

## Regulation 7(2)(d)(iv) – Processing applications

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### MBIE's guidance on meeting the accreditation requirement

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Regulation 7(2)(d)(iv) of the Building (Accreditation of Building Consent Authorities) Regulations 2006 (the Regulations) must be read in conjunction with regulations 5 and 6.

The policies and procedures required by regulation 7 must be written and/or electronic, and appropriate for purpose.

A Building Consent Authority (BCA) must ensure that the policies, procedures and system required by regulation 7 are consistently and effectively implemented. BCAs must ensure they record the decisions they make under regulation 7, including the reasons for the decisions, as well as the outcomes.

[Checklist for regulation 7\(2\)\(d\)\(iv\)](https://www.building.govt.nz/building-officials/bca-accreditation/detailed-regulatory-guidance/checklists/) (<https://www.building.govt.nz/building-officials/bca-accreditation/detailed-regulatory-guidance/checklists/>) outlines the minimum criteria for compliance.

Regulation 7(2)(d)(iv) requires a BCA's policies and procedures to cover how it processes a building consent, including the:

- intersection with a territorial authority
- request for information (RFI) process.

### General guidance on regulation 7(2)(d)(iv)

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A BCA's policies, procedures and systems for processing a building consent application must include processes for:

- the referral to the region's territorial authority in matters related to:
  - building work already undertaken (with or without an issued consent) which may require a certificate of acceptance (s 42)
  - waivers or modifications to the Building Code (s 67-70)
  - decisions under section 112(2) of the Building Act 2004 (the Act)
  - the change of use of buildings (s 115)
  - the specified intended life of buildings (s 113)
  - the subdivision of a building or part of a building (s 116A)
- the receipt of certificates or other information or matters from a territorial authority related to a consent
- the processing of consents related to:
  - national multiple-use approvals (s 30A-H)
  - minor variations (s 45A)
  - changes to plans or specifications (s 45(4))
  - new buildings
  - alterations to existing buildings (s 112)
  - allotments and subdivisions (s 75-77 and s 116A)

- specified systems (s 102)
- cable cars
- swimming pools
  
- making and receiving requests for information (RFIs), including coordinating requests (as far as is possible)
- processing consents that include building methods or materials that rely on Alternative Solutions
- applications for minor variations or amendments to a consent
- staged building work
- building levy and development contributions
- making section 112(1) of the Act decisions related to:
  - earthquake-prone buildings (refer s 133AT)
  - means of escape from fire
  - access and facilities for those with disabilities
  
- utilising Fire and Emergency New Zealand advice
- making decisions related to building on land subject to natural hazards
- making decisions related to building on two or more allotments
- making decisions about conditions on consents
- complying with any building methods or product warnings or bans
- compiling and amending compliance schedules
- ensuring compliance with other legislation relevant to the consent process such as the Resource Management Act 1991
- how the BCA applies the test of being “satisfied on reasonable grounds” in order to grant a consent.

The Act places various obligations on a territorial authority that are not subject to a BCA’s accreditation requirements. These include under:

- section 37 of the Act in relation to the issue of a certificate preventing the commencement of building work
- section 67 of the Act in relation to waivers and modifications
- section 75 and 76 in relation to certificates related to allotments
- section 113 related to the specified intended lives of buildings.

## Making and receiving requests for information related to a building consent application

It is beneficial for BCAs and applicants that as few as possible RFIs are made in the course of processing a consent. The Ministry of Business, Innovation and Employment (MBIE) expects that a BCA’s policy, procedure and system supports a process of coordinating an RFI request as far as is possible. This is not intended to result in an accreditation requirement that only one RFI is made – a BCA must have an ability to seek further information at any time it is appropriate.

MBIE would also like to see all BCAs adopt a process where copies of any RFI made to the applicant are sent to the building owner. However, this is not an accreditation requirement and BCAs’ failure to adopt this process will not be considered non-compliance.

“Stopping the clock” when an RFI is made in relation to a building consent application

Where an RFI is made, a BCA may stop counting the working days in which it is required to process a consent under section 48(1A) of the Act. A BCA may stop counting the working days from the day after the RFI is made. The day the RFI is made must be counted as a working day.

“Restarting the clock” when requested information is received in relation to a consent application

A BCA is not required to restart the clock, and recommence counting working days until:

- all of the information requested in an RFI has been received
- the information is sufficient and adequate to support a decision being made.

## Refusing a consent where insufficient or inadequate information has been received

The RFI process is not intended to act as a safety net for a poor application. A BCA should not shy away from refusing a consent if the information received in response to an RFI is materially insufficient and inadequate. There is little value in re-issuing an RFI where inadequate material has been received in support of an application for a second time.

The Building Act 2004 ([http://www.legislation.govt.nz/act/public/2004/0072/latest/DLM306036.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_building+act\\_resel\\_25\\_a&p=1](http://www.legislation.govt.nz/act/public/2004/0072/latest/DLM306036.html?search=ts_act%40bill%40regulation%40deemedreg_building+act_resel_25_a&p=1)) is available on the Legislation website.

[Alternative Solutions \(https://www.building.govt.nz/building-code-compliance/how-the-building-code-works/different-ways-to-comply/alternative-solutions/\)](https://www.building.govt.nz/building-code-compliance/how-the-building-code-works/different-ways-to-comply/alternative-solutions/) has further information.

[Working days \(https://www.building.govt.nz/building-officials/bca-accreditation/terms-and-abbreviations/#working\)](https://www.building.govt.nz/building-officials/bca-accreditation/terms-and-abbreviations/#working) definition can be found in the glossary.



New Zealand Government

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