



PARLIAMENTARY SUBMISSION REPORT FOR THE UPDATE TO THE FIJI NATIONAL BUILDING CODE

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AUTHOR & CONTRIBUTIONS

"If everyone is moving forward together, then success takes care of itself."

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Organizations Construction Industry Council Engineers Fiji Fiji Association of Architects Fiji Building Designers Association Fiji Bureau of Statistics Fiji Master Builders Association Global Green Growth Institute Insurance Council of Fiji International Finance Corporation National Council for Persons with a Disability Pacific Regional Infrastructure Facility	Asian Development Bank Kristina Katich, Senior Urban Development Specialist Educational Institutes Fiji National University University of the South Pacific Private Sector Ashok Parsotam Chester Consultants Conway Architects Geoffrey Boughton Hamen Lodia Munirud Dean Orton Architects Peter Rankin Stephen Hallacy Warren Yee	Consulting Team Canada: Wavefront Planning and Design Fiji: Chahan Engineers Sharma Design Group Lal Patel Bale Lawyers Samoa: Tinai Gordon & Associates AGM Architect Fonoti Perelini
Agencies EFL Energy Fiji Limited NFA National Fire Authority WAF Water Authority of Fiji	Local Authorities Labasa Lautoka Levuka Nadi Nausori Sigatoka Suva	

ACRONYMS

AA	Approval Agency
BC	Building Committee
BPEC	Building Permit Evaluation Committee
CIC	Construction Industry Council
DBGA	Department of Building and Government Architects
DTCP	Department Town and Country Planning
EF	Engineers Fiji
FAA	Fiji Association of Architects
FBDA	Fiji Building Designers Association
FNBC	Fiji National Building Code
FGCH	Fiji Green Construction Manual for Homes
FHA	Fiji Housing Authority
FHBM	Fiji Home Building Manual
FMBA	Fiji Master Builders Association
FMS	Fiji Meteorological Services
FNU	Fiji National University
FRA	Fiji Roads Authority
JTG	Joint Task Group
LA	Local Authority
LIA	Legal and Institutional Arrangements Report
MHMS	Ministry of Health and Medical Services
MIA	Ministry of iTaukei Affairs
MOH	Ministry of Housing
MLG	Ministry of Local Government
MPWM	Ministry of Public Works, Infrastructure and Meteorological Services
MTCS	Ministry of Trade, Cooperatives, Small and Medium Enterprises
NDMO	National Disaster Management Office
NTMS	National Trade Measurement and Standards
USP	University of the South Pacific
WAF	Water Authority of Fiji

1. INTRODUCTION

1.1 Background

The update to the Fiji National Building Code (“**FNBC**”) and the Fiji Home Builders Manual (“**FHBM**”) is undertaken by the joint initiative of the Fiji Government in partnership with the Asian Development Bank which encompasses improvements in health and safety, recognition and implementation of climate resilience in the Building Code. Further, the updated FNBC is to set a streamlined building control environment to strengthen the regulatory and institutional frameworks and compliance enforcement. The Parliamentary Submission is the key report that incorporates the drafting instructions, policy document and ministerial briefing paper. The Parliamentary Submission is one of seven deliverables for the update to the FNBC and FHBM project, which was funded by the Asia Development Bank, which commenced in April 2022. The Parliamentary Submission will set the foundation for the preparation of the Building Act and Building Regulations which will enact the FNBC.

Terms of Reference Deliverables for the Parliamentary Submission Report

An overview of the deliverables of the Parliamentary Submissions as reflected in the Terms of Reference for the FNBC Update includes:	
(a)	legal drafting instructions to the Office of the Solicitor General for a new FNBC;
(b)	Bill in accordance with the Report recommendations – due to timing and deliberations relating to the legal framework, the Building Bill could not be prepared within the allocated timeframe though drafting instructions for the preparation of the Building Act was provided;
(c)	a policy document for the new FNBC Bill;
(d)	a ministerial briefing paper, and
(e)	assist the Office of the Solicitor General with the preparation of the draft FNBC Bill and any amendments to related legislation.

1.2 Update to the FNBC

The update to the FNBC and the creation of a new Fiji Green Construction Manual for Homes officially commenced in April 2022, and to be completed by 31 January 2024. This was endeavored to update the existing building standards and develop a strategy for effective implementation and enforcement. This project is formally known as Asian Development Bank TA-

9347 reg: Pacific Urban Development Investment Planning and Capacity Development Facility-
Fiji National Building Code.

Terms of Reference Deliverables for FNBC

The project entails the overall deliverables as follows:

- 1. Update to the Fiji National Building Code**
 - 2. Fiji Green Construction Manual for Homes**
 - 3. Legal & institutional Arrangements Report**
 - 4. Compliance & Enforcement Report**
 - 5. Parliamentary Submission Report**
 - 6. Terms of Reference for 5-Year Capacity Building and Training**
 - 7. Media Strategy and Awareness and Promotions Strategy**
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1.3 History of the FNBC & Building Permit Approval Process

The FNBC 1991 was established in response to the devastating impacts of the cyclones in 1983 and 1985 by the leading efforts of the Fiji Building Standards Committee. Supplementary to the FNBC is the FHMB which acts as a guideline to conform with the structural requirements of the FNBC and for the construction of single storey homes. Insofar as the enforcement of the FNBC is concerned, its applicability only extends to urban areas and designated rural areas that require cyclone certification. The legislative authority of the FNBC is derived from the Public Health Act 1935. The FNBC is also governed by the Public Health (National Building Code) Regulations 2004 and the Regulations of the Building Permits Act 2017. At the material time, the administrative authority of the FNBC was regulated by Central Board of Health via the Ministry of Health. Since 2018, the administrative authority of the FNBC has been primarily undertaken jointly, by the Department of Town and Country Planning and the Municipal Council which are both statutory authorities under the Ministry of Local Government. Whilst the administrative authority of the FNBC has been transferred from the Central Board of Health to the Ministry of Local Government, the legislative authority for the FNBC remains with the Public Health Act 1935.

As part of the building reforms in Fiji, the Building Permits Evaluation Committee was established by the Regulations of the Building Permits Act 2017 to fast-track applications for building permits for commercial and industrial developments. The Building Permits Evaluation Committee became the decision-making body to review and process fast-track applications, however at this stage,

there has not been any fast-track applications that have been submitted to the Committee for review. The FNBC has been in existence for well in excess of 30 years and requires significant updates in order to be contextually responsive to the present building standard requirements with the view of improving health and safety and climate resilience in Fiji. Effectively, the purpose of the updated FNBC is to introduce the use of sustainable building design with new building provisions that will encumber disability access, the use of sustainable quality building materials and modern building practices.

1.4 Current Legislative Framework

The Ministry of Public Works, Infrastructure and Meteorological Services (“**MPWM**”) is the designated statutory authority of the Fijian Government that is primarily responsible for regulatory, coordination and implementation of programs, projects including but not limited to infrastructural works that encompasses energy, works, water and sewerage, building and government architects and the divisional engineers. Since 2018, MPMT was designated to be the lead statutory body responsible for the update to the FNBC and FHBM. The Ministry has been administering the updates through the Director of the Department of Building and Government Architect (“**DBGA**”)

The approval process for the current legislative framework which sets out the guidance and standards is twofold:

Development Consent permission granted by an approval authority allowing development to occur on a site subject to the approval of a Building Permit

Building Permission permission granted by an approval authority that allows construction of a building or site to commence and proceed according to requirements in the development consent and building permit approvals.

The transition of the legislative authority for buildings and the building permit approval process from the Ministry of Health and Medical Services to MPWM, MTCS and MHLG has not been properly legislated. The change in administrative structure is illustrated as follows:

Task	MOH (former)	Current
Processing Building Permit Applications	MHMS (Ministry of Health and Medical Services)	Urban + leased rural land (building permit required) Large-scale projects – DTCP Small-scale projects -Municipal governments Government projects – MIMS and CIU Rural iTaukei land Ministry of Housing (MHCD) and Ministry of iTaukei (MIA)
Site Inspections During Construction	MHMS, in association with NFA (fire), EFL (electrical) and WAF (water)	Urban – Municipal Governments in association with NFA (fire), EFL (electrical), WAF (water). MOE (environmental impacts), MOH (kitchens, plumbing), MEPIR (workplace safety) Rural – MHCD, MIA and iTaukei Land Trust Board

For proper implementation and enforcement of the building code through the administrative authorities, it is pertinent that the transition of the administrative roles and functions as illustrated in the table above is legislated. These administrative authorities will be empowered by the proposed Building Bill and the Building (FNBC) Regulation in administering its functions, roles and powers in enforcing the building code.

The application and enforcement of the building code is encapsulated in several legislations and as a result various government ministries and statutory authorities are involved in its administration. The existing legislations that have encapsulated provisions pertaining to buildings and building permit processes are as follows:

- (i) Climate Change Act 2021
- (ii) Climate Relocation of Communities Trust Fund Act 2019
- (iii) Drainage Act 1961
- (iv) Engineers Registration Act 1976
- (v) Engineers Regulation Act 1976
- (vi) Environment Management Act 2005
- (vii) Fijian Competition and Consumer Commission Act 2010
- (viii) Fiji Pine Act 1990
- (ix) Health and Safety at Work Act 1996
- (x) Land Conservation and Improvement Act 1953
- (xi) Land Development Act 1961
- (xii) Land Use Act 2010
- (xiii) National Disaster Management Act 1998
- (xiv) National Fire Service Act 1994
- (xv) Public Health Act 1935

- (xvi) Regulations of Building Permits Act 2017
- (xvii) Rights of Persons with Disabilities Act 2018
- (xviii) Real Estate Agents Act 2006
- (xix) Subdivision of Land Act 1937
- (xx) Surveyors Act 1969
- (xxi) Town Planning Act 1946
- (xxii) Water Supply Act 1955




1.5 Current Roles & Responsibilities

The Ministry of Public Works, Infrastructure and Meteorological Services (“**MPWM**”) is the designated statutory authority of the Fijian Government that is primarily responsible for policy formulation, planning, design, regulatory, coordination and implementation of programs, projects including but not limited to infrastructural works that encompasses energy, works, water and sewerage, building and government architects and the divisional engineers. Since 2018, MPWM has been designated as the Ministry responsible for updating the FNBC.

The administration and enforcement of building regulations and the building permit process currently involves overlapping roles by various government ministries as follows:

- (i) MPWM – overseas the Department of Buildings and Government Architects and prepares construction drawings and contract administration services for large-scale government projects.
- (ii) Ministry of Local Government – responsible for the municipal authorities and DTCP which jointly process the building permit applications.
- (iii) Ministry of Trade, Co-operatives, Small and Medium Enterprises – empowered by the Regulation of Building Permits Act 2017 to oversee the administration and enforcement of the Act which establishes the Building Permits Evaluation Committee. MTCS is also responsible for the approval of Fiji construction standards such as the proposed FS1170.2, the proposed Wind Speed Standard.

This is clearly illustrated in the table below:

 MINISTRY OF PUBLIC WORKS, METEOROLOGICAL SERVICES, AND TRANSPORT	 MINISTRY OF LOCAL GOVERNMENT	 Ministry of Trade, Co-operatives, Small and Medium Enterprises
<ul style="list-style-type: none"> The MPMT and DBGA currently oversees the following sectors: (a) Infrastructure sector – this is the department of buildings and government architects. (b) Water sector – responsible for the regulation of water and sanitation services (c) Energy sector – responsible for the development of energy and energy services policies. (d) Meteorology & Hydrology sector – responsible for the provision of meteorological and hydrological services. 	<ul style="list-style-type: none"> The MLG presently oversees the portfolios as follows: (a) Department of Town & Country Planning – responsible for building plan searches and processing of applications including buildings, sub-divisions and rezoning applications. (b) Municipal Authorities – this includes 16 municipal councils. The Municipal Authorities are responsible for processing building permit applications including site inspections and occupancy permits. 	<ul style="list-style-type: none"> The MTCS oversees the following departments: (a) Department of Trade – responsible for monitoring the standards of imported building materials and equipment and other related standards such as the Fiji Wind Load Standard.

2.0 PROPOSED CHANGES TO THE LEGISLATIVE FRAMEWORK

2.1 Rationale

The rationale behind a new legislative framework is to properly legislate and enhance the compliance and enforcement of the FNBC to ensure that it is effectively administered. The existing governing legislation is outdated and involves several different ministries with conflicting roles to implement the building regulations. Although the FNBC is a regulation of the Public Health Act, the powers to regulate the building permit process were transferred to MLG in 2018, which created an inconsistency. This means that whilst the administrative role to regulate the FNBC has been transferred to MLG, there is no legislative authority to enforce it. To resolve these irregularities, a new legislative framework is recommended to ensure that a clear and consistent authoritative structure for compliance and enforcement of the FNBC, as described below.

2.2 Brief Description of Building Act & Building Regulations

The proposed legislative framework will consist of a 3-tier legislative framework as follows:

1. **A New Building Act** to replace / supplement the standards in the Public Health Act. The fundamental purpose for a new legislative framework is to regulate the design and construction of the key aspects of the building process as follows:
 - (i) Structural sufficiency
 - (ii) Building siting
 - (iii) Fire protection
 - (iv) Access for people of all abilities
 - (v) Servicing
 - (vi) Energy efficiency
 - (vii) Safety when hazardous substances are used

The new Building Act will be similar to other Acts of Parliament in Fiji where it will set up the framework for administration and regulation of building and construction and will focus on general principles, compliance, enforcement and penalties for non-compliance. The topics envisaged to be included in the proposed Building Act are the following:

- (a) Definitions
- (b) Authorisation of the FNBC as a Regulation of the Act

- (c) Setup or confirmation of a Building Committee
- (d) Purpose / objectives / scope
- (e) Compliance requirements
- (f) Penalties for non-compliance

2. New Building Regulations as a regulation of the Building Act to provide additional requirements that govern the administration of the building permit approval process such as submission forms, drawing requirements, and approval, punitive and appeal procedures. The new Building Regulations will be a subsidiary legislation to the Building Bill. The rationale to have a separate set of regulations is that it contains items that could be adjusted in future based and regulations are easier to amend than an Act.

The objectives for the building regulations are to:

- (i) Enable the Ministry of Trade to establish procedures for acceptance of building standards for materials, products and equipment.
- (ii) Enable and describe procedures for Local Authorities through the Ministry of Local Government to process building permit applications, conduct site inspections and issue Certificates of Occupancy

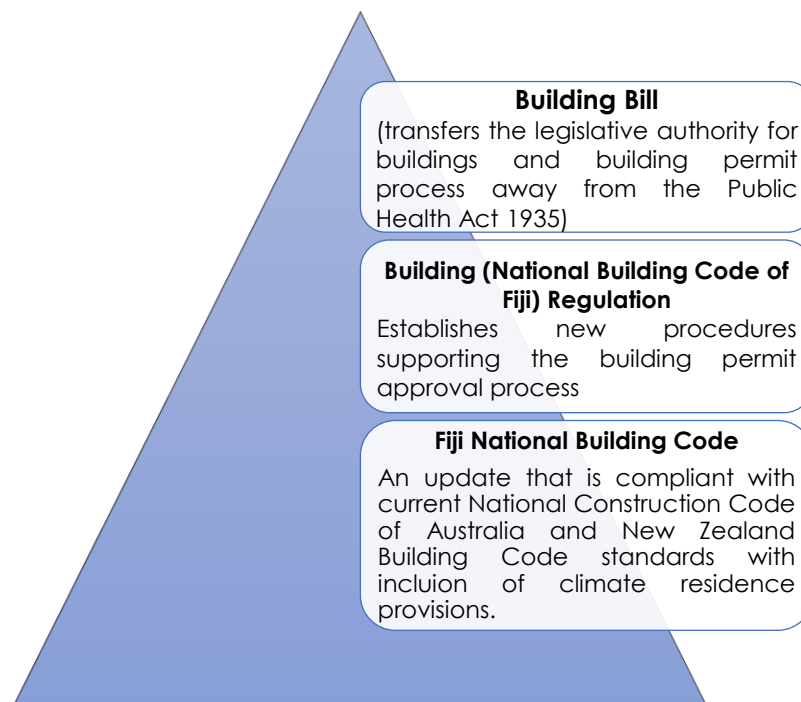
The authoritative provisions that are recommended for inclusion are the following:

- (a) Compliance details
- (b) Enforcement
- (c) Site Inspections
- (d) Building Permit Approval
- (e) Issuance of Building Permit
- (f) Issue of Compliance Certificate
- (g) Appeals
- (h) Review Process

Alternatively, the above standards could instead be included in the new Building Act.

3. **Rescind the Regulation of Building Permits Act, 2017** and merge it into the new Building Bill. This Act establishes a fast-track process and a building review committee with powers to review and approve fast-track applications. Since the new Building Bill will establish a Building Committee, and there is no need for two similar committees, it is recommended that the power to approve fast-track applications be transferred to the Building Committee under the new Building Bill, and the committee that deals only with fast-track applications be abolished. All powers of the Regulation of Building Permits Act can be transferred to the Building Regulations.
4. **Building Code adopted as a Regulation of the New Building Act.** Since the existing FNBC is a regulation of the Public Health Act, it is recommended that it instead becomes a regulation of the new Building Act. This will allow continuity between the approval authorities and legislative documents. The procedures and enforcement of building regulations will be encapsulated in the Building (FNBC) Regulations which will be coherent with provisions in related legislations including but not limited Environmental Management Act and Trade Standards and Quality Control Act.

Currently, no other legislative changes are anticipated, though the proposed legislative framework for buildings and the building permit process is briefly set out below:



5. Changes to Public Health Act

Changes to the Public Health Act will be necessary to ensure that the Building Act is the primary legislation that governs building standards and processing of building permit applications (see Section 4.4). MHMS is currently in the process of amending the Public Health Act as the decision-making body responsible for the FNBC and other matters relating to building, although standards for sanitation, health and safety will remain.

6. Amend Towns (Building) Regulations

These detailed standards for building construction apply to buildings in Lautoka and Suva and may be in conflict with more stringent standards in the FNBC. A clause should be added to indicate that the provisions in the FNBC shall prevail in the case of a conflict between the two.

2.3 New Roles & Responsibilities

Given the proposed legal framework, new roles and responsibilities will be assigned to the statutory authorities whose roles are crucial to the administration and implementation of the building code below:

- 1. MPWM** will primarily oversee the administration and enforcement of the building regulations and the updated FNBC.
- 2. MLG** will be responsible for the administration and implementation of the building permit approval process and to ensure its adherence and oversee Municipal Councils who are responsible for processing building permit applications in urban and peri-urban areas.
- 3. MOHMS** will be mainly responsible for overseeing the management of rural local authorities and FNBC compliance officer program.
- 4. MTCS** will jointly with the Department of National Trade Measurement and Standards oversee the regulation of building standards for materials, products and equipment and the approval of the Fiji Building Standards to ensure compliance with the standards required in the FNBC.

3. RECOMMENDED CONTENT FOR THE BUILDING BILL

The following section outlines suggested content to be included in the Building Bill.

3.1 Purpose and Objectives

The purpose for the enactment of the Building Act is to establish a building legislation that will encompass all authoritative and administrative provisions for buildings and building permit process. Ultimately, the legislative authority for buildings and building permit process will be transferred from the Public Health Act to the Building Act, a legislation intended for the sole purpose of governing buildings and building permit process.

3.2 FNBC Scope

The FNBC will apply to the construction of new buildings, sites and site servicing, and additions within urban and peri-urban areas, and in rural areas. A further exemption is made for traditional iTaukei buildings constructed for domestic, non-commercial purpose using traditional building materials and techniques. Buildings, siteworks and site servicing that exist prior to the enactment of the FNBC that do not comply with the standards in the FNBC are not required to comply with the FNBC. However, if an application is made to alter, renovate, add-on, change or demolish the structure or site in any way, the proposed changes will be subject to all applicable standards in the FNBC. Additional works outside of the proposed scope of work may also be required if deemed necessary to bring the proposed development to an acceptable health and safety standard, at the discretion of the approval authorities.

3.3 Changes to Legislative Framework

The rationale behind a new legislative framework is to properly legislate and enhance the compliance and enforcement of the FNBC to ensure that is effectively administered. This is crucial in improving compliance and comprehension of building legislation in Fiji. The existing governing legislation is outdated and involves several different ministries with conflicting roles to implement the building regulations.

The proposed changes to the legislative structure are as follows:

	Former Act or Policy	Proposed Legislation or Policy
Enactment of FNBC	Public Health Act	Building Act
Building Permit Application Procedures	Public Health Act Towns (Building) Regulations	Building Regulations
Building Inspection and Certificate of Completion procedures	Environmental Protection Act	Building Regulations Environmental Protection Act
Building standards	FNBC Towns (Building) Regulations	FNBC Towns (Building) Regulations

3.4 Building Committee

To ensure the efficient and effective administration of the Building Bill, the Building (FNBC) Regulations and the Building Code, a Building Committee is required to be established. The Building Committee will consist of members from both the public and private sectors that are relatively qualified and experienced in resolving issues pertaining to buildings and building permit approvals. The Building Committee is proposed to act as a tribunal for the determination of matters as follows:

3.5 Procedures

a. Approval of Regulations

- i. Procedures to approve and update Regulations and policies, such as updates to the FNBC and Building Regulations

b. Appeals of building permit procedures

- i. Establish procedures for settling disputes and hearing appeals.

c. Building Standards and Quality Control

- i. Endorsement of building standards, materials, products and equipment approved by MTCS.

d. Processing of Building Permit Fast-Track Applications

- i. All powers in the rescinded Regulation of Building Permits Regulations Act 2017 would be assigned to the Building Committee.

3.6 Quality Control of Building Products

A disabling factor in upholding building standards is the lack of mechanism to control the quality of building materials. The regulation of the quality of building materials, products and equipment will improve the sustainability and durability of structures. Further, this will resolve health, safety and environment concerns. The proposed Building (FNBC) Regulation will set out the procedures for assessing, regulating and rejecting substandard building materials which will ultimately improve the quality and resilience of buildings in Fiji. Insofar as the Regulation of Building Permits Act 2017 is concerned, the Ministry of Trade, Co-operative, Small and Medium Enterprise is responsible for the regulation of the quality of building materials. Notwithstanding the role of MTCS, the quality control of building products requires significant improvement that the Building (FNBC) Regulation is proposed to rectify including the following:

- (a) Establish Authority to regulate quality of building materials; and
- (b) Outline role of MTCS as the agency responsible for standards.

3.7 Authority to prepare and stamp drawings

The building permit drawings are not strictly regulated to ensure that it is prepared and certified by a qualified expert who is aware of the building code standards. The proposed Building (NBCF) Regulation will encompass provisions for the building permit approval process which will include the building permit drawings to be assessed by a Registered Professional having the appropriate expertise for undertaking the assessment and approval. The Building Bill will authorise the Building Regulations to impose restrictions on the type of expertise in the building industry that will be acceptable to sign building permit application forms, and building permit drawings.

3.8 Update Definitions

For the avoidance of conflicting definitions, it is pertinent that the interpretation of certain definitions in the Town (Buildings) Regulation and the Public Health (Building) Regulation are updated and or removed to be consistent with the interpretations provided for in the updated FNBC. It appears that significant changes are required as set out below:

Public Health (Building) Regulations	
Definitions	Inconsistency

Apartment House means any residential building which contains 2 or more family units, and include a pair of semi-detached houses	(FNBC does not use this broad definition, instead uses house, townhouse, stacked apartment, etc.)
Basement a storey or part of a storey partly below the ground level, the ceiling of which is not less than 5 feet above the level of the adjoining ground irrespective of any excavations made for the purpose of complying with these Regulations	FNBC does not refer to a basement, instead to a storey below the ground
Building Surveyor the building surveyor of the town, or his assistant, or any person duly authorised by the Board to act as building surveyor or assistant building surveyor	This term is not used in the FNBC, instead the Building Act will have Plan Reviewer and Building Inspector
Cellar a storey or part of a storey, or a room below or partly below the ground level, the ceiling of which is less than 5 feet above the level of the adjoining ground	This term is not used in FNBC
Closet includes earth-closet, water-closet, urinal and every place for the reception of faecal matter	FNBC uses "sanitary compartment", "urinal", "water closet"
Coverage means that a portion of a site, expressed as a percentage of the whole site, which may be covered by buildings including accessory buildings	This is not a term used in the FNBC as it is regulated by MHLG as part of development consent
Dead Load of a building means the actual weight of all permanent structural and finishing work, including partition walls contained in the building	This is now referred to as permanent load
Foundation Wall means a support wall built between the ground and the lowest floor	Definition in PH Regs should be updated to this definition

Habitable Room means any living room and includes any room intended or adapted to be used for the purposes of sleeping or eating or the preparation and cooking of food	Definition should be updated to the one included in FNBC
Live Load means all load other than dead load and includes wind load and forces resulting from earthquake	This definition is incorrect and should be removed
Occupancy means the purpose for which a building is used or intended to be used, but change of occupancy does not refer to a change of tenant or proprietors	Definition in PH Regs should be updated to this definition
Residential Club means any club building which contains not fewer than 4 bedrooms for the use of members	This definition is not used in FNBC. Should replace this with the definition of "Residential" in the FNBC
Rural Area means any area not included within the boundaries of the cities of Suva, Nadi or Lautoka, or of any other place declared to be a city or town under the provisions of the Local Government Act or within an ITaukei Village	Definition in PH Regs should be updated to this definition
Tenement Building means a building constructed for residential purposes, the different parts of which are used or intended or adapted to be used or occupied by separate families or by persons not of one family	This definition not used in FNBC
Verandah includes every awning, portico, porch, shade covering or other erection other than a sunblind, upon or over or across any public footway or road or part thereof, for the purpose of shade or shelter, together with the supports other	Outdated and has been updated in the FNBC as "a roofed platform attached to an external wall of a building at the ground floor with access to the ground"

than the building against which it is supposed and attached	
<p>Walls –</p> <p>(a) Bearing wall means a wall which supports any load in addition to its own weight</p> <p>(b) Cross wall means an internal wall dividing party or external walls into distinct lengths</p> <p>(c) External wall means an outer wall or vertical enclosure of a building not being a party wall</p> <p>(d) Non-bearing wall means a wall which supports no load other than its own weight</p> <p>(e) Panel wall means non-bearing wall in frame construction, built between columns or piers and wholly supported at each storey</p> <p>(f) Partition wall means an internal vertical structure used solely for the purpose of subdividing any storey or building and which supports no load other than its weight</p> <p>(g) Party wall means a wall used or built in order to be used as a separation of any building from any other building with a view to the occupation of such buildings by different persons</p>	<p>Defined in the FNBC in the following classes: any of the following types used to construct a building or facility:</p> <p>a) Common wall - wall shared by adjoining buildings or units</p> <p>b) Curtain wall - non load-bearing, thin, external wall (typically consisting of an aluminium frame with glass, metal or stone panels) in which the frame transfers wind and gravity loads to the building, typically at the floor</p> <p>c) External wall - outer wall of a building which is not a common wall</p> <p>d) Fire wall a wall with an appropriate fire resistance level that divides a storey or building into fire compartments</p> <p>e) Interior wall a non load-bearing wall entirely within the structure's interior</p> <p>f) Load-bearing wall - an external wall or interior wall that resists forces in addition to those due to its own weight</p>
<p>Retaining wall means any wall used to resist the lateral displacement of any material</p>	<p>Should replace this with definitions I the FNBC</p>

Town (Building Regulations)	
Basement a storey or part of a storey partly below the ground level, the ceiling of which is not less than 5 feet above the level of the adjoining ground irrespective of any excavations made for the purpose of complying with these Regulations	FNBC does not refer to a basement, instead to a storey below the ground
Building Surveyor the building surveyor of the town, or his assistant, or any person duly authorised by the Board to act as building surveyor or assistant building surveyor	This term is not used, instead the Building Act will have Plan Reviewer and Building Inspector
Cellar a storey or part of a storey, or a room below or partly below the ground level, the ceiling of which is less than 5 feet above the level of the adjoining ground	This term is not used in FNBC
Clerk the Town Clerk appointed by any council	This term is not used in FNBC
Closet includes earth-closet, water-closet, urinal and every place for the reception of faecal matter	FNBC uses "sanitary compartment", "urinal", "water closet" and "toilet"
Commercial Building a building used or constructed or adapted to be used wholly or in part for commercial purposes	FNBC has a more extensive definition
Council the town council of a town	This term not used in FNBC
Dwelling-House a building used, constructed or adapted to be used wholly or in part for human habitation, but does not include any portion of a commercial building not used, constructed or adapted to be used for human habitation	It is referred to a Class 1 residential or single occupancy residential in the FNBC

External Wall an outer wall of a building not being a party wall, even although adjoining a wall of another building	This term is simplified in FNBC and defined as "an outer wall of a building which is not a common wall"
Flat a room or suite of rooms occupied or designed, intended or adapted to be occupied as a separate domicile	This term not used in FNBC
Habitable Room means any living room and includes any room intended or adapted to be used for the purposes of sleeping or eating or the preparation and cooking of food	Definition should be updated to the one included in FNBC
<p>Height of a Building the measurement taken from the level of the ground at the centre of the front of the building to the ceiling of the highest storey of the building, provided that a parapet not exceeding 10 feet of additional height may be added</p> <p>Provided that bulkheads, lantern lights, pergolas, or other open ornamental treatment of roof gardens, or play areas, and space for water tanks or reservoirs, or lift or elevator machinery, and the like, upon the top of a building, shall not, if constructed to a design approved by the Council be taken into account in determining the height of the building</p>	A simpler definition is used in the FNBC
House let as Lodgings includes a hotel or any building or part of a house including the verandah thereof, if any, which is let or sublet as lodgings or otherwise, either by storeys, by flats, by rooms, or by portions of a room or a verandah	This is part of Class 1 Residential in the FNBC
Residential Flat Building a building containing two or more flats, but does not include a row of two or more dwellings attached to each other such as	This term is not used in FNBC

are commonly known as semi-detached or terrace buildings	
Tenement Building means a building constructed for residential purposes, the different parts of which are used or intended or adapted to be used or occupied by separate families or by persons not of one family.	This definition not used in FNBC

3.9 Standards for Informal Settlements

Informal settlements are a common issue that affects the enforcement of the building code as such buildings are constructed without building permits and or site inspections. Compliance with the building code for informal settlement is affected by the high costs associated with strong and durable building materials to comply with FNBC standards. Pursuant to the Compliance and Enforcement Report, it is recommended that a separate policy for Informal Settlement updates and regulations is prepared and enforced. The governance of development in Informal Settlements will not be specified in the Building Bill or Regulations.

3.10 Enforcement

The constraint in enforcing compliance to the building code is caused by the lack of punitive measures being implemented in the legislative and regulations for buildings. The proposed Building (FNBC) Regulation will be an implementation tool that will define the following provisions:

- (a) Enforcements
- (b) Fines
- (c) Punitive Penalties

In the interests of procedural fairness, the proposed Building (FNBC) Regulation will also contain a provision setting out the appeals procedure. For the purposes of strengthening the enforcement of the FNBC, the following is recommended:

3.11 Fines & Punitive Measures

The proposed Building Bill will describe the fines and punitive measures for relevant offences to act as a deterrence for potential offenders in order to ultimately minimize non-compliance with the

building code. The existing maximum fine is fixed at \$200.00 (Two Hundred Dollars). In order to strengthen the enforcement of the building code, higher fines and penalties must be legislated to ensure and cover the costs associated with building plan review and site inspections. The penalties will also encumber offences pertaining to non-complying building materials.

Standard Procedures to Impose Fine

In order to effectively impose fines, a clear procedure must be established setting out a streamlined process as reflected as follows:

Building Inspectors – empowered to issue warnings, fines and stop-work orders.

Warnings – advise the builder of changes needed to comply with the FNBC.

Fines – Issued if actions to comply with the FNBC in a warning are not complied with. The monetary amount should be relative to the scale of the offense regarding impact on health and safety as well as the scale of the building.

Stop-work Order – Issued if there is an immediate threat to health and safety. Must include a description of actions needed to be completed to rectify the dangers. Building inspectors must remove the stop-work order when remediative actions have been completed so that construction can continue.

Building Committee - any warning, fine or stop-work order can be appealed to the Building Committee who will decide whether it should be substantiated.

Incarceration – If a builder refuses to abide by a warning, pay a fine, or adhere to a stop-work order and there is a threat to public health and safety, a building inspector, Director of DTCP or Director of DBFA can recommend that a criminal trial for the incarceration of the builder be initiated. The recommendation would be sent to the Building Committee who would decide if it should proceed to a criminal trial.

4. PROCEDURES FOR PARLIAMENTARY APPROVAL OF NEW LEGISLATION AND THE FNBC

4.1 Passing of a New Building Act

As MPWM is the governing ministry, it is suggested that the Building Bill is tabled by the Minister of MPWM having the mandate to bring it forward into Parliament for consideration. The following processes are undertaken for the passing of a new building act:

First Reading The proposed name of the proposed building legislation will be the Building Bill and it is on the First Reading that it is given a name when it is brought forward into Parliament upon being officially introduced for the first time.

Second Reading A future date is scheduled and agreed to by Parliament in order for the Building Bill to be further deliberated on and considered. The Second Reading is the phase in which the Members of Parliament debate over the Building Bill. During the Second Reading, the Members of Parliament are able to put forward their views and considerations on the Building Bill before it is ultimately voted on based on principles and merits of the proposed Building Bill. In the event that there are matters that require further attention or consideration, the Building Bill would be referred to the relevant Standing committees of Parliament for further scrutiny and deliberation. At this stage, the Committee may call on views from the Public on the contents of the Building Bill and may require any amendments to the Building Bill. In this event, the committee is required to submit a report to Parliament within 30 days after referral, unless Parliament passes a resolution and or directs otherwise or extends the 30 days period.

Third Reading The Parliament ultimately resolves into an entire Committee and extensively reviews the Building Bill and considers each clauses individually. Once this is completed, Parliament formally agrees to the Building Bill via adoption a motion that the Building Bill be read a third time.

In the event that the Building Bill has been passed by Parliament, the Speaker will send it to the President for assent. However, if it not assented to within 7 days the Building Bill would be deemed assented to as enshrined in the 2013 Constitution. Once the Building Code has been assented, it then officially becomes legislation and therefore regarded as the Building Act.

4.2 Building Regulations

Building Regulations are an important implementation tool that defines requirements for items such as building permit approval procedures, number and type of inspections, issuance of Certificates of Occupancy, enforcement, fines, punitive damages, and appeal procedures. It is important to have these matters included in a set of Building Regulations since many items are subject to change, and it is easier to update a set of Building Regulations than a Building Act. Many countries have a set of Building Regulations that is separate from the Building Act so that a more timely response and action can be taken to update regulatory procedures on a 5 or 10 year basis.

4.3 Procedure for Rescinding Sections of the Public Health (National Building Code) Act and the Fiji National Building Code 1992 Regulation

In the event that the proposed Building Act is passed, certain sections relating to building construction in the Public Health (National Building Code) Regulation 2004 and the entirety of the existing Fiji National Building Code 1992 will become redundant. The proposed Building Act will effectively replace portions of the Public Health (National Building Code) Regulation 2004 pertaining to building construction and the Regulation of Building Permits Act.

Generally, the provisions to be rescinded in the Public Health (National Building Code) Regulation 2004 will be undertaken via a Legal Notice and this is ultimately revoked under the Laws of Fiji. The Legal Notice will be approved by the Attorney General and Minister for Justice. The AG's office will prepare the Background Briefing Paper to support the Bill explaining the changes needed, and that the AG's office, in consultation with all relevant ministries, will prepare the necessary amendments.

4.4 Procedures for Amending the Towns (Building) Regulations

There are a number of sections in the Towns (Building) Regulation that may be in direct conflict with more stringent standards for structural integrity in the FNBC, including sections 41, 47(2), 55, 56, 65(2) and 75. All of these clauses provide minimum standards that may be insufficient for the new wind speed standards in the FNBC, but that can only be decided on a case-by-case basis because it is dependent on the building classification, the size and the location. To address the potential conflict, a clause should be added to the Towns (Building) Regulation indicating that buildings subject to the Towns (Building) Regulation must comply with the FNBC, and that in case of a conflict, the standards in the FNBC should prevail.

5.0 SCHEDULE

The schedule setting out the timeframe to action the proposed legislative changes as set out above is determinative on further consultations with the Attorney General's Officer, MPWM, MHLG and MTCS. In the meantime, the following is suggested moving forward with the implementation of the proposed legislation within a 12 to 18 months timeframe:

- (a) Prepare draft Building Bill - 12 weeks
- (b) Public Consultation – 12 weeks
- (c) First Reading - 12 weeks
- (d) Second Reading – 9 weeks
- (e) Third Reading – 9 weeks
- (f) Enforcement of the Building Bill – 1 month

The process to begin the above plan of action is expected to commence in February, 2024.