



Department of
Building and Housing
Te Tari Kaupapa Whare

Technical Review
of the Compliance Schedule and Building
Warrant of Fitness systems of
Whangarei City Council
Summary Report
September 2009



Contents

1 OVERVIEW.....	4
2 ROLES OF THE DEPARTMENT OF BUILDING AND HOUSING AND THE COUNCIL	8
3 PROCESS.....	9
4 TECHNICAL REVIEW FINDINGS AND OPERATIONAL BUILDING CONTROL RECOMMENDATIONS.....	12
4.1 ORGANISATIONAL AND MANAGEMENT STRUCTURE.....	12
4.2 STATISTICS.....	14
4.3 STATUTORY TIMEFRAMES – SECTIONS 102, 104, 104A AND 108(3)	15
4.4 BUILDING ACT REQUIREMENTS – COMPLIANCE SCHEDULES	16
4.5 BUILDING ACT REQUIREMENTS – AMENDING A COMPLIANCE SCHEDULE.....	22
4.6 BUILDING ACT REQUIREMENTS – ANNUAL BUILDING WARRANT OF FITNESS	24
4.7 PRIVATE CABLE CARS (SECTION 100).....	26
4.8 INDEPENDENT QUALIFIED PERSON REGISTER	27
4.9 HUMAN RESOURCES	28
4.10 TECHNICAL KNOWLEDGE AND ABILITY OF STAFF	30
4.11 ACCESS TO AND STORAGE OF COMPLIANCE SCHEDULE AND BUILDING WARRANT OF FITNESS DOCUMENTATION	32
5 FEEDBACK FROM THE COUNCIL	33

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 Whangarei 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.

At the same time the Department also undertook a review of one of the council's neighbouring councils, Kaipara District Council.

Reasons for the review

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

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

Another common problem was a lack of systems for compliance schedules to define who had authority to issue these documents, and ensure compliance schedules were attached to the code compliance certificates and met the requirements of the Building Act 2004.

Key findings from the review

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

- had an appropriate organisational management structure and was properly delegating the relevant statutory powers and responsibilities considered in this review
- accurately collected and reported the building control statistics considered
- was meeting the statutory time frames for compliance schedules and compliance schedule statements
- proactively informed building owners of their obligation to renew building warrants of fitness that were nearing expiry
- had developed sound policies and procedures for compliance schedules

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

- proactively provided guidance to building owners/occupiers about the need for regular maintenance, inspection and reporting of the specified systems as part of the building consent process
- provided guidance to building owners/applicants with each compliance schedule it issued (although this could be expanded to cover amendments to compliance schedules)
- had developed a sound commercial technical assessment check-sheet that adequately covered off most compliance schedule issues (some improvements could still be made as noted under terms of reference 4.4)
- had recently implemented a compliance schedule and specified systems form to obtain better and more timely information from consent applicants/owners in conjunction with building consent applications
- was generally issuing compliance schedule statements appropriately
- had an appropriate procedure for amending compliance schedules (although some enhancements could be made as noted in terms of reference 4.5)
- had a sound system for receiving, assessing, and inspecting building warrants of fitness (although some suggestions to strengthen this are made under terms of reference 4.6)
- had an appropriate system around independent qualified persons (although some recommended changes are made under terms of reference 4.8 of the report)
- had adequate staff to cover the volume of compliance schedules and building warrants of fitness they dealt with
- had made compliance schedule and building warrant of fitness regulatory matters a high priority, which had improved their knowledge of the district's building stock and public awareness of building warrant of fitness issues
- had a generally sound understanding of building warrants of fitness and compliance schedules (however, these technical skills needed to be better integrated into the competency assessment system)
- had good systems for document control, access and storage, and as a consequence were complying with sections 216 and 217 of the Building Act 2004.

The review identified four significant areas where the Council faced some challenges and limitations and needed to strengthen its operations. Addressing these issues will improve the quality of service to Council customers, alleviate confusion for building owners and independently qualified persons (IQPs), and assist the sector to comply more consistently with the Building Act 2004. The 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.

Some of the key findings for Whangarei District Council under the four significant areas noted above are summarised as follows.

Understanding and application of statutory responsibilities

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

- Ensure that regulatory functions are carried out in accordance with the Building Act 2004 and relevant Regulations. For example:

- issue compliance schedules with code compliance certificates and not prior to this
- ensure compliance schedules consistently list the actual specified systems that are contained in the building
- ensure maintenance and inspection requirements for existing specified systems are identified
- ensure building owners or their agents have a copy of the compliance schedule at the designated location as specified on the building warrant of fitness or compliance schedule statement
- ensure the annual building warrants of fitness provisions are enforced.
- Certificates and documents issued by the Council needed to consistently include all the relevant information, correctly identify the specified systems rather than using generic descriptions, and consistently include performance standards for such specified systems.
- Ensure all details are consistently supplied in plan form on issued compliance schedules showing means of escape, signage, passive fire protection, backflow prevention or other systems that may not be readily identifiable on-site.

Documentation of building control decision-making

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

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

In particular, there was a need to ensure:

- all forms are up to date and complete, and comply with the Building Act 2004 and Building (Forms) Regulations 2004, and a consistent prefix is adopted for the specified systems across all documents
- inspection notes are sufficiently comprehensive (see terms of reference 4.4)
- the reason for compliance is consistently recorded for each specified system
- all compliance schedules contain site-specific information on what the specified systems are, and their particular inspection and maintenance requirements
- appropriate records are maintained to show how specified systems or compliance schedules were considered.

Effective systems, policies, and procedures

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

- Procedures regarding cable cars and how compliance schedules are issued, and how forms are amended to reflect them as a specified system.
- Procedures for updating and developing forms and reviewing the processing check-sheet to ensure they all comply with the requirements under the Building Act 2004 and the Building Regulations 2004.
- The Council's systems and processes around compliance schedules and building warrants of fitness as recommended under terms of reference 4.4, 4.5, and 4.6.
- Place appropriate conditions on certificates for public use (eg, including an expiry date and requirements that specified systems are adequately maintained and inspected).
- Adopt a consistent prefix for the specified systems across all documents.

- Monitor all functions that include specified systems to ensure compliance schedules fully comply with the provisions of the Building Act 2004. This process needs to include all the explicitly linked building consent processes of vetting, processing, inspecting and certifying.
- Include specific information on amending a compliance schedule in public information; and consider providing information for applicants before they lodge an application for a compliance schedule.
- Adopt a policy on the use of infringement notices as an enforcement tool.
- Formalise arrangements with other councils in the Far North regional cluster group regarding the independent qualified person register, including agreeing a process for dealing with non-compliant independent qualified persons and how independent qualified persons are added or removed from the register.

Capacity and capability

The following issues were identified regarding the Council's capacity and technical building control capability (competency) (see parts 4.9 and 4.10 of the Review's terms of reference). The Council needed to:

- allocate responsibility for the assessment and inspection of cable cars
- expand its competency assessment system to include specified systems, compliance schedules, and building warrants of fitness and continue to train staff in these areas.

Recent initiatives

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

- undertaken a review of the Building Department's management structure
- reviewed and improved the statistical information captured for all functions, including building warrants of fitness
- implemented procedures to ensure code compliance certificates acknowledged that a compliance schedule was attached
- adopted new procedures to ensure the applicant or agent provided a proposed inspection and maintenance procedure for each specified system with the building consent application
- undertaken an internal audit which confirmed compliance schedules were not being issued before code compliance certificates
- adopted the prefix 'SS' for the specified systems across all new documentation
- placed conditions on certificates for public use in relation to an expiry date and the requirement for the owner to inspect and maintain the specified systems within the building
- clearly identified items that are not specified systems under the Building Act 2004 (such as, safety barriers, fire hose reels and the like) on new compliance schedules
- liaised with the regional cluster group of councils to progress joint initiatives; such as reaching a formal agreement with member councils about how to deal with non-compliant independent qualified person practices.

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

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

The Department's role

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

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

Role of the Consent Authority Capability and Performance Group

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

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

Role of territorial authorities

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

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

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

Role of building consent authorities (that are territorial authorities)

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

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

Whangarei District Council

Whangarei District Council is one of several local authorities operating within the Northland Region. The city has a comparatively large commercial and industrial building stock for the city's size, which is demonstrated by the number of buildings that have been issued with a compliance schedule.

The district covers the lower eastern section of Northland, extending from Bland Bay in the north to Langs Beach in the south and westwards towards Dargaville. The vast majority of the district is rural, with up to two-thirds of the land used for pastoral farming. The district contains the major port for the Northland Region at Marsden Point, which has recently undergone significant expansion. There are also a number of smaller townships and settlements around the district, many of which are expanding as coastal land is developed.

The district's economy is based on traditional pastoral farming. Newer industries include tourism, horticulture, forestry and fishing. A wide range of industrial activities provides major economic input into the area including the Marsden Point Oil Refinery, Marsden Point Port, Golden Bay Cement Company at Portland, a laminated veneer lumber plant and a busy ship building sector.

3 Process

Purpose of technical reviews

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

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

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

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

Legislative basis

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

Scope of the review

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

Figure 1: The terms of reference for the technical review

4.1	Organisational and management structure
4.2	Consent statistics

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

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

Method

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

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

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

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

4 Technical review findings and operational building control recommendations

4.1 Organisational and management structure

Purpose

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

Background

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

Findings

A diagram of the Council's organisational chart is provided below.

There was a dedicated commercial processing and inspection team that mainly dealt with buildings containing specified systems. Within this team were two warranted compliance officers. Part of their role was to undertake building warrant of fitness inspections on a daily basis. They were supported by an administration team that produced compliance schedules, compliance schedule statements, and dealt with building warrant of fitness documentation.

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

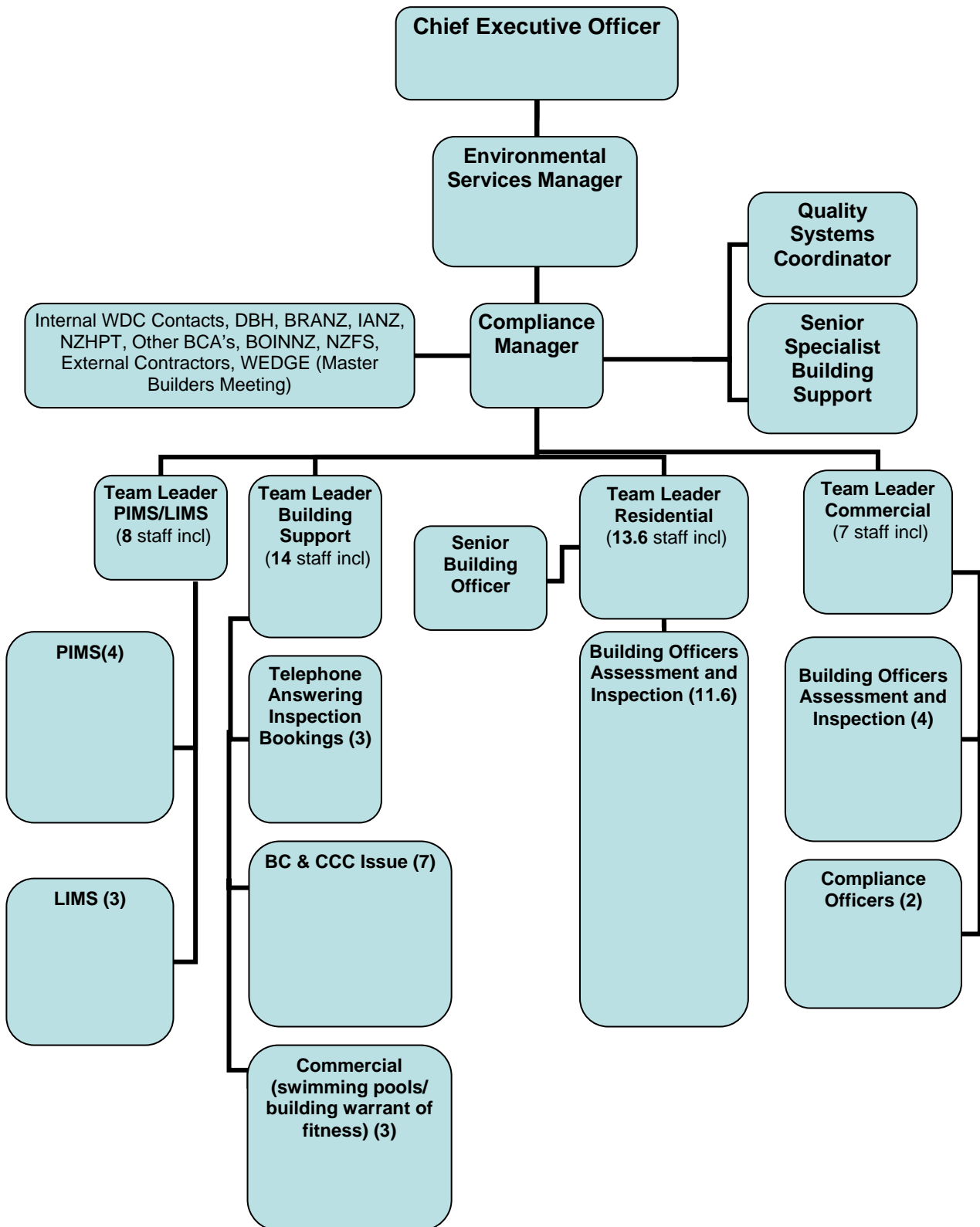
The sighted warrants included delegations to staff under the Local Government Act 2002, the Building Act 2004, and the Fencing of Swimming Pools Act 1987. Although infringement notices are now able to be issued, the Council had not developed a procedure for this at the time of the review, but this is under consideration.

Conclusion

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

Although there were no Department recommendations for this section, the Council advised it has undertaken a review of the Building Department management structure, with implementation expected in July 2009.

Whangarei District Council Organisational Chart



4.2 Statistics

Purpose

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

Background

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

Findings

12 month period ending 31 August 2008 (unless stated otherwise)
1988 building consents issued
Total value of consented construction work was \$251,349,067
1935 code compliance certificates issued
4387 live building consents
35 compliance schedules issued
786 buildings had a compliance schedule (at 11 June 2009)
747 current building warrants of fitness (at 11 June 2009)
87 certificates of acceptance issued
82 certificates for public use issued
130 building warrant of fitness audits carried out (1 November 2008 – 11 June 2009)
39 compliance schedules did not have a current compliance schedule statement or current building warrant of fitness (at 11 June 2009)

The Council had systems in place to report on and collect statistics that assisted it in performing the duties and functions of the Building Act 2004.

The Council had implemented a process to manage the number of buildings that did not have a current building warrant of fitness. Refer to terms of reference 4.6.

Conclusion

The Council was collecting and recording statistics appropriately.

Although there were no Department recommendations for this section, the Council advised it has reviewed and improved the statistical information captured for all functions, and the building warrant of fitness function would benefit from this.

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

Purpose

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

Background

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

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

Findings

The case studies undertaken by the Department generally related to building work undertaken in 2006–2007 under the Council's former system. These found that, at that point in time, compliance schedules were not always being issued in conjunction with a code compliance certificate, which was contrary to the requirements of section 102(1) of the Building Act 2004.

Evidence provided during the review showed the Council had addressed this issue and changed its system as part of its work to get accredited as a building consent authority. At the time of the review visit it was issuing compliance schedules and compliance schedule statements with code compliance certificates.

The Council had a well documented process for managing and administering timeframes for building warrants of fitness and ensuring they were received by the anniversary of the issue of the compliance schedule.

Conclusion

The Council was meeting the statutory timeframes for compliance schedules and compliance schedule statements and was proactively informing building owners of their obligation to renew building warrants of fitness nearing expiry.

Although there were no Department recommendations for this section, the Council advised it expects to complete an internal audit by August 2009.

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

4.4 Building Act requirements – compliance schedules

Purpose

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

Background

Sections 100 to 107 of the Building Act 2004 set out the particular requirements about compliance schedules, including the responsibilities for 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 such systems to be listed on a compliance schedule. The owner must ensure continued effective operation of those systems and demonstrate this by displaying a current building warrant of fitness in their building.

Findings

Policies and procedures

The Council had appropriate policies and procedures for compliance schedules in its building consent authority manual and provided a step by step process for issuing a compliance schedule.

Public information

The Department found that the Council provided applicants with little information about specified systems, compliance schedule and building warrant of fitness processes in its public building consent application guidance notes.

However, a letter to the building owner/applicant did accompany each compliance schedule that the Council issued. This letter provided two pages of targeted and useful guidance on sections 100-111 of the Building Act 2004. The notable omission from the guidance was material covering section 106 of the Building Act 2004 (amending a compliance schedule). Although not directly related to issuing a compliance schedule for a new building, it would be useful to provide building owners with such information upfront, in order to reduce potential confusion should the owner wish to later remove or alter any of the specified systems.

The Council was proactively providing guidance to building owners/occupiers about the need for regular maintenance, inspection and reporting of specified systems as part of the building consent process.

Building consent applications

The application form for a PIM/building consent was generally in line with Form 2, as prescribed by the Building (Forms) Regulations 2004. However, the Council's form did not provide for a cable car as a specified system and should be revised to do so. Other Council forms listed cable cars as a specified system (eg, its application for an amendment to a compliance schedule).

The Council's building consent application form also acted as an application for a certificate of acceptance. However, the form did not cover the full scope of Form 8 as prescribed by the Building (Forms) Regulations 2004. Form 8 is a separate form under these Regulations so the Council should develop one for applying for a certificate of acceptance.

Building consent processing

All consents containing specified systems were processed by the commercial processing team.

Historic building consents processed during 2005-2008 were less detailed in the assessment of specified systems than recent ones. The check-lists used for processing these files did not provide for detailed analysis of each specified system or comment on the system's specific performance standards, and/or the provision for third party verification of specified systems.

The commercial technical assessment check-sheet used at the time of the review visit was well structured and categorised the building's compliance schedule status as either '*new, existing or altered*'. This normally related to the status of the specified systems in the building, but the effect was similar. The check-sheet assessed each specified system and these systems were generally listed in accordance with Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

Further improvements could be made to the current check-sheet. These include:

- incorporating the full range of early warning systems, such as type 1, 2, 6, 7 alarms and gas detection (currently the check-list only allowed for type 3, 4 and 5 automatic fire alarms). This would assist in identifying and assessing those devices or systems not normally encountered
- providing for a final declaration of compliance (that the consent had been approved and complied with the Building Code).

The Council had recently implemented a compliance schedule and specified systems form. This had to be completed by the applicant/owner in conjunction with a building consent application, and requested details of the proposed specified systems to be installed within that building. This was an excellent initiative and should help to improve how compliance schedules are compiled. The form requested details of each system's performance standards, inspections, maintenance and the responsible reporting person. It also requested plans showing final exits, fire separations, and locations of backflow prevention devices, for example. The form was a good means of getting the required information early in the consent process, prior to issuing the building consent, compliance schedule and code compliance certificate.

Building consent issuing

Section 51 of the Building Act 2004 requires councils to issue building consents with certain information included. The building consents reviewed were generally issued in accordance with this, but the specified systems were often listed generically and their performance standards listed as related clauses of the Building Code. If a compliance schedule is required as a result of building work, then the building consent must state what the specified systems are, and the performance standards the specified systems are designed to (eg, the relevant New Zealand or international standard, where applicable, and the date of that standard). The Council also neglected to identify that a compliance schedule was required for some buildings. This is a requirement of section 51 of the Building Act 2004 and is detailed on Form 5 of the Building (Forms) Regulations 2004.

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

Inspections of building work

Historically, a *'Field Inspection notice'* was used to record handwritten inspection notes, observations and provided a tick-box list of items deemed to be compliant or non-compliant. However, the notice did not specifically include information on how compliance of specified systems had been achieved during construction. The Department noted that some inspecting officers identified on-site issues with specified systems and recorded that a further inspection and/or action was required in order to reassess the non-compliance.

The current inspection notice did not differ greatly from the Council's previous version. The current form provided adequate prompts for specified systems but relied on the individual inspector's note-taking skills. The Council had implemented a final check-sheet to assist in picking up third party verification of specified systems. The check-sheet is to be completed by the inspecting officer before the issue of the code compliance certificate, confirming that all the specified systems' information was relevant and on file.

The building consent records provided evidence that producer statements, commissioning documents and the like were received for specified systems before the code compliance certificate was issued. However, specified systems were installed in buildings and not recorded in the final inspection notes and therefore not included in the compliance schedule issued with the code compliance certificate.

The Department also found that specified systems incorporated in the building works were not consistently included on Form 6 (Application for code compliance certificate).

Form 7 (code compliance certificate) often did not comply with the form prescribed by the Building (Forms) Regulations 2004, as it did not state that the specified systems in the building were capable of performing to the performance standards set out in the building consent. The compliance schedule was often not issued or attached to the code compliance certificate as required by the Regulations.

Certificates for public use

The Council was generally appropriately issuing certificates for public use for buildings occupied and used by the public before the issue of the code compliance certificate. However, the Department also found instances where the Council allowed buildings to operate for a considerable time without a certificate for public use when one was required.

It was noted that the Council's certificates for public use did not have expiry dates. Certificates for public use should include an expiry date, so there is a clear indication of when a code compliance certificate is likely to be applied for and issued (or an extension sought). Where buildings require a certificate for public use for a long period of time, it should include a requirement for the owner to inspect and maintain the specified systems within the building for that period.

It was unclear how the Council was satisfied the specified systems were operational and ensured the safety of occupants.

Compliance schedule statements

Compliance schedule statements reviewed were generally in accordance with the requirements of the Building Act 2004 and were formatted in line with the Building (Forms) Regulations 2004.

Compliance schedules

On one occasion the Council issued a compliance schedule (and compliance schedule statement) before the issue of the code compliance certificate. This was inconsistent with section 102 of the Building Act 2004, which states that a building consent authority must issue a compliance schedule with a code compliance certificate if a compliance schedule, or an amended compliance schedule, is required as a result of building work. The Department found no other cases where this had happened and the Council advised it now monitors its issuing activities to ensure it doesn't happen again.

Some of the reviewed compliance schedules, issued during 2006-2008, numbered the specified systems according to the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005. The notable differences between older compliance schedules and those issued recently were as follows.

- A prefix 'SS' and number '1-16/2' were now used to identify each specified system, whereas previously the specified systems were provided with a description and an appendix attachment (listed alphabetically from a-q). These attachments were generic in content and did not always relate to the systems installed on site. Although not mandatory, the Council had elected to use the prefix 'SS', as in the Department's publication *Compliance Schedule Handbook*.
- The current compliance schedule format provided greater detail about each specified system, for example the type of automatic fire alarm/early warning system is now identified, type 2, type 4 and so on. For consistency it is suggested the prefix used should be adopted for all forms that identify specified systems.
- Council were now referring to the year a standard had been issued under the header '*performance standard*'. This is an important note as independent qualified persons or licensed building practitioners can now identify the applicable year and design standard the systems have been designed and installed to.
- The compliance schedules issued at the time of the review were more site-specific and did not rely on generic attachments for system's descriptions, maintenance and reporting requirements. But some case studies showed that specified systems were being missed out or not acknowledged as specified systems, such as carbon monoxide gas detection.

Conclusion

The cases studies undertaken by the Department highlighted some deficiencies and areas that required improvement. However, the Council has undertaken work to strengthen its compliance schedule system after the building work in these case studies was completed and signed off. Despite this work, further improvements could still be made as recommended below.

Recommendation 1	
The Department recommended that the Council:	Response from the Council:
Update the application form for building consent/PIM (Form 2) to record all specified systems.	At 28 July 2009 the Council advised it is undertaking a review which would include these recommendations. It expects to complete this by the end of August 2009.
Develop a separate form for certificates of acceptance, in compliance with the Building (Forms) Regulations 2004.	
Ensure the building consent (Form 5) complies with section 51 of the Building Act 2004.	

<p>Ensure the code compliance certificate (Form 7) acknowledges that a compliance schedule is attached, when relevant.</p>	
<p>Ensure the consent applicant or their agent provides a proposed inspection and maintenance procedure for each specified system with the building consent application. The Council's recently implemented form will assist in achieving this.</p>	<p>The Council advised that since November 2008 it has implemented procedures to resolve these issues. An internal audit will be undertaken to confirm ongoing compliance and the Council expects to complete this by the end of August 2009.</p>
<p>Review the processing check-list to ensure it covers the items highlighted under the 'Building consent processing' section of this report.</p>	<p>At 28 July 2009 the Council advised it has commenced work on this recommendation and expects to complete this by the end of August 2009.</p>
<p>Ensure a compliance schedule is not issued before the code compliance certificate to meet the requirements of section 102 of the Building Act 2004.</p>	<p>The Council advised it undertook an internal audit in June 2009 which confirmed this procedure was functioning correctly. Another internal audit is planned to be completed by the end of August 2009.</p>
<p>Adopt a consistent prefix for the specified systems across all documents.</p>	<p>The Council advised that since November 2008 it has implemented this recommendation for new applications and the older documents will be corrected over time.</p>
<p>Ensure all compliance schedules contain site-specific information on what the specified systems are, and their particular inspection and maintenance requirements.</p>	
<p>Include with the building consent details of the documentation to be provided in relation to certification for specified systems during construction, before the code compliance certificate is issued. Such documentation would include commissioning results, test reports and third party certification from mutually agreed parties.</p>	<p>At 28 July 2009 the Council advised it has commenced work on these recommendations and expects to complete this by the end of August 2009.</p>
<p>Place conditions on certificates for public use in relation to an expiry date and the requirement for the owner to inspect and maintain the specified systems within the building.</p>	<p>The Council advised that since November 2008 it has implemented this recommendation. An internal audit will be undertaken to ensure continued compliance and the Council expects to complete this by the end of August 2009.</p>
<p>Ensure applicants/designers consistently supply details in plan form showing means of escape, signage, passive fire protection, backflow prevention or other systems that may not be readily identifiable on-site. Such plans should be</p>	<p>The Council advised it will undertake a review of its public information, check-sheets and the procedure for requesting 'as built' plans for inclusion with the compliance schedule. The Council expects to complete this by the end of</p>

attached to the issued compliance schedule.	August 2009.
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4.5 Building Act requirements – amending a compliance schedule

Purpose

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

Background

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

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

Findings

Limited public information was available concerning amendments to compliance schedules.

The Council's application form for amendments to compliance schedules was consistent with the Building (Forms) Regulations 2004.

The Department found evidence that the Council was amending compliance schedules as a result of building consent applications; Council building warrant of fitness inspections; or by requests from independent qualified persons. These amendments were found to be undertaken in accordance with the requirements of sections 106-109 of the Building Act 2004.

The Council had retained items such as safety barriers, handheld hose reels, means of access and facilities for use by disabled persons and so on, on their compliance schedules. Such items can be retained on the compliance schedule, but they should not be referred to as specified systems, as they are not identified as such under the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

Conclusion

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

Recommendation 2	
The Department recommended that the Council:	Response from the Council:
Review public information to include specific information on amending a compliance schedule.	The Council advised it will address this as part of the review of public information detailed in Recommendation 1.
When amending compliance schedules that include items that are not specified systems under the Building Act 2004 (such as, safety barriers, fire hose reels and the like), these should be clearly identified on the compliance schedule as	The Council advised that since November 2008 it has implemented this recommendation for new applications. At 28 July 2009 older applications were being worked through, although this was not viewed by the Council as a priority.

not being specified systems or, alternatively, removed from the compliance schedule.

An internal audit will be undertaken to ensure ongoing compliance and the Council expects to complete this by the end of August 2009.

4.6 Building Act requirements – annual building warrant of fitness

Purpose

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

Background

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

Findings

The Council provided the public with limited information about building warrants of fitness. When issuing compliance schedules and compliance schedule statements to owners/applicants, the Council provided a guidance letter about building warrants of fitness. The Council should similarly make information available to the public before they apply for a building consent.

The Council sent a reminder letter to the owner/agent of a building that had a compliance schedule one month before the building warrant of fitness was due to expire. If necessary, a second reminder letter was sent once the building warrant of fitness was overdue. The Council's process was well-structured and accurately documented. Administration staff checked all information on the building warrant of fitness (Form 12) and in particular ensured that the independent qualified person (IQP) was on the Far North regional IQP register and was practising in their practice field. If this was satisfactorily verified, the building warrant of fitness was accepted by the Council.

The Council had a robust and well-defined process for undertaking building warrant of fitness inspections. The process covered all aspects of the inspection process from the inspector's arrival on site, to presenting warrants of appointment, through to issuing a notice to fix for non-compliance if necessary.

Council officers were not authorised and warranted under section 229 of the Building Act 2004 to issue infringement notices. At the time of the review the Council had not adopted a policy for infringement notices.

The Council had two dedicated compliance officers who carried out regular building warrant of fitness inspections. There were three risk categories (high, medium and low) – high was inspected annually, medium biennially, and low triennially. Any application for an amendment to a compliance schedule, or an application for a building consent for a building that already had a compliance schedule, or failure to provide a building warrant of fitness following a second reminder, would trigger a Council on-site inspection.

The Department accompanied Council compliance officers on several building warrant of fitness inspections and the officers generally followed the Council's documented process. Building owners were generally aware of their obligations under the Building Act 2004.

One part of the inspection process that could be strengthened was for Council inspectors to consistently check if compliance schedules were kept on site if the building warrant of fitness indicated this was the case. The Department noted instances where compliance schedules were

being kept off-site, despite the building warrant of fitness or compliance schedule statement stating otherwise.

During the review, the Council identified a building that it considered was dangerous, in terms of Section 121 of the Building Act 2004. The Council considered advice from the New Zealand Fire Service and undertook an inspection of the property with fire service personnel. The Council initiated the appropriate process under Section 124 of the Building Act 2004. Though not directly related to the subject matters within this technical review's terms of reference, the Department considered that the Council undertook the appropriate action.

Conclusion

The Council had an appropriate procedure for receiving, assessing, accepting, and inspecting building warrants of fitness. The Council had prioritised this area of regulatory control and had a high-level system in place to deal with building warrant of fitness inspections. However, this system could still be strengthened by implementing the recommendations made below.

Recommendation 3	
The Department recommended that the Council:	Response from the Council:
Ensure the building owner has a copy of the compliance schedule on site when this is stated on the building warrant of fitness or compliance schedule statement.	At 28 July 2009 the Council advised it will undertake a review of the Building Warrant of Fitness Audit Field Advice Notice to ensure this recommendation was included. The Council also planned to establish peer review procedures to ensure good quality recording of the audits and identify any training needs for compliance officers.
Fully performs its role under section 12(2)(h) of the Act to enforce the provisions relating to annual building warrants of fitness.	At 28 July 2009 the Council advised it will identify training needs of compliance officers and review the policy for escalation. The Council expects to complete this by the end of August 2009.
Implement the following best practice suggestions: <ul style="list-style-type: none"> - enhance existing public information to include owner inspection responsibilities and ensure this information is supplied to the public when requested - adopt a policy on infringement notices. 	The Council advised it will address this in the review of public information in Recommendation 1. At 28 July 2009 the Council advised it has commenced work on the establishment of a policy on infringement notices and expects to complete this by the end of September 2009.

4.7 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 considers 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 servicing them. Requirements on territorial authorities and building consent authorities are also included in the Act. In summary, household units with cable cars or serviced by cable cars require a compliance schedule. The owner must also ensure continued effective operation of the cable car and display a current building warrant of fitness in their building.

Findings

The Council advised that it believed there were two cable cars attached to residential dwellings in their district. The cable cars did not have compliance schedules at the time of the review.

There was no formal process to identify existing private cable cars. Cable cars were included on the Council's commercial processing check-list and on its compliance schedule/specified systems form. However, cable cars were not covered in the list of specified systems on the Council's building consent application form.

Conclusion

The Council needed to strengthen its system around cable cars in their district.

Recommendation 4	
The Department recommended that the Council:	Response from the Council:
Complete the review of policies and procedures to ensure cable cars, including those associated with household units, are issued compliance schedules.	At 28 July 2009 the Council advised it has identified two cable cars in the region and was assessing relevant standards to form part of the policy to manage. The Council expects to complete this by the end of October 2009.
Amend forms to reflect cable cars as a specified system.	At 28 July 2009 the Council advised it is undertaking a review and will include this recommendation. The Council expects to complete this by the end of August 2009.

4.8 Independent qualified person register

Purpose

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

Background

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

Findings

Whangarei District Council maintained and administered the Independent Qualified Persons register for the Far North regional cluster group. The cluster group consisted of the Whangarei, Far North, and Kaipara District Councils. This register was updated annually.

The Council also had a computer system that captured all independent qualified persons and their specialist fields. If an issue arose involving an independent qualified person, it was recorded on the independent qualified person's file. The Council had a policy that if there were three substantiated complaints against any independent qualified person, they would be struck off the regional register.

The Council had a policy in place for assessing independent qualified persons' competency and making decisions about whether to accept them on the register.

It was not clear if an independent qualified person accredited under an International Accreditation New Zealand-type competency accreditation system, would be assessed in the same manner as any other applicant. Such accreditation should be sufficient for the person to be accepted on the regional register for the relevant specified systems.

Conclusion

The Council's independent qualified persons system was appropriate but could be improved by implementing the following recommendations.

Recommendation 5	
The Department recommended that the Council:	Response from the Council:
Make a formal agreement with member councils in the regional group around the process used to assess IQPs and the use of the regional register.	The Council advised that since receiving the initial report in June 2009 it has met with its cluster group colleagues and there is a commitment from all for a better documented arrangement and processes. It was likely this would reflect the arrangements proposed by the Department for the national scheme, although this would be subject to agreement and consultation. The member councils expect to complete this by the end of August 2009.
Have an agreed formal process with all member Councils on how to deal with non-compliant IQP practices and how this is communicated.	

4.9 Human resources

Purpose

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

Background

Although current activity in the building sector is well down on the activity levels of two or three years ago, the Council needs to be prepared for the inevitable recovery and the 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 employed 46 building control staff, both technical and administrative, including its Building Compliance Manager. There was a dedicated commercial processing and inspection team of seven staff that primarily dealt with buildings containing specified systems. Within this team there were two compliance officers. Part of their role was to undertake building warrants of fitness inspections on a daily basis.

The Council had developed a good understanding of the district's building stock, particularly those that contained specified systems. Having dedicated staff in the field appeared to have improved the general understanding and awareness of building owners about compliance schedules and building warrants of fitness.

The identification and assessment of specified systems was carried out by the commercial team's processing and inspecting officers. There were also three administration staff members. Part of their role was to deal with compliance schedules, compliance schedule statements and building warrants of fitness.

The Council only used the services of external consultants or contractors when processing and inspecting certain types of specified systems were beyond the competency of Council staff.

The Department considered that the Council had adequate staff to cover the volume of compliance schedules and building warrants of fitness they dealt with. However, it was not clear who would assess cable cars, as no policy was yet in place. This issue should be resolved.

Conclusion

The Council was currently meeting statutory time frames under the Building Act 2004. The Council had made compliance schedules and building warrant of fitness regulatory matters a high priority, which had improved its knowledge of the district's building stock and public awareness of building warrants of fitness issues.

Recommendation 6	
The Department recommended that the Council:	Response from the Council:
<p>Clarify who will assess and inspect cable cars, particularly as the Council believe this specified system is present in their district.</p>	<p>At 28 July 2009 the Council advised it has identified two cable cars in the region and was assessing relevant standards to form part of the policy to manage them. The Council expects to complete this by the end of October 2009. In the interim, while the policy was being established, the team leader of the commercial team has taken responsibility for coordinating matters relating to cable cars.</p>

4.10 Technical knowledge and ability of staff

Purpose

To examine the technical knowledge and capabilities of building control staff and the provisions that have been made for staff training and up-skilling.

Background

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

Findings

The Council had a competency assessment process that covered building consent authority functions, but this did not refer to specified systems, compliance schedules or compliance schedule statements. Building warrants of fitness and other related matters were also not included.

During the 12 months preceding the review visit, three staff attended training related to compliance schedules and fire compliance documents.

The Council used the services of external consultants or contractors when processing and inspecting certain types of specified systems which were beyond the competency level of Council staff.

In-house peer reviews of building consent processing were carried out and recorded. The Department noted there were no records showing how specified systems or compliance schedules had been considered. Those specified systems not commonly encountered, for example carbon monoxide gas detection, were often overlooked by Council staff. It was not known how such devices were commissioned, inspected, tested, monitored and reported upon.

Recently the Council had placed greater emphasis on compliance schedules and building warrant of fitness regulatory functions. This focus was evident in their policies, procedures and general performance of these functions. This emphasis means staff have a good level of awareness around compliance schedule and building warrant of fitness regulatory matters. However, further training around specified systems would be useful.

Conclusion

The Council's staff had a generally adequate understanding of building warrants of fitness and compliance schedules. But these technical skills needed to be better integrated into the competency assessment system.

Recommendation 7	
The Department recommended that the Council:	Response from the Council:
Review the competency assessment process to include specified systems and other compliance schedule and building warrant of fitness matters.	At 28 July 2008 the Council advised it was in the process of reviewing competency assessments for all technical staff and will include this recommendation.

Continue to up-skill staff through training on specified systems, building warrants of fitness and compliance schedules.	The Council advised that the training needs of staff would arise from the review of the competency assessments.
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4.11 Access to and storage of compliance schedule and building warrant of fitness documentation

Purpose

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

Background

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

Findings

Hard copy files of all compliance schedules and building warrant of fitness documentation were kept separately from the building consent files. The documentation was easily retrieved and corresponded with the building consent number(s) and the property files. The information was also available electronically.

Public access to the compliance schedule and building warrant of fitness records was via the customer services counter in the main Council building.

Conclusion

The Council had good systems for document control, access and storage, and as a consequence were complying with sections 216 and 217 of the Building Act 2004.

5 Feedback from the Council

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

The Council's feedback has been included throughout the report. Additionally, the Council advised that it felt the review and audit was a positive exercise, although the delay between the review being undertaken and the report being received had created concern and anxiety for some staff members. The delay has also meant a number of recommended improvements have already been identified and implemented by the Council's staff before the report had been received, and this has been acknowledged in the report.

The Council also took the opportunity to respond to the comment in the key findings concerning capacity and capability. Although the economic downturn has been a factor in affecting workloads for all BCAs, the Council believes it would be wrong to assume this was the sole reason statutory timeframes were now being consistently achieved.

Following BCA accreditation in July 2008, the Council's managers and staff had worked hard to implement and improve procedures and make meeting statutory timeframes a priority. The Council advised that it had been meeting its statutory timeframes before the economic downturn took effect and has continued to do so. It is important to recognise the efforts made by Council staff in this regard.

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