

# ANNUAL REPORT 2020

**BPB** | Building Practitioners Board  
*Te Poari Kaupapa Kaiwaihanga Whare*



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# **ROLE AND FUNCTIONS OF THE BOARD**







The Building Practitioners Board (the Board) is a statutory body constituted under Part 4 of the Building Act 2004. It plays an important role in the Licensed Building Practitioners Scheme (the Scheme).

The functions of the Board are to:

- › hear appeals against licensing decisions of the Registrar of Licensed Building Practitioners (LBPs)
- › investigate and hear complaints about LBPs
- › approve Rules for LBPs
- › annually review and report on its operations to the Minister of Building and Construction.

The Board is independent of the Ministry of Business, Innovation and Employment (the Ministry), but is supported by the Ministry in the performance of its functions.

The Board is committed to supporting the capability of New Zealand's building and construction industry and maintaining building practitioner standards.



# CHAIR'S REVIEW

It has been another year of consolidation seeing an encouraging, if not small, increase in the number of people holding a Licensed Building Practitioner (LBP) licence. There still remains a shortage of LBPs, especially in Auckland. The Board is supportive of any initiatives that the Ministry undertake to encourage the many individuals who have the qualifications and experience necessary to apply for a licence.

Licensing allows building practitioners to carry out Restricted Building Work (RBW), including crucial residential building work and design. It enables LBPs to show potential clients they possess a minimum standard in their licensed area and provides consumers with confidence that an LBP has proven they possess the necessary knowledge and skills to do certain work.

It is envisaged that over time consumers will prefer LBPs over non-licensed practitioners because consumers will value that LBPs meet minimum standards of competency, are subject to a disciplinary process, have continued professional development and are required to stay informed of industry changes.

The Board and the team at the Ministry have had a busy year with complaints. 250 complaints were considered, 33 Board Inquiries were initiated and 168 hearings were held. The types of complaints received remain the same as in past years: not providing a Record of Work (ROW) on time (or at all); building before a building consent has been issued; poor standard of building work; and, in a few extreme cases, poor or sometimes fraudulent business practices.

Complaint volumes continue to grow, albeit at a reduced rate. Looking forward, we expect to receive an average of 250 complaints per year. This is a significant number, however, when compared to the number of LBPs (25,761), it does suggest that the industry is thriving.

Complaints were submitted by a range of people, including: members of the general public; local councils; other LBPs; head contractors; and the Board itself when exercising its power to undertake Board-initiated Inquiries.

Between March and May 2020, during the COVID-19 lockdown, complaint numbers dropped to around half of what we would



normally receive. Along with most of the country, the Ministry and the Board adapted to using Zoom video-conferencing in order to work from home and continue the process of receiving complaints and scheduling hearings.

During this time, the Board took the opportunity to consider complaints with substantial supporting evidence via a draft decision process. In these cases, the Respondents were provided an opportunity to make additional submissions or to request an in-person hearing. This process has continued and at this stage we have seen a reduction in the need for in-person hearings, which saves time and money.

The message to practitioners who have had a complaint made against them which has led to an enquiry by the Board is the same as last year - the sooner you engage, the sooner the process can commence and come to a resolution. Ignoring a complaint in the hopes it will go away simply does not work.

We also encourage practitioners to take ownership of their mistakes. The Board will take acceptance of responsibility into account when finalising a penalty decision. It may also allow for a complaint to be heard 'on the papers' in the absence of a physical hearing.

As part of a continuous process of improvement, the Board and the team at the Ministry have been looking at ways to streamline processes to reduce the number of hearings, shorten the investigation stage, and issue more decisions 'on the papers' if the evidence allows. The aim is to shorten the entire

process from receipt to decision while ensuring the principles of natural justice are upheld.

Looking forward, the Board is assisting the Ministry in the development of a code of ethics for LBPs for the Minister's consideration. This will clarify the standard of behaviour required within the industry and will provide some guidelines for the Board to apply when considering complaints relating to LBP ethics.

I would like to thank the Ministry for their continued support and for being open to change and improve the way we work and interact with the public and the LBPs we regulate.

Lastly, I would like to thank the Board Members for all their hard work this year and to the Minister for her continued support and interest in the work we do to uphold the standards of the industry.

*Chris Preston*

**Chris Preston**  
**CHAIR**









# 2019/20

# AT A GLANCE



**250 Complaints**  
considered by the Board



**232 Investigations**  
completed by the Registrar



**33 Inquiries**  
initiated by the Board



**130 Complaints**  
upheld



**168 Complaints**  
determined following hearing



**6 Appeals**  
to the Board upheld

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# **STATEMENT OF PERFORMANCE**







The Board's performance expectations and measures for 2019/20 set by the Minister are outlined below.

EXPECTATIONS	MEASURES	ACHIEVEMENT
<b>Legislative obligations</b> The Board meets all obligations under relevant legislation, including reporting under the Act.	All legislative obligations are met and performance against its obligations is reported in its Annual Report.	Achieved. Annual Report provided to the Minister by 31 October 2019.
<b>Licensed Building Practitioners Rules 2007</b> Approve Rules relating to Licensed Building Practitioners in a timely way.	Approve or decline all proposed Rules within 30 working days of receipt from Ministry.	No rule changes were proposed in this financial year.
<b>Complaints</b> Investigate complaints, hear complaints and discipline Licensed Building Practitioners efficiently and in accordance with Regulations.	Determine 90% of complaints within 60 working days of the date of the hearing. The complaint and disciplinary process from beginning to end is regularly reviewed.	Achieved. 92% of complaints were determined within 60 working days of the date of the hearing. The complaints and disciplinary process was regularly reviewed. The Board held two Complaints Workshops with the Ministry. As a result, the Complaints Procedures were revised once in 2019/20.
<b>Appeals</b> Hear appeals against decisions of the Registrar in a timely way.	Determine 85% of appeals within 60 working days of receipt of complete appeal.	Achieved. 89% of appeals were heard and/or determined within 60 working days of receipt of complete appeal. Appeals figures are contained in the Annual Report.
<b>Service Level Agreement with Ministry</b> Develop, implement and monitor a Service Level Agreement that sets out the expected service levels to be provided by the Ministry and Registrar.	Performance against the agreed service levels is reviewed by 31 March each year, to inform consideration of the next Service Level Agreement.	Achieved. No changes were made to the Service Level Agreement in 2019/20.
<b>Board self-appraisal</b> The Board undertakes an annual self-appraisal of its performance as a Board and provides a summary to the Ministry.	A summary of the self-appraisal is received by 31 October each year, identifying areas which are working well for Board members, areas for improvement, and the action the Board intends to take as a result.	Achieved. An independent review of the Board's performance was undertaken using the Council of Australasian Tribunals (COAT) Excellence Framework. The Board is working through the recommendations that resulted from the review.

EXPECTATIONS	MEASURES	ACHIEVEMENT
<b>Board member succession</b> The Board provides the Ministry with its views on membership and succession.	The Board's view shows the current skills and experience of Board members and identifies any gaps and proposals for the Minister to consider in future appointment rounds.	Achieved. The Board worked actively with the Ministry's Governance team and provided a view of the future makeup of the Board, with consideration to skills and experience, gender balance and ethnic diversity.
<b>Professional development</b> Board members undertake professional development in the performance of their functions.	Training is available for Board members for at least four half-days of development per annum.	Board members individually undertook a range of professional development activities over the 2019/20 year: <ul style="list-style-type: none"> <li>› "How to prepare for a hearing" training</li> <li>› Situational safety and tactical communication training</li> <li>› New Board member induction programme</li> <li>› Constructive Building Industry Forum</li> <li>› Registered Master Builders Association (RMBA) Annual Conference</li> <li>› RMBA Apprentice of the Year - Judge</li> <li>› RMBA/Building Practitioners Board meet and greet event - presented</li> <li>› Architectural Designers New Zealand (ADNZ) 2019 National conference</li> <li>› BOINZ Conference - presented</li> </ul>



**Chris Preston**  
CHAIR

**8 September 2020**



**Mel Orange**  
DEPUTY CHAIR

# LICENSING

## Total number of LBPs and licences

At 30 June 2020, 25,761 individual LBPs were licensed with a total of 30,368 licences issued. The difference in individual LBPs and licences issued reflects LBPs that hold more than one licence. This is a slight increase from 2019, where there were a total of 25,075 individual LBPs. Overall licence numbers have rebounded and continued to increase after a slight decrease in 2019.

### Total number of licences by licensing class, previous 3 years

	BRICKLAYING AND BLOCKLAYING	CARPENTRY	DESIGN	EXTERNAL PLASTERING	FOUNDATIONS	ROOFING	SITE	TOTAL
AT 30 JUNE 2018	913	20,124	2,407	481	332	1,273	4,758	30,288
AT 30 JUNE 2019	854	19,806	2,458	461	335	1,259	4,550	29,723
AT 30 JUNE 2020	834	20,368	2,523	460	361	1,329	4,493	30,368





# APPEALS

The appeals process is available for building practitioners who want to question the Registrar's decision to decline an application to become licensed, or to suspend or cancel a licence pursuant to the Building Act 2004.

## Appeals activity summary for the previous 3 years

CARRIED FORWARD/RECEIVED	2017/18	2018/19	2019/20
Appeals carried forward from previous year	3	2	2
Appeals received: declined licence application	22	10	17
Appeals received: suspended/cancelled licence	0	0	9
<b>Total</b>	<b>25</b>	<b>12</b>	<b>28</b>
HEARD			
Hearings held	23	10	16
DETERMINED (CLOSED)			
Appeals determined: following hearing	23	10	17
Appeals determined: withdrawn	0	0	1
<b>Total</b>	<b>23</b>	<b>10</b>	<b>18</b>
IN PROGRESS AT YEAR END			
Active at year end	2	2	10



## Performance measures summary

### Target

Determine 85% of appeals within 60 working days of receipt of complete appeal.

### Performance

The Board met its target in relation to appeals.

There were 17 new appeal applications received for the 2019/20 year relating to declined licences, which was an increase from the previous year, but still in line with the average received in recent years. The number of licensing decisions appealed still equates to less than one percent of the total number of licence applications.

# 89%

Total percentage  
**within measure**

## 17

Total appeals determined

## 16

Appeals determined  
within measure

## 2

Appeals determined  
outside of measure

## Appeal hearing outcomes

	NUMBER	%
<b>CARRIED FORWARD/RECEIVED</b>		
Appeals upheld (licence granted)	6	35%
Appeal upheld (offer lower)	0	0%
Upheld + declined (one licence granted and one licence declined)	1	6%
Appeals not upheld (licence not granted)	10	29%
<b>Total</b>	<b>17</b>	<b>100%</b>





# COMPLAINTS

Any person may complain to the Board about the conduct of a licensed building practitioner in accordance with the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 and the Building Act 2004.

The Board may initiate an inquiry into matters about the conduct of a licensed building practitioner raised by its own inquiries or raised after a complainant decides not to proceed with a complaint and submits a withdrawal.

The Board received 194 new complaints and initiated 33 Board Inquiries this year. Complaint volumes were tracking to increase based on what was received in the first 6 months, however during the COVID-19 lockdown period between March and June 2020, we saw a reduction in the number of complaints received.

## Complaint/Board inquiry activity summary for the previous 3 years

	2017/18	2018/19	2019/20
<b>CARRIED FORWARD/RECEIVED</b>			
Complaints/Board Inquiries carried forward from previous year	148	149	188
Board Inquiries initiated	— <sup>1</sup>	— <sup>1</sup>	33
Complaints received	235 <sup>2</sup>	250 <sup>2</sup>	193 <sup>3</sup>
<b>Total</b>	<b>383</b>	<b>399</b>	<b>414</b>
<b>INVESTIGATED/CONSIDERED</b>			
Complaints/Board Inquiries investigated	234	238	232
Complaints/Board Inquiries considered	— <sup>4</sup>	236	250
<b>DETERMINED (CLOSED)</b>			
Complaints withdrawn	6	5	—
Complaints/Board Inquiries determined not to proceed to hearing	67	67	90 <sup>5</sup>
Complaints/Board Inquiries determined following hearing	152	142	168 <sup>5</sup>
<b>Total</b>	<b>225</b>	<b>214</b>	<b>258</b>
<b>IN PROGRESS AT YEAR END</b>			
Complaints/Board Inquiries active at year end	149 <sup>6</sup>	188 <sup>6</sup>	156 <sup>6</sup>

1 Board Inquiries were included in "Complaints received" figures in 2017/18 and 2018/19

2 Includes complaints received and Board inquiries initiated

3 Excludes Board Inquiries

4 This figure was not provided in the 2017/18 Annual Report

5 Includes withdrawals

6 Includes complaints placed on hold

## Performance measures summary

### Target

Determine 90% of complaints within 60 working days of the date of the hearing.

### Performance

The Board met its targets in relation to complaints.

92% of complaints/Board Inquiries were determined within 60 working days of the date of the hearing for the 2019/20 year. The volume of complaints received/Board Inquiries initiated decreased slightly this year by 5.6%. This appears to be a direct result of the COVID-19 lockdown (March–June 2020), during which we saw a reduction in complaints received compared to previous years.

# 92%

Total percentage  
**within measure**

## 168

Complaints/Board Inquiries  
determined following hearing

## 155

Determined within measure

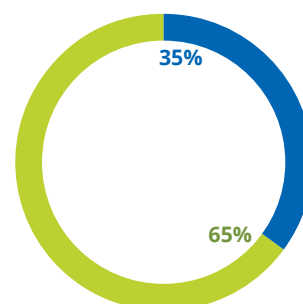
## 13

Determined outside of measure



## Complaints/Board Inquiries determined

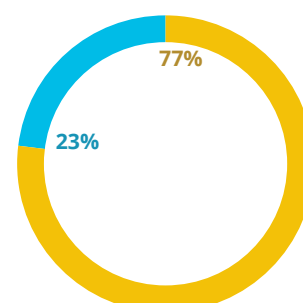
COMPLAINTS DETERMINED	NUMBER OF COMPLAINTS
Did not proceed to a hearing	90
Determined following hearing	168
<b>TOTAL</b>	<b>258</b>



## Complaint/Board Inquiry hearing outcomes

The below details upheld complaints/Board Inquiries. In 2019/20, 122 LBPs were disciplined for 130 upheld complaints. Some LBPs had more than one upheld complaint/board inquiry against them.

HEARING OUTCOMES	NUMBER OF HEARINGS
Complaints/Board inquiries upheld	130
Complaints/Board inquiries not upheld	38
<b>TOTAL</b>	<b>168</b>



## LBPs disciplined

Of the total complaints/Board Inquiries heard in 2019/20, 130 or 77% were upheld, and 38 or 23% were not upheld.

## Upheld complaints by licence classes

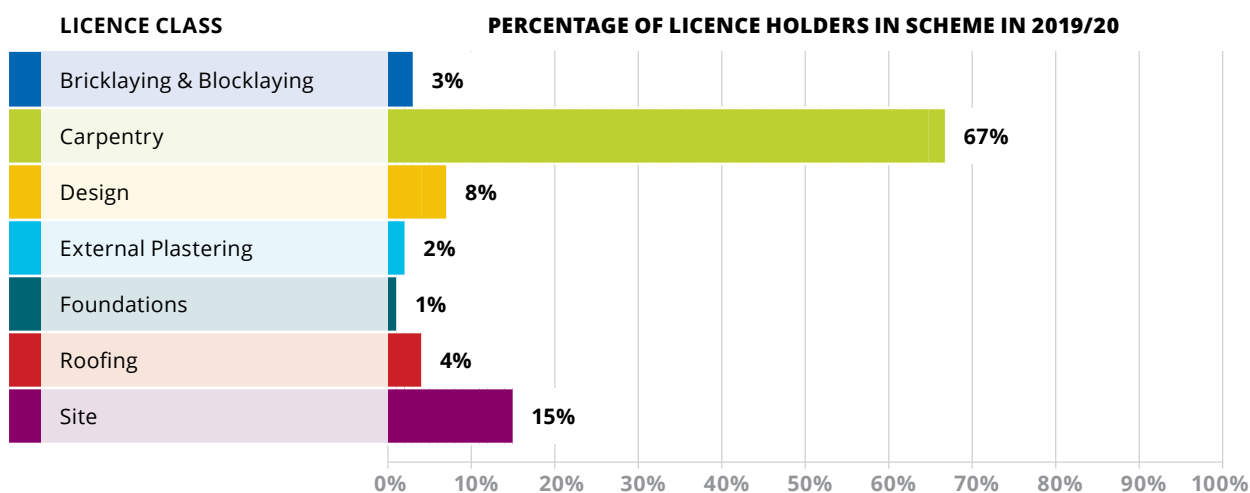
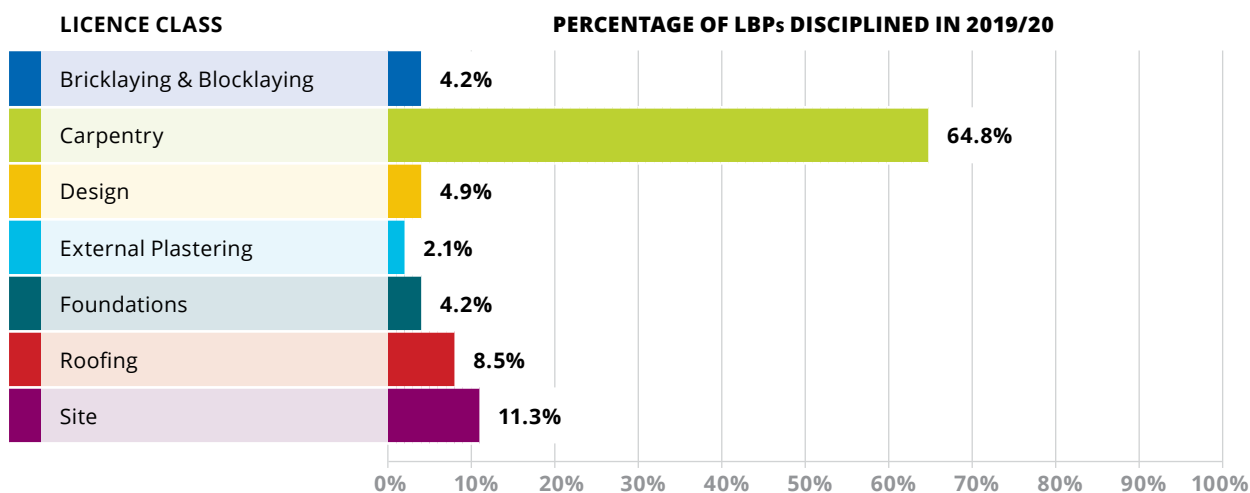
The table at right details the licence classes held by LBPs whose complaints were upheld. Note that some LBPs hold licences in more than one class.

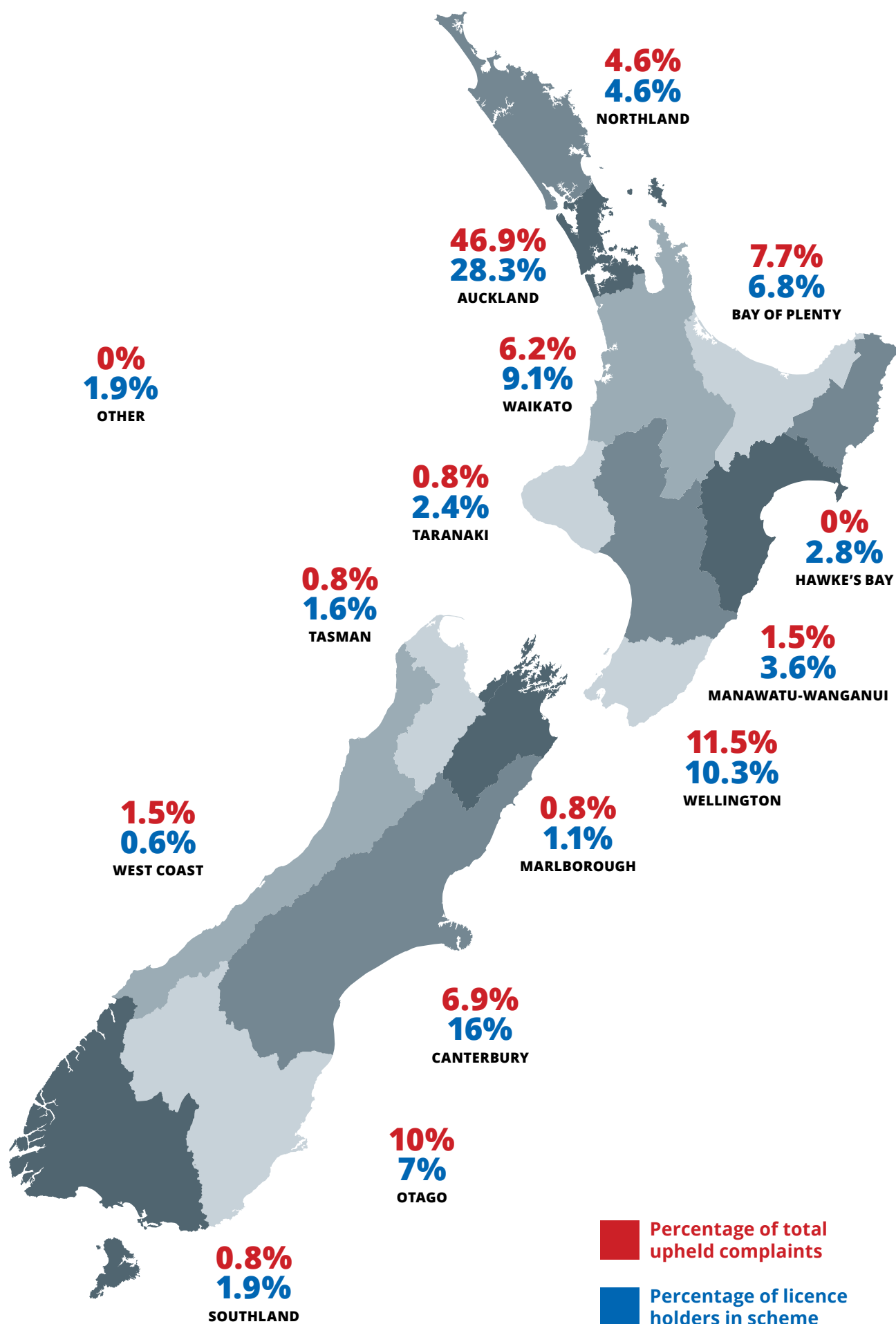
When compared with the total number of licences held, the proportion of licence holders disciplined typically reflects that proportion in each licence class, with a few exceptions. Design licence holders are disciplined at a lower rate than average, whereas foundations and roofing licence classes are disciplined at a higher rate. Although the number of complaints in these areas are low, this trend was also observed in the 2017/2018 and 2018/2019 data.



LICENCE CLASS	Disciplined in 2019/20	Total licence holders in scheme
Bricklaying & Blocklaying	6	834
Carpentry	92	20,368
Design	7	2,523
External Plastering	3	460
Foundations	6	361
Roofing	12	1,329
Site	16	4,493
<b>TOTAL</b>	<b>142</b>	<b>30,368</b>

Note: Some LBPs hold licences in more than one class.





## Upheld complaints in 2019/20 by region

The information below details upheld complaints by the regions where the conduct took place.

As identified in the below figures, Auckland has almost half of all upheld complaints nationally (46.9%). Due to the comparative size of the Auckland construction industry, it is not surprising to see a larger number of complaints coming from the region. However it is interesting to note that the number of complaints relative to the number of LBPs is disproportionately high. Canterbury in comparison has only half the number of complaints that would be expected for the number of LBPs in the region. This could indicate regional differences in the performance of LBPs and/or the appetite of consumers to lay complaints against LBPs.

REGION	NUMBER OF UPHELD COMPLAINTS	PERCENTAGE OF TOTAL UPHELD COMPLAINTS	NUMBER OF LICENCE HOLDERS IN SCHEME	PERCENTAGE OF LICENCE HOLDERS IN SCHEME
Northland	6	4.6%	1,193	4.6%
Auckland	61	46.9%	7,295	28.3%
Waikato	8	6.2%	2,354	9.1%
Bay of Plenty	10	7.7%	1,762	6.8%
Hawkes Bay	0	0.0%	724	2.8%
Taranaki	1	0.8%	630	2.4%
Manawatu-Wanganui	2	1.5%	917	3.6%
Wellington	15	11.5%	2,652	10.3%
Marlborough	1	0.8%	290	1.1%
Tasman	1	0.8%	408	1.6%
Canterbury	9	6.9%	4,128	16.0%
West Coast	2	1.5%	164	0.6%
Otago	13	10%	1,806	7%
Southland	1	0.8%	478	1.9%
Other	0	0%	500	1.9%
<b>TOTAL</b>	<b>130</b>	<b>100%</b>	<b>25,761</b>	<b>100%</b>



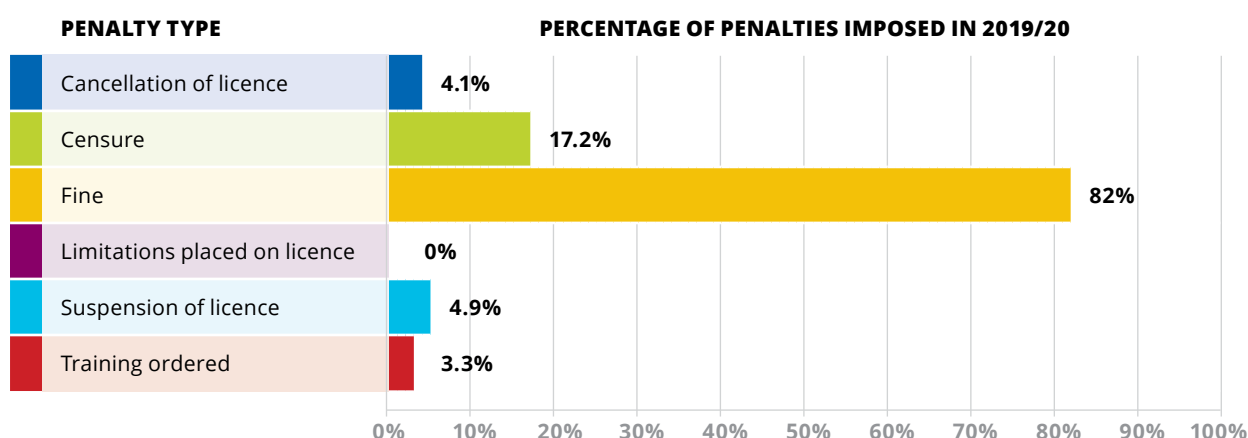


## Penalties imposed

136 penalties were imposed for 130 upheld complaints against LBPs. Fines continue to be the most commonly imposed penalty, followed by censure. The cancellation or suspension of a licence occurs in less than 10% of cases, and is usually reserved for more serious levels of offending.

Of the LBPs sanctioned, 5 also had their name published in Codewords to alert the industry of the severity of their offending. This represents a minority of cases (4%), as the Board only orders publication (over and above the inclusion in the register and in the decision) when there is a perceived need for the public and/or profession to know the findings of the hearing.

PENALTY TYPE	NO. OF PENALTIES IMPOSED IN 2019/20
Cancellation of licence	5
Censure	21
Fine	100
Limitations placed on licence	0
Suspension of licence	6
Training ordered	4
<b>TOTAL</b>	<b>136</b>



## Key themes in complaints

### **Failing to provide a record of work once restricted building work is complete**

A breach of sections 88 and 317(1)(da)(ii) of the Building Act

### **LBP's failing to build in accordance with a building consent or without a building consent**

### **Poor application of supervision**

leading to issues with construction sequencing or poor work

### **False belief that working as a sub-contractor eliminates LBP obligations**

leading to complaints regarding the conduct of individual LBPs

### **Using Building Consent Authorities as quality control**

This is often in conjunction with poor supervision, LBPs have relied on the inspection process to identify issues with work, rather than building it right the first time

### **Issues with workmanship of non-restricted building work**

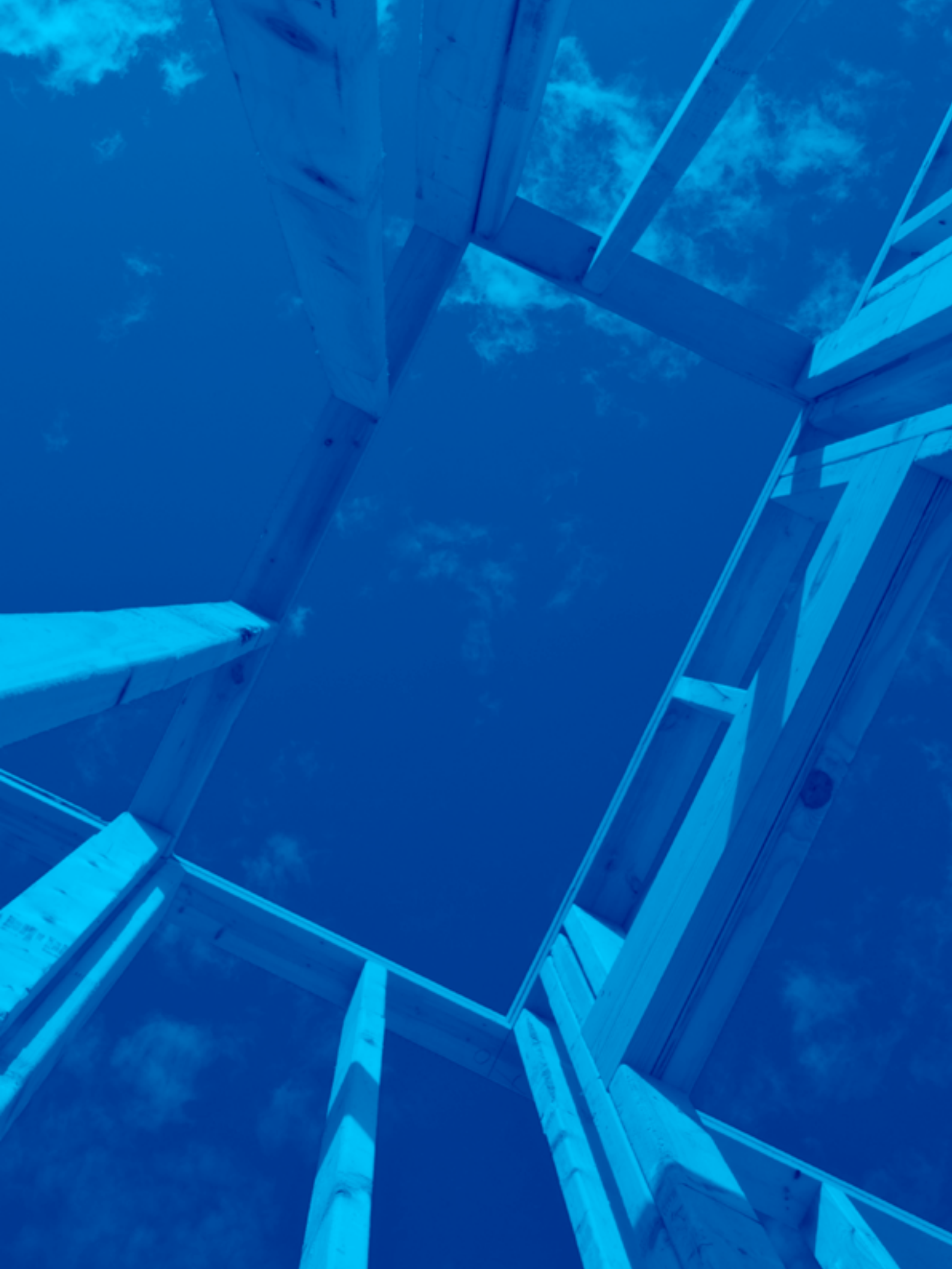
LBPs are accountable for both non-restricted as well as restricted building work

### **Proceeding with non-compliant work**

regardless of some level of doubt about compliance with the consented plans or the Building Code

### **A power imbalance may exist between an employer and employee**

This can lead to LBPs being held to account for following an employer's direction





# STATEMENT OF FINANCIAL PERFORMANCE





**The Building Practitioners Board is a statutory Board created under the provisions of the Building Act 2004. The Board's revenue and expenses are managed by the Ministry.**

# MEMBERS OF THE BOARD



From left: Richard Merrifield, Faye Pearson-Green, David Fabish, Bob Monteith, Chris Preston (Chair), Robin Dunlop, Mel Orange (Deputy), Rob (Yuanlin) Shao





### **CHRIS PRESTON, CHAIR**

Mr. Chris Preston is self-employed and is currently a full time member of the Board. Previously, Chris was a dispute resolution professional undertaking a range of residential disputes and advisory work. Clients included homeowners, contractors and builders. He was also previously CEO of the Registered Master Builders Federation and acting CEO of BRANZ on two occasions.

Chris has a Bachelor of Commerce and a postgraduate diploma in dispute resolution from Massey University. He is an Associate of the Arbitrators' and Mediators' Institute of New Zealand and has undertaken the Institute of Directors course in governance.

Chris has a keen interest in the community and was a member of the local Community Board and Business Association. Chris was appointed in 2013 and became the Chair in 2015. Chris is from Canterbury.



### **MEL ORANGE, DEPUTY CHAIR**

Mr. Mel Orange is a self-employed barrister and business consultant from Christchurch who works in the energy and construction industries.

Mel has previously held senior management positions and board positions in the energy industry. Mel is the Chair of the Electricity Rulings Panel and Presiding Member of the Electrical Workers Registration Board. He is a former Chair of the Electrical Workers Complaints Assessment Committee and a former Board and Commission member of the Electricity and Gas Complaints Commission.

Mel was appointed in 2013 and became the Deputy Chair in 2020. Mel is from Christchurch.



## **ROBIN DUNLOP**

Dr. Robin Dunlop consults and advises on management and transport issues. He has been involved in the transport sector for over 45 years, covering strategic direction, funding, organisational form, asset management and research.

Robin has a Bachelor of Engineering (Hons) in Civil Engineering and a PhD in Civil Engineering. He is former Chair of the Engineering Associates Registration Board, Chair of the Institute of Professional Engineers Heritage Board and Chair of Destination Wairarapa. He is also the Director of four private companies and Chair of a charitable forestry trust. He was previously CEO/Secretary of Transport in NZ and CEO of Transit NZ.

Robin was appointed in 2014 and is from the Wairarapa.



## **DAVID FABISH**

Mr. David Fabish has operated his own residential construction business for 38 years and holds two carpentry trade qualifications.

David is a Licensed Building Practitioner in Carpentry and Site 2 and is a Life Member of the Registered Master Builders Association (RMBA). David is a past National President and Board Member of RMBA and is the Deputy Chair of the Building and Construction Industry Training

Organisation (BCITO) Board.

David Fabish Ltd has won many House of the Year awards including 2 National Category winners.

David was appointed in 2018 and is from New Plymouth.



## **FAYE PEARSON-GREEN**

Mrs. Faye Pearson-Green is an Architectural Designer and a Licensed Building Practitioner (Design 2). She has over 37 years' experience in the industry and has been self-employed since 1996.

Faye holds a NZ Certificate in Draughting (Architectural). She is a member of Architectural Designers New Zealand and the Regional Chair of the Canterbury Westland Branch. She is a Regional Judge for the Registered Master Builders House of the Year competition.

Faye was appointed in 2017 and is from Christchurch.



## **RICHARD MERRIFIELD**

Mr. Richard Merrifield is a qualified carpenter and has been a Licensed Building Practitioner since June 2008. He has over 50 years' experience in the building industry and has operated his own construction company since 1989.

Richard has held a number of industry-related Board and working group appointments. He is a former Chair of the Certified Builders Association of New Zealand and former Chair of the Building Research Association Advisory Council and is also a former Board Member of BRANZ.

Richard is Board Member of the Standards New Zealand Approvals Board and is a Member of the Construction Strategy Group.

Richard was appointed in 2012 and is from Upper Moutere.



## **BOB MONTEITH**

Mr. Bob Monteith is a qualified builder who holds a New Zealand Certificate in Building. Bob is a Licensed Building Practitioner with over 50 years' experience in the building industry. He is Managing Director of Monteith Central Construction Limited.

Bob has held numerous industry-related working group appointments. He was a Board member of the New Zealand Certified Builders Association (NZCB) for seven years, three of those as the National President. He is an honorary member of NZCB.

Bob was appointed in 2015 and is from Kinloch, Taupo.



## **ROB (YUANLIN) SHAO**

Mr. Rob Shao holds a master's degree in economics from the University of International Business and Economics (UIBE) in Beijing and spent over a decade of his professional career with a world-leading European brand printing press manufacturer, gaining extensive experience in industrial sales and management.

Since arriving in New Zealand in 2001, Rob has retrained to focus on the residential building sector in Auckland. He has held various roles in the sector, ranging from hands-on carpentry work, site management and property development, to managerial duties with a group home builder, followed by property inspection services.

Rob was awarded a Certificate in Applied Technology in Carpentry by Unitec in 2007, and became a Licensed Building Practitioner in 2011.

Rob was appointed in 2019 and is from the North Shore, Auckland.



# How to contact us



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