

Building consent exemptions for damaged buildings

QUICK GUIDE

North Island severe weather events 2023 remediation and repair –
Building work that doesn't require a building consent



Ministry of Business, Innovation and Employment (MBIE)

Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

The Building consent exemptions for damaged buildings quick guide is produced by the Building System Performance branch. It is intended to provide information to council staff, building practitioners and homeowners with regards to buildings affected by the North Island severe weather events occurring in 2023 when beginning to consider remediation and repair work to their building.

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Information, examples and answers to your questions about the topics covered here can be found on our website www.building.govt.nz or by calling us free on 0800 24 22 43.

First published February 2023

ISBN (online) 978-1-99-106940-5

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1. Purpose

The purpose of this quick guide is to provide council staff, building practitioners and homeowners with information on what building work may not require a building consent.

It is intended that this document provides guidance to support the remediation and repair work following the North Island severe weather events in 2023. It is not intended to provide guidance for new buildings; please refer to the full [Schedule 1 guidance](#) if you intend to construct a new building or undertake work not related to flood damage.

This quick guide should be read in conjunction with any guidance from your local building consent authority and/or insurance company.

2. Background

In late January 2023, Auckland and the surrounding regions experienced significant rainfall and high winds. Shortly after, in mid-February, Cyclone Gabrielle hit New Zealand, in which a national state of emergency was declared with a number of regions within the North Island affected. These severe weather events have resulted in flooding, tree falls and slips, causing damage to buildings and infrastructure.

Schedule 1 of the Building Act 2004 provides a list of building work for which a building consent is not required. It is important to note all work must comply with the Building Code, even if a building consent is not required.

You can find a complete list of building work that can be done without a building consent on the Building Performance website: [Building work that does not require a building consent](#). You can also use the interactive online tool for homeowners: CanIBuildIt.govt.nz



3. Before you start

Before you start remediation work on your building affected by the severe weather events, ensure the building is safe to enter and carry out work on. Ensure all affected electrical systems and services have been checked or isolated by a professional.

We recommend that you undertake the following before starting any remediation work:

For all **building occupiers**:

- if you are renting, contact your landlord. A tenant is not responsible for damage caused by natural events, such as storms, floods and earthquakes.
- if repair work is urgent, as is likely the case if you are using this quick guide, a tenant can have repair work done and ask the landlord to pay them for it. A landlord must pay the tenant back for any urgent repair work the tenant had done, so long as the tenant made reasonable attempts to let the landlord know first. For more information on your rights and responsibilities, please visit www.tenancy.govt.nz

A building occupier is a person who lives or works in a house, flat or piece of land.

For building owners:

- contact your insurance company
- if you are arranging for the work to be undertaken, ensure you use the appropriate building practitioners for the work
- [ensure you understand your legal obligations with respect of the building work being carried out](#). Sections 41 and 42A of the Building Act 2004 allow for some building work to be carried out without obtaining a building consent in advance because the building work has to be carried out urgently –
 - for the purpose of saving or protecting life or health or preventing serious damage to property, or
 - in order to ensure that a specified system in a building that is covered by a compliance schedule, or would be covered by a compliance schedule were issued in respect of the building, is maintained in a safe condition or is made safe.

There are also additional clauses in the Building Act that may apply if the area has been designated. Please refer to Subpart 6B – Special provisions for buildings affected by emergency and discuss with the local council before relying on these clauses.

For building owners and building practitioners:

- ensure the building is safe to enter – is there still a risk of slips?
- take photos before and during the remediation work
- take appropriate H&S precautions (wearing safety gear, turning off power and gas, etc.)
- ensure you are familiar with the council website for any updates.

Keeping records

Even if you're carrying out remediation in response to an emergency, it is vital to keep good records of any building work that is carried out on your property.

Good record keeping includes but is not limited to:

- photographs of the work at various stages of completion
- details of the types of products used
- details of where you used certain products
- name and contact information of the person, people or company that carried out the work.

Insurance

It is important to note that insurance companies may have requirements to be notified of certain building work carried out on the property prior to commencement. Contact your insurer and keep photos and records.

4. Exemptions that may apply to remediate damage

Clause 2: Territorial and regional authority discretionary exemptions

This clause allows local Councils to use their discretion to exempt any proposed building work if it complies with the Building Code and is unlikely to endanger people or buildings.

This discretion can be used to exempt proposed building work from the requirement to obtain a building consent if:

- the completed building work is likely to comply with the Building Code, or
- if the completed building work does not comply with the Building Code, it is unlikely to endanger people or any building, whether on the same land or another property.

This is the only exemption in Schedule 1 which requires the council to make a decision about any proposed building work. For all the other exemptions, it is up to the owner to decide whether an exemption in Schedule 1 applies.

Note it is ultimately up to the council as to whether or not they grant a discretionary exemption. Examples of how a Council could treat this would be assessed on a case-by-case basis, with assessments made by a Council building officer.

If you want your proposed building work to be considered for this exemption, you should start by discussing it with your building consent authority. It is likely that you will have to make a formal written request. The building consent authority may charge a fee for issuing a discretionary exemption.

Clause 1: General repair, maintenance and replacement

The repair, maintenance and replacement of a building product or an assembly incorporated in or associated with a building, provided that a comparable building product or assembly is used, and, in the case of a replacement, it is in the same position.

This clause cannot be used if a complete or substantial replacement of a [specified system](#) is required, or the product contributes to the building's structural behaviour or fire safety properties.

A specified system is a system or feature of a building that contributes to the proper functioning of a building and has been declared to be a specified system. The list of declared specified systems is available at Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 (SR 2005/32) (as at 16 December 2019) Schedule 1 Specified systems – New Zealand Legislation).

Clauses 3, 3A, 3B and 43: Single storey detached buildings

Building work in connection with a detached building that:

- is not more than one storey (with a floor level of up to one metre above the supporting ground and a height of up to 3.5 metres above the floor level); and
- does not contain sanitary (bathroom/toilet/sink) plumbing or storage for drinking water
- is not closer than its own height to the boundary.

Each clause has slightly different restrictions:

- Clause 3: the building does not exceed 10m² in floor area
- Clause 3A: the building exceeds 10m² but does not exceed 30m², is built from [lightweight building products](#) and in accordance with [Acceptable Solution B1/AS1](#)
- Clause 3B: the building exceeds 10m² but does not exceed 30m² and a [licensed building practitioner](#) supervises or carries out design or construction work
- Clause 43: the building exceeds 10m² but does not exceed 30m², the building is a kitset or prefabricated building and the product manufacturer has had the design of the building carried out or reviewed by a chartered professional engineer.

If the building is closer than its own height to the boundary, please refer to clause 7.

"Lightweight" means that either light timber or steel are used for the structural framing, the roof is less than 20kg/m² and cladding is less than 30kg/m².

Licensed building practitioner (LBP) – building practitioners who have been assessed as competent to carry out building work essential to the structure or weathertightness of residential buildings.

Clause 7: Repair or replacement of outbuilding

The repair or replacement of all or part of an outbuilding, if:

- the repair or replacement is made within the same footprint as the original outbuilding
- the replacement is made with a comparable part of an outbuilding
- the outbuilding is a detached building that is not more than one storey and is not intended to be used by members of the public.

Clause 8: Windows and exterior doorways in existing dwellings and outbuildings

Building work in connection with a window or an exterior doorway in a dwelling or outbuilding that is no more than two storeys except if the building work modifies or affects any [specified system](#).

Clause 10: Interior alterations to existing non-residential building

Building work in connection with the interior of any existing non-residential building such as a shop, office or school, if the building work does not:

- modify or affect the primary structure of the building
- modify or affect any [specified system](#)
- does not relate to a firewall or a wall made of brick, stone, concrete (or similar) joined with mortar
- does not include [sanitary plumbing](#) or drainlaying.

Clause 11: Internal walls and doorways in an existing building

Building work in connection with an internal wall (including an internal doorway) in any existing building unless the wall is:

- load bearing, or
- a bracing element, or
- a fire separation wall (also known as a firewall), or
- part of a [specified system](#), or
- made of brick, stone, concrete (or similar) joined with mortar.

Clause 12: Internal linings and finishes in existing dwelling

Building work in connection with any internal linings or finishes or any wall, ceiling or floor of an existing dwelling. This includes plasterboard linings to walls and ceilings (unless they are building elements as per clause 11). Wet area showers are generally outside the scope of this exemption. More information about internal linings can be found [here](#). The substituting plasterboard – guidance for building consent authorities can be found on the [Building Performance website](#).

Clause 13: Thermal insulation

Building work in connection with the installation of thermal insulation in an existing building except:

- an external wall of the building or
- an internal wall of the building that is a firewall.

Councils have the option to grant a discretionary exemption (clause 2 of Schedule 1) if the completed building work is likely to comply with the Building Code, or if the completed building work does not comply with the Building Code and is unlikely to endanger people or any building. Homeowners may wish to consider upgrading wall insulation to existing areas where it is damaged and requires removal and replacement.



Clause 13A: Ground moisture barrier

Building work in connection with the installation in an existing building's subfloor space of a ground moisture barrier.

Clauses 17, 17A and 46: Porches and verandas

Building work in connection with a [porch](#) or [veranda](#) that:

- is on or attached to an existing building
- does not overhang any area accessible by the public, including private areas with limited public access, for example, restaurants and bars.

Each clause has slightly different restrictions:

Clause 17: the [porch](#) or [veranda](#) is on the ground or first-storey of the building and does not exceed 20m² in floor area

Clause 17A: the [porch](#) or [veranda](#) is on the ground floor of the building, exceeds 20m² in floor area but does not exceed 30m² and any design or construction work is carried out or supervised by a [licensed building practitioner](#)

Clause 46: the [porch](#) or [veranda](#) is on the ground floor of the building, exceeds 20m² in floor area but does not exceed 30m², and any design is carried out or reviewed by a [chartered professional engineer](#).

Porch – covered space at the entrance of a building
Veranda – a roofed platform along the outside of a building.

Clauses 18, 18A and 44: Carports

Building work in connection with a carport that is on the ground level (carport must be fully supported by the ground).

Each clause has slightly different restrictions:

Clause 18: the carport does not exceed 20m² in floor area

Clause 18A: any design or construction work is carried out or supervised by a [licensed building practitioner](#) and exceeds 20m² in floor area but does not exceed 40m²

Clause 44: exceeds 20m² in floor area but does not exceed 40m² and any design is carried out or reviewed by a [chartered professional engineer](#)

A chartered professional engineer is a professional engineer registered under the Chartered Professional Engineers of New Zealand Act 2002.

Clauses 20 and 41: Retaining walls

There are two exemptions for retaining walls. You should consider contacting a [chartered professional engineer](#) if repairs are necessary due to a significant landslip or slope instability.

Clause 20: Building work in connection with a retaining wall that:

- retains not more than 1.5 metres depth of ground and
- does not support any surcharge or any load additional to the load of that ground (for example, a driveway or a building).

Clause 41: Building work in connection with a retaining wall in a [rural zone](#) if:

- the wall retains not more than 3 metres depth of ground and
- the distance between the wall and any legal boundary or existing building is at least the height of the wall and
- the design of the building work is carried out or reviewed by a [chartered professional engineer](#).

A rural zone is: Any zone or area (other than a rural residential area) that, in the district plan of the territorial authority in whose district the building work is to be undertaken, is described as a rural zone, rural resource area, rural environment or by words of similar meaning.

Clause 21: Fences

Building work in connection with a fence that does not exceed 2.5 metres in height above the supporting ground. This exemption does not include a fence to restrict access to a residential pool.

If you are planning on replacing your flood damaged fence with a fence that is taller than the previous fence, you will need to check with the council to see if you need a resource consent.

Clause 24: Decks, platforms, bridges, boardwalks, etc

Building work in connection with a deck, platform, bridge, boardwalk or the like from which it is not possible to call more than 1.5 metres even if it collapses. You should consider contacting a [chartered professional engineer](#) if repairs are necessary due to a significant landslip or slope instability.

Clause 30: Demolition of a detached building

You don't need a building consent to completely demolish a building that is detached and is not more than three storeys.

Clause 31: Removal of a building element

You don't need a building consent to remove a building element from a building that is not more than three storeys, provided that the removal does not affect:

- the primary structure of the building or
- any [specified system](#) or
- any fire separation.

This exemption applies to the removal of a building element such as a chimney or roof (including cladding) rather than to the complete demolition of a building. An example of this would be where a chimney was damaged as the result of flooding or in a high wind event.

Clause 50: Removal of structures

You don't need a building consent to remove any of the structures referred to include clauses 39 to 49 of Schedule 1 of the Building Act. However, you must seek the advice of a [chartered professional engineer](#) before removal of the structure.

Clauses 30, 31 and 50 referring to demolition or removal of building elements and structures do not apply to heritage-listed buildings. You should contact your local council for advice.

5. Sanitary plumbing and drainlaying

Sanitary plumbing and drainlaying must be carried out by a person authorised under the Plumbers, Gasfitters and Drainlayers Act 2006.

Sanitary plumbing is any work involved in fixing or unfixing any pipe, plumbing fixture or appliance including; any trap, waste or soil pipe, ventilation pipe, or overflow pipe and any pipe that supplies or is intended to supply water.

Clause 32: Repair, maintenance and replacement

A building consent is not required to repair and maintain any [sanitary plumbing](#) and drainage in or associated with a building, provided that comparable building products are used and the replacement is in the same position.

This clause does not apply:

- if a complete or substantial replacement of a [specified system](#) is required, or
- for the repair or replacement of any water heater (unless permitted under clauses 36 to 38).

Clause 33: Drainage access points

A building consent is not required for the opening and reinstatement of any purpose-made access point within a drainage system that is not a network utility owned system or part of a network utility owned system.

Clause 34: Minor alteration to drains

A building consent is not required for the alteration to drains to a dwelling if the alteration is of a minor nature, such as shifting a gully trap. This exemption cannot be used for making any new connection to a service provided by a network utility operator.

Clause 35: Alteration to existing sanitary plumbing (excluding water heaters)

A building consent is not required to alter existing [sanitary plumbing](#) (excluding water heaters) provided:

- the total number of sanitary fixtures in the building is not increased by the alteration and
- the alteration does not modify or affect any [specified system](#).

Clause 36: Repair and maintenance of existing water heater

A building consent is not required for the repair or maintenance of an existing water heater if comparable building products or a comparable assembly is used.



Clause 37: Replacement of open-vented water storage heater connected to supplementary heat exchanger

A building consent is not required for the replacement of any water storage heater connected to a solid fuel heater or other supplementary heat exchanger if the replacement:

- is a comparable open-vented water storage heater and
- is fixed in the same position and uses the same pipework as the water storage heater being replaced.

Clause 39: Replacement or repositioning of water heater that is connect to, or incorporates, a controlled heat source

A building consent is not required for the replacement of any water heater (including the repositioning or an existing water heater) if the replacement water heater is connected to, or incorporates, a controlled heat source or, if connected to or incorporating more than one heat source, two or more heat sources, all of which are controlled.

6. Glossary

Building occupier – a person who lives or works in a house, flat or piece of land.

Chartered professional engineer – A professional engineer registered under the Chartered Professional Engineers of New Zealand Act 2002.

Licensed building practitioner (LBP) – building practitioners who have been assessed as competent to carry out building work essential to the structure or weathertightness of residential buildings.

Lightweight building products – "Lightweight" means that either light timber or steel are used for the structural framing, the roof is less than 20kg/m² and cladding is less than 30kg/m².

Porch – covered space at the entrance of a building

Rural zone – Any zone or area (other than a rural residential area) that, in the district plan of the territorial authority in whose district the building work is to be undertaken, is described as a rural zone, rural resource area, rural environment or by words of similar meaning.

Sanitary plumbing – Sanitary plumbing is any work involved in fixing or unfixing any pipe, plumbing fixture or appliance including; any trap, waste or soil pipe, ventilation pipe, or overflow pipe and any pipe that supplies or is intended to supply water.

Specified system – A specified system is a system or feature of a building that contributes to the proper functioning of a building and has been declared to be a specified system. The list of declared specified systems is available at [Building \(Specified Systems, Change the Use, and Earthquake-prone Buildings\) Regulations 2005 \(SR 2005/32\) \(as at 16 December 2019\) Schedule 1 Specified systems – New Zealand Legislation](#)

Veranda – a roofed platform along the outside of a building.



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