

1. Purpose

This practice note provides guidance on how Auckland Council manages design changes to the consented plans after the consent has been granted and issued. Design changes prior to consent issue are treated as revisions and not subject to this practice note.

There are two options for managing design changes after consent issue they are:

1. An amendment; or
2. A minor variation

Amendments and minor variations must be applied for and approved before the work can proceed; a minor variation can be approved on site by the Building Inspector at the time of the inspection. In both instances adequate documentation must be supplied to enable an assessment to take place (refer sections 4 and 5 respectively for further clarification).

2. Legislation

Under section 40 of the Building Act 2004, a person must not carry out any building work except in accordance with a building consent.

The underlying intent of this clause is that:

- at the time the building consent is issued, the proposed building work will comply with the Building Code
- any changes during construction are reassessed before they are implemented and do not impact on compliance with the Building Code
- consented plans reflect what has actually been built; and
- work can proceed without undue delay

3. Principle based approach

Auckland Council will adopt a principles-based approach based on the advice provided by the Ministry of Business Innovation and Employment (MBIE).

When dealing with variations to a building consent Council will consider:

- the size and impact of the variation
- whether the variation impacts on Building Code performance as was assessed at the time the original consent application was made
- whether construction involves restricted building work (RBW); and
- whether the variation impacts on compliance with other Acts or Regulations

Where the work materially affects compliance with the Building Code, a formal amendment may be required.

Amendments to a building consent **do not** extend the time to start or complete the building work; they merely document a change to the approved design in the original consent.

4. New building work

If the applicant proposes to carry out additional building work i.e. work that was **not** shown on the original consent application, a new building consent application will be required.

Examples of new building work include but are not limited to: -

- increasing the building footprint;
- adding another floor; or
- erecting an ancillary building or outbuilding, etc.

5. Definition of an amendment

Amendments occur when the changes materially affect compliance. Inspections may only proceed **if** the building work, which is the subject of the amendment, does not affect the inspection that has been booked.

Examples of amendments include but are not limited to:

- an alteration that changes the footprint of the building¹
- the location or removal of internal load bearing supports
- substantive change in ground levels resulting in changes to foundations / retaining structures
- any change to fire or acoustic rated elements
- any change to the exterior cladding or external waterproof membranes
- any change to pool fencing
- any change to a specified system
- any change to accessibility

6. Definition of a minor variation

A minor variation is work that does not materially affect compliance with the Building Code

Examples of minor variations include but are not limited to:

- minor wall bracing changes
- minor construction changes e.g. changing the framing method around a window
- changing a room layout
- changing one brand of insulation for another
- changing one brand of wall lining for another
- changing membranes to wet areas (internal only)

Important notes:

The owner must sign the application form acknowledging the minor variation. Inspections may only proceed if the variation has been documented and approved refer to next section.

7. Documenting the change

Regardless of whether the change is for an amendment or a minor variation, the changes must be documented and adequately described.

Amendments

The mechanism for seeking approval of an amendment is via our online portal at on our website here: <https://www.aucklandcouncil.govt.nz/building-and-consents/building-consents/Pages/apply-for-building-consent.aspx>

If the amendment relates to a reclad consent, which was processed or referred to the Reclad Team, it must be processed by the Reclad Team.

BRANZ and MBIE levies are payable on amendments if the value of building work for the original consent or consecutive amendments exceeds \$20,444 and there is an increase in costs. Accreditation levies apply regardless of building value.

¹ Minor changes to the footprint are permissible as an amendment; as long as the increase does not impact on site coverage or daylight angles however, significant changes will require a new building consent

Minor variations

The mechanism for requesting approval of a variation is via the application form [AC2131 On-site application for minor variation to approved plans](#) or with the building inspector on-site.

Minor variations may be approved by the Building Inspector on site and can be dealt with by completing the above application form and/ or providing details of the variation for the inspector to complete the digital application. However, the work must be minor in nature.

In some cases, plans will need to accompany the application form and it is preferable that the plans are supplied digitally.

The owner or their agent must acknowledge all variations in writing; the owner/agent can do this by signing the application form "[AC2131 On-site application for minor variation to approved plans](#)" or signing the digital form onsite.

8. Other legislation

In some situations, the design change may be relatively minor in terms of the Building Act but could affect other legislation such as the Resource Management Act.

For example:

- the applicant wants to make a small increase to the size of a deck that already has building consent approval; however, the deck is on the side of the building and any movement toward the boundary will potentially breach the side yard rule of the Unitary Plan
- the dwelling has been sited closer to the boundary; this may have planning implications such as height in relation to boundary / daylight infringements

A minor variation approval does not constitute approval under the Resource Management Act; we recommend that you seek advice from Auckland Council's Resource Consents Department on this aspect of your proposal. If the work requires resource consent, work cannot lawfully commence until this approval has been obtained.

In these circumstances, a building consent amendment is likely to be required to consider all relevant issues.

9. Commercial building work

Commercial construction is defined as building projects that are overseen by a project management company with the requisite support from engineers, architects etc.

In this situation, building work is generally supervised by a company independent to the project management company or the owner / developer.

To facilitate efficient construction processes, Council will work with the project management company to agree:

- how amendments and minor variations are managed
- the level of assurance required so that Council can be assured that the proposed changes comply with the Building Code

10. References

[Building Act 2004 section 40](#): buildings not to be constructed, altered, demolished or removed without consent

MBIE Guidance: <https://www.building.govt.nz/projects-and-consents/build-to-the-consent/making-changes-to-your-plans/minor-variations-guidance/>