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5 March 2015

Australian Institute of Architects

Mr Jonathan Coppel
Presiding Commissioner
Mutual Recognition Schemes Study
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne VIC 8003

By email to: mutual recognition@pc.gov.au

Dear Mr Coppel

Mutual Recognition Schemes Study

The Australian Institute of Architects (the Institute) welcomes the opportunity to comment on the Productivity Commission's Mutual Recognition Schemes Issues Paper, January 2015. Thank you for the extension of time allowed in which to make this submission.

The Institute is an independent, national, member organisation with approximately 12,000 members across Australia and overseas. The Institute exists to: advance the interests of members, their professional standards and contemporary practice; and expand and advocate the value of architects and architecture to the sustainable growth of our community, economy and culture. The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

The Institute has previously made submissions on the Productivity Commission's review of the Mutual Recognition Scheme and in the Productivity Commission's review of Regulatory Burdens: Business and Consumer Services. This submission elaborates on our earlier comments and specifically addresses a number of areas within the January 2015 Issues Paper.

Requirements for 'manner of carrying on' an occupation *(p 12 Issues Paper)*

Consistent with the Issues Paper's observation; Australian architects, once registered in their home jurisdiction, must apply to register in order to provide services in a second jurisdiction, and must meet the local requirements of that jurisdiction in order to practice outside their home jurisdiction. Although mutual recognition provides for a relatively smooth process for automatic registration in the host jurisdiction, it does not currently exempt an architect from having to pay the registration fees of the host jurisdiction, nor from having to comply with the continuing professional development and other additional requirements required which are in some instances over and above those required by their home jurisdiction.

The Issues Paper raises the possibility of adopting a similar approach to that used in the European Union in order to overcome the burden of compliance. Anecdotally, we are aware of anomalies in that system where those aspiring to be licensed/accredited/registered as architects within the European Union but

with qualifications and/or experience that falls short of that required for the equivalent in the UK, for example, indulge in "forum shopping" for the easiest alternative local jurisdiction path which entitles European Union licensing/accreditation/registration in all EU jurisdictions.

In our view, this is not a desirable option where the principle purpose of accreditation is to enable consumers to know that an individual (or practice) is assessed as reaching a standard they are entitled to rely on. In the Australian context under the existing Mutual Recognition Act we have raised this issue in support of the continuance of an Architects Act being applicable to each and every state and territory.

We reiterate our prior submissions that a more efficient and effective solution under would be to establish a national register – where architects register and pay a fee in their home state automatically entitling them to placement on a national register – thus allowing architects to work in all Australian states and territories and within New Zealand, without having to complete separate registration processes nor pay registration fees across multiple jurisdictions.

We note that our call for a national register was supported by the Productivity Commission in its 2010 Report; Annual Review of Regulatory Burdens: Business and Consumer Services, when it stated that "The Australian Government should work with State and Territory Governments to implement a national register for architects". (p 143)

However, the detail of a mutual recognition scheme's application is critical. Non-uniform requirements such as are found in the architects acts across jurisdictions make the categorisation of requirements as "service provider regulations" as opposed to "service provision regulations" important. We do not agree with the way insurance and CPD are characterised as "service provider regulations" of the home jurisdiction in the example on p13, and not as "service provision regulations of the host jurisdiction" which would require compliance by a mutually recognised architect in the host jurisdiction. Characterisation of insurance and CPD in that way could readily mean that a mutually recognised architect was providing services to consumers in the host jurisdiction with inadequate insurance to protect consumers in that jurisdiction, and without protecting consumers with up-to-date information about practice in that host jurisdiction.

Consequently, while the Institute advocates practicable mutual recognition both within Australia and extending to New Zealand, there needs to be clarity and a rational approach to matters providing consumer protection like insurance and CPD which will not encourage "forum shopping" for a home jurisdiction in matters like insurance and CPD.

Mutual Recognition of business registration *(p 15 Issues Paper)*

The Institute recommends that in line with its comments above, there should be no distinction between the registration of an architectural business and an individual architect on a National Register for Architects. The establishment of a national business name register does not address the issue for licensing/accreditation/registration where, like architecture, there is specific occupation-based legislation requiring registration in addition to overarching state and territory business names legislation. In practice, architectural businesses experience differing requirements. Some state and territory Architecture Boards require that the architectural business must be registered in addition to the registration of individual practitioners within the practice.

The Institute believes that an architectural business should only need to register itself once, in its home jurisdiction, or, if not provided for by local architect legislation, another jurisdiction which does provide

for it. Once registered, the business should attain licensing/accreditation/registration on the national register which enables it to practice in any mutual recognition scheme jurisdiction without further registration fees. Consequently, architects individually registered in a home jurisdiction and employed within the business would be licensed/accredited/registered under that business registration to perform services in any other mutual recognition scheme jurisdiction, with the business required to meet that jurisdiction's insurance and ensure relevant employee architects meet that jurisdiction's CPD requirements.

Automatic mutual recognition of occupations *(p 19 Issues Paper)*

Under the Act, a registration authority may refuse recognition if it does not consider that the 'occupation' is equivalent and the difference cannot met by imposing conditions.

In regard to architects, as noted above, there is no problem within Australia, while

- there is legislation in every stated and territory requiring registration in order to use the name "architect", and
- the academic and practical experience requirements for initial registration are presently harmonised within Australia by adoption by the registration Boards in each state and territory of the same National Competency Standards.

However, were NZ to adopt substantially different academic and/or practical experience prerequisites, such that Australia's were of a lower standard, or vice versa, there would, without the safeguard, be an opportunity under mutual recognition for registration at an academic or practical experience standard below the level that the community in one country or another should expect through their own legislation.

Accordingly, while this provision in the Act is a potential barrier to mutual recognition being effective, the Institute considers it to be a necessary consumer protection safeguard that where required standards are substantially different, can prevent forum shopping in the nature of what we have described.

Conclusion

We hope our input is helpful to consideration of the future of mutual recognition. If you have any questions or require further explanation, please do not hesitate to contact me.

Yours sincerely

David Parken LFRAIA
CEO