

15 October 2025

Consenting and Practitioners Policy
Building System Performance
Ministry of Business, Innovation and Employment

Email: building@mbie.govt.nz

PROPOSED REGULATIONS TO SUPPORT A SELF-CERTIFICATION SCHEME FOR PLUMBERS AND DRAINLAYERS

Thank you for the opportunity to provide a submission on the Ministry of Business, Innovation and Employment's consultation on proposed regulations to support a self-certification scheme for plumbers and drainlayers.

Te Kāhui Inihua o Aotearoa | The Insurance Council of New Zealand (ICNZ) represents general insurers. Our members accept the risks of over NZ\$2 trillion of New Zealand's assets and liabilities. ICNZ's members provide a wide range of insurance products including those purchased by businesses such as product and public liability insurance, professional indemnity insurance, cyber insurance, forestry and horticulture insurance, livestock insurance, commercial property insurance, and directors' and officers' insurance.

Our substantive comments on the consultation are limited to questions 3, 10 and 13.

3. Do you agree with the potential impacts? If not, why? Are there any other potential impacts on industry participants?

We agree with the impact described in the consultation paper *"Those who opt-in to self-certify will take on liability for all self-certified work – [Building Consent Authorities] will not take on liability for self-certified plumbing and drainlaying work. This means that if issues arise – such as mistakes for poor-quality work – the self-certifying plumber or drainlayer will be required to fix them."*

However, we think it is important to emphasise the potential risk to homeowners. The removal of the role of the BCA increases the risk of non-compliant work. If an issue arises and the plumber or drainlayer is insolvent or cannot be traced, the homeowner will no longer have recourse to the BCA and will likely bear the risk of loss.

Mitigating this risk to the homeowner will be an important consideration when determining which plumbers and drainlayers are endorsed to self-certify and on what conditions. As indicated in the consultation paper, it will be important that plumbers and drainlayers who self-certify have adequate means to stand by their work and cover any civil liability.

The consultation paper notes that the Plumbers, Gasfitters and Drainlayers Board will have responsibilities to educate, monitor, audit and discipline plumbers and drainlayers. These functions

will be important to manage the risks associated with self-certification. It will be critical that the Board is adequately resourced to carry out these functions.

10. Do you agree with the areas the eligibility criteria should cover? Please explain why.

We agree with the eligibility criteria proposed namely:

- a. Technical competency and knowledge
- b. Quality assurance processes
- c. Business and administrative systems.

13. What specific requirements would demonstrate a plumber or drainlayer had adequate business and administrative systems in place to support self-certification, and why?

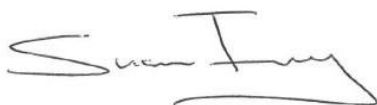
We note that the consultation paper includes "adequate means to cover civil liability" under this heading. We agree that this is an important factor. Policymakers should consider what level of flexibility there should be to meet an "adequate means to cover civil liability" criterion. Insurance may have a role to play. However, policymakers should bear in mind:

- access to professional indemnity insurance for self-certification by plumbers/drainlayers may be limited;
- any contract of professional indemnity insurance would be subject to policy terms and conditions, and would not cover all potential civil claims, for example deliberate or wilful acts;
- the availability of insurance would depend on the plumber's/drainlayer's experience and the work undertaken.

Guarantees or arrangements made by the plumber or drainlayer to set aside financial resources to cover a potential liability might be alternative means of meeting this criterion. These could include bank guarantees, surety bonds, letters of credit from a bank, corporate guarantees (from a parent company or franchisor), or personal guarantees.

As requested, we have also set out our answers in the MBIE's Consultation Submission Form are set out in the Appendix to this submission.

Ngā mihi



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