



Building Practitioners Board
Annual Report 30 June 2014



Contents

ROLE AND FUNCTIONS OF THE BOARD	2
CHAIRMAN'S REVIEW	3
STATEMENT OF SERVICE PERFORMANCE	12
LICENSING STATISTICS	14
APPEALS STATISTICS	16
COMPLAINTS STATISTICS	17
STATEMENT OF FINANCIAL PERFORMANCE	19
MEMBERS OF THE BOARD	20
HOW TO CONTACT US	25

Role and functions of the Board

The Building Practitioners Board (the Board) is a statutory body constituted under Part 4 of the *Building Act 2004*. It plays an important role in the Licensed Building Practitioners Scheme (the Scheme).

The functions of the Board are to:

- hear appeals against licensing decisions of the Registrar of Licenced Building Practitioners (LBPs)
- investigate and hear complaints about LBPs
- approve Rules for LBPs
- review and report to the Minister of Building and Construction (the Minister) each year on its operations.

The Board is independent of the Ministry of Business, Innovation and Employment (the Ministry), but is supported by the Ministry in the performance of its role and functions.

The Board is committed to supporting the capability of New Zealand's building and construction industry and maintaining building practitioner standards.

Chairman's review

It is my pleasure to present this annual report for the Building Practitioners Board. There have been significant developments over the last year and this report will touch on a number of those developments.

In discharging its functions the Board has adopted a proactive approach and has actively engaged with the Ministry to identify and resolve any concerns with the licensing scheme. Examples are;

- a. A review of the following licensing categories; External Plastering, Design, Brick and Block, and Site;
- b. Being involved in the development of a Code of Ethics;
- c. Being involved in the development and review of the Skills Maintenance Programme;
- d. Providing feedback and being involved in the development of a comprehensive Communications Policy for the Scheme;
- e. Engaging with stakeholders such as Territorial Authorities and industry groups and individuals in an effort to obtain their feedback on the operation of the Scheme.

The Board has made a number of recommendations regarding the above matters to the Ministry and we look forward to the implementation of the recommendations over the next year.

LICENSING NUMBERS

Over the past year the Ministry has seen a continued increase in the number of people who have been granted licences. Currently there are 28,722 licences for a total of 23,727 licence holders (the reason being that practitioners can hold more than one licence).

APPEALS

A significant drop off in appeals has occurred over the last year. At the time of writing this report there are currently 10 active appeals. This compares with 31 for the corresponding time last year. The decrease is attributable to a number of factors including:

- a. A recognition and acceptance by applicants as to the level of expectation for competency that is required by the Registrar and the Board in the licensing classes;
- b. An appreciation of the numbers of people involved in residential construction in New Zealand who wish to and are qualified to become licenced.

The Board is, through some amendments to its appeals processes, able to quickly determine appeals brought before it. Out of a total of 41 appeals heard in the last year, the Board has granted 30 appeals while upholding the original decision of the Registrar on 17 appeals.¹

COMPLAINTS

Whilst there has been a significant drop off in the number of appeals heard by the Board there has been a corresponding increase in the number of complaints which have been received by the Ministry. Currently there are 63 active complaints. This compares with 48 active complaints in the same period last year.

It is important to recognise that complaints which are treated as “active” by the Ministry include those complaints which have been received by the Registrar, the Registrar has or will undertake an investigation into the complaint and then makes a recommendation to the Board as to whether the complaint should proceed to a hearing under Regulation 10 of the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008.

Out of the total active complaints currently with the Ministry there is a total of 33 which have progressed to a Board investigation stage, which have been either been set down for a hearing, or have been heard and finally determined, or there is a decision pending.

1. Some of the appeals heard by the Board were for multiple licence classes.

The Board is acutely aware that given the increase in the number of complaints, and that the Board is a part time Board, it needs to ensure that complaints are dealt with in the most efficient and cost-effective way possible. Accordingly the Board's procedures have been amended. Whilst ensuring that the Board retains its inquisitorial powers, a Registrar's Representative is now appointed and prosecutes the complaint from the point that the complaint proceeds to a Board investigation, through to its conclusion. This process has seen an immediate streamlining effect and has greatly assisted in the progression of complaints.

In terms of some of the determinations that the Board has made in its decisions, the Board is pleased that it has been able to clarify some of the industry practices which the Board considered were actions by Practitioners in breach of the Building Act 2004.

For example there have been a number of complaints which have been received by the Board regarding Practitioners withholding the Record of Work. The Board has ruled that it is very clear that pursuant to section 88 of the Building Act 2004, unless there is a very good reason, a Practitioner is unable to withhold the Record of Work once building work has been completed.

The common themes which are developed by the decisions of the Board will be communicated to industry through the Ministry with the intention that industry is assisted by improving and achieving better building practices. The Board encourages practitioners to read the decisions which the Board has made (which are posted on the LBP website www.lbp.govt.nz) to get a better appreciation of the standards expected of Practitioners who hold a License.

THE MINISTRY

In order to properly perform its statutory functions the Board requires significant assistance from the Ministry. Throughout this past year the Board has worked closely with a number of Ministry officials and I wish to express on behalf of the Board our gratitude in the assistance we have received.

I also wish to expressly acknowledge the recent retirement of Mr Mark Scully as Registrar for the Scheme. Mark was intimately involved in the development of the Scheme and always provided his candid and insightful views to the Board. I wish Mark all the best in the future.

Mark has been replaced by Mr Paul Hobbs who has a range of regulatory and practical building experience. The Board very much looks forward to working with Paul in the continued promotion and success of the Scheme.

BOARD MEMBERS

Board Members are appointed on either a three year or five year contract. Over the last year we have seen the resignation of our Chair Mr Alan Bickers and Ms Jane Cumming.

Alan was the inaugural Chair for the Building Practitioners Board and I am deeply indebted to the total commitment and professionalism that he made to the development stages of the Licensing Scheme.

Similarly Jane provided a huge amount of industry experience to the Board and her contribution was significant and always valued.

Regrettably, the Board also lost Bill Smith who passed away late last year. Bill, well-known within the building and construction industry throughout New Zealand was a champion of the Scheme and also a very valued member of the Board. I again wish to pass on, on behalf of the Board, our condolences to his family and friends.

Mr Colin Orchiston's term has expired but he continues to sit on the Board on a provisional basis pending the appointment of a new Board Member. Colin, is one of the original Members of the Board and as a registered architect, Colin's experience and insight into complex design, and contract management issues arising in appeals and complaints has been remarkable. He has also been heavily involved in the original development of the Rules, the Code of Ethics, appeal and complaints processes, and his contribution will be sorely missed.

With the departure of Board members, the Board has been very fortunate to appoint replacements who have the professionalism and industry knowledge where their contributions have been immediate and welcomed. They are Mr Chris Preston a former Chair of BRANZ who has been appointed as Deputy Chair for this Board; Mr Mel Orange who has a legal background and is also a Board Member of the Electrical Workers Registration Board; and Mrs Catherine Taylor, who was formerly the CEO of Maritime New Zealand.

CONCLUSION

This report has focused on the recent developments of the Scheme and the Board's contributions to those developments. Although we appear to be on the right path it is essential that in order for the Scheme to achieve its original objectives to lift industry standards and protect New Zealanders in their homes then all stakeholders need to ensure they do their part.

I am very much looking forward then to the following year to ensure we continue to develop and deliver a professional and all-embracing Scheme for the benefit of all New Zealanders.

A handwritten signature in black ink, appearing to read 'David Clark', written over a large, stylized, abstract shape that resembles a signature or a logo.

David Clark
Chairman

Objectives and outcomes 2013/14

OBJECTIVES

The Board's 2013/14 objectives were to:

GOVERNANCE	<ul style="list-style-type: none">• Agree Service Level Agreement with the Ministry by 30 June.• Review Accountability Agreement with the Minister and have in place as close to the commencement of the new financial year as practicable.• Complete draft Annual Report by 31 August.• Deliver Annual Report to the Minister by 31 October.• Review the frequency of Board meetings.
RULES	<ul style="list-style-type: none">• Review the Rules as required.• Maintain an overview of the performance of the Skills Maintenance regime.
APPEALS	<ul style="list-style-type: none">• Hear and/or determine 90% of appeals within 6 months of receipt of complete appeal.• Review the appeals process on an ongoing basis.
COMPLAINTS	<ul style="list-style-type: none">• Board Secretariat to refer 90% of complaints to the Board or Registrar within 15 working days from receipt of complete complaint.• Hear and/or determine 80% of complaints within 8 months from referral to the Board or receipt of Registrar's Report.• Review the complaints process on an ongoing basis.

COMMUNICATIONS

- Review and implement a communications strategy with the assistance of the Ministry:
 - Key messages (especially around reinforcing the functions and purpose of the Board).
 - Target audiences.
 - Appropriate communication methods.
 - Access to Board hearing decisions.
- Work with the Ministry to maintain the Licensed Building Practitioner website.
- Establish a programme of inviting key external stakeholders to meet with the Board on a regular basis – six per year.
- Invite internal stakeholders to Board meetings on a regular basis, including the Chief Executive.
- Meet with the Minister at least once per year.

TRAINING & PROFESSIONAL DEVELOPMENT

- Each member complete at least four half day training sessions per year.

GOVERNANCE

The Board met all of its objectives in relation to governance.

RULES

The Board approved an amendment to the Licensed Building Practitioner Rules 2007, within 15 working days of receipt from the Ministry. The amendment enabled the implementation of an online licensing application process for building practitioners.

APPEALS

The appeals process is available for building practitioners who want to question the Registrar's decision to decline an application to become licensed, or to suspend or cancel a licence pursuant to the Building Act 2004.

The Board's objectives were met in relation to appeals.

The building practitioner scheme has continued to mature over the 2013/14 period and now has a critical mass of some 23,727 LBPs. As licensing numbers have levelled out applications for new licences have decreased, the slowing up of the applications process has in turn seen the number of appeals reduce.

The Board has continued to refine and enhance the appeals process in order to optimise its hearing capability.

Hearing outcomes are available online at:

www.business.govt.nz/lbp/the-board/getting-licensed/view-past-appeal-decisions

COMPLAINTS

Anyone may complain to the Board about the particular conduct of a LBP specified in the Building Act. The Board must investigate the complaint and determine whether or not to proceed to a hearing.

Complaints received per annum are steadily increasing as consumer awareness regarding the complaints function increases. Significant growth in both the number complaints and hearings has led to some operational challenges for the scheme; however the Board along with Ministry are continually refining their processes and procedures to ensure backlogs or spikes in demand are dealt with as soon as they arise.

Though the complaints function has been in place since the schemes inception in 2007, it is only since the introduction of restricted building work (RBW) in March 2012 that certain complaints related trends have emerged or become evident. Where a trend is identified the Board has sought to work with Ministry officials to educate the sector in order to avoid unnecessary complaints entering the system.

The Board's objectives were met in relation to complaints.

Complaint hearing outcomes are available online at:

www.business.govt.nz/lbp/complaints/view-past-complaint-decisions

COMMUNICATIONS

The Licensed Building Practitioners new website delivered one million pages of information to four hundred and fifty thousand visitors in the 2013/2014 year. This includes one hundred and ninety six thousand searches of the Register. Improvements were made to the website information for prospective applicants for license, grounds for complaint, and dispute resolution options. Board complaint and appeal decisions are key to the operation of the scheme and these were added to the website to increase awareness of the process to become and responsibilities of being an LBP.

The Ministry set an operational target to achieve 80% of annual contacts (relicensing) online by the end of the year. The result was a pleasing increase from seventy to eighty nine percent of annual contacts filed online. Development of a new online application wizard is now well advanced and scheduled for release in the third quarter of 2014. The wizard will simplify a complex form and guide new applicants through a faster, easier process. The addition of online applications to the LBP online portal will mean that all major services are available online.

TRAINING & PROFESSIONAL DEVELOPMENT

Some members completed training in chairing pre-hearings. Plans are in place for training in 2014/15 on regulatory code and complaints hearings.

A number of internal and external stakeholders attended Board meetings, including Minister Maurice Williamson in March 2014.

Statement of service performance

Performance measures and standards for the outputs of the Board for the year ended 30 June 2014.

OUTPUT	PERFORMANCE MEASURE	PERFORMANCE STANDARD ACHIEVED
GOVERNANCE		
<p>Self Review</p> <p>Undertake Board self review of Board performance.</p>	<p>Board self review to be completed by 31 October 2013.</p>	<p>A Board self review was completed in October 2013.</p>
<p>Board members' Interests Register</p> <p>Register of Board members' interests in place.</p>	<p>Board members' Interests Register reviewed and updated at the start of each Board meeting. Other possible conflicts of interest recorded in minutes.</p>	<p>Board members' disclosures of interest were reviewed and updated at the start of each Board meeting.</p> <p>Conflicts of interest were recorded in minutes.</p>
<p>Training & Professional Development</p> <p>Provide training and professional development for Board Members in performance of functions.</p>	<p>At least four half days training per annum for Board members (collective or individual), on appropriate subject matter.</p>	<p>Some members completed training in chairing pre-hearings. Plans are in place for training in 2014/15 on regulatory code and complaints hearings.</p>
<p>Working relationship with other occupational licensing Boards</p> <p>Maintain liaison with other occupation licensing Boards in order to share information and skills</p>	<p>Attend bi annual forum of occupational licensing boards as organised by the Ministry.</p>	<p>This forum was discontinued.</p>
SERVICE DELIVERY		
<p>Licensed Building Practitioners Rules 2007</p> <p>Approve Licensed Building Practitioners Rules relating to licensed building practitioners.</p>	<p>Approve or decline all proposed rules within 15 working days of receipt from the Ministry.</p>	<p>The Board approved an amendment to the Licensed Building Practitioner Rules 2007, within 15 working days of receipt from the Ministry. The amendment enabled the implementation of an online licensing application process for building practitioners.</p>


OUTPUT	PERFORMANCE MEASURE	PERFORMANCE STANDARD ACHIEVED
<p>Complaints</p> <p>Investigate complaints, hear complaints and discipline licensed building practitioners in accordance with Regulations.</p>	<p>Board Secretariat to refer 90% of complaints to the Board or Registrar within 15 working days from receipt of complete complaint.</p> <p>Hear and/or determine 80% of complaints within 8 months from referral to the Board or receipt of Registrar's Report.</p> <p>Annual Report to contain:</p> <ul style="list-style-type: none"> - Number of complaints carried forward from previous year - Number of complaints received - Number of complaints investigated - Number of disciplinary hearings - Number of LBPs disciplined 	<p>Ownership of this part of the complaints process changed part way through the year. This performance measure was met for the period when the performance measure was in effect.</p> <p>80% of complaints were heard and/or determined within 6 months of receipt of a complete appeal.</p> <p>Detailed complaints figures are contained in the 2013/14 Annual Report.</p>
<p>Appeals</p> <p>Hear appeals against decisions of the Registrar.</p>	<p>Hear and/or determine 90% of appeals within 6 months of receipt of complete appeal.</p> <p>Annual Report to contain:</p> <ul style="list-style-type: none"> - Number of appeals carried forward from previous year - Number of appeals received - Number of appeals resolved 	<p>93% of appeals were heard and/or determined within 6 months of receipt of a complete appeal.</p> <p>Detailed appeals figures are contained in the 2013/14 Annual Report.</p>
<p>Accountability</p> <p>Produce Annual Report in accordance with section 347 of the Building Act</p>	<p>Annual report provided to the Minister by 31 October 2013.</p>	<p>The 2012/13 Annual Report was provided to the Minister in October 2013.</p>

David Clark
Chairman



14 October 2014

Chris Preston
Deputy Chairman

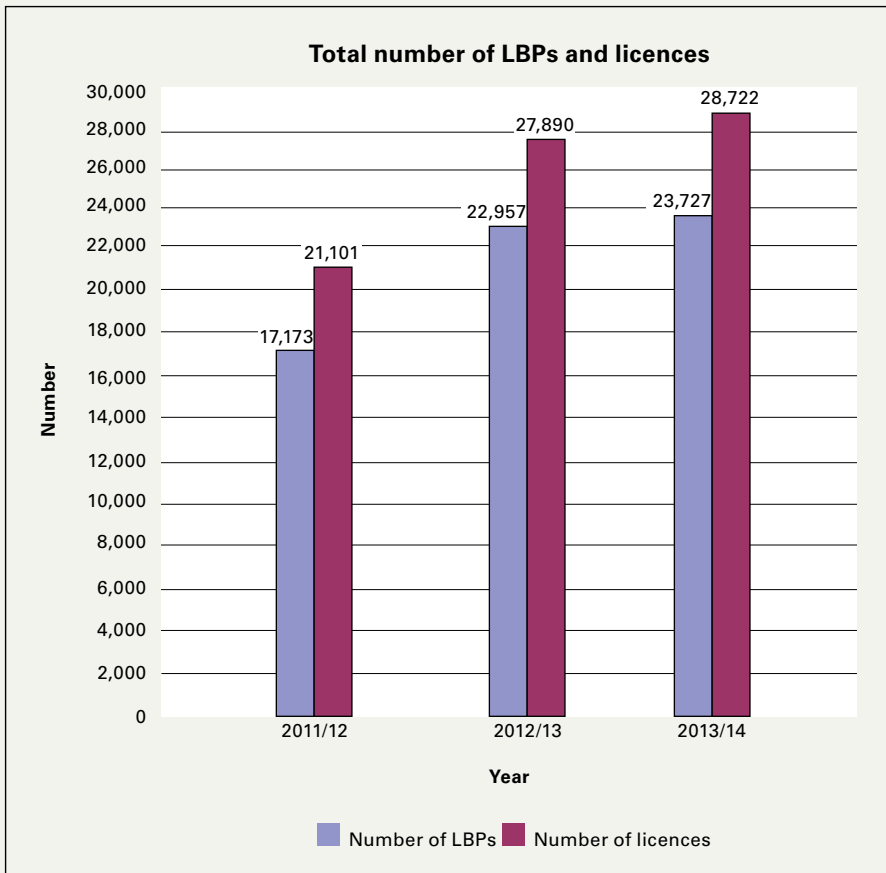


14 October 2014

Licensing statistics

TOTAL NUMBER OF LBPs AND LICENCES – PREVIOUS 3 YEARS

Set out below are the total number of LBPs licensed and number of licences held at 30 June for the previous three years.



**TOTAL NUMBER OF LICENCES BY LICENSING CLASS
– PREVIOUS 3 YEARS**

	CARPENTRY	SITE	DESIGN	EXTERNAL PLASTERING	BRICKLAYING & BLOCKLAYING	FOUNDATIONS	ROOFING	TOTAL
At 30 June 2012	13,469	4,275	1,524		685	145	675	21,101
At 30 June 2013	18,049	5,220	1,973	464	869	242	1,073	27,890
At 30 June 2014	18,714	5,151	2,087	485	900	273	1,112	28,722

Appeals statistics

APPEALS ACTIVITY SUMMARY

The below figures reflect appeals activity within the 2013/14 financial year.

Appeals carried forward from 2012/13 year	31
Appeals received	35
Appeals determined ²	56
Hearings held	41
Appeals carried forward into 2014/15 year	10

PERFORMANCE MEASURES SUMMARY

Target

Hear and/or determine 90% of appeals within 6 months of receipt of complete appeal.

Performance

93% of appeals were heard and/or determined within 6 months or receipt of complete appeal.

Appeals heard and/or determined	56
Within measure	52
Outside of measure	4
Total percentage within measure	93%

2. Includes appeals withdrawn, appeals referred to the Registrar and hearing decisions completed.

Complaints statistics

COMPLAINTS ACTIVITY SUMMARY

The below figures reflect complaints activity within the 2013/14 financial year.

Complaints carried forward from 2012/13	48
Complaints received ³	74
Complaints investigated ⁴	48
Complaints determined	40
Hearings held	18
Hearing decisions	10
LBP's disciplined	7
Complaints carried forward into 2014/15	63

LBP'S DISCIPLINED BY LICENSING CLASS

LICENSING CLASS	NUMBER
Carpentry	3
Site 1	1
Carpentry / Site 1	1
Design 1 / Site 1	1
Carpentry / Site 2	1
Total disciplined	7

3. Excludes complaints referred to another body or outside of Board's jurisdiction.

4. Excludes withdrawals and lapses.

PERFORMANCE MEASURES SUMMARY

Target

Hear and/or determine 80% of complaints within 8 months from receipt of Registrar's Report.

Performance

80% of complaints were determined within 8 months of receipt.

Complaints determined ⁵	40
Within measure	32
Outside of measure	8
Percentage within measure	80%

5. Excludes withdrawals and lapses.

Financial performance

The Board is not a body corporate and does not have independent financial status. The Board's revenue and expenses are managed on behalf of the Building Practitioners Board by the Ministry as part of the LBP scheme.

For information about the financial performance of the LBP scheme please refer to the Ministry's Annual Report.

Members of the Board

DAVID CLARK (CHAIRMAN)



Mr Clark is a Senior Partner of Wilson McKay, undertaking a range of commercial and civil litigation work. Clients include homeowners, developers, contractors, builders and financiers.

Mr Clark gained his Bachelor of Laws in 1987 and was admitted to the Bar in 1988. He is an Associate of the Arbitrators' and Mediators' Institute of New Zealand and is currently engaged by the Ministry as a Weathertight Homes Resolution Service Mediator.

He is also the former Chair of the Electricity and Gas Disputes Resolution Service and a Board member of Youthtown New Zealand.

Other professional activities include being a Code of Conduct Commissioner for New Zealand Cricket and a faculty member of the New Zealand Law Society Litigation Skills programme.

Mr Clark was appointed in 2005 and is from Auckland. He was appointed Deputy Chair in May 2012 and Chair in June 2013. Mr Clark's current term expires in 2015.

CHRIS PRESTON (DEPUTY CHAIRMAN)



Mr Preston is a self-employed as a dispute resolution professional, undertaking a range of residential disputes and advisory work. Clients include homeowners, contractors and builders. He was previously CEO of the Registered Master Builders Federation and acting CEO of BRANZ on two occasions. He is a Director of Master Build Services and Lifemark.

Mr Preston has a Bachelor of Commerce and a post graduate diploma in dispute resolution from Massey University. He is an Associate of the Arbitrators' and Mediators' Institute of New Zealand and has undertaken the Institute of Directors course in governance.

Mr Preston has a keen interest in the community having been on the local Community Board and currently on the local Business Association.

Mr Preston was appointed in 2013 and is from Hanmer Springs. Mr Preston's current term expires in 2016.

MEL ORANGE



Mel Orange is a self-employed barrister and solicitor and a business consultant undertaking a range of commercial and project work in the construction and utility sectors.

Mr Orange has held senior management positions within Meridian Energy and board positions in the energy industry. Mr Orange is a current member of the Electrical Workers Registration Board, a former Chair of the Electrical Workers Complaints Assessment Committee and a former Board and Commission member of the Electricity and Gas Complaints Commission.

Mr Orange was appointed in 2013 and is from Christchurch. His term expires in 2016.

DIANNE JOHNSON



Ms Johnson is Managing Director of Capital Improvements Ltd, which undertakes building surveyor consultancy services throughout New Zealand.

Ms Johnson holds a NZ Certificate in Draughting (Architectural) and Diploma in Business Studies (Dispute Resolution). She has previously held executive roles with the NZ Institute of Building Surveyors, and is a current member of National

Association of Women in Construction, and associate member of the Arbitrators' and Mediators' Institute of New Zealand.

Ms Johnson was appointed in 2011 and is from Petone. Her term expires in 2014.

RICHARD MERRIFIELD



Mr Merrifield is a trade certified carpenter, and has been a licensed building practitioner (LBP) since June 2008. He has over 40 years' experience in the building industry, and has operated his own business since 1989.

Mr Merrifield has held a number of industry-related board and working group appointments, and has been a board member, Chair and Past Chair of the Certified Builders Association of New Zealand (CBANZ). He has also held governance roles with the Building Research Association of New Zealand (BRANZ).

Mr Merrifield was appointed in 2012, and is from Upper Moutere. His term expires in 2017.

BRIAN NIGHTINGALE



Mr Nightingale, a Registered Construction Manager and Registered Quantity Surveyor, is a director of both Building and Construction Services Ltd, which provides consultancy services to the construction industry, and Christchurch based construction company, Leighs Construction Ltd.

He has previously held a number of building-related board appointments, including Director of Registered Master Builders Federation, Member of Eden Park Redevelopment Board, President of Wellington Master Builders Association and General Manager of McKee Fehl Constructors Ltd.

Mr Nightingale was appointed in 2010 and is from Lower Hutt. His term expires in 2015.

COLIN ORCHISTON



Mr Orchiston is Principal of Orchiston Architects Ltd: Architecture and Dispute Resolution. Since 1976 his experience in architecture has included management roles in both small practice and a large multidisciplinary consultancy. Since 1993 his involvement in building disputes has included both litigation support and dispute resolution.

Mr Orchiston is a Registered Architect and also holds qualifications in valuation and dispute resolution. He is a Fellow of the New Zealand Institute of Architects and of the Arbitrators' and Mediators' Institute of New Zealand. He serves on arbitration, adjudication and mediation panels for the latter.

Mr Orchiston was appointed in 2005 and is from Wellington. His term expires in 2014.

CATHERINE TAYLOR



Ms Taylor is a Chartered Accountant and former Chief Executive of Maritime New Zealand.

Ms Taylor has extensive Governance experience as a former Director of Crop and Food Research (including an appointment as Chair of the Audit and Risk Management Committee); and the Civil Aviation Authority. She is also the Chair of the Life Flight Trust.

She has held positions as Trustee/Director of Ambulance New Zealand; The Aviation, Tourism and Travel Training Organisation and Diabetes New Zealand.

Ms Taylor is from Nelson and was appointed in 2013. Her current term expires in 2015.

BUILDING PRACTITIONERS BOARD



From left: Colin Orchiston, Dianne Johnson, Chris Preston (Deputy Chairman), Richard Merrifield, David Clark (Chairman), Mel Orange, Brian Nightingale, Catherine Taylor.

How to contact us

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Printed in October 2014 by
Ministry of Business, Innovation and Employment
PO Box 10729
Wellington 6143
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This document is also available
on the LBP website:
www.lbp.govt.nz

ISSN 117-5742