



## COVERSHEET

<b>Minister</b>	Hon Jenny Salesa	<b>Portfolio</b>	Building and Construction
<b>Title of Cabinet paper</b>	<b>Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Amendment Regulations 2019</b>	<b>Date to be published</b>	18 December 2019

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
7/10/2019	<i>Cabinet Paper: Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Amendment Regulations 2019</i>	<i>Office of the Minister for Building and Construction</i>
5/11/2019	<i>Minute of Decision - Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Amendment Regulations 2019 [LEG-19-MIN-0162]</i>	<i>Cabinet Legislation Committee</i>

### Information redacted

**NO**

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.

In Confidence

Office of the Minister for Building and Construction  
Chair, Cabinet Legislation Committee

## **Substantial Alterations: Amendments to Earthquake-prone Buildings (EPB) Regulations**

### **Proposal**

1. This paper seeks authorisation for submission to the Executive Council of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Amendment Regulations 2019 (the Amendment Regulations), which adds a minimum dollar value of \$150,000 to the definition of a 'substantial' alteration to an earthquake-prone building (EPB).

### **Policy**

2. On 1 July 2017, the current EPB system came into force [Cab-17-MIN-0326 refers]. This system sets timeframes for the identification and remediation of EPBs in New Zealand.
3. Under the current system, a building consent cannot be granted by a territorial authority for a 'substantial' alteration to an EPB unless that alteration also includes the necessary seismic work to ensure the building is no longer earthquake-prone. The current Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 (the Regulations) define 'substantial' as any building work (other than seismic) that has an estimated value of at least 25 percent of the building's value aggregated as the total value of the alterations over the prior two years (GST inclusive).
4. Targeted consultation undertaken in early 2019 demonstrated that the Regulations were seen as having a disproportionate impact on provincial and small towns due to the number of buildings with low values in these areas. As part of this targeted consultation, officials consulted on adding a minimum dollar value to the definition of 'substantial'.
5. On 26 June 2019, the Cabinet Economic Development Committee agreed to add a minimum dollar value of \$150,000 to the definition of 'substantial' in the Regulations [CAB-19-MIN-0317 refers]. The attached Order in Council gives effect to this Cabinet decision.
6. This change allows modest, positive and progressive improvements to be made to an EPB (such as fit-outs for tenancies) without triggering the requirement to carry out earthquake strengthening at the same time.
7. The change addresses the disproportionate impact of the Regulations on small and provincial towns while maintaining the integrity of the wider EPB system. It also

allows for some future-proofing of the Regulations by requiring fewer adjustments over time for inflation.

### **Timing and 28-day rule**

8. The Amendment Regulations will be submitted to Executive Council after Cabinet's agreement. The Amendment Regulations will come into force on 16 December 2019 following the 28-day rule.

### **Compliance**

9. The Order in Council complies with each of the following:
  - 9.1. the principles of the Treaty of Waitangi;
  - 9.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 9.3. the principles and guidelines set out in the Privacy Act 1993;
  - 9.4. relevant international standards and obligations;
  - 9.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
10. Section 401C(c) of the Building Act 2004 allows the Governor-General to, by Order in Council made on the recommendation of the Minister for Building and Construction, make regulations that prescribe the criteria for determining whether a building alteration is a substantial alteration.

### **Regulations Review Committee**

11. I do not consider there to be any grounds for the Regulations Review Committee to draw this Order in Council to the attention of the House of Representatives under Standing Order 319.

### **Certification by Parliamentary Counsel**

12. The draft Order in Council was certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

### **Impact Analysis**

13. A Regulatory Impact Summary was prepared in accordance with the necessary requirements, and was submitted at the time that Cabinet approval was sought of the policy relating to the Amendment Regulations [CAB-19-MIN-0317 refers]. The Ministry of Business, Innovation and Employment's Regulatory Impact Analysis Review Panel determined that it met the criteria necessary for Ministers to make informed decisions on the proposals.

## Publicity

14. I announced the amendment to the Regulations at an event in Feilding on 14 July 2019. A further press release will be made in late October after the Amendment Regulations have been made.
15. The Ministry of Business, Innovation and Employment will inform relevant sector stakeholders.

## Proactive release

16. I propose that this paper and the attached minute are proactively released within 30 working days of the final decision being made by Cabinet. The release of the information is subject to redactions consistent with the Official Information Act 1982.

## Consultation

17. The following agencies have been consulted on this paper: Department of the Prime Minister and Cabinet, Treasury, Ministry for Culture and Heritage, Ministry for the Environment, Department of Internal Affairs, Land Information New Zealand and WorkSafe New Zealand. Te Puni Kōkiri was informed of the proposal.

## Recommendations

I recommend that the Cabinet Legislative Committee:

1. **note** that on 26 June 2019, the Cabinet Economic Development Committee agreed to add a minimum dollar value of \$150,000 to the existing threshold defining a 'substantial' alteration to an EPB [CAB-19-MIN-0317 refer];
2. **note** that the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Amendment Regulations 2019 will give effect to the decision referred to in paragraph 1 above;
3. **authorise** the submission to the Executive Council of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Amendment Regulations 2019;
4. **note** that the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Amendment Regulations 2019 will come into force on 16 December 2019.

Authorised for lodgement

Hon Jenny Salesa

**Minister for Building and Construction**