

Public access while building or altering a public building

Last updated: 21 March 2016

If you own, occupy or control premises intended for public use affected by building work, you should know about safety measures for public access until the build is signed off as complete.

If the public uses all or part of your building, and you want them to access it before your building work has been signed off as complete, you can apply to your council for a certificate for public use. Your application will need to show that all or part of the building (whatever you are applying for) can be used safely by members of the public.

If you don't have a certificate for public use, you could be fined up to \$200,000, and fined up to a further \$20,000 for every day or part of a day the offence continues.

Premises with free and open access will typically be classified as premises intended for public use. Examples include shopping centres as well as premises where the public can enter on payment of a fee, such as a sports stadium, swimming pool or zoo.

Premises with restricted access are unlikely to be considered premises intended for public use (for example, where access is blocked and entry gained via a key pad or coded swipe card).

A reception area that is open to the public, even though the remainder of the building is closed off, would be categorised as premises intended to be open to members of the public.

Premises intended for public use are likely to include, but are not limited to:

- schools and childcare centres
- hospitals and rest homes
- premises providing public accommodation, such as hostels and guest houses
- places of assembly, including churches, cinemas and conference facilities
- clubrooms and recreation centres with public access
- restaurants and bars
- public foyers in office and apartment buildings
- public structures.

The requirement for a certificate for public use doesn't apply:

- to private homes
- to apartment buildings or office space (except where they have public foyers)
- if the building work doesn't require a building consent (such as a non-structural fit-out of a shop or office).

You can only apply for a certificate for public use if a building consent has been granted but the code compliance certificate has not been issued. You will still need to apply for a code compliance certificate once the building work has been completed.

You need to apply to your council, on the appropriate form 15 or on your local council form. They may need to inspect the building.

**Form 15 - Application for
certificate for public use**

[DOC 40 KB]

<https://www.building.gov>

[t.nz/assets/Uploads/projects-and-consents/forms/form-15.doc](https://www.tn.govt.nz/assets/Uploads/projects-and-consents/forms/form-15.doc)

Affected by building work

How much of the premises will be considered affected will depend on the project. 'Affected by building work' can mean work occurring on the premises, or work being done elsewhere in the building if it poses a threat to public safety on the premises.

In many cases, the areas affected will vary at different times during the project. Whatever the case, access to the affected part of the premises needs to be restricted.

Many of the safety precautions you could take would be similar to those undertaken under the Health and Safety in Employment Act 1992.

For example, if you were adding an outside extension or smoking area to a public bar the business could remain open, but in a limited capacity while building work is under way. The public must be able to enter without passing by or through the building work. The site and any tools or materials must not be accessible to the public. The public must not be able to access any part of the premises where the structural integrity is compromised by the work, or where the public's safety is jeopardised.

People who control premises are also responsible for ensuring members of the public can use their premises safely. If premises are affected by building work, this could include ensuring barriers are put up to restrict access, or in some cases it could involve closing premises.

Planning a new project

People proposing to construct new premises intended for public use will need to factor this requirement into their planning before members of the public can use the premises.

Existing premises intended for public use

People who control premises should check their building records to ensure all building work affecting the premises has received a building consent and code compliance certificate.

If work has been consented, but no code compliance certificate issued, the person in control of the premises should contact the council to see if a code compliance certificate can be issued for that work.

If work has been consented, but no building work was ever done, no offence has been committed.

If the council cannot grant a code compliance certificate, or if work has been done without a building consent when one was required, it may be possible to get a certificate of acceptance. This would also mean no offence has been committed.



- 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.