

Minor Variations

The Building Act 2004 [Section 45A](#) enabled Building Consent Authorities (BCAs) the ability to grant minor variations during construction without having to go through the formal amendment process. In principle, this section was designed to provide time and cost savings for building owners, builders and the BCAs.

In 2009, the Building (Minor Variation) [Regulations](#) were created to provide BCAs with guidance on how to deal with these minor variations. It also defined minor variations as being a minor modification, addition, or variation to a building consent that does not deviate significantly from the plans and specifications to which the building consent relates.

Examples given were:

- Substituting comparable products such as substituting one internal lining for similar internal lining)
- Minor wall bracing changes
- Minor construction changes such as changing framing method used around a window)
- Changing a room layout such as moving position of fixtures in a bathroom.

It also explained work which was not building work in respect of compliance with the building code (e.g. kitchen joinery, skirting, built in shelving etc).

In February 2010, the Department of Building and Housing (now Ministry of Business, Innovation and Employment), issued [guidance](#) on assessing minor variations which Auckland Council used as a basis in formulating their policy.

In each case, professional judgement is exercised by the inspector onsite to assess each case on its merits. The policy allowed for flexibility to approve minor variations dependent on the inspector's technical knowledge and the time available during the inspection. In some cases, the variation was taken back to the office to seek advice from team leaders or senior inspectors.

This system has been working very well on new build sites with significant time and cost savings resulting from it for both the owner and the council. Unfortunately, we have some issues with sites involving alterations where there are numerous variations made during the course of the construction.

The Guidance information is silent on the extent minor variations can be applied for and it is becoming more common to receive dozens of minor variation requests at one inspection. Each variation may fall within the definition as minor however it becomes unreasonable when an inspector is expected to assess 10 or 20 variations, some of which require further background checking such as Producer Statement authors. On more than a few occasions, an inspector has been handed a "telephone book" folder of minor variations and put under pressure to approve these urgently.

The intent of the regulations was to save time for **both** the owner and the BCA which results in costs being reduced. This situation creates a knock on effect for other owners and builders by taking an inspector off the road to assess these variations and reducing the capacity to inspect.

At this point, the council is still assessing jobs like this on a case by case basis. It is recommended that the following process be followed to avoid undue delays:

- At pre-construction meetings or the earlier inspections, the definition of minor variation needs to be communicated including the process for applying. It should also be agreed that

variations would be presented to the inspector as early as possible to avoid building them up and providing them in lump sums.

- Minor variations must be assessed and approved before the work commences. In a lot of situations, the designer is asked to detail variations as soon as it has been identified yet the inspector doesn't know about it until weeks after this point. It would benefit all parties if the variation was communicated as the same time.
- In some cases, multiple minor variations can add up to a substantial change in the building. In these situations, the inspector may require the variations to be processed as a formal amendment. Discussions should be held to establish what work can be continued while this is processed. Council processors would then be alerted to the urgency of the case and process these accordingly.