

Answers to questions taken on notice – Unions NSW

- 1. One concern expressed about the Professional Engineers Registration Bill relates to gaps in compliance—for example, the board does not have the ability to make stop-work orders and there is a requirement for notice to be given of an investigation that could actually hamper an investigation. Would you like to see those areas strengthened in the bill, or are those functions best achieved through the adoption of the Design and Building Practitioners Bill?**

Unions NSW thanks the Committee for the opportunity to consider this question and provide a response in relation to any perceived gaps in compliance which currently exist in the Professional Engineers Registration Bill 2019 (the Bill). Unions NSW's position is that such perceived gaps go to issues which are beyond the scope of the Bill, and accordingly not necessary inclusions.

To our mind, the purpose of the Bill is to establish and regulate a registration scheme for professional engineers across the construction sector. This is confirmed by the objects set out at section 4 of the Bill.

Whilst the Board of Professional Engineers established by the Bill (the Board) is vested with powers to investigate under the Bill, such investigatory powers are limited to professional engineers' conduct and compliance with the Bill generally. In our view, the notice of investigation is both appropriate and consistent with similar notice requirements in other pieces of legislation applicable in other Australian jurisdictions. As any investigation would extend to the registration status or scheme compliance of a professional engineer (or person misrepresenting that they are professional engineer), we consider it unlikely that there is any benefit in vesting the Board with the ability to investigate without notice, nor loss to be suffered or danger caused by the Board not having this power. Any criminal conduct and potential prosecution will be covered by other legislation and enforced by other bodies. The Bill relates primarily to registered engineering practise and provides for the Board to commence proceedings against those found to have committed an offence related to the Bill.

As to matters of safety and the absence of the Board's power to perform such functions as issue a stop work order or prohibition notice (akin to those provided for in s195 of the Work Health and Safety Act 2011 (NSW)), we reiterate that in our opinion such a function would also fall beyond the scope of the Bill which is concerned with the registration of professional engineers. We further believe that if such powers were to be vested in the Board, the Bill would risk encroaching on other vital and longstanding pieces of legislation which are already enforced by other bodies. As with the scheme already in operation in Queensland and that proposed in Victoria, the Bill and any regulatory body established thereunder is concerned primarily with the registration of professional engineers, whether offences are being or have been committed in relation to that registration, and whether that registration should be upheld.

We reiterate our position that if the Bill is passed and implemented contemporaneously with the Design and Building Practitioners Bill 2019, our state will become a front runner in the regulation of professional engineering work and see a vast improvement to the standard of and safety related to the construction industry in NSW.