



DOIA 1516-1116

24 MAR 2016

Mr Simon Johnson
fyi-request-3718-408890ab@requests.fyi.org.nz

Dear Mr Johnson

I refer to your request of 6 March 2016 requesting under the Official Information Act 1982 (the Act), the following information:

Please provide the Clause of the New Zealand Building Act which allows a building consent authority to arrange to have a design reviewed by a person or organisation of their choosing external to their respective Council (e.g. a private company or individual), with the cost of any such review to be borne by the building consent applicant?

Your request is declined under section 18(e) of the Official Information Act 1982, as the information requested does not exist.

However to assist with your query, the Building Act 2004 (Section 45 and 49) requires that the building consent authority must be satisfied on reasonable grounds that the provisions of the code will be met if the building work were properly completed in accordance with the plans and the specification that accompanied the application. As such the building consent authority can reasonably request a design to be reviewed to satisfy this requirement. Section 240 of the Building Act 2004 gives the building consent authority the authority to impose fees and charges in a relation to a building consent, this may include in some cases a design review.

In relation to design review, the general practice of Councils is to either:

- 1) request a design review through an in-house design consultant or contractor; or
- 2) nominate a design reviewer/s of Councils choosing

In both cases the cost of the review may be paid by the Council initially but passed on to the applicant as part of the building consent fees.

If the applicant refuses to allow the engagement of a design review, the building consent authority may decide to refuse the consent (Section 50). Should the applicant feel the BCA has unfairly refused the consent a determination from the Ministry of Business Innovation and Employment (MBIE) may be sought. The Building Act 2004 (section 176-190) covers determinations under the Act.



A determination is a binding decision made by MBIE. It provides a way of solving disputes or questions about the rules that apply to buildings, how buildings are used, building accessibility, health and safety. Further information covering determinations can be found here:
<http://www.building.govt.nz/determinations>

You have the right under section 28(3) of the Act to ask the Ombudsman to investigate and review my decision to refuse your request. The relevant contact details are:

The Ombudsman
Office of the Ombudsman
PO Box 10 152
WELLINGTON 6143

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Peter Laurenson', with a long horizontal flourish extending to the right.

Peter Laurenson
Manager Building Systems Control
Building System Performance