

DISTRICT PLAN AND REGULATORY COMMITTEE

SUPPLEMENTARY AGENDA

14 April 2010

ITEM NO: 7A

REPORT



TO District Plan and Regulatory Committee
ON 14 April 2010
FROM Richard Ritsma – Manager: Building Consents
APPROVED BY Lloyd Barton – Director: Customer Service
SIGNATURE

A handwritten signature in black ink, appearing to be 'Lloyd Barton', written over a light grey background.

SUBJECT BUILDING ACT 2004 REVIEW DOCUMENT – FEEDBACK SUMMARY
FILE REF BC/2/2

PURPOSE OF REPORT:

<input checked="" type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan/Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No

(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required?
	Not applicable
(vii)	Does a decision on this matter require Auckland Transition Agency approval?
	Not applicable

FINANCIAL IMPLICATIONS:

Capital cost implications	No
Is it currently budgeted for?	No
Funding source of capital costs	No
Ongoing operational cost implications	No
Is it currently budgeted for?	No
Funding & rating impact (whether resulting from capital expenditure or arising directly)	No

SUMMARY:

The Minister of Building and Housing has reviewed the Building Act 2004 and has identified the following issues:

- Problems with ensuring responsibility sits in the right place
- Undue reliance on building consent authorities
- Fragmented administration of the building control system (75 local authorities).

The changes that the Government proposes are as follows:

- Clarifying the purpose, principles and requirements of the building act and code.
- Moving to a more balanced approach i.e. the Council focusing its consents on higher risk building work and increasing the exempt status for low risk building work.
- Building customer confidence by; for example:
 - o Improving contracting practices
 - o Making warranties more effective
 - o Encouraging surety as a financial back-stop for warranties
 - o Better access to dispute resolution
 - o A Licensed Building Practitioner Scheme
 - o A nationally approved system for approving standard building designs.

The purpose of this report is to present the Council with an opportunity to shape the submission on this review to be submitted to Government by 23 April 2010.

RECOMMENDATION:

- (a) That the draft Rodney District Council submission to the review of the 2004 Building Act, attached as Appendix 1 to this Agenda report, and/or as amended by the District Plan and Regulatory Committee, be submitted to the Government.
 - (b) That Council officers be authorised to add to the submission below with technical details as long as these are in support of this submission.
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1.0 Background

The Minister of Building and Housing has initiated a review of the 2004 Building Act with the intention of:

1. Reducing compliance costs.
2. Speeding up the consenting process.
3. Shifting more of the responsibility for ensuring compliance with the NZ Building Code from Building Consent Authorities (BCAs), to the construction industry.

The methods proposed to achieve this include:

1. Reducing the types of building work that require a building consent by increasing the number of exemptions, the introduction of "Simple House" concept and DBH "Multiproof" housing approvals.
2. Allowing licensed building practitioners to certify building works. (The licensing scheme becomes mandatory in 2012).
3. The introduction of a government guaranteed warranty scheme.
4. Streamlining the consenting process for low risk buildings and complex commercial building work. Building consent authorities will only audit the quality assurance (QA) systems implemented by the construction companies and designers of large complex projects.
5. Reducing the number of building consent authorities to make administration more efficient.
6. Streamlining the process for building warrants of fitness, fire safety plans and infrastructure works.
7. Improving consumer confidence by encouraging better contracting practices, developing effective warranties and dispute resolution systems and providing more consumer education.
8. Clarifying the purpose and principles of the Building Act and improving access to information.

2.0 Issues

2.1 Possible implications for BCAs

- A reduction in liability for BCAs.
- A reduction in the required number of building consents required (estimated by the Department of Building and Housing (DBH) of between 10-15%).
- Reduced checking of consents will remove a 'by default' QA service from small design practices.
- A possible increased risk of illegal and substandard building work.
- A possible increased risk of work that does not comply with the Resource Management Act (RMA) (issues are often identified during building consent (BC) application process).
- The loss of an accurate record of building stock which may impact on infrastructure planning.
- Increased consistency in the interpretation of the Act and Code by BCAs.

Many of the proposed changes are heavily dependent on a rigorous implementation of the Licensed Building Practitioner regime and an increased level of Builder/Designer Education and Accountability.

Possible implications for Rodney District

If the proposed changes are implemented, residents of the Rodney District will not be required to apply for building consents for many of the buildings that are commonly constructed in the area. Because of its rural nature, Rodney District Council BCA, processes a large number of ancillary buildings such as barns, garages, utility sheds etc. which would no longer require building consents.

Many of the lower cost homes constructed at present by the 'group home' companies such as G.J. Gardner Homes, Universal Homes etc, could fall into the DBH Multiproof category, which would not require a full building consent. This may shorten the total construction process and reduce cost.

The Rodney District does not traditionally have large commercial/industrial areas but the reduction in inspections and processing in these areas may make it easier and quicker to complete a project, thereby encouraging such developments.

The introduction of a Guaranteed Warranty Scheme and Licensed Building Practitioners will give home builders and developers more assurance that all building work is code compliant and of a sufficient quality.

If the review is implemented, applicants for building consents would be faced with lower compliance cost for low risk and standard designed buildings.

3.0 Submissions

The following submissions follow the discussion document prepared by the DBH. It is submitted as follows:

3.1 Part 1: Clarifying the purpose and principles of the Building Act and the requirements of the Building Code

3.1.1 Alignment with the RMA

Greater alignment between the consenting processes in the RMA and the Building Act is seen as very important to ensure:

- a coordinated consenting process, and;
- that exempt building work is checked for District Plan and other legislative requirements.

While the Council supports increasing the exempt building work categories, it is suggested that exempt building work be required to obtain a Project Information Memorandum (PIM). This would ensure the building developer was made aware of gas, oil pipelines, heritage issues, bush covenant areas and natural hazards before commencing with the building work and the Council is able to maintain a record of what is being built.

A record of what is being built is important from a planning and capital value assessment for rating purposes.

The PIM currently does not have a time frame, primarily because District Plan changes could affect the validity of this notice. It is submitted that the PIM should change so that it is given the status of a Certificate of Acceptance, pursuant to section 139 of the RMA and hence would be valid for five years as if it was a resource consent.

3.1.2 Purpose and principles

The purpose and principles of the Building Act do not impact on the building consent process. The Council supports simplification and clarification of the purpose and principles of the Act.

3.1.3 Building Code complexity

The Building Code is a complex document and the Council would support clarification of the performance requirements relevant to specific project categories.

3.2 Part 2: Moving to a more balanced approach to building control.

The concept for different consenting models, for the following building classification is supported:

1. Building work exempt from consenting and inspection requirements.
2. A streamlined process for low risk building work.
3. A streamlined process for complex commercial buildings.
4. Existing process for complex residential and some commercial buildings.

3.2.1 Exempt building work

Attached to this report is **Appendix 1** Proposals for Schedule 1 (Schedule 1 to the Building Act lists the work not requiring a building consent). This appendix provides two lists in Table A and B.

The Council supports maximising the exempt building work, subject to the exempt building work obtaining a PIM, as discussed above.

The Council supports Proposals A to S in **Appendix 1** to the discussion document and that plumbing associated with this work also to be exempt. (The Council can, if it chooses, add to the above exemption by indicating its preference for items 1 to 10 and Table B).

It is suggested that the following items from Table B, should be included in exempt building work (subject to the limitation proposed in the discussion document and those itemised below).

Item 3 - Additions to existing sanitary plumbing.

Item 4 - Construction of playground equipment.

Item 6 - Installation of domestic freestanding solid fuel appliances subject to National Environmental standard, Regional Planning requirements and District Plan requirements for heritage buildings.

Item 8 - Temporary structures excluding public stands with top seating no higher than two metres from the ground.

Item 9 - Outdoor concert stage.

Item 10 - Stall or shed of lightweight material within one premises used for the purpose of holding trade fair, fun fair or any exhibition, subject to fire egress routes being kept clear.

3.2.2 More streamlined process for low risk residential building work

It is supported that the consenting process can be based on certification from licensed design professionals and that the inspection process can be limited to critical parts of the building. Subject to licensed building practitioners being required to undertake the building work.

The shorter timeframe for such building consents appears appropriate.

3.2.3 More streamlined process for complex commercial building work

This Council supports that in this category of building work that the Council's role be limited to checking that there is an appropriate quality assurance system in place and to confirm that the building work has been completed in accordance with the quality assurance system.

3.2.4 Public infrastructure works

This work could use the same process as above subject to an independent peer review of the structural design and fire safety features if that is appropriate.

3.2.5 Streamlined process for reviewing fire safety of building plans

The Council supports the proposal that designers obtain advice from the Fire Service Commission before submitting their building consent application to the Council.

3.2.6 Improved process for Building Warrants of Fitness

The Council believes that the current system using independent qualified persons with periodic audits by the Council to check on-going compliance for building with safety features, is working reasonably well. However, the Council supports any improvement to increase the consistency and efficiency of the administrative systems.

3.2.7 More efficient building control administration

The Council supports options to improve administration of building control systems to:

- reduce costs
- improve consistency of consenting and inspection practices
- Improve efficiency of consent processing.

The Council agrees that the consenting authorities, currently 75, should be reduced in number by clustering of local authorities with a single BCA. The Council agrees that clustering would ensure critical mass for the required capability, especially for technical skills.

3.3 Part 3 – Building customer confidence

3.3.1 Customer awareness

The Council supports the proposal to raise customer awareness of their rights and responsibilities. Public information needs to be provided on types of contracts and warranties that can be obtained.

3.3.2 Improved contracting practices

The Council supports the concept of setting minimum contract requirements.

The requirement to provide details on previous disputes may not be relevant as the dispute may not have been valid.

Disputes should be notified to the Licensed Building Practitioners Board who should be responsible for making information available as appropriate.

3.3.3 Develop more effective warranties

The Council supports the requirement for warranties and the associated minimum requirements as specified in the discussion document.

3.3.4 Surety as a financial backstop for warranties

The Council believes that for warranties to be valid the warranty needs to be:

- backed up by a surety
- transferable to new owners (not limited to the person who engaged the contractor)
- backed by a government sponsored default provider.

3.3.5 Better access to dispute resolution

The Council believes that the Government should, as part of the licensed building practitioner process, establish a licence class for alternative dispute resolution specialists.

Alternative dispute resolution should be a mandatory requirement to a building contract.

4.0 Conclusion

The immediate implications of the Building Act review on the Rodney District Council would be minimal. This is based on the assumption that the introduction of any changes would be subject to the full Parliamentary processes, which take a considerable amount of time. Practically, the implementation of any change would not be envisaged to have effect prior to 2012, which would coincide with the mandatory requirements of the Licensed Building Practitioners' Legislation.

The only effect that is likely to occur after the 1 November 2010 when the Auckland Council is formed, would be on the retention of BCA staff. This is due to the possibility that the changes could ultimately have an influence on staff numbers.

APPENDIX 1

ITEM NO: 9A

SUBJECT PUBLIC EXCLUDED

That the public be excluded from the following parts of the proceedings of this meeting, namely:

Agenda Item No(s): 11A

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Grounds under section 48(1) for the passing of this resolution
Appeals / Proposed District Plan 2000	Refer grounds	That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation in any proceedings before it where: (i) a right of appeal lies to any court or tribunal against the final decision of the Local Authority in those proceedings; or (ii) the Local Authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings. (section 48(1)(d) Local Government Official Information and Meetings Act 1987.)

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