

**Submission
No 55**

PROFESSIONAL ENGINEERS REGISTRATION BILL 2019

Organisation: Local Government NSW

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Draft
LGNSW Submission to the Legislative
Assembly Committee on Environment and
Planning Inquiry into *Professional Engineers*
Registration Bill

January 2020

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1. Opening

Local Government NSW (LGNSW) welcomes the opportunity to make a submission to the Legislative Assembly Committee on Environment and Planning in response to the inquiry and consultation on the *Professional Engineers Registration Bill 2019* (PER Bill).

LGNSW is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

This submission provides some general comments and in-principle support for the concept of registration of professional engineers. It also makes some observations about factors to be considered about implementation and transition, if a professional engineers registration scheme was to be introduced in NSW. The submission does not comment specifically on the content of the PER Bill or on the details of the proposed scheme as set out in the bill.

This is a draft submission awaiting review by the LGNSW Board. Any revisions made by the Board will be forwarded.

2. Background

There have been recent local and international high-profile examples of buildings, structures and infrastructure that have highlighted where robust statutory controls and enforcement of professional engineering practices may have prevented loss of life, injury and cost. An example familiar to many in NSW is the Opal Tower evacuations due to cracking in December 2018. The first three recommendations of the independent *Opal Tower Investigation Final Report* in February 2019¹ were for the “creation of a registry of engineers” and independent certification and on-site inspections by “registered engineers”. The authors of this report observed: “The first three recommendations, if they had been in place, would have significantly reduced the likelihood of, or avoided, the Opal Tower damage.”²

In 2019, the Government introduced the *Design and Building Practitioners Bill 2019*, which proposes registration of certain design professionals (including engineers) who work in the building industry. LGNSW understands that the new obligations under the bill will initially apply to class 2 buildings (ie. those residential buildings that are multistorey and multi-unit³). The proposals in the *Design and Building Practitioners Bill 2019* only apply to the building industry, leaving other sectors where engineers work (for example commercial buildings, bridges, tunnels, transport infrastructure, schools and hospitals) potentially exposed to unregistered practitioners.

LGNSW understands the PER Bill has been introduced to complement the *Design and Building Practitioners Bill 2019*, by ensuring the engineers designing NSW bridges, roads, electricity systems and water systems are adequately qualified consistent with those working

¹ <https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/opal-tower-investigation-final-report-2018-02-22.pdf?la=en>

² Opal Tower Investigation Final Report in February 2019, p 14

³ Second Reading Speech *Design and Building Practitioners Bill 2019*, 13 November 2019 (<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1323879322-108381'>)

on buildings. It seeks to establish a comprehensive registration scheme for engineers across NSW, generally in line with the registration schemes already in place in Queensland and forthcoming in Victoria⁴. LGNSW notes the PER Bill has the support of a number of professional engineering associations⁵, including the Institute of Public Works Engineering Australasia (IPWEA) NSW Division which draws a significant area of its membership from professional engineers working in local government.

Following its introduction into the Legislative Assembly on 24 Oct 2019, the PER Bill was referred to the Legislative Assembly Committee on Environment and Planning on 21 November 2019 for inquiry and report.

The Terms of Reference for the inquiry are included in **Attachment 1**.

3. LGNSW Policy Position

This submission aligns with current LGNSW and Advocacy Priorities in relation to building regulation and health and safety. These are contained in the LGNSW Policy Platform⁶ (June 2019) and stated in **Attachment 2**.

4. General comments on proposed registration of professional engineers

In principle support

LGNSW is supportive of any proposal that will deliver an assurance of high-quality building and construction work and contribute to restoring public confidence in the health and safety of our buildings and infrastructure assets. LGNSW therefore supports the concept of registering professionals involved in the building and construction industry to ensure the accountability and integrity of the industry professionals who design, construct and maintain these structures.

Both the Lambert Review⁷ and the Shergold Weir report⁸, have recommended reforms in the building sector to ensure that building practitioners involved in design as well as construction and maintenance of buildings are registered. Shergold and Weir's first recommendation⁹ is that various categories of building practitioners (including engineers) who are involved in the design, construction and maintenance of buildings should be registered. The registration of engineers as proposed in the PER Bill is in line with this principle and extends it to cover engineers in construction sectors other than building.

⁴ Second Reading Speech – *Professional Engineers Registration Bill 2019*, 24 October 2019 (<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-108483>)

⁵ Institute of Public Works Engineering Australasia (IPWEA) NSW Division; Engineers Australia; and Association of Professional Engineers Australia (APEA)

⁶ <https://www.lgnsw.org.au/policy/policy-platform>

⁷ Lambert, Michael, *Independent Review of the Building Professionals Act 2005 – Final Report*, October 2015

⁸ Shergold-Weir 'Building Confidence Report' (February 2018)

⁹ Shergold Weir Report, Recommendation 1, p 15

LGNSW is in favour of the recommendations from these inquiries that all practitioners, from design to completion, should be held accountable and must operate within a robust regulatory framework. For this reason, we have supported the Government's proposals to register building designers and practitioners.¹⁰ **The registration of engineers is in line with this intent and LGNSW therefore supports it in principle.**

For more than 20 years LGNSW and councils have argued for a robust and reputable regulatory regime that delivers well-built, safe and compliant buildings, structures and infrastructure that protect the public interest. From councils' perspective, the public interest includes not only property owners/buyers, but occupants such as residents/tenants, neighbours, and the wider community who use roads, bridges, footpaths and other infrastructure.

Local government is one of the main providers of public infrastructure, and therefore has a key role in its delivery and maintenance. Councils plan, develop, manage and maintain key community services and infrastructure, including local roads, bridges, footpaths, water and sewerage (in some states), drainage, waste disposal and public buildings. As regulators and owners and operators of public infrastructure and assets, it is in councils' interest to ensure that all infrastructure assets are adequately scoped, built, and maintained. This requires suitably qualified people to be providing and managing public infrastructure, community assets and public safety at all stages¹¹.

Implementation and transition

While there appears to be broad support for the principle of a compulsory registration scheme for engineers in NSW, the details and plan of how this would be implemented, including transitional arrangements, are still to be agreed. Scrutiny will be needed when determining how an accreditation scheme will work and how applicants seeking registration will be assessed. The government has already done a lot of work with the Fire Protection Association of Australia (FPAA) to develop a co-regulatory framework for accrediting 'competent fire safety practitioners' (CFSPs) which could be used as a basis for a model for registering engineers and other building practitioners.

It is also critical that the introduction of any such scheme would follow a period of phased transition, with input from all stakeholders in its design. As a significant employer of engineers, local government would expect further and widespread consultation in the development of such a scheme and all transition arrangements.

It is noted that schemes for registration of professional engineers already exist in Queensland and Victoria. LGNSW cannot comment on the structure and merits of these schemes, however **we consider it important to fully understand the lessons learned and experiences of those who administer such schemes in these other states before finalising any such scheme and designing its implementation for NSW.**

¹⁰ LGNSW Submission on *Building Stronger Foundations Discussion Paper*, July 2019 (https://www.lgnsw.org.au/files/imce-uploads/166/Draft-submission_on_Building_Stronger_Foundations_Discussion_Paper.pdf)

¹¹ Institute of Public Works Engineering Australasia (IPWEA), 'Submission to Inquiry into the Regulation of building standards, building quality, and building disputes', October 2019, p 10

Skills shortage in local government

Another important consideration is the skills shortages faced by many councils in NSW. The *NSW Local Government Workforce Strategy 2016-2020*¹², developed by LGNSW in collaboration with several professional associations and educational institutions, identified the greatest challenges that councils faced in developing their workforces for the future include an ageing workforce and skills shortages in professional areas. Research conducted by LGNSW in 2018 confirmed that engineering was the most common area of skill shortage reported in local government, with 52.7% of NSW councils experiencing a shortage of engineers.¹³

Councils' structures, circumstances and resources vary greatly and it is LGNSW's preference that councils have a range of options to choose from for attracting, retaining and sharing the employment of engineering professionals with the aim of maintaining their engineering expertise and capacity.

While LGNSW is not opposed in principle to the idea of a registration scheme for engineering professionals, **it is important that such a scheme would operate in a manner that does not restrict diversity and access to careers in the profession and represent an increase in bureaucracy and associated costs.** It is LGNSW's view that the development of such a scheme would require further and widespread consultation with our members.

Registration is an important step towards reform of the wider system that recognises competence and ensures greater accountability, thus contributing to greater public confidence. Any such scheme would need to align with building reforms currently underway – the registration system should support and work with the *Design and Building Practitioners Bill 2019* and further reforms being proposed by the NSW Building Commissioner.

5. Conclusion

NSW needs a regulatory framework that ensures the building and construction sector delivers well-built, safe and compliant buildings and public infrastructure. This means having a system where all parties, including professional engineers, are responsible and accountable for their actions, and the community and public interest is protected.

LGNSW supports in-principle the registration of engineers in NSW, bringing it into line with other states such as Queensland and Victoria that have registration systems in place. LGNSW expects widespread consultation with local government in developing any plans for implementation and transition of a compulsory professional engineers registration scheme. Given the challenges facing councils particularly in regional NSW as major employers of engineers, any such scheme would need to be phased in and designed so that councils have a range of options to choose from for attracting, retaining and sharing the employment of engineering professionals.

To discuss this submission further, please contact LGNSW Strategy Manager, Planning and Transport, Jane Partridge on [REDACTED] or [REDACTED].

¹² <https://www.lgnsw.org.au/key-initiatives/nsw-local-government-workforce-strategy-2016-2020>

¹³ LGNSW, *Local Government Workforce and Future Skills Report*, September 2018
(<https://www.lgnsw.org.au/key-initiatives/workforce-and-future-skills-report>)

Attachment 1: Terms of Reference

Inquiry into Professional Engineers Registration Bill 2019 Terms of reference

That the Legislative Assembly Committee on Environment and Planning conduct an inquiry into the Professional Engineers Registration Bill 2019, including:

1. The most appropriate way to regulate professional engineers in the building and construction industry.
2. How engineers and other building industry professions are regulated and monitored, and proposals for reform under the Bill and consideration of alternate proposals.
3. Any other related matter.

Attachment 2: Relevant LGNSW position statements

5. Building Regulation and Certification Position Statement

LGNSW advocates for:

- 5.1 *Tighter and more effective regulation of private certifiers by the State Government's building regulators – new regulatory arrangements must be strong, proactively enforced and subject to regular and rigorous audit.*
- 5.2 *The State Government to take priority action to address the many issues identified in the NSW independent review of the Building Professionals Act 2005 and the Shergold Weir Report.*
- 5.3 *A single regulatory body responsible for building regulation and certification that is independent, well-resourced, effective and accountable.*
- 5.4 *Extensive consultation with local government on any proposed changes to strengthen building regulation.*
- 5.5 *Complying development to be limited to low risk or low impact development, with clearly defined parameters*
- 5.6 *Provisions to protect consumers of building developments against the unsatisfactory professional conduct or professional misconduct of any private accredited certifier who practices as a public official but not in the public interest.*

14. Health and Safety Position Statement

LGNSW advocates:

- 14.1 *For practical reforms and initiatives that improve public health and safety but do not represent cost shifting or burden the limited resources of local government without providing adequate funding or cost recovery mechanisms.*