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Hon Mick de Brenni MP  
Minister for Energy, Renewables and Hydrogen  
Minister for Public Works and Procurement  
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Dear Minister,

#### **LICENSING OF FIRE PROTECTION WORK**

As you would be aware, the Queensland Building and Construction Commission Regulation (QBCC Regulation) was amended in 2021 to remove the ability of licensed builders to personally carry out passive fire protection work unless they also hold an appropriate fire protection licence. The amendments take effect on 2 May 2025.

Master Builders understands that the intended effect of the amendments was to ensure that licensing of passive fire protection work is treated the same as other types of higher risk building work such as plumbing and gas work. That is, passive fire protection work must be performed by licensed technically qualified persons.

Master Builders has recently become aware of issues with the drafting of the QBCC Regulation that may impact the ability of licensed builders to continue operating their businesses post May 2025.

These issues, including recommended solutions, are outlined below.

#### **(1) Ambiguity in licence scopes for builder class licences**

The scopes of work for a builder open, builder medium-rise and builder low-rise licence are prescribed in schedule 2 of the QBCC Regulation. The relevant scopes include a restriction that prevents the licence holder from “personally carrying out building work” for which “a fire protection licence is required”.

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In May 2021 building work requiring a fire protection licence was expanded by legislation to include the following passive fire protection work:

- Installing and maintaining fire collars, fire-rated penetrations, and fire-rated joint sealing.
- Installing and maintaining fire and smoke walls and fire-rated ceilings.

The combined effect of the May 2021 changes to the QBCC Regulation and the existing scopes of work for builder class licences was that licensed builders could no longer personally “carry out” passive fire protection work requiring a fire protection contractor’s licence or fire protection occupational licence.


The term “carry out” is broadly defined in schedule 2 of the QBCC Act to mean:

- carry out work personally;
- directly or indirectly cause the work to be carried out (e.g., engaging a subcontractor to carry out work);
- provide building work services for work (e.g., supervising, managing, administering, or providing technical advice about work).

To give licensed builders time to change their business practices to meet the new licensing requirements, transitional provisions were inserted into the QBCC Regulation to allow licensed builders to continue to personally carry out passive fire protection work until 2 May 2025.

In our view, the ability of licenced builders to transition their business practices to meet the new licensing requirements is being hampered by ambiguity in the drafting of the Regulation. Specifically, the industry is unclear about the answers to the following compliance related questions.

- a) Having regard to the broad definition of “carry out” in the QBCC Act, does the restriction in the scopes of work for builder class licence merely prevent the licensee from personally performing passive fire protection work or does it also include:
  - personally causing passive fire protection work to be carried out (e.g. personally employing or subcontracting to the holder of an appropriately licensed trade contractor to carry out this work); and
  - personally performing building work services for passive fire protection work (e.g. personally supervising, managing, and administering passive fire protection work).
- b) From May 2025, will nominees who hold a builder class licence (and work for a company that only holds a builders licence) also require an appropriate fire protection contractor or nominee supervisor licence if the company subcontracts out its passive fire protection work?

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- c) Given that site supervisors are authorised under their licence to personally supervise and not personally perform work, as of May 2025 do site supervisors who hold a builder class site supervisor licence require an appropriate fire protection occupational licence to continue to supervise passive fire protection work?
  - d) How are licensed companies generally affected by the changes, given that companies do not “personally carry out” work?

Master Builders submits that the easiest way to address the above ambiguities is for the scopes of work in builder class licences to be amended to confirm that licensed builders may:

- subcontract the carrying out of passive fire protection work to an appropriately licensed trade contractor who is authorised under their licence to carry out the work;
- employ the holder of an appropriately licensed trade contractor licence or fire protection occupational licence to personally perform or site supervise passive fire protection work as permitted under the holder’s licence.
- if the licensee is an individual and holds a licence type that allows them to be a nominee, continue to work as a nominee for a licensed company builder regardless of whether the company engages an appropriately licensed person to carry out its passive fire protection work.

If implemented, these amendments would treat passive fire protection work on the same basis as plumbing and gas work.


Master Builders also recommends that the operation of the subject restrictions in the builder licence scopes of work be reviewed to ensure that the above stated issues are addressed to the extent they may apply to fire protection work other than passive fire protections work and mechanical services work. The recommended solutions above could equally be applied to this broader work.

## **(2) Passive fire protection work performed by unlicensed persons**

Under section 1(d) of schedule 1AA of the QBCC Regulation, certain passive fire protection work performed by an unlicensed person as a subcontractor for an appropriately licensed trade contractor is not fire protection work licensed or regulated under the QBCC Act. The exemption also applies to a licensed builder who obtains a fire protection trade contractor’s licence.

The impact of section 1(d) would seem to defeat the intent of the reforms to ensure passive fire protection work is personally performed by licensed technically qualified persons.

Of further concern, there is also an argument that the exemption may operate to remove passive fire protection work from being defined as “building work” under the QBCC Act. If this is the case,



passive fire protection work falling within the exemption will not be regulated under the QBCC Act, regardless of its value. We do not believe this was the intent of the reforms.

Master Builders submits section 1(d) of schedule 1AA of the QBCC Regulation should be repealed.

Thank you for considering this submission and we look forward to your response in due course.

Yours sincerely,

**Paul Bidwell**  
CEO