

PARLIAMENTARY SELECT COMMITTEE PRESENTATION SPEAKING NOTES

Slide 1: Cover page

Kia orana and thank you for the invitation to brief the Committee today.

The Building Bill seeks to modernise the Cook Islands' building regulatory system, replacing an outdated framework from 1991 with a fit for purpose, clear and effective system to support responsible and sustainable building and construction in the Cook Islands.

The slides I will go through with you will show how the Bill does this.

Slide 2: The Framework

This slide shows you the framework of the system – the working parts and where each sits.

The Building Bill will provide the overarching legislation for the building and construction sector once enacted. It establishes the foundation for the processes and regulatory practices that govern building activities. The Bill also promotes a coordinated regulatory approach by ensuring that building approvals take into account requirements under other relevant legislation.

Under the new Act will be 5 sets of regulations. The drafting of instructions for the regulations are almost complete, targeted by the end of this week. I will come back to the regulations later in this presentation.

Then there are standards and this is primarily the 2019 Building Code. The Act allows for the adoption and making of other technical standards and codes of practice. For example, green building standards which sets the bar higher for building and product performance than the Building Code does.

Then there are the regulators who implement. The Act outlines the Building Controller, a Building Board, Island Governments that are delegated responsibilities under the Act and building inspectors.

Slide 3: Why Reform Is Needed

The current building legislation in the Cook Islands is based on a framework developed more than 30 years ago.

Since that time, the construction sector has evolved. Building methods, materials, and development pressures have changed, but the legal framework regulating building work has not keep pace with those changes.

As a result, the current system has several limitations.

1. First, the legislation does not provide sufficient compliance and enforcement tools to address modern day building activities or builders. For example, the current framework does not provide modern tools such as requiring engineering certification (structural adequacy certificate) and temporary building permits for activities such as scaffolding and stages set up. There is no ability for building control to issue instant fines that allow regulators to intervene quickly when issues arise and put pressure on persons who commit infringements to act quickly to avoid the cost of fines.
2. Second, the existing framework does not have a formal system for regulating building practitioners. This means there is limited ability to regulate who is undertaking certain types of building work and limited mechanisms to ensure appropriate levels of competency and accountability in the industry.
3. Third, the current legislation does not provide a way to regulate building materials and products used in construction. Modern building regulatory systems typically include mechanisms to ensure that materials used in buildings meet appropriate safety and performance standards – those of the Building Code.
4. Lastly, the 1991 framework only applies to buildings larger than 150 square metres that are located within 50 nautical miles of where Building Control staff are stationed. This means that many buildings in the Pa Enua are not required to comply with the Building Act, regulations, or Building Code.

Overall, these limitations mean that the current system does not provide the breadth of regulatory oversight that would be expected in a modern building control system.

Slide 4: Purpose

The purpose of the Building Bill is to establish a modern, fit for purpose regulatory building system for the Cook Islands

Slide 5: What The Bill Does

While carrying forward almost all of the clauses in the 1991 Act, the Bill introduces several new measures designed to modernise and strengthen the building regulatory system.

The Bill does this by:

1. Introducing new requirements and enforcement measures to fill gaps. These are:
 - Temporary building permits for activities such as scaffolding, stages and buildings like Covid testing stations
 - An engineering certificate (structural adequacy) for buildings that have complex engineering design
 - Occupancy certificates for when the owner wants to occupy a building before it is completed
 - The ability to require testing on building materials and products
 - The ability to prohibit or restrict building materials and products
 - The ability to suspend or revoke permits and certificates
 - The ability to apply bonds on repeat offenders against the Act
2. Increases the regulatory role of the Building Board, formerly the Building Committee
 - The Board will review building permits for builds over 2 storeys and major developments, and Certificates of Suitability (change of use)
 - Hear appeals to decisions
 - Oversee the trades registration system and
 - Review and recommend changes to the building framework
3. Establishes stronger oversight of building trades through creating a trades registration system
4. Introduces the ability to control building materials
5. Introduces infringement notices (instant fines)
6. Creates the ability to apply the Act to the whole of the Cook Islands

In the next slides I will expand on points 3 to 6 on this slide.

Slide 6: Registration Of Building Practitioners – section 54 (j)

Building Control has received complaints from members of the public regarding workmanship and professional conduct and is aware that similar concerns are being raised on social media, including through a dedicated Facebook page highlighting issues with certain builders. Building Control keeps a record of these reports and may decline to approve permits where those builders are named.

To better address these issues, the Bill introduces a system for the registration of building trades and trades companies. Trades that have expressed interest in being included in the system so far include builders, architects and drafters, plumbers, gasfitters, stormwater drainlayers, and tilers. A dedicated set of regulations is proposed to support the operation of this registration framework.

Under the current framework, there is limited oversight of who may undertake certain types of building work. The proposed registration system will provide a mechanism to assess the qualifications and experience of practitioners undertaking regulated building work. A four-tier system is proposed, with practitioners assessed against the tiers based on their qualifications and experience. Over time, with more experience and/or formal qualifications, trades persons can move up in tier level. Companies will only be able to undertake work up to the level of their highest-tier registered builder.

Through the regulations, the Building Board will be responsible for administering the registration system and assessing applications, and applying disciplinary measures where required. The system will also allow registrations to be suspended or revoked where practitioners fail to meet required standards or engage in misconduct. The Building Controller will maintain the register.

A useful example of a similar model already operating in the Cook Islands is the Rarotonga Electrical Workers Registration Board, which manages the registration of electrical workers and supports training and upskilling within the electrical sector. Infrastructure Cook Islands considers that similar arrangements could be developed for other building trades, with trade associations supporting professional development, industry standards, and collaboration with Building Control and the Building Board.

Currently, the Electrical Workers Registration Board receives and assesses applications for registration for a one-off fee of \$100, and electricians must obtain a bi-annual practising license in order to undertake electrical work in the Cook Islands. The Board also supports competency training programmes and addresses disciplinary matters within the profession.

Overall, the intention is to improve the quality and reliability of building work while supporting a more professional and accountable building sector.

Slide 7: Confirmation Of Compliance – s30

Controlling imported and locally manufactured building materials and products is a standard feature of robust regulatory systems. It is a responsibility of government to ensure that substandard materials do not enter the local market and that materials used in construction do not pose risks to the environment, agriculture, or the wider economy.

The Bill introduces a framework for the confirmation of compliance for specified building materials and products used in construction. The purpose of this framework is to provide greater assurance that materials used in buildings meet the performance requirements of the Building Code and to help prevent biohazards from entering the country.

Under this system, importers and local manufacturers will be required to provide confirmation that a product complies with the relevant standards. Supporting evidence may be testing certificates or other verification from recognised testing authorities.

Many defects in building materials cannot be detected through on-site inspections alone. Examples include incorrect timber treatment, steel ductility issues, membrane UV failure, internal laminations, and pressure rating failures. Inspections generally identify visible issues but not defects within the material itself.

The confirmation of compliance system therefore works alongside on-site inspections. Certification helps verify that materials meet required standards before they are imported or sold, while inspections ensure that materials are installed correctly during construction.

The proposed system is intended to be straightforward for importers and manufacturers. It involves completing an application form, providing supporting verification documents, and paying a nominal fee. The intention is to strengthen assurance around building materials without creating unnecessary barriers to trade or adding costs to materials.

Slide 8: Pa Eua – s2, s11, s43

The Bill will apply fully to Rarotonga and Aitutaki upon enactment.

For the remaining Pa Eua islands, four provisions will apply from enactment:

- Confirmation of Compliance for building materials
- Restricted or prohibited building materials
- Demolition notices
- Powers to disconnect utilities

The remainder of the Act will come into force by Order in Executive Council, allowing islands to be brought under the framework in a phased manner when they are ready.

The Building Board and Building Controller may delegate certain functions to Island Governments, including:

- Approving permits for non-complex builds
- Issuing demolition permits
- Carrying out inspections for single-storey buildings

This approach recognises the different capacities across the islands and allows the system to be implemented gradually while still providing important protections immediately.

Slide 9: Infringement Notices – s61

Infringement notices are intended to address relatively minor breaches of the Act in a proportionate way. Examples include failing to apply for a completion certificate or occupying a building without an occupancy certificate.

Rather than requiring every breach to be prosecuted through the courts, inspectors will be able to issue a fixed penalty for specified offences.

This approach is commonly used in regulatory systems as a practical way to address minor non-compliance while reserving more serious enforcement action for significant breaches. The specific offences that may attract infringement notices will be set out in the Enforcement and Compliance Regulations.

Overall, the intention is to support a fair and practical enforcement system that encourages compliance while avoiding unnecessary court proceedings.

Slide 10: Who Is Affected & How

This slide provides a snapshot of how the Bill affects the main stakeholder groups involved in building and construction.

1. For building owners, developers, and the public, the main benefit is stronger protection from substandard materials and poor workmanship. New, clearer forms and processes — some of which are already in place — will help people better plan their builds and ensure that building plans align with the requirements of the Building Code.
2. For builders and other building trades and companies, the Bill introduces a registration system. Individuals as well as trades companies will be required to register in order to carry out work on permitted builds, and registrations may be suspended or revoked in cases of misconduct or failure to meet required standards.
3. For importers, manufacturers, and sellers of building materials, specified types materials and products will need to be certified before they can be imported, sold, or used. Where certification does not already exist, testing may be required to demonstrate compliance with the Building Code.
4. For Building Control, the Bill introduces additional responsibilities, but it also provides clearer regulatory processes and tools to support the administration of the building system.
5. Finally, the Bill creates opportunities for Island Governments to take on additional responsibilities. Certain permitting and inspection functions may be delegated to them, allowing building oversight to be carried out more locally where appropriate.

Overall, the Bill is intended to strengthen protections for the public while creating clearer responsibilities and standards across the building sector.

Slide 11: Implementation

Implementation of the Building Bill will occur through several key steps.

1. First, five sets of supporting regulations are currently in development. These regulations will provide the detailed operational requirements for the system. They include:
 - Administration and Permitting Regulations. These regulations will establish the application procedures, forms, inspection requirements, certificates, and delegation processes under the Act.
 - Building Code and Standards Application Regulations
 - Registration of Building Trades and Practitioners Regulations
 - Compliance and Enforcement Regulations
 - Fees and Charges Regulations
2. Second, the Building Board will be established. The Board will include representatives from government departments responsible for dangerous goods, disability issues, environment, infrastructure, justice, public health, survey, and fire response, along with representatives from the building sector. The Board will also have the ability to appoint temporary members where specific expertise is required, for example from the engineering division at ICI.
3. Third, ICI is developing standard operating procedures and an online system for permitting, certification, and practitioner registration. These systems will provide guidance to Building Control staff in carrying out their new responsibilities and will help ensure consistent standards of practice. The online permitting system will also reduce administrative burden and improve record keeping.
4. Finally, engagement with the building industry will be an important part of implementation. This will help ensure that building practitioners, importers, and suppliers understand the new framework and how it will operate in practice. ICI has already placed questionnaires, draft application forms, and guidance material on its website to gather feedback from industry stakeholders. Questionnaires were also distributed during consultations held in November last year, and workshops with industry stakeholders are planned before the regulations come into effect.

Overall, the intention is to implement the new system in a way that is clear, practical, and workable for both regulators and the building sector.

Slide 12: Issues That May Affect Implementation

This slide highlights some of the key implementation considerations for the Bill.

Resourcing is already a challenge for Building Control. At present there is one Building Controller and one Building Inspector based in Rarotonga. Infrastructure Cook Islands has previously had success contracting a private sector electrician to carry out electrical inspections while the Electrical Inspector was overseas. A similar approach is being considered for building inspections. Building Control also requires administrative support. ICI intends to expand the currently vacant Core and Support Services Works Administrator role to include regulatory administration.

ICI is also an implementing partner for the Green Climate Fund EDA Project, which will provide grants to building owners to bring homes and buildings into compliance with the 2019 Building Code. As part of this project, ICI is recruiting a coordinator to assist with preparations for Building Control ahead of the project rollout. The timing aligns well with the introduction of the new Building Bill and regulations, as many of the preparations required for the project such as training for builders, development of a registry system, and support for inspector training also support implementation of the new building regulatory framework.

Industry readiness is another important consideration. ICI has an open-door policy for the industry during the development of this framework. As mentioned earlier, ICI plans to hold workshops with industry members to prepare them for the trades registration system and the building materials certification process. While it may not be possible to reach every member of the industry through workshops alone, ICI will also continue to provide information and guidance through media channels and published guidance. A transitional implementation period for example six months following enactment is also proposed.

Establishing the Building Board will also require preparation. This will include developing terms of reference, standard operating procedures, and supporting documentation. While this work can be prepared internally, there is also potential for donor support to assist with establishing the Board's governance framework and operational documentation.

Finally, there is the question of readiness in the Pa Enea. Aitutaki currently has building inspectors, but most other islands do not. As most of the Act will apply to the Pa Enea at a later date through an Order in Executive Council, there will be time to prepare for implementation. In the meantime, Building Control has already offered support through remote inspections to Aitutaki for example reviewing photos and video footage and similar approaches could be used to support other islands.

Slide 13: Questions / Comments

Slide 14: End of presentation

