

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

1. THE BUILDING

Building Consent number:	Date building consent granted:
Street address of building:	
Legal description of land where building is located:	
Building name:	Occupancy numbers:
Location of building on site:	Year first constructed:
Number of levels:	Level / Unit Number:
Floor area: (m ²)	Current lawful use:

2. THE OWNER

Name of owner:	Contact person:
Mailing address:	Daytime phone:
After hours phone:	Email:

3. AGENT *this information is only required if this application is being made on behalf of the owner*

Name of Agent:	
Mailing address:	Daytime phone:
After hours phone:	Email:
Relationship to owner:	

The following evidence of ownership is attached:

Record of Title ☐ Lease agreement ☐ Agreement for sale and purchase

4. APPLICATION

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

5. APPLICATION

Date consent granted:	Date building occupied:
Date of practical completion:	Age of building work: Years
I confirm there are no known compliance issues or outstanding matters associated with the original consent: ☐	

6. FIRST POINT OF CONTACT FOR COMMUNICATION WITH COUNCIL

Person requesting waiver or modification
(Note: agent must have letter of authorisation
to act on owner's behalf)

☐ Owner ☐ Agent

Signature:

Date:

7. 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 No.:

Date MBIE Notified:

What is a Modification?

A modification allows the Council to exercise judgement when dealing with unusual building compliance matters. All applications for building consent are required to comply with the mandatory provisions of the New Zealand Building Code (the Code). Clause B2 of the Code deals with Durability; this clause contains provisions that, in general terms, require all building elements to be durable for a certain period, assuming normal maintenance. The periods are contained in Clause B2.3.1 and range from 5 years to the life of the building, being not less than 50 years. The required durability periods for individual building elements are determined by their use in the building, ease of detection if the element fails, and the ease with which the element can be accessed and replaced.

Clause B2.3.1 states that the durability period commences when Council issues the code compliance certificate (CCC) for the work concerned. In the normal course of events, the CCC is issued at about the same time the work is completed, and the durability periods therefore commence from the date the CCC is issued. However, for whatever reason the CCC may not be sought until a significant number of years after the completion of the building. In such cases, when Council is asked to issue the CCC it may no longer be satisfied that the building elements will comply with Clause B2.3.1. This is because the building elements have already been in service for a significant period, and their durability periods will have been either partly or fully expended. A building owner may therefore be in the position where a building is fully compliant, but Council may refuse to issue the CCC because of concerns about compliance with Clause B2 Durability. The Ministry of Business, Innovation and Employment has considered this issue in many Determinations issued since late 2005.

The Ministry has taken the pragmatic position in such Determinations, to modify the requirements of Clause B2.3.1 so that the durability periods commence when compliance with Clause B2 would have been achieved if the CCC had been issued at the time the building work was substantially completed. The modification means the building must comply with all the durability periods stated in Clause B2.3.1, but that these periods start from an earlier date, rather than the date that the CCC is issued.

In practical terms, this means that if an owner wishes to apply for a CCC on an older building, they must first apply for an amendment to the building consent (using this form) seeking to modify Clause B2.3.1 and agree a date with Council as to when durability commenced. (An older building is one where the building consent was issued more than 5 years previously).

We will then assess that amendment to ensure there have been no changes to the approved plans, all nominated inspections have been undertaken, all supporting documentation has been provided and the building has been well-maintained. Once these matters have been satisfied, we will then turn our minds to the Durability provisions and decide whether we can approve the amendment. If the amendment is approved, Council will determine the date that applies (this is usually the date of practical completion) noting the agreed date on Form 5 (the amendment).