

# Application for modification or non-application of building standards

OFFICE USE ONLY

*Building Act 2011, section 39*  
*Building Regulations 2012, regulations 4, 31, 32*

Permit authority

## 1. Property this application relates to

Property street address (provide lot number where street number is not known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb		State	Postcode

Local government area (if different from permit authority)

The declaration is related to

A new building

Building work to an existing building

## 2. Details of building work

Project name (if any)

Description of the building and building work

Main use of building

Class of building/s (in accordance with the Building Code of Australia (BCA))

Estimated value of building work (including GST)

\$

Size of building

Floor area to be created (m<sup>2</sup>)Site (lot) area (m<sup>2</sup>)

Reasons why a performance solution, as allowed under the BCA, cannot be found or is not appropriate (please provide copies of relevant expert reports and opinions):

### 3. Owner details

Where there are multiple owners, please attach a list with the names and signatures of each owner.

**Owner's name**

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Street address  
(provide lot number  
where street  
number is not  
known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb		State	Postcode
			Country (if not Australia)

**OR**

PO Box address

PO Box no			
Suburb		State	Postcode
			Country (if not Australia)

Email address

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Phone/fax

Phone no	Fax
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Owner's signature\*

	Date
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\*If you are authorised to sign on behalf of the owner, please provide your written legal authorisation with your application.

#### Details of the lessee of the building (if not owner occupied)

**Lessee name**

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Street address  
(provide lot number  
where street  
number is not  
known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb		State	Postcode
			Country (if not Australia)

**OR**

PO Box address

PO Box no			
Suburb		State	Postcode
			Country (if not Australia)

Email address

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Phone/fax

Phone no	Fax
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#### 4. Applicant details

Applicant's name

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Street address  
(provide lot number  
where street  
number is not  
known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb	State	Postcode	Country (if not Australia)

OR

PO Box address

PO Box no			
Suburb	State	Postcode	Country (if not Australia)

Email address

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Phone/fax

Phone no	Fax
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#### 5. Declaration sought

The following declaration is being sought under section 39 of the *Building Act 2011* (tick appropriate declaration sought and provide details):

- A specified building standard does not apply to a specified building, specified incidental structure or specified demolition work (section 39(2)(a) of the *Building Act 2011*)

Provide details (attach additional pages if insufficient space)

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- A building standard that applies to a specified building, specified incidental structure or specified demolition work is modified in a specified way. (section 39(2)(b) of the *Building Act 2011*)

Provide details (attach additional pages if insufficient space)

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## 6. Details of the independent building surveyor

<b>Building surveyor's name</b>				
Street address (provide lot number where street number is not known)	Unit no	Street no	Level	Lot no
	Street name		Street type	Street suffix
	Suburb		State	Postcode
<b>OR</b>				
PO Box address	PO Box no			
	Suburb		State	Postcode
Email address				
Phone/fax	Phone no		Fax	
	Registration number		Level <input type="checkbox"/> Building Surveying Practitioner Level 1 <input type="checkbox"/> Building Surveying Practitioner Level 2	

## 7. Details of the second independent building surveyor (as previously approved by the Building Commissioner)

<b>Building surveyor's name</b>				
Street address (provide lot number where street number is not known)	Unit no	Street no	Level	Lot no
	Street name		Street type	Street suffix
	Suburb		State	Postcode
<b>OR</b>				
PO Box address	PO Box no			
	Suburb		State	Postcode
Email address				
Phone/fax	Phone no		Fax	
	Registration number		Level <input type="checkbox"/> Building Surveying Practitioner Level 1 <input type="checkbox"/> Building Surveying Practitioner Level 2	

## 8. Statements and other attachments

The three statements attached in this application are to be completed by:

1. the **applicant**;
2. the **independent building surveyor**; and
3. the **second independent building surveyor approved by the Building Commissioner**.

### Second independent building surveyor

Prior to completing this form, the applicant must provide the Building Commissioner with the names of at least three suitably qualified and experienced registered building surveyors to assist the Building Commissioner in approving a second independent building surveyor for the purposes of this application.

The completed statements must be attached to this application prior to lodgement with the Building Commissioner.

Attach other relevant information that may support your application. This may include but is not limited to:

- a) plans and specifications;
- b) expert technical reports;
- c) legal opinions;
- d) whether the non-compliance is proposed to be temporary; and
- e) any building upgrade plans.

### Note

You should be aware that applying for modification or non-application of a building standard is a very serious request and is not a decision that can be made without substantial justification.

The financial burden of complying with building standards is generally not a sufficient reason in itself for modification or non-application of a building standard.

Failure to provide sufficient justification may delay the Building Commissioner's decision or lead to a refusal to make the declaration being sought.

## 9. Right of review

A person who makes an application for a declaration as defined in section 39(1) of the *Building Act 2011* may apply to the State Administrative Tribunal for a review of the decision by the Building Commissioner:

- a) to not declare that a building standard does not apply;
- b) to not declare that a building standard is modified; or
- c) as to the modification of a building standard.

**10. Statement by applicant**

I,

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 Full name of applicant

being the applicant seeking a declaration under section 39 of the *Building Act 2011* in relation to the property at:

**Address of the property this application relates to:**

Property street address (provide lot number where street number is not known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb		State	Postcode

am of the opinion that making the declaration: (complete either (i) or (ii))

(i) is in the public interest for the following reasons (attach additional information if required):

(ii) or is consistent with the purpose of the following written law or a Commonwealth law. Explain how it is consistent (attach additional information if required):

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 Signature of applicant

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 Date

## 11. Statement by an independent building surveyor

I,

\_\_\_\_\_  
Full name of independent building surveyor

Confirm that:

- I am an independent building surveyor as defined under regulation 32(2) of the Building Regulations 2012;
- I am a building surveying practitioner registered under section 17 of the *Building Services (Registration) Act 2011* with registration number \_\_\_\_\_; and
- I have assessed this application seeking a declaration for modifying / not-applying a building standard to the building, incidental structure or the demolition work in relation to the property at:

Property street address (provide lot number where street number is not known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb		State	Postcode

Pursuant to section 39 of the *Building Act 2011* and regulation 32 of the Building Regulations 2012, I make the following statements:

1. The Deemed-to-Satisfy (DTS) provisions of the Building Code of Australia (BCA) in relation to which a modification or non-application is sought are:

2. (a) Where the application is seeking to modify a standard, the DTS provisions in Statement 1 above are proposed to be modified to read as follows:

(b) Where the application is seeking to not-apply a standard, the DTS provisions in Statement 1 above that are to be not-applied are:

3. The Performance Requirements that are relevant to the DTS provisions of the BCA in relation to which a modification or non-application is sought (whether or not the Performance Requirements are within the same Section or Part of the BCA as the relevant DTS provisions) are:

4. The Performance Requirements in Statement 3 above are proposed to be modified to read as follows:



5. Each risk to people, property or the environment that the DTS provisions and Performance Requirements in Statement 1 and Statement 3 prevent or minimise are:

6. This is how each risk in Statement 5 above has been quantified and measured for the building, incidental structure or demolition work that is the subject of this application:

7. I have set out below if, and the extent to which, a risk would be increased if the DTS provisions and Performance Requirements in 1 and 3 are not applied or modified as per Statement 2 and Statement 4 above:

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Signature of independent building surveyor

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Date

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Signature of second independent building surveyor

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Date

## 12. Statement of a second independent building surveyor

I,

\_\_\_\_\_  
Full name of second independent building surveyor

Confirm that:

- I am an independent building surveyor as defined under regulation 32(2) of the Building Regulations 2012;
- I am a building surveying practitioner registered under section 17 of the *Building Services (Registration) Act 2011* with registration number \_\_\_\_\_;
- I have been approved by the Building Commissioner for the purpose of providing this statement; and
- I have reviewed and agree with the statement dated     /     /     of the independent building surveyor:

\_\_\_\_\_  
Full name of independent building surveyor

in relation to the property at:

Property street address (provide lot number where street number is not known)

Unit no	Street no	Level	Lot no
Street name		Street type	Street suffix
Suburb		State	Postcode

for the modification or non-application of a building standard as endorsed by me on the 'Statement by the Independent Building Surveyor' as follows:

(Please outline the modification or non-application of building standards being sought)

\_\_\_\_\_  
Signature of the second independent building surveyor

\_\_\_\_\_  
Date

### 13. Payment

The prescribed fee for an application as defined in regulation 31 of the Building Regulations 2012 is set out in Division 3 of Schedule 2 of the Building Regulations 2012. This fee applies for each building standard in respect of which a declaration is sought.

#### Payment method

Cash       Cheque       Money order       Credit/Debit card

#### Card authorization

**Building Commissioner ABN: 69 410 335356**

<input type="checkbox"/> Visa <input type="checkbox"/> Mastercard <input type="checkbox"/> Debit card	
Card number	Expiry date
Name on card	Amount payable \$
Cardholder's signature	Date
Cardholder's contact phone number	

#### Lodgement and payment

Please lodge completed application form including all supporting documents and payment to the Building Commissioner.

**By post**

Pay by cheque or money order made payable to the Building Commissioner or pay by credit card using this payment slip addressed to:

Building Commissioner  
Locked Bag 100  
EAST PERTH WA 6892

**In person**

Pay by cash, cheque, money order or credit card over the counter at:

Department of Mines, Industry Regulation and Safety  
Level 1, 303 Sevenoaks Street  
Cannington WA 6107

Office hours are:  
Mon–Fri 8:30 am to 4:30 pm.



BPAY and online payment are not available for this application.

#### After the application is lodged

The Building Commissioner will confirm receipt of this application when satisfied that it meets the relevant legislative requirements. Applications may not be processed where required information or payment has not been provided. Applicants will be given written notice of the decision that has been made by the Building Commissioner in accordance with the Building Regulations 2012.