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THE OFFICIAL MAGAZINE OF THE REGISTERED MASTER BUILDERS FEDERATION

## APPRENTICE OF THE YEAR

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# Profile: Apprentice of the Year makes history!



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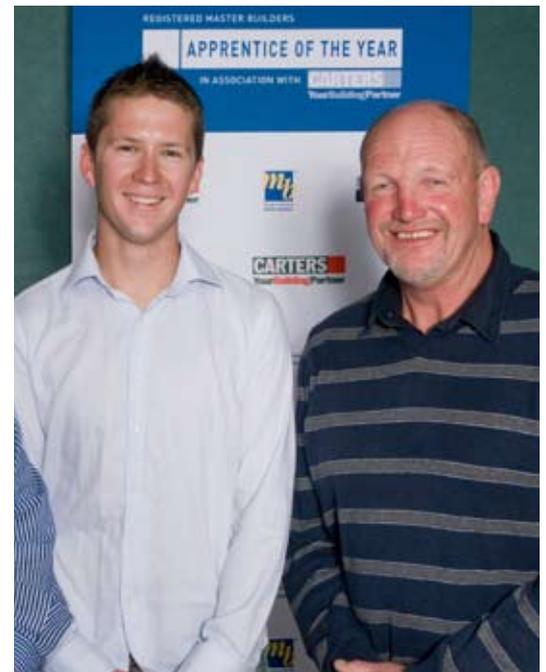
# building today

Weathertightness takes centre stage this month, with feedback from the Government's independent report *Weathertightness — estimating the cost* at odds with the report's contents.

Take a look in this issue at the report Q&A and see what you think. It would be great to get your views on this contentious issue which is not going to go away any time soon.

We also feature a profile on the 2009 Registered Master Builders Carters Apprentice of the Year Nathan Biggs, and his history-making win in last year's competition.

**Andrew Darlington**  
Editor



History-making 2009 Registered Master Builders Carters Apprentice of the Year Nathan Biggs and construction manager Mark Adams of Mackersey Construction.

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1-year subscription: \$56.25 (GST incl). ISSN 1171-0225

# chief's chat

by ceo warwick quinn

## Significant regulatory changes announced

There have been some significant announcements in recent weeks on the regulatory front that I wish to keep you all informed about.

Last month I mentioned the launch of Multiproof, the National Multi-Use Approvals process that went live on 1 February, and the promulgation of the Building (Minor Variations) Regulations 2009 that also came into force on 1 February.

I had further hinted at the launch of a more streamlined application process for qualified building practitioners to become licensed. The Minister launched this on 12 February but there will be some further refinements that will be announced in April.

One of the most significant releases was on Friday, 26 February, when the consultation document on the review of the Building Act was released for public comment.

This has the potential to change the landscape for residential construction in New Zealand as it



canvasses a wide range of issues designed to generate "cost-effective quality".

The Government recognises that the construction sector is a significant contributor to the economy. One dollar in every 20 is spent on construction, and one job in every 12 is employed in this sector.

However, productivity and confidence are low, and innovation is stifled by red tape. The Government is of the view that the system is out of balance, with councils carrying undue responsibility, forcing them into a very cautious approach which is costly.

It wants to introduce a more balanced building consent system, have risk-based consenting practices, back the people doing the work (ie, the licensed building

practitioner) and build consumer confidence by providing better tools and information.

So what does the Government mean by a more balanced system? Well, essentially, it is exploring the potential to have certain low-risk buildings that are built by highly skilled and capable practitioners exempt from consent and inspection requirements, with streamlined processes for lower-risk building work, but existing processes for more complex, higher-risk buildings.

It wants buildings constructed right first time that are built by skilled and competent people (licensed building practitioners) that can be relied upon. In addition, it is proposed consumers will be better informed and, therefore, make better decisions, but also understand the consequences of their decisions.

There are a number of things the document explores, including inter alia, clarifying the purpose and principles of the Building Act and Building Code, reviewing the number of building consent authorities, improved contracting practices, the role of home warranties and whether these should be mandatory, and better access to dispute resolution mechanisms.

We will be looking at these very closely over the next two months and submitting our views on the topics and questions posed in the consultation document. We would urge you to do the same and go to the DBH web site for a copy of it.

Consultation closes on 23 April 2010, with final decisions expected by the end of June 2010. The Minister is hoping to bring the amended Act into force in 2011.

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# Nathan makes history at Apprentice of the Year



The Mackersey Construction team, from left: Wayne Birchall, Nathan Biggs and Mark Adams.

**C**onstruction manager at Mackersey Construction Mark Adams could not have been happier when one of his apprentices, Nathan Biggs, made history at the 2009 Registered Master Builders Apprentice of the Year, in association with Carters.

Nathan, who took out the top award, was the first winner in the history of the competition to have only worked on commercial projects.

"I've been training apprentices for a number of years but 2009 really was a standout," Mr Adams says.

"Not only did Nathan make competition history, but our boys were also placed first and second at the regional competition — what more could you ask for!"

Mr Adams first met Nathan when he started his apprenticeship in October 2007, and describes him as an apprentice with the "whole package".

"Nathan's got everything you could want in an apprentice — he's committed, focused and talented. At 25 he's a few years older than some of our other guys, but once he worked out he wanted to be a builder he really hit his straps."

Mackersey Construction currently has 19 apprentices,

and the company believes it's important to have a balance of experience within a team.

"You need the young and dynamic apprentices as much as you need the older guys with years of experience. It's important to have a balanced team with a mix of strengths.

"We have apprentices that range from 18 to 40 years of age, and everyone brings something a little bit different to the team."

Mr Adams remembers what it was like to be starting out in the business, and has fond memories of his apprenticeship at Mackersey Construction 38 years ago.

"I went through the same processes that my young apprentices go through and really enjoyed it, which is probably why I'm still with the company. All of our apprentices have the chance to move up through the organisation — you can go as far as your dreams will take you," he says.

Mr Adams spends time with one apprentice every day so that all 19 have some one-on-one time with him, something he considers vital to turning his young men into great builders.

"I think the standard of our apprentices is a credit to

our foreman, our training processes and our company culture. The entire team contributes to the development of each apprentice."

He believes it's crucial for established construction companies to bring young blood into the construction industry through apprenticeship programmes.

"There are so many passionate young guys out there that are just dying for a chance at an apprenticeship. We're an ageing industry, with the average age of a carpenter being around 40 years old," Mr Adams says.

"The benefits of hiring an apprentice outweigh the costs by a long shot — apprentices will bring new talent, fresh ideas and some different dynamics to your business."

Mackersey Construction supports the apprentice process wholeheartedly, and will continue to ensure that enthusiastic applicants get the chance to become the builders of tomorrow.

Entries for the 2010 Apprentice of the Year are open from 6 April 2010 and close at the end of June 2010. For further information, or to download an entry form, go to [www.masterbuilder.org.nz](http://www.masterbuilder.org.nz), [www.bcito.org.nz](http://www.bcito.org.nz), or [www.carters.co.nz](http://www.carters.co.nz). Entry forms can also be collected from Carters stores nationwide.

# Licence and liability

Builders concerned at the potential for increased exposure to litigation that may come with licensing scheme

By RMBF in-house counsel  
Leoni Carter

**T**he issue of licensing is again building some momentum.

Along with the release of the latest Department of Building and Housing (DBH) discussion document *Cost-effective quality: next generation building control in New Zealand*, there's talk amongst builders concerned at the potential for increased exposure to litigation that may come with the licensing scheme and other changes.

The concern stems from the requirements that, as well as the responsibility for achieving certain standards to have and continue to hold a licence, there is additional potential liability for anyone doing restricted building work, or supervising others doing it.

The Act will require that the owner names the licensed building practitioner (LBP) doing any restricted building work.

The voracious appetite of local authorities for producer statements and the Act's requirement for memoranda and/or certificates means that the LBP will be easily identifiable for the life of the building.

The stated intention of the DBH is that the liability exposure is no more and no less under a licensing regime than it is now.

Builders have always been liable for the work they do. That liability was spelled out in the Building Act 2004 by the provision of implied warranties; the quid pro quo being the 10-year longstop provision that limited liability to 10 years after the work was done (rather than six years after the defect became apparent).

The Select Committee hearing submissions on the Bill amended section 88 (which contains the requirement for memoranda and/or certificates) in order to address "concerns over liability potentially being extended to individual employees of companies" (see p18 of the Select Committee report).

It now specifically states that the memorandum or certificate does not give rise to any additional liability by LBPs to owners of buildings that does not already



exist, ie, any contractual or tortious liability that may arise is not affected in any way.

Who actually did the defective work is a question of fact, determined upon investigation of the building process. This happens now, whether or not the builder has signed any piece of paper.

The stated intention of the DBH is that the liability exposure is no more and no less under a licensing regime than it is now.

Assuming a defect is proven, the party liable will depend upon their status vis-à-vis the client.

If a company was the contracting party, it is liable to make good the defect. Of course "the company" doesn't build houses — its employees (or contractors) do.

## Negligent acts of employees

However, the company is vicariously liable for the negligent acts of its employees. Employees are entitled to be indemnified by their employers for acts they undertake in the course of their employment (unless they are so far off "on a frolic of their own").

The employee is no less indemnified because they may

be the holder of a licence that permits them to do a class of building work.

Where an LBP signed off on someone else's work that he supervised, he is assuming responsibility for that work. However, if they are both employees, they are indemnified by their employer.

If the LBP is an independent contractor, he assumes liability for his own work and is not indemnified by the company that contracted with the client.

If the client sues the company, the company will join the contractor. He should have his own insurance to cover himself.

An LBP who is a director of the building company who then picks up a hammer/supervises the work of others may find them liable for their actions; again he should ensure he has insurance.

## No indemnity to fall back on

The sense of concern about liability is heightened, due in part, to the recent practice in leaky building litigation where the contracting company has disappeared, to drag employee builders into court and hold them negligent, and they have no indemnity to fall back on.

The point is the liability exposure or otherwise of people who do building work is determined first by causation, and, second, their status as employee/contractor/director — not by whether or not they hold a licence.

It's really insurance, not liability per se, that is "the elephant in the room" when the effect on LBPs is being discussed.

Many practitioners, individual and corporate, in construction hold public liability insurance, and appreciate why they do.

Fewer hold professional indemnity insurance, and don't appreciate why they should.

We predict that many more will seek to buy such cover because of the increased exposure they feel they have as a result of the greater transparency and accountability that licensing will bring.

And that may come about as a result of the latest discussions around building controls.

# Gisborne RMBA makes a difference

It is almost two years since the Gisborne Registered Master Builders Association decided it needed a project that would help lift its members' profiles in the community.

A number of options were considered, including building a spec house and using the sale proceeds for charitable purposes. The high cost of sections at the time, followed by signs of an imminent recession, caused the Association to put the idea to one side.

Despite this setback, the desire to help the community in some way, whilst raising awareness of the Association and its members, was still a high priority.

Gisborne RMBA president and member of the Tairāwhiti District Health (TDH) Hospital Advisory Committee, Kath Kitchen, learned of the hospital's desire to erect a building to be used as a "one-stop shop" for Tairāwhiti residents with chronic, long-term illnesses such as diabetes and heart disease.

Due to insufficient funding, TDH decided, reluctantly, that it could not proceed. It occurred to Ms Kitchen this could be something that would fit the Association's goals and, after many months of consultation and collaboration, the two organisations are currently working together to build the Tui Te Ora Community Health Centre. With an area of 336 sq m, the building has an estimated value of around \$940,000.

A management committee comprising Association members and a supplier representative was formed to oversee the building process. An electrical contractor representing ECANZ subsequently joined the committee after finding his initial involvement both challenging and stimulating!

The project management role is shared between Francis Yates, well known to many as a past president of the RMBF, and Peter Stevens of D Stevens Ltd.

With the benefit of weekly meetings, the committee is able to keep tabs on progress and to ensure supplies and labour are on site as and when required.

Initial funding was provided by TDH, with the Association accepting responsibility for funding the not inconsiderable balance.

Due to the generosity of a number of local and regional charitable trusts, a significant portion of the required funding has been found. The management committee is continuing its search to find the balance.

The overwhelming response from Gisborne tradespeople has ensured that labour costs have been kept to a minimum. To date, local blocklayers, plumbers and electricians have joined with Association members



*Gisborne RMBA Tui Te Ora management committee members, from left: Kath Kitchen (Gisborne RMBA president), Adrienne McDonald (voluntary secretary), Noel Holden (City Construction), Darin Bignell (Tumu ITM Building Centre), Francis Yates (joint project manager) and Bruce McKay (Bruce McKay Electrical). Absent are Peter Stevens (joint project manager), Kim Currie (Currie Construction Ltd) and Ray Wood (Ray Wood Builder).*

in donating their labour to the cause, while plasterers, painters and joiners have indicated their intention to follow suit.

Peripheral services such as legal advice, surveying, earthmoving, roadworks, hireage and craneage have been donated by local companies, while local and national suppliers have also demonstrated extreme generosity in the provision of materials for the Tui Te Ora build.

A number of service clubs, with older members unable to manage heavy building work, have contributed by covering the cost of specific items or by undertaking to provide BBQs for site workers.

## Consolidating goodwill

Aside from the obvious benefits of raising awareness of the Association and its members, much has been gained by way of consolidating goodwill within the local building community.

As Mr Yates explained, building is an extremely competitive game, so it is rare to visit another builder's site. "This project has given us (the local tradesmen) the opportunity to work together, and that's unique."

Individuals working in the sub-trades have experienced similar satisfaction, with one blocklayer declaring that he had thoroughly enjoyed working with "the opposition", and asking "when can we do this again?"

The charity build has also had an unexpected and beneficial spin-off effect, providing valuable work experience for students from Gisborne Boys High School and Tairāwhiti Polytechnic who were involved

in the initial stages of the project.

Other students from Gisborne Developments Inc – Trades Training Centre are shortly to play their part by painting the pipes for the sprinkler system.

The project is currently running to schedule, and the expectation is that the building will be ready for handover on 2 July 2010.

The Tui Te Ora Community Health Centre will house a range of expert health professionals, including specialist doctors, psychologists, clinical nurse specialists, dieticians, podiatrists and a retinal screening service.

With more than 2300 diabetes patients at present, and an expectation that this will increase to nearly 4000 by 2011, this purpose-built building should prove to be a godsend for the residents of Tairāwhiti.

## Welcoming accessible hub

Clinical nurse specialist Natasha Ashworth, who is managing the project for TDH, expects Tui Te Ora to provide a welcoming, accessible hub for those suffering the debilitating effects of chronic illnesses.

All in all, Tui Te Ora (which translates to Weaving Together Wellness) has, quite literally, woven the whole community together in the most extraordinary and heart-warming manner.

While the project has created much extra work for Gisborne RMBA members, they will be more than compensated with the handover of a quality building — one which will meet a real need within the Tairāwhiti region.

# Two decades of superb building

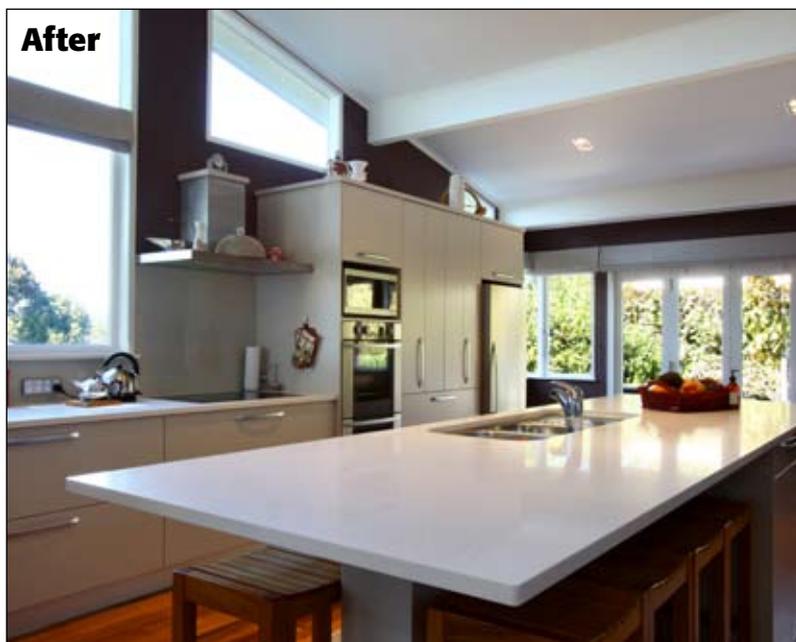
**B**uilding to a high standard is nothing new for Kuriger Builders (Tauranga) Ltd, which took out the national PlaceMakers Renovation under \$250,000 award in the Registered Master Builders 2009 House of the Year, in association with PlaceMakers.

The company has entered the House of the Year competition in 16 of the 19 years since the competition began in 1991, taking out 51 awards. It has been a national finalist for the past five years, winning two national awards.

"We always aim to enter the House of the Year, not just for the company but also



Kuriger Builders Ltd was the winner of the PlaceMakers Renovation under \$250,000 category for a renovation in Tauranga.



for our clients and staff," owner/operator Conrad Kuriger says.

"Winning an award like this makes all the hard work worthwhile, and is a great morale booster for our staff."

Mr Kuriger knew from the word go that the project, an extensive internal renovation of a property in Tauranga, had the X-factor.

"It was one of those homes that had become outdated and needed a good spruce up. We could see it had potential, and wanted to give the home a modern feel, while retaining its character," he says.

The final result not only impressed the owners, but also pleased the competition's judges.

"This is a stunning renovation that has retained and enhanced the unique character of the home," they said.

"The open plan living is exquisite, and the decking that wraps the existing weatherboard home has significantly enhanced the outdoor living areas."

Mr Kuriger started the company in 1981, and now operates businesses in Taranaki and Tauranga.

"I left school at 16 and have been in the building industry ever since. I contemplated being an architect or a maths teacher — but building won hands down," he says.

"The most important thing I've learnt in my 37 years of building is that you can always aim higher.

"There will always be new products and new ways of doing things, and you can't afford to get left behind."

Mr Kuriger is looking forward to a busy year, and says the secret to his company's success is making the building process a positive experience for clients.

"We spend a lot of time with our clients to ensure top results. Building a home is like a partnership — you need to understand your clients' lifestyles and habits to know what design and products will suit them."

With entries now closed for the 2010 competition, he has some words of wisdom for those thinking of entering next year.

"Give it a go — it's a great way to test yourself against the competition and it pushes you to exceed your own standards.

"We've found that people always notice the awards we've won — for a small business it gives you great credibility, and shows the industry that you're up there with the best."

To view Kuriger Builders' new showroom in Tauranga, visit its newly launched web site at [www.kurigerbuilders.co.nz](http://www.kurigerbuilders.co.nz).

# Top of their game!

**A** top effort from Mainzeal Construction saw the company take out two national titles in the RMB 2009 Commercial Project Awards, in association with PlaceMakers.

Mainzeal was named national winner of the Education Project category for the Victoria University Coastal Ecology Laboratory on Wellington's south coast, and the National Retail and Business Project category for Vogel Centre Stage 1a, also in Wellington.

Mainzeal general manager (central region) Dave O'Donovan credits Mainzeal's success on the Vogel Centre project to solid processes and great teamwork.

"The team didn't just include Mainzeal, but also AMP Capital Investors, the existing tenant, the Ministry of Justice and the consultant teams," Mr O'Donovan says.

"We had strict systems and time lines, and we always made sure everyone had an in-depth understanding of the project. With up to 20 of our own management staff across the job, it was really important everyone was on the same page."

Mainzeal Construction won the building contract for Vogel Centre Stage 1a in 2006. Prior to the contract being signed, all parties were engaged in a lengthy planning phase.

"The project was planned across five years and was broken down into three stages — 1a, 1b, and 2. We're now working on Stage 2, and by early next year we should have the whole project done and dusted," he says.

"The great thing about the project is that with careful planning we've been able to retain the useful part of the old building, while upgrading it and also adding to it substantially — all to meet the needs of the client and the tenants. It was a real exercise in working together."

Mr O'Donovan has been working in the construction industry for about 25 years. Prior to joining Mainzeal as a project engineer in



Mainzeal Property and Construction Ltd was the winner of the Retail and Business Project category for "Vogel Centre Stage 1a", Thorndon, Wellington.



1993, he had worked in construction in the United Kingdom, Australia and New Zealand.

After many years with Mainzeal, he believes a large part of the company's success comes down to building and maintaining strong relationships, and making sure commitments are followed through.

"At Mainzeal we're very relationship-orientated, and have the philosophy that you're only as good as your last job. And we get a lot of return business, which is one of the best compliments you can receive."

He says the Vogel Centre project is a great example of just how relationship-focused Mainzeal is.

"We worked really closely with the client, AMP, and the tenant, the Ministry of Justice, to ensure that not only was the construction executed well, but that all parties were kept happy along the way. That's not to say there haven't been challenges, but we all got stuck in and worked our way through these.

"A great example of this was when we all came together to decide on tolerance controls for construction work, agreeing on factors

like acceptable noise levels and construction times. Everyone who worked on the job had to comply with the restrictions that we had all agreed on."

For 2010, Mainzeal is focused on maintaining its high standards and encouraging clients to involve them in the preliminary stages of building.

"There are many benefits to the client if the contractor is involved in the first stages of a project's development. For the Vogel Centre, Mainzeal provided a Design Build solution, which meant we fixed the cost and also the time for the project. This gave AMP and the Ministry of Justice certainty."

Mr O'Donovan says the RMB Commercial Project Awards are a real asset to the industry.

"The competition gives us the opportunity to showcase our abilities and test ourselves against the competition. It's great when a third

party rates your work and you come out on top!"

The company is also working on a number of exciting developments this year that will be entered in the 2010 Commercial Project Awards.

"Right around the country we are heavily involved in specialised facilities, and many of these will deserve to be showcased.

"Whether the facilities are schools or hospitals or, as is the current case in Wellington, an international passenger facility for WIAL, we are seeing more and more that the client wants to work closely with the contractor so that their facility is properly customised for their needs.

"This is a great way to work, and very satisfying for all."

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# Government consults on Building Act reform

**M**inister for Building and Construction Maurice Williamson has released a discussion document outlining proposals for the Building Act.

"Without compromising quality and safety, these are major proposals that will move us to the next generation of building control," Mr Williamson says.

The discussion document and consultation follow a review of the Act, and are part of the Better Building Blueprint, a series of measures that will make it easier and cheaper for New Zealanders to build good quality homes and buildings.

The Minister says the proposals are open to debate and change. The Government wants input from the sector and the general public.

"The public must be able to have confidence in the system which is why I want their input into any proposed change. While the Building Act review has found that the system is not broken, and quality is improving, it is still more costly than necessary and less efficient than it could be.

"I'm convinced there is room for improvement and consistency across the country. This will reduce costs and improve efficiency for the consumer and the builder. I have an open mind on the best way to achieve this," Mr Williamson says.

"We want to make sure we get the right balance between risk, regulation and skills, and this consultation will help us do that.

The discussion document is available from [www.dbh.govt.nz/consulting-on-building-act](http://www.dbh.govt.nz/consulting-on-building-act), and people can comment online or in writing before 23 April 2010. The key proposals for reform are:

## **Moving to a more balanced building consent system:**

- Lowest risk building work (such as a basic shed, or a low deck) would not need a consent.
- Low risk building work (such as a simple, one-storey house) would go through a quicker, simpler consenting process with fewer council inspections and more reliance on the skills of licensed building practitioners to get it right first time.
- High risk, more complex houses would continue to go through the current approval and inspection process.



*Minister for Building and Construction Maurice Williamson*

- Complex, major commercial building work would go through a simpler process than it currently does, recognising the experience and skills of the professionals involved, and that commercial contracts for major projects include quality control.

## **Rebalancing responsibility back towards building professionals and tradespeople:**

- Building professionals and tradespeople would take more responsibility for making sure their work meets Building Code requirements. Licensing of building practitioners will identify those with the relevant skills.

## **Better tools for consumers to hold building professionals to account:**

- Better equip home owners to hold builders to account, with mandatory written contracts setting out what's expected, how any faults would be fixed, how disputes would be resolved and details of financial backing (surety).

## **Further improvements:**

- Make sure the fundamental elements of the system — the Building Code and the purpose and principles of the Building Act — are clear.
- Explore ways of making the administration of the system more cost-effective.
- Simplify processes to review the fire safety of building plans and the inspection and maintenance of essential systems such as fire sprinklers and lifts.
- Examine whether the building consent system is the best way to regulate public infrastructure works such as bridges and tunnels.

## *LGNZ welcomes proposed reforms*

**L**ocal Government New Zealand (LGNZ) welcomes proposed reforms to the Building Act but warns against cherry picking some of the proposals because these parts may be easier to implement.

LGNZ regulatory spokesperson Dianne Hale says the current law is too complex, costly and prescriptive.

"This reform is long awaited, but it's critical the components to achieving quality buildings are advanced together — they will not work in isolation and we want the whole package advanced, not just the easy bits.

"Changes that streamline building consent processes, giving consumers more rights and making builders more accountable for their workmanship, are welcome.

"We particularly endorse a fresh look at responsibilities and accountabilities. Ratepayers have paid for the incompetence of builders for too long, and these proposals put more responsibility on builders, manufacturers and designers.

"A big issue for councils is proportionate liability. Currently councils pay an unfair share of the costs of incompetence when there's a problem with a building project. LGNZ is disappointed the Government is not willing to look at this issue.

"We are working with councils to develop options for local government's future role in providing building services.

"We encourage the Government to deliver a regulatory system which is fair and equitable."

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# Registered Master Builders supports LBP streamlining plans

The Registered Master Builders Federation is pleased the Government has followed through on its promise to streamline the application process for the Licensed Building Practitioners scheme.

Application to this scheme, which has been through a number of machinations over the past few years, will now be simpler, faster and cheaper for builders.

Chief executive Warwick Quinn says the RMBF has always supported a licensing regime for construction in New Zealand.

"The removal of red tape and any unnecessary compliance and cost is a huge step towards the Licensed Building Practitioners scheme being more easily adopted by builders," Mr Quinn says.

"Progress of this sort is incredibly important given the intention that licensing will be compulsory in the

not-too-distant future, and will directly affect the many thousands of building professionals employed by our member companies."

As with the Licensed Building Practitioner scheme, the RMBF is very keen to continue its close working relationship with Government on a number of other projects being rolled out in 2010.

The streamlined Licensed Building Practitioners scheme was launched by Building and Construction Minister Maurice Williamson at a building site in central Auckland recently.



At the launch, from left: RMBF chief executive Warwick Quinn, RMBF member Blair Cranston and Building and Construction Minister Maurice Williamson.

• For more info: Ph Warwick Quinn, RMBF,

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On the web: [www.masterbuilder.org.nz](http://www.masterbuilder.org.nz)



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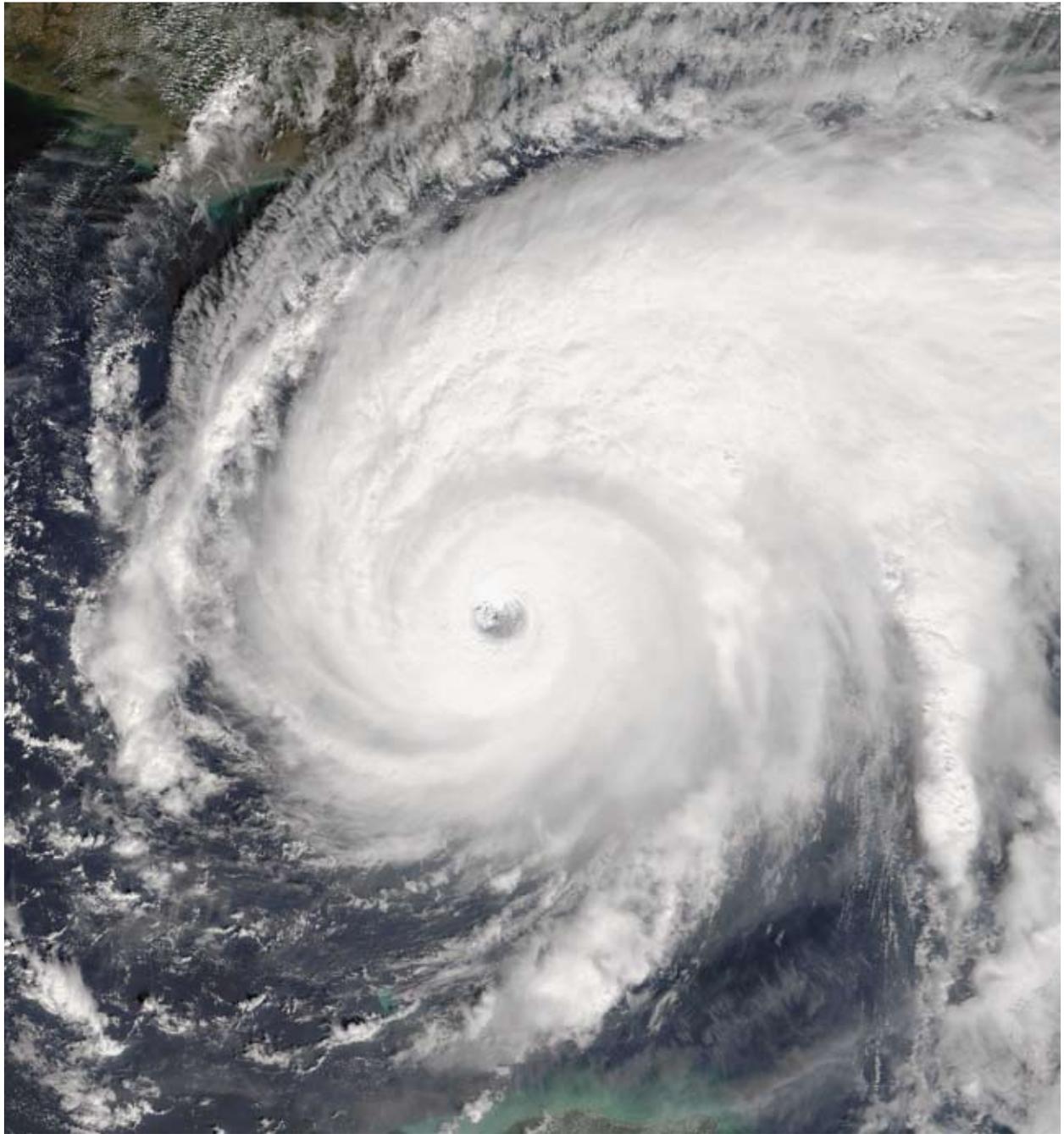
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## Bunnings opens first purpose-built trade centre

**H**ardware chain Bunnings has demonstrated its commitment to the construction industry with the opening of a new trade centre in Auckland.

The Bunnings Trade Centre in East Tamaki was officially opened last month by motorsport personality Craig Baird.

Bunnings New Zealand general manager Rod Caust says the opening of the new centre shows how highly the company values its trade customers. "Ensuring that our trade customers are well serviced is incredibly important to us, and the opening of our first trade centre takes the Bunnings offering to a whole new level," Mr Caust says.

The centre has been set up specifically for trade customers, and features trade quality brands and quantities, a complete frame and truss service, and a specialist trade team offering expert product knowledge and advice.

It was designed with convenience in mind — customers can place orders by phone, fax or email, and the centre features a large undercover loading area for pick-up and an on-site delivery service.

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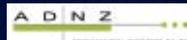
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# \$1.3m energy savings on the cards for Christchurch Civic Building

System will enable building to generate its own electricity

**A** building designed to save \$1.3 million in energy annually through its innovative Tri-Generation system, and having 85% of its hot water heated by solar power has received a 6 Green Star - Office Design rating from the New Zealand Green Building Council (NZGBC) — with the highest score ever achieved by a New Zealand office building.

The Christchurch Civic Building, which is nearing completion on Worcester Street, is officially New Zealand's most sustainable office design. A 6 Green Star rating represents World Leadership, and the project scored a record 83 points in the building rating system.

The Civic Building is a joint venture between Ngai Tahu Property Ltd and the Christchurch City Council. It is a redevelopment and extension of the old Post Office building in Worcester Street, built in the 1970s.

Civic Building Joint Venture chair Gill Cox says the council was hoping for at least 5 Green Stars.

"It's great to have exceeded expectations by achieving a 6 Star rating within the approved budget."

NZGBC chief executive Jane Henley says Ngai Tahu Property and the Christchurch City Council have designed a world-leading green building.

"The centre will deliver significant tangible benefits such as energy and water savings, as well as an improved working environment for increased staff productivity and lower absenteeism through illness."

It is also New Zealand's most innovative building, achieving four out of a possible five points for innovation within the Green Star system.

Ms Henley says the building is only the second to achieve a 6 Green Star certification in New Zealand, joining Samson Corporation's Geyser Building in Parnell, Auckland (featured in the February issue of *Building Today*).

There are now 35 projects certified under Green Star in New Zealand.

Ms Henley says having two buildings with a 6 Green Star - Office Design rating just three years after Green Star was launched in New Zealand is a credit to the property industry's commitment to green building principals, and shows the business case is clear.

"There's a sea change occurring in the way the industry considers how buildings should be designed and built, and what we're seeing in Christchurch is a prime example."

The building was designed by Athfield Architects and is being built by Hawkins Construction.

## Key sustainable features of the Christchurch Civic Building:

- *Tri-generation system enabling the building to generate its own electricity from a renewable energy source — biogas — which is piped from the council's Burwood landfill site (and in future years from the city's Wastewater Treatment Plant) to be converted into electricity. This process is used to heat and cool the building, with annual energy savings of about \$1.3 million.*

- *Energy-efficient light fittings, automatic daylight dimming, occupancy controls and sensors on the escalators, which will activate only when people approach, and regeneration capabilities on the lifts.*

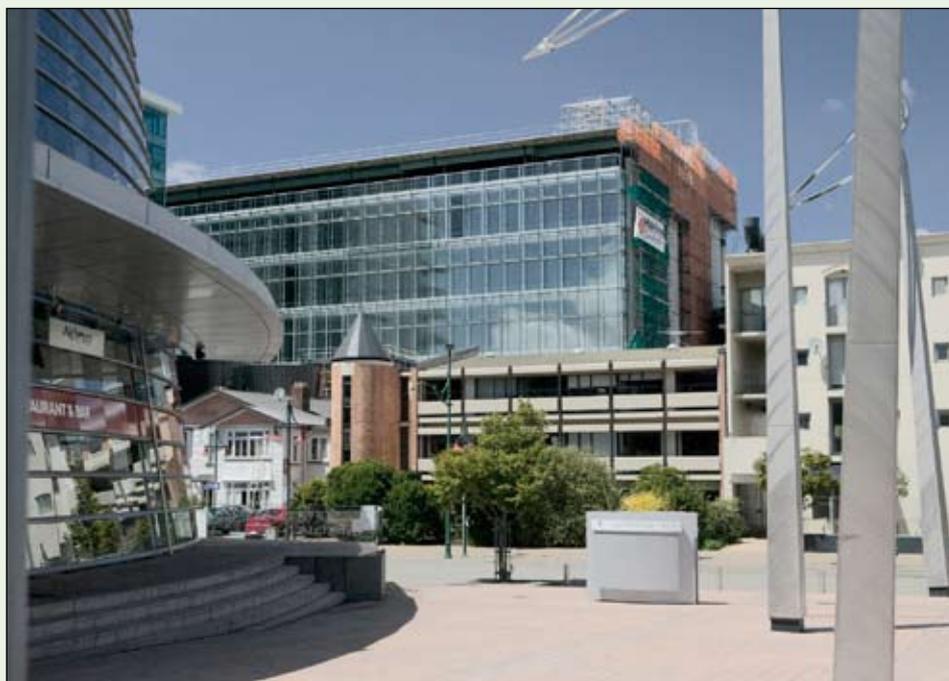
- *Double-skin facade is a thermal and solar buffering zone. This facade will also be used to vent air and heat from the building, enhancing its thermal properties. Within the office floors a monitoring system detects when carbon dioxide has reached a certain level and automatically introduces fresh air through floor vents.*

- *Rainwater harvesting to provide up to one million litres of water annually. It will be used to flush the toilets, for landscape irrigation and a water feature.*

- *Solar power will provide 85% of the building's hot water.*

- *The reuse of an old building rather than building from scratch represented an embodied energy saving of 65,700 gigajoules — equivalent to a saving of 6440 tonnes of CO<sub>2</sub> emissions or 12,800 return flights from Christchurch to Auckland.*

*The target for waste recycling from the building was 70%. In January 2010, the project was achieving 88% recycling for demolition and construction materials, achieved by contractors Hawkins Construction.*



# Tips for builders/ project managers facing leaky building claims

By Adina Thorn, from specialist leaky building firm  
Hoskins Thorn

**S**ome tips for builders and/or project managers who are facing leaky building claims include:

- Stop and read the claim against you.
- Who is the claim against? You? Your company? A trust? A partnership?
- Consider who else is being sued. Are they jointly responsible for the work?
- Where is the property? Were you on site? What work did you do?
- How much are the claimants claiming?
- What are your defences?
- Look for a specialist lawyer to help you fight back effectively.

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# Helping clients navigate the leaky building minefield

Finding the right advice is crucial if faced with a leaky building. Increasingly, this is something a specialist remedial quantity surveyor can provide, writes **James White**.

**D**iscovering a home has leaky building problems is one of the worst pieces of news a home owner can receive.

As a quantity surveyor (QS) who specialises in remediation for leaky buildings, I'm familiar with the anguish that surfaces when home owners are suddenly thrust into a rescue mission for what is, for most of us, our biggest asset.

Most home owners are overwhelmed by the sense of helplessness and uncertainty as to the first steps to make things right. So if you, as a builder, or one of your clients finds themselves staring in the face of a leaky building, here are some tips that will help.

## Engage the right professionals

One of the best pieces of advice is to engage the right professionals early on to provide guidance for where you're heading with remediation and where responsibilities lie.

QS professionals are becoming more involved in this process, with specialised consultants providing remedial cost estimation, retrospective and back costing analysis, and expert quantum evidence during a dispute resolution process.

A QS that specialises in this type of work will work alongside the building surveyor to develop a comprehensive cost estimate that details the items identified in the repair recommendations.

This includes a breakdown of all labour and material costs, and ongoing financial management of costs during the repair process, to ensure payment claims are fair and reasonable.

It's also extremely worthwhile having the right sort of people working with you who can help make the process as stress-free as possible. I tell my clients to select those who have their best interests at heart and are sensitive to the emotional rollercoaster and show empathy along the way, rather than simply sending through an invoice each month.

It's worth bearing this in mind when dealing with home owners navigating a leaky building repair.

[www.buildingtoday.co.nz](http://www.buildingtoday.co.nz)

## Do your own research and have a good idea of the process and costs involved.

I recommend a visit to the Department of Building and Housing web site [www.dbh.govt.nz](http://www.dbh.govt.nz) for helpful, independent information about all issues related to leaky buildings, weathertightness and avenues of redress.

## Get good advice from people with experience in this area of the industry

In most instances, it's good to get legal advice up front to establish if you do have a case for proceeding with a claim. Builders and building surveyors are often approached to help home owners work out whether there are grounds for a claim.

My recommendation is to encourage your client, or prospective client, to seek legal advice. Whether you use a private lawyer or are recommended a lawyer by someone that has been through a leaky building issue, make sure your chosen lawyer has experience in the leaky building industry.

The next step is to engage a building surveyor to assess the state of the dwelling/building. It's important this process is done thoroughly, and that evidence is gained appropriately and accurately.

Lawyers and building surveyors work alongside the owner or body corporate during the assessment process to gather evidence to help build a case against those parties who are responsible for the defects.

## Calculate the costs versus benefits of any decisions

Once your clients have established that, yes, there is a problem and you have a recommendation to repair the damage, a QS can come on board to provide a cost estimate for repairs.

The nature of the work, and the number of unknowns you are dealing with, mean that it's a particularly specialised area of the profession, with specialist knowledge required to deal with mould, fungi and different types of timber, and to collect evidence and data necessary to move forward to some sort of

dispute resolution process.

Usually the biggest unknown is how much timber damage and decay there's going to be. Often, a closer look reveals other examples of poor workmanship around structure, drainage or fire ratings, which can be a surprise.

Builders, building surveyors and the QS can work together during this stage to quantify the extent of the damage.

When it comes to considering whether or not to take legal action, it can be hard to determine the likelihood for success based on the advice of lawyers alone. Because it's such a big financial commitment to go through a dispute resolution process such as adjudication, the home owner needs to weigh up the costs of the process against where it will leave them financially at the end of the day.

An alternative is to sell the building as it is, and disclose the issues to the market. A QS will help provide sound cost-benefit analysis to help your client make this decision.

## Don't short cut the process

If your client decides to pay the price to repair their home, they will expect the work to be carried out thoroughly by people who will repair it to the best possible standard, which is where the standards set by the Registered Master Builders Federation come into play.

Leaky buildings present many opportunities for builders and QSs to work together. Rather than an "us and them" situation, we believe closer alliances should be promoted, particularly in the case of leaky buildings where completion of the physical project often heralds the start of the legal process.

*James White is the director of quantity surveying firm Kwanto, which specialises in providing relevant remedial cost estimates and financial management throughout the remediation process. Mr White has extensive experience gained in residential and commercial projects — locally and internationally — during his 15 years as a quantity surveyor.*

# Weathertightness — estimating the cost

The Department of Building and Housing (DBH) carried out a review of the approach to the weathertightness problem in 2009. The first part of the review was to identify the scope of the issue. PricewaterhouseCoopers (PwC) was contracted by the DBH to carry out research, analysis and modelling to provide a re-estimate of the size and cost of the leaky homes problem.

The result was the report *Weathertightness — estimating the cost*. *Building Today* presents a Q&A analysis of the report, and comment on it by industry experts.

## **W**hy was the PwC report prepared?

The research had the objective of re-estimating:

- the number of dwellings, built between 1992 (when the Building Act 1991 came into force) and July 2008, at risk of being leaky buildings,
- the number of leaky homes that have been repaired to date, and
- who is bearing what costs, under current policy. Costs included repair costs (eg, labour, materials, professional fees), legal costs, transaction (eg, council consent fees) and other costs.

## What data did PwC research?

A mix of quantitative and qualitative data and information was used to develop the re-estimate. Quantitative data included:

- council building consent data: 10 territorial authorities collected information about single and multi-unit dwellings from a random sample of their building consent files from 1992 to 2008,
- Weathertight Homes Resolution Service (WHRS) claims data,
- Statistics New Zealand building population data,
- BRANZ building materials survey data,
- Weathertight Homes Tribunal adjudication decisions and court decisions, and
- a survey of WHRS claimants and other parties.

## Qualitative information

A number of interviews and workshops were held with a range of experts in the building sector, including architects, building surveyors, the Registered Master Builders Federation, the Certified Builders Association, council staff and WHRS assessors.

The experts were asked for their views on the size and cost of the leaky homes problem. The qualitative information was used to test the quantitative data.

## How many homes are affected by the weathertightness issue?

The PwC report shows there is a wide range of the possible number of homes affected, from a low of 22,000 to a high of 89,000. The wide range reflects the fact there is a high level of uncertainty about the number of homes affected that prevents an exact, and accurate, estimate to be made.

*Continued page 20*

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## Weathertightness — estimating the cost

From page 19

Nevertheless, the report goes on to estimate it is most likely approximately 42,000 homes (called the “consensus forecast”) built between 1992 and 2008 have been affected.

The evidence suggests only a minority have been repaired to date.

Of the leaky homes covered by the “consensus forecast” approximately:

- 3500 have already been repaired, and
- 9000 are likely to be outside the 10-year limitation period for legal liability.

Using the “consensus forecast”, it is therefore likely up to around 30,000 dwellings have already failed, but not been repaired, or will fail in the future (within the 10-year limitation period).

### What is the total economic cost of the leaky homes problem?

To remediate all of the 42,000 affected dwellings in the “consensus forecast” would incur a total economic cost of an estimated \$11.3 billion.

Some of this cost has already been incurred in the past for dwellings that have already been repaired. But the future total economic cost is likely to be around \$6.3 billion.

### What were the other key findings in the PwC report?

The review confirms what the Government has known — that there is no single cause of the weathertightness problem. The causes include:

- poor design — such as buildings without eaves,
- poor workmanship, reflecting a low skill base in the sector,
- the introduction of new materials and products, without good knowledge about how to use them, and
- weak inspection processes by councils.

### Are design or architecture fees, legal fees, alternative accommodation costs and the cost of repairs already undertaken included in the total \$11.3 billion figure?

Yes, such costs are included in the figure.

### Who is currently bearing the costs of the problem?

The cost of the weathertightness problem is currently being borne mainly by owners: 69%. Territorial authorities are meeting approximately 25% of the cost

and other parties (eg, builders and developers) just 4% of the total cost.

This is mainly because repairs on most homes are paid for solely by the owner, who often does not pursue legal remedies or obtain contributions from other liable parties.

### According to the report, are multi-unit or single-unit dwellings more likely to face weathertightness problems?

Multi-unit dwellings show a much higher risk profile according to the research, and are, therefore, more likely to experience weathertightness problems.

However, the high risk dwellings built more recently have used different building practices that provide greater capacity for drainage and drying.

Therefore, the risk profile of more recently built multi-units does not equate to the same rate of failure for those built before 2005.

### Why was the original estimate for weathertightness so inaccurate?

Previous estimates were based on very limited data and knowledge about the causes and effects of weathertightness failure.

Since an initial analysis by PwC in 2005, the passage of time has allowed a longer claims history to emerge in the WHRS and the courts, there has been an improved performance by building assessors in the estimation of repair costs, and the inclusion of a more detailed description of likely damage in costings.

In addition, a greater volume of other information, in the form of evidence, anecdote and opinion as to the prevalent and likely rate of the nature of the weathertightness failures in New Zealand’s housing has emerged.

### Are the figures accurate?

The Government is satisfied the process was robust and the data used was reliable and the best available. It is highly unlikely a different process would have come up with a significantly different result.

Even so, the report acknowledges there is a high degree of uncertainty about the numbers, but whichever way you look at it, the problem is big, and the exact numbers don’t make any difference to that fact.

## What the building industry experts say:

**B**uilding experts say the Government has seriously underestimated the true scale and cost of the leaky buildings problem.

An expert panel — including representatives of the Home Owners and Buyers Association and the Institute of Building Surveyors — advised officials and consultants last year that 89,000 homes would fail at a cost of almost \$23 billion.

They said:

- between 80% and 100% of homes built with monolithic claddings would fail within 15 years,
- 90% of apartments, terraced houses and other multi-unit homes built between 1992 and 2005 would leak badly at some point,
- 90% of multi-unit legal claims were stalled because owners could not afford to pay their fees to lawyers and building experts,
- the average cost of re-cladding a leaky home has reached \$300,000,
- the report, Weathertightness — Estimating the Cost, described the 89,000 estimate as “the extreme view”, with Government officials believing it was likely to be an overstatement,
- a formula, called “the consensus view” in the report, had been devised, which applied failure rates only to homes considered high risk in the building code.

This cut the total, producing the official figure of 42,000 homes and an \$11 billion repair bill.

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# Corrosive environment no sweat for steel bridge

It's a true engineering feat: a 650 tonne steel bridge situated right over the Wairakei geothermal fields.

Due for completion ahead of schedule later this year, this 440m flyover bridge is part of the East Taupo Arterial project — the construction of the 16km highway which runs along the eastern outskirts of Taupo from Wairakei to Taupo Airport.

There are two achievements of scale that make this an impressive project. Not only is the Contact Energy Bridge the longest steel ladder deck bridge in New Zealand, it also involved the largest application of aluminium coating in a single steel structure in Australasia.

Around 10,000 sq m of applied 220m aluminium metal spray protects the bridge from corrosion from the sulphur-laden geothermal gas emissions below.

A massive earth fill over the steam pipes was considered at first. But when durable, lightweight flexible steel can be protected against even ferocious corrosive activity, no other option stacked up better than a steel ladder bridge.

Alastair Blackler from Fulton Hogan elaborated. "Steel was used for the bridge superstructure as it offered superior span lengths and lighter loads on the bridge's spread footing foundations," he says.

"This was important in maximising the clearance between the bridge and Contact Energy's steam pipes and other infrastructure.



"Because the ladder girder-style bridge is a simple pre-assembled form, it is easy to construct. It significantly reduced the number of heavy lifts (up to 70 tonnes) to 14, or one per span. Constructing an alternative pre-stressed concrete Super Tee or Double Hollow Core Bridge would have required multiple heavy lifts for each span."

Mr Blackler also remarked on the importance of the high quality of the fabrication from Eastbridge. "It helped us to exceed our programme targets during the on-site assembly and erection."

According to Bruce Mellsop of Eastbridge, there were scale challenges in terms of tight production schedules. Only steel could deliver in the time frame, but it required meticulous planning to keep on target.

"With 650 tonnes of pre-assembled steel, and with girders 28 metres long, delivery had to be made in a particular

order so the builders could put it up with ease progressively."

In the end, this vast bridge was put up so quickly it was literally amazing. The pier structure of ladder bridges is designed to be simple and efficient, and the high strength-to-weight ratio of steel was an important factor in easy handling and speed.

As Mr Mellsop pointed out: "Each span from pier to pier was bolted together on the ground, then craned into place in a matter of hours. This meant the construction team could assemble and place a span each week."

From an aesthetic point of view, few will see how remarkable the structure is from ground up. When all is complete, when you drive straight over State Highway One and come down to the Taupo-Rotorua intersection, now you will be instantly on a bridge over the Waikato River for 500 metres.

*Continued page 24*



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# Corrosive environment no sweat for steel bridge

From page 22

"The public will barely perceive they are on a bridge." Mr Mellsop says.

This steel bridge construction project is a significant one for the industry as it shows what can be achieved with today's modern steel fabrication technology, combined with technically-advanced protective coatings.

To meet the specifications of the New Zealand Transport Agency, the life span of the coating had to be 35 years to first maintenance. Aluminium matched that life span, with an expectation of lasting more than 40 years before touch-ups will be required.

Craig Ross of Napier Sandblasting explained some of the challenges of the biggest spray job in Australasia.

"The coating system in itself is not complicated to apply, but the scale of the job and the fact that aluminium can sometimes make equipment temperamental, meant a lot of late nights."

New Zealand historical thinking about road bridge construction was totally avoided in the choice of steel for the

superstructure of this project.

New Zealand has been slow to follow the rising international trend. Instead, kiwi ingenuity was applied at all levels.

As a result, steel ladder deck bridges may become as popular as they are globally as modern, urban, simple and architecturally-striking solutions.



## Steel Group raises the price

**P**acific Steel Group has increased the price of its reinforcing steel bar and wire rod products by 7% to 9%, effective from March 1.

Pacific Steel Group general manager Ian Jones says the price rise has largely been caused by the cost of steel scrap increasing in line with international markets, and has been compounded by the weakening New Zealand dollar.

Continued demand in China, improved demand for steel products in the United States, and rising iron ore prices are also impacting on the international price.

Mr Jones says prices for the raw materials which are used to make steel bar and wire rod products fell last year, and these reductions had been passed on to customers. However, this trend would be partially reversed by the latest price rise.

"We will continue to review prices in the

face of challenging economic times to ensure what our customers are paying reflects international trends," Mr Jones says.

While domestic demand remains "fickle", the price is determined by global conditions and material costs on the international market.

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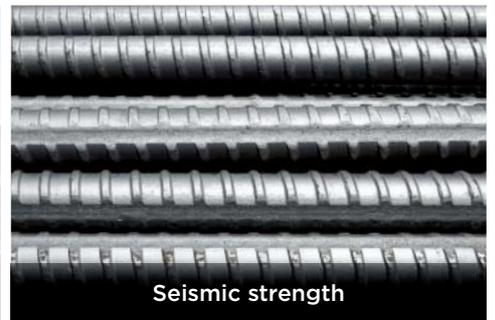
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# Fantastic Fishing!

**F**ish, fun and fabulous weather would sum up this year's Carters Beach and Boat fishing competition!

This annual tournament is open to all fisherfolk and held in the beautiful Bream Bay in Northland. There are separate daily categories for beach and boat fishers, and on the last day winners go up against each other for the huge overall prize pool.

The Beach and Boat is held over the last weekend of February, and has been running for five years. Thursday night is the competition briefing, held in a marquee set up at Marsden Cove Marina. This was the first year the marquee has been at this spectacular location, with views over the berthed boats out to Whangarei Harbour.

Competitive fishing began on Friday morning and ran through to Saturday afternoon. For those that came back in on Friday evening, there were some tests of skill and strength, with tug-of-war, a casting competition and dodgeball later in the evening.

These events were hosted by the MCs Pio Terei and Nic Brown from Radio Hauraki, assisted by Carters' Cocksy.

The surprise winner of the casting competition was "Dillon's Grandma", who initially only came up to support her grandson. One cast was all it took for this grandma to show the others how it was done!

Saturday night was the final prizegiving, with more than 3000 competitors, friends and family attending. The heaviest snapper overall (junior prize) was presented by Carters Gone Fishin' host Graeme Sinclair to Liam Keatley from Whangarei.

Heaviest snapper overall went to Rob Parker of Houhora (11.33kg). Rob walked away with a Stabi-Craft 409 Fish'r, Yamaha 30hp motor, Lowrance electronics and other prizes with a total value \$29,931!

The Grand Entry prize was snapped up by Shane Matheson of Whangarei, who survived the "dead man's drop" to claim his prize. Just by buying a senior fishing entry, he won a Stabi-Craft 509 Fish'r with all the trimmings valued at \$42,000!

The fortunately-named Claire Carter from Whangarei took away the Carters Makita Early Bird prize of \$10,000 worth of Makita power tools.

The Radio Hauraki band rocked the marquee for the rest of the night, playing to a sea of green competition t-shirts and caps. For some, the night was short as the recent tsunami warnings started early Sunday morning

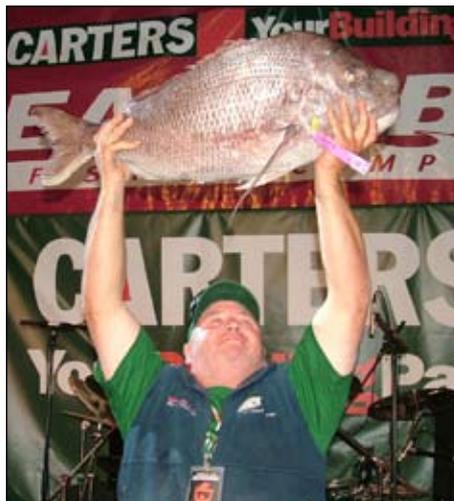
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Above: The Grand Entry prize was snapped up by Shane Matheson of Whangarei, who survived the "dead man's drop" to claim his prize — a Stabi-Craft 509 Fish'r with all the trimmings, valued at \$42,000



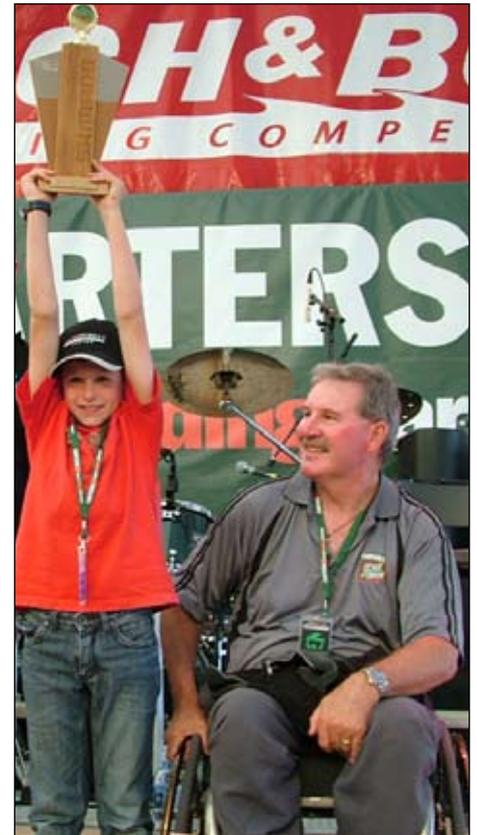
Alex Saunders with his kingfish.



Rob Parker won the heaviest snapper overall — and \$29,931 worth of prizes — with this beast!



The tug-of-war was one of the events hosted by the Radio Hauraki MCs.



Carters Gone Fishin' host Graeme Sinclair presented the heaviest snapper overall (junior prize) to Liam Keatley from Whangarei.

after the massive earthquake in Chile.

Boat owners were quickly notified and there was no damage from the sea surges experienced as a result of the earthquake.

Even with the tsunami danger, the competition was a fantastic testament to fishing camaraderie. If you

missed out this year, keep your eyes open for information regarding next year's tournament, or bookmark [www.beachandboat.co.nz](http://www.beachandboat.co.nz) as the place to find out all you need to know about the tournament.



• On the web: [www.beachandboat.co.nz](http://www.beachandboat.co.nz)

# BCITO future-proofing industry qualifications

**F**uture-proofing the content of a qualification is just one component in the mix when the revision cycle for a particular qualification comes around. New technologies, workplace practices, legislation, tools and techniques also feature high on the list of things to be considered.

So reviewing a qualification and trainee resources also means ensuring that what's done today is applicable for at least the next five years — because that's how long it will be before the next review of any individual qualification takes place.

The qualifications team at the BCITO (under the helm of new qualifications manager Richard Robyns) is currently reviewing a number of qualifications. Here's an update on some of the qualifications being worked on:

## **National Certificate in Cement and Concrete (Levels 3 & 4) with strands in:**

- pipe and block manufacture,
- concrete construction (site works),
- placing and finishing,
- concrete production/ready-mix,
- pre-cast manufacture,
- concrete cutting and drilling,
- retail concrete products,
- concrete masonry products.

The cement and concrete industry qualifications are progressing at speed, with writing of all unit standards for the eight trade level qualifications, now complete.

Resource writing and assessment material writing are at various stages of development, and all strands will be completed and available for delivery well within the next year. The development of a National Certificate in Concrete Technology is also under way.

## **National Certificate in Frame and Truss Manufacture (Level 3)**

Consultation with this sector took place in late 2008. However, in light of the merger between the FMTA and the Wood Processing Association in 2009, the review process was put on a temporary hold. Now that the merger is complete, we can move to the next phase of the qualification review, looking at the feedback from the consultation process and how that affects the current structure and unit standards.

The first working party meeting is taking place in April 2010. At the time of going to print, the complexity of the review is unknown. However, we are hopeful that we can complete it this year, with a rollout of the revised qualification in early 2011.

## **National Certificate in Solid Plastering (Level 4)**

In late 2009, the BCITO External Plastering National Advisory Group met. Following this, a comprehensive questionnaire was developed to be used as a consultation tool within this sector. The questionnaire will provide the BCITO with good input on the industry's needs into the revised qualification.

At this stage, we are planning to facilitate the questionnaire face-to-face, making it easier for those in the industry to give their responses verbally. Once the responses have been collated and analysed, we will be able to revise unit standards and assessment material. It is anticipated that this qualification will be ready for use by the end of 2010.

## **National Certificate in Construction (Leading Hand – Level 4, and Supervisor – Level 5)**

The consultation process concluded in the latter part of 2009 (and feedback information is now available on the BCITO web site). An advanced qualification review panel is being formed to review the feedback to determine the future direction of the qualification, and to review the current unit standards.

Representatives from all the trades that the BCITO has a standard-setting role for have been invited to have a member of their sector on the review panel, so the revised qualification may better suit all those in the industry who have a need for supervisors, other than the traditional carpentry sector.

## **National Diplomas in Construction Management, Quantity Surveying, and Architectural Technology (Levels 6)**

We are at the final hurdle in reviewing the three diplomas and are soon to register the revised qualifications with the NZQA. The BCITO has taken over the standard-setting role for Quantity Surveying and Architectural Technology from InfraTrain, and is working with TEC to achieve registration for these domains, as well as Construction Management.

Once our role of developing and setting the standard of the qualification is completed, polytechnics can then revise any trainee resources that support delivery. It is hoped this will enable learners to enrol in the revised qualification as early as 2011.

For more information on BCITO qualifications, check out our web site at [www.bcito.org.nz](http://www.bcito.org.nz) or contact your nearest BCITO office. Higher level qualifications such as Leading Hand, Supervisor and the National Diplomas are delivered by polytechnics around the country, so for more information about these, contact the polytechnic nearest you.



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# Auckland's big little new Eden

Mt Eden resident **Dr Kerry Rodgers** contemplates changes to a 100-year-old sporting venue

**E**den Park has been a sports ground since 1900. It became home to Auckland Cricket in 1910 and to the Auckland Rugby Union in 1925. In 2011 it will be the principal venue for the Rugby World Cup, hosting the opening ceremony, first pool game, both semi-finals, third place play-off, and the final.

It is New Zealand's largest sports arena with a current capacity of 42,000 for cricket and 47,500 for rugby. A \$320 million makeover will increase that capacity to 60,000.

All folk living south of the Bombays know that Jaffas never take the easy way when making decisions on public infrastructure, let alone paying for them. The tortuous process involved in choosing from one of Auckland's different RWC stadia options and then getting the funding for the Eden Park upgrade are parts of a never-ending northern story.

But now the die is cast. Most of the money is to hand and the Eden Park Redevelopment Board is getting on with the job. These are the guys with overall responsibility for project management, design decisions and fund raising.



*How it was.*

The park redevelopment has several distinct objectives. Central is a desire to deliver a stadium with an effective economic life of 50 years that is suitable for use by all Auckland recreational interests. Among the more visible enhancements will be:

- a new, three-tier 21,500-seat South Stand with 50 corporate boxes to replace the old South and South West stands,
- a new, unroofed, two-tier 8600-seat East Stand to replace the old eastern terraces,

- a 2000-seat extension to the ASB Stand.

Inside, changes will be just as marked. An internal concourse will allow patrons to circulate inside the stadium and reach their seats from any of four corner entry plazas, as well as accessing a host of food and beverage outlets, toilets and all corporate areas. In short, people will no longer have to circle the surrounding streets to reach their seats.



*Getting it up.*



*Rugby World Cup Final 2011: Who will be playing?*

Those who have followed the resource consent history will be aware of neighbours' concerns about the height of the new structure and possible shading effects on nearby houses. In all, 91 conditions were imposed by the city council. Specifically, they allow the building of the new stands but not the original \$385 million full covered seating option.

The development is well advanced. Concrete has already been poured for the third tier of the South Stand, a start has been made for the replacement of the former lighting tower with lights in the rooflines. So as to reduce light trespass, transparent panels are being fitted to the upper barrier of the South Stand to provide a soft exterior, and a start has been made on the acoustic barrier that will slot behind the

stands to confine noise levels.

Still to come are the important landscaped green buffer zone that will replace asphalt and concrete and, hence, lessen the visual impact on local residents. The open plan streetscape will see removal of much of the perimeter fence, making the stadium more accessible.

Public transport upgrades include a transport hub with a 12-stop bus drop-off and pick-up area that connects to all stands via the public concourse. A pedestrian bridge will link the stadium to Kingsland.

Post-RWC 2011, the park's capacity will be reduced from 60,000 to 50,000, still giving it an increase of some 3000 seats over current capacity.



*The finished future.*

# Let builders beware — duties of care arising from labour-only contracts

Tim Bates and Suzie Matheson of Auckland law firm Legal Vision examine a recent decision that spells out the duties of care for labour-only builders



Justice Williams has spelled out the duties of care for labour-only builders in the recent High Court decision in *Boyd & Another v McGregor & Another*.

## Background

The High Court was considering an appeal by the builders, Boyd and Halliday, of the liability apportioned to them by the Weathertight Homes Tribunal (WHT). Boyd and Halliday had been employed as labour-only builders on a house found to be a leaky home.

Experts believed the causes of the water ingress

included the absence of flashings on the curved windows, defective installation of cladding and poorly applied texture coating.

Boyd and Halliday were working in a building partnership, and were contracted on a labour-only basis at a fixed price to work on the building.

The contract covered the carpentry work on site, including framing, installation of windows, erecting the gib board and attending to interior fit-out.

The experts all agreed that the installation of the windows had been inadequate as no sealant or in-seal had been provided. This was not disputed by the builders.

## Appeal on liability and apportionment

So why, then, did they believe they should not be held liable for issues arising from this defective work?

Counsel for the builders argued that their inexperience and lack of knowledge and expertise mitigated against finding they owed a duty of care. He argued that the builders had a limited role, were not involved in the cladding, and simply placed the windows within the frames they had erected, and were not involved in any of the further processes involved in window installation.

It was argued that the legal authorities were to the effect that subcontractors owe no duty of care to owners because, amongst other reasons, as subcontractors they were subject to inspection and direction of another.

Counsel for the builders also contended that the house would have leaked anyway because of a problematic cladding system, inadequate plans and manual, absence of flashings from the plans, lack of proper inspection and a number of other faults which were not part of Boyd and Halliday's responsibilities.

This argument was not accepted by the court. Justice Williams considered the issues and cases presented, and summarised some of these principles as follows:

- The existence of a duty of care has evolved and, even now, is not fixed. But a potent factor in the decision is the assumption of responsibility to original buyers.

- The assumption of responsibility (by a contractor) has always been an important feature, and may be seen to have gained greater importance over time.

It was this last point that swayed the appeal against the builders. The judge found that the builders assumed responsibility for installing the windows, the faulty installation of which was a prime cause of the house leaking.

A competent builder should have known that good trade practice is to achieve weathertightness, and to do that requires the installation of flashings on the windows even if they were not drawn in the plans.

A competent builder should have known that to achieve weathertightness, good trade practice and the manufacturer's manual required the installation of sealant around the windows.

Competent builders should have had the skills required in carrying out the work they undertook, so as to achieve weathertightness, this being a fundamental requirement of their statutory obligations.

Ultimately, the builders' lack of experience, coupled with their lack of questioning, meant they were in breach of their obligations.

Although the builders did make an enquiry of a supposed expert plasterer, it wasn't deemed to be sufficient to explain for their failure to call for flashings and install them over the windows.

## No change to apportionment

The court did not overturn the apportionments made by the Tribunal. The builders were held liable for 10% each, or 20% of the total.

Justice Williams held that any lesser percentage would have had the effect of almost exonerating the builders when their actions or omissions were a significant cause of water ingress.

However, he also supported the argument that defects could have been corrected had Auckland City Council complied with its obligations. The council was, therefore, held as blameworthy as the builders, and also apportioned 20% of the total liability.



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