



Hamilton City Council – Staff Feedback

**Building Code Fire Safety Review –
Issues in the Building Code
Regulations – Discussion Document
(October 2024)**

**Ministry of Business, Innovation and
Employment**

5 December 2024



**Hamilton
City Council**
Te kaunihera o Kirikiriroa

Improving the Wellbeing of Hamiltonians

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- **A city that's easy to live in**
- **A city where our people thrive**
- **A central city where our people love to be**
- **A fun city with lots to do**
- **A green city**

The topic of this staff feedback is aligned with all of Hamilton City Council's five priorities.

Council Approval and Reference

This staff feedback was approved by Hamilton City Council's Chief Executive on 5 December 2024.

Feedback # 781

It should be noted that the following feedback is from staff at Hamilton City Council and does not therefore necessarily represent the views of the Council itself.

Introduction

1. Hamilton City Council staff would like to thank the Ministry of Business, Innovation and Employment for the opportunity to provide feedback on the October 2024 discussion document **Building Code Fire Safety Review – Issues in the Building Code Regulations**.
2. The response/feedback from Hamilton City Council staff is outlined in the Ministry of Business, Innovation and Employment’s official submission form – copy attached.

Further Information and Opportunity to Discuss Our Feedback

3. Should the Ministry of Business, Innovation and Employment require clarification of the feedback from Hamilton City Council staff, or additional information, please contact **Alister Arcus** (Principal Building Advisor – Regulatory Services) on **07 838 6881** or email alister.arcus@hcc.govt.nz in the first instance.
4. Hamilton City Council representatives would welcome the opportunity to discuss the content of this feedback in more detail with the Ministry of Business, Innovation and Employment.

Yours faithfully



Lance Vervoort
CHIEF EXECUTIVE

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Consultation submission form

Building Code fire safety review

Issues in the Building Code regulations
October 2024



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Seeking feedback

How to submit this form

This form is used to give feedback on the Building Code fire safety review discussion document.

When completing this submission form, it helps if you add comments and reasons explaining your choices. Your feedback is valuable as it informs decisions about fire safety proposals for the Building Code.

MBIE needs your feedback on the Building Code fire safety review by 5:00 pm on Friday, 6 December 2024.

- Email: building@mbie.govt.nz, with subject line Building Code Fire Safety review
- Post:
Building Code Fire Safety review
Building System Performance
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140

Next steps

Your feedback on this document will be collated and analysed along with all the other responses.

Following consideration of the submissions, MBIE will develop potential options for improvements to fire safety provisions in the Building Code.

MBIE will seek feedback on these potential options for change through a further round of public consultation. Timelines for the review will depend on the information received in this year's consultation and any new or emerging issues along the way.

Use of information

Release of information on MBIE website

MBIE may publish copies or excerpts of submissions. MBIE will consider you to have consented to this when you submitted your feedback unless you clearly stated otherwise in your submission.

If your submission contains any information that is confidential which you do not want published, please:

- state this at the start of your submission, with any confidential information clearly marked within your feedback text
- provide a separate version, with your confidential information removed, for publication on the MBIE website.

Release of information under the Official Information Act

Once submitted, your feedback becomes official information, and can be requested under the Official Information Act 1982 (OIA).

An OIA request asks for information to be made available unless there are sufficient grounds for withholding it. If some or all of your submission falls within the scope of any request for information received by MBIE, they cannot guarantee that your feedback will not be made public. Any decision to withhold information requested under the OIA is reviewable by the Ombudsman.

[Get help from the ombudsman](#) – Ombudsman New Zealand

Seeking feedback

If you do not want your submission feedback released as part of an OIA request, please say so in your submission feedback together with the reasons why (for example, privacy or commercial sensitivity).

MBIE will take your reasons into account when responding to OIA requests.

Personal information

The Privacy Act 2020 contains principles on how various agencies, including MBIE, collect, use and disclose information provided by individuals.

Any personal information you supply to MBIE in the course of providing your submission feedback is only:

- used for the purpose of assisting in the development of advice in relation to this consultation, or
- for contacting you about your submission.

MBIE may also use your personal information for other reasons permitted under the Privacy Act 2020 (for example, with your consent, for a directly related purpose, or where the law permits or requires it).

Please state clearly in your submission feedback if you do not want your name, or other personal information, included in any summary of submissions that MBIE may publish.

MBIE will only keep your personal information for as long as it is needed for the purposes for which the information may lawfully be used.

Where any information provided (which may include personal information) constitutes public records, it will be kept to the extent required by the Public Records Act 2005.

MBIE may also be required to disclose information under the Official Information Act 1982, to a Parliamentary Select Committee or Parliament in response to a Parliamentary Question.

You have rights of access to, and correction of, your personal information. Go to MBIE's privacy web page for more information.

www.mbie.govt.nz/Privacy

Your information

MBIE would appreciate it if you would provide some information about yourself. This helps MBIE understand the impact their proposals may have on different occupational groups. Any information you provide will be stored securely.

A. About you

Name:

Alister Arcus

Email address:

alister.arcus@hcc.govt.nz

B. Can MBIE contact you if they have questions about your submission?

Yes

No

C. Are you making this submission on behalf of a business or organisation?

Yes

No

If yes, please add the name of your company or organisation.

Hamilton City Council

D. Select your role or the best way to describe your organisation:

Architect

Engineer (please specify below)

BCA / TA / Building Consent Officer

Evacuation specialist

Builder or tradesperson (please specify below)

Fire and Emergency NZ

Building product manufacturer or supplier
(please specify the type of product below)

Independent Qualified Person (IQP)

Building resident, occupant or user (please
specify below)

Residential building owner

Commercial building owner

Other (please specify below)

Designer (please specify below)

Prefer not to say

[Please specify here]

Outcomes of the review

E. Personal information

The Privacy Act 2020 applies to feedback provided in all submissions.

- Please tick the box if you do **not** want your name or other personal information included in any information that MBIE may publish.

F. Publishing information

- MBIE may upload submissions, parts of submissions, or a summary of submissions received to its website. If you do **not** want part or all of your submission uploaded, please tick the box and say what you do not want uploaded and why below.

If you have ticked this box, please tell us what part(s) of your submission you do not want uploaded on MBIE's website and why.

[Please insert here]

G. Official information

The Official Information Act 1982 applies to all submissions received by MBIE.

- If you would like your submission (or parts of your submission) kept confidential please tick the box and **state** your reasons and ground(s) under sections 6, 7 and/or 9 of the Official Information Act that you believe apply, for consideration by MBIE.

If you have ticked this box, please tell us what parts of your submission you would like to be kept confidential, your reasons for this, and any grounds under the Official Information Act that you believe apply.

[Please insert here]

1. Outcomes of the review

This section covers the outcomes that MBIE wants to achieve with its Building Code fire safety review. These outcomes provide areas of focus for the issues MBIE wants to resolve.

Questions for the consultation

1. MBIE has identified outcomes they would like to achieve for fire safety in the Building Code. Please select whether you agree or disagree with these outcomes.

Outcome	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know or not applicable
Building Code requirements need to be clear on protection levels based on building types and their users.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fire safety provisions in the Building Code need to keep up with changes in urban design, modern construction methods, and the different ways buildings are being used.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ensure fire safety regulatory requirements in the Building Code are fit for purpose and cost-effective.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Minimise gaps and inconsistencies in fire safety regulation to provide certainty, clarity, and consistency.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Outcomes of the review

2. How well do you think the fire regulations in the Building Code are currently performing against these suggested outcomes? Please provide evidence if you can.

Not at all well	Not very well	Somewhat well	Very well	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- The current Building Code, Fire Code, is still fit for purpose and works well, in general terms, but needs a refresh, tighter requirements and should look to align, where possible, with comparable overseas international Codes to provide consistency.
- Our fire engineering industry is familiar with the documents, and we see good engineering reports using the current Code methodologies, logical design, and good safe outcomes.
- We also see some designers 'cherry picking' bits off the Code to fit a particular narrative, often it seems, to save cost. Building Control Authority staff are often put in difficult positions as a fait accompli, particularly for altering existing buildings under a building consent. The use of the "as nearly as reasonably practicable" is often misused/not correctly argued and results in having to seek a second opinion from alternative fire engineering specialists.

3. Are there other outcomes MBIE should consider for the review?

Yes No

- The Ministry of Business, Innovation and Employment should consider a review of the interpretations of the Building Act and Building Codes and tighten interpretations to reduce the inconsistencies of design.
- The Ministry of Business, Innovation and Employment should implement guidance documents as other jurisdictions have such as Australia.

4. Would you like to provide feedback on your answers, please tell us.

Yes No

See above.

2. Effectiveness of fire safety measures in the Building Code

These questions relate to the effectiveness of the fire safety measures in the Building Code. An effective Building Code supports the purposes and principles of the Act, to make sure that:

- People who use buildings can do so safely and without endangering their health.
- People who use a building can escape from the building if it is on fire.
- People entering a building to carry out rescue operations or firefighting are protected from injury.
- Protection is provided to limit the spread of fire and its effects.

Questions for the consultation

5. MBIE have identified the following issues related to the effectiveness of the fire safety provisions in the Building Code. Please select whether you agree or disagree with the following statements.

Statement	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know or not applicable
Insufficient consideration is given to the evacuation needs of different occupants in a building, such as vulnerable occupants. This means that some people could be at greater risk in a fire.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Building Code fire safety provisions do not adequately consider the specific hazards, such as building height, building importance, building use, or other factors. This means that the requirements may not be cost-effective for all building owners.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The fire safety objectives in the Building Code focus on keeping people safe and protection of other property. It does not address protecting owners' investments. This can leave gaps in the protection of buildings and increases the risk for responding firefighters.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Building Code does not provide comprehensive measures for firefighters responding to fires or other emergencies.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effectiveness of fire safety measures in the Building Code

Statement	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know or not applicable
The Building Codes does not provide sufficient consideration on maintenance over the life of a building including during construction.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. Are there any other issues MBIE should consider on the effectiveness of the fire safety measures in the Building Code?

Yes No

7. Would you like to provide any other comments or feedback on the effectiveness of the fire safety measures in the Building Code?

Yes No

- The protection of vulnerable occupants of buildings needs to either: provide more robust safe places (safe paths, evacuation zones etc) for occupants to occupy during a fire emergency; or allow evacuation to a safe place such as use of lifts during emergencies rather than these shutting off during alarm activation – what do other jurisdictions do?
- A review of the Code documents to align with overseas Codes, where practicable, but we disagree with cost-effectiveness as the main argument. Rather, consider using a risk-based approach to hazards or property protection. There may be current requirements that are not needed because the risk is low and so the economic gain is made. Alternatively, if the life risk is high, economic considerations should take a backseat.
- Our view has always been that the Code is designed to allow occupant evacuation and other property protection as a core. Owner investment should be at the discretion of the property owner and their insurance/financing institution. Firefighter safety should always be at the discretion of the operational staff onsite, and they will make the decisions as to whether to fight the fire or contain it – we are not sure that this needs changing. If there are overseas Codes that address this better and this could be incorporated within this Code, then we would support this for consistency and alignment as above.

3. Keeping pace with new technologies and new fire challenges

These questions are on improvements in building materials and the technologies used for fire safety systems in buildings. New technologies, urban design and methods of construction have grown rapidly since the last review of the fire safety regulations in 2011.

The Building Code should enable the use of innovative technologies and provide adequate protection from new fire risks.

Questions for the consultation

8. MBIE has identified the following issues where the Building Code has not kept pace with new technologies and new fire challenges. Please select whether you agree or disagree with the following statements.

Statement	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know or not applicable
The Building Code fire safety provisions create barriers to the use of overseas products.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Building Code fire safety provisions do not enable mass timber construction and other modern construction methods to be used safely and efficiently.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Building Code is not flexible enough to address fire hazards from emerging technologies such as electric vehicles, solar panels, and battery storage systems.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Further consideration is required in the Building Code for modern housing such as fire spread and access for firefighters.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There are barriers in the Building Code to using new fire safety systems or technologies as part of a design.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Keeping pace with new technologies and new fire challenges

9. Are there any other issues related to keeping pace with new technologies and new fire challenges MBIE should consider?

Yes

No

10. Do you have any other comments or feedback on the ability of the Building Code to keep pace with new technologies and new fire challenges?

Yes

No

- We believe that approval of overseas products is commonplace in the current Building Code environment. There are examples of fire rating products such as fire collars which have been tested using overseas testing agencies such as Warringtonfire. Be that as it may, if there are easier processes to get approvals from (such as Minister certification), then that would be supported as a deemed to comply.
- We are not sure how the Building Code can be agile enough to cater for new technologies and other modern construction as these come onstream. More regular consultation and consideration of changes should be undertaken to cater for these. Any new knowledge for new technologies/systems comes with research and implementation from other jurisdictions and is considered as alternative solutions/engineering designs. Mass timber construction, for example, is taking place in New Zealand under the current Building Code, and lessons being learnt are being implemented as knowledge is gained from here and overseas.
- Consider Ministry of Business Innovation and Employment regular guidance and communications on the latest technologies and knowledge about how the building environment can cater for these for designers and Building Control Authorities to use when approving consents.

4. Certainty, clarity, and consistency

These questions are on the certainty, clarity, and consistency of the fire safety provisions in the Building Code. These provisions should be clear enough to support consistent decisions on whether a building complies with the Building Code.

Questions for the consultation

11. MBIE has identified the following issues where the fire safety provisions do not support certainty, clarity, and consistency in building design and consenting. Please select whether you agree or disagree with the following statements.

Statement	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know or not applicable
Gaps in regulation have created a complex system to work with.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The multiple ways to classify buildings can cause confusion on what is required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unclear language in the fire safety provisions can lead to inconsistent decision making.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The fire safety provisions in the Building Code are inconsistent with other legislation and regulations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12. Are there any other issues related to certainty, clarity and consistency MBIE should consider?

Yes

No

13. Do you have any other comments or feedback on the certainty, clarity and consistency of fire safety provisions in the Building Code?

Yes

No

- A lack of clarity/guidance in Regulations and Codes allows a wide range of views/complexity, often based on the individuals risk appetite. This means that even within a Building Control Authority, there can be different views on a compliance pathway between staff. Junior staff are likely to be more risk-averse because of a lack of experience and a lack of clarity within the Codes and therefore will likely push back for potentially frivolous information.
- Simplifying the classification of buildings would be desirable but also within the classifications, having some subclassifications e.g. commercial buildings, which seem to have a very wide range of buildings within this classification – look to match other Codes and Regulations from overseas.
- There are a large number of inconsistencies with other legislation and within the Building Codes as well. There should be a push to try and align, where practicable.

5. General questions

14. What do you think are the most important issues MBIE should consider in the review?

- The Ministry of Business, Innovation and Employment should consider a review of the interpretations of the Building Act and Building Codes and tighten interpretations to reduce the inconsistencies of design.
- The Ministry of Business, Innovation and Employment should implement guidance documents for intent and interpretation as other jurisdictions have such as Australia.
- Alignment with other nations Code documents: cherry pick the best.

15. If you have any other comments on this review, please say.

This is a big piece of work and is quite overwhelming, making it difficult to provide a comprehensive response. We suggest that future consultation(s) as a result of this review, are broken down into smaller, more comprehensive consultations with appropriate timeframes to allow a more considered, in-depth and accurate response by all the interested parties.

16. If you have anything else you would like to tell MBIE about fire safety in the Building Code, please leave your feedback below.

The Ministry of Business, Innovation and Employment should consider implementing a risk assessment tool, much like the Means of Escape tool, to provide a risk score against any proposed building work that includes “as nearly as reasonably practicable” (ANARP) arguments to allow Building Control Authorities to assess these with accuracy and consistency.

Thank you

Thank you for your feedback. MBIE really appreciate your insight because it helps them identify the needs of New Zealanders and their thoughts on fire safety in buildings.

