

4. FURTHER REPORT ON WEATHERTIGHTNESS ISSUES

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The purpose of this report is to update the Council on developments regarding the weathertightness in buildings issues and to seek retrospective approval for the Chairperson of the Regulatory and Consents Committee to attend the Building Act Workshop on 19 March 2003.

CLAIMS PROCEDURE

The Government has passed the Weathertight Homes Resolution Services Act 2002. The purpose of the Act is to provide the owners of affected homes with access to a speedy, flexible and cost effective procedure for assessment and the resolution of claims arising out of the weathertightness issue.

The owner of any building, apartment or flat that is intended to be occupied as a private residence and that is less than ten years old may make an application to use the service.

The Weathertight Homes Resolution Service (WHRS) will make an initial assessment of whether the claim is eligible. If eligible, the WHRS will commission an assessor's report which is then referred to an evaluation panel, with any submissions made by the claimant. The panel will decide whether to refer the claim to mediation or adjudication. For adjudication, the owner serves written notice on the other party and on the WHRS.

The assessors who are appointed by the WHRS are to provide a report setting out whether or not the building met the defined criteria and must set out a view as to the cause, the nature and extent of damage, the work needed to make the dwelling watertight and to repair the damage, the estimated cost of the work and the persons who should be parties to the claim. The assessors are not expected to determine the claim and provide their expertise to evaluate the claim. The assessors are paid directly by WHRS.

The claims will then go to mediation or adjudication. The use of mediation has to be agreed to by the parties involved. The cost has been set at a fee of \$200 for mediation and \$400 for adjudication.

The timeframes for the service are short and an adjudicator must determine a claim within 35 working days of service of the respondent's written response to the adjudication claim.

To date the Council has not been formally notified of any claims. However, the Weathertight Homes Resolution Service reports that they have had 37 applications to use the service from the Christchurch area. Some of these claims could involve private certifiers and 37 claims involving 94 units can be compared with 20,000 dwelling units built since 1991.

When the Council is advised of a claim, the claim will be referred to the Council's insurers and legal advisers for advice.

PROCEDURE CHANGES

The Building Industry Authority and the Ministry of Commerce are working on producing guidelines for consent review and inspection. In the interim the Council's consent review staff have been asked to make sure flashing details are fully described on drawings and have required extra inspection of plaster cladding systems.

Manufacturers of plaster systems are producing enhanced designs and most are including a drainage cavity behind the cladding to allow drainage of any moisture that penetrates the outer skin.

BUILDING ACT WORKSHOP

A Building Act Workshop was held in Wellington on Wednesday 19 March 2003. The purpose of this workshop was to inform Chief Executives, Chair's of Building and Regulatory Committees, Managers, Directors and Chief Building Inspectors on how Government intends to tighten the regulation of the Building Industry.

The workshop was held in response to a discussion document released by the Ministry of Economic Development on 12 March 2003. This document outlines a number of areas for discussion and input on the following:

- Proposed amendments to the Building Act 1991,
- Development of clearly defined performance standards,
- Production of more acceptable solutions which have been through a rigorous assessment process involving experts, industry and consumers,
- Possible requirement on the Building Industry Association to publish a regulatory impact analysis when making any new changes to the Building Code (this requires a clear definition of the problem that the regulation is intended to address),
- Enhance dispute resolution procedures.

The aim of the workshop was to assist participants learn about the new policy and begin shaping a response to the Ministry of Economic Development.

- Recommendation:**
1. That the Council retrospectively approve the attendance of Councillor Sue Wells at the Building Act Workshop in Wellington on 19 March 2003.
 2. That the Regulatory and Consents Committee be delegated authority to lodge submissions on the Ministry of Economic Development discussion document 'Better Regulation of the Building Industry in New Zealand', on behalf of the Council.