

Doc Ref	TS-37 Determinations NV
Date	27/05/2008

TS-37 Determinations

ROLES AND RESPONSIBILITIES

BCA

To provide procedures to be followed for dealing with disputes regarding decisions of the BCA.

BCA Manager

To provide audit processes to ensure the above procedures are followed; and

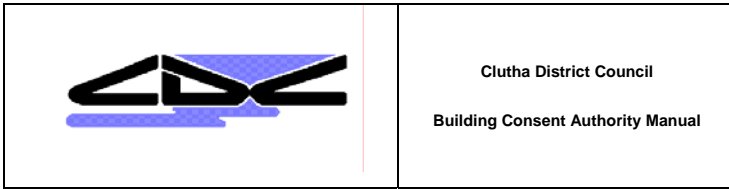
To be satisfied on reasonable grounds that the procedures required to approve alterations to an existing building have been followed.

Building Officer

To appraise applications involving alteration on existing buildings.

BACKGROUND

1. A determination is a binding decision made by the Department of Building and Housing. The determination process provides a way of solving disputes or questions about the rules that apply to buildings, how buildings are used, building accessibility, health and safety.
2. This process is provided for in the Building Act 2004 (sections 176-190).
3. A determination can be about building work that is planned, partly done or completed.
4. You can ask for, or be involved as a party to a determination, if you are: the building owner or the owner's agent, the council that issued the building consent, the owner of other property when the determination is about the protection of that property, government department or Crown agency that has a statutory duty under the Building Act, and anyone with a direct interest in the problem or question if it has to do with access and facilities for people with disabilities.
5. There are prescribed forms that are required to be completed and forwarded to the DBH when applying for a determination and supporting documentation is required. Other parties to the determination receive a copy of the application.
6. The DBH charge a fixed fee for determinations. There are two levels of fees, one for single houses, attached houses, flats and apartments up to four units, and garages and sheds, and another is for all other buildings. The fees is available on the DBH website.
7. The DBH have produced a guidance document to assist in the process for determinations and this is available on the DBH website that can be accessed by this link. [Determinations booklet](#)
8. This guide to Building Act determinations will be incorporated as part of the BCA policy and procedures when party to a determination.



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GENERAL

The involvement in a determination is pursuant to sections 176 to 190 of the Building act 2004, and will be in accordance with the following procedure.

The parties that can initiate a determination are the building owner or the owner's agent, the council that issued the building consent, the owner of other property when the determination is about the protection of that property, government department or Crown agency that has a statutory duty under the Building Act, and anyone with a direct interest in the problem or question if it has to do with access and facilities for people with disabilities. These now also include a Licensed Building Practitioner concerned with the relevant building work, and any person who has a direct interest in the provision of access and facilities for people with disabilities to and within a building.

The change relating to the provision of access and facilities for people with disabilities is important, because users of a building intended for public use may apply for a Determination.

In addition to the parties, the Chief Executive of the Department of Building and Housing may now initiate a Determination.

INITIATING A DETERMINATION

- The determination is most likely to have been initiated by an applicant, owner or agent who is not satisfied with a decision or action made by the BCA.
- There may be the situation where the BCA or TA may request a determination to assist them in interpreting some function or duty of the Building Act. In this case the Building Manager will review the file and decide whether to apply for a determination. They will review the decision of any determination and ensure that action is taken to bring about implementation of any requirements of the determination.

Notes

Determinations User Guide