



Department of
Building and Housing
Te Tari Kaupapa Whare

Guide to building consent amendments

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While these guidelines are intended to assist building consent authorities in their interpretation and application of the law relating to building consent amendments, it is the responsibility of building consent authorities to develop, approve and implement their own policies and procedures relating to amendments.

Building consent authorities should seek their own legal advice in the development and implementation of the policies and procedures.

Introduction

Changes to consented building work are often proposed during a building project. While the 'approved building consent' (obtained before work commences) is the foundation document for most building work, the building consent process does allow for this consent to be altered before or during construction – through the 'building consent amendment process'.

At the end of the building project, the approved building consent documentation needs to be an accurate reflection of what has actually been built.

This guide sets out the Department of Building and Housing's ('the Department') expectations around notifying proposed variations to building consents, assessing those variations and making amendments to building consents.

It has been written to help designers, builders, homeowners' agents and developers by explaining their responsibilities for managing variations and amendments to a building consent. In particular the guide encourages the early recognition, notification and actioning of consent variations and amendments.

It is also written to assist building consent authorities¹ to follow a robust and sometimes more pragmatic and flexible approach to considering and approving some variations and amendments and so allowing a quicker decision-making process.

This guide also includes four case examples of building consent authorities and how they approach variations and amendments (see Appendix 4).

This information may also be of interest to others in the construction sector, such as subcontractors/tradespeople and quality assurance auditors. It is not intended as a guide for homeowner-applicants, because the process requires some knowledge of the Building Act, associated Building Regulations, Building Code and consenting processes in New Zealand.

This guide has been prepared by the Department of Building and Housing (the Department) as guidance information in accordance with section 175 of the Building Act 2004 (the Act) and refers to a local council's role as either a building consent authority or a territorial authority to explain certain approaches around varying work from the approved building consent.

This guide is not a substitute for professional, independent legal advice.

¹ Building consent authorities – territorial authorities, regional authorities (local councils) or private organisations that have been registered by the Department of Building and Housing. These organisations are responsible for undertaking certain building control functions under the Building Act 2004. In summary, such functions include: processing and approving building consent applications; inspecting building work for which a building consent has been granted to ensure the work has been undertaken according to the building consent (including issuing notices to fix); and certifying that completed building work is compliant with the approved building consent (including issuing code compliance certificates and compliance schedules).

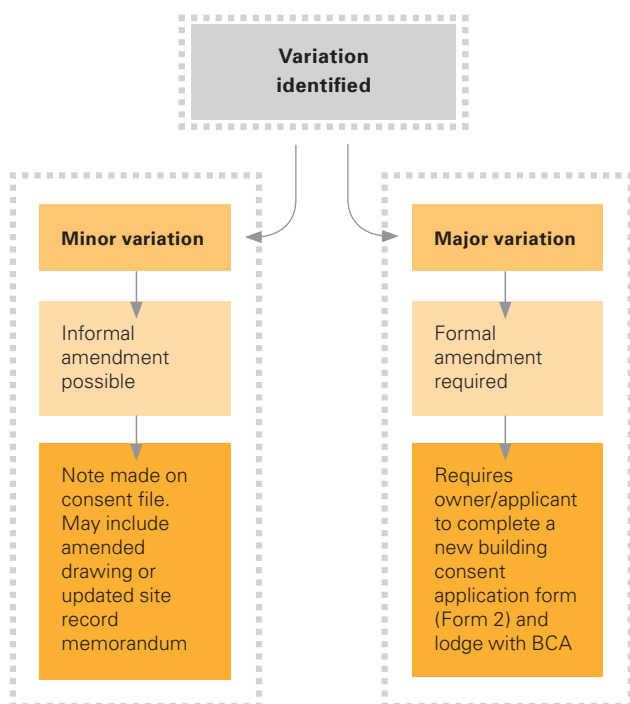
Defining variations and amendments

KEY TERMS

For the purposes of this guide, a 'variation' refers to any **proposed** or agreed change to consented building work.

An 'amendment' means a **change** made to the original building consent, be it a simple alteration like a handwritten note on the consented plans by the consent applicant/builder/designer (**informal**), or through a **formal** amendment as set out in the Building Act 2004 and Building (Forms) Regulations 2004.

All amendments must be approved and recorded by the building consent authority.



Many building consent authorities have developed their own version of Form 2 from the Building (Forms) Regulations 2004 that they require building consent applicants to use.²

View Form 2 at: www.dbh.govt.nz/UserFiles/File/Publications/Building/Forms/form-2.pdf

HOW DO YOU ASSESS WHAT IS A MINOR OR MAJOR VARIATION?

As noted, it is very common for variations to consented building work to take place during a construction project. The question to consider is whether the change is **considered minor or major** in nature.

The following explanations of 'minor' and 'major' variations are to assist building consent authorities to more effectively determine what they consider to be 'minor' or 'major' variations, and then consistently implement a policy for how they handle each of these.

Minor variations

A variation that is minor is a change that does not usually affect compliance with the Building Code – for example, the type of taps used or positioning of kitchen joinery or non-structural walls or door.

Most often the minor variation does not affect the level of Building Code compliance; it simply achieves the same outcome in a different way.

A building consent authority must still be notified about any proposed variation so it can confirm the change is minor, advise how they will deal with it and record the minor variation in writing. Minor variations shouldn't usually require a Form 2 and, if approved, do not require the issue of an amended building consent. However, all minor variations that are approved must be recorded in writing (eg, a handwritten note on the consented plans and inspection record note).

² The Building (Forms) Regulations 2004 allow this flexibility but does require certain minimum information to be prescribed in the form.

Examples

Examples of variations that are minor to building consents include:

- substituting one internal lining for a similar internal lining
- substituting the type of timber treatment
- minor wall bracing changes
- a change to a component (eg, fixing bracket)
- a construction change (eg, the framing method around a window when the window is changed to a door)
- changing a room's layout (eg, the position of fixtures in a bathroom or kitchen)
- changing one brand of insulation for another
- building work described in schedule 1 of the Building Act 2004.

The following scenarios³ outline proposed variations that are minor and require an informal amendment to consented building work.

The plans and specification specify wire dog purlin fixings, but the builder wants to use a screw instead. In this case the same level of compliance would be achieved.

This is a minor variation. The building inspector simply records on an inspection report or memorandum that the purlins are screw fixed from the top rather than wire dogged. This note then goes on the consent file.

A bathroom is approved to be laid out in a particular way. During the project it becomes necessary to move the vanity along the wall to accommodate the door opening and rotate the toilet 90 degrees. In this case, the changes are within the scope of the approved building consent.

This is a minor variation that the building inspector could receive via another drawing showing the new location. This drawing would be added to the consent file as as-built documentation prior to the issue of a code compliance certificate.

During the construction of a new dwelling, the owner decides to change a large window in the master bedroom to a bi-fold door. The builder is able to show the inspector that the opening size does not change and that the framing around the opening stays generally the same except for the trimmers and sill.

The building inspector considers this a minor variation as the effect of the change on overall compliance is minimal. In this case, the inspector agrees to accept an amended drawing showing the change and updates the consent file, recording the change, his/her decision and reasons for decision.

The plumbing inspector is undertaking a pre-line plumbing inspection. During the inspection, the plumber advises the inspector that it is proposed the water reticulation pipe work be changed from copper to a polybutylene system.

The inspector considers that although the Building Code requirements will be met by the new product, the inspector requires confirmation from the owner/designer that the change in material is acceptable to the owner/designer. The inspector considers this a minor variation and updates the consent records once confirmation in writing from the owner/designer is received.

The building inspector receives a call from a builder explaining that during the excavation for a foundation, poor ground has been encountered. The builder explains that an engineer has visited the site and has required an increased width of the footing to provide more bearing.

The building inspector, after discussing the situation with the engineer directly, agrees to receive an as-built drawing for the new foundation detail and a producer statement from the design engineer for both its design and inspection. The building inspector considers this a minor variation and approves the change with the as-built documents, recording the change for the consent file.

During an inspection on a two-storey split level dwelling, the builder explains that the truss layout has created a situation whereby the bottom chord of a truss impedes headroom on the stair. The builder produces information from the truss manufacturer showing that the bottom chord of the truss can be removed provided certain other work is done to the truss. The information details the proposed work required to be done by the builder.

The inspector accepts the information and records the conversation with the builder on his/her inspection report/memorandum. The inspector takes copies of the information for the consent file and approves the change on site as a minor variation.

³ The scenarios in this guidance are to be treated as possible situations where a building consent authority may act in a certain way, rather than an exact narrative of when and how a building consent authority should act. Building consent authorities should seek their own legal and internal policy advice, and also be open to assessing situations on a case-by-case basis.

During an inspection of an alteration to an existing kitchen, the inspector identifies that the cabinetry appliances and plumbing fixtures are proposed to be in different places to those shown on the approved building consent. The plumber and builder describe that, even though the position of the cabinets, fittings and kitchen sink are to change, the actual plumbing work will not be substantially affected from what is shown on the approved building consent. The builder also explains that the kitchen window will change from a standard-type window to a garden/greenhouse window.

The inspector considers the information provided on site. The inspector considers there is no adverse effect on Building Code compliance, and therefore the variation is minor, requiring only a new as-built drawing before the final inspection and code compliance certificate is issued. The inspector records this change, their decision and reasons for decision for the consent file.

While the above scenarios may assist in determining what is a minor variation, building consent authorities will still be required to take into account individual circumstances with each variation they are dealing with.

Major variations

Generally, where the work is outside the scope of the original consent (eg, additional footprint or increases in floor area, construction method, or significant changes to the layout), this would be considered a major variation. A formal amendment would be required for the new work to be undertaken.

Variations that are major often result when the variation impacts on a number of Building Code clauses.

The following examples demonstrate where compliance with the Building Code will be significantly affected (a major variation), therefore providing a trigger that a formal amendment is required. If approved, any amended application becomes part of the approved building consent documents file for that building project.

Examples⁴

- A deck or carport shown on the building consent drawings is no longer to be built.
- The applicant wants an ensuite bathroom to be installed instead of a walk-in wardrobe shown on the building consent drawings.
- A change to the assembly (eg, acrylic shower unit to a tiled shower unit)
- Timber joists complying with NZS 3604 are shown on the building consent drawings, but the applicant is advised by the builder to change to a manufactured proprietary joist system.
- The applicant wants to change part, or all, of the proposed cladding system from that approved in the original consent.
- A new house is approved with a perimeter foundation wall and ordinary internal piles, but it is decided instead to construct a complete timber pile foundation.

The following scenarios outline situations of proposed variations that are major and require a formal amendment to consented building work.

The building inspector visits the site for the foundation inspection prior to pouring the perimeter foundation. On arrival the inspector is told the foundation is to be changed from slab on ground to a pile foundation.

This would be a major variation because it is a significant departure from the approved building consent and the change could significantly affect the structural integrity of the building. The inspector requests that work on site stops until the applicant has applied for a formal amendment (including new plans detailing the construction change) to the building consent and the amendment has been granted.

The plumbing inspector visits a site to undertake a pre-line plumbing inspection for a new two-storey dwelling. At the inspection, the inspector identifies that although the specification details a G13/AS1 graded stack compliant system, the plumber is about to install an AS/NZS 3500 elevated drainage system.

Because this is a completely different design principle at play, with different plumbing from the approved building consent, the inspector considers this a major variation and requires that a formal amendment to the consent be made. The plumbing work ceases until the new design has been documented, submitted to the BCA and the amendment is granted.

⁴ These examples would be considered major variations because they impact on Building Code compliance and these changes need to be redrawn so the plans and specifications reflect what is to be built.

The plumber on a job tells the inspector that the owner wishes to install a roof-mounted solar water heating system rather than the mains pressure system detailed in the approved building consent. The inspector discusses with the builder and follows up with an inspection report/memorandum either in a letter or email explaining that a formal amendment to the consent will be required for the change.

This is a major variation and requires a formal amendment because the installation is considerably different from that approved. It also impacts on a number of other Building Code requirements such as Clauses E2 External Moisture, B2 Durability and B1 Structure where the solar water heating system may transfer a substantial load to structural roofing members.

The building inspector visits the site to undertake a pre-line building inspection. During the inspection the builder explains to the inspector that, although the drawings show an acrylic shower unit, the owner intends to install a wet area floor and tiles, walls and floor over a membrane.

The inspector sees this as a major variation. The inspector requires the owner and/or builder/designer to apply for a formal amendment to the consent for this work because it is a significant change to a complex construction method affecting a number of different Building Code requirements such as Clauses E3 Internal Moisture and B2 Durability.

A designer contacts the local building consent authority to explain that because of local supply issues she wishes to change the timber floor joists to a factory-manufactured flooring system. The designer provides the BCA with the design information and statements.

The building consent authority considers this to be a major variation and requires a formal amendment because the building was originally designed to NZS 3604 and the new flooring system falls outside of this Standard. The designer completes a formal amendment to the building consent and submits the information to the building consent authority for their assessment and approval.

During construction of a dwelling on a slope, the designer decides to increase the size of the excavation and change the detailed footing with a jack frame supporting the level above to a full height concrete block wall. The change is from a timber-framed sub-floor to a concrete sub-floor structure.

This is considered a major variation because it is likely that an engineer will need to design the wall and footing. The designer will also need to detail how the wall will be 'tanked' to prevent moisture passing through the wall. There may be also be drainage issues to consider.

While the above scenarios may assist in determining what is a major variation, building consent authorities will still be required to take into account individual circumstances with each variation they are dealing with.

PRODUCT SUBSTITUTIONS

The Building Code imposes minimum performance requirements for buildings. These requirements are met through the use of a variety of different products and/or systems. In some cases, the products or systems may well exceed the minimum requirements of the Building Code. In other cases some products or systems only meet the minimum requirements. Often the degree of product performance is dictated by cost or owner/designer preferences.

When deciding how to deal with a product substitution, the responsibility falls on the applicant to demonstrate that the proposed substitute **will meet the performance requirements** of the Building Code. Where the new product performs differently to the one specified, the applicant should also describe the effect of the change on other work.

If the building consent authority has existing knowledge about a suggested alternative, or an already-evaluated building product or system, justifying its compliance can be a simple matter.

Product substitutions where the variation is minor

Example 1 is where changing products from those specified may mean that the level of compliance required by the owner may no longer be met even though the minimum requirements of the Building Code are met.

Example 1

The owner/designer specifies stainless steel fixings (which are not otherwise required by a Compliance Document). However, the builder intends to use galvanised fixings. The galvanised fixings still comply with the Building Code, but they will require more maintenance and may not have the durability of stainless steel fixings.

The inspector confirms this is a minor variation on site because compliance with the Building Code is still achieved, but the requirements of the owner are not met. The change is recorded on the consent file by the inspector. It is the builder's responsibility to communicate the product substitution to the owner/designer.

Example 2 is where sometimes products are not available, or the amendment involves a change to a product or method that still complies with the Building Code, but provides a different level of performance against the Building Code from that described in the consented plans.

Example 2

R2.4 insulation is specified for use in the walls. The owner wants to use R1.8 instead.

Both types may meet the performance requirements of the Building Code, but R1.8 insulation provides a lower level of performance against the Building Code requirements.

The building consent authority will have a good understanding of the impact of the proposed change on the performance requirements of the Building Code, and will advise the applicant of what needs to occur.

The building consent authority should still be asked to approve the minor amendment before it takes place.

The applicant could be asked to provide evidence to show the amendment will comply with the Building Code.

If the building consent authority decides to approve the amendment, it will have a process in place to do so, including noting the change on the consent records. Some building consent authorities may ask the builder and/or designer to detail and sign changes on the consented plans.

The paper record is important. It ensures the inspectors know exactly what work has been approved, so they can take this into account when undertaking inspections and deciding whether to issue the code compliance certificate once the work has finished.

If the situation was reversed and the owner wanted to go from R2.4 insulation to R3.6 batts then the building consent authority should simply record that a greater level of compliance has been achieved on an inspection note/consent file.

What is important in these examples is that the performance requirements of the Building Code continue to be met and that building consent authorities are consulted first and they have an accurate record of what is built.

Product substitutions where the variation is major

In some cases, products appear to be very similar, yet do not achieve the levels of performance required by the Building Code. This means the impact on compliance with the Building Code needs to be carefully assessed. In deciding whether to approve a product substitution, the building consent authority will need to consider whether:

- the product achieves an equivalent level of durability, strength etc
- the product has been tested
- the technical literature is from a reliable source
- there are any special conditions for use
- the product has an impact on other building elements.

It is the applicant's responsibility to justify the proposed substitution in these terms. The building consent authority's role is to consider this and decide if it is satisfied that the alternative complies with the Building Code.

The building consent authority will inform the applicant how the proposed amendment is best considered and, if approved, how it is recorded. It is likely this type of substitution will require a formal amendment to the building consent, using Form 2 of the Building (Forms) Regulations 2004, supplied by the building consent authority.

Examples

The inspector visits an existing dwelling to inspect the roof installation on an addition. During the inspection, the inspector identifies that although the specifications and drawings show a trough section roof on a 3-degree pitched roof, the existing roof is corrugated profile. The roofer is planning on installing a corrugated profile to match the existing roof. The roofer asks the inspector to give approval on site. The inspector explains that the materials outside the scope of the Compliance Documents and manufacturer's specifications.

Because the proposal is considered a little bit tricky in this specific building situation, and the change is a relatively significant, the variation is considered major and the applicant is required to submit a formal building consent amendment for consideration of the alternative solution. The inspector records his on-site discussion and instruction to the builder/owner, a copy is placed on the consent file.

Note: Owners should be aware that where they intend to change a component that forms part of an entire supplier's system, they may void any warranty offered.

Additional detail on product substitutions can be found in Appendix 2.

MANAGING VARIATIONS AND AMENDMENTS

Why early notification of variations matters

For designers, builders and building owners, early identification and notification of a variation and likely amendment is critical.

This early notification of a proposed variation to the building consent authority is a major step in achieving a quicker turnaround in approving an amendment and helping to keep the building project on track.

When the remaining work is completed as per the amended consent where applicable, it will make it easier for the building consent authority to carry out future inspections, establish compliance and issue the code compliance certificate in a timely manner.

Who is responsible?

Everyone involved in a building project has a part to play in making sure variations and amendments are handled effectively.

Designers, builders and project managers

Designers, builders and project managers should ensure the property owner and the building consent authority are made aware of any proposed variations as soon as they are identified and seek guidance from the building consent authority on how the variation will be handled.

This is good practice as the property owner is ultimately responsible for the building work, its compliance and for obtaining the code compliance certificate at the end.

Designers, architects, builders, project managers and property owners should then work together to provide any information the building consent authority asks for to justify the requested variation to facilitate a prompt approval process.

For the building consent authority to assess proposed variations, the applicant must give the building consent authority 'reasonable grounds'⁵ on which to consider it.

In most cases the applicant will need to supply specific information (eg, calculations, schematics, technical specifications or drawings detailing and justifying the proposed variation and showing how it complies with the Building Code).

If the variation is major, or if the building consent authority requires further information, the applicant may want to provide one or more of the following.

- Reference to relevant Compliance Documents
- Reference to relevant Standards
- Expert technical opinions/producer statements
- In-service history information
- Results of independent laboratory or field tests (eg, BRANZ Appraisal)
- Relevant extracts from manufacturers' technical (non-promotional) literature
- product certificate.

Building consent authorities

All variations, whether minor or major, need to be communicated to the building consent authority, as it has sole responsibility for deciding whether a proposed variation can be approved and whether it represents a minor or major change.

On being notified of a proposed variation, the building consent authority will advise the applicant⁶ whether the variation is considered minor or major, and determine what action will be required.

⁵ Refer to section 49(1) of the Building Act 2004.

⁶ The applicant would be the owner or owner's agent (eg, builder, designer, project manager).

Building consent authorities must advise the applicant of the most suitable method for seeking an amendment to the building consent and to properly document any changes, decisions and reasons for decisions that happen.

Building consent authorities should provide consent applications with information about when and how to deal with amendments to building consents. This information should be readily available on websites, front counter information and with each consent when issued.

Building consent authorities should consider whether proposed variations from the approved building consent will affect inspections, and revise the inspections schedule, as and when necessary.

CONSIDERING AND AMENDING THE BUILDING CONSENT

All building consent authorities should have systems and processes in place for managing variations whether major or minor. The key is to consider the applicant's explanation and supplied evidence about how a proposed variation meets the performance requirements of the Building Code.

A good rule of thumb is that what gets built needs to be accurately represented on the building consent file/documentation at the end of the job. This documentation represents the basis for the building consent authority's decision to grant the building consent and code compliance certificate.

There is some flexibility in how this decision is reached.

- For minor variations, it may involve phone, fax, email or face-to-face communication between the building inspector and the applicant to confirm things, resulting in an amendment being noted on the original consented plans, signed by the applicant and approved by the building consent authority. The outcome of any communication needs to be recorded on the consent file/site inspection report by the building inspector and followed up with a drawing showing the change by the designer or builder. This approach helps to allow the building official to focus on verifying the amendment as quickly as possible.
- Building consent authorities may require a formal amendment when it is considered appropriate and reasonable. The 'minor/major' distinction is designed to assist building consent authorities to make this decision.
- For variations that are major, applicants should be asked to apply for a more formal amendment and submit revised plans and specifications accompanied by a Form 2 application form.

Note

The Building Consent Authority Accreditation and Registration Scheme accommodates an appropriate and reasonable approach to dealing with variations and amendments. Building consent authorities have the opportunity to establish their own policies on what variations are major or minor, criteria for approving these, and to develop the necessary systems to respond.

Timeframes

All formal amendments must be processed by the building consent authority within 20 working days. The Department's expectations are that these amendments would ideally be given some priority over other consent applications by the building consent authority, as there can often be trades-people awaiting an amendment's approval to continue some part of the building work on site.

Particularly with minor variations, building consent authorities should make increased use of technology (eg, faxes and emails) to help achieve a speedier turnaround.

Summary

1. All building work must comply with the Building Code (section 17 of the Building Act), including all proposed variations.
2. Proposed variations to a building consent need to be notified to the local building consent authority as early as possible.
3. It is the building consent authority's responsibility to determine what action should be taken with the proposed variation and whether it is minor or major, and to make the appropriate approvals.
4. All changes need to be properly documented.
5. Building consent authorities need to have sound processes and systems for handling proposed variations in the most time-efficient manner.

COMPLIANCE WITH OTHER LEGISLATION

Documents submitted with a building consent application sometimes contain information that does not relate to Building Code compliance, but is still relevant to a territorial authority or regional authority.

Details in the specifications and plans may, for example, be included to show compliance with:

- the District Plan (a Resource Management Act 1991 (RMA) issue)
- other Acts (such as the Fencing of Swimming Pools Act 1987)
- council bylaws.

In these cases, the building consent authority may approve an amendment, but a condition regarding other legislation (eg, RMA) may be imposed by the territorial authority or regional authority.

This guidance document relates to amendments that are proposed to the approved building work in relation to the Building Code, as that is how the building consent and inspection process is ring-fenced in legislation.

A local authority officer who attends to RMA and other Act or bylaw issues on a building site does so using delegations under the Local Government Act 2002. These activities are outside the scope of the Building Act and this guide.

KEY MESSAGES FOR BUILDING CONSENT AUTHORITIES

- Provide general and comprehensive information to the public/consent applicants with advice about amendments for approved building work. This could include guidance on the quality of documentation required with an application, what process to follow, timeframes and who does what. Building consent authorities could summarise this into a one-page flow chart accompanied by key messages for consent applicants.
 - Develop and implement processes for handling minor and major variations. Treat each situation on its own merits and be prepared to operate different systems for different circumstances.
 - Remind consent applicants about the need to obtain prior approval if they want to vary building work after a consent is issued (or while it is being processed).
 - Be prepared to take calls from people asking for advice. Let them know what information they need to provide to justify their proposals. Have printed or web information available to assist.
 - If a proposed variation requires an application for amendment to the building consent, tell the applicant the appropriate form and information required.
 - Minor variations can be approved in a more informal manner, according to agreed building consent authority policies and processes. It is important to record a note of amendment on the consent records as a way of showing the building consent authority has been consulted and given their approval.
 - If the applicant submits new drawing details or specifications, attach these to the approved plans and stamp or mark and file old plans etc as superseded (some building consent authorities require applicants to countersign new plans). Mark these ones as amended.
- Assess the applicant's arguments about how a proposed variation meets the performance requirements of the Building Code, using the same criteria you would normally use to establish 'reasonable grounds' under section 49 of the Building Act 2004.
 - Remember, there may be other requirements under the District Plan, local bylaws or other regulations that need to be considered. You may wish to advise the applicant of their other obligations if a proposed amendment could affect District Plan requirements.
 - Variation applications must be processed within 20 working days. A building consent authority should consider giving priority to these applications if work is now under construction. Remember, many variations are minor (see earlier examples) and can be assessed and approved without the need of a formal amendment.

KEY MESSAGES FOR BUILDING CONSENT APPLICANTS

- As far as possible, finalise the details of what you want to build before applying for a building consent. If you or your client changes their mind after the building consent has been approved, allow for additional costs and some time delays.
- Factor amendments into your contingency planning and budgeting – particularly if you are considering an alteration or renovation. It is often difficult at the planning and initial design stage to predict all the factors about an existing building that will affect the new building work.
- Consider applying for a project information memorandum well before applying for a building consent. This can give you information about the site which might influence your planning and design and provide you with early notification of other required approvals (eg, resource consents, Historic Places Trust approvals etc).

- Discuss the project with your builder/designer/owner before submitting the application for a building consent. For example, the builder may prefer to work with factory-manufactured trusses rather than constructing them as the designer has detailed in the consent documents.
- The building consent application, and any subsequent amendments that may be necessary, must contain sufficient detail to give the building consent authority 'reasonable grounds' on which to make its decision. The designer (and/or builder) must demonstrate compliance.
- If the building consent authority asks you to apply for an amendment to the building consent using its application form, submit your application as soon as possible to avoid delaying the building work. Work on the affected area often can't start, or continue, until the building consent authority has made its decision on the amendment application.
- Even if you don't need to submit an amendment application, you will still need to provide all the as-built information the building consent authority asks for. This ensures the consent file held by the building consent authority remains up to date and enables the code compliance certificate to be fully considered and issued quickly at the end.
- If you are thinking about varying the building work in any way that differs from the approved plans, advise the owner. Ultimately, the owner is responsible for the building work and for obtaining a code compliance certificate.
- Good project/site management includes effective management of variations that may occur during a building project.
- Do not carry out building work that is a variation from the approved consent until the proposed variation has been discussed and approved (whether formally or informally) by the building consent authority.
- Obtain a written record of any amendment agreed to by the building consent authority (eg, site inspection notice/record).
- Give as much notice of amendments as possible to avoid or limit delays.
- Involve the designer in the process of considering an amendment to ensure the proposed variation does not impact on other parts of the building work.
- Remind the consent applicant/designer/builder/project manager to contact the building consent authority to seek approval for the proposed variation.
- The building consent application, and any subsequent amendments that may be necessary, must contain sufficient detail to give the building consent authority 'reasonable grounds' on which to make its decision. The designer (and/or builder) must demonstrate compliance.
- Explain why the proposed variation is necessary and be prepared to offer your view on how it complies with the Building Code (the designer may have primary responsibility for this). It will help support any request for an amendment.

KEY MESSAGES FOR BUILDERS, DESIGNERS AND PROJECT MANAGERS

- Build from the approved building consent plans and specifications. Look after them on site and refer to them frequently throughout the project.
- When preparing your application for a building consent amendment, present information on the plans and specifications that relates to compliance with the Building Code in a way that is clear and easy for the building consent authority to follow. Avoid, or separate out, details that do not relate to compliance with the Building Code. Make the changes clear and obvious for consent processing staff. Designers could use a Design Summary Form for this purpose, which is good practice.

More help?

A wide range of publications and guidance documents are available on the Department of Building and Housing website: www.dbh.govt.nz

Or contact the Consent Authority Capability and Performance Group within the Department of Building and Housing on Freephone: 0800 242 243

Appendix 1 General roles and responsibilities

ROLES AND RESPONSIBILITIES OF A TERRITORIAL/REGIONAL AUTHORITY

A territorial/regional authority performs the following functions (including any functions that are incidental and related to, or consequential upon, these functions).

Issuing

- Project information memoranda
- Building consents where the consent is subject to a waiver or modification of the Building Code
- Certificates of acceptance
- Compliance schedules and amending compliance schedules

Power to inspect and enter land

Sections 222 to 228 provide details of the powers of entry to undertake an inspection. A clear reason for any inspection must be provided to the owner/occupier/builder.

Other

- Follows up and resolves notices to fix
- Administers annual building warrants of fitness
- Enforces the provisions relating to annual building warrants of fitness
- Decides the extent to which buildings must comply with the Building Code when they are altered, their use is changed, or their specified intended life changes
- Performs functions relating to dangerous, earthquake-prone or insanitary buildings
- Determines whether building work is exempt under Schedule 1 (paragraph k) of the Building Act from requiring a building consent
- Carries out any other functions and duties specified in the Building Act 2004. Administers dam safety regime

ROLES AND RESPONSIBILITIES OF A BUILDING CONSENT AUTHORITY

A building consent authority performs the following functions.

- Issues building consents (except consents subject to a waiver or modification)
- Inspects building work for which it has granted a building consent
- Issues notices to fix
- Issues code compliance certificates
- Issues compliance schedules

BUILDING OFFICIAL

A building official is a person employed by a territorial authority, regional authority or building consent authority whose main function is to ensure building compliance is achieved in accordance with the Building Act 2004, Building Regulations made under the Act, including the Building Code, and any other relevant legislation.

BUILDING INSPECTOR

In the context of these guidelines, 'building inspector' refers to the official undertaking on-site visits.

Appendix 2 Additional information for product substitutions

Appliances, furnishings and fittings

Documents submitted with a building consent application may include instructions to the builder or practitioners about customer preferences for certain appliances, furnishings and fittings. These features do not always relate to the Building Code, but it can be difficult to determine.

Appliances

Plans may detail the location of certain appliances, such as a dishwasher or electric heater. In most cases these do not relate to compliance with the Building Code, but there are some exceptions. The appliance could be a solid fuel burner, in which case Clause C1 (Outbreak of Fire) is relevant. Or it could be a sanitary appliance, to which Clause G12 (Water Supplies) applies.

Furnishings

The building consent documentation may include details about certain furnishings, such as curtains, floor coverings, wallpaper and paint.

Most furnishings do not relate to the Building Code, but there are some exceptions. Food preparation areas have special hygiene requirements.

Furnishings can also affect fire loads and have an effect on the building's fire design.

Fittings

Building plans often show fittings (built-in features such as internal doors, wardrobes, laundry cupboards and other storage spaces, for example).

Fittings can be very important. At the very least the structure of the building has to be able to withstand imposed loads, so they should not be added or repositioned without careful consideration.

Certain fittings are also necessary to achieve compliance with the Building Code. For example, areas containing a sanitary fixture (such as a toilet) must be fitted with an internal door to provide privacy and certain clearance requirements. Kitchens must have certain kinds of workbenches and cupboards to meet the requirements in the Building Code around food preparation, hygiene and prevention of contamination. In some situations, fittings are required to provide for people with disabilities to be able to use them.

Varying approved building work in relation to appliances, furnishings and fittings

A building consent is granted on the basis of the information in the application that relates to the Building Code. Other information does not form part of the approval process for the building consent. However, this does not mean people can change appliances, furnishings and fittings mid-way through a project without careful consideration as these may relate to Building Code compliance, and therefore should be approved by the building consent authority before they are changed.

FACTORY-MANUFACTURED ELEMENTS AND SERVICES PLANS

Factory-manufactured elements (eg, roof trusses)

Before the Building Act 2004, building consent authorities were often prepared to issue a building consent based on outline information for proposed factory-manufactured building elements. Now there is more emphasis on including complete 'for construction' documentation in the application for building consent.

Before lodging a building consent application, applicants should obtain a buildable design from a fabricator. This design needs to be attached to the building consent application and submitted to the building consent authority for approval. During construction, the fabricator is likely to visit the site to check all relevant measurements in order to manufacture the trusses or flooring system. The fabricator will produce 'shop drawings', which are highly detailed drawings for the person who makes the trusses or flooring system. They will also produce a series of on-site instructions, and a layout plan for the person who erects the building elements.

Once the installation has been inspected and completed, the as-built information should be supplied to the builder, designer, building owner and building consent authority for their records. The building consent authority may place a note to this effect on the building consent records.

Service plans

The Building Code requires that sanitary fixtures and sanitary appliances are provided with a safe and adequate water supply, and an adequate plumbing and drainage system.

At the time of the building consent application, the building consent authority will require certain information on the water supply system and the foul water and surface water (storm water) disposal systems. Precisely how a water supply, or a waste or foul water disposal system, is to be laid out may not be apparent when the applicant applies for a building consent. However, the applicant should provide the location and specification of all fixtures and fittings, together with a plan or diagrammatic layout of foul and storm water drainage. When the project is finished, the building consent authority will ask for an as-built drainage plan for its consent records.

Appendix 3 Case Examples

The purpose of these case examples is to demonstrate how four building consent authorities approach and deal with building consent amendments.

CASE EXAMPLE 1

Auckland City Council

Auckland City Council's approach to building consent amendments is to focus on the following principles: that documentation reflects what is actually built; that changes are appropriately reassessed; and that minor variations, while needing to be properly recorded, should proceed without undue delay.

Auckland City Council provides two options (at their discretion) for managing differences from the initial approved building consent.

1. Either no requirement for a building consent amendment but revised drawings or other documentation will need to be provided, or
2. An application for a building consent amendment will be required prior to undertaking the relevant work.

Variations not requiring building consent amendments

In a nutshell, if the variation from the initial building consent does not impact on Building Code performance requirements, or where the variation's impact can be assessed on site for compliance with the Building Code, no formal building consent amendment is usually required. The building inspector notes changes on the inspection records and revised drawings/producer statements or letters of substitution are provided to the Council for the building consent file.

Variations requiring formal building consent amendments

Auckland City Council's approach if there is an impact on the Building Code performance requirements is that an application for a building consent amendment must be made and no work proceeds until the consent amendment is issued.

The applicant will also need to provide specific structural information, calculations, schematics or drawings that reflect the changes.

As part of their process, Auckland City Council has a 'fast track building consent amendment team' for residential projects. The team's goal is to minimise delays to work and process amendments as quick as possible.

Auckland City Council also notes variations may be relatively minor in terms of the Building Act, but other Acts and the District Plan have to be taken into consideration.

Auckland City Council provides procedures where a material is being substituted by a like material. These are usually considered minor variations.

Auckland City Council differentiates between residential and commercial building control work and has an approach and building control staff specific to commercial work. Their guidelines do not specifically differentiate between residential and commercial.

CASE EXAMPLE 2

Christchurch City Council

Christchurch City Council's policy intent is to authorise their building inspectors to 'exercise their professional judgement and approve at their discretion amendments that do not affect the building envelope on site'.⁷

The roles and responsibilities of different building consent staff are explained so everyone knows the accountabilities they carry and works within their technical limitations.

Processing an amendment on site (minor variation)

If the amendment is within the building envelope, an inspector may approve on site at their discretion. Examples noted include minor bracing changes or changing a room's layout (eg, fixtures).

The amendment and reasons for approving are documented on inspection slips and consent drawings. Amended areas are highlighted on the drawings, and the approval is noted and signed off by the building inspector.

Processing a formal amendment (major variation)

Christchurch City Council's approach where the building envelope is affected, or the building inspector decides a formal amendment is required, is that the site inspection slips reflects this and work may not proceed in the affected area until the amendment documents are processed and approved.

As with Auckland City Council, Christchurch requires applicants to provide the necessary plans and specifications to support the amendment.

Part of the Council's focus is to make certain these processes are explained to the consent applicant, including likely timeframes and legal requirements.

⁷ Christchurch City Council Technical Manual 'Processing amendments for building consent'.

CASE EXAMPLE 3

New Plymouth District Council

Like many territorial authorities, New Plymouth District Council has well-written guidance notes and flow charts to assist its building officials with building consent amendments.

While these documents are well referred to, the Council's approach to amendments is very much based on allowing their building officials to use their professional judgement and discretion to decide how to deal with a variation on site.

This style is predicated on the officials having the competence and confidence to make those decisions and being further supported with on-site mentoring by other officials and on-site auditing by senior building control personnel.

The expectation of the experienced officials is they use their professional judgement based on their knowledge of the Building Code. This means they know what variations can be tolerated without a formal amendment and what variations need to be dealt with in a formal application.

With all minor variations, building officials are encouraged to note the changes on the project records, why they have approved those changes and then sign off.

In practice, the Council has the original building official who approved the consent also deal with a variation. The Council usually processes all amendments in one working day and aims to have a quick turnaround on amendments (particularly minor) to keep building projects moving.

NOTE

If a formal amendment involves changes to the building envelope or if there are hazards that were not identified on the original project information memorandum, the Council currently requires a new project information memorandum application to be submitted.

CASE EXAMPLE 4

Clutha District Council

Clutha District Council recognises there are advantages to approving minor changes to building consents in a less formal manner to help keep the building project moving.

As a result, the Council has three criteria that allow their building officials/inspectors and Building Manager to assess requests for amendments.

- The degree of departure from the original building consent
- The degree of difficulty in assessing compliance with the Building Code
- Likely processing time required

In its procedures, the Council's emphasis is placed on how to deal with changes that are minor. The Council has listed a number of examples of what constitutes a minor change for them. Their approach has some key components.

1. Recognition that, if the change is minor, it is not necessary for a formal amendment (new building consent) to be applied for.
2. The building consent authority will ensure the 'job card' (consent record) includes records of the date and nature of the changes.
3. Prior to any approval, the building official/inspector will assess compliance against the Building Code.
4. The Council also notes that a minor change, while complying with the Building Code, may result in a lesser or greater degree of performance. Therefore the owner must also agree to the amendment.

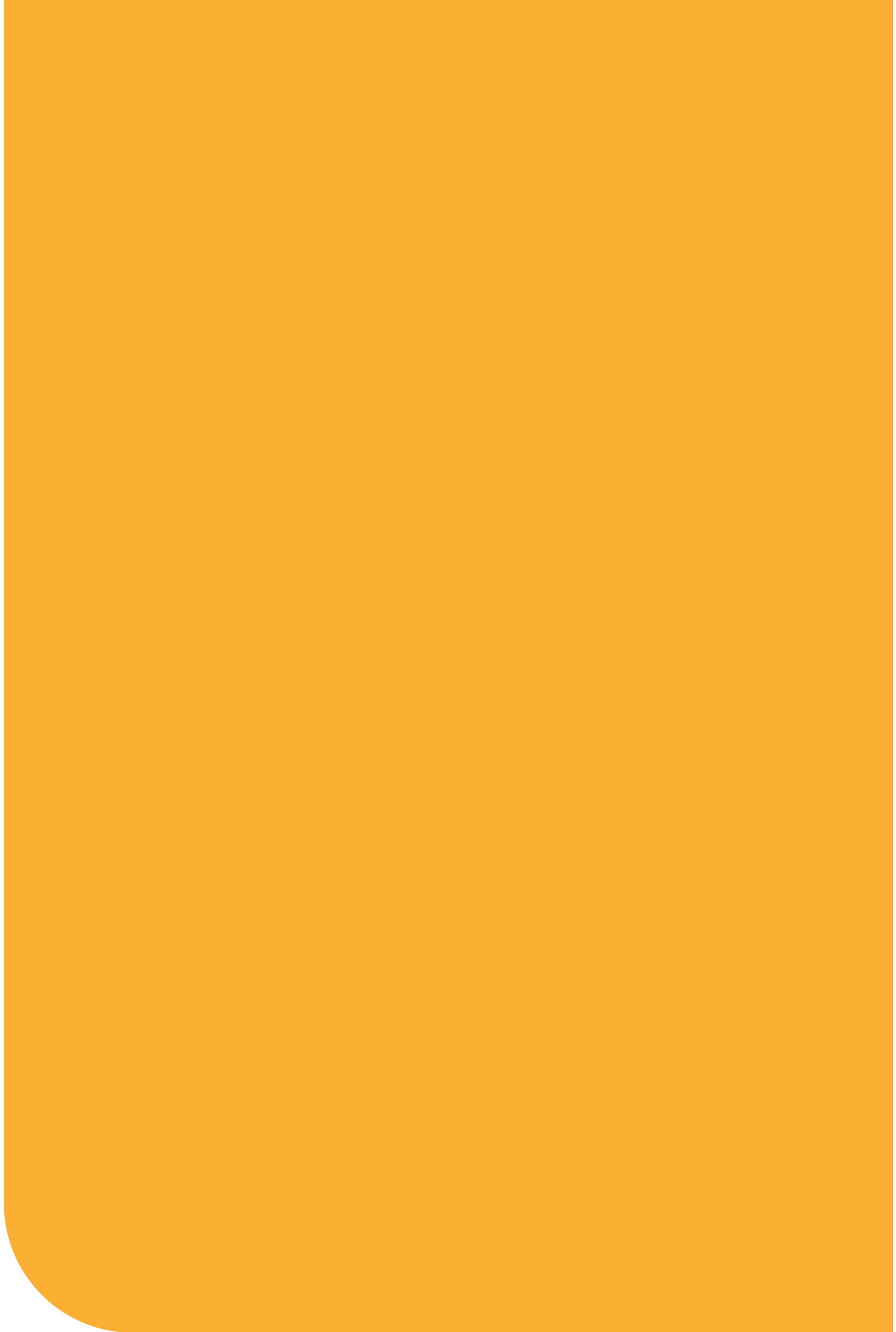
The Council also notes plans or details of a minor change could be accepted as an 'as-built record' where the building official/inspector is satisfied it complies with the Building Code via a quick visual appraisal of the documents and/or construction on site.

However, if a minor change is declined because it does not comply with the Building Code, the owner is advised and the decision noted on the job card (consent record).

Application documents are approved, signed and dated by the building official/inspector.

As with the other building consent authorities, the Council provides examples of where a formal amendment is required and is clear that a formal application must be lodged with the building consent authority prior to the work being undertaken.





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