Friday, October 1, 2021

Building and Construction Policy Team
NSW Fair Trading

On behalf of the Australian Institute of Refrigeration, Air Conditioning and Heating (AIRAH), I would like to seek clarification regarding refrigeration engineers conducting work in NSW and how this is treated under the Design and Building Practitioners Act.

Reviewing the Act, it is our belief that a refrigeration system within a Class 2 building is not considered a "building element" as it is not essential for the building to function. If this assumption is correct, and refrigeration is not defined as a building element, the design and build of refrigeration does not need to be registered by a design practitioner.

AIRAH believes, however that the design of certain safety critical elements (refrigeration piping, rack design, switchboard design and possibly equipment selection) does need to be done by a registered professional engineer, with the refrigeration contractor to supply a signed self-certifying document to be kept with the as-built documents.

If this interpretation of the Act is correct, AIRAH would flag that a significant number of practitioners working in the refrigeration space in NSW would not be able to obtain professional registration.

In AIRAH's submission to the NSW Government on Design and Building Practitioners Regulation 2020, we raised the issue that due to a lack of tertiary qualifications that deal specifically with HVAC&R building services, most professionals working in this sector – including some who sit on committees developing Australian Standards and the National Construction Code – do not have a Washington Accord accredited qualification in mechanical engineering. For these professionals, we believe an alternative transitional pathway to professional registration is vital.

Background

The Building Code of Australia (BCA) contained within the National Construction Code (NCC) defines a Class 2 building as containing two or more sole-occupancy units, each being a separate dwelling (i.e., multi-unit, multi-storey residential apartments, single-storey dwellings that are attached and have common space below). The NSW Design and Building Practitioners (DBP) Act applies to all parts of a building (not just the Class 2 parts). This may include, for example, a supermarket on the ground floor of a high-rise residential building.

Design work for building elements must be signed off by registered, competent design practitioners. This means declaring compliance with BCA. Design must be registered on the NSW Planning Portal before works can commence. Building work for building elements must be signed off by registered, competent building practitioners. This means declaring compliance with the registered design.

"Building elements" refer to parts of the building necessary for it to function and include fire safety systems, waterproofing, building structure, building enclosure, mechanical, plumbing and electrical building services.

If an engineer is carrying out certain categories of professional engineering work on a Class 2 building (or a building with a Class 2 part) in NSW, they must be registered as a professional engineer or work under the direct supervision of a registered professional engineer.

AIRAH's concern

AIRAH believes refrigeration is not considered a "building element" as it is not essential for the building to function. If this assumption is correct and refrigeration is not defined as a building element, the design and build of refrigeration does not need to be registered by a design practitioner.

AIRAH believes, however, that the design of certain safety critical elements (refrigeration piping, rack design, switchboard design and possibly equipment selection) does need to be done by a registered professional engineer, because it falls within the engineering class of mechanical engineering. This would require the refrigeration contractor to supply a signed self-certifying document to be kept with the as-built documents.

AIRAH's concern is that the refrigeration industry as it exists today will not be able to meet the qualification requirements for professional engineers set out in the DBP Regulation. As we noted in our feedback to the Design and Building Practitioners Regulation 2020:

> Because of a lack of engineering degrees that specifically deal with HVAC&R – building services, mechanical engineers working in this sector have over the years obtained widely differing tertiary qualifications. Many leading professionals in this sector – including some who provide input for the NCC and chair Australian Standards committees – do not have a Washington Accord accredited qualification in mechanical engineering. AIRAH recommends that alternative pathways to registration are provided for these people
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> As Australia's peak body for HVAC&R – building services engineers, AIRAH would be happy to provide input on what qualifications could be considered equivalent.
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> AIRAH also believes "grandfathering" will be an important issue for many of our senior members and that it will be necessary to provide guidelines on acceptability of "grandfathering".

We note that there are provisions in the Regulation for the Secretary of the Department of Customer Service to grant registration in other circumstances, and we would like to confirm that this mechanism could permit suitably qualified and experienced professionals to obtain professional engineering registration.

Could you please provide advice on this matter as clarity around this issue is critical for our members working in these areas.

I also reiterate our offer to provide input on alternative and/or transitional pathways for those working in these specialist areas.

Regards,

Tony Gleeson, M.AIRAH
AIRAH Chief Executive