

Mike Cox

To: Michael Belsham
Subject: RE: BCN/2016/2332 - Processing - Fire Design. ?????????????????? [UNCLASSIFIED]

I'll give it a go but I am mindful that:
"reasonable" is part of a legal test that requires the BCA to turn their mind to the situation in hand.
The only powers that a BCA exercises relates to the issuing of a building consent or CCC, this is always confused with exercising on reasonable grounds but
Reasonable grounds is again a legal test that has everything to do with the information provided to the BCA but nothing to do with

From: Michael Belsham
Sent: Monday, 18 April 2016 4:53 p.m.
To: Mike Cox
Cc: Chris Rutledge
Subject: RE: BCN/2016/2332 - Processing - Fire Design. ?????????????????? [UNCLASSIFIED]

Yes but CCC can use to take whatever they require to exercise reasonable ground – we have no ruling over them. It may be perceived unreasonable. Classic case of Auckland trying to work in Chch

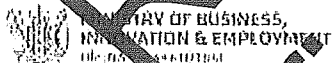
Do you want to have another go at draft remove what BCA must to, being excessive and time frames etc. Note that s 9(2)(a) are involved so response needs to be carefully worded.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Market
Ministry of Business, Innovation & Employment
Level 5, 15 Stout Street, PO Box 7473 | Wellington 6145

**BUILDING
PERFORMANCE**



New Zealand Government

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From: Mike Cox
Sent: Monday, 18 April 2016 4:20 p.m.
To: Michael Belsham
Subject: RE: BCN/2016/2332 - Processing - Fire Design. ?????????????????? [UNCLASSIFIED]

I think that reasonable grounds and reasonable information are 2 different things.

The test of reasonable grounds is based around a set of facts that would satisfy an ordinary cautious and prudent person that there is a reason to believe and;
Reasonable information can only be ascertained when the specifics of the situation are weighed up.

Sure you need reasonable information to ascertain reasonable grounds but they are quite different. A BCA must have reasonable grounds to issue the BC and CCC but they can only ask for information that is reasonable to get there.

From: Michael Belsham
Sent: Monday, 18 April 2016 4:09 p.m.
To: Mike Cox
Subject: RE: BCN/2016/2332 - Processing - Fire Design. ?????????????????? [UNCLASSIFIED]

Hmm I was going to reply quick differently.

Michelle

I understand that Countdown Moorhouse is part of a larger shopping centre and this is an alteration to an existing building. The BCA can therefore request information on the whole building to address s112.

The BCA needs to exercise reasonable grounds to issue a building consent. Although FEB, FM22 and PS4 do not exist in legislation the BCA can choose to use any of these to exercise reasonable grounds.

FEB is within C/VM2 and is required for the design. The fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback.

Kind Regards,

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INNOVATION & EMPLOYMENT
OF NEW ZEALAND

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From: Mike Cox
Sent: Monday, 18 April 2016 3:52 p.m.
To: Michael Belsham
Subject: RE: BCN/2016/2332 - Processing - Fire Design. ?????????????????? [UNCLASSIFIED]

Hi Michelle,

Thanks for your enquiry.

If we take these aspects one at a time:-

FEB

As you note the FEB process is not a statutory process, this said it does form part of the C/VM2 methodology and as such those not wishing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution.

With the FEB forming a part of the Verification method AND being required to be undertaken pre lodgement timeframes nationwide range from days to many months. This said each stakeholder must really be aware of the purpose of the FEB and their specific role. For example BCA's have a responsibility to feed into the FEB Building Act and Building Code requirements, the remainder of their responsibilities lie within the consenting process which may occur many weeks/ months in the future or not at all.

PN22

The requirements of PN22 are again not mandatory and in some cases their requirements will be excessive whilst in others adequate. Looking at this in 2 parts BCA's have to issue the Building Consent and then issue the Code Compliance Certificate, (s14F, BA04). PN22 cuts across both of these processes merging with the responsibilities of the BCA. For example BCA's are responsible for ensuring that the application complies with the building code and then for checking that the work is in accordance with the building consent. BCA's that have blanket reliance on PN22 must carefully consider this and I would always recommend that BCA's turn their mind to the specifics of the situation, before launching into PN22.

Producer Statements

The requirements for producer statements range from something that is nice to have to something that is essential. With regards to producer statements the BCA must again have consideration for their responsibilities under s14F and also s48(2) with the latter requiring BCA's to ensure that the further information they ask for is reasonable. Again if a BCA has blanket producer statement policies it is difficult to test the reasonableness of requested information, ideally they should assess each case on its merit and request information that they believe to be reasonable.

Section 112

BCA's are tasked with making a decision that the building complies As Near As is Reasonably Practicable. The level of information they need to undertake this function differs building by building and at times they will have enough information on their records to undertake the assessment without input from the designer, other times they won't? Again blanket policies in this area can be problematic as the reasonableness of the requested information must be tested on a case by case basis by the BCA

From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]

Sent: Monday, 18 April 2016 2:29 p.m.

To: awollard@ianz.co.nz; Mike Cox; Michael Belsham

Subject: Fire BGN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an e mail from Wayne Roden of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PN 22, co-ordination statements, PS4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project, it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and the consent issue fire report has been issued by then. As the FEB is not a statutory document There is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to ;

- (i) confirm if these documents are required under statute,
- (ii) confirm if other councils are requiring same as a consistent nationwide approach,
- (iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

thank you in advance for your assistance.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz

Support Office, 30 Favona Road, Favona, Auckland, 2024
Private Bag 306, Otahuhu, Auckland, 1640 New Zealand.

Safety-its up to us.
PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS E-MAIL.

From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To: s 9(2)(a)

Cc: s 9(2)(a)

s 9(2)(a)

s 9(2)(a)

s 9(2)(a)

'Harpur, Amy'

Subject: BCN/2016/2332 - Processing - Fire Design

s 9(2)(a)

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as CPEng with practice field being fire engineering. They must also be practicing in their area of expertise.
-
- The fire design including any calculations. This must be complete and final.
-

Documentation complying with practice note 22.

- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
- A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
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- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.
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- The peer reviewer will confirm that the requirements of the FEB have been satisfied.
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- The peer reviewer will confirm that the proposed Compliance Schedule is correct.
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- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.
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- For your ANARP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required for the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice verse benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI: s 9(2)(a)
Email: wayne.roden@ccc.govt.nz
Web: www.ccc.govt.nz

Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

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This electronic email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed.

The views expressed in this message are those of the individual sender and may not necessarily reflect the views of the Christchurch City Council.

s 9(2)(a)

From: Michael Belsham
Sent: Tuesday, 19 April 2016 10:00 a.m.
To: Dave Gittings
Cc: Peter Laurenson; Chris Rutledge; Mike Cox
Subject: FW: BCN/2016/2332 - Processing - Fire Design [UNCLASSIFIED]

Hi Dave,

We could do with your help with this one. It think ^{s 9(2)(a)} has written in previously on same issue of consenting in Christchurch questioning the legality of the RFI's.

This further highlights issues with consenting process. We are tackling FEB process however problem is much wider and manifesting in Chch.

My thoughts are as follows:

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Michael Belsham
 FIRE ENGINEER

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**BUILDING
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MINISTRY OF BUSINESS,
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 DEPARTMENT OF BUILDING PERFORMANCE

New Zealand Government

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Monday, 18 April 2016 2:29 p.m.

To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham
Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

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Whilst documents like the FEB, PN 22, co-ordination statements, PM's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project, it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and the consent issue fire report has been issued by them. As the FEB is not a statutory document there is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

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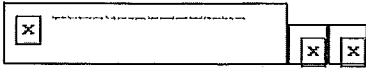
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TEL: +64 9 275 2788 **DDI:** +64 9 255 2232 **MOB:** +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz



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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

Safety-its up to us.
PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS E-MAIL.

From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]
Sent: Wednesday, 6 April 2016 10:55 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a)

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

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-
- The fire design including any calculations. This must be complete and final.
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- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.
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Regards

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Building Consenting Unit

Consenting and Compliance Group

DDI: ^{s.9(2)(a)}
Email: wayne.roden@ccc.govt.nz
Web: www.ccc.govt.nz

Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

Mike Cox

From: Mike Cox
Sent: Wednesday, 20 April 2016 2:33 p.m.
To: Michael Belsham
Subject: Accepted: Countdown Moorhouse ANARP Query [UNCLASSIFIED]

Released under the
Official Information Act

s 9(2)(a)

From: Dave Gittings
Sent: Wednesday, 20 April 2016 2:00 p.m.
To: Michael Belsham
Cc: Peter Laurenson; Chris Rutledge; Mike Cox
Subject: RE: BCN/2016/2332 - Processing - Fire Design [UNCLASSIFIED]

Yip – but maybe we use that technology thing and get everyone on a vid conference.

From: Michael Belsham
Sent: Wednesday, 20 April 2016 1:58 p.m.
To: Dave Gittings
Cc: Peter Laurenson; Chris Rutledge; Mike Cox
Subject: RE: BCN/2016/2332 - Processing - Fire Design [UNCLASSIFIED]

Dave,

Could be logistically difficult as fire engineers are in Auckland and County in Christchurch. Shall we have an internal meeting on it to decide a process?

This is a key case study for our project on the Consenting Process.

Kind Regards,

Michael Belsham
 FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
 Ministry of Business, Innovation & Employment
 Level 5, 15 Stout Street, PO Box 1472, Wellington 6143

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From: Dave Gittings
Sent: Wednesday, 20 April 2016 1:51 p.m.
To: Michael Belsham
Cc: Peter Laurenson; Chris Rutledge; Mike Cox
Subject: RE: BCN/2016/2332 - Processing - Fire Design [UNCLASSIFIED]

I agree, how do you propose we proceed? – a sit down with all parties?

Dave

From: Michael Belsham
Sent: Tuesday, 19 April 2016 10:00 a.m.
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TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



Support Office, 80 Favona Road, Favona, Auckland, 2024.
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DDI: s 9(2)(a)

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Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

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Subject: Countdown Moorhouse ANARP Query [UNCLASSIFIED]
Location: MEET WLG STOUT 5.02 (8)

Start: Fri 22/04/2016 2:00 p.m.
End: Fri 22/04/2016 2:30 p.m.
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Michael Belsham
Required Attendees: Dave Gittings; Chris Rutledge; Mike Cox; Peter Laursen

Quick chat to decide on response to query from Countdown to an extension to Christchurch supermarket

Released under the
Official Information Act

Mike Cox

From: Mike Cox
Sent: Friday, 22 April 2016 2:54 p.m.
To: Wayne.Roden@ccc.govt.nz
Subject: As discussed [UNCLASSIFIED]
Attachments: Out of Scope

Hi Wayne,

Out of Scope

Further to our discussions regarding Countdown are you around on Tuesday between either 9am-11am or 1.30pm to 2.30pm to be able to take a conference call between yourselves Mike Belshan and Dave Gittings?

Kind Regards,

Mike Cox BSc (Hons) C.Build E MCABE

PROJECT LEAD FIRE REVIEW

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment
Mike.cox@mbie.govt.nz Telephone +64(4)+9011413
Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

**BUILDING
PERFORMANCE**



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
haka waiatanga

New Zealand Government

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From: Michelle Cowper <michelle.cowper@countdown.co.nz>
Sent: Friday, 22 April 2016 3:24 p.m.
To: Michael Belsham
Cc: awoollard@ianz.co.nz; Mike Cox
Subject: Re: BCN/2016/2332 - Processing - Fire Design [UNCLASSIFIED]

Thank you

Regards,

Michelle Cowper
 Property Project Manager
 Countdown NZ

E: Michelle.cowper@countdown.co.nz
 M: 0275382673

On 22/04/2016, at 3:07 PM, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

Thank-you for your query. We have had an internal discussion on the matter and we have decided to make contact with Christchurch City to discuss the issue. Once we've had this discussion we'll report back to you with our findings

Kind Regards,

Michael Belsham

FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
 Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]

Sent: Monday, 18 April 2016 2:29 p.m.

To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham

Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon / all,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to under take the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an e mail from Wayne Roden of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PN 22, co-ordination statements, PS4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

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- (i) confirm if these documents are required under statute,
- (ii) confirm if other councils are requiring same as a consistent nationwide approach,
- (iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

thank you in advance for your assistance.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 FAX: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz



Support Office, 81 Favona Road, Favona, Auckland, 2024.
Private Bag 93306, Grahuhu, Auckland, 1640, New Zealand.

Safety is up to us.
PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS E-MAIL.

From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To:

Cc:

s 9(2)(a)

s 9(2)(a)

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as CEng with practice field being fire engineering. They must also be practicing in their area of expertise.

- The fire design including any calculations. This must be complete and final.

Documentation complying with practice note 22.

- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
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- The peer reviewer will confirm that practice Note 22 has been followed. This includes co-ordination of all consent documents including Architectural, Structural, Mechanical, Electrical, Hydraulic, Fire etc – as applicable to fire. The confirmation letter should list the documents reviewed (including revision number).

-

- The peer reviewer will confirm that the proposed Compliance Schedule is correct.

-

- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.

-

- For your ANARP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice versus benefit assessment

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

Direct ^{s 9(2)(a)}

Email: wayne.roden@ccc.govt.nz

Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 63 Hereford Street, Christchurch
PO Box 75013, Christchurch, 8154

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Christchurch City Council

<http://www.ccc.govt.nz>

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s 9(2)(a)

From: Michael Belsham
Sent: Monday, 2 May 2016 11:10 a.m.
To: 'Michelle Cowper'
Cc: Mike Cox; Dave Gittings; Chris Rutledge
Subject: RE: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Michelle

Apologise for the delay however we have been unable to get hold of Wayne Rodan to discuss this further.

I understand that Countdown Moorhouse is part of a larger shopping centre and the building work proposed is an alteration to an existing building. As such the BCA is tasked with making an assessment of the entire building to establish that it complies on a near as is reasonably practicable basis.

BCA's need to establish reasonable grounds to be able to issue a building consent, whether this relates to the building, as noted above, or the building work, i.e. the actual work proposed. Although FEB, F122 and producer statements do not exist in legislation these are tools that BCA's commonly turn too in their quest to establish reasonable grounds. All the building act requires is that the information they initially require or subsequently request is "reasonable". As such the building act requires BCA's to turn their minds to the specifics of the situation to ensure that the tool/s they elect to use and therefore the information they request of the applicant is reasonable. We are unaware of the scope of the work and therefore cannot advise on the whether the requests are reasonable.

FEB is an integral part of C/VM2 and is a process required to be undertaken if C/VM2 is your route to compliance. As such the fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback. Those designers not wishing or willing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution, which just ensures that additional checks and measures are brought into play by the BCA.

We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting Process. Here we hope to explore these issues are look into any means of improving the consenting process for fire.

Kind Regards,

Michael Belsham
 FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
 Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz | s 9(2)(a)
 Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Monday, 18 April 2016 2:29 p.m.
To: awoollan@ianz.co.nz; Mike Cox; Michael Belsham
Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

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adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an email from Wayne Roden of the council (see below) he has requested a significantly more information.

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My other concern is how this request for additional information is delaying the project, it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and the consent issue fire report has been issued by then. As the FEB is not a statutory document there is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

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- (iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

thank you in advance for your assistance.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DD: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz



Support Office, 80 Favona Road, Favona, Auckland, 2024.
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

Safety-its up to us.
PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS E-MAIL.

From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]
Sent: Wednesday, 6 April 2016 10:55 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a)

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as CP Eng with practice field being fire engineering. They must also be practicing in their area of expertise.
-
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-

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-

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Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI: ^{s 9(2)(a)}
Email: wayne.roden@ccc.govt.nz
Web: www.ccc.govt.nz

Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

Please consider the environment before printing this email

From: Michael Belsham
Sent: Thursday, 5 May 2016 9:39 a.m.
To: Michelle Cowper
Cc: Mike Cox; Chris Rutledge; Dave Gittings
Subject: RE: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Michelle,

Before we can advise further can you provide some information on the extent of the proposed work and any points of disagreement in the FEB.

Kind Regards,

Michael Belsham
 FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
 Ministry of Business, Innovation & Employment
 Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

**BUILDING
 PERFORMANCE**



MINISTRY OF BUSINESS,
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New Zealand Government

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Thursday, 5 May 2016 5:30 a.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings; graham.dicks@ipenz.org.nz; pbarnes@ianz.govt.nz; kateen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz
Subject: BCN/2016/2332 - Processing - Fire Design.

Good morning Michael,

thank you for your response. While I appreciate that reasonable grounds is the test the BCA has to make; however preliminary discussions and scoping documents arguably do not form reasonable grounds in terms of the Building Act

FEB, PN 22, etc are not statutory documents. Please indicate where in legislation they are required.

The BCA requiring sign off an acceptance of the FEB is unreasonable and is delaying the consent process. As a non-statutory document this is arguably not required by the Act and brings with it unknown time days and frustration before the formal design can start. These frustrations may arise from disagreements between engineers and/or other stakeholders such as NZFS requesting more than the Building Act provides for. Is the BCA allowed to request more than is required by the Building Act? What is the status of a FEB? What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We believe that the FEB is not a document on which the BCA issues consent on.

The BCA or TA issues a consent on the basis of the submitted fire report and not on the supporting or scoping documentation (FEB). It is therefore the fire report itself which is the only document legally required to be subject to review and ultimately the only document on which consent is issued.

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method? Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc.)

Fire engineers have been legally advised that they are not to rely on PS3's by contractors.

Thank you again for your consideration of this matter, the consenting for this projects has proved to be extremely challenging. The interpretation of the legislation under the Act appears to vary in Christchurch from other regions across New Zealand from a "customer" engagement perspective this is intimidating. CCC is a customer facing organisation and their lack of willingness to collaboratively resolve consenting matters is draconian at best and organisational bullying at the worst.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



Support Office, 80 Favona Road, Favona, Auckland, 2024.
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

Safety-its up to us.
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09:09 (23 hours ago)

Michael Belsham



to me, Mike, Dave, Chris



Michelle

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Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]

Sent: Monday, 18 April 2016 2:29 p.m.

To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham

Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

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Regards,

Michelle Cowper
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Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz

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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

Safety-its up to us.
PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS EMAIL.

From: Roden, Wayne [mailto:wayne.roden@ccc.govt.nz]
Sent: Wednesday, 6 April 2016 10:59 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a)

Subject: BCN/1016/2332 - Processing - Fire Design

Richard

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Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

s 9(2)(a)

DDI:

Email: wayne.roden@ccc.govt.nz

Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

Please consider the environment before printing this email

Mike Cox

From: Mike Cox
Sent: Thursday, 5 May 2016 9:48 a.m.
To: Michael Belsham; Chris Rutledge
Subject: FW: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

She makes a couple of valid points. Do we need to get more involved as in get people together in a room

From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Thursday, 5 May 2016 5:30 a.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings; graham.dicks@ipenz.org.nz; pbarnes@ianz.govt.nz; karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz
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Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc)?

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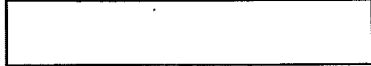
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Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



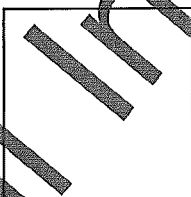
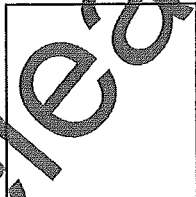
Support Office, 80 Favona Road, Favona, Auckland, 202
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand

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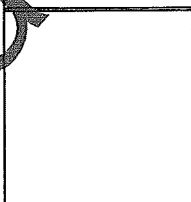
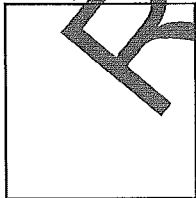
PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS E-MAIL

09:09 (23 hours ago)

Michael Belsham



to me, Mike, Dave, Chris



Michelle

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We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting Process. Here we hope to explore these issues and look into any means of improving the consenting process for fire.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz | s 9(2)(a)
Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Monday, 18 April 2016 2:29 p.m.
To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham
Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an email from Wayne Roden of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PN 22, co-ordination statements, PS4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project, it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and

the consent issue fire report has been issued by them. As the FEB is not a statutory document there is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to ;

- (i) confirm if these documents are required under statute,
- (ii) confirm if other councils are requiring same as a consistent nationwide approach,
- (iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

thank you in advance for your assistance.

Regards,

Michelle Cowper

Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz

Support Office, 80 Favona Road, Favona, Auckland, 2024.
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

Safety-its up to us.
PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS E-MAIL.

From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To:

Cc:

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as CEng with practice field being fire engineering. They must also be practicing in their area of expertise.
- The fire design including any calculations. This must be complete and final.
- Documentation complying with practice note 22.
- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
- A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS1 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.
- Confirmation that the emergency lighting designer will provide a PS4.
- A PS2 from the peer reviewer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS2 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- The peer reviewer will confirm that the requirements of the FEB have been satisfied.
- The peer reviewer will confirm that practice Note 22 has been followed. This includes co-ordination of all consent documents including Architectural, Structural, Mechanical, Electrical, Hydraulic, Fire etc – as applicable to fire. The confirmation letter should list the documents reviewed (including revision number).
- The peer reviewer will confirm that the proposed Compliance Schedule is correct.

- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.

For your ANARP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice verse benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI: s 9(2)(a)
Email: wayne.rodan@ccc.govt.nz
Web: www.ccc.govt.nz

Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8141

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s 9(2)(a)

s 9(2)(a)

From:
Sent: Thursday, 5 May 2016 11:12 a.m.
To: Michael Belsham
Cc: Roden, Wayne
Subject: RE: Countdown Moorhouse

Michael,

s 9(2)(a) has talked to me and clarified the intent of the consent - Countdown is to reduce their tenancy and create new shops which will be unit-titled. The design strategy assumes zero occupancy in all of those shops which will still be in the same firecell. This will cause problem to the future uses of those shops and this is why the FEB could not be agreed by the Council and by the NZFS.

Yours sincerely,

s 9(2)(a)

Fire Consultant

Building Control & City Rebuild Group

DDI: s 9(2)(a)

Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 53 Hereford Street, Christchurch
 PO Box 73013, Christchurch, 8154

From: s 9(2)(a)

Sent: Thursday, 5 May 2016 10:23 a.m.

To: Michael Belsham

Cc: Roden, Wayne

Subject: Countdown Moorhouse

Michael,

Thank you for the time on the phone earlier. This is the fire report submitted - without the FEB being agreed because all the areas shaded in purple are considered "outside of scope" and therefore not being even considered.

Countdown Moorhouse is already unit-titled so I'm not sure what she is trying to do here regarding "subdivision", but if you can get some idea about what's the exact assessment please let us know.

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s 9(2)(a)

From: Michael Belsham
Sent: Thursday, 5 May 2016 5:06 p.m.
To: Michelle Cowper
Cc: Mike Cox; Chris Rutledge; Dave Gittings
Subject: RE: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Michelle,

We have now had the opportunity to discuss this with CCC. I understand the works is an internal alteration.

The Council are concerned that the C/VM2 analysis does not address the whole building. S112 requires that the means of escape of the whole building comply with the code as near as is reasonable. It appears that the occupancy and escape from the new retail units and other areas outside the store has not been included in the analysis.

This highlights the importance of FEB process where these issues would be discussed and agreed before the detailed design is carried out. The FEB is required when using C/VM2.

Is VM is best approach for this alteration? Our guidance on existing buildings would recommend a gap analysis for this type of project.

Kind Regards,

Michael Belsham
 FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
 Ministry of Business, Innovation & Employment
 Level 5, 15 Stout Street, PO Box 1475, Wellington 6143

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Thursday, 5 May 2016 5:30 a.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings; graham.dicks@ipenz.org.nz; pbarnes@ianz.govt.nz; karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz
Subject: BCN/2016/2332 - Processing - Fire Design.

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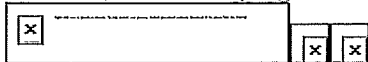
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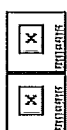


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09:09 (23 hours ago)

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Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz
Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

s 9(2)(a)

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Sent: Monday, 18 April 2016 2:29 p.m.
To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham
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From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To:

Cc:

s 9(2)(a)

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

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Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI:

s 9(2)(a)

Email: wayne.roden@ccc.govt.nz

Web: www.ccc.govt.nz

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Civic Offices, 53 Hereford Street, Christchurch

PO Box 73013, Christchurch, 8154

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Mike Cox

From: Michael Belsham
Sent: Thursday, 5 May 2016 5:07 p.m.
To: Mike Cox; Chris Rutledge; Dave Gittings
Subject: FW: Countdown Moorhouse [UNCLASSIFIED]
Attachments: ADD20164130 - Additional Information.pdf

FYI

Kind Regards,

Michael Belsham
 FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
 Ministry of Business, Innovation & Employment
 Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

**BUILDING
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Sent: Thursday, 5 May 2016 10:23 a.m.
To: Michael Belsham
Cc: Roden, Wayne
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Christchurch City Council

<http://www.ccc.govt.nz>

Released under the Official Information Act

Mike Cox

From: Mike Cox
Sent: Friday, 6 May 2016 8:43 a.m.
To: Michael Belsham; Chris Rutledge; Dave Gittings
Subject: RE: Countdown Moorhouse [UNCLASSIFIED]

Good example of the nzfs acting in a peer review capacity in a FEB that is totally worthless as what has been provided to them is a developed design. The system really is broken.

From: Michael Belsham
Sent: Thursday, 5 May 2016 5:07 p.m.
To: Mike Cox; Chris Rutledge; Dave Gittings
Subject: FW: Countdown Moorhouse [UNCLASSIFIED]

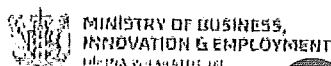
FYI

Kind Regards,

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 Ministry of Business, Innovation & Employment
 Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

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New Zealand Government

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From: s9(2)(a)
Sent: Thursday, 5 May 2016 10:23 a.m.
To: Michael Belsham
Cc: Roden, Wayne
Subject: Countdown Moorhouse

Michael,

Thanks for the time on the phone earlier. This is the fire report submitted - without the FEB being agreed because all the areas shaded in purple are considered "outside of scope" and therefore not being even considered.

Countdown Moorhouse is already unit-titled so I'm not sure what she is trying to do here regarding "subdivision", but if you can get some clue about what's the exact assessment please let us know.

Yours sincerely,

s 9(2)(a)

Fire Consultant
Building Control & City Rebuild Group

DDI: s 9(2)(a)

Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 53 Hereford Street, Christchurch.
PO Box 73013, Christchurch, 8154

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Christchurch City Council

<http://www.ccc.govt.nz>

Released under the Official Information Act

s 9(2)(a)

From: Michael Belsham
Sent: Tuesday, 10 May 2016 8:25 a.m.
To: Michelle Cowper
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Michelle

The reason I cannot answer your questions is that I am fire engineer not a lawyer and cannot answer questions about law and legislation. My role is technical queries about the documents. As per previous response you will need to take legal advise.

Regards,

Michael Belsham
Fire Engineer

On 10/05/2016, at 06:11, Michelle Cowper <michelle.cowper@colintdown.co.nz> wrote:

Good morning Michael,

Thank you for your response but unfortunately I still have unanswered questions, is there a reason that you will not answer them?

An FEB is not required by the Act and the BCA cannot demand one. A VM without an FEB is a specific design and still valid. So what is the *legal* status of the VM? And What is the *legal* status of the FEB" ?

Is the BCA entitled to ask for more than the Act, please confirm where in the legislation it states that the BCA can refuse to process in the absence of a FEB and they can ask for more than the Act.

A design does not have to follow the VM to show compliance, I believe that the Pn22 document that you refer to is now out of date.

I note there is no confirmed statement on the legality and the process time frames, liability, etc and if the BCA can encourage CPEng to break to Act.

The offer of a facilitation between PE and CCC is not an acceptable solution.

I again request that you address the matters that I have raised above.

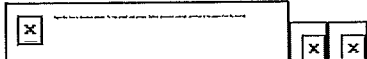
Regards,

Michelle Cowper

Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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On 9 May 2016 at 15:30, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

You have asked for specific responses to your questions and responses to each of your questions are provided below with some additional comments:

- Is the BCA allowed to request more than is required by the Building Act?

Simple answer is 'no'. However there is a distinction between process requirements (eg documentation should comply with PN22) and the fire safety measures required for compliance with the C clauses.

On the process side, the information and the form in which it is provided to a BCA is not detailed in the Act or the Code. Documents such as PN22, which is a joint IPENZ/MBIE document (s.175 guidance), are intended to assist BCAs and fire designers and to facilitate the consenting process.

It is 'custom and practise' in NZ to present a fire report to the BCA when applying for a building consent, this is not a statutory requirement and a fire report has no particular standing in the regulatory schema. It is simply a way designers and BCAs find effective to provide the information BCAs need to assess if there are 'reasonable grounds' to approve a building consent application.

- What is the status of a FEB?

The FEB forms part of the VM solution and is required to be completed when applying the Verification Method. As noted above, if the FEB process had been completed in this instance it could have facilitated the fire design development and consenting process.

- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We cannot comment on liability and you should seek independent legal advice if you are concerned about this.

- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?

As noted above, if you are applying the verification method the FEB is required to be completed, otherwise you have not fulfilled the requirements of the verification method.

- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

The FEB process should be completed before the verification method analysis is undertaken. If the FEB has not been completed we would expect the BCA to ask why is that the case. The best approach is to endeavour to resolve any substantive issues over the fire design directly between the parties. If that does not succeed either party can take the matter to a determination.

- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

A BCA can request reasonable information to assess whether on 'reasonable grounds' building code compliance has been demonstrated. Producer Statements are routinely required from fire engineers by BCAs including PS4. This is one of the areas we will be investigating under the Fire Programme in project 4, the Consenting Process.

Given you have asked these questions before in different ways and the answers above are consistent with the answers previously given its unlikely this will resolve the breakdown that has occurred between Countdown and CCC over fire design for the Moorehouse supermarket. We have previously offered to facilitate a discussion between you and CCC and I reiterate this offer.

Kind Regards,

Michael Belsham
FIRE ENGINEER

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Ministry of Business, Innovation & Employment

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<image001.jpg>

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Friday, 6 May 2016 4:17 p.m.
To: Michael Belsham
Cc: Chris Rutledge; graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Thank you Michael please respond to my queries raised below

Regards,

Michelle Cowper

Property Project Manager

Countdown NZ

E: Michelle.cowper@countdown.co.nz

M: 0275382673

On 6/05/2016, at 2:42 PM, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

Section 1.3 of C/VM2 states that the concept design shall be trailed by the FEB process. Figure 1.1 further describes the FEB as an integral process within the C/VM2 design and shows FEB report being completed before proceeding the VM2 evaluation. A requirement under Verification Method is therefore required under Section 22 Building Act

The FEB is designed to assist the VM process not hinder it as it is interest of all key stakeholders to agree the design approach before detailed design is undertaken which in this case would have highlighted the extent of the modelling required.

If you wish to discuss further, we could arrange a conference call.

Kind Regards,

Michael Belsham
FIRE ENGINEER

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Ministry of Business, Innovation & Employment

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<image001.jpg>

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 2:22 p.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings; graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Good afternoon,

Thanks for your time in considering this however the question is not one of FEB content but whether it is required in the first instance under the Building Act.

This is a procedural issue, rather than relating to a disagreement on a voluntary document.

What the legal status of the FEB including sign off of the FEB process under the Building Act?

Are CCE entitled to invite/instruct engineers to breach the statutory requirements under the C Eng Act or other legislation?

We would appreciate a direct and concise email response to our queries below surrounding the application process, liability etc.

Questions summarised from email below:

- Is the BCA allowed to request more than is required by the Building Act?
- What is the status of a FEB?
- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an

agreement document and therefore one would assume joint and several liability between all stakeholders)?

- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?
- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?
- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

Per your comment re 'Gap analysis' It would be highly unlikely that CCC would accept a 'gap analysis' approach.

If we were to take a 'Gap analysis' approach the argument would ensue as to how our engineer would determine what is 'reasonable and practical' (eg the addition of smoke detection, separation of back of house etc).

This would come down to demonstrating this via the Verification Method, as per MBIE Guidance.

I have re attached reports and drawings for reference

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz

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On 5 May 2016 at 17:05, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

We have now had the opportunity to discuss this with CCC. I understand the works is an internal alteration.

The Council are concerned that the C/VM2 analysis does not address the whole building. S112 requires that the means of escape of the whole building comply with the code as near as is reasonable. It appears that the occupancy and escape from the new retail units and other areas outside the store has not been included in the analysis.

This highlights the importance of FEB process where these issues would be discussed and agreed before the detailed design is carried out. The FEBs required when using C/VM2.

Is VM is best approach for this alteration? Our guidance on existing buildings would recommend a gap analysis for this type of project.

Kind Regards,

Michael Belsham
FIRE ENGINEER

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<image001.jpg>

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Thursday, 5 May 2016 5:30 a.m.

To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings; graham.dicks@ipenz.org.nz;
pbarnes@ianz.govt.nz; karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz
Subject: BCN/2016/2332 - Processing - Fire Design.

Good morning Michael,

thank you for your response. While I appreciate that reasonable grounds is the test the BCA has to make; however preliminary discussions and scoping documents arguably do not form reasonable grounds in terms of the Building Act

FEB, PN 22, etc are not statutory documents. Please indicate where in legislation they are required.

The BCA requiring sign off an acceptance of the FEB is unreasonable and is delaying the consent process. As a non-statutory document this is arguably not required by the Act and brings with it unknown time delays and frustration before the formal design can start. These frustrations may arise from disagreements between engineers and/or other stakeholders such as NZFS requesting more than the Building Act provides for. Is the BCA allowed to request more than is required by the Building Act? What is the status of a FEB? What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We believe that the FEB is not a document on which the BCA issues consent on.

The BCA or TA issues a consent on the basis of the submitted fire report and not on the supporting or scoping documentation (FEB). It is therefore the fire report itself which is the only document legally required to be subject to review and ultimately the only document on which consent is issued.

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method? Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their

competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc)?

Fire engineers have been legally advised that they are not to rely on PS3's by contractors.

Thank you again for your consideration on this matter, the consenting for this projects has proved to be extremely challenging. The interpretation of the legislation under the Act appears to vary in Christchurch from other regions across New Zealand from a "customer" engagement perspective this is intimidating. CCC is a customer facing organisation and their lack of willingness to collaboratively resolve consenting matters is draconian at best and organisational bullying at the worst.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 | DI: +64 9 255 2232 | MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz



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09:09 (23 hours ago)

Michael Beisham



to me, Mike, Dave, Chris



Michelle

Apologise for the delay however we have been unable to get hold of Wayne Roden to discuss this further.

I understand that Countdown Moorhouse is part of a larger shopping centre and the building work proposed is an alteration to an existing building. As such the BCA is tasked with making an assessment of the entire building to establish that it complies on a near as is reasonably practicable basis.

BCA's need to establish reasonable grounds to be able to issue a building consent, whether this relates to the building, as noted above, or the building work, i.e. the actual work proposed. Although FEB, PN22 and producer statements do not exist in legislation these are tools that BCA's commonly turn too in their quest to establish reasonable grounds. All the building act requires is that the information they initially require or subsequently request is "reasonable". As such the building act requires BCA's to turn their minds to the specifics of the situation to ensure that the tool/s they elect to use and therefore the information they request of the applicant is reasonable. We are unaware of the scope of the work and therefore cannot advise on the whether the requests are reasonable.

FEB is an integral part of C/VM2 and is a process required to be undertaken if C/VM2 is your route to compliance. As such the fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback. Those designers not wishing or willing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution, which just ensures that additional checks and measures are brought into play by the BCA.

We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting Process. Here we hope to explore these issues and look into any means of improving the consenting process for fire.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz

s 9(2)(a)

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]

Sent: Monday, 18 April 2016 2:29 p.m.

To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham

Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an email from Wayne Roden of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PN 22, co-ordination statements, PS4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project. It has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and

the consent issue fire report has been issued by then. As the FEB is not a statutory document there is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to ;

- (i) confirm if these documents are required under statute,
- (ii) confirm if other councils are requiring same as a consistent nationwide approach,
- (iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

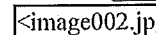
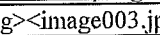
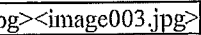
thank you in advance for your assistance.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 027 382 673

EMAIL: michelle.cowper@countdown.co.nz

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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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From: Roden, Wayne [mailto:Wayne.Roden@cc.govt.nz]
Sent: Wednesday, 6 April 2016 10:55 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a)

Subject: BCN/2016/2357 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as CPEng with practice field being fire engineering. They must also be practicing in their area of expertise.
- The fire design including any calculations. This must be complete and final.

- Documentation complying with practice note 22.
- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
- A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS1 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.
- Confirmation that the emergency lighting designer will provide a PS4.
- A PS2 from the peer reviewer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS2 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- The peer reviewer will confirm that the requirements of the FEB have been satisfied.
- The peer reviewer will confirm that practice Note 22 has been followed. This includes co-ordination of all consent documents including Architectural, structural, Mechanical, Electrical, Hydraulic, Fire etc – as applicable to fire. The confirmation letter should list the documents reviewed (including revision number).
- The peer reviewer will confirm that the proposed Compliance Schedule is correct.
- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.

For your ANARP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice verse benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI: s 9(2)(a)
Email: wayne.roden@ccc.govt.nz
Web: www.ccc.govt.nz

Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

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Ben Coley

From: Michael Belsham
Sent: Tuesday, 10 May 2016 11:09 a.m.
To: [Redacted]
Subject: FW: FW: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Hi [Redacted]

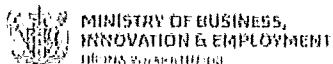
[Redacted]

Kind Regards,

Michael Belsham
FIRE ENGINEER

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Tuesday, 10 May 2016 6:11 a.m.
To: Michael Belsham
Cc: Chris Rutledge
Subject: Re: FW: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Good morning Michael,

Thank you for your response but unfortunately I still have unanswered questions, is there a reason that you will not answer them?

An FEB is not required by the Act and the BCA cannot demand one. A VM without an FEB is a specific design and still valid. So "what is the *legal* status of the VM? And What is the *legal* status of the FEB" ?

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I note there is no confirmed statement on the legality and the process time frames, liability, etc and if the BCA can encourage CPEng to break to Act.


The offer of a facilitation between PE and CCC is not an acceptable solution.

I again request that you address the matters that I have raised above.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2233 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz


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On 9 May 2016 at 12:30, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

You have asked for specific responses to your questions and responses to each of your questions are provided below with some additional comments:

- Is the BCA allowed to request more than is required by the Building Act?

Simple answer is 'no'. However there is a distinction between process requirements (eg documentation should comply with PN22) and the fire safety measures required for compliance with the C clauses.

On the process side, the information and the form in which it is provided to a BCA is not detailed in the Act or the Code. Documents such as PN22, which is a joint IPENZ/MBIE document (s.175 guidance), are intended to assist BCAs and fire designers and to facilitate the consenting process.

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The FEB forms part of the VM solution and is required to be completed when applying the Verification Method. As noted above if the FEB process had been completed in this instance it could have facilitated the fire design development and consenting process.

- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We cannot comment on liability and you should seek independent legal advice if you are concerned about this.

- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?

As noted above, if you are applying the verification method the FEB is required to be completed, otherwise you have not fulfilled the requirements of the verification method.

- Can they refuse to process a consent on the basis that a FEB is not signed (if despite there being no statutory process or timeframe for this under the Act)?

The FEB process should be completed before the verification method analysis is undertaken. If the FEB has not been completed we would expect the BCA to ask why is that the case. The best approach is to endeavour to resolve any substantive issues over the fire design directly between the parties. If that does not succeed either party can take the matter to a determination.

- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

A BCA can request reasonable information to assess whether on 'reasonable grounds' building code compliance has been demonstrated. Producer Statements are routinely required from fire engineers by BCAs including PS4. This is one of the areas we will be investigating under the Fire Programme in project 4, the Consenting Process.

Given you have asked these questions before in different ways and the answers above are consistent with the answers previously given its unlikely this will resolve the breakdown that has occurred between Countdown and CCC over fire design for the Moorehouse supermarket. We have previously offered to facilitate a discussion between you and CCC and I reiterate this offer.

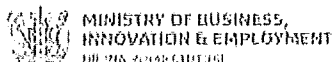
Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

BUILDING PERFORMANCE



New Zealand Government

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 4:17 p.m.
To: Michael Belsham
Cc: Chris Rutledge; graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Thank you Michael please respond to my queries raised below

Regards,

Michelle Cowper
Property Project Manager
Countdown NZ

E: Michelle.cowper@countdown.co.nz

M: 0275382673

On 6/05/2016, at 2:42 PM, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

Section 1.3 of C/VM2 states that the concept design shall be trailed by the FEB process. Figure 1.1 further describes the FEB as an integral process within the C/VM2 design and shows FEB report being completed before proceeding the VM2 evaluation. A requirement under Verification Method is therefore required under Section 22 Building Act.

The FEB is designed to assist the VM process not hinder it as it is interest of all key stakeholders to agree the design approach before detailed design is undertaken which in this case would have highlighted the extent of the modelling required.

If you wish to discuss further we could arrange a conference call.

Kind Regards,

Michael Belsham
FIRE ENGINEER

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Ministry of Business, Innovation & Employment

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<image001.jpg>

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 2:22 p.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings; graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Good afternoon,

Thanks for your time in considering this however the question is not one of FEB content but whether it is required in the first instance under the Building Act.

This is a procedural issue, rather than relating to a disagreement on a voluntary document.

What the legal status of the FEB including sign off of the FEB process under the Building Act?

Are CCC entitled to invite/instruct engineers to breach the statutory requirements under the CPEng Act or other legislation?

We would appreciate a direct and concise email response to our queries below surrounding the application process, liability etc.

Questions summarised from email below:

- Is the BCA allowed to request more than is required by the Building Act?
- What is the status of a FEB?
- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?
- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?
- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?
- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

Per your comment re 'gap analysis' It would be highly unlikely that CCC would accept a 'gap analysis' approach.

If we were to take a 'Gap analysis' approach the argument would ensue as to how our engineer would determine what is reasonable and practicable' (eg the addition of smoke detection, separation of back of house etc).

This would come down to demonstrating this via the Verification Method, as per MBIE Guidance.

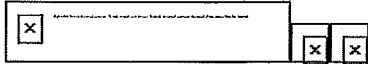
I have re attached reports and drawings for reference

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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On 5 May 2016 at 17:05, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

We have now had the opportunity to discuss this with CCC. I understand the works is an internal alteration.

The Council are concerned that the C/VM2 analysis does not address the whole building. S112 requires that the means of escape of the whole building comply with the code as near as is reasonable. It appears that the occupancy and escape from the new retail units and other areas outside the store has not been included in the analysis.

This highlights the importance of FEB process where these issues would be discussed and agreed before the detailed design is carried out. The FEB is required when using C/VM2.

Is VM2 the best approach for this alteration? Our guidance on existing buildings would recommend a gap analysis for this type of project.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Thursday, 5 May 2016 5:30 a.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings; graham.dick@ipanz.org.nz; pbarnes@ianz.govt.nz; karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz
Subject: BCN/2016/2332 - Processing - Fire Design

Good morning Michael,

thank you for your response. While I appreciate that reasonable grounds is the test the BCA has to make; however preliminary discussions and stopping documents arguably do not form reasonable grounds in terms of the Building Act

FEB, PM22, etc are not statutory documents. Please indicate where in legislation they are required.

The BCA requiring sign off an acceptance of the FEB is unreasonable and is delaying the consent process. As a non-statutory document this is arguably not required by the Act and brings with it unknown time days and frustration before the formal design can start. These frustrations may arise from disagreements between engineers and/or other stakeholders such as NZFS requesting more than the Building Act provides for. Is the BCA allowed to request more than is required by the Building Act? What is the status of a FEB? What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders).

We believe that the FEB is not a document on which the BCA issues consent on.

The BCA or TA issues a consent on the basis of the submitted fire report and not on the supporting or scoping documentation (FEB). It is therefore the fire report itself which is the only document legally required to be subject to review and ultimately the only document on which consent is issued.

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method? Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc)?

Fire engineers have been legally advised that they are not to rely on PS3's sub connectors.

Thank you again for your consideration on this matter, the consenting for this projects has proved to be extremely challenging. The interpretation of the legislation under the Act appears to vary in Christchurch from other regions across New Zealand from a "customer" engagement perspective this is intimidating. CCC is a customer facing organisation and their lack of willingness to collaboratively resolve consenting matters is draconian at best and organisational bullying at the worst.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 271 2788 DDL: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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Michael Belsham

09:09 (23 hours ago)





to me, Mike, Dave, Chris



Michelle

Apologise for the delay however we have been unable to get hold of Wayne Roden to discuss this further.

I understand that Countdown Moorhouse is part of a larger shopping centre and the building work proposed is an alteration to an existing building. As such the BCA is tasked with making an assessment of the entire building to establish that it complies in a near as is reasonably practicable basis.

BCA's need to establish reasonable grounds to be able to issue a building consent, whether this relates to the building, as noted above, or the building work, i.e. the actual work proposed. Although FEB, PN22 and producer statements do not exist in legislation these are tools that BCA's commonly turn too in their quest to establish reasonable grounds. All the building act requires is that the information they initially require or subsequently request is "reasonable". As such the building act requires BCA's to turn their minds to the specifics of the situation to ensure that the tool/s they elect to use and therefore the information they request of the applicant is reasonable. We are unaware of the scope of the work and therefore cannot advise on the whether the requests are reasonable.

FEB is an integral part of C/VM2 and is a process required to be undertaken if C/VM2 is your route to compliance. As such the fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback. Those designers not wishing or willing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution, which just ensures that additional checks and measures are brought into play by the BCA.

We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting Process. Here we hope to explore these issues and look into any means of improving the consenting process for fire.

Kind Regards

Michael Belsham
FIRE ENGINEER

michael.belsham@mbie.govt.nz

s 9(2)(a)

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Monday, 18 April 2016 2:29 p.m.
To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham
Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the canopy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an email from Wayne Roden of the council (see below) he has requested a significantly more information

Whilst documents like the FEB, PN 22, co-ordination statements, PS4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and

the consent issue fire report has been issued by then. As the FEB is not a statutory document there is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to ;

(i) confirm if these documents are required under statute,

(ii) confirm if other councils are requiring same as a consistent nationwide approach,

(iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

thank you in advance for your assistance.

Regards,

Michelle Cowper

Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 9 275 382 673

EMAIL: michelle.cowper@countdown.co.nz

<image002.jpg><image003.jpg><image003.jpg>

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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand

Safety-its up to us.

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From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To: s 9(2)(a)

Cc: s 9(2)(a)

Subject: BCN/2016/232 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.

- The peer reviewer must be on the IPENZ register as CPEng with practice field being fire engineering. They must also be practicing in their area of expertise.
- The fire design including any calculations. This must be complete and final.
- Documentation complying with practice note 22.
- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
- A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS1 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.
- Confirmation that the emergency lighting designer will provide a PS4.
- A PS2 from the peer reviewer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS2 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- The peer reviewer will confirm that the requirements of the FEB have been satisfied.
- The peer reviewer will confirm that practice Note 22 has been followed. This includes co-ordination of all consent documents including Architectural, Structural, Mechanical, Electrical, Hydraulic, Fire etc – as applicable to fire. The confirmation letter should list the documents reviewed (including revision numbers).
- The peer reviewer will confirm that the proposed Compliance Schedule is correct.
- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building Consent. Consultation with Council may be required.

For your AM/RP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice verse benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI: s 9(2)(a)

Email: wayne.roden@ccc.govt.nz

Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

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s 9(2)(a)

From: Michael Belsham
Sent: Tuesday, 10 May 2016 3:33 p.m.
To: s 9(2)(a)
Subject: FW: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

s 9(2)(a)

Do have a process of escalating issues to the legal team?

Kind Regards,

Michael Belsham
 FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
 Ministry of Business, Innovation & Employment
 Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

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MINISTRY OF BUSINESS,
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 DE PAHA Kaitiaki Take Kōwhiri

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Tuesday, 10 May 2016 3:20 p.m.
To: Michael Belsham
Cc: Chris Rutledge
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Good afternoon Micheal,
 Thank you for your response
 please confirm how the Legal team at MBIE and the Policy advisors at MBIE view this matter

Regards,

Michelle Cowper
 Property Project Manager
 Countdown NZ

E: Michelle.cowper@countdown.co.nz
 M: 0275382673

On 10/05/2016, at 8:24 AM, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle

The reason I cannot answer your questions is that I am fire engineer not a lawyer and cannot answer questions about law and legislation. My role is technical queries about the documents. As per previous response you will need to take legal advise.

Regards,

Michael Belsham
Fire Engineer

On 10/05/2016, at 06:11, Michelle Cowper <michelle.cowper@countdown.co.nz> wrote:

Good morning Michael,

Thank you for your response but unfortunately still have unanswered questions, is there a reason that you will not answer them?

An FEB is not required by the Act and the BCA cannot demand one. A VM without an FEB is a specific design and still valid. So "what is the *legal* status of the VM? And What is the *legal* status of the FEB" ?

Is the BCA entitled to ask for more than the Act, please confirm where in the legislation it states that the BCA can refuse to process in the absence of a FEB and they can ask for more than the Act.

A design does not have to follow the VM to show compliance, I believe that the Pnz2 document that you refer to is now out of date.

I note there is no confirmed statement on the legality and the process time frames, liability, etc and if the BCA can encourage CPEng to break to Act.

The offer of a facilitation between PE and CCC is not an acceptable solution.

I again request that you address the matters that I have raised above.

Regards,

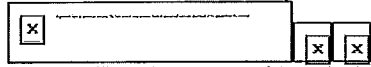
Michelle Cowper

Project Manager

Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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On 9 May 2016 at 15:30, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

You have asked for specific responses to your questions and responses to each of your questions are provided below with some additional comments:

- Is the BCA allowed to request more than is required by the Building Act?

Simple answer is 'no'. However there is a distinction between process requirements (eg documentation should comply with PN22) and the fire safety measures required for compliance with the C clauses.

On the process side, the information and the form in which it is provided to a BCA is not detailed in the Act or the Code. Documents such as PN22, which is a joint IPENZ/MBIE document (s.175 guidance), are intended to assist BCAs and fire designers and to facilitate the consenting process.

It is 'custom and practise' in NZ to present a fire report to the BCA when applying for a building consent, this is not a statutory requirement and a fire report has no particular standing in the regulatory scheme. It is simply a way designers and BCAs find effective to provide the information BCAs need to assess if there are 'reasonable grounds' to approve a building consent application.

- What is the status of a FEB?

The FEB forms part of the VM solution and is required to be completed when applying the Verification Method. As noted above if the FEB process had been completed in this instance it could have facilitated the fire design development and consenting process.

- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We cannot comment on liability and you should seek independent legal advice if you are concerned about this.

- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?

As noted above, if you are applying the verification method the FEB is required to be completed, otherwise you have not fulfilled the requirements of the verification method.

- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

The FEB process should be completed before the verification method analysis is undertaken. If the FEB has not been completed we would expect the BCA to ask why is that the case. The best approach is to endeavour to resolve any substantive issues over the fire design directly between the parties. If that does not succeed either party can take the matter to a determination.

- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

A BCA can request reasonable information to assess whether on 'reasonable grounds' building code compliance has been demonstrated. Producer Statements are routinely required from fire engineers by BCAs including PS4. This is one of the areas we will be investigating under the Fire Programme in project 4, the Consenting Process.

Given you have asked these questions before in different ways and the answers above are consistent with the answers previously given, it's unlikely this will resolve the breakdown that has occurred between Countdown and CCC over fire design for the Moorehouse supermarket. We have previously offered to facilitate a discussion between you and CCC and I reiterate this offer.

Kind Regards

Michael Belshan
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 4:17 p.m.
To: Michael Belsham
Cc: Chris Rutledge; graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Thank you Michael please respond to my queries raised below

Regards,

Michelle Cowper

Property Project Manager

Countdown NZ

E: Michelle.cowper@countdown.co.nz

M: 0275382673

On 6/05/2016, at 2:42 PM, Michael Belsham
<Michael.Belsham@mbic.govt.nz> wrote:

Michelle,

Section 1.3 of C/VM2 states that the concept design shall be trailed by the FEB process. Figure 1.1 further describes the FEB as an integral process within the C/VM2 design and shows FEB report being completed before proceeding the VM2 evaluation. A requirement under Verification Method is therefore required under Section 22 Building Act.

The FEB is designed to assist the VM process not hinder it as it is of interest of all key stakeholders to agree the design approach before detailed design is undertaken which in this case would have highlighted the extent of the modelling required.

If you wish to discuss further we could arrange a conference call.

Kind Regards,

Michael Belsham
FIRE ENGINEER

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 2:22 p.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Giddings;
graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design.
[UNCLASSIFIED]

Good afternoon,

Thanks for your time in considering this however the question is not one of FEB content but whether it is required in the first instance under the Building Act.

This is a procedural issue, rather than relating to a disagreement on a voluntary document.

What is the legal status of the FEB including sign off of the FEB process under the Building Act?

Are CCC entitled to invite/instruct engineers to breach the statutory requirements under the CPEng Act or other legislation?

We would appreciate a direct and concise email response to our queries below surrounding the application process, liability etc.

Questions summarised from email below:

- Is the BCA allowed to request more than is required by the Building Act?
- What is the status of a FEB?
- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?
- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?
- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?
- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

For your comment re 'gap analysis' It would be highly unlikely that CCC would accept a 'gap analysis' approach.

If we were to take a 'Gap analysis' approach the argument would ensue as to how our engineer would determine what is reasonable and practicable (eg the addition of smoke detection, separation of back of house etc).

This would come down to demonstrating this via the Verification Method, as per MBIE Guidance.

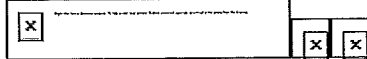
I have re attached reports and drawings for reference

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz



Support Office, 80 Favona Road, Favona, Auckland, 2024.
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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On 5 May 2016 at 17:05, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

We have now had the opportunity to discuss this with CCC. I understand the works is an internal alteration.

The council are concerned that the C/VM2 analysis does not address the whole building. S112 requires that the means of escape of the whole building comply with the code as near as is reasonable. It appears that the occupancy and escape from the new retail units and other areas outside the store has not been included in the analysis.

This highlights the importance of FEB process where these issues would be discussed and agreed before the detailed design is carried out. The FEB is required when using C/VM2.

Is VM is best approach for this alteration? Our guidance on existing buildings would recommend a gap analysis for this type of project.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources &
Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Thursday, 5 May 2016 5:30 a.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings;
graham.dicks@ipenz.org.nz; pbarnes@ianz.govt.nz;
karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz
Subject: BCN/2016/2332 - Processing - Fire Design.

Good morning Michael,

thank you for your response. While I appreciate that reasonable grounds is the test the BCA has to make; however preliminary discussions and scoping documents arguably do not form reasonable grounds in terms of the Building Act

FEB, PN 22, etc are not statutory documents. Please indicate where in legislation they are required.

The BCA requiring sign off an acceptance of the FEB is unreasonable and is delaying the consent process. As a non-statutory document this is arguably not required by the Act and brings with it unknown time days and frustration before the formal design can start. These frustrations may arise from disagreements between engineers and/or other stakeholders such as NZFS requesting more than the Building Act provides for. Is the BCA allowed to request more than is required by the Building Act? What is the status of a FEB? What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement

document and therefore one would assume joint and several liability between all stakeholders)?

We believe that the FEB is not a document on which the BCA issues consent on.

The BCA or TA issues a consent on the basis of the submitted fire report and not on the supporting or scoping documentation (FEB). It is therefore the fire report itself which is the only document legally required to be subject to review and ultimately the only document on which consent is issued.

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method? Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or time frame for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc)?

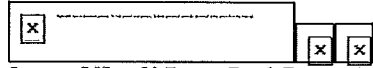
Fire engineers have been legally advised that they are not to rely on PS3's by contractors.

Thank you again for your consideration on this matter, the consenting for this projects has proved to be extremely challenging. The interpretation of the legislation under the Act appears to vary in Christchurch from other regions across New Zealand from a "customer" engagement perspective this is intimidating. CCC is a customer facing organisation and their lack of willingness to collaboratively resolve consenting matters is draconian at best and organisational bullying at the worst.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz



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09:09 (23 hours ago)

Michael Belsham



to me, Mike, Dave, Chris



Michelle

Apologise for the delay however we have been unable to get hold of Wayne Roden to discuss this further.

I understand that Countdown Moohouse is part of a larger shopping centre and the building work proposed is an alteration to an existing building. As such the BCA is tasked with making an assessment of the entire building to establish that it complies on a near as is reasonably practicable basis.

BCA's need to establish reasonable grounds to be able to issue a building consent, whether this relates to the building, as noted above, or the building work, i.e. the actual work proposed. Although FEB, RN22 and producer statements do not exist in legislation these are tools that BCA's commonly turn too in their quest to establish reasonable grounds. All the building act requires is that the information they initially require or subsequently request is "reasonable". As such the building act requires BCA's to turn their minds to the specifics of the situation to ensure that the tool/s they elect to use and therefore the information they request of the applicant is reasonable. We are unaware of the scope of the work and therefore cannot advise on the whether the requests are reasonable.

FEB is an integral part of C/VM2 and is a process required to be undertaken if C/VM2 is your route to compliance. As such the fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback. Those designers not wishing or willing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution, which just ensures that additional checks and measures are brought into play by the BCA.

We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting Process. Here we hope to explore these issues and look into any means of improving the consenting process for fire.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources &
Markets
Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Monday, 18 April 2016 2:29 p.m.
To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham
Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an email from Wayne Roden of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PN 22, co-ordination statements, PS4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project, it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and

the consent issue fire report has been issued by then As the FEB is not a statutory document. There is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to:

- (i) confirm if these documents are required under statute,
- (ii) confirm if other councils are requiring same as a consistent nationwide approach,
- (iii) confirm the validity of Christchurch's request.

Thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

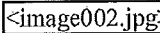

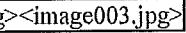
thank you in advance for your assistance.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 **DDI:** +64 9 255 2232 **MOB:** +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz

Support Office, 80 Favona Road, Favona, Auckland, 2024.
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To: s 9(2)(a)

Cc: s 9(2)(b)

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as CPEng with practice field being fire engineering. They must also be practicing in their area of expertise.
- The fire design including any calculations. This must be complete and final.
- Documentation complying with practice note 22.
- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.

- A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS1 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.
- Confirmation that the emergency lighting designer will provide a PS4.
- A PS2 from the peer reviewer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS2 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- The peer reviewer will confirm that the requirements of the FEB have been satisfied.
- The peer reviewer will confirm that practice Note 22 has been followed. This includes co-ordination of all consent documents including Architectural, Structural, Mechanical, Electrical, Hydraulic, Fire etc. as applicable to fire. The confirmation letter should list the documents reviewed (including revision number).
- The peer reviewer will confirm that the proposed Compliance Schedule is correct.
- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.

For your ANAR assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice verse benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI: ^{s 9(2)(a)}
Email: wayne.roden@ccc.govt.nz
Web: www.ccc.govt.nz

Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch 8154

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From: Chris Rutledge
Sent: Wednesday, 11 May 2016 9:00 a.m.
To: Michael Belsham; David McGuigan; Mike Cox; Iain Feist; Dave Gittings
Cc: Mike Stannard
Subject: Moorehouse Countdown Christchurch

Michael, Dave M, Mike, Iain, Dave G

MBIE is being drawn into an increasingly acrimonious dispute between Christchurch City and Countdown over the fire design for alterations to the Moorehouse Countdown. Please see the email chain below.

There is a breakdown in the relationship between Countdown and Christchurch City and the parties are at an impasse. From the information we have, the origin of the dispute is a disagreement over aspects of the fire design in respect of ANARP. The arguments over the legal status of the FEB, liability and the assertion engineers are being required to act contrary to the Building Act (see below) are not the real issue. This dispute can only be resolved through dialogue between the parties. Our previous offer to facilitate a meeting between Countdown and Christchurch City was roundly rejected by Michelle. The alternative is Countdown can take a determination (although on what basis isn't clear).

We should make the offer again to facilitate a meeting between Countdown and Christchurch City, if Michelle rejects this then we should escalate this to Countdown senior management. Gideon Thomas, General Manager Finance and Administration, is responsible for Property and is the appropriate person to escalate this to.

Will you please review the proposed response to Michelle below and let me have your feedback.

Regards
 Chris

Michelle,

We have endeavoured to answer your questions, in your latest email (10/5/16) you have repeated questions we have already answered for example, 'is a BCA entitled to ask for more than the Act') and we cannot see any efficacy in continuing with this approach. We have been contacted by Christchurch City Council, as with any dispute there are two sides and clearly your questions arise from a difference in view between Countdown and Christchurch City that originate from specific aspects of the fire design for the alteration to the Moorehouse Countdown. The only effective way to reach a resolution on the matters at issue is through dialogue between Countdown and Christchurch City Council. We have previously offered to facilitate a meeting between Countdown and City Council and that offer remains open for you to take up. I am copying this email to Christchurch City so that the Council is aware we have offered to facilitate a meeting to endeavour to resolve the issues with the fire design for the alterations to the Moorehouse Countdown.

Regards
 Chris Rutledge
 Fire Programme Lead

From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Tuesday, 10 May 2016 3:20 p.m.
To: Michael Belsham
Cc: Chris Rutledge
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Good afternoon Micheal,
Thank you for your response
please confirm how the Legal team at MBIE and the Policy advisors at MBIE view this matter

Regards,

Michelle Cowper
Property Project Manager
Countdown NZ

E: Michelle.cowper@countdown.co.nz
M: 0275382673

On 10/05/2016, at 8:24 AM, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle

The reason I cannot answer your questions is that I am a fire engineer not a lawyer and cannot answer questions about law and legislation. My role is technical queries about the documents. As per previous response you will need to take legal advise.

Regards,

Michael Belsham
Fire Engineer

On 10/05/2016, at 06:11, Michelle Cowper <michelle.cowper@countdown.co.nz> wrote:

Good morning Michael.

Thank you for your response but unfortunately I still have unanswered questions, is there a reason that you will not answer them?

An FEB is not required by the Act and the BCA cannot demand one. A VM without an FEB is a specific design and still valid. So "what is the **legal** status of the VM? And what is the **legal** status of the FEB" ?

Is the BCA entitled to ask for more than the Act, please confirm where in the legislation it states that the BCA can refuse to process in the absence of a FEB and they can ask for more than the Act.

A design does not have to follow the VM to show compliance, I believe that the Pn22 document that you refer to is now out of date.

I note there is no confirmed statement on the legality and the process time frames, liability, etc and if the BCA can encourage CPEng to break to Act.

The offer of a facilitation between PE and CCC is not an acceptable solution.

I again request that you address the matters that I have raised above.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 582 673
EMAIL: michelle.cowper@countdown.co.nz



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On 9 May 2016 at 15:30, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

You have asked for specific responses to your questions and responses to each of your questions are provided below with some additional comments:

- Is the BCA allowed to request more than is required by the Building Act?

Simple answer is 'no'. However there is a distinction between process requirements (eg documentation should comply with PN22) and the fire safety measures required for compliance with the clauses.

On the process side, the information and the form in which it is provided to a BCA is not detailed in the Act or the Code. Documents such as PN22, which is a joint IPENZ/MBIE document (s.175 guidance), are intended to assist BCAs and fire designers and to facilitate the consenting process.

It is 'custom and practise' in NZ to present a fire report to the BCA when applying for a building consent, this is not a statutory requirement and a fire report has no particular standing in the regulatory schema. It is simply a way designers and BCAs find effective to provide the information BCAs need to assess if there are 'reasonable grounds' to approve a building consent application.

- What is the status of a FEB?

The FEB forms part of the VM solution and is required to be completed when applying the Verification Method. As noted above if the FEB process had been

completed in this instance it could have facilitated the fire design development and consenting process.

- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We cannot comment on liability and you should seek independent legal advice if you are concerned about this.

- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?

As noted above, if you are applying the verification method the FEB is required to be completed, otherwise you have not fulfilled the requirements of the verification method.

- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

The FEB process should be completed before the verification method analysis is undertaken. If the FEB has not been completed we would expect the BCA to ask why is that the case. The best approach is to endeavour to resolve any substantive issues over the fire design directly between the parties. If that does not succeed either party can take the matter to a determination.

- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

A BCA can request reasonable information to assess whether on 'reasonable grounds' building code compliance has been demonstrated. Producer Statements are routinely required from fire engineers by BCAs including PS4. This is one of the areas we will be investigating under the Fire Programme in project 4, the Consenting Process.

Given you have asked these questions before in different ways and the answers above are consistent with the answers previously given its unlikely this will resolve the breakdown that has occurred between Countdown and CCC over fire design for the Mearhouse supermarket. We have previously offered to facilitate a discussion between you and CCC and I reiterate this offer.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 4:17 p.m.
To: Michael Belsham
Cc: Chris Rutledge; graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Thank you Michael please respond to my queries raised below

Regards,

Michelle Cowper
Property Project Manager
Countdown NZ

E: Michelle.cowper@countdown.co.nz

M: 0275382673

On 5/05/2016, at 2:42 PM, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

Section 1.3 of C/VM2 states that the concept design shall be trailed by the FEB process. Figure 1.1 further describes the FEB as an integral process within the C/VM2 design and shows FEB report being completed before proceeding the VM2 evaluation. A

requirement under Verification Method is therefore required under Section 22 Building Act.

The FEB is designed to assist the VM process not hinder it as it is interest of all key stakeholders to agree the design approach before detailed design is undertaken which in this case would have highlighted the extent of the modelling required.

If you wish to discuss further we could arrange a conference call

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources &
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Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Friday, 5 May 2016 2:22 p.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings;
graham.dicks@penz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design.
[UNCLASSIFIED]

Good afternoon,

Thanks for your time in considering this however the question is not one of FEB content but whether it is required in the first instance under the Building Act.

This is a procedural issue, rather than relating to a disagreement on a voluntary document.

What the legal status of the FEB including sign off of the FEB process under the Building Act?

Are CCC entitled to invite/instruct engineers to breach the statutory requirements under the CPEng Act or other legislation?

We would appreciate a direct and concise email response to our queries below surrounding the application process, liability etc.

Questions summarised from email below:

- Is the BCA allowed to request more than is required by the Building Act?
- What is the status of a FEB?
- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?
- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?
- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?
- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

Per you comment re 'Gap analysis' It would be highly unlikely that CCC would accept a 'gap analysis' approach.

If we were to take a 'Gap analysis' approach the argument would ensue as to how our engineer would determine what is reasonable and practicable' (eg the addition of smoke detection, separation of back of house etc).

This would come down to demonstrating this via the Verification Method, as per MBIE Guidance.

I have re attached reports and drawings for reference

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2738 FAX: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz

Support Office: 80 Favona Road, Favona, Auckland, 2022.
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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On 5 May 2016 at 17:05, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

We have now had the opportunity to discuss this with CCC. I understand the works is an internal alteration.

The Council are concerned that the C/VM2 analysis does not address the whole building. S112 requires that the means of escape of the whole building comply with the code as near as is reasonable. It appears that the occupancy and escape from the

new retail units and other areas outside the store has not been included in the analysis.

This highlights the importance of FEB process where these issues would be discussed and agreed before the detailed design is carried out. The FEB is required when using C/VM2.

Is VM is best approach for this alteration? Our guidance on existing buildings would recommend a gap analysis for this type of project.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch, Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, P.O. Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]

Sent: Thursday, 7 May 2016 5:30 a.m.

To: Michael Belsham

Cc: Mike Coy; Chris Rutledge; Dave Gittings;
graham.dicks@ipenz.org.nz; pbarnes@ianz.govt.nz;
karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz

Subject: BCN/2016/2332 - Processing - Fire Design.

Good morning Michael,

thank you for your response. While I appreciate that reasonable grounds is the test the BCA has to make; however preliminary discussions and scoping documents arguably do not form reasonable grounds in terms of the Building Act

FEB, PN 22, etc are not statutory documents. Please indicate where in legislation they are required.

The BCA requiring sign off an acceptance of the FEB is unreasonable and is delaying the consent process. As a non-statutory document this is arguably not required by the Act and brings with it unknown time days and frustration before the formal design can start. These frustrations may arise from disagreements between engineers and/or other stakeholders such as NZFS requesting more than the Building Act provides for. Is the BCA allowed to request more than is required by the Building Act? What is the status of a FEB? What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We believe that the FEB is not a document on which the BCA issues consent on.

The BCA or TA issues a consent on the basis of the submitted fire report and not on the supporting or scoping documentation (FEB). It is therefore the fire report itself which is the only document legally required to be subject to review and ultimately the only document on which consent is issued.

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method? Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc)?

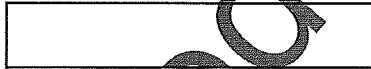
Fire engineers have been legally advised that they are not to rely on PS3's by contractors.

Thank you again for your consideration on this matter, the consenting for this projects has proved to be extremely challenging. The interpretation of the legislation under the Act appears to vary in Christchurch from other regions across New Zealand from a "customer" engagement perspective this is intimidating. CCC is a customer facing organisation and their lack of willingness to collaboratively resolve consenting matters is draconian at best and organisational bullying at the worst.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 882 573
EMAIL: michelle.cowper@countdown.co.nz

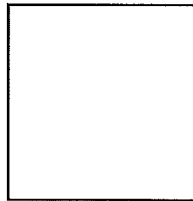
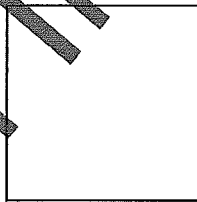


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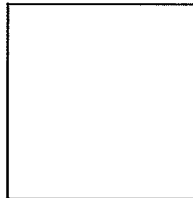
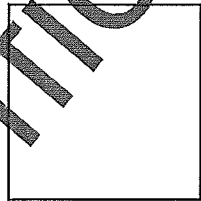
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09:09 (28 hours ago)

Michael Belsham



to me, Mike, Dave, Chris



Michelle

Apologise for the delay however we have been unable to get hold of Wayne Roden to discuss this further.

I understand that Countdown Moorhouse is part of a larger shopping centre and the building work proposed is an alteration to an existing building. As such the BCA is tasked with making an assessment of the entire building to establish that it complies on a near as is reasonably practicable basis.

BCA's need to establish reasonable grounds to be able to issue a building consent, whether this relates to the building, as noted above, or the building work, i.e. the actual work proposed. Although FEB, PN22 and producer statements do not exist in legislation these are tools that BCA's commonly turn too in their quest to establish reasonable grounds. All the building act requires is that the information they initially require or subsequently request is "reasonable". As such the building act requires BCA's to turn their minds to the specifics of the situation to ensure that the tool/s they elect to use and therefore the information they request of the applicant is reasonable. We are unaware of the scope of the work and therefore cannot advise on the whether the requests are reasonable.

FEB is an integral part of C/VM2 and is a process required to be undertaken if C/VM2 is your route to compliance. As such the fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback. Those designers not wishing or willing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution, which just ensures that additional checks and measures are brought into play by the BCA.

We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting Process where we hope to explore these issues and look into any means of improving the consenting process for fire.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources &
Markets
Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz

s 9(2)(a)

s 9(2)(a)

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]

Sent: Monday, 18 April 2016 2:29 p.m.

To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham

Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an e mail from Wayne Roden of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PN 22, co-ordination statements, P54's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project, it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and

the consent issue fire report has been issued by then. As the FEB is not a statutory document There is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to ;

(i) confirm if these documents are required under statute,

(ii) confirm if other councils are requiring same as a consistent nationwide approach,

(iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.


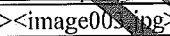
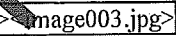
thank you in advance for your assistance.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 275 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@cccountdown.co.nz

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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To: s 9(2)(a)

Cc: s 9(2)(a)

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
 - The peer reviewer must be on the IPENZ register as CPEng with practice field being fire engineering. They must also be practicing in their area of expertise.
 - The fire design including any calculations. This must be complete and final.
 - Documentation complying with practice note 22.
 - A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
 - A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
 - If the alteration does not include new work the PS1 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.
- Confirmation that the emergency lighting designer will provide a PS4.
 - A PS2 from the peer reviewer covering C1 to C6 and F6, F7 & F8 (where applicable).
 - If the alteration does not include new work the PS2 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
 - The peer reviewer will confirm that the requirements of the FEB have been satisfied.

- The peer reviewer will confirm that practice Note 22 has been followed. This includes co-ordination of all consent documents including Architectural, Structural, Mechanical, Electrical, Hydraulic, Fire etc – as applicable to fire. The confirmation letter should list the documents reviewed (including revision number).
- The peer reviewer will confirm that the proposed Compliance Schedule is correct.
- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.

For your ANARP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice versus benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consents Unit

Consenting and Compliance Group

59(2)(a)

DDI:

Email: wayne.roden@ccc.govt.nz

Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

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Released under the Official Information Act

From: Chris Rutledge
Sent: Friday, 17 June 2016 2:41 p.m.
To: Mike Stannard; John Gardiner
Cc: Michael Belsham; Mike Cox
Subject: Countdown/Christchurch City dispute

Mike, John

This is to canvas your view on whether or not we should escalate a matter to Countdown's senior management over a dispute with Christchurch City.

A dispute between Christchurch City and the Countdown project manager over an extension of the Moorehouse Countdown in Christchurch has deteriorated to a complete breakdown in the relationship between the parties. The email chain below illustrates how badly this has run off the rails. Since we offered to facilitate a meeting between the parties we haven't heard anything from either party. Recently we've received intel from a sometimes reliable source (Alan Moule) that a determination is in the offing.

An alternative is we take a proactive approach and escalate this to the responsible senior manager in Countdown, this person is Gideon Thomas (<http://www.countdown.co.nz/about-us/our-company>). It would be interesting to know what level of knowledge he has of the matter. We did consider approach him when we made the offer to facilitate a meeting between the parties but we didn't pursue this option then. I definitely think it is worth a shot.

Please let me know what you think.

Regards
 Chris

From: Chris Rutledge
Sent: Wednesday, 11 May 2016 4:24 p.m.
To: Michelle Cowper
Cc: Michael Belsham; Wayne Roden (Wayne.Roden@ccc.govt.nz)
Subject: RE: BCN/2016/2352 - Processing - Fire Design. [UNCLASSIFIED]

Michelle,

We have endeavoured to answer your questions, in your latest email (10/5/16) you have repeated questions we have already answered (for example, 'is a BCA entitled to ask for more than the Act') and we cannot see any efficacy in continuing with this approach. We have been contacted by Christchurch City Council, as with any dispute there are two sides and clearly your questions arise from a difference in view between Countdown and Christchurch City that originate from specific aspects of the fire design for the alteration to the Moorehouse Countdown. The only effective way to reach a resolution on the matters at issue is through dialogue between Countdown and Christchurch City Council. We have previously offered to facilitate a meeting between Countdown and City Council and that offer remains open for you to take up. I am copying this email to Christchurch City so that the Council is aware we have offered to facilitate a meeting to endeavour to resolve the issues with the fire design for the alterations to the Moorehouse Countdown.

Regards
 Chris Rutledge
 Fire Programme Lead

From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]
Sent: Tuesday, 10 May 2016 3:20 p.m.
To: Michael Belsham
Cc: Chris Rutledge
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Good afternoon Micheal,
Thank you for your response
please confirm how the Legal team at MBIE and the Policy advisors at MBIE view this matter

Regards,

Michelle Cowper
Property Project Manager
Countdown NZ

E: Michelle.cowper@countdown.co.nz
M: 0275382673

On 10/05/2016, at 8:24 AM, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle

The reason I cannot answer your questions is that I am fire engineer not a lawyer and cannot answer questions about law and legislation. My role is technical queries about the documents. As per previous response you will need to take legal advice

Regards,

Michael Belsham
Fire Engineer

On 10/05/2016, at 06:10, Michelle Cowper <michelle.cowper@countdown.co.nz> wrote:

Good morning Michael,

Thank you for your response but unfortunately I still have unanswered questions, is there a reason that you will not answer them?

An FEB is not required by the Act and the BCA cannot demand one. A VM without an FEB is a specific design and still valid. So "what is the **legal** status of the VM? And What is the **legal** status of the FEB" ?

Is the BCA entitled to ask for more than the Act, please confirm where in the legislation it states that the BCA can refuse to process in the absence of a FEB and they can ask for more than the Act.

A design does not have to follow the VM to show compliance, I believe that the Pn22 document that you refer to is now out of date.

I note there is no confirmed statement on the legality and the process time frames, liability, etc and if the BCA can encourage CPEng to break to Act.

The offer of a facilitation between PE and CCC is not an acceptable solution.

I again request that you address the matters that I have raised above.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz



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On 9 May 2016 at 15:30, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

You have asked for specific responses to your questions and responses to each of your questions are provided below with some additional comments:

Is the BCA allowed to request more than is required by the Building Act?

Simple answer is 'no'. However, there is a distinction between process requirements (eg documentation should comply with PN22) and the fire safety measures required for compliance with the clauses.

On the process side, the information and the form in which it is provided to a BCA is not detailed in the Act or the Code. Documents such as PN22, which is a joint IPENZ/MBE document (s.175 guidance), are intended to assist BCAs and fire designers and to facilitate the consenting process.

It is 'custom and practise' in NZ to present a fire report to the BCA when applying for a building consent, this is not a statutory requirement and a fire report has no particular standing in the regulatory schema. It is simply a way designers and BCAs find effective to provide the information BCAs need to assess if there are 'reasonable grounds' to approve a building consent application.

- What is the status of a FEB?

The FEB forms part of the VM solution and is required to be completed when applying the Verification Method. As noted above if the FEB process had been completed in this instance it could have facilitated the fire design development and consenting process.

- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We cannot comment on liability and you should seek independent legal advice if you are concerned about this.

- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?

As noted above, if you are applying the verification method the FEB is required to be completed, otherwise you have not fulfilled the requirements of the verification method.

- Can they refuse to process a consent on the basis that a FEB is not signed on (despite there being no statutory process or timeframe for this under the Act)?

The FEB process should be completed before the verification method analysis is undertaken. If the FEB has not been completed we would expect the BCA to ask why is that the case. The best approach is to endeavour to resolve any substantive issues over the fire design directly between the parties. If that does not succeed either party can take the matter to a determination.

- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

A BCA can request reasonable information to assess whether on 'reasonable grounds' building code compliance has been demonstrated. Producer Statements are routinely required from fire engineers by BCAs including PS4. This is one of the areas we will be investigating under the Fire Programme in project 4, the Consenting Process.

Given you have asked these questions before in different ways and the answers above are consistent with the answers previously given its unlikely this will resolve the breakdown that has occurred between Countdown and CCC over fire design for the Warehouse supermarket. We have previously offered to facilitate a discussion between you and CCC and I reiterate this offer.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 4:17 p.m.
To: Michael Belsham
Cc: Chris Rutledge; graham.dicks@ipenz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Thank you Michael please respond to my queries raised below

Regards,

Michelle Cowper
Property Project Manager
Countdown NZ

E: Michelle.cowper@countdown.co.nz

M: 0275382673

On 6/05/2016, at 2:42 PM, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

Section 1.3 of C/VM2 states that the concept design shall be trailed by the FEB process. Figure 1.1 further describes the FEB as an integral process within the C/VM2 design and shows FEB report being completed before proceeding the VM2 evaluation. A

requirement under Verification Method is therefore required under Section 22 Building Act.

The FEB is designed to assist the VM process not hinder it as it is interest of all key stakeholders to agree the design approach before detailed design is undertaken which in this case would have highlighted the extent of the modelling required.

If you wish to discuss further we could arrange a conference call.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources &
Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 2:22 p.m.
To: Michael Belsham
Cc: Mike Cox; Chris Rutledge; Dave Gittings;
graham.dicks@penz.org.nz
Subject: Re: BCN/2016/2332 - Processing - Fire Design.
[UNCLASSIFIED]

Good afternoon,

Thanks for your time in considering this however the question is not one of FEB content but whether it is required in the first instance under the Building Act.

This is a procedural issue, rather than relating to a disagreement on a voluntary document.

What the legal status of the FEB including sign off of the FEB process under the Building Act?

Are CCC entitled to invite/instruct engineers to breach the statutory requirements under the CPEng Act or other legislation?

We would appreciate a direct and concise email response to our queries below surrounding the application process, liability etc.

Questions summarised from email below:

- Is the BCA allowed to request more than is required by the Building Act?
- What is the status of a FEB?
- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?

- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

Per your comment re 'Gap analysis' It would be highly unlikely that CCC would accept a 'gap analysis' approach.

If we were to take a 'Gap analysis' approach the argument would ensue as to how our engineer would determine what is reasonable and practicable' (eg the addition of smoke detection, separation of back of house etc).

This would come down to demonstrating this via the Verification Method, as per MBIE Guidance.

I have re attached reports and drawings for reference

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 ODL: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz

Support Office 30 Favona Road, Favona, Auckland 2024
Private Bag 93306, Mahuhu, Auckland, 1640, New Zealand.

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On 5 May 2016 at 17:05, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle

We have now had the opportunity to discuss this with CCC. I understand the works is an internal alteration.

The Council are concerned that the C/VM2 analysis does not address the whole building. S112 requires that the means of escape of the whole building comply with the code as near as is reasonable. It appears that the occupancy and escape from the

new retail units and other areas outside the store has not been included in the analysis.

This highlights the importance of FEB process where these issues would be discussed and agreed before the detailed design is carried out. The FEB is required when using C/VM2.

Is VM is best approach for this alteration? Our guidance on existing buildings would recommend a gap analysis for this type of project.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]

Sent: Thursday, 5 May 2016 5:30 a.m.

To: Michael Belsham

Cc: Mike Cox; Chris Rutledge; Dave Gittings;
graham.dicks@ipenz.org.nz; pbarnes@ianz.govt.nz;
karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz

Subject: BCN/2016/2332 - Processing - Fire Design.

Good morning Michael,

thank you for your response. While I appreciate that reasonable grounds is the test the BCA has to make; however preliminary discussions and scoping documents arguably do not form reasonable grounds in terms of the Building Act

FEB, PN 22, etc are not statutory documents. Please indicate where in legislation they are required.

The BCA requiring sign off an acceptance of the FEB is unreasonable and is delaying the consent process. As a non-statutory document this is arguably not required by the Act and brings with it unknown time days and frustration before the formal design can start. These frustrations may arise from disagreements between engineers and/or other stakeholders such as NZES requesting more than the Building Act provides for. Is the BCA allowed to request more than is required by the Building Act? What is the status of a FEB? What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We believe that the FEB is not a document on which the BCA issues consent on.

The BCA or TA issues a consent on the basis of the submitted fire report and not on the supporting or scoping documentation (FEB). It is therefore the fire report itself which is the only document legally required to be subject to review and ultimately the only document on which consent is issued.

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided, irrespective of whether or not it is mentioned in the verification method? Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc)?

Fire engineers have been legally advised that they are not to rely on PS3's by contractors.

Thank you again for your consideration on this matter, the consenting for this projects has proved to be extremely challenging. The interpretation of the legislation under the Act appears to vary in Christchurch from other regions across New Zealand from a "customer" engagement perspective this is intimidating. CCC is a customer facing organisation and their lack of willingness to collaboratively resolve consenting matters is draconian at best and organisational bullying at the worst.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz

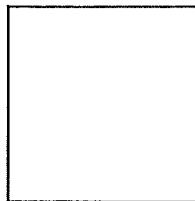
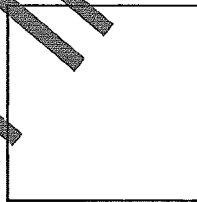


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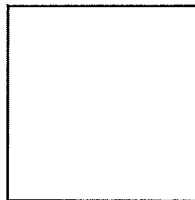
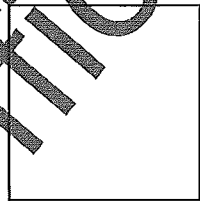
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09:09 (23 hours ago)

Michael Belsham



to me, Mike, Dave, Chris



Michelle

Apologise for the delay however we have been unable to get hold of Wayne Roden to discuss this further.

I understand that Countdown Moorhouse is part of a larger shopping centre and the building work proposed is an alteration to an existing building. As such the BCA is tasked with making an assessment of the entire building to establish that it complies on a near as is reasonably practicable basis.

BCA's need to establish reasonable grounds to be able to issue a building consent, whether this relates to the building, as noted above, or the building work, i.e. the actual work proposed. Although FEB, PN22 and producer statements do not exist in legislation these are tools that BCA's commonly turn too in their quest to establish reasonable grounds. All the building act requires is that the information they initially require or subsequently request is "reasonable". As such the building act requires BCA's to turn their minds to the specifics of the situation to ensure that the tool/s they elect to use and therefore the information they request of the applicant is reasonable. We are unaware of the scope of the work and therefore cannot advise on the whether the requests are reasonable.

FEB is an integral part of C/VM2 and is a process required to be undertaken if C/VM2 is your route to compliance. As such the fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback. Those designers not wishing or willing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution, which just ensures that additional checks and measures are brought into play by the BCA.

We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting process. Here we hope to explore these issues are look into any means of improving the consenting process for fire.

Kind regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz

s 9(2)(a)

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]

Sent: Monday, 18 April 2016 2:29 p.m.

To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham

Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an e mail from Valine Roden of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PM 22, co-ordination statements, F-4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project, it has taken weeks for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and

the consent issue fire report has been issued by then. As the FEB is not a statutory document There is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to ;

(i) confirm if these documents are required under statute,

(ii) confirm if other councils are requiring same as a consistent nationwide approach,

(iii) confirm the validity of Christchurch's request.



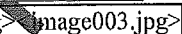
thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

thank you in advance for your assistance.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz

  
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Private Bag 93306, Oranohu, Auckland, 1640, New Zealand.

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From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To: ^{s 9(2)(a)}

Cc: ^{s 9(2)(a)}

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as being with practice field being fire engineering. They must also be practicing in their area of expertise.
- The fire design including any calculations. This must be complete and final.
- Documentation complying with practice note 22.
- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
- A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS1 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.
- Confirmation that the emergency lighting designer will provide a PS4.
- A PS2 from the peer reviewer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS2 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- The peer reviewer will confirm that the requirements of the FEB have been satisfied.

- The peer reviewer will confirm that practice Note 22 has been followed. This includes co-ordination of all consent documents including Architectural, Structural, Mechanical, Electrical, Hydraulic, Fire etc – as applicable to fire. The confirmation letter should list the documents reviewed (including revision number).
- The peer reviewer will confirm that the proposed Compliance Schedule is correct.
- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.

For your ANARP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice verse benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Wire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

ODI: ^{s 9(2)(a)}

Email: wayne.rodan@ccc.govt.nz

Web: www.ccc.govt.nz

Christchurch City Council

Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

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Out of Scope

From: Chris Rutledge
Sent: Tuesday, 21 June 2016 8:38 a.m.
To: Craig Hill; Peter Laurenson
Subject: FW: Moorehouse Ave Countdown Christchurch

Craig, Peter

This is the email chain relating to the Moorehouse Ave Countdown as discussed yesterday at FRSC

Cheers
Chris

From: Chris Rutledge
Sent: Friday, 17 June 2016 2:25 p.m.
To: Rachel Groves
Subject: Moorehouse Ave Countdown Christchurch

Rachel,

As discussed, email exchange below

CR

From: Chris Rutledge
Sent: Wednesday, 11 May 2016 4:24 p.m.
To: Michelle Cowmer
Cc: Michael Belsham; Wayne Roden (Wayne.Roden@ccc.govt.nz)
Subject: RE: BGM/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Michelle,

We have endeavoured to answer your questions, in your latest email (10/5/16) you have repeated questions we have already answered (for example, 'as a BCA entitled to ask for more than the Act') and we cannot see any efficacy in continuing with this approach. We have been contacted by Christchurch City Council, as with any dispute there are two sides and clearly your questions arise from a difference in view between Countdown and Christchurch City that originate from specific aspects of the fire design for the alteration to the Moorehouse Countdown. The only effective way to reach a resolution on the matters at issue is through dialogue between Countdown and Christchurch City Council. We have previously offered to facilitate a meeting between Countdown and City Council and that offer remains open for you to take up. I am copying this email to Christchurch City so that the Council is aware we have offered to facilitate a meeting to endeavour to resolve the issues with the fire design for the alterations to the Moorehouse Countdown.

Regards
Chris Rutledge

Fire Programme Lead

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Tuesday, 10 May 2016 3:20 p.m.
To: Michael Belsham
Cc: Chris Rutledge
Subject: Re: BCN/2016/2332 - Processing - Fire Design. [UNCLASSIFIED]

Good afternoon Micheal,
Thank you for your response
please confirm how the Legal team at MBIE and the Policy advisors at MBIE view this matter

Regards,

Michelle Cowper
Property Project Manager
Countdown NZ

E: Michelle.cowper@countdown.co.nz
M: 0275382673

On 10/05/2016, at 8:24 AM, Michael Belsham <Michael.Belsham@mbie.govt.nz> wrote:

Michelle

The reason I cannot answer your questions is that I am fire engineer not a lawyer and cannot answer questions about law and legislation. My role is technical queries about the documents. As per previous response you will need to take legal advise.

Regards,

Michael Belsham
Fire Engineer

On 10/05/2016, at 06:11, Michelle Cowper <michelle.cowper@countdown.co.nz> wrote:

Good morning Michael,

Thank you for your response but unfortunately I still have unanswered questions, is there a reason that you will not answer them?

An FEB is not required by the Act and the BCA cannot demand one. A VM without an FEB is a specific design and still valid. So "what is the *legal* status of the VM? And What is the *legal* status of the FEB" ?

Is the BCA entitled to ask for more than the Act, please confirm where in the legislation it states that the BCA can refuse to process in the absence of a FEB and they can ask for more than the Act.

A design does not have to follow the VM to show compliance, I believe that the Pn22 document that you refer to is now out of date.

I note there is no confirmed statement on the legality and the process time frames, liability, etc and if the BCA can encourage CPEng to break to Act.

The offer of a facilitation between PE and CCC is not an acceptable solution.

I again request that you address the matters that I have raised above.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 582 673
EMAIL: michelle.cowper@comidown.co.nz

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Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

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On 9 May 2016 at 15:30, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

You have asked for specific responses to your questions and responses to each of your questions are provided below with some additional comments:

• Is the BCA allowed to request more than is required by the Building Act?

Simple answer is no. However there is a distinction between process requirements (eg documentation should comply with PN22) and the fire safety measures required for compliance with the C clauses.

On the process side, the information and the form in which it is provided to a BCA is not detailed in the Act or the Code. Documents such as PN22, which is a joint MBIE/MBIE document (s.175 guidance), are intended to assist BCAs and fire designers and to facilitate the consenting process.

It is 'custom and practise' in NZ to present a fire report to the BCA when applying for a building consent, this is not a statutory requirement and a fire report has no

particular standing in the regulatory schema. It is simply a way designers and BCAs find effective to provide the information BCAs need to assess if there are 'reasonable grounds' to approve a building consent application.

- What is the status of a FEB?

The FEB forms part of the VM solution and is required to be completed when applying the Verification Method. As noted above if the FEB process had been completed in this instance it could have facilitated the fire design development and consenting process.

- What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We cannot comment on liability and you should seek independent legal advice if you are concerned about this.

- Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method?

As noted above, if you are applying the verification method the FEB is required to be completed, otherwise you have not fulfilled the requirements of the verification method.

- Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

The FEB process should be completed before the verification method analysis is undertaken. If the FEB has not been completed we would expect the BCA to ask why is that the case. The best approach is to endeavour to resolve any substantive issues over the fire design directly between the parties. If that does not succeed either party can take the matter to a determination.

- Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

A BCA can request reasonable information to assess whether on 'reasonable grounds' building code compliance has been demonstrated. Producer Statements are routinely required from fire engineers by BCAs including PS4. This is one of the areas we will be investigating under the Fire Programme in project 4, the Consenting process.

Given you have asked these questions before in different ways and the answers above are consistent with the answers previously given its unlikely this will resolve the breakdown that has occurred between Countdown and CCC over fire design for the Moorehouse supermarket. We have previously offered to facilitate a discussion between you and CCC and I reiterate this offer.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Market
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Friday, 6 May 2016 4:17 p.m.
To: Michael Belsham
Cc: Chris Rutledge; graham.dicks@penz.org.nz
Subject: Re: BCN/2013/2732 - Processing - Fire Design. [UNCLASSIFIED]

Thank you Michael please respond to my queries raised below

Regards,

Michelle Cowper
Property Project Manager
Countdown NZ

E: Michelle.cowper@countdown.co.nz

M: 0275382673

On 6/05/2016, at 2:42 PM, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result?

Per your comment re 'Gap analysis' it would be highly unlikely that CCC would accept a 'gap analysis' approach.

If we were to take a 'Gap analysis' approach the argument would ensue as to how our engineer would determine what is 'reasonable and practicable' (eg the addition of smoke detection, separation of back of house etc).

This would come down to demonstrating this via the Verification Method, as per MBIE Guidance.

I have re attached reports and drawings for reference

Regards

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

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Private Bag 93300, Ohuhu, Auckland, 1640, New Zealand.

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On 5 May 2016 at 17:05, Michael Belsham
<Michael.Belsham@mbie.govt.nz> wrote:

Michelle,

We have now had the opportunity to discuss this with CCC. I understand the works is an internal alteration.

The Council are concerned that the C/VM2 analysis does not address the whole building. S112 requires that the means of escape of the whole building comply with the code as near as is reasonable. It appears that the occupancy and escape from the new retail units and other areas outside the store has not been included in the analysis.

This highlights the importance of FEB process where these issues would be discussed and agreed before the detailed design is carried out. The FEB is required when using C/VM2.

Is VM is best approach for this alteration. Our guidance on existing buildings would recommend a gap analysis for this type of project.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources & Markets
Ministry of Business, Innovation & Employment

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

<image001.jpg>

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From: Michelle Cowper [mailto:michelle.cowper@countdown.co.nz]

Sent: Thursday, 5 May 2016 5:30 a.m.

To: Michael Belsham

Cc: Mike Cox; Chris Rutledge; Dave Gittings;
graham.dicks@ipenz.org.nz; pbarnes@ianz.govt.nz;
karleen.edwards@ccc.govt.nz; peter.sparrow@ccc.govt.nz

Subject: BCN/2016/2332 - Processing - Fire Design.

Good morning Michael,

thank you for your response. While I appreciate that reasonable grounds is the test the BCA has to make; however preliminary discussions and scoping documents arguably do not form reasonable grounds in terms of the Building Act

FEB, PN 22, etc are not statutory documents. Please indicate where in legislation they are required.

The BCA requiring sign off an acceptance of the FEB is unreasonable and is delaying the consent process. As a non-statutory document this is arguably not required by the Act and brings with it unknown time days and frustration before the formal design can start. These frustrations may arise from disagreements between engineers and/or other stakeholders such as NZS requesting more than the Building Act provides for. Is the BCA allowed to request more than is required by the Building Act? What is the status of a FEB? What risk and liability do other stakeholders accept as part of their involvement in the process (bearing in mind the BCA wishes to use the FEB as an agreement document and therefore one would assume joint and several liability between all stakeholders)?

We believe that the FEB is not a document on which the BCA issues consent on.

The BCA or TA issues a consent on the basis of the submitted fire report and not on the supporting or scoping documentation (FEB). It is therefore the fire report itself which is the only document legally required to be subject to review and ultimately the only document on which consent is issued.

Can the BCA cancel or reject the consent application on the basis of an FEB not being provided irrespective of whether or not it is mentioned in the verification method? Can they refuse to process a consent on the basis that a FEB is not signed off (despite there being no statutory process or timeframe for this under the Act)?

Is the BCA obliging the Chartered Professional Fire Engineer to breach legislation in terms of (a) the Building Act and (b) the CPEng Act by (i) asking for more than the Building Act requires, and (ii) obliging the fire engineer to work outside their competency and take liability for design items by others as a result. (eg. sign off/review and co-ordination of architectural, emergency lighting, structural, mechanical etc)?

Fire engineers have been legally advised that they are not to rely on PS3's by contractors.

Thank you again for your consideration on this matter, the consenting for this projects has proved to be extremely challenging. The interpretation of the legislation under the Act appears to vary in Christchurch from other regions across New Zealand from a "customer" engagement perspective this is intimidating. CCC is a customer facing organisation and their lack of willingness to collaboratively resolve consenting matters is draconian at best and organisational bullying at the worst.

Regards,

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673
EMAIL: michelle.cowper@countdown.co.nz

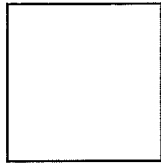
Support Office, 10 Favona Road, Favona, Auckland, 2024.
Private Bag 93308, Oranmuri, Auckland, 1640, New Zealand.

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09:09 (23 hours ago)

Michael Belsham

to me, Mike, Dave, Chris



Michelle

Apologise for the delay however we have been unable to get hold of Wayne Roden to discuss this further.

I understand that Countdown Moorhouse is part of a larger shopping centre and the building work proposed is an alteration to an existing building. As such the BCA is tasked with making an assessment of the entire building to establish that it complies on a near as is reasonably practicable basis.

BCA's need to establish reasonable grounds to be able to issue a building consent, whether this relates to the building, as noted above, or the building work, i.e. the actual work proposed. Although FEB, PN22 and producer statements do not exist in legislation these are tools that BCA's commonly turn to in their quest to establish reasonable grounds. All the building act requires is that the information they initially require or subsequently request is "reasonable". As such the building act requires BCA's to turn their minds to the specifics of the situation to ensure that the tool/s they elect to use and therefore the information they request of the applicant is reasonable. We are unaware of the scope of the work and therefore cannot advise on the whether the requests are reasonable.

FEB is an integral part of C/VM2 and is a process required to be undertaken if C/VM2 is your route to compliance. As such the fire engineer should not have completed the fire design until the FEB was complete and included the BCA's feedback. Those designers not wishing or willing to undertake the FEB must accept that the means of compliance switches to that of an alternative solution, which just ensures that additional checks and measures are brought into play by the BCA.

We understand that the fire consenting system isn't operating efficiently and we have a project in the Fire Programme on the Consenting Process. Here we hope to explore these issues and look into any means of improving the consenting process for fire.

Kind Regards,

Michael Belsham
FIRE ENGINEER

Building System Performance Branch | Building Resources &
Markets
Ministry of Business, Innovation & Employment

michael.belsham@mbie.govt.nz

s 9(2)(a)

s 9(2)(a)

Level 5, 15 Stout Street, PO Box 1473, Wellington 6143

From: Michelle Cowper [<mailto:michelle.cowper@countdown.co.nz>]
Sent: Monday, 18 April 2016 2:29 p.m.
To: awoollard@ianz.co.nz; Mike Cox; Michael Belsham
Subject: Fwd: BCN/2016/2332 - Processing - Fire Design

Good afternoon All,

I am contacting you in the hope that I can gain some clarity around the Fire consenting process. Countdown Moorhouse has been scheduled to have a refurbishment that included an adjustment to the tenancy size. We have engaged an engineer to undertake the drafting of a Fire Report (VM2) and this has been submitted to Christchurch City Council as part of the consenting process. We have received an e mail from Wayne Rolten of the council (see below) he has requested a significantly more information.

Whilst documents like the FEB, PN 22, co-ordination statements, PS4's etc may be nice to have I do not believe that they are part of any statutory documentation and it is more than the Building Act

requires. I also feel that the requirement for a full base building report including Burger King and food court is unreasonable given the extent of the works.

My other concern is how this request for additional information is delaying the project, it has taken weeks

for the council to get back to us on the FEB then they require us to revise it even though it's only a scoping document and

the consent issue fire report has been issued by then. As the FEB is not a statutory document There is no statutory time frames and this matter has the potential to drag on for an extended period of time and cost a significant amount of money as they are on time charge.

Obviously this area is subject to continual discussion and so as to gain some clarity I have made contact with IANZ to ;

(i) confirm if these documents are required under statute,

(ii) confirm if other councils are requiring same as a consistent nationwide approach,

(iii) confirm the validity of Christchurch's request.

thank you for your assistance with this matter, please call directly if you would like to discuss this in greater detail.

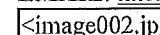
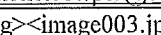
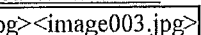
thank you in advance for your assistance.

Regards

Michelle Cowper
Project Manager
Property

TEL: +64 9 275 2788 DDI: +64 9 255 2232 MOB: +64 0275 382 673

EMAIL: michelle.cowper@countdown.co.nz

Support Office, 80 Favona Road, Favona, Auckland, 2024.
Private Bag 93306, Otahuhu, Auckland, 1640, New Zealand.

Safety-its up to us.

PLEASE CONSIDER THE ENVIRONMENT BEFORE YOU PRINT THIS E-MAIL.

From: Roden, Wayne [mailto:Wayne.Roden@ccc.govt.nz]

Sent: Wednesday, 6 April 2016 10:55 a.m.

To: s 9(2)(a)

Cc: s 9(2)(a)

Subject: BCN/2016/2332 - Processing - Fire Design

Richard

The following are Christchurch City Council's requirements for building consent applications for alterations to existing buildings that use VM2 as a means of demonstrating compliance with the fire requirements of the Building Code.

- Fire engineering brief which includes the agreement of the stakeholders. Council considers the minimum stakeholders to be peer reviewer, NZ Fire Service and Council.
- The peer reviewer must be on the IPENZ register as CPEng with practice field being fire engineering. They must also be practising in their area of expertise.

The fire design including any calculations. This must be complete and final.

Documentation complying with practice note 22.

- A co-ordination statement from the fire engineer as required by Practice Note 22 and confirming the fire engineer has undertaken a lead PN22 co-ordination role.
- A PS1 from the fire engineer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS1 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- Confirmation that the fire engineer will provide a PS4 along with a list of intended inspections.

- Confirmation that the emergency lighting designer will provide a PS4.
- A PS2 from the peer reviewer covering C1 to C6 and F6, F7 & F8 (where applicable).
- If the alteration does not include new work the PS2 is only required to cover the Building Code clauses that related to means of escape from fire as required by Section 112 of the Building Act. This includes C3.4, C4.3, C4.4, C4.5, F6, & F8.3.3.
- The peer reviewer will confirm that the requirements of the FEB have been satisfied.
- The peer reviewer will confirm that practice note 22 has been followed. This includes co-ordination of all consent documents including Architectural, Structural, Mechanical, Electrical, Hydraulic, Fire etc – as applicable to fire. The confirmation letter should list the documents reviewed (including revision number).
- The peer reviewer will confirm that the proposed Compliance Schedule is correct.
- The peer reviewer will provide a copy of any proposed conditions / advice notes for including in the Building consent. Consultation with Council may be required.

For your ANA RP assessment you will need to determine using VM2 how the building complies prior to the work starting, how the building will comply once the work has been completed and what is required in the building for it to fully comply with the Building Code. The 3 assessments are required to determine the gap and provide the sacrifice versus benefit assessment.

It is noted that only some of the above requirements have been included in the building consent application.

Until all of the above have been supplied, Council is unable to start the review for the fire safety aspects of the building consent application.

Regards

Wayne Roden

Senior Fire Engineering Specialist
Building Consenting Unit

Consenting and Compliance Group

DDI: ^{s 9(2)(a)}
Email: wayne.roden@ccc.govt.nz
Web: www.ccc.govt.nz

Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73013, Christchurch, 8154

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Mike Cox

Out of Scope

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From: Chris Ruffledge
Sent: Tuesday, 5 July 2016 10:44 a.m.
To: Roden, Wayne
Cc: Van Den Bosch, Chris; Mike Cox; Michael Belsham
Subject: RE: visit to Christchurch

Wayne,

Out of Scope

Outside of the meeting with everyone it would also be useful to get an update on the Moorehouse Countdown and if anything has progressed to resolve the issues there. If there is anything you would like to add to the agenda please let me know.

Regards
Chris

Out of Scope

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Official Information Act