

CONSULTATION PAPER

CONTINUING PROFESSIONAL DEVELOPMENT

Building Practitioners



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1. Purpose of Paper

The Building Confidence Report (BCR) was commissioned by the Building Minister's Forum to undertake an assessment of the effectiveness of compliance and enforcement systems for the building and construction industry across Australia¹.

The BCR Recommendation 3 states:

“That each jurisdiction requires all practitioners to undertake compulsory Continuing Professional Development on the National Construction Code (NCC).”

This recommendation recognises the dynamic nature of this industry sector with new products, technologies, practices and the three yearly amendment of the NCC.

The BCR was agreed by all states and territories and as such this consultation paper presents a proposed framework for introducing Continuing Professional Development (CPD) requirements for building practitioners in the Northern Territory (NT). The purpose of the paper is to seek feedback on the proposed framework. The questions included in boxes are to encourage feedback on these aspects of the proposal.

To be registered as a building practitioner (practitioner) in the NT, a person is required to have achieved relevant qualifications and experience which are considered as part of the application and registration process. Once registered, there is currently no requirement to maintain or upgrade skills and knowledge for the renewal of a registration. Whilst practitioners may be working in the industry and are obligated to meet the current legislative requirements, including codes and standards such as the current NCC requirements, there is no clear requirement to undertake continual education, training or upskilling to keep up to date with new requirements or changing practices or products.

It is the intention of the Northern Territory Government to introduce a CPD framework for all registered building practitioners because it is important to maintain and develop knowledge, skills and competence throughout a practitioner's career to ensure a high standard of regulatory compliance and service to customers.

At this time, consultation is also occurring in relation to introducing registration for commercial building contractors, therefore it is expected that the proposed framework for CPD presented in this consultation paper would also apply to commercial building contractors.

¹ Peter Shergold and Bronwyn Weir, *Building Confidence Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia*, February 2018.

2. What is Professional Development and Continuing Professional Development

Professional Development is a process of individuals developing, updating and maintaining their skills and knowledge through professional education and training throughout their career.

CPD is where registered professionals undertake professional development in their specific industry on a regular and ongoing basis, which is recorded and can form part of maintaining a registration or membership in the specific industry.

CPD assists professionals to:

- expand their knowledge and skills following their initial qualifications and registration
- meet regulatory and professional standards and requirements and
- meet public and consumer expectations.

Any professional can voluntarily seek out and participate in professional development activities, however, mandatory CPD ensures that individuals and the industry as a whole continue to operate with the latest knowledge and standards, providing greater confidence in the industry. A structured CPD scheme can influence and guide important learning areas to assist professionals and address identified areas of need.

Mandatory CPD schemes for the building industry have been established by the state governments in New South Wales and Tasmania. It is a requirement in these states that certain practitioners undertake CPD activities during the registration period to be eligible for renewal of registration. All Australian jurisdictions are at varying stages of considering or implementing CPD for the building industry.

3. Registration of Building Practitioners in the NT

Practitioners are registered in the NT under the following categories based on their qualifications and experience:

- building certifiers (residential)
- building certifier (unrestricted)
- certifying architect
- certifying plumber and drainer
- certifying plumber and drainer (design)
- certifying engineer (structural)
- certifying engineer (hydraulic)
- certifying engineer (mechanical)
- building contractor residential (restricted)
- building contractor residential (unrestricted)

Once registered, practitioners can renew their registration every two years if they comply with the requirements for renewal. For example, a building contractor residential needs to provide a net assets certificate and hold a policy of professional indemnity insurance for the amount determined by the Minister.

In the NT, there is currently no requirement for practitioners to undertake CPD during the registration period to be eligible for the renewal of a license.

4. The status quo

Professional development can be undertaken by individuals on a voluntary basis and there are some general courses and training modules relevant to the building industry available for a fee, such as training on the NCC. Whilst there may be relevant training available to NT practitioners there may also be areas of improvement required in the NT that are not addressed by nationally available training.

Some industry associations run CPD schemes and participation is a requirement of membership. Not all practitioners are members of industry associations and not all associations have mandatory CPD for members.

Whilst CPD is not currently a requirement for practitioner registration renewal, other legislated tools are implemented in the NT to minimise and address problems with practitioner performance and compliance.

The *Building Act 1993* gives the Director of Building Control (the Director) audit functions and powers related to all categories of practitioners and classes of buildings. The Director has the authority to audit any practitioner's work or conduct as a consequence of a complaint or wherever the Director considers it appropriate to do so. Audits help to ensure that practitioners comply with the Act and Building Regulations (Regulations) and mitigate risk to the public and consumers by ensuring professional standards are maintained and preventing people practicing if they are not fit, qualified or experienced to do so or through implementing a remedial program.

The audit process and any resultant remedial action plan not only provides the opportunity to identify issues and drive compliance but also provides the opportunity to educate practitioners to improve compliance with the legislative requirements. Whilst it is beneficial to provide an opportunity for education through the audit process, this is specific to one practitioner at a time and limited to the number of audits and number of practitioners that can be audited during a registration period. Auditing, following the receipt of a complaint, is reactive rather than proactively addressing education prior to issues arising.

If concerns are identified during the audit and investigation process the Director may require a remedial action plan to be implemented or may refer a practitioner to the Building Practitioners Board (BPB) and, following an inquiry by the BPB, if the practitioner is found guilty, the BPB may direct disciplinary action. Disciplinary action may include issuing fines, suspension or cancelation of registration.

The limitation with maintaining the status quo is that for practitioners that are not members of industry associations with CPD schemes there is limited incentive or requirement for practitioners to participate in professional development. Practitioners may not keep up with contemporary practices and products and may not be informed of changes to codes and standards. This risks services and building works being undertaken with non-compliances.

5. Proposal for a mandatory CPD Scheme

CPD has been identified as a potential mechanism to improve compliance with building regulations and standards through a structured requirement for practitioners to participate in professional development. The proposed CPD scheme aims to improve and update practitioner's knowledge and skills on NT relevant topics or subjects by utilising NT specific CPD activities and other relevant national CPD activities that are available. NT specific CPD activities (webinars or online learning) could be developed concurrently with the development of the NT CPD scheme to ensure that NT CPD content is available to support the CPD scheme from the outset.

Mandatory CPD, as a requirement of registration renewal, could be established to ensure that industry prioritise and participate in professional development.

The benefits of introducing a mandatory CPD scheme are that practitioners, who are not already participating in CPD through industry associations, would be more likely to participate in professional development and as a result, it is anticipated that there would be a reduction in the number or extent of non-compliances in building works and improved consumer confidence in the building industry.

5.1. Administration of a CPD scheme

CPD schemes need to be administered by an organisation that can provide oversight, approval, coordination and auditing of the scheme.

For mandatory CPD schemes in other states and territories, such as for the building industry in Tasmania and New South Wales, the Government is responsible for administering the scheme. Private providers exist that can assist Governments to establish and administer mandatory CPD schemes at varying levels of participation.

5.2. Legislative framework

With the powers already established in the *Building Act 1993*, a Ministerial Determination can establish a mandatory CPD scheme. Renewal of practitioner registration can require a practitioner to participate in CPD.

It is the intention of Government to give industry time to become compliant with these new requirements by proposing a stepped implementation over two years. This would enable all practitioners to gain an understanding of the CPD scheme requirements and meet the required level of CPD as part of their registration renewal. For example, if a building practitioner's renewable is due in one month after the CPD scheme starts, they would be unable to meet the new requirements, but would have sufficient time for the next renewal period. However, if a practitioner's registration renewal was due 12 months after the CPD scheme starts they could partially meet the requirements.

Questions

Is it reasonable for building practitioners' registration to be renewed irrespective of meeting CPD requirements within the first two years of the scheme? What other approaches to implementation should be considered?

5.3. CPD structure - compulsory or elective activities and other CPD schemes

A mandatory CPD scheme can be structured in a number of different ways with requirements set over the renewable period.

Compulsory CPD activity content

Compulsory CPD activity content could be determined for each practitioner category and applied to the next renewal period. This approach provides the CPD administrator with greater control over the topics that are learned and the CPD activities can focus on areas of non-compliance or identified knowledge deficiencies at the time. The disadvantage of this approach is that the practitioner would not have flexibility in guiding their own development.

Elective CPD activities

This approach provides the practitioner with flexibility to choose specific areas that suit their individual or business needs at the time. This recognises that individuals can best identify their own knowledge and skill gaps and choose CPD activities and topics accordingly. The disadvantage with this approach is that it limits the capacity of the CPD administrator to guide learning outcomes based on identified deficiencies and non-compliances.

Combined compulsory and elective activities

A combination of compulsory and elective CPD activities could be established providing the advantages of each option, however would provide fewer topics that could be guided by the CPD administrator.

Recognition of other CPD schemes

There are certain industry associations that apply their own CPD scheme as a requirement for membership of the association. A NT CPD scheme could include recognition of other CPD schemes that have been reviewed and approved.

Questions

*Should the NT CPD structure include only compulsory CPD activities, only elective or a combination of both?
Should the NT CPD structure include the option of approving and recognising other CPD schemes?*

5.4. Accepted CPD activities

CPD activity content and providers

CPD activity content needs to be relevant to the profession. For example, residential builders CPD activity content could focus on the following:

- technical knowledge and skills and their application and
- building regulatory requirements.

NT specific CPD activities could be developed and made available through an online format.

For a NT CPD Scheme, it is proposed that certain NT specific CPD activities:

- be developed by or in partnership with a local provider or with access to local knowledge
- deliver professional development in areas that are relevant in the NT and that have been identified as areas of concern or importance in the NT
- be accessible for a fee; cost will be dependent on the platform and provider
- be accessible Australia-wide and
- be the subject of a record/receipt system so that participants can retain evidence of their participation.

Some examples of topics that could be considered for NT specific professional development:

- NCC CPD training modules tailored to be NT relevant
- Construction for cyclonic areas
- Condensation measures for hot and humid climates
- Building Regulations in the NT

Questions

Are you aware of areas of poor performance or non-compliance in the NT that could benefit from building practitioners participating in professional development?

Do you have suggestions of course/CPD activity topics that could improve compliance to the NCC or improve construction in the NT?

The Australian Building Codes Board (ABCB) is also developing NCC CPD courses aimed at improving understanding and compliant use of the NCC. When courses are released they could be included in the list of accepted NT CPD activities. ABCB courses are anticipated to be rolled out over the next year.

Other structured CPD activities are also already available from other CPD providers such as commercial providers and industry associations. The accepted NT CPD activities could be broadened to include relevant national and interstate CPD content by approving certain CPD providers.

There is also an option to extend the subjects to include other areas relevant to a practitioners' business or individual needs such as:

- Business management
- Financial management
- Workplace health and safety or
- Personal development such as dispute resolution.

Questions

*What CPD content subject areas should be accepted in a NT CPD scheme?
Are there particular subjects that should be compulsory?*

CPD activity types

CPD activities could be limited to structured activities to simplify assessment of CPD and provide greater assurance that benefits of CPD are being achieved. Examples of structured activities include:

- Webinars or seminars
- Conferences and meetings
- Formal training and education activities

Questions

What types of CPD activities should be included in a NT CPD scheme?

5.5. Monitoring CPD

Point value placed on individual CPD activities

Applying a value to individual CPD activities, such as a seminar or a conference, using a points system, is well established in other CPD schemes to monitor the quantity of CPD undertaken by individuals and individuals on behalf of corporations. Individual CPD activities are allocated a point or a number of points and whilst not all CPD schemes allocate points in exactly the same way there are a number of synergies. For example a one hour seminar is usually allocated one CPD point.

Adopting a similar points allocation system to that of other established CPD schemes will simplify already established CPD activities being transitioned or accepted into a NT CPD scheme if relevant in the NT.

The following allocation is an example provided from the Tasmanian CPD scheme:

Type of Activity	How to measure CPD points
Training or briefing delivered by or on behalf of the Tasmanian Government Department	1 point per hour
Successfully completed nationally accredited training as delivered by an RTO e.g. Certificate IV in Building & Construction	1 point per nominal hour (6 points per day and up to 36 points during the licence period)
Trade Journals (including Tasmanian Government Department Connections)	1 point per journal (max 3 points per year)
Membership of a professional organisation	1 point per organisation per year (max 2 points per year)
Endorsed on-line courses e.g. ABCB	1 point per hour

The number of points allocated to an individual CPD activity could be used to encourage practitioners to participate in certain activities, such as NT specific CPD activities. This approach could also be an alternative to compulsory CPD activities.

The purpose of these points and how they are used is covered in the next section.

Accrual of CPD points during a registration period

CPD schemes are set up to monitor the amount of CPD learning an individual has undertaken by the number of points accrued by the individual during a registration, licence or membership period. A minimum number of points is required to renew a membership, registration or licence. The number of CPD points required in a renewal period establishes the amount of learning and/or the type of learning that a practitioner needs to undertake during the renewal period.

Different CPD schemes supporting registration or membership in the building industry require a different number of points to be accrued over differing timeframes. For example, for the equivalent of residential builder's registration in Tasmania, 36 CPD points are required over the 3 year registration period. In NSW, 12 CPD points are required per year. Within CPD schemes there can also be a different number of CPD points required for registration renewal of different practitioner categories.

The ability to carry points over to the next renewal period can also be considered for a NT CPD scheme. The carry over to one renewal period could encourage practitioners to undertake CPD earlier rather than delay learning.

Questions

Should NT specific courses have higher points rating? If so, why?

Should practitioners be able to carry over points to subsequent years or registration periods?

Evidence of CPD

A record keeping system is needed to provide evidence of CPD participation when a practitioner's registration is to be renewed. Methods of record keeping include:

- records such as statements of attainment or receipts could be retained by the practitioner and provided to the CPD administrator at the time of registration renewal or at the time of participation.
- records of participants should also be maintained by CPD activity providers
- an audit system could be established to cross check participants claims to the course provider.

5.6. Failure to comply

If CPD is mandated as a requirement of registration renewal then failure to comply with the requirements would result in a practitioner's registration renewal being refused.

There are a number of ways that individual circumstances could be considered:

- an appeals process could be established. This approach would involve automatic refusal of a renewal if the CPD points requirement is not met and the practitioner would have the opportunity to appeal to a court or tribunal such as NTCAT
- a grace period of 3 months could be applied to meet the CPD requirements. This would also suspend the registration for 3 months
- a process for applying for an exemption could be established. However this places the decision for an exemption with the administrator rather than a court or tribunal.

The implications of not meeting the CPD requirements are that a registration may not be renewed or is suspended pending a decision. This is likely to impact the practitioner's livelihood.

Questions

If practitioners fail to comply with the proposed CPD requirements for registration renewal, should individual circumstances be considered and if so how?

6. Feedback

Please provide detailed feedback to bas.policy@nt.gov.au about the framework for a CPD scheme outlined in this paper.



