



Architects Accreditation Council of Australia

***Mutual Recognition Schemes
Issues Paper:
Productivity Commission***

Submission by:

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The Architects Accreditation Council of Australia (AACAA), a not for profit company owned by the Architect Registration Boards around Australia. The AACAA maintains the National Standard of Competency for Architects which is the basis for the accreditation of architectural education for the purposes of registration, and underpins the requirements of the Architectural Practice Examination applied in all states and territories for the purpose of registration. The AACAA is also the recognised skills assessment centre responsible for skills assessment for the occupation architect.



EXECUTIVE SUMMARY

This submission provides comment on issues in the Productivity Commission's Issues Paper *Mutual Recognition Schemes* relevant to architects in Australia.

The AACA supports the Trans Tasman Mutual Recognition Agreement (TTMRA) and the Mutual Recognition Agreement (MRA) as applied in the context of individual architects as positive examples of the intent of these schemes.

With the aim of value adding to the current MRA arrangements for architects, the AACA outlines a process agreed by the AACA and the Architect Registration Boards to achieve national recognition of architects' registration, using the Mutual Recognition model.

The principal aims of the model agreed by all Architect Registration Boards in Australia are to:

- . reduce compliance and administration costs
- . ensure consumers of architectural services are protected
- . encourage labour mobility and further enhance international trade in architectural services

While there is a harmonised approach to the registration of architects that facilitates mutual recognition arrangements the different obligations placed upon corporations and firms by the respective Architects Acts impedes the efficient and low cost mutual recognition of architect corporations and firms across Australian state and territory borders.

AACA supports investigations into whether the MRA could be utilised to facilitate mutual recognition of corporations and firms offering architectural services across Australia.



1. Background to the Architects Accreditation Council

AACA was formed in the early 1970s in response to the need for a nationally consistent approach to the range of activities undertaken by the State and Territory architect registration boards leading to the registration of an appropriately qualified person as an architect.

AACA is a not-for-profit company limited by guarantee. AACA has as its Nominating Bodies each state and territory architect registration board.

Each of the Nominating Bodies (architect registration boards) is an independent statutory authority and is responsible for administering the Architects Act in its jurisdiction. The Boards and the AACA work in collaboration on matters of national interest to the profession, industry and the public.

AACA is responsible for establishing, advocating and promoting national standards in the practice of architecture for the benefit of the Australian community. Its functions include:

- *National Standard of Competency for Architects* – AACA maintains the *Standard* which the benchmark standard of competence required for admission to registration as an architect in Australia. The *National Standard of Competency for Architects* has also been adopted by New Zealand, and relevant *aspects of the Standard* are referenced in documentation relating to the application of international agreements established under the APEC Architect framework.
- *Architectural Practice Examination (APE)* – AACA facilitates and co-ordinates the national Architectural Practice Examination (*APE*), which has been adopted by all state and territory architect registration boards as the national examination in professional practice.
- *Accreditation of Architecture Programs* – AACA, jointly with the Australian Institute of Architects (AIA), provides the national procedure that facilitates the accreditation by each state and territory architect registration board of programs in architecture offered by Schools of Architecture within their jurisdiction.
- *Review of Academic Equivalence (RAE) and Review of Graduate Equivalence (RGE)* – AACA assesses academic qualifications in architecture that have been obtained outside Australia for the purpose of determining equivalence to an Australian architectural qualification. Candidates can undertake assessment through the *RAE* or the *RGE* process. Each process may be undertaken in any Australian state or territory.
- *National Program of Assessment (NPrA)* – AACA conducts the *NPrA* which enables those who do not hold an accredited qualification in architecture with an alternate route to registration based upon their experience in the field of architecture. Successful *NPrA* candidates are required to undertake the *APE* prior to applying for registration in any Australian state or territory.
- *National Forum* – AACA provides a forum whereby the state and territory architects registration boards discuss issues of common concern or of national interest.
- *International mutual recognition agreements* – AACA negotiates mutual recognition agreements with overseas countries to reduce the barriers to international cross border registration of architects, including those established under the APEC Architect framework. Since 2005, the AACA has negotiated mutual recognition arrangements under the APE Architect Agreement.

- *Interaction with the Federal Government* – AACA liaises with the Federal Government on a range of issues relating to skills shortages, migration issues, and international agreements, including the APEC Architect Framework.
- *Migration assessments* – AACA assesses overseas qualifications in architecture for migration purposes. AACA is gazetted (since 1999) by the Federal Government to undertake this function.

2. Architects in Australia

Each State and Territory of Australia has its own Architects' Registration Board established under legislation to register architects, conduct disciplinary investigations, pursue unregistered use of the term architect, accredit programs of study and educate the public on architectural issues. All eight boards are represented on the AACA. The eight Architects' Boards are:

- NSW Architects Registration Board
- Architects Registration Board of Victoria
- Board of Architects of Queensland
- The Architectural Practice Board of South Australia
- Architects Board of Western Australia
- Australian Capital Territory Architects Board
- Board of Architects of Tasmania
- Northern Territory Architects Board

The number of currently registered practicing architects by state and gender is shown in Table 1. As this number includes multiple registrations, the number of unique registrations is approximately 10 per cent lower.

Table 1: Registered architects and architect corporations and firms at 30 June 2014

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	AUST
Registered	3706	3645	2460	1271	696	418	342	201	12739
Males	2804	2708	1932	1053	576	363	280	-	9436
Females	902	937	528	218	120	55	62	-	2760
Companies/firms	1337	908	500	244	132	-	53	32	3153

Source: State and Territory Architects' Registration Boards

Most states require architectural firms as well as individuals to be registered or listed, although there are substantial differences in the requirements for companies from state to state.

3. Trans-Tasman Mutual Recognition Arrangement

A New Zealand Architect wishing to access registration in Australia must apply to one of the eight State and Territory Architect Registration Boards. They then have the right to access Mutual Recognition Arrangements available to any registered architect in Australia. In the last financial year 15 New Zealand architects accessed registration in Australia under the TTMRA.

The AACA allows the New Zealand Architects Registration Board to use under licence the AACA National Standard of Competency for Architects and the Australian and New Zealand Architecture Programme Accreditation Procedure. While the actual process for determining eligibility for registration in Australia and New Zealand is different, the same set of competencies underpin the accreditation of architecture programmes in our respective economies and the competency based assessments for registration.

The AACA and New Zealand each have a mutual recognition arrangement under the APEC Architect Agreement with Japan; and trilateral arrangements exist between Australia, New Zealand and Singapore; and Australia, New Zealand and Canada. Australia and New Zealand are currently negotiating with the National Council of Architect Registration Boards in the USA regarding a trilateral agreement between the economies. Australia and New Zealand's joint approach to international mutual recognition is a quality assurance approach that maintains the high standard of architectural education and practice in Australia and New Zealand while facilitating labour mobility for the benefit of architects and the respective economies.

The AACA support the current arrangements under the TTMRA .

4. Mutual Recognition Arrangements

Mutual recognition of registration applies between the eight Australian jurisdictions. In all jurisdictions it is against the law to refer to yourself or another person as an architect and/or offer architectural services to the public without being registered. Individuals who are not registered as architects (who may or may not hold architectural qualifications) are able to offer similar services as 'building designers' or similar titles.

For individual architects there is a nationally harmonised process to determine eligibility for registration as an architect.

- completion of a five year higher education program leading to an accredited Master of Architecture qualification or accepted overseas equivalent
- at least two years' relevant industry experience
- success in a three part competency assessment process – the AACA Architectural Practice Exam – including completion of a logbook, a written examination paper and an interview by experienced assessors who are practicing current practitioners

Mutual Recognition arrangements implemented by all Australian jurisdictions provides the ultimate vehicle by which Australia's standards for registration as an architect can be regarded as those of one country, rather than those of eight different jurisdictions. Internationally, AACA has formally promulgated this advantage at forums attended by countries forming the Asia Pacific Region.

5. Response to relevant Discussion Questions

1. Benefits of mutual recognition under MRA and TTMRA.

Individual architects in Australia and New Zealand benefit by not having to undertake a professional registration examination to attain registration and there are mutual benefits to economies in terms of managing labour shortages and surpluses.

2. *Cost of implementing and maintaining mutual recognition under the MRA and TTMRA*
The cost of implementing the mutual recognition systems under the MRA and the TTMRA are minimal.

3. *Further benefits that could be realised from extending mutual recognition*
The AACA supports the implementation of a proposal designed to achieve national recognition of architects' registration, using the Mutual Recognition Arrangements in place.

The principal aims of this model agreed by all Architect Registration Boards in Australia are to:

- . reduce compliance and administration costs
- . ensure consumers of architectural services are protected
- . encourage labour mobility and further enhance international trade in architectural services.

This initiative is consistent to the current reviews occurring around the country aimed at identifying opportunities to reduce red tape.

Mutual Recognition legislation implemented by all Australian jurisdictions provides the ultimate vehicle by which Australia's standards for registration as an architect can be regarded as those of one country, rather than those of eight different jurisdictions. Internationally, AACA has formally promulgated this advantage at forums attended by countries forming the Asia Pacific Region.

The proposal for national recognition of architects' registration builds upon these principles of Mutual Recognition. See *Attachment One*.

It will establish a single-transaction Australia-wide registration process that allows an architect to move seamlessly across jurisdictions.

It will reduce compliance and administration costs, encourage labour mobility and further enhance international trade in architectural services, whilst ensuring consumers of architectural services are protected.

Each Architect Act is concerned with the professional obligations of the corporation or firm as an architect. However, the different obligations placed upon corporations and firms by the respective Architects Acts impedes the efficient and low cost mutual recognition of architect corporations and firms across state and territory borders. See *Attachment Two* which summarises the provisions relation to the registration/listing of architect corporations and firms around Australia.

The AACA supports investigation into the potential for Mutual Recognition arrangements to be used to facilitate mutual recognition of architect corporations and firms across state and territory borders.

4. *Evidence that inter-jurisdictional differences in laws for the sale of goods and registration of occupations would, without mutual recognition significantly impede cross-border movement of goods and labour.*

The TTMRA and MRA effectively allows for the respective jurisdictions to recognise comparability of competency to facilitate recognition of registration. This is of benefit to the individual in terms of time and costs to become registration in Australia or New Zealand and to

the economies and the community. If this was not in place then a New Zealand architect would have to sit the Architectural Practice Examination prior to applying for registration as an architect in an Australian State or Territory.

27. *To what extent do interjurisdictional differences in laws for the manner of carrying on and occupation hinder labour mobility with Australia and across the Tasman? Are such differences warranted because, for example, individual jurisdictions have to address significantly different risks and community expectations?*

In the architectural context there is no evidence that the inter-jurisdictional differences in laws hinders labour mobility. There are different obligations placed upon architects in relation to insurance, continuing professional development and differences in the manner in which disciplinary matters are managed. Architects comply with the requirements in each jurisdiction where they hold registration. There is no evidence that these differences in obligations on architects across state and territory borders has impeded architects applying for registration under the MRA.

Rather, it is the cost of registration in each jurisdictions that may hinder access to registration under MRA. The model proposed in *Attachment One* both reduces the regulatory cost on the individual under the MRA while at the same time protecting consumers in the respective states and territories.

33. *Is there still a case for expanding mutual recognition to business registration given that there is now a national system of business registration within Australia and authorities are working towards a single entry point for registering businesses operating on both sides of the Tasman?*

Yes. See previous comment on architect corporations and firms.

38. *How often do occupation-registration bodies impose conditions on people registering under mutual recognition? In which occupations or jurisdictions does this most often occur, and what conditions are imposed?*

The AACA is not aware of examples of conditions being imposed upon registration made under MRA and TTMRA.

41. *Should people registered under mutual recognition be subject to the same ongoing requirements as other license holders in the jurisdictions?*

Yes. The purpose of regulation of professions is to protect the public. If an architect wishes to practise in a specific jurisdiction in Australia or in New Zealand in the interests of consumer protection architects should be subject to disciplinary procedures in the jurisdictions where the alleged deficient practice occurred.

43. *Is there any evidence of jurisdictions 'shopping and hopping' occurring for occupations which is leading to are to property, health and safety in another jurisdiction via mutual recognition?*

The AACA is not aware of any evidence of the situation described above.

44. *How effective are current informal and informal processes – dialogue between jurisdictions referral of occupational standards to Ministerial Councils and recourse to a tribunal – in addressing concerns about differing standards across jurisdictions?*

The AACA is a not-for-profit company owned by the architect registration boards in Australia. The national meeting provides a forum for discussion of any issues relating to MRA, as does the national network of Registrars' meetings held annually. Further, the model for national

recognition of registration as outlined in *Attachment One* was developed by the Boards with AACA.

The New Zealand Architect Registration Board and the AACA use the *National Standard of Competency for Architects* as the basis for accreditation of architecture programmers for the purpose of registration and for the competency based assessment process for initial registration as an architect. Further, Australia and New Zealand have trilateral arrangements for international mutual recognition of registration under the APEC Architect Agreement with Singapore and Canada and are working together with the USA on a trilateral agreement on mutual recognition of registration with an anticipated signing at the end of 2016.

46. *Is there a strong case for adopting automatic mutual recognition on more widely? What would be the implications for the MRA and TTMRA?*

The AACA does not support the adoption of automatic mutual recognition as it has the potential to undermine consumer protection which is the intent of registration as an architect.

63. *Implications for the TTMRA from Australia or New Zealand entering bilateral, regional and multilateral trade agreements in recent years?*

Australia and New Zealand are participants in the APEC Architect Agreement which allows for bilateral arrangements to be negotiated between registration authorities to allow for special fast-track cross border registration procedures for senior architects. Under the terms of the TTMRA, APEC architects registered in Australia or New Zealand have an immediate right of registration in each jurisdiction. Australia and New Zealand have managed the potent risks of the "back door" entry to the respective jurisdictions by jointly negotiating trilateral arrangements under the APEC Agreement.

Attachment One - National Recognition of Architects' Registration

National situation

Architect Acts are enacted in every State and Territory in Australia. There are currently approximately 12,700 practising architects registered on the architect registers around Australia.

Mutual Recognition legislation has been implemented by all Australian jurisdictions and there is support from around Australia towards National Recognition of Architect Registration. An architect who wishes to be registered to offer services in all jurisdictions across Australia is currently required to pay around \$1200 in registration fees each year.

Internationally, the Australian Government is a signatory to the APEC Architects Agreement. Mutual recognition arrangements have been put into place with Japan, and tri-lateral agreements between Australia, Singapore and New Zealand; and Australia, New Zealand and Canada. These arrangements provide an expedited process for recognition of both qualifications and experience for registration to practice as architects within these countries, and vice versa.

The concept for National Recognition of Architects' Registration

Mutual Recognition legislation implemented by all Australian jurisdictions has provided the ultimate vehicle by which Australia's standards for registration as an architect can be regarded as those of one country, rather than those of eight different jurisdictions. Internationally, AACA has formally promulgated this advantage at forums attended by countries forming the Asia Pacific Region.

The proposal for national recognition of architects' registration builds upon these principles of Mutual Recognition.

It will establish a single-transaction Australia-wide registration process that allows an architect to move seamlessly across jurisdictions, based upon registration in his/her home jurisdiction.

It will reduce compliance and administration costs, encourage labour mobility and further enhance international trade in architectural services, whilst ensuring consumers of architectural services are protected.

Government funding is not being sought to implement this process. The model is cost effective as it utilises the resources of existing organisations – Architect Registration Boards in each State and Territory and the Architects Accreditation Council of Australia. No new body will be established.

Importantly, proposed legislative amendments are minor. National registration under Mutual Recognition maintains the integrity of legislation in each State and Territory. It does not require additional national legislation and does not require a common date for all jurisdictions to join the national registration system.

Benefits of National Recognition of Architects' Registration

Architects will have the opportunity at any time to practice in all States and Territories

simply by renewing their registration annually in their home jurisdiction (as determined by entry on the Australian Electoral Roll).

The total cost for an architect to register nationally, which is currently about \$1200 per annum, will be significantly reduced.

International mobility will be enhanced and an architect will be known internationally as an Australian Architect

The process provides for simple and effective implementation within current Architect Registration Board structures avoiding administrative problems created by different requirements across jurisdictions and is achievable with minimal legislative amendment to State and Territory based legislation.

The proposed national recognition of architects' registration system will allow consumers to easily identify architects via the national listing on the Australian Architect website, which is comprised of information provided by Architect Registration Boards around Australia.

Current Status

Currently, Boards around the country are in discussions with their respective Ministers regarding what is anticipated to be minor legislative amendments to the respective Architects Acts to allow implementation. If amendments to the Mutual Recognition arrangements could be put in place thereby avoiding the requirement for legislative amendment the delays to implementation would be removed.

Attachment Two – Registration Requirements for Partnerships, Firms, Companies and Corporations

Australian Capital Territory	<p>The Act states that the Board may only register an individual. However, the Act provides for the appointment of one or more nominees for a firm. [The Act defines a firm as a corporation or partnership.]</p> <p>A nominee of a firm has the function of ensuring that the architectural services for which the nominee is responsible comply with the Act.</p> <p>A firm that is a corporation, and a partner in a firm that is a partnership, commits an offence if a nominee of the firm fails to ensure that the relevant architectural services comply with the Act.</p> <p>If an architect is a nominee for a firm, the name of the firm and other details as prescribed in the Regulations are to be recorded in the register.</p>
New South Wales	<p>The Act does not provide for registration of partnerships, firms, companies or corporations. However, it states that a corporation or firm that wishes to represent itself to be an architect must ensure that at all times there is at least one nominated architect who is nominated by the corporation or firm and is responsible for the provision of architectural services by the corporation or firm. [The Act defines firm as a partnership or other unincorporated association of persons.]</p> <p>Any failure, without reasonable excuse, by a nominated architect to properly supervise the provision of architectural services by an architect corporation or architect firm is unsatisfactory professional conduct and may result in disciplinary action.</p> <p>If an architect is a nominated architect, the name of the corporation or firm and other details as prescribed in the Regulations are to be recorded in the register.</p>
Northern Territory	<p>The Act requires the Board to keep a register for the registration of architects, architectural partnerships and architectural companies.</p> <p>In order to register an architectural partnership, the Board must be satisfied that:</p> <ol style="list-style-type: none">1. the partnership has a place of business or is carrying on business within the Territory;2. the partnership carries on business within the Territory under the names of the partners or a name registered under the <i>Business Names Registration Act 2011</i> (Cth);3. at least one of the partners of the partnership is an architect and will be responsible for managing the architectural practice and supervising the provision of architectural services provided by the partnership in the Territory; and4. if the partnership includes a company amongst its partners, the company is an architectural company. <p>In order to register an architectural company, the Board must be satisfied that:</p> <ol style="list-style-type: none">1. it has a place of business or is carrying on business within the Territory;2. its constitution is acceptable to the Board and contains provisions that the Board be notified of an intention to amend the constitution and be furnished with a copy of a proposed resolution to give effect to that intention, and a body

corporate shall not be eligible to be a director of the company; and

3. at least one of the directors of the company or one of the employees of the company is an architect and will be responsible for managing the architectural practice and supervising the provision of architectural services provided by the company in the Territory.

The Act provides for prescribed particulars in addition to those stated in the Act to be recorded in the register; however, no particulars have been prescribed specific to architectural partnerships or architectural companies.

The Act requires architectural companies and architectural partnerships to submit an annual statement with the following information:

1. the full name and usual address of every person who on 30 June preceding the lodging of the annual statement was a director of the company or member of the partnership;
2. whether each director/member is an architect; and
3. any other matter necessary or convenient to the administration of the Act which is indicated in the form.

The most recent annual statement form for architectural companies requires the full name and registration details of the company director or employee who is an architect and responsible for managing the architectural practice of the company in the Territory and supervising the provision of architectural services provided by the company in the Territory.

The Act does not provide for any offences specific to architectural companies or architectural partnerships.

Queensland

The Act does not provide for registration of partnerships, firms, companies or corporations.

The Act exempts corporations from committing an offence by using the title or name "architect", "registered architect" or other prescribed title or names, if the corporate has given the Board a notice that includes the business's name, business address and telephone number; the name of each place at which the business provides the services; and the name and signature of each architect who is responsible for carrying out architectural services for the business at each business location.

A notice is taken not to have been given unless the notice includes the prescribed information and is accompanied by the prescribed fee. The Regulations do not prescribe such a fee.

South Australia

The Act requires a register of architectural businesses to be kept. [The Act defines an architectural business as a body corporate or each of the partners in a partnership.]

A body corporate is eligible for registration on the register of architectural businesses if the Board is satisfied that at least half the members, or a majority of the members, of the governing body are registered architects.

A partnership is eligible for registration on the register of architectural businesses if the Board is satisfied that least half the partners, or a majority of the partners, are registered architects or bodies corporate that are registered architectural businesses.

The register must include the following for a body corporate:

1. the name and registered address of the body corporate;
2. the full name and nominated contact address of each member of the governing body of the body corporate; and
3. information identifying each member of the governing body who is a registered architect; and
4. information prescribed by the Regulations.

The register must include the following in relation to each partnership:

1. the name under which the partnership carries on business;
2. the full name and nominated contact address of each partner; and
3. information identifying each partner who is a registered architect; and
4. information prescribed by the Regulations.

The Regulations do not prescribe additional information to be included on the register for a body corporate or partnership.

The Act does not provide for any offences specific to architectural businesses.

Tasmania

The Act does not provide for registration of partnerships, firms, companies or corporations.

Victoria

The Act provides for the approval of partnerships and companies. The names of approved partnerships and companies are to be recorded in the register.

The Board may approve a partnership if at least one of the partners is an architect who is covered by the required insurance. An approved partnership must not provide architectural services unless a member of the partnership who is registered as an architect is responsible for the carrying out of the services, and the services are carried out by or under the supervision of a registered architect.

The Board may approve a company if satisfied that the constitution of the company provides that one of the purposes of the company is the practise of architecture and at least one director is an architect who is covered by the required insurance. An approved company must not provide architectural services unless a director of the company who is registered as an architect is responsible for the carrying out of the services, and the services are carried out by or under the supervision of a registered architect.

The Act provides for the cancellation or suspension of approval of a company or partnership if the Board is satisfied that the company or the members of the partnership have failed to comply with a direction of the Board or the Regulations.

If an architect who provides architectural services to clients on behalf of an approved partnership or an approved company contravenes one or more specified Regulations, then that Regulation is also contravened by each partner in that approved partnership who is an architect, or each director of that approved company who is an architect.

The Act and Regulations prescribe the information that the register is to contain for approved partnerships and approved companies.

Western Australia

The Act provides for the licensing of corporations. [A corporation means a company as defined in the Corporations Act or any other body corporate prescribed by the Regulations. The Regulations prescribe an Aboriginal and Torres Strait Islander corporation as

defined in the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Commonwealth).]

The register may have divisions that are prescribed by the Regulations relating to different categories of licensed corporations. No divisions of licenced corporations have been prescribed.

The licensing requirements for corporations are:

1. the corporation's constitution is acceptable to the Board;
2. each of the directors of the corporation is acceptable to the Board;
3. all architectural work to be done by the corporation is to be done under the direct control and supervision of a registered person who is an officer or employee of the corporation;
4. the means by which the corporation proposes to comply with paragraph 3 are acceptable to the Board;
5. the person who will have ultimate responsibility for the architectural work to be done by the corporation is a registered person who is an officer or employee of the corporation; and
6. the name under which the corporation proposes to carry on the practice of architecture is acceptable to the Board.

The Board may make an allegation to the State Administrative Tribunal that the Tribunal should take action against a particular licensed corporation on the ground that:

1. the constitution or rules governing the internal management of the corporation has or have been amended in an unacceptable manner;
2. the requirements for licensing have not been complied with or have ceased to be complied with in relation to the corporation;
3. the corporation has contravened or failed to comply with a provision of the Act, a condition imposed under the Act, or a requirement under the Act to give the Board advice or information; or
4. the conduct of a natural person is such that the licence of the corporation should be suspended or cancelled in the case where the Tribunal has already determined there is a proper cause for disciplinary action in respect of the person, and the person at the relevant time was an officer or employee of the corporation.

The following information is to be entered in the register:

1. the name of the corporation;
2. the date of the initial grant of licence;
3. the licence number;
4. the address of the corporation;
5. any conditions applying to the licence;
6. other information that is prescribed by the Regulations.

No other information is prescribed by the Regulations.