



Building Services

Unauthorised Building Work

(Carried out prior to July 1992)



Purpose

This is a guide for work requiring consent that has been done without authorisation, and is identified as being carried out before the Building Act 1991. Unauthorised building work done after July 1992 is outside the parameters of this guide and must be dealt with in terms of a Certificate of Acceptance (COA).

Background

Both the Palmerston North City Council and Manawatu District Council receive enquiries from property buyers and sellers regarding building work carried out without consent. Some of these enquiries are the result of property reports, ie: Land Information Memorandums or Residential Property Enquiries obtained from Council.

Simply because the detail of building permits or consents is not listed in reports, is not absolute proof that the work has been done without the appropriate consent. Territorial records are not always complete. An explanation for this may be:

- Government financed building – no permit was required before the 1991 Building Act
- Records lost or borrowed.

Discussion

The Building Act 1991 and previous local body by-laws for building work were enacted essentially to ensure buildings would be safe and healthy for the occupants, and comply with reasonable community standards. Building permits (or consents as they are now known) are one way of protecting members of the community from their own folly or the unscrupulous or careless practices of others.

It may not be an issue to some whether or not building work has a permit, provided the building is sound. However more and more buyers are realising the risk of inheriting a liability and want the territorial authority's assurance that the building is sound. If the vendor or previous owners have carried out any unauthorised building work,

it is the vendor's problem (provided the work is not dangerous or insanitary). It is not the territorial authority's concern that buyer resistance may result from lack of documentation.

Under Section 44 of the Building Act, a territorial authority cannot lawfully issue a retrospective building consent and under Section 94 cannot provide a code compliance certificate for work undertaken without and prior to a building consent being applied for and granted.

The territorial authority may consider taking legal action against the person who carried out or permitted the illegal work, but it would not require the building to be upgraded unless it was dangerous or insanitary.

Reassurance may be gained by all parties if the vendor/buyer:

1. Commissions a report by a consulting engineer to confirm that the building and/or plumbing/drainage work is sound, and where applicable complies with the New Zealand Building Code. Any remedial work identified by the engineer or consultant would require a building consent.
2. Provides a complete property site plan (1:100) showing ALL existing buildings, building to boundary measurements, each building area and clearly indicating the unauthorised building/plumbing work. Plans must be drawn to an architectural draughting standard, to scale and show full detail.
3. Provides drainage plans showing any drains (sewer, stormwater) in conjunction with unauthorised building work.
4. Requests the territorial authority place the information that has been provided on the property file so it will then be available for any future property enquiries.
5. Pay any fees required by the territorial authority (administration, site inspection, confirming letter etc).

The territorial authority shall provide a letter confirming receipt of any information for the property file. If the consulting engineer report indicates no rectification work is necessary, the letter will advise that no outstanding requisitions are recorded and that based on the information available, no legal proceedings in respect of the unauthorised work will be commenced at this time.

No guarantee is given that legal action will not be taken if at a future time the building work is found to be unsafe or insanitary.

Further Information

If you have any questions or require further information please contact:

Palmerston North City Council
Phone 06 356 8199 or visit www.pncc.govt.nz

Manawatu District Council
Phone 06 323 0000 or visit www.mdc.govt.nz