

# Determination 2026/017

**The issuing of a certificate of acceptance for work completed on a new shower room, and whether the building work complied with the building code.**

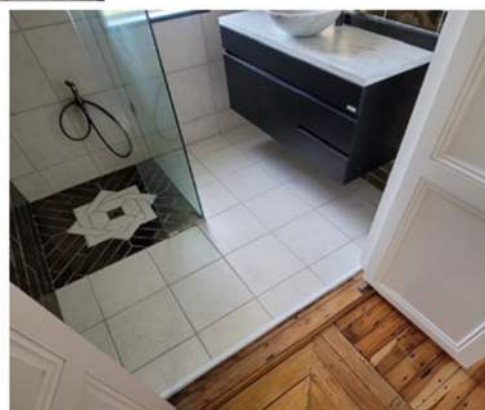
**110a Lynwood Rd, New Lynn, Auckland**

## Summary

This determination concerns the decision of the authority to issue a certificate of acceptance for the installation of a new shower room in an existing dwelling. The determination considers whether the building work complies with Building Code Clause E3 – *Internal moisture* and Building Code Clause G13 – *Foul Water*.



**Figure 1: The shower room**



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](http://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](http://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”).<sup>1</sup>
- 1.2. The parties to the determination are:
  - 1.2.1. the owners of the property who applied for this determination, T Weston and TSJ Family Corporate Trustee Limited (“the owners”)
  - 1.2.2. C Coopey of K-10 Limited, the licenced building practitioner (“the LBP”) concerned with the relevant building work<sup>2</sup>
  - 1.2.3. Auckland Council (“the authority”), carrying out its duties as a building consent authority or territorial authority.
- 1.3. This determination arises from the authority’s decision to issue the certificate of acceptance (COA04522498) (“the COA”) for alterations to an existing dwelling to create a new shower room where a previous bathroom existed (refer to figure 1). The current owners believe the building work does not comply with the Building Code and the COA should not have been issued.
- 1.4. The matters to be determined are:
  - 1.4.1. in terms of sections 177(1)(b) and 177(3)(b), the decision of the authority to issue the COA; and
  - 1.4.2. in terms of section 177(1)(a), whether the construction of parts of the new shower room complies with Building Code clauses E3 *Internal moisture* and G13 *Foul water*.
- 1.5. The elements of construction considered in this determination are (with relevant code clauses in brackets):
  - The glazed screen to a shower enclosure (E3.2, E3.3.3, E3.3.4).

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<sup>1</sup> The Building Act 2004, section 185(1)(a) provides the Chief Executive of the Ministry with the power to make determinations.

<sup>2</sup> The LBP provided a Producer Statement Construction (PS3) for the plumbing.

- The floor waste and waste pipe<sup>3</sup> (E3.3.6, G13.3.1(b) and (c)), and the durability of the timber floor sheeting where the floor waste passes through it (B2.3.1(b)).
  - The ventilation fitting installed to the wash hand basin waste pipe (G13.3.1(c)).
  - The shower enclosure wall, where a metal angle has not been installed to an internal corner (B2.3.1, E3.3.4).
- 1.6. I have not considered the compliance of the other building work included in the COA that is not described above.

## 2. Background and building work

- 2.1. Building work was carried out at the property in or about May 2023. This involved alterations of what was a bathroom to create a new shower room.
- 2.2. Key features to note about the completed work are:

### Walls and floor of the shower enclosure and adjacent space

- 2.2.1. A proprietary liquid waterproof membrane<sup>4</sup> was applied under ceramic tiles to the walls and floor of the shower enclosure and adjacent space.
- 2.2.2. The application of the waterproof membrane is supported by a 'workmanship warranty' from the installer.<sup>5</sup>
- 2.2.3. The waterproof membrane and ceramic tiles have been finished up to the jamb of an existing window surround.
- 2.2.4. A raised strip has been laid across the door threshold between the shower room and adjoining corridor space. I do not have any information on the cross-sectional size for the raised strip or the material used.
- 2.2.5. The shower enclosure is approximately 900mm square in size.<sup>6</sup>
- 2.2.6. The glazed screen around the shower enclosure is open on one side, forming an entry. There is no door or curtain at this entry. The screen is fixed to the wall and floor using proprietary clamps, leaving gaps between the screen and wall/floor that appear to be approximately 10mm.<sup>7</sup>

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<sup>3</sup> The floor waste in this case is annotated as an "Overflow drain" on COA plan A222.

<sup>4</sup> The product has been appraised by BRANZ for compliance with clauses B2 and E3 [E3.3.6].

<sup>5</sup> The signatory to the document (the previous owner) does not appear on the register of authorized installers of the proprietary product used or on the register of licensed building practitioners.

<sup>6</sup> Scaled from COA plan A221. I note photographs provided by the parties suggest the shower enclosure may be slightly smaller.

<sup>7</sup> The COA documentation does not include details about the manufacturer of the glazed screen or as-built construction details regarding the fixings used.

- 2.2.7. Based on photographs provided, the glazed shower screen is approximately 20mm from the jamb of the existing window surround.
- 2.2.8. The 400mm<sup>2</sup> shower head is located at approximately the centre of the enclosure.
- 2.2.9. The fall of the floor in the shower enclosure is specified in the COA plans to be 1:80, and the floor outside the shower is level.<sup>8</sup>
- 2.2.10. A floor waste is located adjacent to the wash hand basin.
- 2.2.11. Detail 'Internal wall corner' on COA plan A701 specifies a '32x32x0.55mm galvanised angle fixed at 600mm centres to each corner stud'. This aligns with COA plan A004 section titled 'Metal angles for tiled internal corners'. However, photographs attached to the COA do not show the metal angle was installed at the internal corner of the shower enclosure before the proprietary plasterboard / fibre-cement lining was installed.

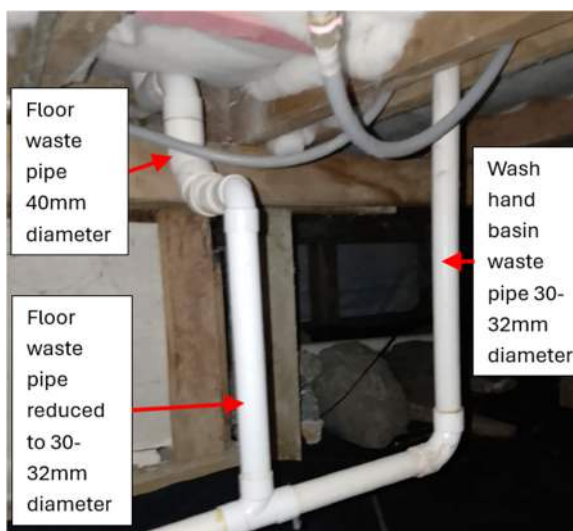
#### Wash hand basin and floor waste plumbing

- 2.2.12. The COA does not include information about as-built construction of the floor waste, or the ventilation fitting installed to the wash hand basin discharge pipe.
- 2.2.13. The floor waste is located next to the wash hand basin. It was installed after the waterproof membrane and floor tiles were originally laid, but before an inspection by the authority on 20 October 2025.
- 2.2.14. A photograph shows a floor grate in place and several other photographs show the floor waste flange fixed to the underside of the timber floor sheeting and a sealant product around the flange.
- 2.2.15. The layout and specification of the plumbing is detailed on COA plan A222, with the plumbing specified to comply with AS/NZS 3500, Part 2<sup>9</sup>. The plan specifies the waste pipe to the wash hand basin is to be 40mm in diameter and does not specify the size of the floor waste pipe or detail its construction.
- 2.2.16. As-built information confirms a 30 – 32mm diameter pipe was installed to the wash hand basin. A 40mm diameter waste pipe is installed to the floor waste (refer to figure 2) but it reduces in size to 30 - 32mm in diameter part way long its length (in the direction of flow of water). This pipe connects onto the discharge pipe from the wash hand basin (refer to figure 2).

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<sup>8</sup> See COA plan A701.

<sup>9</sup> Australian / New Zealand Standard AS/NZS 3500.2.:2021, 'Plumbing and drainage – Part 2: Sanitary plumbing and drainage'. This was current in May 2023 when the work was carried out, albeit the 2018 version is referenced in Acceptable Solution G13/AS1 (second edition, amendment 9) effective from 5 November 2020 to 1 November 2024.



**Figure 2: View in subfloor space below the floor waste and wash hand basin**

- 2.3. On 25 September 2025, the previous owners applied for a COA.
- 2.4. On 20 October 2025, the authority conducted a site inspection, and the LBP conducted their own inspection on 31 October 2025. The LBP identified several items of remedial work were required, including:
- Separate floor overflow from vanity waste...Fit vermin cap and run to edge of deck or cladding
  - Install air admittance [valve] to vanity
- 2.5. Subsequently, in support of the COA application, the previous owners obtained (amongst other documentation) a report dated 29 November 2025 from a building inspection company<sup>10</sup>, some plans of the as-built work<sup>11</sup>, and a Producer Statement – Construction (PS3)<sup>12</sup> for the plumbing from the LBP. The PS3 described the work as “Visual inspection of existing bathroom plumbing only. Plumbing done by others...”.
- 2.6. The report from the building inspection company included the following:
- 2.6.1. The ‘waterproofing’ to the room met the requirements of Clause E3 *Internal moisture* (based on a Producer Statement – Construction (PS3)).<sup>13</sup>

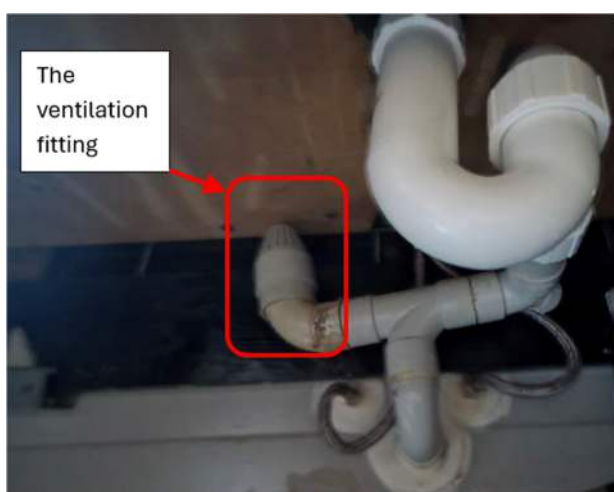
<sup>10</sup> The report was authored by a licensed building practitioner and noted it was based on a ‘visual inspection’ only; it was non-invasive and did not include any ‘concealed work’ (eg the waterproofing membrane).

<sup>11</sup> Dated 24 September 2024, 5 and 6 November 2025.

<sup>12</sup> Dated 3 November 2025.

<sup>13</sup> The PS3 dated 12 November 2025 was signed by the previous owner for the application of a proprietary under-tile liquid applied membrane to the ‘Bathroom floor and shower and vanity wall (3 walls)’. The

- 2.6.2. The 'plumbing' complies with Clauses G12 *Water supplies* and G13 *Foul water* (based on observations and a 'PS3 supplied').<sup>14</sup>
- 2.6.3. It concluded, 'The building work...appears generally compliant where verification is reasonably practicable. The supplied licensed trade documentation (...PS3 forms) provides adequate assurance for concealed work. No critical defects or structural failures were identified'.
- 2.7. Sometime after these inspections, but before the COA was issued, the setting out of the discharge pipe for the wash hand basin was altered and a ventilation fitting installed (refer to figure 3). The ventilation fitting is located after the water trap (in the direction of flow). The COA plans and specifications do not include details of the ventilation fitting that has been installed.



**Figure 3: View of ventilation fitting installed to wash hand basin waste pipe**

- 2.8. On 26 November 2025, the authority conducted a further site inspection. The authority's inspection record includes:
- Bathrooms: floor waste installed as per plan...N/A.
  - Bathrooms: All fixtures trapped / vented...Pass.
  - Bathrooms: Shower enclosure compliant...Pass.
  - Bathrooms inspected and finishes complete / impervious...Pass.
  - Inspection outcome...Pass.

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signatory to the document does not appear on the register of authorized installers of the proprietary product used or on the register of licensed building practitioners.

<sup>14</sup> I have assumed the report was referring to the PS3 from the LBP dated 3 November 2025. However, the PS3 only confirms compliance of the work with Clause G12 *Water supplies*, not clause G13.

- 2.9. On 27 November 2025, the authority issued the COA. It included a qualifying statement relating to what the authority was able to inspect, and included a list of documents that the authority had relied on.
- 2.10. The current owners purchased the property in November 2025 and subsequently raised concerns with the authority about the issue of the COA.

### 3. Submissions

#### The owners

- 3.1. The owners contend the COA should not have been issued, that it was done in reliance on a report prepared by the building inspection company on behalf of the previous owner which has since shown to be inaccurate.
- 3.2. The owners have relied on a report<sup>15</sup> prepared for them by another licenced building practitioner. The report and subsequent correspondence with the Ministry allege (in summary) the following issues of non-compliance:
- The reduction in size of the floor waste pipe in the direction of flow (up to and including where it connects with the smaller diameter wash hand basin discharge pipe) does not avoid the likelihood of blockage.
  - No trap has been installed to the floor waste, so it does not avoid the likelihood of foul air and gases entering the building.
  - A ventilation fitting has been installed to the wash hand basin discharge pipe that does not avoid the likelihood of foul air and gases entering the building.
  - The flange for the floor waste has been installed to the underside of the timber floor sheeting and does not prevent water splash from penetrating behind linings or into concealed spaces.
  - The gaps to one side and bottom edges of the glazed shower screen allows water splash to pass through into the adjoining space, meaning the junction between the screen and wall and floor surfaces are not impervious.
  - A galvanised angle has not been installed to the corner of the shower enclosure construction, behind the wall lining, meaning the wall surface may not be impervious.

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<sup>15</sup> Dated 26 February 2026 but signed on 2 March 2026.

## The authority

- 3.3. The authority submits that it had reasonable grounds to issue the COA at the time it made that decision, but acknowledged that the “COA was issued based on incorrect or incomplete documentation supplied to” the authority.
- 3.4. It also believes there are non-compliant seals and junctions to the shower<sup>16</sup>, contrary to clause E3, and that the open vent to the wash hand basin is not compliant with clause G13.

## The licenced building practitioner

- 3.5. The LBP states their Producer Statement -Construction (PS3) was issued because of an administrative error<sup>17</sup> and non-compliant work, including aspects of the floor waste and wash hand basin venting, was identified by them during a site inspection on 31 October 2025.

## 4. Discussion

### Code compliance

- 4.1. Section 17 provides “All building work must comply with the Building Code to the extent required by this Act, whether or not a building consent is required in respect of that building work”.
- 4.2. I will consider the three issues about the construction in turn:
  - The glazed screen to the shower enclosure and the lack of metal angle at the internal corner.
  - The floor waste and pipe.
  - The ventilation fitting installed to the wash hand basin discharge pipe.

### The glazed screen to the shower enclosure and metal angle

- 4.3. The concern raised by owners relating to gaps at the base and side of the glazed shower screen is that it allows water splash to pass into the adjacent shower room.
- 4.4. The as-built shower enclosure is an alternative solution because it does not fully comply with Acceptable Solution E3/AS1; for example, the floor to the shower area has insufficient fall and does not extend to the minimum radius.<sup>18</sup>

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<sup>16</sup> Which seals and junctions the authority considers do not comply were not identified in its submission.

<sup>17</sup> I have placed no weight on the issue of the PS3 in considering the compliance of the building work.

<sup>18</sup> E3/AS1 at [3.3.2.3] prescribes a fall of 1:50.

- 4.5. Although a floor waste is installed next to the wash hand basin (in addition to the floor waste in the shower enclosure), because the floor surface in the room is level, any water splash passing beyond the shower enclosure is unlikely to track to the floor waste or back toward the shower floor waste gully.
- 4.6. However, the floor and wall surfaces within and adjacent to the shower enclosure are finished with ceramic tiles and a liquid-applied waterproof membrane. Acceptable Solution E3/AS1<sup>19</sup> provides an option to use ceramic tiles (meeting certain criteria) for shower floor and wall linings in combination with a 'membrane'.
- 4.7. The floor and wall surfaces are impervious and easily cleaned, and therefore compliant with clauses E3.3.3 and E3.3.4.
- 4.8. Some water splash may reach nearby building elements, such as the window surround. Because of the location of the shower head and the size of the gap, the amount of splash will be minimal. I consider normal monitoring and maintenance will be sufficient to maintain durability of the window surround.
- 4.9. The location of the shower head is such that water splash is unlikely to be wholly contained within the shower enclosure due to the nearby 'open' entry point. A greater volume of water splash is more likely to extend beyond the open side of the shower enclosure where there is no glazed screen, door, curtain or the like.
- 4.10. Although not detailed on the COA plans, a raised strip has been installed that will prevent water splash from the entry of the shower tracking into the corridor space outside the shower room.
- 4.11. While water splash beyond the enclosure is likely, the materials and construction used adequately manages this moisture and compliance with clauses E3.3.3 and E3.3.4 is satisfied.
- 4.12. However, the absence of the metal angle to the internal corner of the shower is likely to affect the watertightness integrity of the internal corner. In this regard, I consider the shower as constructed does not comply with the durability requirements of clause B2.3.1(b) as that clause relates to clause E3.3.4.

### **The floor waste and pipe**

- 4.13. There are three items to consider in relation to the floor waste adjacent to the wash hand basin:
  - 4.13.1. The reduction in pipe size from the floor waste in the direction of water flow.
  - 4.13.2. The absence of a trap.

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<sup>19</sup> Acceptable Solution E3/AS1 (second edition, amendment 7), effective on 5 November 2020, at [3.3.1.1 c) and ii)] and [3.3.1.2 c)].

#### 4.13.3. The fixing of the floor waste.

- 4.14. It appears the floor waste has been provided for purpose of receiving water from accidental overflow, presumably from the shower and/or wash hand basin (COA plan A222 refers to it as 'overflow drain'), and/or from cleaning the shower room. It does not receive wastewater directly from the sanitary fixtures. Therefore, it is only likely to receive water on an infrequent basis and not in significant quantities.
- 4.15. The reduction in pipe size from the floor waste to the discharge pipe does not comply with either the specified standard AS/NZS 3500.2 or with Acceptable Solution G13/AS1. Both provide for untrapped floor drains, but have minimum diameter requirements of 40mm, either for the floor waste (G13/AS1 paragraph 3.4.2) or the discharge pipe it connects to (AS/NZS 3500.2 paragraph 13.26.3). Neither provide for a reduction in pipe size along the direction of flow.
- 4.16. There is no Acceptable Solution, Verification Method, or referenced standard that permits a larger diameter floor waste pipe to connect into a smaller diameter pipe in the direction of water flow. As a result, the installation must be assessed as an alternative solution.
- 4.17. Reducing the diameter of a waste pipe in the direction of flow can have several effects, including (but not limited to) lowering flow capacity by restricting the cross-sectional area, increasing frictional resistance, turbulence, and pressure loss. Larger waste pipes connecting onto smaller waste pipes also increase susceptibility of debris accumulation in the pipe, progressively narrowing the flow path and increasing the risk of bottlenecks and blockages. In summary, the reduced diameter of waste pipe in the direction of flow does not avoid the likelihood of blockages over the intended life of the building, meaning compliance with clause G13.3.1(b) has not been satisfied.
- 4.18. Turning now to the installation of the floor waste. The report prepared by the licenced building practitioner for the current owners<sup>20</sup> provided a weblink to a proprietary floor waste. The manufacturer's installation instructions require the flange for the floor waste be on the upper surface of the floor construction, not on the underside, and the waterproof membrane is to be placed 'onto the flange covering the wet area'.<sup>21</sup>
- 4.19. The floor waste was installed after the liquid applied waterproof membrane and floor tiles were laid, and it is fixed to the underside of the existing timber floor sheeting. It is not clear how thick the sheeting is or if it has previously been treated with a timber preservative. Nor is there information about how (or if) the hole in the timber floor sheeting has been sealed. Based on construction sequencing, it is

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<sup>20</sup> Dated 26 February 2026 but signed on 2 March 2026.

<sup>21</sup> See also 'Floor wastes, traps and vents', BRANZ *Build Magazine* 16 (1 December 2017). Figures 6 and 7 show the flanges on the upper surface with the waterproof membrane overlapping with the flanges and the tiled surface finish above <https://www.buildmagazine.org.nz/articles/show/floor-wastes-traps-and-vents>

highly unlikely that the liquid applied waterproof membrane overlaps with the flange to protect the timber floor sheeting from moisture ingress.

- 4.20. Due to the as-built junction between the waterproof membrane, the existing floor sheeting, and the flange of the floor waste, the shower room floor is unlikely to be impervious at this location (contrary to clause E3.3.3). This creates a risk of moisture penetration and reduced durability of building elements such as the timber floor sheeting, and compliance with clause B2.3.1(b) as it relates to clause E3.3.6 has not been demonstrated.
- 4.21. In addition, the floor waste (which does not discharge to open air) lacks a water trap, which does not avoid the likelihood of foul air and gases entering the building from the plumbing system (contrary to the requirements of clause G13.3.1(c)).
- 4.22. In conclusion, the as-built floor waste does not comply with the stated means of compliance (AS/NZS 3500.2) and fails to meet the requirements of clause G13.3.1, E3.3.3 and B2.3.1 (in relation to E3.3.6).

### **The ventilation fitting to the wash hand basin discharge pipe**

- 4.23. The issue relates to a ventilation fitting installed to the wash hand basin discharge pipe. The ventilation fitting, with open slots around its circumference, appears to be a vent cowl (usually installed to a vent pipe external to a building). Based on the photographs provided by the parties, it has no features that suggest it has a valve of any description to avoid foul air and gases from entering the building (like an air admittance valve).
- 4.24. As it presents, the ventilation fitting below the wash hand basin does not avoid the likelihood of foul air and gases from the plumbing system from entering the building (ie in the shower room), meaning the as-built work does not comply clause G13.3.1(c).

### **The authority's decision to issue the COA**

- 4.25. Section 96(1)(a) and (2) provides that an authority may issue a certificate of acceptance for building work where a building consent was required but was not obtained, "only if it is satisfied, to the best of its knowledge and belief and on reasonable grounds, that, insofar as it could ascertain, the building work complies with the building code".
- 4.26. Previous determinations<sup>22</sup> have outlined considerations for issuing a certificate of acceptance.

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<sup>22</sup> See, for example, Determination 2025/061 *The refusal to issue a code compliance certificate and to issue a certificate of acceptance in relation to the construction of a lean-to* (10 December 2025) at [4.16] and [4.17], and Determination 2024/006 *The refusal to issue a certificate of acceptance for building work associated with a dwelling* (27 February 2024) at [4.1]-[4.6].

4.27. The COA plans do not accurately reflect the as-built plumbing installation. For example, pipe sizes shown on the plans differ from what has been installed on site, and key details—such as the size and construction of the floor waste—are missing or unclear.

4.28. I have also concluded that some of the building work does not comply with clauses E3 and G13, including the construction of the floor waste and waste pipe and the ventilation fitting attached to the wash hand basin discharge pipe. Therefore, the requirements of section 96(2) were not met when the authority issued the COA, and for that reason I am reversing the authority's decision to issue the COA.

## 5. Conclusion

5.1. In conclusion:

- The construction of the glazed screen to the shower enclosure complies with clause E3.
- The absence of the metal angle to the internal corner of the shower enclosure does not comply with the durability requirements of clause B2.3.1(b) as it relates to clause E3.3.4.
- The construction of the floor waste adjacent to the wash hand basin and associated waste pipe does not comply with clauses E3 and G13, and B2.3.1 in relation to the timber floor sheeting.
- The ventilation fitting installed to the wash hand basin discharge pipe does not comply with clause G13.
- The requirements of section 96(2) were not met when the authority issued the COA.

## 6. Decision

6.1. In accordance with section 188 of the Building Act 2004, I reverse the issue of the certificate of acceptance COA04522498.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 14 May 2026.

**Peta Hird**  
**Lead Determinations Specialist**