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Submission – Building and Development Certifiers Regulation 2020

Introduction

The Association of Australian Certifiers (AAC) represents registered certifiers employed in private practice and in local government in NSW.

This submission outlines the necessary amendments that should be made to the *Building and Development Certifiers Regulation 2020* (the Regulation) at the next possible opportunity to ensure the ongoing professional development of the certification industry and optimal outcomes for the public.

The submission follows several meetings and interactions with officials from the Department of Planning, Industry and Environment (DPIE), the Department of Customer Service (DCS) and the Office of the Building Commissioner (OBC).

The AAC thanks officials for their willingness to consider this submission.

Background

A key element of Schedule 1 of the now repealed *Building Professionals Regulation 2007* has been omitted from the Regulation.

The relevant sections [stated](#):

“Category A2—Accredited certifier—building surveying grade 2

...

*Carrying out of any inspections under section 109E(3)(d) of the [Environmental Planning and Assessment Act 1979](#) of buildings referred to in the preceding paragraphs (a), (b) and (c). **In addition, carrying out of any inspections under section 109E(3)(d) of that Act for work authorised by category of accreditation A1 with the consent of, and under the supervision of, an accredited certifier authorised to issue occupation certificates under category A1.**"*

And:

"Category A3—Accredited certifier—building surveying grade 3

...

*Carrying out of any inspections under section 109E(3)(d) of the [Environmental Planning and Assessment Act 1979](#) of the buildings referred to above. **In addition, carrying out of any inspections required under section 109E(3)(d) of the [Environmental Planning and Assessment Act 1979](#) for work authorised by category of accreditation A2 with the consent of, and under the supervision of, an accredited certifier authorised to issue occupation certificates under category A2.**"*

These sections allowed for registered certifiers to provide consent and supervision to registered certifiers in an accreditation category below them to carry out certain inspections.

For example, this meant that an A1 (building surveyor—unrestricted) certifier who issued a Construction Certificate for a project with an alternative solution on a two storey RIS class 2 building could task an A2 (building surveyor—restricted (all classes of building)) or an A3 (building surveyor—restricted (class 1 and 10 buildings)) certifier to carry out a waterproofing inspection under their consent and supervision.

Under the new Regulation, all inspections must be carried out by the A1 (building surveyor—unrestricted) certifier.

The AAC is of the strong view that the above omitted sections should be reinstated in the new Regulation for the reasons set out below.

Rationale

Ongoing professional development of registered certifiers

The abovementioned sections of the *Building Professionals Regulation 2007* played a crucial role in the ongoing development and professionalisation of the certification industry, which ultimately leads to better outcomes for the public.

The section allowed for registered certifiers of a certain category to carry out inspections under appropriate supervision of more senior registered certifiers who were able to act as mentors.

This arrangement allowed for often younger registered certifiers to further develop themselves under the supervision of more senior practitioners. In effect, it acted as an appropriate steppingstone or training ground, for registered certifiers to gain experience and further develop their professional skills in the industry.

These relevant sections allowed for this ongoing education and development.

Workforce shortages and industry sustainability

The certification industry is currently facing workforce shortages due to a range of factors, including an ageing workforce and significant difficulty in the ability of firms to secure an adequate level of professional indemnity insurance coverage.

This is impacting the ability of firms to retain the services of many senior registered certifiers, who are either retiring or leaving the industry to become consultants or pursue other careers.

Coupled with these shortages, the removal of these sections from the Regulation means many firms are also struggling to meet demand, as previously for example, an A2 (building surveyor—restricted (all classes of building)) certifier under the consent and supervision of an A1 certifier (building surveyor—unrestricted) could carry out relevant inspections. Now, this is all falling to a very limited number of A1 (building surveyor—unrestricted) certifiers.

Not only does this mean the industry as whole is struggling to keep up with demand under the new Regulation, the limited number of A1 (building surveyor—unrestricted) and A2 (building surveyor—restricted (all classes of building)) certifiers who could be providing valuable mentoring support to less senior certifiers are not able to.

This increasing demand for service, coupled with a lack of registered certifiers means it is vitally important that the regulatory environment allows for the continued development of up-and-coming registered certifiers to ensure its ongoing viability.

The reinstatement of relevant sections to the Regulation would work to address this.

Optimal outcomes for the public

Registered certifiers play a central role in the building and development industry and their ongoing professional development is crucial to ensuring optimal outcomes for consumers.

A regulatory environment which encourages education and continued professional development will ensure a sustainable industry into the future and a more professional and experienced registered certifier workforce.

This aligns with the NSW Government's building reform agenda and is ultimately in the interests of consumers engaging with the building and development industry.

Addressing other unintended consequences

Finally, the situation created by the omission of these sections is also creating perverse scenarios for registered certifiers on the ground.

For example, A3 (building surveyor—restricted (class 1 and 10 buildings)) certifiers who can certify wet areas in class 1 and 10 buildings, can no longer inspect the same wet areas in class 2 buildings up to four storeys.

This is creating significant operational issues for registered certifiers and seems to be an unintended consequence of omitting these sections from the Regulation.

Suggested amendments

The AAC recommends reinstating the abovementioned sections of the *Building Professionals Regulation 2007* into Schedule 1 of the new Regulation at the earliest possible opportunity.

For further information

To discuss this submission further, please contact AAC CEO, Jill Brookfield on 0431 082 259.