



**Department of
Building and Housing**
Te Tari Kaupapa Whare

**Technical Review
of the Compliance Schedule and Building
Warrant of Fitness systems of
Taupo District Council
Summary Report
September 2009**



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Important notice to people reading this technical review report

This report is only to be used by the building consent authorities or territorial authorities that are the subject of this review, for the purpose of improving their building control operations.

The report may not be used by any other person for any purpose. In particular, it:

- may not be used as evidence of the compliance or non-compliance of a particular building with the Building Code
- may not be used as evidence that the building consent authorities or territorial authorities under review have failed to exercise reasonable care when carrying out their functions.

An owner of a building considered as part of a technical review should seek advice from an independent building expert and/or a legal expert regarding any issues that might arise from the review, such as compliance with the Building Code.

The purpose of technical reviews

The Department of Building and Housing carries out technical reviews as part of its function to monitor and review the performance by building consent authorities, territorial authorities, and regional authorities of their functions under the Building Act 2004.

The purpose of a technical review is to monitor and assist the building consent authority, territorial authority, or regional authority under review to improve its building control operations.

A technical review is not a comprehensive audit. A technical review is a performance review based on a snapshot of information about the building control activities of the building consent authority, territorial authority, or regional authority. It cannot be taken as a full and comprehensive assessment of the competency and quality of those activities. A technical review is carried out by:

- assessing whether the processes and procedures used by the building consent authority, territorial authority, or regional authority under review are sufficient to enable it to satisfy the requirements of the Building Act 2004, Building Regulations, and the Building Code
- providing advice and assistance on best practice building control to help the building consent authority, territorial authority, or regional authority under review achieve an effective building control procedure that is consistent with national best practice
- enabling the Department of Building and Housing to receive feedback from the building consent authority, territorial authority, or regional authority under review about its practical operations, ability to assess building compliance, and the role of the Department of Building and Housing in the regulatory process.

1. Overview

Purpose and scope

This report sets out the key findings and recommendations from a technical review of Taupo District Council's building control operations. The review was undertaken by the Department of Building and Housing (the Department) in November 2008.

The review primarily focused on how the Council was undertaking some of its statutory responsibilities under the Building Act 2004 – specifically around compliance schedules, specified systems, and building warrants of fitness.

More generic issues such as the capacity and technical capability (competency) of the Council's building control unit were also considered, along with the Council's relationship with building control units in other territorial authorities.

This particular technical review was part of a programme that assessed four councils from the Lakes/Bay of Plenty cluster group:

- Rotorua District Council
- South Waikato District Council
- Taupo District Council
- Tauranga City Council.

Reasons for the review

The Department undertook the review because it considered that councils across the country need to strengthen how they are managing compliance schedules, specified systems, and building warrants of fitness. Such areas have been identified by industry experts and previous technical reviews undertaken by the Department throughout New Zealand.

The implementation of the building consent authority (BCA) accreditation scheme has also identified a need for councils, industry professionals, and building owners to better understand their responsibilities under the Building Act 2004¹. For example, around three quarters of BCAs needed to improve their policies and procedures for issuing (or refusing to issue) code compliance certificates, compliance schedules, and/or notices to fix.² Another common problem was a lack of systems for compliance schedules to define who had authority to issue these documents, and ensure that compliance schedules were attached to the code compliance certificates and met the requirements of the Building Act 2004.

Key findings from the review

The review found that the Council was performing reasonably well in a number of areas. For example it:

- has an appropriate organisational management structure and is properly delegating the relevant statutory powers and responsibilities considered in this review
- is accurately collecting and reporting building control statistics considered in the review

¹ This scheme is one of a number of reforms introduced by the Building Act to help improve the control of, and encourage better practice and performance in, building design, regulatory building control and building construction. Information about the scheme is available at: www.building.dbh.govt.nz

² Summary of findings report: 2007/08 building consent authority accreditation assessments. Published by the Department in November 2008 and available at: www.building.dbh.govt.nz

- is generally meeting the statutory timeframes for issuing compliance schedules and compliance schedule statements (although it needs to document its monitoring procedures around building warrants of fitness).
- has recently implemented a new system for assessing building consent applications for building work containing specified systems
- is completing on-site checklists and ensuring they contain appropriate records about specified systems
- is correctly issuing certificates for public use (CPU) under section 363A of the Building Act 2004, including ensuring expiry dates are added as a condition on all CPUs
- is providing guidance and advice to stakeholders about the information that needs to be provided and the reasons for this
- is managing amendments to compliance schedules adequately (although it needs to document its process)
- is undertaking some monitoring of building warrants of fitness (even though the process is not documented and little enforcement action is taken)
- is using a regional register of independently qualified persons (IQPs)
- has staff with adequate understanding of specified systems and compliance schedules and is generally being proactive about staff training in the areas covered by the review (although this will be an ongoing need as examples of non-compliance were found by the Department)
- is using external peer review of specified systems by professionals or experts in their fields
- is complying with the record keeping requirements of the Building Act 2004 (sections 216-217), which specifically relates to the access and storage of information relating to buildings within their jurisdiction.

The review identified four main areas where the Council faced some challenges and limitations and needed to strengthen its operations. Addressing these issues will improve the quality of service to Council customers, alleviate confusion for building owners and IQPs, and assist the Council to more consistently comply with the Act. The four main performance areas were:

- understanding and application of statutory responsibilities in relation to compliance schedules, specified systems, and building warrants of fitness
- documentation around building control decision-making
- ensuring effective systems, policies, and procedures in relation to compliance schedules, specified systems, and building warrants of fitness
- the capacity and capability of the Council in the areas covered by the review.

Understanding and application of statutory responsibilities

The review highlighted that the Council's building control staff need to more thoroughly understand and consistently apply certain areas of the Building Act 2004 and Building Regulations. Some examples are noted below, but these underlying findings also apply across the other three subheadings in this section.

- The Council's vetting procedures need to be strengthened and staff more vigilant in ensuring that building consent applications contain all of the required information and documentation about the specified systems, along with the proposed inspection, maintenance and recording procedures. The Department recognises that the Council's new system for assessing building consent documentation will strengthen this core part of its operations.
- The Council must ensure that all buildings with specified systems covered by section 101 of the Building Act 2004 have a compliance schedule (and compliance schedule statement in the first year).
- The Council needs to review how it is responding to the number of buildings that do not have current building warrants of fitness and perform its responsibilities by using the enforcement actions available in the Building Act 2004 when necessary. This should include:

- Undertaking building warrant of fitness or compliance schedule inspections to improve compliance in its district. A well structured building audit and inspection process will assist the Council in developing a greater knowledge, awareness and understanding of building stock containing specified systems within their district.
- Issuing infringement notices under Building (Infringement Offences, Fees and Forms) Regulations 2007 for building warrant of fitness enforcement purposes.
- The provision of information for building owners about their obligations under the Building Act 2004 could be enhanced to cover some of the gaps identified in the review (eg, amendments to compliance schedules)
- The certificates and documents issued by the Council need to correctly identify the specified systems rather than using generic descriptions, and consistently include all the relevant information and performance standards for such specified systems.

Documentation around building control decision-making

A recurring theme identified across the review was the need to strengthen how key regulatory decisions were being recorded by Council staff. In some cases there was only limited evidence on file to show:

- records of how the Council's documented procedures were followed
- the reasons for decisions and evidence to support them
- whether any follow-up action was required or occurred
- final outcomes achieved.

Some of the main examples of this included the need to:

- better document the actual specified systems, and the design, inspection and maintenance standards, complete with the date of the standard
- ensure the reason for being satisfied of compliance is consistently recorded for each specified system and that issue dates are recorded on all compliance schedules and documentation
- ensure the Council's decision-making around public safety is recorded when issuing certificates for public use (CPU) and the CPU should also require the owner to inspect and maintain the specified systems in the building for the period of the CPU
- consistently include signatures and relevant dates on electronic data records.

Effective systems, policies, and procedures

Systems, policies and procedures that need improvement and more effective implementation include the following.

- Documenting processes for issuing infringement notices to guide staff.
- Documenting processes for new or amended compliance schedules and for ensuring that building warrant of fitness requirements are being complied with (eg, valid building warrants of fitness are being provided to the Council on the anniversary of the date when the compliance schedule was issued).
- Including alerts on building consents to advise what documentation should be provided by the applicant or their agent in relation to specified systems, before a code compliance certificate can be issued.
- Monitoring of all functions that include specified systems to ensure compliance schedules fully comply with the provisions of the Building Act 2004. This process needs to include all the explicitly linked building consent processes of vetting, processing, inspecting and certifying.
- Formalising arrangements with the other councils in the regional cluster group regarding the joint IQP register being used, including agreeing a process for dealing with non-compliant IQPs, and how IQPs get added to or removed from the register.

Capacity and capability

The following issues were identified regarding the Council's capacity and technical building control capability (competency) (see parts 9 and 10 of the Review's terms of reference).

- While the Council is currently performing to statutory time frames for building consents (partly due to the current downturn in building activity in the sector as a result of the economic recession), it needs to ensure that it has sufficient resources to effectively undertake the full range of responsibilities considered in this review. This includes what the review found the Council is currently doing well, as well as those areas where improvement is required as identified in this report – particularly undertaking building warrant of fitness inspections and strengthening its internal systems. Such inspections also provide an opportunity for the Council to assess the performance of IQPs.
- The Council also needs to include compliance schedules, specified systems and building warrant of fitness requirements in their competency assessment system and monitor the effectiveness of training staff undertake to ensure this is being consistently applied.

The Department would like to thank Taupo District Council's building control management and staff for their cooperation and assistance during the review.

2. Roles of the Department of Building and Housing and the Council

The Department's role

The Department is responsible for conducting technical reviews of territorial authorities and building consent authorities. This is part of its wider statutory responsibilities for building and housing, and administration of New Zealand's building legislation. In summary, the Department's key building control functions include:

- advising the Minister for Building and Construction on matters relating to building control
- administering and reviewing the Building Code
- producing Compliance Documents that specify prescriptive methods as a means of complying with the Building Code
- providing information, guidance, and advice on building controls to all sectors of the building industry and consumers
- implementing, administering and monitoring a system of regulatory controls for a vibrant, innovative sector with skilled building professionals
- making determinations, or technical rulings, on matters of interpretation, doubt, or dispute relating to compliance with the Building Code or certain decisions of building consent authorities and territorial authorities.

Role of the Consent Authority Capability and Performance Group

The Department's Consent Authority Capability and Performance Group are responsible for technical reviews. The Group's broad functions include:

- monitoring, reviewing and improving performance outcomes of the regulatory building control system
- managing and strengthening relationships with building consent authorities, territorial authorities, regional authorities, and other key industry stakeholders
- providing advice and guidance to the regulatory building control sector.

Role of territorial authorities

The core building control functions of a territorial authority under the Building Act 2004 include:

- issuing project information memoranda
- granting building consents where the consent is subject to a waiver or modification of the Building Code
- issuing certificates of acceptance
- issuing compliance schedule statements
- amending and issuing amended compliance schedules
- granting waivers and modifications (with or without conditions) of building consents
- issuing notices to fix
- administering annual building warrants of fitness
- enforcing the provisions relating to annual building warrants of fitness
- deciding the extent to which certain buildings must comply with the Building Code when they are altered, their use is changed, or their specified intended life changes
- performing functions relating to dangerous, earthquake-prone or insanitary buildings

- determining whether building work is exempt under Schedule 1 from requiring a building consent
- carrying out any other functions and duties specified in the Building Act 2004.

Role of building consent authorities (that are territorial authorities)

Building consent authorities (that are territorial authorities) perform the following functions:

- inspecting building work for which they have granted a building consent
- issuing notices to fix
- issuing code compliance certificates
- issuing compliance schedules
- receiving, considering, and making decisions on applications for building consents within set time limits
- determining whether applications for a building consent subject to a waiver or modification of the Building Code, or any document for use in establishing compliance with the Building Code, should be granted or refused
- ensuring compliance with the Building Code and Regulations.

Taupo District Council

The Taupo district is centrally located in the North Island and stretches from the small town of Mangakino in the north-west, to Mount Ngauruhoe in the Tongariro National Park in the south, and east into the Kaingaroa Forest. The district covers 6,970 square kilometres (including Lake Taupo) and has a total population of 32,418 (2006 census). Situated on the northern shores of Lake Taupo is Taupo, the main town of the district, and the location of the main office for the Taupo District Council. The Council also has a small office in Turangi, 52 kilometres south-west of Taupo on State Highway 1.

The district has a diverse range of resources including forestry, agriculture, hydroelectric and geothermal energy, tourism, scenic, and recreational attractions. Tourism is significant to the district's economy and there are many buildings catering for tourists that contain specified systems.

3. Process

Purpose of technical reviews

Technical reviews are undertaken to monitor and assist building consent authorities and territorial authorities to fulfil their obligations under the Building Act 2004. The review is a tool that helps such organisations to:

- enhance the performance of their building control activities
- implement appropriate systems, processes, and resources so they can carry out their building control operations
- effectively fulfil their obligations under the Building Act 2004 and Building Regulations.

Technical reviews also examine whether territorial authorities or building consent authorities have the appropriate systems and resources to enable their building control personnel to undertake their work effectively and efficiently.

Technical reviews are not intended to evaluate the performance of individual staff and are not comprehensive audits involving detailed examinations of all aspects of a territorial authority's building control operations. Nor do they assess the territorial authority against a particular model or expressly measure it against the performance of other territorial authorities.

Legislative basis

This review is initiated under sections 204 and 276 of the Building Act 2004. It is a function of the Chief Executive to monitor and review the performance of territorial authorities and building consent authorities to determine whether they are properly exercising their powers and performing their functions.³

Scope of the review

This review's terms of reference covered 11 areas, which collectively cover the key components of the Council's territorial authority functions. The terms of reference are set out below.

³ The Building Act 2004 is available at www.legislation.govt.nz

Figure 1: The terms of reference for the technical review

1	Organisational and management structure
2	Consent statistics
3	Statutory timeframes – sections 102, 104, 104A and 108(3)
4	Building Act requirements – compliance schedules
5	Building Act requirements – amending a compliance schedule
6	Building Act requirements – annual building warrant of fitness
7	Private cable cars (section 100)
8	Independent qualified person register
9	Human resources
10	Technical knowledge and ability of staff
11	Access to and storage of compliance schedule and building warrant of fitness documentation

Method

The Department use four broad approaches to gathering information about the Council's building control activities. These are:

- observing staff undertaking work
- reviewing written material used and produced by staff (eg, policies, procedures, processing checklists and records, manuals and approved consent documentation)
- interviewing staff about their use of material and their work
- assessing a random sample of building projects (case studies) that have recently been, or are currently being, handled by the territorial authority or building consent authority.

For this review, two case studies of processed commercial/industrial building consents were undertaken to assess compliance with the Building Act 2004 and its associated Regulations, with particular focus on specified systems, compliance schedules and building warrants of fitness requirements.

Building consent records were reviewed to assess the adequacy and effectiveness of the Council's systems. Aspects considered were the adequacy and completeness of approved documentation (in particular, the adequacy of the compliance details), the assessment of building consent documentation, and the effectiveness of quality control systems.

4. Technical review findings and operational building control recommendations

1 Organisational and management structure

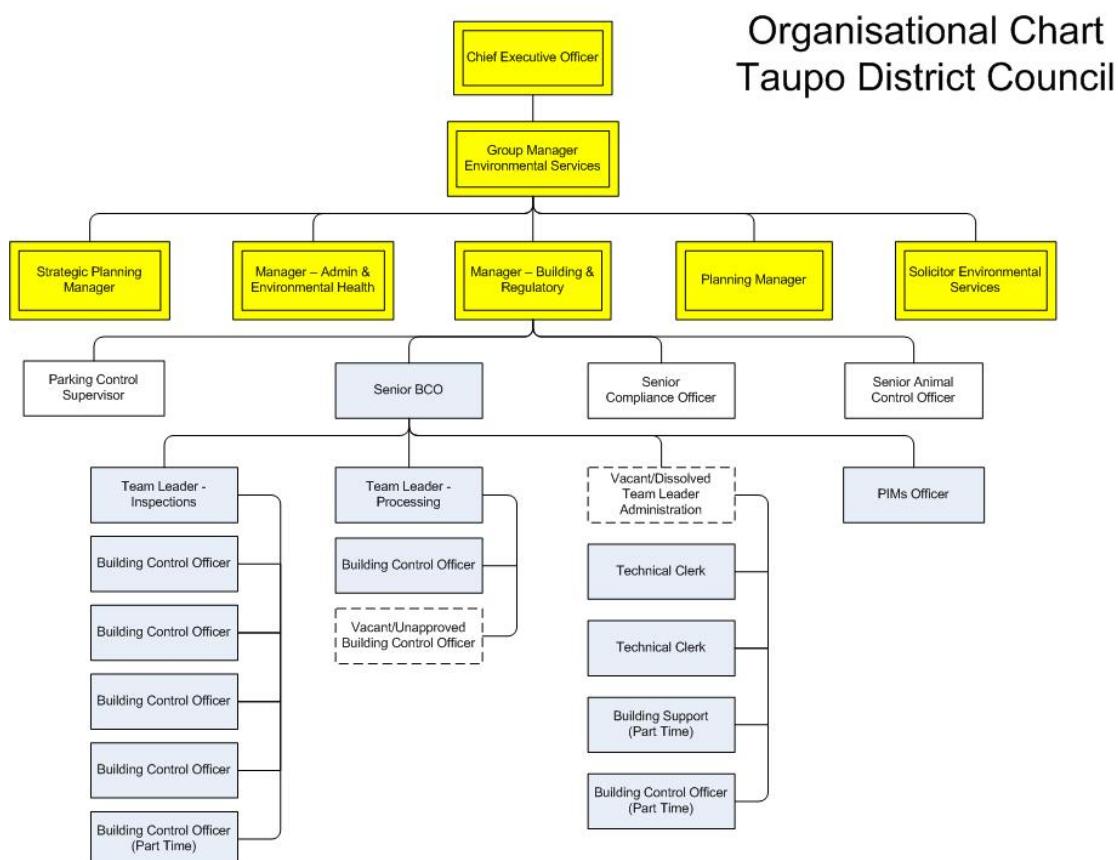
Purpose

To examine the organisational and management structure of the Council's building control operations, consider how it delegates legislative powers, duties, and responsibilities, and identify any issues with its efficiency.

Background

Section 232 of the Building Act 2004 states that clause 32 in Schedule 7 of the Local Government Act 2002 applies. This covers territorial authorities' broad powers of delegation.

Findings



Staff involved in the Council's compliance schedule and building warrant of fitness system had been delegated authority under section 232 of the Building Act 2004. Building control staff that enter land and carry out inspections are authorised under section 222 of the Building Act 2004.

Council officers are authorised to issue infringement notices under section 229 of the Building Act 2004. However, at the time of the review, the Council had not adopted a policy/procedure to guide staff in issuing infringement notices.

Conclusion

The Council's organisational management structure and how it is delegating powers and responsibilities under the Building Act 2004 are considered appropriate.

2 Council statistics

Purpose

To review a series of building control statistics to provide an indication of the volume and type of work the Council manages.

Findings

12 month period ending 30 September 2008
1,327 building consents issued
Total value of consented construction work was \$130,232,873
1351 code compliance certificates issued
16 compliance schedules issued
656 buildings have a compliance schedule
526 current building warrants of fitness
134 certificates of acceptance issued since their introduction
44 certificates for public use issued since their introduction
0 audits of building warrants of fitness carried out
130 compliance schedules do not have a current compliance schedule statement or current building warrant of fitness

These statistics show that the Council has undertaken a significant volume of building control work over this time period.

The Department is concerned at the number of compliance schedules that do not have a current building warrant of fitness and are no longer covered by a compliance schedule statement. (Terms of reference 6 of this report covers this issue further).

Conclusion

The Council's building control statistics are being accurately collected and reported.

3 Statutory timeframes – sections 102, 104, 104A and 108(3)

Purpose

To assess how well the Council is meeting the statutory time frames for issuing compliance schedules and monitoring the timeliness of owners providing building warrants of fitness.

Background

The Building Act 2004 specifies a range of requirements for a building consent authority regarding compliance schedules. Section 102 requires building consent authorities to issue compliance schedules with code compliance certificates (or an amended compliance schedule) if required as a result of building work. Section 104 of the Building Act 2004 requires that a building consent authority provide a copy of the compliance schedule to the territorial authority within five working days of issuing the compliance schedule. Section 104A requires a territorial authority that receives a copy under section 104 to, within five working days after receiving it, provide the owner with a compliance schedule statement (as described in section 105 (e))⁴.

A building warrant of fitness must be supplied by the owner to the territorial authority on the prescribed form on each anniversary of the issue of the compliance schedule (section 108(3)). Section 110 requires the owner to keep written reports for two years, together with the compliance schedule.

Findings

The Council has no formal policy around meeting its statutory time frames for compliance schedules or compliance schedule statements. However, the review found that the Council is generally meeting the necessary time frames when undertaking the regulatory functions considered by this review.

The Council also monitors time frames for receiving building warrants of fitness on the anniversary of the date when the compliance schedule was issued. Dates for issuing compliance schedules and accepting building warrants of fitness are recorded in the Council's computer system. Administrative processes for managing building warrants of fitness have not been documented.

Conclusion

The Council is complying with the statutory time frames in relation to compliance schedules and compliance schedule statements and is monitoring building owners' obligations regarding building warrants of fitness. However, it should also document its monitoring procedures around building warrants of fitness.

Recommendation 1	
The Department recommends that the Council:	Response from the Council⁵:
<ul style="list-style-type: none">• document its procedure to ensure that building warrants of fitness are provided on the anniversary of the date when the compliance schedule was issued.	Council advises it is undertaking a review to determine how best to complete this task.

⁴ This five working day requirement dates from 15 March 2008. Previously it was implicit that the statement be issued with the compliance schedule.

⁵ The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

4 Building Act requirements – compliance schedules

Purpose

To examine the Council's compliance schedule system to determine if it has appropriate checks and balances to ensure that compliance schedules are issued in accordance with the requirements of the Building Act 2004.

Background

Sections 100 to 107 of the Building Act 2004 set out the particular requirements about compliance schedules, including the responsibilities for building owners of commercial, institutional, and industrial buildings, and for territorial authorities and building consent authorities.

In summary, buildings containing certain specified systems such as fire alarms and lifts require them to be listed on a compliance schedule. The owner must ensure continued effective operation of those systems and demonstrate this by displaying a current building warrant of fitness in their building.

Findings

Building consent applications

The Department found consistent evidence that building consent applications were being accepted by the Council when applicants had not provided all of the necessary information as required by Form 2 of the Building (Forms) Regulations 2004. The specified systems section of the application form was often left blank or did not include all of the specified systems contained within the building. The section of the Council's application form which deals with compliance schedules is titled '*Compliance*' and not '*Compliance Schedule*'. This may cause some uncertainty for applicants and Council processing staff.

The Council should also remind staff and applicants of the definition of 'plans and specifications' in section 7 of the Building Act 2004. For the construction or alteration of a building, the definition includes details of specified systems that are to be included, as well as the proposed procedures for inspection and routine maintenance of such specified systems for the purposes of the compliance schedule. This information was often missing from the documentation submitted with the building consent application.

We note that the process discussed above has been modified in recent times, and this is further discussed in the building consent processing, compliance schedule and compliance schedule statement headings under this section (see below).

Building consent processing

The processing checklists assessed by the Department contained very limited comment on the assessment of specified systems and did not always clearly show how compliance had been verified by the Council. The following information, in particular, was not being recorded:

- the performance standards for the specified systems to ensure compliance with the Building Code
- the inspection, maintenance, and reporting procedures to be followed for those systems.

This information should be included. The checklist also does not provide sufficient detail to ensure specified systems satisfy the provisions of the Building Code. BCAs processing building consent applications must grant an application if they are satisfied on reasonable grounds that the

provisions of the Building Code would be met, and the building work was properly completed in accordance with the plans and specifications that accompanied the application. Records should reflect the BCA's reasons for its decisions on specified systems and clearly show how compliance with the Building Code is confirmed.

The Department acknowledges the Council's new system to deal with specified systems when processing building consent applications had not been fully implemented at the time of the review visit. This will require applicants to provide further site specific information in this regard as discussed under the 'compliance schedules and compliance schedule statements' heading below.

Building consent issuing

Section 51 of the Building Act 2004 sets out the requirements for councils when they issue building consents. Building consents must state if a compliance schedule is needed or not. For building work where a compliance schedule is required, the building consent must state the specified systems and include the performance standards for the specified systems that are required by the Building Code.

A review of the Council's issued building consents revealed that specified systems were being listed as required by section 51. However, no performance standards relating to the specified systems were listed on any of the building consents viewed as required by section 51(1)(c)(ii) of the Building Act 2004 and Form 5 of the Building (Forms) Regulations 2004.

The Department considers it good practice to also include alerts on building consents to advise what documentation is to be provided by the applicant or their agent in relation to specified systems, before a code compliance certificate can be issued. Such documentation would include commissioning results, test reports and third party certification from mutually agreed parties.

Inspections of building work

Though not stated as an alert on the issued building consent, third party verification of specified systems was being provided. On-site checklists were generally found to be completed and contained appropriate records for specified systems to indicate that they had been installed satisfactorily and were in accordance with the issued building consent (plans and specifications).

Certificate for public use (CPU)

The Department noted several instances where a CPU had been issued under section 363A of the Building Act 2004. The Council's use of such CPUs was appropriate. The Council included expiry dates as a condition on the CPUs assessed by the Department. This reflects best practice and creates a clear expectation of when the applicant should be applying for a code compliance certificate. Where buildings require a CPU for a long period of time, the CPU should also require the owner to inspect and maintain the specified systems in the building for that period.

Compliance schedules and compliance schedule statements

The Council's BCA Systems, Policies and Procedures Manual contained a process for issuing compliance schedules. However, the manual needs to be updated to be consistent with recent changes to the Council's system.

Compliance schedule statements reviewed by the Department complied with Form 10 of the Building (Forms) Regulations 2004. However, in some instances the compliance schedule was not located in the place identified on the compliance schedule statement. In one instance where the compliance schedule statement was found to have no issue date recorded on it, and so it was difficult to know when the first anniversary date would be and when the first building warrant of fitness was due.

Although the Council was issuing compliance schedule statements and building warrants of fitness for buildings with specified systems, it was noted by the Department that these same buildings did not have a compliance schedule. This contravenes section 100(1)(a)(i) of the Building Act 2004. The compliance schedule is the foundation document that establishes the inspection, maintenance and reporting procedure for the building's specified systems for the life of the building, to ensure that the building occupants are safe in the event of an emergency.

The Council advised that it was unable to create and issue compliance schedules due to the limitations of its computer system. This needs to be rectified, especially if this non-compliance involves a considerable number of buildings with installed specified systems.

Senior processing personnel have recently implemented several system changes for compliance schedule processing and administration. Though the system was not fully implemented during the Department's on-site visit, the work done to date was technically sound. The new system has been designed to help the Council obtain the right information from applicants about specified systems during the application and processing stage of the building consent cycle. Recent examples of information submitted by applicants suggest the new system is working well, although ongoing monitoring will be needed to check this.

Guidance is also provided to applicants to explain why the information the Council requests is actually needed. The Council had also arranged a seminar with designers and architects to provide targeted guidance about the information they should be supplying when applying for a building consent that contains any specified system. Proactive initiatives like this are fully supported by the Department.

The Council's public information about compliance schedule and building warrant of fitness matters was found to be acceptable. However, this material should be expanded to cover amendments to existing compliance schedules (section 106 of the Building Act 2004 refers).

Conclusion

Case studies provide 'a snap shot' at any given point in time. They are historical and in this particular technical review two case studies highlighted a number of concerns. Since the completion of these case study buildings, and within the last 18 months, the Council has addressed some of the concerns by implementing new compliance schedule and building warrants of fitness procedures. However there are still inconsistencies occurring, such as not issuing a compliance schedule when a building has a compliance schedule statement or building warrant of fitness. The Council needs to improve its processes and consistently apply the requirements of the Act.

Recommendation 2	
The Department recommends that the Council:	Response from the Council⁶:
<ul style="list-style-type: none">ensure that all buildings with specified systems have a compliance schedule issued	Council advises that staff are aware of the need to complete this procedure.
<ul style="list-style-type: none">document the newly developed procedures for compliance schedules and ensure that the procedures are appropriate	Council advises that appropriate documentation will be completed.

⁶ The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

<ul style="list-style-type: none"> ensure that it accurately records the specified systems and the performance standards for these on the issued building consent in accordance with section 51(1)(c) of the Building Act 2004 	<p>Council advises that appropriate records will be maintained.</p>
<ul style="list-style-type: none"> review and update the compliance schedule processing checklist to ensure the reason for being satisfied of compliance is consistently recorded for each specified system 	<p>Council advises that its compliance schedule checklist will be updated and maintained.</p>
<ul style="list-style-type: none"> ensure the issue dates are recorded on all compliance schedule and documentation 	<p>Council advises that appropriate records will be maintained.</p>
<ul style="list-style-type: none"> include, as an alert on the building consent, a list of the documentation on certification for specified systems during construction that will be needed before the code compliance certificate can be issued (this documentation would include commissioning results, test reports and third party certification). 	<p>Council advises that an appropriate checklist will be prepared.</p>

5 Building Act requirements – amending a compliance schedule

Purpose

To examine the Council's process for amending compliance schedules.

Background

Section 45(1)(g)(ii) of the Building Act 2004 requires that if an amendment to an existing compliance schedule is required as a result of the building work, then the building consent must list the specified systems that are being added, altered, or removed.

Section 106 allows the owner of a building to apply for an amendment to a compliance schedule for the building. Section 107 allows a territorial authority to amend a compliance schedule on its own initiative with strict consultative requirements with the owner.

Findings

The Council did not have a documented process for amending a compliance schedule (although its BCA Systems, Policies and Procedures Manual does mention amendments, but provides no further details).

The Council was able to provide the Department with historic evidence of amendments to compliance schedules, which were completed on the Form 11 as prescribed by the Building (Forms) Regulations 2004. The information provided would indicate that compliance schedules are being adequately amended, but it was unclear if evidence of building ownership was being confirmed before an amendment was accepted, as required by Form 11.

The Council's public information resources do not cover the requirements about amending existing compliance schedules.

Conclusion

The Council's system for amending compliance schedules could be strengthened, although the Department found that the Council was managing compliance schedule amendments satisfactorily.

Recommendation 3	
The Department recommends that the Council:	Response from the Council⁷:
<ul style="list-style-type: none">document its compliance schedule amendment procedureinclude in its public information a section on amending a compliance schedule.	Council advises that it will prepare documentation in response to these recommendations.

⁷ The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

6 *Building Act requirements – annual building warrant of fitness*

Purpose

To examine the Council's building warrant of fitness system to determine if it has appropriate checks and balances to ensure that building warrants of fitness are assessed appropriately and the requirements of the Building Act 2004 are being complied with.

Background

Sections 108 to 111 of the Building Act 2004 set out the relevant responsibilities for building owners and for territorial authorities. In summary, the owner must ensure continued effective operation of the specified systems that are listed on the compliance schedule and demonstrate compliance by displaying a current warrant of fitness in their building.

Findings

Though not documented, the Council was able to illustrate its approach to checking building warrants of fitness. This approach includes checking the content of the building warrants of fitness for accuracy and sending a reminder letter to building owners before their building warrant of fitness expires. All timeframes for building warrants of fitness are tracked using the Council's computer system.

The Council does not carry out inspections of buildings that have compliance schedules to check building warrant of fitness requirements, despite being entitled to do so under section 111 of the Building Act 2004. Under section 12(h) of the Building Act 2004 the Council has an enforcement responsibility relating to building warrants of fitness. Such inspections would also provide an opportunity for the Council to assess the performance of IQPs.

The Council advised it had not taken any enforcement action against those owners who did not provide a current building warrant of fitness. In such cases a follow-up reminder letter is sent requiring the owner to provide a building warrant of fitness. Although Council may authorise its officers to issue infringement notices under section 229 of the Building Act 2004, at the time of the review it had not adopted a policy/procedure for issuing infringement notices to guide staff.

The Department found that owners and occupiers of buildings visited were generally unaware of their statutory obligations about building warrants of fitness. This was highlighted by the fact that some building warrants of fitness were not displayed, as is required by the Building Act 2004. This could also have been identified by the Council if they were undertaking inspections of buildings that have compliance schedules in accordance with section 111 of the Building Act 2004.

Conclusion

The Council needs to strengthen its system for undertaking its statutory building warrant of fitness responsibilities as recommended below.

Recommendation 4	
The Department recommends that the Council:	Response from the Council⁸:
<ul style="list-style-type: none"> • documents its procedure for managing building warrants of fitness, including sending reminder letters to building owners 	Council advises that appropriate documentation will be prepared in consultation with IT staff.
<ul style="list-style-type: none"> • undertakes inspections of buildings that have compliance schedules to ensure compliance schedule and building warrants of fitness information is accurate and current 	Council advises that it will undertake a review of work loads and staffing levels to determine how best to undertake this task.
<ul style="list-style-type: none"> • adopt the Building (Infringement Offences, Fees and Forms) Regulations 2007 for building warrant of fitness enforcement purposes. 	Council advises that it will consider adopting the use of infringement notices.

⁸ The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

7 *Private cable cars (section 100)*

Purpose

To assess the Council's system for ensuring that any domestic cable car within its district has a compliance schedule. The Department also considered how the Council has advised the general public of the requirement that all cable cars must have a compliance schedule.

Background

Sections 100 to 107 of the Building Act 2004 set out the particular responsibilities for building owners who have cable cars attached to household units or are serviced by them. Requirements on territorial authorities and building consent authorities are also included in the Building Act 2004

In summary, household units with cable cars, or serviced by them require a compliance schedule. The owner must also ensure continued effective operation of the cable car and display a current building warrant of fitness in their building.

Findings

Although aware of its obligations, the Council advises it is not aware of any existing cable cars attached to household units that would require a compliance schedule and a building warrant of fitness.

Conclusion

The Council is aware of the process required should any cable cars be built/installed that trigger these requirements.

8 *Independent qualified person register*

Purpose

To determine the appropriateness of the Council's policy and procedures for evaluating independent qualified persons' (IQPs) competency and how such people are accepted as IQPs.

Background

Section 438(2) of the Building Act 2004 sets out a transitional provision, until 30 November 2010, for IQPs to continue to act in relation to specified systems, unless the Council's acceptance is withdrawn.

Findings

At the time of the review the Council was using both its own register of IQPs and the wider Bay of Plenty Region's register of IQPs. The Council is transitioning towards only using the Bay of Plenty Region register. To achieve this, the Council is not renewing any IQP's acceptance on its own register.

There was no record of a formal agreement for using or being part of the Bay of Plenty Region's IQP register. There was also no formal process for concerns or complaints about to be raised about IQPs.

Conclusion

The Council's processes were generally appropriate but can be improved by implementing the recommendations below.

Recommendation 5	
The Department recommends that the Council:	Response from the Council⁹:
<ul style="list-style-type: none">• have a formal agreement with the member Councils using the Bay of Plenty Region's IQP register for the use and management of this register	The Council advises that a memorandum of understanding is under investigation with other councils.
<ul style="list-style-type: none">• ensure there is an agreed formal process for dealing with non-compliant IQPs.	The Council advises that it is being planned in conjunction with the regional cluster group of Councils.

⁹ The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

9 Human resources

Purpose

To assess the strength and depth of the Council's building control resources, and how effectively they are being used.

Background

Although current activity in the building sector is well down on the activity levels of two or three years ago, the Council needs to be prepared for the inevitable recovery and the consequent increase in workload for its building control staff. The Council is able to address this by increasing staff levels and by using existing staff more effectively. Opportunities to increase staff levels are limited in the short term because of the short supply of appropriately qualified people. The Council must consider ways to use existing staff more effectively.

Findings

The Council has two part-time staff members who undertake administrative functions relating to compliance schedules and building warrants of fitness. Technical and on-site related compliance schedule and building warrant of fitness matters are undertaken by warranted building officers available at the time.

Building consent documentation about specified systems is assessed by senior processing staff.

No on-site inspections of buildings that have compliance schedules have been undertaken (see the recommendation under terms of reference 6). The Council acknowledged that these functions have been of low priority and have not been adequately resourced in the past.

At the time of the review, the Council had two technical vacancies within its staff structure.

The review also highlights the need to strengthen the Council's systems across a number of areas (see terms of reference 4, 5, 6 and 8 in particular). Additional resources will need to be devoted to implementing the recommendations made in these parts of the report. Additionally, if the Council was to appropriately administer and enforce the provisions relating to annual building warrants of fitness (section 12(2)(g) and (h) of the Building Act 2004) then additional resources will likely be required. Terms of reference 2 and 6, above, note the number of compliance schedules that do not have a current building warrant of fitness and that are no longer covered by a compliance schedule statement.

Conclusion

The Council is currently meeting statutory timeframes and requirements, but needs to ensure that it has sufficient resources to effectively undertake the full range of responsibilities considered in this review. This includes both what the review found the Council is currently doing well, and those areas where improvement is required as identified in this report – particularly undertaking building warrant of fitness inspections and strengthening its internal systems.

Recommendation 6	
The Department recommends that the Council:	Response from the Council¹⁰:
<ul style="list-style-type: none"> • monitor its workloads to ensure that adequate human resources are available to perform the functions relating to compliance schedules and building warrants of fitness. 	Council considers that sufficient staff are available to carry out its current workload.

¹⁰ The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

10 Technical knowledge and ability of staff

Purpose

To examine the technical knowledge and capabilities of building control staff and the provisions for staff training and upskilling.

Background

The specified systems for the safety of building users are often complex and require a sound understanding of technical issues and relevant building legislation. Councils need to ensure their building control staff have the correct level of technical knowledge, understanding and skills in specified systems and building law.

Findings

Staff involved in the Council's compliance schedule and building warrant of fitness systems have attended several recent training courses about these regulatory functions. The Council has a proactive approach to training in this area and provided a list of training courses attended by staff. Although the Council has invested in staff training, there does not appear to be any formal monitoring of the effectiveness of this training to ensure it is being applied.

Technical staff are assessed against each of the Building Code clauses and are assigned one of four categories (1 being the least technical and 4 being the most technically complex). However, compliance schedule and building warrant of fitness functions are not covered in the skills matrix. Building officers who have been assessed to have higher level (category 3 or 4) status normally undertake assessments of specified systems.

Council staff interviewed generally had an adequate understanding of specified systems and compliance schedules. The Council's BCA Systems, Policies and Procedures Manual indicates that staff are assessed for their understanding of the Building Act 2004 and the Building Regulations. Results of these assessments are recorded in the Council's competency assessment system. However, as noted, specific skill sets such as an understanding of compliance schedules and specified systems do not feed back into the skills matrix.

At the time of the Department's review visit, senior processing staff had recently implemented a new system for assessing building consent documentation when those consents contained specified systems. This work indicates that the Council is placing higher emphasis on the assessment of specified systems. However, the case studies undertaken by the Department did find examples where Building Code compliance was not achieved.

Conclusion

The Council's staff had a generally adequate understanding of specified systems and compliance schedules. However, these technical skills need to be better integrated into their building control team's competency assessment system.

Recommendation 7	
The Department recommends that the Council:	Response from the Council:¹¹
• monitor the effectiveness of training that its staff undertakes	Council advises that regular audits of staff training will be undertaken.
• include compliance schedule, specified systems and building warrant of fitness requirements in their competency assessment system	Council advises that the competency assessment process will be reviewed to ensure these issues are covered.
• continue to train staff members on compliance schedule, specified systems and building warrants of fitness.	Council advises that staff are provided with appropriate training as required.

¹¹ The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

11 Access to and storage of compliance schedule and building warrant of fitness documentation

Purpose

To assess the Council's record-keeping processes and facilities, including the access provided to the public.

Background

Sections 216 and 217 of the Building Act 2004 set out the broad record-keeping requirements for territorial authorities in regard to their building control functions. Territorial authorities are required to hold and make available, information that is relevant to the administration of the Building Act 2004. This helps inform the public of their obligations.

Findings

Records for building warrants of fitness and compliance schedules are kept electronically within a database. Duplicate hardcopies of these records are stored off site and are also available for retrieval if requested.

The public can access such information on request at the public counter. Staff provide copies of these documents for a set fee.

The review found that electronically stored records of compliance schedules and compliance schedule statements do not always have signatures or dates attached.

Conclusion

The Council is complying with the statutory requirements of sections 216-217 of the Building Act 2004.

Recommendation 8	
The Department recommends that the Council:	Response from the Council¹²:
• always include signatures and relevant dates on electronic data records.	Council advises it will discuss the inclusion of such information with its IT staff.

¹² The Council has informed the Department that they are currently in the process of developing a business plan that will cover building warrant of fitness and compliance schedule functions, in particular addressing the matters raised within this report. The plan will be presented to Council Management for their approval within the next 3 months.

5. Feedback from the Council

When carrying out technical reviews, the Department gives territorial authorities a reasonable opportunity to make a submission on the report and to provide its feedback.

The Council's feedback has been included throughout the report.

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