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Royal Commission
PO Box 14053
Christchurch Airport
Christchurch 8544

Wellington City Council submission on the Royal Commission 'Discussion Paper: Roles and Responsibilities'

Please find attached the Wellington City Council submission in response to the Royal Commission's request for submissions on the 'Discussion Paper – Roles and Responsibilities'.

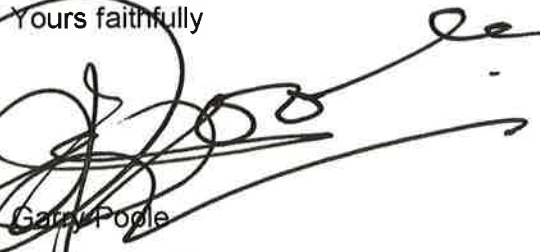
The Discussion Document notes that "overall there seems to be confusion about the Building Regulatory framework and how it is to be followed in practice. This appears to be a communication issue rather than a systemic issue with the framework. Submissions received by the Royal Commission suggest if improved and/or greater guidance were issued by the Ministry of Business, Innovation and Employment then the building regulatory framework would be more user-friendly".

As a building consent authority and a territorial authority we have primary interests in compliance with standards, and the quality and performance of the city's building stock. We agree with the Discussion Document's position noted above and note that there is still too much variability in how the regulatory framework is applied in practice and too often local authorities bear the risk which should be borne by other parts of the sector. There are a number of changes still being implemented or under development in further changes to the Building Act. We expect that these will continue to strengthen the framework and work to place accountability where it should lie in the design and building processes. Solutions to building quality (effectiveness) and efficiency have to be delivered and which ensure that all parties are accountable for delivering a quality product for the consumer.

Our submission is comprised of both general and specific comments which align with the format of the feedback form.

Thank you for the opportunity to provide feedback on the proposals. Should you require any further information, please contact John Scott on 04 803 8103 or john.scott@wcc.govt.nz

Yours faithfully



Gary Poole

Chief Executive

Wellington City Council



Part 1: Efficacy of building regulatory framework

General comments

We confirm Local Government New Zealand's (LGNZ) position supporting MBIE taking greater leadership in the form of improved guidance and practice. As the Royal Commission has identified there is an ongoing review of the building regulatory framework (both regulation and administration) which should over time, lead to a regulatory system that is more efficient but also buildings that are better quality (see objectives of the framework for building controls – page 4 of Commission paper).

These changes include amendments to the legislation e.g. Building Bill No 3, which when enacted will have regulations for risk based consenting.

- Building Bill No 4. The consumer protection outlined in this Bill needs to be strengthened. We understand that Consumer NZ support changes along the lines of the Queensland approach where it is mandatory for the builder to take out cover. We support this approach.
- Proportional liability. In line with clearer accountabilities LGNZ has advocated for a change to proportional liability. We understand that the Law Commission is doing this work. Until this is place then all too often it is the BCA / TA that is accountable as the last man standing.
- Licensed Building Practitioner scheme. This will improve the quality of building industry practitioner work and needs to be fully implemented. There are still some areas not able to be licensed under the scheme with no mechanism to have that work recognised as compliant, and there are sections of the building sector that are not required to employ licensed builders.

Solutions to building quality and efficiency have to be delivered and which ensure that all parties are accountable for delivering a quality product for the consumer.

Greater certainty of the changes that will be required of territorial authorities (TAs) is of paramount interest to LGNZ and TAs. LGNZ has been actively facilitating discussions with the local authorities on what administration of the Building Act regulations should look like and the sector is actively clustering to share best practice and resources.

Discussions with MBIE are ongoing although it is unclear at this stage exactly what MBIE is able to deliver in terms of implementing change, particularly technological solutions that would support consolidation of services. We understand that LGNZ has requested a forum for local authorities to engage with MBIE on administration of the building regulations and we support this.

Part 3.1: Efficacy of building regulatory framework

1. Are there problems with the existing building regulatory framework, identified through the experience of the Canterbury earthquakes? If so, what is the effect of these problems and are they sufficiently significant to require regulatory action?

We do not believe there are fundamental problems with the initial consenting process in relation to earthquakes. However, the regulatory powers to enforce building owners to get detailed assessments after a major event needs to be considered so that public safety issues are addressed in a timely manner.

2. What potential solutions might address the issues (e.g. a 'national policy statement') and how might these work in practice? What would the benefits be? What might the disadvantages be?

Solutions to the above issue would include changes to legislation and funding solutions to building owners where necessary.

3. What are your views on the model proposed by IPENZ?

We propose that building standards need a better funding model and that committees represent all interests and have less reliance on volunteer input.

All building standards developed should be of a standard (and written in unambiguous language) that can be included in the building compliance frame work.

We recommend that building standards should be funded by the building levy collected by MBIE and/or BRANZ.

4. Has the Building Amendment Act 2012 gone far enough? If not, what changes are still needed and why?

The Building Amendment Bill as originally proposed was for a model which had five cogs working together. Unfortunately this was not carried forward into the Building Act amendments.

We would strongly suggest that the Amendment Act has not gone far enough. The introduction of restricted building work requiring certain work to be carried out by Licensed Building Practitioners was watered down with some types of buildings not being covered (e.g. two apartments over a shop or a 3 unit apartment building over 10m in height). There is ongoing concern about liability which is not being addressed and left with Councils to pick up.

People need to be accountable for the work they carry out rather than leaving it to Councils to police the industry and then blame Councils for the delay or walk away from their responsibilities when something goes wrong.

We consider that there needs to be more accountability of construction industry participants. Some building work is not covered by restricted building work requirements and so falls outside the LBP complaint process if something goes wrong.

- Homeowners carrying out small projects;
- Small building projects that do not require a building consent
- New dwellings over more than 3 levels.

If something goes wrong with these there is no course of redress other than claims/litigation. While they might get financial redress the issue of a tradesperson doing poor work is not addressed.

There needs to be more clarity around building companies. Considerable effort has been made on individuals doing building work, however a lot of work is done by/through other structures such as companies. These are wound up when owners start looking around for someone to front up to fix issues. As a result there is no on-going surety or assurance for owners.

Many of these points have previously been included in our submission on the Building Amendment Bill (No 4). We submitted that the Select Committee gives further consideration to conditions in the Building Act where a warranty extends to a financial guarantee for the homeowner. Legal and financial recourse for pecuniary loss resulting from poor performance by the building sector should be made available, regardless of the status of the practitioner found at fault.

5. What problems are there, if any, with the level of understanding of the building regulatory framework held by participants in the building sector?

We find that structural engineers and some architects have a good understanding of the regulatory framework and compliance with the building act/code however this level of understanding is not representative of the rest of the industry. There is an over reliance on advice from the BCA to interpret and approve rather than designers/builders taking key responsibility for ensuring compliance.

There is still a tendency, in parts of the industry, to do the minimum required to “get it through the council” rather than doing what’s right.

6. What would help improve understanding of the building regulatory framework (if needed), and how should this be done? How would any costs be funded?

The fragmented nature of the industry does not assist this and there needs to be central government programmes to reach all builders, designers, etc in addition to working through industry groups like MasterBuilders/Certified Builders/NZIA.

There are many building practitioners who are not affiliated with industry groups and we have found that industry groups can take positions on behalf of their members without having member buy-in.

There is an issue with skill levels of builders compared to other parties in the process (eg engineers). The LBP provisions have not fully addressed this and do not reach builders working on projects that do not require a LBP. To borrow from Maurice Williamson, anyone with a hammer, a Ute and a dog can call themselves a builder.

7. Do the Building Act and the Resource Management Act work effectively together to ensure an efficient consenting process, while balancing any appropriate competing objectives? If not, how can this be improved?

At its simplest the Building Act and associated standards ensures the building is built right and the RMA ensures it is built in the correct location. Natural hazard

information is not comprehensive and at this time it is necessary for an assessment of the natural hazard risk to be undertaken.

LGNZ has advocated strongly a stronger legislative framework for natural hazards which is now being picked up in the review of RMA sections 6 & 7.

WCC supports this approach but notes that the Building Act and the Resource Management Act do not work together from a “small” customer point of view. The building consent process requires a check for compliance with District Plan but there is no similar check in the resource consent process. The result can be approval under resource consent for a design which does not comply with Building Act/code and needs redesign.

There is also significant duplication of information/decisions through having two processes that are independent of each other. Applicants can end up having two sets of design documents prepared to meet the different legislation – with added costs attached. Better integrated resource consent and building consents processes for single residential projects would be a better outcome for customers. However, it is acknowledged that large complex projects involving experienced professions are well suited to separate processes.

These difficulties are often caused by developers or owners wanting to build a structure that is outside the district plan parameters. While one party will see this as minor, the other party will often see a minor change as having a major impact on them. The RMA deals with the impacts and allows for public consultation, while the BA deals with the physical structure and has no public consultation.

These can work effectively together so long as developers and owners understand the limitations of what they can build as of right on any particular site. However, the level of detail in district plans is considered to be pedantic by many applicants which is exacerbated by planner interpretations of these rules. Both of these processes are made more difficult when there is a heightened level of risk aversion by both consenting and planning processes.

Part 3.1.4: Standards development

1. What, if any, are the weaknesses, (e.g. omissions, failures, impediments) in the current building regulatory framework in relation to the process for developing requirements for design and performance of buildings for or in earthquakes?

Most new standard have a focus on new buildings however most building work in New Zealand is additions or alterations to exiting buildings. There could be more work around the framework in developing requirements for improving the design and performance of existing buildings

2. What is the best way to provide compliance guidance (for example, should New Zealand Standards be the main or only method of compliance)? Why?

We consider that care needs to be taken to ensure that this is not so restrictive that it then becomes too difficult to get anything other than a prescriptive solution approved. There needs to be a mixture of compliance documents New Zealand Standards and industry lead guidance that is then endorsed by MBIE.

There needs to be a balance that allows for innovation and at same time has processes to show how an innovative solution meets the objective of the code.

The development of new standards and incorporating these into the code takes time to reach agreement by standard developers and so is not responsive to new technologies/systems/products. In addition the development of new standards is often “sponsored” by groups who have a business interest in the development. The scope can be restricted by what a manufacturer or group of manufacturers will pay for which might lead to consideration of elements in isolation rather than in the context of a bigger system or solution.

We understand that Standards NZ has capacity issues and is reliant on volunteer support from practitioners. It seems more efficient and effective to utilise MBIE, Branz and practitioners for these technical issues.

There needs to be a more seamless approach to improving industry performance. Note on page 22 in shaded box where the findings of a 2005 MED review of Standards concluded that “a third approach is to consider the provision of limited public funding to tackle market failure on the provision of standards”. At the moment local authorities volunteer their expertise to the development of a standard then have to pay for that standard.

3. What guidance could or should be given on the compliance methods so that these methods are efficiently and effectively incorporated into the Building Code? Who would or should undertake this work?

We consider that standards need to be set by a body independent of business self interest.

There have been standards developed that meet the requirements of Standards NZ process but do not meet the requirements for incorporation into the Building Code. The standards are not then cited by DBH as a means of compliance which creates much argument and debate.

Two examples of this are

- The development of a new standard for pool fencing involved industry groups in the committee and research. However the finalised standard did not deliver on the requirements of the Building Code and Fencing of Swimming Pools Act and DBH have not cited it as a means of complying. We face many arguments when we will not accept the standard as a means of compliance.
- The industry influence in promulgating a standard for untreated (preservative free) timber framing and promoting kiln dried timber for building purposes.

It needs to be clear when a Standard is mandated and accepted as an industry standard and can be used by a BCA.

Part 4.2: Responsibilities

1. In the context of building performance in an earthquake, who should the key players in the development of the building regulatory framework be and why, and what should their roles and responsibilities be? What impediments currently exist to achieving this?

We consider the following are the players and roles in this area.

- MBIE - Overall responsibility to ensure fit for purpose framework that meets the governments and societies expectations
- Local Government New Zealand - Main interface with the industry and individual Councils operate the BCAs throughout NZ
- Building Research Association of New Zealand - Industry funded research organisation
- Standards New Zealand - Develops standards for industry on an as needed basis
- Institution of Professional Engineers of New Zealand in conjunction with New Zealand Society of Earthquake Engineers - main source in New Zealand of engineering technical knowledge
- Consumer representatives – ultimately the product has to work and be affordable for the building owner.

The primary impediments to developing building standards to ensure performance in an earthquake are the capacity and financial resources in these organisations and the tension between strengthening and affordability. There is strong interest at central and local government levels in ensuring affordable housing is available however the need achieve stronger buildings would lead to higher building costs. In the commercial building sector increased costs in strengthening premises will be passed on to tenants.

2. If a work programme is needed for the development of building related Standards to ensure performance in an earthquake, (as discussed above in section 3), who should lead this, what are the priority areas, and how should this be funded?

This should be lead by MBIE and funded by central government. MBIE should have sector involvement including

- Engineers
- TAs/LGNZ
- Property Council (representing owners)
- Seismic experts
- Consumers/Building owners

Part 4.3: Capability

We consider that there are currently too many BCAs. This leads to variable processes and interpretations. We consider that the role of the BCA should shift towards that of an auditor. A building should be designed and built to be compliant, and the BCA's role should audit the design and build processes to ensure that a compliant product is delivered. We believe that the questions of capability and accountability should focus on these areas rather than with the BCA itself.

1. What examples or evidence are there of issues of competency within BCAs? What options are there to address these competency issues, if there are any? Give consideration to the different size and scope of territorial authorities across the country, and different mechanisms for acquiring expertise.

Competence within the BCA is not the issue as this is assessed bi-annually by IANZ and all councils in NZ have been registered by MBIE. The role of a BCA is to assess proposals for compliance with the code. How compliance is to be achieved is the decision of the designers. Effectively the BCA's role is to check the logic behind the designers work to ensure it will meet the objectives of the code.

This means that there is no need for BCAs to have the skills to design or build but they do need skills to assess what others have done. If there is a need for in-depth technical assessment, then most BCAs have contractual arrangements to supply that. If not they can request a peer review from a suitably qualified person.

For example, at Wellington City Council structural engineers are no longer employed however structural drawings are accepted with engineers calculations and usually a PS1, this is then checked by structural engineers from one of the two engineering consultancy firms we have contracted to fulfil this role of structural checks. Complex cladding systems are often accompanied by a peer review and in addition to our own examination of the plans and specification we can assess the expert opinion of the designer and peer reviewer.

Smaller councils do not tend to have large numbers of applications involving complex structural work. If they do receive one, they seek advice from other TAs or contractors.

2. What skills are needed in the private building sector to ensure seismically resistant buildings?

A better understanding of the geology of the building area and risk hazard mapping of this as it impacts on structural design.

Clearly good structural design and supervision (robust and regular third party review eg clerk of works on site daily representing the owners interests) to ensure what is designed is built.

3. MBIE has a Chief Engineer on its staff. What is or should be the purpose of this position? Should MBIE also have a Chief Architect and/or Chief Designer? Why or why not?

We strongly support MBIE having some good technical knowledge at appropriate points in the organisation to ensure good, independent policy advice to government and the sector. It is important this advice is free from the self interest that might come from an industry member trying to develop or promote a product or system.

Part 4.4: Resourcing Standards development

1. What should the role of Standards New Zealand be and how should it be funded?

MBIE should be the “sponsor” for building & construction standards and set the work plan for developing new or revised standards to ensure scope and content are what is needed by the sector, industry and consumers. Prioritising which standards are worked on and the scope of the standard should be governed by MBIE to ensure vested interests do not drive this for commercial purposes. The standards themselves should be dynamic documents that can easily accommodate changes in materials and methodologies.

Standards NZ should facilitate the development of these standards – pulling together the necessary expertise, managing the process and holding the information (which should be openly available).

In relation to core building standards such as NZ1170, NZ 3604 and NZ/A3500, this role should become the responsibility of MBIE, be funded by the industry and be available electronically freely to everyone. This could be funded from a combination of the DBH/BRANZ levy with the BRANZ contribution being any research needed to develop the new standard.

If we developed a Star rating system for buildings which indicated building quality, it may be that applying a standard achieves a specific rating.

2. What are the advantages, disadvantages and risks of relying on Standards for the majority of building and construction methodologies?

SNZ does not have the required technical expertise and often relies on volunteers who can sometimes have a vested interest. As a result it can be slow to respond to needs unless funding is available. Voluntary assistance in itself is not a problem and can provide access to expert opinions, but it should not be relied on solely or become the means of coping with funding shortfalls.

However the advantage is that SNZ is recognised overseas and has good acceptance within NZ.

3. Should primary reliance continue to be made on volunteers?

We do not consider that this should continue as this does not ensure there is balance and as we see now standards are developed that are then not cited by MBIE (for example the NZS2500 Safety Barriers & Fences Around Swimming Pools, Spas & Hot Tubs published in 2006).

4. In the event that Standards New Zealand is unable to source volunteers, what other means of funding might be available?

DBH or BRANZ levy money or a separate levy on each building consent for this purpose. We would support that there be one levy as this would simplify administration therefore suggest the combining of the DBH & BRANZ levy adjusting this if needed and then a formula for dividing this up amongst MBIE, BRANZ & SNZ

5. Should there be more use or less use of mechanisms other than Standards to develop and provide methodologies for compliance; why or why not? Who

would or should do this work and how should it be funded?

Industry lead methodologies that are then endorsed by MBIE should hold the same status as a standard or compliance document. They could be funded by an industry levy.

Manufacturers who undertake research and development can produce good technical methodologies for the use of their products. These should not be overlooked as a means of compliance given the right oversight.

Part 4.5: Obtaining regulatory approval for building work

Wellington City Council recommends that the Commission considers the structure of the consenting system as a whole. The current system is fragmented with a large number of BCAs delivering the consenting process.

The present system cannot provide a robust guarantee that T/As involvement will deliver code compliant buildings or lead to greater industry responsibility. Territorial authorities have a role in resource consent approvals and as a repository of building records therefore building consents should be a relatively straightforward process once planning approval is granted. The role of building control officers should move from being an inspector to an audit function and the quality control and accreditation should be of the builder and designer rather than the consenting authority.

Designers should certify that a design is to the code, builders should be required to build to the code and the consumer should be provided with a reliable product guarantee.

The changes that have been introduced with the licensed building practitioner's regime and those included in Building Act Amendment No 4 and yet to be introduced will move the industry forward and need to be considered in any response.

1. How well do you think the current consenting system works and why?

Wellington City Council is supportive of change and recognises that the current process can be improved. There are already a number of streams of work in this area including recent BA04 changes. Key areas for improvement include linkages between the RMA and BA; risk based consenting; accountability and assurance/surety.

In principle we agree with the views of IPENZ and NZCIC that clear and unambiguous information to allow applications involving only acceptable solutions and applications, and applications involving multi-use consents proceed rapidly.

The degree of change required across many areas means that this is a complex exercise however. Greater certainty of the changes that will be required of TAs is of paramount interest to the Council. The sector is actively clustering to share best practice and resources across the country.

Discussions with MBIE are ongoing although it is unclear at this stage exactly what MBIE is able to deliver in terms of implementing change, particularly technological solutions that would support consolidation of services. We are aware that LGNZ has requested a forum for local authorities to engage with MBIE on administration of the building regulations and we are actively working with LGNZ on this.

2. Are there any issues with the intersection of roles between territorial authorities and building consent authorities; why or why not?

Under the BA04 all BCAs are also the TA and are in fact one organisation. Although carrying out separate roles they are, from a customer point of view, the same person. A councils' work is much wider than the building consents alone and there needs to be consideration of how building work interacts with other Council requirements

covered by District Plans, bylaws and other policies.

The potential development of a national BCA, or adding private BCAs in the market, would not make this situation any easier because of the links between the BCA and other wider Council activities.

Considering Building Act matters in isolation from these other areas for compliance would create confusion and uncertainty for customers. The links include -

- Information management – maintaining information about properties;
- Link between development/building improvement and rating;
- Issues resolution – non-compliance management across RMA/BA areas;
- Link between development and building – resource consents & District Plans vs building consents;
- Links between infrastructure and building consents – eg trade waste, connections to public drains, water;
- Links between building and licensing activities – eg building work needs to deliver on food licensing needs.

3. Do you consider the status quo (local control by BCAs), a national model as described above, or an alternative option, would provide the most effective and efficient consenting process for complex building work?

A case can be built for any of these options and needs to consider the outcome for the applicant. The status quo is not an option as it continues to expose local authorities to the majority of the risk rather than placing this risk where it should lie, in design and construction.

4. Where do you think the focus should be within the consenting system in terms of risk? Are there any changes needed, taking into account those already introduced in the Building Amendment Act 2012? Why or why not?

There needs to be an increased focus on the “build” part of the process. Much of the current emphasis has been on design. Skilled building practitioners backed up by the right third party review during the build process (not necessarily Councils, could be someone independent engaged by owner) gives the opportunity to correct omissions or oversights from the design stage. This can then be backed up by assurance, surety and redress for owners if something goes wrong in design or build.

Part 4.6: – Quality Assurance

The consultation document makes reference to the definition of independently qualified person and has incorrectly linked this to peer reviewing.

IQPs are people who inspect specified systems in a building (which are listed on a compliance schedule) to ensure they are being maintained and are operating correctly. In their role as an IQP they are not involved in assessing compliance with the Building Code or its compliance documents.

The definition of IQP in section 7 BA04 does not relate to how or if Councils accept peer review or quality assurance as a means of providing assurance of compliance for a proposed building project.

The Building Act Amendment No 3 which was enacted earlier this year has many proposals for improving the consenting system. These need to be refined and implemented before further comprehensive change is introduced.

The NZCIC view on process for regulatory approval for building work assumes designers and builders submit sufficient information so that owners can be confident that the regulator can issue a code compliance certificate. This would be the ideal situation but not there yet. BCAs and building owners left with liability where things go wrong unless Building Bill No 4 strengthened.

1. Comment on the proposed model for regulatory approval by NZCIC – what aspects of this model should or should not be adopted and why?

This model is not a lot different to how the current model (and risk based consent model in the latest Building Act changes) should work. Issues are

- How can an owner be satisfied they are dealing with a competent designer or builder – who has assessed their competence.
- Reluctance from some designers (including engineers) to state in writing that their design is compliant.
- No clear ownership of a project in total i.e. who has an overview of all the trades involved and ensures overall compliance rather than compliance in separate parts.
- Reluctance of main contractor to be held accountable for sub-contractors work.
- The industry as a whole needs to be ready/prepared to take responsibility for their work.
- Consumer protection needs to be strengthened with clearer and more effective issue resolution and backup assurance if any of the parties is not there when an issue is identified.
- Record keeping – building/property records held by councils need to be complete. Designers, builders, engineers, etc can go out of business and records can be destroyed. Council records can be the only source left of how a building is constructed. Minimum record requirements should be defined and supplied to Council for storage. Under this model this could be provision of a full set of “as built” plans on completion and before the work is signed off. This could also include on going maintenance requirements (not just for specified systems).

The model needs to be tested against different types of projects to check for workability – from a small residential addition or alteration to the construction of a large regional hospital. Too often processes are designed with new buildings in mind whereas the reality is that the majority of building projects involve adding to or altering an existing building.

It also needs to be considered across the whole building code spectrum. What may be achievable in structural design, due to the professional bodies involved, may not be achievable in other building code areas.

This also assumes everyone will want to build buildings of the same level of quality. This is not our experience. There are many people who have other objectives that do not require this level of building quality.

2. When might producer statements be used and why; what benefits do they provide? What, if any, standard should such statements be required to meet?

Producer statement should be used to provide reasonable evidence that something has been designed or built to comply with the building code. Without this compliance cost would increase as BCAs would be required to carry out substantially more checking which in some case would duplicate work of other competent persons.

If producer statements are a legally recognised document then they should clearly state

- Scope of the work covered
- Author and why/how they are competent to issue the statement
- How compliance is being achieved
- Any limitations (which should only be reasonable eg cannot consider structure without also considering durability)
- Quality assurance/Monitoring requirements (for design statements)
- Maintenance requirements (for build statements)
- Assurance (lack of availability of this for practitioners)

There needs to be national standards on wording and competence of persons who can provide producer statements. Our current system for accepting producer statements from engineers for design requires PS1 from a CPEng engineer and complex design this also needs to be accompanied by PS2 from a CPEng engineer this is then reviewed by a council contract engineer to ensure standards are met.

3. What standing, if any, should producer statements have?

We consider that they should only be used if they can be relied on by owners and councils. They need to establish reasonable grounds that the design or build complies with the building code subject.

4. When should a mandatory peer review take place (ie. type of building, complexity level)? Who should the costs of a peer review fall upon?

The current Building Act has a risk based consenting process which needs to be developed and enacted. A mandatory peer review should take place with any alternative solution for fire safety, structure, or weathertightness.

Peer review is part of the evidence of how a complex proposal complies with the building code and so the cost should be borne by the person proposing the design. The result would be that the cost would ultimately sit with the owner who is commissioning the work.

5. What guidance (and level of guidance) should there be on the use of peer review (for example, a matrix guiding peer review requirements) and who would or should be responsible for developing and providing and enforcing (if reviews are mandatory) this?

In this model the use of peer review should be required by legislation/regulation not just guidance which practitioners choose or not choose to follow. It should be developed by MBIE with the industry.

6. Who should conduct peer reviews? Should there be any specific requirements (for example, independence) and why or why not?

Peer Review needs to consider

- Author competence and experience in similar situations
- Independence – need to be considering design principles from scratch
- Assurance

Note: WCC has had experience of working with architects to peer review alternative solution weathertightness designs. The process was agreed in principle with NZIA representatives in Wellington but this process failed when individual architects were not prepared to sign off on others work.

7. Do peer reviews need to be audited and if so by whom?

The auditing role could be carried out by Councils and involve checking

- What evidence is there that the people involved are competent/experienced in the type of work
- Independence of reviewer
- Quality assurance/ monitoring provisions are appropriate
- Assurance is available for customer

Their role should not have to involve assessing, in detail, the design itself.

Part 5: Information about building performance

1. Comment on whether there are any gaps, weaknesses or omissions in the information available on the performance of buildings in an earthquake such that affected parties can make informed decisions. How might these be addressed?

We are not sure who all of the affected parties are in these instances. These could be occupiers, visitors, and people near the building.

A rating system could be implemented and displayed on the building however there would be a cost to this and it could also lead to people avoiding parts of a city due to perceived risk. It would have to be decided who would administer and enforce this and how such a system might be funded.

2. What benefits might the implementation of a building warrant of fitness, to check for building deterioration, provide? What costs or disadvantages might this lead to?

A BWOF needs to be wider than structural checks and could apply more widely than commercial/ multi residential buildings.

The BWOF process should remain in place as is to ensure life safety (fire emergency) and building health (safe and healthy building use) are maintained. Most specified systems require multiple checks during the course of a year – some as often as weekly or monthly. This is different to a programme of checks of a building element or elements that need to be made every other year or longer.

One proposal is for any new building work to trigger the need for a “building maintenance schedule” to be issued by the contractor to the owner with a copy going to the Council to add to the record for the property. This would list the building elements to be checked, frequency and who the check needs to be carried out by (skill set rather than a named individual). Owners would carry out and record the checks and also record any maintenance required. (Note: We believe an annual requirement for owners to provide information to Council about these checks and maintenance would be overly regulatory, arduous and costly, especially as many building elements would not need to be checked annually and may not require maintenance for years).

Councils would include a copy of the building maintenance schedule in LIMs. This would trigger a prospective purchaser to request to view the schedule and enter a purchase fully informed about future maintenance requirements and past maintenance programmes. This would allow market forces to influence on-going maintenance and monitoring of buildings. We could see mortgagors or insurers basing decisions on how well a building has been maintained. Currently a lot of weight is placed on whether a code compliance certificate was issued for a building. However, a CCC could be years old and have little relevance to health or safety of the building if it has not been maintained. However there needs to be a cost benefit analysis on a proposal such as this which takes into account the considerable cost of enforcing this.

Whatever process is put in place needs to be clear on what MUST happen rather than what could happen.

The current BWOF process presents some issues for the Council;

- The legislation says Councils may conduct site audits (as a means of checking that documentation supplied is an accurate reflection of what's really happening in the building). It also makes provision for Council to charge fees for doing these visits.
- DBH on its website recommends Councils carry out site audits.
- However, audits are not a requirement and so we face challenges from owners when we carry out audits.