

Professional Engineers Registration Consultation Summary

26 August – 7 October 2020



The *Professional Engineers Registration Act 2019* (the Act) will come into operation on 1 July 2021 and introduces a registration scheme for professional engineers that will be phased-in over a two-and-a-half-year period.

The Minister for Consumer Affairs, Gaming and Liquor Regulation is responsible for the Act, supported by the Department of Justice and Community Safety. The Business Licensing Authority, Director of Consumer Affairs Victoria and Victorian Building Authority administer different aspects of registration of Professional Engineers.

Registration will apply to engineers providing professional engineering services in and for Victoria in the areas of civil, structural, mechanical, electrical and fire safety engineering. Registered engineers who also work in the building industry must have their registration endorsed to do so.

Public consultation took place between 26 August and 7 October 2020 with the following materials available for comment:

- guidance material on key terms in the Act such as the meaning of professional engineering service, prescriptive standards, direct supervision and the five areas of engineering
- the proposed Professional Engineers Registration (General, Exemption and Assessment Scheme Fees) Regulations 2020
- the proposed Code of Conduct for Professional Engineers, and
- options for setting fees for the registration and endorsement of professional engineers.

Overarching concerns raised during public consultation

Analysis of all responses received during the first round of professional engineers registration public consultations revealed several common areas of concern among stakeholders, including:

- Respondents engaged in engineering technologist/technician type roles were concerned their work fell within the scope of the definition of professional engineering services under the *Professional Engineers Registration Act 2019* (the Act) and they would no longer be able to undertake this work without registration
- Respondents expressed concerns that the exemption relating to prescriptive standards, ie that an engineering service is not a professional engineering service if it is provided only in accordance with a prescriptive standard, was too narrow to be applicable in practice
- Respondents noted that the requirements for direct supervision were anticipated to have practical implications on their existing business processes, and
- Respondents were also concerned that the obligation for professional engineers to act in the best interest of a client may, at times, conflict with the best interests of the public.

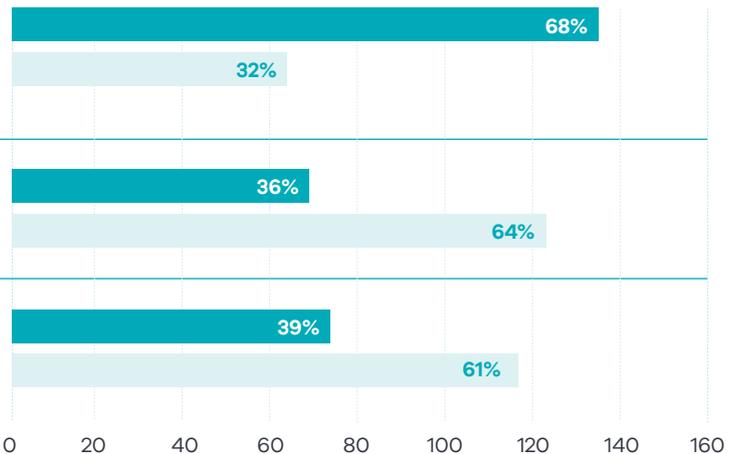
Analysis of consultation response

During the public consultation period, a variety of channels were used to receive community feedback. Most of the responses (around 75 per cent) were received through the government's online consultation platform; Engage Victoria. As the Engage Victoria responses were structured around several targeted consultation questions, this has enabled quantitative analysis of the responses to be undertaken. Below is the summary analysis of the Engage Victoria respondent data, with brief qualitative commentary provided for context. As many of the written submissions received did not conform to the structure set out on Engage Victoria, the views provided in those submissions have been considered in the process but have not been included in this summary.

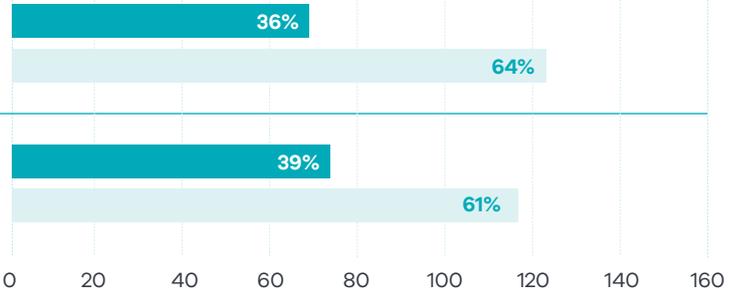


Guidelines on providing professional engineering services

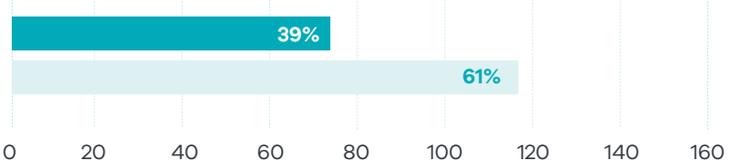
Do the descriptions of the four elements of a professional engineering service provide enough information to determine what a professional engineering services is?



Are there any other elements or aspects of a professional engineering service that should be included in the guidelines?



Is there any information in the guidelines that should be amended or removed?



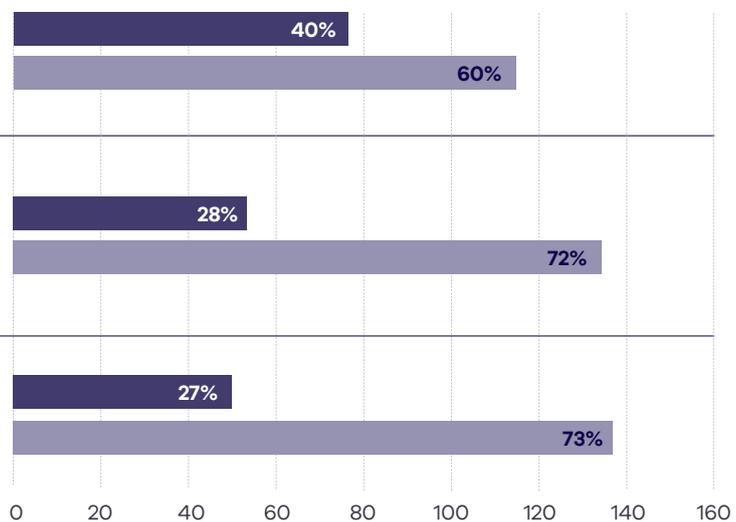
Yes No

Most respondents agreed the guidelines on providing professional engineering services did not require any additional information or amendment. However, based on feedback from respondents that disagreed, the guidelines would benefit from expanding the descriptions of the terms 'engineering', 'service' and 'engineering service'. Respondent feedback also suggests the guidelines would be improved by the inclusion of an additional section that assists readers to distinguish professional engineering services from other services, including other engineering services which are not intended to be captured by the Act, such as those provided by technologists and technicians.



Guidelines on direct supervision

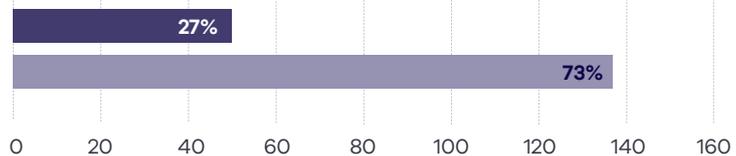
Do the guidelines need additional information to assist supervising engineers and supervised people to understand the direct supervision requirements?



Two problems or traps to be avoided when directly supervising another person are described in the guidelines. Are there other problems or traps that should be included in the guidelines?



Is there any information in the guidelines that should be amended or removed?



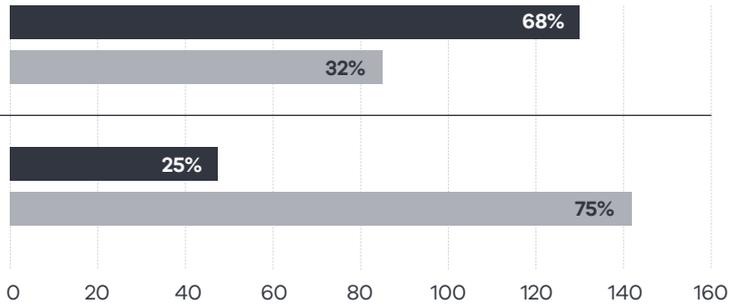
Yes No

Most respondents agreed the guidelines on direct supervision did not require any additional information or amendment. However, based on feedback from respondents that disagreed, the guidelines would benefit from the inclusion of an additional section that clarifies how direct supervision will work in practice, including examples of remote supervision and working offshore.



Practice note - What is a prescriptive standard?

Do the descriptions of the four elements of a prescriptive standard provide enough information to determine when a standard is a prescriptive standard?



Is there any information in the Practice Note that should be amended or removed?



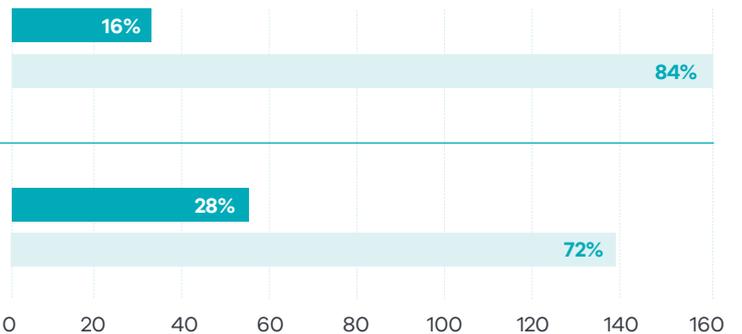
Yes No

Most respondents agreed the Practice Note did not require any additional information or amendment. However, based on feedback from respondents that disagreed, the Practice Note would benefit from expanded descriptions of the four elements of a prescriptive standard. The Practice Note would also benefit from a definition of 'advanced scientifically based calculations', including examples of such calculations compared to other calculations.

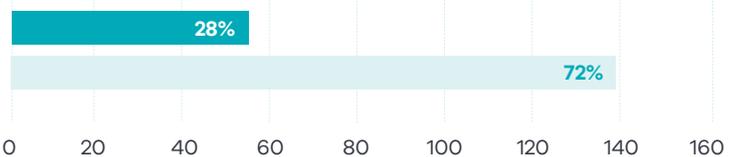


Guidelines on the extraterritorial application of the Act

Are there any arrangements for providing professional engineering services for Victoria that are not covered by the three situations described in the guidelines?



Is there any other information in the Guidelines that should be clarified, amended or removed?



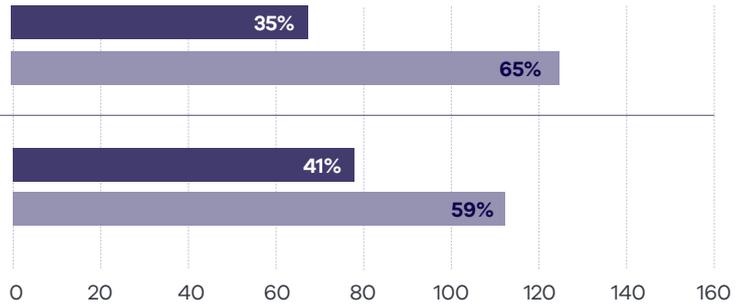
Yes No

More than 80 per cent of respondents agreed the guidelines on the extraterritorial application of the Act required no additional information. However, based on feedback from respondents that disagreed, the guidelines would benefit from additional information relating to professional engineering services for generic products.



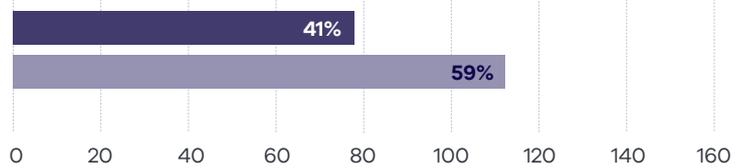
Guidelines on areas of engineering

Is there any additional information that should be included in the descriptions of each of the five prescribed areas of engineering?



Are there any sub-disciplines that should be added to or removed from the lists under each area of engineering?

Yes No

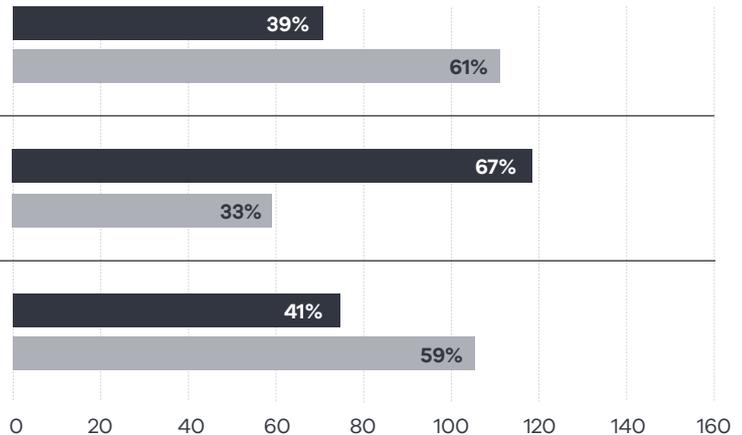


Most respondents agreed the guidelines on areas of engineering did not require any additional information or amendment. However, based on feedback from respondents that disagreed, the guidelines would benefit from clarification that the areas of focus listed in the guidelines are examples to guide the decision making of individuals considering registration and are not intended to be an exhaustive list.



Proposed Professional Engineers Registration (General, Exemption and Assessment Scheme Fees) Regulations 2020

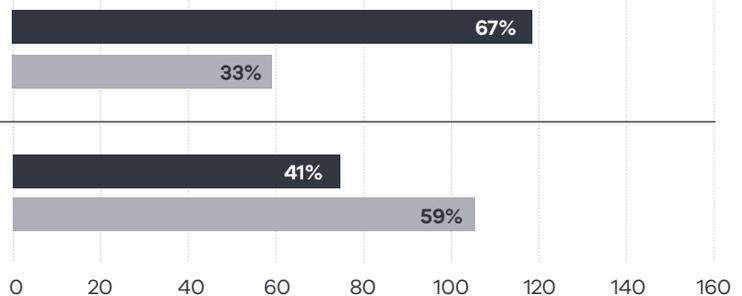
Are any of the proposed regulations unlikely to work in practice?



Is the order and timing of phasing-in registration by area of engineering appropriate?

Do any of the proposed regulations need to be clarified, amended or removed?

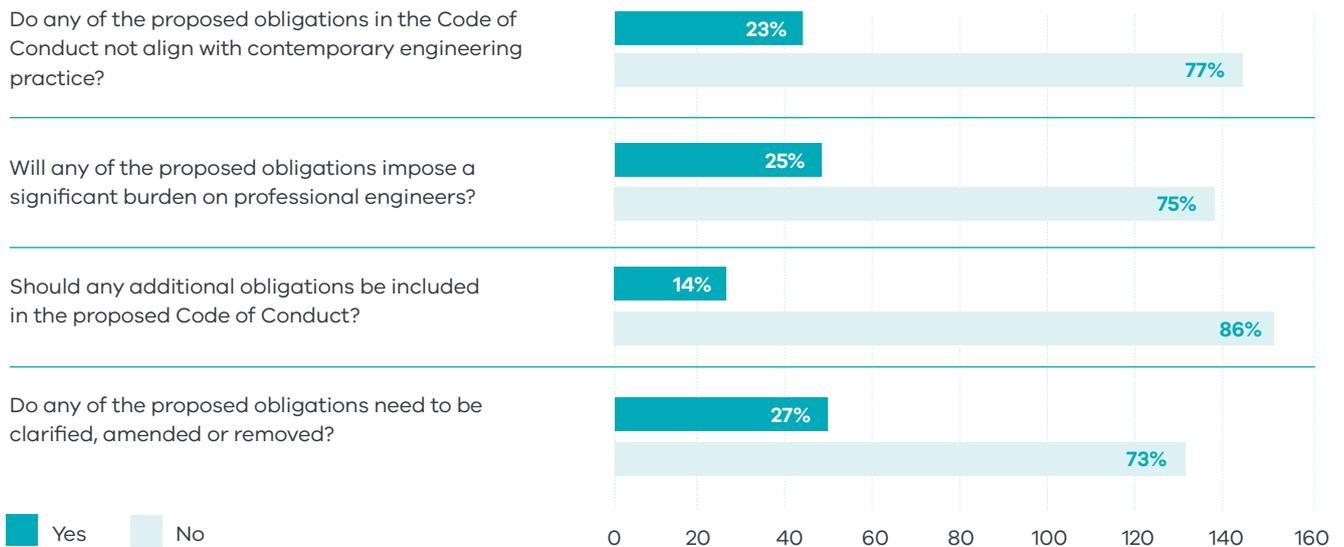
Yes No



More than 60 per cent of respondents agreed the General Regulations were likely to work in practice. However, several respondents expressed concerns with the magnitude of the proposed application fees for the approval of assessment schemes. Respondent feedback suggested the assessment scheme application fees proposed in the General Regulations would represent a significant barrier to market entry for organisations seeking to become assessment entities and would limit the market's competitiveness. In response to this feedback, the proposed application fees for assessment schemes are being reviewed.



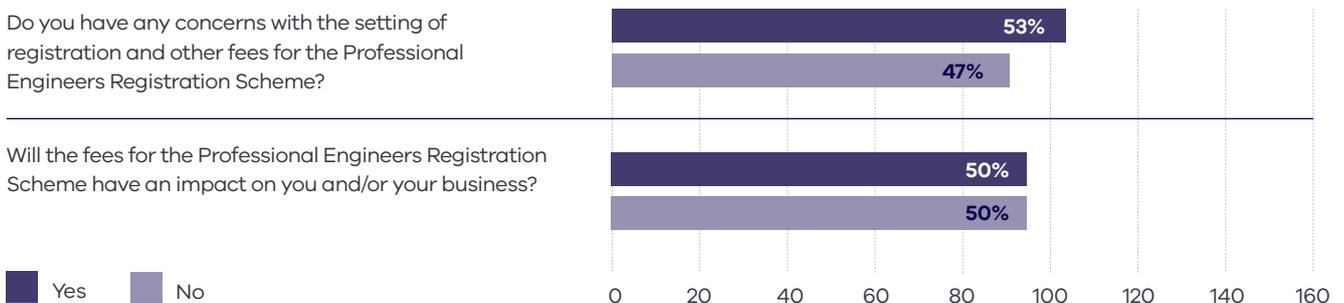
Proposed Code of Conduct for Professional Engineers



More than 75 per cent of respondents agreed the Code of Conduct aligns with contemporary engineering practice. However, based on feedback from respondents that disagreed, the Code would likely benefit from an amendment to better define the meaning of a client by removing the reference to the end user. This amendment responds to feedback suggesting the reference to end user was interpreted by respondents to be the end user of the product produced as a result of the professional engineering service rather than the end user (consumer or purchaser) of the professional engineering service.



Cost recovery options discussion paper



Around half of respondents were concerned with the setting of registration and other fees. A significant number of these respondents were concerned with the prospect of having to pay to be registered to provide professional engineering services across multiple Australian jurisdictions. This view was complimented with strong support for automatic mutual recognition. Automatic mutual recognition legislation is currently being developed by Commonwealth, State and Territory Governments. The implications of this legislation will be discussed as part of the Regulatory Impact Statement process that will support the making of the Fees Regulations. Additional public consultation on the proposed registration and other fees is planned for early 2021.