

7. BUILDING (LATE CONSENT IS A FREE CONSENT) AMENDMENT BILL

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PURPOSE OF REPORT

1. The purpose of this report is to advise the Council of the proposed Building (Late Consent is a Free Consent) Amendment Bill and recommend a submission to the Local Government and Environment Committee.

EXECUTIVE SUMMARY

2. The Bill aims to reduce delays in building management processes, so that in cases where a territorial authority breaches a time period set out in the Act when carrying out its functions in relation to building consents, it cannot charge any fees to the applicant for that building consent application.
3. It is submitted that while the intention to maintain time frames is reasonable the effect of the amendment will be to increase costs to other applicants and potentially have a perverse effect on the quality of consent approvals. There are already adequate remedies in the Building Act. It is recommended that the amendment be opposed.

FINANCIAL AND LEGAL CONSIDERATIONS

4. The scale of fees charged to applicants for the issuing of a building consent has been agreed with the community through the Long Term Council Community Plan. It is based on a user pays basis.
5. The scale of fees is reasonable and shared amongst users of the service. If some applicants receive a free service, inevitably the cost for other users must rise. This is inequitable.
6. If 10% of applicants were given a free building consent (because time frames were exceeded) the cost to be shared by ratepayers or other users, would exceed \$250,000.

STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Agree to forward the submission attached to this report, opposing the Bill.
- (b) Resolve whether or not the Council wishes to appoint a Councillor to appear before the Select Committee in support of its submission, and if so, who should represent the Council before the Select Committee.

BACKGROUND ON CONSENT PROCESSING AND THE AMENDMENT BILL

The Amendment Bill

7. The purpose of the Amendment Bill is to provide for a late consent being a free consent. If a territorial authority breaches a time period set out in the Act when carrying out any of its functions in relation to building consents, it must not charge any fees to the applicant for that building consent application. The Bill is intended to reduce delays in building management processes.
8. Clause 5 inserts a new section 219A into the Act. The section applies where a territorial authority breaches certain time periods in the course of carrying out its functions in relation to building consents. It provides that, where one or more of the specified time periods are breached, the territorial authority must remit the whole of any charges that would otherwise apply to the processing of that consent.
9. This will create a strong financial penalty for a territorial authority, its ratepayers or other users of the service, for exceedance of the time frames set down in the Building Act 2004. The time frame for processing a consent is 20 working days.
10. The new section 219A appears to mean that all fees for work done in processing the application and the various levies such as the Building Levy will not have to be paid by the applicant. In the case of the Building Levy, the Building Act 2004 provides that the levy must be paid to the government by the territorial authority when a consent is granted, and this would still be required to be paid.
11. The building industry has been very buoyant over the last few years and changes introduced by the Building Act 2004 and new compliance documents has added to the workload involved in processing a consent. A much higher standard of drawing and specification is required compared to the situation ten years ago. The details provided with a design have to be complete and the documents must include enough details for the builder to fully understand what is required. It takes longer to review the consents and the compliance documents which guide the process are considerably more comprehensive. For example the approved document for Clause E2 (External Moisture) went from 17 to 181 pages. The workload, measured by the number of consents, varies considerably month by month. As an example, from July 2005 to June 2006, excluding the month of January the largest increase from one month to the next was 41%.

Problems in Meeting the 20 Day Time Frame

12. Given the difficulty of obtaining skilled staff in the building industry and the length of time that is needed to train staff it is very difficult to adjust staff numbers to match the fluctuating workload and still keep fees reasonable.
13. Fees for building consent processing have been set in the LTCCP at an affordable level. If the amendment were to be passed the Council would have to resource the consent processing area to allow for peak loads rather than aiming to be able to handle an average workload. This would be an added extra cost of between 15% to 25% which would have to be recovered from consent fees.
14. The acceptance criteria for applications would have to be set at a level that ensured that no application was accepted unless the complete documentation was available.
15. The imposition of a significant cost penalty would also have a perverse effect on the quality of consent processing as the incentive would be to approve the consent rather than properly consider the merits of the documentation provided.

Current Situation on Processing Times

16. We are currently processing 91% of the 3,400 consents received since 1 July 2006 within 20 working days. This is a significant improvement from previous years (2005 : 86%). We are continuing to improve by reviewing our process and achieving staff establishment goals.

OPTIONS

17. (i) Oppose the Amendment Bill and continue to focus on reducing processing times.
(ii) Support the Amendment Bill recognising that its introduction would lead to increased costs for other ratepayers and for other users of the service and potentially lead to a reduced quality in buildings consent issued to meet time frames.

PREFERRED OPTION

18. Oppose the Amendment Bill and continue to focus on reducing processing times.