

Determination 2026/025

**An authority's decision to issue a code compliance
certificate for a detached dwelling and detached shed**

25B Access Road, Kerikeri

Summary

This determination arises from the authority's identification that a code compliance certificate had been issued in error because a portion of the building work detailed in the building consent had not been constructed at the time the certificate was issued.

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 Regulations”).

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. Far North District Council, the building consent authority and the applicant for this determination (“the authority”),
 - 1.2.2. D H Saville-Wood, the owner of the property (“the owner”).²
- 1.3. This determination arises from the authority identifying that a code compliance certificate had been issued in error because the detached dwelling included in the building consent had not been constructed at the time the certificate was issued.
- 1.4. The matter to be determined, under section 177(1)(b) and (2)(d), is the authority’s decision to issue the code compliance certificate for building consent ECB-2022-752/0.
- 1.5. I have not considered whether the building work that was completed complies with the Building Code.
- 1.6. The building work was described on the issued building consent form³, dated 31 March 2022, as *“Detached Dwelling with Attached Carport and Garage Install a [wood burner] and On-Site Wastewater Disposal System, Detached Shed with Studio and Bathroom [sic].”*
- 1.7. The approved building consent plans show the dwelling as single level in a cross shape, with 3 bedrooms, 2 bathrooms, open plan living, dining and kitchen, and carport with attached single car garage. The detached shed is shown to be majority garage/workshop with two roller vehicle doors, with an attached sleepout/studio, bathroom and office/storage space.

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

² The owner did not make a submission to this determination.

³ Building (Forms) Regulations 2004, Form 5.

- 1.8. As described in the authority's submission, construction of the detached shed commenced in April 2022 with the final inspection for this carried out and passed on 28 May 2024. The authority subsequently issued the code compliance certificate on 23 July 2024.
- 1.9. In May 2026, an agent of the owner contacted the authority "advising that the owner wanted to start building works on the dwelling" and the authority identified that the code compliance certificate had earlier been issued in error because not all of the work in the building consent had been constructed.

2. Discussion

- 2.1. Section 94 concerns the issuing of a code compliance certificate:

94 Matters for consideration by building consent authority in deciding issue of code compliance certificate

- (1) A building consent authority must issue a code compliance certificate if it is satisfied, on reasonable grounds,
 - (a) That the building work complies with the building consent...
- 2.2. The building work does not comply with the building consent because the dwelling has not been built.
- 2.3. As the error in the certificate relates to the scope of the building work to which the certificate relates and some of this work has not been carried out, I do not consider it appropriate for this to be rectified under section 46 of the Legislation Act 2019.⁴
- 2.4. Section 188(1) provides for the exercise of a power of decision to be confirmed, reversed or modified by a determination. In its submission, the authority has requested that the code compliance certificate is either reversed or modified "...by removing reference to the main dwelling, so that the code compliance certificate only applies to the completed detached shed".
- 2.5. I do not consider it an available option to modify the code compliance certificate in this manner, because the building work for the dwelling will still be detailed in the issued building consent and the requirement of section 94 is that the building work must comply with the building consent.
- 2.6. I consider the appropriate remedy is to reverse the authority's decision to issue the code compliance certificate.
- 2.7. The owner has advised they have since been issued with a new building consent for the dwelling. Reversing the code compliance certificate will allow the owner to amend the 2022 building consent to remove the detached dwelling from that

⁴ Section 46 Power to do things may be exercised to correct errors. (1) The power to do anything may be exercised to correct an error or omission in a previous exercise of the power. (2) Subsection (1) applies even though the power is not generally capable of being exercised more than once.

consent and a code compliance certificate can then be issued for the detached shed.

3. Decision

- 3.1. In accordance with section 188 of the Building Act 2004, I determine that the decision of the authority to issue the code compliance certificate under section 95 for building consent ECB-2022-752/0 is reversed.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 3 August 2026.

Peta Hird

Lead Determinations Specialist