

Determination 2024/064

**Regarding the compliance of proposed internal door locks
which alter the building's means of escape from fire**

101 Salisbury Road, Richmond, Tasman District

Summary

This determination considers whether the proposed installation of bedroom door locks at a residential housing facility, which alters the building's means of escape from fire, complies with Building Code clause *C4 Movement to a place of safety*. It also considers clause *A1 Classified Uses* to identify the extent to which the building must comply with C4.

The legislation discussed in this determination is contained in Appendix A. In this determination, unless otherwise stated, references to “sections” are to sections of the Building Act 2004 (“the Act”) and references to “clauses” are to clauses in Schedule 1 (“the Building Code”) of the Building Regulations 1992.

The Act and the Building Code are available at www.legislation.govt.nz. Information about the legislation, as well as past determinations, compliance documents (eg, Acceptable Solutions) and guidance issued by the Ministry, is available at www.building.govt.nz.

1. The matter to be determined

- 1.1. This is a determination made under due authorisation by me, Andrew Eames, Principal Advisor Determinations, for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment (“the Ministry”).¹
- 1.2. The parties to the determination are:
 - 1.2.1. Kāinga Ora, the property owner, who applied for this determination (“the property owner”)
 - 1.2.2. Pathways, the owner by way of lease, who provides services to the building’s residents (“the lessee”)
 - 1.2.3. Tasman District Council, as the territorial authority (“the authority”)
- 1.3. I have also consulted with Fire and Emergency New Zealand (FENZ) in making this determination, as required under section 170(a) of the Act.
- 1.4. This determination arises from the property owner and lessee’s proposal to install bedroom door locks at a residential housing facility.
- 1.5. The matter to be determined, under section 177(1)(a) of the Act, is whether the proposed alteration to the building’s means of escape from fire by adding bedroom door locks complies with clause C4 *Movement to a place of safety*.
- 1.6. In deciding this matter, I must consider clause A1 *Classified Use* in relation to the building’s current use.
- 1.7. I have not considered whether a change of use, in relation to the *Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005*, has or will occur at the property, nor have I considered whether specified systems are being installed and whether a compliance schedule is required.

¹ The Building Act 2004, section 185(1)(a) provides the Chief Executive of the Ministry with the power to make determinations.

2. Background and Building work

- 2.1. The property owner's building is a standalone two-storey structure, formerly a residential house, constructed in 1970 which contained seven bedrooms, a study, and an open plan living/dining/kitchen space.
- 2.2. The property owner in conjunction with the lessee has indicated that the building is currently used to house up to 4 young people between 16-18 years of age, with mixed genders, to receive care and assistance relating to mental health, addiction and wellbeing, plus limited day-only support for former residents.
- 2.3. Staff are onsite 24 hours a day, 7 days a week (24/7), with overnight staff remaining awake. Staff help residents create 'social cohesion'. There are always at least two daytime staff at the facility and one staff member at night. Staffing levels increase at times depending on the mix of youth and the level of support they require.
- 2.4. Residents are able to come and go as they wish, including to attend school and/or other training and employment activities. In the building, residents learn to set boundaries, respect personal and shared space, and "grow in a transitional living and flatting situation while managing ... their mental health challenges".
- 2.5. Residents and staff share cooking, cleaning and household tasks with communal spaces being used for activities, coaching and shared spaces, and as a sensory lounge.
- 2.6. The proposal of the property owner and lessee is to install locks on bedroom doors in the building to provide each resident with a safe and secure private space and to reduce the oversight required by staff on these spaces for the purpose of security.
- 2.7. The details of various locks have been provided to me, with the majority being mechanically operated. These proposal mechanical locks are manually operated mechanisms that can be locked and unlocked with a snib on the internal (bedroom) side. All locks require a key or simple apparatus for operation on the external (public space) side. The locks are intended for regular use by residents and occasional use by staff.
- 2.8. In April 2023, the property owner's fire engineer prepared a report "in support of the Building Consent application for the alteration on the existing building"². The report's stated purpose was

to assess the building for compliance with Section 112 of the New Zealand Building Act, 2004; and Clauses C1 to C6, and F7 of the New Zealand Building Code. The design uses the Residential Community Housing Fire Safety Design

² It has been confirmed by the property owner that a building consent has not been applied for with the applicable Building Consent Authority.

Guide (RCHDG)³ issued by MBIE under [section]175 of the Building Act 2004 as a framework to develop an alternative solution to demonstrate compliance.

- 2.9. In February 2024, the property owner engaged with the authority about its views on the classified use of the building and compliance of the bedroom door locks with Building Code functional requirement C4.2. The authority subsequently provided a response which addressed the Schedule 2 uses as per the *Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005* and its view on whether a change of use of the building has occurred.

3. Submissions

The property owner

- 3.1. The property owner's view is that the proposed locks comply with the Building Code clause C4. Their submission (in summary) is:
- 3.1.1. The proposed locks comply with the intent of clause C4.2 and the occupants would not be unreasonably delayed in an emergency. The proposed locks are needed to ensure residents feel safe but will not "...impede the ability to effectively evacuate the premises" or unreasonably delay residents' evacuation.
 - 3.1.2. The type of lock, being "simple apparatus or a key" from the outside and door handle with snib on the inside, will still provide free egress. "Staff on duty hold a master key or simple apparatus at all times so they can access the bedrooms when and if needed, such as in an emergency".
 - 3.1.3. All residents are physically able and "have the cognitive ability to manage instruction and support ... safe evacuation".
 - 3.1.4. The building has an interconnected smoke alarm system with alarm panel to provide warning to occupants in the event of a fire.
 - 3.1.5. There is social cohesion among building occupants, so the proposed locks "do meet the performance requirements of the New Zealand Building Code". "The bedrooms are not required to be treated as suites", as it is not a boarding house.
 - 3.1.6. The Fire Safety Residential Community Housing Design Guide (RCHDG) was used to determine fire safety requirements for the proposed lock installation. In the property owner's view, the building "falls under Housing Type A [classification]" within the Guide and is therefore "a single household dwelling".

³ *Fire Safety Residential Community Housing Design Guide*, MBIE April 2018

- 3.2. The property owner provided letters of support from Te Whatu Ora Health New Zealand and FENZ with their submission.

The lessee

- 3.3. The lessee submits that they wish to have locks installed on the bedrooms at the property.
- 3.4. In their view, the proposed locks should not create any issues with egress in an emergency because the residents “are physically and cognitively able with no capacity issues or capability to respond to instructions in the event of an emergency”.

The authority

- 3.5. The authority has not provided a submission.

Fire and Emergency NZ

- 3.6. As per section 170(a) of the Act, I have consulted with FENZ however, it has not provided any advice on this matter.

4. Discussion

- 4.1. The matter for determination is whether the proposed alteration to the building’s means of escape from fire by installing bedroom door locks is compliant with Building Code clause C4.
- 4.2. Section 17 of the Act requires that building work must comply with the Building Code to the extent required by the Act, being that it must comply in its intended use.
- 4.3. Therefore, in order to determine the extent to which the alteration to the means of escape must comply with Building Code clause C4, I must first ascertain the classified use of the building.

A1 Classified uses

- 4.4. Building Code clause *A1 Classified Uses* sets out the various classified uses a building may have. There are 2 categories which cover residential activities: *Housing* and *Communal residential*. Table 1 sets out these two classified uses as described in clause A1.

Table 1. Relevant classified uses in clause A1 of the Building Code

<p>2.0 Housing</p> <p>2.0.1 Applies to buildings or use where there is self care and service (internal management).</p> <p>There are three types:</p> <p>2.0.2 Detached dwellings</p> <p>Applies to a building or use where a group of people live as a single household or family. Examples: a holiday cottage, boarding house accommodating fewer than 6 people, dwelling or hut.</p> <p>...</p>	<p>3.0 Communal residential</p> <p>3.0.1 Applies to buildings or use where assistance or care is extended to the principal users. There are two types:</p> <p>3.0.2 Community service</p> <p>Applies to a residential building or use where limited assistance or care is extended to the principal users. Examples: a boarding house, hall of residence, holiday cabin, backcountry hut, hostel, motel, nurses' home, retirement village, time-share accommodation, a work camp, or camping ground.</p> <p>3.0.3 Community care</p> <p>Applies to a residential building or use where a large degree of assistance or care is extended to the principal users. There are two types:</p> <p>(a) Unrestrained; where the principal users are free to come and go. Examples: a hospital, an old people's home or a health camp.</p> <p>(b) Restrained; where the principal users are legally or physically constrained in their movements. Examples: a borstal or drug rehabilitation centre, an old people's home where substantial care is extended, a prison or hospital.</p>
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- 4.5. The *Communal residential* use covers buildings where assistance or care is extended to the principal users. The youth residents who are to use the bedrooms in the building in question are considered the principal users as they will be in the building to receive assistance in being able to integrate with the community.
- 4.6. The assistance or care provided to the residents is the primary use of the building. Consequently, while residents stay for varying periods from three days to one year, the intention is that when one resident moves out they will be replaced by another for the reason of receiving the same assistance and care. Therefore, I consider this to be the building's permanent intended use.
- 4.7. The difference between the types of *Communal residential* use, being *Community service* and *Community care*, is determined by the level of assistance or care provided to a building's principal users. *Community service* relates to care that is limited in scope whereas *Community care* relates to care that involves a larger degree of assistance or support.

- 4.8. The property owner has provided a description of how the building is operated, including with staff being onsite 24/7 (see paragraph 2.3). There has also been an indication that the current absence of locks on bedroom doors requires staff to maintain a high level of oversight of residents and their private bedroom spaces to ensure all residents feel comfortable in the building.
- 4.9. Based on the consistency and availability of staff being onsite and the regular monitoring of residents, I consider a large degree of assistance and care is being provided. This aligns with the definition for the *Community care* classified use.
- 4.10. I note that *Community care* has been divided into two sub-types of use, being *unrestrained* and *restrained*. The property owner has confirmed that the occupants are free to leave the building and property of their own accord at any time.
- 4.11. Therefore, I consider the classified use of the building to be *Communal residential, Community care, unrestrained*.

Compliance with C4

- 4.12. Building Code clause *C4 Movement to a place of safety* concerns the ability of building occupants to move to a place of safety when a fire occurs. Clauses C4.3(a) and C4.5 are the applicable performance criteria which must be complied with.

C4.3 The evacuation time must allow occupants of a building to move to a place of safety in the event of a fire so that occupants are not exposed to any of the following:

(a) fractional effective dose of carbon monoxide greater than 0.3:

...

C4.5 Means of escape to a place of safety in buildings must be designed and constructed with regard to the likelihood and consequence of failure of any five safety systems.

- 4.13. The performance criteria relate to the functional requirement C4.2.

C4.2 Buildings must be provided with means of escape to ensure that there is a low probability of occupants of those buildings being unreasonably delayed or impeded from moving to a place of safety and that those occupants will not suffer injury or illness as a result.

- 4.14. There is no limit on the application of these criteria of the Building Code relating to the building's classified use of *Communal residential, Community care, unrestrained*. I must therefore consider whether the proposed building work complies with these criteria.

- 4.15. The proposed building work is to install door locks on bedroom doors, constituting an alteration to the building's means of escape. It is this overall means of escape for

the building which is required to comply with clause C4, as per the functional requirement “**Buildings** must be provided with means of escape ...” [my emphasis].

- 4.16. This means that a decision on compliance of the proposed door locks cannot be made in isolation. Therefore, I am required to assess the alteration to the building’s means of escape resulting from adding locks to the bedroom doors.
- 4.17. While section 19 allows for acceptable solutions to be used as a ‘deemed to comply’ means of compliance which must be accepted, compliance can also be demonstrated by way of an alternative solution.
- 4.18. In this case, compliance with the performance criteria and functional requirement of C4 is by an alternative solution proposed by the owner.
- 4.19. The fire report provided by the property owner’s fire engineer has used the RCHDG (see paragraph 2.8), issued by the Ministry as guidance under section 175 “as a framework to develop an alternative solution to demonstrate compliance”.
- 4.20. The RCHDG’s purpose is to provide guidance for preparing an alternative solution design for residential community housing where support services are funded by the Ministry of Health, which in this case is applicable. However, unlike acceptable solutions, this is not a deemed to comply pathway under section 19(1).⁴
- 4.21. In relation to the proposed locks on the bedroom doors, the fire report provides the RCHDG requirements for locking devices. However, no evidence has been provided to me to demonstrate how these proposed locks, in relation to the alteration to the building’s means of escape, will comply with C4.
- 4.22. In using the RCHDG as a framework for a design that demonstrates compliance of the building with clause C4, it would be expected that an assessment of the level of delay the proposed locks would impose on residents would be included. This would take into account the conscious state of the residents (being awake or asleep), the level of assistance required from staff, and the number of actions required to operate the proposed locks and any door handles to escape the bedroom, as well as accounting for possible failure of the fire safety system/s as required by performance criteria C4.5.
- 4.23. The property owner has stated that, in their view, there is negligible difference between locks on bedroom doors and those on bathroom/toilet doors. However, I consider the time spent and the activities undertaken in these rooms are considerably different. Residents sleep in bedrooms, which could cause a greater delay in response time than for a bathroom occupant.

⁴ Section 19(1) requires a Building Consent Authority to accept certain pathways such as Acceptable Solutions, Verification Methods among others as establishing compliance with the Building Code

- 4.24. While the property owner, on behalf of the lessee, has indicated that they believe locks on bedrooms “would at no point reduce egress or impede emergency exit from the rooms”, I am of the view that what may be a short period of time to unlock a door may still hinder a resident’s subsequent escape via the entire escape route from the building, as required by clause C4.2, taking into account all other factors in the building and residents’ behaviour. Consideration also needs to be given to the likelihood or consequences of any failure of fire safety systems in the building, as required by C4.5, which may increase the time it takes for occupants to respond in the event of a fire, operate the door locks, and escape from the to a place of safety.
- 4.25. As there has been insufficient information provided to me, I am unable to determine whether the building’s means of escape after the proposed installation of bedroom door locks will comply with Building Code clause C4.

Further commentary

- 4.26. While there is insufficient information to determine whether the alteration to the means of escape from fire by the inclusion of the proposed door locks complies with C4, I have provided a commentary below for the parties.
- 4.27. The RCHDG has been used to provide an alternative solution; however, compliance can be shown by using an acceptable solution, as noted in paragraph 4.17.
- 4.28. As I have determined above, the classified use of the building is *Communal residential, Community care, unrestrained*. While there are two acceptable solutions, C/AS1 and C/AS2, this use does not align with risk group SH (buildings with sleeping (residential) and outbuildings) so C/AS1 cannot be used. Therefore, the applicable acceptable solution for this building in its intended use is C/AS2 which can be used in full to assess compliance of the proposed door locks on the building’s means of escape.
- 4.29. In addition, while this particular situation does not relate to a specific building consent and the property owner has noted that they are considering compliance with section 17, the fire report indicates its assessment has considered section 112 for alterations to existing buildings.
- 4.30. When a building consent application is being assessed, section 112 requires the building to comply as near as reasonably practicable with the provisions of the Building Code relating to means of escape from fire, which is not limited to clause C4. Other relevant provisions can include C3.4 and C6.
- 4.31. Alongside an assessment of the effects of door locks on the means of escape, it would be expected that the assessment should also consider the entirety of the escape route to ensure this complies as near as reasonably practicable with all other relevant Building Code provisions for the intended use of the building, such as D1, F6, F7 and F8.

5. Conclusion

- 5.1. The classified use of the building, in accordance with Building Code clause A1, is *Communal Residential, Community Care, unrestrained*.
- 5.2. Insufficient information has been provided to determine whether the proposal to alter the building's means of escape from fire by adding bedroom door locks complies with Building Code clause C4 *Movement to a place of safety*.

6. Decision

- 6.1. In accordance with section 188 of the Building Act 2004, I determine that there is insufficient information to establish compliance with Building Code clause C4 of the proposed alteration to the building's means of escape from fire by adding internal door locks.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 20 November 2024.

Andrew Eames

Principal Advisor Determinations