



Department of
Building and Housing
Te Tari Kaupapa Whare

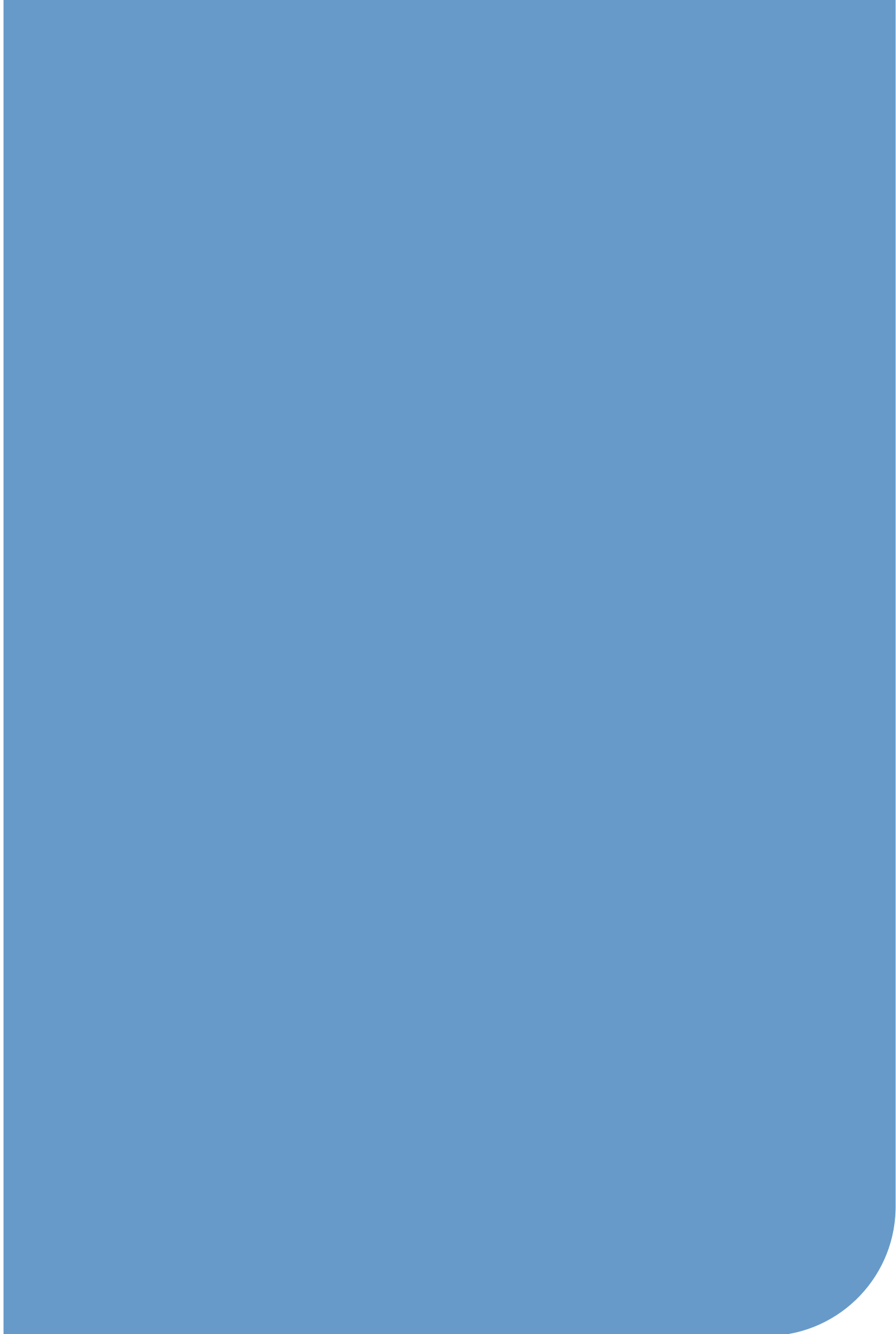
Technical Review

of the Building Control Operations of Franklin District Council

Summary Report

September 2007





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authorities of their functions under the Building Act 2004 (the Act), and previously, the Building Act 1991 (now repealed). 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 a snapshot of information about the building control activities of the territorial authority or building consent authority. It cannot be taken as a full and comprehensive review of the competency and quality of all of those activities. A technical review is carried out by:

- assessing whether the processes and procedures used by the territorial authority or building consent authority under review are sufficient to enable it to satisfy the requirements of the Building Act 2004, the Building Act 1991 (legislation applying during part of this technical review), and related Regulations, including the New Zealand Building Code (the Building Code)
- assessing the processes and procedures used by the territorial authority or building consent authority under review for weathertightness compliance
- providing advice and assistance on best-practice building control procedures to help the territorial authority or building consent authority under review achieve an effective building control regime that is consistent with national objectives
- enabling the Department to receive comment and feedback from the territorial authority or building consent authority under review about its practical operations, ability to assess building compliance, and the role of the Department in this process.

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1 Summary of key messages

Over the course of the review, Franklin District Council made a number of improvements to strengthen its building control practices. The Department welcomed the work to date, but considers further performance improvements to the Council's building control operations are still required to ensure it is able to consistently meet its obligations under the Building Act 2004.

The Council should give particular attention to the following areas.

Building control policies, processes and procedures

The Council needs to continue to strengthen the policies, processes and procedures guiding its building control operations. This includes work to develop such mechanisms or to ensure their consistent and effective implementation. Examples where further work is required include:

- building upon its work to improve its building consent processing and inspection methods by implementing and formally documenting its quality assurance mechanisms (such as peer review, internal audits of completed work, training and provision of guidance). This should include enhancing its existing consent review processes to include an assessment of whether Code compliance has been achieved
- following up on old building consents that have not had a code compliance certificate issued for building work
- developing policies and procedures to underpin its work in relation to the assessment and acceptance of:
 - producer statements
 - alternative solutions
 - weathertightness compliance
 - compliance schedules and building warrants of fitness
 - compliance with other Building Act requirements
- implementing a policy providing for the issue of a notice to fix at the time of final inspection if non-compliance is identified (rather than issuing a 'notice of non-compliance'), if the non-compliance is such that a notice to fix is appropriate in the circumstances.

Compliance with the Building Code

The Department found the Council was not consistently rejecting building consent applications that contained inadequate supporting information. It is important consent applications demonstrate to the Council that compliance with the Building Code would be achieved if work was built in accordance with the documentation. The Council needs to keep reviewing its requests for additional information to identify recurring deficiencies in consent documentation and consistently reject this at the lodgement stage.

The Council is not achieving a consistent level of compliance with the Building Code at all stages of the consent processing and inspection process. In particular, significant non-compliance is occurring in relation to access and facilities for people with disabilities and fire compliance. The Council needs to improve compliance through developing more comprehensive checksheets, increasing staff training and conducting regular audits and peer review of completed work.

Resourcing and technical competency

Over the review period the Council proactively sought to recruit additional staff and increase the number of building control staff it employs. Despite such efforts, it still needs additional building control staff as it had little available capacity to meet expected peaks in workflows, particularly as a number of processing staff are already consistently working overtime to meet demand and fulfil the Council's regulatory responsibilities. The significant limits in capacity are also impacting on the Council's ability to implement initiatives to reduce Building Code non-compliance (discussed previous page) such as additional training, peer review, and other quality assurance initiatives. The review noted that there were still a significant number of outstanding building consents (8,000), which have not had code compliance certificates issued or proactive follow up enquiries made, in some cases because of capacity limitations within the Council.

The review team also found some weaknesses in the way the Council allocates building control work to its staff. In particular, the Council does not have adequate mechanisms for ensuring employees (and relevant contractors) work within the limits of their technical competence, skills and expertise. The Council needs to develop a technical skills competency assessment system and matrix, to assess the collective skills and expertise of existing personnel against the nature and type of work it undertakes. This will help identify skill gaps, training needs, and ensure work is only allocated to staff who have the requisite technical competence to undertake it. A sound competency assessment system will help enable the Council to make good decisions about:

- skill gaps and how to remedy them
- where best to invest its training budget and ensure adequate ongoing professional development for staff
- its organisational capability and capacity
- where it requires additional external expertise (either technical specialists to fill skills gaps or additional capacity to support in-house staff).

Quality assurance processes

The Council needs to build upon its work to improve its building consent processing and inspection methods by implementing and formally documenting its quality assurance mechanisms (such as peer review, internal audits of completed work, training and provision of guidance). This should include enhancing its existing consent review processes to include an assessment of whether Code compliance has been achieved on site.

2 Overview

Purpose

The Purpose of this document is to provide a summary of the results of a technical review of the building control operations of Franklin District Council (the Council) based on on-site assessments of the Council in March 2004 and November 2006.

This document outlines:

- the role of the Department and the Council in regulatory building control
- the methodology used in the review
- the Department's key findings and recommendations
- the Council's progress to implement the Department's recommendations
- issues requiring further improvement.

The Council

Franklin District Council has an estimated population of 58,932. It has seven full-time building control staff to carry out its regulatory building control functions. While carrying out the review the Department recognised that the Council, like many territorial authorities, has a challenging task in a busy environment.

Review process

Technical reviews involve a three-phase process designed to assist territorial authorities and building consent authorities to improve their regulatory building control operations. Technical reviews are carried out by the Department's Consent Authority Capability and Performance Group. The technical review terms of reference cover a range of capacity and capability issues. Sections 3 to 5 of the report outline the methodology supporting technical reviews.

Key findings

Initial review

The Initial review, undertaken in September 2004, highlighted a significant number of areas for improvement across different components of the Council's building control operations. It found that the Council was not always meeting the statutory timeframes for processing building consents and project information memoranda. It was also not achieving a consistent level of compliance with the Building Code at all stages of the consent processing and inspection process.

The review identified a number of resource issues impacting on the Council's ability to ensure consistent compliance with the Building Code. In particular, the Council had insufficient human resources to handle the volume of work it was undertaking.

The Department also identified a number of areas where the Council could improve its regulatory building control activities by having sound and effective policies and procedures. This included developing policies and procedures in relation to conducting inspections and the vetting and processing of consent applications.

Follow-up review

The Department returned to the Council in November 2006 to carry out a follow-up review. In the review the Department found that the Council had successfully implemented a number of the recommendations made in the 2004 initial review report (see terms of reference 1, 3, 4.2, 4.4, 4.6 and 8.2). In other cases the Council had only partially progressed the recommendations made (see terms of reference 4.1, 4.3, 4.7, 6, 7, 8, 9, 10, 12, 14). The review team also found that the Council had not implemented a number of other recommendations made in the initial review (see terms of reference 4.5, 5, 13).

Update on Council's progress towards implementing review recommendations

The Council advised that since the last on-site visit by the Department, it has progressed a number of initiatives as part of its preparatory work for accreditation as a building consent authority under the Building Act 2004. The council advises that such work is relevant to a number of the review team's recommendations under the following headings of the report (including terms of reference 4.3, 4.5, 4.7, 5, 6, 8, 9, 12, 14, 16, and 17). However, because this work occurred after the review visit, but before this report was finalised, it is only noted by the Department and was not assessed as part of the review.

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

The Department's role

The Department is responsible for conducting technical reviews of territorial authorities and building consent authorities. This is part of its wider statutory responsibilities for building and housing, and administration of New Zealand's building legislation. The Department's key 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 control 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.

Role of the Consent Authority Capability and Performance Group

The Department's Consent Authority Capability and Performance Group undertook the technical review of Franklin District 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 and improve performance at the important building consent and inspection stages of the building process
- managing the accreditation body that will assess prospective and accredited building consent authorities
- strengthening relationships with territorial authorities, building consent authorities, and other key industry stakeholders
- investigating and resolving complaints about performance issues in building consent authorities
- 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:

- enforcing the Building Act, Building Regulations and Building Code
- 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 building work is exempt under Schedule 1 from the need to obtain a building consent
- 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.¹

¹ The points summarised for territorial authorities and building consent authorities are similar to the functions described in section 24 of the former Building Act 1991.

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 their 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 1991.² The Building Act 2004 repealed the Building Act 1991 and the functions of the Chief Executive of the Department of Building and Housing regarding technical reviews were carried over from the former Building Industry Authority.³ This provides the mandate for the Department to complete technical reviews initiated by the former Building Industry Authority 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*.⁴

2 Section 12(1)(d) of the former Building Act 1991 provided that one of the functions of the former Building Industry Authority 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 Building Industry Authority 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.

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

4 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 undertaken using a three-phase process, which usually takes approximately 12–18 months.

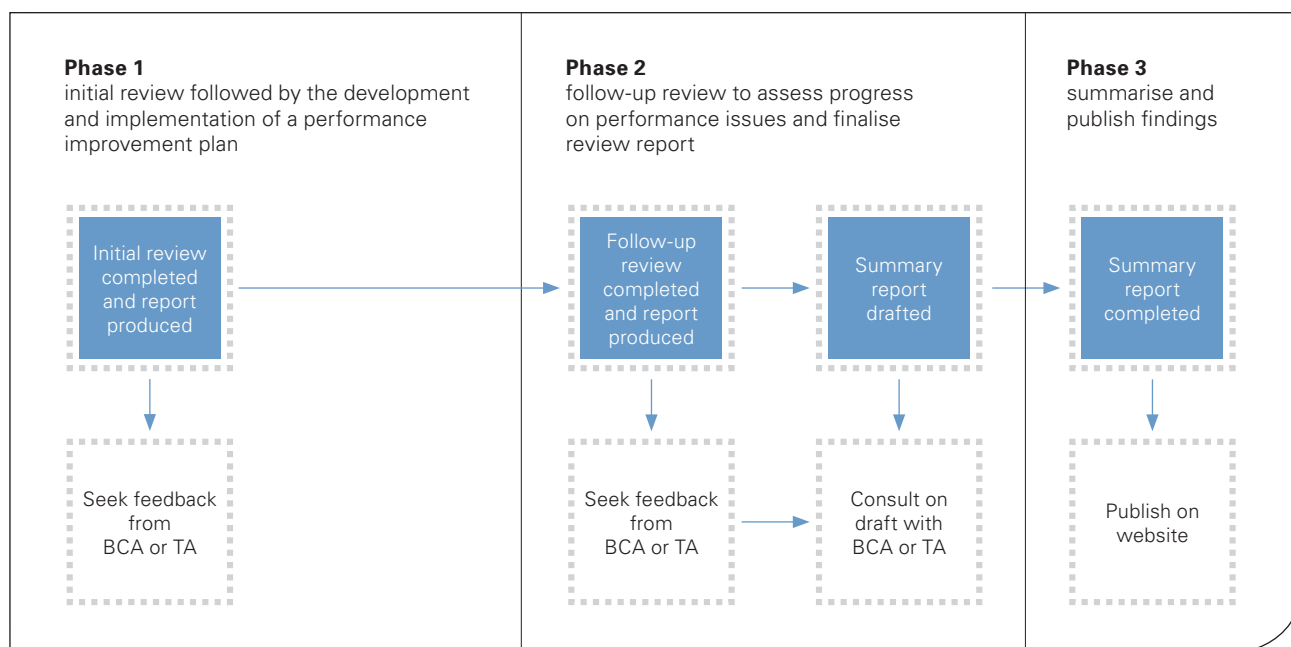
Phase one: The Department undertakes an on-site initial review of the building consent authority's or territorial authority's building control operations and produces a report with recommendations. The organisation then provides feedback to the Department on the report and addresses recommendations made by the Department.

Phase two: A follow-up review is undertaken 9–12 months after completion of phase one to assess how the building consent authority or territorial authority has addressed the recommendations made in 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.

Phase three: 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 indicated in phase three for Franklin District Council.

Figure 1: Overview of the technical review process

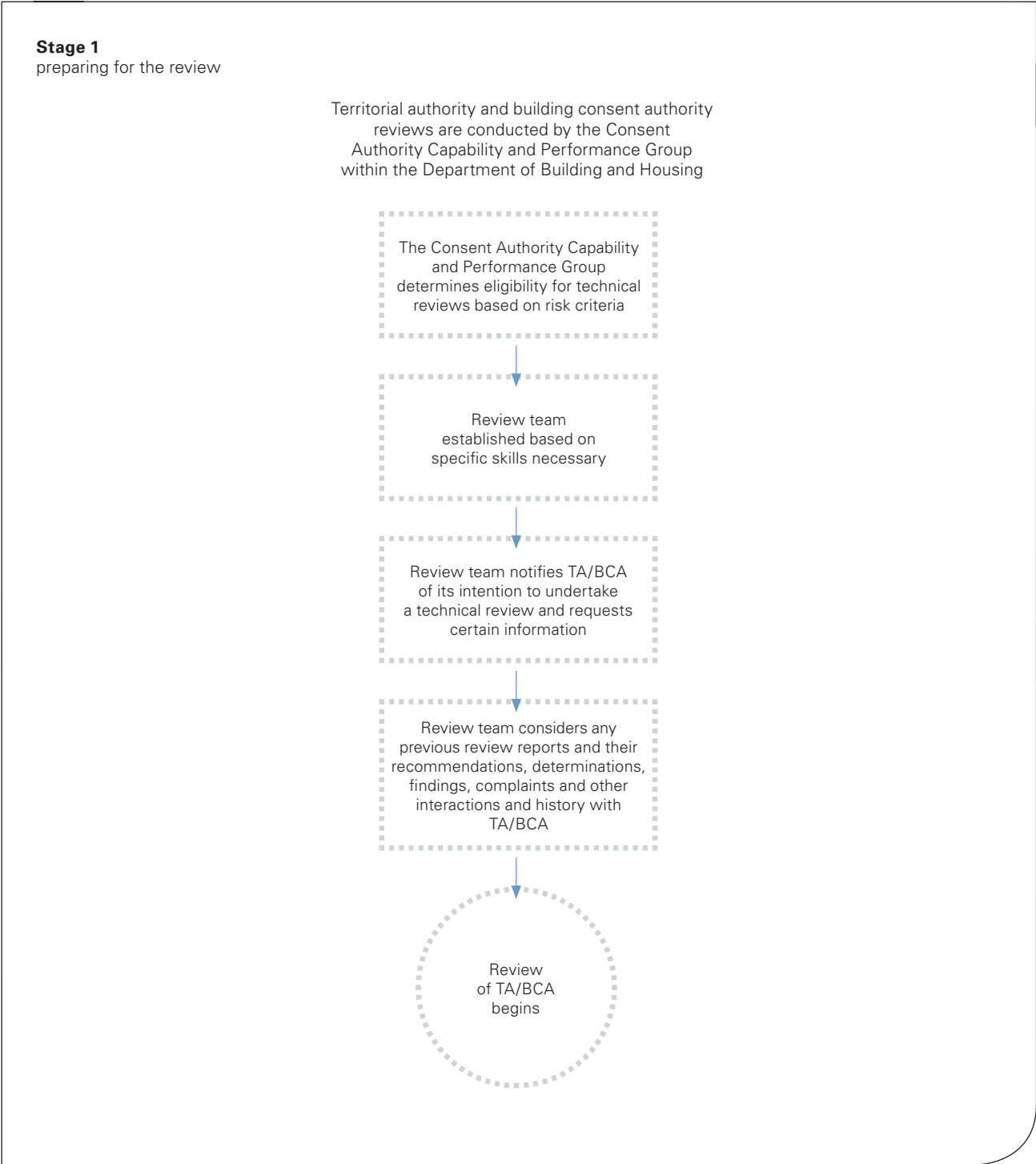


Investigative method

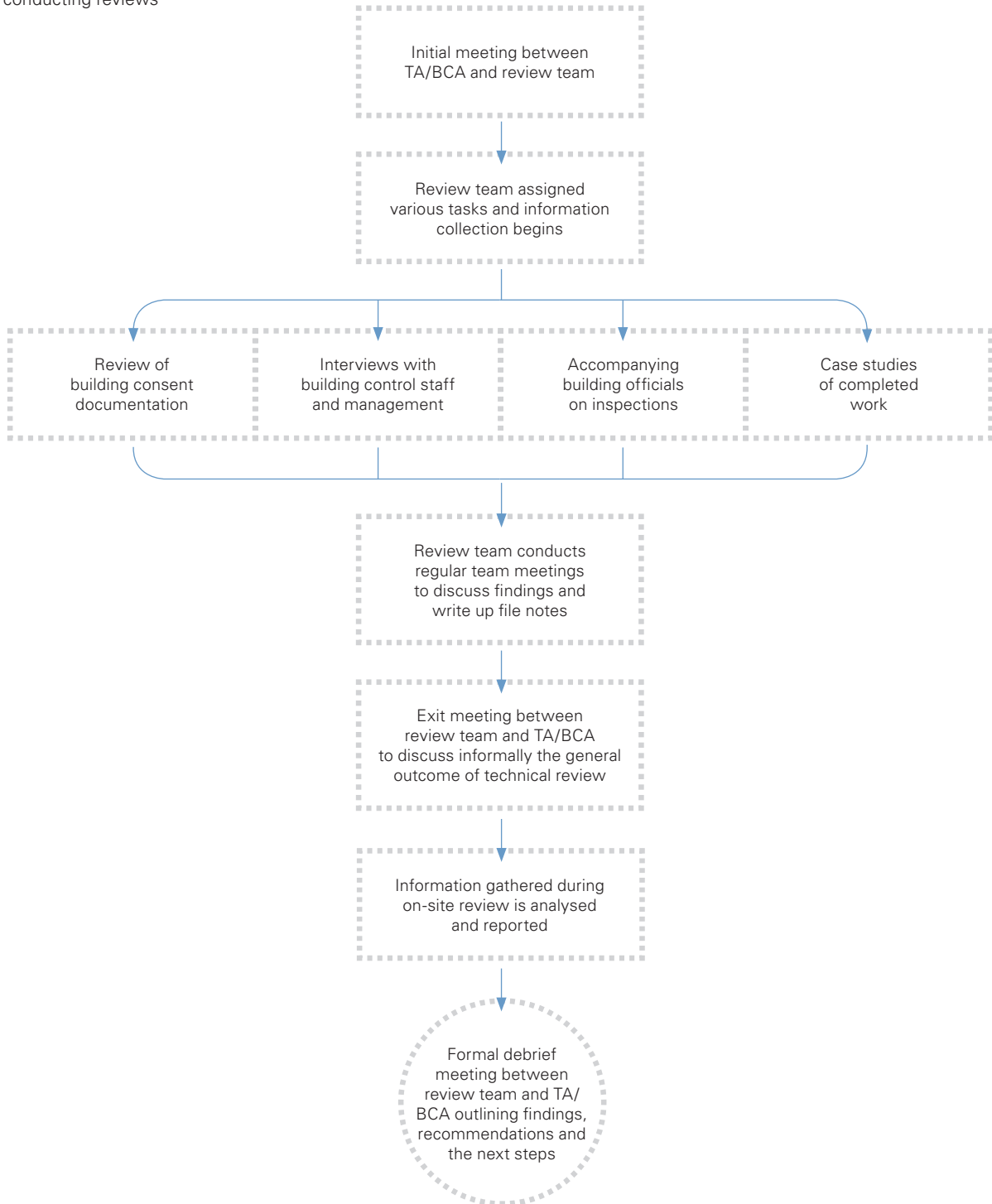
The Department assesses a territorial authority's or building consent authority's performance using a number of methods including:

- 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 2004 on-site visit to Franklin District Council was undertaken over a 5-day period using a five-person team. In November 2006 the follow-up review on-site visit was undertaken over a 5-day period using a six-person team. This provided a snapshot of the Council's building control operations at these points in time. The Department looked at the processes undertaken in processing and approving building consents, and undertaking inspections. This included building work that had recently been completed and had code compliance certificates issued. These case studies were selected randomly.

Terms of reference

The table below sets out the terms of reference used during 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 4.4 Use of notations and endorsements on building consent documents 4.5 Peer review and use of external assessment 4.6 Amendments to building consent applications and requests for additional information 4.7 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

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 2004⁵ 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 (September 2004), the Council’s building control unit was having some difficulty achieving a successful balance between its regulatory building control responsibilities and its internal customer service objectives. The review also identified that there was no clear delegation of some of the Council’s specific regulatory building control powers and responsibilities to particular officers.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review how its regulatory building control performance measures link with wider organisational objectives (including customer service objectives) so that achieving compliance under the Building Act is not put at risk by competing objectives (eg, the need to maintain favourable customer service measures).	The Council improved how its customer service objectives aligned with its wider organisational objectives by altering its service delivery agreements.
Ensure delegations have been made for all sections of the Building Act which require authorised officers to perform the respective functions, duties or powers.	The Council updated its list of delegations.

Follow-up review

The Council has developed a new set of delegations to reflect the requirements and responsibilities of the Building Act 2004 and has taken a number of steps to better align its customer service objectives with its wider organisational objectives, including making alterations to its service delivery agreements.

Conclusion

The Council has implemented the recommendations made by the Department under this part of the review.

⁵ Section 78 of the former Building Act 1991 previously covered the delegation of powers of territorial authorities.

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.

Initial review

The Council provided statistical information for the 12-month period ending 31 July 2004.

Table 1: Consent statistics for 12-month period ending 31 July 2004

Action	Total number
Building consents issued	2,420
Building consents with a value over \$500,000	15
Code compliance certificates issued	1,430
Outstanding code compliance certificates	8,893
Compliance schedules issued	No data provided
PIMS issued	2,476
Total value of construction work consented	\$214,159,666

Follow-up review

The consent statistics for Franklin District Council's building controls operations for the 12-month period ending September 2006 were as follows.

Table 2: Consent statistics for 12-month period ending September 2006

Action	Total number
Building consents issued	2,277
Building consents with a value over \$500,000	58
Code compliance certificates issued	1,648
Outstanding code compliance certificates	8,678
Compliance schedules issued	494
PIMS issued	No data provided
Total value of construction work consented	\$251,979,109

Conclusion

There was a slight decrease in the quantity of building consents issued between the initial and follow-up reviews; however, the volume of building consent work valued at over \$500,000 has increased significantly. The Council's capacity to process this volume of building work is discussed under other terms of reference in this report.

A recommendation about old building consents that the Council has issued, which have not had a code compliance certificate issued, is made under heading 4.7.

3 – USE OF THE PROCESSING CLOCK

Purpose

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

Background

The Building Act 2004 specifies a range of requirements for a building consent authority when it processes applications for building consents. Section 48 of the Act requires that a building consent authority grant or refuse a building consent within 20 working days.⁶ This timeframe may be suspended if insufficient information has been supplied by the consent applicant. The applicant should be notified of this in writing.

Initial review

The Council was not consistently meeting the legislative timeframes for processing building consent applications due to the high levels of building activity and inadequate numbers of building control staff. There was a backlog of building consent applications that had not been processed by the Council and granted (or refused) a building consent.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Recruit additional technical building control staff to enable it to: <ul style="list-style-type: none">• clear its significant backlog of consent applications• meet its current work volumes and consistently meet the prescribed statutory timeframes for processing building consents.	The Council employed 4.4 additional technical building control staff.

⁶ Sections 33 and 34 of the Building Act 1991 previously covered applications for, and processing of, building consents. The prescribed timeframe was previously contained in Clause 6 of the Building Regulations 1992. Building consents under the value of \$500,000 were required to be granted or refused within 10 working days. The building consent had to be granted or refused within 20 working days if it was valued at over \$500,000.

Follow-up review

The Council has acted upon the initial review's recommendation to employ additional technical building control staff, and this has resulted in improved compliance with statutory timeframes (discussed further under heading 4.3, on page 22).

The Council has also reduced its backlog of building consent applications.

Conclusion

The review team considers that the Council has implemented the Department's recommendations.

4 – PROCEDURES FOR DETERMINING COMPLIANCE WITH THE BUILDING CODE

Purpose

To review the key processes and procedures the Council uses when accepting, vetting and processing applications for building consents, and how it establishes whether applications comply with the Building Code. These processes include:

- consent application vetting and lodgement processes (4.1)
- project information memoranda (PIMs) processing (4.2)
- building consent processing (4.3)
- use of notations and endorsements on building consent documents (4.4)
- peer review and external assessment (4.5)
- amendments to building consent applications and requests for additional information (4.6)
- code compliance certificates (4.7).

4.1 Consent application vetting and lodgement processes

Purpose

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

Background

Good-quality drawings and specifications submitted with the building consent application help ensure efficiencies in processing and improved compliance outcomes. Poor-quality or substandard documentation often results in applications being suspended while further information is requested.

Initial review

Although building consent officers were vetting building consent applications prior to lodgement, they were not consistently rejecting poor-quality documentation.

Recommendations made to the Council	Action taken by the Council before the follow-up review
<p>Strengthen processes for receiving and vetting building consent applications to ensure building consent applications with substandard documentation are not accepted. This could be achieved by:</p> <ul style="list-style-type: none"> • clearly defining the information that must be provided before it will accept building consent applications • ensuring such information requirements are communicated to staff • providing training for consent vetting staff to ensure they can readily identify applications with insufficient information • implementing mechanisms to help ensure consistent application of vetting processes (eg, peer review and internal processing audits) • communicating its minimum information requirements to appropriate external stakeholders. 	<p>The Council developed a new vetting checksheet and informed major stakeholders of its new approach.</p>

Follow-up review

The Council developed a new vetting checklist and guidance notes to accompany every building consent application form. Council staff were involved in the development of this material. Building consent officers vet application content against this checklist at the time of consent lodgement and reject applications that do not have sufficient information.

The Council has informed major stakeholders of this new approach and advised it was experiencing a significant improvement in the level of documentation being provided with consent applications. Evidence was found showing that many building consent applications still lacked sufficient detail and evidence to ensure compliance with the Building Code would be achieved.

The Department noted the improvements, but reiterated the recommendation made to the Council in the initial review.

Recommendations made to the Council	Response from the Council
<p>Continue to strengthen the process for receiving and vetting building consent applications consistent with that recommended in the initial review. This includes:</p> <ul style="list-style-type: none"> • clearly defining the information that must be provided before it will accept building consent applications • ensuring such information requirements are communicated to staff • providing training for consent vetting staff to ensure they can readily identify applications with insufficient information • implementing mechanisms to help ensure consistent application of vetting processes (eg, peer review and internal processing audits) • communicating its minimum information requirements to appropriate external stakeholders. 	<p>Council advised that it is continuing to improve the vetting procedure, which includes staff training.</p>

Conclusion

The Council partially progressed the Department's recommendations although work is ongoing. Given the findings of the case studies, the Department reiterates the importance of ensuring that the vetting process is sound, with both staff and stakeholders being clear about information requirements to help ensure substandard building consent applications are not accepted.

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 2004⁷ cover applications for PIMs. These sections specify the minimum information a PIM must include. Information not apparent in the district plan must be included. This includes details of other authorisations, such as details of 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 Council had sound processes relating to site visits of all PIM applications involving new dwellings, residential alterations and effluent disposal systems. However, the Council was not consistently achieving compliance with its statutory timeframes for the issuing of PIMs.

Poor performance in processing timeframes was attributed to high volumes of work, lack of staff resource, and implementation of changes to the District Plan. These factors, for a transitional period, increased processing timeframes significantly.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review the processes used to develop PIMs, and the resources allocated to producing them, to ensure that it consistently meets the timeframes prescribed under the Building Act for producing them.	The Council reviewed its PIM processes and employed two dedicated PIM processing staff.

Follow-up review

The Council improved its level of compliance with the statutory timeframe for the processing of project information memoranda by employing two dedicated processing staff. The Department found a discrepancy in how consistently the Council was recording the need for an Evacuation Scheme, as required under the Fire Services Act 1975, in its project information memorandum.

⁷ Sections 30-31 of the Building Act 1991 previously covered applications for and processing of PIMs.

Recommendations made to the Council	Response from the Council
Ensure consent applicants are advised when an Evacuation Scheme is required and that this is recorded on the project information memorandum.	The Council noted the Department's finding and queried whether this recommendation should have formed part of the follow-up review. However, the Council advised that it does now include a reference to Evacuation Schemes in its project information memoranda where it is appropriate.

Conclusion

The Council has implemented the Department's recommendations. The Building Act 2004 was passed part way through this review process. It is the responsibility of all councils to amend their systems and processes to reflect the new Act. At the time of the follow-up review, inconsistencies were again found in the Council's recording of the need for an Evacuation Scheme on project information memoranda.

4.3 Building consent processing procedures

Purpose

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

Background

Territorial authorities or building consent authorities should have systematic processes in place to assess 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 Council had no formal policy or procedure for the processing of building consents and did not conduct audits of its systems to demonstrate that compliance with the Building Code was being consistently achieved. At the time of the review, the Council had recently adopted a checklist system for building consent processing. However, the Department found no evidence that this checklist was in widespread use or was being used effectively.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Implement a policy to underpin its consent processing activities. This should include an effective checklist to demonstrate due consideration has been given to all appropriate Building Code provisions and to provide an audit trail for each consent.	The Council upgraded its processing checklist.
Implement other quality assurance mechanisms (such as peer review and internal audits of consent processing activities) to ensure staff are consistently and accurately using the new process.	The Council developed a review process to check whether the Council's consent processing procedures had been followed.
Ensure it has sufficient consent processing staff to enable consistent and rigorous processing of the increased work volumes being faced by the Council.	The Council partially fulfilled this recommendation by separating technical staff into either processing or inspection teams.

Follow-up review

The Council started the process of developing and documenting formal policies and procedures for building consent processing. The building consent processing checklist had also been upgraded by aligning the order of the prompts on the checklist with Building Code Clauses B1 to H1. Staff members were also being encouraged to document their reasoning for approving alternative solutions on the back of the checklists.

The new senior building consent officer had implemented a building consent review process. Two building consents were randomly reviewed per week to determine if the Council's processes were followed. The review team considered that this process did not constitute a comprehensive audit as it largely consisted of a process check rather than an assessment of whether Code compliance had been achieved.

The Department noted that the Council was achieving 92 percent compliance with processing timeframes over the previous 3 months, although this was partly due to staff working overtime.

Evidence from case studies revealed consent documentation was not being consistently date stamped when received and that building consent documentation, application forms and code compliance certificates were not consistently identifying the building's intended or approved use.

Recommendations made to the Council	Response from the Council
Continue to improve processing checklists.	The Council advised that it has undertaken further work on the documentation of consent processing procedures as part of its preparations to be accredited as a building consent authority.
Formally document the basis for peer review and auditing processes.	
Enhance consent review processes to include an assessment of whether Code compliance has been achieved.	

Conclusion

The Council has partially implemented the recommendation. It also advises that work is ongoing as it prepares for accreditation as a building consent authority. However, because this occurred after the follow-up review visit, the Department did not assess that work.

4.4 Use of notations and endorsements on building consent documents

Purpose

To examine the Council's use of building consent conditions and plan notations.

Background

Consent conditions or notations can be used as educational tools and to highlight aspects of construction requiring particular attention. Conditions should not be applied to cover deficiencies in consent documentation, that should be rejected at lodgement. While this enables the Council to avoid requesting additional information and can sometimes help to expedite processing, it fails to meet the requirements of the Act.

The incorrect use of notations or conditions may place the Council in the role of being a designer, not an appropriate role in the building control context. Nominating design solutions may also have cost implications for the consent applicant and should therefore be left to the designer and applicant to determine.

Initial review

The Council was making extensive use of notations and endorsements, which in some cases were being used to cover deficiencies in building consent documentation.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop a policy to clarify when the use of consent conditions and notations is appropriate.	The Council developed a policy to clarify when the use of conditions and notations is appropriate.

Follow-up review

The Council developed a formal policy outlining the purpose, responsibility, and use of stamps and stickers and provided this to relevant staff. The senior building officer is now responsible for regularly reviewing the use of notations.

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

Conclusion

The Council implemented the Department’s recommendation.

4.5 Peer review and external assessment

Purpose

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

Background

Territorial authorities and building consent authorities have a responsibility to ensure building consents and code compliance certificates are issued correctly, and that inspections are carried out effectively. An internal peer review system helps ensure the systems used for regulatory building control are rigorous and consistent. Additionally, by using appropriate technical specialists, the Council will ensure building consents comply with the Building Code and buildings are completed in accordance with the consented plans and specifications.

Initial review

The Council did not have any formal procedures for peer review of inspection work, nor was there a formal audit trail to demonstrate how processing or inspection officers ascertained that Code compliance was being achieved.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Ensure robust peer review processes are implemented at all stages of the consent processing, inspection and approval processes.	The Council had not implemented this recommendation.
Ensure peer review is appropriately documented and kept on file with the consent documentation.	The Council had not implemented this recommendation.
Ensure appropriate peer reviews for applications containing areas of specialisation undertaken in-house (eg, fire design).	The Council had not implemented this recommendation.

Follow-up review

The Council was rarely undertaking technical peer review of consent processing, inspection and approval work and had yet to document its policies and procedures in this area. Where peer review was occurring, such as between processing officers, the process was informal and not documented. The Council was also still not outsourcing peer review of consent applications containing areas of specialisation outside the competence of in-house staff.

Recommendations made to the Council	Response from the Council
Develop robust policies and processes for peer review and implement these at all appropriate stages of the consent processing, inspection and approval processes.	The Council advised that it is working towards this as part of its preparations to be accredited as a building consent authority.
Ensure peer review is appropriately documented and recorded.	The Council advised it is working towards this as part of its preparations to be accredited as a building consent authority.

Conclusion

The Council did not implement the Department's recommendations during the review. The Council advised it has begun work to implement these recommendations as part of its preparations for accreditation as a building consent authority. However, because this occurred after the follow-up review visit, the Department did not assess that work.

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)⁸ of the Building Act 2004. Councils can also require further reasonable information in respect of a building consent application. If a council lawfully does this, the application is suspended until the council receives the required information as required under section 48(2)⁹ of the Act.

Initial review

The Council was expending significant resource requesting further information during building consent processing.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Review recent requests for additional information to identify any recurring deficiencies. Missing information can be more readily identified during the consent vetting procedures.	The Council developed an enhanced vetting checklist.

Follow-up review

The Council had developed and implemented a new vetting checklist, which was reducing the number of requests for further information. The Department also found that the Council was still not adequately reviewing requests for additional information to identify recurring deficiencies.

Recommendations made to the Council	Response from the Council
Continue to review requests for additional information to identify any recurring deficiencies. Such deficiencies should then be included for checking on the lodgement vetting sheet to reduce processing delays.	Council has advised it has now adopted this recommendation.

Conclusion

The Council has adopted this recommendation and is continuing work to review requests for additional information to identify recurring deficiencies.

⁸ Previously covered under section 33(4) of the Building Act 1991.

⁹ Previously covered under section 34(2) of the Building Act 1991.

4.7 Code compliance certificates

Purpose

To examine the Council's processes regarding 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 apply for a code compliance certificate (in the prescribed form) as soon as practicable after building work is completed
- a building consent authority issue a code compliance certificate if it is satisfied, on reasonable grounds, that building work complies with the building consent
- a building consent authority be satisfied 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 days of receiving an application for a code compliance certificate or other further period agreed between a building consent authority and 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 2 years of 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 good practice for building consent authorities to have a system to proactively follow-up on all building consents issued under the Building Act 1991 that have not had code compliance certificates issued.¹⁰

Initial review

The Council was not always undertaking appropriate enforcement action at the code compliance certificate stage when aspects of non-compliance were identified. Rather than risk confrontation, the Council preferred to encourage compliance rather than issue a notice to rectify.¹¹ Enforcement action was generally considered an action of last resort.

The review also identified that the Council had around 9,000 old building consents issued under the Building Act 1991 that did not have code compliance certificates issued for the building work.

¹⁰ 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 s433 of the Building Act 2004).

¹¹ The Building Act 1991 provided for the issue of a notice to rectify to address issues of non-compliance. The Building Act 2004 provides for the issue of a notice to fix to address issues of non-compliance with the Building Code, Building Regulations or Building Act.

Recommendations made to the Council	Action taken by the Council prior to the follow-up review
Develop policy and procedures for dealing with all outstanding or uncompleted building consents.	The Council had partially developed policies and procedures in this area.
Issue a notice to rectify 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.	The Council had not implemented this recommendation.
Manage non-compliance within a risk management framework and take enforcement action whenever appropriate.	The Council had not implemented this recommendation.

Follow-up review

The Council had not fully developed its policies and procedures for issuing code compliance certificates. The Council has worked to reduce its backlog of building consents issued under the 1991 Act that have not had code compliance certificates issued.

The review team found that the Council still prefers to encourage compliance. This is generally achieved by issuing a 'notice of non-compliance' if a code compliance certificate could not be issued at the time of the final inspection. The Council advised the review team that a formal policy and procedure has been adopted; however, this policy and procedure was not implemented at the time of the follow-up review.

Recommendations made to the Council	Response from the Council
Continue to work towards reducing the backlog of building consents that have not had a code compliance certificate issued for the building work.	The Council queried the rationale for this recommendation. However, it also advised that it has adopted a formal policy and procedure on this matter as part of its preparations to become accredited as a building consent authority, which it believes will assist to produce superior compliance outcomes for all concerned.
Implement a policy providing for the issue of a notice to fix at the time of final inspection if non-compliance is identified (rather than issuing a 'notice of non-compliance'), if the non-compliance is such that a notice to fix is appropriate in the circumstances.	The Council has included in its documented policies the following provision relating to code compliance certificates. 'Where the application (for a code compliance certificate) is refused, the owner or agent is notified in writing, giving reasons for the refusal, and... advised that the building work is so seriously non-complying as to result in a Notice to fix to be served. In such circumstances, the procedure outlined in BCA-07-01 Notice to fix, will be followed.'

Conclusion

The Department considers that the Council has implemented the majority of the initial review recommendations, although ongoing effort is required for following-up old consented building work that has not had a code compliance certificate issued.

The Department notes that all building consent authorities must decide whether to issue or refuse to issue a code compliance certificate for building work that has a building consent issued under the Building Act 2004 within 2 years of the date the consent was granted.

In addition to this, the Department also considers it good practice for councils to have a system for appropriately following up on all outstanding building consents, including those issued under the former Building Act 1991. There are benefits to both homeowners and building consent authorities from such an approach (rather than a more passive approach of waiting for the owner to apply, which may take a long time). It will increase homeowners' awareness of their legal obligations and give them the time to plan how to redress any non-compliance identified (rather than having to urgently resolve non-compliance issues in potentially stressful situations such as when selling their houses).

Following up on outstanding building consents sooner rather than later is also likely to assist the Council's own risk management practices and minimise the chance for other compliance issues to surface over time. The Department also notes that many councils operate such systems for proactively following up outstanding building consents and that the Building Act 2004 enables councils to charge for follow-up activities under the Act.

The Department also considers that issuing a notice to fix may be more appropriate in some cases than issuing a 'notice of non-compliance' at the time of final inspection. The key point is that councils should select the most appropriate mechanism for the circumstances of each case. For example, if the non-compliance has health or safety implications or could lead to significant building failure, then we believe a notice to fix would be more appropriate than issuing a notice of non-compliance. If it was a more minor non-compliance then it may well be that a notice of non-compliance is more appropriate.

5 – ASSESSING ALTERNATIVE SOLUTIONS

Purpose

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

Background

Alternative solutions are a method of demonstrating that a building project will comply with the Building Code. Councils should make their own assessments of whether the performance of the proposed alternative solution is adequate, using known performance of the relevant Acceptable Solution as a benchmark. Alternative solutions may involve materials, components, or methods that differ from those in a Compliance Document, but which still satisfy the objectives of the Building Code.

Initial review

The Council did not have a formal policy for assessing and making decisions on alternative solutions proposed in consent applications.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop a policy to define how it processes proposed alternative solutions including requirements to: <ul style="list-style-type: none"> • justify acceptance or rejection of a proposed alternative solution • ensure consent applications contain specific and relevant information pertaining to the alternative solution • clearly document and maintain records of the use and acceptance of alternative solutions. 	The Council had not implemented this recommendation.

Follow-up review

The Council had not developed a formal policy to guide technical staff in the processing of alternative solutions. The Department reiterated the importance of developing a clear policy as a way of ensuring all staff and contractors use a consistent methodology.

Recommendations made to the Council	Response from the Council
Develop a formal policy and procedure for the acceptance of alternative solutions including requirements to: <ul style="list-style-type: none"> • ensure consent applications contain specific and relevant information pertaining to the alternative solution • justify its acceptance or rejection of proposed alternative solutions, demonstrating how Code compliance will be achieved • clearly document and maintain records of its own use and acceptance of alternative solutions • consistently follow and apply the policy. 	The Council advised that it is working towards satisfying this recommendation as part of its work to become accredited as a building consent authority.

Conclusion

The Council did not implement the Department’s recommendations during the review. Although the Council is implementing the Department’s recommendation as part of its preparations for accreditation as a building consent authority, because this was initiated after the follow-up review visit, the Department did not assess that work.

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’ view that plans, specifications or completed work complies 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 as part of the plans and specifications.

Initial review

The Council had a producer statement policy and some supporting procedures, but also needed to develop a more comprehensive policy to underpin how it assessed and made decisions about whether to accept producer statements. In particular, the Department found that producer statements the Council had accepted did not adequately cover off issues around Clause B2 (Durability) of the Building Code. In addition, the Council did not have a register of approved producer statement authors.

Recommendations made to the Council	Action taken by the Council prior to the follow-up review
<p>Ensure its producer statement acceptance policy provides comprehensive coverage of how staff should assess and make decisions on producer statements. The policy should cover:</p> <ul style="list-style-type: none"> • when it asks for or accepts producer statements • its acceptance criteria for producer statement authors (eg, their qualifications, competence, insurance, professional affiliations, quality assurance procedures, and the scope of practice for which they can write them) • the form and required content for producer statements • the charges for accepting a statement (which can include recovery of the cost of undertaking regular audits) • the roles and responsibilities of Council staff regarding the producer statements regime • audit procedures. 	<p>The Council had not implemented this recommendation.</p>
<p>Maintain a register of approved producer statement authors.</p>	<p>The Council had not implemented this recommendation.</p>
<p>Require producer statements for appropriate design elements to demonstrate compliance with Clause B2 (Durability) of the Building Code.</p>	<p>The Council was requesting that producer statements make reference to Clause B2 (Durability) of the Building Code.</p>

Follow-up review

The Council had not developed a more comprehensive policy for assessing and making decisions relating to producer statements. The Council had not developed a register of approved producer statement authors. However, the Department did find that the Council was now requesting that producer statements make reference to Clause B2 (Durability) of the Building Code and a statement about the author’s insurance cover.

The Department reiterated the two recommendations still outstanding from the initial review.

Recommendations to the Council	Response from the Council
<p>Develop a producer statement policy that should cover:</p> <ul style="list-style-type: none"> • when a producer statement is required (eg, Clause B2 (Durability)) • acceptance criteria for producer statement authors (eg, their qualifications, competence, insurance, professional affiliations, quality assurance procedures and scope of practice) • the form and required content for producer statements • audit procedures • methods for ensuring that policy is consistently followed and applied. 	<p>Council advised it does not entirely agree with this recommendation. It believes producer statements can be used at varying levels in the building consenting and construction phases and this requires consideration of different acceptable criteria according to the level of producer statement importance and the level of the author’s competency.</p> <p>The Council advised it has addressed these matters in the acceptance and use of producer statements in processing building consent applications, and again in inspecting building work in progress, in its preparations to be accredited as a building consent authority.</p>
<p>Maintain a register of approved producer statement authors.</p>	

Conclusion

The Council did not implement the majority of the Department’s recommendations during the review. However, it advised it has undertaken further work to its satisfaction as part of its preparatory work for accreditation as a building consent authority. The Department did not get an opportunity to assess such work as it occurred after the follow-up review visit.

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
- 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 and a number of guidance documents have been published by the Department on weathertightness compliance, requirements and construction methods.

Initial review

The Council did not have any formal policy or procedures for processing weathertightness compliance and documenting the reasons for its decision-making around compliance. On-site inspectors seemed to demonstrate limited technical weathertightness compliance expertise and knowledge. In addition to this, roles and responsibilities regarding weathertightness compliance were not clear to all staff.

Recommendations made to the Council	Action taken by the Council before the follow-up review
<p>Develop a formal policy and procedures to underpin its weathertightness compliance regulatory activities. This should include:</p> <ul style="list-style-type: none"> • the required level of specification to be provided with weathertightness detailing • information requirements for acceptance of alternative solution cladding systems • on-site inspection procedures to ensure compliance is achieved during and after construction • weathertightness consent processing and inspection checklists • clearly defined roles and responsibilities of the Council's staff involved in weathertightness compliance. 	<p>The Council had not implemented this recommendation.</p>
<p>Ensure:</p> <ul style="list-style-type: none"> • adequate time and resources are allocated to the processing of weathertightness details within consent applications and to the inspection of weathertightness compliance • the overall level of Council technical knowledge of weathertightness compliance is improved by using appropriate levels of practical weathertightness training. 	<p>The Council had not implemented this recommendation.</p>
<p>Require designers to provide site-specific construction details that demonstrate adequate weathertightness compliance.</p>	<p>The Council had not implemented this recommendation.</p>
<p>Ensure consent applications with inadequate weathertightness detail are not accepted.</p>	<p>The Council developed improved consent vetting and lodgement processes.</p>
<p>Develop strategies for targeting design professionals and other stakeholders to communicate Council expectations on the level of weathertightness detail for high-risk-category buildings.</p>	<p>The Council had not implemented this recommendation.</p>

Follow-up review

The Council had made some progress in adopting the initial review recommendations. In particular, improvements made to the Council's consent vetting and processing systems were resulting in a greater emphasis being placed on weathertightness and checking site-specific construction details. The Department did find that some consent applications were still lacking adequate weathertightness detail.

At the time of the follow-up review, the Council had yet to develop a formal policy and procedure to ensure a consistent approach to, and application of, weathertightness compliance was being delivered. The Council was still not adequately informing design professionals and other stakeholders of its expectations on the level of weathertightness detail for high-risk-category buildings. The review team noted the Council had increased the number of weathertightness-related inspections it was undertaking (eg, on the building envelope).

Recommendations to the Council	Response from the Council
Implement the recommendation from the 2004 initial review to develop policy and procedures to underpin its assessment of weathertightness compliance. This should include: <ul style="list-style-type: none"> • formalising on-site inspection procedures to ensure compliance is achieved during and after construction • formalising weathertightness consent processing and inspection checklists. 	The Council advised it has substantially implemented the recommendations on weathertightness issues regarding staff training, and building consent application vetting and processing areas.
Develop strategies for targeting design professionals and other stakeholders to communicate the Council's expectations on the level of weathertightness detail for high-risk-category buildings.	The Council did not respond to this recommendation.

Conclusion

The Council has made progress in implementing the Department's recommendations. The Department encourages the Council to continue work to develop weathertightness communication strategies targeted at stakeholders.

8 – COMPLIANCE WITH OTHER BUILDING ACT REQUIREMENTS

Purpose

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

Background

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

- issuing building consents where an authorisation under the Resource Management Act (RMA) 1991 is required (section 37)¹²
- building on land subject to erosion, etc (sections 71–74)¹³
- alterations and changes of use to existing buildings (sections 112, 114 and 115)¹⁴
- dangerous and insanitary buildings (described in sections 121 and 123)¹⁵
- earthquake-prone buildings (described in section 122).¹⁶

¹² Previously covered under section 35(1A) of the Building Act 1991.

¹³ Previously covered under section 36 of the Building Act 1991.

¹⁴ Previously covered under sections 38 and 46 of the Building Act 1991.

¹⁵ Previously covered under section 64 of the Building Act 1991.

¹⁶ Previously covered under section 66 of the Building Act 1991.

Initial review

Restrictions and limitations on building consents

The initial review identified the Council did not have formal policies or procedures for staff to follow when making decisions relating to:

- placing conditions on a building consent that relate to the Resource Management Act (RMA) 1991, as per section 35(1A)¹⁷
- alterations to existing buildings (section 38)¹⁸
- change of use to buildings (section 46).¹⁹

Dangerous and insanitary buildings

The initial review found that the Council did not have a policy and procedure relating to dangerous and insanitary buildings.

Earthquake-prone buildings

The initial review identified that the Council did not have any mechanism for identifying buildings that were potentially earthquake-prone. The Council also had no policy or procedure for the assessment of earthquake-prone buildings.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop procedures that ensure consistent application of requirements under sections 38 and 46 of the Building Act 1991 and that consideration of these issues is clearly documented.	The Council introduced systems for assessing compliance with the relevant provisions of the Building Act 2004.
Ensure staff receive appropriate training regarding their obligations under these sections of the Act.	The Council had not implemented this recommendation.
Develop policies for dangerous, insanitary and earthquake-prone buildings.	The Council developed a policy on dangerous, insanitary and earthquake-prone buildings.

Follow-up review

Restrictions and limitations on building consents

The Council introduced a system for assessing compliance with sections 46, 47, 73, 77, 112, 114 and 115 of the Building Act 2004. However, this system was not fully documented and was, as a consequence, being applied inconsistently. Furthermore, the Department found that the Council was yet to provide staff with training relating to their obligations under the above sections of the Act.

¹⁷ Now covered under section 37 of the Building Act 2004.

¹⁸ Now covered under section 112 of the Building Act 2004.

¹⁹ Now covered under section 114 of the Building Act 2004.

Dangerous and insanitary buildings

The Council had developed a policy for dangerous and insanitary buildings as required by section 131 of the Building Act 2004.

Earthquake-prone buildings

The Council had developed a policy for earthquake-prone buildings as required by section 131 of the Building Act 2004.

Recommendations to the Council	Response from the Council
Fully develop and document policies and procedures to ensure consistent application of requirements under the various sections of the Building Act 2004.	The Council advised it had adopted formal policies and procedures on these matters as part of its preparations to be accredited as a building consent authority.
Train staff to ensure the policies and procedures are followed.	The Council advised it had adopted formal policies and procedures on training as part of its preparations to be accredited as a building consent authority.

Conclusion

The Council has substantially progressed its implementation of the Department's recommendations. While it advises that further work has subsequently been undertaken as part of its preparation for assessment as a building consent authority, the Department did not assess such work during this review.

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 particular responsibilities for owners of commercial, institutional, and industrial buildings and for territorial authorities and building consent authorities. Buildings containing certain specified systems such as fire alarms and lifts require such systems to be listed on a compliance schedule. The owner must ensure continued effective operation of those systems and demonstrate it by displaying a current building warrant of fitness in their building.

Initial review

The Council had a system for processing compliance schedules. However, no formal policy or procedure existed. It was also found that certifier applications were not being consistently checked to identify if a compliance schedule was required.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Ensure full details relating to compliance schedule features are provided at the time of consent lodgement.	The Council made some improvements to its lodgement and vetting processes.
Document its compliance schedule and building warrant of fitness policy and procedures.	The Council had begun documenting its compliance schedule and building warrant of fitness policy and procedures.

Follow-up review

The Department found that the Council had partially implemented the initial review's recommendation to document its compliance schedule and building warrant of fitness policy and procedures. The Council had contacted building owners who had not supplied sufficient building warrant of fitness documentation and vetting officers were required to check that the section on Form 2 (relating to specified systems) was completed at the time of application lodgement. The Council's building consent application guide requests applicants provide information on compliance schedules so the Council vetting officer can check this.

Recommendations to the Council	Response from the Council
Ensure the compliance schedule and building warrant of fitness policy and procedure is fully documented.	The Council advised that policies and procedures have been developed as part of its preparations to become accredited as a building consent authority.
Provide training in the use of the new system to all BWoF staff.	The Council advised it has adopted formal policies and procedures on training as part of its preparations to be accredited as a building consent authority.

Conclusion

The Council partially implemented the Department's recommendations. The Council advised that additional work has been undertaken as part of its preparation for accreditation as a building consent authority. However, because this occurred after the follow-up review visit, the Department did not assess such work.

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 people with disabilities are able to enter a building and carry out normal activities and functions within a building. These provisions include sections 117–120 of the Act. A range of training courses is available for staff to enhance their knowledge and skills in this area.

Initial review

The review noted a significant number of instances of accessibility non-compliance with sections 47A, 38 and 46 of the Building Act 1991. These included:

- no signage for access or car parks for people with disabilities
- accessible toilet area being used for storage
- no accessible entrance provided to a main building.

It was evident that further training of Council staff in accessibility compliance was required.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop appropriate process support and documentation to assist building control staff to assess building consents for accessibility compliance and ensure completed work is also compliant.	The Council had not implemented this recommendation.
Provide staff with training opportunities to ensure accessibility requirements of the Building Act and Building Code are consistently applied by processing and inspection staff.	Six staff completed a Barrier Free training course.

Follow-up review

The Council had begun to implement the recommendations of the initial review, with six staff having attended Barrier Free Trust training on accessibility. Despite this training, the Department found evidence that compliance with accessibility provisions was still not being consistently achieved and that access and facilities for people with disabilities was not being consistently considered by the Council when inspecting and signing off work.

The Department also identified that the Council does not have a formal policy or procedure for assessing accessibility compliance. While the Council’s processing checklists include information on accessibility compliance, there is no specific inspection sheet to address access and facilities for people with disabilities.

Recommendations to the Council	Response from the Council
<p>Consider methods of improving accessibility compliance such as:</p> <ul style="list-style-type: none"> • developing an inspection checklist specifically for the assessment of accessibility compliance • developing and implementing formal policies and procedures for inspection work to ensure all inspection staff use a consistent and effective methodology • conducting regular audits of consents processed to ensure accessibility has been adequately considered and training provided to staff is being effectively applied • developing and implementing an on-site peer review process for accessibility compliance. 	<p>The Council advised that considerable effort has been made to upskill staff in accessibility requirements. It also advised it considers it has sufficient skill coverage in this area.</p>

Conclusion

The Council has partially implemented this recommendation, but has further work to do to develop a policy or procedure for assessing accessibility compliance.

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. Councils 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 of the inadequate supply of appropriately qualified new staff. Councils must, therefore, also consider ways to use existing staff more effectively.

Initial review

The Council’s building control unit was under pressure to manage the volume of building control it was faced with. Additional staff were needed to improve the effectiveness of the Council’s building control activities and to decrease the backlog of uncompleted building consents.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop a long-term proactive strategic plan for the recruitment and retention of building control processing and inspection staff.	The Council had not implemented this recommendation.
Undertake a review of the human resource requirements for its building control operations.	The Council initiated a scholarship scheme to develop and attract new building control staff and identified the need to continue to develop building control staff capability in the Long Term Council Community Plan.
Recruit additional technically competent and experienced staff to enable it to meet building control work volumes and legislative building control responsibilities.	The Council recruited an additional 4.4 full-time building control staff.

Follow-up review

The Council has undertaken a number of actions to implement the recommendations of the initial review. In particular, the Council recruited an additional 4.4 full-time building control staff and initiated a scholarship scheme to develop and attract new building control staff. As part of this recruitment process, the Council has established a new senior building officer position in order to provide audit, quality and technical expertise. The Council has also identified the need to continue to develop building control staff capability in its Long Term Council Community Plan.

While the increase in staff was enabling the Council to better meet processing and inspection timeframes, there was little capacity available to meet usual increases or peaks in workflows, particularly as processing staff are currently working overtime. As well as this, there was still a significant backlog of building consents (8,000) that do not have a code compliance certificate issued for the building work.

The Department also found that the Council had yet to introduce a long-term proactive strategic plan for the recruitment and retention of building control staff, as recommended in the initial review in 2004.

Recommendations to the Council	Response from the Council
Continue to recruit additional technically competent and experienced staff to enable it to meet legislative building control responsibilities.	The Council advised that it had put in considerable effort to recruit skilled staff.
Develop a long-term proactive strategic plan for the recruitment and retention of building control processing and inspection staff.	The Council advised that it had recently introduced new employment benefits such as long service leave entitlements to help retain staff.
Continue to develop the cadetship scheme to encourage potential building officials into the industry.	The Council advised that it provides a cadetship for new people wishing to train and enter the industry.

Conclusion

The Department commends the Council's effort to recruit new staff, including the implementation of a cadetship, and developing policies to retain staff. The Council is encouraged to continue identifying long-term recruitment and retention strategies, including recruiting new building control staff as soon as possible.

12 – TECHNICAL KNOWLEDGE AND ABILITY OF STAFF

Purpose

To examine the collective technical knowledge and ability of the building control unit regarding the Building Act, Building Regulations and the Building Code, and to examine the provisions that have been made for staff training and upskilling.

Background

Building control has progressively become 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 and expertise of building control staff must increase with that trend.

Initial review

The Council's staff had the core technical competencies necessary to fulfil the various compliance functions required by the Building Act and the Building Code. However, the level and quality of consent processing work varied considerably and compliance was not always being achieved by projects that had been approved as complying with the Building Code. Technical leadership of the building control group required enhancing and there was no formal quality assurance system in place to underpin the Council's building control operations. There was also no up-to-date technical skills matrix to identify staff competencies and training needs.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Enhance the technical knowledge and competence of staff by: <ul style="list-style-type: none">• developing a staff competency and technical skills matrix that clearly identifies staff training requirements• ensuring necessary training occurs (especially in weathertightness compliance and accessibility compliance, and the requirements of the new Building Act 2004) and consider a wider pool of training options such as industry specialists• providing additional resources to cover staff while they are at training courses and seminars• enhancing the sharing of technical knowledge amongst building control staff to ensure expertise is not restricted to one person.	The Council provided its staff with some additional training in weathertightness and accessibility compliance.

Provide technical leadership to the building control group through the provision of a senior technical team leader or technical mentor.	The Council appointed a new Senior Building Consent Officer.
Implement quality assurance mechanisms, including sourcing additional technical resource to peer review and undertake quality audits of consent processing, inspections, and approval work.	The Council introduced limited auditing processes.

Follow-up review

The Council has undertaken a limited number of actions in order to implement the recommendations of the initial review. This included the appointment of a new Senior Building Consent Officer, the introduction of limited auditing processes, and the provision of additional staff training in weathertightness and accessibility compliance.

The Council had yet to implement the majority of the recommendations made in the initial review. In particular, the Council needed to consider introducing effective methods of assessing staff competence, such as a competency matrix, to ensure work is always allocated to competent individuals. The Council also needs to introduce a formal quality assurance system to underpin its building control operations.

The Department also found that the Council had yet to introduce a formalised mechanism for the sharing of technical knowledge and skills as recommended in the initial review.

Recommendations to the Council	Response from the Council
Develop and implement a more rigorous system for: <ul style="list-style-type: none"> • assessing the competency of staff (and applicable contractors), through the use of a competency matrix • ensuring building control work is always allocated according to competence • determining individual professional development/ training plans • increasing ongoing professional development in key compliance areas • identifying appropriate technical leaders and mentors. 	The Council advised that it has developed appropriate systems as part of its preparations to be accredited as a building consent authority.

Conclusion

The Council has partially progressed the Department's recommendations. While additional work has been undertaken as part of the Council's preparation for assessment as a building consent authority, the Department did not assess such work during this review.

13 – ADEQUACY OF RESOURCES

Purpose

To examine the resources the Council’s 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 few strategies for improving its building control operation. Recommendations were made that the Council develop a technology support strategy for building control work to identify available support strategies and explore how they could be cost-effectively implemented (eg, use of digital cameras).

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop a technology support strategy for building control work to identify available support strategies and how they could be cost-effectively implemented.	The Council had not implemented this recommendation.

Follow-up review

The review team identified that the Council was in the process of considering the recommendation made in the initial review, but little progress had been made to date. The Department reiterated the recommendation made in the initial review report.

Recommendations to the Council	Response from the Council
Continue to develop its technology support strategy for building control work, which will identify available support strategies and how they could be cost-effectively implemented (eg, use of digital cameras).	Council advised that it believed it already provided its inspection staff with resources to adequately undertake their duties.

Conclusion

The Council did not implement the Department’s recommendation as it felt its inspection staff were adequately equipped to perform their duties. The Department encourages the Council to continue to identify cost-effective support strategies for its building control staff.

14 – ADEQUACY, SECURITY AND AVAILABILITY OF RECORDS

Purpose

To assess the Council’s record-keeping processes, information facilities, and public access to these.

Background

Sections 216 and 217 of the Building Act 2004 set out the record-keeping requirements for territorial authorities and building consent authorities.²⁰

Initial review

The Council’s public records were held in both hard copy form and in microfiche format. Public records were held in a secure area, but the area was not fire-proof.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Consider options to mitigate the risk of fire damage to building control records.	The Council moved completed consent files to a fire-rated record room.

Follow-up review

All electronic records, including the officers’ field inspection notes, were backed up securely each day. Completed files were being held in the Council’s fire-rated record room, but files for active projects that had not been completed were being held in a non-fire rated location in the building team’s office.

The Council accepted that the security of the active files is at risk and asserted that it intended to review the fire-rating requirements of files stored in the building team’s office.

Recommendations to the Council	Response from the Council
Continue work to mitigate the risk of fire damage to building control records.	The Council advised that it has completed a secure fire-proof file storage room as part of its preparations to be accredited as a building consent authority.

Conclusion

The Department considers the Council has implemented its recommendation.

²⁰ This was previously covered under section 27 of the Building Act 1991.

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 are not operating within the current legislative framework. For this reason aspects of these terms of reference are no longer relevant.

Initial review

The Council did not have formal policy or procedures for dealing with consent applications lodged by private building certifiers. It was recommended that the Council ensure:

- all staff are aware of the Council's responsibilities under the Building Act for consent and certification work involving private building certifiers
- appropriate planning is undertaken regarding possible increases in work volumes if work is passed from certifiers to the Council if they decide to exit the industry.

Findings and conclusion

All private building certifiers had exited the New Zealand market by late 2005. However, the Department found that the Council still receives calls regarding work that was approved by private building certifiers, but does not have any written procedures for dealing with queries regarding building certifier projects.

The Department found that the Council had a positive and interactive relationship with its neighbouring Auckland territorial authorities, with meetings between authorities held on a regular basis. While this is considered a good initiative, the Department encourages the Council and its neighbours to use this as an opportunity to develop consistency of good practice across the Auckland region.

16 – CASE STUDIES OF COMPLETED BUILDINGS

Purpose

To examine the effectiveness of the Council's consent and inspection processes and to suggest improvements. The findings of case studies often reflect and reinforce the more general review findings outlined under the other terms of reference.

Background

The Department identified a number of buildings that had recently been processed by the Council and had progressed to code compliance certificate stage (although some case studies involved buildings that were still in the construction phase). These buildings were chosen to be typical of the building type that the Council deals with and also to involve compliance elements that are known to be difficult (such as access for people with disabilities or weathertightness of monolithic claddings).

The findings of the case studies were used to support and reinforce the more general review findings outlined under the other terms of reference.

Initial review

During the initial review the review team conducted 14 case studies of completed buildings and from these noted a number of ways the Council could improve its building control activities. The main issues noted in the initial review were the Council:

- was not consistently rejecting consent applications lacking sufficient detail and evidence to ensure compliance with the Building Code
- was not identifying non-compliant details in the consent application during processing. The main areas of non-compliance related to weathertightness, accessibility compliance, fire design and lateral bracing
- lacked a formal procedure by which to record the basis for determining Code compliance
- consent processing and inspection activities were characterised by a lack of formal process and documentation. This was evidenced by missed or undocumented inspections and a lack of follow up to ensure consent conditions had been achieved.

Recommendations made to the Council	Action taken by the Council before the follow-up review
<p>Improvements were required in:</p> <ul style="list-style-type: none"> • procedures for dealing with consent applications with insufficient information • processing and inspection methodology to ensure compliance is consistently achieved for all clauses in the Building Code, with particular attention being given to improving Code compliance of accessibility and weathertightness details • documentation of consent processing and inspection activities, including implementation of appropriate checklists, ensuring consent conditions are achieved and documenting how the Council was satisfied on reasonable grounds that Code compliance was, or would be, achieved for all building construction elements • processes underpinning key components of the Council’s building control operations such as how it assesses and makes decisions on alternative solutions and considers and checks producer statements • developing training programmes that lift technical knowledge. 	<p>The Council introduced a number of initiatives as discussed under other terms of reference above.</p>

Follow-up review

The follow-up review identified that some of the findings of the initial review were still relevant and that other issues of note had emerged. In summary, the Department found the Council:

- was still accepting building consent applications lacking sufficient detail and evidence to ensure compliance with the Building Code
- inspection activities were still characterised by a general lack of formal process and documentation. In particular, it was found that the Council was not adequately documenting all relevant information on inspection sheets and that some inspections that should have been required were not being undertaken
- did not adequately identify requirements under other legislation during project information memoranda processing. In particular, approved PIMs were not identifying the requirement to obtain an Evacuation Scheme as required under the Fire Services Act 1975
- approved a number of non-compliant features in buildings it was assessing. In particular, non-compliance was occurring in access and facilities for people with disabilities, in the provision of exit signage and the assessment of fire compliance.

Recommendations to the Council	Response from the Council
<p>Continue to work on implementing the recommendations identified throughout this report. In particular, the Council should work to:</p> <ul style="list-style-type: none"> • improve its consent procedures to ensure applications with insufficient supporting information are consistently rejected at the vetting stage • develop a more robust inspection methodology to ensure reasons and justification for decisions are consistently recorded • improve levels of compliance with the Building Code, particularly in relation to access for people with disabilities and fire compliance. 	<p>The Council advised that many of the issues raised have been addressed. They include documented policies, procedures and processes, new forms and checklists, which have been developed as part of Council’s preparations to be accredited as a building consent authority.</p>

Conclusion

The key findings of the case studies undertaken are reflected throughout the report. Due to the level of non-compliance identified during both reviews, the Department considers that ongoing work is required to minimise this. While the Council has advised this has been (and is) occurring as part of its preparation for accreditation as a building consent authority, and occurred after the follow-up review visit, the Department did not assess such work.

17 – ACCOMPANYING PERSONNEL DURING INSPECTIONS

Purpose

To assess the effectiveness of the Council’s on-site inspection processes, how inspectors use the Council’s inspection methodology and how they interact on site with owners and builders.

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 the inspectors during their normal inspection workload. Observations from the Department often reinforce observations made during the case studies.

Initial review

The initial review identified:

- there was a lack of a formal documented inspection methodology for inspectors to use and inspection notes were usually very brief and reported a pass / fail result, with detail only provided on specific aspects that were considered to require remedial attention
- quality assurance mechanisms needed to be implemented to ensure inspections were consistently assessed for compliance with the Building Code (eg, random internal audits of inspections)
- there were some limitations in the inspectors’ technical knowledge of weathertightness detailing
- significant reliance was placed on acceptance of producer statements from installers
- inspection workloads were too high and field staff often had insufficient time on-site to undertake a thorough inspection.

Recommendations made to the Council	Action taken by the Council before the follow-up review
Develop a comprehensive inspection checklist with references to appropriate provisions of the Building Act and Building Code to ensure Code compliance is achieved and the process is properly documented.	The Council had not implemented this recommendation.
Ensure appropriate record-keeping of inspection findings, including how the inspector was satisfied on reasonable grounds the work was Code compliant.	The Council had not implemented this recommendation.
Undertake audits of its inspections to determine if Code compliance was demonstrated.	The Council had not implemented this recommendation.
Identify staff training needs and implement a regular and structured approach to training.	The Council provided some training to staff.

Follow-up review

The follow-up review identified the Council had not fully adopted the initial review’s recommendations, but some improvement in the Council’s inspection methodology was evident. The Department noted a number of issues that required the Council’s attention, in particular:

- a comprehensive inspection checklist had not been developed as recommended in the initial review
- Council inspectors were not always completing inspection records while on site
- the Council was placing a significant reliance on the acceptance of producer statements from installers²¹
- inspectors did not have access to all relevant documentation when they were on site, including previous inspection information.

²¹ Producer statements are also covered under heading 6 of the report’s terms of reference.

The Council advised that specialisation of site inspection officers had improved inspection standards.

Recommendations to the Council	Response from the Council
Develop and implement formal policy, procedures and methodology for undertaking building inspections.	The Council has developed and enhanced appropriate inspection methodology as part of its work to prepare for its accreditation as a building consent authority.
Develop inspection checklists to ensure consistency of approach by the inspectors and to reduce the likelihood of items being overlooked during inspection.	The Council advised that it will continue to use 'yes' or 'no' on its inspection field sheets as an indication of a pass or fail rather than a checklist.
Develop a programme for regular and ongoing staff training and peer review.	

Conclusion

The Council has partially implemented the Department's recommendations. While the review team noted some improvement in the Council's inspection methodology, the Council needs to continue improving its inspection processes to ensure consistent methods are used and all relevant information is consistently documented.

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 several opportunities for the Council to submit feedback at each stage of the review process and the Department has sought feedback from the Council. When provided and where possible, this has been incorporated under each of the terms of reference used as the basis for the review.

Council Statement

In a letter dated 24 July 2007 the Council responded with the following comment.

'We are pleased that the Department has reviewed the draft technical review report in light of our suggestions, and incorporated our comments in the summary report. We believe a balanced and accurate outcome has been made and wish to thank the Department for that.'

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 Franklin District 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 a 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 more consumer confidence in the system.

Under the Act, any organisation that wishes to undertake building control functions must be a registered building consent authority. 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 will involve 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.

- Formal policies, systems and processes
- Technical competence
- Quality assurance

Further information

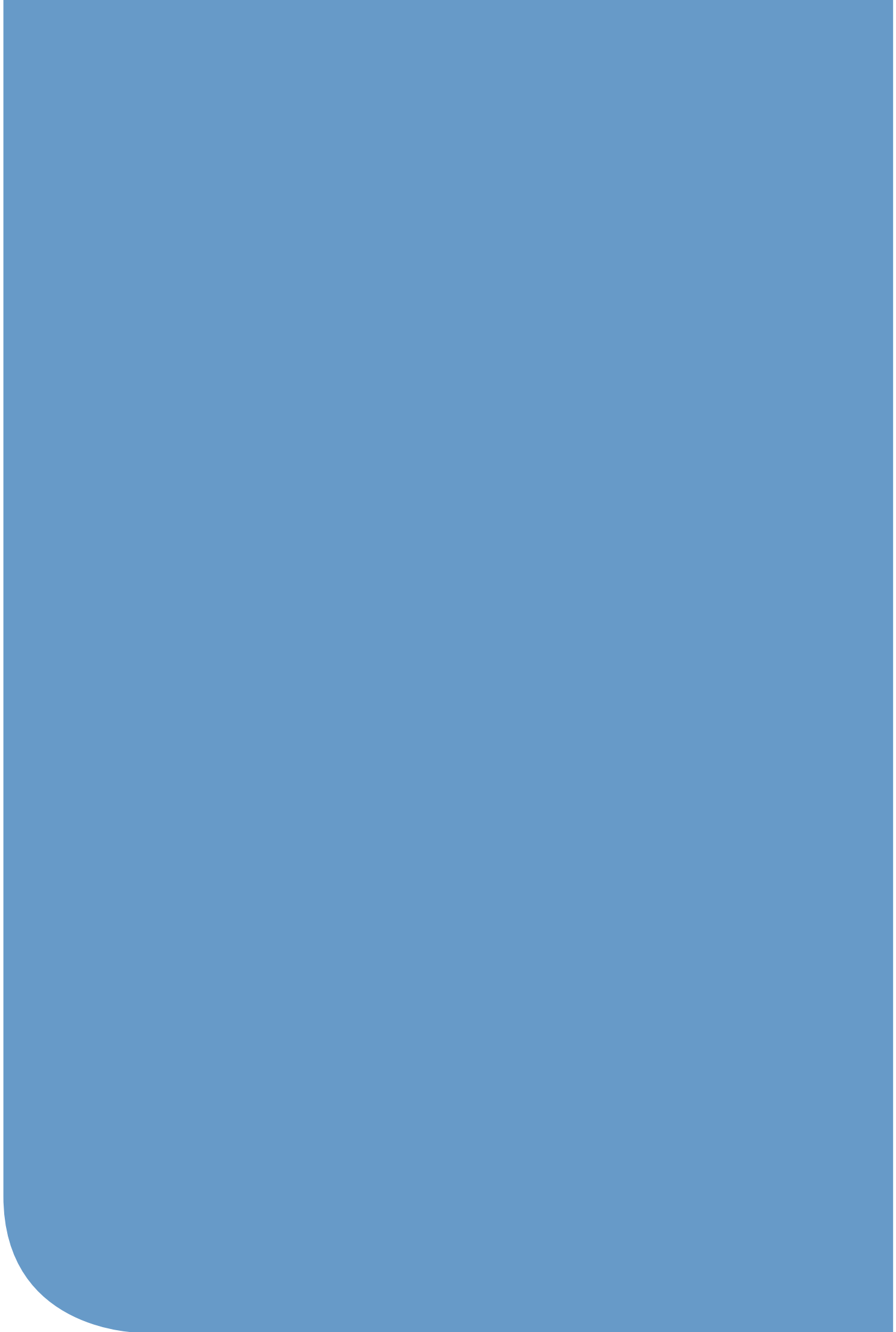
Further information about both the technical review programme and the building consent authority accreditation and registration scheme can be accessed online at www.dbh.govt.nz

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 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)
- Building Consent Authority Accreditation Preparation and Self-assessment Guide (February 2007)
- Building Consent Authority Management Processes and Procedures Guide (February 2007).

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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