

Association of Consulting Structural Engineers Victoria Inc.
(ACSEV)

Association Number A0026069J

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Email:

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22nd March 2018

Dear Sir / Madame,

RE: Engineer Registration Bill
Concerns

The Association of Consulting Structural Engineers Victoria (ACSEV) represents some 250 plus consulting structural engineers in Victoria, most of whom are registered civil engineers as per the requirements of the Victorian Building Act. We do have some engineer members who are not registered, but are junior, retired, or simply employed by a firm run by a registered civil engineer.

We have reviewed the Engineers Registration Bill 2018 currently before the Victorian Parliament Legislative Assembly, and have some concerns with the Bill.

The consultation process for the preparation of this Bill has not included our organisation, or as far as we can determine, the general engineering profession. We did provide a response to the Department of Treasury and Finance regarding the original white consultation paper 'A Statutory Registration Scheme for Victorian Engineers' from September 2016, but received no reply and have had no further involvement with the preparation of this Bill.

We acknowledge that professional groups such as Engineers Australia have been involved with the process as targeted stakeholders, but their interests do not always coincide with ours. We generally represent sole practitioners and small business firms of engineers, near all of whom are directly involved in the construction industry. We are concerned as to what appears minimal consultation within the profession regarding this Bill.

We support the intent of the Bill, which is to improve the standing of professional engineers in the community and give assurances to the public as to the capability and qualification of professional engineers.

However, we question the need of the Bill and believe that the Bill should at the least be significantly amended. We believe the Bill should only be accepted after considerable amendments which we believe are necessary to protect the interests of both Engineers and the wider community.

We request your consideration to asking that the Victorian Parliament oppose or significantly amend the proposed Bill.

Attached are our comments, which we ask be considered as part of our request to oppose or significantly amend the Bill.

We hope for your support and we look forward to your response.

Yours faithfully,

A handwritten signature in blue ink, consisting of two distinct, stylized cursive-like characters.

Karl Apted BE(Civil) MIE(Aust) MACSEV RBP-EC
President

On behalf of the Committee of the
Association of Consulting Structural Engineers Inc.
Association Number A0026069J

Engineers Registration Bill 2018

ACSEV Review of Bill 22nd March 2018

Comments:

1. 'Engineers' Registration Bill and Definition of Engineer

What is an Engineer and what is a Professional Engineer?

Engineer is a word that describes a person who designs, builds, or maintains engines, machines, or structures. It also describes someone who is qualified in a branch of engineering (eg. structural engineer). It also can describe someone who maintains an engine (eg. aeronautical engineer). Some classes of engineer (eg. aeronautical) can refer to all of the above.

- The act references professional engineers and professional engineering services. Why isn't the Bill called 'Professional Engineers Registration Bill'? This will help avoid confusion with other forms and types of engineering including (for example maintenance engineers etc) as Engineer is not a protected word (like Architect is).
- The Queensland Act is known as the 'Professional Engineers Act'
- The definition of a professional engineer and a professional engineering service needs to be carefully worded so as to not limit other engineers from working. For example, if you are a maintenance engineer or steel fabrication engineer and are providing engineering advice, are you now caught up under this legislation?

2. Administration and Disciplinary Proceedings (Part 4)

ACSEV has concerns as to who will administer and form part of any disciplinary proceedings. ACSEV believes that any disciplinary body should include peer representation from an engineer of the same category.

We have concerns as to who will be administering the Act, including:

- Who is to be assessing engineer applications once an engineer is considered qualified by an Assessment Entity?
We understand that 'Business Licensing Authority' will do this, we assume this will remain the Victorian Building Authority.
- Who will be the 'Assessment Entity' administering the 'Assessment Scheme'? We assume this to be Engineers Australia at this stage. We would like to see additional entities also be 'Assessment Entities' to increase competitiveness and reduce a monopoly situation. Engineers Australia is already asking varying fees, depending on whether you are a member or not, to be part of the National Engineers Register (NER). If there is to be a single Assessment Entity, fees should be the same for all applications.
- Who will be part of the Business Licensing Authority or the VCAT disciplinary body? Will there be 'Professional Engineer' peers on these

bodies? It seems unfair to have professional conduct questioned by those not part of the profession, especially in regards to negligence.

- ACSEV would prefer to see a board or similar to that required under the Architects Act 1991 in Victoria rather than a legal tribunal under VCAT.

3. Powers of Entry and Search, and keeping of Records (Part 6)

ACSEV has concerns as to the onerous requirements and excessive powers provided to investigate engineers. These appear excessive, especially when compared to similar professions.

- ACSEV has concerns as to how these provisions work for 'Registered Engineers' who are employees of a firm or another Registered Engineer.
- Whose are the records? How does an employee keep records if they are held by former employer? Does an employer release their information prepared by former employees?
- Clause 71(1) states that a registered engineer must, at all reasonable times at each place at which the engineer practices as a registered engineer, keep all documents relating to business available for inspection by an inspector in a form that can readily be inspected.
 - o What does 'business' mean?
 - o What does 'all documents' refer to?
 - o What is a format that can be 'readily inspected'?
 - o Is the inspector an engineer or is the inspector qualified to know what they are inspecting for?
- Powers of search and entry seem excessive. Why can these not match other professions such as the Architects or Medical Practitioners?

4. Offences (Part 5)

The associated penalties to offences appear quite significant. ACSEV has concerns as to the size of proposed penalties for breach of the proposed Bill. These appear excessive, especially when compared to similar professions.

- Penalty amounts are significantly higher than for similar profession such as Architects. The penalties noted appear up to 60 (\$9 514.20) Penalty Units. The Engineers Registration Act limits VCAT to 200 Penalty Units (\$31 714.00). Currently a penalty unit is \$158.57.
- Sections 67 & 68 note 500 (\$79 285.00) Penalty Units for providing professional services whilst unregistered or purporting to be registered when not. The Architects Act is 60 (\$9 514.20) Penalty Units (Architects Act Section 4).

5. Codes of Conduct

ACSEV has concerns as to who will be setting the code of conduct, whether there are multiple codes for each type of engineering, and what provisions will there be for changes?

- Can the Assessment Entity set the code of conduct?
- If there are multiple assessment entities, will there be multiple codes of conduct for each engineer category?
- Can there be multiple codes of conduct for the same area of profession or will there be only one?

6. Existing Registered Engineers in Victoria (Part 8)

ACSEV has concerns as to how existing registered and professional engineers will be treated, and the compliance costs (fees and time) for existing registered engineers to transition.

- The Bill does not effectively recognise that already in Victoria we have registration of professional engineers under the Victorian Building Act 1993.
- We note that there is a category of Endorsed Building Engineer, which is effectively a Registered Building Practitioner of Class Engineer.
- What is the process for recognition of existing registered engineers in the future? ACSEV is concerned that currently registered engineers will have 5 year grace period on commencement of this Bill, but will then need to apply under the requirements as effectively a new engineer. What recognition is given to engineers with up to 25 years plus of being a registered engineer?
The Bill gives transition provisions in Section 8, and states that if you are a Registered Building Practitioner at the time this Bill comes into force, you will be a Professional Registered Engineer with the Building Engineer Endorsement.
- ACSEV believes that any Registered Building Practitioner Engineer under the current Building Act should be 'grandfathered' into the new scheme and be considered a registered professional engineer in the same categories provided they meet the *ongoing* requirements of the 'Assessment Entity', not their entry requirements.

7. Multiple Registrations

ACSEV has concerns as to how professional registered engineers will be treated and registered under multiple categories.

Currently Registered Building Practitioner Engineers under the Category Civil Engineer as per the Building Act 1993 can practice as (and are required to have knowledge of) Civil (drainage / stormwater), Structural, and Geotechnical engineers. This is similar for Mechanical and Electrical engineers.

- Will there be restrictions on working in similar fields. For example, will a Structural Engineer be able to design subsurface drainage (ie. Civil Engineering)?

- What will be continuing professional development requirements for multiple engineer category registrations?
- Many engineers currently work over multiple engineering categories. Will this now be prohibited if you only have one category of registration.

8. General Comments

ACSEV feels the act will impose unnecessary burdens on Professional Engineers and will discourage members of the profession from becoming Registered Professional Engineers.

- ACSEV has concerns as to what the intent of the Bill is and what is the intended outcome? Making the registration process more onerous and will not lead to more engineers becoming registered. It will more likely discourage engineers from becoming registered, especially when they can work under the supervision of a registered engineer.
- ACSEV believes that compliance with the Act will lead to increased administrative burdens and costs that will in turn need to be passed onto the consumer and public.
- ACSEV believes the proposed Bill to be a restriction of trade, in that the proposed system will likely ensure that all Registered Professional Engineers need to work through the assessment entity that sets its own assessment scheme and code of conduct. Engineers who currently are not members of these organisations will be penalised financially (higher fees to be Assessed if not a member of the Assessment Entity) and there is also a significant time impact to detail with this process.
- ACSEV believes there to be a potential conflict of interest in Assessment Entities charging more for assessment if applicants are not members of the entity. This could be particularly an issue if there is only one assessment entity (at this stage we understand the Engineers Australia will be an assessment entity, as far as we can determine at this stage, they are the only entity setup to do this).
- ACSEV would like to see further more widespread consultation with all stakeholders including the engineering profession and the general public. We do not consider the profession to have been adequately consulted.
- ACSEV would also like to see whether a cost benefit analysis has been done to confirm the need for changes.

ACSEV has concerns as to the cost of administering this process and questions the need for the Bill.