



# codewords

## Canterbury recovery programme

This issue is a little late off the press due to the Department's desire to let you know about the work ahead in Christchurch and outer-lying areas as the focus moves from the assessment of homes and buildings to repairing and rebuilding them.

Our thoughts are with all Cantabrians in the months ahead. If the spirit of the people of Christchurch we've witnessed recently is anything to go by, then the rebuild will be one of solidarity too.

Much of the Department's effort is shifting from on the ground efforts to working with others to plan and contribute to the recovery programme.

Emergency legislation has been passed which allows Ministers to speed up the recovery process including:

- expanding the scope of building work able to be done without a consent, enabling simple repairs to be undertaken immediately
- increasing powers of entry into affected buildings enabling us to learn more about building structure and stability under earthquake conditions
- streamlining the dangerous building provisions in the Building Act 2004.

The Department is working closely with affected councils and agencies on all of the above. Other work in the pipeline includes further streamlining for Canterbury Licensed Building Practitioners to support the recovery effort without compromising quality.

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# Major changes arise from Building Act R

The Government is planning to make a number of changes to the laws governing building, as a result of the year-long review of the Building Act 2004.

The changes include new contracting and information disclosure requirements for residential building work, more exemptions from the need for a building consent, and future changes to the consenting system.

The Minister for Building and Construction Maurice Williamson says the planned changes set the scene for an efficient and productive sector that stands behind the quality of its work.

The changes form part of the Government's better building blueprint and sit alongside other initiatives to drive improvements in building quality, including the licensing of building practitioners and improved education about Building Code requirements and how to meet them.

The Department would like to acknowledge the Sector Reference Group for its input and advice.

Further information about the key changes can be found in the following articles, and on our website at [www.dbh.govt.nz/buildingactreview](http://www.dbh.govt.nz/buildingactreview)

## **New contract requirements for residential building work**

Building contractors who are building new houses or doing major renovations or other projects in the residential sector will have to be ready to meet new contracting requirements from late next year.

'There are many good people doing good work in the sector, but the behaviour of some, and the weathertightness crisis, has dented confidence,' says Mr Williamson.

He says the planned changes to contracting requirements and supporting information are aimed at rebuilding confidence, by making it clearer to all parties what is expected and how any problems will be fixed. Under the new rules, it will become a legal requirement for building contractors to have a written contract in place with their clients for all residential projects over \$20,000.

The building contractor could be an individual or a company, and the contract requirement will apply to work to construct, alter, repair, demolish or remove a building.

Every contract will have to include the already-existing warranties in the Building Act that require building work to be fit for purpose, meet the Building Code and be undertaken with reasonable care and skill (among other requirements).

The building contractor will be expected to fix any defects in their work that are reported within 12 months of completion, on top of the existing obligation to 'put things right' for up to 10 years (provided there has not been misuse or negligent damage by the consumer). At the same time, consumers will get more information about what maintenance they need to carry out and the importance of reporting any defects as quickly as possible.

New information disclosure provisions will also make it easier for consumers to make informed decisions about who they contract to carry out their building work.

The building contractor will have to give the consumer information before the contract is signed about the skills, qualifications and licence status of those who will do the work and any publicly available information about any disputes (for example the results of any court judgments). They will also have to disclose what, if any, surety or insurance backing they have, to cover the cost of fixing any faults.

Mr Williamson says these requirements are not that different from what many responsible contractors already do.

'Both the Certified Builders Association and the Registered Master Builders Federation have standard contracts and offer forms of surety for their members.'

'I would expect to see these changes resulting in any faults being fixed faster, and fewer disputes ending up in court.'

## **Changes to building consent process on horizon**

The Government is signalling that it wants to make changes to the building consent system once other measures to provide more quality assurance are in place.

It plans to introduce a 'stepped' risk-based approach, where the amount of checking and inspection is directly aligned to the risk and complexity of the work and the skills and capability of the people doing the work.

# view

'We can only do this once we can have confidence quality is being built in,' says Mr Williamson.

This planned approach is more conservative than the suggestions consulted on during the Building Act review.

The first step would be a streamlined process for some low-risk work (such as a free-standing garage or large rural shed) that simply checks that certain conditions are met (for example the work is undertaken by a licensed building practitioner).

The next step would see a simplified and more prescribed consenting process for certain simple residential building work at the lower-risk end of the spectrum (such as a simple single-storey house built using proven methods and design with low structural and weathertightness risks). Existing consent and inspection requirements would continue for other residential work.

As part of this new risk-based approach, change is also on the cards for consenting for commercial buildings.

This would provide for reliance on third-party (non-building consent authority) review and quality assurance processes as an alternative to the current consenting and inspection requirements, provided certain conditions are met.

Mr Williamson says this new approach would reduce compliance costs by doing away with unnecessary checking and inspection, and would also provide incentives for builders and designers to get licensed and demonstrate their professionalism.

However he says the Government is not prepared to compromise building quality and wants to see some pre-conditions in place before changing the consent system in this way.

In practice this means these changes will only come into effect once there is a strong base of licensed building practitioners, who show they understand the performance requirements of the Building Code and how to comply with them (mid-2012 at the earliest). It will also depend on new contracting arrangements for residential work being in place, and the results of monitoring of building quality.

Longer term, the Government is also looking at how it could make the building consent system more nationally consistent and efficient. This could be achieved through nationally consistent back office support and IT systems, in support of efficient local delivery.

An initial assessment found there was scope for significant efficiency gains. The Government now wants to develop a detailed, fully costed plan for how this might be achieved. Local government will be involved and the Government will receive a report by the end of March next year.

## MORE WORK EXEMPT

The Government is moving to exempt a broader range of building work from needing a building consent by adding to Schedule 1 of the Building Act.

The exact date depends on regulations being passed, but this is expected to happen later this year.

All exempt work must still meet the Building Code and other relevant regulations, such as the provisions of the Plumbers, Gasfitters and Drainlayers Act 2006 and the Electricity Act 2002, and district plan requirements.

The planned exemptions include:

- replacement or alteration of internal wall and floor linings and finishes in a dwelling. This clarifies that linings are exempt but not the entire wall
- adding lightweight stalls (eg, used at fairs and exhibitions) to the current exemption for tents and marquees
- fabric shade sails and associated structural supports that do not exceed 50 square metres in area (with limitations on matters such as the level on which the sails are installed and distance from a legal boundary)
- installation, replacement or alteration of thermal insulation in existing buildings (excluding exterior walls and fire walls). This clarifies that retrofitting ceiling and underfloor insulation will not need a consent

*Continued on page 4*

- penetrations with a maximum diameter of 300 mm (including associated weatherproofing, fireproofing and any other finishings) to enable the passage of pipes, cables, ducts, wires, hoses and the like through any existing building. This clarifies that for example a heat pump can be installed without needing a consent, although the wiring must be done by a registered electrician
- signs and associated structural supports where the sign is no more than 3 metres high and the face area of the sign does not exceed 6 square metres
- height restriction gantries (eg, a vehicle height warning in a car park)
- private playground equipment used in association with a single household where no part of the equipment extends more than 3 metres above the ground.

Exempt if carried out in accordance with the Plumbers, Gasfitters and Drainlayers Act 2006:

- replacement (including repositioning) of water heaters, except for systems that are not open-vented, have an uncontrolled heat source or a controlled heat source other than gas or electricity.

Exempt if carried out or designed by a Chartered Professional Engineer (CPEng):

- signs and plinths
- retaining walls in a rural zone that retain not more than 3 metres depth of ground with limitations on matters such as the distance from any legal boundary or any existing building
- playground equipment installed in a public place for a government department, Crown entity (including a school), licensed early childhood centre or a local authority.

In addition, Schedule 1 will be amended to clarify the following existing exemptions.

- Additions to clarify that the current exemption relating to internal walls does not include load-bearing or bracing element walls (ie, as originally approved by Cabinet in May 2008) or any part of a wall that is fire-rated or part of a specified system.
- Increasing the height of exempted fences and hoardings from 2 m to 2.5 m and removing the term 'wall' from the same exemption as this is adequately covered by the term 'fence' and avoids potential for confusion with reference to walls that are part of another building.
- Adding to the exemption for tanks and pools to allow a wider range of volume-height configurations than are currently provided for.

- Increasing the size of marquees and tents for public events to 100 square metres (ie, the same as is currently allowed for private events).
- Increasing the height of exempted decks, other platforms and bridges from 1 m to 1.5 m and adding the term 'boardwalks'.
- Increasing the floor area of exempted porches and verandahs from 15 square metres to 20 square metres, adding carports to the same exemption and removing the requirement that the structure be over a deck or a patio.
- Increasing the area of exempted awnings from 15 square metres to 20 square metres and adding the term 'canopies' to the same exemption.

Exempt if carried out in accordance with the Plumbers, Gasfitters and Drainlayers Act 2006:

- adding to the existing exemption allowing alterations to sanitary plumbing the clarification that the exemption excludes water heaters (which are now covered by a separate exemption) and does not permit the total number of sanitary fixtures in a dwelling to be increased.

# Upcoming consultations

Potential changes to the timber treatment system, fire design, noise protection, signs and medium-density housing have been approved for consultation, by Government, and will shortly open for submissions.

The proposals simplify and clarify regulations while maintaining or improving the current level of protection, improving safety and making it easier to design good quality medium-density housing.

The timber proposals would simplify the Acceptable Solution to allow a single hazard class, H1.2, to be used for nearly all internal timber framing in buildings. It would retain, and in some cases improve, the current level of protection against fungal decay and could reduce cost.

Clearer and more robust requirements for fire design would: improve the range of design options available; clarify the skills needed by designers to achieve critical fire safety levels; allow more flexibility in design solutions; reduce disputes that currently occur over what constitutes compliance and reduce the cost of providing safe buildings.

The noise protection proposals focus on quality of life for apartment and home dwellers by increasing noise protection for apartments and medium-density housing.

Proposed updates to sign regulations would make them more flexible and encourage the use of modern technologies. Information about medium-density housing would be repackaged to make it easier for designers to find relevant information.

The deadline for submissions on the timber treatment proposals is 29 October and the deadline for fire, noise, signs and medium-density housing submissions is 26 November. Submissions can be made online at [www.dbh.govt.nz/consulting-on](http://www.dbh.govt.nz/consulting-on)

# Codewords to your 'inbox'

If you subscribe to *Codewords* online, you will receive your first issue of our new *Codewords* eNewsletter soon.

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It's the right time for us to embrace smart technology as we move in a changing environment where more and more industry and compliance publications are being published and read online.

With the introduction of *Codewords* eNewsletter comes a refreshed look and feel that's easy on the eye. We hope you like it!

From early next year we will only produce *Codewords* as an eNewsletter. You will always be able to download a print friendly version from our website with options to print individual articles or the full set of articles from every issue. Back issues will continue to be archived.

We are committed to bringing you the content you want and have come to expect from us and look forward to receiving your feedback.

# MultiProof celebrates getting its first customers



**MultiProof, the new National Multiple-use Approval Service for volume builders, has issued its first approvals to building companies Spanbild (Christchurch) and Little Buildings Limited (Palmerston North).**

Celebrations were held at a function in Christchurch on 9 July 2010 attended by Building and Construction Minister Maurice Williamson who presented the first certificates.

Mr Williamson congratulated Spanbild for being first to get MultiProof approval and Little Buildings Limited for being the first to have consent issued for a MultiProof-approved design.

'MultiProof has already proved its worth,' says Mr Williamson. 'Little Buildings saved \$2,800 on consent fees for its first two houses and the consents were issued within three working days.'

Spanbild Chief Executive Peter Jensen says the Government's new scheme is an innovative and supportive initiative for companies like Spanbild, which has several brands and products under one umbrella.

'The approval scheme is a positive Government response to requests from industry for a system which streamlines consenting processes,' he says. 'It means councils can have confidence in the process of, and designs that get, Department of Building and Housing multi-use approval.'

MultiProof is about reducing costs – not cutting corners. It means that building designs with MultiProof approval are pre-approved for Building Code compliance, reducing the need for the designs to be assessed by each individual building consent authority (BCA), except with respect to the site specific aspects. This results in greater certainty of BCA consenting, faster processing times, reduced duplication for volume builders, and consumers being able to get into their new homes sooner.

The MultiProof team at the Department is keen to hear from other volume builders seeking MultiProof approvals and to help applicants through the application process. Volume builders can contact the MultiProof team for a discussion about how to obtain a MultiProof approval.

For more information call Tracey Bevan on (04) 817 4254 or email [multiproof@dbh.govt.nz](mailto:multiproof@dbh.govt.nz)

## Dam Safety Scheme deferred

**Getting the right level of risk management is the focus of a review of the Dam Safety Scheme.**

New Zealand has many large dams that, until now, have not been subject to a formal system of dam monitoring, inspection and maintenance.

The Building Act 2004 provides for a national regulatory risk management scheme for large dams in New Zealand, the Dam Safety Scheme.

The scheme was due to come into effect from 1 July this year to ensure that all large dams are regularly monitored, and that any associated risks to people and property from their failure are minimised.

However the Government decided in June to defer the start date to July 2012 following an independent review by Bruce McLean, an experienced engineer and project management specialist. The review found the reach of the proposed scheme, affecting 1,150 dams, was too broad and imposed rules and compliance costs out of proportion to the risk to New Zealanders.

The review recommended a number of changes to the scheme including changing the definition of dams requiring specific safety plans to more clearly target large dams and those that pose a particular risk to people living or working downstream.

The Department has consulted the sector on the review's recommendations and is now considering amendments to the scheme.

# Compliance Documents reference updated Standards

The Department has amended a number of Compliance Documents updating references to Standards and other publications.

The Department consulted on the proposed changes earlier this year and has now finalised and published the changes. The amendments took effect on 30 September 2010.

Compliance Documents contain building methods that assist designers, architects and builders to achieve compliance with the Building Code. They also incorporate other publications by reference.

As new publications become available and existing publications are updated the Department updates the references. Updating the referenced Standards also:

- ensures consistency with relevant legislation and with other Compliance Documents
- allows the use of new technologies and construction materials, and
- incorporates new design standards and industry practices.

Amendments are as follows.

- **B1 Structure** – three new Standards have been incorporated into B1/VM1, B1/AS1, B1/AS2, B1/AS3 and B1/VM4 and 21 referenced Standards have been updated. The new Standards cover the design of concrete tanks, installation of drains, and the design and selection of glazing.

The updated Standards cover the design of concrete structures and steel structures.

- **B2 Durability** – two Standards referenced in B2/AS1 have been updated. Those Standards relate to the durability of concrete structures and solid plastering.
- **C Fire Safety** – two Standards referenced in C/AS1 have been updated. The Standards cover Automatic Fire Sprinkler Systems and Fire Hydrant Systems for buildings.
- **E1 Surface Water** – two new Standards have been incorporated into E1/AS1, five references have been deleted and a further 21 referenced Standards have been updated. The new and updated Standards cover piping materials and jointing methods.
- **G9 Electricity** – one Standard referenced (relating to electrical installations) in G9/VM1 has been updated.
- **G10 Piped Services** – two Standards referenced in G10/AS1 have been deleted, and 14 referenced Standards have been updated (all relating to piping materials and jointing methods).
- **G11 Gas as an Energy Source** – one Standard referenced in G11/AS1 (relating to gas installations) has been updated.

- **G12 Water Supplies** – 13 Standards referenced (covering piping materials and installation methods) in G12/AS1 have been updated.
- **G13 Foul Water** – one new Standard has been incorporated into G13/AS1, G13/AS2 and G13/AS3, and a further two referenced Standards have been deleted and 12 Standards referenced have been updated (covering piping materials and installation methods).
- **G14 Industrial Liquid Waste** – 14 Standards referenced in G14/VM1 (covering piping materials) have been updated.
- **G15 Solid Waste** – one Standard referenced in G15/AS1 (relating to health-care waste management) has been updated.

Visit [www.dbh.govt.nz/compliance-docs-get-copies](http://www.dbh.govt.nz/compliance-docs-get-copies) to download the latest changes.

# GST increase from 1 October 2010

In May the Government announced a number of tax changes as part of Budget 2010. One of the changes announced was a change to the Goods and Services Tax (GST) rate – an increase from 12.5 to 15 percent effective from 1 October 2010.

The new GST rate will automatically apply from 1 October to all fees, including where fees specified in regulations include GST at 12.5 percent.

The relevant Acts administered by the Department and the related regulations are as follows.

ACT	REGULATION
Building Act 2004	Building (Consent Authority Accreditation Fees) Regulations 2007
	Building (Fee for Determinations) Regulations 2005
	Building Levy Order 2005
	Building Practitioners (Licensing Fees and Levy) Regulations 2010
	Building (National Multiple-use Approval) Regulations 2009
Chartered Professional Engineers of NZ Act 2002	Chartered Professional Engineers of NZ Rules (No 2) 2002
Electricity Act 1992	Electricity (Safety) Regulations 2010
Engineering Associates Act 1961	Engineering Associates Fees Regulations 2002
Plumbers, Gasfitters and Drainlayers Act 2006	By Gazette Notice
Registered Architects Act 1986	Registered Architects Rules 2006
Residential Tenancies Act 1986	Residential Tenancies (Fees) Regulations 1998
Retirement Villages Act 2003	Retirement Villages (Fees) Regulations 2006
Weathertight Homes Resolution Services Act 2006	Weathertight Homes Resolution Services (Fees) Regulations 2007

# Councils show support for leaky homes financial assistance package

The leaky homes financial assistance package has the in principle support of all eight councils in communities most directly affected.

'Collectively, these councils represent around 90 percent of current leaky home claims,' says Building and Housing Minister Maurice Williamson. 'Local Government New Zealand describes this as a 'resounding endorsement' by the main affected councils.'

The eight councils are Auckland, Christchurch, Manukau, Waitakere, North Shore, Tauranga, Wellington and Rodney District.

Local Government has also advised a further 20 councils have indicated their support in principle for the package, bringing the total number of councils on board to 28. The door remains open for other councils to opt in at a later stage depending on their local situation and need.

Discussions on the details of the package with territorial authorities are progressing well and the scheme is on track to be up and running from early 2011.

Under the proposed package, repairs would be funded by a 25 percent contribution from central government, 25 percent from local authorities, and 50 percent by homeowners, backed by a government loan guarantee if required.

# w their aky e package

## WHAT THE PACKAGE MEANS FOR EXISTING AND POTENTIAL CLAIMANTS

The intention is that homeowners who currently have claims in the Weathertight Homes Resolution Service (WHRS) will be able to apply for the financial assistance package.

In the meantime, homeowners who have not lodged a claim under the WHRS can apply to the Department to make a claim. If their claim is accepted, that 'stops the clock' on the 10-year limitation for making a claim.

The Weathertight Homes Resolution Services Act 2006 set a 10-year limit for bringing a claim. A house has to have been built or altered (if the alterations leak) within 10 years of the date of lodging a claim.

The length of time it will take for homeowners to access the financial assistance will depend on their individual circumstances. However, it is expected to be a lot faster and less costly than the disputes and litigation process.

## Determinations

### DETERMINATION 2010/008:

*Refusal to issue a certificate of acceptance for a prefabricated, stand-alone laundry building at a motel*

This determination arose from a dispute between the territorial authority (TA), and the building owners. The TA refused to issue a certificate of acceptance (CoA) for a stand-alone laundry building at a motel because it was not satisfied that the building complied with the Building Code. Instead the TA issued a notice to fix.

The determination considered whether the TA was correct to:

- refuse to issue a CoA
- issue a notice to fix.

### Background

The building was a small (9 m<sup>2</sup>) stand-alone building divided into two rooms. One room was used as a laundry while the other was used for storage. The building was sited on a level area within the carpark of a motel complex. The building was of light timber framed construction, with untreated Douglas Fir framing to the subfloor, shiplap weatherboard cladding, and a corrugated steel roof. Access to the building was by way of a ramp constructed of treated timber. The building was in a high wind zone and a sea spray zone for purposes of NZS 3604.

The applicant purchased the building in 2008 and relocated it to the motel site. The TA inspected the building and advised the owners that the building work did not comply with the Building Code. The TA subsequently issued a notice to fix requiring that the applicant must remove the laundry building and associated services. In response the owners engaged

a consultant to prepare a report on the compliance of the building work for an application for a CoA. The determination was based upon the findings in the consultant's report.

### Discussion

A TA may issue a CoA 'only if it is satisfied, to the best of its knowledge and belief and on reasonable grounds, that, insofar as it could ascertain,' the building work complies with the Building Code. For this building, the determination considered whether:

- particular elements of building work could be inspected
- the documentation submitted to the TA in support of the application reflected what was built, and provided sufficient evidence to demonstrate Code compliance.

The determination included an assessment of the building elements that had been inspected and that had sufficiently detailed and accurate as-built information. The determination found that there were reasonable grounds to conclude the following items complied with the Building Code.

- The construction of the ramp complied with Clause B1.
- The building's ventilation complied with Clause G4.

The determination found that there were reasonable grounds to conclude that the following items did not comply with the Building Code for the following reasons.

- The untreated external wall framing did not comply with Clause B2.

*Continued on page 10*

#### *Determinations continued*

- The external door did not comply with Clause C2 (it had an external lock not operable from the inside).
- The building was located too close to the boundary without sufficient fire rating and did not comply with Clause C3.
- The ramp and handrail did not comply with Clause D1.
- The elements of the subfloor were not sufficiently treated or protected to comply with Clauses E2 and B2.
- The external cladding had insufficient flashing details and so did not comply with Clauses E2 and B2.

The determination found that there was insufficient information, and no reasonable grounds, to confirm compliance in respect of:

- the compliance of the structure with Clause B1
- whether some building elements complied with B2 Durability (the building was in a sea spray zone)
- whether the building complied with Clause D1
- whether the roof complied with Clauses B1, B2 and E2
- whether the surface water drainage complied with Clause E1 (downpipes discharged directly into the ground)
- whether internal surfaces complied with Clause E3
- whether the electrical installation complied with Clause G9
- whether the plumbing and drainage complied with Clauses G12 and G13.

The determination considered that, while Code compliance could not be confirmed, the building was not dangerous or insanitary.

The determination considered the notice to fix should be modified to note the elements of the building work that did not comply with the Building Code, and that it could include the options of either the building's removal or demolition. However, the building's demolition or removal should not appear as the only option on the notice to fix.

The determination found that if the building was to remain, remedial work would be required to achieve Building Code compliance, and a building consent was likely to be required. It was observed that an application for a building consent would give the TA the opportunity to consider applying the provisions of section 113 for buildings with specified intended lives. The determination considered that, provided compliance with the Building Code could be demonstrated by the owners, the TA could consider granting a building consent for the building to have a limited life, subject to the condition that the building be altered, removed or demolished before the end of its specified life.

The determination also noted that any remedial work done to the building could also provide an opportunity for the owners to show that previously hidden elements complied with the Building Code. If the TA was satisfied that this was the case, then these elements could be included in the CoA.

#### **The decision**

The determination:

- concluded the notice to fix should be modified to reflect the findings of the determination
- reversed the TA's decision to refuse to issue a CoA, and determined that a CoA:

- should be issued in respect of the building elements that were Code compliant
- should exclude the building elements that were not Code compliant
- should refer to the modified notice to fix issued in respect of the building elements that were not Code compliant.

#### **DETERMINATION 2010/043:**

##### *Strengthening a two-storey commercial building subject to a change of use*

The parties to this determination were the territorial authority (TA) and the building owner. The TA refused to issue a code compliance certificate (CCC) in respect of an amended building consent for alterations to a two-storey building undergoing a change of use.

The owner sought a determination about whether the TA was correct to refuse to issue the CCC. However, the view was taken that the application by the owner was based on incorrect application of the legislation by the TA. The determination therefore considered whether or not the TA exercised its powers correctly when it considered the amendment to the building consent, and therefore whether the TA's decision to issue the amendment was correct.

#### **Background**

The existing two-storey building structure comprised a steel frame encased in concrete with double brick infill panels, reinforced concrete floors, and a timber-trussed roof. The building contained offices and associated facilities on the upper floor and retail premises on the ground floor. The original building consent, issued in 2007,

was for the building to be fully gutted and hotel suites to be provided on the upper floor, and retail premises to be reinstated on the ground floor. The consent included work to structurally upgrade the whole building.

The work constituted a change of use under the Building (Specified Systems, Change of Use and Earthquake-prone Buildings) Regulations 2005, and therefore triggered the change of use provisions under the Building Act.

In 2008, the owner applied for an amendment to the building consent to carry out work only on the ground floor of the building; the structural upgrading was also to be limited to the ground floor. It is noted that the amended work still constituted a change of use. The upper floor was not altered and continued in its pre-existing use.

The TA granted the amendment, the work to the ground floor was completed, and the owner applied for the CCC. The TA refused to issue the CCC because the strengthening work to the upper floor of the building, as described in the original building consent, had not been completed.

## Discussion

In general terms the provisions of section 115 of the Building Act require a building that is undergoing a change of use to have certain features upgraded, including its structural performance. The features are to be upgraded to comply 'as near as is reasonably practicable' with the current requirements of the Building Code.

In terms of section 115, the adequacy of the building work completed under the amended consent was not in dispute, and the 'as near as is reasonably practicable' test had been correctly applied.

The determination only considered the effect the building's change of use had on the TA's decision not to issue a CCC in respect of the amended work, and to require the structural upgrading of the upper floor.

The owner submitted that section 115 should be subject to the same analysis as section 112 in respect of the matter in dispute. This argument was not accepted. Section 112 concerns alterations to existing buildings that are not undergoing a change of use, and only requires upgrading in respect of access and facilities for people with disabilities, and means of escape from fire.

The intention of the original building consent was for the whole building to be gutted and strengthened. As the upper floor was no longer to be gutted this changed the test of what could now be considered 'reasonably practicable'. Therefore, in respect of the application to amend the original consent, the determination considered it appropriate to reapply the section 115 test, whereby the life-safety benefits of the building as a whole being structurally upgraded should be weighed against the sacrifices involved in carrying out that work.

The questions that arose from this were:

- what is the balance of the benefits and the sacrifices if the owner decides not to do work on the upper floor, and seeks an amendment to upgrade the ground floor only?
- does not upgrading the upper floor maintain (or create) an unacceptable hazard to people in the upgraded ground floor, eg, from falling masonry?

It was noted that no information was received about the degree to which the building was considered earthquake-prone under section 122 of the Building Act, the TA's policy with respect to earthquake-prone buildings, and the time given for the building to be strengthened. The determination observed that the strengthening work under section 115 should not be taken in isolation from policy developed under section 122.

The determination considered that it might well be reasonable for the TA to allow the building to be upgraded in stages with successive building consents issued floor by floor. However, no such assessment had been made in respect of the amended consent, and the TA was incorrect to approve amended consent.

The determination suggested the TA should instruct the owner to reconsider the matter of what is now 'as nearly as is reasonably practicable' in terms of structural upgrade, given the reduced extent of the as-built work.

## The decision

The determination:

- found that the TA did not exercise its powers correctly under section 115 when it issued the amendment to the original building consent
- reversed the TA's decision to issue the amended building consent.

**These are summaries only. The full determinations (along with all other determinations issued) can be viewed on our website:**  
 [www.dbh.govt.nz/determinations](http://www.dbh.govt.nz/determinations)

# Learning curve

## BUILDING OFFICIALS INSTITUTE OF NEW ZEALAND TRAINING

Date	Seminar and Location
4 Oct	Building Consent Vetting Invercargill
4-6 Oct	Fire Documents C/AS1 – Getting Started Wellington
7 Oct	Compliance Schedule Writing Dunedin
8 Oct	Building Warrant of Fitness Auditing Dunedin
13-14 Oct	Getting Started in E2 – Weathertightness (Residential Weathertightness) Dunedin
21 Oct	Compliance Schedule Writing Christchurch
22 Oct	Building Warrant of Fitness Auditing Christchurch

For more information visit  
[www.boinz.org.nz](http://www.boinz.org.nz), email [training@boinz.org.nz](mailto:training@boinz.org.nz) or phone (04) 473 6003.

## BARRIER FREE NZ TRUST TRAINING

Date	Seminar and Location
For those who have not yet attended a BFNZT seminar or attended some time ago:	
7/8 Oct	Wellington (2 days)
11/12 Nov	Napier (2 days)
For architects and designers:	
19 Nov	Auckland (1/2 day)
Module 5 seminar – becoming a Barrier Free Advisor (BFA):	
26 Nov	Wellington (1 day)
In-house presentations – a specialist in-house presentation (refresher, update or advance on prior learning). This workshop can be tailored specifically to the requirements of the audience:	
5 Oct	Auckland (1 day)

For more information visit  
[www.barrierfreenz.org.nz](http://www.barrierfreenz.org.nz)

## BUILDING NETWORKS TRAINING

Date	Event and Location
8 Oct	IQP Forum 2010 Christchurch (1 day)
15 Oct	IQP Forum 2010 Dunedin (1 day)

For more information visit [www.bnets.co.nz](http://www.bnets.co.nz)  
or email [office@bnets.co.nz](mailto:office@bnets.co.nz)

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