



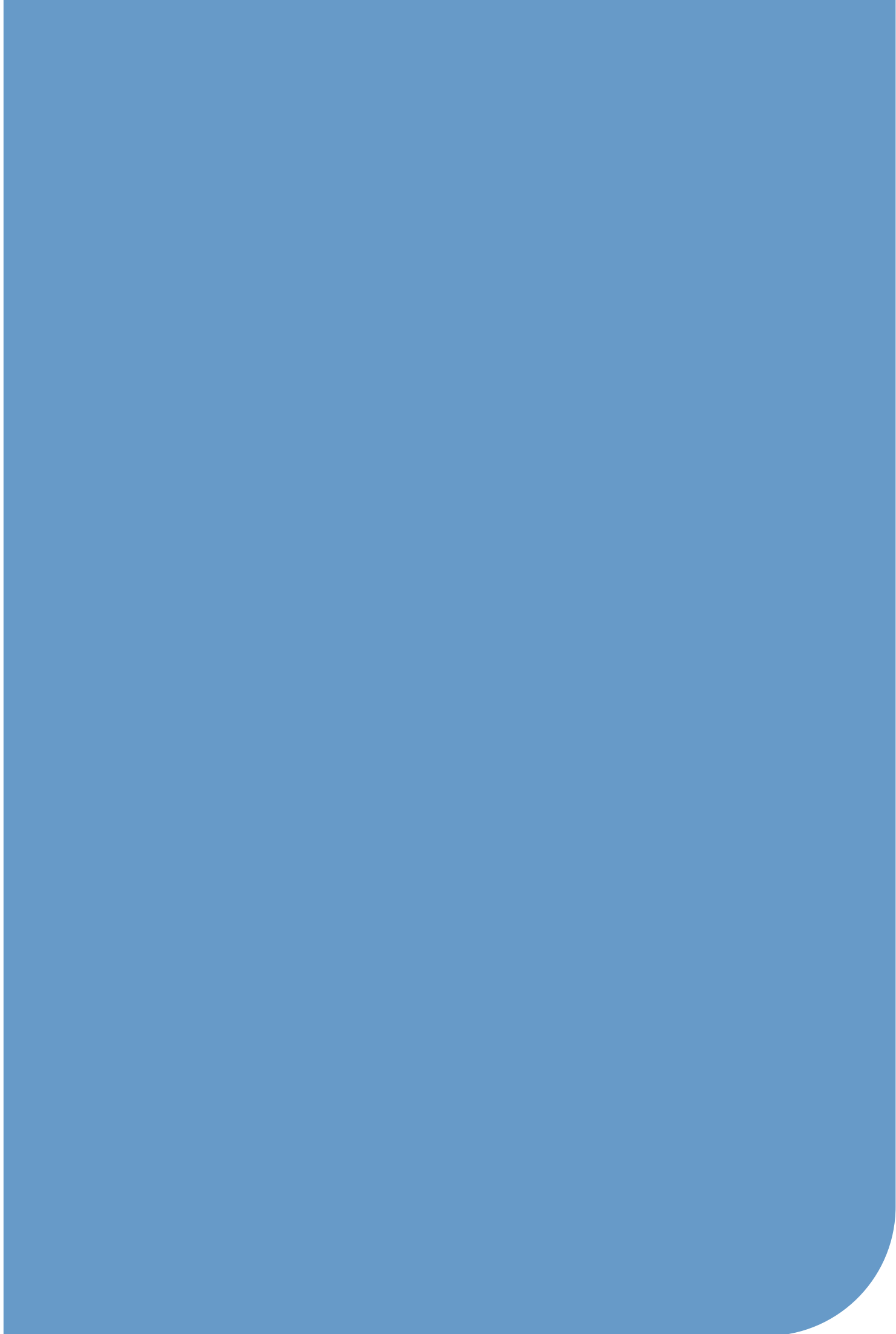
Department of
Building and Housing
Te Tari Kaupapa Whare

Technical Review

of the Building Control Operations of Manukau City Council Summary Report

June 2008





Important notice to people reading this technical review report

The Department of Building and Housing (the Department) carries out technical reviews as part of its function to monitor and review the performance by territorial authorities and building consent authorities (local authorities) of their functions under the Building Act 2004 (the Act). The purpose of a technical review is to assist the territorial authority or building consent authority under review to improve its building control operations.

A technical review is not an audit. A technical review is a performance review based on sampling building control activities, and cannot be taken as a full and comprehensive review of competency and quality.

A technical review is carried out by:

- assessing whether the processes and procedures are sufficient to enable the local authority to satisfy the requirements of the Act, and related Regulations, including the New Zealand Building Code (the Building Code)
- assessing the processes and procedures used by the local authority in respect of weathertightness compliance
- providing advice and assistance on best practice
- receiving comment and feedback from the local authority.

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1. Summary of key findings

During the review, from August 2004 to August 2007, Manukau City Council (the Council) improved some building control practices. The Department acknowledges work is continuing as the Council prepares for accreditation as a building consent authority under the Building Act 2004.

Further improvements are still required to ensure that the Council is able to consistently meet its obligations under the Building Act 2004. The Department has had to reiterate some recommendations, which had not been fully resolved and implemented (see terms of reference 3, 4.1, 4.2, 4.4, 4.9, 9, 10, 11 and 16 under section 5 of this report).

During the review the Council restructured its building control unit. It now uses three external contractors to undertake the majority of consent processing and inspection work. The Department's findings and recommendations refer to this structural arrangement.

The Council needs to give particular attention to the following issues:

Policies and processes underpinning the Council's building control operations

Policies, processes and procedures underpinning some of the Council's building control functions need strengthening in a number of areas. The Council needs to:

- ensure clear communication of performance expectations to staff and contractors, and ensure these requirements are followed. Examples include ensuring:
 - applications are rigorously vetted (and rejected if they lack sufficient detail)
 - guidance is provided to Council contractors regarding minimum information required for assessing compliance and making decisions
 - the Council's contractors are given guidance on peer review required during processing and inspection (particularly accessibility compliance)
 - the use of consent conditions and notations is appropriate
- strengthen project information memorandum (PIM) processing; so site-specific information is consistently produced and owners are informed of any requirement to obtain an approved fire evacuation scheme
- improve building consent processing and inspection by:
 - improving processing and inspection checklists
 - ensuring contractors document their systems for peer review, internal auditing and other quality control measures

Improving the Council's quality assurance system

The Council needs to undertake technical auditing and performance reviews of Council contractors, focusing on:

- the assessment and acceptance of producer statement authors
- consent conditions and notations
- inspection of building work.

The Council needs a system to ensure contractors formally record requests made to consent applicants for additional information (to identify common deficiencies in applications). This information should be provided to the Council so it can be used to improve consent vetting and lodgement procedures.

Compliance with statutory obligations

The Council is not always achieving a consistent level of compliance with the Building Code. Non-compliance is occurring in fire, weathertightness and accessibility requirements. These areas need to be reviewed by the Council.

The Council needs to ensure consent applications are processed within 20 working days. Clearing a backlog of outstanding code compliance certificates and overdue building warrants of fitness is also an issue.

Resourcing of the Council's building control operations

Capacity and capability limitations need to be addressed by the Council to fulfil Building Act responsibilities. While some initiatives have been implemented, systems still need strengthening to ensure:

- reasonable grounds exist (that the Building Code will be met) prior to issuing building consents
- reasonable grounds exist (that the building consent has been complied with) prior to issuing code compliance certificates.

The Council retains responsibility for issuing these documents regardless of any contracting arrangements.

The Council needs a strategy for recruiting and retaining building control staff.

The Council needs a better system to assess technical skills, competencies and experience, which needs to cover both Council contractors and Council staff. The system should inform how the Council allocates consent processing and approval work. The system should also help to identify skill gaps and strategies to address them. The Council's building control operations are considered to be under-resourced for the type and volume of work in Manukau City.

2. Overview

Purpose

This report provides a summary of the results of a technical review of the building control operations of Manukau City Council (the Council). The Department conducted on-site review visits at the Council in August 2004 and August 2007. The report outlines the review findings and the Council's responses to the Department's recommendations:

The Council

Manukau City Council's jurisdiction covers an estimated population of around 329,000. The Council employs 20 staff to carry out its building control functions. The bulk of its building consent processing and inspection work is undertaken by three commercial contractors.

Review process

Technical reviews involve a three-phased process designed to assist territorial authorities and building consent authorities to improve their regulatory building control operations. This process involves two on-site review visits (an initial review and a follow-up review) spaced over time to provide a measure of the Council's progress to implement the Department's recommendations. Reports were produced for both the initial review and the follow-up review. The third stage of the review is the publication of a summary report for the whole process. This report is published on the Department's website.

Technical reviews are carried out by the Department's Consent Authority Capability and Performance Group, according to terms of reference that cover a range of capacity and capability issues.

Parts 3 to 5 of the report outline the methodology supporting technical reviews.

Key findings from the review

2004 initial review

The initial review made 23 improvement recommendations. The review found that the Council was not always meeting the statutory timeframes for processing building consents and was not always achieving a consistent level of compliance with the Building Code during building consent processing, inspection and approval activities. Weathertightness compliance, in particular, required improvement. Many consents lacked appropriate weathertightness compliance detailing and inspection staff did not always allocate sufficient time to fully assess weathertightness compliance when on site. The Department recommended the Council should manage non-compliance using a risk management framework, including enforcement action when appropriate.

The building control unit was carrying several vacancies and additional staff were needed for consent processing and inspection work. A significant number of old building consents had not been issued with code compliance certificates. The building control unit had technical skill/experience limitations, and needed to ensure appropriate training opportunities were delivered – particularly for weathertightness and accessibility requirements. Better peer review and quality assurance was also required.

The Department found the Council needed more rigorous processes and procedures for some building control activities. Key areas were the receipt and vetting of building consent applications, processing PIMs, and assessing documents (such as alternative solution proposals and producer statements). Greater attention was needed to ensure the Building Code was adequately assessed and that any consent conditions were being complied with. The Council needed to better document the reasons for its decisions and record these reasons on consent files.

The initial review also noted that Audit New Zealand had undertaken an audit during 2004. Their findings were consistent with the Department's technical review.

2007 follow-up review

The Department undertook a follow-up review in August 2007 and found the Council had:

- addressed several recommendations (terms of reference 1, 4.8, 7, 8, 13, 14 and 15)
- partially addressed several other recommendations (terms of reference 3, 4.1, 4.2, 4.3, 4.6, 4.7, 4.9, 5, 6, 9, 11, 12 and 16)
- not fully implemented several recommendations (terms of reference 3, 4.1, 4.2, 4.4, 4.6, 4.7, 4.9, 5, 10, 11 and 16).

Recent work undertaken after the review

Since August 2007, the Council has strived to achieve accreditation as a building consent authority. The Council considers this work has included initiatives that partially or fully address review recommendations.

- Two Council contractors have been accredited as BCAs (a third processing contractor still needs to gain accreditation, which is expected to be achieved by June 2008).
- Processes to ensure code compliance certificates are issued are now established.
- The approval of Manukau Water is no longer a requirement for issuing a building consent.
- Computer building consent processing management/record systems are now accurately recording timeframes.
- 85 percent of building consents were issued within 20 working days (at February 2008).
- Improvements have been made to vetting standards.
- Notification an evacuation scheme may be required has been addressed in PIM processes.
- Draft amendments to PIM formats have been prepared, incorporating reference to the Building Act 2004, sections 34 and 35.
- Processing contractors' checklists have been reviewed.
- The policy on notations on plans has been reconfirmed with Council contractors.
- Documentation for processing alternative solutions and recording decisions has been improved.

3. Roles of the Department of Building and Housing and the Council

The Department's role

In November 2004, the Department assumed the roles and functions of the former Building Industry Authority. The Department became responsible for conducting technical reviews of territorial authorities and building consent authorities.

The Department has a range of statutory responsibilities for building and housing and administers New Zealand's building legislation. Within this, its building control functions include:

- advising the Minister for Building and Construction on matters relating to building control
- administering and reviewing the Building Code
- producing Compliance Documents that specify prescriptive methods as a means of complying with the Building Code
- providing information, guidance and advice on building controls to all sectors of the building industry and consumers
- implementing, administering and monitoring a system of regulatory controls for a vibrant, innovative sector with skilled building professionals
- making determinations, or technical rulings, on matters of interpretation, doubt, or dispute relating to compliance with the Building Code or the issuing of building consents and code compliance certificates.

The role of the Consent Authority Capability and Performance Group

The Department's Consent Authority Capability and Performance Group is responsible for undertaking the technical review process for the Council. The Group's broad functions include:

- monitoring, reviewing and improving performance outcomes of the regulatory building control system; for example, conducting technical reviews of territorial authorities and building consent authorities
- designing and implementing a system of accreditation and registration to be used to strengthen decision-making at the important building consent and inspection stages of the building process
- managing the accreditation body that will assess prospective building consent authorities
- strengthening relationships with territorial authorities, building consent authorities, and other key industry stakeholders
- investigating and resolving complaints about performance issues
- providing guidance, advice and assistance to the regulatory building control sector.

Role of building consent authorities and territorial authorities

Territorial authorities have a wide range of statutory functions and powers under the Building Act 2004. Briefly, these include:

- determining whether applications for waivers or modifications of the Building Code, or any document for use in establishing compliance with the Building Code, should be accepted
- determining the extent to which buildings must comply with the Building Code when altered, their use is changed or their specified intended life changes
- determining whether work is exempt under Schedule 1 from requiring a building consent
- enforcing the Building Act, Building Regulations and Building Code
- performing functions relating to dangerous, insanitary and earthquake-prone buildings
- issuing certificates of acceptance
- issuing certificates for public use
- issuing and amending compliance schedules and enforcing the building warrant of fitness regime
- issuing project information memoranda
- following up on notices to fix, gaining access to buildings, collecting fees and issuing fines and infringements.

Territorial authorities must also act as a building consent authority for their district. Statutory functions of a building consent authority include:

- receiving, considering, and making decisions on applications for building consents within set time limits
- inspecting building work for which it has granted a building consent
- issuing building consents, code compliance certificates, compliance schedules and notices to fix.

4. Purpose of the technical review

Technical reviews are performance reviews undertaken to monitor building consent authorities and territorial authorities and help them to fulfil their obligations under the Building Act 2004. The review is a tool to help a territorial authority and building consent authority to:

- enhance the performance of its building control activities
- implement appropriate systems and processes so it can carry out its building control operations
- effectively fulfil its obligations under the Building Act and building regulations.

Technical reviews also examine whether a territorial authority or building consent authority has the appropriate operational systems and resources to enable its staff to undertake its building control work effectively and efficiently.

They are not intended to evaluate the performance of individual staff and are not comprehensive audits involving detailed examinations of all aspects of a territorial authority's building control operations. Nor do they assess the territorial authority against a particular model or expressly measure it against the performance of other territorial authorities.

Legislative basis

This technical review was initiated under the Building Act 1991.¹ Although the Building Act 2004 repealed the Building Act 1991, the functions of the Chief Executive of the Department of Building and Housing regarding technical reviews were carried over.² This provides the mandate for the Department to complete technical reviews initiated by the former Building Industry Authority (BIA) and to commence new reviews.

Accordingly, this report primarily references the Building Act 2004, with supporting footnotes outlining the appropriate sections of the 1991 Act. Further information on the comparable sections of the two Acts is provided in the Department's publication *Building Officials' Guide to the Building Act 2004*.³

¹ Section 12(1)(d) of the former Building Act 1991 provided that one of the functions of the former Building Industry Authority (BIA) was to undertake reviews of the operations of territorial authorities and building certifiers in relation to their functions under the Act. Section 15(1) empowered the former BIA to undertake a review of the operation of territorial authorities' functions under the Act. These sections were revoked on 31 March 2005 by the Building Act 2004.

² Sections 11(h), 204, and 276 of the Building Act 2004 are the key sections.

³ Available in hard copy from the Department by calling 0800 242 243 or in electronic form via the Department's website: www.dbh.govt.nz

5. The review process

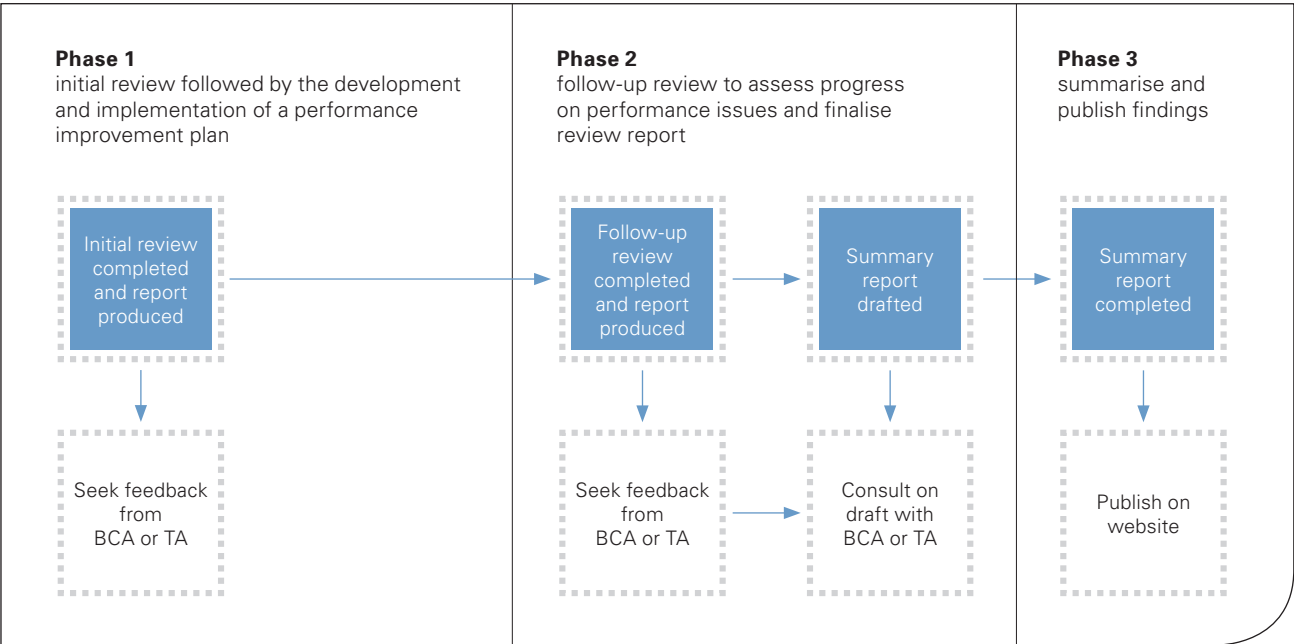
Review timeframe

Technical reviews are typically undertaken using a three-phase process, which usually takes approximately 18–36 months from start to finish. In phase one, the Department undertakes an on-site initial review of the building consent authority’s or territorial authority’s building control operations and produces a report with recommendations. The organisation then provides feedback to the Department on the report and addresses recommendations made by the Department over the following nine to twelve months.

Phase two involves a follow-up review being undertaken after an appropriate period of time has passed since the completion of phase one. This phase focuses on how the building consent authority or territorial authority has addressed recommendations from the initial review. A draft follow-up report is provided to the organisation so it can make a written submission on the final findings. Following consideration of any submissions, the follow-up review report is finalised and provided to the building consent authority or territorial authority.

The review process is then completed by preparing a summary review report for publication on the Department’s website. The figure below shows the stages of the review process. This report is the summary report for Manukau City Council indicated in phase three.

Figure 1: Overview of the technical review process

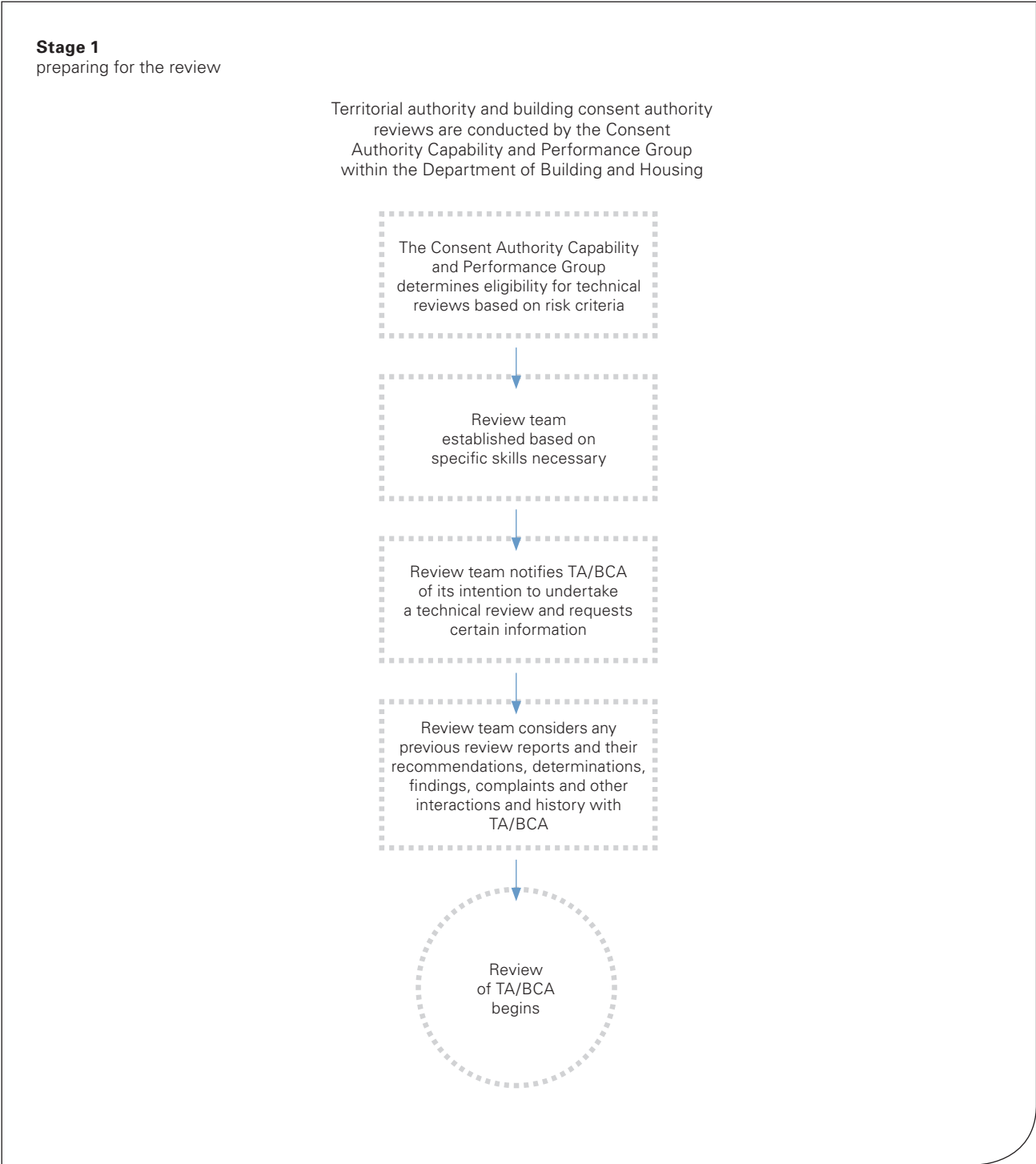


Investigative method

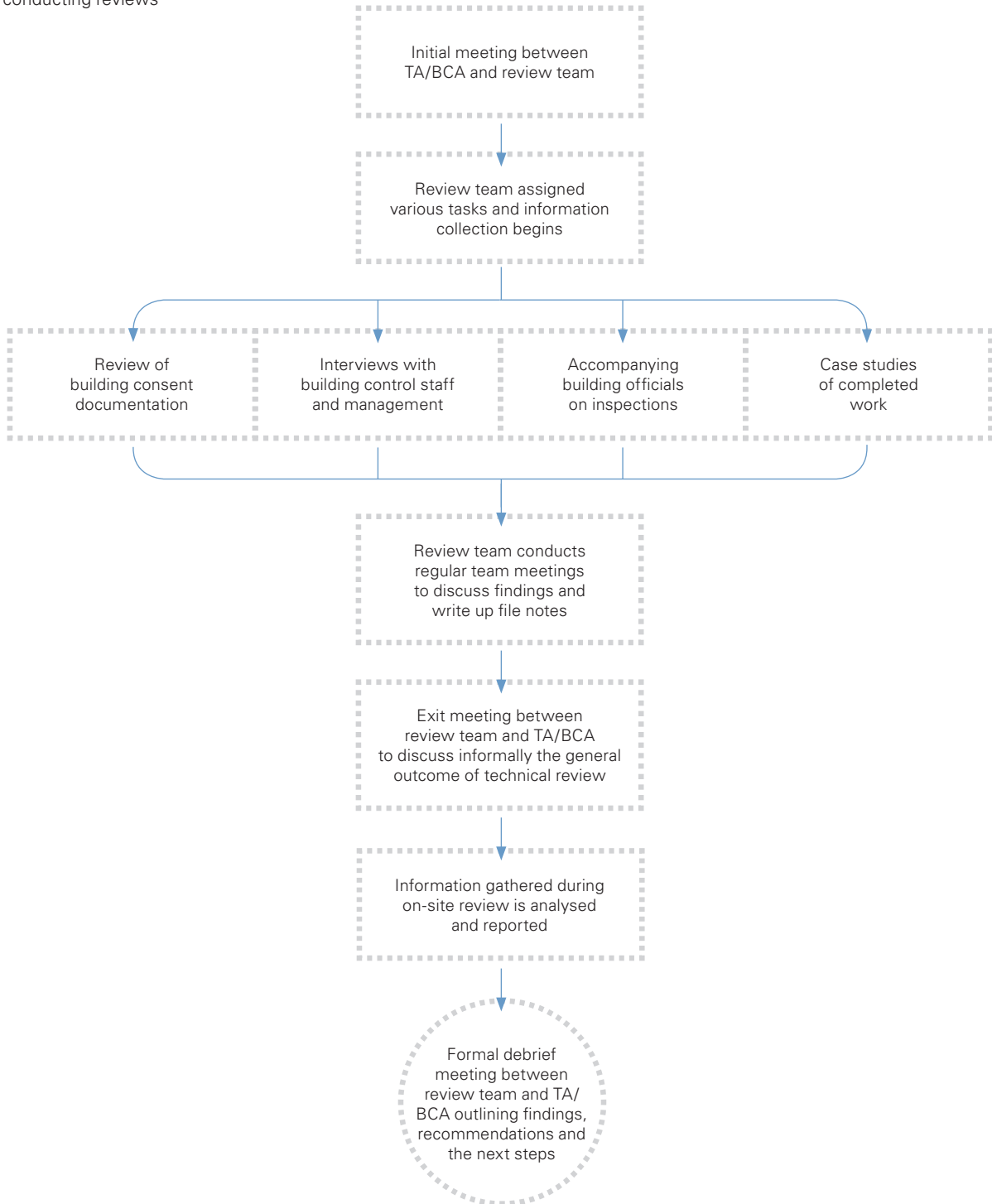
The Department measures a territorial authority's or building consent authority's performance using a number of methods, including:

- observing staff doing their work, both in the office and on site
- reviewing written material used and produced by staff (eg, policies, procedures, inspection checklists and records, manuals and approved consent documentation)
- interviewing staff about their use of material and their work
- assessing a random sample of building projects (case studies) that have recently been, or are currently being, handled by the territorial authority or building consent authority.

Figure 2: Preparing for and conducting technical reviews



Stage 2
conducting reviews



The August 2004 on-site review of Manukau City Council was undertaken over a four-day period using a five-person team. In August 2007 the follow-up review on-site visit was also undertaken over a four-day period using a five-person team. This provided a snapshot of the Council's building control operation at these points in time. The Department looked at the procedures undertaken in processing and approving building consents, and undertaking inspections, including those that had recently been completed and had code compliance certificates issued. The case studies were selected randomly.



Terms of reference

The table below sets out the terms of reference that were the basis for the review.

Terms of reference	
1	Organisational and management structure
2	Consent statistics
3	Use of the processing clock
4	Procedures for determining compliance with the Building Code. 4.1 Consent application vetting and lodgement processes 4.2 Project information memoranda (PIMs) processing 4.3 Building consent processing 4.3 Use of notations and conditions on building consent documents 4.5 Peer review and external assessment 4.6 Amendments to building consent applications and requests for additional information 4.7 Restrictions and limitations on building consents 4.8 Waivers 4.9 Code compliance certificates
5	Assessing alternative solutions for building compliance
6	Procedures for accepting producer statements
7	Weathertightness compliance
8	Compliance with other Building Act requirements
9	Compliance schedules and the building warrant of fitness regime
10	Accessibility compliance
11	Human resources
12	Technical knowledge and ability of staff
13	Adequacy of resources
14	Adequacy, security and availability of public records
15	Relationships with other territorial authorities and private building certifiers
16	Case studies of completed buildings
17	Accompanying personnel during inspection work
18	Feedback from the Council to the Department

6. Key findings of the review

The key findings of the review are outlined under each heading of the review's terms of reference. This section also outlines the Department's recommendations and how the Council acted upon or responded to each recommendation.

1 – ORGANISATIONAL AND MANAGEMENT STRUCTURE

Purpose

To summarise the Council's building control organisational and management structure and to identify any issues with its efficiency and effectiveness, and consider how the Council delegates its legislative powers, duties and responsibilities.

Background

Section 232 of the Building Act 2004⁴ covers the delegation of powers of territorial authorities. This section links to Schedule 7 of the Local Government Act 2002, which sets out local authorities' broad powers of delegation.

Initial review

At the time of the initial review, the Council was reforming its organisational structure. It was proposing to create three separate units, with each having specific building control responsibilities. Decisions about roles and responsibilities had not been finalised and there was still some uncertainty about who would be responsible for following up on instances of non-compliant building work.

The Council had made delegations of certain functions to named staff, rather than to positions. This meant that delegations required regular updating when staff left the Council or moved jobs.

The residential and commercial building consent processing teams had high numbers of staff vacancies and were under-resourced.

⁴ Section 78 of the Building Act 1991 previously covered the delegation of powers of territorial authorities.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Urgently recruit additional technical staff to fill current vacancies.	The Council was using three contractors to process most of its building control work. This issue is discussed under part 11 of the review's terms of reference (Human resources).
Urgently cross-skill existing staff to provide adequate levels of back-up for key positions within the building control department.	This was partially achieved through engaging three different contractors with complementary skills and experience. This issue is further discussed under part 12 of the review's terms of reference, below (Technical Knowledge and Ability of Staff).
Urgently finalise the exact responsibilities of the three units responsible for building control, and clearly identify which unit is responsible for issuing notices for non-compliance.	This issue is no longer relevant owing to the recent organisational reform.
Ensure that delegations have been made for all sections of the Building Act, which require authorised officers to perform the respective functions, duties, or powers (ie, there are no gaps in the Council's list of delegations for its regulatory building control responsibilities).	Delegations reflecting the requirements and responsibilities of the Building Act 2004 were made.

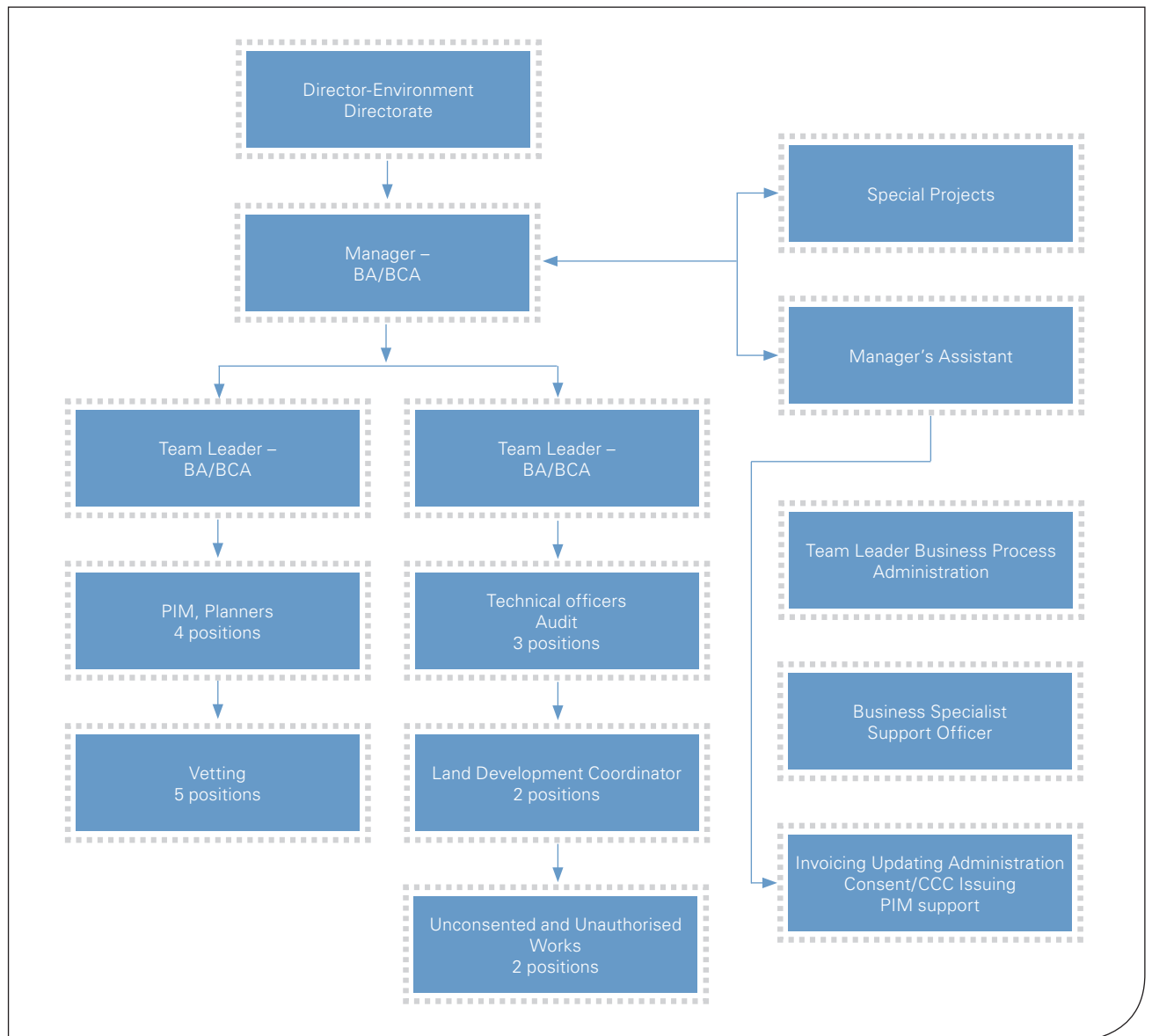
Follow-up review

No further recommendations were made in the follow-up review.

The Council changed its organisational structure significantly after the initial review. The Council now uses three contractors to undertake the majority of consent processing and inspections. Applicants may either apply directly to the Council or to one of the contractors. Applications made directly to the Council are forwarded to a contractor based on the preference of the applicant, the nature of the application and workload considerations.

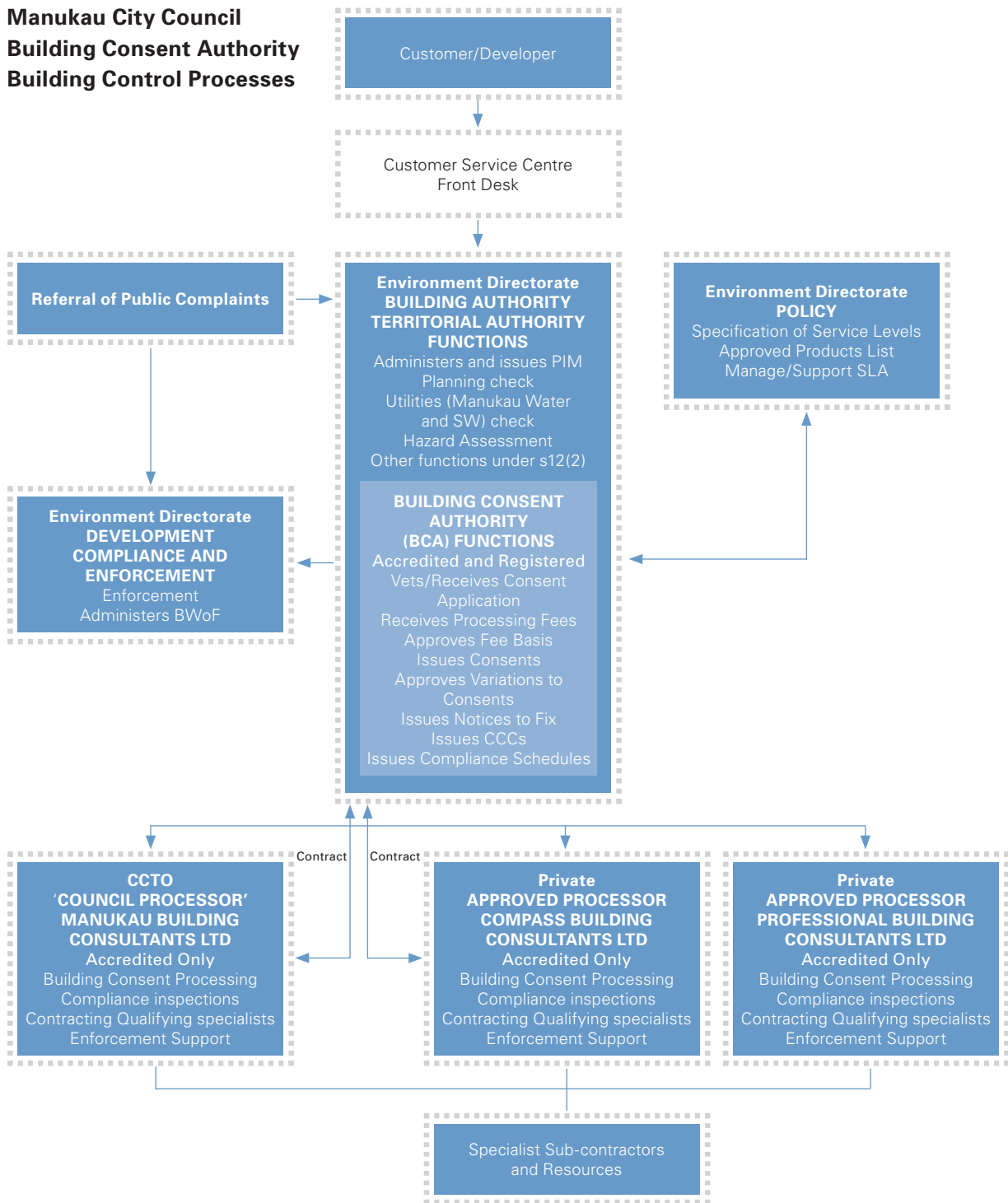
While the Council's contractors process consents and conduct inspections, the Council remains responsible for issuing consents, code compliance certificates and compliance schedules. Additionally, the Council is responsible for managing the regulatory process (including monitoring statutory timeframes), auditing contractors, issuing notices to fix and undertaking enforcement action where required.

The structure at the time of the follow-up review is shown below:



The Council also provided the following chart to summarise the key relationships in its building control structure.

**Manukau City Council
Building Consent Authority
Building Control Processes**



NOTES

- 1 'Approved' means Accredited under BA04 plus meeting insurance and other MCC requirements
- 2 'Accredited' means meeting the accreditation to perform the functions of a building consent authority under s250 of the Building Act 2004
- 3 'Registered' means registered as a building consent authority under s191, 192 of the Building Act 2004
- 4 Specialists/Subcontractors to hold some form of nationally recognised professional qualification such as CPEng, Reg Surveyor etc

Conclusion

The recommendations from the initial review have been substantially addressed by the Council's restructuring. Outstanding issues are discussed under parts 11 and 12.

2 – CONSENT STATISTICS

Purpose

To review selected building control statistics to provide an indication of the volume and nature of work the Council has to manage.

Findings

2004 Initial review statistics 12 month period ending 30 June 2004	2007 follow-up review statistics 12 month period ending 30 June 2007
<ul style="list-style-type: none"> 5,552 building consents were issued⁵ 	<ul style="list-style-type: none"> 5,242 building consents were issued
<ul style="list-style-type: none"> The total value of consented construction work for this period was \$804,505,927 	<ul style="list-style-type: none"> The total value of consented construction work for this period was \$1,298,000,000
<ul style="list-style-type: none"> The number of code compliance certificates issued within the past 12 months was not available during the initial review 	<ul style="list-style-type: none"> 3,479 code compliance certificates were issued for the above period
<ul style="list-style-type: none"> 2,600 Compliance schedules were issued 	<ul style="list-style-type: none"> 3,694 compliance schedules were issued
<ul style="list-style-type: none"> 15,528 buildings have code compliance certificates outstanding for the period 1 January 1993 to 31 July 2004 	<ul style="list-style-type: none"> The Council advises that as at 11/02/08, 22,126 buildings have code compliance certificates outstanding.
<ul style="list-style-type: none"> 155 building warrant of fitness certificates were recorded as overdue 	<ul style="list-style-type: none"> 452 building warrants of fitness were overdue
<ul style="list-style-type: none"> 7,388 swimming pools were listed on the swimming pool register 	<ul style="list-style-type: none"> Approximately 6,700 swimming pools were listed on the swimming pool register

These figures show that although there was a drop in the number of building consents issued in the follow-up review, the total value of building work rose to \$1.3 billion. The Council is the second largest territorial authority by value of consented work. The number of building consents that have code compliance certificates outstanding nearly doubled between the two reviews (refer to part 4.9). The number of overdue building warrants of fitness certificates had also nearly tripled (refer to part 9).

Conclusion

Consent statistics are being accurately collected and reported. However, statistics reveal application volumes and backlogs have increased during 2004 to 2007.

The Council faced a significant volume of building control work at the time of the initial and follow-up reviews. The Council's capacity and capability to process this volume of building work is addressed in sections 11 and 12.

The Department encourages the Council in its efforts to ensure that all current consents have code compliance certificates issued, but urges MCC to also address historic consents. This issue is discussed in part 4.9.

⁵ This figure included 1087 building certifier consents.

3 – USE OF THE PROCESSING CLOCK

Purpose

To assess the Council's use of the processing clock and how well the Council is meeting statutory timeframes for processing applications for building consents.

Background

Section 48 of the Building Act requires that a building consent authority must grant or refuse a building consent within 20 working days. This timeframe may be suspended if the building consent authority requests further reasonable information from the consent applicant. The applicant should be notified of this in writing (as a matter of good practice).

Initial review

The Council was not consistently meeting statutory timeframes. The computer system also had a number of problems affecting the accuracy of how timeframes were being reported.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Provide extra resource to the Building Consents Group so the Council can consistently satisfy compliance with statutory timeframes.	The Council's organisational reform resulted in it using three contract organisations to provide consenting and inspection resource.
Consider the use of internal or external contracts to secure resources in times of high demand and, if necessary, increase PIM and building consent fees to recover the cost of consistently satisfying compliance within statutory processing timeframes.	See above.
Improve the reporting of performance statistics to accurately reflect the Council's level of compliance with statutory timeframes.	The Council planned changes to improve its computer system.

Follow-up review

The Council was issuing 50% of consents within the statutory timeframe. Most other consents were delayed by three to seven days. A key factor in the delays was a requirement that all applications needed be approved by the Network Utility Operator, Manukau Water. This was introducing delays between two and seven days. The Department considered that this step was not needed, particularly given Manukau Water is already required to provide input through the PIM process. (PIMs are further discussed under part 4.2.) The requirement also duplicated the work of Council contractors considering Code compliance (eg, falls and gradients of private drainage (E1 Surface Water and G13 Foul Water)).

The Department found that Council contractors were having difficulty adequately accessing the Council's BARS computer system, making it difficult for them to adequately monitor timeframes. The Council informed the Department it was in the process of introducing a new computer system.

Recommendations made to the Council	Response from the Council
Review its requirement that Manukau Water approve building consent applications in light of the Department's findings.	Approval from Manukau Water is no longer a requirement for the issue of a building consent but, where relevant, may be a requirement before work commences.
Ensure its new computer system accurately records statutory and contractual timeframes for issuing building consents.	The current computer systems now accurately record statutory and contractual timeframes.
Ensure contractors have appropriate access to the Council's recording system.	Processing contractors have access to the BARS BC processing monitoring system. Access to ancillary records systems was scheduled for late February 2008.

In March 2008 the Council advised that its implementation of the above initiatives had significantly improved processing times. Eighty-five percent of building consents were being issued within statutory timeframes.

Conclusion

Implementing the recommendations from the initial review and efforts to implement the recommendations of the follow-up review have resulted in improved compliance. However, the Council still needs to further improve processing timeframes.

4 – PROCEDURES FOR DETERMINING COMPLIANCE WITH THE BUILDING CODE

Purpose

To review the key processes for accepting, vetting and processing applications for building consents and establishing whether applications comply with the Building Code. The processes reviewed include:

- consent application vetting and lodgement processing (4.1)
- project information memoranda (PIMs) processing (4.2)
- building consent processing (4.3)
- building consent conditions and plan notations (4.4)
- peer review and the use of external assessment (4.5)
- amendments to building consent applications and requests for additional information (4.6)
- restrictions and limitations on building consents (4.7)
- waivers (4.8)
- code compliance certificates (4.9).

4.1 Consent application vetting and lodgement processing

Purpose

To assess how well the Council accepts and vets applications for building consents.

Background

Quality plans and specifications submitted with building consent applications help ensure efficiencies in processing and improved compliance outcomes. Modern buildings are now considerably more technically complex. Designers and consent applicants must ensure they provide building consent authorities with appropriate design information to show how Building Code compliance will be achieved.

Initial review

Approximately 60 percent of all building consent applications were being suspended because they were being lodged with incomplete or substandard supporting information. Recurring themes included:

- consent applications without site-specific weathertightness compliance detailing
- drawings with little or no information relating to water supply and drainage systems
- inaccurate or outdated specifications being used
- sanitary plumbing and drainage designs lacking information (eg, pipe sizes, gradients)
- proposed drawings not reflecting the means of compliance referenced in the specification
- over-length and unvented waste and soil pipes
- plans not showing ground contour lines or providing cut and finish levels for excavations.

Additionally, there were limitations in the technical knowledge and tools, such as checklists, available to vetting staff.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review its processes for receiving and vetting building consent applications to ensure applications with substandard documentation are not accepted.	The Council developed a new application checklist and guidance notes to accompany every building consent form.
Use experienced technical staff to determine the most effective processing path so delays are avoided.	The Council now uses experienced building consent officers to vet applications.
Communicate its information requirements for building consent applications to appropriate stakeholders.	The Council had developed a new application checklist and guidance notes which were available on the Council's website and at the front counter.

Follow-up review

The Council vets building consent applications in-house. When an application is made to a Council contractor, pre-vetting is undertaken to ensure adequate information is provided before the application is forwarded to the Council for lodgement.

The Council has developed a new application checklist and guidance notes to accompany consent application forms. Building consent officers vet applications against this checklist at the time of lodgement and are expected to reject applications that do not have sufficient information.

The application checklist is available on the Council's website and printed at the front counter. However, the Department considered that this information could be further enhanced to include additional guidance to applicants about consenting process and information expectations (including information on vetting, processing, inspection and certification stages).

Despite these initiatives some building consent applications are still being accepted into the system lacking sufficient detail and evidence to demonstrate how compliance with the Building Code would be achieved.

Recommendations made to the Council	Response from the Council
Ensure all staff and contractors who undertake vetting functions consistently use the vetting checklist and reject applications that do not comply with the Council's requirements.	This is the adopted ISO standard process and its use is under regular review.
Provide additional training for consent vetting staff, so they can readily identify applications with insufficient information.	There is ongoing in-house and external training for vetting staff.
Implement mechanisms to check vetting is being undertaken to a consistent standard (eg, peer review, internal processing audits, with feedback loops so mistakes do not get repeated).	This is subject to feedback from processing contractors, which is reviewed weekly at in-house vetting feedback training.
Provide further advice on the key stages of its consenting, inspection and approval functions to appropriate external stakeholders.	Significant information is available to the public from the Council. An upgrade of public information was scheduled for March 2008.

The Council advises that it adopted a policy for vetting four years ago, based on:

- the availability of suitably qualified staff in the marketplace
- a desire to appoint lodgement/vetting officers with an appropriate level of skill which, while assessing the adequacy of applications, avoids each application being processed twice.

The policy is to select vetting officers with some prior knowledge of the industry and to build on this with training (the five vetting officers have attended a collective 22 days of external training in 2007), having rigorous initial application assessment systems through detailed checklists, providing ready access to senior technical officers for advice, and weekly in-house review and feedback on performance and standards.

Conclusion

The Council has partially implemented review recommendations and now has a number of quality assurance mechanisms relating to application vetting and lodgement processing. However, further work is still required to fully implement recommendations to ensure inadequate consent documentation is consistently rejected, and training and review processes are kept up to date.

4.2 Project information memoranda (PIMs) processing

Purpose

To examine how the Council uses project information memoranda (PIMs) as part of its building control operations.

Background

Sections 31–39 of the Building Act 2004⁶ cover applications for PIMs. Sections 33 and 35 specify the minimum information a PIM must include. Information not apparent in the district plan must be included, as well as details of other authorisations, stormwater and utility systems, and other features or characteristics likely to be relevant to the design and construction of the building on that site.

Initial review

The level of information in the PIMs produced by the Council varied considerably. Some PIMs contained inaccurate or ambiguous information, while others did not include some information that was required under the Building Act.

⁶ Sections 30–31 of the Building Act 1991 previously covered applications for and processing of PIMs.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review the processes used to develop PIMs to ensure they consistently include: <ul style="list-style-type: none"> • all the information required by the Building Act • additional information the Council considers warranted. 	The Council had implemented an internal peer review process and training for staff.
Use experienced technical staff to determine the most effective processing path so delays are avoided.	The PIM vetting officer correlates information and allocates responsibility to the relevant sections of the Council.
Communicate its information requirements for building consent applications to appropriate stakeholders.	The Council had developed a more readable and user-friendly PIM document.

Follow-up review

The Council undertakes PIM processing in-house and issued 97.8 percent of PIMs within the statutory timeframe (averaging 4.3 days for PIM production). The Council had changed the format of its PIMs to provide a more readable and user-friendly document.

The PIM vetting officer correlates information and allocates responsibility to the relevant sections of the Council for their input into the PIM. The Council has an internal peer review process for PIMs. Training is provided by the Senior Engineering Advisor, Resource Consent Team, at monthly meetings. This training covers the Council's systems and resource consent compliance issues.

The Department found that some issues still require improvement, including:

- PIMs not making any reference to the Building Act 2004 and the particular sections covering PIM requirements (sections 33 and 35)
- PIMs not informing the building owner whether or not an evacuation scheme may be required under section 21A of the Fire Service Act 1975. This is required under section 35 of the Building Act 2004.

Recommendations made to the Council	Response from the Council
Ensure PIMs consistently include all information required by the Building Act 2004, including any features or characteristics likely to be relevant to the design and construction of the building on that site.	Including all relevant information in PIMs continues to be a high priority. Advice that an evacuation scheme may be required has been confirmed as part of the PIM process and its inclusion is being monitored. Reference to the Building Act 2004, sections 33 and 35, is currently under review as part of a reformatting of PIMs.

Conclusion

The Council has partially implemented the review recommendations, but further work is required before the recommendations have been fully implemented. The Department acknowledges that work is under way.

4.3 Building consent processing

Purpose

To ensure the Council has a robust methodology for processing building consents.

Background

Territorial authorities and building consent authorities should have systematic processes in place to assess building consent applications in a thorough, consistent and timely manner. This process should clearly document the technical basis for issuing the building consent and the subsequent compliance certification.

Initial review

The Department found that processing checklists were not being consistently used and required updating. Peer review was not being consistently undertaken during consent processing because of high workloads and a lack of qualified staff to carry out such a quality assurance procedure.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Implement a consistent and rigorous procedure to underpin its consent processing activities. This should include a checklist to demonstrate that due consideration has been given to all appropriate Building Code requirements and to provide an audit trail for each building consent.	Checklists were being used by contractors but there was inconsistency in the processing methodology. The checklist contained peer review requirements and contractors were further developing formal policies and procedures.
Reassess processing methodology to reduce time delays caused by the need to outsource information for peer review late in the process.	
Allocate administrative processes such as fee calculation to administration staff as this will enable technical staff to concentrate on processing.	Administrative processes were allocated to administration staff.

Follow-up review

Building consent processing is undertaken by Council contractors. The follow-up review indicated that the comprehensiveness of processing checklists used by the contractors varied significantly. Case studies also suggested inconsistency in processing methodology.

Some examples were found where the processor made limited comments on the checklist about the assessment of the documentation and subsequent reasons for their decisions. Additionally, some building consent applications were incomplete and missing information which should have been considered. Other examples were found where building consent applications lacked site-specific details or contained generic information that was not relevant.

Fire compliance was noted in case studies as a particular issue of concern. Issues were found regarding alarms, emergency lighting, fire doors, fire walls and escape routes.

The Department considered that the Council would benefit from providing contractors with better guidance to specify the minimum level of information in the processing checklists (and hence required from applicants). This could be implemented through a practice note procedure or contractual mechanism.

The Council’s building consent application checklist identifies peer review requirements. It is up to each Council contractor to identify a suitable internal or external professional to undertake this work. The Council’s contractors are currently in the process of developing formal policies and procedures as part of becoming accredited as building consent authorities.

The Council has implemented the recommendation to allocate administrative processes, such as fee calculation, to administration staff.

Recommendations made to the Council	Response from the Council
Provide clear guidance to contractors about expectations regarding the minimum level of information to be included in processing checklists and how this should be recorded.	Processing contractor checklists have been reviewed as part of accreditation. Their systems have been developed and approved to accreditation standards. Standardisation to Council requirements is not practicable given that the processors work for a number of building consent authorities.
Check to see if expectations are being complied with (eg, internal audits of completed work).	All consents are subject to a ‘health check’ for processing by the Building Authority before issue. The target is for 5 percent of consents to be subject to a full audit. The Council is mindful that two of its processing contractors have been accredited and the third is likely to be accredited by June 2008. The procedures, standards and checklists developed by each Processor have been accepted under accreditation. Separate quality control procedures, as required for accreditation in 2010, have been instituted by the Council, are partially in place and are being developed further as resources permit.

Conclusion

The Council has partially implemented the recommendations. Two of the three contractors used by the Council are accredited. However, the Council still needs to ensure that clear guidance on minimum expectations is provided to contractors. This still gives contractors scope to use their own systems and processes as long as these meet the Council’s expectations.

4.4 Consent conditions and plan notations

Purpose

To examine the Council’s use of conditions and plan notations.

Background

Consent conditions or notations should be used as educational tools and to highlight aspects of construction requiring particular attention. Conditions should not be applied to cover deficiencies in building consent documentation, which should be rejected at lodgement. While using conditions or notations may enable the Council to avoid requesting additional information and can sometimes help expedite processing, it fails to meet the requirements of the Act. Wrong use of notations or conditions may place the Council in the role of being a designer, which is not its appropriate role in the building control context.

Section 49 of the Building Act 2004⁷ requires territorial authorities to grant consents if they are satisfied on reasonable grounds that the provisions of the Building Code would be met if the building work was properly completed in accordance with the plans and specifications submitted with the application.

Initial review

The Council was sometimes applying notations to cover up for inadequacies in consent documentation, which should have been provided by the applicant at lodgement.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop a policy to define when the use of consent conditions and notations is appropriate, and conversely what level of detail and specification are required before the application is accepted.	The Council advised that its policy is not to use conditions or notations on plans.

Follow-up review

Although the Council advised that its policy is not to place conditions or notations on plans, the Department noted a number of case studies where conditions and notations were still being added. Some notations were being used in an appropriate manner to highlight areas of attention, while others were being applied to cover deficiencies in consent documentation. The Department also found examples where conditions imposed had not been complied with and, in spite of this, the work had been signed off. Examples were also found where the Council's conditions checklist had not been used.

Recommendations made to the Council	Response from the Council
Document a formal policy to define when the use of consent conditions and notations is appropriate and communicate such requirements to all contractors (possibly through use of a practice note).	The policy with regard to notations on plans, referred to above, has been reconfirmed with processing contractors at weekly meetings.
Check to verify the policy is being complied with (eg, via internal audit).	Implementation of the policy is included in health checks carried out prior to issuing consents. The Council advises that there has been a significant improvement in adhering to the policy with regard to notations on plans since the Department's site visit in August 2007.

⁷ This was previously covered under section 34 of the Building Act 1991.

Conclusion

Consent notations and conditions are still being used inconsistently. Guidance should be given to the Council's contractors to clarify the Council's policy for the use of consent conditions and notations. As highlighted under part 4.1, the Council should not accept consent applications with substandard information and should return them to the applicant to be amended. The Council has advised that significant improvement in this area has occurred.

4.5 Peer review and the use of external assessment

Purpose

To examine the Council's peer review procedures and the use of external expertise in its building control operations.

Background

Having an internal peer review system is an important mechanism that can help ensure the Council conducts its building consent and inspection activities with rigour and consistency. Councils can contract specialist technical expertise when they do not have such skills in-house. It is generally not feasible for a Council to maintain appropriate expertise within its staff for all building control matters. Contracted expertise is often used to supplement Council staff or to provide peer review of complex projects that have been reviewed by in-house staff.

Initial review

The Council had limited in-house specialist expertise. An external consultant was contracted to undertake peer review and checking of structural design. The review of all other specialist services, such as lifts and mechanical services, was being outsourced to recognised external specialists. Each commercial application involving structural work was peer reviewed, regardless of whether a producer statement supporting the design had been provided. The Council's staff processed Acceptable Solution fire designs, but outsourced alternative solution designs for peer review.

Follow-up review

The Council's processing contractors conduct formal and informal peer review of processing and inspection work. This is undertaken through formal mechanisms such as auditing and more informal mechanisms such as group discussions. However, the nature and extent of peer review undertaken was inconsistent across contractors. Some contractors had formal documented procedures for conducting peer review of both processing and inspection work, whilst others were mainly processing focused.

Every building consent and code compliance certificate gets a paperwork audit (a 'health check') to check if all relevant information has been provided and a request for additional information is made if and where required. Additionally, the Council conducts an audit of 5 percent of all work undertaken by all processing contractors. However, the Council does not undertake audits of building inspection work undertaken by its contractors.

The Department found that the Council’s contractors were seeking specialist input for specific design elements (ie, structural engineering, fire and ventilation) where required.

Recommendations made to the Council	Response from the Council
Provide guidance, through the practice notes, on the expected level of peer review by its contractors.	This forms part of the current process. The review of processing work carried out by processing contractors is performed by the Processors incorporating the peer review of their own work in-house by their senior technical officers and the health checks and audits carried out by the Building Authority. For detailed design provided by structural/fire/geotechnical engineers and others, a clear policy is in place that all such work applying to multi-dwelling consents and all commercial work is peer reviewed by a suitably qualified engineer or other ‘specialist’ acceptable to the Building Authority.
Ensure its contractors formally document their systems for peer review of processing and inspection work.	This is documented using current checklists
Document the results of its own peer review and auditing activities and provide feedback on the recurring themes to assist with performance improvement and quality assurance.	The Building Authority’s health checks and audits are fed back to processing contractors when unsatisfactory results are detected.
Undertake audits of inspections of building work (in addition to its internal audits on processing work).	Audits of compliance inspections are scheduled but not yet in place.

Conclusion

The Department acknowledges the work the Council has undertaken in this area. The Council still needs to strengthen systems to ensure appropriate levels of peer review and external assessment are undertaken.

4.6 Amendments to building consent applications and requests for additional information

Purpose

To consider how amended building consents are processed and how the Council makes requests for further information on consent applications.

Background

Applications to amend a building consent must be made in the same manner as the original application as required under section 45(5) of the Building Act 2004.⁸ Councils can also require further reasonable information in respect of a building consent application. If the Council lawfully does this, the application is suspended until the Council receives the required information as set out under section 48(2) of the Building Act 2004.⁹

⁸ This was previously covered under section 33(4) of the Building Act 1991.

⁹ This was previously covered under section 34(2) of the Building Act 1991.

Initial review

The Department noted an opportunity to strengthen the linkages between this part of the Council’s consent processing methodology and its initial consent vetting procedures.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review how it treats building consent amendments, in particular ensuring all documentation that is superseded is appropriately notated and stamped.	The Council’s processing contractors are now responsible for these issues.
Review its recent requests for additional information to identify any recurring issues that could be resolved at the start of the consent process by being incorporated into its consent vetting procedures.	

Follow-up review

The Department found the Council’s processing contractors were, by and large, appropriately notating superseded consent documentation. However, the Department’s case studies did note examples where original approved plans had not been amended or superseded to reflect the amendments or the work actually undertaken on site.

The Council’s contractors are now responsible for requesting additional information, where required. The Department found no evidence that the Council or its contractors were reviewing requests for additional information to identify recurring issues.

Recommendations made to the Council	Response from the Council
The Council should require its contractors to regularly review requests for additional information to identify any recurring deficiencies and ensure this information is provided to the Council to enhance its consent vetting procedures (this could be achieved through contractual mechanisms).	<p>Weekly meetings with processing contractors provide a forum for feedback on deficiencies in vetting which is fed into the in-house vetting training/feedback process – refer to comments under part 4.1 of the review’s terms of reference.</p> <p>Processing contractors are asked to provide feedback on application deficiencies arising from oversights or omissions in the vetting process. Note that, as stated under part 4.1 of the review’s terms of reference, vetting reviews applications in light of detailed checklists and is not pre-processing.</p> <p>Processes for dealing with ‘revisions’ (changes to applications during the processing phase) and amendments (changes which require the processing of a new building consent) are in place and are followed.</p>

Conclusion

The Council implemented the Department’s recommendations.

4.7 Restrictions and limitations on building consents

Purpose

To consider how the Council applies those parts of the Building Act 2004 that involve it placing restrictions or limitations on building consents.

Background

The Building Act 2004 contains a number of provisions that require or empower a territorial authority or building consent authority to place restrictions, limitations or advise or seek input from other parties on building consent matters. Other provisions include:

- section 37 – attaching a certificate to a PIM advising that building work cannot proceed or may not proceed past a specified stage until a resource consent condition is obtained
- section 71 – refusing to grant building consent for construction of a building or major alteration of a building, if the land on which the building work is to be carried out is subject or is likely to be subject to one or more natural hazards; or the building work is likely to accelerate, worsen, or result in a natural hazard on that land or any other property
- section 73 – notifying parties if consent is issued subject to section 72
- section 112 – alterations to existing buildings.

Initial review

The Department found the Council needed to strengthen its processes for checking whether conditions under section 35(1A) of the former Building Act 1991 (section 37 of the Building Act 2004 now applies), placed on certain consents were being satisfied and lifted before construction proceeded. At the time of the review, more than 400 certificates had been issued subject to section 35(1A) over the preceding four years, but over 300 of these were recorded as being still live (ie, conditions not recorded as having been fulfilled).

The Council has significant areas of stability sensitive and flood-prone areas within its region. At the time of the review, the Council did not appear to have any capability to manage section 36(2) of the Building Act 1991 issues (now covered by section 71 of the Building Act 2004).

The Department also found that the Council's assessments and decisions under section 38 of the former Building Act 1991 (now section 112 of the Building Act 2004) needed to be more effectively integrated into the overall consent processing workstreams.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Undertake a review of all certifier projects that have had consents issued subject to section 35(1A) in order to verify whether conditions have been satisfied.	Private building certifiers are not provided for under the Building Act 2004. This recommendation is no longer relevant due to the change in legislation.
Develop procedures to ensure compliance with sections 35(1A), 36(2) and 38 conditions is properly recorded and monitored.	Procedures had been developed for the equivalent sections 37, 71 and 72 of the Building Act 2004. However, under section 112, contractors have responsibility for deciding the level of upgrade required.
Provide some capability to deal with section 36 issues, and ensure that adequate back-up cover is also developed for this role.	The Council has extensive records on local natural hazards which were reviewed with every building consent or PIM application.

Follow-up review

Private building certifiers were provided for under the former Building Act 1991. They have now all exited the market. Therefore, the first recommendation of the 2004 review is not relevant.

Section 35(1A) (now section 37) – attaching a certificate to a PIM advising that building work cannot proceed

The Council produces PIMs and forwards these to its processing contractors within three to five days (see part 4.2 for more information on PIMs). The Council’s planning team is required to assess the plans provided by the applicant for a PIM. If a contravention of the Council’s district plan or other planning issue is identified, the planning team will note this in the PIM, requiring the applicant to apply for a resource consent.

Section 36(2) Natural hazards (now sections 71 and 72)

The Council has extensive records of natural hazard areas within its district, including areas where known deposits of asbestos or areas of highly expansive soils exist. These records are reviewed with every building consent or PIM application. The Hazards Officer checks every application in relation to known hazards from the hazards register and records this information where relevant in the PIM. Such information is made available to the applicant for incorporation into a design, if required.

The decision process required by sections 71 and 72 in relation to whether or not a building consent can be issued is largely decided by the processing contractor. If the building can be built and it will not accelerate, worsen, or result in another natural hazard, the processing contractor will recommend that the Council issue the building consent.

Section 38 Additions and alterations to existing buildings (now section 112)

The processing contractors process building consents and decide whether the addition or alteration complies as nearly as is reasonably practicable with the provisions of the Building Code that relate to means of escape from fire and access and facilities for people with disabilities (in accordance with section 112(1)(a) and (b)). However, the Building Act 2004 section 112(2)(a),(b) and (c) provides a territorial authority with the ability to make a decision to allow the alteration of a building without complying with specified provisions of the Building Code if the territorial authority is satisfied that:

- if the building were required to comply with the relevant provisions of the Building Code, the alteration would not take place,
- the alteration will result in improvements to attributes of the building that relate to means of escape from fire or access and facilities for people with disabilities, and
- the improvements referred to above outweigh any detriment that is likely to arise as a result of the building not complying with the relevant provisions of the Building Code.

This latter decision process was, in some ways, being undertaken by the Council’s processing contractors.

Recommendations made to the Council	Response from the Council
Develop a formal process to decide when to allow the alteration of a building without complying with specified provisions of the Building Code in accordance with section 112.	Projects involving the upgrading of existing buildings are discussed individually with the processing contractor and the level of upgrade is determined by the Building Authority. A system has yet to be specifically documented.

Conclusion

The Council has partially implemented the Department’s recommendations.

4.8 Waivers

Purpose

To consider how the Council fulfils its responsibilities under sections 67–68¹⁰ of the Building Act 2004.

Background

Under section 67 of the Building Act 2004, a territorial authority may issue a building consent subject to a waiver or modification of the Building Code. Where this is done section 68 provides that the territorial authority must notify the Chief Executive of the Department of Building and Housing.

Initial review

The Council had developed a filing system for recording waivers that had been issued, but the forms filed in the folder did not indicate whether the Department had been notified. In most cases, the Department had not received copies of such waivers.

¹⁰ This was previously covered under section 34(4) and (8) of the Building Act 1991.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review its processes and ensure its obligations with regard to sections 67–68 are properly fulfilled.	The Council was maintaining a register of waivers and modifications.
Ensure the Department is notified of particulars concerning waivers or modifications that have been issued to date.	The Council was notifying the Department when a building consent involved a waiver or modification.

Conclusion

The Department is satisfied that the Council is fulfilling its obligations under sections 67 and 68 of the Building Act.

4.9 Code compliance certificates

Purpose

To examine the Council’s processes regarding the issuing of code compliance certificates.

Background

Sections 91–95 of the Building Act 2004 contain provisions on the issuing of code compliance certificates. In summary, these provisions require that:

- an owner applies for a code compliance certificate (in the prescribed form) as soon as practicable after building work is completed
- a building consent authority issues a code compliance certificate if it is satisfied, on reasonable grounds, that building work complies with the building consent
- a building consent authority must be satisfied that any specified systems are capable of performing to the performance standards set out in the building consent
- a building consent authority must decide whether or not to issue a code compliance certificate within 20 working days of receiving an application for a code compliance certificate or other further period agreed between the building consent authority and the owner.

Section 92(1) of the Building Act requires building **owners** to apply for a code compliance certificate after all building work to be carried out under their building consent has been completed. If the building consent was issued after 31 March 2005 and no application has been made to the building consent authority within two years after the date on which the building consent was granted, the building consent authority must decide whether to issue a code compliance certificate (section 93(2)(b)(i)). Although it is not required by the Building Act 2004, the Department also considers it is good practice for building consent authorities to have a system for proactively following up on all building consents issued under the Building Act 1991, but which have not had code compliance certificates issued.¹¹

¹¹ The Building Act 2004 also provides that applications for code compliance certificates relating to building consents granted under the Building Act 1991 must be considered and determined as if the Building Act 2004 had not been passed and with reference to the Building Code that applied at the time (refer to s436 of the Building Act 2004).

Initial review

The review estimated that a backlog of 15,000 building consents existed that had not had code compliance certificates issued. The Council advised it was devising a strategy to reduce this number. This involved a mix of activities, including proactively following up on outstanding consents and responding to queries as they arose. Outstanding consents for swimming pools were to be prioritised, along with consents for habitable spaces and commercial buildings. The Council was also exploring possibilities for using external resources to assist in reducing this backlog.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Implement quality assurance/peer review auditing to ensure Building Code compliance is consistently achieved, before it issues a code compliance certificate.	The Council and its processing contractors were conducting some auditing.
Issue a notice in accordance with section 43(6) of the Building Act 1991 if it is not able to issue a code compliance certificate because the work does not comply with the Building Code.	Notices were issued when required by the Council on recommendation from its processing contractors.
Manage non-compliance within a risk management framework, and take enforcement action when this is appropriate.	The Council had a framework for non-compliance and was proactive in initiating enforcement action.

Follow-up review

The Department found that the Council's processing contractors gathered the relevant information and conducted an internal document review prior to recommending that the Council issue the code compliance certificate. The information was forwarded to the Council which then conducted a 'health check' on all recommendations for issue. This was a documentation check only and the Council did not check inspection findings.

The Council encouraged its processing contractors to resolve minor compliance issues through discussion and negotiation rather than through the issue of a notice to fix. Where a notice to fix was required, they were issued by the Council upon the recommendation of its processing contractors. The Council's processing contractors were required to draft notices to fix and forward them to the Council to be actioned. The processing contractor was responsible for following up on notices issued, including booking a follow-up inspection and informing the Council of the outcome of that inspection. Where the inspection revealed that no effort had been made to resolve the non-compliance, the Council instigated enforcement action. The Department found that the Council had a dedicated enforcement team and was proactive in initiating enforcement action and making recommendations for prosecution to a Council committee against building consent applicants who failed to comply with the requirements of a notice to fix.

The Department was concerned to find that the backlog of outstanding building work that had not had code compliance certificates issued had increased considerably from 15,528 to 26,800 (see part 2 of the review's terms of reference). The case studies also found completed projects where no copy of the issued code compliance certificate had been included on the file.

Recommendations made to the Council	Response from the Council
<p>Urgently seek ways to reduce the backlog of building consents that have not had a code compliance certificate issued for the building work.</p>	<p>The Building Authority's documented processes require written follow-up of all consents issued under the Building Act 2004 which have not had code compliance certificates issued before the end of the two-year statutory period.</p> <p>The Council also advised that consideration is being given to the appropriate treatment of historic consents without code compliance certificates where there is no legislative requirement for their issue. Currently, applications for code compliance certificates for such historic consents, generally driven by house sales, are received, processed and, if appropriate, issued. No resources have been allocated to proactively pursue historic consents where there is no legislative basis to ensure cooperation. As at February 2008, the Council had not taken a decision as to whether or not it wishes to accept the legal obligations potentially arising from the issue of historic code compliance certificates when there is no clear statement in the legislation restricting the Council's liability.</p>

Conclusion

The Council has only partially implemented recommendations from the initial review. Considerable work is still required to reduce the backlog of outstanding building consents. There is a statutory obligation to follow up building consents (issued under the Building Act 2004) which have not had a code compliance certificate issued within two years of the consent being granted. In addition, it good practice for councils to have a system for appropriately following up on all outstanding building consents, including those issued under the Building Act 1991.

There are benefits to homeowners and building consent authorities from a proactive approach (rather than waiting for the owner to apply). It will increase homeowners' awareness of their legal obligations and provide them with the time to address any non-compliance. Following up outstanding building consents is also likely to assist the Council's own risk management and minimise the chance for other compliance issues to surface over time. The Department also notes that many councils proactively follow up outstanding consents and can charge for such activities.

5 – ASSESSING ALTERNATIVE SOLUTIONS

Purpose

To examine how the Council assesses alternative solutions proposed for use in building projects.

Background

Alternative solutions are one way of demonstrating that building work will comply with the Building Code. Building consent authorities can use the known performance of the relevant Acceptable Solution (prescriptive means of compliance) as a benchmark to make their own assessment of whether the performance of the proposed alternative solution is adequate. An alternative solution may involve materials, components or methods that differ from those in a Compliance Document, but still satisfy the performance objectives of the Building Code.

Initial review

The Department found that the Council had few defined procedures for dealing with alternative solutions. The technical rationale for accepting alternative solutions was rarely being recorded by processing or inspection staff. A 2002 technical review of the Council had also made similar findings, which had not been actioned.

Recommendations made to the Council	Action taken by the Council before the follow-up review
<p>Develop a formal policy to define how its technical staff should process proposed alternative solutions. This should include requirements to:</p> <ul style="list-style-type: none">• justify the acceptance or rejection of a proposed alternative solution, demonstrating how Building Code compliance will be achieved• clearly document and maintain records of the use and acceptance of alternative solutions.	<p>This work was now being undertaken by the Council's processing contractors.</p> <p>The Council kept records relating to the processing of alternative solutions, but contractors used a variety of policies and procedures for their assessment and decision-making relating to alternative solutions.</p>

Follow-up review

The Department found that alternative solutions were assessed by the Council's processing contractors. If the alternative solution relates to a cladding system, the system must be on the Council's approved list of cladding systems, a copy of which has been provided to all contractors. The Council's processing contractors informed the Council when an alternative solution was being used in construction by way of a certificate. The Council also provided its processing contractors with further information on some approved alternative solutions by way of a practice note.

Based on the evidence provided by its processing contractors, the Council made a final decision on whether to accept or reject any alternative solution. The Department assessed a number of alternative solutions, mostly relating to product and systems, during its on-site visit and did not find any examples where an alternative solution processed by a contractor was not accepted by the Council.

The Department found that the Council’s processing contractors used a variety of policies and procedures for their assessment and decision-making relating to alternative solutions.

Recommendations made to the Council	Response from the Council
<p>Ensure its contractors provide clear justification for the acceptance of an alternative solution and regularly conduct auditing procedures to ensure compliance with the Building Code has been achieved.</p>	<p>The accreditation process has drawn to the processing contractors’ attention the need to document the assessment of alternative solutions and the rationale behind approval of such solutions.</p> <p>Checking Processors’ assessments of alternative solutions forms part of the Building Authority audits carried out prior to the issue of a building consent.</p>

Conclusion

The Council has implemented the Department’s recommendations.

6 – PROCEDURES FOR ACCEPTING PRODUCER STATEMENTS

Purpose

To examine the Council’s system for assessing and accepting producer statements.

Background

Producer statements are written statements expressing the authors’ views that plans, specifications or completed works comply with the technical requirements to satisfy some or all of the Building Code. A producer statement will usually be issued by a recognised specialist, for example, an engineer, architect or competent specialist contractor. It is up to the building consent authority to decide whether to rely on such a statement. These documents have no specific status in law, but they can still be accepted and considered by a building consent authority when assessing the plans and specification submitted with a building consent application.

Producer statements are intended to reduce the Council’s input into specific aspects of design processing or construction monitoring work. A council needs to have confidence that those providing producer statements have the appropriate experience and competence in their field. Acceptance of producer statements is discretionary.

Initial review

While the Council had developed a clear producer statement policy, the Department found that it was not always being consistently followed. In particular, the procedural requirement that 5 percent of producer statements received be audited was not being undertaken.

The Department also found that many producer statements the Council accepted had deficiencies or did not sufficiently establish compliance. Producer statements regarding Clause B2 Durability were a particular problem.

The Council’s producer statement system was also an issue of concern in the 2002 technical review.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Introduce measures to ensure staff are following the Council's producer statement procedures accurately and consistently and provide a defensible record to validate the rationale for the acceptance of every producer statement.	The Council had introduced some quality control measures.
Ensure that, where applicable, designers clearly state on their producer statement design (PS1) and/or producer statement design review (PS2) that Code Clause B2 Durability has been satisfied. If this is not stated, staff must separately determine how compliance will be achieved.	The Council did not provide its processing contractors with documented procedures for the acceptance of producer statements.

Follow-up review

The Council has a list of approved producer statement authors relating to specific fields such as engineering, fire, mechanical ventilation and acoustics. The Council adds new producer statement authors to this list after completing an assessment of the author. The Council's processing contractors are provided with a copy of this list and are required to check the approval of a producer statement author before accepting it. The Department found that not all contractors had an up-to-date list of producer statement authors. The Council has a policy of auditing 5 percent of producer statements produced by individual authors. The Department found that, owing to workload pressures, this auditing process is rarely undertaken.

The Council's contractors provide the Council with details on producer statements accepted and the compliance area they focus on. The Council checks if all producer statements are present as part of its consent 'health check'.

The Department was not provided with the Council's processing contractors' documented procedures for the acceptance of producer statements. The Department notes that, as part of the requirements to become an accredited building consent authority, the Council and its processing contractors must have a clear, documented procedure to justify compliance decisions relating to producer statements.

Recommendations made to the Council	Response from the Council
Ensure it actively implements its policy of auditing 5 percent of producer statements.	This process has yet to be implemented.

Conclusion

The Council has partially implemented the recommendations of the initial review. The Council still needs to actively implement its policy of auditing 5% of producer statements.

If a producer statement does not reference Code Clause B2 Durability, then the Council and its contractors must use other information and means of verification to satisfy themselves as to whether durability compliance has been achieved.

7 – WEATHERTIGHTNESS COMPLIANCE

Purpose

To assess the Council’s ability to process and inspect weathertightness compliance, with particular attention to:

- weathertightness design processing methodology
- the level and detail of consent documentation accepted and approved by the Council
- technical competency of both processing and inspection staff in relation to weathertightness compliance
- the Council’s inspection systems and procedures.

Background

In response to emerging reports of building failure, the Government initiated several reviews that collectively found that there had been a ‘systemic failure’ of the building system. The term ‘systemic failure’ illustrates that no single cause led to the failure; rather it was the result of a complex interplay between a number of factors. Some of the key factors involved included:

- standards of design and construction that were set at the minimum level necessary to achieve compliance, providing no margin for error
- a lack of information and capability on the design and construction side
- inadequate review of consent applications and inspections of building work, which meant that specific problems were not being consistently identified and rectified
- capability and capacity issues within the regulatory building control sector identified the need for better monitoring of emerging trends within the building control system.

The Building Act 2004 introduced a more comprehensive regulatory regime for the building control sector. The Acceptable Solution (a prescriptive means of compliance) for meeting Clause E2 External Moisture (Weathertightness) of the Building Code was also updated.

Initial review

The Department team found that the Council’s weathertightness compliance performance needed to be strengthened, as a number of consents reviewed lacked the appropriate and site-specific weathertightness detail. Inspection staff were also not always able to assess weathertightness compliance on site because of time limitations and workload pressures. Additionally, the Department considered that the Council’s approach to assessing the compliance of monolithic claddings needed to be reconsidered to ensure it was consistent with Acceptable Solution E2/AS1. The Department noted that the 2002 technical review made similar findings.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Ensure adequate time and resources are allocated to processing and inspection of building weathertightness.	A number of initiatives were undertaken to strengthen performance on this issue (see below).
Ensure all processing and inspection staff are given appropriate levels of practical weathertightness training.	
Require designers to provide site-specific construction details that demonstrate adequate compliance.	
Develop robust processes to demonstrate how compliance has been achieved.	
Ensure consent applications with inadequate weathertightness detail are rejected or suspended.	
Develop strategies for targeting design professionals and other stakeholders to communicate Council expectations on the level of weathertightness detail for high risk category buildings.	

Follow-up review

The Department found that the Council’s processing contractors place a strong emphasis on weathertightness elements during consent processing, with all of their processing checklists covering weathertightness elements. The Council’s contractors also require designers to provide site-specific details in all building consent applications. The Council has also held meetings with design professionals emphasising the importance of good weathertightness detailing in consent applications. The Council’s processing contractors informally communicate with their clients to outline the required level of weathertightness detailing. The Department noted a number of instances where further weathertightness detail was being requested during consent processing.

The Department found that the Council’s staff and its processing contractors have received some formal training in weathertightness compliance, with a number of staff having attended the BRANZ weathertightness training course. Additionally, staff received informal training whereby product manufacturers brief them on new product specifications.

The Council also advised that it had not received any weathertightness claims that applied to the Building Act 2004. All weathertightness claims have pre-dated the Department’s technical review process (which began in 2004). The Council considers that this may provide a good indicator that it is adequately considering weathertightness compliance.

Conclusion

The Council has substantially implemented the recommendations from the initial review and has considerably improved weathertightness processing procedures and compliance.

8 – COMPLIANCE WITH OTHER BUILDING ACT 2004 REQUIREMENTS

Purpose

To examine the Council’s performance on a range of other building control operations required by the Building Act 2004 that are not specifically covered under the other parts of the review’s terms of reference.

Background

The Building Act 2004 contains a range of obligations and responsibilities relevant to the Council’s building control operations. The key requirements examined under this part of the review include:

- building on land subject to natural hazards (sections 71–74)¹²
- alterations and changes of use to existing buildings (sections 112, 114 and 115)¹³
- dangerous and insanitary buildings (described in sections 121 and 123)¹⁴
- earthquake-prone buildings (described in section 122).¹⁵

Initial review

Dangerous and insanitary buildings

The Department noted the Council was sometimes reluctant to issue enforcement notices, preferring to seek compliance through negotiation. This approach involves a significant investment of Council time and resources. The District Plan and Building Enforcement Unit was also struggling to meet work volumes and, as a result, there was a significant backlog of complaints to be investigated or actioned. The Council advised that its reform process was attempting to address this workload imbalance, but at the time of the review, the Council was struggling to meet its responsibilities with regard to dangerous and insanitary building compliance.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review staff resource allocations assigned to fulfilling its enforcement responsibilities.	The Council reviewed its staff resource allocations and was undertaking enforcement action where and when required. The Council also developed a policy for dangerous and insanitary buildings, and earthquake-prone buildings, as required by section 131 of the Building Act 2004.

Conclusion

The Council has implemented the Department’s recommendations.

¹² This was previously covered under section 36 of the Building Act 1991.

¹³ These were previously covered under sections 38 and 46 of the Building Act 1991.

¹⁴ This was previously covered under section 64 of the Building Act 1991.

¹⁵ This was previously covered under section 66 of the Building Act 1991.

9 – COMPLIANCE SCHEDULES AND THE BUILDING WARRANT OF FITNESS REGIME

Purpose

To evaluate the effectiveness of the Council's compliance schedule and building warrant of fitness (BWoF) regimes.

Background

Sections 100 to 111 of the Building Act 2004 set out the responsibilities for owners, territorial authorities and building consent authorities where buildings contain specified systems. Where specified systems (ie, fire alarm systems, lifts etc) are installed in a building the building must have a compliance schedule, issued with the last code compliance certificate, and the owner must maintain a BWoF.

Initial review

At the time of the review around 2600 buildings had compliance schedules. There were 155 BWoF certificates listed as overdue (ranging from one day to 1000 days). Of these, 13 buildings that have high occupant loads belonged to the Council. The Council could not explain why some BWoFs were so overdue.

The 2002 technical review made similar findings.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review the BWoF system to assess why some BWoFs are significantly overdue.	This recommendation was not implemented.
Introduce appropriate enforcement action of these breaches of the Building Act 2004.	The Council's enforcement team monitors compliance with notices to fix and takes follow-up action when necessary.
Ensure that adequate staff cover is available in the event of absence.	

Follow-up review

The Department found that the Council's enforcement team was responsible for auditing BWoFs and engaging in related enforcement action. The team contacted owners of buildings with overdue BWoFs and undertook on-site inspection audits of the specified systems and, where required, issued a notice to fix. The team proactively monitored compliance with notices to fix and took follow-up action if no progress had been made after 14 days. At that stage the Council instigated a prosecution process. In most cases the building owner complied with the requirements of the notice to fix before court procedures were instigated.

This team is also responsible for compiling compliance schedules from work completed by the Council's processing contractors. The processing contractors provided the team with information on specified systems contained in the building and inspections and certifications undertaken during construction. The team compiled the compliance schedule and double-checked that the systems were appropriate for the building. All officers on this team were warranted under the Building Act 2004, Local Government Act 2002, Resource Management Act 1991, Fencing of Swimming Pools Act 1987 and relevant bylaws.

Despite the initiatives noted above, the Council's records showed that over 400 BWoFs were overdue. This was an increase on the number of overdue BWoFs since the time of the initial review. The Department found no evidence that the Council had introduced a formal mechanism for assessing why some BWoFs are significantly overdue, as recommended in the initial review.

Recommendations made to the Council	Response from the Council
Implement strategies to clear the backlog of overdue BWoFs including: <ul style="list-style-type: none"> • continuing to carry out audits of BWoFs • ensuring the enforcement team has adequate staff to proactively reduce the number of overdue BWoFs. 	The resourcing of overdue BWoFs is being considered, but no specific course of action has yet been determined.

Additional comment from the Council

In March 2008 the Council provided the Department with further information as to its actions regarding this part of the technical review. The Council noted the initial review stage of the review was carried out under the Building Act 1991, which only required the owner to sign and return the annual BWoF. There was no formal auditing; however, inspections were undertaken when BWoFs were not received and prosecution proceedings were pending. This made for an easily managed system, as the documentation process was not as onerous as those introduced in the Building Act 2004 and numbers of overdue BWoFs could be controlled at minimum levels.

The Building Act 2004 brought in a significant level of change and responsibility for technical correctness as well as the ability to charge for BWoF annual returns. The introduction of 12A certificates (certificates of compliance with inspections, maintenance, and reporting procedures) to be signed by an independently qualified person (IQP) to accompany the BWoF return identified around 50% of BWoF returns were false, as the owner was signing the warrant without IQP inspections being undertaken. This caused a significant rise in the BWoFs that were overdue and it took some 18 months to work these out of the system.

This coupled with the complexities of form 11 requests (20%) (applications for amendments to compliance schedules) that required back-checking of building consents to establish whether building consents had been issued for adding or deleting specified features. This checking process cannot be understated and is compounded by the number of non-finalised building consents (no code compliance certificates issued).

Implementation of a cost recovery structure and its impact on BWoF returns (which affected around 80% of returns for two years) where BWoFs would not be accepted without the required processing fee has had a significant effect on the number of overdue BWoFs. There was also a strong reluctance by some building owners to pay for their BWoF returns. This also diverted resources for a considerable time and has impacted on clearance rates.

The system has grown by some 400–500 new compliance schedules between the 2004 and 2007 phases of the technical review, which have also added to workloads.

Additionally, the conversion of compliance schedules issued under the Building Act 1991 to the specified systems (when requested by an owner or IQP, when issuing a building consent) introduced by the Building Act 2004 has added considerably to workloads and the team's ability to address the overdue BWoFs.

Another issue is the lack of communication between the Council's four internal databases. Each system has to be accessed separately to confirm information, which is time and labour intensive. Internally, Council departments and building owners do not always communicate all information relating to subdivisions and unit titles, which impacts on buildings at BWoF return stage as Lots and deposited plans (DPs) and owners and specified systems have changed again requiring additional time and labour to investigate and correct.

New processes and database changes were implemented with varying degrees of success. Since 2004 there have been two additional staff plus an inspector hired to undertake the audits. Currently, we are also looking at deploying another staff member into this area. The full information management system upgrades are currently being implemented and this will assist to make the processing of BWoFs more effective and efficient.

The Council is now concentrating on clearing the backlog of some 400 overdue BWoFs and most of these are at the final stage of referral for prosecution. A staff member has been deployed to assist with this.

Conclusion

At the time of the follow-up review the Council had made limited progress towards implementing recommendations. The Department acknowledges additional feedback recently provided by the Council, which highlighted compliance issues, and Council initiatives to address these issues. BWoF and compliance schedule requirements were introduced in 1991 and the Council must fully comply with these requirements and reduce the backlog of outstanding work as soon as possible.

10 – ACCESSIBILITY COMPLIANCE

Purpose

To examine the Council’s application and enforcement of the Building Code’s requirements for access and facilities for people with disabilities.

Background

The Building Act and Building Code contain requirements to ensure that people with disabilities are able to enter and carry out normal activities and functions within buildings. These provisions include sections 117 to 120. There are a range of training courses available for staff to enhance their knowledge and skills in this area.

Initial review

Most processing and inspection staff had been through accessibility compliance training courses, with further staff about to undertake a course. Most of the buildings inspected displayed a reasonable level of accessibility compliance although some exceptions were observed.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Examine ways of eliminating accessibility non-compliance, by providing staff with ongoing training opportunities and incorporating accessibility compliance into audits of the building consent, inspection and approval process.	Processing contractors and Council staff involved with commercial work had attended accessibility training.

Follow-up review

The Department found that all contractors and Council staff involved with processing, inspecting or auditing commercial work had attended accessibility training run by the Barrier Free Trust. However, no evidence was found that the Council or its contractors had a formal mechanism to ensure this training was being effectively applied. A number of findings supported this. First, the Council’s processing contractors’ checklists, relating to access for people with disabilities, were of varying quality. The Council’s ‘health check’ sheet also did not include assessment of accessibility requirements. Second, the case studies revealed that compliance with accessibility provisions was not being consistently achieved and that access and facilities for people with disabilities were not being consistently considered or applied. The Department found no evidence that peer review of accessibility compliance was being undertaken.

Recommendations made to the Council	Response from the Council
<p>The Council should consider methods of improving accessibility compliance such as:</p> <ul style="list-style-type: none"> • providing guidance to its contractors stipulating the minimum level of accessibility information to be contained in their processing and inspection checklists (this could be achieved through the issuing of a practice note or contractual mechanisms) • developing and implementing an on-site peer review process for accessibility compliance, to ensure accessibility training provided to staff is being effectively implemented • including information on accessibility requirements in the Council's consent 'health check' sheet. 	<p>Processing contractors' checklists are to be reviewed to ascertain whether or not accessibility requirements have been upgraded following the Department's visit and accreditation requirements.</p> <p>The Council's 'health check' checklists are to be amended to incorporate accessibility requirements for commercial and public buildings.</p> <p>The Council's audits of compliance inspections are proposed.</p>

Conclusion

The Council has made limited progress towards meeting the recommendations of the initial review and acknowledged it should make further improvements.

The Department reiterates conclusions made under part 4.3; it is important to provide Council contractors with clear guidance on expectations regarding the minimum level of information required. This still gives contractors scope to use their own systems and processes as long as they meet the Council's expectations. If the Council has minimum information requirements for checking accessibility compliance for people with disabilities, then it can assure itself that a sound decision has been made and documented.

11 – HUMAN RESOURCES

Purpose

To assess the strength and depth of the Council's building control human resource capacity and how effectively it is being used.

Background

Increased building activity over the last few years has significantly increased the workload of building control staff. Territorial authorities and building consent authorities are able to address this by increasing staff levels and by using existing staff more effectively. Opportunities to increase staff levels are limited in the short term because the national supply of appropriately qualified and experienced new staff is limited.

Initial review

The Council was facing significant challenges in recruiting and retaining the required levels of experienced and suitably qualified technical staff. Staff workloads were very high and there were a number of existing and new positions that were vacant in building consent processing, inspection and enforcement roles. During the review, a number of key staff were on leave, had transferred to new positions or had recently resigned. The remaining in-house staff could provide little information on technical issues in relation to those positions. The Department considered that the Council needed a more proactive strategy to address these problems.

Recommendations made to the Council	Action taken by the Council
Urgently recruit additional technically competent and experienced staff to enable it to meet building control work volumes.	The Council's organisational reform and reliance on three processing and inspection contractors provided a partial response to this recommendation.
Prioritise developing a long-term proactive strategic plan for recruitment and retention of building control processing and inspection staff.	This recommendation was not implemented.

Follow-up review

The Council's recent structural reform and access to three contractors had resulted in an increase in the human resource capacity of the Council. The Department noted that, even with this capacity increase, there were still significant backlogs of overdue BWoFs and building consent approvals that had not had code compliance certificates issued. These backlogs had significantly increased since the 2004 initial review even with the capacity increase. Additionally, the Department considered that the Council did not currently have the requisite capacity or adequate technical capability to effectively audit and control the processing and inspection work of its contractors.

The Council had not introduced a long-term proactive strategic plan for the recruitment and retention of building control staff.

Recommendations made to the Council	Response from the Council
Continue to recruit additional technically competent and experienced staff to enable it to effectively audit the work of its contractors.	The Building Authority operates with a very small technical base and is not in a position to create a career path for technically skilled officers or to carry surplus staff.
Develop a long-term proactive strategic plan for the recruitment and retention of building control processing and inspection staff which might include investment in a cadetship scheme.	Upgrading skills training is provided for vetting staff to encourage their further development, but their future probably lies with a processing contractor as a junior building official rather than within the Building Authority. The Building Authority relies on maintaining a wide network of relationships with suitably skilled staff but anticipates it will 'go to the market' when extra staff are required or resource allocation within the Council allows.
Establish a long-term plan for staff recruitment and retention.	

Conclusion

The Council has partially implemented the recommendations of the initial review but there are still clear and significant capacity issues needing to be resolved.

The Department's conclusions are closely linked with those under part 12 of the review's terms of reference (relating to technical knowledge of staff). Although the Council has contracted consent processing and inspection work, it still performs some building control work. Key examples include issuing consents and code compliance certificates, operating BWoF and compliance schedule regimes, undertaking quality assurance activity, and carrying out enforcement work. Therefore maintaining a sufficient number of technically competent staff to meet work volumes is a critical issue. Accordingly, the Department reiterates its recommendations and concludes that Manukau City Council is still under-resourced for both the type and volume of consent and inspection work needing to be undertaken in the City.

12 – TECHNICAL KNOWLEDGE AND ABILITY OF STAFF

Purpose

To examine the technical knowledge of building control staff and the provisions that have been made for staff training and upskilling.

Background

Building control is becoming progressively more complex as new building materials gain wider use and housing density increases. Construction methods now allow for fewer margins for error and the technical knowledge of building control staff must increase with that trend.

Initial review

At the time of the initial review, the Council had recently created a Performance Development officer position to focus on staff training and development. It was also planning to better foster institutional knowledge and experience by promoting experienced technical staff to positions of greater responsibility and targeting graduates to fill their vacated technical positions.

The Department observed varying levels of competency and discussions with staff identified a need for a greater level of in-house technical leadership from senior staff. Workload pressures and the lack of key staff were contributing to an inability to provide appropriate levels of technical leadership, and technical knowledge and capability was not evenly spread through the group.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop a staff competency and technical skills matrix that clearly identifies staff training requirements.	This was not implemented.
Ensure this training occurs and provide additional resources to cover staff while they are at training courses.	Staff had had some formal training and contractors met weekly to share expertise.
Consider rotation of processing and inspection staff.	This is no longer relevant due to organisational reform.

Follow-up review

The Department found that the structural reform of the Council's building control operations had increased the collective technical knowledge, skills and expertise available to the Council. The Council had made a strategic decision to outsource the bulk of its consent processing and building inspection work by engaging three specialist processing contractors and this reform had impacted, to a certain extent, on the recommendations made in the 2004 review, which had a focus on the Council's in-house technical building control capacity and capability.

The Department found that the Council and its processing contractors all had separate competency matrices for staff, which were developed as part of preparatory work for becoming accredited as building consent authorities. However, the Council did not have access to its processing contractors' skills matrices or competency assessment systems and decision records.

The case studies noted recurring instances where building work was being approved that did not comply with the Building Code. The main areas included fire compliance and accessibility compliance (see parts 4.3 and 10 of the review's terms of reference). The Department considered, therefore, that there is a need to implement improved systems to ensure compliance with the Building Code is being consistently achieved.

The Department found that the Council and its processing contractors had provided some formal training to their staff (eg, weathertightness and accessibility compliance). Additionally, contractors had weekly technical meetings to discuss issues relevant to their work and share expertise.

The changes to the organisational structure of the Council meant that the recommendation concerning the rotation of processing and inspection staff was no longer relevant.

The Department recommended that in preparation for accreditation as a building consent authority, the Council will need to ensure it has enough employees or contractors to perform its regulatory building control functions and that these people are competent to perform the tasks allocated to them. It was suggested that it will be helpful for the Council to have a system to enable it to understand and monitor its collective, in-house, and contracted capacity and technical capabilities. It was also suggested that it will be helpful if the Council accesses and collates contractors' skills matrices to get an overview of the collective skill sets it has access to.

Recommendations made to the Council	Response from the Council
Undertake regular technical audits of its contractors' processing and inspection work.	<p>Processing 'health checks' are carried out on all consents and a target of 5 percent of consents has been set for full audits and is being implemented.</p> <p>A target of 5 percent for audits of compliance inspections has also been set and will be implemented when budgetary and recruitment allows, but certainly prior to 2010 accreditation quality management requirements.</p> <p>Although compliance inspection checks have yet to be audited, all documentation received from processing contractors recommending the issue of a code compliance certificate are reviewed and checked, as is the record of inspections which has to be provided.</p>
Give feedback to contractors on findings of such audits to aid continuous improvement.	<p>Present processes provide for feedback to processing contractors on 'health checks' and audits.</p> <p>Since its inception in April 2005, the Building Authority has implemented a system of checking the technical work of the processing contractors and consulting with each of them at formal weekly meetings required under their contracts with the Building Authority.</p>
Invest in continued training and education for both in-house staff and contractors engaged for their technical skills and expertise.	<p>Processing contractors are responsible for their own staff training as part of maintaining accreditation. The Building Authority has an ongoing process of actively seeking out suitable upskilling courses for staff and considers opportunities for joint training with the processing contractors.</p>

Conclusion

The Department acknowledges the Council's progress in implementing some recommendations. However, the Council still needs to continue to strengthen systems to ensure:

- before it issues a building consent 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 application¹⁶
- when issuing a code compliance certificate it is satisfied, on reasonable grounds, that the building work complies with the building consent.¹⁷

These are statutory obligations the Council retains responsibility for, despite contracting out processing and inspection functions.

The Council also undertakes building control functions that require a core technical in-house capacity to assure itself that all building control work is carried out competently and complies with the Building Act. The Department considers the Council needs to maintain (and in some areas strengthen) systems supporting technical work. It needs to have a sound system for assessing staff competence and ensure work is only allocated to technically competent staff members.

¹⁶ See section 49(1) of the Building Act 2004.

¹⁷ See section 94 of the Building Act 2004.

13 – ADEQUACY OF RESOURCES AND EQUIPMENT

Purpose

To examine the resources that building control staff have at their disposal.

Background

The effectiveness of building control staff can be enhanced with access to appropriate aids and resources such as a technical reference library, digital cameras and moisture meters.

Initial review

The Council had an adequate range of technical literature, but could strengthen the systems and structures to manage, maintain and disseminate such material. Field staff had adequate equipment supplied, and had recently been issued with digital cameras.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Consider appointing a technical officer to manage the flow of technical information and literature.	The Council and its processing contractors maintained separate technical libraries with an adequate range of technical material. The Council's contractors provided adequate equipment to their staff for on-site inspections and processing of building consent applications.
Establish and maintain a central library.	Owing to the segregation of the Council's processing activities, the recommendation relating to the establishment of a central technical library is no longer relevant.

Conclusion

The Council has implemented the Department's recommendations.

14 – ADEQUACY, SECURITY AND AVAILABILITY OF PUBLIC RECORDS

Purpose

To assess the Council’s record-keeping processes and facilities, including the access it provides to the public.

Background

Sections 216 and 217 of the Building Act 2004 set out the broad record-keeping and access requirements for territorial authorities.

Initial review

At the time of the initial review the Council was moving from its traditional hard-copy system of storing consent records towards electronic filing. Hard-copy files were archived off site, but could be viewed by the public for a set retrieval fee.

Several files considered in the Department’s case studies were missing information (eg, truss layouts, producer statements, as-built drainage plans and other requested information). Some files had information attached that had no relevance to the projects, and in some cases it was difficult to ascertain whether the information was related to the file.

The 2002 technical review made similar findings.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Ensure appropriate systems are in place so all information relating to a building consent file is logged and confirmed as complete.	The Council had appropriate record-keeping systems.

Follow-up review

The Department found that the Council was the main repository for completed building consent files. The Council’s processing contractors maintained building consent documentation until the contractor recommended that the Council issue the code compliance certificate, at which point it was handed over to the Council. Some contractors kept a copy of the consent documentation for future reference, but this was not considered the ‘copy for public knowledge’.

Conclusion

The Council has implemented the Department’s recommendation.

15 – RELATIONSHIPS WITH BUILDING CERTIFIERS AND OTHER TERRITORIAL AUTHORITIES

Purpose

To identify any specific issues arising from the Council’s dealings with private building certifiers and other territorial authorities.

Background

Building certifiers no longer operate within the current legislative framework. For this reason aspects of these terms of reference are no longer relevant.

The Department encourages councils to foster relationships with neighbouring territorial authorities (among other organisations) to help achieve consistency and improvement in building control in their regions.

Initial review

At the time of the review, building certifier applications were being processed by the Council’s Environmental Safety and Support Unit. The Department found that monthly certifier reports were not being followed up or filed.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Ensure all monthly building certifier reports are filed in the appropriate property files.	This is no longer relevant due to new legislation.
Ensure all existing and new staff are fully aware of the Council’s responsibilities under the Building Act for consent and certification work involving private building certifiers.	This is no longer relevant due to new legislation.

Follow-up review

All private building certifiers had exited the New Zealand market by late 2005 and, as such, the recommendations of the initial review are no longer relevant.

The Council had a positive and interactive relationship with its neighbouring Auckland territorial authorities and regularly provided technical input into developing nationwide standards (eg, Safety Barriers and Fences Around Swimming Pools, Spas and Hot Tubs, NZS 8500: 2006).

Conclusion

There are no outstanding issues under this part of the review’s terms of reference.

16 – CASE STUDIES OF COMPLETED BUILDINGS

Purpose

To undertake case studies of building consents in order to assess the adequacy of the Council's building consent processing and inspection regime. The case study findings often reflect and reinforce the more general review findings outlined under the other terms of reference.

Background

The Department identified a number of buildings recently processed by the Council and progressed to code compliance certificate stage (although sometimes case studies can involve buildings still in the construction phase). These buildings were chosen to be typical of the building type that the Council dealt with and that involved compliance elements that were known to be difficult (such as accessibility, or weathertightness with monolithic claddings). The findings of the case studies were used to support and reinforce the more general review findings outlined throughout the report.

Initial review

Case studies analysed during the initial review revealed that:

- inspection checklists were not comprehensive enough and documentation of the inspection process was often inadequate
- insufficient information was often being provided to the Council at various stages of the consent processing and inspection process. The Council should be prepared to reject applications immediately if they obviously lack the required detail
- the Council's records for the various stages of the consent processing and inspection process were often inadequate
- there was no procedure for assessing and making decisions on proposed alternative solutions
- only limited follow-up enforcement action was occurring.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Improve procedures for dealing with consent applications with insufficient information.	These recommendations had not been implemented prior to the follow-up review.
Improve processing and inspection methodology to ensure compliance is consistently achieved for all clauses in the Building Code. Particular attention should be given to improving Code compliance regarding accessibility, fire, plumbing and drainage, and weathertightness.	The Council's decision to out-source its processing and inspection functions also impacted on these recommendations.
Improve documentation of its decision-making for processing and inspections, including how the Council was satisfied on reasonable grounds that Code compliance was, or would be, achieved for all building construction elements.	
Improve processes for documenting Acceptable Solutions and the basis for their acceptance or rejection.	
Improve training programmes that lift technical knowledge.	
Improve recruitment programmes that meet both short- and long-term staff needs.	

Follow-up review

The findings of the 2007 review's case studies provided evidence to support the recommendations contained throughout the follow-up report. The main findings were that:

- building consent applications were still being accepted for processing when they lacked sufficient detail and evidence to ensure compliance with the Building Code (see part 4.1 of the review's terms of reference)
- there were some inadequacies with the Council's system for producing PIMs, such as a lack of site-specific information being produced and PIMs not informing owners of the requirement to obtain an Evacuation Scheme as required under the Fire Services Act 1975 (see part 4.2 of the review's terms of reference)
- greater consistency in processing methodology was needed. There were gaps in the checklists used with limited evidence documented about the processing contractors' assessment of compliance with certain clauses of the Building Code (see part 4.3 of the review's terms of reference)
- recurring areas of non-compliance identified included fire and accessibility compliance (see parts 4.3 and 10 of the review's terms of reference)
- building consent files often contained inadequate information. Better audit trails were still needed to clearly demonstrate how the Council was satisfied on reasonable grounds that compliance with the Building Code was, or would be, achieved
- a number of consent files had very limited (or no) inspection records. Final inspections need to include an on-site assessment against the approved plans and this was not always apparent
- some inspections that were specified as required were not applicable for particular consents, or inspections were sometimes missed or omitted when they should have been undertaken.

Recommendation to the Council	Response from the Council
<p>Improve its consent vetting procedures to ensure applications with insufficient supporting information are consistently rejected at the vetting stage.</p>	<p>This issue has been addressed in part 4.1 of the review's terms of reference.</p>
<p>Ensure its processing contractors improve levels of compliance with the Building Code, particularly in relation to accessibility and fire compliance.</p>	<p>This issue has been addressed in parts 7 and 10 of the review's terms of reference.</p>
<p>Ensure its processing contractors continue to improve their processing and inspection methodology to ensure key decisions and their justification are consistently recorded.</p>	<p>This issue has been addressed in parts 4.3, 4.4, 4.5, 4.6, 4.7, 5, 6, 8 and 10 of the review's terms of reference.</p>
<p>Ensure its processing contractors review the current format and schedule of inspections required, as some inspections were being wrongly omitted when needed or undertaken when not required.</p>	<p>All processing contractors use an inspection format which lists all possible inspections and expects the applicants to determine which inspections relate to their project and to call for such inspections.</p> <p>This process will be reviewed with the processing contractors to determine if a change is warranted.</p> <p>The issues raised in the technical review have been brought to the attention of the processing contractors. While the Council has not addressed each specific example, it notes that a finding of a lack of correlation between a building consent and what was built related to the subsequent issue of amending building consents. There is also some possible confusion arising where a building consent may relate to the 'base building' but work relates to building or tenancy fit-outs under a subsequent consent.</p> <p>This possibly arose from a lack in the review team's specification of documentation requirements and a lack of foresight on the Council's part as to what the practical requirements were.</p>

Conclusion

While some improvements were observed from the 2004 case studies, the non-compliance issues identified in the 2007 case studies revealed similar issues that still need improvement. The Department acknowledges the Council has brought these issues to the attention of its three contractors, but urges the Council to ensure that all the recommendations are fully implemented.

The Council has stated it considers that it has addressed a number of the Department's recommendations made above. However, the Department considers that further work is still required to fully implement these recommendations.

17 – ACCOMPANYING PERSONNEL DURING INSPECTIONS

Purpose

To assess the effectiveness of inspectors' building control processes, how they use the Council's inspection methodology, the level of building compliance achieved, and how inspectors interact on site with consent applicants and builder/contractors.

Background

The inspection processes and the effectiveness of the inspectors are critical to the overall effectiveness of the building control process. This section of the review involved accompanying Council inspectors during their normal inspection workload. Observations from the Department often reinforce observations made during the case studies.

Initial review

The 2004 review identified the following key findings.

- There were limitations in the overall level of inspectors' technical knowledge, particularly around internal moisture, plumbing and drainage, and weathertightness detailing.
- Plumbing and drainage inspectors were overlooking issues during inspections and were giving inadequate attention to approved drawings, specifications and details of installation.
- Inspection workloads were too high, with field staff often having insufficient time on site to undertake a thorough inspection.
- Inspectors needed to confirm all site instructions in writing and record such instructions in the Council's file.
- A number of issues were still outstanding from a review of the Council undertaken in 2002. This included concerns relating to the level of technical knowledge of staff, staff workloads and the need for better systems to document and track inspection processes.

Recommendation made to the Council	Action taken by the Council before the follow-up review
Note the current workload pressures and the consequent increased risk of inspection error.	<p>Using processing contractors had increased the number of technical staff and range of expertise available to the Council.</p> <p>Technical knowledge in relation to plumbing and drainage had improved.</p> <p>The Council was relying on its processing contractors to have sound processes and procedural tools.</p>
Note that the general level of technical knowledge needs to be improved, using an ongoing professional development programme.	
Ensure plumbing and drainage inspectors have adequate technical knowledge, and ensure due attention is being given to approved drawings, specifications and details of installation.	
<p>Enhance its procedures underpinning its inspection work, including:</p> <ul style="list-style-type: none"> • reviewing the inspection booking system to ensure inspection staff are given the support they need to manage workflows properly • developing a comprehensive inspection checklist to ensure Code compliance is achieved and the process is documented • ensuring appropriate record-keeping of inspection findings, including how the inspector was satisfied on reasonable grounds that the work was Code compliant • undertaking audits of its inspections to determine if Code compliance was demonstrated • consider developing a more effective and efficient system for recording inspections (eg, pre-printed triplicate inspection books). 	

Follow-up review

Consent statistics showed that the number of consents being issued by the Council had fallen since the initial review. However, the total value of consented building work had increased.

Since the initial review, the Council had employed contractors to undertake the majority of its building control work, including conducting inspections. This had resulted in an increase in the number of technical staff and range of expertise available to the Council.

The Department found that while inspection workloads are still high, the Council and its contractors appeared to have an appropriate number of inspection staff. While the Council had increased its organisational technical competency through the changes to its organisational structure, general technical knowledge still varied between staff.

The Department found that inspections by the Council's contractors generally followed a methodical approach, with inspectors referring to checklists, plans and specifications on site. Outcomes of inspections were generally being adequately recorded, with clear statements on what was inspected or approved being provided. However, some case studies undertaken revealed that records of inspections were not always being transferred or recorded in the Council's public property file.

The Department found the level of quality and detail in the contractors' inspection checklists varied significantly and that the Council would benefit from providing its processing contractors with more specific details on the minimum level of information that should be contained in these checklists.

The Council's processing contractors used varying methods of recording inspections, ranging from simple paper-based recording systems to computer tablets (currently being implemented with one contractor). It was also noted during inspections that technical knowledge in relation to plumbing and drainage had improved.

All processing contractors undertook varying levels of inspection audits. These ranged from simple observation of inspection records to review of on-site inspections. However, the Department identified that the Council only undertook a 'health check' once a building consent file had been forwarded from a contractor recommending the issue of a code compliance certificate.

The Department considered that the Council needed to conduct regular and comprehensive audits and peer reviews of inspections undertaken by its contractors.

Recommendations made to the Council	Response from the Council
<p>Improve inspection methods by providing guidance to its processing contractors stipulating the minimum level of information that should be contained in inspection checklists (this could be achieved through the issuing of a practice note or contractual mechanisms).</p>	<p>Processing contractor checklists will be reviewed following accreditation as a building consent authority.</p> <p>Ongoing weekly meetings with each processing contractor and regular joint meetings provide an opportunity for continuous process improvement.</p>
<p>Improve inspection methods by conducting regular audits of contractors' inspection work to ensure compliance with the Building Code is being consistently achieved and all relevant information is being documented and recorded.</p>	<p>As previously noted, inspection audits are proposed and will be instituted prior to 2010.</p>

Conclusion

The Department notes the improvements in inspection methodology and the Council's new structure and capacity to undertake this work. However, the Council still needs to continue to improve inspection methods consistent with the recommendations. The Department strongly recommends that the planned internal audits of inspection work are implemented as soon as possible.

18 – FEEDBACK FROM THE COUNCIL

Under section 276(2)(a) of the Building Act 2004, the Department, when carrying out technical reviews, must give territorial authorities a reasonable opportunity to make written submissions on the review.

In accordance with this, the Department provided such opportunity for the Council to submit feedback, which has been incorporated throughout this report. No additional feedback under this part of the review was received.

7. Next steps

Further reviews

The Department will continue to carry out technical reviews of territorial authorities and building consent authorities, including further reviews of Manukau City Council, in accordance with its statutory requirements under the Building Act 2004.

New system of accreditation and registration

The Department's technical reviews are an important tool for territorial authorities and building consent authorities to assess their readiness, and assist their preparation, for the new regulatory system introduced by the Building Act 2004. The Building Consent Authority Accreditation and Registration Scheme will regulate building control provided at the local level. This will bring about significant changes to regulatory building control in New Zealand.

Accreditation in the building control sector aims to strengthen the decision-making processes at the critical building consent and inspection stages of the building process. Successful implementation will bring about greater consistency in regulatory building control across New Zealand. It will help lead to performance improvements, raised standards in the sector, and greater consumer confidence in the system.

Under the Act, organisations wanting to undertake building control functions must be registered as building consent authorities. In order to be registered, an organisation must be accredited by the Building Consent Accreditation Body (International Accreditation New Zealand) as a building consent authority.

The Department's Consent Authority Capability and Performance Group is leading the work to implement this new system. The accreditation process is involving prospective building consent authorities being assessed by the independent accreditation body against a set of standards and criteria Building (Accreditation of Building Consent Authorities) Regulations 2006 covering key components of good-practice regulatory building control.

The accreditation assessment process will incorporate many of the critical regulatory building control components of the Department's existing technical review process. The Building (Accreditation of Building Consent Authorities) Regulations 2006 have a strong industry focus and cover three key areas.

1. Formal policies, systems and processes
2. Technical competence
3. Quality assurance

Further information

Further information about both the technical review programme and the Building Consent Authority Accreditation and Registration Scheme can be accessed online at www.dbh.govt.nz

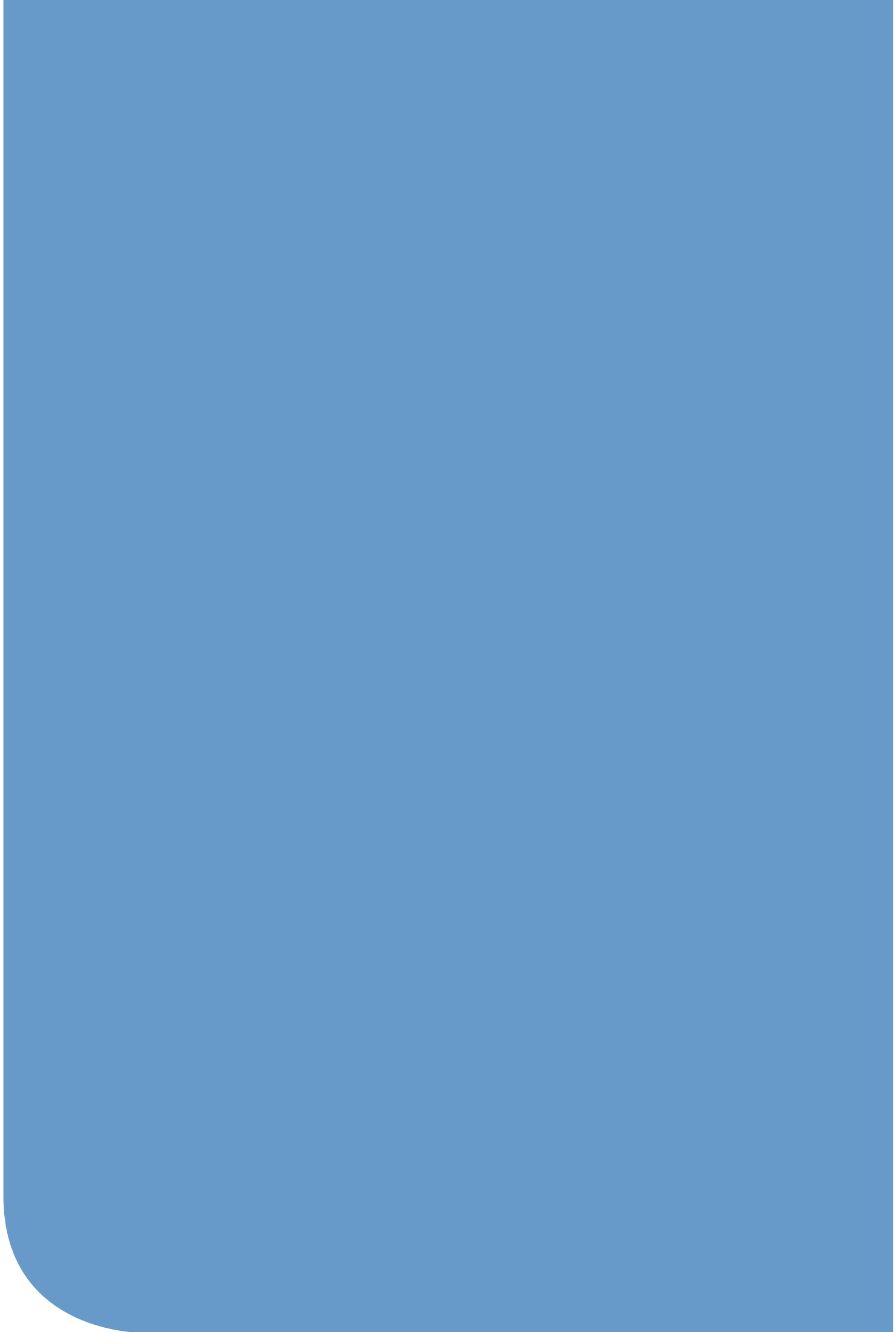
Guidance documentation

Under section 175 of the Building Act 2004, the Chief Executive (of the Department of Building and Housing) has a statutory role in the publishing of guidance information for territorial authorities and building consent authorities. The Department has published a range of guidance information to assist territorial authorities and building consent authorities in understanding how to comply with the Building Act 2004 and their building control responsibilities. This includes:

- Building Officials' Guide to the Building Act 2004 (August 2005, second edition)
- Building Consent Authority Development Guide (February 2006)
- Building Consent Authority Development Guide – Management Processes (February 2007)
- Building Consent Authority Accreditation Preparation and Self-assessment Guide (February 2007)
- Building Officials' FAQs (August 2005)
- Earthquake-prone building provisions of the Building Act 2004: Policy guidance for territorial authorities
- Dangerous and insanitary building provisions of the Building Act 2004: Policy guidance for territorial authorities
- External moisture – a guide to using the risk matrix
- External moisture – An introduction to weathertightness design principles
- Critical requirements for the Assessment of 'Monolithic Cladding' (April 2004)
- Practice Advisory 6: Achieve best practice – every step of the way
- Practice Advisory 5: Allow for movement
- Reinforcing steel in New Zealand – A quick guide for designers, building consent authorities and contractors.
- Guide to applying for a building consent (simple, residential buildings) (January 2007)
- BCA Update publications (February, April, June August, October, December 2007 and March, May 2008)
- Guide to International Symbol of Access (January 2007)
- Guide to accessible reception and service counters (January 2007)
- Compliance Schedule Handbook (March 2008).

This and other guidance information is available online at www.dbh.govt.nz The Department also participates regularly in workshops and conferences to provide updates and information to the sector.





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