



Determination 2015/040

Regarding the refusal to issue a code compliance certificate for a 19-year-old house and 11-year-old alterations with stucco wall cladding at 467 Mill Road North, Invercargill



1. The matter to be determined

- 1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004¹ (“the current Act”) made under due authorisation by me, John Gardiner, Manager Determinations and Assurance, Ministry of Business, Innovation and Employment (“the Ministry”), for and on behalf of the Chief Executive of the Ministry.
- 1.2 The parties to the determination are:
- the current owner of the house, J Blomfield (“the applicant”)
 - Southland District Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.
- 1.3 This determination arises from the decision of the authority to refuse to issue a code compliance certificate for an extended 19-year-old house because it was not satisfied that the building work complied with certain clauses² of the Building Code (First Schedule, Building Regulations 1992). The authority’s concerns about the compliance of the building work relate primarily to the weathertightness and durability of the exterior cladding, given the building’s age.
- 1.4 The matter to be determined³ is therefore whether the authority was correct to refuse to issue a code compliance certificate for the reasons given in its undated refusal and its email of 23 December 2014. In deciding this matter, I must consider:
- (a) Whether the external building envelope of the house complies with Clause B2 Durability and Clause E2 External moisture of the Building Code that was in force at the time the consents were issued. The building envelope includes the components of the systems (such as the monolithic wall cladding, the windows

¹ The Building Act, Building Code, compliance documents, past determinations and guidance documents issued by the Ministry are all available at www.building.govt.nz or by contacting the Ministry on 0800 242 243.

² 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.

³ Under sections 177(1)(b) and 177(2)(d) of the Act

and the roof cladding) as well as the way the components have been installed and work together.

- (b) Whether other items identified by the authority comply with relevant clauses of the Building Code that was in force at the time the consents were issued, namely: Clauses F2 Hazardous Building Materials, G4 Ventilation and G12 Water supplies.

1.5 The building consents

1.5.1 The subject building work was undertaken under the following building consents:

- 1995/1098 on 23 November 1995 for the original house (“the original consent”)
- 2003/24976/1 on 4 June 2003 for ‘New garage and ensuite’ (“the ensuite extension”)

1.6 Matters outside this determination

1.6.1 I note that the consents were issued to the former owner of the house and, as noted in Determination 2014/035⁴, no notice to fix is able to be issued to the current owner in respect of breaches of the Act or Regulations for building work carried out by previous owners. As such, the notice to fix dated 23 April 2013 is not considered in detail in this determination (refer paragraph 8).

1.6.2 Notwithstanding the above, the final inspection was undertaken and the notice to fix issued in response to the applicant’s application for a code compliance certificate, and I have therefore taken that notice to constitute a refusal to issue the code compliance certificate, with information within the notice setting out the authority’s view on issues of non-compliance. Included within the notice were minor items relating to Clauses E3 and H1 of the Building Code (see paragraph 3.4.4), which I leave to the parties to resolve.

1.6.3 I have received no information about the detached garage, which was constructed under the same building consent as the ensuite extension to the original house. I also note that the notice to fix included no matters relating to the garage and this determination therefore is limited to the extended house.

1.6.4 I also note that the owner of the subject house will be able to apply to the authority for a modification of durability provisions to allow the durability periods specified in Clause B2.3.1 to commence from the date of substantial completion in 1997 for the original house and 2001 for the extension. Although I leave this matter to the parties to resolve in due course, I comment on the matter in paragraph 0.

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

2. The building work

2.1 The building work consists of a single-storey detached house on an excavated east-sloping site, which is in a high wind zone for the purposes of NZS 3604⁵. The expert takes the long veranda as facing north and this determination follows that

⁴ Determination 2014/035: The issue of a notice to fix for weathertightness remedial work carried out by a previous owner (*Ministry of Business, Innovation and Employment*) 15 August 2014.

⁵ New Zealand Standard NZS 3604:1999 Timber Framed Buildings

convention. The house is simple in plan and form and is assessed as having a low weathertightness risk.

- 2.2 Construction is generally conventional light timber frame, with concrete foundations and floor slab, monolithic wall cladding, aluminium windows and a profiled metal hipped roof with eaves that vary from 300mm to about 600mm.
- 2.3 The original house included projecting 'bays' to the east and west elevations, with a lean-to bull nose veranda extending from the bays around the corners and along the long northern face of the building. The ensuite extension was constructed under the veranda roof, with west and north walls in line with walls of the original house.
- 2.4 The cladding is a monolithic cladding system described as stucco over a solid backing. In this instance it consists of 4.5mm fibre-cement backing sheets fixed through the building wrap directly to the framing timbers, and covered by a slip layer of wrap, wire netting-reinforced 22mm solid plaster and a flexible paint coating.
- 2.5 The expert took five timber samples from exterior wall framing, and laboratory analysis confirmed three framing samples as 'most likely treated with boron' to a level equivalent to H1.2. The remaining two samples contained no preservative and the laboratory report noted that the samples may have 'lost boron due to leaching', which I consider likely given the moisture penetration reported by the expert.

3. Background

- 3.1 The authority issued the original consent (No. 1995/1098) to the former owners on 23 November 1995 under the Building Act 1991 ("the former Act").
- 3.2 The limited inspection records I have seen indicate that the authority carried out inspections of foundations on 22 December 1995, drainage on 15 March 1996, coal-fired boiler in September 1996 and final plumbing and drainage on 14 November 1996. The house appears to have been substantially completed by the end of 1996.
- 3.3 On 4 June 2003, the authority issued the building consent that included the ensuite extension (No. 2003/24976/1) to the former owners under the former Act. I have seen no consent documents or inspection records for the ensuite extension.

3.4 The 2013 final inspection

- 3.4.1 The applicant purchased the property from the original owners in 2007, with no code compliance certificate having been issued for the house. The applicant completed an application form for a code compliance certificate, which was received by the authority on 25 March 2013.
- 3.4.2 The authority carried out a final building inspection and issued a notice to fix on 23 April 2013. As outlined in paragraph 1.6.2, I have taken the notice to constitute a refusal of the application for a code compliance certificate and I have used the information contained therein as representing the reasons for that refusal.
- 3.4.3 In regard to Clause B2 Durability, the authority stated:

Elevated non-invasive moisture readings were evident at crack locations and at the bottom of window and other penetrations in the stucco plaster cladding system. Elevated moisture readings can be indicative of moisture and durability issues. More invasive moisture testing by someone having recognised weathertightness expertise will be necessary.

3.4.4 The authority also stated that the house did not comply with Clauses E2, E3, F2, F7, G4, G12 and H1 of the Building Code and identified the following concerns (in summary):

- In regard to E2:
 - clearances from interior floor level to ground or paving
 - controlled and uncontrolled cracking to stucco
 - lack of head and sill flashings, with high moisture levels recorded
 - lack of stucco clearance above apron flashing
 - no control joints visible in stucco
 - lack of clearance from decking to stucco
 - roof leaking at ridge capping
 - unsealed overflow pipe penetration
- In regard to E3:
 - laundry tub not secured to wall or floor
 - producer statement needed for membrane under ensuite tiles
- F2: verification of safety glass to bathroom and laundry door
- F7: lack of smoke alarms
- G4: lack of ventilation to master bedroom
- G12: maximum temperature to delivered hot water supply
- H1: gaps in ceiling insulation.

3.5 Dining area joinery alterations

3.5.1 In 2014, replacement of the joinery in the west wall of the dining room with glazed doors commenced and it appears that the authority met with the contractor on site on 14 January 2015 (I have not seen any other information about these alterations).

3.5.2 In a letter to the applicant dated the same day, authority noted that no jamb flashings had been observed and added that the contractor had confirmed that no head, jamb and sill flashings had been installed to the original joinery; in contrast with the manufacturer's instructions at the time. The authority provided details of several weathertightness consultants and concluded that it:

... requires you, at the very minimum, to engage a technical expert to assess the entire exterior cladding system to the dwelling and provide details of how the issues will be resolved as an amendment to the original Building Consent.

3.6 The Ministry received an application for a determination on 11 March 2015.

4. The submissions

- 4.1 The applicant made no submission but provided copies of:
- the consent drawings and specifications for the original house
 - the original building consent dated 23 November 1995
 - some inspection records of the original house
 - extracts from the authority's property records, including inspection notes
 - the notice to fix dated 23 April 2013
 - some correspondence from the authority
 - various other statements and other information.
- 4.2 The authority acknowledged the application for determination, but made no submission and provided no information.
- 4.3 A draft determination was issued to the parties for comment on 10 June 2015.
- 4.4 The applicant responded on 11 June 2015, seeking clarification of the status of the notice to fix and asking for further explanation in regard to the glazed doors and sidelights.
- 4.5 The authority accepted the draft determination without further comment in a response received on 11 June 2015.
- 4.6 A second draft determination was issued to the parties for comment on 12 June 2015.
- 4.7 The applicant accepted the draft without further comment in an email received on 16 June 2015, and the authority confirmed its acceptance by email on 17 June 2015.

5. The expert's report

- 5.1 As mentioned in paragraph 1.7, I engaged an independent expert to assist me. The expert is a member of the New Zealand Institute of Building Surveyors and inspected the house on 17 April 2015, providing a report completed on 15 May 2015, which was forwarded to the parties on 20 May 2015.

5.2 General

- 5.2.1 The expert noted that the scope of his investigation was to report on some of the concerns identified by the authority with regard to compliance with parts of Building Code clauses B1, B2, E2, F2, G4 and G12, 'with particular attention' to weathertightness. The following concerns were investigated:
- evidence of moisture penetration through the stucco
 - the windows
 - the stucco cladding
 - safety glass to windows and doors
 - natural ventilation provided to a bedroom
 - hot water delivery from cylinder.

5.2.2 The expert considered construction quality to generally be at ‘an acceptable trade standard’ apart from areas identified in his report. The expert noted that roof flashings appeared to be ‘operating effectively’ and generally satisfactory.

5.2.3 The expert observed that the floor plan of the house generally accorded with the original consent floor plan except for:

- the ensuite extension
- the alterations underway to the east wall of the dining area
- at the west wall of the master bedroom (I also note that glazed doors and full height fixed side lights replaced windows shown in the consent elevations.)

5.3 Evidence of moisture penetration (Clauses E2 and B2)

5.3.1 The expert took invasive moisture readings by using long probes through interior linings into bottom plates and jamb/sill junctions. The expert recorded elevated readings at the bottom of the master bedroom west wall and the laundry south wall and undertook further invasive investigation at those areas, taking five samples for analysis of treatment and framing condition.

5.3.2 The expert also removed the skirting and small sections of lining from the external west wall to the master bedroom, taking sample 4 beside the window and noting:

- water stains to the glazed door reveal
- rust stains around fixings and corroded screw fixings
- water stains to the bottom plate.

5.3.3 The expert also removed the skirting and small sections of lining from the external wall to the laundry, taking sample 2 from beside the door and sample 5 below the window sill/jamb junction and noting:

- black ‘sooty’ mould on the plasterboard and the back of the skirting
- water stains to the bottom plate
- moisture readings in the bottom plate were elevated
- a past flood in the laundry could have initially triggered mould growth, but moisture would have dried out after one summer.

5.3.4 To investigate timber condition, the expert took five timber samples for analysis, including two from bottom plates associated with window junctions. The laboratory report dated 5 May 2015 recorded:

- Sample 1: laundry sill trimmer – likely equivalent to H1.2 boron treated
Fungal growths but no structurally significant decay detected
- Sample 2: laundry door bottom plate – likely equivalent to H1.2 boron treated
Fungal growths but no structurally significant decay detected
- Sample 3: laundry jamb/sill (where invasive moisture readings were 16%):
Prolific fungal growths and most likely decayed and/or may have been juvenile core wood but too fragmented for definitive analysis
- Sample 4: bedroom bottom plate – boron likely to have leached out
Advanced decay with replacement likely to be required.

- Sample 5: laundry bottom plate – boron likely to have leached out
Advanced decay with replacement likely to be required.

5.4 The windows (Clauses E2 and B2)

- 5.4.1 The expert noted that planted polystyrene bands form decorative sills and borders to the windows and doors, with no visible head flashings. The expert was also able to assess the partially installed new doors to the dining area.
- 5.4.2 A small section of the decorative band and the underlying plaster had been removed from the door jamb to the sheltered northwest bedroom doors prior to the expert's inspection. The decorative border to the master bedroom doors and the ensuite windows had also been removed to allow inspection. The expert was able to confirm that no head and jamb flashings had been installed.

5.5 The stucco wall cladding (Clauses E2 and B2)

- 5.5.1 At an area exposed prior to his inspection, the expert observed that the stucco system included 22mm of solid plaster with wire netting reinforcing, a black building paper slip layer and 4.5mm fibre-cement substrate. The backing sheets were fixed through building wrap to framing.
- 5.5.2 The expert also noted that the stucco was in need of maintenance, with some areas of unpainted plaster and cracking to stucco that required attention.
- 5.5.3 Commenting specifically on the external envelope, the expert noted:
- there are some cracks unpainted to the stucco that require maintenance
 - some areas of the stucco require maintenance
 - windows and doors lack head flashings and moisture has penetrated into some exposed areas, resulting in decay to the bottom plate
 - the partially installed door to the dining area lacks flashings and the exposed fibre-cement backing sheets do not continue behind the timber door sill (I note that this current alteration work is not considered in this determination).
- 5.5.4 The expert made the following additional comments on the claddings:
- The apron flashing to the veranda is sheltered beneath the eaves of the main roof and there is no indication of moisture penetration due to stucco clearances after 19 years.
 - Although floor clearance to the west elevation is 160mm and below the 225mm called for in E2/AS1, the ground slopes away from the wall to prevent water ponding against the foundations, and is likely to be satisfactory.
 - Although decking lacks clearance from the stucco in some areas, the junction is sheltered under a 1.8m deep veranda, with no signs of associated moisture penetration after 19 years.
 - Although there are no head flashings, the windows beneath the 1.8m deep north veranda roof are well sheltered, with no signs of moisture penetration as a result of the omission after 19 years
 - Vertical cracks observed to the south elevation, including under a window, indicate that control joints are likely to have been installed into the base coat of plaster and then plastered over with the finishing coats.

5.6 Safety glass in doors and windows (Clause F2)

- 5.6.1 The expert assessed the glazing to doors and windows and noted:
- 4mm glass with no markings was installed into exterior doors and side lights
 - the multi-pane doors and side lights used larger panes of glass, with small planted beads which would not protect against breakage
 - 6mm glass installed into exterior laundry door.
- 5.6.2 The expert also noted that he could not identify the frosted glass installed into the bathroom and ensuite windows, where sill heights were 1240mm and 900mm respectively.

5.7 Ventilation to master bedroom (Clause G4)

- 5.7.1 The expert noted the exterior doors to the master bedroom were the only means of ventilation as the sidelights were fixed. The expert observed that there was no way of securing the door in an open position.
- (I note that in order to provide adequate ventilation, opening windows and doors need to be able to be fixed in an open position to avoid injury or damage from sudden closure in the event of strong winds or other forces.)

5.8 Clause G12 Water supplies (items 5 and 6)

- 5.8.1 The expert observed a tempering valve fitted to the top of the hot water cylinder, which will allow simple adjustment of the temperature of water delivered at appliances.
- 5.8.2 Although the cylinder is not fitted with metal strap restraints, the expert noted that it was effectively restrained against earthquake movement by the securely fixed shelving at the sides and front.

5.9 Summary

- 5.9.1 The expert concluded that the following areas required further investigation and/or remedial work to comply with associated clauses of the Building Code:
- investigation into the extent of moisture penetration into and damage to the framing (B1, B2 and E2)
 - the unflushed windows and doors, with moisture penetration apparent (E2)
 - the lack of safety glass to some glazed doors and bathroom windows (F2)
 - the lack of appropriate natural ventilation to the master bedroom (G4).

6. Compliance of items identified by the authority

- 6.1 I note that the building consents were both issued under the former Act, and accordingly the transitional provisions of the current Act apply when considering the issue of a code compliance certificate for work completed under these consents. Section 436(3)(b)(i) of the transitional provisions requires the authority to issue a code compliance certificate if it 'is satisfied that the building work concerned complies with the building code that applied at the time the building consent was granted'.

6.2 In order to determine whether the authority correctly exercised its power in refusing to issue a code compliance certificate for this building work, I must consider whether areas identified by the authority comply with the relevant clauses of the Building Code that was in force at the time the consents were issued.

6.3 Clause E2: Weathertightness

6.3.1 Taking account of the expert's report, the external envelope generally appears to have been constructed in accordance with average trade practice and the manufacturer's instructions at the time of construction. However, the areas identified by the expert and outlined in paragraph 5.5.3 require maintenance, further investigation and/or remedial work.

6.3.2 I note the expert's comments in paragraph 5.5.2 on items requiring attention to ensure ongoing weathertightness and I accept that this work may be carried out during the above remedial work or otherwise as maintenance. I also note the expert's opinions as outlined in paragraph 5.5.4 and accept that those areas are adequate in the particular circumstances described.

6.3.3 I consider the expert's report establishes that the current performance of the building envelope is not adequate because there is evidence of moisture penetration into some of the timber framing. Consequently, I am satisfied that the cladding currently does not comply with Clause E2 of the Building Code. Given the analysis of the bottom plate samples, I am also satisfied that the cladding did not comply with Clause E2 for the period set out in Clause B2.3.1.

6.3.4 Pending satisfactory investigations to establish the extent and severity of decay to the framing followed by appropriate remediation, the structural decay damage found in two samples of the bottom plates also satisfy me that the house framing does not comply with Clauses B1 and B2 of the Building Code.

6.4 Clause B2: Durability of the cladding and framing

6.4.1 The building is also required to comply with the durability requirements of Clause B2, which requires a building to satisfy all the objectives of the Building Code throughout its effective life. In particular the building envelope is required to satisfy Clause E2 for a minimum of 15 years although the expected life of the underlying framing is a minimum of 50 years.

6.4.2 Effective maintenance of the external envelope is required to ensure it protects the underlying structure for its minimum required life of 50 years. The expert has commented on cladding deterioration resulting from the lack of maintenance of the exterior of this house. Effective maintenance of claddings is important to ensure ongoing compliance with Clauses B2 and E2 of the Building Code and is the responsibility of the building owner. The Ministry has previously described these maintenance requirements (for example, Determination 2007/60).

6.4.3 Although the original stucco and the roof claddings are now 19 years old and the ensuite extension walls are 11 years old, the expert's investigations have confirmed moisture ingress over an extended period. I take the view that such moisture penetration indicates that the faults in the building envelope have failed to meet the performance requirements of Clause E2 for the period set out in Clause B2 from the time the building work was substantially completed; accordingly I consider the building work has not complied with Clause B2.

- 6.4.4 In addition, because of the decay damage confirmed to bottom plates and the likelihood of further undiscovered damage, I am satisfied that the timber framing has not complied with Clause B2.
- 6.4.5 Because the identified moisture penetration and cladding faults occur in discrete areas, I am of the view that satisfactory investigation and rectification of areas outlined in paragraph 5.5.3 will result in the timber framing and the stucco cladding being brought into compliance with Clauses B1, E2 and B2 of the Building Code.
- 6.4.6 It is emphasised that each determination is conducted on a case-by-case basis. Accordingly, the fact that a particular cladding system has been established as being code-compliant in relation to a particular building does not necessarily mean that the same cladding system will be code-compliant in another situation.

6.5 Safety glass in doors and windows (Clause F2)

- 6.5.1 I note that the Acceptable Solution F2/AS1 was amended in December 2000, after the original house was completed and included an updated table that specified safety requirements for different sizes panels and sill heights in bathrooms. Based on the dimensions noted by the expert, windows to the bathroom and ensuite would require safety glass in order to comply with Table 3.D4 of F2/AS1.
- 6.5.2 However, although F2/AS1 has been amended since the original building consent was issued, the objective and performance requirements in Clause F2 remain to safeguard people from injury by using glass ‘in ways that avoid undue risk’. In regard to glass, the relevant performance requirement is:

F2.3.3 Glass or other brittle materials with which people are likely to come into contact shall:

- a) if broken on impact, break in a way which is unlikely to cause injury, or
- b) resist a reasonably foreseeable impact without breaking, or
- c) be protected from impact.

- 6.5.3 In regard to the glazed laundry door, I note that:

- the door is in two panes, with a transom and surround of about 100mm
- the transom is about 700mm above floor level and will provide reasonable protection against the glass breaking if impacted
- the door opens into an alcove beside a cupboard, which reduces the chance of an impact occurring.

In these circumstances, I consider the door complies with the performance requirements of Clause F2.3.3.

- 6.5.4 In regard to the glazed doors with side lights installed in 1996, I note:

- the glazed doors and side lights incorporate large unmarked panes of 4mm glass, with thin decorative mullions and transoms planted on the exterior surface of the glass
- the planted strips are sufficiently strong to allow the glass to resist an impact against the door or sidelight without the glass breaking
- there is no evidence that the doors and sidelights incorporate safety glass.

Taking the above into account, I consider that the glass panes are unlikely to ‘resist a reasonably foreseeable impact without breaking’ and therefore the glazed doors and sidelights do not comply with the performance requirements of Clause F2.3.3.

6.5.5 In regard to bathroom glazing I note the following:

- The ensuite extension was consented in 2003 with a window sill height of 900mm and would require safety glass to comply with Table 3.D4. However, the window panes are only 250mm wide, which reduces the likelihood of accidental human impact and also increases the effective ability of the glass to resist breaking if impacted. In these circumstances, the ensuite windows are likely to ‘resist a reasonably foreseeable impact without breaking’
- In regard to the original house constructed in 1996:
 - the laundry window sill height at 1040mm would not require safety glass
 - the bathroom window sill height is 1240mm and is partly above a bath tub, but is marked as complying with AS 2208⁶ and is therefore likely to comply with the requirements at the time of construction.

6.5.6 Taking account of the above and the lack of verification that safety glass has been installed, I am not satisfied that the original glazed doors and side lights comply with the requirements of Clause F2 to safeguard people from injury by using glass ‘in ways that avoid undue risk’.

6.6 Conclusion

6.6.1 In summary, taking account of the expert’s report, I conclude that remedial work, investigation and/or maintenance is necessary in respect of the following areas:

- the lack of weathertightness of windows and doors in the original house, and the ensuite extension (E2)
- the moisture penetration and damage to the bottom plates (B1, B2 and E2)
- additional investigation to:
 - establish the condition of the bottom plates generally by invasively measuring moisture levels and testing samples where moisture levels are high or there are other signs of damage.
 - confirm the cause(s) of the leaks that resulted in decay to framing in the laundry and master bedroom
- the lack of safety glass to the glazed double doors and side lights (F2)
- the inadequate means of ventilating the master bedroom (G4).

6.6.2 I note that the authority has required a producer statement as evidence of compliance of the waterproofing to the bathroom tiles. While these were defined within the former Act as a means of helping to provide evidence of compliance, their consideration is discretionary according to the circumstances as they are not the only means of establishing compliance.

6.6.3 I also note that the authority required smoke alarms to be installed. Although these were not a requirement in 1996 when the original house was constructed, I strongly urge the applicant install these in accordance with current requirements.

⁶ AS 2208-1978 Safety glazing materials for use in buildings (human impact considerations)

7. The durability considerations

- 7.1 The relevant provision of Clause B2 of the Building Code requires that building elements must, with only normal maintenance, continue to satisfy the performance requirements of the Building Code for certain periods (“durability periods”) “from the time of issue of the applicable code compliance certificate” (Clause B2.3.1).
- 7.2 In many previous determinations I have taken the view that a modification of this requirement can be granted if I can be satisfied that the building complied with the durability requirements at a date earlier than the date of issue of the code compliance certificate, that is agreed to by the parties and that, if there are matters that are required to be fixed, they are discrete in nature.
- 7.3 However, because of the extent of further investigation required into the stucco claddings, the condition of the timber framing and therefore the structure of the house, and the potential impact of such an investigation on the external envelope, I am not satisfied that there is sufficient information on which to make a decision about this matter at this time.

8. The notice to fix

- 8.1 I note that the original consent and the ensuite extension consent were issued to the former owner of the house. As noted in Determination 2014/035, no notice to fix is able to be issued to the current owner in respect of breaches of the Act or Regulations in respect of work carried out by previous owners.

9. What happens next?

- 9.1 If the applicant still wishes to seek a code compliance certificate for the completed work, a detailed proposal should be developed and submitted to the authority for its approval. That proposal should address the matters of non-compliance and investigations described in paragraph 6.6 and should be produced in conjunction with a suitably qualified person experienced in weathertightness remediation. Any outstanding items of disagreement can then be referred to the Chief Executive for a further binding determination. A code compliance certificate will be able to be issued once these matters have been rectified and other minor outstanding items resolved.
- 9.2 The authority should record this determination on the property file and also on any LIM issued concerning this property.

10. The decision

10.1 In accordance with section 188 of the Building Act 2004, I hereby determine that, in regards to the Building Code that was in force at the time the consents were issued:

- timber wall framing does not comply with Building Code Clause B1 and B2
- the stucco cladding does not comply with Building Code Clauses E2 and B2
- the glazed doors and sidelights do not comply with Building Code Clauses F2
- master bedroom ventilation does not comply with Building Code Clause G4

and accordingly, I confirm the authority's decision to refuse to issue code compliance certificates for building consents no. 1995/1098 and 2003/24976/1.

10.2 I also reverse the decision of the authority to issue the notice to fix dated 23 April 2013.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 1 July 2015.

John Gardiner
Manager Determinations and Assurance