

Building Commission NSW

Proposed building reforms and how they affect architects

Draft Building Bill 2024

September 2024

About the proposed building reforms

Disclaimer

This overview provides an indication of policy positions proposed by Building Commission NSW as part of broader proposed building reforms. Proposed policy positions are being circulated for industry and community stakeholder feedback. This paper does not reflect final Government positions or decisions.

Feedback from stakeholders received during this consultation process will be provided to Government to inform final decision on the proposed reforms.

There will be further opportunity for stakeholder review and comment as part of the development of supporting Regulations.

Introduction to proposed building reforms

The Government intends to deliver legislative reforms as part of its election commitments to restore confidence to the NSW construction sector.

The proposed reforms aim to consolidate and modernise NSW building legislation into a single framework that will remove duplication, make laws easier to understand for consumers and practitioners and ensure regulatory oversight of emerging trends in the sector.

Draft Building Bill and supporting legislation

To deliver these proposed reforms, Government intends to introduce a Building Bill and supporting legislation including a Building Compliance and Enforcement Bill (BCE Bill) and a Building Insurance Bill. These draft Bills have been shared with the NSW Architects Registration Board and targeted industry stakeholders on a confidential basis.

The draft Building Bill provides the overall framework of practitioners' obligations and consumer protections. The draft BCE Bill supports the Building Bill by providing the necessary powers to Building Commission NSW and other regulators to enforce those obligations. Finally, the draft Building Insurance Bill has a discrete application to strata building bonds, decennial liability insurance (DLI) and the Home Building Compensation Fund.

The supporting Regulations and instruments will provide further clarity of the operational details for the new framework, such as licensing provisions and what work is regulated.

Building Commission NSW intends to develop the supporting Regulations and instruments and finalise the draft Building Bill in 2025, with input from the NSW Architects Registration Board and consultation with industry and community stakeholders to provide feedback.

Consultation process

In October 2023, to support the proposed transfer of provisions from the *Architects Act 2003* to the draft Bills, Building Commission NSW engaged with the NSW Architects Registration Board, the NSW Government regulator of architects. In April 2024, Building Commission NSW shared a confidential version of the draft Building Bill and draft BCE Bill with the NSW Architects Registration Board and architect industry stakeholders to seek feedback, refine drafting and ensure accuracy. Building Commission NSW and the NSW Architects Registration Board continue to work closely on the proposals.

In early August 2024, Building Commission NSW circulated the draft Bills and consultation papers to NSW Architects Registration Board and targeted industry stakeholders, including the Australian Institute of Architects and Association of Consulting Architects, for feedback. Architect membership bodies and other peak industry associations were invited to provide feedback on behalf of architects across NSW.

Key timeframes

Government intends to introduce the three Bills to Parliament in 2025. Further work is required to develop the supporting Regulations and instruments, which will take time.

Timeframes for commencement of the proposed reforms are subject to Government approval. No timeframes have been confirmed yet, but Government will work closely with the NSW Architects Registration Board and architect membership bodies to ensure sufficient time is provided for the architecture profession to respond to the changes before they take effect.

Proposed regulation of architects under the draft Building Bill

As part of these proposed reforms, the Government is considering repealing the *Architects Act 2003* and integrating the legislation into the draft Building Bill and its supporting legislation. This means that the existing regulatory framework in the *Architects Act 2003* would continue to operate in the other Acts. This aligns with the broader intent of the proposed building reforms to streamline and consolidate building legislation.

These proposed legislative changes would not involve any significant changes to the registration framework for architects in NSW, or the role of the NSW Architects Registration

Board in overseeing the regulation of architects in NSW, as part of these proposed reforms. Architects would continue to be bound by their Code of Conduct and have the same functions. The existing powers and functions of the NSW Architects Registration Board would be retained, with further details summarised below.

Regulatory framework	Remains unchanged	Further information
Registration of architects	Yes	The registration framework for architects has been drafted to integrate into the licensing framework under the draft Building Bill, as part of the objective to streamline and consolidate legislation. No changes are proposed to how the registration framework operates.
Operation of NSW ARB and its powers to regulate and support architects	Yes	This includes transferring existing NSW ARB powers e.g. managing complaints about architects; overseeing professional conduct and compliance with building laws, including setting Code of Conduct obligations.
Protection for use of term 'architect'	Yes	The existing protections for use of the title 'architect' under the <i>Architects Act 2003</i> are intended to continue as is.

Other proposed reforms of interest to architects

The Government is also considering expanding registration requirements for building designers and professional engineers to require a licence for all work on residential building classes.

Proposed design licences:

Registered by Building Commission NSW	Registered by NSW Architects Registration Board
Building designers, with Design Practitioner registration absorbed within building designer (unrestricted and medium rise) licence	Architects, with Design Practitioner – architectural absorbed within architect registration
Interior Designers	
Professional Engineers	
Fire safety designers	

Scope of work proposed to be authorised by each licence class:

Licence class	Can work on
Architect	All buildings
Building Design (unrestricted)	All buildings (except per Housing SEPP)
Building Design (medium rise)	All work on buildings up to 6 storeys (except per Housing SEPP) Non-structural internal work on all buildings where DBP declaration not required
Building Design (low rise)	All work on Class 1 and 10 buildings Non-structural internal work on all buildings where DBP declaration not required
Interior Design	Non-structural internal work on all buildings where DBP declaration not required

This will expand the current registration requirements under the *Design and Building Practitioners Act 2020* which only require registration for building designers and engineers carrying out certain work on class 2, 3 and 9c buildings.

It aims to address the existing inconsistent obligations in the construction chain, with other design practitioners not subject to the same regulatory oversight as architects.

To further develop the supporting Regulations, the Government intends to continue working with the NSW Architects Registration Board and consulting with architect membership bodies, industry and community stakeholders to refine the proposed licensing frameworks for these practitioners, including the eligibility requirements and scope of works authorised by a building designer licence. Architect membership bodies and industry stakeholders will have the opportunity to provide feedback on these proposals in 2025, before the Bills are finalised.