

27 March 2008

The Honourable Minister

Ms A T Didiza

Department of Public Works

Private Bag X890

PRETORIA

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Dear Honourable Minister Didiza

POLICY DOCUMENT ON THE PROPOSED AMENDMENTS OF THE STATUTORY REGULATORY FRAMEWORK OF THE BUILT ENVIRONMENT PROFESSIONS

My evenly numbered letter dated 07 March 2008, refers.

The Engineering Council of South Africa ("ECSA") has not received a reply to the abovementioned letter, in which we requested an extension of time to comment on the Policy Document. The ramifications of what is proposed in the Policy Document are indeed wide ranging and fundamental. ECSA still maintains that the time allowed for comment is with respect, manifestly inadequate.

ECSA has composed a comment on the draft document which is attached hereto. We may need to supplement our comment at a later stage in order to be a constructive participant in this very important process.

May I once again, confirm our strong commitment to excellence in engineering, and to meeting the challenge of restoring the skills pipeline as highlighted by the Minister in 2007.

However we remain keen to participate in discussions on issues that were raised in the Policy Document, in future.

Yours faithfully,

MR T T GOBA

PRESIDENT

ENGINEERING COUNCIL OF SOUTH AFRICA

COMMENTS ON THE POLICY DOCUMENT:

PROPOSED AMENDMENTS OF THE STATUTORY REGULATORY FRAMEWORK OF THE BUILT ENVIRONMENT PROFESSIONS

1. INTRODUCTION

- 1.1 On 5 March 2008, ECSA received the Policy Document on the Proposed Amendments of the Statutory Regulatory Framework of the Built Environment Professions (herein referred to as the Draft Policy) from the CEO of the Council for the Built Environment (CBE) together with a schedule headed “Provisional Timelines for Draft CBE Bill”.
- 1.2 ECSA Council met in a previously scheduled meeting on 6 March 2008 and took note of the Draft Policy. Council also appointed a small Task Team to, as a matter of urgency, devise and implement an action plan for ECSA’s response to the Draft Policy which as far as possible meets the very tight timelines suggested for leading to a Draft CBE Bill.
- 1.3 The Draft Policy was published as General Notice 337 of 2008 in Government Gazette No 30852 on 7 March 2008.
- 1.4 In his covering letter, the CEO of the CBE indicated that the Department of Public Works (DPW) intended arranging consultations with internal stakeholders, including ECSA. A closed workshop on this subject was attended by ECSA representatives, on invitation, on 18 March 2008.
- 1.5 ECSA convened a meeting of its Voluntary Organisations on 21 March 2008 to discuss the Draft Policy. Due to the limited time to organise the meeting, attendance was limited and the meeting served at best as a briefing session on the Draft Policy rather than an opportunity for proper consultation.
- 1.6 ECSA has for some years, been advocating changes to the legislation governing the engineering profession so as to improve the regulatory processes and to address a number of weaknesses but there was no response from Government. Given ECSA’s stance Council was surprised and disappointed to learn that the Draft Policy had been prepared behind closed doors and without consultation with directly affected organisations such as ECSA and the other five professional councils. Members of the CBE Council also confirmed not having been consulted in the drafting of the Draft Policy.
- 1.7 This submission from ECSA is therefore made without the benefit of
 - a) internal discussion and debate of matters that require attention at policy level or of
 - b) consultation with our constituencies.

ECSA remains cognisant of the fact that its primary mandate as a statutory body relates to the health, safety and other interests of the public in relation to engineering activities. ECSA's role in relation to the public is therefore driven by quality assurance in various forms and these functions must be carried out in full alignment with, and be contributory to, national policies and developmental imperatives. Attention is therefore focused in this submission on strategic matters and policy proposals and discussion of the merits of detailed provisions and implications must be reserved for more appropriate fora and be based on critical analysis of the circumstances.

- 1.8 ECSA is very concerned that the Draft Policy, in its Introduction, refers to challenges facing the built environment professions as highlighted by various investigations undertaken as part of the mid-term review of the CBE and the Professional Councils in 2003 and 2004. Changes in the engineering industry and in the engineering profession in South Africa over the past five years have been so dramatic and far reaching that these must be considered and the current challenges be subject to a thorough review. ECSA believes that the engineering profession, and probably also the five sister professions in the Built Environment, now face significantly different and potentially far greater challenges than before and that new policies and strategies are called for in many respects. From this point of view a policy review is welcomed which might lead to appropriate legislative, organisational and functional changes, but based on robust procedures of analysis and synthesis of the current situation and dynamics.
- 1.9 Publication of the Draft Policy has created an opportunity for Government and the professions to take a major step forward in serving the needs of the country by strengthening the role that the Built Environment Professions can play in the political, social and economic development of the country. ECSA is committed to maximizing the benefits for all to be obtained from this opportunity and will participate constructively in every way possible.

2. **CONSULTATION**

- 2.1 ECSA records its concern that the Draft Policy was prepared and published without any prior reference to the directly affected stakeholder organizations and individuals. It is reliably learned that a similar document was presented to the Portfolio Committee on Public Works some time ago and that the matter was referred back for wide consultation. Apparently this consultation has not taken place. Wide consultation and reflection are essential, given the fact that the proposed regulatory structure is substantially different to the present form.
- 2.2 ECSA has requested an extension of time of three months for the submission of comment on the Draft Policy to enable consultations with its many and varied stakeholders in its own constituency. No response to this request has been received to date and this limited submission is made according to the proposed timeline for developing draft amending legislation.
- 2.3 ECSA will participate positively and vigorously in the statutory consultative processes after draft legislation is submitted to Parliament (scheduled for 19 May 2008).
- 2.4 In order to participate properly in the legislative process ECSA will have to consult with at least the following:-

- 34 Statutorily recognized Voluntary Organizations listed in Annexure 1;
- Other voluntary organizations representing practitioners in the engineering profession who are not formally recognised;
- Other Professional Councils in the Built Environment;
- Academic institutions who offer education programmes in engineering; and
- Employer organizations such as government departments and major industries.

3. PROVISIONAL TIMELINE FOR A DRAFT CBE BILL

- 3.1 ECSA notes with concern the intention to submit a Draft Bill to Parliament by 19 May 2008. The main concerns are that no consultation with important stakeholders took place before publication of the Draft Policy on 7 March 2008, the inadequate time for submitting meaningful comment by 28 March 2008 and the fact that the timeline includes a significant number of public holidays.
- 3.2 The provisional timeline is such that amending legislation will have to be drafted without the benefit of thorough analysis and synthesis referred to above, inevitably leading to a time-consuming and wasteful period of consultations during the passage of the Bill through Parliament. ECSA calls for a change in approach which includes a participation model in policy formulation which can lead to very positive outcomes and a robust basis for drafting legislation that may be required. ECSA also believes that it is critical to undertake a thorough consultative process so as to not create a sense of alienation amongst professionals and to ensure that such legislation should serve the country for a long time in future.

4. CHALLENGES FACING THE BUILT ENVIRONMENT PROFESSIONS

- 4.1 The challenges facing the professions that were identified in 2003 and 2004 to some extent exist today but are probably superseded in importance to South Africa by other issues. This calls for thorough and fresh analysis and synthesis which is impossible within the allowed period. The present appreciation of and reaction to the skills shortage in South Africa, particularly in engineering, is not properly documented. Some of the challenges found to exist in 2003 relate to the root causes of this shortage while others have been overtaken by subsequent events.
- 4.2 ECSA calls for the present situation in respect of all of the current challenges to be fully documented and that consideration be given to the findings of other initiatives such as National Human Resource Development Strategy, JIPSA and AsgiSA so as to properly inform revised policy positions.
- 4.3 Attention must be drawn to the fact that there is no obvious connection between some of the findings and statements in the Draft Policy and the recommendations made for changes such as stripping the Professional Councils of the status as juristic persons. The fundamental changes proposed for the regulatory organizations will not lead to the desired outcomes.

5. SHORTCOMINGS IN THE PRESENT REGULATORY FRAMEWORK

- 5.1 There is no justifiable reason for having to strip the existing Professional Councils of their autonomy in order to promote the sharing of resources. Sharing by ECSA of its well

established administrative systems and experience with the other Councils has in any case taken place where this was requested and the offer remains open. There appears to be an expectation that the proposed change in status of Councils to Boards will automatically lead to better utilization of staff, funds and facilities. This is highly unlikely and a business plan for this model should be prepared with care to inform decision-making. Alternative models have apparently not been considered.

- 5.2 It is presumed in the Draft Policy that the various built environment professions are sufficiently large in their own right to sustain separate Professional Councils through registration fees if full or even a higher degree of registration is achieved.. This may not be true, even with much higher levels of registration than at present. Cognisance must be taken of the significant advances made since 2003 by the CBE and the Professional Councils in reaching the objective in the current Act of compulsory registration of professionals. Progress with the formal identification of functions of professionals (not the scope of the professions) will, it is suggested, make a positive impact on registration. However, this may not lead to the viability of all of the Councils.
- 5.3 The reported disjuncture between the present pieces of legislation referred to in the Draft Policy is not clear. Independence of the various Councils is very important to the professions and should be retained, strengthened and better aligned to higher level policy objectives.
- 5.4 ECSA does not believe that the existence of independent Professional Councils for the various professions can be viewed as fragmentation, particularly when the Legislator created an umbrella, coordinating body in the CBE to provide leadership and guidance in regard particularly to national policies and imperatives. The proposed rearrangement can hardly lead to an improvement on its own
- 5.5 Opportunities for access to the engineering profession have never before been more open to all members of society than a present. This is a function of the change from a depressed industry, after about 25 years of recession until about 2003, to a buoyant industry which is growing rapidly from a very low base. Coordination between the professionals has had very little, if anything, to do with this change. The challenge is now to ensure that the secondary schooling system produces sufficient well educated young people from all sectors of society to meet the needs for skilled people by the engineering profession and industry as well as all the other professions and vocations. Tertiary education institutions, with the necessary financial and other resources, must be in a position to provide the necessary quality education programmes, and industry must provide opportunity for experiential training and professional development. All these factors together will make a positive impact on access to the profession and significantly promote transformation.

6. **CONCLUSION**

- 6.1 This submission does not address each and every point made in the Draft Policy but is an attempt to provide comment at a high level in the limited time available. ECSA does believe however that much can be achieved by undertaking a thorough policy review at this time, but based on robust analysis of the present situation in the Built Environment Professions and with the national policies and development imperatives as background.

- 6.2 Policy positions in regard to the professions can be formulated only after thorough discussion and debate with stakeholders in an open consultation process. Only then can a new dispensation be synthesized for the benefit of the country and all its citizens.
- 6.3 Well informed policy may then lead to changes in legislation where better management of the existing regulatory system in isolation may fall short.
- 6.4 From the above it is clear that ECSA is not in a position to support the proposed drastic changes to the present regulatory system for the professions and the associated changes in legislation. There is an urgent need, however, to empower the Professional Councils with small constituencies to carry out their mandate., In this regard ECSA reaffirms its offer of assistance through sharing of resources in as far as this is practical. This must be supported by financial grants through the CBE to at least cover the costs of maintaining an establishment and complying with the laws of the land. These smaller Councils were created by law and should be supported from public funds until those professions achieve the necessary critical mass.

Voluntary Associations

recognised in terms of section 25(3) of the
Engineering Profession Act, 2000 (Act No. 46 of 2000)

These Voluntary Associations applied for recognition in terms of section 36(1) of the Engineering Profession Act, 2000 (Act 46 of 2000) and were recognised by the Council in terms of Section 25(3) of the above Act.

Category A			
Acronym	Name	Reference Number	Date Recognised
AeSSA	Aeronautical Society of South Africa	VA A0022	2006 June 22
AMMSA	Association of Mine Managers of South Africa	VA A0031	2007 Jan 24
COET	The Chamber of Engineering Technology	VA A0001	2005 Sep 6
CSSA	Concrete Society of Southern Africa	VA A0019	2006 June 22
ICMEESA	Institution of Certificated Mechanical & Electrical Engineers, SA	VA A0002	2005 Nov 24
IMESA	Institution of Municipal Engineering of Southern Africa	VA A0003	2005 Sep 6
IPET	Institute of Professional Engineering Technologists	VA A0004	2005 Sep 6
LIASA	Lift Inspectors Association of South Africa	VA A0026	2007 Jan 24
SACEA	South African Colliery Engineers' Association	VA A0005	2006 Mar 10
SACMA	South African Colliery Managers Association	VA A0029	2007 Jan 24

SAIAE	South African Institute of Agricultural Engineers	VA A0020	2006 June 22
SAICE	South African Institution of Civil Engineering	VA A0006	2005 Nov 24
SAIChE	South African Institution of Chemical Engineers	VA A0007	2005 Sep 6
SAIEE	South African Institute of Electrical Engineers	VA A0008	2005 Nov 24
SAIIE	Southern African Institute of Industrial Engineers	VA A0009	2006 Mar 10
SAIMechE	South African Institution of Mechanical Engineering	VA A0021	2006 June 22
SAIMENA	South African Institute of Marine Engineers & Naval Architects	VA A0010	2005 Sep 6
SAIMM	South African Institute of Mining and Metallurgy	VA A0011	2005 Nov 24
SAIRAC	South African Institute of Refrigeration and Air-Conditioning	VA A0028	2007 Jan 24
AMRE	Association of Mine Resident Engineers	VA A0032	2007 Nov 30

Category B			
Acronym	Name	Reference Number	Date Recognised
SAFHE	South African Federation of Hospital Engineers	VA B0023	2006 June 22
SAIMC	South African Institute of Measurement and Control	VA B0024	2006 June 22
SAID	South African Institute of Draughting	VA B0033	2007 Nov 30

Category C			
Acronym	Name	Reference Number	Date Recognised
IESSA	Illuminating Engineering Society of South Africa	VA C0012	2005 Nov 24
INCOSE	International Council of Systems Engineering (SA Chapter)	VA C0030	2007 Jan 24
IQSA	Institute of Quarrying Southern Africa	VA C0014	2006 Mar 10
ITC	Institute for Timber Construction	VA C0015	2006 Mar 10
SAACE	South African Association of Consulting Engineers	VA C0013	2005 Nov 24
SAFA	South African Flameproof Association	VA C0016	2005 Sep 6
SAFCEC	South African Federation of Civil Engineering Contractors	VA C0017	2006 Mar 10
SAISC	South African Institute of Steel Construction	VA C0018	2005 Sep 6
SAMA	South African Maintenance Association	VA C0025	2006 June 22
AMEU	Association of Municipal Electricity Undertakings	VA C0027	2006 Oct 5
SAIW	South African Institute of Welding	VA C0034	2007 Nov 30