

18 April 2023

Occupational Regulation Reforms
Building System Performance, Building Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140

via email: building@mbie.govt.nz

The New Zealand Registered Architects Board (NZRAB) welcomes the opportunity to comment on this submission. In this cover letter we give a brief synopsis of our role, make the comment that we believe that some of the material in the consultation document and submission questions is flawed, and note that we have in the past already advocated for clearer more consistent regulation. Finally, we give a summary of what we believe needs to happen to solve these issues.

We make no comment on Part 1 of the consultation document; our submission solely relates to Part 2.

Role of NZRAB

The NZRAB is an independent professional regulator, established by Parliament as a statutory body through the Registered Architects Act 2005. We are accountable to government but are fully funded by Registered Architects and applicants for registration. Our Act gives us a number of core functions.

Under section 50 of the Act, the NZRAB's functions are:

- making rules relating to architects
- registering architects, issuing certificates of registration, and assessing whether architects meet the standard for continued registration
- maintaining a register of architects
- investigating complaints and, if required, disciplining architects
- providing information to the public about the registration system for architects.

Under section 3, one of the purposes of the Act is 'to protect the title of registered architect'. Section 7 of the Act defines how the titles 'registered architect' and 'architect' are to be protected. This means that:

- no person except a registered architect can use the title 'registered architect'
- no person who designs buildings, prepares plans and specifications for buildings or supervises the construction of buildings may use the title 'architect' unless they are a registered architect
- any person who breaches the above can be prosecuted and fined up to \$10,000.

The NZRAB is responsible for administering the current Act and we have over the course of our existence identified a number of areas where there are limitations or where changes could be positively made. We have detailed experience operationalising and putting into practice the Act and the associated Registered Architects Rules 2006.

The current system provides a benchmarked internationally recognised and robust registration process, which ranges from the accreditation of New Zealand degrees and the competencies required at graduation, through registration and throughout an architect's career. In addition to our pathway for New Zealand Masters architectural graduates, we offer alternative pathways to registration through our mutual recognition agreements for overseas architects, and for architectural designers and technicians. We work to uphold the protection of title.

The NZRAB fully supports the continuation of these processes and has thoughts on how they may be strengthened.

Submission questions flawed

Had we had an opportunity to consider the consultation material before it was released we could have corrected some misunderstandings and inaccuracies, which would likely have influenced the analysis contained within it, and we believe it would have led to the questions being formulated differently.

As it reads, the consultation material has elicited a range of responses from architects, including:

"It made me angry. It is a very poor document, set up to get the answers that MBIE want to have to justify changing our governing legislation and water down our professional standing. It makes negative, almost disparaging comments about NZRAB processes when comparing Architects with ADNZ designers without providing equivalent information"

"There are statements on architects' registration that are wrong and very misleading."

The consultation document appears to have been prepared with a strong, if not complete, emphasis on residential building work. That may be relevant for the first part of the consultation being undertaken, but the second part relates to a far broader scale and scope of activity.

These are symptoms of a widespread lack of understanding of who the players are and what parts they play in the design side of the building and construction sector. There needs to be more research done prior to the next steps in this review process to make future consultation meaningful and based on accurate material. It is essential that questions are run past key industry participants prior to issuing, and the NZRAB would like to be actively involved in the next steps.

We have already advocated for change

Changes to the Building Act which introduced the Licensed Building Practitioner (LBP) Scheme in 2007, specifically the LBP Design category and the introduction of the (limited) Restricted Building Work (RBW) regime in 2012, have caused confusion as to who can undertake building

design work and what qualifications and/or experience is required in order for that work to be undertaken. The NZRAB Board is concerned that this dilutes the understanding of who is an architect, who can undertake building work in a safe and competent manner, and that this confusion has the potential to introduce public safety concerns.

The NZRAB has for a number of years advocated for clear regulation to provide:

1. A single tiered independent registration entity for architects, LBPs (Design), architectural designers and architectural technicians that sets professional standards, makes registration assessments and decisions, protects titles, administers public registers and investigates complaints.
2. A single building sector disciplinary tribunal to conduct hearings into serious complaints.
3. Restricted Building Work (RBW) being extended to cover all buildings, with this being delineated into permissible levels based on complexity, difficulty and risk.

Point 1 – Consistency

The establishment of a single tiered independent registration entity for architects, LBPs (Design), architectural designers and architectural technicians has been proposed to ensure that the ‘architectural’ design in the construction industry is regulated effectively and efficiently – and also so that the industry and the public have a better understanding of the skills behind the players. Here are some reasons why:

- *Consistency in standards:* A single tiered independent registration entity would ensure that all professionals in the construction industry adhere to the same professional standards. Having protected titles for each tier would make it clear what each role does. This would ensure consistency in the quality of work produced by professionals in the industry at each tier, which would ultimately benefit clients, consumers, and the quality of New Zealand’s built environment and building stock.
- *Improved regulation:* A single tiered independent registration entity would be responsible for setting professional standards, making registration assessments and decisions, moving between tiers, protecting titles, administering public registers and investigating complaints. This would improve the regulation of the industry, making it easier to identify and address issues such as incompetence or negligence or unethical behaviour.
- *Increased consumer confidence:* A single tiered independent registration entity would increase consumer confidence in the construction industry by providing a clear and transparent process for registering design professionals and ensuring that they meet specific standards across all levels and competencies. This would give consumers greater confidence when engaging with professionals in the industry, ultimately leading to better outcomes for all parties involved and for the built environment.

Point 2 – Discipline

For a number of years ourselves, Te Kāhui Whaihanga New Zealand Institute of Architects (NZIA) and what is now Engineers New Zealand (ENZ) have proposed a single building sector disciplinary tribunal as being necessary to conduct hearings into serious complaints for several reasons:

- The building industry is a complex and highly regulated sector that involves a wide range of professionals, including architects, engineers, builders and tradespeople. With so many

different parties involved in the construction process, it can be difficult to determine who is responsible for any issues that arise.

- The consequences of poor building practices can be severe. Building defects can pose significant risks to public health and safety and lead to costly repairs or legal action. It is essential that there is a robust system in place to ensure that those responsible for substandard work are held accountable.
- Having a single independent disciplinary tribunal for the building sector would provide consistency and transparency in how serious complaints are handled. It is proposed that tribunal members would be paid and that each tribunal would have at least one member who was an expert and the same profession as the person being complained about. This would help to build trust between consumers and industry professionals and ensure that everyone is held to the same high standards.

We do recognise that the landscape has changed since this position was last articulated by the NZRAB, NZIA and ENZ, however, we continue to advocate for and see merit in more consistent and uniform approaches to managing serious complaints in the building sector.

Point 3 – Restricted Building Work

Restricted Building Work (RBW) is a term used to describe building work that is critical to the integrity of a building and requires a high level of skill and knowledge to complete. Currently, RBW only applies to certain residential projects that are critical to make a home structurally sound and weathertight.

The NZRAB believes that RBW should be extended to cover all buildings (other than the ancillary buildings not for human habitation and minor storage facilities contained within Importance Level 1), regardless of their size or complexity, and that all buildings should be built to a high standard to ensure they are safe and durable.

By extending RBW to cover almost all buildings, it would ensure that all building work is designed by 'registered' professionals, and carried out or supervised by qualified LBPs who have the necessary skills and knowledge appropriate to the project to complete the work to a high standard. It would also help to improve the quality of all building work – both to new and existing buildings – and reduce the risk of defects and failures.

The extension of RBW would also help to address some of the issues that have been identified, such as poor workmanship, non-compliance with building codes, and inadequate supervision of building work.

The proposed extension of RBW would be delineated into permissible levels based on complexity, difficulty and risk. This means that certain types of building work would require a higher level of skill and knowledge than others, depending on factors such as the size and complexity of the building, the type of materials used, and the level of risk involved. By delineating RBW in this way, it would ensure that designers and LBPs have the necessary skills and knowledge to complete the work safely and effectively.

The NZRAB believes that our suggested approach – a single tiered regulatory system, together with an extended RBW – is a long-term solution. We acknowledge that this may not have the

support of the entire architectural profession, or others in the building and construction sector. However, from our unique perspective we have arrived at this view as the most viable across-industry solution for architects, LBPs, architectural designers and architectural technicians.

What needs to happen

In the short-to-medium term, the NZRAB also believe there are a number of improvements and enhancements that could be made to the current legislation and organisational arrangements. In particular, there are several solutions to the issues above:

- Benchmarking against international jurisdictions
- How new technologies and methods of working are dealt with, particularly in the future, so that any updated legislation can cope with this change over a long period of time
- Consideration of whether architectural practices should be licensed in addition to individuals from a risk perspective.

In early May, we have a meeting face-to-face with our US, UK and Australian counterparts in Sydney and following this we will have further and comparable information to share with you. We would like to reiterate that the NZRAB has a strong desire to be actively involved in the next stages of this review.

Contact

We look forward to meeting with you once you have had the opportunity to consider our submission. In the meantime, if you have any questions related to it please contact our Chief Executive Dougal McKechnie on 027 371-4067 or by email at dougal@nzrab.org.nz.

Yours sincerely



Gina Jones
Chair, New Zealand Registered Architects Board

Attachments:

1. Submitter Information
2. NZRAB Submission
3. Appendix A – History of the Act

Submitter information

MBIE would appreciate you providing 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. Please note that all questions are optional. Any information you provide will be stored securely.

A. About you

Name:

Email address:

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

Yes

No

C. What is the best way to describe your role/organisation? If you hold any licences, please list them below too.

D. What is your age?

Under 18

18-24

25-34

35-44

45-54

55-64

65+

E. What part of the country are you in?

Northland

Auckland

Waikato

Bay of Plenty

Gisborne

Hawke's Bay

Otago

Southland

Other (please state):

Taranaki

Manawatū-Whanganui

Wellington

Nelson-Tasman

Marlborough

West Coast

Canterbury

F. 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.

G. Privacy information

The Privacy Act 2020 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.

MBIE may upload submissions or a summary of submissions received to MBIE's website at www.mbie.govt.nz. If you do **not** want your submission or a summary of your submission to be placed on our website, please tick the box and type an explanation below:

Part 2: Issues MBIE would like feedback on

Part 2 of this document focusses on issues that MBIE would like to seek feedback and evidence on, to inform our understanding of the issues. This is work that is in early stages of the policy development process, and not yet ready to progress to options or proposals for change.

MBIE is seeking feedback and evidence on the following regimes and issues:

- 2A: Registered Architects regime: Review of the *Registered Architects Act 2005* to determine if it is still fit for purpose.
- 2B: Licensed Building Practitioners regime: Review of the competencies and minimum standards for entry that must be met to be licensed.

Following public consultation and consideration of the submissions, MBIE will undertake further policy work and develop options for consultation next year, if appropriate. Your feedback will inform the next steps and any proposals for change.

Part 2A

Review of Registered Architects Act

For this section, please refer to pages 32-40 of the consultation document.

MBIE is undertaking a review of the registered architects regime to determine whether the current regime has achieved the benefits that were originally intended and has resulted in the effective and efficient regulation of architects.

We are now seeking your feedback on the extent of the issues MBIE has identified with the regime and your views on whether the regime has achieved the following outcomes:

- increased the overall competency of architects
- improved confidence in the building industry by increasing the credibility of those undertaking design work as architects
- resulted in higher standards of those providing design services in the building industry.

Outcome 1: Increase in the overall competency of architects

14. Is there a difference in the quality of a registered architect's design work compared to other design professionals, such as design LBPs?

Yes

No

Please explain your answer.

Question 14: Is there a difference in the quality of a registered architect's design work compared to other design professionals, such as design LBPs?

Yes, there is a massive difference in the quality and scope of the design work undertaken by Registered Architects, being commercial, industrial, educational, community, residential, public, environmental, cultural, masterplanning, specialisation (e.g. acoustics, prefabrication, etc) compared to the residential work and less complex non-residential building work typically undertaken by non-registered designers and Design LBPs.

In short, **only** Registered Architects are qualified to design highly complex buildings. To answer the question, we have first provided a background section about Registered Architects and then discuss the difference in quality with non-registered designers and LBPs.

Registered Architects – background

What Registered Architects do

Registered Architects are responsible for designing buildings and other structures that are safe, functional and aesthetically pleasing. They work closely with clients to understand their needs and goals, within the specific site requirements and context, and then develop drawings and specifications that meet those requirements. They also may oversee the construction process to ensure that the project is built according to the documents and meets all applicable building codes and regulations. This means that they have a deep and holistic understanding of the technical aspects of building design and construction, as well as the aesthetic and functional aspects of architecture.

Registered Architects must also consider the implications of their work for issues such as sustainability, social responsibility and cultural sensitivity. They work closely with contractors, engineers and other professionals to ensure that the building work is coordinated and is constructed according to the approved documents. Registered Architects also perform a neutral 'quasi-judicial' role in administering construction contracts between the client and main contractor.

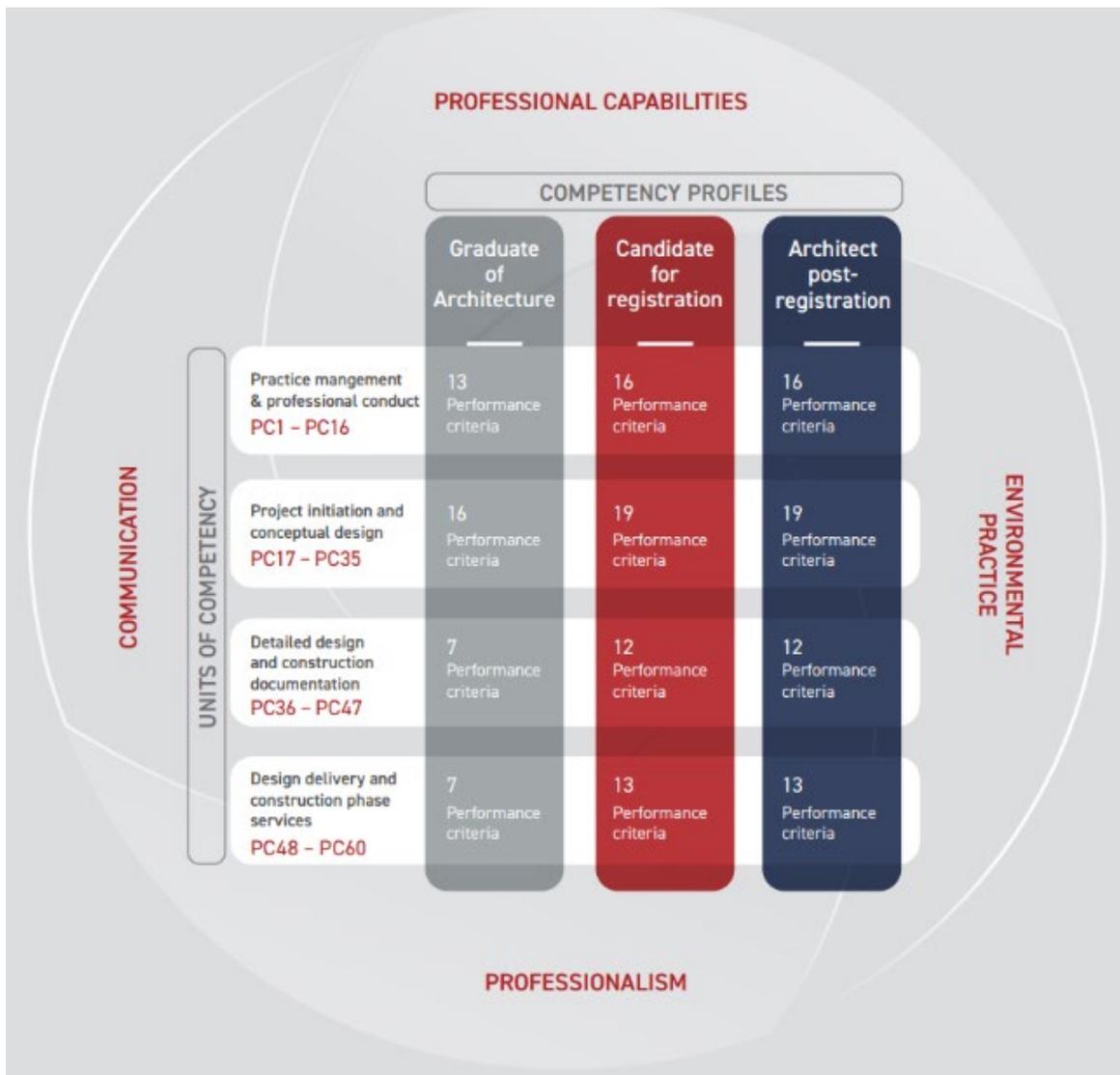
Architectural competencies

We share with Australia the National Standards of Competency for Architects (NSCA) (see: [2021 NSCA](#)). These competency standards are comprehensively reviewed every five years, most recently completed in 2021. The first competency standards were published in 1973. Since 2012, they have been embedded in Australian and New Zealand Architecture Program Accreditation Procedure (ANZAPAP) that guides the review and accreditation of Australian and New Zealand Master of Architecture qualifications. The New Zealand Registered Architects Board (the NZRAB) run this for the New Zealand programmes.

The NSCA underpins all of our assessment processes including the accreditation of university degree architecture programmes, knowledge and experience required at initial registration, and for the five-yearly ongoing registration competence reviews we undertake. The 2021 review introduced new elements across all competencies to reflect indigenous and cultural elements, and to strengthen building sustainability and environmental considerations. We are currently working to prepare a New Zealand addendum to confirm what the cultural, and strengthened sustainability and environmental considerations, look like in a New Zealand context.

In the diagram below:

- PC17-60 align with the current New Zealand Construction Industry Council (NZCIC) project stages of Project Establishment, Concept Design, Preliminary Design, Developed Design, Detailed Design, Procurement, Construction Administration and Observation and Post Completion.
- The NZCIC stages were aligned with the stages from the NZIA Contract documents in 2016.
- In addition to PC 17-60, and the NZCIC stages, applicants for initial registration are also assessed against PC1-16 Practice Management and Professional conduct.



The NSCA is overlaid with Rule 7 of the Registered Architects Rules 2006 which requires applicants to:

- (1) To meet the minimum standard for registration, a person must demonstrate that he or she is able to practise competently to the standard of a registered architect.
- (2) The extent to which the person is able to do the following must be taken into account in assessing whether or not he or she meets the overall standard in subclause (1):
 - (a) comprehend, and apply his or her knowledge of, accepted principles underpinning—
 - (i) widely applied good practice for professional architecture; and
 - (ii) good practice for professional architecture that is specific to New Zealand; and
 - (b) demonstrate an ability to apply the accepted principles referred to in paragraph (a) through the exercise of knowledge, imagination, judgement, collaboration, and professional responsibility; and
 - (c) demonstrate a sound understanding of the stages and processes of an architectural commission, including—
 - (i) project establishment; and
 - (ii) the design stages; and
 - (iii) detailed design and documentation; and
 - (iv) contractor procurement; and
 - (v) administration and observation of contract work; and
 - (d) demonstrate an ability to realise a complex architectural project based on knowledge and appropriate professional experience; and

- (e) understand the risks and responsibilities of establishing and maintaining an architectural practice; and
- (f) conduct his or her practice of architecture to an ethical standard at least equivalent to the code of ethical conduct; and
- (g) understand and comply with the applicable New Zealand statutory and regulatory requirements, including the building code.

After initial registration architects may specialise. Some applicants are specialising at initial registration and can become registered if they meet the requirements of the rules and competencies.

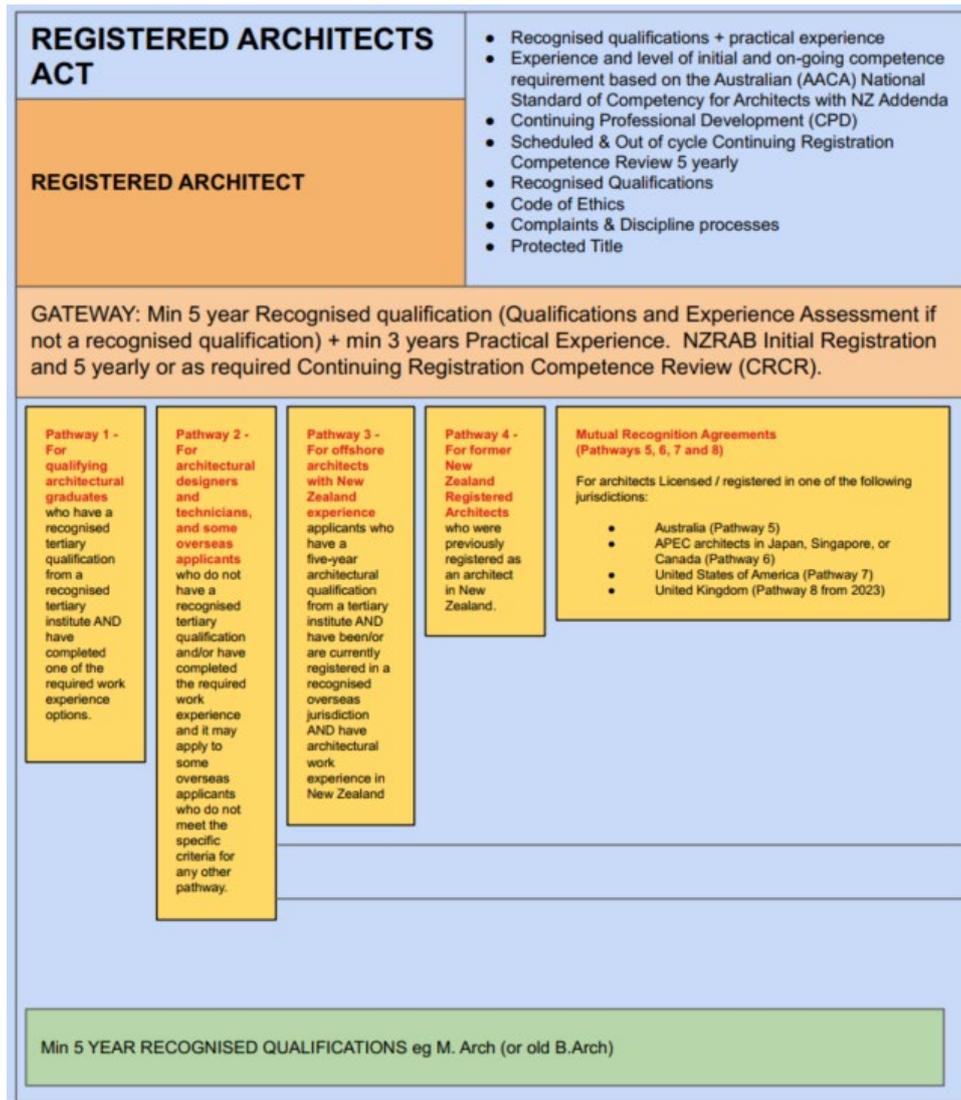
The five-yearly Continuing Registration Competency Review (CRCR) – supported by the individual’s work experience and how they have maintained the currency of their architectural knowledge and skills since their last assessment – considers holistically the individual’s areas and scope of practice and the stage they are at in their career. Architects are encouraged to consider all that is relevant to the stage that they are at in their career, the type of architecture they practice, the roles they fulfil and the services that they provide. Evidence is required by the NZRAB from architects to prove the type of work they are undertaking, and the commitment they are making to ongoing professional development. The NSCA 2021 was expanded with additional competencies required of architects as experienced practitioners.

The NSCA standard and our rules are not only harmonised and consistent across architectural training, registration and continuing registration, but they importantly align with those of Australia and with the NZCIC Design Guidelines.. It is also used consistently among all accredited Master of Architecture programmes offered across Australia (27 programmes offered by 22 Schools of Architecture), New Zealand (eight programmes offered by four Schools of Architecture) and Hong Kong (three programmes offered by three Schools of Architecture).

The diagram below shows a comparison of Project Stages used in the UK, Europe, US, Australia and New Zealand (and elsewhere). There is a high degree of commonality.

	Pre-Design		Design				Construction	Handover	In Use	End of Life
	0	1	2		3	4	5	6	7	
RIBA (UK)	Strategic Definition	Preparation and Brief	Concept Design	NOT USED	Developed Design	Technical Design	Construction	Handover & Close Out	In Use	NOT USED
ACE (Europe)	0	1	2.1	2.2	2.3	2.4	3		4	5
	Initiative	Initiation	Concept Design	Preliminary Design	Developed Design	Detailed Design	Construction	NOT USED	Building Use	End of Life
AIA (USA)			-		-	-	-			
	NOT USED	NOT USED	Schematic Design	NOT USED	Design Development	Construction Documents	Construction	NOT USED	NOT USED	NOT USED
APM (Global)	0	1	2		3	4	5	6	7	
	Strategy	Outcome Definition	Feasibility	NOT USED	Concept Design	Detailed Design	Delivery	Project Close	Benefits Realisation	NOT USED
Spain			-			-	-	-		
	NOT USED	NOT USED	Proyecto Básico	NOT USED	NOT USED	Proyecto de Ejecución	Dirección de Obra	Final de Obra	NOT USED	NOT USED
NATSPEC (Aus)		-	-	-	-	-	-		-	
	NOT USED	Establishment	Concept Design	Schematic Design	Design Development	Contract Documentation	Construction	NOT USED	Facility Management	NOT USED
NZCIC (NZ)		-	-	-	-	-	-		-	
	NOT USED	Pre-Design	Concept Design	Preliminary Design	Developed Design	Detailed Design	Construct	NOT USED	Operate	NOT USED
Russia			-	-	-	-	-			
	NOT USED	NOT USED	AGR Stage	Stage P	Tender Stage	Construction Documents	Construction	NOT USED	NOT USED	NOT USED
South Africa		1	2	3	-	4	5			
	NOT USED	Inception	Concept and Viability	Design Development	NOT USED	Documentation	Construction	Close Out	NOT USED	NOT USED

How to become a Registered Architect



Registered Architects (under Pathway 1 which is the most common pathway) will have completed a rigorous education, be holding a recognised Masters architectural degree (five years) and will have undertaken a minimum of three years of practical experience (5,250 hours). Of this, 3,550 hours must be subsequent to obtaining the recognised qualification (from the date the degree or proof of eligibility to graduate is provided), and at least 1,650 hours must be spent under the direction of a Registered Architect in New Zealand. See [Appendix A: History of Architects Act](#), which contains a section on the pathways process.

Both the supervising architect and the applicant must share the same normal place of work and the supervision must take place on a project-by-project basis; up to 1,650 hours practical experience may be gained working in other sectors of the building industry, or while self-employed. Suitable employment would include working with a construction firm, sub-trade, interior designer, designer, quantity surveyor, town planner, urban designer, structural or services engineer. Applicants produce employer signed project records forms as evidence of their hours and experience across the required competencies.

Following this, applicants prepare up to three case studies to demonstrate how they meet the minimum standards required, with at least one project meeting the definition of a complex project. Once an application is accepted a Professional Conversation is held between the applicant and two experienced architects who have been trained (process generally takes 18 months, with ongoing yearly training) to be assessors, which ensures they meet minimum standards of competency, ethics and professionalism. The case studies form an aide memoire for the Professional Conversation and are not assessed.

International

The Bologna Declaration/Lisbon Recognition Convention establishes the framework for the mutual recognition of higher education qualifications in Europe and a number of non-European jurisdictions including the US, Canada, Australia and New Zealand. New Zealand is one of 34 members of the Commonwealth Association of Architects (CAA) and one of 21 members of the APEC Architect Project, which acts as a mechanism for mobility for architects.

Our mutual recognition programmes are with jurisdictions that have similar local requirements for registration (i.e. a Masters degree in Architecture and between three to five years' minimum post-graduation work experience).

Under section 14 of the Trans-Tasman Mutual Recognition Act 1997, Australian registration is considered a direct equivalent to ours and there are no conditions required. This is known as our Pathway 5. We have a mutual recognition agreement with Australia which sets this out. We share equivalent standards under the 2021 NSCA, which underpins initial and continuing registration processes and the standard for accreditation of architecture programmes leading to registration as an architect in both Australia and New Zealand.

The NZRAB currently have mutual recognition agreements with:

- Australia (Pathway 5)
- The APEC economies of Japan, Singapore and Canada (Pathway 6)
- The US (Pathway 7)
- and soon to be the UK (Pathway 8).

We also operate a pathway, known as Pathway 3, for offshore architects with New Zealand experience applicants who:

- have a five-year architectural qualification from a tertiary institute, AND
- have been/or are currently registered in an overseas jurisdiction, AND
- have the required architectural work experience in New Zealand and demonstrated in an interactive assessment that they are able to practice competently in New Zealand.

In addition, we operate a pathway, known as Pathway 2, for some overseas applicants who do not meet the specific criteria for any other pathway, and who do not have a recognised tertiary qualification but have completed the required work experience and/or supplementary education requirements determined by the Qualifications and Experience Assessment Panel (QEAP). This is also the pathway for architectural designers and technicians to become Registered Architects. The pathways are illustrated on the next page.

EXISTING SITUATION

REGISTERED ARCHITECTS ACT

REGISTERED ARCHITECT

- Recognised qualifications + practical experience
- Experience and level of initial and on-going competence requirement based on the Australian (AACA) National Standard of Competency for Architects with NZ Addenda
- Continuing Professional Development (CPD)
- Scheduled & Out of cycle Continuing Registration Competence Review 5 yearly
- Recognised Qualifications
- Code of Ethics
- Complaints & Discipline processes
- Protected Title

GATEWAY: Min 5 year Recognised qualification (Qualifications and Experience Assessment if not a recognised qualification) + min 3 years Practical Experience. NZRAB Initial Registration and 5 yearly or as required Continuing Registration Competence Review (CRCR).

Pathway 1 - For qualifying architectural graduates who have a recognised tertiary qualification from a recognised tertiary institute AND have completed one of the required work experience options.

Pathway 2 - For architectural designers and technicians, and some overseas applicants who do not have a recognised tertiary qualification and/or have completed the required work experience and it may apply to some overseas applicants who do not meet the specific criteria for any other pathway.

Pathway 3 - For offshore architects with New Zealand experience applicants who have a five-year architectural qualification from a tertiary institute AND have been/or are currently registered in a recognised overseas jurisdiction AND have architectural work experience in New Zealand

Pathway 4 - For former New Zealand Registered Architects who were previously registered as an architect in New Zealand.

Mutual Recognition Agreements (Pathways 5, 6, 7 and 8)
For architects Licensed / registered in one of the following jurisdictions:

- Australia (Pathway 5)
- APEC architects in Japan, Singapore, or Canada (Pathway 6)
- United States of America (Pathway 7)
- United Kingdom (Pathway 8 from 2023)

Min 5 YEAR RECOGNISED QUALIFICATIONS eg M. Arch (or old B.Arch)

GENERAL ISSUES

- Protecting public
- Issues with buildings which don't reach courts
- Poor quality building stock
- Extend **RBW** Restricted Building Work

BUILDING ACT CLASSIFIED **USES**:

- Housing
- Communal residential
- Communal non-residential
- Commercial
- Industrial
- Outbuildings
- Ancillary

BUILDING ACT

LBP DESIGN

Architectural Designer not working in Residential or RBW

LBP Design

- Basic CPD requirements
- No Continuing Competence Review
- No Qualifications required, only Building Consent experience
- Code of Ethics introduced 25 October 2022, one year until enforceable
- Complaints & Discipline processes
- Competence based on Building Consent experience

GATEWAY: LBP application. No qualifications. BC Experience.

Architectural Designer (non RES / RBW)

- No gateway competency assessment
- No qualifications required
- No CPD requirement

"Architectural Designer" with no Qualifications or experience required

"Architectural Designer" with no Qualifications, but with Building Consent experience

"Architectural Designer" with Qualifications

"Architectural Technician" with Qualifications

Diploma in Architectural Technology 2 year

Bachelor of Spatial Design/Interior Design 3 year

Bachelor of Architectural studies 3 year

M.Arch 5 year

How are Registered Architects regulated?

In New Zealand the registration of architects is regulated by the New Zealand Registered Architects Board (NZRAB), established under the Registered Architects Act 2005, which is responsible for ensuring that all Registered Architects meet certain standards of competence and conduct. This includes regular reviews of their work and maintenance of their architectural knowledge and skills.

By regulating the profession in this way, the NZRAB helps to maintain high standards of professionalism and quality in the building industry. The Board has the power to investigate complaints against Registered Architects and take disciplinary action if necessary. The Board also has the authority to refuse registration or cancel registration if an architect fails to meet the required standards.

Requirement to maintain currency of knowledge

Registered Architects are also required to maintain their knowledge. This may include obtaining additional qualifications in specialised areas of architecture, participating in CPD to stay up-to-date on industry developments and best practices, and joining professional organisations that offer networking opportunities and resources for career development.

Five-yearly Continuing Registration Competency Review (CRCR)

Registered Architects have a holistic competency review every five years, which includes how they have maintained their currency of knowledge. The CRCR – supported by examples of the individual’s work, their recent experience and how they have maintained the currency of their architectural knowledge and skills since their last assessment – considers holistically the individual’s areas and scope of practice and the stage the individual is at in their career.

Registered Architects are encouraged to consider all that is relevant to the stage that they are at in their career, the type of architecture they practice, the roles they fulfil and the services that they provide. Evidence is required by the NZRAB from architects to demonstrate the type of work they are undertaking and evidence they are maintaining the currency of their architectural knowledge and skills.

Two recent decisions of the District Court demonstrated the importance of CPD in maintaining the minimum standards necessary for ongoing registration.

An architect (“AB”) had been in practice for several decades, but CPD efforts had been minimal. They were assessed by an evaluation panel as part of the ongoing competence review process. The panel’s conclusion was that AB had not “taken reasonable steps to maintain the currency of [their] architectural knowledge.” The Board followed the panel’s recommendation and suspended AB’s registration.

AB appealed to the Court against the Board’s decision. This was the first ever appeal under the Registered Architects Act 2005. In the course of the hearing the Judge observed that AB had a “rather disdainful attitude to the requirement ... to undertake CPD,” and that their “words and actions (or lack of action) seem to exhibit a resistance to the whole idea of CPD.”

AB had tried to support their case for ongoing registration by drawing on the experience and skills gained over the course of a long career, rather than demonstrating how they had maintained the currency of their architectural knowledge and skills over the past five years. The view was that they “had not found anything to learn from other architects” in recent years and saw “no value in attending [CPD] events.”

However, the Judge found the material AB had presented in support of his work was not in keeping with the “practices and standards generally accepted in his profession as assessed by the Board and its members.” AB’s appeal was dismissed, and the Board was awarded costs.

The close connection between the ongoing registration process and the maintenance of high professional standards was demonstrated just over two months later when the District Court issued a second decision involving AB.

This was an appeal from a disciplinary hearing of the Board that found AB had breached the Code of Minimum Standards of Ethical Conduct for Architects. AB had failed to put in place adequate terms of appointment, and had not exercised due care and diligence when preparing drawings or interacting with the local authority (this conduct occurred prior to his suspension).

The Court upheld the Board's decision, noting the lack of proper terms of engagement caused confusion for AB's client as to their respective roles. The Judge also concluded there was a "wealth of evidence" to support the finding that the drawings submitted to the local authority were of poor quality and did not meet the minimum standard required for the issuing of a building consent.

These disciplinary findings reinforce the purpose of CPD and the ongoing registration process. The evaluation panel's concerns about AB's technical skills, and lack of awareness of ethical obligations, were borne out. The process triggered the Board's power to suspend the architect, providing an important measure of public protection.

AB's experience provides a reminder that, even in the later stages of an architect's career, there will be developments in technology, legislation and ethical practices that must be absorbed into one's practice. The risks to the public, and to the architect's own reputation, are too great to adopt the attitude that CPD is a waste of time.

Difference in quality non-registered designers and Design LBPs

These two groups may have some education or training in architecture, but they have not completed the same rigorous programme as Registered Architects. Some may be architects or former architects (who may move to this regime when they no longer meet the continuing registration requirements). While they may have some knowledge of design principles, their primary focus (as they are assessed on the ability to submit a consent) is on the technical aspects of residential construction. They may be licensed by the state as LBPs, or given membership to membership bodies, but this is certainly not to the same standards of competency, ethics and professionalism as Registered Architects.

The difference in quality between most Registered Architects and Design LBPs can be seen in several areas:

- First, Registered Architects have a broader range of skills and knowledge related to architecture and design. This means that they can provide more comprehensive and integrated solutions that take into account all aspects of a building project, including environment, context, aesthetics, functionality, sustainability and cost-effectiveness.
- Second, Registered Architects are trained to think critically, creatively, imaginatively and innovatively about design solutions. They have a deep understanding of the principles of context, form, space, light, materials and colour, which allows them to create practical, durable, sustainable, unique and inspiring designs that meet the specific needs of the project.
- Finally, Registered Architects are held to higher standards of professional conduct and ethics (see: [NZ Architects' Code of Ethics](#)). They are required to adhere to strict codes of conduct that prioritise the safety and well-being of their clients and the public. This means that they take a more holistic approach to building design that considers not just the immediate needs of their clients, but also the long-term impact on the environment and society. This is compared to the LBP Code of Ethics (see: [LBP Code of Ethics](#)) introduced on 25 October 2022, one year until enforceable. This Code of Ethics is aligned more to trades rather than the design profession and is likely to cause issues when, for instance, work is underway on-site and if the designer is undertaking site monitoring and needs to act in a neutral quasi-judicial role between the builder and the client.

While Registered Architects and Design LBPs, drafters, architectural designers and technologists, and others play important roles in the building industry, there is a clear difference in the quality of their work. Overall, Registered Architects bring a broader range of skills and knowledge to building projects, along with a deeper understanding of design principles and a commitment to ethical conduct, and are the **only** professional with the knowledge and skills to design complex buildings.

Outcome 2: Increased confidence in the building industry by increasing the credibility of those undertaking design work as architects.

15. How have registered architects increased credibility in the building industry?

Please choose one of the four options below, providing feedback on whether architects have increased credibility in the building industry:

- Option one: registered architects provide a high level of confidence within the building industry through the quality of their work.
- Option two: registered architects provide some level of confidence within the building industry through the quality of their work.
- Option three: registered architects do not provide any confidence within the building industry through their work.
- Option four: Not sure about how registered architects contributed to increased credibility in the building industry.

Please explain your answer.

Outcome 3: Higher standards in the building and design industry

16. What are the potential risks of harm that could arise from an architect's role in the building process? Do you have any evidence of public harm that has been caused by architects?

Please explain your answer.

Question 15: How have registered architects increased credibility in the building industry?

Title protection – background

Architects are professionals who are trained and registered to design and oversee the construction of buildings, and the term is synonymous with 'quality'. The title of 'architect' is protected by law in many countries, including the US, Canada and the UK – as well as New Zealand. This means that only individuals who have met certain education, experience and examination requirements can legally use the title of 'architect'.

Title protection is an important aspect of the architecture profession because it helps to ensure that those who use the title have the necessary knowledge, skills and experience to provide high-quality services to clients. It also helps to prevent unqualified individuals from using the title, which could potentially harm the reputation of the profession and result in lesser quality buildings.

Title protection also helps to increase the credibility of the architecture profession by ensuring that architects adhere to certain ethical and professional standards. Registered Architects are required to follow the Code of Ethics established by the NZRAB. If they have been registered overseas, or retain dual registration, they also need to follow the codes of conduct and ethics of the other professional organisations, such as the American Institute of Architects (AIA) or the Royal Institute of British Architects (RIBA). These codes require architects to prioritise the health, safety and welfare of the public in their work and to maintain high standards of professionalism and integrity.

An architect's title protection works to increase the credibility of the profession by:

- Providing a recognisable brand and establishing an association between the architect and high-quality, professional design.
- Ensuring that there is a consistent and clear understanding of who is responsible for designing and constructing buildings. By identifying an architect as the professional responsible for a project, clients and the public are more likely to trust the design and construction process.

However the public, and other non-architects, tend to describe anyone who submits building consents as an architect. This is evident from our 'misuse of title' complaints where they are generally due to a lack of understanding around title. There is very little understanding of the difference between architects, architectural designers, architectural technicians and architects registered in other jurisdictions and as to why this matters, particularly in terms of the risk to people commissioning and using buildings.

Also, with the introduction of the LBP scheme this has become confused both for the industry and the public. Being a Registered Architect helps to reassure potential clients that they are hiring an experienced and qualified designer capable of designing complex buildings and helps to maintain the level of quality expected from an architect. Title protection also helps to prevent other professionals from using the title Registered Architect and engenders a high level of confidence within the building industry about the quality of their work.

We know the majority of enquiries we receive from those who believe they are working with an architect and have a concern with the services or project end up being more about Design LBPs or other unlicensed building professionals. Although we have only been maintaining statistics since November 2022 the following illustrates what we encounter:

During a five-month period from 7 November 2022 to 28 March 2023, there have been 23 enquiries received. Of those, eight concerned Registered Architects and 14 related to non-architects. Of the non-architect group, seven were found to be LPs (Design). The status of the individual in one

enquiry was not able to be determined as the caller did not wish to reveal a name.

The nature of the concerns about architects were wide-ranging and included: conduct unrelated to the provision of architect services (e.g. disputes with architect neighbours); disputes over fees and service delivery; dissatisfaction with project timeline and delays; Council-related concerns; and communication failings.

It should also be noted that not every enquiry we receive related to a Registered Architect necessarily translates into an Architectural Services Concern or a formal complaint under our Rules.

Does title protection increase architects' credibility in public perception?

Title protection refers to the legal recognition and regulation of professional titles, such as 'architect', to ensure that only individuals who have met certain educational and experiential requirements can use those titles. The purpose of title protection is to protect the public by ensuring that those who hold themselves out as architects are qualified to provide architectural services.

There is evidence to suggest that title protection can increase the credibility of the architecture profession. When the public sees that there are legal requirements for using the title 'architect', they may be more likely to trust and rely on architects for their expertise in designing buildings and other structures.

One study published in the *Journal of Architectural Education* in 2000 by Richard F. Weingardt and Michael C. Loulakis found that "the general public has a heightened awareness of, and appreciation for, the importance of professional licensure and title protection for architect." The study also found that architects who were licensed and had a protected title were perceived as more credible than those who were not licensed or did not have a protected title.

Another study published in the *Journal of Construction Engineering and Management* by Haeckel et al. in 2009 found that "title protection has a positive impact on the perceived professionalism of architects." The study surveyed clients of architectural firms, and found that those who worked with licensed architects had higher levels of satisfaction with the professionalism and quality of work provided.

Title protection increases the credibility of the architecture profession by providing assurance to the public that those who use the title 'architect' have met certain qualifications and are held to certain standards.

Architects' credibility in the building industry

Registered Architects in New Zealand have increased credibility in the building industry in these key ways (as already noted in response to Question 14):

- Education and training
- Continuing registration
- Professional standards and ethics
- Regulation.

Perception of decrease in architects' credibility

In our view, the credibility of Registered Architects in the building industry has not decreased. In fact, they continue to play a critical role in ensuring the safety, functionality and aesthetics of buildings. However, there is a perception their credibility has decreased. One reason for this is due to the rise of alternative design and construction methods. For example, most group housing services do not consider the context of the building.

A further reason why the credibility of Registered Architects may be perceived to have decreased is due to public confusion around the LBP scheme and the assumption that they and non-registered designers have the same level of training leading to their licensing as architects. This has damaged the reputation of the entire profession and has eroded public trust.

Architects' role in increasing confidence in the building industry

Registered Architects have played a significant role in increasing confidence in the building industry. Their expertise and training ensure that buildings are designed and constructed to meet safety, accessibility and sustainability standards. They also help to ensure that buildings are aesthetically pleasing and functional for their intended use.

One way that Registered Architects have increased confidence is by providing a level of assurance to clients that their projects will be completed to a high standard through their education, experience and ethical standards. Another way is by promoting sustainable design practices. For a number of years one of the core competencies for Registered Architects has been around sustainability, and this was strengthened in the 2021 NSCA through the introduction of enhanced requirements for Environmental Practice. This focus on reducing the environmental impact of buildings through energy-efficient design, the use of sustainable materials, and other strategies sets architects apart from other designers. By designing buildings that are environmentally friendly, they help to promote a more sustainable future.

Finally, Registered Architects have increased confidence in the building industry by advocating for safety and accessibility standards. They are trained to design buildings that meet safety codes and regulations, which helps to protect occupants from harm. They also work to ensure that buildings are accessible to people with disabilities, which promotes inclusivity and equality.

Question 16: What are the potential risks of harm that could arise from an architect's role in the building process? Do you have any evidence of public harm that has been caused by architects?

A variety of risks

One of the primary reasons for having an independent regulatory body like the NZRAB is to protect the public from harm that may result from incompetent or unethical architectural practices. However, it would be far more useful to have one tiered independent regulatory body for all the architectural design professions. This can include issues such as building failures, safety hazards, or violations of building codes and regulations.

First, it is important to recognise that architecture is a highly complex field that involves a wide range of different skills and knowledge areas. Architects must have a deep understanding in areas such as engineering, construction, design and project management, and they must be able to integrate these different areas of knowledge to create buildings and structures that are safe, functional and aesthetically pleasing.

At the same time, architecture also involves significant risks. Buildings and structures must be designed to withstand a wide range of different stresses and forces, including wind, earthquakes, fire, cyclones, climate change and other natural disasters. They must also be designed to meet a wide range of different codes and regulations, including building codes, fire codes, zoning laws and environmental regulations. Importantly, the context of the building must be considered – this is not just the context of where the building is situated but also where it is in time and culturally.

Given these risks, it is clear that there is some level of risk to public harm associated with architecture. However, the extent of this risk is difficult to quantify. Some studies have suggested that the risk of building failure or collapse is relatively low compared to other types of risks, such as automobile accidents or medical errors. The Canterbury and Kaikoura earthquakes demonstrated the risks surrounding non-structural elements and integration of structure with the rest of the building.

Grenfell Tower

The risks are often slower or not known until there is an issue, for instance, the Grenfell Tower fire of 14 June 2017 in London. The fire started in a refrigerator and quickly spread to the cladding on the exterior of the building, resulting in the deaths of 72 people. While there were many factors that contributed to the fire and its devastating consequences, including inadequate fire safety measures and poor emergency response, the role of architects in the design and construction of the building has been a subject of scrutiny and criticism.

There is no one answer as to whether architects were at fault for the Grenfell Tower fire, as there were multiple parties involved in the design and construction of the building (as there is in any building project). It is clear that there were several design decisions that contributed to the fire's rapid spread and difficulty to contain. These include:

- *The use of combustible cladding:* The cladding used on Grenfell Tower was made of aluminum composite panels with a polyethylene core. This type of cladding is highly flammable and can quickly spread fires. The architects responsible for designing the building specified this type of cladding, despite warnings from fire safety experts.
- *Inadequate fire safety measures:* The building's design did not include adequate fire safety measures such as sprinklers or a second means of escape. This made it difficult for residents to escape once the fire had started. In New Zealand, NZRAB Board members have commented on the number of buildings (apartments and hotels) they have visited where the fire safety measures have been compromised, if indeed they ever complied, by subsequent subcontractors. Or because the compliance was by way of an alternative solution, and that there is no

requirement to provide documentation indicating the location of the compliance items for a Building Warrant of Fitness (BWOFF), the wrong item was being assessed by those inspecting.

- *Poor communication between designers and contractors:* There were several instances where the architects responsible for designing Grenfell Tower did not communicate effectively with the contractors responsible for constructing it. This led to mistakes in construction that may have contributed to the fire's spread. In New Zealand, NZRAB Board members have noted that project managers often obstruct this communication, or it is over-ridden on a project due to cost concerns, with a mentality of “let’s see whether the Council notice” on their CCC inspection rather than taking responsibility for their actions.

It is important to note that while architects played a role in the design of Grenfell Tower, they were not solely responsible for its construction or maintenance. There were many other parties involved, including contractors (original and subsequent), building owners and government regulators.

New Zealand cases

In recent years, there have been several high-profile cases in New Zealand that have raised concerns about the need for continued regulatory intervention in the architecture profession. For example, in 2012, a report by the Royal Commission into the Canterbury Earthquakes found that some buildings in Christchurch had been designed by architects and designers who lacked sufficient knowledge and expertise in the seismic design of secondary elements.

The Commission recommended that architects (and presumably designers but the Commission appears to have assumed that only architects would design buildings) should collaborate to minimise the potential distortion applied to non-structural elements. Particular attention must be paid to prevent the failure of non-structural elements blocking egress routes.

Non-registered designers and Design LBPs

Another issue that has raised concerns about the need for regulatory intervention is the use of non-registered designers or Design LBPs who may not have the same level of training and expertise as Registered Architects. This can potentially put the public at risk if buildings are not designed and constructed to appropriate standards.

Some argue that too much regulation can stifle innovation and creativity in architectural design, and that self-regulation by professional bodies may be more effective than government regulation. This was tried in the past with the Building Act and was a big failure leading directly to the leaky buildings crisis. To a certain extent this is happening now with the weakness of the LBP scheme and Restricted Building Work (RBW) not covering all buildings. The NZRAB Board members have observed failures on buildings they visit in their professional capacity, particularly around fire, waterproofing, slab heights, excessive use of sealants and seismic detailing (or a lack of it) etc. There are certainly risks to public harm associated with incompetent or unethical architectural practices. However, there are also factors that need to be addressed in tandem such as:

- Changes in building codes and regulations
- Climate change and sustainability
- Cultural awareness
- Advances in technology and materials
- Shifts in societal expectations about safety and quality standards.

In light of these risks, it is clear that some level of regulatory intervention is necessary to ensure that architects and designers are held accountable for their actions and that RBW needs to be extended to cover all building works.

At the same time, it is important to balance these regulatory requirements against the need for innovation and creativity in the field. Excessive regulation can stifle innovation by making it more difficult for new ideas and approaches to emerge. It can also increase costs for architects and clients alike by adding additional layers of bureaucracy.

Overall, then, it seems clear that there is some level of risk to public harm associated with architecture. However, as noted above the extent of this risk is difficult to quantify precisely. As such, it may be appropriate to adopt a balanced approach to regulation that seeks to mitigate risks while still allowing for innovation and creativity in the field.

One of the issues with the LBP regime, even if RBW were extended, is that it appears to be about ensuring compliance with the Building Act rather than the critical and innovative thinking an architect exercises in viewing projects holistically.

On the question of whether there is sufficient risk to public harm to justify regulatory intervention for architects in New Zealand, it is important to note that architecture is a profession that involves designing and constructing buildings that are safe, functional and aesthetically pleasing. The design and construction of buildings have a significant impact on public safety, health and welfare, and it is therefore essential to regulate the profession to ensure that architects meet certain standards of competence and ethical conduct.

As already mentioned, the NZRAB's role is to protect the public by ensuring that architects meet certain standards of competency and ethical conduct. The Board has the power to investigate complaints against Registered Architects and take disciplinary action if necessary. The Board also has the authority to refuse registration or cancel registration if an architect fails to meet the required standards. We are aware of former architects cancelling their registration at the time of their five-year competency review to become a Design LBP 3, but these are typically those who were unlikely to meet the review requirements.

There have also been instances in New Zealand where architectural failures have resulted in harm to the public. These failures will often be linked to the structural design. For example, in 2012 a balcony collapsed during a student party in Dunedin, resulting in injuries to several people. An investigation found that the balcony had not been designed or constructed properly. In another example, in 2016 a building designed by an architect collapsed during an earthquake in Kaikoura, resulting in one death. These incidents demonstrate that there is a risk of harm to the public if architects do not meet certain standards of competency and ethical conduct.

Disciplinary actions against Registered Architects and public harm

The information contained in the register is prescribed under the Act. Where an architect has been disciplined, and the Board has made a publication order, this is recorded against that architect's record on the register. There is also a summary of the outcome of disciplinary matters where grounds for discipline were found, whether the individual architect is named or not.

To some extent the current disciplinary provisions in the Act could be strengthened in certain areas. For example we do not have jurisdiction to investigate complaints made prior to 2005 – and occasionally these arise; or to order further training.

Even in instances where no grounds for discipline are found following an investigation, but there are themes or instances of less-than-optimal practice, we will issue what we call a Cautionary Note to the profession to provide advice and guidance.

We would agree that there could be a much more meaningful presentation of disciplinary decisions and learnings for the profession and better information provided to the public on what options they have available to resolve disputes or issues as they arise (including the informal Architectural Services Concerns process established in 2020 and the formal Complaints process under the Rules).

We receive a relatively small number of concerns and complaints and then they almost exclusively relate to residential building projects. Almost all other more complex projects will be resolved by litigation, typically settled before it reaches the courts (or as part of the process), meaning there is no transparency over the issues. Unless someone makes a complaint there is also no ability for the NZRAB to discipline or undertake a competence review. At present there is no provision under the Act for the NZRAB to order further training or supervision of an architect.

For a number of years NZIA and ENZ have proposed a single building sector disciplinary tribunal as being necessary to conduct hearings into serious complaints for several reasons:



- The most severe disciplinary cases do not happen often. It is difficult for practitioners, as industry experts, to build up skills in this area which was addressed in the consultation in the Ministry of Justice’s 2021 Tribunal Reform.
- The building industry is a complex and highly regulated sector that involves a wide range of professionals, including architects, engineers, builders and tradespeople. With so many different parties involved in the construction process, it can be difficult to determine who is responsible for any issues that arise.
- The consequences of poor building practices can be severe. Building defects can pose significant risks to public health and safety and lead to costly repairs or legal action. It is essential that there is a robust system in place to ensure that those responsible for substandard work are held accountable.
- Having a single independent disciplinary tribunal for the building sector would provide consistency and transparency in how complaints are handled. It is proposed that tribunal members would be paid and that each tribunal would have at least one member who was an expert and same profession as the person being complained about. This would help to build trust between consumers and industry professionals and ensure that everyone is held to the same high standards.

Other risks

The role of an architect in the building process is crucial as they are responsible for designing and planning the construction of buildings, and ensuring that they are safe, functional and aesthetically pleasing. However, there are these potential risks of harm that could arise from an architect's role in the building process. These risks include:

- *Design errors:* Architects are responsible for designing buildings that meet safety codes and regulations. Any errors or omissions in the design can lead to safety hazards, which can cause harm

to occupants or visitors to the building. Architects are usually responsible for coordinating design and incorporating details, particularly those of non-structural elements, and incorporating structural elements into the building fabric (for instance taking a seismic gap through the building from the foundations right through to the roof and maintaining weathertightness).

- *Construction defects:* Architects are often also responsible for overseeing the construction process to ensure that it is carried out according to their design specifications. Any defects in construction can lead to safety hazards or structural failures that can cause harm, but again the involvement of an engineer will reduce this risk. However, architects are increasingly not engaged to undertake construction administration and observation. This leads others who may not be fully conversant with the design intent doing this work, if it is done at all, again increasing risks (examples frequently observed when work is being done at a later date is the integrity of seismic gaps not being maintained, fire provisions incorrectly installed, unprotected penetrations through fire walls).
- *On-site modifications:* When architects are not engaged to undertake construction administration, modifications can be made on-site which breach some of the consented provisions, or they are made not understanding the design intent (this occurs particularly around fire, seismic, bracing issues etc).
- *Failure to consider environmental factors:* Architects must consider environmental factors such as weather patterns, natural disasters and climate change when designing buildings. Failure to do so can result in buildings that are vulnerable to damage or collapse, causing harm to occupants.

To mitigate these risks, architects must adhere to strict building codes and regulations, stay up-to-date with industry standards and best practices, and work closely with contractors and other professionals involved in the construction process. An architectural education and subsequent and ongoing registration provide the critical thinking necessary to undertake this work.

17. How well do you think the current occupation regulation regime is at holding architects to account?

- Very Good Good, but needs some improvements
 Not good, needs significant improvement Other

Please explain your answer:

18. Is continuing occupational regulation justified for the architectural profession in New Zealand?

- Yes No

Please explain your answer.:

Part 2B

Competencies in the Licensed Building Practitioners regime

Background

For this section, please refer to pages 41-43 of the consultation document.

MBIE would like feedback and suggestions for improving areas of practice competencies that LBPs must meet to be licensed. This includes setting the current competencies at a higher level, or adding new areas to the competencies. Improving the competencies will bring the competencies in line with the demands of the present-day sector.

Question 17: How well do you think the current occupation regulation regime is at holding architects to account?

Current strengths

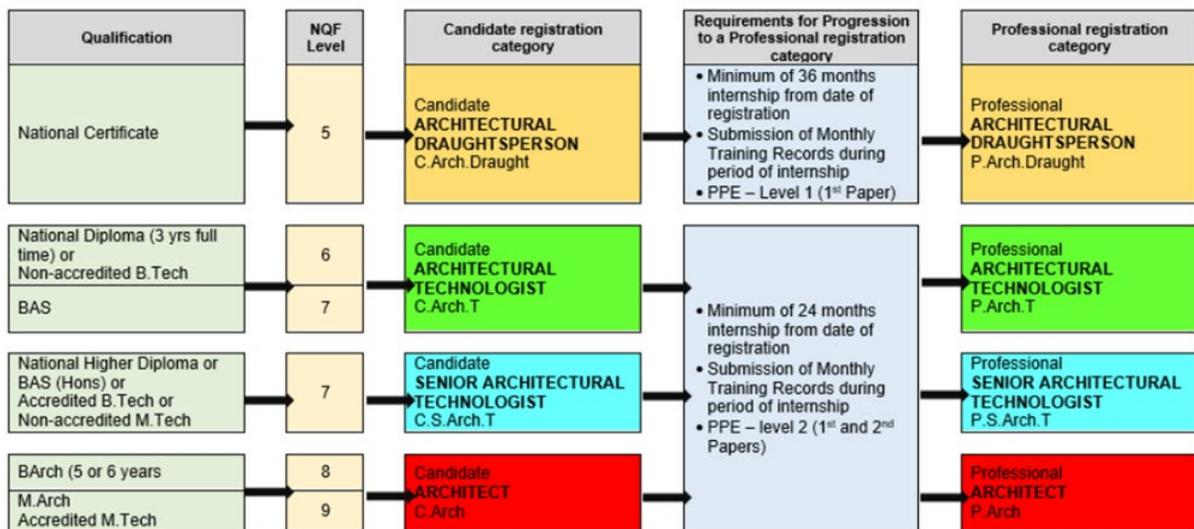
The current occupation regulation regime in New Zealand is generally effective at holding architects to account. One of the key strengths of the current regulatory regime is that it requires all architects practising in New Zealand to be registered with the NZRAB. As noted in Question 14, this means that anyone who wishes to practice as an architect must meet certain educational and professional requirements, and must adhere to a strict Code of Ethics and professional conduct. Also, as noted, the NZRAB also has the power to investigate complaints against Registered Architects and can take disciplinary action if necessary.

However, there is certainly scope for enhancements and improvements to the current regime. We consider for example that continuing professional development (CPD) could be made mandatory, that a fit and proper person ethic could be introduced, and there could be greater flexibility for the Board to impose conditions on practice.

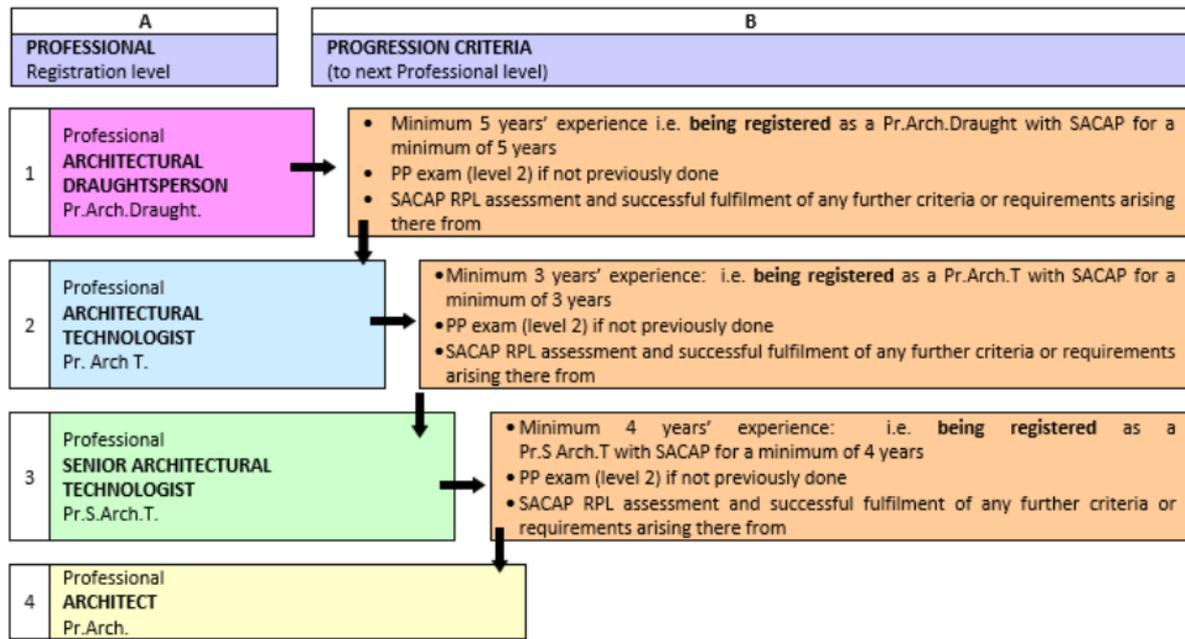
In our view, this regulatory regime needs to apply in the same manner (with a tiered system) to not only architects, but also architectural designers, Design LBPs and others working in this area. In addition, the definition of RBW needs to be extended to cover all building work (other than the ancillary buildings not for human habitation and minor storage facilities contained within Importance Level 1).

South African example

An example of this type of system is the South African one. In South Africa, the means of accessing the profession via qualifications is illustrated in the diagram below.



A person can progress through the four categories registered by South African Council for the Architectural Profession (SACAP) by means of Recognition of Prior Learning, which does not confer an academic qualification, but allows for access to elevated professional registration as shown in the diagram below, this is similar to the NZRAB Pathway 2.



Holding all groups accountable

Adding this to the RBW proposal we get what is set out in the next diagram:

ENTITY: ARCHITECTS, ARCHITECTURAL DESIGNERS, ARCHITECTURAL TECHNICIAN, INTERIOR DESIGNERS.
RESTRICTED BUILDING WORK = ALL CONSENTABLE BUILDING WORK
GOAL: BEST BUILT ENVIRONMENT

IL (Importance Level)	Non Consentable Building Work (Schedule 1)	Consentable Building Work (RBW)		
		Category 1	Category 2	Category 2
1	Anyone can do	Architectural Designer 1-3 (LBP1-3) Architect	Architectural Designer 2-3 (LBP2-3) Architect	Architectural Designer 3 (LBP3) Architect
2		Architectural Designer 1-3 (LBP1-3) Architect	Architectural Designer 2-3 (LBP2-3) Architect	Architectural Designer 3 (LBP3) Architect
3		Architect	Architect	Architect
4		Architect	Architect	Architect
5		Architect	Architect	Architect

Notes

- Words in Brackets reflect current terminology
- Protected Titles extended:
 - Registered Architect
 - Registered Architectural Designer 1,2,3 (previously LBP)
 - Registered Interior Architectural Designer (not working with building fabric)
 - Registered Specialist Architect eg. Sp. Heritage, Sp. Prefabrication
- Stand alone entity for these Protected Titles
- Registered Engineers are not deemed eligible for this type BRW
- One set of ethics
- Mandatory annual CPD
- 5 Yearly Continuing Registration Competency Reviews
- Recognised Qualifications and practical experience
- Single complaints and disciplinary process with a focus on rehabilitation
- 2-3 year period to phase in
- Assessment required to step up to higher level
- Ability to step down to lower levels (on request)

One of the main concerns about the current regulatory regime is that it is not sufficiently robust to ensure that architectural designers and Design LBPs are held accountable for their work. The regime is lacking provisions to 'reform' those who may have strayed to the margins, The current regulatory framework is too fragmented and lacks consistency, which makes it difficult for the public (and indeed the construction industry) to understand their rights and for regulators to enforce the rules effectively.

Keeping pace with changes

Another issue is that the regulatory framework is not keeping pace with changes in the industry. For example, there are concerns that some architectural designers and Design LBPs may not be adequately trained or qualified to deal with technologies such as Building Information Modelling (BIM) in sustainable design practices, cultural awareness or the ability to think critically. Content in training courses for LBPs need to be regularly reviewed to ensure they match constantly evolving industry requirements.

Question 18: Is continuing occupational regulation justified for the architectural profession in New Zealand?

Reasons for continuing occupational regulation

Continued occupational regulation is necessary to protect public safety and to ensure that architects (and ideally all architectural designers and Design LBPs) have the necessary training and expertise to design buildings that are safe, functional and aesthetically pleasing. Without regulation, anyone could call themselves an architect and offer their services to the public, potentially putting people's lives at risk. The LBP regime has perpetuated this confusion.

Opponents of occupational regulation argue that it creates unnecessary barriers to entry into the profession, limiting competition and driving up costs for the public. The NZRAB believes that the protection of the public needs to be paramount. The leaky buildings crisis was a stark illustration of the results of insufficient regulation and accountability.

Despite criticisms, it appears that most stakeholders in New Zealand's architectural industry support continuing occupational regulation. In a survey conducted by the NZRAB in 2019, 84% of respondents agreed that registration as an architect should continue to be required by law. Continuing occupational regulation for the architectural profession in New Zealand is justified for several reasons:

- Architecture is a complex and specialised field that requires a high level of expertise and training.
- Architects are responsible for designing buildings that are safe, functional and aesthetically pleasing, and they must have a deep understanding of engineering, materials science, construction techniques and building codes. Therefore, it is important to ensure that only qualified individuals are allowed to practice architecture in New Zealand.
- Occupational regulation helps to protect the public from unscrupulous or incompetent practitioners. By requiring architects to meet certain standards of education, experience and ethical conduct, regulatory bodies can ensure that only those who are capable of providing high-quality services are licensed to practice. This helps to prevent mistakes or negligence that could lead to property damage or injury, as well as safeguarding the public's investment in their buildings.
- Occupational regulation can help to maintain the reputation of the architectural profession and ensure its continued growth and development. By setting high standards for entry into the profession and enforcing ethical codes of conduct, regulatory bodies can promote excellence in architecture and encourage innovation and creativity. This can help to attract more talented individuals into the profession and enhance its overall standing within society.

Continuing occupational regulation for the architectural profession is therefore justified because it:

- Helps to ensure that only qualified individuals are allowed to practice architecture
- Protects the public from unscrupulous or incompetent practitioners
- Helps to maintain the reputation of the profession and encourage its growth and development.

As noted, the NZRAB would like to see the regulation extended to all architectural designers and Design LBPs in a *single tiered independent registration entity, with title protection at each tier, and work being delineated into permissible levels based on complexity, difficulty, and risk.*

19. How can the current competencies be improved to set them at a higher level? What specifically can you point to that needs to be improved?

20. Are there any new areas that should be added to the competencies? These may be general across all classes or may be specific to a certain class.

MBIE would also like feedback on the interaction between the Design LBP class and the Registered Architects regime. MBIE is aware that some see the Design LBP class as a lower threshold compared to the Registered Architects regime and that there is a perception that the quality of work produced by some Design LBPs is of a low standard.

MBIE would like feedback on the interaction between the two regimes, whether any competencies should be added to the Design class, and what can be done to align the two regimes and close any regulatory gaps.

21. Do you agree with our assessment of the interaction between the Design class and the Registered Architects regime?

Yes No

Could you recommend any improvements to the competencies in the Design class? Do you believe that the two should be more closely aligned and, if so, how?

Question 19: How can the current competencies be improved to set them at a higher level? What specifically can you point to that needs to be improved?

To answer this question it is necessary to distinguish between the roles of an architect and Design LBP and what Restricted Building Work (RBW) is.

Who is an architect?

The first item to come up on a google search for architect is, “a person who is qualified to design buildings and to plan and supervise their construction.” Note in New Zealand, that as architects we do not supervise construction work – we administer construction contracts and undertake observation when that forms part of our commission, and when it does not this may be done by others such as Project Managers or contractors who often lack adequate skills or the understanding to be able to do this. Wikipedia offers a broader perspective:

“The professional requirements for architects vary from place to place. An architect’s decisions affect public safety, and thus the architect must undergo specialized training consisting of advanced education and a practicum (or internship) for practical experience to earn a license to practice architecture.”

As noted above, in New Zealand only a person who is currently registered by the NZRAB is allowed to describe themselves as a Registered Architect. In addition, only a person who is a Registered Architect is allowed to describe themselves as an architect in the context of offering or providing building design services. This is very confusing to the industry and the public, with people calling themselves:

- Kitchen architects
- Interior architects
- System architects, or
- A UK Registered Architect, which means that they are registered in the UK but not in New Zealand.

Despite years of trying (including using billboards and other advertising campaigns), NZIA and the NZRAB have had little success in breaking down this lack of understanding of what an architect is and does. The public also assume there are tight controls for anyone submitting a building consent around quality and accountability, which we believe is one of the main reasons to extend regulation to cover others in the industry, such as project managers and quantity surveyors, who are making decisions about build materials, substitutions, quality, sustainability, etc.

Few would realise that many projects are consented on ‘minimum’ consent requirements, which do not capture all the details and information to build a building. They rely on builders (for residential buildings LBP Carpentry if that person is actually on-site) to cover this, not realising that many (in fact most) people actively working on building sites may not ever see the consented documents (this was an issue with the 1995 Cave Creek tragedy where 14 people fell to their deaths) or have the skills to interpret them, instead relying on what they have always done or think best. This is even worse for non-residential buildings where there is no requirement for an LBP to be involved. Architectural designers and technicians working in the non-residential area do not require any qualifications or experience.

Licensed Building Practitioners

The LBP scheme was established in 2007 as an amendment to the 2004 Building Act. It was established as a result of the leaky buildings crisis to:

- Lift the performance and productivity of building practitioners
- Make them more accountable for their work
- Enable the public to make informed decisions about the competency of the building practitioners they engage for residential construction

- Provide greater consumer protection.

In 2010, building categories were introduced as part of the LBP scheme. There are three building categories and three associated categories and Design is one of these.

Restricted Building Work

In March 2012, the Government introduced new residential building rules known as Restricted Building Work (RBW). RBW must only be carried out or supervised by an LBP. RBW applies only to certain residential work, and the requirement for it to apply to all construction work was dropped at the last minute.

“RBW is work that is critical to make a home structurally sound and weathertight. RBW is residential design, construction or alteration work that:

- *requires a building consent, and*
- *involves or affects a home’s primary structure, weathertightness, or certain fire safety design.*

As RBW is only residential work, it does not include commercial or mixed-use building work. In order to be RBW, the building work must require a building consent and this means that exempt building work (work covered by Schedule 1 of the Building Act) is not RBW.”

Specific comments on LBP and RBW and public risk

In addition, the Design LBP pathway is the only LBP pathway that does not require qualifications. The only pathway available is via a standard (experience-based) application. There appears to be a limited pathway via TTMRA, but this is not definitive (e.g. the LBP licence may equate to the Australia state licence in some cases).

New Zealand Registered Architects and Chartered Professional Engineers are automatically treated as LBPs in Design AOP 3. This means they can design restricted building work.

The LBP scheme is flawed in protecting the public in that their website notes:

“Once licensed as an LBP you are not restricted to working within your AoP, LBPs can undertake all work covered by their licence class but must only undertake work they are competent to do. As an LBP you are expected to recognise when supervision or other skills are required.”

This effectively means LBPs, once an LBP, are self-regulating, so why go for say an LBP Design 3 when you can go for a Design 1? The old adage – “you don’t know what you don’t know” – clearly applies here.

The risk to the public is large. LBPs are probably only saved from legal action, in many instances, by not having Professional Indemnity insurance and that there are others with deeper pockets (builders and Territorial Authorities (TAs)) – and because the public don’t understand how to/or don’t want to (there is nothing in it for them) to make complaints. The risk is that there needs to be a failure or an issue first (the ambulance at the bottom of the cliff), rather than being assessed as being competent (preventing it at the top of the cliff).

The LBP website notes that, *“If someone believes an LBP has worked outside of their competency, they can consider making a complaint and information about the complaints process can be found here: www.legislation.govt.nz/regulation/public/2010/0043/latest/DLM2764019.html?src=qs.”*

This is cold comfort and clearly happens when it is far too late.

The public's confusion is further amplified by the narrow definition of RBW. A Design LBP must be used for RBW. There is a common misconception that this means any work regarding the primary structure, weathertightness and moisture management, fire safety, design of secondary elements of any building, and the health and safety of the occupants – on any building.

This is not the case because (as noted above) RBW is currently confined to certain residential buildings only. This made sense, when RBW came into being, in the context of the leaky building crisis which primarily related to residential buildings when the focus was on costs to building owner. However, the Canterbury and Kaikoura earthquakes and the Grenfell Tower grimly illustrate that many people can be impacted by a building failure in addition to the owner.

Building tenants and members of the public visiting a building cannot be expected to do due diligence on a building's design and construction before deciding to enter it. Building owners should be able to rely on those they have engaged to provide a complete design. There is an expectation that if the building is open then it is safe. Given numerous building failures (both those with media airtime and those without), if the public realised, they would be very concerned about what is going on.

Also the quality of the CPD required for LBPs is much lower than for architects. The LBP readings with online quizzes with answers provided are at a very basic level and a knowledgeable practitioner could answer them without reading the articles.

Board members have also commented that LBPs working under them have used trade presentations as CPD. This would be okay if they had been accredited, such as providers of Scheduled CPD through the robust NZIA regime, but many are not. By contrast, the NZRAB is required by law to confirm every five years that all architects are still competent.

One of the competency review requirements is that the architect being reviewed must "demonstrate that he or she has taken reasonable steps to maintain the currency of his or her architectural knowledge and skills since the last assessment" (Registered Architects Rules 2006, Rule 21(1)(b)).

A CPD points target has been established for Registered Architects to aspire to over a five-year period. In most cases, this is 1,000 CPD points, including 100 points in each of the following five Units of Competency from the NSCA: Design, Documentation, Project Management, Practice Management, and core aspects of the practice of architecture.

Core CPD in this regard is CPD that is relevant to all architects so they are able to understand the broad principles and implications of the topic. Core CPD topics cover knowledge, skills and attitudes concerning:

- ethics and professional conduct
- legislative changes affecting the built environment and commercial practice (inclusive of referenced documents)
- fundamental professional issues concerning all architects, including areas such as insurance, sustainability and other relevant topics as identified from time to time
- one-off topics.

The NZRAB's expectation is that architects will undertake CPD activities that are relevant to the stage they are at in their career, the roles they fulfil and to the architectural services they provide.

The overarching principle guiding CPD points allocation is that the architect is the right person to determine which CPD activities satisfy the NZRAB's expectation noted above — the architect knows what matters to them. It follows that there can be no pre-determined weighting for specialisation or relevance of CPD activities.

This is reviewed at the time of the five-yearly competency review by a pair of trained assessors who are senior architects. In addition, the NZIA have a rigorous review and approvals process for CPD Provider Network presentations and CPD content/delivery. This review consists of a panel of six architects receiving the draft presentation accompanied by an overview of the potential CPD Provider partner. The NZIA accepts a minimum of three of the six panelists' feedback before a decision is taken. Subsequent presentations are subject to review through the Panel (or Institute National Office, if deemed to be minor, e.g. new information for product, product category within an

approved presentation, etc). Having architect assessors for the five-year competence reviews means they understand whether quality CPD has been undertaken.

It is also worth repeating here what the NZIA commented on in their submission on the LBP Scheme consultation in 2021:

“The Discussion Paper identifies issues with the low competency standards for entry into the LBP scheme. At present there is differentiation between Registered Architects Act and Rules and Licensed Building Practitioners, Design, despite a current equivalency of the occupational licence. Registered architects are deemed to be the equivalent of an LBP Design 3. This creates unnecessary public confusion and lack of clarity within the sector which in turn impacts on trust and confidence within the profession.

The NZIA believes the current level entry to LBP Design 3 is too low, in terms of experience, training, competence, both technically and in design, and regulation. The current LBP Design 3 licence is not comparable to the level of expertise required of a registered architect, and does not equip the LBP Design 3 to procure complex or multi-storey buildings. Builders, architectural designers and technicians are not trained nor regulated on an ongoing basis as are registered architects.

Currently an LBP, Design 3 can design any category of building, but must only undertake work they are competent to do, and recognise when other skills or supervision is required. LBP Design 3 currency [sic] has five competencies to reflect the skills and knowledge required by a competent person to be licensed in this class. Assessors are only required to look for broad evidence of competence, based on [sic] applicant submitted documents.

- 1. Understand and apply knowledge of the regulatory environment of the building construction industry.*
- 2. Manage the building design process*
- 3. Establish design briefs and scope of work and prepare the preliminary design*
- 4. Develop, design and produce construction drawings and documentation*
- 5. Manage construction phase design.*

By comparison, registered architects, and engineers, are required to demonstrate a greater depth of experience, training, knowledge and expertise, including co-ordination competencies with other professionals on complex buildings, and are closely regulated on an ongoing basis in competency and ethical behaviour. The NZIA’s position is that if LBP Design 3 are to be afforded the same opportunity for work of this nature then the requirements for initial and ongoing continuing professional development should be the same as those for registered architects or engineers, whether under NZRAB or another government regulatory body.

Given that the minimum professional standards for initial registration, ongoing registration and disciplinary action are significantly different as between registered architects and LBP’s, the public has no clear expectation of the design profession. At present, LBP Design 3 can do the same RBW as registered architects but they have a lower standard of occupational licensing. Given the complexity of buildings, material choices, site issues, the design skills required must be of the highest order. NZIA believes that the higher standard which is required of a registered architect should be required to do all restricted building work. This would create a common and clear understanding for the public and which would increase trust and confidence in the system and sector. This applies particularly in key areas requiring specialist design knowledge from engineers and registered architects e.g. façade design, structural integrity, accessibility, fire design (structure, materials and escape), Safety in Design (SID) under the Health and Safety at Work Act 2015 (HSWA) (materials and structures).”

Registration of architects and competency

Quoting from the MBIE document:

“The intent of registration is to demonstrate that the regulatory body governing architects (the NZRAB) deems an individual competent in the profession based on relevant criteria. This level of minor regulatory intervention is designed to give people confidence and signifies the architect has obtained a high-level

tertiary qualification and gained considerable work experience while working towards registration.”

We do not consider the requirement to become registered and assessment against the standards as being a ‘minor regulatory intervention’.

The primary guide at initial registration is that the individual could open their own practice the next day and safely practice with the requisite level of knowledge and experience across all competencies.

Note that there is no such test for Design LBPs in the current regime. Design LBPs are only required to demonstrate a limited portion of experience in the context of submitting a building consent for a residential building, rather than the full gambit of both design and building typology, and no qualifications.

The NZRAB is most concerned about the confusion the LBP scheme has generated with its lower-level competencies. Several of our long-standing assessors (all 10+ years of experience) are/have also been assessors for the Design LBP regime so they are in a unique position to make comments, which have been anonymised:

“Having been an LBP design assessor for 5 years when this was first introduced, and still a NZRAB assessor, the 2 processes are like cheese and chalk.”

“I resigned as an LBP assessor as I was concerned about the process did not address the issue of ethics, and after having to approve recommendation of licensing for designers of dubious character on the basis that they ticked the box for the other competencies, I felt the system was flawed.”

“I was also very concerned about the lack of moderation and consistency in the LBP Design process, and the lack of training and workshops for LBP assessors, in contrast to what NZRAB assessors have.”

“After some heated debate with the registrar of the time, I quit and put my efforts into the NZRAB process.”

“And now the LBP ethics is being addressed, but the gaps between the 2 processes are still wide, as is the confusion and understanding by the public.”

“Anyone can be a project manager, a designer or a builder, but the architect label still needs to distinguish the reality of what we are and what we do.”

“These changes are reflected though in the continuing changes and complexities required for registration, and as an assessor I am doing my very best to keep up with these.”

Do competency requirements for Registered Architects need to be legislated under the Architects Act?

The question of whether competency requirements for Registered Architects should be legislated under the Architects Act in New Zealand is a complex one that involves:

- Considerations of public safety
- Professional standards
- The role of government regulation in ensuring these outcomes within the context of the construction industry, together with the place of the profession in the broader worldwide context.

There are several arguments in favour of legislating competency requirements for Registered Architects, together with architectural designers and Design LBPs, in one piece of legislation (with tiering, protection of title and restrictions as to who can do what work at each tier):

- First, it would help to ensure that only competent professionals are able to design buildings. This would help to protect public safety by ensuring that buildings are designed and constructed to a high standard.
- Second, it would help to maintain professional standards within the industry by ensuring that all Registered Architects, architectural designers and Design LBPs meet a minimum level of competency.
- Finally, it would provide greater clarity and consistency about what is expected of Registered Architects, architectural designers and Design LBPs – and what each of them are called.

In New Zealand, architects are already regulated by the NZRAB, which oversees their registration and professional conduct. LBPs are also regulated by MBIE, which oversees their licensing and training requirements. Despite these existing regulatory bodies, there have been calls for broader legislation to cover all design professionals.

Improving the current competencies for Design LBPs

Given the above comments, the NZRAB would like to see the current competencies for Design LBPs improved. Research and benchmarking needs to be undertaken prior to any decisions on what needs to be changed. Some areas which featured in an ARB Education Survey Report (2022) that could be considered are:

- Business skills
- Professionalism and ethics
- Climate and sustainability
- Health and safety
- Knowledge about the construction sector, sites and day-to-day processes
- Building and material science
- Heritage and restoration, including in contrast to a focus on new buildings
- Interdisciplinary knowledge and more awareness of what others in the sector do.

In addition, content in training courses for LBPs need to be regularly reviewed and benchmarked to ensure they match constantly evolving industry requirements.

Question 21: Do you agree with our assessment of the interaction between the Design class and the Registered Architects regime?

Single regulatory regime needed

The NZRAB disagree with MBIE's assessment of the interaction between the Design class and the Registered Architects regime. As noted earlier, the Design LBP requirements are at a substantially lower threshold. Our suggestion about the two being more closely aligned is the foundation of our longstanding advocacy for an independent single tiered regulatory regime for architectural designers, Design LBPs and Registered Architects, which includes title protection at each tier. In addition, *Restricted Building Work (RBW) would be extended to cover all buildings, with this being delineated into permissible levels based on complexity, difficulty and risk.*

In particular, we note these four points:

- There is general confusion amongst the construction industry and building owners about the roles and responsibilities of architectural designers, Design LBPs and Registered Architects and there should be greater clarity in this area. This could be done if they were all under the same legislation, with tiered registration and title protection for each class and RBW was extended. Competencies would then be able to be tiered and based on the NSCA with lower criteria for those on lower tiers. Such a move would lead to increased public trust and confidence in the building industry.
- Having a single regulatory regime for architectural designers, Design LBPs and Registered Architects would lead to greater consistency and clarity in the standards and requirements for building design. This would help to reduce confusion and uncertainty among both industry professionals and members of the public, which could in turn increase trust and confidence in the industry.
- A single regulatory regime could also help to improve accountability within the industry. By having a clear set of standards and requirements that all professionals must adhere to, it would be easier to identify instances of non-compliance or misconduct. This could help to deter bad actors from engaging in unethical or illegal practices, which could help to increase public trust and confidence.
- A single regulatory regime could also help to streamline the process of obtaining building permits and approvals. By having a unified system for assessing building designers and the type of work they can undertake, it may be possible to reduce the time and costs associated with obtaining the necessary permits and approvals.

The NZRAB believes that our suggested approach – a single tiered regulatory system – is a long-term solution. We acknowledge that this may not have the support of the entire architectural profession, or others in the building and construction sector. However, from our unique perspective we have arrived at this view as the most viable cross-industry solution for architects, LBPs, architectural designers and RBWs.

Part 3: Next steps

PROCESS AND TIMEFRAMES

Thank you for taking the time to read and respond to the questions in this paper. MBIE will analyse the submissions received and will report back to the Minister for Building and Construction in mid-2023. A summary of submissions will be released publicly on MBIE's website.

For the work covered in Part 1, MBIE will begin finalising the proposals based on the feedback received, including seeking final Cabinet policy decisions by potentially late-2023.

For the work covered in Part 2, your submissions will be used to determine a series of potential options for improvements to the respective regimes. MBIE intends to seek feedback on these options in 2024 through public consultation.

22. There will be further targeted consultation on the design and implementation of the proposals contained in Part 1 of the document before they are implemented. Would you like to be involved in this?

Yes

No

If so, please indicate which area(s) you would like to be consulted on.

Question 22: There will be further targeted consultation on the design and implementation of the proposals contained in Part 1 of the document before they are implemented. Would you like to be involved in this?

More engagement needed

The NZRAB strongly want to be involved in further targeted research and engagement following this stage of the consultation. Please contact our Chief Executive, Dougal McKechnie in the first instance.

We would like to note, however, this comment in the MBIE document about engagement:

“MBIE has identified issues with how the current settings are meeting the intended benefits of the regulatory regime detailed in the table below. MBIE would like to get your feedback on whether government should have a continued role in regulating architects.

To get an understanding of the profession and signal the kinds of issues identified with the current settings, MBIE conducted targeted engagement with representatives in the architecture profession, including:

- NZRAB (regulatory body responsible for the Architects Act and Architects Rules)
- Architectural Designers New Zealand (design professionals membership organisation)
- Te Kāhui Whaihanga New Zealand Institute of Architects (professional membership organisation for registered architects).

Feedback from these targeted engagement sessions have been included in MBIE’s understanding and analysis of the issues.”

The targeted engagement with NZRAB consisted of an hour-long Zoom meeting, which was primarily focused on the process proposed in undertaking the review of the Registered Architects Act and the indicative timeline. Some questions were asked about various facts and figures outlined in our 2020/21 Annual Report. The NZRAB is concerned about the limited extent of engagement and the apparent lack of understanding of the architecture and design profession in New Zealand and in the international context.

Finally, in the MBIE document there is some confusion about what each organisation does in the building and construction sector. In addition to ourselves, we consider the key organisations to be:

- Te Kāhui Whaihanga New Zealand Institute of Architects (NZIA)
- Architectural Designers New Zealand (ADNZ)
- The Designers Institute of New Zealand (DINZ)
- Design Association of New Zealand Inc (DANZ)
- New Zealand Institute of Building (NZIOB)
- The other occupational licensing entities in the building and construction sector.

You will almost certainly receive submissions from many (if not all) of these entities. We would encourage MBIE to engage with any of those organisations who do not submit.

There are a few others who may be considered more on the margins or representing very specific communities of practice or interest, but it would be beneficial to engage with them nonetheless, including:

- NAWIC – a membership organisation for women in the industry
- BIMinNZ (formerly groups such as RUGWELL), which is where many of the more tech-savvy technicians find a home – a loose grouping that does not have a paid membership
- ICOMOS, DoCoMo for ‘heritage architects’ – who are not necessarily registered.

APPENDIX A: HISTORY OF THE ARCHITECTS ACT

Architects Act and Architects Rules

As noted in the MBIE consultation document:

“Architects are a regulated occupation in the building and construction sector in New Zealand. The occupational regulatory regime for architects consists of:

- *The Registered Architects Act 2005 (Architects Act)*
- *The Registered Architects Rules 2006 (Architects Rules).*

Architects design a range of structures, including residential, civic and commercial buildings. Only architects registered under the New Zealand Registered Architects Board (NZRAB) may legally call themselves registered architects or architects (when designing buildings).

New Zealand is not the only country to regulate the profession, with Australia, Canada, the UK and US all having registration boards like the NZRAB maintaining a Register of Architects. These jurisdictions have similar legislation and regulations across states, territories and provinces setting out the regulation for the profession.

The Architects Act provides a framework for ensuring the competence of Registered Architects by requiring them to undertake continuing professional development and putting in place measures to discipline registered architects. The Architects Rules contain minimum standards (competency, continued registration and ethical conduct) and rules governing registered architects (title protection and registration).”

A Registered Architect’s professional status is protected by the Architects Act. The NZRAB is the regulatory body legislated to set and supervise professional standards and Registered Architects. The NZRAB sets the professional standards and holds registered architects to account against those standards. The NZRAB is funded solely by architects and applicants applying for registration.”

Timely review of the Act

The Architects Act has not been reviewed since its commencement in 2006, and MBIE considers it is timely to initiate a review. Recent stakeholder feedback has revealed issues warranting further exploration and testing with industry stakeholders.

While the current Act for the registration of architects was enacted in 2005, it was in 1913 that the New Zealand Institute of Architects Act was originally enacted to make “Provision for the Registration of Architects”. This Act moved the then New Zealand Institute of Architects (NZIA, now Te Kāhui Whaihanga New Zealand Institute of Architects), which was first established in 1905, to becoming an Incorporated Society in 1908 and then to becoming established as a body corporate under the Act and establishing the New Zealand Registered Architects Board (the NZRAB) as part of the NZIA. At that time, to be a member of the Institute you needed to first be registered as an architect by this Board.

1963 saw the Architects Act established which was to, “consolidate and amend the New Zealand Institute of Architects Act 1913 and to make better provision for the registration and control of architects.”

Split of the NZIA in two

This 1963 Act split the functions of the NZIA in two. The NZIA became the professional organisation for architects, while the Architects Education and Registration Board (AERB) took over the regulatory functions of the NZIA.

The AERB managed architecture as a profession from 1964 until 2005. The AERB:

- Oversaw the required registration of architects, who had to supply evidence of previous work with their initial application
- Investigated complaints against architects under section 42 of the Architects Act 1963, which allowed disciplinary action to be taken against architects found guilty of grave professional misconduct or bankruptcy
- Instigated the prosecution of persons, not being registered architects, who described themselves or let others describe them as architects in advertising, publicity etc, under section 53 of the Architects Act 1963.

In 1992, the New Zealand Institute of Architects Inc. was (re)established to free the Institute from the constraints of the legislation, giving it the flexibility to identify and expand its range of activities and membership base. A National Incorporation Committee worked on this transition and drafted material for change to the legislation. Both the past and current NZRAB Chairs were on that National Incorporation Committee.

Continuing professional development

The other key driver for the legislation reform was the desire to have mandatory CPD. The NZIA had been trying to make CPD mandatory amongst members and was not gaining much traction, particularly with the older generation of architects who were very much of the mindset that once registered that is where learning ends (remember the rate of change to any processes up to this time had been very gradual – architecture was practised in a similar manner to the way it was in 1908).

Those on the National Incorporation Committee worked on material to change the legislation, recognising that change was beginning to happen with the advent of personal computers, faxes etc, and that learning needs to be a continuous throughout an architect's career. The NZIA fully moved to an Incorporated Society by 1998, with the Act change taking longer to be drawn from the parliamentary ballot in 2003.

Architects Bill 2003

When the Architects Bill was introduced to Parliament 5 November 2003, which was at the time of the leaky building crisis, Lianne Dalziel (Minister of Commerce) noted:

"... it was the Government's view that buildings should be designed and built right the first time. This bill provides for the first element of that – buildings designed right the first time. It repeals the Architects Act and introduces a modern regulatory framework for architects. Competent people lead to competent building design. Both the Hunn committee and the Government Administration Committee inquiry into the weathertightness of buildings in New Zealand identified a need to improve the standards in the building industry. ...Part 1... A key feature of this part is the introduction of both initial and ongoing competency assessment for architects. The current legislation allows for only the initial competency assessment of architects... The current legislation fails to ensure that competency standards are maintained or, indeed, to recognise the potential for changes in design methods over time to require different competencies from those initially tested."

NZRAB support

The NZRAB Board supports this review of the Act. The NZRAB is responsible for administering the current Act and we have over the course of our existence identified a number of areas where there are limitations or where changes could be positively made. We also have detailed experience operationalising and putting into practice the Act and the associated Registered Architects Rules 2006.