

Guidance Document for Applications for Exemption

Building Act 2004 - Schedule 1, Exemption 2

Important Note:

The exemption process developed by the Marlborough District Council is intended for highly competent persons who have a proven record to show that they fully understand the Building Act 2004 and New Zealand 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 convince the Marlborough District Council that they have sufficient provisions in place to allow an exemption to be made.

Compliance with the New Zealand Building Code to the extent required by the Building Act 2004 is required with **all** building work, whether or not a building consent is obtained.

Prior to submitting your application for an exemption you will need to arrange a meeting with a senior Building Control team member to discuss whether or not the application is appropriate for consideration.

This short guide includes:

1. Guidance on preparing your request for a decision on an exemption from building consent.
2. Advice on presenting appropriate 'assurances' to the Marlborough District Council that allow a decision to be made that building work is likely to comply with the New Zealand Building Code.

Please note: It is important that you read this document alongside the Ministry of Business, Innovation and Employment (MBIE) guidance document 'A guide to building work that does not require a building consent'.

Find this document at: <https://www.building.govt.nz/projects-and-consents/planning-a-successful-build/scope-and-design/check-if-you-need-consents/building-work-that-doesnt-need-a-building-consent/technical-requirements-for-exempt-building-work/>

What is an exemption?

Schedule 1 of the Building Act 2004 allows territorial authorities, such as the Marlborough 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 2004.
- 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 Exemption 2 can only be submitted after a pre lodgement meeting with the Building Control Group Manager and/or a Senior Building Control Officer.

Applications can then be submitted in hard copy form or on a disk as per building consent applications.

Note: Online applications are not available at this stage.

Good applications

1. A successful exemption application requires complete design, construction and monitoring methodology to be considered, ensuring that adequate quality and safety assurances are presented. Good applications aim at convincing the Marlborough District Council that all compliance factors have and will be considered and achieved throughout the process.
2. Information provided on the application form, and referenced attached documents, 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 Marlborough District Council will approve the application only when satisfied that all potential risks have been mitigated.
4. The application may be declined:
 - where the processing officer determines that insufficient assurances are offered; and/or
 - a brief review of the documentation raises doubt that compliance with the New Zealand Building Code will be met; and/or
 - it is considered that the project would be best assessed under a building consent application.

Please note: The application fee is for the Marlborough District 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. They therefore make it **unlikely that the exemption decision will be to approve** the application:

1. Plans supplied at the time of the request not demonstrating compliance with the New Zealand Building Code. Requests for further information should not be required for significant non-compliances. If the designer has not shown compliance with the New Zealand Building Code without guidance and prompting there is a significant concern that the work will not comply on site, meant that the exemption is likely to be declined.
2. The request not identifying the means of compliance, or not covering all or most of the compliance issues that the project will involve. Most projects will involve more than just the structure of the building. There will almost always be a need for consideration of other New Zealand Building Code clauses. If the applicant does not understand what is required to be considered, then it is not reasonable for the Marlborough District Council to decide that it is likely to be carried out correctly on site. Design statements are expected from all design disciplines clearly identifying the New Zealand Building Code clauses and means of compliance considered by each designer.

How to fill out the BAF0002.18 application form

A fully completed BAF0002.18 application for an exemption form is required for a request for an exemption to be accepted for processing.

Project details:

1. Detail description of work.
2. Define the situation and scope of the proposed work.
3. Provide a detailed description (scope) of the proposed building work to be captured by the exemption application. Clearly identify if the work is new or repairs.

Grounds for exemption:

1. Define the situation and scope of the proposed work.
2. Nominate which clause the Marlborough District Council is asked to assess the application against - Schedule 1 Part 2, (a) and/or (b). In some situations it may be necessary to use both clauses.

Means of compliance:

1. Specify compliance means / choices covering all aspects of the proposed work, including applicable design codes, standards and 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 and property, and provide an assessment of any risks that may be present during and 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 demolition)

Design responsibilities:

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

Examples:

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

Construction responsibilities:

List all known persons responsible for the intended construction. This may simply be noted as construction entity, individuals with licenses, if known. If you are not submitting specific details, then provide 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 number name / relevant experience
 - Foundations - name / LBP number name / relevant experience
 - Carpentry - name / LBP number name / relevant experience
 - Plumbing - registration number
 - Fire-safety systems - name / relevant qualifications / experience
 - Mechanical ventilation - name / relevant qualifications / experience
- Provide details of the contractor's experience with similar projects.

Quality assurance:

1. **Project management / sign off:**

As the Marlborough District Council will not be carrying out inspections or issuing a code compliance certificate, you should advise what project management and quality assurance systems will be in place. This is to ensure that the completed work has been carried out to the extent of the contract documents and that the completed work complies with the New Zealand 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 number - PS4 monitoring (to match initial scope of PS1)
- Civil engineer - name, CPEng number - PS4 monitoring (to match initial scope of PS1)
- Architect - name, NZIA number (specify supervision or project management and the scope)
- Design draughtsperson(s) - name(s), LBP number (if providing site supervision / monitoring)
- Contractors / sub-contractors - name(s), LBP number - 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 that would normally be inspected by the Marlborough District Council under a building consent.

Please note: For work outside of the scope of a CPEng engineer, inspections are expected to be carried out by suitably qualified persons. For very minor work where the risk of non-compliance is considered by the processing officer as very low, self-certification by an LBP may be accepted. Generally for each area of specific design there should be a corresponding sign off.

4. **Final inspection / sign off:**

It is recommended that someone is nominated to have overall responsibility for the completion, inspection and sign off of all work.

Supporting documents:

Identify the documents being provided with the exemption application.

Please note: The current application fee does not include the receipt / filing of documentation after approving the exemption. The Marlborough District Council fee structure states the amount required to have documents added to the property file at the customer's request.

Examples:

- **Included at application:**
 - Engineer's building damage reports
 - DEEs (for commercial buildings with earthquake damage repairs)
 - Geotechnical reports (for foundation repairs / replacements)
 - Construction drawings
 - Specifications
 - PS1 and PS2 (as applicable)
- **To be provided after completion of construction:**
 - PS3s and PS4s (as applicable)
 - Engineer site instructions, etc
 - Pipework testing results
 - Photographs

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 New Zealand 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.
- Copy of the Record of Title.