

NEW ZEALAND

building today

THE OFFICIAL MAGAZINE OF THE REGISTERED MASTER BUILDERS FEDERATION

FEBRUARY 2011  
VOL 21 NO 1

# The Year of the LBP



Construction, cartels  
and collusion



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# building today

In this issue of *Building Today* we begin a series of articles that will be counting down to March 2012, the first month after which only Licensed Building Practitioners will be able to undertake or supervise restricted building work.

The historic changes to the way the construction industry is run in New Zealand — and in particular the licensing of builders in this country — have been phased in over the past few years.

Over the coming months, we will focus on what builders will have to do to become licensed, and talk to some who have already taken the big step.

Other stories this month include the issue of cartels and collusion in the New Zealand construction industry. How prevalent are the illegal practices of anti-competitive conduct, cover pricing and customer allocation?

**Andrew Darlington**  
Editor



cover story 10-11

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# chief's chat

by ceo warwick quinn

## My own building experience

**H**appy New Year to you all. I trust you each had a relaxing break after what was a very trying 2010, and that you have sufficient work, at least for the moment.

We ended 2010 on a continued downward trend and, while the Canterbury recovery and leaky homes financial package will provide some relief later in the year, buckle yourself in for another tough period.

I hate to be foreboding, and I really hope like hell I am wrong, but the recovery for the construction sector looks a way off yet.

So make sure you get your house in order, make those tough decisions you were putting off and reduce your overheads as much as you can (if you haven't already done so).

Remember cash is king, so get it in as fast as you can, any way you can and don't under price to win work that is non-profitable.

We are hearing some horrendous stories of under pricing and seeing it in our dealings within the guarantee company.

If you do this it is the beginning of the end, and will make matters worse, particularly when you don't know where your next job is coming from.

The first few months of the year are always the hardest, with overheads eating away when no money is coming in over Christmas and creditors shoot out another 30 days in the blink of an eye.

On another note, I want to share with you my own



building experience from a client's perspective. In mid-2010 we commenced a major renovation and addition to our 100-year-old villa.

People put a huge amount of faith and trust (and money) in what you say and, as professionals, you have to honour that by behaving . . . well, professionally.

The job is still in progress, though coming to an end, and has taken about seven months at a not insubstantial cost.

We have been living in it while this work was going on, and have been camping in various parts of the house during this time.

I decided to put my money where my mouth was as I have been saying there will never be a better time to build with finance costs being so low.

All of the things that could happen with renovations happened. Problems were discovered that were not known about, it was more complex than first envisaged, the weather was appalling during winter, yardy yardy ya — you know how it goes and, of course, costs went up and up and the original budget — well, forget it.

But it has all turned out perfectly. We are absolutely

delighted with the result, never a cross word was spoken between the parties and, most important, our dream was made a reality.

And when it comes to residential building that is what is most important. Home owners spend years dreaming and visualising (and scrimping and saving) for their perfect home (not house) — and that is what you, as builders, make come true.

So how do you go about that, even when costs blow out and time is extended, yet still keep the customer happy?

I have pondered this during my experience and, for me at least, it boils down to customer service and communication. And that is what I had with my place — on a daily basis.

Everything was discussed beforehand, when problems were discovered they were talked about before work was done, I knew from one day to the next who was going to be on site and who wasn't, I got a constant price update, and I could have stopped at any stage.

I suspect that if the communication was not as good, the experience would have been quite different.

### Don't hide or shy away

So make sure you always, and I mean always, speak with your client, whether things are going well or not. Diarise and agree with the client when you will talk, and stick to it.

Don't hide or shy away from problems because they don't actually go away — and silence makes matters worse.

The builder I used was, of course, a Registered Master Builder, and he is pretty busy. I suspect it is not only because he is an excellent builder from a workmanship perspective, but he builds excellent relationships with his clients.

People put a huge amount of faith and trust (and money) in what you say and, as professionals, you have to honour that by behaving . . . well, professionally.

Do that and you are well on the way to having a successful business.

# It doesn't hurt to ask

**G**len Bradbury did not expect his waiter to ask him for a job when he sat down at one of his favourite cafés on the waterfront at Mangonui.

Atama O'Donnell was just 16 years old when he approached Mr Bradbury, who is now the owner of one of Northland's largest locally-owned and operated building companies, Coastal Homes Ltd.

Thanks to Atama's confidence, Mr Bradbury signed him on as a casual labourer and, six months later, as an apprentice.

Atama, 22, was rewarded for his hard work when in October, almost six years later, he took out third place in New Zealand's Registered Master Builders 2010 Apprentice of the Year, in association with Carters.

It is clear, with the list of qualities Mr Bradbury describes, that Atama is a worthy recipient of the third place prize.

"We're very proud of Atama. He has always been very focused, and he's a good problem solver. You can give him a task and he will make sure he gets it right. He has a high level of workmanship, and a great personality too," Mr Bradbury says.

Atama was amazed when his name was announced at the Apprentice of the Year National Awards evening in Wellington in October.

"It was just an awesome surprise, I really didn't expect it," he says.

The national judges said they enjoyed Atama's relaxed, genuine nature, and agreed that he would be a natural when it came to dealing with clients.

He found the competition to be a worthwhile experience. "It was a bit challenging putting myself forward to be judged at my trade, but I learned a lot.



Atama during the practical judging component.



From left: Mark Burton-Brown (SMM, Carters), Warwick Quinn (RMBF chief executive), Atama O'Donnell and Maurice Williamson (Minister for Building and Construction).

It's really good to know that the work we're doing is up to a national level."

"Taking part in Apprentice of the Year has given me a lot more confidence, both in myself and in my decision making."

Since the competition, Atama has taken on more responsibility at Coastal Homes Ltd. He is now a site foreman, and is currently working on a high quality architectural waterfront home in Doubtless Bay.

"It's 280 square metres and two-storey, with a really unique layout and interesting design."

A love of woodwork at school, and support from his dad, himself a builder, was what encouraged Atama to make his career choice.

"I've always liked the idea of building and seeing a final product. It is so satisfying seeing a bare bit of land at the beginning, then at the end looking at a client's new home," he says.

"There is a great team of apprentices and tradesmen at Coastal Homes. They each share their knowledge and pass



Atama during his acceptance speech.

down their skills. They're all willing to help, especially Glen who is always helpful and encouraging, and always wanting us to better our skills and ourselves."

Atama is planning to take a business class this year, with the intention of learning more about the administrative side of the industry. He is also looking forward to Outward Bound, part of the competition prize pack.

"One day I'd like to own my own company, but for now I'm happy as a foreman," he says.

The Apprentice of the Year competition was made possible by the Registered Master Builders Federation, principal sponsor Carters, the Building and Construction Industry Training Organisation, and supporting sponsor the Department of Building and Housing.

# Two RMBF events not to be missed in 2011

By RMBF president  
Blair Cranston

**H**oliday periods seem to pass so quickly, and we are all full steam ahead to another year. I think everyone had a pretty tough 2010 so let's look forward to a great 2011.

The RMBF provides a number of opportunities for members to take advantage of. I strongly urge all members to participate in two big RMBF events this year — our House of the Year and Commercial Projects Awards in association with PlaceMakers (applications open now) and our annual conference in June.

Both events are extremely popular with a solid core of our membership. Obviously, the members who regularly attend conference and enter the awards competition do so because they get a lot out of both. Those who don't are, in my opinion, missing out on a couple of big opportunities.

It has proven that once members attend or enter once, they keep coming back for more. Both events provide great opportunities for networking, for sharing problems and ideas, for demonstrating quality, for learning, for meeting and socialising with others and for improving and marketing your business.

I have attended every RMBF annual conference since 1997. I have enjoyed every one, and taken advantage of the varied venues and the time away with family.

We do our best to put on a great couple of days for our members, their partners and our loyal sponsor family. At every conference I have met someone new and



learnt something new.

This year our conference will be held on Saturday 25 and Sunday 26 of June in Auckland. We are combining with Buildnz, New Zealand's largest building and construction trade show, so it will be a much larger event than in previous years.

We'll be putting together a top line up of speakers as well as our legendary social events.

Likewise, my company has been entering House of the Year events since 1994. We have enjoyed our fair share of success, with a number of national finalists and a national winner in 2003.

It is a fabulous competition. To succeed, the standard of an entry has to be very high. It seems to me that those members who enter regularly learn a lot and begin to understand what is required to be successful.

It is no coincidence that those members start to become highly successful year after year. Not only do these members know what the judges expect and look for, they also find that the high quality standards required filter through their business.

Their customers benefit from the pride and raised standards that become instilled in their carpenters, suppliers and subcontractors. There is a cultural change within the business.

The standards are high. But in saying that, the Gold, Silver and Bronze awards provide the opportunity for most good quality entries to do well and come away with an award. A Bronze is deemed to be at least 50% above industry standard, so never underrate that achievement.

Once an award is won it is up to you to maximise the marketing opportunities presented. The quality marks are continuing to gain traction in the marketplace. You will regularly see homes being marketed as award winners in real estate advertisements.

So, if you are committed to being successful and innovative for years to come, I urge you to do two things this year.

Attend our annual conference in June and enter one or more projects in our House of the Year and RMB Commercial Project Awards, entries for which close on February 25.

Have a great 2011!

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# Termination of contract — preserve your position

By RMBF in-house counsel  
Leoni Carter

**T**here are times where one party to a contract decides to withdraw from it. If your client decides to cancel, what you do or don't do can have an effect on your legal position, so it pays to think clearly, put emotion aside and get the process right.

## Termination

The Contractual Remedies Act 1979 is the general law that applies to contract termination. A party will have the right to cancel a contract if the other party "repudiates" it — ie, lets the other party know that it does not intend to perform its obligations under the contract.

In a building contract context, obviously the builder's obligation is to do the work and the owner's obligation is to pay the agreed price.

Repudiation must be of an essential term of the contract — obviously if the owner decides not to continue with the build, or not to allow you to complete the build, an essential term of the contract has been breached.

In this scenario, the cancelling party, the owner, must notify you as soon as reasonably possible. No specific form of notice is required but, obviously, notice in writing unequivocally stating that they do not intend to continue with the contract makes proof of repudiation much easier.

The Act sets out the basic rules but also parties are free to agree on how and when contracts may be cancelled. The RMBF Residential Building Contract contains provisions dealing with default, and makes the consequences clear to both parties to the contract.

## What happens next?

So, if the owner has repudiated, ie, you have been notified by the owner that it intends not to proceed — or allow you to proceed — with the performance of the contract, then you need to act carefully to avoid losing any of the common law remedies that you have (such as the right to sue for loss of profit on the terminated contract).

The law provides that, when faced with a repudiatory breach of contract, the innocent party — you the builder — has two options — either to "accept" the



breach and bring the contract to an end and claiming for damages or, alternatively, to continue with the contract — known as "affirming" the contract.

This choice should be made quickly and clearly communicated to the owner, because if you delay, or if you do anything that could be construed as affirming the contract (for example, continuing with the build), you may be deemed to have made the choice to continue with the contract and lose some rights to damages.

Unfortunately, there are many cases where the common law right to terminate has been lost by the innocent party saying or doing things which the court has considered amount to an "affirmation" of the contract.

## Our advice

Faced with repudiation of the contract by the owner, make sure you obtain legal advice promptly so you do not jeopardise your position or your legal remedies.

Remember that delay in getting advice and making your decision may cost you.

If you need to buy time to consider your position, we recommend you send a "holding" response along these lines as soon as possible:

"We refer to [your advice regarding your intention to cancel/facts of the breach of contract], and advise you that this action amounts to a serious breach of the contract between us.

"We are seeking legal advice and considering our position, and will reply formally to you shortly. Until that time we must advise you that we reserve all our rights and remedies at law and under the contract, and no step taken by us, or on our behalf, is, or should be interpreted as, a waiver of any of those rights and remedies, or a representation that we will not rely upon them, or as an affirmation of the contract."

Also, if the owner is clearly unhappy with the contract and has "made noises" about not proceeding or taking you off the job, then you need to go on the front foot and contact them in writing and seek clarification.

You do not want to be painted as the party who repudiated the contract!

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# Deloitte Centre towers above them all

**B**rookfield Multiplex has delivered New Zealand's premier commercial property — The Deloitte Centre, situated on Auckland's Queen Street.

The building, which recently won the Supreme Award for the Registered Master Builders 2010 Commercial Project of the Year, is now — at 21 storeys — a significant addition to the Auckland skyline.

The building spans an entire block, with four street frontages on Fort Street, Shortland Street, Queen Street and the historic Jean Batten Place.

In consideration of this unique structure, the existing Jean Batten Building facade sympathetically integrates into the new architectural structure, creating a welcoming street level presence.

In addition, sculptures commissioned from local and international artists enhance the entrance and lobby.

Regional managing director Tim Pope says Brookfield Multiplex prides itself on delivering certainty and quality for its clients.

"This award showcases to our potential clients, and the property and construction industry as a whole, that Brookfield Multiplex 'out-performs,'" Mr Pope says.

"Our unique combination of development and construction expertise, financial strength and global knowledge means clients and partners trust us to deliver what we promise."

As a long time member of Registered Master Builders, Brookfield Multiplex enjoys the benefits that the Association provides, including business networking, industry representation at forums, events, presentations and being part of the annual awards.

"The Commercial Project Awards are well worth entering. The application process is efficient, judging is carried out appropriately and the industry recognition is significant," Mr Pope says.

Mr Pope says one of the key attributes of winning this award is the recognition of industry peers in the quality of a project that Brookfield Multiplex develops, builds, owns and manages.

The RMB judges said the clever retention of the old facade structure, integrated with a new building, made the project stand out from other entries.

"The construction accuracy of this modern and complex commercial building makes this a very deserving winner of the 2010 Commercial Project of the Year," judges said. "It is a truly seamless integration between old and new, a magnificent and well-executed high-rise building."

The Deloitte Centre also won the Retail and Business Project Award.

The Awards are made possible through the support of principal sponsor PlaceMakers, and supporting sponsors James Hardie, Gib Living Solutions®, Pink® Batts® Ultra® (Tasman Insulation), Nulook, the Department of Building and Housing, and Meridian.

Entries are now open in the Registered Master Builders 2011 House of the Year and RMB Commercial Project Awards, in association with PlaceMakers.

For information about the competition, visit the Registered Master Builders web site at [www.masterbuilder.org.nz](http://www.masterbuilder.org.nz).

*Right: The Deloitte Centre on Auckland's Queen Street won the Supreme Award for the Registered Master Builders 2010 Commercial Project of the Year.*



# Perfection is the aim

**P**hilip Lindesay is proud of his achievements, and so he should be after his company Lindesay Construction Ltd took out the coveted PlaceMakers Supreme Award for the Registered Master Builders 2010 House of the Year for a remarkable home in Remuera, Auckland.

Mr Lindesay and his team have created a masterpiece with this hand-built, chemical-free timber house. The workmanship is exceptional and it is clear that impeccability was the aim.

He says the main advantage of winning the competition is attaining continual recognition of the skill within the company.

"Whenever we're approached by a new client, or when we're meeting with an architect, I'm proud to say that we've won at such a high level," Mr Lindesay says.

"It's a great achievement and I'm proud of the staff on board that are capable of doing this sort of work."

Competition judges said the Remuera property simply blew them away. "Coming down the walkway, you know you're arriving at a very special place," they said.

The home features 13 different species of timber, all crafted to perfection. Lindesay Construction Ltd took into account the owners' passion to have a chemical-free home and a strong emphasis on energy efficiency and sustainability.

"The result is a symphony of rich textures and tones providing a warm living environment. The stunning craftsmanship of the stonework in the powder room was something we have not seen before," judges said.

The stunning Auckland home also won the New Homes over \$2million category and the Pink® Batts® Ultra® Energy Efficiency Award.

"With attention to detail in every area of the home, on such a large scale, this new home build was quite simply faultless, and a deserving winner of the 2010 House of the Year title," judges said.

"For us it is about being recognised for professionalism and excellent craftsmanship. The winning house this year was superbly built, and it deserved to win," Mr Lindesay says.



The team from Lindesay Construction Ltd, seen here with Minister for Building and Construction Maurice Williamson (fourth from left), proudly show off the coveted PlaceMakers Supreme Award for their Registered Master Builders 2010 House of the Year Award entry below.



"We're really happy with the amount of work coming in at the moment. Let's hope that winning House of the Year will continue to help us over the next 12 to 24 months."

Last year was not the first time Lindesay Construction had won an award. In 2008, the company took out the Supreme Award for a stunning yet simple home in the Bay of Islands, as well as winning a number of other House of the Year awards in previous years.

Mr Lindesay has been a member of Registered Master Builders for a long time, and he says they enter House of the Year whenever they have a property that they think could be a winner.

He says House of the Year is well worth entering, and it definitely helps with business.

"It is worth entering, providing you've got an entry that you think is a winner and if you can present that entry as a winning formula. Everything has to be perfect. Nothing can be left undone, untouched, unfinished or unclear. Even if you come out with just a bronze award,

it's worth it," he says.

"We strive for perfection, and we achieve it."

The Awards are made possible through the support of principal sponsor PlaceMakers, and supporting sponsors James Hardie, Gib Living Solutions®, Pink® Batts® Ultra® (Tasman Insulation), Nulook, the Department of Building and Housing, and Meridian.

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For information about the competition, visit the Registered Master Builders web site at [www.masterbuilder.org.nz](http://www.masterbuilder.org.nz).



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# The year of the Licensed Building

The countdown is on! From March 2012 onwards, only Licensed Building Practitioners (LBPs) will be able to undertake or supervise restricted building work. Which means that the coming year will be critical for those involved in the New Zealand construction industry to ensure they are prepared for what are historic changes to the way the industry is run.

*Building Today* presents the first in a series of articles that will look at what builders need to do to become licensed, as well as profiling builders who have already taken the big step.

## This month: An overview of the LBP Scheme.

**B**uilding reputations and skills for people working in the building sector is one of the aims of the current Building Act Review.

A solid construction sector producing a beneficial impact on New Zealand's economy is also included in the aims.

The Licensed Building Practitioners (LBP) Scheme is one of the many changes in the Building Act 2004 designed to encourage better building design and construction.

It also aims to give the public confidence that licensed building practitioners working on their homes and buildings are competent, and that homes and buildings are designed and built right the first time.

However, before any of these things can be achieved, New Zealand must have enough LBPs to underpin the changes.

There will be many advantages for the carpenters, tradespeople and designers applying for a licence:

- It is a competency-based scheme where the skills and knowledge already possessed will form the basis of assessment for licensing. In the future, it will become a qualification-based scheme where a formal qualification will be needed to become licensed.
- Being an LBP shows consumers that the holder is competent and highly skilled, and a preferred provider of services.
- Under proposed changes to the building consent system, those who remain unlicensed will be



prevented from carrying out some types of work.

- When the Building Act Review as proposed goes ahead, it will provide the foundation for the Productivity Partnership's (a partnership formed with industry to create a healthy construction sector) work in ensuring a more profitable, productive and stable work stream in the construction system.

This will see practitioners provided with a steady income stream and a long-term career path in New Zealand, and the opportunity to develop their skills and talents.

The construction sector is an essential part of New Zealand's economy. It employs more than 150,000 people and amounts to between 4% to 5% of GDP.

The building sector is also an important contributor to health, safety and financial security outcomes for all New Zealanders.

Licensing promotes, recognises and supports professional skills and behaviour in the construction industry.

The sector has responded well to the scheme, with thousands already applying to become licensed.

The Department of Building and Housing is making it easy for building practitioners to apply, by holding a series of workshops around the country where expert staff will explain the process, and be on hand to help complete the application form and to ensure that the correct licence class is applied for.

# Practitioner



Department of  
Building and Housing  
Te Tari Kaupapa Whare

## Licensed Building Practitioner Carpentry application form



### Why should I apply now?

Being licensed now is a wise choice with a definite marketing advantage. Consumers are already choosing formally-recognised professionals to carry out work.

Now that the Licensed Building Practitioners Scheme framework is complete, active promotion of the scheme is under way. This promotion will give further momentum to the scheme.

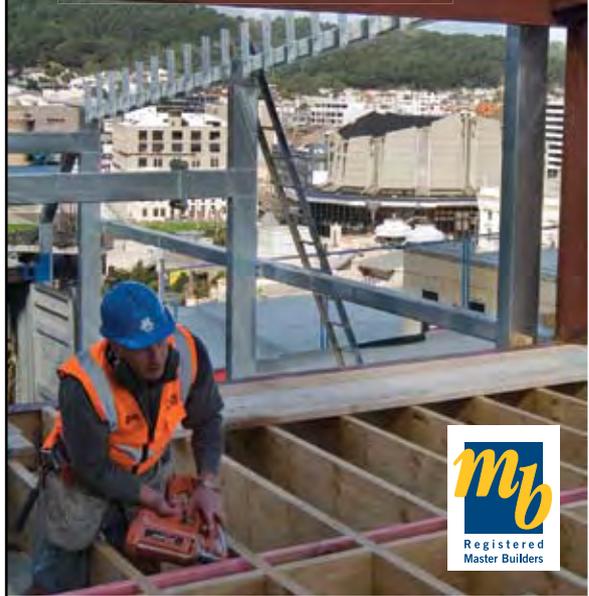
The Department of Building and Housing is expecting increasing numbers of practitioners to apply, and for more consumers to actively seek an LBP for their building work. Getting a licence now means builders can reap immediate benefits and not miss out on work where a client wants to engage an LBP.

As the economy picks up, the building sector needs to be prepared — and now is the time to get applications in.

### Where can I get more information and help?

You can find extensive information on the web site at [www.dbh.govt.nz](http://www.dbh.govt.nz). If you have a particular question, or would rather talk to someone, call 0800 60 60 50.

Others may dream,  
the builder gets  
his hands dirty



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# Construction, cartels and collusion — surely not in our backyard?

Research shows low level of understanding within the industry about what kinds of conduct may be unlawful

**T**he construction sector is a major driver in the New Zealand economy. As with any market sector, those businesses that best meet customer demand — with competitive prices, and quality goods and services — will thrive.

In this way a competitive market is self-regulating, with consumers benefiting from the pressure to lower prices and raise quality. However, there will always be businesses that try to play outside the rules — by colluding with competitors, abusing market power or by misleading consumers.

Overseas, anti-competitive conduct in the construction sector is prevalent, and here in New Zealand, recent research commissioned by the Commerce Commission showed that there is a low level of understanding within the sector of what kinds of conduct and communications between competitors may be unlawful.

The research showed that many businesses are not aware of the consequences of breaching the Commerce Act, nor what the Commission's role is.

The Commission is now taking a proactive approach to improve understanding of the Commerce Act, and help businesses that compete in the construction industry understand their obligations and change behaviour that may be putting them at risk of breaking the law.

## What type of behaviour is unlawful?

A business may have some good reasons to talk with its competitors — for example, to discuss industry-wide issues and practices, or to share knowledge and technical information.

These discussions are fine. However, businesses need to remember that they are competing for customers, tenders and contracts, and should be careful to avoid colluding with their competitors as this would be illegal.

**“Cartels are organised criminal syndicates. Brown paper bags filled with cash. It’s ongoing and organised crime . . .”**

Wrong. A cartel is any kind of agreement between two or more competitors that affects or has a purpose of

affecting price. So it’s much wider than just where an exact dollar value is fixed.

Any discussions with competitors about prices (including any components of price such as discounts, margins or surcharges), allocating customers (including by geographical area), tenders and output restrictions (such as production volumes) should be avoided.

Agreements in these areas are likely to breach the Commerce Act.

## Cover pricing — helping out a mate?

The Commission’s research also indicated the practice of cover pricing is occurring in the sector. Cover pricing involves competitors talking to each other to come up with a believable but not genuine bid for a job.

Cover pricing mostly occurs between “friendly” competitors, when one of the parties does not want to win a job, or is too busy to prepare a tender, but may want to stay on the project manager’s tender list.

It may also occur when a project manager asks a contractor to put in a cover price, because they want to prove to their client that a favoured contractor’s price is competitive.

**“It’s perfectly normal business practice . . . It’s not collusive, it’s just business.”**

Wrong again. Cover pricing is based on secret communications between competitors on prices to be charged and, therefore, puts participants at risk under the price fixing provisions of the Commerce Act.

For this reason, the Commission strongly advises businesses against taking part in cover pricing discussions under any circumstances.

In addition, cover pricing may be misleading or deceptive conduct under the Fair Trading Act, especially where a tenderer has signed an undertaking that its tender has been prepared independently.

## A nod or a wink is enough

There doesn’t need to be a formal written agreement between competitors for there to be a breach of the Commerce Act. It can be just an understanding — a “nod or a wink” — reached between two or more

competitors about how at least one of them will act, or not act.

Even an attempt by one party to make a collusive agreement can breach the Commerce Act. And parties who are not in competition but are involved in the agreements (such as consultants) are also liable if they facilitate such agreements.

## At what cost?

There are heavy penalties for breaching the Commerce Act — up to \$10 million for companies and up to \$500,000 for individuals per breach, as well as the cost of court action. Even private indemnity insurance won’t help.

Adverse publicity will make matters worse, as your customers could end up choosing to go elsewhere.

## Practical tips

How can you avoid putting yourself or your business at risk of an allegation of anti-competitive conduct?

When engaging with your competitors:

- don’t discuss prices, discounts or any other matters relating to pricing,
- don’t discuss or come to any agreement about bids for contracts, allocating customers or geographical areas within New Zealand, or restricting output, and
- if you are approached by another business to discuss any of the above matters, you should raise an objection straight away. Leave the discussion immediately.

Also, consider introducing a compliance programme into your workplace to promote awareness of competition law, and ensure staff take precautions to avoid putting themselves at risk.

## Where to find further information

If you or one of your employees is involved or has been involved in an anti-competitive agreement, you can apply to the Commission under its leniency policy for immunity from prosecution. See [www.comcom.govt.nz/cartel-leniency-policy](http://www.comcom.govt.nz/cartel-leniency-policy).

For more information visit the Commerce Commission’s web site at [www.comcom.govt.nz](http://www.comcom.govt.nz). To contact the Commission’s call centre, call 0800 94 3600.

# RMBF says construction in recession — again

**T**he Registered Master Builders Federation says while consent figures for new dwellings showed an increase for the 2010 year compared to the 2009 year, the current trend is one of decline.

The year ending figures released recently by Statistics New Zealand confirm that the number of consents issued for new dwellings (excluding apartments) in 2010 rose by 13% on 2009.

RMBF chief executive Warwick Quinn says while the annualised figures are better than 2009, this is still the second lowest annual total for a calendar year since the series began in 1990.

The small gains the residential building sector experienced earlier in 2010 have virtually been wiped out, with the December 2010 figures being the sixth consecutive month of decline.

"While 2010 was slightly better than 2009, the continuous downward trend for new residential building consents is one of concern, particularly when the value of non-residential consents for 2010 is down 17% on 2009," Mr Quinn says.

## Negative cost-related announcements

"As much as the Canterbury rebuild work and the Government's weathertightness funding package should provide some relief, this work is not reflective of the poor state of the sector and the fragile state of the economy."

Since March 2010, all cost-related announcements that influence construction have been negative. Increased costs such as GST, higher interest rates, the impacts of the emissions trading scheme, changes to property tax, higher wood, concrete and steel prices,

and a struggling wider housing market have combined to deter consumers from building new homes.

It is estimated that New Zealand needs to be building approximately 20,000 to 25,000 new homes each year to maintain the nation's housing stock and capability.

## Sector will remain flat

"We built 14,663 new homes in 2010 and fewer than 13,000 in 2009. These low figures will result in the sector losing capability, and it will struggle to cope should a rebound occur," Mr Quinn says.

The RMBF believes that until the recovery is well entrenched, and investors and consumers are confident with the stability of the wider economy, the sector will remain flat for some time.

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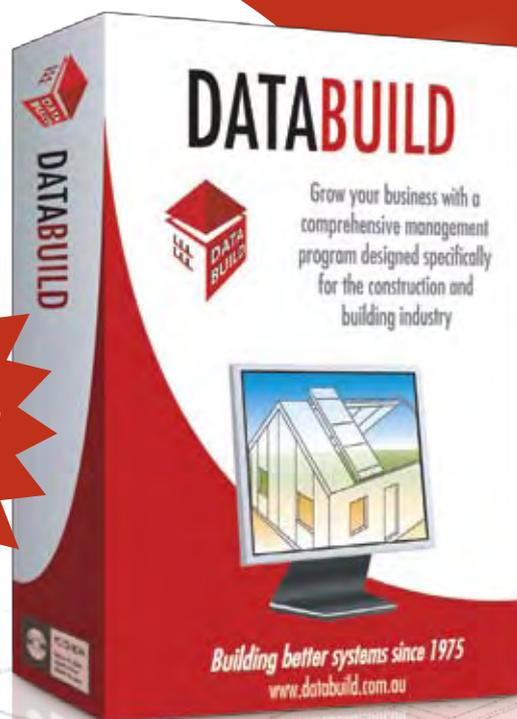
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## HireQuip acquires Scissor Platforms Ltd

Tasman Capital Partners investee, Pacific Equipment Solutions, has announced the acquisition of Scissor Platforms Ltd's business and assets as part of its growth and product extension plan in New Zealand to further service and support infrastructure and construction sectors.

HireQuip chairman Garry Woods says the company is committed to providing customers safe, cost-effective equipment hire solutions with the right equipment to support the infrastructure and construction markets.

"With the acceleration of major infrastructure projects as a part of the government stimulus package and the recent earthquake in Christchurch, demand will increase considerably from these sectors and will offer more growth in New Zealand this year and in the future," Mr Woods says.

"It's an opportunity which we want to ensure Hirequip are positioned to take advantage of."

Scissor Platforms Ltd has been trading for in excess of 25 years. Throughout this time it has grown to be a respected specialist access equipment provider, with operations in Auckland and Christchurch.

Owned by Tasman Capital Partners, HireQuip is a leading hire company which supplies a wide range of equipment across various market sectors.



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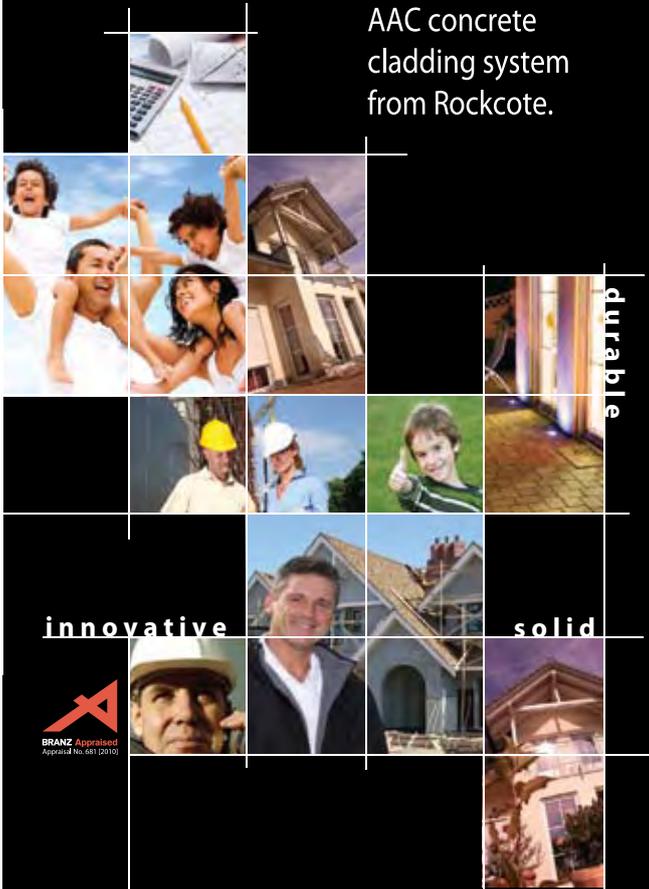


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## news

# Prison-trained worker now an 'asset to company'

'Honesty greatly appreciated'

**P**risoners completing industry-recognised national qualifications in crane operation and concrete skills at the Auckland Prison pre-cast concrete yard are being provided with "great training", according to an Auckland structural steel company.

"Brandon, an ex-prisoner, applied for a job with us, along with seven other applicants. He was completely open in regard to where he had received his training and how much experience he had," according to Dan, managing director of the company.

"His honesty was greatly appreciated, and while he hadn't dealt with steel he had good knowledge of crane operation, knew how to read a crane chart and understood the crane's limits.

"Most guys can operate a crane but don't know how to read the charts and maintain them, which proves that Brandon's training is of a high quality, Dan says.

"When we price jobs, our clients don't just accept the best quote — we have to show that our staff have been trained, hold qualifications and are competent in what they do. Guys like Brandon meet those requirements, which makes them an asset to our company."

While serving a prison sentence for drug offences, Brandon worked toward qualifications in Occupational Health and Safety, First Aid, Working at Heights and Working in Confined Spaces, as well as National Certificates in Dogman, Tower and Mobile Crane Operation through Corrections Inmate Employment (CIE).

### Continues to impress

He's almost done a year with his employer, and continues to impress them.

CIE engineering sector manager Garron Starr says by providing prisoners with the opportunity to undertake employment training and education in prison, it reduces the chances of them coming back.

"Prisoners who use their time inside to address the causes of their offending, and work on developing skills that will help them live a crime-free life, have a much better chance of finding sustainable work on release," Mr Starr says.

### Less likely to re-offend

"We know this makes them less likely to re-offend. Lower levels of reoffending ultimately make our communities safer places to live.

"The pre-cast yard is showing great results, with a number of prisoners recently completing their Level 2 National Certificates in Concrete Core Skills through the Building and Construction Industry Training Organisation.

"One, who was released recently, had a job lined up before he left prison, and was really excited about his new life on the outside and being able to earn a wage and support himself through what he learnt during his time in prison."



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\*Business Interruption and Liability cover can only be chosen if Business Assets cover is also selected. This is a summary only of the cover available. For full terms, conditions and exclusions, please request a policy document.

# Leaky home financial assistance package a 'waste of time'

In a bid to prevent the passing of legislation that will potentially destroy the lives of thousands of New Zealanders, advocate for leaky home owners Steven McAneney has extended a plea to all home owners to stop the Financial Assistance Package (FAP) bill for leaky home owners in its tracks.

"The bill is a complete waste of time" Mr McAneney says. "It is also a travesty of justice. Rather than looking after home owners, the Government is looking after its money-laundering councils who have been doing a shoddy job and charging like wounded bulls for their services.

"Think about it. The money they (councils) have earned from issuing dodgy building consents and carrying out shonky inspections is then used to build our parks and repair footpaths. How morally correct is that?"

Mr McAneney's appeal to stop the bill is in response to

ratepayer complaints that they should not have to foot the bill for leaky homes.

Rather than looking after home owners, the Government is looking after its money-laundering councils who have been doing a shoddy job and charging like wounded bulls for their services.

In regions particularly hard hit by the problem, such as Auckland, there is a risk of rates going up as councils are sued for their role in the leaky home saga, unless the FAP bill is passed which caps their contribution to

25% of the repair cost.

Mr McAneney says the passing of the bill may temporarily delay a rates increase, but it will also pass on the brunt of the repair costs to leaky home owners.

This is even more unfair than ratepayers sharing the cost, as it was ratepayers as a whole who voted in each council, not individual home owners.

"Why should a small group of home owners pay for the incompetence of councils? If we don't make them pay for their mistakes, will they ever change the way they do things?"

Mr McAneney has written an analysis of the FAP bill which he has placed on his web site at [www.leakyhomeforum.co.nz](http://www.leakyhomeforum.co.nz).

He urges all New Zealand home owners to take control of their financial future and send submissions to the Government voicing their opinions before the February 18 deadline.




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# Spectacular museum of old and new art opens

'MONA built to shock and offend'

**A**ustralia's largest private museum, the spectacular \$75 million Museum of Old and New Art (MONA), was officially opened in Tasmania last month.

The development is quite unlike any Australia or the world has known — it is a three-level subterranean concrete and corten steel development with more than 6000sq m of gallery space.

It is comparable in size to the Broad Contemporary Art Museum on the Los Angeles Contemporary Art Museum campus, the current San Francisco Museum of Modern Art, the Punta della Dogana in Venice and Australia's Gallery of Modern Art in Queensland.

MONA is set to become Australia's newest and most challenging art destination. Located at the Moorilla vineyard in Berriedale, Tasmania, the museum is dedicated to all things interesting and controversial.

It houses a plethora of multimedia artworks, including installations, paintings, light shows, mummies and African art. Its multi-millionaire owner, art collector, investor and arts patron David Walsh, says the museum is designed to inspire debate.

"The museum is my soap box, and I've got one hell of a megaphone," Mr Walsh says.

"MONA was built to shock and offend, challenge, inform, entertain and provoke debate."

It seems, like the art itself, nothing is usual about this museum — even the excavation and construction works required the specialist knowledge of mining consultants.

Coffey International Ltd was engaged to apply its geotechnical and mining experience to the site which was originally a sheer cliff face beside the Derwent River.

By applying tunnelling, shaft and extraction techniques from large-scale mine operations, more than 35,000cu m of sandstone and fill were excavated to create the 140 metre long building.

Coffey International Group general manager of operations Dan O'Toole says this is an unusual application of mining technology and skills to suit the commercial development.



*Above: The excavation and construction works required the specialist knowledge of mining consultants on a site that was originally a sheer cliff face beside the Derwent River.*

*Below: The building includes 6000cu m of concrete and a 12 metre-high, 1400sq m sandstone feature wall.*



"With a large amount of rock and sandstone to be moved, architects Fender Katsalidis knew it would take specialist geotechnical and mining consultants to perform the foundation and excavation design works. Coffey is a multi-skilled specialist consultancy, and we continue to monitor the site," Mr O'Toole says.

Walsh's architect, Nonda Katsalidis, designed the museum as a visual extension of its natural landscape, and the design continues to play on the interrelationship between the environment and built form within the museum.

Constructed by Hansen Yuncken, the building includes 6000cu m of concrete and a 1400sq m sandstone feature wall. The rock wall provides a 12 metre high exposed feature in the museum, and is "living" as

parts will flow with water during rain.

Hansen Yuncken executive chairman Peter Kennedy says MONA had been a unique and exciting challenge for the company's Tasmanian project team.

"This building project really has become a work of art in itself, from the exterior concrete and Corten steel panels to the spiral staircase constructed around a glass lift leading you down to three subterranean levels devoid of natural light," Mr Kennedy says.

It has been projected that MONA will attract more than 250,000 visitors in its first year of operation — about half the population of Tasmania. Local tourism operators hope it will attract increased numbers of interstate visitors.



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# NZ industry facing slight decline

Residential building and infrastructure construction picking up the slack from non-residential sector

**T**he total value of building authorisations in New Zealand is estimated to fall by 5% for the year ended March 2011 due to a downturn in non-residential building, according to leading industry analyst and economic forecaster BIS Shrapnel.

BIS Shrapnel's *Building and Construction in New Zealand 2010/11 – 2016* report found the decline in non-residential building can be attributed to steep contractions in office and sports stadium-related projects.

However, while the non-residential sector will record a slowdown, the residential sector is expected to register a slight rebound of 5% in 2010/11.

## Contraction in dwelling consents

"The residential building sector has experienced four quarters of solid growth," says report author and BIS Shrapnel senior project manager Adeline Wong.

"However, we are expecting a contraction in dwelling consents over the last two quarters in 2010/11 due to the impact of the earthquake in Christchurch and the Canterbury region in September, and lower consumer sentiment amid stalled growth in the economy. But this won't cause the overall numbers for the residential sector to decline."

BIS Shrapnel says the alterations and additions sector is holding up the residential rebound, and building activity related to the reconstruction of quake-damaged properties is expected to start to filter through in this quarter.

Looking longer term, BIS Shrapnel says the value of building authorisations is expected to stage a strong rebound, particularly in the second half of 2011/12.

The five-year forecast to 2016 also shows relatively solid building activity which will be underpinned partially by earthquake reconstruction activity and also remediation work on leaky homes and buildings in the North Island.

"Remediation work on leaky buildings and homes is expected to keep alterations and additions activity at record high levels over the next five years, as long as there are no delays from the legislation of the leaky homes bill," Ms Wong says.

## Large build-up in stock deficiency

BIS Shrapnel says new building activity is also expected to pick up over the next three years, supported by a stronger economy and pent-up demand amid tight new housing supply.

"The Auckland region, in particular, will have a large build-up in stock deficiency due to severe under building in the past few years," Ms Wong says.

Total dwelling consents are forecast to rebound strongly in 2011/12, albeit from a low base. The solid rebound will continue over the following two years, to take dwelling consents to just under 25,000 units — which is still below the peak of 30,000 units per annum over the two years to 2004/05.

While in the near-term the non-residential sector looks weak, a rebound is forecast for 2011/12. "This can be attributed to a recovery in the commercial and industrial building sectors, albeit from a very low base," Ms Wong says.

## Educational building strong

A strong pick-up in demand for commercial and industrial space, and strengthening economic growth from the second half of calendar year 2011, will underpin a further rebound in building activity over the two years to 2013/14.

During this period the industry as a whole will be supported by alterations and additions activity in retail, educational and industrial building. In particular, educational building will be strong, deriving support from an estimated NZ\$1.5 billion bill for repair work at 157 leaky schools.

The infrastructure construction sector over the next five years will continue to be underscored by the Government's pre-election policies and by its National Infrastructure Plan (NIP) that has identified investment in broadband, electricity transmission and roads as its priorities.

Annual average gross capital formation by the civil engineering sector over the past five years rose by almost 45% during the five-year period to 2005/06. This strong growth is expected to continue over the next five years.

BIS Shrapnel managing director Robert Mellor will give a detailed presentation of the company's forecasts for New Zealand building and construction activity at the eighth annual Building and Construction Forecasting Workshop at the Stamford Plaza in Auckland on Tuesday, February 22.

For more information about the workshop visit [www.bis.com.au/conferences/new\\_zealand\\_workshop.html](http://www.bis.com.au/conferences/new_zealand_workshop.html).



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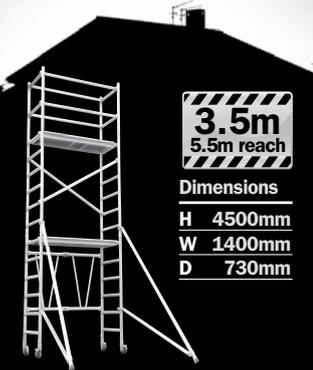
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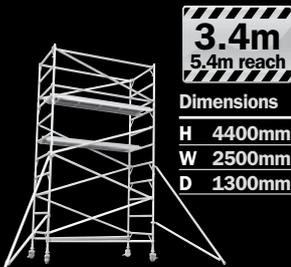
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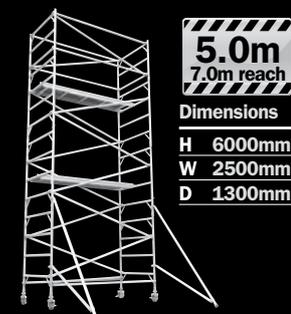
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## English couple begins the Queenstown sustainable eco-home revolution

**M**ulti award-winning Registered Master Builders construction company Rilean Construction has recently sold its first energy efficient sustainable Evolution Series home, just weeks after launching the concept in Queenstown.

First to sign on the dotted line for an eco-home to be built at their Mystery Grove property in Lake Hayes was English couple Mark and Jackie Burston, who recently moved to the resort from Wellington.

They chose to build a 175sq m, three-bedroom, two-bathroom, two living and double garage home known as an es2 that boasts a reduced carbon footprint of almost 70%. Building work was expected to start this month, and is planned to take just four months to complete.

Mr Burston, a systems analyst for the Queenstown Lakes District Council, says Rilean's designs stood out for the couple as an "original design concept" that appealed to their values and ideals in establishing a home in New Zealand.

"Like many, my wife and I are very conscious that future resources will soon be limited," he says.

"In buying a sustainably-effective home we're doing our bit for the planet and, in the long term, will benefit from cheaper bills and a positive, healthier lifestyle."

Committed to building an eco-friendly future, Rilean Construction developed the Evolution Series as a range of energy-efficient, healthy-living and affordable homes.

Each home has been designed to make buying a sustainable home easy, following extensive research into the most appropriate building materials, green technology and architectural features.

All designs are "future-proofed" in anticipation of more stringent environmental building regulations.

Rilean Construction shareholder Mick Moffatt says the Burstons' desire to live more sustainably reflected the needs of a changing generation of home buyers.

"Mike and Jackie approached us following the launch of the first design, the es1, and said how impressed they were and keen to pursue the evolution series," he says.

"They had several inputs into the es2's original layout, and developed it personally to match their own personal taste. It's a service open to all clients.

"The benefits of buying an Evolution home from a buyer's perspective are that all the hard work has been done, with extensive in-house and independent research into the most



Mick Moffat from Rilean Construction, with new home owner Jackie Burston on the site of her energy-efficient, sustainable home.

appropriate building materials, sustainable technology, in-built architectural and space-saving features.

"It's fantastic for Rilean to be paving the way towards a sustainable eco-home building revolution aimed at people wanting to live affordably and sustainably with all the benefits of professional design."

Sustainability is a fast-growing area for Rilean, who are members of the New Zealand Green Building Council.

The company launched the Evolution Series following increasing "eco-demand" from the company's commercial and residential clients, who were increasingly asking for eco-friendly and sustainability requirements for buildings and fit-outs.

The es2 home and the es3 homes (a 210sq m, 4 bedroom, 2 living, 2 bathroom, double garage) were officially launched late last year.

Mr Moffat says the independent research showed that living in an Evolution home would take at least \$900 off annual electricity bills and reduce CO<sub>2</sub> emissions by 70%, compared to the same house with electric heating and the minimum insulation required.



An Evolution Homes es2 image.

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# Westfield's Chartwell redevelopment

By Roy Kane

The expansion of the Westfield Chartwell shopping centre in Hamilton has been part of the company's plans ever since its initial \$40 million redevelopment in 2006.

The green light was given when Farmers signalled that it needed a larger store to offer a wider product range.

Westfield's design for the new two-level department store provided Farmers with 5800sq m of retail space, added more retail outlets to bring the total to 126, and increased car parking to 1100 bays. All told, this added up to a \$33 million investment that increased the GLA to 28,500sq m.

Westfield project manager Paul Wood says one of the group's strengths is its vertical integration.

"Westfield is unusual as a property owner because we develop, we design and we build. For example, we have our own architect and our own engineer, and the ease and speed of communications between our various disciplines makes for rapid decision making and great efficiency," he says.

"One of the advantages this gives us is we



*The steel that will be exposed to the elements has been pre-coated in the workshop. Uncoated steel will be enclosed in an air-conditioned and ventilated environment.*

are able to set rigorous schedules, achieving and often beating tight deadlines while staying within budget.

"From our previous experience at Chartwell, we knew that the ground conditions needed due consideration. Initial indications were that the foundations would need piles sunk to a depth

of 18m.

"Further investigation showed that the below-ground conditions were the same throughout the site, and we were able to prove we would achieve stability using pad foundations that were 5m x 5m x 1m deep, with interconnecting ground beams as required.

That got our construction programme off to a flying start!"

Work got under way on 21 January 2010. The extensions were comprised of two new structures — a two-storey building to the south of the existing shopping mall and housing ground floor car parking, retail on the first floor and both retail and car parking on the third floor; and to the east of the existing mall a new, single-level car parking building adjoining the existing car park structure.

While under construction, the two buildings were kept discreet from the existing shopping centre so that the work had minimal impact on shoppers, and required only the temporary closure of one entrance.

The safety of the public was never an issue, since all construction work was


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# all part of the plan

carried out within its own separate zones.

Mr Wood acknowledges that the project benefited greatly from the production of a 3-D model.

"Once in-house architect Garo Garabet had completed his drawing, we engaged Zoran Rakovic as the engineer to produce the 3-D model. Zoran's company, Xona Ltd, did this using sophisticated ProSteel software.

"The advantage of a 3-D model is that you can see if something clashes or is missing — it shows up on that third plane."

When the 3-D model was exported to Waikato Steel Fabricators Ltd (WSF), they made modifications following some changes required by Westfield. WSF detailing manager David Armitage says the fabricator's drawing office also works in ProSteel.

"We quickly produced shopfloor drawings from which we were able to place our order for all 680 tonnes of steel for fabrication," Mr Armitage says.



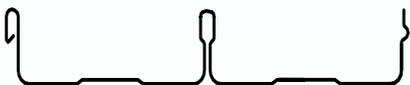
Continued page 28 *The three-storey structure showing the reinforced concrete composite Hibond floor slabs.*

## Spans Large Buildings in a Single Sheet

*Whether it be the classic lines of Dimondek 300/400 or the modern style of Dimondek 630, Dimond have the deal for you.*

Dimondek is the ultimate commercial profile. Dimondek uses a method of concealed fixing allowing the roof sheets to expand and contract with ease and no fixing holes pierce the roof.

Dimondek can be manufactured onsite using the Onsite Production Units allowing long sheet lengths — up to 100 metres! This greatly increases the freedom of design eliminating potential leak points along roof steeps, increasing the life of the roof.



Dimondek 300/400



Dimondek 630

### Features and Benefits

Long sheet lengths up to 100m

Eliminates step joints

Concealed fixed

No screw holes piercing the profile

Available in a range of natural lighting options

Thermal expansion flashing system





"Yes, we always meet our deadlines!" Westfield managing director, Australia & New Zealand, Robert Jordan (centre), with senior executives has a friendly grin for Mike Beadgley of Rodd & Gunn.

## Westfield's Chartwell redevelopment all part of the plan

From page 27

"The teamwork with Xoran Ltd was the best we've enjoyed for some time. When a problem arose, Zoran would be there immediately and take ownership.

"Often he just popped in to keep an eye on things. He was always receptive to what our erectors on site had to say. We found him brilliant to work with!"

Asked if the 3-D model was the key to Waikato Steel Fabricators finishing the steel erection two weeks ahead of schedule, Mr Armitage says it certainly was a factor.

"But I think it started at the top and moved down the delivery chain. Westfield knew what they wanted in their design and there were very few design changes."

Mr Rakovic says the construction programme was compressed largely because of the almost exclusive use of steel framing.

"We used steel columns and steel primary and secondary beams. We used circular hollow sections filled with concrete to give the required fire rating. Eccentrically-braced and K-braced frames formed the lateral load resisting paths. And 3-D modelling ensured that all the components fitted quickly and easily during the erection phase."

Waikato Steel Fabricators managing director Gary Lightfoot says he's very proud of his team's response to the tight deadlines set by Westfield.

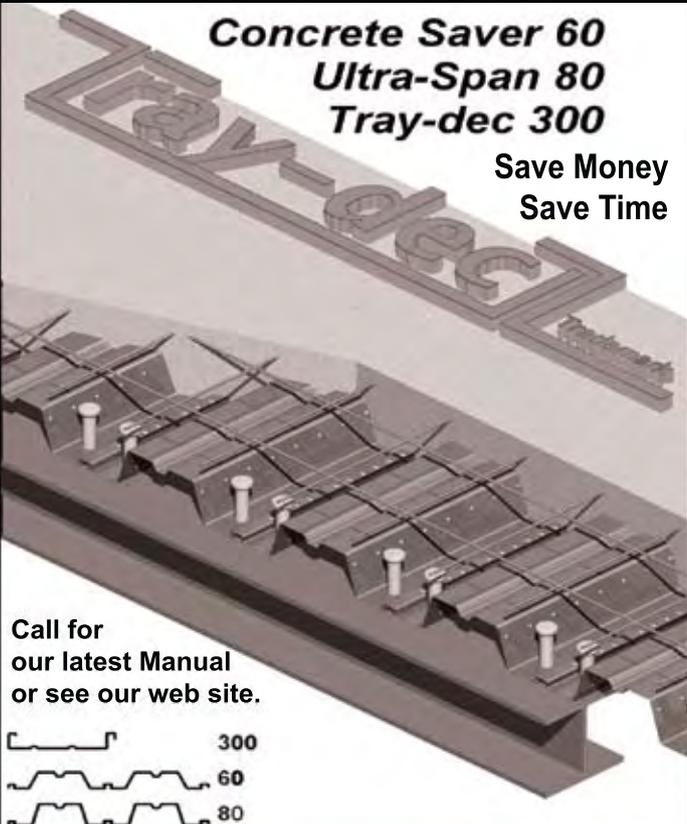
"The quality and performance achieved were due primarily to the team effort between our workshop staff and the site crews. Consistent accuracy in the workshop ensured increased speed and efficiency during the erection process." Mr Lightfoot says.

"We started erecting on February 10 and finished the main structure on April 23 — that's 10 weeks, a good result I'd say."

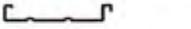
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Continued page 30



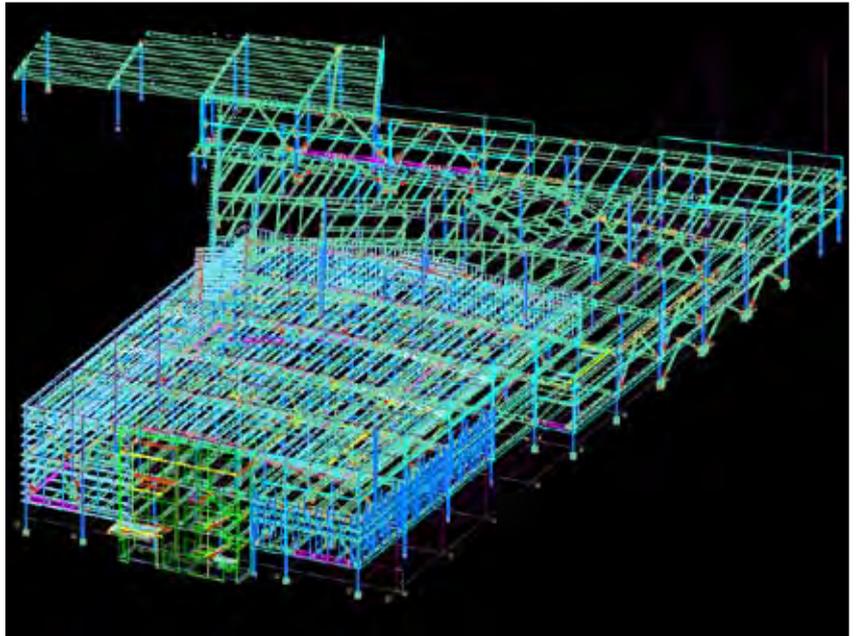
## They're all straight when you build with steel

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From page 29

Mr Lightfoot's not the only one saying so. The following is a copy of Westfield's letter of appreciation dated 1 November 2010:



A snapshot of the 3-D model developed by the engineers and used by Waikato Steel Fabricators to generate accurate workshop drawings.

## Fussell appointed SCNZ manager

**A**listair Fussell, CPEng, MIPENZ, B.B. (Hons), M.E. has been appointed manager of Steel Construction New Zealand (SCNZ).

He joined the association as senior engineer in 2005 after 15 years working in a number of New Zealand engineering practices.

"Having gained experience on a wide variety of civil engineering and building projects, including several stints in South East Asia, I welcomed the opportunity to prepare design guides for construction professionals and assist design teams in exploring steel solutions," Mr Fussell says.

"I was responsible for the regular technical presentations that SCNZ gave to practising structural engineers in seminars held every year throughout New Zealand."

With the resignation of Clark Hyland in 2009, Mr Fussell took over as acting manager, focusing on the benefits of steel construction, especially when delivered by the local supply chain.

"Steel constructors in New Zealand have invested in plant and technology to achieve very high standards of productivity and time efficiency. I see my role as promoting the value that they add to every project undertaken.

"Their on the spot responsiveness and flexibility is impressing construction design teams because it saves their clients money."

Mr Fussell is currently a member of the Steel Structures Standard Committee (NZS 3404) and a committee member of the Auckland Structural Group.



New SCNZ manager Alistair Fussell.



Opening Day on October 21, 2010.

## Dimond's commercial profiles provide excellent benefits

**W**hether it's long lengths in a single sheet or superb economy, Dimond's top commercial profiles are a popular choice.

DP955 and DD630 have been used on a number of high profile sites across New Zealand, and they provide excellent benefits for large commercial jobs.

Whether it be DP955's excellent spanability under wind loads and foot traffic, or DD630's large length in a single sheet (up to 100m), Dimond has every situation covered with an impressive install base nationwide and a technical team ready to assist.

These benefits present a reliable long term roofing solution, helping with accessibility for maintenance and minimisation of leaks.

It's all backed by Dimond's dependable reputation and extensive warranties.

## Environmentally friendly?

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## Numbers fall in testing year

**F**or many businesses in New Zealand's construction industry, 2010 was a challenging year — and the BCITO was no exception.

A positive aspect of its 2010 results was seeing almost 2600 trainees complete their qualification and gain a national certificate.

However, the total number of apprentices in formal training fell by one third to 5600, and only 1800 new apprentices entered the training system over the financial year. Because of the low numbers of new apprentices entering the system over the past two years, the completion numbers are set to drop by 60% just as the industry needs them the most.

These falling numbers are a cause for concern not only for the BCITO, because they should be seen as a call to action for everyone within the industry.

Recent BCITO research found that with an ageing workforce within the construction and related industries, a plan for replacing at least half the existing workers is needed.

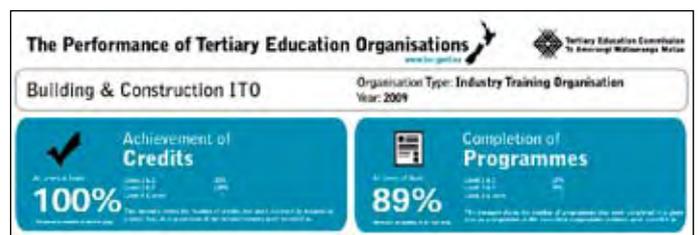
The research also found that over the next three years, taking into account projected industry growth as the country heads out of the recession, the industry needs to do more than replace those who leave, by taking on greater numbers and strengthening the industry if it is to meet the increasing demand for construction.

The reality of the situation is that more than 8000 new workers will be required each year by 2013 — that's 14% of the total workforce

The industry must start planning for this eventuality now, or it will be playing catch-up and, as has happened in the past, competing with other industries for labour just as demand begins to grow strongly again.

A positive outcome for the BCITO at the end of the year was the release of the Tertiary Education Commission (TEC) Performance Report. The TEC funds the BCITO, and has recently introduced new performance measures which focus on completions.

The TEC report released in December 2010 provided a snapshot of the educational achievement of industry trainees from 2009 across the 38 ITOs.



The results reflect the BCITO's positive focus on trainees achieving credits and completing qualifications. The BCITO topped the table in both performance measures.

100% of credits were achieved by BCITO trainees (there was an average of 47% across all ITOs), and the BCITO was identified as having a huge 89% completion rate for those registered in training agreements (the average across all ITOs was 34%).

While these outstanding and very positively reported results validate BCITO research findings, in isolation they are not enough to maintain the industry's future.

The bottom line is that there are not enough people coming into formal training to meet the needs of the industry in the future.

The BCITO's training success shows its clear commitment to the industry's future to ensure the long term viability and success of the construction sector. However, business owners also need to commit to increasing the skill base.



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For more information call 0800 4 BCITO or visit [www.bcito.org.nz](http://www.bcito.org.nz)

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# What's on for 2011!

It looks to be yet another action packed year on the Carters calendar. Here are just some of the fantastic events and entertainment Carters has lined up in 2011.



**Carters Beach and Boat Fishing Competition:**  
**Feb 25-26**

NZ's largest fishing tournament with more than 2000 senior and 100 junior anglers competing, the competition offers two days of fishing in Bream Bay and top quality prizes from a huge prize pool.

It doesn't matter if your boat is big or small, your rod old or new, or if you are young or old — you are guaranteed a great weekend at Marsden Cove Marina, Ruakaka. For further information visit [www.beachandboat.co.nz](http://www.beachandboat.co.nz).

## Fieldays Events



- Northland Fielddays: March 3-5, State Highway 14, Dargaville**
- Central Districts Fielddays: March 17-19, Manfeild Park, Feilding**
- National Agricultural Fielddays: June 16-19, Mystery Creek, Hamilton**

With our comprehensive range of quality products and services for building, fencing, rural products and home maintenance, Carters can effectively cater for everyone's needs.

Visit us at Fielddays to discover how we can make building easier for you!



Carters Kids Gone Fishin are collaborative events between Carters, Police Bluelight, Graeme Sinclair and the Gone Fishin team, and the local community.

The aim is to get the kids having fun in an outdoor marine environment, and to encourage parents to spend quality time with their kids. Entry is free but you need to register, so get down to your local branch and register your interest.

Upcoming events are:

- March 19: Taupo**
- March 20: Hamilton**
- March 26: Maritime Museum, Auckland**
- March 27: Bayswater, North Shore**



**Advantage Barefoot Beijing: June 1-9**

Visit the Great Wall, the Forbidden City, Summer Palace and Tian'anmen Square, enjoy incredible shopping, diverse restaurants and exciting entertainment. Be spellbound as you fly to the original capital of China, Xi'an, and witness the breathtaking Terracotta Warriors.

Beijing holds something magical for every traveller, so join Carters and together we will unlock the secrets to the mystic East.

## RMBF Conference and buildnz: June 26-28, Auckland

For the first time in 2011, the Registered Master Builders Federation will be holding its annual conference in conjunction with buildnz, featuring a full programme of functions and industry-relevant seminars.

This is a great opportunity to mingle with thousands of member colleagues, sponsors and other trade-related visitors.

Carters is a gold sponsor of the RMBF event, and is looking forward to another informative and successful conference.



**Advantage Boots 'n' All Bledisloe Cup Tour:**  
**Aug 26-28**

There is nothing as exciting as seeing the All Blacks playing New Zealand's national sport live in Australia. Be there as Carters cheers on our team as they battle the Wallabies for the privilege of holding aloft the mighty Bledisloe Trophy.

If you would like further information on this trip or on becoming an Advantage member then please contact your local Carters branch, or phone 09 272 1440.

## Irwin handsaw wins prestigious red dot award

**T**outed as the "best handsaw ever," the new Evo Universal Handsaw from Irwin has captured a prestigious Red Dot Award.

On its web site, Red Dot says Evo "challenges the established design concept of conventional handsaws".

With more than 12,000 submissions from more than 60 countries, the coveted international Red Dot Award for product design is one of the largest and most renowned design competitions in the world.

Since 1955, the Design Zentrum Nordrhein Westfalen, a long-standing, highly reputable design institution in Europe, has recognised outstanding product design



with its famous Red Dot.

Soon to be released in New Zealand, Evo marks a best-in-class innovation. Marketed under the Irwin Jack brand, this product is packed with features that will transform the handsaw market.

With two skus — a 375mm and a 525mm, these handsaws will retail for \$34.95 and \$39.95 respectively. Five years of deep consumer insights and product development resulted in these next generation design

features:

- ergonomic positioning of the handle in relation to the blade/cutting edge,
- three times faster cutting than any other traditional-tooth handsaw in the marketplace,
- 45° and 90° angles built right into the blade for precise marking on work surfaces, and
- a coating of water-based lacquer provides four times better rust protection for the blade.

## BRANZ gives thumbs up to revolutionary ground engineering solution

**U**retrek Ground Engineering, the company offering Canterbury home owners an alternative remedial solution for earthquake-damaged properties, has attained a highly regarded BRANZ Appraisal.

BRANZ says Uretrek's resin injection process, which lifts and re-levels buildings by filling in-ground voids and supporting collapsed ground, is "fit for purpose" in New Zealand.

Uretrek business manager marketing Colleen McMahon says although Uretrek's range of patented technologies has been applied to great effect during earthquake damage repair work in Japan and Turkey, it was important for the company to get an independent assessment of its product within the local New Zealand market.

"A BRANZ Appraisal provides home owners with the reassurance and confidence that our product meets performance standards," Ms McMahon says.

Uretrek Christchurch project manager Phil Johnston says Uretrek's resin injection process is like keyhole surgery, the resins being pumped into the ground through 6mm to 16mm diameter holes, with minimal disruption to the home owner and surrounding environment.

"The expanding engineered structural resins are injected into the ground under minimal pressure. The components react once they make contact under the building, floor or pavement and, exerting as much



pressure as 40 tonnes per square metre to fill cavities, compact the ground and stabilise a structure to lift walls, floors and pavements.

Lasers are used to monitor and accurately control the degree of building re-levelling and correction to the nearest millimetre."

Mr Johnston says the greatest advantage with Uretrek's methods is that paths and gardens are not dug up, there is no excavation, no water and no mess for the home owner. The product is also non-toxic, inert and environmentally friendly.

In its appraisal of the product, BRANZ said it looked at:

- the remedial use of the Uretrek method in ground replacement, correcting erosion and loss of support immediately below concrete floors and pavements,
- correcting subsidence by lifting and squaring up buildings and re-levelling floors, and
- ground compaction, increasing the bearing capacity of identified weak and/or collapsed ground at depth.

BRANZ says it took some months to complete the appraisal as the product was "out of left field".

"It was a structural remedial product rather than a building product, which meant there was no specific standard to which it must comply," BRANZ technical manager Mike Reed says.

"However, BRANZ put it through its rigorous technical assessment process, and it was found to be a good product which complied with our standards."

Uretrek has been operating a mobile injection vehicle throughout New Zealand for the past eight years from its Auckland office, while a second rig has been based in Christchurch since October 2010.

### Fast, convenient alternative

The company has increased its presence in Christchurch, and is gearing up to mobilise additional rigs following last year's earthquake, to meet the growing needs of the local community for remediation of residential and commercial/industrial buildings, along with the remediation of bridges, roads and other infrastructure.

Mr Johnstone says the system is a fast, convenient alternative to the old-fashioned underpinning and jacking methods.

"Most residential work is completed within a couple of days, and there are big cost savings for home owners."

# Product Nail Guide

Introducing the new Paslode Product Nail Guide designed to exclusively attach to our leading FrameMaster® framing nailer. The FrameMaster Product Nail Guide and supporting nail range is the latest tool attachment and fastener system from Paslode.

Tested in the toughest working conditions and manufactured in New Zealand, it gives builders unparalleled convenience and flexibility on the job site.

The Paslode Product Nail Guide does away with the need for hand hammering or awkward and expensive specialist pneumatic tools and compressors by offering a faster and lower cost method of installing nail plates and bracing systems for wooden frame construction projects.

## Patented Design

The Product Nail Guide is designed to precisely locate the new 44 x 3.15 mm Paslode product nail into metal plates up to 1.2mm thick to meet the requirements of the New Zealand building code. The Product Nail Guide system uses specially-designed Paslode product nails, and is the only BRANZ-appraised product nail system in New Zealand.

## Save Time

Paslode National Sales Manager Peter Douglas relates a story from one builder involved in our testing. He told us that “an apprentice could take up to a week to finish off the nail plates on a house — now he comes back after a few hours asking for the next job!”

## Save Money

The Paslode Product Nail Guide is a low-cost alternative that does away with a pneumatic specialist tool, compressors and hoses, while giving builders greater freedom and flexibility to move quickly and easily anywhere on the job site.

## Safety

Builders tell us that installing hand-driven product nails is one of the most unpopular and dangerous jobs on a building site. With the Product Nail Guide, once started, you can install the plates using one hand in a fraction of the time.

## Partnership

The engineers at Pryda, an international leader in timber connection systems, worked together with the Paslode technical team to create a matrix guide for all metal plate applications, including Framing Anchors, Bottom Plates, Rafter and Truss Ties, Joist Hangers, Bracing, Strap Ties, and Metal Plates.

## Paslode System

The Product Nail Guide offers builders a total product nailing system that is designed to work together to increase builder speed, comfort and safety.

Look for the New Paslode Product Nail Guide and Product Nails in your usual hardware stockists from February 1, 2011.



Paslode 44 x 3.15mm D-Head Strip Product Nails are specified for use with Pryda Timber Connection Systems

### Interior/Exterior Framing

Nail-on plate  
Multigrips  
Nail-on diagonal cleat  
Nail-on angle  
Tim-con bracket  
Nail-on joist hanger  
Split joist hanger  
Stud anchor  
Sheet brace straps  
Pole to girt bracket

### Bracing

Angle brace  
Strapbrace and Maxi strap

### Roofing

Ceiling and purlin hanger  
Concealed purlin cleat  
Multigrips  
Windstrap  
Cyclone strap  
Framing bracket

### Flooring

Framing bracket  
Nail-on diagonal cleat



### Caution

- Always use tool at a 90° angle to metal plate work surface
- Always wear safety glasses for metal plate timber fixing
  - Not suitable for use with plates greater than 1.2mm
- Plate metal connection application may increase driver blade wear



# The Baroque glories of Schloss Eggenberg

Dr Kerry Rodgers contemplates a heavenly masterpiece

**E**urope has more magnificent castles than you can shake a stick at. Few, however, match the glories of Austria's Schloss Eggenberg.

Apart from being hopelessly overworked, descriptive words such as "magnificence", "grandeur" and "splendour" simply don't cut the mustard when it comes to this particular architectural masterpiece. If you ever get to Graz, take the time to go visit and judge for yourself.

At first glance, Schloss Eggenberg presents the image of yet another 17th Century Baroque palace, yet fragments of the building date to the late Middle Ages.

Its core is a Gothic chapel dedicated to the Virgin Mary built in the mid 15th Century by Balthasar Eggenberg, financier to the Holy Roman Emperor, Frederick III.

The chapel was retained in 1625 when Prince Hans Ulrich von Eggenberg gave the family home a total makeover.

The Prince wanted a grandiose residence befitting his role as Gubernator of Inner Austria. Imperial architect Giovanni Pietro de Pomis got the job, and took El Escorial

in Spain as his model.

Hans Ulrich also wanted his palace to reflect the new ideas in astronomy, astrology and alchemy that were all the rage at court. This was the day and age when Copernicus, Galileo and Kepler were busily turning European society's understanding of the heavens on its head.

What the Prince wanted, the Prince got. de Pomis was fortunate in having Kepler resident nearby in Graz, and the Imperial Astrologer had considerable input into the final design.

The relatively new Gregorian calendar can be found everywhere. There are 365 exterior windows. Of these, 52, one for each week of the year, occur in the 24 state rooms of the main floor.

These 24 rooms are arranged in a ring to symbolise the hours of a day. Other floors have 31 rooms for the maximum days of a calendar month. A tower at each corner of the palace stands for one of the four seasons, its outside corner directed to one of the four cardinal points.





*The Planetary Room.*

The upshot was that in 1666 when Hans' grandson, Prince Johann Seyfried von Eggenberg, inherited, he found he had a fabulous structure to play with. He called in the decorators and artists and ordered them to turn his new home into an object of Baroque splendour.

Among other things, he had the ceilings covered with a cycle of 600 paintings. Those in the 24 main floor rooms depict the four elements, the 12 signs of the zodiac and the seven planets.

It was a political statement. The finished work portrayed the Golden Age of the Austro-Hungarian Empire as guided by the House of Eggenberg.

The grandeur was so magnificent that in 1673, the Archduchess Claudia Felicitas of Tyrol commandeered it as the site for her wedding to Leopold I, the new Holy Roman



*The 15th Century Gothic chapel core.*

Emperor.

Of course, the Austrians could not leave well enough alone. Subsequent owners felt the need to add their own tuppence worth. In the mid 18th Century, the husband of the last Eggenberger princess decided some ornamentation of a Rococo flavour was called for.

And in the 19th Century the formal Baroque garden was totally replaced by a romantic English landscape.

The whole kit and caboodle got bombed in WWII. Post war, it became part of the Styrian Landesmuseum Joanneum who undertook an extensive restoration. It was finally opened to the public in 1953. Do go and visit if you are ever passing by.



*Every little girl's fairytale bedroom — that of Marie-Therese.*

# Personal liability of trustees

Tim Bates of Auckland law firm Legal Vision examines the recent District Court appeal decision of *Ellison v Scott* — trustees personally liable under warranty even if they contract in the name of a trust.



In a recent appeal from the District Court, Justice Potter unequivocally overturns a District Court decision, holding the trustees personally liable, even where these trustees purport to contract in the name of a trust.

The respondent Ms Scott, and her then partner Mr Irvine, purchased a property at 2 Maruia Place, Tauranga, in 1998. They carried out extensive building works to the property in the late 1990s/early 2000.

No building permit, nor a code compliance certificate, was obtained.

At some point, the property was transferred to Ms Scott only, as sole owner. In 2001, Ms Scott formed a trust and in March 2001 the property was transferred to the trustees, Ms Scott and JSB Trustees Ltd.

In 2004, the appellant, Ms Ellison, purchased the property. She subsequently found that the construction of the lower storey was significantly defective, and had been carried out without a permit.

Proceedings were issued in the District Court seeking \$170,000. The respondent filed an application for summary judgment in the District Court asserting that the plaintiff's claim could not succeed as all building work was done prior to the property being transferred to the Trust.

## Claim could 'never succeed'

The District Court judge found that the claim against Ms Scott could never succeed, and summary judgment was entered in Ms Scott's favour.

On appeal, the High Court considered the agreement for sale and purchase. It was the standard ADLS form. The vendor was named as the RM Scott Family Trust (Raewyn Marie Scott & JSB Trustees Ltd as trustees).

The purchaser was named as Lindy Jane Ellison. Clause 6.2(5) of that agreement contained the standard warranty by the vendor that building work completed by the vendor had been carried out with a consent, in compliance with that consent, and a code compliance certificate had been issued.

It was alleged by the appellant that this particular warranty had been breached. The appellant argued that the District Court had erred in treating the vendor under the agreement as the trust because:

- a trust is not an entity,
- the vendors were the appellant and JSB Trustees Ltd who were jointly and severally liable under the agreement as joint tenants. — the naming of the trust as vendor being merely descriptive.

It continued to argue that Ms Scott was personally liable on the contract, even if contracting as a trustee only. She had not limited her liability in any way and she was liable to the appellant.

The High Court judge ultimately accepted all of these submissions. She was drawn to the following comments on trusts generally by Underhill and Hayton:

"It is the trustee who sues third parties or is sued by third parties in relation to the trust property, the trust unlike a company, having no legal personality."

She was also drawn to these comments by Garrow and Kelly:

... "the correct legal categorisation is that a trust is a "fiduciary relationship", not an entity in its own right. In other words, the trustees hold property in their own

names but subject to the rights of the beneficiaries . . ."

She then went on to consider the District Court decision. She saw the fundamental flaw in the District Court decision being the judge's conclusion that the purchaser could only have intended to contract with the named trust acting through its specified trustees.

She held that a trust is no separate legal entity that acts through its specified trustees. The trustees were the legal entities who are competent to enter into the contract. She said Ms Ellison intended to contract with the trustees personally, or there was no agreement at all.

She held that the vendors under the agreement were Ms Scott and JSB Trustees Ltd. They were jointly and severally liable in respect of the contractual obligations of the vendor under the agreement because, as trustees, they were joint tenants, and because clause 3.1 of the agreement so provides.

If they had intended that there be any limit on their contractual liability then they had to provide for it, but they did not.

## Ground-breaking finding

A more ground-breaking finding made by Justice Potter was that JSB Trustees Ltd, by providing the warranty along with Ms Scott at the time of signing the agreement for sale and purchase, was effectively giving the warranty in respect of work that was completed prior to the assumption of the trustee's office.

This finding will have severe ramifications if generally followed by the courts moving forward. If applied generally, it could mean that vendors are liable for all building works that were completed on a property.

Common sense suggests though that this finding will be limited to the facts of this particular case where at least one trustee was a registered proprietor whilst the relevant building works were completed.

The lesson to be learnt from this decision is to be wary of signing documents as a trustee of a trust, for unless you limit your liability to the assets of the trust, you will find you are personally liable under such a contract.

- **NB: I note that the most recent form of ADLS agreement for sale and purchase contains a specific clause limiting liability, namely 15.0.**

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