

REMOTE INSPECTIONS

Thank you for the opportunity to comment on this proposal. Please see our submission below.

Who we are

For nearly 60 years the Building Officials Institute of New Zealand (BOINZ) has been the peak body for building surveying in New Zealand, with over 1250 members. BOINZ has supported strong and fair regulation of the building industry.

BOINZ vision is to 'improve the Quality and Performance of the Built Environment', with professional development programmes that aim to improve the competency of building surveyors. We unapologetically seek to improve building outcomes for building owners and occupiers.

It is our belief that BOINZ is the only organisation within the design and build sector that can truly provide independent oversight and advise on best practice outcomes without sector interference. Our submission is informed by member input based on factual observations and experiences.

BOINZ is happy to be contacted about this submission.

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Considerations before a decision is made

Need to get liability sorted first up

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

BOINZ is concerned if liability was to remain as is, but BCA control over the number, type, and quality of inspections was diminished or removed. If this proposal is progressed, BCA liability will need to be ring-fenced appropriately. Similarly for accredited organisations that carry out inspections on behalf of a BCA.

Our significant concern is that this proposal will inevitably result in greater risk for homeowners whose only avenue of redress is through the Courts, a system that we all know from experience, has failed homeowners.

Currently, more than 50% of inspections fail. This is largely due to inadequate practitioner competency. BCAs need the ability to require physical inspections where the work is complex, high risk, or where the builder has previously failed inspections, especially repeatedly failed inspections. The high risk of failure, even in seemingly simple builds, is concerning and contributes unnecessarily to a high net building cost for homeowners. This situation will be extenuated if liability recovery costs are not clear for those parties involved in remote inspection work.

Would there really be any cost savings?

BOINZ contends it is unlikely that building consent costs, modest as they are, will significantly drop due to remote inspections. We recently conducted a survey across BCAs, to which 32 responded. The key findings are:

- Just over 40% of the respondents BCAs have remote inspection technology capability to support this type of inspection practice for builders
- Over 60% of respondents advised that remote inspections are not provided
- Only one respondent advised they offer remote inspections to all builders
- Nine respondents advised they only offer remote inspections to selected builders
- An overwhelming 90% of respondents advised they would not support remote inspection technology being mandated, or that it would deliver robust and compliant outcomes.

The majority of BCAs therefore would need to invest in remote inspection technology, train staff on how to conduct inspections remotely, and conduct audits to ensure that the process is robust. These costs will need to be recovered from consent applicants.

MBIE should acknowledge that remote inspections aren't always faster or cheaper than traditional inspections. Real-time video-based remote inspections, for instance, can be time-consuming due to potential technical issues, lack of geospatial awareness by the inspector, the need for detailed discussions, and the challenge of thoroughly assessing all aspects for compliance without being physically present.

Not being physically present on site and the time taken to guide on-site personnel to identify compliance makes it harder to assess certain details accurately, leading to longer inspection times and reduced inspection quality in some instances. BCA staff will need to instead spend time reviewing the remote inspection photos/videos to establish whether or not an inspection has been passed.

The types of inspections (evidence-based or real-time video) conducted remotely should be evaluated for savings in each case depending upon savings in time and amount of

inspection time. For example, BCAs will still need to have vehicles to attend physical inspections, so there will be little savings in this area.

Onsite inspections provide an opportunity for inspectors to view a site holistically, including the identification of compliance matters or issues that are not isolated to the scope of the inspection, if an increased proportion of inspections are via remote inspection, this would reduce this ability. It is not uncommon for council officers to encounter unlawful activity that is unrelated to their inspection work during a physical building inspection.

BOINZ contends that it is too early for BCAs and accredited organisations to accurately estimate the costs and benefits of remote inspections – as noted above, such inspections are not yet widely used.

Insurance and financing availability

BOINZ would be interested in the impact that remote inspections might have on insurance availability for BCAs and accredited organisations, practitioners and homeowners. Some insurers may well want the additional quality assurance provided through physical on-site inspections by an independent inspection body.

Similarly with banks in terms of financing. Banks rely on the CCC as a means of quality assurance. It is not unreasonable to expect that banks might impose additional inspection requirements or increase financing costs in order to mitigate the perceived risks of remote inspections.

If the proposal is to go ahead, the following must be resolved

BCA liability will need to be ringfenced

BCA liability will need to be ring-fenced to reflect the reduced BCA oversight from remote inspections. For example, no liability for a BCA should be incurred in situations where the evidence provided to BCAs via remote inspections is subsequently found to be non-complying, false or misleading. Similarly for accredited organisations that carry out inspections on behalf of a BCA.

If this occurs, unnecessary costs and time will be incurred in resolving issues of practitioner deception and taking costly prosecutions rather than checking building work. These additional compliance costs must be able to be recovered.

MBIE may also face additional costs through having to process more Determinations.

Who would fund the implementation costs

Given the current concern over the amount of unfunded work that central government is imposing on local government, there would be a strong case for set up and implementation costs to be funded by the building levy rather than being borne by ratepayers or consent applicants. The building levy has a significant surplus – this would be an ideal opportunity to reduce that surplus for the common good.

BOINZ would be concerned if multiple IT systems and processes were created to support what could essentially be a single system. Central funding would also enable the government to standardise what technology gets adopted by BCAs so as to ensure national consistency and avoid unnecessary duplication.

Implementation time

Given the need for BCAs to invest in technology and train staff, implementation cannot be rushed. Option 1 should be implemented first, before other options are progressed. This would enable the collection of critical data before anything is invested in technology and systems. It would also enable more comprehensive guidance to be produced. For example, there should be guidance on how to book a remote inspection, what is expected during such inspections, and for practitioners who hold the camera.

BOINZ would be happy to help MBIE in developing such guidance. As you will appreciate, we have members who are skilled in undertaking remote inspections.

Start with low risk work

There are some work or inspection types for which remote inspections could work well. For example, re-inspections when all that is required is evidence that something has been completed. Ground clearance levels can be easily checked remotely. On the other hand, the foundations inspection should always be an on-site physical inspection because of the substantial consequences if failure occurs. Similarly where physical testing is required using calibrated equipment, or where a full view of the building is necessary for the inspection.

Need to establish who is in control of the inspection

There will need to be clarity that the inspector is in charge of the remote inspection. They will need to specify who can take photos or videos on-site, and dictate what evidence is collected. For example, they should have the authority to only accept 'real time' videos so that a building inspector can direct what gets photographed or video inspected and how.

The inspector will also need to be able to dictate how thorough the remote inspection is. Remote inspections require BCAs to have a high level of trust with building practitioners who provide the evidence of compliance (given they only have a sample evidence of building work, and not all building work undertaken on site). Building practitioners could mislead inspectors (even unintentionally) by providing inaccurate or incomplete visual records of building work. There is room for error if the onus is placed on building inspectors to identify suspicious inspection records and carry out further verification.

A builder who has done defective work will avoid showing this remotely. This is especially the case in a multi-unit development where only a well-built townhouse is inspected remotely, and those buildings with defective work are not made available for inspection. In this case, BCAs and accredited organisations should have the authority to randomly choose which townhouse is to be remotely inspected or insist that all townhouses are to be inspected.

There are experienced and capable building practitioners, however BCAs who undertake remote inspections find that many building practitioners require assistance and guidance when it comes to ensuring compliance with the code. There is no compulsory requirement for building practitioners to upskill them on building code compliance changes in the industry, and this is a significant risk when additional trust and responsibility is put in the building practitioner's quality assurance process without adequate oversight from experts like building inspectors.

LBP competencies may need to be updated if remote inspections become widely used or mandated to reflect the skills and experience required to participate in such inspections. LBP upskilling has been highlighted in the Model Docs research recently published by BRANZ, which shows that this sector of the industry received more requests for information than any other. LBPs will need to undertake a mandatory upskilling module on the discipline of remote inspections ensuring they understand the ethics involved and acknowledge the additional responsibilities and accountabilities they will be assuming before they are able to use remote inspection methodologies.

BOINZ prefers Option 1 followed by 2 but with caveats

As noted above, BOINZ supports option 1 being implemented initially. This would then lay the foundation for Option 2. BOINZ however wants more clarity on what would be required by BCAs under option 2 to demonstrate that BCAs had the systems and capability to conduct inspections remotely. Do you mean that BCAs would need to invest in remote inspection technology, train staff and develop associated policies and procedures but would still control if, and where remote inspections take place, even when they have no intention of doing remote inspections? In other words, if a BCA is not

going to introduce remote inspections, will option 2 require them to still invest in the technology and systems?

Option 3 is too prescriptive given the Building Act does not mandate that any inspections are required. This option would therefore be a fundamental shift. If prescribed remote inspections are introduced then BCA liability will need to be ringfenced. If remote inspections are mandated, this should not result in a reduction of the inspections required – the need for BCAs to determine compliance will remain unless BCA liability is ringfenced.

New Offence and Penalty

While BOINZ supports the introduction of a new offence and penalty upon conviction, we do note that BCAs incur costs in taking prosecutions. Such costs may well offset any cost reductions arising from remote inspections.

Section 2: Use of Accredited Organisations

Significant policy and regulatory design work will need to be undertaken if the owner is able to engage an accredited organisation to carry out inspections instead of BCAs. BCA liability will need to be ringfenced accordingly – currently accredited organisations must work under the quality assurance system of the BCA that granted the building consent. One way of ringfencing could be to amend the Building Act to state that a BCA may rely on an inspection undertaken by an accredited organisation and have no duty of care in assessing whether the building work inspected complies with the building consent.

Allowing accredited organisations to perform building inspections instead of BCAs will inevitably lead to confusion, complexity and administrative costs. Under the current regulatory settings, BCAs will still need to determine compliance, record consent variations, collect consent-related documentation and issue the code compliance certificate.

Nick Hill

Chief Executive