

Design and Building Practitioners Regulation 2020

Stakeholder Feedback Template Form

This template has been designed to help you make a written submission as part of the public consultation on the Design and Building Practitioners Regulation 2020.

The template contains three sections to guide stakeholders to providing feedback on:

- [Regulatory Impact Statement](#)
- [Draft Design and Building Practitioners Regulation 2020](#)
- [Draft Continuing Professional Development Guidelines for Prescribed Practitioners](#)
- [Draft Continuing Professional Development Guidelines for Professional Engineers](#).

You don't have to give feedback on all sections and can feel free to choose which questions or fields that would like to fill in.

Submissions close 5:00pm 11 January 2021

Your Name: DAVID CASTLEDINE

Organisation Names: Civil Contractors Federation NSW and Institute of Civil Infrastructure

Date: 11 JANUARY 2021

About you

Please share information about yourself or the organisation that you are responding on behalf of. This information helps us work out what various groups think about the changes and how they will be affected.

If the reforms will affect the work you or your organisation does, please tell us what that work is.

If you think you will need to be registered as a Design Practitioner, Principal Design Practitioner, Building Practitioner or a Professional Engineer, please share details of your qualifications and experience.

If you are a member of the public, please share the reason you are interested in these reforms and how you learnt about them.

Please feel free to share any other details you think will help us develop these reforms.

The Civil Contractors Federation is a Registered Organisation under the *Fair Work (Registered Organisations) Act 2009*. It is charged with representing **employers** of all sizes in the civil construction industry.

The CCF New South Wales branch is governed by a Board of Directors elected by New South Wales Members, and provides resources to the entire NSW civil construction industry – an industry comprising over 12,000 businesses employ 200,000 people and paying salaries in excess of \$12 billion.

Our Membership is diverse and representative of the entire industry. We have Tier 1 multinational employers – some of the largest public and privately owned construction businesses in the world – along with one person operations. The vast majority of our Membership are family owned and run, and 49% of our Membership is based outside of the city of Sydney.

The Institute of Civil Infrastructure is a not for profit **created by the industry itself** to support the continual professional development of supervisors, managers and leaders in the civil infrastructure industry. CCF NSW resourced its development in 2017 until its launch in February 2019, and continues to support it. ICI now provides services for the civil industry into NSW, Queensland, Western Australia, the Northern Territory, and shortly Victoria.

Regulatory Impact Statement (RIS)

Please use this section to provide feedback on the RIS. The questions from the RIS have been reproduced here for convenience. Page numbers in brackets refer to the section in the RIS.

Scope of reforms (page 15)

1. Do you think the reforms should be expanded to other types of buildings over time?
Why/Why not? If so, which types of buildings do you think should be next?

We continue to recommend expressly excluding as soon as possible civil infrastructure projects from the scope of the legislation. Civil construction is already highly regulated, with Government an advanced/ mature customer. The contractors (suppliers) in the industry are comparatively stable and, by virtue of the maturity of our customer, very compliance focused.

As such, the reportedly “widespread” construction quality problems seen in the general construction industry are not seen in civil infrastructure. Expanding such reforms will result in significant unintended consequences for the NSW Government – the major procurer of civil construction.

The Government is again saying on P16 of the RIS that it is “...committing to extending the reforms to other NCC classes of construction...”. This leaves our industry, the industry the current Government has said is the engine room of the NSW economy, with considerable uncertainty.

We call on the NSW Government to expressly state that it will not expand the reforms into civil infrastructure projects.

2. Do you agree that the reforms should only apply to existing arrangements where the Complying Development Certificate or Construction Certificate has been applied for on or after 1 July 2021? Why/Why not?

N/A to civil

Regulated design (page 17)

3. Are the proposed exclusions from 'building work' appropriate? Why/Why not?

See our response to Q1.

4. Are there other works that should be exempted? Please provide the basis for the exemption and when the exemption should be effective (for example, a description of the works or threshold of the value including the reason for that value).

See our response to Q1.

Registration of Compliance Declaration practitioners (page 23)

5. Do you support the proposed classes of Design Practitioner? Why or why not?

As we have stated previously, we believe an imbalance exists in the definitions related to civil.

Our response is a holistic, balanced response in support of what the Government is trying to achieve on one hand and, on the other, the day-to-day practical realities of what a civil engineer does in construction and design.

The works of a regulated design are more expansive than what a civil engineer who has undertaken a geotechnical major would undertake. Indeed, some of what is defined as a regulated design (eg shoring) is not part of a specialised geotechnical role. Further, it is not part of 'design' per se; many of the activities are instead designed by a civil engineer in the construction phase. This could create significant unintended consequences.

We remain of the view that the better way to define works under civil is that geotechnical is a sub-class of civil. Works is then bound by the obligations to act within competence under the Code of practice. That is, there should be a class of 'civil' design rather than separating 'geotechnical'. The current approach is going to bind civil engineers to having to be registered under multiple classes.

Further, there needs to be clearer direction on where the responsibilities of one area of engineering finishes and another area of engineering begins. We suggest the solution may already exist – the nature of the tertiary education the person has undertaken. For example, we have a long list of courses that we consider to be 'civil engineering', under which the sub-classes would sit.

In short, our concern is there may be significant unintended consequences in both practical application in the civil world and in the structure of the regulatory model for civil.

6. Are there other types of Design Practitioners that should be included or any that should be removed? If so, what are they and why?

Yes, please see Q5.

7. Do you support the proposed qualification, skills, knowledge and experience requirements for each class of practitioner? Why or why not? Please make suggestions for additional or alternative requirements.

We of course understand that this Regulation's scope is currently limited to Class 2 buildings, however, in terms of civil construction works, we note the Schedule 2 clause 7 refers to the BCA and "building design...relevant to this class of registration" and not the NCC nor other standards more appropriate to **civil** construction wherein buildings are not being constructed.

We remain unclear how the scope of civil will be managed in practice. Our response to this question is intimately linked to what expansion of "building work" occurs. Our prior questions on this have not been answered fully in this draft of the Regulation or RIS. We are unable to comment demonstrably further until we understand this, but again feel compelled to warn that unintended consequences are very likely without these clarifications being made.

Further, we remain unclear how 'knowledge' will be assessed, and recommend this be made clear.

8. Other than qualifications, skills, knowledge and experience requirements, are there any other eligibility criteria that applicants should meet to be eligible for registration?

As stated, we remain unclear how the scope of civil will be managed and how it interplays with the definition of civil Professional Engineers. Our response to this question is intimately linked to what expansion of "building work" occurs.

We are unable to comment demonstrably further until we understand this, but again feel compelled to warn that unintended consequences are very likely without this clarification being made.

9. Do you agree that practitioners should be required to have 5 years of recent and relevant practical experience?

No, for the reasons we have previously presented in our CP5 response:

1. See our response to Q7 and Q8.
2. We recommend the definition of certain key words needs to be better defined. Our recommended definitions for each are:
 - Recent – within the past five years been involved in the civil professional engineering on at least equivalent to a 25% of total work activity.

- Relevant – experience that directly relates to the research, design, construction and maintenance of the built environment (in a civil engineering context)
- Practical – We believe the intent is that the party is actively involved in undertaking the Relevant civil professional engineering work.

10. Some classes of practitioner have been proposed with authority to work on low and medium rise buildings? Do you support this approach?

N/A to civil

Registration of Professional Engineers (page 29)

11. Are there any other areas of engineering that should be captured for the purposes of designing or constructing a class 2 building, or a building containing a class 2 part?

See our response to Q1 and Q5.

12. Do you support a co-regulatory approach for the registration of engineers?

Yes. we support Pathway 2 working with Pathway 1 as it provides a co-regulatory approach and is consistent with the model already in operation in Queensland and the model proposed in Victoria.

We are concerned with Option 2 for Pathway 1. It has not been sighted by us before - what is its rationale? Does it not render Pathway 2 obsolete/ commercially irrelevant? We request a meeting with the Department to better understand and discuss this Option.

We support the option (not mandated) for Pathway 3 - in our discussions with the Professional Standards Council, establishing a PSS would take significant time (2+ years) and significant resources.

We are very concerned to ensure there is competition in the marketplace. There should not be a dominant professional body across most, or all, disciplines. There is the potential for this, and as the peak voice of employers of all sizes in the civil construction industry, we would strongly oppose that outcome.

13. Pathway 1 will require an engineer to satisfy certain qualifications, skills, knowledge and experience requirements. Are there any other eligibility criteria that engineers should meet before being registered?

We again pose the concern, one we sought advice from the NSW Government on in our response to CP4 and CP5 (in neither instance did we receive any response):

Civil engineers relatively recently out of university (ie, much less than 5 years) routinely calculate as part of the construction phase shoring for a trench; the formwork for a concrete pour; or the batter for a coffer dam required to do works. These likely now already fall (or will fall if the scope of the Regulation moves beyond class 2 buildings) within the definition of

“professional engineering work” but are not complex design tasks and can be routinely undertaken by people with less than 5 years post-degree experience. They are currently routinely done without the type supervision the Regulation considers necessary.

Does the “exempt development” clause 13, (1) (c) (ii) Subdivision 15 cover this in all situations? If not, this needs to be expressly stated - we do not see it as clear.

If not, people would not be able to undertake any of this as it may fall within the definition of “professional engineering work” would thus not be able to undertake what they are currently employed to do.

There are concerning ramifications for SMEs as EVERY business that does such work would be required to alter their employment practices to secure a 5 year plus civil engineer to supervise routine calculations that are ‘professional engineering’. This will increase costs (particularly for SMEs) and change the nature of our industry’s workforces:

- Increased costs as employers (typically SMEs) that would normally hire a junior engineer, are forced to hire a 5 year plus or subcontract the supervision activity;
- Junior engineers are known to return to their home towns in rural areas to secure work. They may now need to remain in larger centres where a supervisor is available;
- This may cut employment opportunities for graduates in SMEs and in rural areas; and
- The combined may well lead to future capacity problems in an industry where we already do not have enough engineers entering the market.

The RIS conceives the expansion beyond Class 2 buildings. We note that, despite us signalling these unintended consequences as a concern in our previous submissions, they were not considered in the RIS.

We again signal our great concern that future unintended consequences will arise if the recommendation we make in Q1 is not acted upon.

Further questions:

1. What method will the Government use under Pathway 1 to determine the ‘knowledge’ of the person?
2. Further, we note in our response to Q15 that under Pathway 2 ‘competence’ is required to be assessed, but not in Pathway 1. Why is this?

14. The Regulation proposes recognition of Washington Accord accredited qualifications. Do you think this is appropriate? If not, what alternative approach do you suggest?

We again strongly caution against this rigid, externally controlled approach and instead suggest in lieu of that the ability for the industry to bring forward to the Secretary arguments as to what qualifications are relevant to the particular area of engineering. For example, in civil we have a long list of other qualifications that are relevant and valid engineering qualifications - and this list is dynamic as universities become more innovative.

15. Under Pathway 2 what criteria do you think the professional engineering body should satisfy to be eligible to perform their function?

In general terms, we support the Regulation, with one very important clarification required:

- In clause 39 the body must assess qualifications, experience, knowledge and skills. Consequently, in clause 44 (1) (a) (ii) the Regulation rightly requires the body to explain in its application how it will meet in order to be recognised as a registered professional engineer. Indeed, through all of the documentation they are the four pillars on which the Act and Regulation has rested; **however**
- In clause 44 (1) (a) (iii) there appears to us an **additional** obligation on professional bodies when applying for recognition; namely to explain “*the manner in which the competence of the applicants will be assessed*”. The concept of ‘competence’ AS A SEPARATE CONSTRUCT to qualifications, experience, knowledge and skills has not be conceived prior to this. **What is different?**
 - If it is not different, then we recommend that clause 44 (1) (a) (iii) is an unnecessary duplication and should be deleted.
 - If it is different, and this is a new obligation on bodies under Pathway 2, it is critical that this be explained to industry immediately so we can consider its consequences.

16. Would you be supportive of professional bodies developing a PSS for Pathway 3 to be available?

In our discussions with the Professional Standards Council, establishing a PSS would take significant time (2+ years) and significant resources.

Whilst not against it, there would need to be significant support and confidence for the professional body to undertake the development of such a Scheme.

17. Do you agree that Professional Engineers should be required to have 5 years of recent and relevant practical experience?

No, for the same reasons we have given in prior submissions:

1. See our response to Q13;
2. We recommend the definition of certain keys words needs to be better defined. Our recommended definitions for each are:
 - Recent – within the past five years been involved in the professional engineering on at least 500 hours (equivalent to a 25% full time load for 52 weeks in the five years)
 - Relevant – experience that directly relates to the research, design, construction and maintenance of the built environment (in a civil engineering context)
 - Practical – We believe the intent is that the person is **actively involved in undertaking the Relevant professional engineering work**. This would require some guidance notes to further define what is both included and excluded.

18. Do you support the proposed generic list of skills and knowledge requirements for all classes of engineering (excluding fire safety)? If not, please outline what you think the specific skills and knowledge for each class of engineer should be.

Yes, contingent on the satisfactory resolution of the following questions:

1. How is knowledge to be assessed in Pathway 1 and 2?

2. We note that under Pathway 2 'competence' is required to be assessed, but not in Pathway 1 - why is this?

Compliance Declaration Scheme: practitioner requirements (page 38)

19. Do you support the proposal that all construction issued regulated designs must be lodged before any building work can commence? Why or why not?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

20. Do you support the Building Practitioner being primarily responsible for lodging regulated designs on the NSW Planning Portal? Why or why not? If not, who do you think should be responsible at the different lodgement points? Please explain your answer.

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

21. Do you support the matters covered in the Design Compliance Declaration? Why or why not?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

22. Do you consider any other matters should be included in the Design Compliance Declaration?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

23. Do you support the proposed title block? Are there any other matters that should be included in the title block?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

24. Do you support the title block being available in a .dwg format?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

25. Do you support the proposal that varied regulated designs be lodged within 1 day of the building work being commenced? Why or why not?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

26. Do you support the proposal that the Building Compliance Declaration, regulated designs and variation statements be lodged prior to the application for the Occupation Certificate? Why or why not?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

27. Are there further matters that should be included in the Building Compliance Declaration? If so, what are they?

We are unable to comment given the uncertainty relating to civil construction scope raised in Q1.

28. Are there further matters that should be included in the Principal Compliance Declaration? If so, what are they?

We are unable to comment given the uncertainty relating to civil construction scope.

Insurance (page 51)

29. Do you support the approach proposed for insurance requirements for Design Practitioners and Professional Engineers? Why or why not?

In principle yes, but only if the points below are fully better addressed and explained in the Regulation.

1. Clause 67 leaves the assessment of adequacy to the individual. Clauses 58 (1); 64 (1) states the employer “must” extend indemnity, but we are concerned how an individual can practically ensure they are adequately covered under a corporate policy given:
 - a. employees move from employer to employer to undertake different roles and have different risk profiles under that employment. Indeed, in a given role the risk varies based on the project;
 - b. The employee may not be aware of the insurance policy details, renewal arrangements or currency of insurance taken out by the employer; and
 - c. The employer may refuse, or not be permitted to, divulge the details of insurance policies, claims on foot that may impact the individual’s coverage.

We are very concerned that the practical complexities of both the employee/employer relationship and commercial matters, extends the clause 67 obligation (when referring to a corporate policy covering individuals) the obligation too far.

2. We have other strong concerns regarding the impact on insurance of the Code of Practice (see our comments below on Schedule 4).
3. The complexity of this issue magnifies if an individual is Registered under Pathway 2. Given the comments above, how can an employee practically demonstrate “adequate” insurance to the registering body to their satisfaction?

30. Do you consider additional insurance requirements should be prescribed for Design Practitioners and Professional Engineers? If so, what?

Yes, see our response to Q29.

31. Do you support the proposed transitional arrangements that exempt Building Practitioners from being insured for issuing Building Compliance Declarations? Why or why not?

Yes, subject to our concerns in Q29 being adequately resolved.

Continuing professional development (CPD) (page 54)

32. Do you support the proposed CPD requirements for Design and Building Practitioners?

Why or why not?

We are not specialists in Class 2 buildings however three hours of recorded webinars appears to us unlikely to achieve the upskilling and increase in quality of engineers, nor enhance the public's confidence in the construction of Class 2 Buildings, that we understand the Act and Regulation is striving to achieve.

We remain of the view previously shared that having two CPD schemes (practitioners and engineers) appears over-regulation.

33. What types of training, education or topic areas would be relevant for the functions carried out by Design and Building Practitioners?

In our view, only that related to the different processes of being a Practitioner – the Professional Engineer CPD should cover different material related to technical matters of Engineering.

34. Do you support the proposed CPD requirements for engineers under pathway 1?

Our overarching position has been, and remains, that civil construction does not need to be included in this legislation.

Civil construction is already highly regulated with Government an advanced/ mature customer. The contractors (suppliers) in the industry are comparatively stable and, by virtue of the maturity of our customer, very compliance focused.

As such, the frequent problems seen in the general construction industry are not seen in civil infrastructure. Expanding such reforms will result in significant unintended consequences for the NSW Government – the major procurer of civil construction.

Following two years of research and development, the NSW civil construction industry has already established its own CPD program, and launched the Program in January 2019 with financial support of the NSW Government. Since then, over 1,300 learning engagements have occurred through the not for profit body: the Institute of Civil Infrastructure.

We must report feedback from our industry: There is a growing perception that this regime (Pathway 1 using the Construct NSW LMS) is a mechanism for Government to not only regulate but become commercially involved (by defining and delivering the training). That concern centres around the structure of the model appearing to drive engineers to undertake NSW Government defined, priced, and delivered training. Great care needs to be exercised to ensure that this does not occur, that true competition is achieved, and that the Government (including TAFE NSW) competes fairly with non-Government providers .

We do not agree that 60 points each year is appropriate or practical. Even at average 1.5 CPD points per hour this is 1 hour of CPD each week. Rather, we recommend a three year

period is defined to achieve 180 points, with a minimum of 30 points be undertaken in any one year.

‘Structured Assessment that genuinely tests participants understanding of content’ remains open to interpretation. While we certainly believe evidence of attendance is required, we continue to question whether exams offer considerable practical value, and suggest evidence from other CPD regimes be sought as to whether this significant administrative activity is valuable.

We are concerned with Option 2 for Pathway 1. It has not been sighted by us before - what is its rationale? Does it not render Pathway 2 obsolete/ commercially irrelevant? We request a meeting with the Department to better understand and discuss this Option.

35. Do you support the mandatory CPD topic areas? Why/why not? Please make any suggestions for amendments and explain why they are necessary.

Due to the increased focus on “direct supervision” we recommend having greater mandatory formal CPD requirement of leadership and management or specifically including within the “business and management” component of CPD – that is, increasing the minimum requirement to 10 points.

Again, our position is that there will be many registered engineers who will be directly supervising the work and designs of non-registered engineers and we want to ensure the CPD structure enables them to be successful in this role.

Penalty notice offences (page 57)

36. Do you support the proposed penalty notice offences and amounts proposed in Appendix 1? Why or why not?

We support penalties that adequately deter breach of the law.

37. Do you think the proposed penalty notice offences and amounts are fair and reasonable?

Subject to the questions we have raised regarding further clarity being needed, yes.

Fees (page 59)

38. Do you support the reasons for the proposed fees? Why or why not?

No, further clarity is needed. Given the work the government has done in other areas, the RIS should be adequately modelled by now and be able to provide better detail on the actual fees that will be used.

We also believe the RIS should include the costs to industry of implementing the regime.

39. What do you think NSW Fair Trading should consider in determining the fees?

The matters we have raised for consideration within this submission.

40. Are you interested in being involved in targeted stakeholder consultation on fees?

Yes.

Proposed Design and Building Practitioners Regulation 2020

Please use this section to provide feedback on the proposed Regulation. Headings have been included to assist you in providing feedback on particular topics covered in the Regulation.

1. Part 2 – Regulated designs and types of work

Requirements for regulated designs and compliance declarations, building work and professional engineering work

See comments in document.

2. Part 3 – Requirements for designs and building work

Lodgement of designs and compliance declarations, requirements of principal design practitioners and building practitioners

See comments in document.

3. Part 4 – Registration of practitioners

Applications and conditions of registration and registration obligations

See comments in document.

4. Part 5 – Recognition of professional bodies of engineers

Applications and requirements for recognition or registration scheme

See comments in document.

We note:

- In clause 39 the body must assess qualifications, experience, knowledge and skills. Consequently, in clause 44 (1) (a) (ii) the Regulation rightly requires the body to explain in its application how it will meet in order to be recognised as a registered professional engineer. Indeed through all of the documentation they are the four pillars on which the Act and Regulation has rested; **however**
- In clause 44 (1) (a) (iii) there appears to us an **additional** obligation on professional bodies when applying for recognition; namely to explain “*the manner in which the competence of the applicants will be assessed*”. The concept of ‘competence’ AS A SEPARATE CONSTRUCT to qualifications, experience, knowledge and skills has not be conceived prior to this. **What is different?**

- If it is not different, then we recommend that clause 44 (1) (a) (iii) is an unnecessary duplication and should be deleted.
- If it is different, and this is a new obligation on bodies under Pathway 2, it is critical that this be explained to industry immediately so we can consider its consequences.

5. **Part 6 – Insurance**

Insurance for design and principal design practitioners, professional engineers, building practitioners and adequacy of cover

See comments in document, and on Schedule 4

6. **Part 7 – Record keeping**

Record keeping for design and principal design practitioners, professional engineers, building practitioners

See comments in document.

7. **Part 8 – Miscellaneous**

Authorised and penalty notice officers, exchange of information, transitional arrangements for insurance for building practitioners and qualifications for fire system designers and work done under existing arrangements.

See comments in document.

8. **Schedule 1 – Classes of registration**

Classes of registration for practitioners and scope of work

9. **Schedule 2 – Qualifications, experience, knowledge and skills**

For building practitioners, design practitioners, principal design practitioners and professional engineers

See comments in document.

10. **Schedule 3 – Continuing professional development**

CPD for prescribed practitioners and CPD for professional engineers

See comments in document.

11. **Schedule 4 – Code of practice**

Code for prescribed practitioners and code for professional engineers

Our comments are made from the perspective only of the civil infrastructure industry.

The CCF NSW has not been included in consultation on the development of the Code of Practice prior to this point and so, while we see merit in much of it, we have considerable concerns about some parts.

We see a number of issues that reflect the specific nature of our industry:

- Professional engineers in civil construction may not ever meet the client;
- It is not inconceivable that professional engineers are employed by Government agencies, for whom the client is ill defined. *If Government develops a design for a contractor to construct, is there an obligation on the Government employee to serve the contractor with a good design (eg in a hospital or school development)?*

Under these circumstances, we are concerned that the Code over inflates the relationship between an individual and the client; one which the individual can but fail to achieve, and the employer can but fail to address.

Specifically; clause 6, 12 and 13 of the Code establishes a legal obligation on an employee when that employee may have no knowledge of the client's real "interests". In fact, it may place the employee unwittingly and unreasonably in conflict with their employer, and the employer under considerable administrative burden in rendering compliance.

More generally, we are very concerned about the unintended potential impact of Clause 6 and 7 on the employment relationship. We question why these duties exist, and why the Regulation reaches into the employment relationship in such a way. The unintended consequences from an industrial relations perspective appear significant generally, and certainly in our industry we have already assessed them as of considerable concern.

Further, these obligations, and the consequent practical implications, may have considerable impact on insurance management.

We note these factors are not addressed in the RIS.

12. Schedule 5 – Penalty notice offences

See comments in document.

13. Schedule 6 – Forms

Design Compliance Declaration

See comments in document.

14. General feedback

Any other comments you would like to make on the proposed Regulation.

See comments in document, particular Q1.

Proposed Continuing Professional Development Guidelines (CPD Guidelines)

Please use this section to provide feedback on the proposed CPD Guidelines. There are two Guidelines we are seeking feedback on:

1. *CPD Guidelines for prescribed practitioners (design practitioners, principal design practitioners and building practitioners) and,*
2. *CPD Guidelines for professional engineers.*

Questions have been included to assist you in providing feedback.

CPD Guideline for prescribed practitioners

1. Do you consider that requiring practitioners to undertake three hours of CPD activity is appropriate? Why or why not?

No, see response above.

2. Do you support that CPD activities must be from the approved platforms? If not, please explain why.

No. It presumes government knows and can and can respond in timely fashion to the issues and needs of industry – this is not best practice. By all means the Government should set performance requirements, but it should not be involved in delivery.

3. Do you support the guidelines prioritising technical CPD activity (i.e., improving knowledge and understanding of the National Construction Code and Building Code of Australia) over other CPD activities? If not, please explain why.

No. The CPD for Practitioners should focus on the function of a Practitioner. Technical areas are best left in our opinion to CPD of Professional Engineers.

4. The Department is working with industry to develop courses that would assist practitioners. What courses or topic areas should be developed and available on the Construct NSW Learning Management System? We are particularly interested in providing courses that cover gaps in current learning content.

We are the peak body representing employers in the civil construction industry and have not been approached to discuss this. We welcome the opportunity to meet and discuss our views.

We must report feedback from our industry: There is a growing perception that this regime (Pathway 1 using the Construct NSW LMS) is a mechanism for Government to not only regulate but become commercially involved (by defining and delivering the training). That concern centres around the structure of the model appearing to drive engineers to undertake NSW Government defined, priced, and delivered training. Great care needs to be exercised to ensure that this does not occur, that true competition is achieved, and that the Government (including TAFE NSW) competes fairly with non-Government providers.

We seek a meeting to discuss this with the Department.

5. Are there any other general comments you would like to make on the Continuing Professional Development Guidelines for prescribed practitioners?

See comments in document.

CPD Guidelines for professional engineers

1. Do you support the proposed CPD structure and allocation of points? Why/why not? Please make any suggestions for amendments and explain why they are necessary.

See comments above.

2. Do you support the mandatory CPD topic areas? Why/why not? Please make any suggestions for amendments and explain why they are necessary.

See comments above.

3. Are there any activities that should be included/not included as:

- a) Formal education and training activities?

See comments above.

- b) Informal education and training activities?

See comments above.

4. Structured training courses available from Construct NSW Learning System and from the Australian Building Codes Board are proposed to count for 2 CPD points. Do you support this approach?

No. It presumes government knows and can respond in timely fashion the issues and needs of industry – this is not best practice. By all means the Government should set performance requirements, but it should not be involved in delivery.

We seek a meeting to discuss this with the Department.

5. The Department is working with industry to develop courses that would assist professional engineers. What courses or topic areas should be developed and available on the Construct NSW Learning Management System? We are particularly interested in providing courses that cover gaps in current learning content.

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We seek a meeting to discuss this with the Department.

6. Are there any other general comments you would like to make on the Continuing Professional Development Guidelines for Professional Engineers?

In Section 9 “Exemptions and Non-Compliance” we presume that these Exemptions would be permissible under Pathway 2, The Secretary would check and approve the arrangements in the application and, if approved, the and would be managed by the organisation.