



Determination 2017/001

Regarding the authority's exercise of its powers of decision to issue a notice to fix for building work carried out without building consent at 2/46 Parkway Drive, Rosedale, North Shore



Summary

This determination considers building work done without consent to an existing workshop in a commercial building: the building work included installing storage racks and internal partitions, and the installation of sanitary and kitchen facilities. The determination discusses whether the work was exempt from the need to obtain a building consent under Schedule 1 of the Building Act, and whether the building had undergone a change of use.

1. The matter 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, John Gardiner, Manager Determinations and Assurance, 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 building owner, Mr D Probett (“the applicant”)
 - Auckland Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.

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.

- 1.3 The application for this determination arises from the authority's decision to issue a notice to fix for building work that was carried out without building consent first being obtained when consent was required and for a breach of sections 114 and 115 of the Act in relation to a change of use. The applicant is of the view that at least some of the building work is exempt under Schedule 1 of the Act.
- 1.4 The matter to be determined² is therefore the authority's exercise of its powers of decision in issuing the notice to fix. In making this decision I must consider:
- whether the building work carried out without building consent first being obtained was exempt under Schedule 1 of the Act
 - whether the building or part of the building has undergone a change of use as defined in section 5 of the *Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005* ("the Regulations").
- 1.5 In deciding this matter, 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.
- 1.6 The notice to fix did not address matters regarding compliance with the Building Code (First Schedule, Building Regulations 1992), accordingly I have not considered compliance of the building work in making my decision. I have however recorded observations made by the expert regarding compliance and leave these matters to the parties to address in due course.

2. The building work and use of the building

2.1 The building

- 2.1.1 The building is two-storeys and was constructed in 1985 with a double-height workshop used for light commercial manufacturing, and ancillary rooms. The ground floor includes a kitchen, toilet, and bathroom located off the entry area, and workshop areas. The mezzanine level consists of office space, kitchenette and living facilities, bedroom and bathroom. The workshop is accessed via a roller door or through a personnel door from the entry lobby.
- 2.1.2 At some time in 2015 the applicant installed a timber-framed storage rack ("the storage rack") within the double-height workshop area. The storage rack is constructed of H1.2 treated timber framing and consists of 150x50 joists attached to a 150x50 wall plate on three sides, fixed to the concrete block walls with anchor bolts at approximately 1800mm. The joists are at 450mm centres and are supported in about half the area by 100x50 top plates on 100x50 grid of studs at approximately 650mm x 700 centres – the studs are used as support for three rows of cross-beams that serve as storage racks for the workshop. The joists are fixed with joist hangers to the wall plates and the longest span of the joists is approximately 2400mm between the concrete wall and the first row of stud supports. The storage rack is covered with 21mm particle board level with the mezzanine floor.

² Under sections 177(1)(b) and 177(2)(f) of the Act. In this determination, unless otherwise stated, any references to sections are to sections of the Act and references to clauses are to clauses of the Building Code (First Schedule, Building Regulations 1992).

2.2 The building work

- 2.2.1 The building work that is the subject of the notice to fix consists of the addition of the bathroom to the mezzanine level over part of the storage rack, the installation of a 135L hot water cylinder, a kitchen sink unit and cabinetry, and associated plumbing, and construction of internal partition walls.
- 2.2.2 The bathroom is accessible through a room adjacent to the office and contains:
- a corner shower with a preformed moulded base, acrylic liner and glass sliding door
 - a floor mounted toilet
 - a single basin vanity over a cabinet
 - wall mounted mirrored cabinet and towel holder
 - a combined heat, light and ventilation unit.
- 2.2.3 The bathroom walls are timber framed and painted plasterboard, the floor is tiled and has underfloor heating. The duct for the ventilation unit exhausts to the workshop area and there is no natural ventilation in the bathroom. The bathroom also has a door opening to a floor area above the storage rack.
- 2.2.4 The hot water cylinder is installed in a ‘safe tray’ on top of the particle board flooring. The kitchen unit includes a sink, drawers and cabinetry, and a built-in hotplate.

2.3 The building’s use under the regulations

- 2.3.1 The applicant has advised that members of the family had been living in the property previously, but that when the applicant was made aware of the requirement to notify the authority of a change of use the family members moved out. The building was not used for accommodation during the time the storage rack and bathroom were constructed. The applicant advised the expert that the family member returned to live there for several weeks after the work was completed, and in a submission to the determination advised that the accommodation was being used for the applicant’s ‘own personal use’ and there was no intention to rent out the accommodation.
- 2.3.2 It is my understanding that the use of the building under the Regulations prior to the building work being undertaken was WL – Working Low, and that the authority has not been notified at any time since construction of a change of use of any part of the building to SR – Sleeping Residential.

3. Background

- 3.1 On 11 December 2015 the authority received a complaint regarding building work being carried out at the property. On 26 January 2016 the authority carried out an inspection, noting that building work had been carried out and that the building now included a household unit.
- 3.2 On 26 February 2016 the authority issued a notice to fix, no. 6383 to the applicant. The particulars of contravention or non-compliance were described as follows:

Contrary to section 40 of the Building Act 2004, the following building works have been carried out without first obtaining a building consent:

- The installation of the extension of the first floor mezzanine, the kitchenette, bathroom including a toilet, shower basin and associated plumbing fixtures

Contrary to section 114 and section 115 of the Building Act 2004, the following has been undertaken without first giving written notice to the territorial authority:

- Change of use of the commercial building from risk group ^[3] “WL” (Working low) to “SR” (Sleeping residential).

- 3.3 The notice required the applicant to remove the building work or pursue any other option available to bring the building work into compliance with the Act and its regulations; the deadline for compliance with the notice was given as 23 May 2016.
- 3.4 On 1 March 2016 the applicant emailed the authority, providing a description of the building work that had been done, noting that the plumbing was carried out by a registered plumber and electrical works by a registered electrician, and requesting information on how to apply for a certificate of acceptance. The authority responded on 2 March 2016, advising the applicant to consult a design professional and to then arrange a pre-application meeting with the authority.
- 3.5 On 4 July 2016 the authority wrote to the applicant, stating that it had carried out an inspection on 30 June and that the notice to fix had not been complied with. The authority issued a second notice to fix, no. 6786 with the same content as the previous notice but a later deadline of 1 September 2016. The authority again recommended the applicant seek professional advice.
- 3.6 On 25 July 2016 the applicant emailed the authority, seeking an extension of time. The authority responded on the same day, noting the period of time since the notice to fix was first issued in February 2016 and that the authority would issue an infringement at the end of the deadline period if the matter was not addressed.
- 3.7 On 3 August 2016 the applicant again emailed the authority, this time presenting the view that at least some if not all the work was exempt under Schedule 1 from the requirement to obtain building consent. The applicant quoted the following paragraphs from Schedule 1 (refer Appendix A.2):
- 10 Interior alterations to existing non-residential building
 - 11 Internal walls and doorways in existing building
 - 12 Internal linings and finishes in existing dwelling
 - 35 Alteration to existing sanitary plumbing (excluding water heaters)
 - 38 Replacement or repositioning of water heater that is connected to, or incorporates, controlled heat source
- 3.8 I have seen no further correspondence between the parties until the Ministry received an application for determination on 5 August 2016. On 9 August 2016 I requested further information from the applicant, which the applicant responded to on 14 September 2016.

³ Risk Groups are set out in the compliance documents C/AS1 through C/AS7 for the purpose of establishing compliance with the C clauses of the Building Code. Schedule 2 of the *Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005* sets out use categories for the purposes of sections 114 and 115 of the Act.

4. The submissions

- 4.1 In conjunction with a completed application form, the applicant provided copies of:
- the notice to fix no. 6786
 - a completed 'request for pre-application meeting' form, dated as received 26 July 2016
 - correspondence between the parties.
- 4.2 The applicant also made a submission setting out some of the background and his views on the matter. The applicant indicated that he wished to regularise the building work by way of applying for a certificate of acceptance, but that he considered some of the building work was exempt under Schedule 1, concluding
- .. I would welcome a determination to identify exactly what I need to remove so the work remaining does not require a building Consent.
- 4.3 The applicant also proposed that if the solution was to limit the number of plumbing fixings that others in the building could be removed, but that removal of the storage rack would cause great difficulties for the manufacturing facility. The applicant noted that
- Apart from the storage racks, carpentry is limited. The other work, plumbing and electrical was carried out by registered tradesmen and [the applicant] can get PS3's for the work they did.
- 4.4 The authority made no submission in response to the application, but provided copies of the of the following:
- a summary recording the complaint made in December 2015 and the actions taken by the authority since
 - the notices to fix and covering letters
 - correspondence between the parties.
- 4.5 In response to my request for further information, on 14 September 2016 the applicant provided copies of rudimentary drawings of the building work undertaken, and additional background information. In regards to plumbing and drainage, the applicant noted that no exterior drainage connections were required and that the mezzanine bathroom was vented.
- 4.6 In response to the expert's report (refer paragraph 5.3), on 17 November 2016 the authority provided a copy of internal correspondence (dated 17 November 2016) noting that at the time of the authority's site visit the owner had advised the ground floor kitchen was being refurbished and there was only a toilet and basin on the ground floor, but no shower. The authority also provided photographs dated 25 January 2016 showing the ground floor workshop space, hand basin, and kitchen facilities including a laundry appliance.
- 4.7 The applicant made a further submission that:
- 'the kitchen and shower as they are now, were installed years ago, before we took over the property'
 - the plumbing fixtures that were installed prior to the applicant's occupation of the building included a small kitchen sink, toilet and hand basin, laundry tub, and shower
 - the applicant had intended to remove the existing shower at some point

- no one is living on the premises, and there are no plans for that in the future
 - the applicant could get PS3's for the plumbing and electrical work, and an engineering report
 - it is the applicant's understanding that if he could not obtain a certificate of acceptance, he could remove some plumbing fixtures and replace them with others
 - though a handrail had not been installed to the open area above the storage rack, and the shower is not exhausted to the outside, the applicant intended to resolve those matters but was instructed not to carry out any more work.
- 4.8 A draft determination was issued to the parties for comment on 29 November 2016. The draft concluded that the construction of the storage racks, the internal walls, and the installation of the sanitary fixtures were not exempt under Schedule 1.
- 4.9 The authority accepted the draft without further comment in a submission received on 1 December 2016.
- 4.10 The applicant did not accept the findings of the draft determination and made a submission on 9 December 2016 (in summary):
- The use of the building has not changed, nor does the applicant intend to apply for or make a change to the use; the applicant does not want to use it 'for residential living' now or in the future.
 - The plumbing fixtures are 'for our own use in running the business'.
 - There is no oven, stove, fridge or pantry associated with the kitchenette; it is used for making hot drinks.
 - The applicant also therefore doesn't accept the logic in the draft regarding exempt building work, and 'at the time the racks were constructed, [the applicant doesn't] believe there was any concerns that the building was non-residential'. The work to the racks was done prior to the works on the mezzanine level and so would be exempt works and not require a certificate of acceptance.
- 4.11 The applicant also stated that he wished to apply for a certificate of acceptance for the building work carried out without consent and that the intention was:
- to complete 'the handrails, venting etc.'
 - remediate the items that had been identified
 - undertake and obtain an engineer's report on the structure and obtain PS3's for the electrical and plumbing works.
- 4.12 The applicant expressed concern that the determination did not provide 'finality' in terms of what the applicant was required to do to obtain a certificate of acceptance and referred to section 188(3) regarding conditions, suggesting that a reference to the list of works identified by the expert be included in the decision.
- 4.13 I note here that a determination is means to settle issues of doubt or dispute regarding compliance with the Act and Regulations and is not intended to provide owners with a list of required remedial works or actions to achieve compliance. The applicant has misinterpreted section 188(3); the conditions referred to in that section are those the building consent authority is able to grant or impose, for example those under sections 73(1) and 75(2).

5. The expert's report

5.1 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. The expert carried out a site visit on 14 October 2016, providing a report on 13 November 2016 which was provided to the parties on 15 November 2016.

5.2 The expert described the building work that has been carried out and the current fixtures and facilities provided in the building. I have incorporated the expert's descriptions in paragraph 2 of this determination.

5.3 The expert noted:

- the building is currently used as a workshop but also allows use as sleeping accommodation; the mezzanine level includes rooms furnished with lounge seating and a bed, a kitchenette with a plug-in hot plate, and floor to ceiling wardrobes dividing the living area and bedroom
- the ground floor kitchen, bathroom and laundry were already in place and the building allowed for sleeping accommodation prior to the alteration
- the washing machine and dryer were not connected, but water taps and drainage were nearby, which provides for the appliances to be installed.

5.4 The expert also noted some issues regarding compliance of the building work, as follows:

- an area above the storage rack is accessible through a door in the bathroom, but the area does not have a barrier and this is a safety issue
- the hot water cylinder requires adjustments to the seismic restraints (I note also that the drain from the TPR valve has been installed in plastic pipework instead of copper.)
- the mezzanine bathroom relies on mechanical ventilation; the installed duct does not lead to the outside but rather discharges into the workshop space
- the storage rack appears structurally sound but has not been assessed as to the adequacy of the fixings and loadings
- the compliance of the plumbing and electrical installation work could not be verified
- the kitchenette bench is not sealed to the block wall
- no smoke detectors were visible in any of the rooms.

6. Discussion

6.1 General

6.1.1 There is no dispute between the parties that building work has been carried out without building consent first being obtained. Taking into account the expert's observations, I conclude that the building work included:

- the construction of the timber framed storage rack with a particle board covering
- the construction of internal partition walls creating the bathroom on the mezzanine level

- fitting out the bathroom including installation of sanitary fixtures
- installation of the hot water cylinder
- installation of the kitchenette on the mezzanine level including sanitary fixture
- plumbing and electrical works associated with the alterations to the mezzanine level.

6.1.2 The authority has issued two notices to fix in respect of that building work, and it is the issue of the notice to fix that is the subject of this determination.

6.2 The change of use

6.2.1 The use of the building was not raised by the applicant as a matter of dispute between the parties in respect of the notices to fix issued by the authority. I therefore make the following comments as general observations to assist the parties.

6.2.2 The uses set out in Schedule 2 of the Regulations are for the purposes of sections 114 and 115 of the Act which relate to upgrade work that may be required when the uses of buildings are changed. Where an owner intends to change the use of a building, as defined in Schedule 2 of the Regulations, the owner must inform the authority (section 114) and ensure that the building in its new use will comply with the requirements of the Building Code to the extent set out in section 115.

6.2.3 Section 5 of the Change of Use Regulations provides

For the purposes of sections 114 and 115 of the Act, change the use, in relation to a building, means to change the use (determined in accordance with regulation 6) of all **or a part of the building** [my emphasis] from one use (the old use) to another (the new use) and with the result that the requirements for compliance with the building code in relation to the new use are additional to, or more onerous than, the requirements for compliance with the building code in relation to the old use.

6.2.4 The relevant use categories in this case include the following:

Uses relating to sleeping activities		
Use	Spaces or dwellings	Examples
SR (Sleeping Residential)	attached and multi-unit residential dwellings, including household units attached to spaces or dwellings with the same or other uses, such as caretakers' flats, and residential accommodation above a shop	multi-unit dwellings, flats, or apartments
Uses relating to working, business, or storage activities		
Use	Spaces or dwellings	Examples
WL (Working Low)	spaces used for working, business, or storage—low fire load	places for manufacturing, processing, or storage of non-combustible materials or materials having a slow heat release rate, ... business or other offices, ...

6.2.5 I have not seen the original plans for the building's construction and I am not aware of any approved alterations that may have been carried out prior to the applicant purchasing the building. However, from the observations of the expert it is clear that as a result of the alterations to the mezzanine level, part of the building has undergone a change of use. This is evident in that the alterations have provided a bathroom to an adjacent sleeping area and a kitchenette in the living area. As a result of the building work carried out, I am of the view that part of the building has undergone a change of use to SR – Sleeping Residential.

6.2.6 Section 115(a) provides that the owner must not change the use of the building in a case where the change involves the incorporation in the building of one or more household units where household units did not exist before, unless the territorial

authority gives the owner written notice that the territorial authority is satisfied, on reasonable grounds, that the building, in its new use, will comply, as nearly as is reasonably practicable, with the Building Code in all respects.

- 6.2.7 I make no conclusion on whether the facilities on the ground floor provided for sleeping accommodation prior to the applicant taking ownership of the building – this does not alter the fact that the applicant has carried out building work to the mezzanine floor which has resulted in the formation of a household unit where there was not one before.
- 6.2.8 While I leave the matter of the use of the building for the parties to resolve in due course, I note that there are compliance issues concerning fire safety and I strongly suggest that the applicant take advice on these matters and attend to them as soon as possible.

6.3 Schedule 1 exempt building work

- 6.3.1 The applicant has submitted that some of the building work was exempt under Schedule 1 of the Act from the need to obtain building consent and has expressed an intention to regularise the remaining work. The legislation relating to exemptions from the requirement for a building consent is found in sections 41 and 42A, and Schedule 1 of the Act (refer Appendix 1).
- 6.3.2 Section 41 exempts certain types of building work from requiring a building consent, including the types of work listed in Schedule 1. Section 42A imposes some general conditions and limits on the Schedule 1 exemptions, including the need for the exempt building work to comply with the Building Code, and the degree to which the altered building as a whole must comply with the Building Code after the building work is complete. Schedule 1 lists a range of possible exemptions and describes when these could apply.
- 6.3.3 In essence, the purpose of Schedule 1 is to exempt low-risk building work from the need for a building consent. The Ministry's technical guidance states that this is because the costs associated with obtaining a building consent in these situations are likely to outweigh any benefits that requiring consent may offer.
- 6.3.4 The applicant has submitted that Schedule 1(10), (11), (12), (35) and (38) could all be applied. I disagree with the applicant's interpretation of Schedule 1, and I comment in the following paragraphs on the works carried out.
- 6.3.5 Schedule 1(11) provides for building work to be carried out in connection with an internal wall, with some exceptions. In this case, the construction of the of internal partition walls creating the bathroom on the mezzanine level is building work 'in connection with an internal wall'. I note that one of the exceptions to this clause is where the wall is a 'fire separation wall'; I have received no submissions in regard to whether these walls should provide fire separation between the workshop and the accommodation space, and I leave that matter for the parties to address in due course.
- 6.3.6 In regards to the installation of sanitary fixtures in the bathroom and kitchen, and the associated plumbing works, I am of the view that this work does not fall under the exemptions provided for under Part 2 of Schedule 1. The work is not an alteration to existing plumbing but rather it is the installation of new fixtures, nor do I consider the installation of the hot water cylinder to be a 'replacement or repositioning' based on the information before me at this time.

- 6.3.7 I note that plumbing and electrical works are self-certifying under the *Plumbers, Gasfitters, and Drainlayers Act 2006* and the *Electricity Act 1992* and the applicant has previously stated that certification could be provided for that work.
- 6.3.8 In regards to the construction of the storage racks and whether that building work required consent, the applicant has submitted that the construction of the storage racks occurred prior to the alterations on the mezzanine level. I accept the applicant's statement, and accordingly I conclude that the building work to construct the storage racks was exempt building work under Schedule 1. As the storage racks are now supporting the altered mezzanine level, the matter of compliance of the racks with the Building Code will be addressed as part of the application for a certificate of acceptance (refer paragraph 7).
- 6.3.9 In conclusion, I consider that the building work to install the sanitary fixtures and associated plumbing and the construction of the partition walls to create the bathroom was not exempt under Schedule 1 of the Act and building consent was required. Accordingly, I am of the view that the authority was correct to issue the notice to fix.

7. What happens next?

- 7.1 Section 40 states that building work must not be carried out except in accordance with a building consent, and section 96(1)(a) provides for the issue of a certificate of acceptance where an owner has carried out building work without obtaining a building consent when building consent is required. In such a situation, a territorial authority may, on application, issue a certificate of acceptance but 'only if it is satisfied, to the best of its knowledge and belief and on reasonable grounds, that, insofar as it could ascertain, the building work complies with the building code' (section 96(2)).
- 7.2 As the applicant has carried out building work without first obtaining building consent, and I have concluded that the installation of the sanitary fixtures and associated plumbing and the construction of the partition walls to create the bathroom was not exempt under Schedule 1 of the Act, it is now for the applicant to obtain a certificate of acceptance to regularise that building work. The applicant has indicated an intention to make such an application (refer paragraph 4.11).
- 7.3 When an application for a certificate of acceptance is made the authority is required to consider all the available evidence, such as plans and specifications, producer statements, the builder's records, the owner's records, any expert reports, and the authority's own experience and knowledge of the builders and designers involved in the work in order to ascertain whether the building work complies with the Building Code. In forming a view as to compliance of the building work with the Building Code for the purposes of a decision to issue or refuse to issue a certificate of acceptance it is appropriate for the authority to carry out an inspection before such a decision is made.
- 7.4 The person making an application for a certificate of acceptance is required to provide (if available) plans and specifications, and any other information that the authority reasonably requires. It is the applicant who must provide sufficient information to the authority to establish the level of compliance achieved. The authority may also inspect the building work and this information, along with that supplied by the owner, would assist the authority in forming a view as to compliance with the Building Code.

7.5 I note here that in order for a certificate of acceptance to be issued, the building work must comply with the Building Code, and the building as a whole must comply to the extent required under sections 112 and 115 of the Act.

8. The decision

8.1 In accordance with section 188 of the Building Act 2004, I hereby determine that the authority correctly exercised its powers in issuing the notice to fix 6786 and I confirm that decision.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 17 January 2017.

John Gardiner
Manager Determinations and Assurance

Appendix A: The legislation

A.1 The relevant provisions of the Building Act 2004 include

- 40 Buildings not to be constructed, altered, demolished, or removed without consent**
- (1) A person must not carry out any building work except in accordance with a building consent.
- ...
- 41 Building consent not required in certain cases**
- (1) Despite section 40, a building consent is not required in relation to—
- ...
- (b) any building work described in Schedule 1 for which a building consent is not required (see section 42A); ...
- 42 Owner must apply for certificate of acceptance if building work carried out urgently**
- (1) If, in reliance on section 41(1)(c), building work is carried out without a building consent having been obtained in respect of that work, the owner must, as soon as practicable after completion of the building work, apply for a certificate of acceptance under section 96.
- ...
- 42A Building work for which building consent is not required under Schedule 1**
- (1) Despite section 40, subject to the conditions set out in subsection (2) and whether or not a building consent would otherwise have been required, a building consent is not required for building work in the following categories:
- (a) building work described in Part 1 of Schedule 1; or
- (b) building work described in Part 2 of Schedule 1 that is carried out by an authorised person (see subsection (3)); or
- (c) building work described in Part 3 of Schedule 1 if the design of the building work has been carried out or reviewed by a chartered professional engineer and the building work has been carried out in accordance with that design.
- (2) Subsection (1) is subject to the following conditions:
- (a) the building work complies with the building code to the extent required by this Act: ...
- 114 Owner must give notice of change of use, extension of life, or subdivision of buildings**
- (1) In this section and section 115, change the use, in relation to a building, means to change the use of the building in a manner described in the regulations.
- (2) An owner of a building must give written notice to the territorial authority if the owner proposes—
- (a) to change the use of a building; ...
- 115 Code compliance requirements: change of use**
- An owner of a building must not change the use of the building,—
- (a) in a case where the change involves the incorporation in the building of 1 or more household units where household units did not exist before, unless the

territorial authority gives the owner written notice that the territorial authority is satisfied, on reasonable grounds, that the building, in its new use, will comply, as nearly as is reasonably practicable, with the building code in all respects; ...

164 Issue of notice to fix

- (1) This section applies if a responsible authority considers on reasonable grounds that—
 - (a) a specified person is contravening or failing to comply with this Act or the regulations (for example, the requirement to obtain a building consent)...
- (2) A responsible authority must issue to the specified person concerned a notice (a notice to fix) requiring the person—
 - (a) to remedy the contravention of, or to comply with, this Act or the regulations...

96 Territorial authority may issue certificate of acceptance in certain circumstances

- (1) A territorial authority may, on application, issue a certificate of acceptance for building work already done—
 - (a) if—
 - (i) the work was done by the owner or any predecessor in title of the owner; and
 - (ii) a building consent was required for the work but not obtained.

A.2 The paragraphs of Schedule 1 discussed in this determination

10 Interior alterations to existing non-residential building

Building work in connection with the interior of any existing non-residential building (for example, a shop, office, library, factory, warehouse, church, or school) if the building work—

- (a) does not modify or affect the primary structure of the building; and
- (b) does not modify or affect any specified system; and
- (c) does not relate to a wall that is—
 - (i) a fire separation wall (also known as a firewall); or
 - (ii) made of units of material (such as brick, burnt clay, concrete, or stone) laid to a bond in and joined together with mortar; and
- (d) does not include sanitary plumbing or drainlaying under the [Plumbers, Gasfitters, and Drainlayers Act 2006](#).

11 Internal walls and doorways in existing building

Building work in connection with an internal wall (including an internal doorway) in any existing building unless the wall is—

- (a) load-bearing; or
- (b) a bracing element; or
- (c) a fire separation wall (also known as a firewall); or
- (d) part of a specified system; or
- (e) made of units of material (such as brick, burnt clay, concrete, or stone) laid to a bond in and joined together with mortar.

12 Internal linings and finishes in existing dwelling

Building work in connection with any internal linings or finishes of any wall, ceiling, or floor of an existing dwelling.

35 Alteration to existing sanitary plumbing (excluding water heaters)

- (1) Alteration to existing sanitary plumbing in a building, provided that—
 - (a) the total number of sanitary fixtures in the building is not increased by the alteration; and
 - (b) the alteration does not modify or affect any specified system.
- (2) Subclause (1) does not include an alteration to a water heater.

38 Replacement or repositioning of water heater that is connected to, or incorporates, controlled heat source

The replacement of any water heater (including the repositioning of an existing water heater) if the replacement water heater is connected to, or incorporates, a controlled heat source or, if connected to or incorporating more than 1 heat source, 2 or more heat sources all of which are controlled.