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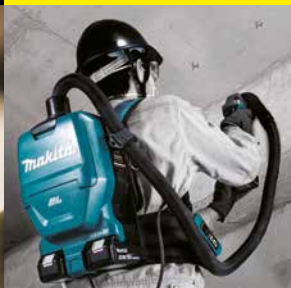
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**How to make a  
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Building Business contributes towards your LBP skills maintenance requirement. Ensure you log this into your ITM diary today.



Rosvall ITM in 1991, now called Whangarei ITM, was one of the founding members.

# The first 25 years

A “great Kiwi can-do story”

## In the beginning

ITM was formed in 1991 in the belief that independently owned businesses “could not only survive, but thrive when they combined their efforts”. Back then, recalls Kevin Marevich, “it was difficult for even well-established independents to get a competitive deal”. Marevich and a handful of like-minded independents set out to change that status quo and create a level playing field, not just for new and developing stores but, in a reasonably short time, to help other well-established independents get on an even footing.

Store numbers grew steadily, even though ITM back then was still to some extent working “under the radar”. “We took the industry by stealth,” says Marevich with a grin. “The competition didn’t take us too seriously until it was too late and by then the horse had bolted”.

## Growing the ITM brand

Gordon Buswell became the CEO for “Phase 2” of the plan. This involved building a brand that was exciting (thanks to the ITM Fishing Show, the ITM Cup and the ITM 500), had personality (thanks to the faces of the members in every TV commercial), credibility and integrity in the eyes of customers, members and suppliers.

A turning point came in 2008 when Carters and PlaceMakers purchased 11 ITM member stores, leaving a sizable hole in ITM’s turnover. By then armed with a very compelling value proposition, Buswell and ITM’s reaction was to sign up the most successful unaligned independents (many of which make up ITM’s backbone today) and in the process

**CONTINUE >>**

rebuild the turnover by much more than it had lost. Says Gordon Buswell today: "Some thought that ITM might not survive after that attack but in fact it gave us the opportunity to bring in new blood, more stores and build more turnover, I think it was a signal to the industry that ITM was well and truly here to stay".

### Looking to the future

Current CEO Scott Duncan's role is about consolidating on ITM's achievements and "setting ourselves to be a multi-generational, long term success in the building industry and the trade in particular". Duncan intends to keep it simple and focus on three things. To continue to sell well – have great relationships with the trade, and to build on that through the value that ITM provides. To continue to buy well – build strong, loyal relationships with preferred suppliers and to focus in on how ITM operates as a network. This

involves helping ITM store owners operate to the best of their abilities so they are getting the benefits of scale when it comes to running their operations as well as they possibly can, for the benefit of their customers and themselves.

Looking to the future, Duncan says "as a group we will be continually evolving and changing so that we are better tomorrow than we are today. Everyone knows that you need to change to deal with the market we're in and to deal with the opportunities in front of us. As with all things, however, it's more about the pace of change than the need for change – not too fast, not too slow..."

One thing that ITM will continue to be is "Independent but united – one of the great things about ITM is that the members are local owner-operators with skin in the game but they are also united on those things that really matter. It's a great Kiwi can-do story," says Scott Duncan.



ITM staff and suppliers 2016





ITM's three leaders L-R: Scott, Gordon and Kevin



Rosvall ITM Building Centre in the green branding.



The updated Rosvall store – new name, new ITM colours.



The Tawa ITM sponsored demolition derby car – March 1996.



Malcolm Young from Katikati Building Supplies, now KKBS ITM.



Acorn ITM in Hamilton.



Tim the almost racer at the ITM 500 V8 Supercars in Pukekohe.

# Take control of dust

## Workplace dust can be a killer

Dust generated by many processes around the workplace is nothing to be sneezed at. In fact, dust that settles in the nose area may lead to rhinitis, or inflammation of the mucous membrane. Dust that attacks the larger air passages can cause inflammation of the trachea or bronchitis. Pneumoconiosis (dusty lung) is the result of dust particles invading the lungs, which can accumulate and cause cancer.

What's more, the dust particles that do the most damage are too small to be visible to the naked eye and they hang in the air for up to eight hours after construction activity has finished.

### Dust eaters

Makita's impressive range of hazardous dust extraction solutions minimise workplace risk so you can breathe easy and be more productive. From compact battery operated air purifiers, to fully integrated dust collection systems. Makita are committed to developing innovative solutions to reduce the risks of dust exposure and increase onsite productivity.

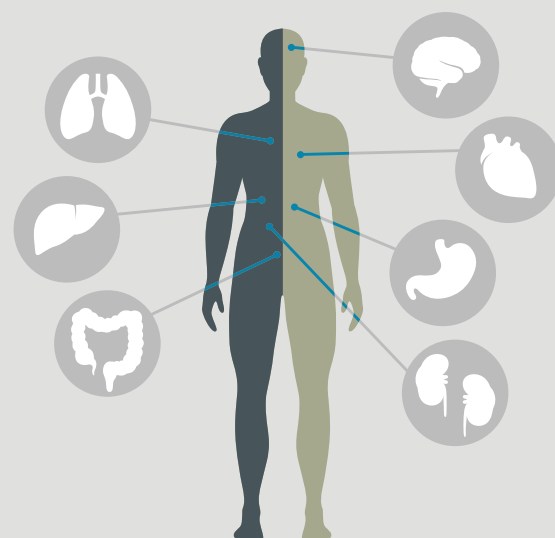
### Effective dust management improves health and productivity

- ☐ A clean work environment provides for more efficient working procedures
- ☐ Less dust means more time being productive, less time cleaning up
- ☐ Less dust increases the lifetime of power tools and reduces tool downtime

**DON'T IGNORE  
WORKPLACE DUST  
DEAL TO IT WITH**  
**Makita®**



### POTENTIAL HEALTH HAZARDS



## 18V 2-Piece Combo

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- DDF452 Cordless Driver Drill
- DTD152 Cordless Impact Driver
- 2 x 1.5Ah Li-ion batteries and standard charger



**\$329**  
EXCL GST

## 18V Angle Grinder

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- 125mm
- High performance brushless DC motor
- Soft start
- Battery protection overload circuit
- Battery fuel gauge
- Includes 2 x 5.0Ah batteries and rapid charger



**BONUS**  
Dust collection  
wheel guard



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EXCL GST

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- Corded and cordless vacuum
- Powered by AC or 2 x 18V batteries in series (not included)
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- Dual battery fuel gauge
- 8L Dust capacity



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EXCL GST

## 18V 6.0Ah Lithium-ion Battery

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- Compatible with over 100 power tools
- Charge time of just 55 minutes when using the Makita rapid charger
- LED charge level indicator



**\$219**  
EXCL GST

## 185mm Dustless Circular Saw

#5057KB

- 1400 watt
- For dust free cutting of hazardous materials
- Easily attaches to dust extractor
- For medium and high density fibre cement board
- Ideal for wet area fit out
- TCT saw blade included



**\$539**  
EXCL GST

## 14 Piece Socket Set

#B-52308

- 81.5mm deep impact socket for 1/2" anvil
- Includes pin and o ring to secure to anvil
- 10mm - 32mm socket range
- Includes carry case



**\$149**  
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\*Strictly while stocks last.  
Limit of one pair  
per account.

**BUILDING  
BUSINESS DEALS**





## Contracts at a click

### All you need to create a well-worded employment contract is now online

Any employer will tell you that hiring staff is part science, part lottery. People are unpredictable and you never know when the proverbial will hit the fan.

That's why having a well-worded and thorough employment agreement is essential when hiring staff. But even today, many hires are still based on little more than a handshake or a rough note.

#### **It's the law**

By law, all employees must have a written employment agreement and from 1 April 2016, all documentation must conform to minimum standards designed to eliminate 'zero hour' contracts.

#### **It's free and easy**

The problem is, most small business owners are either simply too busy or reluctant to pay the fees required to draft up a proper contract. That's where the new online Employment Agreement Builder (EAB) at [eab.business.govt.nz](http://eab.business.govt.nz) can save time and money by making the whole process simple, reliable and, perhaps most importantly, free.

Developed by the Ministry of Business, Innovation and Employment (MBIE), the new EAB tool puts professionally drafted employment contracts right on every employer's laptop, tablet or mobile.

Employers simply follow a series of simple steps to create an agreement for each of their employees. They can then easily tailor the agreements to fit each role and the needs of their business.

The new system is simple and easy to use, even on a mobile device and provides tips and information to help even novices build a well-worded and enforceable agreement. It also sets out common

mistakes made by employers and explains how to avoid them.

You can choose to save a draft agreement part way through and come back to it at any time. Once the agreement is finished, you can download and print it along with a job offer letter for new employees.

#### **It's always up-to-date**

To develop the tool, the MBIE has worked in close coordination with Immigration NZ, Employment NZ, IPONZ, The Council of Trade Unions, WorkSafe and Inland Revenue. Of course the law is constantly changing and the tool will be continuously updated as new legislation and regulations come into effect. These changes will be automatically applied to existing agreements and employers will receive email alerts telling them that changes have been applied.

Available now at [eab.business.govt.nz](http://eab.business.govt.nz) the new tool supports and contributes to the government's Better for Business programme, making it easier for business customers to deal with government and get information and support quickly. It's the latest initiative in the MBIE's vision to be a bridge between business and government; enabling businesses to understand the law and meet their legal obligations.

#### **Better bookmark [business.govt.nz](http://business.govt.nz)**

Operated by the Ministry of Business, Innovation and Employment, [business.govt.nz](http://business.govt.nz) is the government's online toolbox especially for small businesses. The site is designed to make it easy for small business to get answers and information quickly and simply.

# Filler thriller!

## BOSTIK EXPANDA FOAM RANGE

### VERY HIGH YIELD & LOW EXPANSION IN ONE PRODUCT!

Up to 50L from Bostik Expanda Pro Gun Foam 750ml  
(up to 45L from Bostik Expanda Pro Aerosol Foam 750ml),  
with true low expansion.

### BOSTIK EXPANDA PRO AEROSOL FOAM – USE AT ANY ANGLE

Great for tight areas; no need to apply can  
upside down only.



[www.bostik.co.nz](http://www.bostik.co.nz)



# ATTIC STAIRS



Model	R28 - Regular	R31 - Regular	J24 - Specialist
Ceiling Heights	2250mm - 2800mm	2750mm - 3100mm	2200mm - 2440mm
Tread Depth	90mm	90mm	90mm
Width of Stair	430mm	430mm	350mm
Max Load	200kg	200kg	200kg
Angle	70°	70°	70°
Opening Required	1370mm x 650mm	1370mm x 650mm	1135mm x 560mm
Projection	1690mm	1760mm	1485mm
Landing Space	1180mm	1350mm	1120mm
Uses	Residential	Residential	Residential
ITM Price (excl. gst)	<b>\$599</b>	<b>\$629</b>	<b>\$399</b>

# The Second Year Blues

## How to survive in business

Starting a business can often be one of the most challenging ventures a person can undertake in life. The first year of working for yourself presents obvious hardships but from there on its smooth sailing right? A huge proportion of New Zealand businesses fail in their second year of operation, therefore, this month we will look at ways of avoiding this.

### Tax payments

Provisional tax is a tax paid in instalments during the year in preparation for the expected year end result. This is estimated by the IRD based on a business's previous year's results, plus 5 per cent.



**For example:** if a business's income tax payable in year one is \$10,000 then it will pay provisional tax of \$10,500 the next year. If payments are missed, then the IRD will charge penalties and interest.

A good method for planning your tax is to put aside 28 per cent (being the tax rate for companies) of net earnings at the end of each month into a savings account.

### ACC

Another bill that businesses miss out on during the first year is ACC. Like provisional tax, it is based

# LOOK WHO HAS JOINED

## MARLEY STORMCLOUD® – NOW AVAILABLE IN GREY FRIARS AND IRONSAND

New Zealand's favourite quarter-round spouting profile joins the Marley Stratus Design Series®. The Marley Stormcloud® residential spouting system is designed to complement the RP80® 80mm round downpipe system and is now available in Grey Friars and Ironsand, New Zealand's favourite roofing colours.

on the previous year's results. In this case, it is based on monthly PAYE returns that are completed.

The very first invoice you will receive from ACC is for the previous year. However, it also includes an estimated amount for the next income year – similar to provisional tax. Again, it's a bit of a 'double whammy'.

The ACC invoice is based on your wages, so knowing that your invoice grows with the level of your wage payments means that you can adequately plan for this.

### **Wages, PAYE and other payments**

It is also crucial to keep in mind that other invoices will grow, as your company does. PAYE and GST payments to the IRD do not go away and it's important to keep on top of them. Similarly, any missed payments to suppliers, subbies or employees could quickly lead to an empty worksite.

An important take out from all of this is planning and communication. If you do find yourself in a bit

of strife, you need to establish which bills should be paid immediately and which ones can be delayed. If you do need to delay a payment, make sure you discuss this with the supplier. The same goes for the IRD – if you are struggling to make payments, talk to them. Ask for an arrangement or a repayment plan and see if you can pay off the amounts in instalments.

### **By Peter van der Heijden**

**Crowe Horwath** Advisor



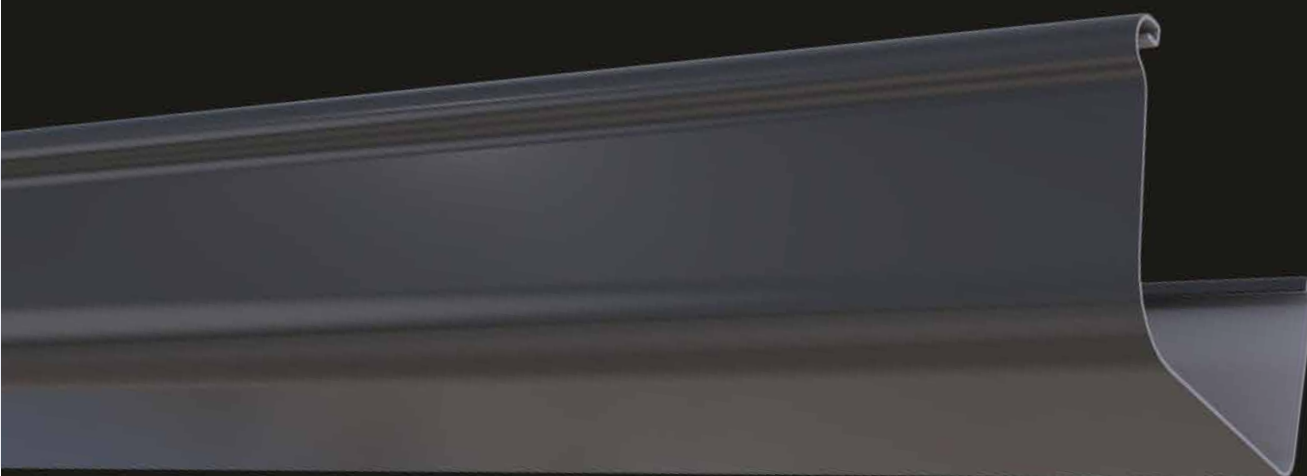
If you have any questions about points raised in this article or would like to discuss how your business is tracking, we can help.

Please contact Peter van der Heijden at [peter.vdh@crowehorwath.co.nz](mailto:peter.vdh@crowehorwath.co.nz) or your local Crowe Horwath advisor.

For the contact details of your local office, please visit: [www.crowehorwath.co.nz/locations](http://www.crowehorwath.co.nz/locations) or telephone 0800 494 569.



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IRONSAND



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You can use it just about anywhere. That's the beauty of Firth's range of masonry and certified concrete and it comes in a range of textures, colours and finishes. Boasting high structural integrity and seismic performance; it also delivers on the aesthetic scale, for designer finishes in residential and commercial applications.

For more information, visit your local ITM branch.

1

4

2

3

1

**Architectural Masonry**  
Concrete performance transformed into an architectural granite-look block.



2

**Coloured Concrete**  
Eight natural colours, optional exposed aggregate finish – with Firth coloured concrete, nothing is set in stone.

01	05
02	06
03	07
04	08

3

**Designer Series Paving**  
Larger format, lighter colours, this new affordably priced premium paving range will excite homeowners seeking a high-end, tile-look.



4

**Retaining Walls**  
An extensive, trade trusted range of instant concretes, mortars and plasters for any domestic or commercial job.



# The key to good concrete slabs

**There are plenty of things to consider when laying a concrete floor slab: timing, the right amount of water and aftercare are all important**

Does concrete have a use-by date? Certainly fresh concrete does and if you are not well organised and prepared with the right skills and equipment, you might have a disaster on your hands!

## **Clock ticking once mixing starts**

NZS 3104:2003 Specification for concrete production says that full discharge of concrete from ready-mix trucks shall be completed within 90 minutes after the commencement of mixing.

This is probably a little known clause, but we all know that concrete will stiffen as the cement starts to 'go off', particularly in hot weather. The use of retarding admixtures in summer and accelerating admixtures in winter will help alleviate issues, but being unprepared for the concrete truck comes down to bad planning.

## **Preparation, mix and workmanship key**

The recent BRANZ Study Report 340 Revisiting concrete ground floor slabs concludes that good mix design and workmanship are the key to producing crack-free concrete.

Even though the concrete pour is typically carried out by a specialist subcontractor, it pays for the supervising contractor to be aware of the facts.

## **Issue of uncontrolled cracking**

Uncontrolled cracking is undoubtedly the biggest issue with concrete floors and pavements. As soon as the concrete starts to dry out, shrinkage

commences and there is potential for shrinkage cracking to occur given the low tensile strength of immature concrete. Water in the concrete mix is the biggest protagonist causing shrinkage.

There needs to be just enough water to make the concrete workable in order to place and compact it. Inevitably around 7mm of shrinkage will occur over a 10m length of slab.

If more water is added to increase the slump of the concrete and make it easier to place, this shrinkage could increase to 12mm in a 10m slab length.

## **Controlled addition of water OK**

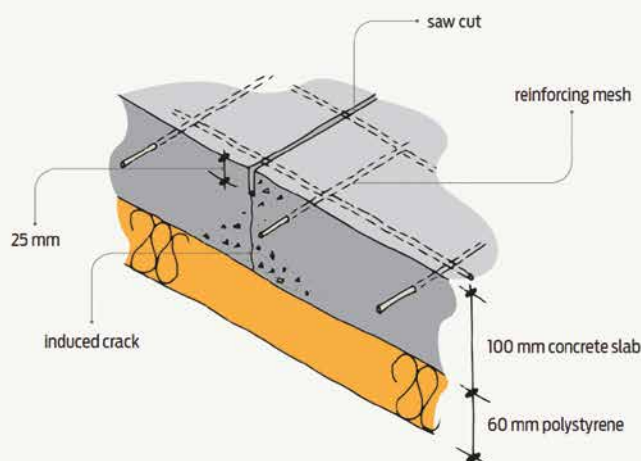
Did you know that NZS 3104:2003 allows the addition of water to the truck but in a controlled manner – up to 10 litres/m<sup>3</sup> of concrete? The concrete may dry out through evaporation from the truck, particularly in hot summer temperatures. This makes it hard to get the stiff concrete out of the truck and to place and fully compact it.

Also, where the transit time from the concrete plant to the site is considerable, slump loss may be an issue. Adding water is OK, but it must be a measured amount and with the agreement of the concrete plant. Adding 10 litres/m<sup>3</sup> only represents around 5% of the total water content of concrete and replaces the water lost through evaporation.

Adding water in an uncontrolled manner is inviting problems with high shrinkage and low strength.

**CONTINUE >>**

**FIGURE 1**



## Concrete needs early nurturing

Concrete is vulnerable until it has gained some strength. The hydration of cement is a chemical reaction affected by temperature and the presence of moisture. As soon as the fresh concrete starts to dry to the atmosphere, shrinkage will commence and strength gain will also slow. The critical areas to focus on are finishing, curing, saw cutting and mesh placement.

### Finishing

A slab is very exposed to the weather when being placed, finished and cured. Avoid rain, strong drying winds (particularly in spring), hot sunny conditions and large temperature drops overnight. These can all cause cracking. Download a localised weather forecast – some concrete suppliers offer this as part of their service. If conditions are unfavourable for concreting, delay the pour rather than taking a risk.

### Curing

Curing ensures that the concrete does not dry out prematurely and will gain strength from an early age. If the commencement of curing is delayed, you cannot make up for it by curing later – you will lose around 50% of the potential concrete strength.

Curing is achieved by flooding the concrete or water sprinkling the entire surface.

Alternatively, a plastic sheet can be laid on the surface and weighed down with sand or the like so that wind cannot get under the sheet. Curing should begin the day after pouring in summer, before the concrete surface has had a chance to dry out.

Unfortunately, adequate curing is often ignored in practice yet it is critical to achieving concrete strength gain and avoiding shrinkage cracking.

## Saw cutting

NZS 3604:2011 Timber-framed buildings requires saw cutting to take place the day after pouring in summer and 2 days after pouring in winter (see Figure 1). This timing is critical and the occurrence of uncontrolled cracking due to saw cutting too late is far too common in slabs.

Once uncontrolled shrinkage cracks have formed, the saw-cut joints will not act as the weak link for shrinkage cracking to occur. Movement will always take place preferentially at the existing cracks.

## Mesh placement

For slabs designed to NZS 3604:2011, the spacing of saw-cut joints, shrinkage movement joints and location of the reinforcing mesh are all important in avoiding shrinkage cracking. The reinforcing mesh needs to be at 30mm cover to the top of the slab (see Figure 2). Its main function is to prevent shrinkage cracks occurring between saw-cut joints.

To ensure the mesh is at the correct height, support it on mesh chairs. Reinforcing mesh required is grade 500E (seismic mesh) 2.27kg/m<sup>2</sup> welded wire mesh.

The maximum distance between saw-cut joints is 6m, and every fourth joint should be a free movement joint at a maximum spacing of 24m (see Figure 2). Where parts of the floor are exposed, such as for a coloured or polished floor, the saw-cut spacing should be reduced to 5m.

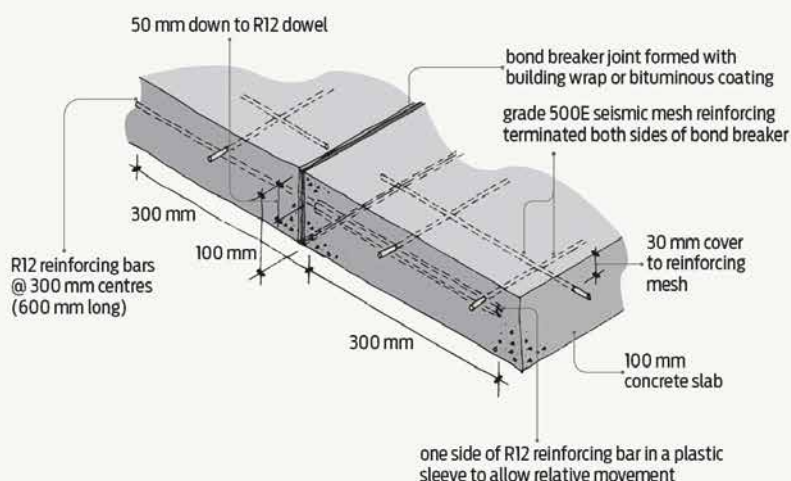
**By Derek Chisholm**

**Engineering Consultant**  
Solid Concrete Solutions

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**FIGURE 2**



# Why Use Foam Expansion Joints?

**Concrete/Isolation Joints are an integral part of designing and building concrete slabs, paths, driveways and for around pylons**

Concrete expands and contracts with changes to moisture, humidity and temperature. There is a tendency for concrete to shrink which can cause cracking.

Installing Expansion Joints assists in minimising cracking from the movement between adjoining parts/sections of the structure.

Expansion Joints also separate or isolate the concrete from building structures such as walls, footings, columns and piers. It is also widely used to separate a concrete driveway or patio from the garage slab, footpaths, stairways and many other building structures. Another benefit is the prevention of moss and mould growth along joints.

- Easy-Form™—Self Wound Adhesive
- Sof-Form™— Plain Expansion Joint
- Sof-Form™— Adhesive Expansion Joint

**For more information talk to your ITM sales representative or visit [www.sekisuifoam.com.au](http://www.sekisuifoam.com.au)**



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GIB® PLASTERBOARD SYSTEMS

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For best practice, and to avoid time-consuming and costly call-backs, incorporate a wet area system that maintains integrity when inadvertently exposed to water and steam.

The GIB Aqualine® Wet Area Systems literature contains all the information you'll need to correctly install GIB® Wet Area Systems.

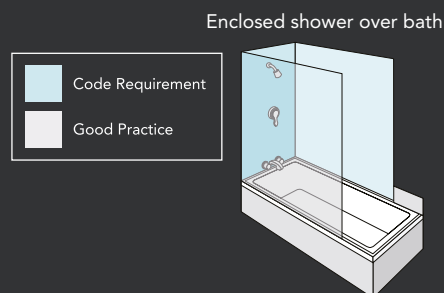


To request your free copy contact the GIB® Helpline on 0800 100 442 or download at [gib.co.nz/aqualine](http://gib.co.nz/aqualine)

## 7 THINGS TO CONSIDER WHEN BUILDING OR RENOVATING A BATHROOM.

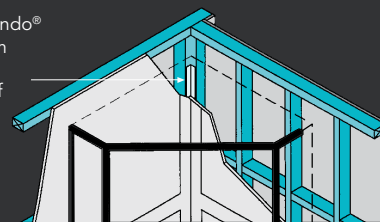
These recommendations are not a substitute for the full information contained in the GIB Aqualine® Wet Area Systems literature. Please refer to this literature before proceeding with any project.

- 1 Always use GIB Aqualine® on walls and ceilings to help protect against moisture and steam damage.
- 2 Use waterproof membranes in the right areas – such as to the edge of showers, baths and vanities to be tiled.  
e.g.

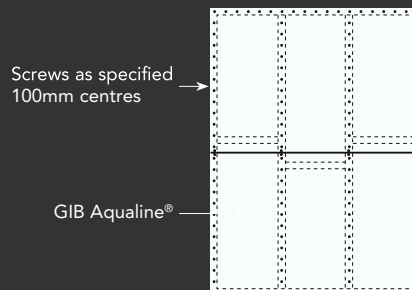


- 3 To provide stability use a GIB® Rondo® NZ18 metal angle attached to the internal corner of timber framed shower walls.

Vertical corner GIB® Rondo® NZ18 32 x 32 x 0.55mm galvanised steel angle to a minimum height of 1800mm



- 4 Fix GIB Aqualine® horizontally where possible to reduce joints and improve the finish.
- 5 Use 13mm GIB Aqualine® on ceilings to protect against moisture and steam.
- 6 When tiling\*, fasteners are required at 100mm centres to the perimeter of the sheet and to all intermediate studs.



- 7 Bracing systems must not be located behind showers or baths because of durability requirements, renovation likelihood and other practical issues relating to fixing bracing elements.

GIB® is a registered trademark.

\*10mm GIB Aqualine® is for tile weights up to 20kg/m² and 13mm GIB Aqualine® up to 32kg/m². Most wall tiles weigh under 20kg/m².

## Sierra Shower

- 1000mm x 1000mm
- 2-sided square
- Satin joinery
- 70mm Sure Seal shower tray\*
- 1870mm enclosure height
- 6mm safety glass
- Door can be left or right hand opening
- 5 year warranty (12 months on drip strips and vertical seals)

#0S8F031102

Flat Wall

# \$1119

EXCL GST

#0S8M031102

Moulded Wall

# \$1229

EXCL GST



Corner shelves are an optional extra



\*SURE SEAL TRAY: The unique design of the Sure Seal Tray offers a full 20mm upstand around the perimeter of the shower. Both door and liner are installed within the tray so water flows back into tray whilst in use. (Sierra 760mm x 760mm tray is not Sure Seal)

## Raglan Vanity

- Semi recess composite top with integrated overflow
- Generous basin size
- Single tap hole only
- Classic doors and drawers or contemporary drawer only cabinet styles
- Floor standing and wall hung options
- Soft closing doors and drawers
- Cabinet made in New Zealand
- 7 colour options

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900mm Classic Floor Standing

# \$899

EXCL GST

#4RAG090DC

900mm Double Drawer

Wall Hung

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## SPECIAL OFFER!

Free Polished Edge Mirror same size as vanity purchased or smaller



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## LuxJet Slide Shower

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- Chrome
- All pressures
- Min/max pressure 35/600kpa
- 5 year warranty

**\$105**  
EXCL GST



FORENO.



## Primus Basin Mixer

#PMB5

- Chrome
- All pressures
- Min/max pressure 35/500kpa
- 5 year warranty

**\$79**  
EXCL GST



FORENO.



## Primus Shower Mixer

#PSM5

- Chrome
- All pressures
- Min/max pressure 35/500kpa
- 5 year warranty

**\$95**  
EXCL GST



FORENO.



## Primus Monojet Slide Shower

#PSL8

- Chrome
- All pressures
- Min/max pressure 35/600kpa
- 5 year warranty

**\$95**  
EXCL GST



FORENO.



**SPECIAL PACKAGE** One hot price for PMB5, PSM5 & PSL8 – **ONLY \$219 EXCL GST**

# The builders choice for perfect results

### Key HeatPump features

- ▶ Highly efficient heat pump – reduces energy use by up to 65%
- ▶ Eligible for generous government rebates
- ▶ Smart Controls to take advantage of
- ▶ Cheaper overnight power prices
- ▶ PV solar energy generation systems
- ▶ Noise reduction mode
- ▶ Designed for easy and low-cost install and servicing
- ▶ The heat pump operates from -7°C to 40°C, delivering energy efficient hot water even in colder climates

### Key Professional features

- ▶ 5.5+ star energy efficiency rating
- ▶ Easy installation
- ▶ Compact design
- ▶ Install up to 4 optional temperature controllers
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# Treat your building contract like a live hand grenade

**Building contracts should not be signed, filed away and forgotten. If it comes to adjudication and you didn't follow the rules under the CCA, you will suffer the possibility of crippling consequences**

We spend most of our time advising builders or building owners on what to put in their building contracts and how to resolve disputes with each other. When it comes to a dispute, we try to find “quick and dirty” ways to resolve it, rather than the traditional way of spending a lifetime and a fortune in court, or arbitration. Those traditional methods just aren't affordable for the average small-medium builder or homeowner. Fortunately for builders and building owners alike, ever since 2002 they have had a fast and economical alternative available to them, which is called “adjudication” under the Construction Contracts Act (the “CCA”).

CCA adjudication is great for a number of reasons.

**First**, there are very tight time limits, so you generally get a result within two months.

**Secondly**, there are no drawn-out procedures before you even get into arguing your case, and no hearings where lawyers stand up and argue their case at all. Instead, one side simply sends in their written claim and supporting evidence, the other

side sends in their written response and supporting evidence, and the adjudicator reads them both and then issues a written ruling.

**Thirdly**, the adjudicators are experts in the building industry or construction law, so the outcome is usually reasonably sensible.

**Lastly**, adjudications cost a lot less than court proceedings or arbitration.

We have done many, many adjudications for builder clients and most of them have been very successful. You never get 100% of what you are asking for, but anything above 75% is a great result. In fact as long as you get more than you spent in legal and experts' costs, then you are winning, because you wouldn't have got anything at all otherwise. However there are a few adjudications where the builder is bitterly disappointed at the outcome, and the purpose of this article is to explain why, so you can avoid falling into the same trap.

**CONTINUE >>**

## Why many builders are vulnerable

The CCA adjudicators are in a difficult position. Unlike the Referees in the Small Claims Courts (officially known as the Disputes Tribunals), they are not allowed to reach a decision that they think is fair and reasonable, if that is incompatible with what the law says. They have to follow the law, and in their case, that means strictly applying the terms of the building contract. After all, the law assumes that whatever the contract says, represents the bargain that the building owner and the builder knowingly and willingly agreed to at the outset. It doesn't matter if one or both parties didn't know what was in it or didn't understand it. The law assumes that you did.

**If you don't have the resources to understand them and comply with them, then refuse to sign them.**

It's not so bad if the building contract was a Certified Builders or a Master Builders contract, because those Associations understand that most of their members don't have teams of in-house lawyers, quantity surveyors and contract administrators, so their contracts don't place unrealistic expectations on them. The problem arises when you are forced to use a contract such as one of New Zealand Standards' contracts (the most common of which is NZS 3910), or one of the New Zealand Institute of Architects' contracts. Those contracts are designed to be used in the biggest construction or infrastructure projects imaginable, where the clients and contractors are huge corporations, and the contract price is in the hundreds of millions.

Consequently the NZS and NZIA contracts impose very strict rules on the contractors and subcontractors. If you want to be paid extra for a variation, you have to identify the variation in advance, you have to price it and you have to document it, all within strict time frames. Similarly, if you believe you are entitled to a time extension, you have to say so as soon as the delay is foreseeable, you have to seek permission in writing and you have to justify it. If you don't do those things, you won't be granted your variation or your time extension. You will have to bear the cost yourself and still finish by the original deadline. If not you'll have to face the consequences, which involve paying damages to your client or your head contractor. Those consequences can deprive you of your entire profit on the job.

## What not to do

This is what catches out most small-medium builders. They don't know these contracts word-for-word, they aren't familiar with the complex rules and they don't follow the proper procedures. What that means is that when it comes to an adjudication, the Adjudicator has no choice but to hold the builder to the terms of the contract. That can result in the builder losing something like \$50,000-\$100,000 or more, which is obviously crippling to someone who doesn't earn much more than that and is struggling to put food on the table. What it also means is that the builder has voluntarily donated \$50,000-\$100,000 worth of free building work and materials to a wealthy building owner, who doesn't have to pay a cent for it, even though he got the benefit of it. Obviously from a fairness point of view it stinks, but from a legal point of view, if you didn't follow the rules then you have to suffer the consequences.

**This is what catches out most small-medium builders. They don't know these contracts word-for-word, they aren't familiar with the complex rules and they don't follow the proper procedures.**

The essential point of this article is this: building contracts are not pieces of paper to sign and then put in the bottom drawer. They are like a time bomb waiting to go off. If you don't have the resources to understand them and comply with them, then refuse to sign them. If you are forced to sign them, then get to know them intimately and comply with them. That is a big ask for a builder who doesn't have a team of experts on his payroll, but there are other ways of dealing with it. Law firms like ours know these contracts inside and out and we can train you in their requirements in a matter of hours. The cost of that won't break the bank, and if it's going to save you \$50,000-\$100,000, you don't need to be Einstein to work out that it's a fairly good investment.

## By Geoff Hardy

**Madison Hardy** specialist construction law firm



Geoff Hardy has 40 years' experience as a commercial lawyer and is the senior lawyer in the Auckland-based firm "Madison Hardy". He guarantees personal attention to new clients at competitive rates.

His phone number is (09) 379 0700, fax (09) 379 0504, and e-mail [geoff@madisonhardy.com](mailto:geoff@madisonhardy.com). This article is not intended to be relied upon as legal advice.



Homeowners add value to property through a reclad using a range of James Hardie claddings

## Project Overview

The owners of this two-storey, five bedroom lifestyle property in Pinehill, a suburb of rapidly growing Albany on the North Shore of Auckland, wanted to lift the value of their home through a reclad. Built in the early 2000s, the property was in need of a makeover and updated look.

## The Solution

Using a range of James Hardie claddings, including Stria Cladding®, Linea Weatherboard®, and Axon Panel®, the owners have achieved a long-term robust solution that is modern and well-suited to the home's seaside location. The Axon Panel is painted in brown, contrasting beautifully with the duck egg Linea Weatherboard and crispy butter white Stria Cladding, to create a cape-cod style feature wall.

Owner, Jenny Lim, says the selection of cladding products was not based on aesthetics alone. It was a practical choice, too. "The products are easy to work with and practically maintenance-free, providing peace of mind performance."

James Hardie claddings are all manufactured from fibre cement and are resistant to fire, damage from moisture, and when installed correctly, resistant to rotting and warping – ideal for New Zealand's harsh weather conditions.

"My husband and I are aware of the benefits of James Hardie cladding through our building company, Namu Construction. We use James Hardie products on all our home recladding projects, so it was a natural choice for our own home, too."

The reclad took two months to complete and Lim says it has added approximately \$500K to the value of the property.



### Featured Products

Stria® Cladding  
Linea® Weatherboard  
Axon® Panel

### Project details

Location:  
Pinehill, Albany, Auckland  
Project Size:  
330 sqm  
Project Type:  
Residential re-clad Development  
Builder:  
Namu Construction

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# Making a liability insurance claim

## How to achieve the fastest, fairest outcome

It's fair to say that when something goes wrong, how well your insurance responds can be the difference between a good result and a nightmare. Having represented both sides of the equation when it comes to liability claims for builders, BuiltIn suggests a number of ways to ensure the process goes as smoothly as possible and the outcome, while perhaps not always the one you hoped for, is prompt and fair.

### **Liability claims are not black & white**

Liability policies cover broadly defined risks such as "accidental damage". It's impossible to list all the scenarios where accidental damage could occur and certain, often broadly defined, situations are

excluded also. This makes it hard to say whether a particular situation will be a claim without first investigating it. As a result there are grey areas, where something could be a claim depending on a person's interpretation of the situation and the policy wording. This makes the assessment process critical.

#### **Example 1**

A builder was installing insulation in a roof space when he accidentally put his foot through the ceiling. Is this a public liability claim? Answers at the end.

**CONTINUE >>**

**Example 2**

An excavator preparing the site for a new house damages an underground cable, causing a power outage. Would this be covered by the contract works insurance?

**Make sure you take due care**

This is obvious, but a momentary assumption on site can backfire when it comes to a claim being accepted.

**Example 3**

A builder putting up a heated towel rail puts a screw through a hidden water pipe. Is this accidental damage?

**Do not admit liability**

Even though it might be obvious to all involved that you were responsible for the damage, if you intend to make an insurance claim then the insurer (and ultimately the courts) decide who is responsible, you cannot make this call on their behalf. Do not promise that your insurer will sort it out, simply say that you will contact your insurance company.

**Tell your insurance company ASAP**

The quicker you put in a claim the faster it will be sorted out and the less likely it is that other subsequent actions might jeopardise the claim. In some cases it may be faster for an owner to claim with their house insurer (or material damage insurer for commercial property), which may then seek to recover their costs from you (via your insurance). Either way, don't delay making the call to your insurer. Depending on the type of claim they will probably appoint an independent assessor to investigate the situation, determine liability and the likely cost and recommend a course of action.

**Complete the claim form in full and with as much supporting evidence as you can**

If the insurer has to come back to you for more detail this will inevitably result in delays.

They will expect:

- ☐ a description of what happened
- ☐ date and time of the event
- ☐ written correspondence from the third party stating that they are holding you liable for the damage
- ☐ an estimate of the cost of the damage
- ☐ evidence such as photos, invoices, perhaps a copy of your contract, witness statements and other correspondence.

**Cooperate fully and be truthful**

Claims assessors and loss adjusters are experts at sniffing out inconsistencies and if something doesn't add up they'll keep digging. The best approach is to answer their questions as fully as possible and allow them to make their decision based on all the facts.

**A broker is on your side at claim time**

If you have a broker you should expect them to help you prepare the claim and represent you to the insurer. This is where a good broker who is experienced in construction industry claims earns their money. If your claim falls into one of the grey areas of the policy then having an expert on board could be the difference between it being accepted or declined. If you deal directly with an insurer or through their agent, it will be up to you to argue the case. It's not that insurers decline claims unfairly, in our experience this is not the case in the New Zealand insurance industry. However, when it comes to claims that fall into that grey area and plenty of liability claims do, which way the decision falls could be down to the claims manager's interpretation of both the events and the policy wording. That's when you need someone with expertise, experience and relationship to argue the alternative point of view.

**In a nutshell**

Liability claims are often not straightforward and liability policies open to interpretation. Don't admit liability, get on to it straight away, cooperate with the assessor and supply information fully and frankly and ideally have someone with expertise on your side. This will increase your chances of a swift and successful outcome.

**ANSWERS**

**Example 1.** Maybe. It depends on your insurer's wording and their interpretation of the incident. Was the ceiling the "property being worked on"? Was the house a new build and could therefore be considered "the builder's product"? If the answer is yes to the above questions (in the insurer's view) then, depending on the policy in place, a claim could be declined.

**Example 2.** No. The underground services are "existing structures" and "third party property" and not part of the contract works. As such they will be outside of the cover under a contract works policy. They may however be covered by public liability insurance, under an "underground services" extension. In that case, to avoid jeopardising a potential claim, the policy may require that action to locate any existing cables and pipes be undertaken first.

**Example 3.** That depends. Should a builder, who ought to know this was a possibility, have checked first? If he didn't is it faulty workmanship? What you might consider to be an accident could be interpreted by a claims assessor as defective workmanship and subject to an exclusion or higher excess.

# Smoke alarms

## What you need to know about the new regulations

**By 1 July 2016 all residential rental properties covered by the RTA must meet the following regulatory requirements:**

- there must be a minimum of one working smoke alarm within 3 metres of each bedroom door
- the landlord is responsible for making sure smoke alarms are in working order at the beginning of every new tenancy. Tenants are responsible for replacing batteries and notifying landlords of defects
- long life photoelectric smoke alarms are now required where there are no existing alarms. When existing smoke alarms are replaced, the replacements must be long-life photoelectric smoke alarms.

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BRANZ has released 10 new titles in the essential Good Repair Guide series on how to repair common problems in New Zealand homes.

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- Clay and concrete roof tiles
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There are now 26 guides in total.

See [branz.nz/grg](http://branz.nz/grg) for the full list.

Each guide provides practical, hands-on advice for dealing with a particular repair issue. With numerous drawings and photos, the guides provide the

building professional, related trade, student and apprentice with step-by-step instructions for common repairs to New Zealand homes.

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# It's got it all

**Big fish, new locations, shark attacks, new gear, new gadgets and the All Blacks cutting loose and fishing up a storm**

Kiwis who love the outdoors can always look forward to what the new season brings. Summer brings long warm days, in autumn the stags roar and at the start of every winter a new series of The ITM Fishing Show begins.

Yellow-fin tuna, marlin, mako sharks and monster sized kingfish are all part of two action packed episodes where Matt takes the new Stabicraft boat he designed all the way to the remote Three Kings Islands.

In other episodes Matt uncovers more stunning spots in the North and South Islands of New Zealand, fishing and hunting with some real characters. Some are household names and others are lucky fans selected from the shows Facebook page to join Matt, where he pulls out all the stops to help them catch the fish of their dreams.

But whether it's Richie McCaw, Joseph Parker or 'Dave from Te-Awamutu', to Matt, they're his mates and he just wants to share that thrill of the chase and the joy of the catch with them.

This series we get to see this uniquely Kiwi show go all over the globe. Kayak fishing in the outer reaches of the Tahitian Islands, pioneering new grounds off the little known West African Island of Principe and venturing to the middle of the Atlantic Ocean to fish for blue marlin at the isles of Cape Verde. Every Saturday from June 11 we also get to go along on these adventures too – yep it's The ITM Fishing Show season again! Keep em' tight.

*Matt Watson.*



## NEW SEASON FISHING SPOTS

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- ☐ Bay of Islands
- ☐ Hokianga
- ☐ Bay of Plenty
- ☐ Tekapo
- ☐ Canterbury
- ☐ Kaikoura



### Overseas

- ☐ Fakarava atoll (Tahiti),
- ☐ Principe Island (West Africa)
- ☐ Cape Verde Islands (Atlantic Ocean)

**New series of The ITM Fishing Show premieres Saturday, 11 June 5pm**

**ONE**

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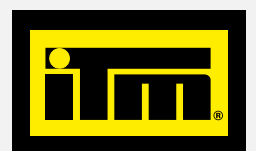
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