



Evaluation of the Building Consent System

JUNE 2022



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Te Kāwanatanga o Aotearoa
New Zealand Government



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Ministry of Business, Innovation and Employment (MBIE) Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

MORE INFORMATION

Information, examples and answers to your questions about the topics covered here can be found on our website: www.mbie.govt.nz or by calling us free on: **0800 20 90 20**.

DISCLAIMER

This document is a guide only. It should not be used as a substitute for legislation or legal advice. The Ministry of Business, Innovation and Employment is not responsible for the results of any actions taken on the basis of information in this document, or for any errors or omissions.

ONLINE: ISBN 978-1-99-104105-0

JUNE 2022

©Crown Copyright

The material contained in this report is subject to Crown copyright protection unless otherwise indicated. The Crown copyright protected material may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material being reproduced accurately and not being used in a derogatory manner or in a misleading context. Where the material is being published or issued to others, the source and copyright status should be acknowledged. The permission to reproduce Crown copyright protected material does not extend to any material in this report that is identified as being the copyright of a third party. Authorisation to reproduce such material should be obtained from the copyright holders.

Contents

Glossary of terms.....	2
1. Executive summary	3
1.1 The building consent system is broadly aligned with its intent, but it is not operating as well as it could be	3
1.2 There is no single underlying cause of problems in the building consent system....	4
2. Evaluation background and purpose	5
2.1 The building consent system.....	5
2.2 The purpose of this evaluation.....	7
3. Understanding how well the building consent system is aligned with its objectives.....	9
3.1 The building consent system is broadly aligned with its intent	9
3.2 The system is not operating as well as it could be	11
4. Problems in the building consent system	14
4.1 Workforce constraints are an issue throughout the sector	14
4.2 There are concerns about poor capability across the system.....	18
4.3 There are concerns about the way in which people are carrying out their roles in the system	21
4.4 Process-related complaints are contributing to frustration	24
5. Discussion of underlying causes	27
5.1 The underlying causes of problems are complex.....	27
5.2 These issues are putting considerable pressure on the system	29
5.3 Despite its problems, there is confidence that the system is delivering compliant building work.....	30
5.4 Further research would help address ongoing evidence gaps.....	30
Appendix A: References and additional resources	31
Appendix B: Detailed evaluation approach	33
Scope	33
Methodology	34
Limitations	36
Appendix C: Key events in the building consent system	37

Glossary of terms

Acceptable Solution	Acceptable Solutions give specific construction details, often for commonly used building materials, systems and methods. Designs based on them must be accepted by Building Consent Authorities as demonstrating compliance with the Building Code.
Alternative Solution	An alternative solution can include a material, component or construction method that differs completely or partially from those given in the Acceptable Solutions. Designs that include alternative solutions must provide evidence to show how the proposed work will meet the requirements of the Building Code.
Building Code	The Building Code is contained in regulations under the Building Act 2004. The Building Code sets clear expectations of the standards buildings must meet. It covers aspects such as structural stability, durability, protection from fire, access, moisture control, services and facilities, and energy efficiency.
Building Consent Authority (BCA)	The council or private organisation carrying out building control functions.
Building Control Official or Building Consent Officer (BCO)	The Building Consent Authority employees or people contracted by Building Consent Authorities to perform building control functions.
Code Compliance Certificate (CCC)	The formal statement confirming that Building Consent Authorities are satisfied that all building work has been completed in accordance with the building consent.
Licensed Building Practitioner (LBP)	Building practitioners that have been assessed as competent to carry out design or building work essential to the structure or weathertightness of residential buildings.
Request for Information (RFI)	A formal request issued by Building Consent Authorities if the consent application requires additional detail to determine whether there are reasonable grounds to conclude that the work complies with the Building Code.
Restricted Building Work (RBW)	Design and building work that is critical to the structure and weathertightness of a residential building. Restricted building work must be carried out by a licensed building practitioner with the appropriate licence for the type of work.

1. Executive summary

The building consent system comprises the people, processes and regulatory environment that together provide assurance that building design and construction work complies with the requirements of the New Zealand Building Code. Like all good regulatory systems, the building consent system needs to operate efficiently, consistently and effectively. This means that the system must be able to deliver on its intended outcomes in a way that is fair and predictable, while minimising undue costs and burdens.

The system faces frequent criticism for being inefficient and unpredictable, adding additional costs and delays to building projects. However, there has been little robust evidence to support these claims and a lack of nationally consistent data about the consenting process.

To better understand the existing practices of those who participate in the building consent process and to explore the underlying causes of problems in the system, this evaluation gathered information about the experiences of key stakeholders across the system. Fieldwork was carried out between March and July 2021, and included interviews, surveys and site visits with Building Consent Authorities (BCAs) and sector professionals (builders, engineers, architects and designers).

The purpose of this evaluation is to:

- understand how well the current system is aligned with its objective of ensuring the delivery of safe, durable and healthy buildings
- explore the underlying causes of issues with its efficiency, predictability and effectiveness.

1.1 The building consent system is broadly aligned with its intent, but it is not operating as well as it could be

The primary objective of the building consent system is to ensure that building work is designed and carried out in line with the Building Code. It also aims to ensure national consistency in building standards and to encourage innovation in building work.

There was broad agreement from interviewees and survey respondents that the current system is achieving its intended outcome. This helps to provide assurance that buildings are safe, durable and healthy for building users. However, there is less certainty about whether the system is achieving its wider objectives. In particular, there was concern that the system was not supporting innovation and instead leading to an over-reliance on Acceptable Solutions.

At the same time, evidence suggests that the building consent process is not being carried out in a way that is efficient or predictable. While respondents were clear that the building consent system is broadly meeting its objective, they were also clear that there is significant room for improvement in how the system functions. Concerns from both BCAs and the sector about unexpected delays and unpredictable outcomes indicate that the system is not working as well as intended.

1.2 There is no single underlying cause of problems in the building consent system

Accounts of problems were often attributed to concerns about capacity, capability and behaviour across both BCAs and the wider construction workforce. Analysis of these issues found that they were driven by a range of contributing factors. Together, these drivers influence the way individuals understand and undertake their roles in the building consent system.

Our analysis identified the following key underlying drivers of problems in the system:

- unprecedented levels of market demand are intensifying constraints within the system
- increasing complexity in the building environment is contributing to gaps in capability and oversight
- the devolved structure of the consent system is contributing to unpredictability
- concerns about potential risk and liability are affecting the way that people carry out their roles in the system.

Together the issues are putting considerable pressure on the system

Ongoing demand across the construction industry is exacerbating capacity and capability constraints for both BCAs and the sector. At the same time, the building environment is growing increasingly complex, which creates challenges in both building and regulating. These workforce constraints are contributing to concerns about supervision and performance across the system and leading to a higher risk of errors in building work.

The decentralised system means that 67 different BCAs are each responsible for their own policies and resourcing, with each also having their own grounds for decision-making based on their appetite and capacity for risk. These factors are influencing the way people carry out their roles in the system, leading to concerns about inefficiency and unpredictability in outcomes.

Despite these problems, there is confidence that the system is delivering compliant building work

While there are complex issues impacting on the operation of the building consent system, there remains a high degree of confidence that the system is achieving its intended outcome of Building Code-compliant design and building work. Ultimately, this indicates that the system is contributing to effectiveness in decision-making, despite concerns about its efficiency and predictability.

Further consideration could be given to balancing the roles and responsibilities in the system, particularly with regard to quality assurance. This could contribute to a system that is more efficient, predictable and effective, and better able to achieve its wider objectives.

2. Evaluation background and purpose

The current building consent system was established by the Building Act 1991 and has since been strengthened under the Building Act 2004. It functions as a critical component of the building regulatory system to ensure that building work is designed and carried out according to the Building Code.

However, the system is frequently criticised for being inefficient, difficult to understand and unpredictable, adding additional costs and delays to building projects. This evaluation was commissioned by the Building System Performance branch in MBIE to better understand how well the current system is aligned with its intended objectives and to explore the underlying causes of issues with its efficiency, predictability and effectiveness.

2.1 The building consent system

The building consent system comprises the people, processes and regulatory environment that together provide assurance that building design and construction work complies with the requirements of the New Zealand Building Code.

Responsibilities are shared by a number of people in the building system

The Building Act 2004 sets out the following roles and responsibilities for the people working within the building consent system:

- **Building owners** are responsible for obtaining any necessary building consents, arranging inspections and applying for code compliance certificates after all building work has been completed.
- **Builders** are responsible for ensuring that building work complies with the building consent and the plans, or if a building consent is not required, the Building Code.
- **Designers** are responsible for ensuring that the plans, specifications or advice for building work are sufficient to result in the building work complying with the Building Code, if the building work were properly completed in accordance with those plans, specifications or advice. However, designers do not have specific accountabilities to ensure that their work complies with the Building Code, unless the design relates to restricted building work under the Licensed Building Practitioners Scheme.
- **Building Consent Authorities (BCAs)** are responsible for checking to ensure that an application for a building consent complies with the Building Code and that building work has been carried out in accordance with the building consent for that work. They are also responsible for issuing building consents and code compliance certificates.
- The **Ministry of Business, Innovation and Employment (MBIE)** is the agency responsible for the Building Act 2004 and associated regulations. MBIE's role as steward and central regulator includes setting standards and monitoring performance, as well as providing system leadership and oversight.

All 67 territorial authorities (except the Chatham Islands¹) act as BCAs for their district. Other entities may be registered by MBIE to perform the functions of a BCA and are commonly referred to as private BCAs. Consentium, an independent division of Kāinga Ora, is currently the only private BCA. A few other privately run firms also contract their services to territorial authority BCAs but are not registered as private BCAs.

¹ The Chatham Islands Council transferred its building consenting functions to Wellington City Council.

The consent system includes the steps to ensure compliance with the Building Code

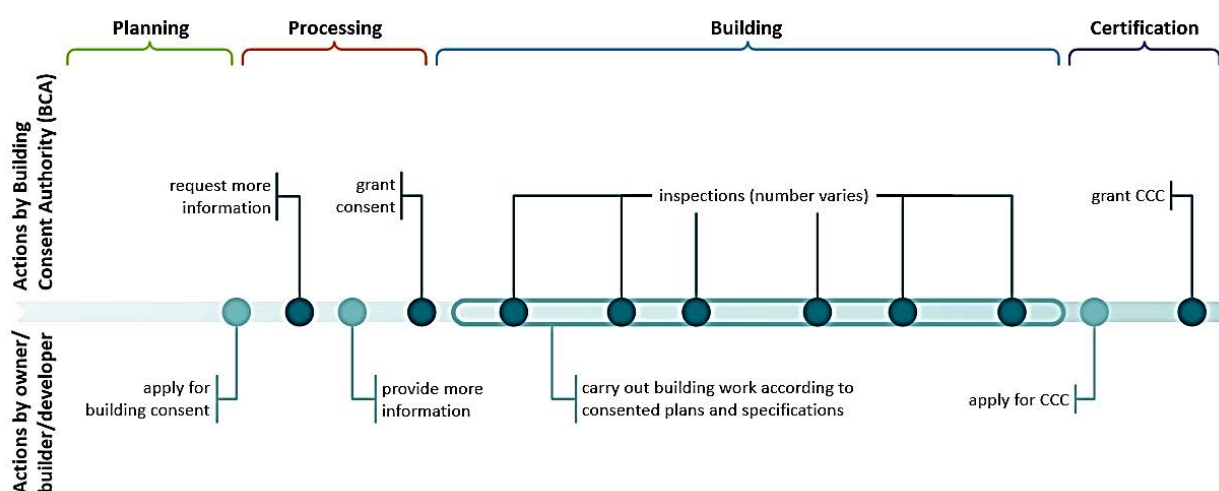
The 'building consent process' refers to the series of steps by which a building project is reviewed before, during and after construction to provide assurance that it meets the performance standards of the New Zealand Building Code. It includes the entire process of checking plans, carrying out inspections and issuing code compliance certificates once building work has been completed. The process helps manage the risks of non-compliant building work.

The building consent process can be split into four distinct stages:

- planning and lodging the application
- processing the building consent application
- inspecting the building work
- issuing the code compliance certificate.

The key responsibilities within each of these stages are outlined in Figure 1.

Figure 1: Overview of responsibilities across key stages of the building consent process²



A good regulatory system should be efficient, consistent and effective

Like all good regulatory systems, the building consent system needs to operate efficiently, consistently and effectively. This means that the system must be able to deliver on its intended outcomes in a way that is fair and predictable, while minimising undue costs and burdens.³

A workshop was held with key MBIE and local government stakeholders to better understand the concepts of efficiency, predictability and effectiveness in relation to the building consent system. The aim was to ensure a shared understanding of these terms to guide the evaluation.

The workshop participants agreed that these terms are difficult to succinctly define. However, there was broad agreement that:

- An **efficient** system maximises outputs with minimum inputs. In the context of the building consent system this would be evident in reduced double handling, faster flows of applications and inspections through the process, and builds being completed on schedule. Stakeholders at the workshop agreed that a key factor in ensuring efficiency of the building consent process is an appropriate assessment of risk, taking into account the complexity of the build.

² MBIE Briefing 2021-1566: Developing a new system for building consenting. 4 March 2021.

³ The Treasury, 2017.

- A **predictable** system provides users with the confidence that the process will get things right. Although variations might exist with how consents are processed by different BCAs, there should be a high degree of consistency in the interpretation of the Building Code and ‘reasonable grounds’ when assessing applications. In the context of the building consent process, this would be evident in similar applications having comparable outcomes across different BCAs.
- An **effective** system does what it is designed to do. This results in increased trust and confidence between all players (BCAs, builders, designers, owners, etc.). In the context of the building consent system this would be evident in fewer failed inspections, and assurance that buildings are safe and durable.

2.2 The purpose of this evaluation

The purpose of this evaluation was to understand how well the current system is aligned with its intent to ensure the delivery of safe, durable and healthy buildings. It also aimed to better understand the issues arising in the building consent system that are contributing to problems with its efficiency, predictability and effectiveness in operation, and to explore their underlying causes.

This information will be used to support further consultation and a review of the building consent system being undertaken by MBIE.

Findings in this report integrate the analysis of a wide range of information sources

This evaluation used a variety of methods to collect data before bringing this data together during analysis. This triangulation of data sources can help provide assurance that the findings are robust if multiple data sources are supporting the same finding. This approach can also help identify areas where there are conflicting views.

The methods used in this evaluation include:

- 43 interviews with 59 individuals from BCAs and the construction sector
- 5 focus groups bringing together 41 representatives from BCAs and the sector
- surveys that achieved 28 responses from BCAs and 263 responses from the sector⁴
- a comparison of the steps taken by BCAs when carrying out the consenting process
- visits to building sites, engaging with one or more building system stakeholders on-site
- a review of previous research related to the building consent system (see Appendix A for a list of relevant resources).

The evaluation team drew together information sources in their analysis, collectively agreeing on key themes. Following this, the evaluation team facilitated two workshops with a broad range of policy colleagues. The workshops provided an opportunity to test out initial findings and draw on the extensive knowledge of the building system across MBIE.

This evaluation focused on the people and processes in the building consent system

The evaluation was designed to explore the building consent process and the way that people carry out their roles through the process. It sought to understand the underlying issues contributing to problems with the process. It does not seek to identify or measure the impact of these causes on the outcomes of the building consent system.

⁴ The response rate for the sector survey was very low, and as a result, sector survey findings should be considered broadly indicative of trends rather than statistically accurate measurements.

This evaluation does not specifically look at the use of building products and how they are considered throughout the building process, nor does it look in detail at regulations that support the building consent system, such as the Building Consent Authority Accreditation Scheme and the Licensed Building Practitioner Scheme. However, these factors may be addressed in cases where they are seen to have an impact on the way that the building consent process is carried out.

Some information gaps remain and may be explored in future research

Quantitative data about building consent activity is mostly limited to the number, floor area and value of consents for building work. Official statistics also understate the number of consents processed by BCAs as they do not include low-value consents. Where information is collected about the processing of applications (including requests for information), inspection of building work and issuing of certificates of code compliance, this is held by individual BCAs and may not be collected in a way that is comparable across regions.

In addition, the relatively tight timeframes for the evaluation fieldwork meant that in-depth research across all regions and participants in the building consent system was not an option. Further considerations were given to various COVID-19 alert levels, and the unprecedented level of activity in the building consent system at the time fieldwork was being undertaken.

Despite these limitations, the evaluation provided evidence that substantiates anecdotal issues previously raised by stakeholders about the building consent system. It also points to areas for further in-depth research.

Details about the evaluation approach and methodology can be found in Appendix B.

3. Understanding how well the building consent system is aligned with its objectives

- BCAs generally have good policies and procedures in place to support their consenting function. This is contributing to overall agreement that the system is largely meeting its objective of ensuring that building work is carried out in line with the Building Code.
- At the same time, building consents often face lengthy processing times, delays due to requests for further information and unpredictable outcomes of decision-making.
- This indicates that while the system may be effectively achieving its intended outcome, it is not operating as efficiently or predictably as expected.

3.1 The building consent system is broadly aligned with its intent

The building consent system provides assurance that the performance of a building satisfies the requirements of the Building Code.

The requirements of the Building Code are performance-based, to allow development and innovation in building design, technology and systems. It establishes a framework for decision-making, with checks and balances at each stage of the building process. The process itself is not prescriptive, which allows for BCAs to develop their own methods for determining that design or building work satisfies the requirements of the Building Code.

BCAs are largely following similar and expected processes

Overall, the review found that BCAs largely follow the expected building consent process when processing building consents, inspecting building work and issuing certificates of code compliance. This was also reflected in a reviews of BCA practices, which are carried out biennially by International Accreditation New Zealand (IANZ) on behalf of MBIE. In their recent report, IANZ found that “in general, most BCAs have good policies, procedures and systems in place to effectively undertake their building control functions”.⁵

The system allows for BCAs to develop their own structures and processes for managing their building control functions and minor differences between BCAs are common. These differences appear to be primarily administrative, relating to the practices around receiving applications and the technology systems used by BCAs.

For example, some BCAs provide templates and/or lists of required information to include with an application. BCA interview respondents noted that this was done to support applicants preparing applications, and that it helped manage the volume of documentation they receive in applications. Some BCAs will hold in-person or online pre-application meetings with prospective applicants, though these are more likely to take place to support higher complexity building types.

BCAs are also increasing their uptake of electronic consenting systems to manage the processing of applications though there is some variation in particular information technology systems being implemented.⁶ In addition, some BCAs noted that they are looking into increasing the use of technology to carry out inspections remotely.

⁵ IANZ, 2021.

⁶ MBIE, 2021.

There is broad agreement that the consent system is contributing to Code-compliant building work

Overall, there was general agreement among BCAs and sector professionals that the building consent system is largely meeting its objective of ensuring safe and durable buildings.

When asked about what they saw as being the objective of the system, nearly all interviewees said it was to ensure that buildings met the requirements of the Building Code, and were safe, durable and healthy for building users. The evaluation team also asked interviewees whether they thought the building consent system was aligned with this outcome. Interview participants were generally in agreement that the system was set up in such a way that the checks in the process would help to ensure that building work is designed and carried out in line with the Building Code.

Most BCAs surveyed agreed that the building consent system helps ensure safe, durable buildings (86 per cent agree or strongly agree), as did sector survey respondents (78 per cent agree or strongly agree).

BCA interviewees generally expressed confidence in the process, noting that they have sufficient opportunities to review building work through the design and construction stages to ensure that it was being carried out in a compliant manner. Some noted that work being reviewed and revised demonstrated that the system is achieving what it is meant to, by finding and resolving any faults through the process.

There is less certainty about whether the system is achieving its other intended outcomes of ensuring consistency and supporting innovation

The building consent system aims to achieve national consistency in administering the Building Act, Building Code and Regulations. This is supported by having minimum standards set out in the Building Code that all buildings must meet, and national accreditation requirements for BCAs to carry out their functions.

Although national consistency in the application of building standards was rarely mentioned by interviewees as a particular intention of the system, the consensus that it would ensure alignment with the Building Code suggests some agreement that the system sets a consistent requirement for building work across New Zealand. BCA survey respondents generally agreed that the system helps to ensure national consistency of building standards (64 per cent agree or strongly agree) although there was less certainty from sector professionals (49 per cent agree or strongly agree).

The building consent system is performance-based and does not set out how building work should be designed and carried out so long as it meets the objectives set out in the Building Code. This is intended to allow for innovation in building methods while still setting standards that building work must meet.

However, most BCAs surveyed did not believe that the building consent system supports innovative and modern methods of construction (14 per cent strongly disagree, 54 per cent disagree), neither did sector respondents (32 per cent strongly disagree, 41 per cent disagree).

3.2 The system is not operating as well as it could be

To be effective, the building consent system should provide assurance that the performance of a building satisfies the requirements of the Building Code. At the same time, it also needs to operate in a way that is efficient and predictable.

Efficiency in the context of the building consent system relates to the flow of applications and inspections through the process, and building work being able to be completed on schedule. The system should be able to achieve its intended outcomes while minimising the inputs and handling required.

A predictable system provides users with confidence that the process is carried out consistently, and that the Building Code will be applied in a way that achieves comparable outcomes across different BCAs.

Although it is largely effective in meeting its intent of ensuring compliant building work, feedback on practices within the building consent system suggests that the process is not being carried out in a way that was efficient or predictable. This is contributing to a lack of confidence that the system is working as intended.

“The building consent system rates well because we’re not seeing buildings fall down. But it gets a low rating in terms of its working components.” – BCO

Actual processing times are often longer than the statutory timeframes

BCAs have a statutory obligation to process a building consent application within 20 working days of receipt. This timeframe applies to all consents, regardless of their type or complexity. If the BCO requires additional information to process the consent they may issue a request for further information (RFI). This issuing of an RFI “stops the clock” until the requested information is supplied by the applicant.

The available evidence suggests that the majority of consents are processed in the 20-day timeframe. However, with many applications put on hold pending further information, the actual processing timeframe is likely to be much longer. The extent to which this might be an issue is not currently well understood due to the lack of sufficient consenting data.

A survey carried out by MBIE between March and September 2021 found that while performance varied significantly across all BCAs, decisions on residential building consents are made within an average of fourteen working days. However, this excludes the time an application was put on hold while the BCA awaited further information from the applicant. Processing times were also affected by the quality of applications and the complexity of the proposed building work. While most of the BCAs were found to be meeting their statutory requirements for processing times most of the time, MBIE estimates around one in four BCAs are struggling to meet these requirements.

Most BCAs surveyed did not feel that the building consent system helps ensure construction is completed in a timely manner (11 per cent strongly disagree, 50 per cent disagree), neither did sector survey respondents (32 per cent strongly disagree, 42 per cent disagree).

The majority of applications require RFIs to process, increasing the handling time

Feedback from both BCAs and the sector suggested that nearly all consent applications would receive at least one RFI, with some BCOs commenting that it would be unusual for an application *not* to receive an RFI. A 2015 audit of Auckland Council consenting processes found

that 70 per cent of consent applications received at least one RFI.⁷ In 2017, an MBIE review of available data found that for applications requiring further information, an average of 11 items are requested.⁸

Both BCA and sector respondents felt that there were too many RFIs being issued (75 per cent of BCA survey respondents, and 64 per cent of sector survey respondents). However, they differed in what they saw as the cause of this issue. Sector respondents typically saw RFIs as delay tactics to allow BCAs more time for processing applications by issuing “unnecessary” and “pedantic” RFIs. At the same time, BCA respondents noted that building and design work was frequently poor quality or incomplete, necessitating RFIs before they can provide approval.

A recent review of building consent applications for new Kāinga Ora housing found that all of the 16 sampled applications elicited RFIs but that “basic but minor errors resulted in RFIs [that] could have been avoided”. The report also noted that “all RFIs were reasonable and all with helpful advice to assist resolution”.⁹

IANZ reported that many BCAs appeared reluctant to reject incomplete applications, even if they have reasonable grounds to do so. In guidance to BCAs regarding the processing of applications, MBIE notes that consent applications may be refused where insufficient or inadequate information has been received.

There is currently insufficient data available to understand broader trends in RFIs and the reasons for which they are issued. Further research would be helpful to better understand the nature of RFIs and the extent to which they contribute to delays in the application process.

Outcomes of the process can be unpredictable, both between and within BCAs

A BCA must grant a building consent if it is satisfied on reasonable grounds that the provisions of the Building Code will be met if the building work is completed in accordance with the plans and specifications. This allows for variation in design and building work so long as they satisfy the performance requirements of the Building Code.

However, sector professionals often expressed frustration with what they saw as inconsistent and unpredictable outcomes for similar work. While administrative differences contributed to this issue (such as different IT systems and paperwork requirements), varied interpretations of the Building Code by BCOs and inspectors appeared to be the main point of tension.

“The changing requirements from BCA regarding what information is required to document compliance etc, it changes from person to person and project to project.”
– *Architect*

“The lack of consistency across BCAs both in consent application process and methodology and in consent assessment is our biggest issue. Each BCA has its own application process and forms requiring different information, details and methodology.” – *Architect*

While variation between BCAs was more commonly raised by respondents, variation within an individual BCA was also identified as an issue. Many sector respondents, in both interviews and survey responses, commented on the high level of variability between how individual BCOs process applications and undertake inspections. The common complaint was that the outcome

⁷ Controller and Auditor-General, 2015.

⁸ MBIE, 2017.

⁹ Independent Expert Panel commissioned by MBIE, 2021.

of your application or inspection can come down to “who you get” (88 per cent of sector survey respondents agreed).

There also appears to be some difference in how individual BCOs understand whether a change is a minor variation or should be handled as an amendment to the building consent. This is an important distinction as minor variations can be signed off on-site, while amendments require re-application and approval, often contributing to delays in carrying out building work.

This evaluation aims to better understand the causes of problems in the system

BCAs generally have good policies and systems in place to manage the building consent process. However, concerns from both BCAs and the sector about unexpected delays and unpredictable outcomes indicate that the system is not working as well as intended.

Although interviewees expressed confidence that the system was ultimately achieving what it was meant to do, they also acknowledged that the system continued to be difficult and frustrating to navigate.

The issues impacting on the operation of the building consent system will be explored in Section 4.

4. Problems in the building consent system

The building consent system has long been faced with complaints of inefficient, inconsistent and ineffective decisions and processes. These typically involve frustrations with delays and inconsistencies and result in finger-pointing about poor-quality work and decision making.

Accounts of problems with the system from interview respondents related to a range of issues. These were often interconnected and included themes related to:

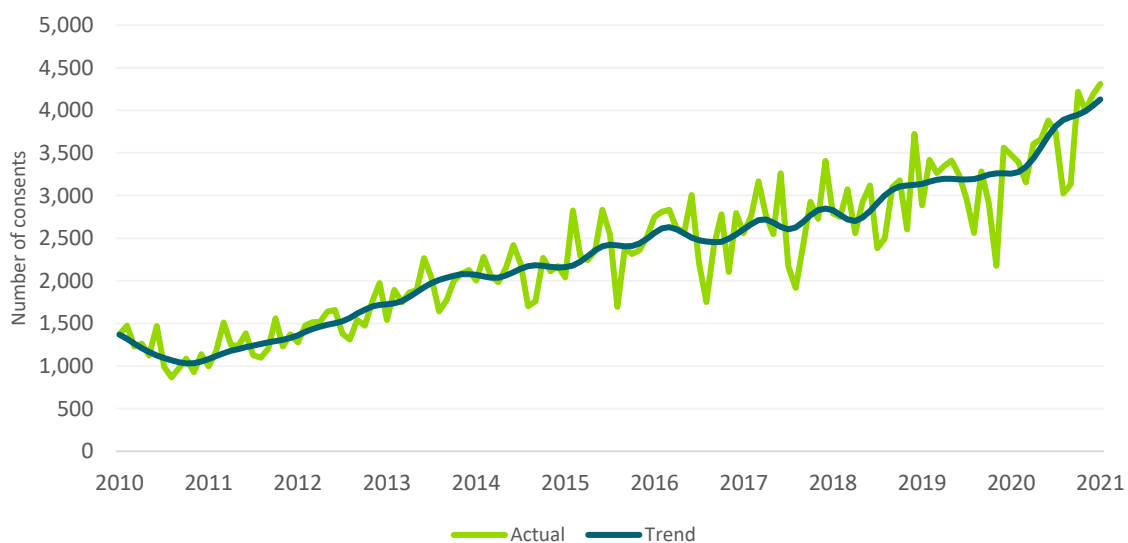
- the **size and capacity** of the workforce, such as the ability to recruit or engage suitable workers to undertake consenting or building work
- the **skills and capabilities** of both BCAs and the sector, such as understanding of requirements and level of competency when carrying out regulatory functions
- the **behaviours** of those who interact with the process, such as the way people carry out their roles, and the relationships between people in the building consent system.

In addition, there were some complaints regarding process-related issues that are leading to frustrations with the system. However, these are not seen to be directly contributing to concerns about efficiency, predictability or effectiveness.

4.1 Workforce constraints are an issue throughout the sector

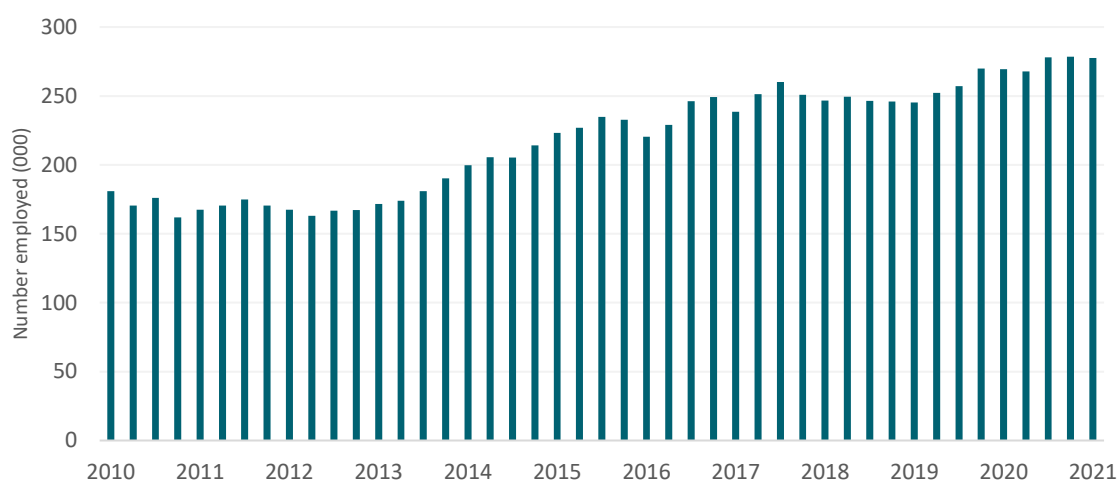
After seeing a significant decline through the Global Financial Crisis, the sector is currently experiencing a sustained period of demand and is now facing challenges meeting its resourcing needs. While the number of dwellings consented has risen more than 200 per cent between June 2010 and June 2021 (see Figure 2), the number of people employed across the sector has only risen by around 50 per cent over the same period (see Figure 3).

Figure 2: Number of new dwellings consented, monthly (June 2010–June 2021)¹⁰



¹⁰ Stats NZ, Building Consents Issued.

Figure 3: Number of people employed in the construction sector, quarterly (June 2010–June 2021)¹¹



Nearly all the participants in our fieldwork identified capacity constraints across the sector as a major issue. Developers talked about significant challenges finding capable and experienced sector professionals as most are already booked out for quite some time. Many professionals confirmed that they were juggling multiple projects and sometimes taking on more work than they can effectively handle.

Capacity was considered a big issue by BCAs as well, with many pointing out the substantial increase in the volume of consenting work they are expected to carry out. Some BCA respondents said that they struggled to meet the statutory timeframes for processing consent applications not because of the time required to assess the application, but because of the backlog of work to be cleared between receipt of an application and its review.

BCAs face competition for skilled BCOs from other BCAs and the private sector

Although many BCAs are actively seeking to recruit and invest in new staff, they noted significant constraints in meeting immediate needs due to the time required for BCOs to achieve sufficient training and experience.

“We can pull someone off the street but we still have to train them on regulations – this is a two year programme that is going to take them out of the office for at least 50 per cent of the time.” – BCO

These challenges may be encouraging the “poaching” of competent BCOs away from BCAs, a practice that was said to be impacting a number of BCA respondents across both urban and rural regions. While many BCAs suggested that this was widespread practice by accredited private organisations, and were quick to blame Kāinga Ora’s Consentium, other feedback suggests that this may be equally happening between BCAs by those who are able to offer greater pay for experienced BCOs.

This is leading some BCAs to consider how they sufficiently attract and retain competent staff, particularly in smaller regions where they often have fewer applicants for roles and limited funding for wages. The workload pressures that BCOs are facing through the consent system are seen as contributing to stress and job dissatisfaction, which may only be exacerbating the capacity constraints that they are experiencing.

¹¹ Stats NZ, Household Labour Force Survey.

Capacity constraints may be contributing to greater numbers of unnecessary RFIs

Workforce constraints may also be leading many in the sector to submit poor quality or incomplete work rather than putting in the effort up front to ensure it has the required information. Feedback from BCOs indicated that they often received applications that were incomplete or missing basic information.

BCOs felt that this behaviour meant that applicants could place the blame for processing delays on them to “save face” with their clients. However, this was seen as only prolonging the issue as it meant that the responsibility for remediation was shifted between BCAs and the sector.

“We understand there are time constraints laid out from the clients. But they need to understand that if they don't give us a compliant application, they're going to get RFIs and instead of saving time...they're actually losing it.” – BCO

On the other hand, the sector felt that BCAs were managing their workloads to meet the statutory timeframes by issuing “day 19 RFIs” to stop the clock. BCOs suggested this was a misconception and that RFIs were typically issued earlier in the timeframe. Due to the lack of sufficient data on RFIs, this feedback is unable to be substantiated by quantitative evidence but may be worth exploring in subsequent research.

Low BCA capacity may be contributing to issues with booking inspections

A number of sector professionals noted that due to long wait times for booking inspections, it was challenging to estimate the completion time for their work and align the inspections appropriately. Some BCAs noted that inspections typically needed to be booked at least two weeks in advance due to the lack of available inspectors.

This often resulted in building work not being completed in time for inspections and resulted in failures purely on those grounds. BCA respondents agreed that this was an issue and noted that they would often turn up to building sites and find that the work to be inspected was not complete.

“We do fail a number of inspections but not all of them are true fails. It could be that when we go to inspect the foundations, the consent includes three slabs, and only one is complete so the inspection would fail. So when the stats come out that [the BCA] fails a certain percentage, maybe 50-60% of inspections, it's not a true representation of the pass/fail rate.” – BCO

Aware that they are likely to fail at least one inspection on timing grounds, the sector approach is often to book several inspections at a time and later cancel those they don't need, further straining the capacity of the system.

The sector is becoming increasingly specialised, leading to challenges with oversight

The sector is also becoming increasingly fragmented as individuals focus on areas of expertise in order to create efficiencies in their work.

However, feedback indicates that this increasing focus on specialisation has the effect of creating less efficiency across the broader sector, due to a lack of end-to-end expert oversight and greater risk of error between construction stages.

BCOs suggested that site supervisors often worked across multiple building sites and were not always available when they turned up for inspections. More than half of BCA survey respondents considered this to be a big issue.

A lack of supervision was also seen as contributing to BCOs having to take on greater roles in regard to quality assurance. BCOs said this was a particular frustration between the design and building phases of a building project, or between specialist building teams that might not be working on a building site at the same time. BCOs expressed concerns about errors that could have been avoided with better communication or coordination between teams, and felt that they were having to take on that role when they carried out inspections.

BCA workloads are often constrained by their range of consenting responsibilities

Nearly all BCOs spoke about the challenges with balancing their consenting function with their accreditation requirements, which are compulsory to ensure that they have the policies and procedures in place to effectively carry out their role.

Most BCOs expressed frustration over their BCA accreditation assessments becoming too process-focused, detailed and “nit-picky”. Instead, they felt it has become a “tick-box exercise” that does not look much into the quality of BCA decisions. Many pointed out that while the accreditation is intended to improve their processes, it is not kept at a high level, assuring that the processes they have in place contribute to good decision-making. Many said training their staff and preparing for the assessments takes significant time and resources when they could be carrying out their consenting work.

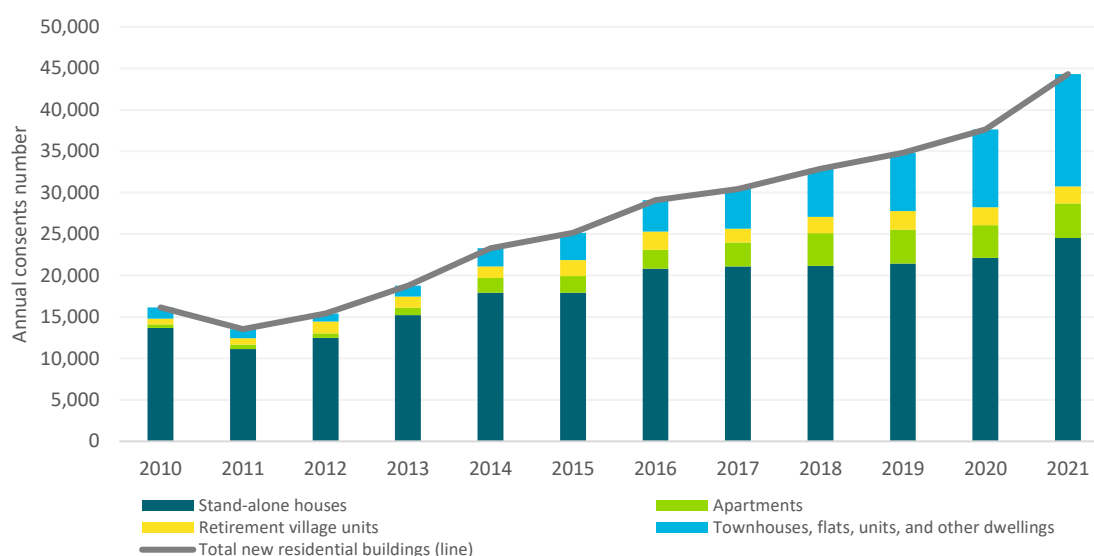
“The time cost and energy for each audit is crippling when these resources could be better used.” – *BCO*

In addition, a number of BCOs spoke about the complexity of managing building work that was exempt from requiring a building consent under Schedule 1 of the Building Act. While obtaining a building consent was not necessary for certain types of building work, it is still required to comply with the Building Code. Problems tended to arise if questions or complaints were raised by the public or members of the sector about building work that may not comply with the Building Code. BCOs said that they were obligated to investigate any such issues that were brought to their attention, which could take significant resource away from their everyday work.

4.2 There are concerns about poor capability across the system

Alongside the increasing numbers of building consents being processed through the system, increasing densification and advancements in building technology has led to buildings becoming increasingly challenging to build and regulate. In the past decade, the proportion of stand-alone houses dropped from 82 per cent of all residential dwellings consented in 2011 to 55 per cent in 2021. The proportion of multi-unit homes, however, increased from 12 per cent to 40 per cent during the same time period (see Figure 4).

Figure 4: Annual new residential dwellings consented by building type (year ended June 2010–2021)¹²



The building system has accordingly adapted its regulatory levers to reflect the changing nature of the industry and standards for building work by regularly reviewing the requirements of the Building Code and setting standards for people and products within the system. Under the Building (Accreditation of Building Consent Authorities) Regulations 2006, BCOs carrying out technical roles as part of their building control functions must have a technical qualification. Similarly, a 2007 amendment to the Building Act specified that those who carry out or supervise restricted design or building work must be assessed as being competent under the Licensed Building Practitioner Scheme or other recognised regimes that include licensed professionals such as Architects, Chartered Professional Engineers, or Plumbers, Gasfitters and Drainlayers.

However, the quality of work carried out during the building consent process was considered a key issue by both BCAs and sector professionals, with each group pointing to concerns about the skill and capability of the other. These concerns highlight potential gaps in capability that may be contributing to issues in the consent system.

The scope of required knowledge for BCOs is increasing

As the sector becomes increasingly complex and specialised, there are concerns that BCOs do not have the necessary expertise to adequately assess technical details across all aspects of design and building work.

Some survey participants pointed out that it is impossible for the BCAs to have all the necessary skills to do this effectively. Both BCA and sector respondents felt that this often

¹² Stats NZ, Building Consents Issued.

leads to BCOs falling back on what they know or relying on rigid checklists, thus limiting uptake of more innovative building methods.

“As architects we are relying on alternative solutions, best practice and our knowledge to provide creative, interesting and healthy design solutions that benefit the built framework of this country. More often than not the person behind the desk is unable to engage with our approach, and rather refers back to the outdated NZBC E2 when an alternative solution is applicable.” – *Architect*

More than half of sector survey respondents said that a big issue for them was that “some BCAs lack the experience to understand more complex building projects”. Feedback from the sector suggests that while the BCOs may have sufficient regulatory knowledge, they may also be lacking the practical ability to interpret technical drawings and construction methods.

“Building consent officers often seem to have insufficient knowledge of construction and their ability to read and understand technical drawings is inadequate, resulting in too many basic and unnecessary questions.” – *Architect*

BCA interviewees suggested that while larger BCAs had the capacity to retain experts from a range of fields, smaller BCAs often had fewer BCOs and fewer resources to contract advice from external professionals. In addition, smaller BCAs typically receive fewer applications for more complex building types such as higher density housing or commercial buildings, so felt that they were not able to gain the same confidence and experience in working with these types of buildings through their everyday work.

There is concern that the sector is not keeping up with changes in building standards

A number of interviewees from both sides raised issues around inexperienced architects, engineers, builders and project managers undertaking work above their skill level and experience. The survey results showed that from a BCA perspective, some sector professionals lacked the skills to adequately understand the Building Code. The majority of BCA respondents (82 per cent) said this was a big issue. BCAs commented that many in the sector seemed to be unfamiliar with the requirements of consenting processes and often submitted incomplete documentation in their application. These issues often lead to multiple RFIs, lengthy delays, rework and inspectors having to educate inexperienced builders and project managers on site.

“The NZ building industry has become too focused on process...rather than developing a competent sector capable of understanding modern construction practices for new buildings and renovation of existing buildings.” – *BCO*

BCOs and sector professionals largely agreed that there needs to be more industry training focused on the Building Code and engaging with regulatory system. Some sector professionals said their degree focused more on theories and principles and there is not much in the curriculum around the regulatory system, the broader context of the build and other practical matters.

BCOs have the view that sector needs to do their part of understanding the Building Code and being proactive in keeping up with legislation, instead of just waiting to receive RFIs. BCOs felt that many RFIs may be caused by applicants’ not keeping up with changes in regulations, and not reading guidelines and information provided by BCAs and MBIE. On the other hand, the sector felt that updates to regulations were often rolled out with very little promotion or communicated in ways that they were not always aware of.

“Often we don’t realise there are changes to standards that we have been used to working with for a long period of time.” – *Builder*

Poor performance is seen as being shifted through the process rather than effectively managed by the sector

There was a strong theme in the feedback from BCOs that they lacked confidence that the sector was effectively managing the performance of those working within the building industry. While there were some concerns about the standards for those entering the building workforce, such as the requirements for entering the LBP scheme, the BCOs were more often concerned about mechanisms for dealing with poor quality work they saw in consent applications and building work inspections. This had implications on the ability of BCOs to carry out their work efficiently and to feel confident in the decisions they were making about the quality of building work.

BCOs spoke about sending out numerous, often repetitive, RFIs to applicants who appeared to have little understanding of the requirements of the consenting process. On building sites, BCOs noted that it was often easier to provide advice on how to address issues (despite this advice being outside the scope of their role) rather than deal with repeated failed inspections, which would only increase their workload. Poor building work was frequently attributed to supervisors being spread too thinly across building sites and not providing appropriate levels of oversight for their workers.

Particularly in smaller regions, BCOs said they were able to recognise those who were habitually poor performers but felt they had insufficient recourse for weeding out bad actors. While BCAs are able to charge hourly fees for application reviews or site inspections, they suggested that these costs are often being passed along to clients and are not seen to be enough of a disincentive for people carrying out substandard work.

“The council provides a sort of indirect incentive in that they charge by the hour. So if someone puts in a good quality application, the client is going to get a lower cost. Due to the way that clients usually often pay a fixed fee to the designer, in theory the designer could pocket any difference in fees that come from submitting a higher quality application that takes less time to process. If the designer is just passing on the charge then that incentive is not there.” – *BCO*

BCOs commented that official complaints mechanisms were difficult and time consuming to access on top of already existing capacity constraints. In addition, they spoke about the seemingly minor repercussions faced by the subjects of complaints, many of whom were still able to carry out building work in some capacity.

“The LBP scheme...everybody's just so cynical about it. BCAs are nervous about some designers but when they put a complaint, the complaint falls on onto the floor, and it's like, 'move on nothing to see here'. And [the designers] just continue to practice and repeat the same mistakes.” – *BCO*

4.3 There are concerns about the way in which people are carrying out their roles in the system

The consent system relies on having people with the capacity and competency to undertake their roles appropriately. However, there are concerns from both BCAs and the sector that people are not always carrying out their roles and responsibilities in a way that encourages efficiency, predictability and effectiveness in the system.

BCAs face tension between carrying out their role and providing good service

BCAs frequently commented that the standard of applications they received was poor, with many applications missing critical information required to begin the review process, such as names and dates. This is supported by the assessment carried out by IANZ, which found that “BCAs frequently accept building consent applications that do not have the necessary information to start processing the building consent effectively”, noting that they should not be accepting such applications.¹³

Many BCOs noted that this acceptance of incomplete and poor-quality applications was because they faced pressure as members of a public organisation to provide good customer service and felt unable to reject applications outright. However, this issue was then typically resolved by issuing RFIs for the missing information, thereby prolonging the application process.

Some frustrations also stemmed from how individual councils managed relationships and communication with the sector. Some BCOs felt that their BCA took a more customer-centric approach and were willing to help designers and builders by providing advice. However, many BCOs said that they did not have the capacity to do this, as it required additional time and was outside the scope of their role.

Many in the sector appear to be relying on BCAs to carry out quality assurance

BCOs often talked about taking a cautious approach when reviewing consent applications to ensure that the threshold for “reasonable grounds” was satisfied with a high degree of certainty. This appears to be contributing to sector professionals seeing RFIs as an inevitability when submitting their work and may then be reinforcing the use of BCAs to check for errors, as it creates disincentives to putting in the necessary work to “get it right the first time”.

“A lot of designers put applications in just for shopping, relying on BCAs to pick errors up, rather than going an extra mile and making sure they don't get the RFIs.” – BCO

BCA respondents often described the significant challenges they face in reviewing incomplete or inadequate building consent applications, suggesting that many applicants appear to be expecting the BCAs to review the applications for both completeness and quality. The result of this is that BCAs are spending more time reviewing applications and often sending out RFIs to resolve concerns with the documentation. Almost all BCA survey respondents (96 per cent) identified this practice as a ‘big issue’ for how they undertake their role in the building consent system.

“We get the blame for the delays but we are purely reactionary. We only react to what was provided to us and what's on site for us to look at. We are just doing our jobs to ensure buildings are safe, healthy and durable.” – BCO

At the same time, sector professionals generally felt that BCAs would be overly cautious when carrying out their consenting function, finding faults regardless of the quality of work the

¹³ International Accreditation New Zealand, 2021.

sector produces. This assumption may then be discouraging the sector from carrying out their own quality assurance, as they believe that BCAs will review their work and point out any issues to resolve.

These attitudes therefore appear to be creating negatively reinforcing behaviours when it comes to quality assurance processes: as BCOs take what is seen as an overly cautious approach to decision-making, members of the sector may be disincentivised to take responsibility for their own quality assurance. This may be contributing to a culture of finger-pointing, as both sides blame each other for poor quality work and delays in the system.

There is low trust between BCAs and the sector

A strong theme from both BCA and sector respondents was that BCAs had a lack of confidence or trust in sector capability, leading to BCAs taking on additional responsibilities. This was cited primarily as having an impact on the efficiency of the consent system, through large numbers of RFIs, or BCOs re-checking work already signed off by sector professionals.

“Inconsistency from plan checkers and a very risk averse nature results in overly arduous RFIs. Often asked for more info when there are producer statements and engineers covering these areas of work.” – *Builder*

Sector professionals, both interview and survey respondents, expressed frustration that their experience and expertise weren't being recognised by BCOs. A common complaint was that BCOs are double-checking the work already signed off by specialists, resulting in unnecessary delays. Survey respondents commented that because of a small number of poor performers in the sector, BCAs were taking an overly cautious approach to all applications, resulting in little incentive for those in the sector to strive to be a high performer.

At the same time, sector professionals often questioned the cause of delays in the processing of consent applications, seeing them as indicators of BCA ineffectiveness.

“The biggest issue is generally the incompetence of the council personnel performing the consent process. A knowledgeable person should be able to review a basic house plan in 2 days.” – *Builder*

Sector professionals suggested that for more complex builds, BCAs tend to issue “excessive” or “unnecessary” RFIs in order to use the “stop the clock” mechanism. This stops the time on the 20-working day processing deadline and is seen as giving BCAs more time to assess the application or contract an expert who could review the design on their behalf.

Sector professionals consider that overly risk-averse behaviour from BCAs is leading to inefficiencies in the consent process

The process settings, whereby the BCAs ultimately make decisions on reasonable grounds in relation to compliance with the Building Code, place considerable responsibility for providing assurance for building work onto BCAs. This leads to behaviours in BCAs that are widely considered to be “excessively” risk-averse by those in the sector.

Many in the sector complained that BCOs take an overly cautious approach to carrying out their consenting duties by issuing “nit-picky” RFIs and duplicating effort already carried out by sector professionals. Sector respondents suggested that this behaviour was largely driven by BCA concerns about accountability, with around three-quarters of sector survey respondents agreeing that “overly risk-averse behaviours from BCAs” was a big issue for them.

“BCAs are overly risk averse. ...and results in excessive delay in processing and excessive number of irrelevant RFIs because BCA staff are unwilling or unauthorised to process consents decisively and confidently.” – *Architect*

“The Territorial Authorities are completely devoid of any awareness of the cost they inflict due to their overzealous risk liability aversion.” – *Designer*

On the other hand, BCOs justified this behaviour and said that because they were the ones who held specific responsibilities both as officials and for most, as local councils, they needed to create sufficient certainties that design and building work would not create negative impacts for themselves or building users, for whom they felt responsible.

“As a council, our role is to make sure that people can use buildings safely and if anything happens, that they can get out safely. You want to be confident that if you give someone a CCC that it’s built to Code, that it’s safe to use and that it’s going to last. Without BCAs carrying out that regulatory function, you are going to get people who will try and cut corners, so our role is critical to making sure that building work is carried out properly.” – *BCO*

However, many BCOs noted that “reasonable grounds” is subjective by nature and there is no clear definition of how it should be interpreted. This leads to differences in the level of rigour applied to applications and inspections based on a BCA’s appetite for risk, which in turn results in unpredictable outcomes of decision-making.

“Having the same checklists and systems across the country might help to some extent but if the liability still sits with the individual council then each one will continue to look at things differently.” – *BCO*

Many BCOs said that they felt this decision came down to personal opinion of what was considered “reasonable”. They also suggested that this uncertainty contributed to higher numbers of what could be considered “pedantic” RFIs as BCOs sought assurances that they had sufficiently covered off what could be considered “reasonable grounds”. These higher numbers of RFIs then contribute to delays in processing as applications are put on hold while awaiting responses.

“Our biggest challenge is that ‘reasonable grounds’ is never defined... The Code is just so flexible with its meaning for ‘reasonable grounds’ that anyone can literally do anything with it.” – *BCO*

4.4 Process-related complaints are contributing to frustration

In addition to the main issues that centred around the capacity, capability and behaviour of those who interact with the building consent process, there were also some general concerns about the process. These concerns often did not contribute to specific issues related to the efficiency, predictability or effectiveness of the building consent system but were frustrations shared by many across BCAs and the building sector.

The statutory 20-day processing timeframe is causing confusion and uncertainty

The processing time for a consent application starts when the BCA has accepted the application, usually after a check for completeness. Often this is within 48 hours of receiving the application, based on guidance from MBIE. The clock is stopped if the BCA requires additional information to properly assess the application and starts again when the response is accepted from the applicant.

With the majority of applications now submitted online, the general expectation from applicants is that the time starts once they have submitted the application to the BCA, leading to a disconnect in regard to when the clock actually starts. BCOs said this was a particular issue when applicants submitted their documents on a Friday afternoon or before the Christmas holiday period, with many applicants expecting the clock to start immediately.

The available evidence suggests that most consent applications are processed in the 20-day timeframe; however, with many applications going on hold pending further information, the actual processing timeframe is often much longer. This is contributing to considerable frustration from the sector due to the uncertainty and being unable to plan their work accordingly.

“It is supposed to be 20 working days and we are consistently seeing consents not being issued until 45+ days.” – *Builder*

Variability in IT systems across BCAs is contributing to administrative inefficiencies

A review of BCA processes and IT systems found that differences between BCAs can result in different expectations about what information is included and how it is organised in an application. Sector professionals who work across BCAs reported frustration that there was no standard process or system for submitting applications, leading to increased time required to adapt to different procedures.

Thirty-six per cent of both sector and BCA survey respondents felt that inconsistency of IT systems between BCAs was a ‘big issue’. Many respondents to the sector survey asked why there couldn’t be a single portal for submitting applications with some noting that it would save considerable time if they were able to have a standard template able to be submitted across BCAs.

“The different software systems are painful, particularly in regions where we work in two cities that run with two different systems” – *Builder*

In early 2021, a survey was carried out to identify IT platforms currently being used by BCAs to manage applications, inspections, and issuing of code compliance certificates. This research identified more than a dozen platforms currently in use and found that few if any of these were end-to-end solutions. On average, BCAs were using 2.4 different platforms to manage the building consent process.

While the use of different systems was typically raised by sector respondents, some BCA interview respondents noted that procuring and maintaining these IT systems can represent a

significant cost burden to smaller BCAs. There were some views that having greater consistency of IT systems across regions would have the potential to create efficiencies in terms of cost and information sharing for those BCAs.

Some BCAs have been undertaking trials of remote inspection processes where the inspection is carried out by video. This has been seen as an opportunity to create greater efficiency in this process but there are still concerns about the limitations of this technology and the level of risk it introduces by not having an on-site inspector.

The volume of documentation included in consent applications is increasing

Both BCA and sector respondents reported that the increasing volume of material presented in building consent applications is a significant issue. The volume of information in applications was identified as negatively impacting the efficiency of the building consent process, slowing down both the preparation and assessment of applications, and resulting in potentially avoidable RFIs.

Interestingly, the increasing volume of material presented in building consent applications was identified as an issue by both BCAs and sector respondents; however, each group of respondents appear to believe the other is the cause of this issue. BCAs noted that applications are being submitted with “excessive” or irrelevant details included, making it difficult to find necessary information and contributing to RFIs. The sector noted that BCA documentation requirements have increased considerably, particularly around materials, increasing the time it takes to prepare applications.

“Architects are having to supply incredible amounts of info with BC applications ... We are supplying full GIB manuals (for example) with every BC application as the BCA requests.” – *Architect*

Evidence indicates that unnecessary information included in applications is a widespread issue, affecting the efficiency of the building consent system. This issue was identified across regions, during both interviews and focus group discussions. BCA respondents described applications for relatively simple building work that were over 1,000 pages in length. A recent review of Kāinga Ora building consents found that applications for stand-alone houses could range anywhere from 700 pages to around 1,600 pages, and often included hundreds of pages of “unnecessary” information.¹⁴

Survey respondents were asked whether this was an issue affecting their role in the building consent system. Around one-third of BCA respondents (36 per cent) reported this was a big issue, and a further 54 per cent noted it was a small issue. This appears to be a more pressing issue for sector respondents, 55 per cent of whom reported that this was a big issue, and a further 29 per cent noting it was a small issue.

Alternatives to Acceptable Solutions are considered too difficult to implement

Architects and developers commented about unclear and inconsistent pathways for alternative solutions to become accepted as meeting Building Code requirements. There is an obligation on the applicants to demonstrate how their solution complies with the Building Code. However, interviewees noted that there is no guarantee that BCAs will accept these solutions, despite providing what they consider to be costly and onerous documentation.

“The Compliance Documents are not mandatory solutions, but BCAs seem totally incapable of considering or accepting any solution that does not exactly match

¹⁴ Independent Expert Panel commissioned by MBIE, 2021.

Compliance Document solutions. So we do not have the performance-based system that the Building Act envisaged.” – *Architect*

A 2017 review of Auckland Council processes found that they were less likely to approve products and systems that were not recognised in the Building Code and that “Acceptable Solutions can become the only acceptable solutions, unless proven otherwise”.¹⁵

As a result, the current system appears to be discouraging innovation, leading to design and building work that is more likely to meet only the minimum standards outlined in the Building Code. The extent to which this is an issue is currently unknown and may be better understood with improved data on building consents and outcomes.

¹⁵ Auckland Mayoral Housing Taskforce, 2017.

5. Discussion of underlying causes

- While accounts of problems in the system were often attributed to concerns about capability, capacity and behaviour of both BCAs and the sector, analysis of these issues found that they were driven by several underlying factors.
- Together these drivers influence the way individuals understand and undertake their roles in the building consent system.
- Despite considerable pressure on the system and impacts on its efficiency and predictability, there is still confidence that the system is effectively achieving its intended outcome of Code-compliant building work.
- Some consideration could be given as to whether the system has the right incentives in place to ensure that roles and responsibilities are carried out appropriately and with a more balanced approach to achieving the wider objectives of the system.

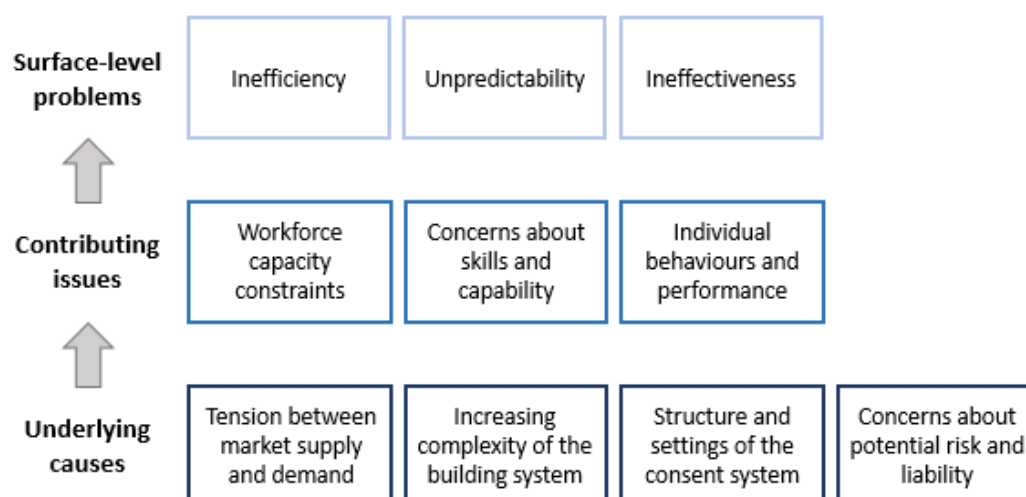
5.1 The underlying causes of problems are complex

Reviewing data from the fieldwork, it is clear that there is no single underlying cause that is contributing to issues in the building consent system. Each of the themes of capacity, capability and behaviour may be linked to a web of potential underlying drivers. The underlying drivers of problems that emerged through this evaluation were commonly related to the following categories:

- unprecedented demand on the building sector
- increasing complexity in building design and regulation
- the devolved structure of the building consent system
- concerns about managing risk and liability.

These drivers influence the way that people think about and undertake their roles in the building consent system, creating impacts on the capability, capacity and behaviours of the wider building workforce. In turn, these issues contribute to problems with the way the system operates and its ability to be efficient, predictable and effective. Figure 5 below illustrates the hierarchy of issues and underlying causes found through this evaluation.

Figure 5: Hierarchy of problems in the system and their underlying causes



Unprecedented demand is intensifying constraints within the consent system

The building environment is often considered by those in the sector to be highly volatile, operating in a “boom-bust” cycle. This perception of instability encourages a more reactive and short-term outlook, in which the sector prioritises cost at the expense of longer-term workforce investment and development. However, this outlook may be overshadowing actual trends of ongoing demand within the sector, as illustrated through the increasing number of consents issued between 2011 and 2021.

The resulting effect of the lack of workforce investment is that both BCAs and the sector are facing challenges in keeping up with their capacity and capability needs. These shortfalls may be contributing to problems in the building consent system due to gaps in required skills and supervision to ensure that work is carried out efficiently and effectively. There are also few incentives to effectively manage poor performance due to an already stretched workforce.

Despite this level of demand and lack of workforce supply, there remains considerable uncertainty about how the sector may be impacted by the effects of COVID-19, which may be perpetuating the more restrained approach to investment in the capability and capacity of the sector.

Increasing complexity in the building environment is contributing to gaps in capability and oversight

While most residential building work in New Zealand has historically involved standalone, timber-framed structures, advancements in modern methods of construction, environmental awareness and urban densification have led to buildings becoming increasingly complex to build and regulate.

These changes, alongside pressure from market demand and drivers to increase sector productivity, have contributed to increasing specialisation in the building sector as people seek out opportunities to create greater efficiency and consistency in their work.

As a result, roles and processes are becoming increasingly siloed, with those tasked with maintaining oversight, such as BCAs, facing capacity and capability constraints when working across them. Our fieldwork suggests that both the industry and the BCAs are facing challenges in keeping up with the capability and capacity to manage the increasingly complex nature of modern construction and its regulatory requirements.

The structure of the building consent system is contributing to unpredictability

The building consent system requires that each BCA has their own policies and procedures in place to manage the process of determining reasonable grounds for issuing a building consent. This is set out in Regulation 7 of the Building (Accreditation of Building Consent Authorities) Regulations 2006. The decentralised nature of the system means that there are 67 different BCAs, each responsible for their own policies and resourcing.

The process analysis found that there are only minor differences between BCAs when looking at the processes for application lodgement, building inspection and issuing of certificates of code compliance. However, both BCAs and sector professionals acknowledged that there were variations in the way that decisions were made at each stage in the process. These variations were often as a result of different interpretations of requirements, use of different IT systems for managing documentation, and competing priorities impacting on their resourcing capacity.

This variability in processing contributed to a sense of uncertainty and unpredictability for sector professionals. BCAs also described challenges in managing their own capacity and

capability, with smaller BCAs often facing more difficulty than larger BCAs in accessing the resources and expertise to carry out their role efficiently and effectively.

Concerns about potential risk and liability are affecting the way that people carry out their roles in the system

The way that risk is managed within the building consent system is seen as one of the more significant drivers of behaviours that contribute to problems within the system and was a key focus of stakeholder feedback throughout the fieldwork.

The Building Act 2004 sets out the responsibilities of those working within the consenting system, including owners, designers, builders and BCAs. Each of these hold responsibilities for ensuring that building work complies with the Building Code. BCAs are responsible for checking this work and making decisions to grant consents on reasonable grounds. BCAs also have a duty of care to carry out their consenting function with reasonable care to ensure compliance with Building Act requirements.

Where building work has been found to be defective, both BCAs and sector professionals may find themselves the subject of claims that could result in financial liabilities should they be found to have been negligent in carrying out their responsibilities.

BCAs are perceived by many in the sector as being risk-averse because it is part of their duty of care and responsibility under the Building Act to carry out their consenting functions with reasonable care and skill. This is seen as an effort to mitigate against potential future risk, likely in response to the considerable financial liabilities they faced for legacy weathertightness issues.

This perception of BCA risk-aversion, alongside concerns about potential liability, appears to be influencing the way that people carry out their role in the consenting process, particularly with regard to quality assurance.

5.2 These issues are putting considerable pressure on the system

This evaluation found that multiple factors are contributing to issues with capacity, capability and behaviour of BCAs and sector professionals. In turn, these underlying drivers often interact with each other, compounding their impacts on the building consent system.

The BCA and sector workforce is experiencing widespread capacity constraints that are limiting their ability to carry out their roles as efficiently and effectively as they could be. While current levels of demand should support and encourage growth in workforce capacity, both BCAs and the sector face challenges with ensuring that they have the right people to carry out work within the consent system.

Limited capacity is restricting the ability to sufficiently monitor and build workforce competence in an increasingly complex building environment, leading to concerns about the skills of both BCAs and sector professionals.

This is putting considerable pressure on BCAs, who are ultimately responsible for providing assurance that building work is designed and carried out in line with the Building Code. The current settings, alongside the significant capacity and capability constraints, do not appear to be providing sufficient incentive to ensure that roles and responsibilities are being carried out consistently and appropriately, particularly when it comes to quality assurance.

This lack of consistent quality assurance only reinforces the need for BCAs to be more concerned about the potential for risk if they do not undertake their role with the appropriate level of caution, regardless of the quality of work the sector produces. As BCAs become very cautious in their approach to decision-making, issuing high numbers of RFIs to meet their thresholds for determining “reasonable grounds” this, in turn, disincentivises the sector from putting in sufficient effort up front. As a result, the system may benefit from some consideration of how to better balance responsibilities in the assurance process.

5.3 Despite its problems, there is confidence that the system is delivering compliant building work

Although there is evidence that the system is not operating as efficiently or predictably as it could be, there was still a high degree of confidence from both BCAs and the sector that the system is effectively delivering buildings that are compliant with the Building Code.

This demonstrates that although the process is often frustrating due to the many issues impacting on its operation, it is still leading to good outcomes and ultimately, delivering Code-compliant building work. However, it’s also important to consider that any changes to improve the efficiency and predictability of the system should not come at the expense of the strength in decision-making that currently exists in the system.

In addition, efforts to address the issues with capacity, capability and behaviour in the system should also be mindful of the various underlying causes of these problems. Further consideration could be given to balancing the roles and responsibilities in the system, particularly with regard to quality assurance. This could contribute to a system that is more efficient, predictable and effective, and better able to achieve its wider objectives.

5.4 Further research would help address ongoing evidence gaps

The fieldwork for this evaluation included data from a range of sources, including interviews, surveys and a review of existing research. While some information gaps have been identified from the outset, this evaluation has also found opportunities where further data collection might improve understanding of how well the building consent system is operating.

The system would benefit from regular collection and monitoring of building consent data across all BCAs, including the time taken to process applications, the number of consents granted that transition to completed buildings, and details about RFIs and inspections. This could help to improve understanding of the efficiency and consistency of the system while also identifying potential capability issues that may be contributing to RFIs or inspection failures. MBIE is currently working together with Stats NZ to explore potential improvements to the way that building consent data is collected and used.

Data on building stock and any improvements or alterations could help to better understand the effectiveness of the building consent system and standards for building work. Better evidence about the outcomes of building work could also increase confidence in decision-making within the consent system.

Appendix A: References and additional resources

- Auckland Mayoral Housing Taskforce. (2017). *Mayoral Housing Taskforce report*. Auckland, New Zealand: Auckland Council.
- Christchurch City Council. (2015). *Final report of the Crown Manager for Building Control at Christchurch City Council*. Christchurch, New Zealand: Christchurch City Council.
- Colmar Brunton. (2018). *Risk, responsibility and liability in the building process: An exploration of the behaviours of homeowners and builders*. Wellington, New Zealand: MBIE.
- Controller and Auditor-General. (2015). *Auckland Council: How it deals with building consents*. Wellington, New Zealand: Office of the Auditor-General.
- Duncan, A. & Brundson, N. (2017). *Perceived barriers to getting resource and building consents for medium-density housing*. Study Report SR381. Judgeford, New Zealand: BRANZ Ltd.
- Gordon, G. & Curtis, M. (2018). *Building-quality issues: A literature review*. Study Report SR375. Judgeford, New Zealand: BRANZ Ltd.
- Grimes, A. & Mitchell, I. (2015). *Impacts of planning rules, regulations, uncertainty and delay on residential property development*. Wellington, New Zealand: Motu Economic and Public Policy Research.
- Independent Expert Panel commissioned by MBIE. (2021). *Monitoring the efficiency of building consent processes for new Kāinga Ora public housing*. Wellington, New Zealand: MBIE.
- International Accreditation New Zealand. (2021). *Biennial BCA accreditation report round seven*. Wellington, New Zealand: MBIE.
- Law Commission. (2012). *Review of joint and several liability*. Issues paper 32. Wellington, New Zealand: Law Commission.
- Litmus. (2020). *Evaluation of the Building Consent Authority Accreditation Scheme: Final report*. Wellington, New Zealand: MBIE.
- Lockyer, O. & Marston, G. (2020). *Knowing enough to ask*. Study Report SR443. Judgeford, New Zealand: BRANZ, Ltd.
- May, P. (2007). *Regulatory regimes and accountability*. Seattle, Washington, USA: University of Washington.
- MBIE. (2013). *The New Zealand Sectors Report: Construction*. Wellington, New Zealand: MBIE.
- MBIE. (2017). *Overview of the performance of the building consent and inspection system*. Unpublished internal report.
- MBIE. (2018). *Licensed Building Practitioners scheme: Stakeholders' assessments of key design features*. Wellington, New Zealand: MBIE.
- MBIE. (2021). *Applications used by Building Consent Authorities*. Unpublished internal report.
- MBIE. (2021b). *Building and construction sector trends annual report 2021*. Wellington, New Zealand: MBIE.
- MBIE, BRANZ & Pacifecon. (2020). *National construction pipeline report 2020*. Wellington, New Zealand: MBIE.

New Zealand Productivity Commission. (2012). *Housing affordability inquiry*. Wellington, New Zealand: New Zealand Productivity Commission.

NZIER. (2013). *Construction productivity: An evidence base of research and policy issues*. Wellington, New Zealand: NZIER.

NZIER. (2014). *Bespoke residential housing demand and construction innovation*. Wellington, New Zealand: NZIER.

Nuth, M. (2020). *Industry perceptions of weathertightness failure in residential construction*. Study Report SR442. Judgeford, New Zealand: BRANZ Ltd.

Page, I. (2014). *Measuring construction industry productivity and performance*. Study Report SR310. Judgeford, New Zealand: BRANZ Ltd.

Page, I. (2015). *New house construction quality survey 2014*. Study Report SR335. Judgeford, New Zealand: BRANZ Ltd.

Page, I. (2016). *Consent documentation quality for new housing*. Study Report SR355. Judgeford, New Zealand: BRANZ Ltd.

Parker, C. (2015). *Housing supply, choice and affordability: Trends, economic drivers, and possible policy interventions*. Auckland, New Zealand: Auckland Council.

PricewaterhouseCoopers. (2016). *Valuing the role of construction in the New Zealand economy: A report to the Construction Strategy Group*. Auckland, New Zealand: PwC.

The Treasury. (2010). *Regulatory impact assessment: Building Act 2004 review*. Wellington, New Zealand: Treasury.

The Treasury. (2017). *Government expectations for good regulatory practice*. Wellington, New Zealand: Treasury.

Appendix B: Detailed evaluation approach

This evaluation focused on two key evaluation questions, with a range of sub-questions:

1. **To what extent does current practice in the building consent system align with the objectives of the building consent system and the wider building regulatory system?**
 - What are the objectives of the building consent system, and have they changed over time?
 - What do effectiveness, efficiency, and predictability mean in context of the building consent system, now and in the future?
 - How well in practice does the current building consent system align with the objectives of the system and the wider building regulatory system?

2. **What are the underlying causes of problems in the building consent system?**
 - What evidence is there that suggests these underlying causes are affecting the efficiency, effectiveness, and predictability of the building consent system?
 - Where in the system do they occur, and who is affected by them?
 - Are these underlying causes common across all BCA districts and sector stakeholders, or experienced by specific districts or groups?
 - How frequently do they occur, and how significant are the impacts?

Scope

Given the complexity of the building consent system, and broad nature of these evaluation questions, the project required a clear definition of what was in and out of scope (see Table 1). Further considerations were given to various COVID-19 alert levels, and the unprecedented level of activity in the building consent system at the time fieldwork was being undertaken.

Table 1: Evaluation scope

In Scope	Out of Scope
Process evaluation of the building consent system – focused on identifying underlying issues and process opportunities to address problems.	Outcomes evaluation of the building consent system – identifying/measuring surface level impacts of these underlying causes.
Focus on the people and processes involved in the building consent system.	Building products and how they are considered through the consenting process.
Description and analysis of issues and opportunities for improvement in the system.	Recommendations for addressing identified issues in the system, which will be developed by the policy programme.
Review of the current state of the system, and relevant NZ-based previous research/evaluation.	In-depth environmental scan of international best practice.
Fieldwork in a subset of regions (based on input from IANZ and MBIE), supplemented by a survey sampling all regions.	Fieldwork in every region, covering every building consent authority (BCA).

The relatively tight timeframes for the evaluation fieldwork meant that in-depth research across all regions was not an option. The evaluation team selected regions based on a range of inclusion criteria:

- Both rural and urban regions, and by extension larger and smaller sized BCAs
- Regions where BCAs were known to have faced challenges in the past
- Regions where BCAs were reported to be using innovative approaches.

Methodology

This section provides an overview of the individual methods used, and the approach taken to analysis.

Interviews

Interviews were carried out face-to-face, via telephone, or online using video chat, with a broad range of BCA and sector professionals. The interviews focused on respondents' understanding of the objectives of the system, and how their experience aligned with that intent. Respondents were asked to consider not only their role, but how they engaged with other stakeholders in the building system. Interviews were conversational in nature, rather than a strict question and answer format, providing respondents opportunities to elaborate on things they felt most strongly about. In line with the key evaluation question, these conversations included exploring the underlying causes of any issues respondents identified.

Fifty-nine individuals were interviewed over 43 interviews (see Table 2 for more detail).

Table 2: Interview count by respondent group

Respondent group	Number of interviews
BCA representative (including private BCAs)	29
Builders	11
Architects and designers	4
Engineers	3
Other sector professionals	12
Total respondents	59

Focus groups

Focus groups provided an opportunity to bring together a diverse group of stakeholders from across the building consent system, providing the opportunity to test out ideas and identify different perspectives. The focus groups started by asking respondents to outline their understanding of the intent of the building consent system, before comparing that with how the system currently functions. This enabled the group to collectively explore where there were issues in the system, and to discuss the underlying causes of these issues.

Five focus groups were held, attended by a total of 41 BCA and sector professionals (see Table 3 for more detail). Focus groups included between four and 12 participants, and were held in Auckland, Wellington, wider Wellington and Hutt Valley region, Christchurch, and Manawatū.

Table 3: Focus group attendees by respondent group

Respondent group	Number of attendees
BCA representative	16
Builders	5
Architects and designers	6
Engineers	2
Other sector professionals	12
Total attendees	41

Surveys

Given the nature of the evaluation questions, data collection was primarily qualitative. However, two surveys were carried out to provide some level of quantification for the issues being raised in interviews and focus groups. Two very similar questionnaires were sent to a range of stakeholders involved in the building consent system, one to BCAs, and a second to sector professionals (builders, engineers, architects, and designers).

The objectives of the surveys were to identify key underlying causes of problems in the building consent system, the extent to which they were an issue (a big issue, small issue, no issue), and to get a sense of the most important issues overall. In addition to asking about specific issues, the survey also included open text questions, providing the opportunity for respondents to identify issues not explicitly asked about in the survey.

For further detail about the survey method refer to the Building Consent System Evaluation Survey report.

Building site visits

Members of the evaluation team undertook site visits to both BCAs and a small number of building sites in order to engage with stakeholders in their own space. These site visits were often combined with travel associated with facilitating focus groups. Visits were made to BCA and/or building sites in the following regions: Auckland, Christchurch, Wellington, Hutt Valley, Northland, Masterton, Palmerston North, and Levin.

Site visits gave evaluators a chance to observe how work related to building consents was undertaken, rather than asking respondents to describe it during an interview. This approach was less formal than interviews and focus groups, and allowed for impromptu conversations to happen in a more organic way.

Process analysis

A Business Analyst was brought into the evaluation team to explore how the building consent process functioned in practice. This involved comparing existing building consent process maps based on legislation, with the day-to-day practices in a range of BCAs. This work included a mix of observational work, informal interviews with BCA staff, and review of BCA process documents.

This work was intended to explore how well current practice aligns with that expected by the legislation, and the types of situations that would cause variations in process or 'work-arounds'.

Research review

Issues with the effectiveness, efficiency, and consistency of the building consent system are not new. This topic has been researched extensively over the years, both within MBIE and by other researchers. This research was reviewed by the evaluation team, to ensure this project focused on addressing information gaps rather than repeating existing work. This review of existing literature helped shape the evaluation questions, particularly the focus on underlying causes of issues rather than simply describing surface-level problems.

For more information about the research reviewed as part of this evaluation see Appendix A.

Limitations

Low survey response rates

The BCA survey was sent to Building Services Managers or similar roles across all BCAs. Of the 71 surveys sent to BCAs, 28 responded, resulting in a 39 per cent response rate. Of the 28 who responded, 20 were classified as urban BCAs and eight rural BCAs. Compared to recent surveys of BCAs this is a relatively low response rate, and likely reflects the currently unprecedented levels of activity.

It is important to note that the sample of sector professionals is not a truly representative sample of building system professionals. The lack of a suitable sample frame for the construction sector meant that the evaluation team needed to take a pragmatic approach. The sector survey was sent out to members of selected professional bodies: the New Zealand Institute of Architects, Designers Association of NZ, Association of Consulting Engineers/Engineering New Zealand and Registered Master Builders Association.

Emails inviting individuals to participate in the survey were sent to approximately 10,000 professionals, and responses were only received from 263 individuals. Some of these mailing lists did not appear to be up to date, including invalid emails and contacts for people no longer operating in the sector. As a result of issues with the mailing lists it is difficult to accurately report response rates, but the overall response rate is estimated to be lower than 5 per cent.

Across both surveys, 291 responses were received. However, given the relatively low response rates findings from these surveys should be considered broadly indicative of trends rather than statistically accurate measurements.

The fieldwork did not include homeowners

There was a decision not to include homeowners in the fieldwork as significant projects that require building consents are typically “one off” or infrequent activities for this group. In addition, homeowners usually lack the ability and expertise to see what is happening “below the surface” of building work, which influences their perception of quality. They are also likely to rely on contractors to manage the processes involved in the building consent system.

The exception to this is the certificate of code compliance, which is the responsibility of the owner to obtain. However, feedback from other participants suggested that this is largely viewed as a tick-box exercise and was not seen to be a particularly concerning aspect of the consent process.

While some previous studies on owner experiences during the building process have been undertaken, specific understanding of the owner experience with the consent process could be an opportunity for further research.

Appendix C: Key events in the building consent system

Following the initial design and implementation of the building consent system in 1991, there have been a number of significant events and regulatory changes that have influenced the way that people carry out their roles in the system.¹⁶

Date	Event
1991	Building Act 1991 enacted performance-based regulation of building work and a new national Building Code
1990s	Weathertightness issue emerges, contributing to evidence of systemic failures in the building industry
2004	Building Act 2004 enacted, setting stricter controls on practitioners, consent authorities and building products while retaining the performance-based structure
2006	Building Consent Authority Accreditation Scheme came into force, setting out the policies and procedures that a BCA must have to carry out building control functions
2007	Licensed Building Practitioners Scheme came into force, setting out the standards and skills required to carry out or supervise certain types of building work
2010	Review of Building Act 2004 found the system is working but is not creating the right incentives to improve productivity and is more costly than necessary
2012	Restricted building work regime came into force, setting out that certain residential building work is only allowed to be carried out or supervised by LBPs
2019	Introduction of the Building Law Reform Programme, which intends to strengthen the Building Act 2004, supporting a shift to new, more effective ways of building
2020	Announcement of the Construction Sector Transformation Plan, an action plan agreed between Government and industry to lift performance of the sector

¹⁶ Adapted from MBIE, 2013.



Te Kāwanatanga o Aotearoa
New Zealand Government