

Determination 2024/020

Compliance of a CCTV system relating to awareness of the outside

2 Bliss Court, Papakura, Auckland

Summary

The determination will consider if a proposed CCTV in the living space of two units in a new development complies with G7.3.2 for visual awareness of the outside.

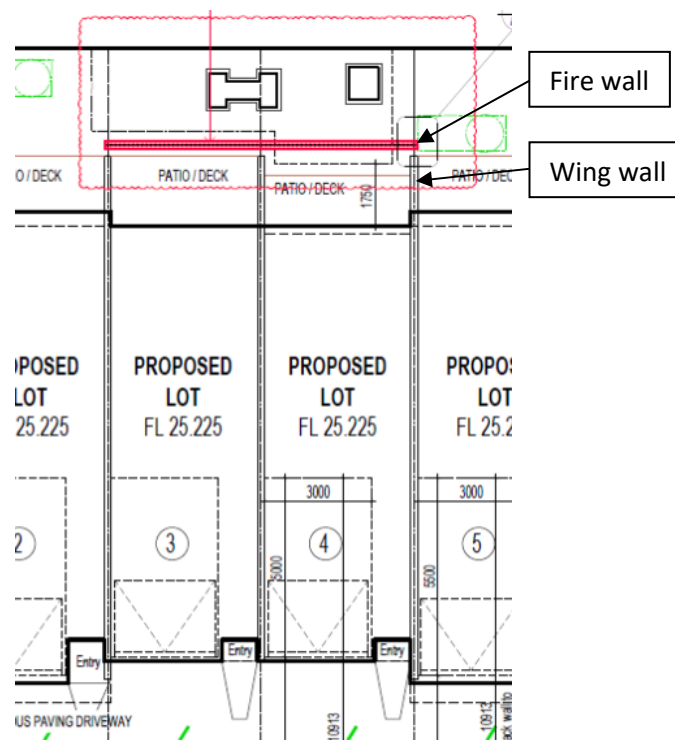


Figure 1: proposed firewall in front of units on Lots 3 and 4

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, Manager Advisory, Ministry of Business, Innovation and Employment (“the Ministry”), for and on behalf of the Chief Executive of the Ministry.¹
- 1.2. The parties to the determination are:
 - 1.2.1. Opaka Street Trustee Company LTD, (“the owner”) the owner of the property, who applied for this determination
 - 1.2.2. Auckland City Council, (“the authority”) carrying out its duties as the building consent authority.
- 1.3. This determination arises from a proposal to use CCTV cameras to provide awareness of the outside for the purpose of clause G7.3.2.
- 1.4. The matter to be determined under section 177(1)(a) of the Act, is the compliance of the units on Lots 3 and 4 with G7.3.2 in relation to a proposed fire wall. In making this determination I have considered whether the proposal to install CCTV cameras complies with NZ Building Code G7.3.2 for awareness of the outside.

Matters outside this determination

- 1.5. The determination will not consider:
 - 1.5.1. compliance of the building work with G7.3.1 for natural lighting, as it is understood that this has been resolved between the parties
 - 1.5.2. compliance of any other elements of the building work that are not identified in the matter to be determined.

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

2. The building work

- 2.1. The owner was granted building consent (BCO10332996) on 8 September 2021 for the construction of townhouses. The units that are the subject of this determination, on Lots 3 and 4, are two storeys with living areas on the ground floor, a balcony on the upper floor and patio on the ground floor. Between the units, each side of the patio, are block fire walls.
- 2.2. Between the patio and road is an electrical transformer. The network utility operator requires that for transformers closer than 3m to a building and closer than 2m from the lot boundary, there must be a two-hour fire barrier between the two.²
- 2.3. The owner sought advice of fire engineering consultants, who proposed a fire rated barrier be constructed with the required fire rating. On 14 November 2023 the owner applied for a building consent (BCO10375686) to construct a solid masonry block firewall outside and attached to the townhouses.
- 2.4. The fire wall is 4.4m high and is fixed to the wing walls. I have not been provided the dimension between the wing walls and the fire wall.

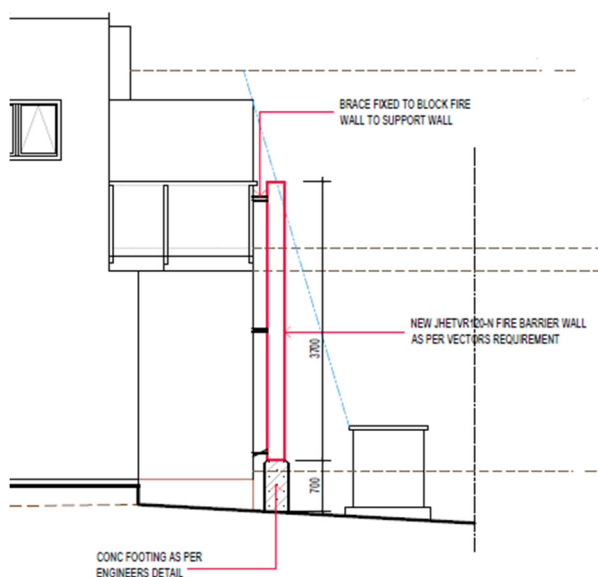


Figure 2: Elevation showing the proposed fire wall attached to wing walls

- 2.5. On 30 November 2023, the authority sent a request for more information:

Please demonstrate compliance with the NZBC clauses...G7.3.2 is achieved to Units 3 & 4 ground floor lounge/ dining...awareness of outside.... considering the construction of the fire barrier.

- 2.6. In response, the owner proposed to install CCTV cameras on the upper-level balcony, with a TV connection in the lounge.

² For transformers up to and including 1,000 kVA

- 2.7. Between 16 December 2023 and 18 January 2024, the owner and the authority corresponded about the issue. On 17 January 2024, the authority emailed the owner stating:

What you are proposing is an alternative solution which we do not know it complies with the building code. Thus, we are asking you to provide information...[regarding how compliance is achieved with G7.3.2 of the Building Code]”

- 2.8. The issue remained unresolved between the parties, and on 13 February 2024 the owner applied for this determination.

3. Discussion

- 3.1. The matter to be determined, under Section 177(1)(a), is whether the units on Lots 3 and 4 with the CCTV as proposed, will comply with the requirements of Clause G7.3.2 of the Building Code in relation to the proposed firewall.
- 3.2. Section 17 of the Act requires all building work must comply with the Building Code to the extent required by the Act.
- 3.3. The relevant Building Code clause is G7 Natural light. The objective of Clause G7 is to safeguard people from illness or loss of amenity due to isolation from natural light and the outside environment. The functional requirement clause G7.2 provides:

Habitable spaces shall provide adequate openings for natural light and for a visual awareness of the outside environment.

- 3.4. The performance clause G7.3.2 requires:

Openings to give awareness of the outside shall be transparent and provided in suitable locations.

- 3.5. The living room on the ground floor of each unit has an opening to the outside, being the sliding door that provides access to the patio. However, the outdoor area on the ground floor on Lots 3 and 4 is effectively enclosed by the wing walls, solid block fire wall and balcony above. The fire wall is attached to but set off from the wing walls. Based on the drawings, I am of the view the limited separation between the wing walls and fire wall is not sufficient to provide awareness of the outside from the habitable space in the units.
- 3.6. It is the building work that must achieve compliance. The building work as proposed does not comply because the opening in the building, being the doors that open onto the patio do not give the occupant of the habitable space awareness of the outside. The use of the CCTV is not an “opening” in the building, and its use is subject to operation by the occupant of the building.

- 3.7. In conclusion, the proposal to install CCTV does not meet the performance criteria in clause G7.3.2, and with regard to the proposed fire wall the units on Lots 3 and 4 do not comply.

4. Decision

- 4.1. In accordance with section 188 of the Building Act 2004, I determine units on Lots 3 and 4, in relation to the fire wall and with CCTV cameras as proposed, do not comply with the Building Code clause G7.3.2 for awareness of the outside.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 8 May 2024.

Andrew Eames

Manager Advisory