

The Building Act:

The Building Act 2004 provides for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards, to ensure that:

- people who use buildings can do so safely and without endangering their health; and
- buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and
- people who use a building can escape from the building if it is on fire; and
- Buildings are designed, constructed, and able to be used in ways that promote sustainable development.

To achieve this purpose, the Act requires anyone proposing to do building work to obtain Building Consent from a Building Consent Authority before commencing building work.

Who administers the Building Act?

The Ministry of Business Innovation and Employment (MBIE)* (www.building.govt.nz) is the government department responsible for administering the Building Act 2004.

What is a Building Consent Authority?

Building Consent Authorities are organisations registered under Section 273 of the Building Act 2004, and are responsible for performing building control functions under Part 2 of the Act.

Westland District Council is a Territorial Authority that has been accredited as a Building Consent Authority – herein referred to as Council.

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 (not mandatory).

The information 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
- the 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.

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

A PIM also identifies any additional approvals required such as:

- Resource Management Act
- Heritage New Zealand(Heritage buildings/sites)
- Fire and Emergency New Zealand (FENZ)

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 PIM does not give any form of approval under the District Plan or Building Act.

Contact WDC Planners on planning@westlanddc.govt.nz, 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 except if you are building with a private Building Consent Authority. A PIM may be useful when designing your project. 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 on Form 2 Application for PIM / Building Consent using our online electronic system. A deposit will be requested at application stage. An invoice will be sent to you and must be paid before the PIM is processed.

Documentation required

All applications must be accompanied by:

- site plan,
- floor plan,
- building elevations
- Certificate of Title – less than 3 months old - or Sale and Purchase Agreement
- Proof of ownership

How long does it take?

Council is required to issue the PIM within twenty (20) working days of a complete application being received.

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 working 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.

What is a Building Consent?

A Building Consent is the formal approval issued under Section 49 of the New Zealand Building Act, by a BCA that is satisfied on reasonable grounds that the provisions of the Building Code would be met if the building work were properly completed in accordance with the plans and specifications that accompanied the application. This means that certain works meet the requirements of the New Zealand Building Act, Building Regulations and Building Code.

You can not undertake any building work that requires a Building Consent without this approval. Most building work requires a Building Consent but some minor work is exempt under the Act.

Exempt work

Exempt work is listed on Schedule 1 of the Building Act 2004. This may be viewed on the web on <https://www.building.govt.nz/projects-and-consents/planning-a-successful-build/scope-and-design/check-if-you-need-consents/building-work-that-doesnt-need-a-building-consent>.

When is a Building Consent required?

There is a guidance document for building work that does not require a building consent under the Building Act 2004 (the Act) <https://www.building.govt.nz/assets/Uploads/projects-and-consents/building-work-consent-not-required-guidance.pdf>. This document lists all the criteria you will need to meet to not need a building consent. If you can not meet all the criteria you will need a consent.

You will also need to discuss your proposal with the Planning department in case there are any issues with the District Plan rules.

How long does it take to get a Building Consent?

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

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 clock starts when all sufficient information is received (this may be the day you lodge the consent if all required information is supplied) and the clock stops if any further information is required. 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. All information received or applications received will be dated and received as the next working day.

*If your application is for a multi-proof approved building this timeframe is 10 working days.

For more information on Multi-proof approvals visit www.building.govt.nz/multiproof

How and where do I apply for a Building Consent and what information do I need?

Our preference is for applications to be submitted through the online consenting system. Applying online allows us to process your application faster and you will be able to track the processing of your application online. There is an option to apply via the paperforms if you don't have access to a computer, which we can provide you at your request. You will still need to provide a printed or electronic full set of all the information, as listed below. We recommend that you engage a professional person to help with compiling your application.

Items include:

- plans and specifications
- alternative plans and specifications (if substitute product pre-approval is required)
- a copy of the national multiple-use approval, with details of any proposed minor customisations (if applicable)
- Ground bearing report – required for all new construction or extensions
- engineering calculations (if applicable)
- wall bracing calculations (if applicable)
- truss certificate (if applicable)
- if modular components are used, a current manufacturer's certificate for the components
- wastewater details complete with the West Coast Regional Council wastewater evaluation form (if applicable)
- An E2 risk matrix (demonstrating weather tightness features) (if applicable)
- any project information memorandum obtained for the building work (
- a certificate issued under [section 37](#) (if applicable)
- if building consent relates to restricted building work, the name of each licensed building practitioner who will be involved
- if the building consent has design work that is restricted building work, a certificate of work that identifies that design work and that states the licensed building practitioners who carried out or supervised it, the design work complies with the [building code](#) and whether waivers or modifications of the [building code](#) are required.
- if the consent includes restricted building work (including design) to be carried out by the owner-builder, a statutory declaration, in the prescribed form, as to owner-builder status.

You can apply using the On-line electronic system from either:

- our website or
- Council's office at 36 Weld St, Hokitika, if you do not have access to a computer
- Using a hard copy application form requested from the BCA.

Once you have gathered all the necessary information you can either apply on-line or bring it in personally to our office and use the computer set up. Our staff are trained to help you if you require and can scan your documents at a cost.

If you choose to lodge your application in hard copy, then you will need to give us all the information. Please contact us for the application forms on buildingadmin@westlanddc.govt.nz or contact the Building Team on 03 7569010

On receiving your application a Building Control Officer will vet your plans to ensure all relevant information has been provided.

Please note: this is not a technical assessment but merely a check to ensure all necessary information has been provided.

If all information has been provided correctly, your application will be accepted for quality processing and the clock started from when you lodged the application. If your application is deemed incomplete, a correspondence will be sent advising the information required to allow your application to proceed. The clock will be stopped until all the information is received.

All applications or information received after 2pm will be recorded as received the NEXT working day.

Once accepted your consent will be assessed against the relevant Resource Management rules, the New Zealand Building Act, New Zealand Building Code. In respect to the New Zealand Building Code the Building Consent Authority will need to be satisfied on reasonable grounds that the provisions of the Building Code would be met if the building work were properly completed in accordance with the plans and specification that accompanied the application. When this is deemed to be the case, your consent will be granted and issued subject to payment of any fees and or any levies being paid. Once your invoice is generated, payment can be made over the counter at the Council offices at 36 Weld St, or electronically via the bank account on your invoice.

If a Resource Consent is identified as being required during the consent process you will be notified and required to apply for and have this granted before any building work may commence. A Section 37 certificate will be issued with the Building Consent if the Resource Consent hasn't been obtained prior to Building Consent issue.

Building consents for lands subject to natural hazards – A Section 72 notice

Building on land subject to natural hazards has been outlined under Section 71 of the Building Act 2004. Natural hazards include:

- Erosion (inc coastal erosion, bank erosion and sheet erosion)
- Falling debris (inc soil, rock, snow and ice)
- Subsidence
- Inundation (inc flooding, overland flow, storm surge, tidal effects and ponding)
- Slippage

The council must make sure that work doesn't create a natural hazard or make a natural hazard worse. A Land Information Memorandum (LIM) or Project Information Memorandum (PIM) will identify any hazards that the Council already knows about.

For us to grant a building consent on land subject to a natural hazard, you must be able to show the work will not accelerate, worsen or result in a natural hazard on the land on which the building work is to be carried out or any other property.. You will need to provide information to demonstrate that your proposal will not do that and depending on the hazard type, you would need to provide a report from a suitably qualified person, like a geotechnical engineer, hydrologist or other specialist. They can advise on:

- The potential impact of the development
- How to address the natural hazards

If a building consent is to be granted, we must include a condition of the consent, that it is done so subject to Section 72 of the building act.

You should see advise from your lawyer and or insurance company if your consent is subject to a natural hazard.

Conditions of consent

In all cases a Building consent will be granted subject to section 90 of the Building Act, this enables the Building Consent Authorities authorised agents to inspect the work as stated by this section of the Building Act.

Other conditions are if a Building Consent application involves;

- A wavier or modification to the Building Code it will be subject to section 67 of the Building Act ,this allows the authority to add any conditions that it considers appropriate.
- The Building Act 2004 requires council to consider building consents for new buildings or major alterations on land subject to natural hazards and refuse to grant the building consent if the situation is made worse, or grant the consent,subject to Section 72 and a condition as required by Section 73 will be added to the building consent identifying the hazard concerned and state the consent has been notified to the Registrar-General of Land .
- Building on 2 or more allotments is subject to section 75, a certificate will be issued by the Territorial Authority that states that, as a condition of granting the building consent 1 or more of the allotments specified must not be transferred or leased except in conjunction with any of the other or others of those allotments.
- A Building that is constructed or altered to have a specified intended life of less than 50 years, the Building Consent Authority will issue the consent subject to section 113 of the Building Act, this will impose a condition that states the building must be altered, removed or demolished on or before the end of its specified intended life, the Building Consent Authority will add any other condition it considers necessary.

How long is my Building Consent valid for?

A Building Consent lapses and has no effect 12 months after the issue date if no work has commenced and no extension of time has been applied for and agreed to before the anniversary date.

All building work should be completed within 2 years from the date that the Building Consent was granted. If the project has been delayed an extension of time maybe applied for.

Alterations to Existing Buildings (Section 112 of the New Zealand Building Act)

If you intend to alter an existing building, you will need to provide sufficient information to show how the building will comply once the work is completed particularly in regard to 'means of escape from fire' and 'access and facilities for people with disabilities'. If the building complied with the other provisions of the building code immediately before the building work began, it should continue to comply with those provisions. If it did not comply with the other provisions before, it should continue to comply at least to the same extent. The TA may allow the alteration of a building without the building complying with provisions of the building code, if the extra requirements to make the building comply would mean the alteration would not take place, and if the alteration will result in improvements to means of escape from fire and access and facilities for persons with disabilities, and the change would outweigh any detriment that is likely to arise as a result of the building not complying. Your application should detail the level of work that would be required for the building to fully comply with the Building Code and the work that is proposed to be done.

Change of use of Building (Section 115 of the New Zealand Building Act)

If you intend to alter the use of a building or part of a building, you will need give notice to the Westland District Council. You may be required provide sufficient information via a Building Consent application. If the change involves the creation of household units the TA must be satisfied on reasonable grounds that the building will comply, as nearly as is reasonably practicable, with the building code in all respects. If the change is to any other use, the TA must be satisfied on reasonable

grounds that the building complies (as near as is reasonably practicable) with building code requirements for means of escape from fire, protection of other property, sanitary facilities, structural performance, fire-rating performance and access and facilities for people with disabilities (if a requirement under section 118 of the NZ Building Act). If the building complied with the other provisions of the building code immediately before the building work began, it must continue to comply with those provisions. If it did not comply with the other provisions before, it must continue to comply at least to the same extent.

Extension of life (Section 116 of the New Zealand Building Act)

If you intend to extend the specified life of a building you must obtain written consent from the Territorial Authority. Please ring the building department for queries on this matter on 03 756 9040

Subdivision affecting a building (Section 116a of the New Zealand Building Act)

As Council may not issue a certificate under section 224(f) of the Resource Management Act 1991 for the purpose of subdividing a building or part of a building, unless 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 means of access from fire, access and facilities for persons with disabilities (if required under section 118), protection of other property and will continue to comply with the other provisions of the building code to at least the same extent as it did before the subdivision application was made.

Restricted Building Work

Restricted Building Work (RBW) is design and building work that can only be carried out or supervised by a Licensed Building Practitioner (LBP) or Owner/Builder, due to it being critical to the integrity of a residential building. Building work that is RBW can only be carried out or supervised by a person licensed in the relevant trade class (or by an Owner/Builder). For example, a person licensed in the carpentry class may also carry out or supervise: the construction of concrete foundations and/or pile foundations and/or the installation of lightweight profiled metal roofing.

In the context of RBW, design work is the preparation of drawings, specifications or other documents for the purposes of Consent. Registered Architects and Chartered Professional Engineers are automatically treated as LBPs licensed in the design class and can therefore also carry out, supervise or design RBW.

It is the responsibility of design LBP's including registered architects or chartered professional engineers to ensure their Memoranda (Certificates of Design Work) covers all work they have designed. It is the responsibility of the owner to include all Memoranda (Certificates of Design Work) that collectively cover all the RBW, in the consent application.

To find an LBP search the LBP Register, at www.lbp.govt.nz

Owner Builder Exemption - obligations and responsibilities

As an owner-builder, you can carry out restricted building work on your own home under the Owner Builder Exemption. You will make a statutory declaration which must be signed and witnessed by a Justice of the Peace or other Authorised person. You still need a building consent and it will be inspected as if it were done by an LBP. You are responsible for ensuring that restricted building work carried out under the owner-builder exemption complies with the Building Code and the consented plans and specifications.

More information on the obligations and responsibilities of owner-buildings and their building project is available on the [MBIE Building Performance Group webpage](#).

You are an owner-builder if you:

- Live in or are going to live in the home (this can include a beach 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, under the owner-builder exemption, carried out restricted building work to any other home within the previous three years.

You cannot carry out all aspects of construction work, even with an Owner-Builder Exemption. There is some specialised building work which must be carried out by a suitably qualified person. This work includes:

- plumbing
- gas-fitting
- drain-laying
- electrical work.

The details and forms required to use the owner-builder exemption are on the MBIE webpage mentioned above. If you decide to sell the home, future buyers will have access to this information as council will record the work and who it was carried out by. Future LIMs will show whether the building work was carried out by the owner or an LBP.

Fire and Emergency New Zealand (FENZ)

Under Section 46 of the Building Act, the BCA is required to send certain applications to the FEU for review under the Fire Service Act. Where this occurs FENZ, have 10 working day in which to provide their feedback / memorandum to the BCA.

The memorandum issued by FENZ will set out their advice in regard to provisions for means of escape from fire and the needs of persons who are authorised by law to enter the building to undertake firefighting.

Types of applications that are required to be sent are detailed in NZ Gazette Notice. 49. (<https://www.dia.govt.nz>)

How much will it cost?

Fees are available for viewing on the Westland District Councils website. Costs are split into categories specific to construction. Inspections are charged based on what inspections are estimated as required at granting/issue stage.

Our district does not charge development contributions, so this will not be required to be considered.

Our 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 & Employment (MBIE) (payable on all applications over \$65,000)
- 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 Code Compliance Certificate
- accreditation levy
- consent fee
- PIM fee (if applicable)
- issue of Compliance Schedule (if applicable)
- Insurance fee (residential/commercial and accessory buildings over \$20,000)

A deposit of \$3000 is payable at the completion of vetting on new residential, commercial and industrial consents, and major alterations over \$150,000. Processing of these categories of consent will not start until the deposit is paid. An estimate of the fees involved may be provided, however the final cost will not be known until the application is processed. A withdrawal fee applies if you withdraw your application and all processing costs to date will be charged.

How is my application processed?

Upon receiving your application it is entered into our processing system and allocated a unique identifier (your Building Consent number). It is then vetted and once vetting has passed, the 20 working day time clock commences. If the application was complete on lodgement, the application will be backdated to the day of receipt.

The application is then allocated and circulated to the various disciplines within Council for processing, i.e. planning, engineering and building.

Each discipline will review your application and assess it for compliance. 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 all this information is provided. Once all disciplines are satisfied that compliance is achieved, then a final check is made to ensure all work has been assessed correctly. If all of the information is provided, the time clock is restarted.

You will be notified of the fees at the point when we are satisfied that Building Consent may be granted or refused. Granted means the BCA is satisfied on reasonable grounds that the provisions of the building code would be met if the building work were properly completed in accordance with the plans and specifications that accompanied the application. When these fees are paid, the Building Consent will be issued and the documents provided to you.

If we consider that the Building Consent cannot be granted we are required to refuse to issue the 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 (like resource consent) may first need to be obtained. Such conditions will be notified on your PIM and/or Building Consent.

How will I be notified?

When your application is ready for issue or refused issue, an invoice will be generated to inform you what the fees and any levies are. Once the fees are paid your Building Consent will be available electronically through the online system, by whoever lodged the consent.

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

What are Building Consent conditions and/or advice notes?

There may be conditions and/or advice notes imposed on your Building Consent that are deemed necessary to ensure compliance.

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 inspection process

What inspections do I need?

Every building consent is granted subject to condition that the building work will be inspected. 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 on your consent documentation. A list of inspections required will be attached to your Building Consent and may include foundation, drainage, preline, final etc. It is important that the inspector can gain access to the site or into the building to inspect it, so if no-one is available to be on site please arrange access into the building when booking the inspection. You are welcome to have an agent present at inspections if you wish. A full list of inspections and what they involve is in **Appendix 1**.

Engineers – Specific design - Inspections by Others (Engineers, specialists etc)

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 be advised before the consent is granted.

Typically, these types of inspections may involve having a suitably qualified engineer confirm ground stability, or having an aspect of specific structural design (steel beams, fire design etc) checked by a Chartered Professional Engineer. These are identified at processing stage and will be required to provide a Producer Statement (PS1), calculations to support the design and a Memoranda (Certificate of Design Work) if the work is Restricted Building work. It is Council policy to only accept work outside the scope of the standards or expertise by a Chartered Professional Engineer. Other professionals

may be able to supply you with a design, but this will need to be applied for in writing to the BCA, including the professionals qualifications, experience, insurance and previous history of similar designs. If the BCA accepts this person, they will be included on our Professionals Register.

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 Building Consent Team on 03 756 9040 (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, i.e. drainage, foundation, pre-pour, preline, etc

NB: It is your responsibility (or your contractor's responsibility) to notify Council before you require an inspection. A Building Control Officer will complete the inspection within 3 working days of it being requested. Due to the geographical constraints, trips south of Ross are usually done once a week.

How do I know outcome of the inspection?

For an inspection to take place the approved Building Consent documentation is required to be on site. We recommend that the lead contractor or their representative be on site for all inspections. We need to ensure there is safe access to the area that is being inspected.

N.B: If we arrive on site and the consent documentation (Form 5, plans and specifications) are not available we will not undertake the inspection. We will however bill you for our visit.

The inspector assigned to the inspection will verify the construction to the consented documents.

At the conclusion of each inspection, the outcome will be recorded on the inspection notice, completed and provided electronically by the Inspector. They will also advise the contractor, agent or building on site of the outcome, if someone is present during the inspection.

What if the inspection has not been approved?

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. The inspection record will indicate what work, if any, you may carry on with. Please read this carefully.

Re-inspections will be charged for, usually at Code Compliance Certificate time.

If the work is not remedied to the satisfaction of the building inspector, it is likely that a Notice to Fix will be issued.

What is a Notice to Fix?

A Notice to Fix is a formal notice issued by the Building Consent Authority advising that certain works have not been carried out in accordance with the Building Consent.

If a Notice to Fix is issued, you are required to address the issues identified within a prescribed time frame to prevent further action being taken.

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

Amendments and Minor Variations

If you are making changes after your Building Consent is issued, the way in which the changes are handled will depend on whether they are major or minor changes.

An amendment is required for major or substantial changes in your project; these may include changes to the building envelope, structural changes, or siting changes.

An amendment is applied for in the same manner as if the application were a new consent. Using our online electronic system an amendment can be applied for on a job by viewing your existing applications and selecting the “apply for amendment” option from the actions button, or, if your application was processed in paper copy prior to online consenting, an application for amendment will need to be made in hard copy to the Council Office. Forms are available on our website or feel free to call us and we can post you one out.

A minor variation is a minor modification, addition, or variation to a building consent that does not deviate significantly from the plans and specifications to which the building consent relates and achieves the same level of compliance.

The following are examples of minor variations and do not constitute an exhaustive list:

- (a) Substituting comparable products (for example, substituting one internal lining for a similar internal lining)
- (b) Minor wall bracing changes
- (c) A minor construction change (for example, changing the framing method used around a window)
- (d) Changing a room's layout (for example, changing the position of fixtures in a bathroom or kitchen)

All proposed minor variations need to be communicated to the BCA before the building work is undertaken, discussions about proposed minor variations will often be held on site with the building inspector. If the inspector decides that the minor variation can be granted there and then, the changes on the plans will be marked up for reference and the inspector will record this in writing with their reasons in the Inspection Report and in the consent file. Depending on the significance of the change, the building inspector might also advise the owner, builder or contractor to provide ‘as-built’ drawings to the BCA once the work is completed, to reflect the changes.

Minor variations can also be approved at the BCA office. The owner or designer might send a letter or an email to the BCA seeking approval for a minor variation, or the BCA might have a conversation with them over the phone (in which case the BCA might require additional information for their records) or at the front counter.

Note: To avoid doubt, a minor variation does not include any building work in respect of which compliance with the building code is not required by the Act (for example, changing water taps from chrome to gold plated is not considered a minor variation as the tap finish does not need to comply with the building code).

What is a Code Compliance Certificate?

A Code Compliance Certificate is Council's verification that all works undertaken comply with the approved Building Consent. The BCA has 20 working days to issue a CCC from receipt of an application that is deemed complete. The owner must apply to a BCA for a code compliance certificate after all building work to be carried out under a building consent granted to that owner is completed. If, once application is made, it is determined that not all information required has been provided, the application will be placed on hold until all relevant information is provided. Once this is done, the application will be taken off hold and the clock restarted from the next working day.

A CCC is an important document and should be retained for future reference. When all building work is completed, in accordance with the requirements of the plans and specifications, you can apply using the prescribed form in the online system, or via the prescribed paper form but this option will incur a charge for our time.. You will need to include any records of work provided by licensed building practitioners or an energy works certificate (if applicable). Check the conditions and endorsements on your Building Consent to see what paperwork may need to be provided for the

consideration of issuing CCC with the application. We must (under Section 94 of the NZ Building Act) issue the CCC if satisfied on reasonable grounds that the work complies with the building consent.

If the application involves work that requires a Compliance Schedule or an amendment to an existing Compliance Schedule, the specified systems in the building must be capable of performing to the performance standards set out in the building consent.

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). A modification to the durability clause of the Building Code may be required if a reasonable time has lapsed since the consent was issued.

If Council can not 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.

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 regards to their building, a determination can be applied for by Council or by a neighbor who may be affected by building work.

Applying for a determination

Applications for determination and the associated costs may be found on the MBIE website (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.

Sales by commercial on-seller-Section 362v

Section 362v of the Building Act 2004 introduces important consumer protection measures covering the sale of household units by commercial on-sellers.

It is an offence for a commercial on-seller 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 362v (3) 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 'commercial on-sellers'?

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 'commercial on-sellers' defined?

A **commercial on-seller** 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 commercial on-seller and the purchaser of the household unit may contract out of this provision by written agreement under section 362v(2).

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 can not be used / occupied until a Code Compliance Certificate is issued, if a Building Consent has been issued for part or whole of the premises.

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. An application will need to be made on the correct form and has a fee associated with it. Each application will be considered on a case-by-case basis. However, a Certificate of Public Use is not intended as an interim signoff on the building and should not be used as a substitute for a Code Compliance Certificate.

What are public premises?

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

- shopping malls, cinemas

- marae
- 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 preventors connected to a potable water supply
- lifts, escalators, travelators, 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
- cable car (including those associated with a single household unit).

A Compliance Schedule lists the systems and features, including the proposed inspection, maintenance and reporting procedures for specified systems, 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) 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 is a Compliance Schedule generated?

Applications for a Building Consents involving any new specified systems or building work in an existing building that includes modifying or adding to the specified systems will generate a compliance schedule, unless the building used is wholly as single household unit and the application does not include a cable car.

The BCA will issue a Building Consent once the required performance standard, inspection and maintenance information is provided that relate to each specified system.

Once the Building Consent Authority has confirmed the specified systems in the building are capable of performing to the performance standards set out in the Building Consent, the BCA will issue the Compliance Schedule with the Code of Compliance Certificate.

What information do I need if I am applying for a Building Consent that involves specified system?

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? (BWOFF)

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 for the previous 12 months.

The building warrant of fitness must have attached to it all certificates of compliance issued by the Independent Qualified Persons (IQP). 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 BWOFF 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 Form 12(BWOFF), Form 12a (IQP Confirmation) and any written reports relating to the inspection, maintenance and reporting procedures of the Compliance Schedule. These should be signed by the Independent Qualified Persons (IQP) 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)?

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.

For more information or to find a registered IQP in our local area you can view the South Island IQP register administered by the Timaru District Council.

<https://www.timaru.govt.nz/services/building/independent-qualified-persons>

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, Code Compliance Certificates, or Compliance Schedules
- fees and charges
- failure to meet legislative or Building Code requirements

How do I make a complaint?

You can make a complaint in person, by calling us on 03 756 9040, letter or email to: buildingadmin@westlanddc.govt.nz

Building Consent Authority
Westland District Council
Private Bag 704
Hokitika

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 a timely fashion 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 MBIE for a Determination. Visit www.building.govt.nz for further information on this service.

Appendix 1 – Inspections in full

1. **Ground Bearing** – Inspection to confirm ground is acceptable, a requirement prior to commencement of any building works.
2. **Soakage** – Inspection to check that soakage for sewage disposal meets Regional Council requirements.
3. **Foundation** – Inspection required prior to any foundation concrete placement.
4. **Pile/Pole Holes** – Inspection when piles/poles are in position and before concrete is placed **or** Inspection when piles are being driven.
- 5(a) **Subfloor** – Inspection either :
 - (a) Prior to covering of **any** drainage which will be under floor **or**
 - (b) When timber sub floor fastenings are completed and before flooring is laid.
- 5(b). **Concrete Slab** – Inspection before concrete is placed:
 - (a) either for floor slab only **or**
 - (b) for floor slab and foundation combined.

6. **Blockfill** – when all blocks and steel reinforcing is in place, before clean out holes are covered or any concrete fill is placed.
7. **Prewrap** – Inspection required before the exterior of any roof or walls are covered with building paper/wrap. All straps and braces are to be completed.
8. **Postwrap (external)** – Inspection required after the building has been wrapped and battens, penetrations and flashings in place.
- 8(a). **Pre membrane** - When the substrate for the water proofing membrane is complete with all outlets installed. Substrate is prepared to a standard suitable for placement of the membrane.
9. **Cladding** – Inspection either :
 - (a) required at half brick stage **or**
 - (b) at time cladding is being fitted, with all flashings in place.
10. **Plumbing** – Inspection at the completion of the pressure test and before any lining of the building covering any pipe work is undertaken.
11. **Preline** – Inspection before any internal lining is fixed to the interior of the building. Insulation, air seals, bracing, plumbing water/gas and electrical wiring must be complete.
12. **Postline** – Inspection prior to any gib stopping or finishing of interior linings being undertaken.
13. **Tanking** – Inspection when waterproof membrane has been completed eg. Showers.
- 14(a). **Drainage** – Inspection when drains are bedded for connection to a network system, with water test in place and before covering has commenced.
- 14(b). **Septic Tank Soakage** – Inspection when soakage area is excavated and before filling commenced.
- 14(c). **Drains and Septic Tank** – Inspection when all drains are laid to the septic tank and/or soak areas with water test in place and before covering has commenced.
15. **Heating Appliance** – Inspection when appliance has been fully installed, before it is used for any heating, smoke detectors have been installed and ceiling plate has been left down.
16. **Swimming/Spa Pool** – When fencing has been completed.
17. **Underpass** - site inspection as first culvert section is being laid.
18. **Demolition** – Inspection when site is clean and debris removed with services terminated at boundary.
19. **CCC Inspection** – Inspection after Code Compliance Certificate application has been lodged at completion of all required works.
- 19a. **CCC Inspection – Fireplace** – Inspection after the Code Compliance application has been lodged ie, when the appliance is fully installed, before the appliance is used for heating, when all smoke detectors have been installed and the flue ceiling plate has been left down.