

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: Ashley How

Organisation Name: Fairview

Date: 11/01/2021

About you

Fairview is a supplier of façade systems to the building industry, particularly for high-rise construction.

We are involved in projects from the design stage through to project completion, and work with architects, engineers and builders through a project.

As a key player in the industry, we overall support the proposed Design and Building Practitioners' Regulation, and believe this is an important step forward in addressing the recommendations of the Building Confidence report, and improving public confidence in construction.

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 support this, but only over a timeframe of several years. To proceed to quickly risks leaving the industry confused and ill-prepared to meet the requirements. By staging this it better allows the practioners to gain experience while being able to run as normal.

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. These reforms present a significant change to the status quo. It is best to work for continual improvement, rather than backdate these changes for buildings already under construction. It is unlikely there will be sufficient qualified or registered practioners in the timeframes required.

Regulated design (page 17)

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

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.
8. Other than qualifications, skills, knowledge and experience requirements, are there any other eligibility criteria that applicants should meet to be eligible for registration?
9. Do you agree that practitioners should be required to have 5 years of recent and relevant practical experience?
10. Some classes of practitioner have been proposed with authority to work on low and medium rise buildings? Do you support this approach?

Yes, it is always good to streamline approval processes where this is safe and viable.

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?
12. Do you support a co-regulatory approach for the registration of engineers?
Yes. This enables the industry to self-regulate to some degree.
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?
14. The Regulation proposes recognition of Washington Accord accredited qualifications. Do you think this is appropriate? If not, what alternative approach do you suggest?

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

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

Yes

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

Given the extra requirements this Act and regulation puts onto engineers, we believe this 5 years should be reduced to 3 years. Provided the training and education is sufficient, it is important to maintain some attractiveness for engineering as a career opportunity.

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.

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?

This approach is likely to delay building starts from the current status, however it is important to create a new mindset in the industry of appropriate design and construction.

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.

Yes. The building practitioner is ultimately responsible for constructed building, and there is the necessary reliance on the design professionals for the declarations of compliance.

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

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

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

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

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?

As per question 19, this is important for a mindset change in construction. It encourages contractors to follow the engineered designs, rather than engineering being done retrospectively based on what was built!

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?

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

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

Insurance (page 51)

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

Provided the insurance industry are in support of the changes and prepared to offer the required cover. Any submission from the ICA will be critical on this point.

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

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.

Continuing professional development (CPD) (page 54)

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

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

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

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

Penalty notice offences (page 57)

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

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

Fees (page 59)

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

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

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

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

The inclusion of detailing of penetrations through fire resisting elements is good, as these are normally left to a subcontractor to determine, and on every job there are currently penetration configurations for which there is no testing or assessments available, and hence no route to compliance.

We are in support of limiting the work to class 2 construction, to give the industry time to adjust to the changes for the most effective results.

There needs to be further clarity as to what level of detail is acceptable in a registered design. For example for a façade product is it sufficient to state ‘installed in accordance with manufacturers details’ or does this detailing need to be provided? If in accordance with manufacturers details is there a requirement for the manufacturer to be registered to submit a design?

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

It is necessary to clarify that practitioners can be registered for multiple classes. For instance a façade engineer may be a qualified structural engineer, in which case it is reasonable to be registered in both classes.

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

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

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.
2. Do you support the mandatory CPD topic areas? Why/why not? Please make any suggestions for amendments and explain why they are necessary.
3. Are there any activities that should be included/not included as:
 - a) Formal education and training activities?
 - b) Informal education and training activities?
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?
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.

Key is weatherproofing principles, as there is little educational material available. This would include impact of pressure equalisation vs sealant, preventing capillary action and so on. The knowledge of weatherproofing principles in the USA and Europe is far ahead of Australia, and is demonstrated in their building methods.
6. Are there any other general comments you would like to make on the Continuing Professional Development Guidelines for Professional Engineers?

