NEGO CIATING THE LEAKY BUILDING MAZE

Careful thought must be put in to remediating a leaky building, even before work begins. From handling anxious clients to the extra safety issues these projects can pose, builders need to educate themselves about the potential obstacles.

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 Owning a leaky building is a major concern for many New Zealanders. A report released by PriceWaterhouseCoopers in 2009, estimated 42,000 homes could be leaking. We don’t know how many have been repaired, but it’s likely that a large number are still leaking.

It’s a job for professionals
Remediating a leaky building is restricted building work and requires a building consent and a licensed building practitioner to carry out or supervise the work. It also requires input from a range of building trades and professions who have the knowledge and experience to achieve a successful Building Code-compliant outcome.

Building professionals may get involved in leaky buildings knowingly or by accident. In the former case, an owner either knows or suspects they have a problem and engages an assessor, builder or designer to help them. In the latter, leaks and consequent damage are discovered during maintenance, alterations or additions.

Helping the owner cope
It’s important to understand the owner’s position and desires for repairing their home. What is the outcome they want, and how are they funding the repairs?

If the building – or subsequent building work on the envelope – was completed within the last 10 years, the owner may be able to claim against parties associated with the original design and construction of the house.

Among the options available are court action or the weathertight homes resolution service (WHRS) and the financial assistance package (FAP) run by the Ministry of Business, Innovation and Employment (MBIE) – Building and Housing Group (formerly the Department of Building and Housing). The owner should be advised to seek legal advice on what is best for them. If the owner is considering pursuing a claim, it is important that all parties involved in the repair work are clear about their roles – if any – in documenting the defects and potentially appearing as a witness.

Remediating a leaky home is a challenging stressful time for owners. A conscious effort is needed from those involved to maintain a good working relationship with them and to keep them informed of progress.

Get all the right people involved
An essential requirement for a successful weathertight remediation project is making sure that the right people with the right expertise and experience are involved. Expertise required includes:

- weathertight assessment
- remediation design
- timber decay and mould identification
- project management
- construction and subtrades
- structural and fire engineering if required.

Contracts and documentation
Several parties are likely to be involved in remediating a leaky building, and contractual relationships can be complex. Legal advice should be sought for all contracts.

The designer is normally contracted to the owner but could also be contracted to a remediation specialist for design support. They may also be responsible for supervising the works carried out under the contract between the builder and the owner. The agreement between the parties should be tailored to the particular circumstances, based on legal advice and recorded in a written contract.

Diagnosing the building
The critical first step in the remediation process is getting an accurate assessment report on the building’s condition. This should identify where the leaks are, what the likely extent of damage is and the cost of the work needed to bring the building back to Code compliance. If the owner doesn’t have an assessment report, insist they commission one before getting involved.

If there is an assessment report, check who prepared it and how old it is. Assessing buildings for leaks is a complex task that requires specialist equipment and experience. Look at the qualifications and experience of the assessor. If the report is several years old, it is likely that the building will need to be reinspected to check if the damage has worsened.

If the owner has made a claim with the WHRS, they will get an assessment report as part of that process.

Choosing a repair option
Leaky building owners have several potential options when considering repairs. These vary depending on the extent of damage and the owner’s financial position.

The starting point for the design of repairs is the findings and recommendations of the assessment report, which should identify the cause of leaks, extent of damage and the likely scope and cost of repairs.

The aim is to bring the affected parts of the building up to Code compliance. However, if there are widespread leaks and extensive damage, it may be cheaper to demolish and rebuild – possibly on a smaller footprint.
OK to make improvements
An owner can make improvements during the repair, but the additional costs can not be claimed in any claims process, for example, court, mediation, adjudication or under FAP. These could include adding on a room or ensuite, changing to a more expensive cladding system, upgrading insulation and glazing or closing in decks.

Where a building needs to be reclad because of extensive leaking and damage, a cavity will normally be required to ensure Code compliance. The inclusion of the cavity would not be considered an improvement.

Warning about future liability
An owner faced with a very large repair estimate may choose to do nothing. However, they need to be made aware of the risk of the building deteriorating further and potentially becoming dangerous or unsanitary. They may also be exposing themselves to liability for additional damage caused by the delay in any claims process in the future.

Costs not initially clear
The full cost of remediation work can only be assessed when the full extent of damage is known. During building inspections, assessors can usually only carry out limited invasive testing. It’s only when claddings are removed during the repair process that the full extent of damage can be assessed (see Figure 1). For this reason, cost estimates for the repair should include provisional sums for undefined work and an overall contingency.

This is particularly important where the recommended repair is targeted or partial because the problem is believed to be isolated to a particular location or part of the building. If more substantive damage is found during repairs, the scope of work and budget can blow out, increasing the owner’s financial problems and potentially forcing them into a claims process.

Tricky estimates, especially replacing timber
One of the most challenging aspects of repairing leaky buildings is determining how much timber needs replacing. Removing too much timber increases costs, but leaving decayed timber in the building means the decay may spread and the building could potentially become unsafe and require further costly repairs later.

It is generally easy to recognise timber in an advanced state of decay where it is severely discoloured, cracking and crumbling. It’s much more difficult to detect decay in the early stages (see Figure 2), and even experienced building assessors send samples of timber to specialist laboratories to confirm whether timber is sound or has decay. MBIE has published guidance on dealing with timber in leaky buildings (see box).

When quoting for a remediation project, it is advisable to include a sum based on the amount of timber to be removed identified in the remediation design documentation and include a rate per unit time or volume for additional timber required to be replaced.

It is also common to find other non-weathertightness problems that should be addressed. These include leaking showers, structural issues such as undersized timber, lack of fixings and inadequate bracing and, in multi-residential units, fire and acoustic separations.

Extra health and safety issues
In addition to the normal safety risks found on construction sites, mould is frequently found in the walls of leaky buildings. While many moulds are harmless, some are linked with health risks, such as Stachybotrys, which can produce harmful toxins. This is most commonly found on paper lining on gypsum wallboard, fibre-cement board, building paper and other materials that contain cellulose.

Moulds found on site tend to look the same and can only be identified under a microscope by qualified laboratory specialists experienced in identifying fungi. It is best to remove and replace materials affected with Stachybotrys rather than attempt to clean them.

When dealing with mould, builders must wear personal protective gear and ensure contaminated materials are wrapped in plastic and disposed of safely. More information can be found in the new guide Dealing with timber in leaky buildings.

ADVICE FOR BUILDERS
MBIE runs workshops for builders interested in learning more. They are presented by Harry Dillon, a builder who has worked on over 300 leaky building repair projects and has written articles on the topic. It is planned to publish these on www.dbh.govt.nz.

Several books worth reading
- Weathertightness: Guide to the diagnosis of buildings, see www.dbh.govt.nz
- Weathertightness: Guide to remediation design, see www.dbh.govt.nz or www.branz.co.nz
- Dealing with timber in leaky buildings, see www.dbh.govt.nz
- Risks to health from moulds and other fungi. OSH, Workplace Health Bulletin No. 17, see www.dol.govt.nz.