



The Australian Industry Group

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Regulatory Services - Reform
Consumer and Business Services
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SUBMISSION | PROPOSED REGISTRATION SCHEME FOR PROFESSIONAL ENGINEERS IN SA

Executive Summary

The Australian Industry Group (Ai Group) does not support the proposal in the Discussion Paper on Registered Engineers (Discussion Paper) to introduce legislation to establish a registration scheme for engineers working in South Australia, either in connection with the building and construction industry or any other industry sector.

Ai Group notes that the proposal is primarily based on the Shergold/Weir Report that was commissioned by the then Building Ministers Forum and produced in 2018, some 5 years ago.

Ai Group submits that action to introduce increased regulatory controls over any industry should only be contemplated where there is clear evidence that it is necessary to do so and after other options available have been explored.

In the context of the building and construction industry, the evidence that may support regulatory intervention could be expected to arise from either systemic failure on the part of those responsible for constructing buildings that results in significant and ongoing major defects, or a fundamental failure of the regulatory system responsible for overseeing the industry.

As far as Ai Group is aware, neither of the above circumstances were evident in South Australia before the Shergold/Weir report, nor have they manifested themselves in the 5 years since the report was released. While there may be evidence of systemic industry or regulatory failure in some other Australian jurisdictions, we submit that it is not a sound policy approach to impose a new registration regime on industry in South Australia in the absence of evidence that such action is necessary to address an identified problem.

The Discussion Paper does not address what other options may be available, nor does it detail the practical implications of the proposed regime for the building and construction industry, or the potentially significant financial impact that may result from implementation of the proposal.

On the other hand, if the Government is minded to introduce enhancements to the skills, knowledge and capabilities of engineers in South Australia it would be a simpler and more economically efficient approach to utilise a practical continuing professional development (CPD) scheme that could be linked to existing licensing arrangements and require building contractors to ensure that they do not utilise the services of engineers unless they have completed such training and are able to demonstrate their skills commensurate with the role they are required to undertake.

Australian Industry Group

The Australian Industry Group (Ai Group®) is a peak national employer organisation representing traditional, innovative and emerging industry sectors. We have been acting on behalf of businesses across Australia for 150 years.

Ai Group and partner organisations represent the interests of more than 60,000 businesses employing more than 1 million staff, including 100,000 South Australians. Our membership includes businesses of all sizes, from large international companies operating in Australia and iconic Australian brands to family-run SMEs. Our members operate across a wide cross-section of the Australian economy and are linked to the broader economy through national and international supply chains.

In relation to the engineering profession, Ai Group's members include tier 1 and tier 2 building and construction contractors as well as many businesses involved in the supply and/or manufacture and installation of construction materials and products. We also manage or provide services to a range of construction related industry associations and forums. In addition, Ai Group in South Australia has a strong membership base in manufacturing, defence and engineering companies employing engineers across many disciplines including mechanical, electrical, chemical, acoustic, computer, biomedical, environmental, and aerospace engineering.

Shergold/Weir Report and the Discussion Paper

Ai Group notes that the Shergold/Weir Report made a number of recommendations relating to the regulation of the building industry to address existing or perceived shortcomings in building quality and regulatory systems in Australia and to progress a move towards greater harmonisation of the building regulatory system.

Ai Group also notes that the implementation of the Shergold/Weir Report has been undertaken by Australian jurisdictions based in part on local evidence of shortcomings with some jurisdictions acting expeditiously to address significant issues while others have proceeded on a more cautious basis having regard to evidential need, public safety and financial and economic impact considerations.

As part of the moves to upskill building practitioners in the operation of the National Construction Code, the Australian Building Codes Board (ABCB) has implemented a significant regime of industry guides, training and information that has been made publicly available to assist industry to meet its responsibility to provide buildings that are compliant and fit for purpose.

One of the recommendations in the Shergold/Weir Report relates to the registration of building practitioners, including engineers, and action has been taken, or is underway, in a number of jurisdictions to implement the recommendation. The Discussion Paper issued by SA Consumer and Business Services proposes that the recommendation in the Shergold/Weir Report be implemented in South Australia:

- firstly, for engineers in the building industry; and
- secondly, for other industries where engineers undertake functions.

Ai Group Comments on the Discussion Paper

Registration of Engineers in the Building and Construction Industry

The Discussion Paper essentially replicates similar proposals that have, or are currently being, implemented in some other Australian jurisdictions.

However, the Discussion Paper does not provide:

- Adequate quantifiable evidence (eg evidence of major building related defects that registration of engineers would prevent) as to the need for the proposed regime.
- Clarification as to how registered engineers will operate in practical terms.
- Detail as to how engineers will interact with other registered/non-registered entities in the industry.
- Guidance as to how disputes between engineers and others as to the appropriateness of performance solutions or building defect related issues may be resolved.
- The cost and benefit to industry and consumers that would justify proceeding with the proposal.
- Options for achieving policy outcomes that would not require significant statutory or regulatory intervention or cost.

In short, Ai Group submits that in the absence of evidence of a real need to legislate for registered engineers the Government should rely on existing operational and regulatory structures to continue to effectively oversee the industry.

The Discussion Paper does provide some explanatory information as to the criteria for registration and professional indemnity insurance, amongst other things. We provide the following comments on the criteria and related matters:

- The Government needs to assess how many engineers currently work in relation to the building and construction sector to determine whether there will be adequate numbers to undertake the roles envisaged. At present the available workforce is unknown.
- The proposal contemplates that a professional engineer will oversee the work of other engineers and/or persons undertaking engineering work. This assumes that there will be sufficient registered engineers available to undertake this function, but as indicated above no evidence of this is included insofar as it relates to the number of engineers available in South Australia.
- The proposal contemplates that registered engineers must have at least five years experience working in the relevant discipline with at least four years being post-graduate. This requirement will further restrict the number of engineers available for the building and construction sector and could lead to unintended consequences.
- The proposal does not consider the potential for persons who hold certificate level or diploma qualifications in eg mechanical or electrical engineering (and with potentially long experience in industry) to fall within the scope of the proposal. This is unfortunate as these persons will now lose a potential pathway of advancement and could be lost to industry.
- The Discussion Paper indicates that registered professional engineers will not be required to carry professional indemnity insurance to be registered. This is problematic, especially when the professional engineer will be overseeing the work of others and could be responsible for ensuring that construction activities are undertaken on the basis that the finished product complies with the National Construction Code, relevant Australian Standards and is fit for purpose.

Role of Assessment Entities

Ai Group is also concerned about the scope for Assessment Entities to have a monopolistic position over the verification of qualifications, experience and competency of professional engineers and the links this may have with training services.

While Ai Group does not support the proposal for the reasons set out above, should it proceed, we strongly urge that the approval of Assessment Entities is undertaken to ensure competition and contestability in the provision of verification and associated training services.

The proposal put forward in the Discussion Paper does list among the factors the Commissioner would consider in the approval of an organisation to act as an Assessment Entity that “the fees imposed must be reasonable, having regard to the scope of the services provided.” Competition and contestability in the provision of the services would be a powerful check on the pricing of the services and would assist in ensuring the reasonableness of fees (and the quality of services provided).

Wider Registration of Engineers

The Discussion Paper contemplates that, following implementation of the proposal for registration of engineers in the building and construction industry, action will be taken to expand the concept to other industries.

Ai Group notes that:

- The Shergold/Weir report does not recommend the expansion of the registration concept to other industries.
- The Discussion Paper provides no justification or quantifiable evidence of the need to extend the registration concept to other industries.
- There are many issues of significance that would need to be addressed before any proposal to expand the registration concept could even begin to be considered.

If the registration of engineers is expanded to other areas such as manufacturing, defence and mining, our members have raised the following potential impacts to their businesses:

- Increased business costs and red tape.
- Stifling of R&D, creativity & innovation.
- Increase the skills crisis in key areas such as defence by restricting or delaying migrating engineers.
- Reduction of South Australia’s competitiveness in an international market.
- Lack of mutual recognition between jurisdictions, leading to increased paperwork, costs and decreased productivity.

In the circumstances, Ai Group is totally opposed to the expansion of the registered professional engineer concept to other industry sectors.

Conclusions

1. While Ai Group understands why the Government may wish to join with other jurisdictions in establishing a registration regime for professional engineers to give effect to the recommendations made in the Shergold/Weir Report, the Shergold/Weir Report:
 - Does not specifically examine the structure or operation of the building and construction industry in South Australia, where local issues and operations may be fundamentally different to other jurisdictions.
 - Does not identify that there are any fundamental problems or concerns in industry operations in South Australia that would warrant significant adjustment to the regulation of the industry at this time.
2. The Discussion Paper itself does not provide adequate justification for implementing the proposed registration system.
3. Even if it could be argued that a new registration system is needed, the Discussion Paper does not identify or consider other possible options for achieving that improvement.
4. The proposal to extend the registration regime to engineers in other industry sectors is not supported by any quantifiable evidence.

Recommendations

Ai Group recommends that the Government:

1. Not proceed with either the proposal to establish a registration regime for professional engineers in the building and construction industry at this time but maintain scrutiny and oversight of industry operations through the State's existing regulatory system.
2. Not proceed with the proposal to extend the proposed registration regime to other industry sectors in the absence of a clear need to do so.

For any questions in relation to this submission please contact me, on estha.vanderlinden@aigroup.com.au or 0404 391 524.

Yours sincerely



Estha van der Linden
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