



## Building Services Board Policy

### **'Management and Supervision': Application and renewal for building engineering contractor registration**

#### **OBJECTIVE**

The objective of this policy is to guide members of the Building Services Board (Board) and Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) staff in determining whether an applicant applying for building engineering contractor (BEC) registration or renewal (known as 'registration'), satisfies section 18(e) of the *Building Services (Registration) Act 2011* (WA) (the Act).

This policy will also assist applicants for registration to assess the appropriateness of management and supervision arrangements for building engineering work.

#### **SCOPE**

This policy applies to all applications made for registration, and renewal of registration, as a BEC on or after 1 July 2024. The policy applies to the following application forms:

##### **Initial application**

Application form 91 – Individual

Application form 92 – Partnership

Application form 93 – Company

##### **Renewal**

Application form 95 – Individual

Application form 96 – Partnership

Application form 97 – Company

#### **CONTEXT**

BECs (individual, partnership or company) are responsible for the proficient management and supervision of both their business and the building engineering work they undertake. The Act requires that BECs have 'arrangements in place' to ensure both their business, and the work they undertake, 'will be managed and supervised in a proficient manner'.<sup>1</sup>

BECs cannot contract out of or assign to a third party their responsibility to ensure the building engineering work they undertake is managed and supervised in a proficient manner.

When applying for, or renewing, registration, BECs must confirm that:

- they will manage and supervise building engineering services in a proficient manner;
- they have knowledge of their obligations and will ensure compliance with the *Building Act 2011* and the Building Regulations 2012; and
- they have knowledge of the minimum standards of the National Construction Code that relate to the scope of engineering work the BECs will undertake.

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<sup>1</sup> s.18(1) and 53(1) of the Act.

Partnership and company BECs must also confirm:

- if the BEC intends to provide building engineering work in multiple prescribed areas of engineering (structural, fire safety, civil or mechanical), arrangements are in place to ensure the works will be managed and supervised by appropriately qualified and registered building engineering practitioner(s).

This policy sets out the criteria against which a BEC must assess their arrangements in place to manage and supervise building engineering work before making their declaration on the application forms. **The criteria included for consideration are broader than the technical requirements to manage and supervise engineering work. Wider business management and supervision criteria are also included, because these are required of registered contractors to comply with the BSR Act.**

## TERMS USED

<b>Arrangements in place</b>	includes plans, policies and procedures to ensure proper action is taken in connection with the carrying out of building engineering work, as well as avoiding or rectifying unsatisfactory building engineering work.
<b>Building engineering work</b>	means professional or technical engineering work, in an area prescribed for registration, that relates to a building or incidental structure. It includes the examination of plans and specifications to provide building design solutions in line with engineering principles, data and calculations, except building design solutions that comprise plumbing work.
<b>Code of Conduct</b>	means the Code of Conduct for Building Engineers issued by the Building Commissioner under s.96 of the <i>Building Services (Complaint Resolution and Administration) Act 2011 (WA)</i> .
<b>Management and supervision</b>	for contractors registered under the Act, means management and supervision of the delivery of the regulated building services the contractor provides. This requirement is broader than, and not limited to, supervision by an appropriately registered person of an unregistered person doing regulated work.
<b>Nominated supervisor</b>	means a registered building engineering practitioner in the appropriate class (area and level of engineering).
<b>Professional engineering work</b>	engineering work that requires, or is based on, the application of engineering principles and data to a design, or construction or production activity, relating to engineering; but does not include engineering work that is done only in accordance with a prescriptive standard.
<b>Professional negligence</b>	means acting in a manner contrary to peer professional opinion of what constitutes professional conduct and, as a result of which, a causing person or entity to suffer injury, loss or damage.
<b>Proficient</b>	in terms of management and supervision, means to the standard necessary to ensure the whole of the building engineering work is carried out in a satisfactory and proper manner free from errors and omissions and/or professional negligence.

<b>Supervision</b>	for practitioners registered under the Act, means supervision by a registered building engineering practitioner of an unregistered person doing building engineering work, in accordance with the Code of Conduct.
<b>Technical engineering work</b>	engineering work that requires, or is based on, the application of engineering principles and data to a design, or construction or production activity, relating to engineering; and is done in accordance with a prescriptive standard.

## POLICY PRINCIPLES

### Generally

This policy does not constrain the Board's capacity to depart from this policy as appropriate to the circumstances of any particular application for the assessment and approval for registration

### Criteria for assessing management and supervision

The arrangements in place a BEC requires to ensure that building engineering work is managed and supervised proficiently will vary depending on a variety of factors, for example: the size of the BEC's business; the number of registered building engineering practitioners and other employees; the type, volume and value of work undertaken; and the geographical locations of the office(s) and/or work sites.

Each BEC must assess its own specific circumstances and requirements, to ensure that its management and supervision arrangements are suited to the building engineering work it undertakes.

An applicant must carry out this assessment before making its declaration on the application form. Note, however, that **applicants are not required to submit detailed documentation addressing the criteria in this policy as part of their application to be registered.**

### Business profile information

BECs must consider their business profile, in accordance with the criteria listed in Table 1 below, when developing and applying arrangements in place to manage and supervise building engineering work. The ways in which these criteria affect the management and supervision arrangements a BEC requires are discussed further below.

### Nominated supervisor

A BEC must have at least one nominated supervisor at all times.<sup>2</sup> A nominated supervisor must be a building engineering practitioner who is registered in the appropriate class (area and level of engineering) to the building engineering work being undertaken.<sup>3</sup>

Multi-disciplinary BECs may have multiple nominated supervisors, representing each of the areas of building engineering in which they contract to provide services. Alternatively, a BEC may have a single nominated supervisor, and employ or contract building engineering practitioners registered in the area(s) of engineering in which the BEC is undertaking building engineering work.

<sup>2</sup> s.18(1)(d) and 22(2) of the Act.

<sup>3</sup> Building Services (Registration) Regulations 2011 (WA) r.28Q

**Table 1: BEC business profile information**

1.	Business entity type: <input type="checkbox"/> Sole trader <input type="checkbox"/> Partnership <input type="checkbox"/> Company
2.	Number and location of engineering staff, including: <input type="checkbox"/> Location of office(s) (WA metropolitan or regional, interstate, or international) <input type="checkbox"/> Number and location of nominated supervisors <input type="checkbox"/> Number and location of registered building engineering practitioners <input type="checkbox"/> Number and location of other employees
3.	Area and level of engineering, and level of registration of: <input type="checkbox"/> nominated supervisor(s) <input type="checkbox"/> any other registered building engineering practitioner(s) employed by the BEC
4.	Areas and levels of building engineering work undertaken.
5.	Classes of building projects undertaken: <input type="checkbox"/> Class 1 buildings <input type="checkbox"/> Class 2 buildings <input type="checkbox"/> Class 3 buildings <input type="checkbox"/> Class 4 buildings <input type="checkbox"/> Class 5 buildings <input type="checkbox"/> Class 6 buildings <input type="checkbox"/> Class 7 buildings <input type="checkbox"/> Class 8 buildings <input type="checkbox"/> Class 9 buildings <input type="checkbox"/> Class 10 buildings
6.	Location of building engineering projects undertaken: <input type="checkbox"/> Perth CBD <input type="checkbox"/> Perth metropolitan <input type="checkbox"/> regional WA
7.	Estimated number of projects to be completed in any financial year.
8.	Estimated total value of work intended to be completed in any financial year.

### Number of staff

The number of staff affects the volume and variety of building engineering work that a BEC can undertake. BECs with more staff, undertaking a greater volume and variety of work, will need more formal management and supervision arrangements than a smaller BEC, such as a sole trader. The number of staff required to deliver the volume of work a contractor undertakes will vary depending on a number of factors, such as the experience of the staff involved, and the type, size and location of projects.

### Location of staff

The location of staff can affect the management and supervision arrangements required, particularly where staff work in more than one location. If a BEC has multiple offices, or staff work remotely from the office, arrangements to manage and supervise work undertaken across multiple locations must be considered.

In addition, multiple offices may lead to staff under supervision working remotely from their direct manager. Where this occurs, a BEC must have formal arrangements in place to ensure that remote supervision is still direct and that all supervised staff have sufficient direction from registered building engineering practitioners to undertake building engineering work proficiently, in accordance with the Code of Conduct.

### Class (areas and levels) of engineering

The level of registration (professional, technologist or associate) affects the type of engineering work undertaken (professional or technical). This in turn can affect the degree of complexity in the work and the subsequent arrangements required to manage and supervise the work proficiently.

In addition, a BEC that undertakes building engineering work across multiple classes (areas or levels) must ensure that it has appropriately registered building engineering practitioners to complete all work it contracts for.

BECs are registered by level only, enabling multi-disciplinary firms to operate under a single contractor licence. The BEC is therefore responsible for ensuring it has nominated supervisors, or that it employs appropriately qualified practitioners, registered in each area of building engineering that it undertakes work in.

### Classes of building projects

Different classes, sizes and importance levels of buildings can require different expertise to design in compliance with the National Construction Code (NCC) and referenced Australian Standards.

For example, a school has different requirements to an apartment building or a hospital; buildings over 25m in effective height have different requirements to smaller buildings; and buildings of importance level 3 or 4 have different requirements to buildings with lower importance levels.

A registered building engineering practitioner is not necessarily competent to do engineering work for every class, type or size of building. A BEC must therefore have arrangements in place to ensure that the building engineering practitioners it employs are competent to undertake the work it contracts for.

### Location of projects

The location of staff in relation to building engineering projects should be considered. Supervising engineering work undertaken remotely may require additional or alternative arrangements, to be reasonably confident that the work is delivered to an appropriate standard, for example if inspection work is done locally by people other than the design engineer(s), and particularly if these people are not registered.

'Arrangements in place' also includes arrangements to ensure staff health and safety when travelling to, and conducting, site inspections relevant to their work. If building projects are remote to the BEC's office, additional arrangements may be necessary, such as an arrangement for staff to travel in pairs for longer trips.

### Subcontracting

Where a BEC intends to subcontract the whole or part of building engineering work, it must ensure that arrangements are in place to assure the quality of the subcontracted works. The BEC will remain responsible for the subcontracted work, including ensuring that appropriate insurance is in place, and that the work is undertaken proficiently.

The BEC must also ensure that where any part of the building engineering work is subcontracted, the person performing the work is an appropriately registered practitioner or working under the supervision of an appropriately registered practitioner, and is competent to carry out the work, in accordance with the Act.<sup>4</sup>

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<sup>4</sup> s.7(5) of the Act.

**Table 2: Management and supervision arrangements**

1.	Assign responsibility to specific parties for ensuring that building engineering work is provided competently, for example: <ul style="list-style-type: none"> <li><input type="checkbox"/> Nominated supervisor;</li> <li><input type="checkbox"/> Director(s) of the company;</li> <li><input type="checkbox"/> Sole proprietor or partner of the business; and/or</li> <li><input type="checkbox"/> Employees that are registered building engineering practitioner(s).</li> </ul>
2.	Arrangements to ensure that building engineering work is managed and supervised proficiently. Arrangements must be appropriate to: <ul style="list-style-type: none"> <li><input type="checkbox"/> The nature of the work being provided;</li> <li><input type="checkbox"/> The experience and competence of the registered practitioner(s) undertaking or supervising the work; and</li> <li><input type="checkbox"/> The size and location(s) of the team undertaking the work.</li> </ul>
3.	Arrangements to supervise any unregistered persons undertaking building engineering work, in accordance with the Code of Conduct.
4.	Arrangements to ensure that building engineering work complies with the NCC and other regulatory requirements, for example: <ul style="list-style-type: none"> <li><input type="checkbox"/> Relevant staff have access to the NCC and relevant Australian Standards;</li> <li><input type="checkbox"/> Relevant staff subscribe to Building and Energy's industry bulletins and other relevant providers' updates regarding industry standards;</li> <li><input type="checkbox"/> Internal review and audit procedures to ensure designs and products comply;</li> <li><input type="checkbox"/> Engaging expert advice to verify compliance;</li> <li><input type="checkbox"/> Staff training on NCC and regulatory requirements; and/or</li> <li><input type="checkbox"/> Software that staff can access to support compliance.</li> </ul>
5.	Arrangements to ensure that building engineering work is provided in accordance with the Code of Conduct.
6.	Arrangements to ensure that budgets are developed, project costs are correctly estimated and monitored, and payments are made with financial and administrative diligence.
7.	Arrangements to ensure compliance with occupational health and safety requirements, including all places of work (office, home office, work-related travel, site inspections, etc).
8.	Arrangements to use commercial contracts to meet regulatory and legislative requirements.
9.	Arrangements to ensure that the business is appropriately insured, for example: <ul style="list-style-type: none"> <li><input type="checkbox"/> professional indemnity insurance;</li> <li><input type="checkbox"/> workers' compensation insurance; and/or</li> <li><input type="checkbox"/> public liability insurance.</li> </ul>
10.	Arrangements to ensure that employee entitlements to pay and superannuation are met.
11.	A business risk management plan is in place, and: <ul style="list-style-type: none"> <li><input type="checkbox"/> employees have access to the plan and any associated policies or procedures;</li> <li><input type="checkbox"/> employee compliance with the risk management plan is monitored; and</li> <li><input type="checkbox"/> the plan is reviewed and updated periodically.</li> </ul>
12.	Arrangements to ensure the contractor maintains a good professional relationship with clients, in accordance with the Code of Conduct.
13.	Disaster recovery plan is in place, to ensure: <ul style="list-style-type: none"> <li><input type="checkbox"/> Continuity of critical functions and services in a safe and compliant manner;</li> <li><input type="checkbox"/> Employee safety during a crisis; and</li> <li><input type="checkbox"/> Appropriate management of client information, sensitive data, and financial and critical internal records.</li> </ul>

**Management and supervision arrangements**

Each BEC is responsible for ensuring that it has management and supervision arrangements in place appropriate to the specific risks presented by its business profile. This means that plans, policies, procedures and systems are in place to ensure that building engineering work is provided proficiently.

‘Arrangements in place’ may include some or all of the following:

- Internal policies, procedures and information;
- ‘Off-the-shelf’ or custom-designed software packages;
- Paper-based systems;
- Staff training;
- Internal or external reviews;
- Audits and monitoring; and
- Expert advice.

After considering its business profile, each BEC must develop and apply management and supervision arrangements in accordance with Table 2.

**POLICY IMPLEMENTATION**

Applicants for contractor registration are required to confirm on their application form that the individual, partnership, or company will manage and supervise building engineering services in a proficient manner. DEMIRS staff may request some additional information, as required, to resolve any apparent discrepancies in an application, however **applicants are not required to submit detailed documentation addressing the criteria in this policy.**

As part of its compliance and enforcement work, DEMIRS may audit registered engineering contractors against the criteria in this policy.

DEMIRS Building Industry Licensing Branch will process applications for registration in a manner that conforms to this policy.

This policy commences operation on 1 July 2024.

**GOVERNANCE**

Resolved by the BSB	Meeting Date 9 April 2024	Item Number 4.1
Chairperson	Signature 	Date 9 April 2024
Keywords	Building engineering contractor; building engineering registration; management; supervision; application	
Next review	1 July 2027	