

What you need to know about

the Building Appeals Board - Modifications

What is the Building Appeals Board?

The BAB is an independent statutory body established under the *Building Act 1993*. It seeks the best possible building outcomes for the building industry and the community as a whole.

This brochure provides an overview of one of the roles and functions of the BAB.

An application for a modification can be lodged with the BAB by an owner of the building or land or by the agent of an owner.

Need more information?

More information regarding the BAB can be found in the following brochures:

What you need to know about the Building Appeals Board

What you need to know about the Building Appeals Board – Disputes

What you need to know about the Building Appeals Board – Appeals

Telephone +61 3 9285 6400 Facsimile +61 3 9285 6410
Level 27, 2 Lonsdale Street, Melbourne, Victoria, 3000

publicrelations@buildingcommission.com.au

www.buildingcommission.com.au

Printed July 2006



What are modifications?

A request for a modification is made to the Building Appeals Board (BAB) where it is felt that a provision of the *Building Regulations 2006* (the Regulations) (which includes the *Building Code of Australia* (BCA) and associated Standards) either does not apply or should apply in relation to a building or land.

Modifications will only be granted where the BAB is satisfied that, in the particular circumstances, the provision is inappropriate and that a modification would be reasonable and not detrimental to the public interest.

The following case study provides a greater insight into how the BAB may assist you with a modification:

You are extending a weatherboard house and you wish to maintain the weatherboard construction however the existing dwelling is sited 800 mm from the side boundary of the allotment. The BCA requires the external wall to meet specific fire resistance levels when sited less than 900 mm from the allotment boundary. This would mean that the external wall would need to be constructed of brick. However, you want the wall to be constructed of weatherboard so it matches the existing dwelling.

You can apply to the BAB to find out if the regulations can be modified to permit you to construct the weatherboard wall 800 mm from the boundary.

Who can lodge a modification?

An application for a modification can be lodged with the BAB by an owner of the building or land or by the agent of an owner.

How do I apply?

All applications for hearings at the BAB must be made on the forms available from the Building Commission website (www.buildingcommission.com.au). Applications may be made in person or by mail. Practice Note 2006-39, located on the Building Commission website, contains examples of modification applications that can be used as a guide to assist in preparing a submission.

Should an application be faxed, it will be registered but no further action on the application will occur until the original documents are submitted.

The application must be accompanied by the appropriate fee and all necessary documentation as indicated in the application form.

How long does it take?

The majority of determinations of modification applications are generally made within four weeks of an application.

What does it cost?

The following fee schedule applies to modification and compliance hearings at the BAB:

Section of Act	Modification	Building Classification	Fee
160 ₁	Modification	1 and 10	\$90.00 per Performance Clause or regulation being determined
160A ₂	Compliance	1 and 10	\$200.00 per Performance Clause or regulation being determined

Section of Act	Modification	Building Classification	Fee
160 ₁	Modification	2–9	\$200.00 per Performance Clause or regulation being determined
160A ₂	Compliance	2–9	\$200.00 per Performance Clause or regulation being determined

Note Class 1 and 10 generally are houses and outbuildings, Class 2-9 is all other buildings other than houses and outbuildings.

The BAB is not legalistic and efforts are made to minimise costs for applicants applying for a modification, or a compliance application.

How is the application processed?

Once an application is received, it undergoes a preliminary assessment by a technical advisor. He or she will review the information submitted to ensure that all relevant material has been provided (including comments from other parties). This ensures that a full assessment will not be delayed due to a lack of basic information or confusion over the nature of the modification being sought.

Following the full technical inspection and receipt of comments from other parties, the application is presented to the BAB. If appropriate, applicants may obtain comments from other parties themselves. However, there may be occasions where the BAB will obtain comments from parties other than those the applicant might consider applicable.

What do I need to know about the hearing?

Attendees

Modification hearings are generally conducted with only BAB members and the technical advisor present. Applicants or other parties will only be invited to attend the hearing if extraordinary circumstances exist. Applicants are however, encouraged to discuss their application by appointment with the technical advisor either prior to lodgement or during the assessment process prior to the hearing.

Board members

The Panel that hears the appeal will be selected from the BAB members in an impartial manner with due consideration given to the skills required to deal with matters that are the subject of the hearing.

How is the Board's decision conveyed?

The BAB's decision is mailed to the applicant unless unusual circumstances require a faster method. The applicant may also collect the determination from the BAB's office.