HURUNUI
DISTRICT
COUNCIL

FAQ'S AND PUBLIC INFORMATION

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About the Building Act 2004

The Building Act 2004 is the legislation that governs the building industry in New Zealand. It introduced major changes to New Zealand's Building Control system.

The Act aims to improve control of, and encourage better practices in, building design and construction, to ensure that buildings are built right first time.

This means:

- more clarity on the standards we expect buildings to meet
- more guidance on how those standards can be met
- more certainty that capable people are undertaking building design, construction and inspection
- more scrutiny in the building consent and inspection process
- better protection for homeowners through the introduction of mandatory warranties.

The range of measures to achieve this bring more scrutiny into the building consent and inspection processes including:

- A timeframe of up to 20 working days for councils to consider building consents
- Conditions for issuing building consents that require more details
- Code compliance certificates issued against the conditions in the original building consent
- Detailed information is included in project information memoranda
- The certificate of acceptance
- A role for the Fire Service in the consent process
- Provisions for change of use of a building
- When any building work is done, even if it does not require a building consent, the work must meet the requirements of the New Zealand Building Code
- Licensing of building practitioners

This is a guide only - if in doubt discuss your specific proposal with a building official. For more information about the Building Act 2004 you can go to the MBIE website page on the Building Act.

Building consents

The Council's Building Unit is responsible for administering the Building Act and checking that your plans and specifications comply with the New Zealand Building Code. The Ministry of Business, Innovation and Employment is the Ministry responsible for the Act.

What is a building consent?

A building consent is approval by the Council to carry out building work. The Building Act sets out the requirements for all building work. You must have a building consent before you can undertake most building work.
The owner is responsible for ensuring that the application complies with all Council and Building Act (2004) requirements. You will also be responsible for all fees and levies associated with the application.

Either before or at the time you apply for a Building Consent, you may also need to obtain a Project Information Memorandum (PIM). This identifies design elements required specifically for the proposed building works (i.e. snow loading or wind speed), and whether or not you need a resource consent.

When do I need a building consent?

Most building or excavation work requires a Building Consent. If you are unsure check your proposal over with our Building Officers who can advise you on what you need to do. If you think your building work may be exempt from the requirement to obtain a consent you can contact the council building department, check the Schedule 1 of Building Act 2004 for exemptions or refer to the MBIE guidance booklet "Building work that does not require a building consent" for more information.

General work exempt from consent:

You are able to repair, maintain and replace and component associated with a building, provided that comparable material and assembly are used, and the replacement is in the same position. However you need to refer to the guidance booklet to check whether your work is exempt as this exemption does not include replacement of a specified system, replacement of any component that could affect the building's structure or fire-safety, repair or replacement (other than maintenance) of any component that doesn't comply with the Building code and sanitary plumbing or drainlaying under the Plumbers, Gasfitters and Drainlayers Act 2006.

How long will the consent take to be processed?

Building consent processing time depends on the complexity of your project and whether or not you have provided sufficient information.

All building consents are required to be approved within 20 working days, however; if information is deficient the time clock is stopped and a formal request will be made for further information. The time clock is not restarted until all the requested information is received.

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

How much will it cost?

This depends on the type of application, cost of work involved, and the level of detail provided. Our Fees and Charges are listed on our website and are based on the length of time it takes to process an application and include costs such as:

Levies payable to the Ministry of Business, Innovation and Employment (payable on all applications over $20,444)

- Levies payable to BRANZ (payable on all applications over $20,000)
- Time spent processing the application
- Number of Inspections required (type and number vary depending on application)
- Issue of compliance schedule (if applicable)
- Development contribution (if applicable)

An estimate of the fees involved may be provided, however the final cost may not be known until the application is processed. A fee will apply if you withdraw your application for time already spent processing the application. Our set fee consents will require payment to be made with the building consent application.
Please note that all outstanding fees and charges including development contributions will need to be paid before the Code Compliance Certificate can be issued.

How long is my building consent valid for (Start time – lapsing of Building Consent)?

Building consents are valid for 12 months from the date of issue. Work must have commenced within the 12 months or the building consent will lapse requiring a new application.
All building work should be completed within 2 years from the date that the building consent was granted. If the project has been delayed, it may be possible to apply for an extension to this time.

What sort of information do I need?

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

- Application Forms – Form 2 (Application for Building Consent), Planning Declaration Form (if applicable) and Agent Nomination Form (if applicable) – available on the Hurunui District Council building page (https://www.hurunui.govt.nz/services/things-we-regulate/buildingconsents)
- Plans
- Specifications
- Engineering calculations (if applicable)
- Wall bracing calculations (if applicable)
- An E2 risk matrix (demonstrating weathertightness features) if applicable
- A search copy (less than 6 months old) of the Certificate of title for the property
- Fee/Deposit

For more detailed information refer to the Building Consent / PIM Check Sheet on our website in the application area identifying more detailed information.

How is my application processed?

All applications regardless of how they are received are put through a formal vetting process. The vetting process is not a technical check but merely a check to ensure all information has been provided. Your application maybe rejected at this time if insufficient information has been provided.

Once the application has been vetted it is then receipted, entered into our processing system and allocated a unique identifier (your building consent number). At this point the 20 working day time clock is started. The application is then allocated and circulated to the various disciplines within Council for processing, i.e. planning, building and utilities.

Each discipline will review your application and assess it for compliance with the Building Act 2004 and associated regulations and building code. If there are any questions or concerns a letter will be sent to you requesting further information or clarification.
When a request for further information is sent the 20 working day time clock is stopped and processing is suspended until this information is provided.

Other matters that the BCA may take into consideration when processing your application are:

Section 112 – alterations to existing buildings.
Changes made to an existing building (i.e. increasing floor area, making or closing an opening, demolishing a bracing wall). The BCA needs to be satisfied that the building will comply as nearly as is reasonably

practicable with the building code provisions for means of escape from fire and access and facilities for people with disabilities (if required). And, that the building will continue to comply with the other provisions of the building code to at least the same extent as before the alteration.
The Act clarifies that if part of a building is altered, the upgrade provisions are triggered for the whole building.

Section 115 – change of use of a building.
A change of use occurs when both the use of a building or part of a building changes from one use to another as defined in the Building (Specified Systems, Change the Use and Earthquake-prone Buildings) Regulations 2005, and the new use has more onerous or additional building code requirement than the old use.
The proposed change cannot be made until the council gives the owner written confirmation that the requirements of the Building Act have been complied with.

Section 116 – extension to the specified intended life of the building
All buildings have an indefinite life exceeding 50 years. At times, due to building work, they could be assessed to have an agreed specified life of less than 50 years possibly due to inadequacies of building code compliance or on owners requires to have a temporarily located building.
Where a building with a specified intended life is issued with a building consent that is subject to the condition that the building is to be altered, demolished or removed before the end of its life, an extension of life can be obtained. An owner of a building must give written notice to the council if it proposes extending the life of a building. The Territorial Authority must satisfied on reasonable grounds that the building can satisfactorily perform for a further specified time.

Section 116A – requirements for subdivision of existing building.
Notice must be given if the owner of a building proposes to subdivide land in a manner that affects a building. This often requires a building consent application to undertake any necessary work to upgrade the building.

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

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

Compliance Schedules - Specified system are systems *(listed on Page 19)* which help ensure a building is safe and healthy to enter, occupy or work in. Specified systems require ongoing inspections and maintenance to ensure they are functions as required. The compliance schedule lists the building's specified systems and the inspection, maintenance and reporting procedures needed to keep them in good order. This information is required for the building consent application which includes specified systems.

When all teams are satisfied that compliance is achieved, then a final check is made to ensure all work has been assessed correctly.

Granting or refusing of a consent?

Council has to decide to refuse or grant the consent.

Once the BCA is satisfied on reasonable grounds that the documentation demonstrates compliance with the building code, we will grant the application.

An invoice will be created for all the processing, inspection costs and levies associated with the building consent and the consent issued. When the invoice is paid the building consent will be released.

If we consider that the building consent cannot be granted we are required to refuse to issue consent. This does not alleviate the requirement to pay any outstanding building consent fees.

Unfortunately; having a building consent does not necessarily mean that construction may start. In some cases other permissions (including any RMA requirements) may first need to be obtained. Such details will be notified on your PIM or building consent.
Work can commerce once the building consent has been granted and there are no outstanding RMA requirements to be addressed.

If there are outstanding fees then you will receive an invoice advising you that your building consent is granted and may be released when all fees are paid. Once the fees are paid, a link to our website will be sent to the contact person nominated on the application form so that they can download the documentation.

If your application has been refused then you will be formally advised with reasoning for this.

Section 49 , 50 and 51 of the building act 2004 details matters for consideration by BCA's in deciding to grant, refuse and issue a building consent.

What are building consent conditions and/or advice notes?

There may be conditions and/or advice notes placed on your building consent document (form 5) which are deemed necessary.

It is important that you read and understand all conditions and/or advice notes before commencing work. If you do not understand any condition and/or advice note then please contact us to discuss these.

The conditions relate to specific sections of the Building Act 2004 (67, 72, 75, 90 and 113) and are listed below:

Waiver and Modifications (Section 67)

Territorial authority may grant building consent subject to waivers or modifications of building code

(1) A building consent authority that is a territorial authority may grant an application for a building consent subject to a waiver or modification of the building code.

(2) A waiver or modification of the building code under subsection (1) may be subject to any conditions that the territorial authority considers appropriate.

(3) The territorial authority cannot grant an application for a building consent subject to a waiver or modification of the building code relating to access and facilities for people with disabilities.

Hazards (Section 73)

The BCA will, on issuing the consent, notify the consent to –

a) In the case of an application made by, or on behalf of, the Crown, the appropriate Minster and SurveyorGeneral; and

b) I the case of an application made by, or on behalf of, the owners of Maori land, the Register of the Maori Land Court; and

c) In any other case, the Register-General of Land

Construction of building over 2 or more allotments (Section 75)

The territorial authority must issue a certificate that states that, as a condition of the grant of a building consent for the building work to which the application relates, 1 or more of those allotments specified by the territorial authority (the specified allotments) must not be transferred or leased except in conjunction with any specified other or others of those allotments.

If you need approval for building work on land subject to natural hazards or construction over two or more allotments, please refer to the MBIE website for information regarding forms and lodgement of the form.

Inspections by building consent authorities (Section 90)

1 Every building consent is subjected to the condition that agents authorised by the building consent authority for the purposes of this section are entitled, at all times during normal working hours or while building work is being done, to inspect –

a) Land on which building work is being or is proposed to be carried out; and

b) Building work that has been or it being carried out on or off the building site; and c) Any building

2 The provisions (if any) that are endorsed on a building consent in relation to inspection during the carrying out of building work must be taken to include the provisions of this section.

3 In this section, inspection means the taking of all reasonable steps to ensure that building work is being carried out in accordance with a building consent.

Building with specified intended lives (Section 113)

A territorial authority may grant a building consent only if the consent is subjected to:

a) The condition that the building must be altered, removed, or demolished on or before the end of the specified intended life; and
b) Any other conditions that the territorial authority considers necessary

Amendments to building consent

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'.

There are two different processes for making changes to the 'approved building consent' – minor variation or a formal amendment. These changes must be approved prior to carrying out the work.

Minor variation are changes which can be easily decided by a building officer. These changes generally do not usually affect compliance with the Building Code – it simply achieves the same outcome in a different way. These changes can be made by contacting the BCA via email, phone or in person (in the office or onsite). These approved changes will be documented in writing. For more information on understanding minor variations refer to MBIE Guidance on there website - https://www.building.govt.nz/projects-andconsents/build-to-the-consent/making-changes-to-your-plans/guidance-to-building-consentamendments/major-variations/.

A formal amendment is for changes other than minor variation which require processing. These changes are processed as per the Building Consent application process – with a tick box at the top of the Form 2 to indicate you would like to amend an existing building consent. For more information on understanding whether changes require a formal amendment refer to MBIE Guidance on their website - https://www.building.govt.nz/projects-and-consents/build-to-the-consent/making-changes-to-yourplans/guidance-to-building-consent-amendments/major-variations/. For information on amending your building project see the guide to building consent amendments on the MBIE website.

What is a code compliance certificate (CCC)?

A code compliance certificate is a formal statement issued under section 95 of the Building Act 2004, that building work carried out under a building consent complies with that building consent.
A BCA must issue a CCC if it is satisfied, on reasonable founds that the building work complies with the building consent. Section 94 of the building act 2004 details matters for consideration by BCA's in deciding issue of code compliance certificates.

Under section 92 of the building act 2004, an owner must apply for a CCC on Form 6 (available from HDC website) as soon as practicable after the building work is completed. The application must include any records of work provided by licensed building practioners (under section 88(1))
If the building work comprises or includes energy work in respect of which a building consent has been granted, the owner must also include with the application any energy work certificates that relates to the energy work.

Once applied, Council has 20 working days to decide to issue or refuse a CCC. When a request for further information is sent the 20 working day time clock is stopped and processing is suspended until this information is provided.
Any outstanding fees (ie development contributions) must be paid before a CCC will be issued.

If no application for CCC is made then the Council must decide whether to issue or to refuse a CCC at the expiry of two years after the date the building consent was issued. If there are any questions or concerns a letter will be sent to you requesting further information or clarification.

If all building work has not been completed, an extension of time can be applied for.

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

Providing council are satisfied the building work has been constructed to comply with the building code in place at the time of construction and has continued to meet the provisions of the building code, a code compliance certificate may be considered. (This includes maintenance).
If Council cannot be satisfied on reasonable grounds, a code compliance certificate may be refused. Should Council refuse to issue a code compliance certificate and you consider that this is not justified then you may wish to approach MBIE www.building.govt.nz and obtain a determination.

MultiProof Consents

The MultiProof service enables builders to obtain a MultiProof, also known as a National Multiple-Use Approval, for standardised building designs that are intended to be built several times. You must have the intention and the ability to build an approved MultiProof design at least 10 times over two years. You will still need to apply for a building consent each time you want to build. MultiProff consents must be issued within 10 working days.

MultiProofs are beneficial for builders and companies who build standardised designs.

For more information see the MultiProof page on the MBIE website.

Alterations to existing buildings:

The building consent can only be granted where the building consent authority/territorial authority is satisfied that the building will:

- comply as nearly as is reasonably practicable with the Building Code provisions for means of escape from fire and access and facilities for people with disabilities (if required)
- continue to comply with the other provisions of the Building Code to at least the same extent as before the alteration.

Building consent authorities are allowed to grant a building consent for the alteration of an existing building.

The Act clarifies that if part of a building is altered, the upgrade provisions are triggered for the whole building.

A territorial authority may, by written notice, grant an application to allow alterations to take place without the building complying with the relevant provisions of the Building Code. A territorial authority can only grant such an application if it is satisfied that:

- if the building were to comply with the relevant provisions of the Building Code, the alteration would not take place

- the alterations will result in improvements to the means of escape from fire or access and facilities for people with disabilities
- the improvements outweigh any detriment likely to arise as a result of the other non-compliance with the Code.

Land subject to natural hazards

If you are thinking about carrying out building works, it is important to consider any natural hazards that may affect how the project complies with the Building Act 2004 (Section 71) and the New Zealand building code.

You will need to demonstrate how you will protect the building, the land and any other properties potentially affected by the work. However, should the consent be granted, notification of the risk is required on the title of the land. This provides authorities with immunity on the basis that the owner is knowingly building on land affected by the natural hazard. It also alerts future owners.

What is a project information memorandum?

A project information memorandum (PIM) is a memorandum issued by the territorial authority (Council) under section 34 of the Act and sets out information relevant to your building work.
The information is provided on a prescribed form and is required to include all such information known to Council which may be relevant to the project or site. This includes potential for:

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

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

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

- Resource Management Act
- New Zealand Historic Places Trust (heritage buildings / sites)
- New Zealand Fire Service Commission

The memorandum also includes:
Confirmation, subject to other provisions of the Act that you may carry out the building work subject to:

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

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

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

Do I need a project information memorandum?

Obtaining a PIM is voluntary, however information provided in a PIM maybe useful when designing your project. Council recommend that you apply for a PIM, especially if you are building in Hanmer Springs. A PIM can be applied for separately or in conjunction with your building consent.

How to apply for a PIM

An application for a PIM must be made in the same manner as a Building Consent. Information on the application process is available on the HDC website Applying for building consent (Building Consent and PIM)

Documentation required:

All applications must be accompanied by 1 copy of;

- site plan
- floor plan
- building elevations
- Certificate of Title (proof of ownership) or Sale and Purchase Agreement (if recent purchase)

How long does it take?

Council is required to issue the PIM within twenty (20) working days of application being received, however, depending on workloads, this may be earlier.
NB: Providing all fees are paid, the PIM will be posted to the applicant when it is issued. If the PIM is applied for with the Building Consent the timeframe for the issue of both is 20 working days.
Sometimes it may be necessary for Council to obtain further information from you to enable your PIM processing to be completed. In such cases the Council will contact you within 10 days of receiving the PIM application with a formal request for further information.
The Council has 10 working days from when this information is received to issue the PIM.

Resource Management Act 1991 (RMA)

The RMA is New Zealand's primary piece of legislation that sets out how we should manage our environment. It is used for considering what our activities have on the environment now and in the future when making resource management decisions. The RMA is to be considered when making resource management decisions for soil, managing air, fresh water and costal marine areas, land use and the provision of infrastructure.

Ministry for the Environment:
http://www.mfe.govt.nz/rma

RMA legislation:
http://www.legislation.govt.nz/act/public/1991/0069/208.0/DLM230265.html

Hurunui District Council Resource Consent information:
https://www.hurunui.govt.nz/rrl/resource-consents

Fire Engineering Unit reviews

Under section 46 of the building act, some applications may need to be sent to Fire Emergency New Zealand for comment. The engineering unit review these applications and provides a memorandum back to the BCA before any building consents are granted.

Types of applications that are required to be sent to the engineering unit are detailed here:
https://www.gazette.govt.nz/notice/id/2012-go2694

Fire Emergency New Zealand:
https://fireandemergency.nz/business-and-landlords/building-and-designing-for-fire-safety-rules-and-regulations/

The inspection process

The purpose of the inspection is to verify that the work being inspected is in accordance with the consented documents. Any deviation from the consented documents will be noted by the inspector and a directive given by the inspector to you, to either remedy or seek a Certificate of Acceptance (refer to Page 18 for more information) . A missed inspection can have significant consequences for the owner and contractors. It might mean some work has to be undone and redone and/or it could also prevent the council from signing off the build.

What inspections do I need?

During processing of the building consent application we will determine what inspections will be necessary to enable us to be satisfied on reasonable grounds that compliance will be achieved. Each inspection will be identified along with the requirements for that particular inspection. A list of inspections will be attached to your building consent.

Inspections by others

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

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

How do I book an inspection?

Building inspections are booked through the Customer Service and Information team on 03 314 8816 or via email at building@hurunui.govt.nz (do not contact the building inspector directly). Inspections are undertaken by appointment only.

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

- building consent number
- site address
- name & phone number of contact person on site
- date and time the inspection is required (am / pm) • type of inspection required

Because you have booked an inspection, you are granting the inspector access to your property and building site on the specified day. You or your builder will need to be available to answer any questions that the inspector may have and provide information on the build. In some circumstances you may need to provide safety equipment such as scaffolding, scissor lift or ladders so difficult building elements can be inspected (a chimney back flashing or roof gutter).

Inspections for the Amberley Ward (Broomfield, Leithfield, Leithfield Beach, Amberley and Amberley Beach) are undertaken on Monday - Friday; inspections for Hurunui, Amuri and Hanmer Spring wards are on Monday, Wednesday and Friday; and inspections for Glenmark and Cheviot wards are undertaken on Tuesdays and Thursdays

NB: It is your responsibility (or your contractor's responsibility) to notify Council at least 1 clear working day before you require an inspection. We will make every attempt to book inspections when required, however this is not always possible and flexibility may be required.

How do I know if the inspection has been passed?

For an inspection to take place the approved building consent documentation is required to be on site. At the conclusion of each inspection the outcome will be recorded on an inspection notice by the Inspector and a copy will be emailed to the person that booked the inspection.

Pass non-compliance inspections will mean that either the list of work to be completed can be viewed at the next inspection or paper work needs to be forwarded to the office before the next inspection is undertaken.

What if the inspection fails?

If an inspection is failed, the work to be rectified will be recorded on the inspection notice. In most cases another inspection will be required to inspect remedial work. Work may be stopped at this stage or a conditional continuation may be approved. Re-inspections will be charged for.

Serious breaches in non-compliant work may result in notice to fix being issued

Do I need a final (practical completion) inspection?

Yes, all building consents require a final inspection. Your consented building work should be completed within 2 years of the date that the building consent was granted.

Types of inspections

The following are a selection of types of inspections that may be required depending on the type of building work:

- Foundation slab
- Blockwork
- Subfloor framing
- Pre-roof
- Pre-cladding
- ½ high cladding (stone/brick veneer and weatherboard)
- Pre-plaster exterior

- Pre-line
- Pre-stop
- Wet area tanking and/or exterior tanking
- Drainage
- Heating unit
- Final

To find out more information regarding what we need to look at when we complete inspections, use the link below:
https://www.ccc.govt.nz/consents-and-licences/building-consents/building-inspections/buildinginspectionguide/

A required items list is sent out with your building consent documents which includes what inspections we expect to complete for your project.

Restricted building work and certificates of work for RBW

From March 1 2012, Restricted Building Work came into effect. This applies to most residential building or renovation work and only a Licensed Building Practitioner can undertake or supervise the work. Contact the building team for further information or head online to the MBIE website.

There are separate licences for different skills:

- Design
- Carpenty
- Foundation
- Roofing
- Bricklaying and blocklaying
- External plastering
- Site

Registered architects and chartered professional engineers are automatically treated as LBPs, as are licensed or certified plumbers or gasfitters for certain types of work.

Owner builder exemption and DIY projects

Property owners can carry out some restricted building work on their own homes. There are certain criteria you need to meet to be considered an owner-builder:

- live in or are going to live in the home (this includes a batch or holiday home
- carry out the restricted building work to your own home yourself, or with the help of your unpaid friends and family members
- have not used the owner-builder exemption to carry out restricted building work to any other home in the previous 3 years.

Go to the MBIE website for further information regarding the owner-builder exemption.

Before you can use the Owner-Builder exemption you need to complete a Statutory declaration as to owner-builder status form showing that you meet the owner-builder criteria.

The statutory declaration form has to be witnessed and signed by a Justice of the Peace or someone else authorised by law do so. This form needs to be given to your local council with your application for a building consent, or before the construction Restricted Building Work on your home starts.

It is an offence under the Crimes Act 1961 to give false information in a Statutory Declaration, and it is also an offence under the Building Act 2004 to give false information.

Producer Statements

Producer statements are not specifically referred to in the Building Act 2004 – and have no statutory status under the Act. However, they can still be considered as part of the building consent process, in terms of giving a building consent authority reasonable grounds to be satisfied that the specified building work complies with the Building Code. Producer Statement as often used for specialist work such as engineering – to show compliance outside of the scope of the building code solutions.

There currently are four different types of Producer Statement:

Design (PS1)

- Intended for use by a suitably qualified independent design professional in circumstances where the BCA accepts a producer statement for establishing reasonable grounds to issue a Building Consent;.

The council can reasonably request a PS1 to accompany an application for building consent. However of the applicant doesn't want to or is not able to provide this – then they must consider other option establishing code compliance (e.g. engage it's own engineer to undertake review or inspection.

Design Review (PS2)

- Intended for use by a suitably qualified independent design professional where the Building Consent Authority does not undertake an internal review and relies on the independent design professionals review to issue confirm compliance to the building code.

A PS2 may be required or used to further support an application to satisfy a BCA decision to grant a consent – carried out by separate party specialist in the relevant field.

Construction (PS3)

- Intended for the use by the contractor/installer where the Building Consent Authority requires a producer statement at the completion of construction as a way to confirm installation/application has been carried out in accordance with the manufactures recommendations and/or in compliance with the alternative solution.

Construction Review (PS4)

- Intended for the use by the person required by the Building Consent to undertake construction monitoring of the building works in circumstances where the Building Consent Authority will rely of the producer statement to issue a code of compliance certificate

Management of Producer Statements:
It's important that producer statements for design (PS1) or design review (PS2) detail the specific clause(s) of the Building Code the design complies with, and how it complies with the Building Code (for example, Acceptable Solution or Verification Method, MBIE guidance and/or specific engineered design).

Other information which should be included:
Name of the person and the organisation
Contain confirmation that the design professional is satisfied that the work in question complies with the relevant provisions of the Building Code.
Description of the work that is to be covered by the producer statement including specific reference to part of the building code
Location of the project Inspection requirements
Signature, name and date of the producer, along with qualifications and a statement of their current professional insurance provisions.

In considering whether to accept a producer statement, a council will normally assess the credentials of the author to ensure that person has the appropriate experience and competence in their particular field of expertise and make their own inspections of the building work. It will be communicated to you when the BCA expects to receive producer statements during the Building Consent process. You will need to ensure the contractor's engagement includes the need to provide the producer statement at the completion of the work. For more information in regards to the management of the acceptance of Producer Statement please refer to MBIE's guidance page: https://www.building.govt.nz/projects-and-consents/apply-for-building-consent/support-your-consent-application/producer-statements/

What is a notice to fix?

A notice to fix is a formal notice issued by Council advising that certain works have not been carried out in accordance with the Building Code. These can be issued to the person carrying out the work or the person supervising and the building owner. You can be issued with a notice to fix for all breaches of the Building Act 2004, not just current consented building work.

If a notice to fix is issued, you are required to address the issues identified within a prescribed timeframe to prevent further action being taken.

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

What is a certificate for public use?

A certificate for public use is used to certify that premises or parts of premises affected by building work are safe to be used by members of the public.

A certificate of public use can only be issued where consent has been granted for building work but no code of compliance certificate has been issued.

Certificates for public use do not relieve the owner of a building from the obligation to apply for a code of compliance certificate after the completion of the building work.

Certificates are not required for private dwellings.

What is a certificate of acceptance?

A certificate of acceptance is required where:

- Work that required building consent was carried out without first obtaining building consent.
- A private building consent authority or a private building certifier is unable to issue a code of compliance certificate for work carried out under a building consent.
- A code of compliance certificate cannot be issued for work carried out to a building that is open to members of the public and the building consent was issued before 31 March 2005.

A certificate of acceptance can only be issued if the work complies with the Building Code at the time the application is made.

Your application will need to provide evidence of how the work complies with the Building Code, including those parts of the work that the Council cannot inspect.

Commercial and industrial properties

Section 363 public premises:

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

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

What are public premises?

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

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

What is a compliance schedule?

A compliance schedule is a document issued by the building consent authority for buildings that contain specified systems. Specified systems include:

- automatic systems for fire suppression

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

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

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

What is a compliance schedule statement?

A compliance schedule statement is issued at the same time as the code compliance certificate by the building consent authority and lists the specified systems within the building. It must be replaced in 12 months with a building warrant of fitness, which is issued by the building owner.

How do I obtain a compliance schedule?

A compliance schedule will be issued with a code compliance certificate if a new building has one or more specified systems. If an existing building has a compliance schedule & if during alteration an existing specified system is removed or new systems are installed then the compliance schedule will be amended and a copy of this will be issued with the code compliance certificate.

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

Your designer should provide you with information relating to the performance standards for each specified system contained within the building at the time of application for a building consent. These performance standards are required to identify the inspection, maintenance and reporting procedures required for each system.

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

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

What is a building warrant of fitness? (BWOF)

A building warrant of fitness (Form 12) is a statement issued by the building owner to Council stating that the requirements of the compliance schedule have been fully met.
The building warrant of fitness must have attached to it all certificates of compliance issued by the Independent Qualified Persons (IQP) or Licensed Building Practitioner (LBP). These documents must be issued in the prescribed form (Form 12A) and certify that the inspection, maintenance and reporting procedures stated in the compliance schedule, have been fully complied with during the previous 12 months.
The BWOF must be re-issued to Council on the anniversary of the issue of the compliance schedule (every 12 months) for the life of the building.

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

You are legally required to obtain written reports relating to the inspection, maintenance and reporting procedures of the compliance schedule. These should be signed by the Independent Qualified Persons (IQP) or Licensed Building Practitioner (LBP) who has carried out any of the listed procedures, (inspection, maintenance or reporting).
You are required to keep all reports for a period of 2 years and produce these for inspection when required.

What is an IQP (Independent Qualified Person) / LBP (Licensed Building Practitioner)?

An Independent Qualified Persons (IQP) who is recognised by council as qualified to carry out any performance inspection, maintenance, reporting or recommendation on a specified system. Please refer to https://www.timaru.govt.nz/services/building/independent-qualified-persons for current IQP information

The Licensed Building Practitioner programme started in November 2009. Approval and registration of Licensed Building Practitioner's will be maintained by MBIE. A register will be maintained in accordance with the Act to help the public:

- determine if a person is qualified
- choose an appropriate LBP, and
- identify which LBP's have been disciplined within the last 3 years.

To search for a registered LBP: http://www.business.govt.nz/lbp

Complaints

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

A customer has a right to appeal or to complain about any building control function the building consent authority undertakes; have this heard and resolved.
Complaints provide feedback about service experience and give us the opportunity to improve our performance.

What is a building control function?

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

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

How do I make a complaint?

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

Team Leader – Building
Hurunui District Council
P O Box 13
Amberley 7441

Or via email to building@hurunui.govt.nz

What information is required?

- date incident occurred
- nature of complaint (vetting, lodgement, inspection, notice to fix, code compliance certificate or compliance schedule)
- copies of any supporting information (if applicable)
- relationship (customer, regulator, or stakeholder)
- name and contact details

How long does it take?

All written complainants will be responded to within 3 days of the receipt of the complaint at which time you may be asked whether you wish to be heard in relation to the complaint or to provide further information.

Do I have a right of appeal?

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

What else can I do?

If you are still unhappy or choose to use an alternative route to settle a matter of doubt or dispute you may apply to the MBIE for a Determination: https://www.building.govt.nz for further information on this service.

Legal stuff

What is a determination?

A determination is a binding decision made by MBIE. It provides a way of solving disputes or questions about the rules that apply to buildings, how buildings are used, building accessibility, health and safety. Although determinations are generally sought because a building owner disagrees with Council about decisions made in regard to their building; a determination can be applied for by Council or by a neighbour who may be affected by building work.

Applying for a determination

Applications for determination and the associated cost may be found on the MBIE website https://www.building.govt.nz

How long does it take to get the determination?

MBIE is required to issue the final determination within 60 working days of receiving the application, or longer if agreed to by the parties.

The 60 working day period does not include time delays while waiting for information or comment from other parties - the 'clock is stopped' during these times. If you can't provide the information by the date given, you may request an extension.

MBIE has the power to make the determination if the information requested is not provided in reasonable time.

Building work that may need to be done before a determination is issued

If you have been sent a notice to fix about work that is unsafe, you must comply with this notice.

Sales by residential property developers - section 364

Section 364 of the Building Act 2004 introduces important consumer protection measures covering the sale of household units by residential property developers or 'spec' builders.

It is an offence for a residential property developer to complete the sale, or allow a purchaser to take possession of a household unit before a code compliance certificate has been issued.

A person who commits an offence under section 364 is liable to a fine of up to $200,000. This fine applies to each household unit sold without a code compliance certificate.

What is the reason for this?

People buying a residential property from a developer have a right to expect it to be completed and to comply with the Building Code.

The onus for making sure a building complies with the Building Code is on the developer as they have the control of the building process.

What is meant by a 'household unit'?

A household unit is a building or group of buildings intended to be used mainly for residential purposes and by one household (e.g., house, apartment or flat). It does not include a hostel or boarding house.

What does 'complete the sale' mean?

'Complete the sale' means accepting final payment and transferring the title. You can accept progress payments for the job.

How is 'residential property developer' defined?

A residential property developer includes any person who, in trade, builds or arranges to build a household unit for the purpose of selling it. This could include large developers, or builders or individuals building homes on 'spec'. It also includes a person who, in trade, buys a household unit from a builder or developer with the intention of selling it on.

Can you contract out of this requirement?

The developer and purchaser may contract out of this provision but only on a form prescribed under the Building (Forms) Regulations 2004. This form (Form 1) makes the consequences of buying a property without a Code Compliance Certificate clear to consumers. It also advises consumers to obtain independent legal advice before signing. Copies of Form 1 are available from the MBIE website https://www.building.govt.nz/

Dams

What is a dam?

Dam means an artificial barrier and its appurtenant structures that:

- is constructed to hold back water or other fluid under constant pressure so as to form a reservoir
- is used for the storage, control, or diversion of water or other fluid
- retains 3 or more metres depth and holds 20,000 or more cubic meters volume, or water or other fluid.

A dam includes:

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

A dam does not include a stop bank designed to control floodwaters.
All dams that meet this criterion are required to obtain a building consent from the Regional Council.

What is an appurtenant structure?

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

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

If your structure holds more than 35,000 litres of water but does not meet the definition of a dam, it will still likely require a building consent.

Do I need a building consent for a dam?

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

What information do I need for building consent?

You will need to get in touch with your local regional authority to discuss building consent requirements for dams. (www.ecan.govt.nz)

If you cannot complete the work within this timeframe it is essential that you contact us to discuss possible ramifications.
If we do not receive advice of practical completion within 2 years of granting a building consent Council will send out a reminder letter advising that a Code Compliance Certificate has not yet been issued and that Council has the right to make a decision to refuse issue of code compliance certificate.

When all work has been completed in accordance with the building consent a code compliance certificate may be issued.

Site Safety

Safe management of construction and demolition hazards, or site safety is a requirement under clause F5 of the New Zealand Building Code, and is designed to protect people and property from the risks associated with the construction process. All building work must comply with this.
For information about how to manage your building project safely you may find the following websites helpful:

WorkSafe NZ

Site Safe

Additional sources of information

Further information can be obtained from the following websites:

Ministry of Business, Innovation and Employment www.building.govt.nz

Department of Internal Affairs https://www.dia.govt.nz/

Consumer www.consumer.org.nz

Environment Canterbury www.ecan.govt.nz

Licensed Building Practitioners www.business.govt.nz

IQP Register
www.timaru.govt.nz/services/building/independent-qualified-persons

Fire emergency New Zealand https://fireandemergency.nz/

New Zealand Legislation http://www.legislation.govt.nz/

Ministry for the Environment http://www.mfe.govt.nz/rma

HURUNUI District Council