

Firstly it needs to be established if the change to the existing building to incorporate a business will result in a “Change of Use” to your dwelling, the Building Regulations 2005 (Specified Systems, Change the Use, Earthquake-prone Buildings) identify purpose groups of a building. Rotorua District Council has a “Change of Use” fact sheet available on its web site or as a hard copy pamphlet available from the customer centre. Section 114 of the Building Act makes it mandatory for a building owner to notify the local Council when a change of use is proposed.

The purpose group of a dwelling is defined as either SH (Sleeping Single Home) or SR (Sleeping Residential), as a business the building will ultimately fall within another purpose group such as WL (working light) for hairdressing, offices, beauty parlours, home bakeries, nail care, catering, home care or CM (crowd Medium) retail shops or stores with bulk storage (internet trader) as examples.

It is recommended that at the concept stage of your project you contact Customer Service’s at Rotorua Lakes Council on 3484199 to arrange a single meeting with all possible representatives from any applicable departments so that you are provided all relevant information from the outset.

Example: You wish to operate a part time hairdressing salon within your dwelling! The applicable Council departments required at the meeting would need to be Building, Planning, Health, Pollution Control and Regulatory Services. Each department may have specific requirements that they need to identify at the earliest possible time to allow a consent application to be approved with no surprises.

A change of use may determine certain building work is necessary to meet the businesses and or meet the minimum requirements of the Building Code resulting in an application for building consent.

## THE FOLLOWING INFORMATION WILL BE REQUIRED FOR ALL BUILDING CONSENT APPLICATIONS:

- A building consent application for the change of use signed by the owner.
- Commercial vetting check sheet to verify that all the information has been supplied.
- A written proposal of what is planned with a scope of works.
- Plan of the existing building and another plan showing the proposed business changes clearly identified.
- A fire assessment of the whole property identifying any warning systems, specified systems like back flow preventers (hair dressing salons), fire rating requirements (between bulk storage) as examples, this is likely to be provided by an fire designer/engineer but the acceptable solutions can be used to create this report. <http://www.dbh.govt.nz/building-code-compliance-documents-downloads#C>
- Plans or specifications detailing all alterations to the building. (additional plumbing, HWC, fire rating, access, parking etc.).
- A report detailing how a person with disabilities is to use this building must be provided indicating how the existing/ altered building is to meet the New Zealand Building Code D1. <http://www.dbh.govt.nz/building-code-compliance-documents-downloads#D1>

A “Change of Use” will result in the owner engaging a suitably qualified person to establish whether the building complies “as near as reasonably practicable” with current structural requirements of the building code in accordance with the Rotorua Lakes Council’s Earthquake Prone Building Policy.

## RELEVANT BUILDING ACT SECTIONS

### 112. Alterations to existing buildings:-

- (1) A building consent authority must not grant a building consent for the alteration of an existing building, or part of an existing building, unless the building consent authority is satisfied that, after the alteration, the building will—
- (a) comply, as nearly as is reasonably practicable, with the provisions of the building code that relate to—
    - (i) means of escape from fire; and
    - (ii) access and facilities for persons with disabilities (if this is a requirement in terms of section 118); and
  - (b) continue to comply with the other provisions of the building code to at least the same extent as before the alteration.

- (2) Despite subsection (1), a territorial authority may, by written notice to the owner of a building, allow the alteration of an existing building, or part of an existing building, without the building complying with provisions of the building code specified by the territorial authority if the territorial authority is satisfied that,—
- (a) if the building were required to comply with the relevant provisions of the building code, the alteration would not take place; and
  - (b) the alteration will result in improvements to attributes of the building that relate to—
    - (i) means of escape from fire; or
    - (ii) access and facilities for persons with disabilities; and
  - (c) the improvements referred to in paragraph (b) outweigh any detriment that is likely to arise as a result of the building not complying with the relevant provisions of the building code.
- (3) This section is subject to section 133AT.

#### **114. Owner must give notice of change of use, extension of life, or subdivision of buildings**

- (1) In this section and section 115, change the use, in relation to a building, means to change the use of the building in a manner described in the regulations.
- (2) An owner of a building must give written notice to the territorial authority if the owner proposes—
- (a) to change the use of a building; or
  - (b) to extend the life of a building that has a specified intended life; or
  - (c) to subdivide land in a manner that affects a building.
- (3) A person commits an offence if the person fails to comply with subsection (2).
- (4) A person who commits an offence under this section is liable on conviction to a fine not exceeding \$5,000.

#### **115. Code compliance requirements: change of use**

- An owner of a building must not change the use of the building,—
  - (a) in a case where the change involves the incorporation in the building of 1 or more household units where household units did not exist before, unless the territorial authority gives the owner written notice that the territorial authority is satisfied, on reasonable grounds, that the building, in its new use, will comply, as nearly as is reasonably practicable, with the building code in all respects; and
  - (b) in any other case, unless the territorial authority gives the owner written notice that the territorial authority is satisfied, on reasonable grounds, that the building, in its new use,—
    - (i) will comply, as nearly as is reasonably practicable, with every provision of the building code that relates to the following:
      - (A) means of escape from fire, protection of other property, sanitary facilities, structural performance, and fire-rating performance;
      - (B) access and facilities for people with disabilities (if this is a requirement under section 118); and
    - (ii) will,—
      - (A) if it complied with the other provisions of the building code immediately before the change of use, continue to comply with those provisions; or
      - (B) if it did not comply with the other provisions of the building code immediately before the change of use, continue to comply at least to the same extent as it did then comply.

#### **CHANGE THE USE: WHAT IT MEANS:**

For the purposes of sections 114 and 115 of the Act, change the use, in relation to a building, means to change the use (determined in accordance with regulation 6) of all or a part of the building from one use (the old use) to another (the new use) and with the result that the requirements for compliance with the building code in relation to the new use are additional to, or more onerous than, the requirements for compliance with the building code in relation to the old use.

#### **HELPFUL LINKS:**

**Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 -**

<http://www.legislation.govt.nz/regulation/public/2005/0032/latest/DLM313966.html>

**Rotorua Lakes Council Earthquake Prone Building Policy -** <http://www.rotorualakescouncil.nz/our-Council/PoliciesandBylaws/Policies/Documents/Policy%20on%20Earthquake%20prone%20Buildings.pdf>

**Rotorua Lakes Council Change of Use Fact Sheet -** <http://www.rotorualakescouncil.nz/our-services/building-and-resource-consents/Documents/Building%20brochures/Change-of-use-factsheet.pdf>