

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: [Roy Kwan](#)

Organisation Name: [N/A](#)

Date: [10/01/2021](#)

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.

[I am a Chartered Professional Engineer with Engineers Australia \(Electrical\) and I work in the Building Services industry \(Commercial, Mission Critical, Education, Residential and Infrastructure projects\)](#)

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. The reforms should be expanded to all building types within the industry and not limited to residential properties alone. There has not been any regulations on who is an “Engineer” or “Designer”. Anyone (with or without the adequate knowledge/experience) can call themselves an Engineer.

The industry has de-valued the work provided by Engineers over time under the premise that trades people know better, or under the guise of “cost saving” they only engage the Engineer for the preliminary design (30%) with trades people completing the design on site as they build.

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?

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?

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?
[I completely disagree with the proposal of pathway 1 for the registration of Engineers. The regulation document goes to great lengths to discuss the Washington accord and the](#)

intention to have an unified approach (similar to VIC or QLD), the proposal of pathway 1 completely undermines the entirety of this reform.

As someone who previously worked for Engineers Australia during my time at university, Engineers Australia has extensive procedures, requirements and qualified assessors to assess whether someone with qualification not recognised by the Washington accord is deemed to have equivalent standing/knowledge to be classified as a Professional Engineer.

Pathway 1 proposal for a team of people to replace the processes which have been established by Engineers Australia over the past years (at least a decade). Whilst the details of this proposal has not been disclosed, it is highly doubtful that the assessment in Pathway 1 will retain the existing level of assessment provided by Engineers Australia.

From the review of the Design and Building Practitioners Regulation 2020 document, Pathway 1 appears to be the “loop hole” for non-professional engineers to be recognised by Fair Trading and continue to practice as they have done so in the past.

In my opinion, Pathway 1 undermines the proposed Design and Building Practitioners reform and the remainder of the requirements simply becomes additional paperwork requirements for non-qualified engineer to continue to operate.

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?

Engineers should satisfy the requirements of Pathway 2 in order to be registered with Fair Trading.

Engineers Australia should be the regulating body assessing the qualification and knowledge of individuals. Should an applicant have a non Washington accord recognised degree, they will need to complete the Stage 1 assessment under Engineers Australia to confirm that their qualifications is equivalent to the standard upheld by the Washington Accord.

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

The Washington Accord is an internationally recognised and accepted accreditation. This should be the only method of assessing registration of Professional Engineers – to ensure that NSW and Australia engineer registration is in line with the international committee.

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

Engineers Australia's Chartered Process.

Where applicants do not fall under the Chartered Process, Engineers Australia should be engaged to discuss a new pathway suited for "designers" which do not require Engineering Knowledge or skills.

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

Yes, provided that Pathway 1 does not become enforced.

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.

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?

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?

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?

No. Whilst I agree that the information provided in the title block should be detailed on all drawings, flexibility should be provided to the industry to document this to project specific title blocks.

It should also note that the designer of the project may be someone under supervision and the registered practitioner's details should only highlight that they reviewed the drawing / design.

This does not remove the practitioner's responsibility, however, NSW Fair Trading should understand that the practitioner may not have individually completed every single calculation and drawing within the project. The title block would therefore be misleading as the registered practitioner is the reviewer/certifier as compared to the sole designer.

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?

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?
- 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?

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
- 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?
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?