

Waivers and modifications of the Building Code

Last updated: 21 March 2016

Guidance on the Building Act provisions for building officials granting a building consent subject to waiver or modification of the Building Code.

Section 67 of the Building Act 2004 allows territorial authorities (TA) to grant a building consent subject to waiver or modification of the Building Code. If a building consent is granted subject to a waiver or modification, the territorial authority must notify the Chief Executive of MBIE under section 68 of the Building Act 2004.

We have prepared guidance information and an example notification form to assist territorial authorities when granting building consents subject to waivers and modifications of the Building Code.

Notification of Waiver or Modification of the Building Code Form will need to be completed to process a waiver or modification.

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.

This form has been developed to capture information that will assist us with our 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 our Chief Executive 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 us
- 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 for a decision
- an alternative solution is not a waiver or modification of the Building Code.

Notification of waiver or modification of the Building Code form

[PDF 521 KB]

<https://www.building.govt.nz/assets/Uploads/building-officials/guides/notification-of-waiver-or-modification-form.pdf>

Will need to be completed to process a waiver or modification.

Waivers and modifications should be sent to tanotifications@mbie.govt.nz (<https://www.building.govt.nzmailto:tanotifications@mbie.govt.nz>)

- with compliance with the Building Act, it is published under section 175 of the Building Act
- with a Weathertight Services claim, it is published under section 12 of the Weathertight Homes Resolution Services Act 2006.