BUILDING PERFORMANCE

Submission form improving efficiency in the inspection process

Improving efficiency in the inspection process

Increasing the use of Remote Inspections and Accredited Organisations

How to have your say

Submissions process

MBIE seeks written submissions on this discussion paper by 5pm, Friday 29 November 2024.

Your submission may respond to any or all of the questions in the discussion document (noting that questions 16-21 are for building consent authorities and Accredited Organisations (Building)).

Please provide comments and reasons explaining your choices. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Your feedback will help to inform decisions on options that should be progressed, the detailed design of those options, and whether other options require further consideration.

Please respond to the questions by using this submission form which is located on **MBIE's Have Your Say page** or by using the **online survey form**. This will help us to collate submissions and ensure that your views are fully considered.

You can submit the form by 5pm, Friday 29 November 2024 by:

- Sending your submission as a **Microsoft Word document** to **building@mbie.govt.nz**
- Mailing your submission to:

> Consultation: Remote inspections
> Building System Performance
> Building, Resources and Markets
> Ministry of Business, Innovation and Employment
> PO Box 1473
>
> Wellington 6140
> New Zealand

Please include your contact details in the cover letter or e-mail accompanying your submission.

Please direct any questions regarding this consultation to **building@mbie.govt.nz**.

Use of information

The information provided in submissions will be used to inform MBIE's policy development process and will inform advice to Ministers. We may contact submitters directly if we require clarification of any matters in submissions.

Release of information on MBIE website

MBIE may publish a list of submitters on **www.mbie.govt.nz** and will consider you have consented to this, unless you clearly specify otherwise in your submission.

Release of information under the Official Information Act

The *Official Information Act 1982* specifies that information is to be made available upon request unless there are sufficient grounds for withholding it. If we receive a request, we cannot guarantee that feedback you provide us will not be made public. Any decision to withhold information requested under the OIA is reviewable by the Ombudsman.

Please clearly mark which parts you consider should be withheld from official information act requests, and your reasons (for example, privacy or commercial sensitivity).

MBIE will take your reasons into account when responding to requests under the *Official Information Act 1982*.

Personal information

The Privacy Act 2020 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review. Please clearly indicate if you do not wish your name, or any other personal information, to be included in any summary of submissions that MBIE may publish.

Submitter information

Please provide some information about yourself to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

Your name, email address and organisation

Name:	Malcolm Fleming
Email address:	malcolm@nzcb.nz
Organisation:	New Zealand Certified Builders
Role:	Chief Executive

Are you happy for MBIE to contact you if we have questions about your submission?

☒ Yes ☐ No

Please clearly indicate if you are making this submission as an individual, or on behalf of a company or organisation.

☐ Individual ☒ Company/Organisation
(Including individual
building consent officers)

The best way to describe you or your organisation is:

☐ Accredited Organisation (Building) ☐ Commercial building owner

☐ Builder ☐ Designer / Architect / Engineer

☐ Other building trades (please specify below) ☐ Developer

☐ Building Consent Authority/Council ☐ Homeowner

☐ Building Consent Officer (Individual) ☐ IT / Software provider

☐ Other (please specify below) ☒ Industry organisation (please specify below)

We are a membership organisation representing around 2,400 small to medium residential building companies. We require our members to hold a minimum of the Level 4 qualification,

New Zealand Certificate in Carpentry (or equivalent), which means they possess strong technical skills, on which to build business expertise.

We have crafted our submission with these members in mind, hands-on SME builders – most of whom would be ideal candidates for remote inspection. As such, our perspective on this programme is likely to differ from other players in the industry, particularly group home builders, who rely to a much greater extent on large teams of subcontractors.

Privacy and official information:

The Privacy Act 2020 and the Official Information Act 1982 apply to all submissions received by MBIE. Please note that submissions from public sector organisations cannot be treated as private submissions.

☐ Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish or release under the *Official Information Act 1982*.

☐ MBIE may publish or release your submission on MBIE's website or through an Official Information Act request. If you do **not** want your submission or specific parts of your submission to be released, please tick the box and provide an explanation below of which parts of your submission should be withheld from release:

Insert reasoning here and indicate which parts of your submission should be withheld:

[E.g. I do not wish for part/all of my submission to be release because of privacy or commercial sensitivity]

Consultation questions

Introduction

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

Outcomes and criteria

- System is efficient

- Roles and responsibilities are clear

- Requirements and decisions are robust

- System is responsive to change

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

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

☒ Yes   ☐ No   ☐ Unsure

[Insert response here]

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

☒ Yes   ☐ No   ☐ Unsure

We are mainly concerned that this system distinguishes clearly between inspections that are suitable for remote inspection, and those that require an in-person site visit. We have provided more detail about where to draw this line later in our submission, but we wish to emphasise that a remote inspection system should allow for in-person inspections where appropriate.

Increasing the uptake of remote inspections

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

- reducing the need for inspectors to travel to site

- greater convenience, flexibility and timeliness

- the ability for inspectors to carry out inspections in other districts

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

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

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

☒ Yes   ☐ No   ☐ Unsure

We believe the proposed system has the potential to speed up the building process by reducing wait times for inspections, and therefore cost to clients due to shorter project times. Remote Inspections may also be able to help BCAs share resources and increase the system's capacity overall. We note that the Regulator is currently engaging with the construction industry on BCA Reform options, which will address this.

There is the potential for builders to incorporate Remote Inspections into their Quality Assurance programmes.

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

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

It is difficult to quantify the exact time and cost saved by remote inspections, but our members' experience is that real time inspections are the most efficient for the builders. There may be some exceptions if an evidence-based inspection is required for a single issue, but generally, these will require more time and effort for the builder to gather, organise, and submit the evidence. This is effort that may need to be duplicated if a reinspection is required.

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

Leaving aside points we make elsewhere in this submission regarding how the system is designed as a whole, our main concern with remote inspections themselves relates to technical difficulties, for example the performance of an app or limited mobile coverage.

Key barriers and risks of remote inspections

Key risks of remote inspections include:

- Building safety and performance

- Dishonest practices

- Liability concerns

- Trust in build quality

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

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

☒ Yes   ☐ No   ☐ Unsure

[Insert response here]

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

☒ Yes   ☐ No   ☐ Unsure

We believe the list above covers the main risks of this system, although we note there may be practical issues with conducting a remote inspection effectively (poor coverage or performance of an app).

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

☐ Yes   ☒ No   ☐ Unsure

Consultation submission form: 7

Improving efficiency in the inspection process: Increasing the use of Remote Inspections and Accredited Organisations

We believe there should be minimum requirements on builders before allowing them to participate in remote inspections:

- The builder with site responsibility should be an LBP Site (2 or 3) registered, which denotes an appropriate building qualification. This will provide the consumer with a quality mark that they can have confidence in. Entry for the base level LBP category for builders is too low.
- Builders should be able to demonstrate to BCAs that they have a track record of good quality workmanship before they are offered the option of remote inspections.
  - Holding Professional Indemnity (PI) insurance should be mandatory for Designers.
  - Holding PI insurance or providing a 10-year building guarantee should be mandatory for Builders.

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

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

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

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

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

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

☐ Option One   ☒ Option Two   ☐ Option Three   ☐ Option Four   ☐ None

We believe option two would be a great way to introduce the system, allowing councils to conduct remote inspections but giving them the discretion to decide when they would require in-person inspections.

We feel that this discretion as to insist on in-person inspections is an important way for councils to adapt the system to their own environments and risk appetites. For example, if a rural setting has problems with connectivity, then the BCA could manage this by excluding certain areas. In addition, BCA insurance underwriters might also develop certain criteria which the BCA can adjust their settings to meet.

8. Are there any other options we should consider?

☐ Yes   ☒ No   ☐ Unsure

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

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

We believe there are two aspects to reducing inspection failure rates.

Firstly, we believe there needs to be effective education for the industry as to the reason for inspection failures to help them meet the threshold. At the same time, we feel that some BCAs might need to review the way they apply regulations to ensure that they are being applied consistently and fairly.

Secondly, we believe there needs to be a deterrent for poor building performance in the form of giving councils the right to deny remote inspections removed for regular inspection failures, or a severe fine for misleading or deceptive practices.

Above all, the ability for a builder to have access to remote inspections should depend on their ability to meet certain conditions: being an LBP Site holder, and endorsement from the BCA whose jurisdiction they work in.

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

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

The following inspections could generally be conducted remotely:

- Builds where engineers are providing oversight.
- R1 (less than 6 on risk matrix).
- Some low risk R2 items.
- Codemark cladding systems when one system only is used.
- NZS3604:2011 foundation systems.
- Product/system substitution.
- Foundation steel.
- Insulation.
- Sheet bracing pre-plaster inspection.
- Solid fuel heaters (with PS3).

- Re-inspections of specific items where inspector has already established compliance/noncompliance and trusts in contractor (e.g. smoke alarm, beam tie down, structural bracket missing, minor corrective actions).
- Minor amendments.
- Unlined sheds.

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

☒ Yes ☐ No ☐ Unsure

The following inspections should never be carried out remotely:
- Siting
- Framing
- Pre-line
- Final

In addition, there may be some situations requiring a ground-bearing inspection, although these may be covered by a geotech engineer.

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

- there is poor internet connectivity at the inspection site

- there is poor lighting or adverse weather that may impair video/photo quality

- the inspector and/or builder deem it necessary to conduct an on-site inspection to ensure critical details are not missed

- a building professional has previously been deceptive or regularly failed inspections

- building work is being carried out by an individual with an Owner-Builder Exemption

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

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

☒ Yes ☐ No ☐ Unsure

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

☒ Yes   ☐ No   ☐ Unsure

Special Engineering Difficulties (SED) that require specialised solutions and approaches.

> **Option Four:** create a new offence to target deceptive behaviour during a remote inspection.
>
> The offence relates specifically to *'deliberate actions to hide, disguise, or otherwise misrepresent non-compliant building work'.*
>
> The offender would be liable on conviction to a maximum fine of $50,000 for an individual and $150,000 for a body corporate or business.
>
> Please refer to page 14 in the discussion document for full detail.

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

☐ Yes   ☒ No   ☐ Unsure

- Offending should be dealt with via the existing complaints process administered by the LBP Board.

- Implementing additional or increased fines is not workable if the BCA is expected to take responsibility for enforcement. New Zealand has sufficient avenues for dealing with deceptive behavior via existing legislation.

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

☐ Yes   ☒ No   ☐ Unsure

NZCB does not support implementing punitive penalties. Our preferred approach is to incentivise good building practices by creating prerequisites such as those suggested in Question 9.

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

☒ Yes   ☐ No   ☐ Unsure

The regulator could implement a range of tools that it could employ to discourage deceptive behaviours, which could include:

- At the lower end of the scale, the council could remove the Builder's ability to utilise remote inspections i.e., not continue conducting remote inspections for problematic builders.

- More serious behaviour might attract penalties ranging from notifying the builder's professional indemnity insurer or guarantee provider.
- Placing the builder on a register for those deemed high-risk.
- Loss of their building licence for the most serious infringements.

Questions for Building Consent Authorities and Accredited Organisations (Building)

16. What percentage of inspections do you carry out remotely?

17. What are the main things preventing you from using remote inspections, or using them more often? Please explain.

18a. Please briefly outline your policy regarding when, how and with whom you use remote inspections.

[Insert response here]

18b. In what circumstances do (or would) you use real time remote inspections versus evidence-based? Do you prefer one method (real time or evidence-based) over the other? Please explain why with reference to benefits, costs and risks.

19. We want to know about building consent authority costs and savings (actual or anticipated) in establishing remote inspection technology and processes.

What are your actual or projected costs from undertaking remote inspections?

Training

$

IT Expenses

$

Additional staff

Other

$

[Insert response here]

What are your actual or projected savings from undertaking remote inspections?

Travel and vehicle

$

Ability to do more inspections per day

$

Reduced staffing costs

$

Other

[Insert response here]

Please also provide any data and/or estimates on travel and emissions reductions achieved through the use or potential use of remote inspections. Please include any assumptions or qualifiers. Relevant attachments can be emailed along with your submission form to building@mbie.govt.nz.

[Insert response here]

20a. Considering the actual or anticipated costs of establishing remote inspection capabilities, how long has it taken (or do you expect it to take) to see a return on investment?

[Insert response here]

20b. Do you anticipate that you will be able to reduce inspection charges for remote inspections?

[Insert response here]

21. What factors would you consider in pursuing a prosecution for the deceptive behaviour described in Option 4?

[Insert response here]

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

> Many building consent authorities engage Accredited Organisations (Building) to carry out consent processing on their behalf, but only a few are involved in inspections.
>
> There is an opportunity to increase inspection capacity (onsite and remote), by using these organisations to carry out more inspection work, either on behalf of building consent authorities, or by enabling owners to engage them directly.
>
> Please refer to page 17 in the discussion document for full detail.

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

We are concerned at the risk of Accredited Organisations not being held to the same standards as BCAs, leading to inconsistent outcomes. If they will be held accountable in the same way as BCAs, we believe they may be an effective way to provide the capacity to deliver the remote inspections programme.

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

See our response to Q. 22.

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

☐ Yes   ☒ No   ☐ Unsure

See our response to Q 22.

25a. Do you agree with the potential mitigations? (refer to table on page 18 of the discussion document)

☐ Yes   ☐ No   ☐ Unsure

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

☐ Yes ☐ No ☐ Unsure

[Insert response here]

General Comments

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

☐ Yes ☐ No ☐ Unsure

For this system to work, BCAs need to be closely involved in designing the remote inspection programme. They must also be given the powers to enforce sanctions for misleading behaviour, and the resources to investigate poor performance and deceptive behaviour.

We also emphasise the importance of ensuring builders hold sufficient qualifications and the endorsement of the relevant BCA before being approved for remote inspections – see our responses to Questions 6 and 9.