

The Building Act Review

How we build is about to change. The Department of Building and Housing is currently reviewing the Building Act on behalf of the government and there are some radical shifts in focus proposed. 'What' we build is a function of the market demands, but 'Who' builds for us is going to be greatly affected.

The response to the Leaky Building disaster was a huge upsurge in building regulation and associated added cost. Part of the problem had been that the regulators didn't have the skills to review many of the more complex projects or specialist systems and materials used in modern building. To counter this local authority regulators have demanded more in-depth design details and design certification be produced before consents are issued so construction is not reliant on the tradesman's experience and skill. This has created a far better starting point for construction and this together with each Trade certifying completed work has enabled local authorities to considerably reduce their liability.

Ratepayers should see local authorities actions to make those in the building industry accountable as a good thing: it is simply unfair for the current legal system to target councils as 'the last man standing' for mistakes by specialist designers, contractors, and product manufacturers.

But as designers we wonder whether the pendulum has swung to far and created huge amounts of unnecessary paperwork for little value to the client. Maurice Williamson, the minister in charge of Building and Construction, agrees. The pendulum is swinging back to the middle ground between the lax systems of the 90s and red-tape of the 2000's.

One of the new proposals is to remove Building Consents for large complicated projects. At first glance, this sounds outrageous. But the underlying principle is that the designers and contractors will guarantee the building, and provide 'surety' (effectively insurance) to cover any failures. The onus is on experts directly involved in the process to ensure the work is done right.

An intended consequence of this is that only suitably qualified and experienced building practitioners will be able to get the required insurance. 'Who' does the work will directly affect premiums. Designers and builders with good reputations will pay lower premiums, and by passing this on to the client, they are more likely to get the job than those with a poor track record with costly insurance claims.

Another outcome we envisage, but not mentioned in the government's consultation documents, is the need for Peer Reviews of design work. Given the scale of possible liability for insurers, it makes good sense if they require clients to engage independent experts to check proposed designs to assess and minimise the risk to the client (although primarily to reduce the risk to the insurer!).

We see this as a major step forward. Designers, Contractors and Product manufacturers will become responsible for their work. 'Who' the client chooses to manage the process will have a big impact on the project cost.

Not all of the proposed changes are as good. DMC has been involved in several submissions through the New Zealand Institute of Architects and the Association of Consulting Engineers of New Zealand. Much of the detail revolves around how the 'Surety' system will work. One suggestion is that Building Owners are able to negotiate dropping the surety requirement in exchange for a cheaper construction price. We strongly oppose this, as the building may be on-sold and the new owner may be left exposed, or sue the contractor who is effectively uninsured for that project.

Similarly, how the insurance is transferred once builders retire, companies go under, owners move, and construction standards change, will need careful consideration so that the property owner remains protected. The success or failure of the new system will ultimately depend on how the insurance industry responds to the proposals.

We thank all those who have given countless hours preparing submissions and being involved in the process of developing a Building Act to set the foundation rules for efficient quality construction for the years ahead.