



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Building and Construction
Title of Cabinet paper	Proposed Administrative Changes to the Building Act 2004	Date to be published	2 August 2022

List of documents that have been proactively released

Date	Title	Author
May 2022	Proposed Administrative Changes to the Building Act 2004	Office of the Minister for Building and Construction
18 May 2022	Building Act 2004: Proposed Administrative Changes DEV 22-MIN-0112	Cabinet Office

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 for the reason of Confidential advice to Government.



Cabinet Economic Development Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Building Act 2004: Proposed Administrative Changes

Portfolio **Building and Construction**

On 18 May 2022, the Cabinet Economic Development Committee:

Background

- 1 **noted** that in November 2020, the first stand-alone building consent authority, known as Consentium, was registered as it meets the requirements of the Building Act 2004;
- 2 **noted** that Consentium is a stand-alone division of Kāinga Ora, and has been experiencing inefficiencies and unnecessary cost burdens with meeting its statutory obligations to pay the building levy and providing consenting information to the relevant territorial authority;
- 3 **noted** that in order to make the process more efficient, changes need to be made to the Building Act 2004 (the Building Act);
- 4 **noted** that, subject to advice from the Parliamentary Counsel Office, it may be possible to make these amendments as part of a Building Amendment Bill, Confidential advice to Government

Payment of building levy

- 5 **agreed** to amend the Building Act so that any stand-alone building consent authority (such as Consentium) is required to pay the building levy directly to the Ministry of Business, Innovation and Employment (MBIE);
- 6 **agreed** that the following supporting amendments be made to the Building Act:
 - 6.1 that a stand-alone building consent authority is required to pay the building levy to MBIE by the 20th of the month following the building consent being granted;
 - 6.2 that a stand-alone building consent authority may deduct three percent of the total levy payable to MBIE each month if payment is made by the 20th of the month following the building consent being granted;
 - 6.3 that it is an offence for a stand-alone building consent authority to fail to pay the building levy to MBIE, and that this will result in a maximum penalty on conviction, consistent with section 58 of the Building Act, of \$5,000 for an individual and \$25,000 for a body corporate;

- 6.4 that a stand-alone building consent authority must provide MBIE with confirmation that, according to their financial records and to the best of their knowledge and belief, the payment reported and paid to MBIE is correct;
- 6.5 that the Chief Executive of MBIE is able to recover unpaid building levies from the stand-alone building consent authority;

Provision of information

- 7 **agreed** that the Building Act be amended to require stand-alone building consent authorities to provide appropriate information to territorial authorities within five working days of the following three key milestones during the building consent process:
 - 7.1 milestone 1: acceptance of building consent application;
 - 7.2 milestone 2: building consent decision;
 - 7.3 milestone 3: code compliance certificate decision;
- 8 **agreed** that within five working days of milestone 1, appropriate information must be provided to the territorial authority, and that this information is likely to include:
 - 8.1 detailed plans and specifications showing site, foundations, drainage and bracing, if applicable;
 - 8.2 details of any practitioners engaged to carry out restricted building work as required, if applicable;
 - 8.3 details of the project information memorandum;
 - 8.4 any other relevant information that the building consent authority has receipt of at the time the application is accepted;
- 9 **agreed** that within five working days of milestone 2, appropriate information must be provided to the territorial authority, and that this information is likely to include:
 - 9.1 a copy of the final building consent;
 - 9.2 requests and responses to request further information;
 - 9.3 all correspondence between the building consent authority and the applicant during the consenting process, including updated plans;
 - 9.4 project information memorandum (if received after accepting an application);
 - 9.5 any additional documents required to process an application;
- 10 **agreed** that within five working days of milestone 3, appropriate information must be provided to the territorial authority, and that this information is likely to include:
 - 10.1 a copy of the code compliance certificate;
 - 10.2 any minor variations agreed on site;
 - 10.3 information related to the outcome of the code compliance certificate, including:
 - 10.3.1 all inspection outcomes;

- 10.3.2 records of work and certificates of work provided by Licensed Building Practitioners;
 - 10.3.3 energy work certificate;
 - 10.3.4 compliance schedule (where relevant);
 - 10.4 any other relevant correspondence received by the stand-alone building consent authority between the building consent decision and the code compliance certificate;
- 11 **agreed** that any building information required to be provided under section 238(1) of the Building Act, and which does not relate to one of the three key milestones referred to in paragraph 7 above, is required to be provided to the territorial authority within five working days after the building consent authority issues or receives the information;
- 12 **noted** that:
- 12.1 it is an offence for a stand-alone building consent authority to not provide the information within five working days of the milestone or other requirement outlined in paragraph 11 above;
 - 12.2 the offence would result in a fine on conviction not exceeding \$5,000 and, in the case of a continuing offence, a further fine not exceeding \$500 for every day or part of a day during which the offence has continued;
- 13 **agreed** that the territorial authority can request any building information from a stand-alone building consent authority that must be provided within 20 working days;
- 14 **agreed** that:
- 14.1 it will be an offence for a stand-alone building consent authority to not provide the building information requested by a territorial authority within 20 working days of a request for information;
 - 14.2 the offence would result in a fine on conviction not exceeding \$5,000 and, in the case of a continuing offence, a further fine not exceeding \$500 for every day or part of a day during which the offence has continued;

Legislative implications

- 15 **invited** the Minister for Building and Construction to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposals;
- 16 **authorised** the Minister for Building and Construction to make decisions, consistent with the above proposals, on any issues that arise during the drafting process.

Janine Harvey
Committee Secretary

Present: (see over)

Present:

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

Officials present from:

Office of the Prime Minister
Officials Committee for DEV