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Mr John Batho
Deputy Secretary
Consumer Affairs, Liquor, Gaming and Dispute Services
Department of Justice and Community Safety
121 Exhibition Street
MELBOURNE VIC 3000

15 March 2021

Dear Mr Batho

REGULATORY IMPACT STATEMENT FOR PROFESSIONAL ENGINEERS REGISTRATION (FEES) REGULATIONS 2021

I would like to thank your staff at the Department of Justice and Community Safety (DJCS) for working with the team at Better Regulation Victoria on the preparation of a Regulatory Impact Statement (RIS) for the Professional Engineers Registration (Fees) Regulations 2021 (the proposed Regulations).

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be written clearly so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 11 March 2021 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background

The proposed Regulations are made under the *Professional Engineers Registration Act 2019* (the Act) which commences on 1 July 2021. The Act introduces mandatory registration for persons providing professional engineering services in and for Victoria.

The objective of the Act is to promote improved standards and provide client protections by requiring professional engineers to meet qualification, experience, probity and continuing professional development standards.

The purpose of the proposed Regulations is to set fees for registration and other services provided under the Act. These include fees for:

- initial registration and renewal of engineers' registration;
- initial endorsement and renewal of endorsement to work in the building industry;
- an annual endorsement statement;
- adding an area of engineering to a registration or endorsement; and
- official copies of documents (such as extracts from the register of professional engineers).

The proposed Regulations seek to recover the costs to government of administering the Act and related functions under the *Building Act 1993* (Building Act), including costs incurred by the Business Licensing Authority (BLA), Consumer Affairs Victoria (CAV), the Victorian Building Authority (VBA) and the Victorian Civil and Administrative Tribunal (VCAT) for their various functions under the Act.

Registration will cover five fields of engineering: fire safety, structural, civil, electrical and mechanical engineering. Compulsory registration will be phased-in by area of engineering over a two-and-a-half-year period beginning on 1 July 2021.

Fees Analysis

In the RIS, the Department used a Multi-Criteria Analysis (MCA) that focuses on:

- 1) whether to recover the Government's regulatory costs from professional engineers through fees, or to have the costs met by the Government through general tax revenue; and
- 2) whether non-practising and initial registration fees should be lower than the practising and renewal fees, respectively.

As the RIS is about the method of funding the registration scheme, quantification of the scheme benefits, which derive from the Act, are not discussed in detail. Consultation feedback informed the weightings of the MCA criteria, which are:

- Efficiency (25%);
- Effectiveness (35%); and
- Equity (40%).

Based on the MCA, Option 4 had the highest weighted score and is the Department's preferred option. Option 4 sets:

- registration and renewal fees for non-practising professional engineers that are 20 per cent of the fees for practising professional engineers, and

- a renewal registration fee that is 15 per cent higher than the fee for an initial registration.

The fees proposed in Option 4 are projected to fully recover the cost to government of administering the Act and the related functions under the Building Act. The Department explains that Option 4 also achieves:

- horizontal equity by ensuring that the primary benefactors of the scheme, such as registered professional engineers, pay the cost of the scheme while minimising cross-subsidisation between practising and non-practising registered professional engineers; and
- vertical equity by ensuring that established engineers, who have a greater capacity to pay, contribute more than those in the early stages of their careers.

The Department notes that the fees proposed under Option 4 will impact professional engineering businesses, including small businesses. The RIS explains that the cost impact is not expected to be significant and is outweighed by the improved standards and client protections benefits of the scheme.

Implementation and Evaluation

The Department explains in the RIS that the key focus of its implementation plan is to ensure that professional engineers are aware of and prepared for the new fees. To achieve this, CAV will distribute information and educate the profession about the fees through several channels including professional engineering associations, regulator websites, emails to those who have registered interest, mainstream media, and social media.

The Department notes that these fees will be reviewed in a two-stage process: stage one will respond to any recommendations emerging from the 2024-25 statutory review required by the Act, outcomes of the current review by the Government's Expert Panel of the building system, and the impact of the Commonwealth's proposed automatic mutual recognition scheme. Stage two will occur prior to expiry of the proposed Regulations in 2031.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on 03 7005 9772.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation