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Dear Ms Foley,

Thank you for the opportunity to appear before the NSW Legislative Council's Public Accountability Committee for its inquiry into the regulation of building standards, building quality and building disputes.

This letter provides responses to the Questions on Notice (as shown in the draft Hansard), for the hearing we attended on 27 August 2019, in Sydney.

1. *The Hon. COURTNEY HOUSSOS: Just jumping in on your national registration scheme, in your submission you say that of the roughly 60,197 engineers working in New South Wales, only 5,248—which is about, you say, 8.7 per cent—how does that compare with other States, in particular Queensland and Victoria, that do have some kind of registration model?*

In QLD there are 32,336 engineers in engineering roles (based on the 2016 census). In 2019, of these there are 5,794 engineers on the NER and 14,437 are on the BPEQ register (noting that many will be registered on both systems).

In Victoria, there are 49,752 engineers in engineering roles (based on the 2016 census). In 2019, of these there are 3,385 engineers on the NER and 3,015 are on the VBA register (noting that the VBA only registers those in the building sector).

2. The Hon. TREVOR KHAN: Or at least if there is a notification to the other registration bodies that action has been taken. Mr EWING: Exactly. The Hon. COURTNEY HOUSSOS: Is that a provision in Queensland at the moment? Mr RUSSELL: It is the only State that has. The Hon. COURTNEY HOUSSOS: Do you know if there is a provision in the Victorian legislation to provide for it?

The Victorian Professional Engineers Registration Bill 2019, as passed, does not include a clause to specify notification of an engineer being struck off the register to other jurisdictions.

3. The Hon. JOHN GRAHAM: To that question, in your submission you set out what you believe should be the essential elements of a registration scheme, which is quite helpful. You run through occupations to be registered, minimum requirements, mandatory skills and insurance. How does what you have set out as the essential elements compare to Queensland and Victoria?

Regarding the Victorian legislation, because the detail will be finalised in the regulations, the Government's publicly available FAQ document is the most definitive resource. It states that, "It is expected competency will include: a four year Washington accord degree; five years' relevant work experience; and continuing professional development (CPD)." The bill as passed also defines "unsatisfactory professional conduct" to include "unethical conduct". A certificate of registration is not specified but we expect it to be a condition, much like any other registration/licensing scheme.

In QLD, it is stipulated in the Board of Professional Engineers Queensland (BPEQ) Assessment Scheme Criteria that engineers need to have a professional engineering qualification benchmarked to international education standards via the Washington Accord or equivalent, and assessment Schemes are referenced in the Act. The BPEQ's Assessment Scheme Criteria cites four years' post graduate experience (which is a recent change in 2019), and also stipulates a need for currency of continuing professional development of 150 hours over a three-year period. The BPEQ have a code of Practice, all Registered Professional Engineers Queensland (RPEQ) are bound by the Code of Practice, and a Code of Practice is referenced in the Act. Finally, the need for an annual certificate of registration is referenced in the Act.

4. The Hon. MATTHEW MASON-COX: Can I ask a different question? Can you give me some feedback about whether there have been any problems with your members getting insurance in New South Wales as a result of what has happened in the building industry recently? Mr RUSSELL: Yes, for sure there has. I think it is very well documented and known that within the current building confidence crisis, insurers are less willing to provide coverage, and where they are the premiums are much higher. The Hon. MATTHEW MASON-COX: Can you give us

some examples of that, perhaps on notice? Mr RUSSELL: Yes, on notice. I would probably need to get permission from members who are keen for that.

To answer this question, Engineers Australia has drawn on the advice of EngInsure, which is an insurance brokerage entity created by the organisation to support engineers in their Professional Indemnity Insurance (PII) requirements. The information we have is that, yes, there are multiple cases where an engineer hasn't changed their scope of activities or increased the business risk profile and yet the insurance market has imposed higher deductibles/excesses, increased premiums and in some cases applied exclusions or restricted cover by way of sub-limits. Specific examples have not been able to be sourced in the time available. For more information about EngInsure, please see our response to Question 5.

5. The CHAIR: Once we start talking about compulsory insurance, in your answers on notice would you mind picking up the issue of tail claims as well, when somebody exits the industry, what your position is in terms of compulsory insurance at that point? The Hon. MATTHEW MASON-COX: If you could also in that question on notice give us an understanding, not just of the quantum of perhaps the change over the last few years, some examples of that, but also the deductible. We are getting some evidence that deductibles for some insurances are moving very significantly, so in essence it may not be useful insurance for somebody trying to cover their business. The CHAIR: I think it is deductibles and exclusions, both. The Hon. MATTHEW MASON-COX: Deductibles, exclusions and indeed any thoughts you might have from your membership about how we might better facilitate insurance for engineers, and indeed the wider industry, given your on-the-ground experience.

With regard to Engineers Australia's rules for the voluntary National Engineering Register (NER), an engineer needs Professional Indemnity Insurance (PII) to be on the NER. Once an engineer exits the NER there is no formal requirement for PII.

However, best practice is to ensure that a business or sole trader puts their policy into 'run-off' cover at the time they cease trading. This provides on-going protection to their client(s) and to any employees that were employed during that period. Generally, the market provides a maximum period of seven years for this run-off cover.

With regard to action to better facilitate insurance for engineers, Engineers Australia has partnered with the Whitbread Insurance Group to create EngInsure Insurance and Risks Services. The aim is to provide Engineers Australia members and the broader profession with a long-term insurance solution around cover and pricing. The more people and firms that participate over time, the stronger the position will be for professional engineers in the insurance market.

Finally, it is noted that Building Minister Forum action (led by the Senior Officers Group, and the NSW and QLD jurisdictions in particular) to solve the PII issues for certifiers is likely to lead to better outcomes. That said, it is very important to note that although the PII issues are most acute for certifiers today, and also fire safety engineers, but there is a need to review the wider PII market for professional services.

6. The Hon. TREVOR KHAN: Are you able to take notice, say, over the last 10 years on an annualised basis how many people have been struck off in Queensland, just so we get the feeling? Mr RUSSELL: Sure. We can write to the Board of Professional Engineers Queensland. Hopefully, they will give us that information. The Hon. TREVOR KHAN: In your hands. The CHAIR: But give us the context too because, as you say, if you have got a system that maintains standards, hopefully you would be striking off a lot less than a system that does not have any standards being maintained.

The following disqualifications are sourced from the BPEQ Annual Reports. We note, and support, the comments made by the Committee Chair that the low number of disqualifications is a sign of strength in the registration system for maintaining high standards. It is of course essential that regulatory agencies are adequately funded to enable proper enforcement action, so the two must be applied together: regulation, and enforcement.

- 2017/18: 0
- 2016/17: 1
- 2015/16: 0
- 2014/15: 0
- 2013/14: 0
- 2012/13: 2
- 2011/12: 1
- 2010/11: 0
- 2009/10: 1
- 2008/09: 0
- 2007/08: 0
- 2006/07: 1

If the Committee requires anything further, please contact me on (02) _____ or
by email at _____

Kind regards,

Jonathan Russell

National Manager for Public Affairs