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Submitted to Continuing professional development on the National Construction Code
Submitted on 2021-09-02 19:04:50

Information collection

1 Important: Please ensure that you have read and understood the below statements before proceeding

2 By making a submission to this consultation you agree to the collection of the information you provide in your submission; and the use and disclosure of the information you provide in your submission as outlined above.

Publish response

Personal Information

3 What is your name?

Name:
Paul Zanatta

4 What is your email address?

Email:
paul.zanatta@architecture.com.au

5 On whose behalf are you making this submission?

Oh whose behalf are you making this submission?:
I am making this submission on behalf of an industry body

6 What is your organisation?

Organisation:
Australian Institute of Architects

7 Which best describes your industry sector?

Which best describes your industry sector?:
Architecture and design

If other, please specify.:

8 Please select your state or territory

State or territory:
Vic

9 If you work in the building industry, in which state or territory do you undertake the most work?

which state or territory do you undertake the most work:
NA - I do not work in the building industry

Acronyms and definitions

10 Do you agree with the terminology proposed for 'continuing professional development (CPD)' and 'CPD on the NCC'? Please explain your answer and, if applicable, propose alternative terminology.

Yes

terminology:

The terminology is generally used in the architectural profession where a minimum amount of hours of both formal and informal continuing professional development is required to maintain registration as an architect in accordance with various Architects Acts.

11 Are there additional terms that are relevant to BCR recommendation 3 that should be defined in the Preferred Terms Publication?

Yes

If you answered 'yes', please provide further information:

Building Code of Australia (BCA) was not included in the glossary.

Context

Overview of model guidance

Principle 1: CPD on the NCC is compulsory

12 Should all registered practitioners identified in the NRF complete CPD on the NCC? If you answered 'no' or 'unsure', please explain your answer.

No

explanation:

No, not all registered practitioners. CPD on NCC should not be compulsory for registered Architects registered in a non-practising category.

This is a recommendation of the Building Confidence Report which is supported by the Australian Institute of Architects in relation to all practising architects only. However, some jurisdictions have non-practising registration categories. For example in SA, the non-practising category includes:

"retired architects, and architects who are not practising for a variety of other reasons (overseas; carers leave; unemployed, working outside the industry; working outside of SA). Non Practising architects must apply for exemption from the requirement for professional indemnity insurance. A concession in registration fees may apply to some non-practising architects."

(See: <https://www.archboardsa.org.au/for-architects/registration/>)

Victoria and NSW similarly both have a non-practising registration category.

13 Should all practitioners be required to undertake CPD on the NCC each year? If you answered 'no' or 'unsure', please explain your answer.

Unsure

all practitioners:

The Institute supports annual CPD on the NCC for architects. However, we are unsure that all other practitioners are able to undertake sufficient hands-on CPD on the NCC that may be most suited to their profession or trade. Given that Covid-19 has adversely impacted face to face learning during lockdowns, and that ongoing long-term pandemic adaptation needs to be factored into many government and societal institutions such as education and training, a more flexible and adaptive setting could be adopted. One suggestion may be that of apportioning part of the annual CPD points to a rolling 2 or 3 years points window with some time, to allow for 'catch-up' if a practitioner has not been able to participate in as much required CPD in a specific single year due to lockdowns. CPD needs to also be linked to the three-year cycle of the NCC at minimum but it also need to be targetted to changes that occur in the life of a given version on critical areas of design. An example are the changes between 2015 and 2016 in relation to fire-resistant construction.

14 Should CPD on the NCC be completed by 30 June each year by all practitioners? If you answered 'no' or 'unsure', please explain your answer.

No

30 June?:

It should be aligned to the requirements of the registration authority's registration renewal cycle. Currently, Architect Boards in Queensland and Tasmania use the year ending March 31st, while in other jurisdictions, it is the year ending June 30th.

As the Australian Government does not in and of itself have the legislation to regulate these requirements, and it is essentially left to the arrangements of statutory regulatory bodies, the statutory registration and licensing provisions of government departments or offices or other co-regulation arrangements as established with professional associations to regulate registration, it should fit to their registration framework requirements and settings.

In the case of architects, this is performed by the Architects Registration Boards pursuant to separate legislation in each state and territory. It is sufficient that the timetable for architects to declare or provide evidence on CPD is aligned to the registration renewal timetable as it variously exists in each state and territory. This may also be an appropriate approach for other professions and practitioners.

Principle 2: The amount, type and expiration of CPD on the NCC is regulated

15 Are there any types of CPD activities missing from Table 4 that should be included? If you answered 'yes' please provide further information.

Yes

missing CPD:

Yes, research on NCC should be included. This would include undertaking research studies on an NCC provision, or Australian Standard directly referenced in the NCC:

- as part of a higher education qualification (Masters, PhD) or as post-doctoral research study
- within or in partnership with an academic setting or research institute or body
- within postgraduate pre-registration practical experience, possibly aligned with the knowledge domains identified in the Nation Standard of Competencies for Architects (NSCA) 2021 if any jurisdiction's Architect Registration Board adopts provisional registration of graduates in the future.

The NCC should aspire to be 'evidence-based' and not just draw on conventional practice, or secondary evidence via standards which might only result from an expert reviewer or peer review process.

Australia should aspire to grow its own body of design and building science research to directly inform design and construction and the national construction code. Any practitioner involved in research that advances the evidence base underpinning provisions of the code, or which even changes the code should therefore be included. An example would be an architect who conducts human research with people living with disabilities undertaking anthropometric measurements and measures of functional outcomes to determine the mean and standard deviations for the positions of rails in a shower or toilet. Another example would be research studies on performance of systems of cladding and flashing that are able to resist ingress around doors and windows under given simulated or in-situ weather conditions.

16 Do you have any comments on the content of Table 4? If you answered 'yes' please provide further information.

Yes

comment on Table 4:

Formal short courses or learning programs (run over several sessions) that are also delivered by industry peak bodies such as the Australian Institute of Architects, should also be included in Type 3 activities.

17 Do you agree with the content of Table 5 Proposed allowable types of activities for CPD on the NCC based on NRF discipline? If you answered 'no' or 'unsure' please provide further information.

Unsure

comment on Table 5:

The Institute partially agrees with this proposal for architects. Type 7 (Lecturing) and Type 8 (Publication) should also be included for architects (and possibly other professions). Researching and developing content for lecturing or a written piece for publication, involves a large amount of learning. This is learning through researching is inherently present when developing courseware, lecture notes or authoring a well-researched article. As per previous comment, appropriate research activities should also be included.

In addition, Type 9 (Private (individual) studies) should also be included for set pieces of reading on the NCC (and Standards) published by government, relevant statutory authorities such as the ABCB, VBA, peer reviewed professional publications or industry advisory practice notes. The challenge with reading times is how to quantify and prove the time spent and that it was useful. Reading time could be capped as a maximum % of the total CPD for a period (say, 10%).

Reading should also be considered if it occurs in the context of required reading for a CPD program. That is to say, the whole learning time inclusive or mandatory pre-reading associated with a CPD event should be included, not just the face to face contact time.

We additionally note that the Australian Institute of Architects' Acumen Practice notes, for example, are peer-reviewed by an expert panel and have quantified and designated reading times that can be subsequently recorded in a CPD log.

In addition, in scope declarable CPD hours or points for CPD on NCC should be considered for CPD undertaken through:

- practice forums, Chapter Councils or Committee meetings as a specific focus CPD on NCC event or discussion groups. These are invaluable to architects (and likely non-architect designers) where peer learning can disseminate NCC information. Elected member representatives who participate and also impart learnings through various membership portals on specific NCC provisions should be able to have a capped amount of this time included in their cumulative CPD on NCC quotient.
- Information Session, Trade Session – sometimes these events can assist architects/designers to become familiar with products and their compliance with NCC requirements

As the quality of CPD attached to these events /activities would need to be regulated in some way, it may be possible to establish a system of endorsing such events and activities in advance of conducting them. This may involve establishing learning objectives, specifying the focal areas and credentialing the speakers or facilitators. Time allotment would be strictly to the presentation and discussion component of the event or activity focusing on the designated NCC topic and other collateral activities (ordinary meeting agenda or other discussion items) would not be allotted CPD time.

As per the note made about reading time, an option would be to cap the percentage of CPD on the NCC undertaken through these methods.

18 Do you agree with content of Table 6 Proposed CPD on the NCC amount (hours/annum) for each NRF discipline as a proportion of 'Typical CPD requirement'? If you answered 'no' or 'unsure' please provide further information.

Unsure

comment on Table 6:

The proposed required hours of CPD appears to be more by convention or of an arbitrarily selected amount. Over time, research should be undertaken to determine whether these amounts of CPD are sufficient or otherwise. This might be performed by undertaking a case control study of practitioners who have been reported or found to have undertaken non-NCC compliant work comparing with a randomly selected sample from the same registration authority. However, it is recognised that there needs to be a starting point. The amounts are minimum amounts, and any practitioner can choose to devote more of their continuing professional development to the NCC.

A Builder and a Project Manager needs to meet at least the same CPD hours as an architect. As one member has told us,

"In my architectural experience, I have discovered that some basic NCC requirements for energy efficiency such as insulation levels applicable to the Climate Zone in which a dwelling is to be built, is not necessarily known by project builders, especially in the regional areas of NSW. My experience has been that I had to explain simple NCC requirements I had specified as they were challenged by the builder (they never had to do it that way!). Also, I discovered that currency of Australian Standards referenced in the NCC was not always followed, with builders referring to superseded standards."

Builders and Project Managers both have important and onerous responsibilities in the Construction sector and the CPD requirement should be equivalent to that of an architect.

Present settings of architects boards such as the Architects Registration Board of Victoria are if an architect is registered as an architect (practising) for part of the year, they must only complete CPD activities equivalent to the proportion of the year you are registered. This provision should continue.

19 Should the required amount of CPD on the NCC vary according to a practitioner's level of registration? If you answered 'yes' please explain why and how the requirements should vary.

No

vary based on registration:

Architects presently only have one level of registration (apart from the aforementioned non-practising category). Early career practitioners may benefit from higher CPD to make up for less experience while later career practitioners may benefit from a refresh, especially if they, themselves, are not engaged in knowledge leadership through publication, lecturing, research or active participation in their professional or practitioner association. In the absence of a sound body of evidence to support a case, this is another 'watch and see' area which registration boards should particularly set out to create a body of evidence to determine.

20 Do you have any other comments on the type and amount of CPD on the NCC proposed for a particular practitioner discipline? If you answered 'yes' provide further information.

Yes

additional comments:

Five points of CPD relating to the NCC is acceptable provided that they are a mix of formal and informal points. This would allow for product presentations that specifically relate to NCC compliance, as has been noted above and activities such as private study. A minimum of 3 formal CPD points relating to the NCC is considered a suitable balance.

These 5 points or hours should be within the 20 hours already required by the Architects Registration Boards in every state and territory, and the formal component we have proposed here should be as part of the 10 hours formal CPD which forms half of the 20 hours total CPD requirement set by each state and territory's Architects Registration Board.

The Institute supports the amount of CPD on the NCC proposed for building designers being the same as for architects. It stands to reason that if the National Registration Framework (NRF) permits level 1 building designers to undertake the same scope of building class, storeys and typology as an architect that their formal requirement to undertake CPD on the NCC should be the same.

The meaning ascribed to "type" of CPD in the discussion paper is in reference to the "mode". However consideration ought to given to the content or NCC topic when referencing the "type". In terms of the content or topic, this will vary between practitioner. It is important for architects and designers to be holistically across the NCC, especially where the requirements impact on the design of a building – structure, layout, energy efficiency, fire resistance, health and amenity, and accessibility. Other practitioners may only need to focus on their disciplines or specialties, e.g., Fire Engineer on NCC fire section + egress, Energy Efficiency Consultant on Section J requirements, etc.

21 Do you agree with the proposal that outlines the required CPD on the NCC for practitioners with multiple registrations? If you answered 'no' or 'unsure' please explain your answer.

Yes

multiple registrations:

Nil

22 Do you agree with the proposal for carrying-over CPD on the NCC? If you answered 'no' or 'unsure' please explain your answer.

Yes

carrying-over:

It makes sense, especially if other life events are occurring such as parental leave, long service leave or extended holiday where a practitioner might effectively bank some CPD. It also creates an incentive for practitioners to undertake larger blocks of NCC CPD than the annual minimum. However, when amendments are issued, it should be mandatory that the practitioner attains CPD on the NCC related to the amendments as prioritised content/topic.

Principle 3: CPD on the NCC is evidence-based and is complemented by ethics CPD

23 What sources of data should inform CPD content (focus areas of the NCC) for each practitioner discipline?

data for focus areas:

1. Lag indicators:

- a. Complaints data from practitioner registration bodies
- b. Registers of building disputes involving defects
- c. Data from building surveyor inspections and initial findings of non-compliance prior to the implementation of remedies
- d. Products liability and professional indemnity insurance claims data as well as case studies that highlight non-compliance with NCC requirements whether in design, construction, or interpretation by certifying professionals.
- e. Peak Body papers/forums/chat questions addressing clarity issues on the NCC.

2. Lead indicators:

- a. Data on building typologies and demand. For example, decreasing housing affordability will drive a market shift to apartments, increased attention will therefore need to be paid to Part F7 (Sound transmission and insulation) revisions within Volume 1 of draft NCC 2022 from the time they are confirmed that they will be adopted. Buildings approval data is public available from the Australian Bureau of Statistics as well as through state regulators for building approval.
- b. Planning provisions. For example, the new Better Apartments Design Standards which form the Victorian Planning Provisions (Clause 55.07-4 and Standard B38) contain many design features – one particular one to note are the requirements for deep-rooted tree planting. However there is very little guidance in the BCA/NCC Vols 1 and 2 about root barriers in relation to trees in close proximity to buildings with increasing densifications and the consequent need to provide tree canopy to promote urban cooling. Nor are there provisions that scope tree or shrub planters that are integrated into buildings. This latter example moreover underpins the need to review the NCC itself not just the CPD requirements.
- c. Reviews of design features and novel performance solutions that might be developed for projects for emerging new patterns and trends. Two sources of data would be qualitative data from local or state government Design Review Panels as well as online digital documentation portals that jurisdictions are starting to use (e.g. Building Commission NSW) to lodge certified designs. There are also publicly searchable planning application registers which include attached elevations and floorplans that can be used to appraise shifts in designs
- d. Reviews of overall construction methods and materials. This is important with respect to the current Covid-19 pandemic global economy where shifts might be made from widespread use of steel products to replace structural timber and ensuring NCC compliance when wholesale changes are made.
- e. Surveys of practitioners.
- f. Other identified high-risk areas such as five regulated areas of design required to be certified and lodged as part of NSW new Design Declaration scheme for Class 2 buildings.
- g. Significant changes to NCC such as energy, condensation, accessibility of premises.

We additionally note:

- in taking a learner-centric approach, some practitioners such as architects may simply wish to refresh their knowledge of established aspects of the NCC because of involvement in a type of project that occurs less frequently as part of their usual project portfolio, or they are engaging with different parts of the NCC because they are undertaking a project genre which is new for them.
- It may be important for the ABCB to run CPD sessions such as "What's new or different in NCC 2022" in that first twelve months post-launch not just as "information sessions" but as actual CPD.

24 Do you have any comments on the proposal for CPD on the NCC to be based on evidence and data? If you answered 'yes' please provide further information.

Yes

comments on evidence and data:

We have previously commented in this survey that the NCC should be evidence-based as far as possible, and therefore, so should CPD content with respect to focus areas. Our response to the previous question indicates the evidence that could be used.

The key learning outcome from NCC should be why provisions exist and this is not always obvious, and the performance criteria are quite broad. This needs to be explained in the CPD.

It is a concern with some of the verification methods being introduced in the NCC. They appear to be academic inputs and are confusing and not practical. An example are the two access related verification methods. The other area that is not covered is product performance and system

performance. It raises the question of how architects are to know that a product specified complies and when combined with other products that the system complies with the NCC requirements.

25 Do you believe compulsory CPD on ethics should be undertaken by all practitioners? Please explain your answer.

No

ethics :

Ethics is a complex matter to teach as a 'bolt on' area of learning and internalisation of values that also underpins adopting ethical frameworks or principles. Developing ethics competency needs to commence and occur during the pre-registration stages of learning when pre-registrants are attending university or TAFE. Ethics addresses, in a broad sense, required practitioner behaviours and appropriate relationships. Whereas NCC non-compliant outcomes can be addressed through complaints resolution mechanisms, issuing remedial works notices or orders, common-law and contract law (warranties and defects), it is much more difficult to regulate ethical behaviour.

In addition, professions such as architects already have statutory codes of conduct and the Victorian Building Authority have recently introduced a code of conduct for Building Surveyors. There is possibly little benefit in compulsory CPD on ethics unless it is supported by statutory codes of conduct for all practitioners. If statutory codes are adopted by registration authorities then breaches of such codes of conduct can then lead to professional misconduct determinations and subsequent practice or registration sanctions. Compulsory ethics CPD should, therefore, necessarily be accompanied by the implementation of statutory or regulated codes of conduct for all practitioners as, on its own, ethics CPD will otherwise provide little return for the investment made in its delivery.

Given that architects in all States and Territories or other practitioners such as Building Surveyors in Victoria already have statutory codes of conducted and are trained and inculcated in ethics during their pre-registration formative period, we regard additional compulsory ethics training as adding little value.

26 Besides the NCC and ethics, are there other subject matters that should be mandatory for some types of practitioners? If you answered yes, please provide further information.

Yes

other subject matters:

The Architects Accreditation Council of Australia developed a new First Nation competency standard in the National Standard of Competency for Architects. All builders, design professions and project managers should have a similar competency as it is now being increasingly recognised that designing and delivering projects in Country needs to be aware of the place in which the project is occurring and the custodians and communities with whom they might need to engage. NSW will incorporate a "Connecting with Country" element into the Design and Place State Environmental Planning Policy (SEPP) consequent to the recent review of this SEPP.

A further competency standard which has also been recently strengthened in the National Standard of Competency for Architects is the Sustainability Competency Standard. While Section J of NCC responds to the energy efficiency of buildings and the performance outcomes, competency in sustainability should be extended beyond the final built outcome but also incorporate broader elements such as sustainably sourced materials and full building cycle including waste disposal and recycling in relation to demolition and new materials wastage (offcuts, packaging materials).

27 Do you have any comments on the proposed model guidance for Principle 3? If you answered 'yes' please provide further information.

Yes

comments on P3:

To leave no doubt the Institute supports Recommendation 1:

CPD on the NCC should:

- a. have a clearly stated purpose;
- b. be targeted at specific practitioner disciplines;
- c. have a method of delivery that is suitable for the specific type of practitioner;
- d. use up-to-date NCC content and terminology and link to an NCC edition;
- e. be developed using a risk and evidence-based approach, and be informed by data; and
- f. include a feedback loop to improve the relevance and effectiveness of the CPD being undertaken.

However we only conditionally support Recommendation 2 that in addition to CPD on the NCC, practitioners undertake 2 hours/annum of compulsory CPD on ethics. The condition is that the Model Guidance should include that each jurisdiction also establishes statutory or regulated minimum codes of conduct which are enforced through processes to make determinations or findings of misconduct with proportionate practice or registration sanctions. These should be established for any practitioner class where it is judged to be beneficial to have compulsory CPD on ethics.

Principle 4: Transparent and consultation-based CPD on the NCC

28 Are there other matters that can assist transparency and improvement of CPD on the NCC and/or CPD schemes? If you answered 'yes' please provide more information.

No

other matter that can assist transparency:

Principle 5: Evidence and records of CPD on the NCC are retained

29 Should practitioners retain their CPD on the NCC records for at least 6 years? If you answered 'no', or 'unsure' please explain your answer.

No

retaining records:

No, it should only be five years. We recommend that the required record period should be aligned to Architects Registration Board requirements for CPD records of 5 years. Similarly, the Australian Tax Office requires business records to only be kept for 5 years also. This provides consistency for practitioners. ,

We also note the following about what is taken to mean by "retain a record". The concept of retaining one's own record is a more fluid concept than prior to the widespread use of digital or online storage. When all commercial and government entities no longer rely upon paper records and even insist on fully online transactions, it seem anachronistic that practitioners should be asked to retain a paper record. Moreover, with increasing use of cloud computing and online storage , it seem becomes a moot point as to where people even have their digital storage physically located on a physical or virtual hard drive .

Thus, if practitioners choose to hold their digital record with a CPD provider or member association it is largely no different to maintaining their digital record on any other third-party or subscriber cloud storage such as Google Docs, Apple iCloud or Microsoft OneCloud (whether free or paid subscription). The essential question is how access to the file is controlled.

Therefore, any institution, CPD provider or CPD scheme administrator should be obliged to provide a registrant, member, participant or other user of any CPD record which they provide upon that practitioner severing their relationship, or it becoming inactive. This way, if a person has retained their record with a particular provider or member association, they can be assured of access to their record.

30 Do you have any comment on the recommended evidence that a practitioner should record and retain of CPD on the NCC they have completed? If you answered 'yes' please provide further information.

Yes

comment on evidence:

The recommendation made, on page 48 of the discussion paper, for practitioners to document in their own words, what they learnt and retain this as evidence for recommended CPD activities Types 1 to 5 as per Table 4 and Table 5 is unnecessary for many types of formal CPD. The point of formal CPD that it is assessed. The very process of assessment demonstrates what the person has learned to another person or to a pre-programmed algorithm in an online learning management system. Formal and well-developed CPD activities undertaken synchronously (live) or asynchronously (non-live) should also build in reflection. Clearly, if our recommendations were adopted that the research and preparation of lectures or published articles, or the undertaking of research were also to be included towards CPD, these activities inherently involve complex processes of comprehension, judgement, application and synthesis which are component to and consequent to 'reflection' on any piece of information, and would therefore, also be unnecessary. Attention is better placed on the quality of the CPD itself including the assessments of acquired learning. Similarly, if discussion forums and trade / materials displays, which had been endorsed as mentioned earlier were included, then a unique endorsement number for the event /activity could be issued and recorded by the participant.

However, self-directed reading should be accompanied by a record of the reading material (citation) and the specific section of the NCC they relate to.

31 Should a practitioner be required to provide evidence of their fulfilment of CPD on the NCC prior to re-registration or would a declaration be sufficient? Please explain your answer.

evidence or declaration - Evidence should be provided:

Agree

evidence or declaration - A declaration should be provided:

Agree

Please explain your answer:

A record or certificate of completion or attendance should be provided for types 1-4 and the declaration should include a statement that the practitioner is submitting a record or certificate of completion that is of their undertaking. The benefit of submitting the evidence is that scheme administrators or registration bodies will then have access to a rich body of evidence to understand which CPD practitioners are undertaking, and therefore to identify patterns and gaps which may require a specific response.

There should be a system for coding the other types of CDP we have suggested as being in scope towards the cumulative 5 hours for efficient information handling such that the practitioner could succinctly record the amount, mode /type and the NCC items covered largely using checkboxes. As we earlier suggested, these other activities would be capped as a proportion and, therefore, the level of evidence required should not be as onerous.

Principle 6: CPD on the NCC is oversighted

32 Should a proportion of a CPD scheme's participants be randomly audited each year? If so, please explain your answer and include a suggested percentage e.g.10%.

Yes

auditing:

The required percentage or sample size should be determined using a statistical method and not arbitrarily determined, especially if a culture of evidence-based approaches is being pursued. There may also be merit in using stratified 'purposive' sampling method – for example to ensure that certain proportions of practitioner are included in the sample according to attributes such as length of registration, gender, regional vs metro or any type of practitioner subclass for two purposes:

- To ensure that the sample is a representative sample (which may be difficult to achieve if the practitioners are a small population and the sample size has not been correctly calculated to ensure that randomisation on its own will deliver a representative sample.
- To ensure that there is no significant variation in CPD compliance according to the different attributes of practitioners. Where variation is found, then specific campaigns or strategies can be developed to address this.

At present different Architects Boards have differing audit programs. More frequent audits, larger samples and greater depth of information being reviewed in any new or revised audit scheme will add to the cost of registration the Boards' operations. Apart from passing these costs on to registrants, State and Territory Governments may need to consider subsidising registration boards or other practitioner registration or licensing bodies to carry out larger scale, more frequent or more detailed audits.

33 Do you have any comments on the proposed auditing and enforcement strategy? Please explain your answer and provide further information if necessary.

Yes

comment on auditing and enforcement:

Initial findings that a practitioner may not have complied should be investigated before enforcement occurs as a matter of due process and procedural (natural) justice. In turn the enforcement should be proportionate. For example, the practitioner may have mistakenly judged or declared their NCC CPD to be appropriate to requirements, and therefore, should be provided with an appropriate time frame to remediate the shortfall. There may be extenuating circumstances such as an extended period of serious illness and/or temporary disablement (.e.g. after a stroke or head injury) which has impacted the practitioner concerned and warrant an individualised approach.

34 Should all practitioners be subject to the same potential consequences? Please explain your answer.

No

potential consequences:

Consistent with the above-mentioned comment that enforcement should be proportionate, clearly where there are practitioners who demonstrate a specific and repeated pattern of non-compliance evident of a reckless or deliberately non-compliant disposition, then the consequences should be different.

35 Should practitioners be subject to additional disciplinary measures where they make a false declaration? Please explain your answer.

Yes

additional disciplinary measures:

As per the above comment per auditing and enforcement, false declarations should be properly investigated in the first instance as a matter of due process according to procedural (natural) justice. The comment is made on page 52 that some stakeholders have indicated that intentionally false declarations would be un-ethical conduct. However, depending on the scheme and the manner in which the scheme is regulated, the false declaration could also be illegal and attract a fine or other penalty. This should be considered when taking into account the penalties. However mandated counselling, suspension or cancelling of registration, and monitoring could all be considered taking into account the mitigating circumstances (e.g mental health issues, extreme hardship including family violence) which may have led to the false declaration as well as history of previous such behaviour.

36 Do you have any other feedback or suggestions to improve the national model guidance proposed for BCR recommendation 3? If you answered 'yes' please provide further information.

Yes

other feedback or suggestions:

In summary, knowledge of the NCC is beneficial for all building and construction sector professions and practitioners. The NCC has become increasingly complex over time, particularly since this introduction of Performance Solutions. Compulsory and declared or evidenced CDP of 20 hours per annum, of which 10 hours must be formal CPD is already a requirement of the states' and territories' Architects Registration Boards across Australia.

However, understanding of the NCC commences during the undergraduate or apprenticeship years at tertiary institutions and the TAFE sector where practitioners receive their initial training prior to education or licensing (this should also be the period when ethics are taught and inculcated into practitioners' approach to their future profession). Masters degree graduates of accredited universities' architecture programs, it should be noted, are

also required to complete the national Architectural Practice Exam (APE) set by the Architects Accreditation Council of Australia as a requirement for registration in any state or territory. The APE comprises 3,300 hours of supervised and logged practice to specific national competencies (the AACA governs the National Standard of Competencies for Architects), a paper summarising the acquired competencies throughout the supervised practice period and written and oral exams conducted through the state/territory Architects Registration Board.

The Australian Institute of Architects supports the ABCB's fundamental proposal for five hours of annual CPD on the NCC subject to the details and conditions expounded in the other questions' responses that we have provided. This would be included in the current 20 hours per annum requirement, not additional to.

We note that the discussion paper has proposed a consistent standard for CPD needs to be established to make this CPD requirement meaningful. This is set out in Table 5. The Institute has nominated additional types of CPD from Table 5 and even further types that could be included if implemented to specific conditions such as capping as outlined in the previous responses.

Enforcement is a necessary step to ensure compliance. As CPD for some professions is regulated via legislation and /or statutory regulations then any enforcement cannot take place without adequate prior investigation adhering to due process and natural and administrative justice principles.

There is little point in requiring participation in compulsory CPD on ethics without an enforceable code of conduct. To our knowledge only architects (in all state and territories) have a regulated (statutory) code of conduct and a code of conduct for Victorian Building Surveyors came into effect at the commencement of this year.