

**BUILDING  
PERFORMANCE**

# Biennial BCA Accreditation Report Round Eight

APRIL 2024



MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT  
HĪKINA WHAKATUTUKI

Te Kāwanatanga o Aotearoa  
New Zealand Government



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

## **Ministry of Business, Innovation and Employment (MBIE) Hīkina Whakatutuki – Lifting to make successful**

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

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## **ABBREVIATIONS**

AOB	Accredited organisation – building
BCO	Building control officer
BCA	Building consent authority
CCC	Code compliance certificate
FTE	Full-time equivalent
IANZ	International Accreditation New Zealand
MBIE	Ministry of Business, Innovation and Employment
NTF	Notice to fix
RFI	Request for information



# 1.0 Introduction

This report summarises the results from round eight of the building consent authority (BCA) accreditation assessments that were carried out by International Accreditation New Zealand (IANZ). It aims to provide BCAs with a detailed overview of the assessments undertaken in this round and the key findings from these assessments.

IANZ is the organisation appointed by the Ministry of Business, Innovation and Employment (MBIE) as the accreditation body that undertakes assessments, and grants accreditation, for the BCA accreditation scheme. The assessments for round eight were carried out between 1 July 2021 and 31 May 2023 inclusive.

Under the accreditation scheme, there are currently:

- › 68<sup>1</sup> accredited BCAs that are part of a territorial or regional authority
- › one accredited and registered BCA that is a private BCA
- › six private organisations that have accreditation as an accredited organisation – building (AOB).

<sup>1</sup> Note: one TA elected to not become a BCA, being the Chatham Islands.



### The purpose of the BCA accreditation scheme is...

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

### The scheme's objectives are...

#### ... to make sure all BCAs have:

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

#### ... to support:

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

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

MBIE's website [www.building.govt.nz](http://www.building.govt.nz) has more information about the accreditation scheme, as well as guidance (available as an online tool<sup>2</sup>) to help BCAs comply with the scheme's requirements.

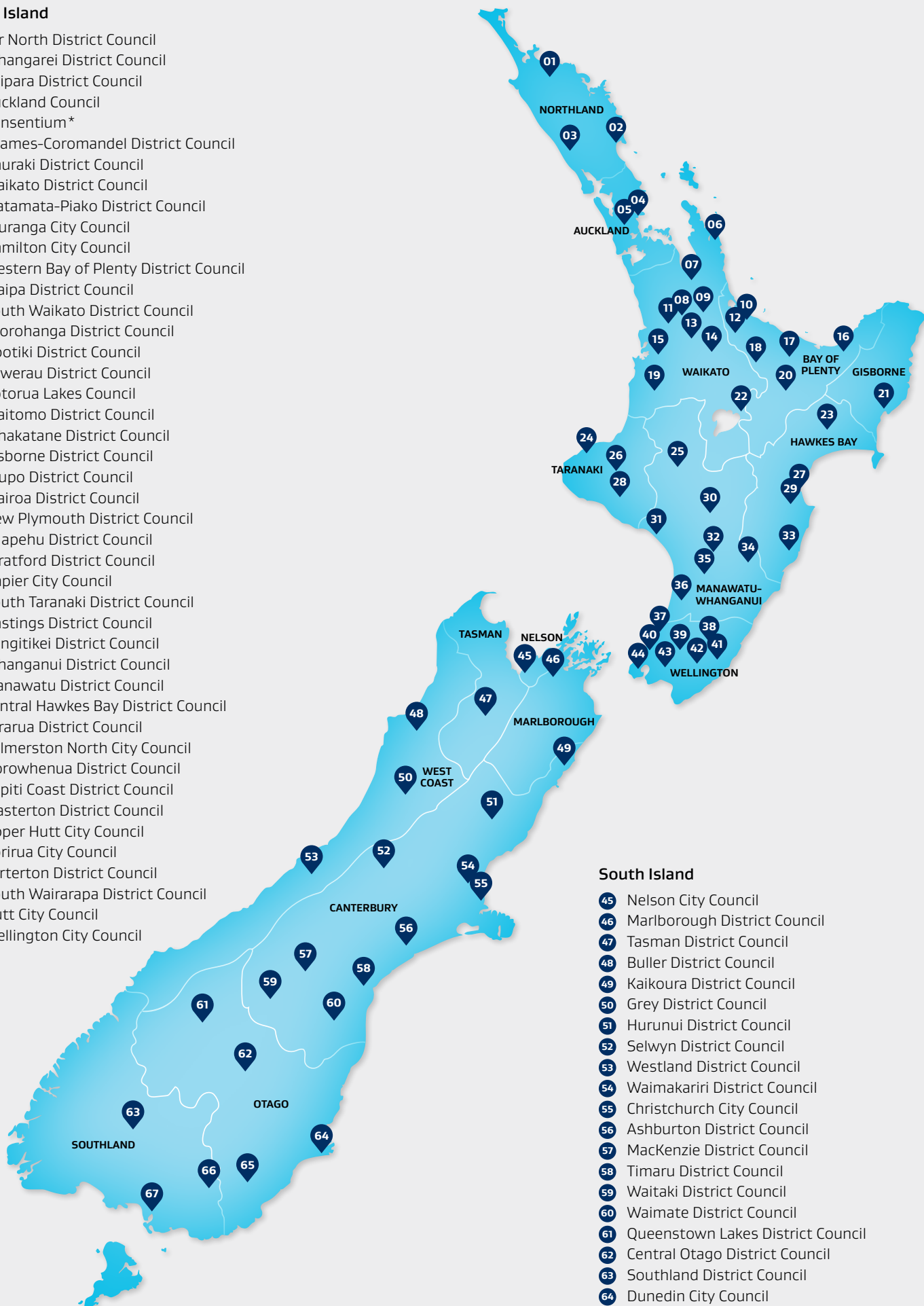
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<sup>2</sup> Go to [www.building.govt.nz/building-officials/bca-accreditation/detailed-regulatory-guidance](http://www.building.govt.nz/building-officials/bca-accreditation/detailed-regulatory-guidance).

## BCA/TA's LISTED ON THE MBIE REGISTER

### North Island

- 01 Far North District Council
- 02 Whangarei District Council
- 03 Kaipara District Council
- 04 Auckland Council
- 05 Consentium\*
- 06 Thames-Coromandel District Council
- 07 Hauraki District Council
- 08 Waikato District Council
- 09 Matamata-Piako District Council
- 10 Tauranga City Council
- 11 Hamilton City Council
- 12 Western Bay of Plenty District Council
- 13 Waipa District Council
- 14 South Waikato District Council
- 15 Otorohanga District Council
- 16 Opotiki District Council
- 17 Kawerau District Council
- 18 Rotorua Lakes Council
- 19 Waitomo District Council
- 20 Whakatane District Council
- 21 Gisborne District Council
- 22 Taupo District Council
- 23 Wairoa District Council
- 24 New Plymouth District Council
- 25 Ruapehu District Council
- 26 Stratford District Council
- 27 Napier City Council
- 28 South Taranaki District Council
- 29 Hastings District Council
- 30 Rangitikei District Council
- 31 Whanganui District Council
- 32 Manawatu District Council
- 33 Central Hawkes Bay District Council
- 34 Tararua District Council
- 35 Palmerston North City Council
- 36 Horowhenua District Council
- 37 Kapiti Coast District Council
- 38 Masterton District Council
- 39 Upper Hutt City Council
- 40 Porirua City Council
- 41 Carterton District Council
- 42 South Wairarapa District Council
- 43 Hutt City Council
- 44 Wellington City Council



### South Island

- 45 Nelson City Council
- 46 Marlborough District Council
- 47 Tasman District Council
- 48 Buller District Council
- 49 Kaikoura District Council
- 50 Grey District Council
- 51 Hurunui District Council
- 52 Selwyn District Council
- 53 Westland District Council
- 54 Waimakariri District Council
- 55 Christchurch City Council
- 56 Ashburton District Council
- 57 MacKenzie District Council
- 58 Timaru District Council
- 59 Waitaki District Council
- 60 Waimate District Council
- 61 Queenstown Lakes District Council
- 62 Central Otago District Council
- 63 Southland District Council
- 64 Dunedin City Council
- 65 Clutha District Council
- 66 Gore District Council
- 67 Invercargill City Council

\*Consentium provides services nationwide.

This map does not include Regional Authorities (RAs) and Accredited Organisations (AOs).  
This map is representative of district not location of BCA/TA offices.

## 2.0 Summary of findings

IANZ has been able to return to business-as-usual this round following the Covid-19 restrictions that affected assessments in recent years and has moved back into conducting most of its accreditation assessments on-site, with an average of four assessments carried out per month.<sup>3</sup>

During round eight of accreditation assessments, IANZ carried out:

- › 74 routine assessments
- › 18 monitoring (special focus) assessments<sup>4</sup>
- › one advisory visit.

Key findings from these assessments include:

- › Overall, most BCAs have well-documented policies, procedures and systems in place to effectively undertake their building control functions and have staff committed to providing a quality service to customers.
- › MBIE's detailed regulatory guidance and checklists have contributed to better documentation and more effective quality control systems. However, some BCAs are still struggling to develop policies, procedures and systems that meet the requirements of MBIE's guidance, checklists and the Regulations or are rewriting policies and procedures without fully considering these requirements.
- › BCAs with a stable workforce and a dedicated Quality Manager generally demonstrated better assessment outcomes. Those BCAs with no dedicated Quality Manager often had a significantly higher number of non-compliances raised during assessments.

Most BCAs preferred on-site assessments as where findings were raised, these could be discussed face-to-face, resulting in less confusion as to what was required.

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

MBIE's key reasons for observing accreditation assessments are:

- › To provide support to BCAs and assist IANZ with interpretation of the Regulations and MBIE's accreditation guidance where appropriate.
- › To observe some higher risk BCAs that were undergoing special focus assessments to enable MBIE to assess what additional measures might be needed for the resolution of any matters of concern.
- › Ensuring MBIE understands the issues and practices within metropolitan BCAs as they represent the majority of building consents processed in New Zealand.

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

MBIE thanks all BCAs for their hospitality in accommodating MBIE observers during this round of assessments. MBIE would also like to thank IANZ for its willingness to engage with MBIE to ensure the intent of the scheme is met and for its work in carrying out these assessments.

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<sup>3</sup> Section 249 of the Act provides that the Chief Executive of MBIE specify by notice the minimum frequency of audits (accreditation assessments) and that these cannot be less than once every three years. The current Gazette Notice which specifies the frequency of assessments sets the minimum frequency at two years.

<sup>4</sup> A special focus assessment is an out of sequence assessment or one that is undertaken because there is some concern about the BCA meeting accreditation requirements.



## 3.0 What's going well

BCAs with committed and knowledgeable staff, effective systems, including a well-used continuous improvement system, and who complete regular and thorough annual audits, generally had good assessment outcomes in this round.

Some BCAs took the opportunity to complete a self-assessment using MBIE's checklists prior to their IANZ assessment. As a result, these BCAs typically performed better in the assessment, were more prepared, and had a better understanding of the areas within their BCA that required improvement.

MBIE's on-line guidance for the scheme includes **checklists** that a BCA can use to undertake a self-assessment of their policies, procedures and systems. They provide an easy-to-use and transparent set of guidelines to assist in complying with the Regulations. MBIE strongly encourages all BCAs to utilise these checklists when preparing for accreditation assessments and when carrying out the required annual internal audits between assessment cycles.

In some instances, BCAs took the opportunity to notify IANZ and MBIE of significant changes within their systems, even when these changes did not formally fit within the Regulation 6A notification criteria. This allowed for communication with the BCA regarding things that should be considered as part of the changes and often led to a more seamless change management process.

BCAs' experiences during Covid-19 have created opportunities for their staff to implement and maintain more flexible and remote ways of working. As a result, this has also allowed BCAs to make better use of available staff and contractors, no matter where they are located – with many BCAs now using contractors to perform building control functions. The use of staff or contractors trained in completing remote inspections has allowed some BCAs to meet their inspection requirements more efficiently, without compromising the quality of the inspections.

Some BCAs have noticed a recent trend toward the number of new consent applications dropping as pressure for new building work has reduced. While some BCAs are still struggling to fully comply with the statutory timeframes in the Act, this is generally improving, as the reduction in volume is allowing BCAs to catch up with their backlog. Information and data from **Stats NZ** shows that in the year ending June 2023, the actual number of new dwellings consented was 44,529, down 12 percent from the year ending June 2022. The value of non-residential building work consented was up 11 percent on the year ending June 2022, indicating that some BCAs may have recently seen an increase in commercial, and more complex, building consents.



## 4.0 What BCAs could improve on – compliance schedules, statutory timeframes, annual audits

Many BCAs are still struggling with the processing requirements for building consent applications that include specified systems with some BCAs also lacking an understanding of what a ‘good’ compliance schedule looks like.

While a trend towards improvement in knowledge and skill regarding the preparation and issue of compliance schedules has been noted, a considerable number of accreditation assessments are still resulting in a finding of non-compliance relating to compliance schedule requirements. Applications for building consent are often not submitted with sufficient information about specified systems and BCAs are reluctant to reject those applications because of a required ‘customer service’ focus.

Ongoing issues with the accuracy of compliance schedule content continue to be observed, with some BCAs not issuing compliance schedules that accurately reflect both the consented work and the specified systems within the building. IANZ commonly find that the specified systems and performance standards listed in the building consent (Form 5<sup>5</sup>) do not align with what appears on the compliance schedule issued with the code compliance certificate (CCC) or, where a change has occurred, the change and reasons for accepting it have not been properly recorded.

If changes occur during construction to either the specified systems or their performance standards, these changes need to be documented by the BCA via a minor variation or building consent amendment, along with the BCA’s reasons for its decision. In some circumstances (eg an installed unconsented specified system), it may be appropriate for the territorial authority to issue a certificate of acceptance.

MBIE has published an **exemplar compliance schedule** to assist BCAs in developing compliance schedules that satisfy the legislative requirements. MBIE does not expect IANZ to use the exemplar compliance schedule as the standard for their assessments. However, with the release of this document MBIE anticipates that non-compliances will drop over time as BCAs gain a better understanding of the content needed to produce a good quality and compliant compliance schedule.

### 4.1 COMPLIANCE WITH STATUTORY TIMEFRAMES

A significant number of BCAs struggled this round to fully meet the statutory timeframes in the Act relating to the processing of building consents and issuing of CCCs<sup>6</sup>. However, as noted, this has improved in recent months as the number of new consent applications has trended downwards.

Frequent staff changes, as well as a general lack of technical staff, have had some impact on the ability of BCAs to meet these timeframes as resources are often redirected to the training and supervising of new staff. Long standing backlogs from Covid-19 and the record number of consents issued in recent years, as well as the impact of more recent weather events, have also affected the ability of some BCAs to meet these timeframes and conduct some of their business-as-usual. However, it is expected that BCAs will be able to clear all, or a significant part, of this backlog in the coming months if consent numbers continue to remain lower than in recent years.

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<sup>5</sup> Form 5: Building consent (from the Building (Forms) Regulations 2004.

<sup>6</sup> Sections 48 and 93 of the Act respectively.

In some instances, the statutory clocks have not been managed appropriately by the BCA and as a result have made the BCA's statistics look potentially better or worse than they are, with recording and reporting issues contributing to part of the non-compliance with timeframes.

## 4.2 ANNUAL AUDITS

BCAs are continuing to show a lack of understanding of the requirements for annual internal audits, with some being unaware of, or not utilising, the MBIE **checklists**. If BCAs complete regular audits of their systems, as required by the Regulations, then an accreditation assessment should ideally find few issues. Where BCAs have a high number of non-compliances or recommendations identified during assessments it is often a result of insufficient auditing, or that the audits have lacked the necessary depth and technical understanding.

BCAs need to ensure audits include both a non-technical and technical component:

- › The BCA's policies, procedures and systems, for each building control function, must be audited to ensure they meet the requirements of the Regulations and MBIE's guidance, and that they have been correctly implemented. This part of the audit is non-technical and can be completed by an auditor with appropriate knowledge of the requirements.
- › The technical part involves assessing whether appropriate matters have been considered, appropriate reasons recorded, and an appropriate technical outcome achieved, for each building control function. The person completing the audit must hold the same or greater level of technical competence than the person who is being audited. They may hold a different technical opinion to that of the person completing the work, but they must be able to be satisfied that the technical decision was appropriately supported with appropriate reasons for decisions.

BCAs need to schedule both types of audits to ensure that an appropriate sample size is audited at least annually.

In total, there were 41 non-compliances relating to Regulation 17(2)(h) this round<sup>7</sup>, which covers the procedures for *'ensuring that an internal audit of every building control function occurs annually'*. This is an increase from the previous round which saw a total of 28 non-compliances relating to annual audits.

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<sup>7</sup> This includes both general non-compliances (GNCs) and serious non-compliances (SNCs).



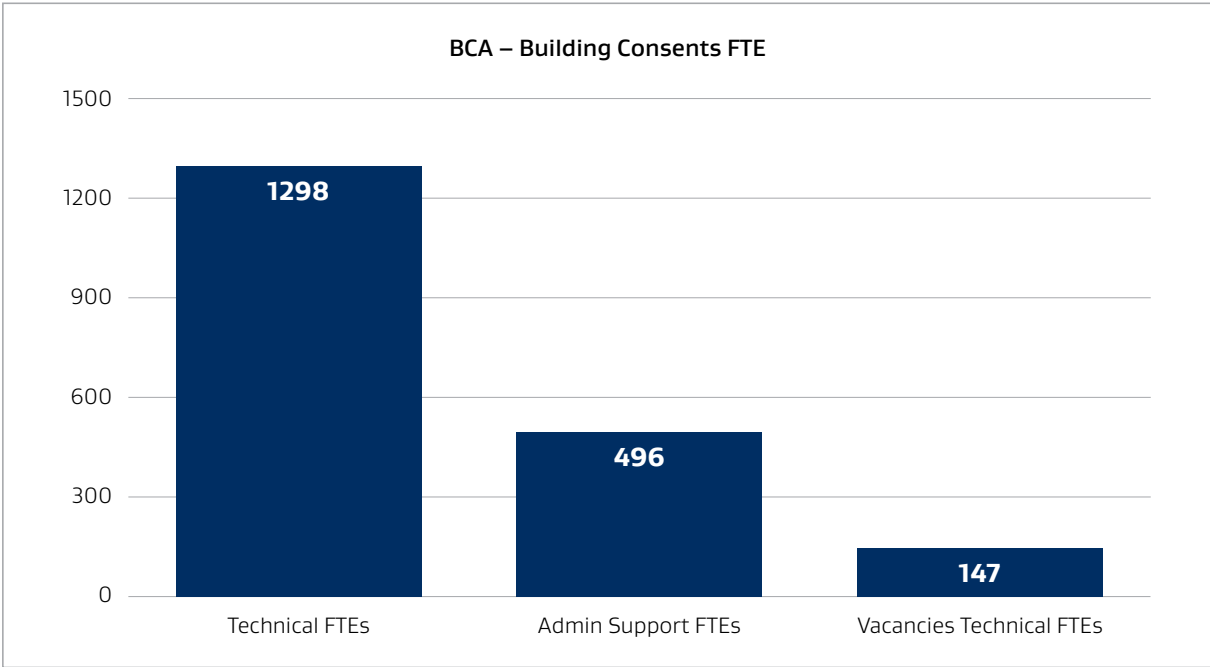
# 5.0 Recent challenges – impact of recent weather events, resourcing

MBIE acknowledges the devastating recent natural disaster of Cyclone Gabrielle, as well as flooding and weather events that have occurred in other regions, and the significant impact this has had on the ability of some BCAs to conduct business-as-usual, with a large percent of their resources redirected to assisting with the response to these events.

IANZ has been able to work with these BCAs to ensure it continues its accreditation assessments of affected BCAs as required. However, in relation to the clearance of non-compliances, IANZ has taken these events into consideration and granted extensions for up to six months when BCAs have advised the reason they are not meeting accreditation requirements is because they lent staff to other organisations to assist in the response, or have been directly affected by these events.

## 5.1 RESOURCING

The total vacancy rate across all BCAs, for technical roles within building consenting, was 10%. More than half of BCAs had at least one technical vacancy, with this ranging up to 37 vacancies (for the larger metropolitan BCAs). Overall, 40% of BCAs had no technical vacancies at the time of their assessment.



\* The above graph shows the total number of technical full-time equivalent (FTE) staff, admin FTE staff and the number of technical vacancies for all BCAs combined for this round (data collected from July 2021 to May 2023). For the purposes of this data, where a BCA had two assessments this round (for example a special focus assessment and a routine assessment) only one of these assessments has been included – generally the routine assessment or the most recent assessment (in the few instances where a BCA had two routine assessments take place).

## 6.0 Accreditation assessment costs

BCAs who had lower than anticipated actual accreditation assessment costs (the cost charged by IANZ for an accreditation assessment) this round typically had made improvements to their systems following the last round of assessments and as a result had a lower number of non-compliances. Their accreditation assessment cost, as well as the time needed to complete the assessment, had been overestimated. BCAs who were adequately prepared for their assessment, able to access records quickly and provide the requested information, were able to complete their assessments within the anticipated timeframe and did not incur additional costs.

Some BCAs had processed a higher number of consents than expected and this led to a longer assessment time, and therefore increased costs.

In addition, some BCAs struggled to clear their non-compliances within the timeframe provided which also contributed to greater overall assessment costs, and in some cases, a requirement for further assessment.

### ASSESSMENT COSTS: ROUND EIGHT

Assessment cost	Number of BCAs	Percent of BCAs
Under \$20,000	21	23%
\$20,000 - \$30,000	40	43%
\$30,000 - \$40,000	25	27%
Over \$40,000	6	7%



## 7.0 Deferring accreditation assessments

MBIE received requests from BCAs to have their scheduled assessment postponed this round. While MBIE appreciates the enormous pressures that some BCAs are under due to Cyclone Gabrielle, as well as other events, accreditation assessments are required to be carried out at least once every two years.

Section 249 of the Act provides that the Chief Executive of MBIE specify by notice the minimum frequency of audits (accreditation assessments) and that these cannot be less than once every three years. The current **Gazette Notice** which specifies the frequency of assessments sets the minimum frequency at two years.

This means there is very little ability for postponement or rescheduling of an assessment if it has already been close to two years since the BCA's last assessment, because there is no discretion in these provisions and an assessment must take place at least once every two years for each BCA. IANZ and MBIE have considered what options there might be, despite the lack of flexibility in the Act and the gazetted two-yearly timeframe.

Accreditation assessments have two main components:

- › to consider whether the BCA has appropriate policies, procedures and systems for carrying out their building control functions, and
- › to look at whether those policies, procedures and systems are implemented in a consistent and effective manner.

There are some options that might exist to help BCAs:

- › IANZ carrying out the first part of the assessment as a desktop exercise, remotely. This would place fewer demands on the BCA as it involves IANZ assessing the BCA's quality manual and documented policies and procedures.
- › The second part of the assessment, evidence of the policies, procedures and systems being implemented - following reasonably soon after the desktop assessment. However, it may be possible, after consultation with IANZ, to defer this part of the assessment by a brief period where appropriate.

To operate as a BCA, the Act and Regulations set clear minimum requirements which must be met at all times - not only once every two years, at the time of an accreditation assessment. This is one of the reasons Regulation 6A requires a BCA to inform IANZ and MBIE if there have been any significant changes to the status of the BCA, or changes to staffing levels or systems, at any time.

If there are significant changes, this tends to trigger closer scrutiny by IANZ and MBIE, because these can lead to problems with the systems which ensure the quality of consenting outcomes. MBIE's view is that despite any potential inconvenience, this is the right time to have an assessment.

IANZ and MBIE acknowledge the concerns BCAs might have about the results of an assessment and anticipate some issues with performance in extraordinary circumstances, but believe it is better to identify these and set a plan in place for improvement. If improvements are needed, IANZ and MBIE can work to ensure that, where appropriate, extensions of time are put in place for clearing any identified non-compliances.

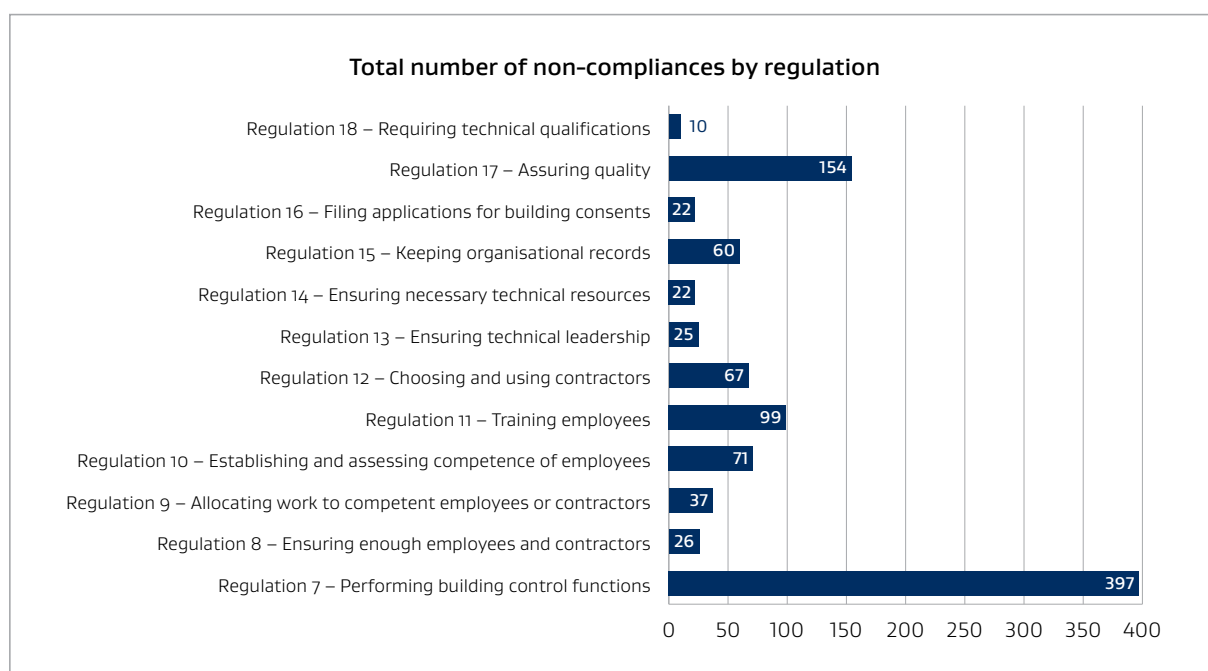
## 8.0 General observations around processing consents

Most non-compliances raised during the latest assessment round continue to be related to Regulation 7, which covers the majority of a BCA's 'day-to-day' functions of receiving, processing and certifying.

Regulation 7 requires a BCA to have policies, procedures and systems in place for performing its building control functions and prescribes what the policies and procedures must include. Accreditation assessments this round often observed that BCAs frequently accept building consent applications which do not have the necessary information to start processing the building consent effectively. MBIE recommends that BCAs do not accept applications which do not have sufficient information to allow processing to begin – as an alternative to accepting the application and issuing one or more request for information (RFI).

As per MBIE's **guidance**, the RFI process is not intended to function as a safety net for a poor application. A BCA should also not shy away from refusing a consent if the information received in response to an RFI is insufficient. There is little value in re-issuing an RFI where inadequate material has been received in support of an application for a second time. BCAs can make the decision to refuse to grant the consent at any stage in the building consent application process.

MBIE also continues to see individual BCAs issue publicly available information that has incorrect legislative interpretation and guidance relating to their BCA functions. MBIE recommends that, where available, BCAs should link directly to the relevant MBIE webpage as a source for this type of information. If you discover any errors on MBIE's **Building Performance** website, please send details to [consentsystem@mbie.govt.nz](mailto:consentsystem@mbie.govt.nz) so this can be corrected.



## 9.0 Non-compliances in more detail

**11**

**The average number of non-compliances per assessment<sup>8</sup>**

### **SUB-REGULATIONS WITH THE HIGHEST NUMBER OF NON-COMPLIANCES<sup>9</sup> FOR ROUND EIGHT:**

Number of NCs	Regulation	Description
1	81	7(2)(f) Policies and procedures for issuing and refusing to issue CCCs, compliance schedules and NTFs
2	76	7(2)(d)(iv) Policies and procedures for processing applications to establish whether they comply with the requirements that the Act, the Building Code and any other applicable regulations under the Act specify for buildings
3	74	7(2)(d)(v) Policies and procedures for granting, refusing to grant, and issuing building consents
4	51	7(2)(a) Policies and procedures for providing information to a person who wants to apply for a building consent
5	42	15(2) Recording roles and responsibilities for employees and contractors performing the BCA's building control functions
6	41	17(2)(h) The procedure for ensuring that an internal audit of every building control function occurs annually
7	37	9 Allocating work to competent employees or contractors
8	34	7(2)(e) Policies and procedures for planning, performing, and managing inspections
9	33	11(2)(e) Systems for supervising employees under training
10	30	12(2)(c) Systems for making written or electronic agreements with contractors

Overall, most of the above areas of non-compliance remain largely unchanged from the previous round. The highest number of non-compliances (81) this round were in relation to Regulation 7(2)(f) which requires a BCA to have policies and procedures to cover the issuing, and refusing to issue, of CCCs, compliance schedules and notices to fix (NTFs).

The second highest number of non-compliances (76) were in relation to 7(2)(d)(iv) which requires a BCA to have policies and procedures that cover processing consent applications to establish whether they comply with the requirements of the Act, the Building Code and any other applicable Regulations.

<sup>8</sup> Includes both routine assessments and special focus assessments.

<sup>9</sup> This data includes both general non-compliances (GNCs) and serious non-compliances (SNCs) combined.



There was a slight increase in non-compliances (74 – up from 68 in the last round) in relation to Regulation 7(2)(d) (v) which covers the granting, refusing to grant, and issuing of building consents.

As per the previous round, Regulation 7(2)(a) continues to be an area where many non-compliances are observed (51 – a slight increase from 49 in the last round) indicating there is still room for improvement in the documentation of processes for providing information to the public. Regulation 7(2)(a) requires BCAs to have policies and procedures that cover giving information in writing or electronically to a person who wants to apply for a building consent about:

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

A significant increase in non-compliance was observed for Regulation 17(2)(h) – a total of 41 non-compliances (up from 28 in round seven). This further highlights that audits are increasingly becoming an area where BCAs are struggling to fully understand the requirements of the Regulations.

One of the issues causing concern is where there is a change or loss of key staff or inability to appoint competent staff into key roles which has resulted in systems failing to be fully implemented – even though the BCA may have well-documented procedures. One of the biggest causes of non-compliance is due to a change in the BCA's Quality Manager, with little training or communication of the requirements of the role provided to the new manager. Typically, IANZ does not become aware of the change until the next assessment, which can result in a significant period of non-compliance with accreditation requirements. Where there is a change within the BCA's management team there needs to be training provided to ensure that the Regulations and Act are fully understood and complied with.

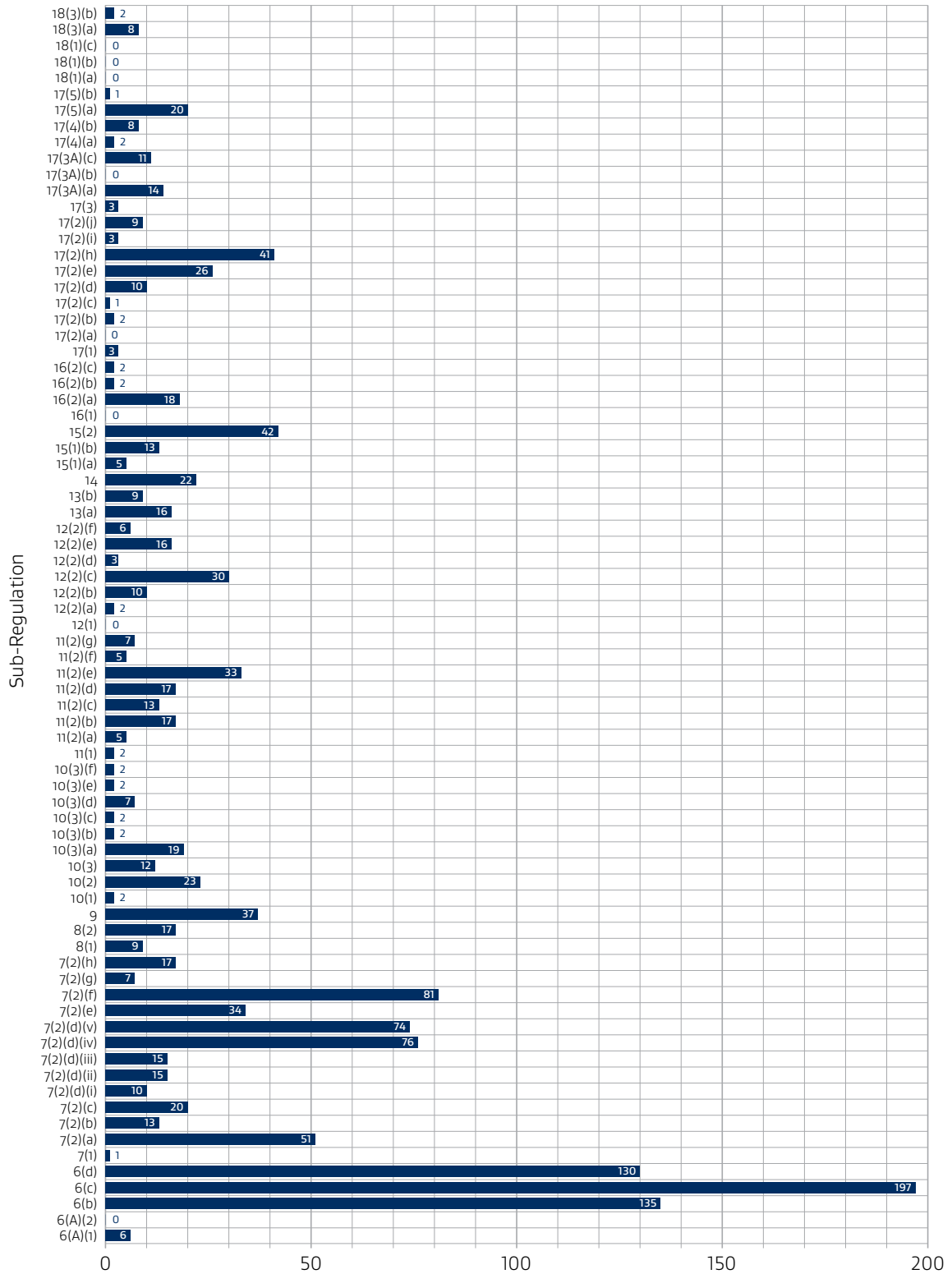
Other common reasons for non-compliances include:

- › Lack of compliance with statutory timeframes (including not starting and/or stopping the clock appropriately).
- › Lapsing – particularly around making a decision to extend after the lapse.
- › CCC decisions (where no application for a CCC is received by the expiry of two years after the building consent is granted) – not recording the decision to refuse.

At MBIE's request, IANZ recently changed the way it records non-compliance with Regulations 10, 17 and 18. Non-compliance against any of the sub-Regulations 10(3)(a) - 10(3)(f) will be recorded as one non-compliance against Regulation 10(3). This change was made part way through this accreditation round (and notified to BCAs). This is reflected in the graph on the following page.

Non-compliances for Regulations 17(3A)(a) - (c) and Regulations 18(3)(a) - 18(3)(b) will be considered as one non-compliance regardless of which sub-Regulation(s) the non-compliance is applied to, and recorded against 17(3A)(a) or Regulation 18(3)(a), as applicable.

Total number of non-compliances by sub-regulation



## 10.0 Non-compliance with Regulations 5 - 6

Where there is failure by a BCA to meet the requirements for policies, procedures and systems in the Regulations, then by default there will be non-compliance(s) with the requirements of Regulations 5 and/or 6.

Regulation 5 specifies that policies, procedures and systems required by the Regulations must be:

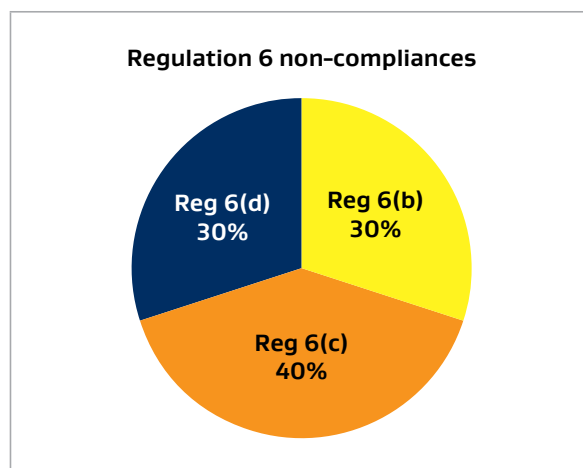
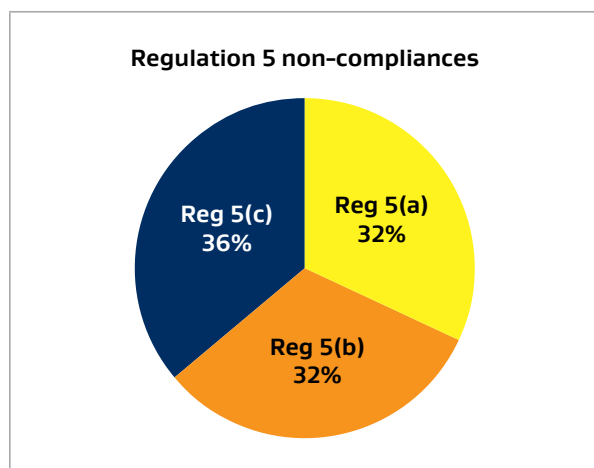
- a) *written or electronic; and*
- b) *appropriate for their purposes; and*
- c) *implemented in a consistent and effective manner.*

Regulation 6 requires a BCA to record the:

- a) *decisions it makes under the policies, procedures and systems required by the Regulations; and*
- b) *the reasons for the decisions; and*
- c) *the outcomes of these decisions.*

There are a number of policies, procedures and systems required by the Regulations. Examples include the requirement for a BCA to have a system for notifying IANZ and MBIE of matters specified under Regulation 6A and the requirement for BCAs to have policies and procedures for performing its building control functions (Regulation 7).

The graphs below show the percentage of accreditation assessments<sup>10</sup> where one or more non-compliances were raised for Regulations 5(a) - (c) and Regulations 6 (b) - (d).



<sup>10</sup> This includes both routine assessments and special focus assessments.

## 11.0 Serious non-compliances during this assessment round

**13%** of BCAs were assessed as having demonstrated one or more serious non-compliance

There were 10 BCAs who had a serious non-compliance identified this round. Serious non-compliance is where one or more of the policies, procedures and systems required by the Regulations is absent (and that function that requires it has not been formally transferred) or not appropriate for purpose. Serious non-compliance may also include where a BCA has failed completely to implement one or more of the required policies, procedures or systems. A repeat of a general non-compliance from a previous accreditation assessment can also trigger a serious non-compliance.

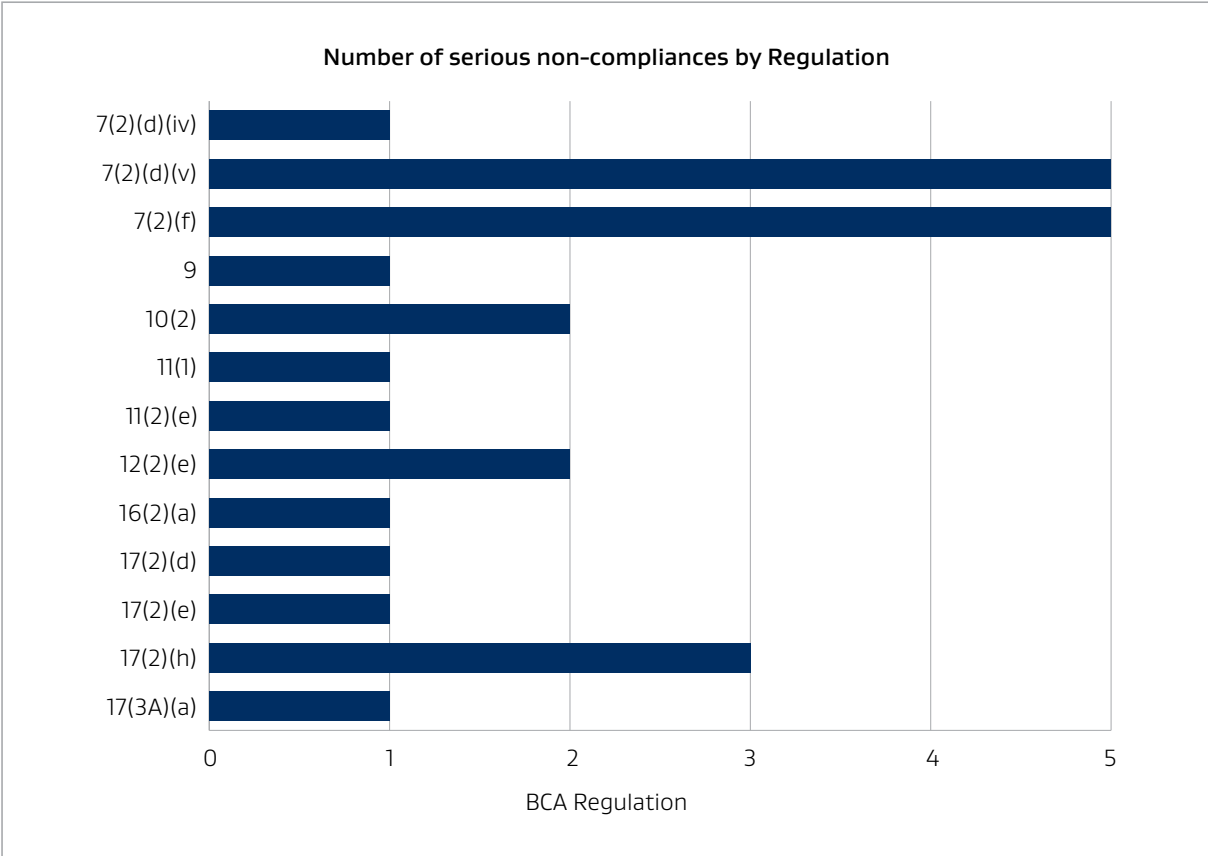
'Appropriate for purpose' means that an employee of the BCA, or contractor, can use the policy, procedure or system to come to a decision about whether to grant a building consent, pass an inspection, or issue a CCC, compliance schedule or NTF.

The number of serious non-compliances identified for these BCAs ranged from one to six. This was a slight increase on the previous round where 11% of BCAs were assessed as having demonstrated one or more serious non-compliances.

Serious non-compliances were recorded for several different regulations. Of particular concern are the 11 BCAs who were recorded as having serious non-compliances relating to Regulation 7 and the requirement to have policies and procedures that cover:

- › *Processing applications to establish whether they comply with the requirements that the Act, Building Code and other applicable Regulations specify for buildings – **Regulation 7(2)(d)(iv)***
- › *Granting, refusing to grant, and issuing building consents – **Regulation 7(2)(d)(v)***
- › *Issuing and refusing to issue CCCs, compliance schedules, and NTFs – **Regulation 7(2)(f)***

IANZ will not make a finding of serious non-compliance where a policy, procedure or system is 'appropriate for purpose' regardless of the view of the assessor or technical expert on the adequacy or accuracy of any technical decision they may have reviewed. The outcome of the use of a policy, procedure or system is not a determining factor on whether it is appropriate for purpose. However, it may be a determining factor on whether the system has been effectively or consistently implemented.



## 12.0 Special focus assessments

There were 18 monitoring (special focus) assessments carried out this round. The focus at these assessments was on those Regulations where non-compliances had previously been identified, which were then re-assessed. IANZ required any non-compliances to be addressed in full by the BCA before accreditation was continued.

At the end of the regular assessment, IANZ carries out a risk assessment of a number of factors to determine whether the next assessment should be in two years' time, or sooner because there is a higher risk the BCA will not continue to comply with the ongoing requirements for accreditation in the intervening period.

There are eight BCAs with special focus assessment scheduled within the next 12 months – due to IANZ's assessment that they were of higher risk of failing to meet accreditation requirements.



## 13.0 Revocation of accreditation

In this round, after consultation with MBIE, IANZ issued two BCAs with an initial notice *‘that sustained non-compliance may lead to revocation’* in regard to their accreditation. This was due to ongoing non-compliances with a number of different Regulation requirements, a failure to clear the non-compliances within the provided timeframe and a failure to provide an appropriate action plan.

Section 254 of the Act provides the accreditation body or MBIE with the power to revoke, or amend the scope of, a BCA’s accreditation if they no longer meet the prescribed criteria and standards for accreditation.

Following a notice of this type, IANZ is required to provide the BCA with a reasonable opportunity to resolve the matter and monitors the BCA’s progress in addressing the non-compliance(s). This is undertaken in accordance with an action plan notified by the BCA to IANZ and approved by IANZ. These two BCAs continue to be monitored by IANZ and have upcoming assessments to help determine next steps.

## 14.0 IANZ appeals

There was one appeal to IANZ, under IANZ’s complaints and appeals procedure, during this accreditation round regarding its decision on non-compliance. MBIE’s website contains **information** on the resolution process BCAs should follow for disagreements about accreditation requirements and processes.

This appeal related to the acceptance of applications for CCC and the definition of ‘required information’. After independent review, and discussion with MBIE, the appeal was rejected as IANZ had followed MBIE’s on-line guidance when making the finding.

## 15.0 Updates to MBIE's accreditation guidance

The following updates and changes have recently (within this accreditation round) been made to MBIE's on-line accreditation guidance and checklists and/or communicated to BCAs directly via MBIE's BSA Update newsletter.

### **SENDING CONSENT APPLICATIONS TO FIRE AND EMERGENCY NEW ZEALAND (FENZ)**

Due to the repeal of the Fire Services Act 1975, **MBIE's guidance** has been updated to clarify that the requirement to send certain building consent applications to FENZ is still applicable.

The requirement for providing copies of building consent applications to FENZ is set out in sections 212 and 238 of the Act and applies to every application for a building consent of a kind specified by notice in the Gazette.

**The Gazette Notice** refers to building consents for types of buildings described in section 21A of the Fire Services Act 1975 (now repealed). This Act has been replaced by the Fire and Emergency New Zealand Act 2017. As a result of this change, reference to section 21A of the Fire Services Act 1975 in the Gazette is now to be taken to be a reference to section 75 of the Fire and Emergency New Zealand Act 2017 (which corresponds to the section from the 1975 Act).

**Section 75 of the Fire and Emergency New Zealand Act 2017** now provides the list of buildings for which consent applications must be referred to FENZ (provided the other requirements of the Gazette notice are applicable). The list is largely consistent with that referenced in the previous Act, and in summary applies to any consent application for building work that requires changes, or affects fire safety systems. The exception is where the effect on the fire safety system is minor.

BCAs must have policies, procedures and systems in place that enable it to decide when to provide a copy of consent applications to FENZ. Referrals to FENZ may be contained in a BCA's policy and procedure for Regulation 7(2)(b) – receiving applications for building consent, Regulation 7(2)(c) – checking that applications comply with the Act and applicable Regulations or Regulation 7(2)(d)(ii) – assessing the content of applications.

### **UPDATES TO GENERAL NON-COMPLIANCE/SERIOUS NON-COMPLIANCE FLOWCHART**

The **flowchart** relating to the process for determining compliance with accreditation requirements has been updated to ensure that it is consistent with the guidance.

The flowchart now includes that a serious non-compliance can result where:

- › the BCA has a policy, procedure and system in place, but that policy, procedure and system has not been fully or partially implemented, and/or
- › where there is a pattern of failure by an employee or contractor to follow a policy, procedure and system, as well as a failure of the BCA to implement the policy, procedure and system over two or more assessment cycles.

### **CONFLICTS OF INTEREST**

To comply with Regulation 17(2)(i), a BCA must have, as part of its quality assurance system, a procedure for identifying and managing conflicts of interest. The **guidance** has been updated to note that procedures for conflicts of interest should also include the identification of management or organisational conflicts of interest, for example, governance pressure or building consents for council buildings. These can then be managed using the same process as any conflict of interest to ensure each case is considered in a fair and consistent manner.



A link to the Te Kawa Mataaho Public Service Commission's information on conflicts of interest has also been added to the guidance. This information contains useful resources on managing conflicts of interest in the public sector as well as examples of what constitutes good practice.

## DEFINITION OF SUPERVISION

The topic of supervision has long been raised as an issue within the BCA context, and MBIE has provided some useful direction on the matter in the past.

Section 7 of the Act provides a definition for supervision as it relates to building work:

**supervise**, in relation to building work, means provide control or direction and oversight of the building work to an extent that is sufficient to ensure that the building work:

- (a) is performed competently; and
- (b) complies with the building consent under which it is carried out.

Although supervision is not defined within a BCA context, other than under Regulation 11(2) with respect to training of employees, as a general rule those providing supervision should ensure the level of control, direction and oversight is sufficient to ensure the building control function is being performed in an appropriate manner.

As mentioned previously, there is some useful information in **Licensed Building Practitioner (LBP) Practice Note August 2017 (Supervision)** about the level and/or type of supervision needed in different circumstances. The risk matrix (page 10 of this document) provides direction on what type of supervision is appropriate once the skills of the individual(s) being supervised, and the complexity of the work being undertaken, have been considered. This document relates to the supervision of restricted building work by LBPs, but the general principles will be relevant for those carrying out and supervising building control functions.

It is also worth noting that there is a clear distinction between providing technical leadership under Regulation 13 and providing supervision. Technical leaders must be identified in the BCA's system, while supervision may be provided by a colleague who has an equal or greater level of competency in the relevant area.



## **UPDATE ON THE NATIONAL COMPETENCY ASSESSMENT SYSTEM (NCAS) REFRESH**

MBIE has recently completed a review of the BCA Regulations which includes several proposed changes to improve clarity and workability. This includes the proposal to reduce the frequency of competency assessments for building control officers (BCOs) to at least every two years, minor changes to Regulations 6A(1)(b) and 7(2)(f), as well as an increase in accreditation fees for BCAs.

Some of the submissions received during the review were also deemed relevant to the NCAS refresh. As part of the NCAS refresh, MBIE is:

- › Working with system providers to enable as much of the competency assessment process as possible to be completed in the BCA's electronic system. A new appendix will be added to the NCAS document around the applicable parts of the Regulations and how system providers may be able to better support the assessment process with their software, including ensuring it aligns with the relevant sections of the Regulations.
- › Including relevant Regulation 10(3)(a-f) competencies for BCOs relating to the upcoming building product information requirements and the BuiltReady scheme, along with other timely and relevant technical and regulatory inputs.
- › Considering other relevant NCAS feedback provided by submitters during the recent consultation process – to help inform the final version of the NCAS document.
- › Commissioning NZ-specific renderings for each of the Residential 1-3 and Commercial 1-3 building categories to better reflect the NCAS building typologies.
- › Working with Engineering New Zealand to explore if the NCAS building categorisation model could be utilised to help define building typologies for their members. This is in relation to an engineer's area(s) of practice or class.



# 16.0 Looking to the future – matters of interest

## **BUILDING CONSENT SYSTEM REVIEW**

A review of the building consent system is currently underway which aims to modernise the system and provide assurance to building owners and users that building work will be done right first time and that buildings are well-made, healthy, durable and safe.

The review is an end-to-end review of the building consent system – from the building design phase through to the issuing of a CCC. Following the release of an issues consultation paper in mid-2022, an options consultation paper was released for consultation in mid-2023. MBIE is currently in the process of analysing submissions on the options consultation paper.

MBIE's website contains more information on the **building consent system review**.

## **DATA COLLECTION INITIATIVE**

In the past, MBIE has not regularly collected data from BCAs relating to performance measures – including compliance with statutory timeframes. There is work underway to address this, which aims to obtain performance data from BCAs and/or their service provider on a monthly basis.

The new data strategy will contribute to MBIE's overall monitoring of BCAs with the intent of evaluating statistics and further identifying trends. It will also be a way to help inform the sector more generally and increase awareness of how BCAs are performing at any point in time – rather than just at the time of an accreditation assessment.



**Te Kāwanatanga o Aotearoa**  
New Zealand Government

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