

December 2008

Briefing to the Incoming Minister

The following note provides an overview of the work of the New Zealand Registered Architects Board (the Board) and the issues that it faces.

Overview

The registration of architects began on a voluntary basis at the beginning of the 20th century. In 1963 the registration of architects became mandatory. In 2005 the passage of the current Act made the requirements for registration and for continuing registration more rigorous, and the criteria under which architects could be disciplined more expansive.

The Registered Architects Act 2005 requires that the Board:

- registers architects who have been assessed by their peers as competent to practice independently
- maintains an online register, so the public can confirm that an architect is registered
- reassesses the competence of Registered Architects every five years
- investigates complaints and, if need be, disciplines Registered Architects.

The Act's purpose, as stated in the legislation, is "to protect the title of Registered Architect". The Act (S7(2)), says that only persons who are Registered Architects may describe themselves as Registered Architects and only Registered Architects may call themselves architects when providing building design services.

The Board is self funding from fees paid by Registered Architects and applicants for registration. In total, there are approximately 1550 architects registered in New Zealand.

Context

The Government's overall stance, in terms of intervention to regulate an occupation, is that when "incompetent service by members of the occupational group could result in significant harm to the consumer or a third party,"¹ then some form of occupational regulation is required.

¹ Policy Framework for Occupational Regulation: A Guide for Government Agencies Involved in Regulating Occupations, MED

Against that template, the mandatory registration of architects remains valid, given the potentially severe and costly consequences if buildings or, more broadly, the built environment are designed incompetently.

But also, there are positive reasons for registering architects. The registration of architects entrenches competence requirements that lift the contribution that architects make. High-quality buildings and a high-quality built environment confer enduring social and economic benefits. Architects take into account the larger environmental and cultural context.

Indeed, as our cities and towns become more complex and sophisticated, it is very much in the public interest for the quality, professional integrity and reputation of the profession to be preserved and enhanced.

Architects have generally undertaken a five year tertiary education in architecture and must have a minimum of three years practical experience before they can be registered. The registration process itself involves intensive scrutiny by the architect's peers.

Once registered, architects are bound by the Code of Minimum Standards of Ethical Conduct for Registered Architects which is taken from the Registered Architects Rules 2006. Their training and professional values ensure their contribution goes well beyond simply designing code compliant buildings.

Governance

The Board is required to have six to eight members who are appointed by the Governor General on the recommendation of the Minister. Up to four of the Board members must be nominated by the New Zealand Institute of Architects.

The current Board members are:

Name	When current term expires
Ron Pynenburg (Chair)*	30 June 2010
Kate Davenport (Deputy Chair)	29 June 2013
Carolynn Bull	18 December 2010
Anna-Marie Chin*	2 October 2011
Marshall Cook*	18 December 2010
Professor Gordon Holden	30 June 2010
Callum McKenzie*	2 October 2013
Helen Tonkin	29 June 2010
*NZIA nominated	

Of these Board members, five are architects, two are lawyers and one is an accountant. Typically the Board meets four times a year.

The Board maintains a small office in Wellington, with three staff (2.5 FTEs).

The Board is also reliant on up to 50 assessors who are Registered Architects, their principal task being to assess applicants for registration. The assessors are paid a modest honoraria for each assessment that they undertake. In addition, a number of architects, apart from Board members, serve on Board committees, including taking part in the Board's complaints and discipline procedures. Any planning for the future should pay particular attention to retaining and nurturing this resource and the professional commitment and enthusiasm that underpins it.

In its first two years of operations, the Board has operated successfully. However, the Board is still in a development phase. The Board intends to reach a business-as-usual mode of operation by mid 2010.

Issues expected to require ministerial attention in 2009

Fees

The fees for the Board's various services are about to change, in part reflecting the need to fund new procedures. An extensive consultation took place with architects in May/June 2008. On 17 September 2008, the Minister for Building and Construction Hon Shane Jones wrote to the Board confirming his agreement to the new fees and saying that officials had instructed the Parliamentary Counsel Office to draft the rule change for the new fees for his approval. Promulgation of the fee changes will be required shortly.

Complaints and discipline procedures

The complaints and discipline procedures required by the Act and the Rules are convoluted, time consuming and expensive. Issues already identified include the following:

1. Via a small number of precedent-setting cases, the Board has now mostly finalised its complaints and discipline procedures. Based on the current requirements a full disciplinary case can be expected to take a year and a half. This is too long.
2. Section 67(2) (j) & (k) of the Act refer to a requirement that there be rules in regard to an investigating committee (j) and a disciplinary committee (k). The specific requirement that there be two separate committees constrains the options that the Board can consider in terms of developing its procedures.
3. Under Rules 90(2) and Rule 91 (4) at least two members of both the Investigating Committees and Disciplinary Committees must be Board members. This creates the unintended consequence that when the Board is considering the recommendations of an Investigating Committee or a Disciplinary Committee four Board members cannot vote, these being those who have or will serve on both committees. Given that the Board has eight members, at best only half the Board can partake in some of the most important decisions that the Board

ever makes.

4. Issue 3 apart, under Rule 88 and 89 the chairpersons of Investigating and Disciplinary Committees must be Registered Architects. This means chairpersons can not be appointed with a legal background or hands-on experience from equivalent procedures in other sectors.

Issues expected to require ministerial attention in the longer term

Protection of title

The Board receives a steady stream of complaints about advertising or marketing that creates the impression that persons are architects when they are not. The most common are real estate advertisements wrongly naming a property's designer as an architect and business directories listing building designers as architects.

Also, some firms offering building design services use trading names that imply that Registered Architects undertake or are responsible for the work done when this is not the case.

The resultant confusion continues to undermine the value of the title "Registered Architect" and makes it harder for the public to be sure that they are receiving the service that they sought or expected.

Redefining voluntary suspension

The Act (S 16) uses the term "voluntary suspension" to describe a procedure by which architects can elect to put their registration on hold for up to five years, given that the architect does not wish to practice for that period. Architects have found the term "suspension" in this context distressing, as it is perceived to indicate that the architect has done something wrong.

Fee increases

The Board is projecting deficits during the next three years. These will be covered by the Board's reserves. However, given inflation, at some stage the Board will need to seek ministerial approval for an increase in the fee charged for annual Certificates of Registration. This fee provides about 80 per cent of the Board's income. Any fee increase requires a ministerial decision as set out in Section 69 of the Act. The current economic downturn increases the uncertainty that the Board faces.

Other matters

Board continuity

The terms of five Board members expire in 2010. This creates the risk of a loss of institutional knowledge at that time, unless some of these board members have their terms renewed. The maintenance of continuity should be a consideration in any upcoming succession planning.

Output agreement

At its inception an Output Agreement was negotiated between the then Minister for Building Issues and the Board to span the period 1 July 2006 – 30 June 2007. Since then it has not been updated. The *Department of Building and Housing Annual Report 2007/08* page 46 notes that this will be a requirement in 2008/09.

Public good funding

Some of the Board's activities have a public good component and yet Registered Architects currently fund them.

The Board may, at some stage, be required to take to court a person who has falsely presented him or herself as a Registered Architect for gain. A person found guilty of this can be fined up to \$10,000, but any fines go to the consolidated account and not the Board. Taking such an action serves the public good, but, based on current arrangements, the costs would fall on fee-paying architects.

In addition, the Board's work to enhance New Zealand's free trade arrangements goes beyond the immediate interests of fee paying architects.

International

The Board undertakes a series of relationships with organizations that register architects in a number of other jurisdictions. The most important is with Australia.

Under the Trans-Tasman Mutual Recognition Arrangement a person registered to practice an occupation in either country is entitled to practice an equivalent occupation under the law in the other country.

The profession of architect is included in this. Both countries share the same competency standards for registration and the same criteria and procedures for recognizing academic qualifications. Thus a person seeking registration in New Zealand can cite Australian architectural qualifications and vice versa.

The Board is also a participant in the APEC Architect Project. This seeks to establish a fast track way for senior architects from Pacific Rim economies to easily and quickly become registered in other Pacific Rim economies, thereby allowing them to practice in other places as well as their home countries.

This is in its early stages and a sustained effort from the Board will be required for New Zealand to create opportunities for our architects.

There is further value in this work in that international engagement keeps New Zealand in touch with developments in occupational regulation in other jurisdictions.