

Building Consenting Trilemma

– CPD Events



Te Kāhui
Whaihanga
New Zealand
Institute of
Architects

25 June 2021

From August through to October 2020, the Te Kāhui Whaihanga CPD event *Solving the Building Consenting Trilemma* was hosted in 11 locations, with the support of Jacobsen. More than 500 members had the opportunity to participate and engage in this important professional conversation about how to ensure greater certainty, consistency and affordability in the building consenting process.

The three perspectives of Client/Contractor, Architect and Building Consenting Authority provided important context and perspectives for these discussions. Many positive and thoughtful suggestions and improvements were identified, and some of the common themes are identified below. It is proposed that these key insights be shared with local councils, Local Government NZ and Construction Sector Accord to facilitate change.

Key insights

- **Regular communication** between BCAs and the architectural community on common RFI issues, commonly failed areas of inspection and/or upcoming changes that will affect building consent applications (e.g. floodplain mapping, the presence of asbestos, etc) would benefit all parties – client, architect and BCA.
- **Accessibility of BCAs.** Many people expressed frustration at not having direct contacts identified on RFIs nor the opportunity to engage ‘briefly’ and directly with BCAs on projects pre-lodgement and in response to RFIs.
- **Requests for Information (RFIs).** Opportunities were identified to improve this common pain-point in the process (e.g. issuing draft RFIs, BCAs available to discuss draft RFIs prior to issue, periodic release of RFIs rather than day-19, regular/standard wording for RFIs, etc).
- **Consistent nationwide online lodgement requirements.** A variety of online portals exist, each with different requirements, levels of transparency and user experiences. A single portal would offer a sustainable investment opportunity for local government, and would require an ongoing commitment to development, user experience, robust data, efficiency and productivity.
- **Relevance of amendment vs minor variations.** Given the narrow definition of ‘minor variations’, is there merit in having ‘amendments only’ to simplify the issues for all parties and reduce delays.
- **BCA accreditation process and value of IANZ accreditation.** Due to differing interpretations of the BCA role, and internal policies, procedures and metrics, there is a widening gap in consistency, certainty and affordability in the system, and in operating processes and practices.
- **Culture and behaviour are hugely influential,** across all parties, impacts on the on the building consenting experience, quality of applications and assessments, and the outcomes delivered (RFIs, issued responses, inspections, documentation and compliance pathway, practical and pragmatic solutions, etc).
- **Access and availability of resources,** recognition that there is a competitive market for skills and talent which will only intensify with additional consenting authorities being established (e.g. Kāinga Ora). Need to incentivise sharing and collaborative frameworks of technical resources matched to complexity of project compliance pathways.
- **20-day timeframe** establishes an unrealistic expectation for all project types and complexities, and subsequently incentivises behaviours which seek ‘delay’. Potential to offer a split model – 10 days and 60 days or 10 days, 20 days and 60 days, based on the complexity of a project and compliance pathway issues?
- **Potential client pathways,** an opportunity to develop and provide ‘user pays’ pathways for clients in a hurry for economic reasons (e.g. availability of piling rig).
- **Consistency of consenting documentation.** Each of the participating BCAs have been asked to provide a copy of their internal consenting checklists. These will be reviewed by the Institute’s National Office team to establish a common QA checklist proforma, manufacturer and specification information requirements, and potentially a generic drawing schedule which can be issued as a Practice Note to members.

- **Professional knowledge of building consenting – ‘core CPD’.** Given that a large percentage of the profession’s work is Alternative Solutions, ‘designers’ must understand these compliance paths and select the relevant path or combination of paths to provide sufficient proof of compliance. To do this, the designer must clearly identify any Alternative Solution used, say why they used it and how/why they believe it complies with the relevant Building Code provisions. Sufficient supporting documentation is needed to prove compliance.

It is acknowledged that BCAs don’t have to accept an Alternative Solution if their assessment doesn’t prove compliance. Although they shouldn’t provide design advice, BCAs must tell the designer why they believe the solution doesn’t comply. It is important the assessment is on reasonable grounds, and is not based on personal opinion or hearsay, and must always only be against the performance requirements of the relevant Building Code clause.

- **‘Dark cloud’ – risk and liability.** History often influences cultures, behaviours and practices of parties in the consenting process. In response, BCAs are sometimes very interrogative of Alternative Solutions, new products or projects with prior liability claims. In response, RFIs are often high in number and the requirements of specifications are unclear or confusing.

- **Architects demonstrating/communicating the compliance pathway.** There seems to be some confusion (and differences of opinion) about the compliance paths that can be used to ensure sufficient relevant documentation is submitted as part of a Building Consent application. The documentation should allow building officials to accurately assess compliance and efficiently process the submission. The two main purposes of Building Consent documentation are to:

- * Provide builders with sufficient information so they can accurately construct the building
- * Ensure the information will allow the Building Consenting Authority (BCA) to assess and confirm compliance with the relevant clauses of the New Zealand Building Code.

Note:

The Building Code incorporates 35 technical clauses that set out the performance-based provisions for meeting the purposes of the Building Act – it is mandatory for buildings to comply with these requirements.

- * There is a potential opportunity to develop a template for members which helps the BCAs quickly understand the compliance pathway information in the architect’s covering letter, specification documents and/or drawings.

- **Discretion of BCAs across certain compliance paths.** The nine main compliance paths are:

- comparison with a compliance document
- comparison to other documents
- comparison with in-service history
- expert opinion
- comparison to a previously accepted alternative solution
- product certification
- MBIE determination
- verification method
- acceptable solutions.

When Building Code compliance is supported by documentation using compliance paths 1–5, the assessment of compliance is at the discretion of the BCA. BCAs may decide that the solution is not Code compliant and therefore not acceptable. It is unclear how the IANZ process or policies across BCAs ensure consistent interpretations and positions are adopted. Essentially, this does not provide for a system or practices that are consistent or certain.

Some of the information needed to ensure robust and consistent decisions by BCAs and quality documents for consent by Architects is access and transparency of previously accepted Alternative Solutions, information on frequently cited ‘other documents’ (item ii) and/or expert opinions.

Practical and pragmatic opportunities

E-Portal

- A standard building consent portal for the whole country, which is end-to-end designed from client lodgement to code compliance.
- Standard and more accurate consent fee calculator.
- Tracking process to show which section of Council the consent is currently in, and likely timeframes.
- If an architect isn’t able to answer the RFI within the defined timeframe, have a way of letting the council know via the e-portal.

RFIs

- Use of snipping tool to show particular drawn details, relevant code clauses, etc.
- An online resource listing common RFIs plus the answers. Instant replies to common RFIs (these can then build up as a consistent knowledge base).
- Instant RFI notifications as the consent proceeds through each section of the Council.
- Regular feedback meetings between Council and local Te Kāhui Whaihanga New Zealand Institute of Architects branches (say quarterly) on current RFIs and consenting issues.
- Alternative Solutions and the RFIs around these could be stored at local/national level as a source for designers and for future changes to the Building Code.

Documentation

- An ever-increasing amount of documentation is needed and often misaligned with project procurement. For example, 'shop level drawings' are required for consent, but a Contractor is yet to be identified or appointed.
- Records could be kept in a national portal of all relevant manufacturer's specifications, installation instructions, BRANZ appraisals, Codemark certificates, Standards, etc, so these can be referred to but not included in the consent documents.

Time

- Explain to clients that good design and documentation takes time, and ultimately produces a better result.

Communication

- We need a more collaborative approach.
- The importance of lodgement meetings to establish lines of communication. This was stressed at all our meetings, and would give an opportunity to explain the entire scheme, to fix up smaller issues on the spot, and to minimise the number of adjustments and questions during processing.
- Pick up the phone, especially on smaller questions.
- Pre-app meetings are good for larger projects, in particular those that may require peer reviews. All pre-app meetings to be recorded and binding, with these agreements included in the Building Consent documents. Currently these are done "without prejudice" and are unrecorded.
- Architects need to explain the building consent process to their clients, including that they will need to be patient and asking for additional information is a normal part of the process.

Team at Council

- A clear point of contact is needed.
- An internal checklist from Council would create better understanding of what is needed from drawings and the specifications. Are architects drawing too much? Size and amount of information really needed in the specification.
- Specialist teams reflecting size/risk/complexity of the project.
- Level of expertise inconsistent. Consenting process only as good as the people involved.
- For an extra fee, option to have a monitoring officer allocated to projects.
- Improve collaboration between various parts of the Council, in particular, infrastructure (e.g. stormwater, flood zones) and planning.
- Currently the newer/less experienced officers are allocated the smaller residential projects. The

fees should reflect this. (Current rates: \$190/hr in Christchurch, \$165/hr in Wellington.)

- Inconsistencies between Councils (completely different RFIs for the same set of drawings from Councils across the country. For example, Tauranga and Queenstown: 150 RFIs from Tauranga, 4 from Queenstown.).

Code Compliance

- Gathering of information needed for Code Compliance during the build to speed things up at the end (e.g. warranties, electrical certificates, etc). Paperwork needed prior to Code Compliance site inspection.
- Rationale/explanation of time taken between final inspections for Code Compliance and issuing the certificate - can take as much as 4-6 weeks.
- Code compliance needs to record substitutions.
- Delays on issuing these certificates leads to extra costs around interest rates, insurance costs, untenanted spaces and so on.

See over page for the list of speakers.

For more information about Te Kāhui Whaihanga and this submission, please contact

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Solving the Building Consenting Trilemma Speakers

Date 2020	City	Local council	Clients	Architect
Tues 1 Sept	Queenstown	Hamish Humpries Queenstown Lakes District Council Team Leader Building Consent Processing Planning & Development	Peter Soundy Rubix	Mark Gray registered architect Wyatt Gray Architects
Wed 2 Sept	Christchurch	Robert Wright Christchurch City Council Head of Building Consenting	Antony Gough Property Developer	Colin Corsbie registered architect WSP Architecture
Thur 3 Sept	Dunedin	Grant Sutton Dunedin City Council Team Leader Consents Chenette Thomas Dunedin City Council Senior Building Consent Officer	Simon Parker Parker Warburton Team Architects Ltd	Tim Ross registered architect Architype
Tues 8 Sept	New Plymouth	Damien Morresey New Plymouth District Council Building Lead	David Leuthart TimberCo	Shaun Murphy registered architect Boon architects
Wed 9 Sept	Palmerston North	Bryan Clark Palmerston North City Council Team Leader Building, Technical	Hamish O'Brien General Manager Colspec Construction Ltd	Brian Elliott registered architect Designgroup Stapleton Elliott
Thurs 10 Sept	Nelson	Chris Wood Nelson City Council Team Leader Building Consents Ian McCauley Tasman District Council Building Assurance Manager	No speaker	Brian Riley registered architect Arthouse Architects
Thurs 23 Sept	Wellington	Nick Crowe Wellington City Council Team Leader Operations David Pawson Wellington City Council Consenting Officer	Penny Kerr Willis Bond & Co Design Development Manager	Anne Kelly & Karl Wipatene registered architects aka Architecture
Wed 24 Sept	Napier	Malcolm Smith Napier City Council Senior building consent officer	Mark Hamilton Managing Director Alexander Construction	Graham Linwood registered architect Graham Linwood Architects
Mon 12 Oct	Auckland	Peter Laurenson Auckland Council Manager Project Assessment – Central and South, Building Consents Department	Matthew Hulett Kāinga Ora Programme Director	Peter Townsend registered architect Townsend Architects
Tues 13 Oct	Hamilton	Scott Tulloch Hamilton City Council Team Leader - Building Review	Matt Stark Stark Property	Evan Mayo, registered architect Architecture Bureau
Wed 14 Oct	Tauranga	Abbey McMonagle Tauranga City Council Customer Relations Lead – Building Consent Services Lex Plato Tauranga City Council Team Leader Building Inspections	Kevin Baker Director, Focus On Property Ltd	Camden Cummings registered architect CS Architects