

# TRADE LEADER

**JUN-JUL 2023 ISSUE**

**Health & Safety**  
Safety tips to work  
well this winter

**Legal**  
Lessons learnt from  
WorkSafe prosecutions

**Business**  
Five cashflow strategies  
you need to know

**Economics**  
Sharp economic  
downturn



**Rebuilding after  
summer's weather woes**



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# In the frame

**BY MIKE GUY**  
**CARTERS CHIEF EXECUTIVE**

Winter is coming, and we're under no illusion that it's going to be an easy time. Work is underway at pace on the mammoth cyclone and flood repairs in many of our regions.

The scale of the destruction has become more apparent over recent months, however, what has been heartening to see is the way communities have pulled together to help out, provide support and lift spirits – the Kiwi way. CARTERS is proud to play its part in the ongoing, lengthy task of rebuilding the affected regions and our team are here to lend a hand with expert advice, product selection and any other assistance needed.

Making the workplace a fun place may not be at the top of any business's priority list, but it can not only aid productivity and staff retention – it can do wonders for your wellbeing. This month it's Men's Health Week (MHW), 12-18 June. With a majority male workforce in the construction sector both here in New Zealand and worldwide, it's the perfect time to take stock of your physical and mental health, and that of your colleagues.

The shocking statistic from MHW organisers that one in four Kiwi men will die from preventable causes before they reach retirement age might motivate you to take the 'What's Your Score?' test. Get your crew together to compare figures and commit to improving these stats this winter. Take a look at page 20 for details.

Also in this issue of Trade Leader, we have timely tips for working safely this winter season, as well as news about changes to the Construction Contracts (Retention Money) Amendment Act, with legislation passed recently to strengthen existing requirements

and provide more security to subcontractors.

Cashflow is king in business, and we share five strategies to help with that, as well as provide advice on insurance matters relating to flood repairs. There are legal lessons to be learnt from the latest WorkSafe court case rulings, and an always welcome economic forecast update.

I look forward to seeing what this year's Registered Master Builders' Apprentice of the Year competitors produce for their first test. Get behind your local entrant at the regional practical challenge taking place on Saturday 10 June.

In June and July, we are hosting two of our three Advantage loyalty trips taking place this year and I welcome our customers attending these experiences to see the State of Origin in Brisbane this June, and visiting Turkey with us in July. We'll also soon be launching our 2024 destination, an exciting location that I am sure many of you will be interested in travelling to.

Stay well, our team looks forward to supporting you through the winter building season.



**MIKE GUY**  
CARTERS Chief Executive

## TRADE LEADER.

CARTERS Trade Leader is produced 6 times a year in association with CARTERS.

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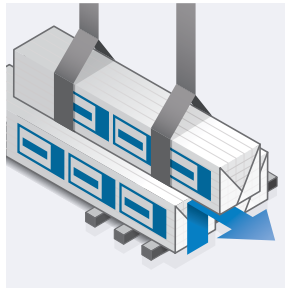


Do you know...

# HOW TO KEEP TIMBER DRY ON YOUR SITE?



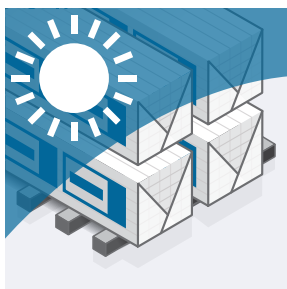
Store Laserframe at least 100 mm clear of the ground on bearers suited to keeping the timber straight.



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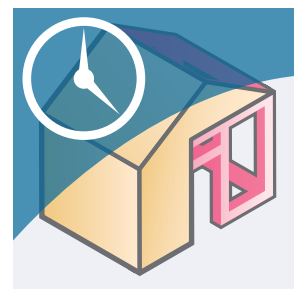
Keep timber covered while stored to minimise exposure to wind and rain.



Dry out after exposure to moisture.



Avoid ponding of water on floor and around plates.



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# The Site Licence Class

BY BRUCE DUGGAN, SENIOR TECHNICAL ADVISOR, OCCUPATIONAL REGULATION, MBIE

## There is still some confusion around the site licence, and what the site licence holder's responsibilities are on-site.

The site licence class is a critical part of the Licensed Building Practitioner (LBP) scheme. Holders of a site licence are practitioners who are recognised as possessing specific skills that relate to the oversight, coordination, organisation, and, in some cases, the management, of building projects. The site licence is an indicator that a practitioner has the skills to manage personnel and provide technical site supervision within the scope of their licence. A practitioner with a site licence can supervise general building work but not restricted building work.

### What is supervision?

If you are providing control, instruction or direction to others who are carrying out building work, or those working in other restricted areas, you are supervising them. Being a supervisor means you are responsible for making sure that the work is done competently and correctly to the relevant building consent. Where there is no building consent required the building work must still meet the Building Code.

An important point to remember is that even if the work an LBP is supervising is not restricted building work, they may still be held accountable by the Building Practitioners Board for issues they are responsible for. This includes a site licence holder.

### The Licensed Building Practitioner Rules

Schedule 1 of the LBP Rules sets out the competencies that make up the minimum standards for each licence class, and the performance indicators that the Registrar will have regard to when determining whether a competency has been met. An applicant for an LBP licence will need to demonstrate

competence in each of these competencies in the licence class they are applying for. The Rules can be found at [Licensed Building Practitioner Rules 2007 \(lbp.govt.nz\)](http://LicensedBuildingPractitionerRules2007/lbp.govt.nz)

One way the site licence class differs from trade license classes is that the last competency in the site licence class is about providing technical supervision rather than carrying out work. In trade licence classes such as bricklaying and blocklaying, carpentry, external plastering, foundations, and roofing, the last competency is instead about carrying out the work related to that licence class.

### Who can supervise restricted building work (RBW)?

Only LBPs can carry out or supervise RBW, and they can only supervise work which they are licensed to carry out themselves. Site licence holders are not licensed to carry out building work, therefore they cannot supervise RBW, or issue records of work. Check out the Practice Note - Supervision on [lbp.govt.nz](http://lbp.govt.nz) for further information.

As stated above, site licence holders can supervise general building work. They may also carry out RBW like any non-licensed person if they are supervised by an LBP with the appropriate licence.

### Site areas of practice

The three areas of practice (AOP) within the site licence class can also be an area of confusion.

- Site 1 AOP is the coordination and oversight of Category 1 buildings.
- Site 2 AOP is the coordination and oversight of Category 1, 2 and 3 buildings.
- Site 3 AOP is the management of Category 1, 2 and 3 building projects.

Apart from the differences in envelope complexity between site 1 and 2 (explained below under Categories of buildings),



Codewords 112: April 2023

the main difference between the three areas of practice is that the site 3 licence holder manages the project and the technical supervision staff on what are usually large commercial projects. The staff could include one or more AOP 2 site licence holders who would carry out the coordination and oversight of the on-site construction.

### Categories of buildings

The categories of buildings are found in the Schedule of the Building (Designation of Building Work Licensing Classes) Order 2010, see link below.

- **Category 1** is a sleeping single home use, with a risk matrix score that does not exceed 12. (More about the risk score can be seen in Part 4 of the Order, or in E2/AS1 of the building code, but it essentially refers to the complexity of the weathertightness envelope.)
- **Category 2** buildings are defined as neither Category 1 nor Category 3 buildings, therefore they are single home use where the risk score is greater than 12; or any other building (except for an ancillary building or an outbuilding) up to a height of 10m (the vertical distance between the upper surfaces of the building's lowest and highest floors).
- **Category 3** buildings are not single home use, and the building height exceeds 10m.

### Restricted building work

RBW is defined in the Building (Definition of Restricted Building Work) Order 2011 as being the construction or alteration of the primary structure or the external moisture management system of a house or small-to-medium apartment building, see link below.

A small-to-medium apartment has a maximum height from the lowest point of the ground to the highest point of the roof of 10m.

This means that, as Category 3 buildings are not single home use and they're over 10m in height (measured floor-to-floor), they do not contain restricted building work.

## CODEWORDS QUIZ

### 1 Who can supervise general building work?

- A. Only a trade licence holder
- B. Only a site licence holder
- C. Anyone

### 2 Can a site licence holder supervise restricted building work?

- A. Yes
- B. No
- C. Only on Category 1 or 2 buildings

### 3 Can a site licence holder be held accountable by the Building Practitioners Board for issues they are responsible for when supervising work that is not RBW?

- A. Sometimes
- B. No
- C. Yes, this provides the client confidence that the LBP has been assessed as being competent in supervising building work

### 4 Can the holder of a site 2 AOP licence coordinate and oversee work on Category 3 buildings?

- A. Yes, provided they are competent to do so
- B. No
- C. Only if someone is living in it

Answers: 1.C 2.B 3.C 4.A



For further information visit:  
[www.lbp.govt.nz](http://www.lbp.govt.nz)  
[tinyurl.com/nz-building-order-2010](http://tinyurl.com/nz-building-order-2010)  
[tinyurl.com/restricted-building-order-2011](http://tinyurl.com/restricted-building-order-2011)





# The owner-builder exemption

BY BRUCE DUGGAN, SENIOR TECHNICAL ADVISOR, OCCUPATIONAL REGULATION, AT MBIE

When restricted building work became law in 2012, measures were put in place to enable homeowners to build or alter their own homes following some intense lobbying to protect the DIY tradition in New Zealand.

Sections 90A to 90D were inserted into the Building Act 2004 on 13 March 2012 and introduced the owner-builder concept which allowed the tradition to continue, but with conditions. A homeowner who qualifies for this exemption does not need to use a Licensed Building Practitioner (LBP) for any restricted building work on their home, but they still need to apply for a building consent.

To qualify for the owner-builder exemption, the owner of a building must:

- **live, or intend to live in the home (this includes a bach/crib or a holiday home)**
- **carry out the restricted building work themselves or with the help of unpaid friends or whānau**
- **not have used the owner-builder exemption to carry out restricted building work to any other home in the previous 3 years.**

## The owner must give notice to the council

The Owner is required to complete the statutory declaration form as part of the building consent application to obtain an owner-builder exemption, outlining what restricted building work they intend to complete under the owner-builder exemption.

The owner must give notice to the building consent authority if there is a change in the owner-builder carrying out the restricted building work or when the owner-builder ceases to carry out the restricted building work under the approved exemption.

## Restricted building work

An owner-builder will be responsible for ensuring that restricted building work carried out under the owner-builder exemption complies with the building consent and the plans and specifications to which the building consent relates. The building consent authority will still carry out the normal building inspections.

Any restricted building work that is not done by the owner-builder or their unpaid friends or whānau must be carried out by an LBP who holds the appropriate licence. The LBP must provide a Record of Work once that work is completed. The owner-builder may also hire a designer to draw their plans, and the designer will need to provide a Certificate of Work.

There is some specialised work that the owner-builder cannot carry out including plumbing, gas-fitting, drain-laying, and electrical work.



**To qualify the owner must:  
live, or intend to live in the  
home  
carry out the restricted  
building work themselves  
not have used the owner-  
builder exemption in the  
previous 3 years**

The council will record the building work and who carried it out on the property land information memorandum (LIM). Any future buyers will have access to this information showing whether it was carried out as a do-it-yourself project by the owner or done by an LBP.

### How the owner-builder exemption applies to LBPs with trade or design licenses

Given the requirement that any person who assists the owner must do so without payment and on the basis that they are friends or whānau, an LBP hired by the owner does not come within the owner-builder exemption.

It follows that an LBP who carries out Restricted Building Work (RBW) in relation to an owner-builder exemption for reward must provide a record of work for any RBW they carry out or supervise.

An LBP should also take care when being engaged to carry out RBW on a building consent that has been issued under an owner-builder exemption that they do not, unwittingly, breach the building consent that has been issued. In this respect, an LBP should also note the provisions of section 89 of the Act which requires them to notify the building consent authority of a breach of the building consent.

### The LBP code of ethics

The code of ethics applies to LBPs carrying out any building work whether it's restricted building work or not, and therefore applies when you've been engaged by an owner who is carrying out work under the owner-builder exemption. If you are on-site as an LBP, be mindful of the behaviours expected of an LBP, and what RBW you are allowed to carry out or supervise under your licence. If, for instance, your licence is in roofing and there is someone on-site carrying out blockwork which is RBW, make sure that you have made the owner aware that you cannot supervise that blockwork as it is outside your licence class. However, if the owner is helping you put the roof on, then you must ensure they're doing the work correctly and you will need to show on your record of work that you were supervising them.

Knowing what work you're allowed to do is just one part of the code of ethics – the other 18 standards will also apply to at least some extent while working on the above project, just as they do while you're undertaking any building work under your licence. You can find out more about the LBP code of ethics on the LBP website, see link below.

### The Site licence holder

The above does not apply to an LBP who is licensed in the Site licence class. The site licence holder would not be able to work for payment on a project under the owner-builder exemption as they are not able to carry out or supervise restricted building work. They may only work as an unpaid friend or family member and would be under the supervision of the owner-builder.

More information on the obligations and responsibilities of owner-builders and their building project can be found on the Building Performance website, see link below.



For more information & resources, visit [www.lbp.govt.nz/for-lbps/code-of-ethics](http://www.lbp.govt.nz/for-lbps/code-of-ethics)  
[tinyurl.com/owner-builder-obligations](http://tinyurl.com/owner-builder-obligations)

## CODEWORDS QUIZ

- 1 **Is the owner allowed to carry out Restricted Building Work (RBW) on their house under the owner-builder exemption?**
  - A. Yes, this is what the owner-builder exemption is all about
  - B. No, they must employ an LBP to do this work
  - C. Only if they're supervised by an LBP
- 2 **If you are hired as an LBP on a project being carried out under the owner-builder exemption, you must:**
  - A. Supervise all restricted building work being carried out on site
  - B. Supervise only the work which your licence class allows you to carry out
  - C. Not supervise any restricted building work as the owner is responsible for doing this
- 3 **If you are hired as an LBP in relation to an owner-builder exemption, are you required to provide a record of work for any RBW you carry out or supervise?**
  - A. No, the owner is responsible for any RBW under this exemption
  - B. Yes, as an LBP you must complete a record of work for any RBW you carry out or supervise

Answers: 1.A 2.B 3.B



# **Rising Again:** Tackling Gabrielle's rebuild

**With an eye-watering repair bill of over \$13 billion anticipated, the cost of recovery from Cyclone Gabrielle looks set to match that which followed the Canterbury earthquakes.**

Beginning with infrastructure repairs, housing rebuilds are next on the priority list for the recovery phase of the natural disaster, which saw infrastructure flattened, hundreds of homes destroyed, and families displaced.

Following the severe flooding that came from record rainfall across the North Island in January which topped 400% of the usual monthly amount in some places, summer 2023 will be remembered as one of the worst weather periods in our history. But with the rapid destruction of so many buildings, homes, roads and possessions, the initial phase of rescue and recovery has turned to repair and rebuild. And what a rebuild this is; one that will undoubtedly take decades.

Cyclone-affected businesses have received over \$75 million in support packages, with grants of up to a maximum of \$40,000 per business, to be distributed by local organisations in affected regions.

Cyclone Recovery Minister Grant Robertson said, "The priority has been to get businesses back up and running as quickly as possible from the impact of the cyclone, working through the local agencies on the ground who know their area best.

"Demand for grants has been strong, with applications to the local providers managing the funding exceeding the \$50 million allocated." Applications closed in late April.

**Government response to date includes:**

- An initial \$250 million for Waka Kotahi and local councils to assess and fix roads
- \$74 million for affected farmers and growers to clean up and re-establish their businesses
- \$75 million for businesses with immediate costs and clean-up – to be distributed by local delivery partners in the affected regions
- \$5 million to Mayoral Relief Funds
- More than \$65.8 million in Civil Defence Payments
- Inquiry announced into forestry slash and land use after Cyclone Gabrielle
- A new Recovery Visa created to help bring in additional specialist workers
- Temporary Accommodation Service activated in affected regions
- Cyclone Gabrielle Appeal Fund launched along with a special Lotto Draw on Saturday 18 March
- \$15 million short-term relief package to support Māori communities
- A further \$17.5 million to support communities and community providers
- \$3.25 million to support the immediate mental wellbeing needs of people impacted by Cyclone Gabrielle
- \$15 million for councils to remove rubbish

A Cyclone Taskforce was set up at the end of March, chaired by Sir Brian Roche, to align locally led recovery plans with Government and private sector.

The Government, via the Cyclone Taskforce, continues to work with local government and insurance companies to build a picture of high-risk areas following Cyclone Gabrielle and January's floods.

Robertson said, "We are committed to helping people and businesses recover from the cyclone. The way we do that will change as we shift from the response to the recovery phase will change. We will continue to closely monitor the needs of local communities and work with local agencies, iwi and councils as we move from response to the recovery and rebuild from these extreme weather events."

Updated guidance has been provided to support remediation and repair work following weather damage. There are quick guides available on building consent exemptions, slope stability, plasterboard damage and more, available at the link below. All are designed to be read in conjunction with existing guidance from local building consent authorities and insurance companies.

"The Cyclone Taskforce, led by Sir Brian Roche, has been working with insurance companies to undertake an assessment of high-risk areas so we can understand the scale of impact and what this means for re-building," Robertson said.

**"IT'S WORTH NOTING THAT AFTER THE CANTERBURY EARTHQUAKES, IT WAS FOUR MONTHS BEFORE DECISIONS WERE TAKEN ON THE FUTURE OF AFFECTED AREAS. WE WANT TO MOVE QUICKER THAN THAT, BUT IT GIVES AN INDICATION OF SOME OF THE CHALLENGES TO MAKING DECISIONS. EACH REGION HAS BEEN AFFECTED DIFFERENTLY. THE IMPACTS IN HAWKE'S BAY WITH THE ORCHARDS AND SILT ARE QUITE DIFFERENT TO THE LARGE NUMBER OF RESIDENTIAL HOUSES FLOODED IN AUCKLAND."**

"We also understand that views within a community about the future are not always the same. Some people want to be able to rebuild straight away, others are wary about future threats and the resilience of infrastructure," said Robertson.

"This is why it is important the local community is part of the decision-making process and is kept informed all the way through. I have asked the Cyclone Recovery Unit to work closely with local government and recovery agencies to ensure that we are making information available in a timely and clear manner. Again, how this is done will be different in each community, but we know we need to give regular updates and opportunities for input.

"It is important at this time to highlight some issues that can cause confusion or stress. First, having a red or yellow sticker on your property does not necessarily mean that a location will be deemed high-risk or that the land can't be rebuilt upon. These are assessments of immediate safety risks at the location, not future risks of flooding or viability of the land.

"That means we can't simply use that assessment for this process, we'd get the wrong answers for affected people and property. That's why we are working with the insurance sector and local councils to get the best outcome," Robertson said.

A range of potential responses will be considered for the results of assessments, he said. "Managed retreat (ie. not rebuilding in the area) is one possibility, but so are other resilience measures, including building or enhancing stopbanks, changing the structure or location of buildings or building in a different way."

The Government introduced the Severe Weather Emergency Legislation Bill to ensure the recovery and rebuild from Cyclone Gabrielle is streamlined and efficient with unnecessary red tape removed.

The legislation, similar to that passed following the Christchurch and Kaikōura earthquakes, modifies existing legislation in order to remove constraints on recovery.

"We are only just at the start of the recovery from these devastating weather events," Robertson said. "While we have already provided significant resources through the response – affected regions should rest assured that the Government will continue to work closely with them as the rebuild and recovery begins in earnest."



To check on the latest building work consent developments and updates on flood and cyclone-related repair work, visit [www.building.govt.nz](http://www.building.govt.nz)



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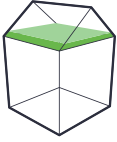
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## CEILING



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R3.3	INEICE686656	155	430	1160	21	10.5
R3.6	INEICE683700	160	430	1160	20	10.0
R4.2	INEICE683702	180	430	1160	17	8.5
R5.2	INEICE683703	210	430	1160	11	5.5
R6.3	INEICE683704	275	430	1160	11	5.5
<b>R7.0</b>	<b>INEICE779548</b>	<b>330</b>	<b>460</b>	<b>1200</b>	<b>8</b>	<b>4.4</b>

NEW

## ROOF



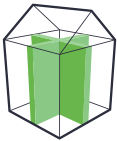
R-Value (m²K/W)	Code	Thickness (mm)	Width (mm)	Length (mm)	Pieces per pack	Area per pack (m²)
R3.2	INEICE683706	105	430	1160	11	5.5
<b>R5.0</b>	<b>INEICE779681</b>	<b>165</b>	<b>430</b>	<b>1160</b>	<b>6</b>	<b>3.0</b>
<b>R6.0</b>	<b>INEICE779685</b>	<b>215</b>	<b>430</b>	<b>1160</b>	<b>7</b>	<b>3.5</b>
<b>R7.4</b>	<b>INEICE781977</b>	<b>265</b>	<b>430</b>	<b>1160</b>	<b>6</b>	<b>3.0</b>

NEW

NEW

NEW

## WALLS

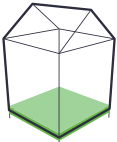


R-Value (m²K/W)	Code	Thickness (mm)	Width (mm)	Length (mm)	Pieces per pack	Area per pack (m²)
<b>R1.3</b>	<b>INEIWA779905</b>	<b>45</b>	<b>450</b>	<b>1160</b>	<b>24</b>	<b>12.5</b>
R2.2	INEIWA683713	90	580	1160	29	19.5
R2.3	INEIWA683693	90	600	1160	25	17.4
R2.4	INEIWA683707	90	570	1160	20	13.2
R2.6	INEIWA707756	90	430	1160	15	7.5
R2.6	INEIWA707749	90	580	1160	14	9.4
R2.6	INEIWA683696	90	600	1160	14	9.7
R2.8	INEIWA707751	90	430	1160	10	5.0
R2.8	INEIWA707771	90	580	1160	10	6.7
R3.2	INEIWA683708	140	580	1160	22	14.8
R3.6	INEIWA683709	140	570	1160	15	9.9
R4.1	INEIWA707768	140	580	1160	9	6.1
<b>R4.4</b>	<b>INEIWA779909</b>	<b>140</b>	<b>580</b>	<b>1160</b>	<b>6</b>	<b>4.0</b>

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<b>R3.0</b>	<b>INEIUF779907</b>	<b>105</b>	<b>420</b>	<b>1160</b>	<b>11</b>	<b>5.4</b>

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# Winter working – safety considerations

**The construction site can feel a very different place depending on the seasons, as anyone who works outside knows. As the temperatures dip, it's wise to consider the impact this has on you and your business.**

Safety-wise, it's a good time to think about protecting yourself and your workers from the elements. So how do you prepare your business for winter? Site Safe has put together some top tips to help you and your crew stay safe through the cooler, wetter months...

The effects of the cold can range from the increased risk of injury, reduced work rate and quality and greater potential for damage to plants and equipment. The cold can affect the ability to concentrate on the task at hand. Working in cold temperatures can also increase irritability and frustration and may even incline people to take shortcuts to finish faster.

Even moderately cold temperatures can increase the likelihood of workplace incidents. This is because the body's response to cold causes a decrease in manual dexterity, fingertip sensitivity and muscle strength decrease. The degree of coldness can be underestimated if other factors such as wind chill are not considered.

People working outside jobs should try and eliminate, or at best isolate, cold hazards. However, completely eliminating hazards can become difficult; so consider the following controls when working in the cold:





## Food, Shelter & Wellbeing

Food and liquid intake are essential to maintain body heat and prevent dehydration. More energy is exerted when working in cold conditions as the body is working hard to keep warm.

WorkSafe states that if continuous work is carried out in temperatures below 0°C, heated shelters such as cabins or 'smoko' rooms should be made available. A strict timetable for breaks should be allowed to let employees warm up and change clothes if needed.

## Training

Workers and supervisors should be trained to recognise the symptoms of cold exposure such as hypothermia. Having a trained first aid person is highly recommended. Employees should be informed about PPE, safe work practices, and emergency procedures in case of injury. While working in the cold, a buddy system should be used to look out for one another.

## Personal Protective Equipment (PPE)

Clothing should be worn in multiple polypropylene, polyester or merino layers: the air between the layers of clothing provides better insulation. The outer layer should be hi-vis, rain and wind-proof, and allow for easy opening and removal.

Exposed areas, such as the head, hands and feet, are just as important as the body. Gloves are an obvious option; however these can become bulky and affect a worker's manual handling, so instead provide warm air blowers or insulated handles on tools.

Buy footwear that is well padded, insulated and made from materials such as leather which allows the shoes to breathe.

A great deal of heat is lost through the head, a problem which is compounded by the fact that hard hats do not protect against the cold. If a hard hat is needed, wear a tightly-fitted beanie made of polypropylene or merino underneath.

## Equipment

The risk of cold injury can be minimized by equipment choice and design. Plants, equipment and tools should be designed so that they can be operated without having to remove items of PPE. The more complex or fiddly the activity is, the greater the likelihood that PPE will be discarded during the process which increases the risk.

## Plan

To avoid harsh winter conditions, plan work that is appropriate to the weather. Check weather reports before planning your jobs so that outside tasks can be done on the best possible day.

If you cannot be adequately protected from the effects of the cold, then work must be suspended, or work regimes modified, to remove the risk of harm.

Following these steps will ensure that winter does not slow you down and your team remains productive, happy and keen during the colder months.

Want to make sure you're on track with your health and safety this season? Site Safe's health and safety advisors can check what you need by auditing your site.



For more information visit [sitesafe.org.nz](https://sitesafe.org.nz)

# Consultation on changes to building levy

Proposed changes to the building levy are under review with the Ministry of Business, Innovation and Employment (MBIE) reviewing feedback to strengthen and improve the building regulatory system.

As it stands, applicants pay a fee on all successful building consents for projects that are worth more than the currently prescribed \$20,444 threshold. MBIE are proposing increasing that threshold so that a building levy would only need to be paid on building work that exceeds \$65,000.

The building levy funds a range of MBIE functions and activities, including:

- creating and amending building policy
- providing guidance and advice on building policies
- delivering building compliance and enforcement services
- monitoring and reporting on the policies and their impact on the building sector

MBIE says these functions provide a range of benefits, including improved building safety and longevity, a better understanding of their obligations when building and assurance of safety for those who may purchase a building.

The Ministry released a consultation document for public feedback in mid-April, seeking feedback on the following proposed changes:

- Increasing the levy threshold from \$20,444 to \$65,000
- Reducing the levy rate from \$1.75 to \$1.48 (including GST) per \$1,000 and part \$1000
- Increasing investment in MBIE's Building System Performance services

MBIE sought feedback from anyone who interacts with the building levy, including people who have paid or will be paying a building levy in the future, those who collect the building levy (Building Consent Authorities), people who interact with the building regulatory system and receive any of the services funded by the building levy.

Following the consultation period, ending on 29 May, the Ministry will assess the findings before announcing its decisions this winter.



For the latest updates, visit [mbie.govt.nz](https://mbie.govt.nz)

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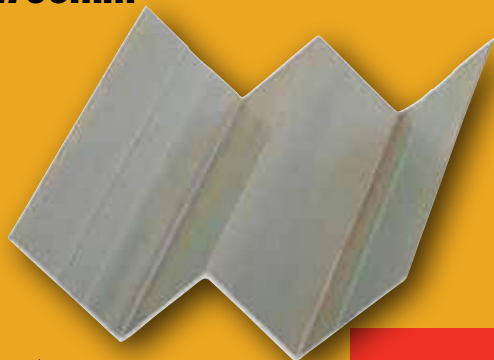


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# Suss out your state of play

**How healthy are you? It's a hard question to answer, but with the help of a health survey targeting men, you can suss out your health state and start to take steps to up your stats.**

Take the 'What's Your Score?' men's health survey and get your figures, is the first piece of advice from organisers of this year's Men's Health Week (MHW), which runs from 12-18 June.

The awareness week, which is sponsored in Aotearoa by Registered Master Builders, aims to help men get right on top of their biggest and most important asset – their health.

**MALES GENERALLY START OFF ON THE BACK FOOT FROM BIRTH, ACCORDING TO MHW, "A BOY BORN TODAY WILL LIVE NEARLY FOUR YEARS LESS THAN A GIRL BORN IN THE ROOM NEXT DOOR. HE WILL BE OVER 20% MORE LIKELY TO DIE OF A HEART ATTACK THAN THE GIRL, AND ALMOST 30% MORE LIKELY TO GET DIABETES."**

"Worse, he is three times more likely to die by suicide or in a motor car crash. Sadly, eight Kiwi families every day lose a loved partner, father or tupuna to a PREVENTABLE illness - one they didn't need to die from."

And statistics are worse for our male indigenous population. "Māori and Pasifika men live significantly shorter lives on average than other races in NZ."

"Almost one Kiwi man in four will die before they reach retirement age. One in four of us won't live to retire! It doesn't have to be this way."

For one week in June each year, MHW gets to remind us all of the small things we or our loved ones should be doing, the health checks and routines we can control to give us all a better shot at a longer, healthier life.

"Our sole purpose at MHW is to get guys to think a little more and know a little more about their health. We want to encourage men to start with the small steps that can enable them to turn their health issues around. Little steps can – and will – make big differences. We just have to start."

We can all do something to change these numbers by making small changes to the things we eat, drink and do. Even little changes can lead to large results. Organisers hope all Kiwi men take even one piece of action this June and suggest starting small. "Walk a little more, eat a little less...see and feel

the changes that makes. Even small changes can help you enjoy life more and live longer. Who doesn't want that?"

An introduction to vital health issues for guys and things to do to avoid some basic problems are available among the many resources on Men's Health Week's health information pages. Blokes can learn more through health quizzes, podcasts, downloading resource kits or following the links to more in-depth expert findings, if they wish to delve deeper.

MHW organisers urge Kiwi men to get involved. "You can manage your health to live longer and better. We've just gotta take that first step, guys."

Start on Men's Health Week. Get your crew together, do the test, and make progress as a team. Your life – and the lives of your mates and colleagues – could depend on it.



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# Mellow Yellow

Make work life easier with CARTERS' professional interior design team, Yellowfox

Believing every space is worthy of a design professional, Yellowfox is passionate about all things design to help make your project progress with ease.

Offering a stylish eye to drive a diverse range of design aesthetics, this team of designers will help ensure your client achieves their ultimate outcome in any style and in any setting.

Working from three locations - Auckland, Tauranga and Hamilton, but with their service available nationwide, Yellowfox has the experience, contacts and reach to collaborate with build partners across the country.

Yellowfox Design Manager Sophia Cole said, "We provide full interior & spatial design solutions, tailored to our client's build budget. The years of experience and expertise behind our brand mean we are consistently delivering smart solutions for new builds and renovations."

"All Yellowfox designers do their own cabinetry drawing and documentation in-house to NKBA design & drawing standards. High quality 3D renders are produced for all designed spaces, helping the client visualise their dream home at the design stage."

## Why should builders bring customers to see a designer?

"To push the boundaries with the design, and create beautiful, dynamic and liveable spaces as opposed to the 'cookie cutter' approach," says Sophia, who manages Tauranga and Hamilton studios.

"We provide the 'value add' edge for any builder's business, giving them the advantage over other builders who may simply leave the interior design element of the project up to the client, which can lead to an overwhelming, and time-consuming process."

A true one stop shop, this leading design company holds a huge variety of interior and exterior finishes and samples at its three studios, to help ensure the decision-making process is as easy and stress-free as possible for clients.

## How does engaging with Yellowfox make building easier for the builder?

"We take the entire interior design aspect off the builder's hands, leaving them to do what they do best – build. Every detail of the interior design is in good hands with a qualified interior designer," says Yellowfox Design Manager Auckland, Peta Davy.

"Importantly, we save the builder time. We streamline the design process so that there aren't any interior decisions holding up the build process."

Yellowfox can provide valuable cost savings, as well as time savings, Peta says. "Builders with a CARTERS account can access our design service at a subsidised rate, approximately 20-25% less than full rate. Pricing is supplied after we have had time to go over the plans or meet with the builder and/or client to discuss what is involved."

"Our design fees are further subsidised by our Associate Supply Partners when their products are represented in our designs – a full list of our Associate Partners can be found on our website. We pass on all trade discounts from our suppliers to the builder or the client."

## BUILDERS TIPS WHEN ENGAGING A DESIGNER?

"It's best to engage an interior designer pre-consent if possible, or at concept stage with the architect/designer," says Peta. "This is to factor in more flexibility for the interior designer to work with in terms of design aspects such as, say, window and plumbing placements."

"Also, architectural plans are always great to have at our first meeting, but we can do full site measures for renovations if required."

Yellowfox can take your build project to the next level.



YELLOWFOX

**Sophia Cole** (Hamilton & Tauranga studios)  
09 577 5548 sophia.cole@yellowfox.co.nz

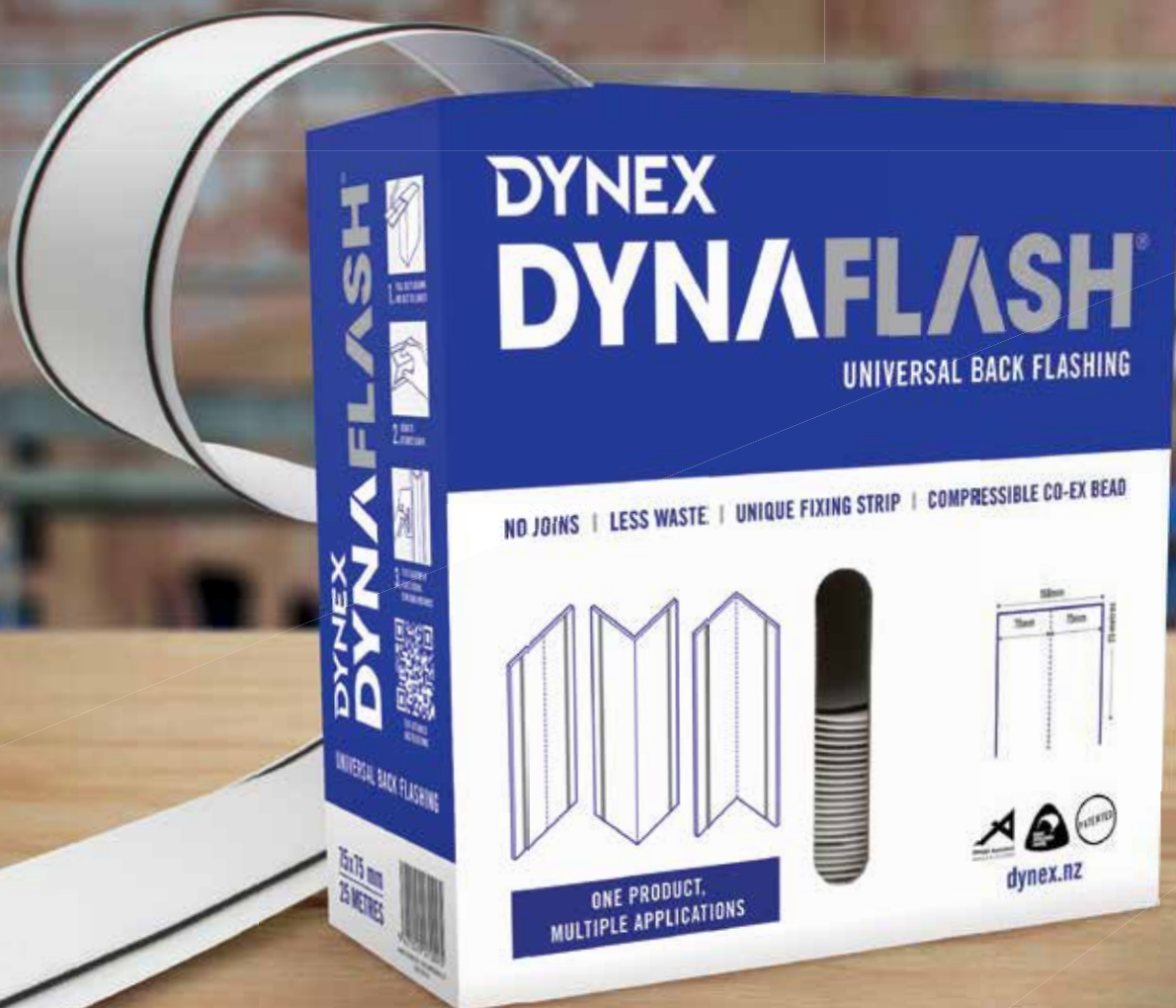
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THE MARKET DOESN'T SEE INTO THE FUTURE, BUT IT RESPONDS TO ECONOMIC NEWS. THE MORE TUMBLING RESIDENTIAL BUILDING DOMINATES THE NEWS THIS YEAR, THE MORE THE MARKET WILL SCALE DOWN EXPECTATIONS FOR THE OCR.

# The worse things get, the more interest rates will fall

BY RODNEY DICKENS, MANAGING DIRECTOR, STRATEGIC RISK ANALYSIS LIMITED

By overseeing the sharpest ever rise in interest costs, the Reserve Bank has ensured residential building activity will fall dramatically - more than the 14% it predicts. Consents for new dwellings have already fallen 21% since April 2022 in response to rising interest rates and will fall lots more this year.

The first chart shows the rolling three-month average number of consents relative to the average mortgage rate offered by the major banks. It takes around 13 months for interest rates to impact on consents. Reflecting this, the interest rate line has been advanced or shifted to the right by 13 months. Allowing for the lag, less than half of the impact of the rise in interest rates has been experienced by consents so far.

A fall in consents of 40% or more is likely, based on the scale of the rise in interest rates. Feedback from building contacts support this expectation, as does the ANZ survey of residential builders that has reached all-time lows in recent months.

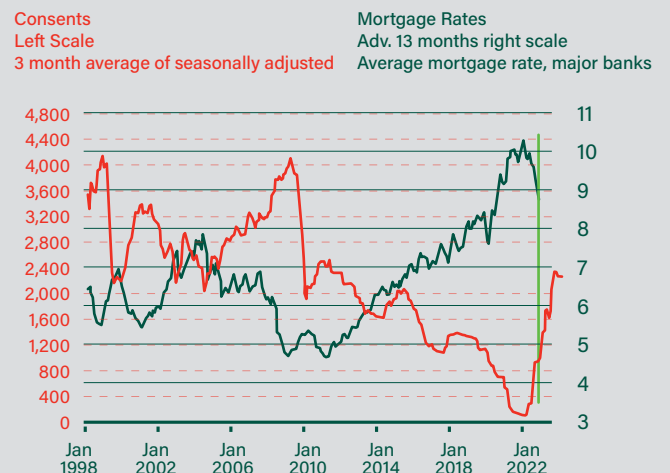
Under Adrian Orr's leadership, I believe the Reserve Bank has made some of the worst decisions ever. Starting with excessive stimulus in response to Covid and now blind pursuit of OCR hikes without understanding the fallout this will cause. And, to top it off, the Minister of Finance has renewed Adrian's five-year contract.

**FOR THE BUILDERS THAT SURVIVE WHAT WILL BE ONE OF THE SHARPEST DOWNTURNS EVER, THE SILVER LINING IS THAT THE WORSE THINGS GET, THE MORE CHANCE THERE IS OF A MARKET-LED FALL IN INTEREST RATES. THERE ARE HINTS OF THIS IN LONGER-TERM WHOLESALE OR SWAP INTEREST RATES (SEE THE RED LINE IN THE CHART, PICTURED).**

The market doesn't see into the future, but it responds to economic news. The more tumbling residential building dominates the news this year, the more the market will scale down expectations for the OCR.

The one-year swap rate hasn't fallen yet because the market expects the OCR to remain elevated over the next year; but this could be revised down. However, the five-year rate has started to fall and is now below the OCR because the market expects the OCR to fall at some stage in the future. The worse things get, the more the market will drive down interest rates relative to the OCR and, with a lag, drive some recovery in residential building next year.

## Consents for New Dwellings & Mortgage Rates





# New GM of Building System Performance at MBIE

**DAVID HALL**  
GENERAL MANAGER, MBIE  
BUILDING SYSTEM PERFORMANCE



David Hall has joined the Ministry of Business, Innovation and Employment as the new General Manager for Building System Performance.

He moves to the role from the Infrastructure Commission Te Waihangā where he was General Manager, Policy. David has wide experience in the building industry and local government, including as CEO of Otorohanga and South Waikato district councils, and Technical Director at civil engineering consultancy Mott MacDonald.

Making the announcement, MBIE's Deputy Secretary - Building, Resources and Markets, Paul Stocks welcomed David by saying, "His diverse background has given him an excellent understanding of how the building consenting system works and the intersections with resource management and development engineering requirements."

**DAVID TOLD TRADE LEADER, "THERE'S A LOT OF IMPORTANT WORK UNDERWAY AT THE MOMENT, INCLUDING BUILDING FOR CLIMATE CHANGE AND A REVIEW OF THE CONSENTING PROCESS. I'M LOOKING FORWARD TO JOINING THE TEAM AND HELPING TO PROGRESS THEM."**

Paul said, "I know David is particularly excited to get stuck into the mahi including the building consent review, Building for Climate Change programme and ensuring the Building Code is keeping pace with innovations. The recent severe weather events across Aotearoa New Zealand have shown how crucial climate adaptation and flooding resilience are.

"He is very conscious of the need to enable efficiencies and affordability within the building system, without compromising the quality and protections it offers to those in the sector and those who consume its services.

"We know there are a lot of thoughts on how this could be achieved, David is very keen to explore the opportunities and great mahi going on within the sector in these areas."

Adding, "I hope you will join me in welcoming David into his new role, I know he looks forward to hearing your thoughts on how we continue to tackle the big subjects in the building and construction industry going forward."

# Changes to the Construction Contracts (Retention Money) Amendment Act

Legislation has been passed this autumn to clarify and strengthen existing requirements and provide more security to subcontractors when retention money is held by head contractors.

The retention provisions in the Construction Contracts Act 2002 were put in place to protect retention money owed to subcontractors in the event of a business failure and to ensure retention money withheld under construction contracts is responsibly managed. Changes to the retentions regime passed at the end of March will make it easier for subcontractors to access retention money without a court order in the event of a company's insolvency.

Many head contractors are already doing the right thing and are holding retention money aside appropriately. For these people, the new regulations will result in very little change.

The changes will safeguard subcontractors' retention money by:

- Clarifying that retention money is automatically held in trust by the head contractor once the contract allows it to be withheld from the subcontractor
- Removing the ability to mix retention money with other money and assets
- Requiring retention money held as cash must also be held separately in a bank account with prescribed ledger accounts.

Offences and penalties of up to \$200,000 have been introduced for companies and in some cases, directors, who fail to meet the new requirements, including:

- Failure to comply with accounting, recording and reporting requirements
- Use of retention money for a purpose other than remedying defects in the subcontractor's performance
- Failure to provide regular information to the subcontractor on retention money.

The Ministry of Business, Innovation and Employment will have the ability to investigate and enforce retention money offences, and the responsibility to provide information and education to the sector on the retention money regime and monitor compliance.

Contractors looking to hold retention money have six months to ensure processes are established and standard contracts are renewed before the new offences and penalties apply.

# Apprentices at the ready!



**Talented carpentry industry newcomers will be picking up their tools to compete against each other this month, as the Registered Master Builders CARTERS Apprentice of the Year regional practical challenge takes place.**

This competition aims to recognise excellence among carpentry apprentices and raise awareness of career opportunities in the building and construction industry.

The practical challenge is held across the country at CARTERS locations on Saturday 10 June, enabling entrants the opportunity to get regional honours under their belts. Judges will look to test several aspects of what makes a well-rounded apprentice, with attributes beyond skills on the tools being taken into account when deciding finalists and winners.

In July, regional judging and interviews will begin, with regional awards events taking place through August and September. National judging will take place and awards handed out in November.

The National Practical will be co-located with Auckland North's CONZSTRUCT event on Thursday 9 November 2023 at Eventfinda Stadium, Wairau Valley. This will be part of a two-day finale comprising of interviews, the national practical followed by the National Awards Gala dinner on 10 November.

This competition is not just for the apprentices. It's a great opportunity to celebrate the employers for investing in apprentices and giving back to New Zealand's construction industry.

Nigel Strickett, the employer of last year's national champion Dane Schnell, credits Stephen Nicholson from BCITO as the person who strongly encouraged Dane to enter the competition:

**"STEPHEN DID A GREAT JOB OF ENCOURAGING DANE TO ENTER. GIVEN THE UPS AND DOWNS OF THE LAST COUPLE OF YEARS, AS A BUSINESS OWNER IT WASN'T SOMETHING THAT WAS TOP OF MIND FOR ME. HOWEVER, AFTER SEEING HOW AWESOME THE COMPETITION IS I'M GOING TO ENCOURAGE MORE APPRENTICES IN THE FUTURE."**  
NIGEL STRICKETT - COASTAL CONCEPTS

Who will take over the crown from Dane Schnell of Auckland? Stay tuned to find out who's in the running.



For more information, visit [www.apprenticeoftheyear.co.nz](http://www.apprenticeoftheyear.co.nz)

## REGIONAL EVENTS

**Come along to the practical challenge and show your support to those competing in your region.**

**SATURDAY 10 JUNE  
8:30AM-12:30PM**

CARTERS Glenfield

CARTERS East Tāmaki

CARTERS Cambridge

CARTERS Tauranga

CARTERS Palmerston North

CARTERS Wellington DC

CARTERS Nelson

CARTERS Madras St, Christchurch

CARTERS Dunedin



2022 Registered Master Builders Apprentice of the Year  
Dane Schnell, employed by Coastal Concepts.



# Five cashflow strategies you need to know

BY DANIEL FITZPATRICK

Recent studies from ANZ Bank showed that 82 percent of SMEs fail due to cashflow issues. **69 percent of these businesses were profitable.**

In other words, 69 percent of those businesses failed, not because they were making losses, but because they ran out of money to pay suppliers, wages, and other expenses to keep going. With better cashflow many of those businesses likely would have survived.

Doctors know that without oxygen, water, and food you cannot survive. Without oxygen, the average human will last around three minutes, without water for three days and without food, three weeks. It doesn't matter how fit or healthy you are now; without these three essentials you will not survive.

Cash is the oxygen that keeps your business going. Not convinced? How many days would your business last without cash in the bank?

Here are five proven cashflow strategies all tradies need to keep the bank account full and stress levels low:

## 1 Watch the canary in your coal mine

Coal mine workers would always take a canary in a cage into the mine to see if it was safe. This was their early warning sign, if there was a lack of oxygen and/or dangerous gases the canary was the first one to be affected. If the canary died or looked unwell, they would drop tools and act immediately while there was still time.

The canary for you might be that you're behind with bills every week, have too many overdue accounts, or get a warning letter from IRD. These are signs that need immediate attention. It might mean calling the IRD, chasing overdue invoices, or getting more work. But don't leave it, act now before cash flow gets out of control.

With our clients, we always equip them with our tradie dashboard. This gives a snapshot of their business and identifies early warning signs where cashflow may need attention.



## 2 Ensure your rhythm supports cash flow

**In music, rhythm is defined as 'the underlying structure that all the other elements of music are held together by'. In business, you have a rhythm for cash flow. But is it one that supports or hinders your business?**

Are you always scrambling to pay wages, chasing the next dollar to stay ahead? Waking up at 3am realising you forgot that your GST return is due tomorrow?

Or is it a symphony where your business is predictable with a steady flow of cash to pay all the bills and then some? Where large jobs have payment terms structured with cashflow in mind, invoices are always sent out on time, a team member regularly follows up payments and there is a healthy cash buffer in both your cheque and tax accounts.

With the right systems in place, you can have a predictable rhythm with less stress and a healthy cash buffer.

## 3 The numbers are your guide

Your numbers show you how much cash you have available and what is required in the future.

You should be watching your cash position (what's left after you've collected all money owed and paid everyone), cashflow forecast (what your bank account is going to look like over the next few weeks/months), overdues, profit and loss (are you making money or digging a hole?).

Make sure your numbers are accurate. I often see builders who have profit figures that look great one month and terrible the next. This can be a timing issue when deposits are taken or invoicing stages on larger projects and can skew your figures, big time. We usually have a work in progress calculation added to the profit and loss to allow for this.

Over 50% of the time, I find new clients' numbers are wrong. Wrong information leads to bad decisions. You don't want to be buying that new ute and then discovering there's not enough to pay the taxes due next month.

## 4 Make sure you have the right map

**Once you have the numbers, identify your location and where you want to go - a map will show the way.**

If you are travelling from Auckland to Dunedin by car, and you only have a map of Canada, that's not going to help. Many tradies are using the wrong map, or no map at all, for their cashflow.

One of my clients had plenty of work on but was worried about increasing the team, even though the work was profitable. The problem is they were using an old roadmap, which was 'grab anyone who is available and hope it works out'. It didn't.

This time is different; they have the right map now, which is a system for attracting and identifying the right team members and a cashflow forecast so there are no surprises when payroll comes around. They have identified the best and most profitable jobs and are building a cash buffer for a few weeks while new team members get up to speed. It is all geared to optimising cashflow.

The right map will guide you on the direct path, without all the wrong detours in between.

## 5 Don't let your emotions tank your bank account

**Do you go into a tailspin every morning when you check the bank account and get crazy frustrated at having to follow up with the late payers yet again? That voice in your head starts playing again. It's just not fair... we work so hard! Why us?**

Or maybe you know you need to get into the office and do that invoicing you've been putting off all month but decide to stay on the tools instead. You get home and argue with your partner (who pays the bills) about why there is no money in the account and then feel guilty for the rest of the night that you still haven't done the invoicing.

Procrastination kills momentum, splits your focus, and creates emotional thinking rather than being strategic.

The bank account doesn't care how you feel or how hard you work, ultimately it's just a reflection of the choices (good and bad) you have made in the past, the systems you have put in place for collection, the clients you decided to work with, the overdraft facility you arranged or the types of jobs you took on.

When you replace emotion with strategy, cashflow gets much simpler and less stressful. Master this game and your business and bank account will improve significantly.

Many things can disrupt short-term cashflow as the last couple of years have proven, with shifting schedules, material shortages, losing or adding key team members, holidays, lockdowns, sick leave, or maybe you are in a growth phase. These all affect cashflow. With the current uncertain environment, it's essential to have plans in place to handle cashflow.

One of my largest clients is very profitable and has grown significantly over the past few years. At times, they still struggle with cashflow. But because of these principles and systems we have put in place, they have been much better equipped to handle the surprises that have come their way.

Cashflow is the oxygen of your business, make sure you get it right and your business will thrive.



### Want better cashflow?

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**Daniel Fitzpatrick is a New Zealand based business coach and the creator of Next Level Tradie.**

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BUSINESS COACH



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**HiKOKI**

# Tips for builders when dealing with insurance repair work



BY BEN RICKARD, TRADE INSURANCE EXPERT AT BUILTIN

This year's flood and cyclone events have resulted in tens of thousands of property insurance claims across the North Island. While insurers typically use a panel of approved builders, the scale of these events makes it likely that a range of approaches will be needed. If you are contacted by a home or business owner to quote for and/or remediate flood or storm damage here's how you can avoid any pitfalls and ensure it's a good experience for all.

## Steps to speed up the claims process

Insurers are offering plenty of advice to those affected by recent weather events, with resources from all the main insurance companies available. The latest helpsheet produced by Ando Insurance is a good guide to what people claiming on contents, house, motor and commercial insurance should do, providing the information insurers need from home and business owners when making a claim.

IAG is now offering a self-serve option for customers who want to speed up the claim assessment process. This entails customers engaging a qualified tradesperson to see what repairs are needed and obtain a repair quote. There is then a form to complete to go ahead with the repair work claim.

### There are a few key things to note:

- Customers will need to provide photos of the damage.
- A qualified tradesperson will need to provide a detailed written quote for the cost of repairs.
- The quote and photos must be emailed to [quotes@iag.co.nz](mailto:quotes@iag.co.nz), including the claim number in the subject line. For any costs already incurred, receipts are to be attached to the email.
- Once IAG receives the information, if they consider it to be fair and reasonable, they'll talk to you about settling the claim by paying the estimated reasonable cost to repair the damage.

### Additional damage and further costs after settlement:

- They'll pay the estimated reasonable cost to repair the damage to customers' properties.
- However, if a customer spends the settlement money on repairs and finds they need to incur additional costs to complete the repairs, or if they find additional damage relating to the claimed event during the repair process which was not included in the agreed scope of the repair, talk to IAG.
- Customers may be able to ask for additional payments, subject to certain conditions.

## Make good/make safe

Insurers have pre-authorised the stripping out of wet carpets and underlay. The same applies to minor damage that could be fixed to make the property safe and weathertight, including temporary repairs such as boarding up broken windows.

A priority will be ensuring the health and safety of homeowners and building users, including protection from the development of black mould and fine dust from dried silt. This work can be done before a loss adjuster has attended the property/claim approval.

Property should be thoroughly dried out before remediation work commences. If moisture is present when repairs begin, it can result in poor finishes on repaired surfaces and lead to mould formation and deteriorating structural materials.

## EQC Claims

Insurers assess and settle EQCover claims for building and land damage in accordance with The Earthquake Commission Act 1993, on behalf of the Earthquake Commission (EQC). That means they now manage any EQCover claim(s) with affected policyholders from end to end, including assessing the damage.

### Builtin are New Zealand's Trade Insurance Experts

For more information visit [builtininsurance.co.nz](http://builtininsurance.co.nz)  
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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.*



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# Training and trading together

Networking over what's new in the industry is a welcome novelty after the in-person events hiatus of the past couple of years. New Zealand Certified Builders' Auckland Education Day was held at the Due Drop Events Centre in Manukau in March and made for a fruitful – and fun – day of learning.

'Navigating Industry Changes' was the theme for the event held on March 16, which featured dozens of stands presenting industry innovation in products and services. This expo-style element added to a packed programme of education sessions with speakers addressing a range of topics from law to leaky homes.

President of NZCB's Auckland branch, Barbara MacGregor said, "It's certainly been an interesting couple of years! We're glad to be able to be back together in real life, holding this event in person again after running it twice online. It's a valuable opportunity to meet others in the building industry and learn about the latest developments in our sector."

"It's always a popular event, open to NZCB members and non-members, where builders can benefit from up to 12 x 30-minute education sessions per day and earn LBP points along the way. This year, we have an amazing giveaway of a fishing charter, which has proved to be popular too."

Fellow NZCB Auckland committee member Grant Boylan enjoyed spinning a few yarns with fellow industry folk. He said the NZCB was proud to host an event of this scale, harking back to the organisation's humble beginnings. "Three builders sat down over a beer and asked themselves how they could have their industry qualifications recognised by homeowners, that's how it all began. Now, 25 years later, we have over 1000 Auckland members and put on events like this."

"Yes, there have been hard times recently, but now it's time to have a look around at all the good things that we have got going for us in this industry," Grant said.

**"THERE ARE A LOT OF TALENTED BUILDERS IN THIS COUNTRY AND PEOPLE WANT TO HEAR ABOUT MORE OF THE GOOD STUFF NOW! EVENTS LIKE THIS HELP BRING PEOPLE TOGETHER AND ENCOURAGE BUILDERS TO EDUCATE THEMSELVES SO THAT THEY CAN PROGRESS FURTHER IN THE INDUSTRY. LET'S KEEP MOVING FORWARD!"**

Education day topics included medium density residential standards, H1 changes, sustainability initiatives and E3 updates. With a golf putting challenge, a fishing charter giveaway, and plenty of food and hot drink supplies for morning tea and lunch, the day included plenty of laughter alongside the learning.



# Latest lessons from WorkSafe cases



**ANDREW SKINNER**  
PARTNER Urlich Milne

Recent sentences arising from WorkSafe prosecutions provide a very useful reminder regarding the duties of PCBUs in the building and construction industry. In developing your health and safety system, lessons can be learnt from the failings of other businesses. This article summarises the three recent prosecutions in different sectors.

## Machine guarding failures

In January 2021, a worker at a West Auckland Bakery business had four fingers severed when her hand got caught in a seed grinding machine. WorkSafe has reported that the worker had never previously used the grinder or received any training on its operation. The WorkSafe investigation found that the grinder had no safe operating procedure and its safety guard had not been replaced when it broke off 18 months prior. To make matters worse, in June 2021 another worker had her fingertip sliced off while using a dough dividing machine. Again, the machine did not have any safe operating procedure and the guillotine was unguarded. This worker was also similarly inadequately trained.

The company was charged and convicted for a failure to comply with the duty to ensure, so far as reasonably practicable, the health and safety of workers and was fined \$36,000.

This incident reiterates the importance of regularly assessing the risks on the use of machinery and to prepare appropriate procedures for the use of the machinery so staff can be properly trained.

## Failure to ensure PPE is worn

WorkSafe investigated and prosecuted a Northland orchard in relation to an incident where a casual worker suffered a significant eye injury when repairing orchard fencing in April 2021. The high tensile wire snapped striking the 20-year-old worker's left eye. WorkSafe's investigation into the incident found the business failed to train and supervise the workers and didn't monitor their safe use of PPE. The business had no formal process in place to ensure workers were wearing PPE, leaving supervisors to instead fill that gap by managing the wearing of PPE on an ad hoc basis. Unfortunately, the investigation also found that there had been a near miss one month earlier in similar circumstances, which was not reported until after the later incident.

The company was ordered to pay reparations to the victim of \$62,185. A fine of \$240,000 would have been imposed but was reduced to zero due to the financial circumstances and the company's inability to pay any fines.

This incident highlights the importance of regularly championing the use of PPE in your business and training staff, so they are aware of the importance of PPE. It is not enough to

simply make it available.

## Third party contractor failure

A local council has been sentenced for its part in failing to keep people safe when a giant inflatable slide collapsed at a summer festival in December 2020. As a result of the collapse, a dozen people fell from height and sustained various serious injuries.

When investigating the matter, WorkSafe found that the company operating the slide used an old council form that did not require any confirmation of safety standards and the council failed to carry out any checks recommended by its own staff. After the incident, it was found that the slide was electrically unsafe, had air leaks via holes in the seams, and poor anchoring. The council was charged for failing to meet the duty, so far as reasonably practicable, to consult, cooperate and coordinate activities with all other PCBUs who had a duty in relation to the same matter, namely the operator of the slide.

The operator (now removed from the Companies Office) was fined \$350,000 and ordered to pay reparations of over \$40,000 over the incident. In this later sentencing, the council was ordered to pay reparations of \$10,000 but no fine.

This incident shows that a PCBU's duties extend to more than just managing their own immediate activities. PCBUs can have overlapping duties in respect of the same activity. While a business can enter into agreements with other businesses, they must still monitor the other business to ensure that they do what is required.

In a complex job site, there are many PCBUs operating in a confined space, all of whom will have duties in respect of each other to carry out all activities safely. Whilst the level of control over individual activities may differ, the PCBUs must consult, cooperate, and coordinate their activities to ensure the other businesses are doing what is required. This was a key change implemented by the introduction of the Health & Safety at Work Act 2015.

These recent cases highlight the importance of ongoing monitoring and improvement of your health and safety system. Repeat incidents are unacceptable and businesses need to allocate sufficient resources to health and safety to ensure the safety of their staff is maintained.

**Andrew Skinner has over 20 years of experience as a commercial lawyer. He is a partner in the Auckland firm Urlich Milne, as well as being Vice Chair of the Frame and Truss Manufacturers Association.**

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