

Satisfied on reasonable grounds

JULY 2024



Ministry of Business, Innovation and Employment (MBIE)
Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

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Information, examples, and answers to your questions about the topics covered here can be found on our website: www.mbie.govt.nz or by calling us free on 0800 24 22 43.

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1. Purpose

The purpose of this guidance document is to help improve understanding of what ‘satisfied on reasonable grounds’ (SORG) means and how to apply it to:

- granting building consent applications
- issuing code compliance certificates
- applications for a national multiple-use approval (known as a MultiProof).

This guidance seeks to provide clarity for building consent authorities (BCAs) on:

- applying the appropriate level of scrutiny to making the decisions listed above
- considering the risk of non-compliance
- providing consistency within BCAs.

This guidance will assist BCAs to achieve:

- a consistent approach, ensuring only necessary supporting information is considered and requested
- consistency with how compliance with the Building Code is demonstrated.

Features of this document

Hyperlinks are provided to cross-reference within this document and to external websites.

These hyperlinks appear with an underline.

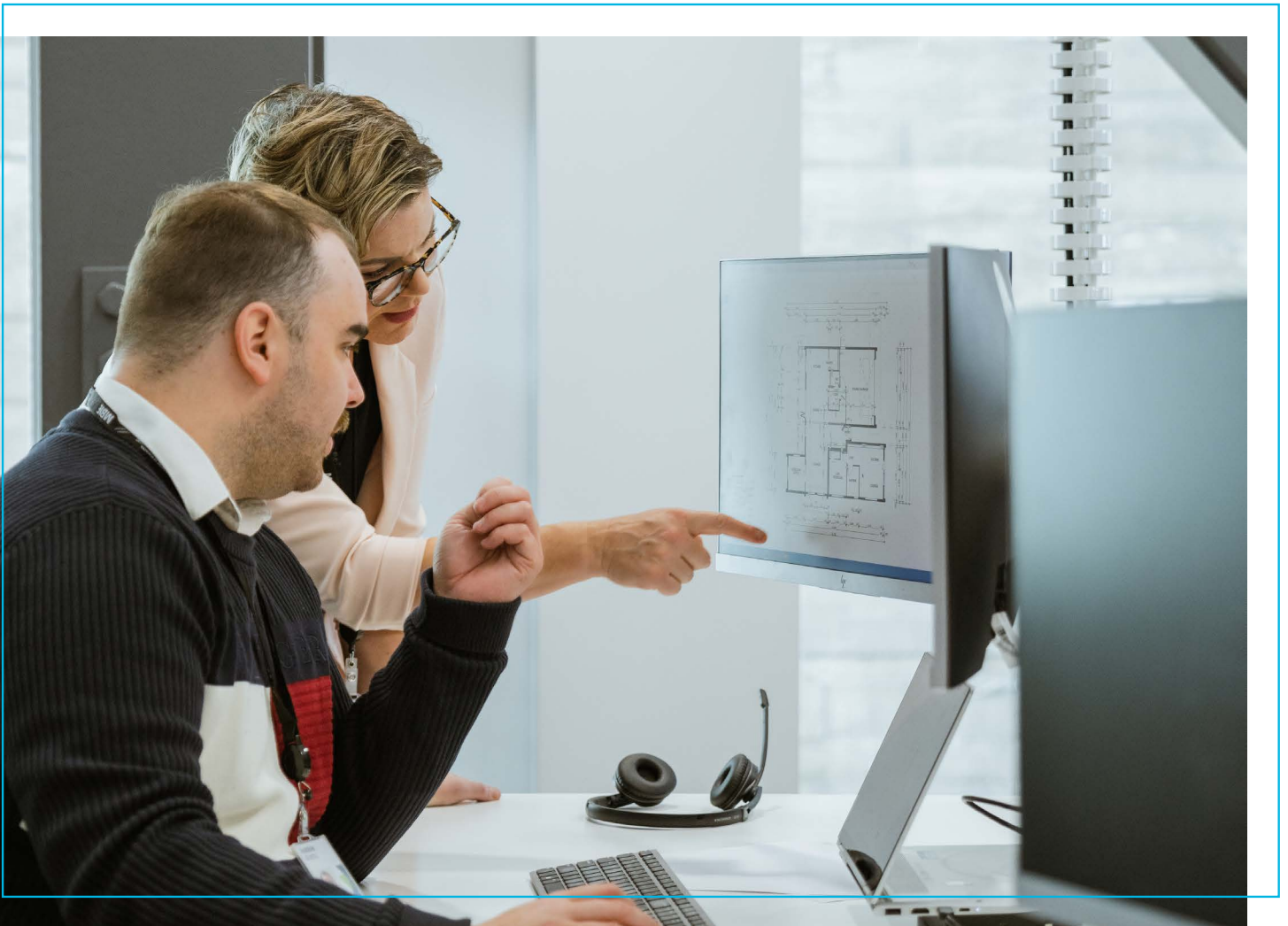
2. Who this guidance is for

The primary audience for this guidance is BCAs; however designers, owners and builders will also gain a better understanding of:

- what it means to be satisfied on reasonable grounds
- the roles and responsibilities of the main parties
- building consent applications.



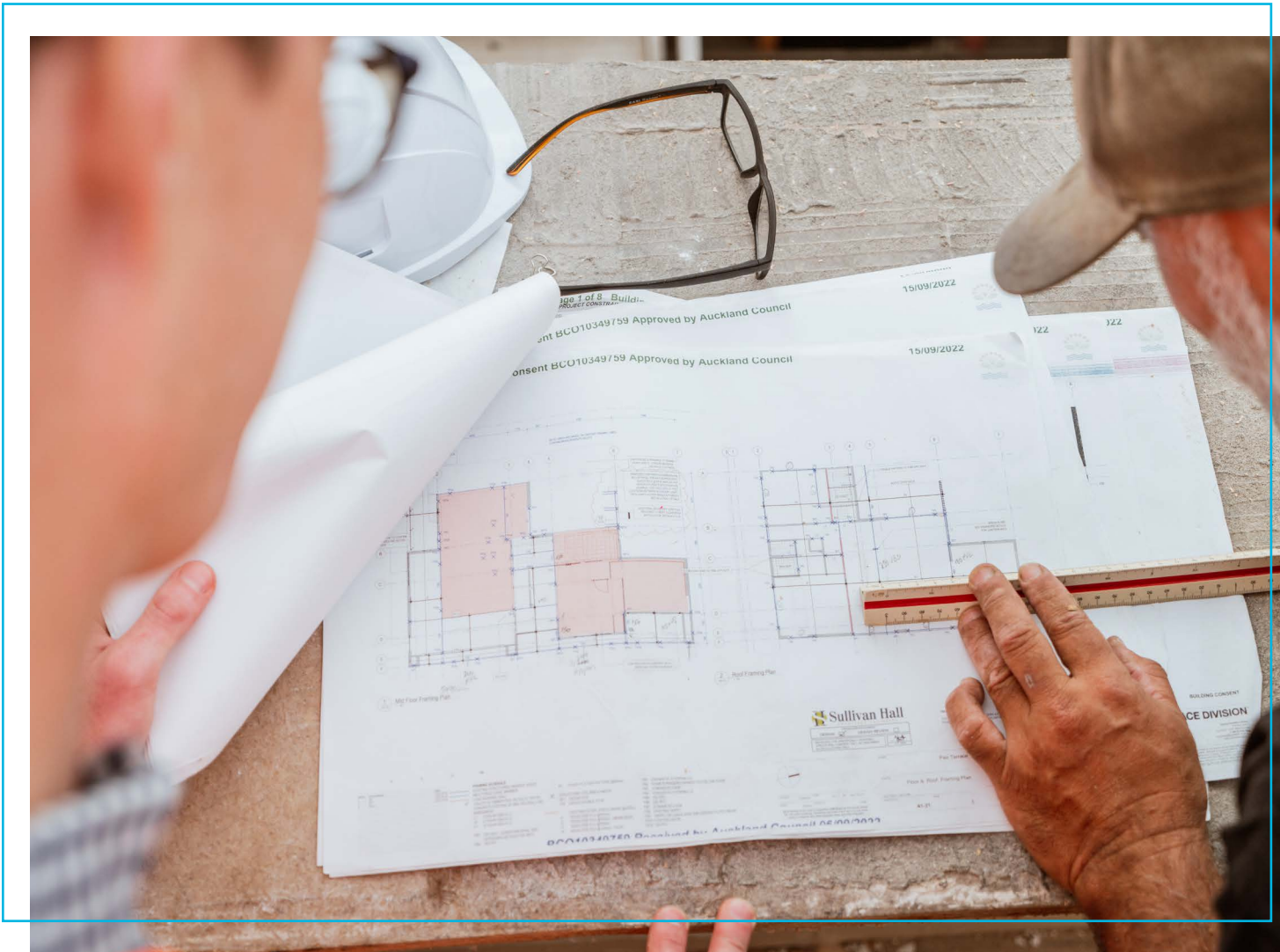
'Accredited organisation – building' (AoBs) may find this guidance useful when assessing building consent applications for registered BCAs. AoBs are organisations that have been accredited to the Building (Accreditation of Building Consent Authorities) Regulations 2006 but have not sought formal registration as a BCA.



3. Definition of satisfied on reasonable grounds

Satisfied on reasonable grounds means having enough evidence or justification to believe something to be true or valid. It implies a level of confidence based on sound reasoning or facts, rather than on speculation or assumption.

Satisfied	to be adequate, to fulfil expectations
Reasonable	sensible and based on sound judgement. Balanced, based on the circumstances at hand. Needs to be an objective test, capable of measurement, assessment and comparison.
Grounds	base, evidence of fact



4. What it means to be satisfied

A BCA must grant a building consent if it is satisfied on reasonable grounds that the provisions of the Building Code will be met if the building work is completed in accordance with the plans and specifications.

This allows for variation in the type of evidence depending on the circumstances. For example, less evidence and detail in the plans and specifications for a relatively simple project designed to comply with Acceptable Solutions versus more evidence and more details for a complex project that includes alternative solutions.

Compliance with the Building Code is established by but not limited to:

- using Acceptable Solutions or Verification Methods
- a determination made by the MBIE's Chief Executive (where there may have been a dispute about building work)
- a current MultiProof approval issued under section 30F of the Building Act 2004, if every relevant condition in that MultiProof approval is met
- current registered product certificate (CodeMark) if every relevant condition in that product certificate is met
- a current manufacturer's certificate issued by a registered manufacturer certified to design and manufacture (BuiltReady)
- in service history of a building product or building method
- credible expert opinion (such as a peer review from a CPEng)
- alternative solutions – an alternative solution can include a material, component or construction method that differs completely or partially from those given in the Acceptable Solutions or Verification Methods. Whatever the reason, a design-led, non-generic approach to building is often desired or required.

BCAs should assess the facts, circumstances and evidence provided and use their judgement to determine if these are sufficient to be satisfied on reasonable grounds

What does the law say

19 How compliance with building code is established

- (1) A building consent authority must accept any or all of the following as establishing compliance with the building code:
 - (a) compliance with regulations referred to in section 20;
 - (b) compliance with an acceptable solution:
 - (ba) compliance with a verification method;
 - (c) a determination to that effect made by the chief executive under subpart 1 of Part 3;
 - (ca) a current national multiple-use approval issued under section 30E, if every relevant condition in that national multiple-use approval is met;
 - (d) a current registered product certificate, if every relevant condition in that product certificate is met:
 - (da) in relation to the design and manufacture of a modular component that is designed and manufactured by a registered MCM, a current manufacturer's certificate issued by that registered MCM;
 - (e) to the extent that compliance with a requirement imposed by regulations made under the Electricity Act 1992 or the Gas Act 1992 is compliance with any particular provisions of the building code, a certificate issued under any of those regulations to the effect that any energy work complies with those requirements.
 - (2) In considering whether something complies with the building code, a building consent authority or, as the case may be, a regional authority –
 - (a) must have regard to any relevant warning or ban in force under section 26(2); and
 - (b) may have regard to any guidance information published by the chief executive under section 175.

5. Roles and responsibilities

The BCA is ultimately responsible for building consent outcomes.

Other parties play a key role in contributing to whether a building consent authority can be satisfied on reasonable grounds. Owners, designers and builders have roles that collectively ensure building projects comply with regulations and standards, uphold the safety and quality of the built environment, and maintain the integrity of the building consent process. This includes adhering to established guidelines, maintaining professional competency, and exercising sound judgment throughout the process.

Building consent authorities are responsible for exercising professional judgement when assessing building consent applications. This involves checking details on the plans against the performance requirements of the Building Code and relevant sections of the Building Act.

The BCA forms an opinion based on the information provided by the applicant, as to whether they are satisfied on reasonable grounds, that the work, if properly completed in accordance with the plans and specifications, would meet the requirements of the Building Code. If the BCA considers that there is insufficient information, the applicant must be notified.

In making this judgement, to be satisfied on reasonable grounds, the BCA will:

- exercise professional judgement
- measure the design against the performance requirements of the Building Code
- measure performance against Acceptable Solutions and Verification Methods
- consider product appraisals, CodeMark and product technical statements, checking scope and limitations relevance to the project
- consider technical opinions from chartered professional engineers (CPEng), including confirming the engineer's field on the CPEng register
- employ the BCA's applicable policies and procedures
- consider the buildability of the work
- utilise any relevant MBIE technical and regulatory guidance
- reflect on past decisions of a similar or comparable nature
- consider any relevant determinations or MBIE opinions
- take stock of any in-service history or comparisons with other similar building products/methods when considering risk of failure and durability. Verification method B2/VM1 may be used to evaluate in-service history and the comparison of similar materials.

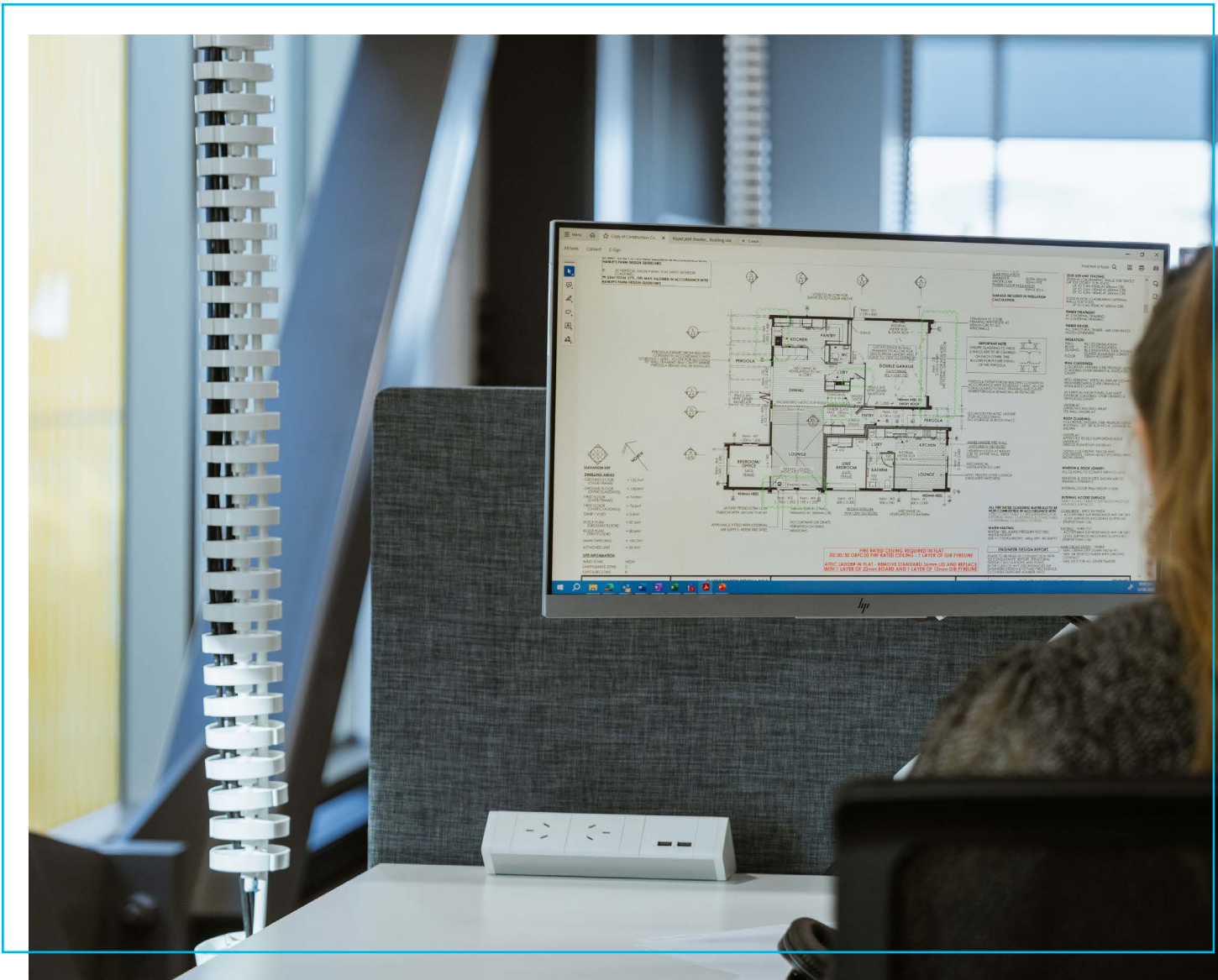
Designers are responsible for:

- ensuring that the plans and specifications are sufficient to result in the building work complying with the Building Code
- where applicable, supplying a Certificate of Design Work which relates to any restricted building work that was carried out or supervised in drafting the documents
- answering requests for information (RFIs) during the building consent approval process.

Builders are responsible for:

- ensuring that building work complies with the building consent and the plans and specifications to which the building consent relates
- where applicable, supplying a Record of Work that relates to any restricted building work that was carried out or supervised
- ensuring that building work not covered by a building consent complies with the Building Code.

Owners are responsible for obtaining necessary consents, approvals and certificates.



6. Assessment considerations for satisfied on reasonable grounds

To be satisfied on reasonable grounds, BCAs must make a qualitative assessment that requires an informed judgment call. An objective test is capable of measurement, assessment and comparison.

This can be an Acceptable Solution, Verification Method or standard, but it is important to look at the wording in the Building Code and the principles of building science.

Judgement calls consider risk, complexity, previous knowledge of similar situations, skills and experience of persons providing the evidence and the quality of that evidence.

The diagram below illustrates the considerations that BCAs use when assessing evidence to determine if they are satisfied on reasonable grounds during the evaluation process. These considerations ensure that decisions are based on clear, relevant, and practical information that supports compliance with the Building Code. These considerations can include:

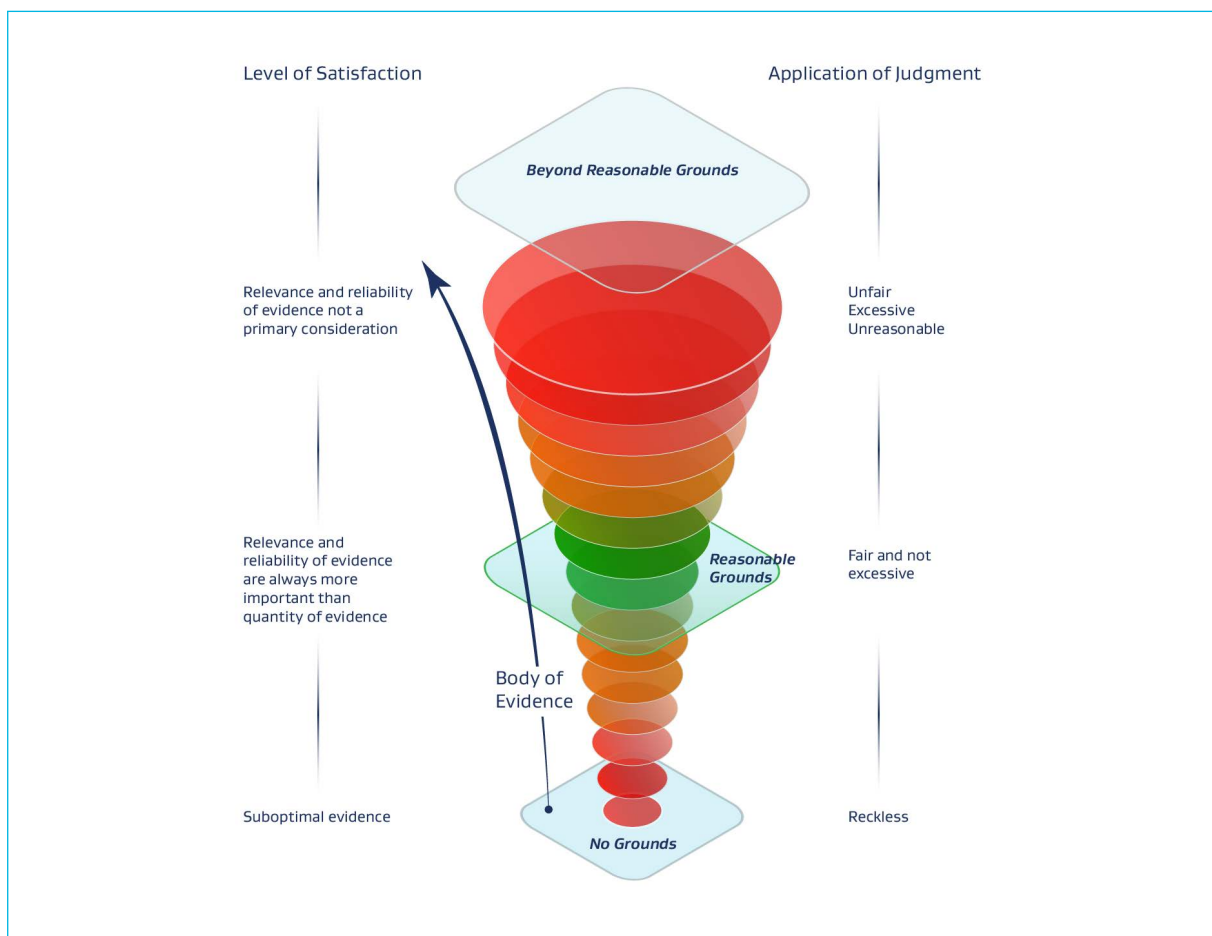
Figure 1: Considerations used by BCAs when assessing evidence



- **Buildability** – the buildability of the proposed building work based on the evidence provided – could a builder pick up the issued building consent (approved plans and specifications) and build it?
- **Compliance with the Building Code** – the designer has an obligation to provide evidence to demonstrate the means of compliance with the Building Code.
- **Competence** and experience generally underpin good decision-making processes and outcomes.
- **Risk-based** – applying a risk-based approach or methodology to the proposed building work (see section 7 for further information).
- **Linked to the purposes and principles of the Building Act** – provides the purposes for the regulation of building work.
- **Being reasonable** – about what evidence is expected/required.
- **Provision of relevant evidence** – evidence relevant to the specific building work is included so an informed decision can be made.

When evaluating whether they can be satisfied on reasonable grounds, BCAs must navigate a spectrum of decision-making that balances evidence with their professional expertise. Figure 2 below represents this spectrum, highlighting the “SORG sweet spot” where the body of evidence aligns with a BCA’s judgment to determine reasonable grounds. This visual aid is designed to help BCAs integrate their experience with available evidence effectively, ensuring that their decisions are robust and would be considered reasonable by others with similar expertise.

Figure 2: The SORG ‘sweet spot’ represented in green



7. Key principles for consideration to be satisfied on reasonable grounds

There are four key principles that BCAs could consider when deciding if they are satisfied on reasonable grounds. These are:

Principle 1: Evidence

The reference to 'evidence' here as a key principle relates to all information, drawings, specifications, and other documents according to which a building is proposed to be constructed, altered, demolished, or removed. Refer to section 7 of the Building Act under [plans and specifications](#) for a full definition.

Figure 3: Key principles to be satisfied on reasonable grounds



It may be useful to zoom out before zooming in

Before starting an assessment of the proposed building work, it's essential to step back ('zoom out') and understand the overall context of the project and any unique conditions of the site (such as wind and snow zones). This is particularly important when some form of digital tool or system is commonly used to assess or inspect building work.

This approach helps in identifying any potential issues and is required to tailor the assessment to the work's specific environment. Pausing and coming to terms with the project before commencing with the consent checklist will enable a BCA to assess the scope of work, its scale, obvious or common areas of non-compliance and whether they have processed or inspected the same or a similar design or project in the past.

A reference building or digital twin can be a useful point of leverage in that it can save time, duplication of effort and aid in employing a valid means of risk-based consenting. See section 10, Additional Considerations for further information.

As most working drawings and plans are provided in a two-dimensional format, they typically represent one vertical plane or elevation of a building or structure, while floor plans convey a view of floor layouts and services for example. Given buildings are not built in two-dimensions there will always be potential for 'blind spots' or minor shortcomings in any design.

The Building Act uses the term 'satisfied on reasonable grounds' as opposed to beyond reasonable doubt or a higher-level test, as is expressed in [figure 2](#).

TIP

- The volume of documentation does not always equate to quality. Less is often more, particularly where that documentation is site specific and non-generic.
- Consider requesting only the pertinent aspects of product information such as relevant installation details and fixing schedules, product testing and warranty requirements or removing non-applicable surplus information where required.
- Specifications should also be site-specific and not generic as many are in practice.
- Inaccurate or unclear information often prevents straightforward decision-making.

Assessment of evidence

A BCA will consider whether the application meets the performance criteria of the relevant Building Code clauses. This includes whether the evidence provided is sufficient and robust.

To be satisfied on reasonable grounds, a BCA can consider a technical expert's (such as a CPEng) judgements or opinions and decide whether:

- the design is applied correctly, and the application is appropriate in the circumstances
- the judgements and opinions are made by people with appropriate skills, experience, qualifications and professional registrations
- the views expressed apply directly to the building work in question
- the relevance of the case has been established
- comparisons drawn are valid
- results have been interpreted correctly
- possible contingencies have been accounted for and are reasonable.

Many BCAs have adopted a checklist methodology in order to establish whether they're satisfied on reasonable grounds. This is commonly in the form of a software package or system, which has been specifically designed to systematically check an application for building consent via a series of 'dropdown' or checkboxes. In such systems the process has been automated to reflect common Building Code compliance making decision points that can be tracked and traced.

These systems are seen to make the whole process generally more user friendly with greater levels of visibility. Such software is also purported as better supporting consistency amongst users.

TIP

There is an important balance to be struck if, for example, a standardised design is being processed and is able to be used as a 'reference building'. In this case, the SORG process might reasonably be focussed on what is new or different with other buildings that attest to being in accordance with the standardised design of the reference building.

Principle 2: Risk

A risk-based approach fosters a reasoned and proactive approach to identify specific risks and implements appropriate practices or processes to respond to those risks. A risk-based approach focuses or places a greater emphasis on activities with a higher risk of non-compliance, and/or a greater risk to the built environment in the event of non-compliance, which is the most efficient and effective means of managing risk. Some advantages of a BCA being risk-based include:

- enabling limited resources to be prioritised according to the level of risk being encountered
- targeting activities to areas where non-compliance is most likely
- enabling a quicker response to changing and emerging risks
- providing for robust and transparent decision-making
- ensuring a fair, consistent and appropriate level of scrutiny is applied to compliance activities and functions.

Risk is dealt with at various levels in the Building Act and in the associated regulations. Some examples of this treatment and management of risk are:

- providing specific performance measures for things like building work, buildings, and building elements that must be achieved under the Building Code
- having some restriction on who can undertake or supervise certain design or building work – for example, through occupational licensing, like the LBP scheme
- determining a building's classified use and providing specific limits on that building's use/application in the Building Code
- via a building's importance level (IL) and the resulting design criteria etc dictated by this
- by virtue of the building work being exempt under Schedule 1 of the Building Act
- through co-regulation, the introduction of BCAs and the related accreditation scheme.

While some Building Code clauses can be generally riskier than others, mitigations such as restricted building work, building importance levels and classified uses are in place. BCAs should follow the processes they have to apply risk-based decision making and the efficiencies of using the likes of a 'reference building'.

Principle 3: Competencies and experience

A mix of competency and experience generally underpin good decision-making processes and outcomes.

Regulation 10 of the [Building \(Accreditation of Building Consent Authorities\) Regulations 2006](#) is intended to ensure all prospective and current building control staff performing building control functions have had their competency established.

A BCA only needs to be satisfied on reasonable grounds, not beyond all reasonable doubt. However, any good decision-making processes should be underpinned by sound and traceable reasons for decisions and include a rational outcome.

Decisions made by BCAs require informed judgement. This is commonly associated with currency of competence or practice and relevant experience – it's difficult to make good and consistent decisions without these ingredients.

Principle 4: Processes

BCAs should follow their accredited policies, procedures, processes and systems. This will ensure consistency within BCAs.

Under the BCA accreditation scheme, all BCAs are required to have policies, procedures and systems in place for performing their building control functions. These need to cover the building consent process from vetting an application for building consent through to the issue of a code compliance certificate. The processes outline how a BCA carries out its various functions, including making decisions based on whether it considers that it is satisfied on reasonable grounds that building work complies with the requirements of the Building Act, Building Code and any other applicable building regulations.

IANZ audits ensure Regulation 6 of the Building (Accreditation of Building Consent Authorities) Regulations 2006 is met by BCAs, to ensure that decisions are documented, including the reasons for the decisions and the outcomes. This is an exercise in due care and responsibility and aims to add some degree of consistency between BCAs.

BCA processes should document how the SORG test is applied by BCAs when:

- processing a building consent application
- inspecting building work including assessing any variations
- deciding to issue a code compliance certificate (CCC)
- issuing compliance schedules and compliance schedule statement (Territorial Authority function).

8. How to comply with or explain the legislation

The table below outlines how BCAs should interpret and apply the legislation to meet the satisfied on reasonable grounds test.

What does the law say	SORG
<p>49 Grant of building consent</p> <p>(1) A building consent authority must grant a building consent if it is satisfied on reasonable grounds that the provisions of the building code would be met if the building work were properly completed in accordance with the plans and specifications that accompanied the application.</p>	<p>The BCA must grant the consent if it is satisfied on reasonable grounds that the provisions of the Building Code will be met if the building work is completed in accordance with the plans and specifications.</p> <p>If the building consent is refused, the BCA must write to the applicant and state the reasons. This must be done within the 20-working-day timeframe, except for Multi-proof, which have a 10-working day timeframe.</p>
<p>94 Matters for consideration by building consent authority in deciding issue of code compliance certificate</p> <p>(1) A building consent authority must issue a code compliance certificate if it is satisfied, on reasonable grounds, –</p> <p>(a) that the building work complies with the building consent; and</p> <p>(b) that, –</p> <p>(i) in a case where a compliance schedule is required as a result of the building work, the specified systems in the building are capable of performing to the performance standards set out in the building consent; or</p> <p>(ii) in a case where an amendment to an existing compliance schedule is required as a result of the building work, the specified systems that are being altered in, or added to, the building in the course of the building work are capable of performing to the performance standards set out in the building consent.</p>	<p>A BCA's policies, procedures and systems for deciding whether to issue a CCC must include processes for complying with the legal test in section 94(1)(a) of the Building Act and how the BCA applies the SORG test.</p> <p>Any CCC issued must meet the requirement of section 95 of the Building Act and include the declaration that the BCA is satisfied on reasonable grounds that the building work complies with the building consent.</p> <p>If the CCC application is refused, the BCA must write to the applicant and state the reasons within the 20-working-day-timeframe.</p>
<p>102 When compliance schedule must be issued</p> <p>(1) A building consent authority must issue a compliance schedule if –</p> <p>(a) the compliance schedule, or an amended compliance schedule, is required as a result of building work; and</p> <p>(b) the building consent authority is satisfied, on reasonable grounds, that the specified systems for the building are capable of performing to the performance standards for those systems.</p>	<p>A BCA must be satisfied on reasonable grounds for example, through statements from independent qualified persons, that the specified systems meet the performance standards set out in the building consent where:</p> <ul style="list-style-type: none"> • a compliance schedule is new • a compliance schedule has been amended as a result of building work • where a compliance schedule statement is being issued.

What does the law say	SORG
<p>30D Chief executive must decide whether to accept, for processing, application for national multiple-use approval</p> <p>(3) The chief executive may refuse to accept for processing an application for a national multiple-use approval only if the chief executive is satisfied, on reasonable grounds, that the application –</p> <ul style="list-style-type: none"> (a) does not meet the requirements of this Act; or (b) includes a building product or building method in relation to which a ban under section 26(2) is in force; or (c) does not meet the prescribed eligibility criteria (if any) for a national multiple-use approval. <p>30F Issue of national multiple-use approval</p> <p>(1) The chief executive must issue a national multiple-use approval if he or she is satisfied, on reasonable grounds, that –</p> <ul style="list-style-type: none"> (a) the application meets the requirements of section 30B; and (b) the applicant has paid the prescribed fee (if any); and (c) the application meets the prescribed eligibility criteria for a national multiple-use approval (if any); and (d) the application does not involve the use of a building product or building method in relation to which a ban under section 26(2) is in force; and (e) if building work were properly completed in accordance with the plans and specifications that accompanied the application, that building work would comply with the building code. 	<p>The MultiProof SORG test is written in largely the same way as it is for BCAs. However, a MultiProof approval differs as it is a formal statement from MBIE that a set of plans and specifications for a building complies with the Building Code.</p> <p>The approval also differs because MBIE makes an additional assessment beyond whether the plans and specifications comply with the Building Code. MBIE assesses whether:</p> <ol style="list-style-type: none"> 1. the applicant has the intention and ability to reproduce the proposed plans and specifications at least 10 times in a two-year period 2. the proposed plans and specifications relate to a whole building. <p>This SORG assessment is MBIE’s responsibility (provided the plans and specifications in the building consent application match the approved plans MBIE has on file).</p>

9. Alternative solutions

TIP

Many buildings, particularly more complex projects or renovations, rely on alternative solutions to demonstrate compliance with clauses of the Building Code. This is where all, or part, of the building design differs from an Acceptable Solution or Verification Method, and other means are used to show how building work still complies with the Building Code.

Under a performance-based Building Code, awareness and consideration of alternative solutions should be part of everyday practice. There is a wide range or spectrum of alternative solutions that can be as simple as an individual building product or as complex as a novel or unique building system or method.

For example, some common alternative solutions frequently used in Aotearoa/New Zealand for Clauses E2 and E3 of the Building Code include:

- specifying exterior timber or uPVC joinery in conjunction with E2/AS1. Any variance in a design sense is generally minimal, as to the products themselves (be it an aluminium, timber or uPVC frame type) they are normally configured in much the same way and are considered to be comparable components or assemblies as to their Building Code performance for the purposes of Clause E2
- junction details (between differing cladding types) as these are not within E2/AS1's scope
- deviations to Acceptable Solutions, such as vertical profiled metal cladding on a cavity which is technically outside the scope of E2/AS1, though in a real sense will likely exceed the requirements of this acceptable solution
- standard proprietary shower cubicles etc not to E3/AS1. Being circa 1998, most of the figures provided in E3/AS1 have relatively limited application in a current sense. However, the general principles, building science and detailing behind this acceptable solution still hold true.

These examples are only a few of the commonly employed alternative solutions in everyday use. They illustrate the wide application of compliant alternative solutions that are performing to, or in excess of, the minimum Building Code performance requirements.

TIP

In contrast to an Acceptable Solution or Verification Method, the methodology and burden of proof employed to illustrate compliance of an alternative solution under a performance-based Building Code sits with the designer or with those specifying a building product or building method. It is for these parties to demonstrate that all applicable Building Code performance obligations have been met.

In order for proper performance-based evaluation and assessment to follow, it is critical that the evidence base for complex alternative solutions is both clear and robust.

Further detailed information on alternative solutions can be found on the Building Performance website. [Alternative solutions for compliance with the Building Code](http://www.building.govt.nz) – www.building.govt.nz

10. Additional considerations

There are other considerations to assess satisfaction on reasonable grounds including:

- entering conditions on building consents
- recognition of 'reference buildings', 'digital twins' or 'clones'
- the Building Act 2004.

Entering conditions on building consents



Building consents must be issued on Form 5 of the [Building \(Forms\) Regulations 2004](#) and include (among other things) a description and location details of the proposed building work and any applicable conditions. Conditions often relate to matters that cannot be fully satisfied or resolved at the processing stage of the building consent process.

There are various conditions that apply in relation to building consents. These relate to:

- inspections (under section 90 of the Act). BCAs usually stipulate a list of inspections in a building consent (as provided for in section 90), but there is nothing in the Building Act that requires BCAs to restrict themselves to inspections. A BCA may supplement or substitute these inspections with other measures to satisfy itself that the building work will be carried out in accordance with the plans and specifications. For example, this could include third-party oversight and statements (eg producer statements from chartered professional engineers for construction monitoring, inspection and oversight of elements of specific engineered design). In addition, inspections can be targeted to focus the assessment of a specific element of construction such as a complex flashing junction between multiple claddings
- any conditions that the territorial authority considers appropriate to waivers and modifications of the Building Code (section 67)
- natural hazards (section 72 and 73)
- building on two or more allotments (section 75)
- buildings with specified intended lives (section 113).

For the avoidance of doubt, 'advice notes' concerning the submission of warranties and guarantees cannot be entered on Form 5 as 'consent conditions', as these do not fall within the bounds of the five consent conditions listed above.

Any applicable product warranties should be provided to the owner in accordance with Part 4A of the Building Act that deals with [Consumer rights and remedies in relation to residential building work](#).

Recognition of reference buildings, digital twins or clones

TIP

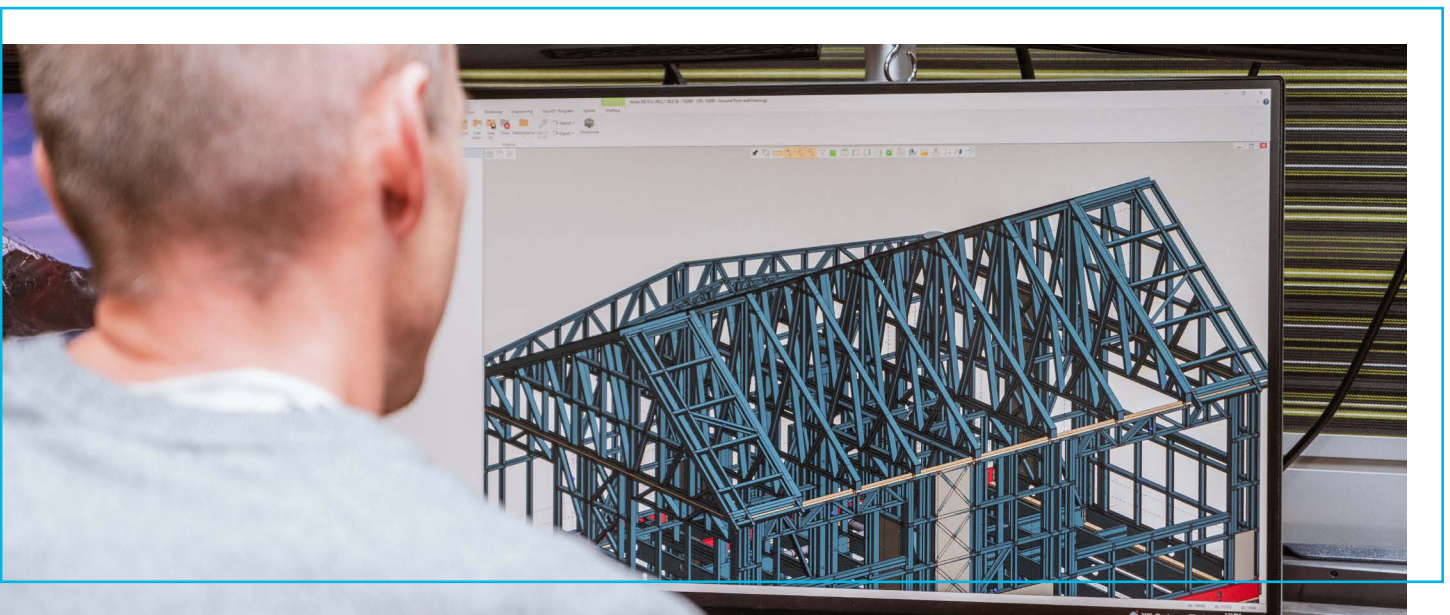
Where the same or similar design method is incorporated, repeated, replicated and/or standardised mirror configurations are being utilised a risk-based approach should be considered. A reference building, digital twin or clone can be useful in removing duplication and repetition when one design (or component) mirrors another.

An example of digital twin technology in use in Aotearoa/New Zealand is when using building information modelling (BIM), as BIM provides a digital (virtual) representation of a building to very exacting standards.

Where a reference building (eg a modular home or flat-pack garage) is being consented, a BCA does not need to re-process the entire consent in the event this has been done previously. The key elements to address in such circumstances normally centre round identifying what's new or what has changed (if anything) with respect to the use of the clone, reference building or twin.

TIP

BCAs can share such information within their respective BCA Cluster Groups or more widely in order to remove duplication of effort.



The Building Act 2004

Other sections in the Building Act may also be considered when assessing satisfaction on reasonable grounds.

What does the law say	SORG
<p>17 All building work must comply with the building code All building work must comply with the building code to the extent required by this Act, whether or not a building consent is required in respect of that building work.</p>	<p>Section 17 of the Building Act is often read as being unconditional, in that <i>all building work must comply with the Building Code</i>. The italicised text here is important in so far as the full text in this provision acknowledges that the Building Act enables building work (within reason), not to comply with the Building Code.</p>
<p>67 Territorial authority may grant building consent subject to waivers or modifications of building code</p> <ol style="list-style-type: none"> (1) A building consent authority that is a territorial authority may grant an application for a building consent subject to a waiver or modification of the building code. (2) A waiver or modification of the building code under subsection (1) may be subject to any conditions that the territorial authority considers appropriate. (3) The territorial authority cannot grant an application for a building consent subject to a waiver or modification of the building code relating to access and facilities for people with disabilities. 	<p>Section 67 acknowledges that a waiver or modification can mean that certain building work may not meet a certain performance requirement in the Building Code, or that the performance stated in the Building Code is to be modified to meet a higher or lesser performance standard.</p>



Some other examples include:

- **Section 112** acknowledges that additions and alterations to existing buildings often occur on buildings that predate our performance-based Building Code which introduces the concept of complying with the Building Code ‘as nearly as is reasonably practicable’.
- **Section 115** includes ‘as near as reasonably practicable’ when a building is undergoing a change of use.
- **Section 41** acknowledges building work can also be done under urgency where a building consent isn’t able to be obtained in advance of that building work being carried out. This might be for the purposes of saving property or protecting life.

11. Determinations

Past determinations can be used as guidance by others, particularly BCAs, when determining if they can be satisfied on reasonable grounds, when faced with similar circumstances. Determinations are a binding decision made by MBIE on matters of doubt or dispute in respect to building work outlined in the Building Act, Regulations and Building Code.

A determination is case specific and depends on the particular circumstances of the case. They are legally binding on the parties but only for the case in question. They are written so that the discussion and analysis leading to the decision is clearly explained.

It is useful when comparing a past determination to a proposed solution or circumstance to:

- identify the relevant aspect or facet of a past determination
- compare the proposal or circumstance in comparison with the past determination
- demonstrate that the comparison between the proposal or circumstance and the past determination is applicable and relevant to help inform your SORG decision-making processes.

A number of determinations have looked at decisions made on building consents, code compliance certificates, certifications of acceptance and other exercise of powers under the Building Act. These determinations can be searched via the Building Performance website or via Building CodeHub.

[Find previous determinations on CodeHub](https://codehub.building.govt.nz) – codehub.building.govt.nz

12. Glossary of terms

Term	Definition
Builder	In the context of this guidance derives from the meaning given in section 14E(1) of the Building Act and means any person carrying out building work; includes licensed building practitioners and owner builders.
Building consent authority (BCA)	Councils or private organisations who are accredited and registered to undertake building control functions under the Building Act.
Designer	Has the meaning given to it by section 14D of the Building Act.
Owner	Has the meaning given to it by section 7 of the Building Act.



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