



Determination 2018/034

The refusal of a code compliance certificate for an addition at 42 Harley Close, Hauraki, Auckland

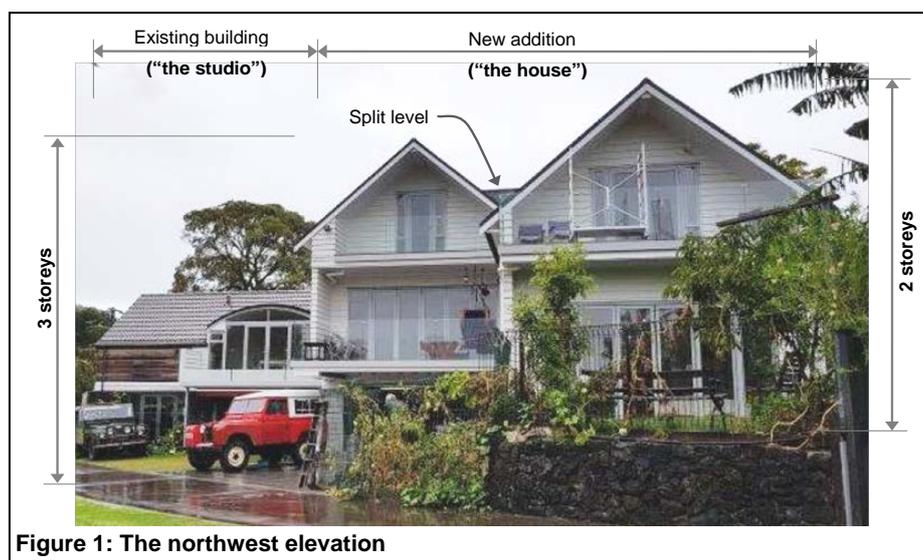


Figure 1: The northwest elevation

Summary

This determination considers the authority's refusal to issue the code compliance certificate for a substantial addition to an existing studio building. The refusal arose from matters related to Building Code Clauses D1, E2, E3, and F4, but the principle issue was an ongoing dispute about the water from neighbouring properties and a small drain that has been installed to divert some of this water. The determination considers whether the drain formed part of the consented work or not.

1. The matters to be determined

- 1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004¹ ("the Act") made under due authorisation by me, Katie Gordon, Manager Determinations, Ministry of Business, Innovation and Employment ("the Ministry"), for and on behalf of the Chief Executive of the Ministry.
- 1.2 The parties to the determination are:
 - the owner of the building, G Barron ("the applicant")
 - Auckland Council ("the authority"), carrying out its duties as a territorial authority or building consent authority.
- 1.3 This determination arises from the decision of the authority to refuse to issue a code compliance certificate for a recent addition ("the house addition") to an existing studio/garage building ("the studio"). The refusal arose because the authority is not

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

satisfied that the house addition complies with the relevant clauses² of the Building Code (First Schedule, Building Regulations 1992).

- 1.4 The matter to be determined³ is therefore whether the authority was correct to refuse to issue a code compliance certificate for the reasons given in its letter dated 15 February 2018 (see paragraph 2.7). In deciding this, I must consider whether the house addition complies with relevant clauses of the Building Code.

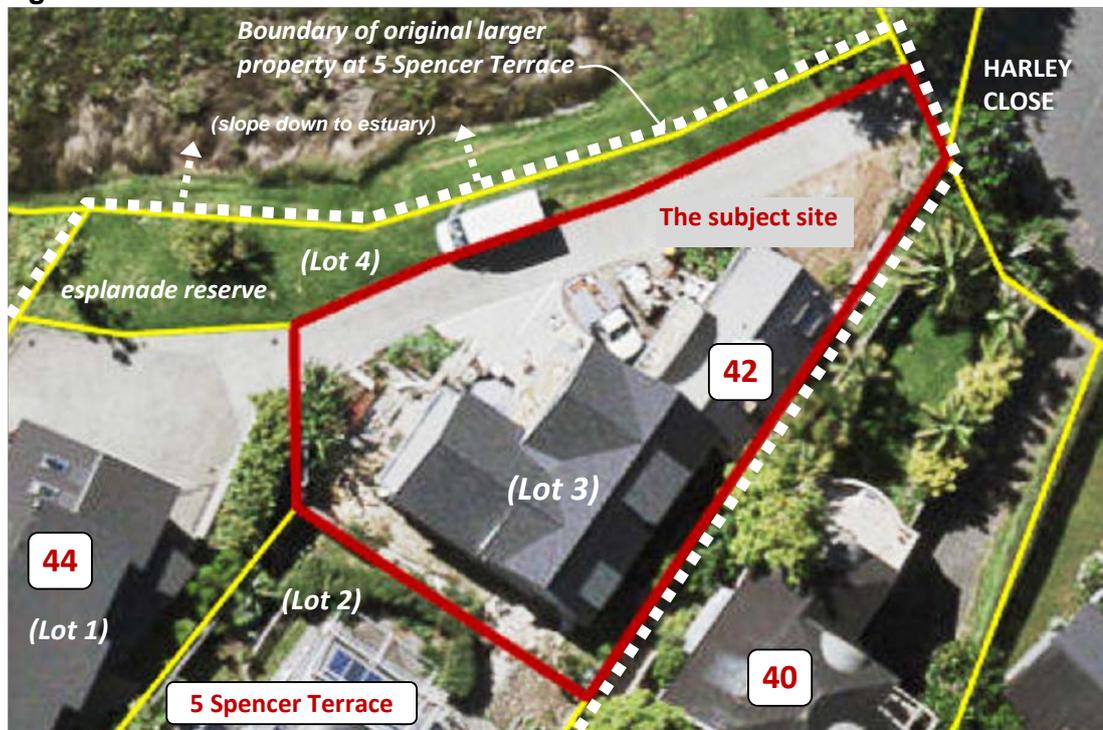
1.5 Matters outside this determination

- 1.5.1 The applicant has explained that there are separate disputes with owners of adjoining properties in regard to the flow of water onto their property that is not relevant to the consented building work for the house addition.
- 1.5.2 This determination is limited to the matter outlined in paragraph 1.4 and does not consider the above disputes or the consented work's compliance with Clause E1 Surface water, except for item 5 in the authority's section 95A notice ("storm water from the neighbouring property needs to be reconnected", refer paragraph 2.7.3).
- 1.6 In making my decisions, I have considered the submissions of the parties, the report of the expert commissioned by the Ministry to advise on this dispute ("the expert") and the other evidence in this matter.

2. The building work and background

- 2.1 The building is situated on a triangular-shaped site in a medium wind zone⁴ for the purposes of NZS 3604⁵. The site slopes down towards the adjacent estuary to the northwest, with Harley Close to the northeast as shown in Figure 2:

Figure 2: The subdivision



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

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

⁴ According to the bracing calculations

⁵ New Zealand Standard NZS 3604:1999 Timber Framed Buildings

2.2 The original building and site

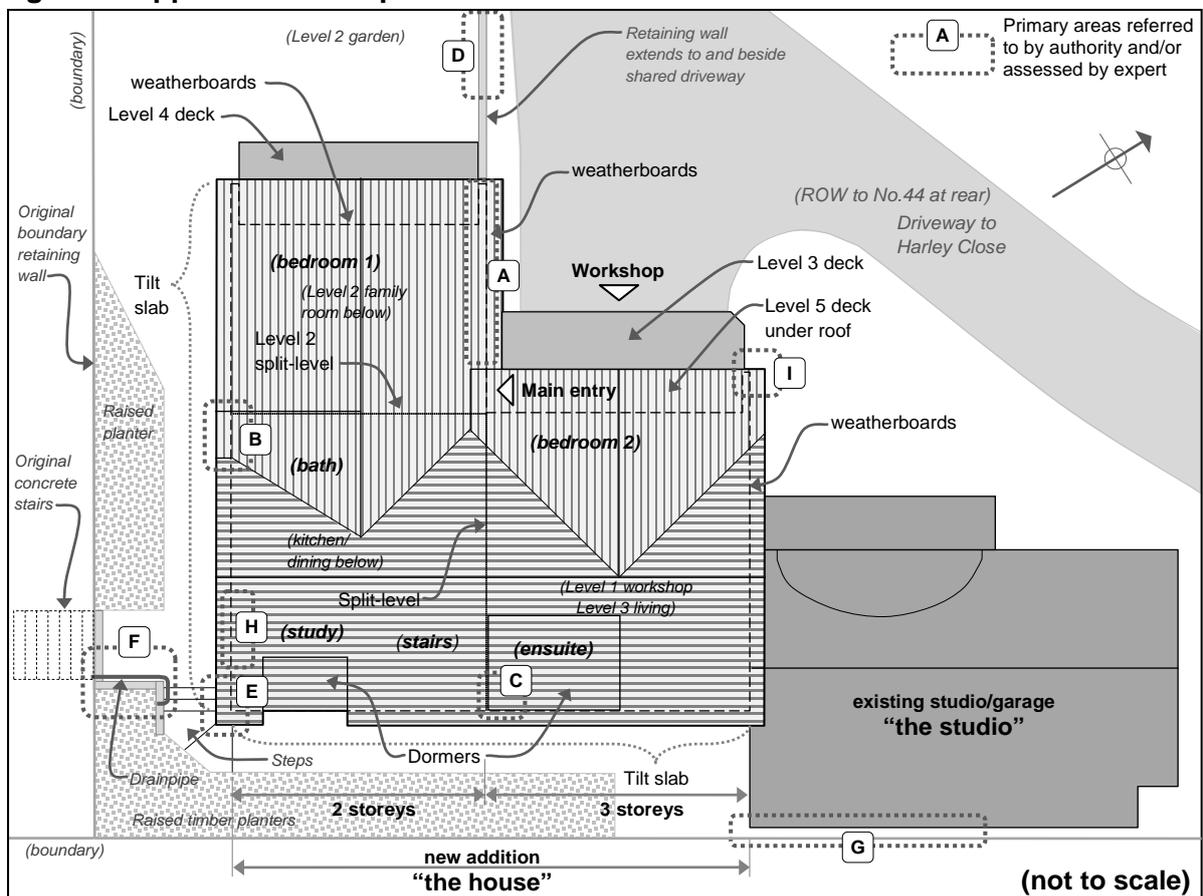
2.2.1 The studio is the original two-storey building and contained a double garage and studio at the narrow northeast end of the site. When the studio was built in about 1993, the site was part of a larger property that included a retaining wall with concrete stairs along what is now the current southwest boundary to Lot 3.

2.2.2 In 2009 the property was subdivided into four lots as shown in Figure 2 and new certificates of title were issued on 18 March 2010. The applicant purchased the studio building on 31 March 2010, and then prepared a proposal for the house addition which received resource consent in April 2014.

2.3 The house addition

2.3.1 The house addition occupies the wide end of the site at the southwest end of the studio as shown in Figure 3. The house addition more than triples the original area. It is fairly complex in plan and form and is assessed as having a moderate to high weathertightness risk.

Figure 3: Approximate site plan



2.3.2 As shown in Figure 3, the house addition provides a multi-level building that has five main levels as follows:

- Level 1 the lowest level:
 - basement workshop to the northeast, at the same level as the studio garage
 - the main entry at the north internal corner beneath the deck, with stairs leading up to Level 2.

- Level 2 open split level living areas with:
 - family room opening onto a raised outdoor living area to the northwest
 - wide steps up to the kitchen/dining area in the south corner, with doors opening onto to paving to the southwest
 - staircase up to Level 4
 - wide steps up to Level 3.
- Level 3 above the basement workshop:
 - living area opening onto a large deck above the workshop doors
 - new door and steps down to the adjoining original studio area to the northeast.
- Level 4
 - bedroom 1, opening onto a deck to the northwest
 - bathroom to the southwest
 - study in the south corner, with a dormer window in the southeast wall
 - steps up to Level 5.
- Level 5:
 - bedroom 2, opening onto a deck to the northwest
 - wardrobe and ensuite to the southeast, with a dormer window above ensuite.

2.4 Construction is a mix of specifically engineered elements and conventional light timber frame; with reinforced concrete ground beams and piles, concrete block foundations and floor slabs to ground floors, some structural steel posts and beams, timber framed upper floors with laminated veneer lumber joists to some areas, concrete tilt panels to the southwest and southeast walls with timber weatherboards elsewhere, aluminium windows and asphalt shingle roofing.

2.5 Water runoff from adjacent properties

2.5.1 Following subdivision of the site in 2010 (see Figure 2) and prior to the construction of the house addition, the applicant raised various problems in regard to alleged breaches of the resource consent – including matters relating to water runoff from properties on the southwest and southeast boundaries. In a letter to the applicant dated 2 April 2013, the authority’s planners responded to these concerns and noted that these were ‘not within the [the authority’s] ability to resolve.’

2.6 Construction of the house addition

2.6.1 Sketch plans were prepared in 2013 and resource consent for the house addition was applied for in February 2014, which was granted on 8 April 2014. Consent documents were prepared and a building consent application was submitted in June 2015. The authority issued a building consent (No. BA-1254052) to the applicant on 26 November 2015 for ‘Addition to existing studio, work shop and living above’.

2.6.2 During excavations for the house addition, a drain was exposed that apparently discharged onto the southwest of the site from the adjoining property. Stormwater disposal was further complicated by the retaining wall of the other adjoining property to the southeast. Correspondence and discussions with the authority failed to resolve the problem, which led to the current stormwater disputes (see paragraph 1.5.1).

2.6.3 The authority carried out various inspections during construction, including a partial drainage inspection on 12 May 2016, which noted ‘storm water from neighbour’s to be controlled via a cess pit’.

2.6.4 The authority carried out the first final inspection on 14 September 2017, which identified the following items to complete:

- Ground levels to adjust by kitchen door
- Exterior steps and hand rail
- Roofing: southern elevation, old to new, fix to finished waterproof state
- Painting to internal walls
- Rock wall rainscreen to finish.

2.6.5 A reinspection on 2 October 2017 noted that ‘recheck items’ were ‘cleared’ with no further inspection required, and the applicant applied for a code compliance certificate on the same day. Following a series of emails about the status of the code compliance certificate application, the authority told the applicant on 9 November that it was waiting until the stormwater dispute was settled before making a decision on the matter.

2.7 The application for determination and the authority’s refusal to issue a code compliance certificate

2.7.1 The Ministry received an application for a determination on 10 January 2018 and in a letter dated 16 January 2018 asked the authority ‘to provide its reasons for declining the code compliance certificate under section 95A of the Building Act’.

2.7.2 In an email to the Ministry dated 1 February 2018, the authority attached the District Court decision on the civil dispute and noted that it appeared that ‘the existing surface water drainage system’ had been diverted as part of the building work. The authority carried out a second final inspection on 8 February 2018, identifying and photographing various items identified during its inspection. The authority wrote to the applicant on 15 February 2018, stating that:

...under Section 95A of the Building Act 2004 your application for a [code compliance certificate] has been refused because [the authority] cannot be satisfied on reasonable grounds that the completed building work would comply with the consented plans/building code.

2.7.3 The authority listed the reasons for its decision as (in summary, with item numbers and associated area locations included):

- Item 1: documentation required for:
 - the stone facade (Area A)
 - gable end change to southwest (Area B)
 - upper floor ensuite layout change (Area C)
- Item 2: lack of barrier to top of stone retaining wall (Area D)
- Item 3: non-compliant hand rail to back steps (Area E)
- Item 4: the inadequate flashing to top of stone facade (Area A)
- Item 5: “storm water from the neighbouring property needs to be reconnected” (Area F)
- Item 6: “vermin proof the upper level [ensuite] vanity” (Area C)
- Item 7: “seal the kitchen cabinets to ground level”

- Item 8: “splashback required behind gas [hobs]”
- Item 9: “A range hood is required above the gas hobs”
- Item 10: “seal head flashings” (Area H)
- Item 11: damaged weatherboard at side of garage (Area I).

2.8 Further correspondence

2.8.1 The Ministry advised the parties on 27 March 2018 of the expert’s engagement, noting that his:

...engagement is to assess the reasons [the authority] has given for declining the [code compliance certificate] as stated in its letter to the owners dated 15 February 2018 (11 items are noted). [The expert] will not consider issues related to Clause E1 beyond that described in Item 5 in [the authority’s] letter.

2.8.2 The authority responded on 27 March 2018, noting that it considered the limit of the expert’s scope to identified defects to be:

...artificially short-sighted and dangerous. Dangerous because some important defect may be identified by the [Ministry] appointed [expert] which [the authority] has missed, which could facilitate a defective property improperly receiving a [code compliance certificate], and short-sighted because if [the authority] re-inspects at some point it may identify other defects that then lead to further dispute with the Applicant causing delay or precipitating further Determinations.

2.8.3 The Ministry responded on 11 April 2018, noting that determinations are intended to ‘resolve particular matters’ and not to replace an authority’s role ‘as a consenting authority.’ The Ministry also noted that two final inspections had already been carried out and added that if the expert:

...notices an ‘important defect’ this would be noted in their report, which as you know is provided to both [the authority] and the owner. Depending on the nature of the defect, it may also be raised by the [expert] ahead of the completion of their report.

3. The submissions

3.1 The applicant’s submission

3.1.1 Within and following the application, the applicant outlined the background to the current situation and to the civil dispute about stormwater from neighbouring properties.

3.1.2 Within and following the application, the applicant provided copies of:

- correspondence with the authority
- the final inspection records
- report on the stormwater dispute dated 13 June 2017
- various photographs, statements and other information.

3.2 The authority’s submission

3.2.1 The authority made no submission but forwarded a digital copy of its property file together with other information, which included:

- the April 2014 resource consent report and approval
- the drawings and specifications

- the other consent documentation
- the building consent dated 26 November 2015
- the pre-line and drainage inspection records
- the final inspection record dated 8 February 2018
- the section 95A notice dated 15 February 2018.

3.3 The draft determination and submissions received in response

3.3.1 A draft determination was issued to the parties for comment on 24 May 2018. The applicant accepted the draft without comment on 31 May 2018.

3.3.2 The authority responded on 8 June 2018 saying, in summary, that:

- The authority did not accept the determination with respect to the drain from the retaining wall (Item 5).
- The existing retaining wall drain had been altered “so as ‘to divert water from⁶ the exposed clay foundations of the building site’ (see [applicant’s] email to [the Ministry] dated 23/5/18), and re-direct it onto a neighbouring property which did not previously receive this water from 42 Harley Close”. This was causing damage to other property.
- “...the drainage work is best dealt with as an amendment to building consent ... because the need to divert the drainage was occasioned by the building work undertaken pursuant to that building consent.”

3.3.3 On 8 June 2018 the Ministry requested advice from the authority regarding the email referred to in paragraph 3.3.2, second bullet point. The authority provided this on 11 June 2018 and reiterated its view that the matter in dispute was the drain from the retaining wall.

3.3.4 The applicants responded to the authority’s 8 June 2018 submission on the same day saying the water from the drain “is simply being diverted to another part of our own property within our boundary ... to avoid the potential for severe flooding on the eastern side of [our] property”.

4. The expert’s report

4.1 General

4.1.1 As mentioned in paragraph 1.5, I engaged an independent expert to assist me. The expert is a member of the New Zealand Institute of Building Surveyors and inspected the house addition on 11 April 2018; providing a report that was completed on 7 May 2018, which was forwarded to the parties on 8 May 2018.

4.1.2 The scope of the expert’s inspection was to provide assistance as to whether the authority’s refusal to issue a code compliance certificate for the house addition was correct by considering the authority’s reasons against the associated requirements of the relevant clauses of the Building Code.

⁶ The authority appears to have read this as water being directed “from” the exposed foundations and onto neighbouring property, instead of water from the neighbouring properties being directed away from the exposed foundations. The former meaning is not reasonable as both neighbouring properties are at a significantly higher level than the subject property.

4.1.3 The expert noted that the exterior cladding and internal linings ‘are reasonably straight and fair’ and the house addition ‘has generally been finished to an acceptable trade standard and is well maintained.’

4.1.4 The expert noted that the ‘overall architectural shape and form’ generally accorded with the consent drawings, but observed the following discrepancies:

- stone veneer installed over the sub-floor concrete foundation wall (Area A)
- the southwest dormer to the bathroom roof altered (Area B)
- the Level 5 ensuite layout altered (Area C)
- the kitchen rangehood not installed
- landscape works not shown on the site plan.

4.2 The reasons provided in the authority’s section 95A notice

4.2.1 Item 1 – Drawing variations: the expert noted that the applicant intended to submit an application for a minor variation to the building consent for:

- stone facade direct-fixed to northwest sub-floor concrete foundation wall (Area A)
- alteration to roof above southwest Level 4 bathroom (Area B)
- alteration to Level 5 ensuite layout (Area C).

4.2.2 Item 2 – Retaining wall barrier: In regard to the external retaining wall to the Level 2 garden area, the expert noted that:

- the retaining wall exceeds 1m in height along the shared driveway to the north and a barrier had been installed to the north prior to the expert’s site inspection
- during the expert’s site inspection, another barrier was installed along the section of the northeast return wall that was higher than 1m (Area D).

4.2.3 Item 3 – Graspable handrail (Area E): In regard to the handrail for the south corner steps the expert noted that:

- during the final inspection, the handrail to the southwest of the south corner steps had been identified as non-compliant
- an additional handrail has been fixed to the exterior wall, which is:
 - a 50mm diameter straight graspable handrail
 - fixed approximately 900mm above the pitch line of the steps.

4.2.4 Item 4 – Flashing clearance (Area A): In regard to the top of the stone facade, the expert noted that:

- the copper Z flashing at the stone/weatherboard junction was in contact with the bottom of the weatherboards above, but mortar packing under the flashing has now been removed to provide an anti-capillary gap
- the flashing is considered compliant in the circumstances because:
 - the stone is fixed against concrete
 - the stone/weatherboard junction is below the adjacent floor level
 - there is minimal risk of damaging moisture entry related to the junction.

- 4.2.5 Item 5 – Retaining wall drain (Area F): In regard to the drain, the expert noted that:
- a small insitu concrete wall had been built to stem the flow of water through the boundary retaining wall. The drain had been installed to collect ground water from behind the boundary retaining wall and redirect to a point where it could flow to the west corner of the applicant’s property (see Figure 3)
 - despite a severe storm with considerable rain the night before the expert’s site inspection, no water flow was observed from the drainpipe, and only minor seepage was observed from the original retaining wall/stairs
 - a slotted polyethylene field drain has apparently been installed along the base of the boundary retaining walls to collect water and direct it into the drain to the northwest
 - the ground appears fairly free draining and firm; and drainage appears to be coping adequately, with no significant impact on the consented work.
- 4.2.6 Item 6 – Vermin proofing (Area C): The expert noted that the pipe penetration under the vanity has now been sealed against vermin entry.
- 4.2.7 Item 7 – Sealing kitchen cabinets: The expert noted that:
- junctions between the cabinets and floor have now been sealed
 - however, these junctions were not subject to water splash.
- 4.2.8 Item 8 – Tiled splashback: The expert noted that:
- a tiled splashback is now installed to the rear and left-hand side of the gas hob
 - the gas installation standard⁷ calls for minimum side clearances of 200mm
 - the wall to the right is 270mm clear of the hob, so does not need a splashback.
- 4.2.9 Item 9 – Rangehood: In regard to the lack of a rangehood, the expert noted that:
- the gas installation standard does not specifically require a rangehood
 - the standard provides minimum clearances if a rangehood is installed.
- 4.2.10 Item 10 – Seal head flashing (Area H): The head of the flashing junction above the dining room doors had been photographed and identified as unsealed during the final inspection. The expert observed that:
- the door is installed within the southwest concrete tilt panel construction
 - the door head is recessed with a head flashing and the junction includes:
 - a built-in V groove in the concrete head reveal that prevents water tracking across to the door head
 - while there was a gap between the flashing and the concrete panel, the rear of the flashing was ‘well bedded in sealant’ (felt under hand pressure)
 - although the door head lacks the aluminium angle shown in the consent details, the installed details appears satisfactory in the circumstances.
- 4.2.11 Item 11 – Planed weatherboard (Area I): In regard to the bottom weatherboard at the north corner, the expert noted that:

⁷ AS/NZS 5601.1:2013 Gas installations: Part 1 General installations

- the bottom of the weatherboard has been shaped around the downpipe
- adjacent ground clearances are adequate
- the bottom edge is about 50mm below the adjacent floor level
- a small hole behind the downpipe is more or less at floor slab level
- although the area is sheltered, the small holes should be repaired.

4.3 Summary

4.3.1 The expert noted that the outcome of his investigation was that (in summary):

- the owner intends to provide documentation to record the minor revisions made during construction
- the stormwater drainpipe redirection appears satisfactory and the water discharge from the original retaining wall has no significant impact on the consented work
- further sealing of head flashings is not considered necessary
- small holes to the weatherboard behind the downpipe require repair⁸.

4.3.2 Except for minor repairs to the above weatherboard, the expert concluded that the remaining items identified by the authority ‘as non-compliant have been remediated by the owner to a reasonable standard.’

4.4 The authority’s response to the expert’s report

4.4.1 The authority response to the expert’s report on 21 May 2018 noted that:

- “[The] flashing identified as Item 4 ... would be failed by “[the authority]”
- The applicant “has carried out unconsented drainage work associated with the retaining wall [Item 5] which it is understood the applicant says was necessitated by the consented building work. The net effect is that the relevant drainage has been re-directed so as to adversely affect other property contrary to cl. B1.3.6(b)”.

4.4.2 The authority’s response was forwarded to the expert who advised that:

- (Item 4) a flashing was not considered necessary at this location. The stone veneer is attached to a concrete foundation wall (either block or precast panel) and the top of the veneer finishes below a concrete slab floor on grade. The left hand end of the of the veneer was sheltered.
- (Item 5) the applicant advised the expert that:
 - additional drainage had been installed around the property to resolve the surface water problem. In the expert’s view the redirected pipe was not adversely affecting other property and in any event the water would run back into 42 Harley Close. The redirected water did not appear to be affecting the retaining wall structure. The site visit took place immediately after a significant rain event and no surface water problems were noted.

⁸ The applicant has since advised that these minor repairs have now been carried out

- the water discharge from 5 Spencer Terrace had been causing dampness to the rear walls of the studio building. The space between the studio and the boundary is very restricted and surface water drainage was routed around the southwest side of the building.

5. Compliance of the house addition

5.1 General

- 5.1.1 Section 94 of the Act requires an authority to issue a code compliance certificate only if it is satisfied on reasonable grounds that the building work complies with the building consent.
- 5.1.2 The matter in dispute is whether the authority correctly exercised its power in its decision to refuse to issue the code compliance certificate for the house addition. In deciding this matter I have therefore considered whether the areas of building work identified by the authority comply with the building consent and with the relevant clauses of the Building Code.
- 5.1.3 When changes from the consent documents are minor and the work complies with the Building Code an authority can record these by way of as-built drawings. The procedure for addressing such changes is described in the Building (Minor Variations) Regulations 2009. In this case, I concur with the expert that the variations are not of such a significant level that they would warrant a formal amendment of the building consent and I therefore leave the resolution of these to the parties to resolve in due course.
- 5.1.4 In the case of the house addition, I note that the authority has carried out inspections during construction followed by two final inspections. I also note that the expert did not notice any other significant defects during his assessment of the house addition. I have restricted my conclusions to those items identified by the authority in its section 95A notice.

5.2 The relevant clause requirements

- 5.2.1 Taking account of the expert's report and the other evidence, Table 1 summarises my conclusions on items identified by the authority.

Table 1: The authority's section 95A refusal

Item from s95A notice, dated 15 February 2018 (in summary)	Area in Figure 3	Expert's comments	Paragraph	Compliance
1	Stone facade	<ul style="list-style-type: none"> • Documentation to record the minor variations to the building consent to be submitted. 	4.2.1	-
	Roof to southwest bathroom			
	Level 5 ensuite layout			
2	Retaining wall barrier	<ul style="list-style-type: none"> • Barriers now installed to areas where height exceeds 1m 	4.2.2	Complies as remedial work completed
3	Graspable handrail	<ul style="list-style-type: none"> • Compliant handrail now installed to wall 	4.2.3	Complies as remedial work completed

Item from s95A notice, dated 15 February 2018 (in summary)		Area in Figure 3	Expert's comments	Paragraph	Compliance
4	Flashing clearance	A	<ul style="list-style-type: none"> Stone facade fixed to concrete or concrete block Flashing junction is below floor level Anti-capillary gap now provided 	4.2.4	Complies as flashing not required (but gap has been provided)
5	Retaining wall drain	F	<ul style="list-style-type: none"> Drainpipe redirected to behind adjacent retaining wall, appears to be performing satisfactorily Slotted drain installed along boundaries and directed into northwest drain Site drainage adequate, no significant impact on consented work 	4.2.5, Fig.3, 4.4.2	Retaining wall drain not part of consented building work
6	Vermin proofing	C	<ul style="list-style-type: none"> Pipe penetration under vanity now sealed against vermin entry 	4.2.6	Complies as remedial work completed
7	Sealing kitchen cabinets	-	<ul style="list-style-type: none"> Cabinets/ floor junctions now sealed Not considered necessary to demonstrate compliance with E3 	4.2.7	Complies, but sealing not required
8	Tiled splashback	-	<ul style="list-style-type: none"> Tiles now installed to the rear and left-hand side of gas hob 270mm clearance to the right-hand wall does not require splashback Accords with AS/NZS 5601.1 	4.2.8	Complies as remedial work completed
9	Rangehood	-	<ul style="list-style-type: none"> AS/NZS 5601.1 describes minimum clearances <u>if</u> rangehood is installed, it does not require a rangehood to be installed in this case. 	4.2.9	Complies as hood not required
10	Seal head flashing	H	<ul style="list-style-type: none"> SW dining door installed in concrete tilt panel without aluminium angle shown in consent details. V-groove in concrete reveal prevents water tracking to head While a gap to the installed flashing is visible: <ul style="list-style-type: none"> flashing upstand is bedded in sealant there is little risk of water entry 	4.2.11	Complies as detail is satisfactory
11	Planed weatherboard	I	<ul style="list-style-type: none"> Bottom of weatherboard is shaped around downpipe, with small holes to the weatherboards requiring repair, <ul style="list-style-type: none"> ground clearances adequate bottom edge about 50mm below adjacent floor level. <p>(I note the applicant advised that the repairs to the weatherboard were completed after the expert's visit.)</p>	4.2.11	Remedial work to be verified

5.2.2 Taking the above into account, I am able to conclude that items identified by the authority that required remediation have now been satisfactorily attended to with the exception of item 11.

5.2.3 I note that the items remediated by the applicant following the issue of the section 95A notice and completed before the expert's visit notice were all readily observable by the expert during his visit, and an opinion on the compliance of those items was able to be made. This may well not be the case in respect of remedial work

incorporating hidden building elements that are no-longer able to be assessed for compliance.

- 5.2.4 In respect of the drainage to the retaining wall I accept the expert's view of the matter in that:
- Significant work separate from the consent has been done by the applicant to address issues related to water runoff from adjacent properties. This work appeared to be effective.
 - The retaining wall drain is minor, and in any event water discharging from the wall will run back to the applicant's property without affecting the neighbour's wall. Very little water was seen draining from the pipe despite significant rain falling in the period immediately before the site visit.
 - The retaining wall drain has no significant adverse impact on the consented work.
- 5.2.5 The retaining wall drain is not shown in the approved consent plans, nor is any other site drainage apart from the connection of downpipes and the corresponding surface water drains. I accept that the retaining wall drain was not part of the consented work but it has been modified during the execution of the consented work – the installation of the drain was part of a wider ongoing dispute that was quite separate to the consented work. If the authority considers work has been carried out that required a building consent it can pursue that matter separate to the issue of the code compliance certificate for the consented work.

6. The decision

- 6.1 In accordance with section 188 of the Building Act 2004, I hereby determine that the authority correctly exercised its powers of decision in refusing the code compliance certificate at the time it made this decision in respect of items 1, 2, 3, 6, 8, and 11 as listed in the section 95A notice dated 15 February 2018. The authority did not correctly exercise its powers of decision in respect of items 4, 5, 7, 9, and 10.
- 6.2 I also determine that items 2 to 4, and 6 to 10 now comply with the corresponding clauses of the Building Code and I reverse the authority's decision to refuse to issue a code compliance certificate in respect of building consent No. BA-1254052 in respect of those items. I have insufficient evidence to make a decision in respect of item 11.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 1 August 2018.

Katie Gordon
Manager Determinations