

# Community

The Divisional Committee wishes to provide some information to the membership to explain the situation in Queensland concerning the IEMSA/SSI unification. Our decision to do this is driven by our concerns that the members are unclear about the legal situation that controls the actions of the Divisional Committee in protecting interests of the members.

## Legal Situation:

- IEMSQ is a company operating under a Constitution and subject to Corporations Act and overview by ASIC.
- The Directors (President, Hon Secretary and Treasurer) are required to have their details recorded at ASIC.
- ASIC has recently contacted your Directors to ensure that their duties are understood.
- IEMSQ is run by an elected (and volunteer) Executive and Divisional Committee, uses casual administration services and pays income tax.
- IEMSQ is legally bound to IEMSA through the 1980 amalgamation and by the inclusion of IEMSQ in the IEMSA Constitution.
- IEMSQ has obtained legal advice on how we could disengage from IEMSA: there are few legal avenues.
- The only clear avenue to sever the relationship is for either company to "wind up"

## Unification Ballot:

- The Australia wide membership ballot in 1999 of the five prospective organizations for the merger was to provide the management committees of the participating organizations with an indication of the

support of the respective memberships **given the proposal provided in the mail out.**

- The ballot result for IEMSA members cannot be binding on the National committee as it was not conducted in accordance with the IEMSA Constitution. I.e. it is a straw poll!
- The positive vote by IEMSA members for the unification terms outlined in the mail out to members provided the National Committee with the only parameters on which they could proceed to negotiation on behalf of members.
- The Divisional Committee understands that the unification agreement finally offered to the IEMSA National Committee was significantly different from the mailed out information.
- Negotiations (on any matter) should be conducted in confidence with good faith being maintained by all parties in accordance with the agreed parameters circulated to all members.
- The Directors of IEMSA would have been exposed to legal action if they had agreed to merger actions that fundamentally altered the existing rights of IEMSA members.
- The present fee of \$247.50 is good value used for engineering and mining surveyors

## Local Issues:

- The Divisional Committee has examined the Constitution of SSI and note that it is a federally based organization with decision making and control centered away from the states.

- The Divisional Committee considers that the most pressing issue facing our members in Queensland is the correct and successful implementation of the requirements of the new *Surveyors Act 2003*. The spirit and intent of the wording of the Act must be adhered to by the Surveyors Board of Queensland.
- The underlying agenda of the Divisional Committee is to ensure that competent surveyors have the option to seek registration should they desire.
- The Divisional Committee is concerned that the existing Surveyors Board of Queensland's registration processes (which do not meet the requirements of the *Surveyors Act 2003*) will continue to be applied to applicants; thus continuing the situation that existed under the *Surveyors Act 1977* (an untenable situation).
- There has been significant effort (over ten years) in support to the Government in the review of the *Surveyors Act 1977*. The *Surveyors Act 2003* is a significant improvement. Divisional funds have been expended to obtain legal advice to confirm our interpretation of the Act. Our view on the proper intention of the *Surveyors Act 2003* is supported by legal advice.
- Given the observed structure of SSI, the Divisional Committee is unsure of the potential avenues available to Queensland members to defend its local interests. E.g. how would a local Commission (representing Engineering and Mining

Surveyors) obtain approval and finance to pursue the correct outcomes from the proper implementation of the *Surveyors Act 2003*?

- The Divisional Committee believes that the present outcomes for registration would not have occurred under the SSI structure as a lack of funding and understanding of the situation which faced Engineering and Mining Surveyors would have been lacking within SSI.

#### The Future:

- If members believe that a voice which understands and represents Engineering and Mining Surveyors is important; then retain your membership whilst IEMSA regroups after the situation it has been placed in by the actions of others.
- If members decide to resign and join SSI, they are free to do so provided they act in accordance with the Constitution.
- IEMSQ is a separate legal entity from IEMSA and can only act in accordance with the IEMSQ Constitution.
- Our legal advice concerning the IEMSQ Constitution and our ability to amalgamate is clear: provided due diligence is satisfied IEMSQ can unify with another organization under terms that are mutually agreeable to members.
- Your directors would be required to undertake due probity into the affairs of the other organization. The matters requiring investigation include: financial aspects, outstanding legal claims, potential insurance claims,

employees entitlements, taxation, etc.

- The Constitution and Corporations Law requires your Directors to ensure that a prospectus would be prepared showing the terms of the unification, the financial situation and to provide an analysis of the benefits to the membership.
- The process by which a vote for an amalgamation purpose can be conducted is laid out in the Constitution.
- The continuing action by the Divisional Committee concerning the proper implementation of the *Surveyors Act 2003* is based upon our long held ideal that Engineering and Mining Surveying is important. Our member's interests must be protected against actions that will restrict the stature and recognition of our unique skills.
- Additional help is sought from members to join the Divisional Committee and thus reduce the workload

The Divisional Committee hopes that these dot points explain our view of the duties and actions of your Divisional Committee members. We are sure that our actions concerning the implementation of the *Surveyors Act 2003* will have long term positive implications for the surveying profession.

Assessment of a person's competency based upon a recognised competency framework and judgment by one's peers is a significant improvement on the old model.

IEMSQ has the passion and resources to support the aspirations of Queensland's Engineering and Mining Surveyors.

Thank You – Jeff Dowling President 2006