

Consultation submission form

Licensed Building Practitioners Regime

Supervision, licence classes and minimum
standards of competence



How to submit this form

How to submit this form

This form is for feedback on proposals in the discussion document *Licensed Building Practitioners Regime – Supervision, licence classes and minimum standards of competence*.

When completing this submission form, please provide comments and reasons for your views. Your feedback provides valuable information to help the Ministry of Business, Innovation and Employment (MBIE) think about how to respond to the issues raised.

You can submit this form by 5pm, 31 May 2021 by:

- Email to: building@mbie.govt.nz with subject line 'LBP consultation 2021'

Or

- post to:
Building Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473

Use of information

The information provided in submissions will be used to inform MBIE's policy development process, and will inform advice to Ministers on the Licensed Building Practitioner scheme. We may contact submitters directly if we require clarification of any matters in submissions.

Release of information

MBIE intends to upload PDF copies of submissions received to MBIE's website at www.building.govt.nz. MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.

If your submission contains any information that is confidential or you otherwise wish us not to publish, please:

- indicate this on the front of the submission, with any confidential information clearly marked within the text
- provide a separate version excluding the relevant information for publication on our website.

Submissions remain subject to request under the Official Information Act 1982. Please set out clearly in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and in particular, which parts you consider should be withheld, together with the reasons for withholding the information.

How to submit this form

MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.

Private information

The Privacy Act 2020 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review. Please clearly indicate in the cover letter or e-mail accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that MBIE may publish.

Submitter information

Submitter information

MBIE would appreciate if you would provide some information about yourself. If you choose to provide information in the “About you” section below it will be used to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

A. About you

Name: Malcolm Fleming

Email address: malcolm@nziob.org.nz

B. Are you happy for MBIE to contact you if we have questions about your submission?

Yes No

C. Are you making this submission on behalf of a business or organisation??

Yes No

If yes, please tell us the title of your company/organisation.

New Zealand Institute of Building (NZIOB)

D. The best way to describe your role is (tick more than one if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Licensed building practitioner | <input type="checkbox"/> Engineer (please specify below) |
| <input type="checkbox"/> Non-LBP tradesperson (please specify) | <input type="checkbox"/> Residential building owner |
| <input type="checkbox"/> BCA/Building consent officer | <input type="checkbox"/> Commercial building owner |
| <input type="checkbox"/> Education/training/skills | <input checked="" type="checkbox"/> Other (please specify below) |
| <input type="checkbox"/> Designer (please specify below) | <input type="checkbox"/> Prefer not to say |

Please specify here.

Chief Executive of NZIOB

Supervision

Supervision

Pages 21 to 24 of the discussion document talk about potential issues with supervision of LBPs.

Questions for the consultation

1. Do you believe that supervision is currently working as it should be? Why/why not? If not, what do you think can be done to improve it?

The NZIOB agrees that there should be a supervisor of works, though the complications around this practically (LBP supervisors can only supervise Restricted Building Works that they are licenced to carry out themselves, as well as the ongoing emergence of construction specialisation that sit outside the traditional trades) leads to gaps. Developing a separate supervisor category with higher obtainment thresholds appeals as a possible solution.

The NZIOB holds the view the project risk should not lie with an individual practitioner, rather it should sit with the company that employs the practitioner. This will be a consistent point of feedback in our submission.

2. Do you believe that remote supervision is being carried out correctly? Are you aware of instances of it being abused? If so, what can be done to remove the risks that can occur when remote supervision is abused?

Unable to comment.

3. Do you believe that supervision of specialised non-LBPs is a problem within the sector? If so, what are the problems it causes?

Yes. Some specialised works are not covered by LBP trade licences, which makes it problematical to supervise i.e. a supervisor does not have the necessary experience/skills to establish whether the work undertaken by the trade is to the required standard.

Supervision

- 4. Do you believe that supervision should only be available to certain LBPs? If so, what criteria should be used to decide if an LBP can supervise restricted building work?**

It is suggested that a separate Supervisor threshold be implemented with entry requirements that could include the following:

- core trade competencies (where they exist i.e. electrical and plumbing certification) and/or Site Licence Class levels of qualification;
- an experience component; and
- LBP Trade Licence requirements.

- 5. Do you believe that the ability to supervise restricted building work needs to be addressed within the competencies?**

Yes, the general thrust of the NZIOB's feedback is that the development of a supervisor framework as suggested in Question 4, would put the emphasis on the trade itself to effectively certify their work and imposes the risk on the company that provides the service, which is where the risk is best managed, not on an individual. Higher levels of competency within the company will mitigate the company's risk.

Licence classes

Licence classes

Pages 25 to 29 of the discussion document talk about reviewing the licence classes for the LBP scheme.

Questions for the consultation: do the current classes accurately reflect what needs to be regulated in the building industry?

6. Do you believe that specialised professions where members are not LBPs are being adequately monitored and operating correctly under the current scheme?

No, anecdotally they are not being supervised as their processes/methods fall outside of LBP competencies. Onus on the companies providing the service to provide required supervision and certification of their work is suggested. This should particularly apply to building elements that contribute to the structural integrity of a building, fire protection, or weather tightness.

7. Do you believe any of the current classes no longer need to be covered by the LBP scheme? If so, why?

No.

8. Do you think the classes can be expanded to include specialised professions, without resorting to adding a class for every profession? If so, how?

Expansion of existing classes would be a simpler approach vs. developing new classes. Engagement with those, suppliers, applicators/installers, and industry bodies that operate within, or represent those that operate within the specific areas of practice, should be undertaken, so as to ascertain how this is best achieved.

Licence classes

9. What professions do you believe need to be covered by the LBP scheme that aren't already? Why?

Those that are involved in building elements that contribute to the structural integrity of a building, fire protection, or weather tightness.

Licence classes

Questions for the consultation: does the way areas of practice work result in substandard work?

10. Are you aware of instances where LBPs are operating in areas of practice within their licence class but outside of their competence level?

Yes. I am aware of a Design 1 LBP who designed a Category 3 building. A complaint to MBIE elicited the response that a Design LBP 1 is able to practice outside of their licencing class, which is supported by Item 81 in the LPB Discussion Document that accompanies this submission process: 'A LBP may work outside of an area they are licenced in, provided they deem themselves competent'. This is nonsensical.

11. Do you believe that the way areas of practice operate should be amended? If so, how? What impact do you think amending the Area of Practice structure may have?

Yes, the ability for a LBP Design or Site to undertake design/site administration work on building categories that are classified above their licencing class because the practitioner 'deems themselves competent' is a loophole that should be closed. A practitioner should be limited to operating within their licencing class parameters, otherwise it is meaningless.

12. What is your opinion on the way Site and Design areas of practice are separated (i.e. by building complexity)? Do you think this needs to change?

Classification by building complexity is a reasonable approach, no change suggested.

Licence classes

Questions for the consultation: how can the Site Licence be improved?

13. Do you believe the building sector in New Zealand still needs the Site licence class?

Yes. In addition, the qualification thresholds for the three Site categories (1, 2, 3) look about right. The NZIOB's view is that higher competency of the site manager will mitigate risk for the main contractor, though it is the main contractor (not the individual) who should be liable for project risk.

14. Can the Site licence be amended to make it more useful or make the purpose clearer? If so, how?

To strengthen the theme expressed in Question 13 of risk allocation, consideration could be given for developing a licencing requirement for companies, with those companies them being incentivised (to reduce their project risk) to employ suitably qualified Site Licensees and LBPs.

15. Have you previously held a Site licence but chosen not to continue with it? If so, why?

No.

16. For current Site licence holders: How do you make your licence worthwhile? What methods do you use to promote it?

n/a

Licence classes

17. Are there ways that restricted building work and supervision can be added to the Site licence? If so, how?

That would be the ideal outcome, though it is suggested that this would be better dealt with through licencing of the company vs. licencing of the individual practitioner.

18. In what ways can responsibility be added to the class without the level of risk to the holder becoming too high?

Risk should not sit with the individual LBP, it should sit with the company that provides the service that contributes to the build, and the main contractor who is ultimately responsible for the completed building. Licencing of the businesses who individually contribute to the building process is a suggested solution.

Licence classes

Questions for consultation: Is the LBP scheme too flat and should it offer more for experienced LBPs?

19. Do you believe that the LBP scheme should recognise those who have more experience in the industry? If so, how?

Yes, with the caveat that an experienced practitioner should be required to demonstrate their competency against current practice i.e. to ensure that they have been keeping up to date rather than potentially not having evolved from earlier best practice standards that are now outdated.

20. Do you believe that the LBP scheme should offer a tiered system to separate inexperienced LBPs from those with more experience? If so, how should it be set up?

Agree to support a tiered system, with Supervisory LBPs being a higher tier (than LBP) that is developed. Experience would be one of the competency levels for attainment, not the sole one, sitting alongside qualifications and specific trade licencing (where appropriate).

21. Do you believe that a tiered licence would solve any issues? If so, what issues could it solve, and how?

We see it solving the supervisory issue, though as part of the solution only, not the full solution. Licencing of the company is proposed, with those businesses then incentivised to employ suitably qualified LBP Supervisors and LBPs to mitigate the risk that the business holds.

Minimum standards for entry and continued licensing

Minimum standards for entry and continued licensing

Pages 30 to 35 of the discussion document talk about minimum standards for entry and continued licensing.

Questions for the consultation

22. How well do you think the LBP scheme currently ensures new applicants and existing LBPs are sufficiently competent?

The qualification list for Site LBPs and Carpentry (the areas that affect most NZIOB members) look about right. As most NZIOB members operate in the commercial part of the industry (which is not affected by the LBP regime), we are unable to comment on the rigour of the LBP application and qualification renewal processes through member experiences, though via the wider industry we understand that the regime is viewed as lacking the rigour we would expect.

23. What specific parts of the scheme do you think are driving low confidence?

- The farcical situation of a Site and Design LBPs being able to undertake work on building categories that sit above their licence area of practice, because they deem themselves competent. It devalues the regime.
- The issues surrounding supervising as detailed in questions 1 to 5.
- That the emergence of specialisation has created gaps that the current LBPs classifications are not covering.
- The big issue is the risk imposed on individual LBPs, which needs to shift to the companies that employ them.

24. Should we lift minimum standards of competence in the LBP Rules? What level should they be set at, are there particular gaps that need to be covered?

Increased rigour in ensuring that the existing qualification and competency levels are maintained for both new LBP applications, and existing LBP renewals should be the focus.

Minimum standards for entry and continued licensing

25. Should formal qualifications be required for anyone in the scheme? If they were required, are there any issues MBIE should take into account?

It is not unreasonable that a trade or tertiary qualification in the area of the LBP licence class be required, noting that the qualification type could be broadened to include the completion of short-courses or workshops as provided by recognised vocational providers or industry associations.

26. How can assessment and skills maintenance requirements support confidence that practitioners meet minimum standards, and are keeping their skills and knowledge up to date?

Entry as per the response in Question 25, ongoing registration via competency tests and/or maintenance of CPD records. Rigour to whatever the process is, will be key.