



1 June 2023

Ref: DOIA 2223-2545

Mr Nathan Speir
Director
RiceSpeir
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Tēnā koe Mr Speir,

Thank you for your email of 4 May 2023 to the Ministry of Business, Innovation and Employment (MBIE) requesting, under the Official Information Act 1982 (the Act), the following information:

- “1. How many applications for determination under s 177 of the Building Act 2004 (**the Act**) are currently active before MBIE?
2. How many staff or contractors does MBIE currently have to write the determinations referred to in (1) above?
3. Of the active applications in (1) above, how many consider s 177(1)(a) and s 177(1)(b) issues respectively?
4. What is the average number of days that the applications referred to in (1) above have been active for? In answering this question, please treat the first day as the date on which the Chief Executive (of MBIE) received the application, consistent with s 185(2)(a) of the Act.”

On 8 May 2022 you clarified on the phone with Jeremy Turnbull, Senior Operations Advisor, that you'd like question 2 broken down into two parts:

- a. How many Case Managers are in the Determinations team.
- b. How many other people contribute by writing determinations.

The data in the table below is accurate as of 8 May 2023.

#	Request	Response
1	How many applications for determination under s 177 of the Building Act 2004 (the Act) are currently active before MBIE?	83. 10 of those have not yet been accepted as a valid and complete application.
2	How many staff or contractors does MBIE currently have to write the determinations referred to in (1) above?	a. How many Case Managers are in the Determinations team = 7 b. How many other people contribute to writing determinations = 4 (Please see contextual information below)
3	Of the active applications in (1) above, how many consider s 177(1)(a) and s 177(1)(b) issues respectively?	<ul style="list-style-type: none">• 35 applications consider s 177(1)(a).• 62 applications consider s 177(1)(b).• 14 applications consider both s 177(1)(a) and s 177(1)(b).

		Please note that some applications have multiple matters relating to s 177(1)(a), and/or multiple matters relating to s 177(1)(b) – this data does not contain this level of detail.
4	What is the average number of days that the applications referred to in (1) above have been active for? In answering this question, please treat the first day as the date on which the Chief Executive (of MBIE) received the application, consistent with s 185(2)(a) of the Act.	As of 8 May 2023, the average number of days that applications have been active for is 515. This includes time where MBIE was waiting on information from the parties. Please note that under s 185(2)(a) of the Building Act, the timeframe for processing applications is measured in <i>working days</i> . (Please see contextual information below)

Contextual information for Question 2a

The Determinations team has 7 Case Managers as of 8 May 2023. Please note that the term “Case Manager” is a responsibility and makes up only part of the Determinations Specialists’ role. Determinations Specialists and Senior Determinations Specialists are also responsible for coaching, training, mentoring, and contributing to the wider building regulatory system, amongst other things. Furthermore, Case Managers are at different levels of expertise and experience, and therefore may require different levels of support from more experienced team members.

In addition to the 7 Determinations Specialists and Senior Determinations Specialists, there are two Principal Advisors who are not primarily focussed on managing cases but do hold a small caseload of their own.

Please note that the team is currently recruiting for vacant positions (Senior Determinations Specialist and Determinations Specialist) – these roles will have Case Manager as one of their responsibilities.

Contextual information for Question 2b

The other people that write determinations are Technical Writers - please note that one of these team members had only just started as of 8 May 2023 and was undergoing induction. Two of the Technical Writers are external consultants and do not work fulltime on writing Determinations. Since your request was made, we have inducted a third in-house technical writer.

Contextual information for Question 4

Please also note that very often, applications received do not meet the procedural requirements, so the team are required to put in significant work with the parties to make it a valid application. Sometimes, while working through this process the parties are able to resolve the issue. In that instance the application may be withdrawn, and the “clock” will not have been started. For this reason (and for statutory reporting purposes), we consider that the “clock” starts on the day that an application is deemed to be complete and valid (which includes the fee being paid).

Further information

When you spoke to Jeremy Turnbull you mentioned that you wanted to understand the situation with the Determinations team resourcing and workload better. As you are aware the Determinations team has undergone a significant programme of change over the last 2 years. There were significant changes in the

operational structure, significant recruitment, induction and training and the introduction of an online case management system, this focus on improvement continues. MBIE is devoting more resources to the Determinations team and making operational improvements to ensure that determinations can continue to meet the changing needs of the building sector. This increase in resourcing includes those who prepare determinations (case managers) and decision makers.

MBIE continues to prioritise determinations cases taking into account factors such as safety issues, complexity and whether a case has the potential to have broad sector impacts. To keep customers appropriately informed, customers involved in newly accepted applications are being told MBIE is exceeding the 60-day timeframe.

For the last 5 months we have piloted a different way of working for cases which have been identified as being at the lower end of complexity and have a discrete issue for consideration. The pilot is due to for completion at the end of June.

The positive impact of all of the change is demonstrated by a downward trend in open cases numbers from approximately the end of the third quarter 2022. This trend continues to gather momentum. Determinations entered 2023 with 98 open cases, as at the end of May this has reduced to 79 cases. We expect for this trend to continue through 2023, based on current data.

I hope that you find the information helpful to understand the determinations resourcing and workload. I understand that you and Katie have discussed meeting in person next time she is in Auckland. She expects to be there in June and July and will be in touch about a meeting.

I trust the information provided meets your request, however you have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Nāku noa, nā

Charlotte Gair
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Building and Tenancy
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