

From: [Official Information](#)
To: [Section 7 \(2\) \(a\) parliament.govt.nz](#)
Cc: [Official Information](#)
Subject: Final response - LGOIMA 438710 [Section 7 \(2\) \(a\)](#) - BCA
Date: Tuesday, 3 December 2024 4:00:58 pm
Attachments: [2024 Professional Indemnity COC.pdf](#)
[image001.png](#)
[image002.jpg](#)
[image003.jpg](#)

Kia ora,

We refer to your information request below. Hamilton City Council provides the following response.

Your request:

The liabilities the Council has in its role as a BCA?
The total financial exposure the Council faces in its role as a BCA?
The insurance coverage, or any other form of liability cover such as insurance bonds, if any, the Council maintains for BCA-related liabilities.
The annual cost to ratepayers to maintain BCA related liability cover.
The portion of rates allocated to cover potential BCA liabilities.
The reserves maintained specifically for BCA related claims.
The details of any excess or similar that is required to be covered by the Council before any insurance or other liability cover is paid out.
The amount the Council has spent on BCA liability related claims in the past 3 financial years, including but not limited to, legal fees, settlements, negligence costs, etc.

Our response:

1. **The liabilities the Council has in its role as a BCA?**

Please see the MBIE guidance for risk and liabilities in relation to BCAs.
<https://www.mbie.govt.nz/dmsdocument/5011-building-system-legislative-reform-discussion-paper-risk-and-liability#:~:text=BCAs%2C%20designers%20and%20builders%20owe,action%20that%20caused%20the%20defect>

2. **The total financial exposure the Council faces in its role as a BCA?**

The BCA is self-funding through fees and charges.

3. **The insurance coverage, or any other form of liability cover such as insurance bonds, if any, the Council maintains for BCA-related liabilities.**

HCC purchases professional indemnity insurance which includes some cover for BCA-related liabilities. This policy excludes claims related to weathertightness. HCC does not insure BCA related liabilities with any other non-traditional insurance mechanism such as insurance bonds. A certificate of insurance for this policy is attached.

4. **The annual cost to ratepayers to maintain BCA related liability cover.**

HCC's professional indemnity insurance for the 12-month period beginning 1 November 2024 is \$501,443 excluding GST. This is the full cost of the policy and cannot be broken down into specific components on liability such as BCA related liability only.

5. **The portion of rates allocated to cover potential BCA liabilities.**

All BCA activities are covered as far as possible by fees and charges, as per the revenue and funding policy

6. **The reserves maintained specifically for BCA related claims.**

We do not hold any reserves.

7. **The details of any excess or similar that is required to be covered by the Council before any insurance or other liability cover is paid out.**

The excess applicable to any claims under the professional indemnity insurance for Building Act claims is \$250,000 plus GST.

8. **The amount the Council has spent on BCA liability related claims in the past 3 financial years, including but not limited to, legal fees, settlements, negligence costs, etc. For clarity this is not for the cost to administer BCA.**

\$2,804,329.00

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.

Ngaa mihi

Keeley Faulkner

Official Information Advisor & Legal Support Officer

Legal services

Governance & Assurance Team | Partnerships, communication & Maaori

Email: officialinformation@hcc.govt.nz



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Council.

I support flexibility at work. While it suits me to send this email now, I don't expect a response outside of your own working hours.

From: Section 7 (2) (a) [REDACTED] <[\[REDACTED\]@parliament.govt.nz](mailto:[REDACTED]@parliament.govt.nz)>
Sent: Wednesday, November 6, 2024 1:49 PM
To: Official Information <officialinformation@hcc.govt.nz>
Subject: LGOIMA Request

Hi,

I am writing on behalf of ACT Local Government spokesperson Cameron Luxton. He is requesting information on the Council's liability regarding their role as a Building Consent Authority (BCA).

This request is subject to the Local Government Official Information and Meetings Act 1987.

Please provide:

The liabilities the Council has in its role as a BCA?

The total financial exposure the Council faces in its role as a BCA?

The insurance coverage, or any other form of liability cover such as insurance bonds, if any, the Council maintains for BCA-related liabilities.

The annual cost to ratepayers to maintain BCA related liability cover.

The portion of rates allocated to cover potential BCA liabilities.

The reserves maintained specifically for BCA related claims.

The details of any excess or similar that is required to be covered by the Council before any insurance or other liability cover is paid out.

The amount the Council has spent on BCA liability related claims in the past 3 financial years, including but not limited to, legal fees, settlements, negligence costs, etc.

For clarity this is not for the cost to administer BCA.

Ngā Mihi,

Section 7 (2) (a) parliament.govt.nz



Berkshire Hathaway
Specialty Insurance

Professional Indemnity Insurance Certificate

Policy Number: 47-ZEP-304505-08

Policyholder: Hamilton City Council

Address: C/o: AON New Zealand

Professional Service: Territorial Local Authority and Council Controlled Organisations.

Policy Period: From: 1 November 2024 To: 01 November 2025
Both days at 4.00PM New Zealand Local Time

Limit of Indemnity: \$15,000,000 in the aggregate for loss (excluding **Defence Costs**)

Policy Wording: Professional Indemnity (Civil) for Councils

Underwriter:

| <u>Insurance Company:</u> | <u>Proportion:</u> |
|--|--------------------|
| Berkshire Hathaway Specialty Insurance | 57% |
| QBE Insurance (Australia) Limited | 38% |
| Chubb Insurance New Zealand Limited | 5% |

Dated: 4 November 2024

Signed:

Ralph Tortorella, Secretary

Peter Eastwood, President

For and on behalf of Berkshire Hathaway Specialty Insurance
Company

This is a summary of cover only, and subject always to the terms,
conditions, exclusions and limitations of the Policy.