



**Ministry of Business,  
Innovation & Employment**

# **Amending compliance schedules and the enforcement of the building warrant of fitness system**

## **Technical Review of Marlborough District Council**

**May 2013**



# Contents

<b>1. OVERVIEW</b>	<b>4</b>
1.1 Purpose	4
1.2 Reasons for the review	4
1.3 The Council	4
1.4 Statistical information provided by the Council	5
<b>2. PROCESS</b>	<b>6</b>
2.1 Purpose of technical reviews	6
2.2 Legislative basis	6
2.3 Method	6
2.4 Acknowledgement	7
<b>3. OUR FINDINGS AND RECOMMENDATIONS</b>	<b>8</b>
3.1 Purpose	8
3.2 Background	8
3.3 Findings	9
3.4 Conclusion and recommendations	14
<b>4. COUNCIL'S FEEDBACK</b>	<b>17</b>
<b>5. CASE STUDIES – ON-SITE AUDITS</b>	<b>18</b>

# 1. Overview

## 1.1 Purpose

This report sets out the key findings and recommendations from a technical review of several territorial authority functions of the Marlborough District Council (the Council) under the Building Act 2004. The on-site stage of the review process was undertaken by the Consent System Capability team of the Ministry of Business, Innovation and Employment (the Ministry) on 6-8 November 2012.

The review primarily focused on how the Council was undertaking its statutory responsibilities under the Building Act 2004 in relation to amending compliance schedules and the enforcement of the building warrant of fitness system. This enforcement includes on-site audits, issuing notices to fix and infringement notices.

## 1.2 Reasons for the review

The Ministry undertook the review as part of its ongoing performance monitoring function. This aims to help councils across the country to strengthen and improve how they are undertaking several of their core territorial authority building control functions under the Building Act 2004. The review is topical following the amendments to the Building Act 2004 (which came into force on 13 March 2012) and includes a number of changes to the compliance schedule and building warrant of fitness processes. Subsequently owners, where necessary, are required to apply to councils and have their compliance schedules amended to align with the Building Act 2004 and associated regulations before the anniversary of the issue of the building's compliance schedule, i.e. when the building warrant of fitness is due.

The review provides an opportunity for the Ministry to assess the quantity and quality of compliance schedules being amended, including the specificity of the amended compliance schedules.

## 1.3 The Council

The Council has jurisdiction over a land area of 12,484 square kilometres, which is situated in the north-eastern corner of the South Island. According to the 2006 census, the Marlborough region had a total population of 42,549. Blenheim, the largest population centre, is where the main Council offices are located, including the Building Control group.

Marlborough's viticulture plays a significant part in New Zealand's wine-making industry, and its numerous wineries and vineyards have contributed to making this area popular with tourists. As a consequence, there are many buildings

associated with tourism and the wine industry that have specified systems, which the Building Act 2004 requires to have compliance schedules.

At the time of the Ministry's review visit, the Council's Building Control group allowed for a total of 17 staff for the administration, processing and inspections of building consents, as well as other building control functions. As at November 2012, there was a dedicated building warrant of fitness administration person and a fulltime building control officer whose role allowed for one working day per week to undertake building warrant fitness and compliance schedule functions.

## 1.4 Statistical information provided by the Council

In response to the Ministry's questions, the Council provided the following statistical information.

**Figure 1: Statistical information**

#	Subject	Total for the period specified
1	Buildings which had compliance schedules at 30 September 2012	503
2	Amended compliance schedules issued between 13 March 2012 and 30 September 2012	41
3	On-site building warrant of fitness audits carried out between 13 March 2012 and 30 September 2012	1
4	Notices to fix in relation to compliance schedule and/or building warrant of fitness matters issued between 31 March 2005 and 12 March 2012	13
5	Notices to fix in relation to compliance schedule and/or building warrant of fitness matters issued between 13 March 2012 and 30 September 2012	5
6	Infringement notices in relation to compliance schedule and/or building warrant of fitness matters issued between 1 July 2008 and 12 March 2012	2
7	Infringement notices in relation to compliance schedule and/or building warrant of fitness matters issued between 13 March 2012 and 30 September 2012	2

## 2. Process

### 2.1 Purpose of technical reviews

Technical reviews are undertaken to monitor the performance of and assist building consent authorities and territorial authorities. The review is a tool that helps such organisations to:

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

Technical reviews also examine whether territorial authorities and building consent authorities have the appropriate systems and resources to enable its 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 measure it against the performance of other territorial authorities.

### 2.2 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.<sup>1</sup>

### 2.3 Method

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

- observing staff undertaking work
- reviewing written material used and produced by staff (for example, policies, procedures, processing check-lists and records, manuals and approved consent documentation)
- interviewing staff about their use of material and their work
- assessing a random sample of building projects (case studies) that were handled by the territorial authority, just before or during the review visit.

For this review, six case studies dealing with on-site building warrant of fitness audits were undertaken to assess compliance with the Building Act 2004 and its associated regulations. Council records were reviewed to assess the adequacy and effectiveness of the Council's systems.

---

<sup>1</sup> The Building Act 2004 is available at [www.legislation.govt.nz](http://www.legislation.govt.nz).  
Technical Review of Marlborough District Council – May 2013

## **2.4 Acknowledgement**

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

## 3. Our findings and recommendations

### 3.1 Purpose

To assess the Council's performance in administering their building warrant of fitness system, including the enforcement of this system, and its processes for amending compliance schedules, which are not captured by the building consent process.

### 3.2 Background

The following territorial authority functions were considered.

#### ***Amending compliance schedules***

Sections 100-111 of the Building Act 2004 set out the responsibilities for building owners, building consent authorities and territorial authorities under the compliance schedule and building warrant of fitness systems. All buildings (except single household units that do not have a cable car) containing specified systems, such as fire alarms and lifts, are required to have these systems listed on a compliance schedule. The owner must ensure continued effective operation of the specified systems and confirm ongoing inspection and maintenance by publicly displaying a current building warrant of fitness in their building and providing a copy of the building warrant of fitness to the territorial authority.

The amendments to the Building Act 2004, which came into effect on 13 March 2012, have resulted in two main changes. The two changes directly relate to each other.

- 1) The Building Act 2004 has been amended to make it clear that compliance schedules must be updated to remain consistent with the Building Act 2004 and regulations when they change. More specifically, an owner (or owner's agent) must apply for an amendment to their compliance schedule:
  - as a result of an amendment to the Building Act 2004 or any regulation made under it, where the compliance schedule no longer complies with the requirement of the Building Act 2004 or any regulation made under it; or
  - where it contains information that is no longer required under the Building Act 2004 or any regulations made under it (section 106(2)(b) of the Building Act 2004).
- 2) The Building Amendment Act 2012 makes two changes to compliance schedule content which all compliance schedules will need to align with as per the above new requirement, these are:
  - compliance schedules must have a description of each specified system in the building, including the type and (if known) make of each specified system (section 103(a) of the Building Act 2004).
  - section 103(1)(d) has been removed making it clear that "passive features" are not required to be listed on the compliance schedule and do not require ongoing inspection and maintenance under the compliance schedule regime (except where specifically listed as a specified system in regulations).



“Passive features” include means of escape from fire, safety barriers, handheld hose reels, signs required by the Building Code and means of access and facilities for use by persons with disabilities. If passive features were listed on a compliance schedule, owners (or owner’s agents) should apply to have these removed for clarity.

### ***Issuing notices to fix***

A notice to fix (sections 163-168 refer) is a statutory notice requiring a person to remedy a breach of the Building Act 2004 or regulations made under the Building Act 2004. It can be issued for all breaches of the Building Act 2004 (not just for building work). Some important points about notices to fix are noted below.

A building consent authority or a territorial authority (responsible authority) must issue a notice to fix if it believes on reasonable grounds that there has been any contravention of the Building Act 2004 or the building regulations. Common examples could include, failing to obtain a building consent, not having obtained an appropriate building warrant of fitness, or failing to meet the necessary inspection, maintenance or reporting procedures for a compliance schedule issued by the Council.

A notice to fix may instruct the owner to apply for a building consent or for an amendment to an existing building consent.

If a notice to fix relates to building work carried out without a building consent, it can require the owner to apply for a certificate of acceptance.

If a territorial authority is not satisfied that the requirements of a notice to fix have been complied with (where building work is required), for example, after a follow-up inspection, it must provide written notice of its reasons and issue a further notice to fix to the specified person.

### ***Issuing infringement notices***

Sections 370-374 of the Building Act 2004 deals with the procedure for infringement offences, including the issue and content of infringement notices and the payment of infringement fees.

The infringement offences and fees are set under Schedule 1 of the Building (Infringement Offences, Fees, and Forms) Regulations 2007, Schedule 2 sets out the prescribed form of infringement notice and Schedule 3 sets out the prescribed form for the infringement reminder notice.

## **3.3 Findings**

### ***General***

Generally, the Council’s compliance schedule and building warrant of fitness policies and processes are adequate. However the incorporation of a key change brought in by the Building Amendment Act 2012 is yet to be fully implemented (namely the requirement to have a specified system description, e.g. specifying the type of emergency warning system or back flow prevention device).

Furthermore, the policies and procedures refer to “licensed building practitioners” rather than “independent qualified persons” and should be amended to reflect the wording in the Building Act 2004. It was also noted there was no reference to, or information about, compliance schedule statements.

The format of the Council's compliance schedules can be confusing for those not familiar with its layout. The following issues were identified with the format:

- The inclusion of the performance standards and inspection, maintenance and reporting procedures within the same field.
- Procedures for multiple types of specified systems under the procedures field for a single specified system (e.g. a specified system categorised as a call point warning system had procedures for a smoke detection system within the procedures field).<sup>2</sup>

The Ministry has guidance<sup>3</sup> available that provides an example of the layout and it is suggested that a reformatting of the compliance schedule document to the example layout would benefit Council, owners and independent qualified persons alike.

Council advised it no longer issues a draft compliance schedule with the building consent. This was due to the lack of verification, during the Council's final inspection, of the installed specified systems against those stated on the draft compliance schedule. The failure to accurately identify the specified systems should not be the reason to stop the issue of a draft compliance schedule. Rather, the failings of the inspection at code compliance time should be addressed. Draft compliance schedules are particularly useful when a certificate of public use is applied for, which will entitle the owner to legally allow the public to use the building without having the required code compliance certificate. A condition can be placed on the certificate of public use requiring the owner to undertake inspections and maintenance of the building's specified systems in accordance with the draft compliance schedule until such time the compliance schedule is issued with the code compliance certificate.

### ***Amending compliance schedules***

The Council's website contained very little public information about compliance schedules (new or amended) and building warrants of fitness.

Several of the amended compliance schedules which the Ministry reviewed, only had the date on which the compliance schedules were amended. The date should remain the issue date of the original compliance schedule. The amendment date may be included on the amended compliance schedule so long as it clearly states when the original compliance schedule was issued. The original issue date establishes when the annual building warrant of fitness is due for the life of the building.

There were a number of applications for amendments from independent qualified persons that were yet to be processed by Council, two to three months after receipt of the application. This is reflective of the Council's allocation of staff resources to the task of updating, issuing and auditing compliance schedules.

It was noted the Council had created a form for obtaining a compliance schedule where there had not been a building consent application. The Ministry supports this Council initiative. However, the use of the title "Form 11A" may give the impression this is a prescribed form under the Building (Forms) Regulations 2004.

---

<sup>2</sup> Refer to case study 5.

<sup>3</sup> *Compliance schedule handbook* available at: [www.dbh.govt.nz/publications-about-the-building-act-2004/cs-handbook](http://www.dbh.govt.nz/publications-about-the-building-act-2004/cs-handbook).

Between 13 March and 30 September 2012, Council had amended 41 compliance schedules. The Council believed the number of compliance schedules which required amendment was in the order of 300. The Council was unaware of the exact extent and scope of work entailed to meet its obligations under the Building Act 2004.

### ***Council's checking of building warrants of fitness and Form 12As***

The Ministry noted several examples of submitted building warrants of fitness where the specified systems on the compliance schedule were listed. While this is not a mandatory requirement of prescribed Form 12 of the Building (Forms) Regulations 2004, the Ministry would support the Council's acceptance of the additional information on the form and Council's ongoing encouragement of the independent qualified persons to continue the practice. This will help provide useful information to other parties (e.g. new independent qualified persons or the New Zealand Fire Service) who may inspect the building.

A building warrant of fitness reminder letter is sent by the Council to the building owner one month prior to the compliance schedule anniversary. Although the Ministry recognises this procedure as good practice there is an incorrect reference in the letter to the building owner which states there was a potential change-of-use if the occupancy numbers increased. This is not necessarily correct as the legislation<sup>4</sup> is a two-stage test requiring a change of use group, in addition to the change being more onerous in its Building Code compliance requirements.

The building warrants of fitness and Form 12As submitted by the independent qualified persons did not always have all fields populated (e.g. level/unit number, location of building within site/block number) and did not all align with the compliance schedule. A desk-top check would quickly identify any discrepancies which could be confirmed during an on-site audit.

Some of the information provided by Council included an "in lieu of a Form 12A" report which was used as supporting documentation for the issue of a building warrant of fitness. Despite such a form having no legal status, there was no evidence that any action had been taken by Council in respect of this.<sup>5</sup>

### ***On-site audits***

Despite Council's policy to conduct an audit of 20 percent of buildings which have a compliance schedule, Council had conducted only one on-site audit between 13 March and 30 September 2012. Council would need to conduct, on average, at least two on-site audits per week to maintain its policy goals. Alternatively, Council could instigate a number of periods during the year of intensive on-site audits.

To date, the on-site audits which have been undertaken were focused solely on the paper-work. There was no visual check to verify the accuracy of the compliance schedule with the installed specified systems. On-site audits, which include a "high-level" visual inspection of the listed specified systems, provide not only an opportunity to ensure an accurately documented compliance schedule

---

<sup>4</sup> Refer to Regulations 5 and 6 of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

<sup>5</sup> For guidance refer to Determination 2011/089 *The issue of a notice to fix concerning the refusal of a reduced building warrant of fitness for a hotel at 310 Princes Street, Dunedin* – which can be viewed at: <http://www.dbh.govt.nz/UserFiles/File/Building/Determinations/2011/2011-089.pdf> .

but also provides an opportunity to assess the quality and authenticity of the paper-work supplied by independent qualified persons.

Ministry staff accompanied Council staff on all six on-site audits carried out during the review visit to Blenheim. On each audit, the Ministry identified inconsistencies between the compliance schedule, the building warrant of fitness or the installed specified systems. This again highlights the need for Council to go beyond paper-based on-site audits.

### ***Issuing notices to fix***

The Council had a documented policy<sup>6</sup> and procedures around issuing notices to fix. The Ministry's assessment of the Council's policy found its procedural documentation was sound and largely modelled on the Ministry's published guidance documentation.

Between the commencement date of the Building Act 2004 on 31 March 2005 and 30 September 2012, the Council had issued a total of 18 notices to fix in relation to compliance schedule and/or building warrant of fitness matters. Of these, five notices to fix were issued since the Building Amendment Act 2012 came into effect on 13 March 2012.

The Council's notice to fix form was examined against the prescribed Form 13 of the Building (Forms) Regulations 2004. The Council form complied with the prescribed form.

The Ministry also examined the content of some of the Council's issued notices to fix. It was noted in several notices to fix that information had not been entered in two of the required fields (i.e. location of building and level/unit number). It was also noted that in some instances the tick box relating to "Carry out the following building work" was inappropriately ticked when there was no building work required to remedy the contravention or non-compliance. In this situation, for the sake of clarity, it would have been acceptable to remain with the ticked tick box, but the associated text should have been struck out. Furthermore, there were instances where there were no ticks shown at all, which could cause confusion to the reader as to what sections of the notice to fix were applicable.

There were examples of issued notices to fix where under the heading "Further particulars" there was a ticked tick box against the text: "You must contact the territorial authority for the district within which the building is situated on completion of the required building work." Once the specified person on the notice to fix has notified the Council, section 167(2) of the Building Act 2004 requires the Council to confirm or refuse to confirm, in writing, that the notice to fix has been complied with or otherwise. Of the files reviewed by the Ministry, there was no evidence that this was being done by the Council.

The Council had no public information which covered notices to fix.

### ***Issuing infringement notices***

The Council had a documented policy<sup>7</sup> and procedures around issuing infringement notices. The Ministry's assessment of the Council's policy found its procedural documentation was sound and largely modelled on the Ministry's published guidance documentation.

---

<sup>6</sup> Process name: Notice to fix, Document number: BTM0031.8 - CI909 (internal document only).

<sup>7</sup> Process name: Infringement notices and enforcement, Document number: BTM0038.5 - I761 (internal document only).

Between the introduction of the infringement notice system for building offences on 1 July 2008 and 30 September 2012, the Council had issued four infringement notices in relation to compliance schedule and/or building warrant of fitness matters. Of these, two infringement notices were issued since the Building Amendment Act 2012 came into effect on 13 March 2012.

A review of several issued infringement notices and infringement reminder notices identified the following issues when compared with the prescribed forms, as set out in the Building (Infringement Offences, Fees, and Forms) Regulations 2007. No provision was made in the infringement reminder notice for the text "Reminder notice served by [method of service] at [full address of service] on [date of service]." The Council had omitted prescribed information which related to the offender's date of birth and occupation fields. Infringement notices (including reminders) should include all the prescribed information - the Ministry considers the Council should make all reasonable efforts to obtain the offender's date of birth and occupation and include it on the notices. The Ministry also noted the reviewed notices all gave a time of "00:00". The time of the offence should be provided on the notices.

The Council monitored each infringement notice issued and sent out reminder notices when an infringement fee had not been paid 28 days after the notice was issued.

Those building officers issuing infringement notices had the necessary authority as they were authorised officers under section 229 of the Building Act 2004.

The Council had an electronic system for tracking the status of infringement notices it issued.

The Council had no public information in relation to infringement notices. The Ministry suggests the Council should, as a minimum measure, advise the public on its website of the Ministry's guidance document *Building infringement scheme guidelines* (published in June 2008) by providing a link to the Ministry's website.<sup>8</sup>

In most instances, the Council issued a notice to fix in conjunction with each of its infringement notices. The Ministry notes that notices to fix and building infringement notices are two separate tools. They can be used separately or at the same time. This aspect of the enforcement process has largely been left up to each individual Council to decide what works best for it.<sup>9</sup>

---

<sup>8</sup> Provided in the Ministry's guidance document: *Building infringement scheme guidelines* available at: <http://www.dbh.govt.nz/building-infringement-scheme-guidelines-index>.

<sup>9</sup> Also refer to the Ministry's guidance document *Guidance in relation to Schedule 1(k) exemptions and issuing building infringement notices* available at: <http://www.dbh.govt.nz/UserFiles/File/Publications/Building/Technical-reviews/2012-wellington-technical-review.pdf>.

### 3.4 Conclusion and recommendations

Although Council's compliance schedule and building warrant of fitness policies and processes are adequate, Council have to date, seemed unaware of the extent and scope of the work entailed in meeting its obligations under the amended Building Act 2004, which became effective from 13 March 2012. It is suggested the Council could improve its amending of compliance schedules and the enforcement of the building warrant of fitness system by considering the following recommendations.

<b>The Ministry recommends that the Council:</b>	<b>Response from the Council:</b>
<p>a) Ensure compliance schedules provide a specified system description detailed enough to enable accurate identification of the type of system used along with its position and extent within the building</p>	<p>Council advised its current procedure when issuing a compliance schedule requires these actions to be completed. Auditing of this procedure is being completed at the time of issuing code compliance certificates. This issue had been noted by Council prior to the Ministry's review visit in November 2012 and all new work in the previous six months had been corrected to show these requirements.</p>
<p>b) Consider reformatting the compliance schedule</p>	<p>Council advised it would undertake a full review in due course.</p>
<p>c) Remove or replace the term "Form 11A" from the application for a new compliance schedule</p>	<p>Council advised it would be taking the necessary action.</p>
<p>d) Alter the wording on the building warrant of fitness reminder letter that incorrectly identifies a potential change of use</p>	<p>Council advised this has been completed.</p>
<p>e) Return to the practice of issuing a draft compliance schedule and address the inspection process to ensure the specified system detailed on the draft compliance schedule aligns with what has been installed into the building and amend appropriately if required</p>	<p>Council advised it will be reintroducing this system and a presentation is proposed to be given at a building control team meeting to ensure the procedure is followed.</p> <p>This will also be identified in Council's procedure document for processing, granting and issuing building consents.</p>
<p>f) Include information on Council's website that informs the building owner and independent qualified</p>	<p>Council advised its website will be updated to provide this information.</p>

persons what their obligations are under the Building Act 2004	
<b>g)</b> Ensure the date of any amended compliance schedule aligns with the issue date of the original compliance schedule	Council advised it has also now made provision for the original issue date for its compliance schedules and compliance schedule statements. Furthermore, Council advised this issue date will not change for the life of the document.
<b>h)</b> Undertake a desk-top check of submitted building warrant of fitness and Form 12A(s) against the compliance schedule, before conducting an on-site audit	Council advised that this is its current practice and is normally carried out.
<b>i)</b> Consider increasing Council resources to ensure appropriate allocation of staff resources to the task of updating, issuing and auditing compliance schedules	As at 26 March 2013, Council advised it was reviewing these resourcing issues.
<b>j)</b> When undertaking on-site audits, carry out a “high-level” check to ensure the listed specified systems are installed or, that all installed specified systems appear on the compliance schedule	Council advised it will adopt a best-practice approach to on-site inspections, including a “high-level” check of specified systems to ensure alignment with the compliance schedule.
<b>k)</b> Include notice to fix and infringement notice information on Council’s website	Council advised its website would be updated to include public information about notices to fix and infringement notices for building offences.
<b>l)</b> Ensure the notice to fix is edited so that it clearly communicates to the specified person what is required to be done	Council advised it will be providing the necessary training to the appropriate building officer to ensure this is achieved.
<b>m)</b> Ensure it confirms or refuses to confirm, in writing to the specified person, that the notice to fix has been complied with or otherwise	Council advised, as at 26 March 2013, it was in the process of developing and implementing a follow-up event/inspection and letter.

<p><b>n)</b> Include all prescribed text, record the time of the offence and make all reasonable efforts to obtain the offender's date of birth and occupation, and include it in the infringement notice and the infringement reminder notice.</p>	<p>As at 26 March 2013, Council advised it was reformatting these notices to align with the prescribed forms.</p>
---	---



## 4. Council's feedback

The Council advised the technical review undertaken by the Ministry had produced the findings it was expecting.

In the current economic environment, with resources extremely tight, Council acknowledged there were obvious difficulties in balancing the level of a service required by some, against what is possible to achieve. Council advised it seeks to achieve the optimum level of service, giving due consideration to associated cost increases for these services and how it will recover these costs.

## 5. Case studies – On-site audits

### Case study 1

<b>Building classified use:</b> (layman's description in brackets)	Commercial <sup>10</sup> (supermarket, retail space and community gym).
<b>Current building warrant of fitness:</b>	Expires 16.09.13
<b>Background:</b>	<p>The supermarket is a single level structure with the exception of small storage mezzanine within the rear loading bay space.</p> <p>The original part of the supermarket building appears to have been built circa 1940s or 1950s.</p> <p>The supermarket was one of the original buildings on the site, and, although not confirmed, it is suggested it contained specified systems that would have required a compliance schedule under the previous Building Act.</p> <p>On 16.09.10, the Council issued a compliance schedule and a compliance schedule statement against a building consent for a supermarket extension which included two new retail tenancies.</p>
<b>Specified systems on compliance schedule:</b> (number and description as per documentation provided)	<p>SS 02(iii) Automatic fire alarm - (smoke detection with call points) with heat detection</p> <p>SS 03/1 Automatic doors</p> <p>SS 04(i) Lighting for safe path to facilitate evacuation</p> <p>SS 07 Backflow preventers</p> <p>SS 15/2 Final exits</p> <p>SS 15/4 Signs for communicating information intended to facilitate evacuation</p>

<sup>10</sup> Classified Uses – Building Code clause A1.5.0.1 refers.

<p><b>Form 12As provided with the current building warrant of fitness for the following specified systems:</b> (number and description as per documentation provided)</p>	<p>Form 12A – (1) - Automatic fire alarm - (smoke detection with call points) with heat detection</p> <p>Form 12A – (2) - SS 03/1 Electromagnetic or automatic doors or windows</p> <p>Form 12A – (3) - Backflow preventers</p> <p>Form 12A – (4) - Lighting for safe path to facilitate evacuation - Final exits - Signs for communicating information intended to facilitate evacuation</p>
<p><b>Review team observations on site:</b></p>	<p>An audit of this building was carried out on 07.11.12.</p> <p>Council undertook a paper-based inspection only using its check-sheet. Council also accompanied Ministry staff on an inspection of the premises to verify the installed specified systems against those on the compliance schedule. However, it was clear an inspection would not have taken place without Ministry staff present.</p> <p>Current building warrant of fitness (BWoF) was publicly displayed in the entry lobby. It was noted that not all fields of the BWoF were populated (e.g. year first constructed, maximum number of occupants, highest fire hazard category).</p> <p>No formal logbook of specified systems inspections was seen.</p> <p>Unable to inspect all outbuildings and the adjoining tenancies (retail store and gym).</p> <p>Supermarket had manual call points with a heat detection alarm system throughout, with the exception of the public retail area which had a smoke detection system.</p> <p>Unable to locate specified system 7 (backflow preventers) and the number of devices, type/ model was unknown.</p> <p>Specified systems 9 (bakery extractor) and 14/2 (signs relating to automatic doors and manual alarm call points) were omitted from the compliance schedule.</p>

<p><b>Follow up action by Council:</b></p>	<p>Since the inspection logbook was not available at the time of the review team visit, the Council undertook a follow-up inspection on 14.11.12. The inspection revealed that regular checks of the specified systems were being undertaken but the logbook was not being signed. The independent qualified persons' inspection sheets were placed in a separate file by the owner, who also kept notes in his diary.</p> <p>During the follow-up inspection the backflow preventer was located behind the bakery sterilizer unit.</p> <p>Council contacted the owners (letter dated 14.11.12) and asked for greater detail to be provided for the specified systems currently on the compliance schedule, but had not included the omitted specified systems as noted by the Ministry.</p>
<p><b>Review team conclusions:</b></p>	<p>If there was a compliance schedule for the original building, and annual BWoFs were being issued and supplied to Council, an amendment to this compliance schedule would have satisfied the Building Act 2004 requirements when certifying the building consent for the supermarket extension and the two new retail tenancies.</p> <p>The Council should amend the compliance schedule to include all installed specified systems and more site-specific information, including details of the backflow preventer and emergency warning system.</p>

## Case study 2

<b>Building classified use:</b> (layman's description in brackets)	Communal residential - community service <sup>11</sup> (backpackers' accommodation).
<b>Current building warrant of fitness</b>	Expires 29.09.13
<b>Background:</b>	<p>The backpackers' accommodation was a converted (circa) 1920s bungalow containing communal lounge/ dining, cooking and bathroom facilities with six guest bedrooms accommodating a maximum of 26 guests.</p> <p>The originally issued compliance schedule was dated 21.04.08. An application from the independent qualified person (IQP) to amend the compliance schedule was lodged with Council on 12.09.12. The amendment was to remove:</p> <ul style="list-style-type: none"> <li>- Means of escape</li> <li>- Access and facilities for people with disabilities</li> <li>- Such signs as required by the Building Code or section 125 of the Disabled Persons Community Welfare Act 1975</li> </ul> <p>and to include:</p> <ul style="list-style-type: none"> <li>- SS 15/b Final exits</li> <li>- SS 15/d Signs for communicating information intended to facilitate evacuation.</li> </ul> <p>At the time of the review visit the application to amend the compliance schedule had not been actioned by Council.</p>
<b>Specified systems on compliance schedule:</b> (number and description as per documentation provided)	<p>Emergency warning systems Signs Means of escape Access and facilities for people Such signs as required by the Building Code for section 125 of the Disabled Persons Community Welfare Act 1975</p>

<sup>11</sup> Classified Uses – Building Code clause A1.3.0.2 refers.

<p><b>Form 12As provided with the current building warrant of fitness for the following specified systems:</b> (number and description as per documentation provided)</p>	<p>Form 12A – (1)</p> <ul style="list-style-type: none"> <li>- C Emergency warning system for fire or other dangers</li> </ul> <p>Form 12A – (2)</p> <ul style="list-style-type: none"> <li>- SS 4 Emergency lighting system</li> <li>- SS 14/2 Signs relating to a system or feature specified in any clauses 1-13</li> <li>- SS 15/2 Final exits</li> <li>- SS 15/4 Signs for communicating information intended to facilitate evacuation</li> <li>- Means of escape from fire</li> <li>- Means of access and facilities for use by persons with disabilities</li> <li>- Such signs as required by the Building Code or section 120 of the Building Act.</li> </ul>
<p><b>Review team observations on site:</b></p>	<p>An audit of this building was carried out on 08.11.12.</p> <p>Council undertook a paper-based inspection only using its check-sheet. Council also accompanied Ministry staff on an inspection of the premises to verify the installed specified systems against those on the compliance schedule. However, it was clear an inspection would not have taken place without Ministry staff present.</p> <p>Current building warrant of fitness (BWoF) was publicly displayed on the notice board in the communal dining room. It was noted that not all fields of the BWoF were populated (e.g. year first constructed, maximum number of occupants).</p> <p>The premises had manual call points with a heat detection system to all areas except the guest bedrooms and corridor which had a smoke detection system. A site-specific description of the emergency warning system was missing from the compliance schedule.</p> <p>The Ministry acknowledges, and concurs with, the amendment to the current compliance schedule. However, there were three further specified systems observed on-site which also need to be included in the amended compliance schedule. These are:</p> <ul style="list-style-type: none"> <li>- SS 4 Emergency lighting</li> <li>- SS 14/2 Signs for specified systems 1-13 (e.g. signs for manual call points)</li> <li>- SS 15/3 Fire separations (bedroom walls and tagged -/15/15 sm bedroom doors).</li> </ul>

<p><b>Follow up action by Council:</b></p>	<p>Council contacted the owners (letter dated 14.11.12) and asked for greater detail to be provided for the specified systems currently on the compliance schedule, but had not included the omitted specified systems as noted by the Ministry.</p>
<p><b>Review team conclusions:</b></p>	<p>Council should verify all installed specified systems are accurately reflected in the compliance schedule. The site visit identified three specified systems which were not captured by the existing compliance schedule, or the amendment application.</p> <p>Despite the IQP identifying emergency lighting (internally illuminated exit sign over the main entry door) on a Form 12A and the BWoF, the Council failed to identify the discrepancy with the current compliance schedule.</p> <p>Although the Council has notified the owners that amendments to the compliance schedule are required in order to make it site-specific, it failed to advise that the three specified systems identified by the review team should be included.</p>

## Case study 3

<b>Building classified use:</b> (layman's description in brackets)	Commercial <sup>12</sup> (national chain retail warehouse).
<b>Current building warrant of fitness</b>	Expires 11.02.13
<b>Background:</b>	<p>The building consists of a single-level portal-framed structure which is partitioned to create two spaces - an expansive public retail space and a rear service area for staff use. The rear service area includes a loading dock, staff facilities and manager's office with a small mezzanine for stock storage.</p> <p>The compliance schedule was dated 18.04.08.</p>
<b>Specified systems on compliance schedule:</b> (number and description as per documentation provided)	<p>Emergency warning systems            Emergency lighting systems            Signs            Means of escape            Access and facilities for people            Such signs as required by the Building Code or section 125 of the Disabled Persons Community Welfare Act 1975</p>
<b>Form 12As provided with the current building warrant of fitness for the following specified systems:</b> (number and description as per documentation provided)	<p>Form 12A – (1)            - Fire alarm system</p> <p>Form 12A – (2)            - Emergency lighting system</p> <p>Form 12A – (3)            - Means of escape            - Access and facilities for people with disabilities</p> <p>Form 12A – (4)            - Signs required by the Building Code or section 120            - Signs</p>

<sup>12</sup> Classified Uses – Building Code clause A1.5.0.1 refers.



<p><b>Review team observations on site:</b></p>	<p>An audit of this building was carried out on 08.11.12.</p> <p>Council undertook a paper-based inspection only using its check-sheet. Council also accompanied Ministry staff on an inspection of the premises to verify the installed specified systems against those on the compliance schedule. However, it was clear an inspection would not have taken place without Ministry staff present.</p> <p>Current building warrant of fitness (BWoF) was publicly displayed behind the check-outs. It was noted not all fields of the BWoF were populated (e.g. year first constructed, highest fire hazard category, maximum number of occupants).</p> <p>The emergency warning system on the compliance schedule had a generic description only. There was a type 4 (smoke detection with manual call points) with localised heat detection to the toilet areas, cleaners' cupboard and staff tea room.</p> <p>The on-site inspection identified three building systems or features which were listed on the compliance schedule that need to be removed as they are not considered to be specified systems. These were the following:</p> <ul style="list-style-type: none"> <li>- Means of escape</li> <li>- Access and facilities for people</li> <li>- Such signs as required by the Building Code or section 125 of the Disabled Persons Community Welfare Act 1975.</li> </ul> <p>There were four specified systems identified which were omitted from the compliance schedule, these were:</p> <ul style="list-style-type: none"> <li>- SS 3/1 Automatic doors</li> <li>- SS 9 Mechanical ventilation and air conditioning</li> <li>- SS 14/2 Signs for specified systems 1-13 (e.g. manual call points, manual override to automatic doors)</li> <li>- SS 15/2 Final exits.</li> </ul>
---	---

<p><b>Follow up action by Council:</b></p>	<p>Council contacted the owner (letter dated 14.11.12) and requested an application for amendment to the compliance schedule to remove the building elements and features not considered to be specified systems under the Building Act 2004.</p> <p>Council requested the automatic doors and ventilation system be added to the compliance schedule, as well as providing a site-specific description for all the installed specified systems. Council also noted some signatures were missing from the log book and reminded the owner that this should be more closely attended to.</p>
<p><b>Review team conclusions:</b></p>	<p>Council should verify all installed specified systems are accurately reflected in the compliance schedule. The site visit identified four specified systems that were not captured by the existing compliance schedule.</p> <p>Although Council notified the owners that two specified systems were omitted from the compliance schedule, the letter did not mention the two remaining specified systems identified by the review team (SS 14/2 and SS 15/2).</p>

## Case study 4

<b>Building classified use:</b> (layman's description in brackets)	Commercial <sup>13</sup> (winery)
<b>Current building warrant of fitness</b>	Expires 29.09.13
<b>Background:</b>	<p>The building complex, constructed in 2009, consists of a number of buildings and facilities off a large central building. The central building is the main public entrance to the visitor centre and winery. Behind the visitor centre, which includes a small audio-visual theatre, there are numerous storage rooms which hold large fermenting vats as well as various plant and machinery. On the second level of the central building there are offices and staff facilities.</p> <p>The original compliance schedule and the compliance schedule statement were issued on 19.09.09. An amended compliance schedule was issued and dated 11.11.10.</p> <p>An application to amend the current compliance schedule, dated 07.09.12, was made by the independent qualified person (IQP). The amendment was to remove the following:</p> <ul style="list-style-type: none"> <li>- Safety barriers</li> <li>- Disabled facilities</li> </ul> <p>and to add the following:</p> <ul style="list-style-type: none"> <li>- SS 3/1 Automatic egress doors</li> <li>- SS 15/2 Final exits and other exit doors</li> <li>- SS 15/3 Fire separations protecting a means of escape</li> <li>- SS 15/4 Signs for communicating information intended to facilitate evacuation.</li> </ul> <p>On the amendment application there were additional requests for altering the details in relation to:</p> <ul style="list-style-type: none"> <li>- System 1 Automatic sprinkler system as per NZS4541</li> <li>- SS 14/2 Signs relating to a system listed in specified systems 1-13.</li> </ul> <p>At the time of the review visit the amendment application had not been actioned by Council.</p>

<sup>13</sup> Classified Uses – Building Code clause A1.5.0.1 refers.  
Technical Review of Marlborough District Council – May 2013

<p><b>Specified systems on current compliance schedule:</b> (number and description as per documentation provided)</p>	<p>As amended at 11.11.10.</p> <p>SS 01B Fire sprinkler system  SS 02A Manual fire alarm (call points)  SS 04(i) Lighting for safe path to facilitate evacuation  SS 07 Backflow preventers  SS 09 Mechanical ventilation and air conditioning units  SS 14C Signs for systems  SS 15/3 Fire separation  SS 15/4 Signs for communicating information intended to facilitate evacuation  SS 15D Final exits</p>
<p><b>Form 12As provided with the current building warrant of fitness for the following specified systems:</b> (number and description as per documentation provided)</p>	<p>Form 12A – (1)</p> <ul style="list-style-type: none"> <li>- 4 Emergency lighting systems</li> <li>- 7 Automatic backflow protection connected to the potable water supply</li> <li>- 14/2 Emergency power systems for, or signs relating to, a system or feature specified in any systems 1-13</li> <li>- 15/2 Final exits and other exit doors</li> <li>- 15/3 Fire separations protecting a means of escape</li> <li>- 15/4 Signs for communicating information intended to facilitate evacuation</li> </ul> <p>Form 12A – (2)</p> <ul style="list-style-type: none"> <li>- 3/1 Auto egress doors</li> </ul> <p>Form 12A – (3)</p> <ul style="list-style-type: none"> <li>- 9 Mechanical ventilation or air conditioning systems</li> </ul> <p>Form 12A – (4)</p> <ul style="list-style-type: none"> <li>- Emergency warming system for fire or other dangers</li> <li>- Automatic fire sprinklers – operates as installed partial protection only</li> </ul>

<p><b>Review team observations on site:</b></p>	<p>An audit of this building was carried out on 07.11.12.</p> <p>Council undertook a paper-based inspection only using its check-sheet. Council also accompanied Ministry staff on an inspection of the premises to verify the installed specified systems against those on the compliance schedule. However, it was clear an inspection would not have taken place without Ministry staff present.</p> <p>Current building warrant of fitness (BWoF) was publicly displayed within the reception area of the visitor centre. It was noted the maximum number of occupants that can safely use the building was omitted from the BWoF.</p> <p>It was noted two specified systems had been omitted from the compliance schedule, these were:</p> <ul style="list-style-type: none"> <li>- SS 3/1 Automatic doors</li> <li>- SS 14/1 Emergency power for specified systems 1-13.</li> </ul> <p>The specified systems on the compliance schedule had generic descriptions only. For example, the winery representative pointed out a total of four backflow preventers in two locations; however, the compliance schedule gave no indication as to the number, location, type or model of the back flow prevention devices. Further, there was no mention of the smoke detection system in relation to the emergency warning system.</p>
<p><b>Follow up action by Council:</b></p>	<p>Council contacted the owner (letter dated 13.11.12) and requested that the IQP provide a more detailed description of the back flow prevention devices with the next BWoF.</p>
<p><b>Review team conclusions:</b></p>	<p>Council should verify all installed specified systems are accurately reflected in the compliance schedule. The site visit identified two specified systems which were not captured by the existing compliance schedule. It was noted the IQP's application to amend the compliance schedule had included the automatic doors, however, the emergency power generator had not been specifically included (SS 14/1) in this application.</p>

## Case study 5

<b>Building classified use:</b> (layman's description in brackets)	Communal non-residential – assembly care <sup>14</sup> (primary school)
<b>Current building warrant of fitness</b>	Expires 22.05.13
<b>Background:</b>	<p>The school grounds contain one large administration/class room building, several other smaller buildings and an outdoor swimming pool.</p> <p>Since first being constructed, multiple buildings and alterations had taken place as evidenced by the building consent and building permit documentation.</p> <p>Records show the first compliance schedule was issued 18.04.08.</p> <p>In response to the recent amendments to the Building Act 2004, an application (dated 01.05.12) was made by the owner's independent qualified person (IQP) to amend the compliance schedule. The compliance schedule was amended on 17.10.12, almost five months after the application was received by Council on 28.05.12.</p>
<b>Specified systems on compliance schedule:</b> (number and description as per documentation provided)	<p>As amended at 17.10.12.</p> <p>SS 02(i) Manual fire alarm (call points)            SS 04(i) Lighting for safe path to facilitate evacuation            SS 07 Backflow preventers            SS 14/2 Signs for systems            SS 15/2 Final exits            SS 15/3 Fire separations            SS 15/4 Signs for communicating information intended to facilitate evacuation</p>

<sup>14</sup> Classified Uses – Building Code clause A1.4.0.3 refers.  
 Technical Review of Marlborough District Council – May 2013

<p><b>Form 12As provided with the current building warrant of fitness for the following specified systems:</b> (number and description as per documentation provided)</p>	<p>Form 12A – (1) - SS 2 Emergency warning systems</p> <p>Form 12A – (2) - SS 2 Emergency warning systems - SS 4 Emergency lighting systems - SS 14/2 Signs - SS 15/2 Final exits - SS 15/3 Fire separations - SS 15/4 Signs for facilitating evacuation</p> <p>Form 12A – (3) - CS 7 Backflow Prevention Device</p>
<p><b>Review team observations on site:</b></p>	<p>An audit of this building was carried out on 06.11.12.</p> <p>Council undertook a paper-based inspection only using its check-sheet. Council also accompanied Ministry staff on an inspection of the premises to verify the installed specified systems against those on the compliance schedule. However, it was clear an inspection would not have taken place without Ministry staff present.</p> <p>The building warrant of fitness (BWoF) was displayed in a public place (down the hall off the main reception area), however, it took some time to locate it.</p> <p>The school's administration block contained two separate emergency warning systems – a manual fire alarm system activated by call points and smoke detectors connected to the security system. A Form 12A was provided for each of the warning systems from different IQPs.</p> <p>Backflow preventers are listed on the amended compliance schedule, however, it was not clear from the compliance schedule where these were or what they were for. The Ministry was informed on-site that the school's dental clinic was changed to offices in August/September 2012. As dental clinics usually have a backflow prevention device, and following a Ministry staff request, the old dental clinic was inspected. No backflow preventer could be located.</p> <p>Finally, it was noted that while the BWoF covered an emergency lighting system there were no records of inspection of this in the log book.</p>

<p><b>Follow up action by Council:</b></p>	<p>Council completed its internal “audit prompt sheet” and sent a follow-up letter (dated 07.11.12) to the owner’s agent.</p> <p>The letter pointed out to the owner’s agent the following issues to be addressed:</p> <ul style="list-style-type: none"> <li>• Ensure the security system with smoke detectors are checked annually and recorded in the log book</li> <li>• Ensure the person carrying out emergency lighting inspections completes the log book</li> <li>• Confirm the backflow preventer is still installed/in-use</li> <li>• Update the log book.</li> </ul>
<p><b>Review team conclusions:</b></p>	<p>Council should verify all installed specified systems are accurately reflected in the compliance schedule. It is essential to establish that the compliance schedule aligns with the building and vice versa.</p> <p>The inspection for the backflow preventers highlights, not only the need to physically inspect the building and ask questions of the owner/staff, but also the need for specific information about specified systems on the compliance schedule. In this case, potentially the backflow preventer has been removed, but is still on the compliance schedule. However, it is noted there may be a backflow preventer in the school pool area.</p> <p>The compliance schedule classifies both the manual call points and smoke detectors connected to a security system under “SS 02(i) Manual Fire Alarm (call points)” and, therefore, it is not readily obvious from the compliance schedule that the building contains a smoke detection system. Further, the compliance schedule does not contain specific procedures for the smoke detection system.</p> <p>Council identified the lack of information about the emergency lighting system and requested this be remedied.</p>



## Case study 6

<b>Building classified use:</b> (layman's description in brackets)	Commercial <sup>15</sup> (bar and restaurant)
<b>Current building warrant of fitness</b>	Expires 22.12.12
<b>Background:</b>	<p>The single-level building is made up of two tenancies which are both occupied by the restaurant and bar. The smaller of the tenancies is used as a toilet, gaming room and kitchen while the larger tenancy space is used for the bar and restaurant dining area.</p> <p>The most recent compliance schedule was issued on the 04.11.10.</p>
<b>Specified systems on compliance schedule:</b> (number and description as per documentation provided)	<p>Automatic fire alarm (heat detection with call points)            Interfaced fire or smoke doors or windows            evacuation            Lighting for safe path to facilitate evacuation            Final exits            Fire separation            Signs for communicating information intended to facilitate evacuation</p>
<b>Form 12As provided with the current building warrant of fitness for the following specified systems:</b> (number and description as per documentation provided)	<p>Form 12A – (1)</p> <ul style="list-style-type: none"> <li>- SS 2 Automatic or manual emergency warning system</li> <li>- SS 4 Emergency lighting systems</li> <li>- SS 14/2 Signs relating to a system or feature specified in clauses 1-13</li> <li>- SS 15/2 Final exits</li> <li>- SS 15/3 Fire separations</li> <li>- SS 15/4 Signs for communicating information intended to facilitate evacuation</li> <li>- SS 15/5 Smoke separations</li> </ul>

<sup>15</sup> Classified Uses – Building Code clause A1.5.0.1 refers.  
 Technical Review of Marlborough District Council – May 2013

<p><b>Review team observations on site:</b></p>	<p>An audit of this building was carried out on 07.11.12.</p> <p>Council undertook a paper-based inspection only using its check-sheet. Council also accompanied Ministry staff on an inspection of the premises to verify the installed specified systems against those on the compliance schedule. However, it was clear an inspection would not have taken place without Ministry staff present.</p> <p>The building warrant of fitness (BWoF) was displayed in a public place and was easily viewable.</p> <p>The building owner advised the exit signs were the emergency lighting system.</p> <p>The building was found to contain the following SS 3 systems:</p> <ul style="list-style-type: none"> <li>• Electromagnetic hold-open device to kitchen door</li> <li>• Exit door in outdoor eating area which unlocks upon activation of the fire alarm</li> <li>• Sliding smoke door to separate tenancies in the event of a fire (located by the toilet area).</li> </ul> <p>It was noted the compliance schedule only states “Interfaced fire or smoke doors or windows” followed by inspection and maintenance procedures.</p>
<p><b>Follow up action by Council:</b></p>	<p>Council completed its internal “audit prompt sheet” and followed up to the building owner by writing a letter on 07.11.12.</p> <p>The letter pointed out to the building owner the following issues to be addressed:</p> <ul style="list-style-type: none"> <li>• ensure the log book was kept up to date</li> <li>• ensure a check-sheet for the doors was contained in the log book</li> <li>• removing all non-specified system check sheets from the log book.</li> </ul>

<b>Review team conclusions:</b>	<p>Council staff should physically inspect the building to locate the specified systems. It is essential to establish that the compliance schedule aligns with the building and vice versa.</p> <p>The discovery of three different types of automatic and electromagnetic doors highlighted the need to not only inspect the building when on-site but also to have specific information about the systems in the building on the compliance schedule. In the case of the doors, it is necessary to have each type of door separately listed on the compliance schedule. This will avoid any of the three doors being missed at inspection time.</p> <p>It appears from the BWoF and Form 12A that none of the doors are being inspected. While the letter to the owner following the audit identified checking of the doors needed to be recorded in the log book, Council should be emphasising the need for these to be inspected, a Form 12A provided and covered by the BWoF. Should the next BWoF not cover the doors or not have an attached Form 12A covering the doors, a notice to fix should be issued.</p> <p>There is concern the Council is overly focused on recording specified systems inspections in the log book, rather than the compliance schedule reflecting the systems in the building, the BWoF covering all the systems in the compliance schedule and the BWoF being supported by all Form 12As. BWoFs and Form 12As are signed documents required by the Building Act 2004, whereas a log book has no legal standing.</p>
---------------------------------	---

Published in May 2013 by  
Ministry of Business, Innovation and  
Employment  
PO Box 10-729  
Wellington 6143, New Zealand

This document is also available on the  
Ministry's website: [www.dbh.govt.nz](http://www.dbh.govt.nz)

You can copy all or some of this document  
only if you are using it for education or  
public information, and you say it came  
from us. You cannot copy any of this  
document in any way for commercial use,  
and you cannot keep it in a retrieval system  
unless you ask us first.

ISBN: 978-0-478-39949-3 (electronic)