

# 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: Katherine

Organisation Name: [REDACTED]

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.

# 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?

The reform should be implemented for all buildings and not be restricted to Class 2 mixed-use to ensure CPD guidelines defined for practitioners and engineers can be implemented without risk to the industry's framework.

Implementation of the reform in NSW on 1<sup>st</sup> July 2021 limiting its regulation to Class 2 mixed-use is inconsistent with other jurisdiction regulations such as Queensland and Victoria who, in the first instance, have a holistic approach for the building industry.

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?

The reforms need to be administered where the CDC or CC has been applied on or after 1 July 2021 for all building types and not be limited to Class 2 mixed-use.

## Regulated design (page 17)

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

The exclusions from 'building work' are inappropriate because it will not be feasible to regulate an isolated area of work within a discipline without roll on effects to other areas of the building industry. For example, the cost to the community and taxpayer has been high to regulate the issues of insulation batts installation of 2009. It is highly recommended not to exclude 'building work' to class 2 or related mixed use to enable a quality building industry workmanship.

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).

No.

## Registration of Compliance Declaration practitioners (page 23)

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

No. The proposed classes of Design Practitioners are inconsistent with current areas of practice recognised nationally and internationally.

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, Environmental Engineering. There should not be any more inclusions of other types of Design Practitioners since it has departed further from the Act by proposing classes that are also nationally and internationally not accepted in the design and building industry.

Yes, types of Design Practitioners apart from Structural Engineering, Civil Engineering, Mechanical Engineering, Electrical Engineering and Fire Safety Engineering listed should all be removed. The inclusion of any other classes of Design Practitioners in this reform detracts from the intent to regulate the residential building industry.

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.

Yes but only for the classes commented in 6. above because they are consistent with other recognised existing schemes for qualification, skills, knowledge and experience 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?

No.

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?

No.

## 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?

Yes, Environmental Engineering.

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

Yes.

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?

No.

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

Yes.

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

The criteria should be consistent with those adopted by Queensland and as Victoria and Western Australia are utilising the approach also.

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?

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.

Yes.

## 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?

Yes, to be consistent with all infrastructure construction requirements where an IFC (issued for construction) of designs is part of the procedure before construction commences.

**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 registered practitioner will be most appropriate.

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

Yes. There is sufficient inclusion of requirements stated for the individual practitioner, partnership of practitioners and the firms.

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

Yes. The declaration is by registered design and building practitioners not limited to Class 2 mixed use.

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

No. The title block is inconsistent with the requirement of Australian and international standards as well as digital engineering (BIM) requirements.

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

No. This breaches proprietary regulations.

**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. The regulation is focused on Class 2 mixed-use for which even 1 day is insufficient time for practitioners.

**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. This is the purpose to provide community confidence of the final product.

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

No.

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

No.

## Insurance (page 51)

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

Yes. It is consistent with infrastructure work insurance requirements.

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

No.

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

No transitional arrangements should be made. This regulation should apply to all practitioners in the design and building industry.

## Continuing professional development (CPD) (page 54)

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

Yes, it is necessary to ensure regulation of Design and Building Practitioners.

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

Training, education and topic areas should be to reinforce how the DBP Act and other Acts such as the WHS Act is applied and that it is not limited to the National Construction Code (NCC). For example, the *Safe design of structures Code of Practice of*

*‘...anything that is constructed, whether fixed or moveable, temporary or permanent, and includes:*

- *buildings, masts, towers, framework, pipelines, roads, bridges, rail infrastructure and underground works (shafts or tunnels)*
- *any component of a structure and*
- *part of a structure.’*

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

Yes if pathway 1 is not exclusively for Class 2 mixed-use.

**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, it is consistent with existing schemes that are nationally and internationally accredited.

## Penalty notice offences (page 57)

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

There must be penalty for the list of offenses. The descriptions in Appendix 1 should be defined in the regulation for example, what defines ***ensure*** in ***12(1) Principal Design Practitioner fails to ensure Design Compliance Declarations provided by registered and authorised Design Practitioners.***

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

It appears to be consistent with industry offence amounts however, amounts for offenses such as ***58(b) Person falsely represents to be registered practitioner*** should be increased.

## Fees (page 59)

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

Yes, it is reasonable to expect.

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

Processes and procedures for registration must be efficient, traceable audited regularly for data integrity and cyber security. These considerations should be made when determining fees.

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

Possibly.



# 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*

Re: **Division 3 Building work** and **Division 4 Professional engineering work**.

It is strongly recommended that the regulation is not limited to class 2/part. Fast tracking of the Design and Building Practitioners Regulation 2020 by limiting to class 2/part even for the short term will only further perpetuate existing and previous issues eg insulation batts installation of 2009 within the building and infrastructure industry including and not limited to transport, utility, survey and technology.

The need for regulation must be a holistic approach and not piecemeal. Recognised professional bodies that regulate practitioners through its codes do not exclude parts of the prescribed area of practice and so neither should this regulation for the design and building practitioners.

No further comment can be made in the following parts since the administration of the regulation is impractical. The reform through its inconsistency with the Act that divides areas of practice to such narrowing types of work will make it impractical to administer. It undermines the intension of existing registration schemes that aim to continuously improve the design and building practitioner culture nationally and to lift skills recognition internationally for Australia.

## 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**

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