

# UNDER CONSTRUCTION

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PlaceMakers  
KITCHENS



## IN THIS ISSUE

SAVE TIME WITH PLACEMAKERS KITCHEN SOLUTIONS  
CONFUSED ABOUT CONSENT REFORM? WE'VE GOT IT COVERED!  
HOW SAFETY AND WELLBEING SUPPORT BUSINESS SUCCESS



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## FRONTING UP TO CHANGE



**We know that running a business can be both a challenging and rewarding experience, and we're here to help our builders in any way we can**

**The Government's latest suite of proposals are intended to make it faster, cheaper and easier to build – though reaction from across the industry has been mixed. In this issue, we take an in-depth look at the proposed residential building underwrite scheme, minor variation changes and consent reform (including self-certification) to help bring some clarity and balance to all points of view**

On page 3, we hear from two builders about whether they believe the proposed changes will result in positive outcomes for smaller businesses. Our extensive news coverage starts on page 24 and we also include the latest from MBIE on pages 6-9.

Bultin director Ben Rickard gives his expert opinion on the Government's suggestion that insurance could replace building consents. His article on page 16 makes for fascinating reading.

Faced with continued economic uncertainty, business coach Graeme Owen looks at the importance of team wellbeing in the overall health of a business – and its ability to bounce back when the opportunity arises. Turn to page 34 to read his advice. Similarly, Site Safe's guide on dealing with fatigue will help ensure your team is working to its full potential. See more on page 22.

Some business owners may be facing the tough decision of having to restructure or downsize their team. If that's you, make sure to read the legal advice on this matter from Duncan Cotterill on page 36.

We know that running a business can be both a challenging and rewarding experience, and we're here to help our builders in any way we can. One way we're doing this in-store is through our new kitchen category solution. Our new service is designed to give you more time on the tools, while helping deliver your clients the kitchens of their dreams – all ordered through your trade account. Learn more on page 4!

As always, I hope you find this issue of *Under Construction* useful and I wish you all and your teams a happy and healthy summer break.

**Shane Cornelius**

General Manager Sales & Service

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## A CHANGE FOR THE BETTER?

Builders' Business is a column by builders for builders. Its objective is to provide a forum, particularly for small business operators, in which to share knowledge, experience, tips and ideas

**Q:** *Do you think recent legislation changes will benefit the industry?*

Firm: **Stockman Builders**  
Interviewee: **David Stockman**  
Role: **Director**  
Location: **Canterbury**  
Staff: **7**

**I think that the proposal to regionalise Building Consent Authorities (BCAs) would help us the most.** We build all over Canterbury and different BCAs, like Selwyn District Council or Christchurch City Council, would often pick us up on completely different things – for example, we've been picked up by one BCA for using nails that were deemed acceptable by another! Having a uniform and consistent approach would make building a lot more efficient.



**I've done a few remote inspections and they're hit and miss – it's actually hard work!**

I also know that the Government is thinking about bringing in remote inspections as the default, and I don't know how much that would benefit the industry.

I've done a few remote inspections and they're hit and miss – it's actually hard work! For example, during membrane inspections I was on the phone for an hour to an inspector and that's time that I can't be working on the job.

I've also heard from a friend in Mackenzie District, who said that some houses that received Code Compliance Certificates after a remote inspection had issues because, on video, you can't judge perspective or heights of key build elements.

In my experience, clarifying minor variations conditions may not have the desired impact. I find that inspectors don't give a site sign-off to anything that isn't specified on the plan, even if it has the same performance. Maybe the clarity will change inspectors' behaviour but I don't automatically think it will. ■

Firm: **Redwood Builders**  
Interviewee: **Oliver Tracey**  
Role: **Director**  
Location: **Kapiti Coast**  
Staff: **10**

**I think that allowing some simple builds to progress without a consent could be a good idea** but there needs to be a lot of thought put into how that actually works.

At a basic level, I don't believe you can progress house builds without any inspections at all, and I think there needs to be some documentation process built into the new rules. Off the top of my head, LBPs could be made to take progress photos of things like top plate fixings, which are then uploaded somewhere to make sure there's a paper trail during a build.

There also needs to be more regulation and strengthened punishment for builders who don't follow the Building Code, so I would support that. But I think that's another area that needs to be carefully considered, as you'll always have people trying to dodge the system. Relying on punishment to deter bad behaviour while bringing in no-consent builds could be tricky.

I wouldn't like to see a merge of BCAs. We only deal with Kapiti Coast District Council (KCDC) and, if that got swallowed into a Wellington BCA, I think it would complicate things. We enjoy a very good working relationship with KCDC, which is a smaller council, and I think if that was to be removed then we'd lose that.

I don't think the clarification to minor variations will have much of an impact. I think the process is pretty straightforward as it stands, although we process our changes through a designer or architect, which incurs some cost – so avoiding that would be good. Generally, every change we make is followed with an email to the BCA, so all our paperwork is correct and up to date.

Regarding remote inspections, I believe that you need inspectors on site for some things. I don't think you can go fully remote, and this is another area that legislation would have to be incredibly well thought out to ensure remote inspections don't miss anything. ■

## BUILDING BESPOKE KITCHENS



Planning kitchens with clients is something PlaceMakers can take off builders' hands

**When it comes to kitchen planning, why not share the load with PlaceMakers and give yourself more time on the tools? Our new consultancy service and online 'Plan your space' tool, which showcases kitchen options for builders and clients, allows you to do just that**

**A**s part of PlaceMakers' commitment to partnering with you, our builders – we are investing in systems, processes and platforms that support you beyond the actual build. Over the past year, this has included rebuilding the 'Plan your space' section of our website to make it easier for you and your clients to select the right products for their project.

PlaceMakers' latest addition to these resources is for kitchens and everything in them – from stovetops to splashbacks to ovens to sculleries. It features a wide range of options that can be custom designed to suit most spaces, trends, and budgets, so your building clients get exactly what they want.

There is significant focus on the individual product options and how they compare to each other, as well as 'inspiration projects', which show some products in situ and feature comprehensive information on the product options available for people planning a new kitchen.

"By equipping our builders with the information and knowledge they need to make an informed decision, we hope to assist them in making a selection based on the client's budget, preference and space," says PlaceMakers Brand and Loyalty Manager Claire Warin.

"On the other hand, if their clients want to be more involved, or need inspiration, they can visit the Plan Your Space section themselves and share their preferences with the builder."

While the resources sit on PlaceMakers' customer-facing site, builders can also take advantage by using the 'Check your trade price' button to redirect to the trade portal and see their own pricing for that product.

#### NO MORE KITCHEN CHAOS

PlaceMakers has covered every kitchen component your client might need. Categories include:

- Cooktops
- Ovens

- Rangehoods
- Dishwashers
- Microwaves
- Refrigeration
- Cabinetry
- Benchtops
- Tapware
- Splashbacks
- Hardware & Accessories

With more than 1,000 products available, across more than 40 brands, making the 'Plan your space' section builder and customer friendly was front of mind.

"The initial structure highlights the different categories available. When you drill into each item, the options become more specific to provide for space limitations and style preferences, while offering a wide range of brands," says Claire.



All appliances and products are housed in the same area, making it easy for builders and clients to continue their kitchen journey as they select all the pieces required. With so many options, PlaceMakers new resources should inspire your clients and make the selection process smoother.



**To see how PlaceMakers helps realise kitchen dreams first-hand, clients can check out before and after images of actual New Zealand kitchen renovation projects**

### CUSTOM CABINETRY

To see how PlaceMakers helps realise kitchen dreams first-hand, clients can check out the 'Transformation section', which uses sliders to showcase before and after images of actual New Zealand kitchen renovation projects.

A stand-out offering is PlaceMakers range of cabinetry, which is custom built to suit your client's needs and preferences. Types of cabinetry include Melteca in a variety of finishes, such as flat colours, grained or hi gloss, acrylic with premium matte and gloss options, as well as sleek modern handle-less range.

A range of product options in a variety of finishes are featured on the 'Plan your space' site, allowing clients to better visualise how the different options look in situ. To take advantage of this custom cabinetry offering, which includes a 15-year warranty,\* builders need to book a consultation – for themselves or the client.

### OFFLOAD YOUR CLIENT'S KITCHEN PLANNING

Our newest offering – facilitating and conducting kitchen consults for your clients – is specifically designed to take client management off your hands to free up your time, while putting them on the right path.

"We want to take the kitchen planning portion of our builders' workload off their plate, while keeping the purchases on their account," explains Claire.

"Our kitchen experts will contact your client to arrange a consultation, then sit down with them and help design their dream kitchen – using actual build dimensions and products available through PlaceMakers. All we need our builders to do is confirm that the client is happy for us to get in touch, then fill out an online form with the client's details.

"No organising a time, no cabinet colour conversations, no to-ing and fro-ing about the best fridge for the space – we handle all of that for you!"

### LEAVE IT TO THE EXPERTS

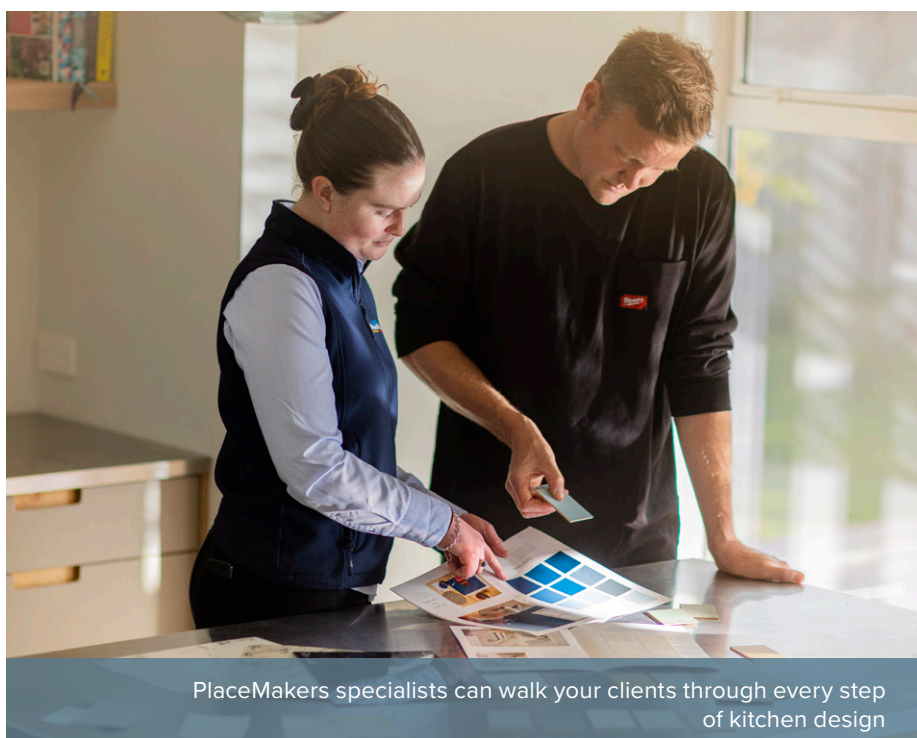
This new approach supersedes our Kitchen Planner software, which allowed clients to design their own kitchen plan before sending it to their builder to share with the local PlaceMakers branch.

"While this approach was popular with some would-be designer clients, the designs were often not fit for purpose and clients without an eye for design struggled to use it," says Claire.

"By arranging a consultation between the client and a PlaceMakers kitchen specialist, we can produce a customised design that builders know will fit the client's budget and preferences, as well as the space available."

Both client and builder benefit from the new arrangement, with the builder's preferential pricing applied and all products billed through the builder's account. ■

\*Profile doors have a ten-year warranty.



PlaceMakers specialists can walk your clients through every step of kitchen design

## MINOR VARIATIONS BETTER DEFINED



BCAs must assess minor variations but builders won't need to submit an amendment for a building consent

### New and amended regulations came into force on 30 September to better clarify a 'minor variation' when it comes to amending a building consent, and a 'minor customisation' when it comes to a MultiProof

The Government made this change in August 2024. The changes address some of the recommendations in the Commerce Commissioner's market study into residential building supplies related to product substitution and variations.

#### MINOR VS MAJOR

After a project gets a building consent and begins, it is possible that some building products specified in the plans are not available. In this situation, you can make a change to your consented plan without impacting the consent, as long as the change is minor and does not affect compliance with the Building Code. This is known as a 'minor variation' for building projects and a 'minor customisation' when it is applied to a MultiProof.

Building consent authorities (BCAs) will still assess changes to ensure the building will comply with the Building Code but people won't need to

submit an amendment for a building consent for minor, straightforward product or design changes.

The problem comes when there is disagreement (usually between a builder or designer and a BCA) about whether a change is 'minor', or whether it needs to be dealt with under the 'major variation' rules, which require a building consent to be re-submitted.

The difference between a minor and major variation can be extensive in terms of time and cost involved, so it is important that all parties can agree on the scope of the variation.

#### A CLOSER LOOK AT THE CLARIFICATION

Minor variations are covered by the Building (Minor Variations) Regulations 2009, which forms part of the Building Act 2004. Under the change, these regulations have had three new parts added to make them

clearer. The additions are:

*The substitution of a comparable product is a minor variation if—*

- A) The products achieve an equivalent level of performance, having regard to their design, installation, intended use, and maintenance; and*
- B) It is not likely to affect the compliance of other parts of the building work with the building code; and*
- C) The consequences of a building failure due to the product substitution would not be significantly worse than a building failure caused by the failure of the original product.*

These sections are additional to the current minor variation definition, which simply says that a variation must not 'deviate significantly' from the original plans and specifications.



## PLANNING FOR POTENTIAL VARIATIONS IN ADVANCE

Building consent application forms have been changed to allow builders and designers to specify alternative products in advance. This is optional and will allow you to specify comparable building products in advance so an alternative will be pre-approved and ready to go without a variation needed, if needed.

This allows for improved efficiency in the building consent process and encourages competition for building products – especially around supply and availability.

## MINOR CUSTOMISATIONS FOR MULTIPROOF

For Licenced Building Practitioners (LBPs) designing MultiProof projects involving Restricted Building Work, the regulation changes also impact ‘minor customisations’. MultiProof enables fast-tracked building

consents for pre-approved building designs. The inclusion of a definition for minor customisation now gives homeowners and builders some flexibility to make personal choices about a build without sacrificing the benefit of a pre-approved building design.

**// Building consent application forms have been changed to allow builders and designers to specify alternative products in advance**

## THE BIGGER PICTURE

Updating the regulations around the definition of a minor variation may help to speed up consenting and improve efficiency. Other changes already announced in this space include:

- Mandating the acceptance and use of overseas building products.
- Increasing the uptake of remote virtual inspections.
- Reducing the cost of the building levy.
- Improving the monitoring of the building consent system, including publishing data quarterly. ■

*This article is an excerpt from Codewords Issue 121. Reading Codewords articles that are relevant to your licence class is a mandatory requirement for Licensed Building Practitioners. These questions can be answered through the LBP portal, online on the Under Construction website or recorded on the magazine, then provided at the time of renewal.*

## CODEWORDS QUIZ ISSUE 121



- 1 Why did this definition change need to happen?
  - a) It addresses some of the recommendations in the Commerce Commission market study into impediments to product substitution and variations.
  - b) It will clarify what a ‘minor’ change is for building consent authorities, designers and builders.
  - c) It is aimed at speeding up consenting and improving efficiency.
  - d) All the above.
- 2 The substitution of a comparable product is a minor variation if:
  - a) The products achieve an equivalent level of performance, having regard to their design, installation, intended use and maintenance.
  - b) The new product is the same colour as the original.
  - c) It is likely to affect the compliance of other parts of the building work with the Building Code.
  - d) All the above.
- 3 What is another change already announced aimed at speeding up consenting and improving efficiency?
  - a) Mandating the acceptance and use of overseas building products.
  - b) Increasing the uptake of remote virtual inspections.
  - c) Reducing the cost of the building levy.
  - d) Improving the monitoring of the building consent system, including publishing data quarterly.
  - e) All the above.

The Codewords article above is republished verbatim. As such, neither PlaceMakers or Under Construction magazine’s publishers take responsibility for the accuracy of the article or its corresponding questions. Reading this article and answering the questions meets Skills Maintenance requirements.

## SATISFIED ON REASONABLE GROUNDS



A BCA must be satisfied on reasonable grounds that a building meets Code requirements before it can issue a CCC

**Building consent authorities (BCAs) need to be ‘satisfied on reasonable grounds’ that building work will meet the requirements of the Building Code, before they can issue the building consent. This is not always as simple as comparing the plans with the performance requirements of Building Code**

**T**he Building Code is performance-based, meaning it states how a finished building must perform in its intended use, rather than describing how it must be designed or constructed. The Building Act provides several ways to demonstrate compliance:

- Acceptable solutions – specific construction methods that comply with the Building Code. The Building Code clauses generally have one or more acceptable solutions.
- Verification methods – methods

of testing, calculations and measurements that comply with the Code.

- Alternative solutions – where all or part of the building design differs from either of the above, and other ways are used to show how it complies with the Code.

Acceptable solutions and verification methods, if followed, must be accepted by a BCA as complying with the Building Code provisions. There are other paths that must also be accepted

as compliant by a BCA such as product certification, energy work certificates, and Determinations issued by the Ministry of Business, Innovation and Employment (MBIE). However, when the design includes specifically designed or bespoke features (alternative solutions), which could affect how the completed building performs in its intended use, the designer needs to show the BCA how that design will meet the performance requirements of the Code. The BCA needs to use its collective experience to determine compliance.





**The Building Code is performance-based, meaning it states how a finished building must perform in its intended use, rather than how it must be designed or constructed**

This is also the case when deciding whether to issue a Code Compliance Certificate (CCC). In fact, the CCC must include the declaration that the BCA is ‘satisfied on reasonable grounds’ that the building work complies with the building consent. Being satisfied on reasonable grounds means having enough evidence or justification to believe something to be true or valid.

If, for any reason, work is carried

out differently on site to what the designer detailed, it is important to involve the designer, so that they have an opportunity to make a new case for compliance. If the inspector finds that the detail on-site differs from that shown, he or she has no option but to fail the inspection. This could potentially lead to costly delays on site.

Although the BCA is ultimately responsible for building consent outcomes, other parties play a key role in contributing to whether a BCA can be satisfied on reasonable grounds.

- Owners are responsible for obtaining consents, approvals, and certificates.
- Designers are responsible for ensuring the plans and specifications are sufficient to result in the building work complying with the Building Code.

- Builders are responsible for ensuring that building work complies with the building consent and the plans and specifications that relate to that consent

MBIE has developed a guidance document ‘Satisfied on reasonable grounds’. This guidance document aims to help improve understanding of what satisfied on reasonable grounds means and how to apply it. It also provides clarity for BCAs and assists them to achieve a consistent approach in applying the ‘reasonable grounds’ test.

The guidance is primarily for BCAs; however, it also provides helpful information and understanding for designers, builders and owners in their various roles. ■

[Click here for more more guidance on ‘satisfied on reasonable grounds’](#)

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## CODEWORDS QUIZ ISSUE 121



- |  |  |  |
|--|--|--|
| <p>4 What does being ‘satisfied on reasonable grounds’ mean?</p> <p>a) The bearing capacity of the ground is suitable to support the proposed building.</p> <p>b) The BCA assumes that the building will comply if built as per the design.</p> <p>c) It means having enough evidence or justification to believe something to be true or valid.</p> | <p>5 What does the BCA need to consider to be satisfied on reasonable grounds?</p> <p>a) Previous knowledge of similar situations.</p> <p>b) Risk.</p> <p>c) The skills and experience of persons providing the experience.</p> <p>d) Complexity.</p> <p>e) The quality of the evidence provided.</p> <p>f) All the above.</p> | <p>6 Why is it important for site or trade LBPs to understand these changes?</p> <p>a) It’s not – they’re not the designer.</p> <p>b) They need to ensure the work is completed in accordance with the plans, or contact the designer before carrying out the work to ensure its compliance with the Code.</p> <p>c) They don’t have to worry about it – that’s the inspector’s job.</p> |
|--|--|--|

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## HANDLING COMPLAINTS MADE AGAINST YOU



The Building Practitioners Board investigates and determines all complaints made against LBPs

**Having a complaint made against you as an LBP can be a worrying event. This article provides an overview of the complaints process, along with practical tips on what to do at each stage – plus, we review the recent case of an LBP who was cleared of the complaint made against them**

**C**omplaints can be made by a customer to the Building Practitioners Board (the Board), if they believe an LBP has carried out unsatisfactory work. The Board investigates and determines all complaints.

As part of the investigation, the investigator will:

- Provide full details of the complaint.
- Write to request the LBP's response to the complaint and any further information they can provide.
- Seek additional/supporting information and/or seek clarification of information from both the LBP and the complainant.

- Seek information from other parties involved and from witnesses.
- The investigator may also have an independent person provide an expert assessment of the matter.

[Click to read more about the complaint investigation process](#)

### COMPLAINT HEARINGS

If the Board decides to proceed to consider a matter, they must hold a hearing. This hearing can be held on the papers in some cases. The purpose of the hearing is to further investigate and determine if a disciplinary offence has been committed by the LBP. If the Board decides it has, they will also consider the appropriate penalty, if any costs

should be imposed and whether the matters should be published.

Hearings are a formal procedure. The Board will try to hold the hearing at the closest suitable location to where the LBP lives. The LBP will be advised of the date and time for this and will be asked if they wish to attend. Hearings are usually held in public. The complainant is entitled to attend the hearing. The Board may call witnesses to assist with the investigation. The LBP is entitled to call witnesses or have a legal representative or support person to attend. If they wish to engage a lawyer, it is important to consider that the lawyer will likely require some time to become familiar with the complaint before a hearing.

### REMOTE HEARINGS

The Board may direct that a hearing be held remotely (via Zoom or other



remote options).

The Board's guidelines for attendance at hearings via Zoom (or other remote options) should be adhered to. If an LBP has concerns about meeting the requirements for remote participation, the Board Officer should be contacted in the first instance.

[Click to read the guidelines for participants in remote hearings](#)

## PROVISION OF DOCUMENTS

This Guide is intended to help participants who are participating in a tribunal hearing and wish to submit documents to support their position.

[Click to read the guidelines for provision and admissibility of documents at hearings](#)

## RECUSAL GUIDELINES

This guide is intended to clarify requirements for recusal.

Requests with any concerns can be sent directly to the Board Officer as [bpb@lbp.govt.nz](mailto:bpb@lbp.govt.nz) and must include the reasons for the request.

[Click to read the recusal guidelines](#)

## ADJOURNMENTS

Request for an adjournment to the time and date that have been set for the hearing should be made via the Board Officer in writing, stating the reasons with supporting documents.

It is advised that this request is made as soon as can reasonably be expected. If a hearing is adjourned once it has been set down, the Board

may reserve the right to consider the costs from the adjournment when considering the costs to be applied to an upheld decision.

[Click to read the guidance document on adjournments](#)



**Any disciplinary action the Board takes will be recorded on the public register of LBPs for three years or until their licence is cancelled**

## POSSIBLE OUTCOMES

If the Board finds that a disciplinary offence was not committed, the matter ends there. However, if the Board upholds a complaint about an LBP, it can:

- Suspend or cancel that person's licence.
- Restrict the kind of work they can do.
- Fine the practitioner up to \$10,000.
- Order the practitioner to do training.
- Formally reprimand the person, and/or;
- Order the practitioner to pay costs.

Any disciplinary action the Board takes will be recorded on the public register of LBPs for three years or until their licence is cancelled. That information will be available to

anyone who searches the register.

The Board can publicly announce the action in any other way it sees fit, such as a press release.

The Board cannot order an LBP to compensate someone or to remedy the situation (such as to fix the work).

## FINES AND COSTS

If the Board orders an LBP to pay fines and/or costs related to a disciplinary proceeding, the LBP has 60 days from the date of the decision to pay those fines or costs.

If an LBP fails to pay within that period, the Board can suspend or cancel that LBP's licence for failure to pay those fines or costs.

## MEDIA ATTENDANCE

Board hearings may be attended by the media.

The purpose of this is to set out the Board's practice and procedure in relation to private hearings, suppression and media attendance at hearings. Requests and questions relating to media attendance should be referred to the Board Officer.

[Click to read more on media attendance](#)

## APPEALS TO THE DISTRICT COURT

LBPs can appeal to the District Court if they don't agree with the Board's decision about a disciplinary penalty. The right to appeal a decision of the Board is provided for under section 330(2) of the Building Act. It is important to note that:

- An appeal is an appeal of a decision of the Board to take action under section 318 of the Act (Disciplinary Penalties).

## HANDLING COMPLAINTS CONT.



LBP's are entitled to legal representation at Board hearings and are advised to seek legal advice if they choose to appeal to the District Court

- Appeals are made to the District Court.
- Appeals must be lodged within 20 working days of receiving the decision of the Board.
- The Notice of Appeal must be sent to the Board when lodged in the District Court.
- If an LBP wishes to appeal the decision of the Board, they should cite the complainant and the Registrar of LBP's as the Respondents to the appeal.
- An appeal to the District Court does not have the effect of suspending the disciplinary action taken against you. An application must be made to the District Court with the Notice of Appeal if an LBP wishes to stay the disciplinary actions.
- LBP's are encouraged to seek legal advice.

[Click to download the notice of appeal template](#)

### COMPLAINT PROCESS IN ACTION – RECENT CASE DETAILS

Not all builders who have complaints brought against them are found guilty. In August 2024, carpentry LBP licence holder Steven Ruthven (the respondent) was alleged to have carried out or supervised building work in a negligent or incompetent manner, carried out or supervised building work that does not comply with a building consent and failed to provide a Record of Work (ROW).

Ruthven was subcontracted to install cavity battens, cladding and associated flashings on a new residential build.

“The Respondent both carried out and supervised the Restricted Building Work (RBW) and was mostly present when the work was completed,” stated the LBP Board.

Ruthven's work was initially inspected and passed by a Building Consent Authority (BCA), which allowed construction to progress through its stages, before being re-inspected 12 months after his involvement in it as part of a final inspection. Following the re-

inspection, the BCA issued a Notice to Fix (NTF), which stipulated the cladding was to be removed and replaced due to compliance issues.

However, the first NTF was withdrawn and replaced with a second NTF following the BCA's additional enquiries with Ruthven and others involved in the build, as well as the receipt of further evidence which indicated there were reasonable grounds to be satisfied that the building work was compliant.

“The new notice requires the roof flashings and all cladding systems to be installed as per the approved building consent a BA-[OMITTED] and the manufacturer's specifications,” stated the LBP Board's decision.

“The Board was also provided with email correspondence from the Dunedin City Council dated 26 August 2024. It contained an itemised list of issues to be addressed under the replacement NTF to comply with the Building Code.”

Ruthven's involvement in the issues



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raised by the second NTF related to the installation of cladding and associated flashings. They were:

- Head flashings are to be sealed to the top of the window and door, as required for a very high wind zone.
- Internal corner between main house and lean-to needs to be rectified.
- Bargeboards to be installed in the lean-to-roof area.
- Bargeboards to the main roof have been cutting into the cladding system and need to be extended to allow the cladding to run behind the barges.
- Oblique flashings are required for soffits to wall junctions.
- Soffit moulding was not installed; however, this was an optional component for the drawing owners to confirm if they wanted it installed or left off.
- Gaps at the bottom of windows should be closed off with cladding.
- Linea oblique has less than 10mm of cover on windows and doors.
- It appears the Linea weather board has been fixed at the floor joist junction, where it's meant to be unfixed as per figure 26 on the manufacturer's specifications.
- The edges of the cladding are still to be sealed.
- Gaps under head flashings and penetrations are to be appropriately sealed.
- Items on the cladding report from Jamies Hardie are to be

addressed to the point that James Hardie will issue its warranty.

- Cladding system to be adequality re-sealed (painted) to meet the durability requirements.



**To make a finding of incompetence, [the Board] needed to determine whether Ruthven demonstrated a lack of ability, skill or knowledge**

**THE BOARD'S FINDINGS**

The Board stated that to find whether Ruthven was negligent, it needed to determine if he departed from an accepted standard of conduct. To make a finding of incompetence, it needed to determine whether Ruthven demonstrated a lack of ability, skill or knowledge. In its decision, the Board found Ruthven did not carry out or supervise building work in a negligent or incompetent manner.

“Looking at the issues raised in the replacement NTF and the associated list, the Board was satisfied that whilst there was some non-compliance, the issues did not reach the threshold for disciplinary action. In coming to this decision, the Board has noted that the overall seriousness of the matters under investigation had significantly decreased between the first NTF and the replacement NTF,” stated the Board.

When considering whether the applicant departed from an acceptable standard of conduct, the Board considered whether the issues raised reached the threshold

for disciplinary action and found they did not. However, the Board issued a warning to all LBPs in its judgement.

“Notwithstanding the finding, the Respondent should note that there is an expectation that LBPs will get building work right the first time. He should not rely on others to identify compliance issues or on rectification processes to bring his building work up to the required standard.

“The Board also cautions the Respondent as regards his practice of installing what is supplied. There is a strict requirement in the Act to build in accordance with the building consent. As such, if materials are supplied that differ from those that are specified in the building consent or that will not achieve compliance requirements, then he should either insist that the correct materials are supplied or liaise with the designer to establish if a consent change is required.”

In respect to the charge of failing to comply with a building consent, the Board found Ruthven had not been negligent or incompetent for the same reasons.

“The Board also investigated whether the Respondent had failed to provide a Record of Work on completion of RBW,” said the decision. “The Board decided that because the RBW was ongoing (due to the requirement to carry out additional work to satisfy the second NTF requirements), completion had not occurred.”

At the time of the Board decision, Ruthven stated he would be returning to carry out or supervise the fixes required to the cladding and associated flashings. ■

## CAN INSURANCE REPLACE BUILDING CONSENTS?



A national BCA could work with insurers to reduce the compliance requirements for low-risk builders – but only if high-quality inspection data is made available

**Building and Construction minister Chris Penk recently announced that the Government is looking to ‘lift the competence of building professionals’ and increase penalties as a way of improving efficiency and reducing the cost of building work. In this article, construction insurance expert Ben Rickard discusses whether the changes, particularly regarding self-certification and liability, will have the intended effect**

In my view, none of the changes proposed will improve efficiency or reduce cost. The factors driving down efficiency and increasing the cost of building aren't a lack of competence or penalties, but the fact that the market for builders is made up of thousands of small firms and individuals. Even the larger group housing companies make up a relatively small proportion of the overall market.

Did the introduction of the Licenced Building Practitioner (LBP) regime and the existing penalties in the Building Act improve the situation? I'd like to see some data on that. If the answer is no, why would more "competence and accountability requirements" change

the situation? And even if it does, there will be other consequences, such as more people choosing to leave the sector. Additional requirements will increase the industry's barriers to entry, which is likely to reduce the supply of builders, leading to an increase in the cost to build!

To my untrained eye, this seems like simple economics. Plumbers and electricians have relatively high barriers to entry and get paid a lot more than builders, so while it could be a positive step to address the relatively low rates builders earn given the risk they are exposed to, the proposed regulation changes may have the opposite effect from that which was intended.

### WILL CONSENT OPT-OUTS WORK?

The Government has also committed, as part of its coalition agreement with ACT New Zealand, to look at the feasibility of allowing builders to opt out of a building consent, or presumably some inspection requirements, if they have adequate insurance. The assumption is that by "lifting the competence" of building professionals, insurance companies will be prepared to enter this market. While this is certainly possible, I think it is a stretch to say that it will materially improve efficiency and reduce cost. It's almost certain that insurers will want inspections to be undertaken as a condition of underwriting any risk, so just because a Building Consent



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Authority (BCA) is not doing the inspection, doesn't mean inspections don't need to be done, and someone has to pay for that. Would it be cheaper and less risky if this work is outsourced to the private sector? I'm not sure history would agree.

Long-tail risk, like committing to remediate defective building work for up to 10 years, is a big ask for insurers. This is why the market in Australia is almost exclusively backed by state governments and why the two largest players in the New Zealand market are trade associations that essentially self-insure this risk.

That's not to say it's not possible. We have had an insurance-backed market for builders guarantees in the past and we could again. However, in my view, the likelihood is more about global appetites for risk from insurers than any tinkering around the edges of a competence and penalty regime here.

#### WHAT'S THE SOLUTION?

I think a single, nationwide BCA makes a lot of sense in terms of improving efficiency and consistency. For all their faults, organisations like the Natural Hazards Commission and ACC solve problems that markets have struggled with.

A national BCA could deliver consents and inspections through a consistent and unified programme that insurers could have confidence in. This, in conjunction with additional underwriting of the building company (such as of their quality assurance systems, financial solvency and contractual terms) by insurers could attract insurers to the market.

Those builders accredited by insurers would be able to provide 10-year guarantees to their customers. Those who aren't accredited would not. The Government could mandate that only accredited builders can perform Restricted Building Work, or use some other benchmark, above which the ability to provide an independently insured guarantee would be compulsory in order to do the work.

In the event of a claim, the insurer would bear the cost of assessing and remedying the defect, while retaining their ability to seek recovery of their costs from the responsible builder



#### **The factors driving down efficiency and increasing the cost of building isn't a lack of competence or penalties, but the fact that the market for builders is made up of thousands of small firms and individuals**

(if they were still around). In this way, the consumer is protected but the builder is still liable for their work. Too many claims and the builder would lose their accreditation.

The BCA, via a levy, could act as a back-up in situations where a builder has not supplied a guarantee when legally required to do so. That way, the consumer is still protected. Failing to supply a guarantee when legally required to do so could be an offence,

punishable with a big fine for the company and the directors personally (since it is most likely that the company would have gone into liquidation).

The BCA, which is doing the consenting and inspecting, could work in conjunction with insurers to reduce the compliance requirements for low-risk builders. Equally, the insurer would be able to utilise inspection data to inform their underwriting of the builder. This would have the added benefit of incentivising builders to make sure they are using the inspection system as it is intended.

Inspection data would need to be of good enough quality for insurers to determine the difference between different types of inspection fails. At least with a single BCA, there is likely to be more consistency of approach and therefore more reliable data.

#### IN A NUTSHELL

The Government wants to reduce the cost of building, while also improving quality and protecting consumers. They want to do this by improving efficiency, which seems to mean moving the cost of consenting on to the builder (compliance) and the private/insurance sector.

In my opinion, the Government must get their own house in order first by improving the efficiency of the consenting and inspection regime before imposing more requirements and penalties on builders. Having a well-run national consenting and inspecting organisation is more likely to attract insurers into the market to provide long-tail liability coverage for building defects. ■

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*This is an opinion piece by Ben Rickard, director of construction-focused risk adviser and insurance broking firm Builtin.*

*Ben and Builtin have been providing insurance and risk advice to thousands of building businesses for more than a decade. He has made submissions on similar previous Government proposals and appeared before select committee on issues concerning joint and several liability and the viability of the market for builders guarantees in New Zealand. For more information visit [builtininsurance.co.nz](http://builtininsurance.co.nz), email Ben Rickard at [ben@builtin.co.nz](mailto:ben@builtin.co.nz) or call the team on 0800 BULTIN.*

## OPTIMISING SUMMER SHADE



Planning to prevent overheating should form part of the earliest stages of design

The past decade has produced seven of our 10 warmest years on record and, by 2040, the number of days above 25°C is predicted to rise by 40% or more in some areas. That could mean an extra month of hot weather. Designing effective shade devices on homes will be crucial to keeping them cool

Our climate is getting warmer and BRANZ research over recent decades has found our houses are following suit. That's a combined result of increased airtightness, higher-performing thermal insulation, increased areas of glazing, fewer or smaller eaves and changing occupant behaviour.

Planning to prevent overheating should be part of the earliest stages of design. Things to consider:

- Building orientation that takes advantage of cooling breezes.
- Passive design options such as cross-ventilation and stack ventilation, where fresh, cool air enters a building at a lower level and hot, stale air is naturally expelled at a higher level (eg, skylights).
- Shade devices such as eaves and louvres.
- Window placement, size and glazing appropriate to the local climate and orientation.
- Using thermal modelling tools to identify designs with optimal indoor temperatures.

### ALL ABOUT EAVES

Eaves are the most effective approach to keep midsummer sun out but allow midwinter sun in on the northern aspect. Eaves and shading devices should be designed specifically for the location.

The length of Aotearoa New Zealand means that differences in sun angles (see Figure 1) do not allow a one-size-fits-all approach for the whole of the country.

NIWA's online tool [Solarview](#) produces custom sun path diagrams for specific locations, showing the sun's location in the sky at any point during the day and throughout the year (see Figure 2). This data can be used to design eaves or other fixed overhangs.

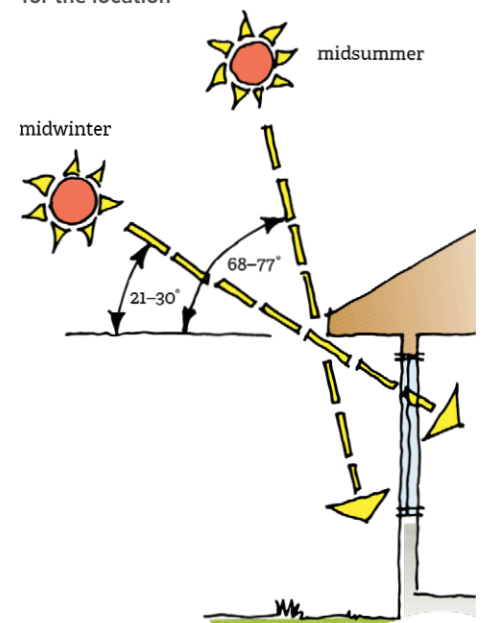
### CALCULATING THE DEPTH FOR EAVES

Optimising a design to provide healthy and comfortable indoor temperatures is ideally done with computer modelling software (see BRANZ Bulletin 684 *Thermal modelling tools for houses*). There is also a relatively simple two-step calculation that can show the approximate eaves dimensions for different window heights at different latitudes. The first step considers

the depth required to keep out midsummer sun, while the second considers the height required to admit midwinter sun.

Take the height (H) from the windowsill to the eave (Figure 2) and multiply this by the Fheight factor for the closest location (Table 1). Using Auckland as an example, if the distance between the windowsill and eave is 2m, the calculation is 2.0

Figure 1: Midday sun angles for midsummer and midwinter (northern aspect only) are very different around New Zealand, so eaves must be designed specifically for the location





$x 0.24 = 0.48$ . Therefore, the eave overhang should be approximately 480mm horizontally to minimise the impact of the summer sun.

If the windows go down to floor level, the calculation is around  $2.6 \times 0.24 = 0.624$ . That is 624mm (or it could be rounded to 600mm). These

calculations are very close to the figures calculated in 'Combating overheating without using energy' in *Build 121*. To ensure that the window admits winter sun, calculate the required height (D in Figure 2), which is  $H \times F_{\text{shade}}$ . Using Christchurch as an example, the calculation for full-length north-facing

windows is  $2.6 \times 0.15 = 0.390$ . The minimum distance between the top of the window and the bottom of the eave overhang should be 390mm, which could be rounded to 400mm.

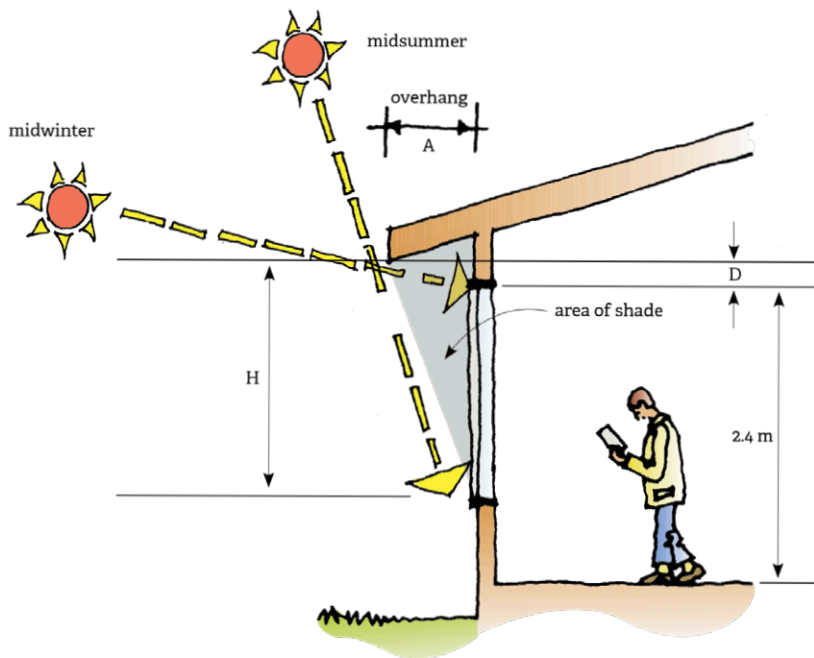
### GLAZING

Window placement, size and glazing specification have an enormous impact on the comfort levels inside a home. Large west-facing windows are problematic in the early evening because the sun can be both hot and relatively low in the sky, so eaves are not fully effective.

Where such windows are wanted, perhaps to benefit from a view, movable louvres or indoor shade options, such as shaderoller blinds, may be more effective than eaves. BRANZ also encourages new-home designers to carefully consider the solar heat gain coefficient (SHGC) of glazing to reduce the risk of overheating. You can find more details in 'Solar heat gain coefficient for windows' in *Build 189*.

Further information about designing for shade generally can be found in BRANZ Bulletin 656 *Designing to avoid houses overheating*. ■

Figure 2: Dimensions for calculating the required depth for eaves on the northern aspect in a given location



Article by John Burgess, BRANZ Senior Scientist. This article was first published in Issue 198 of BRANZ Build magazine. [www.buildmagazine.org.nz](http://www.buildmagazine.org.nz)

## PROVE YOUR KNOWLEDGE

Tick the correct answers below and record what you've learnt in the record of learning on the back page!



- 1) How should approximate eave dimensions for midsummer sun be calculated?
  - a) Use the height (H) from the windowsill to the eave and multiply this by the Fheight factor.
  - b) Eave dimensions are the same across New Zealand and don't need to be calculated.
- 2) Why are large west-facing windows problematic?
  - a) They must be triple-glazed due to H1 regulations.
  - b) There is greater risk of bird strike with west-facing windows.
  - c) The sun can be hot and low in the sky, so eaves are not fully effective.
- 3) According to the calculations in the article, what should the minimum distance between the top of the window and the bottom of the eave be for Christchurch?
  - a) 390mm.
  - b) 490mm.
  - c) 590mm.

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## ENHANCING SAFETY TRAINING WITH VR AND AR



Virtual reality safety training prototype for construction sites

### New technologies, such as virtual and augmented reality, can play a strategic role in enhancing safety training. BRANZ looks at its potential for reducing workplace accidents and minimising unsafe behaviours

**V**irtual reality (VR) can be used to immerse users in computer-generated simulations that closely resemble real-life experiences, enabling people to experience different training scenarios and showing the realistic consequences of unsafe behaviour, while working on a construction site or during an emergency such as a fire or an earthquake.

In the past decade, as the price of VR equipment has dramatically dropped, many new VR training applications have been developed worldwide for construction workers and building occupants.

In 2015, VR headsets were confined mainly to university laboratories.

From 2016 onwards, the wider public was introduced to the technology, although it remained expensive and required a high-end computer. Nowadays, a standalone VR headset can be purchased for less than \$500 and no longer requires an external computer, which makes it affordable to any construction company.

#### VR TRAINING REQUIRES DOING

Despite the early promise of VR applications in safety training, two key questions have remained. Is VR training more effective than traditional training methods and should we invest in this new technology?

The digitalisation team at Massey University's School of Built Environment ([builtenv.ac.nz/](http://builtenv.ac.nz/)

[digitaltech](#)) has definitive answers to these questions. It analysed over 50 scientific articles published between 2013 and 2021 and found that VR outperforms traditional safety training in terms of how much trainees learn and remember – even weeks or months later.

The reason? VR training gives people the opportunity to learn by doing and making mistakes. In contrast, traditional training is passive – trainees are expected only to listen to instructions.

#### AR TAKES IT UP A STEP

A second emerging technology that can disrupt the safety training field is augmented reality (AR) – an advanced visualisation technology that incorporates digital elements

such as 3D models, animated characters, sound and text into views of the real world.

These digital elements are often called holograms. Currently, the technology is used in vehicle reversing cameras and in smartphone games such as Pokémon Go. It is becoming increasingly mature in terms of hardware and software.

The School of Built Environment digitalisation team recently published

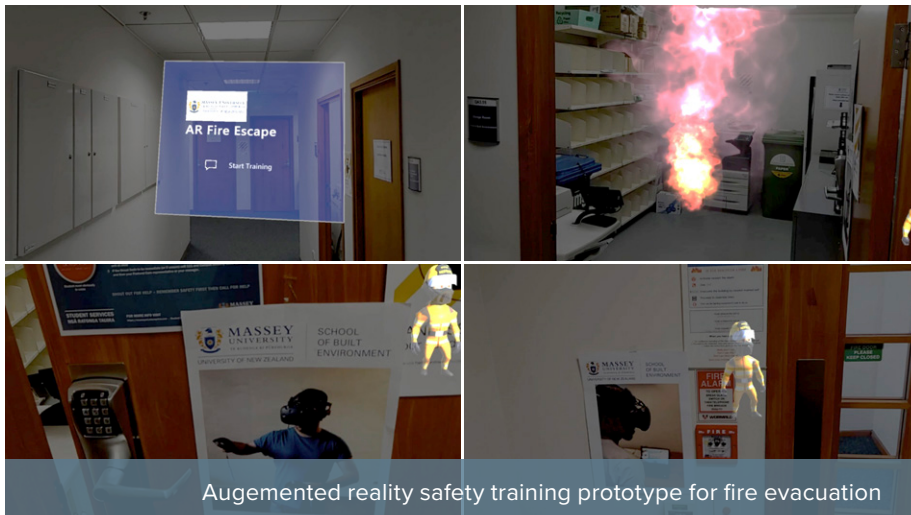
the results of one of the first AR safety training studies. The research shows how holograms can be used to teach building occupants what to do if they spot a fire in a building.

A hologram of a firefighter instructs trainees on the steps necessary to contain and report the fire and finally evacuate the building. By testing this prototype, the research team demonstrated that AR safety training was more effective in increasing motivation and retention than equivalent traditional training.

### TESTING LONG-TERM RECALL

The Massey University team is currently working on the development and testing of new safety training methods as part of a Marsden project funded by the Royal Society Te Apārangi. Called 'How much do they recall? Measuring the effect of safety training on human memory', the project will assess how much people remember from safety training over a year.

As with previous research, it will compare VR and AR safety training with traditional methods, hoping to identify new solutions and evidence to enhance future safety training programmes and regulations and ultimately save lives. ■



Augmented reality safety training prototype for fire evacuation

### WHAT'S THE DIFFERENCE?

**Augmented reality (AR)** augments your surroundings by adding digital elements to a live view.

**Virtual reality (VR)** is a completely immersive experience that replaces a real-life environment with a simulated one.

Article by Ruggiero Lovreglio, Daniel Paes and Zhenan Feng, Massey University School of Built Environment. This article was first published in Issue 202 of BRANZ Build magazine. Images supplied by Massey University School of Built Environment

## PROVE YOUR KNOWLEDGE

Tick the correct answers below and record what you've learnt in the record of learning on the back page!



- |  |  |  |
|--|--|--|
| <p><b>4)</b> What is a benefit to VR training?</p> <p>a) VR training gives people the opportunity to learn by doing and making mistakes.</p> <p>b) VR training has rendered all other learning methods obsolete.</p> <p>c) VR training is cheaper than traditional training.</p> | <p><b>5)</b> What is the rough cost of a standalone VR headset?</p> <p>a) \$1,000.</p> <p>b) \$250.</p> <p>c) \$500.</p> | <p><b>6)</b> How many scientific articles were analysed by Massey University's School of Built Environment before it reached the conclusion that VR outperformed traditional training in terms of memory retention?</p> <p>a) Over 75.</p> <p>b) Over 50.</p> <p>c) Over 10.</p> |
|--|--|--|

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# SITE SAFE

## HOW TO RECOGNISE AND COMBAT FATIGUE



Ensuring staff take regular breaks and stay hydrated can help reduce the risks of fatigue

**Fatigue is more than feeling drowsy; it is a state of exhaustion, which can be both mental and physical. In this article, Site Safe explains how to recognise and combat fatigue on the building site**

**F**atigue reduces a person's ability to do their job safely and decreases performance and productivity. It is often caused by several combined factors, including:

- The demands of work.
- Work scheduling and planning.
- Environmental conditions.
- Dehydration: symptoms of which include cracked lips, flushed face, dizziness, cramps or headaches.
- Drugs/alcohol/medication.
- The type of work activity: such as a noisy environment or using vibrating tools.
- Poor diet.
- Lack of exercise.
- Disrupted sleep.
- Poor emotional wellbeing or stress.

### IDENTIFYING FATIGUE AS A RISK

To determine if fatigue could be a hazard at work, it's vital to recognise mood quality, alertness, drowsiness, task performance and level of focus. To assess the risk, ask yourself and record:

Who is likely to be at risk of fatigue and where?

- How often is fatigue likely to occur?
- What degree of harm could it cause?
- Are any existing control measures effective?
- What action should be taken to control and monitor the risk of fatigue in yourself and others?
- How urgently is the control needed?

### SIGNS OF FATIGUE

There are several behavioural indicators to look out for in staff, who may be struggling with fatigue.

**Bad mood:** Irritable, uncommunicative, frustrated, disengaged, late for or not showing up for work.

**Lack of alertness:** Slurs speech, rubs eyes, yawning, appears tired.

**Substandard performance:** Cuts corners, takes risks, clumsy, forgetful, makes mistakes, poor decision making and judgement.

**Lack of focus:** Loses the big picture, misses warning signs, fixed gaze, blurred vision.

### PREVENTING FATIGUE

#### 1. Work scheduling and planning

Take regular breaks and consider extra breaks if the work is demanding. If your crew needs to work longer hours, consider staggered start and finish times, and longer breaks and periods off work.

Think about how you schedule your work – a person's ability to be alert is not constant throughout the day. For most people, low points occur

between 3pm and 5pm. During these times, try to avoid doing tricky or dangerous jobs.

Monitor and place limits around overtime and avoid incentives to work too many hours.

Try to create a positive environment with good relationships.



## Fatigue reduces a person's ability to do their job safely and decreases performance and productivity

### 2. Mental and physical demands of work

- Use the right tools and resources for the job.
- Use low-vibration hand-held tools and, where practical, install low-vibration seats in machinery.

- Rotate tasks between workers.
- Ensure your team stays hydrated and avoids caffeinated drinks.
- Make sure workloads and deadlines are realistic.

### 3. Environmental conditions

- Avoid working during extreme heat or cold.
- Provide shelter and facilities for breaks.

### 4. Get enough sleep

You should aim for between 7.5 to 8.5 hours a night. But to work out your optimal sleep time, try the following on your next holiday:

- Put your alarm clock away and wake up naturally for at least two days to overcome cumulative sleep loss.
- For the next three to four days, write down how many hours you sleep.

- Divide the total number of hours you have slept by the number of days – this is how much sleep you need to maintain optimal alertness, performance and wellbeing.

### 5. Get the whole team on board

Develop a fatigue policy, which includes details on the maximum shift length, average weekly hours and travel time. Make sure everyone is aware of the policy, how to recognise fatigue and how to report risks and incidents.

A fatigue calculator may be used as a guide to calculate and identify early risks of fatigue. ■

[Click here for an example](#)

Site Safe is a not-for-profit, membership-based organisation that supports a culture of health and safety in New Zealand construction. For more information go to: [www.sitesafe.org.nz](http://www.sitesafe.org.nz)

## PROVE YOUR KNOWLEDGE

Tick the correct answers below and record what you've learnt in the record of learning on the back page!



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|---|---|--|
| <b>7)</b> What are signs of fatigue to watch out for?<br>a) Reduction in performance, such as an increase in errors.<br>b) Poor alertness.<br>c) A loss of the big picture.<br>d) All of the above. | <b>8)</b> What is a good way to prevent fatigue?<br>a) Plan strenuous tasks for between 3pm-5pm.<br>b) Take regular breaks and consider extra breaks for demanding work.<br>c) Encourage staff to take less breaks so they can leave earlier. | <b>9)</b> What should a fatigue policy include detail of?<br>a) Maximum shift length, travel time and average weekly hours.<br>b) Individual sleeping habits.<br>c) A list of high-energy drinks and snacks. |
|---|---|--|

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# INDUSTRY FEATURE

## UNDERWRITE SCHEME NOW OPEN



The RDU is available for developments of 30 houses or more

### The Government has announced that residential construction developers' access to funding will be boosted via the Government's Residential Development Underwrite (RDU) scheme – but not everyone is confident it's the right move

**T**he RDU will be available to established companies delivering developments at scale (minimum of 30 homes) and is designed to support residential construction activity in the near term, ensuring a supply of new homes to market when interest rates drop and buyers re-enter the market. However, not everyone believes the scheme is targeting the right businesses.

Matt Stockman, director of Christchurch-based Stockman Construction, told *Under Construction*:

"I don't know if it's the best idea to fund an underwrite for big developments, as, in my opinion, it'll keep finance away from companies that need it.

"We're residential housing developers but we only build about 18 homes

per year. This underwrite is aimed at big companies, which is a problem because that will lead to monopolies. Big developers will be able to buy up land, sub-divide and build the houses themselves, while we struggle to get finance. It'll lead to smaller companies being pushed out of the market.

"If this underwrite was aimed at helping the smaller businesses, I'd be all for it."

#### FINANCE A CONCERN

The Master Builders' State of the Sector survey, released in August, echoed the issue raised by Stockman. Access to finance was cited by 83% of respondents as the biggest challenge facing the building and construction industry.

Master Builders Chief Executive Officer Ankit Sharma said that

finance needs to be more available to all builders.

"Confidence is key to our recovery. We need businesses and clients to have the confidence that they can access money for projects, because it sends the signal that the economy is going to recover and that it's worth committing to the building process.

"Government has released a series of policies to address the housing shortage and the perennial issue of affordability, which will help in time. However, the highly conservative approach taken by the banking sector is a major barrier, especially given we can see the relief that an ease in interest rates will bring."

#### A STEP IN THE RIGHT DIRECTION?

Sharma said that Master Builders supports the RDU as a whole and



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expects it to improve housing options in major metropolitan areas.

“We are encouraged by the Government’s new time-limited underwriting scheme for residential housing developments as a critical step towards restoring confidence in the sector, de-risking developments and ensuring developers can overcome finance hurdles and forge on with much-needed new builds,” he explained.

“By focusing on larger developments with proven developers and the required consents, we expect this scheme will go some way towards speeding up key projects and improving affordable housing supply, especially in high population areas like Auckland, Hamilton, Tauranga, Wellington and Christchurch.”

### GOVERNMENT INTERVENTION

In practice, the RDU also reduces the risk faced by developers because Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD) has committed to purchasing underwritten houses if they are unsold on the open market.

However, a spokesperson for HUD told *Under Construction* that “no development or stage will receive 100% of homes underwritten. This is to support the primary objective of the RDU, which is to maximise overall housing supply, while minimising the risk and cost to the Crown.”

This isn’t the only condition the RDU has in place to limit risk and cost. For example, the HUD’s *RDU Frequently Asked Questions* document states that “developments offering more affordable housing, that need a lower percentage of underwrites and offer higher underwrite discounts, are more likely to be successful.”

Building and Construction Minister Chris Penk said developers must

also have a proven track record of building and selling houses of a similar size and scale, as well as:

- Ownership or use of the land (or an option to do so).
- Have all the required resource consents for residential housing.

“In addition to providing a recent market valuation from a registered valuer, the developer must also be able to provide satisfactory evidence that underwrites are needed for the development to proceed within 6-12 months – for example, evidence that reasonable attempts have been made to market the development, that finance approval is conditional on pre-sales, and that the required workforce is available,” said Penk.

*Interest.co.nz* reported on one property developer interested in applying for the scheme. It had most of the presales but was struggling to obtain finance. Even so, the RDU would only be required for one or two units, said the developer.

### A PLANNED CONFIDENCE BOOSTER

Penk added that the RDU is designed to boost the construction sector and increase confidence among builders and lenders.

“In times of expensive borrowing, underwrites are an effective tool for supporting housing supply. This is because underwrites increase developers’ access to finance, where they otherwise wouldn’t have been able to get it, and therefore wouldn’t have been able to deliver the houses.

“The timing is right for this kind of support, because interest rates are still high and building consent rates low. The RDU will help support residential construction activity in the near-term by enabling credible developers to access finance that

they otherwise wouldn’t have gotten. This also has the benefit of ensuring there are houses ready to go for buyers, who enter the market as interest rates drop.

“While the mood on the ground has started to shift with some encouraging signs of renewed optimism, the new underwrite will provide important support and confidence to the building and construction sector during a tough economic period.”

### REHEATED IDEAS?

While this isn’t the first time a government has underwritten the construction industry, there are some differences between the RDU and the underwrite introduced as part of KiwiBuild in 2018. For example, the RDU has no price caps or restrictions on buyers.

In Auckland, KiwiBuild’s price cap for a three-bedroom home was \$860,000. It was \$850,000 in Wellington, and \$715,000 in Hamilton and Christchurch. These homes were only available to buyers earning less than \$200,000 (couple) or \$150,000 for individuals.

Labour’s housing spokesperson Kieran McAnulty said thousands of builders could have been kept in the workforce had National not scrapped KiwiBuild and BuildReady Development.

“Over the past few months, thousands of construction workers have lost their jobs. Maintaining a government underwrite through this period would have helped some of them keep their job.”

Developers can apply for support from the RDU now. ■

[Click here to submit an application](#)

## MINOR VARIATIONS CLARIFIED, NOT CHANGED



BCAs will still need to assess proposed minor variations to ensure the building will comply with the Building Code

**The Ministry of Building, Innovation and Employment (MBIE) has told *Under Construction* that recent changes to minor variations definitions are intended to clarify, not change, what constitutes a ‘minor variation’**

On 30 September 2024, new and amended building regulations came into effect. These include updates to clarify the definition of a ‘minor variation’ and create a definition of a ‘minor customisation’ for MultiProof approvals.

In response to questions from *Under Construction*, Sharon Threadwell, MBIE Acting Head of Building System Delivery and Assurance, said:

“Amended minor variation regulations seek to better clarify what level of discretion is available to Building Consent Authorities (BCAs) when it comes to small changes to the building design or specifications, after a building consent has been issued, that achieve an equivalent level of performance and do not affect Building Code compliance.

“A minor variation could include substituting a comparable product, like swapping out one brand of internal wall lining for a different brand of similar internal wall lining.

“BCAs will still need to assess proposed building work to ensure the building will comply with the Building Code but builders won’t need to make formal amendments to a building consent for minor, straightforward product or design changes.”

#### GUIDANCE PUBLISHED

To provide further clarity, MBIE has published a Minor Variations Guidance document, which listed the following as examples of minor variations to building consents:

- Reducing scope of work.
- Changing building location on the site.
- Updating flashings.
- Creating minor extensions of the same work, such as extending a deck or length of a retaining wall.

The guidance also provides direction for builders on how to determine whether a change is a minor variation or not. It is a minor variation if:

1. The minor change achieves an equivalent level of performance to the original method.
2. The minor change isn’t likely to affect Building Code compliance of other parts of the building work.
3. The consequences of building failure because of the minor change wouldn’t be significantly worse from the original method.

Previously, MBIE has issued guidance for product substitution due

to uncertainty caused by shortages – such as the guidance issued for plasterboard in 2022. Now, the principles around how to evaluate building implications when assessing a minor variation have been codified in the amended Building (Minor Variations) Regulations 2009. These include:

1. Whether the product substitution achieves an equivalent level of performance.
2. Whether the product substitution affects the compliance of other parts of the building work.
3. Whether the consequences of the building failing would be due to the product substitution.

The changes also apply to MultiProof designs, which will allow builders to make minor variations to pre-approved designs without requiring further consents, said Building and Construction Minister Chris Penk.

“MultiProof designs [...] are designs that have been pre-approved, meaning Building Consent Authorities must make a decision within 10 working days of receiving an application with a MultiProof design, rather than the usual 20 working days for a standard design.

“Now homebuilders will be able to

---

make small customisations to these pre-approved designs without sacrificing the benefit of faster consenting and less red tape.”

MBIE also provided specific scenarios that could help builders determine whether a change is a minor variation or will require a consent amendment.

Below are some excerpts from the *Minor Variations Guidance*.

#### **SCENARIO #1: MINOR VARIATION FOR PRODUCT SUBSTITUTION**

The building inspector visits a new dwelling to inspect the roof installation. During the inspection, the building inspector identifies that although the specifications and drawings show profiled metal roofing, the owner wants to use pressed metal tiles instead. The roofer asks the building inspector to give approval to a minor variation on-site.

The building inspector considers this a minor variation because the product substitution of pressed metal tiles from profiled metal roofing achieves an equivalent level of performance with the Building Code; the product substitution isn't likely to affect Building Code compliance of other parts of the building work; and the consequences of building failure isn't significantly worse from using pressed metal tiles instead of profiled metal roofing.

The change is also well within the scope of the original building consent design. The building inspector approves the minor variation and records the proposed minor variation on the inspection notes and consent file, as well as dates and initials on the approved building consent plans. However, the building inspector informs the roofer that, upon completion of the work and before the issue of a Code of Compliance certificate, revised

plans illustrating this change will be required. When back at the office, the building inspector also updates relevant consent records.

#### **SCENARIO #4: FORMAL AMENDMENT FOR PRODUCT SUBSTITUTION**

A plumber wishes to use an alternative aluminium piping system from overseas that they have read about on the internet, approaching a building official for a minor variation approval.

The official considers this not to be a minor variation because the new piping system is unfamiliar (it also doesn't state the relevant information required by the building product information requirements) and falls outside the acceptable solution requiring an alternative solution assessment.

They then advise the plumber that the consent applicant needs to apply for an amendment to the building consent, demonstrating how Building Code compliance would be achieved using this alternative product. The official records the conversation with the plumber in form of a file note on the consent file and updates relevant consent records.

#### **SCENARIO #5: MINOR VARIATION FOR LOAD-BEARING SUPPORTS**

During the construction of a new two-storey dwelling on a concrete slab, the owner proposes to enlarge a small window in the guest bedroom on the ground floor. The builder draws this to the attention of the building inspector during an on-site inspection; the builder is able to show the inspector that although the opening size will change, there will not be any point loads on the new lintel, and it still complies with *NZS 3604 Timber framed buildings* for the increased span, and any wall-bracing requirements will not be affected.

The building inspector accepts this as a minor variation, as it does not significantly deviate from the original design and will have a minimal effect on overall compliance with the structural stability requirements. The building inspector records the decision and the reasons for it on the inspection notes and makes a notation on the approved plans of what has been approved.

**Note:** It is important to ensure this approval is recorded on the consent file. This ensures that the file and council records are accurate; but it is also a legal requirement under the Building Act and the BCA accreditation regulations.

#### **SCENARIO #8: FORMAL AMENDMENT TO CHANGE PART OF ROOF STRUCTURE DESIGN**

An owner wants to change part of the roof structure design from a trussed roof to a skillion roof using *NZS 3604* rafters and seeks approval for a minor variation from the building inspector. This would not be considered a minor variation because of the significant departure from the approved building consent design, as it is a completely different structural system.

Other elements of the building could significantly be affected, such as insulation and bracing requirements. The building inspector advises the owner that the builder must not do any more work on the roof until an amendment to the building consent (including new plans detailing the construction change) has been applied for and the building consent authority has granted the amendment.

The building inspector then records the decision not to approve the minor variation on the inspection notes and updates relevant council records. ■



## CAUTION OVER 'SIGNIFICANT' REFORM



The Government wants qualified builders to self-certify their work, but not everyone thinks it's a good idea

**The Government has announced it will investigate 'significant' reform of the building consent system in New Zealand to improve consistency, certainty, efficiency and make it easier for builders to get work done. However, much of the industry has reacted with caution**

**T**he Ministry of Building, Innovation and Employment (MBIE) is researching options, such as merging Building Consent Authorities (BCAs), increasing the role of private insurance in the consent sector and changing liability settings through self-certification.

### MERGING BCAS

One of the changes under consideration is to create a "more consistent and streamlined model" that reduces the number of BCAs and creates a single point of contact for consent applications, according to Building and Construction Minister Chris Penk.

"There are currently 67 BCAs across the country, each with different practices and approaches. We have a single Building Code that is supposed to apply consistently to all building work nationally. However, there are many instances of builders submitting the exact same plans to different BCAs and finding considerable additional costs

and delays resulting from differing interpretations of the Building Code."

### TOO EARLY TO TELL FOR BCAS

*Under Construction* received feedback from three councils that it was too early to tell what the practical implications of the proposed change would be.

"Council building consents are cost recoverable and therefore the fees recovered cover Council's costs for this activity," said Christchurch City Council (CCC) Head of Building Consenting, Steffan Thomas.

"While it's too early to tell, depending on the option that government decides, there may be a change in revenues."

However, Thomas added that CCC did not anticipate increasing rates because of the proposed reform.

Hutt City Council (HCC) Head of Building Control, Richard Barton, said it was too early to understand the full

impact of a BCA merge, but added that HCC ratepayers cover some of the cost of building consent services, so being relieved of it entirely could reduce the financial burden on ratepayers.

"HCC does not make a profit from running its BCA. We have internal targets to try and achieve 80% cost recovery to reduce the burden on general ratepayers. HCC ratepayers could be better off from the reforms; however, there is currently insufficient detail to assess the impact."

Auckland Council GM Building Consents Ian McCormick said he wanted any review to "incorporate options around reducing ratepayer liability for building defects" and that the proposals had the potential to impact the Council's service delivery.

"Auckland Council operates a cost recovery model for the delivery of building consent services. At this stage, we do not anticipate having

to increase charges for existing services. However, some of the Government's proposed options have the potential to change existing services, which may mean some remaining services take longer.

"Almost all BCAs have formal arrangements to share resources, policies and practices with other BCAs in their region. We believe any review of BCA organisation needs to incorporate options around reducing ratepayer liability for building defects."

### **MORE ENTHUSIASM FROM INDUSTRY**

According to Master Builders, 80% of members deal with multiple BCAs, with 66% reporting delays in the consent process. The organisation believes Penk's reforms will benefit its members.

"Our members have highlighted the challenges of working across multiple BCAs, each with its own processes and interpretations of regulatory standards. This not only delays projects but also increases costs," said Master Builders Chief Executive Ankit Sharma.

"A nationally aligned consenting system will go a long way to addressing these inefficiencies and providing greater certainty to the building industry."

New Zealand Certified Builders Chief Executive Malcolm Fleming provided cautious support, referencing a lack of detail, but said that, given the lower level of consents coming through, it was the right time to be looking at options.

### **LIABILITY LOW-DOWN**

Additionally, the Government is looking at "liability settings" across the whole building system to "encourage less risk-averse decision-making from BCAs".

"Under the current settings, councils and their ratepayers are liable for defective work," said Penk. "Joint and several liability means councils can be 'the last person standing' available to foot the bill when things go wrong. This creates a highly conservative and risk-averse approach, which contributes cost and draws out deadlines.



**Qualified building professionals, such as plumbers, drainlayers and builders, will be able to self-certify their own work, for low-risk builds, without the need for an inspection**

– *Chris Penk,  
Building and Construction  
Minister*

"A model where building practitioners shoulder more of the risk should incentivise better quality work and lower the liability risk for ratepayers."

The model being proposed by the Government is a self-certification scheme, outlined further on.

Ben Rickard, director of construction-focused risk adviser and insurance broking firm BuiltIn, said that a review of liability is a good thing – but shifting the burden of risk from BCAs to builders will inevitably require builders to obtain insurance to cover that risk.

"The Government has also committed to look at the feasibility of allowing builders to opt out of a building consent, or presumably some inspection requirements, if they have adequate insurance," Rickard told *Under Construction*.

"The assumption is that by 'lifting the competence' of building professionals, insurance companies will be prepared to enter this market. While this is certainly possible, I think it is a stretch to say that it will materially improve efficiency and reduce cost. It's almost certain that insurers will want inspections to be undertaken as a condition of underwriting any risk. So, just because a BCA is not doing the inspection, doesn't mean inspections don't need to be done, and someone has to pay for that."

Rickard also said that before insurance can adequately replace some inspection requirements, there would need to be wholesale reform of the consenting system.

"In my opinion, the Government must get their own house in order first by improving the efficiency of the consenting and inspection regime before imposing more requirements and penalties on builders. Having a well-run national consenting and inspecting organisation is more likely to attract insurers into the market to provide long-tail liability coverage for building defects."

### **INDUSTRY INSURERS UNBOtherED**

Members of Master Builders are "backed by a building guarantee" of 10 years through the association, said Sharma, which will help enable the self-certification scheme.

"We are strong advocates for a system, where reliable, trusted builders are rewarded for their professionalism. We also believe self-certification will create an environment where others will elevate their standards," said Sharma.

"The consenting process is critical to ensuring quality homes. This approach is not for every home; rather, it is for low-risk houses built

# INDUSTRY FEATURE

## CAUTION OVER 'SIGNIFICANT' REFORM CONT

by reputable, accredited builders, and backed by a building guarantee. Today's announcement is a sensible improvement to a process that is overly cumbersome at the lower-risk end of the scale."

### SELF-CERTIFICATION IN CONCEPT

The Government is currently progressing work on developing the new opt-in self-certification scheme for low-risk residential building work done by qualified building professionals and accredited building companies.

The new scheme would remove or reduce the third-party review role of BCAs for qualified building professionals and accredited building companies carrying out low-risk residential building work. This would be done by:

- Enabling a broad range of groups to be eligible to apply for participation in self-certification, including individual practitioners and accredited companies such as volume builders.
- Requiring that participants in the scheme demonstrate an appropriate, specified level of competency and experience and be trustworthy.
- Limiting the type of work that can be self-certified to lower risk activities, for example work on a simple residential dwelling.

"Qualified building professionals, such as plumbers, drainlayers and builders, will be able to self-certify their own work, for low-risk builds, without the need for an inspection," said Penk.

"Businesses with a proven track-record – for example, group homebuilders who build hundreds of near-identical homes a year –

will be able to go through a more streamlined consent process."

Penk said the proposal includes additional safeguards, including a clear pathway to remedy poor work, strengthened qualification requirements for builders, and strict disciplinary actions for careless or incompetent self-certifiers.



### We have reservations around any plan that would remove the need for third-party inspections

– Ian McCormick  
Auckland Council GM  
Building Consents

### SELF-CERTIFICATION CONCERNS

McCormick added that Auckland Council had 'reservations' about the plan to allow builders to self-certify.

"We have reservations around any plan that would remove the need for third-party inspections without understanding how the on-site issues we are currently encountering would otherwise be identified and resolved," he said.

"The council is currently failing 25-35% of all building inspections, depending on the inspection type – that's over 50,000 failed inspections a year in Auckland.

"The building inspection process plays a key role in ensuring building works are compliant with the New Zealand Building Code, and as such, will perform as they should. It provides impartial third party assurance and plays an important educational role in the industry."

Auckland Council Building Inspection Manager Jeff Farhensohn has

used his LinkedIn profile to raise awareness about the repeated issues Auckland inspectors face.

"Over the last year, 23,397 residential final inspections were carried out in Auckland with 37% of them failing the inspection. That's 8,721 failed final inspections!

"Some required multiple re-inspections. Some require major deconstruction and remediation work [...] Our building surveyors go to work believing the work they do provides homeowners and future homeowners with compliant buildings to live in."

### NEARLY A THIRD OF HOMES NOT UP TO SCRATCH

Farhensohn added that out of 4,348 pre-cladding inspections carried out in Auckland over the past 12 months, 30% failed. According to the Building Act, Restricted Building Work, such as installation of flashing and a building wrap, must be carried out by a Licenced Building Practitioner (LBP). Other types of inspections include framing inspections.

"Building inspectors should be able to rely on LBPs installing frames straight, level and plumb (straight up and down)," he added. "Luckily, most do, hence we use random sampling to check framing tolerances. If we checked every part of the framing with our levels and straight edges, our inspections would take twice as long.

"Over the last year, 5,913 framing inspections failed from the 18,312 carried out. That's a 32% fail rate."

Detailed policy decisions will be announced in 2025 following a consultation, said Penk. The date of the consultation is yet to be announced. ■





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# INDUSTRY FEATURE

## SEPTEMBER CONSENTS DOWN

The year ended September 2024 saw a **16.7% decrease** in the number of new homes consented compared with the year ended September 2023, but Stats NZ reports the downward trend is easing

**A**t total of 33,677 new homes were consented, consisting of 15,775 stand-alone (-5.1%) and 17,902 multi-unit homes (-24.7%). Of the multi-unit homes consented in the year ended September 2024, 14,295 were townhouses, flats and units (-20%), 1,830 retirement village units (-31.9%) and 1,777 apartments (-44.9%).

Stats NZ Economic Indicators Manager Michael Heslop said that while the annual number of new homes consented is still decreasing, “the pace is easing”.

### POSITIVE INDICATORS

Digging behind the numbers, there was a slight increase in the number of new homes consented in the September 2024 quarter, which saw 9,176 houses consented – an increase of 0.5% compared to the September 2023 quarter.

“The September 2024 quarter marked the first quarter where there was a year-on-year increase in the number of stand-alone houses consented since December 2021,” noted Heslop.

Of the 9,176 new homes consented, there were 4,485 stand-alone houses (up 24%) and 4,691 multi-unit homes (-15%). The multi-unit homes included 3,561 townhouses, flats and units (-20%), 706 retirement village units

(+49%) and 424 apartments (-28%).

The month of September 2024 also saw an increase of 1.6% compared to the month of September 2023, which consented 2,898 new dwellings. In September 2024, 2,943 new dwellings were consented, comprising 1,378 stand-alone houses, 1,091 townhouses, flats and units, 277 apartments and 197 retirement village units.

### REGIONAL OUTLOOK

All but two regions consented fewer dwellings in the year ended September 2024 compared to the previous year.

The four regions with the most consents issued were Auckland (13,821; -19.1%), Canterbury (6,702; -7%) Waikato (2,887; -25.5%) and Otago (2,182; +9.3%).

Alongside Otago, Nelson was the other region to consent more homes in the year ended September 2024 when compared to the previous year (243; +5.2%).

In terms of dwellings consented per 1,000 residents, the figures for the year ended September 2024 declined compared with the year ended September 2023 (6.3 vs 7.8).

Three regions consented above national levels: Auckland (7.7), Otago

(8.5) and Canterbury (9.7).

### NON-RESIDENTIAL CONSENTS DOWN

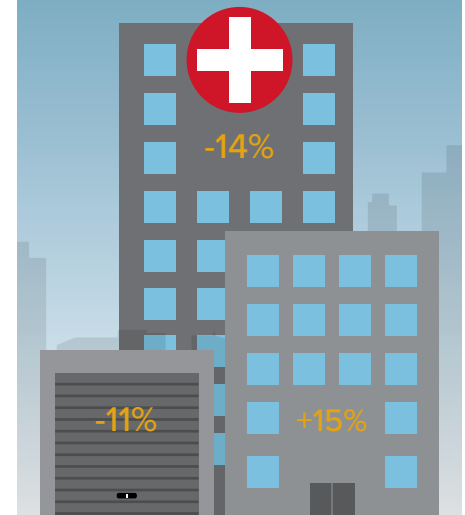
In the year ended September 2024, non-residential building consents totaled \$9.1bn, down 6.4% from the year ended September 2023. The building types with the highest value were:

- Offices, administration and public transport buildings – \$1.7bn (+15%).
- Storage buildings – \$1.3bn (-11%).
- Hospitals, nursing homes, and health buildings – \$1.3bn (-14%).

### NON-RESIDENTIAL CONSENTS

Year ended September 2024 vs year ended September 2023

- Offices, administration and public transport buildings – \$1.7bn (+15%).
- Storage buildings – \$1.3bn (-11%).
- Hospitals, nursing homes, and health buildings – \$1.3bn (-14%).



### STAND-ALONE vs MULTI-UNIT HOMES CONSENTED



+14.8%



-7.8%



# HOMES CONSENTED PER REGION

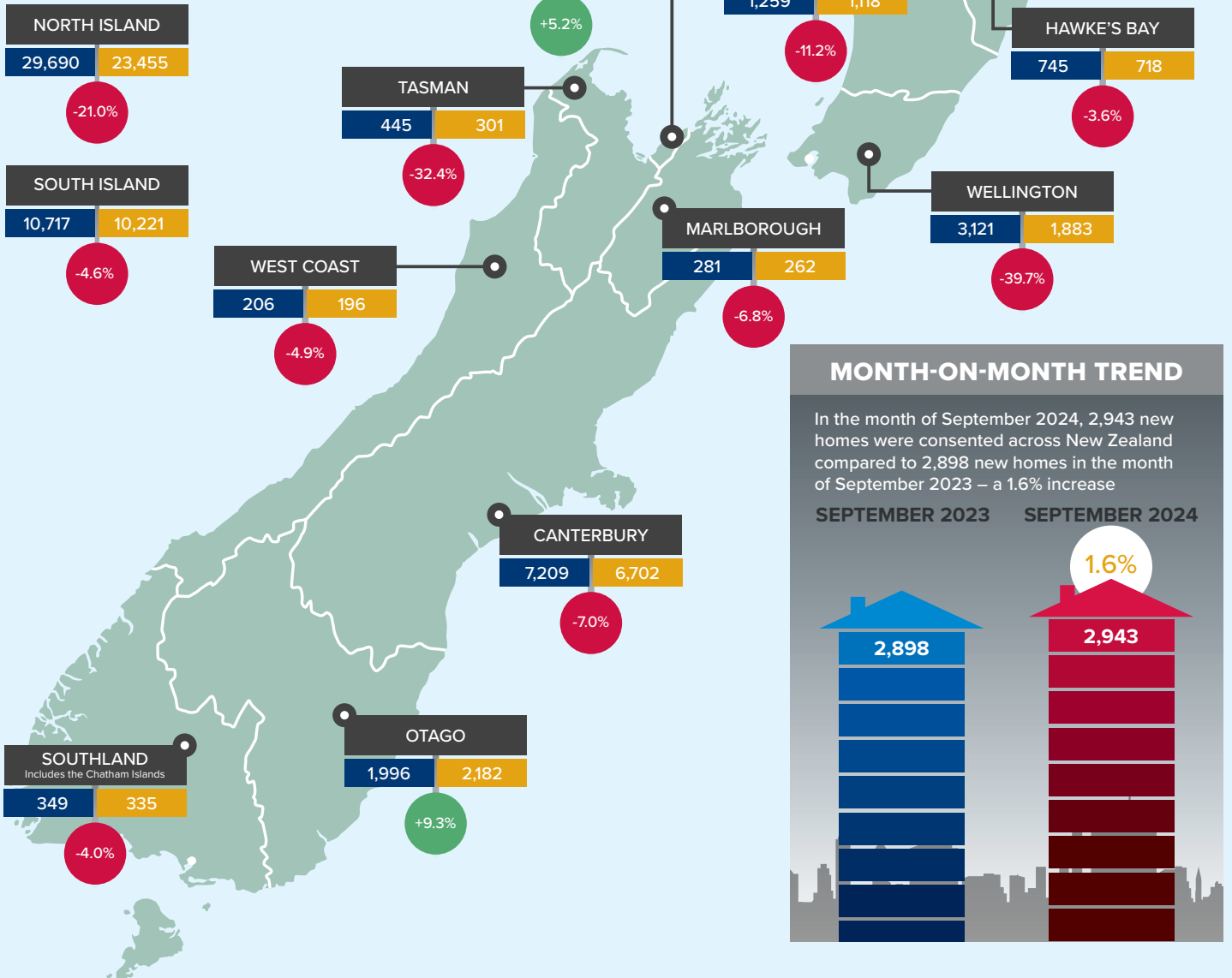
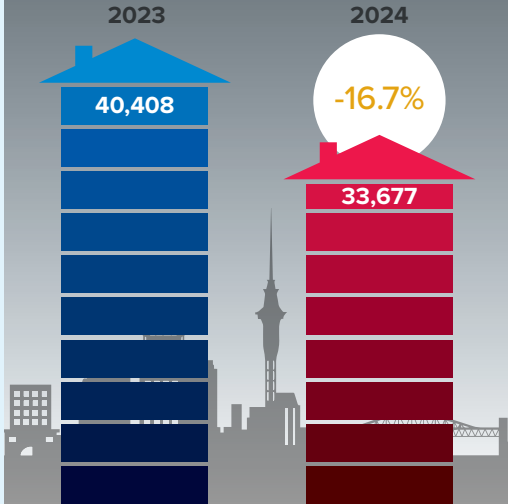
■ New dwellings consented year ended September 2023

■ New dwellings consented year ended September 2024

● Percentage change from July 2023 to July 2024

## YEAR-ON-YEAR TREND

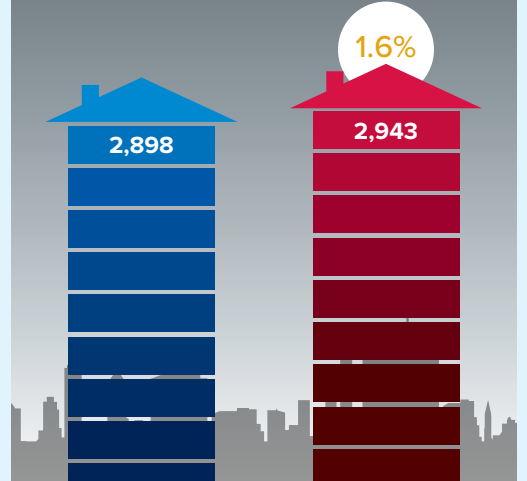
In the year ended September 2024, non-residential building consents totaled \$9.1bn, down 6.4% from the year ended September 2023.



## MONTH-ON-MONTH TREND

In the month of September 2024, 2,943 new homes were consented across New Zealand compared to 2,898 new homes in the month of September 2023 – a 1.6% increase

SEPTEMBER 2023      SEPTEMBER 2024





# THE SUCCESSFUL BUILDER

## SUPPORT YOUR TEAM THROUGH TOUGH TIMES



Encourage your crew to take necessary breaks so they avoid burnout!

**Economic slowdowns often hit the construction industry particularly hard – a serious concern for business owners and also something that can seriously affect their teams. In this article, Builder’s Business Coach Graeme Owen shares six ways to look after staff when times are tough**

In uncertain times, maintaining employee wellbeing has to become another priority on a business owner’s to-do list. A team under stress can lead to low morale, decreased productivity and present a risk to on-site safety – all of which comes with financial implications.

Here are six practical strategies business owners can employ to help keep their crews motivated, engaged and resilient during tough economic times.

### 1. COMMUNICATE HONESTLY AND REGULARLY

In times of uncertainty, your team will naturally have concerns about job security and the company’s future. Some will worry more than others. Don’t let rumours spread! Communicate openly about your business’s challenges and how you plan to navigate through them.

Hold regular meetings to update your team on the status of current and future projects. Tell them about workload expectations and don’t be afraid to share any financial realities.

For example, if delays in getting

contracts signed are pushing back start dates, explain the situation clearly, so the team understands the root cause rather than speculating.

Open communication is really important because it builds trust and reduces the anxiety that comes from uncertainty. When your team members know your company’s situation and are kept in the loop, they’re less likely to worry unnecessarily – and stay focused on their tasks.

### 2. RECOGNISE AND APPRECIATE HARD WORK

When money is tight and work is uncertain, it’s not possible to offer wage increases or bonuses. However, showing appreciation doesn’t always need to be financial. You can recognise hard work and team achievements in other meaningful ways.

Maybe it’s a team BBQ at the end of a long week, applauding someone’s performance at a toolbox meeting or simply thanking employees individually for going the extra mile. These small gestures can have a big impact on team morale.

Recognition boosts morale. In times of economic uncertainty, knowing that their efforts are seen and valued can give your team a sense of purpose and encourage them to keep putting in their best work.

### 3. PROVIDE SUPPORT

The construction industry is known for its demanding physical work but it can also take a mental toll, especially during tough times. As a business owner, it’s essential to recognise the emotional strain that both you and your team might be under.

Emotional stress is not always obvious, so look for early signs. For example, a reduction in work output, reduced quality of workmanship, irritability, mood swings, or simply increased absence.

It can be beneficial to encourage a culture in which your team feels comfortable talking about individual stresses and struggles. Have an open-door policy and encourage your team leaders to be sensitive to anyone showing signs of stress. You might also consider bringing in a mental health professional or coach for a workshop on handling stress

and accessing available support resources.

Emotional wellbeing is often overlooked in industries like construction but a team that feels supported mentally is more likely to be productive and less prone to mistakes or accidents.

#### 4. OFFER FLEXIBILITY WHERE POSSIBLE

While some construction sites involve fairly fixed working hours, offering flexibility where possible can help some of your team members manage their personal lives better.

For example, you could offer staggered start and finish times to accommodate family responsibilities or rotate shifts to allow for an occasional extra day off without affecting productivity outcomes.

Flexibility can enable your team to stay productive and focused on their work. Even small adjustments to schedules can show that you value their wellbeing, and will likely be returned with loyalty.

#### 5. INVEST IN TRAINING AND SKILL DEVELOPMENT

When work slows down, it can be an opportunity to upskill your team. Think of safety certifications and training in new equipment, technical skills and construction techniques. This helps keep your team engaged and boosts their confidence.

Investing in your team's development shows your long-term commitment to them. People who are continually learning feel more secure in their jobs and more valued.

#### 5. INVEST IN TRAINING AND SKILL DEVELOPMENT

One of the biggest challenges in the construction industry is long hours, especially when trying to meet a deadline. While your team may respond to the occasional deadline, overworking them can lead to burnout, accidents and high staff turnover.

So, encourage your crew to take necessary breaks and to use their annual leave days when possible. You may even decide, after

a particularly demanding job, to reward your team with extra time off or a shorter workday.

It goes without saying that a team that is well-rested and mentally recharged will perform better. So, maintaining a healthy work-life balance can help your team remain resilient in the face of challenges, both on and off-site.

#### TAKEAWAY

Tough economic times require business owners to be more than just a manager – you need to be a leader who cares about your team's wellbeing by focusing on communication, recognition, flexibility, emotional support, training, and work-life balance.

View tough times as an opportunity to build a resilient and motivated workforce that not only gets through but thrives, so that when the economy rebounds, you are in a strong position to take on new challenges. ■

Graeme Owen is a builders' business coach at [thesuccessfulbuilder.com](http://thesuccessfulbuilder.com). Since 2006, he has helped builders throughout New Zealand get off the tools, make decent money, and get more time in their lives. Grab a copy of his free book: *The 15 Minute Sales Call Guaranteed To Increase Your Conversion Rate*: [thesuccessfulbuilder.com/book-15-min-sales-call](http://thesuccessfulbuilder.com/book-15-min-sales-call) or join Trademates and connect with builders who are scaling too: [www.facebook.com/groups/TradeMates](http://www.facebook.com/groups/TradeMates)

## PROVE YOUR KNOWLEDGE

Tick the correct answers below and record what you've learnt in the record of learning on the back page!

- |   |  |   |
|---|--|---|
| <p><b>10)</b> How can you show staff you appreciate their efforts?</p> <ul style="list-style-type: none"><li>a) Provide individual praise during a toolbox meeting.</li><li>b) Put on a team BBQ at the end of a long week.</li><li>c) Take the time to thank staff individually away from scheduled meetings.</li><li>d) All of the above.</li></ul> | <p><b>11)</b> Which of the below is a tell-tale sign an employee is under emotional stress?</p> <ul style="list-style-type: none"><li>a) Reduced quality of work.</li><li>b) Increased work output.</li><li>c) They crack more jokes than usual at work.</li></ul> | <p><b>12)</b> How can you offer a flexible work environment while ensuring project deadlines are met?</p> <ul style="list-style-type: none"><li>a) Offer staggered start and finish times.</li><li>b) Take on less work.</li><li>c) Offer to hire more contractors to cover staff shifts.</li></ul> |
|---|--|---|



NB: The questions and answers in this section have been produced by the publisher and do not necessarily reflect views or opinions of the contributing organisation.

## REDEPLOYMENT: A PRACTICAL GUIDE



Employers are required to explore any potential opportunities to retain an employee in a different role before dismissing them for redundancy

**Redeployment is when an employer tries to find a new job within the company for an employee whose current role is being disestablished. It is a key and often overlooked step in conducting a lawful redundancy process. In this article, Duncan Cotterill partner Alastair Espie and solicitor Lauren Tonkin discuss how builders should manage the process**

**A** common mistake we see from employers is failing to offer an employee redeployment into a suitable vacant role, leading to an otherwise wholly justified redundancy being deemed an unjustified dismissal.

In this guide, we will unpack what employers need to consider when it comes to redeployment by outlining its requirements, explaining how to work through the process, and highlighting the importance of consultation.

#### WHEN IS REDEPLOYMENT REQUIRED?

When an employer disestablishes an employee's role, they are required to explore any potential opportunities to retain the employee in a different role before dismissing them for redundancy. Remember, termination of employment should always be a last resort.

Where there is a vacant role, which an employee impacted by restructuring has the necessary skills and experience to perform or would be capable of performing the role with reasonable training, the job should be offered to the employee. A common example of this is where a role is disestablished and replaced

with a newly established role, which the affected employee would be capable of performing. However, this obligation may also arise where there is a vacant role, which may be substantially different from the employee's current position but which they are capable of performing or would be capable of performing with additional training.

In situations where more than one affected employee is suitable for the same redeployment opportunity – for example, where two positions have been disestablished and a new hybrid position established – the employer would need to undertake a selection process to determine which of the impacted employees should be redeployed into that position.

There may be circumstances where it is unclear whether the employee has the necessary skills to perform the duties of the role and the employer may offer them an opportunity to apply for the role. This would generally be limited to situations where the vacancy is for a completely different role or one that is considerably more senior.

To be clear, the affected employee should still be considered as

the preferred candidate prior to considering other unaffected employees or taking the role to market. This is another common mistake we see employers make by advertising a vacant role while the restructuring process is ongoing, without first giving the affected employee an opportunity to be considered for it.

It is only after an employer has considered all possible redeployment opportunities and has reasonably concluded that they are not suitable that they can move forward with declaring an employee redundant.

#### HOW TO WORK THROUGH REDEPLOYMENT?

Employers are expected to take a proactive approach to redeployment and not treat it as an afterthought. This derives from the good faith obligation to actively and constructively seek to maintain the employment relationship and to give an employee the opportunity to comment before any decision is made that could impact their employment.

In practical terms, the case law has indicated that, to meet its redeployment obligations, an employer needs to:



- Identify any potential vacancies or redeployment opportunities within the business and present them to the employee.
- Actively engage with the employee about these vacancies (or lack thereof) and seek their feedback.
- If the employer decides that the employee is not suitable to be redeployed into a particular role, explain its reasoning for coming to that conclusion.

### IDENTIFICATION

As set out above, employers have an obligation to proactively identify any potential alternative positions within the business. The extent of this duty is broad and may, for example, extend to exploring roles unrelated to the employee's current position and/or vacancies in different branches of a larger organisation.

Differences in duties, terms, remuneration and/or skillset required for a role may or may not be a barrier to redeployment. Ultimately, the employer must take all reasonable steps to identify any possible redeployment opportunities and then consult with the employee on the reasonableness of the redeployment in the circumstances.

### CONSULTATION

As with any decision, which may adversely impact an employee's employment, the key word is consultation. An employer shouldn't decide on their own if a redeployment opportunity is suitable without first consulting with the affected employee as part of the restructuring process.

Even where it may seem clear that the employee lacks the necessary skillset for a vacant position and/or the employee has expressed no interest in the role, the employer

should still consult with the employee about the opportunity. It may be the case that it is reasonable to conclude that the employee was not suitable for the position; however, failure to consult with the employee about the vacancy before reaching that conclusion may lead to a successful unjustified dismissal claim.

When consulting with an employee about a redeployment opportunity, the employer should seek feedback on whether they are interested in the role and what their skillset is.



### Employers have an obligation to proactively identify any potential alternative positions within the business

For example, when considering whether to offer an employee a vacancy, which would require the employee to undergo additional training, it would be helpful to get the employee's feedback on how they could apply their current skillset; whether, and to what extent, they are prepared to undertake additional training; as well as their view on any other relevant factors about the role (eg, seniority, remuneration and/or other terms) to gauge the reasonableness of the redeployment.

While the issue of how far an employer must go to upskill the employee when considering redeployment is yet to be fully tested before the courts, consultation should flush out the employee's views as to why they consider themselves to be capable of performing a particular role. If the employer ultimately concludes

that an employee is not suitable for redeployment into a particular role, the decision will naturally be more robust if it has been arrived at via a thorough consultation process.

Finally, and importantly, even where the employer has been unable to identify any vacant roles, there is still a requirement to consult with the employee about any potential opportunities the employee may be able to identify.

If, following consultation, the employer concludes that the employee is not suitable for any of the identified redeployment opportunities, it needs to explain its reasoning to the employee.

### CASE STUDY: STELLAR ELEMENTS NEW ZEALAND LTD v AMESBURY [2024] NZEMPC 136

This case concerned an application for interim reinstatement; however, the Employment Court discussed the issue of the sufficiency of an employer's efforts to explore redeployment opportunities.

In this case, the employee had been informally seconded to a different role within the business and ultimately applied to be permanently appointed to this role; however, he withdrew his application due to bonus-related issues. Notably, the employee continued to perform the duties of the 'seconded' role. The company subsequently disestablished the employee's primary role but did not offer to redeploy him into the role he was currently performing (which was still vacant).

### WHAT IF THE EMPLOYEE HAS ALREADY EXPRESSED THAT THEY ARE NOT INTERESTED IN THE ROLE?

Case law suggests that an employer may still be required to present a role the employee has previously

## REDEPLOYMENT CONT.



expressed no interest in as a potential redeployment opportunity.

With Stellar Enterprises, the Court considered the employer's duty to explore a redeployment opportunity in circumstances where the employee had previously withdrawn his application for the role (prior to the redundancy process).

While the employee had previously withdrawn his application, his circumstances had since changed in that his primary role was being disestablished; however, he was under the impression that the permanent position had been filled when, in fact, the original preferred candidate had ultimately decided not to accept the role.

The Court found that it was reasonably arguable that the employer was obligated to be proactive in informing the employee of the availability of the permanent role and explore it as a redeployment opportunity.

### WHAT ARE EMPLOYERS' OBLIGATIONS IN RELATION TO OVERSEAS REDEPLOYMENT OPPORTUNITIES?

An employer's obligation to explore redeployment opportunities may extend beyond New Zealand's borders to international roles.

Stellar Enterprises was part of a larger international organisation, Amdocs. There was evidence that suggested there may have been vacancies within Amdocs that could have been considered. The Court considered it arguable that a fair and reasonable employer, supported by a well-resourced international organisation, would be expected to explore such options.

While the Court did not go so far as to say that employers must redeploy staff into an entirely separate legal entity, employers who are part of broader corporate groups should at least be mindful that this is an area where the law may evolve moving forward.

### KEY TAKEAWAYS FOR EMPLOYERS

Redeployment is an important step in the redundancy process, as required by the employer's duty of good faith, and is where we see a lot of employers fall short. To avoid stumbling at the final hurdle, we advise employers to:

- Think carefully about other potential roles within the business, including at other branches or locations if applicable.
- Take a proactive approach and engage with the affected employee to explore whether there may be any reasonable redeployment opportunities before dismissing them for redundancy.
- Only terminate an employee's employment as a last resort. ■

*This article is provided by Duncan Cotterill, a full-service law firm with offices in Auckland, Wellington, Nelson, Queenstown and Christchurch. If you have any questions relating to this article, please contact your local Duncan Cotterill advisor [duncancotterill.com](http://duncancotterill.com)*

*Disclaimer: the content of this article is general in nature and not intended as a substitute for specific professional advice on any matter and should not be relied upon for that purpose.*

## PROVE YOUR KNOWLEDGE

Tick the correct answers below and record what you've learnt in the record of learning on the back page!

- 13)** When is redeployment required?
- When an employer disestablishes an employee's role and there is a vacant role, which the employee is capable of performing with reasonable training.*
  - Only if there are no suitable external candidates available.*
  - In situations where there are two or more employees going for the same role.*
- 14)** To meet redeployment obligations, an employer must do what?
- Identify redeployment opportunities within the business and present them to the employee.*
  - Engage with the employee about the vacancies and seek their feedback.*
  - Explain why an employee isn't suitable to be redeployed, if that is the case.*
  - All of the above.*
- 15)** Where an employer has been unable to identify vacant roles into which to redeploy an employee, they must still hold a consultation with the employee to identify any other potential opportunities.
- True.*
  - False.*

NB: The questions and answers in this section have been produced by the publisher and do not necessarily reflect views or opinions of the contributing organisation.

## STAY ON TOP OF REGULATION CHANGES

With so many legislation changes in the building industry, it can be difficult to stay on top of what you need to know. That's why we've compiled this handy list of key updates!

## ANNOUNCED

## BUILDING PRODUCTS SHAKE-UP

A bill to improve access to a wider variety of quality building products from overseas is going through Parliament.

## BUILDING CONSENT REFORM

The Government is investigating options for a major reform of the building consent system to improve efficiency and consistency across New Zealand.

## STRICTER PENALTIES FOR BUILDERS

The Government is looking at strengthening requirements for building professionals, including penalties.

## SELF-CERTIFICATION

The Government is proposing to construct a new self-certification scheme for trusted building professionals and accredited businesses carrying out low-risk building work.

## FUNDING BOOST

Over the next two years, a funding boost of \$3 million from the building levy will be used to improve the alignment of building and construction standards between New Zealand and Australia.

## REVIEW OF PUBLIC WORKS ACT

An independent expert advisory panel has been appointed to review the Public Works Act to make it easier to build infrastructure, with a view to introducing legislation to give effect to (as yet unannounced) proposed changes by mid-2025.

## CONSULTATION PHASE

## BUILDING FIRE SAFETY

The Government is progressing changes to better protect Kiwis and their property from fires with a full review of the fire safety provisions in the Building Code.

## REMOTE INSPECTIONS

The public consultation on plans to make remote inspections default ended on 29 November.

## FUTURE CHANGE

## NZS 3604 UPDATE

An updated *NZS 3604 Timber-framed houses* remained a work in progress in 2023. It was hoped a revision would be published in 2023 - but that didn't happen. There is no word yet when builders can expect it to be published.

## MAKING IT EASIER TO BUILD GRANNY FLATS

The Government is proposing to make it easier to build small, self-contained and detached houses on properties with an existing home without a building or resource consent.

Consultation on the proposed legislation closed on 12 August. Feedback is being assessed and used to advise the Government.

## BUILDING WARRANT OF FITNESS

Following the tragic fire at Loafers Lodge in May 2023, Cabinet agreed to introduce and enhance offences and penalties for building owners and independent qualified persons to better comply with their statutory requirements under the building Warrant of Fitness regime.

## LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 AMENDMENT

A change to this act requires that, from 2025, regional councils share with city and district councils information they have on natural hazards. Councils must add 'understandable information' on natural hazards to LIMs.

## COMING SOON

## BUILDING (OVERSEAS BUILDING PRODUCTS, STANDARDS, AND CERTIFICATION SCHEMES) AMENDMENT BILL

The Bill was introduced to the House in September. This was followed by a public consultation, which closed on 14 November.

## EARTHQUAKE-PRONE BUILDING REVIEW

The earthquake-prone building review has been brought forward from 2027 to 2024 and remediation deadlines have been extended by four years.

## NOW LAW CONTINUES OVERLEAF



# INDUSTRY FEATURE

## REGULATION CHANGES CONT

### NOW LAW

#### BOOST FOR RESIDENTIAL CONSTRUCTION MARKET

The Government has announced a Residential Development Underwrite (RDU) to provide developers with access to finance. Interested developers can apply now via the Ministry of Housing and Urban Development website.

#### MINOR VARIATIONS CLARIFICATION

The new and amended building regulations – updated to clarify the definition of a 'minor variation' and create a definition of a 'minor customisation' for MultiProof approvals – came into effect on 30 September.

#### 2023 BUILDING CODE UPDATE

In November 2023, MBIE published updated acceptable solutions and verification methods, which support plumbing and drainage work, and protection from fire. These changes are now in effect.

#### INTERCONNECTED SMOKE ALARMS

All new building work, renovations which require a consent, and homes or buildings with a change in use are now required to install interconnected smoke alarms.

#### BUILDING LEVY THRESHOLD INCREASE

From 1 July, the Building Levy threshold will increase to \$65,000 from its current level of \$20,444.

#### BUILDING CONSENT REPORTING

BCAs are now legally required to submit data for building consents and Code Compliance Certificates every quarter.

#### WASTE LEVY INCREASE

As of 1 July 2024: The rate for Class 1 landfills increased to \$60 per tonne.

Class 2 construction and demolition fills increased to \$30 per tonne.

Class 3/4 (managed and controlled fills) became subject to a levy of \$10 per tonne.

#### MDRS CHANGE

The Medium Density Residential Standards (MDRS) will become optional for councils. Under the MDRS up to three units and three storeys can be built on most Tier 1 council sites without the need for a land use resource consent.

## PROVE YOUR KNOWLEDGE

Evidence of actual learning rather than just 'participation' is a key requirement of the LBP renewal process. Print this page and keep the completed 'Prove Your Knowledge' section with your other records of learning in case you are audited.



### Codewords ISSUE 107

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### DECEMBER 2024/ JANUARY 2025

For ease of record keeping, print this page and use this coupon to collate your answers from within this issue of *Under Construction*. Then sign and date it as proof of your own learning.

Signature

Date