



EVENT BRIEFING

Meeting with the Mayor of Wellington, Andy Foster, and Barbara McKerrow, Chief Executive of Wellington City Council

Date:	5 May 2021	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2021-3343

Action sought		
	Action sought	Deadline
Hon Dr Megan Woods Minister of Housing	Note that you are meeting with the Mayor of Wellington, Andy Foster and the Chief Executive of Wellington City Council, Barbara McKerrow on Monday 10 May at 4:30pm.	10 May 2021
Hon Poto Williams Minister for Building and Construction	Note that this briefing provides background information, talking points and suggested questions to support your meeting.	
Associate Minister of Housing (Public Housing)		

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Amy Moorhead	Manager, Building Policy	s 9(2)(a)	✓
Bronwyn Lauten	Manager, Issues Management		

The following departments/agencies have been consulted

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments



EVENT BRIEFING

Meeting with the Mayor of Wellington, Andy Foster, and Barbara McKerrow, Chief Executive of Wellington City Council

Date:	5 May 2021	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2021-3343

Purpose

To provide the Minister of Housing and the Minister for Building and Construction/Associate Minister of Housing with background information and talking points for your meeting with the Mayor of Wellington, Andy Foster, and the Chief Executive of Wellington City Council, Barbara McKerrow, on 10 May 2021 at 4:30pm.

The meeting is an opportunity for a conversation between you and the Wellington City Council on a broad range of issues regarding housing and urban development, risk and liability, earthquake-prone buildings, resilience, climate change and improvements to the Building Act and Code.

Recommendations

The Ministry of Business, Innovation and Employment and Ministry of Housing and Urban Development recommends that you:


- a **Note** that the Minister of Housing and the Minister for Building and Construction/Associate Minister of Housing are meeting with Andy Foster, Mayor of Wellington and Barbara McKerrow, Chief Executive of Wellington City Council from 4.30 – 5:00pm on 10 May 2021.
- b **Note** that Brad Ward, Deputy Chief Executive, Place-based Policy and Programmes (HUD) and John Sneyd, General Manager, Building System Performance (MBIE) will also be attending.

Noted

Noted

- c **Note** this briefing provides background information, talking points and suggested key questions to support your meeting.

Noted



Amy Moorhead
Manager, Building Policy
Building System Performance, MBIE

05 / 05 / 2024

Hon Megan Woods
Minister of Housing

..... / /

Hon Poto Williams
Minister for Building and Construction
Associate Minister of Housing (Public Housing)

..... / /

Background

1. Wellington City Council (the Council) would like to meet with Ministers to discuss a broad range of issues regarding housing and urban development, resilience, risk and liability, earthquake-prone buildings, climate change and improvements to the Building Act 2004 and the Building Code. This meeting provides an opportunity for a free and frank dialogue between participants.
2. The Council has significant operational roles as co-regulator in the building regulatory system. Under the Building Act 2004, the Council's responsibilities include:
 - As an accredited and registered Building Consent Authority (BCA), assessing and issuing building consents, inspecting building work, and confirming that buildings are compliant with the Building Code, and other core building control functions.
 - As a Territorial Authority, issuing Project Information Memoranda, administering and enforcing annual building warrants of fitness, and issuing and enforcing notices relating to dangerous, earthquake-prone or insanitary buildings.
3. The Council also has a role in planning for urban growth. It is working with neighbouring councils on how to house a growing regional population over the next thirty years, where up to 80,000 people are expected to be living in Wellington City. As part of its planning, the Council is considering all types of housing from social housing to new subdivisions.
4. The Council is Wellington's largest provider of affordable rental housing, providing housing in the city for people on low incomes and those who face barriers to other types of housing. The Council houses those who are most in need and assist them to become independent where possible. The Council provides over 1,900 social housing units at over 60 locations across Wellington city, and manages 26 units for Porirua City Council.
5. The Council is a significant stakeholder across a range of programmes within your portfolios. The Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Housing and Urban Development (HUD) are working to strengthen their relationships with the Council by improving consultation and communication across their work programmes, including the Building System Legislative Reform Programme and making changes to the building consent system.

A regional partnership provides an opportunity to collectively address housing supply challenges associated with urban growth

6. The Council are looking to partner regionally and locally on growth planning and investment to decide how to best use limited collective resources to phase and prioritise development. To ensure that Wellingtonians are well housed, the Council considers it critical that we work together to deliver quality urban developments that connect homes with amenities, jobs, transport and green spaces that communities need.
7. In Wellington, demand for housing has outstripped development opportunities. However, greenfield opportunities are limited, and most new supply will need to be infill. More housing support is needed across the continuum in the near term, from public, to affordable rental, to affordable ownership. Capital is needed to achieve this. The challenges the city faces (including infrastructure issues) and the potential solutions to these challenges in terms of land development and affordable housing supply in many cases are regional.
8. Under the Government's Urban Growth Agenda, the Council is in an emerging urban growth partnership with the Crown alongside nine other councils and all iwi partners in the Wellington-Wairarapa-Horowhenua region.
9. A key element of this partnership has been the development of a joint spatial plan (the Wellington Regional Growth Framework (the Growth Framework)), which will drive a long-

term and integrated approach to land use and infrastructure planning. The joint spatial plan also provides council and iwi in the region with an agreed regional direction for growth and investment.

10. Housing is at the core of the Growth Framework, with particular objectives focused on:
 - developing urban areas along established transport corridors making it easier for people to get around;
 - unlocking new areas for housing and urban development and improving resilience in the region; and
 - delivering transformational housing and development outcomes for iwi/Māori.
11. The Growth Framework has identified initiatives to increase housing supply across the Wellington-Horowhenua region including Let's Get Wellington Moving (intensification along transport corridors), and Johnsonville (mixed use and residential opportunities).
12. The partnership has been leading to the development of the Growth Framework since 2019, and there are moves to formalise the partnership over the coming months, which will involve Ministerial representation. Minister Woods, alongside Minister of Transport Hon Wood, have expressed interest in representing the Crown on the Wellington-Horowhenua partnership. HUD has prepared a draft Cabinet paper for consideration.

s 9(2)(ba)(i)

13. In 2007, the Council signed a Deed of Grant with the Government committing it to remain as a social housing provider until at least 2037 and to upgrade its portfolio to modern standards. The government provided \$220m to support its commitments,

s 9(2)(ba)(i)

14. s 9(2)(ba)(i)

15. s 9(2)(ba)(i)

-
-
-
-
-

16. s 9(2)(f)(iv)

- 17.

18. s 9(2)(f)(iv)

The Council is reviewing the way they provide social housing

19. The Council is also interested in exploring opportunities to work in partnership, including access to Income Related Rent Subsidy (Rent Subsidy).
20. The Rent Subsidy is available to Kāinga Ora and registered community housing providers. Council-owned properties are not eligible for the Rent Subsidy under current settings. Kāinga Ora is able to indirectly access the subsidy if housing stock is transferred and managed by an arms-length provider. The subsidy is not available for existing tenants at the time of the transfer but providers can receive Rent Subsidy for housing new tenants from the Housing Register.

21. s 9(2)(f)(iv)

-
-
-

22. s 9(2)(f)(iv)

23. The Government is investing more where there is urgent need for public housing. The Government is pressing ahead with delivering more long-term transitional housing, which will eventually reduce and end our reliance on motels as a form of temporary accommodation.
24. As at February 2021 there were 73,520 public housing places across New Zealand, including 2,009 public housing tenancies in Wellington City.
25. The Public Housing Plan 2021-2024 sets out the Government's plan for responding to the housing needs of the people affected by housing shortages; the Plan focuses on delivering additional housing where it is needed most. The Plan provides for between 470 and 690 extra public housing places in the Wellington region over the next four years, and 160-170 transitional housing places. Of these, initial indications suggest around 228 public housing places will be delivered in Wellington City by 2024.

The Council wants risk and liability settings changed

26. The Council has raised concerns about the implications of joint and several liability for their role in the building system. In the Council's Briefing to the Incoming Minister, they state this is because they are concerned they will be forced to be overly cautious when considering building consents because they are liable for risks elsewhere in the system that they cannot otherwise control.

You have agreed not to change liability settings, and instead take a whole-of-system approach that helps all those in the building process to better manage risks

27. MBIE briefed the Minister of Finance, Minister of Housing and Minister for Building and Construction in February 2021 on insurance, risk and liability in the building and construction sector [MBIE briefing 2021-2235 refers]. This paper advised Ministers on the extensive investigation and analysis of these issues, as well as the feedback from public consultation on options to address risk and liability in April 2019.
28. The results of the 2019 consultation indicated mixed views on whether changing liability settings would impact on Building Consenting Authorities (BCAs) consenting behaviour. Overall, MBIE's position is that claims that current risk and liability settings cause risk-averse consenting behaviour may be overstated. There are a number of other drivers, and these are summarised below:
 - BCAs' views about their statutory responsibilities around Building Code compliance and the behaviour and actions required to satisfy their responsibilities under their BCA accreditation requirements.
 - Wider sector capability and capacity, including poor quality building consent applications.
 - BCAs' approach to their obligations to their community to ensure a safe built environment and to perform their functions cost-effectively.
 - Concerns of BCAs about the difficulties in gaining adequate insurance cover and other sector participants seeking to manage risk through company structures.
29. In the February 2021 briefing Ministers agreed to a three-pronged approach for considering the allocation of risk and liability in the building sector. This includes existing work to review the consenting model and improve occupational regulation. Ministers also agreed to a new work programme to review existing consumer protection measures and determine whether further work is needed in this area. This approach hasn't been publicly announced.
30. MBIE will provide the Minister for Building and Construction with advice in May 2021 on the approach to the consumer protection review and a proposal to issue a government position statement on risk and liability.

The current building consent model is being reviewed

31. The development of a new building consent model is a key initiative of the Construction Sector Transformation Plan's Regulatory Environment workstream. Any changes to the consenting model may impact how risk and liability is allocated amongst parties.
32. The workstream is being co-led by John Sneyd, General Manager, Building Systems Performance, MBIE and Kevin Lavery, Director of the Society of Local Government Managers. A working group comprising members from across the sector has been established to support and foster ideas for improving the current consenting model – in particular, “quick wins” that may support improvements while a more thorough evaluation and review of the consenting model is undertaken.

The Council is interested in options to incentivise earthquake-prone building compliance

33. Following the Canterbury Earthquakes in 2011, the earthquake-prone building system in the Building Act 2004 (the Act) was subject to an inquiry by the Canterbury Earthquake Royal Commission and a comprehensive Government review. *The Building (Earthquake-Prone Buildings) Amendment Act* was subsequently passed by Parliament in 2016 and came into

effect on 1 July 2017. The system is risk-based and built on knowledge acquired from past earthquakes in New Zealand and overseas.

34. The system targets buildings and parts of buildings that pose the greatest risk to life, safety or other property in a moderate earthquake event¹. It divides New Zealand into three seismic risk areas (high, medium and low) with different timeframes for the identification and remediation of priority buildings (such as hospitals) and other buildings.
35. Most earthquake-prone buildings in Wellington were originally issued notices under the previous system and were given 15 years to remediate their buildings. These earthquake-prone building notices have been transitioned across to new system and have an average of seven years remaining to undertake earthquake strengthening.

The Government is not considering incentives for earthquake strengthening through tax changes

36. The Council has suggested that the tax treatment for strengthening work be amended to incentivise strengthening. This request is similar one received by the Minister of Finance from a number of stakeholders (including Local Government New Zealand) in December 2020.
37. Seismic strengthening work is treated by Inland Revenue as capital expenditure, so deductions are not permitted under the tax system. The Minister of Finance advised stakeholders that the Government is not considering a tax relief scheme for owners of earthquake-prone buildings at this time because the costs of seismic strengthening work immediately tax deductible would be considered a tax concession, which would undermine the efficiency and neutrality of the tax system.
38. As part of the Government's response to the economic impact of COVID-19, the Government reintroduced building depreciation for commercial and industrial buildings. The cost of seismic strengthening can now be depreciated along with the rest of the building over the building's lifespan. The Government considers that this approach strikes the right balance between supporting capital expenditure, including seismic strengthening, and maintaining a responsible fiscal policy.
39. The Government is considering additional practical support for residential unit owners who do not have experience in vertical infrastructure developments. In the meantime, there are other initiatives outside the tax system to assist building owners with the costs of seismic strengthening, including:
 - financial assistance of up to 50 percent of the seismic strengthening costs (up to \$400,000) is available from central government for eligible heritage buildings through HeritageEQUIP;
 - Territorial Authorities may provide owners with some financial support to assist with earthquake strengthening; and
 - the Government provides additional assistance, in the form of a suspensory loan, for residential owner-occupiers who are experiencing financial hardship and are unable to get a loan for seismic strengthening from a bank.

¹ A moderate earthquake in the context of the earthquake-prone building system is defined as an earthquake that would generate shaking at the site of the building that is of the same duration as, but that is one-third as strong as, the earthquake shaking (determined by normal measures of acceleration, velocity, and displacement) that would be used to design a new building at that site if it were designed on 1 July 2017.

40. Territorial Authorities have powers to enforce the earthquake-prone building system if a building owner does not remediate the building within the required timeframes. This includes:
- The ability to prosecute an owner for not complying with the timeframes on an earthquake-prone building. On conviction this is punishable by a fine up to \$200,000.
 - carrying out remediation work and recovering the costs from the owner under the earthquake-prone building provisions in the Building Act, provided they have a District Court order².

41.

s 9(2)(ba)(i)

42. As part of the Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Bill (the Bill) the fine is proposed to increase to up to \$300,000 for an individual or up to \$1.5 million for a body corporate.

The Council would like to see changes to the Building Act and Building Code to more easily enable to supply of safe and affordable housing

43. The Council is interested in discussing improvements to the Building Act and Building Code to easily enable the supply of safe and affordable housing. They believe that the current regime is outdated, does not meet public expectations on quality, sustainability and typology, and is high-risk for the Council.

Upcoming changes to the Building Act will improve the efficiency and quality of building work

44. The Building System Legislative Reform Programme aims to lift the efficiency and quality of building work and provide fairer outcomes if things go wrong. It includes two phases of work, which will impact local government's role in the building system.
45. The first phase involves the *Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Bill* (the Bill). The Bill aims to deliver:
- Better information on building products to support decision making for those involved in the building process. Helping building owners, designers and builders to choose the right products and install them in the way intended will support Building Consent Authorities to be confident in building work and may result in more efficient consenting.
 - A new manufacturer certification scheme to provide more efficient and consistent building consent pathways for offsite modular component manufacturers. Certified manufacturers will need to meet quality and performance standards and have a demonstrated ability to manufacture buildings and components that comply with the Building Code. This scheme will enable Building Consent Authorities to focus just on work not covered by the certification scheme (such as foundations and site works), decreasing the number of building inspections that take place without impacting quality or confidence.

² Sections 124 - 126, and 133 of the Building Act 2004.

- A strengthened product certification (CodeMark) scheme to improve confidence that new and innovative building products and methods comply with the New Zealand Building Code.
 - A widened scope for using the building levy, higher maximum penalties, a longer period to file a charge for offences under the Building Act, and a change to allow public notifications to be carried out online. The changes relating to penalties and disciplinary processes will help Building Consent Authorities with enforcement.
46. The second phase of the reform programme will strengthen the Licensed Building Practitioner scheme, establish a new regulatory scheme for engineers and review regulation of plumbers, gasfitters and drainlayers. These changes will also aim to give Building Consent Authorities greater confidence that building work is being done by competent building practitioners and that practitioners can be held to account for poor work or behaviour.
47. The third phase of the reform programme will investigate options to address the lack of a building warranty insurance market and risk allocation in the building and construction sector. Further information about work in this phase is outlined in paragraphs 26-30 above.
48. The programme of reforms contributes to the Government's commitments under the Construction Sector Accord to improve building regulatory systems. It sits alongside non-regulatory initiatives to strengthen the system such as those being driven by the Construction Sector Transformation Plan 2020-2022.

Annual Improvements to the Building Code include higher density housing and Building for Climate Change programme

49. The annual Building Code update consultation process provides an opportunity to make changes to the Building Code documents that have been identified through the strategic work programme. These include updates to improve technical content or to reflect changes to technology and innovation in construction methods.
50. Currently, there are two key work programmes influencing the next Building Code update. The first is in response to trends for higher density housing and the need for better solutions to support associated challenges for building performance. The second is the Building for Climate Change programme.
51. MBIE is currently consulting on changes that support higher-density housing and ensuring buildings are more energy efficient, submissions close on 28 May 2021.

The Building for Climate Change programme is working towards delivering on the Government's commitments under the Climate Change Response Amendment Act 2019

52. The Building for Climate Change programme is the vehicle for the building and construction sector to contribute to the Government's climate change goals, and provides opportunities to transform and future-proof New Zealand's built environment.
53. The programme makes a significant contribution to the Government's climate change policy goals as one of the leads for the Emissions Reduction Plan and the National Adaptation Plan. These plans form the core work to deliver the Government's commitments under the Climate Change Response (Zero Carbon) Amendment Act 2019.
54. The Building for Climate Change programme will be significant and transformative for the building and construction sector, as a key response to climate change challenges as well as improving social outcomes. The programme is looking at a range of different areas, including strategies for construction waste reduction, as well as contributing to broader climate change work being undertaken by Government, such as the move to make the public sector carbon neutral by 2025.

Work is progressing to consider whether changes are required to make new builds more resilient

55. The Council is also interested in knowing more about potential changes to the Building Code to improve the resilience standards for new buildings.
56. Last year MBIE officials and the Earthquake Commission commissioned a project to revise the National Seismic Hazard Model to support the seismic resilience of the built environment. A revised model will provide a better understanding of seismic hazards and a more accurate calculation of the risk presented by earthquakes. It will also provide assurance to investors, the public and reinsurers that New Zealand understands and is managing this risk and supporting the resilience of the built environment.
57. MBIE officials have been working closely with the technical societies and the leading seismic engineering experts on the current building regulatory system to identify possible areas for improvement. MBIE are also working to determine how the updated model may inform subsequent updates to the Building Code requirements to ensure our building stock is built appropriately for future earthquakes.
58. Engineering New Zealand is directly engaged by MBIE to develop a new best practice performance framework for the Low Damage Seismic Design of new buildings. The key principle of Low Damage Seismic Design is to limit damage to buildings. It may lead to buildings that can recover with less intervention after a significant earthquake.

Biography of Attendees

1. Andy Foster



Andy Foster, the Mayor of Wellington City Council is in his first term as Mayor after winning election in October 2019.

Prior to that he had served as a councillor for Wellington City Council since 1992.

2. Barbara McKerrow



Barbara McKerrow is the Chief Executive for Wellington City Council since March 2020.

Before then she was the Chief Executive of New Plymouth District Council for nine years.

Annexes

Annex One: Talking points and suggested questions

Annex One: Talking points and suggested questions

s 9(2)(g)(i)

