



Building consent authority accreditation and registration scheme update

February 2007



This publication updates you on the progress of one of a number of work programmes the Department of Building and Housing is undertaking to implement the Building Act 2004 (the Act). It focuses on the following.

- The Building (Accreditation of Building Consent Authorities) Regulations 2006
- The *Building Consent Authority Accreditation Preparation and Self-assessment Guide*
- A survey on preparations by building consent authority cluster groups
- The building consent authority piloting scheme
- The building consent authority registration scheme and criteria for defining 'adequate means'
- The building consent authority fees and government assistance package

The Department has undertaken a significant amount of work to give effect to this scheme over past months. Key achievements include the recent promulgation of the Building (Accreditation of Building Consent Authorities) Regulations 2006 and producing guidance material to support applicant building consent authorities in their preparations for accreditation (the *Building Consent Authority Accreditation Preparation and Self-assessment Guide*). Work continues on developing the registration component of the scheme and rolling out the assistance package to applicant organisations.

Building consent authority standards and criteria

The Building (Accreditation of Building Consent Authorities) Regulations 2006 were passed on 18 December 2006 and came into force on 1 February 2007.

These regulations were developed following considerable consultation with local government, building practitioners and sector organisations.

The regulations set out the standards and criteria that an applicant must meet to be accredited as a building consent authority. The regulations also prescribe the application form.

There are 19 regulations, the most important being that a building consent authority must:

- have appropriate and documented policies, systems and procedures
- ensure it implements effectively its policies, systems and procedures. It must also record the decisions it makes, the reasons for them and the outcomes and actions of these decisions.

Applicants are required to meet 11 of the standards and criteria before 30 November 2007. By this date, an applicant must have:

- accredited policies, procedures and systems for performing its building control functions (ie, those statutory functions under the Act)

- accredited systems for:
 - ensuring it has an adequate number of employees and contractors to fulfil building control functions
 - establishing and assessing competencies to ensure work is allocated to competent employees or contractors
 - training employees
 - choosing and using contractors
 - identifying and employing technical leadership
 - ensuring it has the necessary technical resources and equipment
- accredited and adequate organisational records (including job descriptions and organisational charts)
- accredited and adequate systems for filing applications for building consents.

The regulations also require that a building consent authority has systems for:

- assuring the quality of performance of its building control functions (to be in place by 1 December 2010)
- ensuring employees and contractors undertaking technical building control work have appropriate technical qualifications (to be in place by 1 December 2013).

The regulations are available for download from the Department's website at www.dbh.govt.nz

Applicants are encouraged to refer to the Department's *Building Consent Authority Accreditation Preparation and Self-assessment Guide* (expected to be released in late February 2007) for more information on the content, purpose and context of the regulations.

Building Consent Authority Accreditation Preparation and Self-assessment Guide

An important step in the process of becoming accredited as a building consent authority involves an applicant undertaking an assessment of its building control operations. To help with this process, the Department is finalising the *Building Consent Authority Accreditation Preparation and Self-assessment Guide*.

The purpose of the Guide is to:

- help organisations that apply to become a building consent authority prepare their policies, processes and procedures for accreditation assessment and ongoing compliance
- help organisations assess how well existing policies, processes and procedures comply with accreditation requirements
- help organisations establish how well they implement their existing or new systems
- provide good-practice guidance that can be used (or adapted for use) by building consent authorities to demonstrate compliance with the accreditation standards.

The Guide will provide applicants with:

- information on the sections of the Act that cover the building consent authority scheme
- information on the content of each regulation in the Building (Accreditation of Building Consent Authorities) Regulations 2006
- information on the purpose and context behind each regulation
- guidance and examples to help applicant organisations prepare systems and processes for accreditation assessment
- a list of questions to help applicants demonstrate how they comply with each regulation
- information on the building consent authority accreditation process
- a self-assessment checklist for building consent authorities.

The Guide provides a good-practice framework for building control in New Zealand. This guidance information will be an important tool for applicant building consent authorities to evaluate their current organisational strengths and limitations, and prepare for successfully achieving accreditation status.

The Guide is expected to be released in late February 2007. The Department and IANZ will distribute copies of the Guide to territorial and regional authorities, and other sector stakeholders.

The Guide should be read in conjunction with its companion publications, the *Building Consent Authority Development Guides* for territorial and regional authorities (published in 2006).

Cluster groups

The Department encourages territorial authorities to work together to achieve accreditation. Cluster group arrangements can reduce the costs and workload associated with accreditation, and can support regional consistency between the building control practices of different authorities.

Eight cluster groups, involving 60 territorial and one regional authority, are currently considering or undertaking collective service delivery to help achieve accreditation. These are:

- Far North Cluster
- Central North Island Cluster
- Waikato Cluster
- Eastern Hawkes Bay Cluster
- Manawatu-Wanganui Group
- Wellington Cluster
- Mainland Cluster
- Southern Region Cluster.

The Department recently interviewed representatives from each cluster group to determine progress made on the group's accreditation preparations. Feedback indicated that representatives perceived several positive outcomes from the cluster approach. These included:

- improved relationships and cooperation in regulatory building control
- better ability to progress accreditation work, including sharing the workload across a number of organisations, and pooling expertise
- better future-proofing ability, as a consistent approach to processes and documentation will minimise changes when legislation or regulations change.

Feedback also showed that cluster members were pleased with the level and nature of Department support. Departmental resources, pilot programmes and staff visits providing advice and guidance are all seen as valuable preparatory tools that provide opportunities to identify gaps in their systems, and enhance processes and documentation. Positive comments were also received on the Government's funding assistance package, which is seen as being able to help reduce resource pressures.

Building consent authorities reported a number of challenges in preparing for accreditation and adopting a cluster approach. These included:

- capacity and capability issues, stemming from the need to balance regulatory building control functions with accreditation preparations (eg, the resourcing implications associated with engaging consultants to help with accreditation preparations and securing sufficient training budgets)
- variations in:
 - the size and types of operational systems
 - the level of preparedness (for example, some territorial authorities that are more advanced in preparing their documentation have chosen not to participate until other members of the cluster have 'caught up'. This has resulted in some less advanced cluster members having to develop documentation without the experience and expertise of the more advanced cluster members.)
 - understanding of the accreditation requirements

- establishing well-functioning and cooperative relationships between cluster members
- difficulties from conflicting political agendas and priorities.

We strongly believe that clusters are beneficial for all territorial and regional authorities involved, and continue to work with them to find solutions to the challenges facing them.

Accreditation assessment pilot

The Department has been working with International Accreditation New Zealand (IANZ) on pilot accreditation assessments in a sample of territorial authorities. Pilot assessments started in late November 2006 and finished in February 2007. Local authorities from the Mainland Cluster (Hurunui District, Nelson City and Westland District) participated in the initial round of pilot assessments. Pilot assessments with members of the Wellington Cluster (Wellington City, Hutt City, Porirua City, Kapiti Coast District and Upper Hutt City) were undertaken in late January and early February 2007.

The project had the following purposes and objectives.

- Obtain information that will help territorial and regional authorities assess their readiness for accreditation assessments and correct any identified shortcomings in their preparations
- Help IANZ assessors trial and fine-tune assessment processes in the local authority environment
- Help develop guidelines for all prospective building consent authorities, based on lessons learnt from the pilot
- Determine what further support territorial and regional authorities need to achieve accreditation

Piloting involved reviewing the building consent authority's draft documented systems and processes against the standards and criteria, which have now been set out in regulations. An assessment team lead by IANZ and two or more technical experts from the Department visited the building consent authorities, reviewed documents, looked at consent and inspection records, interviewed staff and accompanied staff on inspections. This enabled the team to assess the competency of the organisation and its level of compliance against the standards and criteria.

Building consent authority staff and management were given feedback during the pilot and more formally at an exit interview. A written report documenting the findings and making recommendations was also provided to each organisation.

Pilot participants have been very supportive of the project, finding the visits useful in familiarising staff with the accreditation methodology and in identifying priority areas for achieving accreditation. The pilots also helped IANZ and the Department's technical experts test the assessment process, reach agreement on interpretation of standards and fine-tune the assessment methodology.

The pilots were completed in early February. Lessons learnt from the pilot assessments will be shared with the entire sector, and major areas for support may be incorporated into the assistance package project.

Development Guide Module Two: Quality Assurance

In 2006, the Department released the *Building Consent Authority Development Guide* for territorial authorities and private bodies and the *Building Consent Authority Development Guide for Regional Authorities*.

These documents provided a comprehensive guide to model and build systems and processes and help building consent authorities document their statutory functions. They also help building consent authorities prepare for accreditation by providing guidance.

The Building (Accreditation of Building Consent Authorities) Regulations 2006 require building consent authorities to implement quality assurance systems, processes and procedures by 2010.

The Department (together with the building control sector and IANZ) is developing module 2 of the *Building Consent Authority Development Guide*, which will provide guidance on quality assurance management systems, processes and procedures in a building control context.

Many building consent authorities are already developing their quality assurance systems alongside their building control policies, systems, processes and procedures. Their quality assurance systems will be in operation well before November 2010. The sector has asked for the quality assurance module of the Guide to be published earlier to help those organisations wishing to develop and implement their quality assurance systems before 2010.

Registration and 'adequate means'

During early 2007, the Department expects to consult on building consent authority registration standards and criteria and the Act's requirement that private organisations registered as building consent authorities demonstrate 'adequate means' to meet potential civil liabilities.

The requirement for building consent authorities to be registered is intended to improve the quality of building controls by providing assurances about the suitability and integrity of organisations that act as building consent authorities (ie, their 'fit and proper' status).

Issues that are likely to be raised in the consultation are:

- the different objectives of building consent authority registration, relative to building consent authority accreditation
- how registration standards and criteria might be used to manage risks that are not covered by accreditation standards and criteria
- how building consent authorities could demonstrate compliance with registration standards and criteria
- how the Department might approach the assessment of 'adequate means' for private building consent authorities
- minimum terms and conditions for private building consent authority civil liability insurance.

Accreditation fees consultation feedback and next steps

In October 2006, the Department released the consultation paper *Proposals to Set Building Consent Authority Accreditation Fees and for Assistance with Accreditation*. This consultation paper presented information, and sought answers to questions about:

- recovering building consent accreditation body costs through fees prescribed in regulations
- government support and advice to help territorial and regional authorities prepare for, achieve and maintain accreditation.

Feedback was sought from stakeholders to inform policy recommendations. We received 52 written submissions from a range of sources, including territorial and regional authorities and private consultants.

Changes to the approach to fees based on the consultation feedback are likely to include:

- basing fees payable by territorial authorities on the average total value of buildings consented within the previous 3 financial years (rather than 1 year) and excluding 'one-off' high-value buildings (eg, a building that exceeds the total value of all other building work consented in a financial year) from the fee calculation
- a clear definition of 'critical' for the purposes of special assessments (the proposed definition will be tested with sector representatives).

The Department has obtained feedback from other government departments on the draft policy proposals for accreditation fees regulations. The proposals have been submitted for consideration by the Minister for Building and Construction. Once the proposals are finalised, the Minister will seek Cabinet approval to instruct the Parliamentary Counsel Office to begin drafting fee regulations.

If Cabinet approval is obtained in February 2007, the regulations could be in place by late March 2007. Organisations wishing to apply for accreditation in February should do so, and discuss fee issues with IANZ.

Assistance package – next steps

The Building Consent Authority Accreditation Assistance Package is being developed by the Department to provide targeted assistance to territorial and regional authorities. It will support their preparation for becoming accredited as building consent authorities by 30 November 2007.

An industry steering group has been established to help guide the Department in the support and disbursement decisions made to ensure this fund provides maximum value for money to the sector, aligns to good practice funding principles, meets the expectations of the consultation feedback and abides by the legal parameters of this expenditure. This group comprises representatives from:

- the Department of Building and Housing
- Local Government New Zealand
- the Building Officials Institute of New Zealand
- the Society of Local Government Managers
- a range of territorial and regional authorities
- the recently formed Building Control Management Group.

The steering group will meet monthly to review the funding decisions made and provide recommendations on further disbursement decisions.

The assistance options include the following.

- Case managers – Each authority will be offered a personal case manager who will act as a dedicated point of contact to answer questions, provide guidance and advice throughout the preparation and application process, and support knowledge and resource dissemination. A case manager will have expertise and experience in quality systems development, implementation and project management within the local government and building sector. Each authority will be offered a needs assessment to be conducted by their case manager. This is likely to be a 1-3-day, on-site exercise that works through a process of identifying, understanding, clarifying and verifying the individual needs of the authority in its process of becoming prepared for accreditation as a building consent authority.

This process will also identify possible opportunities for further funding assistance.

This needs assessment may not be necessary if a region is looking at undertaking alternative arrangements to building consent authority accreditation.

- Workshops – A series of regional workshops will be held at regular intervals to provide authorities with a question and answer forum and work directly with Department and IANZ staff, receive updates on any new resources and information, and participate in any requested and regionally tailored training modules. At this stage, two rounds of workshops are planned (February/ March and May). Further workshops will be scheduled subject to the feedback from case managers and requests from authorities.
- Project assistance – Funds will be available to support the provision of external resources and contract services to directly help individual authorities or clusters in their preparation as an accredited building consent authority, or to support establishment of alternative arrangements. The parameters of this assistance option may include the following.
 - Applications for eligibility: These must be joint submissions by the beneficiary authority and the external resource provider.
 - Eligible projects: These must have a feasible start and finish date for the authority to achieve building consent authority accreditation or be engaging in an alternative arrangement, and to link to the beneficiary's most recent needs assessment or approved alternative assessment.
 - Eligible costs: External expenses incurred in undertaking a project (for example, external contractor costs and disbursements, printing and travel).
 - Application process: This process will be defined in February. The application form will be a simple two- to three-page project outline submitted by case managers and reviewed monthly by the steering group for disbursement recommendations.

The Department is planning an initial training workshop. This will likely:

- outline the current funding options and processes for acquiring assistance
- explain the building consent authority accreditation standards and criteria, including quality assurance management systems and processes
- introduce any resources and guidance material developed by the Department
- provide advice on how to monitor and improve accreditation management systems and processes to check for and achieve compliance by self-assessment against the accreditation standards and criteria.

Further details including application information, case managers' contact information, workshop schedules and registration forms for assistance will be disseminated to authorities from late February 2007.

Consultation feedback on proposals to set building consent authority accreditation fees and for assistance with accreditation

In October 2006, the consultation paper *Proposals to Set Building Consent Authority Accreditation Fees and for Assistance with Accreditation* was released for public comment. The 52 submissions received were largely from territorial and regional authorities. The feedback and the Department's responses are summarised below.

Government accreditation assistance

The overall response to the \$3 million central government assistance package was very positive. Local authority preferences on the shape and content of the proposed package were that:

- most submitters supported the proposed assistance options and there was strong support for distributing funding via clusters
- a few submitters preferred the assistance to be provided directly to individual authorities rather than via clusters

- some submitters did not support the disproportionate level of assistance to authorities that have been slow to prepare for accreditation or that have not already invested significantly in preparations
- workshops, training and direct support and advice are clearly preferred over the development of tools and prototypes
- examples of particular assistance were being sought, including:
 - funding to clusters for project management, staff and expert advisers, developing shared service arrangements, web resources and document development and printing
 - staff competency assessment tools and funding to enable timely completion of assessments
 - training of internal auditors and staff on accreditation generally and on specific aspects, such as quality management systems and record-keeping
 - targeted funding (according to assessed need) to provide expert support and advice for self-assessments (possibly a helpline or ‘roving experts’, and pilot accreditation assessments)
 - good-practice operating notes and procedures.

The Department is working to ensure that, as far as possible, assistance aligns with the preferences of the majority of submitters.

Accreditation fees

The submissions indicate a clear ‘in principle’ objection by territorial authorities to a full cost-recovery approach and the proposal to establish accreditation fees. Submitters generally consider that accreditation should be seen more as public good and, therefore, be funded by central government, either through the building levy or taxes.

The objection to fees is often expressed as a general concern about fees adding to other costs imposed on local authorities by central government regulations.

Cost-recovery difficulties for smaller authorities that process low numbers of consents are identified as a concern, as there is a significant variance in the consent fees charged by local authorities.

Some submitters suggest that increased consent fees may stifle development or act as an incentive for illegal building work. They suggest that the building levy (even an increased levy) would be a better means of establishing a nationally consistent means of funding accreditation assessments.

Some submitters stated that the proposed fees are higher than anticipated and will cause significant budgeting difficulties for local authorities. A smaller number of submitters indicate that the proposed fees are as expected. Very few submitters express concern about the way that the proposed fees were calculated (as described in the appendix to the consultation paper).

Other concerns expressed by submitters were as follows.

- The fees do not take account of the significant costs already incurred by authorities in preparing for accreditation, or of the benefits of working in clusters, including the likely savings in time and effort for the building consent accreditation body.
- Fixed fees, payable in advance, while providing certainty for budgeting, do not act as an incentive to prepare well for accreditation. Some submitters felt that fees should be charged after the assessment and be based on actual and reasonable cost incurred (eg, as an hourly or daily rate).
- Regional authorities process very low numbers of dam consents. This causes similar issues to those of smaller territorial authorities and needs to be reconsidered.
- Private building consent authority fees should be consistent with the fees proposed for territorial authorities. An adjustment/review at the end of the first year would address over- or under-estimation of building values for fee-setting purposes.

- Basing fees on more than 1 year of consent activities would help to 'smooth' the effects of unusually low or high building values. 'One-off' buildings of extraordinarily high value should be excluded from the fee calculations.
- The benefits and potential cost savings from shared service arrangements and/or transferring functions between authorities are uncertain.
- Full technical reassessments should be completed less frequently than once every 2 years. The 2-yearly assessments do not align with the staged introduction of accreditation standards and criteria.
- The definition of what is 'critical' is important for special assessments and should be the subject of separate consultation.
- Special assessments are not required as the Department's review powers should be sufficient.
- A special assessment arising from a complaint or a change of personnel must be carefully considered before being undertaken.
- If the current provisions of the Building Act 2004 are a barrier to implementing the submitters' ideas (eg, using the building levy to fund accreditation assessments) then the Act should be amended.

Department responses to issues raised by submitters

The Department fully understands the reasons for the opposition to fees and for the suggestions that costs should be met by central government. Government fee-setting policies, legal requirements and other practical constraints mean, however, that the cost-recovery approach in the consultation paper remains our preferred option.

Submitters identified aspects of the proposals that can be improved and the Department will refine policy proposals in line with some of the suggestions. For example, we will propose that fees be based on more than 1 year of consent activities to 'smooth' the effects of unusually low or high building values.

Our initial responses to other issues consistently raised by submitters are summarised below.

Cost-recovery difficulties for small territorial authorities and regional authorities that process relatively low numbers of consents

The Department considers that the fees are fair as they reflect the actual (average) costs of accrediting building consent authorities of varying sizes, while also recognising the minimum cost for IANZ. It is acknowledged that authorities that process a small number of consents would face higher 'per consent' costs. While it is the prerogative of individual authorities to decide, the Act does enable the accreditation costs to be avoided by enabling authorities to transfer functions to another territorial authority that is an accredited and registered building consent authority. A transfer of functions may be an attractive option for authorities processing very few consents.

Fees do not take account of costs incurred in preparing for accreditation, or of the benefits of working in cluster groups

The Department considers it appropriate that fees take account only of costs incurred by the building consent accreditation body. Also, savings arising from cluster activities will more likely benefit the cluster members (eg, from avoiding duplication of effort and economies of scale), rather than the building consent accreditation body assessment costs.

Fixed application fees, payable in advance, do not act as an incentive for authorities to prepare well for accreditation

The Department is satisfied that the wording of the Act, in particular section 253(d) and section 402(1)(w), requires application fees to be fixed amounts and payable in advance. The Act does not currently allow for other approaches to setting fees, such as those based on an hourly or a daily rate.

Uncertainty about potential cost savings that may arise from transferring functions

Where an authority transfers all its building consent authority functions, the transferring authority would not be required to pay any accreditation fees. Any financial consideration associated with the transfer would be a matter between the participating authorities.

Full technical reassessments should be completed less frequently than once every 2 years

The frequency of accreditation audits is the prerogative of the Chief Executive of the Department (although the Act requires that audits be undertaken at least once every 3 years) and may be varied by notice in the *Gazette*. The accreditation body IANZ considers, in the current environment, that less frequent assessments would provide an adequate level of assurance for accreditation purposes and that the timing of assessments is not affected by the staged introduction of accreditation standards and criteria. Once the accreditation scheme is firmly established and authorities demonstrate consistent compliance with the standards and criteria, the Chief Executive will reconsider the frequency of audits. At this stage audits are proposed to be once every 2 years.

It should also be noted that while accreditation standards and criteria are being phased in over 6 years, this does not prevent proactive authorities from being accredited against standards and criteria earlier than required.

Fees are higher than anticipated and will cause budgeting difficulties for local authorities

The precise fees cannot be advised until after the consultation. However, the fees are in the order of what we have previously advised. Many authorities have already made some allowance for the fees and the possibility that they may be higher than anticipated. Compared to the overall cost of an authority's building control operations, the difference between budgeted and proposed fees would be a very small amount.

Private building consent authority fees should be consistent with the fees proposed for territorial authorities, and there should be an adjustment/review at the end of the first year

The Department's proposals mean that private building consent authorities will pay the same accreditation fees as territorial authorities. The only difference is that the fee for the first assessment must be based on an estimate of the total building value (because the private organisation would have no historical data). The Act does not enable an adjustment/review at the end of the first year. While it is possible that the estimate for the first year of operation will be inaccurate, there is no significant financial risk to the building consent accreditation body, and that will be the only year in which the problem arises.

Defining 'critical' for the purposes of special assessments and careful consideration required before commencing a special assessment

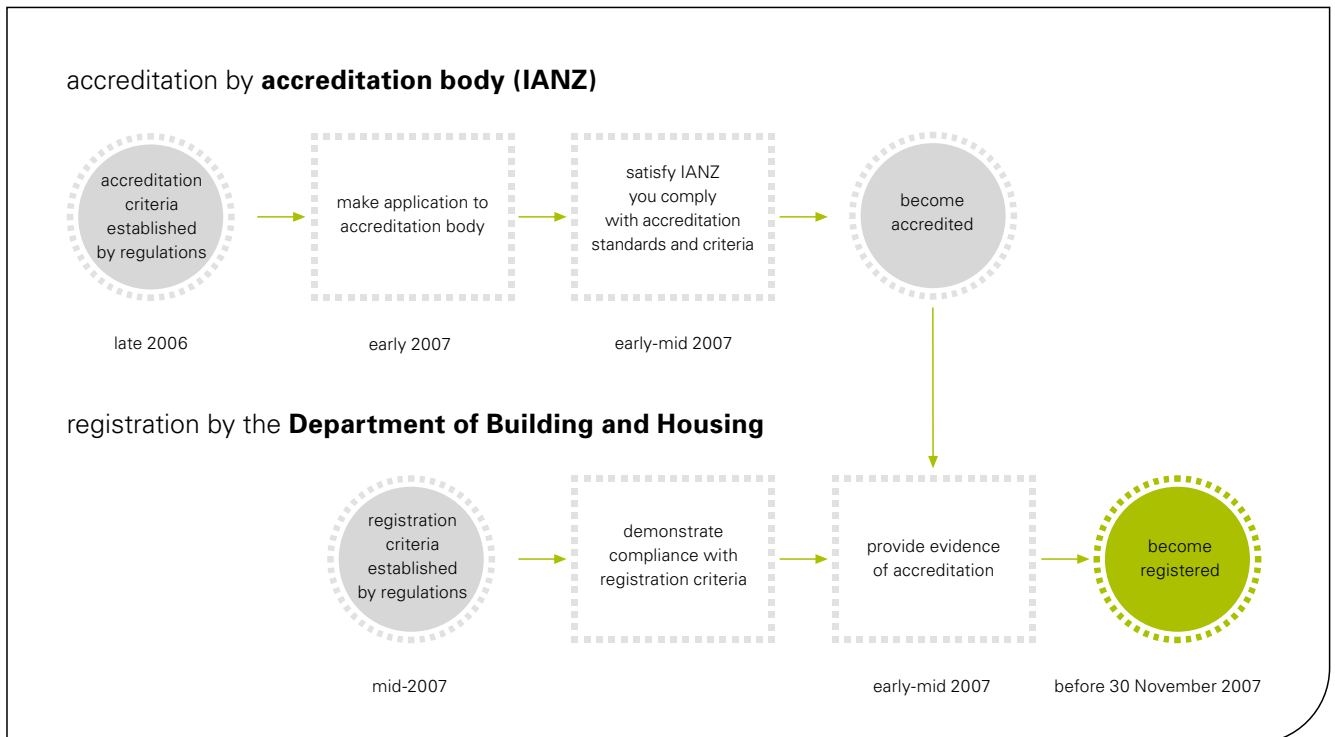
Special assessments will still be needed for matters that do not warrant departmental intervention, but are more the prerogative of the accreditation body in terms of accreditation standards and criteria. A departmental review might, however, be appropriate if the special assessment process did not lead to a timely resolution.

We agree that careful consideration of any complaint is required before initiating a special assessment. A definition of 'critical' will be developed in consultation with the Parliamentary Counsel Office and will be tested with a range of sector representatives. Widespread public consultation on this technical point would not, however, be justified.

If the Act is a barrier to implementing the submitters' ideas (eg, using the building levy) then the Act should be amended

There are no apparent grounds to amend the Act to use levy funding for purposes beyond what the Act already allows. Amendments to an Act of Parliament occur very quickly only in exceptional circumstances. The timeframe for amendments (even if they were included in the Amendment Bill under development) would not result in changes ahead of the November 2007 accreditation deadline.

BUILDING CONSENT AUTHORITY ACCREDITATION AND REGISTRATION TIMELINE



Where can I get more information about the building consent authority accreditation and registration scheme?

For general enquires about the building consent authority accreditation and registration scheme and the assistance package, please contact one of the following people at the Department.

BCA Accreditation and Registration Project
Regulatory Compliance Group
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For specific enquiries about making an application for accreditation, the accreditation assessment process, and for questions about the standards and criteria for accreditation, please contact:

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