

MH:1h

10 January, 2000

Productivity Commission  
Architects Enquiry  
LB2, Collins Street East  
MELBOURNE VIC 8003

Attn: Ms Lisa Gropp  
Assistant Commissioner

Dear Ms Gropp

**Review of Legislation Regulating  
the Architectural Profession**

**Response to Issues Paper**

I enclose a copy of my response to the suspended 1997 Enquiry into the NSW Architects Act 1921 undertaken by the NSW Department of Public Works and Services on behalf of the NSW Government.

As detailed in that response, I am a chartered architect, having been employed in the architectural profession since 1961 and have been registered in NSW since 1969. I currently operate a small architectural practice with one Architect Principal and four (4) employees.

My earlier response is still generally valid in relation to the similar issues under investigation by this enquiry, however I provide the following additional response.

In making this response, I make mention of the remarkably short time allowed for preparation of submissions, notwithstanding the extension of time provided to me by Ms Michelle Cross.

The introduction of the new approvals regulation in NSW under the EP&A Act on 1.7.98 has increased the need for a service quality **benchmark** whereby the consumer of architectural services is able to simply and confidently identify professionals provably equipped to deal with the complex issues and make proper representation on the consumer's behalf to the various authorities. Under the current regulatory control of architects in NSW, the consumer in engaging a chartered architect is assured of a minimum standard of professional service prescribed by the Act, thereby minimising the risk of receiving bad service with the ensuing costs of litigation and/or rectification.

In NSW there is an increasing emphasis on heritage conservation to the extent that the detailed assessment and administration of this nationally important issue has exceeded the resources of the NSW Heritage Council and has been delegated to Local Government. Most Local Authorities have or are in the process of assessing the heritage value of existing development in their areas both from an architectural and an archaeological viewpoint. 'Heritage Conservation Areas' are being established to encompass buildings or other developments assessed as having heritage value. Proposed work within these areas then requires very detailed investigation and assessment of existing developments before an application will be considered, the onus being with the applicant to prove the proposed work will have no detrimental impact on the conservation area.

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Individual Councils are increasingly encouraging applicants to engage appropriately qualified professionals to deal with the issues relating to the preparation of applications for work within these areas.

In the absence of regulatory control on the practice of architecture, the cost to the consumer of architectural services will almost certainly be higher due to the inability to simply confirm the professional status of the provider and the resultant effects of inadequate service.

A lowering of service standard occurred with deregulation of Architects' fees by the Trade Practices Act. A further significant lowering of service standard will occur if the practice of architecture is deregulated. Already fee bidding is a growing malaise significantly sponsored by Government and Institutional Clients where price supplants quality and consequently 'value for money'. Perhaps the Government Department and large private organisation have the experience and/or resources to assess and ensure 'value for money'; uniformed private individuals undertaking the largest and probably most important investment of their lives do not.

The built environment affects us all. It not only influences our lifestyle it substantially determines our quality of life. Without a benchmark setting the highest professional level for architectural service and consequent excellence in architecture, the built environment must suffer. Architecture is not a money making profession. Without regulation there will be no incentive to undertake the expensive and demanding tertiary education necessary to become a properly qualified architect.

Yours faithfully

**Michael Anthony Harris**

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Principal, Harris Partners Pty Ltd,  
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MH:lh

2 July, 1997

Ms A Meldrum  
Policy Division  
Department of Public Works and Services  
Level 23, McKell Building  
2-24 Rawson Place  
SYDNEY 2000

Dear Ms Meldrum

**Review of Architects Act 1921  
Response to Issues Paper**

I provide the following response to the Department's Issues Paper dated June, 1997 and request that this be taken into consideration in the review of the Architects Act.

I am a chartered architect, have been employed in the architectural profession since 1961 and have been registered in NSW since 1969. I operate a small architectural practice with one Architect Principal and four (4) employees.

My observations over that considerable period are that the Architects Act is necessary and should be retained for the following reasons:-

- a) It sets a standard for architectural services in NSW generally paralleled by similar Acts in other States and Territories of Australia.
- b) Protection of the use of the title '*Architect*' and the word '*Architectural*' as it relates to the provision of services is essential in maintaining the "**Service Standard**" by which less qualified service providers may be measured in terms of cost effectiveness and quality assurance.
- c) Consumer Protection is provided by the Act as a person seeking architectural services can engage an Architect, confident in the knowledge that that person is legally qualified to practice in NSW, has at least a minimum of practical experience and has completed a recognised course in architecture at tertiary level, thereby equipping that person to undertake the full range of design and technical services expected of an Architect.

[It would be inconceivable that a sick person seeking urgent medical attention in a strange town would be required to undertake an exhaustive research exercise in order to determine if the local GP was adequately qualified and experienced to provide assistance. It is rare that urgent architectural advice/services are required, however the principle of simple consumer protection still applies.]

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I do not consider adequate protection would be provided to the consumer, **in the absence of the Architects Act**, by the Fair Trading Act and/or the *Trade Practices Act*. Both Acts are too broad in their terms of reference and a person in offering architectural services could quite reasonably comply with the provisions of both Acts without necessarily having the qualifications or experience to provide a professional level of service. It would be **difficult for the consumer to discriminate** between the skill levels of an Architect possessing a University Degree with appropriate training and a less qualified 'Architect' apparently offering the same services - possibly at a discount.

It is a hollow argument that legal recourse is available under the FTA or TPA in the event of the consumer suffering loss/disadvantage resulting from the service provider failing to deliver the expected service when in fact the service provider was not adequately qualified. Codes of Practice/Ethics enforced by statutory enactment effectively minimise the risk to the consumer and therefore the need to resort to this course of action. This must benefit the consumer and the community at large.

- d) I take issue with the conclusion apparently drawn from a study carried out by the Trade Practices Commission in 1992 that Architects are predominantly involved in commercial and the upper end of the domestic and industrial buildings markets. I belong to a network group of small architectural practices ranging from 1 to 5 persons. According to RAIA statistics some 80% of practices in Australia comprise less than 4 persons. I would suggest, as is the case with my practice, the majority of small practices operate in the lower end domestic, small commercial and small industrial markets. The majority of my residential commissions are for alterations and additions where the fully qualified architect can make the **greatest contribution** and the greatest damage can be done by less qualified service providers. It is important that the consumer be able to readily identify the standard of service which will be provided, particularly in terms of professional skill and this will equate directly to value for money and level of risk. The Architects Act by establishing a service standard for Architects effectively guarantees that in engaging the services of an Architect the consumer will receive this level of service.
- e) The TPC Study suggested that the 'higher end' users of architectural services were able to inform themselves about the services expected from an Architect and 'lower end' users were least aware of the distinction between **Architects and other providers** of building design services. Notwithstanding which, a survey carried out by the Board Of Architects apparently revealed that 80% of respondents understood the difference and 96 % believed that Architects had some form of qualifications with only 14 % believing that building designers had qualifications. Assuming this survey to be random and representative, does it not in itself illustrate the need for an Architects Act? In the absence of an Act and no protection of the title 'Architect' surely fewer 'Architects' will seek qualification or they will undertake less demanding training in order to be able to practice sooner. There is likely to be lesser 'architectural courses' offered by institutions such as TAFE or private colleges. There will be little or no incentive for nor control over further professional development.

#### DISCUSSION POINT 1:

The objectives of the Architects Act should be to set a service standard, maintain a public register of appropriately qualified professionals meeting that standard and make this readily available to the consumer, ensure minimum educational/experience standards and maintain a code of professional conduct.

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DISCUSSION POINT 2:

The consumer should be able to readily identify the service provider who will best provide the services required. The Architects Act in setting a service standard for registered architects effectively provides a benchmark whereby the consumer can gauge the relative value of each class of service provider.

DISCUSSION POINT 4:

Promotion of Architectural Services by the RAIA would no doubt better inform the consumer of the benefits of engaging an Architect. However, in order to promote these services there must be a **service standard of which the consumer is aware and assured** thereby engendering confidence. It has been proven greatest consumer confidence exists where the standard is established by legislation.

DISCUSSION POINT 5:

In my opinion less restrictive alternatives to the Architects Act will lead to misrepresentations to and misunderstandings by the consumer making it more difficult to identify the most appropriate service provider (skill, value for money, risk).

DISCUSSION POINT 13:

The Board of Architects is self-funding therefore there is no cost to the community (except in the enactment of the legislation) unless it is perceived by restricting the title 'Architect' and use of the word 'Architectural (services)' a restriction on trade is created to the disadvantage of the consumer. I believe quite the contrary exists. By having the ability to simply identify the provider of the 'highest' level of professional services the consumer can make an informed value judgement. Pursuant to the Trade Practices Act NSW Architect's fees are not fixed and in fact Architects compete with each other and other service providers.

DISCUSSION POINT 28:

There is a growing market for Australian Architects' services offshore, particularly in the South East Asian region. Many practices survived the recent recession due to offshore commissions. Australian Architects are recognised and often preferred in other countries because of their high level of qualification. Without the Architects Act ensuring that all Architects possess these qualifications it may be more difficult to achieve the same recognition and high status in these regions. This is a small but important Australian export, worthy of protecting and fostering.

Yours faithfully

Michael Anthony Harris

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