



COVERSHEET

Minister	Hon Jenny Salesa	Portfolio	Building and Construction
Name of package	Cabinet papers relating to the Licensed Building Practitioners Scheme	Date of issue	21 March 2019

List of documents that have been proactively released

Date	Title	Author
26 September 2018	<i>Licensed Building Practitioners Scheme: Release of Discussion Document</i>	<i>Office of Hon Jenny Salesa Minister for Building and Construction</i>

Information withheld

No information is being withheld from these documents.

In Confidence

Office of the Minister for Building and Construction

Chair, Cabinet Economic Development Committee

Licensed Building Practitioners Scheme: Release of Discussion Document

Proposal

- 1 I seek agreement to release the discussion document *Licensed Building Practitioners Scheme: Stonemasonry* [Attachment 1]. The discussion document outlines proposals to include stonemasonry into the Licensed Building Practitioners (LBP) scheme to ensure the LBP scheme continues to lift the performance and productivity of building practitioners, make building practitioners more accountable for their work, and enable consumers to make informed decisions about the competency of the building practitioners they engage for residential construction.

Executive Summary

- 2 Stonemasonry is a specialised trade involving the sourcing, cutting, and shaping of natural stones commonly used as a cladding material in residential buildings.
- 3 When stone is used as a cladding material, the quality of masonry and workmanship has an effect on the weathertightness and safety of a building. Despite this, stonemasonry is not defined as Restricted Building Work (RBW) because there is no licensing class that covers residential stonemasonry construction or alteration on a residential building under the LBP scheme.
- 4 The Ministry of Business, Innovation and Employment (MBIE) considers that the failure of stone cladding could lead to costly repairs to homes, and significant injuries and fatalities. Poorly fixed stone panels can detach and fall during seismic events, damaging the building or injuring people in its vicinity. Weathertightness failures for stone cladding can have a significant impact on the durability of a structure and can result in significant remediation costs for consumers.
- 5 There are similarities between the competencies required to carry-out or supervise bricklaying, blocklaying, and stonemasonry, and the risks to the weathertightness and safety of buildings from these types of construction work. Given these similarities, it is inconsistent that stonemasonry is not included in the scope of RBW.
- 6 The discussion document includes three options to address these risks:
 - a) establish 'construction stonemasonry' as a new licensing class.
 - b) establish 'construction stonemasonry' as an area of practice under the Bricklaying and Blocklaying licensing class (preferred option).
 - c) promote the professionalisation of construction stonemasonry through a non-regulatory response.

- 7 The preferred option (option B) will improve consumer protection, and reduce the risk of failure of weathertightness and structural integrity of residential buildings that incorporate stonemasonry. The option will result in some increases in compliance and administration costs but the majority of costs can be recovered through application and licensing fees.
- 8 I propose that public consultation on the discussion document takes place for four weeks. After considering submissions, I will report to Cabinet seeking approval to amend the relevant regulations, targeting implementation in April 2019.

Background

- 9 The LBP scheme was established in 2007 to lift the performance and productivity of building practitioners, make building practitioners more accountable for their work, and enable consumers to make informed decisions about the competency of the building practitioners they engage for residential construction.
- 10 The LBP scheme framework includes licensing classes that cover the main areas of construction work such as carpentry, roofing, and external plastering. Most licensing classes have 'areas of practice' that cover specific types of work a building practitioner could be assessed in, indicating that they are competent and experienced in that type of work.
- 11 Stonemasonry is an established part of the construction industry but it is not covered by any licensing class under the LBP scheme. There is an opportunity to increase the scope of the licensing class framework to ensure the LBP scheme ensures the quality of residential buildings which contain stonemasonry, and give consumers confidence when engaging stonemasons.

Including stonemasonry in the LBP scheme

Stonemasonry is not regulated

- 12 Stonemasonry is a specialised trade involving the sourcing, cutting, and shaping of natural stones for a range of purposes. Construction stonemasonry is using those stones in the construction of a building, e.g. as a cladding material in residential buildings.¹ Stonemasons also work with engineers and designers to design stone-based walls and features, and install stones in specific patterns or 'bonds' which affect their durability and integrity.
- 13 While the design aspects of stonemasonry that involve or affect a home's primary structure and weathertightness, and require a building consent, are considered RBW and covered under the Design licensing class, practical stonemasonry is not defined as RBW because there is no licensing class that covers the physical installation of stone on a building site under the LBP scheme.
- 14 In 2011, the then Department of Building and Housing (DBH) received a proposal from the New Zealand Stone Masons Association (NZSMA) to include stonemasonry as an area of practice under the Bricklaying and Blocklaying licensing class. DBH suggested that the necessary prerequisites to being considered for entry into the LBP scheme were a national professional body, a code of practice, and fit-for-purpose qualifications.

1 For the purposes of this paper, references to 'stonemasonry' refer to construction stonemasonry.

- 15 Experienced stonemasons have since made efforts to raise the standards and competence of the trade by establishing the NZSMA as a professional body, and working with the Building and Construction Industry Training Organisation to create a fit-for-purpose qualification (National Certificate in Stonemasonry Level 5).

Risks of poor quality stonemasonry

- 16 MBIE has worked with the NZSMA to assess the risks of poor quality stonemasonry in the construction industry.
- 17 When stone is used as a cladding material, the quality of masonry and workmanship has an effect on the weathertightness and safety of a building. Poor quality stone cladding can leak, leading to the deterioration of stonework and risks to the structural integrity of a building and its safety during seismic events. The NZSMA has provided examples to MBIE in which poor stonemasonry work has affected the weathertightness, durability, and seismic performance of buildings.
- 18 MBIE considers that the failure of stone cladding could lead to costly repairs to homes, and significant injuries and fatalities:
- 18.1 The sheet weight of stone-clad walls increases the likelihood of failure during an earthquake. Poorly fixed stone panels can detach and fall during seismic events, damaging the building or injuring people in its vicinity.
- 18.2 Weathertightness failures for stone cladding can have a significant impact on the durability of a structure and can result in significant remediation costs for consumers.
- 18.3 While the amount of poorly executed stonemasonry is likely to be a small proportion of the total volume of construction activity in New Zealand, MBIE believes that the risks, and potential costs and consequences for affected consumers, could be high.

Inconsistencies with other types of RBW

- 19 There are similarities between both the competencies required to carry-out or supervise bricklaying, blocklaying, and stonemasonry, and the risks to the weathertightness and safety of buildings from these types of construction work. Given these similarities, it is inconsistent that stonemasonry is not included in the scope of RBW.

Lack of consumer protection

- 20 Consumers cannot complain about a stonemason's conduct or behaviour through the Building Practitioners Board (the Board), in respect of poor quality work, unless the stonemason who carried out the work holds a LBP licence in another licensing class.

Criteria to assess options

- 21 The following criteria were used to assess which options would be most appropriate to address the risks and inconsistencies outlined above:
- 21.1 *Effectiveness* – the option should address and mitigate the potential harms caused by poor quality stonemasonry.

- 21.2 *Cost impacts* – the option should be cost-effective in its implementation, and have low compliance costs for the stonemasonry industry.
- 21.3 *Simplicity and consistency* – the option should be simple to administer and comply with, and be easy to understand by regulated parties.

Options to include stonemasonry in the LBP scheme

- 22 I propose to consult on three options to address the risks and inconsistencies outlined above:
 - 22.1 Option A: Establish 'Construction Stonemasonry' as a new LBP licensing class and make residential stonemasonry construction RBW.
 - 22.2 Option B (preferred): Establish 'Construction Stonemasonry' as an area of practice under the existing Bricklaying and Blocklaying licensing class, and make residential stonemasonry construction RBW.
 - 22.3 Option C (status quo): Stonemasonry is not included in the LBP scheme (status quo), however the uptake of qualifications and professional association membership would be promoted, and Building Consent Authorities (BCAs) would be provided with guidance on how to assure the quality of stonemasonry work.
- 23 The discussion document sets out the options and their impacts. A brief summary and an assessment of each option against the criteria are provided below.

Option A: Establish 'Construction Stonemasonry' as a new LBP licensing class

- 24 Establishing Construction Stonemasonry as a licensing class under the LBP scheme would be effective in improving the competence of stonemasons and the accountability of individual building practitioners. It would be mandatory for RBW that includes stonemasonry to be completed or supervised by a LBP who meets the competencies under the Construction Stonemasonry licensing class.
- 25 The implementation and compliance costs associated with the creation of a new licensing class would be more than that of adding in an area of practice to an existing licensing class, while only achieving the same outcomes as Option B.
- 26 Creating a Construction Stonemasonry licensing class is the costliest for MBIE in terms of administration and implementation, and has potential to cause confusion for both consumers and practitioners.

Option B: Establish 'Construction Stonemasonry' as a new area of practice under the existing Brick and Blocklaying license class (preferred)

- 27 A Construction Stonemasonry area of practice under the Bricklaying and Blocklaying licensing class under the LBP scheme would be as effective as the creation of a Construction Stonemasonry licensing class at ensuring that stonemasonry construction is within the LBP scheme. Stonemasonry practitioners would be accountable for their work before the Board, and consumers would be granted the additional protection that licensing brings to this residential building work.

- 28 This option is supported by the NZSMA. Information provided to MBIE by the NZSMA indicates that many in their membership have a desire to be licensed, in order to offer ongoing protection to consumers who decide to use stone in their homes, and ensure that suitably qualified and licensed stonemasons work in the industry. Steps have already been taken to demonstrate this, including establishing the NZSMA as the national association, and developing a recognised qualification for stonemasonry.
- 29 I consider that the costs of introducing a new area of practice to the LBP scheme are limited in comparison to a new licensing class. It is likely that these costs are outweighed by the benefits of including stonemasonry in the LBP Scheme, such as higher confidence in the quality of stonemasonry RBW, consumer confidence in the stonemason profession, and being able to hold stonemasons to account for poor conduct or behaviour before the Board.
- 30 This option is the preferred option by MBIE due to the similarities with the existing Bricklaying and Blocklaying licensing class, the lower implementation costs than Option A, and the benefits to consumers in selecting the right type of LBP with ease.

Option C: Non-regulatory response

- 31 Information and education campaigns to promote the uptake of the stonemasonry qualification and membership into the NZSMA are unlikely to be as effective as mandatory licensing proposed under Option A and Option B, because of the voluntary nature of the option.
- 32 Consumers would not be able to make a complaint against a LBP to the Board. Consumers would have to use existing dispute resolution mechanisms such as the disputes tribunal or District Court to resolve any claims for faulty work or damages caused by substandard work.
- 33 This option would be the least costly and easiest to implement because it does not change any existing licensing classes or areas of practice. However, this option is the least effective at addressing the risks that stonemasonry construction presents and does not provide a framework for the ongoing support of stonemasons in New Zealand.

Impacts

- 34 The expected impacts of the preferred option would be:
- 34.1 Retain the integrity of the LBP scheme to cover all aspects of the building industry.
 - 34.2 Improve consumer protection and dispute resolution mechanisms.
 - 34.3 Reduce the risk of failure of weathertightness and structural integrity of residential buildings which incorporate stonemasonry.
 - 34.4 Increase the recognition of the stonemasonry practice in the building industry.
 - 34.5 Increase compliance costs for stonemasons.

Retain the integrity of the LBP scheme to cover all aspects of the building industry

- 35 Stonemasonry is an established part of the construction industry and MBIE believes the risks, and potential costs and consequences of poorly executed stonemasonry on consumers could be high. Including stonemasonry in the LBP scheme is necessary to reduce inconsistencies of licensing bricklaying and blocklaying but not licensing stonemasonry (which has many of the same competencies as bricklaying and blocklaying).

Improve consumer protection and dispute resolution mechanisms

- 36 Consumers cannot currently lay a complaint against a stonemason to the Board in respect of poor quality work unless that stonemason is also licensed under another LBP class. Including stonemasonry would improve the accountability of individual stonemasons in the industry, and complement existing avenues of consumer redress (such as civil action through a disputes tribunal or District Court).

Reduce the risk of failure of weathertightness and structural integrity of residential buildings which incorporate stonemasonry

- 37 The licensing of stonemasons would mean practitioners would need to meet minimum standards of competence to perform RBW involving stonemasonry. This would result in an increase in the quality of stonemasonry, and a corresponding improvement in the weathertightness and structural integrity of residential buildings which incorporate stonemasonry.

Increase the recognition of the stonemasonry practice in the building industry

- 38 Incorporating stonemasonry into the LBP scheme will increase the recognition of stonemasonry in the building industry and recognise the significant work undertaken by stonemasons to professionalise the trade.

Increase compliance costs for stonemasons and administration costs for MBIE

- 39 While requiring the licensing of stonemasonry may result in increased compliance costs to stonemasons and increased administration costs to MBIE, these costs can be recovered through application and licensing fees, and are outweighed by the improvements to building safety and practitioner accountability.

Consultation

- 40 The Department of the Prime Minister and Cabinet has been informed.

Financial Implications

- 41 There are no direct financial implications arising from the proposal to undertake public consultation. The financial implications of the final policy proposals will be identified when policy recommendations are made to Cabinet.

Human Rights

- 42 This paper is not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

- 43 There are no legislative implications associated with the recommendations in this paper.
- 44 If the proposals in the discussion document are fully implemented, then amendments to the following list of Regulations and Rules will be required:
- 44.1 Building (Definition of Restricted Building Work) Order 2011.
 - 44.2 Building (Designation of Building Work Licensing Classes) Order 2010.
 - 44.3 Building Practitioners (Licensing Fees and Levy) Regulations 2010.
 - 44.4 Building Practitioners (Register of Licensed Building Practitioners) Regulations 2010.
 - 44.5 Licensed Building Practitioner Rules 2007.

Regulatory Impact Analysis

- 45 The Regulatory Quality Team at the Treasury has determined that no separate Regulatory Impact Assessment is required in support of the proposal to release the discussion document, since the analysis necessary at this stage is covered in the discussion document.
- 46 The decision to start a genuine and open consultation does not require a separate Regulatory Impact Analysis of the proposed options, subject to the discussion document containing the necessary elements of such an analysis. The Regulatory Impact Analysis Review Panel chair has reviewed the attached discussion document prepared by MBIE. The chair considers that the information and analysis summarised in the discussion document meets the criteria necessary for consulted parties to fairly consider the options available.
- 47 MBIE will provide a final regulatory impact statement to Cabinet once the proposals have been finalised.

Gender Implications

- 48 There are no gender implications arising from these proposals.

Disability Perspective

- 49 There are no disability implications arising from these proposals.

Publicity

- 50 I propose four weeks of public consultation on the discussion document, starting in October 2018. I do not consider a media statement is necessary for the release of this discussion document.

Recommendations

The Minister for Building and Construction recommends that the Cabinet Economic Development Committee:

- 1 **note** that the Ministry of Business, Innovation and Employment has considered a proposal by the New Zealand Stone Masons Association to include stonemasonry in the Licensed Building Practitioners scheme;
- 2 **note** that the discussion document *Licensed Building Practitioners Scheme: Stonemasonry* [Attachment 1] proposes options to include stonemasonry in the LBP scheme by either:
 - 2.1 establishing 'Construction Stonemasonry' as a new LBP licensing class; or
 - 2.2 establishing 'Construction Stonemasonry' as an area of practice under the existing Bricklaying and Blocklaying licensing class; or
 - 2.3 promoting the uptake of qualifications and professional association membership, and providing Building Consent Authorities with guidance to assure the quality of stonemasonry work.
- 3 **agree** to release the discussion document for public consultation for a period of four weeks starting in October 2018;
- 4 **agree** to invite the Minister for Building and Construction to report back to Cabinet by March 2019 with the outcomes of consultation and final policy proposals;
- 5 **authorise** the Minister for Building and Construction to include final non-substantive edits to the discussion document to amend or clarify minor or technical points.

Authorised for lodgement

Hon Jenny Salesa

Minister for Building and Construction



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI



Licensed Building Practitioners Scheme: Stonemasonry

Discussion Document

October 2018

PROACTIVELY RELEASED

How to have your say

Submissions process

The Ministry of Business, Innovation and Employment (MBIE) is seeking written submissions on proposed changes to the Licensed Building Practitioners (LBP) scheme.

This discussion paper includes questions you may like to respond to in your submission. The questions are listed in full in section 6 of this document (Summary of Questions for Discussion). Your submission does not need to answer all of these questions.

MBIE has recently consulted about changes to the licensing fees and levy for the LBP scheme. You can view the proposed fee changes that are under consideration [here](#). While the fees consultation is now closed, MBIE also welcomes any other comments you may have regarding the licensing classes and areas of practice aspect of the LBP scheme. Where possible, please include evidence to support your views, for example, references to facts and figures, or relevant examples.

Please send your submission before 5pm on 12 November 2018. Please include your name, or the name of your organisation, and contact details. You can make your submission by:

- Attaching your submission as a Microsoft Word or PDF attachment and sending to licensingreview2018@mbie.govt.nz; or
- Mailing your submission to:
Licensed Building Practitioners Scheme: Stonemasonry
Ministry of Business, Innovation, and Employment
PO Box 1473
Wellington 6140
New Zealand

Please direct any questions that you may have in relation to the submission process to:
licensingreview2018@mbie.govt.nz

Use of information

The information provided in submissions will be used to inform MBIE's proposed option, and advice to Ministers. We may contact submitters directly if we require clarification of any matters in submissions.

Except for material that may be defamatory, MBIE may post PDF copies of submissions received to MBIE's website at www.mbie.govt.nz. By making a submission, we will consider you to have agreed to us posting your submission, unless you clearly specify otherwise in your submission.

Release of information

Submissions are subject to the Official Information Act 1982. Please tell us as part of your submission if you have any objection to the release of any information in the submission, which parts you consider should be withheld, and include your reasons for withholding the information. MBIE consider any objections you note and consult with you when responding to requests under the Official Information Act 1982.

Please indicate on the front of your submission if it contains confidential information and mark the text accordingly. If you wish to make a submission which includes confidential information, please send us a separate version excluding the relevant information for publication on our website.

Private information

The Privacy Act 1993 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 as part of your submission will only be used to help inform the development of policy advice in relation to this review. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that we may publish.

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PROACTIVELY RELEASED

1. Purpose of this document

This discussion document outlines proposals to include stonemasonry into the Licensed Building Practitioners scheme.

It describes what legislative change is needed, perceived issues the proposals address and the rationale for changes.

MBIE wants your feedback on proposals in this document to extend the Licensed Building Practitioners (LBP) scheme to cover stonemasonry. These proposals involve changes to the following Regulations and Rules:

- Building (Definition of Restrict Building Work) Order 2011
- Building (Designation of Building Work Licensing Classes) Order 2010
- Building Practitioners (Licensing Fees and Levy) Regulations 2010
- Building Practitioners (Register of Licensed Building Practitioners) Regulations 2010
- Licensed Building Practitioner Rules 2007

Your feedback will be used to help us make final decisions on changes to the LBP scheme.

We welcome your written submissions on the proposals included in this document. Once we have considered your submissions, we will develop final proposals. The proposals will then go to Cabinet for approval. If the proposals are approved they will be used as the basis for revising the Regulations and Rules.

A proposed timeline of milestones is:

Due date	Action
15 October 2018	Release of discussion document
12 November 2018	Deadline for submissions to MBIE
January 2019	Report back to Minister on submissions and proposals for change to the Regulations
March 2019	Seek policy approval from Cabinet for proposed changes
April 2019	Governor-General makes Order in Council to amend the Regulations
May 2019	Legislative changes come into force 28 days after Order in Council is made

How to use this document

Questions for your consideration and feedback can be found in section 6 ([Summary of Questions for discussion](#)). We welcome any other relevant comment or information that you wish to provide on the LBP scheme.

Information on how to make a submission is provided at the beginning of this document (see [How to have your say](#)).

2. Introduction

Overview of the Licensed Building Practitioners scheme

The LBP scheme was launched in November 2007 following a change to the Building Act 2004. Building practitioners who carry out or supervise Restricted Building Work are required to be licensed. Restricted Building Work is residential building work that is critical to the integrity (for example, weathertightness and fire safety) of a building.

The purpose of the LBP scheme is to encourage competent building practitioners to build homes right the first time. The LBP scheme also gives consumers the information necessary to make informed decisions about the competence of building practitioners they may engage.

The LBP scheme provides consumers with evidence and assurance that LBPs:

- have the required skills and abilities to do the work they are licensed in
- continue to have up-to-date knowledge and skills
- have knowledge of standards to maintain a safe work environment for themselves and their employees.

The Building Practitioner Board is appointed by the Governor-General to oversee the LBP scheme. The Board is independent of the Ministry of Business, Innovation and Employment (MBIE), but MBIE provides administrative support to its role and functions.

The LBP scheme includes licensing classes covering the main areas of building work such as carpentry, roofing and external plastering. Most licensing classes have areas of practice – specific types of work within the licensing classes that a LBP can be certified in, indicating they are competent and experienced in that type of work.

Objectives of the LBP scheme

The primary objective of the LBP scheme is to enhance consumer protection and confidence by ensuring Restricted Building Work is carried out or supervised by competent building practitioners.

The LBP scheme aims to achieve this through:

- encouraging building practitioners to become licensed
- encouraging building practitioners to develop occupation-specific skills and knowledge
- enhancing accountability of individual building practitioners for the work they do, thereby raising the overall quality of building work
- improving consumers' ability to make informed choices when engaging the services of building practitioners.

What are the advantages of being a licensed LBP?

Being a LBP allows the licence holder to carry out or supervise Restricted Building Work. Licensing also provides recognises the person's skills and expertise, supports and encourages professional development, and provides distinction as part of a profession.

Being licensed allows LBPs to show the public, potential customers and the wider sector that they meet the government's minimum standard of competency in their licensed area. This allows those customers to have confidence in the LBP's knowledge and skill.

PROACTIVELY RELEASED

3. Proposal: Including stonemasonry in the LBP scheme

Why should stonemasonry be included in the LBP scheme?

Context

Stonemasonry is a specialised trade involving the sourcing, cutting and shaping of natural stones for a range of purposes. Construction stonemasonry is using those stones in the construction of a building, e.g. as a cladding material in residential buildings.¹ Stonemasons also work with engineers and designers to design both structural and decorative stone walls and features, and install stones in specific patterns or 'bonds' which affect their durability and integrity.

While stonemasonry may involve work that meets the general criteria of Restricted Building Work (in that it involves or affects a home's primary structure or weathertightness and requires a building consent), stonemasonry is not treated as Restricted Building Work because there is no LBP licensing class covering this work.

This means that while the design aspects of stonemasonry are considered Restricted Building Work and covered under the Design licensing class, the physical installation of stonemasonry on a building site is not currently Restricted Building Work.

Risk to consumers and buildings

When stone is used as a cladding material, the quality of masonry and workmanship has an effect on the weathertightness of a building. Poor quality stone cladding can leak, leading to the deterioration of stonework and risks in the structural integrity and safety of a building during an earthquake.

The sheer weight of stone clad walls increases the likelihood of failure during an earthquake. Poorly fixed stonework can detach and fall during earthquakes, damaging the building or injuring its inhabitants and people nearby. Water ingress as a result of poor weathertightness has costly consequences for which, at this stage, no practitioner can be held accountable before the Building Practitioners Board.

The failure of stone cladding could lead to costly repairs to homes and significant injuries or deaths:

- The amount of poorly executed stonemasonry is likely to be only a small proportion of construction stonemasonry activity, but the potential costs and consequences for affected consumers could be high.
- The stonemasonry industry has provided examples in which poor stonemasonry work has affected the weathertightness, durability, and earthquake resistance of buildings
- Consumers cannot complain about a stonemason's conduct or behaviour through the Building Practitioner Board unless the stonemason who carried out the work happens to hold a LBP licence in another field.

¹ For the purposes of this discussion document, references to 'stonemasonry' refer to construction stonemasonry.

Question 1: Do you want construction stonemasonry to be included in the LBP scheme? Why or Why not?

Question 2: Do you agree with our analysis of the risk from poor quality stonemasonry? Are you aware of any examples of poor quality stonemasonry?

Approach for proposing changes to licensing classes

Since the LBP scheme was established, a number of trade groups and individuals have contacted MBIE proposing new licensing classes and areas of practice under the scheme, or amending the existing classes.

MBIE has developed an approach to assess whether changes to LBP licensing classes are required, in order to assess these proposals. The steps are:

The need for change

Changes to LBP licensing classes will usually have costs and consequences for practitioners, consumers and taxpayers. So, MBIE has to make sure that licensing classes are only changed when there's a significant problem with how the scheme is working, or a significant opportunity to make the scheme work better.

The right type of change

If there's a need for change, MBIE needs to assess whether a change to licensing classes is the right type of change. MBIE will look at all of the potential options that could address the issue – for example creating new licensing classes/areas of practice, amending existing ones, changes to other parts of the building system, or non-statutory guidance.

The right time for change

If a change to licensing classes appears to be the right solution, we need to time the change carefully so that it can be implemented smoothly and efficiently. We also have to prioritise issues based on their significance and what else is going on in the building industry at the time.

Further information on MBIE's assessment approach, and the criteria under each step is attached in annex one.

MBIE considers that the proposal to include stonemasonry in the LBP scheme meets all three steps, because there is a significant opportunity to enhance the LBP scheme by mitigating the risks of poor quality stonemasonry in the construction industry. Further, the time for change is right as the industry has indicated a willingness to join the scheme, and has demonstrated this by establishing a professional association, and developing a qualification for stonemasonry.

Options to include stonemasonry in the LBP scheme

Options were assessed

The options to include stonemasonry in the LBP scheme have been assessed using the following criteria:

- *Effectiveness* – the option reduces the risk of stonemasons doing poor quality work.
- *Cost impacts* – the option should be cost-effective to put in place, and have low costs to stonemasons when complying with it.
- *Simplicity and consistency* – the option should be simple to administer and comply with, and be easy for practitioners and consumers to understand.

Three options have been proposed

The three options that have been proposed are:

- Option A: Establish 'Construction Stonemasonry' as a new LBP licensing class and define residential stonemasonry construction as Restricted Building Work.
- Option B (MBIE's preferred option): Establish 'Construction Stonemasonry' as an area of practice under the Bricklaying and Blocklaying licensing class, and define residential stonemasonry construction as Restricted Building Work.
- Option C: make no change, and stonemasonry remains excluded from the LBP scheme (status quo). Instead, MBIE promotes qualifications and professional association membership to stonemasons, and provides guidance to Building Consent Authorities (BCAs) on how to assure the quality of stonemasonry work.

Option A: Establish 'Construction Stonemasonry' as a licensing class

Under this option, 'Construction Stonemasonry' would be established as a new LBP licensing class. In addition, residential stonemasonry construction would be defined as Restricted Building Work. This means that stonemasons would be required to have a Construction Stonemasonry licence in order to carry out or supervise stonemasonry work that is Restricted Building Work.

In order to qualify for a Construction Stonemasonry licence, applicants would have to either:

- Demonstrate that they have obtained a recognised qualification in the stonemasonry field, and referees who can discuss the nature and extent of their work and job history; or
- Provide relevant and recent building projects that relate to the core set of competencies in the Construction Stonemasonry licensing class, and referees who can discuss the nature and extent of their work and job history.

Further, LBPs who are licensed will need to keep up to date with changing industry practices and regulatory changes through recording skills maintenance activities. The application and skills maintenance requirements will ensure that licensed stonemasons stay current and effective.

A Construction Stonemasonry licensing class under the LBP scheme would be effective at ensuring that construction stonemasonry is within the LBP scheme. Stonemasonry practitioners would be accountable for their work before the Board and consumers could make complaints regarding the

quality of their building work or poor behaviour. This would give consumers the additional protection that licensing brings.

However, a new licensing class for Construction Stonemasonry would have many of the same competency and performance requirements as the existing Bricklaying and Blocklaying licensing class. This could make it harder for individual LBPs to work out which licensing class to apply for, and more challenging for consumers to identify an appropriate practitioner for the work they need to have undertaken.

A Construction Stonemasonry licensing class would limit the scope of stonemasonry construction work to only those with this licensing class. For example, if an individual wanted to practice as both a bricklayer and a stonemason, they would be required to hold both licensing classes.

From a market perspective, MBIE considers that any increased costs to stonemasons as a result of mandatory licensing is unlikely to have an adverse impact on the supply of stonemasonry services in the market. The cost of licensing makes up a small proportion of the overall costs of being a building practitioner, and the benefits of being licensed would outweigh these costs.

Creating a Construction Stonemasonry licensing class is the costliest for MBIE in terms of administration and implementation, and has potential to cause confusion for both consumers and practitioners. As such, this is not the preferred option.

Option B: Establish 'Construction Stonemasonry' as an area of practice (preferred)

Under this option, 'Construction Stonemasonry' would be established as an area of practice under the Bricklaying and Blocklaying licensing class. In addition, residential stonemasonry construction would be defined as Restricted Building Work. This means that stonemasons would be required to have a Bricklaying and Blocklaying licence in order to carry out or supervise stonemasonry work that is Restricted Building Work.

In order to qualify for a Bricklaying and Blocklaying licence with the Construction Stonemasonry area of practice, applicants would have to either:

- Demonstrate that they have obtained a recognised qualification in the stonemasonry field, and referees who can discuss the nature and extent of their work and job history; or
- Provide relevant and recent building projects that relate to the core set of competencies in the Construction Stonemasonry licensing class, and referees who can discuss the nature and extent of their work and job history.

Further, LBPs who are licensed will need to keep up to date with changing industry practices and regulatory changes through recording skills maintenance activities. The application and skills maintenance requirements will ensure that licensed stonemasons stay current and effective.

A Construction Stonemasonry area of practice under the Bricklaying and Blocklaying licensing class under the LBP scheme would be as effective as the creation of a Construction Stonemasonry licensing class at ensuring that stonemasonry construction is within the LBP scheme. Stonemasonry practitioners would be accountable for their work before the Board as consumers could make complaints regarding the quality of their building work or poor behaviour. This would provide consumers the additional protection that licensing brings.

This option is supported by the New Zealand Stone Masons Association (NZSMA). Information provided to MBIE by the NZSMA indicates that many in their membership have a desire to be

licensed, in order to offer ongoing safety to people who choose to build their homes with stone, and ensure that suitably qualified and licensed stonemasons work in the industry.

This option would not be likely to cause confusion to practitioners, as a Bricklaying and Blocklaying licence is a natural fit for construction stonemasonry, which is similar to both brick laying and block laying work in some respects. Consumers would be able to identify practitioners who are entitled to undertake this Restricted Building Work easily.

In addition, due to the similar scope of work (and competence) between both Bricklaying and Blocklaying and Construction Stonemasonry, this option would allow a competent practitioner in these areas to expand their scope of work without holding an additional licensing class. Adding Construction Stonemasonry as an area of practice means that holders of Bricklaying and Blocklaying licences would be legally entitled to carry out residential construction stonemasonry, but must only do so if they are competent.

The costs of introducing a new area of practice to the LBP scheme are lower in comparison than for a new licensing class. It is likely that these costs are outweighed by the benefits of including stonemasonry in the LBP scheme. These benefits include higher confidence in the quality of construction stonemasonry Restricted Building Work, consumer confidence in the stonemason profession and being able to hold stonemasons to account for poor conduct or behaviour before the Building Practitioners Board.

From a market perspective, MBIE considers that any increased costs to stonemasons as a result of mandatory licensing is unlikely to have an adverse impact on the supply of stonemasonry services in the market. The cost of licensing makes up a small proportion of the overall costs of being a building practitioner, and the benefits of being licensed would outweigh these costs.

This option is the preferred option by MBIE due to the similarities with the existing Bricklaying and Blocklaying licensing class, the lower implementation costs than Option A and the benefits to consumers in selecting the right type of LBP with ease.

Option C: Status quo

Under this option, there would be no change to the structure of the LBP scheme and stonemasonry would not be defined as Restricted Building Work. MBIE would continue to encourage stonemasons to have qualifications and membership of professional associations, to increase the capability and competence of stonemasons in New Zealand.

This option would be the least costly and easiest to implement, as it does not change any existing licensing classes or areas of practice. However, this option is the least effective at addressing the risks that stonemasonry construction presents and does not provide a framework for the ongoing support of stonemasons in New Zealand.

Further, MBIE does not believe that this option would be able to achieve the criteria outlined above:

- Information and education campaigns to promote the uptake of the stonemason qualification and membership into the NZSMA are not as effective as Option A and Option B, because qualification and membership are voluntary and not mandatory.
- Consumers would not be able to hold poor quality stonemasons accountable by making a complaint against a LBP to the Building Practitioners Board. Consumers would have to use existing dispute resolution mechanisms such as the disputes tribunal or District Court to resolve any claims for faulty work or damages caused by substandard work.
- There could be continued confusion about whether or not residential construction stonemasonry is Restricted Building Work, and who is able to carry out or supervise this work in residential buildings.

Overview of options

MBIE prefers Option B because it would be more effective, equitable and efficient than Options B or C. The table below summarises MBIE's analysis of these options.

Overview of Options Analysis			
Criteria	Option A	Option B	Option C
Effectiveness	+	+	-
Cost Impacts	-	Neutral	+
Simplicity & Consistency	-	+	Neutral

Question 3: How would your preferred option affect you or your business?

Question 4: Why do you support or not support MBIE's preferred option (Option B)?

Question 5: Is there anything else MBIE should consider when assessing which option to put in place?

Transitional Provisions

We recognise that it will take time for stonemasons to apply and be assessed for licenses, under both Options A and B. We propose that there is a one year transition period to enable stonemasons to apply and be granted licenses before stone masonry becomes Restricted Building Work.

Question 6: Do you agree with the proposed one year transitional period? Why or why not? What other period would you suggest?

4. Next Steps and implementation

We welcome your written submissions on the proposals discussed in this document. Please provide your feedback to MBIE before **5pm, 12 November 2018**. Instructions on how to submit your submission can be found at the beginning of this document.

Once we have considered the submissions, we will develop final proposals. The proposals will then go to Cabinet for approval. If they are approved, they will form the basis of new regulations. Please see page 5 for a proposed timeline of key milestones.

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5. Summary of questions for discussion

Question 1: Do you want construction stonemasonry to be included in the LBP scheme? Why or Why not?

Question 2: Do you agree with our analysis of the risk from poor quality stonemasonry? Are you aware of any examples of poor quality stonemasonry?

Question 3: How would your preferred option affect you or your business?

Question 4: Why do you support or not support MBIE's preferred option (Option B)?

Question 5: Is there anything else MBIE should consider when assessing which option to put in place?

Question 6: Question 6: Do you agree with the proposed one year transitional period? Why or why not? What other period would you suggest?

MBIE has recently consulted about changes to the licensing fees and levy for the LBP scheme. You can view the proposed fee changes that are under consideration [here](#). While the fees consultation is now closed, MBIE welcomes any other comments you may have regarding the licensing classes and areas of practice aspect of the LBP scheme. Where possible, please include evidence to support your views, for example, references to facts and figures, or relevant examples.

Note:

Further information on the process for providing feedback is provided at the start of this document ('How to have your say'). When answering these questions, please let us know who you are responding on behalf of (e.g. for yourself, or on behalf of a company with several Licensed Building Practitioners). This helps us to understand the impact of the proposals on different types of workers.

6. Glossary

Below are definitions of some of the key terms used in this document. The meanings given are not legal or technical definitions. They are a guide to the meaning of words used in the context of this document.

Building Act 2004 (Building Act): the primary legislation governing the building and construction industry, which sets out the rules for the construction, demolition and maintenance of new and existing buildings in New Zealand.

Building Practitioners Board : a Board responsible for:

- Hearing appeals against licensing decisions made by the Registrar
- Investigating and hear complaints about the conduct of LBPs
- Approving rules about LBPs (the LBP Rules)
- Reporting annually to the Minister for Building and Construction on its activities.

The board is independent of MBIE though the Ministry supports its role and functions.

Licensed Building Practitioner (LBP): LBPs are designers, carpenters, brick and blocklayers, roofers, external plasterers, site and foundations specialists who have been assessed to be competent to carry out work essential to a residential building's structure or weathertightness.

Restricted Building Work (RBW): RBW is building or design work that is critical to the integrity of a building, which requires a building consent and is covered by a licensing class. It includes:

- the primary structure (construction or alteration) – all the structural elements of the building that contribute to resisting vertical and horizontal loads
- external moisture management systems (construction or alteration) – the building elements and systems which prevent the ingress of external moisture and help control moisture within the building fabric
- fire safety systems(design) – the building elements intended to protect people and property from fire.

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7. Annex one – MBIE’s approach to assessing proposals for changes to LBP licensing classes

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PROPOSING CHANGES TO LBP LICENSING CLASSES – ASSESSMENT CRITERIA AND TEMPLATE

PURPOSE

Since the Licensed Building Practitioner (LBP) scheme was established in 2007, a number of trade groups and individuals have contacted the Registrar of Building Practitioners proposing new licensing classes and areas of practice under the scheme, or amending the existing classes.

The purpose of this document is to provide building practitioners with more clarity about how the Ministry of Business, Innovation and Employment (MBIE) assesses these proposals. This document sets out:

- › the criteria that MBIE uses to assess whether changes to LBP licensing classes are required
- › a template outlining the types of supporting information that help MBIE assess whether a proposal meets the criteria.

BACKGROUND

The LBP licensing classes cover broad types of building and design work that are crucial to a building's performance, such as Carpentry or Roofing. Most licensing classes include areas of practice, which are specialised types of work within the scope of the licensing class that require specific competencies, skills or experience.

The scheme wasn't designed to cover every trade and specialist area in the building industry, and changes to licensing classes are not the only way to address issues in the industry. It's up to the Government and the Building Practitioners Board to decide whether changes to licensing classes are needed, based on what will work best for consumers, building practitioners and taxpayers.

MBIE uses the criteria in this document to assess whether a proposal needs to be considered further by decision-makers. If you have a proposal for change, you can use the template at the end of the document to provide MBIE with appropriate information and supporting evidence about your proposal.



MBIE'S APPROACH TO ASSESSING PROPOSALS

MBIE assesses proposals for change in three steps:

STEP 1 THE NEED FOR CHANGE

Changes to LBP licensing classes will usually have costs and consequences for practitioners, consumers and taxpayers. So, MBIE has to make sure that licensing classes are only changed when there's a significant problem with how the scheme is working, or a significant opportunity to make the scheme work better.

STEP 2 THE RIGHT TYPE OF CHANGE

If there's a need for change, MBIE needs to assess whether a change to licensing classes is the right type of change. MBIE will look at all of the potential options that could address the issue – for example creating new licensing classes/areas of practice, amending existing ones, changes to other parts of the building system, or non-statutory guidance.

STEP 3 THE RIGHT TIME FOR CHANGE

If a change to licensing classes appears to be the right solution, we need to time the change carefully so that it can be implemented smoothly and efficiently. We also have to prioritise issues based on their significance and what else is going on in the building industry at the time.

Each step has a specific set of criteria, outlined below.

STEP 1: THE NEED FOR CHANGE

The criteria that MBIE considers when assessing whether there is a need for change are:

- A. Alignment with the objectives of the LBP scheme** – These objectives provide a good guide as to whether a problem or opportunity is relevant to the scheme. The objectives of the scheme are to raise the quality of building and construction and consumer confidence in the industry by:
- > improving the competence of people carrying out restricted building work
 - > strengthening accountability of individual building practitioners
 - > improving transparency of responsibility for building quality
 - > focusing on the production of quality buildings that are healthy and safe.
- B. The significance of the problem or opportunity** – Below are some examples of problems and opportunities that MBIE might see as significant and requiring a change to the status quo:
- > If the scheme allows practitioners to carry out or supervise work that they may not be competent to do, and this work poses a significant risk to the structural integrity or weather-tightness of residential buildings
 - > If the scheme doesn't allow practitioners to carry out or supervise work that they're competent in, and this is adding significant costs for consumers and/or practitioners

- > If the scope and structure of a licensing class or area of practice no longer reflects how the industry works or how practitioners are trained
- > If the LBP scheme offers a low-cost way to significantly improve the skills and accountability of a given trade group
- > If consumers are making poor and costly choices about who to employ because they aren't getting vital information about the competence of building practitioners.

STEP 2: THE RIGHT TYPE OF CHANGE

The criteria that MBIE uses to assess the potential options for addressing the issue are:

- A. Cost of making the change is outweighed by benefits** – Changing the scheme is costly, so we need to make sure that the benefits of the change are worth it.
- B. Scope of practice is aligned with scope of competence** – Practitioners should be allowed to carry out and supervise work they are competent to do, and discouraged or prevented from carrying out high-risk building work that they're not competent to do.
- C. Ongoing cost and administrative burden of the scheme are minimised** – Getting licensed and maintaining a licence costs practitioners their money and time and we need to keep these costs to a minimum.
- D. Changes to the design of the scheme are as simple as possible** – We need building practitioners and consumers to understand how the LBP scheme works, so the overall design of the scheme needs to be kept relatively consistent and as simple as possible.

STEP 3: THE RIGHT TIME FOR CHANGE

The criteria that MBIE takes into account when considering the potential timing of changes to the LBP licensing classes are:

- A. The relative priority of the problem or opportunity** – This is primarily based on the significance of the issue, but may also involve the following factors:
 - > How clear the evidence is about the impacts of the problem
 - > The urgency and importance of other planned changes to the LBP scheme
 - > Whether the issue is linked to other Government priorities (e.g. housing affordability).
- B. The trade group is ready to be licensed** – If the change would extend the scheme to include a new trade group, the following steps may need to be completed before licensing can be introduced:
 - > Establishing a national association or other organisation that can represent the views of the trade group
 - > Defining the competencies a new LBP would need to demonstrate in order to be licensed under the licensing class/area of practice
 - > Identifying or developing a high-quality qualification that gives a practitioner these competencies
 - > Confirming that are enough competent practitioners available to meet demand if licensing becomes mandatory.

C. The changes are aligned with other reforms in the building sector – The timing of a change to licensing classes should take into account the other projects and changes currently underway in the LBP scheme and the broader building system.

TEMPLATE – SUPPORTING INFORMATION THAT BUILDING PRACTITIONERS AND INDUSTRY GROUPS CAN PROVIDE

If you have a proposal for changes to the LBP licensing classes and areas of practice, you can help MBIE work through the criteria outlined in this document by providing us with appropriate information and supporting evidence. The template below identifies the kind of information that will be useful. If there is not enough space below, please provide additional pages or other information to support your case.

QUESTION	YOUR CURRENT INFORMATION/UNDERSTANDING
<p>Your details</p>	<p>Give us your name and full contact details, so we can get back in touch with you. If you're making the proposal on behalf of a trade group or association, clearly state the name of the group and your position or role in the group.</p>
<p>What is the problem/opportunity?</p>	<p>What sort of problem/opportunity is it? E.g. A risk of building failure? An unnecessary cost? How significant is it? Do you have any numbers that show the scale or magnitude? How does it affect consumers? How does it affect building practitioners? What are the causes of the problem? What would happen if we left things as they are?</p>
<p>What are you proposing?</p>	<p>What change do you think is required? What types of work would fit under the new/amended licensing class or area of practice? How would this fit with existing classes/areas of practice? Is there overlap or conflict? How would this fit with the restricted building work (RBW) regime?</p>

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QUESTION	YOUR CURRENT INFORMATION/UNDERSTANDING
<p>Who would fit under the new/amended licensing classes or areas of practice?</p>	<p>Who are the practitioner/industry groups who would be affected? What sort of building practitioners would fit under the new/amended licensing class or area of practice? What competence/experience/training would you expect them to have? About how many of these competent/experienced/trained practitioners are there currently in the industry? What sort of LBP licences do these practitioners already hold (if any)?</p>
<p>What do others have to say about this proposal?</p>	<p>How much support is there from your own trade/practitioner group? E.g. if you are part of a trade group or association, have you surveyed your members? What about practitioners who are part of the same trade but aren't members of your association? How much support is there from other trades or practitioner groups that might be affected by the proposal? Are consumers aware of this issue or proposal? If so, what are their views?</p>

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