

# TRADE LEADER

DEC 2022 - JAN 2023 ISSUE

## Codewords

Product substitution guidance

## Industry

Lessons from Constructive 2022 - State of the Sector

## Business

Avoid the pain of not getting paid

## Legal

Incentivising staff with shares



**Auckland apprentice wins national title**



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and contribute towards your LBP Skills Maintenance requirements

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**Plasterboard  
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Construction stages of the new GIB® plasterboard manufacturing and distribution facility in Tauranga.

# In the frame

BY MIKE GUY  
CARTERS CHIEF EXECUTIVE

Although it's been some time since the Registered Master Builders' Constructive Forum took place in August, some of the information and outcomes that have flowed through since are highly informative and give quite a bit of clarity to the current health of the construction industry.

Suitably titled, the RMB's annual State of the Sector report, which uses information from a considerable number of participants from across the sector, gives an insight into how those involved in the industry (in various forms) view how it's coping with challenges, as well as highlighting opportunities that may be opening up.

Master Builder CEO, David Kelly, introduces the report by saying that there is cause for caution after a recent boom, but that the industry isn't in a position it hasn't been in previously.

There's also been a couple of significant events happening recently which CARTERS have also played a major part in.

The national Master Builders Apprentice of the Year competition is one that CARTERS has enjoyed being the major sponsor since its inception 19 years ago, and we've also played a sponsorship role in the national House of the Year event for quite some time.

Celebrating the development of young talent through the Apprentice of the Year is something we've always found rewarding, and it's a pleasure to be able to celebrate their success through this challenging event.

I'd like to pass on my very sincere congratulations to overall winner Dane Schnell from Auckland, as well as Northern Region's Paulo Oliveira, who finished second overall, and Waikato

Region's Chris Foy who finished third. Read more about their success on page 12.

In the House of the Year, Hamilton's Karl Kampenhout Builders won the CARTERS-sponsored category for New Homes \$1 million - \$1.5 million - a significant achievement in an event that drew almost 300 entries from around New Zealand. See all the photos on page 28.

Again, it's a pleasure to extend my congratulations to the winners in each event, as well as the entrants who ensured the competition was of such a high standard.

After travel was put on hold for the last couple of years, in October we were thrilled to take to the skies again with our CARTERS Advantage trip taking a group of over 150 customers on a magical 5 night Arabian Adventure. We've been hosting these trips for over 21 years and have already revealed Turkey as our next destination for 2023. See page 20 for details and make sure you secure your spot before 16 December.

With the end of the year upon us, be sure to take a well deserved summer break and our team are here to help you get back into the swing of things in the new year.



MIKE GUY  
CARTERS Chief Executive

## TRADE LEADER.

CARTERS Trade Leader is produced by TLP Media Ltd 6 times a year in association with CARTERS.

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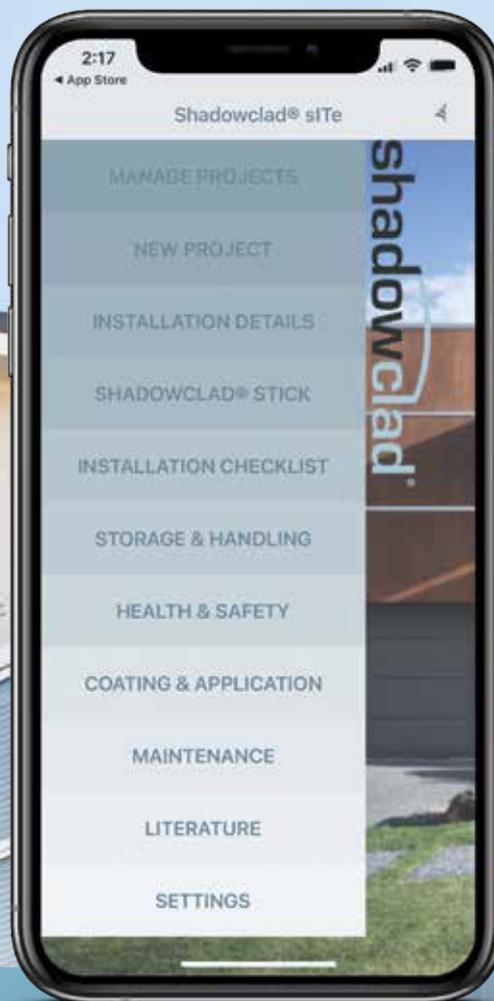
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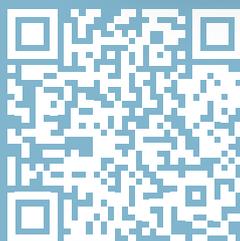
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LICENSED  
BUILDING  
PRACTITIONERS  
Building confidence

# Medium Density Residential Standards

BY FAYE PEARSON-GREEN, BUILDING PRACTITIONERS BOARD MEMBER

Recently a colleague posed a question:

"Currently I have a Design AoP 2 licence. Do I need to apply for a Design AoP 3 licence to be able to carry out design work under the new Medium Density Residential Standards (MDRS)?"

The answer is that you **may** need an Area of Practice (AoP) 2 Licence if the design work comes within the definition of restricted building work (RBW).

The reason why the answer is "may" and not "must" relates to differences in the height limits in the definition of RBW in the Building (Definition of Restricted Building Work) Order 2011 as compared to those in the Medium Density Residential Standards (MDRS).

Clause 6 of the Building (Definition of Restricted Building Work) Order 2011 stipulates:

**Certain design work relating to primary structure or external moisture-management systems of residential buildings to be restricted building work**

1. **The kinds of design work described in subclause (2) are restricted building work for the purposes of the Act.**
2. **The design work referred to in subclause (1) is the preparation of any drawing, specification, or other document, according to which—**
  - (a) **the primary structure of a house or a small-to-medium apartment building is proposed to be constructed or altered; or**
  - (b) **any external moisture-management system attached to or forming part of a house or a small-to-medium apartment building is proposed to be constructed or altered.**

The terms "house" and "small-to-medium apartment building" are, in turn, defined in clause 3 of the Order as:

**house means a free-standing, fully detached building consisting of a single residential unit (or a single residential unit and 1 or more residential facilities)**

**small-to-medium apartment building means a building that—**

- (a) **contains 2 or more residential units or residential facilities; and**
- (b) **does not contain parts that are neither residential units nor residential facilities; and**
- (c) **has a maximum calculated height of less than 10 m.**

It is within the last part of the definition of "small-to-medium apartment building" that the differences with MDRS arise as clause 3 of the Order provides the following further definition:

**maximum calculated height, in relation to a building, means the vertical distance between the highest point of its roof (excluding structures such as aerials, chimneys, flagpoles, and vents) and the lowest point of the ground.**

MDRS, however, allows for a maximum building height of 11 metres plus 1 metre for a pitched roof. As can be seen, this exceeds the maximum calculated height provided in the RBW Order.

Given this, a designer will have to be licensed and hold a Design AoP 2 Licence (based on the categories of buildings as defined in the Building (Designation of Building Work Licensing Classes) Order 2010) if the design work comes within the RBW definition. However, if the building is a small-to-medium apartment building which exceeds 10 metres from its highest to lowest points, then it would fall outside of the RBW definition. The design work would not have to be carried out by an LBP.

Caution is, however, still advised even if the design work is not restricted building work.

Firstly, when it comes to disciplinary liability, LBP designers can be responsible and accountable for their work, even if it is not restricted building work. This is because the broadest disciplinary charge under the Building Act is negligence and/or incompetence. The specific charge (section 317(1)(b) of the Building Act) relates to building work, not restricted building work. Building work is defined in section 7 of the Act, and it



is much wider than restricted building work, and it would include design work relating to an MDRS structure that was higher than 10 metres.

Secondly, the disciplinary regime focuses on competence. One way of assessing a LBP designer's competence is by reference to the Area of Practice that they hold as defined in the Building (Designation of Building Work Licensing Classes) Order 2010. Generally, Design AoP 1 licence holders are restricted to Category 1 Buildings, AoP 2 to Category 1 and 2 Buildings, and AoP 3 to Category 1, 2 and 3 Buildings. Interestingly, if you look at the Building (Designation of Building Work Licensing Classes) Order 2010 and compare the height limits in it to the RBW Order you will note that Category 3 Buildings fall outside of the definition of RBW. There may, in this difference, have been an element of future proofing should the definitions of RBW be extended at any time in the future.

Given the above, if a designer was developing a building consent for an MDRS building that had a high risk-matrix score or was nearing the upper limits in the MDRS allowable height, and they only held a Design AoP 1 licence, for example, then it may follow that they have carried out building work that is outside of their competence. This is another disciplinary charge under the Act (section 314 and 317(1)(h) of the Building Act) and another reason for caution.

It's also worth noting that a designer who works outside of their personal competency may run into issues with their professional indemnity cover and their civil liability to their clients.

**Finally, remember,** the LBP scheme and Areas of Practice are designed to recognise the competence of designers so that consumers can choose the right person for the job.

The scheme relies on designers using their licence responsibly to ensure quality compliant homes are built.

## CODEWORDS QUIZ

- 1 **What is the maximum calculated height of a small to medium apartment building under the Building (Definition of Restricted Building Work) Order 2011?**
  - A. Less than 10m
  - B. 11m plus 1m for the pitched roof
  - C. 10m or higher

---

- 2 **What is the maximum height under the medium density residential standard?**
  - A. Less than 10m
  - B. 11m plus 1m for pitched roof
  - C. 10m or higher

---

- 3 **How is 'maximum calculated height' measured under the Building (Definition of Restricted Building Work) Order 2011?**
  - A. The vertical distance between the upper surfaces of the floors of the lowest and highest storeys
  - B. The vertical distance from the lowest storey floor to the upper-most ceiling in the building
  - C. The vertical distance between the highest point of its roof (excluding structures such as aerials, chimneys, etc.) to the lowest point of the ground

Answers: 1. a 2. b 3. c



For more information visit  
 Building (Definition of Restricted Building Work)  
 Order 2011:  
[tinyurl.com/Building-Order-2011](https://www.tinyurl.com/Building-Order-2011)  
 Building (Designation of Building Work Licensing  
 Classes) Order 2010:  
[tinyurl.com/Building-Order-2010](https://www.tinyurl.com/Building-Order-2010)



# MBIE guidance on building product substitution

BY PAUL HOBBS, PRINCIPAL ADVISOR, BUILDING SYSTEM ASSURANCE, MBIE

The current shortage of products means builders are increasingly turning to alternatives. This can be potentially problematic and MBIE has recently released specific guidance on what products can be substituted for plasterboard.



For more information visit  
[tinyurl.com/product-substitution](https://tinyurl.com/product-substitution)  
[tinyurl.com/substitution-plasterboard](https://tinyurl.com/substitution-plasterboard)  
[tinyurl.com/stepbystep-guidance](https://tinyurl.com/stepbystep-guidance)

It has been well documented that Aotearoa New Zealand is currently facing a shortage of plasterboard and other commonly used building products. This is largely due to supply chain issues associated with the downstream effects of Covid-19 and elevated levels of demand. Consequently, there is an increased possibility that some building products specified as part of a building consent may need to be substituted with a similar or comparable building product.

## A first principles approach

The Building Code sets the minimum performance requirements that all building work must meet. However, it does not prescribe which materials, building methods or products to use. Designers and homeowners can choose the product that fits their requirements if they can provide evidence that it complies with the relevant performance requirements of the Building Code. The below guidance provides a detailed pathway to product substitution and compliance for plasterboard and other wallboard products and is best read in conjunction with the more general Product Substitution Guidance published by MBIE in November 2021 (see link on facing page).

## MBIE's plasterboard specific guidance

MBIE recently released the guidance document Product substitution – plasterboard for Building Consent Authorities (BCAs), designers, contractors and building owners to better support them in using building products that differ from those originally requested by owners and specified in building consent applications.

The guidance was developed in conjunction with BCAs with a view to managing the approval of plasterboard substitution in a more nationally consistent manner.

In addition, MBIE has published a step-by-step guide for plasterboard product substitution, showing the roles played by manufacturers, designers, building consent officers and builders.

## Three-step approach

The plasterboard product substitution guidance lays out a three-step approach consistent with MBIE's broader product substitution guidance:

- it encourages people to consider the legal context, particularly any additional obligations and compliance-related matters that might arise from a product substitution
- it points to the broader implications of using a different product than that which was specified, including whether it is fit for the same purpose and still meets the owner's needs;
- it talks people through how to implement changes to consent; for example, if substituting the product requires a minor variation or for more complex changes it might trigger an amendment to the building consent

In summary, it also:

- outlines and encourages the use of the minor variation process for substituting plasterboard
- lists those products that can be substituted as a minor variation
- explains what should be considered when substituting plasterboard that has:
  - standard performance requirements when used as lining only
  - additional performance requirements such as a substrate lining in areas subject to water splash such as bathrooms

and kitchens, as an element within a fire-protection system, a sound rated system or a bracing system

- advises what can be done in the design stage to avoid the need for product substitution, - that is, the consideration of other products and construction methods
- provides an appendix of links to other product information that may be of use to show compliance with the Building Code

## All parties have a role to play

The designer or builder who wishes to substitute a building product should ensure that:

- the customer is informed about, and has agreed to, the substitution taking place
- they provide adequate evidence so the BCA can be satisfied on reasonable grounds that the building work will continue to comply with the Building Code
- they are on-site to talk to the building control officer (or are available in the event it is a remote inspection) about the proposed substitution and provide documentation if requested

Failure to provide sufficient information may lead to delays in assessing variations, rejection of the application or require an amendment to the building consent to be applied for.

## Try to avoid the need to substitute in the first place

Most designers will already be trying to avoid specifying products likely to need to be substituted at the construction phase. As a reminder, however, designers should check on the availability of products that are in short supply and consider whether any of the following are more readily available and could be suitable alternatives such as:

- other readily available plasterboard products
- non-plasterboard panel systems such as plywood,
- alternative construction systems.

## CODEWORDS QUIZ

**1 Does a building owner need to be made aware that a building product that has been consented is to be substituted with another product?**

- A. Yes
- B. No
- C. Maybe

**2 When should the BCA be made aware of a product substitution?**

- A. After the product has been substituted
- B. Before the product substitution takes place
- C. While the product substitution is taking place

**3 What needs to be in place before a minor variation can be approved?**

- A. Relevant technical information
- B. Applicable installation details
- C. Approval from the BCA
- D. All of the above

Answers: 1. a 2. b 3. d

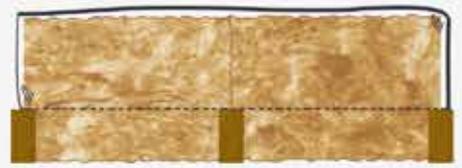
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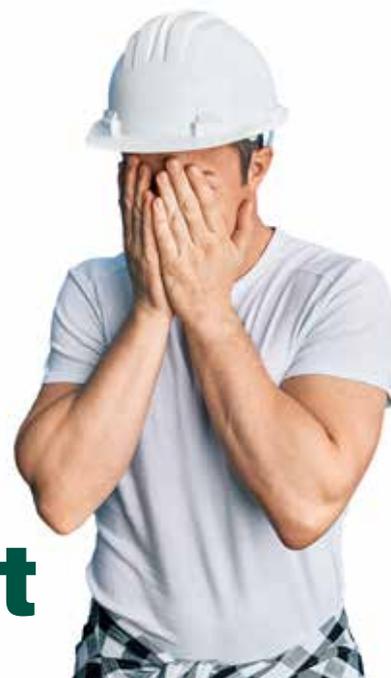
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# Code of ethics for Licensed Building Practitioners has now come into effect



The Licenced Building Practitioners (LBP) code of ethics is now in effect. The code of ethics provides assurance to consumers that the LBP they choose to hire will be held to a high standard, that aligns with international best practice.

LBPs are experts who have been assessed as competent to carry out building work essential to the structure or weathertightness of residential buildings. The Ministry of Business, Innovation and Employment administers the LBP scheme, which encourages better building design and construction, and gives the public confidence that LBPs working on their homes are competent and that homes and buildings are designed and built right the first time.

The new code of ethics sets out expectations for professional and ethical behaviour from LBPs, so that consumers can feel more confident about their building projects, and gives them guidance about what to do if things go wrong.

**“THE VAST MAJORITY OF LBPS ARE ALREADY WORKING TO THE HIGHEST PROFESSIONAL AND ETHICAL STANDARDS. CODES OF ETHICS ARE COMMON TOOLS IN INDUSTRY REGULATION TO PROMOTE ETHICAL AND PROFESSIONAL BEHAVIOUR, SO THE LBP SCHEME WAS AN OUTLIER IN NOT HAVING ONE,” SAYS DUNCAN CONNOR, REGISTRAR OF LICENSED BUILDING PRACTITIONERS.**

“We are pleased to see that consumers now have more clarity on what they should expect from an LBP and that LBPs themselves have clear guidelines on how to behave.”

The code of ethics is divided into four key principles:

1. Work safely
2. Act within the law
3. Take responsibility for your actions
4. Behave professionally.

Each principle is supported by clear standards, which outline how the principle applies in practice.

For consumers, the code of ethics is a fundamental aspect when laying a complaint against an LBP.

**“The Code provides clear grounds for the Board to take disciplinary action against LBPs who behave unprofessionally, enabling the Board to issue fines or revoke licences where necessary,” says Duncan.**

“Anyone can make a complaint to the Building Practitioners Board with confidence that the Board can address their concerns.”

Complaints about someone breaching the code of ethics can only be made if the breach took place from 25 October 2022.

If you think an LBP has breached the code of ethics and not conducted work in a safe, legal or professional way, you are encouraged to make a complaint to the Board. All complaints are taken seriously.



For more information on making a complaint visit [www.lbp.govt.nz/making-a-complaint/](http://www.lbp.govt.nz/making-a-complaint/)



# Registered Master Builders 2022 Apprentice of the Year

**Auckland's Dane Schnell has taken out the top spot at this year's Registered Master Builders CARTERS 2022 Apprentice of the Year.**

The top eight apprentices from around Aotearoa came together in Auckland to compete in the final stages of the competition. Across a two-day event, the apprentices undertook a 45-minute interview with the national judging panel and a six-hour practical skills test. This year's practical component challenged each apprentice to create a rocket ship to donate to early learning centres through Evolve Education Group.

Dane Schnell (23), who is employed by Coastal Concepts, completed his training through BCITO, a business division of Te Pūkenga, and impressed the judges with his ambition and ability to perform in the practical challenge.

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**"DANE IS A WELL-ROUNDED AND AMBITIOUS APPRENTICE. HE EXCELS BOTH ON THE TOOLS AND ON THE FIELD - REPRESENTING BIRKENHEAD IN THE NATIONAL FOOTBALL LEAGUE. DANE HAS CLEAR PLANS FOR HIS FUTURE AND KNOWS WHAT HE NEEDS TO DO IN ORDER TO GET THERE."**

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"His practical challenge was very impressive. Despite a turbulent start, he was the first one to finish the rocket ship, completing it to an extremely high standard. The same could be said for the other areas of the competition. He excelled in his interview, answering technical questions very competently."

"Well done, Dane. The standard amongst our national finalists this year was very high, you have done an excellent job in taking out first place. We look forward to watching your future closely," said the judging panel.



**WINNER Dane Schnell**  
Auckland Region  
Employer: Coastal Concepts



**RUNNER-UP Paulo Oliveira**  
Northern Region  
Employer: TP Builders



**THIRD PLACE Chris Foy**  
Waikato Region  
Employer: Urban Homes

Registered Master Builders Chief Executive, David Kelly was impressed with the group's talent and their commitment to being the best in their field, especially during our current environment.

"Learning new skills and applying oneself is challenging at the best of times but doing so under the conditions of the past two years is a testament to their dedication and commitment."

"Leadership in our industry matters. We look at our up-and-coming apprentices and assess their aspirations to see how we can provide fulfilling career pathways, within the sector," said David Kelly.

Every year the high level of talent in the competition grows, and at the same time diversity in the sector continues to improve. The Master Builders State of the Sector survey reported that nearly 60 percent of builders found that diversity in their businesses improved during the last year. This was supported by a recent MBIE report that showed increased diversity is being driven at the apprenticeship level, with the Government's Apprenticeship Boost Scheme reporting that 19 percent of the over 50,000 apprentices in the scheme identifying as Māori and eight percent identify as Pacifica.

"It is promising to see a steady increase in diversity in the Apprentice of the Year competition. Year-on-year the competition has seen an increase in diverse entrants. This year, we saw 20 percent of regional finalists from non-European backgrounds, as well as a quarter of our finalists. While we have more to do, it is encouraging to see good progress being made," says Kelly.

The sector has also seen an increase in females, with the recent MBIE report stating that the number of female workers employed in the sector has nearly doubled in the last decade.

"Although there is still work to do in this area, the number of females increasing across the sector are very promising to see. It was also fantastic to see more females enter the competition this year and even place in the regional competition," continues Kelly.

Runner-up went to Paulo Oliveira, 29, from the Northern Region, with Chris Foy, 21, from Waikato being awarded third place.

"Both of these apprentices were very strong contenders. Paulo only arrived in New Zealand five years ago with no English, he communicated effectively throughout the competition, and

he has done exceptionally well to get where he is today. Chris was the youngest competitor in this year's competition at 21 years old. However, this didn't stop him, taking out a well-deserved third place," said competition judges.

The national competition was celebrated with the finalists and their employers, family, and friends at a gala awards dinner in Auckland on November 15.

Committed to standing behind all apprentices as they start their careers, CARTERS Chief Executive, Mike Guy is impressed with the talent the competition brings together year-on-year.

"We have been sponsoring the Apprentice of the Year competition for 19 years now, and that's something we are incredibly proud of. It's great to be able to watch these talented apprentices giving their all in the competition and then going on to have successful careers."

**"CARTERS remains committed to supporting apprentices from across the country as they build their future in the construction industry. Partnering with the competition is a great way to celebrate emerging talent and our future industry leaders," said Mike Guy, Chief Executive.**

Before qualifying for the national competition, each of the top eight apprentices competed against other apprentices in their region. This involved a written project submission, a two-hour regional practical challenge, and an interview and site visit.



For more information on Apprentice of the Year, see [www.apprenticeoftheyear.co.nz](http://www.apprenticeoftheyear.co.nz)



# Transformation Plan lead roles appointed

## Four Transformation Leads at the Construction Sector Accord have been welcomed into the roles recently to drive delivery of the new Transformation Plan.

These roles will work alongside industry and government and build on the momentum and leadership set by the workstream leads from the last iteration Plan to drive engagement and action towards the Accord goals. They form part of the leadership group for the Accord team and will work closely with the Sector Reference Groups to design and develop the initiatives led and supported across the groups.

The Accord is appointing four Transformation Leads to cover each of the key areas of delivery: **Environment, Innovation, People and Client-leadership.**

THE ACCORD HAS APPOINTED ALL 4 OF THE TRANSFORMATION LEADS TO COVER EACH OF THE KEY AREAS OF DELIVERY.



Graham Burke

Graham Burke, who will step aside from his role in the Accord Steering Group will take up this new role with his focus being on driving the people goals for the new plan.

"I'm thrilled to have been selected as a Transformation Lead for the new plan and especially leading the work to support our people," he says.

"People are the essential element of every part of the sector and enabling people to thrive is core to lifting performance and achieving the Accord's transformation objectives. I am very proud of the achievements of the Accord to date and excited at the prospects of what can be achieved in the next three years.

"He aha te mea nui o te ao? (What is the most important thing in the world?) He tāngata, he tāngata, he tāngata! (It is the people, it is the people, it is the people!)"



**Jennifer Taylor**

**Jennifer Taylor, who has significant experience in sustainable and high energy efficiency building, has been appointed, with her focus on driving the environmental goals for the new plan.**

"I am looking forward to the role of Environment, Transformation Lead at the Construction Sector Accord. It is a real opportunity to lead the work to address the carbon and waste reduction challenges in the Construction Sector," she says.

"The Accord's decision to involve industry alongside government is progressive and recognises that with collaboration we will produce better outcomes. With experience in high-performance energy-efficiency building, I am an advocate for improving New Zealand's construction carbon outcomes."

"The environmental targets to be achieved are significant, and I am excited by the challenge. I am passionate about using my commercial, scientific and strategic expertise to enable New Zealand construction to be both successful and sustainable."

### Jane Henley (pictured left)

**Jane Henley has a background in strategy development and will focus on driving the Innovation goals for the new plan (pictured left).**

"I see this role as being the most strategic way I can drive improvement in productivity and quality, through modern methods of construction. I am looking forward to joining the work of the Accord which acts as a bridge between government and industry, bringing my background and skills to enable innovation and practical business lead change. Yes, there are barriers and issues to overcome, and I am looking forward to walking with you on the journey through this new Transformation Plan, and measure the positive impact through your success."



**Alison Murray**

**Alison Murray has a role driving the Client-leadership goals for the new plan.**

"Since joining the Accord from the Ministry of Education just over 12 months ago I have had the opportunity to be a part of helping to shape the new transformation plan and to work with some fantastic people across the sector. I think I am extremely lucky to be able to continue in the role of Transformation Lead Client Leadership and to work with others who are also passionate about tackling some of the challenges the sector faces."

# BuiltReady scheme launched

**BuiltReady, a new modular component manufacturing scheme, has been introduced.**

The new scheme, which will allow manufacturers who meet certain requirements to access a streamlined consenting pathway, has been introduced alongside an updated and strengthened CodeMark scheme, both of which will enable faster consenting of quality assured homes and buildings.

This pathway allows them to provide certificates covering their design and/or manufacture of modular components. These components will be 'deemed to comply' with the Building Code.

Modular components made offsite benefit from lower building costs, experience less delays, and produce significantly less construction waste.

Building Performance is developing guidance, resources and information for certification bodies and manufacturers interested in participating in BuildReady, as well as information for building consent authorities and consumers to provide further detail on the scheme. MBIE has also published scheme rules, which support the Building Act 2004 and relevant regulations by providing further detailed requirements for the scheme.

BuiltReady will be open for applications from certification bodies in late 2022 and open for applications by manufacturers in 2023.

CodeMark is a voluntary scheme that allows building products and building methods to be certified as meeting the requirements of the Building Code. CodeMark certificates are a 'deemed to comply' pathway meaning Building consent authorities must accept a CodeMark certificate as evidence of compliance with the Building Code.

The changes to CodeMark, which have come into force alongside BuiltReady, aim to improve confidence in the scheme and lift the quality of product certificates to support more efficient consenting, while still enabling product innovation. By making these changes MBIE is able to ensure that all scheme parties are operating within a regulatory framework that has clear and consistent requirements and gives users of CodeMark certificates greater confidence in the quality of the certificates.

The law changes for the new BuiltReady scheme and revised CodeMark scheme have taken effect after being passed into law by the Building Amendment Act in June 2021.



For more information visit  
[tinyurl.com/about-codemark](https://tinyurl.com/about-codemark)  
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SINCE 1 JANUARY 2021, AT LEAST TWO WORKERS HAVE DIED IN CONSTRUCTION EVERY MONTH AND JUST OVER ONE WORKER PER DAY HAS BEEN SERIOUSLY INJURED. THIS MUST CHANGE IMMEDIATELY.

**WORKSAFE**  
NEW ZEALAND | HAKI HAUANAU  
AOTEAROA

# Construction sector health and safety needs improving

After a number of serious incidents across the sector, WorkSafe NZ, Construction Health and Safety NZ (CHASNZ) and the Council of Trade Unions (CTU) have called for a renewed focus on construction health and safety.

WorkSafe Chief Executive Phil Parkes. Says that sustained efforts have been made to reduce harm over time and steady improvements have been made. But, he says, the situation is still serious.

"Since 1 January 2021, at least two workers have died in construction every month and just over one worker per day has been seriously injured," he says.

Mr Parkes goes on to say that workers, family, whānau and communities pay the cost of poor health and safety practices in construction every day through illness, injury and death, and he has strong opinions about the necessity to address this.

"This must change immediately," he says

**"OUR CONSTRUCTION SECTOR HAS A TERRIBLE RECORD OF WORKERS GETTING KILLED OR INJURED ON THE JOB. IT'S NOT GOOD ENOUGH. WE WELCOME WORKSAFE'S INVESTIGATIONS INTO THESE RECENT INCIDENTS BUT WE ALSO KNOW RESPONDING AFTER THE FACT ISN'T ENOUGH TO TURN THINGS AROUND," SAYS CTU PRESIDENT RICHARD WAGSTAFF.**

CHASNZ Chief Executive Chris Alderson says construction workers face a number of risks and hazards every day, but these are well known and should be addressed at all levels.

"Raising our game is not only possible but ethically the only option the industry has. Our tamariki and future leaders in construction demand it" says Mr Alderson.

"We need a step change across the industry, starting with being open and honest about the way we have worked in the past. We need the courage to challenge doing things in the name of health and safety that don't actually improve safety on site and we need to put more time and resource back into our site supervisors and workforce so they can focus on

getting the job done right rather than fast, cheaply or without the things that make the work safer."

"The construction workforce is currently under extreme pressure from internal and external factors and this also increases the risk of a normal day's work becoming one with a tragic outcome. It will take a concerted effort from the whole supply chain including clients, designers, contractors, government and the workforce."

WorkSafe is also warning company owners and directors and the wider construction supply chain that time is running out if they continue to ignore obligations to ensure work is designed and done well.

"The message is clear, those who can influence how work is done must do so. Failure to meet legal requirements will result in swift enforcement" says Mr Parkes.

"Construction workers are owed a duty of care by their employers and sadly many are not being supported. Our message is that we need workers' help to hold poor health and safety practices to account, including by speaking up if you feel safe to do so."

**"Workers' representatives, Health and Safety Representatives, industry leadership and WorkSafe are committed to supporting better health and safety for construction workers."**

**PHIL PARKES**  
WORKSAFE Chief Executive



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# Lessons from Constructive 2022

Following the recent Constructive Forum, Master Builders CEO David Kelly says that challenges are coming for the sector, but that opportunities are equally likely to present themselves.

"I believe our primary focus should be on the issues that are within our control and the practical changes we can make to work smarter and more inclusively. Whether it's reducing waste, having a well-being plan, taking on another apprentice, or diversifying your workforce, there are simple things we can all do that add up to a lot," he says

"We also heard the strong message that managing your business risks, and your relationships with suppliers, subbies, homeowners, and your workforce will provide the strong foundation you'll need to thrive in tougher market conditions."

Mr Kelly also mentioned that discussions with both Minister Woods, Christopher Luxon and the Government officials that attended provided an insight into their views of the key issues facing the industry.

"The focus of Constructive is to bring the sector and Government together as we all have roles to play to address the issues facing us. Master Builders will continue to work closely with the Government to advocate on your behalf," he says.

**"A crucial insight of this year's Constructive was the need to take care of each other. Our workforce is our greatest asset, and we are experiencing some trying times. If we want to retain our staff, we must support them both inside and outside of the workplace. It is on all of us to ensure those joining our sector can have rewarding and satisfactory careers."**

Master Builders also took the opportunity at Constructive to release their annual State of the Sector report outlining the challenges and opportunities that the sector faces, including comments from sector leaders.

This year's report surveyed more than 1200 people from right across the sector, including:

- 690 sector participants from the Master Builder membership and previous Constructive attendees;
- 564 homes owners who have completed building a new home or undertaken a significant renovation in the past three years.

Of the participants, 59% of new build homeowners were building for the first time, with 50% of those undertaking renovations having completed a significant renovation previously.

**"CARTERS was proud to partner with Master Builders to support the Constructive Forum again this year. It was great to be part of the conversation around opportunities ahead for the industry, recognising the environmental and regulatory factors which are impacting residential and commercial projects, acknowledging and embracing the social elements, plus discuss modular building solutions being more widely considered. With the future workload, we're committed to supporting those who build New Zealand."** Mike Guy, CARTERS Chief Executive.

**Mike Guy,**  
CARTERS  
Chief Executive



**"BCITO - Te Pūkenga was pleased to be a part of the Master Builders Constructive Forum this year. It's imperative that the whole sector works together to deliver the housing and construction that New Zealand needs. From carpentry to flooring, we're committed to training the future of the construction sector workforce across our 15 trades apprenticeship streams."**

**Jason Hungerford,**  
BCITO  
Director



To view the report, visit  
[tinyurl.com/state-of-the-sector22](https://tinyurl.com/state-of-the-sector22)

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**DESPITE THE HORRENDOUS INCREASE IN INTEREST COSTS, THE RESERVE BANK IS FORECASTING ONLY A 6% FALL IN RESIDENTIAL BUILDING ACTIVITY OVER THE NEXT TWO YEARS. THIS SHOWS HOW OUT OF TOUCH THE RESERVE BANK IS.**

# Is the Reserve Bank on target?

BY RODNEY DICKENS

A sane Reserve Bank would pause to see if the fallout from the sharpest increase in interest costs on record was enough to fix inflation before charging ahead with more OCR hikes. Instead, it is charging ahead blindly with hikes.

The chart is useful to see why most builders have experienced a massive fall in enquiries this year and to quantify the horrendous increase in interest costs. It shows the average mortgage rate offered by the major banks advanced or shifted to the right as a leading indicator of monthly consents for new dwellings. All past major increases in mortgage rates have been followed roughly 12 months later by a major fall in consents. Allowing for the 12-month lagged impact, we should be on the verge of a massive fall in consents.

When the Reserve Bank last battled inflation in the 2000s, the average mortgage rate increased from a low of 6.4% in 2003 to a peak of 9.8% in 2008. This meant mortgage borrowers on average faced a 53% increase in interest costs over 58 months. This contributed to a 62% fall in consents from 2004 to 2009. The fall was made worse by the financial crisis that started in late-2008 but even before it arrived, consents had fallen 43% mainly because of the increase in interest rates.

Since the low of 3.2% in March 2021, the average mortgage rate

has increased to 6.2% at the time of writing, a 94% increase in interest costs for the average borrower over only 19 months. This is 77% more than the increase over the whole period the Reserve Bank last battled inflation.

Despite the horrendous increase in interest costs, the Reserve Bank is forecasting only a 6% fall in residential building activity over the next two years. This shows how out of touch the Reserve Bank is.

It takes about a year for changes in interest rates to impact economic growth and another year for the impact to filter through to inflation. If the Reserve Bank was allowing for these lags and was forecasting a massive fall in residential building activity rather than a minor fall, it would not be charging ahead with hikes. It would realise the scale of the fallout in the pipeline already and pause to see if it was enough to fix inflation. Unfortunately, under the guidance of Adrian Orr, the Reserve Bank is blundering along blindly and the building industry could be one of the casualties.

**Consents for new dwellings & mortgage rates**



\* Average mortgage rate, major banks

\*\* Six months average of seasonally adjusted

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# The value of having your own insurance broker as a construction business

WRITTEN BY BEN RICKARD, TRADE INSURANCE EXPERT AT BUILTIN

You might pay a bit more to use the services of an insurance broker compared to buying your insurance directly from an insurer. Is that extra cost worth it? Here are a few reasons why it might be a good investment.

## 1. Do you really know what you are buying?

Have you read the policy terms and conditions, extensions and exclusions? A broker will have. That's their job. They can tell you which policies offer which benefits depending on your situation and needs. The one they recommend will be the best value in terms of the cover provided for the price and claims service. A broker that specialises in the construction sector is an ideal partner for your business.

## 2. Claims can be complicated, do you want to battle an insurer on your own?

Brokers do it every day on behalf of their clients. Some claims are easy but often in the construction sector, with contract works, liability and issues around faulty workmanship they can get very complicated. Do you have the expertise and experience to turn a "no" into a "yes"? Do you have the time to do this? Brokers have people they can call on to review claims if the insurer is not playing ball, and they can leverage our relationships with insurers to get the right result. Can you?

## 3. Can you obtain free expert legal advice to support your claim?

Many brokers can. Take Builtin for example, as part of the Steadfast group we have access to a legal helpline to seek a second opinion on complicated claims. Steadfast's claims triage system means we can escalate any claim that we believe has been wrongly assessed to the very top of the insurer's organisation. Through our membership in the Insurance Brokers Association, we can also access a panel of lawyers to obtain informal legal opinions on tricky claims.

## 4. Do you have the time to compare quotes from multiple insurers, not just on price but on coverage and claim service too?

A broker does, that's their job. And they should be able to make the process as quick and painless for you as possible.

## 5. Do you know what you don't know?

When it comes to risk a broker does know what you don't know. They know what can catch you out when arranging insurance, what cover benefits to request, what policies are available and what risks you're exposed to.

## 6. Do you check every year to make sure your cover is adequate and update it if things have changed?

It's a broker's job to help you with this, to ask the right questions and make recommendations for you to consider.

### In a Nutshell

What's that saying: the cheapest quote often leads to the most expensive job? Or something like that. The same can be true with insurance. It may cost you less up front, but you'll end up paying the price when it comes to the crunch. A professional, experienced risk adviser is a great asset for any business and will save you money in the long run.

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*Disclosure: The information presented in this article is general in nature and not intended to be financial advice for individual situations. You should speak to an expert about your specific circumstances and needs.*

# Getting paid

Nine ways to  
load the odds  
in your favour

BY DANIEL FITZPATRICK



## It's 3am, and Luke can't sleep. Why?

His biggest customer owes him just shy of \$50,000, and he's worried they're not going to pay. It's been eight weeks no, and they've missed two progress payments...

"It's coming" they say, "Once we get paid, we can pay you."

This is causing some serious cashflow problems for Luke. Suppliers are getting upset. Staff need to be paid. If the money doesn't come in soon, he's in trouble.

I've changed the name. But yes, this is a true story. Have you ever found yourself in this situation?

Nearly every honest tradie has been stung at some point. If you're in business, odds are, you'll eventually strike a customer who doesn't want to pay - or doesn't have the money.

Here are some strategies I've picked up from years of being self-employed, helping tradie clients through the cashflow minefield, and from debt collectors and lawyers. These things won't completely protect you, but it's your best chance to keep losses to a minimum:

### 1 Spread your risk

**It's always better to have a number of customers, rather than relying on one or two major ones. That way, if one customer stops paying, you're still okay.**

### 2 Have terms of trade

**Don't DIY. Source these from a professional like your debt collector, trade association, or lawyer. It might cost a few hundred dollars, but could save you thousands (even hundreds of thousands) if/when things turn to custard.**

Always get your Terms of Trade signed off by the client or include them in your quote before starting a job.

Include:

- Notice period for any dispute or problem with workmanship (within seven days of completion of invoice is good). That way the customer can't come back six months later and say they're suddenly unhappy with the job.
- Any collection charges and interest can be added to the bill.

- Personal guarantee (with larger companies this is difficult, but it's possible with smaller companies or individuals).

### 3 Build expectations early

**Make sure the client understands you're the one who makes the rules.**

- Many customers won't read your terms of trade. Point out the payment terms part and ask them if they see any problems.
- If payment doesn't turn up on the due date, phone the next day and follow up. Check they got the invoice. Ask if they have any questions about it. (This shows they don't dispute the bill.)
- Sometimes all you need to do is ask them straight if they would please pay this today. Level with them - make sure they understand you need the money because you have bills to pay too. Get a commitment of when it will be paid (follow up with a quick email to put what they agreed in writing).

### 4 Deposits and progress payments

**With bigger jobs, take deposits, and have progress payments at set milestones.**

Make sure they are enough to cover the materials and labour so that, at any point on the job, if the customer doesn't pay, you're not significantly out of pocket. (You'll also find out quickly which customers are the good ones).

- Phone, email, or text with a friendly reminder before the due date of a progress payment. Remind them that this is so you can continue the job as planned.
- Watch like a hawk to make sure payments are on time. Be prepared to stop work till the bills are paid. You hold the cards here.

### 5 The job's not done until you get the money

**Make sure there are no excuses for not paying.**

- On smaller jobs, invoice and get payment on the job if you can.
- Invoice the job ASAP, and put the due date on the invoice.
- Send reminders.
- Make it easy to pay - put your bank account details on the invoice.
- Check the list of who owes you money at least weekly. Follow up on any overdue amounts immediately. Delegate this task if you want - but make sure it's done.

Phone overdues often. Don't let up till you have payment - or a payment plan. Say something like: "Look we can do this one of two ways, I can keep ringing you till we both get sick of talking about this, or you could sort it out now. So let's make that happen". Keep the tone light and friendly. It doesn't work every time but you might be surprised how often it does.

CONTINUED OVER...

## 6 If you think you're not going to get the money, negotiate

One of my clients, a builder, had a larger building company that owed him a lot of money. They were using every dirty trick in the book, from challenging legit invoices to promising payments which would never turn up. It was a game to them.

But it wasn't a game to my client. He had a family to feed.

When he checked around, he found this big company was doing the same thing to other subbies. A really bad sign.

He lawyered up, negotiated hard, and they offered him reduced payment (as in, they decided to deduct around 20 grand off the invoice for no reason).

I told him straight: I don't think this company is going to be around much longer. They were burning too many bridges and telling too many lies.

He took the deal and walked away. Yes, it was a kick in the guts. But he's still in good shape. Imagine how much worse it could have been.

Sometimes it's better to get out with your shirt on your back - even if you have to leave your jacket behind. A few weeks later, that big building company went bust, and it sounded like no one else got paid.

## 7 PPSR (Personal Properties Security Register)

Put large amounts which are overdue on the PPSR - the NZ national debt register where you can register unpaid invoices.

If your client goes broke, anyone on the register gets priority. In other words, you get paid first (before others they owe money to - who, sadly, usually end up getting nothing).

## 8 Construction Contracts Act

This legislation is designed to help with contractor's cashflow. Basically, if your invoices are compliant, then it can dramatically improve your chances of getting paid.

Why? Because your client must dispute an invoice by way of a "payment schedule", it must be in writing, identify how much they will pay and the reasons and calculations why they are not paying the difference.

If they fail to issue this schedule within the acceptable time frame then they have to pay the full amount - usually, this is enforced by an application for summary judgment in the District Court or the High Court. Any legal fees spent chasing the debt can also be claimed. You can also reduce the time period the client has to dispute the invoice. The default time period is 20 working days, which on residential projects is really too long.

Consider putting on your quotes the due date for payment and a due date for payment schedules. This can be as simple as

"DUE DATE FOR PAYMENTS: 7 calendar days from the date of service of our payment claim" and "DUE DATE FOR PAYMENT SCHEDULES: 5 calendar days from the date of service of our payment claims".

## 9 If all else fails, have a good debt collector ready

A good debt collector, in my book, is someone who is prepared to get on the phone, or go and visit, to chase the money. Not just write a few letters or emails that end up in the bin.

### Bottom Line

Make sure you load the odds in your favour. Can you really afford not to?

You've done the work.

You deserve to get paid.

As for Luke, he's still waiting.

You can't control the environment, the economy, or that crazy client that is not happy no matter what you do.

But how you react will have the biggest effect on the outcome. Now is the time to get prepared and get the tools to deal with whatever happens next..



To see more about the PPSR, visit [ppsr.companiesoffice.govt.nz/](http://ppsr.companiesoffice.govt.nz/)



Daniel Fitzpatrick is a New Zealand based business coach and the creator of Next Level Tradie. Find him at [nextleveltradie.co.nz](http://nextleveltradie.co.nz)

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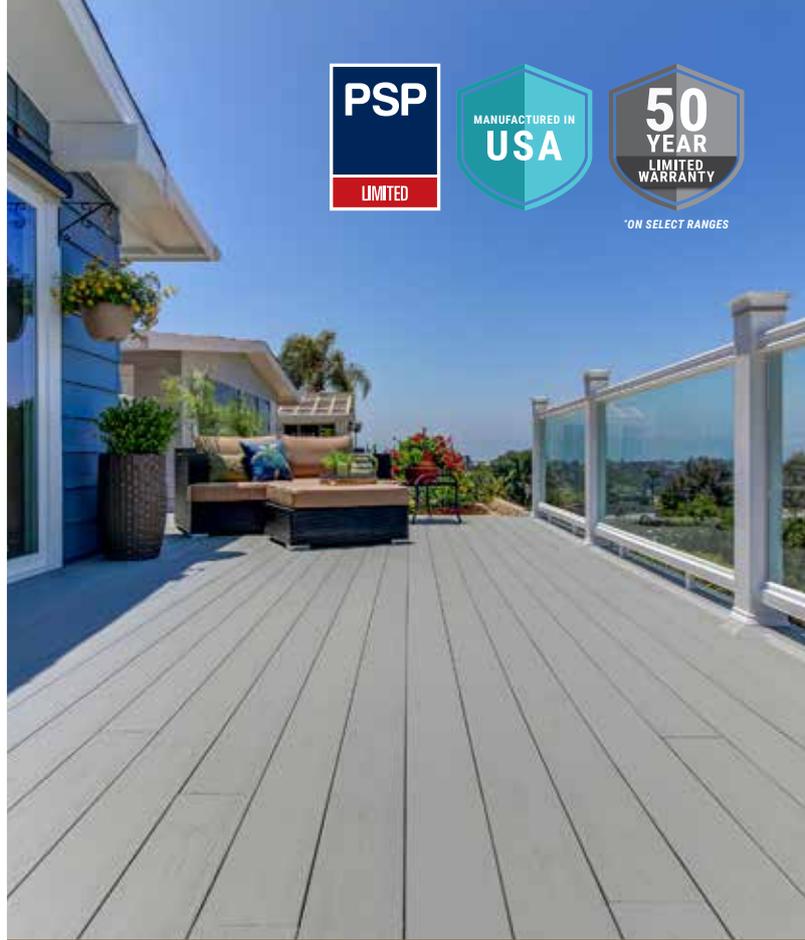
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**BUILDING TRUST**



# House of the Year celebrates New Zealand's best builds

In a unique move for the event, there were three winners of the Supreme Award in this year's Registered Master Builders House of the Year competition.

Having celebrated building excellence in New Zealand since 1991, House of Year celebrates the best homes, renovations and builders across Aotearoa and, in this year's event, the top category – the National Supreme House of the Year Award – was split into two. To better reflect the market and celebrate top builders across different price brackets, the top award recognised homes both under and over \$1 million.

The industry celebrated the House of the Year National Awards in person for the first time in two years, with nearly 300 entries this year across eight regions.

## National Supreme House of the Year Over \$1 Million

Metzger Builders Ltd (MBL) took home the National Supreme House of the Year Over \$1 Million for its home in Christchurch, along with the National New Home Over \$4 million category.

The judges were in awe of how the project team delivered a home with the scale of a commercial build, that retained the liveability of its much smaller peers. It has striking marble, bluestone, herringbone timber and solid brass features sprinkled throughout its graceful living spaces. The entrance to the property is also particularly notable, with automatic gates and a long-landscaped driveway that crosses a stream.

## National Supreme House of the Year Under \$1 Million

Buildcraft won the National Supreme House of the Year Under \$1 Million for its home in Wanaka as well as the New Home \$500,000 - \$750,000 category.

The judges were blown away by how the project team were able to deliver this exceptionally high-quality, architecturally designed holiday home. The western red cedar vertical cladding, sheltered private deck, and easy indoor-outdoor flow

were real standouts. Built for two families, the compact home has a large amount of amenities and living space for its size.

## National Supreme Renovation of the Year

Roger Gilchrist Building Services took home three awards for its home in Oamaru including the National Supreme Renovation of the Year, National Kitchen Excellence Award, and National Renovation Over \$1.5 million category.

The judges were impressed by how the project team had turned this homestead from the 1800s into a luxurious, modern family home. Its award-winning marble and oak kitchen is elegant and well positioned as the heart of the home.

## National CARTERS New Home \$1 million - \$1.5 million

Hamilton's Karl Kampenhout Builders won the CARTERS New Home \$1 million - \$1.5 million category with a home in the city's suburb of Pukete.

Elevated above its suburban setting, the house is in a private oasis that has 360-degree views of the mountains and native bush, and overlooks the Waikato River. It's an architectural gem. The house is a mix of dance of modern and traditional design, and has a cantilevered lounge, which projects above the tree canopy to experience the panoramic view. The exterior is a dynamic contrast of dark steel and band-sawn redwood cedar with giant panels of glass beneath vertical screens of band-sawn cedar timber blades. Celcrete cladding on the lower level creates a grounding connection and further textural contrast. The double-height glass atrium entry and solid oak staircase access the main living space beyond a threshold of vertical oak battens. A vaulted ceiling of cedar sarking and oak timber floors adds to the feel of natural warmth. The three-bedroom home features discreet luxuries



*Buildcraft from Wanaka wins National Supreme House of the Year Under \$1 Million and National New Home \$500,000 - \$750,000 category*



*Roger Gilchrist Building Services from Oamaru wins National Supreme Renovation of the Year, National Kitchen Excellence Award, and National Renovation Over \$1.5 million category*



*Karl Kampenhout Builder from Hamilton wins National CARTERS New Home \$1 million - \$1.5 million*

such as hand-crafted, bespoke cabinetry. The kitchen and scullery were designed and crafted for contemporary living and entertaining.

### Other awards

An additional 12 category awards, a craftsmanship, a special, a platinum and three other lifestyle awards were announced at the National House of the Year Awards at the Cordis Hotel in Auckland.

Registered Master Builders Chief Executive David Kelly says the organisation is proud to have been showcasing the best of New Zealand residential buildings over the last 32 years.

"Master Builders make up some of the best builders in the country and this competition is an opportunity to recognise their efforts to build quality homes in New Zealand. Each year we reach a new level with innovative designs and excellent craftsmanship."

"With over 550,000 people employed in the sector, we remain a major driver of the country's GDP, contributing over \$20 billion to the economy each year. The residential building sector comprises over 60 percent of that total and employs 80 percent of our apprentices."

"Despite no shortage of challenges, we have made progress as a sector during the past twelve months. While the market is definitely softening, as a sector we feel better prepared for the changing cycle that previous ones."

"We are working with the Government to support policy settings focused on smoothing the boom-bust cycles that have beset the sector over the past 30 years. That remains key to maintaining the long-term stability and wellbeing of the industry," says Kelly.

The Awards are made possible through the support of Altus Window Systems, Bunnings Trade, CARTERS, GIB, Master Build 10-Year Guarantee, Pink Batts, Plumbing World, Resene and APL Window Solutions.

Builder	Award	Region
Metzger Builders Ltd (MBL)	Supreme National House of the Year Over \$1 million National New Home Over \$4 million	Christchurch
Buildcraft	National Supreme House of the Year Under \$1 million National New Home \$500,000 - \$750,000	Wanaka
Roger Gilchrist Building Services	National Supreme Renovation of the Year Renovation Over \$1.5 million National Kitchen Excellence Award	Oamaru
Framed Builders	National Pink Batts Craftsmanship Award	Tauranga
Urbo Homes	National Renovation up to \$750,000 National Special Award	Rotorua
Broswick Builders	National Bunnings Renovation \$750,000 - \$1.5 million	Auckland
Kit Markin Homes	National New Home up to \$500,000 category	Cambridge
Arcbuild	National Altus Window Systems New Home \$750,000 - \$1 million	Cromwell
Karl Kampenhout Builder	National CARTERS New Home \$1 million - \$1.5 million	Hamilton
Wilson Building	National New Home \$1.5 - \$2 million	Wellington
Calley Homes	National Resene New Home \$2 million - \$4 million	Tauranga
J A Bell Building	National Builder's Own Home	Cambridge
David Reid Homes Queenstown	National GIB Show Home	Queenstown
Anthem Homes	National Volume/Group Housing New Home up to \$500K	Hamilton
Sentinel Homes Waikato	National Volume/Group Housing New Home \$500K - \$750K	Hamilton
Christie Brothers Building	Master Build 10-year Guarantee Multi Unit (Apartments/ Duplexes/Terrace Housing)	Wanaka
Bruyere	National APL Environmental and Sustainable Excellence Award	Auckland
Create and Construct	National Plumbing World Bathroom Excellence Award	Auckland
Contemporary Homes	National Outdoor Living Excellence Award	Nelson
Urban Homes	National Platinum Award	Variable

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# Incentivising staff with shares

Many employees are now in a position where they can “shop around” as there are more opportunities available to them. As well as these options, post-Covid employees are looking for more than just a pay cheque. Employees now want long-term opportunities in which they can grow with a business and reap the rewards of the company’s success.

**As a result, an increasing number of employers are looking at different options for staff holding shares as a retention tool.**

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This article looks at the different options available and highlights that careful legal and tax advice needs to be sought.

The main benefits for staff holding shares from an employer’s perspective are:

- Assist retention
- Encourage and increase productivity with existing employees
- Offer flexible remuneration
- Attract new employees
- An exit strategy for the owners

Of course, with staff holding shares, there is a lot to think about. If staff hold shares, then normally those staff will have voting rights and will be able to see a lot more financial information about the business.

## Employee share schemes

An employee share scheme is an arrangement where employees are given the opportunity to acquire shares in the company. The shares are issued by the company (as opposed to transferred by the existing shareholders) either up front to the employee or the issue of the shares can be linked to certain events or performances (known as options).

## How can employees acquire shares in an Employee Share Scheme?

If the company wishes to create an employee share scheme then certain employees can be invited to take part. A key decision will be whether the shares are issued for market value or below market value. If the shares are issued for below market value then the employee receives a taxable benefit and tax advice needs to be considered. The employee will either use their own personal funds to acquire the shares or the company can loan the employee the funds required to acquire the shares (subject to complying with the rules around financial assistance).

## What are the potential issues with Employee Share Schemes?

When an employee becomes a shareholder in a company the shares usually have certain rights (such as dividends, voting and information). For smaller private companies, the employer may wish to restrict the power that employee shareholders can exercise over the company and this is often done by creating different classes of shares that have different rights



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(for example, class A shareholders shall have the full rights afforded to shareholders whilst class B shareholders will not have voting rights).

Aside from the rights attaching to the shares, having employees holding shares can present its only challenges if an employee leaves the company (for good or bad reasons). Usually, the employee is required to sell their shares when leaving and so then the question becomes who buys them and for what price? The shares could be purchased by the other shareholders, the main founding shareholders or by the company and cancelled. The share value can be determined by a valuer or an accountant but this can get expensive each time so sometimes companies adopt a formula that can be re-set every few years.

Whenever a company issues shares (even to employees), the directors need to consider the information disclosure requirements under the Financial Markets Conduct Act. Even though employees may have more knowledge of the company than a member of the public, the investor disclosure requirements still apply unless the employee meets one of the investor exemptions or the specific requirements of the exemption for employee share schemes are met (which limit the volume of shares annually that can be issued in any class and have specific lower information disclosure requirements).

## Employee Option Schemes

An alternative to issuing the shares to staff is to provide them with options to acquire shares in the future if certain events or performance thresholds are met. The issue price for the shares is usually the price at the time the options were granted (which may be different to the market value at the time the shares are issued). Options can create an incentive to stay with the company but employees need to understand that there is a potential tax liability for the difference between the exercise price the shares are issued for and the current market value.

## Selling shares to key staff

Those business owners contemplating retirement may also want to consider whether any key senior staff could acquire the shares in the company. This could be done in one transaction or staged over a number of years. Key to this exit strategy is to consider the valuation of the business, the stages for investment and a shareholders agreement to govern the management of the business.

## Shareholders agreements

If employees hold shares then the employee shareholders will have rights as highlighted previously. In order to govern the operation of the company and also restrict how those shares can be traded, it will be very important for the company to have a shareholders agreement.

A shareholders agreement is a contract between all the shareholders of a company that regulates the relationship between the shareholders and sets out the rules for governing the company. Each shareholders agreement needs to be prepared and tailored to the specific business. Some of the key provisions a shareholders agreement should address are:

- Board composition
- Reserved matters for board or shareholder approval
- Funding and operational responsibilities
- Restrictions on how shareholders transfer shares
- Dispute resolution, default and deadlock processes

Whilst at first glance offering shares to employees may be considered a great retention tool, there are many practical, legal and taxation consequences to consider. This article summarises some of those issues but it is very important that you seek appropriate advice before implementing an employee share strategy.

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