



Department of
Building and Housing
Te Tari Kaupapa Whare

**SUMMARY OF SUBMISSIONS ON
PROPOSAL FOR AN OWNER BUILDER
EXEMPTION TO THE RESTRICTED BUILDING
WORK REGIME**

**Department of Building and Housing
September 2008**



SUMMARY OF SUBMISSIONS ON PROPOSAL FOR AN OWNER BUILDER EXEMPTION TO THE RESTRICTED BUILDING WORK REGIME

Introduction

This report contains the Department of Building and Housing's summary of submissions following the public consultation on the proposed owner builder exemption to the restricted building work regime.

Background

Launched in November 2007, the Licensed Building Practitioner Scheme is one of the key changes introduced by the Building Act 2004. Since then, practitioners in the building industry have been able to apply to be licensed in a range of classes depending on the type of work they do.

From November 2010, it is intended that some design and construction work will only be able to be done or supervised by licensed practitioners. This is called 'restricted building work'. Restricted building work will be work that is critical to the integrity of a building. Proposals for what will be restricted building work were described in a discussion document published by the Department in August 2008. The period for making comments on the proposals ended on 11 September 2008, but a copy of the document can still be [viewed here](#).

In April 2008 the Government proposed that owner builders be exempt from the restricted building work regime. This would allow homeowners to do restricted building work on their own houses (without the need to use licensed building practitioners) while still protecting future owners of the property.

Consultation process

The Department of Building and Housing (the Department) was tasked with conducting consultation on the proposed exemption. The Department worked with key organisations in the building and construction industry to develop the proposed exemption. A discussion document on the exemption was then published in late June 2008 and the period for making submissions on the document ended on 1 August 2008.

General information

The Department has considered all submissions made on the proposed owner builder exemption. 43 submissions were received, broken down as follows:

- 22 from building practitioners including engineers, designers and builders and retired practitioners.
- 10 from owner builders
- 7 from Councils or council staff
- 1 from a business
- 1 from a Trade Association
- 2 were from individuals who did not state their occupation or affiliation

Responses to questions

The following is a summary of all the submissions received, it does not record in detail all individual comments.

Question 1: Do you have any data or information about the building work that owner builders do? In particular, do you have any information that is inconsistent with the research mentioned in this document?

Of the submissions that answered this question, most of the information provided was anecdotal based on individual, personal experiences. One person suggested there are few owner builders in cities, but a lot more in rural areas. Some people criticised the reference to the Registered Master Builders survey in the discussion document as being inherently biased.

The responses to this question showed there are mixed views on the quality of building work done by owner builders. Owner builders themselves say they do good quality work. However, most building practitioners and council staff say the quality is not good and remedial work is often required to ensure the work complies with the Building Code.

Some people also suggested most owner builder work is done without a building consent so there is no record of it.

Question 2: Do you think one of the alternative options in Appendix 2 is better than the proposed exemption? If so, why? What do you think are the costs and benefits of your preferred alternative compared to the proposed exemption?

9 people favoured alternative 1 (low risk threshold) and 10 favoured alternative 2 (registration system). 12 people wanted neither alternative.

People who favoured alternative 1 did so as they thought it would be simple and easy to administer. People who favoured alternative 2 generally thought it would ensure owner builders had the required level of competency to do restricted building work and national consistency would be achieved. Supporters of alternative 2 also acknowledged the costs of a registration system would be significant, but they believed the benefits would be greater.

People who did not support the alternatives said so either because they preferred the main proposal (10 people) or because they disagreed the exemption was necessary and the status quo (owner builders have to use LBPs to do restricted building work) should prevail or there should be no restrictions at all on what owner builders can do.

Question 3: What costs do you think owner builders will face under the proposed exemption?

Many people thought the costs would or should be the same as for any person/builder who applies for a building consent. For those who thought there would be additional costs, they cited fees charges by BCA/TA's (including increased number of inspections), insurance and legal costs to get declaration signed and lodge notice on titles. Some also said the owner builder would "pay" by having difficulty selling the house or getting a lower sale price if they do manage to sell.

Question 4: Do you think the elements of the exemption are a fair balance between (a) enabling owner builders to work on their own homes and (b) the interests of consumers (future owners)?

15 people thought the exemption was a fair balance. 16 thought it was not. Of those 16, 8 thought it was unfair to owner builders and 7 thought it was unfair to consumers, 1 did not state why they thought it was not a fair balance. For people who thought the exemption was not fair for owner builders they generally felt there should be no restriction at all on building work done by owner builders. For those who felt it was not fair to consumers, they thought there were not enough safeguards in the exemption or that owner builders should not be exempt at all.

Question 5: Do you agree with each of the elements of the exemption? Which elements do you disagree with or think should be changed? Please describe any alternatives you have in detail.

Element 1 – the person must be an individual

10 people commented on this element. 7 agreed with it. The others questioned why land could not be owned by a company or in joint ownership.

Element 2 – the person must own the land the restricted building work is to be carried out on

16 people commented on this element. 7 agreed with it. 4 said it should be extended to include Maori (co-owned) land. The others mentioned other forms of co-ownership that should be allowed: parents/children, siblings, friends, trusts, co-housing communities, unit title, long term leases.

Element 3 – the person must live or intend to live in the building being constructed or altered

12 people commented on this element. 7 agreed with it. 4 said houses built for rental income should be allowed under the exemption. 3 said holiday homes and other family property (like granny flats and sleep outs) should also be allowed. 1 said unlicensed people should be able to work on community buildings.

Element 4 – the person must not be engaged in the trade of residential building

18 people commented on this element. 6 agreed with it. 9 queried why a qualified builder or other tradesperson should not be able to build their own house. Others thought the 5 yearly interval was too short, especially for work being done on the same home (e.g: adding bedrooms as new children are born every 2-3 years). 1 person suggested a “no sell” period of 7 years.

Element 5 – the person must do the restricted building work themselves

16 people commented on this element. 5 agreed with it. The rest said the owner builder should be able to have someone (friend, family member) help them do the work and noted that some work would have to be done by registered plumbers and electricians under other legislation. Some also said it would be unusual for an owner builder to do all the work themselves and certain labour or specialist tasks are likely to be done by others.

Element 6 – the person must only do construction work

15 people commented on this element. 5 agreed with it. 3 said if someone can build a house they can design it too. The rest said an owner builder should be able to design the house if they want to and that some simple plans already exist for

standard houses and garages. They also said the BCA will check the plans/designs and not approve them (grant building consent) if they do not comply with the Code. 1 person said the element did not go far enough and in addition to having a LBP do the design the owner builder should have guidance to help them throughout the construction work.

Element 7 – the person must be the applicant for the building consent and code compliance certificate for the restricted building work

8 people commented on this element. 6 agreed with it. 1 said an agent should be able to lodge the application/s on behalf of the owner builder. 1 said if the owner builder was living overseas a family member should be able to lodge the application for them so the building consent is issued for when they get back from overseas.

Element 8 – the person must sign a statutory declaration stating all the other elements are met

12 people commented on this element. 4 agreed with it. Others said the declaration was of doubtful use and if it is used the BCA should not charge a fee to receive it. Some suggested the declaration be included in the building consent and code compliance certificate applications and identify both owner builder and other persons who will do/did restricted building work.

Question 6: Are there any of the proposed amendments to the Act that you disagree with or think should be done differently? Again, please describe your suggestions in detail.

Most people who commented on this question either agreed or disagreed with the proposed amendments and the tally of those is below. Specific comments on the amendments were:

- Alternative 1 (risk based threshold) is preferred to the proposal
- Opposed to the exemption entirely (2 people)
- The amendments assume an owner builder will do faulty work and are a “big brother” approach
- Council inspections should provide sufficient checks

Amendment 1 – power for BCA to decline building consent or code compliance certificate

Agree: 8

Disagree: 4

Amendment 2 – copies of declaration to be given to the territorial authority

Agree: 6

Disagree: 3

Amendment 3 – extension of implied warranties to owner builder work

Agree: 8

Disagree: 1

Amendment 4 – disclosure on sale of house

Agree: 6

Disagree: 8

Neutral: 1

Amendment 5 – recording information on land title

Agree: 5 (1 stated only if the maximum fee was \$150)
Disagree: 10

Question 7: Do you agree with the proposed addition to the LIM and the requirement for territorial authorities to provide information to the Department? If you disagree with these two proposals please explain why and give any alternatives you think will achieve the same result.

12 people agreed with putting information about owner builder work on the LIM, 10 people disagreed with this idea. Those who disagreed did so mainly because they believe the requirement would duplicate existing processes and information. They also disagreed because they thought singling out owner builder work was unfair and would increase compliance costs, yet not provide any additional consumer protection as few purchasers get LIMs.

8 people agreed and 9 people disagreed with territorial authorities providing information to the Department. Disagreement was based on it increasing work (and therefore compliance costs) for councils and/or being an unnecessary layer of bureaucracy. Some councils who commented on the proposal said regulation was not necessary and suggested information could be provided through co-operative arrangements.