

SM012 State Highway Control Manual

Part 6 - Consolidated Building Act Sections

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Building Act

Introduction

NZTA is required to comply with the provisions of the Building Act 2004 and the Building regulations 1992.

The Act controls the construction, alteration and demolition of 'buildings' and includes requirements for the management of some 'buildings' once constructed.

NZTA is an "owner" under the Act and a number of roading structures are defined as "buildings", e.g. bridges, tunnels, culverts, retaining walls greater than 1.5 m high or with a surcharge.

Application

The Act applies to demolition, alteration, design, construction, installation and for some buildings, to ongoing inspection and maintenance procedures. Where required, these procedures are specified in "compliance schedules" for the building concerned.

The Act does not affect:

- planning matters which are controlled by resource management legislation;
 - people's activities within buildings;
 - requirements that certain tasks may be undertaken by people who have certain qualifications.
-

Exemptions

Exemptions from the Act include

- scaffolding and falsework in construction
 - dangerous goods containers and explosives magazines
 - stand-alone machinery systems, cableways
-

Compliance with Building Code

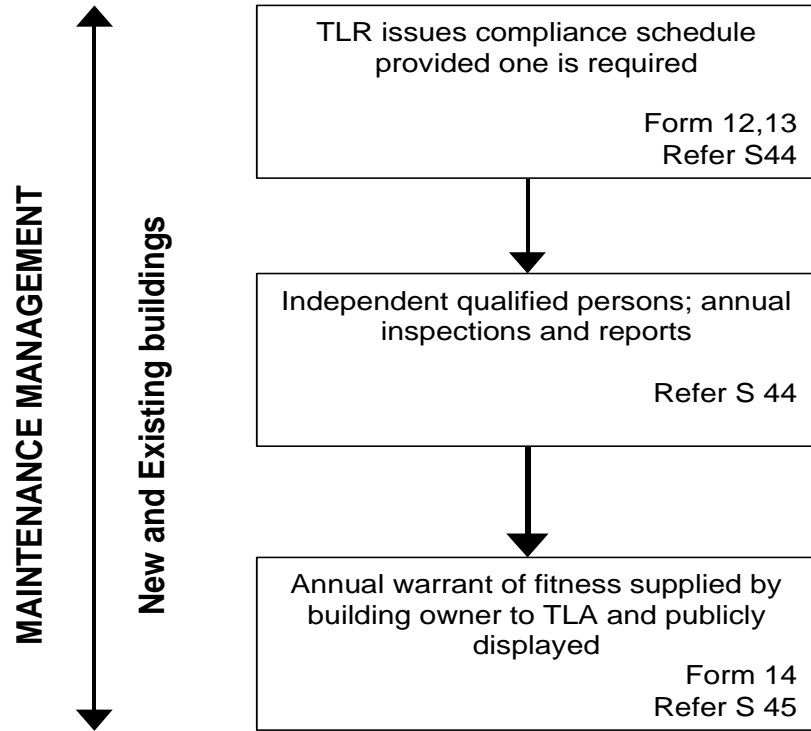
All building work must comply with the Building Code. The Building Code is performance based. It lays down the functional requirements for a building and sets out the performance criteria with which buildings must comply.

Territorial local authorities have power to waive or modify most provisions of the Building Code. Territorial authorities' decisions under the Act can be referred to the BIA for determination. Every waiver or modification of the Building Code needs to be notified to the BIA.

Building consent means consent to carry out building work. It is granted by a territorial local authority.

Compliance Schedule

If a compliance schedule is required then the building will require an annual warrant of fitness. A compliance schedule is issued by a territorial local authority for new buildings. Note only certain buildings require a compliance schedule (s44). If a compliance schedule is required the flow chart given in Figure 6.2 can be extended as follows:



NZTA Policy on Building Act

Figure 6.1 diagrammatically describes the structure of the Act. Noted on the diagram are the other methods of satisfying the requirements of the Code as described in the Act.

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Figure 6.1

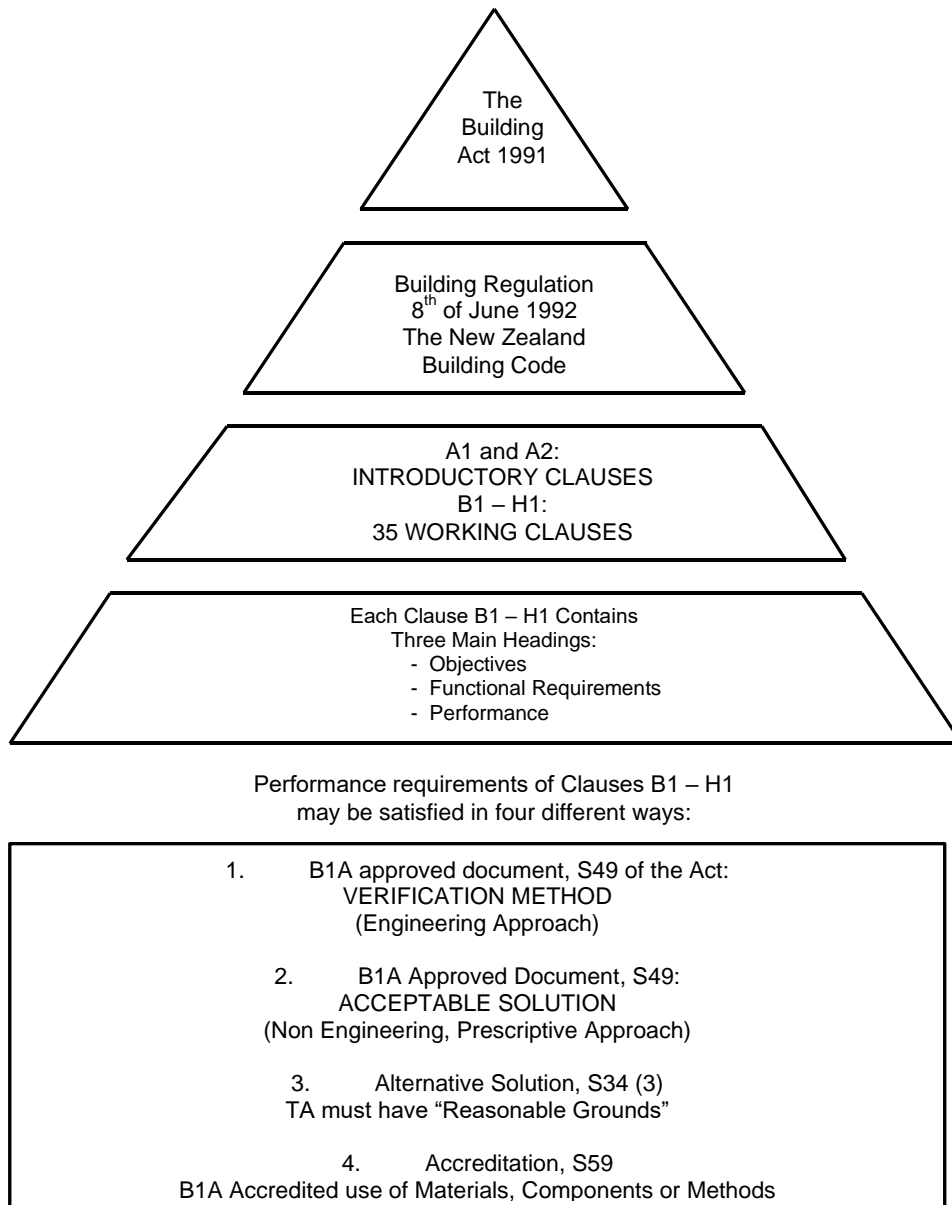
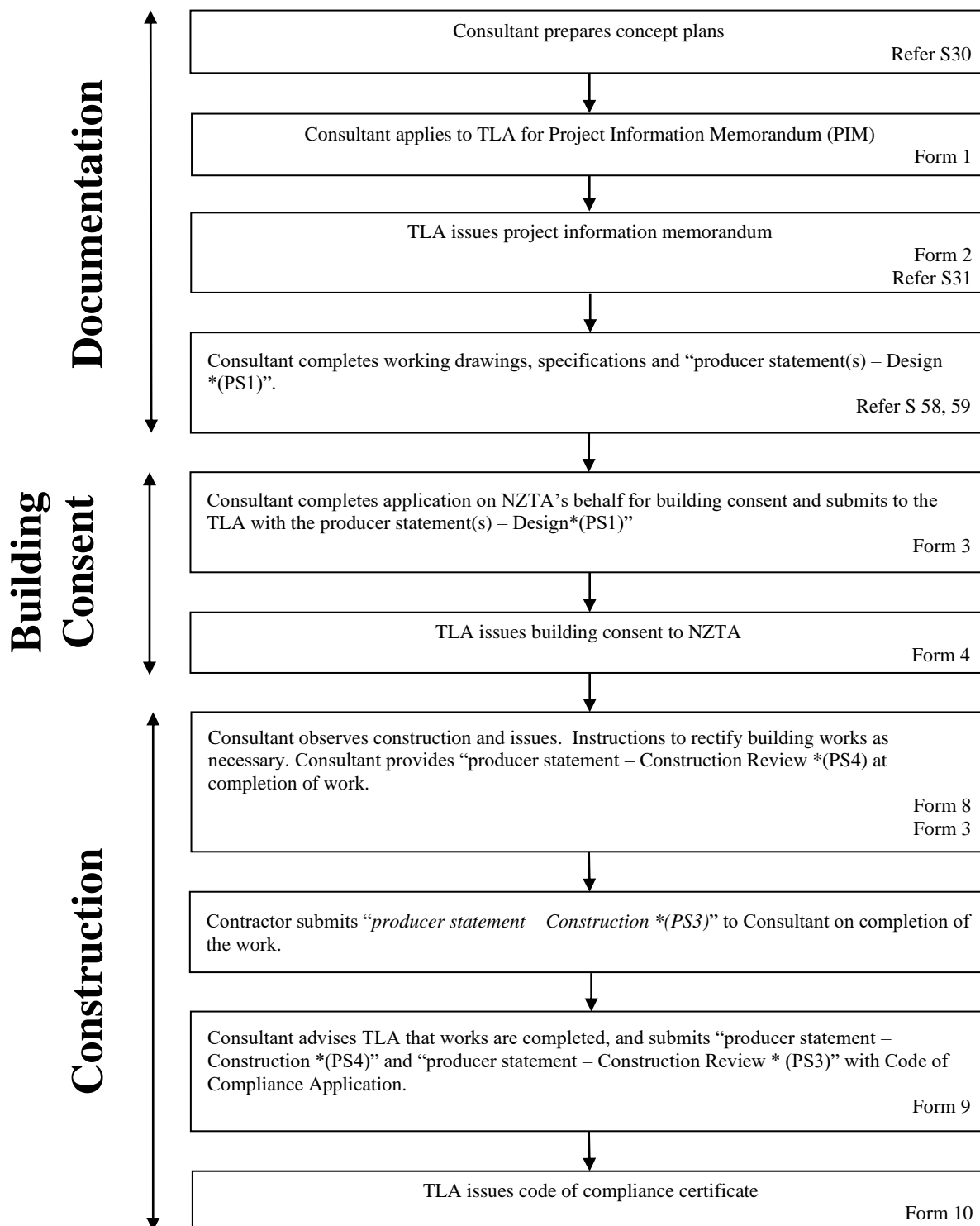


Figure 6.2 covers the building approval process modified to reflect NZTA’s procedures.

Figure 6.2

THE BUILDING ACT Conception to Occupancy – NZTA’s Procedures



NOTES:

1. Project information memorandum to be obtained before working drawing, etc. are commenced.
2. Building certifiers and their possible role in the building process are not indicated on this chart. NZTA’s policy is that building certifiers are not used.
3. TLA - Territorial Local Authority.
4. All forms noted above are in the Regulations.
5. All sections noted above are sections in the Act, e.g. S 30 is Section 30 in the Act.

Roading work requiring building consent (s 3, s 32)

Generally, any structural work (construction, structural maintenance, alternations, and demolition) with the exception of roads, cuttings and embankments, requires a building consent. Significant exemptions (the third schedule) as they affect NZTA are:

- routine maintenance, routine repairs, and refurbishment;
- any lighting column, signpost or sign gantry;
- retaining walls less than 1.5 m high provided there is no surcharge, including vehicles;
- walls and fences not more than 2 m high;
- any platform or bridge less than 1 m high;
- temporary construction buildings or works (with limitations); unless classified as a building in terms of the act;
- culverts (any buried waterway).

Building consent applications shall only cover those aspects of a project requiring building consent.

Unless otherwise required by NZTA, all permanent structures should be classified in building consent applications as having an indefinite life.

Project Information Memorandum (s 30, s 31)

A project information memorandum contains.

- a. Information about the land that is known to the territorial authority; e.g.:
 - potential land instability
 - likely presence of hazardous contaminants
 - special local wind effects
 - filled ground
- b. Information regarding a territorial authority's and network utility operator's requirements under other Acts; i.e. an insight into statutory requirements.

Project information memorandum should be applied for by the consultant once concept plans have been prepared.

It should not be delayed until the time of the building consent application. The information provided by the territorial authority is to be available for reference during the production of working drawings and specifications.

Note: A land information memorandum can be applied for from the territorial authority. It is not issued under the Building Act but under the Local Government Official Information and Meetings Amendment Act 1991.

Building Certifiers (s 51, s 53)

Building certifiers shall not be used in the documentation phase or construction phase of a project requiring a building consent.

Producer statements (s33(5), s2)

A producer statement is a statement from the consultant or the contractor that confirms the design or construction has been carried out in accordance with certain technical specifications and complies with the Building Code.

Producer statements are to be obtained from all consultant(s) and contractor(s) involved on the project. These statements are to be submitted to the territorial authority with an application for a building consent and with the advice that the building work has been completed.

These statements are to be made part of the **deliverables** from the consultant and a condition of substantial completion for the physical works contract.

The consultant is to obtain the producer statement from the contractor when advising the territorial authority that the work has been completed.

The form of the producer statements is given in Appendix 5A.

Accreditation (s58, s59)

Manufacturers and suppliers should be encouraged to obtain accreditation for their product or process when they are commonly used by NZTA. NZTA will not generally apply for accreditation certificates on behalf of suppliers and manufacturers.

Code Compliance Certificate

All road works that require a building consent must also receive a code compliance certificate on completion. Where a territorial authority refuses to issue a code compliance certificate, the contractor (and consultant as appropriate) shall take all necessary action to satisfy the territorial authority that a code compliance certificate can be issued. The work shall be done at no additional cost to NZTA.

The special conditions of contract that relate to code compliance certificates and the monetary retention shall be included in all contracts for works that require a building consent.

Note: Territorial authorities will give written reasons for refusing to issue a code compliance certificate.

Compliance Schedules (s 44, s 45)

Compliance schedules when issued will be held, and acted upon by the regional office concerned. It shall be the responsibility of the Manager, System Management to ensure that the current warrant of fitness (or statement of fitness s45) is publicly displayed in the appropriate place in the building. A register of all NZTA buildings that have compliance schedules and warrants of fitness shall to be kept in each regional office. System Managers are to ensure appropriately qualified personnel ("independent qualified persons") are used for the inspection, reporting, and maintenance requirements of the systems.

Emergency Works (s 83)

NZTA is permitted to undertake emergency works without a building consent, even if those works would have required a consent, provided the works are necessary to save or protect life, health, prevent serious damage to property, or to restore the operational capacity of the road. (s83).

If these emergency works would normally have required a consent and are "permanent", then an application for a consent should be made to the territorial authority immediately the emergency is over. Where the emergency works are within the NZTA interpretation of the third schedule (refer 1 above) but require a territorial authority's agreement that a consent is not required, the territorial authority shall be advised of the situation immediately the emergency is over.

NZTA Bridge Manual

The NZTA Bridge Manual is not an approved document in terms of the Building Code. The manual was given technical approval by the BIA but agreement could not be reached on use of the disclaimer.

Territorial Authority Charges

Where the territorial authority charge is required to be paid with the application, it shall be paid for by the consultant acting on behalf of NZTA. These charges will be considered a reimbursable expense in the consultant's conditions of engagement with NZTA.

**Building Documentation
/Certificates**

Copies of the following documents will be held by the consultant and the NZTA regional office concerned for all building works requiring a building consent:

- Project information memorandum
 - Building consent
 - Code compliance certificate
 - Compliance schedule (if required)
 - Annual warrant of fitness (by NZTA regional office only) plus copies of building inspection reports for a two year period.
-

Contract Documentation

Appropriate clauses covering the Building Act will be found in the standard contract pro forma.

Producer Statements for Design, Construction and Construction Reviews

In this Section

This section reproduces the forms used for producer statements.

PRODUCER STATEMENT – DESIGN (PS1)

ISSUED BY: _____
(Suitably qualified design professional)

TO: NEW ZEALAND TRANSPORT AGENCY

IN RESPECT OF: _____
(Description of Building Work)

AT: _____

(Address)

ROUTE POSITION: _____

_____ has been engaged by New Zealand Transport Agency
(Design Firm)

to provide _____
(Extent of Engagement)

services in respect of requirements of Clause(s) _____
of the Building Regulations 1992 for

- All Part only as specified

of the building work. The design has been prepared in accordance with _____
(verification method(s)/acceptable solution(s))

(respectively) of the approved documents issued by the Building Industry Authority and the work is described

on _____ drawings titled _____
(Design Firm)

and numbered _____ and the specification and other documents according to which the building is
proposed to be constructed.

As an independent design professional covered by a current policy of Professional Indemnity Insurance to a minimum value of \$200,000, **I BELIEVE ON REASONABLE GROUNDS** that subject to:

(i) the verification of the following design assumptions _____

and (ii) all proprietary products meeting the performance specification requirements, the drawings, specifications, and other documents according to which the building is proposed to be constructed comply with the relevant provisions of the building code.

_____ Date _____
(Signature suitable qualified Design Professional)

_____ RA/AERB Reg No _____
(Professional Qualifications)

_____ IPENZ NZIA
(Address)

This form to accompany Form 3 of the Building Regulations 1992 for the application of a Building Consent.

Building Consent No.

PRODUCER STATEMENT – CONSTRUCTION (PS3)

ISSUED BY: _____
(Contractor)

TO: NEW ZEALAND TRANSPORT AGENCY

IN RESPECT OF: _____
(Description of Building Work)

AT: _____
(Address)

ROUTE POSITION: _____

_____ has contracted to New Zealand Transport Agency
(Construction)

to construct the building works described by the drawings and specifications prepared by

_____ titled _____
(Design Firm) (Project)

and numbered _____, authorised variation Nos. _____

(copies attached) issued by _____ and other
(Design Firm)

documents according to which the building is proposed to be constructed.

I _____ a duly authorised agent of _____ have
(Duly Authorised Agent) (Contractor)

sighted Building Consent No. _____ and the attached conditions

of building consent and **BELIEVE ON REASONABLE GROUNDS** that

All Part only as specified in the attached particulars

of the building work under the above building consent has been completed to the extent required by that building consent.

_____ Date _____
(Signature of Duly Authorised Agent)

on behalf of

(Contractor)

(Address)

This form to accompany Form 9 of the Building Regulations 1992 for the application of a Code Compliance Certificate

Building Consent No.

Building Regulation Clause(s)

PRODUCER STATEMENT - CONSTRUCTION REVIEW (PS4)

ISSUED BY: _____
(Suitably qualified Design Professional)

TO: NEW ZEALAND TRANSPORT AGENCY

IN RESPECT OF: _____
(Description of Building Work)

AT: _____

(Address)

ROUTE POSITION: _____

_____ has been engaged by New Zealand Transport Agency
(Design Firm)

to provide _____ services
(Extent of Engagement)

in respect of clause(s) _____ of the Building Regulations 1992 for the building work described
by the drawings and specifications prepared by _____

(Design Firm)

titled _____ and numbered _____

Authorised variation(s) No. (copies attached) have been issued during the course of the works. I have sighted Building
Consent No. _____

and the attached conditions of building consent. As an independent design professional covered by a current policy of
Professional Indemnity Insurance to a minimum value of \$200,000, I or personnel under my control have carried out
periodic reviews of the work appropriate to the engagement and based upon these reviews and information supplied by
the contractor during the course of the works **I BELIEVE ON REASONABLE GROUNDS** that

All Part only as specified in the attached particulars

of the building work under the above building consent with respect to Clause(s) _____

of the Building Regulations 1992 has been completed to the extent required by that building consent.

(Signature suitable qualified Design Professional) Date _____

(Address) IPENZ NZIA

This form to accompany Form 9 of the Building Regulations 1992 for the application of a Code Compliance Certificate.