

14 November 2022

Policy & Strategy
Better Regulation Division
Department of Customer Service

Via email: BCR@customerservice.nsw.gov.au

Dear Policy & Strategy Team

RE: Draft regulatory amendments relating to staged developments

Thank you for the opportunity to provide comment on the draft regulatory amendments relating to staged developments.

The Association of Australian Certifiers (AAC) welcomes the government's moves to amend the regulation to 'lock-in' the version of the Building Code of Australia (BCA) that applies at the time of the application.

As we have stated in previous submissions and in engagement with government, this regulatory change will restore certainty and confidence on this issue. The effective reduction in red tape will also be significant.

Regarding the draft amendment circulated, we offer the below comments. We would also welcome the opportunity to discuss further with you.

Again, thank you for the opportunity to provide this feedback.

Yours sincerely



Jill Brookfield
Chief Executive Officer

AAC Feedback – RE: Draft regulatory amendments relating to staged developments

Relevant section	AAC comment	AAC suggestion
Section 19 (1A) and (1B)	<p>No consideration appears to be made for staged refurbishment projects, or single storey building/sites, or staging across a site horizontally such as a large retail, school or industrial precinct across a site which may be more than single storey.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Industrial units constructed in a line (connected). • Retail shopping centre in stages all connected but horizontally across a site (not vertically staged). • Refurbishment within an existing building proposed in stages. 	<p>19(1B) – ‘Relevant building work’ definition should capture:</p> <ul style="list-style-type: none"> • Refurbishment of an existing building is any building work involved in the erection of a building (as already defined in EP&A Act). • A single storey building is any building work involved in the erection of a building (as already defined in EP&A Act). • A new multi-storey building is any building work involving the entrance floor, or the first part of the entrance floor, if project is staged horizontally on a site.
Section 19 (1A) and (1B)	<p>The definition of ‘podium’ is unclear and likely to cause confusion.</p> <p>Podium developments are the exception, and not the rule, in most developments in NSW. If a construction certificate (CC) is lodged for entrance floors the substantive structural design and parameters would already be designed and non-progression past entrance floor is not likely.</p> <p>In our members experience, the podium and entrance floor are never staged for the CC stages and are almost always included together for the CC staging process. Therefore, the proposed wording delivers no real benefit and is likely to cause confusion.</p>	<p>Delete the podium references in current items (b) and (c) of this Section 19 (1A and (1B).</p>
Saving and Transitional - Section 2 of Schedule 1A	<p>Regarding these changes only applying after the commencement of the amending Regulation, this will delay the impact and benefit of this change unnecessarily. Removing retrospectivity is also inconsistent with what we have heard from policymakers and regulators.</p>	<p>Delete the words “do not”.</p> <p>“The amendments made to this Regulation, Section 19 by the amending regulation do not applies to a construction certificate if the relevant development consent was granted before the commencement of the amending regulation”</p>