



Building Consent Authority Complaint 2016/001

2 February 2016

COMPLAINT AGAINST THE BUILDING CONSENT AUTHORITY OF OPOTIKI DISTRICT COUNCIL

1. The matters of complaint

- 1.1 This is a complaint decision under Part 3 Subpart 1 of the Building Act 2004¹ (“the Act”) made under due authorisation by me, John Gardiner, Manager Determinations and Assurance, Ministry of Business, Innovation and Employment (“the Ministry”), for and on behalf of the Chief Executive of the Ministry.
- 1.2 The complaint was lodged by D and W Horwood (“the complainants”) against the Building Consent Authority (“the BCA”) of Opotiki District Council, in accordance with section 200 of the Act. The complainants are the owners of property where building work was carried out, and are of the view that the BCA did not properly perform its functions with respect to the issue of the building consent and inspections. The complaint was received by the Determinations and Assurance Group of the Ministry of Business, Innovation and Employment on 20 October 2014.
- 1.3 The complainants lodged a complaint requesting the following matters be addressed:
- The building consent documents were inadequate.
 - The BCA’s building inspection processes are investigated in relation to the complainants’ dwelling.
 - An investigation into whether the BCA’s two yearly accreditation assessment is reflective of the inspection processes carried out by the BCA.
- 1.4 The following matters were considered outside of the jurisdiction of this complaint:
- The ordering of information requested under the OIA² or LGOIMA³; this is a matter for the Office of the Ombudsman
 - Compensation to allow the complainants to restore their dwelling as this is beyond the powers I can exercise under section 203 of the Act.
- 1.5 I acknowledge that, following the acceptance of the complaint for investigation by the Ministry on 23 October 2014, the Ministry was informed the complainants had lodged proceedings against the BCA in the High Court. Some of the information provided to the Ministry is the same as that provided to the High Court. I note any

¹ The Building Act, Building Code, Acceptable Solutions, past complaint decisions and guidance documents issued by the Ministry are all available at www.building.govt.nz or by contacting the Ministry on 0800 242 243.

² Official Information Act 1982

³ Local Government Official Information and Meetings Act 1987

correspondence between the Ministry, the BCA, the BCA's lawyers and the complainants that related to the High Court proceedings that is not relevant for the current complaint before the Ministry has been omitted.

1.6 Procedural matters

- 1.6.1 On 29 July 2015 the BCA, acting through its legal advisor, provided a written submission. In summary the BCA considered no notification had been received by the Ministry under section 202(2) of the Act (refer Appendix A), the BCA was not aware of what 'grounds' the complaint was concerning. In addition, the BCA considered the time delay between the events occurring (in 2007-2008) and the applicant making a complaint application (received 2014) makes 'any investigation ineffective' and the sanctions under section 203 of the Act would be inappropriate.
- 1.6.2 The Ministry responded to both parties on 31 July 2015, noting that earlier correspondence indicated the complaint had been accepted for investigation under section 202(2) of the Act but accepting the notification of acceptance had not explicitly stated that provision. It was noted any time delay in making a complaint application does not inherently make an investigation ineffective.
- 1.6.3 On 11 September 2015 the BCA's legal advisor provided a written submission that included comment in relation to procedure:
- The procedure set out in section 202 of the Act had not been followed in that no notice had been issued under section 202(2).
 - The Act requires a secondary step where the Chief Executive states the grounds that he has reason to believe entitles him to exercise the disciplinary powers of section 203. These grounds may differ from the reasons set out in a complaint.
 - Had the notice been issued, it would have been clear the disciplinary powers under section 203 could not apply as the complaint related to historical events and the issues raised are no longer a concern.
 - The BCA considers the fact that High Court proceedings have been issued on the same facts to the current complaint does not 'distract from the powers of the Chief Executive', however; it is not appropriate to seek to resolve the High Court matter in this forum as in the high court the evidence will be heard and tested which cannot occur in this forum.
- 1.6.4 On 1 October 2015 the BCA's legal advisor provided a further submission reiterating the view that the statutory process was not followed, and stating that it is designed as a screening mechanism so only complaints relevant to a BCA's current performance are investigated. There are other avenues for a home owner to seek clarification or determination of historic matters.
- 1.6.5 I recognise oversight in failing to issue express notice under section 200(2) of the Act, and note that once the Ministry was aware that correct procedure had not been followed this was remedied. On 16 September 2015 I wrote a letter to the parties providing express notice under section 200(2) of the Act, acknowledging this had

not previously been given to the parties. The grounds of the complaint as listed at paragraph 1.3 were restated.

- 1.6.6 The BCA was given ample opportunity to submit on the matters of complaint, and the submissions have been taken into account. As noted in paragraph 7.6 the BCA's legal advisors stated no further submissions on technical matters would be provided.
- 1.6.7 It is not uncommon for a complainant to explore different avenues to address their concerns, including lodging a complaint with the Ministry about the BCA, and/or litigation, or other means to resolve the dispute. The Ministry does not have a role of deciding a matter in place of a court, however must take reasonable steps to investigate a matter once the complaint is accepted.
- 1.6.8 I am satisfied procedural matters have been remedied in this case, the principles of natural justice have been adhered to and the parties have been given adequate opportunity to submit on the draft findings from the Ministry, and all submissions received have been taken into account.

2. The building work

- 2.1 The building is located on an elevated site that has been benched to form a flat building platform. It is in a very high wind zone and exposure zone C⁴. The front of the house faces the east. The construction is generally light timber framed with stained plywood and stone veneer wall claddings and asphalt tile roofing. The plywood cladding is partly direct-fixed and partly fixed over cavity battens.
- 2.2 The building work that gave rise to the complaint consisted of renovations and extensions to the existing house. This included a new garage and new entrance way, dining room and kitchen and two new upper level decks. The house was reclad in plywood cladding ("the cladding").

3. Background

- 3.1 The complainants provided a substantive history of their complaint spanning a five year time period. The parties to this complaint have been provided with this information and I will not repeat the full history, however a summary is provided for the purpose of providing context in this decision.
- 3.2 On 1 December 2007 the BCA issued a building consent for the complainants' building.
- 3.3 On 25 March 2008 the complainants' builder ("the original builder") commenced work on the building.
- 3.4 Various inspections were carried out by the BCA between 27 March 2008 and 22 July 2008; a summary of the inspections can be found at Appendix B of this complaint decision.

⁴ As defined by NZS 3604:2011.

- 3.5 On 1 September 2008 the complainants terminated the original builder's contract. A new builder was engaged in February 2010 to carry out remedial work on:
- the deck beam
 - replacing standard plasterboard in the downstairs bedroom with bracing plasterboard
 - installing insulation downstairs and 're-gibbing'.
- 3.6 Various inspections were carried out by the BCA between 16 February 2010 and 1 November 2010. These inspections failed.
- 3.7 In a letter dated 1 February 2011 the BCA granted an extension of time of 12 months to complete the building work. On 30 April 2012 the BCA declined to grant a further 12 month extension due to the length of time lapsed since the Building Consent was granted, however, noted it would consider granting an extension for a shorter period of time if such an application was supported by a 'schedule detailing the work required to be completed and a time table for completion of that work under the Building Consent'.
- 3.8 On 12 April 2011 the complainants met the BCA on site to discuss various issues involving the garage, the roof and the overall status of the project. The discussions were recorded and signed as correct by the BCA.
- 3.9 In a letter dated 30 April 2012 the BCA advised the complainants that it was 'not aware of any unresolved defects and areas of non-compliance with manufacturer's specifications mentioned in [an earlier letter from the complainants].'
- 3.10 On or around 11 October 2014 the complainants received an undated letter from the BCA under section 93(2)(b) of the Act, stating that a code compliance certificate would not be issued.
- 3.11 On 11 June 2013 the complainants commissioned a defects investigation and report from a building consultant ("the complainants' building consultant"). These are in the form of a brief of evidence and a site visit report in relation to Court proceedings the complainants commenced against the original builder. The matters from these documents that relate to the current complaint decision are (in summary):
- The cladding was not fixed in accordance with the Acceptable Solution E2/AS1 or the manufacturer's specifications. The remediation of the cladding to bring it into compliance is extensive
 - The three experts⁵ agree on the defects identified in relation to the plywood cladding, defective installation of the windows and joinery and defects with the decks.
- 3.12 On 13 November 2013 the BCA received a final inspection report from Whakatane District Council ("the peer review BCA") that identified areas that needed attention to ensure the building was code-compliant.

⁵ Referring to the Third Expert's Conference in relation to proceedings against the original builder

- 3.13 On 7 July 2014 a report from a building assessment company was produced. It is unclear who commissioned the report: however I assume it was the complainants. The building assessment company was asked to provide a review. In summary the review found that:
- The plans and specification were inadequate for the BCA to be satisfied on reasonable grounds that the provisions of the Building Code would be met if the building work was properly completed in accordance with the plans.
 - The lacks of details in the specification result in a greater potential for inappropriate construction practices and materials being used. There are no details in the form of technical information by the manufacturers on the use of the exterior cladding.
 - The BCA's inspection was inadequate. The defects listed by the complainant's building consultant and the peer review BCA are discussed; the review states the BCA should have identified the defects and required them to be rectified before work was allowed to proceed.
- 3.14 On 20 October 2014 the Ministry received the complaint against the BCA.

4. The evidence considered

- 4.1 I undertook enquiries on this matter including collecting evidence by:
- providing the BCA with an opportunity to make submissions and provide a formal written response to the complaint;
 - providing the complainant the opportunity to review this response and provide further comment.
- 4.2 The amount of information provided to me by the complainants was extensive and detailed; I will therefore not provide a summary of the documentation provided. The information primarily related to the inconsistencies in the inspection records completed by the BCA and the issuing of the building consent by the BCA.
- 4.3 I note there has been an extensive amount of correspondence between the complainants and the BCA. This will not be documented in detail. However, all submissions and correspondence received by the Ministry have been reviewed as part of this complaint investigation.
- 4.4 In making my decision, I have considered the submissions of the parties, the report completed by the expert engaged by the Ministry to assist with this matter ("the expert") and other evidence in this matter. The relevant legislation can be found at Appendix A of this complaint decision.
- 4.5 On 28 January 2015 I asked the BCA whether it had received any other complaints of a similar nature. On 17 February 2015 the BCA's lawyers responded, noting they are not aware of any similar complaints.
- 4.6 On 25 May 2015 the complainants advised the Ministry of two properties where the same cladding system had been used and these complainants considered were also 'non-compliant'.

- 4.7 On 23 July 2015 the Ministry noted that the investigation would focus on the complainant's property only due to:
- the obligation for the owners of the other properties to provide consent to any investigation
 - the need to independently verify the compliance of the other properties.

5. Submissions from the BCA and complainant

- 5.1 On 12 January 2015 the BCA responded to the complaint application through legal advisors and included documents consisting of a statement of defence to be used in High Court proceedings (and primarily accepts or denies items from the complainants' statement of claim).
- 5.2 In a letter dated 23 January 2015, the complainants submitted the non-compliant workmanship took place during the period the original builder was employed between April and September 2008.
- 5.3 On 21 July 2015 the BCA provided a further submission, and sought confirmation the expert had the BCA's property file.
- 5.4 On 21 July 2015 the complainant's responded to the submission from the BCA.
- 5.5 In its submission on 29 July 2015 the BCA noted that in its view the only issue is whether the BCA ought to have noted any of the defects during its inspections in 2008. The BCA provided a substantial number of documents from its property file, some of which had already been provided by the complainants with their application.
- 5.6 On 3 August 2015 the complainants provided further information in relation to the window installation specifications.
- 5.7 Both parties appear to agree that there were defects due to poor workmanship, and the work required to rectify defects and to complete the building work requires a new building consent.
- 5.8 I have summarised the views set out in the submissions received from the BCA and the complainants in the paragraphs below.

5.9 The roles of a BCA and an owner

The BCA

- 5.9.1 The complainants could not reasonably expect the BCA to oversee the building process; there is no requirement for the BCA to supervise the construction work.
- 5.9.2 The BCA is not a project manager or clerk of works and cannot be responsible for the actions of the original builder; the BCA appropriately failed inspections.
- 5.9.3 The complainants are the parties primarily responsible for compliance with the building consent issued by the BCA.
- 5.9.4 The BCA has no responsibility to correct the building defects.

The complainants

- 5.9.5 The BCA oversees the build; it failed its ‘responsibility’ to correctly oversee the building project to ensure construction is carried out to standards compliant with the Building Code. The complainants agree the BCA is not the project manager for the build, however they reiterated the BCA has a responsibility to ensure all work done complies with the Building Code.
- 5.9.6 The BCA did not cause the defects but they were responsible for identifying ‘non-compliant workmanship’ at the time it occurred.
- 5.9.7 The complainants have never claimed the BCA should be the project manager of the build, however the BCA has the responsibility to ensure all work done is compliant with the Building Code, and work not to this standard be identified and fixed.

5.10 Adequacy of the consent documentation*The BCA*

- 5.10.1 In relation to drawings and specifications for the building consent, although no formal specification was provided the BCA considers there was reasonable detail on the plans and it would have been obvious to a builder that the manufacturer’s specifications are to be followed in respect of a particular cladding system.

The complainants

- 5.10.2 The BCA stated it cannot properly carry out many of its functions if the property owner and builder do not call for inspections. However, the building consent documents did not include a list of inspections required.

5.11 Inspections and record keeping*The BCA*

- 5.11.1 The BCA has a duty of care to exercise reasonable skill and care in performing its functions under the Act, but it cannot properly carry out many functions if the complainants and builder do not call for inspections.
- 5.11.2 The BCA has not passed any site inspection since 2008 and maintained the position that none of the inspections relevant to the defects have been passed (pre-line and cladding inspections were not passed and there was no call for re-inspection).
- 5.11.3 The BCA maintained it was not negligent as it had ‘failed a number of inspections’ (in that it appropriately did not allow certain work to be passed as compliant to be passed) and has not issued a code compliance certificate for the building work.

The complainants

- 5.11.4 The BCA has a responsibility for issuing stop work notices, and around 80% of the required inspections were missed in 2008 yet no notice to fix or stop work notices were issued.
- 5.11.5 In relation to inspections, the complainants allege (in summary):
- site visits were recorded on ‘inappropriate forms’

- some inspections were not documented at all
 - there was a failure to take photographs at all inspections
 - ‘misleading wording’ was used on the inspection sheets.
- 5.11.6 The complainants provided a record of site inspections during 2009-2010 (after the original builder’s contract had been terminated).
- 5.11.7 There is only one pre-cladding inspection on the BCA’s file for the house, dated 26 May 2008 for the garage only. Photographs from that inspection show the building paper and window tape in place, but no window flashings are present and no pre-cladding had been installed at the time of the inspection.
- 5.11.8 The faulty workmanship (resulting in the building not being able to obtain a code compliance certificate) was done in 2008 and undetected at the time by the BCA’s building inspection process.
- 5.11.9 One pre-line inspection was done in 2008 for the kitchen/lounge area, the complainant considers the building was mostly lined at the time of this inspection.
- 5.11.10 The ‘failed’ pre-line inspections done in 2010 were only failed when the complainant brought the defects to the BCAs attention. In addition, these were not pre-line inspections as the building was mostly lined in 2008. The site visits were written on ‘incorrect forms’ by the BCA.
- 5.11.11 A (successful) water pressure test was carried out on 9 March 2010; this was not documented by the BCA.
- 5.11.12 The ‘failed’ pre-line inspections referred to by the BCA had nothing to do with the cladding or window installation as neither was inspected.
- 5.11.13 There are discrepancies across the inspection sheets and information provided by the BCA.
- 5.11.14 The complainants do not agree that the BCA appropriately failed inspections.

5.12 Other issues raised

The BCA

- 5.12.1 The complainants’ claims in relation to the defective work carried out by the original builder have been settled and there is no residual loss that the complainants may pursue against the BCA.
- 5.12.2 The BCA has maintained accreditation and acted upon Corrective Action Requests⁶ (“CARs”), the receipt of CARs does not amount to negligence on the part of the BCA in relation to a specific property but is a process to improve procedures over time and achieve consistency across BCAs nationwide.
- 5.12.3 The complaint deals with historic events and the relevance of the investigation is not clear; in 2008 and 2010 the BCA had no CARs.

The complainants

⁶ CARs are actions that a BCA must carry out before accreditation can be granted - See more at: www.ianz.govt.nz

- 5.12.4 The BCA maintaining accreditation does not ‘get around the fact’ that faults in the BCA’s processes have been identified and need correcting.
- 5.12.5 The complainants have identified two other properties in the Opotiki District with the same cladding system that do not comply. Confirmation was sought as to whether the Ministry was to consider these two other properties (this matter is dealt with in paragraph 4.7).
- 5.13 The above submissions have been taken into account and were forwarded to the expert prior to the expert’s final report being compiled.

6. The expert

- 6.1 As noted at paragraph 4.4, I engaged an independent expert to assist me in this complaint investigation. The expert is an experienced building surveyor, a member of the New Zealand Institute of Building Surveyors. The expert reviewed the documentation provided in respect of the complaint, visited the site on 15 April 2015, and provided a final report on 5 August 2015. The report was provided to the parties on 11 August 2015 in parallel with the first draft complaint decision (refer paragraph 7.1).
- 6.2 The expert noted that the building work was completed in four main “stages”; garage addition, kitchen/dining/covered area addition, downstairs recladding, upstairs decks and recladding. I note here that I have used the terms staged/stages in this complaint in reference to the fact that various parts of the building work were carried out at different times though the building consent was not a staged consent as the term would normally be used.

6.3 Consent documentation

- 6.3.1 In relation to the 2007 consent documentation the expert stated the various plans and specifications provided were not sufficiently detailed in relation to:
- amended details not highlighted on the plans
 - insufficient detail specification notes
 - limited detail in respect of the general construction design
 - critical weathertightness details are not shown.
- 6.3.2 The BCA requested flashing details for the exterior windows and doors during the consent processing.
- 6.3.3 The expert is of the opinion that at the time of consent in 2007 a comprehensive project specification and referenced manufacturer installation manuals could have been expected.

6.4 Inspections and records

- 6.4.1 The expert set out the list of inspections that would normally be carried out to establish that building work complies with the consent, and noted that because the work in this case progressed in stages, multiple inspections would have been required i.e. the same inspections for each stage occurring at different times. The expert noted that when the consent was issued the BCA had advised the

complainants to call for inspections and had provided a “field inspection sheet” that listed 22 inspection items. It was noted this is not part of the issued consent documents.

- 6.4.2 The field inspection sheet has been initialled by an officer of the BCA as ‘compliant’ against 10 of the items, however the signatures are undated, are not consistent with the separate inspection sheets, and made no allowance for the various stages progressing at different times.
- 6.4.3 The expert outlined the inspections that would normally be required for a BCA to be satisfied that the building work complies with the Building Code, and provided a summary of what inspections were undertaken for the complainants’ building work noting:
- There are ambiguities and inconsistencies in the records, with the expert having to rely on photographs and comments from the complainants to determine which stage was being inspected.
 - The inspection in 2009 would have been an appropriate time for the BCA to review the missing pre-clad, post-clad, pre-line and post-line inspections. The cladding was apparently substantially completed at the time of this site visit.
 - The expert noted the pre-line inspections dated 1 March 2010 and 1 November 2010 stated the exterior cladding as weathertight. However, a letter dated 30 April 2012 indicted the BCA ‘did not have a working knowledge of the cladding manufacturer’s installation instructions [or the] E2/AS1 Acceptable Solution.’
- 6.4.4 The expert noted the BCA did not issue field advice notes, or notices to fix, and building work was allowed to proceed even though inspections had been missed; for example:
- Concrete pours were allowed to proceed without sub-floor drainage inspections being adequately documented.
 - The brick veneer cladding work was allowed to proceed without a cavity inspection being documented.
 - Interior lining work was allowed to proceed prior to a plumbing pressure test being undertaken.
 - Defective plywood cladding installation was allowed to proceed without pre- or post-clad inspections. BCA officers failed to notice visible non-compliant and high risk cladding installation details on multiple occasions.
- 6.4.5 Excluding work that had been remedied, the expert noted there were numerous deficiencies involving non-compliant building work that the expert considered a reasonable BCA official would have been readily apparent when undertaking inspections, particularly at the site meeting in 2009 as the cladding was apparently substantially complete at that time. The expert provided a list of some 15 examples of deficiencies in the external envelope as-built as documented in photographs taken during his site visit.

- 6.4.6 In relation to defects, it appeared to be agreed by various experts that defects exist; however the extent of repairs required has not been agreed on.

7. The draft complaint decision and further submissions

7.1 On 11 August 2015 I issued a draft of the complaint decision to the parties for comment. The complaint decision upheld that there was evidence the BCA did not adequately carry out its duties in relation to the issuing of the building consent and the carrying out of inspections, however, no disciplinary action was proposed as described under section 203 of the Act.

7.2 On 11 September 2015 the complainants provided a written submission to the draft complaint decision. In summary the complainants accepted the expert report and the decision in the draft complaint relating to the BCA failing to carry out its duties, however the complainants submitted:

- The complainants question the competence of the BCA's employees in being able to identify that the building control functions, as described in the BCA's Quality Assurance Manuals, have failed in many areas of the complainants' build. In particular in relation to:
 - record keeping – for example concluding that extra nails were needed to complete the cladding installation
 - areas of non-compliance were not re-inspected by officers of the BCA when they next visited the building site (the complainant referred to the Building Consent Authority Functions Policy 2010 at sections 3.3.5.9 and 3.3.5.10⁷)
 - meetings held with the complainants and the BCA but with no building control officers present (refer to the BCA's Quality Assurance Manual at p7⁸)
- The complainants submitted these examples show a lack of understanding from the BCA's officers and a failure to follow correct procedures in consenting and inspection processes.
- The complaint's conclusion that no further action should be imposed under section 203 of the Act should be reconsidered. The BCA's continued denial of liability from 2008 shows it does not understand their own policies and there is a wider systemic failure within the BCA.
- The complainants consider training records for staff should be kept for a longer period of time than specified in the BCA's policies (3 years after employment ceases).

7.3 On 11 September 2015 the BCA's legal advisor provided a written submission, in summary:

⁷ I have not seen a copy of these documents

⁸ I have not seen a copy of this document

- The draft complaint decision concluded the BCA failed in its regulatory responsibilities in 2008-2010, and as the complaint is historic in nature the disciplinary actions available to the Ministry are not applicable.
- There is no evidence that the cladding was completed at the time of the BCA's last inspection carried out in 2008; the cladding deficiencies could not have been noted by the BCA until the preline inspections in 2010. The BCA did note a number of deficiencies to the building work in 2010 and 2013.
- The BCA consulted with an 'expert on [BCA] processes' who was of the opinion that there were reasonable details on the plans and it would have been obvious to the builder that the manufacturer's specifications were to be followed in respect of the cladding system.
- The BCA accepts the record keeping at the time 'could have been better', but does not accept that inspections were not properly carried out because:
 - the inspection process is largely governed by how the owner and builder proceed with the work
 - the BCA was not given details as to how the work was to progress
 - the photographic records of the inspections in 2008 show it is 'most unlikely' that the cladding installation was complete at the last inspection of that year on 18 July 2008 or that the BCA had been informed a post cladding inspection was required.
- The BCA did not issue a notice to fix because this is a 'harsh measure'. If the BCA had issued a notice to fix, 'the responsibility for correcting the cladding issues would have fallen on the owner.'
- The expert found that the pre-cladding inspection was not undertaken. The BCA contended that 'once the deficiencies were noted, it [was] for the home owner to ensure the work as corrected. It is therefore not correct to say that the [BCA] identifying issues would have ensured that the work as completed would have been building code compliant'.
- The BCA stated its function is reactive, in that it 'visually inspects completed work stages only.' It is not the role of the BCA to act as the supervisor on site to ensure that the contractors complete their work and do so in accordance with the Building Code.

7.4 The BCA concluded that the draft decision should be 'withdrawn' so correct procedures under sections 202 and 203 can be followed.

7.5 On 16 September 2015 I wrote a letter to the parties providing express notice under section 200(2) of the Act, acknowledging this had not previously been given to the parties. The grounds of the complaint as listed at paragraph 1.3 were restated. I noted natural justice has at all times been adhered to during this complaint process, and I allowed the BCA and the complainants further time to submit on the draft complaint decision.

- 7.6 On 1 October the BCA's legal advisor advised that the BCA does not wish to provide further submissions on the technical matters covered in the draft decision.
- 7.7 The BCA does not consider it appropriate to resolve the matter currently subject to High Court litigation through the Ministry's complaint process, which is different in nature and scope.
- 7.8 In regards to procedural matters the BCA did not agree with the issuing of notice under section 200(2) of the Act after the draft complaint was issued because 'to an extent the matters are predetermined'.

8. Analysis

8.1 The legislative framework

- 8.1.1 Section 200 of the Act does not have a 'duty of care' test but one of assessing if a BCA has, or is failing, or is negligent in carrying out its functions under Parts 2 and 3 of the Act. This complaint looks at the functions of the BCA under the Act were in force at the time the BCA undertook those functions and whether there is evidence of negligence or a failure to carry out those functions in relation to granting the building consent and in the performance of its functions in respect of the inspection process. In this complaint decision the relevant sections of the Act are:
- building consents, sections 45 and 49 of the Act
 - the inspection process, sections 7 and 90 of the Act.
- 8.1.2 The Building Act 2004 and the Building (Accreditation of Building Consent Authorities) Regulations 2006 ("BCA Regulations") set out the policies, procedures and systems that are appropriate and satisfactory to a BCA performing its building control functions. Accreditation is a tool that is used to give independent assurance about an organisation's ability to perform its functions in an appropriate and satisfactory way. Accreditation of a BCA is undertaken by an accreditation body. The Act provides that the Chief Executive of the Ministry appoint an accreditation body for the scheme. The Act also sets out the expectations of the accreditation body in delivering the scheme. The Chief Executive has appointed International Accreditation New Zealand (IANZ) as the accreditation body, who accredits BCAs on behalf of the Ministry.
- 8.1.3 The BCA regulations came into force in February 2007, before the consent for the work concerned was issued on 1 December 2007. From 31 March 2009 only registered BCAs could perform building consenting and inspection functions under the Act. The BCA was accredited on 1 September 2008 being part way through the construction.
- 8.1.4 It is acknowledged that no code compliance certificate has yet been issued for this building. It is also undisputed between the parties there are known defects identified by numerous experts which need remediation or have been remediated. This complaint decision does not focus on the details of these defects, instead it focuses on whether the BCA properly performed its functions in respect of

granting the building consent and in the performance of its functions in respect of the inspection process. The Ministry's complaints procedure is not the appropriate avenue for determining the compliance of a building with the Building Code.

8.2 The building consent

- 8.2.1 In issuing a building consent, a BCA must have reasonable grounds to believe that the building consent, if completed in accordance with the relevant plans and specifications provided in the application for building consent, will comply with the Building Code to the extent required by the Act (see section 45 of the Act).
- 8.2.2 I accept the evidence from the expert (refer paragraph 6.3.1) that there was insufficient information provided with the complainants' building consent application for the BCA to be satisfied the building would comply with the Building Code. In particular the manufacturer's details and weathertightness details (cladding and balustrade junctions, aluminium joinery, ground and deck clearance detailing) were not provided. A single sheet of specification notes were provided overlaying one drawing from the plans and are presumed to be notes supplied by the designer. The expert was of the opinion these notes, although reasonably project specific, did not provide adequate detail. In addition, the drawings lacked detail to what would have been expected in 2007. I am of the view that in properly carrying out its functions under section 49(1) the BCA should have requested more information prior to issuing the building consent.
- 8.2.3 Under Regulation 10 of the BCA Regulations, a BCA must have a system for establishing the competence of employees, and the competence assessment system must cover the employees' ability to process applications for building consent. I have not been provided evidence that such a policy existed at the time the building consent was issued (1 December 2007). I recognise the BCA Regulations came into force on 1 February 2007 and the BCA's processes may not have been fully operational in 2007.
- 8.2.4 There is now a national competency system established by the Ministry⁹ to assist BCAs to assess the competency of their technical building control staff using a national set of performance indicators and specifications which defines what 'competence' is in the building control context. I acknowledge that the BCA has defended the information/detailing provided in the building consent issued. In light of the changes implemented in the Building Act 2004¹⁰ where a code compliance certificate is measured against the building consent not the Building Code, it is important a BCA has sufficient detail provided for a building consent to be 'satisfied' under section 45 of the Act that the building work, if completed in accordance with the plans and specifications, will comply with the Building Code.

8.3 The inspection process

- 8.3.1 In relation to inspections for the consented building work, I consider the questions to be answered include:

⁹ Refer to www.building.govt.nz/bca-competency-assessment-system-update for further information

¹⁰ The Building Act 1991 considered a code compliance certificate as measured against the Building Code not the Building Consent.

- Matter One: did the BCA follow the correct procedures in carrying out the inspections in relation to record keeping?
- Matter Two: could the BCA reasonably have been expected to observe or otherwise become aware of building work that did not comply with the Building Code and or the building consent in the course of their site inspections during construction?

Matter One – procedure and record keeping of inspections

- 8.3.2 I take a broad interpretation of what encompasses an ‘inspection’. I consider properly carrying out an inspection involves more than attending a site and visually inspecting building work, but also includes the correct record keeping of that inspection and following up deficiencies observed. This is important when there are various inspectors carrying out inspections for a building. I consider this falls under section 216(2)(b) of the Act where a territorial authority must hold relevant information about a building consent for a building, which is information a BCA must record and maintain to an adequate standard of documentation.
- 8.3.3 In relation to Matter One, it is clear from the evidence provided to me from the various submissions of the complainant and the opinion of the expert, that the inspections that were carried out have been poorly documented. The records do not adequately describe the building work (i.e. which stage) that was being inspected, with only a some of the inspection records identifying the garage and one referring to the ‘lounge/kitchen only’. This makes it difficult to ascertain what inspection happened and when and in relation to what stage (refer Appendix B).
- 8.3.4 The BCA was required to keep adequate records of inspections under section 216(2)(b) of the Act and as part of their accreditation requirements, and I consider this includes clearly identifying the building work that is being inspected. This is particularly important when different areas of building work are progressing at different times (in this case the evidence from the complainants is that the building work was undertaken in four main stages). In cases such where the site inspection is for only a portion of the building work that is consented, the record will require more detail as to which part of the building work is being inspected.
- 8.3.5 In support of a BCA’s obligation relating to inspections, Regulation 7 of the BCA Regulations states that a BCA must have policies and procedures for performing its building control functions in relation to planning, performing and managing inspections. I consider in this case either the policies were inadequate or were not followed. I note I have not been provided any evidence of the BCA’s policies in relation to this matter that were in place at the time of construction.
- 8.3.6 The expert outlined the inspections that would normally be required for a BCA to be satisfied that the construction complies with the Building Code, and I concur with that view. In this case there was a lack (or lack of record) of post cladding inspections as well as various missing pre-clad, preline and post-line inspections for all four stages of work. While it is noted that an owner and or builder is responsible for calling for inspections, the BCA should correctly document what inspections have and have not been completed and assess whether building work should continue.

- 8.3.7 I consider the BCA did not utilise the regulatory options available to them in issuing field advice notices (requiring stop work), or, if this was not followed, a notice to fix to formally stop building work continuing when inspections had not been carried out. I consider this of particular importance in relation to the plywood cladding as building work was allowed to proceed without pre- or post-clad inspections.
- 8.3.8 The BCA has submitted that the issue of a notice to fix is a “harsh measure”. I note that a notice to fix is an enforcement notice that may require a person to carry out building work to remedy a breach of the Act or Code (section 164(2)(a)), specifies a time period for doing so (section 165(1)(b)) and may be enforced by a prosecution for failing to comply with the notice (section 168). The offence is a serious one involving a fine of up to \$200,000 and reflects the main purpose of a notice to fix, which is to ensure compliance and provide effective penalties for those that do not comply.
- 8.3.9 The common practice for BCAs inspecting building work during the construction phase is to identify any work that does not comply with the consent and/or the Building Code and to issue a field advice notice requiring the work to be remedied. If the field advice notice is not complied with, a notice to fix will usually be the appropriate response. Similarly, on a final inspection when a BCA refuses to issue a code compliance certificate the usual response should be the provision of a notice with reasons for the refusal under section 95A. Then, if an owner fails to carry out the work that will be the appropriate time for the BCA to consider whether to issue a notice to fix.
- 8.3.10 In conclusion, I consider the BCA failed to adequately carry out and/or record the inspections for the building work in this case.

Matter Two – observations of deficiencies during construction

- 8.3.11 In relation to Matter Two, the expert observed defects that in his opinion would have been readily apparent to a competent building inspector. I accept the expert’s findings and I concur that the defects were of a type and extent that would have been evident in the normal course of inspections during construction. While it is accepted that the BCA cannot inspect every detail in a build, an inspecting officer should be competent enough to select a sample area that is representative of the work being carried out with particular focus on details that are considered at high risk. As part of its inspection functions and in order that a code compliance certificate can be issued at the end of the build, the BCA must satisfy itself that the building work complies with the consent and with the Building Code. I note also that where the plans and specifications are lacking detail there is an event greater reliance on the tradesmen involved and on the inspections to ensure that building work will comply with the Building Code.
- 8.3.12 I consider in this case had the inspections been undertaken properly and the issues identified earlier during the inspection process (as opposed to the follow up inspections in 2009-2010), the building work that did not comply with the Building Code and Building Consent is likely to have been remedied earlier.

- 8.3.13 There has been some discussion between the complainant and the BCA as to the roles of each during the build. I do not consider the BCA is elevated to the role of a clerk of works or project manager, and I consider the roles are defined as follows:
- A clerk of works is an owner's/architect's or engineer's on-site representative, primarily to represent the interests of the client in regard to ensuring the quality of both materials and workmanship are in accordance with the design information. A clerk of works may be on site full time on large jobs.
 - A project manager manages the job as a whole and has responsibility for higher level responsibilities for example; budgets, progress, timetables, coordination of trades on site. A project manager may include a clerk of works role but not vice versa.
 - A BCA inspector is on site for limited periods to undertake specific inspections in relation to completed work for compliance with the Building Code and consented documents. A BCA inspector does not look at quality unless it affects compliance, and the BCA does not represent the owner's interests in relation to quality of the workmanship or contractual issues.
- 8.3.14 The BCA submitted it is not a 'clerk of works' nor a project manager, and cannot be responsible for the actions of the original builder. The complainants accept this. The BCA further submitted it had appropriately failed inspections. I am aware there were separate legal proceedings between the complainants and the original builder and I agree that the BCA cannot be held responsible for the actions of a builder. Nor do I accept that the BCA is in the same position as a clerk of works, and agree there may be aspects of construction not related to compliance that a BCA reasonably does not view during the course of construction
- 8.3.15 Under section 90 of the Act, 'inspection' means "the taking of all reasonable steps to ensure that building work is being carried out in accordance with a building consent" (my emphasis). In relation to the definition for plans and specifications (see section 7), it includes the 'proposed procedures for inspection during the construction, alteration....of a building'.
- 8.3.16 In relation to accreditation of a BCA, under Regulation 10 of the BCA Regulations, a BCA must have a system for establishing the competence of employees; the competence assessment system must cover the employees' ability to inspect building work.
- 8.3.17 It is clear that the BCA has an obligation to carry out competent inspections when they are called for.
- 8.3.18 However, relying on the expert's evidence, which I note corroborates the views expressed by other experts involved previously, I consider in this case there were details that would have been observable by the BCA during earlier inspections, which the BCA neither failed, nor issued field advice notes or notices to fix at the time. I note the 'failed inspections' referred to by the BCA were not carried out until 1 March 2010 sometime after the defects would have been observable, and that building work had continued in the meantime.

9. The BCA assessment process

- 9.1 The complainants have sought ‘an investigation into whether the BCA’s compliance at the two yearly audits is reflective of the inspection processes that occur.’
- 9.2 As required by the Act, and in a notice issued by the Chief Executive in the New Zealand Gazette, IANZ undertakes an accreditation reassessment of each accredited BCA every two years. An accreditation assessment is not an audit, it is an assessment of whether (in summary) a BCA has implemented the minimum policies and procedures and systems that a BCA must have to perform its building control functions. The assessment will consider whether the policies, procedures and systems are ‘appropriate for purpose’ and have generally been implemented effectively; IANZ cannot and does not review all individual decisions in undertaking accreditation assessments and the assessment will not result the identification of all failures to effectively implement a policy, process or system.
- 9.3 In relation to the request from the complainant, I note that the failings of the BCA in this instance were at the start of the accreditation scheme (2007) and that the BCA was accredited on 1 September 2008. The issues raised in this complaint would have been something for IANZ to address, however, I note that the policies, processes and systems of the BCA are likely to have evolved over time since the scheme was first introduced although I have not been provided with the BCA’s policies in this case.
- 9.4 I have viewed the IANZ initial assessment report dated 5 June 2008 which related to an assessment of 27 and 29 May 2008 of the BCA; however, as noted above an IANZ assessment is a ‘snapshot’ of the current processes of the BCA at a particular point in time and is not required to be a comprehensive undertaking. The complaint process under section 200 of the Act can provide useful information in relation to monitoring of BCAs, but a complaint is not a forum to provide a detailed analysis of the BCA assessment process through IANZ.
- 9.5 The BCA in this case has been assessed by IANZ a minimum of four times since the scheme came into effect. There has been a reduction of the number of CARs issued by IANZ, and at the last assessment there were no CARs issued.
- 9.6 No disciplinary action under section 203 of the Act is to be taken against the BCA, in light of the time the events occurred (2007 – 2010) and there being no substantiated evidence of wider systemic failure currently within the BCA in relation to the issuing of building consents and carrying out (including adequate recording of) inspections. Despite this decision, I will be notifying IANZ of the BCA’s performance in this matter so IANZ can help ensure the BCA’s consenting and inspection process has improved since this event.

10. Conclusion

- 10.1 I consider in this instance there is evidence the BCA did not carry out its duties as a Building Consent Authority correctly in relation to the issuing of the complainant’s building consent and carrying out inspections and/or recording

those inspections (refer paragraph 8.1.1). I do not consider the BCA had good reason for failing to carry out these functions.

- 10.2 I do not consider there is any evidence that the failure to carry out their duties as a Building Consent Authority in this case means the BCA has been negligent in performing those functions.
- 10.3 These events occurred in 2007-2010 and there is no evidence provided to me that the issues have remained, nor that there is a wider systemic failure currently within the BCA in relation to the issuing of building consents and carrying out inspections. Therefore, I do not consider it appropriate to impose any action under section 203 of the Act in this case.
- 10.4 I consider the matter could be considered further if substantial new evidence emerges of similar inspection/consenting failings by the BCA occurring at present.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 2 February 2016.

Yours sincerely

John Gardiner
Manager Determinations and Assurance

Appendix A: The legislation

A1 Under section 200 of the Building Act 2004, the Chief Executive may receive complaints alleging that a BCA has been negligent in or has failed or is failing, without good reason, to properly perform any of its functions under Part 2 or 3 of the Act. The functions of a BCA include the issuing of building consents, notices to fix, code compliance certificates and inspecting building work for which it has granted consent. Specific to this complaint, the BCA is governed by the Building (Accreditation of Building Consent Authorities) Regulations 2006 (“the Regulations”). The relevant sections that apply to this complaint as at the amendments of September 2007 are as follows:

7 Performing building control functions

(1) A building consent authority must have policies and procedures for performing its building control functions.

(2) The policies and procedures must cover the following:

(a) giving the following information, in writing or electronically, to a person who wants to apply for a building consent:

- (i) how to apply for a building consent; and
- (ii) how an application for a building consent is processed; and
- (iii) how building work is inspected; and
- (iv) how building work is certified; and

(b) receiving applications for building consents; and

(c) checking that the applications comply with the requirements that the Act and any applicable regulations under the Act specify for applications; and

(d) for applications that comply with the requirements that the Act and any applicable regulations under the Act specify for applications,—

- (i) entering the applications in the building consent authority's building consent processing system; and
- (ii) assessing the content of the applications; and
- (iii) allocating the applications to employees or contractors to process; and
- (iv) processing the applications to establish whether they comply with the requirements that the Act, the building code, and any other applicable regulations under the Act specify for buildings; and
- (v) granting, refusing to grant, and issuing building consents; and

(e) planning, performing, and managing inspections; and

10 Establishing and assessing competence of employees

(1) A building consent authority must have a system for establishing the competence of a person who applies to it for employment as an employee performing building control functions.

(2) A building consent authority must have a system for regularly assessing the competence of its employees performing building control functions.

(3) The competence assessment system must cover the following:

- (a) employees' understanding of the philosophy and principles of building design and construction; and
- (b) employees' understanding and knowledge of building products and methods; and
- (c) employees' knowledge and skill in applying the Act, the building code, and any other applicable regulations under the Act; and
- (d) employees' ability to—
 - (i) process applications for building consents; and
 - (ii) inspect building work; and
 - (iii) certify building work; and
- (e) employees' ability to communicate with internal and external persons; and
- (f) employees' ability to comply with the building consent authority's policies, procedures, and systems.

17 Assuring quality

- (1) A building consent authority must have a system for assuring the quality of its performance of its building control functions.
- (2) The quality assurance system must cover the following:
 - (a) the policies, procedures, and systems described in regulations 5 to 16; and
 - (b) the policy on quality; and
 - (c) the procedure for ensuring that the building consent authority operates within its scope of accreditation; and
 - (d) the procedure for the building consent authority's management to review the authority's performance; and
 - (e) the procedure for continuous improvement in the performance of the building consent authority's functions; and
 - (f) the procedure for managing the provision of human resources; and
 - (g) the procedure for ensuring that the necessary technical and administrative information, facilities, and equipment—
 - (i) are available; and
 - (ii) are appropriate; and
 - (iii) remain fit for their purposes; and
 - (h) the procedure for ensuring that an internal audit of every building control function occurs within 12 months of the completion of the last internal audit of the function; and—
 - (i) the procedure for identifying and managing conflicts of interest; and
 - (j) the procedure for communicating with internal and external persons; and
 - (k) the procedure for document control; and
 - (l) the procedure for contract management; and
 - (m) the procedure for record-keeping; and
 - (n) the procedure for the building consent authority's management to review the effectiveness of the authority's quality assurance system.
 - (3) A building consent authority must record who is responsible for managing its quality assurance system.
 - (4) A building consent authority must have a system for ensuring that—

- (a) its employees comply with the authority's quality assurance system; and
- (b) its contractors comply with—
 - (i) the authority's quality assurance system; or
 - (ii) the contractor's quality assurance system.
- (5) A building consent authority must have a system for periodically—
 - (a) reviewing its quality assurance system; and
 - (b) making appropriate changes in the quality assurance system.

A2 Relevant sections from the Building Act 2004

200 Complaints about building consent authorities

- (1) The chief executive may receive complaints alleging that a building consent authority—
- (a) has failed, or is failing, without good reason to properly perform any of the authority's functions under this Part or Part 2:
 - (b) has been, or is, negligent in performing those functions.
- (2) As soon as practicable after receiving a complaint, the chief executive must—
- (a) inform the building consent authority concerned of the complaint; and
 - (b) decide whether to accept or decline the complaint.
- (2A) The chief executive, in considering whether to accept or decline a complaint under subsection (2)(b), is not required to seek any information or submission from the building consent authority, and the building consent authority is not entitled to proffer any information or submission at that stage.
- (3) The chief executive must, immediately after making a decision under subsection (2),—
- (a) give written notice of the decision to the person who made the complaint and the building consent authority concerned; and
 - (b) if the chief executive decides to accept the complaint, proceed to investigate the complaint.
- (4) The chief executive may decline to accept, and is not required to investigate, a complaint that he or she considers vexatious or frivolous.

202 Procedure if chief executive proceeds to investigate complaint or matter

- (1) This section applies if the chief executive proceeds to investigate—
- (a) a complaint under section 200; or
 - (b) a matter on his or her own initiative under section 201.
- (2) The chief executive must, in the notice to the building consent authority concerned given under section 200(3) or, as the case may be, section 201(2),—
- (a) state that the chief executive has reason to believe that 1 or more grounds exist entitling him or her to exercise the disciplinary powers under section 203; and

- (b) provide particulars that will clearly inform the building consent authority of the ground or grounds; and
- (c) give the building consent authority a reasonable opportunity to make written submissions on the matter; and
- (d) consider those submissions (if any).

(3) For the avoidance of doubt, a building consent authority's failure to make written submissions after being given a reasonable opportunity to do so does not limit the chief executive in investigating the complaint or determining it.

203 Disciplinary powers of chief executive

(1) This section applies if the chief executive, after conducting an investigation and considering the submissions made by a building consent authority (if any), is satisfied that the building consent authority—

(a) has failed without good reason to properly perform any of the authority's functions under this Part or Part 2:

(b) has been negligent in performing those functions.

(2) The chief executive may do 1 or more of the following:

(a) issue a warning to the building consent authority:

(b) require the building consent authority to take remedial action—

(i) within a specified time; and

(ii) that is subject to any conditions that the chief executive thinks fit (if any):

(ba) if paragraph (b) applies, require the building consent authority to monitor and report to the chief executive on the progress of the remedial action:

(c) limit the functions that the building consent authority may perform under this Part or Part 2 and record the limitation in the appropriate register accordingly:

(d) in the case of a building consent authority that is not a territorial authority or a regional authority,—

(i) suspend the authority's registration and record the suspension in the appropriate register accordingly; or

(ii) if the chief executive considers that the circumstances warrant it, revoke the authority's registration and remove the authority's name from the register of building consent authorities:

(e) in the case of a territorial authority or regional authority, recommend to the Minister that the Minister appoint 1 or more persons to act in the place of the territorial authority or, as the case may be, the regional authority in relation to all or any of its functions.

(3) If subsection (2)(e) applies, sections 277 to 281 apply with all necessary modifications.

(4) If the chief executive takes any action referred to in subsection (2), he or she must give written notice of the action to the building consent authority and the reasons for the action.

Appendix B Summary of inspections for the building for period 27 March 2008-12 April 2011. Some inspections appear to have been carried out without being recorded (as noted in the expert’s report) – these are shown shaded. Footings and pre-floor inspection sheets require reference to the photos and complainants to identify the stage of work.

Date Inspection	Building work/stage	Pass/Fail	Photographs	Inspection notes (summarised)	Expert’s comment
2008					
27 March Footings	Garage (assumed)	Failed	No	‘No steel in footings so advised builder to call for further inspection...’	
28 March Footing	Garage (assumed)	Failed	No	Footing steel incorrectly tied. No concrete to be poured until re inspected.	
31 March	Garage (assumed)	Query passed	Yes		Photographs of garage boxed footings. No inspection sheet and photographic evidence difficult to ascertain.
7 April Footing/ pre-floor	Garage and East deck post footings (assumed)	Passed	Yes	‘All work to approved plan. Ok to pour’	
	Kitchen/dining (assumed)	Passed	Yes	‘All work to approved plan. Ok to pour footing’	
11 April Footing	Kitchen/dining (possibly)	Passed	Yes		Very dark photos of footings but no inspection sheet
22 April			Yes		[single photograph of framing assumed to be garage]
12 May Pre-floor	Kitchen/dining (assumed)	Passed	Yes	‘Internal corners to be put in place.’ ‘All work to approved plans. Ok to pour slab’	Sub-floor drainage visible in photo not noted as inspected. Noted reinforcing bars to internal corners to be put in place; no evidence on file of subsequent compliance.
12 May Roof/ Pre-line Framing	Garage (assumed)	Passed	?	All work to approved plans. OK to continue.	No wide angle photos taken
12 May Pre-floor/ framing	Garage	Field inspection review form: Noted the inspecting BCO had ensured all previous inspections had passed, the inspection was conducted with the appropriate checklist and any items of compliance and non-compliance were identified. Concluded the BCA was fully competent.			
22 May Footings	‘Portal frame pads only all other footings already reviewed.’	Passed	Yes	All work to approved plans. Ok to pour portal pads and post holes.	

26 May Pre-cladding	'Garage only window wrap'	Passed	Yes	All work on garage to approved plans. Window wrapping taping all in place. Ok to clad garage only.	
19 June Roof pre-line framing	Dining/kitchen (assumed)	Passed	Yes	Ok to put roof ply on [unclear whether this is garage roof or entire roof]	
11 July* Pre-line	'Lounge/kitchen only'	Passed	No	Insulation in walls but not ceiling. Plumbing pipe out not completed. Moisture tested at 18%. All bracing hold downs in place.	Allowed lining to proceed without pressure testing. Notes photos attached but no dated council photos on file.
18 July Pre-line			Yes		No inspection sheet on file, interior wall photos indicate inspection was for preline.
22 July Site visit			No	File Note re additional screwing of purlins being undertaken on existing roof. Builder advised 5mm gap left to allow for possible sag in steel portal frame.	
12 August Pre-floor			Yes	Approved, ok to pour slab.	
2009					
2 April Site meeting			No	From follow up letter dated 23 April 2009: BCA unable to find plans for variation to the Building consent alleged by complainants re extension to upstairs deck. BCA answered list of six concerns raised by complainants. Amended plans for replacement of the lintel provided.	The issues discussed indicate that structural beam, pre-line and post-line inspections had not been undertaken.
2010					
16 February Plumbing / pre-line			No		Reference in BCA email to inspection booked for 25 February for a pressure test and that there were no notes on the inspection carried out on 16 February.
1 March Pre-line	Garage	Failed		Roofing and cladding confirmed complete and weathertight. Site instruction issued for work to be completed prior to lining of garage. Re-inspection required of items listed on site instruction.	Appears to be largely a re-inspection of non-compliant garage framing previously approved on 26/5/08. <i>[I note the site instruction includes the following: 1) crimp leaking 2) hold down bolts and straps to bracing 3) put all BLPs & BR7 in place 4) written confirmation required that bolting of deck to beam approved 5) change lintels above exterior doors in garage.]</i>
1 March		Failed	No	Fitting to washhouse failed.	

Plumbing				Due to leaking crimp retest/re-inspection required.	
10 March Plumbing					Complainant's advised plumbing pressure tested successfully. Not documented, date assumed.
1 November Pre-line				Further inspection required for insulation and PFC rod and foam sill to be done. Exterior roof and cladding weathertightness noted as 'complete'.	

* Though the record is dated 11 May 2008, the complainant's consider 11 July 2008 is the correct date. Given that the inspection refers to there being insulation in the walls I accept that the inspection is unlikely to have occurred on 11 May

