

Introduction

Current initiatives to reform different aspects of the Building Consent system are welcomed but are being dealt with in separate silos. An integrated approach is needed to ensure that reforms are complementary.

This is an opportunity to rethink the entire consenting system from the ground up in the context of rapidly evolving technologies that are already impacting on the construction sector. It is disappointing that this consultation is limited to two approaches for remote inspections: ‘real time remote’ and ‘evidence-based’. There is no consideration given to the use of AI or other innovations that could completely change the way inspections occur. The overall thrust of the proposal – and its inherent weakness – is the intent to create remote inspection as a substitute for face-to-face inspection; the discussion document (and the questions asked in the submission form) are simply a mapping of remote techniques onto a physical process. This misses the opportunity to examine the reasons for the inadequacy and possible failings of the current system. Remote inspections are presented as a solution to a problem that has not been adequately explored or defined.

The current project looking at the structural reform of the consenting system might be exploring and defining the problem, but it is doing so in isolation and unconnected with this proposal for remote inspecting. It is possible that once the structural reform work is completed, the outcome could be that face-to-face inspecting can – and should – be transformed and that remote inspecting increases risk and should not be done. Meanwhile, this consultation could result in remote inspecting being implemented. The cart rolls down the road while the horse sleeps soundly in the stable.

The sector is already embracing Construction 4.0 and is foreseeing an industry that embraces the best digital tools and processes to improve efficiency in construction and address climate change. An excellent example of this is HERA’s Endeavour Fund proposal, ‘Design and comply: novel AI systems to lift construction sector performance’, which includes development of machine vision for remote inspection.

Innovation is not solely the responsibility of the private sector; if it can occur in design offices and on site, then it must also be done in the offices of regulators and BCAs.

Imagine a collaborative consenting system that includes:

- The creation of a digital twin is created at the BCA when a building consent is approved – updated every time there is a change on site.
- Inspectors with advanced digital training and deep knowledge in their area of construction expertise, working in a high-tech digital suite;
- They may not be located in the same territory as the project – they might even be overseas...
- The person holding the device (it could be a camera, but it might not be...) is not the contractor but an independent videographer/data collector, trained in video techniques but also in the building code and consenting – possibly an experienced apprentice or a graduate engineer or architect.
- This data collector spends each day driving from site to site on scheduled appointments (or perhaps, even on demand!) and acts as the key – independent – liaison between the contractor on site and the inspector in their digital suite.
- Digital data (video and that collected from sensors) is captured in each of these onsite visits.

- The captured data is fed into the digital twin, providing a real-time as-built record of the project.
- The captured data is also processed using AI to develop a dataset of common problems – to the specific site (for referral on the next visit) and also those common to other projects, enabling continuous improvement to the processes managed by the BCA and also to future construction projects.

Using a digital lens to re-imagine consenting could lead to considerably greater efficiencies, not only for remote inspecting, but also to the whole consenting system.

Consultation Questions

Introduction

The primary objective of the options in this consultation is to improve the efficiency and timeliness of building inspection processes, to make it easier, cheaper and faster to build.

Outcomes and criteria

- System is efficient
- Roles and responsibilities are clear
- Requirements and decisions are robust
- System is responsive to change

Please refer to page 7 of the discussion document for full detail.

1a. Do you agree these are the right outcomes/criteria to evaluate the options?

Consistency and reform across BCAs are essential to improve productivity and ensure a reliable inspection framework.

1b. Are there any others that should be considered?

To achieve better outcomes, the following criteria should be addressed:

- Risk Profiling: High-risk projects, such as architecturally complex homes, multi-unit complexes, or remedial projects, may not suit remote inspections due to their complexity.
- Liability Concerns: Any missed defects during remote inspections, leading to litigation, must be considered under the current joint and several liability framework. BCAs rely on LBPs for accurate defect identification, yet even face-to-face inspections miss items, increasing risks with remote methods.
- Quality Assurance: Incorporating QA evaluation into policy reviews is critical, as projects with robust QA plans generally have fewer inspection failures.
- High-Trust Risks: In multi-unit projects, remote inspections could risk non-compliant units passing as compliant, particularly with group home builders. This necessitates scrutiny to prevent substitution of standards.

The system must clearly differentiate between inspections suitable for remote review and those requiring in-person visits, ensuring flexibility for appropriate on-site inspections.

In plumbing and drainlaying, the lack of robust qualifications at the BCA level limits the ability to meet industry requirements.

Adding “quality building work and building practices are supported” as a priority is crucial.

Assuring "as-built" quality benefits everyone. Current quality checks focus on compliance with the Building Code and standards through the product assurance framework and consenting process. Tools like BRANZ's *Artisan* enhance quality and productivity by:

- providing quality assurance for buildings,
- supporting higher levels of workmanship,
- providing a permanent record of evidence for each build,
- reducing the time to build by improving build teams' understanding of what BCAs look for,
- reducing rework, and
- speeding up inspections.

The options included in this consultation focus only on the final bullet point 'speeding up inspections'.

The Building Act 2004 provides a framework for confidence in building quality through consenting and inspection steps. Currently, BCAs ensure work quality, but a systemic shift is needed. The responsibility should lie with builders to provide evidence of quality throughout the process. Documenting quality and workmanship during construction would make inspections and code compliance certification more efficient, reducing delays and enhancing productivity for all stakeholders.

It is important that this system distinguishes clearly between inspections that are suitable for remote inspection, and those that require an in-person site visit. A remote inspection system should allow for in-person inspections where appropriate.

There is a concern that the process of reform is unrealistic in both the extent of, and speed at which, an effective remote inspection regime can be implemented; there is a risk of too much, too fast and too disconnected. The Regulator is encouraged to take a measured approach to all aspects of reform of the building consenting system, including remote inspections.

The opportunity exists to trial and/or beta test remote inspection before wider introduction. Perhaps a data-driven, pilot project could be undertaken utilising *Artisan*, which has been in use for a while.

Increasing the uptake of remote inspections

The **main benefits** of remote inspections are increased efficiency and productivity through:

- reducing the need for inspectors to travel to site
- greater convenience, flexibility and timeliness
- the ability for inspectors to carry out inspections in other districts

Remote inspections can also reduce emissions due to reduced travel and can support good record keeping practices.

Please refer to pages 9 - 10 of the discussion document for full detail.

2a. Do you agree with our description of the opportunity (i.e., benefits) of increasing the uptake of remote inspections?

The proposed benefits of increasing remote inspections appear limited. While improving efficiency in building inspections is encouraging, it's important to assess whether enhancing the current system, with necessary adjustments, could achieve similar or better time and cost savings compared to increased remote inspections.

Successful adoption of remote inspections requires improved LBP training, accreditation, and robust Quality Assurance (QA) measures. Without these, risks such as defective workmanship, rectification costs, and litigation could outweigh the benefits. The discussion document mentions international use of remote inspections, claiming widespread adoption for lower-risk work. However, in Australia (Victoria), only non-mandatory inspections may use remote methods, and in the UK, USA, and Canada, on-site inspections remain the standard.

Remote inspections could reduce wait times, shorten project durations, and lower client costs, while enabling BCAs to share resources and increase capacity. The regulator is also exploring BCA Reform options with the construction industry, which may support these goals. Builders could integrate remote inspections into QA programs to further improve system efficiency and reliability. However, any implementation must balance efficiency gains with maintaining high construction standards and minimizing risks.

2b. Are there any other benefits? Please explain.

Evidence-based inspection tools can reduce construction time and costs while allowing specialists to certify their work independently. These tools enhance quality assurance and practices, offering several benefits:

- Creating an enduring record of building work,
- Elevating professional standards and development,
- Building trust within the sector,
- Identifying and addressing common non-compliance issues,
- Providing consistent guidance, and
- Standardizing inspection practices.

This approach supports efficiency, accountability, and improved outcomes across the construction industry.

3. For builders/sector: What savings and costs have you experienced with remote inspections? Do they differ depending on whether a remote inspection is real time or evidence-based?

During COVID, remote inspections ensured projects progressed, particularly in Auckland, where most were for foundation pre-pour stages reviewed by engineers providing PS4 reports. These evidence-based inspections, relying on engineer certification, could be more widely adopted. However, findings from Auckland Council's remote inspection pilot using Zyte revealed increased inspection times, with inspectors requiring 10-12% more time due to the lack of peripheral scanning. While effective during COVID, this highlights the need for improved tools and processes to streamline remote inspections further.

Quantifying the time and cost savings from remote inspections remains challenging, but real-time inspections are generally more efficient for builders. Evidence-based inspections often require more effort to gather, organize, and submit evidence, potentially duplicating work for re-inspections. Remote inspections are not yet widely used, making it difficult for BCAs and accredited organizations to accurately assess costs and benefits.

Building consent costs are unlikely to drop significantly due to remote inspections. Surveys indicate that only 40% of BCAs have remote inspection capabilities, with just 3% offering them to all builders, 33% to some, and 66% not using remote inspections at all. Most BCAs would need to invest in remote inspection technology, train staff, and conduct audits to ensure robustness, with these costs likely passed to consent applicants. While remote inspections may improve efficiency over time, significant investments and adoption challenges remain before widespread implementation is feasible.

MBIE should recognize that remote inspections aren't always faster or cheaper than traditional methods. Real-time video-based remote inspections can be time-consuming due to technical issues, lack of geospatial awareness, detailed discussions, and difficulty assessing compliance without being physically present. Guiding on-site personnel to identify compliance can increase inspection times and sometimes reduce quality.

BCA staff may need additional time to review remote photos or videos to determine compliance, which can offset time savings. The suitability of evidence-based or real-time video inspections should be evaluated case by case for their potential time and cost savings.

Physical inspections remain essential, as BCAs still require vehicles to attend sites, limiting cost savings. On-site inspections also allow inspectors to view the site holistically, identifying broader compliance issues or unrelated unlawful activities that might otherwise go unnoticed with remote methods. Remote inspections risk reducing this broader oversight capability.

4. For builders/sector: Do you have any concerns about taking part in remote inspections (whether real time or evidence-based)?

Concerns about remote inspections are based on data from Auckland Council, where current inspection fail rates are approximately 24% of 225,000 annual inspections, primarily for residential projects involving LBPs. A comparison of fail rates between December 2020 and December 2021 reveals disparities: face-to-face plumbing and drainage inspections failed at 11.53%, while Artisan remote inspections failed at 5.62% and Zyte video inspections at 8.41%. The lower fail rates for remote inspections may indicate that more non-compliance is missed during these inspections.

Face-to-face inspections allow inspectors to observe site-wide conditions, such as untidy or unsafe environments, which may indicate broader quality issues. Remote inspections lack this holistic oversight, increasing the risk of defects going undetected. These risks could lead to significant costs from defective or substandard work, raising concerns among industry professionals who have witnessed the impacts of the leaky building crisis and defective earthquake repair claims in Canterbury.

Technical issues, such as app performance or poor mobile coverage, further complicate the reliability of remote inspections. While remote methods may offer some efficiencies, the potential for missed defects, increased risks, and subsequent failures highlights the need for caution and

robust systems to ensure quality and compliance. The profound effects of building defects on families and communities underscore the critical importance of rigorous inspection processes.

Key barriers and risks of remote inspections

Key risks of remote inspections include:

- Building safety and performance
- Dishonest practices
- Liability concerns
- Trust in build quality

Please refer to page 11 of the discussion document for full detail.

5a. Do you agree these are the main risks associated with increasing the use of remote inspections?

Evidence-based inspection systems mitigate liability risks by providing enduring work records, comparable to in-person inspections. They promote consistent practices across BCAs, reducing variability. However, differing practices between BCAs and individual inspectors remain a potential risk, highlighting the need for standardized approaches to maximize the benefits of these systems.

5b. Are there any other risks that should be considered? If yes, please explain.

Remote inspections pose risks under health and safety law (HSWA), as inspectors may inadvertently encourage risky behaviour, such as climbing ladders or accessing hazardous areas, potentially breaching their duty of care. Challenges also include language barriers, timing issues, and technological limitations. In areas like Auckland, where many builders speak English as a second language, having someone on-site who understands technical aspects and can communicate effectively is essential.

Additionally, if risks associated with remote inspections materialize, they could harm trust in the industry more than the savings achieved. Technological issues, such as poor mobile coverage or app performance, further complicate the process, making effective implementation difficult. While remote inspections offer efficiencies, these risks must be carefully managed to avoid undermining confidence in the inspection system and the industry as a whole.

Personal confrontation is a risk in both onsite and video-based inspections. This risk can be lessened with evidence-based inspections, as they enable builder-BCA collaboration and strengthen a culture of continuous improvement.

If BCA control over inspection quantity, type, and quality diminishes while liability remains unchanged, BCA liability must be appropriately ring-fenced. Accredited organizations conducting inspections for BCAs would also require liability protections. A key concern is the increased risk to

homeowners, whose only recourse may be through the Courts—a system that has historically failed them.

The potential impact of remote inspections on insurance availability for BCAs, accredited organizations, practitioners, and homeowners must be addressed. Insurers may prefer the added quality assurance of on-site inspections by independent bodies. Additionally, banks, relying on Code Compliance Certificates for quality assurance, could impose extra inspection requirements or raise financing costs to offset perceived risks of remote inspections.

6. Are current occupational regulation and consumer protection measures fit for purpose to manage risks associated with higher uptake of remote inspections? If not, what changes would be required?

The proposed measures offer minimal consumer protection and risk increasing defective workmanship or buildings with the introduction of remote inspections. The following additional safeguards should be implemented regardless of remote inspections:

- Enact a new law, similar to Canada’s ‘Homeowners Protection Act’, to support homeowners with defective works and remediation, funded via levies on Building Consent applications.
- Enhance training and accreditation for LBPs.
- Mandating insurance-backed warranties for all building works, and Professional Indemnity Insurance for LBPs conducting remote inspections, is advocated for. In the absence of a local insurance market to provide residential builders with these products, 10-year guarantees such as those provided by Halo and Master Build through New Zealand Certified Builders and Registered Master Builders Association respectively should be mandated, they provide the residential consumer with a product that covers workmanship and material defects.
- Shift from joint and several liability to proportional liability.
- Require indemnity insurance for LBPs conducting remote inspections.
- Shift from joint and several liability to proportional liability.

Accreditation for companies with mandatory insurance schemes should be required to ensure consumer protection. Evidence-based inspections can improve liability resolution by providing proof of workmanship, but BCAs need ring-fenced liability reflecting reduced oversight in remote inspections. BCAs should not bear liability for false or non-complying evidence submitted remotely, nor should accredited organizations conducting inspections on BCAs’ behalf.

Without these protections, costs will increase due to practitioner deception and the need for prosecutions, adding unnecessary compliance burdens. MBIE may face higher costs processing additional determinations, further straining resources. These compliance costs must be recoverable to avoid burdening BCAs and practitioners.

Builders must meet minimum requirements for remote inspections:

- The site-responsible builder should hold LBP Site (2 or 3) registration, reflecting appropriate qualifications and providing consumers with a trusted quality mark.
- Builders must demonstrate a proven track record of quality workmanship to BCAs before being offered remote inspection options.
- Designers must hold mandatory Professional Indemnity (PI) insurance.
- Builders must hold PI insurance or provide a 10-year building guarantee to ensure accountability and consumer protection.

Options to increase the uptake of remote inspections and improve efficiency of inspection processes

Option One: Review remote inspection guidance, address failure rates and/or publish wait times (non-regulatory) (Pages 12 – 13 in discussion document)

Option Two: Require building consent authorities to have the systems and capability to conduct remote inspections (Page 13 in discussion document)

Option Three: Require building consent authorities to use remote inspections as the default approach to conducting inspections (Pages 13 – 14 in discussion document)

Option Four: (complementary option): Create a new offence to deter deceptive behaviour (Page 14 in discussion document)

7. Which option(s) do you prefer? Please explain why by commenting on the benefits, costs, and risks compared to other options.

Response to Option 1

Option 1 should be implemented first to lay the foundation for Option 2, allowing BCAs to gather critical data before investing in technology and systems. More clarity is needed on whether BCAs would still be required to invest in remote inspection capabilities under Option 2, even if they don't plan to conduct remote inspections.

BCAs will need time to invest in technology, train staff, and develop policies, making a rushed implementation unfeasible. Comprehensive guidance is essential, including how to book remote inspections, expectations during inspections, and roles for practitioners operating the camera. Phased implementation ensures better preparation, minimizes risks, and facilitates the effective rollout of remote inspection systems.

Response to Option 2

Option 2 is preferred by some members as it allows BCAs to take a risk-based approach in determining when remote inspections are suitable. A risk matrix, similar to the E2 matrix, could help assess project risk using a scoring system. This would allow the applicant and BCA to collaboratively decide when remote inspections are not applicable.

If implemented, a national framework administered by the government could ensure consistency and reduce BCAs' implementation costs. Tying this framework to the LBP scheme and registers would also help monitor poor practices among LBPs.

Option 2 provides councils the flexibility to conduct remote inspections while maintaining the discretion to require in-person inspections when necessary. This flexibility allows BCAs to adapt to their specific environments and risk profiles. For example, rural areas with connectivity issues could

exclude certain regions from remote inspections. Additionally, BCA insurance underwriters could establish criteria, giving BCAs the flexibility to adjust settings based on these requirements.

Response to Option Three

Option 3 is overly prescriptive, as the Building Act doesn't mandate inspections. Mandating remote inspections would shift responsibilities significantly, requiring BCA liability to be ring-fenced. Compliance determination by BCAs must remain, ensuring inspection standards aren't reduced.

Response to Option 4

Option 4 is partially supported due to insufficient penalties for deceptive behaviour currently. Prioritizing robust training and accreditation is essential. A balanced approach could combine penalties with incentives, such as discounted inspection fees for consistent compliance, reducing costs and promoting good practices. A tiered rating system (e.g., 1–5 stars) reflecting builder quality would enhance consumer confidence, foster accountability, and elevate industry standards.

8. Are there any other options we should consider?

Improving efficiency and quality in construction offers long-term benefits but may increase short-term costs. Enhanced training and accreditation for LBPs, similar to Canada's 'Homeowner Protection Act', could lead to greater consumer protection and fewer construction defects. The following options should be considered:

- Introduce a new Act to support homeowners with defective works and remediation, funded via levies on Building Consent applications.
- Mandate training for LBPs, emphasizing quality management demonstrated within Building Consent applications.
- Implement incentive-based rewards for LBPs delivering defect-free projects, with a rating system integrated into the existing LBP register to showcase performance.
- Require training in business and financial management for LBPs, reinforcing that penalties must align with improved education.
- Allow self-certification for plumbing and drainlaying with mandatory digital record-keeping.
- Amend Option 2 to require BCAs to have quality assurance systems and the capability to conduct evidence-based remote inspections.
- Require building companies to use quality assurance systems throughout the construction process to provide evidence of Code compliance, integrated through the 'Licensed Building Practitioner Rules 2007'.

These measures, though initially challenging, could create a more efficient, accountable, and higher-quality construction sector.

Option One: Review remote inspection guidance, address failure rates and/or publish wait times (non-regulatory) (Pages 12 – 13 in discussion document)

9. What can be done to help reduce inspection failure rates?

To reduce inspection failure rates, several actions are essential:

- **Enhance LBP Training and Accreditation:** Include education on building science, the Building Code and Act, and business and financial management. Improved competency is critical to reducing failures.
- **Ensure Quality with Remote Inspections:** If remote inspections become mandatory and failure rates rise, quality has dropped. If failure rates drop, defects might be missed unless training and accreditation improve simultaneously.
- **Effective Education:** Industry training on reasons for inspection failures, ensuring practitioners understand thresholds and meet standards. BCAs must apply regulations consistently and fairly.
- **Deterrents for Poor Performance:** Councils should have the authority to revoke remote inspection privileges for frequent failures or impose severe fines for deceptive practices.

Access to remote inspections should require conditions such as LBP Site certification and BCA endorsement. Reliable data is also necessary to track failure rates accurately, as some councils fail inspections by default until the final inspection, skewing statistics.

Evidence-based remote systems could improve workmanship from the start, enabling real-time intervention and reducing rework and failure rates. However, over 50% of current inspections fail, mainly due to low practitioner competency. BCAs need authority to mandate physical inspections for complex, high-risk, or frequently failing work.

The high failure rate, even in simple builds, inflates homeowner costs unnecessarily. Clear liability recovery processes are crucial to mitigate risks in remote inspection scenarios and maintain construction quality.

Option Three: Require building consent authorities to use remote inspections as the default approach to conducting inspections (Pages 13 – 14 in discussion document)

10. What inspections could generally be conducted remotely with confidence?

Most inspections could be confidently conducted remotely if the build and consenting teams use evidence-based tools, with some exclusions. Inspections should be guided by a risk matrix, allowing BCAs discretion to determine the need for remote or face-to-face inspections based on project risk and the LBP's track record, irrespective of complexity.

Certain inspections, such as those involving PS4 observations and certifications, may be better suited to evidence-based remote methods. Real-time inspections could also be effective, provided the professionals involved hold relevant qualifications and insurance.

Inspections generally suitable for remote inspection include:

- Engineer-supervised builds,
- R1 projects (risk score <6),
- Low-risk R2 items,
- Codemark cladding systems (single system),
- NZS3604:2011 foundation systems,
- Product/system substitution,
- Foundation steel,
- Insulation,
- Sheet bracing pre-plaster, and
- Solid fuel heaters (with PS3).

Remote inspections are particularly practical for re-inspections requiring evidence of completion, or simple checks like ground clearance levels. A national framework could support consistent decision-making, improving efficiency and maintaining quality.

The process for inspecting offsite components (such as frames and trusses) should be included in the design of remote consenting and consideration given to this being the responsibility of the producer and the builder.

It could be argued that this is out of scope for this consultation on remote consenting and should be included in the consultation on self-certifying; however, it is an activity or category that is, by definition, remote, and for this reason, should be addressed within this consultation. That it isn't simply reflects the wider concern that the current reforms of the consenting system are occurring separately in silos, when a co-ordinated, integrated approach would be of greater value.

11. Are there any inspections that should never be carried out remotely (e.g., based on the type of inspection or building category)? Please explain why.

Inspections requiring face-to-face evaluation should be determined based on project risk analysis. Highly complex projects, such as architecturally designed residential dwellings, multi-unit complexes, remediation work, and builds outside E2:AS1 and NZS 3604, are unsuitable for remote inspections.

The following inspections should never be conducted remotely:

- Siting
- Framing
- Pre-line
- Final

Additionally, some ground-bearing inspections may require on-site evaluation by a geotechnical engineer. Foundations inspections must always be on-site due to the significant consequences of failure. Inspections involving physical testing with calibrated equipment or requiring a full view of the building also necessitate in-person visits.

To ensure oversight, a minimum number of in-person inspections should occur at the start and completion of a build, supported by an enduring visual record. Evidence-based tools can provide this documentation, maintaining quality and accountability throughout the construction process.

Some exclusions may be needed under **Option Three**, including when:

- there is poor internet connectivity at the inspection site
- there is poor lighting or adverse weather that may impair video/photo quality
- the inspector and/or builder deem it necessary to conduct an on-site inspection to ensure critical details are not missed
- a building professional has previously been deceptive or regularly failed inspections
- building work is being carried out by an individual with an Owner-Builder Exemption

Please refer to page 13 in the discussion document for full detail.

12a. Do you agree with the proposed exclusions under Option Three?

There would be less need for the listed exclusions if quality could be assured throughout the build process and evidence-based inspection tools were used.

12b. Is there anything else that should be added to this list?

- Architecturally designed residential dwellings.
- Multi-unit residential complexes.
- All remediation projects.
- Special Engineering Difficulties (SED) that require specialised solutions and approaches.

Option Four: create a new offence to target deceptive behaviour during a remote inspection.

The offence relates specifically to *'deliberate actions to hide, disguise, or otherwise misrepresent non-compliant building work'*.

The offender would be liable on conviction to a maximum fine of \$50,000 for an individual and \$150,000 for a body corporate or business.

Please refer to page 14 in the discussion document for full detail.

13. If a new offence were to be created, does the above description sufficiently capture the offending behaviour? If not, is there anything else that should be considered?

There is significant potential for cheating and/or fraud with remote inspection. This already occurs with face-to-face inspections on building sites, and caution is advised in designing a system for remote inspection without significant and appropriate evidential requirements and security measures.

There should be consequences for deliberately misleading any inspector – onsite or remote – or falsifying evidence. They should be aligned to similar principles of the Fair Trading Act – not

intending to deceive is not a defence. It might be necessary to incorporate a way to deal with repeat offenders. The following should also be considered:

- Prevention of phoenixing of companies.
- Improved training and accreditation for LBPs. There is a level of self-awareness on the part of the LBP; however it would be unfair to subject the industry to increased penalties without setting new criteria and a higher level of compliance to be met.
- Mandatory insurance-backed latent defect warranties for all building works over a certain value.
- Offending should be dealt with via the existing complaints process administered by the LBP Board.
- Implementing additional or increased fines is not workable if the BCA is expected to take responsibility for enforcement. New Zealand has sufficient avenues for dealing with deceptive behaviour via existing legislation.

BCAs incur costs in taking prosecutions. Such costs may well offset any cost reductions arising from remote inspections.

14. Would the maximum penalty of \$50,000 for individuals and \$150,000 for a body corporate or business be a fair and sufficient deterrent?

Some do not support implementing punitive penalties. A preferred approach is to incentivise good building practices by creating prerequisites.

Others have concerns that MBIE haven't shown a strong track record of being able to enforce their own regulations. Having a robust audit process is essential to this programme.

15. Are there any other ways to discourage deceptive behaviour besides creating an offence?

To improve accountability, an incentive scheme and public register of deceptive behavior accessible to BCAs and clients are proposed. All projects should include a pre-start inspection meeting (remote inspections are suitable) where the LBP's details and track record are reviewed. While Building Consent applications include LBP information, this can change once construction begins, highlighting the need for updated reviews.

A public register of offenses would expedite LBP complaints, which currently take too long, while encouraging improved practices. The register would impact an LBP's reputation, offering clients assurances and deterring misconduct.

The regulator could implement tools to discourage deceptive behaviours, including:

- Revoking the builder's ability to use remote inspections for minor infractions.
- Reporting serious misconduct to the builder's professional indemnity insurer or guarantee provider.
- Placing high-risk builders on a public register.
- Revoking building licenses for severe violations.

Membership associations could also play a greater role in recognizing compliant operators. A public offender register, including names, offenses, and associated businesses or corporate bodies, would

promote transparency. Offenders could lose access to remote inspections, with public notification reinforcing accountability and ensuring industry-wide awareness of non-compliance.

Increasing inspection capacity through the use of Accredited Organisations (Building)

Many building consent authorities engage Accredited Organisations (Building) to carry out consent processing on their behalf, but only a few are involved in inspections.

There is an opportunity to increase inspection capacity (onsite and remote), by using these organisations to carry out more inspection work, either on behalf of building consent authorities, or by enabling owners to engage them directly.

Please refer to page 17 in the discussion document for full detail.

22. What are the benefits, costs, and risks of building consent authorities contracting more Accredited Organisations (Building) to undertake inspections?

Concerns exist about Accredited Organisations not meeting the same standards as BCAs, potentially causing inconsistent outcomes. If held equally accountable, they could effectively support remote inspections, offering productivity gains and eventually reducing consumer costs. However, involving Accredited Organisations may introduce confusion, complexity, and administrative expenses. Under current regulations, BCAs must still determine compliance, document consent variations, manage consent records, and issue Code Compliance Certificates, limiting the efficiency gains from delegating inspections to Accredited Organisations.

23. What are the main barriers to building consent authorities contracting Accredited Organisations (Building) to undertake inspections? How could these be addressed?

Concerns exist about Accredited Organisations meeting BCA standards, risking inconsistent outcomes. Holding them equally accountable could enable effective remote inspections. Establishing a robust compliance accreditation system is essential to ensure consistency and reliability.

24. Do you think that owners should be able to directly engage Accredited Organisations (Building) to undertake inspections? Please explain, commenting on the benefits, costs, and risks.

Significant policy and regulatory work is needed if owners can engage accredited organisations for inspections instead of BCAs. BCA liability must be ringfenced, as accredited organisations currently operate under the BCA's quality assurance system. Amending the Building Act to allow BCAs to rely on accredited organisation inspections without a duty of care for compliance assessment could achieve this.

25b. Are there any other issues or mitigations we should consider?

Membership organisations who have strong quality assurance programmes should be prioritised.

General Comments

26. Do you have any other general comments you wish to make?

This proposal is one of a series of proposals being drip-fed to the sector and wider public without addressing the fundamental underlying issues of liability first, or clarity around how all players are to be held accountable for their role, in relation to what they control.

The statement on page 6 that building in New Zealand is 50% more expensive than in Australia is misleading and lacks supporting data. Higher costs in New Zealand are largely due to smaller population size and limited economies of scale compared to Australia.

Additionally, the claim that it takes over 16 months to reach final inspection is unclear, as it doesn't specify whether this period starts at Building Consent application, approval, or construction commencement. This conflation is misleading since application and approval stages are unrelated to inspections. Delays often result from poor coordination and sequencing of trades on-site, which remote inspections cannot address or resolve.

Limiting the discussion to remote inspections, ignores the opportunity to incorporate quality assurance processes and mechanisms into the consenting system. Including quality assurance with remote inspections tools would have a major impact on increasing productivity and improving quality work in the sector. The discussion paper describes two approaches to remote inspections: 'real time remote' and 'evidence-based'. The two approaches have very different value propositions and opportunities for impact:

- 'Real time remote' inspections save time and travel.
- 'Evidence-based' inspections save time and travel, and demand quality work and practice.

Regulators and industry should be encouraged to expand the policy discussion here and take this opportunity to improve quality and productivity across the sector.

Having remote inspections as the default setting may introduce unnecessary risk, and face-to-face inspections will still be required depending on the risk profile for particular projects.

For the remote inspection system to succeed, BCAs must be integral to its design, have enforcement powers for misleading behaviour, and receive resources to investigate poor performance. Builders must meet specific qualifications and gain BCA endorsement to access remote inspections.

Minimum requirements for builders include:

- LBP Site (2 or 3) registration, ensuring appropriate qualifications and providing consumers with a reliable quality mark. Current entry-level LBP standards are insufficient.
- Demonstrating a track record of high-quality workmanship to BCAs before approval.
- Mandatory Professional Indemnity (PI) insurance for Designers.
- PI insurance or a 10-year building guarantee for Builders.

These measures ensure builder accountability and consumer confidence while supporting the effective implementation of remote inspections.

Expanding the focus to include quality assurance in the consenting system alongside remote inspections could significantly boost productivity and improve work quality across the sector, creating a more effective and reliable process.

To ensure effective remote inspections, inspectors must have clear authority over the process, including dictating who can take photos or videos on-site and specifying how evidence is collected. Inspectors should have the option to require real-time video inspections, allowing them to direct what is documented and how thoroughly. This control is critical as BCAs must place significant trust in building practitioners to provide accurate evidence, given that only sample work, not all on-site work, is inspected.

Practitioners may unintentionally or deliberately mislead inspectors by providing incomplete or inaccurate records. For instance, in multi-unit developments, builders might present only one compliant townhouse for inspection while hiding defects in others. BCAs and accredited organisations must have the authority to randomly select units for inspection or require all units to be inspected to prevent such practices.

While many building practitioners are skilled, others lack sufficient knowledge of Building Code compliance, posing a risk when relying on their quality assurance processes. There is no compulsory requirement for practitioners to upskill on Code changes, creating a gap in expertise when additional trust is placed in them without expert oversight. LBPs must undertake mandatory upskilling, including a remote inspection ethics module, before using such methodologies.

Some councils' remote inspection pilots have made compliance harder for contractors by requiring onerous information. Standardising LBP competencies for remote inspections, as highlighted in BRANZ's *Model Docs* research, is necessary. This would address the high number of RFIs received by this sector and ensure practitioners are prepared for the responsibilities of remote inspections.

Given concerns about unfunded mandates on local governments, setup and implementation costs for remote inspections should be funded by the building levy, which has a significant surplus. This would reduce the financial burden on ratepayers and consent applicants. Central funding could also standardise technology adoption across BCAs, ensuring national consistency and avoiding unnecessary duplication of IT systems. This unified approach would streamline processes and enhance the efficiency of remote inspections nationwide.