



Applying for a Code Compliance Certificate for Old or Historic Building Consents

Purpose

The purpose of this guide is to provide the building owner with a clear process and pathway when applying for a Code Compliance Certificate (CCC) for a building consent that is classified as an Old or Historic Building Consent.

This guide does not cover building work or buildings that were constructed as part of a building permit (i.e., building permit that was issued prior to the implementation of the Building Act 1991). Building permits were issued by Hutt City Council (Council) under the Bylaw regime when there was no requirement to carry out a final inspection or issue a CCC.

Background

A CCC is a formal statement issued by Council certifying that:

- For building consents issued under the Building Act 1991 and the Building Act 2004 – building work carried out complies with the issued building consent.
- For building permits issued prior to the implementation of the Building Act 1991 – building work carried out complies with the applicable New Zealand Building Code (Building Code) that applied at the time the building permit was issued.

In any case, before Council can issue the CCC, we must be "satisfied on reasonable grounds" that the building work complies with the Building Code and/or the issued building consent. If Council cannot be satisfied, we will refuse the CCC and set out the reasons as required under Section 95 of the Building Act 2004. In some instances, if there is significant non-compliance, Council is also required to issue a Notice to Fix.

Regardless of the reasons why the owner could not obtain the CCC earlier, the critical consideration in the current circumstance is that the work must comply

with the requirements of the applicable Building Code (prior to 1991) or the issued building consent (Building Acts 1991 and 2004) at the time when the CCC will be issued; not at the time when Council last inspected the building.

Definition Of an "Old or Historic" Building Consent

An old or historic building consent is defined as a building consent issued under the Building Act 1991 or Building Act 2004 for which a CCC has not been issued for the work and more than 5 years have passed since the issuing date. When assessing older building consents for CCC, the Building Code requirements of Clause B2 Durability and Clause E2 External Moisture are particularly relevant and critical to the decision to issue or refuse to issue a CCC.

Clause E2 External Moisture

Clause E2 External Moisture requires the building and its overall weathertightness performance to comply with the Building Code. Where the work has been completed for some time, Council will have to carry out a full review and re-inspection to enable Council to be satisfied, on reasonable grounds, that the work still complies at the time of re-inspection.

On application and payment of the required fees, a Council Building Control Officer will review the file of the issued building consent and relevant documentation. The following factors will be considered:

- The age of the building/building work.
- The complexity of the design.
- The type of cladding material used and method of installation (cavity or no cavity).
- The E2 External Moisture risk matrix score assessment.

The E2 External Moisture risk matrix score assessment will consider the following factors:

- Number of storeys.
- Wind zone.
- Roof/wall junction (number of junctions, interfaces, and level of complexity).
- Eave width.
- Decks and balconies.
- Cladding type/material; junctions, complexity, junction of multiple claddings.

The Process

Initial Request from Owner

The process could be initiated by the owner either requesting a final inspection by submitting form [BCON-FORM-E001 - Application for Durability Modification](#) or submitting an application for a CCC. The request/application will then be reviewed and assessed by Council to determine how it will proceed.

Final Inspection

A Building Inspector will undertake a final inspection to assess whether the work complies with the requirements of the applicable Building Code (pre the Building Act 1991) or the issued building consent (Building Act 1991 Building Act 2004) using Council's final inspection checklist.

If the final inspection passes, then the CCC process will continue, and the Inspector will complete an assessment before final sign off. If the final inspection fails, you will need to remediate the identified issues for the CCC process to progress.

If the issues resulting in the failure of the final inspection are minor in nature and do not relate to issues to do with B2 Durability and E2 External Moisture of the Building Code, you can discuss the best way forward with the building inspector.

If the issues resulting in the failure of the final inspection are significant and Council is not satisfied on reasonable grounds, then a CCC will not be issued. The reasons for not issuing the CCC will then be given in writing to the owner and the application will be refused.

To progress toward a successful CCC application the owner will be required to undertake an extensive investigation including weathertightness. These investigations are normally carried out independently by a Registered Building Surveyor (specialising in weathertightness).

Please note that all inspections and associated research investigations and reviews performed by the council inspector will be recorded and invoiced to the building owner.

Weathertightness Investigation/Report

Council may request and accept a report from a suitably qualified person (i.e. Registered Building Surveyor, Registered Architect, and Chartered Professional Engineer) with specialist area or practice area in weathertightness.

The person chosen to undertake the building survey should investigate the performance of the building thoroughly through the adoption of appropriate methodologies chosen to identify accurately all damage sustained, with particular emphasis on damage to structural building elements such as framing. The methodologies selected must yield results capable of being relied upon by Council in the performance of its statutory functions, which means the spectrum of assessment methods used should avoid ambiguity of outcome.

Information and sufficient evidence will be required to demonstrate the suitability and competence of the author of the weathertightness investigation report. The information should include, but is not limited to, the following:

- Demonstrated competence in the type and scale of the project subject to the investigation.
- Formal qualifications.
- Relevant work experience.
- Membership of appropriate professional organisation.
- Appropriate level of professional indemnity insurance based on the value of the work.
- Declaration of any potential conflict of interest.

Acceptance of the report will also be subject to the following, in particular but not limited to:

- The report must be a full assessment of all of the building envelope that was completed as part of the building work concerned (i.e. wall cladding, roof cladding, external joineries, penetrations, junctions/interfaces, flashings etc.).
- The report and investigation must be thorough and extensive to the extent that is deemed appropriate by the author to provide a conclusive statement on the level of compliance and performance of the building work. (The report is expected to be the same type and quality of report required to be provided to the Ministry of Business, Innovation and Employment (MBIE) for determination purposes).
- Evidence of invasive testing (or any other necessary testing) and analysis carried out by the author of the report to confirm weathertightness performance of the building work.

- Conclusion as to whether or not the building work complies with the Building Code Clauses B1 Structure, B2 Durability and E2 External Moisture.
- Supporting documents, photographs, testing results and analysis carried out as part of the investigation.
- Detail of any failures or concerns regarding weathertightness performance.
- Detail of any remedial works or recommendations on how to fix any of the weathertightness non-compliances or failures.
- Detail of any proposal by the author how the work can be remediated with a plan for monitoring and supervision of the remedial work.
- Indication as to whether or not a new building consent will be required for the proposed remedial works.
- Any other recommendation/comment by the author.
- Declaration of any potential conflict of interest.

Once this report has been completed you will need to book a site meeting so that a building inspector can validate the report findings and discuss and approve, in principle, any actions to address the proposed works or remedial measures.

Do not commence any remedial work until approved by Council, as this work may require an application for a new building consent.

Frequently Asked Questions

Why is there a need to involve independent “suitably qualified” Building Consultants?

Old or historical building consents often involve work that was completed long ago with little evidence as to whether it was completed correctly. If adequate records are not available to verify the quality of construction, then an invasive level of inspection may be required. It could, for example, involve the removal of wall panels or external wall cladding.

Council cannot undertake this level of inspection therefore the homeowner will be required to procure the services of an independent suitably qualified consultant to perform the inspection and document the results. Council does not endorse or recommend any specific Building Consultants. However, the qualifications of any selected consultant will be assessed when they submit their technical assessment report. As an owner you should investigate before acquiring the services of a consultant to ensure they are suitably qualified.

Key considerations should include:

- They must have significant knowledge of the Building Act and Building Code.
- They must be experienced in key areas of building design, construction, or inspection specifically around weathertightness and structure.
- They must also be able to undertake invasive testing.
- They should have a suitable qualification, professional registration or industry association e.g.:
 - RICS (Royal Institute of Chartered Surveyors)
 - NZIBS (New Zealand Institute of Building Surveyors)
 - CPENG (Chartered Professional Engineer)
 - BOINZ (Building Official Institute of NZ)

What is a B2 Durability Modification Application?

It is a formal agreement that is signed by the owner to acknowledge that the durability requirements for specific building elements will be measured from an agreed date rather than from the date the CCC is issued. Typically, this will be the date when a building inspection was completed that provided clear evidence of the workmanship quality e.g. Pre-line.

Can I withdraw my CCC Application if the process gets too complicated or costly?

The owner can choose not to pursue a CCC at any time. If so, Council will not take further action unless it becomes aware that the building work is potentially dangerous or insanitary as defined in the Building Act 2004. Fees must be paid to Council for work already carried out.

What if I don't agree with a refusal to issue a CCC?

If you do not agree with our decision not to issue a CCC then you can apply for a 'determination' from the Ministry of Building, Innovation and Employment (MBIE). A determination considers information provided by the owner and Council. It will need to cover how the building work complies with the Building Code clauses.

In most cases MBIE will engage its own expert to provide an independent assessment of the work. The result of the determination is binding on all parties and will become part of the record for the property. If you decide to request a determination through MBIE, no remedial work, other than temporary repairs, should be undertaken until after a final determination is made and the appropriate course of action is then followed.

What if my building work was completed under a different version of the Building Act?

For building consents that were issued under the Building Act 1991 (prior to 31 March 2005), the test which must be applied when considering whether to issue a CCC is whether the building work concerned complies with the Building Code that applied at the time the building consent was granted.

This means if the Building Code has been amended since the building consent was granted, it is not mandatory to have upgraded to that new requirement in order to obtain a CCC. For building consents issued under the Building Act 2004 (after 31 March 2005) the substantial test is that building work complies with the consent documentation.

This test therefore means that it also applies to the Building Code at the time the work was consented. The exception to this rule is with smoke detectors which must be installed in accordance with today's standards for the CCC to be approved.