

Do first use fit-outs need to comply with the Building Code under section 17?

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A recent determination looked at whether a first use fit-out of a building is considered an alteration to an existing building, or if it needs to comply with the Building Code under section 17.

Background

Section 17 of the Building Act states that all building work must comply with the Building Code to the extent required by the Building Act.

Section 112 of the Act sets the requirements for alterations to existing buildings. It states that, after the building work has been completed, an existing building (or part of a building) needs to comply as nearly as is reasonably practicable with certain clauses of the Building Code that relate to means of escape from fire, and access and facilities for persons with disabilities.

Determination 2018/055 considered the case where the building consent authority (BCA) issued a building consent for a new warehouse building in 2015. The building owner subsequently installed a racking system and mezzanine in the building as part of the 'first fit-out', which was not included in the building consent.

A building consent was required for the installation of the racking system and mezzanine and the owner applied for a [certificate of acceptance](https://www.building.govt.nz/projects-and-consents/sign-off-and-maintenance/completing-your-project/certificate-of-acceptance/) (<https://www.building.govt.nz/projects-and-consents/sign-off-and-maintenance/completing-your-project/certificate-of-acceptance/>). The building owner engaged a fire engineer to provide a report on the compliance of the mezzanine and racking system as part of the application for the certificate of acceptance. The fire engineer considered the installation of the racking system and mezzanine to be an alteration to the existing building that would therefore fall under section 112 of the Act.

Discussion

The determination disagreed that a 'first use fit-out' within a new building could be treated as an alteration to that building under section 112. It referenced Determination 2004/05, which considered whether the various stages of construction were alterations to an existing building or part of the construction of the new building. That determination stated:

"...the fit-out of a particular area in the shell of a building to suit the needs of the first tenant is part of the construction of the building and cannot be treated as an alteration of an existing building."

The 2004/05 determination noted that a building is to be treated as a new building under construction until all of it is actually completed and ready for use. The fit-out for the first tenant was considered part of the construction of the new building.

A Code compliance certificate was issued for the construction of the new building, the warehouse, later in 2015. However, the building was not ready for use as a warehouse without the racking system and mezzanine fit-out. Because of this, the determination decided that the racking system and mezzanine fit-out was part of the first use fit-out of the building and not an alteration to an existing building.

The decision

The determination maintained the view set out in Determination 2004/05. The fit-out needed to comply with the Building Code under section 17.

[Determination 2018/055 in full](https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/determination-2018-055/) (<https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/determination-2018-055/>).

[Determination 2004/05 in full](https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/determination-2004-05/) (<https://www.building.govt.nz/resolving-problems/resolution-options/determinations/determinations-issued/determination-2004-05/>).

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/>).



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