

Building and Construction Policy Team  
Better Regulation Division  
Department of Customer Service

2 January 2021

Dear Building and Construction Policy Team,

**RE: Draft Design and Building Practitioners Regulation – ACSE board comments**

The draft Design and Building Practitioners Regulations were released for public comment on 20 November 2020. Please see the ACSE board comments below.

**1. Clause 17 – Lodgement of varied design**

- The ACSE requests better definition around what constitutes a “varied regulated design”.
- There is potential, that if a lodgement is made for every varied element regardless of effect, that critical design changes will be missed by the regulator.
- The ACSE believes that “minor” variations should be able to be reviewed and approved by a Registered Design Practitioner and maintained in a “minor elements register” by the Building practitioner. This can then be submitted with the lodgement of the Occupation certificate as per clause 18 (3b)

**Clause 18.3b**

(b) a copy of each regulated design that contains additional details not reflected in the construction issued regulated design required to be provided to the Secretary under clause 16, but only if the additional details do not cause the building work to which the design relates to be varied,

- The full detail of the approved “minor elements” would be maintained by the Building Practitioner and provided upon request.

**2. Clause 18 – Lodgement prior to Occupation Certificate - (3c)**

**Clause 18.3c**

(c) if a principal design practitioner is appointed for building work, the principal compliance declaration for all regulated designs from a registered principal design practitioner whose registration authorises the practitioner to provide a declaration as to the matters to which the declaration relates.

- The ACSE understands that this is the only clause in the regulation that relates to the provision of a declaration from the Registered Design Practitioner to assist the Building practitioner in providing evidence that the building was constructed in accordance with the regulated design.

- This declaration would be the equivalent of an inspection certificate in the current NSW work practice.
- The ACSE believes additional guidance or commentary is required around this clause.
- The ACSE believes that various levels of construction monitoring (CM) should be stipulated as per the New Zealand Producer statement PS4
- The ACSE believes that the wording /limitations of the declaration should be standardised and commensurate with the level of construction monitoring agreed.
- The ACSE notes that some private building certifiers are requesting design practitioners to provide all-encompassing declarations for complete conformance, which is not possible with typical engagements.

Yours Sincerely,  
ACSE Sub-Committee for Design & Building Practitioners Act:

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