

October 2014

Briefing to the Incoming Minister

The following note provides an overview of the work of the New Zealand Registered Architects Board (NZRAB), with a particular focus on issues that will in time require ministerial involvement.

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. The Registered Architects Act 2005 (the Act) established the NZRAB and made the requirements for registration and for continuing registration more rigorous, and the criteria under which architects can be disciplined more expansive.

The Act 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
- reviews the competence of architects every five years
- investigates complaints and, if need be, disciplines 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 NZRAB is fully self-funding from fees paid by Registered Architects and applicants for registration. In total, there are approximately 1700 architects registered in New Zealand and based on the trends of the last two years typically in net terms about 50 new architects are registered annually.

In most advanced economies architects are registered in some way, so that only persons who have met the required standards are entitled to use the title. Jurisdictions vary in terms of whether or not particular kinds of work are reserved for architects. In New Zealand the work of architects is not protected as such. However, the restricted work requirements of the Building Act mean only Registered Architects and Licensed Building Practitioners – Design are permitted to design and sign off standalone residential properties and small apartments.

Context

The Government's overall stance 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.

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.

There are also positive reasons for registering architects which go much wider than just ensuring building standard compliance. The registration of architects entrenches competence requirements that lift the contribution that architects make to society and the economy. Buildings and a built environment that are well designed and appropriate for the New Zealand context confer enduring social and economic benefits. This is the result of good design and also of the quality processes that architects bring to their work. Architects take into account the broader environmental and cultural context, including the need for the built environment to be sustainable.

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 architectural profession to be preserved and enhanced.

The NZRAB has articulated a vision statement that describes this broader context. It states:

The task of architecture is to lead the way in terms of what the built environment can and should be. This goes beyond designing for function, essential though that is. In so far as architecture articulates the national imagination, it contributes to nation building. If the built environment in New Zealand is the best that it can be, then it contributes to the realisation of this nation's potential.

The NZRAB determines who can be a Registered Architect. In doing this, the NZRAB is mindful of the broader contribution that the profession makes to New Zealand.

International

The NZRAB operates in an international context. The title "New Zealand Registered Architect" needs to be and is internationally credible, so that New Zealand architects can export their services, thereby advancing New Zealand's trade agenda. To that end:

- the competencies that applicants need to demonstrate for registration in New Zealand are derived from those that apply in Australia
- the process used for recognising academic qualifications for initial registration is shared with Australia
- New Zealand, via the NZRAB, is a participant in the APEC Architect Project (see below).

Also, under the Trans-Tasman Mutual Recognition Act 1997, a person registered to practice an occupation in either Australia or New Zealand is entitled to practise an equivalent occupation under the law in the other country. This applies to architects.

¹ *Policy Framework for Occupational Regulation*, MBIE

Governance

The Board of the NZRAB 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 to the Minister by the New Zealand Institute of Architects Inc (NZIA).

At 30 June 2014, the Board members were as follows:

Board members (* NZIA nominated)	Occupation	First appointed	Current term expires
Warwick Bell (Chairperson)	Architect	05/08/2010	04/08/2015
Callum McKenzie* (Deputy Chairperson)	Architect	03/10/2008	02/10/2016
Christina van Bohemen*	Architect	05/08/2010	03/08/2016
Anna-Marie Chin*	Architect	03/10/2008	13/10/2014
Euan Mac Kellar*	Architect	19/12/2013	18/12/2015
Helen Tonkin	Chartered Accountant	30/06/2008	19/09/2014
Anthony van Raat	Architect/Academic	19/12/2010	18/12/2015
Sir Hugh Williams	Retired Judge	14/10/2011	13/10/2014

It is very helpful for the Board to include persons with legal, financial and academic experience. This augments the other Board members being architects.

The NZRAB maintains a small office in Wellington, with four staff (3.5 FTEs).

The NZRAB is reliant on 55 registration assessors who are senior Registered Architects. Their principal tasks are to assess applicants for initial and continuing registration. The assessors are paid a modest honoraria.

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 addition, a number of architects and lay persons, apart from Board members, serve on Board committees, including taking part in the Board's complaints and discipline procedures.

Issues expected to require ministerial attention in 2014/15

Complaints and discipline procedures

On 19 March 2014, the then Minister for Building and Construction Hon. Maurice Williamson agreed in principle to the implementation of a new set of complaints and discipline procedures for architects. At the time of writing, revised rules for the NZRAB's complaints and discipline procedures were about to be drafted by Parliamentary Counsel. Your final authorisation will be requested when these new rules have been drafted.

The NZRAB's current complaints and discipline procedures, required by the Act and the Rules, are convoluted, time consuming and expensive. The net effect of this is that a full discipline case, if all the required procedures occur, takes substantially more than 12 months to process. In the Board's view this is too long and potentially in conflict with the requirements of natural justice.

Also, under the present arrangements, there is a risk that by the time final decisions are being made at the Board level too many Board members are unable to take part because they have been directly involved in the process earlier and therefore are "tainted with knowledge".

New rules were made possible by omnibus legislation passed in 2012 that removed from the Act the requirement that the NZRAB have rules covering both investigating committees and disciplinary committees.

New minimum standards for initial and continuing registration

On 19 March 2014, the then Minister also agreed to new minimum standards for initial and continuing registration. As a result, at the time of writing, Parliamentary Counsel was also about to start drafting revised minimum standards for initial and continuing registration. Once these new rules have been drafted, your final authorisation will be requested as well.

The new minimum standards for initial and continuing registration will better deal with the way architects increasingly are specialising in their careers sooner than in times past – indeed, often before they are registered.

Fee changes

As the NZRAB advised on 18 July 2014, the NZRAB is proposing three fee changes and is currently consulting with the profession and other stakeholders in that regard.

The proposed fee changes are:

1. ***Abolish the current \$632.50 (GST included) fee for Interactive Competence Reviews.***

This fee no longer serves a useful purpose in that mostly it is being paid by architects who are coming out of voluntary suspension and need to have an interactive competence review prior to being registered again, this being because more than five years have elapsed since they were last assessed. The original purpose of the fee was to recover the costs and incentivise the behaviour of architects having their normal five-yearly reviews.

In this context, arguably the \$632.50 fee is oppressive, as often those required to pay it have been out of the workforce to undertake family duties and have limited financial resources, hence the Board's proposal to abolish it.

2. ***Monthly pro-rata Annual Certificate of Registration payments***

Currently the NZRAB fee schedule allows for Annual Certificate of Registration (ACR) payments for a full year (July to June) or a half year (January to June). The NZRAB would like to improve this further by allowing for the ACR fee to be set on a monthly pro rata basis, albeit only for persons registering for the first time or coming out of voluntary suspension.

3. ***Reduce fee for initial registration procedure review***

The current fee schedule includes a fee of \$862.50 (GST included) for a review of an initial registration procedure. The review can be requested by an unsuccessful applicant for initial registration. As the NZRAB's procedures have evolved the fee has come to be excessive in terms of cost recovery. The actual cost of this rarely-used procedure varies from review to review, but a typical review costs the NZRAB \$422. The NZRAB therefore proposes to reduce this fee to \$435 (exclusive of GST) which is \$500.20 (GST included).

Consultation regarding these three fee changes has been completed and considered. Shortly your agreement in principle will be sought.

By way of background, the NZRAB's Annual Certificate of Registration fee, which pays for the bulk of the NZRAB's operating costs, was last adjusted with effect from 1 July 2013. The NZRAB seeks to set this fee at such a level that the NZRAB will be financially sustainable for at least a further six years, so that another adjustment should not need to be considered until 2018 at least. This fee is currently set at \$644 (GST included) per annum.

Issues expected to require ministerial attention in the longer term

Code of Ethics Review

Included in the Rules is the Code of Minimum Standards of Ethical Conduct for Registered Architects to which architects can be held to account. The NZRAB is currently reviewing these rules and if changes are needed ministerial consent will be required.

Other issues

Jurisdiction in regard to historical complaints

The NZRAB has received legal advice that under the Registered Architects Act 2005 the NZRAB cannot investigate complaints in regard to events that occurred prior to 1 July 2006, that being the date when the Architects Act 1963 was repealed. Section 86 of the Registered Architects Act 2005 provides transitional provisions that apply to complaints received by the Architects Education and Registration Board (which preceded the NZRAB) under the previous legislation, but it does **not** provide for a complaint received by the NZRAB after the new Act about events that allegedly occurred prior to the new Act's enactment. As time passes the risk of this being a problem diminishes, and no such complaint has been received in the last five years, but recent jurisdictional issues in regard to building failures in Canterbury have brought this matter to the fore. The Registered Architects Act 2005 would have to be amended to change this.

Lessons from the Canterbury Earthquakes

Following the Canterbury earthquakes, the NZRAB undertook an internal review of the implications of these events for the architectural profession. The resultant report was provided to the Canterbury Earthquakes Royal Commission of inquiry. The Royal Commission agreed with the NZRAB's recommendation that work was needed to encourage better collaboration between architects and engineers, especially in the early stages of the design and construction of complex buildings.

Since then, the Institution of Professional Engineers New Zealand (IPENZ), the Structural Engineering Society New Zealand (Inc.) (SESOC), the New Zealand Institute of Architects Inc. (NZIA), and the NZRAB, assisted by the Ministry for Business, Innovation and Employment, have been working on the issue. Shortly a publication targeted at both professions is to be launched explaining in detail why better collaboration between the two professions is required.

Separately, in response to the same issues, the NZRAB during 2014 2015 will investigate the possible need for an increased emphasis on technical and management competence in qualifications recognised for initial registration.

Organisation of occupational licensing in the building sector

The building failures in Canterbury have also focussed attention on the way occupational licensing is organised in the building sector. Insofar as the government sees difficulties where an occupation is regulated by the same entity that advocates for that occupation, this is not an issue for architects. The New Zealand Institute of

Architects Inc. and the NZRAB are separate entities with separate roles and separate accountabilities.

However, nonetheless, if the government were to review occupational licensing in the building sector, the NZRAB would advocate the rationalisation of occupational licensing in the sector into three main groupings, these being based on:

- the construction trades
- engineering
- architecture and design.

This would mean that:

- the construction trades would continue to be licensed by the Licensed Building Practitioner Scheme
- the various different levels among engineering professionals would be registered/licensed by IPENZ
- a revamped NZRAB would register/license architects AND the designers currently licensed by the LBP Scheme.

This arrangement would facilitate the development of interconnected registration standards for architects and designers, making it easier for designers, if they wish, to up-skill and become architects. The NZRAB already has a procedure for this which typically attracts four or five applicants a year. This would become more common if a single entity registered architects and designers and the registration standards for both groups dovetailed in the right way. Skilled practitioners in the sector would be encouraged to extend their professional capabilities, thereby contributing more to the New Zealand economy.