



Submission to:
Canterbury Earthquake Royal Commission

On:
Discussion Paper: Roles and responsibilities

From:
Waikato Building Consent Group

Waikato District Council
Hamilton City Council
Waipa District Council
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Otorohanga District Council

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EXECUTIVE SUMMARY

The Waikato Building Consent Group recommends that:

1. The Ministry of Business, Innovation and Employment should take responsibility for the development of a national policy statement that takes into account
 - Local environment
 - Regional seismic risk
 - Social and financial implications.
2. The people involved in the development of this policy need to have the appropriate qualifications, competencies, knowledge and skills. Local government involvement is desirable as they will be tasked with implementation of the policy.
3. The MBIE should take responsibility for the maintenance and development of standards and resource this through building levies and the BRANZ levy.
4. There needs to be a move away from *Practice Notes* and a stronger emphasis taken on keeping standards current and employing technical experts to develop standards.
5. Poor industry knowledge and expertise needs to be addressed without delay and resources need to be in a format that is easily accessible. Education of the industry is the responsibility of the Ministry and should be a critical part of addressing productivity.
6. The Building Act and the Resource Management Act need to work better together. Returning to a mandatory PIM is critical. Delivery timeframes for both Acts need to be consistent.
7. The MBIE needs to address the lack of ownership by the industry and introduce certification of work, mandatory warranties and sureties, and a proportional liability system.
8. Delivery of building control services needs to remain within the local BCAs so that the ease of doing business is not compromised. An enhanced status quo with greater regional collaboration between BCAs is the preferred model for the delivery of building control services.



INTRODUCTION

1. The councils of the Waikato Building Consent Group appreciate the opportunity to make a submission on the Canterbury Earthquake Royal Commission Discussion Document: Roles and Responsibilities.
2. This submission was approved by the Governance Group representing the membership Councils of the Waikato Building Consent Group:
 - Waikato District Council
 - Hamilton City Council
 - Waipa District Council
 - Matamata Piako District Council
 - Otorohanga District Council.
3. The Waikato Building Consent Group is a collaborative group of councils working to one quality assurance system across their five building consent authorities. Their goal is to deliver greater consistency of building control services across their territories.
4. The Waikato Building Consent Group does not need to appear at the hearing in support of its submission.



DISCUSSION

1. Efficacy of building regulatory framework

1.1 Are there problems with the existing building regulatory framework, identified through the experience of the Canterbury earthquakes? If so, what is the effect of these problems and are they sufficiently significant to require regulatory action?

- Although not specifically involved in the Canterbury earthquake events other than providing assistance, it is very apparent that Territorial Authorities across the country need to reassess their earthquake prone building policies.
- The general agreement at the recent *Building Law Reform* conference was that the country is poorly preparedness for dealing with seismic events. There has been a lack of action over assessing the risk posed by existing building stock. Concern was voiced that some councils do not have an effective earthquake prone building policy.
- Added to this is the fact that Territorial Authorities do not have the legal authority to force building owners to upgrade their buildings even if the need is indicated.
- In general, there are no issues with the regulatory framework other than the need for a national policy that is legislated. Such a policy should define parameters around assessing risk, and allocating timeframes for upgrading buildings. Prescribed risk assessment checklists with associated formula for upgrade timeframes would be useful, e.g. using a score system to place buildings within specific action timeframes.
- The lack of authority to force building upgrades within a reasonable time frame is a serious issue. The timeframes for achieving compliance are often too long consequently there has been little or no increase in building safety achieved. Timeframes need to be prescribed in legislation.
- The parapets and veranda roofs in the Canterbury earthquakes that caused injury and death are typical design features of commercial buildings across the country, from small towns to large cities. There needs to be a clear mandate for addressing common risks through a national policy that is part of the Building Act.

1.2 What potential solutions might address the issues (e.g. a 'national policy statement') and how might these work in practice? What would the benefits be? What might the disadvantages be?

- A national policy would be helpful, but it must be a definitive statement that is incorporated into the Building Act 2004. It would need to balance risk management and cost, taking into consideration the following:
 - Local environment
 - Regional seismic risk rather than defaulting to the risk faced by areas of highest seismic activity
 - Social and financial implications, that is, if the policy is too stringent then commercial properties in small towns would be abandoned and this would have a significant economic impact on those communities.
- The benefit of introducing a national policy would be that Councils would then have the authority to address the risks and be better prepared for seismic events if they occurred.
- The main disadvantage of a national policy is the risk to the economic viability of rural towns if the policy is too extreme.

1.3 *What are your views on the model proposed by IPENZ?*

- The IPENZ proposal of a national policy statement has merit but it needs to go further than this, it needs to be part of the Building Act and regulations. The Ministry of Business, Innovation and Employment (MBIE) should be the owner and the developer of the policy along with any associated prescribed forms and compliance or guidance documents.
- It is important that the MBIE does take into account not just the technical aspects required in the development of a policy but also the economic impact. Therefore the working party developing that policy must include representatives from local government.
- Development of technical information should be made by qualified, experienced persons who are currently working in the relevant technical fields. The assessment of risk versus economic impact must be made by persons with appropriate qualifications and current experience.

1.4 *Has the Building Amendment Act 2012 gone far enough? If not, what changes are still needed and why?*

- The Building Amendment Act 2012 has gone too far with the inclusion of risk based consenting as the industry just isn't ready for this. The industry currently lacks the knowledge and skills to deliver on legislated responsibilities without an independent third party providing the assurance that work has been completed and is compliant. While BCA regulations ensure that the technical knowledge and skills of BCA officers is regularly assessed and is maintained to a high level, the LBP licensing scheme fails to provide the equivalent for an industry that is expected to take on risk based consenting. This is a recipe for future building failure that could dwarf current weather tight homes issues.

- The Building Amendment Act 2012 has not gone far enough in holding the industry accountable for their work. Building Amendment Bill No. 4 also fails in this regard by not delivering the warranties and sureties that were marketed in the original discussion papers as providing protection for consumers against poor or non-compliant construction.
- Designers continue to stand back from certifying their work as being compliant with the Building Act and Building Code. This has been evidenced by the designers demand to change the declaration wording in the prescribed Certificate of Design Work from “certifying” to “stating” that their work complies.
- In regard to earthquake prone buildings, the current extended timeframes provide no increase in building safety. Future amendments should:
 - Clarify risk assessment and acceptable timeframes for building upgrades.
 - Take into account the economic and social costs that forced upgrades could have on a community.

1.5 What problems are there, if any, with the level of understanding of the building regulatory framework held by participants in the building sector?

- Most of participants in the building sector have no understanding of **Figure 1- Hierarchy of New Zealand Building Controls** (pp6). New entrants to the industry coming out of the polytechnics and universities also lack a working knowledge of this information. The industry is essentially ignorant of the Building Act, Code and Standards e.g. most LBPs still think NZS3604 is the Building Code.
- Until the designers understand the Building Act, Code and Standards, and produce designs that are compliant with the legislation, the current problems faced by the industry will continue. If the MBIE addresses this issue, then they will significantly improve the ability of the rest of the industry to deliver quality buildings. The current focus on appearance rather than reliable functionality sets builders up to fail. If designers cannot design code compliant buildings, how can builders use these designs to construct code compliant buildings?

1.6 What would help improve understanding of the building regulatory framework (if needed), and how should this be done? How would any costs be funded?

- The regulatory framework and its component parts needed to be communicated in a more visual format in order to make it more accessible

to an industry that the Ministry recognises as having a poor level of literacy.

- Changes also need to be made to the LBP scheme. In order for a license to be granted, proof of knowledge of the Building Act and Building Code should be required. The competency of the Licensed Building Practitioners should be certified i.e. their competency is assessed at regular intervals with proof of implementation of training. This is a minimum requirement for building officers and has resulted in improved legislative knowledge, competency and delivery of their services. If the same expectation was made of the industry, the quality of buildings would improve and the amount of re-work (currently 31% of projects) would fall, resulting in improved productivity across the sector.
- MBIE now has a register of LBPs and therefore has the beginning of the framework that could be used to set in place the education and certification of LBPs. The funds for this should come from the Building consent levies.

1.7 Do the Building Act and the Resource Management Act work effectively together to ensure an efficient consenting process, while balancing any appropriate competing objectives? If not, how can this be improved?

- The Building Act and the Resource management Act do not work well together. It makes no sense to move building consent timeframes from 20 days to 5 or 10 day timeframes for some categories under risk based consenting when an application for a Resource Consent will still take up to 20 days to process. No advantage has been gained for the owner. But at the same time it would be wrong to rush the Resource Consent and end up with poorly planned communities, towns and cities where the underlying infrastructure could be compromised. It must be noted that if building consent applications were complete and compliant, any current bottlenecks for processing consents would significantly reduce, thus removing the need for 5 or 10 day timeframes.
- The mandatory PIM should be reinstated to ensure that there is a process for assessing compliance with the Resource Management Act and a Council's District Plan. This would address key risk points in the building project around the suitability of the design for the proposed site.
- We have one national Building Act, implemented by one Building Code. But although there is one Resource Management Act it is implemented by 74 different District Plans. This makes it difficult for the industry working across territories to know and understand the expectations and requirements of each Council. District Plans are becoming very complicated as many Councils endeavour to apply the principles of the *NZ Protocols for Urban Design*. Although the intent is to create safer, more people friendly physical communities, the application of these protocols can result in less than optimal building design where durability and water-tightness can be compromised. There needs to be discussion

around the formation of national district plans for urban areas and another for rural areas. However caution is seriously needed when considering this or otherwise New Zealand towns could become bland, lacking the local character that attracts people to live in these communities.

- The Resource Consent process is more difficult than the Building Consent process, and Building Consent Authorities are often blamed for the issues around cost and timeliness of obtaining a Resource Consent.
- The Waikato Building Consent Group agrees with the Royal Commission that there should be performance objectives for Building Code alternative solutions.
- Standards should be developed by subject experts with appropriate qualifications in collaboration with building scientists. It is not enough for the MBIE to have an industry advisory panel. The people on such a panel must hold the appropriate qualifications with current industry experience in the required areas of practice in order for robust decisions to be made.

2. Standards development

2.1 What, if any, are the weaknesses (e.g. omissions, failures, impediments) in the current building regulatory framework in relation to the process for developing requirements for design and performance of buildings for or in earthquakes?

- Standards are not reviewed frequently enough.
- The industry does not understand the regulatory framework.
- The industry does not know the basics of the Building Code let alone which standards are cited by the Code and which are not.
- There are no cited standards that address seismic issues. The industry relies on practice notes that are not approved as part of the Code.
- Even though practice notes may be more robust than the actual standard, the standards and citation of standards within the Building Code are not reviewed frequently enough to incorporate these improvements.
- The make up of the advisory group may not be adequate. Criteria for being on such an advisory group needs to be clearly defined and appropriate taking into account current technical qualifications, experience and competencies. The same applies to who writes and publishes guidance notes. BCA technical experts need to be included on this advisory group.

- The only people driving the review of standards, is Standards NZ – but they face extreme budget constraints, and are overly reliant on volunteers.
- The development and review of standards needs to be lead by MBIE and funded by building levies as MBIE is the master regulator. Standards development could also be supported in part by the BRANZ levy.

2.2 What is the best way to provide compliance guidance (for example, should New Zealand Standards be the main or only method of compliance)? Why?

- If a standard is cited as part of Building Code, then the standard should be free or heavily subsidized, with online download links provided.
- Keep the system simple by having once source of standards and compliance documents. Make it clear if standards are part of the Code.
- If any standards are not good enough to be part of the Code, why are they released for designers and builders to use? If they appear superior to the Code then their assessment for inclusion into the Building Code should be prioritised.
- The same applies for any guidance or practice notes. If the guidance is robust and supported by evidence, then it should be added it to the appropriate standard that has been cited.
- Provision of several prescribed acceptable construction methods, needs to be considered.

2.3 What guidance could or should be given on the compliance methods so that these methods are efficiently and effectively incorporated into the Building Code? Who would or should undertake this work?

- This has been discussed in question 2 above i.e. standards should be reviewed more frequently and be more accessible and free.
- The work of assessing and incorporating standards into the Building Code should only be carried out by appropriately qualified and experienced people who are currently working in the field.

3. Responsibilities

3.1 In the context of building performance in an earthquake, who should the key players in the development of the building regulatory framework be and why, and what should their roles and responsibilities be? What impediments currently exist to achieving this?

- The development and review of the building regulatory framework should be the responsibility of the MBIE as they are responsible for building legislation.
- The MBIE, as the legislative body should take responsibility for making the final decisions, based on advice from appropriately qualified and experienced people who are currently working in this field such as Standards NZ, IPENZ (CPENZ), GNS, BRANZ and learned societies. It is not appropriate that MBIE bow to pressure from lobby groups when making technical decisions that will form legislative changes.
- There should be no allowance made for the use of alternative documentation where there are prescribed documents that are part of the building regulations. Prescribed documentation ensures that the correct information is provided and that signed declarations on such documents tie the individual to their legislated responsibilities.

3.2 If a work programme is needed for the development of building related Standards to ensure performance in an earthquake, (as discussed above in section 3), who should lead this, what are the priority areas, and how should this be funded?

- Development work should be lead by MBIE and funded by the building levy and BRANZ levy

4. Capability

4.1 What examples or evidence are there of issues of competency within BCAs? What options are there to address these competency issues, if there are any? Give consideration to the different size and scope of territorial authorities across the country, and different mechanisms for acquiring expertise.

- There are no competency issues across the Waikato Building Consent group. Each of the BCAs has full scope BCA accreditation for the type of work that is expected to be undertaken in their district. On top of this, there is sufficient capability across the 5 BCAs and systems in place to call on peer reviews if required.
- BCAs across the country have been through 3 rounds of IANZ assessments and have been found to be compliant in meeting their regulatory obligations. As part of the BCA accreditation process, all BCAs have systems in place to source external expertise if they believe a particular project to be beyond the knowledge or capability of their officers.
- In reality, category 3 commercial building consents do not present a problem to most BCAs as the projects rely heavily on producer statements due to the high level of specific engineer design. For these consents the role of the building officer is reduced to:

- Identifying where a Producer Statement is needed
 - Whether or not one has been supplied; and
 - Whether or not the information on it is correct and sufficient
- The Waikato Building Consent Group support the risk based consenting system for commercial projects. This will formalise the current practices and will provide additional support with the applicant providing a risk profile and quality assurance system for the project. Instead of the Building Officer, it will be the designer in charge or a quality officer within the design firm who will be responsible for identifying where a Producer Statement is required and the work it should cover. They will also be responsible for checking that the documentation is present, sufficient and correct. As a consequence of this, there will be a reduced requirement for BCA's to maintain category 3 competencies. Officers will instead be assessing whether there is an adequate risk profile and an adequate quality system in place prior to building consent application. They will make this decision prior to any consent being applied for, i.e. they will not be assessing the plans or any risks associated with the plans.
 - The current lack of accountability within the industry and their reliance on BCA's to do their quality assurance work means that in effect the building officer has taken over the *Clerk of Work* duties. The industry needs to significantly lift their game. New Zealand lies on the pacific 'rim of fire'. We face significant risks from seismic activity across the country and as such we cannot afford for design firms to get it wrong or for shortcuts in quality assurance to be taken.
 - While the current liability system remains there is no incentive for design and construction firms to lift their game. Already with the introduction of restricted building work, we face a push back from architects and engineers in regard to Certificates of Design Work. They are not prepared to certify their own work. Unless the industry is prepared to stand behind their work, they are not ready to take on risk based consenting. With this entrenched lack of ownership, implementing risk based consenting could potentially result in significantly inferior design and construction work. This could have significant economic and social impact on communities across the country.

4.2 What skills are needed in the private building sector to ensure seismically resistant buildings?

- The industry needs appropriately trained and experienced designers and tradespeople that have access to the very latest in cited design standards.
- Continued professional develop is critical. Associated with this is the need for proof that training and knowledge have been implemented. That is, on-going proof of competency needs to be supplied to a LBP regulatory board and other legislated professional bodies.

- The Ministry of Business, Innovation and Employment needs to investigate whether the systems in place for chartered professional engineers and registered architects are working as they should be. The level of requests for further information by BCAs, suggests that many of the designers lack the knowledge and skills to deliver code compliant designs. Alternatively these designers may not understand the importance of achieving this minimal level of health and safety compliance.

4.2 MBIE has a Chief Engineer on its staff. What is or should be the purpose of this position? Should MBIE also have a Chief Architect and/or Chief Designer? Why or why not?

- Having a Chief Engineer on staff is not necessary and in fact could give the MBIE a false sense of knowledge unless the engineer's competency is kept up to date. But even then they would still lack knowledge of the current realities and issues of working in the industry. The MBIE should instead work with a cross section of the industry's practicing experts.

5. Resourcing Standards development

5.1 What should the role of Standards New Zealand be and how should it be funded?

- Standards NZ should be funded by MBIE through the building levy and / or the BRANZ levy.
- Standards New Zealand is working without a clear mandate.
- Greater focus on regulatory roles and responsibilities and on public good outcomes, rather than commercial business, is needed.

5.2 What are the advantages, disadvantages and risks of relying on Standards, for the majority of building and construction methodologies?

- Standards provide a valuable reference document that can be used industry wide.
- However Standards New Zealand, rather than MBIE, appears to be controlling the standard of buildings in New Zealand. Building standards and their development need to be lead by MBIE.

5.3 Should primary reliance continue to be made on volunteers?

- NO. There is the risk that the volunteers though well meaning in offering their time, may not have the knowledge and skills required. They may not be up to date with current industry practice and issues faced by the industry.

- Reliance on volunteers is creating a bottleneck resulting in citation of standards being delayed.
- Funding via building levies or the BRANZ levy would allow the MBIE to employ technical experts.

5.4 *In the event that Standards New Zealand is unable to source volunteers, what other means of funding might be available?*

- Government funding through the building levy / BRANZ levy.

5.5 *Should there be more use or less use of mechanisms other than Standards to develop and provide methodologies for compliance; why or why not? Who would or should do this work and how should it be funded?*

- There should be less use of mechanisms outside of the standards, so long as the standards are developed in a robust manner. Robust and cited standards provide consistency and compliance assurance.

6. Obtaining regulatory approval for building work

6.1 *How well do you think the current consenting system works and why?*

- In the World Bank study on *Dealing with Construction Permits* (2009) and *Doing Business* (2011), it was found that New Zealand was a world leader in the ease of doing business when dealing with construction permits (first in the OECD countries). The studies looked at the level of red tape, cost of permits, and the timeliness of permit approvals. The New Zealand regulatory system is not broken.
- The low level of productivity is not due to a poor regulatory system but rather due to failures within the design and construction sector to:
 - Take on the responsibility of meeting the regulatory obligations required by this world class regulatory system
 - Adequately assess and manage risk
 - Implement quality assurance practices, and to adequately manage their procurement and supply chains
 - Gain and maintain appropriate knowledge and skills.

Poor project management, knowledge and skills resulting in a high level of rework (31%) has been identified as the key cause for poor productivity across the industry (Davis 2007, BRANZ report SR 219 2010, BRANZ report SR 256 2011).

- Consequently the focus needs to shift. It cannot be assumed that the current industry work force can deliver on Building Amendment Act 2012. Management training needs to be provided and the MBIE needs to focus on lifting the knowledge and competencies of designers and

tradespeople and holding them accountable for delivering a quality product. The LBP scheme needs to shift to a certification scheme where competencies must be proven and maintained. The World Bank study emphasised that a risk based consenting system must be supported by certified industry practitioners. This is essential if the MBIE aims of 20% increase in productivity by 2020 is to be achieved. The industry needs greater support to help them succeed.

6.2 Are there any issues with the intersection of roles between territorial authorities and building consent authorities; why or why not?

- There is no conflict between Territorial Authority and Building Consent Authority in regards to building control functions. As discussed previously, there are however issues between the Resource Management Act and the Building Act and Building Code (see 1.7).

6.3 Do you consider the status quo (local control by BCAs), a national model as described above, or an alternative option, would provide the most effective and efficient consenting process for complex building work?

- The Waikato Building Consent Group supports an enhanced status quo with retention of the current BCAs but with greater regional collaboration and consistency. This can be achieved via regional quality assurance systems supported by a Memorandum of Understanding or a Local Authority Shared Services Agreement. This would also provide an economy of scope in regard to competencies available. There could also be regional agreements in place to allow a registered BCA within the region to take full responsibility for a category 3 commercial Building Consents including the full liability for the work they carry out.
- Retention of local services provides ratepayers with an independent and trustworthy assessment of designs and construction. There is no conflict of interest as councils do not have a vested interest in the property or buildings.
- There is no evidence that amalgamating BCAs into regional or national processing units will create *Centres of Excellence* or bring with it greater efficiencies, or capability or improvements in customer services. The Auckland experience has shown that amalgamating services is very expensive with cost blowouts that the ratepayers will carry for many years. The MBIE should examine the Auckland amalgamation of building control services and assess whether the anticipated economies and quality assurances have been achieved compared to the status quo of other cities, for example in the Wellington region.
- In contrast, the Waikato model retains services and technical expertise within communities while the BCAs work to a regional quality assurance system with common documentation. This has been achieved at minimal cost through a collaborative process.

- International research does not support the assumption that amalgamation will result in economies of scale and financial savings. In fact the service costs rise and service availability diminishes as you move away from the service delivery centre.
- Amalgamating BCAs into regional or national processing units will reduce the ease of doing business for local property owners and local industry operators. We strongly suggest that the Ministry of Business, Innovation and Employment consider the impact this will have on regional economies.
- If the MBIE does go ahead and create an online hub, it needs to allow the retention of processing and inspection services by local BCAs who can better serve their communities through their local knowledge than an officer sitting in some distant locality.
- In the absence of the above enhanced Status quo model, a regional model of delivery would be preferable to a national model. BCAs local knowledge of site conditions and visits pre Building Consent granting can reduce the possibility of problems during design and construction. If a regional or national model was implemented there is high potential for plans and specifications that are not suitable for the proposed site being approved, for example potential flooding issues.
- Most Council's have some form of hazard map but they are very generic and high level. They are not site specific or go down to 500m or surrounding dwellings. It is totally impractical to provide this level of detail and this can only be provided locally. Most designers don't address natural hazards as these are not specifically addressed in the Building Code. Typically they are not familiar with the Building Act in respect to Natural hazards. For example, how would a regional or national processing centre know where areas of potential liquefaction exist – there is no way for them to know, however it is known locally.

6.4 Where do you think the focus should be within the consenting system in terms of risk? Are there any changes needed, taking into account those already introduced in the Building Amendment Act 2012? Why or why not?

- Unless accountability is real and there is shift in attitude across the industry, nothing will change. Councils and therefore the ratepayers of New Zealand will continue to be the default insurers for poor design and construction.
- The industry needs to be prepared to take responsibility and stand behind their work by certifying that they have met their legal responsibilities. It is not acceptable that the industry continues to stand back from taking responsibility. The Ministry of Business, Innovation and Employment must stand firm in the face of lobby groups and implement the laws that they have written.

- The risk based consenting system in Building Amendment Act 2012 will not be truly risk based if all the risk is to be carried by the Building Consent Authorities. We support risk based consenting if the liability is proportional and there are appropriate warranties and sureties required by law. Insurance should be mandatory. This was originally the intent that was promoted by the Department of Building and Housing, but has been dropped from Building Amendment Bill No. 4. As a consequence the Bill fails to provide customers with the protection needed and fails to address the inequity of the current liability regime.
- We agree that there is a lower risk with simple housing, but trials of risk based consenting carried out by councils over the last couple of years have failed to deliver. Group housing companies that were involved, recognised that the quality of the houses being built, were inferior to those that received the full scrutiny of council. They requested a return to full services. The outcome of these trials was discussed at a Local Government Reference group meeting in August 2011. We have also heard that there have been problems with the trials in Christchurch, especially around the heater installations where a significant proportion were found to be noncompliant and posed a safety risk. This does not encourage us to believe that the industry, at this stage, has the knowledge or the commitment to take responsibility for managing their quality assurance.
- The customer has the right to get a code compliant building that is well constructed. They have the right of redress. If a dwelling is a simple residential building consent, this does not mean that the customer's rights are to be ignored. In the place of checks made by Building Consent Authorities, the companies constructing these houses should have in place a quality assurance system to ensure that their work is compliant. This is part of taking responsibility and will reduce the level of risk for the company.

7. Quality assurance

7.1 Comment on the proposed model for regulatory approval by NZCIC – what aspects of this model should or should not be adopted and why?

- The model if it is for commercial buildings, fits with risk based consenting described in the Building Amendment Act 2012. This is supported provided that the people producing the documents under quality assurance have the appropriate qualifications, experience and formal assurances should there be any issues.
- At this point in time designers have been reluctant to make a statement that certifies their work. They have lobbied the Department of Building and Housing that the design memorandum be changed to reduce their liability. This demonstrates to us that key players in the industry are not prepared to stand behind their work and that they intend that councils

remain the default insurers. Therefore the model needs to mandate warrantees and sureties.

7.2 When might producer statements be used and why; what benefits do they provide? What, if any, standard should such statements be required to meet?

- Producer Statements should be provided by registered architects and engineers, especially where the work is not restricted building work.
- They should clearly state the work carried out by the designer and that it meets the requirements of the Building Act and Code.
- The requirement for mandatory Producer Statements needs to be set in legislation.

7.3 What standing, if any, should producer statements have?

- Producer Statements need to demonstrate the responsibilities and liabilities of the author.
- They should be considered as a statement of certification of compliance to building legislation.

7.4 When should a mandatory peer review take place (i.e., type of building, complexity level)? Who should the costs of a peer review fall upon?

- Under risk based consenting the involvement of the BCA for a commercial building consent, is reduced to assessing the risk profile and the quality assurance system. Without an independent review and robust systems to hold people accountable, it is highly likely that the quality of work and level of compliance will drop. Where a building is a public building there is a responsibility to ensure that people using the building will be safe. Therefore category two and three commercial building consents should be independently peer-reviewed.
- The cost of this review should be met by the customer.
- The customer should have the right to choose to apply for a standard building consent (i.e. full BCA services) for a commercial project.

7.5 What guidance (and level of guidance) should there be on the use of peer review (for example, a matrix guiding peer review requirements) and who would or should be responsible for developing and providing and enforcing (if reviews are mandatory) this?

- The mandatory peer review requirements need to be set out in a prescribed assessment template. The cost of peer review should fall on the building owner.

- The quality assurance system required for commercial building consents should require the company to identify key decision points and risks, and the steps required to mitigate these risks. The quality assurance system as well as the risk profile should be in a prescribed template to ensure that key points are considered.
- The developing of any matrix and any updating of matrix should lie with principle regulatory body, the MBIE.

7.6 *Who should conduct peer reviews? Should there be any specific requirements? (For example, independence) Why or why not?*

- The person conducting the peer review should have equal or greater qualifications and experience to the designer of the project. IPENZ through the Act for CPENG engineers, need to make publically available the specialist field and scope for their registered members.

7.6 *Do peer reviews need to be audited and if so by whom?*

- If we have a robust system to identify people to do peer reviews, audits may not be needed.

8. Information about building performance

8.1 *Comment on whether there are any gaps, weaknesses or omissions in the information available on the performance of buildings in an earthquake such that affected parties can make informed decisions. How might these be addressed?*

- There needs to be clear procedures for assessing damage after a seismic event. This could be achieved when standards are updated.
- We support the use of advisory documents after the event. This should include better information available for owners warning them of the probable weaknesses in the building due to what we now know as a result of the Canterbury earthquakes. Owners could be notified stating their building no longer complies.
- Under the current legislation, Councils do not have the power to force upgrades.

8.2 *What benefits might the implementation of a building warrant of fitness, to check for building deterioration, provide? What costs or disadvantages might this lead to?*

- Unless councils have the power to force owners to upgrade their buildings, setting in place a BWOFF scheme for building deterioration has no benefits. Even with the current system it is extremely difficult to get building owners to comply with the compliance schedule and BWOFF requirements.

- Even if they did have this power, the reality is that forcing upgrades could kill rural towns. Failure to upgrade would mean buildings remain untenanted and the economic impact on rural towns would be high.
- Does the country have the resources and finances to do this? No.



CONCLUSIONS AND RECOMMENDATIONS

In conclusion the Waikato Building Consent Group recommends that:

- The Ministry of Business, Innovation and Employment should take responsibility for the development of a national policy statement and that this is incorporated into the Building Act. The national policy needs to clearly define acceptable timeframes for building upgrades and take into account the:
 - Local environment
 - Regional seismic risk
 - Social and financial implications.
- The people involved in the development of this policy need to have the appropriate knowledge and skills. As local government will be tasked with implementing this policy, they need to be at the advisory table to ensure that the policy developed is practical and enforceable.
- The MBIE needs to take responsibility for the maintenance and development of standards and resource this through building levies or the BRANZ levy. This would MBIE to employ technical experts ensuring that standards remain current. This will remove the necessity to rely on volunteers.
- There needs to be a move away from practice notes and a stronger emphasis taken on keeping standards current.
- Those that are involved in the development of standards must have current industry qualifications, knowlegde, competencies and experience.
- The current level of knowledge and expertise across the industry is poor and this needs to be addressed without delay. Resources need to be in a format that is easily accessible to both designers and tradespeople. Education of the industry is the responsibility of the Ministry and should be a critical part of addressing productivity across the industry. To achieve this, Architecture and Engineering qualifications should include building law and the LBP scheme needs to be more robust and move to a system of certification creating greater confidence in the industry.
- The Building Act and the Resource Management Act need to work better together. Returning to a mandatory PIM as part of the building consent application would in part address the current issues. Timeframes for resource consents and building consents also need to be consistent.
- The MBIE needs to address the lack of ownership by the industry by introducing
 - Certification of work
 - Mandatory warrantees and sureties
 - Proportional liability.

- Delivery of building control services needs to remain within the local communities so that ease of doing business is not compromised. An enhanced status quo with greater regional collaboration between BCAs is preferable to regional processing centres or nationalisation of building control services.
- The industry lacks the management, legislative and technical skills to deliver on risk based consenting at this time. Provision of prescribed risk profiles and quality assurance systems would set in place minimal requirements that need to be met. BCAs are required to meet the BCA regulations that do precisely this, the industry should meet the same level of scrutiny and accountability.

If any further clarification is needed regarding this submission, please contact:

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The Councils of the Waikato Building Consent Group wish to present their submission to the Select Committee, and will be represented by Dr Elizabeth Goodwin.