



Department of
Building and Housing
Te Tari Kaupapa Whare

Technical Review
of the Compliance Schedule and Building
Warrant of Fitness systems of
Kaipara 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 Kaipara 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.

The councils that were the subject of a technical review were:

- Kaipara District Council
- Whangarei District Council.

Reasons for the review

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

The implementation of the building consent authority accreditation (BCA) scheme had 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 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:

- had an appropriate organisational management structure and was correctly delegating the relevant statutory powers and responsibilities
- was appropriately recording its building control statistics
- elected to inspect a number of buildings issued with building warrants of fitness

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

- was generally meeting the statutory time frames
- had implemented an electronic database which identified building warrants of fitness that were due to expire
- maintained a website that provided useful guidance on a range of Building Act 2004 and building compliance matters
- was complying with its statutory requirements in relation to access and storage of compliance schedule and building warrant of fitness documentation
- had shown initiative by providing guidance material that described the purpose of forms and outlined their requirements.

The review identified four significant areas where the Council needed to strengthen and improve its operations. Addressing these issues will enhance the quality of service to customers, alleviate confusion for building owners and independent qualified persons (IQPs), and assist the sector to comply more consistently with the Building Act 2004. They 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
- effective systems, policies, and procedures in relation to compliance schedules, specified systems, and building warrants of fitness
- capacity and capability of the Council.

Key findings for Kaipara District Council under the four significant areas noted above are summarised as follows.

Understanding and application of statutory responsibilities

The review highlighted that some areas of the Building Act 2004 and Regulations needed to be more thoroughly understood and consistently applied by Council building control staff. Some examples are noted below, but these underlying findings can also be applied across the other three subheadings in this section.

- The certificates and documents issued by the Council need to consistently include all the relevant information, and correctly identify further addenda items on building consents rather than use a generic list. Instead relevant conditions such as section 90(2) and (3) of the Building Act 2004 for third party verification that building work had been carried out in compliance with the Building Code should be included.

Documentation of building control decision-making

A recurring theme identified by 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:

- how the Council's documented procedures were followed
- reasons for decisions and supporting evidence
- actual decisions that were made
- whether any follow-up action was required or occurred
- final outcomes achieved.

In particular, there was a need to:

- adopt a consistent prefix for the specified systems across all documents
- ensure that, where standards were referred to in the compliance schedule, they included the approval year of the standard and were relevant to the specified system
- ensure that specified systems and their design, inspection and maintenance standards were better documented, specifically on the compliance schedules
- review and update public information on amending a compliance schedule
- develop and implement a checklist to assess building warrants of fitness for compliance with the Building Act 2004 and the Building Regulations
- review and update the building warrant of fitness report sheet to include all the specified systems, and the audit and inspection procedure, to ensure this accurately reflected the Council's process.

Effective systems, policies, and procedures

Systems, policies and procedures that needed improvement and more effective implementation included the following.

- Develop and implement procedures to ensure prescribed forms are complied with and completed in full.
- Monitor all functions that included specified systems to ensure building consents are satisfactorily assessed by a competent person, with clearly documented decisions on Building Code compliance for each system assessed.
- Ensure that a proposed inspection and maintenance procedure for each specified system is provided with the building consent (by the applicant).
- Monitor the performance of contractors undertaking building warrant of fitness inspections.
- Develop an effective system to monitor the three year inspection cycle for buildings with building warrants of fitness and compliance schedules.
- Implement best practice policy in improving public information regarding owner inspection responsibilities and adopting policy.
- Formalise arrangements with the other councils in the Far North regional cluster group regarding the joint independent qualified person register, including an agreed process for dealing with non-compliant independent qualified persons and how independent qualified persons are added 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 4.9 and 4.10 of the Review's terms of reference).

- The Council needed to continually ensure it had adequate technical and administrative staff resources to fulfil its responsibilities in administering the Building Act 2004.
- The Council should ensure that contractors were competent to undertake their duties. The Council needed to set parameters for competency of contractors' building warrant of fitness audit role.
- The Council needed to include compliance schedule, specified systems and building warrant of fitness requirements in their competency assessment system and monitor the effectiveness of training its staff undertakes to ensure this is being consistently applied.

Recent initiatives

Since the Department's visit the Council advised it has:

- reviewed and updated its public information to include specific information on amending a compliance schedule
- adopted new procedures to ensure prescribed forms are complied with and completed in full and it has conducted audits on this
- adopted new procedures to ensure that the applicant or agent provided a proposed inspection and maintenance procedure for each specified system with the building consent application and conducted audits on this
- adopted new procedures that made the building team leader responsible for the Council's compliance schedule processing to help achieve consistency
- adopted new procedures for issuing compliance schedules with site-specific information, undertaking building warrant of fitness inspections, and was working toward being able to take appropriate enforcement action under the Building Act 2004
- adopted the prefix 'SS' for the specified systems across all documentation of compliance schedules and building warrants of fitness
- liaised with the regional cluster group of Councils to progress joint initiatives, such as how to deal with non-compliant independent qualified person practices
- reviewed and updated its competency assessment process to include specified systems and other compliance schedule and building warrants of fitness matters
- engaged an external technical competency assessor to review and evaluate the effectiveness of training relating to compliance schedules and building warrants of fitness
- ceased the use of contractors or agents undertaking inspections on its behalf and was only using Council staff assessed as competent.

The Department would like to thank Kaipara 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 from requiring a building consent under Schedule 1(k) of the Building Act 2004
- 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 Building Regulations.

Kaipara District Council

Kaipara District has a population of 18,600 and is located in the province of Northland at the top of the North Island. The district has an area of 3117 square kilometres and extends from Bayly's Beach on the west coast to Mangawhai on the east coast. The main Council office is based at Dargaville (population 4800), the district's largest town, with a secondary office at Kaiwaka.

Kaipara's economy has historically been based around pastoral farming and to a lesser extent horticulture and forestry. However, developments in tourism are growing in importance and there is a trend toward small mixed-use farm holdings.

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 was 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 have properly exercised their powers and performed their functions.³

Scope of the review

This review's terms of reference covered 11 areas, which collectively covered 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

4.1	Organisational and management structure
4.2	Consent statistics
4.3	Statutory timeframes – sections 102, 104, 104A and 108(3)
4.4	Building Act requirements – compliance schedules
4.5	Building Act requirements – amending a compliance schedule
4.6	Building Act requirements – annual building warrant of fitness
4.7	Private cable cars (section 100)
4.8	Independent qualified person register
4.9	Human resources
4.10	Technical knowledge and ability of staff
4.11	Access to and storage of compliance schedule and building warrant of fitness documentation

Method

The Department used four broad approaches to gather information about the Council's building control activities. These were:

- observe staff undertaking work
- review written material used and produced by staff (eg, policies, procedures, processing checklists and records, manuals and approved consent documentation)
- interview staff about their use of material and their work
- assess a random sample of building projects (case studies) that were handled by the territorial authority or building consent authority, just before or during the review visit.

For this review, three 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

4.1 Organisational and management structure

Purpose

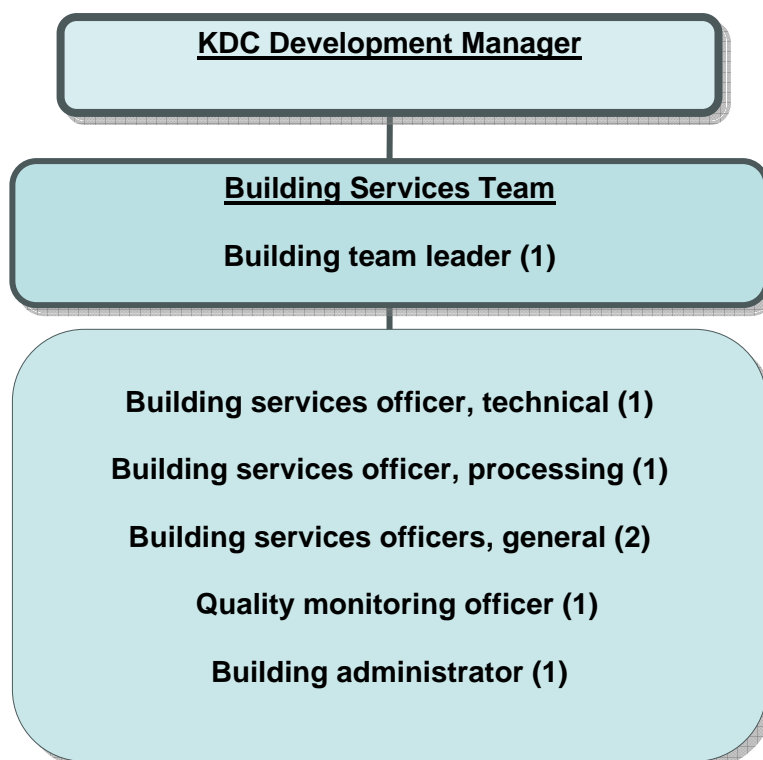
To examine the organisational and management structure of the Council's building control operations, consider how it delegates legislative powers, duties, and responsibilities, and identify any issues with its efficiency.

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

Kaipara District Council Building Consent Authority Structure



Council staff involved in the compliance schedule and building warrant of fitness system had delegated authority under section 232 of the Building Act 2004. Building control staff that entered land and carried out inspections were authorised under section 222 of the Building Act 2004.

Council officers were authorised and warranted under section 372 to issue infringement notices. At the time of the review the Council was in the process of adopting a policy and procedure for issuing infringement notices.

Conclusion

The Council's organisational management structure and delegation of powers and responsibility were found to be appropriate.

4.2 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 October 2008
956 building consents issued
Total value of consented construction work was \$67,500,000
862 code compliance certificates issued
433 live building consents
4 compliance schedules issued
162 buildings had a compliance schedule
152 current building warrants of fitness
18 certificates of acceptance issued
1 certificate for public use issued
17 audits of building warrants of fitness carried out
7 compliance schedules did not have a current compliance schedule statement or current building warrant of fitness.

The Department was concerned at the number of compliance schedules that did not have a current building warrant of fitness and were no longer covered by a compliance schedule statement. It was encouraging to see that the Council has elected to inspect a number of buildings issued with building warrants of fitness.

However, the buildings with an outstanding building warrant of fitness should also be actively monitored to ensure compliance with section 108 of the Building Act 2004. The Department reminded the Council that failure to supply a territorial authority with a building warrant of fitness was an offence under the Building Act 2004.

Conclusion

At the time of the review the Council were recording statistics appropriately. A number of building warrants of fitness were audited, but this process had not been formally documented (this is further discussed in section 4.6: Building Act requirements for annual building warrant of fitness).

4.3 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 (BCA) 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 a building consent authority to 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

On reviewing recent building consent applications processed by the Council it was found that compliance schedule and compliance schedule statements were issued in conjunction with the code compliance certificate. By issuing both the compliance schedule and compliance schedule statement with the code compliance certificate the Council was meeting its statutory time frame requirements under sections 102, 104, 104A and 105(e) of the Building Act 2004.

The Council ran monthly computer reports to monitor the anniversaries and status of building warrants of fitness.

The Council sent reminder letters to all building owners one month before the building warrant of fitness was due to expire. A follow-up process was initiated if a building warrant of fitness was not received within the time frame stated on the reminder letter. If no response was provided a final warning letter was sent to the owner. Failure to provide a building warrant of fitness at this stage resulted in a notice to fix being issued. At the time of the review the Council advised that no notices to fix had been issued for overdue building warrants of fitness.

Conclusion

The Council was meeting the statutory time frames for compliance schedules and compliance schedule statements. The Council has an electronic database which identified building warrants of fitness that were due to expire.

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

4.4 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 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

Policies and procedures

The Council has processes/instructions for issuing compliance schedules for new buildings and new compliance schedules for existing buildings.

The Council has used the Department's *Building Consent Authority Development Guide* as the basis for policies and procedures contained within *Kaipara District Council Building Consent Authority Manual*. The wording has been tailored and modified slightly to suit the Council's requirements, so it was not a complete reproduction of the Department's guidance material.

Public information

The Department found the Council provided an appropriate standard of guidance for an applicant in its information booklet 'Applying for a Building Consent' dated July 2007.

The Council's website provided useful guidance on a range of Building Act 2004 and building compliance matters. Specific guidance was provided on compliance schedule and building warrant of fitness matters in plain English that was easy to comprehend and absorb.

The only notable omission from the information was the process for amending a compliance schedule. The Council stated that a compliance schedule statement was issued by the building consent authority. This was incorrect as a compliance schedule statement is issued by the territorial authority under section 104A and 105(e) of the Building Act 2004 (for further Council information follow this link: http://www.kaipara.govt.nz/building_consent.htm).

Building consent application

The Council's application form for PIM/building consent was generally in line with the prescribed form. However it did not include the statement 'there are no specified systems within the building', for building consent applications where there were no specified systems. The Council has shown initiative by including in the form a list of specified systems, which was in accordance with Schedule 1 of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

The Council had no dedicated consent vetting person to check building consent applications. Specified systems were captured during the processing stage. Pre-application meetings were held at the request of the customer, and where appropriate, the specified systems were addressed.

In some instances the Department found that insufficient information relating to specified systems, including the inspection, maintenance and reporting of such systems, had been provided by the applicant/designer at the time of lodging the building consent application. This information was required in order to make an informed compliance decision and fell within the definition of 'plans and specifications' under section 7(c)(ii) and (iii) of the Building Act 2004. It was the applicant's or designer's responsibility to provide the information for the compliance schedule; it was not the Council's role to compile compliance schedules.

Building consent processing

The Council referred to specified systems and some compliance schedule systems under the Building Act 1991 (safety barriers, access and facilities for the disabled, fire hose reels and accessible signage) in its pink commercial processing checklist issued in March 2008.

The Department found that some of the Council's completed commercial processing checklists did not provide any detailed information about Building Code compliance, and inspection/maintenance of specified systems. In some instances the checklist identified there were existing specified systems within the building, but did not expand on this or discuss how the specified systems complied with Building Code requirements. The Council's processing checklist provided a section titled 'specified systems processed'. This section was sometimes left blank and had no comments attached and/or no indication as to what specified systems were considered. This was of concern as all the reviewed building consents contained specified systems.

On one occasion, an automatic type 4 emergency warning system appeared to have been installed as part of a new building consent, but no detailed design information was provided to show how this alarm was to be installed, maintained and inspected. Such information is required under section 103(1) of the Building Act 2004. In this case, the building appeared to be fitted with an existing type 2 alarm, so the existing compliance schedule should have been amended to accommodate this change to the existing specified system. On some occasions processing checklists identified specified systems that were not contained within the building.

The Council had a peer review process in place with the Far North District Council for the processing of building consents with specified systems. The Council's building team leader also reviewed any applications processed by Council staff that included specified systems. However, this was not formally documented within the *Kaipara District Council Building Consent Authority Manual*. Where the team leader considered the specified system was outside their competency level the application was forwarded to the Far North District Council for review.

Building consent issuing

Section 51 of the Building Act 2004 requires a Council to issue a building consent with certain information. The building consents reviewed did not comply with section 51 of the Building Act 2004. The issued building consents did not always identify that a compliance schedule was required for the building. The listed specified systems only had generic descriptions and the performance standards were listed as the related clauses of the Building Code. If a compliance schedule was required as a result of building work, then the building consent must state what the specified systems are, and the performance standards the specified systems are designed to (eg,

the relevant New Zealand or international standard, where applicable, and the date of that standard).

The Department considered it good practice to also include, as an alert in the building consent, notification of what specified systems documentation was needed from the applicant or their agent before the issue of a code compliance certificate. The documentation included commissioning results, test reports and third party certification from mutually agreed parties.

The Council's addenda to the building consent often provided a list of generic conditions attached to the consent. In some instances these conditions were of little relevance to the granted consent or were confusing to the applicant. For example, a design engineer's producer statement was requested, but what specific engineer was the Council referring to, and was the producer statement related to structural, mechanical or fire safety matters? In many consents, relevant installer certification was omitted from the building consent conditions, such as energy works certification (the omission of an energy works certificate is sufficient reason for a council to refuse to issue a code compliance certificate under section 94(3) of the Building Act 2004).

Building consent conditions should be specific and relevant to the building work. The Council, as a building consent authority and territorial authority, is permitted under the Building Act 2004 to issue building consents with conditions that relate only to sections 67 (waivers and modifications), 73 (natural hazards), 75 (building on two or more allotments), 90 (inspections by building consent authorities) and 113 (buildings with specified intended lives). As this technical review targeted specified systems, compliance schedules and building warrants of fitness, building consent conditions relating to section 90 (inspections by building consent authorities) were the only conditions that applied. Other generic conditions which are outside sections 67, 73, 75, 90 and 113 or are not relevant to the building consent should not be included.

The Council has now implemented a system where the specified systems are printed off and sent out with the building consent as a draft compliance schedule. This draft provides a useful specified system checklist for the inspector to use.

Inspections of building work

The Council undertook inspections of passive fire systems, such as fire rated walls. Generally there was a reliance on installation certificates, commissioning test results/reports and producer statements which were not specified in the building consent.

Passive systems such as fire rated building elements were not specifically covered in the Council's pink form *Condition of the Building Consent Inspections Required*, but producer statements were mentioned for specialist installations.

Assessment, installation and inspection of specified systems, which were outside the processing/inspecting officer's competency, should be acknowledged as such. Third party verification confirming Building Code compliance should be obtained from suitably qualified persons in these cases.

It was found that code compliance certificates often did not comply with the prescribed form in the Building (Forms) Regulations 2004, as the certificates did not state that the specified systems in the building were capable of performing to the standards set out in the building consent. The compliance schedule was often not issued or attached to the code compliance certificate as required by the Building (Forms) Regulations 2004.

Certificate for public use

The Council issued one certificate for public use during the 12 months before the technical review visit.

Although the Department did not see a certificate for public use that had been issued by the Council, several recurring certificate for public use issues have been found during similar technical reviews of other Council's.

The Department suggested that it was best practice to include an expiry date, so that the Council had a clear expectation of when a code compliance certificate could be issued (or an extension sought). Where buildings required a certificate for public use for a long period of time, should include a requirement for the owner to inspect and maintain the specified systems within the building for that period.

Often it was not clear how Council's were satisfied that the specified systems were operational to ensure the safety of the occupants.

Compliance schedule statement

A compliance schedule statement issued on 5 February 2007 referred to compliance schedule systems using the Building Act 1991 format. To avoid confusion, the Department suggested that it would be best practice to refer to specified systems in relation to the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

The Council had implemented a process of sending out an explanatory letter with every compliance schedule statement issued. The letter outlined why the building had been issued with a compliance schedule statement and discussed the performance standards and ongoing monitoring requirements of the specified systems.

The Council had shown initiative by providing guidance material when issuing one of the forms required under the Building Act 2004 and Regulations. The guidance provided a clear description of the form's purpose and outlined the mandatory requirement to display it within public view.

The compliance schedule statements reviewed were issued and mailed out in conjunction with the compliance schedule, which complied with the time frame in section 104A of the Building Act 2004.

Compliance schedule

The Council had also implemented a process of sending out an explanatory letter with every compliance schedule issued. The letter outlined why it had been issued and discussed the performance standards and ongoing monitoring requirements of the specified systems, as well as other compliance schedule matters.

The Council's historic classification of specified systems had used a mix of 'CS' and 'SS' abbreviations. The prefix 'CS' before the specified system number was often used for compliance schedules issued before 31 March 2005. Although not mandatory, the Department's publication *Compliance Schedule Handbook* uses the prefix 'SS' for specified systems in new or amended compliance schedules issued since 31 March 2005.

For consistency and clarification, it was suggested that whatever prefix was adopted be used consistently for all specified systems.

It was noted that where standards were referred to in the compliance schedules under maintenance requirements, the approval year of the standard was omitted. It was also found that several options of standards for the maintenance of the specified systems were included.

The compliance schedules reviewed also referred to the specified systems in generic terms, which did not always directly relate to the systems installed on site. Extracts from the Department's publication 'Compliance Schedule Handbook' were often attached to the compliance schedule.

Compliance schedule information should be sourced directly from the plans and specifications accompanying the building consent application. As noted previously under 'building consent processing', the definition of 'plans and specifications' under section 7(c)(ii) and (iii) of the Building Act 2004 is quite clear and requires the applicant to provide detailed information about specified systems being installed as part of the building work.

Conclusion

The Council needed to improve its processes and consistently apply the requirements of the Building Act 2004 for compliance schedules. The Council had implemented some good systems in the months prior to the review visit, but work was still required to remove the remaining inconsistencies.

Recommendation 1	
The Department recommended that the Council:	Response from the Council:
Ensure prescribed forms are complied with and completed in full.	Council advised that since December 2008 it has adopted new procedures for the team leader to ensure prescribed forms were complied with and completed in full, and has conducted audits on this.
Ensure that the applicant or agent provides a proposed inspection and maintenance procedure for each specified system with the building consent application.	Council advised that since December 2008 it has adopted new procedures for the team leader to ensure the applicant provided a proposed inspection and maintenance procedure for each specified system with the building consent application, and it has conducted audits on this.
Make certain all specified systems included in a building consent are satisfactorily assessed by a competent person, with clearly documented decisions on Building Code compliance for each system assessed.	Council advised it has adopted new procedures, since December 2008, for the team leader to be responsible for the Council's compliance schedule and building warrants of fitness systems. It plans to conduct audits on one percent of building warrants of fitness each year.
Refrain from placing a list of generic further addenda items on building consents, and instead place relevant conditions such as sections 90(2) and (3) of the Building Act 2004 for third party verification that building work had been carried out in compliance with the Building Code.	Council advised that since December 2008 it has adopted new procedures for issuing compliance schedules and has taken appropriate action under the Building Act 2004. New procedures include a compliance schedule application form with the appropriate requirement for third party verification

	that building work has been carried out in compliance with the Building Code following a continuous improvement process.
Adopt a consistent prefix for the specified systems across all documents.	Council advised it has adopted the prefix 'SS' for the specified systems across all documentation of compliance schedules and building warrants of fitness.
Ensure standards referred to in the compliance schedule include the approval year of the standard and are relevant to the specified system.	Council advised that since December 2008 it has adopted new procedures to ensure that, where standards were referred to in the compliance schedule, they were relevant to the specified system and included the approval year of the standard. The team leader to complete by October 2009.
Ensure compliance schedules contain site-specific information on the specified systems, their location in the building, and particular inspection and maintenance requirements.	Council advised that since December 2008 it has adopted new procedures to ensure compliance schedules contained site-specific information on the specified systems, their location in the building, and particular inspection and maintenance requirements following a continuous improvement process.

4.5 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 public information only covered the requirement to obtain a building consent for the removal of a specified system and made no mention of amending an existing compliance schedule.

The *Kaipara District Council Building Consent Authority Manual* discussed the key components of amending a compliance schedule. The process mirrored the content of the Departments' *Building Consent Authority Development Guide*.

Council staff acknowledged that compliance schedule amendments were not common. Amendments generally resulted from a building consent for alterations to an existing building that included changes to the installed specified systems. Council staff advised that compliance schedule amendments as a result of an application, or initiated by the Council, rarely happened. However, the Department found several historic instances where the Council amended a compliance schedule as a result of a recommendation by an independent qualified person (in accordance with section 109 of the Building Act 2004). These recommendations sometimes related to removing items from an existing compliance schedule that were not now considered as specified systems (such as safety barriers), which were obsolete and/or not being maintained appropriately.

The Department believed it was good practice to update existing compliance schedules issued under the Building Act 1991 to align the specified systems with the Regulations that applied at the time of the review, even if no specified systems were affected during the building work or through the building consent.

Conclusion

Council had an appropriate procedure for amending compliance schedules which could be enhanced by considering the following recommendation.

Recommendation 2	
The Department recommended that the Council:	Response from the Council:
Review and update public information to include specific information on amending a compliance schedule.	Council advised it has reviewed and updated the public information to include specific information on amending a compliance schedule following a continuous improvement process.

4.6 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

A specific procedure of the Council which referred to sections 108-111 of the Building Act 2004 and related to building warrants of fitness, was based on the Department's publication *Building Consent Authority Development Guide*. Council staff had an adequate grasp of the requirements of these sections of the Building Act 2004, and were able to describe the process undertaken when reviewing and assessing building warrant of fitness documentation provided by owners and independent qualified persons.

The Council used its computer system to monitor renewal dates for annual building warrants of fitness. Staff explained that the system identified those building warrants of fitness due to expire within the next calendar month. This monthly computer alert triggered the initial reminder letter discussed below.

The Council was able to give examples of the follow-up process for building warrants of fitness. A reminder letter was sent to the owner/agent of a building with a compliance schedule one month before the building warrant of fitness expiry date. If necessary, a second reminder letter was sent once the building warrant of fitness was overdue. If there was still no response, this was followed up by telephone calls, a final warning letter and then a notice to fix. This was viewed as good practice and was in line with the processes and procedures contained within the *Kaipara District Council Building Consent Authority Manual*.

The Council advised it had not taken any enforcement action against owners who had not provided a building warrant of fitness within the statutory time frame. At the time of the technical review visit, the Council had not developed a policy related to issuing infringement notices for building warrants of fitness or other offences under the Building (Infringement Offences, Fees, and Forms) Regulations 2007.

The Council had implemented a building warrant of fitness inspection process which was undertaken by a contractor. The on-site inspection phase of this process ran on a three year cycle, with the aim of inspecting all building stock with a building warrant of fitness within this time frame. It was not clear to the Department how this objective was tracked, as the Council had no records or data on completed building warrant of fitness inspections.

The Council had shown initiative by implementing an audit process, but for this process to be of real value, the statistical information needed to be recorded, stored and then analysed.

Key parts of this process, known as 'T-28.1 Building Warrant of Fitness Audits and Inspections Procedure' were not covered in the Council's manual. For example, the building warrant of fitness and field advice notice used for recording information on-site was not mentioned in the process. It was not known if a copy of the notice was left at the premises following an inspection or if a copy was posted to the owner's postal address.

If non-compliance was identified on-site, it was not known what action was taken by the contractor or Council officer. The process did not mention if the inspecting contractor or agent, or the Council's officer, was an authorised officer within the meaning of 'authorised officer' in section 222(4) of the Building Act 2004. An authorised officer is entitled, at all times during working hours or while building work is being carried out, to inspect building work and enter premises for the purposes of ensuring a compliance schedule is being complied with. It was not clear what authorisation the contractor/agent had been given in this regard.

The field advice notice discussed above included the following:

- ensuring the building warrant of fitness was displayed in a public area
- reviewing the inspection and maintenance log book records
- ensuring that the specified systems in the building were consistent with those on the compliance schedule
- noting if a further inspection was required and the reason for this.

The field advice notices seen by the Department did not accurately reflect the installed specified systems in the case study buildings. There were instances of specified systems omitted from the compliance schedule, or systems included that were not specified systems. These issues should have been identified by the Council's contractor. It was suggested that the Council needed to monitor the performance of its contractors. Notes often accompanied these notices which described general observations or in some cases non-compliance. Again, it was not clear what steps were taken by the Council after finding a non-compliance issue on-site, such as failure to complete a mandatory annual inspection.

The site visits undertaken by the Department often found that owners, tenants or occupiers were not aware of their compliance schedule and building warrant of fitness obligations. Examples included the need to regularly check egress routes to final exits; having a building warrant of fitness publicly displayed; keeping compliance schedules in their recorded location; and retaining inspection records for two years.

The Council's website provided useful guidance on a range of Building Act 2004 and building compliance matters. Specific, clear guidance was provided on building warrant of fitness matters.

Conclusion

The Council had an appropriate procedure for receiving, assessing and accepting building warrants of fitness. Further improvements could be made in areas such as enforcement, and the use and monitoring of contractors for building warrant of fitness inspections.

Recommendation 3	
The Department recommended that the Council:	Response from the Council:
Review and update the Building Warrant of Fitness/Inspection Report sheet to include	Council advised it has reviewed and updated the Building Warrant of

<p>all the specified systems and follow the numbering system in the Building (Specified Systems, Change the Use and Earthquake-prone Buildings) Regulations 2005.</p>	<p>Fitness/Inspection Report sheet to a triplicate book with space for all the specified systems, and implemented a prompt/checklist for following the numbering system in the Building (Specified Systems, Change the Use and Earthquake-prone Buildings) Regulations 2005.</p>
<p>Review and update process 'T-28.1 Building Warrant of Fitness Audits and Inspections procedure' to ensure this accurately reflected the Council's process. Clarify the authorisation of contractors or agents undertaking inspections on behalf of a territorial authority.</p>	<p>Council advised it has reviewed and updated the process 'T-28.1 Building Warrant of Fitness Audits and Inspections procedure' to ensure this accurately reflected the Council's process. Council advised it no longer uses contractors or agents to undertake inspections on its behalf. Only competent Council staff undertook inspections or inexperienced staff under supervision.</p>
<p>Develop an effective means of monitoring the three year inspection cycle for buildings with building warrants of fitness and compliance schedules.</p>	<p>Council advised it is developing an effective means of monitoring the three year inspection cycle for buildings with building warrants of fitness and compliance schedules with its information technology provider.</p>
<p>Monitor the performance of contractors undertaking building warrant of fitness inspections.</p>	<p>Council advised it has ceased contractors or agents undertaking inspections on its behalf, and monitors performance with audits and a continuous improvement process.</p>
<p>Implement the following best practice suggestions:</p> <ul style="list-style-type: none"> • develop and implement a prompt/checklist for assessing building warrants of fitness for compliance with the Act and Regulations • improve the existing public information to include tenant and building occupier inspection responsibilities. 	<p>Council advised it has implemented these best practice suggestions.</p>

4.7 Private cable cars (section 100)

Purpose

To assess Council's system to ensure that domestic cable cars 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 cable cars, 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

The Council stated it had no cable cars within the district at the time of the Department's visit.

The Council had a policy for private cable cars in its building consent authority manual and the policy was considered to be adequate.

Conclusion

At the time of the review the Council did not have any cable cars in its district.

4.8 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

The Council relied on the Far North cluster group independent qualified persons register for approved independent qualified persons in its District. This register was administered and maintained by Whangarei District Council. The Department found no formal agreement in relation to this matter, but was advised that this was being considered.

As no formal agreement existed between the two Councils, it was unknown how issues such as a complaint or disciplinary action against an independent qualified person were dealt with.

Conclusion

The Department considered that the Council's processes and procedures for the assessment and acceptance of independent qualified persons required further work and clarification.

Recommendation 4	
The Department recommended that the Council:	Response from the Council:
Make a formal agreement regarding independent qualified persons with other member Councils within the regional cluster group.	Council advised in July 2009 that it was in the process of creating a formal agreement regarding independent qualified persons with other member Councils within the regional cluster group.
Agree on a formal process with all member Councils on how to deal with non-compliant independent qualified person practices.	Council advised in July 2009 that it was working on a formal process with all member Councils on how to deal with non-compliant independent qualified person practices.

4.9 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 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

At the time of review the Council had one staff member performing the administrative functions relating to compliance schedules and building warrants of fitness. These functions were only part of the staff member's work duties.

Senior Council building staff acknowledged during interviews that compliance schedule and building warrant of fitness functions had historically been under-resourced and that much of the Council's recent focus had been on building consent authority accreditation.

The Council employed a contractor to carry out unannounced inspections of buildings with compliance schedules and building warrants of fitness. Though not sighted by the Department, the Council stated it had a contract in place outlining the contractor's role. The Department was informed that the contractor completed a field advice notice once an inspection had been done and informed the owner of any deficiencies. Copies of the completed field advice notice were attached to each building file stored at the Council offices. The *Kaipara District Council Building Consent Authority Manual* stated that all properties with a building warrant of fitness must be inspected every three years. It was unclear if the Council was achieving this objective at the time of the review, as no data was provided.

The relevant Council process did not mention if the inspecting contractor and/or the Council's officer was an authorised officer under sections 222-224 of the Building Act 2004. An authorised officer is entitled, at all times during working hours or while building work is being carried out, to inspect building work and enter premises for the purposes of ensuring a compliance schedule was being complied with. It was unclear what authorisation the contractor held at the time of the review.

Conclusion

The staffing levels at the time of the review were considered adequate for the number of buildings in the district with compliance schedules and building warrants of fitness.

Recommendation 5	
The Department recommended that the Council:	Response from the Council:
Ensure adequate technical and administrative support resources continue to be made available so the Council can fulfil its responsibilities; particularly relating to compliance schedules, building warrants of fitness and any required enforcement action under section 12(2)(h) of the Building Act 2004.	Council advised it has adopted new procedures for issuing compliance schedules and at July 2009 is working towards being able to take appropriate enforcement action under the Building Act 2004.
Ensure contractors are assessed as competent to undertake their duties.	Council advised it no longer has contractors undertaking building warrant of fitness inspections. All staff have had their competency assessed.
Assess the requirements of delegated authority for contractors and building control staff entering land and buildings.	Council advised it has no contractors undertaking building warrant of fitness inspections. All building inspection staff are authorised officers under the Building Act 2004 and an enforcement officer pursuant to the Local Government Act 2002.

4.10 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

The Council had a peer review process in place with the Far North District Council for processing building consents with specified systems. The Council's building control team leader also reviewed any applications processed by Council staff that included specified systems. However, this was not formally documented within the *Kaipara District Council Building Consent Authority Manual*. Where the team leader considered the specified system was outside their organisation's competency level the application was forwarded to the Far North District Council for their review.

As a result of building consent authority accreditation the Council now had a competency assessment process that covered building consent authority functions. But this did not specifically cover specified systems, compliance schedules or compliance schedule statements. Building warrants of fitness were not included because they are a territorial authority function rather than a building consent authority function. However the Department encouraged the Council to formalise systems around these territorial authority functions as good business practice.

During the 12 months prior to the review, four staff attended full day courses and one administrative staff member attended a half day course in relation to compliance schedules and building warrants of fitness. The training was provided by an external training organisation.

The Department could find no evidence that this training had been evaluated for its applied effectiveness. Measuring and monitoring training are fundamental to achieving good training outcomes, which are also an important component of the Building (Accreditation of Building Consent Authorities) Regulations 2006.

Conclusion

The Council had a competent assessment system, but this should be improved by including specified systems, compliance schedules and building warrants of fitness. The Council's operational manual did not specifically address how specified systems were assessed and reviewed.

Recommendation 6	
The Department recommended that the Council:	Response from the Council:
Review and update its competency assessment process to include specified systems and other compliance schedule and building warrant of fitness matters.	Council advised it has reviewed and updated its competency assessment process to include specified systems and other compliance schedule and building warrant of fitness matters.
Document how specified systems are to be processed and by whom to help achieve consistency.	Council advised that since December 2008 it has adopted new procedures that make the building team leader responsible for the Council's compliance schedule processing to help achieve consistency.
Review and evaluate the effectiveness of training relating to compliance schedules and building warrants of fitness.	Council advised it has engaged an external technical competency assessor to review and evaluate the effectiveness of training for compliance schedules and building warrants of fitness.
Set parameters for competency and scope of contractors' building warrant of fitness audit role.	Council advised it no longer uses contractors or agents to undertake inspections on its behalf.

4.11 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

Separate hard copy files were kept of all compliance schedule and building warrant of fitness documentation at the main office in Dargaville. All electronically generated forms were stored within the Council's computer system and specific forms were printed and filed with the hard copy. Records were stored in the Dargaville office and were available to the public on request at the Council's public counter. When a request for information was made at the Kaiwaka office there was perhaps a one day delay in retrieving the information from Dargaville.

Technical staff were available, as and when required, to provide technical interpretation and advice.

Conclusion

The Council was complying with its statutory requirements in relation to sections 216-217 of the Building Act 2004.

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 provide feedback.

The Council's feedback has been included throughout this report. Additionally, the Council advised that as part of the Northland Cluster Group, it was actively seeking to pool resources to provide cost-effective staff training in this time of economic recession.

The Council has undertaken an organisational review resulting in the responsibility for the compliance schedule and building warrant of fitness systems being returned to the building team under the leadership of the building team leader. Administrative building team staff carry out various administrative building compliance schedule and building warrant of fitness tasks.

Since the on-site review, the Council has contracted an external building control specialist to undertake competency assessments for its building control staff. The building team has provided a report to Council management and councillors in regards to recommendations to meet the accreditation and legislation requirements. The Council advised that many findings from this report have now been addressed.

The Council advised that it agreed with all of the Department's findings and recommendations, and was progressing to fully implement them.

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