

**Policy for
Amendments to Building Consents**

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Commencement and Review

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1.0 Introduction

Section 45(5) of the Building Act 2004 requires that an amendment to a building consent must be made as if it were an application for a building consent.

This policy has been prepared to provide guidance, clarity and consistency on the requirement for and acceptance of amendments to building consents, and to ensure that all decisions made are fair and reasonable.

Any references to files or documents in this policy are deemed to include either electronic or hard-copy versions, or both.

2.0 Scope

This policy sets out the protocol to be followed by Council in requiring and accepting amendments to building consents.

Council will require and accept amendments to building consents in accordance with this policy, and other relevant Council Policy, and any requirements of the Department of Building and Housing (DBH) and relevant legislation.

3.0 Principles

The following principles underpin this policy:

1. The policy shall provide a process that enables lawful amendments to building consents.
2. The Council, in performing the functions of a BCA and TA, is committed to taking responsible courses of action that will ensure that its requirements under the Building Act are met.

4.0 Legislation, Related Forms & Documentation

Section 40 of the Building Act 2004 states that a person must not carry out any building work except in accordance with a Building Consent. The underlying intent of this clause is that at the end of the building work:

- The Council documentation will reflect what has actually been built.
- Any changes during the course of the construction that potentially change the initial assessment of Building Code compliance will be reassessed before they are implemented.

- Any changes during the course of construction that do not potentially change the initial assessment of the Building Code compliance can proceed without undue delay, but that these changes are also reflected in the final documentation recorded by Council.
- At the time that the CCC is issued, the work will comply with the Building Consent as issued and/or as amended during the construction phases.

Section 45(5) of the Building Act 2004 requires that an application for an amendment to a building consent must be made as if it were an application for a building consent. This section does not state that the application needs to be processed as a building consent. Other sections of the Act, such section 48, do not refer to amendments and hence there are no statutory time frames to grant an amendment. It is, however, this Council's policy to issue amendments as a fast track process in order avoid delays to a building project.

It is logical that an amendment is not treated the same as a building consent, as it may not be appropriate to issue a separate Code Compliance Certificate for an amendment application. It is the amended and completed building that receives the Code Compliance Certificate.

5.0 Content 1 - Amendments

5.1 Introduction

During construction of building work, changes occur. It is important that these changes are authorized or approved as an amendment before the work commences. Major changes will require a new building consent. Minor changes can be processed by way of an as-built amendment application, if they have prior authorization from a Building Field Officer.

Acceptable amendments to an issued building consent (prior to a request for a CCC) can be defined as fitting within the following parameters:

- The scope and/or use of the building work is not increased/changed significantly
- The value of the building work is not increased significantly
- The structure and the layout of the building is not altered significantly
- The building changes do not include the need for new product or systems approvals.

Clearly what is, or is not, significant is a matter of judgment. However, it is important to note that an amendment does not generate BRANZ and DBH levies and consequently care needs to be taken so that these organizations are not disadvantaged in the process.

5.2 Examples of what is or what is not, acceptable

Acceptable changes able to be approved as amendments need to comply with the following requirements:

- A)** Any changes to a building project that do not change the scope and use of the building project. Examples of changes in scope or use that are not acceptable include:
- 1) A shed cannot be changed to a dwelling.
 - 2) It is not acceptable to add a wastewater treatment system.
 - 3) It is not acceptable to add a garage or swimming pool to a dwelling consent.
 - 4) A battered bank or slope cannot change to a retaining wall
- B)** Changes that do not alter the footprint of the dwelling by more than 10m² or result in the addition of a small room.
- C)** Changes that do not significantly change the structural performance of a building. For example the following changes do not comply:
- 1) Changes between standard structural shed designs (manufacturers).
 - 2) Timber-framed building to steel-framed or panel wall system.
 - 3) A building with the same footprint, but with an entirely different internal layout in terms of bracing.

Examples of changes or amendments that typically comply include:

- 1) A cladding change, if the new cladding system has been appraised and accepted as complying with the Building Code.
- 2) Non-structural internal reconfigurations
- 3) Changes to an effluent treatment and disposal system
- 4) Changes to windows or doors in external walls
- 5) The addition of a fire place within a building

Any changes that have occurred during the building project that have been authorized on site, or for older consents prior to April 2007, that have been “allowed to continue” by the BFO during the building project. “Allowed to continue” means, in this context, that no caution, requisition or Notice to Fix (Rectify) or to stop work has been issued and inspections have continued.

Note When making an amendment application, the applicant needs to clearly identify the changes to the original consent on the drawings submitted.

6.0 Content 2 – Authorisation of Changes On Site

6.1 Introduction

This policy and the associated procedure recognises the reality that changes occur during a building project and that builders are faced with circumstances not always able to be foreseen. Building Field Officers are able to approve minor building works which have been completed and that were not previously authorised, as long as it is clear that Building Code compliance has been achieved and that documentation is able to be provided that will record the as-built details.

This procedure provides guidance on how Rodney District Council will manage changes to approved Building Consents.

There are three options for managing these changes:

- 1) An application for a Building Consent amendment will be required prior to undertaking the relevant work; or
- 2) With an on-site authorisation, an as-built amendment is to be submitted prior to the application for a Code Compliance Certificate
- 3) Where specifications are changed that do not change compliance with the Building Code, or result in changes to the approved plans, Council does not need to authorise such changes.

Council is only interested in requiring compliance with the Building Code and will not provide a compliance check with higher standards, even if these have been specified in the specifications.

This process is to empower the Building Field Officers to enable them to provide a better level of service to the customer while maintaining the need for Building Code compliance.

The on-site authorisation provides building inspectors with the ability to authorise proposed changes, or building work already completed that can be judged as complying with the Building Code, and authorise these changes on-site, subject to an as-built amendment application.

6.2 Principles-based approach

Rodney District Council will adopt a principles-based approach, based on the advice provided by the Department of Building and Housing. That is, when dealing with amendments to a Building Consent it will consider:

- Whether the amendment impacts on Building Code performance as assessed at the time the original consent application was made, and
- Whether the variation impacts on compliance with other Acts or regulations.

6.3 Amendments

Council has a fast-track Building Consent amendment process for residential building consents. Therefore, delays on site while an amendment is processed should be minimised.

The process involves an on-site approval process for those consents that can be processed on site without in-depth analysis.

The on-site amendment approval process allows changes to be made subject to authorisation by the Building Field Officer, together with a Final as-built amendment application (with fees) to document the on-site changes previously authorised.

6.4 Other Considerations

In some situations, the variation may be relatively minor in terms of the Building Act, but other Acts may need to be considered. For example:

- The applicant wants to make a small increase to the size of a deck that already has Building Consent approval. However, the deck is on the side of the building and any movement toward the boundary will potentially breach the “deck inside yard rule” in the District Plan.
- The dwelling has been located not as shown on the site plan and is closer to one boundary. This may have planning and/or drainage implications.

In these circumstances, a Building Consent amendment will be required in order to consider all relevant issues, unless the implications are clear on site (the Building Field Officer may contact the PIM team to clarify this issue).

6.5 Onsite Amendment

In determining whether or not a change can be processed on site, the following questions need to be considered:

“Do the amendments alter the building’s compliance with the Building Code?” and
“Is the assessment, for Building Code compliance that is now required, able to be undertaken on-site or is a more detailed assessment required?”

6.6 Residential: Examples of changes requiring full amendment application

- Timber joists complying with NZS3604 at first floor level shown on the Building Consent drawings, but the builder wants to change to a manufactured proprietary joist system.
- A truss roof is approved in the Building Consent, but the owner decides that a close pitched roof will be constructed.
- A foundation for a new house is approved which consists of a perimeter foundation wall and ordinary piles but, due to ground heights, the owner and builder decide to construct a complete braced timber pile foundation system.
- A specific monolithic cladding system is approved for the consent, but the owner decides that another cladding system will be used which has different flashing and construction design features.

6.7 Amendments for which on-site authorisation may be acceptable

This procedure only covers minor changes. Items not covered in this procedure will require formal processing by Council prior to work being carried out.

Where an amendment is able to be assessed and authorised on-site for compliance with the Code, the change needs to be formalised with an as-built amendment submitted prior to a Code Compliance Certificate application.

In these circumstances, the inspector will:

- Record the change on the inspection record and authorise the change. The inspector will also stamp the plan with the “approved change” stamp and note the extent of the change.
- Require revised drawings from the builder for recording on the Building Consent file, as part of an as-built amendment application, prior to an application for a CCC.

Examples of on-site changes which can be approved by Building Field Officers.

Residential:

- A soft spot has been identified during the excavation for a footing on site and the engineer has provided the builder with a Producer Statement for the design and for the construction of the new foundation design.

- The builder has provided an extra window in the elevation of a dwelling. The lintel size can be assessed and there has been no change to the cladding system which would require a redesign of the flashings.
- An internal non-load-bearing partition has been moved a metre and the internal bracing system is verified as still being compliant.
- The laundry tub has been moved from where shown on the plan to another location in the laundry.
- A WC pan has been moved because the bathroom layout was not functional the way it was designed.
- Substitution of a conventional strip foundation and concrete floor with a rib raft floor (acceptable when providing a PS1 plus design of floor provided at time of inspection).
- A fireplace is added to the project and all aspects can be inspected.
- A deck or pergola is added to the project in a manner that does not infringe any yards in the District Plan.
- External cladding coating system where the base material has remained the same and where there is no change to the flashing design.
- Membrane products on the approved membrane having had previous product assessment and approval for use.
- Metal roofing products where the roofing material is suitable for the proposed minimum pitch.

Commercial or Residential:

- Drainage has been required to be constructed in an alternate position to the drainage shown on plans, with adequate falls incorporated. New layout plan to be provided.
- Changes to foundation design, i.e. piles taken down deeper into ground because soft ground encountered. Producer Statement from registered engineer required, with revised drawings attached.
- Strip foundations redesigned and taken deeper into ground because of soft spots. The result has been that the masonry base is now five blocks in height rather than two as shown.
- Extra windows provided in wall, with no change to cladding and no effect on fire rating or bracing in wall.
- Redesign by the engineer of a structural beam. Drawing (location and beam design and connection detail) and Producer Statement PS1 required.
- Change to the design of the front entry doors to incorporate a glass panel.
- An extra hose tap has been installed (no documentation required).

- The reconfiguration of a room, which incorporates a double set of doors and the basin moved. Document new layout changes to plumbing and doors.
- Downpipes changed from 75 mm to 100 mm or downpipe location shifted. Documentation shows new location.
- Altered layout of toilet area with no effect on disabled access. Documentation to display the new floor plan of the area revised, including plumbing and drainage changes.
- Changes to floor coverings from compliant non-slip product to another compliant non-slip product. Documentation displays verification of slip resistance.
- Deletion or addition of a pull-down ladder for access to ceiling space.
- Revised bracing to one wall. Documentation needs to include engineer's verification and revised drawing showing new location of braced wall.

6.8 Onsite Authorisation

In general, as long as it can be clearly demonstrated that like for like substitution or substitution with material or products that have superior performance in respect to, for example, fire rating or bracing, such changes can be authorised on site by the Building Field Officer.

Builders and developers must receive an authorisation from the Building Field Officer for such minor changes or product substitution at the earliest opportunity.

These authorisations must be ratified prior to the CCC application, as part of an as-built amendment application. Such an amendment application must meet all the minimum standards for the Building Consent documentation.

- All documents provided to BCA staff are to be clearly marked with the Building Consent number and site address.
- The documentation needs to clearly display the change and where this has occurred in the building or, in the case of site works, where located on the site.

7.0 Matter of Doubt or Dispute

In the first instance the Operations Manager Building Consents will consider an applicant's dispute with Council in relation to this policy.

A party, in terms of section 176 of the Building Act 2004, may apply to the DBH for a Determination in relation to the Council's exercise of its powers in respect of one or more of the following matters:

- Council's decision to require an application for an amendment.
- Council's decision to refuse to grant an application for an amendment.
- Council's decision to impose a condition/s on the amendment.

Should there be any doubt or dispute that cannot be resolved by negotiation between the parties, either of the parties involved, provided they are a party in terms of section 176 of the Building Act 2004, may apply to the DBH for a Determination in terms of section 177 of the Building Act 2004.

Application for a Determination must be made in writing on the prescribed form¹, contain the prescribed information (if any) and be accompanied by the prescribed fee.

During the period a Determination is being considered, all matters in relation to the amendment shall be suspended. The suspension may include any building work in relation to the amendment.

8.0 Decisions Made Under this Policy

All decisions made in accordance with this policy are made on the individual merits of the specific situation and shall not be construed as setting any type of precedence for any future decisions.