

Building Bill 2023 - Licensing Proposals

A review of building licensing and registration
in NSW

June 2023



Acknowledgement of Country

The NSW Department of Customer Service acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

We pay our respects to Elders past, present and emerging and acknowledge the Aboriginal and Torres Strait Islander people that contributed to the development of this paper.

We advise this paper may contain images, or names of deceased persons in photographs or historical content.

Building Bill 2023 - Licensing Proposals

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Attachment Paper – Descriptions of work authorised by a licence

Please see attached paper outlining the descriptions of what work is authorised by a licence in NSW. This will be referred throughout this document as ‘Attachment Paper’.

The Attachment Paper provides the full list of licence classes proposed in the new framework, a description of the type of work included in each licence class, and a brief explanation of what (if anything) is proposed to change in the Building Bill’s supporting Regulations.

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1

Introduction

1.1 Introduction

In late 2022, the Building and Construction Policy team, Better Regulation Division, Department of Customer Service (the **Department**) released a draft Building Bill (the **Bill**) and the accompanying Regulatory Impact Statements for public comment. Since late 2022, the Department has analysed the extensive stakeholder feedback in response to the proposed Bill, reviewed and refined policy positions, and considered proposals to inform development of the Bill's supporting Regulations.

This paper outlines the Department's policy positions on the framework for building and construction licensing in NSW. The paper will guide ongoing conversations about the framework structure and key elements, which licences will be captured in the framework, and how the framework will reflect the day-to-day work of industry practitioners.

This paper continues the co-design approach of the broader review of the *Home Building Act 1989* (**HB Act**). The Department's policy positions are the culmination of thousands of pages of survey responses and submissions, and many hours of consultation. The proposals in this paper are delivered alongside an invitation to industry stakeholders to participate in the ongoing co-design of the licensing framework. The Department is seeking continued input from stakeholders to further develop and refine proposals relating to licence classes and their scope of works.

Stakeholders are invited to download and complete the Answer Sheet accompanying this document and return it to the Department via email at hbareview@customerservice.nsw.gov.au.

1.1.1 Not in scope for this paper

This paper does not intend to capture every component of the proposed licensing framework. Some further topics will be addressed later in 2023 via stakeholder engagement activities and further discussion papers. Industry stakeholders will have the opportunity to provide feedback on these topics later in 2023 while the Department drafts the supporting Regulations for the Building Bill.

The table below identifies the topics out of scope for this paper and provides an overview of the Department's intended timeframes for further consultation on these topics.

Topic	Timeframes for further consultation
Owner-builder permit scheme	The Department is reviewing submissions received in response to our 2022 public consultation and finalising our proposal for the owner-builder permit scheme. The Department intends to release a discussion paper on the scheme in late 2023 to guide further engagement with industry stakeholders.
Fire safety licensing	As discussed in the Regulatory Impact Statement – Building Bill 2022, the Department intends to consolidate fire safety registration frameworks and ensure all practitioners who design, install, certify or maintain a fire system are licensed. The Department is progressing an internal review of the fire safety licensing framework and will engage further with stakeholders in the coming months.
Qualifications	The Department has commenced an internal review of the qualification requirements for each licence class to ensure they are relevant, modern and fit for purpose. The Department will engage with relevant industry bodies to refine the qualification requirements for each licence class throughout development of the Building Bill and supporting regulations into 2024.
Continuing Professional Development (CPD)	As discussed in the Regulatory Impact Statement - Building and Construction Legislation Amendment Bill 2022, the Department intends to standardise approaches to CPD across all building and construction-

	related functions. The Department has commenced an internal review of the CPD framework and will engage further with industry stakeholders on CPD proposals in late 2023.
Pre-fabricated building work	As discussed in the Regulatory Impact Statement - Building Bill 2022, the Department is conducting an extensive review of the regulatory framework for pre-fabricated building work and off-site manufacturing. The Department will continue engaging with industry stakeholders throughout 2023 to finalise the review of pre-fabricated building work and consider any subsequent changes to the proposed licensing framework.

Table 1: Topics outside the scope of this paper

1.2 Terms used throughout this paper

Term	Meaning
ACL	Australian Consumer Law
AMR	Automatic Mutual Recognition
BCA	Building Code of Australia
Bill	Building Bill 2022
CPD	Continuing Professional Development
DBP Act	<i>Design and Building Practitioners Act 2020</i> Unless otherwise indicated, this term can be taken to also include the supporting regulations.
Department	Department of Customer Service
EPA	Environmental Protection Agency
G&E Act	<i>Gas and Electricity (Consumer Safety) Act 2017</i>
HB Act	<i>Home Building Act 1989</i>
HB Regulation	Home Building Regulation 2014
IPART	Independent Pricing and Regulatory Tribunal
NCAT	NSW Civil and Administrative Tribunal
NCC	National Construction Code
NRF	National Registration Framework
PH Act	<i>Public Health Act 2010</i>
Public consultation	Public consultation on the draft Building Bill and other proposed building reforms conducted throughout August to November 2022 via the Have Your Say website: https://www.haveyoursay.nsw.gov.au/reforming-building-laws

	The Department published three draft Bills and three accompanying Regulatory Impact Statements and received 1618 responses via surveys and submissions from industry bodies, practitioners and members of the public.
RIS	Regulatory Impact Statement
RPL	Recognition of Prior Learning
RTOs	Registered Training Organisations
SI Act	<i>Security Industry Act 1997</i>
Standards	Australian Standards
VET	Vocational Education and Training
WHS Act	<i>Work Health and Safety Act 2011 (NSW)</i>
WHS Regulation	Work Health and Safety Regulation 2011 (NSW)

Table 2: Terms used throughout this paper

1.3 Overview of proposals in this paper

This paper contains a mix of proposed outcomes and new proposals, which are listed below. Proposed outcomes are those decisions that have been finalised by the Department following consultation. New proposals are position statements formulated by the Department which require further feedback and review.

1.3.1 Proposed outcomes

- 1: Extend licensing to all classes of buildings under the National Construction Code
- 2: Civil construction will not be included initially, but will be considered as part of any further expansion of licensing requirements
- 3: Individuals, partnerships and corporations are eligible to apply for a regulated work licence. Corporations have extended responsibilities when requiring work to be completed
- 4: Supervision Practice Standards will be developed for high-risk vocations
- 5: For most work, a licence will be required if the value of the work is \$3,000 or more, with some high-risk work (such as specialist work) requiring a licence regardless of the value
- 6: A licence can be endorsed with additional licence classes at a reduced fee as a person continues with professional development
- 7: Study and gaining competence towards another vocation will be accepted as continuing professional development
- 8: Register pre-purchase and defect building inspectors and establish minimum standards for inspections
- 9: Register pre-purchase pest inspectors and establish minimum standards for pre-purchase pest inspections
- 10: Waterproofing will be a new class of specialist work
- 11: Combine work permitted in the connect/disconnect of fixed electrical components in the plumbing licence however no other significant change

12: Several licence classes will remain unchanged in structure with extended application to all building classes

13: Solar installers should not be licensed at this time, and high-risk solar installation work will continue to require an electrician and/or plumber

14: Quantity surveyors will not be licensed at this time

15: Modernise and update work authorised by a licence (see Attachment Paper)

1.3.2 New proposals

1: Several low-risk licence classes will be retired; including minor trade work, decorating and swimming pool repairs

2: Establish four levels of builder licence

3: Establish a new licence category for the installation of ducting work on sites

4: Introduce a new licence class for Type B gas fitting work, and merge the LP gas fitting work licence into the gas fitting work licence

5: Create a separate licence for medical gas and work with industry to create new mechanical services licences

6: Continue reviewing the electrical licensing framework

7: Consolidate two roofing licences into one licence, with minimal changes to what is authorised by the licences

8: The kitchen, bathroom and laundry renovation licence class will be absorbed into the new Level D Builder licence class

9: Amend the fencing licence to only capture swimming pool barrier installation

10: Deregulate painting work done for decorative purposes and retain regulation of painting work for weatherproofing and protective purposes

11: Introduce a licence for building designers and investigate regulating other design roles

12: Continue to review evidence to support licensing project managers

2

Licence Framework

2.1 What work will need a licence?

Proposed outcome 1: Extend licensing to all classes of buildings of the National Construction Code

The Building Bill outlines that if a person is carrying out ‘regulated work’ they need to be licensed or be working under the supervision of a person who is licensed. Regulated work generally captures the following:

- Specialist work
- Engineer work
- Building work as defined in clause 5 of the Bill.

The Regulations will prescribe what work requires a licence, including what work is authorised to be performed.¹ As is the current practice, any skills or qualifications necessary to apply for a licence will be prescribed by the Secretary.

Consultation throughout the review has demonstrated overwhelming support to extend licensing into other classes of building. This extension recognises that there are problems in the wider industry that sophisticated contracting practices alone cannot solve.

The aim of the Construct NSW reforms is to lift standards across the building and construction sector. The newly designed licensing framework will include obligations such as continuing professional development, commitment to building codes and standards and sanctions for poor performers. Together these framework elements will contribute to a holistic approach to lifting standards and creating accountability for delivering results.

2.2 Will civil construction be included?

Proposed outcome 2: Civil construction will not be included now but will be reviewed again

Civil construction is work on public infrastructure such as bridges, roads, airports, railways and dams. Currently, most civil construction work does not require a licence under the HB Act.

In our recent public consultation, the Department asked whether the licensing framework should be expanded to capture civil construction work.

We received limited feedback in response. While a small group of stakeholders suggested the trade licensing framework could be expanded to capture civil construction, this feedback was limited and not evidenced. Therefore, no changes are currently proposed to introduce licensing specifically in civil construction until further evidence supports a change.

In the future, the Department may choose to revisit a potential expansion to civil construction while the expansion of licensing requirements to other classes of building is being developed and considered. The future review into civil construction would be conducted in close consultation with industry and community stakeholders. Any changes would occur through Regulation.

2.3 Who can apply for a licence and what are their responsibilities?

Proposed outcome 3: Individuals, partnerships and corporations are eligible to apply for a regulated work licence. Corporations have extended responsibilities when requiring work to be completed

Currently, persons can apply for a provisional, contractor, or endorsed contractor, or a supervisor or tradesperson certificate. The Building Bill reduces the types of licences available under the HB Act. The available licences will be reduced to provisional and full licence only.

¹ Building Bill 2022 (NSW) cl 13(3).

Where a partnership or corporation applies to hold a licence, there must be at least one nominee for each vocation in which the licence holder wishes to undertake work. The nominee will have responsibilities for supervising the work and ensuring that it is delivered to standard, with the entity and its directors having the responsibility for effectively managing the nominee, adhering to their lodged policies and procedures and ensuring that all work performed under the licence is completed by a licensed individual who is authorised to carry out the work. The entity is intended to carry the risk associated with being the licence holder.

2.3.1 Stakeholder feedback to the proposed licence structure

Stakeholder feedback noted the issues with some contracting relationships with top tier contractors not being responsible for carrying out any work, rather contracting to other persons to complete work. The Building Bill provides a responsibility for licensed corporations to ensure that regulated work carried out on their behalf is completed by a licensed individual.² It is intended that this responsibility is extended throughout the contracting chain.

Other comments noted that the current drafting needed further clarification to reduce confusion. It is proposed that clauses 46 – 48 of the Building Bill are amended to remove the reference to a ‘supervisor’. The intent is to clarify that the person is a nominee of an entity and has responsibilities that are directly related to the day-to-day operations rather than the supervision of people on site. Further information regarding the provisions for supervising persons on site are detailed [below](#).

2.4 Supervision of trainees, apprentices and unlicensed persons

Proposed outcome 4: Supervision Practice Standards will be developed for high-risk vocations

The Building Bill envisioned that not all persons who work in the building and construction industry will hold a licence. This recognises the large number of persons who work as labourers and trades assistants or as contingent labour on large projects. In the most recent census, 43,927 people noted labourer as their job title in the construction industry, indicating that there is a need to preserve the practice and to support the industry with a framework that sets out the expected standard to supervise unlicensed work.

The proposed Practice Standards also include the required standard to supervise the work of trainees and apprentices. These Practice Standards will be subject to a separate consultation.

2.5 Should a value threshold apply to licensing?

Proposed outcome 5: For most work, a licence will be required if the value of the work is \$3,000 or more, with some high-risk work (such as specialist work) requiring a licence regardless of the value

The HB Act and HB Regulation currently use a value of work threshold to prescribe when a licence is required to complete the work. It is important to note that the value threshold discussed below only impacts licensing requirements and does not have any impact on the operation of statutory warranties or contract requirements.

The Department has reviewed the threshold approach and the value of the threshold to determine if it remains the best approach to balancing compliance costs against consumer protections.

2.5.1 Current approach

The current value threshold approach is summarised in table 3 below:

² Building Bill 2022 (NSW) cl 45.

Work and value	Building work under \$5,000	Building work over \$5,000	Specialist work of any value
Is a licence required?	No	Yes	Yes

Table 3: Current approach to value threshold

As shown above, the current framework takes a risk-based approach to licensing requirements, where specialist work (typically high-risk work such as electrical and plumbing) requires a licence regardless of the value of the work.

The type of work under the threshold is usually low risk, superficial or non-structural, such as minor home maintenance. The current threshold approach therefore benefits homeowners and residential builders by reducing compliance costs and supporting quick, low-cost completion of minor residential work. Additionally, Australian Consumer Law (ACL) provides strong complementary regulation for work under the threshold via consumer protections and automatic consumer guarantees.

This assessment is supported by several reviews of the licensing system, which explored the costs and benefits of the monetary thresholds.³ They found that excluding ‘minor work’ (work below the threshold) from the licensing requirements in the HB Act provided a net benefit by removing regulatory compliance costs on work for which the protection of the HB Act would rarely be needed.

However, long-term consumer detriment can still be caused by risky or poor-quality work valued under the threshold. More than a quarter of complaints to NSW Fair Trading between 2020 – 2021 were regarding work valued at under \$5,000.

Similarly, survey responses from public consultation indicated that, of the people who experienced a problem with work valued at under \$5,000, 72% indicated that it was difficult to resolve the issue and of those people, 34% were never able to have the issue fixed.

The volume of complaints received about work under the threshold demonstrates a clear need to review the value and broader threshold approach. Maintaining the status quo would be a missed opportunity to resolve the current issues with the approach.

2.5.2 Proposed changes to the threshold approach

While there is evidence to support that consumer risk exists in work valued below \$5,000, these risks are not significant enough to justify removing the threshold entirely, as this would limit industry productivity and generate overregulation of lower-risk work.

However, it is clear that the threshold approach must be revised to ensure regulatory efforts and licensing requirements are directed where they are most needed.

The Department proposes two key changes to the threshold approach:

- Expand the risk-based approach to licencing requirements; and
- Set the threshold value in the supporting Regulations at \$3,000.

Table 4 sets out how these changes will be implemented:

³ NSW Government, ‘Review of licensing in the NSW Home Building Industry’ (Issues Paper, September 2006) 17. Independent Pricing and Regulatory Tribunal NSW, ‘Reforming licensing in NSW: Review of licence rationale and design’ (Final Report, September 2014) 13-14, 124-134.

Work and value	Building work under \$3,000	Building work over \$3,000	Prescribed work (specialist work and high-risk work) of any value
Is a licence required?	No	Yes	Yes

Table 4: Proposed approach to value threshold

2.5.2.1 Expand the risk-based approach to licencing requirements

As identified above, the current framework takes a risk-based approach to licensing requirements, with specialist work requiring a licence regardless of the value.

The Department proposes to expand this risk-based approach to also capture work that is typically low-cost but still has the potential to cause significant consumer detriment if done poorly; for example, pre-purchase building and defect inspections.

For most types of work, a licence will be required for work that is valued at \$3,000 or more.

As shown in Table 4, the supporting Regulations will also prescribe a list of work where the value threshold does not apply, and a licence is required for any work of this kind regardless of the value. The proposed types of work where a licence will be required regardless of the value are as follows:

- All specialist work (air-conditioning, draining, electrical, gas fitting, plumbing, mechanical services, medical gas, refrigeration, waterproofing)
- Pre-purchase building and defect inspections
- Pre-purchase pest inspections

This approach will mitigate the issues identified with the current state, where higher-risk work under the value threshold is still causing consumer detriment. This approach will also ensure regulatory intervention is targeted towards higher-risk work and minimise regulatory compliance costs for lower-risk work.

2.5.2.2 Set the threshold value in the supporting Regulations at \$3,000

The Department proposes to reduce the current threshold value of \$5,000 and prescribe a new threshold value of \$3,000 in the supporting Regulations.

This reduction reflects the broader risk-based approach to the licensing framework.

Reducing the standard threshold value from \$5,000 to \$3,000 will capture more work, especially higher-risk work, and provide more consumers with access to stronger consumer protections. This change will limit the work that can be done without a licence to work that is typically low-cost and low risk, such as work by a handyman.

Decreasing the value is also expected to reduce incidence of contract splitting practices across the industry and improve consumer awareness of licencing requirements.

A risk of decreasing the value threshold is that the lower value would cause undue regulatory impost for low-cost and low-risk work. However, the Department has not considered the value threshold in isolation from the broader risk-based regulatory approach. Concurrently, the Department has also leveraged the risk-based approach more generally throughout the licensing framework by proposing to deregulate certain low-risk licence classes entirely.

For example, as outlined at [item 3.2](#), the Department proposes to deregulate decorating work, non-structural fencing work (except swimming pool barriers) and the installation of shade sails, which have been identified as low-risk types of work. This change will mean that anyone can complete this work, to any value, without requiring a licence. Therefore, it is anticipated that any increased

regulatory burden resulting from the reduced threshold value will be offset by the deregulation of certain low-risk licence classes, which will reduce regulatory burden for this work.

Leveraging a risk-based approach to licensing requirements and exemptions is intended to provide certainty across all classes about when a licence is required.

This proposal aims to deliver efficiencies in regulatory and compliance activity, reduce overhead business costs and focus regulatory attention on the types of work that can cause significant consumer detriment, without risking vital consumer protections or causing confusion amongst practitioners and consumers.

2.5.3 Stakeholder feedback and other options considered

As part of our recent public consultation, the Department asked respondents whether the current threshold approach should continue to apply in the new licensing framework.

Stakeholder feedback was inconsistent, with most survey respondents (71%) supporting the threshold approach, but industry associations generally not supporting the threshold approach.

However, several industry stakeholders did provide support for a more comprehensive risk-based approach to the threshold, where licensing requirements are determined via a risk assessment on the type of work and/or the type of building. While this option would certainly improve the targeting of regulatory efforts, it would be highly complex to operationalise and would likely generate increased consumer and industry confusion.

2.5.3.1 Increase the threshold value

As part of this review, the Department also considered whether the value threshold should be increased, rather than decreased.

Of survey respondents who supported the threshold approach, 25% said the amount should be increased above \$5,000. Another 25% said the threshold should be reduced, and the remaining 50% said the threshold amount should remain at \$5,000.

The value threshold is inclusive of labour and materials and has been increased in the past to reflect the general rise in costs over time for both components. For example, in 2004 the NSW Government raised the threshold from \$200 to \$1,000, and again in 2014 to \$5,000.

The 2014 rise was in response to a report from the Independent Pricing and Regulatory Tribunal (IPART), which found that increasing the value threshold could reduce regulatory burden by reducing the administrative time spent in obtaining and processing licences.⁴

Increasing the value threshold would reflect inflation rates and rising costs affecting the industry while reducing regulatory intervention. However, increasing the value would not address the clear evidence of consumer detriment caused by work below the value threshold, and would potentially increase consumer detriment by capturing less high-risk work in the licensing framework.

The inconsistency of stakeholder feedback demonstrates that the impacts of the threshold vary significantly across different trades and types of work with different risk profiles and further demonstrates the need for an expanded risk-based approach to the threshold.

2.5.4 Implementation

The proposed changes build upon the existing threshold approach, and as such, no major implementation challenges are anticipated. The Department will continue working with industry to seek further feedback and subsequently finalise and communicate these changes.

Further, as noted above, the licensing value threshold only impacts licensing requirements and does not have any impact on the operation of statutory warranties or contract requirements. The draft Bill

⁴ Independent Pricing and Regulatory Tribunal NSW, 'Reforming licensing in NSW: Review of licence rationale and design' (Final Report, September 2014) 125-127.

proposes that statutory warranties will apply to any home building work regardless of whether a licence is required for that work. This means that unlicensed workers will also have an obligation to provide statutory warranties for their work. Any changes to the licensing value threshold will not impact these proposals for statutory warranties.

2.5.5 Feedback

- Q1: Do you agree with the proposal to reduce the value threshold from \$5,000 to \$3,000? If not, what value would be suitable and why?

2.6 Using licensing to support career growth

Proposed outcome 6: A licence can be endorsed with additional licence classes at a reduced fee as a person continues with professional development

Proposed outcome 7: Study and gaining competence towards another vocation will be accepted as continuing professional development

2.6.1 Endorsement approach to multiple licences

The proposed reforms recognise the need for a dynamic licensing system that encourages lifelong education and training and supports mobility throughout a practitioner’s career.

To achieve this, the Department proposes to introduce licence endorsements, where licence holders who have additional qualifications, skills and experience for another type of work outside the scope of their licence, but complementary to it, can be ‘endorsed’ for the other type of work. This is distinct from adding a licence after the completion of a full qualification.

In certain circumstances, licence endorsements could be used in trade vocations to simplify qualification requirements and application processes. This means that it may be a matter of simply completing additional elective components of a training package with relevant work experience to achieve an endorsement. It may also mean that a full training package is not needed to be completed to obtain the endorsement in a complementary trade.

This is different to the current approach, where a person completes an additional vocational qualification and applies for additional licences at a reduced cost. The endorsement approach will not replace the current approach, with licence holders still permitted to hold additional licences.

To achieve the endorsement approach, some vocations may be prescribed precursors to an endorsement, creating a new and alternate pathway to a licence class with more flexible experience requirements. This will support industry mobility by allowing tradespeople to attain a licence class without the need to return to lower paid work and undertake a full apprenticeship.

The case studies below provide examples of how the endorsement approach could operate:

<p>2.6.1.1 Case study: glazing and swimming pool barriers</p> <p>The licensing framework proposes distinct licence classes for glazing and swimming pool barriers. However, under the proposed endorsement approach, a tradesperson who holds a glazing licence but is also competent in work on swimming pool barriers could be endorsed to work on glass pool barriers without requiring an additional licence.</p>	<p>2.6.1.2 Case study: electrical work and hot water systems</p> <p>Work on the replacement of a simple electric hot water system is only permitted by a plumbing licence holder. Currently an electrician is unable to replace the system and a plumber must hold an additional ‘disconnect/reconnect’ licence to perform the work.</p> <p>The endorsement approach would allow the electrician to undertake further education and training to be competent in replacing electric hot water systems.</p>
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2.6.1.3 Benefits of the proposal

The endorsement approach could be used to encourage mobility across trade vocations, supporting the industry to address labour shortages by retaining and upskilling industry practitioners.

A person who wishes to undertake different types of work and has the capacity to take on further study will experience dual benefits. Not only would they be meeting their CPD obligations, but the type of work that can be performed within the business would expand. People contracting with the business would also benefit by having one person with the capacity to do the work on site, rather than needing to call multiple trades to complete the work.

Competency to perform the work would need to be assured prior to receiving an endorsement. The Department will develop an approach to competency assessment for consultation in 2023.

2.6.1.4 Implementation

In addition to the review of licence classes, the vocational education requirements for each class will undergo a review. This review cannot take place without the input and support of industry bodies and training providers. The Department proposes to create a working group comprised of relevant persons to work on this project over the coming 12-18 months. Further details of the project will be released once the final list of licence classes is determined.

2.6.1.5 Feedback

- Q2: Should endorsements only be available for certain licence classes with related or overlapping qualifications? Why / why not?
- Q3: Are there any specific circumstances where endorsements should not be made available? Why / why not?

2.7 Access to standards

As part of this review, the Department is exploring ways to improve access to Standards. Many licence holders have written to the Government expressing concern about the growing cost of access and changes to packages. To help understand the extent of the problem, the Department is seeking information on the specific Standards required to complete work in different industries.

2.7.1.1 Feedback

- Q4: Please provide a list of Standards used to complete work.

2.8 Continuing Professional Development (CPD)

As noted above, the Department has commenced an internal review of the CPD framework and will engage further with industry stakeholders in late 2023. In the interim, the Department seeks initial stakeholder feedback on the annual CPD requirements for each licence class.

2.8.1.1 Feedback

- Q5: Please indicate how many hours of CPD should be required to be completed per annum.

3

Proposed licence classes

3.1 Introduction

This chapter outlines the proposals for each licence class within the new framework.

The Department has reviewed each existing vocational licence to determine if it should remain in the licensing framework. This review considered risks to personal and public health, risks of poor outcomes and other regulatory tools that could minimise harm in place of licensing.

Licence classes identified as low risk have been considered for deregulation. The remaining licence classes have been reviewed to determine if the current scope of work reflects modern methods of construction and if they are fit for purpose across all classes of building.

As noted in the introduction to this paper, the Department is seeking continued input from stakeholders to further refine these proposals and develop the supporting Regulations.

The Attachment Paper provides the details of what work can be performed by each licence class. As noted above, the qualifications to obtain a licence will form the next phase of the review and are largely out of scope for this paper.

3.2 Deregulation or no change to currently unlicensed work

Proposal 1: Several low-risk licence classes will be retired; including minor trade work, decorating, swimming pool repairs

The Department has provided a high-level summary of certain trades that are intended to be excluded from the proposed licensing framework.

In some cases, the Department proposes to deregulate work that currently requires a licence under the HB Act. In other cases, work is currently unregulated or is sufficiently regulated by other means, and no changes are proposed to this approach.

A summary of these proposals is provided below.

Trade / vocation	Approx. # current licences	Current requirements	Proposed outcome
Minor trade work - Paving	225	Work over \$5,000 requires a minor trade work licence	Work over the threshold will require a structural landscaping, bricklaying or general concreting licence
Minor trade work - Kitchen/bathroom bench installation	50	Work over \$5,000 requires a minor trade work licence	Work is included as part of Builder D licence or stonemasonry licence dependent on work (see Attachment Paper).
Minor trade work - Splashbacks	25	Work over \$5,000 requires a minor trade work licence	Work over the threshold will require a glazing or tiling licence
Minor trade work - Shower screen enclosure installation	75	Work over \$5,000 requires a minor trade work licence	Work over the threshold will require a glazing licence

Trade / vocation	Approx. # current licences	Current requirements	Proposed outcome
Minor trade work - Shade sails and awnings	150	Work over \$5,000 requires a minor trade work licence	Work over the threshold will require a carpentry licence
Minor trade work – Installation of security doors, grilles and equipment	150	Minor trade work licence holders don't require licence under <i>Security Industry Act 1997</i> regulated by NSW Police	Minor trade work licence will be removed and practitioners will require licence under <i>Security Industry Act 1997</i> regulated by NSW Police
Minor trade work - Bitumen surfacing	35	Work over \$5,000 requires a minor trade work licence	No longer licensed
Minor trade work – ducting/mechanical ventilation	735	Work over \$5,000 requires a minor trade work licence	No longer minor trade work. New licence class proposed (see item 3.3.2).
Minor trade work - Solid Fuel heater installation	130	Work over \$5,000 requires a minor trade work licence and also mentioned in mechanical services licence	To be reviewed within mechanical services licence. To be considered for roof plumbing licence or no longer licensed.
Disconnection and reconnection of fixed electrical equipment	4,070	Specialist category of licence	No longer licensed – incidental electrical work included in work authorised by relevant licence
Decorating	7,445	Work over \$5,000 requires a decorating licence	No longer licensed
Fencing	1,260	Work over \$5,000 requires a fencing licence	Retain fencing licence for swimming pool barriers only (see item 3.5.4)
Swimming pool repairs and servicing	490	Work over \$5,000 requires a swimming pool repairs and servicing licence	No longer licensed
Non-structural flooring	N/A	Work is unlicensed	No change
Demolition	N/A	Regulated via the <i>Work Health and Safety Regulation 2017</i>	No change
Scaffolding	N/A	Regulated via the <i>Work Health and Safety Regulation 2017</i>	No change

Table 5: Summary of proposals for deregulation or no change

3.2.1 Rationale for change

3.2.1.1 Paving

In the current framework, certain low-risk, non-structural residential paving work can be done under the minor trade work – paving licence, such as laying paving materials on driveways.

However, most paving work is captured under the general concreting, structural landscaping, and bricklaying licence classes. This is also reflected in the number of licences issued by NSW Fair Trading. For example, as of February 2023, fewer than 250 minor trade work – paving licences had been issued, whereas 3,600 structural landscaping licences had been issued.

Paving work and work on concrete slabs are a common cause of defects in class 1 buildings. Significant costs can be incurred if redress of work is required and paving can be a significant physical risk to consumers if workmanship is poor.

Therefore, the Department proposes to remove the minor trade work – paving licence so that all work over the threshold requires a general concreting, structural landscaping, or bricklaying licence.

Given the low number of licences issued, and the role of the threshold in allowing certain low-cost work to be done without a licence, this change is expected to have minimal impact.

3.2.1.2 Shade sails and awnings

The Department proposes to remove the minor trade work – shade sails and awnings licence.

The work authorised by this licence is typically low-cost and low-risk work with inconsequential impact on other building work. Other frameworks such as the DBP scheme have exempted this work from regulation. As the Department is not aware of significant complaints or defects relating to this work, and consumers can access sufficient protections under the ACL, this change is expected to have minimal impact.

3.2.1.3 Installation of security doors, grilles and equipment

Installation work on security doors, grilles and equipment is primarily regulated by NSW Police.

In most cases, practitioners do not require a licence from NSW Fair Trading and instead require a Class 2C, 2E or 2F licence under the *Security Industry Act 1997* as regulated by NSW Police. The requirements of the HB Act do not apply to these practitioners. No changes are proposed to this approach.

However, some practitioners do not require a *Security Industry Act 1997* licence for this work if they hold a builder, metal fabrication or minor trade work licence under the HB Act and are doing the installation work in a home.

The Department proposes to retain this approach for building and metal fabrication licence holders in the new framework.

However, the removal of the minor trade work licence will mean some practitioners will need to apply for a Security Industry Act licence from NSW Police to continue this work. This change is expected to have minimal impact.

3.2.1.4 Disconnection and reconnection of electrical equipment

The disconnection and reconnection of electrical equipment category is a specialist class of licence prescribed under clause 14 of the Home Building Regulations. Unlike other specialist work, the work authorised by the licence is not listed in Schedule 4 of the Regulations. It was intended to act as an endorsement licence for a long list of vocational callings however is currently limited to work on appliances, motors and the installation of water heaters. It is intended that the current competencies for the connect/disconnect of electrical equipment be added to the minimum requirement for plumbers and the work be included as standard. Other fixed electrical work is discussed further in newly proposed classes at [item 3.4.5](#).

3.2.1.5 Decorating

Decorating involves the installation of painted or applied decorations such as murals, frescos or wallpaper. It does not include any other form of interior decoration or interior design. As of March 2023, NSW Fair Trading had issued about 7,500 decorating licences.

Previous reviews have proposed removing the decorating licence entirely.⁵ In these reviews, some stakeholders raised concerns about the risks associated with dealing with lead paint and asbestos. The obligations of businesses to ensure safe work practices (including managing risk of exposure to hazardous substances) are well established under work health and safety laws. The Work Health and Safety Regulation 2011 includes specific provisions concerning the management of lead and asbestos risks. The ACL also provides consumer protections by requiring that products sold to consumers must be safe. Under the ACL, a seller may need to recall a product if the product presents a safety risk or does not comply with a mandatory standard or product ban. It is the intent of this review to avoid licensing where other mechanisms will clearly address the risks identified. Therefore, it is proposed that this licence category be removed.

3.2.1.6 Swimming pool repairs and servicing

This work is currently captured under two licence classes: a swimming pool building licence and a swimming pool repairs and servicing licence. As of February 2023, NSW Fair Trading had issued 380 swimming pool repairs and servicing contractor licences.

The work authorised by the repair and servicing of swimming pools licence has a very low risk of significant defects and does not involve structural or specialist work. Further, between 2019 and 2021, NSW Fair Trading only received 16 complaints about this work.

While the *Public Health Act 2010* (the PH Act) poses additional obligations relating to the disinfecting and cleaning of public pools, this work is not required to be completed by a 'competent person' such as a licenced person with appropriate skills and training. Therefore, the removal of this licence would not have any impact on the operation of obligations under the PH Act.

Similarly, most swimming pool repairs and servicing work is regulated effectively by the ACL. This licence is therefore proposed to be removed.

3.2.1.7 Non-structural flooring

The Department is proposing to maintain the status quo for non-structural flooring work which is currently unregulated.

Non-structural flooring work was deregulated from licensing under the HB Act in 2009 in response to the Council of Australian Governments' commitment to rationalise occupational licensing across Australia to cut red tape. Instead, consumers are provided with guarantees about quality and standards of work under the ACL. Since the deregulation of this work in 2009 the Department has not identified significant risks, harms or complaints relating to this work.

However other structural and load-bearing flooring materials such as polished concrete, terrazzo and resin are emerging as popular products in residential, commercial and industrial construction. The use of these materials is regulated via the general concreting licence.

In the absence of identified risks and consumer harms, and noting that load-bearing flooring work is effectively regulated, the Department does not propose any changes to the status quo.

3.2.1.8 Feedback

- Q6: Do you support the proposals to deregulate certain work in Table 5? Why / why not?
- Q7: Should any other types of work be considered for deregulation?

⁵ NSW Government, 'Easy and Transparent Trading - Empowering Consumers and Small Business' (Consultation Paper, July 2018) 17.

3.3 Newly proposed classes

This section identifies the new licence classes proposed for regulation under the Building Bill and Regulation and outlines the proposed change and rationale for each change.

In some cases, the type of work is already regulated, and the change is as simple as transferring a scheme or licence type from other instruments. In other cases, a new licence type is proposed, or the scope of work be expanded or reduced under regulation.

3.3.1 New levels of builder licence

Proposal 2: Establish four levels of builder licence

The Department is redesigning the builder licensing framework to complement the expansion of licensing across all classes of buildings in NSW by proposing to introduce multiple classes of builder licences.

Following stakeholder feedback received during public consultation, the Department has developed a revised approach to builder licensing as follows:

Licence class		Scope of Work
Builder A	Unrestricted	Work on any class of building
Builder B	Medium-rise	Work on any class of building up to 3 storeys
Builder C	Low-rise	Work on Class 1 and Class 10 buildings
Builder D	Internal fit-outs	Non-structural building work and fit-outs on any class of building

Table 6: Revised approach to builder licensing

Extended descriptions of the work authorised in each class are provided in the Attachment Paper.

3.3.1.1 Key revisions to the proposal following stakeholder feedback

The Regulatory Impact Statement released in August 2022 proposed the following categories of builder licences:

- Builder 1 – High-rise and commercial: this unrestricted level would permit builders to carry out building work for all NCC buildings.
- Builder 2 – Medium-rise: this restricted level would permit builders to carry out building work for all NCC buildings up to three storeys in height and 2,000m² in area.
- Builder 3 – Low-rise, residential: this restricted level would permit builders to carry out building work in NCC classes 1 and 10 only.

The Department reviewed the extensive stakeholder feedback received on this proposal (outlined at [item 3.3.1.2](#)) and made several key changes to refine the proposal. Notable changes are discussed further below.

3.3.1.1.1 Removal of 2,000m² floor area limitation from Builder 2 – Medium rise

The change from the originally proposed 2,000m² floor area is a departure from the National Registration Framework (NRF) approach where there is a 2,000m² limitation under medium rise building. The removal of the 2,000m² area limitation is intended to avoid disruption for builders who work on low-rise buildings that are larger than 2,000m², such as large warehouses.

3.3.1.1.2 Inclusion of Builder D – Internal Fit-outs

The revised proposal includes a new Builder D licence to allow for non-structural building work and internal fit outs on any class of building. This allows builders who do non-structural and internal fit-out work to carry out their work without the need for further qualifications and experience and increases access for competent people to carry out the work.

It is also proposed that Builder D will absorb the work authorised under the current kitchen, bathroom and building renovation licence. Kitchen, bathroom and laundry renovation is work involved in the installation, refurbishment, restoration and on-site repairs of or to a kitchen, bathroom or laundry. It does not include work affecting any internal or external load bearing part of the building that is essential to the stability of the building or any part of it, including things such as foundations, floors, walls, roof, columns and beams. A separate licence for kitchen bathroom and building renovation work is no longer needed, which further simplifies the licensing framework.

3.3.1.2 Stakeholder feedback

Stakeholders showed strong support for introducing multiple builder licence classes, with support from 81% of the responses received. Many stakeholders noted that the current framework with a single building licence class does not adequately reflect the range of skillsets required in the modern construction industry, where some building work is vastly more complex than other work.

Many stakeholders provided suggestions about the structure of the licences and the distinguishing elements of each class. For example, some stakeholders suggested the 2,000m² area limitation in the Builder 2 – Medium-rise class would be overly restrictive for those working on low-rise commercial buildings. Some stakeholders also indicated that the complexities of different types of buildings are more accurately reflected in the number of storeys rather than the floor area. This feedback has been incorporated into the revised proposal.

Some stakeholders recommended the inclusion of an additional class of licence for internal fit-out work. This feedback has also been incorporated into the revised proposal.

3.3.1.3 Implementation

The Department proposes a gradual approach to implementing the new builder licence framework, with the new classes proposed to commence two years after the Bill is introduced to Parliament.

Existing builders are expected to largely meet the experience requirements; however, some builders (particularly those working on commercial developments) may need additional time to close any education gap requirements. Builders will be supported through pathways to access skills and qualifications to meet the new requirements. There will also be opportunities for greater mobility of occupations once the relevant skill sets have been developed.

3.3.1.4 Knowledge and experience requirements

Minimum education and experience requirements ensure competent people are doing the work, increasing the quality of the work while reducing the number of defects. The Department will investigate and engage with stakeholders over the coming months about qualifications and experience requirements. The current framework requires the equivalent of two years' experience, relevant VET qualifications and units of competencies or a relevant degree to attain a general building work licence.

It is envisioned that, under the new framework, progression and pathways will have a greater focus on experience rather than knowledge requirements. The Department is also exploring how licence holders will progress between licence categories throughout their career and intends to create pathways to facilitate career mobility and support retention of experienced industry practitioners.

Although these requirements are subject to further review and feedback, an indicative approach is provided below:

Builder Licence Class	Knowledge requirement	Practical experience requirement
Builder A – Unrestricted	Relevant diploma or tertiary qualification	5 years relevant practical experience in the work authorised by the licence
Builder B – Medium-rise	Relevant diploma or tertiary qualification	3 years relevant practical experience in the work authorised by the licence
Builder C – Low-rise	Cert IV or above	2 years relevant practical experience in the work authorised by the licence
Builder D – Internal Fit outs	Cert IV or above	1 year relevant practical experience in work authorised by the licence

Table 7: Indicative approach to builder licensing

3.3.1.5 Feedback

- **Q8: Do you support the proposed approach to builder licence classes? Why / why not?**
- **Q9: Do you support the indicative knowledge and experience requirements proposed for each builder licence class?**

3.3.2 Ducting work

Proposal 3: Establish a new licence category for the installation of ducting work on sites

The current licensing framework regulates ducting work through the minor trade work licence class, with approximately 730 licence holders across NSW having been issued a licence in minor trade work – ducting/mechanical ventilation.

The Department proposes to remove the minor trade work – ducting/mechanical ventilation licence class and create a new ducting installation licence class.

The expansion of the licensing framework to all classes of buildings will also be considered in development of this proposed new licence class. For example, the HB Regulation currently excludes “the installation, maintenance or repair of ducting ... in places other than dwellings” from air-conditioning licensing requirements. This exclusion will be reviewed. The intention is to maintain a balance of continuing to perform work that is incidental to a trade, such as air conditioning work, and to create a new licence for ducting work. This is in recognition that some installations may be incidental work and others would be a project element.

Importantly, the Department does not intend to regulate the off-site manufacturing of ducting components. The Department only intends to capture the installation of ducting work in the new proposed licence class.

The Department will engage with ducting industry stakeholders to define the scope of works for this proposed new licence class and review impacts for current licence holders. This engagement will take place as part of broader consultation on the new iteration of mechanical services licensing. If you would like to join the industry reference group, please email hbareview@customerservice.nsw.gov.au

3.3.3 Pre-purchase and defect building inspectors

Proposed outcome 8: Register pre-purchase and defect building inspectors and establish minimum standards for inspections

Since 2009, pre-purchase property inspectors have not been required to be licensed. A review into occupational licencing at the time concluded that consumers should, with some guidance on the relevant skills to look for, be able to engage a suitably qualified inspector.

However, the Government has received some evidence of poor consumer outcomes, and feedback that consumers are struggling to source appropriately qualified building inspectors in the

deregulated environment. Buyers may also be pressured to engage a building inspector offered by the vendor or to find their own building inspector at short notice.

Buying a property is a high-risk, high-cost consumer endeavour and the importance of pre-purchase building inspections cannot be overstated. On average there are over 200,000 property transfers per annum, with the mean property price of residential dwellings in NSW sitting at \$1,207,200, meaning the impact of poor performers can be significant.⁶

Therefore, the Department proposes to regulate building inspectors who carry out pre-purchase inspections or defect report inspections via a limited registration process.

3.3.3.1 Implementation

Requiring a limited registration process as opposed to licensing provides an easier pathway to work, representing lower regulatory burden. Limited registration would involve a lower regulatory burden, achieved by removing certain requirements in the registration process, such as financial and background checks. Limited registration can assist by limiting participation in the market when performance in reporting outcomes is not achieved.

A limited registration process for pre-purchase and defect building inspectors would allow experienced builders (and potentially other licensed tradespeople) to transition into a new career.

A limited registration process is also expected to improve consumer confidence in the quality of pre-purchase and defect reports. As there is great consumer demand for pre-purchase inspections, a limited registration process would provide some certainty that inspectors are competent, whilst avoiding significant regulatory and upskilling burdens that could reduce the number of inspectors working in the market.

Relying upon the co-regulation features in the Building Bill can also support improved outcomes for consumers. Utilising the expertise of industry bodies to support the development of a minimum standard of performance has the potential to radically improve the outputs.

It is proposed that persons who wish to undertake this work must agree to carry out inspections and issue reports according to Australian Standards. The Department will liaise with industry to establish educational requirements around developing reports meeting Australian Standards.

3.3.3.2 Stakeholder feedback

Stakeholder feedback to date has been overwhelmingly supportive of including pre-purchase and defect building inspectors in the licensing framework. Stakeholders acknowledged that regulating this work would improve consistency with the Department's broader risk-based approach to licensing, with many stakeholders noting the serious repercussions for consumers if defects are not discovered at the pre-purchase stage.

The Department received varied responses on who should be eligible for registration. The most common practitioners identified by stakeholders as suitable to conduct inspections were builders, engineers and architects, as well as practitioners registered under the DBP scheme.

Stakeholders agreed that inspectors should be competent in the work they are inspecting. Some stakeholders also suggested that inspectors should only inspect building elements within their area of expertise. For example, requiring electrical inspections to be conducted by specialist electrical inspectors who are members of a relevant industry association. The Department seeks further feedback on these considerations.

⁶ Australian Bureau of Statistics, *Residential Property Price Indexes: Eight Capital Cities* (Catalogue No 6416.0, December 2021) <<https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/residential-property-price-indexes-eight-capital-cities/dec-2021>>.

3.3.3.3 Feedback

- Q10: Is an endorsement approach appropriate for licence holders who wish to become pre-purchase building inspectors? Why / why not?
- Q11: Do you agree with the proposal to limit eligibility for this endorsement to persons licenced as builders, engineers, architects, and design building practitioners? If not, which other licence holders should be eligible for this endorsement?
- Q12: Do you think it is necessary to separate pre-purchase building inspections into areas of inspectors' expertise such as electrical, plumbing, or pest inspection elements? Would this be burdensome for industry?

3.3.4 Pre-purchase pest inspectors

Proposed outcome 9: Register pre-purchase pest inspectors and establish minimum standards for pre-purchase pest inspections

For the same reasons outlined above in relation to pre-purchase and defect building inspectors, the Department also proposes to introduce a limited registration process for pre-purchase pest inspectors.

Pest management technicians who treat pests are currently licensed by the Environmental Protection Agency (EPA) under the *Pesticides Act 1999*, which regulates the use of pesticides in NSW. However, the EPA's licensing framework does not capture pest inspections. A pest inspection is a specialised inspection to identify the presence of (but not treat) pests that destroy buildings. Pre-purchase pest inspections are routinely obtained as part of a property purchase transaction.

It is proposed that persons who undertake pest inspections must first be registered with NSW Fair Trading and agree to carry out inspections and issue reports according to Australian Standards. The advantage to this approach is that if continued poor performance is experienced or reported, de-registration can occur, removing the person from the market.

As an alternative option, the Department also considered whether the EPA's licensing framework for pest management technicians could be expanded to also capture pest inspectors. However, as pest inspectors are not using pesticides, they fall outside the scope of the *Pesticides Act 1999* and cannot be captured under the existing licensing framework. Further, pesticides licences are nationally harmonised and subject to automatic mutual recognition, so introducing licensing of pest inspectors in NSW would disrupt the operation of the national model.

3.3.4.1 Stakeholder feedback

During consultation the Department asked if pre-purchase building inspections should be regulated. Several submissions were received directly from pest inspectors who expressed a desire for improved standards in NSW. They expressed concern about fraudulent operators and insufficient inspections that had wide ranging impacts to property purchasers.

3.3.4.2 Implementation

As with pre-purchase and defect building inspectors, it is proposed to introduce a limited registration process for pre-purchase pest inspectors. A limited registration process as opposed to licensing will reduce the regulatory burden of this change for pre-purchase pest inspectors by removing certain requirements in the registration process, such as financial and background checks.

It is also proposed that pre-purchase pest inspectors must agree to carry out inspections and issue reports according to Australian Standards. The Department will liaise with industry to establish educational requirements around developing reports meeting Australian Standards.

3.3.4.3 Feedback

- Q13: Do you support the proposal to register pre-purchase pest inspectors and establish minimum standards for pre-purchase pest inspections? Why / why not?

3.4 Specialist Work

Specialist work already largely requires a licence regardless of the cost of work, and where the work is performed. Aside from the proposal to include waterproofing as a specialist class, there is no significant changes proposed to specialist classes of licences. What is proposed is an examination of the specialisation and additional education and training needed to undertake certain additional or niche work. The purpose of this review is to identify situations where further endorsements to a specialist licence are appropriate and ultimately in the public interest.

3.4.1 Waterproofing

Proposed outcome 10: Waterproofing will be a new class of specialist work

There has been a high rate of defects in waterproofing under the current licensing structure. The issue of waterproofing defects and the cost of rectification for both industry and consumers was discussed in the Regulatory Impact Statement – Building Bill 2022 – Part 1.

Several factors can contribute to failed waterproofing from design to installation, including:

- Increased complexity of waterproofing in structures such as deep multi-use basements and roof top gardens, which are becoming increasingly popular
- Poor product knowledge or incorrect application of products
- Scarcity of advanced skills around complex waterproofing systems and to perform quality assurance inspections at critical points in the waterproofing installation
- Limited integration of trades causing poor continuity across all works involved in creating a waterproofing system, from design to build to certification.

To address these issues, the Building Bill proposes to include waterproofing as a specialist category of licence, meaning that wherever prescribed waterproofing is completed, a licence will be required in NSW. Specialist trade work is differentiated to other trade work by the additional risk to public health and safety associated with the work if performed poorly, or the risk to the tradesperson if carried out without due skill.

3.4.1.1 Stakeholder feedback

Stakeholders demonstrated strong support for this concept during consultation, with 94% of the feedback received agreeing that waterproofing should be a specialist category of licence. Reduction in the number of defects and the improvement in the quality of work were the dominant reasons provided by stakeholders.

3.4.1.2 Implementation

While the current qualification requirements for a waterproofing trade licence provide the hands-on skills and knowledge required to apply membranes and special coatings to protect the structural integrity and content of simple builds, they do not provide the skills necessary for practitioners to understand all aspects of the waterproofing system.

To implement this proposal, the framework for a specialist waterproofing licence must be established, including addressing the root cause of the issue and using licensing to ensure quality assurance and compliance with building codes. The Department has reviewed the work that a waterproofer would be authorised to complete under this licence (see Attachment Paper) and seeks feedback.

Over the coming months, the Department will also investigate other aspects of the licence framework including qualification and experience requirements and CPD requirements. The Department will engage further with stakeholders to refine these requirements but is considering (at a high-level):

- Defining robust training and CPD requirements for the waterproofing licence class, focusing on formal training and mandatory CPD rather than informal training
- Prescribing certificate of compliance requirements following the completion of waterproofing work
- Developing guidance notes on the chain of responsibility throughout the waterproofing system from design to build to certification

3.4.1.2.1 Alternative options explored

In developing this proposal to make waterproofing a specialist licence, the Department also explored several alternative options to address waterproofing defects, including:

- Strengthening requirements and increasing education for designers involved in waterproofing
- Establishing multiple levels of waterproofing licence classes, similar to the proposed approach for builder licence classes, to recognise the different types and complexity of work
- Using a risk-based approach, establishing different requirements for waterproofing work in different building classes
- Establishing a waterproofing endorsement for trade licence holders (subject to them meeting the minimum eligibility requirements to do waterproofing work).

3.4.1.1 Feedback:

- Q14: Do you support the proposal to make waterproofing a new class of specialist work? Why / why not?
- Q15: Many tradespeople currently do waterproofing work as incidental to their primary vocation, e.g. tilers, bricklayers, bathroom renovators and swimming pool builders. How will this change affect those trades? Are any other trades impacted by this change?
- Q16: Should any of the alternative options explored by the Department be considered instead of, or in addition to the proposal?

3.4.2 Gas fitting licence (Type A and Type B)

Proposal 4: Introduce a new licence class for Type B gas fitting work, and merge the LP gas fitting work licence into the gas fitting work licence

In May 2023, the Department tabled in Parliament a final report on the Statutory Review of the *Gas and Electricity (Consumer Safety) Act 2017* (the **G&E Act**) (the **G&E review**).

The G&E review raised questions about the need to differentiate between Type A and Type B appliance work for gasfitters.

At a high level, Type A gas appliances are domestic and light commercial gas appliances, with Type B appliances covering from industrial and heavy commercial gas appliances. The differences between Type A and Type B gas appliances are apparent from the appliance type, their use and the environment they are used in. Owing to the difference in the nature, complexity and risk, professionals working on either type may require different qualifications and experience. The appliances themselves would require different inspection, certification or approval processes and different standards would apply to the work done on these appliances.

3.4.2.1 Risks to consumer safety

As Type B appliances are not approved under a certification scheme, and generally consume gas at much higher rates than Type A appliances, the risk and severity of gas accidents is significantly higher for Type B appliances.

The increased complexity of Type B appliances requires practitioners to hold different skills and knowledge to limit the risk of faulty installation work.

The lack of distinct provisions for Type A and Type B gas appliances can cause confusion around certification requirements for appliances and impede safety.

Type B appliances may also have an electric component, and therefore a gasfitter installing or connecting a Type B appliance would typically need specialised skills and knowledge of electrical fault finding which go beyond the basic skills needed by a gasfitter working with Type A appliances. However, under the current NSW licensing framework, a licensed gasfitter who may not possess the specialised skills or knowledge about Type B appliances can still install or connect such appliances.

Note: This section does not discuss Medical Gas work under the current Mechanical Services and Medical Gas licence class. Please see [item 3.4.3](#) for more information about this licence class.

3.4.2.2 Proposed change to gas fitting licensing framework

The Department proposes to introduce a new licence class for Type B gas fitting work. It is also proposed to merge the liquefied petroleum (LP) gas fitting work licence (restricted gas fitting work) into the gas fitting work licence. This aligns with the educational program for gasfitters and provides national consistency with licence classes.

Under this proposal, the gas fitting licensing framework would remain as three licence classes as follows:

- Gas fitting work
- Advanced LP gas fitting work (unrestricted LP gas fitting work)
- Type B gas fitting work

The Department intends to deliver this proposal in conjunction with any amendments to the G&E Act to include definitions for Type A and Type B gas appliances. The scope of works for all licence classes would be amended to include Type A gas fitting work in alignment with the revised definition under the G&E Act.

3.4.2.3 Stakeholder feedback

Throughout the G&E review, stakeholders broadly acknowledged the distinct risk profiles of Type A and Type B gas appliances and provided broad support for the introduction of a new licence class for gas fitting work on Type B gas appliances.

Stakeholders submitted that practitioners require specialised skills and knowledge to work on Type B gas appliances. Prescribing a separate licence class with appropriate qualification requirements will help ensure the safety of workers as well as the work done by them.

Stakeholder feedback highlighted that gasfitters from NSW are disadvantaged at a national level as their licences are not recognised by other jurisdictions for carrying out work on Type B gas appliances. Introducing a specific licence class would help gasfitters from NSW to work interstate and obtain automatic mutual recognition of their skills.

The majority of stakeholders who supported the proposal noted it was conditional on further detailed consultation with industry to determine the licensing requirements, qualifications and pathways for current gasfitters.

The Department will continue engaging with stakeholders throughout 2023 to finalise this proposal, including to determine the qualifications and experience requirements for the proposed licence classes, and seeks stakeholder feedback.

3.4.2.4 Potential implementation challenges or limitations

The proposal will impact existing gas fitting licence holders who may require a competency assessment or other evaluation process to be deemed eligible for a Type B gas fitting work licence. There are currently over 21,000 gasfitter authorisation holders, with the Department estimating at least 10% would need to qualify for the new licence requirements.

This may add administrative costs for practitioners and the regulator; however, the Department proposes that these costs are justified due to the safety risks and inconsistencies caused by the current framework.

The transitional time for the operationalisation of this option may be long as currently no RTOs in NSW offer the relevant courses. The Department would need to work with existing RTOs to deliver relevant units of competency (UoC) to allow NSW practitioners to meet the new eligibility requirements.

Further, there may be a case of skills shortage in the Type B space if there is low uptake of the licence. This may impact the delivery of projects involving the installation of Type B gas appliances. However, noting the prevalence of use of Type B gas appliances, the demand for adequately licensed practitioners should create a viable market for practitioners to opt for this licence.

This proposal will help ensure that gasfitters working on Type B gas appliances have the relevant skills and knowledge specifically required for this work and help ensure better safety outcomes for practitioners and consumers.

The proposal to merge the LP gas fitting work licence into the gas fitting work licence may create implementation challenges for existing LP licence holders. The Department will consider opportunities to mitigate these impacts, such as issuing a conditional gas fitting licence to existing LP licence holders unless they can demonstrate competency for gas fitting work. The Department will continue refining options to address implementation challenges of this proposal.

These proposals will also allow gasfitters in NSW to upskill, gain relevant experience and be mutually recognised by other jurisdictions, creating better interstate work opportunities.

3.4.2.5 Feedback

- Q17: Do you support the Department's proposals to introduce a new licence class for Type B gas fitting work, and to merge the gas fitting and LP gas fitting licences into one? Why / why not?

3.4.3 Mechanical services and medical gas

Proposal 5: Create a separate licence for medical gas and work with industry to create new mechanical services licences

The Department proposes to separate the medical gas and mechanical services licence and establish a distinct licence for each area. The Department acknowledges that this proposal represents an additional change for the medical gas and mechanical services industries following the full commencement of new provisions in March 2023.

A key issue noted is the overlap of work across several vocations. To address the issue, one proposed option is that the mechanical services licence be made available as an endorsement on existing licences for any vocation that may already work in the industry and have the skills and qualifications necessary to complete the work.

For example, a person who has completed the training package in plumbing and has undertaken the mechanical services electives could hold both the plumbing licence and be endorsed for mechanical services.

Another alternative option is to create new licence categories that work in the specialist 'streams' to better reflect the varying work completed in this area.

The Department intends to work with industry stakeholders over the coming months to develop a new class/s that better reflects the current industry.

3.4.3.1 Feedback

The Department are seeking expressions of interest from industry stakeholders to participate in an industry reference group to develop the new iteration of mechanical services licensing. If you would like to join the industry reference group, please email hbareview@customerservice.nsw.gov.au

3.4.4 Plumbing work

Proposed outcome 11: Combine work permitted in the connect/disconnect of fixed electrical components in the plumbing licence however no other significant change

Plumbing and drainage work is traditionally thought of as one vocation and operationally plumbers will take on a variety of work across the different classes. However, the HB Act and *Plumbing and Drainage Act* have multiple definitions of what is involved in the work, who may complete the work and where regulation of the work starts and end. The result is a complicated regulatory system. While it is generally accepted that in most cases, a plumbing licence is required, it may not always be clear as to which plumbing licence is needed.

What is clear however, is that the expansion of the licensing framework into all building classes is not likely to impact the operation of the plumbing and drainage licences. Further minor amendments may be introduced as the Department finalises proposals for mechanical services and fire safety licensing; however, these changes are expected to be minimal.

Many plumbers also hold a connect/disconnect licence which permits, with training, a plumber to carry out incidental work such as installing or replacing water heaters and pumps with electrical components. In many cases, water pumps will be an electrical appliance, however there are occasions where the pump is hard wired. Where the pump can be isolated and repaired, this work is can be completed by a plumber and is another example of the many overlaps that trades experience. By revising the licencing framework to authorise plumbers to perform this work, the minimum skills and training will be prescribed for all plumbers, ensuring that when they inevitably come across the work, they have had the minimum required training rather than returning and 'opting in' to undergo further training and obtain a licence. It is intended that this will improve safety outcomes for plumbers on site.

The licence framework currently includes several licence sub-categories as follows:

- Plumbing
- Water plumbing
 - Water plumbing - fire protection systems
 - Water plumbing - fire sprinkler systems
 - Water plumbing - urban irrigation
- Draining work

It is proposed that the base plumbing licence would require the minimum training component prior to obtaining a licence, with the further and extended licences acting as endorsements to recognise further education in the various plumbing licence categories. Most of the above licence categories currently rely upon core units from the Cert III in plumbing training package and each licence then requires specialisation and electives to obtain the licence.

3.4.4.1 Feedback

- Q18: Do you support the proposal to include electrical connection/disconnection work as mandatory training components of the licence? Why / why not?

3.4.5 Electrical work

Proposal 6: Continue reviewing the electrical licensing framework

The Department is progressing several concurrent reviews and industry consultation activities on regulation of the electrical industry, including the licensing framework and ways of working. The Department will connect the outcomes of all reviews and take a holistic approach to determining the electrical licensing framework under the Building Bill.

The recent statutory review of the *Gas and Electricity (Consumer Safety) Act 2017 (G&E Act)* recommended amendments to the definition of electrical work to improve consistencies across

other legislation and capture emerging energy sources. As the Building Bill relies upon the definitions in the G&E Act to outline what electrical work requires a licence, this recommendation provided the impetus to review how this work is licensed in NSW.

As noted above, the Department will also develop Supervision Practice Standards for high-risk vocations including the electrical industry. The Electrical Supervision Practice Standard will clarify and streamline requirements for supervision of trainees and apprentices.

Further, the Department proposes to remove the connection and disconnection of fixed electrical equipment licence. This change will leave a gap for certain industries and trades who are unable to attain a licence for electrical work but could otherwise safely work in electrical related machinery and components. The Department will explore avenues to address this limited licensing issue.

For example, other states and territories have introduced other electrical licence classes, such as an Electrical Fitter or Electrical Jointer licence (Queensland), or a restricted work licence (Victoria). This approach is similar to the current licensing framework for plumbing work in NSW, which recognises the specialisation of a trade to do various different elements of work that still require a high degree of skill and training.

The Department will continue progressing work to review the electrical licensing framework and determine if other electrical licence classes should be prescribed. This work will be progressed in conjunction with reviews of the G&E Act and Supervision Practice Standards. Interested stakeholders are invited to provide views to inform the Department's review.

3.4.5.1 Feedback

- **Q19: Should the Department explore the creation of additional electrical licence classes? Why / Why not?**
- **Q20: What areas of work would benefit from additional electrical licence classes? Please provide examples and descriptions of the work performed.**

3.5 Modifications to existing licence classes

3.5.1 Professional engineers

As outlined in the Regulatory Impact Statement – Building Bill 2022, the Department will transfer existing licence provisions for professional engineers across from the DBP Act into the Building Bill. At this stage, the Department does not propose any changes to the existing registration classes for professional engineers, defined in the DBP Regulations as civil, electrical, fire safety, geotechnical, mechanical, and structural.

The Department is also exploring proposals to expand the engineering registration scheme to capture all building classes through a staggered approach. The Department will engage further with stakeholders in late 2023 to refine this proposal and identify any other registration considerations such as the role of engineering technologists and associates.

3.5.2 Roof slating and roof tiling

Proposal 7: Consolidate two roofing licences into one licence, with minimal changes to what is authorised by the licences

The current licensing framework includes three trade work licence classes related to roofing work: Roof Plumbing, Roof Slating, Roof Tiling.

The Roof Slating and Roof Tiling licences have historically been separated due to the differences between the materials used in each licence. Tile is a cheaper material commonly used on roofs, whereas slate is a heavier material used less frequently due to its higher cost.

In the HB Regulation, the only differences between the work authorised for each licence relate to the materials used. Likewise, both licences require the same qualifications (Cert III in Roof Tiling), except the Roof Slating licence also requires one additional Unit of Competency in roof slating.

Most roofers hold a Roof Tiling licence (1009 individual contractors) whereas the Roof Slating licence is far less common (71 individual contractors). Of those who hold a Roof Slating licence, 67 also hold a Roof Tiling licence.

In line with the intention to simplify the licensing framework, there is a strong case for change to consolidate these licensing requirements and reduce burden for licence holders and the regulator.

For licence holders, consolidating licensing requirements would streamline application processes and improve understanding about licensing requirements. Likewise, consolidating the licences would streamline the regulator's process for reviewing and approving applications, and for compliance activities thereby reducing regulatory burden.

3.5.2.1 Implementation considerations

The proposal is expected to have very little impact on consumers. Slate is often marketed as a luxury or premium product compared to roof tile, and so consumers are therefore likely to consider word of mouth, evidence of prior work and/or years of experience as key factors influencing their decision to engage a certain contractor, rather than if the contractor holds a Roof Slating licence specifically.

There are no anticipated significant risks or challenges arising from the implementation of this change. Only a small number of licence holders will be directly impacted. The limited contractors who hold a Roof Slating licence will be automatically transitioned across to a Roof Tiling licence.

To give effect to the change, the work performed under the Roof Tiling licence will be amended to include roof slating works (see Attachment Paper).

3.5.2.2 Feedback:

- **Q21: Do you support the proposal to consolidate the Roof Slating and Roof Tiling licences into one Roof Tiling licence? Why / why not?**

3.5.3 Kitchen, bathroom, and laundry renovation licence

Proposal 8: The kitchen, bathroom and laundry renovation licence class will be absorbed into the new Level D Builder licence class

As noted above, it is proposed that the current licence class of kitchen, bathroom and laundry renovation is reclassified as Level D Builder. For further discussion on this topic, please review [item 3.3.1.1.2.](#)

3.5.4 Fencing and swimming pool barriers

Proposal 9: Amend the fencing licence to only capture swimming pool barrier installation

Changes under the Building Bill would require a licence for any work involved in the erection of fences and gates in all classes of buildings. The Department has assessed that this requirement would cause disproportionate regulatory burden for the risks associated with fencing work. Non-structural fencing work has a low level of safety and monetary risk for consumers and is appropriately addressed via the ACL. Likewise, the regulation of commercial, industrial and security fencing is not recommended on the basis that these are regulated by the various laws, safety standards and procedures in NSW.

However, there is a clear need for ongoing intervention in relation to swimming pool barriers. Drowning in swimming pools is a significant cause of preventable death in children under five years of age, and inadequate pool fencing is a major contributing factor to drownings.

Therefore, the Department proposes to reduce the scope of the fencing licence to only capture work involved in the installation of swimming pool barriers. The erection and installation of non-structural

fencing such as Colorbond and timber fences and gates will be deregulated. Accordingly, the licence name will be changed from a fencing licence to a swimming pool barriers licence.

The Department intends to rely on the existing regulation of swimming pool barriers to refine the scope of works for this licence. The *Swimming Pools Act 1992* defines a barrier to include a fence or a wall, and any gate or door set in the fence or wall (as well as any other structure per the regulations). Swimming pool barriers are required to meet BCA performance requirements and Pool Safety Standards (which vary depending on when the pool was built and where the pool is located).

3.5.4.1 Interaction with other licence classes

The Department will retain swimming pool barriers within the work authorised by a swimming pool builder licence. This recognises that multiple persons may have responsibility for the installation of swimming pool barriers and allows flexibility to continue to this important work.

These changes do not affect other types of work that is similar to, but distinct from, fencing work. For example, work on balustrades and handrails will continue to be regulated and will require a licence. Importantly, structural fencing work that is authorised under other licence classes will continue to be regulated. This includes requiring:

- A bricklaying or stonemasonry licence for work on brick and stone fences;
- A glazing licence for work involved in installing glass, acrylic or other like materials on fences; and
- A carpentry licence for work on concreting for footings or structural support associated with outdoor construction, including timber and metal fencing, and prefabricated glass fences.

3.5.4.2 Implementation considerations

Existing fencing licence holders will have the option to surrender or not renew their licence if they do not install swimming pool barriers. This represents a cost saving of \$504, \$841 or \$1206 over 1, 3 or 5 years respectively.

Current swimming pool builders will have little to no change to their licence class.

A Certificate I in Construction is currently required to obtain a fencing licence. The qualifications will be reviewed with industry representatives, along with any CPD requirements. New and renewing applicants may be required to undertake further training to understand the requirements directly related to swimming pool barrier safety.

3.5.4.3 Feedback

- Q22: Do you support the proposed changes to the fencing licence? Why / why not?
- Q23: Do you support swimming pool barrier work continuing to be included in the swimming pool builder licence? Why / why not?
- Q24: What qualification should be prescribed to support improved knowledge of swimming pool barrier installation and certification?

3.5.5 Painting

Proposal 10: Deregulate painting work done for decorative purposes and retain regulation of painting work for weatherproofing and protecting purposes

Since 2015 stand-alone contracts for internal paintwork no longer need a licence, unless done as part of other residential building work under the HB Act. For example, a joinery licence holder who installs internal timber cladding of walls and ceilings and then paints the internal timber cladding would also require a painting licence for this work. However, if the joinery licence holder did not paint the cladding, and the consumer subsequently engaged a painter to do this work, the painter would not require a licence.

This change to the licensing framework reflected the low-risk nature of painting work and aimed to reduce red tape associated with painting licences. However, since then, many building defects related to the protective treatment of buildings (such as waterproofing and weatherproofing) have come to the fore, and the role of painting in the protective treatment of buildings has become more apparent. As a result, the Department proposes to deregulate decorative painting work and maintain weatherproofing and protective painting work.

The Department has also reviewed the painting licence in the context of the proposed expansion to building work in non-residential building classes. The Department has conducted desktop research on commercial and industrial painting and recognises that this work may require a different set of skills and products. For example, industrial painting in factories and warehouses requires highly durable paint which can withstand extreme temperatures and the impact of chemicals. To date, no evidence of risks or harms has been identified in this space, and as such the Department has not identified any justification for expanding regulation into commercial and industrial painting.

3.5.5.1 Stakeholder feedback

As part of our public consultation, the Department sought stakeholder feedback via survey questions on deregulation of certain work, including residential painting. 51% of respondents agreed that painting should be exempt from needing a licence. These responses may indicate changing perspectives on the need to regulate this work and as such, the Department seeks further feedback.

3.5.5.2 Implementation

Minimal changes are expected for existing licence holders. Most will likely work with builders to apply protective coatings to buildings. Any who do not currently perform this work will benefit from reduced licence costs. Painters who work on other classes of buildings and not in the residential space will be newly licensed. Transitional arrangements will be provided to allow painters who do not hold the required qualifications time to obtain formal recognition of existing skills.

3.5.5.3 Feedback

- Q25: Should any other painting applications be included in this licence class? If yes, why?

3.6 No change or minimal change to existing licence classes

Proposed outcome 12: Several licence classes will remain unchanged in structure with extended application to all building classes

At this stage, no changes are proposed to several existing licence classes in the new licensing framework, or only minor changes are proposed such as to the work authorised by the licence (see Attachment Paper).

No change or only minimal change is proposed for the following licence classes:

- Air-conditioning
- Bricklaying
- Carpentry
- General concreting
- Glazing
- Joinery
- Metal fabrication
- Refrigeration
- Roof plumbing
- Stonemasonry
- Structural landscaping
- Swimming pool building
- Wall and floor tiling
- Wet plastering

3.6.1.1 Feedback

- **Q26: Do you support the proposal to retain several licence classes without changes or with only minimal changes? If not, please identify which licence class(es) should be amended and why.**
-

3.7 Proposals for design work

Proposal 11: Introduce a licence for building designers and investigate regulating other design roles

The Building Bill proposes to regulate a broader range of design work beyond the scope of the DBP Act. It is proposed that designers (including those who will not be making design compliance declarations under the DBP Act) are registered for all design work. However, further evidence is needed to scope a proposed design licence and the Department is seeking input from industry stakeholders before finalising this position.

The Department is finalising the definition of regulated work in the Building Bill with the view to establishing a licensing framework for building designers; and concurrently preparing the draft Regulations to exclude other low-risk design roles from licensing requirements.

The Department is also investigating the regulatory justification for licencing interior designers and landscape architects and seeks further stakeholder feedback to finalise these proposals.

3.7.1.1 Current regulatory frameworks for design work

The HB Act does not regulate design work.

The DBP Act introduced compliance declaration requirements for design work relating to a building element or performance solution in building classes 2, 3 and 9c. For example, for work involving structural work, fire safety or mechanical exhaust requirements under the BCA, a registered design practitioner must prepare and declare regulated designs.

The DBP Act captures some building design work and therefore requires some building designers to register as design practitioners and prepare and declare regulated designs.

However, many design roles remain unregulated by the DBP Act because their work does not relate to a building element or involve a performance solution and therefore does not require a compliance declaration. For example, non-structural partition walls, most floor coverings and lighting (other than emergency lighting) can be designed by an interior designer without requiring a compliance declaration.

The DBP Act was not designed to set up an occupational licence for building designers and interior designers. The *Further Inquiry into the regulation of building standards* highlighted the unforeseen impacts of the DBP Act on design groups.⁷ Several design stakeholders provided feedback that despite being a recognised profession, many felt there is no regulated system for registration or licensing.

Further, the *Architects Act 2003* creates a standalone registration framework regulating architects in NSW. The *Architects Act 2003* establishes an architect registration board administered by the NSW Architects Registration Board and protects use of the title 'architect'. The Department does not propose any changes to the registration framework for architects.

⁷ Legislative Council, 'Further inquiry into the regulation of building standards' (Report 11, Public Accountability Committee, February 2022) 28 [2.37].

3.7.1.2 Impacts of proposed changes to work regulated by the Building Bill

Chapter 2 of the Building Bill proposes an expansion to the work captured by licensing requirements (regulated work), including general building design work.

For designers who are not registered as architects under the Architects Act or as professional engineers under the Bill, such as some building designers, interior designers and landscape architects, this definition would create a requirement to be licensed to practice in NSW.

Under clause 9 of the Building Bill, regulated work is defined as follows:

- (1) This Chapter applies to the following work (regulated work) –
- (a) building work,
 - (b) fire safety work,
 - (c) general building design work,
 - (d) professional engineering work,
 - (e) specialist work,
 - (f) other work prescribed by the regulations.

General building design work is further defined as follows:

- (2) general building design work means the following, but does not include work excluded by the regulations –
- (a) work involved in the development of design documentation, specifications and reports relating to the design of –
 - (i) the construction of a building of a type prescribed by the regulations,
 - (ii) the making of alterations or additions to a building of a type prescribed by the regulations,
 - (iii) the repair, maintenance, renovation or protection treatment of a building,
 - (b) other work prescribed by the regulations

In its current form, the proposed definition in the Building Bill will capture all building design work. However, the Department intends to exclude certain design work from licensing requirements via the Regulations, to ensure the licensing expansion is targeted at high-risk design work and does not cause undue regulatory impost for lower-risk design work.

The Department has reviewed key design roles including building designers, interior designers and landscape architects to consider the impacts of licensing requirements on each role, and the evidence of risks and harms caused by each role, to assess the justification for regulatory intervention. A summary of this review is provided below.

As noted above, the Department is also exploring the role of engineering technologists and associates and will engage further with stakeholders as this review progresses.

3.7.1.3 Evidence for excluding design roles from licensing requirements

Introducing licensing requirements for design roles will, for the most part, present a significant change from the status quo. A jurisdictional scan of licensing of fit-out or interior design work in Australia, New Zealand and the UK shows it is not a requirement to be licensed to undertake the work. Likewise, a jurisdictional scan showed that landscape architects are not regulated in any state or territory in Australia. However, some building designers do have existing registration requirements under the DBP Act, and therefore the proposed change would not be as significant for these roles.

Licensing designers would also increase regulatory burden. The Department is progressing research on the estimated number of building designers, interior designers and landscape architects currently operating in NSW, with early estimates indicating at least 10,000 designers are currently

operating. Adding at least 10,000 licence holders to NSW Fair Trading’s remit would increase regulatory burden and compliance costs for the Government, and the Department must assess whether these increased costs can be justified. The lack of clear evidence of harms uncovered by the Department to date indicates that industry regulation or self-regulation may be operating effectively. For example, the main industry body for landscape architects in Australia, Australian Institute of Landscape Architects (AILA) offers several membership pathways for professional practice however there is no legal requirement to be a member of AILA.

3.7.1.4 Evidence for creating a licence framework for designers

Design work plays an important role in the building and construction process. Although the risk of defective work appears to be low, design work can represent a significant investment in the process to create a building. For example, project costs for interior design work can vary significantly depending on the type of room and the size and scope of the project, but indicative costs range from \$1,000 to \$5,000 for a new living room to \$90,000 to \$250,000 for luxury interior design.⁸ The cost of this work provides some justification for licensing designers.

The current framework creates a risk that structural design work may be being undertaken by some practitioners that fail to understand or knowingly disregard the requirements under the DBP Act. This could be mitigated by licensing all designers to ensure practitioners and consumers are knowledgeable of the relevant legislation.

3.7.1.5 Stakeholder feedback to date

In response to our public consultation, the Department received stakeholder feedback on licensing building designers and interior designers. Of 22 respondents, 45% supported licensing building designers and interior designers. A further 50% of respondents expressed conditional support for licensing these roles, with some stakeholders only supporting licensing of building designers but not interior designers.

3.7.1.6 Current proposal for design work

Based on stakeholder feedback received to date and the outcomes of the Department’s review, the Department proposes to retain the proposed definition of regulated work and general building design work in the draft Building Bill. The impacts for each design role are proposed as follows:

Role	Proposal
Building designers	Introduce licence in accordance with proposed definition of regulated work
Interior designers	Continue reviewing feedback and evidence on the regulatory justification for licencing interior designers before finalising a position
Landscape architects	Continue reviewing feedback and evidence on the regulatory justification for licencing landscape architects before finalising a position
Architects	The Department does not propose any changes to the registration framework for architects.

Table 8: Current proposals for design work

⁸ ‘How much does an interior designer cost?’, *Airtasker* (Web Page, viewed 13 March 2023) <<https://www.airtasker.com/interior-designers/price/interior-designer-cost/>>.

3.7.1.7 Feedback

- Q27: Do you support the Department’s proposal to introduce licencing requirements for building designers? Why / why not?
 - Q28: Do you recommend that the Department introduces licensing requirements for interior designers? Why / why not? If yes, please provide evidence of risks and harms caused by interior designers.
 - Q29: Do you recommend that the Department introduces licensing requirements for landscape architects? Why / why not? If yes, please provide evidence of risks and harms caused by landscape architects.
 - Q30: Are there any other design roles that will be captured by the proposed definition of regulated work and general building design work?
 - Q31: Could a limited registration scheme for designers deliver sufficient regulatory benefits without the increased costs of a licencing scheme?
-

3.8 Proposals refined since public consultation

3.8.1 Solar installers

Proposed outcome 13: Solar installers should not be licensed at this time, and high-risk solar installation work will continue to require an electrician and/or plumber

In the Regulatory Impact Statement – Building Bill 2022 – Part 1, the Department proposed a new licence class for solar installers. Upon review of stakeholder feedback received in response to the consultation and noting that high risk elements of solar installation work is captured under the scope of works for electricians and/or plumbers, this proposal will not progress.

3.8.2 Other roles on site such as project managers and estimators

Proposal 12: Continue to review evidence to support licensing project managers

The Department sought stakeholder feedback in the recent public consultation on whether some professional work such as project managers and estimators should be exempt from licensing requirements.

As outlined in the RIS, project managers may be captured by the proposed definition of building work which includes “coordinating or supervising work”. Therefore, the Department must either specifically exclude project managers and other professional roles from licensing requirements or establish a licensing framework for these roles.

At the time of consultation, the Department had not uncovered any evidence to demonstrate that these types of occupations require licensing. However, stakeholders provided strong resistance to the proposed licensing exemption for project managers and other roles such as estimators. Many stakeholders referenced the significant influence that a project manager has on important site practices, such as upholding quality and safety obligations, as justification for licensing.

The strength of stakeholder submissions in favour of licensing warrants further consideration by the Department. The Department will conduct further research and seek further stakeholder feedback before finalising a position statement and will continue engaging with stakeholders to finalise this proposal.

3.8.2.1 Quantity surveyors

Proposed outcome 14: Quantity surveyors will not be licenced at this time

Additionally, as part of this consultation on licencing requirements for professional roles such as project managers, a very small number of stakeholders suggested that the Department should consider regulating quantity surveyors.

The Department reviewed the role of quantity surveyors and did not identify evidence or risk of harm significant enough to warrant regulatory intervention such as the introducing of licencing requirements. While quantity surveyors may deal with high levels of risk within their role, it appears that this risk is unclear and intangible and frequently does not result in harm.

Quantity surveyors appear to be effectively regulated via industry organisations. For example, the Australian Institute of Quantity Surveyors (AIQS) appears to have been successful in the regulation and monitoring of their 2,500 members. Key regulatory tools leveraged by AIQS include a registry accessible by the public, and a complaints system to hold members accountable for wrongdoing.

Pending further stakeholder feedback, the Department may consider a co-regulatory approach if there is clear justification for intervention.

3.8.2.2 Feedback

- **Q32: What evidence should the Department consider in finalising a position statement on potential licencing requirements for project managers?**
- **Q33: Should the Department consider co-regulation of quantity surveyors? If yes, please provide evidence of risks and harms caused by unregulated quantity surveyors.**

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