

BOAQ Report on the Queensland Government's Regulator Performance Framework – 2019/2020

This report has been prepared to meet the Board of Architects of Queensland's ("the BOAQ") reporting obligations under the Queensland Government's Regulator Performance Framework, which is a key element of the Better Regulation Strategy.

The BOAQ is the statutory body established under the *Architects Act 2002* ("the Act") to regulate the architectural profession in Queensland.

The objects of the *Architects Act 2002* are to:

- > protect the public by ensuring architectural services of an architect are provided in a professional and competent way;
- > maintain public confidence in the standard of services provided by architects; and
- > uphold the standards of practice of architects.

The BOAQ's responsibilities under the Act which support these objects include: registration of qualified persons as architects; maintenance of the Queensland Register of Architects; investigation of complaints against architects and disciplining of architects for unsatisfactory

professional conduct; investigation and prosecution of offences against the Act (including against unregistered persons holding out to be architects); accreditation of University architecture courses that can lead to registration; and examination of candidates seeking registration.

The BOAQ's activities as regulator of the architectural profession are both proactive and reactive, and its preventative and compliance and enforcement activities cover a broad range of regulatory responses.

The five regulator model practices identified in the Better Regulation Strategy which support the

achievement of the BOAQ's objectives and reduced burden/costs for all parties are:

1. Ensure regulatory activity is proportionate to risk and minimises unnecessary burden;
2. Consult and engage meaningfully with stakeholders;
3. Provide appropriate information and support to assist compliance;
4. Commit to continuous improvement; and
5. Be transparent and accountable in actions.

The below table 1 reports on the BOAQ's integration of these five model practices across its regulatory strategy and operations.

REGULATOR MODEL PRACTICES AND SUPPORTING PRINCIPLES	ALIGNMENT OF BOAQ'S REGULATORY PRACTICES WITH THE REGULATOR MODEL PRACTICES DURING 2019-2020	HIGHLIGHTS OF ALIGNMENT WITH REGULATOR MODEL PRACTICES DURING 2019-2020/IDENTIFICATION OF AREAS FOR IMPROVEMENT	ACTIONS TAKEN DURING 2019-2020 TO IMPROVE REGULATORY ACTIVITIES AGAINST REGULATOR MODEL PRACTICES
<p>1 Ensure regulatory activity is proportionate to risk and minimises unnecessary burden:</p> <ul style="list-style-type: none"> > A proportionate approach is applied to compliance activities, engagement and regulatory enforcement actions. > Regulators do not unnecessarily impose on regulated entities. > Regulatory approaches are updated and informed by intelligence gathering so that effort is focused towards risk. 	<p>The BOAQ has adopted a largely risk-based, proportionate and performance-based regulatory approach, to achieve its objectives of protecting the public and upholding the standards of the profession while also minimising the costs of compliance and enforcement for all parties.</p> <p>The BOAQ's broad-based composition also provides internal capability for keeping up to date on risks and issues across the profession and the broader design and construction sector, as well as access to related legal, academic and community intelligence/ perspectives, enabling the BOAQ to focus its efforts based on risk.</p>	<p>The new Architects regulation 2019 and remade BOAQ <i>Code of Practice for Architects</i> introduced during the year resulted from BOAQ consultation with the architectural profession's peak bodies, the Australian Institute of Architects and the Association of Consulting Architects, and all Queensland registered architects. Feedback received was supportive, and is continuing to influence the BOAQ's operations and areas of focus.</p> <p>The BOAQ requires registered practising architects to demonstrate they have maintained competency in the practice of architecture, each year, as a requirement for continuing registration, by undertaking a minimum of 20 hours of Continuing Professional Development (CPD). The BOAQ publishes guidance for architects on its website about the criteria for reportable CPD, and has developed web-based CPD recording and reporting tools. Each year, the BOAQ conducts a random and risk-based CPD compliance audit and disciplines architects who have not met requirements.</p> <p>This year the BOAQ audited a total of 168 practising architects, resulting in a compliance rate of 95.2 per cent, which is slightly below the BOAQ's target compliance rate of 98 per cent. In order to both increase awareness by architects about CPD, and improve confidence in the audit results, the BOAQ audited a significantly larger sample size of practising architects for CPD compliance this year. The impact on architects audited has been minimised with the BOAQ's MyArch CPD recording and reporting tool that architects can access through their BOAQ web portal. This tool has also streamlined analysis and reporting of audit results by BOAQ staff.</p>	<p><i>Architects Regulation 2019</i> was remade (effective 9 July 2019). A new Schedule 1 which lists 32 protected titles and words that can only be used by architects to describe their services, was introduced, which has clarified the operation of sections 113-114 of the <i>Architects Act 2002</i>. This has resulted in increased awareness about the requirements of the Act and reduced compliance and enforcement costs for all parties. These amendments resulted directly from a risk assessment of common Act breaches dealt with by the BOAQ.</p> <p>The new 2019 Regulation also brought into effect the BOAQ's updated <i>Code of Practice</i> ("the Code"), from 8 July 2019. Code changes were aimed at improving the practice of architecture by targeting areas of practice which have been the subject of complaints made about architects to the BOAQ.</p> <p>Greater clarification about these areas in the Code makes it easier for architects to understand the expected standards of conduct and to comply, thus raising the standards across the profession.</p> <p>The BOAQ consulted with all practising architects across the State about the proposed changes, as well as key professional associations.</p> <p>The BOAQ's regulatory strategy is currently being documented, which will provide an outward-facing statement explaining the BOAQ's approach to its regulatory activities.</p>

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<p>2 Consult and engage meaningfully with Stakeholders:</p> <ul style="list-style-type: none"> > Formal and informal consultation and engagement mechanisms are in place to allow for the full range of stakeholder input and Government decision making circumstances. > Engagement is undertaken in ways that helps regulators develop a genuine understanding of the operating environment of regulated entities. > Cooperative and collaborative relationships are established with stakeholders, including other regulators, to promote trust and improve the efficiency and effectiveness of the regulatory framework. 	<p>The BOAQ accesses and leverages a broad range of formal and informal networks via its broad-based composition, including across the architecture profession, the broader design and construction sector, and related legal, academic and community perspectives in order to assist it to understand its operating environment.</p> <p>The BOAQ is represented by the Chairperson on the Ministerial Construction Council, a collaborative forum assisting the Government to identify and address issues relating to the design and construction sector and standards.</p> <p>The BOAQ meets regularly with interstate regulators to share best practice approaches, collaborate on research and initiatives and continue to identify ways to improve national standards setting and mutual recognition arrangements and activities conducted on the collective Boards' behalf through the Architects Accreditation Council of Australia (AACA).</p>	<p>During the year, the BOAQ has engaged regularly with the architectural profession's peak bodies (the Australian Institute of Architects and the Association of Consulting Architects); the Office of the Queensland Government Architect; and architect registration Boards in other Australian jurisdictions.</p> <p>The level of stakeholder engagement has been amplified this year with fortnightly Zoom meetings, as the BOAQ has collaborated with stakeholders in the management and response to COVID-19 related issues affecting the profession and the BOAQ's operations. These link-ups have proved highly valuable to all stakeholders and will continue.</p>	<p>The BOAQ continues to enhance stakeholder education and engagement initiatives.</p> <p>The BOAQ is continuing to implement its digital transformation strategy which is creating new capability to engage with stakeholders, including through an architect newsletter, and social media (eg. LinkedIn). It is currently working on further enhancements to improve navigation on its website and created new information and resources for architects, the public and students/graduates to improve understanding about the BOAQ's services and processes, legislative changes and responsibilities of architects.</p> <p>The BOAQ participated in the national forum facilitating collaboration between inter-jurisdictional architect registration Boards, and the Architects Accreditation Council of Australia AGM, to further national standards setting and information sharing.</p>
<p>3 Provide appropriate information and support to assist compliance:</p> <ul style="list-style-type: none"> > Clear and timely guidance and support is accessible to stakeholders and tailored to meet the needs of the target audience. > Advice is consistent and, where appropriate, decisions are communicated in a manner that clearly articulates what is required to achieve compliance. > Where appropriate, regulatory approaches are tailored to ensure compliance activities do not disproportionately burden particular stakeholders (e.g. small business) or require specialist advice. 	<p>"The BOAQ publishes web-based guidance and informational materials to inform the public and architects about compliance matters, including information sheets, policies, media releases, forms and other tools and templates. These materials assist architects to comply with their obligations, and assist persons who are not architects to understand how to avoid being in breach of the Act for offences relating to 'holding out' as architects.</p> <p>The BOAQ utilises its Register of Architects database and automation capability to push out reminders to architects to assist them to meet their compliance responsibilities (eg. registration renewal, CPD).</p> <p>The BOAQ has designed its regulatory strategy to shift more towards being risk-based, with preferred responses resulting in a lower enforcement impact.</p>	<p>The BOAQ website was redeveloped during the year to improve information for architects and the public.</p> <p>The BOAQ developed and published on its website information about the making of and its management of human rights complaints.</p> <p>The BOAQ also developed and published more detailed information on its website for the public and architects about the processes for making a complaint to the BOAQ about an architect, and the BOAQ's processes for handling complaints about architects.</p>	<p>The BOAQ is currently collaborating with providers of BOAQ accredited Masters level architectural courses to develop and deliver lectures aimed at improving students' understanding of the legislative framework for architects and pathways and requirements of registration, and enhance their understanding about their responsibilities as practising architects and common risks. This initiative is aimed at facilitating the pathway to registration for graduates, as well as reduce offences against the Act by graduates offering to provide architectural services whilst not being registered.</p> <p>The BOAQ is currently developing a regular digital newsletter for architects to provide ongoing targeted and responsive education about a range of regulatory compliance issues as a preventative initiative aimed at improving regulatory outcomes.</p>

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<p>4 Commit to continuous improvement:</p> <ul style="list-style-type: none"> > Regular review of the approach to regulatory activities, collaboration with stakeholders and other regulators to ensure it is appropriately risk based, leverages technological innovation and remains the best approach to achieving policy outcomes. > To the extent possible, reform of regulatory activities is prioritised on the basis of impact on stakeholders and the community. > Staff have the necessary training and support to effectively, efficiently and consistently perform their duties. 	<p>The BOAQ is committed to continuous improvement of the legislative framework that underpins its operations: the <i>Architects Act 2002</i>, <i>Architects Regulation 2019</i> and BOAQ <i>Code of Practice for Architects</i>.</p> <p>The BOAQ regularly examines inter-jurisdictional legislative frameworks with a view to identifying better practices for adoption in Queensland, in order to better protect the public and uphold the standard of practice of the architectural profession.</p> <p>Relevant stakeholders are consulted as part of this process and the BOAQ provides advice to the Minister for Public Works and Procurement about the operation of the Act in its application to the practice of architecture, based on research, analysis of inter-jurisdictional approaches and learnings, and the results of stakeholder consultation.</p>	<p>Following State-wide consultation with Queensland's architectural professionals, including a survey of all practitioners, a new <i>Architects Regulation 2019</i> was introduced.</p> <p>The new Regulation introduced important changes which will greatly assist the BOAQ in protecting the public and upholding the standards of practice of architects. Most notable are the following:</p> <p>PRESCRIBED TERMS AND TITLES</p> <p>A new schedule of 32 protected titles, names and words which can only be used by architects or to describe the services provided by architects (Schedule 1). This Schedule works together with sections 114(1)(b) and 114(2)(b) of the Act, giving life to these sections for the first time. Use of any of these titles or terms by a person in a context that suggests they are an architect can constitute an offence/s under sections 114(1)(b) and/or 114(2)(b) of the Act.</p> <p>Derived from common breaches of the Act the BOAQ has discovered through investigation over past years, the additional clarity of the Schedule 1 terms and words will assist in raising awareness of the requirements of the Act, reduce the number and extent of offences, provide a higher level of protection for the public when purchasing 'architectural' services, and result in reduced investigation and legal costs for the BOAQ and other parties.</p> <p>PENALTY INFRINGEMENT NOTICE POWERS</p> <p>Part 5 of the 2019 Regulation, together with complementary amendments to the <i>State Penalties Enforcement Regulation 2014</i> introduced new powers enabling the BOAQ to issue Penalty Infringement Notices (PINs) for a range of offences under the Act, effective 1 January 2020. Offences for which PINs can be issued include 'holding out' offences by persons offering to provide architectural services when they are not architects, as well as offences by architects.</p> <p>CODE OF PRACTICE</p> <p>The new 2019 Regulation also brought into effect the revised the BOAQ's <i>Code of Practice for Architects</i> effective 8 July 2019.</p> <p>The new Code is the result of a review by BOAQ, which included close examination of the Codes of other jurisdictions and consultation with the Queensland's architectural profession. The changes to the Code reflect issues raised in complaints about architects made to the BOAQ. These changes, therefore, provide clearer guidance for architects as to the BOAQ's expectations about their conduct, including in particular:</p> <ul style="list-style-type: none"> > minimum standards for client architect agreements; > supervision of the work of persons who are not architects; and > continuing professional development (CPD). <p>Under the Act, the BOAQ is required to make a Code to provide guidance to architects as to appropriate professional conduct and practice, and to review the Code at least once every three years. The Code also establishes the benchmarks against which complaints for unsatisfactory professional conduct can be made to the BOAQ by members of the public which can provide the grounds for the BOAQ to discipline architects under section 36 of the Act.</p>	<p>The BOAQ is continuing to collaborate with the Department of Energy and Public Works on a review of the <i>Architects Act 2002</i>, with the aim of addressing anomalies and gaps, and improve its overall operational efficiency and effectiveness.</p> <p>In line with the objectives of the Government's <i>Our Future State: Advancing Queensland Priorities Plan</i>, the BOAQ developed and implemented initiatives which continued to improve its capabilities to deliver high quality and responsive services and solutions to its stakeholders, with an emphasis on the enhanced use of information technology to support improved access to information and service delivery.</p> <p>In particular, the BOAQ further progressed implementation of its digital transformation strategy across its operations, which is enabling the BOAQ to streamline operations and free up resources to deliver additional initiatives targeting areas of identified risk.</p> <p>This year, initiatives included providing a rapid response to the COVID-19 situation with the development and on-line publication of digital resources and communications to assist architects manage the COVID-19 risks and identify suitable on-line CPD activities to assist them in fulfilling their annual CPD obligations. Also, in making the necessary changes to Registry systems and processes to enable staff to work effectively from remote locations while ensuring the continuation of the Registry's high standards of service delivery. These business process improvements have contributed considerable additional flexibility to the Registry's operations, which will provide lasting benefits.</p> <p>The BOAQ's Registry staff training and development focussed on governance and regulatory best practice.</p> <p>The BOAQ Members and Registry staff completed Human Rights training.</p>

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<p>5 Be transparent and accountable in actions:</p> <ul style="list-style-type: none"> > Where appropriate, regulatory frameworks and timeframes for making regulatory decisions are published to provide certainty to stakeholders. > Decisions are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions. > Indicators of regulator performance are publicly available. 	<p>Decisions are made by the BOAQ within the timeframes required under the Act. Information is provided to relevant persons about decisions made by the BOAQ which are reviewable decisions, as required under the Act.</p> <p>Data about the BOAQ's performance as a regulator is available on the BOAQ website and published in its Annual Reports.</p> <p>The BOAQ's Strategic Plan is published on its website.</p> <p>The BOAQ's key policies and processes are published on its website.</p>	<p>The BOAQ developed a new <i>Strategic Plan 2020-2025</i>, which is available on its website. This document details the BOAQ's objectives, areas of focus and performance indicators for the next five years.</p> <p>The BOAQ publishes a compliance and enforcement register on its website.</p> <p>The <i>BOAQ Annual Report 2019-2020</i>, published on the BOAQ website, includes detailed information and data on the BOAQ's regulatory activities and performance.</p>	<p>Information packages were developed and published on the BOAQ's website for the public and architects detailing the BOAQ's processes for managing complaints against architects (administration, investigation, decision-making and review).</p> <p>Information has been developed and published on the BOAQ's website about the BOAQ's decision-making processes under the <i>Human Rights Act 2019</i>, including how to make a complaint to the BOAQ about a Human Rights matter.</p>

