

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: Stephen Harris

Organisation Name: Wollondilly Shire Council

Date: 8 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.

Wollondilly Shire Council performs the important role of being the Principal Certifier for construction within the Shire. Feedback is provided to the raised questions in order to assist the Government in formulation of better regulation that will assist all players in the construction process.

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 proposed reforms do not go far enough. The proposed coverage of only Class 2 developments would be seen to be reactionary to the Opal Towers and Mascot Towers situations. The concern for Council is that there is currently no qualification nor competence regulation of Structural Engineers servicing the residential housing market. This is a fraught scenario which requires action to avoid duplication of the residential apartment building situation occurring in the residential housing environment. Council requests the expansion of the requirements to concurrently incorporate Class 1 developments. One of the major drivers of the NSW economy is Class 1 developments. This provides a golden opportunity for the Government to provide proactive leadership to drive improvement in this sector.

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 should not be retrospective. Any retrospectivity would require for an existing approved CDC/CC to be modified when construction works could well be already underway.

Regulated design (page 17)

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

Exempt works are minor in nature and regulation of these is not warranted. Exempt works are already required to be undertaken in accordance with the National Construction Code.

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).

The current level of exemptions under the SEPP (Exempt & Complying Development Codes 2008) are sufficient. Use of a monetary value for excluded works is not encouraged, rather, the existing works based approach is encouraged to continue.

Registration of Compliance Declaration practitioners (page 23)

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

The proposed classes of Design Practitioner – Architectural and Building Design are not considered relevant to the intended spirit of this Regulation. This is because neither an Architect nor a Building Designer can reasonably produce a Compliance Declaration to conclude that the design complies with the National Construction Code when that is not their area of expertise. That role rests with the Registered Building Surveyor.

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?

The proposed list of Design Practitioners is considered appropriate apart from the positions of Architectural and Building Design discussed at Question 5 for removal from the list.

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.

The proposed qualifications, skills, knowledge and experience requirements are considered appropriate and in accord with the spirit of improving the standard expected of Practitioners.

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

The proponents should be subject to the same character and background checks imposed on Registered Certifiers and also be subject to the same duty bound requirements of being Public Officials, as defined.

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

The stipulated required experience period of 5 years is deemed to be appropriate.

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

The proposal is agreed to provided that all practitioners will be required to comply with a set Code Of Conduct imposed by NSW Fair Trading.

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?

The profession of Hydraulics Engineering should be incorporated into the classes of Engineering

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

NSW Fair Trading should be the sole body responsible for registration of engineers. This will ensure a consistent, impartial approach to assessment of applications and ensure probity.

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?

The proponents should be subject to the same character and background checks imposed on Registered Certifiers and also be subject to the same duty bound requirements, as defined in *Independent Commission Against Corruption Act 1988*, of Public Officials.

- 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 qualification is deemed acceptable.

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

The proposal is not agreed to. NSW Fair Trading should be the sole body for registration.

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

NSW Fair Trading should be the sole body for registration.

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

The proposed 5 year period is concurred with.

- 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.

The proposed list encapsulates its intent.

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?

The proposal is agreed with. There may be project planning ramifications.

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.

The relevant Building Practitioner should be the responsible party for lodgement on the Portal.

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

The proposed parameters are agreed with.

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

The proponents should be subject to the same character and background checks imposed on Registered Certifiers and also be subject to the same duty bound requirements of being Public Officials as defined in the ***Independent Commission Against Corruption Act 1988***.

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

The stipulated required experience period of 5 years is deemed to be appropriate.

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

Universal formats should be accepted.

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?

The proposed requirement is ambiguous. It should be reworded to require lodgment prior to commencement of varied works.

- 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?

The documents will be required to be considered by the Registered Building Surveyor as part of the assessment of the application for an OC.

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

The stipulated matters are considered appropriate.

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

The stipulated matters are considered appropriate.

Insurance (page 51)

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

The proposal is agreed to, provided that all practitioners will be required to comply with a set Code Of Conduct imposed by NSW Fair Trading.

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

There should be a stipulated minimum amount of required insurance coverage to ensure that contingencies are covered. Increased coverage would be determined by the relevant Insurance provider when assessing the risk level

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

The proposal is not agreed to. The role of Building Practitioner is no less important and the same insurance philosophy should equally apply.

Continuing professional development (CPD) (page 54)

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

The proposed CPD requirements don't allow for sufficient time to impart knowledge. A minimum 6 hours is deemed to be appropriate. This would equate to 1 day of training CPD per year.

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

Changes in NCC, changes in Australian Standards, requirements under legislation, insurance obligations, industry best practice principles.

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

The stipulated CPD is deemed to be appropriate.

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

The proposal is agreed to provided that all practitioners will be required to comply with a set Code Of Conduct imposed by NSW Fair Trading.

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 stipulated required experience period of 5 years is deemed to be appropriate.

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

The proposals are deemed appropriate.

Fees (page 59)

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

The stipulated reasons are considered reasonable.

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

The proposed fee should equate to a Building Inspector, being 2.53 fee units. This is due to the volume of work that would therefore not equate to higher levels of registration.

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

Wollondilly Council is happy to provide assistance.

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?

The proposed CPD requirements don't allow for sufficient time to impart knowledge. A minimum 6 hours is deemed to be appropriate. This would equate to 1 day of training CPD per year.

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

Agreed

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.

Agreed

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.

Changes in NCC, changes in Australian Standards, requirements under legislation, insurance obligations, industry best practice principles.

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.

Agreed

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

Agreed

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?

Calculations should be on the basis of 1CPD point per hour

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?