

BUILDING PERFORMANCE

PART ONE

Application for determination: decision relating to building affected by emergency

Section 178, Building Act 2004

Part One is equivalent to Form 14A 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 Building Act 2004 (Building Act) (refer to section D for who can be a party).
- The Ministry of Business, Innovation and Employment (MBIE) can determine your particular dispute** – for determinations that relate to a decision relating to building affected by emergency and when a designation under section 133BC is in place, determinations can only consider whether a responsible person made the correct decisions in a number of specified circumstances; section 133BS, section 133BT, section 133BW and section 133BX of the Building Act (refer to section G for what MBIE can determine).
- You have the correct form** – This form only relates to powers exercised during an emergency or designation under section 133BC of the Building Act (refer to section G for what matters this form is for). Complete application Form 14 for determinations that can 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.

MBIE’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.

PART A: HOW TO APPLY FOR A DETERMINATION

1. Complete Part One and section M of Part Two.
2. Pay the correct fees via direct credit (section K explains how to do this).
3. Send your completed application, including supporting documents to MBIE, 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
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 MBIE setting out their views on the matter in dispute.



PART 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:

Telephone number:

Mobile number:

Email address:

PART C: AGENT(S) DETAILS

Fill in this section if you would like 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:

Telephone number:

Mobile number:

Email address:

Signature:

Date:

PART 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
- 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)
- 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 (LBP) concerned with the relevant building work

LBP number

- 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 133B of the Building Act 2004, but not including the people specified in section 177(6) of that Act):

PART 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 the 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 MBIE 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
- 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)
- 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 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
- 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)
- 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 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):

 **PART 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:

Description of building (or dam) (describe the building or dam, including, for example, its use, size, construction type, number of occupants):

Current state of building (or dam) (describe the state of the building, including, for example, how it has been affected by the emergency):

Year first constructed:

PART G: MATTER FOR DETERMINATION

This section identifies details about the determination applied for in relation to a building affected by emergency or when a territorial authority designates an area under section 133BC of the Building Act.

Tick all the boxes that apply to your circumstances.

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

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.

A measure to keep people at a safe distance or protect the building may include a fence or hoarding.

I apply for a determination in relation to the decision of the responsible person:

- (a) to put in place measures to keep people at a safe distance or protect the building (or dam) under section 133BS of the Building Act 2004.
- (b) to place a sign or notice on a building (or dam) under section 133BT of the Building Act 2004.
- (c) to carry out/direct work in relation to a building (or dam) under section 133BW of the Building Act 2004.
- (d) to direct works in relation to a building (or dam) under section 133BX of the Building Act 2004.
- (e) not to exercise a power referred to in any of paragraphs (a) to (d) (specify the relevant paragraph).

PART H: KEY DETAILS AND REASONS

This section identifies the background to the dispute, key details of the matter and provides for you to set out your views and reasons for the determination.

Be sure to include any reasons given by the responsible person for its decision.

If you don't have enough room please provide your description in a separate document and refer to that document here.

Key details relevant to decision (for each decision, give all details relevant to the decision (include dates and times of key events).

If the responsible person gave reasons for the decision, state the reasons. If no reasons were given, state that no reasons were given):

Reasons for this application (for each decision, set out the reasons why you consider the decision did not comply with the Building Act 2004 or was otherwise wrong):

PART I: RELATED APPLICATIONS

You probably won't be required to fill in this section: it is only relevant if we 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*):

PART J: ATTACHMENTS

Attachments are the documents you provide to MBIE 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.

Remember to include a copy of the sign/notice/direction/other document that was placed/given/provided by the responsible person in relation to the decision.



Note the Building Act makes it an offence to damage, alter, remove, or otherwise interfere with a measure/sign/notice/direction so you may wish to provide a photograph of the measure/sign/notice/direction in place.

Attachments may include the following (not all of these will be available or relevant to your determination): related correspondence, photographs, plans, reports and specifications and design calculations.

Attachments should be clearly described below and labelled. 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 copy of the sign/notice/direction issued by the responsible person (*please specify*):

other document that was placed/given/provided by the responsible person in relation to the decision (*please specify*):

other (*specify, for example: list plans, specifications, other documents, and correspondence provided in support of this application*):

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

PART K: 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.

PART L: SIGNATURE

Signature:

Date:

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):

Before you apply, please check:

- 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 MBIE on 0800 242 243 or determinations@mbie.govt.nz if you need help completing this form.

Privacy Statement

Personal information provided on this form will be held and used by the Ministry of Business, Innovation and Employment (MBIE) for the purposes of administering the determinations process. This includes the publication on MBIE's website of the address of the subject property to which the determination applies, as well as the names of the parties (personal names are by title, initial, and surname). The information you provide may also be used for carrying out customer surveys, service improvement purposes and statistical analysis, and we may occasionally provide your information to third parties to carry out this work on our behalf.

The personal information you supply will not be used for any other reasons unless permitted under the Privacy Act 2020 (e.g. with your consent or for a directly related purpose). The information may also be provided to third parties where it is required or permitted by law. The information you supply will be provided to all parties named on this form and any other parties or persons with a direct interest identified throughout the determinations process. You can access or correct your personal information held by us at any time.

BUILDING PERFORMANCE

PART TWO

Application for determination: decision relating to building affected by emergency

Kia ora,

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 MBIE 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

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 MBIE 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.

APPLICANT TO COMPLETE SECTION M ONLY:



PART 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 a measure/sign/notice/direction issued under section 133BS, section 133BT, section 133BW or section 133BX of the Building Act as described in Part One section G.

At the following address (*state address or legal description*):

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

PART N: ACKNOWLEDGEMENT

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

Name:

Mailing address:

Telephone number:

Mobile number:

Email address:

PART 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:

Telephone number:

Mobile number:

Email address:

Signature:

Date:

D
D
M
M
Y
Y

PART 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 MBIE 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):

PART Q: SIGNATURE

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

Signature: Date:

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?):

The completed form and attachments can be:

Emailed to: determinations@mbie.govt.nz	Sent to: Determinations Ministry of Business, Innovation and Employment PO Box 1473 Wellington 6140	Delivered to: 15 Stout St Wellington 6011
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Before you apply, please check:

- 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 MBIE on 0800 242 243 or determinations@mbie.govt.nz if you need help completing this form.