

30 June 2016

By Email

FairWork Commission

c/o amod@fwc.gov.au

Subject: AM2014/257 - Architects Award 2010 [MA000079]

Private Submission

Encl. CplusC Response to Exposure Draft

To whom it may concern,

I thank you for the opportunity to provide comment on on the Architects Award Review 2016. This submission is made in my professional capacity as both a registered architect and an employer. As the sole director of a commercially successful architecture firm which takes pride the architectural work we complete and the superior working conditions offered to staff, I believe I am well positioned to make a meaningful contribution to the review. I am aware that others in my industry do not share my commitment to fair pay and have accordingly decided to make an independent submission on this occasion.

Yours sincerely,

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General Responses to the Exposure Draft

Award Coverage

At present, the vast majority of persons intending to become architects complete an undergraduate degree, followed by a Master of Architecture. Then when eligible (i.e. when 3300 hours of supervised work have been completed) they undertake the Architectural Practice Examination (APE). It is not uncommon for a period of work experience to be undertaken between Bachelor and Masters Degrees, indeed admission into most Masters Programs requires it. Not every graduate moves through to formal registration as an architect, as this is not a requirement for many architectural roles.

The current definition of “graduate” applies only those who have graduated from a Master’s Degree. This has the effect of leaving persons employed in architectural firms after graduating from a three year undergraduate degree but before entering a Master’s Degree covered by an alternative award. As the work completed by a Student and a Bachelor graduate are substantially the same, it is unclear why these positions should be regulated by separate awards. This adds another level of regulatory complexity for the employer.

Circumstance	Covered by present award?
Enrolled in Bachelor of Design or similar	Yes – Student
Bachelor Graduate (“Year Out student”)	Not covered by award
Enrolled in Master of Architecture	Yes- Student
Graduate of Master of Architecture	Yes – Graduate Architect

It is suggested that the definition of Graduate of Architecture be refined to better align with the educational format for architects within Australia and appropriately cover graduates of 3 year undergraduate degrees. These changes interlink with the minimum wages discussed below.

Junior Rates, Registration and Minimum Wage

When considering student pay rates, we believe that the principle of equal pay for equal work should apply. We believe that junior wages for employees between 18 and 21 years of age are discriminatory and should be removed from the award. Accordingly, combining junior and adult student wages is proposed. As a consequence of this change, the instructions for calculating weeks of employment is no longer required for the purposes of determining wage rates. Further, as students of architecture are by definition enrolled in full-time study, it is probable that many will be employed as casual employees. Accordingly, the casual rate for students should be incorporated into the table. [As an aside, many of the existing provisions for junior students are almost impossible to meet (i.e. a student with 6 years of experience who is also under 21 years of age is almost statistically impossible) and are thus regarded as redundant.]

While registration as an architect reflects a minimum level of skill and capability, the registration process does not reflect core competencies that translate in any commercial way back to the market. Further, we believe that it should be at the discretion of the employer to remunerate on the basis of experience and value an employee offers not an increasingly arbitrary title as ‘registered

architect'. This position is reflected in the identical job and skill descriptions for both an experienced graduate of architecture and registered architect in the existing Schedule A.

As an additional concern, the list of Prescribed Competencies (Clause 14.3) does not align with the currently published National Standard of Competency for Architects (June 2016). Decoupling the Award and Registration process will increase the flexibility of each instrument and remove the potential for the award and registration process to contain conflicting advice.

Finally, it is considered that the proposed minimum wages at all levels are too low. As such, we are proposing a significant (20%) lift in the award rate for all staff. The 20% suggested increase to all graduate categories reflects a greater appreciation of the value of architectural graduates generally and this increase more than compensates for the removal of the Registered Architect category and the arbitrary pay increase currently associated with registration. Architecture is sometimes characterised as “stale, pale and male” and the current award rates are likely to contribute toward this continuing. As an additional issue, there are a number of long standing and well documented diversity and gender equity issues within architecture, which are crystallised in registration rates in which men remain disproportionately represented. We believe that decoupling registration and pay rates is likely to increase equity within the profession in the long term.

While not directly within the purview of the Award review, the interaction of the Award with other government policies cannot be ignored. A recent architecture graduate is likely to have a Higher Education Loan Program (HELP) debt in excess of \$80 000. The HELP repayment threshold for 2016 is set at \$54,126. If paid current award wages, architectural employees do not cross the repayment threshold until they reach the first pay point for a registered architect. Until this time (or if they choose not to register – potentially indefinitely under the current award), they continue to incur interest at CPI rates on their HELP debt. As the time taken for study and registration combined is typically 12 years, registered architects are likely to be 30 or older i.e. in their peak family formation years the first time they cross the HELP repayment threshold. As part time work patterns are adopted with family formation, we believe these factors are likely to significantly affect the viability and diversity of the architectural profession in the long term, with detrimental impacts for equity groups including women and people from culturally and linguistically diverse backgrounds.

As a result of the above, we propose a significantly simplified structure and pay rates:

Circumstance	Covered by Proposed award?	Hourly Rate
Enrolled in Bachelor of Design or similar	Yes – Single student rate	Minimum wage (adult rate)
Bachelor Graduate (“Year Out student”)/Enrolled M Architecture	Yes – Graduate of Architecture (Part I)	\$23.51
Graduate M Arch	Yes – Graduate of Architecture (Part II)	\$28.21
	1 st Pay Point	\$29.70
	2 nd Pay Point	\$31.19
Experienced Graduate of Architecture/Registered Architect	Yes	\$32.62

*All hourly rates are increased by 20%, registration is removed as a pay point.

Overtime Rates

In over 11 years in practice, CplusC Architectural Workshop have encountered only a handful of prospective employees who have received time in lieu or paid overtime from other architectural employers. In the rare cases where time in lieu has been offered, it has been on a 'one for one' hourly basis which is typically poorly recorded and dependent on employer goodwill for taking.

Employees' peers indicate that very few of those covered under the award are being paid appropriate overtime at any rate, let alone at 1.5X their ordinary rate (as per the existing award). Realistically, this means that the industry is likely to be in widespread breach of the requirements of Part 13 of the Award. We suggest that even a cursory audit is likely to uncover a myriad of compliance problems amongst architecture firms of all sizes.

Firms complying with the law and paying overtime are at a competitive disadvantage in bidding for work at realistic fee levels. Given the rampant non-payment of overtime and the entrenched cultural tendency to work long hours, we believe that a more appropriate target may be to limit paid overtime to regular hour rates and strictly enforce compliance. We believe the proposal to shift from "time and a half of ordinary hours" to 1.5X the minimum wage for overtime is a small step in the right direction although this is still too complex for many sole practitioners. A realistic solution would be for overtime to be paid at 1X the respective employee's hourly rate. "An hour's work for an hour's pay" is a much simpler and more realistic target and easier to communicate to an industry which is both unsophisticated with respect to understanding award payment compliance and entitlements and complicit in its willingness to accept the status quo as it is of perceived financial benefit to them to act as such.

Equipment Allowances

The existing version of the Award appears to have predominantly been drawn up with regard to manual drafting equipment. This needs to be brought into the modern world as in excess of 90% of drafting is now done using sophisticated computer drafting or modelling programs. The employer must provide the employee all equipment necessary for the performance of the duties for which they have been employed. The employee must not be expected to pay for any equipment required for the performance of their duties. Where this is unavoidable, the employer must promptly reimburse the employee for incurring any such cost.

Specific changes to support comments

To support the positions outlined above, a number of consequential changes and additions to the award are required. Some of these are highlighted below. Suggested additions to the text of the Award are in green and underlined, deletions are in ~~red and struck through~~.

2. Definitions:

Graduate of Architecture (Part I) means an employee who holds a Bachelor Degree which would entitle them to enrol in an Approved Qualification under the eligibility requirements for admission to the Architectural Practice Examination (APE) for registration as an Architect under Australian legislation.

Graduate of Architecture (Part II) means an employee who holds an Approved Qualification under the eligibility requirements for admission to the Architectural Practice Examination (APE) for registration as an Architect under Australian legislation.

Student of Architecture is an employee who is normally enrolled full-time in a course of architecture which when completed would make them a Graduate of Architecture (Part I) and who is employed to gain experience in the practice of architecture.

4. Coverage

4.1 This occupational award covers employers of architects, students and graduates of architecture throughout Australia with respect to their employees in the classifications in this award in clause 14— Minimum wages and those employees to the exclusion of any other modern award.

4.1 **Architect** means an employee registered as an architect under any Australian legislation. Student of architecture and Graduate of architecture are defined in this award.

15. Equipment and Allowances

15.4 Equipment and special clothing allowance

(a) The employer must provide the employee all equipment necessary for the performance of the duties for which they have been employed. The employee must not be expected to pay for any equipment required for the performance of their duties. Where this is unavoidable, the employer must promptly reimburse the employee for incurring any such cost.

~~The employer must reimburse the employee for costs of purchasing equipment, where the employer requires an employee to provide and use the following equipment:~~

- ~~(i) a drawing board;~~
- ~~(ii) paraline or drafting machine;~~
- ~~(iii) paper;~~
- ~~(iv) pencils;~~
- ~~(v) leads;~~
- ~~(vi) colours;~~
- ~~(vii) inks; and~~
- ~~(viii) wearable parts of pen and pencils~~

Schedule A A.1 Level 1—Graduate of Architecture

A.1.1 The graduate entry level (Part I and II)

The graduate undertakes initial professional architectural tasks of limited scope and complexity, such as minor phases of broader assignments, in office and site work.

Responses to specific questions in Exposure Draft

Question Clause 10 Casual employment

10.3 An employee not specifically engaged as a casual employee will be deemed to be employed by the week.

Question: Parties are asked whether “by the week” should be changed to “as a full-time or part-time employee”?

Response:

We agree that “by the week” should be changed to “as a full-time or part-time employee”. Employment by the week is extremely rare within architecture.

An alternative formulation is suggested: “An employee not specifically engaged as a ~~casual~~ **full-time or part-time** employee will be deemed to be employed **as a casual** ~~by the week~~.”

Question Clause 13 Overtime

13.1 An employer must compensate an employee for all time worked in excess of normal hours of duty by:

(a) granting time off instead of payment or by making payment for such excess time within six months of it accruing. Payment for such excess time must be in accordance with clause 13.1(b);

Question: Parties are asked whether the wording in clause 13 “in excess of normal hours” should be amended to read “in excess of or outside the spread of ordinary hours” to make it clear that overtime is also payable when worked outside the spread of hours?

Question: Parties are asked to confirm whether time off is granted on an hour off for an hour worked basis or in accordance with penalty rates being 1.5 hours off for each hour worked?

Response:

It is agreed that clause 13 should be amended to read “in excess of or outside the spread of ordinary hours” to make it clear that overtime is also payable when worked outside the spread of hours. However, given the widespread culture within architecture of long hours and the overwhelming majority of firms that avoid properly remunerating staff in accordance with the award, it is suggested that enforcement rather than clarity would be a more effective tool to ensure compliance with the law.

Clause: 14. Minimum wages

Minimum wages

The minimum wages payable for employment in the occupation of an architect or upon work of a kind which would normally be performed by an architect must be:

[table]

Question: Parties are asked whether it would be useful to include weekly rates?

Response:

It is agreed that the above table should include weekly rates.