



NEWSLETTER

# ISSUE 11

## FEBRUARY 2015

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## A WORD FROM THE REGISTRAR

### ENGINEERS AND THE RESIDENTIAL BUILDING SECTOR

There remains a lack of understanding over the breadth and complexity of work undertaken by engineers from both government and the wider public. In particular there is a lack of understanding of the extent and complexity of work undertaken by civil, structural and geotechnical engineers. Too often it is considered that engineers mainly work in the residential building sector.

To address this misunderstanding a survey was sent to all the civil, structural and geotechnical RPEQs focusing on how often they provided a service in the residential building sector.

- 2.3% of RPEQs investigate and design foundations for residential properties in Queensland.
- 1.3% of RPEQs provide these services once a month or more.
- 2.3% of RPEQs design or sign off on the design of storm water, structural aspects of residential properties.
- 1.7% of RPEQs provided inspection of the construction and/or signing off of the construction of residential properties in Queensland.

The survey results support what I have been emphasising about the complexity of engineering work and while engineers perform an important role in the residential sector, it accounts for only a small proportion of the work carried out by engineers.

Thank you to all the RPEQs who participated in the survey.

### ABOUT THE TRIAL

Recently, the Ipswich Magistrates Court delivered a decision in a prosecution by the Board of Professional Engineers (the Board) on the critical issue of direct supervision. The judgement is of significance as it provides judicial interpretation of what constitutes direct supervision by an RPEQ of an unregistered person carrying out professional engineering services for the purposes of s.115(2) of the *Professional Engineers Act 2002* (the Act). Importantly, that judicial determination is consistent with the Board's position as communicated in Practice Note 4.6.



Section 115 of the Act provides that professional engineering services can only be carried out by an RPEQ or by an unregistered person who is under the direct supervision of an RPEQ.

As Queensland is a very large state and with the remoteness of some locations, the Board has adopted the position that direct supervision of an unregistered person can be provided by the RPEQ without the need for the RPEQ to be in the same physical location. However, there is an obligation upon the RPEQ to maintain detailed records to show that there has been oversight and evaluation by the RPEQ (s115(5)). There are also requirements in the Code of Practice (paragraph 3.6) to be met in respect of direct supervision.

Direct supervision is an issue which I have consistently spoken about at presentations and conferences. I have highlighted the need to keep good records of all written and oral communications between an RPEQ and any unregistered person he/she is supervising. Technology including digital photographs, video footage and video conferencing can be used by an RPEQ in providing direct supervision. The RPEQ and the unregistered person must ensure however that a clear record of all communications is maintained to establish that chain of direct supervision.

What I have also consistently emphasised is that the review and or signing off of a design at the end of the matter does not, in any circumstance, constitute direct supervision. The Magistrate made that same determination.

In this prosecution the unregistered person was in Ipswich and the supervising RPEQ, who allegedly supervised him, was in Victoria.

The unregistered person was engaged to design a slab and footing system and a first floor beam/framing system for a residential property in Brisbane.

The Magistrate agreed that a person at a separate or remote location and even from a different firm can carry out direct supervision of an unregistered person for the purposes of the Act. The Magistrate agreed with the Board's position that

*.... in circumstances where there is a remote location, then there needs to be a clear path or chain of records, communication, to show what communication did occur, which will demonstrate the supervision, the oversight and the evaluation.*

The only evidence of communication in this matter was the receipt, by email, of a form 15 certification and the provision of the drawings to the RPEQ for review. The documents were sent back to the unregistered person without the need for modification and the form 15 was issued. It was unclear whether any conversation took place between the unregistered person and the RPEQ in relation to the certification.

The Magistrate also confirmed that the onus is on the unregistered person to show that there was direct supervision that satisfies the requirements of the Act. The unregistered person needed to be able to show a chain of communication that amounted to direct supervision. A vague recollection of conversations was said to be insufficient to discharge the onus. The Magistrate felt that the absence of a paper trail suggested that there was not direct supervision for the purposes of the Act in this matter.

Simple review and/or certification of documents does not provide the necessary proof of oversight and evaluation which is required to establish direct supervision.

The unregistered person was fined \$5000 and ordered to pay \$25,000 in costs to the Board.

### **REGISTRAR ON THE ROAD**

In March I will be travelling to Mackay to address the Resources Industry Network (RIN) Conference on recent changes to the Act. I will be available to meet with other local engineers or organisations either in the evening on 5 March, or in the afternoon on 6 March following the RIN Conference. Please contact my Executive Assistant via [executiveassistant@bpeq.qld.gov.au](mailto:executiveassistant@bpeq.qld.gov.au) if you would like to arrange a meeting.



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## WELCOME TO NEW BOARD MEMBERS

On 1 January 2015, the Board welcomed three new members: Dawson Wilkie has been appointed chairperson, Professor Simon Biggs as the academic representative, and Adam Stoker has been appointed as the Board's lawyer. The existing Board members and staff extend them a warm welcome.

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## FAREWELL TO OUTGOING BOARD MEMBERS

On 31 December 2014, the tenures of Board members Chris Carr, Joanna Jenkins and Professor Yinghe He came to an end.

All three members played a significant role in helping promote registration and implement the most recent amendments to the *Professional Engineers Act 2002*. As chairperson and regional representative Chris lead the Board during this important reform period and contributed a wealth of experience from his many years in the mining industry. Joanna's legal expertise in the building and construction industry and Yinghe's specialist academic knowledge were also important assets to the Board in undertaking the legislative reforms and dealing with a number of major complaints, investigations and disciplinary actions/prosecutions.

The Board would like to express its deep appreciation for their service as Board members and wish them all the best for the future.

## NEW DEPUTY CHAIRPERSON — GREG MCLEAN

The Board and its staff are pleased to welcome Greg McLean as the new Deputy Chairperson, replacing the outgoing deputy Professor Yinghe He. Greg is the Board's building and construction industry representative and is the longest serving Board member, having served continuously since 2002. Greg's experience on the Board is second to none and is he well regarded for his knowledge and networks in the building and construction industry. Greg's fellow Board members and all the staff wish him well in the role.



## MEET AND GREET PHOTOGRAPHS FROM TOOWOOMBA

With Brisbane in lockdown due to the G20 Summit, the Board took the opportunity to hold their November meeting in Toowoomba.

During the visit to the Garden City the Board hosted a meet and greet event with RPEQs from all over the Darling Downs. The event was well attended by engineers from all disciplines, along with state and local government members and other interested parties who took the opportunity to discuss some of the exciting infrastructure projects in the region, future engineering opportunities and other pertinent issues in the industry.

The Darling Downs is experiencing major growth in infrastructure and development and as a result the number of local RPEQs is on the rise. Chairperson Chris Carr personally welcomed some of the new RPEQs and presented them with their certificates.

The Board is committed to engaging with regional RPEQs and plans to take more meetings and events on the road in 2015.



Grant Pendlebury, Lauren Russell, Michael Duff, Terence Kehoe and John Pikramenos



Aaron Newbauer and Chris Carr



Mike Brady, Phil Lattimore, John Andison, Grant Pendlebury and David Brotchie



Chris Carr, Cr Carol Taylor, Dr John McVeigh, Clare Murray and Mike Brady



## CASE NOTE

### DISCIPLINARY PROCEEDING — BPEQ v V\*

This was a disciplinary proceeding brought by the Board of Professional Engineers of Queensland (“Board”) against V in the Commercial and Consumer Tribunal (“Tribunal”).

The Board alleged that V had behaved in a way that constituted unsatisfactory professional conduct in the structural design and certification of two multi-storey apartment buildings.

V was a registered professional engineer and the director and owner of a consulting engineering practice.

Prior to the construction of the apartment buildings, the design documentation was stamped and signed by V and V completed a Form 15 Compliance Certificate for Building Design or Specification in relation to the designs.

It was found that the designs contained structural inadequacies and errors in relation to a number of transfer beams of the buildings, which included (amongst other things):

- the shear reinforcement between the balcony support column and the closest support column to a beam did not meet the requirements of AS3600;
- the shear reinforcement to another beam was significantly below AS3600 requirements;
- the secondary beam which framed into that beam did not have suspension reinforcement specified;
- a beam which supported the upper level basement slab, had shear reinforcement that did not comply with the requirements of AS3600; and
- there was insufficient flexural and shrinkage reinforcement in the car parking slabs.

The Tribunal considered that the errors in the design of such relatively important parts of multi-story buildings could lead to its failure with possible catastrophic consequences.

The Tribunal stated that the high standards of care that had been adopted by, and become expected of, the engineering profession needed to be maintained.

The Tribunal took into consideration the fact that V had accepted the inappropriateness of the conduct and had suffered monetary loss for the mistake and accepted receiving a benefit in a professional sense from the “experience of failure.”

The Tribunal ordered that V be reprimanded and imposed a penalty in the sum of \$10,000.

*\*the RPEQ the subject of this proceeding has been de-identified and the initial does not relate to his or her name.*

*The Board releases “Case Notes” in its newsletters. The case notes are designed to provide a summary of decisions in disciplinary matters and prosecutions to help RPEQs avoid complaints and further their understanding of the Professional Engineers Act. The Board is committed to assisting RPEQs maintain high standards of professional conduct and to attempting to proactively prevent contraventions of the Professional Engineers Act.*



## EXPRESSIONS OF INTEREST

### ELECTRICAL, MECHANICAL, AND CIVIL (GEOTECHNICAL EXPERTISE) INVESTIGATORS CLOSED

The expressions of interest for appointment to the Board's panel of investigators for the Electrical, Mechanical, and Civil (Geotechnical expertise) areas have now closed. Thank you to all those RPEQs who applied. All successful applicants will be notified in due course.

## CENTRAL QUEENSLAND MEET AND GREET WITH THE BOARD AND REGISTRAR

### 7 MAY 2015 IN EMERALD

The Board's annual regional meeting will be held in Emerald on 7 May 2015. As part of the regional trip the Board will host a meet and greet event for RPEQs based in Emerald and surrounding areas of Central Queensland. RPEQs who 'fly-in-fly-out' of Emerald for work are also invited to attend (RPEQs not permanently based in Emerald will not receive an individual invitation at their residential address).

**Date** Thursday, 7 May 2015

**Time** 5:15 pm to 7:30 pm

**Venue** Emerald Explorers Inn

Gregory Highway, Emerald.

The Board looks forward to meeting as many Central Queensland RPEQs as possible.

Please register your RSVP please forward to [executiveassistant@bpeq.qld.gov.au](mailto:executiveassistant@bpeq.qld.gov.au).

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