

Doc  
Ref TS-23, TS-23.1 Waivers and Modifications

Date 20/05/2008

# TS-23 and TS-23.1 Waivers and Modifications (BCA which is a territorial authority)

## ROLES AND RESPONSIBILITIES

### **Building Manager**

Is responsible for ensuring technical staff have the appropriate competence to understand the processes involved in applications and issuing waivers and modifications.

Is responsible for ensuring the appropriate procedures are followed and compliance is measured and recorded.


Is responsible for approving waivers and modifications recommended to him by the Building Officer, and the transfer and movement of building consent documentation and communications between the BCA and the applicant, to the Department of Building and Housing and where required the New Zealand Fire Service Commission.

### **Building Officer**

Is responsible for ensuring requests for waivers and modifications have been processed in accordance with the appropriate procedures and recommending to the Building Manager whether or not the waiver or modification should be issued.

## BACKGROUND

1. Sections 67-70 Building Act 2004
2. The BCA may grant an application for a building consent subject to a waiver or modification of the Building Code.
3. A waiver or modification of the Building Code may be subject to any conditions that the BCA considers appropriate.
4. If a building consent is granted subject to a waiver or modification of the Building Code, the BCA must notify the Chief Executive of the Department of Building and Housing of the waiver or modification.
5. Waivers for energy work are covered under Section 70 of the Building Act 2004.
6. The BCA cannot grant a waiver or modification for access and facilities for use by people with disabilities, either in a new building or in an existing building undergoing alterations.
7. Only the Chief Executive of the Department of Building and Housing can grant a waiver or modification or modification for access and facilities for use by people with disabilities and only for an existing building undergoing alterations, and this waiver can only be granted through the termination process.
8. A waiver or modification cannot be granted for access and facilities for use by people with disabilities for a new building. Buildings that require access and facilities for people with disabilities are listed under Schedule 2 of the Building Regulations.

	<p style="text-align: center;">Clutha District Council</p> <p style="text-align: center;">Building Consent Authority Manual</p>	Doc Ref	TS-23, TS-23.1 Waivers and Modifications
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## PROCEDURE

### 1 RECEIVE APPLICATION

- 1.1 Receive detailed application for waiver or modification including the relevant Building Code clause to be waived or modified.
- 1.2 Check that all information provided is relevant and accurate and assess to determine scope of application.

### 2 PROCESS APPLICATION AND NOTIFY

- 2.1 If the building work is subject to Section 21A of the Fire Service Act refer to Fire Service Commission design review team (T-11).
- 2.2 If any part of the application relates to energy work refer to Department of Building and Housing (T-23.1).
- 2.3 If the waiver or modification is for facilities required for people with disabilities in existing buildings the application must be sent to the Chief Executive and may be granted through the determination process.
- 2.4 Check for bans or warning under S27 of BA04. If a ban is in place refuse to grant the waiver if it would result in a breach of the ban.
- 2.5 Check Sections 3 and 4 to ensure that the Purpose and Principles of the Code are met. The application must be refused if it is not reasonable to grant the waiver. An example would be where the waiver or modification could result in a death trap building.
- 2.6 When issuing a building consent on the basis of a waiver or modification of the building code under Section 67 conditions may be attached, where appropriate to the building consent.
- 2.7 Grant or refuse the waiver or modification and send copy to applicant. If the application is granted forward a copy of the waiver or modification to the Department of Building and Housing.

## NOTES