SUBMISSION TO THE

CANTERBURY EARTHQUAKE ROYAL COMMISSION

ON ITS DISCUSSION PAPER: ROLES AND RESPONSIBILITIES

FROM THE WAIMAKARIRI DISTRICT COUNCIL

SUMMARY

This submission from the Waimakariri District Council:

- Opposes the suggestion from IPENZ that it would be advantageous to have a National Policy Statement for building, as the statement of principles and purpose in the Building Act 2004 provide clear guidance

- Advises that difficulties associated with the need, on occasions, to comply with the Resource Management Act 1991 and the Building Act 2004 have been exacerbated by the removal of the requirement for all building work to obtain a Project Implementation Memorandum (PIM). PIMs provided advanced warning at a building project would require a consent under a Regional or District Resource Management Plan.

- Attributes difficulties with the overall building regulation framework, in part, to the tendency for the minimum standards set out in the building code to become the norm. This is particularly relevant to more complex projects and urges that consideration should be given to requiring more rigorous peer review for such projects.

- Proposes a monitoring programme to ensure the on-going maintenance and, if necessary, the upgrading of public buildings to match increased code requirements, as an additional safeguard to ensure the maintenance of safety and health standards in public buildings, which would assist in overcoming isolated but potentially very significant failures associated with the initial oversight of a building project

1 INTRODUCTION

The Waimakariri District Council welcomes the opportunity to comment on the discussion paper prepared by the Canterbury Earthquake Royal Commission addressing issues related to the roles and responsibilities associated with the administration of the Building Act 2004.

The Waimakariri District is located to the north of the Waimakariri River, and currently has a population approaching 50,000 people. The majority of the work undertaken by the Council with respect to the administration of the Building Act 2004 involves the oversight of residential construction activity. In the context of this work, the Council would observe that very few people fully understand the regulatory framework governing the construction industry. Under these conditions there is a high level of reliance on the Council's building unit staff to facilitate the process and enforce standards in the face of a reluctant building industry and clients with little understanding or experience of residential construction.

2 THE IPENZ PROPOSAL

The Council has considered the suggestions by IPENZ, in particular the call for a National Policy Statement. It is the Council's experience that National Policy Statements invariably restate an Act or some part of one, often using different words which often create greater uncertainty about what is expected. In the context of the Building Act 2004, it is the Council's view that the purpose and principles of the Act

are clearly stated and there is no need to embellish them with a National Policy Statement.

With respect to other aspects of the IPENZ proposal, the Council considers that for the type of work with which its building unit is involved there are plenty of guidance documents.

3 THE RELATIONSHIP BETWEEN THE BUILDING ACT 2004 AND THE RESOURCE MANAGEMENT ACT 1991 (RMA)

These two statutes can be seen as working seamlessly when the design of a building does not conflict with plan standards, i.e. it does not breach controls such as those associated with setbacks and recession planes, and its intended purpose is a permitted activity. When Project Information Memoranda (PIM) were mandatory, this was the time at which any issues relating to compliance with RMA plans would be identified. As PIMs are now voluntary, the first occasion that non-compliance with provisions in an RMA plan will be identified will be when the building consent is lodged, and at that stage the project will be "put on hold".

While the decision to remove the necessity to obtain a PIM was seen in some quarters as a move to reduce "process" and thus increase efficiency it has also had the effect of delaying the time at which any issues with respect to compliance with RMA plans are identified. In the absence of widespread understanding of the regulatory framework for construction, the value of obtaining a PIM is one thing that is not necessarily appreciated thus creating the impression that there is a severe disjuncture between regulations developed under the two statutes.

In much the say way, it could be argued that a general absence of understanding at community level of the full implications of resource management plans may be contributing to this situation. In the context of projects involving professional architect/designers and/or project managers, however, the need to ensure compliance with district and/or regional plan provisions should be understood and the situation checked so as to avoid unexpected delays at the consenting stage.

3 THE OVERALL EFFICACY OF THE BUILDING REGULATION FRAMEWORK

The Council's experience of working with buildings made dangerous because of the recent earthquakes, has mainly involved unreinforced masonry buildings most of which owners had made no attempt to bring up to the current minimum of 34 percent of the current code for earthquake strength. This situation, together with the issues faced by the Royal Commission in reviewing the circumstances which led to the collapse of the CTV building raise the issue of how to ensure that New Zealand's stock of public buildings can be maintained at a standard that meets the objectives or principles of the Building Act 2004 with respect to the health and safety of people using these buildings.

It is the Council's experience working with the representatives of major retail chains and insurers that there is currently a high level of awareness of the need to ensure that the buildings they choose to use meet high standards from a safety perspective. While this approach is laudable and understandable in the current post-Christchurch earthquake environment, the Council considers that it is important for the Royal Commission to ensure that the "learnings" are not lost over time and that it is not necessarily only the roles and responsibilities associated with the oversight of the construction of major public buildings that should be addressed.

The evidence being presented to the Royal Commission with respect to the processes associated with the design and consenting of the CTV building highlight the fact that every “plan standard” or “code” there will be a tendency for what is technically the minimum standard to also become the norm. This means that over time as code or standard requirements become more stringent, older buildings have little additional capacity to withstand adverse events. Under these conditions, it would appear that attention should also be paid to the development of a nationwide system which requires the regular upgrading of buildings enforced by Central Government.

The earthquake prone buildings policies of Councils does address this to a degree and this Council in 2011 tightened the timelines required for owners to assess buildings and carry out remedial work. In some respects what the Council is calling for is a much more rigorous regime for the gradual upgrading of commercial buildings, beyond earthquake strengthening, to meet contemporary standards for wider health and safety matters over time as well. It is envisaged that this could be based on regular assessments of the standard of a building against current standard, such as compliance schedule matters, access and means of escape so that buildings would no longer reach the situation where they were seriously misaligned with current code requirements. It is recognised that this could mean that building owners would be required to make considerable investment in their buildings to bring them up to standard and in some instances they would be faced with the decision that the cost is not warranted and a building would have to come down.

While this may appear radical, it is likely to be advantageous in the long term both for the building owner and the community as a whole. It would not only ensure the overall standard of the building stock which would mean that the high level of dislocation faced in Christchurch after the 22 February 2011 earthquake because of the failure of so many building would be significantly less likely in the future. It would also mean that those operating in the replacement buildings would be likely to be able to operate a good deal more efficiently.

In addition, such a system involving the regular surveillance of buildings would alert authorities relatively quickly to any systemic failures that may still occur within the regulatory framework at any particular time. Regulations are required to safeguard the interests of the community, but there are always likely to be occasions when human factors will influence these processes and standards are not maintained.

In this context the Council does not consider that changing to a national model is necessary for the routine consenting of residential buildings, so long as undue risks are not taken with methods incorporated into the Building Code as was the case with the development of the weather tight homes issue. The Council would, however support the development of a more thorough method for peer review of large and structurally more sophisticated public buildings. As the CTV building case is suggesting, however, even this may not remove the human factors from the process entirely, and the on-going surveillance and requirement to up-grade to maintain pace with changes to current standards may ultimately be the best safeguard available.