



## Changes to the planning system

As a result of consultation with the development industry, a regulation has been implemented which will further streamline the development process.

### Building tolerances

The new regulation changes the building construction tolerances permitted without requiring a development approval (DA), or an amendment to an existing DA.

It also means some elements of a construction can be varied during construction without needing a DA, or an amendment to an existing DA.

The permitted tolerances and variations also apply to DA-exempt development, effectively extending the parameters of the DA exemptions.

Building certifiers can now sign off a building as still complying with a relevant DA provided the dimensions of the building or elements of the building do not exceed the tolerances specified in the new regulation.

However, relevant building work still has to comply with relevant building approval plans (BA plans) approved under the *Building Act 2004*.

Non-compliance with BA plans will still need to be addressed either by making the construction compliant with the BA plans or pursuing a BA amendment or a new BA. This is necessary to ensure compliance with the property owner's intentions, contracts, the Building Code, the *Building Act 2004* and other relevant laws.

In summary, subject to the exceptions (see below), the tolerances permit the relevant building, or part, e.g. a door or wall, to shift 340 mm to the left and/or to the right and shift 340 mm up and/or down.

Note: It is NOT permissible to design to these tolerances.

### What's changed?

The old tolerances permitted a 150mm shift in the horizontal only.

### Exceptions

If the exemption or approval requires a minimum 900mm setback from the rear or side boundary, the maximum intrusion into this setback is 50mm. Also the window sill cannot shift down relative to the floor of the new building by more than 50mm. These limitations are to guard against the overlooking of neighbours and are consistent with existing provisions.

The building or structure must also not encroach beyond the relevant land boundary, except that a boundary fence can have the centre of its panelling up to 25mm either side of the boundary.

The permitted tolerances and variations do not apply if the resultant building or structure's position would contravene a relevant law, or crown lease condition etc, and be inconsistent with other planning outcomes mentioned in the regulation as "general exemption criteria".

## Exemptions from development approval

The regulations also create new exemptions from requiring development approval for:

- the modification of existing doors and windows during the construction of the main building (previously possible only post-construction)
- addition of low impact doors or windows provided the door or window is no higher than 1m above the adjacent floor (the current requirement is 0.5m). And this can be done during construction of the main building or post-construction
- internal changes to a class 1 building (e.g. a house, previously possible only post-construction).

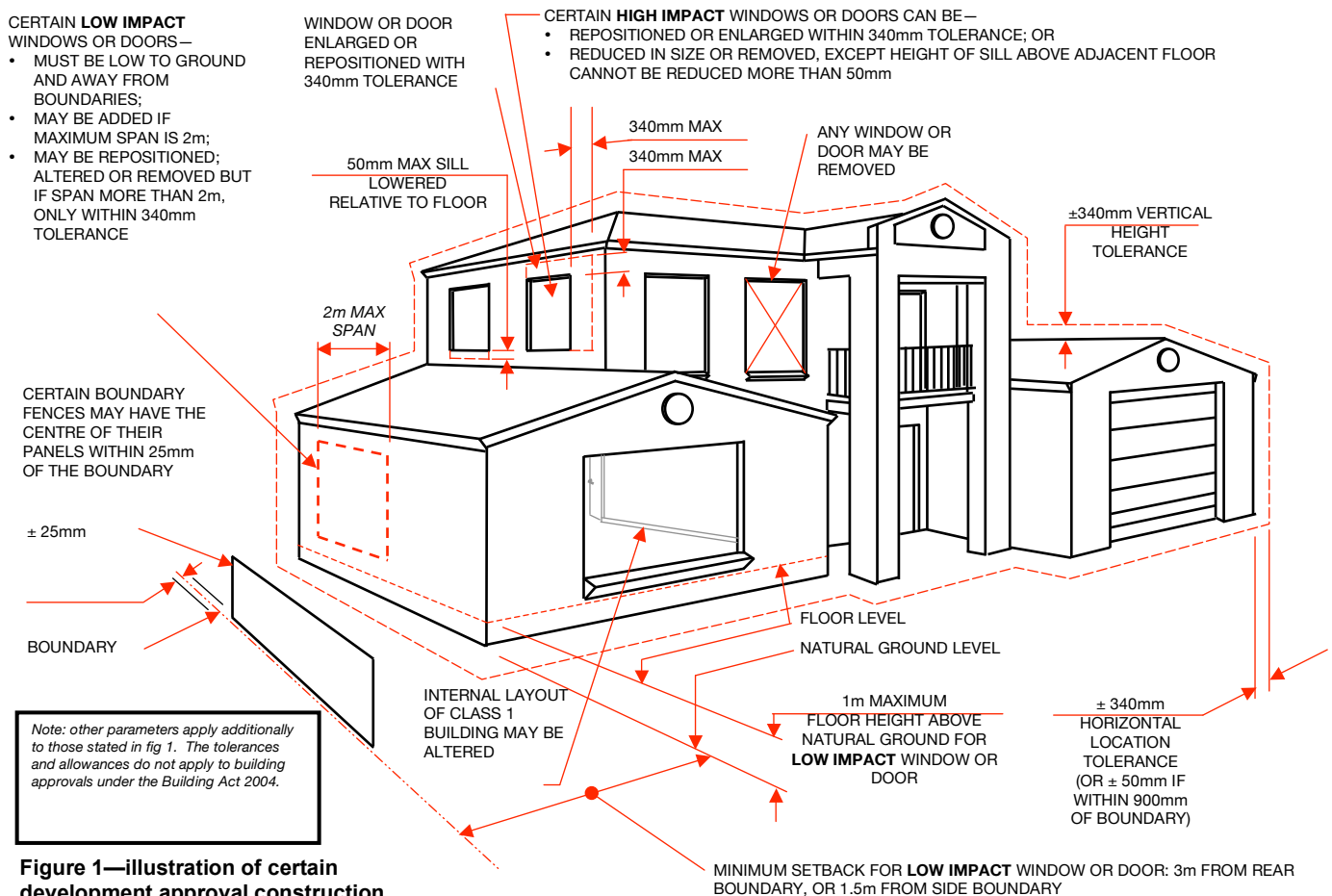
## Removal of public notification and agency referral requirements for minor DA amendments

Building certifiers and builders have expressed concern with delays in processing applications for minor amendments of granted development approvals.

The new regulation removes the requirement for public notification and agency referral of minor amendments to development approvals.

Under the new provisions, ACTPLA won't need to renotify an amending application if satisfied that no third party will be adversely affected by the changes and no significant environmental harm will ensue.

Additionally, it will not be necessary to send the amended application to the referral agency if the amendment only affects elements of the approval that were of no interest to referral agencies on referral of the original development application. These new provisions are consistent with the ability to waive notification/referral of minor amendments to development applications.



**Figure 1—illustration of certain development approval construction tolerance parameters and allowable variations to approved developments**