

**Submission  
No 41**

## **PROFESSIONAL ENGINEERS REGISTRATION BILL 2019**

**Name:** Mrs Vanessa McCallum

**Date Received:** 30 January 2020

Partially  
Confidential

29th January 2020

Dear Committee Members,

I write to lodge a submission to your Inquiry into the proposed Professional Engineers Registration Bill.

I do not support the introduction of a statutory scheme to register engineers in NSW. As with the Victorian Act, I believe this Professional Engineers Registration Bill 2019 (NSW) is impractical and introduces many risks for professional engineers, business owners and others working in the engineering industry.

Specifically;

The Bill in its entirety. It is unnecessary and unworkable.

There is no evidence that Queensland has provided for any better, safer, more efficient engineering than any other state in the past 90 years it has had 'comprehensive' engineering regulation. There is therefore no evidence to show this Bill is going to benefit NSW at all.

The BPEQ proposal to continue to pursue an engineer after a lengthy legal battle was described by the Queensland Civil and Administrative Tribunal as “oppressive and would amount to an abuse of process.” Many engineers I have spoken to do not want the same heavy handed and unfair practices spread across the country.  
<https://archive.sclqld.org.au/qjudgment/2011/QCAT11-599.pdf>

Engineers who work internationally and or who are registered internationally should not have to be registered in every country and state they work in or could potentially work in. For example, why have IntPE = International Professional Engineer, APEC Engineer or CEng with mutual recognition in Australia if we then have to also be registered specifically in Australia as well as in the state of NSW? (or Victoria or Queensland). This double dipping duplication is not acceptable and causes unnecessary administrative, risk, time and cost burden.

## **Part 2 Registration of professional engineers**

### **Division 1 Preliminary**

#### **7 Professional engineering services require registration**

(1) A person must not carry out professional engineering services in an area of engineering unless—

- (a) the person is a professional engineer whose registration authorises the person to carry out professional engineering services in that area of engineering, or
- (b) the person carries out professional engineering services under the direct supervision of a professional engineer whose registration authorises the person to carry out professional engineering services in that area of engineering.

(2) A person must not falsely represent that the person—

- (a) can carry out professional engineering services, or
  - (b) is registered as a professional engineer in an area of engineering.
- Maximum penalty—1,000 penalty units.
- (3) Despite any contract or agreement, a person is not entitled to monetary or other consideration for the carrying out of professional engineering services in contravention of this section.
  - (4) A person who provided monetary consideration to a person for professional engineering services carried out in contravention of this section is entitled to recover the amount as a debt due in a court of competent jurisdiction.

This does not make sense under the definition of 'person' in the Bill. Furthermore, many capable individuals provide professional engineering services (according to the definition in the Bill) who are not going to be eligible to register. Many of these people run competent, safe businesses. This Bill will stifle the engineering industry and is unworkable.

## **Division 2 Application for registration**

### **9 Applying for registration**

- (1) An individual may apply to the board for registration as—
  - (a) a practising professional engineer for one or more areas of engineering, or
  - (b) a non-practising professional engineer.
- (2) The application must—
  - (a) be in the form approved by the board, and
  - (b) include or be accompanied by the information or evidence that the board reasonably requires to determine the application.
- (3) The regulations may require an application to be accompanied by a fee.
- (4) The approved form must require the applicant for registration as a practising professional engineer to—
  - (a) provide the applicant's contact details, and
  - (b) specify each area of engineering to which the application relates, and
  - (c) provide evidence of the applicant's eligibility for registration as a professional engineer in each of those areas.

Canada has one of the better engineer registration systems around the world and they do not register by engineering area as it provides a high risk for engineers who almost all work in a multi-disciplined environment and are expected to do so. The requirement to work within one's competency is far more important than working within a graduation area or discipline. The restriction of 'area' is almost impossible to define and those who are competent in multiple 'areas' should not be penalized financially by having to pay to register in each one separately. The requirement should be to work within one's competency only, not area, as engineers may be competent across multiple facets of engineering. They are most likely to also be incompetent in many facets of the 'area' they earned their degree in.

## **Division 2 Register of professional engineers**

### **39 Keeping the register**

- (1) The board must keep a register of persons who are, or have been, professional engineers (the register).
- (2) The register may be kept in the way the board considers appropriate, including, for example, in an electronic form.
- (3) The register must contain all the following particulars for each person—
  - (a) the person's name and contact details,
  - (b) the areas of engineering in which the person is registered,
  - (c) details of the person's eligibility for registration as a professional engineer,
  - (d) particulars of the conditions, if any, applying to the person's registration,
  - (e) matter required by the regulations to be included in the register.

Many engineers have an issue with the public display of their name and contact details, for example those who do not want to be found for various family dispute reasons. The public register of Queensland registered engineers is not acceptable as it lists in many cases an engineer's personal residential address and contact details. This should not be allowed due to privacy concerns.

The Canadian register of professional engineers does not provide personal contact information in their publicly available registers due to privacy and legal concerns.

The public availability of personal contact information of RPEQ engineers under the current Queensland system is unacceptable to many engineers as many addresses contained in the register are private addresses. Anyone from anywhere in the world can obtain a full list of RPEQ engineers in spreadsheet format. This should not be allowed.

## **Part 4 Code of practice**

### **41 Board to make code of practice**

- (1) The board must, within 9 months after the commencement of this Part, make a code of practice to provide guidance to professional engineers as to appropriate professional conduct or practice.
- (2) In developing or amending a code of practice, the board must consult with—
  - (a) professional associations in the State that the board considers represent the interests of professional engineers, and
  - (b) universities that—
    - (i) are established in the State, and
    - (ii) are engaged in the education of students in the profession of engineering, and
  - (c) any other person or entity the Minister directs the board to consult with.
- (3) A code of practice, or an amendment of a code of practice, has no effect until it is approved by a regulation.
- (4) The board may make a code of practice by adopting another entity's code of practice with or without changes.
- (5) The board's code of practice is a statutory rule within the meaning of the Subordinate Legislation Act 1989.

Any code of practice, code of conduct or code of ethics should be discussed and accepted by the whole engineering industry via open and transparent consultation, especially since the vast majority (over 80%) of practicing engineers are not members of the main engineering professional associations in Australia. Professional associations therefore cannot currently assume to be the voice of the engineering industry since their member numbers are very low.

Professional associations have also been very biased in their public campaigns for registration by only passing on the feedback from those engineers and non-engineers who support registration, while ignoring the concerns and the opposition of many engineers and business owners.

For example;

1. The asafervic website only published feedback in favour of the legislation <https://asafervic.org.au/engineers-have-their-say/> (No information provided that the responses were from engineers)
2. The Engineers Australia youtube video on registration of engineers in NSW only provides feedback from three engineers who are in favour of the legislation. Every statement made about the need to register engineers in this video is covered by engineers being registered on the National Engineer Register. *Interestingly comments are turned off for this video.* <https://www.youtube.com/watch?v=ZeVHw-9VrsQ>
3. In 2018 Engineers Australia claimed in writing to Victorian Government MPs "The overwhelming majority of Engineers Australia's 22,000 members in Victoria believe that registration is a positive move forward for the profession and our great State" Yet, no survey was conducted of all Victorian members of Engineers Australia and approximately 40% of Engineers Australia members are students who are not yet engineers and may never be.
4. A regional Engineers Australia group was invited in writing by the Victorian government to make a submission on the Professional Engineers Registration Bill (Vic) which it did. This was subsequently forced to be withdrawn by Engineers Australia as it did not align with their official stand on the Bill.
5. The Professionals Australia submission template provided to members wanting to make a submission to this enquiry is prepopulated with proponent ramblings. This is not encouraging members to have their say but is putting words in their mouths. <http://www.professionalengineers.org.au/inquiry-professional-engineers-registration-bill-2019/> and <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3Ab368fdcf-2173-4392-952f-14dac756403b>
6. Previous attempts to get members to send biased surveys to governments have been evident in the Northern Territory. <http://www.professionalsaustralia.org.au/blog/nt-announces-it-will-consider-engineer-registration/#survey>
7. The Professionals Australia project *Respect* is "...a targeted campaign to grow our engineer membership, especially in Queensland & Victoria where

registration for engineers is, or is about to become, mandatory..." and "This project aims to drive membership growth, and through that deliver greater clout to the union to deliver policy gains for the profession"

<http://www.professionalsaustralia.org.au/professional-women/wp-content/uploads/2016/05/ATTACHMENT-D-Respect.pdf>

8. The independent survey of engineers has shown that less than 15% of engineers support the implementation of the Professional Engineers Registration Bill 2019 in either Victoria or NSW. <https://www.surveymonkey.com/r/STYSGMT>

## **Part 5 Complaints and investigations**

### **Division 6 Action following investigation—person other than professional engineer**

#### **70 Publishing information if person other than professional engineer found guilty of offence**

- (1) This section applies if a person other than a professional engineer is found guilty of an offence against Division 1 of Part 2, whether or not a conviction is recorded.
- (2) The board may, during the relevant period, publish the information about the offence on the board's website.
- (3) For subsection (2), only the following information may be published—
  - (a) the person's full name and any other identifying particulars,
  - (b) the person's business address or former business address,
  - (c) particulars of the offence committed by the person,
  - (d) particulars prescribed by the regulations.
- (4) If the finding of guilt is quashed on appeal, the board must remove any reference to the offence from the website.
- (5) In this section— relevant period means the period starting on the date the finding of guilt is made and ending 5 years after that date.

This would cause irreparable reputational damage and is not acceptable, especially in the case where there is no finding of guilt. Our governments should be encouraging engineers to work and achieve great things, not bullying them, threatening them, or publicly denouncing them, thereby crushing their prospects of finding work and making it difficult to keep their reputations intact.

## **Part 6 Authorised officers**

### **Division 2 Information gathering powers of authorised officers**

#### **77 Recording of evidence**

- (1) An authorised officer may cause any questions and answers to questions given under this Division to be recorded if the officer has informed the person who is to be questioned that the record is to be made.
- (2) A record may be made using sound recording apparatus or audio visual apparatus, or any other method determined by the authorised officer.
- (3) A copy of a record must be provided by the authorised officer to the person who is questioned as soon as practicable after it is made.
- (4) A record may be made under this section despite the provisions of any other law.

The power to make records by sound recording or audio-visual apparatus without permission is unacceptable.

## **Part 6 Authorised officers**

### **Division 3 Entry to premises by authorised officers**

#### **78 Powers of authorised officers to enter premises**

(1) An authorised officer may enter any premises at any reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the premises.

(2) A power to enter premises conferred by this Act authorises entry by foot, vehicle, vessel or aircraft or by any other means.

(3) Entry to any premises may be effected with or without the authority of a search warrant.

(4) When exercising a power of entry under this Part, an authorised officer may be accompanied by any assistants that the authorised officer considers necessary.

The power to enter a premise by vehicle, vessel or aircraft at any time of the day without a warrant is unacceptable. What type of vehicle, vessel or aircraft are you proposing to allow to enter a place of work? What are the means inferred in the “by any other means” part of the clause? Are you suggesting that an authorised officer could potentially gain unwarranted remote access to a computer system run by a professional engineer or an engineering company? Are you also proposing to allow this to occur without the professional engineer or company owners / managers knowledge? This is Australia. What type of government powers are actually being proposed here? This is all unacceptable.

## **Division 4 Renewal and restoration of registration**

### **Subdivision 1 Preliminary**

#### **18 Continuing registration requirements of practising professional engineers**

(5) The board must—

(a) publish the board’s continuing registration requirements on the board’s website or on another publicly accessible website approved by the Secretary for the purposes of this section, and

(b) cause the requirements to be available for inspection, without charge, during normal business hours at the board’s office, and

(c) if asked by a person, give the person a copy of the requirements.

(6) The regulations may require a prescribed fee to be paid before a person is given a copy of the continuing registration requirements under subsection (5)(c).

I do not believe it is appropriate for a fee to be charged if a person asks the board for a copy of the continuing registration requirements under subsection (5)(c).

**Division 6 Disclosure by professional engineers**

**28 Professional engineer to notify board of disciplinary action by other bodies**

(1) A professional engineer must, by notice in writing, advise the board about any disciplinary action taken against the engineer in another jurisdiction in relation to the engineer's practice as an engineer, within 21 days after the event, unless the engineer has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) For subsection (1) it is immaterial whether or not the disciplinary action happened under a law of the other jurisdiction, or under the rules of an association of professional engineers.

I do not believe a professional body should have the authority to hinder a professional engineer's career in any manner whatsoever. This could lead to inappropriate abuse or victimization of members of professional associations that can have damaging consequences to an engineer's ability to make a living.

By Engineers Australia's own words "Engineers Australia is not a body having as one of its objects the promotion of the interests of its members. It is not a member-focused organisation. There are professional associations that are member focused and deliver primarily services to members and exist for their members. Engineers Australia is not one of those;"

[https://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Evidence+Lookup+by+Com+I D\)/76446C5DD9BB672248257D96002B7F13/\\$file/ls.tla.141030.tro.007.ma.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/(Evidence+Lookup+by+Com+I D)/76446C5DD9BB672248257D96002B7F13/$file/ls.tla.141030.tro.007.ma.pdf)

There are many aspects of this Bill that are not in the best interests of the engineering community, as outlined by hundreds of engineers and business owners in the responses to the independent survey of engineers. Please see survey results attached.

Many questions raised by engineers and business owners have not been answered or even acknowledged yet by the Professional associations. There are many unintended consequences of this Bill that have not yet been raised in formal discussions.

I encourage you not to pass the Professional Engineers Registration Bill 2019 (NSW).

Kind Regards,

Vanessa McCallum

Chartered Professional Engineer for 18 years

Listed on the NER (previously the NPER for 18 years)

Member of The Institute of Engineers Australia for 18 years

EA Member Number: [REDACTED]





Pages 9-193 redacted