

PART ONE: Application for determination

Section 178, Building Act 2004

Part One is equivalent to Form 14 in the Building (Forms) Regulations 2004



Before you apply, please check:

- You are legally able to do so** – you must be a ‘party’ to the determination as defined in **section 176 of the Act** (refer to **section D** for who can be a party)
- The Ministry can determine your particular dispute** – determinations can only consider whether building work complies with the Building Code, or whether a building consent authority or territorial authority (a council) made the correct decisions in a number of specified circumstances; eg about issuing a building consent or code compliance certificate (refer to **section G** for what the Ministry can determine).
- You have the correct form** – This form relates to all other matters that can be determined, but not powers exercised during an emergency or designation under section 133BC (refer to **section G** for what matters this form is for). Complete application **Form 14A** for determinations that can consider decisions relating to building affected by emergency and when a designation under section 133BC is in place.

The Ministry’s website at:

www.building.govt.nz/resolving-problems/ has more information on determinations and links to other options for resolving your dispute. You can also contact the Determinations team at **determinations@mbie.govt.nz** or **0800 242 243** for more help.



A. HOW TO APPLY FOR A DETERMINATION

1. Complete Part One and section M of Part Two.
2. Pay the correct fees via direct debit (section J explains how to do this).
3. Send your completed application, including supporting documents to the Ministry, by:
 - a. scanning and emailing them to **determinations@mbie.govt.nz**, (preferred option) or
 - b. posting a copy to:
**Determinations,
Ministry of Business, Innovation and Employment,
PO Box 1473,
Wellington 6140, New Zealand.**
4. Send a copy of your completed application, including Part Two and supporting documentation, to each of the other parties. The other parties will need to fill in Part Two and return it to us. All parties can send a written response to the Ministry setting out their views on the matter in dispute.

B. APPLICANT(S) DETAILS

Name: *[include preferred form of address if an individual; eg Mr, Ms, Dr]*

Contact person: *[if more than one applicant or the applicant is an organisation]*

Mailing address:

Phone number:

Email address:

C. AGENT(S) DETAILS

Fill in this section if you want someone else to represent you. That person becomes your agent and we will send all correspondence and copies of documents to them.

You must sign this section if you are appointing an agent.

I/we appoint the following to act as my/our agent in this determination:

Name:

Mailing address:

Phone number:

Email address:

Signed:

Date:

 / /
DAY MONTH YEAR

D. THE APPLICANT IS

Please tick only the boxes that describe you. You may have to tick more than one box; for example, you may be the owner of the building as well as the licensed building practitioner. If none of these are relevant you are not a party under section 176 of the Building Act, so you are unable to apply for a determination.

- The owner of the building
- The territorial authority of the district in which the building is located
- The building consent authority responsible for consenting the building work
- The licensed building practitioner concerned with the relevant building work
- The owner of other property (as defined in section 7 of the Building Act 2004) affected by the building work
[include details of the property so affected: street address and legal description and the provision of the Building Code that requires the property to be protected]

- The regional authority of the region in which the dam is located
- A person who has a direct interest in the matter for determination if the matter for determination relates to the provision of access and facilities for persons with disabilities *[state the nature of the direct interest]*

- A person or organisation who or that has a right or obligation under any other Act to give written notice to a territorial authority about Building Act matters *[state details of the relevant right or obligation]*

- A responsible person (as defined in section 133BB of the Building Act 2004, but not including the people specified in section 177(6) of that Act)

E. OTHER PARTIES

Please provide the names and contact details of other parties to the determination. In many cases the only other party is the building consent authority or territorial authority (eg the local council). If you don't have enough room please provide the names, contact details and identify their role of other parties in a separate document and refer to that document here.

You will need to send each party a copy of your completed application, including Part Two and supporting documentation either before or immediately after you lodge your application with the Ministry so they know you have applied. Each party can make their own submissions if they want to.

Copies of this application have been sent to all the parties named below.

The other parties to this application are: *[state names and mailing addresses, and email addresses if known]*

Name:

Mailing address:

Email address:

who is:

- the owner of the building
- the territorial authority of the district in which the building is located, or the building consent authority responsible for consenting the building work
- the licensed building practitioner concerned with the relevant building work
- the regional authority of the region in which the dam is located
- a responsible person (as defined in section 133BB of the Building Act 2004, but not including the people specified in section 177(6) of that Act)
- a person or organisation who or that has a right or obligation under any other Act to give written notice to a territorial authority about Building Act matters
[give details of the relevant right or obligation]

Name:

Mailing address:

Email address:

who is:

- the owner of the building
- the territorial authority of the district in which the building is located, or the building consent authority responsible for consenting the building work
- the licensed building practitioner concerned with the relevant building work
- the regional authority of the region in which the dam is located
- a responsible person (as defined in section 133BB of the Building Act 2004, but not including the people specified in section 177(6) of that Act)
- a person or organisation who or that has a right or obligation under any other Act to give written notice to a territorial authority about Building Act matters
[give details of the relevant right or obligation]

F. THE BUILDING (OR DAM)

Fill in only the relevant parts.

Street address: *[for structures that do not have a street address, state the nearest street intersection and the distance and direction from that intersection]*

Legal description of land where the building (or dam) is located: *[state legal description as at the date of application and, if the land is proposed to be subdivided, include details of relevant lot numbers and subdivision consent. You will find this information on the Certificate of Title.]*

Building (or dam) name:

Current, lawfully established use: *[include number of occupants per level and per use if more than one use]*:

Year:

G. MATTER FOR DETERMINATION

Section 177 of the Building Act describes matters that may be determined.

Please start by describing the building work your application relates to. This description should include whether the building work is planned, partly done (and at what stage) or complete. It should also include whether it relates to a new building or alterations. If you don't have enough room please put your description in a separate document and refer to that document here.

Next, tick all the boxes that apply to your circumstances. This may include (a) as well as one or more items in (b). Note that section 177 of the Building Act provides for a determination on the exercise, failure or refusal to exercise, or proposed or purported exercise by an authority of a power of decision.

For each applicable item include all the relevant details, including any reasons given by the relevant authority for its decision (refer to section I for attachments and supporting information).

This determination application is made in respect of the following building work:

The building work is: [tick the boxes that describe the building work – you may have to tick more than one box]

- | | | |
|--|---|--|
| <input type="checkbox"/> Proposed | <input type="checkbox"/> A new building | <input type="checkbox"/> Underway |
| <input type="checkbox"/> An alteration to an existing building | <input type="checkbox"/> Completed | <input type="checkbox"/> A change of use |

I apply for a determination in relation to the following matter/s:

- (a) Whether the above building work complies with the Building Code, and/or: [state the relevant Building Code Clause/s]

- (b) The decision of the building consent authority or territorial authority to:

- | | |
|---|--|
| <input type="checkbox"/> issue, or | <input type="checkbox"/> a building consent |
| <input type="checkbox"/> refuse to issue: | <input type="checkbox"/> an amendment to a building consent |
| | <input type="checkbox"/> a code compliance certificate |
| | <input type="checkbox"/> a compliance schedule |
| | <input type="checkbox"/> an amendment to a compliance schedule |
| | <input type="checkbox"/> a notice to fix |
| | <input type="checkbox"/> a certificate of acceptance |
| | <input type="checkbox"/> a waiver or modification of the Building Code |
| | <input type="checkbox"/> an exemption from building consent requirements under paragraph (2) of Schedule 1 |
| | <input type="checkbox"/> a certificate for public use |
| | <input type="checkbox"/> a certificate under section 224(f) of the Resource Management Act |

- | | |
|--|--|
| <input type="checkbox"/> impose a condition on, or | <input type="checkbox"/> a notice to fix |
| <input type="checkbox"/> amend a condition on: | <input type="checkbox"/> a compliance schedule |

- | | |
|--|--|
| <input type="checkbox"/> refuse to allow an extension of the period: | <input type="checkbox"/> during which the building work must be commenced before the building consent lapses |
| | <input type="checkbox"/> during which the authority must decide whether to issue a code compliance certificate |

- | | |
|--|--|
| <input type="checkbox"/> exercise its power to require the building work as a result of: | <input type="checkbox"/> an alteration of a building |
| | <input type="checkbox"/> a change of use of the building |

- issue, or
- fail to issue

a notice in relation to:

- a dangerous building
- an affected building
- an earthquake-prone building
- an insanitary building

- exercise its powers in relation to a dam, or
- failure to exercise its powers in relation to a dam

H. RELATED APPLICATIONS

You probably won't have to fill in this section: it is only relevant if we may have already received an application for a determination about the same problem or building work. For example, if you are having a problem with a neighbour's building you need to tell us if you know that another neighbour has already applied for a determination.

The following applications have been made and are related to this application: *[give date of application and name of applicant]*

I. ATTACHMENTS

Attachments are the documents you provide to the Ministry to support your view. Please provide as much information as you can that is relevant to the issue you are applying for. The information and supporting documents provided are important for MBIE to make a determination. If you provide insufficient information and/or MBIE needs to make a request for information, this will result in delays in making a determination.

Attachments may include the following (not all of these will be available or relevant to your determination): a submission setting out your views and the background to the dispute; related correspondence; plans, specifications and design calculations; reports and photographs.

If your application relates to a particular decision by an authority, eg to issue a notice to fix, remember to include a copy of this notice and related correspondence.

Your information should be clearly described below, labelled and indexed, where possible. It is also useful if you include a summary of the key points with reference to the supporting documents. If this information is easily understood and complete it helps us assess and process your application.

The following documents are attached to/submitted with this application:

- a submission setting out my view on the matter
- a summary of key events/background to the dispute
- correspondence relating to the building work or the dispute
- other information that is relevant to support this application: *[specify, for example: plans, specifications, photographs or other documents. If you don't have enough room please put your description in a separate document and refer to that document here]*

I wish to give written/spoken evidence in te reo Māori.

J. FEE

For single houses, attached houses, flats and apartments up to four units, and garages and sheds, the fee is \$287.50 (including GST).

For all other buildings the fee is \$575.00 (including GST).

If you are unable to pay by direct credit please contact the Determinations team at determinations@mbie.govt.nz or on 0800 242 243 for other options.

An application for determination won't be processed without confirmation of the application fee being received, please provide proof of direct credit payment. This could be a copy of the direct credit payment made.

- The correct fee has been paid by direct credit to: 03-0049-0005128-00 [include the word 'determination' and your surname/organisation name in the reference fields]
- I attach proof of payment

K. SIGNATURE

Signed by the applicant/agent:

Date:

<input type="text"/>	/	<input type="text"/>	/	<input type="text"/>
DAY		MONTH		YEAR

Name and position: [only required if the applicant is not an individual and the application is signed by an authorised officer or agent of the applicant]



Applicants – have you:

- Completed Part One and section M of Part Two?
- Paid the correct fee by direct credit, and provided proof of payment?
- Identified and attached all your supporting documents?
- Sent copies of your completed application (including the supporting documents) and Part Two to the other parties?

Please contact the Ministry on 0800 242 243 or determinations@mbie.govt.nz if you need help completing this form.



PART TWO: Party to an application for determination

Dear Sir or Madam,

You have been sent this information because the person or organisation named below (in section M) has applied to the Ministry of Business, Innovation and Employment for a determination under the Building Act 2004 and has named you as a party to this determination.

As soon as you can please complete the rest of Part Two, sign, and send this form plus any supporting material you want to include (eg a submission and/or other relevant documents) to the Ministry either:

- › by email to **determinations@mbie.govt.nz** (preferred option), or
- › by post to

**Determinations,
Ministry of Business, Innovation and Employment,
PO Box 1473,
Wellington 6140, New Zealand.**

Please also send copies of your completed form and any supporting material to the applicant and any other parties listed in Part One section E.

Thank you – your prompt response helps the Ministry to make a decision without delay. It also lets us know that you have received a copy of the application, whether you want to make a submission, and if you prefer to be represented by an agent in any future communications.

M. APPLICANT'S DETAILS

This section should be completed by the applicant before sending to the other party/parties.

Applicant or agent's name: *[include preferred form of address if an individual; eg Mr, Ms, Dr]*

Mailing address:

Email address:

This determination application is made in respect of the following building work as described in Part One section G:

[state details of the building work]

At the following address: *[state address or legal description]*

OTHER PARTY/PARTIES TO COMPLETE THE REST OF THIS FORM:

N. ACKNOWLEDGEMENT

I/we have received a copy of Part One and each of the attachments listed in section I of that form.

Name:

Mailing address:

Phone number:

Email address:

O. APPOINTMENT OF AGENT

Fill in this section if you want someone else to represent you. That person becomes your agent and we will send all correspondence and copies of documents to them.

You must sign this section if you are appointing an agent.

I/we appoint the following to act as my/our agent in this determination:

Name:

Mailing address:

Phone number:

Email address:

Signed: *[by the by the party completing this Part Two form]*

Date:

 / /
DAY MONTH YEAR

P. SUBMISSIONS AND INFORMATION

Any party to a determination can make a submission on the matter being determined. If the matter involves an exercise of a power of decision by the territorial authority or building consent authority, the authority should provide information relevant to the making of that decision and include related correspondence.

Parties may have different views on the matter being determined and are encouraged to provide documentation that will support their view. This can include such information as correspondence about the dispute, reports, plans and specifications. Attachments should be clearly labelled and referenced in any covering letter or submission outlining your views.

Please tick one of the following:

- I **want to** make a submission/my submission and supporting information is attached.
- I wish to give written/spoken evidence in te reo Māori.
- I **do not want to** make a submission at this time.

Please provide as much information as you can that is relevant to the issue applied for. Any information or submissions provided to the Ministry need to be copied to the applicant and any other parties identified in Part One Section E.

The following documents are attached to/submitted with this completed form: *[list plans, specifications, other documents, and correspondence provided in support of this application]*

Q. SIGNATURE

You must sign and date this form yourself as a party to the determination, even if you have appointed an agent.

Signed:

Date:

	/		/	
DAY		MONTH		YEAR

Description of party: *[Refer to Part One section E, who can be a party, eg, are you the owner, are you the builder, a neighbour, territorial authority etc?]*

Please return the completed form and supporting documentation to The Ministry as soon as possible at:



Scan the completed form and all supporting documentation and email to **determinations@mbie.govt.nz**.



Determinations
Ministry of Business, Innovation and Employment
PO Box 1473, Wellington 6140, New Zealand



Other parties – have you:

- Completed Part Two?
- Identified and attached any supporting documents you want to include?
- Sent copies of your Part Two (including the supporting documents) to the applicant and any other parties?

Please contact the Ministry on 0800 242 243 or determinations@mbie.govt.nz if you need help completing this form.

