

# Applications for discretionary exemption guidance

## Information sheet



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### IMPORTANT NOTE:

The exemption process developed by the Timaru District Council is intended for competent persons who have a proven record to show they understand Building Act and building code requirements (relevant to the work being undertaken) and can be relied on to achieve compliance on site.

If you do not understand the information provided below we suggest that it would be appropriate to engage the services of a suitably qualified and experienced person to provide advice and make the application on your behalf. It is up to the applicant to demonstrate to council they have sufficient provisions in place to allow a discretionary exemption decision to be made.

Compliance with the building code to the extent required by the Building Act is required with *all* building work, whether or not a building consent is required.

This short guide includes:

1. Guidance on preparing your request for a decision on an exemption from building consent (discretionary exemption)
2. Advice on presenting appropriate 'assurances' to council that allow a decision to be made that building work is likely to comply with the building code.

**Please note:** It is important that you read this document in conjunction with the Ministry of Business, Innovation and Employment (MBIE) guidance document ['Building work that does not require a building consent'](#).

## What is an exemption

Schedule 1(2) of the Building Act 2004 allows territorial authorities such as Timaru District Council the discretion to exempt work from requiring a building consent.

An exemption from building consent may be possible in instances where:

- It is likely the building work will comply with the New Zealand building code and the Building Act.
- There is little or no risk to life or other property.

## General guidance

Requests for an exemption from the need to obtain a building consent under Schedule 1(2) must be completed in full using this form [https://www.timaru.govt.nz/\\_data/assets/pdf\\_file/0003/438591/BA-Form-103A-Application-for-Discretionary-Exemption-from-Building-Consent.pdf](https://www.timaru.govt.nz/_data/assets/pdf_file/0003/438591/BA-Form-103A-Application-for-Discretionary-Exemption-from-Building-Consent.pdf)

All applications should be submitted through this address [building.enquiry@timdc.govt.nz](mailto:building.enquiry@timdc.govt.nz).

You will need to provide all the relevant documentation and information that will demonstrate the proposed building work will comply with the building code.

## Good applications

1. A successful exemption application requires complete design, construction and monitoring methodology to be considered, ensuring that adequate quality & safety assurances are presented. Good applications aim at convincing council that all compliance factors have, and will be considered and achieved throughout the process.
2. Information provided on the application form, or a referenced attached document, will form the basis on which the application will be assessed. For more complex work it is considered appropriate that a quality management plan be submitted containing details of design, construction, inspection and sign off 'assurances'.
3. The Council will approve the application only when satisfied that all potential risks have been mitigated
4. The application may be declined where the authorised officer determines that insufficient assurances are offered and/or a brief review of the documentation raises doubt that compliance with the building code will be met and/or it is considered that the project would be best assessed under a building consent application. Please note that the application fee is for the Council to make a decision, whether that is to approve or decline. Refunds are not available when an application is declined.
5. The level of information required to support a request for a decision will vary according to the circumstances. Information provided in support of an exemption under clause (2) for complex, high risk work may be more extensive than would be required for a building consent, whereas simpler, lower risk work may be appropriately supported by less information than would be required for a building consent.

## Unsuitable applications

The following factors **reduce evidence of competency** of the people undertaking the **work** or assurances of compliance on site. Therefore making it **unlikely that an exemption decision will be approved**. Some of these factors include but not limited to:

1. Plans supplied at the time of submission or on request that do not demonstrate compliance with the building code.
2. Requests for further information should not be required for significant non-compliances. If the designer has not demonstrated compliance with the building code, there is a significant concern that the work will not comply, meaning that the exemption is likely to be refused.
3. Most projects will involve more than (for example) just the structure of the building. They will almost always need consideration of other building code clauses. If the applicant does not understand what is required to be considered, then it is not reasonable for the Council to decide that it is unlikely to be carried out correctly.
4. Design statements are expected from all design disciplines clearly identifying the building code clauses and means of compliance considered by each designer.

# How to fill out the application form

A fully completed BA 103A Application form for an exemption is required in order for a request for an exemption to be accepted for processing. Note that you can refer to supporting documents within the application form if the space available on the form is not sufficient. It is very important that all sections from A to D inclusive within the form are completed in full.

## Section A. The Building

This section requires the applicant to provide details of the location, address, legal description and current established use of the building and or site.

## Section B. Owner

This section requires the applicant to provide details of the property and or building owner, their address and contact details.

## Section C. Key Personal

This section requires the applicant to provide details of any and all key personal that will either be working on the design and or completing the building work on site.

## Section D. Detailed description of work

This section requires the applicant to provide a full description of the proposed building work and reasons why you believe it to be exempt under schedule 1(2) (a) or (b). Remember you can refer to additional or supporting documentation in this section, however please ensure to attach this to the application when submitting.

## Quality management/Construction management plans

As the scope and complexity of work being considered under an exemption grows it is considered appropriate to provide a comprehensive supporting document containing all of the design, construction, inspection and sign off procedures in one document.

An outline document like this enables the exemption processing officer to clearly and efficiently understand the provisions the applicant is putting in place to ensure the work is likely to comply with the building code.

A comprehensive plan should include all of the information above and could include:

- Clear scope of works
- Step-by-step methodology/timeframe of construction/inspection/sign off
- Health and safety
- Detailed list of personnel involved and a more in-depth description of their role and their relevant experience/qualifications
- Reporting procedures
- Examples of prospective documentation - statements/reports/site records.

## Means of compliance:

1. Specify compliance means / choices covering all aspects of the proposed work including applicable codes clauses, standards & guidelines representing best practice to be adopted.

### Example:

Documents adopted:

- NZS 3101:2006 - Concrete structures standard

- AS/NZS 1170 (relevant parts)
- NZS 3604:2011 (relevant parts)
- NZBC B1/VM4; B2; F5/AS1

2. Consider mitigation / avoidance of danger to personnel, public & property and provide an assessment of any risks that may present during & after the work is performed. This may be nil but still state that and provide reasoning.

**Example**

- Work is to comply with NZBC: F5 (Safe site practices employed)
- Work is isolated from public areas, site fully fenced etc.
- Asbestos hazard management plan (for demolitions)

**Design responsibilities:**

List all persons responsible for the design of the work. Provide the business entity name, followed by participant details, validated by PS1's or licence number. If peer review involved then provide those particulars as well. Plans and design statements from each of the designers should also be provided with the application.

**Examples:**

- Structural Engineer name, CPEng #, (provide design statement with accurate scope of work and identifying means of compliance)
- Civil Engineer name, CPEng #, (provide design statement with accurate scope of work)
- Architect name, NZIA # (provide design statement with accurate scope of work and identifying means of compliance)
- Design draughtsperson name(s), LBP# ((provide design statement with accurate scope of work and identifying means of compliance)
- Provide details of the designers experience with similar building projects

**Construction responsibilities:**

List all persons responsible for the intended construction. This may simply be noted as a reputable established construction entity, otherwise individuals with licenses if known. If you are not providing specific details then you should give us details of what you will be looking for in regard to experience and qualifications - outline in your application how you will select the contractor.

**Examples:**

- Established construction entity with proven track record. (outline their experience/capabilities)
- Construction individuals / entities responsibilities. (provide an accurate scope of works for this group, even if participating individuals / entities are not yet known)
- Site supervision - Name / LBP# name/relevant experience
- Foundations - Name / LBP# name/relevant experience
- Carpentry - Name / LBP# name/relevant experience
- Plumbing - Registration #
- Fire safety systems - Name/relevant qualifications/experience
- Mechanical ventilation - Name/relevant qualifications/experience Provide details of the contractors experience with similar projects.

## Quality Assurance:

### 1. Project management/Sign off:

As Council will not be carrying out inspections or issuing a code compliance certificate, advise what project management and quality assurance systems will be in place to ensure that the completed work has been carried out to the intent of the contract documents and that the completed work complies with the building code. This is a critical aspect when requesting an exemption, the greater the number of steps put in place to ensure compliance of the building work the better.

### 2. Monitoring:

List those responsible for supervision/inspections/monitoring and issue of written sign off (via producer statement PS3, PS4 or similar)

#### Examples:

- Structural Engineer - name, CPEng # - PS4 monitoring (to match initial scope of PS1)
- Civil Engineer - name, CPEng # - PS4 monitoring (to match initial scope of PS1)
- Architect - name, NZIA # - (specify supervision or project management and the scope)
- Design draughtsperson(s) - name(s) LBP# - (if providing site supervision/monitoring)
- Contractors/sub-contractors - name(s) LBP# - Construction Statement requirements.
- Provide details of experience in monitoring similar projects.

### 3. Inspection schedules:

Provide an inspection schedule from the professionals to cover all areas of work, in line with what would normally be inspected by Council under a building consent.

NB. For work outside of the scope of a CPEng engineer, inspections are expected to be carried out by suitably qualified persons independent of the contractor/sub-contractor. For very minor work where the risk of non-compliance is considered by council as very low, certification by an LBP with a relevant licence may be accepted. Generally for each area of specific design there should be a corresponding sign off.

### 4. Final inspection/sign off:

Where multiple personnel are involved from different disciplines (structural/fire/mechanical etc.) it is suitable that someone is nominated to have overall responsibility for the completion, inspection and sign off of all work. They would also be responsible for managing the collection of statements, site records, photographs, etc.

## How much do discretionary exemptions cost

The costs of these types of exemptions (discretionary) are assessed on a case by case basis. Within the council's fees and charges <https://www.timaru.govt.nz/council/publications/fees-and-charges/building-control-services> there is a standard fee for a discretionary exemption and this is made up of administration and technical processing (up to one hour).

The standard fee is generally applicable for most applications that involve minor building work, however for any application that requires a greater technical assessment, this will be charged at the standard technical processing rate (refer to fees and charges) per half hour over and above the one hour allowed in the standard fee.