

Unauthorised Building Work

Certificates of Acceptance &
Safe and Sanitary Reports



Certificates of Acceptance, Safe and Sanitary Reports and practical options for property owners

Unauthorised or unconsented building work is a common issue in older New Zealand property. The right response depends on what work was done, when it was done, whether a consent or permit was required, what records exist and what the relevant council can now verify.

The first step is not to assume the work is “illegal”. Establish exactly what was built, when, and whether a building consent was required at the time. Some work may have been exempt, some may have had an older building permit, and some may genuinely be unconsented.

1. What is unauthorised or unconsented building work?

In this guide, “unauthorised” or “unconsented” work means building work for which a building consent or earlier building permit may have been required but where the expected approval or completion records are missing or incomplete.

Examples can include converted garages, added rooms, decks, bathrooms, structural alterations, fireplaces, plumbing or drainage changes, extensions and outbuildings. The absence of paperwork does not, by itself, establish exactly what happened. The property file, plans, permit or consent history and the physical building all need to be considered together.

All building work must comply with the Building Act and Building Code requirements that apply to it, including work that is exempt from needing a building consent. Other requirements can also apply, such as planning, resource consent, electrical, plumbing or drainage rules.

2. Why the date of the work matters

A useful starting point is whether the work was carried out before or after 1 July 1992, when the building consent system introduced under the Building Act 1991 came into force.

Timing	Typical starting point
Before 1 July 1992	Older building permit records and the council property file should be checked. A third-party “safe and sanitary” style report may sometimes be useful, but it is not a retrospective consent or statutory approval.
On or after 1 July 1992	If consent was required but not obtained, a Certificate of Acceptance (CoA) is the main statutory pathway available for completed work, subject to the council being able to satisfy itself about compliance.

3. Can a building consent be obtained retrospectively?

Generally, no. A building consent is intended to be obtained before work starts so that the building consent authority can assess the proposed work and carry out inspections as construction progresses.

Likewise, a Code Compliance Certificate (CCC) is normally the completion document for work that was carried out under a building consent. If there was no building consent in the first place, a CCC cannot simply be issued as a substitute.

If a building consent was issued but no CCC was obtained, that is a different situation. The existing consent should be investigated first. Depending on the age and circumstances of the consent, additional inspections, records, expert reports or remedial work may be needed before the council can decide whether a CCC can be issued.

Start with the Property File

Where unauthorised or undocumented building work is suspected, one of the first things we generally recommend is obtaining and reviewing the Council property file. Property files will often contain copies of approved plans, building permits or consents, inspection records, Code Compliance Certificates and other documents relating to work carried out on the property. These can be compared with the property as it exists today and may help identify additions, alterations or changes that do not appear in the Council record.

For this reason, Crow Realty places considerable importance on property files when investigating building-related issues. A LIM report is also useful and provides important information held by Council, but it is generally a summary of that information. The property file can provide access to the underlying plans and documents, which may be considerably more useful when trying to establish what was actually approved and whether the existing property appears to differ from the documented position.

Neither should be treated as conclusive. Council records can be incomplete, particularly for older properties, and the absence of documentation does not necessarily establish exactly when or how work was undertaken. Where discrepancies are identified, further investigation by Council, a suitably qualified building professional, surveyor, lawyer or other specialist may be required.

5. Certificate of Acceptance (CoA)

A Certificate of Acceptance is a formal mechanism under sections 96 to 99 of the Building Act 2004 for certain building work that has already been completed. It is most commonly relevant where an owner or previous owner carried out work that required a building consent but did not obtain one.

What a CoA does

- Provides a council-issued record that, as far as the council was reasonably able to ascertain, specified building work complies with the Building Code.
- Identifies the building work covered and the parts the council was able to inspect or verify.
- Can provide owners, purchasers, lawyers, lenders and insurers with substantially more information than simply leaving known unconsented work unresolved.

What a CoA does not do

- It is not a retrospective building consent.
- It is not the same as a Code Compliance Certificate.

- It does not necessarily verify concealed work that the council cannot inspect or otherwise establish compliance for.
- It does not remove the need to address separate planning, resource consent, electrical, plumbing, drainage, title or other requirements.

How the council assesses an application

The council may issue a CoA only if it is satisfied, on reasonable grounds and to the best of its knowledge and belief, that the work complies with the Building Code to the extent it can ascertain.

Importantly, the assessment is made against the Building Code requirements applying at the time of the CoA application, not simply the standards that existed when the work was carried out.

Because completed work is often concealed behind linings, cladding, floors or finishes, the council may require supporting evidence and may qualify the CoA to make clear what it could and could not inspect.

Information commonly needed

- A current property file and consent/permit history.
- Plans showing the work as it exists now and identifying the unauthorised work.
- Photographs, invoices, product information and records of who carried out the work, where available.
- Reports, calculations, certificates or producer statements from appropriately qualified professionals.
- Evidence relating to structure, weathertightness, fire safety, plumbing, drainage, electrical work or other relevant Building Code matters.
- Any required planning, resource consent, Watercare, heritage, network utility or other approvals.

Auckland Council's published CoA process specifically contemplates plans, photos, invoices and expert reports and may involve a pre-application meeting where appropriate. Requirements are property-specific.

Time and cost

Once a complete CoA application is accepted, the Building Act process has a 20-working-day council processing timeframe, although the clock can stop if further information is requested. The overall elapsed time is often longer because drawings, inspections, specialist reports, remedial work and additional approvals may be required before or during the application.

Costs vary significantly. Council application fees are only one component; professional reports, designers, engineers, surveyors, licensed trades, opening-up work and remediation can be the larger cost. It is sensible to establish likely requirements before committing to the process.

If the CoA is declined

If the council is not satisfied that the work complies to the extent it can ascertain, it may refuse the application. Building Performance guidance notes that a refusal is accompanied by a notice to fix setting out remedial work or other steps required to address non-compliance.

6. Safe and Sanitary / third-party reports

“Safe and Sanitary Report” is a commonly used industry term, particularly in relation to older work completed before 1 July 1992. It generally describes an independent assessment by a suitably experienced building professional of whether the building or work presents safety or sanitary concerns and may also document its condition and construction.

The terminology can be confusing. A Safe and Sanitary Report is not a statutory building consent, Code Compliance Certificate or Certificate of Acceptance. It does not legalise work or provide the same level of council approval as a CoA.

Depending on the council and the circumstances, a third-party report may be able to be lodged on the property file and may assist the council, owner and future purchasers in understanding older work. Some councils may provide an acknowledgement or other correspondence, but the status and wording of any council response should be checked carefully.

When it may be useful

- Older work where the available records pre-date the current building consent regime.
- Work for which the owner wants an independent assessment placed on the property file.
- A sale or purchase where the parties need better information about older alterations or additions.
- Helping identify whether remediation, further investigation or a different statutory process is appropriate.

Important limitation

A Safe and Sanitary Report should not be described as “retrospective consent”. It is evidence or opinion about the work, not a statutory approval that converts unconsented work into consented work.

7. CoA or Safe and Sanitary Report?

They are different tools and are not interchangeable. The correct pathway depends on the date, history and nature of the work.

Issue	Certificate of Acceptance	Safe & Sanitary / third-party report
Legal status	Statutory process under the Building Act 2004	Independent report; not a statutory consent or CCC
Typical use	Completed work that required consent but did not obtain it, generally under the post-1992 consent regime	Commonly used to document or assess older, particularly pre-1992, work
Who decides	Territorial authority / council	Independent professional prepares the report; council treatment varies
Scope	Only what the council can reasonably ascertain and specify in the CoA	Condition/safety/sanitary assessment within the scope of the report

8. Other practical options

A CoA or third-party report is not always the best answer. Depending on the circumstances, other options may be simpler, safer or more economical.

Establish that the work was exempt: Some work may not have required a building consent. This needs to be assessed against the legislation and exemption rules that applied to the work.

Complete an existing consent: If a building consent was granted, investigate completing the consent and seeking a CCC rather than assuming a CoA is required.

Remove or reverse the work: Where unauthorised work is an addition or alteration, returning the property to its documented or consented configuration can sometimes be more practical than trying to retain it.

Remediate and document: Opening up, strengthening, rebuilding or replacing parts of the work may provide the evidence needed to satisfy the council or may be necessary to resolve a notice to fix.

Obtain consent for new work: New alterations can still be consented in the usual way where required. A new consent and CCC will cover the new work within their scope; they do not automatically regularise unrelated historic work.

9. Why unauthorised work matters when selling or buying

Unauthorised or poorly documented building work can affect far more than the physical condition of the property. It may influence buyer confidence, price, finance, insurance, valuation, due diligence, disclosure and the wording or conditions of a sale and purchase agreement.

For an owner considering selling, it is usually better to identify the issue before the property is launched rather than discover it during a purchaser's due diligence. Early investigation gives the owner time to understand the available options and decide whether to obtain further documentation, undertake remedial work, remove the work or sell with appropriate disclosure.

For a purchaser, the existence of a report or CoA should not replace independent due diligence. The purchaser should understand exactly what work is covered, what remains outside the approval or report, and whether their lawyer, lender and insurer are satisfied with the position.

10. A practical workflow

1. Obtain the council property file, LIM and available plans, permits, consents and CCCs.
2. Compare the records with what physically exists on the property.
3. Identify the work in question and, as accurately as possible, when it was carried out.
4. Establish whether the work required a building consent or permit, or whether an exemption may apply.
5. If the work is post-1992 and required consent, discuss the likely CoA pathway with the council and an appropriately qualified building professional.
6. For older work, ask the relevant council what form of third-party or safe-and-sanitary-style reporting it currently accepts or records.
7. Identify any planning, resource consent, drainage, electrical, fire, title or other issues that sit outside the building consent question.
8. Obtain indicative costs and timeframes before deciding whether to retain, remediate, remove or regularise the work.

9. If selling, discuss disclosure and contract implications with the real estate licensee and solicitor before marketing.

11. Questions worth asking

- What exactly is different from the council plans or property records?
- When was the work completed and who carried it out?
- Was there ever a permit or building consent?
- Did the work actually require consent at the time?
- What can the council inspect now, and what is concealed?
- What supporting records or expert evidence still exist?
- Would remediation or removal be more practical than seeking to retain the work?
- Could the issue affect finance, insurance, valuation or future alterations?
- What should be disclosed to prospective purchasers and how should it be described?

A property-specific issue

There is no single solution for unauthorised building work. Two apparently similar properties can require very different approaches because the date of the work, original approvals, construction method, Building Code requirements, council records and available evidence are different.

The most useful first step is usually to establish the facts before deciding on a solution. Crow Realty can help property owners identify the issue from a real estate perspective and coordinate with the appropriate council, building, planning and legal professionals where specialist advice is required.

Disclaimer

This guide is provided as general information only. It is not intended to be a comprehensive guide to the subject matter and should not be relied on as a substitute for your own investigations, due diligence, or independent professional advice. Property circumstances vary, and you should obtain legal, technical, financial or other specialist advice relevant to your particular situation before acting or refraining from acting. Laws, regulations, Council requirements, policies and practices may change, and information should be confirmed as applicable at the time it is relied upon.

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