

### APPLICATION FOR SECTION 160 MODIFICATION

#### MODIFICATION OF BUILDING REGULATIONS

## 1 SITE DETAILS

### Address

Street Address:

Suburb:

State:

P/Code:

### Municipality

Is the copy of current Certificate of Title for the allotment attached?



Yes:

No:

Need to attach a copy of current Certificate of Title for the allotment. Go to [www.landata.vic.gov.au](http://www.landata.vic.gov.au)

## 2 APPLICANT

### Name

### Company name

### Address

Street Address:

Suburb:

State:

P/Code:

Phone Business hours:

Mobile:

Email:

**Is the Applicant the Owner of the property?**

Under section 248(1) of the *Building Act 1993*, it is an offence for a person to act on behalf of an owner of a building or land for the purpose of making an application unless the person is authorised in writing to do so.

Tick relevant box below



<input checked="checked" type="checkbox"/>	The applicant is the owner	
<input type="checkbox"/>	The applicant is acting on behalf of the owner	Complete and sign the authority to act form at the back of this form

The Act requires that a copy of this application document must be served on other parties, namely:

- any other 'party concerned' (this is generally a person with a direct interest in the outcome of the application); and
- if the modification relates to a building or land on a register under the Historic Buildings Act 1981, the Historic Buildings Council.

**3 RELEVANT BUILDING SURVEYOR**

List Relevant Building Surveyor involved in this matter

**Name**

**Company name**

**Address**

Street Address:	
Suburb:	
State:	P/Code:
Phone Business hours:	Mobile:
Email:	

## 4 REGULATORY PROVISIONS

### 4A Outline of section 160 of the Act

Under section 160, an application may be made to the Building Appeals Board for a determination that a provision of the building regulations (as defined in section 160(1) of the Act):

- **does not apply;** or
- **applies with the modifications or variations** specified in the application.

The Building Appeals Board must not determine that:

- a provision of the regulations does not apply to a building or land unless satisfied that, in the particular circumstances, the provision is **inappropriate**;
- a provision of the regulations applies to a building or land in a modified or varied form unless satisfied that to do so is **reasonable** and **not detrimental to the public interest**.

**If the application relates to an access provision of the building regulations, within the meaning of section 160B(8) of the Act, you must apply under section 160B of the Act (rather than under section 160).**

Before determining an application under section 160, the Building Appeals Board:

- must consult:
  - any authority that would be a reporting authority if the application were an application for a permit; and
  - the Victorian Building Authority, if the application discloses that any aspect of the matter has been considered by it; and
  - if the application shows that any aspect of the matter relates to a building permit, the relevant building surveyor; and
- if the application concerns a building included in the Heritage Register established under the *Heritage Act 1995*, must consider any recommendation received from the Heritage Council before the hearing of the application; and
- may consult the municipal building surveyor; and
- may consult any other body or person.

### 4B Nature of application under section 160

**What is the nature of your application?**



	That a provision of the building regulations does not apply	Complete question 4C
	That a provision of the building regulations applies in a modified or varied form	Complete question 4D
	That: <ul style="list-style-type: none"> <li>• a provision of the building regulations does not apply; and, in the alternative</li> <li>• a provision of the building regulations applies in a modified or varied form</li> </ul>	Complete questions 4C and 4D

Nominate the BCA Performance Requirement(s)	Nominate the BCA Deemed to Satisfy provision(s) (if relevant)

	Nature of application for modification of building regulations:
.....	
.....	
.....	
.....	
.....	
.....	
.....	
.....	

#### 4C Regulations that do not apply

Tick the relevant box below and list the regulatory provisions that, in your view, should not apply to the building or land specified in this application.

<input checked="" type="checkbox"/>	Regulatory provisions	Specify the provision
<input type="checkbox"/>	BCA Performance Requirements	
<input type="checkbox"/>	BCA Deemed to Satisfy provisions	
<input type="checkbox"/>	Building Regulations 2006	
<input type="checkbox"/>	Previous Building Regulations	
<input type="checkbox"/>	Australian Standards	
<input type="checkbox"/>	Other	

#### 4D Regulations that apply in a modified or varied form

Tick the relevant box below and list the regulatory provisions that, in your view, should apply to the building or land specified in this application in a modified or varied form.

<input checked="" type="checkbox"/>	Regulatory provisions	Specify the provision
<input type="checkbox"/>	BCA Performance Requirements	
<input type="checkbox"/>	BCA Deemed to Satisfy provisions	
<input type="checkbox"/>	Building Regulations 2006	
<input type="checkbox"/>	Previous Building Regulations	
<input type="checkbox"/>	Australian Standards	
<input type="checkbox"/>	Other	

## 5 RELEVANT BUILDING / LAND DETAILS

Use of Building	
BCA Classification	
No of storeys	
Floor area of existing building	
Floor area of new building	
Type of construction	(not relevant to class 1 & 10)
Effective Height	(not relevant to class 1 & 10)
Volume of the building	(not relevant to class 1 & 10)

## 6 INFORMATION APPLICABLE TO APPLICATION

Please answer the questions below and provide relevant documents where necessary

	Yes	No
Has an application for a building permit been lodged?		
Has the building permit been issued?		
Has work that forms part of this application commenced?		
If yes what percentage is completed		%
Nominate the edition of the BCA that is to be modified.		
Are there any Building Notices or Building Orders that may directly or indirectly relate to the matter raised in this application? (If Yes, provide a copy of the Notice or Order)		
Has any fire engineering, fire safety assessment or other expert reports, alternative building solution or dispensation been undertaken that may in any way relate to the matters raised in the application? (If Yes, provide copies)		
Is there a relevant planning permit?		
Is the building on a register under the <i>Heritage Act 1995</i> ?		

Aside from the matters outlined in this application has any aspect of this matter been or being considered by the Building Appeals Board or Victorian Building Authority

✓

<b>Yes</b>		Provide details and attach to this application
<b>No</b>		

## 7 MANDATORY INFORMATION

A written submission must be provided together with this application form to support the application. In addition to the information sought in questions 4, 5 and 6 above, the submission must include the following:

1. The background of the proposal and the reasons why this application is being made.
2. Comments from the Relevant Building Surveyor where applications relate to a Building Permit - alternatively the Building Appeals Board will refer your application to the Relevant Building Surveyor.
3. Where the application relates to the Building Code of Australia (BCA) nominate:
  - the relevant primary Performance Requirements; and
  - the applicable deemed to satisfy provisions.
4. Where the application relates to a BCA Performance Requirements, the applicant must provide commentary on the implications for each of the individual clauses of the Performance Requirement.
5. If the application is seeking a determination that a provision of a building regulation (as defined by section 160(1)) does not apply, outline:
  - the implication of such a provision not applying;
  - why the provisions are inappropriate; and
  - why the Board should make the determination.
6. If the application is seeking a determination that a provision of a building regulation (as defined by section 160(1)) applies in a modified or varied form, outline:
  - the implication of making such a modification or variation;
  - why such modification or variation would be reasonable and not detrimental to the public interest ; and
  - why the Board should determine that the above provisions apply in a modified or varied form.
5. Commentary on the following issues, to the extent that they are relevant:
  - Class of building
  - Rise in storeys
  - Protection from spread of fire
  - Active fire detection and early warning systems
  - Occupant life safety
  - Special characteristics of fuel load
  - Safe movement and access to and within the building
  - Rise in storeys
  - Exposure to allotment boundary
  - Potential Ignition sources
  - Bushfire protection
  - Health and Amenity of occupants
6. Documentation, such as drawings, photographs and plans, which is numbered or clearly described. The drawings MUST be marked up clearly to highlight the determination sought.
7. Any other information that will assist the Building Appeals Board to determine this application.

## 8 FEES / PAYMENT

A separate fee is to be paid for each matter to be determined.

The fees are outlined at [www.buildingappeals.vic.gov.au/how-to-apply/forms-and-fees](http://www.buildingappeals.vic.gov.au/how-to-apply/forms-and-fees)

- Always refer to the current prescribed fee schedule for modification application costs prior to submitting your application
- Complete the payment details form.

Please indicate your total fee amount payable for this application

**Total Amount**

\$

## 9 SIGNATURE

I understand that, under section 248(1) of the *Building Act 1993*, it is an offence for a person to act on behalf of an owner of a building or land for the purpose of making an application unless the person is authorised in writing to do so.

I also acknowledge that it is an offence to knowingly make any false or misleading statement or provide any false or misleading information to the Building Appeals Board in relation to this appeal (section 246 of the Act).

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## AUTHORITY TO ACT FORM

### 1 OWNER/S DETAILS

Name of owner/s

Company Name

Address

Street Address:	
Suburb:	
State:	P/Code:
Phone Business hours:	Mobile:
Email:	

### 2 SITE DETAILS

Address (please note a Copy of title /contract of sale is required to confirm ownership of the land/building)

Street Address:	
Suburb:	
State:	P/Code:

### 3 SIGNATURE OF OWNER/S

#### DECLARATION

I confirm I am the owner of the above site and consent to the following person acting on my behalf:

Name of agent or legal firm: \_\_\_\_\_

I also acknowledge that it is an offence to knowingly make any false or misleading statement or provide any false or misleading information to the Building Appeals Board in relation to an application (section 246 of the Act).

SIGNATURE OF FIRST OWNER: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE OF SECOND OWNER: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



## APPLICATION CHECKLIST

Use this checklist to ensure all your required documents are submitted. If all the required information is not provided at the time of submission your application may not proceed.

<b>1 SITE DETAILS</b>	✓
A copy of the current Certificate of Title for the allotment is attached	<input type="checkbox"/>
<b>2 APPLICANT</b>	
If the applicant is not the owner, and the application is on behalf of the owner, the 'Authority to Act' Form has been completed and signed	<input type="checkbox"/>
<b>3 MANDATORY INFORMATION</b>	
The background of the proposal and the reasons why this application is being made	<input type="checkbox"/>
Comments from the Relevant Building Surveyor where applications relate to a Building Permit - alternatively the Building Appeals Board will refer your application to the Relevant Building Surveyor	<input type="checkbox"/>
Where the application relates to the Building Code of Australia (BCA) nominate: <ul style="list-style-type: none"> <li>the relevant primary Performance Requirements; and</li> <li>the applicable deemed to satisfy provisions</li> </ul>	<input type="checkbox"/>
Where the application relates to a BCA Performance Requirements, the applicant must provide commentary on the implications for each of the individual clauses of the Performance Requirement.	<input type="checkbox"/>
If the application is seeking a determination that a provision of a building regulation (as defined by section 160(1)) does not apply, outline: <ul style="list-style-type: none"> <li>the implication of such a provision not applying;</li> <li>why the provisions are inappropriate; and</li> <li>why the Board should make the determination</li> </ul>	<input type="checkbox"/>
Documentation, such as drawings, photographs and plans, which is numbered or clearly described. The drawings MUST be marked up clearly to highlight the determination sought	<input type="checkbox"/>
<b>7 FEES/PAYMENT</b>	
Total fee amount payable for this application is identified	<input type="checkbox"/>
Payment details form have been completed and is attached	<input type="checkbox"/>
<b>8 DECLARATION AND SIGNATURE</b>	
You have acknowledged that it is an offence under section 246 of the Act to knowingly make any false or misleading statement or provide any false or misleading information to the Board in relation to this application	<input type="checkbox"/>