

## Modification of the durability periods described in Clause B2.3.1

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A significant number of determinations have been issued that include a modification of Building Code Clause B2 Durability. This article sets out the rationale for these determinations.

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**Of interest to** Homeowners, Building consent authorities

Building Code Clause B2 Durability contains provisions that, in general terms, require all building elements to be durable for prescribed periods of time, assuming normal maintenance.

The periods are contained in Clause B2.3.1 and range from five 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 ease with which the element can be accessed and replaced.

The limitation on Clause B2.3.1 states that the durability periods commence when the code compliance certificate (CCC) is issued by the building consent authority (BCA) 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 of issue of the CCC. However, for whatever reason the CCC may not be sought until a significant number of years after the completion of the building and the work may be under a building consent issued under the previous Act (the Building Act 1991). In such cases, when the BCA 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 of time, 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 considered fully Code-compliant, but the BCA may refuse to issue the CCC because of concerns about compliance with Clause B2 Durability.

We have considered this issue in what is now a significant body of determinations issued since late 2005. We acknowledge there are two views on the matter, but have 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, to all practical purposes, have been achieved if the CCC had been issued at the time the building work was substantially completed. The modification means the building is still expected to comply with all the durability periods stated in Clause B2.3.1, but these periods start from an earlier date than the issue of the CCC.

The date when compliance with Clause B2 is achieved is agreed by the owner and the BCA. That said, we have taken the view in these determinations that compliance with B2 is essentially achieved when the building is substantially complete. It is reasonable to assume that this has been achieved when, for example, a house is first occupied, or when the final inspection has been completed (albeit with minor items still outstanding).

In practical terms this means a determination may require the BCA to make an amendment to the original building consent modifying Clause B2.3.1 so that the durability periods commence from the agreed date.

In using this approach we consider building work consented under the Building Act 1991 is still 'live', and able to be amended under the transitional provisions of the Building Act 2004. Our approach has been to effect the change by amending the original building consent, and not by placing a condition on the CCC. The date when compliance with Clause B2 was achieved is agreed between the owner and the BCA; rather than being simply imposed by the BCA. It is also strongly recommended that decisions be recorded on the property file and any LIM (land information memorandum) issued for the property concerned.

The first determination incorporating a durability modification was issued in October 2005, and since that time a significant number of similar determinations have been issued. Of the 124 determinations issued in 2008, 38% contained a durability modification. A significant number of BCAs are now making durability modifications themselves and consequently the numbers of this type of determination have declined.

The modified periods typically range from six to 14 years, and are not usually considered for buildings less than five years old, as at this time even the shortest period specified in B2.3.1 has not yet expired. Buildings to which modified B2 periods are applied may also require some remedial work in order to comply with the remaining Building Code clauses. In such cases the modified B2 periods apply to all the building elements, except those requiring the remedial work.

A B2 modification may not be considered appropriate where a building exhibits widespread failure, because a clear distinction cannot be made between work that is Code-compliant, to which the B2 modification would apply, and the required remedial work.

These are summaries only. The full determinations (along with all other determinations issued) can be [viewed online \(https://www.building.govt.nz/resolving-problems/resolution-options/determinations/\)](https://www.building.govt.nz/resolving-problems/resolution-options/determinations/).

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All guidance related to B2 Durability (<https://www.building.govt.nz/building-code-compliance/b-stability/b2-durability/>)



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