

# Change of use

## Information sheet

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### Change of use

Building alterations can at times involve work that may change the use of all or parts of an existing building. The requirements will vary and will be dependent on whether the proposed work triggers both of the following points:

A change of use occurs when both:

- the use of a building or part of a building changes from one use to another as defined in the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 (the Regulations)
- and the new use has more onerous or additional Building Code requirements than the old use.

If this is the case, the Council will need to be satisfied that the building in its new use will comply with the Building Code as near as reasonably practicable (also known as ANARP). If this is not the case, the building will have to comply with Building Code requirements around accessible facilities and means of escape for fire. Often a building consent will be required.

If you make the change without advising the Council you could be liable for a fine of up to \$5,000.

Every building is designed for a specific use and has to meet Building Code requirements that ensure it will be safe, healthy and durable when used in the way it was designed. If that use changes, the building may need to be altered to support the new use.

For example, single residential buildings do not generally require access and facilities for people with disabilities. However, they may do if the building is being used for another purpose, such as a Daycare centre or doctor's surgery.

You could discuss your proposed change of use with your Council (pre consent meeting) in the early stages of your planning so you know whether your building will need upgrading.

### Understanding a buildings 'use'

The 'use' of every building or part of a building is categorised by law. For the purposes of the Building Act, that use is specified in Schedule 2 of the Regulations.

Schedule 2 divides the uses for all or parts of buildings into four broad activity groups:

- crowd activities
- sleeping activities
- working, business or storage activities
- intermittent activities.

The four activity groups each have a varying number of use categories and there are 15 uses in total. They are all defined with examples in Schedule 2 of the Regulations.

For example, a building might be designed to be used for sleeping activities (such as a home, hospital or prison) so falls under the broad 'sleeping' activity group. This has five categories:

- SH (sleeping single home, detached dwelling where people live as a single household ...)
- SR (sleeping residential, attached and multi-unit residential dwellings ...)
- SA (sleeping accommodation, spaces providing transient accommodation ...)
- SC (sleeping care, where people are provided with special care or treatment)
- SD (sleeping detention, where people are detained or physically restrained).

The specific category of use can be determined based on the number of people who will use the building, whether the building is enclosed and what activity will be undertaken.

## More onerous or additional Building Code requirements

The new use might mean the building has to meet more onerous or additional Building Code requirements. For example, the new use might increase the fire hazard or the risk to life.

The fire hazard may increase because:

- the type of work or activity carried out in the building has changed. For example, an electrical workshop has become a car spray painting workshop
- goods now stored in the building present a greater fire hazard than the goods previously stored. For example, a building previously used for storing appliances now stores highly combustible furniture
- goods previously stored in racks 2.4m high are now stored in racks 4m high.

The risk to life may change because:

- there are more people in the building. For example, a building previously used as a storage warehouse changes to a bulk retail store or supermarket
- people's activities place them at increased risk. For example, a building previously used as a workplace becomes a building in which people sleep.

## When a change of use occurs

Once the Council receives advice about a change of use, they must confirm to the owner in writing whether they are satisfied that the building (in its new use) will meet the Building Code compliance requirements.

Building Code compliance requirements are:

- a) if the change of use involves incorporating one or more household units into the building where there were none before, the Council must be satisfied on reasonable grounds that the building (in its new use) will comply as nearly as is reasonably practicable with the Building Code in all respects.
- b) for all other cases, the Council must be satisfied on reasonable grounds that the building (in its new use) will:
  - i. comply, as nearly as is reasonably practicable, with every Building Code provision relating to either or both of:
    - means of escape for fire, protection of other property, sanitary facilities, structural performance and fire-rating performance
    - access and facilities for people with disabilities (if this is a requirement under section 118 or the Building Act)
  - ii. and continue to comply with other Building Code provisions to at least the same extent as before

## Building consent and change of use

You don't need a building consent solely because you are changing the use of a building.

However, you will need a building consent if you need to do building work as part of the change of use and it is building work that requires a building consent (for example, the building in its new use may need to have new fire safety features or some of its existing features altered).

The Council will consider the intended change of use and the proposed building work to see if it agrees that the building, in its new use, will comply 'as nearly as is reasonably practicable' with the Building Code to the extent required by the Building Act.

## Identifying what you need to upgrade

The Council must decide to what extent the existing building must be upgraded. This is the 'as nearly as is reasonably practicable' test in section 115 of the Building Act. (This approach does not apply to any new building work, which must be shown to fully comply with the Building Code).

When applying the test, the Council apply a risk-based approach. This is particularly relevant where public safety or health may be affected. When defining risk criteria, Council will likely to need to consider:

- the nature and types of risk that can occur and any resulting consequences
- how to mitigate the risk
- the likelihood of risk (for example, a fire is more likely to occur in a domestic setting than a commercial one)
- the timeframe(s) (that is, temporary versus permanent, and the likelihood of temporary use becoming permanent)
- the level of risk the proposed use may cause
- the level at which risk becomes acceptable or tolerable.

In addition, the Council may consider:

- building size
- building complexity
- location of the building in relation to other buildings and public places
- public access or attendance in the building
- any other matter the Council considers relevant.

The approach they take will depend on the circumstances of the change of use.

In addition, Council still needs to be satisfied that the building in its new use will meet the requirements of the Building Act, irrespective of whether building work was carried out.

## Some examples of change of use

These examples were prepared to provide practical assistance following the Canterbury earthquakes. They focus on temporary relocations, but may be considered examples for permanent changes of use.

### Example 1

A business owner temporarily relocates their offices and staff to a residential dwelling. The current use of the dwelling is SH (sleeping single home). The new use is WL (working low).

This is a change of use because the activity or use has changed and the Building Code requirements are more onerous for this new use. For example, under structural performance there is a need to consider increased floor loadings and/or adequate toilet numbers under sanitary facilities. Therefore, the owner must notify the Council of the proposed change of use.

Note: Business relocations may not always result in a change of use. For example, a sole trader decides to operate their business from home or garage. This is not change of use because the new and old primary use of the building remains SH (sleeping single home) and no other users of the building need to be considered.

### Example 2

Part of a suburban library is temporarily converted into office space to provide for approximately 100 people that have been displaced from their earthquake damaged building.

As the use of that part of the building changes from CL (crowd large) to WL (working low) and there are more onerous Building Code requirements (for example, sanitary facilities) this would be considered a change of use.

### Example 3

A residential dwelling is converted from SH (sleeping single home) into two rental residential units SR (sleeping residential). This change will result in more onerous requirements for protection of other property (for example, internal moisture) and fire rating performance (for example, fire separations between residential units) and is therefore considered a change of use.

### Still confused or unsure

As the owner or an owners agent, you can still contact the Advisory Office 03 687 7236 and discuss your plans and or you may book a pre consent meeting with the Approvals team leader by phoning 03 687 7417 during normal office hours.

## Glossary of terms

Description	Term
Ministry of Building, Innovation and Employment	MBIE
Land Information Memorandum	LIM
Project Information Memorandum	PIM
Licensed Building Practitioner	LBP
Building Research Association of New Zealand	BRANZ
Environment Canterbury	ECan
New Zealand Building Code	NZBC
Restricted Building Work	RBW

## Other information sheets available

Description	Code
Fees and charges	IS-101
Change of use	IS-105
Demolition	IS-106
Effluent disposal and waste water treatment systems	IS-107
Relocating a dwelling / building	IS-109
Transportable buildings	IS-110
Domestic smoke alarm systems for dwellings	IS-111
Accessible facilities	IS-115
Amusement devices and marquees	IS-116
Essential features of a producer statement	IS-122
Exempt building work	IS-123
Building consent conditions	IS-129