

DRAFT SECOND READING SPEECH

HON ELISE ARCHER, MP

Architects Amendment Bill 2020

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Madam Speaker, I move that the Bill now be read a second time.

The Architects Amendment Bill 2020 amends the *Architects Act 1929* to modernise legislation that has been in operation for 90 years, to increase consumer protection and to reform disciplinary and complaints processes regarding registered architects.

It fulfils community expectations of consumer safeguards that are essential in modern licensing legislation.

Stakeholder consultation

Madam Speaker, the Government values the time and effort that the Australian Institute of Architects (Tasmania) and Board of Architects have contributed to the development of this Bill. These organisations are the peak body and registration body, respectively, for architects in Tasmania.

The amendments proposed in this Bill have the full support of those bodies and are a long time coming. This sensible, measured reform is the first amendments to the Architects Act since 1984 that is not a consequence of changes to another piece of legislation.

Firstly, I would like to say a few words about the important contribution of our architectural profession:

- Architects provide professional services in connection with the planning and design, construction, conservation, restoration or alteration of buildings.
- In Australia today, an architect is a trained and registered professional. While other licensed design practitioners can provide building design services, only architects can be registered with the architects' registration board in the state or territory in which they want to practise.
- In Tasmania the Board of Architects Tasmania, established under the *Architects Act 1929*, performs this essential registration function.
- A graduate is not legally permitted to practise unless registered as an architect. After completing a degree in architecture, they are also required to undertake a period of practical professional experience, prior to being able to apply for registration.

The high standards of Tasmanian architects have consistently been recognised at national awards.

- TheBaeTAS by Tasmanian architectural firm workbylizandalex, took out an Award for Interior Architecture at the prestigious Australian Institute of Architects Awards, held on 7th November 2019 at a gala ceremony in Brisbane. Their micro-apartment, measuring just 26.5sqm, features built-in plywood cabinetry that opens to reveal living spaces, providing a delightful and spatially diverse interior within a micro living environment.
- In view of concerns with affordable housing and urban sprawl, it is pleasing to see that Tasmanian designers have risen to meet these challenges with innovative solutions.

Madam Speaker, I will now turn to the provisions of this amendment Bill, and how it will enhance the role and professionalism of architects and public confidence in their services.

Building Confidence Report

The Building Confidence Report 2018, by Peter Shergold and Bronwyn Weir, made major recommendations for improving the national building regulation framework, including suggesting reforms to architects' registration.

This Bill will assist the Tasmanian Government in implementing the Report's recommendations relating to architects' registration, in these areas:

- First, all architects' registration boards are to implement a fit and proper person test for all persons who want to be registered as an architect, with appropriate powers to monitor the performance of architects and to investigate complaints;
- Secondly, all registered architects must undertake a mandatory program of continuing professional development activities and are to be covered by professional indemnity insurance.

Consumer protection reforms – complaints and disciplinary matters

A significant reform in this Bill is the introduction of modern provisions for the Board of Architects Tasmanian to receive, investigate and make decisions regarding consumer complaints about an architect's work or their conduct.

- The Bill provides that the Board itself may now initiate complaints and inquire into disciplinary matters.
- It also extends the circumstances when the Board may exercise disciplinary powers. New examples include when a registered architect has breached a Code of Practice, or committed an offence under the *Occupational Licensing Act 2005*.
- Applicants for registration must prove that they are a fit and proper person to practise and they are to maintain that status to remain registered.
- Complainants will have their concerns investigated and dealt with appropriately. Architects subject to a complaint will receive procedural fairness during that process.
- Currently, the Act only provides for the Board to fine a guilty architect with a \$200 fine, a relatively small sum, or else give the ultimate penalty of removal of registration. Only having those two options available as punishment, hampers an effective complaints and disciplinary system.

- The Bill instead provides that the penalties the Board may impose on an architect are widened to include specific conditions on an architect's registration, and fines increased to a maximum of \$21,000.

Matters heard by the Magistrates Court

- The Bill provides that disciplinary actions instituted by the Board of Architects, to remove an architect on grounds of professional misconduct, will be decided by the Magistrates Court, rather than by the Supreme Court of Tasmania. This will be a faster and simpler process.
- The current Act gives a right of appeal on disciplinary decisions of the Board to the Supreme Court. The Bill instead proposes that all disciplinary appeals will be heard by the Administrative Appeals Division of the Magistrates Court. This is consistent with appeals under the Occupational Licensing Act for licensed builders, building designers or building surveyors.

Mandatory Continuing Professional Development (CPD)

A weakness of the current Tasmanian architect registration system in addressing consumer protection is absence of a link between gaining initial qualifications and experience, and maintaining those high standards during later practice.

- In other jurisdictions, once registered, every architect is required by law to undertake Continuing Professional Development (CPD) in order to maintain their registration. CPD ensures architects keep up with changing trends, developments and legal requirements for their occupation.
- However, in Tasmania only architects practising as a building services provider, licensed under the *Occupational Licensing Act 2005*, are required to undertake CPD.
- To fill this gap, the Bill will level the playing field and require mandatory CPD as a registration condition for all architects.
- The Australian Institute of Architects operates a model CPD scheme for architects, approved by the Administrator of Occupational Licensing. The CPD they must undertake is a minimum of 30 hours each year, comprising formal study, technical training, business skills or personal development. Most architects would already be achieving these development activities through normal work activities or their membership of the Australian Institute of Architects.

Mandatory Professional Indemnity Insurance

- All architects who independently give advice or provide consultancy services need to be covered by a policy of professional indemnity insurance. That is to protect consumers who may suffer loss arising from the architect's negligence.
- If an architect is an employee of an architectural practice, they are covered by their employer's insurance and do not have to buy their own policy.

Changes affecting the Board of Architects Tasmania

- The Bill updates provisions allowing the Board to establish what are the necessary formal qualifications, or required examinations, to be registered as an architect in Tasmania. This will also allow for consistency of registration requirements with other Australian jurisdictions.
- It also provides simplification of procedures for election of two members of the Australian Institute of Architects, who are then eligible to be appointed to the Board. The Institute will manage its own elections, rather than following unnecessarily prescriptive requirements currently in the Architects Regulations.
- The Minister may also recommend to the Governor that persons be appointed to the Board to represent the interests of consumers or the public. This establishes in law an informal arrangement that has been operated by the Board for a number of years.

Updating of language and gender references

The Bill will be updating the language used in a number of provisions in the Act, such as substituting:

- “professional misconduct”, instead of: “infamous or improper conduct”; and
- “fit and proper person”, instead of: “good fame and character”.

It will also change all gender-specific references in the Act to be gender-neutral, consistent with current legislative drafting conventions and Government policy on gender diverseness and inclusiveness.

Madam Speaker, collectively these changes will deliver a more efficient consumer complaints management system regarding the work of architects.

It will increase public confidence in the effective registration and oversight of Tasmanian architects.

I commend the Bill to the House.