

#### 4. REVIEW OF BUILDING ACT COMPLIANCE COSTS

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Corporate Plan Output: Building Control	

The purpose of this report is to advise the Committee of the review of Building Act Compliance Costs that has been undertaken by the Ministry for Enterprise and Commerce.

##### BACKGROUND

In October 1997 the Ministry of Commerce commenced work on a review to determine whether regulatory costs placed on business by the Building Act 1991 could be reduced whilst ensuring the fundamental principles underlying the Act were not undermined and to make recommendations on how to minimise them. They consulted with the Department of Internal Affairs and the Building Industry Authority during the review.

In August 1998 Local Government New Zealand were given two weeks to comment on some proposals and we made comment to LGNZ. On 12 January 2000 LGNZ were asked for comment on a draft final report and we provided comment to LGNZ.

The draft report, which is to the Minister for Enterprise and Commerce and the Minister of Internal Affairs makes a number of recommendations which are as follows:

- (a) Note that the report has been prepared.
- (b) Agree to section 30(2) of the Building Act being repealed. This section requires that a Project Information Memorandum (PIM) be obtained as part of the building consent process. The PIM provides to the applicant, any information the Council has relating to:
  - 1 A defined list of natural hazards that might be relevant to the proposed building work.
  - 2 Information regarding any notification by any statutory organisation having the power to classify or register the land and buildings for any purpose. For example, Historic Building Classification, and we are required to notify the Historic Places Trust of applications affecting such properties.
  - 3 Details of existing waste-water and stormwater utility systems which might relate to the project.
  - 4 Details of any network utility operator requirements.
  - 5 Confirmation that the work complies with the City Plan or information on what other authorisations such as Resource Consents need to be obtained in addition to the Building Consent before work can commence.

The requirement to obtain a PIM applies to all work and we agree that for small projects such as the installation of a woodburner and minor internal alterations, that the requirement to obtain a PIM could be repealed. We are concerned that the proposal to remove the requirement to obtain a PIM will remove the linkage between the Resource Management Act and the Building Act. This is of particular concern with regard to Building Consents certified by private Building Certifiers because of another recommendation in the report that a time frame of 3 days be set for Local Authorities to issue a Building Consent for applications which are accompanied by a Building Certificate certifying compliance with the Building Code. This would not allow sufficient time to carry out planning checks to ensure compliance with the City Plan. This would lead to situations where a project would receive a Building Consent and commence, then have to be stopped by action under the Resource Management Act because of non-compliance with the City Plan.

- (c) A further recommendation is to amend section 47 of the Building Act to specifically require Territorial Authorities to take into account costs of complying with the Act in exercising their discretionary powers. Section 47 lists a number of factors to be considered and includes the requirement to consider the reasonable practicality of any work concerned. In a number of court decisions and BIA determinations, the question of “reasonable practicality” was discussed and the issue of cost is one of the considerations in that assessment. The amendment proposed would not seem to add to this requirement.
- (d) A further recommendation is to amend the Building Act to set a statutory time limit for territorial authorities to issue consents when the consent is supported by a Building Certifier’s Building Certificate. The suggested time is 3 days and provided the Certifier has already obtained a PIM and the Building Certificate covers all of the project, we do not object to the proposed change.
- (e) A further recommendation is to amend the Building Act to set a statutory time limit for territorial authorities to grant or refuse a Code Compliance Certificate from when they are requested. The suggested time is 3 days and provided all documentation is provided, we do not object to the proposed change. The time limit may be difficult for rural territorial authorities who may have difficulty arranging immediate final inspections in remote areas.
- (f) A further recommendation is to agree to the Ministry of Commerce, undertaking in conjunction with the Department of Internal Affairs, a scoping exercise into the costs and benefits of self-certification and third party checking regimes for building and construction industry trades in order to determine whether the current mix is the most cost effective.
- (g) A further recommendation is to note that it is proposed that the Act Amendments be included in a Statutes Amendment Bill during 2000.

## **SUMMARY**

In summary, the recommendation which causes concern is the proposal to make the provision of PIMs voluntary. This would remove a vital linkage between the Resource Management Act and the Building Act. It would be preferable to exempt selected minor works from the requirement to obtain a PIM.

**Recommendation:** That the information be received.

**Chairman's**

**Recommendation:** For discussion.