



## COVERSHEET

<b>Minister</b>	Hon Poto Williams	<b>Portfolio</b>	Building and Construction
<b>Title of Cabinet paper</b>	<b>Strengthening the Licensed Building Practitioners Scheme: Category one proposals</b>	<b>Date to be published</b>	10 June 2021

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
14 April 2021	<i>Strengthening the Licensed Building Practitioners scheme: Category One proposals</i>	Office of the Minister for Building and Construction
14 April 2021	[DEV-21-MIN-0086]	Cabinet Economic Development Committee

### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld to protect the confidentiality of advice tendered by ministers and officials.



# Cabinet Economic Development Committee

## Minute of Decision

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### Strengthening the Licensed Building Practitioners Scheme: Category One Proposals

**Portfolio**                      **Building and Construction**

On 5 May 2021, the Cabinet Economic Development Committee (DEV):

#### Background

- 1        **noted** that on 14 April 2021, DEV agreed to release a discussion document on Category Two issues (licensing classes, supervision, and competency requirements) relating to the Licensed Building Practitioners (LBP) scheme, and noted that a further paper would be submitted to DEV in May 2021 on Category One proposals [DEV-21-MIN-0073];
- 2        **noted** that the paper under DEV-21-SUB-0086 seeks agreement to progress the following Category One proposals to strengthen the Licensed Building Practitioners (LBP) scheme:
  - 2.1      introducing a code of ethics;
  - 2.2      making changes to licensing administration processes;
  - 2.3      making changes to the complaints and disciplinary process;

#### Category One proposals

- 3        **agreed** to introduce a code of ethics for LBPs based on the following four principles and detailed in Appendix One to the paper under DEV-21-SUB-0086:
  - 3.1      work safely;
  - 3.2      be aware of the law;
  - 3.3      take responsibility;
  - 3.4      behave professionally;
- 4        **agreed** to amend the LBP licensing administration processes in the Building Act 2004 so that:
  - 4.1      the process for renewing licences is moved from the Building Act 2004 to the LBP Rules;

- 4.2 the licence term is set in the LBP Rules, and the licence term may be no longer than five years in Building Act;
  - 4.3 a licence that is not renewed by the due date and a licence that has been suspended due to disciplinary reasons are distinguishable on the public register, to provide consumers with clarity as to the reasons they have been labelled as such;
  - 4.4 a licence that is eligible for suspension for not submitting skills maintenance requirements and a licence that has been suspended due to disciplinary reasons are distinguishable on the public register, to provide consumers with clarity as to the reasons they have been labelled as such;
  - 4.5 allow licences that are not renewed in a timely manner to be subject to a grace period in which the LBP may renew the licence, and this period will be specified in the LBP Rules;
  - 4.6 a licence that is renewed in the grace period will be recorded as such on the public register in the same manner as a suspended licence, and it will stay recorded for three years;
  - 4.7 a licence that is cancelled or suspended for a disciplinary order will stay recorded on the public register for three years;
  - 4.8 the Board may take disciplinary action against LBPs who carry out or supervise restricted building work during the grace period;
- 5 **agreed** to amend the complaints and disciplinary process in the Building Act so that:
- 5.1 complaints are to the Board, but must be made through the LBP Registrar;
  - 5.2 the Registrar can make an initial determination on whether the complaint warrants investigation;
  - 5.3 the Registrar may dismiss a complaint during the initial determination stage if they are satisfied the complaint is vexatious or frivolous, or if the subject matter of the complaint is vexatious or frivolous;
  - 5.4 complainants will have the right to appeal to the Board if the Registrar decides not to proceed with a complaint on the grounds that it is vexatious or frivolous;
  - 5.5 if the Registrar determines the complaint should proceed, the chief executive of the Ministry of Business, Innovation and Employment will appoint an investigator to investigate the complaint;
  - 5.6 the investigator must send particulars to the person complained against and give them reasonable opportunity to make written submissions and be heard;
  - 5.7 the investigator must provide a report to the Board on the outcome of the investigation and determine whether the complaint should be considered by the Board;
  - 5.8 the investigator must send a copy of the report to the Board, to the person complained against, and to the complainant;
  - 5.9 if the investigator reports that a complaint should be considered by the Board:
    - 4.9.1 the Board must hold a hearing; and

- 4.9.2 the investigator must prosecute the matter at the hearing, and may be represented by counsel or otherwise;
- 5.10 the investigator will be granted powers to require a person to provide any document or information required for the purposes of investigating a complaint, by written notice, where necessary for the investigation;
- 5.11 it will be an offence under the Building Act to not comply with a notice to provide a required document or information, with persons liable for a penalty not exceeding \$2,000 upon conviction;
- 5.12 the investigator will be granted powers to obtain and execute a warrant to enter land or premises for the purposes of investigating a complaint, where necessary for the investigation;
- 5.13 the Board may hold parts of meetings or hearings in private where it is appropriate due to the nature of the evidence;
- 5.14 the Board may amend an order of the Board where an administrative error has been made;
- 5.15 the Board may take disciplinary action if an LBP fails to comply with a training order;
- 5.16 the Board may take disciplinary action against LBPs who carry out or supervise building work without a building consent, when one is required;

### Legislative implications

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Confidential advice to Government

7

**invited** the Minister for Building and Construction to issue drafting instructions to the Parliamentary Counsel Office to draft legislation giving effect to the above policy proposals;

8

**authorised** the Minister for Building and Construction to make decisions on minor and technical matters that arise during drafting that are consistent with the above paragraphs;

9

**noted** that the Minister for Building and Construction intends to report back to the Cabinet Legislation Committee:

9.1

Confidential advice to Government

to seek approval to introduce a code of ethics for LBPs by Order in Council;

9.2

Confidential advice to Government

to seek approval for introduction of the Bill.

Janine Harvey  
Committee Secretary

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**Hard-copy distribution: (see over)**

**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods  
Hon Poto Williams  
Hon Damien O'Connor  
Hon Stuart Nash  
Hon Kris Faafoi  
Hon Michael Wood  
Hon Dr David Clark  
Hon Dr Ayesha Verrall  
Hon Meka Whaitiri  
Dr Deborah Russell, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV

**Hard-copy distribution:**

Minister for Building and Construction