

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: haico schepers

Organisation Name: Façade Industry Australasia (FIA)

Date: 11/1/2021

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.

This response is made from the Façade Industry Australasia (FIA) a not for profit organisation set up to represent the multiple façade industry sectors that work in the façade industry. The FIA is set up to provide a cross industry forum for knowledge development, industry engagement and educational guidance for all sectors in the façade industry. What makes it unique is that the body does not seek to represent one individual group or sector, such as engineers or product suppliers as it recognises that these sectors work together in the façade procurement process. I am an engineer with 20 years experience in the building industry at least 10 of that has been associated primarily with aspects of façade engineering. I also hold an Architecture degree and currently a principal at Arup in the specialist buildings group. I am currently also a director of FIA.

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?

Yes once they have been shown to work well as these façade issues are very prevalent across the industry. For example some 80% of defects and building issues relate to the building façade. Often these relate to issues of durability and waterproofing for which there is limited formal education.

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?

Yes retrospective requirements are not fair however it should apply to construction certificates so any updates to CC would require changes to be implemented. Also it is unlikely that the industry will have sufficient CPD and registration infrastructure and processes ready by 1 July. This is likely to take a few years.

Regulated design (page 17)

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

In principle yes would be good to define the extent of façade though

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).

Registration of Compliance Declaration practitioners (page 23)

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

Yes however it needs more clarity in relation to the façade. Currently it appears you can be a design practitioner for façades as an engineer, and architect or a building designer. Often all these designers work on a project and there should be more clarity between overlaps of responsibility. What are those regulated design requirements for the façade? And what is the 'façade'. Who sign's off what between Architect, façade, structural and ESD engineers.

- Structural Sign off of façade elements (Façade practitioner I assume)
- Waterproofing FP1.4 (Façade or Architect?). Waterproofing of roofing and membrane floors could extend into façade practitioners responsibilities.
- Thermal Performance to meet Section J (Façade practitioner? Or other)
- Fire compliance (Fire engineer)

Or one practitioner to sign it all off however they would need the appropriate cross sector training and CPD. This would require RAIA, EA and an appropriate registered building organisation all to provide similar levels of CPD training and certification. The society for façade engineers provides a good summary of all the key technical knowledge areas a façade designer should cover.

<https://www.cibse.org/society-of-facade-engineering-sfe/about-facades>

The resolution of these aspects is not a trivial issue, given that approximately 80% of building defects/disputes/litigation relate to facade problems. In effect the facade is likely one of the main drivers for the introduction of this legislation, yet the legislation is vague on how these issues are to be dealt with.

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?

No Comment

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.

No this needs more detail in relation to facades, may also need different pathways. Facades are highly technical items that are made up of multiple materials and systems. Currently façade design responsibility based on design data and certification by multiple parties (architect, manufacturers, suppliers, structural engineer and façade designers). The principal façade designer relies on industry knowledge, testing and ability which often is superior to their own for propriety systems. As a result regulations should be capable of having this data certified by relevant experts with relevant training and experience. Specifically, there needs to be CPD/training and associated registration for the following key practitioners;

Façade Engineers

Architects

Specialist façade contractors/builders.

Alternatively, there needs to be a single registration body to ensure that individuals with various backgrounds (structural engineer, architect, fabricator) all have had enough CPD and training to cover all the areas noted in CIBSE society for façade engineering.

My personal view is that there should be principal façade designer (architect or engineer) as one registration and that specialist façade contractors and façade builders are another registration each with specific CPD associated with their responsibilities. For façade builders they will need to relate to some form of DTS code of compliance and if this is not possible certification for these elements are by principal façade designer. (A little bit like fire engineers). Building Certifier remains responsible for all DTS compliance requirements.

8. Other than qualifications, skills, knowledge and experience requirements, are there any other eligibility criteria that applicants should meet to be eligible for registration?
- Refer to CIBSE society for façade engineering as a good guide of knowledge required. Specific Knowledge of waterproofing is critical across the industry. There is limited formal training of this in the industry. Some form of TAFE or similar training and DTS standard should apply for specialist contractors/ builders. It should be noted that FIA has

been in discussions with EA on these issues and is keen to provide a cross industry voice in guiding this knowledge development, technical papers and registration requirements.

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

yes

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

Yes but needs to relate to a clear set of responsibilities, training and relevant DTS style standards. Not some medium and small scale projects are highly complex and technical others are not. By relating it back to a form of DTS type standards it allows complexity to be captured when exceeding these standards.

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?

No comment but relationship between engineer and architect or other building designer for facades should be clear in terms of facades a responsibility.

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

Ideally registration should be national as NSW has different requirements to Victoria etc. This adds to complexity and variability of CPD etc.

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?

With regards to facade practitioners, the nature and expertise of such persons will need to be developed before any meaningful discussion on Pathways can be addressed. You might consider pathway 2 and 3 for facade engineer. Maybe path 1 is engineer, path 2 is architect, path 3 is NVR approved diploma in building design or architectural drafting.

They add specific CPD training to this. This might all be registered and managed by specific façade industry body.

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

No comment

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

See item 13

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

See item 13 but yes. Maybe the EA becomes the professional body that runs the façade CPD that architects and building designers need to take to be registered for this work?

Needs some further thought

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

Yes

- 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.

See relevant parts of CIBSE society for façade engineering.

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?

No, as many design activities are progressive in nature. In addition, many designs are undertaken by specialist subcontractors who may not be engaged until well after the project has commenced, and who's detailed design needs to respect the design work of

other subcontractors and/or latent site conditions. Finally it needs to be recognised that many design aspects cannot be undertaken until the builder's access system and approach to the construction process as been confirmed (i.e. after the award of a builder's contract).

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.

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

More specific requirements are required for facades. The principal facade designer will nominate what the design intent is for the façade and nominate a design that is capable of achieving this design intent. This principal façade designer will certify that this design achieves code compliance. It should be noted that the principal façade designer is usually the architect on small projects and the façade engineer on larger projects.

A builder and or specialist façade contractor is then engaged and the design is finished based on their chosen proprietary systems. Often the chosen system is slightly different to that documented principal façade designer. As a result, the design is certified by their design team however it should be noted that the façade engineer engaged by the build team typically only certifies structural items (often relying on manufactures data). It is usually the builder's designer that may make a statement about other items such as durability or waterproofing usually using the proprietary system manufacturers documentation to demonstrate this.

The builder and or façade contractor will provide documents from the structural engineer, manufactures data and statements and façade designer advice to the principal façade designer for review and attend bespoke onsite tests. As a result the design compliance certificate is insufficient and the builder will inevitably have performed some design work. It should be clear on who is registered and appropriately trained to sign this work off and that it extends to the entire façade.

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

Maybe that any works by builder comply with afore mentioned DTS standards.

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

No comment

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

No comment

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?

No comment

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?

Yes

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

No Comment

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

No Comment

Insurance (page 51)

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

Yes however this needs to be clearly considered in relation to who certifies what and how that is managed. As discussed currently the façade engineer typically only certifies the structural integrity. Waterproofing (one of the most common defects) is by architect or builder. A more single point of responsibility would be better but in some cases insurers will not cover this. This applies across the industry and is unclear.

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

It might be good for the industry to define the levels of insurance based on project value relating to practitioners responsibility. This will provide the industry and their insurers some consistency and certainty. Without clarity, the insurance industry may simply decide to exit the industry (and a number already have commenced that process, on the basis that they cannot assess the insurance risk profile).

- 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 it is unlikely that these insurance and extent of responsibility etc will be clear by the 1 June 2021

Continuing professional development (CPD) (page 54)

- 32.** Do you support the proposed CPD requirements for Design and Building Practitioners? Why or why not?

No Façade practitioners need a specific set of specific knowledge development. I would suggest that at least 120 hours of formal education is required to cover the various areas of façade design and 5 years of experience for engineers. A similar amount may be relevant to architects and maybe a bit more for building practitioners. Once this is achieved the pathway approach looks reasonable.

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

Refer to CIBSE society for façade engineers

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

Once sufficient background has been demonstrated yes.

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

Yes see item 32 and 33

Penalty notice offences (page 57)

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

The section does not appear to have a provision for appeals of notices. If that is the case then this section cannot be supported in its current form.

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

With respect to the monetary values, I believe that some explanation/transparency is required as to how these values were derived.

Fees (page 59)

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

No comment

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

No comment

- 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
- 2. Part 3 – Requirements for designs and building work**
Lodgement of designs and compliance declarations, requirements of principal design practitioners and building practitioners
- 3. Part 4 – Registration of practitioners**
Applications and conditions of registration and registration obligations
- 4. Part 5 – Recognition of professional bodies of engineers**
Applications and requirements for recognition or registration scheme
- 5. Part 6 – Insurance**
Insurance for design and principal design practitioners, professional engineers, building practitioners and adequacy of cover
- 6. Part 7 – Record keeping**
Record keeping for design and principal design practitioners, professional engineers, building practitioners
- 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.

- 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
- 10. Schedule 3 – Continuing professional development**
CPD for prescribed practitioners and CPD for professional engineers
- 11. Schedule 4 – Code of practice**
Code for prescribed practitioners and code for professional engineers
- 12. Schedule 5 – Penalty notice offences**
- 13. Schedule 6 – Forms**
Design Compliance Declaration
- 14. General feedback**
Any other comments you would like to make on the proposed Regulation.

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?

See point 32 of previous section, not likely to be enough or specific enough.

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

yes

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.

Yes and needs to be specific to type of practitioner. Also for facades needs to be coordinated and consistent between Architecture, Engineering and building practitioners. This all needs more thought.

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.

See CIBSE society for façade engineering for some guidance. Waterproofing is high on list. Also I would not recommend that this is just performed online. A mix of classroom and online maybe appropriate.

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

See item 3 above.

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 section 32

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

Yes

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

- a) Formal education and training activities?
- b) Informal education and training activities?

Yes technical façade issues need formal activity. See section 32 above. Also CIBSE

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?

For 2 point yes

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.

See CIBSE society for façade engineering for some guidance. Waterproofing is high on list. Also I would not recommend that this is just performed online. A mix of classroom and online maybe appropriate.

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

This all needs to be thought through and related to being registered and a façade designer. Also for facades needs to be coordinated and consistent between Architecture, Engineering and building practitioners. This all needs more thought.