



Determination 2018/004

The refusal to issue a code compliance certificate for an 11-year-old house with monolithic cladding at 21 Athenree Road, Athenree, Bay of Plenty



Summary

This determination is concerned with the compliance of an 11-year-old house. The determination considers the authority's reasons for refusing to issue the code compliance certificate and whether the building work complies with the requirements of the Building Code.

1. The matters to be determined

- 1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004¹ ("the Act") made under due authorisation by me, Katie Gordon, Manager Determinations, Ministry of Business, Innovation and Employment ("the Ministry"), for and on behalf of the Chief Executive of the Ministry.
- 1.2 The parties to the determination are:
 - one of the owners of the house, J Ormsby ("the applicant")
 - the Western Bay of Plenty District Council ("the authority"), carrying out its duties as a territorial authority or building consent authority.
- 1.3 This determination arises from the decision of the authority to refuse to issue a code compliance certificate for an 11-year-old house because it was not satisfied that the building work complied with certain clauses² of the Building Code (First Schedule, Building Regulations 1992); in particular in regard to the weathertightness of the external building envelope, given the age of the house.

¹ The Building Act, Building Code, compliance documents, past determinations and guidance documents issued by the Ministry are all available at www.building.govt.nz or by contacting the Ministry on 0800 242 243.

² In this determination, unless otherwise stated, references to sections are to sections of the Act and references to clauses are to clauses of the Building Code.

- 1.4 The matter to be determined³ is therefore whether the authority was correct in its decision to refuse to issue a code compliance certificate due to the reasons provided in its letter dated 3 August 2017. In deciding this matter, I must consider:
- (a) Whether the external building envelope of the house complies with Clause B2 Durability and Clause E2 External moisture of the Building Code that was in force at the time the consent was issued. The building envelope includes the components of the systems (such as the wall cladding, the windows, the deck and the roof cladding) as well as the way the components have been installed and work together. I consider this in paragraph 7.
 - (b) Whether other items identified by the authority comply with relevant Building Code clauses: namely B1 Structure, E3 Internal moisture, and G9 Electricity. I consider these clauses in paragraph 8.

1.5 Matters outside this determination

- 1.5.1 In its refusal to issue a code compliance certificate, the authority limited its concerns to items associated with the clauses outlined above. This determination does not address other elements of the building or other clauses of the Building Code.
- 1.5.2 I also note that the owner intends to apply to the authority for a modification of durability provisions to allow the durability periods specified in Clause B2.3.1 to commence from the date of substantial completion in January 2006. Although I leave this matter to the parties to resolve in due course, I have taken the anticipated modification into account when considering the compliance of certain elements.
- 1.6 In making my decision, I have considered the submissions of the parties, the report of the expert commissioned by the Ministry to advise on this dispute (“the expert”) and the other evidence in this matter.

2. The building work

2.1 The site

- 2.1.1 The original large property was sub-divided, and the applicant purchased the empty rear site in August 1997 with a freehold title issued in September 1997. Access to the site is provided via a right-of-way (“ROW”) from the road; with power, water and telephone cable services installed in 1997 via the ROW to allow the site to be used for a caravan.
- 2.1.2 In 1999 a building consent was issued for a minor dwelling and during 2000 a 50m² cottage was constructed.

2.2 The consented work

- 2.2.1 The building work that is the subject of this determination consists of a detached two-storeys-high house on a gently sloping site in a high wind zone for the purposes of NZS 3604⁴. The expert has taken the main entry and garage door as facing northwest (NW) and this determination follows that convention as shown in Figure 1. The house is assessed as having a moderate weathertightness risk (see paragraph 7.2).

³ Under sections 177(1)(b) and 177(2)(d) of the Act

⁴ New Zealand Standard NZS 3604:2011 Timber Framed Buildings

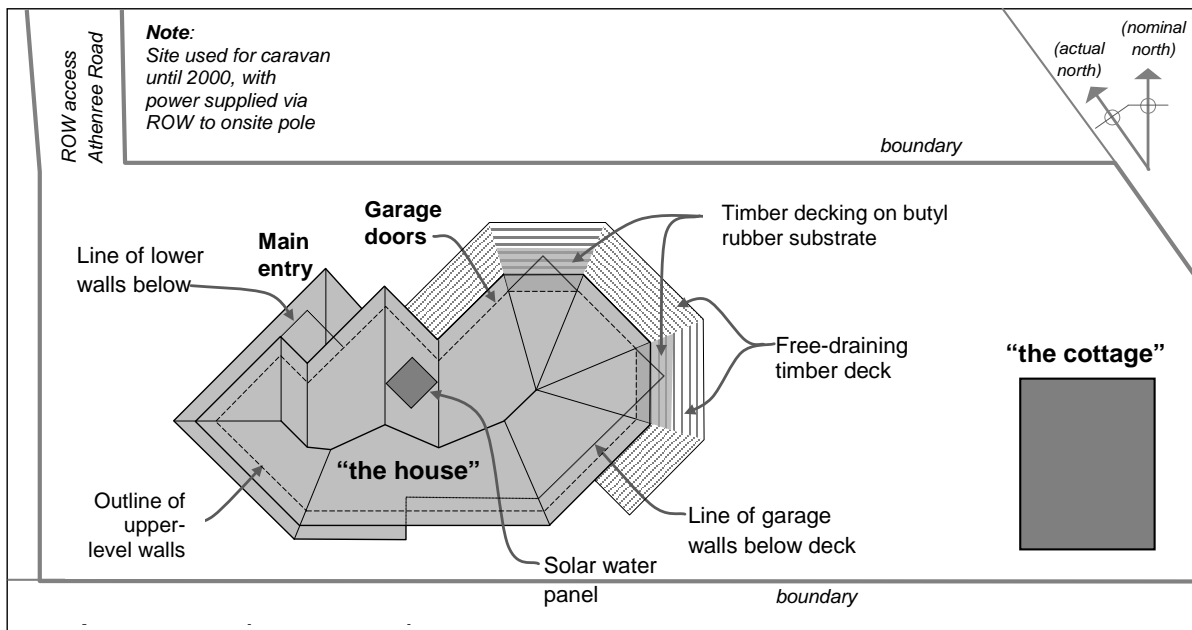


Figure 1: Site plan (not to scale)

- 2.2.2 An upper level deck extends around the living/dining area at the eastern end of the house. The timber framed deck is supported on timber posts, with a spaced timber slat floor and open metal balustrades. Some walls to the upper level step are indented from lower level walls; the indented areas are covered by decking comprising butyl rubber over plywood which in turn is covered with timber boards as for the remainder of the deck. The butyl rubber membrane and plywood extends well beyond the edge of the lower walls.
- 2.2.3 Construction is generally conventional light timber frame, with concrete foundations and floor slab, monolithic wall cladding, aluminium joinery and 20° pitch profile metal hipped roofs with eaves of more than 600mm overall. The lower roof forms a lean-to against upper walls, which extends from above the main entry around the west corner.
- 2.2.4 The specification calls for the framing to comply with NZS 3602⁵ and to be ‘treated to NZMP 3640⁶’. The expert noted no evidence of timber treatment but given the date of framing installation in late 2005, I consider that the wall framing of this house is likely to be treated to provide resistance to fungal decay.

2.3 The wall cladding

- 2.3.1 The monolithic cladding is a proprietary flush-finished fibre-cement cladding system (“the textured cladding”), with 7.5 mm thick fibre-cement sheets fixed through 20mm timber battens and the building wrap to the framing, and finished with a flush finish jointing filler over mesh-reinforced joints and an applied textured plaster system. The 20mm timber battens form a cavity between the backing sheets and the building wrap.

⁵ NZS 3602:2003 Timber and Wood-based products for use in building Part 1

⁶ NZMP 3640:1992 Specification of the minimum requirements of the NZ Timber Preservation Council Inc. (now superseded)

- 2.3.2 The manufacturer provides system components and accessories, with instructions providing details for various junctions and intersections. The cladding system received a BRANZ Appraisal in June 2005⁷.

3. Background

3.1 The building consent and documentation

- 3.1.1 I note that the consent drawings are rudimentary, with minimal description, few specification notes and no expanded construction details.

- 3.1.2 The authority issued a building consent (No. 72342) on 28 February 2005 to the applicant under the Building Act 1991. The consent conditions included the following statement:

Monolithic claddings

The cladding is to be installed on a cavity as set out in the plans and approved, and strictly in accordance with the manufacturer's installation instructions.

Additional inspections will be required

These are:

1. When cavity battens have been installed and sills taped.
2. When the windows are installed and flashed.
3. When construction joints are formed and prior to plastering.

A producer statement will be required from the applicator of the approved plastering system providing an assurance that it has been applied [my emphasis] strictly in accordance with the manufacturer's and supplier's instructions before a Code Compliance Certificate will be issued.

- 3.1.3 When the application for building consent was made the Acceptable Solution for Clause E2 in effect at the time, E2/AS1, included no prescriptive details for monolithic claddings. However, the draft of the third edition of E2/AS1 had been issued for comment which included the use of monolithic claddings to be installed either direct-fixed or over a cavity. The third edition of E2/AS1 came into effect on 1 February 2005.

3.2 Construction

- 3.2.1 The construction of the house commenced in March 2005 and the authority carried out the following inspections during 2005:

- Pre-pour foundations and floor slab in March
- Framing in April (which noted 'sighted battens for fixing of [fibre-cement] cladding')
- Pre-cladding in May
- Pre-line in June and post-line in July
- Sanitary drainage in December.

The inspections passed although some minor matters were to be addressed, no reinspection was noted as being required. The house was substantially completed by 2006 although a final inspection was not called for at that time.

⁷ BRANZ Appraisal No.466[2005]

3.3 The final inspections

3.3.1 The authority carried out a final inspection on 20 September 2012, which identified a number of items requiring attention. The inspection record also listed certificates and producer statements required prior to a code compliance certificate being issued.

3.3.2 The authority re-inspected the house on 8 May 2013, which passed the remaining building work and noted that the following was still awaited:

- producer statements for:
 - the under tile waterproof membrane
 - the textured cladding
 - the solar water heating system
- application for modification of B2.3.1 durability provisions
- application for a code compliance certificate.

3.3.3 The applicant was able to obtain producer statements for the membrane and cladding by the end of 2013 but not for the solar heating system. The applicant engaged a registered plumber experienced in solar hot water systems to assess the system. The plumber inspected the installation and stated in an email dated 9 March 2017 that he had:

...inspected the Solar Hot water system at [the subject house] for [the applicant] and believe it to be of a current and satisfactory standard.

3.3.4 The applicant provided the two producer statements and the email from the plumber and applied for a code compliance certificate on 27 March 2017. He was told a further final inspection was required which was carried out on 28 June 2017. I have not seen a record of that inspection, but the applicant noted that it ‘was mainly concerned with weathertightness’.

3.4 The refusal to issue a code compliance certificate

3.4.1 In a letter to the applicant, dated 3 August 2017, the authority referred to the final inspection on 28 June 2017, noting that the property file had been subsequently reviewed. The authority advised that it ‘is unable to issue a code compliance certificate; stating:

The following is summary of the issues that need to be addressed and resolved before the issuing of the Code Compliance Certificate can be considered:

1. Due to the age of the building and time that has passed since the works was completed; for the Council to be satisfied on reasonable grounds that weathertightness requirements of the building are met, extensive weathertightness investigation will be necessary. ...
2. The report/investigation will need to confirm the weathertightness performance of the building envelope ...
3. The report/investigation will also need to address the issues that were identified during the Councils inspection, including to the external envelope, structure, durability and non compliance with cladding manufacturer’s requirements.
4. The Council requires that adequate testing (including invasive and destructive testing where necessary) is carried out by the Building Surveyor ...
5. A repair schedule for any proposed remedial works is also required to be submitted for approval ...

3.4.2 The authority also listed the following ‘documentation required’:

1. Electrical certificate covering mains cable installation (current electrical certificate refers to this).
2. Membrane certificate, product and applicator’s warranties for internal membranes.
3. Membrane certificate, product and applicator’s warranties for external membranes.
4. Monolithic substrate installer’s statement confirming substrate and detailing installed to manufacturers specifications and Building Code requirements.
5. A durability amendment to B2 ...
6. A copy of the engineer’s truss design is required.

3.4.3 The authority recommended that ‘a meeting is held to discuss the above and noted that a determination could be sought from the Ministry on the authority’s decision.

3.4.4 A meeting was held with the authority on 11 August 2017. The authority explained its ‘old consent process, why there is a robust process and how Council reaches the decision’, and provided the following options:

- Engage the services of a Building Surveyor ...
- Apply to [the Ministry] for a Determination and follow the Determination process to a defined outcome. ...

3.5 The Ministry received an application for a determination on 31 August 2017.

4. The submissions and the draft determination

4.1 The applicant set out the background to the situation and noted the difficulty he had encountered in seeking the producer statements and certificates identified in the 2013 final inspections. The applicant included the following comments (in summary):

- Item 1 - electrical certificate: to cover mains cable installation:
 - The property was used as caravan site prior to a cottage construction in 1999; with the mains cable installed in the ROW from road in 1997, in the same trench as water pipes and the telephone cable.
 - The building consent for the cottage was issued in 1999, with power run underground from the meter mounted on a ‘builder’s pole’ but, although construction was signed off, no records could be found.
- Item 2 - internal membranes: It appears that this relates to the shower waterproofing as the tiler’s producer statement covered the membrane but did not specify the particular product used.
- Item 3 - external membranes: Why the roofer’s producer statement is not acceptable for butynol (installed under small areas of the deck) is not known.
- Item 4 - cladding substrate installer:
 - The producer statement was provided by the textured coating applicator as required by the building consent, which did not require a producer statement for the backing sheets (see paragraph 3.1.2).
 - The builder installed the fibre-cement backing sheets on cavity battens over several weeks and the work would have inspected by the authority.

- Item 6 - the engineer's truss design:
 - The truss design was signed off as part of the building consent process; with the truss supplier using a computer program for design of the trusses, which were invoiced in March 2005.
 - The truss supplier has advised that the design information would have accompanied the trusses. The information must have been mislaid at the time and the supplier has no records from 12 years ago.
- 4.2 The applicant forwarded copies of:
- the consent drawings
 - the final inspection record
 - the authority's letter dated 3 August 2017
 - various producer statements and invoices.
- 4.3 The authority made no submission but provided copies of its records including:
- the original building consent and documentation
 - the inspection records
 - the application for a code compliance certificate dated 27 March 2017
 - the authority's refusal dated 3 August 2017
 - the file note for the meeting dated 11 August 2017.
- 4.4 A draft determination was issued to the parties for comment on 9 November 2017. No response was received and a reminder to do so was sent to the parties on 17 January 2018. The applicant responded accepting the draft without comment on 22 January 2018.
- 4.5 The authority responded on 24 January 2018. The authority did not accept the draft noting, in summary, that:
- Remedial work carried out to the roof flashings after the expert's assessment has not been inspected by the authority; it "may be appropriate for the [expert]' to reinspect this work "to clear these items".
 - The 8% bottom plate moisture reading was very low and "may indicate the need for further investigation" (the reading was to an internal wall at the rear of the shower).
 - Records for the building consent note that the timber over the butyl rubber deck membrane "was to be on isolation blocks" the isolation blocks are not identified in the expert's report of the draft determination.
 - The joists to the above decks extend from within the building envelope to an external beam but the joists only appear to be H1.2 treated.
 - Councils records show some of the head flashings as being filled with paint and/or plaster and not turned up as indicated in the expert's report.
- 4.6 In response to the authority's submission I note the following:
- The repairs to the roof flashings can be assessed by the authority along with the other outstanding items identified.

- The 8% moisture reading is not excessively low. The equilibrium moisture levels for internal wall framing can range down to 8%.
- The butyl rubber deck has performed adequately to date after 11 years in use. The expert noted no issue with the durability of the joists that pass through the external envelope – the joists are well protected by the deck membrane itself and are well ventilated.
- The majority of the head flashings have generous eaves protection and the performance of the flashings is considered adequate.

5. The expert's report

5.1 General

5.1.1 As mentioned in paragraph 1.6, I engaged an independent expert to assist me. The expert is a member of the New Zealand Institute of Building Surveyors and inspected the house on 22 September 2017, providing a report completed on 12 October 2017. The parties were provided with a copy of the report on 12 October 2017.

5.1.2 The expert noted that the scope of his inspection was to 'carry out an assessment, checking the completed work for compliance with B2 Durability and E2 External moisture'. The expert had also investigated the compliance of the tiled shower with Clause E3 Internal moisture, and considered the compliance of the timber trusses with Clause B1 Structure.

5.1.3 The expert noted that the profiled roofing is generally 'in sound condition, in keeping with age', with sufficient overlap into gutters, but deficiencies in roof flashings were noted. The expert observed that 'except for roof flashings', flashings and wall junctions were 'well executed/sealed' and noted:

The dwelling has been constructed and finished with good quality materials. General workmanship is good. The dwelling is well presented and is being very well maintained.

5.1.4 Although the house generally accorded with the consent documentation, the expert observed that:

- the acrylic shower units have been replaced with tiled enclosures
- the ensuite layout has changed.

5.2 Moisture testing

5.2.1 Non-invasive moisture readings were taken internally, with 'particular emphasis in high risk locations' such as below cladding penetrations, below jamb/sill junctions, at bottom plates and in bathroom areas. All readings were 'within normal margin'.

5.2.2 The expert also took the invasive moisture readings using long probes inserted through the lining and trim into the outer part of the framing. The following areas considered at risk of moisture penetration were invasively investigated:

- The bottom plates of exterior walls to all elevations, with:
 - 13 ground floor readings ranging from 13% to 17%
 - 12 first floor readings ranging from 14% to 17%
- The top plates of the garage walls beneath the upper deck membrane, with:
 - 4 readings from 16% to 17%

- The bottom plates of internal walls adjacent to the tiled showers, with:
 - 15% to 16% around the ground floor shower
 - 8% at the ensuite shower.

Moisture levels below 18% generally indicate that no external moisture is entering the structure. I also note that moisture readings were taken during spring and are therefore likely to represent higher levels of expected seasonal variation.

5.3 The exterior claddings

5.3.1 The expert considered the textured cladding was ‘well installed and aligned’ in accordance with the manufacturer’s instructions in regard to:

- sheet layout and fixings
- proprietary PVC cavity closers installed at the bottom of drained cavities
- control joints installed at 5.4m wall length maximum, with no cracks observed.

5.3.2 In regard to the textured cladding, the expert also observed that:

- ground clearances accord with those shown in E2/AS1
- the cladding’s paint coating has a ‘reasonably high light reflectance’
- there is no ‘visual evidence of stress cracks or excessive movement’ and ‘no premature deterioration’ observed
- the cladding coating extends behind gutters and deck stringers
- the wall/roof junctions accord with those shown in E2/AS1.

5.3.3 The expert observed that windows and doors had been face-fixed against the cladding, with metal head flashings that extended sufficiently beyond jamb flanges and were ‘well protected by a 600mm soffit overhang’. The expert felt ‘strong resistance when inserting a ‘feeler gauge’ behind jamb flanges, indicating that seals had been installed in accordance with the manufacturer’s instructions.

5.3.4 In regard to the deck, the expert noted that:

- the open part of the deck is free-draining and appropriately fixed to the house with stainless steel bolts
- deck stringers are packed off the cladding by about 12mm
- the open metal balustrade is fixed to the deck framing, with no attachment to the textured cladding
- the closed parts of the deck are above the corners of the garage and extend out beyond the upper wall, with butyl rubber membrane installed over a plywood substrate
- the membrane upstand is visible at the deck/wall junction and the outer turn-down over blocking is visible from below the deck
- the membrane appears in good condition, with no evidence of moisture penetration into top plates below deck/wall junctions.

5.3.5 In regard to the roof cladding, the expert noted that:

- ridge flashings are ‘poorly installed’, with junctions reliant on sealant

- one ridge flashing has been patched with butyl rubber, indicating attempts to stop past water leaks
- the gap to valley gutters is too small and the bottom of roof sheets can be easily lifted - indicating insufficient fixing
- the bottom of the apron flashing above the main entry lacks a kick-out and is reliant on sealant for weathertightness.

5.4 The building envelope summary

5.4.1 The expert concluded that the following areas required further investigation and/or remedial work to comply with Clauses E2 and B2 of the Building Code:

- the unsealed wall cladding penetrations
- the roof ridge flashings
- the narrow roof valley gutters and sheet fixings adjacent the gutters
- the bottom of the apron flashing above the entry.

5.5 The authority's remaining concerns

5.5.1 The bathrooms (Clause E3 Internal moisture): The expert noted that:

- bathroom and ensuite shower enclosures are fully tiled
- tile installation workmanship appears 'excellent', with adequate falls to centrally located drainage outlets to allow rapid disposal of water
- moisture content in adjoining walls is low, indicating that waterproof membranes 'are installed and performing as intended.'

5.5.2 The timber trusses (Clause B1 Structure): The expert inspected the roof trusses from within the ceiling space and noted that:

- the trusses are obviously of pre-fabricated manufacture, with no evidence of sagging or structural stress
- the truss supplier was, and still is, a recognised supplier of computer-designed roof trusses
- the truss system is 'performing as intended and will likely continue to do so.'

6. Discussion: Compliance generally

6.1 The original building consent was issued under the former Act, and accordingly the transitional provisions of the Act apply when considering the issue of a code compliance certificate for work completed under that consent. Section 436(3)(b)(i) of the transitional provisions of the current Act requires the authority to issue a code compliance certificate only if it 'is satisfied that the building work concerned complies with the building code that applied at the time the building consent was granted'.

6.2 An application can be made to the authority for a modification of durability requirements to allow durability periods for the house to commence from the date of substantial completion in January 2006. Although that matter is not part of this determination, I have taken the anticipated modification into account when considering the performance of external building envelope.

6.3 In order to determine whether the authority correctly exercised its power in refusing to issue a code compliance certificate, I must therefore consider whether the building work complies with provisions of the Building Code that applied when the consent was issued in 2005.

7. Discussion: the building envelope (Clauses B2 Durability and E2 External moisture)

7.1 The evaluation of building work for compliance with the Building Code and the risk factors considered in regards to weathertightness have been described in numerous previous determinations (for example, Determination 2004/1).

7.2 Weathertightness risk

7.2.1 This house has the following environmental and design features, which influence its weathertightness risk profile:

Increasing risk

- the site is in a high wind zone
- the house is two-storeys high
- the house has some complex junctions
- there is an attached upper level deck, some of which is above the lower garage

Decreasing risk

- the house has a single wall cladding
- there are generous eaves to shelter most of the walls
- the wall cladding is installed over a drained cavity
- external wall framing is treated to a level that provides resistance to decay if it absorbs and retains moisture.

7.2.2 Using the E2/AS1 risk matrix to evaluate these features, elevations are assessed as having a moderate weathertightness risk rating. If current E2/AS1 details were adopted to show code compliance, drained cavities would be required for all elevations. Although not a requirement at the time of construction in 2005, drained cavities were incorporated.

7.3 Weathertightness conclusions

7.3.1 I consider the expert's report establishes that the current performance of the building envelope is adequate because there is no evidence of moisture penetration into the timber framing. Consequently, I am satisfied that the external building envelope currently complies with Clause E2 of the Building Code.

7.3.2 However, the durability requirements of Clause B2 include a requirement for claddings to remain weathertight for a minimum of 15 years. Although a modification of the durability provisions to allow provisions to commence from the date of substantial completion in January 2006 will mean that most cladding areas have already met more than 11 years of the minimum life required by the Building Code, I am satisfied that several areas of the external building envelope may not comply with Clause E2 for the period required by the code and therefore do not

comply with the durability requirements of Clause B2 as identified by the expert in paragraph 5.4.1.

- 7.3.3 Because the identified cladding faults occur in discrete areas, I am able to conclude that satisfactory rectification of areas outlined in paragraph 5.4.1 will result in the external building envelope being brought into compliance with Clauses E2 and B2 of the Building Code.
- 7.3.4 Effective maintenance of claddings is important to ensure ongoing compliance with Clauses B2 and E2 of the Building Code and is the responsibility of the building owner. The Ministry has previously described these maintenance requirements, for example, Determination 2007/60.

8. Discussion: the authority's remaining concerns

8.1 The timber trusses

- 8.1.1 Taking account of the expert's observations, the authority's inspection records and the other evidence, I am satisfied that the timber trusses were manufactured by an accredited fabricator in 2005 and are likely to comply with Clause B1 and B2 of the Building Code, notwithstanding the lack of documentation of the structural calculations.

8.2 The tiled bathrooms

- 8.2.1 Taking account of the expert's report, I note the following:
- the authority carried out satisfactory inspections of the house during construction, with no comment about the waterproof membrane installation
 - the tiler has provided a producer statement which confirms the installation of waterproofing membrane, without specifying the product used
 - the expert has observed the good quality of the tile installation and there is no evidence of moisture penetration into adjoining walls after 11 years.
- 8.2.2 The above observations provide me with reasonable grounds to conclude that the tiled showers comply with Clause E3 and B2 of the Building Code.

8.3 The electricity supply

- 8.3.1 I have outlined the history of the building site in paragraph 2.1 and the applicant has explained that an electrical certificate of compliance for the installation of the electrical mains from the street to the meter board cannot be obtained now due to the 20 years lapsed since 1997.
- 8.3.2 The electrical certificate issued for the house excluded the 'mains' and the 'Switchboard closest to point of supply', because these had been installed as part of the initial installation in 1997 and not as part of the electrical work for the house.
- 8.3.3 The house is now 11 years old and the provision of an energy works certificate at this time would seem to be of limited value. Given the lack of evidence of any significant electrical problems, I am satisfied that the house is likely to comply with Clause G9 of the Building Code, despite the lack of an energy works certificate.

8.4 Producer statements

- 8.4.1 There is no basis in the Act for an authority to demand a producer statement as a condition for establishing code compliance for issuing a code compliance certificate. Producer statements have no statutory status in the Act, although they can assist authorities to establish compliance.
- 8.4.2 In my view the receipt of a producer statement by an authority does not lessen its liability in establishing code compliance. An authority accepts a producer statement at its discretion in the belief that the author of the producer statement is credible.
- 8.4.3 An authority should not rely on a producer statement to the exclusion of other evidence that demonstrates compliance. It may assist the authority to assess as-built elements but should not be the only means of establishing compliance as the authority remains responsible for that decision based on all of the available evidence.

9. What happens next?

- 9.1 I note the building consent was issued to the current owners of the house and the authority may issue a notice to fix that identifies the defects identified in paragraph 5.4.1. Alternatively, the authority may elect to deal with the matter via a notice issued under section 95A of the Act.
- 9.2 The applicant can then produce a response to the notice in the form of a detailed proposal to specifically address the matters of non-compliance for the areas identified. If necessary, any outstanding items of disagreement can then be referred to the Chief Executive for a further binding determination.
- 9.3 I note the expert identified some as-built variations from the work as consented (tiled showers and altered layout to ensuite bathroom). I do not consider these changes are sufficiently significant to warrant the plans being amended to record the changes.
- 9.4 A code compliance certificate will be able to be issued once these matters have been rectified and the matter of amending the building consent to modify Clause B2.3.1 has been resolved.

10. The decision

- 10.1 In accordance with section 188 of the Building Act 2004, I hereby determine that, in regard to the Building Code that was in force at the time the original building consent was issued in 2005, some areas of the external building envelope do not comply with Building Code Clauses E2 and B2 and accordingly, I confirm the authority's decision to refuse to issue a code compliance certificate.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 6 March 2018.

Katie Gordon
Manager Determinations