

Guidance to building consent amendments

If you want to make a change to your building consented work, talk to your council about whether it requires a formal amendment.

This guide sets out our expectations around notifying proposed variations to building consents, assessing those variations and making amendments to building consents. It was written just prior to the 2009 amendment to the Building Act and is due to be rewritten. It should be used in conjunction with the minor variations guidance written in 2010.

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Of interest to Building consent authorities, Licensed building practitioners, Designers

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Introduction

If you are a designer, builder, homeowners' agent or building a property to sell, the guidance should help you understand your responsibilities for managing variations and amendments to a building consent. In particular the guide encourages early recognition, notification and actioning of consent variations and amendments.

It is also written to assist building consent authorities (as defined below) 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.

Building consent authorities – territorial authorities, regional authorities (local councils) or private organisations that have been registered by us. 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)
- certifying that completed building work is compliant with the approved building consent (including issuing code compliance certificates and compliance schedules).

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 us as guidance information in accordance with section 175 of the Building Act 2004 (the Act).

It 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.

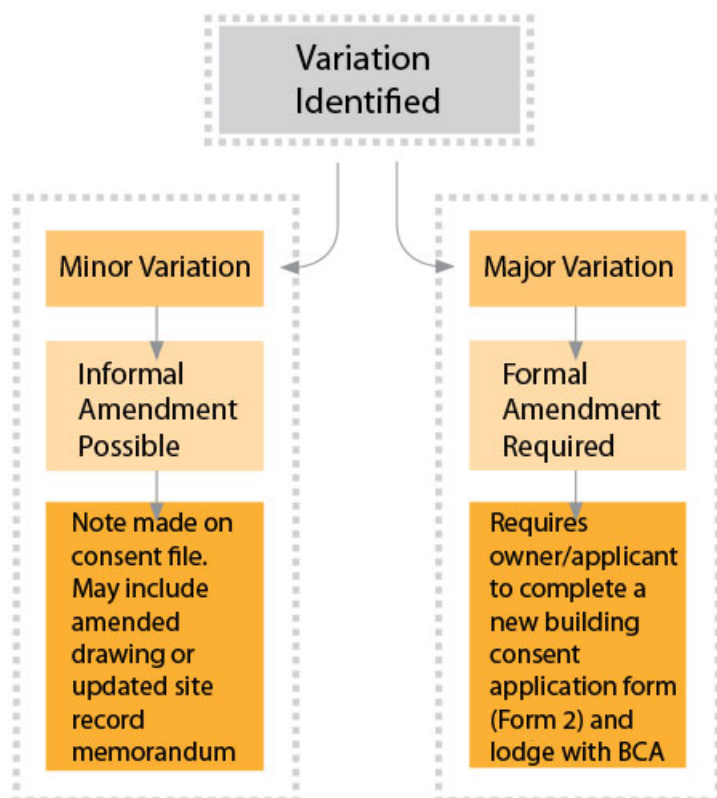
Defining variations and amendments

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 the prescribed form required for building consent applications (Form 2 from the Building (Forms) Regulations 2004). The Building (Forms) Regulations 2004 allow this flexibility but requires certain minimum information to be prescribed in the form. You can see the prescribed form [here](#).

How to assess 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.

PIM application

[PDF 86 KB]

<https://www.building.govt.nz/assets/Uploads/building-officials/guides/form-2-project-memorandum-application.pdf>

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 (for example, a handwritten note on the consented plans and inspection record note).

Examples of minor variations

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 (for example, fixing bracket)
- a construction change (for example, the framing method around a window when the window is changed to a door)
- changing a room's layout (for example, 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 scenarios outline proposed variations that are minor and require an informal amendment to consented building work. (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.)

Scenario 1: 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.

Scenario 2: 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.

Scenario 3: 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.

Scenario 4: 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.

Scenario 5: 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.

Scenario 6: 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.

Scenario 7: 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.

Product substitution (<https://www.building.govt.nz/projects-and-consents/build-to-the-consent/making-changes-to-your-plans/product-substitution-and-variations/>) can be a minor or major variation.

Major variations

Generally, where the work is outside the scope of the original consent (for example, 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.

Examples of major variations

These examples are 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.

- 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 (for example, 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:

Scenario 1: 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.

Scenario 2: 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.

Scenario 3: 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.

Scenario 4: 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.

Scenario 5: 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.

Scenario 6: 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 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.

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'(section 49(1) of the Building Act 2004) on which to consider it.

In most cases the applicant will need to supply specific information (for example, 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 Acceptable Solutions and Verification Methods
- reference to relevant Standards
- expert technical opinions/producer statements
- in-service history information
- results of independent laboratory or field tests (for example, 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 applicant (owner or owner's agent - for example, builder, designer, project manager) whether the variation is considered minor or major, and determine what action will be required.

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 applicants 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. Our 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 tradespeople 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 (for example, faxes and emails) to help achieve a speedier turnaround.

Summary

All building work must comply with the Building Code (section 17 of the Building Act), including all proposed variations.

Proposed variations to a building consent need to be notified to the local building consent authority as early as possible.

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.

All changes need to be properly documented.

Building consent authorities need to have sound processes and systems for handling proposed variations in the most time-efficient manner.

[Product substitution and variations \(https://www.building.govt.nz/projects-and-consents/build-to-the-consent/making-changes-to-your-plans/product-substitution-and-variations/\)](https://www.building.govt.nz/projects-and-consents/build-to-the-consent/making-changes-to-your-plans/product-substitution-and-variations/) has more information.

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 (for example, 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 ringfenced 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 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 (for example, 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.

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.
- 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 (for example, 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 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.

Appendix 1: General roles and responsibilities

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 (PIM)
- 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.

This information is published by the Ministry of Business, Innovation and Employment's Chief Executive. It is a general guide only and, if used, does not relieve any person of the obligation to consider any matter to which the information relates according to the circumstances of the particular case. Expert advice may be required in specific circumstances. Where this information relates to assisting people:

- with compliance with the *Building Act*, it is published under section 175 of the *Building Act*
- with a *Weathertight Services* claim, it is published under section 12 of the *Weathertight Homes Resolution Services Act 2006*.