER RELATIONSHIP

- 4 Setting up good communications right from the start
- 5 Correct the trajectory when things start to go wrong

#### MBIE'S ROLE AS A REGULATOR WITH OVERSIGHT

- 6 Protect all homeowners
- 7 Support for both homeowners and builders

# Agenda

**1**

Understanding  
the wider context

**2**

Understanding  
homeowners' and  
builders' context

**3**

Consumer protection  
across the build  
process

**4**

Bringing it all  
together





**Understanding  
the wider context**

**TRA**

# New Zealand's cultural and social context shapes people's engagement with consumer protection

A culture of DIY and a 'she'll be right' mentality around smaller jobs and renovations is creating lower perceived risk.

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Conflict avoidance is built into our culture, meaning that people are less comfortable raising issues or facing into them head on. This can cause small issues to escalate into larger disputes down the track.

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The sense of connectedness between New Zealanders is strong, meaning that referrals and trust in friends, family and other connections plays a huge role.

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A high-trust orientation creates willingness to rely on verbal agreements, rather than push for formalisation.

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*"I'd rather keep the peace"*  
– HOMEOWNER, MAJOR RENOVATION



# A context of change and uncertainty in the sector is putting greater pressure on consumer protection

## Impacts of COVID-19

- Disruptions to the supply chain is causing delays and increasing the price of materials. This leaves consumers exposed to uncertainty around timelines and price increases.
- Covid-19 lockdowns and high house prices have driven strong demand for renovations.

## A competitive market and labour shortages

- A sustained period of strong housing demand and a shortage of supply has put pressure on the building sector. High demand and short supply of builders and labour means consumers have less bargaining power.
- A highly competitive market and increasing house prices mean consumers feel pressured to make faster decisions when entering into contracts.

## Increases in house and land packages and higher density homes

- A lack of land supply for new housing is driving demand for changing housing typologies in NZ, with a move to higher density housing such as townhouses and apartments.
- Incentives for new house construction have driven higher uptake of land and home packages, particularly for first-home-buyers.

*“Everyone is pretty much open cheque book at the moment, they’re just not giving fixed quotes or prices because the price of things is changing so dramatically. I talked to one builder who said that the prices of things this year he reckons will go up by 60%”*

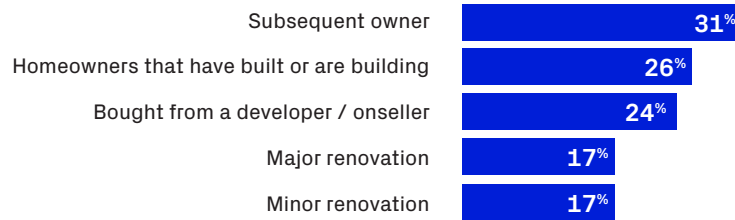
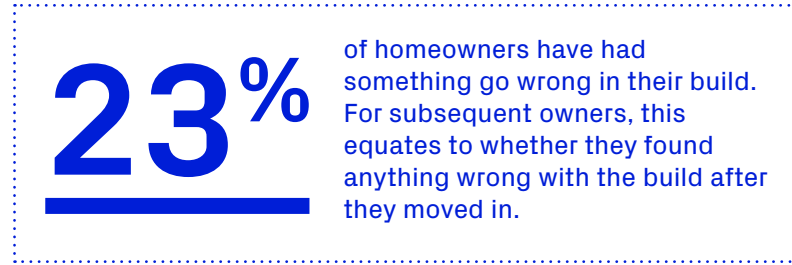
- HOMEOWNER, MAJOR RENOVATION

# The context has changed significantly, and will continue to do so. We need to think about what is needed to protect consumers in the current and future environment.



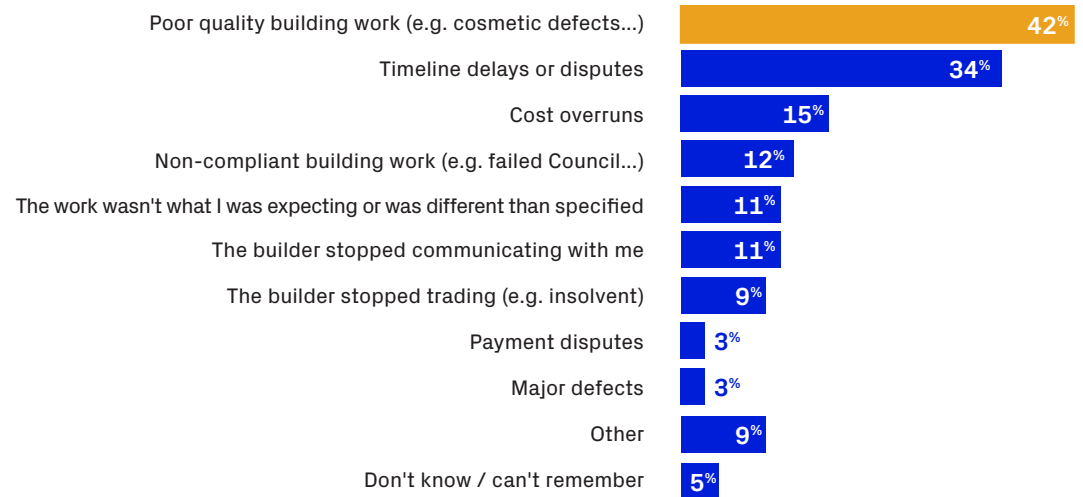
# Only around a quarter of consumers have had an issue with their build

The most common issues are cosmetic defects and timeline delays.



SEGMENT 1A/ 1C/ 1D/2 Did anything go wrong during the build/ renovation process to do with the builder/ building company? For example: failed council inspections, payment or timeline issues, building or cosmetic defects  
 SEGMENT 3 After moving into your new home did you find anything wrong with the build? For example: poor quality workmanship, cosmetic defects, major defects Base: Those that have built or are building n=50, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65, subsequent owners n=78, builders n=92

## CHALLENGES FACED AS PART OF THE BUILD



SEGMENT 1A, 1C, 1D What were the challenges you faced as part of the build?  
 SEGMENT 2 What were the challenges you faced as part of the renovation?  
 SEGMENT 3 What were the challenges you faced as a result of the build?  
 Base: Those that have had an issue n=65

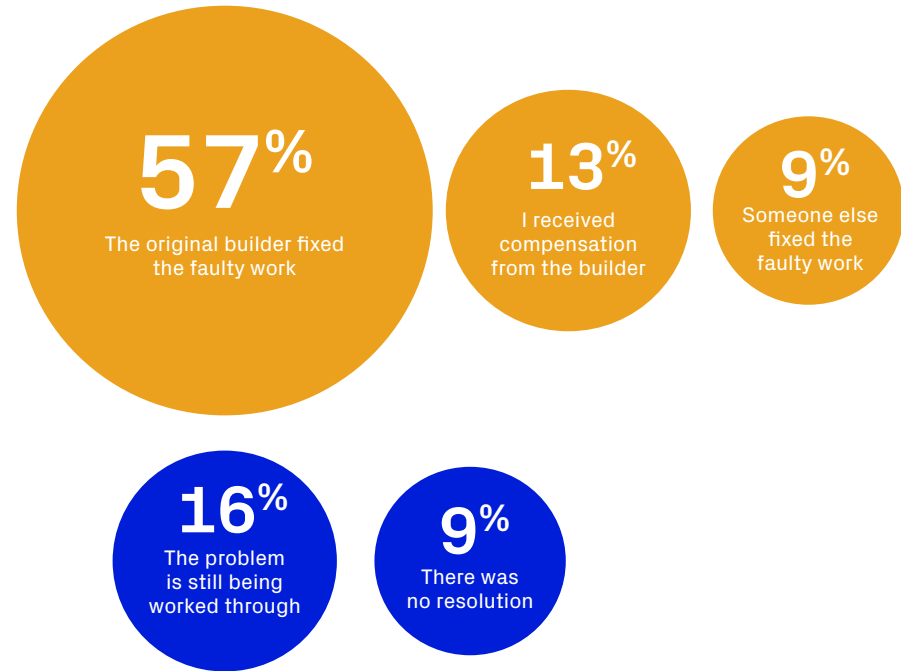
# And of the homeowners that did have an issue, the builder was likely to fix it

## ACTIONS TAKEN TO REMEDY PROBLEMS



What did you do about the problem? Base n = 56

## OUTCOMES OF ACTIONS TAKEN



What was the outcome? Base n = 56



**IMPLICATION**

**For the most part, people are getting through their builds without encountering significant issues.**

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**However, some builds are riskier than others, and people aren't always informed and empowered to protect themselves. With a context that is putting greater pressure on consumers, the time is right to ensure formal protection measures are doing their job effectively and are evolving to meet changing needs.**

# Understanding homeowners' and builders' contexts

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TRA

# Understanding our key audiences:



## Home owners

**Homeowners that *have built*,**  
or are currently building.

n=50

**Homeowners that *intend to build*,**

n=39

**Homeowners that**  
have bought from a  
***developer* or *on-seller*.**

n=34

***Subsequent owners***  
who have moved into a  
home that is less than  
10-years old.

n=78



## Renovators

Homeowners who are going through/  
recently had a ***major renovation*.**

n=54

Homeowners who are going through/  
recently had a ***minor renovation*.**

n=65



## Builders

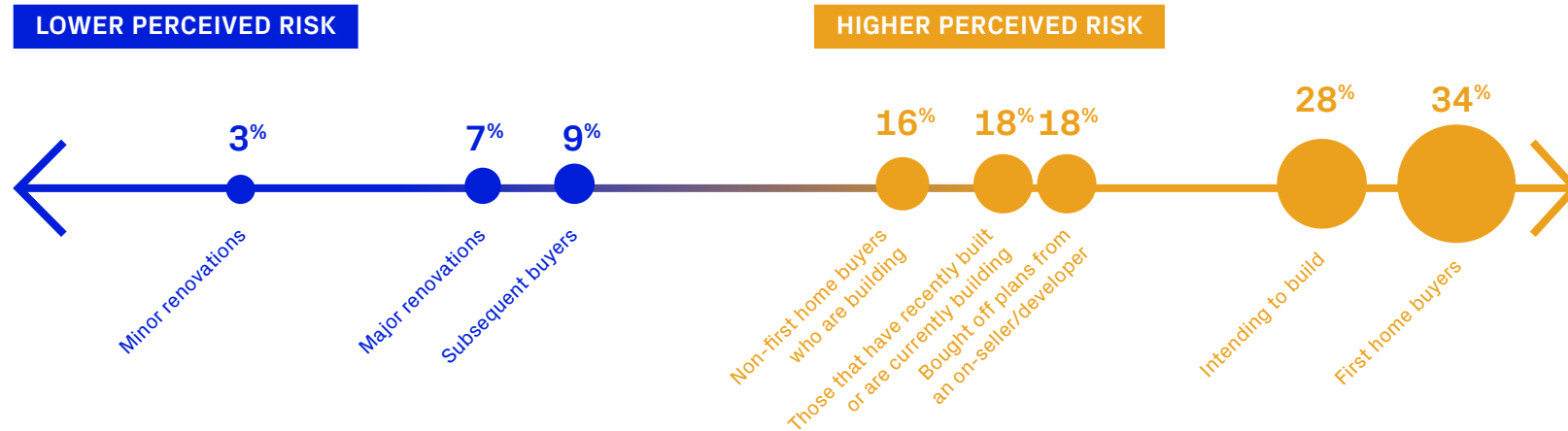
n=92

Total n=201

Homeowner groups had minimum quota.

# Homeowners have low perceived risk - only 13% of people viewed their build process as risky

Of those who responded that they feel the build is 'risky' or 'very risky'...



**Perceived risk impacts how homeowners engage with consumer protection measures and how necessary or front of mind they are.**

**Those that have higher risk perception tend to be more concerned about wanting to protect themselves and their build.**

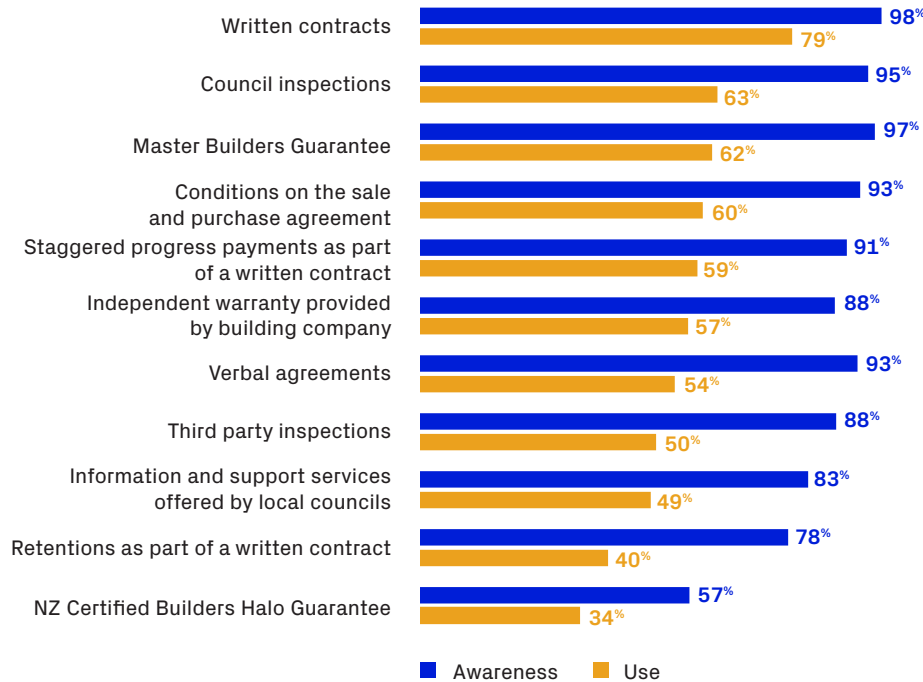
**22%** of the lower perceived risk groups had something go wrong.

**43%** of the higher perceived risk groups had something go wrong (please note low base sizes for this group)

SEGMENT 1A, 1C, 1D,2 At the start of the build process how much risk did you think was going to be involved in building or renovating?  
SEGMENT 1B How much risk do you think will be involved in building ?  
SEGMENT 3 How much risk do you think is involved in buying a house that was built in the last 10 years?  
Base: Those that have built or are building n=50, those that intend to build n= 39, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65, subsequent owners n=78, those with low perceived risk and answered went wrong n=185, those with high perceived risk and answered went wrong n=28

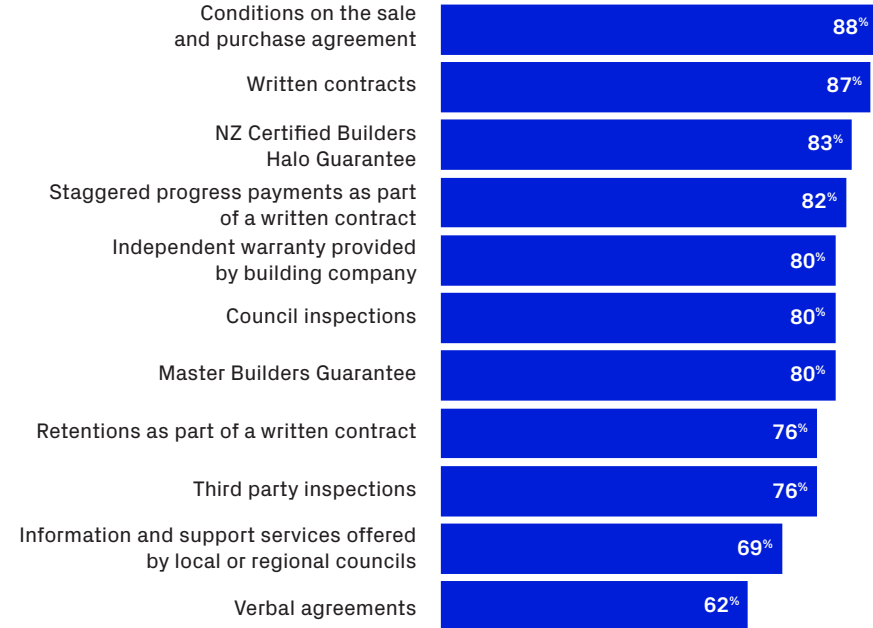
# In general there is high awareness, usage and confidence in many of the formal consumer protection measures and protection tools

## AWARENESS AND USAGE OF CONSUMER PROTECTION MEASURES



Thinking about reducing the likelihood of something going wrong, which best describes your use of the following? Consumers n=320

## CONFIDENCE IN CONSUMER PROTECTION MEASURES



How confident are you that these measures helped protect you and your build? Base: Those that have used protection measures n = 110 to 254

# However, this can be a shallow awareness and a ‘blind trust’ in the formal protection measures

While consumers may have heard of many of the formal consumer protection measures and consumer protection tools, there is not a deep understanding of what the formal measures cover or how to refer back to the measures if things go wrong.

- There is low understanding of what warranties and defect periods specifically include.
- Even with a lawyer, there can be low confidence amongst homeowners when it comes to adjusting or amending contracts that put them at risk.
- Homeowners can place high trust in their builder and will often follow the lead of their builder if things go wrong. They can rely heavily on their builder/build team to guide them through resolving issues.

And the measures are strongly linked to the private sector.

- The Master Builder brand has high awareness and high trust amongst homeowners. Due to its universality, there is an assumption held by many homeowners that it is backed by the state.
- Builders will talk to their clients about the Master Build 10-Year Guarantee or that their company offers a 12 month defect period rather than saying that there are consumer protection laws that they adhere to. Therefore, for many homeowners, the 12-month defect period and 10-year warranty periods are associated with the Master Build 10-Year Guarantee or to a private building company.

High awareness and confidence in consumer protection measures doesn't necessarily mean that homeowners are confident in their own ability to use or refer to the consumer protection measures if something has gone wrong.



# There are some common themes across our key audiences:

## 1

### They are not experts

They don't know what they don't know.

## 2

### They are overwhelmed

The challenging context and competing priorities mean that consumer protection can be an afterthought.

## 3

### They are human

Which means they focus on the present more than future risk, they are driven by emotion and are influenced by those they trust and by social norms.

IMPLICATION

We cannot just look at the formal protection measures in isolation – we must also consider how to implement them for real people in the real world context:

### Engaging

Protection measures must be accessible, salient and emotive.

### Moments that matter

Protection measures need to be in front of people at the right times.

### Messengers that matter

Utilise trusted networks and social networks to help deliver the protection measures.

# Renovators tend to be more casual in their approach and have high trust in their builder

## Renovators have a 'she'll be right' mentality

- A DIY, 'she'll be right' approach, particularly for minor renovations.
- For jobs that don't require consent, there are fewer formal processes to go through. Therefore, the jobs are perceived as less significant and less risky.
- However, risk perception does go up for higher stakes renovations (e.g. those that require structural changes).

## What are the barriers to consumer protection?

- The sector context is making it particularly hard for renovators to get labour, as builders are turning away renovation jobs in favour of larger builds. People want to make the process as streamlined as possible to secure a builder and take on an 'anyone we can get' mindset, which means due diligence can get sidelined.
- There is strong reliance on referrals. Homeowners have high trust in referrals from friends and family, this carries over to trust in the recommended builder. People don't feel they need to go beyond the referral and therefore, due diligence checks can be limited.
- Due to their casual, low-risk approach for renovations, both builders and homeowners are not always proactive about putting contracts in place. Homeowners are not thinking that things could go wrong, and builders are not always proactive about putting small job contracts in place. There is fear that suggesting a contract for minor work could spook the other party involved by being overly formal.

What is the approximate value of the build (excluding land value)? How old are you? What is the reason for the renovation? Which room(s) did you renovate? Did your major/minor renovation require building consent?

Base: Major renovations n=54, minor renovations n=65 What type of builder completed or is completing the work? Did they use subcontractors? e.g. builders bringing in independent electrical workers or plumbers Did anything go wrong during the build/renovation process to do with the builder/ building company? For example: failed council inspections, payment or timeline issues, building or cosmetic defects. Base: Major renovations n=54, minor renovations n=65

# 91%

Of minor renovations didn't require building consent

# 71%

are upgrading or redoing existing rooms. Kitchens and bathrooms are most common.

*"Everything has been quoted and they itemized the scope around what they're going to do, but I haven't even thought about having a formal contract and whether that would require going through a legal route or not, I don't know. It never even crossed our minds."*

- HOMEOWNER, MAJOR RENOVATION



# ***Subsequent buyers*** are often relying on the previous owners to provide them with guarantees from the building company

## **Their context**

- For some subsequent buyers, there is a perception that a newer home is less risky than purchasing an older home. This is due to perceptions that new homes require less work and less renovations.
- Buying a new home requires formal processes and often involves a lawyer, building inspectors and mortgage broker or lender. Therefore, there are checks and balances involved that help protect subsequent buyers along the way.
- They are using sales and purchase agreements and getting legal advice.
- Their due diligence includes seeking out LIM reports and building inspectors.

*“It’s all new and double glazed and you don’t have to worry about fixing or renovating... and we’re past the leaky homes phase.”*

- SUBSEQUENT HOME BUYER

## **What does their engagement with protection measures look like if something goes wrong?**

Awareness and usage of formal protection measures is heavily linked to their:

- Experience in the housing sector i.e. if they have experience building or buying homes.
- Support network i.e. friends, family, lawyers telling them.
- When it comes to their awareness of what’s there to protect them, they are often reliant on what the previous owner has provided them with or told them. This is often limited to what the building company has provided the initial owner with, rather than an understanding of what laws are in place to protect them.

*“The previous owner handed over a big box of documents from their building company. I had a quick look through them and paid \$350 to have the Master Builders guarantee changed to my name.”*

- SUBSEQUENT HOME BUYER




# For *standalone home builders*, this is a significant monetary and emotional investment

## They really want to get this right

- A home build is perceived as a large scale project with high spend, and they are highly emotionally invested. This results in higher risk perception and care taken - especially for first-time home builders.
- It takes up significant mental space, as the project has a large impact on their life (changing living arrangements while the build is completed, high involvement which takes time away from other parts of their life).

## But they're still not experts, and not all formal consumer protection measures are getting cut through

- While many aspects of the build process are formalized, such as sale and purchase agreements, building contracts, getting lawyers involved, there are still consumer protection measures that are missed - such as receiving the prescribed checklist and disclosure statement.
- They rely heavily on those around them to guide them into consumer protection behaviours - e.g. what friends and family are telling them about the process, and taking guidance from their builder. If they are not made aware via these key people around them, they are likely to remain unaware.
- Not all homeowners feel that they can negotiate or push back on contract clauses. This can be due to a lack of awareness of the clauses, lack of confidence in pushing back and/or feeling like if they didn't accept the terms, someone else would.



*"My brother has recently built a home and he's a structural engineer. I must have called him about 5 times a week. It's a daunting experience so I leaned on him and my folks a lot."*

- FIRST TIME HOME BUILDER

*"I think we were pretty naïve going into things. It's a really stressful time, we were driving from Auckland to Tauranga every other weekend."*

- FIRST TIME HOME BUILDER




# People buying off the plans have higher risk perceptions

## What is contributing towards this high risk perception?

- Media coverage and stories from friends/family of developments gone bad.
- A hangover from the leaky homes era, resulting in worry about the quality of these builds.
- General distrust in developers – there is a sense that it's like the 'wild west' and you have to be careful to make sure you're not being taken advantage of.

## They are highly engaged in due diligence and checking sales and purchase agreements, because they are fearful

- They are engaging in strong due diligence centred around the developing company - e.g. doing drive-bys, going to see show homes, and checking the developing company's history.
- Sales and purchase agreements and specific clauses are being checked by themselves and by lawyers.
- They are ensuring their deposit is protected, through checking with their lawyer how this is structured (e.g. in a trust rather than direct to developer)
- However, there is no direct engagement with builders and little due diligence beyond checking for Master Builders affiliation. People buying from developers often have no direct contracts with builders and many don't know who the builders on the tools are.



*"We did our research because we'd heard so many stories about cowboy behaviour going on, so we thought that was really important. This was a husband and wife team, they've been building for 10 years, they have some good reviews, and I got a lot of information sent through to us by the real estate agent too. I also drove past to make sure it was all in good order."*

- BOUGHT OFF THE PLANS

# ***People buying off the plans*** are a growing group, yet there is a widening gap in consumer protection for them

In particular, for those buying apartments or townhouses from developers.

## **They are at arms length from the build process.**

It can be difficult to get access to the site and oversight is often limited to one walk through. This means they are not always aware of things going wrong until late in the build.

## **One size does not fit all**

There is a perceived lack of specific guidance or advice for people buying off plans (e.g. how to do good due diligence, what to look for in contracts).

## **There is fear of sunset clauses and terms of agreement**

Which they feel are unfair and do not protect them. People are advised by friends, family, lawyers to push back on these, but this negotiation does not always succeed. This can be because there is a fear that if they push back, the developer will go with another buyer as there is such high demand, or because the developer is wanting to keep contract wording consistent amongst all buyers.

## **Developers are exempt from some protection measures**

Some formal protection measures don't apply. Developers are exempt from the prescribed checklist and disclosure statement, as well as minimum contract requirements. Only builders have to provide these, and they relate specifically to due diligence in selecting a builder, rather than a developer."

**Sales and purchase agreements** can favour the on-seller or developer.

Stats NZ, Housing in Aotearoa, 2020

*"I think there should be a stick approach, I was lucky that the developer I was working with was reputable, but for some out there doing it for the first time, because it's lucrative, there should be some sort of mandatory requirement to make sure the buyer is informed and is not getting taken advantage of with sunset clauses."*

- BOUGHT OFF THE PLANS



**40%**

of all new dwellings  
consented since mid-2019  
were multi-unit



**IMPLICATION**

**We have audiences with different nuanced contexts and different needs.**

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**There needs to be relevant, fit-for-purpose consumer protection measures for all the different audiences. Particularly for those facing the highest risk and those facing the most barriers to protecting themselves.**

# Understanding the builders' context

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# Not all *builders* are the same

The relationship they have with homeowners is dependent on their size, resources and type of builds they tend to work on.



## Types of build

- Land and house packages
- Multi-unit / apartment
- Multiple new builds per year

- Renovations
- A handful of new builds per year, commonly stand alone homes

## Communication and relationship with homeowner

- Formal moments and meetings e.g. come into the office for a sit down and sign the contract, colour consultant sessions, official walk throughs.
- Access to communication tools and apps, such as Co-Construct.
- Multiple people involved – client facing roles such as sales rep, project manager, colour consultant and people behind the scenes – builders, architects, plumbers etc.

- More casual, informal. Meeting with the builder as and when rather than distinct meetings.
- Communicating with the builder directly.
- Less likely to use building apps like Co-Construct.

## What this means for how builders are implementing consumer protection measures:

- Due to the types of build, there is a greater expectation from homeowners for formal measures to be implemented e.g. they expect a contract, they expect guarantees.
- There are more formalised moments where the measures are being implemented.
- The consumer protection measures are often presented as a defined offer e.g. 'Jennian Homes' Completion Promise' or 'Jennian Homes 36 Month Defect Warranty'

- There is still an expectation from homeowners that they want to be protected throughout the build. However, due to the types of builds (smaller renovations and bespoke builds) there is less expectation for very formalized processes.

# Most *builders* are associated with industry organisations

In the majority of cases, most builders are Master Builders and/or NZ Certified Builders members.

These organisations provide builders with support to avoid issues, for instance, by providing standard contracts.

They can also help if things go wrong, for instance, free access to a lawyer for 20 minutes.

These are important channels to partner with and to leverage when considering how to reach builders.

Are you a Licensed Building Practitioner?  
Which of the following trade organisations do you belong to?  
Base: Builders n=92

# 91%

Belong to trade organization

# 90%

Are licensed building practitioners

57%  
Master Builders Association

70%  
NZ Certified Builders



# ***Builders* recognise that clear communication and managing homeowner expectations is crucial**

**Amongst builders, there is a clear understanding that managing homeowner expectations and clear communication is what determines whether a build will go smoothly.**

However, not all builders are well equipped to consistently provide clear communication throughout the build.

Many are small companies or sole traders who are time poor. They are often focusing 'on the tools' and time spent on admin and communications can fall to the wayside.

In addition, they can face push back from homeowners when it comes to charging back for administrative tasks and communications. In their experience, not all homeowners see the value in paying for builders to discuss, plan and communicate, they would rather see builders and their sub-contractors hard at work on their home.

For larger building companies, communication is also crucial. Communication barriers can often come in the form of miscommunication between the multiple different players – project managers, sales rep, architects and homeowners.



*"If you have a well prepared home owners or client, then things go smoothly. When things are well thought out at the start and they're not constantly changing their mind."*

- BUILDER

# ***Builders* feel the weight of the risk they take on – and they feel it’s getting more challenging to manage this risk**

**They are between a rock and a hard place** - with supply issues and escalating prices creating uncertainty and significantly pushing timelines for a build. This is making it difficult to manage client expectations and to manage increasing costs without creating price disputes with the client.

**With high demand, builders are under time pressure, and resolving issues takes time and money.** Seeking legal advice to overcome disputes can be costly and it can be easier to either absorb the costs and move on. However, for some bad actors, this translates into ignoring the problem and moving on to the next job.

**They are often taking the heat for architects’ and engineers’ specifications** and can be wary about installing products with a short warranty. **It’s particularly challenging if they’re not involved early in the process** to input into design decisions to ensure it can realistically be built.

**The tender process means that they don’t have control** over what contracts they use and which sub-contractors they get.

*“It’s really tough, I know a lot [of builders] aren’t prepared to do new builds on a fixed price contract at the moment, because prices are increasing so much – but on the flip side, banks aren’t prepared to lend the money unless it’s a fixed price contract.”*

- BUILDER

*“You get given these plans from the architect but in practice there’s elements that are just not going to work. Then you have to be the bad guy and tell the homeowner that things have to change. It’s so much easier when you’re involved early on in the process.”*

- BUILDER

*“The architect specified it...Low and behold it then needs replacing. You just go fix it. It’s not worth the fight.”*

- BUILDER

*“The tender process means you can’t choose your subbies and you have to use NZIA contracts which don’t favour builders”*

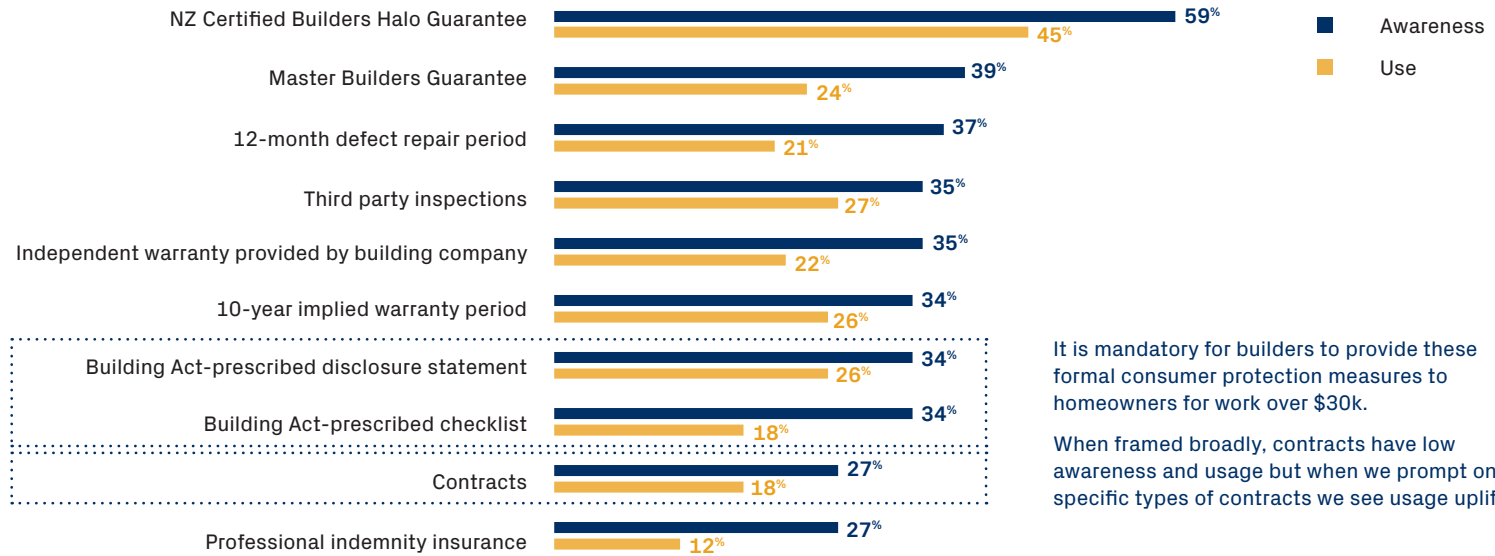
- BUILDER



# While *builders* are likely to go back and fix faulty work, they are not always meeting their obligations with preventative formal consumer protection measures.

Not all builders are aware of, or implementing the prescribed checklist, disclosure statement or contracts.

## BUILDERS AWARENESS AND USAGE OF CONSUMER PROTECTION MEASURES



It is mandatory for builders to provide these formal consumer protection measures to homeowners for work over \$30k.

When framed broadly, contracts have low awareness and usage but when we prompt on specific types of contracts we see usage uplift.

And, which of the following have you used or suggested homeowners use?  
Builders n=92

We see high number of contract usage amongst homeowners compared to builders. This in part due to homeowners interpretation of what constitutes a contract (they can presume formal quotes or sales and purchase agreements are contracts). Homeowner samples also included higher number of homeowners building homes where contracts are more common compared to the builder sample (some builders only work on smaller jobs or renovations rather than new builds).

# Opportunities to support *builders*

## 1. Increase awareness of their obligations.

Support builders with their current obligations by firstly raising their awareness of their responsibilities, in particular, the prescribed checklist and disclosure statement.

Many builders are registered with Master Builders or Certified Builder – these can be useful channels to communicate to builders through.

## 2. Frame consumer protection measures as tools that protect them and their clients.

There is a tendency for builders to see the formal consumer protection measures as formalities only to protect the homeowner. Frame the protection measures (such as the prescribed checklist) as something will help builders prevent issues throughout the build.

## 3. Make it easy for them to implement consumer protection measures.

For instance, providing them with small job contracts, adjusting the prescribed checklist into an engaging document that helps builders manage homeowners' expectations, and recommend or provide communication and documentation tools to help prevent issues around variations.

## 4. Other players can support builders' obligations of consumer protection measures.

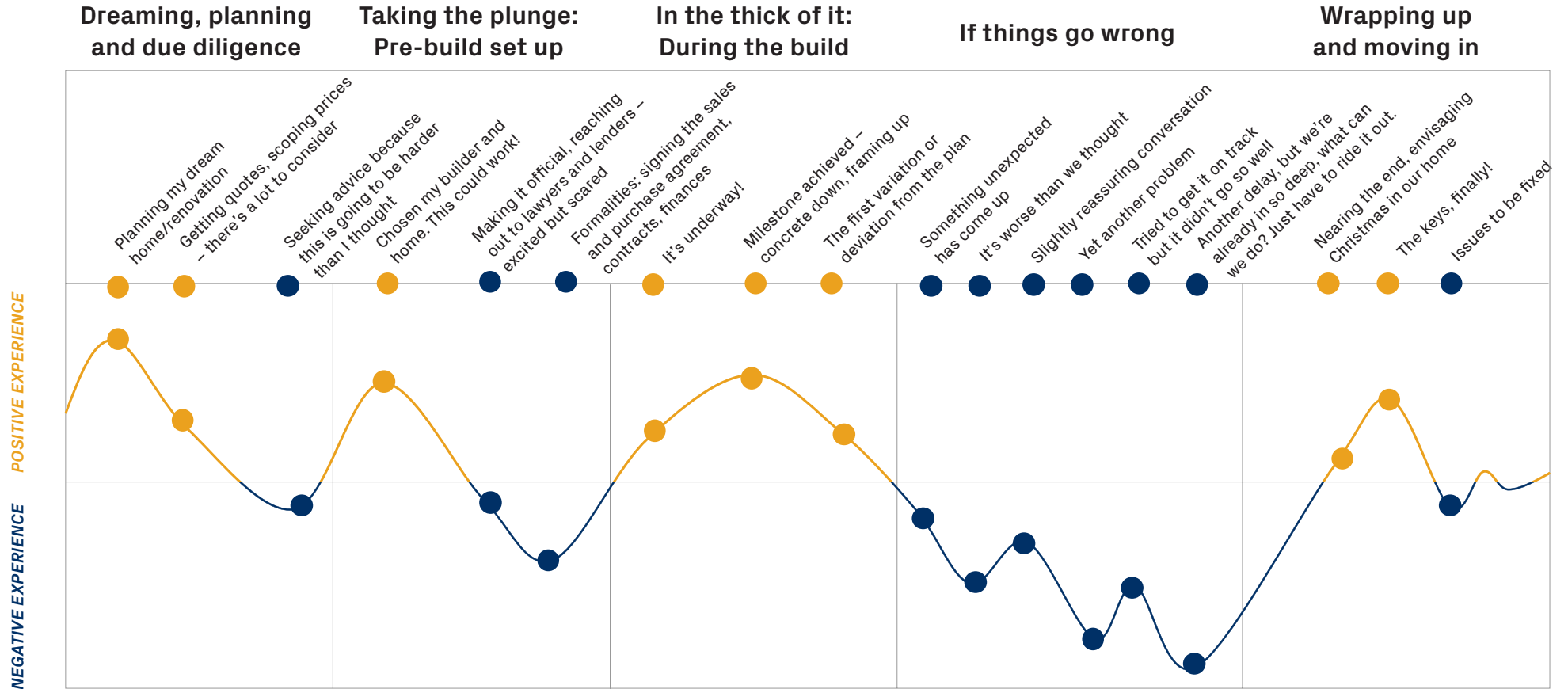
The decisions and actions of other players in the system (architects, sub-contractors) impact builders' ability to meet their obligation. Help builders by increasing other players' awareness and responsibility of the formal consumer protection measures. Show value in all players working towards the same high standards and meeting the same obligations (for instance, sub-contractors aware of and meeting the 12 month defect period requirements).



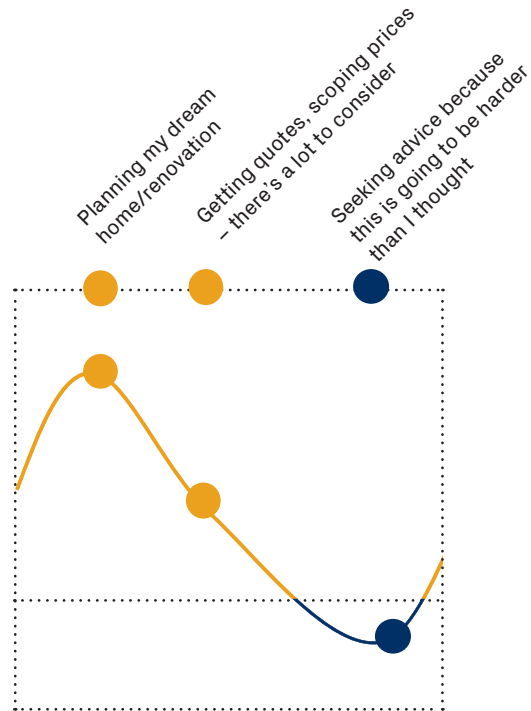
**Consumer protection  
across the build process**

**TRA**

# The customer journey impacts how and when consumer protection measures are used



# Dreaming, planning and due diligence



## Planning my dream home / renovation

- The emotional peak of dreaming and wishing.
- For home builders, this is designing their dream home.
- For buyers, this is starting to search and think about the home they want to look for.
- For renovators, this is not a high peak, but can often be fixing a problem or issue.

### Relevant formal consumer protection measures:

- Prescribed checklist
- Disclosure statement

## Reality starts to sink in

- Reality sinks in about how much there is to do and information overload.
- For home builders, this is learning about the build process and the different providers and options.
- For home buyers, this is the overwhelming task of house hunting.
- For renovators, this is trying to find an available builder.
- Reality sinks in even further as people get further into the process and into the detail. They start to gather quotes and estimates, get their finances in order and readjust their expectations of what's involved.

# Due diligence steps at the start of the building process can be limited

## DUE DILIGENCE AT THE START OF THE BUILDING PROCESS



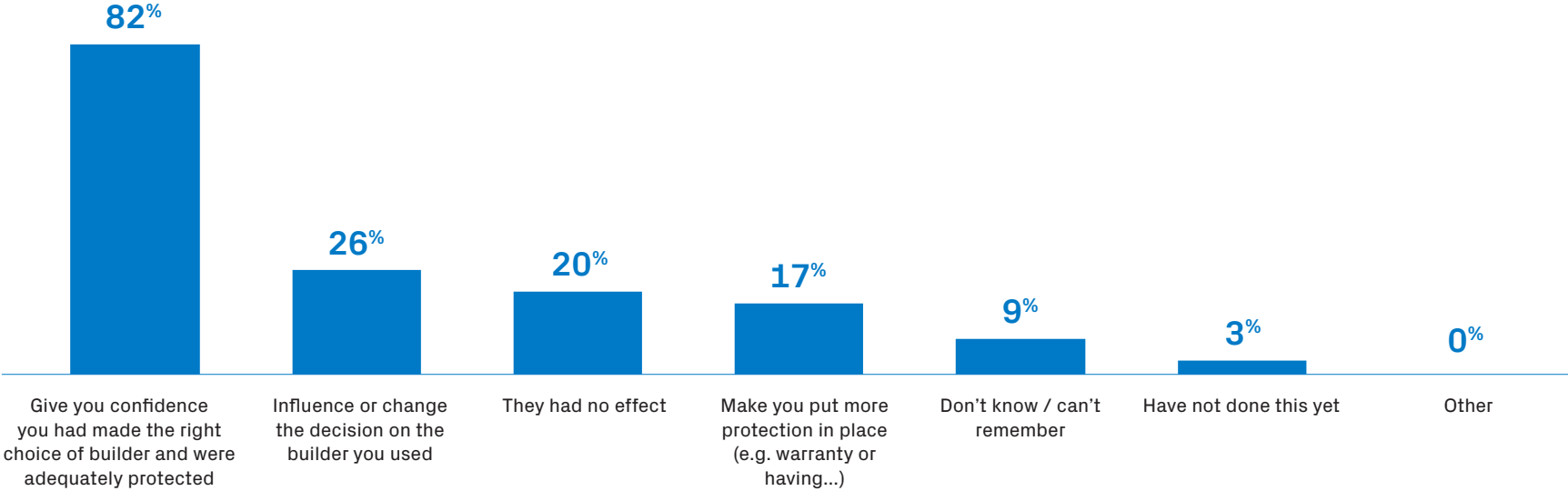
What due diligence did you/ will you undertake at the start of the build or renovation process?

Base: Those that have built or are building n=50, those that intend to build n= 39, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65



# For those that are taking due diligence steps, it improves their confidence in the builder they chose, and for 26% it helped influence or change their choice of builder

## INFLUENCE OF DUE DILIGENCE MEASURES



Did the due diligence steps that you took...  
What are/were the key considerations when choosing your builder/building company?  
Base: Those that have built or are building n=50, those that intend to build n= 39, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65, subsequent owners n=78

# Due diligence can look different for our different homeowners

The building boom has meant that due diligence is a nice to have – people will take whichever builder they can get or whatever land and package or development deal they can get.

## Renovators

Due diligence is more difficult in a market hindered by labour shortages. In addition, the stakes can feel low for renovations (particularly minor renovations) and doing background checks on builders for a small job seems unnecessary. People are leaning heavily on referrals and references from friends and family.

## Off the plans

Due diligence is primarily focused on the developing company, not the builders – but some people are checking whether builders engaged by the developer are members of Master Builders.

## Standalone home builders

They are investing a lot to build their home so many are taking due diligence steps such as seeking out reviews, asking around about building companies. However, other factors can override due diligence, such as, an available section.

## Subsequent buyers

Rather than doing due diligence on the original builder/developer, subsequent buyers are inspecting the quality of the work through the support of others. In particular, building inspectors, trusted advisors or friends/family inspecting; and getting legal advice.

- 64% obtained a LIM report
- 63% consulted a lawyer for advice
- 54% got a building inspection

*“We went with a builder that our mate recommended. When we met him, he seemed really nice.”*

- HOMEOWNER, MAJOR RENOVATION

*“We really wanted to live in Millwater so when a section became available we jumped on it. We had no choice about the building company – we just wanted that spot.”*

- FIRST TIME HOME BUILDER

# Key barriers

## 1

### She'll be right

Only 13% of homeowners deem their build as being risky (this is higher for those intending to build and first home buyers) . Because the stakes do not always feel high, due diligence and risk prevention is not always front of mind, especially for smaller renovation jobs.

## 2

### In this market, due diligence is a nice to have

With limited builders and limited land and home packages or off-the-plan options, homeowners will take what they can get and due diligence can fall to the wayside.

## 3

### Not knowing what to look out for

If they have limited experience or limited support, homeowners do not often know the right questions to ask or know what to look out for.

## 4

### It's an overwhelming time

Other things are more front of mind - people are jumping ahead to think about design decisions, arranging their finances, how they will live through a renovation.

## 5

### It's emotive

Excitement to get started on the project, or stress about other decisions can override the functional formal consumer protection considerations.

*"The demand is so high at the moment that homeowners don't have a choice – they're struggling to get any builder to do the work."*

- BUILDER

*"Hindsight is 2020, right?"*

- HOMEOWNER, MAJOR RENOVATION

# Key opportunities

DREAMING, PLANNING, DUE DILIGENCE

## 1 Increase awareness

Consider actively engaging homeowners with content that helps raise awareness of the importance of due diligence. Show up for them during the moments that matter and utilise trusted advisors as key communication channels.

## 2 Show up in their world

Homeowners spend time at home shows and show homes and are looking for design ideas through Pinterest and design magazines and follow housing and design social media accounts. Also consider showing up in other home education sites such as settled.co.nz and alongside Sorted's mortgage content.

## 3 Messengers that matter: Utilise trusted advisors and networks

People are engaging with formal trusted advisors such as lawyers, banks, lenders and mortgage brokers. Consider these trusted advisors as messengers and channels that can arm homeowners with knowledge – provide them with content to pass on to homeowners.

## 4 Moments that matter

Show up during moments that matter for people and provide people with relevant content. Key moments during this stage include withdrawing Kiwisaver, getting a mortgage approved, researching builders and the build process online, looking up home design and interior design content.

*“We had a great mortgage broker. He gave us so much guidance and really stepped us through the whole process.”*

- BUILDING A STANDALONE HOME



# Key opportunities

DREAMING, PLANNING, DUE DILIGENCE

## 5 Due diligence best practice

Guides on what to ask and what to look out for will help with the inconsistencies in due diligence steps. There is a lack of understanding in what is due diligence best practice. Therefore we need to be clear and explicit in what we're asking people to do.

## 6 Emotive, human stories

During a busy time, getting cut through with homeowners is difficult. Emotive story-telling is what people are more likely to remember. Consider sharing stories of other homeowners and the steps they took (or should have taken) to help empower people to take due diligence steps.

## 7 Disclosure statements as upfront information

Consider adjusting the disclosure statements so that the key information is accessible to homeowners earlier (during their due diligence phase). For instance, a registry of builders and developer's key information, directing homeowners to the companies' registry, or prompting homeowners to ask the builder for their statement as part of their initial quote.

## 8 Provide public records and reviews

People are relying on builderscrack.com and word-of-mouth which is only getting them so far when it comes to understanding their builder's track record. Consider a more formal public record site or suggesting consumers look up builders on the companies register.

Looking at apartments?  
Here's how to find  
the developer's  
building history

Trying to choose  
between different  
builders? Here's some  
key questions to ask:

What questions  
to ask your builder  
when you're  
getting a quote

### Meet Sanjay and Anita



They are building their first home with a land and package deal. They were excited to pick out different benchtops, fittings and choosing the cladding. They did this in person with their project manager. When it came to the end of the build it was far more expensive than they anticipated - they didn't realise that their decisions were above and beyond the standard options.

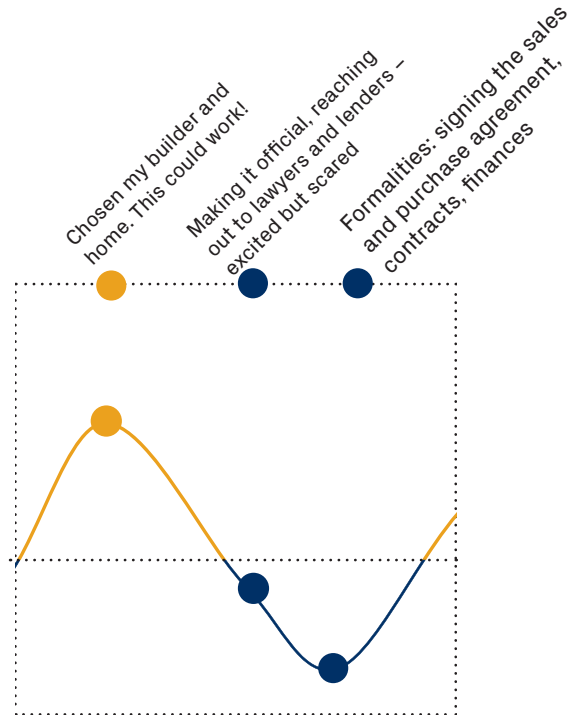
**Look out for the following risks:** Variations and changes will often cost more. Make sure you ask your build team about the cost implications.

**What you can do:** Keep a record of conversations in writing and ask for confirmation of the costs.

**What's protecting you:** Contracts should outline the specifications of the build and clarify what's included and what's not included.



# Taking the plunge: Pre-build set up



## Finding a builder/home that fits the bill

- After a lot of searching, calling and gathering quotes, homeowners land on a builder that suits.
- For those building a home, this includes finding the right land and build team.
- For those renovating, it's often finding a builder that is available to do the work.
- For those who are buying a new build, it's finding a home that they want to buy and putting in a bid.

### Relevant formal consumer protection measures:

Prescribed checklist

Disclosure statement

Contracts for over \$30k

## Making it official and the formal processes that come with that – sale and purchase agreements, contracts or final quotes

- Signing on the dotted line and making it official.
- For those building a home, this can be a drawn out process starting with the sale and purchase agreement, through to finalising the design through to signing the building contract. It has emotional ups and downs where homeowners are excited to finalise the plans of their dream home but are nervous with financials and formalities. They tend to rely heavily on their support network – family, lawyer, mortgage broker.
- Once homeowners have signed on the dotted line, they can often get passed on from the sales rep to a different project manager.
- For those renovating, this can be quite a simple process of approving a quote or estimate and the builder booking in a start date.
- For those buying, this is the formal process of the sales and purchase agreement.

# During the pre-build phase, homeowners don't know what they don't know and many have unclear or unrealistic expectations

For homeowners who are building, they have just been through the ups and downs of financials and formal legalities and are now moving into the actual build process.

Setting up for the build, they are not always prepared. Many aspects of the build and what could go wrong are unknown to them. This is in conjunction with many homeowners having low risk perceptions of the build process.

Their expectations for the road ahead can be unclear or unrealistic.

**Homeowners are not always knowledgeable about putting best practice communication or documentation habits in place right from the start.**

*"It was our first renovation, and we didn't know what we didn't know, right? So, there was a bit of an 'all guns blazing' approach."*

- HOMEOWNER, MAJOR RENOVATION

# Builders recognize the importance of clear communication and managing expectations right from the start, but this is not always happening

## Barriers to clarity up front:

Some builders get brought in once a lot of the decisions and processes are already underway between the homeowner and architect, leaving builders feeling like they are on the back foot. This is particularly the case for homeowners building bespoke homes or large renovations where homeowners work directly with an architect first. It can be hard for builders to back track and re-set expectations.

Some small builders can be very time poor and have a number of other jobs on the go. For large building companies, their project manager or sales rep can also be busy and less hands on with homeowners. This means key conversations and providing clarity and oversight upfront does not always happen.

In addition, there is a sense from both builders and homeowners that builders are most valuable when they're on the tools and they don't always see the value in paying for / charging for upfront conversations.

The added pressure of meeting deadlines and just wanting to progress the build also creates a context of 'just get on with the work'.

*"I always try have a sit down with the architect and the client. They don't always want to pay for that time, but it's so valuable and helps prevent a lot of issues down the line."*

- BUILDER

# Creating clarity up front...

“It’s all about expectation management and good communication. That’s what makes or breaks it.”

- BUILDER

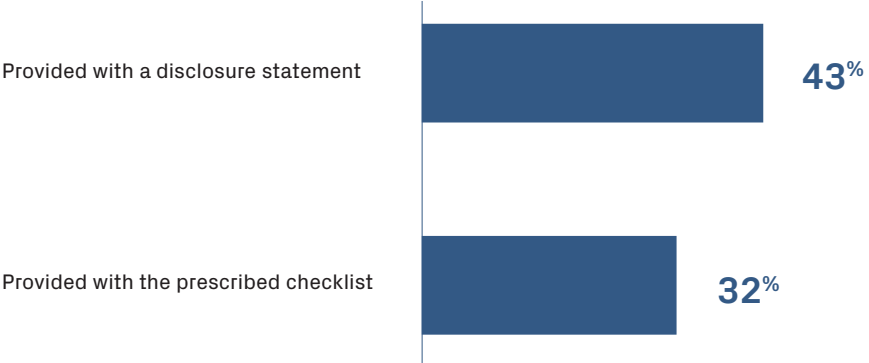
## Helps to avoid issues later in the process

### FOR EXAMPLE

- Setting clear expectations of how the process will run.
- Communicating options for and information about different types of protection e.g. warranties, insurance policies, how to best overcome variations.
- Ensuring all parties understand the implication of changes and variations during the build.
- Prior discussion and agreement on how things are dealt with if an issue arises.
- Consumers understanding of their fundamental rights by law (beyond what the builder or developer promises).

# Not all homeowners recall being provided with disclosure statements and the prescribed checklist

## Homeowners offered checklist and disclosure statements by their builder (excluding work under \$30k)



For **homeowners** that were involved in a dispute 18% think disclosure statements would have helped avoid the dispute. 21% thought the checklist would have helped resolve the dispute.

For **builders**, 34% are aware of the Building Act-prescribed disclosure statement, 34% are aware of the Building Act-prescribed checklist as a consumer protection measure.

All homeowners excluding minor renovation (under \$30K), developers and subsequent owners (developers and building work under \$30k are exempt from providing these protection measures).

Did your builder offer you a disclosure statement with information about their business, the insurance they have and any guarantees or warranties the offer?  
 Did your builder offer you a checklist with information about how to protect yourself when commissioning building work?  
 Base: Those that have built or are building n=50, those that intend to build n= 39, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65. Do you think any of the following could have helped to avoid the dispute? Those who had a dispute n=56.  
 Which of the following consumer protection are you aware of builders n=92. Before today, were you aware that there is a \$500 fine if a builder does not provide the homeowners with a Building Act-prescribed pre-build checklist, Building Act-prescribed disclosure statement and a contract for building work over \$30,000? builders n=92



# Prescribed Checklist: A summary

## BARRIERS

- Low awareness due to homeowners not always being provided it – not all builders are providing it when they should and not all work requires it to be provided.
- The timing of when it gets provided is often during a busy time, alongside a lot of other paperwork.
- It also provided once homeowners have already decided on their builder, as opposed to having access to this information during their due diligence phase.
- Not overly engaging, particularly when compared to some of the engaging, colourful diagrams that building companies are providing homeowner with.
- It is relevant for standalone home builders, but not other audiences. In particular, those buying apartments through developers off the plans and for smaller renovation jobs. People want a checklist that reflects the specific process they can expect in their experiences.

## AWARENESS

Overall low awareness due it getting lost in amongst other papers and not all homeowners claim to be receiving it.

## EFFECTIVENESS

Currently low effectiveness as only 23% remember receiving the checklist. In its current format only 21% who have gone through a dispute thought the checklist would have helped resolve the dispute.

## OPPORTUNITIES

- Encourage this checklist to be talked through during a pre-build kick off with the homeowner and the build team to set things up for success right from the start.
- Consider making the checklist more visual and engaging.
- Consider making variants of the checklist that are designed for more audiences – in particular, those buying off the plans homeowners and renovators.

*“This feels like it’s for people who are more involved in the building progress, rather than buying off the plans”*

- OFF THE PLANS

*“It’s not very user friendly, it’s quite dry. If you think about the kinds of people in these situations – maybe young people, first home buyers – having another way of communicating this information through videos or infographics could be helpful”*

- OFF THE PLANS

# Disclosure Statement: A summary

## BARRIERS

- Low awareness due to homeowners not always being provided it – not all builders are providing it when they should and not all work requires it to be provided.
- The timing of when it gets provided is often during a busy time and it is alongside a lot of other paperwork.
- Homeowners are not engaging with the disclosure statement as a due diligence tool to help them decide between different builders. Rather, it is seen as a reference document provided with the final quote or contract once homeowners are already committed.
- Not all work requires this statement, work under \$30k and developers are exempt.

## AWARENESS

As with the checklist, there is overall low awareness due it getting lost in amongst other papers and not all homeowners claim to be receiving it.

## EFFECTIVENESS

Currently low effectiveness due to its low awareness as only 34% remember receiving the statement. It's not currently being used to help homeowners decide between builders, but rather a document to have on file.

## OPPORTUNITIES

- Consider opportunities that bring key information about the builder earlier into the process. For instance, encourage homeowners to look into key information about their builder/developer before they make a final decision. Consider providing easier access to builder/developer info through registry and review sites.
- Consider providing subsequent providers with some of the prescribed information that can be found in the disclosure statement as a 'provision of prescribed post-build information' so they are fully informed of what is protecting them when they move in.
- When encouraging homeowners to look into this information or encouraging builder to share this information, ensure that developers are part of the mix. This is increasingly important with the growth in apartment builds.

*"It's a useful reference to have, but you're given it once you know you're already using the builder. It's not there to help you decide who to use and not use... I would probably refer back to their details in it if something went wrong."*

- HOMEOWNER, MAJOR RENOVATION

# Key opportunities

## Providing clarity: Re-think the Prescribed Checklist as an engaging guide that shows the road ahead

Compared to the content homeowners are being provided with by large building companies, the prescribed checklist is not getting cut-through with homeowners.

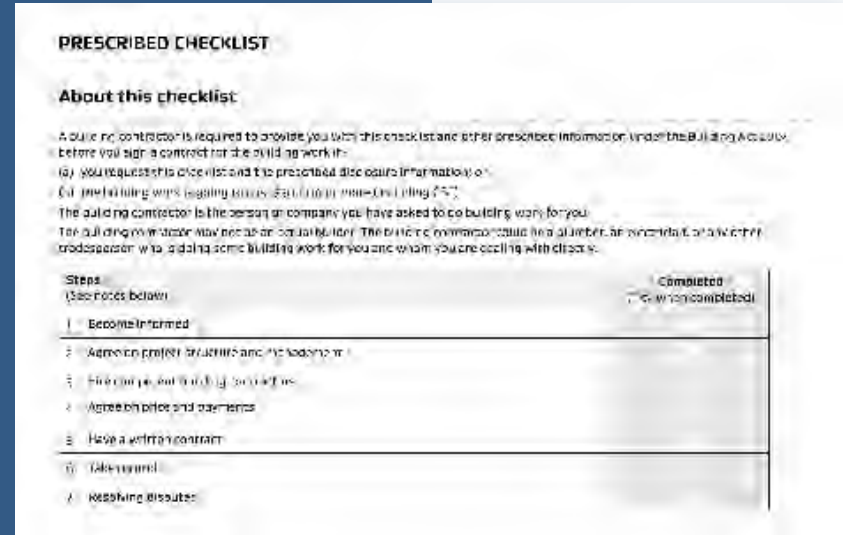
*“They talked us through and made us sign this emotional rollercoaster diagram and it honestly helped us understand what was ahead of us.”*

- FIRST HOME BUILDERS, AUCKLAND

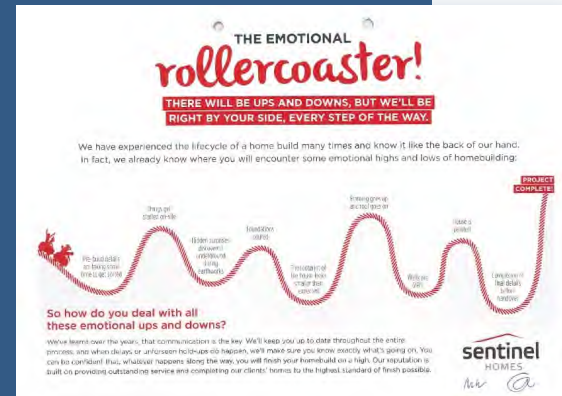
*“They gave us this calendar that told us about the different stages of the build and when different things would be happening. I put it on our fridge so we knew what was going on.”*

- HOME BUILDER, TAURANGA

## Prescribed Checklist



## Content provided by building companies:



# Key opportunities

## Providing clarity: Re-think the Prescribed Checklist as an engaging guide that shows the road ahead

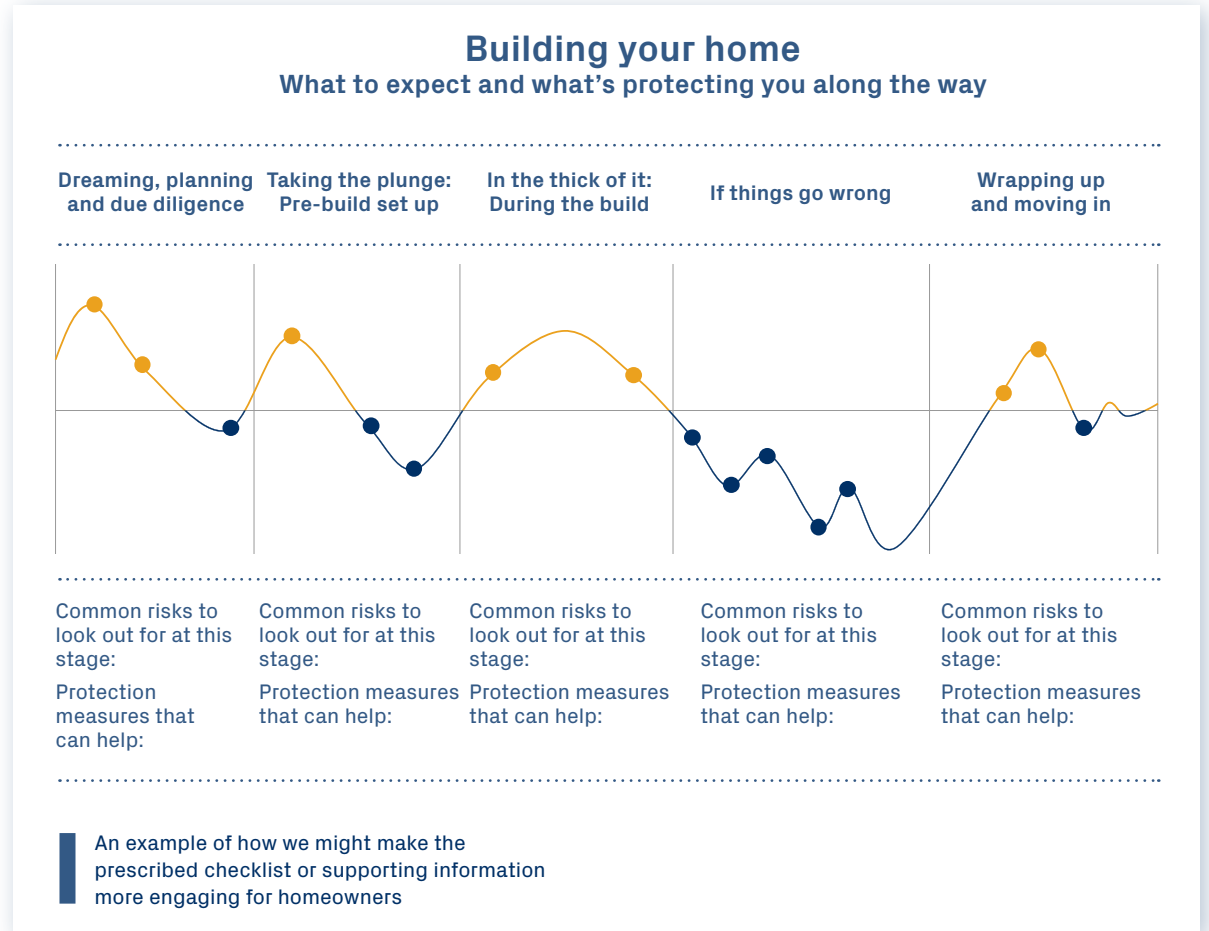
Create clarity and manage homeowners' expectations by providing them with:

- Key steps and emotional expectations along the way.
- What risks to look out for along the way, what's in place to protect them, and what they can do to prevent issues during the process.
- Make the guide engaging and visual so people connect with it.

Consider variations for those undergoing renovations and those buying off the plans.

**In addition, use the engaging checklist to increase builders' awareness of their obligations; and show it as a tool to manage their clients' expectations.**

- Builders are not always providing the checklist. Use the refreshed checklist to increase builders' awareness of their obligations. In addition, show that the checklist can be a tool to talk through with their clients to help manage homeowners' expectations and help avoid disputes down the line.





# Key opportunities

## Set up for success with a pre-build kick off

Soft skills and communication can make or break between builders and clients if things go wrong. Good communication is the key to preventing things from getting really bad. Show that it's important to set things up for success right from the start. Highlight the value of a kick off meeting to homeowners to establish ways of working. Give it a name (for instance, 'pre-build kick off'), make it part of the process, just like 'getting a quote' and 'sending an invoice' are distinct parts of the process.

## Moments that matter

Consider implementing some of the consumer protection measures during moments that matter. In particular, when homeowners are getting a quote or estimate, when they are discussing the build with the builder, finalising the contract (or sale and purchase agreement) and getting it signed. These are all key stages that we can piggy-back on.

## Contract support and messengers that matter

Lawyers are playing an important advisory role – not just in checking contracts, but also in helping people to understand what their basic rights are. Mortgage brokers and real estate agents are also providing some of this broader contextual knowledge. Use them as messengers to provide homeowners with consumer protection content and information.

The builder and developer are heavily relied upon to provide a clear picture of what's to come – we need to support them to do this well.

**About to start on the foundations? Make sure you've had an official kick off with your architect and builder. Here's what to cover off:**

**Building contracts – a homeowner's guide.**

Bought to you by:

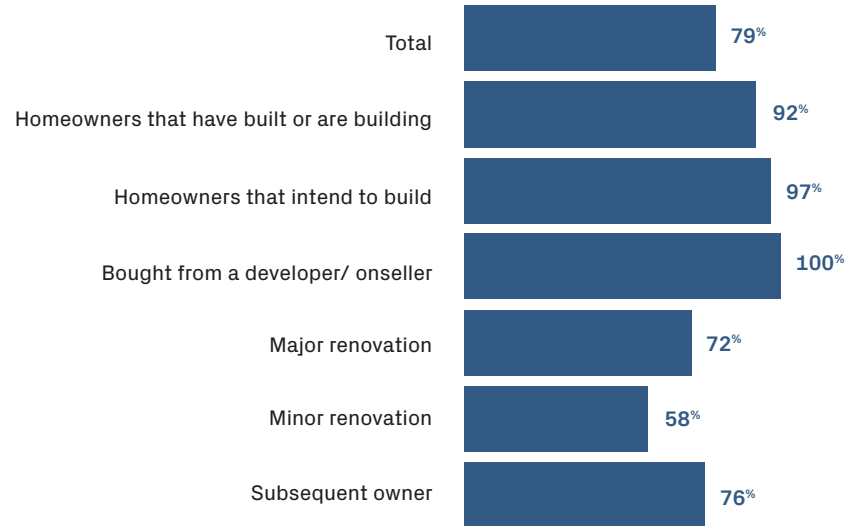


**Signing your building contract? Here's what clauses to look out for**

# Contracts are commonly used for new builds and homes bought from an onseller

These builds are increasingly built by large building companies and developers who have formalized processes and are vigilant about putting contracts in place.

## PERCENTAGE WHO USED CONTRACTS



Thinking about reducing the likelihood of something going wrong, which best describes your use of the following?  
 Those that have built or are building n=50, those that intend to build n= 39, those that bought from a developer/  
 on-seller n=34, major renovations n=54, minor renovations n=65

**Those buying a home off the plans** – Tend to have high risk perceptions and are particularly worried about sunset clauses. There is a perception that the contracts they are presented with are not protecting always reducing their risk. It is common for there to be no contract with the builder, but rather a sale and purchase agreement with the developer, which is commonly checked by a lawyer.

**Subsequent buyers** – Legal advice for sale and purchase agreements is standard practice, rather than a building contract.

**Renovators** – There can be confusion that a formal quote is perceived as contract by some renovators. Renovations are also more likely to be completed by a smaller building company or sole trader where processes can be more casual.

*“You hear too many stories about people who have had their deposit used to build the house and then they cut the contract on you at the end and sell the house on.”*

- BOUGHT OFF THE PLANS

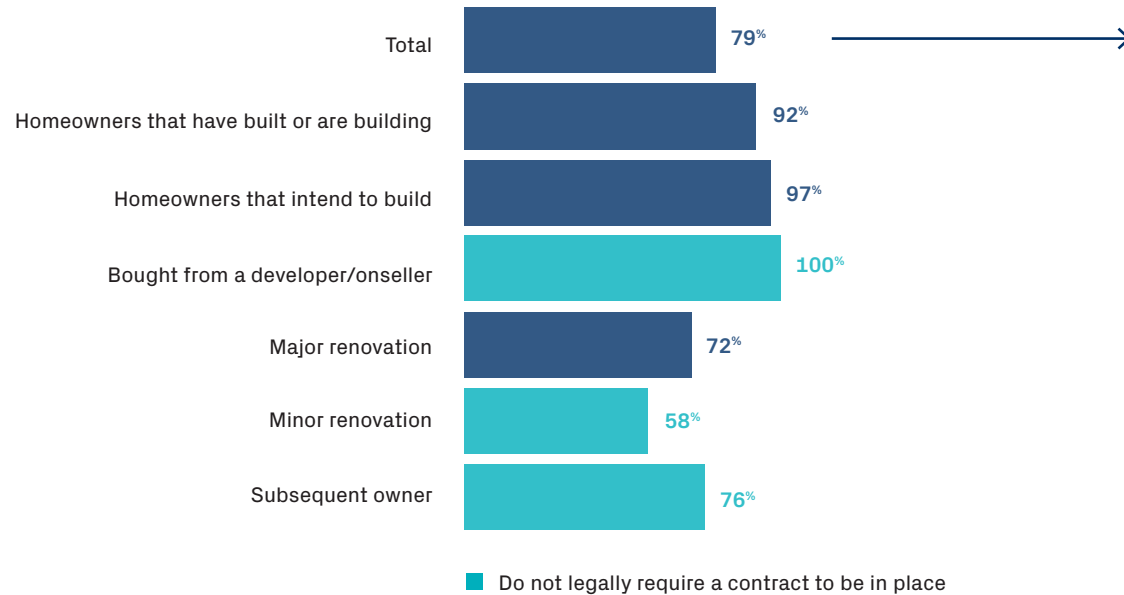
*“The builder sent us a formal quote and said to pay the deposit to book the start date. That to us felt like locking in the work and putting things in place.”*

- HOMEOWNER, MAJOR RENOVATION

# We are seeing high use of contracts for work that is over \$30k

Contracts are mandatory for work over \$30k

## PERCENTAGE WHO USED CONTRACTS



When we look exclusively at those who are legally required to have a contract in place, there is a higher use of contracts.

**82%**

Percentage who use contracts of those doing work over \$30k and excluding those who bought from a developer.

Thinking about reducing the likelihood of something going wrong, which best describes your use of the following?  
 Those that have built or are building n=50, those that intend to build n= 39, those that bought from a developer/  
 on-seller n=34, major renovations n=54, minor renovations n=65

# Renovators and their builders are less diligent about putting contracts in place

58% of minor renovations had a contract and 72% of major renovations had a contract in place.

**Smaller jobs are likely to be less risky than large new builds, as they are often less complex. However, with rising building costs, even small renovations can tip over \$30k and require a contract. Yet we are not always seeing contracts being put in place for renovation work. This is due to:**

- Those who are renovating tend to have lower risk perception which contributes to their casual attitude with setting up building work.
- Getting quotes, estimates and getting the builder to agree to the work can feel like a formal process for some homeowners. They can fall into a false sense of security where they assume the formalities of getting a quote come with protection, when in reality quotes do not offer the same protection as a contract. With some homeowners assuming quotes are equivalent to contracts, this suggests that the actual use of contracts amongst those who are renovating may be lower than reported.
- The need for a contract is often linked to whether work requires structural changes, rather than linked to a \$30k threshold.

- Contracts can be seen as a complex formal step that can ‘spook’ the opposite party. For smaller work, builders and homeowners can often prefer a less formal approach based on trust.
- Contracts can be seen as a step in the process that can slow things down, another step for the builder and something that could end up being a lot of back and forth. Due to the labour shortages, homeowners are wanting to get moving quickly and lock in a builder; and likewise, builders do not want to slow the process down either.

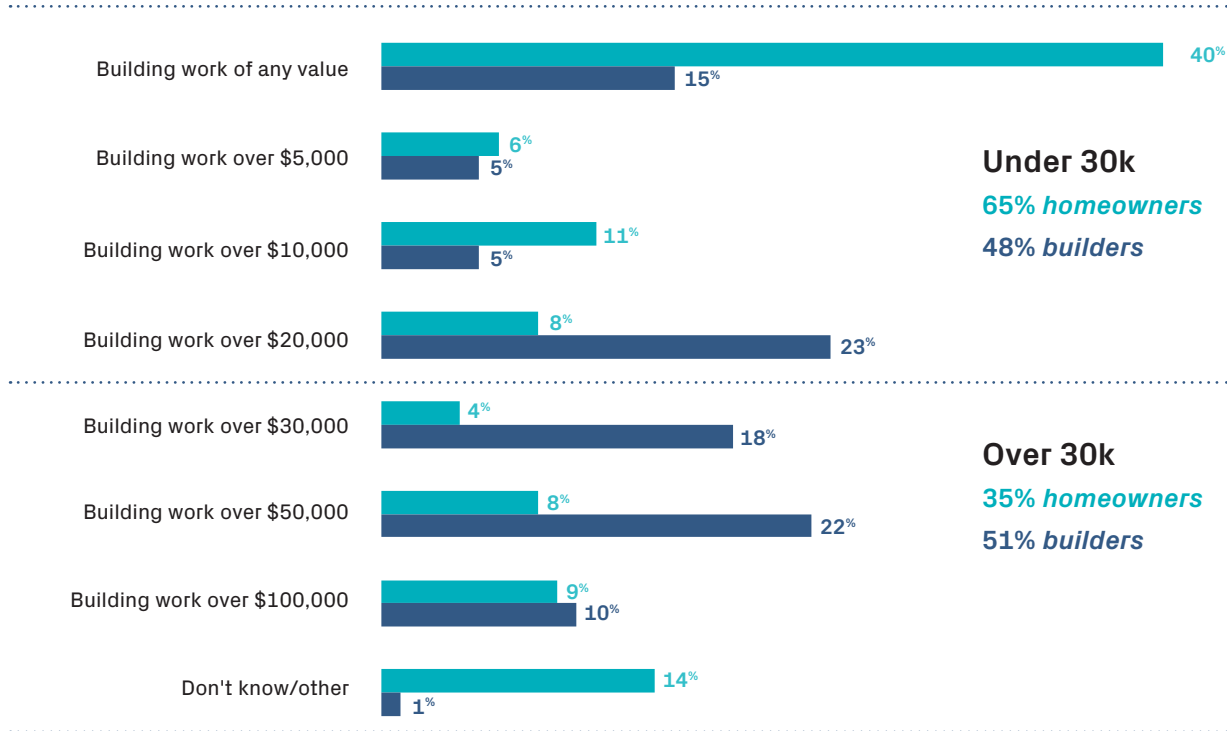
**We can show the value in having contracts in place by framing them as a tool that protects both parties in a market where costs are escalating.**

*“I realised we didn’t have any contracts; we didn’t have anything. Again, because we’d used him before, because we had that good history... but that doesn’t mean that something couldn’t go wrong. I think if we were to build from scratch or do another renovation, we’d do things completely differently. I think we were pretty lucky the last three times, we didn’t have anything formal, it was more of a trust-based relationship.”*

- HOMEOWNER, MAJOR RENOVATION

# The majority of homeowners want to be protected by a contract for work under \$30k

## VALUE OF BUILDING WORK WHERE CONTRACTS SHOULD BE MANDATORY



70%

Of builders are aware of the \$500 fine for not providing the homeowner with a Building Act-prescribed build checklist, disclosure statement and a contract for building work over \$30,000

■ Homeowners  
■ Builders

Thinking about the value of building work, at what value do you think it should be mandatory for a builder to put a contract in place to protect you if things go wrong? Consumers n=320 Thinking about the value of building work and having a contract in place, at what value should it be mandatory for a builder to have a contract in place? Builders n=92

Before today, were you aware that there is a \$500 fine if a builder does not provide the homeowner with a Building Act-prescribed pre-build checklist, Building Act-prescribed disclosure statement and a contract for building work over \$30,000? Builders n=92



# The mandatory contract threshold is set at \$30k.

However, the majority of homeowners want to be protected by a contract for work under \$30k.

Under 30k

**65% homeowners**

**48% builders**

Thinking about the value of building work, at what value do you think it should be mandatory for a builder to put a contract in place to protect you if things go wrong? Consumers n=320  
Thinking about the value of building work and having a contract in place, at what value should it be mandatory for a builder to have a contract in place? Builders n=92

To provide both homeowners and builders with this protection there are different options to consider:

- 1 Make it less onerous for builders to provide small job contracts for work under \$30k. e.g. work with existing providers such as BuildRight and the Master Builders organisation to promote existing small job contracts or provide an easy to use 'build your small job contract' tool for builders to use.
- 2 Empower homeowners to request a contract from their builder for work that is under \$30k.
- 3 Provide protection through implied terms of contract that protect homeowners for work under \$30k. Homeowners would feel somewhat protected by the implied terms, even if they are not given a specific contract by the builder.
- 4 Lowering the \$30k threshold for mandatory contracts.

# Contracts: A Summary

## BARRIERS

- There is high awareness of and confidence in contracts in general. However, there is low awareness of mandatory contracts for work over \$30k.
- Contracts can be complex and intimidating. Those that use lawyers tend to make favourable adjustments to their contract, but not everyone is getting the same level of support with complex contracts.
- Due to their complexity and perceived time and effort involved, builders are not always providing a contract and likewise homeowners are not always requesting one, particularly for smaller jobs such as renovations.
- Builders often feel pressure to use particular contracts in order to win tenders and jobs, even if the contracts are not favourable to them.
- Contracts can often favour the builder which disadvantages homeowners and increases risk.

## AWARENESS

98% of homeowners are aware of written contracts in general. However, amongst homeowners there is low awareness of mandatory contracts for work over \$30k. For builders, 70% are aware that they need to provide a contract for work over \$30k.

## EFFECTIVENESS

79% of homeowners are using contracts and 87% have confidence that they are protecting them. Contracts provides confidence to those using them and provide clarity by making things black and white, but issues can still arise regardless of whether there is a contract in place or not. Not all homeowners are referring to their contract to help overcome a dispute. Those with experience and a good lawyer are more likely to do so.

## OPPORTUNITIES

- Increase builders and homeowners' awareness of mandatory contracts for work over \$30k, particularly for renovators and small jobs. Frame the mandatory contract as a tool to protect both parties should something go wrong or should the work blow out into a bigger job, rather than an additional formality that will slow the process down.
- Consider the variation options that provide homeowners and builders with protection for work that is under \$30k and/or work that is being done without a contract.
- Ensure homeowners understand their contract and confident to amend or update unfavourable clauses with support from a lawyer or trusted advisor/information.
- Increase protection for homeowners when entering sales and purchase agreements through potential introduction of minimum contract standards for on-sellers/developers. Consider providing education advice to homeowners about the different types of building contracts.
- Explore options that will provide further protection or support for homeowners that are being negatively affected by the sunset clause.

*"You just want to go in and get the job done with those small jobs. Contracts slow things down and customers don't want to know about it. But if it was an easy contract, simple, already set up, then that would help."*

- BUILDER, SOLE TRADER, SMALL RENOVATION JOBS

*"I had no idea about the mandatory contract, that's really good to know it's there to protect us, because we didn't put a contract in place."*

- HOMEOWNER, MAJOR RENOVATION

# Key opportunities

## Support for small job contracts

Small jobs are often going without contracts, despite building material costs rising and the risk of jobs growing if rot or other issues are found. Raise awareness for the need of having small job contracts in place and showing that there are existing small job contracts available (e.g. Master Builders or Build Right's standard small contracts). Consider providing standardised small job contracts or 'build your own' small contract tools for builders.

## Show the value in having a contract in place - frame contracts as relevant and important for small jobs

We need to highlight why it's important to have contracts in place, even when it's a small job without going against the grain of casual kiwi culture. Frame contracts as a 'just in case measure', highlight the benefit for both parties and connect the importance of having them given the increase in building costs and likelihood of jobs being bigger than expected.

Builders can get the sense that a formal contract may spook homeowners who are renovating as these homeowners can be quite relaxed and the relationship can be quite informal and casual. To support builders who need to provide contracts, we can raise homeowner's awareness and expectations that contracts are there to protect and are very much a positive, helpful requirement.

## Look to the Employment Agreement Builder as a case study for a 'build your own contract' tool

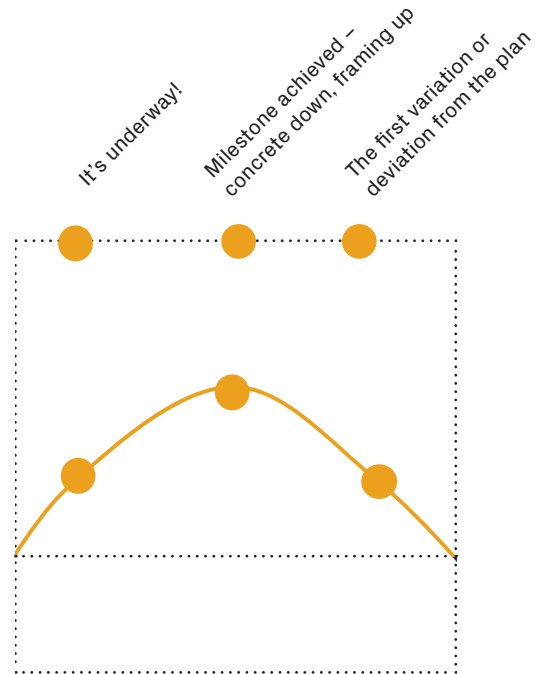


**Putting in a new shower and found unexpected rot?**  
 Good thing you and your builder had a contract in place for when the unexpected happens.

**Renovating?**  
 Putting a contract in place helps both you and your builder know where you stand in case something unexpected happens.

**With the uncertainty of building material costs, putting a contract in place is more important than ever.**

# In the thick of it: During the build



## This is really happening now

- For people buying off the plans, this is a process of watching from a distance as things come together. Many developers are keeping buyers at arms length, but buyers want regular updates to give them confidence. Walk throughs are an opportunity to check in on how things are going.
- Renovators and home builders are really in the thick of it – their living situation may be disrupted by the build if this is their primary house, they are in close contact with the builder and contractors and keeping an eye on progress and have strong presence on site.

## Things can start to deviate

- With variations, changing cost of materials, realisation that the plans will not work because of unforeseen structural issues etc.
- Tensions can start to rise if issues and disagreements are not dealt with as they arise
- The shine has worn off from the dreaming phase – now that it all has to get done and ‘time is money’, the pressure and stress is on to get it done in the time frame and without blowing the budget.
- Reality starts to sink in around the scale of what could go wrong.

# Clear communication is critical

## Clear communication and staying on the same page has a huge role in preventing disputes.

Good communication between homeowners and their build team enables mutual confidence and trust and means that any minor challenges are dealt with as they arise. Without clear communication, issues can turn into full blown disputes.

In particular:

- 1 Regular communication – helps keep homeowners in the loop and up to speed.
- 2 Shared expectations and documentation when it comes to variations and changes to the plans.
- 3 Shared access to the agreed upon plans, contracts and agreed variations – everyone singing off the same song sheet.

*“It’s all about clear communications and managing their expectations.”*

- BUILDER

*“Good communication. And regular communication, [homeowners] like to know what’s going on, I get the foreman to send them photo updates.”*

- BUILDER

*“We’re dealing with a project manager who is more of a sales rep and we don’t have direct contact with the builder or architect. It would be so much easier if we could have a conversation with them because we can tell that things are getting missed.”*

- FIRST TIME HOME BUILDER

*“It was such a shocking experience dealing with [the project manager], they would never reply properly to my emails that I got in touch with the CEO.”*

- FIRST TIME HOME BUILDER



# The quality of communication is varied

Not all homeowners are having the same experience when it comes to interacting and communicating with their build team

## Factors that contribute to the quality of communications include:

- The systems and processes that the build team has in place e.g. a sole trader calling their homeowner directly vs. a large building company with a sales rep, CRM system, project managers and communications app.
- Some builders focus on 'getting on the tools' and see communication as admin that is not core to their role.
- Some developers do not have established communication processes. In addition, the nature of the apartment and townhouse build process means it's harder to get access to the site and homeowners are then more at arm's length from the build.
- Experience of the homeowner and their surrounding support people. Those who are experienced building homes, or those that have an experienced support network know what to expect and what to check with their builder.
- Complexity of the build and number of variations. The more changes and deviations to the plan, the more discussions there are and chances for things to go astray.

*"We're constantly having to chase; we don't really get any updates from them... Every month it gets put back another couple of months. And we haven't been able to visit the property at all... apparently legally they only have to offer us one inspection before it's completed... we're a bit worried but also trying to believe the best."*

- BOUGHT OFF THE PLANS

*"I could see on the co-construct app that they were using out of date plans, so I got in touch. Glad I did otherwise they would have done the measurements all wrong."*

- EXPERIENCED HOME BUILDER

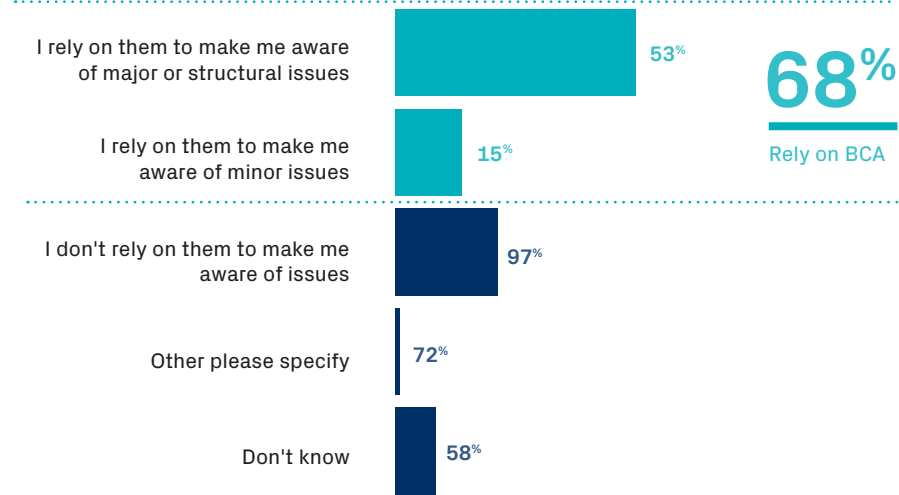
*"The design team and colour consultant helped us to make decisions about our kitchen fittings. Next thing we know, we're getting pinged with additional costs."*

- BOUGHT OFF THE PLANS

# There is a reliance on BCAs, but homeowners are often identifying issues themselves

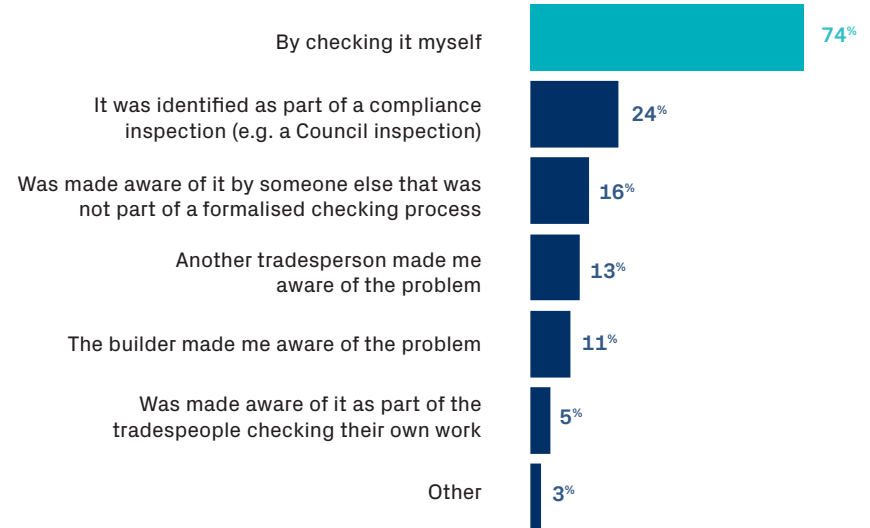
53% of homeowners feel confident or very confident identifying issues throughout the build, with only 12% hiring an independent expert to inspect the work.

## RELIANCE ON BCAS



How was the problem identified?  
Base those that had an issue n=39

## WHO IDENTIFIED THE PROBLEM



How was the problem identified?  
Base those that had an issue n=39

# Walk-throughs and inspections are key moments during the build, but homeowners are not always well prepared

## Homeowners are not always set up for success in walk throughs and inspections

- Many are going into this important moment blind with little understanding of what to look for.
- There is a tendency for homeowners to focus on the fittings, such as electrical sockets and benchtops without much understanding of how to check structural aspects.
- They are not receiving proactive guidance from developers on this.
- People are leaning on friends and family to help them in walk-throughs (e.g. sibling who is a builder, parents who have built).

## Defect repair period provides reassurance

- For those who are aware of the defect period, it takes the pressure off as they feel they will still be protected if they find further issues after they have moved in.

## Developers have varied walk-through policies

- While some developers are offering multiple walk-throughs, some are only offering one walk-through and alerting homeowners not to come on site.
- Some developers have a clear process for fixing issues and defects, whereas others have no process at all, and buyers must be proactive to ask for repairs to be made.

*“When we did the walk through, I was trying to make sure that things looked correct before it got to a point where we couldn’t change it. I was thinking afterwards that I should have studied the electrical plan more, but everything seemed okay – aside from some power points that were too centered.”*

- BOUGHT OFF THE PLANS

*“We weren’t really allowed on-site, it’s only officially your home once you’ve been given the keys. But my parents live in the area and we were down most weekends so we’d do drive bys.”*

- BOUGHT OFF THE PLANS

# Key opportunities

## Clear and regular communication

Homeowners and builders that provide clear and regular communication often have much smoother, cohesive relationships compared to when homeowners are left in the dark for long periods of time. Regular updates of progress and regular inspections or check ins give homeowners confidence and oversight, and also provide them opportunities to check the work is up to standard. Support homeowners and builders to keep in regular contact.

**Clear expectations and documentation around variations** Issues arise when there is not clear expectations around variations and changes. Builders get frustrated when homeowners make changes midway through. Homeowners get frustrated when they don't realise their 'choices' are in fact variations. Good working relationships have clear expectations and follow up documentation of variations that include the associated costs. Build homeowners' awareness about the cost implications of variations, this helps builders have cost implication conversations with homeowners when a variation is suggested. Highlight the importance of documenting decisions and encourage the process around variations to be discussed at the start of the build.

## Information all in one place

Shared access to final plans, timelines, agreed variations is helpful for both homeowners and build teams. While many people are documenting through email chains, some people have had good experiences through apps like Co-Construct. Provide best practice guides and encourage homeowners and builders to have shared access to information, whether that's through a shared online folder, a service like Co-Construct or through well documented emails.

*"Our experience has been really good, the developer has given us an update every month with photos and about how things are progressing."*

- BUYING OFF THE PLANS

*"Customers will go chat to their mates, see something online and then they go and make changes. They don't realise that all those changes cost time and money."*

- BUILDER



**Apps like Co-Construct have all the plans, timelines, financials and variation decisions recorded for both homeowner and build team.**

# Key opportunities

## Guidance for inspections and walk throughs

Encourage builders and developers to provide sufficient number of walk-throughs and inspections, particularly for those buying off the plans. Provide homeowners with guidance on how to get the most out of their inspections and walk throughs. Provide with them practical guides and tips. For instance, bring your plans and a tape measure, have stickers to point out any issues, bring an inspector or someone trusted with you.

## Moments that matter

Walk throughs and inspections are key moments where homeowners are checking work. Financial moments, such as progress payments or receiving invoices, are also key moments to intervene with consumer protection support and information. Building milestones are also key moments to connect with homeowners, such as the framing going up, roofing on, electrician coming and fittings installed etc.

## Messengers that matter

Interior designers, colour consultants, kitchen and bathroom suppliers all have influence over design changes or variations midway through a build. Connect to homeowners through these providers to make homeowners aware of the cost and time implications of variations.

*“We would take stickers with us and put stickers on all the things that were off spec or needed attention.”*

- EXPERIENCED HOME BUILDER

*“During the walking through you’re so distracted by seeing your house and taking it all in. You really need to go through twice, once on your own and a second more detailed time when you take your plans and a measuring tape.”*

- EXPERIENCED HOME BUILDER

Checklist of what to take to your home inspection or walk through.

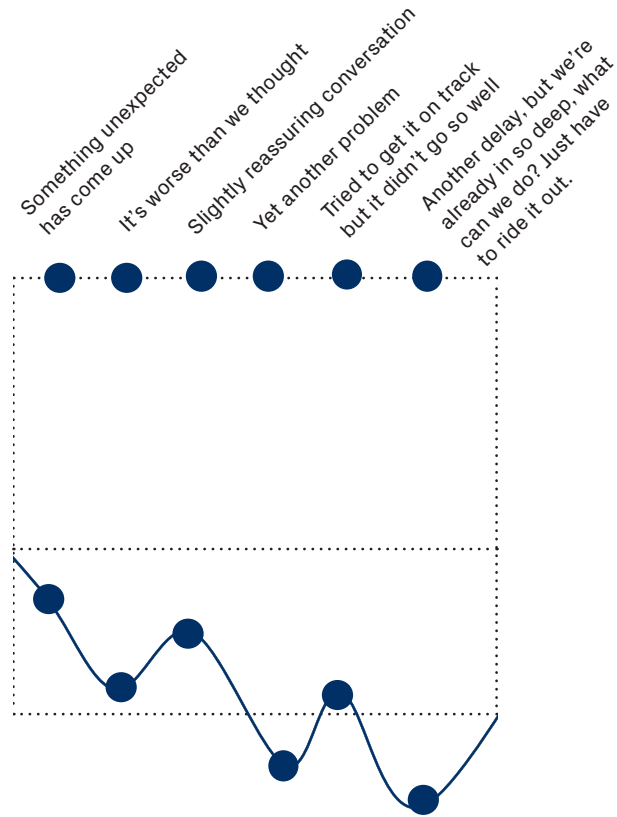
Got a walk-through or inspection coming? Here’s what you need to know:

Framing up and on to the roof?

Here’s what you need to know for the next stage of the build:



# If things go wrong



## Issues start to arise

- Builds and renovations are complex – things can and do go off course, especially given the current context. This moment marks the first deviation to the original plan, whether that's finding unexpected rot, the price of building materials going up or a timeline delay.
- For renovators, they have often been more casual about the pre-build set up and when things start to go wrong and the stakes get higher, it's often when they start to get more serious about the formalities around protection and payments.
- For people buying off the plans, rather than a slow build up of issues overtime, they can be less across the build and therefore identifying issues can often culminate during the walk through.
- For subsequent owners, the equivalent would be when they first find signs of issues in their new home.
- Conversations and processes between homeowner and their build team at this stage set the scene for the rest of the build. If there is trust and good communication then issues can be overcome. If not, then issues compound and homeowners can lose trust and faith.

### Relevant formal consumer protection measures:

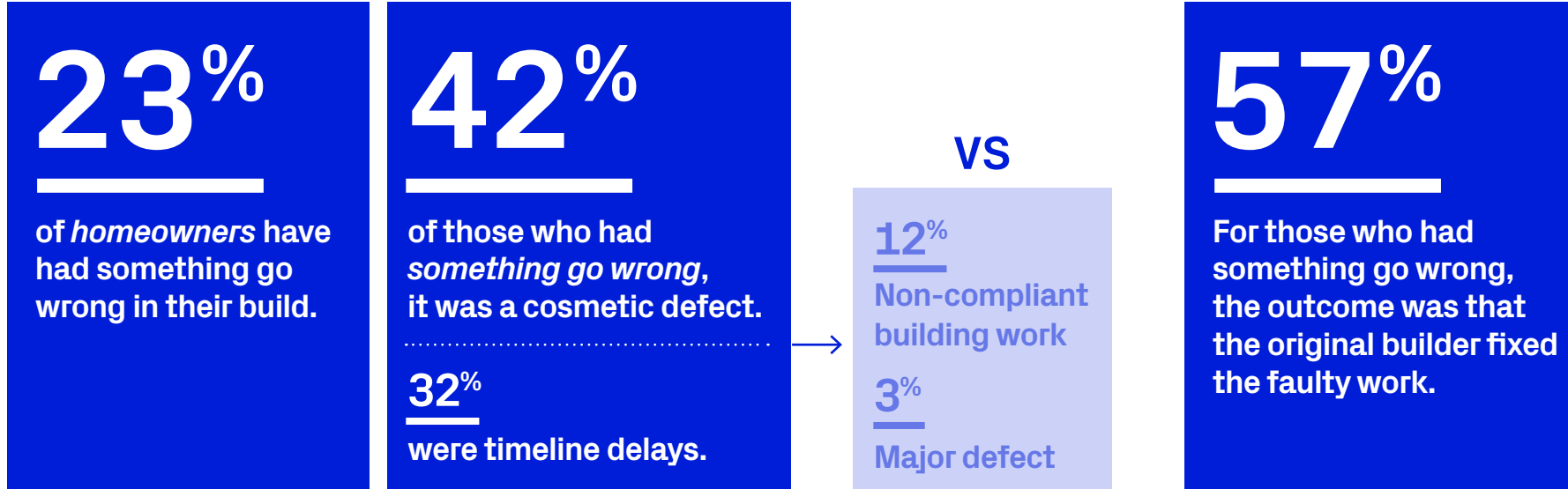
Contracts

## Issues compounding and breakdown in communication

- Often at this stage, there have been conversations and attempts to get things back on track but they do not always work out well. Lack of communication, lack of clarity, further issues arising, further delays mean that issues can compound and get worse.
- Both sides are eager to see the build progress but some issues are difficult to surmount. Such as, additional costs and timeline delays that cannot be overcome and it can feel like a difficult road to the end of the build.

# Most of the time, things are not going wrong. When they do, they are often cosmetic defects and timeline delays.

And the builder is likely to fix the issue



SEGMENT 1A/ 1C/ 1D/2 Did anything go wrong during the build/ renovation process to do with the builder/ building company? For example: failed council inspections, payment or timeline issues, building or cosmetic defects  
 SEGMENT 3 After moving into your new home did you find anything wrong with the build? For example: poor quality workmanship, cosmetic defects, major defects Base: Those that have built or are building n=50, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65, subsequent owners n=78, builders n=92

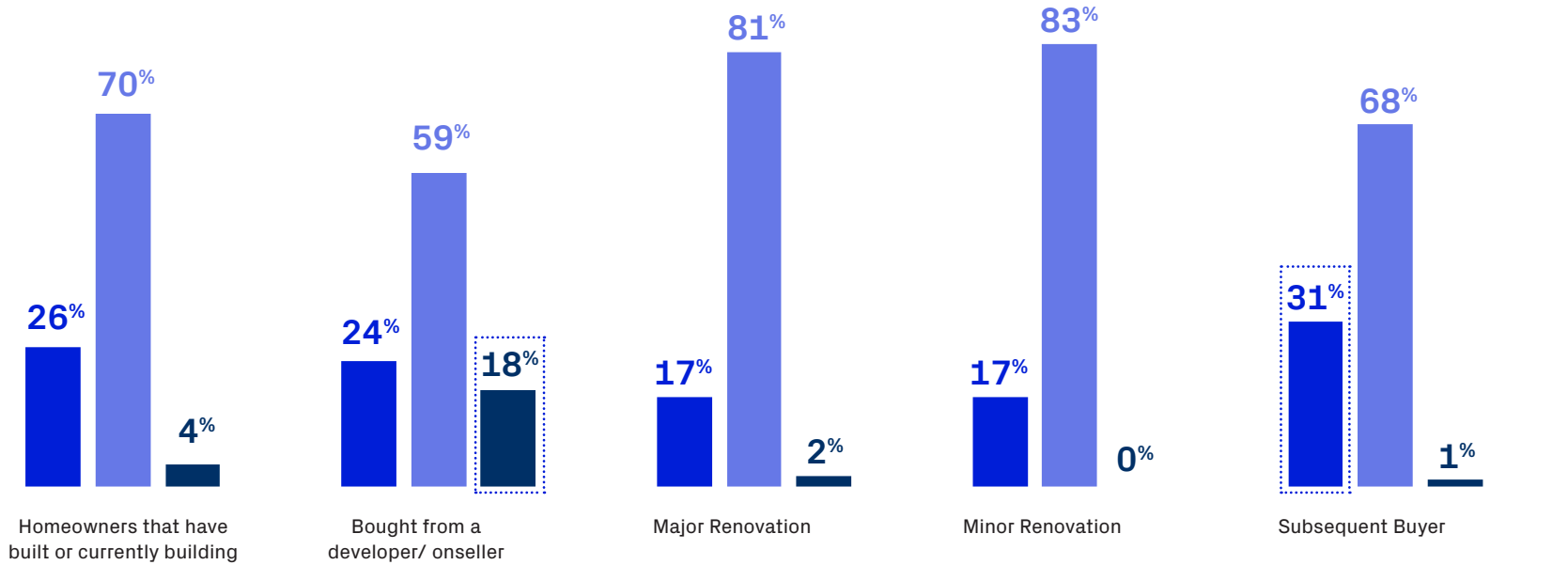
SEGMENT 1A, 1C, 1D What were the challenges you faced as part of the build?  
 SEGMENT 2 What were the challenges you faced as part of the renovation?  
 SEGMENT 3 What were the challenges you faced as a result of the build?  
 Base: Those that have had an issue n=65

What was the outcome?  
 Base: Those that have had something go wrong n = 56

# Renovation jobs, which are smaller scale than a home build, are less likely to have things go wrong

Subsequent buyers are more likely to have something go wrong. Those who are buying off the plans are more likely to not know if something has gone wrong as they less engaged in the build process.

## WHAT WHEN WRONG FOR THE DIFFERENT HOMEOWNER GROUPS



Something went wrong n=65, something did not go wrong n=206  
Don't know n=9

■ Something went wrong during the build ■ Something did not go wrong during the build ■ Don't know

# While most people are getting the builder to fix the issue, 1 in 5 are doing nothing

When issues do arise, people need knowledge and empowerment to resolve them before they turn into a major dispute

Problems can compound and build over time. Homeowners can put off dealing with the issue head on due to conflict avoidance and concerns that it will take more time and money if they make a fuss.

Some homeowners have low or shallow awareness of what they are protected by and how to refer to the formal protection measures to help get the build back on track.

*“The project is running way behind the timeline, but I don’t want to put pressure on the builders, because I know that they’re really busy and I also don’t want to get off-side with them, because they’re in the middle of our project and I want the work done to a really good level.”*

- HOMEOWNER, MAJOR RENOVATION

**Rather than a final back-stop, there are opportunities to use the formal consumer protection measures to redirect the trajectory if things start to go wrong.**

# Opportunities to redirect the trajectory

## Show that implied terms of contract can be referred to throughout the build to get things back on track

Homeowners without a contract in place (often renovators) have low awareness of the implied terms they are protected by. In the first instance, setting up a contract at the start is best practice. However, for those who do not have a contract in place there is value in raising their awareness that they are protected by the implied terms. In particular, showing them how to refer to the implied terms to get them and their builder back on track. Both homeowners and builders can have tendencies to avoid conflict, so we need to frame how to use implied contract terms positively – as a way to progress the build.

Similarly, for those who do have a contract in place, they do not always have awareness of the specific contract terms or lack confidence in referring to them if a problem arises. Show that the contract is something that can be referred to throughout the build (with support from their lawyer / trusted advisor) to keep the build progressing rather than a 'set and forget' document.

## Frame the dispute mechanisms positively and as a way to progress things forward

For both homeowners and builders, dispute mechanisms are seen as formal, timely, costly and a last resort. Reframe current mediation services as a way to get things back on track and consider providing additional services and content for when things start to go wrong. Set the content and services up as a way to progress forwards.

Current dispute resolution services have very formal language and processes and used late in the game. Consider new services or reframing existing service that come into play earlier.



**Renovations not going as planned?**  
Did you know that all work over \$30k is covered by implied contract terms.

**Here's the key clauses and how to refer to them when you're discussing next steps with your build team.**

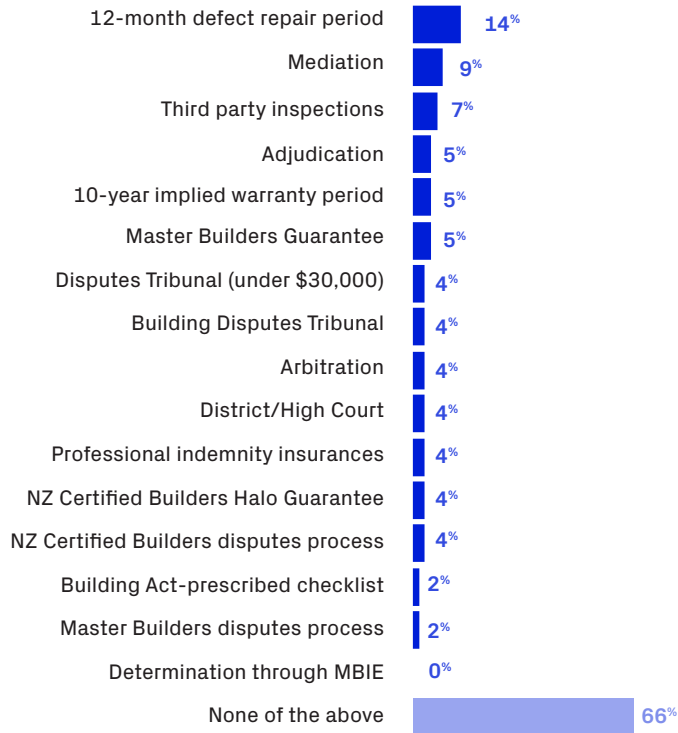
*[How to refer to them in an email]*  
*[How to refer to them in conversation]*

**Things not going as planned?**  
Use the Back on Track service with an independent support provider to help the build progress.



# There is a tendency to steer clear of formal dispute resolution mechanisms

## DISPUTE RESOLUTION MECHANISMS USED



### Barriers hold people back from turning to the offered dispute resolution options

- Lack of awareness of dispute mechanisms that are available to them.
- Lack of understanding of the process and what to expect causing low confidence to proceed.
- Preferring to 'keep the peace' – conflict avoidance.
- Sense that it will be emotionally tolling – people just want to put this behind them and move on.
- Seen as time-consuming and costly – lawyer fees, opportunity cost of spending that time and effort elsewhere.

### People want to keep things moving and the build finished

And, which of the following did you use?  
 Base: consumers that had something go wrong n=56

## Both sides want progress



*“You just want progress; you want it to get fixed so you can move on and start living in the house or get tenants in so you can pay your mortgage. The disputes tribunal or mediation just takes more time and doesn't give you certainty so you're better off just keeping the process going... I only went through mediation at the VERY end, once I had my keys. I didn't do it to keep things progressing or to get the outcome I wanted.”*

- HOMEOWNER, AUCKLAND. NEW BUILD, STANDALONE HOME

## Yet formal dispute resolutions are not seen as viable option for getting things to move forward.

*I tried hard to negotiate to split the costs in half to come up with a solution, but they weren't going to budge - at that point I could decide to walk away or take it to court myself.*

*This was a couple of years after the other one that I'd had, and I know how consuming it is to go to court, emotionally and time-wise, so I didn't want to go down that process again and just wrote the cost off and lost the money - the homeowner won big time.*

*I thought If I'm going to spend hours and hours in this process defending myself, why don't I just move on and put that time into my business and actually make money. And then emotionally it doesn't drag on and make you feel down about it all. It does hurt and it's a loss that you don't ever want to wear - it's not like you're taking it out of profit, it was actual costs.”*

- HOMEOWNER, AUCKLAND. NEW BUILD, STANDALONE HOME

# Formal dispute mechanisms: A Summary

## BARRIERS

- Homeowners know that there are formal disputes processes but don't know the details, how to access them, what the process is like and low confidence to process.
- For both homeowners and builders, they are seen as time-consuming, costly, emotionally tolling – all without contributing to the progress of the build. This is driven by assumed lawyer fees and weighing up the opportunity cost of spending that time and effort elsewhere.
- There is a tendency to avoid direct conflict and preferring to 'keep the peace' or maintain one's reputation.
- They are also linked to private organisations, such as Master Builders and there is extremely low awareness of any government initiatives, such as MBIE's determination process.

## AWARENESS

- There is shallow awareness. Homeowners are aware of mediation services as a backstop measure but not in great detail and are not confident in who the providers are and how trustworthy / neutral they are.

## EFFECTIVENESS

- There is some confidence that there is a process in place should things get really bad. However, dispute mechanisms are being used to wrap up old issues rather than progress the build forward
- Those who go through it can struggle with the process and would rather have things settled earlier.

## OPPORTUNITIES

- Provide further information and guidance on existing dispute resolution services – what the process is, what to expect, support services offered.
- Consider re-framing and adjusting dispute services as tools that can get things back on track rather than just a back-stop way to recuperate costs at the end of a long battle.
- Consider whether disclosing disputes information can be used to help with due diligence. Disputes data can help homeowners identify when there has been a history of issues.

*"It takes time and effort... You're thinking that if you go to court, at best you might get half of the money back, but you probably won't get all of it, and it's going to cost you legal fees and meanwhile your business suffers – so you lose big time, you can't win."*

- BUILDER

# Key opportunities

## Guidance on the disputes process and how it works

Provide homeowners with oversight of the disputes process, how it works, what to expect and what support services they have access to. Current awareness of MBIE dispute processes is extremely low so consider increasing awareness and providing a quality service or promoting other providers' service.

## Use disputes data to help with due diligence

Consider disclosing some aspects of past disputes data to help homeowners make informed decisions about building companies' track records. This will require careful consideration and learnings from the tenancy tribunal public records where tenants have unfairly become blacklisted purely by being on the tenancy tribunal list. Consider high level reporting or only sharing those who have been through disputes multiple times.

## Moments that matter

Unexpected increases in progress payments or invoices, when issues are found during walk-throughs or inspections, homeowners begin searching for dispute resolution services or asking their trusted networks for help.

## Messengers that matter

Banks or lenders when homeowners need to increase their loan, BCAs who provide a failed inspection, lawyers, family and friends who are offering support and guidance. Homeowners will also turn to their builder to help guide them through the process if it's an external problem that's affecting both of them e.g. stormwater issues.

Tenancy Tribunal has public records, this is not without fault but it can help hold people to account.

**TENANCY TRIBUNAL**

**Search for Tenancy Tribunal orders**

[Important Information](#)   [Search Help](#)

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**Keyword Search:**  
Enter keyword(s) or search for a phrase using "" around your phrase e.g. "Unit Titles Act".

**Application:**

**Application No.**

**Decision Date:**

**From:**    **To:**

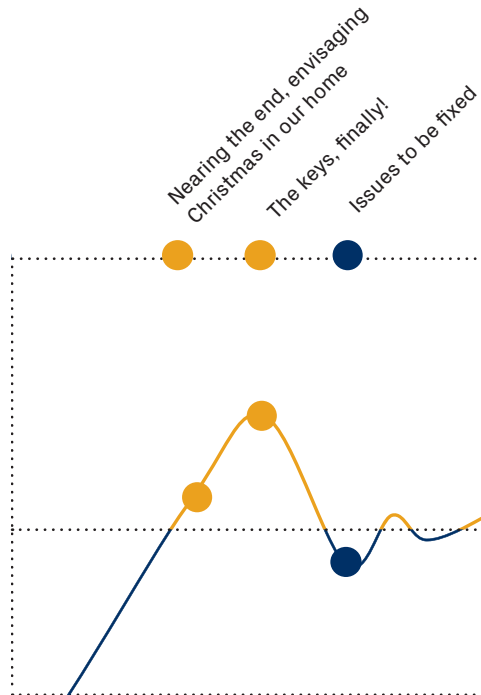
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**Parties:**

*You're increasing your mortgage because you're having trouble with the build? Here's some information from MBIE about how to get things back on track with your builder.*



# Wrapping up and moving in



## The final stretch

- A sense of excitement at finally nearing the end of the process.
- For those who have had issues, they are starting to see the light at the end of the tunnel. For many, this means moving on and trying to put issues and costs behind them.
- For those who have been pushed too far, it's at this stage that they may consider more formal dispute mechanisms – now that the project itself is finally finished.

### Relevant formal consumer protection measures:

10-year implied warranty

12-month defect period

Formal dispute resolution mechanisms

## Living in the home and issues emerge

- Finally getting moved in and getting comfortable in the new home – a desire to get settled and a sense of relief after the anticipation and busyness of the build process.
- Frustration if and when issues and defects appear – they thought this was all done and just want to everything to be sorted.
- For the most part, these are minor issues and homeowners call the builder/developer to have them resolved.
- For subsequent owners, if issues emerge they refer back to information they received from the previous owner – about the builder/developing company and any warranties they're covered by.
- Can be frustrating if there is not a clear process for getting defects fixed after move in and expectations set around time frames for completion of these fixes.

## There can be a shallow awareness and a ‘blind trust’ in the 10 year warranty and 12 month defect period

There is low understanding of what warranties and defect periods include.

People don't fully understand or consider the detail and how they would bring this into action if they needed to.

They often follow the lead of their builder if things go wrong. They can heavily rely on their builder/build team to guide them through resolving issues.

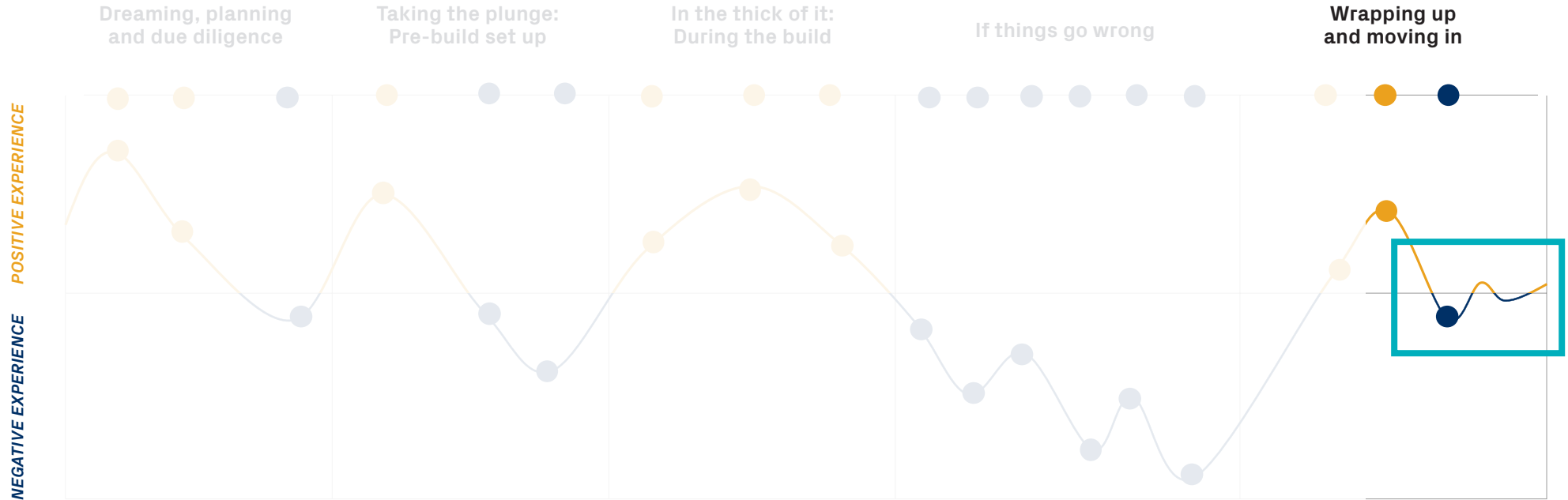
## And the measures are strongly linked to the private sector

- The Master Builders brand has high awareness and high trust amongst homeowners. Due to its universality, there is an assumption held by many homeowners that it is backed by the government.
- Builders will talk to their clients about the Master Build 10-Year Guarantee or that their company offers a 12 month defect period rather than saying that there are formal consumer protection laws that they adhere to. Therefore, for many homeowners, the 12-month defect period and 10-year warranty periods are associated with the Master Build 10-Year Guarantee or to a private building company.
- Subsequent home-owners' knowledge of the 12-month defect period and 10-year warranty is often dependent on a) their prior experience, b) family or real estate agents making them aware or c) if the previous owner has made them aware. Again, this is linked to the build company rather than the law.

**Therefore, if things do wrong, people do not have full comprehension of what's in place to protect them**



# Subsequent buyers are not involved in the build process, therefore their interactions with consumer protection tools and measures are different to those that have built.



### They are not involved in the build process.

Therefore, they have not had the same due diligence steps, they have not looked into different builders, have not had a lawyer look through a building contract, have not received a prescribed checklist or disclosure statement directly from the builder.

### Their consumer protection knowledge comes from different sources to those that have built.

LIM reports, sale and purchase agreements, building inspectors, real estate agents, previous owners, friends and family.

# There is an opportunity to ensure all subsequent buyers are getting the relevant consumer protection information when they purchase a new home

## Their engagement with consumer protection tools and measures:

- 1 Their awareness of what protection measures are in place is based on their experience level and what others have provided them with or told them. In particular, real estate agents, previous owners, building inspectors, friends and family.
- 2 They are highly anchored to the building company as their go-to should anything go wrong. They know that the building company has a responsibility to fix issues, but for many, they do not know the specific consumer protection measures that sit behind this responsibility.
- 3 As with homeowners who are building or renovating, awareness of the specific protection measures as law is low.

*"I paid \$350 to transfer the Master Builders warranty to my name, I would have like to have known that I was already covered [by the 10-year implied warranty]...it feels a bit cheeky. It's the law but it's not being presented that way."*

- SUBSEQUENT BUYER, AUCKLAND

### OPPORTUNITIES

- Many subsequent buyers are reliant on others to provide them with the relevant consumer protection measure information (i.e. Real estate agents or previous owners). However, this is not always being provided or can get lost in translation. Consider increasing their awareness of what is in place to protect them.
- Subsequent buyers are more empowered when they can see what is legally there to protect them, rather than assuming warranties and guarantees are just a service that building companies are providing. When raising awareness of the consumer protection measures, present them as a legal rights.
- Consider expanding the information subsequent buyers are getting beyond just the 10 year warranty and 12-month defect period. A provision of prescribed post-build information based of the information provided in the disclosure statement can be helpful and reassuring post-build content for subsequent buyers. Such as, copies of the guarantees, maintenance information, product warranties and insurance policies.
- Real estate agents are seen as experts in the housing space and tend to have formal processes that subsequent buyers are involved in. Consider using real estate agents as a messenger or provider of the above information.

# Key opportunities

## Raise awareness of formal consumer protection measures as universal rights – not selling points

Homeowners want to feel empowered, and when they find out about the protection measures that are in place by law, they often do feel more empowered. Raise awareness of consumer protection measures as fundamental rights that can help them and to ensure they are not misled into thinking they have a shorter warranty. Use an empowering tone and language and in some cases provide direct comparisons of what is law vs. a private offer. Encourage private building companies to promote when they go above and beyond the legal requirements rather than using them as unique selling points.

## Raise subsequent owners' awareness of consumer protection measures

Subsequent homeowners' awareness of warranties can be dependent on prior experience, experience of their support network or previous owners telling them. Connect with them through their purchase process to raise awareness of what is there to protect them. Real estate agents, lenders, mortgage brokers are all channels to raise awareness through.

**What Noel Leeming Product Protection Can Offer You**

**This table is a summary of cover.**

FEATURES AND BENEFITS	MANUFACTURER'S WARRANTY	CONSUMER GUARANTEES ACT	YOUR NOEL LEEMING COVER
Breakdown Period of Cover	Generally, 1 or 2 years from purchase.	For a reasonable period.	Up to 7 years (Manufacturer's decision on and Noel Leeming Protection term).
Automatic replacement on Covered Items \$500 or less.	In some circumstances.	In some circumstances.	Yes.
Lemon protection on Covered Items more than \$500.	No.	In some circumstances.	Yes - automatic upon third (or more) failure of purchase (Covered Items).
Freight cost on covered claims.	In some circumstances.	Yes - if Act applies.	Yes.
Oversize protection for portable devices.	In some circumstances.	In some circumstances.	Yes.
Commercial or Business use.	No - unless allowed by Manufacturer's Warranty for limited time.	Yes - if Act applies and not contracted out of.	Yes - in certain circumstances.
Failure due to normal Wear & Tear.	No.	In some circumstances.	Yes.
Encapsulated or enclosed battery cover.	Yes.	Yes - if Act applies and only if battery fails.	Yes.
Power surge or sulphur damage cover.	No.	In some circumstances.	Yes.
Food Locks.	In some circumstances.	Yes - if Act applies.	Yes.
Blockage protection for certain White Goods.	No.	No.	Yes.
Laundry Cover.	In some circumstances.	Yes - if Act applies.	Yes.
30-day Price Protection.	No.	No.	Yes - with conditions.
Technical Support.	Some Manufacturers supply a help line on some products.	No.	Yes - 30 days of support via phone.
24/7 online claims lodgement.	No.	No.	Yes.
Rights transferable on private sale.	Yes.	Rights against Manufacturer - Yes.	Yes - multiple times. We are advised.

Provide further clarity around universal protection versus unique selling offers through comparative information.

## Know What's Protecting You

Law	Master Builders 10-Year Guarantee	Jennian Homes
✓	✓	✓
✓	✓	✓
✓	✓	✓
✓	✓	✓
	✓	
	✓	✓
		✓

EMPLOYMENT NEW ZEALAND

## Know your employment rights.

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MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT  
New Zealand Government

The employment rights sector can be used as a case study for empowering content for consumers

# 12 month defect period: A Summary

## BARRIERS

- It is often attributed to the Master Builders organisation and brand, or to private building companies.
- There is a lack of knowledge of the details of what's covered.
- Builders are concerned that for most of the cosmetic defects, it's largely subcontractors (tilers, painters etc.) who need to go back and fix the defects, yet it's builders who are responsible.
- Limited recourse if the builder is no longer able to fix the problem (absent, insolvent).

## AWARENESS

Amongst homeowners, there is an awareness that, for the most part, builders will come back and fix defects. Yet this knowledge is not always attributed to the 12-month defect period consumer protection.

## EFFECTIVENESS

People feel confident that their builder will go back and fix defects if they were to happen.

Of those who have had something go wrong 14% stated that they used the 12-month defect period. It is worth noting that some homeowners may be getting worked fixed by their builder without attributing it to the 12 month defect period, rather they attribute it to directly to the builder/building company.

## OPPORTUNITIES

- Increase awareness and education amongst homeowners of the 12 month defect period and what it covers.
- Consider avoiding misrepresentations and/or misattribution of the defect repair period by building awareness of the defect period as a legal protection regardless of which builder you are with.
- To support builders who are implementing the defect period, consider broadening the role and responsibility of sub-contractors and architects in delivering to this measure.

*“Some light switches weren't in the right places and our carpark wasn't where we had signed for it to be... We asked them to sort it out and it took a while, so we were getting ready for a big battle on that, but they seem to have resolved it now.”*

- BOUGHT OFF THE PLANS

# 10-Year implied warranty: A Summary

## BARRIERS

- There is a lack of knowledge of the details of what's covered in the warranty.
- It is often attributed to the Master Builders organisation and brand, or to private building companies.
- Builders are concerned that the warranty is only as good as product warranties, the sub-contractors using it and based on what the architect specifies. All of which are often out of the builders' control. This makes it difficult for builders to implement and follow through on the warranty.
- Limited recourse if the builder is no longer able to fix the problem (absent, insolvent).

## AWARENESS

There is a high awareness of a 10-year warranty, but it is not known as universal protection. There is shallow awareness – people have heard of it, but they do not know the details of what it covers, and it is largely attributed to the Master Builders organisation or to private building companies.

## EFFECTIVENESS

People feel confident that their builder will go back and fix large structural issues if they were to happen.

Of those who have had something go wrong 5% stated that they used the 10yr warranty. It is worth noting that some homeowners may be getting worked fixed by their builder without attributing it to the 10 year warranty, rather they attribute it to the Master Build 10-Year Guarantee or directly to the builder.

## OPPORTUNITIES

- Increase awareness and education amongst homeowners of the 10 year warranty and what it covers.
- Consider avoiding misrepresentations and/or misattribution of the warranty by building awareness of the warranty as a legal protection regardless of which builder you are with.
- To support builders who are implementing this warranty, consider broadening the role and responsibility of sub-contractors and architects in delivering to this measure.

*“They're using it as a selling point.”*

- FIRST HOME BUYER, BUILDING A STANDALONE, AUCKLAND

*“Is Master Builders associated with the government?...I paid \$350 to transfer the Master Builders warranty to my name, I would have like to have known that I was already covered [by the 10-year implied warranty].”*

- SUBSEQUENT BUYER, AUCKLAND



**Bringing it  
all together**

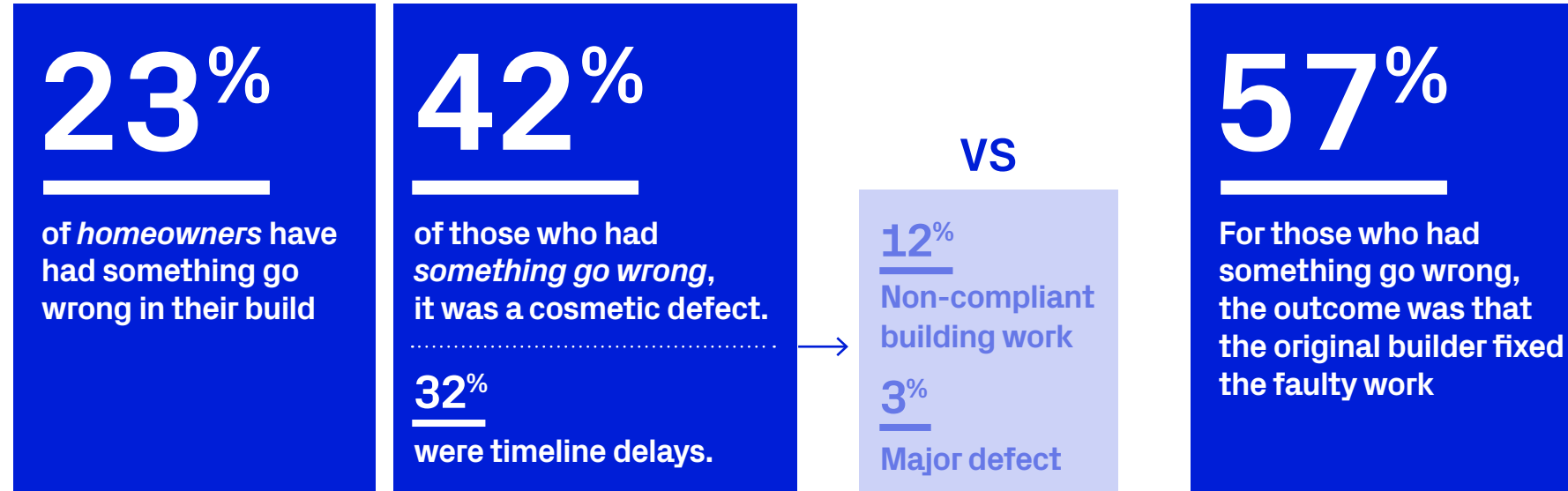
**4**

**TRA**



# Most of the time, things are not going wrong.

When they do, they are often cosmetic defects and timeline delays; and the builder is likely to fix the issue.



SEGMENT 1A/ 1C/ 1D/2 Did anything go wrong during the build/ renovation process to do with the builder/ building company? For example: failed council inspections, payment or timeline issues, building or cosmetic defects  
 SEGMENT 3 After moving into your new home did you find anything wrong with the build? For example: poor quality workmanship, cosmetic defects, major defects Base: Those that have built or are building n=50, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65, subsequent owners n=78, builders n=92

SEGMENT 1A, 1C, 1D What were the challenges you faced as part of the build?  
 SEGMENT 2 What were the challenges you faced as part of the renovation?  
 SEGMENT 3 What were the challenges you faced as a result of the build?  
 Base: Those that have had an issue n=65

What was the outcome?  
 Base: Those that have had something go wrong n = 56

# But not all of the measures are connecting with people in the way they were intended

1

Shallow awareness and a 'blind trust' in the measures

2

Measures are often attributed to private companies

3

Homeowners are not not always receiving or engaging with preventative measures

(disclosure statement, prescribed checklist and contracts)

4

Dispute measures are seen only as a last resort, rather than an option to help progress the build

5

Builders feel sole responsibility to implement the measures

With a changing building context, the time is right to ensure protection measures are doing their job effectively and are evolving to meet changing needs.

# There are some specific considerations for the existing formal protection measures

- 1 Prescribed checklist**

  - Consider including developers as a provider of the checklist.
  - Reconsider the current format and include relevant variations for homeowners completing renovations and those buying off the plans.
- 2 Disclosure statement**

  - The disclosure statement is not currently being used as a early stage due diligence measure. Consider providing information about builders earlier in the build process when homeowners are deciding between builders.
  - Consider providing subsequent providers with some of the prescribed information that can be found in the disclosure statement as a 'provision of prescribed post-build information' so they are fully informed of what is protecting them.
  - Consider including developers as a provider of the disclosure statement.
- 3 Contracts**

  - Consider options for providing protection for work under \$30k such as encouraging the use of contracts for work under \$30k.
  - Increase awareness of mandatory contract requirements for building work over \$30k.
  - Ensure homeowners understand their contract and that they are confident to amend or update unfavourable clauses with support from a lawyer or trusted advisor/information.
  - Explore options that will provide further protection or support for homeowners that are purchasing from developers. In particular, those who are being negatively affected by the sunset clause.
- 4 12 month defect period**

  - Consider the role and responsibility of sub-contractors and architects in delivering to this measure.
  - Consider how to prevent misrepresentations and/or misattribution of the defect repair period.
- 5 10 year warranty**

  - Consider the role and responsibility of sub-contractors and architects in delivering to this measure.
  - Consider how to prevent misrepresentations and/or misattribution of the defect repair period.
- 6 Dispute resolution mechanisms**

  - Adjust the role of dispute mechanisms (or add additional services) to help get the build back on track, rather than a last resort for major issues at the end.
  - Consider using disputes data as a public record to help homeowners with due diligence.

# However, it's not just the protection measures, but how we implement them for people.

Complex, emotional, overwhelmed people

## PEOPLE-CENTRIC POLICY IMPLEMENTATION

### MBIE CONNECTING WITH HOMEOWNERS



### SUPPORTING THE BUILDER- HOMEOWNER RELATIONSHIP



### MBIE'S ROLE AS A REGULATOR WITH OVERSIGHT



# However, it's not just the protection measures, but how we implement them for people.

Complex, emotional, overwhelmed people

## PEOPLE-CENTRIC POLICY IMPLEMENTATION

### MBIE CONNECTING WITH HOMEOWNERS

- 1 Empower homeowners with knowledge
- 2 Make it engaging – emotive, visual and salient
- 3 Moments and messengers that matter

### SUPPORTING THE BUILDER-HOMEOWNER RELATIONSHIP

- 4 Setting up good communications right from the start
- 5 Correct the trajectory when things start to go wrong

### MBIE'S ROLE AS A REGULATOR WITH OVERSIGHT

- 6 Protect all homeowners
- 7 Support for both homeowners and builders

## Empower *homeowners* with knowledge

**Homeowners are empowered when they learn what's there to protect them by law. Let them know what is their legal right.**

In particular:

- Help connect the dots between the formal consumer protection measures as universal rights rather than selling points through private providers.
- Empowerment through oversight – show homeowners the road ahead and what key measures are there to protect them each step of the way.
- Make this knowledge practical. Show people how to refer to and use the formal protection measures and their contract throughout the build.

## Make it engaging – emotive, visual and salient

**Homeowners are not building experts, they are busy, over-whelmed and affected by their emotions. Connect with them in a way that acknowledges their situation.**

In particular:

- Make it visual and engaging. Diagrams and colour get cut through in amongst a sea of paperwork.
- Tap into stories and emotions. People connect with them, and they are memorable.
- Make it salient through awareness building activities – campaigns, searchable through SEO, using key channels and external providers to spread the message. Consider key websites and key pages on those sites that can drive awareness of the information we're trying to get across.

## Moments and messengers that matter

**Show up in their world by connect during key moments and through their trusted network.**

In particular:

- Leverage key moments when people are poised to connect with the protection measures and tools at key parts of the process. For instance, during the design phase when they're going to show homes and home shows, getting out Kiwisaver, walk throughs, inspections, progress payments.
- Leverage existing networks and groups to collaborate on content or to help provide guides and content by MBIE. Builderscrack.com, mortgage brokers, lawyers, real estate agent and lenders are all providers who can help provide key content to homeowners when it counts.
- Supporting builders with content to provide their customers with, as homeowners rely on their builder as a key source of information and guidance.



## Setting up good communications right from the start

*“It’s all about good communication and managing expectations. If you get that right then you can overcome bumps in the road.”*

- BUILDER

In particular:

- Encourage a pre-build kick off where the processes can be set up for success and homeowners’ expectations can be set.
- Encourage clear and regular communication including regular updates for homeowners who are less involved (i.e. those buying off the plans).
- Help set clear expectations around variations and documentation of agreed changes.
- Information all in one place information – shared access to plans, timelines and agreed variations so everyone is singing off the same song sheet.

## Correct the trajectory when things start to go wrong

**Rather than a back-stop, there are opportunities to use the formal consumer protection measures to redirect the trajectory when things start to go wrong.**

In particular:

- In the first instance, setting up a contract at the start is best practice. However, for those who do not have a contract in place there is value in showing them that they are protected by the implied terms. In particular, showing them how to refer to the implied terms to get them and their builder back on track.
- Similarly, for those who do have a contract in place, they do not always have awareness of the specific contract terms or lack confidence in referring to them if a problem arises. Show that the contract is something that can be referred to when things start to go wrong (with support from their lawyer / trusted advisor).
- For both homeowners and builders, dispute mechanisms are seen as formal, timely, costly and a last resort. Reframe current mediation services as a way to get things back on track and consider providing additional services and content for when things start to go wrong. Set the content and services up as a way to progress forwards.

## Protect all homeowners

### There are some key differences between the different homeowners that we need to take into account

In particular:

- Protecting those that have a lower risk perception and are less likely to put a contract in place - namely, renovators.
- Protecting those who are buying apartments and townhouses off the plans from developers. They have less access to the site and some of the formal preventative consumer protection measures don't apply to them (prescribed checklist, disclosure statement and minimum standards for sales and purchase agreements).
- Subsequent buyers are less involved in the build process, therefore, ensure they still have awareness over formal measures that can protect them should an issue arise.

## Support for both homeowners and builders

### Support builders to manage their responsibility by providing them with direct support and awareness of their obligations. Support for builders also comes in the form of managing expectations and awareness of homeowners and other players in the system so that it is easier for builders to implement the consumer protection measures.

In particular:

- Support builders for their current obligations by firstly raising their awareness of their responsibilities (in particular, the prescribed checklist and disclosure statement) and provide support to make it easy to implement consumer protection measures (for instance, make it easy for builders to set up a small job contract, communication tools).
- Help builders by managing homeowner expectations and lay the ground work for builders to be able to implement consumer protection measures. For instance, making homeowners aware of the impact of variations and product choices, helping homeowners see the value in small job contracts.
- The decisions and actions of other players in the system (architects, sub-contractors) impact builders' ability to meet their obligation. Help builders by increasing other players' awareness of the consumer protection measures; and consider options that can increase their responsibility.

# Ngā mihi

# Additional data

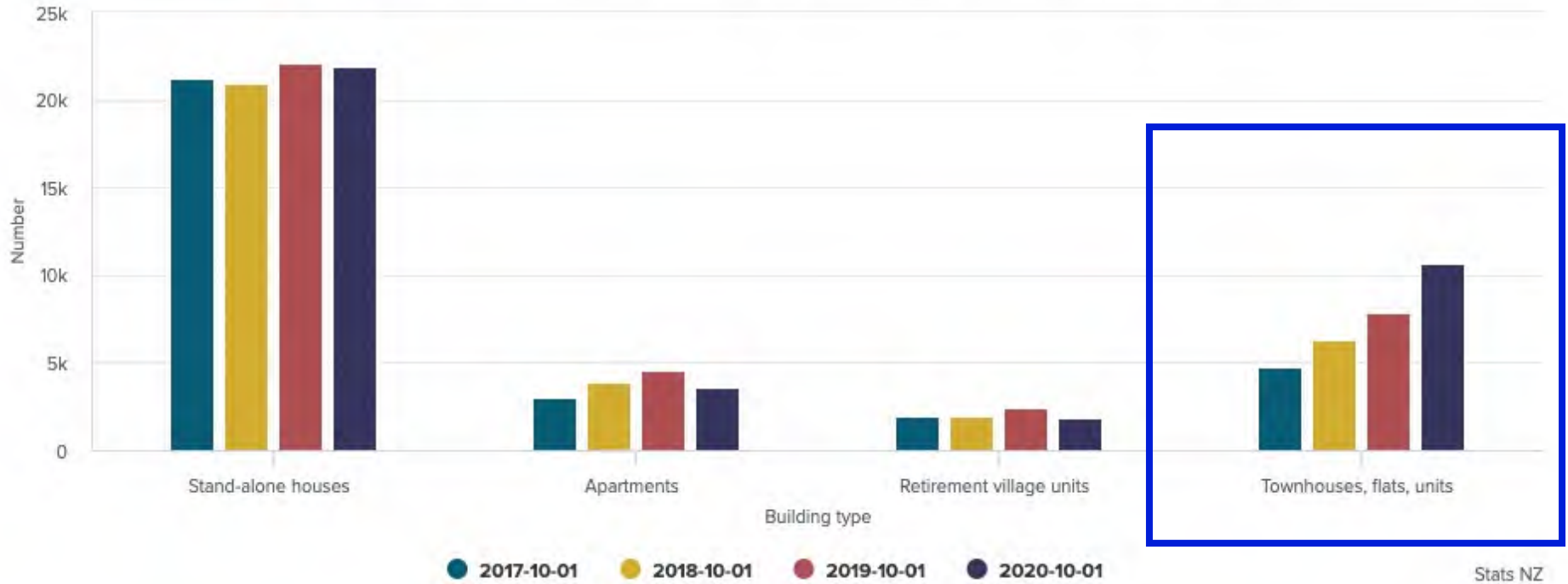
*Please also see full quantitative  
report for additional data*

**TRA**

GRAPH

TABLE

**New homes consented by building type, year ended October 2017–2020**

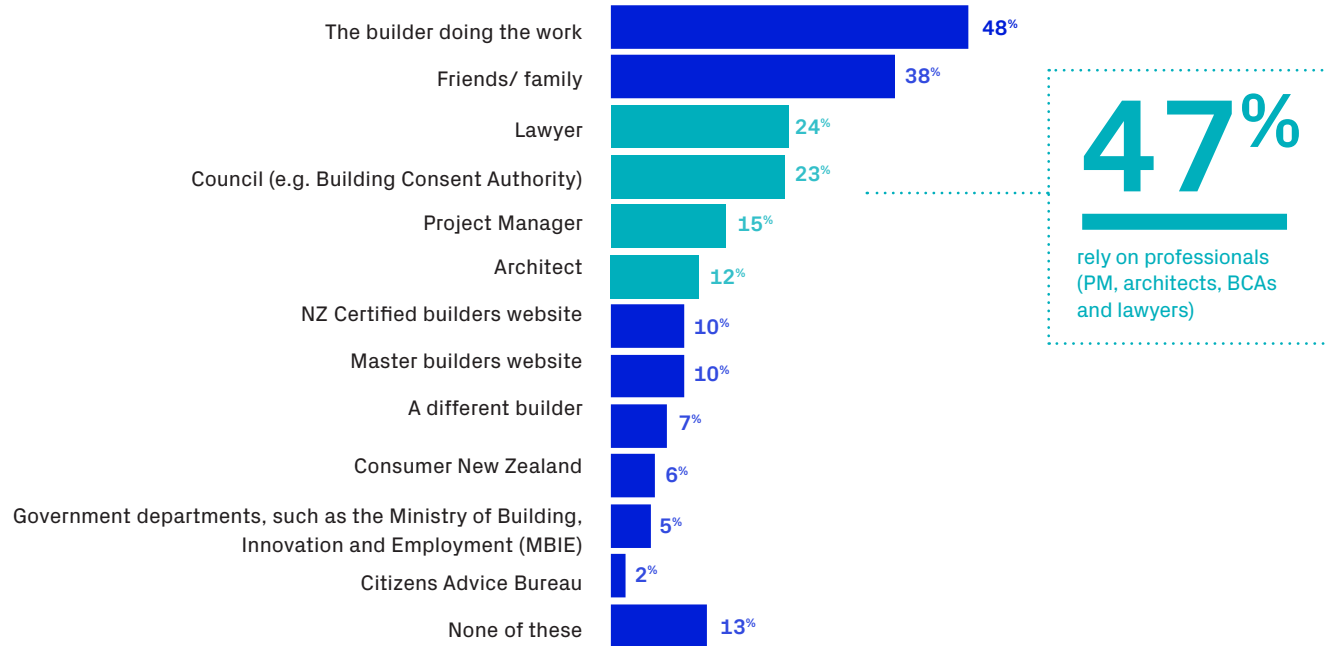


<https://www.stats.govt.nz/news/46-year-high-for-new-home-consents>

# Homeowners are turning to informal sources for information on their build

These builds are increasingly built by large building companies and developers who have formalized processes and are vigilant about putting contracts in place.

## INFORMATION SOURCES



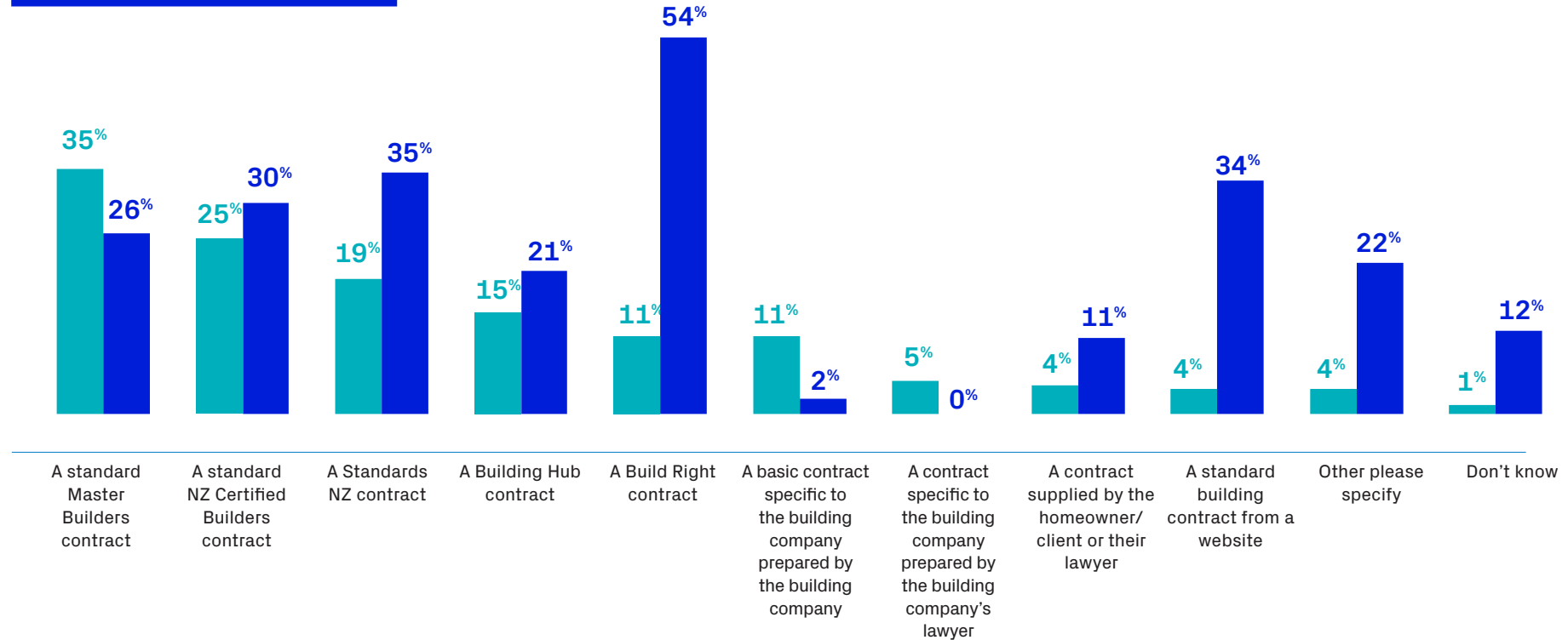
Please select the sources of information you have used during your building or renovation process? Base: Those that have built or are building n=50, those that bought from a developer/ on-seller n=34, major renovations n=54, minor renovations n=65



# There are differences in the type of contracts being used by homeowners and builders

This may be due to lack of knowledge of what type of contract is being put in place

## TYPES OF CONTRACTS IN PLACE



If you had a contract in place, what best describes the written contract: Base: Those who had a contract in place n=170

# When homeowners have an issue, many get the builder to fix it – but 1 in 5 are still doing nothing about their problem

## ACTIONS TAKEN TO REMEDY PROBLEMS



What did you do about the problem? Base n = 56