



**NOTIFICATION OF WAIVER OR MODIFICATION
OF THE BUILDING CODE**
under Section 68 of the Building Act 2004

TA to complete all relevant white sections of this form : See overleaf for guidance on Sections 67-70 and 72 of the Building Act 2004

| | | |
|--|---------------------------------|---------------------------------------|
| A. TERRITORIAL AUTHORITY (TA) CONTACT DETAILS: | | |
| Name of TA: | | |
| Name of Contact Person: | | |
| Phone: | | Email: |
| Mailing Address: | | |
| B. PARTICULARS OF WAIVER OR MODIFICATION | | |
| Notification Details (please tick relevant box) | WAIVER(s) <input type="radio"/> | MODIFICATION(s) <input type="radio"/> |
| Date waiver or modification approved | Date: | Date: |
| Building Code Clause Subject to Waiver or Modification (provide specific clause or sub-clause of the Building Code, eg B2.3.1) | Clause(s) or Sub-Clause(s) | Clause(s) or Sub-Clause(s) |
| Address where building work is taking place | | |
| C. STATE REASONS FOR WAIVER OR MODIFICATION | | |
| (Enter text below eg Clause B2.3.1 has been modified by way of an amendment to building consent BC0000/00 so that durability performance requirements commence from the date when building work was agreed to have been practically completed) | | |
| <input type="radio"/> Durability <input type="radio"/> Spread of Fire C3.3.5 <input type="radio"/> Natural hazard (relevant code clause) under S.72(c) of the Building Act 2004 <input type="radio"/> Other | | |
| Provide details of TA conditions (if any) applied under S.67(2) of the Building Act 2004 | List conditions (if any): | |
| D. PARTICULARS OF BUILDING | | |
| Building use(s) from A1 classified use of the Building Code (e.g. Outbuilding or Industrial) | A1 Use(s): | |
| Use(s) from the Building (Specified Systems, Change the Use, and Earthquake Prone Buildings) Regulations 2005 (e.g. SR-Sleeping Residential or WL – Working Low) | | |
| | | |

NOTIFICATION OF WAIVER OR MODIFICATION OF THE BUILDING CODE

under Section 68 of the Building Act 2004

GUIDANCE ON WAIVERS OR MODIFICATIONS OF THE BUILDING CODE

Waivers and modifications allow TAs to exercise judgement when dealing with unusual building compliance situations. TA staff need to understand the structure of the Building Code to be able to effectively consider applications that include waivers or modifications. A TA that grants a building consent subject to a waiver or modification of the Building Code must notify the Chief Executive of the Department.

This form has been developed to capture information that will assist the Department with its monitoring role under section 169 of the Building Act 2004. Parts A-D of this form are intended to draw out the information required to effectively notify the Chief Executive of the Department of a TAs granting of a waiver or modification.

Notifications to the Chief Executive of a waiver or modification of the Building Code must contain specific detail so that it is clear what was actually being waived or modified by the TA.

- A TA that grants a building consent subject to waiver or modification of the Building Code must notify the Department.
- A waiver or modification of the Building Code may be subject to any conditions the TA considers appropriate.
- A TA cannot grant an application for building consent subject to a waiver or modification of the Building Code relating to access and facilities for people with disabilities.
- A request for a waiver or modification of energy work must be forwarded to the Chief Executive of the Department of Building and Housing for a decision.
- An alternative solution is not a waiver or modification of the Building Code.

CLARIFICATION OF TERMS

What is a Waiver?

A TA can waive the requirement for a particular application for a building consent, or part of an application, to comply with an aspect of the Building Code. In most cases waivers will relate to a particular performance requirement of a specific clause of the Building Code (eg C3.3.2 (d)). However, sometimes it may be appropriate to waive an entire Building Code clause.

What is a Modification?

In relation to an application for a building consent a TA can modify a performance requirement of the Building Code. This is usually done by modifying a performance requirement of the Building Code so that the functional requirement and objectives of the clause are still met. A common example is the modification of B2.3.1, which relates to the durability of a particular element and when the durability period applies from.

HOW IS A BUILDING CODE STRUCTURED?

Objectives: This states the objective of the relevant clause of the Building Code. The objectives are usually statements about ensuring people are safeguarded, or that people with disabilities can use the building or that other property is protected.

Functional Requirements: These are a more in-depth description of what is required to meet the objectives and are more specific to the actual Building Code clause.

Performance Requirements: This is the measurable component and describes what the building needs to meet.

Limits on Application: Some objectives, functional requirements and performance requirements do not apply to particular buildings, and these are identified in the Building Code as Limits on application. Limits on application often relate to types of buildings (from Clause A1 of the Building Code) or where such requirements would be incompatible with the use of the building or the part of the building.

Territorial Authority Staff Should Refer to the Building Act 2004, in particular:

- Section 67 – A Territorial Authority may grant a building consent subject to waivers and modifications of the Building Code.
- Section 68 – A Territorial Authority must notify the Chief Executive.
- Section 70 – Applications relating to energy work.
- Section 72 – Building Consent for building on land subject to natural hazards must be granted in certain cases.