

Determination 2023/020

**Regarding compliance of the depositing and collection of
solid waste**

9 Jordan Avenue, Onehunga, Auckland

Summary

This determination considers compliance for the depositing and collection of solid waste under Building Code Clause G15 Solid Waste for a new residential property development. The determination considers if the waste storage area proposed provides reasonable access for the depositing and collection of solid waste.

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, Katie Gordon, National Manager Building Resolution, Ministry of Business, Innovation and Employment (“the Ministry”), for and on behalf of the Chief Executive of the Ministry.¹
- 1.2. The parties to the determination are:
 - 1.2.1. Marutuahu Ockham No 4 Limited Partnership (“the owner”). The owner applied for the determination
 - 1.2.2. Auckland Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.
- 1.3. This determination arises from a dispute over the compliance of a proposed solid waste management plan where the carry distance² between a common solid waste storage area in one building, and another building on the same property, is such that it affects reasonable access for the depositing and collection of solid waste.
- 1.4. The matter to be determined, under section 177(1)(a), is therefore whether an alternative solution proposed for the depositing and collection of solid waste, that relies on a single common waste storage area being provided for a new residential property development, complies with Clause G15 Solid Waste (specifically, clause G15.3.1 (b)).
- 1.5. The new residential property development is the subject of several applications for building consent. The original design proposal was for a single common solid waste storage area to serve all the buildings on the same property. However, the application for building consent (number BCO10340522) was granted and issued by the authority based on two waste storage areas being provided. Regardless, the

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

² The relevant performance clause G15.3.1(b) requires reasonable access for the depositing and collection of solid waste. The distance to be travelled in conveying this waste from its point of origin to the storage area is a relevant factor in considering reasonable access. Throughout the determination, I have adopted the term “carry distance”, which is the term used in the *Compliance Document for New Zealand Building Code Clause G15 Solid Waste*, first edition, amendment 3, effective from 30 September 2010, G15/AS1, section 2.0 Carry Distance ([Compliance Document for New Zealand Building Code Clause G15 Solid Waste](#)).

owner is of the view the original proposal did comply with the clause G15 and has applied for this determination on the matter.

- 1.6. In deciding this matter, I must consider if reasonable access will be provided for the depositing and collection of solid waste at a single location based on the carry distance between any occupancy in one building (building B) and a common solid waste storage area in a separate building on the same property (building A).³

Issues outside this determination

- 1.7. The owner has included reference to matters that relate to the Resource Management Act 1991. I have no jurisdiction under other enactments and this determination only considers matters relating to the Building Act and its Regulations.
- 1.8. I have not considered the decision by the authority to grant and issue the building consent BCO10340522 for the construction of building B. An amended waste management plan that formed part of the approved building consent details the provision of two solid waste storage areas. One waste storage area is located in building A. The second waste storage area is located opposite the front door of building B adjacent to a communal pool area; it is this second waste storage area that is not being considered in this determination.
- 1.9. The owner has provided information related to the depositing and collection of solid waste at three other properties not related to the development at 9 Jordan Avenue, Onehunga, Auckland. I have not considered compliance with clause G15 at those other properties.
- 1.10. I have not considered the carry distance from the single common waste storage area proposed to be located at ground floor level in building A to the apartments in building A, or to the separate apartment buildings C and D. Refer to figure 1.⁴
- 1.11. I have not considered compliance with clauses G15.3.1 (a), (c) and (d), G15.3.2, and G15.3.3. The parties did not dispute compliance with any of these clauses.
- 1.12. I have not considered the authority's decisions to grant and issue the separate building consents for the construction of buildings A, C, and D.

³ I have used the same taxonomy for the description of the buildings as stated in a 'Site waste management [and] minimisation plan Manaaki 7-9 Jordan [Avenue]' dated 24 February 2021 (amended 23 February 2022). The waste management plan was prepared for the owner by a company specializing in waste management.

⁴ Figure 1 has been reproduced from the 'building reference and location' plan in the waste management referred to above.

2. The building work

- 2.1. The property development consists of four buildings (A, B, C, and D; refer to figure 1).

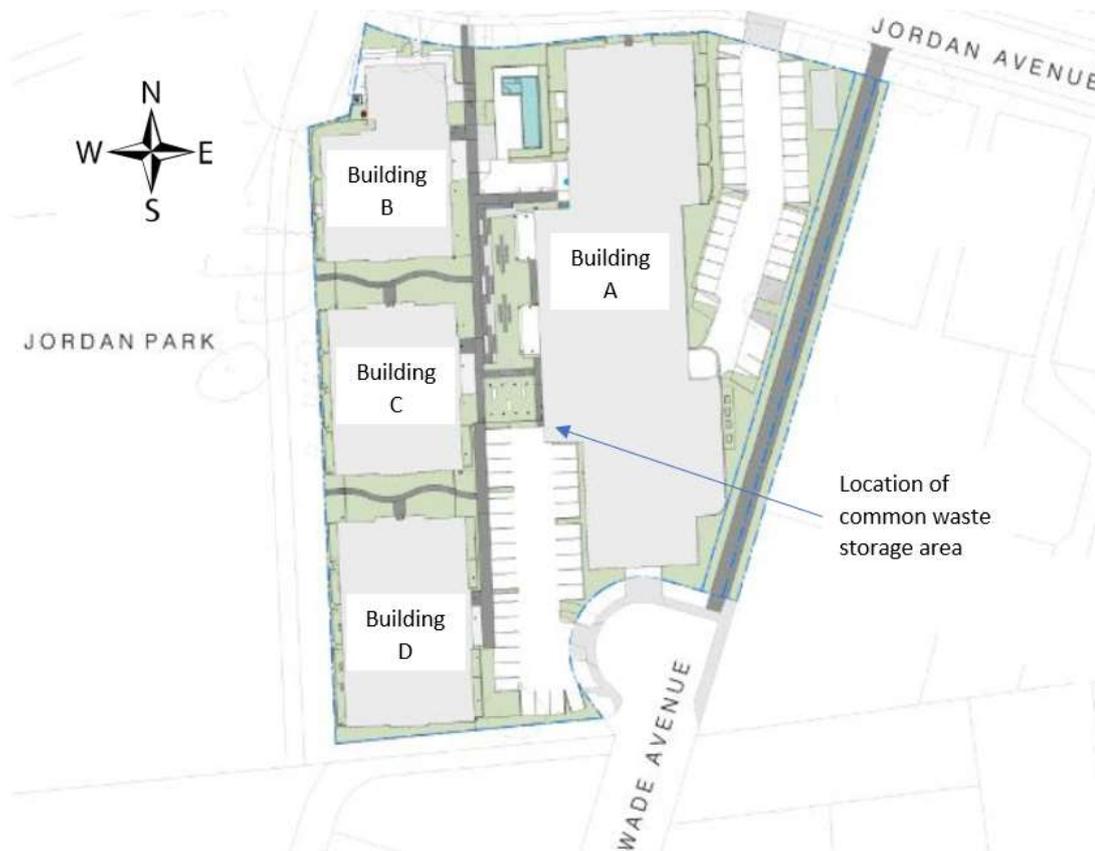


Figure 1: Site plan (not to scale)

- 2.2. Buildings A, B, C and D are multi-storey buildings incorporating a total of 210 apartments. The apartments vary in size, and contain either one, two, or three bedrooms. Part of building A is also a multi-storey carpark.
- 2.3. Building B is six-storeys high and includes a total of 45 apartments, and a total number of occupants of 244 persons⁵. It includes a lift and staircase to access the upper floors. A café is to be located at the north end of the building at ground floor level.

⁵ The number of occupants is stated in the application for building consent (Form 2) for building B.

- 2.4. The original proposal was to locate a single 57m² common waste storage area at ground level on the west side of building A adjacent to an entrance door into the multi-storey car park. Access to the waste storage area is through an external door⁶ facing an outside ground level car park area and vehicle hardstanding.
- 2.5. The majority of the access route between building B and the common waste storage area in building A is via a paved pedestrian pavement.
- 2.6. Appendix two of the waste management plan indicates the horizontal distance from the front door of the furthest ground floor apartment in building B, to the common waste storage area in building A, is approximately 78.3m long. The owner has also confirmed the distance from the furthest top floor apartments in Building B to the waste storage area in building A is 88m via the lift, and 138m via the stairs.
- 2.7. Vehicle access for the collection of solid waste from the storage area is via Wade Avenue and the vehicle carpark and hardstanding area between buildings A and D.⁷ The hardstanding extends to outside the door to the waste storage area in building A. 'Appendix Three - Vehicle Manoeuvre Tracking' in the waste management plan indicates how an 8m long waste collection vehicle would manoeuvre into position from Wade Avenue to outside the external door to the waste storage area.

3. Background

- 3.1. On 19 November 2021, the owner applied to the authority for a building consent to construct building B. The application included a 'Site waste management [and] minimisation plan Manaaki 7-9 Jordan Avenue' dated 24 February 2021; this included reference to a single common waste storage area on the ground floor of building A.⁸
- 3.2. Between 16 December 2021 and 11 February 2022, the parties exchanged correspondence about the application for building consent. This included a letter to the owner dated 20 December 2021 in which the authority stated:

Solid waste storage (rubbish / waste room) – The carry distance exceeds 30m (see 2.0.1 of...G15/AS1). Address how the building complies with [clause] G15 via an alternative solution – i.e. provide evidence to show how it will meet the performance requirements of the Building Code.

⁶ I have received conflicting information regarding the type of door access to be installed to the waste storage area. Different plans show both single and double external door sets. Therefore, for the purposes of this determination I have used the term 'door' (noting this could either be one or two in number).

⁷ It is not clear if the carpark and vehicle hardstanding is constructed using concrete, tarmac, or other similar material.

⁸ I note the application for building consent (Form 2) did not include reference to Clause G15 Solid Waste in the section titled 'Means of compliance'.

- 3.3. On 25 February 2022, the owner supplied to the authority an amended version (V2) of the 'Site waste management [and] minimisation plan Manaaki 7-9 Jordan Avenue', dated 23 February 2022.⁹ The amended management plan shows two waste storage areas, one was located in the ground floor of building A, and the second is located adjacent to the communal pool opposite the main entrance to building B. Refer to paragraph 1.8.
- 3.4. On 2 March 2022, the authority granted and issued the building consent BCO10340522.
- 3.5. On 11 July 2022, the owner applied for this determination, which sought to validate the compliance of the original single common waste storage area as proposed in the first version of the waste management plan dated 24 February 2021.

4. Submissions

The owner

- 4.1. The owner is of the view the original proposal from 24 February 2021, to provide a single common solid waste storage area at ground level in building A, did meet the requirements of clause G15 for the following reasons:
 - 4.1.1. The waste storage area is accessible and convenient both for the collection of the waste (by a contractor) and use by the residents.
 - 4.1.2. The waste storage area is located in a central point close to the carparking area adjacent to the exit route for both pedestrians and vehicle traffic. Residents often take their rubbish on the way to their cars, fitting this into their routine for commencing a trip offsite.
 - 4.1.3. The collection of the waste from a single centralised location is possible via private access to the property; this would be more efficient (as opposed to having two waste storage areas at separate locations on the property), there would be less risk of traffic congestion, and there would be reduced noise.
 - 4.1.4. The proposed alternative solution complies with Acceptable Solution G15/AS1 in all respects other than paragraph 2.0.1, however, the authority has accepted the carry distances from buildings C and D even though these exceed the 30m stated in G15/AS1.¹⁰

⁹ It is not clear if the amended management plan was submitted to the authority either by the owner, or the authors of the plan, or another entity.

¹⁰ I note the carry distance from the furthest ground floor apartment in building C to the single waste storage area in building A is approximately 46m, and the carry distance from the furthest ground floor apartment in building D to the same waste storage area is approximately 57m; these distances are based on a 'marked-up' plan included in the waste management plan. Refer to paragraph 1.10.

- 4.1.5. Compliance with an Acceptable Solution is only one method of establishing building work complies with the Building Code.¹¹ If the building work does not comply in all respects with an Acceptable Solution this does not mean the building work will not meet the requirements of the Building Code.
- 4.1.6. The recommended 30m carry distance in Acceptable Solution G15/AS1 appears to be based on an assumption that this is the maximum acceptable distance for people to carry large heavy bags of waste, and any greater distance could result in the accumulation of rubbish within household units. However, this is inconsistent with feedback the owner has received from residents in other similar developments.
- 4.1.7. The size of the bins within the apartments would necessitate frequent trips with small volumes of waste on nearly a daily basis for a typical two-person occupancy. Occupants generally do not allow rubbish to accumulate in their units over an entire week, disposing of a large and heavy amount in one single trip; such an approach is inconsistent with apartment living, and would pose sanitary issues for the occupants.
- 4.1.8. The route from building B to building A is not challenging or onerous; it is a flat and even surface, and there are no features of the route that would obstruct or impede reasonable access.
- 4.1.9. Previous building consents have been granted for apartment complexes with similarly designed centralised waste disposal locations and no issues have arisen in terms of accessibility to a central waste storage area (refer to paragraph 1.9).
- 4.1.10. The original proposal meets all of the performance criteria set out in clause G15.3.1 and is consistent with the objective and functional requirements of clause G15.

The authority

- 4.2. The authority is of the view:
 - 4.2.1. Any alternative solution proposed involves mostly marginal increases from the Acceptable Solution G15/AS1 to demonstrate compliance with clause G15.3.1 (ie a maximum carry distance of no more than 30m between any household unit and a common solid waste area or chute).
 - 4.2.2. Where an access route is flat, the authority has accepted, as an alternative solution, a carrying distance of up to 65m on the basis a maximum 25-30 litre bag of waste weighing no more than approximately 8kgs is reasonable and not too onerous.

¹¹ Sections 19, 22 and 23.

- 4.2.3. When receiving applications for a building consent the authority does ensure provision is made within buildings for “reasonable” access for the depositing and collection of waste in accordance with clause G15.3.1. This ensures occupiers of household units are not discouraged from taking rubbish and solid waste to a proposed temporary storage location at regular intervals and are not encouraged to store in the household unit where it could compromise health and hygiene.
- 4.2.4. “Reasonable access” is storage space being provided as an integral part of the housing development along with appropriate design, capacity, layout, access, and signage.
- 4.2.5. With medium density housing style of residential living likely to increase, the occupiers are likely to be young families due to the cost and availability of the units, and not just young professionals.

5. Discussion

- 5.1. The matter for determination is whether a proposal to provide a single common waste storage area for a new residential development complied with Clause G15 Solid Waste. In deciding the matter, I need to consider compliance with clause G15.3.1 (b), specifically, the carry distance from any occupancy of a residential apartment building (building B) to a common waste storage area located at ground floor level in another building (building A) on the same property.
- 5.2. Although building consent BCO10340522 has been granted and issued by the authority on the basis of two waste storage areas being provided, it is the original design proposal of a single common solid waste storage area that is being considered.

Legislation

- 5.3. Section 17 requires all building work must comply with the Building Code to the extent required by the Act.
- 5.4. Section 23 states:

A person may comply with an acceptable solution or a verification method in order to comply with the provisions of the building code to which that acceptable solution or verification method relates, but doing so is not the only means of complying with those provisions.
- 5.5. The objective of Clause G15 Solid Waste is to safeguard people from injury or illness caused by infection or contamination from solid waste.

5.6. The functional requirement (clause G15.2) states **buildings** shall be provided with space and facilities for the collection, and safe hygienic holding prior to disposal, of solid waste arising from the **intended use** of the buildings [my emphasis].

5.7. Performance clause G15.3.1 states:

Where provision is made within buildings for the collection and temporary holding of solid waste, the spaces provided shall be:

...

(b) provided with **reasonable access** for the depositing and collection of the waste [my emphasis],

...

5.8. The term building includes any 2 or more buildings that, on completion of building work, are intended to be managed as one building with a common use and a common set of ownership arrangements (section 8(1)(c)). In this case the owner has confirmed that upon completion of the building work, the buildings are intended to be managed as one building with a common use and a common set of ownership arrangements.

5.9. I do not consider the ‘limits of application’ associated with the functional requirement of clause G15.2 apply in this case. Clause G15.2 shall not apply to household units of multi-unit dwellings if there is independent access or private open space at ground level. However, 40 of the apartments in building B are spread across the five storeys above ground level, and none of these have independent access or the provision of private open space at ground level.

Reasonable access

5.10. The term ‘reasonable access’ is not defined in the Act or the Building Code.

5.11. The term ‘reasonable’ is not defined in the Act or the Building Code. However, it is defined in the Oxford English Dictionary¹² as follows¹³:

Within the limits of what it would be rational or sensible to expect; not extravagant or excessive; moderate.

Sufficient, adequate, or appropriate for the circumstances or purpose; fair or acceptable in amount, size, number, level, quality, or condition.

¹² Oxford English Dictionary accessed on 20 July 2022 from <http://www.oed.com>.

¹³ I note previous determination 2016/007, “Regarding the code compliance of proposed access for people with disabilities to three swimming pools in a proposed aquatic centre at Meron Road, St Johns, Auckland”, dated 24 February 2016, considered the term ‘reasonable and adequate provision by way of access’ as used in section 118. Although determination 2016/007 was in relation to a different topic, it is its reference to the term ‘reasonable’ that is relevant in this case.

5.12. Similarly, 'access' is not separately defined in the Act or the Building Code. Definitions of 'access' in the Oxford English Dictionary¹⁴ include:

A means of approach; a route by which a place may be accessed; an entrance.

With the sense 'that provides a means of approach', as access road, access route, access ramp, etc.

With the sense 'that provides a means of entry; designating an opening or entrance', as access hatch, access point, etc.

The power, opportunity, permission, or right to come near or into contact with someone or something; admittance; admission.

5.13. Clause G15.3.1 (b) requires that reasonable access shall be provided for the depositing and collection of waste. Therefore, I need to consider the proposed access arrangements between any occupancy in building B to the common waste storage area in building A on the same property and whether they are reasonable is based on the intended use of the buildings.

5.14. The Building Code does not prescribe the features to be considered when assessing whether reasonable access has been provided for the depositing and collection of solid waste. While those features may well differ according to the specific building or buildings concerned, in this case I consider they include:

5.14.1. the distance between the apartments and the common waste storage area

5.14.2. the features of the route between the apartments and the common waste storage area

5.14.3. the likely nature and volume of waste generated by occupants of the apartments

5.14.4. the length and nature of the access route from outside the property to collect the waste.

Intended use

5.15. The functional requirement G15.2 refers to the collection and disposal of solid waste arising from the intended use of the buildings. Intended use is defined in section 7.¹⁵ In this case, the intended use of building B is mainly for domestic living purposes where persons occupy separate apartments in a multi-unit dwelling (this is notwithstanding building B also includes a café at ground floor level).

¹⁴ Oxford English Dictionary accessed on 21 July 2022 from <http://www.oed.com>.

¹⁵ Intended use, in relation to a building, - (a) includes any or all of the following: (i) any reasonably foreseeable occasional use that is not incompatible with the intended use.

5.16. I am of the view there are several factors to take into consideration regarding the intended use of the buildings and how these may influence the type, size, and quantity of the solid waste likely to be generated, and therefore the frequency with which it would need to be disposed of to avoid injury or illness caused by infection or contamination arising from the accumulation of solid waste. These include (but may not be limited to):

5.16.1. The size of the apartments varies from one, two, or three bedrooms. Therefore, the number of occupants could range from an individual to a multiple number of persons in each apartment, and this is likely to influence the quantity of solid waste being generated.

5.16.2. The occupants are likely to generate a varying quantity of solid waste on a daily or regular basis depending on their living arrangements and personal or family circumstances. This is likely to inform the frequency with which the occupants will need dispose of their solid waste, whether it may be daily (either on one or more occasions) or less frequently.

5.16.3. The occupants could be persons of varying ages, including young families and retirees, and they are likely to have varying degrees of agility and physical abilities which may influence the size, shape, and weight of any solid waste they may be able to carry over a certain distance.

5.16.4. The types of solid waste that could be generated at different times is likely to influence the varying size and weight of such waste, whether it may be from a small kitchen bin through to much larger items.

Acceptable solution

5.17. One means of complying with the provisions of the Building Code is an Acceptable Solution. The parties have referred to Acceptable Solution G15/AS1¹⁶, specifically, sub-section 2.0 'Carry Distance', paragraph 2.0.1:

In multi-unit and group dwellings, the maximum carry distance between **any occupancy** [my emphasis] and a common solid waste storage area or chute shall be 30m.

COMMENT"

1. Common rubbish storage areas which are remote from accommodation units will encourage the accumulation of rubbish within each unit, and may become a health hazard.

5.18. Paragraph 3.0.10 of Acceptable Solution G15/AS1 states:

¹⁶ First edition, Amendment 3, dated 30 September 2010.

Access between the storage area and the collection vehicle shall comply with [Clause D1 Access Routes].

COMMENT:

For ease of collection, the access route should be level and as short as possible.

- 5.19. The parties do not dispute the carry distance in this case, between the furthest ground floor apartments in building B to the single common waste storage area located on the ground floor of building A, is greater than the 30m stated in Acceptable Solution G15/AS1. That carry distance means the building design does not comply with G15/AS1.

Alternative solution

- 5.20. An alternative solution is all or part of a building design that demonstrates compliance with the Building Code but differs completely or partially from the Acceptable Solutions or Verification Methods. Demonstrating an alternative solution complies with the Building Code can include quantitative or qualitative measures such as (but not limited to) comparison with an Acceptable Solution, and an assessment of actual site conditions.
- 5.21. The parties have considered an alternative solution where the carry distance is approximately 78.3m. This is notwithstanding the owner has confirmed the carry distances to the furthest top floor apartments in Building B is 88m if the occupants use the lift, or 138m if they use the stairs.

Reasonable access for the depositing of solid waste

- 5.22. I need to consider if reasonable access for the depositing of solid waste will be provided for the occupiers of the apartments in building B:
- 5.22.1. The proposed carry distance of approximately 78.3m from the furthest ground floor apartments in building B to the common waste storage area located at ground level in building A is more than two-and-half times the maximum distance stated in Acceptable Solution G15/AS1. Similarly, the carry distance for occupants using the lift from the top floor apartments is approximately three times the maximum distance, and approximately four-and-half times the maximum distance using the stairs. While the maximum distance in the Acceptable Solution is not a mandatory requirement, it can be useful context when considering compliance with clause G15.3.1(b).
- 5.22.2. Access is required to and from any occupancy in building B, including those apartments on the upper floor levels (ie all floor levels above ground floor level) which can be accessed by a passenger lift and stairs. I have received no details regarding the construction of the lift or the stairs. Regardless, I note the authority did grant building consent BCO10340522 on 2 March 2022; therefore, I have assumed the authority had considered compliance

with Clause D1 Access Routes and Clause D2 Mechanical Installations for Access met the test under section 49(1).

- 5.22.3. Although use of the passenger lift may be available for most of the time, it is likely there could be instances where the lift will be unavailable for use at other times. For example, during periods of maintenance and inspection, or when it breaks down. In such instances, access for the depositing of solid waste from the upper floors of building B will only be possible via the stairs for whatever period of time the lift may be unavailable for use, meaning a maximum carry distance of 138m.
- 5.22.4. The apartments on each floor are accessed through individual entry doors that open onto a corridor. The corridor leads to the lift, and a separate door to access the stair. A door at the bottom of the stair (at ground level) leads into a "lobby". If using the lift from the upper floors, it requires the occupants to descend to ground level, and move into the same "lobby" via another internal door. Once in the "lobby" access to the outside is via a separate external door.
- 5.22.5. The owner describes the route from building B to the waste storage area in building A as not challenging or onerous; it is a flat and even surface, and there are no features of the route that would obstruct or impede reasonable access. The route is detailed as a paved pedestrian path up to the point it reaches the vehicle hardstanding.
- 5.22.6. The vehicle hardstanding extends to the entry point into the common waste storage area which is close to the pedestrian entry door to the multi-storey carpark. Access to the storage area is through an external door (or a set of double doors), and the storage area is approximately 57m².
- 5.22.7. The common waste storage area in building A is at ground level.
- 5.23. Taking into consideration the items above, I am of the view the principal feature of the access route in this case that affects access for depositing of waste is the length of the carry distances. This includes those persons who occupy any of the apartments on the upper floors of building B who would need to descend to ground level carrying their solid waste either via the lift or the stairs.
- 5.24. Considering the intended use of the building, and the factors raised in paragraph 5.16, I am of the view reasonable access has not been provided for the depositing of solid waste in this case. The length of the carry distance is such that it is likely to affect the way the occupiers of building B may dispose of their solid waste to the extent it could encourage the accumulation of rubbish within each unit, and consequently become a health hazard.

Reasonable access for the collection of solid waste

- 5.25. The waste management plans dated 24 February 2021 and 23 February 2022 provide details of vehicle access for the collection of solid waste via Wade Avenue and the vehicle carpark and hardstanding that extends to external door to the common waste storage area at ground level in building A. Refer to paragraph 2.7.
- 5.26. In the absence of any information to suggest access between the waste storage area and the collection vehicle would not comply with clause D1, I am of the view reasonable access has been provided in this case. I have taken into consideration the vehicle access available from the street, the waste storage area is at ground floor level, the distance from the vehicle parking space to the waste storage area is short and level, the access door arrangements into the waste storage area, and the size of the waste storage area.

6. Decision

- 6.1. In accordance with section 188 of the Building Act 2004, I determine the original proposal in building consent BCO10340522 for a single common waste storage area did not provide reasonable access for the depositing of solid waste, and therefore it did not comply with clause G15.3.1(b).

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 21 July 2023.

Katie Gordon

National Manager Building Resolution