



22 May 2015

Peter Gow  
Building Commissioner  
Architects Act Review  
Department of Commerce  
Locked Bag 14  
CLOISTERS SQUARE WA 6850

Dear Peter

### **ARCHITECTS ACT REVIEW SUBMISSION**

The Australian Institute of Architects (WA Chapter) welcomes the opportunity to provide feedback and commentary in relation to the proposed amendments to the Statutory Review of the Architects Act 2004.

We are generally supportive of the review process and the proposed changes, which endeavour to initially simplify the operation of the Act and make its administration simpler.

While the Consultation Regulatory Impact Statement highlights a number of issues which impact directly on the role and profession of architects in Western Australia, many of which we are in principal supportive of, we do make the following initial comments and suggestions:

- a) *Proposal 1 – The Act be retained and architects continue to be registered in Western Australia by the Architects Board*
  - a. We support retaining the Act and that architects within Western Australia continue to be registered by the Architects Board of WA (Board).
  - b. As noted within the review documents, the Board, established to administer the Act, is totally self-funded by the architecture profession and does not reflect a cost to the government or the community at large.
  - c. Again as indicated, the costs associated with individual or company registration are comparatively very low and given the highly competitive market are, despite as suggested within the document, unlikely to be passed on to clients in the form of higher fees.
  - d. Indeed it is suggested that the potential cost to the economy would be far greater if the Act was instead abolished burdening government agencies with carrying out the public protection role of the Board and deal with consumer complaints.
  
- b) *Proposal 2 – Consideration of whether to regulate architects and building designers under the Building Services (Registration) Act 2011 be deferred until a review of the Act is due in 2016*
  - a. We strongly support deferring any consideration of whether to regulate architects and building designers under the Building Services Act (registration) 2011.

- b. In addition we equally do not support the initial proposition that architects and building designers should be regulated under the same legislation.
  - c. Anecdotally it is understood that when the current Act was drafted, the Building Designers Association (Association) clearly sought separation itself, not wishing to incur the cost associated with the architect profession including items such as education and competency standards, Professional Indemnity Insurance, registration and professional examination.
  - d. Indeed it is suggested to place building designers under the same legislation would provide no benefit to the community if this was the objective.
- c) *Proposal 3 – National recognition of architects*
- a. We support the adoption of a national recognition of architects in Western Australia.
  - b. Indeed there already exists a strong movement towards a national recognition framework by the Institute, at both state and national levels, together with the Board in association with the Architects Accreditation Council of Australia (AACA).
  - c. However it is suggested that there remain a number of issues which require very careful consideration before this framework is implemented nationally and to proceed in Western Australia in isolation would be detrimental.
  - d. Once a suitable framework is resolved it is suggested the Institute, the Board and AACA will be better placed to then approach regulators in each state and territory to negotiate its implementation.
- d) *Proposal 4 – Section 4 Definition of ‘architecture’*
- a. We do not support the consultation with the industry to determine the feasibility of better defining terms to define the scope of services provided by architects or the removal of terms ‘architectural’ and ‘architecture’ in the Act.
  - b. It is suggested the term architect is well understood within the industry and the community, and its derivatives would only cause confusion.
  - c. In fact it is suggested that any change should instead be to further restrict the misuse of the term ‘architect’ and its associated derivatives.
  - d. Anecdotally the misuse of these terms by elements within the industry occurs due to the merit it affords and clarification around the definition may indeed be required to facilitate more stringent policing by the Board and the profession.
  - e. It is also suggested any confusion on the part of consumers is largely due to the misuse of these terms, and while not looking to restrict the activities of building designers it is suggested clarity could be afforded by the adoption of terms such as ‘building designer designed’ to define their work.
  - e. While some changes to the Act may be required to address this it is suggested the profession, as represented by the Institute and its members, are also best placed to initially ensure the accuracy of defining of these terms.
- e) *Proposal 7 – Regulation 7 Names of elected members to be published in the Government Gazette*
- a. We support the proposal that members of the Board should no longer be required to be published in the Government Gazette.
  - b. It is suggested the names and qualifications of members should be published by the Board itself either on its website, as currently occurs, or in local industry publications.

- f) *Proposal 8 – Board composition and election of members*
- a. We do not support reducing the number of members on the Board or replacing the member elections with a Ministerial selection process.
  - b. The Board currently functions as an entirely self-funded organisation through the engagement of its members who are best placed to advocate, review and support the activities of the profession.
  - c. While the review document suggests the objective of reducing the size of the Board and the adoption of a Ministerial selection process is largely one of reducing cost, however as indicated, these costs are covered by the membership itself and not the community.
  - d. The Board includes a majority of consumer and industry representatives as part of its existing structure to ensure it fairly reflects the position of the 'layperson' and the community.
  - e. It is also suggested that reducing the number of members on the Board will potentially create difficulties in achieving a quorum and also more critically adversely narrow the diversity of the practical experience and knowledge of its members when making decisions.
- g) *Proposal 10 – Schedule 1 Chairperson and deputy chairperson*
- a. We do not support amending Schedule 1 to clarify that once elected, the chairperson or deputy chairperson remain in their position without requiring re-election unless they leave or are removed by a vote of the Board members.
  - b. It is suggested any amendment would be better aligned with the Board's own current policy, which defines the term of the chairperson or deputy chairperson for a period of no more than two years and are aligned with the term of office of the incumbent.
  - c. In addition the current policy also allows the incumbent to be eligible to nominate for re-appointment and if successfully re-elected can serve consecutive terms.
- h) *Proposal 13 – Section 33(4) Architects Accreditation Council of Australia*
- d. We strongly support amending the Act to enable the Board to rely on the AACA in regards to an applicant's qualification or standard to practice architecture together with applicants being responsible for paying the cost of the AACA assessment.
  - e. In addition it is suggested the AACA Architectural Practice Examination (APE) requirements are also adopted for all applicants seeking registration.
  - f. This proposal is in line with the Institute's pursuit of a nationally consistent approach and reciprocating rights for all states.
- i) *Proposal 14 – Section 32 Registration conditions of natural persons and corporations*
- a. We support the intent of the proposal however suggest it is further strengthened with the amendment of 'must' rather than 'allow' for the display of registration numbers.
  - b. However such a requirement should be subject to a phasing in period to allow for the potential cost associated with new stationary, business cards, signage, websites etc. to be mitigated and progressively updated.
- j) *Proposal 16 – Renewal date, insurance and period of registration*
- a. While supportive of the proposal in principal we do not support the introduction of a three year registration/ licence renewal.

- b. The Institute focuses on members' active involvement in the profession including education and continual professional development, which are a criterion of registration assessed annually and supports an annual registration process.
  - c. Again, the Board is self-funded and operates with budget surpluses, while the suggested benefits of a three year registration renewal in reduced 'red tape' or administrative efficiencies are very limited in terms of savings to the Board and potentially negated by the adverse impact on individuals or small firm members.
  
- k) Proposal 17 – *Schedule 1 Examination fees*
  - a. We strongly support the adoption of an examination fee based on those set by the AACA and the deletion of the term Supplementary Examinations by Interview.
  - b. This proposal is consistent with the Institute's own move towards national recognition, consistency between the states and the improved transience of qualifications nationally.
  
- l) Proposal 21 – *Code of Conduct*
  - a. We support the consideration of a legislated Code of Conduct for architects.
  - b. It is however suggested any Code adopted be a consistent national Code and not one applicable to Western Australia in isolation.
  
- m) Proposal 22 – *Section 63 Review of Board decisions*
  - a. We do not support further investigation into implementing an additional process for review of a Board decision by the State Administrative Tribunal (SAT).
  - b. It is suggested such a review is neither warranted nor necessary given how both the Board and SAT function currently.
  - c. As noted within the review documents, the existing mechanism allows for registrants aggrieved by a Board decision to apply to the SAT for an independent review of any decision.
  - d. In terms of complaints against architects, should there be a case to pursue, the Board does so on behalf of its members in the event of a breach of protocol.
  
- n) Proposal 23 – *Section 31 Licensing of non-traditional corporations*
  - a. We do not support a further process of analysis and consultation with non-traditional corporations or the wider industry.
  - b. It is suggested clear definitions as highlighted under Proposal 4 would in fact provide greater clarity to the services regulated by the Act.
  - c. The profession and its members are also seen as the best starting point to provide any commentary and initial clarity on these definitions.
  
- o) Proposal 24 – *Section 68 Term 'retired architect' to be specifically allowed*
  - a. We support the proposal to amend the Act to include the term 'retired architect'.
  - b. The definition and use of the term 'retired architect' however should only apply to those no longer practising persons previously registered under the Act and eligible to use the term 'architect'.

- c. Anecdotally however, it is suggested many within the profession would argue the term is reflective of both qualifications and a life's passion, with an individual either an architect or not regardless if they are no longer practicing.

The Institute Members, as daily practitioners within this sphere, are passionate about these issues and would welcome working with the Department, potentially with the creation of a small working committee to further develop this discussion should it be considered appropriate.

However it is suggested we have clearly articulated our position on the issues of key concern raised by the twenty four proposals within the current Consultation Regulatory Impact Statement.

Yours sincerely



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**STATE PRESIDENT WESTERN AUSTRALIA**