



MASTER BUILDERS
A U S T R A L I A

Master Builders Australia Submission

National Registration Framework
for Building Practitioners

Australia Building Codes Board
Discussion paper 2020

Introduction

Since the release of the Shergold-Weir Building Confidence report (BCR), Master Builders has supported the creation of a nationally consistent occupational registration framework to enable jurisdictions to reduce inconsistencies in licensing and registration and create a minimum benchmark for the construction industry across Australia.

BCR Recommendations 1 and 2 propose the registration of building practitioners involved in the design, construction and maintenance of buildings, and that each jurisdiction prescribes consistent registration requirements covering knowledge of NCC, competency and experience, insurance and financial viability, and integrity. The report targets its recommendations at certain building practitioners that work on complex, high-risk building design and construction.

As the BCR notes, while jurisdictions register building practitioners, the categories differ affecting competent workforce mobility and creating complexity in the application of mutual recognition. These inconsistencies also weaken the effectiveness of industry quality safeguards and contribute to greater insurance risk.

While the exercise has been tried and failed in the past and is a major reform undertaking for all levels of government, the long-term productivity and cost benefits are substantial. This includes eliminating un-necessary risk layers that are contributing to global insurer concerns around indemnification of building and construction activity and professions.

Master Builders considers the proposed National Registration Framework (NRF) delivers a partial response to BCR Recommendations 1 and 2. The NRF goes part of the way towards providing considerations for licence categories, education requirements and experience.

In addition, some key areas are not included in the framework such as trade professions and requirements for insurance and probity reporting.

Other areas not addressed in the National Registration Framework that could be considered include maintenance, business registration/company licencing.

Master Builders acknowledges that since the release of this Discussion Paper the Federal Government has announced the Council for Federal Financial Relations (CFFR) will develop a framework for occupational licensing to be legislated by January 2021.

A previous approach to harmonise trade and building occupation licensing in 2009 documented inconsistency between jurisdictions and a strong rationale for introduction of national licensing. Current processes to reform occupational licensing and registration would benefit from documenting inconsistencies in the status-quo, so there is clearer picture of what these look like today. The ABCB process should be aligned with the CFFR process, so a framework for both registration and licensing for Building Occupations and Trade Contractors can be established together.

In acknowledging the enormity of this task, if small steps are needed to move forward, this could start with States and Territories:

- Requiring all commercial builders and contractors to be licensed.
- Establishing a consistent framework for independent licensing of engineers, architects and building surveyors through government that aligns requirements for government licensing and membership-based organisation accreditation and requires mandatory auditing of membership-based accreditation processes by regulators.

It is difficult to define nationally consistent registration and licensing requirements when the thresholds for building classification don't adequately reflect the complexity of construction (super-high rise) or construction regulation. Currently, the NCC describes high rise construction as buildings over 4 storeys, when today we have mixed use (retail, office, hotel, residential and entertainment), mass public gathering, 56 storey buildings with green walls and gardens. The ABCB process in relation to complex buildings is seeking to establish a risk framework for complex buildings, this needs to clarify building classifications, so the classifications better reflect how high-rise construction looks today.

The NRF proposes a baseline for education and training and this corresponds with building classifications for single dwelling residential and non-habitable structures (class 1 & 10); multi-dwelling residential and any construction up to three storeys; and any construction above 3 stories.

Master Builders considers this framework inadequate to address risk and training needs associated with super-high-rise construction. To address this, Master Builders considers further options for capping and endorsement of Level 1 Builder Registration as follows:

- Level 1 Capping – To cap a Level 1 accreditation to 6 stories
- Level 1 Endorsement – To build above 6 storeys, acknowledging the increased risk for true high-rise construction.

Endorsement allows the base level accreditation threshold to be set at discernible hold points based on experience, education and risk. An endorsement permits flexibility for licensees who hold the practical skills to make an incremental shift in licencing scope, without significant administrative impediments.

As an example, the proposed Level 1 (Building) practitioner endorsement for high-rise construction (above 6 stories). This acknowledges that the practitioner may have the experience and education to undertake the work, and also recognises the significant risk increase for a licensee and regulation for high rise construction; ideally this concept would correspond with an update of the NCC building classification system.

Specific comments in relation to NRF exclusions, grandfathering and ongoing CPD, insurance and probity, qualifications, building and building surveyor categories follow.

Exclusions

Trade Occupations

The licencing of trades contractors is a fundamental component of any national licencing system. This process should only apply to trade sub-contracting businesses.

Currently:

- Queensland is leading the country in trade licencing.
- New South Wales has partially achieved this by licencing contractors who work in the domestic building sector.
- Victoria has regulatory reforms underway (which include trade licencing).

For the national framework not to include trade contractors is a major oversight particularly as jurisdictions are looking to tighten up licensing regimes.

Master Builders acknowledges that this is a deliberate omission to keep the focus on individuals and their qualifications, experience and good character, and to keep the framework simple enough to achieve wide support and commitment to its implementation. Unfortunately, these issues all form part of industry confidence and would be appropriate to consider.

The recent announcement by the Federal Government that the Council of Federal Financial Relations will develop a framework for occupation licensing that includes trade contractors, builds on the framework developed by the ABCB for building practitioners. Both processes need to be developed together.

Insurance and Probity

MBA believes that insurance and financial viability requirements should not be excluded from the conversation regarding a National Registration Framework. Because both insurance and financial viability are critical areas of probity that safeguards consumers and industry as well as underpinning confidence in the construction market.

Consideration of insurance is necessary to de-risk and reduce the cost of insurance. Global insurers are making building practitioner insurance unaffordable or leaving the marketplace, partly due to the complexity of our federated governing regime, which creates too many layers of risk. If this is not addressed governments may need to take a bigger role in indemnification of construction risk.

The building industry does not want to be the industry of “least resistance” regarding fit and proper people or financial viability. Financial viability is critical to the ongoing success of the industry. The inclusion financial probity as part of the licencing requirements would help create confidence in the market and allay some risk for insurers that are pricing this into the cost of insurance.

Grandfathering and ongoing education (CPD)

The BCR called for “certificated training which includes compulsory training on the operation and use of the NCC as it applies to each category of registration”, whilst the NRF has established a proposed baseline, it has not address the baseline competency of new or current licensees or the amendment cycle of the National Construction Code.

In May 1998, the Inter-jurisdictional Regulatory Collaboration Committee acknowledged that a skills audit should be undertaken to establish a sound baseline of industry understanding of a performance based regulatory code [for implementation]. This is an important step to understanding initial education requirements for licencing and establishing ongoing education requirements.

As the NCC is an evolving regulatory document, there needs to be an evolved formal system for keeping licenced practitioners current.

Where there are currently licenced practitioners in the NRF, there needs an ongoing education regime to keep licences current – a once a year seminar is not sufficient.

The skills audit is critical where the NRF is proposing new categories of licence holders who have not been regulated regarding NCC competency. A baseline NCC understanding must be established and then matched to education requirements - It may take several years to shift the culture of a newly licensed cohort.

Qualifications

Master Builders considers that education needs to reflect key elements of the NCC as listed in dot points below and that the education framework is updated as substantial changes to the NCC are made.

Master Builders also believes that the unit requirements in the current qualifications to become a registered practitioner may require further review to ensure that the scope is broad enough to address the concerns contained within the BCR.

There needs to be an expert panel to review the NCC education requirements within all nominated qualifications for fitness for purpose that includes specific units on:

- NCC Volume 1
- NCC Volume 2
- NCC Volume 3
- NCC Governing Requirements (eg. Evidence of Suitability & Performance Solutions)
- NCC Referenced Documents – Specific to Deem to Satisfy compliance.

Builder Category

Currently Level 1 does not include an Approved Bachelor's degree in Construction Management and this should be included.

In addition, Master Builders considers further endorsement categories are needed for buildings above 6 storeys to better acknowledge risk and in turn address training needs for high-rise construction. Ideally this would correspond with an update of the NCC building classification system.

Suggested revision of classification to better reflect building practices include:

- Level 3 – As proposed in the NRF
- Level 2 – As Proposed in the NRF
- Level 1 – Class 2-9 up to 6 storeys, any construction Type
 - Endorsement – High Rise endorsement on Open Licence - Class 2 – 9 over 6 storeys, unlimited gross floor area, any construction Type.

Some further comments to note in relation to the above include:

- A Level 2 and Level 1 licence holder should not automatically be able to build class 1 & 10 buildings. Class 1 & 10 Buildings are different to Class 2 – 9 buildings and therefore should be treated differently.
- Additionally, high-rise construction becomes an endorsement for specialist work. This 6-storey limit comes from the NCC's 25m effective building height which requires additional fire protection requirements.
- There should be a correlation between the level of complexity of a building with the type of licence that is required to build it, this correlation has not been established within the NRF.

Building Surveyor

MBA supports the merging of building surveyor and inspector categories and use of building surveyor terminology over building certifier. This terminology also aligns with the language used in the Advanced Diploma of Building Surveying which is in the final stages of being updated.

Currently two licence categories are proposed for Building Surveyors. MBA suggests a third level is needed to better align with current occupations (residential and small commercial, medium commercial and unlimited).

- Level 3 – Class 1 & 10 buildings
 - Endorsement - Class 2-9 buildings Type C construction only (Advanced Diploma + experience)
- Level 2 – Class 1 & 10 buildings, Class 2-9 buildings up to 3 storeys (Bachelor + experience)
- Level 1 – Unrestricted (progression from level 2 based on experience)

Project Management

Master Builders believe it would be more appropriate for Site Managers to be licenced than Project Managers. Site managers are required to be onsite at all times, as they are the “builders” appointed representative onsite and they personally supervise/direct all building works on a day to day basis.

Site managers are also responsible for administering a company’s safety management system (person conducting a business or undertaking - PCBU).

Further comments in relation to builder and project management categories

In addition to this Master Builders Queensland has identified in more detail in its submission to the ABCB, the impact of the relationship between all parties in construction of a commercial building project. It explains how the NRF has not adequately reflecting the building and sub-contractor parties that play a vital role on construction delivery.

The table below demonstrates the complexity of commercial building and shows how different roles could be classified under builder and sub-contractor categories. These roles, except for the project manager, are not included in the NRF.

Commercial Building – Key Roles

POSITION	BUILDER / SUB CONTRACTOR	ROLE
Construction Manager	Builder	Responsible for all construction undertaken by the company.
Project Manager/ Team Leader	Builder	Responsible for several projects for the builder. Responsible for overseeing Tendering of the project, establishing and tracking the projects Budget, Schedule & Deliverables according to the contract.
Site Manager	Builder	Responsible for delivering the project on budget and schedule. Responsible for all subcontractors. Is the builders representative onsite, issues instructions to sub-contractors. Already has some responsibilities under other legislation such as WHS. Is onsite all day, every day.
Assistant/ Junior Site Manager	Builder	Provides assistance to the site manager. In a multi building project there may be 1 per building.
Structural Foreman	Builder	Responsible for structural components of the building. In a multi building project there may be 1 per building.
Finishing Foreman	Builder	Responsible for the finishing components of the building. In a multi building project there may be 1 per building.
Defects Foreman	Builder	Identifies & Coordinates Defect identification and rectification on the project.
Construction Manager	Sub - Contractor	Oversees all work conducted by subcontractor.
Foreman/ Site Supervisor	Sub - Contractor	Responsible for supervising trade work conducted by subcontractor on a day to day basis. In a multi-building project there may be 1 per building.
Leading Hand	Sub - Contractor	Supervises a group of tradesmen. May be more than 1 depending on the size of the project.