

## **Activity Planning -2012-2022 Ten Year Plan Strong Communities - Building Control**

### **The main matters that the Council is being asked to consider are....**

- The levels of service for both building consents and building enforcement
- In particular, whether or not to increase the level of service regarding building enforcement.

### **1. Council direction**

The direction provided to staff by the Council in December 2010 was to retain existing levels of service (while noting that streamlining how this activity is delivered is a priority).

### **2. What the activity does**

The Council is required by law to carry out building control activities under the Building Act 2004, the overall intent of which could be summarised as providing for healthy and safe buildings.

There are two distinct areas of the Building Control Activity:

- 1) Consenting, inspecting and certifying building work; and
- 2) Building enforcement and regulatory function.

### **3. What the legislations says**

Responsibilities under the Building Act 2004 can be clearly delineated into responsibilities as a Building Consent Authority (BCA) and responsibilities as a Territorial Authority (TA). There is a corresponding demarcation within the organisational structure of the TCDC building control activity to reflect these two aspects, as noted above. Section 12 of the Building Act outlines clearly the responsibilities of each.

A BCA is primarily responsible for processing, inspecting and certifying building work. The TA does not have to be a BCA; however TCDC has chosen to register as a BCA and to complete the requirements for being accredited as such. The BCA must meet the standards outlined in the Building (Accreditation of Consent Authorities) Regulations 2007 be reaccredited every two years.

The TA functions not pertaining to the BCA consenting function are largely a regulatory role with respect to building work, Building Warrants of Fitness and the Fencing of Swimming Pools Act 1987 (FOSPA 87). It also includes the issuing of Project Information Memoranda, Certificates of Acceptance, (for completed building work), the issuing of notices to fix for illegal work, as well as waivers or modifications. The management of building work compliance entails the use of a variety of enforcement mechanisms such as infringements, prosecutions and so on. There are also policy obligations that the TA must meet like the Earthquake-prone Dangerous and Unsanitary Policy requirements.

Other national legislation such as the Local Government Amendment Act 2010, Resource Management Act 1991 impacts on this work due to District Plan requirements, hazard management requirements and to the extent that this activity supports sustainable growth and so on.

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### 4. Proposed activity objective

The proposed activity objective for the Building Control activity is:

*To contribute to the development of quality building stock in the District.*

NB: This is different to the objective stated in the 2009-2019 Ten Year Plan, which was "to protect people and communities by ensuring buildings are safe".

### 5. How this activity currently would contribute to the Council Outcomes

The activity will contribute to the achievement of the Council Outcomes as follows:

Council Outcome	The Building Control activity...
A prosperous district	<ul style="list-style-type: none"> <li>• Helps provide for economic and population growth that is socially and economically sustainable.</li> <li>• Provides a process to ensure that buildings are safe. Having safe buildings contributes to the attractiveness of the District to individuals, tourists, and business owners when they make decisions about visiting, living or setting up a business in the District.</li> <li>• Has a part to play in the streamlining of regulatory processes.</li> </ul>
A liveable district	<ul style="list-style-type: none"> <li>• Promotes the development of a safe living environment.</li> <li>• Helps ensure the provision of safe drinking water and waste disposal services.</li> <li>• Ensures high standards of public health.</li> </ul>
A clean and green district	<ul style="list-style-type: none"> <li>• Provides for our unique environment to be protected.</li> <li>• Contributes to future development fitting sensitively within the Coromandel's unique landscape and coastal environment.</li> <li>• Contributes to keeping our environment safe and clean.</li> </ul>

### 6. Things to be aware of

- There are proposed changes to the Building Act 2004 that will mean that some lower categories of building work will be exempt from the requirement to obtain a building consent. This is likely to relate to work such as carports, covered pergola areas and other work determined to be 'low risk'. Although this work will not require a consent, indications are that the work will have to be undertaken by a Licensed Building Practitioner (LBP). It is anticipated that an LBP scheme will be introduced to support the planned changes to legislation.
- The government announced a leaky homes financial assistance package in May 2010 to assist with the resolution of these claims. The package centres on the Government and local authorities each contributing 25 per cent of agreed repair costs and affected homeowners funding the remaining 50 per cent backed by a government loan guarantee. This has been signalled as a priority issue nationally.
- As at April 2011 there are eight active weather tight claims for TCDC.
- Since the 2009-2019 Ten Year Plan was written, the government commissioned Price Waterhouse Cooper (PWC) to carry out research, analysis and modelling to

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provide an estimate of the size and cost of the leaky homes problem across the country. The PWC report estimates that the total cost to remediate all affected dwellings across the country would incur a total economic cost of \$11.3 billion. This nationwide estimate suggests that the Council's potential liability is more than was earlier estimated

- In order to maintain our accredited BCA status, the Council is required amongst other things to demonstrate that it has a system in place to ensure that it has sufficient numbers of technically capable people, either on staff or contracted, to fulfil the role of BCA. This requires the organisation to maintain a commitment of sufficient financial resources to achieve this.
- Although building consent figures have dropped nationally over the past year, both the Thames and Queenstown districts have maintained their consent levels in terms of number of consents granted.
- The proportion of non resident ratepayers affects the BCA business dramatically. As those ratepayers arrive at holiday times and identify work needed on their property a corresponding rise in applications for consented work is observed and hence a 'bottle neck' of approvals for consents and Code Compliance Certificates (CCC) results. Further there is a quietening of consents in comparison in the winter months.
- The current process review of the Building Control team is likely to result in great efficiencies in this activity.

### **7. A word from our community....**

- The 2010 community prioritisation survey shows that "providing regulatory enforcements" is ranked 9<sup>th</sup> of the 27 activities surveyed. "Issuing building consents" is ranked 13<sup>th</sup>. This activity is a medium-high priority, as determined by the community, when compared to other activities of the Council.

### **8. Strengths, weakness, opportunities and threats**

#### **For Building Consents:**

- A strength is that there is a developing team with potential to cope with all work aspects.
- Through the Environmental Services process review, work flows are being fine tuned and developed to increase use of technology and streamline systems.
- There is a risk of litigation for previously consented work. This means the costs are borne by the ratepayer if insurance does not cover the cost.

#### **For Building Enforcement:**

- A risk managed process is in place, which means resource is prioritised toward the greatest risk whether building or organisational risk in terms of meeting legislated responsibilities.
- A weakness is that there is a lack of resource in this area, which means we cannot manage all responsibilities to an acceptable level, meaning sometimes we cannot attend to some risk issues in a timely fashion or at all.
- A weakness is that the process is largely manual, which also means reporting is a manual process.
- The risk with the changes to legislation is that building consent exemptions will mean that a great portion of building work will not necessarily be subject to regulation so may create more work that is not code compliant.
- There is a history of backlogged compliance issues that have not been managed that could progress to present greater risk to the organisation.

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### 9. Proposed levels of service

The following levels of service are proposed for the Building Control Activity:

#### For Building Consents:

Level of Service	This means...
The Council processes, inspects and certifies building work in my district	<ul style="list-style-type: none"> <li>• The provision of this service not only meets council requirements in terms of statute, but also ensures the current service delivery is not reduced.</li> <li>• Options to reduce costs are continually being considered and alternatives to consenting and process streamlining are under review at this time.</li> <li>• Based on the current/proposed service level, there is no anticipated change in costing levels. Further based on proposed initiatives including exempting work that is likely to occur under statute now; providing technology uptake in both consenting and inspection processes and delaying replacement of staff that have left whilst bedding in such proposals should reduce costs long term.</li> </ul>
Building consent applications are processed within a reasonable timeframe.	<ul style="list-style-type: none"> <li>• Council will process building consents within a maximum of 20 working days or less and seek to continually reduce those times. Also seek to keep costs to a comparable level with other providers; whilst ensuring that minimum code and performance items are achieved.</li> </ul>
Building consent applications can be tracked on the Thames-Coromandel District Council website.	<ul style="list-style-type: none"> <li>• Enables the general public to access progress of their applications for building consent, they can see live updates of the consenting process and where and how the consent is progressing.</li> <li>• There are no anticipated changes to cost levels with this option.</li> </ul>

#### For Building Enforcement:

Level of Service	This means...
<b>Option 1:</b> All <u>high</u> risk or above illegal building work will be inspected immediately and made safe.	<p>This means...</p> <ul style="list-style-type: none"> <li>• Council will act in a timely fashion to protect people places and property from harms caused by illegal work.</li> <li>• Council will meet its legislative requirement.</li> <li>• Lower risk levels left untreated generally escalate to higher risks.</li> </ul> <p>It should be noted that this is a very reactive position because it means only responding to what is reported which may not be the higher risk things.</p> <p>There is provision in the act for cost recovery if Council takes action to rectify.</p>
<b>Option 2:</b> All <u>medium</u> risk or above illegal building work	<p>This means...</p> <ul style="list-style-type: none"> <li>• Council will act in a timely fashion to protect people places and property from harms caused by illegal work.</li> <li>• Council will meet its legislative requirement.</li> </ul>

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<b>Level of Service</b>	<b>This means...</b>
will be identified and made safe	<ul style="list-style-type: none"> <li>• Illegal work would be addressed to an extent that offers an assurance that people places and property would not be significantly harmed by illegal building work.</li> <li>• Including a proactive component that would ensure that higher risk work is identified rather than responding only to complaints</li> <li>• This is an increased level of service and would have resource implications.</li> </ul> <p>It should be noted that:</p> <ul style="list-style-type: none"> <li>• Some of the resource implications may be able to be minimised through greater alignment of enforcement across the organisation.</li> <li>• There is provision in the act for cost recovery if Council takes action to rectify.</li> <li>• There would also be a portion of recovery in terms of fines, infringements as a factor of the amount of enforcement work undertaken.</li> <li>• Resourcing to prepare files, manage cases to a higher level for prosecution and so on would reduce legal fees.</li> </ul>
<b>Regardless of the above, other LOS for Building Enforcement are proposed as follows:</b>	
Non compliance for commercial buildings and swimming pools will be identified and rectified.	<ul style="list-style-type: none"> <li>• This is a legislated requirement to have a current building warrant of fitness, The Building Act has specified this because commercial buildings present a higher risk due to higher occupancy/user rates that residential property and due to the likelihood of the existence of specified systems which can be dangerous if not maintained.</li> <li>• Likewise pools are required to be periodically inspected in the Fencing of Swimming Pools Act 1987. This level of service covers the two audit programs which would identify the compliance issues and the enforcement of breeches.</li> <li>• 33% of all swimming pools on the register will be inspected annually. Non compliance will be enforced in 100% of cases.</li> <li>• A benefit is that due to the legislation there is a proactive component to monitor and inspect these higher risk areas.</li> <li>• The TA function has not been to date resourced to deliver this level- so there are resourcing implications even though it is a legislative minimum.</li> <li>• This is to some extent reflected in current service delivery however is not resourced fully at this stage.</li> </ul>
Information is kept about buildings and can be accessed.	<ul style="list-style-type: none"> <li>• Building files are maintained so that customers can get all the information they need about the building.</li> </ul>

**10. How is this activity managed?**

This activity is implemented by TCDC staff. Where there are peaks in consents processing that are beyond the resource requirements of TCDC, these are contracted out to an external contractor.

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### 11. What do we currently spend on this activity?

As a proportion of Council's annual budget for the 2011/2012 year, the Building Control activity represents approximately 4.07% of total spend.

<b>2011/2012 Draft Annual Plan</b>	
Operating Expenditure (excluding internal interest cost)	\$4.11m
Capital Expenditure	n/a
<b>Total budgeted spend for Building Control for 2011/2012</b>	<b>\$4.11m</b>
Total Budgeted spend for Council for 2011/2012	\$100.97m
Total percentage of budget spent on Building Control	4.07%

<b>2009-2019 Ten Year Plan</b>	
Operating Expenditure (excluding internal interest cost)	\$42.39m
Capital Expenditure	n/a
<b>Total budgeted spend for Building Control for 10 years</b>	<b>\$42.39m</b>
Total Budgeted spend for Council for 10 years	\$1,295.64m
Total percentage of budget spent on Building Control	3.27%

### 12. How this activity is funded, and why

The Building Control activity is currently funded as follows:

*Funding rationale summary as outlined in the 2009-2019 Ten Year Plan*

This is a regulatory activity that promotes public safety and as such there are some general community benefits because the public can be assured that building activity complies with the relevant codes. For example, a safe water supply and proper disposal of wastewater are requirements of a building consent. This means that not only current occupiers benefit, but also future occupiers.

*The funding mechanisms currently used for operating expenditure are:*

Item	General Rates	UAGC	Targeted Rates	Fees & Charges	Grants & Subsidies
Consents & Inspections		0-19%	Capital value - 0-19%	80-100%	
Monitoring & Enforcement	20-39%	60-79%		0-19%	

There is no capital expenditure associated with the Building Control activity.

Staff proposed no change to the funding of the Building Control activity. The activity currently applies a high proportion of user fees.

### 13. Staff recommendation

- With regards to the Building Enforcement level of service, staff recommend option 2: all medium risk or above illegal building work will be identified and made safe, noting this is an increased level of service and will involve additional resource. Whilst a short-term increase in costs, staff view is that this option will provide for long-term reduction in costs due to reduced risk of litigation to the organisation.
- Staff recommend the other levels of service outlined for the Building Control and Building Enforcement activities.
- Staff recommend no change to the funding of the Building Control activity.