



ENGINEERS
AUSTRALIA

Registration of Engineers in NSW

Engineers Australia NSW Reforming Building Laws
Submission

November 2022



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Engineers Australia
11 National Circuit, Barton ACT 2600
Tel: 02 6270 6555
Email: policy@engineersaustralia.org.au

www.engineersaustralia.org.au

Table of Contents

Registration of Engineers in NSW	1
1 Introduction	4
1.1 Purpose of this document	4
1.2 Engineers Australia	4
2 Key Recommendations	5
3 The Benefits of Registration	6
4 Nationally Consistent Engineer Registration	7
5 A Co-Regulatory Approach	9
5.1 The Role of Regulators	9
5.2 The Role of professional associations.....	10
6 Current Issues and Proposals that Undermine National Consistency	11
6.1 Registration of Individuals	11
6.2 Mutual Recognition	11
6.3 Co-Regulation and Assessment Entities	12
6.4 Continuing Professional Development	14
7 Conclusion	15

1 Introduction

1.1 Purpose of this document

Engineers Australia supports the efforts of the NSW Government to reform the building industry in NSW and to implement the recommendations of the *Building Confidence Report*.

Engineers Australia has prepared three submissions in response to the proposed building reform laws and associated Regulatory Impact Statements. These submissions are:

1. *NSW Reforming Building Laws* submission
2. *Registration of engineers in NSW* submission (this document)
3. *The issue with insurance requirements for engineers* submission

This document provides Engineers Australia's feedback to the proposed Building Bill 2022, specifically in relation to the registration of professional engineers. This should be read in conjunction with Engineers Australia's *NSW Reforming Building Laws* submission and *The issue with insurance requirements for engineers* submission.

1.2 Engineers Australia

Engineers Australia (EA) is the peak member-based professional association for engineers. Our work is supported by around 100,000 members, including about 25,000 in NSW. Established in 1919, Engineers Australia is constituted by Royal Charter to advance the science and practice of engineering for the benefit of the community.

The term 'community' is used in its widest sense, and the issues raised in this submission seek to improve outcomes for everyone. Engineers Australia's contribution is designed to help create a legislative framework to deliver a better-performing engineering sector with clearer accountability of those involved.

The majority of engineers provide their services competently, ethically and with diligence. However, in the absence of regulation for engineering, anyone could purport to be an engineer and provide engineering services without appropriate competencies and with disregard to standards and ethical practice.

Engineering services are vital to national economic prosperity and social well-being, yet there is no uniform regulatory regime for engineering practitioners in Australia.

Engineers Australia maintains national professional standards, aligned with the International Engineering Alliance standards. As Australia's signatory to the International Engineering Alliance, we have authority to accredit higher education engineering programs and credential experienced engineers against international independent practice standards. Engineers Australia also manages Australia's largest voluntary register for engineers, the National Engineering Register (NER).

2 Key Recommendations

The existing engineer registration legislation (*Design and Building Practitioners Act 2020*) provides for general professional engineer registration that is broadly consistent with the national model based on the Queensland and Victorian legislation despite some process inconsistencies. These inconsistencies include scope (restricts to certain classes of building), unspecified standard of competence and variation in what constitutes eligible pathways. Harmonisation of registration schemes across Australia, allowing for Automatic Mutual Recognition (AMR) and/or Automatic Deemed Registration (ADR) is a high priority for industry so that the unnecessary administrative burden associated with navigating different systems does not impact productivity. The current NSW Reforming Building Laws proposals would move engineering registration in NSW further away from a nationally consistent model. To be more aligned with a nationally consistent model, it is recommended that the NSW Government:

1. Establish a NSW Professional Engineers Registration Act

The best way for NSW to align with other jurisdictions is to develop a NSW Professional Engineer Registration Act based on the Queensland/Victoria model.

Until a Professional Engineer Registration act can be implemented in NSW, **Engineers Australia does not support modification of the three pathways to registration for engineers should the Building Bill proceed.**

2. Ensure registration covers all areas of engineering

Potentially significant health, safety and economic risks exist beyond the building sector if engineering work is conducted by unqualified or incompetent persons. Engineers Australia recommends that statutory registration of professional engineers should apply to professional engineers who provide professional engineering services in any area of engineering in any industry. Not doing so could encourage those unsuitable to do engineering work to transfer into sectors in which engineering work is not subject to registration, thereby increasing risk in those sectors. It will also disadvantage NSW engineers compared to those in jurisdictions with comprehensive registration with respect to mutual recognition.

3. Accept an agreed set of registration standards and assessment processes.

The Queensland and Victorian acts require practice standards and assessment processes to be consistent with national and international standards and these should be clearly linked to the International Engineering Alliance (IEA) *Graduate Attributes and Professional Competencies*. Engineers Australia is a member of the IEA and is recognised as the custodian of Australian competency standards by all other IEA members. NSW should accept an agreed set of registration standards and assessment processes consistent with these national and international standards.

4. Facilitate Automatic Mutual Recognition for a professional engineer registered in NSW.

The *Mutual Recognition Act 1992* enables an individual who is registered in an occupation in one state to be registered in the equivalent occupation in another. Mutual recognition relies on equivalence. A professional engineer registered in a tightly confined area of engineering in NSW may not be recognised as equivalent in other jurisdictions with general registration of professional engineers, while broadly registered professional engineers in other jurisdictions are eligible to be registered and do work in NSW. NSW should move as quickly as possible to general registration of professional engineers in NSW to facilitate the advantages of automatic mutual recognition.

5. Approve consistent guidelines for professional associations that operate as assessment entities and validate the operational model and performance of entities.

For a nationally consistent co-regulatory approach to work, the NSW Government must approve appropriate professional associations as assessment entities. Importantly, it is necessary to validate their scheme's operation and its alignment to national and international standards. Pathway 2 for the existing NSW *Design and Building Practitioners Act* allows for this mechanism. A requirement for national consistency and mutual recognition is confidence that the regulators in other jurisdictions make sound judgements about which assessment entities operate sound assessment schemes in accordance with national and international standards.

3 The Benefits of Registration

Registration is the first recommendation of the Building Ministers Forum's (BMF) Shergold Weir report because it is the logical first step; it creates a system to recognise people likely to perform competently, and a mechanism to exclude those found to be unsuitable to work as an engineer.

All registration systems have the same basic characteristics in that practice standards must be set, qualifications accredited, candidates examined or assessed for competency, and a register of competent professionals maintained. Performance must be monitored, and failures investigated and disciplined. A register has greater effect if supported by the regulatory sections of government (refer Section 5 - A Co-Regulatory Approach).

Compulsory registration for anyone providing professional engineering services will enable significant enhancement of public safety and consumer protection. More broadly, there are six key benefits of a registration system for engineers¹:

1. Reducing risks to public health, safety and welfare through strengthening confidence in the competency of the people who deliver professional engineering services;
2. Economic benefits from reduced cost of re-work and improved system performance;
3. Improved industry and consumer information about who is competent to deliver professional engineering services;
4. Professional recognition for registered engineers;
5. Enhanced national and international mobility and trade in engineering services; and
6. Legislative efficiency enabling regulators to more effectively develop, implement and improve consistent regulatory frameworks for the delivery of engineering services consistently in a timely manner.

Statutory registration of professional engineers should apply to anyone who provides professional engineering services, and in any area of engineering in any industry. The only exceptions would include those performing professional engineering services under the supervision of an appropriately registered engineer or if only applying prescriptive standards or designs. Consideration of registration for other members of the engineering team including associates and technologists is not addressed in this submission.

The current provisions for registration of professional engineers in Part 3 of the *Design and Building Practitioners Act 2020* largely meet these aims. Engineers Australia understands the reasons why these provisions were initially limited to engineers doing work on Class 2 buildings, but notes that the provisions as enacted allow for expansion so that registration of professional engineers is required in all areas of engineering.

Engineering services are often discussed in the context of the building sector—and often apartment buildings as a subset of that industry. However, engineers provide critical services and products as solutions to many complex challenges across many industries, like public infrastructure, power generation, manufacturing and mining.

It would be a missed opportunity if the registration scheme for professional engineers in NSW was not applied more broadly, and not doing so would transfer risk to sectors in which engineering work is not subject to registration. Registration of professional engineers has a significantly broader scope in Queensland, Victoria and soon to be the Australian Capital Territory.

¹ <https://www.engineersaustralia.org.au/sites/default/files/resource-files/2022-05/registration-engineers-case-for-statutory-registration.pdf>

4 Nationally Consistent Engineer Registration

Engineers have an important role to play in developing a more robust Australian economy and improving quality of life for Australians. A consistent national registration scheme model for professional engineers will address skills shortages by facilitating mobility of engineers within Australia and in attracting engineers with internationally recognised qualifications. The cornerstones of such a scheme are already in place.

Whilst Engineers Australia recognises that regulation of occupations is a matter for the states and territories, there are successful models for national consistency including:

1. A single national registration scheme such as that for the health sector administered by the Australian Health Practitioner Agency.
2. Model Work Health and Safety legislation, which has now been adopted in all jurisdictions except Victoria.
3. Standards and process alignment and cooperation between individual state and territory regulators, such as the way Architects Boards have established the Architects Accreditation Council of Australia.

The Intergovernmental Agreement on the Automatic Recognition of Occupational Registration² defines the objective of the AMR as being to promote the freedom of movement of service providers across jurisdictions by reducing unnecessary burden, while maintaining high standards of consumer protection, and the health and safety of the workers and the public. It also emphasises that improving occupational mobility through AMR of registrations will help employers access registered skilled workers more quickly, and at lower cost, by more seamlessly moving employees to where they are most needed and matching job seekers with employment opportunities, boosting competition, productivity, and economic growth.

It is the strongly and clearly expressed wish of individual engineers and engineering businesses in Australia to have a single, nationally consistent scheme of registration where an individual or business need only register once to demonstrate competence and be permitted to deliver professional engineering services anywhere in Australia. The current *ad hoc* expansion of registration schemes is not delivering this.

There is now a solid base for consistent statutory registration of professional engineers in Queensland, Victoria, NSW and shortly in the Australian Capital Territory and Western Australia. This comes from applying the key provisions of the Queensland *Professional Engineers Registration Act 2002*, either as a stand-alone act (Victoria, ACT) or as a self-contained module within a broader act (NSW, Western Australia). Engineers Australia is communicating with the Commonwealth, and State and Territory governments to advocate a national commitment to consistent registration of professional engineers based on the Queensland model. The model has demonstrated, over many years, to function effectively with current best practice being a stand-alone Professional Engineers Act in each jurisdiction. A federal model act could support this ambition but will take time to progress.

The Regulatory Impact Statement (page 52) states that “the original design of the DBP legislation did not intend for the registration/licensing framework for professional engineers to be held in the DBP legislation.” The current proposal in NSW to remove the professional engineer registration module from the *Design and Building Practitioners Act 2020* and merge it into a general registration scheme for building occupations in a new Building Bill further distances professional engineer registration from the consistent national model. Engineers Australia does not support this move, and strongly recommends that the existing module remains as initially implemented until it can be moved to a Professional Engineers Act to align with the national model. Should the module be moved to a new Building Bill, Engineers Australia would seek to provide additional feedback.

As there is legislation for professional engineer registration in Queensland, Victoria and NSW and likely soon to be in the Australian Capital Territory and Western Australian, it is critical that the alignment of standards and requirements are monitored to enable mutual recognition. Engineers Australia is currently engaging with the relevant regulator in each state and territory and are planning a regulatory forum to agree on actions to make the co-regulatory model work more effectively. It is suggested that this forum could progress the alignment of legislation and processes towards a truly national scheme.

² <https://federation.gov.au/sites/default/files/about/agreements/amr-iga-signed-11-december-2020.pdf>

A national scheme would consist of:

1. A stand-alone Professional Engineers Registration Act in each state and territory.

This is already the case in Queensland and Victoria and is the intended model in the Australian Capital Territory. The Queensland and Victorian Acts provide a template for a model Act that NSW could enact and that other states and territories could (and should) adopt so that consistency across Australian jurisdictions is achieved.

2. Registration to cover all areas of engineering.

This is an important public safety and quality requirement that Queensland has applied successfully since 1929. While introduction of new regulation may need to be phased, and there are sound grounds to start with high-risk areas, comprehensive coverage will uphold standards for all engineering work and ensure that all engineers can be held accountable for their work. Not doing so could encourage those unsuitable to do engineering work to transfer into sectors in which engineering work is not subject to registration, thereby increasing risk in those sectors.

3. An agreed set of registration standards and assessment processes.

The Queensland and Victorian acts require practice standards and assessment processes to be consistent with national and international standards and these should be clearly linked to the International Engineering Alliance (IEA) Graduate Attributes and Professional Competencies. Engineers Australia is a member of the IEA and is recognised as the custodian of Australian competency standards by all other IEA members. NSW should accept an agreed set of registration standards and assessment processes consistent with these national and international standards.

4. Automatic mutual recognition in each jurisdiction for a professional engineer registered in one jurisdiction.

The *Mutual Recognition Act 1992* of the Commonwealth includes the mechanism for automatic mutual recognition and is dependent on registration in a “home state”. Professional engineers whose home state does not have a registration scheme, or one which does not cover the relevant area of engineering, are not eligible for automatic mutual recognition and so expansion of registration to all areas of engineering to all states and territories is a priority. Ineffective mutual recognition places unnecessary burden on engineers and businesses that operate in more than one jurisdiction and can impact productivity.

5. Consistent guidelines for and approval of professional associations as assessment entities.

An issue for national consistency and mutual recognition is that the regulator in each jurisdiction must have confidence that the regulators in other jurisdictions make sound judgements about which professional associations are approved to assess competency, and the standards and processes they apply.

5 A Co-Regulatory Approach

Engineers Australia supports a co-regulatory model of registration, initially introduced in the Queensland *Professional Engineers Act 2002*, which includes statutory regulatory bodies and professional associations each undertaking the various roles they are best suited to perform. The co-regulatory model provides greater assurance of the competency of registered engineering practitioners and reduces the risk of physical and financial harm to consumers. This approach allows industry and assessment entities like Engineers Australia to assess the qualifications and competency of practitioners and empowers government to maintain registers and prosecute unregistered work. It also draws on the technical expertise of association members to assess conduct and complaints while empowering governments to investigate and take disciplinary action.

Table 1 Responsibilities within a co-regulated engineering profession

Professional Associations	Regulators
Consistent national standards of competency	
Verify applicant identity	Nationally consistent legislation
Develop and implement assessment schemes	Approve and monitor assessment schemes
Assess qualifications, relevant experience and competency to practice	Verify applicant identity, including fitness tests
Implement complaints and disciplinary processes	Register engineers, and maintain a register
Benchmark and audit assessment scheme performance	Investigate and prosecute offenders
Maintain assessment capability and capacity	Powers to compel and take disciplinary action
Provide and audit continuing professional development requirements	Specify continuing registration requirements (including continuing professional development)

5.1 The Role of Regulators

Under a co-regulatory approach, legislation governing the delivery of engineering services in states and territories should:

- Be nationally consistent to deliver consistent registration outcomes, lower costs for the industry, improve mobility of professional engineers, and reduce risks.
- Restrict who delivers professional engineering services to competent individuals.
- Restrict the 'registered' title to those who are on an engineering register.
- Register engineers in the broadest possible areas of engineering practice aligned with the areas of practice and not by industry sector, with the onus on each registered engineering practitioner to only undertake work that he or she is competent to undertake.
- Base registration on a competency assessment, against agreed standards, by approved assessment entities.
- Include a mandatory continuing professional development regime for ongoing registration.
- Investigate complaints, take disciplinary action and apply penalties where appropriate against registered professional engineers.

5.2 The Role of professional associations

The role of professional associations in a co-regulatory approach is to provide expertise and services in the assessment of applicants to regulators in the registration process. Professional associations are uniquely positioned to offer the assessment service based on their knowledge and experience with national and international engineering practice standards acquired over a period of time.

Professional association members' qualifications, experience and competency are often already assessed as part of their membership and/or credentials. The maturity of these assessments will vary depending on the purpose of their professional association and their knowledge of, and engagement with, national and international recognised professional engineering standards. Assessment by approved professional bodies with validated standards can form a strong foundation for state-based registration schemes and can be available to both members and non-members.

The following requirements are considered the minimum requirements for registration for independent practice as a professional engineer in Australia. The Engineers Australia voluntary National Engineering Register (NER) for all disciplines is consistent with these requirements.

1. An IEA Washington Accord recognised qualification (or assessed equivalent).
2. At least five years of relevant experience in the Area of Engineering being sought for registration.
3. Demonstration of at least the following five of the sixteen Engineers Australia independent practice (Stage 2) competencies.
 - i. Deal with ethical issues
 - ii. Practise competently
 - iii. Develop safe and sustainable solutions
 - iv. Identify, and assess and manage risks
 - v. Local engineering knowledge
4. A commitment to ethical practice (e.g. Engineers Australia's Code of Ethics) and (if applicable, a jurisdiction's Code of Conduct).
5. A demonstrated commitment to undertaking Continuing Professional Development (CPD) while registered of at least 150 hours every three years.
6. Any other requirements for a given jurisdiction (for example: for practice in the building sector, knowledge of the National Construction Code and relevant standards; some jurisdictions stipulate a minimum number of years of experience in Australia).

Where other requirements are considered necessary, these should be kept to a minimum.

Competent and ethical engineers also demonstrate that they have access to an appropriate level of Professional Indemnity Insurance (PII) for their engineering services whilst registered.

6 Current Issues and Proposals that Undermine National Consistency

Even where registration and disciplinary processes are consistent with the national model they must work efficiently and be flexible to deal emerging or unexpected issues. Engineers Australia has previously identified process design flaws in the *Design and Building Practitioners Act* and in conjunction with Consult Australia and the Insurance Council of Australia has raised some of these with the Minister for Fair Trading. Some of these design flaws place unreasonable burdens on individual engineers and may act as a disincentive for engineering businesses to provide services in NSW. The Reforming Building Laws in NSW proposals will perpetuate and extend these design flaws, with the likely outcome that the reforms will not provide the intended protections. Engineers Australia recommends that these process design flaws be corrected in any new legislation.

6.1 Registration of Individuals

The existing Queensland and Victorian Professional Engineers Acts register individuals with the required professional engineering skills and competencies. In NSW the *Design and Building Practitioners Act*, including Part 3, provides for the registration of “persons”, defined in the *Interpretation Act* to include an individual, a corporation and a body corporate or politic. Regulation 31 of the *Design and Building Practitioners Regulation* provides that the Secretary must refuse to register a body corporate as a registered professional engineer. This may leave it open to the Secretary to register a corporation as opposed to a body corporate or politic, but in practice the Secretary is only registering individuals at the moment.

In the current NSW proposal to move registration of professional engineers into a general registration scheme in a Building Bill, the registration scheme provides for the registration of “persons”. There is no indication that this will be limited by regulation to individuals.

There are sound grounds to differentiate between individuals registered on the basis of individual training, skills and competency and businesses registered on the basis of organisational and financial capacity to trade. Nevertheless, a nationally consistent scheme for registration of professional engineers is limited to individuals. Engineers Australia believes this is best protected through a stand-alone Professional Engineers Act rather than relying on regulations to limit a more general power in a multi-occupation registration scheme.

The majority of professional engineers work as officers or employees of a separate business. Very few operate as sole traders. The existing provisions for professional engineers in the *Design and Building Practitioners Act*, the *Design and Building Practitioners Regulations* and in draft subsidiary legislation such as the proposed Engineering Practice Standard blur the distinction between individual and business.

The Queensland and Victorian Professional Engineers Acts use the expression “professional engineering services” to describe what professional engineers do, and what may only lawfully be done by a registered professional engineer. The *Design and Building Practitioners Act* and the proposed Building Bill use the expression “professional engineering work” to describe the same. An interim step to national consistency would be for NSW to adopt a stand-alone Professional Engineers Act on the Queensland and Victorian models that clearly limits registration to individuals and adopts the standard terminology of “services”.

Engineers Australia recommends that NSW restrict registration of professional engineers and registration offences to individuals in the principal legislation, to be as consistent as possible with the Queensland and Victorian Acts.

6.2 Mutual Recognition

Australian governments have agreed to a nationally uniform approach to mutual recognition based on the *Mutual Recognition Act 1992* of the Commonwealth. In 2001 this Act was amended to provide for automatic mutual recognition (AMR). Although there are transitional processes affecting the application of AMR, it is expected that this should apply to professional engineer registration.

Engineers Australia supports AMR as a key component of nationally consistent registration, with the effect that an individual professional engineer need only be registered in the engineer's home state in order to do professional engineering work while present in, or for a project located in, any other Australian jurisdiction. Engineers Australia also supports the use of the International Register to provide international mutual recognition in appropriate circumstances.

The mutual recognition principle applies to "equivalent occupations". Professional engineering is carried out in a consistent way in each Australian jurisdiction, and it is commonly understood to be an equivalent occupation. However, this status can be undermined by legislation with inconsistent descriptions of engineering work or services, inconsistent definitions of areas of engineering and inconsistent assessment schemes.

The Queensland *Professional Engineers Act 2002* clearly covers all areas of engineering, although registration can be in separately prescribed areas of engineering. By contrast the Victorian *Professional Engineers Registration Act 2019* defines areas of engineering as structural, civil, mechanical, electrical and fire safety engineering, plus any other prescribed area of engineering. The *Design and Building Practitioners Act* adopts a similar approach.

Engineers Australia supports registration in all areas of engineering and cautions against the prescription of many precisely defined areas for the purpose of registration and registration offences. The important boundary for regulators to administer is between individuals with professional engineering skills and competencies and who are registered as such, and those who do not have these skills and competencies and who are not registered. The boundaries between areas of engineering are blurred and have considerable overlap which make investigation and prosecution of registered professional engineers for area-related registration offences both resource intensive and problematic.

Where there are traditional and broadly defined areas of engineering, such as civil, mechanical and electrical engineering, equivalence can be undermined if registration is limited to sub-sets or particular types of application. NSW has commenced its registration of professional engineers with a severely restricted definition of professional engineering work applied just to Class 2 Buildings. The proposal to place professional engineer registration within a Building Bill suggests an intent never to register professional engineers in any other industry sector.

It is plausible that the regulator in Queensland or Victoria, or in any other jurisdiction that registers professional engineers, might consider, say, civil engineer registration in NSW to do only civil engineering on a Class 2 building is not equivalent to civil engineer registration in Queensland or Victoria to do civil engineering in any industry sector. This means an engineer based in and registered in NSW cannot use the mutual recognition principle to be registered in other jurisdictions and must go through the full assessment process in order to do work outside of NSW. Conversely, a civil engineer broadly registered in Queensland or Victoria can use the mutual recognition principle to be registered in NSW without further assessment.

This asymmetry also disadvantages professional engineers based in NSW when wishing to apply the automatic mutual recognition principle which is also based on equivalence of occupations. Under AMR a broadly registered civil engineer in Queensland or Victoria is permitted to do all civil engineering work in NSW while a narrowly registered civil engineer in NSW is only permitted to do civil engineering on Class 2 buildings in Queensland or Victoria.

This narrow approach to registration of professional engineers places both individual engineers and engineering businesses based in NSW at a commercial disadvantage to those based in other jurisdictions such as Queensland and Victoria. It is far more viable to operate a national or international engineering business out of a jurisdiction with comprehensive, broad-based professional engineer registration than it is to operate from a jurisdiction with limited or no registration of professional engineers. This is another reason why Engineers Australia does not support the narrow registration of professional engineers implied by transferring registration to a new Building Bill and recommends retaining registration as currently enacted in the *Design and Building Practitioners Act* until a stand-alone Professional Engineers Act can be developed.

6.3 Co-Regulation and Assessment Entities

The Queensland *Professional Engineers Act 2002* introduced co-regulation by providing for the approval of assessment entities and assessment schemes. The requirements for approval are set out in the Act. This introduces a pathway for individuals to satisfy the regulator that they are eligible to be registered rather than the pathway in some legislation where the regulator assesses the skills and experience of each applicant. The Victorian *Professional Engineers Registration Act 2019* adopts the assessment scheme approach.

The primary mechanism for registration in NSW provides three pathways for an applicant to demonstrate the required skills and knowledge:

Pathway 1 - Apply to the Secretary and provide the Secretary with all the evidence and details of qualifications and experience for the Secretary to assess them.

Pathway 2 - Apply to the Secretary and provide evidence of recognition or registration by an engineering body recognised by the Secretary;

Pathway 3 - Apply to the Secretary and provide evidence of recognition or registration by a professional body of engineers that has a Professional Standards Scheme (PSS).

Pathway 2 is broadly consistent with the co-regulatory regime adopted in Queensland and Victoria (and, proposed for the Australian Capital Territory).

Engineers Australia has previously expressed concerns regarding the implementation of pathway 1. These concerns relate to the pathway not including an assessment of competency against agreed standards, and assessments being completed by a compliance team that do not have the same expertise (or systems) as professional associations.

The *Design and Building Practitioners Act* and the Design and Building Practitioners Regulations set out the requirements for recognition of professional bodies of engineers for pathway 2 for registration. The requirements for recognised professional bodies are also broadly comparable with the requirements in the Queensland and Victorian Acts but are structured and worded differently. Engineers Australia recommends aligning the wording and requirements in the Regulations to the nationally consistent wording in the Queensland and Victorian Acts as an interim step before moving registration of professional engineers into a stand-alone Professional Engineers Act.

The proposed Building Bill provides a head of power for approval of professional bodies but requires the detailed provisions to be prescribed in regulations. For national consistency Engineers Australia strongly recommends that the requirements for assessment of professional bodies of engineers be prescribed in the principal act using the nationally consistent wording including the required competency standard.

The third pathway, Professional Standards Scheme (PSS), is unique to NSW. The requirements for a professional body to establish a PSS under the Professional Standards Acts are very similar to the requirements in the Queensland and Victorian Acts to be recognised as an assessment entity. However, membership of a professional body of engineers that has a PSS is not necessarily equivalent, unless the relevant scheme applies the same standards, eligibility requirements and ongoing commitments as required through Pathway 1 and 2. For this reason Engineers Australia does not support it in its current form.

The draft Building Bill appears to further narrow the pathways available to the Secretary and to applicants by combining the second and third pathways so that the Secretary may only approve a professional body that has adopted a PSS. This is a process design flaw in the Bill. The Secretary has no control over which professional bodies may set up or maintain a PSS. If none do, then there is no co-regulatory mechanism for registration and the Secretary must assess each applicant's skills, knowledge or experience with the necessary time, cost and resourcing implications. The Professional Standards Acts and regulations do not allow businesses with fee income exceeding \$20 million to be members of a PSS, thus excluding employees of such businesses from this pathway. If only niche or specialist professional bodies set up a PSS it is unlikely that mainstream engineers will join such bodies just to engage a second path to registration. In these cases, it may be more expedient to apply for registration through an assessment entity in another jurisdiction and then rely on Automatic Mutual Recognition to work in NSW. This process design flaw will make it less attractive for engineering businesses to operate from NSW.

Engineers Australia understands the theoretical benefits to engineers of operating under a PSS, but also understands the difficulties faced by large, multi-faceted organisations to set up schemes under the current limitations in the Professional Standards Acts. The PSS set up by Engineers Australia from 2008-2016 was allowed to expire because of very limited take up. It is likely that most of the approved assessment entities in Queensland and Victoria will not set up a PSS simply to enable this pathway in NSW. This will further undermine national consistency because NSW will not be able to rely on assessments by these entities.

Engineers Australia strongly recommends that the existing second pathway continues to be available to professional engineers and is modified to align it more closely with the nationally consistent use of assessment entities by Queensland and Victoria. This is best achieved in the short term by leaving the process for registration of professional engineers in the *Design and Building Practitioners Act* until it can be moved to a stand-alone Professional Engineers Act on a nationally consistent basis.

6.4 Continuing Professional Development

Engineers Australia supports Continuing Professional Development (CPD) and its standardisation across jurisdictions. Currently Engineers Australia's CPD requirements include 150 hours over three years with at least 50 hours towards an individual's area of engineering, 10 hours towards risk, and 15 hours towards business and management. Engineers Australia is reviewing CPD requirements and considering including ethics, and sustainability. Ethics is a CPD requirement of the Board of Professional Engineers Queensland (BPEQ).

Queensland and Victoria have taken the approach of requiring 150 hours over three years with each jurisdiction specifying their own breakdown.

The Australian Building Codes Board (ABCB) Continuing Professional Development on the NCC and Ethics 2021 provide guidance on CPD on the NCC and ethics. In doing so, they also emphasise the need for consistency across jurisdictions to facilitate mutual recognition.

Engineers Australia notes that the CPD requirements outlined in NSW's proposed reforms do not match the nationally consistent requirements. CPD requirements for engineers are fundamentally different compared to building practitioners and provide another reason on why registration of engineers should be contained in a stand-alone Professional Engineers Registration Act. Engineers Australia also suggests that NSW, rather than adopting an annual approach to CPD, consider adopting a requirement of 150 hours over three years specifying their own breakdown that applies and may include CPD on ethics and the NCC. This will be a positive step towards consistency of CPD requirements across jurisdictions.

7 Conclusion

Statutory registration of professional engineers should be nationally consistent and apply to anyone who provides professional engineering services, and in any area of engineering in any industry.

Engineers Australia recommends the proposed changes to the *Design and Building Practitioners Act* and proposed NSW Building Bill 2022 be reviewed and brought into line with a nationally consistent registration system for professional engineers that can be implemented across Australia.

The changes should include:

1. Creation of a stand-alone NSW Professional Engineers Act.
2. A registration scheme which covers all areas of engineering.
3. An agreed set of registration standards and assessment processes, aligned to national and international standards
4. Facilitation of Automatic Mutual Recognition for engineers registered in NSW.
5. Approve consistent guidelines for professional associations as assessment entities and validation of these assessment entities' scheme operations and performance to provide confidence to other regulators for AMR and to consumers of engineering work. Ensure Pathway 2 is included for professional bodies should the Building Bill proceed, as is provided for in the *Design and Building Practitioners Act*.

Engineers Australia appreciates the continued opportunity to support the NSW Government in reforming building laws. For further discussion about this submission, please contact the Engineers Australia's team at policy@engineersaustralia.org.au.

Yours sincerely,



Jane MacMaster FIEAust CPEng NER
Chief Engineer, Engineers Australia



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AUSTRALIA