

Queenstown Lakes District Council

Submission to Canterbury Earthquake Royal Commission Aug 2012

Topic : Roles and Responsibilities in New Zealand's building controls and regulatory system.

The Queenstown Lakes District Council does appreciate the opportunity to make a submission to the Canterbury Earthquake Royal Commission (CERC) on the adequacy of legal and best-practice requirements for building design, construction, and maintenance insofar as those requirements apply to managing risks of building failure caused by earthquakes.

| CERC QUESTIONS | QLDC SUBMISSION |
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| Efficacy of the Building Regulatory Framework | |
| <p>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?</p> | <ul style="list-style-type: none"> Problems in the Current NZ building regulatory framework are summarised into the following areas : <ul style="list-style-type: none"> Current Liability framework Definition of "acceptable risk" (building & life safety) Designer (& Construction) Compliance Education Developing requirements around licencing of trades Lack of breadth of national product (or system) approvals Further description of these areas is made in the relevant sections of this submission. The experience of the Canterbury earthquakes has created a need to have discussion about what levels of risk are acceptable with regard to our existing building stock, and the future construction requirements. There needs to be a realisation that risk is inherent in all activities, and it is the appropriate level of mitigation which is to be arrived at for Buildings in NZ, taking into account their expected use. A regulatory system which has complete oversight of every drawing, and every piece of construction on site is neither efficient, nor affordable, nor required. It is appropriate to have a different level of surety and oversight for different buildings on a risk assessment basis. A system of having appropriately trained design and construction practitioners, with a third party regulatory system to require oversight of plans and specifications, and a representative checking of compliance with those plans during construction is a robust system appropriate for NZ. Providing a system which identifies the people involved with the design and construction of buildings, allows for better learning to happen from building failures (product or system). A combination of the requirements for more detailed plans & specs as a result of the Building Act 2004, and the provision of design certificates and records of work for Restricted Building Work is going well towards improvements already introduced in this area. An owners' responsibility for maintenance and upgrade of buildings throughout their life has not been well enough understood over recent decades. The development of new and innovative product solutions has been great, but along with a number of other factors, has led to the diminishing understanding of the building owner that they need to continually undertake preventative maintenance and repair. A |

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| | fairly large portion of the severity of some “leaky building” claims could have been hugely mitigated with an attention to preventative maintenance and repair. |
| 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? | <ul style="list-style-type: none"> • The principle objectives of the Building Act 2004 have been set at a high level, and are effectively covered in sections 3 and 4 of the Act. • The discussion around a National Policy Statement, or equivalent system, is essentially around the detailed description of the level of delivery meeting the expectations of those objectives. So rather than an overarching document outside the Building Act, our suggestion is to introduce some more prescriptive measures either through specific regulation under the Act, or contained within the objectives of each code clause. It is appropriate to retain the ability to have alternative solutions developed which meet the similar or better performance objectives, but at least have some measures to compare to. • The current regulatory framework in terms of MBIE regulating the detail of the Building Code and specifically the Acceptable Solutions, doesn’t appear to follow closely with the activities of BRANZ and Standards NZ. We believe there could be a stronger focus on a combined approach to the specific research which leads to revised standards and built directly into Acceptable Solutions. |
| 3. What are your views on the model proposed by IPENZ? | <ul style="list-style-type: none"> • Explained in the answer to 2 above |
| 4. Has the Building Amendment Act 2012 gone far enough? If not, what changes are still needed and why? | <ul style="list-style-type: none"> • The aspects of definition of roles within a building project for the Owner, Designer, Builder, And BCA is a good step. • The requirement for mandatory written contracts for work over \$20 is a good step. • The move to a restricted building work (RBW) system with licenced Building practitioners is a good step. • The implementation of these aspects has not yet been well enough undertaken or been allowed to bed in. There is a push to educate the consumers about the benefits of RBW, without adequate numbers of LBPs in existence. • Complex building methods are currently excluded from RBW if their installation is not covered by a licencing class. Commercial work is not covered by RBW at all, which is the area of building work where the significant groups of failures have occurred in the ChCh earthquakes. • One area of responsibility which has not been covered at all in the legislation to date, is around the responsibility for manufacturers/suppliers of products. Notably in some aspects of the “Leaky Home” experience there have been issues of realistic product performance which have been found to be poor, and whilst attributed somewhat to poor installation and monitoring, there are aspect of product suitability which have not been addressed adequately yet. • The building Act 2004 introduced the system of “Warnings & Bans” to be administered by the DBH, but this has not been actively used by the dept, nor to that matter utilised by the industry. The determination route has been more commonly used, although also not to it’s full potential use. • The legislative change to move away from a “Joint & Several” legal system to some form of “Proportional Liability” system is an absolute requirement to gain accountability and efficiency in the NZ building sector. In the current environment, all parties are trying to limit their exposure (Central Government Included) to the risk of being sued because they are liable for the whole of the construction defect if other parties are not captured, as opposed to their part of the work. BCA’s are the |

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| | <p>most affected by the current legislation as they are often “last man standing”.</p> <ul style="list-style-type: none"> • This current system of Joint and Several liability is having a detrimental effect on the provision of insurance to many parties as well. The risks for an insurer that their client is held responsible for the entirety of a claim irrespective of how much they are involved with doing the work is not sensible, and hence premiums are artificially inflated for all the participants in the building system when compared to the levels they could be provided at with a limitation of risk. • A Quality System Assurance process for commercial or complex work, is written into the 2012 amendment and is waiting upon enactment of that section as part of the “risk-based” approach. Our concern is that from a regulatory checking point of view, this predominately appears to be a paperwork checking procedure which relies upon a commercial company (for example) keeping records of quality construction. Experience we have researched from overseas, and in terms of knowledge of how the “NZ clerk of Works” system used to work, would say that this would have variable results. The lack of an independent checking system on a sample of work undertaken is not likely to provide best practice. One of the roles which a BCA serves, is to avoid the situations where you can get “Silos of Compliance” – this is best described as individual components of a building being compliant in their own sphere, but when combined with other elements within the building work they do not form a coherent whole of building performance. |
| 5. What problems are there, if any, with the level of understanding of the building regulatory framework held by participants in the building sector? | <ul style="list-style-type: none"> • There remains a fundamental lack of understanding by the design community of how the regulatory framework hangs together. There are some very good practitioners, but the majority are not well versed in the differences between building code, standards, acceptable solutions, alternative solutions, verification methods, and specific design. • It is taking some time for builders to realise the key document for build-ability of the building, is the approved Building Consent. • Further emphasis needs to be made across the industry about the need to build in accordance with the consent documents. Changes desired to be made to the building need to be proposed in an amendment to the consent documents, and approval obtained |
| 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? | <ul style="list-style-type: none"> • Unfortunately it would appear that a great opportunity has been missed in the implementation of Licencing of Building Practitioners. There was a blanket grandfathering of Registered Architects and CpENG Engineers into the LBP scheme. This would have been a superb opportunity to ensure all those practitioners were fully conversant with the regulatory framework. • There would be some sense in changing the terminology of some of the compliance paths such as changing from “Acceptable Solution” to “Prescribed Solution” as mentioned below in this submission • Training the designers and builders in the fact that any particular NZ standard is not a compliance path to meet the requirements of the building code (only NZS4121 is an approved compliance document in it’s own right). • It has to keep coming back to the consented building plans, and a clear description of the compliance path nominated by the designer, and approved by the BCA. • In terms of method of delivery of this training – for something as specific as how the regulatory framework holds together and how to demonstrate code compliance, we need to look to |

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| | <p>having the same message widely distributed in a short space of time. It is time to utilise modern technology in terms of spending the time & effort to produce good quality training literature, available on-line, and provide a mechanism to check that all LBPs have seen it and understand it, by making it a pre-requisite of continuing licencing.</p> |
| <p>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?</p> | <ul style="list-style-type: none"> Technically the two acts work quite well by themselves to achieve the objectives intended. <ul style="list-style-type: none"> The RM/Act deals with the management of the activity wished to be undertaken and how it looks and fits into the existing built environment The B/Act deals with the physical construction method and protection required for building occupants and the protection of other property. There confusion within the country however remains around which part of the overall process contains delays and cost to work through – depending upon the specific project. There could be a relatively simple solution in even changing the naming of the two regulatory systems. Effectively the RMA matters are more related to whether the particular building or activity is acceptable to the community (nationally and locally). Under this RMA legislation effectively if you have a complying activity then you need no formal process undertaken. If however you need to make an application to a local or regional body, then currently you apply for a Resource Consent. People get this very confused at times with a Building Consent. A suggestion would be to change the terminology in this area to be something like “Planning Approval” or “planning permission” which more appropriately reflects the discretionary decision making process. That would sufficiently separate it from “Building Consent” which really should be a very black and white affair – it either complies or it doesn’t. In some respects if it was the building consent naming which was to change perhaps a more appropriate name would be “Building Code Consent” or “Consent to Build” More knowledge needs to be gained in the wider community that there is a National Building Code – and there are really very few regional differences - only really around areas such as Insulation requirements, durability zones, and snow and wind loading differences The overarching principles which people tend to forget when they are complaining in general about the two regulatory processes are explained as <ul style="list-style-type: none"> Some buildings and activities which applicants put forward are just not acceptable to the particular part of NZ society that would be affected by them, and the RMA process protects that Some physical construction methods proposed are not safe, or would not protect peoples investment, and the Building Act process protects that. |

| CERC QUESTIONS | QLDC SUBMISSION |
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| Standards Development | |
| <p>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?</p> | <ul style="list-style-type: none"> There is a current lack of consistent understanding in the design sector (and construction sector) about the role of standards within the documentation of design of buildings. Designers too readily quote a large number of standards in their specifications as a means of compliance with the building code, and have not historically only referenced to the specific portions which relate to actual building work being undertaken with the consented work. This approach to citing multiple standards appears to be endemic of designers |

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| | <p>thinking quantity of documentation is required as opposed to quality & specificity.</p> <ul style="list-style-type: none"> Increasing focus need to be given to the Approved Building Consent documentation being the only place to reference how building work is to be undertaken. The practice of some of the design fraternity issuing sets of paperwork “for building consent” and the further “for construction” sets should be halted – unless the specific nature of those construction drawings do not relate to building code matters at all. The changes introduced with the Building Act 2004 to require the test for BCA’s to be whether work has been completed in accordance with the consent documentation are appropriate. There does not appear to be a clear understanding from architects and project managers involved on site during construction to appropriately authorise and document changes to consented plans during construction. Free and convenient access to the Building Code and the Acceptable Solutions has been a good advancement in recent years. The same cannot be said for access to NZ Standards. It is a costly exercise for Councils to maintain access to already developed standards, let alone how prohibitive it must be for smaller designers and builders. A suggestion for a more appropriate way to fund the access to building related standards could be through licencing fees. The problem with that methods currently is that it doesn’t require all trades to be licenced under the RBW scheme - commercial construction and the difficult construction methods for housing are excluded from the RBW system at present. Also the extension of the Exempt Building Work list under schedule 1 of the Building Act means less opportunity to collect a fair split of funding through a levy system. The current government levies in place, being the BRANZ levy and the DBH levy are quite a substantial portion of the consent cost for applicants. If there was a more structured approach to the prioritisation of Standards development in building standards controlled by MBIE and therefore work programs directed to Standards NZ and BRANZ, then these existing levies (or at least their structure) should be an efficient mechanism for funding. |
| 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? | <ul style="list-style-type: none"> The compliance document routes do need to be clarified as mentioned already in this submission. Historically the nature of the Performance Based Building Code, whilst it has encouraged innovation, it has not had a clear set of precise metrics within each part of the code to measure against. Recent changes to the Building Code clauses which relate to Fire Safety are a good example of some precise metrics being introduced which set minimum limits for the performance. This needs to be expanded into other code clauses to give certainty to meeting a minimum standard and to allow a comparison to be made for “good, better, & best solutions” allowing people to make a value judgement about just how good their building is for each of the relevant clauses. The current measure only indicates a “pass” but gives no comparison on just how good it is. We totally agree that there should be a national process adopted for the prioritisation of standards review and development, which should be closely associated with the Building Code review. |
| 3. What guidance could or should be given on the compliance methods so that these methods are efficiently incorporated into the Building Code? | <ul style="list-style-type: none"> There is confusion throughout the industry about an “acceptable solution” and an “alternative solution” and the role that conformance with a NZ Standard plays. A suggestion to correctly get this clear in peoples minds would |

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| Who would or should undertake this work? | <p>be to rename the “acceptable solution” to be “Prescribed Solution” and keep “Alternative Solution” as it is.</p> <ul style="list-style-type: none"> This would likely have the effect of clarifying exactly what a prescribed solution is - ie/ if you follow that it is known to be a compliant method. There would still be the ability to have an appropriately justified Alternative Solution. |
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| Responsibilities | |
| <p>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?</p> | <ul style="list-style-type: none"> The Ministry MBIE should be the head regulator in the development of the regulatory framework. They have an overarching responsibility to look at all aspects of building performance (including safety & amenity) and can consider the impacts also from a social and economic perspective. In the body of the submission above we mention about the impact of the current NZ liability system of “Joint & Several”. This system is manifesting itself in <u>all</u> parties trying to limit their exposure for proposing solutions. The increasing plethora of guidance documents and practice notes are an attempt to provide some good information but to try not to be hung out for providing it. It is not an efficient method of ensuring all people who need to know the information are aware of it at the time of publication, nor how do they access the information further down the track – or for new people coming into the industry. A better method would be to build these documents into the compliance document system either in their own right as a separate document until they get a chance to be incorporated into the acceptable solution. In the context of performance in an earthquake the obvious parties involved for strong input to the ministry include: <ul style="list-style-type: none"> BRANZ - research input into products and systems Standards NZ - review of standards and comparison to international expertise & their standards Engineers - professional bodies & societies such as NZSEE |
| <p>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?</p> | <ul style="list-style-type: none"> Again this has to be the Ministry, and it has to be agreed what the scope of desired outcome is for both the existing building stock and for new buildings. There does need to be a large degree of consultation with Local Councils on this definition, as the impacts particularly for existing building stock can be quite dramatic. Account also needs to be taken of the different level of reasonable risk around the country depending upon the seismic risk. |

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| Capability | |
| <p>1. What examples or evidence are there of issues of competency within BCA's? 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.</p> | <ul style="list-style-type: none"> Firstly before discussing areas of competency, it is important to discuss the regulatory requirement in relation to having engineering expertise within a BCA, and the role which is being undertaken A BCA must grant a building consent if it is <u>satisfied on reasonable grounds</u> that the provisions of the building code will be met if the building work is properly completed in accordance with the plans and specifications which accompanied the application. (Sect 49 BA 2004) That is not a test of “absolute certainty”, and having checkers check the checkers, over and over. Similarly the test is similar in terms of the requirement to be |

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| | <p>reasonably satisfied that the work has been done, in order to be able to issue a Code Compliance Certificate (CCC) (soon to be a Consent Completion Certificate when that part of the Amendment Act comes into force)</p> <ul style="list-style-type: none"> • The discussion paper describes the BCA accreditation process and the requirement to have systems and processes in place for assessing competency. The important thing is that this competency is in the area of performing building control functions as a Building Control Officer (BCO). It does not anticipate, nor require that the individual BCO has equivalent or better skills than the engineer that submitted the design, nor the architect, nor the mechanical ventilation specialist, nor fire engineer. It anticipates that there is a reasonable understanding of when there needs to be demonstration of particular aspects of building code compliance given the type of building and it's expected use. There are appropriate systems and procedures to identify when independent third party review may be needed, and when it should be appropriate to rely upon a professional person such as a CpEng engineer for example. • In fact a criticism which is placed at the feet of some BCAs around the country is a tendency to be overly risk averse by requiring independent third party peer review (or in-house scrutiny) to an excessive level for simple work. This has been assessed as being a quite negative issue in terms of lost productivity for time and wasted cost (for the applicant and the BCA) • Equally related to the inspection process, in terms of what is reasonable, and the level of third party review and certification anticipated, there is a balancing act between what should be required to be demonstrated to Building Control Officers working for a BCA - in terms of a snapshot inspection of simple building work, and the level of certification which should be required for complex specialist skill fabrication jobs. • Our submission is that it should be totally appropriate to have a more standardised system of setting the level of reasonable satisfaction which a BCA should accept. This should be mandated by MBIE, in explicit terms of what is required as a minimum standard. Accreditation does not currently ensure this level of certainty and consistency across the country. • The move to have a standardised electronic system of consent application and processing is supported by our Council. It will allow for a more robust decision making process to help BCAs assess whether they have the appropriate level of expertise within their staff or contractors, or to seek assistance from another BCA |
| <p>2. What skills are needed in the private building sector to ensure seismically resistant buildings?</p> | <ul style="list-style-type: none"> • A robust method of having confidence in the assessment of the design professionals preparing the documentation. It is not currently clear for clients to assess the specific areas of experience and expertise of the engineers they wish to engage. IPENZ advises that their members are required to work within their areas of expertise by their professional conduct rules, but the point is this information is not available to customers in the same fashion as it is becoming for other licenced building trades. • A system for ensuring that all current learning on new products and systems and guidance information is disseminated to all practitioners. • Easy and affordable access to relevant and current standards for design. • Project management and inspection skills are required to ensure appropriate assessment of detailed on-going work on site especially for engineering assessments on site. |

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| 3. 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? | <ul style="list-style-type: none"> The decision whether to have a chief engineer or architect on staff at MBIE is relevant to their assessment of the level of certainty they need to have covering their compliance document system. It may be appropriate to engage specific expert skills in a number of technical fields, both locally and internationally to be sure of any particular topic. The specific area of expertise for MBIE should be for them to be satisfied that they have relied on appropriate technical advice. |
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| Resourcing Standards Development | |
| 1. What should the role of Standards New Zealand be and how should it be funded? | <ul style="list-style-type: none"> It is noted that the scope of this review is limited to standards that pertain to the building sector. Repeating some of the earlier points in this submission, the fundamental issues here are <ul style="list-style-type: none"> providing appropriate access to standards at an affordable cost ensuring the currency of our standards The fact is that we have a suite of existing standards as at today's date, which should be available to all designers and Local Authorities at minimum cost. If we are serious about improving the performance of our building stock, then these commonly accepted standards should be more accessible. The discussion paper makes reference to a 2005 report by the Ministry for Economic Development which appears very appropriate as it has described the need for some public funding of standards review and development. |
| 2. What are the advantages, disadvantages and risks of relying on Standards for the majority of building and construction methodologies? | <ul style="list-style-type: none"> There is nothing fundamentally wrong with the basic structure of our standards relating to common areas such as structure (eg/ 1170 and 3604). They provide a good basis point for reference and tested methods of compliance with appropriate specificity. The role of MBIE as the head regulator to pull together the relevant parts of a suite of standards to construct an acceptable solution (or verification method) is quite appropriate. The area of education which continues to need attention is to inform designers and builders that Standards are generally cited by Acceptable Solutions (or Alternative Solutions) as methods of appropriate construction. The key factor still remains that it must be the particular plans and specifications which make up the Building Consent which are the key documents to construct buildings in accordance with. |
| 3. Should primary reliance continue to be made on volunteers? | <ul style="list-style-type: none"> Yes the basic principle of having volunteers working on standards is sound, providing there is coverage of reasonable expense costs for those involved. It really does depend on the particular type of standard being developed. Generally experts in their respective fields are prepared to develop standards relating to particular building methods on a volunteer basis, which is appropriate if the need is to develop a standard on the basis of best practice. For standards involving an extensive amount of research and comparison testing to be undertaken, then this would likely need a different and more commercially funded approach. It would make sense to retain some form of independent standards council which considers the priority of standards development under the direction of MBIE. Critical assessment should be made for each standard whether there is need to be cautious of bias or conflict of interest for participants. |
| 4. In the event that Standards New Zealand is unable to source volunteers, what | <ul style="list-style-type: none"> Presumably a watching brief is kept on standards development in the wider world, to avoid some cases of re-inventing the wheel. |

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| other means of funding might be available? | <ul style="list-style-type: none"> • Again presumably Australia is kept in close contact with regard to standards development, and joint funding of projects would appear to be sensible. • Supplier levies or tariffs for manufacturers or importers of products should be investigated on a case by case basis by the appropriate government departments. • Volunteers should be more readily available for certain standards development given the advances in technology for sharing of information and expertise over the internet, both locally and internationally. |
| 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? | <ul style="list-style-type: none"> • More use could be made of alternative methods of providing assurance that products or systems are capable of performing in accordance with building code requirements. • There is a very good document produced by the Department of Building and Housing "The Product Assurance Framework" which explains the various compliance paths available for manufacturers and importers of products to demonstrate the compliance path which is appropriate for their product. This covers areas such as product appraisals through BRANZ or other third party research laboratories, or codes of practice developed by industry groups. • As mentioned earlier in the submission, we believe there is more scope for MBIE to issue Code Clauses (and or Acceptable Solutions - hopefully renamed as Prescribed Solutions) with a greater level of prescribed specific measurements, which may negate the need for some standards development. |

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| Obtaining Regulatory Approval for Building Work | |
| 1. How well do you think the current consenting system works and why? | <ul style="list-style-type: none"> • The current building consenting system can work well and is generally appropriate to deliver a reasonable quality of buildings in NZ. • In the Queenstown Lakes District we issue approximately 1100 consents per year for \$250m worth of building work, at an average of 8 days processing time, with a cost of building consent processing and inspection at 0.78% of the value of work. • We have worked with designers to raise the quality of consent applications, and with builders to streamline the process of site inspections. • The advances in the Building Act legislation through the 2012 amendment act and Bill #4 do go some way towards apportioning responsibility for building quality, but the issue which remains as a sticking point is around the Joint & Several liability model which still exists. This is one of the main areas which is holding up productivity and causing risk averse behaviour to the extent that it is causing issues of avoidance and bad building practice. • The second area which needs to be further addressed is training for designers in the compliance documents and how an appropriate building consent application should be made. There should be some more stringent and consistent rules made around this area with collaboration between BCAs, designers and MBIE. At the end of the day though MBIE should have more responsibility to set the minimum rules and have all other parties then follow those minimum guidelines. Our feeling is that the Licenced Building Practitioners Scheme should be "ramped-up" to a more professional level to ensure appropriately trained people are designing buildings in the first instance. |
| 2. Are there any issues with the | <ul style="list-style-type: none"> • The experience of delay and cost over-runs in the process of |

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| <p>intersection of roles between territorial authorities and building consent authorities; why or why not?</p> | <p>obtaining consent to build a building is often because of multiple factors.</p> <ul style="list-style-type: none"> • The aspect of regulatory approval for Resource Consent most often has nothing to do with the technical construction of the building, but more-so to do with the requirements of the local community through their adopted district plan. Applicants often just see this as the overall consent process, and include the time delays and costs associated with development contributions as all being part of what they have to pay to the council. • Internally within the majority of Councils around the country there are in fact very clear lines of delineation of responsibility for decision making processes, and these have been made very transparent and traceable particularly through the BCA accreditation process. • One issue which does cause some concern and was not well handled with regulatory change was the decision by central government to make the requirement for a Project Information Memorandum (PIM) to be voluntary. This process provides applicants with valuable & necessary information relating to their project, but they often now don't get that information early in the process, and are faced with extra delays and cost for having to re-design once they realise the other regulatory approvals that are required, or specific attributes relating to the land. Our experience is that the majority of staff within the DBH agreed that this was a silly change, and not best for the end consumer or the TA's and should be reversed. Our suggestion is that there could be some more specific details about how these should be produced by TA's to ensure consistency – which would have removed the variance which was causing concern to some applicants. |
| <p>3. Do you consider the status quo (local control by BCA's), a national model as described above, or an alternative option, would provide the most effective and efficient consenting process for complex building work?</p> | <ul style="list-style-type: none"> • The current system of having local authorities process consents for all building work including complex buildings is the right model, but can do with some modification • A nationally consistent system for lodgement and processing will introduce the required amount of consistency, and provide a platform to allocate the most appropriate resources in terms of skill levels within the existing pool of Building Control Officers. There already exists a certain amount of collaboration and contracting of appropriate services between BCA's, either for resource shortages, or technical expertise. • As mentioned earlier in the submission, it is important to retain the third party nature of a local BCA involved in the consenting process. This preserves the nature of checking required in terms of independent assessment. • It is appropriate to utilise an element of reliance upon independent peer review and specialist construction monitoring relevant to the complexity of the work. |
| <p>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?</p> | <ul style="list-style-type: none"> • The liability system overarching the industry should be changed away from the Joint and Several system, to encourage a new approach of "risk management" as opposed the "risk avoidance" approach undertaken by many parties currently • There should be a more nationally focussed process around the assessment of risk associated with new products and systems. Currently the onus is placed unduly heavily upon local authorities unless a product or system has been through the Codemark product certification system. There are tools available within the current legislation including the Determination process, and the system of Warnings and Bans, which should be utilise more at the instigation of the ministry. There could be more use of pulling together a group of experts from within the industry to assess products and |

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| | <p>systems, and then issue appropriate information on a national basis. It doesn't necessarily need to be a completely centralised unit in terms of location, but with standardised assessment rules and procedures.</p> <ul style="list-style-type: none"> The current list of exempted building work under schedule 1 of the Building Act 2004 has been developed to recognise lower risk type of work in terms of danger to occupants or users of buildings. There has not however been a similar assessment of the financial risk for owners in terms of not having appropriately documented systems for recording this work into the public record. We are experiencing a large number of people having to retrospectively apply for Certificates of Acceptance because of Sale & Purchase agreements or insurance requirements. It may well be appropriate to have a simpler paired back system of documentation at a lower cost for lower risk building work which still gets recorded against the property details held by local authorities. |
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| Quality Assurance | |
| 1. Comment on the proposed model for regulatory approval by NZCIC – What aspects of this model should or should not be adopted and why? | <ul style="list-style-type: none"> The portions of the NZCIC model as described in the discussion paper are supported, and are really not very different to the current system. They just appear to introduce an aspect of requiring designers to consider the complexity of work in terms of monitoring required through the construction phase, and these aspects being confirmed through the regulatory approval process. |
| 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? | <ul style="list-style-type: none"> Producer statements are a useful tool for <u>individuals</u> to provide an attestation that their design work, or construction work is at a level which they are prepared to stand behind, and have other people rely upon the compliance of their work with the requirements of the building code. They are really not very different to the mandated requirements for certificates under the Restricted Building Work scheme. Producer statements should be regulated in terms of the layout and content of the forms to be absolutely consistent nationwide. This would remove some of the uncertainty as to what people are actually attesting to by issuing a producer statement. They should be a very clear statement of who did the work, and what qualifications or experience they hold to back up their statements, and very clearly reference the design documents used to construct the building work (the approved building consent). The process of inspecting building work which is undertaken by BCAs is only a snapshot of compliance at certain points throughout construction. It is not efficient or affordable from a time and cost perspective to have that process of inspection increased to the level of a clerk of works on all jobs. Hence the provision of a producer statement from individuals whom have undertaken the physical works is a useful tool to provide confirmation of how the work has been done. |
| 3. What standing, if any, should producer statements have? | <ul style="list-style-type: none"> If they are regulated in terms of form and content, then they should have reasonable standing. They should be referred to in the Building Act. They are not a substitute for the plans and specifications showing compliance with the building code, but provide a reasonable tool for BCAs to make a risk based assessment relating to the work it covers. |
| 4. When should a mandatory peer review take place (ie. Type of | <ul style="list-style-type: none"> There are a number of factors which should come into the assessment of requirement for peer review. These really |

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| building, complexity level)? Who should the costs of a peer review fall upon? | <p>need to be developed in a consistent manner taking into account</p> <ul style="list-style-type: none"> ○ The complexity of the work ○ The use of the building and it's importance level ○ The demonstrated compliance path for the products and systems utilised <ul style="list-style-type: none"> ● The costs of a peer review should fall upon the applicant, provided that there are clear reasons for the need for the peer review. |
| 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? | <ul style="list-style-type: none"> ● This should be a nationally mandated process administered by MBIE. A lot of detailed work should go into developing a matrix type approach to this topic, similar to the risk assessment model developed for assessment of weathertightness risk under the E2 matrix. ● Representation from various bodies should help develop this process with leadership from MBIE, including BRANZ, BCAs and various professional bodies (such as IPENZ) relevant to their area of expertise. |
| 6. Who should conduct peer reviews? Should there be any specific requirements (for example, independence) and why or why not? | <ul style="list-style-type: none"> ● Yes a peer review needs to be independent from the original designer. ● The specific brief for the nature and extent of the peer review undertaken should be included with the documentation to give a clear view of what was assessed. ● There is no reason why a centrally maintained database of appropriate peer review could not be in place, associated with the existing databases for LBPs. |
| 7. Do peer reviews need to be audited and if so, by whom? | <ul style="list-style-type: none"> ● If the peer review process is maintained by the LBP system – then an investigation and disciplinary process is already in place. |