

OSPG Guidance: Application for Designation under the Professional Governance Act

VERSION 1.2

AUGUST 3, 2022



Issued by:

Paul Craven, Superintendent



OSPG

Office of the Superintendent
of Professional Governance



Version Control History

Version #	Date (YYY-MM-DD)	Modification	Approved by
1.0	2021-02-05	Initial version	Paul Craven, Superintendent
1.1	2021-05-05	Corrections to clarify flow chart information	Paul Craven, Superintendent
1.2	2022-08-03	Added information on FOIPPA and a section for professions overseen by a national body	Rebecca Freedman, Director



Application for Designation under the Professional Governance Act

Introduction

The *Professional Governance Act* (PGA) includes provisions for designating new professions that may be currently regulated under an existing statute or may lack a regulatory framework. The designation process can commence by application of a prospective regulatory (A), by decision of the Superintendent (B), or by decision of government. The latter does not require a designation assessment as the designation decision has already been made.

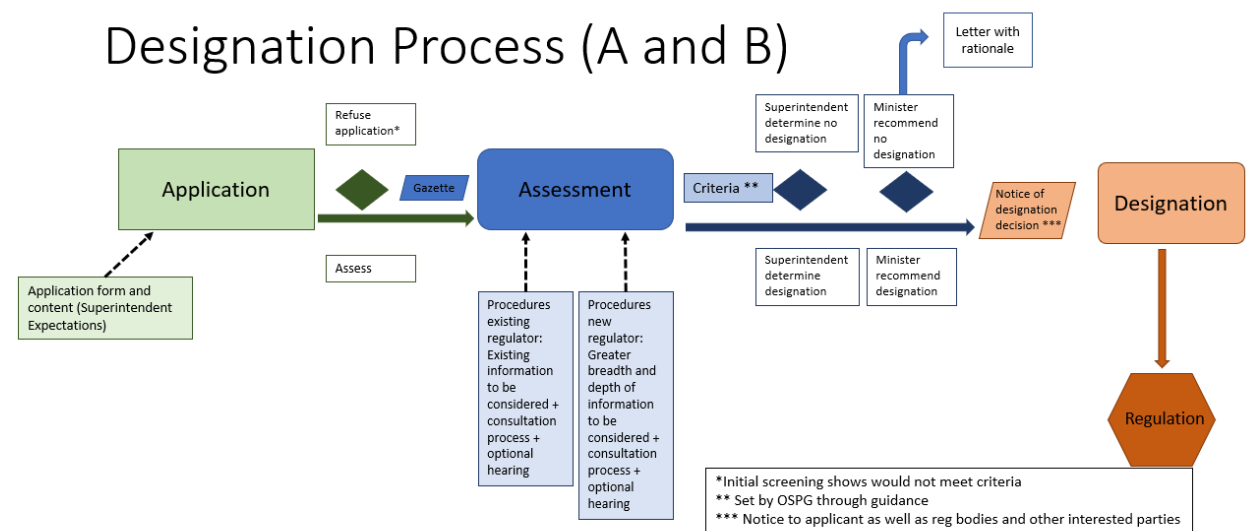


Figure 1 PGA Designation Process

The Superintendent’s recommendation on whether to designate a profession under the PGA must be based on whether the designation is in the public interest. Professional self-regulation addresses risks to the public and environment from incompetent and unethical practice of a profession. Criteria for determining whether it is in the public interest to include a profession under the PGA or grant rights for self-regulation of a profession typically consider the risks of professional practice, the capacity of the profession to meet all of the s. 22 PGA responsibilities, the level of discretion and professional judgement exercised by members of the profession, and the existence of a body of knowledge underpinning the profession. These types of criteria may be considered as the basis for the Superintendent’s recommendation.

An application by a potential regulatory body begins the process to assess whether designation of the profession is in the public interest. The OSPG is available for initial dialogue on the designation process and the information requested in an application in order to facilitate understanding. While the information outlined below is required to be included in the initial application, how the information is



presented is at the regulator's discretion. Regulators are encouraged to use visuals, diagrams, and creative formats to present information in the application in a way that is accessible and clear.

Applicants must ensure that information provided in the application does not include personal information, as defined by the *Freedom of Information and Protection of Privacy Act* (FOIPPA), in relation to registrants or clients. Only business contact information should be provided.

Applicants should be aware that any information provided to OSPG in relation to an application for designation is subject to the FOIPPA and a Freedom of Information (FOI) request. The OSPG must respond to an FOI in accordance with our statutory obligations. For more about freedom of information in British Columbia, including policies and how to make an FOI request, see the Government of BC's Open Information website here: <https://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/open-government/open-information/freedom-of-information>

Once an assessment is underway, additional information may be requested to assist with the evaluation of the profession against the criteria for determining designation.

General Information and Contacts

- Contact information (leadership and point of contact), including website address, email, mailing, phone
- List/links to documents – bylaws, incorporation documents if applicable, any relevant audits/reports of the profession

Overview of your organization

- Organizational structure –number and roles of staff, committees, etc.
- Structure of council/board – numbers of elected professionals and appointed lay members, roles, election process, appointment process
- Annual operating budget
 - Annual membership fees
 - Other revenue streams
- History and mandate, including:
 - When and how established (e.g. operating legislation)
 - Drivers for establishment
 - Current mandate and key activities, including transparency measures
 - Scope of practice for your profession(s) and examples of professional discretion
 - Any important changes to the organization over time
 - Operating jurisdiction(s)
- Decision making process including requirements for ratification of decisions

Current regulatory state

- Categories of registrants/members



- Number of registrants per category
- Rights and privileges for each category (e.g. titles, abbreviations, designations, seals and signing requirements, practice rights, voting rights, degree of supervision required)
- How do you regulate your registrants/members? Provide a brief overview of your
 - Admission requirements and accredited education courses
 - Code of ethics and standards of professional practice
 - Competency and practice standards
 - Complaints and discipline procedure and volume of complaints received/investigated annually
 - Additional practice requirements for registrants/members including continuing education requirements
 - Any third-party organization you rely upon for development of standards, accreditation processes, evaluation of applicants from non-accredited streams, etc., the nature of their processes, and your role in providing oversight/quality assurance of their work.
- List other enactments (federal, provincial, municipal) that require or enable your registrants/members to carry out work?
- Examples of discipline outcomes that illustrate why profession is important to regulate

Professions Overseen by a National Body

The PGA allows for a regulatory body to regulate a designated profession in B.C. However, it has no jurisdiction over professional practice outside of B.C. The authorities delegated to a provincial regulatory body cannot be subdelegated to another body. Professions overseen by a national body that wish to be regulated under the PGA would need to propose a provincial regulatory body if one does not already exist. Please note that the following questions only apply to national bodies without a provincial regulatory counterpart.

- How would a proposed regulatory body functionally regulate B.C. professionals and fulfill the B.C. requirements?
- How many of your regulated professionals work in B.C.?
- Describe the nature of the work your registrants/members do.
- Additional information about the national body or the regulation of a profession nationally may be included as an appendix.

Relationships

- Are there provincial or federal/international organizations you are affiliated with?
- Is your profession regulated in other jurisdictions and if so, which jurisdictions?
- Does your organization and registrants/members interact with the regulatory bodies currently governed by the PGA? If so, how?

Direction

- What challenges do you have with your current state?



- What are your organization’s thoughts on its future state, including how it could see itself fitting under the PGA?
- What would you hope to achieve if included under the PGA?
- What is your desired timeframe to come under PGA?
- What work have you started with your membership to communicate a potential move to the PGA and what work is planned for on the path to designation?

Risks

In addition, applicants will be required to fill out a risk matrix identifying risks associated with malpractice of the profession to:

- Public health and safety
- Environment and property
- Public trust

The risk matrix must indicate the likelihood and the impact of each risk to materialize as well as all risk mitigations in place for each risk. Applicants may use the risk matrix template below, developed by the Professional Standards Authority, or may use other templates or forms to present the required information. Below is a sample risk matrix with information from the BC Society of Landscape Architects.

British Columbia Society of Landscape Architects Professional Risk Matrix										
Headline Risk	Description of Risk	Likelihood	Impact	Inherent Risk Factor	Identify Existing Controls and Effectiveness of Mitigation	Likelihood	Impact	Residual Risk Factor	Risk Owner	
1	Public Safety	Registrants fail to minimize and/or eliminate unexpected risk to the public in the design of outdoor spaces. These could include the gradient of accessible surfaces, possible fall heights from play structures, flow and visibility of pedestrian or cyclist traffic, proximity to natural features, safety buffers between distinct use areas, etc.	3	4	12	Adherence to recognized industry standards and best practices. Mandatory internship period to gain technical expertise and build on post secondary educational requirements.	4	4	16	Registrant
3	Environmental Impact	Failure to recognize environmentally sensitive areas of a site proposed for design and development. As every site is unique it is necessary for registrants to identify all of the factors that make that site unique and contribute to the complexities that must be considered in the design response to avoid irreparable environmental disruption and harm.	4	3	12	Testing through both the Landscape Architectural Registration Exams and the Jurisprudence exam prior to becoming registered as a professional landscape architect	4	3	12	Registrant
4	Public Welfare	The failure of the registrant to recognize the stewardship of natural environments and of human communities in order to enhance social, economic, psychological, cultural and physical functioning, now and in the future.	4	4	16	Ongoing requirement for Continuing Education on an annual basis with current topics and/or legislative changes highlighted by the BCSLA for follow up by registrants.	4	3	12	Public
5	Community Building and Efficiencies	The failure of the registrant to build community and improve quality of life in the design and construction of a project. By creating attractive, functional places, Landscape Architecture encourages people to engage in their surroundings, strengthening social cohesion, which in turn results in healthier, more dynamic, more resilient communities at the local, national and global levels. Landscape Architecture enables people to function more effectively in their environments. On a practical, day-to-day level, landscape architecture facilitates many human activities and functions such as efficient traffic flow, parking, waste collection/recycling, water use/drainage, air quality, optimal use of space.	4	4	16	Testing through the Landscape Architectural Registration Exams and completion of a minimum two years of a mentorship program to document and confirm competencies in all aspects of landscape architecture.	3	4	12	Public



Risk Matrix		← IMPACT →				
		1 Insignificant	2 Minor	3 Moderate	4 Major	5 Catastrophic
↑ LIKELIHOOD	5 Almost Certain	5	10	15	20	25
	4 Likely	4	8	12	16	20
	3 Possible	3	6	9	12	15
	2 Unlikely	2	4	6	8	10
	1 Rare	1	2	3	4	5

Score	Likelihood (A)	Definition	Impact (B)	Descriptor
5	Is highly likely to occur at some time in normal circumstances.	Very High >80%	Critical long term damage or harm to service users/public Critical reputation impact Intervention by other agencies Huge financial impact	Catastrophic All potential benefits lost
4	Likely to occur at some time in normal circumstances.	High 0-80%	Major damage or harm to service users/public High reputation impact – national press and TV coverage Minor regulatory enforcement Major financial impact	Critical Loss of 80-100% of benefits
3	Likely to occur in some circumstances or at some time.	Medium 40-60%	Noticeable damage or harm to service users/public Extensive reputation impact due to press coverage External criticism likely High financial impact	Significant Loss of 50-80% of benefits
2	Is unlikely to occur in normal circumstances, but could occur at some time.	Low 20-40%	Minor damage or harm to service users/public Minor reputation impact Moderate financial loss	Marginal Loss of 25-50% of benefits
1	May only occur in exceptional circumstances, highly unlikely.	Very low <20%	Insignificant damage or harm to service users/public Little or no loss of front line service No reputation impact	Negligible Loss of <25% of benefits