

Code compliance certificates (CCC)

Building officials need to understand the Building Act's provisions on code compliance certificates, including the issuing and processing of applications.

A code compliance certificate is a formal statement issued under section 95 of the Building Act 2004, that building work carried out under a building consent complies with that building consent.

Building officials need to be aware of the following provisions under the Act:

- the code compliance certificate is issued if the building work complies with the building consent
- only the building consent authority that granted the building consent can issue the code compliance certificate (unless an agreement is made)
- at the expiry of two years from the date the consent was granted the building consent authority must decide on whether to issue a code compliance certificate. The decision must be made within 20 days of the expiry (or a further agreed period).
- interim code compliance certificates cannot be issued
- it is an offence to use or permit the use of public premises affected by building work that has no code compliance certificate, certificate for public use or certificate of acceptance
- it is an offence for a commercial on-seller to transfer a household unit without a code compliance certificate.

When undertaking a final inspection for a code compliance certificate, a building consent authority needs to ensure the building consent documents accurately reflect the work on the site.

Building consent authorities need to be proactive in the way they manage issuing code compliance certificates. This includes establishing clear expectations with applicants who apply for a building consent, and developing a clearly documented and transparent process for managing code compliance certificates.

Building owners, occupiers or controllers need to ensure any building work affecting public premises has a code compliance certificate, certificate for public use or certificate of acceptance before the part of the premises affected by the building work is used by members of the public.

Location in Building Act 2004	Description
Part 2 - Building Subpart 3 - Building work Code compliance certificate, certificates of acceptance, and compliance schedules	Part 2, Subpart 5, sections 91-95.

Assessing an application for code compliance certificates

The owner must apply for a code compliance certificate after all work set out in the building consent approval has been completed.

If no application is made before the expiry of two years from the date the building consent was granted, the building consent authority must decide whether to issue the code compliance certificate. The building consent authority and the owner can agree to extend the timeframe above.

The building consent authority should make clear to the applicant at the time the building consent is granted that:

- the applicant has an obligation to apply for a code compliance certificate on completion of the building work
- the building consent authority must decide within two years whether to issue the code compliance certificate.

The owner must apply to the building consent authority that granted the building consent for a code compliance certificate. However, an agreement can be made between the owner and another building consent authority for that building consent authority to issue the code compliance certificate.

What the application must include

This application must be on Form 6 from the Building (Forms) Regulations 2004. It must include generic information as well as the following:

- evidence of ownership (certificate of title, lease, sale and purchase agreement)
- details of authority from the owner if an agent of an owner applies for the code compliance certificate
- details of the people who undertook the work, including registration numbers if applicable.

The Building Act requires this form to be accompanied by certificates relating to any gas fitting or prescribed electrical work (energy work) that has been carried out.

Licensed building practitioners' certificates

Records of Building Work

Applications for code compliance certificates must include certificates issued by licensed building practitioners (called Records of Building Work) that state what restricted building work they carried out or supervised.

Processing an application for a code compliance certificate

The building consent authority has 20 working days in which to decide whether to issue the code compliance certificate, following either:

- the application for a code compliance certificate
- or expiration of the two year or agreed period since the date the building consent was granted (if no application has been made).

If either party considers 20 working days to be insufficient time, the building consent authority and the owner may agree on a further period of time. The building consent authority must then decide whether to issue a code compliance certificate within the agreed time-frame.

Within the 20 working days or agreed period, the building consent authority can reasonably request further information about the application for a code compliance certificate. If this is the case, then the time period is suspended until the building consent authority receives that information.

Issuing a code compliance certificate

Only a building consent authority can issue a code compliance certificate. This building consent authority must have granted the building consent. Another building consent authority may issue a code compliance certificate, but only if both the owner and that building consent authority agree.

Once any fees (including any development contribution owing) have been paid and all matters for consideration outlined below have been considered, the building consent authority must issue a code compliance certificate on form 7 of the Building (Forms) Regulations 2004.

The building work to which the code compliance certificate relates must comply with the building consent and the Building Code.

Matters for consideration

- Building work complies with the approved building consent.
- If a compliance schedule is required as a result of building work, the specified systems in the building are capable of performing to the performance standards set out in the building consent.
- Whether a building method or product subject to a current warning or ban has been used in the building work.
- Failure to supply an energy work certificate.
- Outstanding payment of development contribution.

Form 7 - Code compliance certificate

[DOC 35 KB]

<https://www.building.govt.nz/assets/Uploads/building-officials/guides/form-07.doc>

Records of Building Work

Section 92 of the Building Act 2004 states that the owner/code compliance certificate applicant must include with a code compliance certificate application, any Record of Building Work provided by LBPs.

Responsibility

It is the responsibility of the trade LBP to ensure their Record of Building Work identifies all restricted building work they have carried out or supervised. It is also the responsibility of the trade LBP to provide their records of work to the owner/building consent holder and territorial authority.

It is the responsibility of the owner to include all Records of Building Work which collectively identify all the restricted building work in the code compliance certificate application.

It is the responsibility of the BCA to:

- determine whether it is satisfied on reasonable grounds that the building work complies with the building consent (existing test)
- ensure the restricted building work component of the code compliance certificate application is complete.

BCA involvement

Upon receipt of the application for code compliance certificate, the BCA should check:

1. all of the restricted building work construction has been covered by one or more Record of Building Work
2. the trade LBPs who provided the restricted building work Records of Building Work are appropriately licensed.

Check all restricted building work construction has been covered by one or more Record of Building Work.

If there is any gap (for example, there is no restricted building work Record of Building Work covering the restricted building work brick and block laying) the BCA should advise the code compliance certificate applicant of the gap and the need for there to be a Record of Building Work covering this part of restricted building work.

If the owner/code compliance certificate applicant is unable to provide Records of Building Work for this part of restricted building work, the BCA needs to determine why this is the case.

In either of the following cases the BCAs should treat an application for a code compliance certificate, even if it does not include all of the restricted building work Records of Building Work relating to restricted building work, as being complete (and therefore able to be processed).

Case 1: Where:

- the owner/code compliance certificate applicant has provided all of the restricted building work Records of Building Work given to them by the trade LBPs; and
- a trade LBP has good reason for failing to provide the code compliance certificate applicant with a Record of Building Work.

Case 2: If the trade LBP has failed to provide a record without good reason, where:

- the owner/code compliance certificate applicant has provided all of the other restricted building work Records of Building Work given to them by the trade LBPs; and
- the owner/code compliance certificate applicant has contacted the BCA as soon as it was evident that an LBP would not provide a Record of Building Work, and
- the BCA is satisfied that the owner/code compliance certificate applicant took all practicable steps to get the LBP to provide the Record of Building Work.

Check the trade LBPs who provided the restricted building work Records of Building Work are appropriately licensed.

If the BCA determines that a trade LBP has provided a restricted building work Record of Building Work when they should not have, the BCA should:

- consider laying a complaint with the Building Practitioners Board, or advise the building consent holder to do so.
- continue to process the code compliance certificate application unless there is reason to believe that the code compliance certificate applicant knowingly engaged a trade LBP who did not hold the appropriate licence – in which case it should consider declining to issue the code compliance certificate.

MBIE does not want to see code compliance certificate applicants unduly penalised by trade LBPs who refuse to provide them with a Record of Building Work without good reason. We recommend that a complaint should be laid with the Building Practitioners Board for LBPs who fail to provide a Record of Building Work without good reason.

This means the BCA should treat code compliance certificate applications without all of the required Records of Building Work as grounds for disciplining the LBPs who have failed to provide such memoranda – not as grounds for refusing to issue a code compliance certificate.

A lack of restricted building work documentation does not play any part in whether the BCA is satisfied on reasonable grounds that the building work complies with the building consent.

Failure to provide a Record of Building Work

Aside from death, and serious medical problems, there are unlikely to be any good reasons for not providing a Record of Building Work for restricted building work. The following are not good reasons:

- the LBP has gone overseas (they can sign it from overseas and send it to the owner)
- the LBP has forgotten that they need to provide this to the owner
- the LBP is in dispute with the owner
- the LBP's employer is in dispute with the owner over some aspect of the project (for example, payment or workmanship).

Offences

It is an offence to use, or permit to be used, public premises that are affected by building work that do not have a building consent, code compliance certificate, certificate of acceptance or certificate for public use. It is also an offence for a property developer to transfer a household unit without a code compliance certificate.

This does not apply where the sale and purchase agreement was entered into prior to 30 November 2004 if agreed under Form 1 of the Building (Forms) Regulations 2004. Building consent authorities will need to be aware of the offences and, where possible, alert building owners and residential property developers to these offences.

Compliance schedules and compliance schedule statement

If a compliance schedule (whether new or amended) is required as a result of building work, the building consent authority must issue that compliance schedule with the code compliance certificate.

Where a compliance schedule has been issued for the first time, the territorial authority must issue a compliance schedule statement before or with the code compliance certificate.

Where a compliance schedule is new or has been amended as a result of building work, or where a compliance schedule statement is being issued, the building consent authority must be satisfied on reasonable grounds (for example, through statements from independent qualified persons) that the specified systems meet the performance standards set out in the building consent before they issue the code compliance certificate.

Warnings and bans

A building consent authority must not issue a code compliance certificate for building work if doing so results or could result in a person breaching a ban made by the Chief Executive of the Ministry of Business, Innovation and Employment on a building method or product.

Energy work

The application for a code compliance certificate must include certificates relating to any gas fitting work or prescribed electrical work. Failure to provide an energy work certificate is sufficient reason for the building consent authority to refuse to issue a code compliance certificate.

Development contribution

Payment of any required development contribution must be made prior to issuing the code compliance certificate. Alternatively, a copy of a written agreement between the owner and the territorial authority can be made stating that the code compliance certificate may be issued.

This information is published by the Ministry of Business, Innovation and Employment's Chief Executive. It is a general guide only and, if used, does not relieve any person of the obligation to consider any matter to which the information relates according to the circumstances of the particular case. Expert advice may be required in specific circumstances. Where this information relates to assisting people:

- with compliance with the Building Act, it is published under section 175 of the Building Act
- with a Weathertight Services claim, it is published under section 12 of the Weathertight Homes Resolution Services Act 2006.