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Engineers Registration

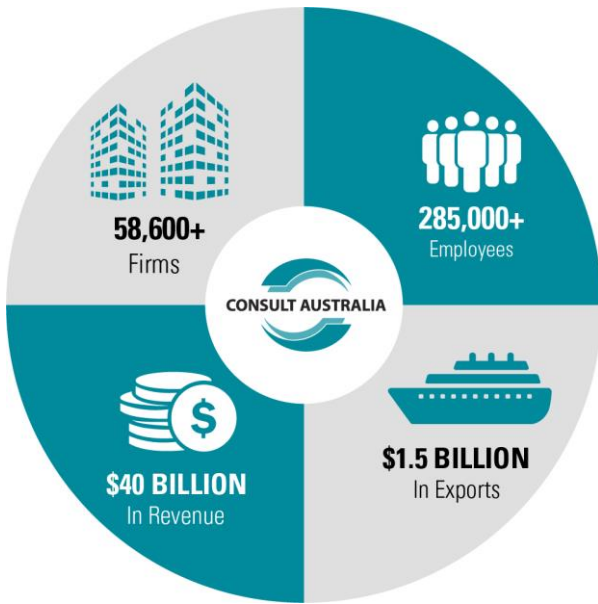
**SUBMISSION TO THE WA DEPARTMENT OF MINES,
INDUSTRY REGULATION AND SAFETY**

Consult Australia

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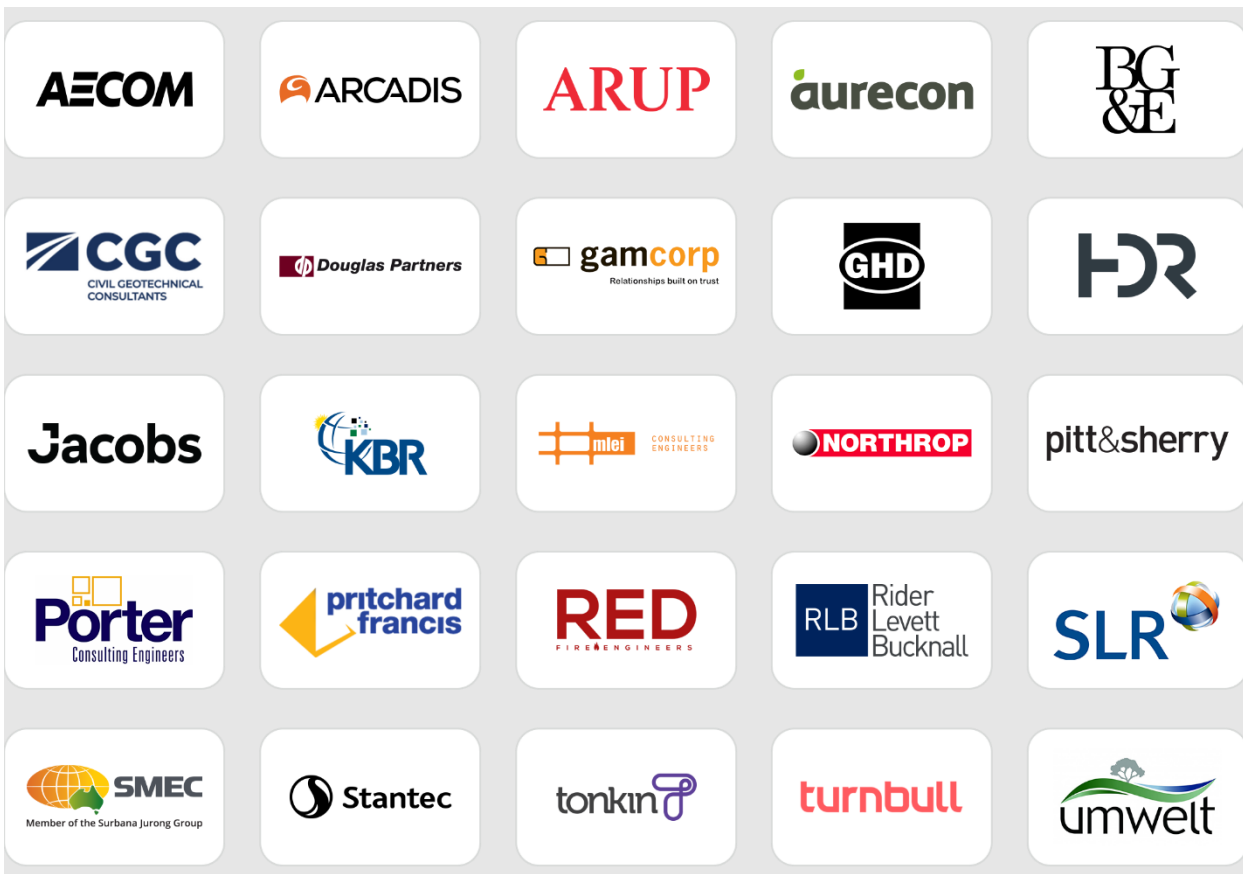
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ABOUT US



Consult Australia is the industry association representing consulting businesses in design, advisory and engineering, an industry comprised of over 58,600 businesses across Australia. This includes some of Australia’s top 500 companies and many small businesses (97%). Our members provide solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry directly employs over 285,000 people in architectural, engineering and technical services and many more in advisory and business support. It is also a job creator for the Australian economy, the services we provide unlock many more jobs across the construction industry and the broader community.

Our members include:



A full membership list is available at: <https://www.consultaustralia.com.au/home/about-us/members>

SUMMARY

Consult Australia welcomes the opportunity to contribute to the Department of Mines, Industry Regulation and Safety consultation on the proposed registration scheme for engineers in WA.

We have previously expressed concerns with the introduction of government registration schemes across Australia and the absence of effective automatic mutual registration, because of the administrative and financial burdens on businesses whose engineering staff work on projects across state and territory borders. Consult Australia encourages the WA Government to take every opportunity to promote the benefits of automatic mutual registration in its own discussions with the Federal government and other state and territory governments.

This submission outlines aspects of the proposed WA framework we support and those where we see potential issues or opportunities for improvement. We have prepared this submission in consultation with our member businesses who operate locally, across Australia and the world, and who represent the full spectrum of business type, from sole traders, small business up to large multinationals. The experience of members we can draw on is extensive and we trust this will assist the WA government in its implementation of the proposed registration scheme. We would be pleased to provide further insights as needed.

We conclude our submission with commentary on the goal of effective automatic mutual registration to ensure that businesses and professionals that provide engineering services are not unnecessarily constrained by jurisdictional registration schemes. We seek the WA government's support for this position, while acknowledging that fixing the national automatic registration scheme rests with the Federal government, rather than the WA government.

COMMENTS ON PROPOSED SCHEME

INCLUSION IN EXISTING BUILDING SERVICES REGISTRATION REGULATIONS

We appreciate that the government has included the new registration requirements in the existing Building Services Registration Regulations. This allows modification of aspects of the existing regulations based on experience and changes since they were originally introduced. Making building engineers registration part of the broader building services registration framework makes sense, provides clarity for practitioners, and allows lessons learned in the eleven years since implementation to be applied across the different classes of building service.

PRESCRIBED BUILDING SERVICES

We understand that the intent of the WA scheme is to ensure building engineering work is only undertaken by registered engineers in the disciplines of civil, structural, mechanical and fire safety.

However, we are concerned based on feedback from members that the various definitions for what is and is not considered to be building engineering work requiring registration is not clear enough. For civil engineering in particular, it is unclear what building services a civil engineer needs to be registered for. Greater clarity in the regulations or accompanying policy framework would be appreciated.

CLASSES OF BUILDING SERVICE PRACTITIONER AND CONTRACTOR

Professional, technologist and associate engineering

We note the classification of different levels of practitioner across the four classes, accommodating different career and experience levels: professional, technologist and associate.

Consult Australia can see the benefits of this approach, in that it reflects different levels of experience and qualifications, however we are concerned that this is significantly more onerous than other jurisdictions (such as Queensland, New South Wales and Victoria).

In other jurisdictions only professional engineers are required to be registered. Lower-level practitioners who are non-registered must be supervised by a registered professional engineer for professional engineering work but can undertake technical engineering work unregistered. We understand that in WA too, unregistered engineers may work under the supervision of a registered practitioner without needing to obtain registration and that the registered practitioner will be responsible for managing the standard of the building engineering work. However, while this opens up welcome flexibility for businesses that provide professional engineering services and have limited numbers of registered professional engineers, those businesses which focus only on technical or associate engineering services will still require a registered practitioner to act as supervisor, when in other jurisdictions they could provide these services unregistered.

WA's approach of requiring all levels of professional to be registered would significantly increase costs and administrative burden for both practitioners and assessing bodies compared to other jurisdictions.

Individual and contractor registration

We note the incorporation of both individual practitioner and contractor (business) registration and appreciate that this is based on positive experience of the system of registration for other building service providers registered under the Building Services Registration Act.

We appreciate that the contractor registration could deliver some much-needed flexibility for both large multi-disciplinary businesses as well as small businesses. For example, registration will not need to be updated if individual practitioners change or leave, and the nominated supervisor approach is designed to ensure appropriate management and supervision of work. It is also

intended to allow more scope for businesses to include skilled practitioners from interstate and internationally on major projects in WA when the need arises. Allowing specialist expertise and additional practitioners to be included in strategic projects benefits both the contractor and the client, including in many cases producing better results for government clients and the communities who benefit from the project outcomes.

For this to operate successfully in practice, registration as a contractor should be optional for businesses, not compulsory – it is not clear from the advertised documents whether this is intended to be the case. In small businesses it may not be beneficial to register as a contractor in addition to individual practitioner registrations, if they have a small and stable team of engineers or are operating in a sole trader situation where registration as both contractor and individual would be an unnecessary duplication. We are aware of examples in other jurisdictions where sole practitioner members have been required to register both as a business and as an individual, and we would encourage avoidance of this scenario in WA.

MEMBERSHIP OF BOARD: OCCUPATION GROUPS

We support the inclusion of two registered engineers on the Building Services Board and encourage the government to appoint these engineers to the Board as early as possible rather than waiting until the end of the transition period if suitable practitioners register early. This will ensure the relevant experience and expertise is available should matters relating to building engineering come before the Board in that time. There may be the option to make these early appointments for a limited term only, to allow flexibility to reappoint once more practitioners are registered, without losing the opportunity for relevant experience on the Board in the meantime.

INSURANCE REQUIREMENTS

We understand that registered building engineering contractors will be required to hold professional indemnity insurance appropriate to manage the risk, type, size and volume of work they undertake. We strongly support the proposed change from the current requirement in the regulations for contractors to hold a mandated minimum level of insurance, and we are pleased that this change is being made and will be applied to newly registered building engineers under the amended Regulations.

The onus of course will be on the interpretation of what is deemed “appropriate” under the new system. We are keen to understand the nature of the additional guidance that the government intends to issue, on identifying and demonstrating what is to be deemed appropriate, and we request the opportunity to provide input on this policy at the relevant time. Our experience with insurance requirements elsewhere in Australia, including in NSW, highlights potential issues with this approach. We also have concerns if the government seeks proof of insurance, as insurance policies are commercial in confidence.

BUILDING ENGINEERING CONTRACTORS: BUILDING SERVICES PRESCRIBED

We understand that new regulation 28N will prescribe the work that may be undertaken by the various classes of building engineering contractor, and that this will be classified according to building type as follows:

- A building engineering contractor – professional may do professional or technical engineering work for any building;
- A building engineering contractor – technologist may do technical engineering work for medium-rise buildings;
- A building engineering contractor – associate may do technical engineering work for low-rise buildings;

- A building engineering contractor, fire systems – technologist may do technical engineering work for any building; and
- A building engineering contractor, fire systems – associate may do technical engineering work for medium-rise buildings.

Additionally, that the regulated scope of work for fire systems technologists and associates differs from other classes of technologists and associates. This is because low-rise buildings do not tend to have fire safety systems, therefore fire systems' training equips them to work on higher buildings than the other technologists and associates.

We note the use of definitions in the Building Code to prescribe the relevant building types, for consistency and clarity, and we understand the intent to control quality of built outcomes by ensuring the most highly qualified and experienced practitioners work on the most complex building types.

However, members have raised concerns that there seems to be a contradiction between the classifications proposed and current NCC requirements. Under the NCC, structural works including low-rise and medium-rise need to be signed off by a 'Professional Engineer', which if not defined by state legislation is a person who is registered or eligible for registration on the National Engineering Register. The apparent ability for low-rise and medium-rise buildings to be certified by technologists or associates in the WA system appears to be a relaxation of this requirement and could be interpreted as undermining the requirement of the NCC.

We also note the application of the existing building type exclusions in the regulations, reflecting that certain building types can safely and appropriately be left outside the scope of the registration requirements.

QUALIFICATIONS AND EXPERIENCE: BUILDING ENGINEERS PRACTITIONERS

Experience

We appreciate the intent behind new regulation 280 and the inclusion of two options to demonstrate compliance with the experience requirement, being either 5 years full-time experience in the previous 7 years or the equivalent of 10 years full-time work in the previous 15 years. We acknowledge the attempt to ease the burden on part time workers or those who have had a period of extended leave.

However, we have significant concerns that in practice, this will still preclude from registration significant numbers of people, for example parents of school-age children, who continue to work part-time hours for extended periods of time with no detrimental impact on the level of experience they have during that time, their exposure to an appropriate quantum of work, or their ability to competently undertake their professional work. Number of hours spent working each week does not automatically reflect ability to do the job. Someone who works twenty hours a week for twenty years can be just as competent and professionally able as someone who has worked full-time for five years.

Indeed, based on current working practices, the definition of full-time work has become less meaningful than in the past, and the reference may in fact be outdated in the context of professional competence. With moves by many organisations to accommodate, for example, 4-day weeks, and flexible outcomes-based rather than hours-based working practices, we are moving to an environment where standard full-time hours are becoming irrelevant to many.

For this reason, and to avoid unduly discriminating against those professionals who for reasons such as family or health choose to work part-time, with no impact on quality of professional practice, we would encourage a more flexible and contemporary approach to assessing the experience requirement to measure competency not hours spent in the workplace.

In assessing compliance with experience requirements, we would encourage a consistent approach across jurisdictions, so that businesses operating in multiple jurisdictions don't need to introduce multiple administrative procedures to track experience.

Assessment entity

We strongly support the proposal for certification of applications for registration by "an assessment entity approved by the Building Commissioner", rather than specifying entities in the regulations. This leaves scope for organisations to seek approval as an assessment entity based on merit, rather than allowing one or more specified organisations the right to undertake assessment without regularly proving their suitability and qualifications to do so. We also support ensuring the burden for assessment does not rest with the Building Commission itself.

PRESCRIBED PROFESSIONAL DEVELOPMENT REQUIREMENTS

Hours

We understand the WA scheme intends to introduce a requirement for building engineers to have undertaken a specific number of hours professional development for renewal of registration, as follows:

- A building engineering practitioner, fire systems – technologist must have undertaken 90 hours of CPD in the preceding three years;
- A building engineering practitioner, fire systems – associate must have undertaken 50 hours of CPD in the preceding three years; and
- Any other class of building engineering practitioner must have undertaken 150 of CPD in the preceding three years.

Consult Australia is supportive of the number of hours proposed as they do not exceed the hours specified in other government engineering registration schemes.

Activities

We also support the ability for practitioners to prove compliance with this requirement through proof of membership of an industry association or professional standards scheme with the equivalent CPD requirement. This will allow practitioners to avoid double-up of CPD costs and will reduce the burden of proof and endorsement of CPD courses by the Building Commission itself.

It is vital that a variety of education formats be accepted as part of the proposed CPD under the WA scheme to ensure all tiers of business from micro through to large can participate in accessible and affordable learning.

Whilst we appreciate the reasons behind regulating CPD, we wish to emphasise the need for transparency and clarity regarding the associated financial and administrative implications on engineers and related businesses. We anticipate assessment bodies will provide the technical training components or to provide auditing services of the CPD process. We request the opportunity to provide industry feedback on the proposed fees charged by assessment entities so that our members can prepare for the financial implications of the proposal.

We also note that under the equivalent scheme in Victoria, CPD concessions are provided for professional engineers:

- working part-time who take a career break;
- who transfer between practising and non-practising; or
- who are non-practising for the entire three-year period.

We recommend this position be adopted in the WA scheme to provide relief for professional engineers with differing circumstances, including those with parenting responsibilities for which they have taken leave.

FEES

Fees are yet to be set but the indication is that fees will be considerably lower than for other classes of registered building service provider in WA, due to the requirement for external accreditation. We provide general comment on the burden of fees and duplication across jurisdictions later in this submission.

IMPLEMENTATION

We understand the WA scheme will be implemented over a 4-year period, as follows:

- Year 1: gazettal date – implementation of administrative arrangements by government
- Year 2 – 3: registration of structural and fire safety engineers
- Year 3 – 4: registration of civil and mechanical engineers

We support the inclusion of time for the government to prepare new policies, systems and processes, and to ensure the Department is staffed appropriately to manage the additional workload. Given, as mentioned in the explanatory statement, the processes and timeframes required to update the necessary systems are outside the government's control, we would urge caution in establishing and implementing this administrative transition timeframe, and request that an extension to the timeframe be incorporated as soon as possible if it becomes apparent that this is practically necessary. This could be by modification to the Regulations themselves if required, which can occur relatively easily from a legislative process.

The two-year period for each category of practitioners to register is welcomed, as is the ability to continue to practice unregistered during that timeframe. We have some concern that there will be a rush to register in the latter part of the transition period, and that this may cause delays to application processing by the Department as well as potential delays with the accreditation entities. We would urge the government to prepare appropriately for this likelihood, and we recommend an approach whereby if a practitioner has submitted for registration before the final day for registration, but their application is subject to processing delays, some discretion will be applied to allow them to continue to work while the application is finalised.

NATIONAL REGISTRATION IS OUR PRIORITY

Consult Australia advocates for national consistency as a priority, with automatic mutual recognition of registration akin to a driver's licence model. We understand that this is a topic outside of the consultation, however, it is an area we believe could gain greater traction with the support of the WA government. We include our comments here to put the proposed WA registration scheme in its broader context and highlight areas of business concern that could be alleviated with a collaborative whole of government approach.

We are particularly concerned by the lack of attention to the ineffectiveness across Australia of automatic mutual registration. Consult Australia advocates for 'one fee, one registration' for professional engineering practitioners in Australia. Without truly harmonised arrangements, the administrative burden and financial costs on businesses from professional engineers' registration are significant.

The table below sets out the annual costs (including indicative costs for the proposed scheme in WA) for government professional engineering registration schemes. In addition to the requirements outlined below, we note that other schemes exist which impose further costs and administrative burden on businesses that operate across multiple jurisdictions, such as the NT's Register of Building Practitioners.

COSTS	JURISDICTION					TOTAL
	QLD	NSW	VIC	ACT	WA	
INITIAL COSTS	\$313.95	\$617 ¹	\$244.43 ²	UNKNOWN	\$490 ³	\$1,665.38
RENEWAL COSTS		\$463	\$265.36 ⁴	UNKNOWN	UNKNOWN	\$728.36
NON-PRACTISING INITIAL COSTS	\$190.40		\$57.43 ⁵	UNKNOWN	UNKNOWN	\$247.83
NON-PRACTISING RENEWAL COSTS			\$61.66 ⁶	UNKNOWN	UNKNOWN	\$61.66
RESTORATION COSTS	NA	\$521	NA	UNKNOWN	UNKNOWN	\$521.00

The WA scheme proposes fees for building engineering contractors, building engineering contractor partnerships, and building engineering contractor companies, as follows:

Proposed maximum fees in WA for building engineering contractors, per year.			
	Building engineering contractors (individual)	Building engineering contractor (partnership)	Building engineering contractor (company)
Application	\$240	\$340	\$340
Registration	\$267 (\$800 for 3 yrs)	\$617 (\$1,850 for 3 yrs)	\$833 (\$2,500 for 3 yrs)

¹ This excludes costs associated with registering as a design practitioner additional to professional engineers' registration under the NSW Design & Building Practitioners Act 2020 (NSW).

² The Victorian registration scheme applies a three-year fee of \$507.80 for initial registration. The initial endorsement cost is an additional fee of \$225.50. This figure is calculated by dividing \$733.30 by three (the total of the registration fee and endorsement cost) by three.

³ This figure is subject to change and incorporates the proposed maximum cost for an application for registration as a building engineering practitioner (\$90), and the proposed maximum cost for an application for registration as a building engineering practitioner for 3 years (\$1200) divided by three.

⁴ The Victorian registration scheme applies a three-year fee of \$570.60 for the registration renewal of a practising professional engineers, plus a \$225.50 three-year endorsement renewal fee. The total, \$796.10, has been divided by three to get this figure.

⁵ The Victorian registration scheme applies a three-year fee of \$172.30 for initial registration of a non-practising professional engineer, which has been divided by three to get this figure.

⁶ The Victorian registration scheme applies a three-year fee of \$185.00 for the registration renewal of a non-practising professional engineer, which has been divided by three to get this figure.

We are concerned by the level of duplication across Australia in fees that could be prevented if automatic mutual recognition was implemented. For example, if a qualified engineer in Australia wanted to practice across Qld, NSW, Vic, and WA, they already need to spend approximately \$1,665.38 in initial registration fees, and approximately \$728.36 in renewal costs. Then the new WA registration costs will be added to this.

Further, the administrative burden from this 'multiple fee, multiple registration' arrangements impact the vast majority of businesses across our membership. Engineers require significant occupational mobility to enable them to deliver a vast range of projects in different parts of the country.

When recent amendments to the *Mutual Recognition Act 1992* (Cth) were proposed, we were concerned by the inclusion of a new term, 'home state', focussing on the state in which a person has their principal place of residence or principal place of work. The drafting assumes that a person's initial registration will be in the state that is also their 'home state', which is not always the case. For example, we will have many engineers living and working in WA (and/or on WA projects) who are already registered in Queensland – the jurisdiction which has had professional engineering registration for the longest time. It is also possible that engineers working on WA projects will be registered in Victoria and/or NSW as professional engineers given recent introduction of government registration schemes there. Using the 'home state' definition these practitioners (and therefore their employer businesses) will not benefit from automatic mutual registration. This is the case even if WA introduces a scheme that is identical to any of these jurisdictions. The drafting of the recent amendments to the *Mutual Recognition Act 1992* (Cth) failed to consider individuals that provide services to other jurisdictions.

Shortages in engineering skills in Australia make a single point of registration even more critical to ensuring essential workers can work from anywhere across the country. As highlighted in our [Thinking Smarter About Skills](#) paper, the [Infrastructure Australia – Public Infrastructure Workforce Supply Dashboard](#) estimated that in July 2022 there was a net deficit of 52,100 engineers, scientists and architects needed to meet the demand from public infrastructure projects. This is a conservative estimate that does not factor in changing dynamics, forward pipelines, private sector projects, and non-infrastructure related work. We anticipate the gravity of the skills shortages is more severe than recorded, and we note that based on member feedback, the strain on people resources is not improving.

From Consult Australia's perspective, restrictions on the movement of skills across Australia through 'multiple fees, multiple registration' arrangements are a key market capacity constraint and given the current focus on market capacity and skills shortages, we recommend the WA government give consideration to advocating with its Federal and State counterparts for the rectification of the automatic mutual registration scheme and removal/change to the 'home state' definition. It is vital that any registration scheme takes into consideration the occupational behaviours of the Australian engineering industry and promotes flexibility, efficiency, and affordability wherever possible.

CONTACT

We would welcome any opportunity to further discuss the issues raised in this submission, or to bring together practitioners from our member businesses to provide additional insight as the regulations and accompanying policy framework is finalised.

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