

Building Practice Note PW-01: Buildings above or below certain public facilities

This Practice Note provides guidance on buildings above or below certain public facilities for compliance with the Building Act 1993 (the Act) and the Building Regulations 2018 (the Regulations).

The context below provides guidance for:

- Buildings above or below certain public facilities
- Report and consent requirements
- Other projection related regulations

Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993 (the Act), Building Regulations 2018 or the National Construction Code (NCC).

- **Act** – Building Act 1993
- **BAB** – Building Appeals Board
- **Regulations** – The Building Regulations 2018

Buildings above or below certain public facilities

Regulation 134 of the Regulations relates to buildings above or below certain public facilities. It is intended to be read as a stand-alone provision, dealing with “a building”, including a part of a building, constructed above or below certain public facilities.

The Regulation relates to a broader range of buildings other than those described in other projection-related regulations in Part 6 of the Regulations or building work projecting from other buildings.

The term ‘above’ or ‘below’ a certain public facility should be understood to mean an elevated or tunnel type building, or structure such as the elevated multi-level pedestrian overpasses connecting department stores.

An airline terminal building constructed at ground level, or bus shelters built at street level, should not be regarded as constructed above a public facility.

Examples of public facilities to which regulation 134 applies to, include the following:

- streets,
- railways,
- bus terminals or other similar public facility.

Report and consent requirements

Regulation 134(2) requires the report and consent of the relevant council to be obtained for an application for a building permit for the construction of a building above or below public facilities whether or not such a building is connected to other buildings.

Report and consent by council pursuant to regulation 134(2) eliminates the need to obtain a modification to regulation 98 from the Building Appeals Board (BAB).

Other projection related regulations

Part 6 of the Regulations (regulations 98 to 110) deals with situations where a part of a building, or attachment to a building, projects beyond the street alignment.

Pursuant to regulation 98, these projections are legally allowable, provided that they meet the prescribed limitations of the relevant regulations.

Regulation 109 provides discretionary powers for the relevant council to vary those legal requirements. An example of this is where the relevant council may consent to a projection of part of the building beyond the street alignment where the projection will not be detrimental to the safety of the public under regulation 109(3).

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Related Documentation

- Building Act 1993
- The Building Regulations 2019
- Building Practice Note BP – 11 Report and Consent

Version History

- Version 2.0, published 28 June 2021, supersedes Practice Note 06: Buildings above or below certain public facilities

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