



Australian
Institute of
Architects

Architects
Registration
Board of Victoria
Proposed
Restructure

Submission to
The Hon. Matthew
Guy MLC
Minister for Planning
(Victoria)

February 2013

SUBMISSION BY

Australian Institute of Architects represented by its Victorian Chapter
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PURPOSE

- This submission is made by the Victorian Chapter of the Australian Institute of Architects (the Institute) to the Minister for Planning Victoria in response to the consultation procedure.
- At the time of this submission the Victorian Chapter President is Jon Clements.
- The Executive of the Institute is: Shelley Penn (National President), Paul Berkemeier (President-Elect), Brian Zulaikha (Immediate Past President), Matt Pullinger and David Karotkin.
- The Chief Executive Officer is David Parken.

INFORMATION

- The Australian Institute of Architects (the Institute) is an independent voluntary subscription-based member organization with approximately 10,000 members, of which approximately 6,300 are architect members (registered or registrable under State and Territory Architects Acts). The Victorian Chapter has approximately 2,950 members, of which 1967 are registered or have been registered as architects.
- The Institute represents the largest group of non-engineer design professionals in Australia.



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1.0 INTRODUCTION

1.1 Purpose of submission

1.1.1 The Institute is pleased to provide this submission for consideration in the proposed restructure of the Victorian Building Commission and the Architects Registration Board of Victoria. This submission has been developed as an outcome of an initial consultation held with the Government contracted consultants (KPMG). The Institute looks forward to further opportunities to discuss issues raised in this submission with both the consultants and, where appropriate, the Department of Community Development and Planning, and the Office of the Minister for Planning.

1.1.2 The submission details more clearly issues raised at the Government consultation on Wednesday 30 January 2013 and provides the Institute's position on:

- The background and purpose of architects title registration legislation;
- The functions of architects registration legislation and registering bodies;
- A best practice model for Architects Registration Acts and registering bodies;
- The need for a broader application of the principles articulated in this submission.

1.1.3 In presenting this submission to the Victorian Government we reiterate that we wish to bring about an improved regulatory outcome for the architectural profession, the broader construction industry and, particularly, the community. We see the retention of an independent Architects Act as an integral part of ensuring a robust, transparent, responsible and responsive regulatory framework.

1.2 Expertise of the Institute

1.2.1 The Institute seeks to advance the professional development of the architectural profession and highlight the positive benefits of good design in addressing the concerns of the community in relation to sustainability, quality of life and protection of the environment.

1.2.2 The Institute promotes responsible and environmentally sustainable design, and vigorously lobbies to maintain and improve the quality of design standards in cities, urban areas, commercial and residential buildings.

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- 1.2.3 The Institute has established high professional standards. Members must undertake ongoing professional development, and are obliged to operate according to the Institute's Code of Professional Conduct. The Institute's Professional Development Unit offers an extensive program at national and state level, continuing to keep members informed of the latest ideas, technology and trends in architecture and the construction industry.
- 1.2.4 The Institute represents the profession on numerous national and state industry and government bodies, advising on issues of interest to the architectural profession, other building professionals, the construction industry and the community.
- 1.2.5 Particular areas of expertise include:
- quality assurance and continuous improvement
 - industry indicators and outcomes
 - market analysis
 - risk management and insurance
 - marketing and communication
 - policy development and review
 - technical standards
 - environmental sustainability.

2.0 COMMENTARY

2.1 Background

2.1.1 Architects Acts have been enacted in every State and Territory, as well as in many other countries. In Australia, the enactments go back more than 90 years in 3 States, including Victoria, as follows:

Architects Registration Act 1922 – Victoria

Architects Act 1921 – Western Australia

Architects Act 1921 -- New South Wales

Architects Act 1928 – Queensland

Architects Act 1929 – Tasmania

Architects Act 1939 – South Australia

Architects Ordinance 1959 – ACT

Architects Ordinance 1963 – NT

While some modernising amendment and replacement of this legislation has occurred, the essence of the system of regulation has been maintained in this process.

In general, the Architects Registration Board of Victoria, (ARBV), ensures the delivery of appropriate education courses and maintains the standard of those entitled to use the title ‘architect’ in their representation to consumers. It does so by:

- Accrediting University courses for suitable education of students;
- Requiring post-graduation experience under the supervision of registered architects;
- Providing the registration examination regime for the testing of experience-based knowledge to the required standard;
- Registering the successful examination candidates, and
- Maintaining the standard by hearing and responding to consumer complaints.

2.2 Essential purposes of architects title registration legislation

2.2.1 Protects the consumer from misleading or false representations about qualifications and experience by regulating the use of the title “architect” and its derivative words (such as “architectural”) to those ‘registered’ and suitably verified as appropriately qualified and experienced.

This is the fundamental protection to a consumer afforded by each and every original Architects Act.

- 2.2.2 Provides for the adoption of national recognition of qualifications and experience for registration, enabling and facilitating interstate movement of architects by mutual recognition, and the adoption of a National register of architects.
- 2.2.3 Trade in international services relies on international recognition protocols, borne out of mutual trust, that ensure individuals trained in other countries have appropriate qualifications and experience to provide services to consumers across national borders. These protocols enable and facilitate the export of Australian skills to overseas markets.

Australia is currently signatory to three mutual recognition arrangements, one with Japan, one with Taiwan, and a tri-lateral agreement with Singapore and New Zealand. These provide an expedited process for recognition of both qualifications and experience for registration to practice as architects within these countries, and vice versa.

There is also the *Canberra Accord*, operating across 6 nations, which provides for international recognition of the substantial equivalence of each nation's essential architectural programs and accreditation systems. This, together with requisite experience in the countries concerned, facilitates international recognition and encourages free movement of students and graduates. Signed in April 2008, signatories to the Accord are Australia, Canada, China, Korea, Mexico, the USA and the Commonwealth Association of Architects. For more detail on the Accord please refer to Appendix 1.

2.3 Essential functions of *Architects Acts* and registering bodies

- 2.3.1 Ensuring consumers are able to distinguish those legitimately qualified and approved to use the title 'architect'. Individuals seeking to use the title must be registered in order to make them accountable to the registration process which verifies their qualification and experience.
- 2.3.2 Maintaining the efficiency and effectiveness of the Architect registration process and the standard of registration. This occurs by requiring individual architects (those who are registered) to maintain acceptable standards of professional practice, and to be subject to discipline if they do not. Discipline includes both loss of registration and/or being subject to a fine. Acceptable

practice standards are set out in a “Code of Professional Conduct”. This Code is binding, and framed in such a way to ensure that it is accessible to the public. Breach of the Code is punishable under the legislation itself, which can provide for fines and/or suspension or cancellation of registration.

- 2.3.3 Registering business entities in the same way as individual architects so that they are liable for their professional conduct to the same standards as individuals. This avoids individual architects being subject to influences and direction under their employee relationships which may compromise the standard of conduct imposed for consumer protection. Consumers frequently engage a business entity rather than an individual to provide them with services, and as such expect that business to be accountable for providing the service they expect from a registered architect. This is most effectively achieved through individual accountability of directors, partners or other controllers of the business.
- 2.3.4 Maintaining the efficacy and integrity of registration by pursuing effective prosecution of the offence of “holding out” someone to be, or another person to be, an architect, or implying that a person is an architect by description with a restricted derivative word or phrase. The level of penalty for “holding out” must be meaningful as a deterrent.
- 2.3.5 Maintaining the currency and relevancy of qualifications by imposing on Universities the standards of course content and student performance required by the registration authority (currently the ARBV). The registration authority must be free to decide whether to accept individual architecture courses as an appropriate qualification, and to be able to review those courses on a regular basis.
- 2.3.6 Requiring mandatory continuous professional development (CPD) by those registered (and who are in practice as architects) to maintain the relevance and currency of qualification and experience. While currently not in place in Victoria, mandatory CPD exists in WA, NSW and Qld and is seen by the Institute as an essential component of ensuring a high level of service and professionalism.
- 2.3.7 Ensuring that both relevant consumer needs and the realistic possibilities of practice as an architect are taken in to account at all times. This is achieved by composing the registering authority of both consumer representatives and members of the profession of architecture. The number of representatives who are non- architect members should not exceed those who are, so that the

needs of practice, contemporary and future, are given appropriate consideration.

- 2.3.8 Requiring that conditions of engagement between consumer and architect must be set down in writing before the architect provides services to the consumer. A written agreement both clarifies and protects consumers' contractual rights.
- 2.3.9 Requiring architects and their business entities to be covered by appropriate professional indemnity insurance to ensure that funds are available to compensate the consumer adequately if necessary. This provides consumer protection from economic loss if the services provided prove to be negligent.

2.4 A best practice model for *Architects Acts* and registering bodies

- 2.4.1 The points in this section cover many features currently found in the Victorian legislation. In addition there are a number of features/components not in place in Victoria but present in other States or Territories that the Institute considers as key to ensuring a best practice model for industry regulation.
- 2.4.2 Initial assessment of complaints about the conduct of a registered architect (or registered business entity) must only be assessed by those with an understanding of an architect's role and of contemporary standards of practice as imposed by the Act.
- 2.4.3 Ensure that if there is a prima facie case found for disciplinary action, that the case must be heard before a tribunal where the majority of the members are practising or formerly practising architects. While consumer or other representation is important, the ultimate decision on compliance with a code of practice should be made by those with an intimate and thorough understanding of an architect's role in contemporary practice.
- 2.4.4 Enable the registering authority to initiate prosecution of any offences committed by those who are not registered with the advice and assistance, but not veto, of the state or territory's prosecution service. It is appropriate from both a policy and practical perspective that the registering authority is the body to which a holding out complaint is addressed. In order to respond effectively to any such complaint, the registering authority must, as of right, possess the power to bring on a prosecution in the court system.

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- 2.4.4 Introduce and promote improvement to the design and quality of Victoria's built environment by requiring multi-storey buildings, residential and otherwise, to be designed by architects. Design of multi-storey residential apartment buildings by architects is currently mandated throughout NSW under State Environmental Planning Policy No 65 (SEPP 65).
- 2.4.5 Compulsory formalised referral of multi – storey residential and other building designs to independent multidisciplinary design review panels. Such panels need to have authority to make recommendations to the responsible approval authority, prior to Planning Permit issue.
- 2.4.6 Continuous representation of the registering authority by *at least* one of its architect members in addition to independent representation of the profession of architects by *at least* one member of one of its representative bodies in any overarching body representing and advising government on all aspects of the building industry .

2.5 Broader application of the principles

- 2.5.1 Each one of the principles described above has equal application to any of the professions active and influential in the construction of buildings.

Particular examples of professions not currently subject to any registration/accreditation or mandated code of conduct under Victorian legislation are quantity surveyors and project managers employed by clients. In relation to building projects, quantity surveyors and project managers are often given overriding authority in relation to the procurement and management of professional services delivered by other building professionals and, in many cases, the subsequent administration of construction contracts.

Any legislative reform in relation to the regulation of the building industry as a whole must consider registration/accreditation of such building professionals.

3.0 SUMMARY

The Australian Institute of Architects is of the view that the Architects Registration Board of Victoria (ARBV) has been functioning efficiently and effectively as the regulatory body for the architectural profession. Without the proponents of change identifying weaknesses or perceived problems/inefficiencies, it is difficult to respond with possible solutions.

If, as part of a the broader restructure of the entire regulatory framework for the construction sector, the Government deems it appropriate to fold the ARBV in to a new Victorian Building Authority the Institute sees the following as the bare minimum of what would be required to ensure continued effective, transparent, responsible and responsive regulation of the profession:

- The maintenance of an independent Architects Act that contains all the regulatory functions of the current Act;
- Continued protection of title through an independent Architects Act;
- Any regulatory body (or Board) that is instrumental in regulating architects must have a majority of architects as members;
- Any regulatory body (or Board) must continue to deliver all of the functions of the current ARBV – including course accreditation, professional registration and disciplinary processes;
- There must be at least one representative of this regulatory body (or Board) on the overarching Victorian Building Authority Board; and
- Mandatory continuing professional development must be introduced for registered architects.

Any proposed restructure of the ARBV provides an important opportunity for the Victorian Government to implement a best practice regulatory model that would ideally include a new policy to the equivalent effect of SEPP65 (see 2.45) and the extension of professional registration requirements (and associated regulation) to include quantity surveyors and project managers.

Appendix 1 – The Canberra Accord

Canberra Accord on Architectural Education

RECOGNITION OF SUBSTANTIAL EQUIVALENCY BETWEEN ACCREDITATION/VALIDATION SYSTEMS IN ARCHITECTURAL EDUCATION

9 April 2008

Subject to ratification by signatories:

Commonwealth Association of Architects	CAA
Canadian Architectural Certification Board Conseil canadien de certification en architecture	CACB CCCA
Consejo Mexicano de Acreditación de Enseñanza de la Arquitectura Comité Mexicano para la Práctica Internacional de la Arquitectura	COMAEA COMPIAR
Korea Architectural Accrediting Board	KAAB
National Architectural Accrediting Board	NAAB
The National Board of Architectural Accreditation of China	NBAA
The Royal Australian Institute of Architects	RAIA
Royal Institute of British Architects	RIBA

Canberra Accord on Architectural Education

RECOGNITION OF SUBSTANTIAL EQUIVALENCY BETWEEN ACCREDITATION/VALIDATION SYSTEMS IN ARCHITECTURAL EDUCATION

9 April 2008

Preamble

This multilateral Accord has been initiated by organisations which have in common established systems for the accreditation/validation of architectural education that have been agreed are substantially equivalent.

The Accord is founded on confidence in the substantial equivalence of their accreditation/validation systems verified by a process of collaborative, comparative analysis that acknowledges diversity.

Accord conditions, rules and procedures will be developed by which the founding and future signatories are evaluated. The Accord is intended to embrace any number of new signatories that can demonstrate substantial equivalency of their accreditation/validation systems.

It is anticipated that the Accord will facilitate international mobility of graduates in architecture and contribute to improving the quality of architectural education through benchmarking.

The Accord is a transparent (peer review) system for determining substantial equivalence of architecture degree program/mes. It is considered to be reflective of the core principles of the UNESCO-UIA Charter for Architectural Education (Revised Version 2005) and the relevant sections of the UIA Accord on Recommended International Standards on Professionalism in Architectural Practice (Revised Version 2005).

Canberra Accord on Architectural Education

RECOGNITION OF SUBSTANTIAL EQUIVALENCY BETWEEN ACCREDITATION/VALIDATION SYSTEMS IN ARCHITECTURAL EDUCATION

9 April 2008

Introduction

Architectural accreditation/validation signifies that an academic qualification in architecture has been evaluated by an accreditation/validation body and deemed to meet established academic standards. Notwithstanding the differences between their accreditation/validation systems, the signatories to this Accord agree that their systems are substantially equivalent. This being the case, academic qualifications in architecture accredited/validated by one of the signatories should be accepted as having substantial equivalency and recommended for recognition by all signatories, subject to additional requirements imposed by local regulations.

Definition of Substantial Equivalency

The term 'substantial equivalency' identifies a program/me as comparable in educational outcomes in all significant aspects, and indicates that it provides an educational experience meeting acceptable standards, even though such a program/me may differ in format or method of delivery. Substantial equivalency is not accreditation or validation.

AGREEMENT:

Having exchanged information on, and examined their respective criteria and procedures for accrediting/validating academic qualifications in architecture, the signatories have concluded that their systems are substantially equivalent. Through the Canberra Accord, which comprises this Agreement and the Rules and Procedures (hereunder referred to as 'the Accord' or 'the Agreement'), the signatories recognize the substantial equivalence of their systems in terms of accrediting/validating the academic requirements for the practice of architecture at the professional level.

1. Signatories to the Accord **agree** that:

- the criteria, policies and procedures used by the signatories in accrediting/validating professional degree-granting program/mes in architecture are substantially equivalent;
- the accreditation/validation decisions rendered by one signatory are acceptable to the other signatories, and to signify this acceptance, signatories will publish appropriate statements to that effect;
- qualifications/program/mes in architecture accredited/validated by one signatory are recommended for recognition by all signatories, subject to the limits set by local or national regulations;
- periodically, best practices will be identified by the Secretariat in dialogue with the signatories and their adoption encouraged for the academic preparation of architects;
- mutual monitoring and information exchange will continue by whatever means are considered most appropriate, including regular communication and sharing of information concerning their accreditation/validation criteria, systems, procedures, manuals, publications and lists of accredited/validated qualifications and programs/mes; and invitations to observe accreditation/validation visits and meetings of bodies responsible for implementing key aspects of the accreditation/validation process.

2. Notwithstanding the foregoing, each signatory will make every reasonable effort to ensure that the bodies responsible for the **registration/licensure of architects** to practice in its country or territory, or the countries or territories of its members (in the case of multi-national organizations), recognize the substantial equivalency of both the accreditation/validation systems of the signatories and the academic qualifications accredited/validated by the signatories.

3. The agreement will apply only to those academic qualifications accredited/validated by signatories to the agreement. Each signatory will be required to keep the Secretariat informed of all the academic qualifications it currently accredits/validates, so that a **comprehensive and up-to-date list** can be published and maintained, showing all the academic qualifications in architecture that are recognized by the signatories to this Accord as being substantially equivalent.

If at any time a signatory ceases to accredit/validate an academic qualification listed by the Accord, the signatory responsible shall inform the Secretariat immediately so that the list can be amended appropriately.

4. Signatories to the Accord will be identified as specific and **named organizations** responsible for a system for accrediting/validating qualifications in architectural education, rather than by the geographical context within which they operate.

It is the academic qualifications accredited/validated by the named signatories that are covered by the Accord, not the territories within which the signatories are based or operate.

If a signatory accredits/validates in countries or territories beyond its own national boundaries this does not bestow upon those countries or territories any kind of status under the Accord.

Membership of a multi-national organization that is a signatory to this Accord does not bestow upon that member, by extension, any type of membership of the Accord.

Any organization that has its own accreditation/validation system and is not a signatory to the Accord but is a member of a multi-national organization that is a signatory, does not, by extension gain recognition under the Accord for the qualifications recognized by that organization; only individual qualifications accredited/validated directly by the signatories are covered by, and listed, under the Accord.

5. Although the Accord describes arrangements for signatories to the Accord with provisional status, the benefits of recognition of accreditation/validation systems covered by the agreement relate only to signatories.

6. The admission of **new signatories** to the Accord will require ratification by existing signatories, and will be preceded by a prescribed period of provisional status, during which the accreditation/validation criteria and procedures established by the applicant, and the manner in which those procedures and criteria are implemented, will be subject to comprehensive examination.

7. Appropriate **Rules and Procedures** will be established by the signatories to ensure that the Agreement can be implemented in a satisfactory and expeditious manner. The adoption of, or amendment to, the Rules and Procedures, will require ratification by the signatories.

8. **General Meetings** of the representatives of the signatories will normally be held at least every two years to review the Rules and Procedures, effect such amendments as may be considered necessary, and consider applications for provisional status, and for admission to the Accord. Such meetings may be held by teleconference by agreement of the signatories.

9. The administration of the Accord will be facilitated by the **Secretariat**, established and operated in accordance with the Rules and Procedures made under the provisions of the agreement.

10. The Accord will remain in effect for as long as is acceptable and desirable to the signatories. Any signatory wishing to withdraw from this agreement will give

at least one year's notice to the Secretariat. Removal of a signatory for cause will require ratification by the signatories.

Canberra Accord on Architectural Education



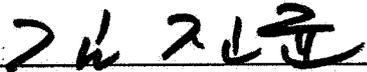
 Héctor García Escorza
 Consejo Mexicano de Acreditación de Enseñanza de la Arquitectura (COMAEA)

Date: 09.09.08



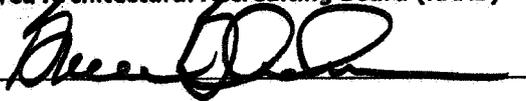
 Fernando Mora Mora
 Comité Mexicano para la Práctica Internacional de la Arquitectura (COMPIAR)

Date: 09-09-08



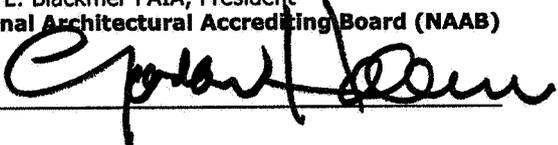
 Jin Kyoon Kim, President
 Korea Architectural Accrediting Board (KAAB)

Date: 09-04-08



 Bruce E. Blackmer FAIA, President
 National Architectural Accrediting Board (NAAB)

Date: 9. April. 2008



 Gordon Holden, President
 Commonwealth Association of Architects (CAA)

Date: 09 April 2008.



 George Henderson
 Royal Institution of British Architects (RIBA)

Date: 09. iv. 08



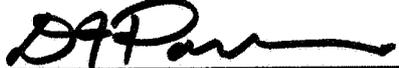
 Qin Youguo, Chairman
 The National Board of Architectural Accreditation of China (NBAA)

Date: 09.04.08



 Claudio Brun del Re, President
 Canadian Architectural Certification Board (CACB)
 Conseil canadien de certification en architecture (CCCA)

Date: 09.07.08



 David Parken LFRAIA, Chief Executive Officer
 The Royal Australian Institute of Architects (RAIA)

Date: 9th April, 2008.