

# CODE COMPLIANCE CERTIFICATES FOR HISTORIC BUILDING CONSENTS

(More than five yearsold)

# CCC Applications for Historical Building Consents



## Why is a CCC important?

A Code Compliance Certificate (CCC) is a legally recognised document that is issued under section 95 of the Building Act 2004. It verifies that the building work complies with the consented designs and is compliant with the New Zealand Building Code.

The issuing of a CCC is the final stage of the building consent process. However, in some cases this final step is overlooked. Some owners may not know that it is their responsibility to request a CCC and others believe their contractors are taking care of it. Some projects are never finished, or people forget to let the Council know that the project is complete.

Many home owners only discover their building has no CCC when they decide to sell or when a prospective purchaser gets a report on the property. Often the sale or auction of a property relies on there being a CCC issued. Some banks won't lend against a property if there is no formal sign-off for building work, and some insurance companies won't cover building work if it doesn't have a CCC.

Although this can be a stressful time for the home owner, the process to issue the CCC cannot be rushed. All home owners are therefore strongly encouraged to apply for CCCs well in advance of any sale of their property.

## Why is it Complicated for Historical Building Consents?

Before QLDC can issue a CCC, it must be determined 'on reasonable grounds' that the work complies with both the New Zealand Building Code and the plans and specifications that were associated with the original building consent.

The Building Code has specific time periods set out for durability of various elements of construction. The longer building work is left before applying for a CCC, the harder it is to determine whether these minimum time periods will be complied with. In cases where the building work is already 5 or more years old elements of the work may have already exceeded their expected durability or manufacturer's warranty.

For most Historical Building Consent CCC applications the home owner will be asked to complete an application to alter the durability period (AF WM Application for Waiver or Modification for B2 Durability). This is a declaration that the owner and QLDC acknowledge that the durability timeframe for the building elements has been reduced due to the delays with the CCC application.

All CCC applications for historical building consents need to be evaluated carefully to assess the level of investigation that will be required. While the objective is to arrive at a successful outcome for the applicant, there may be situations where QLDC cannot be satisfied that the building work complies and therefore the CCC cannot be issued.

## The Process

1. To start the process you must complete a “Form 6 CCC Application Form” (supplied with your issued Building Consent or available on our website).
2. Submit your completed Form 6 along with scanned copies of all of your Producer Statements, Certificates, SS forms through the QLDC website Sharefile Portal.
3. If your building consent is over five years old an application form to modify to durability period will be required (AF WM Application for Waiver or Modification for B2 Durability) . You will be asked to apply for and sign this as part of the CCC processing.
4. For all CCC applications QLDC has 20 working days to complete the CCC processing and either issue or refuse to issue CCC. The CCC processing involves a review of the quality of submitted documentation to confirm whether QLDC can be satisfied on reasonable grounds that all requirements have been satisfied.
5. The processing will assess the history of the build work and the probable scope of inspection requirements. Factors considered in this review include:
  - the age of the building work
  - the complexity of the design and the materials used
  - the results of inspections already carried out
  - any outstanding matters, including fees
6. Once the quality and accuracy of all submitted information has been assessed. You will be contacted by QLDC to advise whether:
  - A Final Inspection is approved, or
  - A Final Inspection is not approved
7. If a Final inspection is approved, you can book it over the phone (03 450 0369) or through our website. A Building Control officer will complete the Final Inspection to assess whether the building work complied at the time of completion as well evaluating the likelihood that it will continue to comply for the for the required durability time period.
8. If an inspection is not approved, it is because the technical review of your file revealed that the work would be unlikely to comply if it was inspected. It would therefore be unreasonable for the owner to incur inspection costs when it is unlikely to result in a CCC being issued. In these circumstances the owner may:
  - Supply evidence that the work complies
  - Take no further action

If you wish to supply further evidence you may chose to obtain a building inspection report from an **independent “suitably qualified” building consultant**<sup>1</sup> to verify the compliance of the historical

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<sup>1</sup> See page 5 for further details

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building work. This report may be submitted as additional evidence to allow the decision to approve a Final Inspection to be reviewed.

9. If the Final Inspection passes then a decision to issue the CCC will be made. You will then be sent a copy of your issued CCC
10. If the Final Inspection fails then you will need to remediate the identified issues and then book a re-inspection. The CCC processing clock remains on hold until the final inspection passes. If the failing is significant then you may be advised that a decision not to issue the CCC has been made.
11. In cases where serious non-compliance is identified during the Final Inspection, QLDC can issue a Notice to Fix that requires you to remediate the identified items.

## Frequently Asked Question

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

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. This could for example involve the removal of wall panels or external wall cladding. QLDC 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.

QLDC 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 NZ 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)

### 2. 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 as opposed to from the date the CCC is issued. Typically this will be the date from when a building inspection was completed that provided clear evidence of the workmanship quality e.g. Pre-line.

### 3. 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, the 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. Fees must be paid for work already carried out.

### 4. What if I don't agree with a refusal to issue 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 the Council. It will need to cover how the building work complies with the Building Code clauses that apply to the particular project. 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. More information about applying for determination, and fees, can be found on the MBIE website:

<https://www.building.govt.nz/resolving-problems/resolution-options/determinations/>

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## 5. 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 subsequently 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 also means it applies to the code at the time the work was consented.



## Case Study- Example 1

Tom and Joanne had a free-standing wood burner installed in 2005. The wood burner supplier was responsible for applying for building consent and for taking care of the inspections. In 2010, they decided to put their house on the market and discovered their solid fuel heater building consent did not have a CCC.

Before the Council could issue a CCC, it needed to be satisfied that the work complied at the time the work was inspected and also that it would continue to comply for a further five years (10 years in total from when it was installed). Tom contacted the manufacturer who had guaranteed their woodburner for five years but were not prepared to guarantee that it would continue to comply for the extra five years.

Tom discussed the situation with the buyers who advised they planned to take the woodburner out and install a heat pump. Tom informed the Council the woodburner was to be removed and the sale proceeded.



## Case Study- Example 2

Sarah bought a two-bedroom house from a property developer in 1999 and later decided to put the house on the market. A prospective purchaser got a Land Information Memorandum for the property, which showed the house did not have a CCC.

Sarah submitted a CCC application however she was advised the CCC would be refused as there was insufficient information to support the approval of the CCC. She was advised that an independent building inspection report would be required due to the level of invasive inspection required. Sarah engaged a member of the NZ Institute of Building Surveyors to inspect the house and provide a report about its compliance with the Building Code. The report highlighted some areas of non-compliance and provided a list of remedial work that needed to achieve compliance with the original building consent. Sarah engaged the services of a Licensed Building Practitioner to complete this remedial work.

Sarah resubmitted her CCC application along with the Inspection report and the Producer Statements and Electrical Certification she had on file. Council officers reviewed the information and decided to accept the CCC application. She booked a final inspection and the Council inspectors were able to verify that the report was an accurate representation of the property. Because of the age of the work, the Council asked Sarah to submit an application form to modify the durability period (AF MW).

In her AF WM application, Sarah confirmed the house was complete when she purchased it and proposed the durability requirement should start in 1999. The Council was able to check the inspection records for the property and agreed with this date and granted the amendment. The Council then issued a CCC for the work which included the modification for durability.

## Case Study- Example 3

Charlie was remortgaging his house and became aware that two building consents he had got in 1998 and 2001 did not have CCCs.

Charlie submitted CCC applications to the council for both consents along with the information that he could find. The Council carried out a review of both applications and made to refuse the applications due to insufficient information. This was because a number of inspections had been missed during construction and the amount of time that had passed since the work was done. Charlie was advised that an independent building inspection report would be required for the building work due to the level of invasive inspection required.

Charlie disagreed with the council decision and chose to apply to the MBIE for a determination for both consents. MBIE appointed an expert to report on the work that had been carried out under both building consents. The expert's report showed the cladding was failing and that there had been moisture getting into some areas of the building work. MBIE then issued a determination that outlined the areas that failed to comply with the Building Code and directed the Council to issue a 'notice to fix' requiring Charlie to propose how the non-compliant areas would be remedied.



The Council met Charlie to discuss the determination and to agree on a timeframe to do the remedial work. Charlie engaged a member of the Institute of Building Surveyors to prepare a 'scope of works' that would need to be carried out to fix the areas of failure. Charlie met Council officers to discuss the remedial work and to agree what work would be covered by the original building consents, and what work would require a new building consent.

Charlie submitted the new building consent along with supporting documentation, including the surveyor's scope for the remedial work. The work requiring a building consent was assessed for compliance with the Building Code and the building consent was granted. Charlie employed a builder to do the work and this was inspected by Council officers. Further areas of damaged timber were identified during the building work and the surveyor instructed the builder what needed to be replaced. This additional work had to be covered by an amendment to the new building consent, as this was not originally identified.

Because of the age of some of the work covered by the original building consents, Charlie submitted a AF WM to modify the durability requirement for the work. He proposed a start date for durability and, after checking the inspection records for the property, the Council agreed with the date proposed and granted the amendment. Once Charlie's builder had completed the work and Council officers had carried out the inspections, the Council issued CCCs for the new and old work with the durability modification recorded for the original consent.