

# ANNUAL REPORT 2023

**BPB** | Building Practitioners Board  
*Te Poari Kaupapa Kaiwaihanga Whare*



## **MORE INFORMATION**

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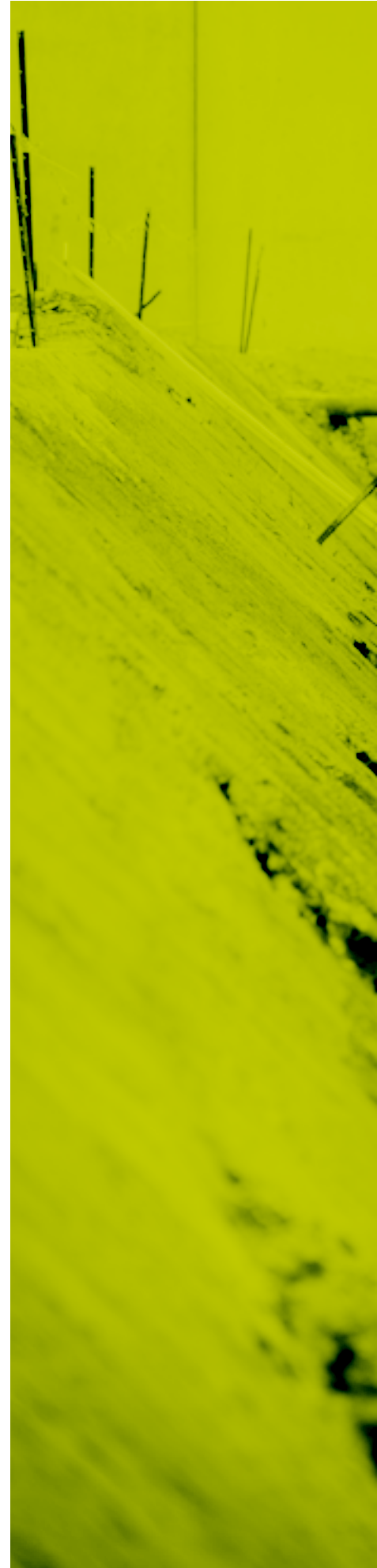
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# **ROLE AND FUNCTIONS OF THE BOARD**





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 made by the Registrar of Licensed Building Practitioners (LBPs)
- › investigate and hear complaints about LBPs
- › approve Rules for LBPs
- › annually review and report on its operations to the Minister of Building and Construction.

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 functions.

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

# BOARD CHAIR'S REVIEW



The past year has seen the introduction of a Code of Ethics for Licensed Building Practitioners (LBPs). The Code is a significant enhancement to the licensing regime. It provides a behavioural framework for LBPs and further protections for the consumer. The Board is already seeing a high number of complaints that alleged breaches of the Code. It is yet to hold a hearing for an alleged breach, but several matters have been set down to be heard.

The Board's disciplinary approach to the Code will, initially, be educative. The Board appreciates that the Code is a step change for LBPs as regards what is acceptable conduct. As such, it will work with the Registrar to ensure that LBPs are informed of what is and is not acceptable as the Board hears and determines matters. Practitioners should note, however, that a point in time will come when LBPs should be familiar with the Code and their ethical obligations and that, when it arrives, the Board will move toward a more punitive approach to enforcing the Code.

General complaint volumes have increased again in the 2022-2023 reporting year. The increase is in line with increases in building activity, but the Board does expect the Code to result in a higher-than-normal increase in the forthcoming year. However, it is pleasing to note that the number of complaints made as a percentage of LBPs and building activity remains very low. Notwithstanding, there are still those in the licensing regime who are not aware of their regulatory obligations, especially when it comes to providing Records of Work. The licensing regime is no longer new; LBPs should know what is expected of them.

Of the complaints that are made, 40% of them do not proceed to a hearing. There are several reasons why, but the main one is that what is complained about does not reach the threshold for the Board to take disciplinary action. Often, LBPs do not respond to a complaint or do not provide a detailed or considered response. When that occurs, it is difficult for the Board to assess whether a hearing is required and, at times, the licensing regime is put to expense holding hearings for matters that, if a response or a better response had been made, would have been disposed of at an earlier stage. Complaints can be stressful for all those concerned, and it is to an LPB's advantage to engage, provide a detailed response and maximise the possibility that a matter will not proceed to a hearing.

Lastly, I would like to acknowledge the service of Chris Preston, the former Chair of the Board. Chris joined the Board as the Deputy Chair in 2013 and became Chair in 2015. He retired in October 2022 and left the Board in a strong position, thanks to his leadership and dedication to the role. The Board wishes him well in his retirement. I would also like to thank the Board Officers, the Investigators, the Registrar, and his staff for all of their assistance over the year.



**Mel Orange**  
**BOARD CHAIR**







# 2022/23

# AT A GLANCE



**262 Complaints/  
Board Inquiries**  
considered by the Board



**200 Investigations**  
completed by the Registrar



**11 Inquiries**  
initiated by the Board



**118 Complaints/  
Board Inquiries**  
upheld



**209 Complaints**  
received



**18 Licencing appeals**  
to the Registrar determined



# STATEMENT OF SERVICE PERFORMANCE



The Board's performance expectations and measures for 2022/23 set by the Minister are outlined below.

PERFORMANCE EXPECTATIONS	MEASURES	ACHIEVEMENT
<p><b>Legislative obligations</b></p> <p>The Board meets all obligations under relevant legislation, including reporting under the Act.</p>	<p>All legislative obligations are met and performance against its obligations is reported in its Annual Report.</p>	<p>Achieved.</p> <p>Annual Report provided to the Minister by 31 October 2022.</p>
<p><b>Licensed Building Practitioners Rules 2007</b></p> <p>Approve Rules relating to Licensed Building Practitioners in a timely way.</p>	<p>Approve or decline all proposed Rules within 30 working days of receipt from Ministry.</p>	<p>No Rule changes were proposed by the Ministry in this financial year.</p>
<p><b>Complaints</b></p> <p>Investigate complaints, hear complaints and discipline Licensed Building Practitioners efficiently and in accordance with Regulations.</p>	<p>Determine 90% of complaints within 60 working days of the date of the hearing.</p> <p>The complaint and disciplinary process from beginning to end is regularly reviewed.</p>	<p>Achieved.</p> <p>93% of complaints were determined within 60 working days of the date of the hearing.</p> <p>The complaints and disciplinary processes were regularly reviewed. The Board held two Complaints Workshops with the Ministry.</p>
<p><b>Appeals</b></p> <p>Hear appeals against decisions of the Registrar in a timely way.</p>	<p>Determine 85% of appeals within 60 working days of receipt of complete appeal.</p>	<p>Not Achieved.</p> <p>71.5% of appeals were heard and/or determined within 60 working days of receipt of complete appeal.</p> <p>Although close to target, a number of appeals during the 2022/2023 year were not determined within target due to Appellants requesting adjournments or later hearing dates due to travel or other commitments.</p> <p>If those appeals are excluded, the target was met.</p>
<p><b>Service Level Agreement with Ministry</b></p> <p>Develop, implement and monitor a Service Level Agreement that sets out the expected service levels to be provided by the Ministry and Registrar.</p>	<p>Performance against the agreed service levels is reviewed by 31 March each year, to inform consideration of the next Service Level Agreement</p>	<p>Achieved.</p> <p>No changes were made to the Service Level Agreement in 2022/23.</p>
<p><b>Board self-appraisal</b></p> <p>The Board undertakes an annual self-appraisal of its performance as a Board and provides a summary to the Ministry.</p>	<p>A summary of the self-appraisal is received by 31 October each year, identifying areas which are working well for Board members, areas for improvement, and the action the Board intends to take as a result.</p>	<p>Achieved.</p> <p>An independent review of the Board's performance was undertaken using the Council of Australasian Tribunals (COAT) Excellence Framework. The Board is working through the recommendations that resulted from the review.</p>

PERFORMANCE EXPECTATIONS	MEASURES	ACHIEVEMENT
<p><b>Board member succession</b></p> <p>The Board provides the Ministry with its views on membership and succession.</p>	<p>The Board's review shows the current skills and experience of Board members and identifies any gaps and proposals for the Minister to consider in future appointment rounds.</p>	<p>Achieved.</p> <p>The Board worked actively with the Ministry's Governance team and provided a view of the future makeup of the Board, with consideration to skills and experience, gender balance and ethnic diversity.</p> <p>One Board Member retired and one new Board Member was appointed over the reporting period.</p>
<p><b>Professional development</b></p> <p>Board members undertake professional development in the performance of their functions.</p>	<p>Training is available for Board members for at least four half-days of development per annum.</p>	<p>Board members attended the COAT Conference (virtual attendance).</p> <p>The Board also undertook training and development as part of its regular Board meetings.</p>

# 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.

## Appeals activity summary – previous 3 years

<b>CARRIED FORWARD/RECEIVED</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>
Carried forward from previous year	2	1	1	2
Received – declined licence applications	17	15	20	18
<b>Total</b>	<b>19</b>	<b>16</b>	<b>21</b>	<b>20</b>
<b>HEARD</b>				
Hearings held	16	10	10	14
<b>DETERMINED (CLOSED)</b>				
Determined – following hearing	17	9	9	14
Determined – withdrawn	1	6	10	3
<b>Total</b>	<b>18</b>	<b>15</b>	<b>19</b>	<b>17</b>
<b>IN PROGRESS AT YEAR END</b>				
Active – not yet determined by the Board	10	1	2	3



## Performance measures summary

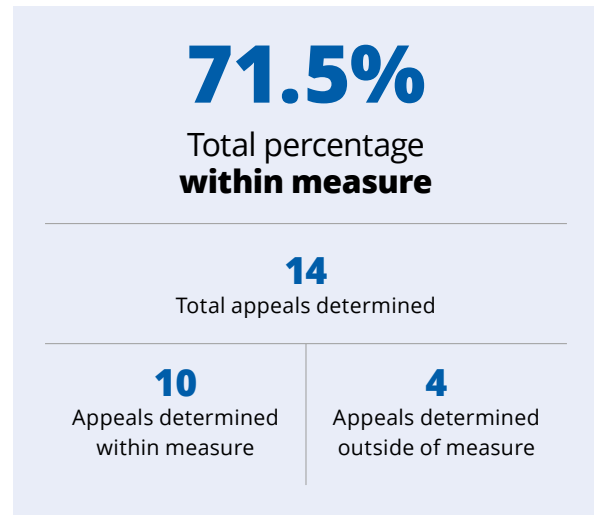
### Target

Determine 85% of appeals within 60 working days of receipt of complete appeal.

### Performance

The Board met its target in relation to appeals.

18 new appeal applications relating to declined licence were received for the 2022/23 year and 2 appeals rolled over from the 2021/22 financial year. This is consistent with the previous year and is in line with the average received in recent years. The number of licensing decisions appealed still equates to less than one percent of the total number of licence applications.



## Appeal hearing outcomes – appealing declined licence application

CARRIED FORWARD/RECEIVED	NUMBER	%
Upheld (licence granted)	6	43%
Withdrawn	2	14%
Not upheld (licence not granted)	6	43%
<b>Total</b>	<b>14</b>	<b>100%</b>



# COMPLAINTS

Any person may complain to the Board about the conduct of an LBP in accordance with the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 and the Building Act 2004.

The Board may initiate an inquiry into the conduct of an LBP or it can continue a matter as a Board inquiry if a complainant decides not to proceed with a complaint.

The Board received 209 new complaints and initiated 11 Board inquiries this year.

## Complaint/Board inquiry activity summary for the previous 3 years

<b>CARRIED FORWARD/RECEIVED</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>
Complaints/Board inquiries carried forward from previous year	154	139	157
Board Inquiries initiated	17	25	11
Complaints received	173	169	209
<b>Total</b>	<b>344</b>	<b>333</b>	<b>377</b>
<b>INVESTIGATED/CONSIDERED</b>			
Complaints/Board inquiries investigated	176	212	220
Complaints/Board inquiries considered	198	234	262
<b>DETERMINED (CLOSED)</b>			
Complaints Board determined not to proceed to hearing	75	75	99
Complaints/Board Inquiries determined following hearing	117	120	147
<b>Total</b>	<b>192</b>	<b>195</b>	<b>246</b>
<b>IN PROGRESS AT YEAR END</b>			
Complaints/Board inquiries active and not determined by the Board	139	157	185



# Performance measures summary

### Target

Determine 90% of complaints within 60 working days of the date of the hearing.

### Performance

The Board met its targets in relation to complaints. 93% of complaints/Board Inquiries were determined within 60 working days of the date of the hearing for the 2022/23 year.

**93%**

Total percentage **within measure**

**147**

Complaints/Board Inquiries determined following hearing

**136**

Determined within measure

**11**

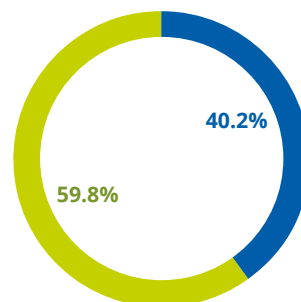
Determined outside of measure



## Complaints/Board Inquiries determined

The table below details complaints/Board Inquiries determined by the Board in 2022/23.

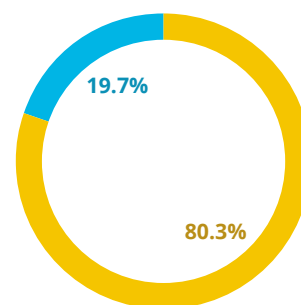
COMPLAINTS DETERMINED	NUMBER OF COMPLAINTS
Did not proceed to a hearing	99
Determined following hearing	147
<b>TOTAL</b>	<b>246</b>



## Complaint/Board Inquiry hearing outcomes

The table below details complaints/Board Inquiries upheld and not upheld. In 2022/23, 110 LBPs were disciplined for 118 upheld complaints. Some LBPs had more than one upheld complaint against them.

HEARING OUTCOMES	NUMBER OF HEARINGS
Complaints/Board inquiries upheld	118
Complaints/Board inquiries not upheld	29
<b>TOTAL</b>	<b>147</b>



## LBPs disciplined

Of the total complaints/Board Inquiries heard in 2022/23, 118 (80.3%) were upheld, and 29 (19.7%) were not upheld.

## Upheld complaints by licence classes

The table below details the licence classes held by LBPs whose complaints were upheld. Note that some LBPs hold licences in more than one class.

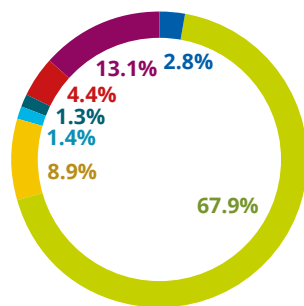
When compared with the total number of licences held, the proportion of licence holders disciplined typically reflects that proportion in each licence class, with a few exceptions.

Design licence holders this year were disciplined at a lower rate than the percentage of licences held in the scheme, whereas Roofing licence classes were disciplined at a higher rate; however, the number of complaints in these areas are low which leads to annual variability with this comparison.

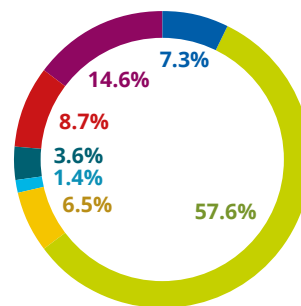
LICENCE CLASS	LBP disciplined in 2022/23	Total licences held in scheme at 30 June 2023
Bricklaying & Blocklaying	10	866
Carpentry	79	21041
Design	9	2775
External Plastering	2	442
Foundations	5	416
Roofing	12	1378
Site	20	4059
<b>TOTAL</b>	<b>137</b>	<b>30,977</b>

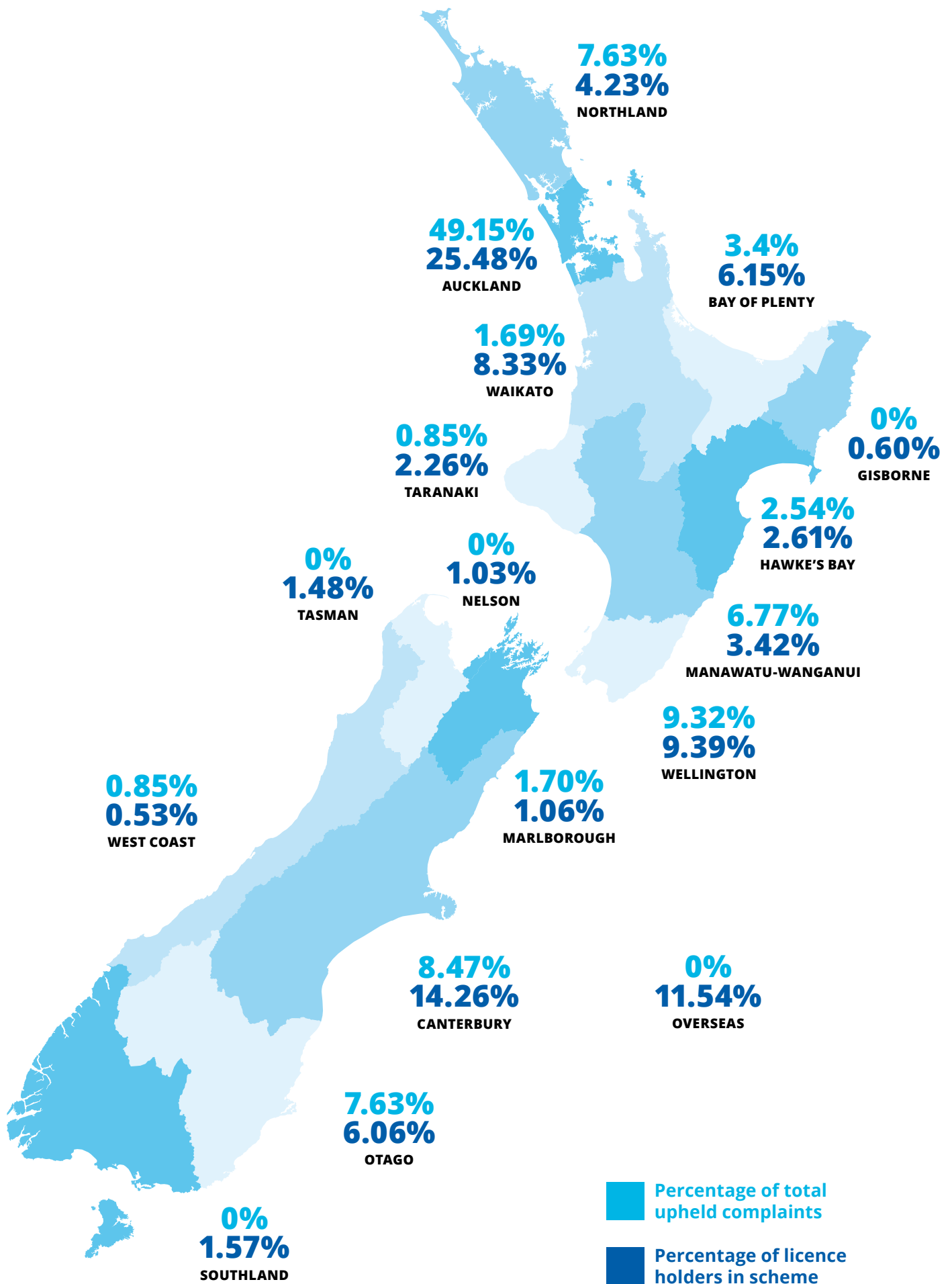
Note: Some LBPs hold licences in more than one class.

**PERCENTAGE OF LICENCES HELD IN SCHEME**



**PERCENT OF TOTAL LBPs DISCIPLINED IN 2022/2023**





## Upheld complaints in 2022/23 by region

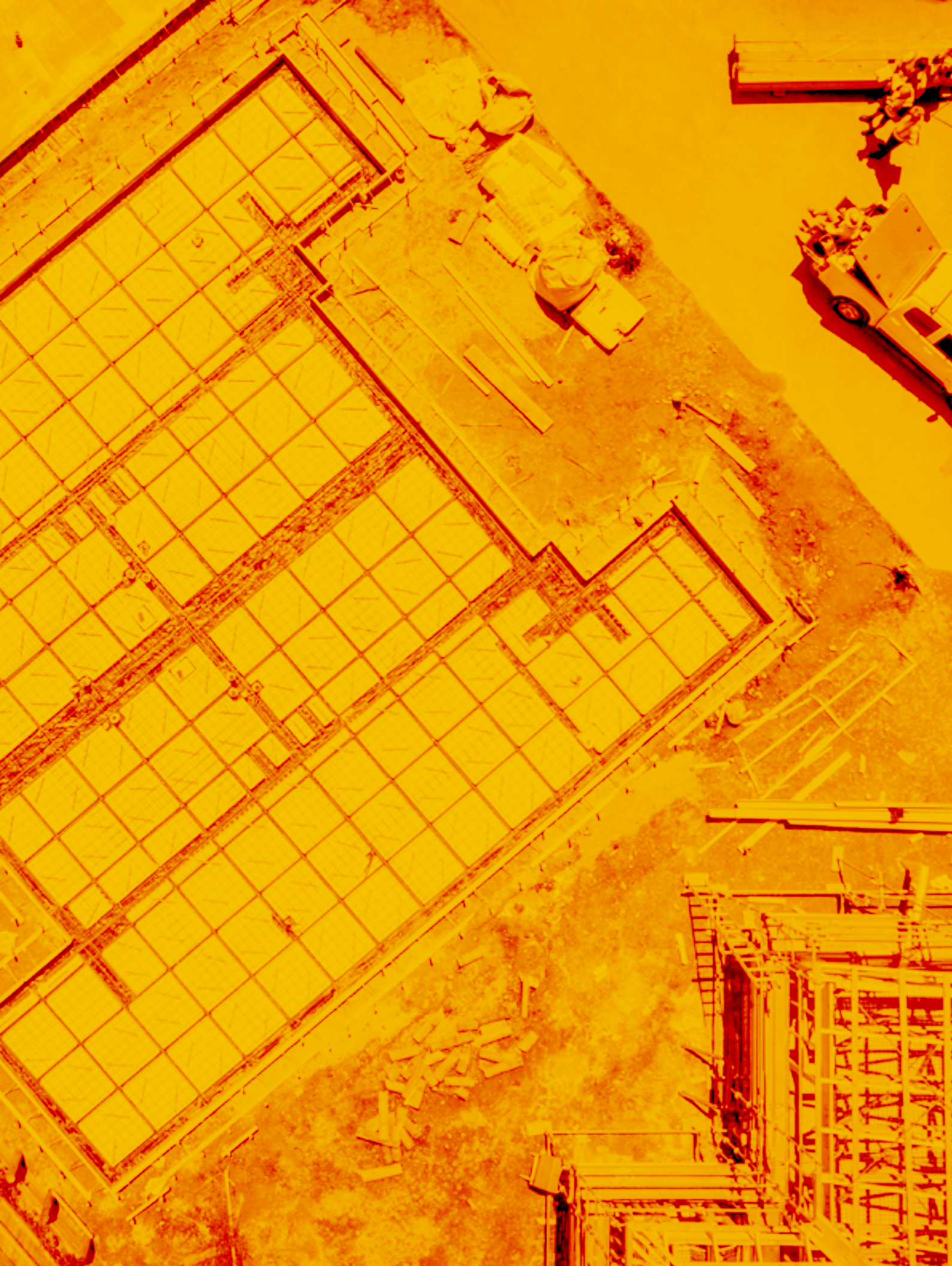
The information below details upheld complaints by the regions where the conduct took place.

As identified in the below figures, Auckland has almost half of all upheld complaints nationally (47.46%).

Due to the comparative size of the Auckland construction industry, it is not surprising to see a larger number of complaints coming from the region. However, it is interesting to note that the number of complaints relative to the number of LBPs is disproportionately high.

Canterbury, in comparison, has a significantly reduced number of complaints than what would be expected for the number of LBPs in the region. This could indicate regional differences in the performance of LBPs and/or the appetite of consumers to lay complaints against LBPs.

REGION	NUMBER OF UPHELD COMPLAINTS	PERCENTAGE OF TOTAL UPHELD COMPLAINTS	NUMBER OF LICENCE HOLDERS IN SCHEME	PERCENTAGE OF LICENCE HOLDERS IN SCHEME
Northland	9	7.63%	1,132	4.23%
Auckland	58	49.15%	6,811	25.48%
Waikato	2	1.69%	2,227	8.33%
Bay of Plenty	4	3.40%	1,643	6.15%
Hawkes Bay	3	2.54%	698	2.61%
Taranaki	1	0.85%	605	2.26%
Manawatu-Wanganui	8	6.77%	913	3.42%
Wellington	11	9.32%	2,511	9.39%
Marlborough	2	1.70%	284	1.06%
Tasman	0	0%	395	1.48%
Canterbury	10	8.47%	3,811	14.26%
West Coast	1	0.85%	142	0.53%
Otago	9	7.63%	1,620	6.06%
Southland	0	0%	419	1.57%
Nelson	0	0%	276	1.03%
Gisborne	0	0%	160	0.60%
Overseas	0	0%	3,085	11.54%
<b>TOTAL</b>	<b>118</b>	<b>100%</b>	<b>26,732</b>	<b>100%</b>



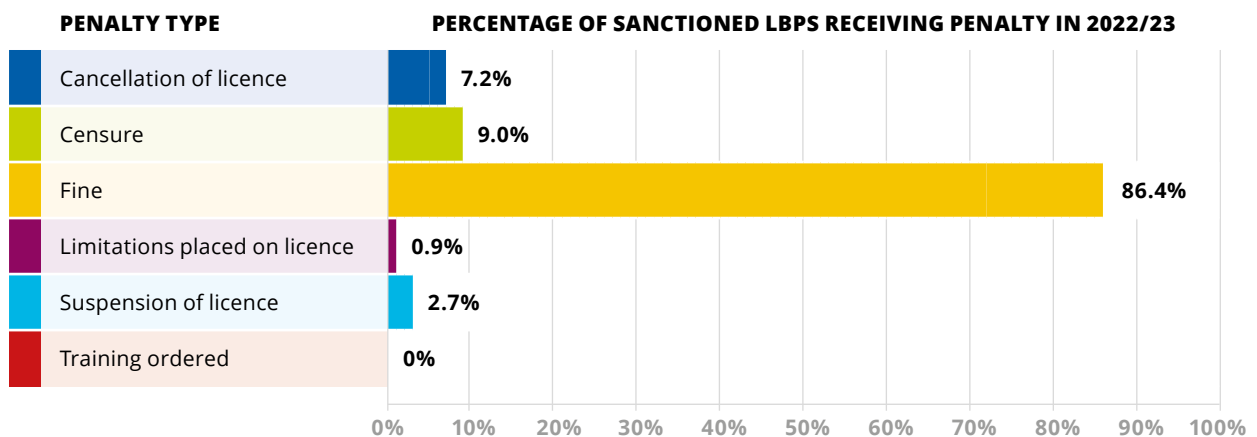
## Penalties imposed in 2022/23

118 penalties were imposed for 118 upheld complaints against LBPs. Fines continue to be the most commonly imposed penalty, followed by censure. The cancellation or suspension of a licence occurs in less than 10% of cases and is usually reserved for more serious levels of offending.

Of the LBPs sanctioned, 6 also had their name published on the LBP website to alert the industry of the severity of their offending. This represents the minority of cases, as the Board only orders publication (over and above the inclusion in the register and in the decision) when there is a perceived need for the public and/or profession to know the findings of the hearing.

PENALTY TYPE	NO. OF PENALTIES IMPOSED IN 2022/23
Cancellation of licence	8
Censure	10
Fine	96
Limitations placed on licence	1
Suspension of licence	3
Training ordered	0
<b>TOTAL</b>	<b>118</b>

Note: A disciplinary decision may have more than one penalty imposed.



Note: A disciplinary decision may have more than one penalty imposed.

## Key themes in complaints

### **Failing to provide a record of work once restricted building work is complete.**

A breach of sections 88 and 317(1)(da)(ii) of the Building Act.

### **LBP's failing to build in accordance with the Building Code when a building consent is not required.**

### **Poor application of supervision**

leading to issues with construction sequencing or poor work.

### **False belief that working as a sub-contractor eliminates LBP obligations**

leading to complaints regarding the conduct of individual LBPs.

### **Using Building Consent Authorities as quality control.**

This is often in conjunction with design practitioners when submitting building consents, or in relation to poor on-site supervision, where LBPs have relied on the inspection process to identify issues with work, rather than building it right the first time.

### **LBPs failing to build in accordance with a building consent.**

### **Failure to ensure a Building Consent is in place for work that requires a consent.**

### **Issues with workmanship of non-restricted building work.**

LBPs are accountable for both non-restricted as well as restricted building work.





# FINANCIAL PERFORMANCE





**The Building Practitioners Board is a statutory Board created under the provisions of the Building Act 2004. The Board's revenue and expenses are managed by the Ministry.**

# MEMBERS OF THE BOARD



## **MEL ORANGE, CHAIR**

Mr Mel Orange is a self-employed barrister and business consultant who works in the energy and construction industries.

Mr Orange is the Chair of the Electricity Rulings Panel and a Member of the Electrical Workers Registration Board.

Mr Orange was appointed in 2013. He became Deputy Chair of the Board in 2020 and then became Chair in late 2022.

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## **FAYE PEARSON-GREEN, DEPUTY CHAIR**

Mrs Faye Pearson-Green is an Architectural Designer and a Licensed Building Practitioner (Design 2). She has over 40 years' experience in the industry and has been self-employed since 1996.

Mrs Pearson-Green holds a NZ Certificate in Draughting (Architectural). She is a professional member of Architectural Designers New Zealand (ADNZ) and is the past Chair of the ADNZ Canterbury Westland Branch executive. She is a National Judge for the Registered Master Builders House of the Year competition.

Mrs Pearson-Green was appointed in 2017 and became Deputy Chair in April 2023.

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## **CHRIS PRESTON**

Mr Chris Preston is self-employed with a background in dispute resolution undertaking a range of residential disputes and advisory work. Clients included homeowners, contractors and builders. He was also previously CEO of the Registered Master Builders Federation and acting CEO of BRANZ on two occasions.

Mr Preston has a Bachelor of Commerce and a Postgraduate 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 and was a member of the local Community Board and Business Association.

Mr Preston was appointed to the Board in 2013 and became the Chair in 2015. Mr Preston retired from the Board in October 2022.

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## **DAVID FABISH**

Mr David Fabish has operated his own residential construction business for 38 years and holds two carpentry trade qualifications.

Mr Fabish is a Licensed Building Practitioner in Carpentry and Site 2 and is a Life Member of the Registered Master Builders Association (RMBA).

Mr Fabish is a past National President and Board member of RMBA and is the Director on the ConCOVE Board. Mr Fabish was appointed in 2018.

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## **JACQUI CLARK**

Mrs Jacqui Clark is a barrister and solicitor with over 30 years legal experience. She is currently Special Counsel at Wilson McKay Solicitors and specialises in construction law.

Mrs Clark has appeared as counsel at all levels of the NZ Court system and in numerous mediations and arbitrations. Her clients have included homeowners, developers, builders, contractors, engineers and architects.

Mrs Clark has a BA in English and LLB (Hons) from Auckland University.

Mrs Clark was appointed in 2021.

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## **GRAHAM ANDERSON**

Mr Graham Anderson has operated his own residential construction business for 25 years and holds carpentry and building foreman qualifications. Mr Anderson is a Licensed Building Practitioner in Carpentry and Site 2 and is a Member of the Registered Master Builders Association (RMBA).

Mr Anderson was previously a Canterbury President and Board member of RMBA and a Judge of the House of the Year Competition.

Mr Anderson is an Associate member of the Arbitrators and Mediators Institute of New Zealand (AMINZ) and a Chartered Building Professional of the New Zealand Industry Institute of Building (NZIOB).

Mr Anderson was appointed in February 2022.

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## **KAREN REYNOLDS**

Mrs Karen Reynolds is a Construction Management professional. She has over 18 years' experience in the industry.

Mrs Reynolds has worked in building and civil construction in Australia and New Zealand, across a breadth of organisation structures and roles. Karen holds a Bachelor of Business and Bachelor of Construction Management (Honours).

Mrs Reynolds was appointed in February 2022.

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## **PAUL THOMPSON**

Mr Paul Thompson is a qualified Carpenter, Quantity Surveyor and Construction Manager with over 20 years industry experience.

Mr Thompson has worked in multiple Senior Management positions across the building industry and owned and operated several private businesses.

Mr Thompson is a Licensed Building Practitioner (Carpentry), Member of the New Zealand Institute of Quantity Surveyors and the New Zealand Certified Builders Association.

Mr Thompson was appointed in June 2023.

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# How to contact us



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