

Application to amend a Building Consent and modify B2 Durability

This form is an adaption of Form 2 and used solely for the purposes of an amendment under s.45(4)(b) of the Building Act 2004

THE BUILDING			
Building consent number:	Click here to enter text.	Date Issued:	Click herto ente a date.
Street address of building:	Click here to enter text.		
Legal description of land where building is	Click here to enter text.		
Building Name		Occupancy numbers	
Location of building on site		Year first constructed	
Number of levels		Level/Unit number	
Floor area		Current lawful use	
THE OWNER			
Name of owner: <i>(Include preferred form</i>	Click here to enter text.		
Mailing address:	Click here to enter text.	Postcode:	
Phone number: Day	Click here to enter text.	After hours:	Click here to enter text.
Email address:	Click here to enter text.		
AGENT (this information is only required if the application is being made on behalf of the owner)			
Name of agent:	Click here to enter text.		
Mailing address:	Click here to enter text.	Postcode:	
Phone number: Day	Click here to enter text.	After hours:	Click here to enter text.
Email address:	Click here to enter text.		

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Relationship to the owner

The following evidence of ownership is attached

☐ Record of Title

☐ Lease Agreement

☐ Agreement for sale & purchase

APPLICATION

We seek a modification of sub-clause B2.3.1 ["Modification of the durability periods described in Clause B2.3.1"](#)

Date consent granted

Date building occupied

Date of practical completion

Age of building work

I confirm there are no known compliance issues or outstanding matters associated with the original consent

☐

FIRST POINT OF CONTACT FOR COMMUNICATION WITH COUNCIL

Person requesting waiver or modification

(Note: Agent must have letter of authorisation to act on the owner's behalf)
☐ Owner

☐ Agent

Signature

Date

BILLING DETAILS

Related invoices to be billed to:

☐ Owner

☐ Agent

Preferred method of billing:

☐ Email

☐ Post

COUNCIL USE ONLY

Decision date

Decision

☐ Approved

☐ Declined

Establishing date of durability:

Agreed date

Name of Assessor approving modification:

BUILDING ADMINISTRATION OFFICER

Modification Number:

Date MBIE Notified:

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WHAT IS A MODIFICATION

Purpose of a Modification

A modification enables Council to exercise judgement when dealing with unusual building compliance matters. All building consent applications must comply with the mandatory provisions of the New Zealand Building Code (the Code).

Clause B2: Durability

Clause B2 of the Code relates to durability. In general terms, it requires building elements to remain durable for the periods set out in Building Code Clause B2.3.1. These periods range from 5 years to the life of the building, being not less than 50 years.

The required durability period for each building element depends on:

- how the element is used in the building;
- how easily failure of the element can be detected; and
- how readily the element can be accessed and replaced.

When the Durability Period Starts

Clause B2.3.1 states that the durability period begins when Council issues the code compliance certificate (CCC) for the building work concerned. In most cases, the CCC is issued at about the same time the work is completed, so the durability periods begin from the date the CCC is issued.

Delayed CCC Applications

Sometimes, a CCC is not sought until a significant number of years after the building work has been completed. In these cases, Council may no longer be satisfied that the building elements comply with Clause B2.3.1, because those elements have already been in service for a considerable period and some or all of their required durability period may have been used.

Effect for Building Owners

A building owner may therefore be in the position where a building is fully compliant, but Council may still refuse to issue the CCC because it cannot be satisfied that the durability requirements in Clause B2 have been met. The Ministry of Business, Innovation and Employment (MBIE) has considered this issue in a number of determinations issued since late 2005.

MBIE's Approach to Durability Modifications

The Ministry has taken a pragmatic approach in these determinations. It has accepted that Clause B2.3.1 may be modified so that the durability periods begin from the date when compliance with Clause B2 would, in practical terms, have been achieved if the CCC had been issued when the building work was substantially completed. The modification does not reduce the durability requirements. The building must still comply with all durability periods set out in Clause B2.3.1; however, those periods are measured from an earlier agreed date, rather than from the date the CCC is issued.

Applying for a Modification

In practical terms, an owner who wishes to apply for a CCC for an older building must first apply for an amendment to the building consent using this form. The amendment must seek to modify Clause B2.3.1 and agree a date with Council for when the durability periods commenced.

(For this purpose, an older building is one where the building consent was issued more than 5 years ago).

Council Assessment

We will assess the amendment to confirm that:

- there have been no changes to the approved plans;
- all required inspections have been completed;
- all supporting documentation has been provided; and
- the building has been well maintained.

Once these matters are satisfied, we will consider the durability provisions and decide whether the amendment can be approved. If approved, Council will determine the applicable start date for durability, which is usually the date of practical completion. The agreed date will be recorded on Form 5, the amendment form.

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