

Easy and Transparent Trading Consultation Paper
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Response and feedback

Please accept this response and feedback as requested.

The responses below are shown in blue text

In accordance with office of fair trading invitation, this document is a review and response regarding the proposed (possible) changes to the points of response below and:

- removing 13 categories of home building licenses;*
- increasing the threshold for owner-builder permits to \$20,000;*

1.3 Increase the threshold for an owner builder permit

Options for reform

1. Maintain the status quo

This does not reduce red-tape for owner builders.

2. Increasing the value threshold of the owner-builder permit to \$20,000

This is the preferred approach. Increasing the value threshold will only require homeowners to apply for a owner-builder permit when the value of the labour and materials exceeds \$20,000. This will expand the scope of renovations a homeowner can undertake themselves, reducing red-tape and cost. For example, increasing the threshold to \$20,000 will allow an owner-builder to build a deck or undertake a bathroom renovation without requiring a licence. Noting that Western Australia sets the threshold at \$20,000, and that homebuilders are incentivised to do good, safe work, it is considered (subject to consultation) more appropriate to increase the threshold to \$20,000.

Questions

5. Where should the financial threshold for an owner-builder permit in NSW be set?

As a licensed Builder it is my view that owner builder permits should be eliminated.

Should be understood that working as a building practitioner requires specific skills and trade background to allow for the execution of work in a proper and fit manner. These skills cannot be gained in short courses and require dedication to a career as well as ongoing professional development.

As a professional, Accredited Building Consultant, I am exposed to the ongoing secondary outcomes resulting from poor workmanship conducted by owner builders.

As a regulator, the office of fair trading should eliminate owner builder permits and implement other simplified methods for the execution of small residential works which an owner builder would normally want to complete themselves.

These methods may include, but not be limited to, simplification of the engaging of a building nominee (licensed Builder) to supervise, mentor and assist owners in constructing work to their own properties.

This professional overseer activity will result in far superior outcomes and provide a warranty trial for workmanship.

6. What should be considered when setting the threshold for an owner-builder permit?

As indicated above there should be no threshold available for owner builders to conduct their own work.

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1.6 Removing 13 categories of home building licences

Case for change

The better regulation principles

As explained above, the primary purpose of *Home Building Act 1989* licences is to protect consumers from substandard workmanship and from financial loss arising from misconduct.

An ancillary benefit of licensing is that tradespeople are required to have qualifications requiring them to know how to complete the work safely. As such, although maintaining work health and safety standards is not the focus of the *Home Building Act 1989*, it is arguable that its licensing scheme increases work health and safety standards.

The *Home Building Act 1989* protections overlap with the ACL, including the consumer guarantee provisions, the common law and the *Work Health and Safety Act 2011*. Additionally, not all of the *Home Building Act 1989* protections need a licensing scheme to be enforced: for example, the payment protections provided by ss8-8A could apply to unlicensed traders; and s48E rectification orders could be issued to unlicensed traders, so long as the trader was competent to rectify the work. Combined, these measures would both render unlawful conduct that is against the public interest on consumer protection or work health and safety grounds, and provide consumers with quick remedies to have defective work, which does not cause extensive damage to a building or risk human safety, rectified.

List of licences proposed to be removed:

1. Decorating
2. Painting
3. Fencing
4. Glazing

5. Kitchen and Bathroom Benchtop installation
6. Splashback installation
7. Paving
8. Shower screen installation
9. Ducting/mechanical ventilation
10. Shade sails and shade systems installation
11. Dry Plastering
12. Wet Plastering
13. Minor Maintenance/Cleaning

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Options for reform

1. Maintain the status quo

This was not considered the best option, having regard to the conclusions set out above.

2. Remove the requirement to hold a licence for the above 13 categories

In removing the requirements for these licences, consumers will still be protected under the ACL and through the retention of powers to issue rectification orders. Contract deposit progress payment requirements will also remain in place. These measures strengthen the protections offered by the ACL, and provide specific recourse for home building matters, ensuring that the removal of licence requirements will not expose consumers to increased risk. The result of removing the licences will be less cost for traders, and more competition.

Questions

11. Do you support the removal of the above 13 licence categories? If not, which do you believe need to be retained and why?

As a licensed Builder I do not believe any of the licence categories should be removed. The removal of licence classes in the building industry segment will only result in lower quality work and will not allow for differentiation of licensed/unlicensed trades on the basis of recognition of learning and qualification.

As a licensed (now obsolete) building consultant I have witnessed significant degradation in the pre-purchase inspection segment of the building industry since the consultant's licence class was made obsolete. The eradication of the certifiers licence class has allowed unskilled and unqualified persons to practice within a critical environment of the industry, that being the inspection and reporting of defects in residential properties which every day consumers are investing significant sums (and in some cases life savings).

Eradicating licence trades as listed above can only have a detrimental effect.

I question the reason for eradication and propose that it is due to the office of fair trading having little control over the trades as listed above due to lack of resources. The office of fair trading is unable to police or regulate the activity of these trades and it appears that as a regulator the office is reducing the number of trades to a minimum level in response to resource shortages.

Some of the listed trades require skills to deliver outcomes of a health and safety nature. For example, any trade providing glazing or glass must comply with relevant Australian standards and install correctly detailed components to offer outcomes with safety for occupants and users.

For example, any trade providing ventilation systems must comply with relevant standards and deliver superior outcomes to prevent ongoing health and safety issues and fire related risks.

12. Are there any other licences categories that you believe should be removed?

For the reasons listed above I do not believe any of the licence categories should be removed. I believe that the office of fair trading should increase resource to regulate the

1.13 AMR – Architects and other building related occupations

Options for reform

1. Maintain the status quo

Under this option, there will continue to be restrictions to labour mobility, business productivity and competition for architects, plumbers, gasfitters and drainers. Without an automatic recognition arrangement, licensed individuals in these occupations need to apply, under mutual recognition, for another registration to work outside of their home jurisdiction. These multiple registrations are likely to cause impediments to the movement of licensed individuals across borders and impose additional application and registration costs.

2. Introduce AMR for architects and other building occupations

This is the preferred option

An AMR scheme for architects and other building occupations will allow a seamless transition for licensed individuals working in a jurisdiction that is outside of their home jurisdiction. The scheme would facilitate labour mobility and reduce regulatory burden and costs for businesses, which could increase competition and productivity. These benefits could potentially flow down to consumers by increasing choice, reducing prices and improving the quality of the services available. Jurisdictions will continue to separately regulate the occupations. However, this approach will need the support of the relevant Ministers in other jurisdictions to be implemented effectively. The Minister is currently contacting States and Territories in order to start a national discussion on AMR.

NSW will only offer AMR for traders in jurisdictions where AMR is reciprocated.

Questions

25. Which other licence categories administered by Fair Trading or SafeWork would AMR be of most value?

For the reasons listed above, the now obsolete building consultants licence should be reinstated.

As a previously licensed (now obsolete) building consultant I believe that the building consultant licence should be reinstated.

For the reasons listed above, this license should be reinstated and AMR utilised as a method of obtaining compliance in New South Wales.