

1. SELECT COMMITTEE SUBMISSION ON THE BUILDING BILL

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The purpose of this report is to seek the Council's approval to make a submission to the Government Administration Select Committee on the draft Building Bill (attached).

BACKGROUND

On 6 October 2003, the Committee considered a report that outlined the objectives of the new Building Bill and the changes that were proposed to it. Submissions on the draft Bill are to be sent to the Government Administration Select Committee by 31 October 2003.

It is worth noting that this Council has previously made submissions to the Select Committee on weathertightness issues. In those submissions the Council sought:

- The development of enforceable standards for the minimum level of detail to be provided with building consent applications.
- A clearer definition of responsibilities between private certifiers and territorial authorities.
- The introduction of qualifications and standards for those involved in the building industry.
- The development of a registration system for participants in the building industry.

The issues outlined above have generally been addressed in the Building Bill.

From a regulatory perspective, Council officers are in general support of the Bill. However, it should be noted that whilst this Committee's primary focus will be a regulatory one, there may be other perspectives within the Council relating to strategic objectives such as heritage and central city revitalisation that need to be considered.

One of the issues considered by the Committee was the potential impact of the changes in the Building Bill on heritage buildings, and potentially on the Central City revitalisation strategy of the Council.

The Bill continues the existing system of change of use of buildings potentially triggering requirements to upgrade such buildings, especially in the areas of earthquake strengthening, fire protection and disabled access.

The practical difficulty at the present time is that it is proposed that the phrase "change the use" will be in a manner to be described in regulations yet to be made by central government. It is clear that the practical implications for heritage building owners and developers in the Central City will be seen in these regulations, and cannot be seen in the Bill itself. For that reason it is very difficult at this stage to make any substantive submissions in the Bill other than the general type submission as seen in paragraph 1.2 where the statement is made that the Council asks the Select Committee to minimise compliance costs.

The Regulatory Impact and Compliance Cost Statement accompanying the Building Bill contains a section entitled "Statement of the Net Benefits of this Proposal".

That statement refers to an independent analysis of the social and economic impacts of the proposed changes to building regulations undertaken by Price Waterhouse Coopers.

The statement provides in part (page 7):

"The impact of benefits and costs will be felt differently by different stakeholders. Consumers will benefit from greater certainty that buildings are fit for their purpose, but will have to pay slightly more to achieve this outcome. Government at central and local level will benefit from less risk of weathertightness-type issues occurring in the future, but will have to ensure that regulatory authorities are appropriately resourced. Industry will benefit from less exposure to the costs of rectifying problems, but will face additional training and compliance costs."

The costs and benefits of the measures to deal with emerging risks will be sensitive to the trigger, which will be set by regulation. A regulatory impact statement will be prepared then, the Price Waterhouse Coopers assessment did not cover these measures....

The actual compliance costs will arise out of the regulations required to implement the Bill, and will be subject to further assessments at the time the regulations are being developed.

So the real impact of the Building Bill on Central City revitalisation and the refurbishment of heritage buildings cannot be assessed by considering the Building Bill on its own. That impact will only be able to be assessed in a practical way once the Government has promulgated the regulations referred to above, and those regulations will be released once the Building Bill has been enacted.

In making these regulations the Bill requires that the Minister making those regulations must consult *“the persons or their representatives who the Minister considers will be substantially affected by the proposed regulations.”*

Paragraph 45 of the Council's submission seeks that this consultation provision be changed so that the Minister be required to carry out a public consultation process so as to ensure that all potentially affected parties, particularly building owners, have the opportunity to consider the proposed regulations and the likely impact of those regulations on them, and the opportunity to make submissions to the Minister before the regulations are promulgated.

Recommendation: That the Council approve the attached Building Bill submission to be forwarded to the Government Administration Select Committee by 31 October 2003.