

Determination

under the

Building Act 1991

No. 94/006: Access for people with disabilities in the alteration of a building for use by a bank

1. The matter to be determined

- 1.1 The matter before the Authority was whether, in the proposed alteration of a building for use by a bank, provisions should be made so that the upper floor may be used by people with disabilities that prevent them from using stairs.
- 1.2 The applicant was the owner of the building, the other party was the territorial authority concerned.
- 1.3 The Authority takes the view that it is being asked in effect to determine whether, after the proposed alterations, the building, without a lift, will comply with clause D1.3.4 of the building code (the First Schedule to the Building Regulations 1992) as nearly as is reasonably practicable to the same extent as if it were a new building.
- 1.4 In making its determination, the Authority has not considered whether the proposed building will comply with any other provisions of the building code.

2. The building

- 2.1 The building is currently one storey high, but the proposed alteration will make it two storeys high.
- 2.2 All customer facilities are to be on the ground floor, which will also contain toilet facilities intended to be suitable for use by people with disabilities. The upper floor is to contain an enquiry counter, offices and meeting rooms, toilet facilities not suitable for use by people with disabilities, and a staff room.
- 2.4 The only access from the ground floor to the upper floor is by way of two stairs, one for staff only, the other for both customers and staff. The latter is to be a stair suitable for use by people with ambulant disabilities in terms of the acceptable solution Approved Document D1/AS1.
- 2.5 The floor area of the upper floor is to be approximately 320 square metres.

3. The parties' contentions

- 3.1 The territorial authority refused to issue a building consent for the alterations on the grounds that in Determination No. 94/005 the Authority had confirmed the refusal of a building consent for alterations to a bank building one storey high where the only internal access between the levels was by way of stairs. The territorial authority observed that "it would be reasonable to assume that if a ramp or lift is required in the bank referred to in the above determination it is reasonable to require a lift in [the building concerned]".
- 3.2 The applicant contended that a lift was not required in order for the building to comply completely with clause D1.3.4 of the building code.

4. Discussion

- 4.1 The territorial authority has read more than was intended into Determination No. 94/005. In that determination it was stated that:

"1.1 The matter before the Authority was whether, in the proposed alteration of a bank building, provisions should be made so that staff facilities, including toilet facilities, may be used by people with disabilities that prevent them from using the stairs."

- 4.2 That matter does not arise in the current case. In particular, staff who are unable to use the stairs will not be prevented from using the toilet facilities on the ground floor.
- 4.3 Whether a lift is required by the building code in this building depends on clause D1.3.4. The relevant provisions of that clause are:

D1.3.4 An *accessible* route . . . shall"

- (c) Include a lift . . . to upper floors where:
- (iii) *buildings* are two storeys high and have a total design occupancy of 40 or more persons on the upper floor, or
 - (iv) an upper floor, irrespective of design occupancy, is to be used for the purposes of public reception areas of banks . . . and medical . . . centres.

- 4.4 In the plans submitted to the territorial authority the upper floor is shown as including an enquiry counter and a "public area". It is understandable, therefore, that the territorial authority should take the view that the upper floor was to be used for the purposes of a public reception area.

- 4.5 The Authority does not share that view. In Determination No. 94/002, determining whether a lift was required in a building two storeys high proposed to be converted into a medical centre, the Authority said:

“The Authority takes “public reception areas” in such buildings to be all those areas to which the public needs to have access for treatment.”

Similarly, in bank buildings the Authority takes “public reception areas” in such buildings to be all those areas to which the public needs to have access to avail themselves of the banking services provided in the building.

- 4.6 In this case, all banking facilities are available on the ground floor so that the public does not need to have access to the upper floor. Thus clause D1.3.4(c)(iv) does not apply. If the building were a new building, clause D1.3.4(c)(iii) would apply and a lift would not be required unless the design occupancy was more than 40 persons.
- 4.7 Applying the occupant densities specified in Table A2 of Appendix A to Approved Documents C2, C3, C4 gives an occupant load of 34 persons. On that basis, a lift would not be required if the building were a new building.
- 4.8 Section 25(3)(a) of the Disabled Persons Community Welfare Act 1975 provides that in respect of matters subject to the Building Act, New Zealand Standard 4121 “Code of practice for access and use of buildings and facilities by disabled persons” (“NZS 4121”) shall “be deemed to be one of the documents establishing compliance with the building code”. Clause 304.1 of NZS 4121 provides:

“Lifts . . . shall be installed provided that in the case of a two-storey building where the gross floor area of the upper floor is less than 400 m² . . . a lift need not be provided if the ground floor complies with the requirements of this Standard and the upper floors have access for the ambulant disabled.”

- 4.9 As the gross floor area of the upper floor is less than upper floor has an area of less than 400 m², if the building were a new building a lift would not be required on that basis either.
- 4.10 Although the matters were not specifically raised, the Authority observes that, as shown in the “layout plan” submitted by the owner, the layout of the toilet facilities intended to be suitable for use by people with disabilities needs reconsideration, and it is suggested that it be brought to comply with an acceptable solution depicted in NZS 4121 or Approved Document G1/AS1. Similarly, the doors to the “lock up room” should not be fitted with automatic closers if the room is intended to be accessible to wheelchair users or people with ambulant disabilities.

5. The Authority's decision

- 5.1 In accordance with section 20(a) of the Building Act the Authority hereby reverses the territorial authority's decision to refuse building consent for the proposed alterations without a lift.

Signed for and on behalf of the Building Industry Authority on this 15th day of December 1994

J H Hunt
Chief Executive