



NEWSLETTER

# ISSUE 16

## JULY 2015

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## A WORD FROM THE REGISTRAR

The end of the financial year is a typically a busy time for business, government and households; and for the Board it is no different.

Currently we are preparing the Annual Report for the last financial year, and the Board's Performance Agreement. The performance agreement sets out the Board's agenda for the current financial year and two succeeding financial years and is entered into with the agreement of the Minister for Housing and Public Works. Along with the Chair, I will be meeting the Minister this month to discuss the performance agreement and other matters of importance to the Board and engineers generally.

The government itself has released its Budget which has received a sound reception from interested stakeholders. The Budget includes \$10.1 billion for essential state infrastructure projects, a welcome investment by the government, and one that will hopefully stimulate more opportunities for Queensland engineers.

New and existing infrastructure has been the talk of the town in Brisbane this month as Legacy Way finally opened and the Story Bridge celebrated a milestone.

The former is an investment for the future, while the latter has come to be a symbol of the City of Brisbane, connecting the northern and southern suburbs for 75 years.

Speaking of milestones, in this month's edition of the e-news you will meet the longest serving RPEQ, Rosario 'Ben' Russo, and the Board's longest serving member, Greg McLean. Both Ben and Greg have made outstanding contributions to the profession and the Board over many years.

Additionally, you can read new case notes and an informative piece on the extraterritoriality of the Professional Engineers Act.

As always, I hope you find the e-news interesting and useful. If you have any feedback or require assistance, please contact the Board on 07 3198 0000 or via [admin@bpeq.qld.gov.au](mailto:admin@bpeq.qld.gov.au).

**Gary Stirling**  
Acting Registrar



A symbol of Brisbane; the Story Bridge lit up at night.

## CONNECTING BRISBANE: THE STORY BRIDGE TURNS 75

The May edition of the BPEQ e-news featured a piece on some of Queensland's great engineers, namely Roger Hawken and John Bradfield, both of whom were instrumental in the construction of the Story Bridge.

This month the Story Bridge, so named after prominent public servant John Story, turned 75. During its many years of operation the Story Bridge has provided a vital traffic link between the northern and southern suburbs of Brisbane and in many respects has come to symbolise the city. It is hard to imagine Brisbane without the Story Bridge in its current form, however, due to changes in engineering design and practice and financial constraints, the bridge may look very different if it was being built today. Lord Mayor Graham Quirk pointed out the Story Bridge was a 'largess' and contemporary infrastructure is usually far more basic in its design.

During construction the Story Bridge created several hundred jobs for engineers, tradespeople and labourers and the majority of all materials used in

the construction of the bridge were manufactured or assembled in Brisbane. On 6 July, 1940, 37,000 Brisbanites turned out to witness the opening of the Story Bridge, fast forward to 2015 and more than 70,000 residents crowded onto the bridge to partake in the celebrations.

As Brisbane has grown, so too has the demand for more infrastructure. Legacy Way, the latest addition to Brisbane's road infrastructure network opened during July. While not as visually impressive as the Story Bridge, Legacy Way certainly stands out as a remarkable engineering accomplishment. Legacy Way is the final stage in Brisbane City Council's TransApex transport infrastructure program and cost \$1.5 billion to complete.



Legacy Way is the final stage in Brisbane City Council's TransApex transport infrastructure program.



## ROSARIO 'BEN' RUSSO, OUR LONGEST SERVING RPEQ

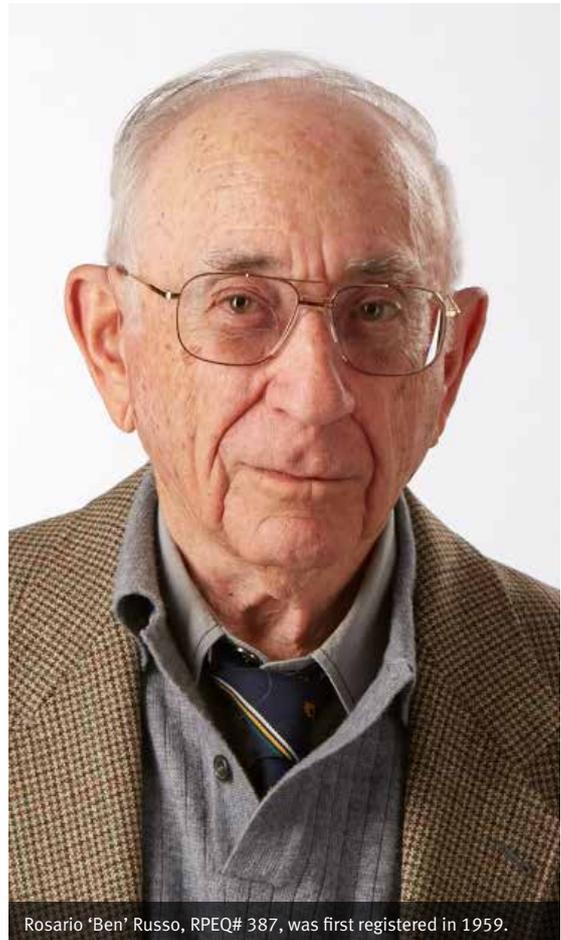
When Rosario 'Ben' Russo first registered as an engineer in 1959, Sir Robert Menzies was prime minister, the total population of Queensland was just over 1.4 million and engineers relied on a slide-rule or T-square for their design work.

After growing up in Ingham, Ben attended the University of Queensland from 1945 to 1948 where he received his Bachelor's Degree in Civil Engineering. After graduating Ben went on to work in the Hydraulics Section of the Coordinator General's Department (originally the Stanley River Works Board).

During his time in government Ben was involved in the design of the Koombooloomba Dam and the Eungella Dam, and the design and construction supervision of the Somerset Dam Hydro-electric Power Station, the Tully Falls Hydro-electric Project, the Barron Falls Hydro-electric Project and the Collinsville Power-station water supply.

Later, Ben joined the Queensland Irrigation and Water Supply Commission and was an integral part of the design teams that worked on Wivenhoe Dam and Burdekin Dam. Following his time at the Irrigation and Water Supply Commission Ben moved into consultancy.

Whilst working Ben also found the time to write a thesis and earn his Master's degree and lecture at the Queensland Institute of Technology (now the Queensland University of Technology) and other learning institutes.



Rosario 'Ben' Russo, RPEQ# 387, was first registered in 1959.

He is presently working at SunWater as a Senior Consultant Engineer, tasked with improving the stability of the spillways at Eungella Dam and Fairbairn Dam.

Ben turns 90 later this year, but still has the same passion for engineering as when he first started out in the profession. The Board congratulates Ben for all his achievements and for being our longest serving RPEQ.

## MEET THE BOARD – GREG MCLEAN



Greg McLean, building and construction industry representative on the Board.

Greg McLean is the longest continuously serving Board member having been appointed in 2002. A registered and chartered builder, Greg has spent 40 years in the sector working in Queensland, New South Wales and the Northern Territory, including time as state building

manager for a leading Australian construction company. Greg now runs a family building practice specialising in project and construction management services. Along with his Board service, Greg is a former director at Master Builders Queensland and an Adjunct Professor, Built Environment Faculty (School of Urban Development) at the Queensland University of Technology.



## EXTRATERRITORIALITY AND THE PROFESSIONAL ENGINEERS ACT

The recent amendments to the Professional Engineers Act (2002) (Qld) (*the Act*) introduced a new section 6A:

### 6A Extraterritorial application of Act

- (1) This Act applies both within and outside Queensland.
- (2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

The amendment has confused many people and the Board has been inundated with questions from RPEQs about how it has affected the application of the Act. The Board hopes this explanatory article helps clarify the situation.

The “extraterritoriality” amendment was intended as a clarification of the application of the Act, not as an extension of its application. Parliament always intended for the Act to apply to the full extent of its extraterritorial legislative power. As such, there has been no change in how the Act applies. There has simply been express clarification inserted into the wording of the Act itself.

Provision of professional engineering services can be broken down into four situations:

1. A person is located in Queensland and provides a professional engineering service for Queensland.
2. A person is located in Queensland but provides a professional engineering service for outside Queensland.
3. A person is located outside Queensland but provides a professional engineering service for Queensland.
4. A person is located outside Queensland and provides a professional engineering service for outside Queensland.

Whether a person needs to be registered as an RPEQ in each situation is discussed below.

#### *Person in Queensland providing service for Queensland—registration required*

This situation is simple. The person is located in Queensland, so the Act applies by virtue of the person’s presence in the physical jurisdiction of Queensland. The Queensland Parliament’s laws apply to persons physically situated in Queensland.

#### *Person in Queensland providing service for outside Queensland—registration required*

This situation is also simple. Again, the person is located in Queensland, so the Act applies by virtue of the person’s presence in the physical jurisdiction

of Queensland, regardless of where the professional engineering service is being provided for.

#### *Person outside Queensland providing service for Queensland—registration required*

This situation is more complex. The person is not located in Queensland so the Act does not apply simply by virtue of the person’s presence in the physical jurisdiction of Queensland. The full power of the Legislature can have an effect outside Queensland, but there must be sufficient connection with Queensland.

When a person outside Queensland is carrying out a professional engineering service for Queensland, the connection with Queensland is clear: the service is for Queensland. If the Act did not apply to persons carrying out professional engineering services for Queensland from outside the State then the operation of the Act would be frustrated and the oversight of engineering services for the State could not be effectively exercised. Engineers could practice from a few steps over the New South Wales border and deliver professional engineering services for Queensland with no accountability to the Queensland public for the standard of those services. It would be impossible for the Act to protect the Queensland public, as intended, if the Act did not regulate professional engineering services for Queensland from interstate and overseas.

The Board has successfully prosecuted persons for contraventions of subsection 115(1) of the Act—carrying out professional engineering services when not an RPEQ—committed from outside Queensland for carrying out professional engineering services for Queensland. The case note presented in the Board’s March 2015 newsletter concerns the Board’s prosecution of two unregistered persons who carried out professional engineering services for Queensland from interstate. The Board took this prosecution before the extraterritoriality amendment, which demonstrates that the Act has always applied to professional engineering services carried out from outside of Queensland for Queensland. The Board will continue to investigate and, if necessary, prosecute suspected offences committed by unregistered persons carrying out professional engineering services from outside the State.

#### *Person outside Queensland providing service for outside Queensland—registration NOT required*

This final situation is simple. The person is not in Queensland and the service is not for Queensland. Therefore, the Act does not apply either through physical jurisdiction or a connection to Queensland.



## CASE NOTES – UNREGISTERED ENGINEERS FROM INTERSTATE

Two unregistered engineers from interstate contravened the Act by providing fire engineering services for a large development situated in Queensland. The engineers undertook to the Board to only carry out professional engineering services if registered as RPEQs or under the direct supervision of an RPEQ responsible for the services.

The two unregistered engineers, both practicing out of Victoria, provided a client with an assessment of the proposed ventilation system of a car park for a large shopping complex situated in Queensland (the assessment). The Board became aware that neither engineer was an RPEQ and was suspicious that the preparation or the assessment was not carried out under the direct supervision of an RPEQ who was responsible for it. The Board authorised an investigation into the matter.

Both engineers cooperated fully with the Board, although they disagreed with the Board's initial verdict that the assessment was a professional engineering service, maintaining that their work did not require, nor was it based on, the application of engineering principles and data. However, after detailed investigation, the Board's investigator determined that the assessment was a professional engineering service. The assessed ventilation system was not compliant with the relevant Deemed-to-Satisfy provisions in the Building Code of Australia,

but was instead an alternative solution (that is, a solution that complies with the performance requirements of the Building Code of Australia other than by reason of satisfying the Deemed-to-Satisfy provisions therein). In carrying out the assessment, the investigator established that the engineers used computational fluid dynamics analysis techniques, which the investigator found required the application of engineering principles and data. This finding, coupled with confirmation that neither engineer was registered nor involved an RPEQ to supervise the work, led the Board to determine that in providing the assessment both engineers had contravened subsection 115(1) of the Act.

The Board gave serious consideration to prosecuting the unregistered engineers, but ultimately exercised its discretion to resolve the matter by accepting an undertaking from each engineer to only carry out professional engineering services in, or for Queensland either after acquiring registration or under the direct supervision of an RPEQ.

*\*The engineers in question have been de-identified so as to protect their privacy.*

*The Board is committed to assisting RPEQs to maintain high standards of professional conduct and competence, maintaining public confidence in the standard of services provided and practice of RPEQs. To this end, the Board releases "case notes" in its monthly e-newsletters to provide practical examples and guidance.*

## CONNECT WITH THE BOARD ON LINKEDIN



Don't forget the Board is on LinkedIn. To keep up to date with the latest news and events from the Board or to start a discussion on registration or engineering issues generally, click [FOLLOW](#).

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