

## Information on PIMS, Building Consents, Inspections

### The Building Act:

The Building Act 2004 provides for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards, to ensure that:

- (a) people who use buildings can do so safely and without endangering their health
- (b) buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them
- (c) people who use a building can escape from the building if it is on fire
- (d) buildings are designed, constructed, and able to be used in ways that promote sustainable development.

To achieve this purpose, the Act requires anyone proposing to do building work to obtain a building consent from a building consent authority before commencing building work.

### Who administers the Building Act?

Ministry of Business, Innovation and Employment is the government department responsible for administering the Building Act 2004.

### What is a Building Consent Authority?

Building Consent Authorities are regional or Territorial Authorities or private organisations registered under section 273 of the Building Act 2004, and are responsible for performing building control functions under Part 2 of the Act.

### What is a Project Information Memorandum?

A project information memorandum (PIM) is a memorandum issued by the Territorial Authority

(Council) under section 34 of the Act and sets out information relevant to your building work.

The information is provided on a prescribed form and is required to include all such information known to Council which may be relevant to the project or site.

This includes potential for:

- erosion
- avulsion (removal of land by water action)
- falling debris
- subsidence
- slippage
- alluvium (the deposit of silt from flooding)
- the presence of hazardous contaminants which are likely to be relevant to the design, construction or alteration of your proposed building which are known to Council.

Details of stormwater or wastewater utility systems which may relate to your project or site will also be included (where applicable).

A project information memorandum also identifies any additional approvals required such as:

- Resource Management Act
- Heritage NZ (heritage buildings / sites)
- Fire & Emergency NZ

### The memorandum also includes:

Confirmation, subject to other provisions of the Act that you may carry out the building work subject to

- the requirements of the building consent, and
- all other necessary authorisations being obtained.

A project information memorandum does not give any form of approval under the District Plan or Building Act.

Contact a Council planning officer, or your own planning adviser, to determine whether your proposal complies with the District Plan. If it does not, and resource consent is required, you are strongly advised to obtain this before seeking building consent to avoid possible expensive changes to your proposal.

### **Do I need a Project Information Memorandum?**

No, applying for a project information memorandum is voluntary but recommended for projects that involve a change of use or alterations to the exterior of the building. This can be applied for separately or in conjunction with your building consent.

### **How to apply for a Project Information Memorandum**

An application for a project information memorandum must be made on the AlphaOne Building Consent system which is available on our website.

### **Documentation required**

All applications must be in pdf format including but not limited to;

- site plan
- floor plan
- building elevations
- proposed drainage plans

### **How long does it take?**

Council is required to issue the project information memorandum within twenty (20) working days of application being received, however, depending on workloads, this may be earlier.

NB: Applicants will be notified via the system of all fees payable and payment will be required prior to issuing.

Sometimes it may be necessary for Council to obtain further information from you to enable your PIM processing to be completed. In such cases the Council will contact you within 10 days of receiving the PIM application with a formal request for further information.

The Council has 10 working days from when this information is received to issue the PIM.

### **Licensed Building Practitioners Scheme (LBP)**

Ministry of Business, Innovation and Employment (the Ministry) administers the register of Licensed Building Practitioners.

As of 1 March 2012 residential structural and envelope building work that is known as restricted building work, must be supervised or carried out by a LBP.

If you are building, this affects YOU....

Consumers and building practitioners are affected, visit <http://www.lbp.govt.nz/lbp> for more information.

### **Restricted Building Work**

As of 1 March 2012, only LBP will be allowed to carry out or supervise 'restricted building work'

Therefore, a consent application that involves restricted building work will need to include the names of the LBP carrying out or supervising that work.

See [Section 45\(1\)\(e\)](#) of the Building Act.

The Government has detailed restricted building work. It includes the design and construction of a house or small-medium sized apartments:

- Primary structure (eg foundations and framing) to ensure the building can withstand vertical and horizontal loads.
- External structure (eg roofing and cladding) to ensure the building is weathertight.
- Fire safety systems (eg sprinklers, fire alarms) to ensure people are adequately protected from the dangers of smoke and fire.

Appropriately licensed LBP will be responsible for plans and specifications used in a consent application for restricted building work. See [section 45\(2\)-\(4\)](#) of the Building Act.

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For more information about restricted building work, visit the [Licensed Building Practitioners website](#)

## Owner Builder Exemption

You are an Owner-Builder if you:

- Have a relevant interest in the land or the building on which the restricted building work is carried out (ie ownership), and are an individual (ie not a company).
- Live in or are going to live in the home (this includes a holiday home, or bach).
- Carry out the restricted building work to your own home yourself, or with the help of your unpaid friends and family members, and
- Have not, under the Owner-Builder Exemption, carried out restricted building work to any other home within the previous 3 years.

## Licensed Building Practitioner (LBP)

A person is recorded in the registrar of LBP after they have satisfied the register of LBP that they meet the standards for their licence class. See [Section 286](#) of the Building Act.

There are seven license classes in the LBP scheme:

- Design
- Site
- Bricklaying and Blocklaying
- Carpentry
- External Plastering
- Foundations
- Roofing

You can apply to be licensed in more than one license class but you must be able to demonstrate that you are competent in each class you apply for. See [licensing publications](#) on the Ministry of Business, Innovation and Employment website for more details.

The competencies for the license class were developed by industry working groups. They represent the skills and knowledge that a competent person with sound experience in the building construction industry should be able to demonstrate. The LBP scheme is for competent individuals.

Companies and commercial entities cannot be licensed, but the people they employ or subcontract can apply to be licensed.

If your work is covered by one of the license classes, this is your opportunity to have your skills and experience formally recognised.

To check if your builder/contractor is currently licensed under the LBP scheme, we recommend you search the [Public Register](#) by their name. (<https://lbp.ewr.govt.nz/publicregister/search.aspx>)

## What is a building consent?

A building consent means a consent to carry out building work granted by a Building Consent Authority under section 49, it is the formal approval issued by a Building Consent Authority (BCA) that certain works meet the requirements of the New Zealand Building Act, Building Regulations and Building Code.

You can not undertake any building work that requires a building consent without this approval. Most building work requires a building consent but some minor work is exempt under the Act.

Exempt work is listed on Schedule 1 of the Building Act 2004. This may be viewed on the web <http://www.building.govt.nz/bc-no-consent-schedule-1>

## When is a building consent required?

- urban retaining walls over 1.5m (no surcharge)
- rural retaining walls over 3m (CPEng design)
- retaining walls any height incurring a surcharge
- decks over 1.5m high
- carports over 20 m<sup>2</sup>
- swimming pools, spa pools (please check) and their fencing
- detached non-habitable buildings larger than 10m<sup>2</sup>
- plumbing and drainage work.
- demolition if attached or over three storeys high
- relocation of buildings
- additions, alterations (please check) to existing buildings
- new buildings (please check)
- change of use (please check)

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- small dams (more than 20,000m<sup>3</sup> of water)
- heating including fireplaces, ventilation and some air-conditioning systems (refer note).

Note: Any second-hand solid fuel heater (fireplace) must have an acceptable producer statement from an approved author. Producer statements must be on letterhead, state durability of the solid fuel heater and must be signed and dated. All solid fuel heaters are to meet the requirements of the Clean Air Act.

It is recommended that you check before starting work. We have a wide range of building control expertise and information about exemptions and the building consent process. If the work, or part of it, does not require a building consent, you may save time and money. Guidance is also available at <http://www.building.govt.nz/bc-no-consent-schedule-1>

### How long does it take to get a building consent?

Building consent processing time depends on the complexity of your project and whether or not you have provided us with sufficient information. Building consents are required to be issued within 20 working days, however; if information is deficient the time clock is stopped and a formal request will be made for further information. The time clock is not restarted until all the requested information is received.

It is possible that your building consent application requires checking by several disciplines. It is possible therefore, that the clock maybe stopped on more than one occasion.

From 1 February 2010, volume builders can obtain a Multiproof or National Multiple-Use approval for standardised building designs that are intended to be replicated several times, these building consents are required to be issued within 10 working days.

### How do I apply for a building consent?

You will need to make application on the AlphaOne Building Consent system which is available through our website. All applications must be accompanied with pdf files relevant to your building project.

On receiving your application, vetting will be undertaken to ensure that all relevant information has been provided.

Please note: this is not a technical assessment but merely a check to ensure all necessary information has been provided.

If all information has been provided with your application, the clock starts the next working day after the application has been accepted. If your application is declined, we will contact you with a list advising the type of information that is required.

### How long is my building consent valid for?

All building work should be completed within two years from the date that the building consent was granted. (SWDC needs to make a decision 2 years from granting building consent)

Work must have commenced within 12 months of building consent being issued or the building consent may lapse requiring a new application.

If the project has been delayed, it may be possible to apply for an extension to this time (there is a cost associated with this).

### What sort of information do I need?

Building consent applications can be complex; we recommend that you engage a professional person to help with design work and drawings. Each application must include

- plans
- specifications
- geotechnical report for new buildings (importance level 2 or greater)
- engineering calculations (if applicable)
- wall bracing calculations (if applicable)
- An E2 risk matrix (demonstrating weathertightness features) (if applicable)
- Producer statement/s (if applicable)
- Fire safety design (if applicable)
- Certificate of title for all work covering new ground (this can be obtained from South Waikato District Council at a cost, or [www.landonline.govt.nz](http://www.landonline.govt.nz))
- LBP names and license numbers
- Design certificate (2A) Restricted Building Work (if applicable)

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- National Environmental Standard (NES) form, if covering any new ground

A fire safety design shall be required for all commercial work and/or public buildings.

### Alterations to an existing building

[Section 112](#) of the Act requires Council, as the Building Consent Authority, to be satisfied that after the alterations the building will comply, as nearly as is reasonably practicable, with the current provisions of the Building Code that relate to:

- means of escape from fire
- access and facilities for persons with disabilities (if this is a requirement in terms of section 118)
- continued compliance with the other provisions of the Building Code to at least the same extent as before the alteration.

To be satisfied that consideration of Section 112 has been undertaken, Council will assess the extent to which the proposed upgrade will be effective to bring the building closer to the relevant Building Code standards. As part of the building consent application, building owners will need to provide an evaluation of:

- what should be in the building to satisfy 1 and 2 above as if this building was new
- what is currently in the building
- what is proposed to bring this building toward the standard required by items 1 and 2 above.

The evaluation should also detail the benefits and sacrifices required so Council can consider what is 'reasonably practicable'.

### Changing the use of your building

[Section 115](#) of the Building Act 2004 applies, this section ensures that when changing the use of a building, the current building stock is being upgraded toward the current provisions of the Building Code, specifically relating to:

- means of escape from fire, along with protection of other property, sanitary

facilities, structural performance, and fire-rating performance

- facilities for persons with disabilities (if this is a requirement in terms of section 118)
- continued compliance with the other provisions of the Building Code to at least the same extent as before the change of use.

In the same way, Council will need to assess the extent to which the proposed upgrade will be effective to bring the building closer to the relevant Building Code standards. As part of the building consent application, building owners will need to provide an evaluation of:

- what should be in the building to satisfy 1 and 2 above as if this building was new
- what is currently in the building
- what is proposed to bring this building toward the standard required by items 1 and 2 above.

The evaluation should also detail the benefits and sacrifices required so Council can consider what is 'reasonably practicable'.

### Extension of Life

Where a building consent has been issued subject to the condition that the building must be altered on or before its specified intended life (imposed under [section 113\(2\)](#) of the Act) the life of such a building may not be extended unless written consent is obtained from the Council.

### Subdivision of Buildings

Council must not issue a certificate under section 224(f) of the Resource Management Act 1991 for the purposes of giving effect to a subdivision affecting a building or part of a building unless it is satisfied, on reasonable grounds, that the building will comply, as nearly as is reasonably practicable, with every provision of the building code that relates to one or more of the following:

- Means of escape from fire.
- Access and facilities for people with disabilities (if this is a requirement for the building).

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- Protection of other property.

The building must also continue to comply with the other provisions of the building code to at least the same extent as before the subdivision application was made.

### Producer statements

A producer statement requires the following as a minimum requirement to be accepted

- a written statement
- header with producer statement
- who is issuing the producer statement (suitably qualified and author of producer statement)
- the producer statement must be addressed for the attention of the South Waikato District Council
- who has completed or designed the work identified (qualifications to undertake the work required)
- the product name and specifications for application of product used (where applicable)
- what parts/clauses of the building code the work relates to
- full legal description of the site where the work will be undertaken
- clearly identifying what part of the building consent work is covered by the producer statement
- provide the sum of Provisional Indemnity Insurance held
- the author's name and signature
- date the producer statement was produced

### How much will it cost?

This depends on the type of application, cost of work involved and the level of detail provided, and includes costs such as:

- levies payable to the Ministry of Business, Innovation and Employment (payable on all applications where work is valued over \$20,444 including GST)
- levies payable to BRANZ (payable on all applications where work is valued over \$20,000 including GST)
- levies payable to South Waikato District Council BCA (payable on all applications where work is valued over \$20,000 including GST)

- time spent processing the application
- number of inspections required (type and number vary depending on application)
- issue of code compliance certificate
- issue of compliance schedule (if applicable)
- development contribution (if applicable)
- water meter connection (if applicable)
- sewer connection (if applicable)
- hazard notification (if applicable)
- revaluation fee (if applicable)

Please visit our website for the schedule of fees.

It is a requirement of the Building Act 2004 that some applications be referred to the Fire & Emergency NZ for review. There may be costs associated with this review, which will vary depending on the work required by the Fire & Emergency NZ. We are unable to quote the costs at the time of the application, as they are unknown to us until the Fire & Emergency NZ invoices us. These costs will be invoiced to the applicant.

### How is my application processed?

All applications are put through a formal vetting process and the Building Consent Authority shall endeavour to undertake this process within 3 working days. The vetting process is not a technical check it is merely a check to see if all information has been provided. Your application may be rejected at this time if insufficient information has been provided.

Once the application has been vetted for completeness it is then receipted and entered into the processing system. At this point the 20 working day time clock is started. The application is then allocated to the various disciplines within the building consent authority for processing, ie planning, engineering, building, water, drainage, services, health etc. against the relevant legislation.

Where the Building Consent Authority does not have competence to process for compliance it shall be outsourced (Com 3 buildings only).

Each discipline will review your application and assess it for compliance. If there are any questions or concerns a notification will be sent to you or your agent requesting further information or clarification.

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When a request for further information is sent the 20 working day time clock is stopped and processing is suspended until this information is provided. Once all information has been received the time clock will be started again.

There are two stages in relation to issuing a building consent.

1. Granting the consent.

This is when all requested additional information (if any) has been received and the technical check has been completed and the building officer checking the application is “satisfied on reasonable grounds” that sufficient information has been provided to adequately demonstrate compliance with the relevant performance provisions of the building code. Reasonable grounds means the building officer has been reasonable in his request for information and that the information is readily available and is necessary to verify compliance with the chosen means of compliance with the performance provisions of the building code.

2. Issuing the consent.

The building consent is issued to the applicant upon the payment of all fees, levies, and charges. All building consents are issued on the condition that agents authorised by Council (BCA) are entitled at all times during normal working hours or while building work is being done to inspect the land or building work.

**How will I be notified?**

When your application is ready for issue (or refused issue) and all fees are paid your building consent will be made available on the online portal, you will be notified by email to the agent nominated on the application form.

If there are outstanding fees then you will receive an invoice advising you that your building consent is ready and will be made available on the online portal, you will be notified by email when all fees are paid.

If your application has been refused then an email will be sent advising you why your application has been refused.

**What are building consent conditions or advice notes?**

When a building consent is issued there may be a number of conditions or advice notes attached to the building consent document. Only conditions permitted by the Building Act may be placed on building consents. These may be in relation to:

- The entitlement to inspect (this is a statutory condition that applies to every building consent)
- Specified intended life
- Development contributions (if any)
- [Section 37](#) certificate restricting what building work (if any) can be undertaken prior to the issue of resource consent
- Waivers and modifications ([section 67](#))
- Building on land subject to natural hazards ([section 71](#))
- Building over two or more allotments advice notes or notices attached to building consents are simply that – advice from Council that certain requirements should met or may be helpful information in relation to the building consent and building work.
- Specialist inspections to be undertaken.

It is important that you read and understand all conditions of consent before commencing work. If you do not understand any condition imposed, please contact us to discuss these.

**Building on Land Subject to a Natural Hazard – Section 71**

A natural hazard under the Building Act includes;  
 Erosion  
 Falling debris  
 Subsidence  
 Inundation  
 Slippage

A building consent authority must refuse to issue a building consent for the construction or a building or major alterations if the building work is to be carried out on land subject to a natural hazard or the building work is likely to accelerate, worsen or result in a natural hazard on the land or other property.

Despite this if the applicant can demonstrate that adequate provision has been made to protect the land, building work or other property from the natural hazard the building consent authority may grant the

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building consent under section 72 of the Building Act – this will result in a condition on the building consent to the effect that the consent will be notified to either an appropriate Minister and the Surveyor General or the Registrar of the Maori Land Court or Registrar General of Land dependant on the owner who applies for the building consent.

**Building on 2 or more Allotments – Section 75**

Where an application involves the construction of a building over two or more allotments and they are held by the owner in fee simple the territorial authority must issue a certificate that will trigger registration on the title that states;

That the lots (specified allotments) must not be transferred or leased except in conjunction with any specified other or others of those allotments.

**The Inspection Process**

**Who are the South Waikato District Council Building Control Officers?**

**Mr Jason Reece**

Building Control Manager

Email: [jason.reece@southwaikato.govt.nz](mailto:jason.reece@southwaikato.govt.nz)

**Mr Dan Shaw**

Senior Building Control Officer

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**Mr Greg Hill**

Building Control Officer

Email: [greg.hill@southwaikato.govt.nz](mailto:greg.hill@southwaikato.govt.nz)

**Mr Roy Stewart**

Building Control Officer

Email: [roy.stewart@southwaikato.govt.nz](mailto:roy.stewart@southwaikato.govt.nz)

**What inspections do I need?**

When your application is being processed we will also assess your project to determine what inspections will be necessary to enable us to be satisfied on reasonable grounds that compliance will be achieved. A list of inspections required will be attached to your building consent.

Typical inspections include;

- Site - location of the building on site (a surveyor’s report or visible boundary markers).

- Pre-slab - plumbing in/under the floor slab.
- Foundation - before placing any concrete for foundation walls or footings.
- Piles - before placing any concrete for pile foundations (timber or concrete).
- Pre-slab - before placing any concrete for concrete floor slabs and any integral footings.
- Masonry - before placing any concrete or concrete block walls.
- Sub-floor - before covering any subfloor framing.
- Framing - all fixtures visible.
- Wrap/cavity - upon completion of the building wrap with flashings/tapes installed and before fitting any external cladding.
- Brick - brick work at half height.
- Weather-tight - before applying any coatings to the external cladding system.
- Pre-line - before fitting internal linings or installing wet area membranes, air seals fitted internally around joinery, bracing connections complete.
- Pre-line - plumbing systems before fitting any linings.
- Post-line bracing - while fixings are still visible.
- Post-line wet area membranes – inspection of installed wet area membranes before installation of finish surfaces such as tiles.
- Drainage - testing any drainage work prior to back filling and before covering any field drains.
- Final - final inspection on completion of all building work.

**Inspections by others**

Sometimes it is necessary for specialists to conduct inspections in addition to the inspections carried out by the building consent authority. If a specialist inspection is necessary you will generally be advised before the consent is issued. Typically these types of inspections may involve having a geotechnical engineer confirm ground stability, or having an aspect of specific structural design checked by a registered engineer.

Please ensure you read inspection requirements and are familiar with them before commencing work.

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## How do I book an inspection?

Building inspections are booked through the Building Control Administrator on 07 985 3209 (do not contact the Building Control Officer directly).

Inspections are undertaken Monday – Friday 8 am to 4.30 pm (excluding holidays).

You will be required to provide us with the following information when booking an inspection:

- building consent number
- site address
- name and phone number of contact person on site
- date and time the inspection is required
- type of inspection, ie plumbing, drainage, foundation, pre-slab, preline, etc
- LBP names if not on file

The Building Control Officer may refuse to undertake inspections if the site is deemed unsafe and access is unsuitable.

NB: It is your (or your builders) responsibility to notify Council 24 hours before you require an inspection.

## How do I know if the inspection has been passed?

For an inspection to take place, the approved plans and documentation must be available on site. The Building Control Officer will be inspecting the building work against these approved documents.

N.B: If we arrive on site and the documentation is not available we will not undertake the inspection. We will however bill you for our time.

On the conclusion of all inspections the outcome of the inspection is given verbally and confirmed by email.

It is preferable that the owner or an agent be available on site for all inspections, while we appreciate that this may not always be possible it is mandatory that for final inspections the owner or their representative is on site.

## What if the inspection has not been approved?

If an inspection has failed a verbal instruction will be given and confirmed by email. Another inspection will be required to inspect the remedial work. Work may be stopped at this stage. All re-inspections may be charged.

If the work is not remedied to the satisfaction of the Building Control Officer, it is likely that a notice to fix will be issued.

## What is a Notice to Fix?

A Council must issue a notice to fix for any work that doesn't meet the requirements of the Building Act 2004 or building regulations, which includes the building code. For example a notice to fix may be issued for building work not carried out in accordance with a current building consent or perhaps work that does not comply with the building code. A notice to fix is the commencement of formal proceedings to achieve compliance with the Building Act or Regulations. If a notice to fix is issued, a letter explaining the process will accompany the notice to fix

- A notice to fix is issued to a specified person/s.
- A specified person may be:
- The owner
- The person/s carrying out the building work
- Any other person/s supervising the building work

The notice to fix will

- Specify the contravention
- Specify what is required to remedy the contravention
- State a time frame within which it must be complied with
- Require the specified person to contact Council when the required remedy has been completed.

It is an offence under [section 168](#) of the Building Act 2004 failing to comply with a notice to fix.

Enforcement of notices to fix is undertaken by the Territorial Authority.

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## Changes to the project once underway

Should it become necessary to change the design part way through the project a formal application to amend the building consent will be necessary and this will follow the same process as a building consent application. Minor changes such as repositioning a door, bracing element or substituting a material for a similar product (eg interior linings) is a minor variation and can be discussed with and approved by the Building Control Officer on site. Outcomes will be recorded on the building consent file and you may be required to provide an as built plan.

## Do I need a final inspection?

Yes, all building consents require a final inspection.

Your consented building work should be completed within two years of the date that the building consent was granted.

If you can not complete the work within this timeframe it is essential that you contact us to discuss possible ramifications.

When all work has been completed in accordance with the building consent and all documentation ie producer statements, as built, 6a's (LBP record of work), application for code compliance certificate etc. have been supplied, a code compliance certificate will be issued.

## What is a Code Compliance Certificate?

A code compliance certificate is the Building Consent Authorities verification that all works undertaken comply with the building consent. It is an important document and should be retained for future reference.

It is mandatory for the building owner to apply for a code compliance certificate after all work has been completed, the code compliance certificate application form is available on the AlphaOne system and via our website.

The Council must issue the code compliance certificate if it is satisfied on reasonable grounds;

- That the building work complies with the building consent

- All the required inspections have been undertaken and all non-compliance and outstanding matters have been satisfactorily dealt with
- Where a compliance schedule has been issued, the specified systems in the building are capable of performing to the performance standards set out in the building consent
- Have regard to whether any banned building methods or products have been used
- That all relevant energy certificates have been received
- That all development contributions have been paid (if applicable)

Having received an application for a code compliance certificate and it is found that not all the required information has been submitted with the application the 20 day processing clock will be suspended. The applicant will be advised of the outstanding information. Once this information has been received the clock is re-started and the processing of the application will continue. Buildings that require a compliance schedule will also have this issued with the code compliance certificate.

## What about issuing code compliance certificates for building consents issued under the 1991 Act or that have not been issued by the Building Consent Authority?

Providing we are satisfied that the building work complies with the building code at the time the building consent was issued (for consents issued under BA1991) and the provisions of the Building Act, then a code compliance certificate may be able to be issued.

If Council is not satisfied that Act provisions are fulfilled or is not satisfied that reasonable grounds exist to enable the issue of a code compliance certificate, then issue may be refused.

Should we refuse to issue a code compliance certificate and you consider that this is not justified then you may wish to approach the Ministry of Business, Innovation and Employment and apply for a determination.

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## How long do I have to complete the work?

A building consent automatically lapses 12 months after the issue date if no work has commenced. If an extension of time is required you must request this in writing.

The Building Consent Authority is not required to undertake any inspections when making a code compliance decision where no application has been made two years after the date on which the building consent was granted. If an extension of time is required you must request this in writing.

## What is a determination?

A determination is a binding decision made by the Ministry of Business, Innovation and Employment. It provides a way of solving disputes or questions about the rules that apply to buildings, how buildings are used, building accessibility, and health and safety.

Most determinations are needed because the person applying for the determination disagrees with the Council about decisions the Council has made about a building. In this case, the parties to the determination are the building owner and the Council.

All parties to a determination are treated equally.

You can ask for, or be involved as a party to a determination, if you are:

- The building owner or the owner's agent
- The Council that issued the building consent
- The owner of other property when the determination is about the protection of that property (for example, the potential spread of fire from one property to another, surface water run-off or land stability)
- A government Ministry or Crown agency that has a statutory duty under the Building Act, such as the Fire & Emergency NZ or Work Safe.
- Anyone with a direct interest in the problem or question if it has to do with access and facilities for people with disabilities.

The Ministry can initiate a determination where it believes it is necessary to achieve the aims of the Building Act. The Ministry may ask other people or organisations to become involved if necessary.

A determination will normally be about an earlier decision made by one of the parties (usually the Council). However, a determination can be applied for by the Council itself or a neighbour who is affected by building work.

A determination can be about building work that is planned, partly done or completed.

The Ministry of Business, Innovation and Employment can make a determination about:

- Whether a building or building work complies with the Building Code
- A Council's decision on a building consent, a notice to fix, a code compliance certificate, certificate of acceptance, certificate for public use, or a compliance schedule (including time extensions to building consents and code compliance certificate)
- A Council's decision to make a waiver or to modify the Building Code
- A Council's decision on building alterations, a change of building use, subdivision of building and dangerous, earthquake-prone and insanitary buildings
- A Council's decision on dams

Those involved in a determination, including the person who applies for it are called 'parties' to the determination. For example, a building owner may ask for a determination because they disagree with the Council's decision that also involves a neighbour.

The determination may:

- Confirm, reverse or modify the earlier decision (for example, a determination)
- May say that the Council was correct in not issuing a Building Consent
- Make waivers or modifications to the Building Code (for example, a determination may modify the time period for which the building must be durable)
- Make conditions that the Council may itself grant or impose (for example, a determination may require the Council to issue a building consent with certain conditions)

The Ministry of Business, Innovation and Employment charges a fixed fee for determinations. These are in two categories and are available from

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the Ministry of Business, Innovation and Employment website.

The categories are:

- Single houses, attached houses, flats and apartments up to four units, and garages and sheds
- All other buildings

A determination generally relies on the information you provide. Clear and complete documentation will help the Ministry assess and process your determination.

The information should be:

- Clearly labelled
- Typed or neatly handwritten
- Accompanied by a summary of the key points with references to the supporting documents.

Information to support an application can include (not all of the following will be available or appropriate in every instance):

- Correspondence about the dispute
- Drawings
- Specifications
- Design calculations
- Reports
- Photographs

## **Commercial and Industrial Properties**

### **Section 363 Public Premises**

#### **What is a Certificate for Public Use (CPU)?**

A CPU is the assurance that a building (or part of a building) is safe for the public to use while the building is undergoing building work that involves a building consent, but for which as yet there is no Code Compliance Certificate (CCC).

A CPU can apply to all, or part of a building, that is used by the public, whether or not an entry fee is charged. Examples include a shopping centre, store; sports stadium, swimming pool(s), a zoo or any other building open to the public.

A Certificate for Public Use does not relieve the owner of a building, from the obligation to apply for

a Code Compliance Certificate after all the building work has been carried out.

#### **Responsibilities**

Under the Building Act Section 363 the person who owns, occupies or controls the premises must NOT use or allow the use of ANY part of the premises that is affected by building work if:

- A building consent is required for the work, but has not been granted,  
OR
- A building consent has been granted, but no CCC or CPU has been issued,  
OR
- A building consent has been granted, and a CPU issued, but no CCC has been issued AND the CPU conditions have not been complied with.

#### **Who can apply for a CPU?**

A person who owns occupies (tenant or lessee), or controls the premises (contractor) intended for public use, or their agent can apply for a CPU. Evidence of the applicant's status may be verified by the following:

- Copy of Certificate of Title
- Lease
- Agreement for Sale and Purchase
- License
- Property Management Agreement
- Other – any document showing the full name of the applicant in relation to ownership, occupancy or control of the building.

#### **How do you apply for a CPU?**

A Certificate for Public Use must be applied for on the prescribed form:

- Certificate of Public Use (Form 15)

The complete application form must also be accompanied by:

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- Building plans and building specifications clearly showing the part(s) of the premises that this application applies to.
- A list of all specified systems: that is being altered to, added to or removed from the building in the course of the building work, and where there are **temporary** modifications to specified systems. This is required to ensure that appropriate maintenance and testing are continued during the construction period.
- The Council's CPU fee.
- Impact Analysis:
  - An analysis of the impact of building work on areas intended to be occupied and the proposals to minimise those impacts considering, where relevant, the impact on the following areas:
    - Access to the occupied area, including access for people with disabilities, guarding of changes in level, and the removal of conflict with construction traffic and stored material
    - Means of escape from fire, including egress path with restriction, route changes and possible need for interim evacuation plans
    - Operation of specified systems, including active fire alerting and suppression and any proposed compensatory temporary arrangements
    - Structural integrity and any temporary propping
    - Passive fire rating integrity and any proposed compensatory temporary arrangements
    - Building environment, including sealing off occupied areas from construction noise and dust, and maintaining adequate ventilation
  - Sanitary facilities adequate for proposed occupant numbers and also for people with disabilities
  - Construction area security
- Any other information that is required by regulations, or by the Council.

## Fees

The Territorial Authority (TA) has the right to charge a fee, or levy, or both under the Building Act 2004. If the fees/levy are not paid, the TA has the right to refuse or perform the service until the fee/levy is paid (s219, 240, 281A of the Building Act 2004).

## Processing the CPU application

The application documentation will be assessed for compliance with the Building Code, and if appropriate there may be an on-site inspection to assess the building work for compliance. A Territorial Authority (Council) has 20 working days to assess the application and may during this time require further reasonable information in respect of the application. If this happens the 20-day clock is suspended and not resumed until the information is received. Agreements can be made to mutually establish any further period during which the Territorial Authority has to decide whether to issue the Certificate for Public Use.

## When is a CPU application refused?

A CPU will be issued only when the Council is satisfied that members of the public using the premises can do so safely, and in the event of an emergency, members of the public will be able to evacuate safely. A CPU will not be issued if the Territorial Authority (TA) is not satisfied that the public will be safe. For example:

- If the specified systems affected by the building work are not compliant
- If the provision for means of escape is unsatisfactory
- If the emergency warning systems are not adequate

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Only a Territorial Authority can issue a CPU and the certificate will only cover the building work that the TA is satisfied (to the best of its knowledge, belief and on reasonable grounds) to be compliant with the Building Code, and current regulations. If a Territorial Authority refuses to issue a Certificate for Public Use, the TA must give the applicant written a notice of (a) the refusal; and (b) the reasons for the refusal.

## Offences

As with other building work, where a building consent is required, it is illegal to carry out building work without a building consent or where the work does not comply with the building consent that has been issued.

It is also an offense to allow members of the public to use a building, or any parts thereof, that have not been deemed safe by a Territorial Authority. You could be prosecuted for operating a Dangerous and Insanitary building under Section 131 of the Building Act, or under (Section 363) where:

- It is an offense to allow members of the public to use a building that has **not** been certified as safe, or where a Certificate for Public Use has **not** been issued, and
- It is an offense to allow members of the public to use a building where a Certificate for Public Use has been issued, but the conditions of its issue have not been complied with.

A person who commits an offense under this section of the Building Act is liable to a fine not exceeding **\$200,000** and, in the case of a continuing offense, to a further fine not exceeding **\$20,000** for every day or part of a day during which the offense has continued.

If your building is open to the public, whether for free or payment of a charge, the building can not be used / occupied until a code compliance certificate is issued. This is because public premises will generally have systems within the building which contribute to life safety and well-being of the building user. (These systems are called specified systems).

In certain circumstances it may be possible to apply for a certificate for public use, which will allow a building to be used before the code compliance certificate is issued. Each application will be considered on a case-by-case basis.

A fire safety design shall be required with all commercial and industrial building consent applications.

## What are public premises?

Any building which is open to the public whether for free or payment of a charge, including:

- shopping malls
- cinemas
- marae
- camping grounds
- garages and workshops
- funeral homes
- office / retail complexes
- rest homes, etc

## What is a compliance schedule?

A compliance schedule is a document issued by the Building Consent Authority for buildings that contain specified systems. Specified systems include:

- automatic systems for fire suppression
- automatic or manual emergency warning systems for fire or other dangers
- electromagnetic or automatic doors or windows
- emergency lighting systems
- escape route pressurisation systems
- riser mains for use by fire services
- automatic back-flow preventors connected to a potable water supply
- lifts, escalators, travelators, or other systems for moving people or goods within buildings
- mechanical ventilation or air conditioning systems
- building maintenance units providing access to exterior and interior walls of buildings
- laboratory fume cupboards
- audio loops or other assistive listening systems
- smoke control systems
- emergency power systems for, or signs relating to, a system or feature specified for any of the above.

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Since 31 March 2008, a single household unit requires a compliance schedule if it contains a cable car or is serviced by a cable car.

A compliance schedule lists the systems and features including the inspection, maintenance and reporting procedures needed to keep them in good working order. A compliance schedule must be kept on site and made available to building officers, Independent qualified persons (IQP), LBP and authorised agents.

### **What is a compliance schedule statement?**

A compliance schedule statement is issued by the Territorial Authority and it will list the specified systems. It is issued at the same time as the code compliance certificate. It must be replaced in 12 months with a building warrant of fitness, which is issued by the building owner.

### **How do I obtain a compliance schedule?**

A compliance schedule must be applied for at the same time a building consent application is made and will be issued with a code compliance certificate by the Building Consent Authority for:

- new buildings (if the building has one or more specified systems), or
- an upgrade to an existing building or systems, required as a result of a change of use or alterations, which may also require a building consent

### **What information do I need if I am applying for a compliance schedule?**

Your designer should provide you with information relating to the performance standards for each specified system contained within the building. These performance standards will identify the inspection, maintenance and reporting procedures required for each system.

### **Can I be prosecuted for not obtaining a compliance schedule or if my building warrant of fitness has expired?**

Yes, depending on the alleged offence the fine ranges from \$20,000 to a maximum of \$200,000.

### **What is a building warrant of fitness? (BWF)**

A building warrant of fitness (Form 12) is a statement issued by the building owner to Council stating that the requirements of the compliance schedule have been fully met. The building warrant of fitness must have attached to it all certificates of compliance issued by the Independent qualified persons (IQP). These documents must be issued in the prescribed form (Form 12A) and certify that the inspection, maintenance and reporting procedures stated in the compliance schedule, have been fully complied with during the previous 12 months.

The building warrant of fitness must be re-issued to Council on the anniversary of the issue of the compliance schedule (every 12 months) for the life of the building. There is an annual charge for receiving the BWF.

### **What documents should I keep regarding the Building Warrant of Fitness?**

You are legally required to obtain written reports relating to the inspection, maintenance and reporting procedures of the compliance schedule which must be signed by the Independent qualified persons (IQP) who has carried out any of the listed procedures, (inspection, maintenance or reporting).

You are required to keep all reports together with the compliance schedule for a period of 2 years and produce those reports for inspection when required.

### **What is an IQP (Independent Qualified Person)?**

An Independent qualified persons (IQP) is a person who is qualified to carry out any performance inspection, maintenance, reporting or recommendation on a specified system.

All Independent qualified persons (IQP) are required to be registered with Council.

### **Complaints**

### **What happens if I am unhappy about any decision made by the building consent authority?**

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A customer has a right to appeal or to complain about any building control function the Building Consent Authority undertakes and have this heard and be properly managed.

Complaints provide feedback about service experience and give us the opportunity to improve our performance

### What is a building control function?

A complaint in relation to building control is defined as a complaint about:

- meeting statutory time frames
- lodgement or vetting of building consent applications
- processing of building consent applications
- inspection of work under construction
- issuing of a notice to fix
- issuing of code compliance certificates
- issuing compliance schedules
- failure to provide appropriate information or advice
- fees and charges
- failure to meet legislative or Building Code requirements

### How do I make a complaint?

You can make a complaint in person; however it must be accompanied in writing. Complaints not made in writing or made anonymously will not be actioned. These should be addressed to:

Building Control Manager  
South Waikato District Council  
Private Bag 7  
Tokoroa

### What information is required?

- date incident occurred
- nature of complaint (guidance information, vetting, lodgement, inspection, notice to fix, code compliance certificate or compliance schedule)
- copies of any supporting information (if applicable)

- relationship (customer, regulator, or stakeholder)
- name and contact details

### How long does it take?

All complainants will be responded to within 48 hours of the receipt of the complaint at which time you maybe asked whether you wish to be heard in relation to the complaint or to provide further information.

All complaints will be actioned within 10 working days of receipt of complaint, unless a request for further information is made.

### Do I have a right of appeal?

Yes, if you do not agree with the outcome you may request a review of the decision. All appeals must be made in writing setting out the reasons why you disagree with the decision.

All appeals should be addressed to:  
Building Control Manager  
South Waikato District Council  
Private Bag 7  
Tokoroa

All appeals will be responded to within 10 working days.

### What else can I do?

If you are still unhappy or choose to use an alternative route to settle a matter of doubt or dispute you may apply to the Ministry of Business, Innovation and Employment for a determination.

Visit <http://www.building.govt.nz/> for further information on this service.

### Dams

#### What is a dam?

Dam **means** an artificial barrier and its appurtenant structures that:  
a) is constructed to hold back water or other fluid

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under constant pressure so as to form a reservoir

- b) is used for the storage, control, or diversion of water or other fluid
- c) Retains three or more metres depth and holds 20,000 or more cubic meters volume, or water or other fluid.

A dam **includes**:

- a flood control dam
- a natural feature that has been significantly modified to function as a dam
- a canal

A dam does **not include** a stop bank designed to control floodwaters.

All dams that meet this criterion are required to obtain a building consent from the Regional Council.

### **What is an appurtenant structure?**

The pump house, power source, conduits, penstocks, spillways, sluice gates, intake tower, etc are all appurtenant structures.

### **What if my proposal does not meet the definition of a dam?**

If your structure holds more than 35,000 litres of water but does not meet the definition of a dam, it will still likely require a building consent. Applications for building consent for a dam will be considered on a case by case basis. You will need to make an appointment for a pre-lodgement meeting with us to discuss what will be required for the application.

### **Do I need a building consent for a dam?**

Yes, all dams holding more than 35,000 litres of water or other fluid require building consent.

### **Do I need a project information memorandum for a dam?**

Yes, two project information memoranda are required. One is issued by the territorial authority and the other by the regional authority; this is

because each authority holds different information in relation to properties.

### **What information do I need for building consent?**

You will need to get in touch with your local regional authority to discuss building consent requirements for dams.

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