



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Building and Construction
Title of Cabinet paper	Building for Climate Change – Proposed Amendments to the Building Act 2004	Date to be published	5 December 2022

List of documents that have been proactively released

Date	Title	Author
September 2022	Proposed Building for Climate Change Amendments to the Building Act 2004	Office of the Minister for Building and Construction
September 2022	Appendix One: Regulatory Impact Statement – Proposed Building for Climate Change Amendments to the Building Act 2004	Office of the Minister for Building and Construction
September 2022	Appendix Two: Cost Benefit Analysis - Proposed Building for Climate Change Amendments to the Building Act 2004	Office of the Minister for Building and Construction
14 September 2022	DEV-22-MIN-0216 Minute: Building for Climate Change – Proposed Amendments to the Building Act 2004	Cabinet Office

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.



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 for Climate Change: Proposed Amendments to the Building Act 2004

Portfolio **Building and Construction**

On 14 September 2022, the Cabinet Economic Development Committee:

Background

1 **noted** that on 21 March 2022, Cabinet:

1.1 agreed to a package of initiatives for inclusion in the first emissions reduction plan;

1.2 invited the Minister for Building and Construction to report back later in 2022 with policy proposals for inclusion in the Building (Climate Change Response) Amendment Bill;

[CAB-22-MIN-0080.01]

2 **noted** that the legislative proposals outlined below progress or support the following Emissions Reduction Plan actions: 12.1.1, 12.1.3, 12.3.1, 12.3.2, 12.5.2 and 12.5.5;

3 **noted** that the legislative proposals outlined below progress or support the National Adaptation Plan action 7.4;

Supporting better energy performance of new and existing buildings

4 **agreed** to require owners of buildings of a type, size, or with other characteristics specified in regulations to hold a current energy performance rating for each building they own;

5 **agreed** that an energy performance rating must indicate a building's estimated annual energy usage;

6 **agreed** that regulations may prescribe additional information that must be provided alongside an energy performance rating, to support consumer understanding or improvement in buildings' energy performance;

7 **agreed** that regulations may prescribe the methodology that must be used for a valid energy performance rating, and identify any existing programmes that meet these requirements;

8 **agreed** that regulations may exempt buildings of specified types, sizes or other characteristics from requirements to hold a current energy performance rating;

- 9 **agreed** to require building owners to display energy performance ratings in a place in the building to which users of the building have ready access;
- 10 **agreed** to require building owners to supply energy performance ratings to any persons specified in regulations, in a manner and in circumstances specified in regulations;
- 11 **agreed** that regulations may prescribe the persons to whom building owners are required to supply energy performance ratings, how and in what circumstances;
- 12 **agreed** that it will be an offence for building owners to intentionally not hold a current energy performance rating for a building when it is required, with the following penalties:
- 12.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 12.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 13 **agreed** that it will be an offence for building owners to intentionally not prominently display the energy performance rating of a building in a place in the building to which users of the building have ready access when it is required, with the following penalties:
- 13.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 13.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 14 **agreed** that it will be an offence for building owners to intentionally not provide the energy performance rating of a building to persons specified in regulations in circumstances set in regulations, with the following penalties:
- 14.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 14.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 15 **agreed** that it will be an offence for building owners to knowingly make a false or misleading statement about the energy performance rating for a building, with the following penalties:
- 15.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 15.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 16 **agreed** that the following will be infringement offences, when the building owner:
- 16.1 fails to hold a current energy performance rating for a building when it is required, with a fee of \$1,000;
- 16.2 fails to prominently display the energy performance rating of a building in a place in the building to which users of the building have ready access when it is required, with a fee of \$250;
- 16.3 fails to provide the energy performance rating of a building to persons specified in regulations in circumstances set in regulations, with a fee of \$250;
- 16.4 makes a false or misleading statement about the energy performance rating for a building, with a fee of \$1,000;

Minimising construction and demolition waste

- 17 **agreed** to require owners to provide a Waste Minimisation Plan to the relevant territorial authority when a building consent is sought for building work, unless exempted by regulations;
- 18 **agreed** to require building owners to provide a Waste Minimisation Plan to the relevant territorial authority before demolishing a building, unless the type of demolition is exempt from requiring a Waste Minimisation Plan by regulations;
- 19 **agreed** that regulations may exempt certain types of building work from the requirements in relation to Waste Minimisation Plans;
- 20 **agreed** that regulations may prescribe the information that will be required to be contained in a Waste Minimisation Plan;
- 21 **agreed** to require building owners to make their Waste Minimisation Plans available on the building or demolition site;
- 22 **agreed** to require building owners to provide their Waste Minimisation Plans to persons as specified in regulations;
- 23 **agreed** that regulations may prescribe the persons to whom building owners are required to supply a copy of their Waste Minimisation Plan, how and in what circumstances;
- 24 **agreed** that it will be an offence for owners to intentionally not provide a Waste Minimisation Plan when a building consent is sought for building work before carrying out that building work, unless that building work is exempted by regulations, with the following penalties:
- 24.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 24.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 25 **agreed** that it will be an offence for building owners to intentionally not provide a Waste Minimisation Plan as required by regulations before carrying out demolition work, with the following penalties:
- 25.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 25.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 26 **agreed** that it will be an offence for building owners to intentionally not make their Waste Minimisation Plan available on the building or demolition site, with the following penalties:
- 26.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 26.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 27 **agreed** that it will be an offence for building owners to intentionally not provide their Waste Minimisation Plans to persons as specified in regulations, with the following penalties:
- 27.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
- 27.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;

- 28 **agreed** that it will be an offence for building owners to intentionally not implement their submitted Waste Minimisation Plan, with the following penalties:
- 28.1 on conviction, an individual is liable for a fine not exceeding \$20,000;
 - 28.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;
- 29 **agreed** that the following will be infringement offences when the building owner:
- 29.1 fails to provide the relevant territorial authority with a Waste Minimisation Plan when a building consent is sought for building work, with a fee of \$1,000;
 - 29.2 fails to provide the relevant territorial authority with a Waste Minimisation Plan before demolishing a building for which a Waste Minimisation Plan is required by regulations, with a fee of \$1,000;
 - 29.3 fails to prominently make the submitted Waste Minimisation Plan available on the building or demolition site, with a fee of \$250;
 - 29.4 fails to provide the Waste Minimisation Plan to persons specified in regulations in circumstances set in regulations, with a fee of \$250;
 - 29.5 fails to implement the submitted Waste Minimisation Plan, with a fee of \$1,000;

Clarifying and strengthening the Act's focus on emissions reduction and climate resilience

- 30 **agreed** to clarify that the Act's purpose, which provides for the regulation of building work and the setting of performance standards for buildings, includes a focus on ensuring the building system supports buildings to be designed, constructed, and deconstructed in ways that contribute to emissions reduction, climate resilience and adaptation, is in line with New Zealand's domestic climate change goals;
- 31 **agreed** to align the principles of the Act with climate change priorities by adding a principle on the need to ensure that buildings minimise whole-of-life embodied carbon;
- 32 **agreed** that the new principle on minimising whole-of-life embodied carbon outlined in paragraph 31 above involves ensuring that:
- 32.1 each building is durable for its intended use;
 - 32.2 the reduction in the generation of waste during the construction and demolition process is facilitated;
 - 32.3 the efficient and sustainable use of materials in buildings is facilitated;
- 33 **agreed** to align the principles of the Act with climate change priorities by adding a principle on the need to ensure that buildings are operationally efficient in terms of minimising operational emissions and contributing appropriately to the health, physical independence and well-being of the people who use them;
- 34 **agreed** that the new principle on operational efficiency outlined in paragraph 33 above involves facilitating:
- 34.1 the efficient use of water and water conservation in buildings;

34.2 the efficient use of energy, and energy conservation and the use of renewable sources of energy in buildings;

35 **agreed** to align the principles of the Act with climate change priorities by adding a principle on the need to ensure that buildings are built to be resilient to changing climate conditions;

36 **agreed** to clarify, for the avoidance of doubt, that regulations may be made in the Building Code to limit carbon emissions for which buildings are responsible;

Improving the quality of information on building emissions and climate resilience

37 **agreed** to provide the chief executive of the Ministry of Business, Innovation and Employment (MBIE) with the power to require any person to provide any information or document considered necessary or desirable to obtain for the purpose of informing, monitoring, evaluating and implementing policies, programmes and regulations that:

37.1 support emissions reduction related to buildings;

37.2 support climate resilience and adaptation of buildings; or

37.3 enable consumers to assess and compare the emissions and climate resilience and adaptation of buildings;

38 **agreed** that the chief executive of MBIE must give written notice to the person who they are requesting information from, specifying the information that must be provided, how and by when;

39 **agreed** that it will be an offence for persons to intentionally not provide MBIE with the information or documents requested under the new information provision requirements as specified in the written notice, with the following penalties:

39.1 on conviction, an individual is liable for a fine not exceeding \$20,000;

39.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;

40 **agreed** that it will be an offence for persons to knowingly provide false or misleading statements about the information or documents requested by MBIE under the new information provision requirements, with the following penalties:

40.1 on conviction, an individual is liable for a fine not exceeding \$20,000;

40.2 on conviction, a body corporate is liable for a fine not exceeding \$60,000;

41 **agreed** that the following will be infringement offences:

41.1 failing to supply information requested by MBIE under the new information provision requirements in the manner and timeframe specified in the written notice, with a fee of \$500;

41.2 providing false or misleading statements about the information or documents requested by MBIE under the new information provision requirements, with a fee of \$1,000;

Consequential changes to the role of the chief executive

42 **noted** that consequential changes will be needed to align the chief executive's roles in section 11 of the Act with the new purposes, principles, and functions of the Act, once amended;

Legislative implications

43 **noted** that the Building (Climate Change Response) Amendment Bill has a category 4 priority on the 2022 Legislation Programme (to be referred to a select committee in 2022), and that the Amendment Bill is expected to be introduced in 2022;

44 **authorised** the Minister for Building and Construction to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;

45 **authorised** the Minister for Building and Construction to make decisions, consistent with the proposals outlined above, on any issues which arise during the drafting process;

46 **noted** that the above proposals are enabling, and will require further stakeholder engagement, consultation and the development of regulations to operationalise;

47 **noted** that it is intended that no new regulatory requirements resulting from the Bill will come into force before mid-2024.

Janine Harvey
Committee Secretary

Present:

Hon Dr Megan Woods (Chair)
Hon Carmel Sepuloni
Hon David Parker
Hon Damien O'Connor
Hon Stuart Nash
Hon Dr David Clark
Hon Dr Ayesha Verrall
Hon Priyanca Radhakrishnan
Hon Kieran McAnulty
Rino Tirikatene MP
Dr Deborah Russell MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV