Application for Waiver or Modification under [Section 67](http://legislation.govt.nz/act/public/2004/0072/144.0/link.aspx?id=DLM306812) of the Building Act 2004

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| **Applicant** *(complete all sections in orange, see additional guidance attached below. If you are applying for modification for durability see additional specific areas to complete in yellow)* |
| **Property Details** |
| Property address: | Click or tap here to enter text. |
| **Details of Waiver or Modification** |
| Notification details  | [ ] Waiver  | [ ] Modification |
| Modification of durability **B2.3.1** | [ ]  Modification of durability B2.3.1 |
| Any other building Code Clause subject to waiver or modification *(i.e. D1.3.3 (i)* | Click or tap here to enter text. |
| **Reasons for Waiver or Modification**  |
| Click or tap here to enter text. |
| **Proposed Modification**  |
| **B2 Durability:** This application is to request a modification to the start date for durability requirements for the NZ Building Code Clause **B2.3.1** for all building elements associated with this building consent. The owner acknowledges by providing this document they accept that the durability timeframe for building elements that typically starts from the issue of CCC will now be modified to start on the year the work was substantially completed. |
| **Description of building work** | Click or tap here to enter text. |
| **Reason why Modification is requested***(A brief summary of why the application of why this application has been lodged*) | Click or tap here to enter text. |
| **Date of substantial completion***(The date for substantial completion needs to be agreed between the owner and QLDC. It may represent the date of a verified inspection report or the date of practical completion of the entire project build.)* | Click or tap here to enter text. |
| Modification request for all other code clause(s) provide re-worded or additional wording in relation to the modified clause(s) or sub-clause(s)  |
| Click or tap here to enter text. |
| Name: Owner / Authorised agent | Click or tap here to enter text. |
| Date: | Click or tap here to enter text. |

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| **Territorial Authority Sign off** (complete all sections in blue)  |
| TA notification to MBIE ([section 68](http://legislation.govt.nz/act/public/2004/0072/144.0/link.aspx?id=DLM306814))<https://waivermodsform.building.govt.nz> | [ ]  Online form completed (see guidance notes under 3. Online Form)[ ]  MBIE Confirmation email saved to TechOne |
| Techone consent description altered *(i.e …subject to modification of D1.3.3(i))* | Click or tap here to enter text. |
| Conditions imposed (section [70](http://legislation.govt.nz/act/public/2004/0072/144.0/link.aspx?id=DLM306816) & [72](http://legislation.govt.nz/act/public/2004/0072/144.0/link.aspx?id=DLM306819) ) | [ ] Yes | [ ] Not applicable |
| Processing BCO:  | Click or tap here to enter text. |
| Senior BCO: | Click or tap here to enter text. |
| Date: | Click or tap here to enter text. |

**1. 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 of 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 (see guidance under “3. ONLINE NOTIFICATION FORM”)
* 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.

**2. CLARIFICATION OF TERMS**

**2.1. 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.

**2.2. 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.

**3. ONLINE NOTIFICATION FORM**

From 17 July 2023 all notifications have to be completed using the MBIE online notification form. Under additional information include the following information:

* Details of TA conditions (if any) applied under 67 (2) of the Building Act 2004
* Use(s) from the [Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005](http://www.legislation.govt.nz/regulation/public/2005/0032/latest/DLM313966.html)
* What part of the building is subject of the waiver or modification application?