

Process for completing building consents more than five years old



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WELLINGTON CITY COUNCIL

Wellington



Background

The Building Act sets the expectation that every building consent should have a code compliance certificate (CCC) to show the work has been completed and meets building regulations.

However, in some cases this final sign-off process has been 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 finished.

Sometimes people buy properties not knowing that building work did not have a CCC.

This guide is to inform the owner (or their agent) of steps they could take if they find that their property has outstanding building consent/s and they want to obtain a CCC from Wellington City Council.



No code compliance certificate – what’s the issue?

Recently there has been an increased awareness of the need for building work to have a CCC. 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.

Many owners only discover they have no CCC when they decide to sell or when a prospective purchaser gets a report on the property.

That’s when owners contact the Council. However, when the consent is for work that is already five or more years old, we face some challenges.

Before the Council can issue a CCC, we must be satisfied ‘on reasonable grounds’ that the work complies with the New Zealand Building Code and the building consent. One section of the Code (Clause B2 Durability) requires that the work complies not only on the day the CCC is issued but also that elements of the work will continue to comply for five, 15 or 50 years.

In cases where the building work is already five or more years old then parts of the work may have already exceeded its expected durability or manufacturer’s warranty for the products used. While there are options for working through this issue there may ultimately be situations where the Council is unable to issue a CCC because we cannot be satisfied that the work will comply with the Building Code.

Process for old consents

The Council has developed a process for dealing with old building consents when an owner asks about obtaining a CCC. This process provides a fair and transparent means of assessing the level of compliance required to sign off a consent.

Why?

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 the work currently complies with the Building Code and that it will continue to comply with the Building Code for the specified time.

The durability time frame starts from the date the CCC is issued by the Council.

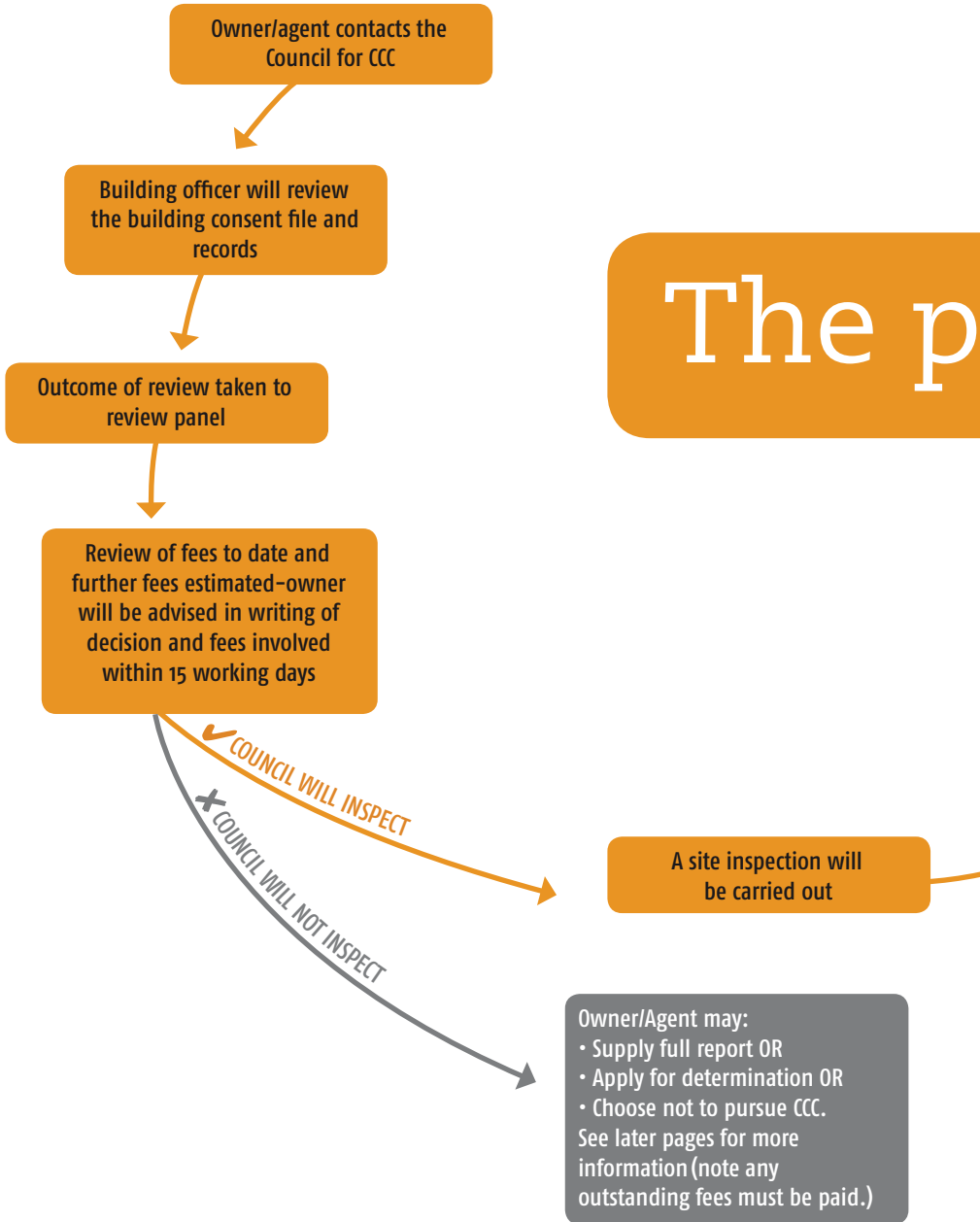
How old is old?

Any building consent that is over five years old is considered to be an old consent.

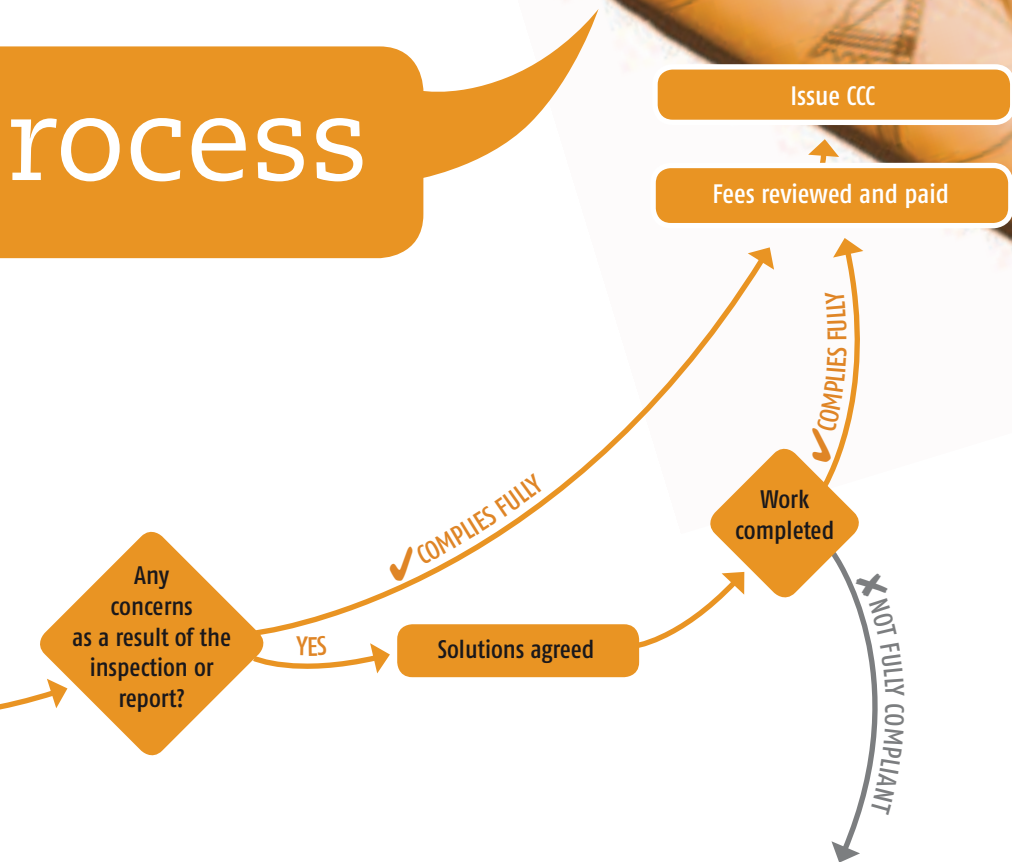
The process

The process is outlined in the following chart and the steps are discussed in more detail in the next pages.





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CCC refused.
Owner/agent may:

- Amend building consent to modify B2 (durability) refer p.13 OR
- Apply for determination OR
- Choose not to pursue CCC.
(note any outstanding fees must be paid.)



Case studies

The following case studies are based on real examples, to guide owners and agents through the available options.

CASE STUDY 1

Harry and Samantha had a free-standing wood burner installed in 2004. The wood burner supplier got a building consent and was responsible for taking care of the inspections.

In 2010, Harry and Samantha decided to put their house on the market and discovered their 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).

Harry contacted the manufacturers 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.

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

► Owner enquiry

The enquiry to book an inspection or request information about an outstanding building consent must come from the owner or their authorised agent.

We need an application for a CCC to start the process. This can't be done by a prospective purchaser.

Enquiries can be made by phoning 801 4311. It is important that the owner is aware that there will be fees to pay for this process.

We will retrieve the building consent file. Some of the files may be stored off-site so this may take up to two days.

► Initial assessment

Our building officers then review the consent documentation and consider:

- the age of the building work
- the complexity of the design
- the materials used
- inspections already carried out
- any outstanding matters, including fees

Each week a review panel meets to discuss consents and recommends the most appropriate action. The panel's decision is then formally notified to the owner or agent.

The review meeting will decide if:

- an inspection will be carried out
- an inspection will not be carried out.

► An inspection will be carried out

The owner will receive a letter advising that officers will inspect the work. The owner will be required to pay any fees covering inspections already done and a deposit for any future inspections before the inspection is booked.

When officers inspect the work they will assess whether the work complies at that time

CASE STUDY 2

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

Council officers advised Joe that they would not inspect the work because of the age of the house.

Joe 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 be completed.

Council officers reviewed the report and decided to inspect the property to confirm the report's findings. During an inspection with Joe, they were able to confirm that the report was an accurate representation of the property. Because of the age of the work, the Council asked Joe to submit an amendment to the building consent to modify the durability requirement of the Building Code.

In his application, Joe confirmed the house was complete when he 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.

Joe employed a builder to carry out the remedial work and had the work inspected by the Council. The Council then issued a CCC for the work which included the modification for durability.

and also whether they can be satisfied the work will continue to comply. Remedial work may be required before the CCC can be approved.

If they are satisfied that the work complies on the day but the durability requirements of the Building Code cannot be met, the owner may apply for a modification of the Code. See more about the modification process on page 13.

► An inspection will not be carried out

In some cases officers decide, based on the review of the file, that the work would be unlikely to comply if it was inspected and so it would be unreasonable for the owner to incur inspection costs when they were unlikely to obtain a CCC.

In these circumstances owners may:

- supply evidence that the building work complies
- take no further action.

Any outstanding fees must be paid.

► Supply full report

The Council may accept a report from a suitably qualified person, such as a registered architect, chartered professional engineer or a member of the New Zealand Institute of Building Surveyors. The report must be a full assessment of how all the work done complies with the Building Code. The report must also identify any remedial work that may be required. Before commissioning someone to assess the work, the owner must first check with the Council to confirm it accepts the person's qualifications and the scope of the report. This work cannot be undertaken until a site assessment has been completed by Council officers.

Once we receive the report, Council officers will review and then advise the owner whether or not we will carry out an inspection to confirm the report's findings.

The report may also need to be accompanied by an application for a modification for durability under the Building Act.

CASE STUDY 3

Lolita and Adrian decided to add two extra bedrooms to their house. The bank refused to give them a loan until the building consent they got in 2000 for the new garage and bathroom refit had been signed off. Although the garage was built they didn't go ahead with the bathroom changes.

Council officers inspected the work and identified some remedial work. Lolita and Adrian engaged a builder to do the work and arranged another inspection within three months.

Council officers were satisfied the garage complied with all Building Code clauses, except Clause B2 Durability. Lolita and Adrian applied to amend the building consent to remove the proposed bathroom refit and to modify the durability requirements. The CCC was issued.

► Take no further action

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.

► What is a modification of the code?

If officers are satisfied that work complies on the day of inspection but believe it will not continue to comply for the required time, they will advise that a CCC could not be issued without a modification to Building Code Clause B2 (Durability).

In this case, the owner may apply for a modification to the requirement. Effectively, this means that the durability requirements are measured from an agreed date – usually the date the pre-line building inspection was approved.

You will need to apply for an amendment to modify the building consent, pay a fee, and in some cases you may need to include a report from a suitably qualified person. The modification may be for all building elements or for specific parts of the work, eg roofing, cladding, windows or wood burner.

► If you don't agree

If, at any time, an owner (or their agent) does not agree with the Council's decisions they can apply for a 'determination' from the Department of Building and Housing (DBH) about the Council's decision not to issue a CCC.

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, the DBH 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 DBH website dbh.govt.nz



CASE STUDY 4

Bill was remortgaging his house and became aware that two building consents he had got in 1998 and 2001 did not have CCCs. Bill contacted the Council who discussed the options available to him. Bill asked the Council to review the consents with the aim of obtaining CCCs.

The Council carried out a review of both consents and the result was a decision not to issue the CCCs. 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.

Bill chose to apply to the Department of Building and Housing (DBH) for a determination for both consents.

The DBH 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. The DBH 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 Bill to propose how the non-compliant areas would be remedied.

The Council met Bill to discuss the determination and to agree on a timeframe to do the remedial work.

Bill 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. Bill 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.

Bill 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.

Bill 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, Bill submitted an amendment application to the Council 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 Bill's builder had completed the work and Council officers had carried out the inspections, the Council issued code compliance certificates for the new and old work with the durability modification recorded for the original consent.