



Determination 2018/026

Regarding the issue of a notice to fix in respect of building work undertaken without building consent at 28 Tasman View Road, Bethells Beach

Summary

This determination considers a notice to fix issued for the rebuilding, without a building consent, of a small extension or lean-to attached to a house. The matter turns on whether the components or assemblies replaced in the rebuilding of the structure were in the same position such that they were exempt under Schedule 1 from the requirement for a consent, and whether the notice to fix was correctly issued.

Erratum

This determination contained errors when it was issued on 14 June 2018.

The second bullet point at paragraph 1.2 (below) should have referred to “Auckland Council”, not “Auckland City Council”. Also, the areas depicting the lean-to and deck in the site plan in Figure 1 (on page 2) were mislabelled. These errors have been corrected.

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, Katie Gordon, Manager Determinations, 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 owner of the house, M Hannan (“the applicant”)
 - Auckland Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.
- 1.3 This determination arises from the authority’s decision to issue a notice to fix for building work that was carried out without a building consent first being obtained. The applicant believes the building work is exempt under Schedule 1 of the Act (refer Appendix A).
- 1.4 The matter to be determined² is therefore the authority’s exercise of its powers of decision in issuing notice to fix no. NOT21365761 in relation to the building work described in paragraph 2.4 of this determination. In making this determination, I must consider whether the building work is exempt under Schedule 1 of the Act from the requirement to obtain a building consent.
- 1.5 In making my decision, I have considered the submissions of the parties, including the report of the consultant engaged by the applicant, and the other evidence in this matter.

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.

² Under sections 177(1)(b) and (2)(f) of the Act

- 1.6 I note that correspondence between the parties has raised issues relating to the Resource Management Act 1991. Whether or not there was a breach of the Resource Management Act falls outside the matters that I can determine.

2. The building work and background

- 2.1 The building is an existing single level bach-style building which was originally constructed circa 1970³ with light timber framing and pile foundations. The building work considered in this determination concerns the reconstruction of a room that was originally constructed prior to 1991 without a permit, as an extension to the living area (see Figure 1).

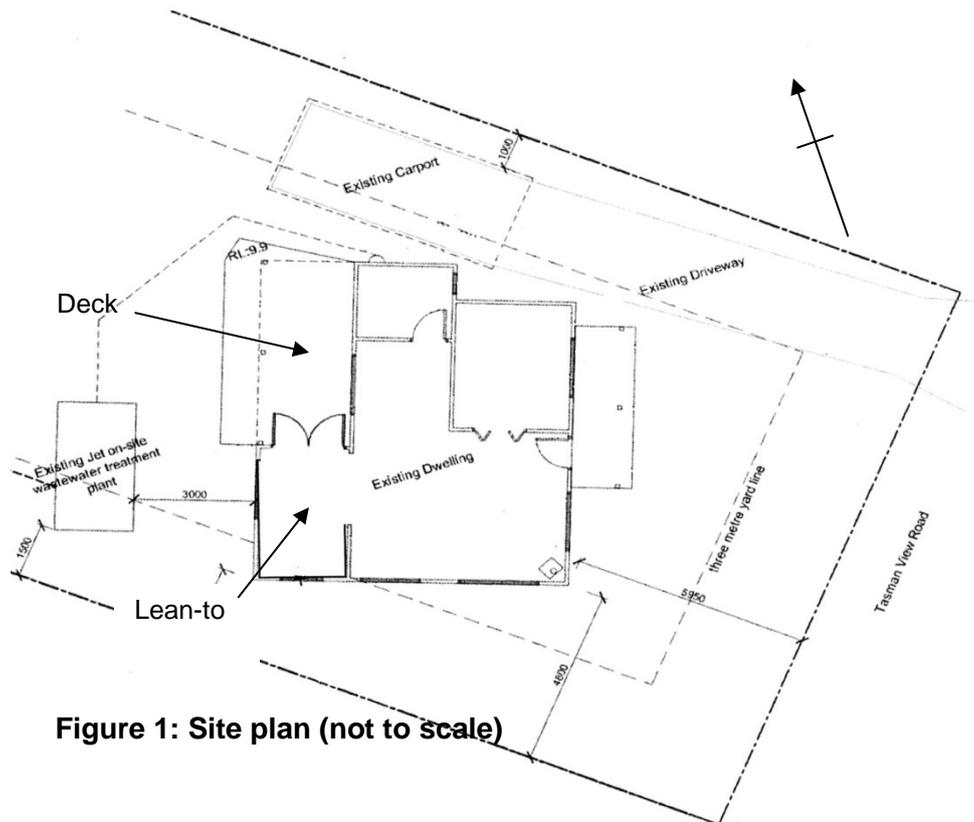


Figure 1: Site plan (not to scale)

- 2.2 The building work at issue is a room which extends off the living area and opens onto the deck. It is approximately 3.5x2m, with corrugated iron roofing, and fibre cement sheet external wall cladding. In this determination I use the term 'lean-to' to describe the structure, although I acknowledge that this term has certain limitations. For example, a 'lean-to' generally has its own roof abutting an external wall of a house. In this case, while the original lean-to possessed that characteristic, the rebuilt lean-to does not (see paragraph 4.2.18).
- 2.3 The applicant purchased the house sometime in 2014 or 2015. The applicant applied for a building consent in 2015 for work related to the toilet and septic system.
- 2.4 At some later date the applicant carried out building work to repair some of the building elements in the lean-to. The scope of the work expanded with the result that the lean-to was demolished and rebuilt in its entirety, including wall and roof framing, claddings, etc.

³ Based on the date provided by the applicant in the application for determination

- 2.5 The authority issued the first notice to fix (NOT20430669) to the applicant – I have not seen a copy of this notice. Based on correspondence between the parties in March 2017 it appears the applicant disputed the issue of that notice to fix at least in part.
- 2.6 In an email to the authority on 1 March 2017, the applicant provided photographs (which I have not seen) and stated:
- ...you will see that the existing window frame was very rotted and was subsequently leaking in a lot of water to the inside. What [the applicant] was trying to do was make the room weathertight which unfortunately ended up being a much larger job than anticipated ... as much of the framing was also rotted and the poor construction became far more evident.
- 2.7 On 12 April 2017 the parties had a pre-application meeting to discuss an application for a certificate of acceptance. With regard to what was described as the “extension” (that is the reconstructed lean-to), the meeting minutes note:
- Summary of project: Extension added (living area) to existing dwelling pre 1991 by previous owner, repairs and maintenance carried out by current owner to extension ended up being more extensive which involved rebuilding whole extension including foundations.
- Decision points / advice given: The rebuild of an unauthorised pre 1991 extension (living area) to an existing dwelling will [be] considered under a [certificate of acceptance] application and treated as new building works ...
- 2.8 The minutes noted a building report and an engineer’s report/assessment/ calculations and producer statements would be required with the application for a certificate of acceptance to demonstrate compliance with relevant code clauses. There were also issues noted regarding resource consent.
- 2.9 On 21 June 2017 the authority carried out an inspection to assess whether the previous notice to fix had been complied with. On 5 July 2017 the authority wrote to the applicant and issued a second notice to fix, NOT 21354630. The particulars of contravention or non-compliance concerned the location and size of an irrigation field, and construction of an ‘extension’ and a laundry.
- 2.10 The applicant engaged a building consultant to assist with resolving the various matters. Based on the consultant’s advice the applicant wrote to the authority to dispute the notice to fix on the basis the building work was exempt under Schedule 1. The applicant asked the authority to provide its reasons for reaching its conclusion that the building work was not exempt.
- 2.11 The authority wrote to the applicant on 27 July 2017, stating the structure had been enlarged ‘toward the end of the deck’ and was constructed with a higher stud, ‘using timber with date stamping 27/09/16’. The authority considered the building work did not constitute “repairs and maintenance” and therefore required building consent.
- 2.12 The consultant then wrote to the authority on 2 August 2017. The consultant’s letter included a series of photographs showing the existing pre-1991 lean-to, replacement wall and roof framing with building wrap in place, and insulation installed in some places. The consultant also noted (in summary):
- the “extension” identified on the notice to fix was in fact an existing lean-to
 - the applicant was carrying out the building work under Schedule 1(1)(2) as a replacement of existing components or assemblies, and none of the exceptions in Schedule 1(1)(3) (a) to (d) apply.

- the walls were stepped and poorly aligned – part of the room may have been extended 100-200mm to straighten and plumb the walls
 - the ‘room’ was in the same position as the lean-to and the changes were only to bring out-of-plumb walls into line and to provide adequate fall to the roof.
- 2.13 The authority and the consultant corresponded further; the authority reaffirmed its view that the building work required building consent, and the consultant sought reasons for the authority’s view. On 7 August 2017 the authority emailed the consultant, stating:
- The extension on the south western side of the dwelling is considered new works, and as such required building consent.
- The work is larger than the original it replaced, in that it is higher and protrudes further out from the dwelling. This is shown in before and after photos showing the original build height was at the same height as the porch roof line. It now reaches up [to] the house roof line. The original build extended to approximately the line of the posts in the porch. It now extends to approximately 300mm past the post line. The framing has almost totally been replaced.
- 2.14 The consultant responded on the same day, stating that the building work was required to comply with the Building Code, which necessitated the walls being straight and true and for there to be an adequate slope on the roof. The consultant considered the authority was exaggerating the increase in size and that photos suggested an increase of only 100 – 200mm at one end. The consultant set out his view that Schedule 1 provided for total replacement of the framing as it is not a complete or substantial replacement of the building’s structure but only a part.
- 2.15 On 15 September 2017 the authority wrote to the applicant, enclosing the third notice to fix: NOT21365761 – it is this notice to fix that is the subject of this determination. The notice described the particulars of contravention or non-compliance as:
- Contrary to s.40 of the Building Act, the following building works have been undertaken without first obtaining a building consent
- An extension, approximately 3.5x2.0m, to the dwelling has been constructed off the south-west corner of the dwelling.
- 2.16 The Ministry received the application for determination on 16 November 2017.

3. The submissions

- 3.1 The applicant provided a submission setting out her view on the matter, along with the application and the following supporting documentation:
- relevant correspondence between the authority, the applicant, and consultant
 - notices to fix NOT21354630 and NOT21365761, and the covering letters
- 3.2 The applicant’s view was that the authority appeared to have accepted the lean-to had existed prior to its demolition and reconstruction. However, the authority had also referred to the replacement as ‘new building works’, stating it would not accept an application for a certificate of acceptance without resource consent being granted first. The applicant noted the authority had not inspected the building work and stated her view that the work was exempt under Schedule 1.
- 3.3 In regard to Schedule 1(1)(2) the applicant noted (in summary):
- the original roofing was corrugated iron, and this has been replaced with a painted steel roofing material

- the original “cement fibreboards or cement fibre sheeting” has been replaced with ‘cement fibreboards’ (here I note in later submissions the applicant clarified that both new and old fibreboard cladding was configured as horizontal ‘planks’)
 - the room is in the same position, with only some small (100-200mm) differences.
- 3.4 The authority provided a submission dated 10 January 2018 and the following supporting documentation (only those relevant to this determination are listed):
- copies of photographs of the lean-to referred to in paragraph 2.12 above
 - minutes (‘CoA Pre-application Meeting Minutes’) dated 12 April 2017 from a meeting between the applicant and authority.
- 3.5 The authority submitted (in summary):
- the building work undertaken was substantially different to the original extension that had been there
 - the rebuilt lean-to extends out further than the original, it has a different cladding system, and the roof has been raised
 - the building work required a resource consent, meaning the building work was in breach of section 42A(2)(c) of the Act
 - or those reasons the building work was not exempt and the notice to fix was correctly issued.
- 3.6 In response to the authority’s submissions the applicant provided a further submission dated 21 January 2018. The applicant submitted (in summary):
- in determining whether a component or assembly had been replaced with a comparable one in the same position, ‘exact replacement in exact position’ was not required
 - the replacement lean-to is comparable and in the same position with the room remaining in the same configuration and layout as before.
- 3.7 A draft determination was issued to the parties on 19 February 2018.
- 3.8 The authority accepted the draft without further comment in a response received on 21 February 2018.
- 3.9 The applicant responded on 15 March 2018 and did not accept the conclusion reached in the draft. The applicant reiterated her view that the lean-to was not an “extension” as described in the notice to fix, meaning the notice to fix was therefore incorrectly issued and is invalid. The applicant also disagreed with the basis on which the draft determination concluded some of the building work did not constitute replacement in the same position, noting:
- the circumstances in this case are not comparable with those in the *Fairley v North Shore City Council* case:⁴ the departures from the existing structure are in this case not ‘drastic’
 - the pitch of the roof has not been altered: the roof rafters were originally “4x2” framing timber and have been replaced with larger sized timber members which has raised the roof levels, and the rafters have been joined with the main house roof rafters

⁴ *Fairley v North Shore City Council* HC Auckland, CRI-2008-404-000408 4 May 2009

- compliance with the Building Code necessitated minor adjustments, and there is no fundamental change to the size, shape, layout, structure or footprint of the building.
- 3.10 On 12 April 2018 the Ministry sought further information regarding the rebuilt lean-to.
- 3.11 The authority responded on 20 April 2018, providing estimates of the changes in position of the walls and roof based on its assessment of available photographs.
- 3.12 The applicant responded on 26 April 2018, submitting the following (in summary):
- neither the ‘north’ wall (with the French doors), south wall or east wall has changed position
 - the west wall has been ‘altered’ by 100-200mm to remove the ‘step’ in the wall and to make the wall plumb
 - the roof has been raised by approximately 200mm to join the rafters to the main roof rafters.
- 3.13 I have taken the parties’ comments into account and amended the determination as appropriate.

4. Discussion

4.1 General

- 4.1.1 The matter to be determined under section 177 of the Act is the authority’s exercise of its powers in respect of the issue of the third notice to fix. The notice to fix was issued because the authority claimed that building work had been carried out without the required building consent, in contravention of section 40 of the Act. Conversely, the applicant asserts the building work is exempt under Schedule 1 of the Act and the notice to fix was incorrectly issued.
- 4.1.2 Section 41(1)(b) of the Act states a building consent is not required for any building work described in Schedule 1. The matter in dispute concerns the interpretation of Schedule 1(1), which permits the following work to be carried out without a building consent:

1 General repair, maintenance, and replacement

- (1) The repair and maintenance of any component or assembly incorporated in or associated with a building, provided that comparable materials are used.
- (2) Replacement of any component or assembly incorporated in or associated with a building, provided that—
 - (a) a comparable component or assembly is used; and
 - (b) the replacement is in the same position.
- (3) However, subclauses (1) and (2) do not include the following building work:
 - (a) complete or substantial replacement of a specified system; or
 - (b) complete or substantial replacement of any component or assembly contributing to the building’s structural behaviour or fire-safety properties; or
 - (c) repair or replacement (other than maintenance) of any component or assembly that has failed to satisfy the provisions of the building code for durability, for example, through a failure to comply with the external moisture requirements of the building code; or

(d) sanitary plumbing or drainlaying under the Plumbers, Gasfitters, and Drainlayers Act 2006.

4.1.3 The exemptions provided for in subclauses (1) and (2) are two different types of building work: repair and maintenance of a component or assembly using comparable materials; and replacement of a component or assembly with a comparable component or assembly in the same position. In this case, the matter concerns the replacement of the lean-to structure. Accordingly, I have considered whether it meets the criteria in subclause (2).

4.1.4 If a component or assembly requires replacement, then Schedule 1(1)(2) permits replacement as long as (a) a ‘comparable component or assembly’ is used, and (b) the replacement is ‘in the same position’, with some exceptions to this set out in subclause (3).

4.2 Replacement with a comparable component or assembly in the same position.

4.2.1 The rebuilt lean-to structure is a light timber frame on timber piles, with fibre-cement cladding on the walls and steel roofing material on the roof. In those respects the replacement structure and the components or assemblies comprising it have a number of similarities to the original.

4.2.2 In the *Fairley* decision⁵, the judge considered whether a building consent was required for the replacement of an existing ‘tin’ roof with a new structure.

4.2.3 In that case the judge made some observations about the degree to which the new and old roofs were comparable, but did not make a decision on that point because he held that the replacement roof was not in the same position, with the roof beams being ‘at least approximately half a metre above the existing roof’. This meant the building work could not be exempt.

4.2.4 For the same reasoning that applied in *Fairley*, I do not need to decide whether the replacement component or assemblies are comparable to the old, if they are not in the same position.

“In the same position”

4.2.5 The authority’s view is that because the roof line of the lean-to has been raised and walls have been moved, the replacement roof and wall components or assemblies are not “in the same position”.

4.2.6 In the *Fairley* case the judge stated:

[16] ... The replacement component or assembly must be comparable and in the same position. The focus is properly on this to ensure that the replacement component or assembly does not alter the size, shape, layout, structure or footprint of the building. If it did it would require an application for building consent.

4.2.7 The applicant claims the rebuilt lean-to is substantially within the same footprint as the original, with some minor adjustments of the external walls. The applicant stated the adjustments were needed to bring the walls of the house and lean-to into alignment, to correct framing being out of plumb, and to make the lean-to code-compliant. The applicant states the roof has been raised in order to bring it into line with the roof of the house thereby ensuring ‘the roof is structurally sound and complies with the code’.

⁵ *Fairley v North Shore City Council* HC Auckland, CRI-2008-404-000408 4 May 2009

- 4.2.8 The parties have provided differing information about the position of the elements of the rebuilt structure as compared with the original lean-to. The authority asserts the south and west walls have been shifted by approximately 300 and 200 mm (respectively) while the east wall between the lean-to and main house has increased in size, and the roof has been raised by 450mm. Meanwhile the applicant acknowledged the west wall has been ‘altered by 100-200mm’, and the roof raised ‘approximately 200mm’ but asserted that the south wall has not been moved, and that the east wall (which opens into the lounge) had not changed in size.
- 4.2.9 The authority and the applicant have provided measurements or dimensions regarding the position of the old and new structures (and their components or assemblies) which are estimated, mainly on the basis of photographs. I note neither party claims to know the precise dimensions of the old lean-to before it was demolished. Nevertheless there is consistency in submissions from the parties that the west wall and roof were not rebuilt in the original position. The only difference between the parties is the degree to which these components or assemblies have moved.
- 4.2.10 Consequently it is not necessary for me to conduct an exercise in weighing the evidence or further assessing estimated dimensions. I accept the common ground that the west wall and roof have moved. What I must now consider is whether this means the wall and roof (whether components or assemblies) are not “in the same position” as previously, and so do not meet the criterion in subclause (2)(b).
- 4.2.11 The applicant referred to the *Fairley* decision (see paragraph 4.2.6) in support of her view that the work was exempt because there have been no ‘fundamental changes’ to the size, shape, layout, structure or footprint of the building. However, in order for the applicant’s argument to succeed subclause (2)(b) would need to contain a qualifier to the effect that the replacement must be in ‘substantially’ or (to use the applicant’s term) ‘fundamentally’ the same position, which is not the case.
- 4.2.12 The wording of subclause 2(b) is clear that the test is not whether there have been ‘fundamental’ changes, but simply whether a replacement component or assembly is in the same position.
- 4.2.13 In my view the judge’s comments do not assist the applicant’s argument, but do function as a guide to interpretation: a change in position may be established if there has been a change in the size, shape, layout, structure or footprint of the building.
- 4.2.14 In the *Fairley* decision the judge held that a change of ‘approximately half a metre’ meant the roof was not in the same position.
- 4.2.15 The terms “same” or “same position” are not defined in the Act. In the absence of a statutory definition, I can look at the ordinary and natural meanings of terms in the light of the purposes of the texts in which they appear.
- 4.2.16 Common synonyms for the word “same” include “matching”, “identical”, “alike”, “duplicate”, “indistinguishable” and so on. These in my view convey the clear sense that to be in the “same” position, components or assemblies must be so close in position to the original as to be almost identical. This contrasts with the term “comparable” in the other limb of the test in clause 1(1)(2) which contemplates replacement with materials which are not the “same”, but have similarities. Had Parliament intended there to be a degree of flexibility in the position of the replacement, in my view such language would have been adopted.

- 4.2.17 I accept that in some cases there may be a “de minimis” argument that a replacement component or assembly should be considered in the same position if the change in position is so small as to be trivial or insignificant.
- 4.2.18 However in my view the rebuilding of the lean-to brought about changes in the size, shape, and (in the case of the west wall) the footprint of the structure, that are more than de minimis and mean the replacements are not in the same position. In the present case the west wall has moved at least 100-200mm, and when viewed in plan is now a straight line where previously a step or “dog-leg” existed. The roof has moved vertically by at least 200mm and is now in the same plane as the roof of the house.
- 4.2.19 Accordingly this work did not fall under the exemptions provided for in Schedule 1, and building consent was required for at least part of this building work.

4.3 The notice to fix

- 4.3.1 An authority has the power to issue a notice to fix where the authority considers on reasonable grounds that an owner is contravening or failing to comply with the Act or Building Code (section 164(1)(a)). A notice to fix is most commonly issued in respect of building work that does not comply with the Building Code or building work carried out without a building consent when a building consent was required.
- 4.3.2 The third notice to fix in this case described the building work that was carried out as “an extension ... constructed off the southwest corner of the dwelling”. This mirrored the language used in the previous notice to fix (see paragraphs 2.5-2.9) in respect of the lean-to.
- 4.3.3 The applicant asserts that while the authority may at some stage have believed this was new building work, it knew by at least April 2017 when the pre-application meeting occurred (see paragraph 2.7) and before the second notice to fix was issued, that this was not the case. As noted at paragraph 3.9, the applicant claims the authority’s description of the building work as an ‘extension’ invalidates all notices to fix because it was not an accurate description.
- 4.3.4 I do not agree with that position. Firstly, in my view the use of the term ‘extension’ is arguably a fair description of the structure which has been rebuilt. As noted at paragraph 2.2, in this determination I adopted the applicant’s term ‘lean-to’ to describe the building work at issue here, but equally ‘extension’ might have served as well. In my view both words refer to, or carry connotations of, an addition or appendix to an existing larger building.
- 4.3.5 While it may have been prudent or helpful for the authority to reword later notices to reflect its understanding that the structure had been rebuilt (to contrast with its previous position), in my view this is not material.
- 4.3.6 Secondly, when making a determination, under section 188 I must confirm, reverse, or modify the decision made by the authority. In this case I have concluded that some building work carried out required a building consent, and accordingly the authority was correct to issue a notice to fix for the breach of section 40.
- 4.3.7 However even if the building work was not accurately described in the notice, or if the notice contained other deficiencies, the notice would not become ‘null and void’ (the applicant’s term), as modification of the notice to fix would be available as a

means of determining this matter if needed. This point has been considered in a number of previous determinations.⁶

4.4 Conclusion

- 4.4.1 I consider that the building work to replace an external wall and the roof of the lean-to was not exempt building work under Schedule 1(1)(2). Therefore, I conclude that the authority's decision to issue a notice to fix because a building consent had not been obtained was correct in respect of that building work.
- 4.4.2 The notice to fix should be re-issued to reflect that only the west wall and roof, and not the entire lean-to, were rebuilt in contravention of section 40 of the Act. I leave the matter of obtaining a certificate of acceptance to regularise that work for the parties to resolve in due course.
- 4.4.3 As noted above, there are differing views about the relative positions of the various parts of the rebuilt lean-to as compared with the previous version. Based on the evidence available it has not been possible in this determination to establish (with the exception of the west wall and roof) whether those other components or assemblies are in the same position or not.
- 4.4.4 As that is the case, it is also my view that the authority does not have reasonable grounds to consider the applicant has contravened the Act in respect of those other parts of the lean-to, and in the absence of any new evidence (or evidence not submitted for this determination) it should not challenge the applicant's assessment of that building work as exempt.
- 4.4.5 The building work is required to comply with the Building Code and with any other relevant enactments. Regardless of whether the applicant held the view the building work was exempt under Schedule 1, the applicant is not relieved from complying with other legislation, such as the Resource Management Act. Under section 42A(2)(c) any building work carried out under Schedule 1 without building consent is subject to the condition that it does not breach any other enactment. This determination does not consider the compliance of the building work with the Building Code or compliance with other enactments.
- 4.4.6 For completeness, I note that previous determinations⁷ have considered that even if building work does not comply with the condition in section 42A(2)(c), this does not result in building work losing its exempt status, if it is exempt under Schedule 1.

⁶ See for example Determination 2016/011 at paragraph 7.6.

⁷ Determination 2016/009 Regarding the issue of notices to fix and the refusal to issue a certificate of acceptance in respect of the conversion of a double garage over a boundary (23 March 2016) and Determination 2018/002 Regarding the decision to issue a notice to fix for a retaining wall (13 February 2018).

5. The decision

- 5.1 In accordance with section 188 of the Building Act 2004, I hereby determine the authority correctly exercised its powers of decision in issuing notice to fix NOT21365761 on 15 September 2017 for building work carried out without building consent when building consent was required. I therefore confirm the authority's decision to issue notice to fix No. NOT21365761 subject to modification of the description of the building work as discussed in paragraph 4.4.2 of this determination.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 14 June 2018.

Katie Gordon
Manager Determinations

Appendix A

A.1 Relevant sections of the Building Act 2004

Building consents

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);

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; ...

- (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:

...

- (c) the building work does not breach any other enactment:

A.2 Relevant clauses from Schedule 1

Schedule 1 Building work for which building consent not required

1 General repair, maintenance, and replacement

- (1) The repair and maintenance of any component or assembly incorporated in or associated with a building, provided that comparable materials are used.
- (2) Replacement of any component or assembly incorporated in or associated with a building, provided that—
- (a) a comparable component or assembly is used; and
- (b) the replacement is in the same position.
- (3) However, subclauses (1) and (2) do not include the following building work:
- (a) complete or substantial replacement of a specified system; or
- (b) complete or substantial replacement of any component or assembly contributing to the building's structural behaviour or fire-safety properties; or
- (c) repair or replacement (other than maintenance) of any component or assembly that has failed to satisfy the provisions of the building code for durability, for example, through a failure to comply with the external moisture requirements of the building code; or
- (d) sanitary plumbing or drainlaying under the Plumbers, Gasfitters, and Drainlayers Act 2006.