



codewords

Building consent authority accreditation – latest news

One of the regulatory initiatives introduced by the Building Act 2004 is an accreditation and registration scheme for regulatory building control providers (city, district and regional councils). The Act requires these councils to be registered as building consent authorities by 30 November 2007. To be successfully registered, applicants must first be accredited against a set of accreditation standards. These are prescribed in the Building (Accreditation of Building Consent Authorities) Regulations 2006.

The accreditation and registration scheme is intended to strengthen New Zealand's regulatory building control system at the critical building consent, inspection and approval stages of the building process. It will ensure those who are responsible for checking that our buildings are being built in compliance with the law have the capacity and capability to perform their regulatory functions successfully.

More information about the scheme is available from the Department's website, www.dbh.govt.nz, or call the project team on 0800 242 243.

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ACCREDITATION FEES

The building industry was recently consulted on proposals to set building consent authority accreditation fees. Several suggestions from this consultation will be considered for incorporation in final policy advice. Examples include:

- basing fees payable by territorial authorities on the average total value of buildings consented within the previous three financial years (rather than one year) and excluding 'one-off' high value buildings (such as a building that exceeds the total value of all other building work consented in a financial year) from consideration
- clearly defining what is 'critical' for the purposes of special assessments (once developed, a proposed definition will be tested with sector representatives).

In January 2007, government departments and Local Government New Zealand were consulted about the draft policy proposals for regulations under the Building Act 2004. The proposals will be updated and submitted to the Minister for Building and Construction and Cabinet. Subject to Cabinet approval, the Department expects the fees regulations to be in place by March 2007.

BUILDING CONSENT AUTHORITY REGISTRATION AND ADEQUATE MEANS REQUIREMENTS

During early 2007, the Department expects to consult on building consent authority registration standards and criteria, and the Building Act 2004 requirement that private building consent authorities demonstrate 'adequate means' to meet civil liabilities.

The requirement for building consent authorities to be registered is intended to help improve the overall quality of building controls. It will provide assurance about the steps taken to ensure the general suitability and integrity of organisations that act as building consent authorities.

Issues likely to be addressed in the consultation include:

- the different objectives of building consent authority registration, relative to building consent authority accreditation – particularly from a risk-management perspective
- how registration standards and criteria might best be applied to manage risks that are not covered by accreditation standards and criteria
- how building consent authorities might be required to demonstrate compliance with registration standards and criteria
- how the Department might approach the assessment of 'adequate means' for private building consent authorities
- minimum terms and conditions for private building consent authority civil liability insurance.

ACCREDITATION STANDARDS AND CRITERIA REGULATION

The Building (Accreditation of Building Consent Authorities) Regulations 2006 were passed on 18 December 2006, and will come into effect on 1 February 2007. These regulations were developed after consultation with local government, building practitioners and sector organisations.

The regulations set out the standards and criteria that an applicant must meet to be successfully accredited as a building consent authority. The regulations also prescribe the form applicants must use to apply for accreditation.

There are 19 regulations, the most important being that:

- a building consent authority must have documented and appropriate policies, systems and procedures
- a building consent authority must demonstrate how it plans to implement effective policies, procedures and systems. It must record the key decisions it makes, the reasons for them, and the outcome and actions of these decisions.

Applicants will have to meet 11 of the standards and criteria by 30 November 2007. By this date, an applicant must have:

- accredited policies, procedures and systems for performing its building control functions (defined as those statutory functions under the Act)

- accredited systems for:
 - ensuring an adequate number of employees and/or contractors fulfil its building control functions
 - establishing and assessing competence of employees to ensure work is allocated to competent employees or contractors
 - training employees
 - choosing and using contractors
 - identifying and authorising technical leadership
 - ensuring that the necessary technical resources and equipment are available
- accredited and adequate organisational records, including job descriptions and organisational charts
- accredited and adequate systems for filing applications for building consents.

The regulations also require that a building consent authority has systems for:

- quality assurance management, covering its building control functions (required by 1 December 2010)
- ensuring that employees and contractors undertaking technical building control work have appropriate technical qualifications (required by 1 December 2013).

The regulations can be downloaded from the Department's website at www.dbh.govt.nz

ACCREDITATION PREPARATION AND SELF-ASSESSMENT GUIDE

A major step in the process of becoming accredited as a building consent authority is for the applicant organisation to assess its building control operations. To help with this process, the Department is preparing the *Building Consent Authority Accreditation Preparation and Self-assessment Guide*.

The guide will:

- help organisations prepare their policies, processes and procedures for accreditation assessment and ongoing compliance
- help organisations assess how well existing policies, processes and procedures comply with the accreditation requirements
- help organisations establish how well implemented their existing or new systems are
- provide good-practice guidance that may be used (or adapted for use) by building consent authorities to demonstrate compliance with the accreditation standards.

Specifically, the guide will provide applicants with:

- information on the sections of the Building Act that cover the building consent authority scheme

- information on the content of each regulation in the Building (Accreditation of Building Consent Authorities) Regulations
- information on the purpose and context behind each regulation
- guidance and examples to help applicant organisations prepare systems and processes for accreditation assessment
- a list of questions to help applicants demonstrate how they comply with each regulation
- information on the building consent authority accreditation process
- a self-assessment checklist for building consent authorities.

The guide provides a good-practice framework for building control in New Zealand. It will be an important tool for applicant building consent authorities to evaluate their organisational strengths and limitations, and prepare for successful accreditation as soon as possible.

The guide is expected to be released in late February 2007 and will be available soon after the regulations come into force. The Department will distribute copies of the guide to territorial and regional authorities and other sector stakeholders. Copies will also be freely available to download from the Department's website, www.dbh.govt.nz

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FINANCIAL ASSISTANCE PACKAGE

In order for an organisation to be accredited as a building consent authority, two things need to happen. The organisation must be:

- accredited by the building consent accreditation body, International Accreditation New Zealand (IANZ)
- formally registered as a building consent authority by the Department.

To help councils prepare for accreditation, the Minister for Building and Construction announced a building consent authority accreditation preparation assistance programme of \$3 million over three years, to be funded from the building levy.

\$2.3 million will be available in the 2006/07 financial year to support the preparation and application process, and provide opportunities for territorial and regional authorities to enhance their capabilities to meet the levels required by the regulations.

Money allocated for the assistance programme cannot be spent on the actual accreditation assessment fees.

CONSULTATION

In October 2006, the Department released a consultation document, *Proposals to set Building Consent Authority Accreditation Fees and for Assistance with Accreditation*. 52 submissions were received, from local authorities and cluster groups, plus businesses and sector organisations, including Local Government New Zealand, the Registered Master Builders Federation, and the Plumbers, Gasfitters and Drainlayers Board.

The Consultation identified that local authorities want help in the following main areas:

- Direct assistance for clusters, including project management, expert advisers, development of shared service arrangements and web resources
- Staff competency and assessment tools
- Training for internal auditors and staff on topics such as accreditation, quality management systems and record-keeping
- Expert support and advice for self-assessments
- Good-practice operating notes and procedures

STEERING GROUP

To help us make decisions about the best way the fund can be used to help local authorities, a steering group has been established.

Chaired by John Kay, General Manager of Building Controls at the Department of Building and Housing, membership comprises:

- Local Government New Zealand
- Society of Local Government Managers
- Building Officials Institute of New Zealand
- Department of Building and Housing representatives
- local authority representatives from:
 - Auckland City Council
 - Central Otago District Council
 - Palmerston North District Council
 - Rodney District Council
 - the formative Building Consent Authority Group.

The steering group will meet regularly over the next few months as the assistance options are agreed and rolled out.

OPTIONS

The assistance package will contain a variety of options for local authorities, depending on their specific needs and state of readiness for accreditation.

The assistance options could include:

- needs assessment in each region
- national training on accreditation and self-assessment
- identifying and developing a network of advisory support
- technical assistance with, for example, project management and competency assessment
- targeted guidance on developing documentation, processes and systems.

TRAINING

The Department plans to run an initial training course in 15 locations from February to April 2007.

This course will:

- explain the building consent authority accreditation standards and criteria, including quality assurance management systems and processes
- provide advice for local authorities on how to monitor and improve accreditation management systems and processes to check for and achieve compliance by self-assessment against the accreditation standards and criteria.

The Department will issue regular updates before starting specific programme delivery in March 2007.

ACCREDITATION ASSESSMENT PILOT SCHEME

The Department is working with International Accreditation New Zealand (IANZ) to carry out pilot accreditation assessments for a sample of territorial authorities around New Zealand. Pilot assessments started in late November 2006 and continue through January and February 2007.

The project has several purposes and objectives.

- Obtain information that will help territorial and regional authorities assess their readiness for accreditation and deal with any identified shortcomings in their preparations in a timely manner.

- Help IANZ assessors trial and fine tune assessment processes in the local authority environment.
- Help develop guidelines for prospective building consent authorities.
- Determine what further support territorial and regional authorities need to help them achieve accreditation.

IANZ and Department staff were able to test the application of standards and criteria in live settings during visits to the pilot participants and can now fine tune the assessment methodology. Pilot participants were very supportive of the project and found the visits useful to familiarise their staff with the accreditation methodology, and identify priority areas.

Several initial observations were made.

- Territorial authorities have derived great value from working collectively to develop documentation to meet the required standards and criteria. However, individual building consent authorities have more work ahead to refine their cluster documentation and make it more specific to their individual organisational needs.
- Implementing the new processes and procedures can be time consuming and involve trialling new systems alongside old ones.
- New processes and procedures will need to be fully implemented by the building consent authority before they can be assessed by IANZ.

- Building consent authorities should apply for accreditation early in 2007.
- Building consent authorities should use competency assessments to determine the scope of work for their staff.
- Building consent authorities need to develop procedures to deal with consent applications that fall outside the competency scope of the organisation, for example, contracting arrangements with other organisations and specialist technical experts.
- Accreditation assessments will take into account the scope and complexity of work and will review arrangements made with other contractors.

Lessons learnt from the pilot assessment will be shared with the sector. In addition, important areas for support identified from the piloting will be factored into the assistance package project.

New Standard for installing insulation

A new Standard dealing with insulating houses has just been published. NZS 4246:2006 Energy Efficiency – Installing Insulation in Residential Buildings is the first New Zealand Standard on the subject and will help designers, installers and territorial authorities ensure insulation material is correctly installed. The Standard covers work on new houses, as well as retrofitting existing houses.

Scientific tests in New Zealand and overseas have clearly shown that small gaps around insulation can significantly reduce the effectiveness of the material, as the gaps allow air movement that transfers heat. Similarly, compressing insulation to less than its intended thickness reduces its insulation value. Installation is sometimes not given the attention it deserves, perhaps because poor insulation performance is not immediately obvious to the building owner.

Installing insulation in some parts of a house, such as over a ceiling, can be relatively easy. But other locations can be more difficult; such as under floors, where there are pipes and cables to deal with.

The new Standard was developed by a committee that included scientific experts and representatives of the insulation industry with a wide practical knowledge of the subject.

The Standard includes a number of diagrams and photographs, making it a useful on-site resource for tradespeople who may not be familiar with the correct installation techniques.

The Standard is available from Standards New Zealand (www.standards.co.nz).

Consultation on for apartment b

Apartment-living is more popular than ever, and the number of new apartments being built is increasing to meet the demand. The Department is working on several projects related to apartment buildings. These projects will culminate in a proposal to amend the Compliance Documents for Building Code Clauses C Fire Safety, F7 Warning Systems and G4 Ventilation. The proposal will open for public consultation in the near future.

The proposed changes will address two particular issues: Type 5 Alarms and Ventilation.

TYPE 5 FIRE ALARMS

In 2001, the Compliance Document for Clause C introduced Type 5 fire alarm systems as an alternative to Type 4 systems. Type 5 systems permit some alarms to sound independently, allowing people sufficient time to clear the cooking fumes or steam that has activated the alarm in their apartment, but without alerting the whole building and causing a full evacuation.

The proposed amendment to Acceptable Solution C/AS1 will require Type 5 systems to be installed in apartment buildings.

VENTILATION

The proposed change to the Compliance Document for Clause G4 will allow specific natural and mechanical ventilation for household units with only one external wall – a typical situation for apartments.

requirements buildings

SINGLE MEANS OF ESCAPE

The Department originally intended to propose new provisions for apartment buildings having a single means of escape. However, this will now be postponed until the Building Code review is complete. It is expected that the review will result in a more rigorous basis for developing alternative solutions, such as those for buildings with a single means of escape, as well as improving the tools for developing Acceptable Solutions and/or Verification Methods. See *Building Code review – feedback on discussion document* on page 8.

OTHER PROPOSED CHANGES TO CLAUSE C COMPLIANCE DOCUMENTS

The consultation document will include other minor amendments, such as nominating the test procedure for smoke control doors, changing the explanations for situations where a low roof exists, and other miscellaneous clarifications and corrections.

The Department intends to release the consultation document in February 2007.

Update for structural design

The Department is proposing to cite the updated structural design Standard AS/NZS 1170 Structural Design Actions in Verification Method B1/VM1 for Building Code Clause B1 Structure. AS/NZS 1170 would replace the existing Loadings Standard, NZS 4203.

We are seeking your comments by 16 March 2007.

The new Standard better matches current understanding of the New Zealand hazard environment and provides more cost-effective ways to achieve safe buildings. It updates New Zealand structural design criteria. In some parts of the country design load levels will be higher, in others lower.

The new Standard:

- increases load levels for buildings of high importance (such as hospitals), which must continue working after disasters
- increases design load levels for some buildings where people gather
- adjusts earthquake design levels, while keeping the risk to building users the same throughout the country
- revises loadings for wind and snow
- provides new classes of floor loadings, such as dance floors and gyms.

The proposal requires a chartered professional engineer (CPEng) to sign off designs based on the new Standard. In addition, buildings of high importance will need to be peer reviewed by a CPEng. This proposal recognises the skills and experience that only these professionals have.

The Department also proposes to vary some of the provisions of AS/NZS 1170 when it is used as part of Verification Method B1/VM1 to make it compatible with the Building Code. See the Department's website, www.dbh.govt.nz, for full details of these proposals, and the opportunity to give feedback. To request a hard copy of the consultation document, phone 0800 242 243.

Building Code review – feedback on discussion document

The Department has released its synopsis of submissions on the discussion document *Building for the 21st Century: Review of the Building Code*. The synopsis summarises the themes identified by submitters about the future of the Building Code.

The Department wishes to thank all submitters for their input. 265 submissions were received from a range of individuals, community organisations and industry professionals. This invaluable feedback will help ensure the success of the review.

The submissions will guide the direction for a second discussion document, expected to be available for public comment in the first half of 2007. This document will propose detailed performance criteria for the new Building Code.

The entire review is scheduled for completion by November 2007. Code requirements are projected to take effect from 2008.

See the Department's website, www.dbh.govt.nz, for the first discussion document and the summary of submissions. Call 0800 242 243 for a printed copy.

Schedule 1 – work that d

Schedule 1 of the Building Act 2004 sets out the types of building work that do not require a building consent. The principle of Schedule 1 is to exempt work that is low risk and minor, where there is little benefit from having it inspected. However, the work must still comply with the Building Code.

NEW BUILDING WORK

Schedule 1 lists several building projects that do not require a building consent. Some common examples are shown below (this is not the full list).

- A retaining wall, supporting not more than 1.5 m of ground, with no additional load above
- A wall or fence, not more than 2 m high
- A small and temporary tent or marquee
- A low platform (such as a deck), not more than 1 m off the ground
- A temporary storage stack of goods or materials
- A garden shed no closer to the boundary than its own height, and no greater than one storey.

Each of these examples has certain limits and definitions, so DIYers and builders are advised to read Schedule 1 in full and check with their local council before starting work on projects of this kind. Schedule 1 can be found at www.dbh.govt.nz/ba-get-a-copy – click on Building Act 2004 to open the PDF, then scroll down to page 224.

Territorial authorities may grant exemptions if they consider the building work is likely to be carried out according to the Building Code

or, if not, is unlikely to endanger people or buildings.

REPAIR AND MAINTENANCE

Clause (a) of Schedule 1 also allows an exemption for any 'lawful repair and maintenance using comparable materials, or replacement with a comparable component or assembly in the same position'.

This clause allows people to repair and maintain existing building elements (components or systems), using comparable materials, as long as the work is 'lawful', which means it must comply with the Building Code and other legislation.

When interpreting the clause it is helpful to consider why the repair or maintenance is needed. It could be due to normal wear and tear, accidental damage, or a problem with the original work – a failure of some kind. These factors can affect whether the repair is exempt from a consent, as they impact on whether comparable materials can be used.

The failure/damage distinction is particularly important. Damage can be remedied by repair or replacement, often using comparable materials. Failure implies a problem with the element itself or the way it was installed, so the solution is more complex. Simply redoing the work in the original manner with comparable materials may not comply with the Code and therefore would not be 'lawful'.

See *Determination 2006/116* on page 11 for an example of how the repair and maintenance clause can work in practice.

oesn't require a building consent

REPLACING A FAILED ELEMENT

If a product fails to meet its durability requirements – a certain lifespan specified by the Building Code – it cannot be replaced 'like for like'. Accordingly, a building consent is almost always required to carry out the repair. The following example illustrates this point.

Problem: The cladding on a five-year-old house is leaking extensively and the interior framing is rotten. This is the classic 'leaky home' scenario.

Action: The rotten framing, cavity and claddings need to be replaced.

Is a consent required? As the cladding failed before time, the job can't be redone in exactly the same way as before, as it would not comply with the Building Code. Getting a building consent would ensure the repair is done in such a way that the finished work will comply with the Building Code.

Note: The Department is working on an amendment to the Building Act 2004 that will address weathertightness repairs.

If amended, the Act will require a building consent for **any** repair or replacement of a component or assembly that has failed to satisfy the durability provisions of the Building Code.

REPAIRING DAMAGE

A building owner may want to repair or replace components of a structure that has been damaged. As the following example

shows, this type of work is not likely to require a building consent, since comparable materials are usually used.

Problem: A new pergola attached to a house has been damaged. The supporting post is cracked, nearby spouting on the house is broken, and the bargeboard has been ripped down.

Action: The damaged post needs to be replaced with a comparable post, some of the spouting and clips need to be replaced, and the bargeboard needs reinstating.

Is a consent required? Even though this is extensive work, a building consent is not required. This is because the assembly will be restored to its original condition using comparable materials, and the finished work will comply with the Building Code.

REPLACING OLD COMPONENTS

It is common for homeowners to replace components that have deteriorated over time through normal wear and tear. When assessing the scope of the project, it's important to consider that the Building Code may have changed since the original installation was carried out. The homeowner should consult their local council or an experienced tradesperson before proceeding. Some examples are given below.

Problem: An old villa built on totara piles has subsided over time.

Action: Several of the piles need to be replaced.

Is a consent required? Yes, because the piles cannot be replaced 'like for like'. Replacing the villa with comparable materials (totara piles) would not meet current Building Code requirements. The original totara pile foundation was only designed to support a vertical load, whereas the Building Code now requires earthquake and wind loadings to be considered.

Problem: An old low-pressure hot water cylinder performs poorly and leaks.

Action: A registered plumber is called in to replace the cylinder with a new model.

Is a consent required? It depends on the replacement. A building consent is not needed if the new model is a low-pressure cylinder like the original. The work is exempt because the replacement is comparable, and the work will be done by a qualified tradesperson. A building consent should be obtained if the owner chooses a high-pressure system. This is because the new cylinder is substantially different from the original.



Operations group work in progress

THE PUBLICATION PROCESS FOR:

BUILDING CODE CLAUSES

1. Identify need for Clause change

2. Departmental analysis of options for change

3. Prepare proposal for public consultation

4. Public consultation

5. Consider comments received from consultation

6. Prepare Cabinet paper seeking approval of proposed change including consultation with other relevant government departments

7. Prepare drafting instructions for Parliamentary Counsel to draft regulations to make the change

8. Submit draft regulations to Cabinet for approval

9. Regulations made by Governor-General

COMPLIANCE DOCUMENTS

1. Identify need for change to Compliance Document

2. Appoint project manager and/or establish working group

3. Prepare information for public consultation

4. Public consultation

5. Consider comments received from consultation

6. Prepare draft for Chief Executive's approval

7. Publication

Clause B1, Structure, Concrete Standards

Stage: prepare information for public comment

Proposed citation of revised concrete Standard NZS 3101: 2006.

Clause B1, Structure, Loadings Standards

Stage: released for public consultation until 16 March

Proposed citation of new loading Standards (AS/NZS 1170 Parts 0, 1, 2 and 3, and NZS 1170 Part 5).

Clause C, Fire Safety – Type 4 and 5 alarms

Stage: prepare proposal for public consultation

Concerning the design requirements in relation to alarm systems for certain buildings.

Clause C, Fire Safety – Amendment to C/AS1

Stage: analyse public comment

Joint public consultation with Standards New Zealand to reference NZS 4541: 2006 Automatic Fire Sprinkler Systems.

Clause F3, Hazardous Substances and Processes

Stage: prepare draft for Chief Executive's approval

Amendment to Compliance Document to comply with the HSNO Act covering the storage of hazardous liquids and gases in buildings.

Clause F4, Safety from Falling

Stage: prepare draft for Chief Executive's approval

Amendments to Acceptable Solution F4/AS1 for publication including barrier heights.

Clause F6, Lighting for Emergency

Stage: Parliamentary Counsel has received drafting instructions and is preparing Code Clauses

Amendments to the Code Clause and its Compliance Document.

Clause G6, Airborne and Impact Sound

Stage: re-drafting the Code Clause and Compliance Document to align with the Building Code Review project 8-tiered hierarchy format

A complete review of the Code Clause and its Compliance Document.

Proposals contain new methods for measuring sound and new criteria for protection from environmental sound.

Clause G14, Industrial Liquid Waste

Stage: prepare drafting instructions for Parliamentary Counsel to draft regulations to make the change

Amendments to Code Clause and Compliance Document: G14/AS1 and G14/VM1 altered, and a new Verification Method G14/VM2 for Foul Water: On-site disposal.

Clause H1, Energy Efficiency

Stage: prepare draft for Chief Executive's approval

Amendments include referencing AS/NZS 4859.1 for insulation materials.

Clause G1, Personal Hygiene

Clause G4, Ventilation

Clause G9, Electricity

Clause G10, Piped Services

Clause G11, Gas as an Energy Source

Clause G12, Water Supplies

Clause G13, Foul Water

Stage: prepare draft for Chief Executive's approval

Amendments to the above list of Compliance Documents to update publications referenced and amend G1/AS1 for toilet numbers and line of sight provisions.

Clause H1, Energy Efficiency

Stage: analyse public comment

Consultation on improved new house thermal insulation, reduced energy consumption of commercial lighting, and a new Acceptable Solution for Solar Water Heating closed on 22 December.

Determinations issued

DETERMINATION 2006/116

The requirement for a building consent for, and the Code compliance of, the re-cladding and the re-roofing of a house

Background

The application arose from a dispute about whether:

- the re-cladding and re-roofing for a house complied with Clauses B2 Durability and E2 External Moisture of the Building Code
- a building consent was required for this building work.

The territorial authority declined to approve this building work because a building consent had not been obtained, and the territorial authority was not satisfied that the work complied with Clauses B2 and E2 of the Building Code. The homeowner applied for the determination.

The building work related to the re-cladding of the main exterior walls and the main roof, along with associated repair work of an existing two-storey house, whose original cladding and roofing was found to be defective. The wall cladding that had so far been applied to most of the existing timber-framed walls was 12 mm thick, surface-treated 5-plywood sheets, with plastic tongues fitted between the joints, and finished with acrylic paint. This cladding replaced the original EIFS system, which, together with roofing faults, had allowed the moisture leaks that led to the structural damage evident.

The Department commissioned an independent expert to inspect and report on the building work.

The submissions

The applicant submitted that she had complied with Schedule 1 of the Building Act 2004 and had carried out lawful repairs that replaced the original defective materials with comparable components assembled in the same position.

The territorial authority submitted that a building consent was required for the re-cladding work, as the cladding was not comparable to that which had been replaced and, due to high risk factors, a drained and ventilated cavity was also required. The territorial authority felt that, while the matter of a consent was an issue, the Department did not have the jurisdiction to rule on it, under section 177 of the Building Act.

The cladding and roofing

The determination discussed the evaluation framework under which the compliance of the cladding system was to be assessed, and the associated weathertightness risks and performance issues. Based on the expert's report, it was concluded there was no evidence of external moisture entering the building. Therefore, the cladding and roofing complied with Clause E2. However, as a number of items needed to be remedied to ensure the house remained weathertight, the house did not comply with the durability requirements of Clause B2.

It was ruled that the house could be made weathertight – and therefore compliant with Clauses B2 and E2 – if the items outlined in the determination were

rectified to the approval of the territorial authority, including the completion of the cladding, and any other faults that became apparent in the course of the rectification.

The building consent

It was concluded that the question of whether a building consent was required for the re-cladding was not a matter that could be the subject of a determination by the Department. However, some conclusions were provided to help the parties, even though they did not form part of the decision.

The determination discussed section 41(1)(b) of the Act, which states that a building consent is not required for any building work described in Schedule 1 of the Act. The question revolved around the interpretation of 'exempt building work' described in paragraph (a) of Schedule 1.

A comparison was made between the relevant wording in Schedule 1 of the Building Act 2004 and Schedule 3 of the Building Act 1991. It was noted that specific limitations on exempt building work in Schedule 3 had not been included in Schedule 1. Under the Building Act 1991, a building consent would have been required for the re-cladding in this situation, because the original cladding failed to meet its durability requirements under the Building Code. However, Schedule 1, which has no such limitations, exempts a much wider range of building work.

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Determinations issued continued

Applying Schedule 1 hinged on the meaning of the phrase 'using comparable materials, or replacement with a comparable component or assembly in the same position, of any component or assembly incorporated or associated with a building'.

An interpretation of the word 'comparable' developed in Determination 2000/1 was used. This interpretation stated that comparability was achieved when the materials were akin in the sense of being made of similar materials and configuration and their performance in terms of the Building Code was equivalent or as good as the originals. Using this test, it was concluded that the plywood cladding was not a 'similar material' to the original EIFS cladding. Likewise, the assembly of the components (configuration) of the two claddings was not comparable.

Based on the above analysis, it was decided that the re-cladding did not fall within paragraph (a) of Schedule 1 and so a building consent would have been required for this work.

It was decided that a building consent was not required for the re-roofing and other rectification work, including the replacement of defective framing and linings with new and equivalent or better materials.

The decision

It was determined that:

- the cladding did not comply with Clause B2 of the Building Code, confirming the territorial authority's concern about its compliance

- the question of whether a building consent was required for the re-cladding was not a matter that could be subject to a determination by the Department.



DETERMINATION 2006/104

Access for people with disabilities to the Mt Victoria/Matairangi Summit Lookout, Wellington

Background

The Mt Victoria/Matairangi Summit Lookout is to be enlarged as part of a general upgrade to the site. Under Clause D1 of the Building Code, the territorial authority is required to provide a route to the lookout that can be used unaided by someone in a wheelchair.

The upgrade will include two accessible car parks next to the Byrd Memorial. The territorial authority proposes to provide stepped access from the accessible car parks to the lookout – about 74 m. An accessible ramped route would be about four times as long and would involve extensive earthworks. An inclined wheelchair lift from the road to the lookout is estimated to cost \$300,000.

Because of the difficulties in providing access for people with disabilities, the territorial authority requested a waiver of Clauses D1.3.4(a) to (e) inclusive of the Building Code, by way of a determination in accordance with section 69 of the Building Act.

The submissions

The territorial authority made the following points in the application.

- The proposed stepped route, although not useable by people in wheelchairs, would improve access for people with ambulant disabilities.
- The lookout is a significant cultural site to local iwi, so it is important for the development to 'touch the summit lightly'.
- There are other lookouts in the area that are accessible and provide comparable views.

The territorial authority submitted that provision of access to the lookout for people with disabilities as per Clause D1 of the Building Code was unreasonable, taking account of the extensive earthworks required for ramp access and the estimated \$300,000 cost of lift access.

Consultation by the territorial authority showed no support for a wheelchair lift, but a general recognition that accessible ramp access would be difficult, and support for the territorial authority's application for a waiver was evident.

The Office for Disability Issues was consulted in accordance with section 170 of the Act. The Office considered it would be in the public interest that someone in a wheelchair could reach the lookout and see the views on an equal basis with others, but acknowledged countervailing interests to be considered.

The Office did not support a waiver, but would consider supporting ramped access at a steeper than 1:12 gradient, by which a wheelchair user, with the help of another person, could reach the lookout. The Department commissioned an independent expert to report on the proposed access provisions. The expert submitted three main conclusions.

- Providing an accessible route between the car park and the lookout was neither practical nor reasonable and should not be required.
- The route between the car park and the lookout should be made accessible to people with disabilities but who are not in wheelchairs, requiring attention to the appropriate stair and handrail design.
- Any waiver should be confined to Clauses D1.3.4(b), (c), (d), and (e) and apply only to the route between the car park and the lookout.

The determination

The determination set out the requirements of sections 69, 112 and 177 of the Building Act and noted that the territorial authority chose to apply for a waiver, rather than to grant itself a building consent for the proposed work.

It was considered that a building consent authority should make a decision before applying for a determination about that decision. If it had done so in this case, it would have had to consider whether either ramp access or lift access was reasonably practicable in terms of section 112. The Chief Executive's power of waiver under section 69 should be used sparingly and only in cases where there is a clear need to exercise the discretion

that is available to the Chief Executive but not to building consent authorities.

In future, the Chief Executive could decide to refuse an application for a determination on the grounds that it is not genuine, if it is being made so that a building consent authority can avoid its responsibility for making a decision.

It was considered that, in this case, there was no difference between the test for 'reasonableness' (section 69) and 'nearly as is reasonably practicable' (section 112) so the evaluation was made on a 'nearly as is reasonably practicable' basis.



Possible access routes

While a wheelchair lift was clearly the ideal solution, it was concluded that, on the grounds of ongoing cost alone, it would not be reasonable to provide lift access. The cost of upgrading must be considered in relation to the benefit achieved, not in relation to the ability of the owner to meet that cost. It was not accepted that public spending can be justified on the grounds that the cost per ratepayer is small or insignificant. It was considered that it would be unreasonable to require accessible ramped access, which would be some 220 m longer than the stepped access, because:

- the capital cost is approximately the same as for lift access (although with lower maintenance costs)
- accessible ramped access would have a very significant effect on the landscape of the summit, as it is not simply a matter of visual experience but a matter of cultural importance.

In general, it was considered that if an accessibility feature, such as a ramp, was provided, then it should achieve full compliance with the Building Code for use by people with disabilities without help. However, this ramp would be so long as to be difficult for many of those concerned. If it could be shown that a slope of 1:8 was useable and safe for assisted wheelchair users, this could reduce the length of the route by approximately one-third. While this would significantly reduce both the cost and the effect on the landscape, such a cost effect would still be much larger than for the proposed stepped access. Whereas previous accessibility determinations have considered only the benefits for people with disabilities, the view was taken that, as a matter of law, the Chief Executive is not necessarily bound by previous determinations, although there must be good reasons for any such departure. In this case, there appeared to be no such reason, as any increased benefit would not be sufficient to tip the balance in favour of either ramp or lift access.

It was accepted, in regard to cultural significance, that the consultations held by the territorial authority with iwi and other stakeholders were sufficient.

Continued on page 14

The responses included with the application for determination did not support the Office for Disability Issue's comments that inadequate consultation with iwi was carried out. Accordingly, balancing costs against benefits, it was considered that it would not be reasonable to require either lift access or ramped access in this case.

Conclusions

It was concluded that:

- it is reasonable to waive Clauses D1.3.4(a) to (e) inclusive for the access route between the accessible car parks and the lookout
- after the alterations, the lookout with stepped access will comply as nearly as is reasonably practicable with the accessibility requirements
- the stepped access route between the accessible car parks and the lookout must be made fully accessible for people with ambulant disabilities.

The decision

In accordance with sections 69 and 188(1) of the Act, a waiver of Clauses D1.3.4(a) to (e), inclusive of the access route between the accessible car parks and the lookout was granted, provided that the stepped access complied with the requirements of D1/AS1 for accessible stairs.

To read all the Determinations in summary or in full, go to:

www.dbh.govt.nz/determinations

Guide to applying for a building consent

The Department's guidance document *Guide to applying for a building consent (simple, residential buildings)* has just been published. It explains the issues to consider when applying for a building consent, and describes the minimum documentation needed to show compliance with relevant clauses of the Building Code.

Practical and comprehensive, this 44-page booklet gives advice on all aspects of the building consent process, and includes sample drawings of site plans, foundation plans, floor plans, elevations, sections and construction details, plus a design summary check sheet.

The guide will be useful for building consent applicants – designers, builders, project managers and developers – as well as members of the construction industry, such as product manufacturers, subcontractors and technical service providers.

If you want to order copies of this guidance document for your own reference, or to pass on to customers and contacts within your business environment, please contact us on **0800 242 243**.

You can also download the guide from our website

www.dbh.govt.nz/publications

Public consultation on licensed building practitioners scheme

Independent qualified persons (IQPs) carry out ongoing maintenance and inspection of specified systems as part of the building warrant of fitness regime. Common examples of specified systems include sprinkler systems, lifts, hearing loops and ventilation systems. From 31 March 2008, cable cars that service buildings will also become specified systems.

The Building Act 2004 requires IQPs to be licensed building practitioners from 30 November 2009.

The Department will start public consultation early in 2007 on IQP licensing and a work programme to improve operation of the building warrant of fitness regime.

A consultation paper asking for comment and feedback will be circulated to interested people and will also be available on the Department's website

www.dbh.govt.nz

Learning curve



Wellington Institute of Technology
Te Whare Wānanga o Te Aotearoa

Wellington Institute of Technology (WelTec) has been endorsed as the preferred provider of diploma-level education for the building industry by the Department of Building and Housing.

New course available – Diploma in Building Surveying, Level 6

The Diploma in Building Surveying was developed by Wellington City Council and WelTec. It cross-credits with the proposed new NZQA Diploma in Building Controls, and has a mix of distance learning, e-learning and class contact. This programme is aimed at students working in or interested in a building inspection or certification role in the public or private sector. It includes a number of courses.

Office Practice

Develop skills to manage the administrative tasks of building inspection. Covers computing and office administration skills. Available: Feb, Jun and Oct
Fee: \$462
Credit value: 12

Building Control A – Legislation

Develop understanding and knowledge of the law relating to building controls. Available: Feb, Jun and Oct
Fee: \$770
Credit value: 20

Building Control B – Consent Process

Learn to assess documentation and apply for building and land-use approvals. Available: Oct
Fee: \$616
Credit value: 16

Building Control C – Inspections

Learn to assess a building's compliance with approved documentation and legislation. Available: Feb, Jun
Fee: \$616
Credit value: 16

Residential Construction (Non-Specific Design)

Develop knowledge of construction materials, techniques and design principles to evaluate the performance of residential buildings. Available: Feb and Jun
Fee: \$1,155
Credit value: 30

Professional Practice

Integrate technical knowledge and skills with knowledge of the legal and professional environment to negotiate with clients, achieving acceptable outcomes. Available: Jun
Fee: \$1002
Credit value: 26

How to enrol

You can enrol for the full Diploma in Building Surveying programme or for individual modules, or you can elect to enrol for accelerated assessment. Enrolment forms can be downloaded from WelTec's website:

www.weltec.ac.nz/enrolhow.htm

Contact **Vanessa Kooyman**,
Programme Administrator,

vanessa.kooyman@weltec.ac.nz

(04) 920 2819.

BRANZ, CONSTRUCTION INDUSTRY TRAINING ENTERPRISE (CITE)

2007 COURSES

Access, Egress & Barriers

This three-day course is designed to give you the technical skills to inspect and report on Clause D1 Access Routes, Clause C2 Means of Escape, Clause F8 Signs, and F4 Safety from Falling, for Building Warrant of Fitness purposes. This is an ideal course if you want to include these clauses on your current IQP/LBP registration or if you want to become an IQP/LBP.

Dates	Location
16–18 April	Auckland
6–8 June	Wellington

Cost: \$1,540

Building Compliance for IQPs/LBPs

This three-day course will provide knowledge and understanding of the building controls regime for building warrant of fitness purposes. It will also outline the duties and responsibilities of an IQP/LBP and their professional relationship with building owners.

This course will provide evidence to territorial authorities that an applicant requesting LBP/IQP status has the requisite knowledge in building compliance to act competently and professionally as an IQP/LBP.

Dates	Location
7–9 March	Auckland
21–23 May	Christchurch

Cost: \$1,540

Building Controls

This ten-day course is designed to provide those working in building controls, or wanting to go into building controls, with knowledge and understanding of the building controls regime, legislative background, duties, responsibilities and associated processes. This course is very popular with councils who see it as a beneficial and cost effective method for inducting new staff members into the job.

Dates	Location
Week 1: 19–23 February	Auckland
Week 2: 19–23 March	Auckland
Week 1: 14–18 May	Christchurch
Week 2: 18–22 June	Christchurch

Cost: \$3,995

Domestic Sprinkler Design

This two-day course provides the skills necessary to design and oversee the installation and testing of a combination domestic plumbing and fire sprinkler system.

Certificate holders will be qualified to design combination domestic plumbing and fire sprinkler systems. They will be able to provide building consent authorities with producer statements for the design and installation of domestic fire sprinkler systems for building consents and code compliance certificates.

Certificate holders will be listed on the BRANZ website for homeowners considering installing a combination domestic sprinkler system.

Dates	Location
14 & 15 March	Wellington
18 & 19 April	Christchurch

Cost: \$1,100

Fire Design

NZQA approved course

This eight-day course will provide students with the skills necessary to develop a fire design solution for any building that will comply with the Acceptable Solution for NZBC Clauses C1, C2, C3 and C4. It will also provide guidance on the limits of the Acceptable Solutions and enable the designer to seek advice from a fire engineer when an alternative solution might provide a more economic or practical solution.

Dates	Location
Week 1: 20–23 February	Wellington
Week 2: 20–23 March	Wellington

Cost: \$3,945

Learning curve *continued*

Weathertight Design

Accredited by the New Zealand Registered Architects Board for 90 CPD points

This eight-day course will provide students with the skills necessary to design and/or assess alternative solutions for weathertightness that comply with the NZ Building Code performance requirements for E2 External moisture. It will cover the theory behind the solutions and how this may be applied to real building situations. Students will tackle real problems and be given 'hands on' instruction on whole or parts of buildings in order to design or assess weathertight and buildable details in a way that is sympathetic with the aesthetic intent of a building design. Those qualifying will meet the requirements of a 'weathertightness specialist' as required for specific weathertightness design.

Dates	Location
Week 1: 26–28 February	Christchurch
Week 2: 26–30 March	Christchurch
Week 1: 7–9 May	Auckland
Week 2: 11–15 June	Auckland

Cost: \$3,945

Further information

For further information please visit our website

🌐 www.branz.co.nz (CITE Industry Training)

✉ branzcite@branz.co.nz

Natasha Breen

(CITE Administration Officer)

☎ (04) 238 1291

SCHEDULE OF TRAINING SEMINARS – 2007

"The Accessible Journey"

Accessibility for all New Zealanders

Seminar type	Location	Dates
2-day Seminar	Tauranga	15–16 March
2-day seminar	Wellington	30 April–1 May
Refresher	Wellington	2 May
Refresher	Christchurch	23 May
2-day seminar	Christchurch	24–25 May
2-day seminar	Auckland	25–26 June
Refresher	Auckland	27 June
2-day seminar	Wanganui	19–20 July
2-day seminar	Nelson	13–14 Sept.
2-day seminar	Manukau City	19–20 Nov.

Cost of two and one day seminars:
Includes copy of Barrier Free NZ Trust Resource Handbook for Barrier Free Environments.

Seminar Type	Cost (excl) GST	Cost (incl) GST
2-day course	\$444.44	\$500
Specialist 1-or 2-day course	Rate negotiable with any interested organisation, company, territorial authority	
1-day refresher course	\$226	\$254

Refresher Courses: Three one day refresher courses will be held this year. Only BFAs and those who have attended a two day seminar will be eligible to register. These one day courses are updates on legislation and case studies.

Minimum Numbers: All Barrier Free Trust events require minimum numbers of attendees to be registered for a given location, 14 days prior to the event. If minimum numbers are not reached by this date a general email will be sent to all on our data base giving notice of possible cancellation. If minimum numbers are still not reached after one week and the event is cancelled potential attendees will be advised of this and options available at alternative locations or alternative arrangement will be made.

Enquiries to:

Administrator – Barrier Free New Zealand Trust,
PO Box 25064,
Panama Street, Wellington

☎ 04 915 5848 or 027 240 7502

Fax: 04 915 5849

✉ seminar@barrierfreenz.org.nz

🌐 www.barrierfreenz.org.nz



**Barrier Free
NEW ZEALAND
TRUST**

Important changes to BIA website

The content previously available on the Building Industry Authority website (www.bia.govt.nz) is now located within the Department of Building and Housing website:

🌐 www.dbh.govt.nz

Legality of Department of Building and Housing interpretations

Only the courts can issue binding interpretations of the Building Act 1991 and Building Act 2004 and Regulations. Indications and guidelines issued by the Department of Building and Housing, either in *Codewords* or other communications, are provided with the intention of helping people to understand the legislation. They are, however, offered on a 'no-liability' basis and, in any particular case, those concerned should consult their own legal advisers.

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