BUILDING PERFORMANCE

Determination 2026/002

An authority's decision to issue a code compliance certificate for alterations to a kura building and whether particular matters comply with the Building Code

114 Sunset Road, Mangakakahi, Rotorua

Summary

This determination considers an authority's decision to issue a code compliance certificate for alterations to a block of kura classrooms. The determination considers whether certain building elements comply with the building consent and/or the Building Code.

Figure 1: The northern elevation of the building, following the building work

The legislation discussed in this determination is contained in Appendix A. In this determination, unless otherwise stated, references to "sections" are to sections of the Building Act 2004 ("the Act") and references to "clauses" are to clauses in Schedule 1 ("the Building Code") of the Building Regulations 1992.

The Act and the Building Code are available at www.legislation.govt.nz. Information about the legislation, as well as past determinations, compliance documents (eg, Acceptable Solutions) and guidance issued by the Ministry, is available at www.building.govt.nz.

1. The matter to be determined

1.1. This is a determination made under due authorisation by me, Peta Hird, for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment ("the Ministry").[1]

1.2. The parties to the determination are:

1.2.1. The Ministry of Education, which applied for this determination and is the registered owner of the property ("the owner")

1.2.2. S Campbell, who is the licensed building practitioner concerned with the relevant building work and managed the build for the construction company ("the builder")

1.2.3. Rotorua Lakes Council, carrying out its duties as a territorial authority or building consent authority ("the authority").

1.3. I have also consulted with Fire and Emergency New Zealand ("FENZ") and Whaikaha - Ministry of Disabled People ("Whaikaha") on this matter, as required under section 170, and have taken their comments into account in making this determination.

1.4. This determination arises from the authority's decision to issue a code compliance certificate for alterations to an existing kura building carried out under building consent BC84302 ("the building consent"). The owner considers the code compliance certificate should not have been issued on the basis that the building work was not completed in accordance with the building consent and/or the Building Code.

1.5. The matter to be determined, in terms of section 177(1)(b) and (2)(d) of the Act, is the decision by the authority to issue the code compliance certificate and in considering this matter, whether particular elements of building work comply with the building consent.

[1] The Building Act 2004, section 185(1)(a) provides the Chief Executive of the Ministry with the power to make determinations.

1.6. In making this determination, I will consider the following elements of building work ("the disputed elements"):

1.6.1. the door hardware on fire exit doors

1.6.2. the threshold to the main entrance of the performing arts studio

1.6.3. the cladding system on the northern elevation outside the entrances to the performing arts studio and kitchen, specifically the flashings above boxed corners and where the system terminates adjacent to channel drains and concrete landings

1.6.4. the handrails on three external ramps.

1.7. During the determinations process, the owner has raised other elements that the owner considers do not comply with the building consent and/or Building Code. For various reasons, which I have set out in appendices, these elements either fall outside the scope of the matter being determined or insufficient information has been provided for me to make a determination.

2. The building work and background

2.1. The owner's property is a composite kura kaupapa (catering for students in years 1 to 13) in a residential area of Rotorua. There are several buildings on the property including blocks of classrooms.

2.2. In 2023, the owner applied for a building consent to undertake 'internal alterations' to one classroom block ("the building") within the kura. The authority granted building consent BC84302 on 11 March 2023.

2.3. Prior to the building works, the building contained four classrooms, two sets of sanitary facilities, a kitchen area and gym, plus some other smaller rooms.

2.4. The building work involved extensive changes to the internal layout, a partial reclad of the exterior, and the construction of new entrances into the building. The work included the following:

2.4.1. Installing a new commercial kitchen and dry storage room in the approximate location of the existing kitchen, with a new set of exterior double doors in the north elevation.

2.4.2. Creating a performing arts studio by converting two of the existing classrooms and the smaller rooms and installing an operable wall between the new adjacent classroom and the studio to increase the studio size when needed.

2.4.3. Constructing a new entranceway extension in front of the performing arts studio, with a new portal roof, veranda, and exterior double doors.

2.4.4. Constructing two new concrete landings on the north elevation of the building providing access to the kitchen and performing arts studio with ramps and stairs.

2.4.5. Removing one set of sanitary facilities and renovating the other to incorporate a shower and accessible facilities.

2.4.6. Installing new steel portal frames in the performing arts studio area, and other structural steelwork.

2.4.7. Electrical rewiring some areas of the building.

2.5. The building work was carried out during 2023 and 2024.

2.6. On 18 April 2024, the authority issued a code compliance certificate for the work carried out under the building consent.

2.7. On 14 May 2024, the owner conducted a post-construction quality control inspection of the building and building work and reported numerous issues. Discussions followed between the parties, with some issues remaining unresolved.

3. Discussion

3.1. The matter to be determined is the authority's decision to issue a code compliance certificate for the building work covered by the building consent.

3.2. Section 17 of the Act requires all building work to comply with the Building Code, and section 19 sets out several different methods to establish compliance (including Acceptable Solutions). Section 49 provides an authority must grant a building consent if it is satisfied that the provisions of the Building Code would be met if the building work is carried out in accordance with the plans and specifications that accompany the building consent application.

3.3. Once the building work is completed, section 94 requires an authority to issue a code compliance certificate if it is satisfied on reasonable grounds that the building work complies with the building consent. I consider that the obligation in section 94, in combination with the scheme formed by sections 17 and 49, is to ensure building work is compliant with the issued building consent so as to achieve compliance with the Building Code.[2]

3.4. Previous determinations[3] have established a process for considering the decision to issue a code compliance certificate. The first step is to consider whether the building work concerned was completed in accordance with the building consent. If the building work, or some elements of it, does not comply with the building

[2] Refer *Body Corporate 366567 v Auckland Council* [2024] NZHC 32 at [92] and [94].
[3] For example, Determination 2008/030 at paragraph 1.6, and Determination 2021/008 at paragraph 6.1.2.

consent, then the second step is to consider whether it complies with the Building Code.

3.5. I consider this approach continues to be appropriate and have applied it in this determination.

Compliance of the building work

3.6. The owner has raised a number of elements of the building work that the owner considers do not comply with the building consent or Building Code. The disputed elements that fall within the scope are set out in paragraph 1.6, and I consider each in turn below.

Door hardware on the fire exits

3.7. The altered building comprises a single fire cell with six final exits[4] to the exterior of the building ("fire exits").[5] The owner's opinion is that the door hardware, consisting of tower bolts and types of door handles, does not comply with the building consent or with Building Code clause C4 *Movement to place of safety*. The owner also submitted that panic hardware has not been installed as required by the building consent on the fire exits from the performing arts studio.

3.8. The authority acknowledged the original hardware has remained in place on the fire exits, and the builder has stated that they did not undertake building work in relation to the hardware on the fire exits because it was not part of the building consent.

3.9. The building consent application included a fire report completed by a fire engineer ("the fire report"). The approved architectural plans note "all fire protection alterations to be carried in accordance with Fire Report and NZ Building Code". The fire report is accompanied by a set of plans marked up by the fire engineer; however, these plans have a different layout to the plans approved by the authority. A significant difference is the operable wall between the performing arts studio and adjacent classroom, which is only 2.5m in width on the fire engineering plans rather than the full width as consented. This difference will have an impact on the occupancy load and required hardware on fire exit doors for the combined classroom and performing arts studio, which has not been accounted for in the fire report.

3.10. I note that lack of coordination between a fire report and architectural plans can lead to inconsistencies or contradictions in the building consent documents and lack of clarity about the building work that is approved in the building consent. Further, reliance on a notation on architectural plans without incorporation of fire safety features in the drawings and providing information about fixtures such as door

[4] 'Final exit' means the point at which an *escape route* terminates by giving direct access to a *safe place.*
[5] As specified in the fire report.

hardware introduces the risk of construction following architectural plans without reference to the associated fire report, and potentially the requirements for fire safety not being met.

3.11. FENZ have been consulted as part of this determination and their comments reflect my observation above regarding the lack of specificity in the plans. FENZ stated "there are clear design coordination disconnects between the consented fire report and architectural drawings", giving the panic hardware as an example where this requirement is not shown on the door schedule in the plans.

3.12. The fire report specified upgrades to enable the building to achieve compliance with the requirements set out in section 112 in relation to means of escape from fire. The report specified Acceptable Solution C/AS2[6] and D1 Acceptable Solution D1/AS1[7] as the means of demonstrating compliance. In particular, the fire report specified that:

- "Doors [on escape routes] are to have 'simple hardware' such as level door handles complying with D1/AS1. It should be noted that tower bolts and pin pads do not meet the 'simple hardware' requirements"

- Fire exits 3, 4, 5 and 6, providing egress from the performing arts studio, shall be fitted with "panic fastenings", with the report then detailing the requirements of such fastenings as set out in C/AS2.

3.13. Panic fastenings and other panic hardware ensure fast, unhindered egress by allowing doors to be opened with a single, simple push, reducing the risk of crushing or people getting stuck in the event of groups evacuating in an emergency.

3.14. Turning first to whether the building work in respect of the fire exit door hardware complies with the building consent, the evidence provided to me shows:

3.14.1. fire exit 1 is fitted with an exterior doorknob, but no evidence has been provided showing the interior hardware

3.14.2. fire exit 2 has an interior doorknob and tower bolt, which has been addressed in an overarching comment in the fire report, requiring these types of hardware to be replaced with 'simple hardware' as per paragraph 3.15.1(e) of C/AS2, which requires handles to be openable with one hand and have a lever action[8]

3.14.3. fire exits 3 and 4 have interior doorknobs and tower bolts, there are no panic fastenings present

[6] Acceptable Solution C/AS2 (first edition, amendment 2, effective 5 November 2020 until 1 November 2024).
[7] Acceptable Solution D1/AS1 (second edition, amendment 6, effective 1 January 2017).
[8] As set out in D1/AS1 paragraph 7.0.5.

3.14.4. fire exit 5 has an interior doorknob and thumb turn lock, there is no panic fastening present

3.14.5. fire exit 6 is fitted with an exterior lever action door handle, but no evidence has been provided showing the interior hardware and whether a panic fastening is present.

3.15. In respect of fire exits 1 and 6, as I am not aware of the internal hardware that may have been installed, I have insufficient evidence to determine whether these exits comply with the requirements of the building consent or the Building Code.

3.16. Regarding fire exits 3, 4, and 5, because there are no panic fastenings, as required by the fire report, I conclude these exits do not comply with the building consent.

3.17. Turning now to fire exit 2, the fire report required a replacement of existing hardware with 'simple hardware' to comply with the accessibility requirements of D1, such as by way of a lever action handle, if it did not already comply. C/AS2 describes "simple fastenings" as 'can be easily operated from the direction from which people approach when making their escape'. On fire exit 2, the hardware consists of an internal doorknob and separate tower bolt. Considering the number of actions required by an occupant to operate the two items of hardware, I conclude the hardware of fire exit 2 does not comply with the building consent because it is not 'easily operated'.

3.18. Having determined that the door hardware on fire exits 2, 3, 4 and 5 does not comply with the building consent, I turn now to whether they nonetheless comply with the relevant performance criteria of the Building Code.

3.19. Building Code Clause C4 *Movement to place of safety* concerns the ability of building occupants to move to a place of safety (be it internal or external to the building) when a fire occurs. Performance criteria C4.3 requires that sufficient evacuation time must be given to allow occupants to move to a place of safety so as to not be exposed to the effects of carbon monoxide, thermal effects, and reduced visibility. Factors influencing the evacuation time include (but are not limited to) being alerted to the need to evacuate, awareness of the escape route, and travel distance to a safe place.

3.20. By complying with the performance criteria, the functional requirement C4.2 will be met, being 'buildings must be provided with means of escape to ensure that there is a low probability of occupants of those buildings being unreasonably delayed or impeded from moving to a place of safety and that those occupants will not suffer injury or illness as a result.'

3.21. Fire exits make up part of escape routes from the building used by occupants in the event of a fire and their operation contributes to the evacuation time of occupants. This means the door hardware on the fire exits is an essential part of the overall means of escape for the purposes of clause C4.

3.22. The alterations provide for part of the building to be opened up and used by larger groups of people than the previous spaces allowed for. The fire report identified the crowd activity[9] and occupancy level for the performing arts studio and specified that the four fire exits in this area should be fitted with panic fastenings.

3.23. I note that due to subsequent design changes (after the fire report was completed) that allow for the classroom to expand the area of the performing arts studio, compliance by way of C/AS2 (paragraph 3.15.12) required fire exit 2 to also be fitted with a panic fastening.

3.24. I have not been provided with any information to demonstrate how the current hardware on the fire exit doors effects the overall evacuation time from the building in the event of a fire. However, with the current hardware on fire exit doors 2, 3, 4 and 5, occupants would be required to complete two actions to open the fire exits and move to a place of safety, with a large group of people (predominately children) attempting to move in the same direction. I consider that this would extend the evacuation time beyond what the fire engineer intended and expose the occupants to carbon dioxide, smoke, and the thermal effects of fire in their escape.

3.25. I consider the lack of panic hardware on fire exits 2, 3, 4, and 5 from the classroom and performing arts studio is an unreasonable impediment to occupants evacuating the building that would result in injury and that the door hardware does not comply with Building Code clause C4 to the extent required by section 112.

Threshold of the main entrance to the performing arts studio

3.26. The building work at the main entrance to the performing arts studio involved the construction of a new entranceway on the north elevation. It includes a concrete ramp leading to a concrete landing in front of a set of double doors. A channel drain that is level with the concrete landing, runs between the landing and the entrance doors and adjacent windows. The threshold to the doors incorporates a weather stop fitted to the joinery. As constructed, the internal finished floor level is lower than the channel drain and external landing. These elements that make up the entranceway are new.

3.27. The owner has submitted that the change in level between the internal floor level and external channel drain creates a trip hazard for people exiting the building and a barrier for disabled people using the entranceway. They have submitted that the "step to outside is around 30mm" and provided a non-dimensioned photo.

3.28. The authority has submitted that from its measurements the height difference is 20mm between the internal finished floor level and exterior concrete landing,

[9] 'Crowd activity' is the risk group associated with the building in C/AS2, being those buildings with public access and educational purposes.

which complies with NZS 4121:2001[10], and that this threshold does not form a barrier to an unaided wheelchair user. The builder confirmed they constructed this work and noted that it has been measured and signed off by the authority.

3.29. Whaikaha have been consulted as part of this determination and in their comments have raised concerns that at 30mm the threshold would pose a "trip and/or fall hazard to disabled people, regardless of impairment", and made no comments on compliance of a threshold at 20mm.

3.30. The building consent plans detail this threshold between the internal finished floor level, the door joinery (including the in-built weather stop), the channel drain and the external concrete landing, with the external elements being lower than the internal finished floor level. The detail specifies a maximum 20mm from the top of the door weather stop down to the top of the channel drain, as set out in D1/AS1.

3.31. The way the threshold has been built, the level change is the other way around and the top of the weather stop is below the top of the channel drain. None of the parties have provided a photo including a measurement of the difference in level. However, based on the photos provided, the top of the weather stop is approximately 10mm below the top of the channel drain and the internal floor level is approximately 10mm below the top of the weather stop. Therefore, the overall step between the internal floor level and the exterior landing and channel drain appears to be approximately 20mm, and this aligns with the authority's submission that its measurements showed the threshold as being 20mm.

3.32. The threshold does not comply with the building consent, because the level change is the opposite way around, but I consider it complies with clause D1 of the Building Code. However, I note the construction of the threshold, with the internal floor level lower than the channel drain, creates other compliance implications. Should the surface water entering the channel drain exceed its capacity, the overflowing water will end up in the building.

Cladding system to north elevation

3.33. The owners have raised two elements of concern regarding the cladding system on two sections of the north elevation of the building; the construction of the flashings to cap the boxed corners at the kitchen entrance and the location of the base of the cladding adjacent to the two concrete landings and channel drains.

3.34. The first disputed element relates to flashings on the top of the boxed corners on either side of the kitchen entrance. The flashings are fixed to the outer face of the fascia, with sealant used between the flashing and fascia, before the flashing bends at approximately 90 degrees to cap the top of the boxed corners. The owner is concerned that the sealant does not offer sufficient protection to stop the ingress of

[10] New Zealand Standard 4121:2008 *Design for access and mobility: buildings and associated facilities*, at paragraph 7.1.4.

moisture behind the flashings and down into the boxed corners, along with the 90-degree angle allowing water to pool.

3.35. The second item of building work involves the construction of two new concrete landings – one outside the new entranceway to the performing arts studio, and the other outside the new double doors leading to the kitchen. As constructed on both the landings, the channel drains do not run the full width of the landings. Instead, they stop a short distance from the end (I have not been provided with an exact measurement). At the ends of the kitchen landing, a small block of concrete (separate from the landing) has been used to infill the gaps at the ends of the channel drain. For the landing outside the performing arts studio, the concrete has been cut back (to part depth) to allow the cladding to extend beyond the finished level of the concrete.

3.36. The building consent plans specify that around these two entrances, which are stepped out from the main elevation of the building, the original vertical timber weatherboards were to be replaced with horizontal timber weatherboards over a 20mm cavity and wall underlay.

3.37. The building consent plans are unclear as to where existing work is to remain, and items are to be replaced in relation to the new cladding system. The fascia appears to be existing, but it is not clear in the evidence provided whether the flashings to the top of the boxed corners are new or existing. However, as these flashings provide external moisture protection for the new cladding system, I consider it does fall within the scope of the work in the building consent.

3.38. Cladding systems with cavities, such as the one that has been constructed, make allowances for some moisture to enter the cavity as it provides for dispersal of this moisture by drying and drainage before any undue dampness or damage can be caused to the building.

3.39. First, considering the flashings above the boxed corners, the owner has submitted that the installation does not comply with E2 *External moisture* because it is "relying solely on a silicone sealant as the primary defense [sic] against water ingress. Relying on silicone alone is insufficient for long-term weathertightness in an exposed area, as sealants are prone to deterioration over time…". The owner considers that "the building's exterior is at risk of moisture penetration, compromising structural integrity".

3.40. The authority has submitted that the "flashing has been fitted over the top of the boxed corner which allows the deflection of moisture and has been sealed… and deflects external moisture without it entering the building". It went on to comment that the cladding has been constructed over a cavity which allows for drainage and drying of any moisture that should enter behind the cladding. It did not make comments regarding the position of the flashing upstand in front of the fascia.

3.41. The builder submitted that they did not undertake this building work and that the flashing was not part of the consented works.

3.42. As no details regarding this junction have been included in the plans and specifications, I will turn to whether this item of building work, as part of the cladding system, complies with the requirements of E2.

3.43. Performance criteria E2.3.2 requires:

> Roofs and exterior walls must prevent the penetration of water that could cause undue dampness, damage to building elements, or both.

3.44. E2 Acceptable Solution E2/AS1[11] does not have a specific detail for the junction between the top of a boxed corner and the fascia, as it assumes the cladding will terminate under the soffit or in line with the fascia. Therefore, this cannot be used to establish compliance.

3.45. The owner has submitted that, as constructed, the flashing is only relying on sealant between it and the fascia to assist in moisture draining off the fascia, and that should this fail, the moisture would be able to get behind the flashing and the weatherboard cladding. I agree that there is a risk that moisture, through wind-driven rain, capillary action and other potential mechanisms of moisture movement, will be able to get behind the upstand of the flashing if the sealant were to fail (either prematurely or by lack of maintenance/ replacement of the sealant).

3.46. Below the flashings, the boxed corners have been constructed as part of the cladding system that involves a cavity and wall underlay. I am of the opinion that the amount of moisture, if it should enter behind the flashing and into the cladding system below, would be dispersed by the function of the cladding system and is unlikely to reach levels that could cause undue dampness and/or damage to the building.

3.47. However, these junctions cannot be considered in isolation because they form part of the overall cladding system. As the owner has also raised concerns about the construction of the cladding system at its base in relation to the external concrete landings and channel drains (outside both the kitchen and the performing arts studio), I must consider this aspect to make a decision on the compliance of the cladding system on these elevations.

3.48. The approved plans show that channel drains were to be installed between the concrete landings and the building in both locations. These drains were proposed to run the full width of the concrete landings.

3.49. The owner has submitted that the cladding system in the area where it intersects with the channel drains does not comply with clause E2 because the channel drains are too short, and the cladding in the area where it intersects with the concrete slab

[11] Acceptable Solution E2/AS1 (first edition, effective 28 November 2019).

does not comply with clause E2 because the concrete slab is too close to the cladding.

3.50. The authority submitted in response that the gap between the cladding and the concrete landing is 10–12mm and this is only marginally different to the dimension provided for in the Acceptable Solution E2/AS1.[12] In the authority's opinion, the performance criteria in clause E2 would be met under normal circumstances.

3.51. The builder has stated that there is there is a clear visible gap, and the building work concerned was deemed compliant by the authority.

3.52. As the channel drains have been built, the drains are shorter than specified in the building consent and do not run across the full face of these parts of the building elevation. I conclude the construction of the channel drains on the landings and adjacent to the cladding system does not comply with the building consent. I note that the only detail included in the building consent showed the sectional view of the channel drain along the front of the joinery. There are no details to describe the required separations and how the cladding system was to terminate in relation to the channel drains and landings beyond the ends of the joinery units.

3.53. Turning now to whether, as constructed, the channel drains and cladding system complies with the Building Code. Previous determinations[13] have discussed cladding systems terminating above or within channel drains and the impacts of this on the function of cladding systems on a cavity in relation to drainage and drying. These determinations also confirmed that the Acceptable Solution E2/AS1 only provides means of establishing compliance for channel drains adjacent to door openings. Therefore, I must consider compliance as an alternative solution.

3.54. In addition to performance criteria E2.3.2, clause E2.3.3 is also relevant.

> **E2.3.3** Walls, floors, and structural elements in contact with, or in close proximity to, the ground must not absorb or transmit moisture in quantities that could cause undue dampness, damage to building elements, or both.

3.55. I understand the owner's concerns about this are twofold. The first is that, because the drainage channels do not run the full width of the landing slab, the channels will provide inadequate drainage coverage as the channel drains have "gaps at the end where water may bypass the drainage system and accumulate near the building". Also, the channel drains will not "effectively capture runoff and prevent pooling at vulnerable areas". The owner's second concern is that the "small concrete addition at the end of the channel grate drainage system is within 12mm of the exterior cladding" and this distance "does not comply with the minimum clearance

[12] Refer E2/AS1 paragraph 7.4.2.2(b)(vi).

[13] Determination 2025/027 *The refusal to grant an amendment to a building consent to include external wall cladding terminating in channel drains* (issued 6 June 2025), and Determination 2025/049 *The compliance of a replacement cladding system on a dwelling with clauses B2 and E2 of the Building Code* (issued 25 September 2025).

requirements" or provide "adequate separation between cladding and adjacent surfaces to prevent moisture wicking and to maintain weathertightness".

3.56. Where the channel drains or the concrete landing meet the cladding system, the cladding system extends down into the gap created behind the landing, between it and the concrete foundation of the building. Due to this arrangement, the ventilation to the cladding cavity is obstructed. In addition, although the cavity will still allow drainage, the moisture will be trapped below the cladding system in this gap, with little ventilation to assist in its evaporation. In the areas outside the performing arts studio, any moisture reaching the base of the cladding will also not be able to fully drain away because beneath the edge of the cladding is a concrete step created by the cutting away of the landing. Rather, moisture will accumulate on this step and at the base of the cavity.

3.57. Cavities provide for drying and drainage where moisture ingress of the cladding occurs, the ability to provide drying by way ventilation is compromised, which in turn is affecting the cladding systems ability to comply with E2.3.2.

3.58. However, the function of the cladding system will also be influenced by other factors, such as, the ability of moisture to reach the cladding system in the first place, and in this regard, I note that the two areas of the building being considered are different. While the entrance to the performing arts studio is sheltered by a veranda roof overhead, the kitchen entrance is exposed with no veranda or eaves.

3.59. For the cladding system on the kitchen entrance, while moisture entering through the construction of the flashings to the boxed corners would contribute a minimal amount to the moisture levels within the cavity. However, the overall construction of the cladding system in this location will expose the cladding system to levels of external moisture to the extent that would cause undue dampness and/or damage to the building, and therefore will not comply with the clause E2, because:

3.59.1. This area is exposed with external moisture coming into direct contact with the cladding and draining down its face into the gap between the building foundation and concrete landing.

3.59.2. The shortened length of the channel drains means water will run into the gap between the landing and building foundation where the cavity for the cladding system terminates.

3.59.3. Moisture that enters the cladding will drain into a narrow gap between the landing and building foundation below the cavity and will be unable to adequately dry due to the construction of the cladding system terminating within the gap and the ventilation being obstructed.

3.60. For the cladding system at the performing arts studio entrance, I consider this complies with clause E2 because:

3.60.1. This area is sheltered by a veranda roof that is the same size as the landing, which will limit the amount of external water that contacts the cladding and the amount reaching the landing to be collected by the channel drain. However, as noted in paragraph 3.32, should the channel drain receive an amount of water that exceeds its capacity, or water be wind-driven across the landing, the water would enter the building due to the finished floor level being lower than the external landing.

3.60.2. The areas of wall cladding in this location are at the outer edges of the landing and are small in length and area. There is minimal area for moisture ingress to occur and it is unlikely to reach a level of causing undue dampness and/or damage.

Handrails on three ramps

3.61. The building work involved the construction of three new concrete ramps on the north elevation of the building. The ramps lead to the new concrete landings in front of the entranceways: two ramps lead to the landing in front of the kitchen area, and one leads to the main entranceway to the performing arts studio. All three ramps are around 3m long, and have handrails installed on the side closest to the building, with a raised kerb installed on the outer edges of the ramps.

3.62. The owner has submitted that the building consent required handrails on both sides of the ramps, and that the handrails that have been constructed do not have a rail at the mid-height point.

3.63. The builder has stated that they believe the handrails have been constructed according to the building consent and that they were 'passed' by the authority. The authority did not make any comments in relation to this item of building work.

3.64. Whaikaha has commented on the omission of a handrail on the outer edges of the ramps, noting that there are multiple requirements for handrails to comply with D1.3.3 and D1.3.4, such as ensuring these are provided to both sides of ramps and landings throughout the length.

3.65. The building consent plans specify 'new 900[mm] high…handrail' on the sides of the ramps closest to the building and a 75mm high kerb on the outer edge. The slope of the ramp was specified to be 1 in 14. The plans do not indicate that a mid-height rail was required. On the plans the handrails do not extend along the landing, with the handrails terminating at the corner of the building.

3.66. For this building, performance criteria D1.3.2 requires:

> At least one access route shall have features to enable people with disabilities to:
> (a) approach the building from the street boundary or, where required to be provided, the building car park,
> (b) have access to the internal space served by the principal access, and

> (c) have access to and within those spaces where they may be expected to work or visit, or which contain facilities for personal hygiene as required by Clause G1 Personal hygiene.

3.67. Performance criteria D1.3.4(i) then goes on to require that an accessible route shall:

> …have handrails on both sides of the accessible route when the slope of the route exceeds 1 in 20. The handrails shall be continuous along both sides of the stairs, ramp and landing except where the handrail is interrupted by a doorway.

3.68. The building consent plans do not indicate which ramp/s are intended to be the accessible route/s into the building.

3.69. The evidence shows the handrails have been constructed as per the building consent plans, with a handrail on the building side that finishes at the edge of the building or adjacent to the window. No information has been provided to me to indicate the slope on the constructed ramps differs from that proposed in the plans.

3.70. However, for the required accessible route/s, because there is only a handrail on one side of the ramp which terminates at the edge of the building, rather than extending to the doors, this does not comply with D1.3.4(i).

3.71. The owner has also raised a concern about there not being an additional rail at the mid-point of the handrails. In its comments, Whaikaha referred to the Ministry's guidance on ramps.[14] That guidance says, "A second and lower handrail may be appropriate in some buildings often used by small children."

3.72. There is no explicit requirement in clause D1.3.4 for an accessible route to include a second lower handrail, but I strongly encourage the inclusion of a second lower rail for buildings that are frequently used by small children.

3.73. Clause D1.3.4(e) requires accessible routes to 'have means to prevent the wheel of a wheelchair dropping over the side of the accessible route' and in this case, the construction of the ramps (on both sides) and landings include a raised kerb which I consider meets this requirement.

Conclusion on the disputed elements

4.1. In summary, I have reached the following conclusions regarding each of the disputed elements:

4.1.1. The door hardware on fire exit doors 2, 3, 4 and 5 do not comply with the building consent nor with clause C4 of the Building Code. There was insufficient information to make a decision for fire exit doors 1 and 6.

[14] Whaikaha referred to the Ministry's publication "Internal circulation: Designing buildings for access and usability" (28 January 2019). I note the Ministry has also published "Pedestrian circulation: external steps, ramps and lifts" (28 January 2019)

4.1.2. The threshold to the main entrance of the performing arts studio does not comply with the building consent but does comply for the purpose of clause D1.

4.1.3. The cladding system to the north elevation outside the performing arts studio complies with E2.

4.1.4. The cladding system to the north elevation outside the kitchen does not comply with clause E2.

4.1.5. The ramp/s that are the accessible route/s do not comply with clause D1.

The decision to issue the code compliance certificate

4.2. Having concluded that various of the disputed elements did not comply with the building consent and/or Building Code, I must now consider the authority's decision to issue the code compliance certificate.

4.3. Under section 94, an authority must issue a code compliance certificate if it is satisfied on reasonable grounds that building work complies with the building consent. As discussed in paragraphs 3.2 to 3.5, the combination of sections 17, 49 and 94, is to ensure that building work is compliant with the issued building consent for the purpose of achieving compliance with the Building Code.

4.4. I have found that the building work does not comply, in some respects with both the building consent and Building Code. Should items related to fire egress and accessibility not be addressed, they pose safety risks to the occupants of the building.

4.5. Under section 188, I can confirm, reverse, or modify the authority's decision to issue the code compliance certificate. Considering the nature of the non-compliant building work, I am of the view it is appropriate in this instance to reverse the authority's decision to issue the code compliance certificate.

5. Decision

5.1. In accordance with section 188 of the Building Act 2004, I reverse the authority's decision to the issue the code compliance certificate for building consent BC84302.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 16 January 2026.

Peta Hird

Lead Determinations Specialist

APPENDIX A Elements outside the scope of the building consent

A.1 As referenced in paragraph 1.7, the owner has raised items of building work that I have determined were outside the scope of the building consent, and therefore are not required to be considered by the authority when issuing the code compliance certificate.

The Switchboard

A.2 The owner has submitted that the switchboard is non-compliant and unsafe.

A.3 The switchboard is pre-existing electrical work, is not located in the building, and is no longer the main switchboard for the school, although some areas of the building are still connected to it.

A.4 I have been provided with no evidence of any work being undertaken on or connected with the switchboard during the alterations; neither the consented plans nor the specifications provide for any building work in relation to the switchboard or the power supply from the switchboard to the building.

A.5 There is no requirement to consider the state of the switchboard other than the safety of the supply to the building at the time the electrical work was undertaken. The certificate from the electrician who undertook the electrical work confirms that there were no issues relating to the safety of the supply. The authority has relied on this and is entitled to do so.

Joinery threshold on southern elevation double doors

A.5 The owner has submitted that the existing joinery at the base of the double doors on the south elevation of the building is elevated above the interior finished floor level and the concrete slab outside, creating a step and presenting a trip hazard, therefore not complying with clauses C4 and D1.

A.6 The double doors and their joinery were pre-existing before the alterations.

A.7 I have seen no evidence that the finished levels of either the interior floor or the exterior slab have changed as a result of the building work. Although an upgrade to the hardware on the double doors was part of the consented plans and specifications (see paragraphs 3.7 – 3.12), this did not require any changes to the door joinery.

Concrete path on southern elevation

A.8 The owner is concerned that the concrete footpath leading to the double doors on the south elevation of the building does not include reinforcing mesh or handrails,

and does not comply with clauses B1 and B2, and that the obstacle caused by the wooden joinery means the threshold is not accessible.

A.9 The work on this path is not shown in the consented plans and specifications.

APPENDIX B Elements with insufficient evidence

B.1 As referenced in paragraph 1.7, the owner has raised items of building work that I have insufficient evidence to be able to make a determination on. These items are listed below.

B.2 The first two items of building work, being the skylights and roofing and the concrete foundation slab to the performing arts studio entrance are existing building elements that have been retained. When carrying out alterations, the existing building must continue to comply with the Building Code or comply to the same extent it did prior to the work. Section 112(b) requires:

> (b) the building will,—
>
> (i) if it complied with the other provisions of the building code immediately before the building work began, continue to comply with those provisions; or
>
> (ii) if it did not comply with the other provisions of the building code immediately before the building work began, continue to comply at least to the same extent as it did then comply.

B.3 In other words, while there is no obligation for alterations to improve the level of code compliance that an existing building achieves (except in certain limited respects, as set out in section 112(a)), the building work must also not reduce the level of compliance of the retained building elements.

Skylights and surrounding roof

B.4 The owner has submitted that building work to remove and replace an adjacent section of roof damaged two existing skylights and the roof surrounding them, so that they now leak, and no longer comply with clause E2.

B.5 I acknowledge that the work carried out did not include work on the skylights themselves. The scope of work did include removal of and temporary support for the retained sections of roof, and in my opinion inadequate support of the retained roof elements during construction has potential to cause damage to the retained roofing elements. However, I have not been provided with evidence to establish that it was the building work in the building consent being carried out that caused the leak.

Concrete foundation slab

B.6 The owner has stated that a new concrete floor slab inside the main entrance to the performing arts studio has been poured over inadequate existing foundations, and as a result the ongoing performance of the foundations with clause B1 and B2 has been undermined.

B.7 The scope of the building works provided for new footings to be cut through areas of the pre-existing concrete slab to support the steel portal frames, specified by an engineer.

B.8 However, there is insufficient evidence to demonstrate that the existing foundations are inadequate and that the building work undermined and/or damaged the existing concrete slab.

Sealing of the wall cladding

B.9 In regard to the new wall cladding, the owner has submitted that the sealing of the weatherboards and timber trims were not primed along the cut edges to protect it from moisture ingress and that this does not comply with clause E2.

B.10 I have been provided a photograph showing the cut ends of a weatherboard, boxed corner covers and scriber that appears to have had a layer of primer paint applied. However, as I have not been provided information from other areas of the building, this is insufficient evidence to reach a view on compliance with clause E2 and therefore a determination on this point cannot be made.

Kitchen extraction system

B.11 The owner has submitted that the kitchen extraction system has not been installed correctly in the refurbished kitchen area. The owner stated that there are missing panels that would allow exhaust fumes to enter into the roof cavity.

B.12 While photos have been provided showing gaps in the extraction hood, no information has been provided to demonstrate the intended set up of the proprietary system – how it was to be ducted and where it was to vent to – and the photos have minimal detail about the operation of the overall system. Therefore, there is insufficient information to make a decision on this item.