

Determination 2010/003

Refusal to issue a building consent for cladding remediation work to a house and garage building at 7 Kane Street, Opuia



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, John Gardiner, Manager Determinations, Department of Building and Housing (“the Department”), for and on behalf of the Chief Executive of that Department. The applicant is Mr I Beattie, a licensed building practitioner (“the LBP”) who is also acting as an agent of the owner, Blues Turner Trust (“the owner”). The other party is the Far North District Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.
- 1.2 The application is in respect of a decision by the authority to refuse to grant a building consent for the re-cladding of an existing 5-year old house and a garage building because it was not satisfied that the building work, if completed in accordance with the submitted proposal, would comply with certain clauses² of the Building Code (Schedule 1, Building Regulations 1992).

¹ The Building Act, Building Code, Compliance documents, past determinations and guidance documents issued by the Department are all available at www.dbh.govt.nz or by contacting the Department 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.

1.3 Based on the information available to me, I therefore consider that the matter for determination, in terms of sections 177(b)(i) and 188 of the Act, is whether the authority was correct in its' decision to decline to issue a consent. In making this determination I have considered the following:

1.3.1 Matter 1: The re-cladding proposal

Whether the re-cladding work proposed for the buildings (“the cladding”) complies with Clause B2 Durability and Clause E2 External Moisture of the Building Code. The re-cladding work includes the components of the proposed cladding system and its junctions with other building elements, such as the windows, the decks, the roof and the lower masonry walls of the house and the garage.

1.3.2 Matter 2: The building consent documentation

Whether the documentation supporting the consent application is adequate.

1.4 In making my decision, I have considered the submissions from the parties, the report on the existing buildings by the WSG³ assessor, the report of a reviewer commissioned by the Department to consider the documentation (“the reviewer”), and the other evidence in this matter.

2. The building work

2.1 The LBP is in the process of applying to the authority for a building consent for remediation work to the exterior of the house and garage. The proposed work consists of the installation of new wall cladding systems to the upper walls of the two-storey high detached buildings and includes other associated alterations to roof claddings. The buildings are situated on a flat site in a very high wind zone for the purposes of NZS 3604⁴.

2.2 The LBP has assessed the existing house as having a high weathertightness risk, and I concur with that assessment.

2.3 The existing buildings

2.3.1 The existing buildings have concrete block walls to the ground floors and timber framed walls to the upper levels. Construction is generally conventional, with a concrete slab and foundations, timber framed floors to the upper levels, profiled metal roofing, aluminium windows and monolithic cladding to the upper levels.

2.3.2 The upper walls continue up to form monolithic-clad parapets around the 4° pitch profiled metal roofs, which have no fabricated central ridges. The roof cladding runs up one side of the roof and down the other in one single length, taking up the change in slope across the ridgeline by elastic bending in the sheet.

2.3.3 The WSG assessor arranged for the testing of wall framing samples, which confirmed that the timber was untreated. Consequently I consider that the wall framing of both buildings is not treated to a level that will provide resistance to fungal decay.

³ Weathertight Services Group

⁴ New Zealand Standard NZS 3604:1999 Timber Framed Buildings

- 2.3.4 Decorative rough sawn timber plates are installed above window heads, which the original drawings show as ‘epoxied’ to the cladding, with dummy bolts and washers giving the appearance of solid timber lintels.

2.4 The existing house

- 2.4.1 A single-storey lean-to (“the ensuite”) projects at the north corner. The ensuite has curved concrete block walls and a curved roof, with a continuous monolithic finish applied over the roof and walls.
- 2.4.2 Two timber-framed decks, with spaced timber floors, extend from the upper level living areas on the northeast and southwest elevations. The decks are supported on timber posts, which extend up to support a canopy over the southwest deck and a timber pergola above the northeast deck.

2.5 The existing garage building

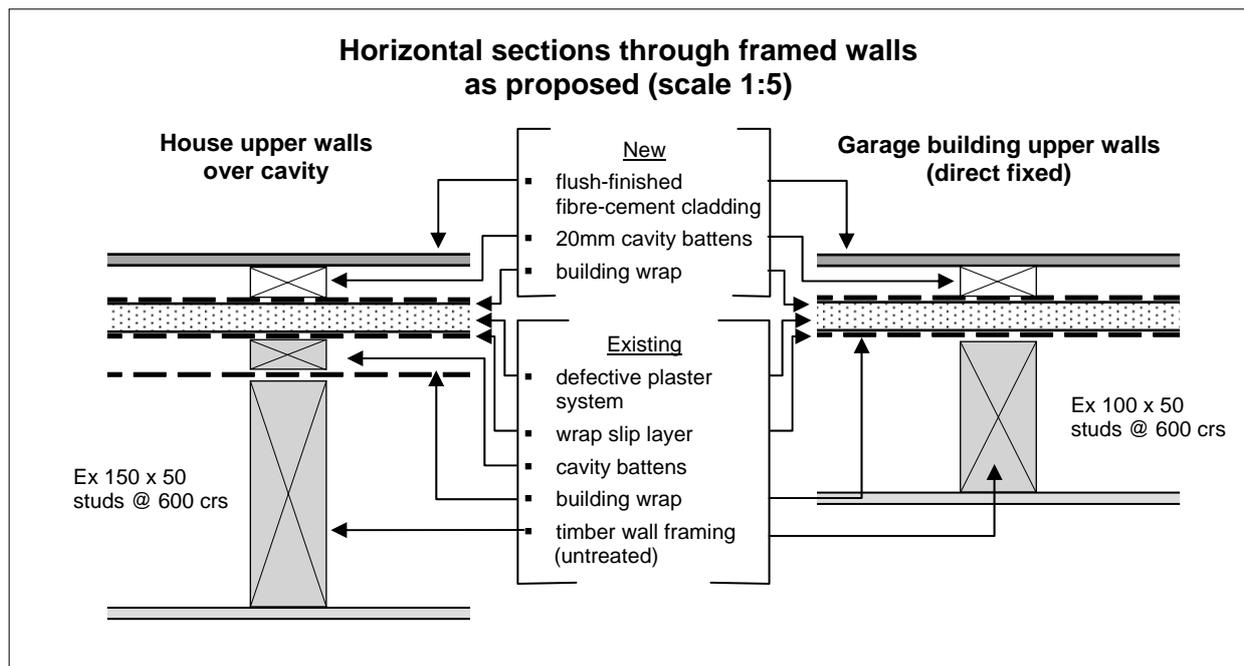
- 2.5.1 The garage building is a simple rectangular shape, with an unlined garage in the ground floor, a self-contained bedsitter in the upper level and an exterior timber staircase providing access to the bedsitter.
- 2.5.2 The timber boundary joists to the upper floor line up with the concrete block lower walls, with plaster continuous over the junction. The upper walls are set back by about 50mm, creating a flat step, which has also been continuously plastered.

2.6 The existing plaster cladding

- 2.6.1 The cladding to the existing upper walls is a monolithic cladding system described as solid plaster (“stucco”) over a solid backing. In this instance it consists of fibre-cement backing sheets covered by a reinforced solid plaster and a flexible paint coating.
- 2.6.2 In the house, the backing sheets are installed over battens that are fixed through the building wrap to the framing, to provide a cavity behind the cladding.
- 2.6.3 In the garage building, the backing sheets are fixed through the building wrap directly to the framing.

2.7 The proposed re-cladding work

- 2.7.1 The proposed re-cladding includes the retention of the existing plaster cladding, over which a new cladding system is installed. The proposed monolithic cladding is a variation of a proprietary ventilated cavity system, with 7.5mm thick fibre-cement sheets fixed through 20mm timber battens and finished with flush-finish jointing filler over mesh-reinforced joints and an applied textured plaster system.
- 2.7.2 In the details, the 20mm timber battens are shown fixed directly through the existing solid plaster, with the new battens forming a cavity between the cladding sheets and the existing plaster as indicated in the following sketches:



- 2.7.3 New colour-coated steel flashings, specified to be ‘texture coated’, are shown extending from the existing flashings to overlap the new cladding. The existing parapet flashings are to be retained, with a note stating ‘existing cap flashing to be dismantled and adjusted to fully enclose cavity based cladding’.
- 2.7.4 New apron flashings are shown at the junctions of the walls with the decks and canopies. Although not detailed, the proposed scope of works also includes the installation of new ridge flashings to the current single lengths of the roofs.
- 2.7.5 The specification calls for the plaster to the curved ensuite roof to be covered with a ‘composite fibreglass’ membrane, which is to be taken over the junction with the walls and up behind the new cladding. New butyl rubber membrane is to be installed to the roof gutters and the entry canopy.

3. Background

- 3.1 The original house was constructed under a building consent (No. ABA 20030113) issued on 22 August 2002. It appears that the house was substantially completed by October 2003, with a code compliance certificate issued on 19 March 2004.
- 3.2 It appears that the house suffered from various moisture problems and some remedial work was carried out to the roof and parapets. The owners also engaged the LBP, who completed an assessment of the buildings.

3.3 The LBP’s assessment

- 3.3.1 Within the documentation provided for the consent application, the LBP included an undated ‘Assessment of dwelling & garage’. In the photographs included in this report there is no sign of the extensive cut-outs carried out by the WSG assessor. It appears the LBP’s report was completed prior to the inspections outlined in paragraph 3.4.

3.3.2 The LBP noted that the house was generally in accordance with the drawings, although ‘a number of modifications had been made to peripheral elements’. The inspection appears to have been visual, with no invasive investigations carried out.

3.3.3 The LBP identified various matters, including:

- cracks in the cladding
- some attempts at sealing the tops of the timber lintels and the pergola plate
- the poor condition of the fibreglass membrane to the entry canopy
- the lack of saddle flashings at the parapet capping to chimney junction
- the inadequate downturn of the chimney cap flashing
- damage to the roof claddings.

3.4 The WSG report

3.4.1 In July 2008 the owner lodged a claim, initiated by the LBP, under the WHRS Act⁵, and a WSG assessor was commissioned to investigate the condition of the buildings. The assessor, who is a member of the New Zealand Institute of Building Surveyors, inspected the buildings and provided a report to the Weathertight Services Group within the Department.

3.4.2 I consider the findings of the WSG report are very relevant to the remedial design to be used on the house. The WSG report was completed by an independent and experienced expert following an established and robust process.

3.5 In the meantime, the LBP prepared a remediation proposal and consent documentation, based on his assessment of the buildings. The following describes various sections within that documentation.

3.6 The LBP’s re-cladding proposal

3.6.1 The LBP’s remediation design (“the re-cladding proposal”) included the assessment of a high weathertightness risk for the buildings, the selection of fibre-cement sheet cladding over a drained cavity as suitable for the risk, and an outline of the re-cladding proposal.

3.6.2 The LBP made no reference to the findings of the WSG report, describing the strategy of the remediation design as having been ‘developed around the existing situation to create the least disturbance of the existing structure’. In regard to the possibility of damage to the existing framing through ‘the many fractures’ in the claddings, the LBP noted:

A full assessment would be undertaken during the remediation exercise by cutting open the plaster cladding at suspect locations. Should water damaged timber be encountered, then significant additional work will be necessary. However, it may be possible to replace individual components without disturbing the interior plastered lining and joinery.

⁵ Weathertight Homes Resolution Services Act 2006

3.6.3 The LBP described his proposal as follows:

To fix a new cladding system over the concrete plaster cladding that exists.

All windows, timber lintels, canopies and balconies will remain undisturbed.

The parapet cap flashing will remain with minor modification to effect the upper flashing of the new cladding medium.

The proposed cladding system with a texture-coated finish will closely resemble that existing.

The flashing profiles are fabricated from colorsteel sheet metal and texture coated within the finishing exercise.

3.6.4 The LBP's proposed 'scope of works' generally covered the following items:

- the application of new butyl rubber membrane to roof gutters and entry canopy
- the application of 'composite fibreglass membrane' over the existing plaster cladding of the curved ensuite roof
- the addition of ridge flashings to the roofs
- the provision of ventilation to the existing parapets
- the assessment of the condition of existing timber framing in at-risk situations
- the installation of new cladding systems over existing cladding
- the installation of flashings to canopies, decks and lintels
- the refitting of the existing chimney cap flashing, rainheads, and parapet cappings.

3.6.5 The LBP outlined a 'process to remediation', which described, with added sketches, the work proposed for the various areas.

3.7 The LBP submitted an application for a building consent under cover of a letter to the authority dated 1 May 2009.

3.8 The LBP wrote to the authority on 22 June 2009, noting that he had become aware that the consent had been placed on hold by the authority, as the design would be subject to a peer review; and also that the authority had enquired about a WSG report. In regard to the matter of a WSG report, the LBP stated:

The building consent documentation clearly describes the cladding failure and remedial measures which will be fully explored and remediated in co-ordination with [the authority].

3.9 The authority responded in a letter to the LBP dated 23 June 2009, confirming that the application had been suspended pending further information required. The authority requested a copy of the WSG report and outlined various requirements, including the need for an independent peer review of the proposal, concluding that the authority:

...believes that your application fails to fully demonstrate how compliance will be met with the New Zealand Building Code, and therefore rejects your application in its entirety.

- 3.10 Despite further correspondence, the situation remained unresolved and the Department received an application for a determination on 24 August 2009.

4. The submissions

- 4.1 The LBP forwarded copies of:

- the consent application documents, including:
 - the ‘Assessment of dwelling & garage’
 - the ‘Remediation design’
 - the ‘Scope of works’
 - the ‘Process to remediation’
 - the drawings
- the correspondence with the authority
- various other statements and information.

- 4.2 The authority acknowledged the application, but made no submission.

- 4.3 In a letter to the Department dated 1 September 2009, the LBP made the following points regarding the application (in summary):

- The existence or otherwise of a WSG report forms no part of the consent application or of the determination.
- The authority will have ‘every opportunity to explore the extent of the obvious deficiencies’ in the buildings and all damaged timber will be replaced.

5. The draft determination and the hearing

5.1 The draft determination

- 5.1.1 A draft determination was issued to the parties for comment on 6 October 2009. The authority accepted the draft without comment.

- 5.1.2 The LBP did not accept the draft and in a submission to the Department dated 19 October 2009, the LBP made the following summarised comments:

- The LBP had taken careful note of the WSG report, however, the LBP drew attention to what he saw as errors in the report.
- The LBP disputed that there was any need to include ‘any detail of the existing situation ... when applying for a building consent’ and the authority was ‘well aware of the deficiencies in the cladding’.
- The LBP considered that WSG report’s typically proposed recladding as the only means of remediation. The LBP considered the completed replacement of the cladding was not a ‘practical and cost effective solution’.
- The LBP was of the opinion that the plaster cladding was still sound and the existing joinery had not failed saying ‘water damaged structure is limited to a few areas which will obviously be addressed’. There was no need to remove any joinery.

5.2 The hearing

5.2.1 A hearing was held at Opuia on 14 December 2009 before me. I was accompanied by a referee engaged by the Chief Executive under section 187(2) of the Act. The hearing was attended by:

- the LBP and the owners
- four representatives from the authority
- one other officer from the Department.

5.2.2 All the parties spoke at the hearing and the evidence presented enabled me to amplify or clarify various matters of fact and was of assistance to me in preparing this determination. The opportunity was also taken to visit the site to view the buildings.

5.3 The LBP's submissions

5.4 The LBP described the background to the situation and his proposal to remedy the defects to the cladding which the LBP considered was more cost-effective than fully removing and replacing the existing plaster cladding.

5.5 The LBP reiterated most of the points made in response to the draft determination. The LBP considered the consent documentation was adequate. The LBP would closely monitor the remediation work and would also fully involve the authority as the work progressed. The LBP believed a lodgement meeting would have properly resolved the matters raised by the authority.

5.6 Following the hearing the LBP submitted a letter to the Department dated 15 December in which the LBP welcomed the opportunity provided at the hearing to discuss the draft determination and make verbal submissions. The LBP reinforced the importance of 'record[ing] every aspect of a remediation' job and a 'robust inspection regime'. The LBP reiterated his view that the consent documentation was adequate.

5.7 The authority's submissions

5.8 The authority had not seen the WSG report and was unaware of the report's findings. The authority considered the building presented a high weathertightness risk, and better justification was required for the use of the alternative solutions contained in the application. However, the authority did not believe the proposed work was far from being considered adequate.

5.9 The owner's submissions

5.10 The owners said they wanted to fix the problems with the cladding and sought resolution of the outstanding issues so the remedial work could commence.

6. The reviewer's report on the consent documentation

6.1 As mentioned in paragraph 1.4, I engaged an independent reviewer to review the consent application documents and provide an assessment of the adequacy of the drawings for consent purposes. The reviewer is experienced in the field of building

controls and the local government regulatory environment. The reviewer assessed the specifications and drawings and responded in a letter dated 8 September 2009.

6.2 The reviewer noted that the documentation was ‘not of the quality I would expect for a project of this nature’. The reviewer noted that the Department’s guidance document⁶ provides a useful measure for the level and quality of documentation needed for a building consent.

6.3 Commenting specifically on the information provided, the reviewer noted that:

- there is little technical support for how the proposed cladding system will meet code requirements as an alternative solution
- there is no specific detail as to how cavity battens are fixed to existing cladding and then how the new cladding is fixed to the framing, with no support of the proposed system in the form of technical or manufacturer’s information
- the ‘textured coating’ is a key element that is not specified
- the ‘composite fibre glass’ over the curved ensuite roof is not specified and there is no comment or detail about the substrate
- while the designer has highlighted key code clauses that must be complied with, it is not possible to see how these requirements have been addressed
- there is a lack of detail as to the construction of the internal gutters and the proposed butyl rubber membrane.

6.4 Commenting generally on the quality of the plans and submissions submitted for the building consent, the reviewer noted that:

- the documentation does not set out the required information in a logical and easy to follow manner to allow the authority, the builder and other trades to work easily with the information
- the documentation does not set out the required information in a manner that can be easily followed by the authority and the builder
- plans are not professionally drawn using the appropriate scales, and on appropriate sheet sizes
- elevations are not clearly labelled and cross-referenced to specific details
- colour has been used on the plans to code various building elements which does not follow accepted drafting practice
- the specification is not site and project specific, in order to clearly explain the products and systems used and how these relate to the existing work
- because this is remediation work, specific requirements for proposed inspection procedures need to be provided.

6.5 The reviewer considered that the application does not provide adequate information and that it was therefore reasonable for the authority to refuse to grant the building consent, concluding:

⁶ Guide to applying for a building consent (simple residential buildings): Department of Building and Housing, January 2007

In my view there is insufficient information and lack of clarity to satisfy the requirements of section 49 of the Building Act 2004, i.e. that the work, if completed properly in accordance with the approved building consent, would comply with the requirements of the Building Code.

6.6 A copy of the reviewer's report was provided to the parties on 14 September 2009.

6.7 The LBP's response

6.7.1 The LBP objected to the reviewer's observations and opinions on the quality of the drawings, and made a number of comments that I summarise as follows:

- authorities are accustomed to accepting only details from E2/AS1 regardless of its relevance and construction may still differ markedly
- every flashing detailed on the drawing has been 'prototyped to fit its relevant location'
- the objection to the use of colour in hand-drawn design is irrelevant and 'we suggest a copy be printed out in greyscale or black & white'
- the drawings were supplied on A3 at an appropriate scale and given full dimensioning
- the cladding system fixed over cavity battens is not an 'alternative solution' as such, though the fixing of the battens to the existing masonry surface may be considered an alternative solution the method is described in the document
- the specification is a step-by-step, concise, and succinct description of the remedial process
- the 'textured coating' and 'composite fibreglass' systems are proprietary products and will be provided by the successful contractor. The product and installation system would then be provided to the authority as an amendment to the building consent
- the internal gutters already exist and are simply being relined.

Matter 1: The re-cladding proposal

7. Weathertightness

7.1 The approach in determining whether proposed building work will be weathertight and durable and likely to remain so, is to apply the principles of weathertightness. This involves the examination of the design of the building, the surrounding environment, the design features that are intended to prevent the penetration of water, the cladding system, its installation, and the moisture tolerance of the external framing. Weathertightness risk factors have also been described in previous determinations⁷ (for example, Determination 2004/1) relating to cladding and these factors are also used in the evaluation process.

7.2 The consequences of a building demonstrating a high weathertightness risk is that building solutions that comply with the Building Code will need to be more robust.

⁷ Copies of all determinations issued by the Department can be obtained from the Department's website.

Conversely, where there is a low weathertightness risk, the solutions may be less robust. In any event, there is a need for both the design of the cladding system and its installation to be carefully carried out.

7.3 Weathertightness risk

7.3.1 The existing buildings have been evaluated using the E2/AS1 risk matrix. The risk matrix allows the summing of a range of design and location factors applying to a specific building design. The resulting level of risk can range from “low” to “very high”. The risk level is applied to determine what cladding systems can be used on a building in order to comply with E2/AS1. Higher levels of risk will require more rigorous weatherproof detailing; for example, a high risk level is likely to require a particular type of cladding to be installed over a drained cavity.

7.3.2 These existing buildings have the following environmental and design features which influence their weathertightness risk profiles:

Design features that increase risk

- the buildings are in a very high wind zone
- the buildings are two-storeys high
- there are parapets to all walls
- there are inter-cladding junctions between the upper and lower walls
- the garage building has monolithic cladding fixed directly to the framing
- there are decks, stair landings, canopies and pergolas fixed to the walls
- the external wall framing is not treated to a level that will provide resistance to decay if it absorbs and retains moisture
- the buildings have a history of moisture penetration

Design features that decrease risk

- the buildings are reasonably simple in plan and form, but with some high risk features
- the ground floor walls are concrete block
- the house has monolithic cladding fixed over a cavity

7.3.3 When evaluated using the E2/AS1 risk matrix, these features show that all elevations of the house demonstrate a high weathertightness risk rating.

7.4 Weathertightness performance to date

7.4.1 It is clear from the history of these buildings and the various assessments that the stucco claddings are unsatisfactory in terms of their weathertightness performance, which has resulted in high levels of moisture penetration and decay to the framing. In particular the WSG report noted very high readings to the parapet timber framing which gives rise to the possibility of water damage to the framing lower down the same walls.

7.4.2 It is also clear that the remedial work required must be carefully assessed in light of the history and current condition of the buildings.

7.5 Methodology applied in the re-cladding proposal

7.5.1 The authority noted that the buildings were the subject of WSG inspections. However, the LBP made no reference to the findings of those investigations, and did not provide the authority with a copy of the WSG report in support of the application for a building consent. The LBP maintains that ‘the existence or otherwise’ of a WSG report should form no part of the application or this determination.

7.5.2 I do not accept the LBP’s assertion that the WSG report is irrelevant to this determination or to the application for a building consent. On the contrary, I consider that the assessor’s findings are central to both the design and subsequent assessment of any remediation proposal for these buildings.

7.5.3 I consider that the limited investigations carried out by the LBP do not demonstrate an adequate understanding of the nature of the existing construction and the defects in the existing cladding and their possible impact on the structure of the buildings. As a result, the LBP’s investigations do not provide an adequate basis on which to develop a satisfactory remediation proposal, or to allow that proposal to be properly assessed.

7.5.4 I am satisfied that the re-cladding proposal does not adequately address the current condition of the buildings in two significant respects. In my view the cause and extent of the water ingress needs to be established, as well as the extent and effect of any timber damage arising from the water ingress.

7.5.5 Whether the original cladding is to be fully removed and replaced, or it is to remain with the new cladding applied is the owner’s choice (as long as the authority is satisfied as to the code compliance). However, I make the following observations:

- The removal of the parapet plaster cladding around the house is necessary to establish the extent of damage to the untreated structural timber to the parapet and adjacent areas.
- The areas walls requiring remedial work are generally relatively small but contain a large number of fixings, penetrations, and junctions. The re-cladding proposal requires purpose-made flashings for each junction and the like. The re-cladding makes little, if any, use of the use of manufactures’ standard installation details.
- Retention of the original cladding provides very limited provision for adequately investigating the current cladding and assessing the condition of the timber framing. In this respect the re-cladding proposal does not follow what is now an established process to remediation work.
- The re-cladding proposal includes work to some features of the building that may in fact not require remediation – for example the provision of the ridge flashing to the house, and resurfacing of the internal gutters to both buildings.
- The re-cladding proposal to the house will provide a finished cladding system in excess of 70mm thick (the cladding to the garage is approximately 50mm thick). The ability of the existing stucco to accept the new cladding in my view

is not fully resolved, with respect to the adequacy of the fixings (in both tension and shear loads) and the effect of the new cladding on the stucco itself. (The manufacturer installation instructions show the new fibre-cement cladding is to be fixed with 60x3.15mm nails with the nails providing fixing to the timber framing.)

- The installation of new flashings onto the existing flashing systems places reliance on the original flashings being watertight, particularly at the junction of the window jambs and sill flashings, yet the proper performance of these original flashing junctions has not been established. The new window sill flashing, as it is detailed in the re-cladding proposal, is unable to be stop-ended beyond the full extent of the jamb flashing.
- The specification refers to areas of stucco ‘containing fractures [to] have sections removed’ for inspection prior to installing the new cavity battens. Some sections of stucco wall have a large number fractures so the situation may arise where little of the original stucco remains.
- The re-cladding proposal does not describe what is to happen to those locations where the original cladding is removed.

7.6 Conclusion with respect to the re-cladding proposal

7.6.1 Based on the above, I conclude that the re-cladding proposal for these buildings does not provide me with reasonable grounds to consider it will meet the requirements of Clause E2 and B2 of the Building Code. In addition, the extent of any damage to the structural framing needs investigation to determine the buildings’ compliance with Clause B1 Structure.

7.6.2 I note that the Department has produced a guidance document on weathertightness remediation⁸. I consider that this guide will assist the owners and the LBP in understanding the issues and processes involved in remediation work to the stucco claddings in particular, and in exploring various options that may be available to them when considering the upcoming work required to the house.

7.6.3 As I am not satisfied that the provisions of Clauses E2, and B2, and possibly B1, would be met if the building work were properly built in accordance with the plans and specifications submitted, I am able to conclude that the authority made an appropriate decision to refuse to issue a building consent for the proposed re-cladding.

Matter 2: The building consent documentation

8. Discussion

8.1 Approach to demonstrating code compliance

8.1.1 In the case of the proposed remedial cladding of these buildings the authority must have reasonable grounds to be satisfied that the provisions of Clauses E2 and B2

⁸ External moisture – A guide to weathertightness remediation. This guide is available on the Department’s website, or in hard copy by phoning 0800 242 243

would be met if the building work were properly built in accordance with the plans and specifications submitted.

- 8.1.2 The authority considers that the documentation supplied in support of the consent application is not sufficient to allow it to be satisfied, on reasonable grounds, that the buildings would comply with the Building Code if remediated in accordance with the plans and specifications submitted.
- 8.1.3 There are various means by which an authority can form a view as to whether it has reasonable grounds, which include:
- demonstrated performance with the requirements of the Building Code
 - completeness and clarity of the information provided
 - the credentials of the designer and builder (if known).
- 8.1.4 If no specific builder is identified in an application, it must be assumed that the builder is expected to be a competent residential house builder. The documents should therefore provide instruction and certainty on those areas of the buildings that are specifically designed elements or alternative solutions, with fewer details necessary for areas that a builder can be expected to be familiar with. I consider the adequacy of the documentation for these buildings in paragraph 8.3.

8.2 The legislation

- 8.2.1 In regard to the documentation, the relevant sections of the Act are:

45 How to apply for building consent

- (1) An application for a building consent must-
- a) be in the prescribed form; and
 - b) be accompanied by plans and specifications that are-
 - (i) required by regulations made under section 402; or
 - (ii) if the regulations do not so require, required by a building consent authority; and
 - c) contain or be accompanied by any other information that the building consent authority reasonably requires...

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- (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.

8.3 The drawings and specifications

- 8.3.1 The authority is entitled to set minimum requirements to ensure that the proposed building work is clearly documented and in an appropriate format. As shown in paragraph 8.2.1, the Act allows the authority to set reasonable requirements for the documentation that accompanies applications for building consents. I note that the

Department has also provided guidance information on how to apply for a building consent which includes information on the preparation of drawings⁹.

8.3.2 I have considered the submitted documentation in the light of the LBP's comments, the authority's requirements, the reviewer's comments as outlined in paragraph 6. In my view, the drawings and specifications fall short of the standard described in the guidance information.

8.3.3 Until adequate documentation has been supplied, the authority is entitled to refuse to issue the building consent. Without adequate documentation, the authority cannot be satisfied on reasonable grounds that the provisions of the Building Code will be met if the proposed building work is completed in accordance with the plans and specifications that accompanied the application for the building consent (refer to sections 45 and 49 of the Act).

9. The decision

9.1 In accordance with section 188 of the Act, I hereby determine that:

- the re-cladding proposal does not comply with Clause B2 and Clause E2 of Building Code,
- the documentation is inadequate to support the application for a building consent,

and accordingly I confirm the authority's decision to refuse to issue a building consent.

Signed for and on behalf of the Chief Executive of the Department of Building and Housing on 21 January 2010.

John Gardiner
Manager Determinations

⁹ Guide to applying for a building consent (simple residential buildings): Department of Building and Housing, January 2007