Department of Building and Housing
Te Tari Kaupapa Whare

Determination 2010/053

The issue of a notice to fix for a house with a code compliance certificate at 24 Heretaunga Crescent, Cable Bay, Mangonui

1. The matters to be determined

1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004[1] ("the Act") made under due authorisation by me, John Gardiner, Manager Determinations, Department of Building and Housing ("the Department"), for and on behalf of the Chief Executive of that Department.

1.2 The parties are:

- M Ward, the owner of the house ("the applicant")
- the Far North District Council, carrying out its duties as a territorial authority and building consent authority ("the authority").

[1] The Building Act, Building Code, Compliance documents, past determinations and guidance documents issued by the Department are all available at www.dbh.govt.nz or by contacting the Department on 0800 242 243.

1.3 This determination arises from the decision of the authority to issue a notice to fix for a house that had been issued with a code compliance certificate in 2004. The notice to fix was issued because the authority believed that the condition of a cantilevered timber deck and deck barrier constituted a safety risk, and that the house was not weathertight. Therefore, the matter to be determined[2] is whether the authority's decision to issue the notice to fix was correct.

1.4 In deciding this matter, I must consider:

- whether the issue of the notice to fix was the appropriate statutory mechanism to be applied if the building was dangerous or insanitary
- whether the notice to fix should have been issued in respect of work for which a code compliance certificate has been issued by the authority
- whether the building was dangerous or insanitary under section 124 of the Act[3].

1.5 Matters outside this determination

1.5.1 Section 177 of the Building Act sets out the scope of the Department's authority to make determinations on matters related to the Building Act and the Building Code.

1.5.2 For reasons I will discuss later, the determination makes no decision on the change of use of the building (from a single residential dwelling to three interconnected units) and the need for a certificate of acceptance in respect of any work associated with that change of use. However, the determination does included background on this matter and makes observations as noted in paragraph 7.

1.5.3 The Act gives me no jurisdiction to consider:

- planning matters related to implementation of the Resource Management Act
- various other matters in dispute between the parties, which are not covered by provisions of the Act.

1.5.4 While the determination is limited to the matters outlined in paragraph 1.5, the weathertightness of the building has also been assessed and observations in respect of this aspect of the building are made in paragraph 5.

1.6 In making my decision, I have considered the submissions of the parties, the report of the expert commissioned by the Department to advise on this dispute ("the expert"), and the other evidence in this matter.

[2] In terms of Sections 177(b)(iii) and 177(b)(vi) of the Act
[3] In this determination, unless otherwise stated, references to sections are to sections of the Act and references to clauses are to clauses of the Building Code

2. The building work

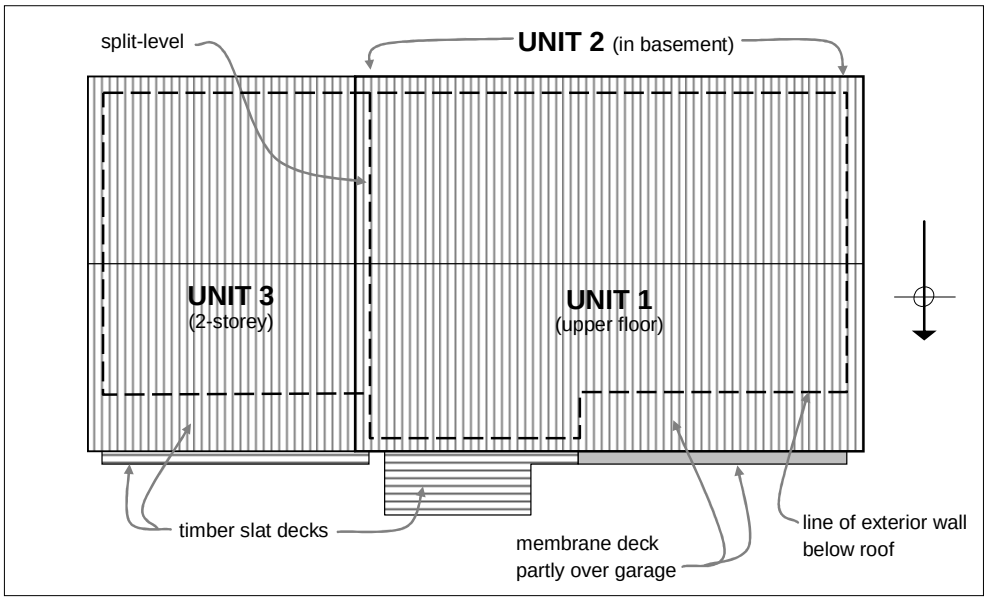
2.1 The building work consists of a two-storey house on a northeast sloping site, which is exposed to coastal winds and is in a high to very high wind zone for the purposes of NZS 3604[4]. Construction is generally conventional light timber frame with reinforced concrete slabs, foundations and retaining walls, aluminium windows, monolithic wall cladding and corrugated bitumen-impregnated fibre roofing.

2.2 The building is split-level to suit the contours of the site. The 12° pitch gabled roofs over each level have verges of about 300mm and eaves of about 420mm overall, except on the north elevation where walls are recessed at some of the deck areas.

2.3 The areas of decking are north facing and associated with Unit 1 and Unit 3. The elevation with the decks is assessed as having a high weathertightness risk rating.

2.4 The building, as shown in the consented plans, contains several living spaces, bedrooms, sanitary facilities, and stairs connecting the two levels. I note that some pages of the consented plans contain features that do not appear on other pages for the same area. I therefore question the sufficiency of the original plans submitted for building consent.

2.5 During construction, the house was subdivided ("the subdivision") into three inter-connected dwelling units as shown below:



2.6 The walls are clad in a monolithic cladding system described as solid plaster ("stucco") consisting of steel mesh reinforced cement plaster fixed through the building wrap directly to the framing timbers, and finished with a paint system.

2.7 Based on the evidence below (refer to paragraph 2.8.3) and the date of construction from 1999 to 2002, I consider that the wall and floor framing (including the deck framing) is unlikely to be treated.

[4] New Zealand Standard NZS 3604:1999 Timber Framed Buildings.

2.8 The decks

2.8.1 Cantilevered timber decks, with open balustrades, extend along the upper floors on the north elevation of Unit 1 and Unit 3. The northern walls of Unit 3 are recessed by about 1.8 metres, with a 2 metre free-draining cantilevered deck.

2.8.2 The western end of the north wall of Unit 1 is recessed by about 1.8 metres; the other end is in line with the ground floor wall below. At the recess, the deck has a membrane floor that is partly situated above the garage. The deck at the projecting wall has a free-draining timber slat floor, with a 4.2 metre wide by 1.6 metre deep extension to the north.

2.8.3 The applicant has stated that he treated the deck joists with site-applied timber preservative. The expert forwarded three samples of timber taken from the deck joists and blocking to a testing laboratory for analysis, but the bio deterioration consultant's analysis found no evidence of treatment.

3. Background

3.1 The authority issued a building consent (No. 99048) on 28 October 1998, under the Building Act 1991 ("the former Act"). The consent describes the building work as a 'new dwelling & garages' intended for use by 'single family'. Early in 1999 the authority approved an amendment to the consented plans for minor layout changes, with the amended floor plan still showing a single dwelling.

3.2 On 30 October 1999, the applicant submitted an application to the authority's planning division for a resource consent to 'triplex' the dwelling. The application form describes the proposed activity as:

> To divide the dwelling into a three bedroom unit at level 3, and into two each two bedroom units at level two, see attached plans.

3.3 Construction of the house took place over about five years; from early 1999 until a final inspection in late 2003. The authority re-inspected the building work on 21 September 2004, and a code compliance certificate was issued on 22 September 2004, which still described the work as 'new dwelling & garages'.

3.4 However, the building was completed as three inter-connected units that included separate kitchens, bathrooms and fire-rated wall linings between the units. These, and other alterations, were made during construction without any formal amendments being made to the building consent.

3.5 In general, in my view, the matters of non compliance are confined to the building work prescribed in the building consent and do not derive from the owner's building work relating to the intended change of use.

3.6 The applicant approached the authority early in 2007 about the lack of progress of his 1999 resource consent application to subdivide the property. Following further correspondence and meetings, the authority granted conditional resource consent on 27 June 2008, which included the following conditions

> The Council holds no record of consents being issued for the conversion of the single dwelling (on BC-1999-428/0) to three units. The Building Department advises that (at a minimum) consents for a change of use … should have been applied for.

3.7 In a letter to the applicant dated 15 January 2009 the authority included the following (in summary):

- A building consent is required to be submitted to cover a change of use.
- As 'some, if not all of the building work for the change of use has been completed without a building consent' a certificate of acceptance can be applied for.
- The certificate of acceptance is independent of the resource consent requirements.
- Once all the plans and specifications have been approved and the authority has inspected the building work, a certificate of acceptance will be able to be issued.

3.8 On 15 April 2009 the owner applied for a certificate of acceptance and the authority carried out a site inspection on 1 May 2009. The authority's 'site inspection sheet' included the following notes:

- Building found to have water ingress and structural issues.
- The original building does not comply with the Building Code – E2 & B1 & B2.
- Building unsafe & unsanitary.

3.9 The notice to fix

3.9.1 The authority wrote to the applicant on 12 May 2009, attaching a notice to fix and stating that:

> … Council has revealed major concerns with the existing building that is failing to meet minimum weather tightness and structural requirements of the New Zealand Building Code.

3.9.2 The authority stated that the application for a certificate of acceptance was 'suspended' until requirements in the attached notice to fix were addressed. The authority also required the deck to Unit 1 to be 'cordoned off' because the authority considered it to be unsafe.

3.9.3 The notice to fix stated that the building did not comply with 'Clause B1 (structure), B2 (durability) and E2 (weathertightness)' of the Building Code and noted:

1. [The applicant must] submit to [the authority] a Building report completed from a registered weathertightness expert.
2. Once the report and its conclusions are received, a decision will be made by [the authority] on a further course of action i.e. Building Consents for remedial work etc.
3. Unit one deck is to be cordoned off with a barrier to restrict use and access. This is due to rotten structural deck and barrier timbers which are found to be untreated.

3.10 The response to the notice to fix

3.10.1 The applicant requested an inspection by the authority. An inspector visited the property on 28 May 2009 and found that the applicant was undertaking repair work. The authority wrote to the applicant on 2 June 2009, repeating the code compliance concerns raised in the notice to fix and stating that:

> ...no remedial work is to be carried out until such time as a building report from a registered weather tightness expert is received and the extent of failure is identified, as a building consent may be required to address remedial work identified in the report.

3.10.2 In a letter to the authority dated 6 June 2009, the applicant stated that the repairs were not intended to be a 'final fix' but were intended to prevent further leaking and to remove and replace decayed timber. The applicant considered that water from a defective ranch-slider may have been trapped in the adjacent wall, soaking the plates and unpainted deck joists. The applicant requested a further re-inspection 'to determine whether the deck continues to constitute the hazard as imputed by [the authority]'.

3.11 The Department received an application for a determination on 21 July 2009.

4. The submissions

4.1 In addition to the issue of the notice to fix, in particular the conditions imposed on the deck to Unit 1, the applicant also questioned the authority's 'restrictions, deadlines, procedures, and decisions'.

4.2 The applicant forwarded copies of:

- the original consent plans and specification
- correspondence with the authority
- the notice to fix dated 12 May 2009
- various other correspondence, statements and information.

4.3 The authority made a submission dated 6 August 2009. The authority submitted that illegal building work to subdivide the house had been carried out after the code compliance certificate was issued in September 2004, and which had led to the authority requesting an application for a certificate of acceptance for that work. The authority confirmed its position as stated in the notice to fix, noting that it:

> ...believes that the residential building has a systemic failure and is not just associated with leaking door sliders as described by the owner...

4.4 The authority forwarded copies of:

- letters to the applicant dated 12 May and 2 June 2009
- annotated photographs taken during the inspection on 1 May 2009.

4.5 In a letter to the authority dated 24 August 2009 the applicant responded to the authority's letters. The applicant stated that the kitchens had been installed and used before 2003 (providing evidence of this in the form of letters and invoices).

4.6 The first draft determination was issued to the parties for comment on 16 October 2009. Further information was subsequently sought by the Department on 26 November 2009. The second draft determination was issued to the parties for comment on 23 December 2009 and a third draft on 29 April 2010.

4.7 The responses from the parties

4.7.1 The responses to the first and second draft determinations and to the request for further information included some additional documentation, statements and invoices that clarified the background to the dispute. The parties also included various points relevant to the matters in this determination; and I have considered these in determining the matter.

4.7.2 The authority included the following points (in summary):

- The only information available is from the property file or from 'personal recollection from the building inspector who completed the final inspection'. There are no records affirming that the 'single residential dwelling had been subdivided' or that it '…was approved or inspected as three inter-connected units.'
- If additional kitchens, fire separations and subdivision were carried out without the authority's approval or knowledge, then a certificate of acceptance is appropriate.
- The notice to fix did not fully address the defects as they were not all known at that time, and a weathertightness expert's report was therefore required. A further notice to fix will be issued, and this will include the requirement to fix the defects to the deck.
- The authority accepts that the original consent should be amended to reflect the change of use and the current use, of the building. Clarification is needed as to whether the application for the certificate of acceptance should be withdrawn, and a new application submitted once the consent has been amended.

4.7.3 In response to the expert's report, the draft determinations and the request for information, the applicant supplied the following information and comments (in summary):

- Invoices evidencing the installation of electrical work to three individual units (the invoices are dated between January and August 2000).
- A statement, dated 4 December 2009, from the foreman working on the site during construction stating 'I had built and installed all cabinets/counter tops in the three units before [the owners] moved in on 1 Jan 2003.'
- The use of untreated timber framing and direct-fixed stucco was approved by the authority as part of the consent documents. The lack of flashings at various areas reflects standard practice at the time and the 'level of weathertightness practiced in 1999'.
- The authority cannot 'go back and cancel its mistakes' and the code compliance certificate should not be reversed, as this would 'set a wide ranging precedent …'.

- Aside from the deck, specific defects identified by the expert relate to a shower leak that has now been resealed, a faulty water heater, backfilling above the south wall membrane and roof leaks, with no water penetration verified except at the deck doors.
- The expert's samples were extracted from the bottom of the deck joists, so testing did not detect the timber preservative applied to the top of the joists. The repaired deck is not 'an immediate hazard'.
- The decks were built to approved plans and specifications and were inspected during construction. The authority's inspection on 1 May 2009 (refer paragraph 3.8) was 'unwarranted, and therefore, its findings are voided'.

4.8 A third draft determination was issued to the parties for comment on 29 April 2010.

4.9 The applicant accepted the draft determination subject to some non contentious comments. In particular, if further comments were introduced by the authority, the applicant would want the opportunity to respond.

4.10 The authority accepted the third draft determination without comment.

5. The expert's report

5.1 As mentioned in paragraph 1.6, I engaged an independent expert to provide an assessment of the condition of the decks. The expert is a member of the New Zealand Institute of Architects. The expert inspected the house on 21 July 2009 and provided a report on 21 August 2009.

5.2 The expert also considered the general weathertightness of the building, and while this is not directly relevant to the matter to be determined, I have included it for the benefit of the parties.

5.3 The decks

Timber treatment sampling

5.3.1 The expert extracted two samples of timber from the exterior deck joists to Unit 1 and one from the interior side of blocking between the deck joists to Unit 3. These samples were forwarded to a bio deterioration laboratory for analysis of treatment and decay. The laboratory confirmed that:

- the samples were most likely untreated; no treatment chemicals were detected
- one sample from Unit 1's deck joists and the blocking sample from Unit 3 contained well established decay which is likely to have spread and 'would have caused loss of a substantial proportion of the original structural integrity'
- the second joist sample from Unit 1 contained 'more superficial early soft rot'
- the toxigenic mould stachybotrys was detected in the samples
- the condition of the samples was typical of prolonged exposure to moisture.

Moisture readings

5.3.2 The expert inspected the decks, taking non-invasive moisture readings internally and noting elevated readings, swollen linings and signs of moisture at

- ten locations reading from 18% to above 70% at the joist to wall junctions of Unit 1
- more than 30% in the bottom plate beside the deck door of Unit 1
- three locations reading from 19% to above 26% at the joist to wall junctions of Unit 3.

Observations

5.4 Commenting specifically on the decks, the expert noted that:

- the recent deck repairs involved a liquid applied membrane applied to the deck joist to plaster junctions and below the ranch-slider sills. The expert considered that the repairs had not been effective as leaks were still occurring
- the deck joists are untreated and inadequately flashed at the junction with the walls. High moisture levels and decay were apparent, which may have spread into lower wall framing and interior floor framing
- the flitch plates to Unit 1's deck joists allow moisture to penetrate and be trapped at the joint, resulting in higher moisture levels in that deck
- although the membrane to the Unit 1's deck has been recently repaired, past moisture penetration into the garage ceiling framing may have lead to decay
- the membrane does not extend over the deck edge, leaving a vulnerable edge and no drip edge (Unit 1)
- there is little difference in floor levels between inside and outside the deck door; the plaster abuts the deck membrane at the wall junction (Unit 1).

5.5 The expert considered that there is a risk of structural failure of the deck joists to Unit 1 as decay progresses. The expert concluded that the joists should be replaced with adequately treated timber, with appropriate saddle flashings at all junctions with the stucco. The expert also noted that the junctions to Unit 1's deck should be reviewed by an engineer, as the current flitched detail departs from NZS 3604.

5.6 The external envelope

Moisture readings

5.6.1 The expert inspected the interior of the house, taking non-invasive moisture readings internally, and noted elevated readings, swollen linings and signs of moisture at:

- the lower north wall below the bottom of the apron flashing
- the south wall of a bedroom in Unit 3.

5.6.2 The expert took 33 invasive moisture readings through the cladding, or from the inside using long probes. The expert noted that the readings were likely to represent the 'high end' of seasonal variation. Moisture levels above 18% generally indicate that external moisture is entering the structure and further investigation is required. Moisture readings over 40% indicate that the timber is saturated and decay will be inevitable over time. The following elevated readings were noted:

- three readings from 18% to above 26% at the north wall of Unit 2
- more than 70% below the apron flashing, with damp, soft, dark drillings indicating decay
- 21% in the bottom plate at the north west corner
- 20% in the bottom plate beside the north garage door to Unit 2.

Observations

5.6.3 Commenting specifically on the wall cladding, the expert noted that

- there are no horizontal or vertical control joints in the stucco; the plaster is continuous over the concrete block foundation walls
- most clearances below the bottom of the stucco are unacceptable, and the cladding contacts the paving in many areas
- there are some cracks in the stucco, with evidence of past repairs
- the junction of the stucco with the concrete block south retaining wall may not be weathertight at steps to the wall, as moisture has penetrated at a Unit 3 bedroom; further investigation is needed to establish the cause of the leak
- there are no head or jamb flashings to the garage doors
- there is no flashing to the top of the meter box, and some sealants to service penetrations are deteriorating

5.6.4 Commenting specifically on the roof, the expert noted that

- the apron flashings have not been extended to the gutter, and plaster has been used to weatherproof the junction of the roof and the barge board
- there is a gap at the bottom of the apron flashing, which has been plugged with deteriorated sealant which has subsequently deteriorated; and high moisture levels and decay are evident in the walls below
- there is no clearance from the upper stucco to the apron flashing
- the condition of the roof could not be fully assessed as access was not possible, but damage can be seen.

5.7 For the remainder of the external envelope, the expert concluded that the failures were 'not systemic, but arise from various specific defects'.

5.8 The expert noted that the aluminium windows and doors were face-fixed with metal head and sill flashings. The expert was also able to see the bottom of the uPVC jamb flashings. The installation generally appeared satisfactory.

5.9 Changes from the consent drawings

5.9.1 The expert noted that there were significant variations from the consent drawings, which include the following:

Exterior and construction changes

- the roof was changed from metal tiles to corrugated bitumen fibre and eaves and verges were extended
- walls at ends of decks were not constructed
- the north bedroom wall to Unit 1 was extended to line up with the lower wall
- the bedroom deck to Unit 1 was extended to form a bay to the north
- there were changes to windows and doors, including an entry door to Unit 1
- garage doors were added to Unit 2, to enclose the carport shown in drawings
- the south retaining wall was changed from stud height to a stepped wall
- the composite floor joists were changed to timber floor joists.

Interior planning changes

- **Unit 1:**
  - a kitchen was added to the south area of the lounge
  - the bathroom was changed to a bedroom
  - wardrobes were converted to a bathroom
  - a bedroom was extended to the north
- **Unit 2:**
  - the kitchen was shifted towards south
  - a bathroom was added
  - the carport was changed to an enclosed garage
- **Unit 3:**
  - a kitchen was added
  - a bathroom was added.

5.9.2 Based on his observations, the expert considered that the external envelope 'had not been altered significantly, and likely not at all, since [the initial] construction'. The expert also added that his impression was that the interior 'had not been altered much, if at all, since 2004' when the code compliance certificate had been issued.

5.10 A copy of the expert's report was provided to the parties on 28 September 2009. The applicant responded to the expert's report in a letter to the Department dated 4 October 2009. I have included his comments within paragraph 4.7.3.

6. The notice to fix

6.1 The appropriate notice to be issued

6.1.1 I do not consider that a notice to fix was appropriate to deal with the specific concerns relating to the structural integrity of the decks. Section 121 of the Act gives the meaning of dangerous building work, as outlined in the Appendix (refer paragraph A.1.1).

6.1.2 If the decks are investigated and classified as dangerous in terms of s121(1)(a)(i), then the authority is able to give written notice to 'reduce or remove the danger' under Section 124 which sets out the powers of territorial authorities in respect of dangerous buildings (refer Appendix, paragraph A.1.2).

6.1.3 Taking account of the expert's report and the other evidence, I accept that the decks to this building are likely to be classified as 'dangerous'. Accordingly, I urge the authority to investigate this further and if required, to issue a notice in terms of s124(1)(c)(i) to initiate appropriate corrective action.

6.2 The issue of the notice to fix in respect of the weathertightness of the house

6.2.1 In my opinion, once a code compliance certificate has been issued for building work, an authority is unable to take any action in respect of that work unless:

- the building is dangerous, is earthquake-prone, or is insanitary[5] or
- the owner decides to alter the building, change its use, or change its intended life[6].

6.2.2 While the condition of the building may mean that it is not currently code-compliant, I do not accept that a building owner is required to bring a building into compliance with the Building Code. A building owner is only obliged to undertake building work in respect of an existing building for the reasons given in paragraph 6.2.1.

6.3 Is the deck dangerous?

6.3.1 During the authority's site inspection, the inspector identified defects in the deck membrane and severe decay to some of the deck joists, and the applicant subsequently carried out some repair work (refer paragraph 3.10.2). However the full extent of timber damage to associated floor joists was not investigated or established at that time. The expert's report has identified evidence of long term high levels of moisture penetration into the untreated deck joists, with decay in at least four locations.

6.3.2 I consider the expert's report establishes that there is a risk of structural failure of the cantilevered deck joists as decay progresses. I am of the opinion that a review of the structural implications of that damage is needed, including remedial structural work needed to address identified problems together with recommendations regarding the structural design of replacement decks.

[5] In terms of Section 124(1) of the Act
[6] In terms of Section 114(2) of the Act

6.3.3 I acknowledge the authority's concerns regarding the deck to Unit 1 and recommend that access to the deck be restricted until further investigation and remedial work are complete (refer paragraph 6.1.3).

6.4 The weathertightness performance of the building

6.4.1 Notwithstanding the fact that the house has a code compliance certificate, evidence gathered shows that as the house is constructed from untreated timber that has no resistance to decay when exposed to moisture for a prolonged period, there is potential for structural failure within the medium term, if the matters identified in this determination are not promptly addressed. Apart from the immediate actions that need to be taken with regard to the deck, I urge the owner to take appropriate action to deal with the matters raised by the expert.

6.5 Conclusion

6.5.1 I therefore consider that it was inappropriate for the authority to issue a notice to fix in respect of building work for which a code compliance certificate had previously been issued.

7. Matters associated with the change of use

7.1 While matters associated with the change of use are outside the scope of this determination, I make the following observations.

7.2 The applicant has stated that the building was completed as three inter-connected units prior to 2003 and included separate kitchens, bathrooms and fire-rated wall linings between the units. The evidence submitted to me supports this. This evidence, together with other supporting statements and invoices, indicate that the building was converted to three inter-connected units prior to 2003.

7.3 The expert has inspected the building as constructed, and his comments outlined in paragraph 5.9.2 generally support the applicant's contention that all significant changes to the interior and the exterior were made prior to 2004. I accept that the subdivision of the house was completed during construction, with related the building work being substantially completed by the time the code compliance certificate was issued in 2004.

7.4 During construction of the building, the authority could have exercised the powers available to it by issuing:

- a written notice under section 46 of the former Act , which might have included a request for amended plans and specifications and an application for a building consent amendment; or
- a notice to rectify issued under section 42 of the former Act.

Instead, a code compliance certificate was issued for building work that fell within the original building consent and the subdivisional changes were ignored (except as noted in paragraph 8 below).

7.5 I note that the fire safety and property protection requirements of the Act and the Building Code appear to be in process of being satisfactorily resolved for the building to continue in its new use (refer paragraph 3.7).

7.6 The applicant has applied for a certificate of acceptance for the house apparently in response to the request of the authority. It is unclear whether the certificate of acceptance was being sought in respect of all or part of the building. As noted in paragraph 1.5.2, I consider the resolution of that matter is outside the scope for decision in this determination, and I leave it for the applicant and the authority to resolve.

8. What is to be done now

8.1 The information provided by the expert established that there is a risk a structural failure of the cantilevered deck joints as decay progresses.

8.2 In issuing my third draft determination, I drew to the attention of the applicant the need to investigate the structural implications of that damage, including remedial structural work needed to address identified problems together with recommendations regarding the structural design of replacement decks.

8.3 I have no information as to whether this has been done. If not, as a matter of urgency, the applicant should engage a suitably qualified person to undertake this investigation and take the appropriate remedial action, and the authority should make a decision as to whether a notice under section 124 is appropriate (refer to paragraphs 6.3.1 to 6.3.3).

9. The decision

9.1 In accordance with Section 188 of the Building Act 2004, I hereby determine that the decision of the authority to issue a notice to fix be reversed.

Signed for and on behalf of the Chief Executive of the Department of Building and Housing on 12 July 2010.

John Gardiner
Manager Determinations

A. Appendix: The legislation

A1. The main provisions of the previous and current Building Acts that apply to this determination are provided in the following.

A1.1 With regard to whether the deck structure is dangerous, the relevant section of the Act is:

> **121 Meaning of dangerous building**
>
> (1) A building is **dangerous** for the purposes of this Act if,—
>
> (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—
>
> (i) injury or death (whether by collapse or otherwise) to any persons in it...

A1.2 With regard to the authority's powers if the deck structure is found to be dangerous, the relevant section of the Act is:

> **124 Powers of territorial authorities in respect of dangerous, earthquake-prone, or insanitary buildings**
>
> (1) If a territorial authority is satisfied that a building is dangerous, earthquake prone, or insanitary, the territorial authority may—
>
> (c) give written notice requiring work to be carried out on the building, within a time stated in the notice... ... to—
>
> (i) reduce or remove the danger...