

Codewords Issue 91



31 JULY 2019

Welcome to Issue 91 of Codewords.

Thank you to everyone who submitted on the building law reform consultation. It was great to see such a strong response, with 470 submissions received from across the building sector. We will be publishing a submissions summary on the MBIE website very shortly, so keep an eye out for that.

It's all hands on deck now as we work to advise the Minister for Building and Construction, and later to develop the detailed legislative design. While the Government is expected to make its first policy decisions later this year, there will still be opportunities to engage as we work to refine the proposed changes.

The Construction Sector Accord work is also full steam ahead, with the focus now on developing a plan of action for the industry. The aim is to engage later this year, with the Accord Strategy Group of industry leaders and government Chief Executives at the helm of this programme of work.

On the topic of active consultations, there's still time to have your say on the proposed regulatory framework for dam safety. These regulations propose to establish a nationally consistent approach that will protect people, property and environment from the impact of a large dam failure. You've got until the 6th of August to [make a submission \(https://www.mbie.govt.nz/have-your-say/proposed-regulations-for-dam-safety/\)](https://www.mbie.govt.nz/have-your-say/proposed-regulations-for-dam-safety/).

We'll be opening up the next round of feedback for proposed changes to the Building Code on the 5th of August. This is part of our wider initiative to continually evolve the Building Code by making biannual improvements. The submissions we receive from this consultation will help determine how we change the selected Acceptable Solutions and Verification Methods in November.

Enjoy the issue.

Anna Butler
GM Building System Performance (BSP)
Ministry of Business, Innovation and Employment



Anna Butler
GM, Building System Performance

Building system updates

Building Code updates will be open for consultation on 5 August – save the date!

Public consultation on proposed changes to the Building Code opens on 5 August 2019.

This will be the third update in the biannual update programme. MBIE intends to publish these proposed changes in November 2019 and would like your feedback before doing so.

Within the updates proposed to the Acceptable Solutions and Verification Methods, the most significant changes are in two main areas:

Promote robust foundation solutions for liquefaction-prone ground

- Changes are proposed to support safer and more resilient housing foundations. Buildings on ground that has been identified as prone to liquefaction will require specifically designed foundations.
- Currently, the Acceptable Solution B1/AS1 does not exclude ground prone to liquefaction and/or lateral spreading. Updating the definition of 'good ground' within the B1 Acceptable Solutions and Verification Methods document will ensure alignment with the geotechnical learnings from the Canterbury earthquakes.

Support building higher-density housing and give more choice in framing specification

- This proposal will help streamline the building consenting process for light steel framing, which will help housing densification and encourage off-site manufacture, while also giving designers additional material choices.
- It is proposed to introduce a new enclosure Acceptable Solution (E2/AS4) for light steel frame buildings by citing the National Association of Steel Framed Housing (NASH) enclosure standard. This provides the weather-tightness details that work alongside the structural design rules for light steel frame buildings referenced in MBIE's June 2019 update. The Acceptable Solution serves the same purpose as E2/AS1 for timber framing. It will enable the use of light steel framing solutions for buildings up to 10 metres, which will make it easier to prove compliance with the Building Code.

The other proposed changes will continue the maintenance of the Building Code documents by updating references, cited Standards, and correcting editorial errors.

Summary of changes

- B1/VM1, B1/AS1 – along with the 'good ground' changes, MBIE will also be proposing to cite new updated amendments to Standards
- B2/AS1 – minor editing change
- E2/AS4 – the inclusion of a citation for a new Acceptable Solution for light steel framing
- H1/AS1 – will include citing Standards for better lighting efficiency

We want to hear your thoughts on these proposals. Details about how to make a submission will be announced on 5 August 2019.

There's a new system for managing buildings in an emergency – what it may mean for you

The Building Amendment Act, which was passed by Parliament in June, provides a new system for quickly and effectively managing buildings during and after an emergency.

The new system and legislative powers will come into effect in December. From that time, after an emergency event, councils will be able to:

- carry out work to, or demolish, any buildings that pose an immediate risk to life, or risk damage or disruption to neighbouring buildings or public thoroughfares
- require building owners to provide information, such as detailed engineering assessments, to help determine the risks posed by their buildings
- require damaged buildings to be repaired or demolished on a case-by-case basis, as appropriate.

The new system for building emergency management provided by the Building Amendment Act was developed in response to the recommendations of the Canterbury Earthquakes Royal Commission, while the legislative powers for investigating building failures respond to the lessons learned during MBIE's recent investigations into several significant building failures.

The Building Amendment Act also provides clear legislative powers to allow MBIE to investigate significant building failures.

You can read more on the [New Zealand Parliament website \(https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_79050/building-amendment-bill\)](https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_79050/building-amendment-bill).

Red Book or Yellow Chapter for concrete buildings – what you need to know

The proposed revision to section C5, known around the sector as the 'Yellow Chapter', was developed by experts from New Zealand engineering technical societies in partnership with MBIE.

It reflects what engineers learned from the investigation into the partial collapse of Statistics House following the Kaikōura earthquake.

A short video and fact sheet explaining the proposed technical revision to Section C5 of the Engineering Assessment Guidelines are available on the Building Performance website.

MBIE has received a number of queries from the sector asking if, and when, the Yellow Chapter should be used when assessing buildings. We encourage you to watch the video and read the fact sheet to better understand this, and other questions, surrounding the proposed revision.

[View the video \(https://www.building.govt.nz/about-building-performance/news-and-updates/all-news-and-updates/section-c5-concrete-buildings-proposed-revision/\)](https://www.building.govt.nz/about-building-performance/news-and-updates/all-news-and-updates/section-c5-concrete-buildings-proposed-revision/)

[Read the fact sheet \(https://www.building.govt.nz/building-code-compliance/b-stability/b1-structure/what-you-need-to-know-section-c5-concrete-buildings-proposed-revision/\)](https://www.building.govt.nz/building-code-compliance/b-stability/b1-structure/what-you-need-to-know-section-c5-concrete-buildings-proposed-revision/).

LBP knowledge link

LBP Registrar update (Codewords 91)

Welcome to another issue of LBP Knowledge.

In this edition, our [first article \(https://www.building.govt.nz/about-building-performance/news-and-updates/codewords/codewords-issue-91/organising-elective-skills-maintenance/\)](https://www.building.govt.nz/about-building-performance/news-and-updates/codewords/codewords-issue-91/organising-elective-skills-maintenance/) focuses on organising your elective skills maintenance. It covers how to make the most of time spent on professional development, as well as tips on recording and submitting your skills maintenance.

Our [second article \(https://www.building.govt.nz/about-building-performance/news-and-updates/codewords/codewords-issue-91/health-and-safety-by-design/\)](https://www.building.govt.nz/about-building-performance/news-and-updates/codewords/codewords-issue-91/health-and-safety-by-design/) is an introduction to health and safety by design for design LBPs. The principles and processes of health and safety by design can add value to your design work, as well as improving health and safety outcomes in the wider construction industry. Whether the content is a quick refresher or a new concept for you, it will hopefully provide food for thought on how you can improve the safety of your designs.

Thanks for reading, until next time.

Organising elective skills maintenance

Elective learning has been a part of the LBP skills maintenance programme since it was introduced.



Article is relevant to LBP licence classes: All

Learning and retaining skills and knowledge, however, has always been integral to building – even before the LBP scheme began. Some LBPs find the formal process of meeting criteria and submitting a skills maintenance record a daunting task at first, but it's generally a natural learning process that just needs to be recorded. In this article we offer tips for maximising the benefit to your professional development.

Start early

Your skills maintenance record is due every two years, however there is no reason why you can't start early! Giving yourself time to complete your elective skills maintenance allows you to pick which activities will best suit your needs. Some elective activities are one-off events, have limited numbers or are run infrequently, so keeping an eye out can be worthwhile.

Core competencies

A good elective activity is one that provides valuable and meaningful content to help you maintain your professional skills and knowledge. When choosing elective activities, consider how they will help you build on your core competencies as an LBP. These competencies include:

Regulatory knowledge – knowledge about the Building Act, the Building Code, and other related regulations.

Technical knowledge and skills – knowledge about relevant construction methods and practice; understanding of Acceptable Solutions and other compliance pathways.

Health and safety – applying safe working practices and managing of hazardous substances and environmental issues on site.

Continued practice – developing your skills relevant to your licence class or work.

Professional skills – knowledge of construction management, contract administration and good communication practices; understanding of relevant business training, quality assurance procedures and supervision of staff.

Types of activities

The range of suitable elective learning activities is deliberately broad to give you the flexibility to choose what will be of most value to you. The most important thing is the value of the learning, not necessarily how it is achieved. Types of activities may be:

- presentations and tutorials
- reading a trade magazine or other relevant publication
- courses and other formal studies
- lecturing and teaching
- publishing professional articles or research
- performing a service to the industry
- learning about workplace safety
- mentoring

Choosing a training provider

An elective skills maintenance activity doesn't have to be run by an accredited training provider or polytechnic. Some providers may advertise that their offering will be worth a certain number of skills

maintenance hours. This can be helpful as a guide, however the Ministry of Business, Innovation and Employment (MBIE) does not accredit courses as part of the LBP scheme, so it is not an endorsement or guaranteed learning outcome.

It is up to your judgement whether you think you achieved quality professional development, and how many hours were relevant to your LBP competencies. This will vary from person to person, as some LBPs will have more or less experience in certain areas. It may pay to shop around for elective activities that will deliver the best learning outcomes for you personally, before investing your valuable time and money.

Record as you go

Recording your elective skills maintenance as you complete it is easier in the long run than racing to collate it when it's due. You are also more likely to remember to add impromptu learning that might occur. Luckily there are tools to help you do this, such as the online portal on the [LBP website \(https://www.lbp.govt.nz/for-lbps/skills-maintenance/record-and-submit-your-activities/\)](https://www.lbp.govt.nz/for-lbps/skills-maintenance/record-and-submit-your-activities/).

If you log in to the LBP portal you can add your skills maintenance activities as you do them. The information is stored directly with MBIE, so it is all there when you are ready to renew your licence.

You may prefer to keep a diary of your skills maintenance activities elsewhere online. This could be on another website or in an app. If so, you can upload an exported PDF or JPEG copy of your completed skills maintenance record to the LBP portal when you wish to renew your licence. You can also scan a paper version of your skills maintenance record and upload it this way.

Quiz

1. Starting your elective skills maintenance well before the due date has which benefits?
 - a. Reduces stress when it comes to renewal time.
 - b. Lets you be more picky about which learning opportunities you invest in.
 - c. Allows you to accumulate extra hours for future skills maintenance rounds.
 - d. Both a. and b.

2. If a course is advertised as being worth six skills maintenance hours, what does this mean?
 - a. It is a guideline from the course provider, that six hours of the course will be relevant to LBP competencies.
 - b. MBIE has assessed the course and found it is worth six skills maintenance hours.
 - c. You will learn six new things.
 - d. The course will be six hours long.

3. For an activity to be a valid form of elective skills maintenance, it must:
 - a. Be led by a course provider.
 - b. Be relevant to improving your competency as an LBP.
 - c. Last longer than two hours.
 - d. Involve reading.

[Check answers \(https://www.building.govt.nz/about-building-performance/news-and-updates/codewords/codewords-issue-91/organising-elective-skills-maintenance/quiz-answers-organising-elective-skills-maintenance/\)](https://www.building.govt.nz/about-building-performance/news-and-updates/codewords/codewords-issue-91/organising-elective-skills-maintenance/quiz-answers-organising-elective-skills-maintenance/)

Health and safety by design

Your building designs can affect the health and safety of workers constructing, maintaining and demolishing buildings.

This is recognised in the Health and Safety at Work Act (HSWA), which was introduced in 2015. It sets out the principles, duties and rights in relation to work health and safety. Although the HSWA focuses on the design of workplaces rather than domestic dwellings, it is important legislation to keep in mind when designing any type of building.

What is health and safety by design?



Health and safety by design is the process of using design to manage health and safety risks throughout the life cycle of a structure, plant, substance or other product. In the context of designing a building, this means considering the health and safety risks throughout the construction, lifetime use, maintenance, and demolition and disposal of a building.

Article is relevant to LBP licence class: Design

Your power to influence safety

Designers are in a prime position to make buildings, and working on buildings, healthy and safe from the start of the design process. Your decisions will influence the health and safety aspects of a building for its entire lifespan. Making changes at the concept and design phase to improve safety is not only more effective, it can also reduce construction and maintenance costs.

Consider the whole life cycle

For each phase of a building's life, there will be different hazards to people to consider. It helps to break down the different phases and ask yourself how your design will affect health and safety, and if there are any improvements you can reasonably make, for example:

- Can builders construct your design safely? Work sites already contain a range of health and safety hazards, and site- or design-specific details can introduce new or unexpected hazards. Consider talking to the building contractor, if possible, about how they plan to construct the building and any hazards they anticipate. You may spot things in your design you didn't see before, and have the opportunity to make improvements.
- Will the home be safe and healthy to live in? The Building Code has many features that improve the health and safety of buildings for occupants, such as insulation requirements and barriers on balconies. However the minimum standards of the Building Code are just that – minimum standards. Are there further improvements you could make?
- Can the building be safely maintained? For example, are there lightbulbs or other features that require a ladder to access, introducing the hazard of falling from height? Is there another way you could design features to reduce hazards?
- Will your choice of materials today affect the safety of workers demolishing the building in the future? For example, we have stopped using asbestos due to the unacceptable health risk to workers, especially when asbestos is cut, removed or destroyed.

Where to find more guidance

WorkSafe has developed a 'Health and Safety by Design' good practice guideline. It includes information on how the HSWA applies to designers, as well as guidance on the principles and considerations of designing with health and safety in mind. The case studies provided mainly focus on infrastructure, however the key principles are transferable to any type of design and can add value to your practice. The guideline can be downloaded for free from worksafe.govt.nz (<https://worksafe.govt.nz/topic-and-industry/health-and-safety-by-design/health-and-safety-by-design-gpg/>).

Quiz

1. Why is it important for designers to consider health and safety?
 - a. It is in the LBP rules.
 - b. Their design decisions will impact the health and safety of other workers and building inhabitants.
 - c. It isn't important – it is up to builders to keep themselves safe.
2. Why might you benefit from discussing the design with a building contractor?
 - a. There is no benefit – they do not have design expertise.
 - b. You can tell them how to build the design.
 - c. You might get a new perspective on the design and come up with improvements.
3. If you design to the Building Code, your building will be safe and you don't need to worry about health and safety. True or false?

- a. True. If you design to the Building Code, the building will be safe.
- b. False. The Building Code is a good start, but it won't catch every hazard.

Check answers (<https://www.building.govt.nz/about-building-performance/news-and-updates/codewords/codewords-issue-91/health-and-safety-by-design/quiz-answers-health-and-safety-by-design/>)

Lengthy suspension for carpenter

The Board recently handed down a significant sanction against carpenter Ali Kahdim (BP107841) in Auckland.

The Board has chosen to publish the details due to the seriousness of the complaint and the strong penalty. It is important that LBPs are aware of the consequences of the failure in this circumstance and avoid similar outcomes.

Ali Kahdim (CB24416)

Mr Kahdim was found to have:

- supervised building work in a negligent manner,
- failed to provide a record of work for restricted building work supervised, and
- acted in a manner that brought the LBP scheme into disrepute.

On 25 November 2015, Mr Kahdim was suspended for 12 months for supervising works that were carried out in a negligent manner and contrary to a building consent. This suspension was extended until 10 January 2017 for his failure to satisfy the Registrar that the minimum requirements for relicensing were met.

Mr Kahdim did not advise the complainant of this disciplinary action and suspension, and continued to supervise work (including restricted building work) on a residence. This work was found to have issues with quality and compliance and there were a high number of inspection failures.

The Board noted their decision could only cover the period that Mr Kahdim was licensed and they could not consider the work he supervised while suspended.

A spokesperson for the building consent authority (BCA) stated that Mr Kahdim was only on site when inspections were called and appeared to be relying on the BCA to identify issues with the build.

The Board noted that while a BCA's finding of non-compliance does not always constitute negligence, the Board will consider factors such as:

- The extent and seriousness of non-compliance,
- Whether there is a pattern of continued non-compliance, and
- What steps were taken when non-compliance issues were raised.

In finding Mr Kahdim negligent, the Board said that an LBP should aim to get building work right the first time and not rely on the BCA to identify compliance failings. Furthermore, it is not enough to just turn up for inspections – an LBP is expected to take action to make sure future inspections of the same work do not fail.

In determining that Mr Kahdim's actions brought the LBP scheme into disrepute, the Board condemned his continued involvement in restricted building work while suspended. The Board said that an LBP has a duty to inform their clients of disciplinary matters they are involved in and the status of their licence.

Mr Kahdim's position was made worse by him not participating in the investigation and hearing process.

The Board cancelled Mr Kahdim's licence with a stand-down period of 24 months. It also ordered him to pay some costs towards the inquiry and that the decision would be published.

What we can learn from these decisions

Poor supervision, relying on the BCA to ensure compliance with the Building Code, and not informing clients of his licence suspension led to this LBP being disciplined.

Not only did Mr Kahdim supervise poor quality work, he was responsible for multiple inspection failures. He did not take steps to fix issues and appeared to be too reliant on the council inspections.

An LBP has a duty to tell their clients if they have been suspended, so that clients can make an informed decision to hire them.

Understanding your regulatory obligations is key and has been highlighted by this complaint. Being an LBP comes with the responsibility to only supervise work while licensed, and to keep your clients fully informed.

This decision and other past decisions can be read in full on the [LBP website \(https://www.lbp.govt.nz\)](https://www.lbp.govt.nz).

The consequences of unethical business practices

Samuel Chandra (BP110064) was found to have brought the LBP regime into disrepute by subcontracting a build against the conditions of his contract (CB24416).

This led to a range of problems for the owner, including negligent building work, for which Mr Chandra was also disciplined.

Unethical subcontracting

Mr Chandra was contracted through his company, Axcel Construction Limited (now in liquidation), to build a new residential dwelling. The contract Mr Chandra signed stated he would both carry out and supervise the building work. It also stated he would not subcontract the work out without written consent – a condition which he ignored. Using a fake contract, Mr Chandra subcontracted the work for \$100,000 less than what the client had paid.

When Mr Chandra's company went into liquidation, the subcontractors refused to complete the house and demanded additional payments they claim they were owed by Mr Chandra. Suppliers and contractors also threatened to repossess materials as a result of non-payment by Mr Chandra.

Workmanship issues

Building work commenced in January 2017 but progress was slow. Foundations were completed in April and the roof was installed in November. A council inspection noted the frames were no longer compliant as a result of prolonged exposure to the elements. When the issue was raised with Mr Chandra, he took no action.

As a result of Mr Chandra's subcontracting, a different person took over the build. They worked from the wrong plans, which led to the build substantially changing from what had been consented.

The complainant stated that Mr Chandra was paid \$469,000 for the project but that he ignored phone calls and texts. The only contact from him was forwarding stage-payment invoices. When the complainant approached Mr Chandra at his residence to discuss matters, he denied recognising the complainant and was said to be very abusive.

Board decision

Given the gravity of the offending, the Board decided to cancel Mr Chandra's licence for six months. The Board considered this was not only a necessary outcome for Mr Chandra, but that it also served to protect the public and deter other LBPs from similar conduct. The decision has been published for these reasons. In addition, Mr Chandra has been ordered to pay \$2,000 towards the costs of the inquiry.

What we can learn from these decisions

There is more to being an LBP than just technical competence. The way an LBP conducts business affects whether they should keep their licence and stay in the LBP scheme. The Board's decision

shows that unethical business dealings can have serious consequences for an LBP – for Mr Chandra they were so serious they led to him losing his licence.

This decision and other past decisions can be read in full on the [LBP website](https://www.lbp.govt.nz) (<https://www.lbp.govt.nz>).

Recent determinations

What does a 'single household' actually mean?

MBIE issued three determinations in 2018 that considered whether a group of people were living as a 'single household'.

Clause A1 – Classified Use

For the purposes of the Building Code and the relevant performance requirements, buildings are classified according to their use. Clause A1 defines Classified Uses, which are split into seven categories:

- Housing
- Communal residential
- Communal non-residential
- Commercial
- Industrial
- Outbuildings
- Ancillary

The categories are grouped together based on the activity or use that will be carried out in the building. Residential uses are covered by two categories – housing and communal residential.

The 'Housing' classified use is further separated into three subcategories: 'Detached dwellings', 'Multi-unit dwelling', and 'Group dwelling'. The Detached dwellings classified use applies to "a building or use where a group of people live as a single household or family." The use of the terms 'household' or 'family' within the Detached dwelling subcategory and within the other Housing subcategories indicates a requirement for a family or family-like grouping for Housing uses. The expectation is that the occupants within a building with a Housing classified use will practice self-care and service (internal management). In other words, they will mainly look after themselves and each other.

What makes a household?

A point of dispute in the previous determinations was whether the occupants lived as a 'single household' and subsequently fell under the Detached dwellings classified use. For example, in one case the owner believed that in a three-storey building, where each level had its own cooking and sanitary facilities, the 15 to 28 occupants could be described as a living as a 'single household'.

However, a 'household' is not a defined term in the Building Act or the Building Code. The defined term 'household unit' from the Building Act has been used in previous determinations and court decisions to interpret what is meant by a 'single household'.

Previous determinations have considered the relationship between the occupants of a building and whether they operated as a single household. The determinations compared each situation to the factors stated by the High Court in *The Wanaka Gym Limited v Queenstown-Lakes District Council* decision:

- Does the number of occupants vary?
- Do large numbers of people occupy the building?
- Is there a significant degree of restriction on the occupants?

- Are the stays relatively short term?
- Is there a lack of connection with the other occupants and no agreement to live together?
- Is the purpose of the building commercial rather than domestic?

These factors are not exhaustive and each situation needs to be assessed on its own facts. Where these factors were answered positively in the previous determinations and in the *Wanaka Gym* case, the occupants in those buildings could not be described as a 'single household'.

Determination 2018/015 in full (<https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/determination-2018-015/>).

Determination 2018/044 in full (<https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/determination-2018-044/>).

Determination 2018/045 in full (<https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/determination-2018-045/>).

You can read previous determinations in the [determinations register](https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/) (<https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/>).

Previous issues

Codewords issues are available for two years after their publish date. If the issue you are looking for is older, please [contact us](#).

Issues for 2020



Codewords Issue 95

12 JUNE 2020

Codewords is back with issue 95, covering news about the progress of building law reforms in Parliament, a reduction in the Building Levy, more protection for subcontractors, and a whole host of new building consent exemptions.

Issues for 2019



Codewords Issue 93

4 DECEMBER 2019

For our last issue of 2019, we look back on what has been a hugely productive year for the building regulatory system, and gear up for the release of the Construction Sector Accord Transformation Plan.



Codewords Issue 92

18 OCTOBER 2019

In the latest issue, we update you on the building law reforms recently announced by the Government. Another round of Building Code updates is coming up in November, following public consultation on selected Acceptable Solutions and Verification Methods.

Issues for 2018



Codewords Issue 87

4 DECEMBER 2018

This issue includes recent LBP disciplinary decisions, technical knowledge on built-up members in place of solid timber, lessons learned from the demolition of Statistics House, and recent determinations.



Codewords Issue 86

28 SEPTEMBER 2018

This issue looks at recent LBP disciplinary decisions, immediate pool areas, technical knowledge on top plate connections, how quantity surveying principles can help with pricing jobs, a new risk advisory group, and technical reviews of councils.



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

New Zealand Government

any matter to which the information relates according to the circumstances of the particular case. Expert advice may be required in specific circumstances. Where this information relates to assisting people:

- with compliance with the *Building Act*, it is published under section 175 of the *Building Act*
- with a *Weathertight Services* claim, it is published under section 12 of the *Weathertight Homes Resolution Services Act 2006*.