



Department of
Building and Housing
Te Tari Kaupapa Whare

Technical Review
of the Compliance Schedule and Building
Warrant of Fitness systems of
South Waikato 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 South Waikato District Council's building control operations. The review was undertaken by the Department of Building and Housing (the Department) in November 2008.

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

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

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

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

Reasons for the review

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

The implementation of the building consent authority (BCA) accreditation scheme has also identified a need for councils, industry professionals, and building owners to better understand their responsibilities under the Building Act 2004¹. For example, around three quarters of BCAs needed to improve their policies and procedures for issuing (or refusing to issue) code compliance certificates, compliance schedules, and/or notices to fix.²

Another common problem was a lack of systems for compliance schedules to define who had authority to issue these documents, and ensure compliance schedules were attached to the code compliance certificates and met the requirements of the Act.

Key findings from the review

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

- has an appropriate organisational management structure and is properly delegating the powers and responsibilities that were considered in the review.

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

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

- is accurately collecting and reporting its building control statistics
- is meeting the statutory time frames around compliance schedules. However, it could strengthen its procedures to be able to better track the anniversaries of each compliance schedule it issues
- has developed new public information, processes and tools (such as processing and inspection checklists for staff) for some of the functions covered by this review (in places, some enhancements are suggested in this report)
- issuing compliance schedule statements appropriately
- is aware of the process required should any cable cars be built/installed that trigger the need for a compliance schedule
- has undertaken some training initiatives (but further work on the technical knowledge of its staff is needed)
- is complying with its statutory requirements in relation to sections 216-217 of the Building Act 2004, which specifically relates to the access and storage of information relating to buildings within their jurisdiction.

The review identified four significant areas where the Council faced challenges and needed to strengthen and improve their 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. These four common areas were:

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

The key findings for South Waikato District Council under the four common themes noted above are summarised as follows:

Understanding and application of statutory responsibilities

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

- Ensure that building warrants of fitness are current, and compliance schedules are correct, by undertaking inspections of the buildings with installed specified systems. A well structured building audit and inspection process will assist the Council in developing a greater knowledge, awareness and understanding of building stock containing specified systems within their district
- The Council's vetting procedures need to be more robust and staff more vigilant in ensuring that building consent applications are complete at the submission stage. Before accepting building consent applications Council staff should ensure all relevant information and documentation relating to specified systems, and proposed inspection, maintenance and recording procedures is supplied. Under the Building Act 2004 the definition of 'plans and specifications' requires that this level of detail is provided by the applicant within their building consent application
- Updating its public information to include material on amending compliance schedules and obligations around building warrants of fitness

- The certificates and documents issued by the Council need to consistently include all the relevant information and correctly identify the specified systems rather than using generic descriptions that do not relate to the systems installed on site. Performance standards for specified systems also need to be included in building consents and compliance schedules issued by the Council
- Ensure building consents issued state appropriate performance standards for the specified systems listed and any conditions subject to – eg, third party certification by an accredited inspection body
- The Council needs to monitor how it is performing its responsibilities in responding to the number of buildings warrants of fitness (and supporting documentation) that do not accurately reflect the installed specified systems. It needs to ensure it performs its responsibilities by using the enforcement measures available in the Building Act 2004 when necessary.

Documentation around building control decision-making

The review highlighted the need for the Council to strengthen how key regulatory decisions were being recorded by Council staff. In a number of cases there was only limited evidence on file to show:

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

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

- the Council's decision-making around public safety issues when issuing certificates for public use
- the actual specified system, their performance standards, and the design, inspection and maintenance, and reporting procedures, complete with the date of any standards referred to (see section 103 of the Building Act 2004).

Effective systems, policies, and procedures

In places, the Council needs to strengthen how it is documenting or implementing some of its building control systems, policies and procedures. Some of the key examples include:

- how the Council is tracking and monitoring the anniversaries of compliance schedules it issues
- how the Council determines whether to place conditions on certificates of public use that it issues (eg, including an expiry date for the certificates and including requirements that specified systems are adequately maintained and inspected)
- clearly documenting the necessary processes and procedures for new or amended compliance schedules and building warrants of fitness
- liaising with other Councils within their regional cluster group to develop a more consistent approach to the building warrant of fitness process
- monitoring of all functions that include specified systems to ensure compliance schedules fully comply with the provisions of the Building Act 2004. This process needs to include all explicitly linked building consent processes of vetting, processing, inspecting and certifying
- formalising an agreement with the relevant councils who maintain the independent qualified persons (IQP) register the Council is using and ensure that this includes processes on how IQPs are accepted onto or withdrawn from the register.

Capacity and capability

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

- While the Council is currently performing to statutory time frames for building consents (partly due to the current downturn in building activity in the sector as a result of the economic recession), it is undertaking little or no inspections to check that buildings' warrants of fitness (and their supporting documentation) actually reflect installed specified systems. These inspections also provide an opportunity for the Council to assess the performance of IQPs.
- Technical staff need adequate administrative resources to support their roles.
- The Council needs additional resources to ensure that it has adequate staff resources to fulfil its responsibilities under the Building Act 2004 and undertake its functions relating to compliance schedules and building warrants of fitness, and carry out any required compliance and enforcement activity
- The Council must improve its competency assessment and training processes to better identify and manage gaps in its technical knowledge and ability relating to specified systems so it can ensure consistent compliance with the Building Act 2004. Specifically, the Council needs to:
 - include specified systems and other compliance schedule and building warrant of fitness matters in its staff competency assessment system
 - continue to train staff members on compliance schedule and building warrant of fitness regulatory functions
 - ensure sound external peer review of specified systems, where those systems are outside the Council's technical skill and knowledge base
 - develop clear procedures for staff to follow when assessing specified systems
 - consider all relevant Building Code clauses when assessing specified systems.

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

Recent initiatives

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

- contracted a training provider to provide specific compliance schedule and building warrants of fitness training
- been revising some of its processes around compliance schedules and building warrants of fitness
- communicating with its IT provider to create more efficiencies and addressing limitations identified (eg, automatically generating reports, and allowing more information to be included in its documentation)
- liaising with the regional cluster group of Councils to progress joint initiatives
- undertaken an assessment of its in-house resources.

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 (the Act) include:

- issuing project information memoranda
- granting building consents where the consent is subject to a waiver or modification of the Building Code
- issuing certificates of acceptance
- issuing compliance schedule statements
- amending and issuing amended compliance schedules
- granting waivers and modifications (with or without conditions) of building consents
- issuing notices to fix
- administering annual building warrants of fitness
- enforcing the provisions relating to annual building warrants of fitness

- deciding the extent to which certain buildings must comply with the Building Code when they are altered, their use is changed, or their specified intended life changes
- performing functions relating to dangerous, earthquake-prone or insanitary buildings
- determining whether building work is exempt under Schedule 1 from requiring a building consent
- carrying out any other functions and duties specified in the Act.

Role of Building consent authorities (that are territorial authorities)

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

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

South Waikato District Council

The South Waikato District lies in the central region of the North Island and is immediately north of the Taupo District. The district includes a substantial rural area which is dominated by radiata pine forests and dairy farm pastures.

The Council has its main office at Tokoroa, which is the hub of New Zealand's forestry, timber and pulp and paper industries. The Council also has an office at Putaruru, which is about 20 kilometres northwest of Tokoroa on State Highway 1.

3. Process

Purpose of technical reviews

Technical reviews are undertaken to monitor the performance of, and assist building consent authorities and territorial authorities to fulfil their obligations under the Building Act 2004 (the Act). 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 Act and Building Regulations.

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

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

Legislative basis

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

Scope of the review

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

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

Figure 1: The terms of reference for the technical review

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

Method

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

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

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

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

4. Technical review findings and operational building control recommendations

1 Organisational and management structure

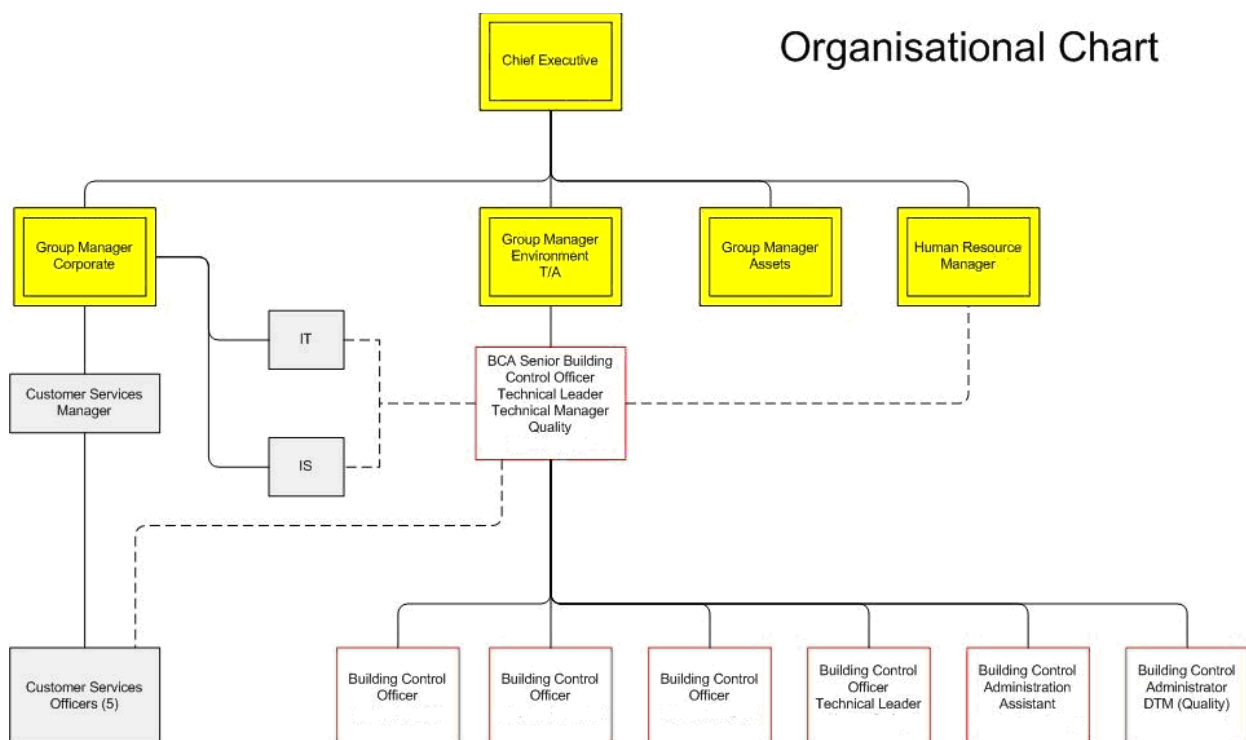
Purpose

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

Background

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

Findings



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

Council officers are authorised under section 229 to issue infringement notices. However, the Council has not adopted a policy or procedure for issuing infringement notices to date.

Conclusion

The Council has an appropriate organisational management structure and is properly delegating those powers and responsibilities under the Building Act 2004 that were considered during the review.

2 Council statistics

Purpose

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

Findings

12 month period (1 October 2007 - 30 September 2008)
779 building consents issued
Total value of consented construction work was \$42,355,888
556 code compliance certificates issued
310 buildings have a compliance schedule
8 compliance schedules issued for the period
310 current building warrants of fitness
1 certificate of acceptance issued since their introduction
13 certificates for public use issued since their introduction
0 inspections of building warrants of fitness carried out

The above statistics show that the Council has undertaken a reasonable amount of building control work in the year October 2007-September 2008⁴.

Conclusion

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

⁴ Statistics are representative of each Councils typical workflow relative to the Councils size.

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 (the Act) specifies a range of requirements for a building consent authority regarding compliance schedules. Section 102 requires code compliance certificates to be issued with compliance schedules (or an amended compliance schedule) attached if it is required as a result of building work.

Section 104 of the Act requires that a building consent authority provide a copy of the compliance schedule to the territorial authority within five working days of issuing the compliance schedule. Section 104A requires a territorial authority that receives a copy under section 104 to, within five working days after receiving it, provide the owner with a compliance schedule statement (as described in section 105(e))⁵.

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

Findings

The anniversary dates of compliance schedules issued by the Council are recorded in a spreadsheet. This spreadsheet is also used to list all new compliance schedule statements and relevant compliance schedule and building warrants of fitness data (eg, locations of specified systems, building addresses and contact details).

The Council's system for monitoring that building warrants of fitness are being provided on time requires staff to manually check the spreadsheet. Although this manual check is undertaken occasionally, there is no documented process to specify when the spreadsheet should be checked (eg, monthly). Some improvement is needed regarding how the Council is checking that building warrants of fitness (and their supporting documentation) actually reflect the installed specified systems – see terms of reference 6.

The Council does not track compliance schedule statement time frames, as it should, but evidence provided shows that they are being issued at the same time as the compliance schedule and code compliance certificate.

⁵ This five working day requirement dates from 15 March 2008. Previously it was implicit that the statement be issued with the compliance schedule.

Conclusion

The Council is complying with the statutory time frames in relation to compliance schedules and monitoring building owners' obligations regarding building warrants of fitness. However, it could strengthen its procedures to be able to better track the anniversaries of each compliance schedule it issues.

Recommendation 1	
The Department recommends that the Council:	Response from the Council:
<ul style="list-style-type: none"> document the process it uses to ensure that all building warrants of fitness are being provided by the anniversary date of when the Council's compliance schedule was issued. 	<p>Council advises that work is underway to document its processes for building warrant of fitness and compliance schedules. This will be supported by work being undertaken by the Councils IT provider (refer to recommendation 4). Council are also implementing a reminder letter process, which includes a reminder letter being sent to the building owner one month prior to the BWoFs expiry. Further non-compliance results in a 'due date' letter being sent to the owner. Failure to resolve the BWOf at this stage will trigger an on-site inspection/audit.</p> <p>If non-compliance is still evident on completion of the on site inspection/audit then a notice to fix is issued to the building owner.</p>
<ul style="list-style-type: none"> consider how information technology may assist tracking the statutory time frames required by the Act. 	<p>Council advises it is communicating with its computer software provider to ascertain if letters can be automatically generated or if a report can be sent to the administrator overnight.</p>

4 Building Act requirements – compliance schedules

Purpose

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

Background

Sections 100 to 107 of the Building Act 2004 set out the particular requirements about compliance schedules, including the responsibilities for building owners of commercial, institutional, and industrial buildings, and for territorial authorities and building consent authorities. In summary, buildings containing certain specified systems such as fire alarms and lifts require them to be listed on a compliance schedule. The owner must ensure continued effective operation of those systems and demonstrate this by displaying a current building warrant of fitness in their building.

Findings

Building consent applications

The Department found a number of building consent applications that had been accepted for processing by the Council when they had not been fully. The specified systems section of the form, prescribed by the Building (Forms) Regulations 2004, was often left blank or did not include all of the specified systems contained within the building. The section of the Council's form relating to compliance schedules is also entitled 'Compliance' rather than 'Compliance Schedule', which might cause uncertainty for some applicants.

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

Building consent processing

Historic processing checklists reviewed did not adequately assess specified systems. These checklists contained a small section referring to sections 100-107 of the Building Act 2004, but did not elaborate on the performance standards for the specified systems to ensure compliance with the Building Code.

The Council has recently implemented a compliance schedule processing checklist, which uses information from the Department's guidance document the 'Compliance Schedule Handbook'. However, the format adopted by the Council is not completely clear about what is required of Council processing staff and does not require a clear statement about how compliance is to be achieved. For example, under automatic or manual emergency warning systems, one completed checklist noted that a 'type 2 alarm' was required, but it did not then record how this alarm system complies with clause F7, *Warning Systems*, of the Building Code.

Building consent issuing

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

The Department reviewed a number of building consents issued by the Council and found that in most cases it was generally listing the specified systems correctly. In some cases the system description was found to be incorrect. However, no performance standards for the specified systems were listed on any of the building consents reviewed. For example, it is appropriate to place an alert on the building consent to advise that an accredited organisation needs to inspect the installation of an early warning system designed to NZS 4512 (third party certification).

The Council does not list conditions regarding specified systems on its building consents, as allowed by Form 5 of the Building (Forms) Regulations 2004. Listing such conditions will help the Council to obtain the appropriate compliance information before it issues a code compliance certificate (CCC). The Council should state as a condition of the building consent what third party certification documentation needs be provided to the Council before a CCC can be issued.

Inspections of building work

The Council has an inspection checklist that is completed during the final inspection. This outlines the requirement to obtain producer statements/commissioning certification for specified systems. However, in the files reviewed these aspects had not been completed, suggesting that no third party certification was sought or considered necessary by the inspecting officer. Completed checklists should clearly record whether such information was obtained or why it was not applicable in any given case.

Certificates for public use (CPU)

The Department noted a number of cases where a CPU had been issued under section 363A of the Building Act 2004. This was generally in accordance with the Building Act 2004, but the Council's process could be strengthened by:

- including an expiry date on all CPUs issued so that the Council has a clear expectation of when a CCC can be issued (or an extension sought)
- adding a condition to CPUs (especially if the CPU is required for a long time) for the owner to inspect and maintain the specified systems within the building for that period.

Compliance schedule statements

Compliance schedule statements were found to comply with the Form 10 as prescribed by the Building (Forms) Regulations 2004. However, in some instances the compliance schedule was not located in the place stated on the Form.

Compliance schedules

The Council does not have a formally documented process for compliance schedules. The compliance schedules included all the general specified systems as described in the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005. The system descriptions attached to these compliance schedules are generic and not building specific.

There needs to be sufficient information on each compliance schedule about the type and nature and location of each specified system, and their performance standards. This will assist IQPs and Council staff who are not familiar with the building to carry out their functions efficiently and effectively.

In some instances, compliance schedules contained specified systems that were not in the building, and system descriptions were incorrect.

The Council's public information brochure, *Information on PIMs Building Consents and Inspections*, adequately covers compliance schedule matters. However, the brochure states that a compliance schedule must be kept on site when this is only one of the options available to building owners under section 105(c) of the Building Act 2004. Also, further information could be provided regarding the owner's obligations under section 105 of the Building Act 2004 to ensure that the specified systems perform and continue to perform to the required standard.

The section on the Council's website in relation to the owner's responsibilities and liabilities needs to be updated as in one place it refers to the former Building Act 1991, instead of the Building Act 2004.

Conclusion

The Council needs to strengthen its compliance schedule system as it is not consistently ensuring that specified systems contained within buildings comply with the requirements of the Building Act 2004 or Regulations at the processing, inspection and certification stages.

Recommendation 2	
The Department recommends that the Council:	Response from the Council:
<ul style="list-style-type: none"> • develop and implement a formal process for compliance schedule matters to be considered under section 103, which is specific to each specified system that is to be installed as part of the building work (in accordance with 103(1) & (2) and associated regulations). 	<p>Council advises that work relating to section 103 of the Building Act has been underway since the Department's review visit.</p> <p>A formal process is still in the developmental stage, but this should be finalised and implemented within 3-6 months.</p>
<ul style="list-style-type: none"> • better identify all specified systems contained within the building at the vetting and processing stage of the building consent process and ensure that they comply with the Building Code. 	<p>Council advises that they have fully revised their compliance schedule checklist in order to clarify to staff what is required of them. The form now includes details on what is considered essential documentation.</p> <p>The form has been reviewed by an external industry expert who was satisfied with the overall content and outcome.</p>
<ul style="list-style-type: none"> • more accurately record specified systems on building consents it issues in accordance with section 51 of the Act and Form 5 of the Building (Forms) Regulations 2004. Specifically it 	<p>Council is working with its IT provider to expand the amount of text that it can insert into its forms.</p> <p>Council is also considering amending its</p>

<p>should list:</p> <ul style="list-style-type: none"> - appropriate standards for the specified systems listed - any conditions the building consent is issued subject to – eg, third party certification (such as commissioning /installation certificates and producer statements, etc). 	<p>processing checklist to prompt more questions and review its commercial final checklist. It will be discussing this with a training provider in July 2009 (refer to terms of reference 10).</p>
<ul style="list-style-type: none"> • issue site-specific compliance schedules that accurately reflect the specified systems installed on-site. 	<p>Council is working with its IT provider to expand the amount of text that it can insert into the compliance schedule section of its forms.</p>
<ul style="list-style-type: none"> • include an expiry date as a condition on all CPUs issued, together with a condition that specified systems are adequately maintained and inspected. 	<p>Council advised it will review and implement a new procedure, which is to include conditioning CPUs with timeframes etc.</p> <p>This to be fully implemented within 3-6 months.</p>

5 Building Act requirements – amending a compliance schedule

Purpose

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

Background

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

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

Findings

The Council does not have a documented process for amending compliance schedules.

The Council uses an in-house form (form 14) for all building work containing specified systems, including new buildings. The form follows the format of the form prescribed by Form 11 (Application for amendment to compliance schedule) of the Building (Forms) Regulations 2004. However, it is titled 'application for compliance schedule', when this should refer to 'amendments to existing' compliance schedule. The information requested within this form would normally be captured within the application form for a building consent, under the heading 'Compliance Schedule'.

The Council's form does not provide a complete list of specified systems and is not consistently being used appropriately.

The Council is using a mix of two separate abbreviations to describe 'specified systems' within its documentation. It uses the abbreviation 'CS' on its form 14 and on application documentation. It uses 'SS' on the compliance schedules it issues and some of its other forms/documentation.

'CS' was used in the New Zealand Building Code Hand Book 1992, which was published to assist with the former Building Act 1991. The Department of Building and Housing's Compliance Schedule Hand Book (March 2008) uses the abbreviation 'SS'. Using a mix of the two abbreviations creates potential uncertainties for consent applicants and Council staff. This system should be streamlined and simplified, if possible.

The Council's public information resources do not cover amendments to existing compliance schedules.

Conclusion

The Council's system for amending compliance schedules needs to be strengthened as recommended below.

Recommendation 3	
The Department recommends that the Council:	Response from the Council:
<ul style="list-style-type: none"> • develop and implement a procedure for considering amendments to compliance schedules. 	<p>The Council advise that its regional cluster group of Councils is developing an amendment to the building consent form. It is waiting to see if this allows for amendments to compliance schedules.</p>
<ul style="list-style-type: none"> • review all of its specified systems documentation to ensure it is correct and accurate, including dates listed on forms, specified systems descriptions, form content consistency and continuity (particularly in relation to CS/SS abbreviations and the correct identification of systems on-site). 	<p>Council advises that work has been underway to review all in-house documentation and create greater consistency across the board. The Councils intention is to update BWoF information as and when it is resubmitted on an annual basis. In doing this all forms will be provided with a single means of describing specified systems.</p>
<ul style="list-style-type: none"> • review and update public information to include specific detail on amending a compliance schedule. 	<p>Council advises it is developing a new document for the public and will be discussing it with other councils in its cluster group</p>

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 building warrant of fitness in their building.

Findings

Though not formally documented, the Council did follow a procedure for checking building warrants of fitness. This included a desk-top check on the content of the building warrant of fitness and its supporting information (Form 12As), and sending a reminder letter to building owners when their building warrant of fitness was due to expire.

The Council needs to clearly document this process for managing and enforcing the adequacy and appropriateness of information provided with each building warrant of fitness (for compliance with section 111(3)). This documented process should also cover checking Form 12As and all attached certificates.

No on-site inspections of compliance schedules or building warrants of fitness are undertaken. The Council advised that these functions have been a lower priority and have not been adequately resourced in the past. Such inspections would also provide an opportunity for the Council to assess the performance of IQPs.

The Council had not taken any enforcement action against those owners who did not have a current building warrant of fitness or failed to obtain one after a reminder notice was sent. Under section 12(2)(h) of the Building Act 2004, the Council's role is to enforce the provisions relating to building warrants of fitness.

On-site inspections undertaken by the Department found that owners of buildings were generally unaware of their obligations under the Building Act 2004 regarding building warrants of fitness. This was highlighted by the fact that some building warrants of fitness were not displayed in a public area.

Conclusion

The Council needs to strengthen its system for undertaking its building warrants of fitness functions. Greater emphasis on providing guidance to the public, carrying out inspections, and enforcing the requirements of the Building Act 2004 is needed.

Recommendation 4	
The Department recommends that the Council:	Response from the Council:
<ul style="list-style-type: none"> • formalise the procedure for reminding owners that their building warrant of fitness is due. 	<p>The Council advises it is working with its IT provider to get a report emailed to the administrator nightly.</p>
<ul style="list-style-type: none"> • undertake inspections of buildings that have compliance schedules to ensure the compliance schedule and information therein is accurate and correct 	<p>The Council advises it will be putting a timetable in place to schedule audits/inspections. The Councils intention is to develop and implement an audit procedure within the next six months.</p> <p>The frame work will include categorising buildings in terms of there perceived risk to public safety (eg sleeping purpose groups pose a higher risk and thus will be inspected on a more frequent basis).</p>
<ul style="list-style-type: none"> • provide guidance to owners of buildings with specified systems on their obligations under the Act in relation to building warrants of fitness, and consider compiling more detailed public guidance material in this regard. 	<p>The Council will be creating an information pack to send to owners of buildings that have compliance schedules. This will help schedule audits/inspections.</p> <p>The Councils intention is to develop and implement this process within the next six months.</p>
<ul style="list-style-type: none"> • implement more robust procedures relating to building warrants of fitness. 	<p>Council advises that this work has been underway since the Department's visit.</p> <p>The Councils intention is to develop and implement this process within the next six months.</p>
<ul style="list-style-type: none"> • liaise more with other councils within their immediate cluster group to develop a more consistent approach to the building warrant of fitness process. 	<p>Council advises that this is happening with the regional cluster group and the Hamilton City Council.</p> <p>The Council are currently considering approaching other Councils outside their regional cluster group of Councils for ideas around categorisation of buildings for BWoF audit purposes.</p>
<ul style="list-style-type: none"> • undertake further staff training in order to help staff better understand the building warrant of fitness system, and ensure this training is relevant and effective. 	<p>A training provider has been engaged to provide training to the team in July 2009.</p> <p>The first external training sessions has already been undertaken, which included a full day off in-house training with a recognised industry training provider.</p> <p>Council has already identified the benefit</p>

<ul style="list-style-type: none"> • take enforcement action for offences under sections 108(5) of the Act, should building owners repeatedly commit offences. 	<p>of such training for staff development.</p> <p>Council advises it will do this as required and also obtain a process from its regional cluster group.</p> <p>Refer to recommendation 1 for further details in this regard.</p>
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7 Private cable cars (section 100)

Purpose

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

Background

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

In summary, household units with cable cars, or serviced by 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

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

Conclusion

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

8 *Independent qualified person register*

Purpose

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

Background

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

Findings

The Council advised that it uses an IQP register administered and maintained by Hamilton City Council for a list of approved IQPs in the South Waikato District. However, the Department was not provided with any documented agreement or processes about how this system works in practice.

Hamilton City Council assesses and audits IQPs for the Waikato cluster group. However, it was unclear how an IQP could be withdrawn from the register, or how this would be relayed to the IQP and councils relying on the register, as no clear line of communication had been documented.

South Waikato District Council is not listed as one of the five councils that form the Waikato Cluster Group. These are listed as Hamilton City Council, Waikato District Council, Waipa District Council, Matamata Piako District Council and Otorohanga District Council (source: Hamilton City Council website).

Conclusion

The Council needs to strengthen its processes around IQPs as recommended below.

Recommendation 5	
The Department recommends that the Council:	Response from the Council:
<ul style="list-style-type: none">• formalise a documented agreement with the cluster group of Councils in relation to the IQP register and ensure that the agreement includes processes on how IQPs are registered or withdrawn.	Council advises that this recommendation will be actioned with Rotorua District Council and Hamilton City Council within 3 months.

9 Human resources

Purpose

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

Background

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

Findings

The Council has one part time administrative staff member who is dedicated to performing functions relating to compliance schedules and building warrants of fitness. Other field-related compliance schedule/building warrant of fitness matters are undertaken when required by available warranted building officers.

No on-site inspections of compliance schedules/building warrant of fitness are undertaken. The Council acknowledged that these functions have been of low priority and not adequately resourced in the past (refer to terms of reference 6). The review also particularly flags the need to strengthen the Council's systems across a number of areas (see terms of reference 4, 5, 6 and 8 in particular). Additional resources will need to be devoted to implementing the recommendations made in these parts of the report.

Conclusion

The Council employs one part-time administrative staff member who provides support to Council processing and inspection officers in their regulatory duties surrounding compliance schedules and BWoFs. The Council have not been undertaking on-site inspections of buildings with compliance schedules/building warrant of fitness in recent times.

It was evident that the Council needs to place more emphasis on this area of regulatory building control.

Recommendation 6	
The Department recommends that the Council:	Response from the Council:
<ul style="list-style-type: none">• assess the level of human resource required for performing the functions relating to compliance schedules and building warrants of fitness and any required enforcement action	<p>Council advised it recently undertook a resource assessment and considers that it has existing resource currently in-house.</p> <p>An existing part-time administrative resource from another area within the</p>

	<p>Council will now assist in the administration of compliance schedule and BWoF matters.</p> <p>The Councils intention is to train and appoint a technical leader in the area of specified systems, BWoF and compliance schedule matters. The first training session to develop this resource has already been undertaken.</p>
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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

Several staff have attended training on compliance schedules and building warrants of fitness. However, there has not been any monitoring of the effectiveness of this training and the application of this knowledge on the job.

Compliance schedule and building warrant of fitness functions do not form part of the Council's skills matrix for technical staff, as they should. As a result, it was difficult for the Department to assess the competency of each staff member in these regulatory functions.

In some instances, specified systems were not being adequately assessed at the building consent processing and inspection stages. Limited and inadequate assessment of specified systems was particularly apparent in the processing stage.

It was difficult for the Department to identify the scope of building work that had been approved under some building consents. Consent descriptions were sometimes ambiguous and did not always clearly define the work being undertaken. Some consent documents presented several means of compliance (or design options) and it was unclear which options had been selected and approved as a final means of compliance with the Building Code. This could potentially lead to confusion amongst consent applicants, IQPs and Council staff.

In some cases it was clear that each of the relevant Building Code clauses was not being considered when assessing specified systems. Additionally, the Council did not seek third party or expert opinion with regard to the compliance of certain specified systems outside the technical ability of in-house staff to process or inspect.

Conclusion

The Councils current staff competency assessment does not account for specified systems, compliance schedule or building warrant of fitness staff capability.

The review team found evidence that some specified systems were not being adequately assessed at either the processing or inspection stages of the building consent process. The Council did not seek third party assistance when assessing specified systems that were outside, or not detailed in their staff competency assessment.

Recommendation 7	
The Department recommends that the Council:	Response from the Council:
<ul style="list-style-type: none"> • monitor the effectiveness of training which has been undertaken with regard to compliance schedules and building warrants of fitness 	<p>Council has engaged a training provider to assist it with compliance schedule and building warrant of fitness issues (scheduled for July 2009).</p>
<ul style="list-style-type: none"> • continue to train staff members on compliance schedule/building warrant of fitness regulatory functions 	<p>Council advises it will review this recommendation after this training occurs. The training provider will assist in monitoring previous training and identifying suitable ongoing training.</p>
<ul style="list-style-type: none"> • include specified systems and other compliance schedule and building warrant of fitness matters in their competency assessment system 	<p>Council advises it will review its technical skills matrix after the visit by the training provider discussed above.</p>
<ul style="list-style-type: none"> • have external peer review of specified systems, where they are outside the Council's technical skill and knowledge base 	<p>Council advises it will discuss this matter at the regional cluster group meeting with a view to getting a contract for the cluster as a whole.</p>
<ul style="list-style-type: none"> • develop clear procedures for staff to follow when assessing specified systems 	<p>Council advises it will review its compliance schedule processing checklist.</p> <p>Refer to recommendation 2 for further details.</p>
<ul style="list-style-type: none"> • consider all relevant Building Code clauses when assessing specified systems. 	<p>Council advises this is currently happening.</p>

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

Building warrant of fitness and compliance schedule records are kept electronically within the Council's database. A duplicate hardcopy is stored off site and is available for retrieval on request.

The public can access compliance schedule and building warrant of fitness information at the public counter. Council staff can provide copies of these documents for a set fee.

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

Conclusion

The Council is 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 Councils a reasonable opportunity to make a submission on the report and provide its feedback.

The Council's feedback has been included throughout the report. In addition to this, the Council noted that it will consider all of the Department's recommendations. Since the review visit, new or revised processes have been established and implemented and there are further improvements planned.

The Council has engaged a training provider for in house training in July 2009 to specifically target building warrant of fitness and compliance schedule issues. It believes that this will help ensure the council is on track and compliant with the Building Act 2004.

Following this training, the Council expects to be able to satisfy all of the Department's recommendations and to have:

- solid systems entrenched within twelve months
- all compliance schedules and building warrants of fitness up to date (refer to recommendation 3 for further details)
- a significant majority of premises audited
- enforcement undertaken where necessary.

The Council found the Department's review most useful and Departmental staff pleasant to work with.

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