

**BUILDING
PERFORMANCE**


Biennial BCA Accreditation Report Round Seven

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Abbreviations

AOB	Accredited organisation – building
BCA	Building consent authority
CCC	Code compliance certificate
IANZ	International Accreditation New Zealand
MBIE	Ministry of Business, Innovation and Employment
NTF	Notice to fix
TA	Territorial authority



1.0 Introduction

This report summarises the results from round seven of the building consent authority (BCA) accreditation assessments that were carried out by International Accreditation New Zealand (IANZ).

IANZ is the organisation appointed by the Ministry of Business, Innovation and Employment (MBIE) as the accreditation body that undertakes assessments, and grants accreditation, for the BCA accreditation scheme. The assessments for round seven were carried out between 1 July 2019 and 30 June 2021 inclusive.

The report has been written to provide BCAs with a detailed overview of the assessments undertaken in this round and the key findings from these assessments.

The purpose of the BCA accreditation scheme is...

... to set out the minimum policies, procedures and systems that a building consent authority must have, and consistently and effectively implement, to perform its building control functions.

The scheme's objectives are...

... to make sure all BCAs have:

- › appropriate, documented and implemented policies, procedures and systems
- › appropriate, documented and implemented effective quality assurance systems
- › sufficient skills and resources to undertake their statutory functions
- › employees and contractors with appropriate building control competencies and qualifications.

... to support:

- › territorial authorities (TAs) and regional authorities to transfer their consenting functions where they wish
- › BCAs to enter into outsourcing arrangements with other BCAs
- › BCAs to align nationally, across a region, or a policy, procedure or system.

Sections 250 to 255 of the Building Act 2004 (the Building Act) set the requirements for the accreditation of BCAs. The Building (Accreditation of Building Consent Authorities) Regulations 2006 (the Regulations) then set the criteria and standards an applicant must meet to be accredited as a BCA and to maintain this accreditation. The most recent amendments to these Regulations took effect on 1 July 2017.

MBIE's website www.building.govt.nz has more information about the accreditation scheme, as well as guidance (available as an online tool¹) to help BCAs comply with the scheme's requirements.

¹ Go to www.building.govt.nz/building-officials/bca-accreditation/detailed-regulatory-guidance.

2.0 Summary of findings

Greater collaboration between BCAs and increased use of electronic consenting systems are some of the positive findings that have emerged from the latest round of accreditation assessments.

IANZ assessed 70 BCAs and six accredited organisations – building (AOBs)² in this round. This included the initial accreditation of the first private BCA since the scheme was introduced.

In total, IANZ carried out:

- › 77 full assessments
- › 11 special (monitoring) assessments³
- › 2 initial assessments
- › 1 advisory visit.

COVID-19 and the resulting restrictions have had a significant impact on the ability of IANZ to carry out on-site assessments – from March 2020 onwards many accreditation assessments have been carried out as remote assessments. While the expectation was that remote assessments would be more efficient and cost effective for BCAs, the opposite was generally true, with remote assessments taking longer and therefore costing more, even while taking into account reduced travel and accommodation costs. BCAs are typically required to do more pre-assessment planning with remote assessments, to ensure a successful assessment, given they are heavily reliant on technology and information being readily available and accessible. When a choice is available between a remote or on-site assessment most BCAs have chosen the on-site option as it allows for more efficient and clearer communication between IANZ and the BCA.

Key findings from assessments undertaken this round include:

- › In general, most BCAs have good policies, procedures, and systems in place to effectively undertake their building control functions.
- › Detailed guidance and checklists have contributed to better documents and more effective quality control systems. However, some BCAs are still struggling to develop policies, procedures and systems that meet the requirements of MBIE’s guidance, checklists and the Regulations.
- › BCAs are finding it increasingly necessary to collaborate and share resources, as there are significant challenges with attracting and maintaining suitably qualified and skilled staff.
- › The effects of COVID-19 required more BCAs to adopt positive moves towards electronic consenting and remote inspections.
- › BCAs continue to be concerned about the cost and benefit of assessments and are keen to explore ways to reduce those costs.

MBIE representatives were present at many of the assessments as observers to assist where questions arose about the scheme, the legislative and regulatory requirements, and to ensure assessments were carried out as intended.

² In this report, references to BCAs includes both BCAs and AOBs unless otherwise stated.

³ A special assessment is an out of sequence assessment or one that is undertaken because there is some concern about a BCA meeting accreditation requirements.

MBIE's key reasons for observing accreditation assessments are:

- › To provide support to BCAs and assist IANZ with interpretation of the Regulations and MBIE's accreditation guidance where appropriate.
- › Observe higher risk BCAs who are undergoing monitoring assessments to enable MBIE to assess what additional measures might be needed for the resolution of any matters of concern.
- › Ensuring MBIE has an understanding of the issues and practices within Metropolitan BCAs as they represent the majority of building consents processed in New Zealand.

MBIE endeavoured to observe accreditation assessments in this round for those BCAs that we did not attend assessments for under round six, as well as those that were considered higher risk.

MBIE thanks all BCAs for their hospitality in accommodating MBIE observers during this round of assessments. MBIE would also like to thank IANZ for its willingness to engage with MBIE to ensure the intent of the scheme is met and for its work in carrying out these assessments, particularly given the disruptions and challenges that have occurred this round due to the impacts of COVID-19.



3.0 Key themes from the latest assessments

It has been necessary for BCAs to work in more effective and collaborative ways and share resources.

Processing of building consent applications for buildings with specified systems and preparation of compliance schedules continues to be an area where a number of BCAs are struggling.

Most non-compliances continue to involve Regulation 7, which relates to BCAs' core functions of receiving, processing and certifying.



There has been an emergence in non-compliances for Regulation 17, which relates to a BCAs quality assurance systems, and which had the second highest number of non-compliances this round.

Many BCAs have had challenges finding and retaining staff in the buoyant construction economy.

COVID-19 has created some challenges for BCAs, but all were working hard to adapt to a new way of working.



Most BCAs have now implemented fully electronic consenting systems, allowing consents to be lodged online and processed electronically. Some improvement and innovation is needed by system providers to continue to meet the needs of BCAs and TAs.

4.0 What's going well – the scheme's first private BCA, collaboration between BCAs and better use of electronic consenting systems

BCAs that have committed and knowledgeable staff, effective systems, including a well-used continuous improvement system, and complete regular and thorough internal audits, generally had a good assessment outcome in this round. This was especially evident in some smaller BCAs who have a more stable workforce.

Some BCAs took the opportunity to complete a self-assessment using the MBIE checklists prior to their assessment. MBIE's and IANZ's view, and strong recommendation, is that these should always be completed before the assessment begins. Those BCAs who did so generally performed better in the assessment because they had a better sense of what IANZ would need to see, and how to find it. It also provided a greater understanding of the areas where the BCA required improvement, and potentially may lead to a reduction in the cost of the assessment simply because less time is needed for the relevant information to be found.

Electronic consenting systems

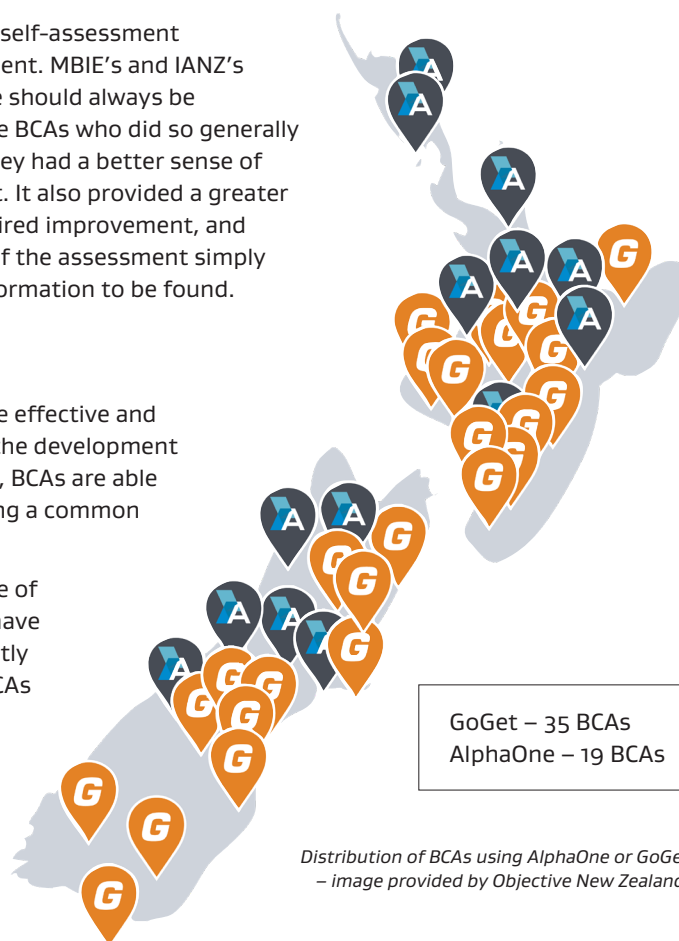
In recent years, BCAs have been working in more effective and collaborative ways to share resources through the development and uptake of electronic consenting. As a result, BCAs are able to share resources anywhere in the country using a common set of tools.

This round has seen a further increase in the use of electronic consenting systems and most BCAs have now moved to using one of the products currently available on the market. The small number of BCAs who were still using hard copies for their file records and processing documents had plans in place to move to digital systems.

This has produced some encouraging efficiencies and time-savings that are of benefit to both BCAs and its customers. COVID-19 has also, in effect, required further moves to electronic consenting due to an inability for the public to physically visit the BCA to lodge a building consent application at times.

Electronic systems have had the benefit of allowing BCAs to continue to accept and process consent applications while working remotely, which in turn has assisted in minimising delays.

MBIE has observed that some of the systems on offer are difficult to alter or modify once implemented. This has resulted in 'work arounds' being adopted by some BCAs, and causing BCAs to work outside of the system. This may have a negative effect on efficiency and compliance with the Regulations.



*Distribution of BCAs using AlphaOne or GoGet
– image provided by Objective New Zealand.*

As MBIE does not have direct influence over system providers, BCAs are encouraged to work with their provider to promote the necessary changes and improvements so that they can continue to develop their system to be suitable for both BCA and TA regulatory processes.

With most BCAs now processing consents electronically, some challenges have presented with BCAs not recording adequate reasons for decision making, by using only dropdown box responses rather than site specific information. Dropdown boxes can have insufficient information to support a decision, which means reliance solely on dropdown boxes can result in non-compliances in assessments through a lack of sufficient reasons for decisions.

However, in general, electronic consenting systems have allowed significantly better management of files and improved recording of decisions and reasons for decisions, including ensuring that all relevant Building Code clauses have been addressed.

Registration of first private BCA

Consentium, a division of Kāinga Ora – Homes and Communities, was registered as a BCA by MBIE in March 2021 following accreditation by IANZ in November 2020. It is New Zealand's first accredited and registered non-territorial authority BCA. Consentium provides Kāinga Ora with consenting and inspection services for housing of up to four storeys as it relates to state housing developments for Kāinga Ora.

Some BCAs process a significant number of building consents for Kāinga Ora developments and it will enable these BCAs to focus on other residential consents which have increased considerably in volume in recent years. Over 400 building consents have been issued by Consentium since it commenced operation as a BCA.

An engagement programme has been implemented by Consentium to ensure relationships and clear processes are in place with the BCAs and TAs it needs to work with. Currently there are 41 BCAs and TAs included in the programme based on where and when Kāinga Ora will be undertaking development work. Consentium is also working with MBIE to streamline administration functions, such as MBIE levy payments, and the transfer of information from Consentium to BCAs and TAs.

Being a 'non-territorial authority BCA', Consentium was assessed against the criteria and standards for registration as a private entity, which are prescribed in section 192 of the Building Act and in Regulation 4 of the Building (Registration of Building Consent Authorities) Regulations 2007.

As well as gaining accreditation through IANZ, to be registered as a private BCA an organisation must be able to demonstrate to MBIE that it:

- › Meets a 'fit and proper person' test (including the requirement for Consentium to be, and remain, impartial and independent from the other parts of Kāinga Ora which own the buildings that are to be consented).
- › Has adequate means to cover any civil liability that may arise in performing consenting functions.

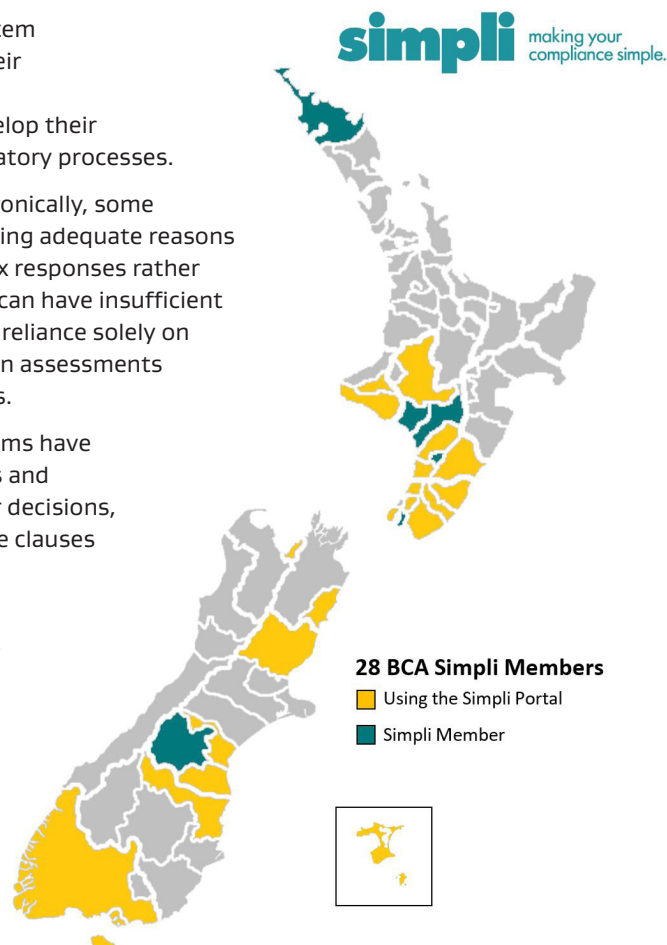


Image provided by Simpli and shows the number of BCAs using the Simpli portal. These are just two examples of the various systems on offer and other options are available.

Being a BCA which is not a TA presents some unique challenges for Consentium and to some extent for the TAs they deal with. Various statutory requirements which currently only apply to Consentium because of this status are quite onerous. For example:

- › Section 238 of the Building Act requires Consentium to provide information about the building to the TA within 5 working days of issuing or receiving the information, including
 - plans and specifications
 - building consents
 - code compliance certificates (CCCs)
 - compliance schedules
 - records of work, etc.

This creates an ongoing obligation for Consentium to transfer, and for the TA to receive, this information throughout the application and construction process, which is administratively difficult given the different systems used by TAs across the country.

- › Sections 53-59 of the Building Act require Consentium to collect the building levy from Kāinga Ora, pay it to the TA (with corresponding invoices) who in turn must pay it to MBIE.

MBIE developed a matrix of BCA and TA functions to assist both Consentium and territorial authority BCAs to gain a better shared understanding of the various building control and record keeping functions and other points of contact that will occur between the two entities in undertaking their respective roles under the Building Act. The 'matrix' was developed in collaboration with the 'BCA Metro Group' and has been shared with all BCAs and TAs. It will continue to be updated as progress is made in this area.



5.0 MBIE's role in the scheme

During this round MBIE implemented a service agreement plan with IANZ which has provided a more structured approach to the relationship. It is also intended to help with monitoring activities, risk management, role clarity, introduction of new ideas and practices as well as managing actions and reporting.

Its purpose is to outline how both parties will work together to undertake accreditation assessments and helps to keep the relationship between the two parties open and constructive, aiming to resolve problems early and focus on continuous improvement.

MBIE, as the central regulator of the building regulatory system, manages the system that regulates building work. Its stewardship role requires MBIE to develop high quality streams of information, look across the system as a whole and provide advice on how to ensure the building regulatory system is high performing. This role includes overseeing the performance of the building regulatory system's frontline regulators – BCAs and TAs.

Review of the accreditation scheme

In 2020, MBIE commissioned an evaluation of the scheme⁴ to ensure it was achieving its intended purpose, and to determine whether any areas could be improved.

Overall, the evaluation found that the scheme is achieving its intended outcomes, and is contributing to other wider outcomes. This means that most BCAs have robust and consistent policies, procedures and systems, and that poor performance is made known to MBIE, so we can provide appropriate support where necessary.

The evaluation also noted that the scheme has become more transparent and consistent over time, with clarity over roles and responsibilities.

Issues raised in the evaluation were consistent with what MBIE has heard directly from stakeholders, they included:

- › Concern that the scheme is not currently using all available levers to encourage good performance or manage poor performance.
- › Whether the scheme, as currently designed, goes far enough in ensuring quality of consenting decisions.

Many responses also acknowledged the changing context, and that while the scheme has achieved its purpose so far, it is important to look into whether it will be fit for purpose in the future.

There were some operational issues raised in the report – conversations about this are underway with IANZ. In terms of encouraging high levels of performance, MBIE will be discussing potential options with IANZ, such as rewarding well performing BCAs with lower IANZ fees and/or shorter accreditation assessments.

⁴ Go to www.building.govt.nz/building-officials/bca-accreditation/bca-accreditation-scheme-evaluation

6.0 Accreditation assessment costs

The actual cost of accreditation assessments this round was often higher than estimated by IANZ. This was mainly due to the nature of the non-compliances identified within BCAs and the number of these being higher than expected. Many assessments this round were undertaken remotely which frequently led to longer assessment times and an associated increase in costs. In addition, some BCAs struggled to clear non-compliances within the timeframe provided which also contributed to a longer assessment. In a few instances, more technical resourcing from IANZ was required due to a significant increase in BCA staff numbers and/or the number of consent applications processed which also contributed to an increase in the accreditation assessment cost.

Those BCAs with lower than anticipated accreditation assessment costs typically had improved systems and a lower number of non-compliances than the previous round, and so their accreditation assessment cost, and the time needed to complete the assessment, had been overestimated.

There was not a strong correlation between cost and the size of BCA (by number of consents) and most accreditation assessments cost between \$20,000 and \$40,000 (87%).

Cost distribution		
Cost of assessment	Number BCAs	%
\$10,000 - \$20,000	4	5%
\$20,000 - \$30,000	44	58%
\$30,000 - \$40,000	22	29%
Over \$40,000	6	8%

7.0 What BCAs could improve on – processing timeframes, internal audits, buildings with specified systems

MBIE is aware of the pressures within the building and construction sector that have been well documented recently and the consenting system is another part of the system that is under pressure. There is a lot of work going on in the background to look at ways to improve issues regarding construction, development, skill shortages, and the consequent frustrations due to high volumes of work and the increasing complexity of construction in the industry.

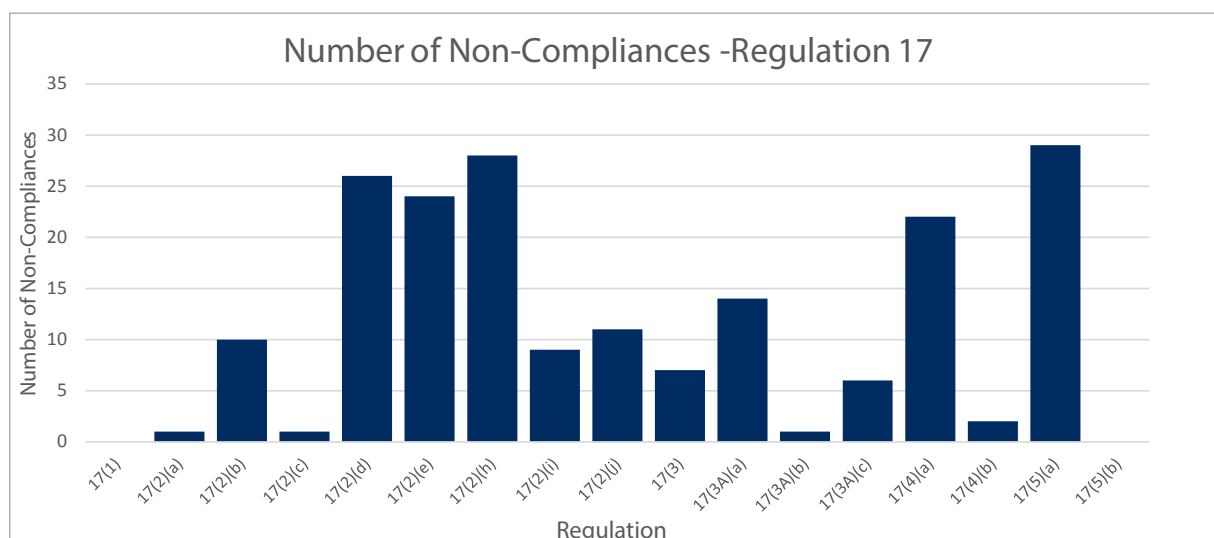
In order to try and meet statutory timeframes many BCAs are contracting work out to private organisations. In some instances, those private organisations do not have capacity to assist and are turning away work or not taking on any new work.

A number of BCAs have advised MBIE that they are not meeting the requirements of the Regulations, in relation to processing consents, as a result of the impacts of COVID-19.

There were 71 non-compliances raised this round relating to Regulation 7(2)(d)(iv), which covers the policies and procedures for the processing of consent applications. This was the sub-Regulation for which the greatest number of non-compliances were raised and an increase on the previous round was noted.

Internal audits

In total, there were 28 non-compliances relating to Regulation 17(2)(h) this round, which covers the procedures for 'ensuring that an internal audit of every building control function occurs annually'. This is a decrease from the previous round which saw a total of 44 non-compliances relating to annual audits. However, overall Regulation 17 still had the second highest number of non-compliances this round.



In-house auditing is being undertaken but it was noted in some instances that BCAs did not address or provide a framework for classifying non-compliances raised in their internal audits. A lack of detail within audits, regarding specific BCA functions, also meant BCAs did not always follow through with continuous improvement procedures.

Often the person within the BCA carrying out the internal audit does not have the relevant technical expertise and as a result the BCA is failing to comprehensively complete the audit. If good audits are not undertaken then more issues are generally picked up by IANZ at assessments.

Buildings with specified systems

IANZ has been working to make sure that BCAs meet the minimum standards and criteria and the MBIE guidance on specified systems as a result of findings identified during the last round.

Many BCAs are still struggling with the processing requirements for building consent applications that include specified systems and there is evidence of a continuing lack of knowledge and skill regarding the preparation and issue of compliance schedules. This is a result of poor consideration of specified systems during processing but also a lack of training regarding what a “good” compliance schedule looks like.

Applications for building consent are often not provided with sufficient information about specified systems and BCAs are reluctant to reject those applications that lack information because of a required ‘customer service’ focus. Some BCAs are not considering the appropriateness of proposed specified systems, performance standards, and inspection, maintenance and reporting requirements and consideration of these factors is at times not being well recorded.

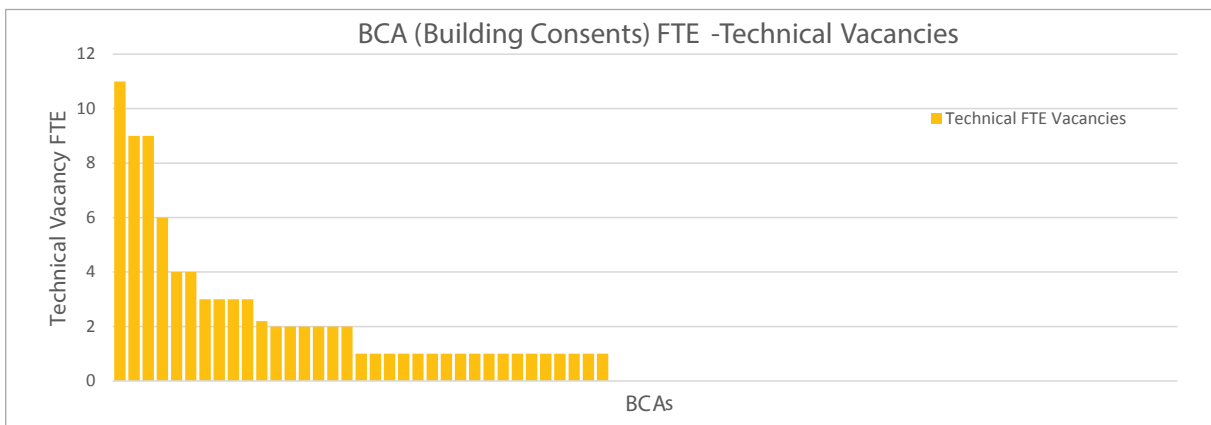
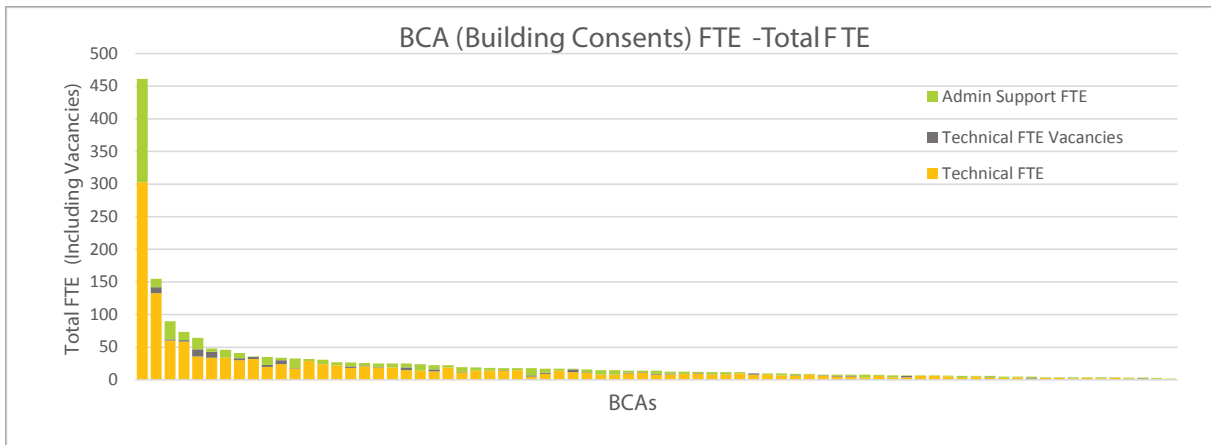


8.0 Recent challenges – management changes, resourcing and impacts of COVID-19

Resourcing continues to be an ongoing concern for most BCAs as they are struggling in the current market to attract and retain staff – as evidenced by constant vacancies. There is a significant lack of resource within the industry with sufficient competency to undertake technical building consenting functions and to also assist in meeting the regulatory requirements for maintaining accreditation. A reduced ability to attract skilled overseas workers due to COVID-19 restrictions is contributing to the issue. BCAs are operating in a sector where there is a significant amount of growth happening around the country.

Some BCAs have recently lost staff or have undergone restructuring. Consequently, the loss of staff has resulted in some procedures not being consistently or fully implemented. BCAs also report spending more time and resources on accreditation than they have done previously.

Although there are difficulties with obtaining technical staff there has generally not been many significant changes within BCAs at a management level. There is, however, concern that upper management of some BCAs do not have a full understanding of the accreditation requirements or may not be fully committed to supporting their BCAs. This especially relates to making available sufficient staff and contractor resources.



Smaller BCAs in particular are finding it harder to maintain the skills required to assess complex buildings because they do not frequently encounter these building types. These BCAs have advised they want local autonomy to manage their consenting functions, but often do not have the resources to procure contractors for this specialised work.

Forming clusters with other BCAs has enabled BCAs in some instances to be strategic about managing resources. Some smaller BCAs have found being part of a cluster particularly valuable when a key staff member has resigned and not been replaced. Smaller BCAs can engage staff from other BCAs to consent buildings outside of their usual scope of expertise.

Clusters⁵ also improve efficiency amongst BCAs by allowing them to share quality assurance manuals and other resources across the group. This can save BCAs resources and should contribute to greater consistency across the cluster. MBIE encourages exploration and uptake of shared services initiatives like this.

BCA Cluster Groups within New Zealand



Also, a challenge to BCAs, particularly those that are a TA, is the nature of each unique local government construct and its individual focus for that region and community. As BCAs are inherently compliance-focused, they can struggle with the competing priorities and influences of local government objectives which are often about being customer-friendly and accommodating. While this is important, consistency of compliance with the Building Act is required to ensure the Act's purposes are met. These include, making sure that people who use buildings can do so safely and without endangering their health and buildings have attributes that contribute appropriately to the health, physical independence and well-being of the people who use them.

⁵ There are 11 regional BCA cluster groups operating in New Zealand. Nine are in the North Island and the remaining two in the South Island. Cluster groups help foster cooperation and consistency in building control activities across territorial boundaries.

COVID-19: impact on supply chains and consenting

Most BCAs have managed to remain fully operational throughout COVID-19 restrictions due to the use of electronic consenting. Those who had already moved to fully electronic systems appeared to be better placed, and able to adapt quicker, than those who were still operating in a mostly paper-based system.

This new way of working has opened up opportunities for staff to work remotely, particularly for the processing of building consent applications, and allowed BCAs to make better use of available staff and contractors no matter where they are located. For some BCAs, the move to working remotely did pose logistical hurdles. However, all were working hard to improve remote system access and communications. Onsite inspections of building work were able to continue during Alert Levels 1, 2 and 3 with the appropriate safeguards in place.

MBIE published guidance for BCAs and those working in the building and construction sector on how to work safely at different COVID-19 Alert Levels⁶. It has also maintained an open line of communication with BCAs via existing channels such as its consenting systems inbox (consentsystem@mbie.govt.nz) to assist with specific queries.

The COVID-19 pandemic affected the way in which accreditation assessments were carried out with many undertaken remotely. On-site observation by IANZ of inspection activities was not carried out during Alert Level 2, 3 and 4 periods.

Both BCAs and IANZ have reported that they generally missed the opportunity that on-site assessments provided to have more in-depth discussions where necessary and for BCAs to receive informal advice and guidance. This has led IANZ to reconsider offering remote accreditation assessments as an option to high performing BCAs. An alternative option is a shorter on-site assessment where some parts of the Regulations are covered in detail, and the remaining parts are assessed by the BCA providing IANZ with evidence of compliance before the assessment in the form of a self-assessment.

The effects of COVID-19 on product manufacturing, global shipping logistics, general freight availability and the increased cost of importing building materials has led to a shortage in the availability of some building materials, with New Zealand even being left off the supply chain for some international suppliers. Stats NZ's recent Quarterly Building Activity Survey reported that two-thirds of respondents did not have all the materials and equipment for their new-home projects available. Recently new building consent numbers hit an all-time high with a record number of 44,299 issued in the year ending June 2021⁷, adding additional pressures to the market and by default BCAs.

As a result, BCAs have reported seeing an increase in product substitution and proposed alternative solutions to deal with construction delays caused by these shortages.

MBIE has dealt with a number of BCA generated queries on this front and given each building will likely have differing characteristics, MBIE expects these approvals will be assessed on a case-by-case basis and reminds BCAs to ensure its decision-making in relation to minor variations and building consent amendments is appropriately documented in the BCA's system. The 'reasonable grounds decision-making' outlined in sections 49 and 94 of the Building Act will also still need to be satisfied.

To this end, BCAs will likely see more novel and innovative approaches to product substitution and other related consenting issues over coming months.

⁶ Go to www.building.govt.nz/covid-19/.

⁷ Sourced from Stats NZ Tātauranga Aotearoa (www.stats.govt.nz).

9.0 General observations around processing consents

Most non-compliances raised during the latest assessment round continue to be related to Regulation 7, which encompasses the majority of a BCA's 'day-to-day' functions of receiving, processing and certifying. Regulation 7 requires a BCA to have policies and procedures for performing its building control functions and prescribes what the policies and procedures must include.

BCAs frequently accept building consent applications which do not have the necessary information to start processing the building consent effectively. MBIE recommends that BCAs do not accept applications which do not have sufficient information to allow processing to begin. A BCA is obligated to grant a building consent if it is satisfied on reasonable grounds that the provisions of the Building Code would be met, if the building work were properly completed in accordance with the plans and specifications that accompanied the application. BCAs can make the decision to refuse to grant the consent at any stage in the building consent application process.

MBIE also continues to see individual BCAs issue publicly available information that has incorrect legislative interpretation and guidance relating to the BCA functions. MBIE recommends that, where available, BCAs should link directly to the relevant www.building.govt.nz webpage as a source for this type of information. If you discover any errors on this website please send details to consentsystem@mbie.govt.nz so MBIE can correct them.

Increased use of remote inspections

Some BCAs have provided the option of remote inspections, where appropriate, using technical software solutions such as BRANZ's Artisan App⁸ and the ZYTE App. This has assisted in workflow management, and may have the potential to reduce inspection timeframes. The use of remote inspections may also help BCAs to make use of building consent staff that are not local to the building site.

Some issues have arisen with obtaining the required information as this can be dependent on the skill of the inspector having a good understanding of the software and how to use the system to gather the necessary information for compliance with the building consent.

Remote inspections do pose their own set of risks but also provide a great number of advantages especially for inspections where there is difficult site access or where the BCA covers a very large geographical area. There have been a number of considerations that IANZ and BCAs have needed to work through to ensure that the remote inspection can be relied on as true and correct such as:

- › Making sure the correct element is inspected and that the inspection being carried out is for the correct site (which can be achieved through the use of GPS locators).
- › Ensuring that inspectors are directing the inspection process so the BCA can be reasonably satisfied that the requirements of the Building Code are met.
- › That the applications used are suitable for the secure storage and transfer of information such as photos and video files.

⁸ Go to www.branzartisan.nz.

In addition to the above, and something to be aware of, is that inspections of building work are provided for in section 90 of the Building Act, which allows these inspections to be carried out by 'agents' authorised by the BCA. This typically relates to the BCAs in-house inspection staff, but can extend to a third-party verification of compliance with an aspect of design that is detailed in the plans and specifications. For example, a chartered professional engineer inspecting an element of a specific engineered design or confirming that ground bearing capacity is as assumed.

As a general rule, those carrying out building work cannot inspect their own work for the purposes of section 90 of the Building Act. These types of inspections should still be performed by the BCA, either remotely or on-site. The closest the Building Act gets to this type of recognition is self-certification by electricians (electrical workers), in so far as they are able to self-certify energy work (prescribed electrical work) as per sections 43 and 94 of the Building Act.

10.0 Transfer of BCA functions

In this assessment round MBIE has seen more BCAs seeking advice on transferring their building control functions under the Building Act. Queries have been received mostly from small to medium sized BCAs, although some cluster groups have also approached MBIE for information and guidance in relation to transfer of their functions.

There are a number of different mechanisms a BCA can use to perform its building control functions, including: a shared services model; contracting out work; or a full transfer of functions, duties and powers. Some BCAs are recognising that the work required to maintain accreditation as required by the Building Act and Regulations, as well as the costs involved, might be better transferred to a larger BCA, with more agile resources and often greater levels of infrastructure. This may lead to New Zealand having fewer BCAs, but with each having a wider breadth of resources that can be better utilised.

In recent years, all but two regional authorities (RAs), who undertake dam-related building consenting functions, have transferred those functions to other RAs due to a very low number of consent applications. In order to transfer its functions, a regional or territorial authority must undertake consultation with all affected parties under the Local Government Act 2002.

MBIE has further guidance⁹ on its website for regional or territorial authorities that want to enter into arrangements for the performance of, or to transfer, their BCA functions and we encourage Councils to explore such options.

⁹ [Entering into arrangements or transferring consenting functions | Building Performance](#)

11.0 Regulation 18 requirements

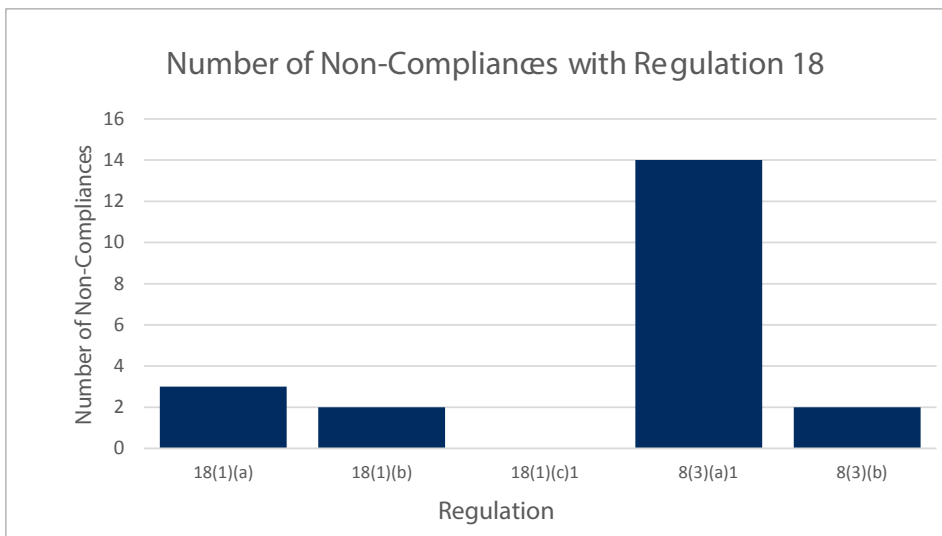
MBIE continues to receive frequent queries regarding Regulation 18, with most raising questions about:

- › the exemptions under Regulation 18 (2), and
- › what constitutes an appropriate qualification.

In relation to exemptions, BCAs are required to implement and administer their own policy in accordance with the Regulations and MBIE's guidance.

Regulation 3 provides a list of the specified New Zealand qualifications for the purposes of Regulations 18(1)(a) and (b). As well as listing specific technical qualifications it includes any qualification in the field of building design or construction that is at, or above, a Level 6 qualification in the New Zealand Qualifications Authority (NZQA) Framework. Where a qualification is not specifically referenced in Regulation 3 it is for the BCA to determine its appropriateness – the Regulations provide for this judgement and discretion to be exercised by BCAs.

Two new qualifications were recently reviewed and approved by NZQA for the suite of Building Surveying qualifications - details of these are available on the NZQA website¹⁰.



¹⁰ Go to www.nzqa.govt.nz.

12.0 Competency assessments

In 2020 MBIE initiated a refresh of the national competency assessment system (the NCAS) following feedback received from BCAs during a review of the system. The content of the NCAS documentation had not been updated since its implementation in 2010 and as a result has become somewhat dated.

The refresh commenced with a series of stakeholder engagement sessions with the objective of making the NCAS function well for its users. MBIE are also seeking to remove duplication from the system; better clarify some of the key system settings; and include any new legislative requirements as well as changes to acceptable solutions, verification methods and relevant standards. A cross section of BCAs and other key stakeholders were consulted as part of the review.

The system has been adopted across most BCAs to help them categorise buildings and allocate work to competent people performing building control functions. Its primary purpose is to assist BCAs in assessing staff competency and meeting Regulation 10 of the Regulations.

The system will have new look and feel and will be brought to a fully online format to ensure it is easier to update in the future as the legislation and technical requirements for compliance with the Building Code change over time.

In summary the main changes to the system are as follows:

- › As above, the NCAS competency levels are to be updated to reflect regulatory, legislative and technical changes, as well as system changes, that have occurred since 2010.
- › The system will be entirely online at www.building.govt.nz so that there is one current and up-to-date source of information.
- › The six existing competency levels are to be rationalised so that two groupings of 'core competencies' will be developed. One suite of core regulatory competencies is to be provided for three residential competency levels and the same will be provided for the three commercial levels. The steps in technical competence will then be outlined in each of the levels so that both assessors and candidates understand what constitutes a step in competency from level-to-level.
- › It is estimated that a quarter of the current content is obsolete given the system is over a decade old. Content is therefore being updated to keep in step with MBIE's guidance and the latest IANZ assessment outcomes relating to Regulation 10.

13.0 Observations from IANZ

It has now been four years since the review of the Regulations and the introduction of MBIE's accreditation guidance. Many BCAs have actively worked with the amended Regulations and guidance and have well managed and robust processes. This has been demonstrated by the small number of assessment findings made and these BCAs are to be congratulated on their excellent management and systems.

Unfortunately, other BCAs have struggled with a lack of resources and have lost focus on their policies, procedure and systems while just trying to process, inspect and certify building work as quickly as possible. BCAs without strong technical and quality management have generally been poorly prepared for IANZ assessments and a large number of non-compliances against the Regulations have been identified during those assessments. This poses a high risk to the TA that they are a part of as they may risk loss of accreditation, but may also be subject to litigation from clients where their policies, procedures and systems are not appropriately and effectively implemented.

IANZ would like to encourage all BCAs to ensure that they have robust and well documented process and that they actively audit these to ensure that they are effectively and consistently implemented. Ensuring this would also help ensure that a BCA's system can adequately and consistently manage the consenting process and technical requirements should there be any departure or replacement of key personnel.



14.0 Non-compliances in more detail

The charts within Appendix 1 show the number of non-compliances by Regulation and sub-Regulation, and in comparison to round six.

16 Average number of total non-compliances per BCA

Top ten general non-compliances for July 2019 – June 2021.

	Number of non-compliances	Regulation	Description
1	71	7(2)(d)(iv)	Policies and procedures for processing applications
2	68	7(2)(f)	Issuing and refusing to issue CCCs, compliance schedules and NTFs
3	66	7(2)(d)(v)	Granting, refusing to grant, and issuing building consents
4	49	7(2)(a)	Consumer information
5	42	9	Allocating work to competent employees or contractors
6	40	7(2)(e)	Planning, performing, and managing inspections
7	35	10(3)(d)	BCAs ability to process applications for building consents, inspect and certify building work
8	32	14	Ensuring necessary technical resources
9	31	11(2)(b)	Preparing training plans
10	29	17(5)(a)	Reviewing quality assurance systems

The table above shows that the highest number of non-compliances (71) were in relation to Regulation 7(2)(d)(iv) which requires a BCA to have policies and procedures that cover processing consent applications to establish whether they comply with the requirements of the Building Act, the Building Code and any other applicable Regulations.

The second highest number of non-compliances (68) was in relation to Regulation 7(2)(f) which requires a BCA to have policies and procedures to cover the issuing (and refusing to issue) of CCCs, compliance schedules and notices to fix (NTFs). Of the 76 organisations, 63 received a non-compliance in relation to CCCs, 57 in relation to compliance schedules and 16 in relation to NTFs.

There was an increase in non-compliances (76 – up from 58 in the last round) in relation to Regulation 7(2)(d)(v) which relates to the granting, refusing to grant, and issuing of building consents.

It is noted that there is a continued, and overall increase, in non-compliances (49) with Regulation 7(2)(a) which requires BCAs to have policies and procedures that cover giving information in writing or electronically to a person who wants to apply for a building consent about:

- › how to apply for a building consent
- › how an application for a building consent is processed
- › how building work is inspected, and
- › how building work is certified (through the issue of a CCC).

This non-compliance suggests there is ongoing room for improvement in the documentation of processes for providing information to the public.

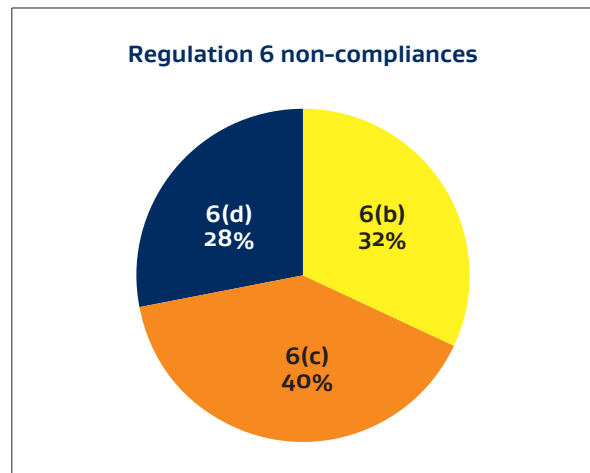
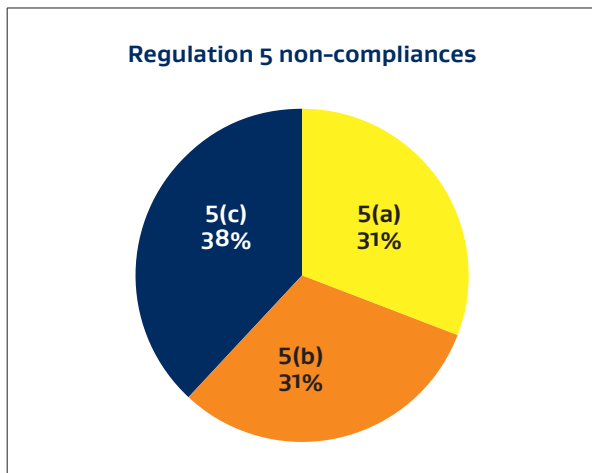
The remaining items in the table concern quality assurance systems, inspections, and the monitoring of systems to ensure there are enough employees and contractors as well as sufficient oversight of employee training requirements.

15.0 Non-compliances with Regulation — 5 and 6

Regulation 5 specifies that policies, procedures and systems required by the Regulations must be written or electronic, appropriate for their purposes and implemented in a consistent and effective manner. Regulation 6 requires a BCA to record the decisions it makes under the policies, procedures and systems required by the Regulations, the reasons for the decisions and the outcomes of the decisions. There are a number of policies, procedures and systems required by the Regulations. Some examples include the requirement for a BCA to have a system for notifying MBIE and IANZ of matters specified under Regulation 6A and the requirement for BCAs to have policies and procedures for performing its building control functions (Regulation 7).

When there is a failure to meet the requirements for policies, procedures and systems in the Regulations, then by default there will be non-compliance with the requirements of Regulations 5 and 6. Non-compliances with these Regulations are shown in the graphic below. The highest number of non-compliances were against Regulation 5(c) which requires that policies, procedures and systems must be implemented in a consistent and effective manner and Regulation 6(c) which requires a BCA to record the reasons for decisions.

The graphs below show the percentage of BCAs with non-compliances raised for each sub-Regulation under Regulations 5 and 6.

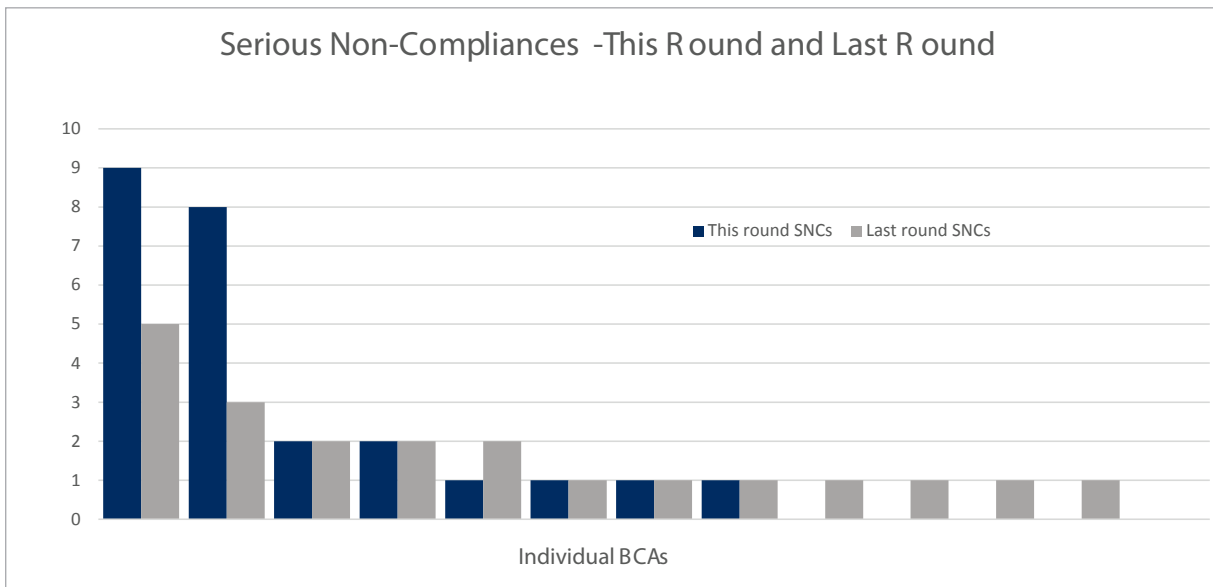


16.0 Serious non-compliances during this assessment round

Of the 76 BCAs and AOBs that had accreditation assessments between 1 July 2019 and 30 June 2021, 8 (11%) of those were assessed as demonstrating at least one serious non-compliance.

11% of BCAs and AOBs were assessed as having demonstrated one or more serious non-compliance

The overall number of BCAs with serious non-compliances has reduced from round six where 18% of BCAs received a serious non-compliance. However, of those BCAs with serious non-compliances this round a small number had significantly more serious non-compliances and as a result there has been an increase in the number of serious non-compliances overall.



17.0 Special assessments

There were 11 special (monitoring) assessments carried out this round. The focus at these assessments was on those Regulations where non-compliances had previously been identified, which were then re-assessed. IANZ required any non-compliances to be addressed before accreditation was continued.

Routine accreditation assessments sometimes identified instances where BCAs were found to be non-compliant with a substantial number of accreditation requirements, prompting the need for a further special assessment. In some instances these non-compliances were repeated from the BCA's previous assessment as the BCA had not continued to implement its documented procedures from when the previously identified non-compliances were cleared.

As an example, in one instance it was identified that the BCA had significant issues with respect to implementing their quality assurance system. The number of non-compliant matters were such that it was determined by IANZ that the BCA required a repeat visit within a 6-12 month period.

Some additional examples of situations where special assessments where necessary included situations where the BCA failed to:

- › Record adequate reasons for decisions for processing as the decisions did not always show proper consideration of the Building Act and Building Code.
- › Properly record reasons for decisions for competency assessment audits.
- › Conduct adequate annual training needs assessments.
- › Produce adequate training plans for those employees performing building control functions.

18.0 Escalation process – compliance strategy and approach for dealing with non-compliance

MBIE has had a compliance strategy for BCAs and TAs in place for several years now. In using its compliance strategy, MBIE identifies non-compliance as part of its programme of activity, including through IANZ reporting, monitoring and other sources such as Determinations, complaints regarding BCA functions and the media.

Where non-compliance is identified, MBIE expects that the BCA will move quickly to address the issues, taking into account the potential for harm. Where this does not occur immediately, MBIE will utilise a number of different approaches to ensure that performance is improved, or the issue is otherwise addressed, depending on:

- › how the issue was identified,
- › the seriousness of the issue,
- › whether the issue is likely to be systemic, and
- › the particular track record of the BCA.

MBIE has a number of statutory and non-statutory mechanisms that can be used to provide an incentive for good behaviour or a disincentive for unsatisfactory behaviour. In many cases the disincentives form a broader category of 'greater attention' such as reassessment or information gathering. This has a dual purpose because BCAs will ideally work to avoid it, and because failing to respond may be indicative of more serious issues that MBIE needs to investigate.

Mechanisms for addressing non-compliance include:

- › Varying the timeframes for monitoring and assessment programmes, which impacts on time and effort for individuals at BCAs.
- › Additional monitoring, requests for information and/or formal investigation.
- › Providing support – from additional information to on-site presence.
- › In extreme circumstances removing accreditation or using other disciplinary powers.

MBIE has been working with IANZ to develop a joint escalation process for dealing with BCA non-compliance in order to better manage the process and ensure that when powers are used, they are used proportionally, in a timely manner and in accordance with the compliance strategy. The process seeks to accommodate less urgent but still important issues, such as a process for managing and responding formally to notifications received under Regulation 6A through to more significant non-compliance related issues at the other end of the spectrum. Once complete, MBIE will communicate this through a guidance update.

19.0 IANZ appeals

There were three appeals to IANZ during this accreditation round regarding its decisions on non-compliances.

In summary, these were in relation to:

- › Non-compliances regarding issuing CCCs at 24 months if no application for a CCC is received.
- › A non-compliance relating to MBIE's guidance that competency must be demonstrated within the last 12 months.
- › IANZ's findings with respect to compliance schedules.

The first two cases underwent review by an independent person and were rejected. The third one was resolved through clearance of the non-compliances.

Overall, IANZ's response to the appeals, and its lessons learnt from them, has been to reinforce that IANZ are consistently and appropriately applying the Regulations and guidance. IANZ is ensuring it explores interpretations suggested by individuals or organisations before applying any changes across the board.

20.0 Revocation of accreditation

There were two BCAs who were issued with an initial 'notice of revocation' in regards to their accreditation this round. This was due to sustained non-compliances with a number of different Regulation requirements.

Following a notice IANZ is required to provide the BCA with a reasonable opportunity to be heard and will monitor the BCA's progress in addressing the non-compliance(s). This is undertaken in accordance with an action plan notified by the BCA to IANZ.

One BCA has since had their notice withdrawn as the BCA appointed a new manager and all consenting related work was being sent to contractors. The remaining BCAs progress towards remedying the matters raised in the notice is being closely monitored by both MBIE and IANZ.

21.0 Changes to accreditation guidance

The following updates and changes have recently been made to MBIE's accreditation guidance and checklists.

Regulation 6A notifications – formal process now in place and new checklist

Amendments to the Regulations in 2017 introduced a requirement for BCAs to notify MBIE and IANZ of any significant changes to their organisation under Regulation 6A. For most notifications, no further action will be taken other than an updating of records and contacts. Where particularly significant changes are advised or it is noted, for instance, that a notifiable position has stood vacant for some time, MBIE and/or IANZ may follow up by reaching out or seeking further information. In some cases MBIE may ask IANZ to carry out a special assessment to ensure that despite changes, a BCA is continuing to meet the requirements for accreditation.

To assist BCAs with early recognition of potential problems, MBIE and IANZ have put in place a more formal process to assess and manage Regulation 6A notifications to assist in addressing the effects that changes within an organisation may have on a BCA's performance.

It is possible for a BCA which performed well in a previous IANZ assessment to undergo significant changes to management, staff, or systems and quite quickly struggle to meet accreditation requirements, with potential for many non-compliances to be raised in the next assessment.

The MBIE accreditation guidance recommends that when a BCA provides a Regulation 6A notification they should be as specific as possible about the change, and provide information regarding the nature of the change including:

- › what the change is
- › why the change is being made
- › who is making the change
- › when the change will be implemented, and
- › how the change will be implemented.

Whilst not a requirement of the Regulations, MBIE recommends that BCAs also notify MBIE and IANZ when the Quality Manager leaves a BCA, as the Quality Manager is considered to be a critical and integral part of the accreditation scheme.

This work is part of broader work MBIE and IANZ are working on to assist and manage BCAs who may be struggling to meet their accreditation requirements; for example those who fail to clear non-compliances after the "standard" accreditation process, and BCAs who make changes to their systems or staff between planned assessments.

It is noted that the number of Regulation 6A notifications is increasing due to the current pressures within the industry and movement of staff both within the industry and to other careers.

Regulation 7(2)(a) consumer information – changes to checklist

An additional item has been added to the Regulation 7(2)(a) checklist under item 7(2)(a)(ii) to include the requirement for public information to note the statutory timeframe for the processing of a consent that includes a National Multiple-Use Approval (MultiProof) certificate.

MBIE reminds BCAs to ensure that its public information has been updated to reflect this.

Regulations 7(2)(b), 7(2)(c) and 7(2)(d) - receiving applications for building consents

Recently MBIE was approached by BCAs on an opinion by Audit NZ regarding the receipt date of a building consent application and when the statutory clock should commence. MBIE took this opportunity to review the overall guidance that it has published for Regulations 7(2)(b), 7(2)(c) and 7(2)(d).

Audit NZ held the view that instead of starting the statutory clock on the day a building consent application is received, as MBIE's guidance provided for at the time, the proper interpretation was that the clock should instead start on the following working day. MBIE agreed with Audit NZ's position that once a BCA decides a building consent application is complete and meets section 45 of the Building Act, the clock must start from the next working day after the date on which the application arrived at the BCA. Adopting this position also means that after receipt of information following an RFI, the clock restarts the day after the information is received.

MBIE consulted with some BCAs on proposed changes to the guidance, some held the view that the existing guidance was not correct because it provided that once a consent application was assessed as complete, the statutory clock starts on the date the application was received rather than the date when it was assessed as being complete. They felt it should start from the date the application is assessed as being complete.

MBIE's review concluded that the current interpretation, as applied in the guidance, is correct. If the application proves to be complete when reviewed by the BCA, then it was always complete at the time it arrived at the BCA.

The guidance content for Regulation 7(2)(b), 7(2)(c) 7(2)(d)(i) and 7(2)(d)(iv) has been amended to reflect these points. The checklist for Regulation 7(2)(b), 7(2)(c) and 7(2)(d)(i) has been amended only to change one word in item 2 of the checklist to reflect the same wording on the webpage.

Regulation 10 – establishing and assessing competence of employees

Regulation 10 guidance has been amended to provide further explanation on how types of evidence can be considered for the annual competency assessment of a Building Consent Officer (BCO), and how to approach the assessment of current employees.

The checklist for Regulation 10 has also been amended to add Regulation 10(1) requiring BCAs have a system for establishing the competence of a person who applies to it for employment as an employee performing building control functions.

Regulation 15 – keeping organisational records

A minor wording amendment is included in the checklist for Regulation 15 and corresponding guidance to clarify that a BCA's organisational chart must identify any relationships the authority has with external organisations.

22.0 Looking to the future – matters of interest

MBIE expects that COVID-19 will continue to have ongoing impacts for BCAs, as well as the building and construction sector as a whole, in round eight of the accreditation assessments. Recent building consent figures also suggests the residential construction market is likely to remain at capacity for the next two years.

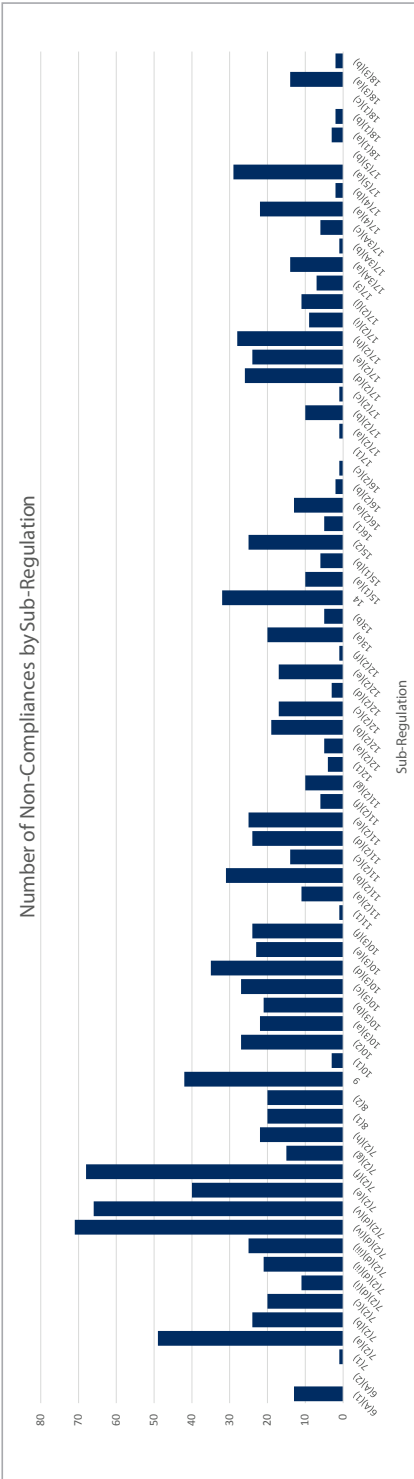
The Building (Building Products and Methods, Modular Components and Other Matters) Amendment Act 2021 (Amendment Act) which amends the Building Act, was passed through Parliament and came into force on 8 June 2021. It is phase one in a series of reforms to building laws to lift performance of the building regulatory system. The Amendment Act introduces a voluntary certification scheme for offsite manufacturers of modular components, which will enable manufacturers who meet certain standards to sign off on their own designs and builds, and will have an effect on the way BCAs process consents for building work involving components certified under this scheme.

The Amendment Act also creates minimum information requirements for building products and strengthens the current product certification scheme known as CodeMark. BCAs may be able to make building decisions more quickly, informed by better product information, leading to more efficient consenting. Regulations to support and implement these changes are currently being developed, and the transitional period under the Amendment Act provides for these changes to come into effect in mid-2022. Phase two will progress reforms to the occupational regulation of engineers and practitioners in the building and construction sector, so that people can have more confidence in these professions and their work.

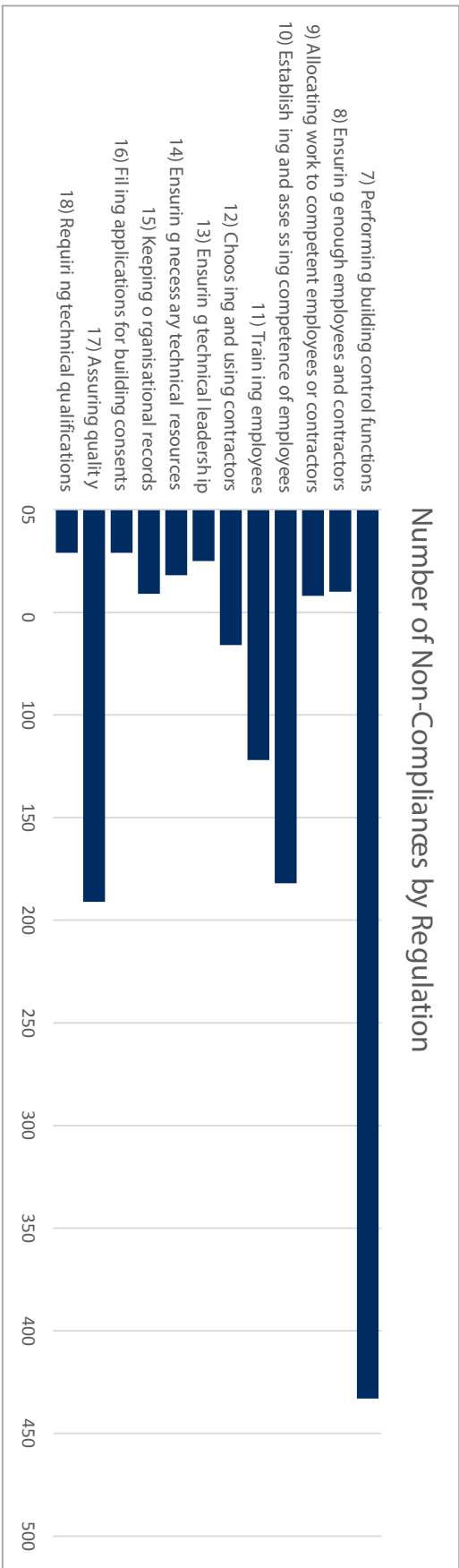
MBIE will continue to provide updates and guidance on the above changes, as well as any other regulatory changes, including changes to the Building Code, via its electronic newsletters and MBIE's Building Performance website¹¹.

¹¹ Go to www.building.govt.nz.

Appendix 1: graphic summary of findings



Excludes Regulations 5(a), (b) and (c) and Regulation 6(b)(c)(d) which are not counted in the total number of non-compliances for each assessment.



General Non-Compliances -This Round and Last Round (Comparison)

