

Determination 2026/039

An authority's purported decision to refuse to grant a building consent in respect of a bamboo cladding system and the accompanying appraisal

28 McLintock Street, Johnsonville, Wellington

Summary

This determination considers an authority's purported decision to refuse to grant a building consent for alterations to an existing dwelling, including a partial reclad with a bamboo cladding system. The reasons for the purported refusal come from the authority's request for further information and subsequent correspondence and relate to a BEAL appraisal certificate provided in respect of the bamboo cladding system.

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, Andrew Eames, Principal Advisor Determination, 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. B J and M H Loft, owners of the property (“the owners”)
 - 1.2.2. G Davis, licensed building practitioner concerned with the design of the relevant building work (“the designer”)
 - 1.2.3. Wellington City Council, carrying out its duties as a territorial and building consent authority (“the authority”).
- 1.3. This determination arises from the authority’s purported decision to refuse to grant a building consent for alterations to the owners’ dwelling, including a partial exterior reclad with a bamboo cladding system. The authority considered that in respect of the proposed bamboo cladding system, which was an alternative solution² accompanied by a building product appraisal certificate, the application did not contain sufficient supporting evidence for it to be satisfied on reasonable grounds of compliance with the Building Code.
- 1.4. Therefore, the matter to be determined, in terms of section 177(1)(b) and (2)(a), is the authority’s purported refusal to grant building consent SR569273 in relation to the compliance of a bamboo cladding system supported by an appraisal certificate.
- 1.5. In this determination, I will consider the reasons for the purported refusal given in the request for further information on 17 March 2026 and subsequent emails from the authority between 25 March and 20 May 2026.
- 1.6. This determination does not consider the compliance of the bamboo cladding system with the Building Code, the adequacy of the appraisal certificate issued with respect to the cladding, or the processes undertaken to issue the certificate.

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

² Refer to paragraphs 4.6-4.7 regarding alternative solutions.

2. The building work and background

- 2.1. On 3 March 2026, the owners made an application for building consent SR569273 for alterations to their dwelling, including the partial reclad with a horizontal bamboo weatherboard cladding system over a cavity with the existing brick veneer to remain.
- 2.2. The system comprises 18mm thick bamboo tongue and groove weatherboards installed horizontally over 20mm cavity battens, with matching fascia boards. The system is installed over a 10mm rigid air barrier covered by a flexible wall underlay to protect the existing timber framing and insulation within the wall cavity.
- 2.3. The building consent application was accompanied by the appraisal certificate for the bamboo cladding system. The appraisal certificate has been issued by product and system certification company BEAL, dated as “updated June 2023”, and a stated expiry date of 30 June 2026.
- 2.4. The appraisal certificate stated that, “...when designed, installed and maintained in accordance with the statements and conditions of this Product Technical Statement...” the system will comply with clauses B1.3.3(a) and (h) for structure in relation to self-weight and wind forces, B2.3.1(b) for 15 year durability, E2.3.2 for external moisture resistance, and F2.3.1 for non-hazardous materials, as an alternative solution to compliance.
- 2.5. On 17 March, the authority sent a request for further information to the designer³, titled “E2 External Moisture – Alternative Solution Documentation Required” requesting:

E2 – External Moisture – [The authority] does not accept BEAL Appraisals as a method of compliance for the [Building Code] as an alternative solution. The technical information such as testing, reports and expert opinions relied upon and referenced in the BEAL report needs to be provided for review and inclusion in the consent documentation to show compliance as an alternative solution. Please provide all referenced information to support the BEAL Appraisal for the proposed alternative solution.
- 2.6. In response, the designer supplied the supporting evidence for the appraisal certificate of the systems technical manual, the BEAL façade weathertightness test report, and the material durability testing reports.
- 2.7. Having reviewed the documentation, the authority wrote to the product supplier on 25 March 2026 stating “the issues we have with this is that [the authority] does not accept BEAL appraisals or BEAL testing. The system relies upon these for demonstrating compliance” and asked if there was any further supporting evidence that could be “...provided to demonstrate compliance.”

³ The designer was acting as the owners’ agent in respect of the building consent application.

- 2.8. Further correspondence occurred in the months leading up to 30 June 2026, with the emails of 9 April, 30 April, 14 May and 20 May 2026 containing the following reasons for the purported refusal.⁴
- 2.8.1. On 9 April, “We are not refusing to accept the product, we are only asking for the justification of its compliance claims...”, with “...credible documentation...” being required. “A BEAL appraisal is not a substitute for credible evidence of compliance...”, and the certificate “...will not be considered a means of compliance without the supporting evidence being provided that the appraisal is based on”.
- 2.8.2. On 30 April, “This [decision] does not in any way mean we have established that the product does not or will not comply, only that the testing methodology used is not itself evidence enough for us to establish reasonable grounds without a credible and recognised entity endorsing it”.
- 2.8.3. On 14 May, “The key issue is that BEAL is not an accredited facility so any additional information from them is very unlikely to establish reasonable grounds.” It stated that it considered testing needed to be done by an accredited facility and by a suitably qualified person.
- 2.8.4. On 20 May, the authority stated that the information provided to date “...does not meet the threshold of establishing reasonable grounds to accept the testing information...”.
- 2.9. During this time, the owners, via the designer, BEAL and the product supplier, responded to the authority with the following points.
- 2.9.1. On 15 April, the product supplier acknowledged “...that the BEAL appraisal is not being relied upon as a standalone means of compliance. Instead, it is provided as a consolidated summary of the independent expert assessment, *supported by the underlying technical evidence now submitted*” [their emphasis]. They considered the certificate formed “...a valid and appropriate component of the overall evidence package for an Alternative Solution assessment.” They stated that compliance with performance criteria E2.3.2 was demonstrated through the façade weathertightness testing by BEAL, discussing the scope of the testing in comparison with the owners site conditions and the system design features such as the drained cavity. A similar discussion in relation to performance criteria B2.3.1 was also made.

⁴ I note that the correspondence between the parties dated between 21 May and 30 June 2026 does not make up the reasons for the purported refusal so therefore I have not considered these items of correspondence.

- 2.9.2. On 20 April, it was confirmed that the system does not have 15 years of service within New Zealand, in terms of durability, however, its international in-service history, “particularly in Europe” is supported by “...independent durability testing, a durability Class 1 rating (25+ years above ground) [and] a 25-year manufacturer warranty.”
- 2.9.3. On 4 May, a summary from BEAL was provided outlining “...the rationale behind [the] weathertightness testing approach” and noting “...[the authority’s] response [of 30 April] does not appear to directly address the rationale provided by BEAL or the basis on which BEAL considers its methodology appropriate.”
- 2.9.4. On 19 May, BEAL provided a statement to the authority regarding the weathertightness testing it carried out. This covered the qualifications of those within and contracted by BEAL, the calibration of the measuring device used, the in-house test procedure used, the “real world evidence”, and previous Determination 2013/034 where there was the presumption that the determination considered the testing methodology in this case.⁵
- 2.10. As the parties could not reach a resolution, the owners applied for this determination on 30 July 2026.

3. Submissions

The owners

- 3.1. The owners consider the dispute that has given rise to this determination “...concerns the evidential threshold required to establish ‘reasonable grounds’ under section 49 of [the Act]”, as the authority has purported to refuse the building consent by “...reject[ing] various forms of technical evidence...”.
- 3.2. In support of their application, the owners provided the correspondence between the authority, the designer, the product supplier, and BEAL during processing of the building consent, as discussed above.

The authority

- 3.3. The authority considers that it has not been provided with evidence to have reasonable grounds to grant the building consent but believes the cladding system “...could still be justified to the point of reasonable grounds of being compliant...” and submitted in summary:

⁵ Determination 2013/034 *Refusal to grant building consent for a house constructed with proprietary structural insulated panels faced with magnesium oxide board* (21 June 2013)

- 3.3.1. In referencing its email dated 30 April 2026, the authority considers, following the assessment of the technical documentation provided, that its decision was that the documentation did not meet its requirements and stated that “[The decision] does not in any way mean we have established that the [cladding system] does not or will not comply, only that the testing methodology used is not by itself evidence enough for us to establish reasonable grounds without a credible and recognised entity endorsing it.”
- 3.3.2. It “...believes the first RFI was correct in its nature in that it was clear what was being asked, and the response...was likewise correct as the test results and supporting information that was available was provided.”
- 3.3.3. In reviewing the wording of the request sent on 24 March 2025, it “...accepts that the term *“please provide further information to demonstrate compliance with the [Building Code]”* could have been more specific, however [the authority] feels the extensive email chains...clearly show how [the authority] was actively trying to help...establish a compliance pathway.”

The designer

- 3.4. The designer did not make a submission.

4. Discussion

- 4.1. The matter to be determined is the authority’s purported decision to refuse to grant the building consent for the owners’ dwelling in relation to the compliance of a bamboo cladding system accompanied by an appraisal certificate as an alternative solution.

Legislation

- 4.2. The provisions in the Act relating to building consents can be found in sections 40 to 52. Section 49 concerns granting a building consent and states:
 - (1) A building consent authority must grant a building consent if it is satisfied on reasonable grounds that the provisions of the building code would be met if the building work were properly completed in accordance with the plans and specifications that accompanied the application.
- 4.3. I note that under section 49 an authority is only required to be satisfied on reasonable grounds that the proposed building work will comply, not beyond all reasonable doubt.

- 4.4. Sections 45 and 48 relate to applying for and processing an application for a building consent, respectively, and establish the expected level of documentation to be provided with an application. Section 48(2) allows an authority to require “further reasonable information” while a consent application is being processed to enable it to be satisfied that the consent will adequately demonstrate compliance with the Building Code.
- 4.5. Where there is inadequate documentation for an authority to be satisfied that Building Code compliance will be achieved, it is entitled to refuse to grant the building consent with reasons. Section 50 states that an authority must give an applicant written notice of both the refusal and the reasons for the refusal.
- 4.6. Establishing compliance with the Building Code is set out in section 19, and states that an authority must accept building work’s conformance with certain solutions, being considered as ‘deemed to comply’ solutions, such as acceptable solutions, verification methods, and current registered product certificates (known as CodeMark certificates⁶).
- 4.7. However, these are not the only ways that compliance can be established. Building work can also be shown to comply with the Building Code by way of an alternative solution, which provides evidence about the performance of a particular design or product. This evidence can include appraisals or assessments of products.
- 4.8. In the current case, the proposed bamboo cladding system aims to achieve compliance with the Building Code as an alternative solution. The appraisal certificate issued by BEAL makes up part of the evidence provided to establish compliance, as does the cladding manufacturer’s technical information and the testing reports.
- 4.9. Appraisals are technical opinions of a building product or system’s fitness for purpose. They involve testing, assessment, and verification of Building Code compliance, and are generally done by an independent appraisal organisation (not the product’s manufacturer or distributor). An appraisal will look at specific installation systems or processes and will recognise any limitations on a product’s intended scope of use.
- 4.10. It is important to note that this appraisal has no specific legal standing under the Act. This differentiates appraisals like this from CodeMark certificates, which as discussed in paragraph 4.6 are covered under section 19, and are registered by the Ministry. Appraisals can, however, form part of the evidence establishing compliance of a particular product or system.

⁶ CodeMark is a voluntary product certification scheme, administered by the Ministry, which provides an easily understood way to show a building product or building method meets the requirements of the Building Code. A CodeMark certificate must be accepted by building consent authorities as demonstrating compliance with the Building Code, provided the certificate is current and the product or method is used in accordance with details noted on the certificate.

The authority's reasons

- 4.11. In the correspondence that forms the purported refusal, the authority's overarching reason given is that it does not accept BEAL documentation as it is not an "accredited facility", and the owners and designer have provided no other supporting evidence such as testing by a different facility.⁷ Other than the initial RFI sent on 17 March 2026 being under the heading of "E2 External Moisture", no correspondence refers to specific Building Code clauses, performance criteria or aspects of how the cladding system is to be constructed that the authority has concerns with.
- 4.12. As discussed above, under section 49, an authority must consider when making a decision to grant a building consent whether, when the building work is carried out in accordance with the plans and specifications, it will comply with the Building Code. An appraisal is one form of evidence to demonstrate this. It can provide a technical opinion as to how a particular product or system complies in New Zealand environments, supported by testing, assessment, and verification.
- 4.13. Where an authority has concerns that evidence presented does not sufficiently demonstrate compliance with a particular Building Code clause, and the applicant is not able to provide information to satisfy the authority's requests for further information, the authority is entitled to refuse to grant the building consent, in writing, with reasons.
- 4.14. While an authority can consider whether the person or organisation providing an appraisal has a relevant background, qualifications, processes and quality assurance systems in place to be able to make the appraisal, the decision should not be based solely on the identity or perceived credibility of the individual or organisation. Such decisions require a thorough and objective evaluation and weighting of the underlying evidence and should clearly identify the specific perceived deficiencies in the evidence.
- 4.15. In this case, the authority stated in its correspondence that BEAL was not an "accredited facility". While assessment of the person or company providing the testing and certificate can be considered and impact the weighting given to that evidence, it is not a requirement of the Act for these appraisal certificates to be issued by a product certification body undertaking its accredited and registered certification functions, unlike, for example, the process for CodeMark certificates.
- 4.16. As discussed in previous determinations⁸, an authority's reasons for refusal under section 50 should clearly state why it does not believe particular building work will

⁷ Refer to paragraphs 2.5 and 2.7 - 2.8 for the outline on the reasons given by the authority.

⁸ For example, Determination 2021/027 'Regarding the authority's refusal to grant building consents for the construction of new residential dwellings' (16 December 2021) at paragraph 5.7, and Determination 2023/007 'Regarding the authority's decision to refuse to grant a building consent for alterations to an existing building' (28 March 2023) at paragraph 5.11.

comply with the performance requirements of the Building Code, so the applicant understands and can rectify the issue if they wish.

- 4.17. I consider the authority, in its correspondence that makes up the purported refusal, has not sufficiently explained its concerns in terms of compliance with performance requirements of the Building Code for the installation of the cladding system. I acknowledge the authority's initial RFI of 17 March 2026 did have a broad mention of clause E2, however, it did not go on to explain the concerns in relation to the specific performance requirements they considered were not being met.

5. Decision

- 5.1. In accordance with section 188 of the Building Act 2004, I determine the authority provided insufficient reasons in relation to Building Code compliance to purportedly refuse to grant building consent SR569273 in respect of the bamboo cladding system.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 15 October 2026.

Andrew Eames

Principal Advisor Determinations