

Building Amendment Bill (No 2)

Government Bill

Explanatory note

General policy statement

This Bill leverages off earlier reforms to improve quality in the construction sector by amending the Building Act 2004 to increase the flexibility and efficiency of the building consent process and facilitate an increased supply of affordable houses, while ensuring that quality homes and buildings are constructed.

The Bill—

- extends the Department of Building and Housing's functions and powers to allow it to issue national multiple-use approvals for dwellings and buildings that are to be replicated on a substantial scale (individual building methods or products will continue to be dealt with under the product certification scheme in the Act);
- reduces the statutory time frame for processing a building consent application from 20 working days to 10 working days where the application includes a national multiple-use approval;
- differentiates between major and minor variations to consented building work, to support best practice in managing amendments to building consents:

- makes it voluntary for an owner to obtain a project information memorandum from a building consent authority that is a territorial authority.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. Different sections come into force at different times, as follows:

- the sections that modify the requirements in relation to project information memoranda come into force 6 months after the date on which the Act receives the Royal assent:
- the sections that implement a national multiple-use approval regime, and that provide for a less formal method of making minor variations to a building consent, come into force on a date to be appointed by Order in Council:
- the remainder of the Act (including the section that creates new regulation-making powers) comes into force on the day after the date on which the Act receives Royal assent.

The sections that relate to national multiple-use approvals and minor variations are to be brought into force by Order in Council in order to allow regulations to be made that will come into force at the same time. Those regulations will specify eligibility criteria for obtaining a national multiple-use approval, and define the sorts of changes that are minor variations.

Part 1

Preliminary provisions

Clause 3 provides that the Bill amends the Building Act 2004 (the **principal Act**).

Clause 4 sets out the purpose of the Bill, which is to reduce compliance requirements under the principal Act and to improve the efficiency of the building consent process.

Part 2

Amendments to principal Act

Clause 5 inserts definitions of the terms minor variation and national multiple-use approval in the interpretation clause.

Clause 6 amends section 11, which describes the role of the chief executive of the Department of Building and Housing. The amendment inserts a new paragraph that refers to the chief executive's new role of determining applications for national multiple-use approvals.

Clause 7 amends section 15, which contains an outline of Part 2 of the principal Act. The changes insert a reference to the new multiple-use approval regime and make a consequential adjustment to wording to reflect the fact that it will no longer be mandatory to obtain a project information memorandum in all cases.

Clause 8 amends section 19 which sets out how compliance with the building code is established. A new paragraph is inserted into this section that provides that a current national multiple-use approval is a means of establishing compliance with the building code.

Clause 9 inserts a new heading and *new sections 30A to 30H*, which relate to national multiple-use approvals.

New section 30A describes the purpose of a national multiple-use approval. A national multiple-use approval establishes that particular plans and specifications comply with the building code. It does not, however, confer the right to carry out building work that requires a building consent, without first obtaining a building consent.

New section 30B describes how to apply for a national multiple-use approval. Applications must be made to the chief executive in writing. The section anticipates that regulations will be made that will prescribe the form and manner in which an application must be made, and the information that it must contain.

New section 30C imposes additional requirements in cases where a national multiple-use approval is sought for plans and specifications that incorporate design work that has been declared to be restricted building work.

New section 30D requires the chief executive to decide whether to accept an application for a national multiple-use approval for processing. The chief executive may refuse to accept an application that does not meet prescribed eligibility criteria, or that includes the use of banned building methods or products. The decision whether or

not to accept an application must be made as soon as practicable after receipt of the application.

New section 30E applies if the chief executive does accept an application for processing. In that case, the chief executive must then go on to decide whether or not to issue the national multiple-use approval. No time limit is provided within which the chief executive must make this decision.

New section 30F provides for the issue of national multiple-use approvals. The chief executive must issue an approval if he or she is satisfied that—

- the application—
 - meets the requirements in the Act and any prescribed eligibility criteria; and
 - does not involve the use of banned building methods or products; and
- any prescribed fee has been paid; and
- the resulting building work, if properly completed, will comply with the building code.

A national multiple-use approval may be issued subject to a waiver or modification of the building code, and subject to 1 or more conditions.

New section 30G provides that the chief executive must give the applicant written notice, including reasons, if the chief executive refuses to issue a national multiple-use approval.

New section 30H allows the chief executive to suspend or revoke a national multiple-use approval in certain specified circumstances, and after giving the holder a reasonable opportunity to be heard. However, if the reason for the revocation or suspension is because of a change to the prescribed eligibility criteria or the building code, the revocation or suspension cannot take place until 3 months after that change comes into force.

Clause 10 amends section 31. The effect of the amendment is to remove the requirement for a territorial authority that is also a building consent authority to issue a project information memorandum whenever a building consent application is received.

Clause 11 amends section 35 which sets out the content of a project information memorandum. The change provides for project infor-

mation memoranda to be issued in a form that will be prescribed by regulations.

Because a project information memorandum will no longer automatically be issued when a building consent is applied for, a number of consequential adjustments are made to sections that required documents to be attached to the project information memorandum. In particular:

- *Clause 12* substitutes a *new section 36* which requires a development contribution notice to be provided to the building consent authority if no project information memorandum has been issued; and
- *Clause 13* amends section 37 to require territorial authorities to issue certificates relating to resource consents to the building consent authority if no project information memorandum has been issued; and
- *Clause 14* substitutes a *new section 39* which requires the territorial authority, in particular cases, to advise the New Zealand Historic Places Trust when it receives either an application for a project information memorandum or for a building consent (if no project information memorandum has been requested).

Clause 15 amends section 45, which sets out how to apply for a building consent. The substantive change specifies what documents and information must be provided when applying for a building consent to which a national multiple-use approval relates, namely:

- a copy of the national multiple-use approval; and
- details of any proposed minor variations to the plans and specifications to which that national multiple-use approval relates. (The Bill provides for regulations to be made that will define the sorts of variations that may be made on the basis that they are minor variations.)

The clause also substitutes new subsections in section 45 that clarify the requirements when an application for a building consent relates to plans and specifications that contain design work that has been declared to be restricted building work.

Clause 16 inserts *new section 45A*, which provides a new, and less formal, process for obtaining approval to a minor variation to a building consent. The Bill allows regulations to be made that will define the sorts of changes that are to be regarded as minor variations for

the purposes of this section. When applying for a minor variation, the applicant will not be required to complete the prescribed form for applying for a building consent. When granting a minor variation, a building consent authority must record the fact in writing, but will not be required to issue an updated building consent.

Clause 17 amends section 48, which specifies how a building consent authority must process an application for a building consent. The change introduces a shorter time frame for processing applications that include plans and specifications in relation to which the applicant has obtained a national multiple-use approval. That shorter time is 10 working days, whereas the time limit for processing other applications is 20 working days.

Clause 18 makes consequential amendments to section 51, to reflect the fact that a project information memorandum will no longer automatically be issued as part of the building consent application process.

Clause 19 amends section 69, which specifies certain situations where a waiver or modification of the building code may only be granted by the chief executive. The amendment ensures that this section does not apply to waivers and modifications that are contained in a national multiple-use approval.

Clauses 20 to 24 make consequential amendments to reflect the fact that a project information memorandum will no longer automatically be issued as part of the building consent application process.

Clause 25 amends section 208 to provide that an applicant may appeal to the District Court against a decision of the chief executive to refuse to issue a national multiple-use approval.

Clause 26 consequentially amends section 212 by removing a reference to a territorial authority that is a building consent authority issuing project information memoranda before granting a building consent.

Clause 27 amends section 273 by inserting a requirement for the chief executive to keep a register of national multiple-use approvals, and *clause 28* amends section 274 to specify the purpose of the national multiple-use register and the sort of information that it must contain.

Clause 29 amends section 392, which lists circumstances in which no civil proceedings may be brought against a building consent authority. The amendment ensures that no civil proceedings may be

brought for anything done in good faith in reliance on a current national multiple-use approval.

Clause 30 amends section 402, which sets out general regulation-making powers under the Act. The amendment inserts 3 new paragraphs that provide new regulation-making powers, namely powers to:

- prescribe eligibility criteria for national multiple-use approvals; and
- define the sorts of minor variations that may be made to plans and specifications in relation to which a national multiple-use approval has been issued; and
- define the sorts of minor variations that may be made to a building consent by the less formal process introduced in *new section 45A*.

Regulatory impact statement

Executive summary

To improve the efficiency and effectiveness of the building consent process, amendments are proposed to the Building Act 2004, and associated regulations, to—

- extend the Department of Building and Housing's functions to include an ability to issue national multiple-use consents/approvals;
- differentiate between major and minor variations to consented building work as a basis for a building consent authority (**BCA**) to improve management of amendments to building consents;
- make the requirement to obtain a Project Information Memorandum (**PIM**) voluntary and amend the building consent process to include a notification section on the building consent for resource consent issues and other important matters.

These proposals above will reduce both direct and indirect costs to owners and developers associated with the construction process, while ensuring that quality homes and buildings are constructed. Multiple-use consenting will help drive improvements in housing costs and affordability through removing barriers to achieving potential economies of scale through volume builds.

Adequacy statement

The Department of Building and Housing confirms that the principles of the Code of Good Regulatory Practice and the regulatory impact analysis requirements, including the consultation requirements, have been complied with.

The Department of Building and Housing considers the regulatory impact statement is adequate. The statement was circulated with the Cabinet paper for departmental consultation.

Status quo and problem

National multiple-use consents

Building consent applications are assessed on a case-by-case basis by councils, even where the proposed building work is to be replicated within the same subdivision. Developers are required to wait for each building consent to be processed before work can proceed. Information from the Registered Master Builders Federation suggests that approximately 40% of all new homes in New Zealand are built by volume builders.

Efficiencies could be achieved if a system of national multiple-use consenting was introduced to provide for a streamlined approval process under the Building Act for buildings that are to be replicated several times on a nationwide basis. Under such a scheme the building design would be approved/consented on a national level, however a building consent would still be required for each new building at a local level as there are aspects of each building and each site that are unique (eg, ground conditions, foundations, connections to water and other utility services). District plan and resource consent issues would need to be addressed separately. Each building would also still be subject to inspection by the local BCA to ensure the building work complied with the building consent.

Decision making by the local BCA where the building is to be located would therefore be limited to site specific matters and any customisation/variation of a multiple-use consent. This should reduce the time and effort required to process building consents for these buildings, resulting in quicker approvals (subject to the nature and magnitude of any customisation of a multiple-use consent). Another benefit of national multiple-use consenting is that it will give the designer/volume builder a degree of certainty.

An attractive option to delivering national multiple-use consenting would be for BCAs to cluster together to enable this to occur at a national level. However, under the current legislative framework it appears unlikely that this will occur in the foreseeable future. Even if legislation could be amended to facilitate voluntary BCA clustering, it is not certain that this would deliver multiple-use consenting on a national scale.

Because national multiple-use consenting is not a full end-to-end consenting process, it is important that any national consent/approval process integrates with local consenting and inspection processes by BCAs. Better management of variations to consented work will be necessary to facilitate the implementation of national multiple-use consenting.

Amendments to building consents

The existing legislation requires that amendments to building consents are to be made in the same way as an application for a building consent, with any necessary modifications. There are currently no specific requirements or guiding principles in the Act for differentiating between different types of variations to consented building work. This has allowed for a range of approaches to managing amendments to building consents by BCAs. In some cases, minor and major variations to a building consent are being required to go through the formal building consent application process. Concerns have been expressed by participants in the industry that the process for managing variations to building work is adding unnecessary costs and delays to the building process.

Variations to consented building work following the granting of a building consent are common. Some variations to building work may be minor, do not affect compliance with the New Zealand Building Code (the **Building Code**), and of themselves do not affect the granting of a Code Compliance Certificate. Others may be major and are likely to affect compliance with the Building Code. Therefore, some variations to consented building work require a formal amendment to the building consent, while others do not.

Project Information Memorandum

PIMs were intended to provide a one-stop-shop for all information relating to building work requiring building consent. It is important to note that a PIM is not a consent and does not require applicants to do anything. It was envisaged that the PIM would save owners/developers time and money by providing advance warning of issues that needed to be taken into account when developing plans for building work. For example, notification that the proposed work requires a resource consent. PIMs were also seen as having the advantage of requiring councils to implement a systematic approach to gathering data about aspects of their district that would be relevant to owners/developers (eg, areas of flood risk).

However, based on anecdotal information, a minority of PIMs are applied for prior to a building consent application being made. Consequently, the benefit of PIMs in providing advance warning when planning a building project is not realised in most cases. Obtaining and issuing PIMs imposes costs on the owner/developer in the form of—

- professional fees to advisors who either apply for the PIM on behalf of the owner and/or consider the content of the PIM and advise the owner of any issues arising:
- territorial authority fees for issuing the PIM:
- delays in commencing the building work (a PIM must be issued within 20 working days, but this period can be extended if the territorial authority asks for further information).

Different councils charge different fees for PIMs. For example, Auckland City Council charges \$241 (including GST) for a stand alone PIM, or \$204 (including GST) for a PIM that is issued at the same time as a building consent. Wellington City Council on the other hand charges fees for PIMs on a graduated scale relating to the value of proposed work (for work less than \$5,000 the fee is \$65 this rises to a fee of \$455 for work over \$250,000).

Objectives

The objective is to improve the effectiveness and efficiency of the building consent process while ensuring quality homes and buildings are constructed.

Alternative options

National multiple-use consents

In regard to national multiple-use consenting, the following alternative options have been considered:

- amending legislation to require BCAs to provide national multiple-use consenting; or
- establishing a separate, stand alone entity to issue national multiple-use consents/approvals.

The first option above is not preferred because it is not certain that it would deliver national multiple-use consenting. The second option is not preferred because establishing another government building regulator would be a duplication of resources and would also be inconsistent with decisions in 2004 to consolidate building regulatory functions within a single government agency (the Department) to reduce problems and costs associated with regulatory fragmentation.

Amendments to building consents

In regard to better management of variations to consented building work, the following options have been considered:

- amending legislation to differentiate between major and minor variations to consented building work as a basis for BCAs to manage amendments to building consents in an appropriate and timely way; or
- providing Departmental guidance, training and facilitation to BCAs and building consent applicants to support best practice.

The first option above is not preferred because it would only go so far in delivering best practice across all BCAs. There would still be grey areas where discretion and judgement needs to be exercised by BCAs in developing and implementing best practice. The second option is not preferred because Departmental leadership to date has influenced only some BCAs to adopt best practice, while others continue to take a conservative, less efficient approach based on the current legislation.

Project Information Memorandum

In regard to PIMs, the following options have been considered:

- amending legislation to make all PIMs voluntary with no threshold and no other provisos:
- amending legislation to set a threshold of dollar value for building work below which PIMs would be voluntary.

The first option is not preferred as there is a risk that in some cases important information included in the PIM, would not otherwise be brought to the attention of the owner or building consent applicant. In particular, this information would relate to requirements under the Resource Management Act and the Historic Places Act. The second option is not preferred as it would not target the risks identified.

Preferred option

The preferred option is to amend the Building Act 2004 and associated regulations to—

- extend the Department of Building and Housing's functions to include an ability to issue national multiple-use consents/approvals. Reduce the statutory time frame for processing a building consent application from 20 days to 10 days if it includes a national multiple-use consent/approval:
- differentiate between major and minor variations to consented building work as a basis for BCAs to improve management of amendments to building consents, in conjunction with the Department of Building and Housing providing guidance, facilitation and training:
- make the requirement to obtain a Project Information Memorandum (PIM) voluntary and amend the building consent process to include a notification section on the building consent for resource consent issues and other important matters.

The costs and benefits of the preferred option are summarised in Table 1.

Table 1: Costs and benefits of the preferred option

Government	
Costs	Benefits
<i>National multiple-use consents</i>	
<ul style="list-style-type: none"> • Establishment and operational costs of extending the Department's functions to include an ability to issue national multiple-use consents. Establishment costs can be funded by the building levy and ongoing costs would be funded through application fees. • Potential liability to the Crown for design failure of consented designs. However, it is anticipated that this risk is low. 	<ul style="list-style-type: none"> • Less work required by BCAs to process building consents for volume built homes. <p style="text-align: center;"><i>Amendments to building consents</i></p> <ul style="list-style-type: none"> • Appropriate level of scrutiny of variations to consented building work by BCAs. <p style="text-align: center;"><i>Project Information Memorandum</i></p> <ul style="list-style-type: none"> • Less work required by BCAs in collating information for PIM in some cases.
Industry/Sector	
Costs	Benefits
<i>National multiple-use consents</i>	
<ul style="list-style-type: none"> • Application fees for volume builders that decide to use the national multiple-use consenting facility, based on full cost recovery. However, because this is a voluntary route, excessive costs to industry would be self limiting. 	<ul style="list-style-type: none"> • Reduced time and work required to obtain building consents for volume built homes. <p style="text-align: center;"><i>Amendments to building consents</i></p> <ul style="list-style-type: none"> • Reduced cost, time, and work required to obtain amendments to building consents. <p style="text-align: center;"><i>Project Information Memorandum</i></p> <ul style="list-style-type: none"> • Reduced costs in applying for a PIM if decision made not to apply for one. <p style="text-align: center;"><i>All initiatives</i></p> <ul style="list-style-type: none"> • Reduced construction costs in all sectors. • Reduced construction costs in the residential sector resulting in improved housing affordability.

The preferred option would provide a streamlined approval process for certain applications and would make 1 element of the Building Act 2004 optional but would otherwise not impact on the stock of regulation. The proposals do not overlap with existing rules or make any existing rules redundant.

Implementation and review

Amendments to the Building Act 2004 will be included in the earliest possible Building Amendment or Omnibus Bill. However, a vehicle would be required on the 2008 legislative programme.

The proposed amendments and regulations will be publicised to territorial authorities and the building sector through regular communications from the Department of Building and Housing. The amendments and regulations will also be included as part of the overall publicity about measures to address housing affordability.

The Department of Building and Housing will collect information from territorial authorities about the numbers of PIMs issued and the number of building consents issued that relate to national multiple-use consents.

Consultation

The following agencies have been consulted on the proposals in this paper:

- Department of the Prime Minister and Cabinet:
- Department of Internal Affairs:
- Treasury:
- Ministry for the Environment:
- Ministry of Social Development:
- Ministry of Health:
- Housing New Zealand Corporation.

The State Services Commission has been informed.

Local Government New Zealand has also been consulted. Local Government New Zealand supports the proposals in the paper and they want to work through the practical implications of the proposals with government.

The proposals in this paper have also been subject to targeted consultation with selected territorial authorities and other participants from wider industry sector (this has included group home builders, the Registered Master Builders Federation and Certified Builders Association, and the New Zealand Institute of Architects). The general feedback from industry is positive but there is a concern about the detail of the proposals and caution about legislation becoming too restrictive. In regard to national multiple-use consenting, the import-

ance of better managing variations to consented work was identified. Some concerns were raised about the impact national multiple-use consenting might have on future housing developments and land use. As the development of the proposals proceeds, the Department of Building and Housing will continue to work closely with the local government sector and the wider industry.

Hon Shane Jones

Building Amendment Bill (No 2)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Building Amendment Act **(No 2) 2008**.

2 Commencement

- (1) **Sections 7(2), 10 to 14, 18, 20 to 24, and 26** come into force 5
force 6 months after the date on which this Act receives the
Royal assent.
- (2) **Sections 5, 6, 7(1), 8, 9, 15 to 17, 19, 25, and 27 to 29**
come into force on a date appointed by the Governor-General
by Order in Council; and 1 or more Orders in Council may be 10
made appointing different dates for different provisions.
- (3) The rest of this Act comes into force on the day after the date
on which it receives the Royal assent.

Part 1

Preliminary provisions 15

3 Principal Act amended

This Act amends the Building Act 2004.

4 Purpose

The purpose of this Act is to reduce the compliance require-
ments under the principal Act and improve the efficiency of 20
the building consent process by, among other things,—

(a) allowing for national multiple-use approvals; and

(b) introducing a more efficient process for dealing with
minor variations to building consents.

Part 2 25

Amendments to principal Act

5 Interpretation

Section 7 is amended by inserting the following definitions in
their appropriate alphabetical order:

“**minor variation** means,— 30

“(a) in relation to a national multiple-use approval, a minor
modification, addition, or variation, permitted by regu-

- lations made under **section 402(1)(kb)**, to the plans and specifications to which that national multiple-use approval relates; and
- “(b) in relation to a building consent, a minor modification, addition, or variation, permitted by regulations made under **section 402(1)(kc)**, to that building consent”
- 5
“national multiple-use approval means an approval issued by the chief executive under **section 30F**”.
- 6 Role of chief executive** 10
 Section 11 is amended by inserting the following paragraph after paragraph (b):
 “(ba) determines applications for national multiple-use approvals; and”.
- 7 Outline of this Part**
 (1) Section 15(1) is amended by inserting the following paragraph after paragraph (b): 15
 “(ba) the effect of a national multiple-use approval and how to apply for one:”
- (2) Section 15(1) is amended by repealing paragraph (c) and substituting the following paragraph: 20
 “(c) when a project information memorandum is required and how to apply for one:”.
- 8 How compliance with building code is established**
 Section 19(1) is amended by inserting the following paragraph after paragraph (c): 25
 “(ca) a current national multiple-use approval issued under **section 30F**, if any relevant condition in that national multiple-use approval is met:”.
- 9 New heading and sections 30A to 30H inserted** 30
 The following heading and sections are inserted after section 30:

“National multiple-use approvals

- “30A National multiple-use approval establishes compliance with building code**
- “(1) A national multiple-use approval establishes that the plans and specifications to which it relates comply with the building code. 5
- “(2) To avoid doubt, a national multiple-use approval does not confer the right to carry out building work that requires a building consent.
- “30B How to apply for national multiple-use approval** 10
- “(1) An application for a national multiple-use approval must—
- “(a) be made in writing; and
 - “(b) be given, in the prescribed form and manner (if any), to the chief executive; and
 - “(c) contain the prescribed information (if any); and 15
 - “(d) be accompanied by plans and specifications that are—
 - “(i) required by regulations made under section 402; or
 - “(ii) if the regulations do not so require, required by the chief executive; and 20
 - “(e) if the application relates to building work for which a compliance schedule is required, be accompanied by a list of all specified systems for the building; and
 - “(f) contain or be accompanied by any other information that the chief executive reasonably requires. 25
- “(2) An application for an amendment to a national multiple-use approval must be made as if it were an application for a national multiple-use approval, and **sections 30A to 30H** apply with any necessary modifications.
- “30C Applications for national multiple-use approval relating to design work that is restricted building work** 30
- “(1) This section applies if an application for a national multiple-use approval is accompanied by plans and specifications that contain design work (relating to building work) that is design work of a kind declared by the Governor-General by Order in 35

Council to be restricted building work for the purposes of this Act.

- “(2) The design work referred to in **subsection (1)** must be carried out or supervised by 1 or more licensed building practitioners who are licensed to carry out or supervise that work. 5
- “(3) The plans and specifications that contain the design work referred to in **subsection (1)** must be accompanied by a memorandum—
- “(a) provided by 1 or more licensed building practitioners who carried out or supervised that design work; and 10
- “(b) that identifies that design work; and
- “(c) that states—
- “(i) that the design work complies with the building code; or
- “(ii) whether waivers or modifications of the building code are required and, if so, what those waivers or modifications are. 15
- “**30D Chief executive must decide whether to accept, for processing, application for national multiple-use approval**
- “(1) The chief executive must, as soon as practicable after receiving an application for a national multiple-use approval,— 20
- “(a) decide whether to accept that application for processing; and
- “(b) give written notice of his or her decision to the applicant; and 25
- “(c) if the chief executive decides to refuse to accept the application for processing, state the reasons for the refusal in the notice given under **paragraph (b)**.
- “(2) The chief executive may require further reasonable information in respect of the application. 30
- “(3) The chief executive may refuse to accept for processing an application for a national multiple-use approval only if the chief executive is satisfied, on reasonable grounds, that the application—
- “(a) does not meet the requirements of this Act; or 35
- “(b) includes a building method or product in relation to which the chief executive has publicly notified a ban under section 26; or

“(c) does not meet the prescribed eligibility criteria (if any) for a national multiple-use approval.

“30E Processing application for national multiple-use approval

“(1) The chief executive must, after accepting for processing an application for a national multiple-use approval, decide whether to— 5

“(a) issue the national multiple-use approval; or

“(b) refuse to issue the national multiple-use approval.

“(2) The chief executive may require further reasonable information in respect of the application before making the decision in **subsection (1)**. 10

“30F Issue of national multiple-use approval

“(1) The chief executive must issue a national multiple-use approval if he or she is satisfied, on reasonable grounds, that—

“(a) the application meets the requirements of **section 30B**; and 15

“(b) the applicant has paid the prescribed fee (if any); and

“(c) the application meets the prescribed eligibility criteria for a national multiple-use approval (if any); and

“(d) the application does not involve the use of a building method or product in relation to which the chief executive has publicly notified a ban under section 26; and 20

“(e) if building work were properly completed in accordance with the plans and specifications that accompanied the application, that building work would comply with the building code. 25

“(2) A national multiple-use approval may be issued subject to—

“(a) a waiver or modification of the building code; and

“(b) 1 or more conditions, including, but not limited to, conditions that the approval applies only— 30

“(i) in specified regions; or

“(ii) in specified climates or conditions; or

“(iii) to specified aspects of the building work; or

“(iv) if the building work complies with specified requirements. 35

“30G Refusal to issue national multiple-use approval

If the chief executive is not satisfied of the matters in **section 30F**, the chief executive must refuse to issue a national multiple-use approval and must give the applicant written notice of—

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“(a) the refusal; and

“(b) the reasons for the refusal.

“30H Suspension or revocation of national multiple-use approval

“(1) The chief executive may, at any time, suspend or revoke a national multiple-use approval, if the chief executive is satisfied that—

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“(a) the approval was obtained by fraud, misrepresentation, or the concealment of facts; or

“(b) the approval no longer meets the prescribed eligibility criteria for a national multiple-use approval; or

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“(c) building work properly completed in accordance with the approval will no longer comply with the building code because of an amendment to the code.

“(2) Before revoking or suspending a national multiple-use approval the chief executive must give the holder of the approval a reasonable opportunity to be heard.

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“(3) When suspending a national multiple-use approval, the chief executive must—

“(a) give the holder of the approval a reasonable period to rectify the matter that led to the suspension of the national multiple-use approval; and

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“(b) lift the suspension if the chief executive is satisfied that the holder of the approval has rectified the matter within that period.

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“(4) Despite **subsections (1) and (3)**, the chief executive must not suspend or revoke a national multiple-use approval if—

“(a) amendments are made to—

“(i) the prescribed eligibility criteria for a national multiple-use approval; or

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“(ii) the building code; and

- “(b) the national multiple-use approval no longer meets the eligibility criteria, or complies with the building code, solely as a result of those amendments.
- “(5) The limit in **subsection (4)** applies only during the period of 3 months after the date on which the amendments referred to in that subsection come into force. 5
- “(6) The chief executive must record the suspension or revocation of a national multiple-use approval in the register of national multiple-use approvals.”
- 10 Building consent authority must apply for project information memorandum** 10
 Section 31(2)(a) is amended by omitting “(in which case the territorial authority must issue the project information memorandum for the building work and provide a copy of the memorandum to the owner)”. 15
- 11 Content of project information memorandum**
 Section 35 is amended by inserting the following subsection before subsection (1):
- “(1AA) A project information memorandum must be issued in the prescribed form (if any).” 20
- 12 New section 36 substituted**
 Section 36 is repealed and the following section substituted:
- “36 Territorial authority may issue development contribution notice**
- “(1) This section applies if a territorial authority considers that a development contribution under the Local Government Act 2002 is payable by the owner. 25
- “(2) The territorial authority must issue a notice, in the prescribed form, to the effect that a code compliance certificate for the building work will not be issued unless the development contribution is paid (**development contribution notice**). 30
- “(3) The development contribution notice must be—
- “(a) attached to the project information memorandum; or
- “(b) if no project information memorandum has been applied for, provided to the building consent authority.” 35

- 13 Territorial authority must attach additional certificate to project information memorandum**
- (1) Section 37 is amended by omitting the heading and substituting the following heading: “**Territorial authority must issue certificate if resource consent required**”. 5
- (2) Section 37(1)(b) is amended by inserting “or an application for a building consent” after “memorandum”.
- (3) Section 37(2) is amended by omitting “attach to the project information memorandum” and substituting “issue”.
- (4) Section 37 is amended by adding the following subsection: 10
- “(3) The certificate must be—
- “(a) attached to the project information memorandum; or
- “(b) if no project information memorandum has been applied for, provided to the building consent authority.”
- 14 New section 39 substituted** 15
- Section 39 is repealed and the following section substituted:
- “39 Territorial authority must advise New Zealand Historic Places Trust in certain circumstances**
- “(1) This section applies if— 20
- “(a) an application for a project information memorandum, or for a building consent, affects a registered historic place, historic area, wāhi tapu, or wāhi tapu area; and
- “(b) the territorial authority has not previously advised the New Zealand Historic Places Trust about the building work to which that application relates. 25
- “(2) The territorial authority must advise the New Zealand Historic Places Trust within 5 days after receiving the application.”
- 15 How to apply for building consent**
- (1) Section 45(1) is amended by inserting the following paragraph after paragraph (b): 30
- “(ba) if a national multiple-use approval has been issued to the applicant in relation to some or all of the plans and specifications required under paragraph (b), be accompanied by—
- “(i) a copy of that national multiple-use approval; and 35
- “(ii) details of any proposed minor variations to those plans and specifications; and”.

- (2) Section 45 is amended by repealing subsections (2), (4), and (5) and substituting the following subsections:
- “(2) If an application for a building consent is accompanied by plans and specifications that contain design work (relating to building work) that is design work of a kind declared by the Governor-General by Order in Council to be restricted building work for the purposes of this Act, that design work must be carried out or supervised by 1 or more licensed building practitioners who are licensed to carry out or supervise that work. 5
- “(3) The plans and specifications that contain the design work referred to in **subsection (2)** must be accompanied by a memorandum— 10
- “(a) provided by 1 or more licensed building practitioners who carried out or supervised that design work; and
- “(b) that identifies that design work; and 15
- “(c) that states—
- “(i) that the design work complies with the building code; or
- “(ii) whether waivers or modifications of the building code are required and, if so, what those waivers or modifications are. 20
- “(4) An application for an amendment to a building consent must,—
- “(a) in the case of a minor variation, be made in accordance with **section 45A**; or 25
- “(b) in all other cases, be made as if it were an application for a building consent, and this section, and sections 48 to 51 apply with any necessary modifications.”
- 16 New section 45A inserted**
- The following section is inserted after section 45: 30
- “45A Minor variations to building consents**
- “(1) An application for a minor variation to a building consent—
- “(a) is not required to be made in the prescribed form; but
- “(b) must comply with all other applicable requirements of section 45. 35
- “(2) Sections 48 to 50 apply, with all necessary modifications, to an application for a minor variation.

- “(3) A building consent authority that grants a minor variation—
 “(a) must record the minor variation in writing; but
 “(b) is not required to issue an amended building consent.”

17 Processing application for building consent

- (1) Section 48 is amended by repealing subsection (1) and substituting the following subsections: 5
- “(1) After receiving an application for a building consent that complies with section 45, a building consent authority must, within the time limit specified in **subsection (1A)**,—
- “**(a)** grant the application; or 10
 “**(b)** refuse the application.
- “(1A) The time limit is—
- “**(a)** if the application includes plans and specifications in relation to which a national multiple-use approval has been issued to the applicant, within 10 working days after receipt by the building consent authority of the application; or 15
 “**(b)** in all other cases, within 20 working days after receipt by the building consent authority of the application.”
- (2) Section 48(2) is amended by omitting “(1)” and substituting “**(1A)**”. 20

18 Issue of building consent

- (1) Section 51(1)(b)(i) is amended by inserting “(if any)” after “memorandum”. 25
- (2) Section 51(1) is amended by inserting the following paragraph after paragraph (b):
 “(ba) contain confirmation that the New Zealand Historic Places Trust has been notified under **section 39** (if applicable); and”. 25
- (3) Section 51 is amended by repealing subsections (3) and (4) and substituting the following subsections: 30
- “(3) If a building consent authority does not, within the time limit for issuing the building consent, receive from the territorial authority any document or information required for compliance with subsection (1)(b) **or (ba)**, the building consent authority may issue the building consent despite that subsection. 35

“(4) However, the building consent authority must, on receiving the document or information referred to in **subsection (3)**, provide the owner with the document or information.”

19 Waiver or modification may only be granted by chief executive in certain cases

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Section 69(3) is amended by adding “or that is contained in a national multiple-use approval”.

20 Conditions on building consents granted under section 72

Section 73(2) is amended by omitting “the project information memorandum” and substituting “any project information memorandum that has been issued and”.

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21 Steps after notification

Section 74(1)(a) is amended by omitting “the project” and substituting “any project”.

22 Construction of building on 2 or more allotments

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(1) Section 75(1)(a) is amended by inserting “or for a building consent” after “memorandum”.

(2) Section 75 is amended by repealing subsection (2) and substituting the following subsection:

“(2) 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.”

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23 Building consent must not be granted until condition is imposed under section 75

(1) Section 77(1) is amended by omitting “a certificate imposing the condition referred to in section 75(2)” and substituting “the certificate under section 75(2)”.

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(2) Section 77 is amended by adding the following subsection:

“(5) The building consent authority must note, on the building consent, the condition imposed in the certificate.”

- 24 Registrar-General of Land must record entry on certificate of title when certificate is lodged under section 77**
 Section 78(1) is amended by omitting “in section 75(2)” and substituting “in that certificate”. 5
- 25 Appeals to District Court**
 (1) Section 208(1)(b) is amended by adding “; or” and also by adding the following subparagraph:
 “(iii) refuse to issue a national multiple-use approval.”
 (2) Section 208(2) is amended by adding “; or” and also by adding 10
 the following paragraph:
 “(d) in the case of an appeal under **subsection (1)(b)(iii)**,
 the applicant for the national multiple-use approval.”
- 26 Territorial authority must act as building consent authority for its district** 15
 Section 212 is amended by repealing subsection (3) and substituting the following subsection:
 “(3) A territorial authority must, in performing its functions as a building consent authority, provide to the New Zealand Fire Service Commission a copy of every application for a building consent of a kind specified by notice under section 46.” 20
- 27 Chief executive must keep registers**
 Section 273(1) is amended by inserting the following paragraph before paragraph (a):
 “(aaa) a register of national multiple-use approvals:”. 25
- 28 Purpose of registers**
 Section 274(a) is amended by inserting the following subparagraph before subparagraph (i):
 “(iaa) in the case of the register of national multiple-use approvals, the names and contact details of the persons who have been issued with national multiple-use approvals, together with a description of each approval and any conditions that have been imposed; and”. 30

29 Building consent authority not liable

Section 392(1) is amended by inserting the following paragraph after paragraph (c):

“(ca) a current national multiple-use approval issued under **section 30F**.”.

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30 Regulations: general

Section 402(1) is amended by inserting the following paragraphs after paragraph (k):

“(ka) prescribing eligibility criteria for national multiple-use approvals:

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“(kb) defining the minor variations that may be made to plans and specifications in relation to which a national multiple-use approval has been issued when applying for, or determining an application for, a building consent:

“(kc) defining the minor variations that may be made to a building consent for the purposes of **section 45A**.”.

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