



Building Consent Authority Complaint 2016/002

10 March 2016

COMPLAINT AGAINST THE BUILDING CONSENT AUTHORITY OF NAPIER CITY COUNCIL

1. The matters of complaint

- 1.1 This is an investigation of a complaint under Part 3 Subpart 1 of the Building Act 2004 (“the Act”), conducted under due authorisation by me, John Gardiner, Manager Determinations and Assurance, Ministry of Business, Innovation and Employment (“the Ministry”), for and on behalf of the Chief Executive of the Ministry.
- 1.2 The complaint was lodged by D McNicol (“the complainant”) and received by the Determinations and Assurance Team of the Ministry of Business, Innovation and Employment on 29 May 2015. It has been lodged against the building consent authority (“the BCA”) of the Napier City Council, in accordance with section 200 of the Act.
- 1.3 In his complaint application and subsequent correspondence with the Ministry the complainant has raised several matters of complaint. I have also taken into account matters raised by the complainant’s previously appointed agent in his correspondence with the Ministry. After discussion with the complainant (see paragraph 3.4), I have narrowed down the matters of complaint to those that come within the scope of section 200 of the Act. The complainant has been advised of the alternative avenues available to him to address the matters that fall outside of this scope.
- 1.4 Based on this process, I broadly take the matters for complaint to be the BCA’s alleged failure to:
- carry out an accurate inspection in respect of building work carried out under Building Consent No. 020956 dated 30 August 2002 (“BC 020956”)
 - record concerns regarding the construction of the perimeter walls during its initial or subsequent inspections
 - maintain files in respect of BC 020956.
- 1.5 Unless otherwise stated in this complaint, all references to sections are to sections of the Act and all references to clauses are to clauses of the Building (Accreditation of Building Consent Authorities) Regulations 2006 (“the BCA Regulations”). All relevant legislation can be found at Appendix A of this decision.

2. Background

- 2.1 The complaint centres on the complainant’s concerns about the competence of the BCA and its officers when inspecting building work carried out under BC 020956,

and in keeping records and files relating to this building work and to the complainant's property.

- 2.2 The complainant purchased his property in January 2013 at a mortgagee auction. The property in its current form was created through a subdivision, which was completed in 2010. The subdivision created two titles, both of which contained existing dwellings.
- 2.3 When the complainant purchased the property there were two building consents still active in relation to it:
- BC 020956 – which was issued on 30 August 2002, and involved work on both of the buildings covered by the subsequent subdivision: two subsequent amendments were also issued on this consent
 - Building Consent 060004 – which was granted on 3 February 2006, and related to works to upgrade the interior of the complainant's property.

Neither of these building consents have had code compliance certificates (CCC) issued in relation to them.

- 2.4 After the complainant purchased the property in 2013, he requested the BCA to carry out a final inspection of the building work, with a view to applying for a CCC.
- 2.5 The BCA carried out a final inspection on 4 April 2013. Two building consent officers conducted this inspection (for the purposes of this complaint, I will refer to them as "BC officer one" and "BC officer two").
- 2.6 Following the inspection, the BCA sent the complainant two letters, both dated 16 April 2013, advising him of the matters that needed to be addressed before a CCC could be issued. One of the letters related to BC 020956 and raised seven outstanding matters. The second letter related to BC 060004 and raised 13 outstanding matters.
- 2.7 The complainant carried out building work to address these issues and the BCA completed a further final inspection on 2 July 2014. This inspection was conducted by BC officer one.
- 2.8 Following this inspection, the BCA sent the applicant another letter dated 8 July 2014 identifying two outstanding matters in relation to BC 020956 and 9 outstanding matters in relation to BC 060004. Most of these matters were the same as the matters that had been raised in the letters of 16 April 2013, although there also two new matters raised in relation to BC 060004, including a requirement to obtain a:
- 8. Glazing producer statement.
 - 9. Written report from a suitably qualified building consultant detailing buildings [sic] compliance with:
 - a. B1 Structure.
 - b. Durability.
 - c. External moisture.
- 2.9 At this point, the complainant engaged a building certifier and consultant to assist him and act as his agent ("the complainant's agent"). According to the complainant's agent, the complainant believed that he had already addressed the matters identified in the letter of 8 July 2014, and requested that the BCA review the matter.
- 2.10 As a result, the BCA carried out a site visit or inspection on 6 August 2014, which was attended by a new officer from the BCA ("BC officer three"), the complainant

- and the complainant's agent. As a result of this visit, the officer requested further information to confirm that the items in the letter of 8 July 2014 had been addressed.
- 2.11 On 22 August 2014, the complainant's agent furnished a report setting out the background to the matter and providing information to demonstrate that the outstanding matters identified by the BCA in its letters of 16 April 2013 and 8 July 2014 had been addressed.
- 2.12 The BCA responded in a letter dated 14 October 2014, stating that the agent's report and attached documentation had been reviewed 'as part of the final inspection further information requests'. This letter identified seven items that in the BCA's opinion still required further information to be provided, in order to demonstrate their code compliance. One item related to BC 020956 and six related to BC 060004. All of these matters had been previously raised by the BCA in both of its earlier letters.
- 2.13 Correspondence subsequently passed between the parties, as a result of which the BCA conducted a further inspection of the complainant's property on 15 January 2015. This inspection was conducted by BC officer three and another BC officer ("BC officer four").
- 2.14 Following this, the BCA sent the complainant a letter dated 23 January 2015 declining to issue a CCC for the building work, as it was not satisfied that the building work complied with clauses B1, B2, E2, E3 and G13 of the Building Code. The areas of non-compliance were itemised in the letter, and included the matters identified in the BCA's letter of 14 October 2014, as well as some additional matters relating to the building's roof, cladding, penetrations and deck.
- 2.15 On 9 February 2015, the complainant's agent wrote to the BCA advising of the complainant's intention of making 'a formal complaint' against the BCA under section 200 of the Act. This letter outlined the grounds of the complaint, including, in relation to BC 020956, an allegation that the BCA '...have now deleted all reference to the 2002 building consent from their files and from their electronic records relating to the property'. The complainant's agent claimed that this had been done after the BCA was made aware of issues with the building consent in 2014, following which it had amended its records to show that the consent was 'Null and void'.
- 2.16 In February 2015, the complainant's agent contacted the Ministry about the procedure for making a formal complaint under section 200 of the Act. Informal correspondence and telephone conversations then passed between the complainant's agent and the Ministry, in which the Ministry advised, among other things, that some of the issues raised by the complainant would need to be dealt with by way of a determination.
- 2.17 On 27 May 2015, the complainant made a formal complaint against the BCA under section 200 of the Act, and this was received by the Ministry on 29 May 2015.

3. The Ministry's approach

- 3.1 I have undertaken enquiries on this matter including collecting evidence by:
- providing the BCA with an opportunity to make submissions and provide a formal written response to the complaint
 - providing the complainant with the opportunity to comment on any submission made by the BCA
 - engaging, on 9 September 2015, an independent investigating officer ("the investigating officer") to complete a preliminary investigation

and help establish the grounds on which the complaint application had been made; and considering the opinion expressed in his report dated 7 October 2015.

- 3.2 I have performed a careful and extensive review of the information collected and submissions provided to determine whether there is evidence of a failure and/or negligence on the part of the BCA.
- 3.3 I have allowed the complainant and the BCA the opportunity to provide further submissions on a draft decision issued prior to issuing the final decision.
- 3.4 I have provided formal advice to the complainant about which of the matters raised in his complaint application fall outside the scope of section 200 of the Act, and the alternative avenues open to him to resolve these matters. This has included, identifying those matters that would be best resolved by way of the determinations process. I note that the complainant has decided that he does not, at this stage wish to pursue these avenues, but that this does not preclude him from doing so at a later date.

4. Initial submissions

- 4.1 In his complaint application, the complainant described his complaint as follows:

I have tried to get my property ...signed off. Numerous different inspectors have come up with various different reasons not to. Most don't make sense and are [not] prepared to answer questions.

He alleged that the BCA was 'constantly avoiding the issues' and stated that the outcome he would like to see would be a response to these issues and 'answers to my questions'. With his application, the complainant provided a copy of his agent's report dated 22 August 2014 (see paragraph 2.11).

- 4.2 On 14 August 2015, I wrote to the complainant seeking further information about the basis for his complaint.
- 4.3 The complainant responded to this request in a letter dated 28 August 2015. Some of the matters raised in this letter fall outside the scope of the complaints process. The matter that does come within the scope relates to the perimeter walls of the dwelling, which the complainant asserts formed part of the existing dwelling before either of the two building consents were issued. The complainant queries:

- why the BCA's concerns about the perimeter walls weren't 'recorded at the initial inspection or even noted by any of the numerous follow up inspections and only brought (sic) up now?'
- whether this should be 'considered incompetence by the BCA?'
- why the BCA hasn't inspected the walls when 'there are numerous areas where the walls can be viewed'.

The complainant also restated that he would like a 'comprehensive response' to the matters raised in the agent's report of 22 August 2014.

- 4.4 After reviewing the file, and taking into account the complainant's submissions and the opinion of the investigating officer (see paragraph 3.1), I decided on the grounds on which I was able to accept the complaint for investigation. These grounds are as set out in paragraph 1.4 of this decision. I gave the parties express notice of these grounds under section 202(2) of the Act in letters dated 16 November 2015 and 17 December 2015.

5. Response to the complaint from the BCA

5.1 The complaint application details were sent to the BCA on 10 June 2015. The BCA responded on 27 November 2015. In summary, the BCA stated:

- there were two building consents without CCC issued for them relating to the complainant's property when he purchased it in 2013, and he would have been aware of these as he applied for final inspections in relation to them shortly after
- the BCA subsequently carried out several final inspections in an effort to 'work through the issues' with the complainant and his agent, and the BCA suggested 'on numerous occasions' that the complainant could apply for a determination if he did not agree with the BCA's decisions not to issue a CCC
- in May 2014, the BCA had 'received fifteen corrective actions from its BCA routine assessment' and had to 'completely revise its building control functions' in order to pass the reassessment in December 2014. The January 2015 final inspection of the complainant's property (see paragraph 2.13) was carried out under this new regime, using the BCA's 'two technical leaders' as the previous inspecting officers had both left the BCA at that point.

5.2 In conclusion that BCA stated:

[The BCA does not believe that it] was negligent in carrying out its functions given industry practice of the day and even if [it] was negligent those practices have long since been rectified through the BCA accreditation system. This statement is supported by the fact that [the BCA] passed [its] last accreditation reassessment without any corrective actions and as such [it] does not see that there is anything to be achieved in continuing with the complaints process in this instance.

5.3 The complainant responded to the BCA's submission in a letter dated 10 December 2015. In essence, the complainant stated that the BCA had failed to 'address the issues at the heart of the complaint' and that the measures taken as a result of the accreditation assessment were 'irrelevant'. The complainant also pointed out shortcomings with the BCA's January 2015 inspection.

6. The draft complaint decision and further submissions

6.1 On 15 February 2016 I issued a draft complaint decision. The draft concluded that the BCA had not failed or been negligent in performing its functions in relation to the building consents and the complaint was not upheld, however some areas of improvement were noted for the BCA.

6.2 On 17 February 2016 the BCA accepted the draft decision without comment.

6.3 In a letter dated 4 March 2016, the complainant provided a written submission that the draft decision was not accepted, in summary:

- The investigation did not seek sufficient information and the 'entire draft [is] completely inadequate'.
- There are issues that no answers have been sought or received. The complainant highlighted three such issues:
 - Why the Ministry did not contact the complainant's previous agent (refer paragraph 2.9) as the previous agent has 'considerable amount of

information which is relevant to this investigation and the discrepancy in records’.

- In relation to the front wall, when building consent was issued ‘monies were paid to the BCA with the specific purpose of carrying out and recording inspections’ to obtain a CCC. If the inspections and records have not been made, it is the responsibility of the BCA.
- No demand has been made in the investigation to see the qualifications of the inspectors at the time.
- The term ‘incompetence’ is defined under the Oxford dictionary as ‘not having or showing the necessary skills to do something’, this applies to the situation.
- The fact that the BCA has ‘now upgraded their system’ does not negate the fact that this has happened in the past so they must still be responsible.
- The complainant considers that the matter ‘needs to be passed onto somebody with the relevant skills to conduct an adequate investigation.

6.4 My response to the complainant’s further submissions

6.4.1 I consider the investigation has been completed adequately and thoroughly for this complaint, refer to section 3 for the various actions the Ministry has taken. The previous consultant was not engaged by the complainant for the complaint and it is therefore not appropriate to seek further information from the previous consultant.

6.4.2 In relation to the front wall, as per paragraphs 7.3.2 and 7.3.3 of this decision, there is reference to the front wall in the inspection records.

6.4.3 I have not sought to view the qualifications of the inspectors at the time. This is not appropriate, as the reference in paragraph 7.2.3 to viewing information is in relation to the BCA’s policies that were current at the time relating to competence of employees.

7. Analysis

7.1 The BCA’s functions

7.1.1 Under section 203 of the Act the Chief Executive of the Ministry has specified powers regarding a complaint. After conducting an investigation and considering the submissions made by the BCA, I must be satisfied the BCA has failed, without good reason, to properly perform its functions or has been negligent in performing those functions.

7.1.2 The functions in question for the purposes of this complaint relate to the BCA’s building consent processes, including carrying out inspections in relation to building work completed under a consent and maintaining records in relation to the consent. The primary source of legislation setting out these functions is the Building Act 2004, which is supported by the BCA Regulations (see Appendix A).

7.1.3 The complainant has raised three main matters of complaint, as outlined in paragraph 1.4. I will deal with each of these matters in turn.

7.2 The adequacy of the BCA’s inspections

7.2.1 The complainant has raised concerns about the adequacy of the BCA’s inspections. In summary, the aspects of these inspections that the complainant appears particularly concerned about are:

- the competence of the BCA's officers who completed the inspections
- that, over time, the inspections have been conducted by different BC officers
- that different items of non-compliant building work have been identified at the various inspections.

7.2.2 In terms of its statutory obligations, the BCA has a responsibility under Section 12 of the Act to inspect building work for which it has granted a building consent, and the powers to complete these inspections are conferred by Section 222. Under the BCA Regulations, the BCA must have policies and procedures for performing its building control functions, including for 'planning, performing and managing inspections' (clause 7). It must also, under clause 9, have a 'system for allocating its building control function work to employees or contractors who are competent to do the work' and, under clause 10, a system for assessing this competence.

7.2.3 Looking first at the question of the competence of the BCA officers completing the inspections, I have not been furnished with any information by the BCA about what its policies and procedures are in relation to inspections of work completed under a building consent, or its systems for allocating these inspections to staff or for ensuring its staff are competent. I would be interested to see these.

7.2.4 However, I also have not been provided with any evidence to suggest that the BC officers completing the inspections in the current case were not properly qualified, or were negligent or otherwise incompetent in completing their inspections. I have seen documentary evidence of three of the four inspections completed on the complainant's property since he purchased it in 2013, and all of these inspections appear have been conducted thoroughly and in a timely manner, and to have identified largely the same matters as requiring rectification.

7.2.5 The BCA has stated that the two BC officers responsible for the August 2014 and January 2015 inspections were its 'technical leaders', which I take to mean that they were senior staff within the team responsible for building consents. The third inspection, in August 2014, was a review inspection, completed at the complainant's request, and was conducted by one of these technical leaders. From my reading of the file, this inspection was requested because the complainant did not agree with the outcome of the July 2014 inspection and wanted these requirements reviewed (rather than being to inspect building work completed in response to this earlier inspection). Accordingly, I consider it appropriate that the BCA allocated a more senior staff member to complete the review.

7.2.6 The complainant has also raised concerns that 'numerous different inspectors' have completed the inspections on his property. From the documents I have seen, it appears that there have been four BCA officers involved, and that two of these have conducted two inspections each (BC officer one was involved in the inspections of April 2013 and July 2014; BC officer three in the August 2014 and January 2015 inspections). The BCA has stated that by the time the January 2015 inspection was completed both BC officer one and two were no longer employed by it.

7.2.7 In the circumstances, I do not consider that this is an unacceptable inconsistency of inspecting officers. The inspections have occurred over a two year timeframe. It appears that the BCA has made some attempt to ensure that the same staff remain involved. While ideally, it would be preferable to have the same staff member or members involved in inspections, the reality is that staff do leave or change roles within BCAs and it is not always possible to keep the same staff engaged on a job.

As stated in paragraph 7.2.3, I would be interested in seeing the BCA's systems for allocating staff to inspections.

- 7.2.8 I will turn now to the complainant's concerns that the inspections have raised 'various different reasons' why the building work has not achieved code compliance. In this respect, I have carefully reviewed the BCA's inspection records on the file and the letters that were sent to the complainant following the inspections itemising the areas of non-compliance. In my opinion, there is a large degree of consistency between these five letters. Most of the items raised in them appeared in the two initial letters dated 16 April 2013, and have been raised again subsequently by the BCA, because in its opinion they have not been adequately addressed.
- 7.2.9 This is the correct approach. It is the complainant's responsibility to demonstrate how building work achieves code compliance, and for the BCA to assess the evidence and accept or reject it. If the complainant disagrees with the BCA's assessment, then he can apply for a determination. The BCA states that this option has been offered to the complainant on several occasions, but he has chosen not to pursue it.
- 7.2.10 The main exception to the overall consistency that I have noted in paragraph 7.2.8, is the letter of 23 January 2015, where several new matters are raised, and in a different format from the earlier letters. I can understand that this would be frustrating for the complainant at this advanced stage in the process.
- 7.2.11 While there is no reason that officers completing inspections cannot note new matters that come to their attention at later inspections (and it is their duty to note these matters if they consider them non-compliant), it is preferable that inspections are as comprehensive as possible in the first instance. Such an approach gives certainty to the building owner and provides them with a clear picture of what work needs to be done. Most BCAs have checklists for staff to ensure that inspections are comprehensive, and I have seen such completed checklists in the current case. However, even with such approach, there are going to be occasions where an inspector, at a later inspection, notices something new and this will not make them negligent or incompetent. I note that in the current case, the BCA has stated that the January 2015 inspection occurred after it had overhauled its this building control functions, and as such it is possible that the newly identified items were as a result of its new more comprehensive approach. There is also some suggestion that the inspecting officers gained access to the roof for the first time at this inspection, although it is unclear why this should have been the case.
- 7.2.12 In my opinion, the complainant's impression that multiple new matters were being identified at the various inspections is incorrect, and has possibly arisen (and is not likely to have been helped) due to the differing wording, formatting and numbering used by the BCA in its letters. This makes it difficult to track matters between letters, and to identify which matters are the same and which are new. I would suggest that the BCA could provide clarity for its customers and for itself by adopting a standard method of presenting non-compliant matters in its post-inspection letters, which remains consistent as jobs progress. (For example, by using standard numbering and terminology for particular items and clearly identifying any items that are new). It may be that the BCA has introduced such a system as a result of its recent overhaul, but if so, the January 2015 letter is not, in my opinion, a good example of it.
- 7.2.13 I note here that the complainant has said that most of the matters raised in the inspections 'do not make sense'. The approaches I have discussed in paragraph 7.2.12 will help address this. However, if the complainant means that they do not make sense in terms of code compliance, then as I have stated elsewhere in this

decision, the correct avenue for him to pursue is the determinations process. Likewise, if the complainant disagrees with the BCA's repeated assertions in its letters that particular matters have not been adequately addressed, then a determination is the best option.

7.3 The failure to record concerns regarding the construction of the perimeter walls

- 7.3.1 The complainant has raised a specific issue about the BCA's failure to record concerns regarding the construction of the perimeter walls during its initial or subsequent inspections.
- 7.3.2 As stated in paragraph 7.2.8, I have carefully reviewed the BCA's inspection records and the letters that were sent to the complainant following the inspections. On my reading of these documents, the matter of the code compliance of the perimeter wall was identified in the initial inspection in April 2013, and raised in the BCA's letter of 16 April 2013 relating to BC 020956, where the BCA stated:

The inspection revealed the following faults;-

...

2. The front wall framing and cladding has been constructed at ground level (required to be a minimum of 150mm above ground level).

- 7.3.3 The matter has also been raised in all of the BCA's inspection-related letters since, although there has been some differences in the wording and numbering used. It may be that the confusion has arisen as a result of this variation, and I have discussed this, and the steps that BCA could take to address it in paragraph 7.2.12.

7.4 The failure to maintain files in respect of BC 020956

- 7.4.1 The complainant's agent raised the additional matter, in his correspondence with the Ministry, that the BCA had failed to maintain its files relating to BC 020956, and that it has now 'deleted all reference to the 2002 building consent from [its] files and from [its] electronic records relating the property'.
- 7.4.2 I listed this as a matter as one of the grounds for complaint in my letters to the parties dated 16 November 2015 and 17 December 2015. However, neither of the parties has since commented on or provided evidence in relation to it. From my review of the BCA's files, I found numerous records relating to BC 020956, including copies of the original building consent and its subsequent amendments, plans, specifications, inspection reports and correspondence.
- 7.4.3 Under both section 216 of the Act, (although noting that this is a Territorial Authority function), and clause 16 of the BCA regulations, the BCA has obligations to maintain adequate and secure files in relation to building consents. In the absence of any information to the contrary, I can see no evidence that the BCA has not discharged this function in the current case.

8. Areas for improvement

- 8.1 In its submission, the BCA has stated that in 2014 it had to 'completely revise its building control functions in order to comply with the accreditation regulations'. It states that as a result of this revision, it passed its accreditation reassessment in December 2014 'without any corrective actions'. The BCA suggests that any shortcomings in its handling of the complainant's property inspections are likely to have been rectified as a result.

8.2 I accept that the BCA has recently taken steps to improve its processes. I also accept that it has attempted to work with the complainant to resolve the issues in the current case. However, I think there are some additional steps that the BCA could take to improve how it identifies and communicates with building owners about the outcomes of its building inspections. I have discussed these matters in paragraph 7.2.12.

8.3 As a result, I recommend the BCA should take the following actions:

- review its systems and processes for allocating staff to building inspections, to ensure that, wherever possible, the same staff are used consistently throughout a job
- ensure it has systems in place to ensure that all staff completing building inspections receive adequate training and are otherwise competent to complete building inspections
- ensure that it has systems in place for ensuring that inspections are as comprehensive as possible, and for consistently identifying non-code compliant matters identified as a result of inspections and communicating with building owners about these.

9. Decision

9.1 Under section 203 of the Act, I do not consider that the BCA has failed or been negligent in performing its functions in relation to building consents, including conducting inspections and maintaining records, and as a result none of the matters of complaint is upheld.

9.2 I note that, because I have not upheld the complaint, the recommendations made in section 7 are not binding on the BCA. However, the BCA may still choose to pursue them in the interests of best practice.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 10 March 2016.

Yours sincerely

John Gardiner

Manager Determinations and Assurance

Appendix A

A.1 The relevant sections of the Building Act 2004:

12 Role of building consent authority and territorial authority

- (1) Under this Act, a building consent authority—
- (a) issues building consents, but not if a building consent is required to be subject to a waiver or modification of the building code; and
 - (b) inspects building work for which it has granted a building consent; and
 - ...
 - (d) issues code compliance certificates; and

200 Complaints about building consent authorities

- (1) The chief executive may receive complaints alleging that a building consent authority—
- (a) has failed, or is failing, without good reason to properly perform any of the authority's functions under this Part or Part 2:
 - (b) has been, or is, negligent in performing those functions.

216 Territorial authority must keep information about buildings

- (1) A territorial authority must keep reasonably available any information that is relevant to the administration of this Act to enable members of the public to—
- (a) be informed of their obligations under this Act; and
 - (b) participate effectively under this Act.
- (2) The information that must be kept by a territorial authority under subsection (1) includes—
- (a) all plans and specifications submitted to the territorial authority in relation to an application for a building consent; and
 - (b) any of the following information issued or received by the territorial authority in respect of a building:
 - (i) ...
 - (ii) building consents:...
 - (iva) records of work and certificates of work provided by licensed building practitioners under section 45(2) or 88(1)(a):...
 - (viii) any other records that relate to the information referred to in subparagraphs (i) to (vii); and...
 - (g) all information provided to the territorial authority by a building consent authority under section 238.
- (3) A territorial authority must keep the information referred to in—
- (a) subsections (1) and (2)(a) to (d) and (g), at least for the life of the building to which the information relates;...

222 Inspections by territorial authority

- (1) An authorised officer is entitled, at all times during normal working hours or while building work is being carried out,—
- (a) to inspect—
 - (i) land on which building work is or is proposed to be carried out; and
 - (ii) building work that has been or is being carried out on or off the building site; and
 - (iii) any building; and
 - (b) to enter premises for—
 - (i) the purpose of inspecting the building; or...

... (4) In this section and sections 223 to 228,—

authorised officer means an officer of a territorial authority to whom either or both of the following applies:

- (a) he or she is authorised to carry out inspections; or
- (b) he or she is authorised to enter land—
 - (i) by this Act; or
 - (ii) by an order of the District Court made under section 227

inspection means the taking of all reasonable steps—

- (a) to determine whether— ...
 - (ii) building work is being carried out in accordance with a building consent; or...
- (c) to enable a territorial authority to—...
 - (ii) carry out its functions or duties in relation to those buildings:

A.2 The relevant clauses of the Building (Accreditation of Building Consent Authorities) Regulations 2006.

7 Performing building control functions

- (1) A building consent authority must have policies and procedures for performing its building control functions.
- (2) The policies and procedures must cover the following:...
 - (e) planning, performing, and managing inspections; and

9 Allocating work to competent employees or contractors

A building consent authority must have a system for allocating its building control function work to employees or contractors who are competent to do the work.

10 Establishing and assessing competence of employees

...

- (2) A building consent authority must have a system for assessing annually (or more regularly) the competence of its employees performing building control functions.
- (3) The competence assessment system must cover the following:
 - (a) employees' understanding of the philosophy and principles of building design and construction; and
 - (b) employees' understanding and knowledge of building products and methods; and
 - (c) employees' knowledge and skill in applying the Act, the building code, and any other applicable regulations under the Act; and
 - (d) employees' ability to—...
 - (ii) inspect building work; and...
 - (f) employees' ability to comply with the building consent authority's policies, procedures, and systems.

16 Filing applications for building consents

- (1) A building consent authority must have a system for giving every application for a building consent its own uniquely identified file.

- (2) A building consent authority must have a system for ensuring that all information relevant to an application for a building consent is—
- (a) put on the application's file; and
 - (b) kept in a way that makes it readily accessible and retrievable; and
 - (c) stored securely.