Determination 2025/012

The issue of a notice to fix for building work carried out without building consent

138 Kings Road, Leithfield, Hurunui

Summary

This determination considers an authority's decision to issue a notice to fix for work it considered was building work carried out without a building consent when one was required. The dispute centres on whether the work that was carried out is building work regulated under the Building Act and for which a notice to fix could be issued. The determination also considers the form and content of the notice to fix.

Figure 1: The cottage (photograph provided by the owner)

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, Rebecca Mackie 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. Hurunui District Council ("the authority"), carrying out its functions as a building consent authority or territorial authority, and the applicant for this determination.

1.2.2. C Scheib ("the owner"), who was issued with the notice to fix and is the owner of the property.

1.3. The matter to be determined, under sections 177(1)(b) and 177(3)(e), is the authority's decision to issue notice to fix NF0359 dated 21 March 2024 ("the notice") for a contravention of section 40 of the Act.

1.4. In deciding this matter, I must consider whether building work had been carried out without building consent when one was required.

1.5. The notice to fix issued in this case referred only to the construction of a 'dwelling'. Consequently, in determining the matter, I have not considered any other matters relating to the carport, the modified shipping container, or the 'lean-to' located between the cottage and the fence. Reference to these structures is for context only.

2. The background and notice to fix

2.1. Two units have been relocated onto the owner's property and joined together to form a 'T-bone' shaped cottage ("the cottage") (see Figure 1). There is open internal access between the units.

2.2. The cottage has lightweight cladding, profiled metal roofing with guttering and downpipes, and aluminium joinery. Each unit is built on a steel chassis with wheels.

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

2.3. The units were relocated to the property via transport truck, where they were "towed onto site and placed in a suitable position". The units are joined together by ratchet straps and a rubber pad forming a "pressure fit", and silicone is used to seal the joining of the units on the internal and external corner flashings. An adhesive rubber strip is used to seal the join on the roof.

2.4. On one side of the cottage there is a carport, and a container adjacent to the carport. On the other side of the cottage is the 'lean-to', located between the cottage and the fence (see Figure 1).

2.5. Photographs taken by the authority on 13 March 2024 show:

- a flue from a heating appliance located in a corner of the section which joins the units
- connections to gas bottles and an external water heating unit, which are sheltered by the lean-to
- Potable water connection
- electrical connections and solar panels
- timber decking and steps adjacent to the cottage, and timber trim around the base of the cottage
- storm water downpipes – some of which discharge into in-ground risers[2] and some which discharge directly onto the ground
- a water tank on a low platform, receiving rainwater from the roof, with a tap at the bottom attached to a short length of garden hose and the overflow pipe discharging onto the ground
- grey water pipes fitted underneath the units which discharge into the ground[3]
- timber blocks supporting the chassis'.

2.6. There were no towbars apparent in the photographs. A registration plate was stored inside a cabinet fitted to the side of the cottage that houses solar panel batteries/equipment.

The notice to fix and the owner's response

2.7. The notice was issued 21 March 2024[4] and identified 'the particulars of contravention or non-compliance' as:

[2] It is not clear to me whether these risers connect to in-ground stormwater drains.
[3] The owner states "…the grey water to holding/settling tanks for disposal".
[4] The notice may have been accompanied by a cover letter, however I have not been provided this letter.

Date the breach occurred: **13 March 2024**

Dwelling constructed without the required building consent in contravention of section 40 of the Building Act 2004

2.8. The notice to fix provided for the following remedies:

Remove the unconsented work – to be complied with by **21 March 2024**,

OR: Apply for a Certificate of Acceptance (COA) for the building work: The application shall be lodged and formally accepted by the [authority] by **21 April 2024**

2.9. The notice to fix also stated "This notice must be complied with by: 21/03/2024".

2.10. On 19 April 2024, a consultant acting on behalf of the owner wrote to the authority. Their letter described various features of the cottage:

2.10.1. "The connecting [sic] is by a pressure fit and restraint is by quick release straps".

2.10.2. The cottage has a composting toilet,[5] and grey water discharges to a holding/settling tank for disposal. "There is not [sic] connection to [the authority's] infrastructure (at this time)".

2.10.3. The log fire was installed by the manufacturer of the units, and it is safe and compliant.

2.10.4. The fabrication of the units was carried out off site. The units are trailer based and intended to be towed, and "the trailers are registered as farm huts".

2.10.5. "Removable tow bar is ready for use at any time".

2.10.6. "…temporary jacking [is] to provide amenity".

2.10.7. The structures adjacent to the units are structurally independent and are exempt under Schedule 1 from the requirement for building consent. These structures do not make the units immovable. "Even fence is a simple removal that is not considered relevant to immovability (as it doesn't preclude movement around the site). In any event the fence can be modified to make movability easier."

2.11. The consultant referred to *Marlborough District Council v Bilsborough* ("*Bilsborough*"),[6] noting that the structure in that case involved units (from the

[5] I note the manufacturer states it is a 'dehydrating toilet'.
[6] [2020] NZDC 9962.

same manufacturer) bolted and rivetted together "which is not the case here".[7] The owner maintains the units are intended to be moveable "and this has been allowed for with no permanent connection used".

2.12. The consultant states that the notice implies that the building was created on site, which is denied. In reference to the *Woods v Waimakariri District Council* decision ("*Woods*"),[8] the consultant stated:

> … even if a vehicle becomes a building (due to becoming immovable and permanent occupation) it happens in a point in time and doesn't make the previous work illegal or unlawful (if it was a vehicle at that time).
>
> The owner maintains that on this basis the [notice to fix] can only be issued for building work done at this time or subsequently (and that building work needed a consent), Schedule 1 allows for significant building work such as decks, verandas and carports and electrical work without consent. Even minor drainage is allowed under exemption 34 … Further to this work done to a vehicle is not building work. …

2.13. The consultant's letter also raised the following concerns:

2.13.1. The notice was poorly drafted including with regard to the content of the covering letter and the particulars in the notice.

2.13.2. The time in which to comply was not reasonable in terms of either removal on the same day as the notice was issued or one month for lodging an application for a certificate of acceptance.

2.13.3. While drainage work was referred to in the covering letter, it was not particularised in the notice to fix.

2.13.4. The removal as a remedy "is unlawful and unenforceable" and not a remedy for section 40, and an application for a certificate of acceptance cannot "be demanded".

2.14. The letter stated that the owner "formally [notifies the authority] under s167 that the [notice] has been complied with to the extent the law requires".

2.15. The authority responded to the owner on 1 May 2024, maintaining its view that while the units were vehicles when constructed and delivered to site, they were now buildings because they were attached and could no longer be moved with relative ease. The authority also maintained that the in-ground drainage work required building consent.

2.16. The manufacturer of the units wrote to the authority on 6 May 2024, noting:

[7] For completeness, I note the manufacturer states that the units in the *Bilsborough case* were not welded or bolted together.

[8] [2022] NZDC 24083.

2.16.1. The owner lives in the cottage for up to 6 months a year.

2.16.2. The manufacturer considers the units are "little or no different to a house bus or caravan".

2.16.3. The units "could be gone within an hour, that all the decking is portable and that all plumbing and electrical is quick disconnect…"

2.16.4. The manufacturer had relocated several "dual mobile home units".

2.17. Regarding the connections, the manufacturer stated:

> Neither of the units is attached to the other by way of bolts, rivets, screws or welding .. or indeed glue. The seal between each and the other is a rubber pad and the 2 strops below the units pulls them up tight so that the trailer based units are alongside one another. But as a precaution we use a secondary seal by way of silicone (not glue) on the internal & external corner flashings … and an adhesive rubber strip on the roof section. When we on-move these units to other sites we don't even bother to cut the silicone or the sticky back rubber membrane …

2.18. On 13 May 2024, the authority wrote to the owner with a "notice of decision under section 167" responding to the consultant's letter of 19 April 2024. The letter referred to a site visit carried out on 24 April 2024 and what the authority had observed about the units and the cottage. Inspections carried out by the authority observed various points about the joining of the two units which prevent the units moving apart easily (for example, carpet, sealant and tape). The authority also notes that drainage and plumbing work had been carried out.

2.19. The authority set out its view that the units joined together became components of a larger single structure and became "a combined non-moveable unit that is not a vehicle", and that it was an immovable structure intended for occupation by people and falls within the definition of a building under section 8(1)(a) of the Act. The authority also noted that the units when combined were immovable and were being used for long term occupation, so met the criteria in section 8(1)(b)(iii). In drawing this conclusion, the authority observed the "combined unit has the wheels of one unit at 90 degrees to the wheels of the other unit".

2.20. The authority clarified it considered the work carried out "to convert the units to a building, and any subsequent building work" was within the ambit of the Act, and building consent was required unless it was exempt work under section 41. The authority noted that "The notice to fix requested a certificate of acceptance was applied for in respect of this building work number 1 to 4 [below] and conformation of the carport structure [sic]": [9]

[9] The notice to fix did not identify a contravention of section 114 or 115 in regard to a change of use of the container or identify a contravention relating to the lean-to, and so I have not considered these issues in terms of the authority's decision to issue a notice to fix for contravention of section 40 in relation to "Dwelling constructed" as set out in the notice. The authority's correspondence of 13 May 2024 also

i. House (due to it not being movable, connected to services and extensions) and woodburner.

ii. Storm water & drainage pipes require a building consent.

iii. Sewer drainage work (grey water disposal system)

iv. Shipping container/sleepout – change of use has occurred.

v. Lean-to attached to southern fence.

2.21. The authority's letter advised the date for the notice to be complied with was extended and the authority would apply for a determination. The authority also noted various points relating to compliance with the Resource Management Act 1991 and District Plan requirements.[10]

3. Submissions

The owner

3.1. The owner's submission reiterated a number of points raised with the authority in earlier correspondence. In regard to the notice to fix, the owner submitted:

3.1.1. The notice to fix is poorly drafted. The authority has failed to identify building work that has been done on site that required a building consent.

3.1.2. The timeframe for compliance, even as extended, is unreasonable.

3.1.3. The authority has no power to demand the removal of the cottage as a remedy.

3.2. The owner also submitted that the authority's correspondence of 13 May 2024 expands the particulars of contravention, and these matters were not particularised in the notice.

3.3. Regarding the issue of whether the units together are a building, or whether building work had been carried out, the owner submitted:

3.3.1. The units are vehicles and remain moveable.

3.3.2. "The building is also not intended to be permanently occupied", rather the intent is to have a "temporary base for part of the year". On that basis the units are not a building even if they were immovable.

raised issues regarding compliance of the carport (or pergola) with building Code Clause B1 Structure and whether that work was exempt under Schedule 1. This is also outside the matter being determined.

[10] I note that the definition for a building under the Building Act differs from that under the Resource Management Act.

3.3.3. Only building work done on site requires a building consent. With reference to *Woods*, the owner submits that this obligation only occurs after the point that a vehicle becomes a building. The vehicles did not become a building.

3.4. The owner also presented the view that "the offence is to the person and not the building it is the action of carrying out building work that is the offence", and there is no continuing offence. "If the work has already stopped, then there is nothing under s40 to fix."

3.5. The owner referred to *Bilsborough*, and noted that strapping and sealant are used to connect the units (see manufacturer's letter of 6 May 2024 at paragraphs 2.16 and 2.17).

3.6. The owner provided a submission from the manufacturer of the units. As well as points raised in correspondence with the authority, the manufacturer added:

3.6.1. Both units were manufactured "to the point of completion" at their factory, and "delivered to site where they were towed onto site…"

3.6.2. Both units are "registered mobile farm hut units" built into a trailer chassis with dual and triple axle and wheels designed and weight rated to be towed by a tractor, truck or suitable vehicle up to 40kph on a secondary road. The trailer is designed to carry the tare load of 3.7 ton, "with a very heavy duty telescope tow bar capability".

3.6.3. The trailer is self-supporting. The H4 treated timber blocks under the chassis are not piles but merely level the units if the ground is not level.

3.6.4. The units are not connected to any other structures, are easily moveable within half an hour and are not intended for long term or permanent living. "It is intended one day to on-sell or on-move."

3.7. The manufacturer disputes that the units are "joined" together or that any "construction building work" took place on site, stating:

3.7.1. "They are only weather sealed" with silicone water sealant applied, and "are merely brought alongside one and the other by two quick release strops between both trailer chassis." There are not rivets, bolts, screws, welds or glue used to join the units.

3.7.2. The metal carpet strip is adhered by tacks to only one of the units to cover the gap between.

3.7.3. All connections to services are "snaplock or quick disconnect joins including a 20mm fresh water hose connection". The units are self-sufficient in power (solar), toilet (off-grid waterless/dehydrating) and heating (woodfire), and have certification for gas and electrics.

The authority

3.8. With the application for determination, the authority submitted it considered whether the cottage came within the definition of a building under section 8(1)(b)(iii). The authority "confirmed that the [cottage] was for long term accommodation" and considered it to be immovable.

4. Discussion

4.1. The matter for determination is the authority's exercise of its power of decision in issuing the notice to fix. To decide this matter, I have considered:

4.1.1. whether the cottage is a building under the Act

4.1.2. whether building work was undertaken by the owner in contravention of section 40

4.1.3. the form and content of the notice.

Is the cottage a building under the Act?

4.2. The authority considers the cottage is a 'building', and that the owner carried out 'building work' for which building consent was required without such consent, in contravention of section 40.

4.3. The owner's view is that the cottage is not a 'building' but rather it is two vehicles that are not immovable, and that the vehicles are not occupied on a permanent or long-term basis.

4.4. For the authority to issue the notice to fix for a contravention of section 40, the cottage must fall within the definition of 'building' under section 8 and not be excluded under section 9. Further, 'building work' as defined by section 7 must have taken place, and was carried out without building consent when consent was required.

4.5. Section 8 defines what 'building' means and includes in the Act:

> **8 Building: what it means and includes:**
>
> (1) In this Act, unless the context otherwise requires, building–
>
> (a) means a temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery, or chattels); and
>
> (b) includes – …
>
> (iii) a vehicle or motor vehicle (including a vehicle or motor vehicle as defined in section 2(1) of the Land Transport Act 1998) that is immovable and is occupied by people on a permanent or long-term basis; …

4.6. Section 9 defines what the term 'building' does not include. The cottage does not fall into any of the categories excluded from being a building in section 9.

4.7. The Court of Appeal set out the correct way to apply sections 8 and 9, in cases such as the present, in *Thames-Coromandel District Council v Te Puru Holiday Park Ltd* [2010] NZCA 633 ("*Te Puru (CA)*").

4.8. Previous determinations, such as 2022/018,[11] have described the decision process that must be followed, including how the term 'vehicle' is defined, and I will not repeat that here.

4.9. The first question to consider is whether the cottage is a "vehicle or motor vehicle". In this matter, I have taken the approach used in *Te Puru (CA)*. The appeal was of a High Court judgment, which stated:

> [21] … Whatever the character of the units might be when separate, I do not see how, when linked together as a "duplex", they can be said to be a vehicle in terms of s 8(1)(b)(iii). … the locking together of two units to form a "duplex" has the effect of creating a new item that is distinguishable from the individual units of which it is comprised. Furthermore, I consider that it is this new single item, rather than its constituent parts, which falls for consideration under s 8(1)(b)(iii). Looked at in this way, I conclude, therefore, that the unit as it is sited on C22 cannot be a vehicle in terms of s 8(1)(b)(iii).[12]

4.10. The Court of Appeal stated:

> [31] It would have been wholly artificial to assess the duplex by its constituent parts. The evidence was clear that the units had been constructed of normal housing materials and had the internal layout of a small holiday home. The towbar for each unit had been removed. The duplex sat on concrete blocks and timber packers. Slatter screens had been installed between the floor and ground level and a removal deck had been added. The duplex was connected to power and water. Wastewater pipes were plumbed into an inground facility. There was even a bay window and a ranchslider.
>
> [32] Judge Thomas and Duffy J were both correct in finding that the C22 duplex was a building within the general definition. …

4.11. In this case, the cottage has many of the same characteristics as the 'duplex' in *Te Puru (CA).* Its construction consists of many normal housing materials, and it has the internal layout of a small home. The towbars for each unit have been removed. The cottage sits on timber blocks and is surrounded by timber trim, steps and a portable deck. It has ranch sliders and French doors that open onto the steps and deck. It is

[11] Determination 2022/018 *Regarding a notice to fix issued for a relocated unit* (5 October 2022), [4.13 – 4.21].

[12] *Te Puru Holiday Park Ltd v Thames Coromandel District Council HC Auckland* CRI-2008-419-25 (11 May 2009).

connected to water and has grey water and storm water systems, some of which discharge into inground disposal systems.

4.12. Further, and critical to my decision, is that like in *Te Puru*, the cottage in this case is formed of two units that independently may fall within the definition of 'vehicle' (as submitted by the owner) but have been joined together to form a 'T-bone' shape or duplex. *Te Puru* (HC) is clear that this new, single 'item' or cottage, is what falls for consideration under section 8(1)(b)(iii) and the cottage in this case cannot be considered a vehicle. The Court of Appeal found "It would have been wholly artificial to assess the duplex by its constituent parts", and confirmed the duplex was a building under the general definition in section 8(1)(a).

4.13. I acknowledge the manufacturer has designed the units to limit the number of steps and time that would be necessary to 'de-link' the units and has used connections that are intended to be easily detached, such as strops/ratchet straps and sealant. However, I must follow the approach taken by the courts and assess the cottage as it presents. The units are clearly joined together creating the cottage, regardless of the fact that they are able to be detached. As such, I find that the cottage is a building under the general definition in section 8(1)(a).

Contravention of section 40

4.14. Section 164(1)(a) provides for an authority to issue a notice to fix if it considers, on reasonable grounds, that a specified person is contravening or failing to comply with the Act or its regulations. In this case, the notice to fix has been issued to the owner, who is a specified person under section 163.[13]

4.15. The notice alleges a contravention of section 40. Section 40(1) provides that a person must not carry out any building work except in accordance with a building consent.

4.16. Section 41(1)(b) states that a building consent is not required if the building work falls within the exemptions under Schedule 1. Schedule 1 prescribes building work for which building consent is not required. To issue a notice to fix, an authority must have enough information to identify building work and establish that it is not exempt from requiring building consent under Schedule 1. I note that the cottage does not fall under any of the categories of exempt building work in Schedule 1, including clauses 3A and 3B, as it is larger than 30m^2 and contains sanitary facilities, sleeping accommodation and cooking facilities.[14]

4.17. Building work is defined in section 7, and includes work "for, or in connection with, the construction, alteration, demolition, or removal of a building". As discussed in

[13] Section 163 defines a 'specified person' to whom a notice can be issued, and this includes the owner of the building and the person carrying out the building work if the notice relates to the building work being carried out.

[14] The manufacturer's website states the 'Eco Cottage T-Bone' is 42.5m^2 (Our Tiny Houses - Eco Cottages, accessed 19/12/24).

previous determinations,[15] relocation, on its own, is not building work in terms of the definitions of 'building work' and 'construct' in section 7. There must be work *in connection with the relocation* for it to be considered building work (eg connecting the building to foundations or services).[16]

4.18. In this case, it is clear that building work was carried out onsite in connection with the cottage, and that work required a building consent. This included joining the units together into a T-bone shape using strops, silicone sealant on the internal and external corner flashings, and an adhesive rubber strip on the roof section and which created the cottage. It also included the installation of grey and storm water disposal systems[17]. I understand no building consent was obtained for this work.

4.19. As this building work was carried out without building consent when consent was required, there was a contravention of section 40 of the Act, and grounds to issue a notice to fix to the owner under section 164.

4.20. In regard to the consultant's submissions regarding the interpretation and application of sections 40 and 378 and the notice to fix provisions, I refer to Determination 2024/056.[18]

The form and content of the notice

4.21. Section 165 prescribes the form and content of a notice to fix. The prescribed form[19] for a notice to fix provides a space to insert the "particulars of contravention or non-compliance". Previous determinations[20] have discussed the requirement that owners must be "fairly and fully" informed by the particulars in the notice to fix, so that they can address the identified issues.

4.22. In this case, under 'Particulars of contravention or non-compliance', the notice states "Dwelling constructed without the required building consent in contravention of section 40 of the Building Act". However, the individual units were constructed offsite by the manufacturer and relocated to the owner's property. The notice does not specify what building work was carried out onsite by the owner in contravention of section 40 (ie the joining of the units and the installation of grey and storm water disposal systems).

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[15] For example, 2022/018 *Regarding a notice to fix issued for a relocated unit* (5 October 2022).

[16] The District Court in *Marlborough District Council v Bilsborough* [2020] NZDC 9962, stated at [91]: "In my view, given that "building work" requires that work is "for, or in connection with, the construction, alteration and demolition, or removal of a building", there is a sound basis arguing that the relocating of a building to a site is not "building work", where there is no work undertaken in connection with the relocation".

[17] There are no relevant exemption set out in schedule 1 for the sanitary plumbing and drainage.

[18] Determination 2024/056 *An authority's decision to issue a notice to fix in relation to building work at a residential property* (4 October 2024), at [4.7]-[4.33]. This determination is currently under appeal to the District Court.

[19] See Building (Forms) Regulations 2004, Form 13.

[20] For example, Determination 2024/016 *The issue of a notice to fix for building work associated with a two storey building with sanitary fixtures* (11 April 2024), at [4.12-4.13].

4.23. As such, the notice did not adequately specify the "particulars of contravention or non-compliance" as required by the prescribed form. I consider a notice to fix must contain sufficient clear and specific details regarding the contravention, in this case a contravention of section 40 required a description of the building work and its requirement for building consent, to inform the recipient fairly and fully about the basis for the notice. The notice was not clear on the particulars of the contravention in respect of the building work carried out on site in contravention of section 40.

4.24. Regarding the remedies and timeframe, the notice stated:

> **To remedy the contravention or non-compliance you must**
>
> • Remove the unconsented work - to be complied with by **21 March 2024**,
>
> • **OR:** Apply for a Certificate of Acceptance (COA) for the building work: The application shall be lodge and formally accepted by the Council by **21 April 2024**
>
> **This notice must be complied with by: 21/03/2024**

4.25. Section 165(1)(b) provides that a notice to fix must state a "reasonable timeframe" within which the notice must be complied with. In this case, two different timeframes were given – 21 March 2024 for removing the unconsented work, and 21 April 2024 for applying for a certificate of acceptance. The overall compliance date for the notice was 21 March 2024, which is the same day that the notice was issued. Although a two week extension was given, the notice did not provide a reasonable (or consistent) timeframe for the owner to comply.

4.26. Section 165(1)(c) states that if a notice to fix "relates to building work that is being or has been carried out without a building consent, it may require the **making of an application** for a certificate of acceptance for the work" [my emphasis]. Therefore, applying for a certificate of acceptance is a lawful option to include as a remedy for a section 40 contravention. However, in this case, the notice also referred to the application being "formally accepted" by the compliance date, which is not provided for in section 165(1)(c).

4.27. The owner has argued that the authority unlawfully demanded that they remove the building. However, the notice to fix did not state that the owner must remove the building; it was given as an option (as an alternative to applying for a certificate of acceptance). I note that removing the building work is a lawful option to include as a remedy for a section 40 contravention.

Section 167

4.28. Section 167 sets out the process regarding the inspection of building work that is required to be completed under a notice to fix.[21] The owner submitted a letter on

[21] This process is described in detail in Determination 2024/016 *The issue of a notice to fix for building work associated with a two storey building with sanitary fixtures* (11 April 2024), at [4.34-4.36].

19 April 2024 which "formally [notified the authority] under s167 that the NTF has been complied with to the extent the law requires".

4.29. I do not consider the letter was a notification under section 167 that building work had been completed. Rather, it was disputing the grounds on which the notice had been issued and the form and content of the notice. Therefore, section 167 does not apply.

5. Conclusion

5.1. The cottage is a building under section 8(1)(a). The onsite joining of the individual units and installation of grey and storm water disposal systems was building work undertaken without building consent when consent was required. As such, a contravention of section 40 occurred and grounds to issue the notice to fix to the owner under section 164.

5.2. However, the particulars of contravention were inadequate, as the notice did not set out what building work was undertaken by the owner in contravention of section 40. Further, the timeframe for compliance with the notice was inconsistent and was not reasonable. The notice also referred to the certificate of acceptance being "formally accepted" by the authority by the compliance date, rather than simply applied for.

6. Decision

6.1. In accordance with section 188 of the Building Act 2004, I determine that there were grounds to issue notice NF0359. However, because the particulars of contravention were inadequate and the timeframe for compliance was not reasonable, I reverse the notice.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 28 February 2025.

Rebecca Mackie

Principal Advisor Determinations