

PRESENTATION TO:

**MELBOURNE HEARING OF THE PRODUCTIVITY COMMISSION REVIEW OF
LEGISLATION REGULATING THE ARCHITECTURAL PROFESSION - JUNE 2000**

19/06/00

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DwarchPC02

19 May 2000

I would like to begin my presentation with a short reading from Douglas Adams' 'The Hitch Hikers Guide to the Galaxy'

"The ships hung in the sky in much the same way that bricks don't:

'This is Prostetnic Vogon Jeltz of the Galactic Hyperspace Planning Council. ...As you will no doubt be aware, the plans for development of the outlying regions of the Galaxy require the building of a hyperspatial express route through your star system, and regrettably your planet is one of those scheduled for demolition. The process will take slightly less than two of your earth minutes. Thank you.'

'There's no reason in acting all surprised about it. All the planning charts and demolition orders have been on display in your local planning department in Alpha Centauri for fifty of your Earth years, so you've had plenty of time to lodge a formal complaint and its far too late to start making a fuss about it now.'

p. 30, Adams, Douglas 'The Hitch Hikers Guide to the Galaxy', Pan Books, London 1979

It could also be said that Public notices warning of the impending demolition of the architectural profession have been appearing in newspapers around Australia for almost thirty years.

The Trade Practices Act 1974 introduced by the crusading, quixotic Whitlam ALP Government was intended to regulate the conduct of business in Australia, among other things prohibiting certain trade practices regarded as restricting competition or being unfair or unconscionable. An early casualty of this Act was the RAIA Minimum Fee Scale.

In the tidy minds of Trade Practice Commission (TPC) bureaucrats Architects Acts were consumer protection legislation which was outside their jurisdiction. An annoying anomaly hanging over from simpler times.

Throughout the 1980's there was an increasing push by Government for microeconomic reform to make Australia more competitive in the developing global marketplace. A key target was any legislation regarded as unnecessary or restricting competition.

The 1989 Special Premiers Conference established the Building Regulation Review Task Force following the publication of a number of reports critical of the legislation regulating the construction of buildings in Australia.

In February 1990 the Victorian Regulation Review Unit released the draft report of its Inquiry into Building and Construction Industry Regulations in Victoria. Occupational Regulation Discussion Paper No 6 – Review of Architects Regulation recommended repeal of the Architects Act 1958. Following a vigorous lobbying campaign by the RAIA and members of the profession in Victoria the Act was amended to provide a greater level of consumer participation and retained as the Architects Act 1991.

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The Victorian architectural profession congratulated itself, relaxed, and went about its business.

In November 1990 the Australian Uniform Building Regulations Co-ordinating Council (AUBRCC) initiated a project in conjunction with the activities of the Building Regulation Review Task Force to develop a Model Building Act as a basis for all State and Territory building legislation. The AUBRCC project team included Lyall Dix, (then Victoria's Director of Building Control and Chairman of the AUBRCC Executive) as Project Director and Kim Lovegrove (then a young lawyer employed at Home Wilkinson & Lowry) as Project Manager. The Model Building Act introduced a number of innovative features. These included private certification of building permits, liability and insurance reform with apportionment of liability based on responsibility, a 10 year liability time cap and compulsory professional indemnity insurance and provisions for regulating the qualifications to be held by building surveyors, architects, engineers and other persons involved in the building industry with a system of registration for these groups and prohibition of unqualified persons from acting in such roles. Victoria and the Northern Territory are the only States to date which have building legislation closely following the Model Building Act.

In the minds of Victorian Building Control Commission bureaucrats the Architects Act was building practitioner legislation that was outside their jurisdiction. An annoying anomaly hanging over from simpler times.

The 1992 TPC Study of the Professions found that Architects Acts did not unduly impede competition but recommended that the exemption of architects and engineers from the fitness for purpose provisions of section 74(2) of the Trade Practices Act should be removed.

Following the publication of the Hilmer Committee National Competition Policy Review report in 1993 the pace of reform quickened culminating in the Competition Policy Reform Act 1995. Changes included the abolition of the Trade Practices Commission and the Prices Surveillance Authority and their replacement with the Australian Competition and Consumer Commission (ACCC) and the establishment of a new advisory body, the National Competition Council (NCC). Under the 1995 National Competition Policy (NCP) reform package all governments agreed to review and, where appropriate, amend or repeal – by the end of 2000 – legislation that restricts competition.

The NCP reviews of Architects Acts by the States and Territories commenced in May 1997. The RAIA Architects Legislation Work Group mounted a vigorous campaign of response to State and Territory reviews while the RAIA lobbied intensively for a single national NCP review to ensure a nationally uniform outcome. New South Wales released and then withdrew a draft report recommending the retention of an amended Act. The Northern Territory released a report recommending repeal of their Act. South Australia issued a consultation draft then halted their review. Western Australia released a draft report recommending repeal of their Act. Queensland issued a discussion paper then halted their review. By February 1998 Victoria had completed its review but the final report recommending retention of title restriction and registration requirements for architects and "integration" of architects and building legislation has yet to be released to the public.

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The Victorian review undertaken by Freehill Hollingdale and Page was by far the most professional of the State and Territory reviews completed and since its Final Report has not been made public I propose to read the executive summary of my bootleg copy to the hearing. Since Item 4(b) of the Terms of Reference of the Productivity Commission Review requires that the Commission have regard for the Victorian legislation review this should assist the Commission by bringing the recommendations of the Victorian review into the public domain.

Read Executive Summary of Freehill's Final Report.

Item 4(c) of the Terms of Reference for this review also require that the Commission have regard for the Council of Australian Governments' Guidelines for the Review of Professional Regulation, February 1999 published by the Department of Premier and Cabinet, Victoria. Section 3.19 contains the following description of the nature of the market for architectural services:

Read 3.19

On my first reading this document I assumed that this was intended as a simplified example of a methodology rather than a statement of fact.

The national Review of Legislation Regulating the Architectural Profession, undertaken by the Productivity Commission, commenced in November 1999. The receipt of terms of reference took place on 05 November and an Issues Paper was published later in the same month. The RAIA Architects Legislation Work Group prepared and submitted a lengthy, detailed response setting out the RAIA case for retention of registration of architects under a system of co-regulation and recommending the introduction of practice regulation in addition to title regulation. In May 2000 the draft report of the national review was released recommending that State and Territory Architects Acts under review be repealed after a two-year notification period.

It is apparent after reading both the Issues Paper and the Draft Report that the Productivity Commission have not advanced significantly beyond the example provided by 3.19 of the Guidelines for the Review of Professional Legislation in the sophistication of their understanding of the market for architectural services.

But what could the architectural profession expect? The Vogons had to get them in the end.

'What do you mean you've never been to Alpha Centauri? For heaven's sake mankind, it's only four light years away you know. I'm sorry, but if you can't be bothered to take an interest in local affairs that's your own lookout.

'Energize the demolition beams.'

Light poured out of the hatchways.

'I don't know, apathetic bloody planet, I've no sympathy at all.'

There was a terrible ghastly silence.

There was a terrible ghastly noise.

There was a terrible ghastly silence.

The Vogon Constructor Fleet coasted away into the inky starry void"

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p. 31, Adams, Douglas 'The Hitch Hikers Guide to the Galaxy', Pan Books, London
1979

....then Rem Koolhaas whispered, "Collapse. This is it. The time has come"

Any questions?

David White
Deputy Director The Bruno Taut Institute

Down with seriousism!

Hopp! Hopp! Hopp! My sweet little horsey!
 Hopp! Hopp! Hopp! Where - do - you - want - to go?
 (Scheerbart, *Katerpoesie*)

Away with the sourpusses, the wailing Willies, the sobersides, the brow furrowers, the eternally serious, the sweet-sour ones, the forever important!

'Important! Important!' This damned habit of acting important! Tomb-stone and cemetery façades in front of junk shops and old clothes stores! Smash the shell-lime Doric, Ionic and Corinthian columns, demolish the pin-heads! Down with the 'respectability' of sandstone and plate-glass, in frag-ments with the rubbish of marble and precious wood, to the garbage heap with all that junk!

'Oh, our concepts: space, home, style!' Ugh, how these concepts stink! Destroy them, put an end to them! Let nothing remain! Chase away their schools, let the professorial wigs fly, we'll play catch with them. Blast, Blast! Let the dusty, matted, gummed up world of concepts, ideologies and systems feel our cold north wind! Death to the concept-lice! Death to everything stuffy! Death to everything called title, dignity, authority! Down with every-thing serious!

Down with all camels that won't go through the eye of a needle, with all worshippers of Mammon and Moloch! 'The worshippers of force must knuckle under to force!' We are sick of their bloodsucking - caterwauling in the early light.

In the distance shines our tomorrow. Hurray, three times hurray for our kingdom without force! Hurray for the transparent, the clear! Hurray for purity! Hurray for crystal! Hurray and again hurray for the fluid, the graceful, the angular, the sparkling, the flashing, the light - hurray for everlasting architecture!

p57,58 Conrads, Ulrich, ed. PROGRAMS & MANIFESTOES ON 20th CENTURY ARCHITECTURE, Cambridge: MIT Press, 1970

Perhaps it's in the translation but I find the simultaneous contrast of laudable sentiment and absurdity irresistible.

Inspired by The Brunswick Institute, a weatherboard think-tank funded by his wife, of which Shane Maloney claims to be Deputy Director and the example of Bruno Taut I have created The Bruno Taut Institute, a not for profit establishment for architectural research and speculation, funded by my wife, of which I too am Deputy Director which functions as a vehicle for my extra-professional activities.