

Recognised Engineering Body INFORMATION SHARING AGREEMENT

Design and Building Practitioners Act 2020
Design and Building Practitioners Regulation 2021

November 2022

**Please note that this is a generic version of the Information Sharing Agreement.*

This **INFORMATION SHARING AGREEMENT** is made on the day of 20

BETWEEN

The State of New South Wales represented by Department of Customer Service, ABN 81 913 830 179 of McKell Building, 2-24 Rawson Place, Sydney (**DCS**)

and

[Recognised Engineering Body] *[ABN]*

of address (**Body**)

Suburb State Postcode

(collectively, "**party**" or "**the parties**")

Background

- A. Section 104 of the *Design and Building Practitioners Act 2020* (the Act) empowers the Secretary of DCS (the Secretary) to enter into an information sharing arrangement (ISA) with a relevant agency, to enable or assist the Secretary to exercise functions under the Act.
- B. Under clause 92 of the *Design and Building Practitioners Regulation 2021* (the Regulation), a recognised engineering body is a relevant agency for the purposes of section 104(7) of the Act.
- C. Under clause 52C of the Regulation, the Secretary may refuse an application for recognition as a recognised engineering body if the body refuses to enter into an ISA.
- D. The purpose of this ISA is to allow information held by the Secretary and the Body to be shared and exchanged to support the regulatory functions performed by DCS.
- E. Section 104(5) of the Act provides that the ISA applies only to the extent that the information is reasonably necessary to assist in the exercise of functions of the Secretary and the Body under the Act and Regulations. An agency is not required to comply with specified privacy principles if non compliance is lawfully authorised, permitted, necessarily implied or reasonably contemplated under an Act or any other law.
- F. The Secretary and the Body have agreed to enter into this ISA for the purposes of the Act upon the terms of this ISA.

The parties record the following understandings:

1. Interpretation

Terms used in this ISA have the meaning given to them in the Act and the Regulation as applicable.

2. Commencement and term

This ISA commences on the date that the last party signs it.

3. Arrangement under s 17AB of the *Fair Trading Act 1987*

(a) In this clause, relevant information means:

- (i) Information held by the Body in relation to past and present engineers in NSW whether practicing or non-practicing that are or have been or have made an application to be registered with the Body
- (ii) Information held by the Secretary in relation to engineers practising in NSW that hold or have held a registration under the Act.

(b) Each party is authorised to and agrees to:

- (i) request and receive relevant information held by the other party, and
- (ii) disclose relevant information to the other party,

to the extent that the relevant information is reasonably necessary to assist in the exercise of functions under the Act or the functions of the Body.

(c) Reporting. The Body agrees to:

- (i) notify the Secretary of any breaches and disciplinary action of its members within 7 days
- (ii) notify the Secretary of any additions, changes or additions to the relevant information on a quarterly basis.

4. Requesting, receiving and disclosing information

- (a) Each party is solely responsible for satisfying itself that any information it requests or receives from the other party is lawfully able to be requested or received under the Act.
- (b) Each party is solely responsible for satisfying itself that any information it discloses to the other party is lawfully able to be disclosed to the other party under the Act.
- (c) Each party has a discretion to refuse to disclose information to the other party for any reason.
- (d) If a party receives a request for information pursuant to this ISA and determines that the information requested cannot be disclosed under clause 3, it is to notify the requesting party as soon as reasonably practicable.
- (e) If a party receives information from the other party pursuant to this ISA and considers that it was not lawfully disclosed or received, the party is to notify the other party as soon as reasonably practicable.

5. Review and amendment

- (a) This ISA will be reviewed within the first 6 months of operation and once every 24 months thereafter.
- (b) No amendment to this ISA is effective unless it is in writing and signed by the parties.

6. Privacy and confidentiality

- (a) The parties will comply with any applicable obligations under privacy legislation and/or applicable government guidelines with respect to the use, disclosure, transfer or handling of personal and health information collected in connection with this ISA.
- (b) The obligations under this clause continue after the expiry or termination of this ISA.

7. Variation or termination

The parties agree that the ISA will be in place from the time a party is approved as a recognised engineering body, to until a party ceases to be a recognised engineering body.

The Secretary may review the ISA should the need arise by providing a notice period of 60 days to a recognised engineering body of its intention to do so.

The recognised engineering body may seek an agreement with the Secretary to vary the ISA. The request for variation must be submitted in writing. The Secretary will provide a decision to the request for variation within 60 days.

Should the recognised engineering body cancel or terminate this ISA, the Secretary may exercise its discretion to revoke the recognition status of the recognised engineering body.

8. Dispute resolution

- (a) If a dispute arises out of or regarding this ISA, the parties must attempt in good faith to resolve the dispute by negotiations between the Representatives (set out in clause 10).
- (b) If the dispute is not settled by the Representatives after 30 days, either party may give the other a notice setting out specific details of that dispute and reporting the failure of negotiations to resolve it. The dispute is then to be referred upward through the parties’ equivalent management levels, until resolved.
- (c) If the dispute remains unresolved after following the process required under subclauses (a) and (b), the parties will endeavour in good faith to resolve the dispute by negotiations between the Secretary and the Body.

9. Notices

(a) Any notice required by this ISA, excluding requests made under Schedule 1 to this ISA, is to be provided by email to the following person:

(i) The Secretary

C/-
[insert email]

(ii) The Body

C/-
[insert email]

10. Representatives

- (a) The person named or occupying the position in item 1 of Schedule 1, or such other person nominated by the Secretary in writing, will act as the Secretary’s representative in connection with this ISA.
- (b) The person named or occupying the position in item 2 of Schedule 1, or such other person nominated by the Body in writing, will act as the representative of the Body in connection with this ISA.

11. No binding relationship created by this document

This ISA is not intended to nor does it in any way create a binding legal relationship between the parties other than for the purposes of the Act.

Schedule 1

Representatives

1. Representative for the Secretary

Given name(s)	Family/Surname		
<input type="text"/>	<input type="text"/>		
Position			
<input type="text"/>			
Address			
PO Box 972			
Suburb	State	Postcode	
Parramatta	NSW	2124	
Telephone	Email		
<input type="text"/>	<input type="text"/>		

2. Representative for the Body

Given name(s)	Family/Surname		
<input type="text"/>	<input type="text"/>		
Position			
<input type="text"/>			
Address			
<input type="text"/>			
Suburb	State	Postcode	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Telephone	Email		
<input type="text"/>	<input type="text"/>		

SIGNED by Emma Hogan,
SECRETARY,
DEPARTMENT OF CUSTOMER SERVICE,

but not so as to incur any personal liability, in the presence of:

Date

Given name(s) of Witness

Family/Surname of Witness

Signature of Witness

Date

SIGNED by

CHIEF EXECUTIVE OFFICER,

[Recognised engineering body]

but not so as to incur any personal liability, in the presence of:

Date

Given name(s) of Witness

Family/Surname of Witness

Signature of Witness

Date