



Determination 2021/003

The refusal to issue a code compliance certificate for 20-year-old additions and alterations to a 50-year-old house at 103 Te Hono Street, Tauranga



Summary

This determination considers an authority's refusal to issue a code compliance certificate for 20-year-old additions and alterations due to concerns about compliance with the Building Code. The determination considers the authority's reasons for refusal and whether those items identified by the authority are compliant with the Building Code.

1. The matters to be determined

- 1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004 ("the Act") made under due authorisation by me, Katie Gordon, National Manager Determinations, Ministry of Business, Innovation and Employment ("the Ministry"), for and on behalf of the Chief Executive of the Ministry.¹
- 1.2 The parties to the determination are:
 - the owner of the house, B Hunt ("the applicant")
 - Tauranga City Council ("the authority"), carrying out its duties as a territorial authority or building consent authority.
- 1.3 This determination arises from the decision of the authority to refuse to issue a code compliance certificate for 20-year-old additions and alterations to a 50-year-old house ("the additions"). The refusal arose because the authority was not satisfied that the building work complies with certain clauses² of the Building Code. The

¹ The Building Act and Building Code (Schedule 1 of the Building Regulations 1992) are available at www.legislation.govt.nz. Information about the legislation, as well as past determinations, compliance documents and guidance issued by the Ministry, is available at www.building.govt.nz.

² In this determination, references to sections are to sections of the Act and references to clauses are to clauses of the Building Code.

authority's concerns primarily relate to the weathertightness and durability of the roof cladding.

- 1.4 The matter to be determined³ is therefore whether the authority was correct to refuse to issue a code compliance certificate for the reasons given in its letter dated 20 December 2018 (see paragraph 3.13). The applicant has advised that the only outstanding items from those identified by the authority were the “barge/wall intersections” and “parapets and roof”. The other items the applicant has agreed to remedy or had already remedied; accordingly this determination only considers the authority's refusal with regard to the disputed items.
- 1.5 In making my decision, 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.

Matters outside this determination

- 1.6 This determination is limited to the building work consented in 1999 and does not consider areas of the original house unaffected by that work. This determination also does not address other elements in the additions and alterations outside those the authority identified in its reasons for refusal.
- 1.7 I also note that the applicant has requested a modification of the building consent with regard to Clause B2.3.1 which concerns durability. The modification is to allow the durability periods specified to commence from the date of substantial completion of the building work in June 2000 rather than from the date the code compliance certificate is issued⁴. I leave this matter to the parties to resolve, but I have taken the 20-year-old age of the claddings into account in considering compliance of the building work.

2. The building work

- 2.1 The detached house is two-storeys high in part and is situated on a near level exposed coastal site in a sea spray zone and high to very high wind zone for the purposes of NZS 3604⁵. The expert takes the main entry as west-facing and this determination follows that convention. The completed house is complex in plan and form and is assessed as having a high weathertightness risk.

The original house

- 2.2 The original two-bedroom single-storey house was constructed under a building permit issued in 1970 and completed during 1971. Construction was conventional timber frame, with reinforced concrete slab and foundations, masonry veneer and plywood wall claddings, and aluminium joinery.
- 2.3 Various minor alterations and additions were carried out before the applicant purchased the property in 1993: a spa room was added to the east (that was later converted to an office) and a carport added to the west.
- 2.4 The flat roofs were clad in membrane over plywood, and drained towards aluminium internal outlets, with a large skylight above the central foyer/circulation area.

³ Under sections 177(1)(b) and 177(2)(d) of the Act.

⁴ More information on durability modifications is available in an article titled ‘Modification of durability periods’ in Codewords Issue 39, August 2009. Codewords articles are published by the Ministry and are available on the Ministry's website.

⁵ New Zealand Standard NZS 3604:1999 Timber Framed Buildings.

The eaves projected by 750mm; terminating in fascia formed from outriggers faced with metal cap flashings over upstands.

The 1999 alterations

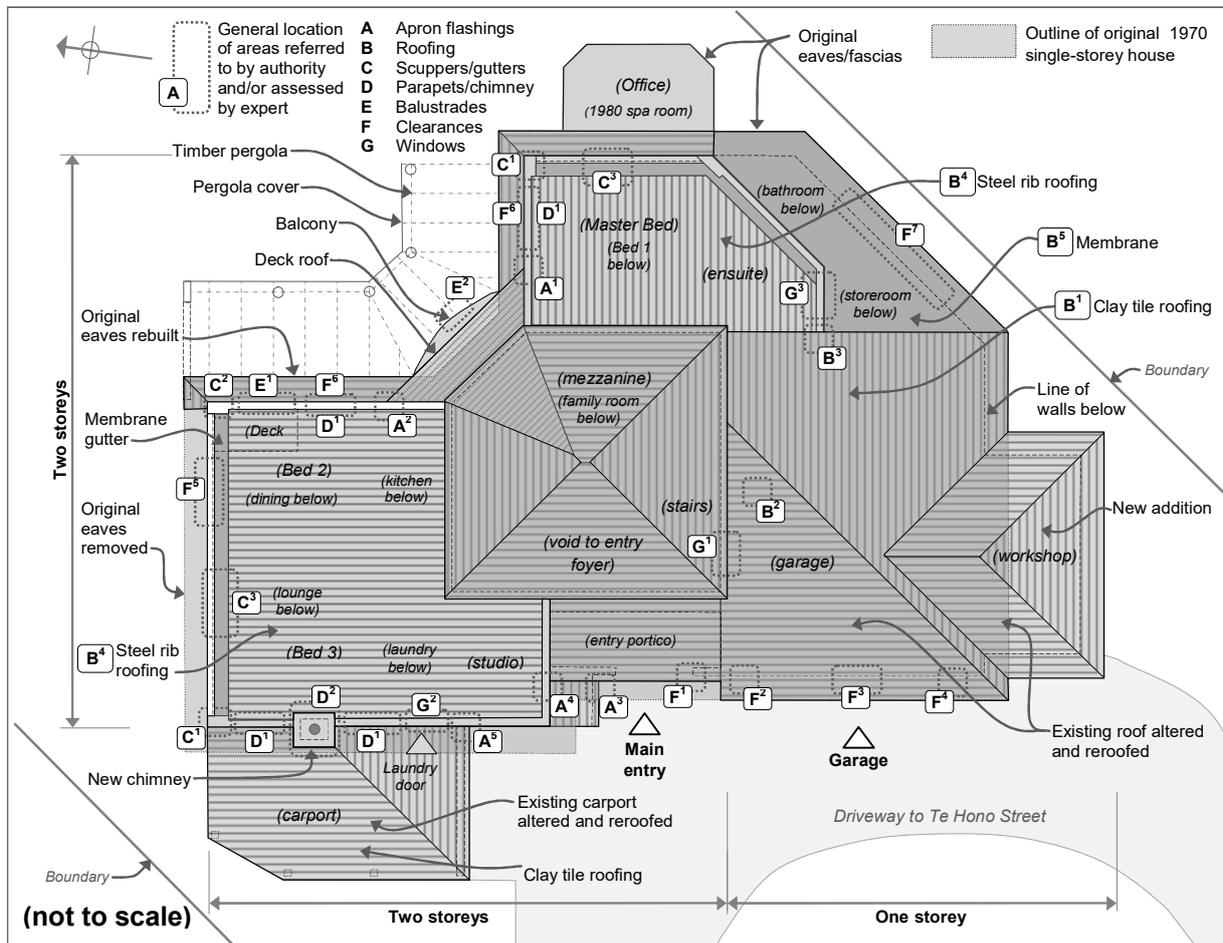


Figure 1: Site plan sketch

2.5 Except for a small workshop addition to the south and minor internal alterations, the general form of the ground floor layout was retained. The 1999 extensions added an upper floor and replaced the remaining original roofing as shown in Figure 1.

2.6 As shown in Figure 1, the house now accommodates the following:

- In the lower level:
 - a circular driveway providing access to the main entry and double garage to the west, with a single-storey lean-to carport and store room to the north, and a single-storey workshop extension to the south of the garage
 - the recessed entry portico with stairs leading up to an open mezzanine above, and a family area to the east
 - large garage, storage and workshop areas to the south
 - kitchen area and living/dining area to the north, and a laundry to the west with access into the carport
 - bedroom 1 to the east, which opens into a bathroom to the south and office to the east.

- In the upper level:
 - open mezzanine area surrounding the entry foyer void, which opens onto a balcony to the northeast and provides access to the three upper level bedrooms, each with an ensuite bathroom
 - the master bedroom and ensuite occupy the east wing
 - bedroom 2, bedroom 3, and a studio occupy the north wing, with a recessed deck in the northeast corner.

2.7 The 20° pitch hipped roofs are clad in clay tiles. Low-pitched roofs are clad in trough profile galvanised steel roofing and fall towards membrane-lined internal gutters that drain into scuppers and rain heads.

The wall claddings

- 2.8 The wall cladding is a form of monolithic cladding system known as EIFS⁶. In this instance, the proprietary cladding system consists of 40mm polystyrene sheets fixed directly through the building wrap to the framing, to which a proprietary mesh-reinforced plaster system has been applied. The system includes purpose-made flashings to windows, edges and other junctions. Aluminium windows are recessed by the EIFS thickness, with uPVC⁷ head flashings, sealed jambs and sloping sills.
- 2.9 As shown in Figure 1, the original roof to the northeast was removed and two-storey walls were formed, with new upper level walls constructed above the original framing and masonry veneer walls (that have since been partially plastered to match the new EIFS finish). The new upper level walls project up to form roof parapets with flat polystyrene ‘cappings’, which project out past decorative polystyrene cornices on the exterior as shown in Figure 2.
- 2.10 The consent drawings showed the upper bedroom roofs as butyl membrane on plywood substrate, with 30mm high parapet upstands as shown in Figure 2. The membrane was substituted with low-pitched galvanised steel trough roofing during construction. The roofing slopes to membrane-lined internal gutters and adjacent upstands of some 40mm high (Areas C³ in figures 1 and 2), with higher upstands bordering other sides (Areas D¹).

Timber treatment

- 2.11 The original drawings specified all framing to be ‘treated pine’, which in 1971 would have been borax-treated to the level required by the Timber Preservation Authority at the time. Therefore, I accept that the original timbers retained during the alterations will be treated to resist fungal decay.
- 2.12 The specification for the additions and alterations calls for framing timber to be ‘Group Pine No.1 Framing H1’, with the deck framing and flooring to be H3. However, the expert observed untreated timber framing within the roof space. Given this evidence and the common use of untreated framing when the house was constructed in 2000, I consider that the wall and roof framing of the new upper level and the lower floor alterations is generally not treated to resist fungal decay.

⁶ Exterior Insulation and Finish System.

⁷ Unplasticized Polyvinyl Chloride

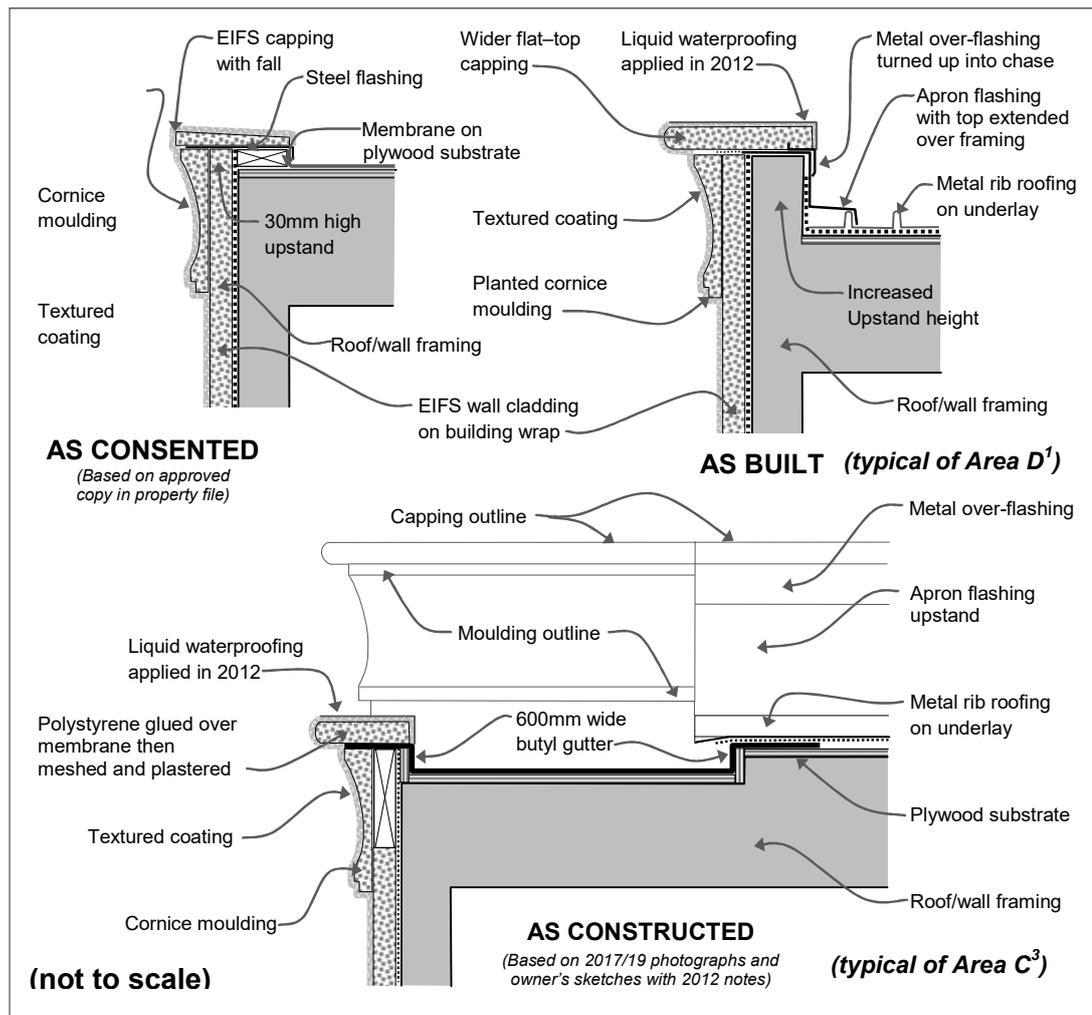


Figure 2: Roof parapets⁸

3. Background

- 3.1 On 18 November 1999, a building certifier issued a building certificate for the proposed consent documentation under section 56 of the Building Act 1991 (“the former Act”), which covered all code clauses except for electricity and gas (Clauses G9 Electricity and G11 Gas as an energy source) and stated that:

The building certifier is satisfied on reasonable grounds that:

The proposed building work would comply with the applicable provisions of the building code if properly completed in accordance with the attached plans and specifications.

- 3.2 The authority issued the building consent (No. 1587) to the applicant on 11 December 1999 under the former Act for the following project:

Add new first floor, alter laundry/storage/bathroom, add entry portico and workshop to ground floor of dwelling. Convert carport to garage.

Construction

- 3.3 The building certifier’s inspection summary indicates that various inspections were carried during construction, including:

⁸ Refer to the expert’s comments in paragraph 5.9 regarding the compliance of the as-built detail.

- Pre-line of upper floor mezzanine in November 1999
 - Pile footings, drainage and preline plumbing for garage extension during December 1999
 - Roof framing in January 1999
 - Pre-line of upper floor in January 2000, with various items outstanding.
- 3.4 Various changes were made during construction as described in paragraph 5.2. The applicant provided the expert with a marked-up part of the consented roof plan, which included sketches of roof changes shown in Figure 2. The house appears to have been substantially completed in early 2000.
- 3.5 The building certifier ceased operating in 2005. A final inspection was not carried out until 2018.

Maintenance over the next 15 years

- 3.6 It appears that maintenance was carried out to the parapet upstands during 2006 and again in 2012. The applicant's notebook entry dated 'Feb 2012' included a sketch of the parapet capping (see Figure 2) and stated:
- Parapet – As the [mesh reinforced paint-on waterproofing system] was so successful in 2006, it was decided to carry on with the system to the front rounded edge & the inside square edge.
- Pulled apart back edge of parapet to check for moisture or rust on the flashing etc – all good.
- 3.7 The expert was also advised that the “elevations facing the harbour” were repainted December 2017. I take this description to refer to the upper level north and east parapet walls.

The authority's inspection

- 3.8 On 21 April 2017, the applicant submitted an application for a code compliance certificate. This included a request for “a modification of the building consent” to be made due to the age of the building work. The applicant provided the date of “practical completion” as “early 2000”.
- 3.9 A final inspection was carried out on 14 December 2018. I have not seen the inspection record, but the authority has provided inspection photographs, which cover the following areas:
- roof/wall junctions to ends of the balcony roof (Areas A¹ and A²)
 - the scuppers and membrane gutters (Areas C¹ to C⁴)
 - the chimney and parapets (Areas D¹ and D²).
- 3.10 The photographs show repairs carried out to the tops of the roof parapets (which appear to be the waterproofing applied to cappings as described in paragraph 3.6), cracking to the corner of the chimney structure, wrinkles in coating above some joints in parapet cappings, and exposed mesh under the moulding at Area C².

The refusal to issue a code compliance certificate

- 3.11 In a letter to the applicant dated 20 December 2018, the authority advised that under section 95A it refused to issue a code compliance certificate because:

Following the site inspection and subsequent peer review process, [the authority] could not be 'satisfied on reasonable grounds' that the building works comply with the NZ Building Code, or that it is performing as intended.

3.12 The authority recommended that:

... you engage the services of a suitably qualified individual (Registered Building Surveyor) who is qualified in weather tightness and remedial design. The person must further investigate the performance of this building and take into account the items below and provide a 'scope of works' and any recommendation to [the authority] for further review before carrying out any work.

3.13 The authority listed five items requiring attention (with typical areas shown in Figure 1 provided in brackets):

1. Investigation required of all roof areas and critical cladding junctions (Clause E2 [External moisture]) including but not limited to:
 - Ground heights to front entrance area (Areas F)
 - Barge/wall junctions (Areas A)
 - Parapets and roof – specifically outlets and overflows to roof area ... (Areas C and D)
 - Several areas of the bottom plate to brick veneer on the lower level are required to be testing (sic) to confirm supporting structure
2. Seal sanitary fixtures to wall (Clause E3)
3. Door off ensuite to remain locked with key removed or restricted to 100mm opening due to safety from fall issue off membrane roof. (Clause F4 [Safety from falling])
4. Window restrictors required where sill height is less than 760mm (Clause F4)
5. Extraction vent of internal ensuite [Bedroom 2] is not working, this is a requirement due to the lack of natural ventilation (Clause G4).

3.14 As noted in paragraph 1.4, the applicant since clarified the only outstanding items were the “barge/wall intersections” and “parapets and roof”, and the applicant has agreed to remedy or has already remedied other items.

The application for a determination

3.15 The situation remained unresolved and the Ministry received an application for a determination on 14 February 2019, which was accepted on 7 March 2019.

4. The submissions

The applicant's submission

4.1 In an email dated 13 March 2019 the applicant provided the following comments (in summary, with the associated areas provided in brackets):

- Barge/wall junctions with butyl membrane flashings have not changed since construction in 2000, nor have the parapets and roof outlets. “The construction methods are no different from the original design” (Areas A, C and D)
- The five items identified in the authority's letter of 20 December 2018 have been completed “except for this additional inspection of the barge board junction and roof parapet” (Areas A, C and D).

- As shown in photos of the deck roof apron flashings, both finish over the top of the window lintels. After 18 years of exposure to weather there had been no evidence of leaks (Areas A¹ and A²).
- There have been three leaks in clay tile roofs over the years “due to dust and dirt blocking the water gutters, these tiles have been lifted and cleaned” (Areas B¹ and B²).

4.2 The applicant provided copies of:

- an annotated copy of the refusal to issue a code compliance certificate dated December 2018
- two photographs of the deck roof apron flashings
- records extracted from the authority’s property file.

The authority’s submission

4.3 In an email dated 13 May 2019 the authority attached photographs and included the following comments (in summary):

- The applicant requested another inspection to look at the roof and reconsider the code compliance certificate decision prior to the determination process being completed, with the inspection taking place on 1 May 2019.
- During the inspection, the applicant showed the authority:
 - photographs demonstrating how various elements were constructed
 - how the roof is maintained and the applicant’s records of this
- While, there is no doubt that the property is well maintained, the authority remains concerned because of the type of cladding and the history of failure generally of direct fixed polystyrene where there is no eave protection. The authority also noted the site is with 100m of a tidal estuary and is in a high wind zone.

4.4 The authority provided a copy of its property file, which included the following information pertinent to this determination:

- the consent drawings and specifications
- the building certificate dated 18 November 1999
- the building consent dated 11 December 1999
- the building certifier’s inspection summary
- the application for a code compliance certificate dated 3 December 2016
- the application for a Clause B2 consent amendment dated 20 April 2017
- the refusal to issue a code compliance certificate dated 20 December 2018
- various other correspondence, statements and information.

The draft determination and further submissions

4.5 A draft determination was issued to the parties for comment on 3 March 2020.

4.6 The authority advised on 28 April that it had a query about the scope of works for the consent that was the subject of the determination. The authority responded to the

draft determination on 1 May 2020, accepting the draft of the determination and advising that it was working with the applicant “to rectify the outstanding items to facilitate the issuing of the code compliance certificate”.

- 4.7 The applicant responded on 1 May 2020, accepting the draft without any further comment.

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 and assessed the house on 5 December 2019 and 11 January 2020, providing a report completed on 28 January 2020, which was forwarded to the parties on the same day.

General

- 5.2 The expert noted that the overall architectural shape and form of the building (see Figure 1) appeared “largely in accordance with the consented drawings”. However, the expert observed the following discrepancies related to the matters to be determined:

- solid balustrade to recessed deck in lieu of open balustrade (Area E¹)
- steel rib roofing was installed to skillion roofs, not membrane (Areas B⁵)
- in regard to the skillion roofs:
 - parapets were extended and altered to suit as shown in Figure 2
 - membrane gutters were added to drain into rain heads
 - the southeast ensuite was extended to delete the dog leg walls and to accommodate the membrane gutter for the angled wall.

Apron flashings (Areas A)

- 5.3 Regarding the tiled roof/EIFS junctions at the ends of the lean-to roof above the mezzanine balcony (Areas A¹ and A²), the expert noted (in summary):
- junctions of butyl rubber apron flashings with EIFS plaster appeared reasonably well sealed, with the ends directing water away from cladding
 - a low 9% invasive moisture reading was taken in the master bedroom north window lintel, with timber drill shavings appearing to be in good condition (Area A¹)
 - lack of drip edges to window heads allows water to hang on the reveal and stain the plaster, but any capillary action at uPVC head flashing/EIFS junction was unlikely to allow penetration beyond flashing upstand. Capillary action between the head flashing and cladding does not typically result in water lifting significantly up the flashing upstand
 - there are no internal signs of moisture penetration into the north wall of the master bedroom
 - at the other end of the deck roof, the end of the apron flashing is similar, with the junction reasonably well sealed and no internal signs of moisture penetration into the east wall of the corridor to Bedroom 2 (Area A²).

5.4 Regarding the other apron flashings, the expert noted (in summary):

- there are other butyl rubber apron flashings at the tiled roof/EIFS junctions:
 - above storeroom roof on the west entry wall (Area A³)
 - above entry portico roof on the studio south wall (Area A⁴)
 - above carport roof on the laundry west wall (Area A⁵)
- junctions of butyl rubber apron flashings with plaster generally appear reasonably well sealed, with ends directing water away from the EIFS
- a small tear in butyl above the carport roof needs sealing, but there is no sign of moisture penetration behind the fascia or damage to the EIFS plaster (Area A⁵)
- there are no internal signs of moisture entry into associated walls.

Roof claddings (Areas B)

5.5 In regard to the clay tile roofing (Area B¹), the expert noted (in summary):

- kiln-dried framing was observed in several locations within the roof space
- a tile batten, treated with a solvent based preservative, was severely decayed below a past leak in the south garage roof (Area B²)
- except for damage under the above leak, the heavyweight self-supporting roof underlay is in good condition
- there has been a leak to the roof/wall junction to the ensuite southeast corner (Area B³)
 - the leak has been recently repaired
 - a timber rafter and tile batten beneath the past leak are decayed
 - no treatment markings were visible on framing
 - given the severe decay, the rafter and batten are likely to be untreated
 - it is not known if failure occurred within the 15-year durability period
- the authority did not mention the timber damage in its code compliance certificate refusal.

5.6 Regarding the other roof claddings, the expert noted (in summary) for the low-pitched steel rib roofing above the bedroom wings (Areas B⁴):

- the underlay within the skillion roofs is slowly deteriorating, but otherwise appears to be performing adequately
- the metal roofing has passed its 15-year durability period.

Internal membrane gutters and scuppers (Areas C)

5.7 The steel rib roofing falls to butyl rubber internal gutters as shown in Figure 2. These drain into PVC scuppers through upstands into rain heads at the northeast and northwest corners (Area C¹ and C²).

5.8 Regarding the scuppers, the expert noted (in summary):

- the gutter membrane adheres to PVC scupper but does not continue through scupper with a drip edge into rainhead (as shown in Acceptable Solution E2/AS1⁹ Figure 63)
- lower edge of scupper slopes slightly into the rainhead, providing a drip edge
- flexible flashing tape is installed over junction between lower edge of scupper and face of the rainhead
- no visual evidence of any associated moisture entry could be seen on wall cladding or interior linings of the master bedroom or Bedroom 3.

Parapets and chimney (Areas D)

5.9 The EIFS walls extend up to form parapets with flat EIFS ‘cappings’, which project past decorative polystyrene cornices on the exterior as shown in Figure 2. The expert noted regarding the parapets (in summary, with my additional notes added in brackets):

- (From the applicant’s note dated February 2012, it appears a liquid-applied proprietary weatherproofing coating was first used on the top of the polystyrene cappings in 2006)
- all parapets were apparently waterproofed with the same system in 2012, with the coating continued “to the front rounded edge and the inside square edge”
- elevations facing the harbour were repainted in December 2017.
- parapet tops are flat, which increases risks of water penetration at joints
- during an unsuccessful attempt to take a moisture reading in parapet framing, dry timber fragments in good condition were retrieved, which indicated the parapet waterproofing is performing.

5.10 Regarding the chimney structure (Area D²), the expert noted (in summary):

- the flashing has a reasonable slope and is well maintained
- the top is timber framed with polythene and fibre-cement sheet around the flue
- within the framed cavity:
 - staining on the fibre-cement underside does not appear moisture-related, with all components visually dry
 - despite less than 10mm clearance between flue liner and polythene stapled to timber framing on the east, no heat deterioration was observed
 - wrap and polystyrene removed below south junction to flat parapet, with some minor historic stains at sheet junctions visible, which may date back to construction (if plaster coating application was delayed)
 - building components visually dry with no signs of damage.

Deck balustrades (Areas E)

5.11 There are two decks off the upper floor; Bedroom 2 has a small deck recessed beneath the northeast corner of the roof, while the mezzanine family area opens onto a small cantilevered balcony to the northeast.

⁹ Acceptable Solution E2/AS1 for New Zealand Building Code Clause E2 External Moisture

- 5.12 In regard to the recessed deck (Area E¹), the expert noted (in summary):
- a low 9% invasive moisture reading was taken below the flat top, with drill shavings appearing to be in good condition
 - carpet lifted in the northeast corner of the bedroom showed no visual indication of any water entry.
- 5.13 Regarding the northeast balcony (Area E²), the expert noted (in summary):
- while the balustrade is top-fixed through the butyl rubber membrane floor, the deck is beyond the building line so any leak would not affect the building
 - there were no obvious water stains on deck soffit linings, indicating adequate weathertightness performance of the deck.
- 5.14 While not identified in the authority's refusal, the expert also noted the following with regard to the barriers (Clause F4):
- the recessed deck (Area E¹) has a 220mm wide EIFS-clad barriers to the north and west:
 - the 620mm high east barrier leads onto pitched roof tiles and high tensile pergola roof covering fixed onto the original timber pergola
 - an open timber barrier is fixed to the back of the north barrier, bringing its total height up to 1m
 - the northeast balcony (Area E²), has a 1m high open metal balustrade, with 100mm maximum gaps between balusters.

The expert's conclusions

- 5.15 The expert considered a “number of observations ... have implications for compliance with the New Zealand Building Code” but added:
- While some of the above items do not follow an acceptable solution or necessarily good practice, they can still comply with the performance requirements of the [Building Code].
- 5.16 The expert noted the following items “affecting building code compliance...” (in summary):
- Clause B2 Durability:
 - decayed timber framing to the south garage roof (Areas B² and B³)
 - Clause F4 Safety from falling:
 - insufficient deck balustrade height (Area E¹)
 - lack of window restrictors to studio west window (Area G²).

6. Code compliance of the house

- 6.1 The building consent for the additions and alterations was issued under the former Act, and accordingly the transitional provisions of the Act apply when considering the issue of a code compliance certificate for work completed under this building consent. Section 436(3)(b)(i) of the transitional provisions of the Act requires the authority to issue a code compliance certificate only if it ‘is satisfied that the building work concerned complies with the building code that applied at the time the building consent was granted’.

6.2 An application has been made to the authority for a modification of durability requirements to allow durability periods for the house to commence from the date of occupation in about June 2000. In assessing the compliance of the building envelope against the performance criteria in the Building Code, I have taken into account the age of various elements and the anticipated modification.

Weathertightness (Clauses B1, B2 and E2)

6.3 The external envelope of the altered house was substantially complete by early 2000 and most materials and components are therefore some 20 years old.

6.4 Taking account of the expert's report, the external envelope generally appears to have been constructed in accordance with expected trade practice and the manufacturer's instructions at the time of construction.

6.5 The expert's investigations show evidence of past moisture penetration through the clay tile roofing. Clause B2 includes a requirement for wall claddings to remain weathertight for a minimum of 15 years and it is not clear at what point there was moisture ingress. However, this moisture penetration occurred in discrete areas of the clay tile roof, which have since been repaired, and the expert's report indicates there is no evidence of current moisture penetration into the timber framing. Therefore, I am satisfied that the roof and wall claddings, identified in the authority's letter dated 20 December 2018, currently comply with Clause E2 of the Building Code.

6.6 Clause B2 requires a building to satisfy all Building Code objectives throughout its effective life. The expected life of the underlying structure is considerably longer than the cladding, so careful attention to the performance and maintenance of the cladding is needed to ensure that it continues to protect the underlying structure for its minimum required life of 50 years.

6.7 There is evidence that the moisture ingress through the clay tile roof on the south garage resulted in several areas of severely decayed roof framing (Areas B² and B³). I am therefore not satisfied that the roof framing in the south garage complies with Clause B2 insofar as it applies to Clause B1 of the Building Code.

Clause F4 Safety from falling

6.8 I note that when the building consent was issued in 1999, the Acceptable Solution that applied to Clause F4 was the Second Edition of F4/AS1¹⁰, in which Table 1 included as an adequate barrier height:

Detached dwellings...	External deck or external balcony	1000[mm]
-----------------------	-----------------------------------	----------

6.9 I also accept that some areas identified by the authority have now been satisfactorily addressed.

6.10 I note that compliance with Clause F4 is not within the scope of the matters to be determined. However, taking account of the expert's observations, I consider the following areas still require attention before a code compliance certificate is issued:

- the 650mm height of the clad east balustrade to the recessed deck (Area E¹)
- the lack of window restrictors to studio west window (Area G²).

¹⁰ Table 1: Minimum Barrier Heights - published on 28 February 1998

7. The decision

- 7.1 In accordance with section 188 of the Building Act 2004, I hereby determine that, as there are building elements that do not comply with the Building Code that was in force at the time the building consent was issued, the authority was correct to refuse to issue a code compliance certificate for the building work. Accordingly, I confirm that decision.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 26 February 2021.

Katie Gordon
National Manager, Determinations