

CPD Webinar series

Architects & Compliance – Navigating Professional and Business Responsibilities

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Architects
Registration Board
of Victoria

Speaker | **Paul Viney**
National President ACA Australia

Speaker | **Jenine Birney**
Senior Principal – Finance Manager, Lyons





Acknowledgment of Country

We respectfully acknowledge the Traditional Owners of the lands wherever attendees are situated, in particular the Wurundjeri People of the Kulin Nation, and pay our respects to their Elders past and present.

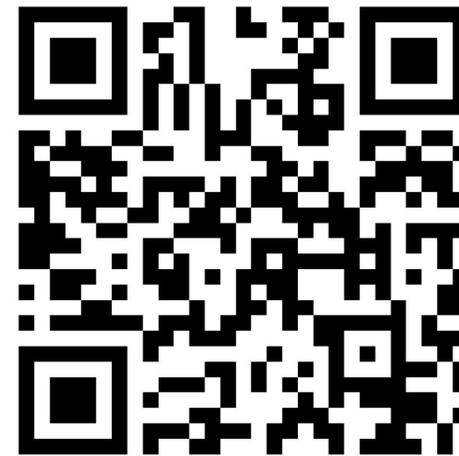


CPD Questionnaire

- Attending this webinar live and submitting this form will qualify you for 1 hour formal CPD. Certificates will be sent to the email address used to complete this form, please ensure your name and contact details are correct. This form will close 24 hours after the webinar has commenced.
- Certificates will be issued within 1 week of the closure of the quiz.

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Association of Consulting Architects
The Business of Architecture

**ACA
EMPLOYERS**

REPRESENTS

**INDUSTRIAL
RELATIONS**

**BUSINESS OF
ARCHITECTURE**



ACA Key Pillars



Provide a voice for architectural businesses through thought leadership and advocacy



Provide support to businesses with industrial and employment advice



Develop a range of business support tools for practices of all sizes



Provide access to industry research, data and best practice benchmarking



Represent architectural employers in discussions with the Government and the Fairwork Commission



Assist Architects to run successful, sustainable, profitable businesses



Legal Obligations in Architectural Practice

Victorian Architects Act 1991

Authorised Version 13 November 2024:

PURPOSE

REGISTRATION of Architects

APPROVAL of Partnerships and Companies providing Architectural Services

REGULATE the conduct of Architects

HANDLE complaints against Architects

REGULATE the use of the terms Architect, Architect Services, Architectural Design Services and Architectural Design

ESTABLISH the Architects Registration Board of Victoria

Registration and Approval of Architects and Entities

Classes of Registration:

- **Practising Architect:** Must hold professional qualifications, be insured, and actively work as an architect.
- **Non-Practising Architect:** Retains registration but does not work as an architect.

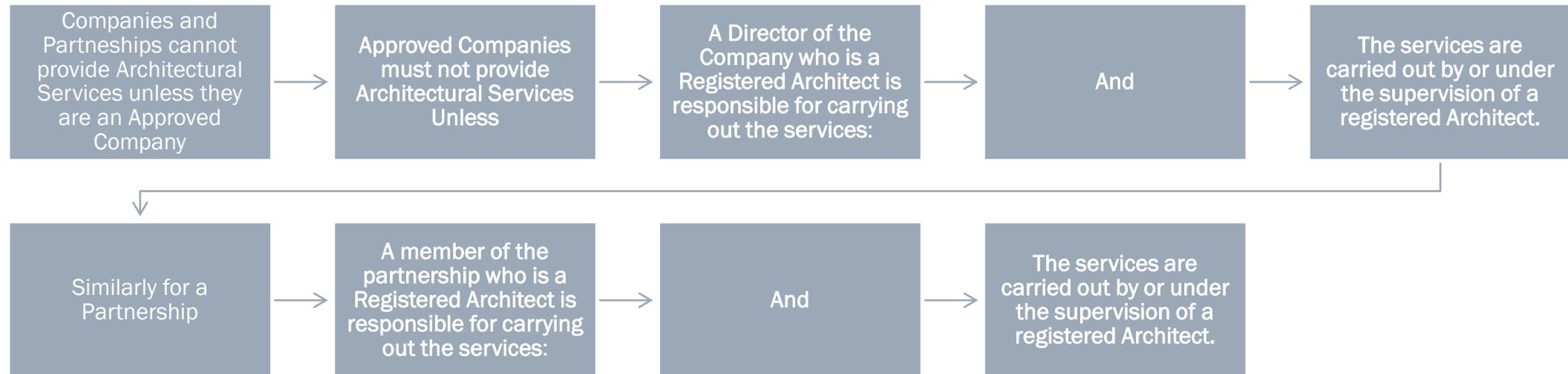
Registration Requirements:

- Complete an approved qualification in architecture.
- Pass the **Architectural Practice Examination**.
- Maintain professional indemnity insurance.
- Notify the Board of any changes in registration details.
- Must pay Registration Fees within the prescribed time.

Approval for Companies and Partnerships:

- Architectural firms (partnerships or companies) must be approved by the Board.
- A Director or partner must be a registered architect.

Restriction on provision of Architectural Services by Companies & Partnerships



Disciplinary Powers of the Board

The Board, on its own initiative or on a complaint may determine that an inquiry should or should not be held as to an Architect's fitness to practice or professional conduct



Power to Refer a Complaint to Mediation



Power to determine an inquiry should be held



Refer the matter to a Tribunal to conduct an inquiry for the Board



Power to suspend or cancel registration

Victorian Architects Regulations 2015

Authorised Version 19 May 2015

OBJECTIVE

REGULATE the professional conduct of Architect

PRESCRIBE procedures for the registration of architects and the approval of partnerships and companies

PRESCRIBE annual fees for application for registration or approval under the Architects Act 1991

PRESCRIBE the fees for application for registration or approval under the Architects Act 1991

PRESCRIBE the procedure for nomination of architects to the Architects Registration Board of Victoria

PRESCRIBE the Professional Code of Conduct for an Architect

Responsibilities under the Architects Regulations 2015 - Professional Conduct

Architects must adhere to high professional standards, including:

- **Standard of Practice:** Compliance with the **Victorian Architects Code of Professional Conduct** (the Code).
- **Unprofessional Conduct:** Breaches of the Code or failure to comply with registration requirements may lead to disciplinary actions.
- **Board Oversight:** The **Architects Registration Board of Victoria (ARBV)** may issue guidelines, provide compliance advice, and conduct inquiries into potential misconduct.

Victorian Architects Code of Professional Conduct

Schedule 1

The Victorian Architects Code of Professional Conduct establishes the ethical and professional standards that architects in Victoria must follow.

Division 1 - Architectural Services

Division 2 - Client Relations

Division 3 - Architectural Practice

Division 4 - Approved Partnerships and
Approved Companies

Division 5 - Duties to the Public and the
Profession

Architectural Services Responsibilities



Reasonable Standards of Conduct:

Architects must act honestly, with reasonable care, and comply with all laws.



Suitability to perform and knowledge of Services:

Architects must ensure they have the appropriate skills and experience. Services must be provided promptly and within agreed timeframes.



Approval of documents:

Architects must not sign off on documents they haven't reviewed or supervised.



Use of Architects Name:

Must not allow their name to be used on work they are not responsible for.

Client Relations Responsibilities



Written Agreements: All work must be based on a formal contract detailing:

- Scope of work
- Fees and payment terms
- Timeframes
- Procedure for changes to the contract



Building Contract Administration:

If an architect is administering a **building contract**, they must act **fairly, diligently, and impartially**.



Fees & Costs:

Regular invoices must be issued.
Fees must **not exceed** the agreed amount.



Client Communication:

Keep clients informed and provide timely responses to inquiries.
Ensure that decisions required from the client are **clearly communicated**.



Confidentiality:

Architects must not disclose client information **without consent**, unless required by law.



Conflict of Interest:

Any actual or potential conflicts **must be disclosed** in writing.
Clients must provide written consent before proceeding with work that may involve conflicts.

Client Relations Responsibilities



CHANGES IN CIRCUMSTANCES – NEED TO ADVISE CLIENT IF UNABLE TO PERFORM SERVICES



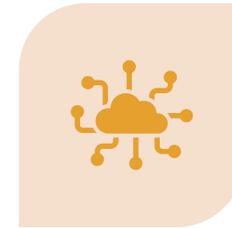
DOCUMENTS AND RECORD KEEPING – MAINTAIN RECORDS FOR A PERIOD OF 10 (12) YEARS



DUTY TO DISCLOSE PAID REFERRALS



DUTY TO DISCLOSE PAID ENDORSEMENTS – CANNOT SPECIFY A PRODUCT OR SERVICE FOR WHICH YOU ARE RECEIVING OR EXPECT TO RECEIVE AN INDUCEMENT



WITHDRAWAL FROM THE PROVISION OF SERVICES

Responsibilities to the Public & the Profession

Professional Integrity:

- Conduct should maintain **public confidence** in the profession.

Upholding Standards:

- Architects must ensure their actions do not compromise the **reputation of the profession**.

Other Responsibilities



Architectural Practice - Notification of Qualifications and Contact Details



Approved Partnerships and Approved Companies – Ensure that the Code of Conduct is equally applicable to the Company as it is to the individual



Architects in Management Roles **must** ensure that the firm follows **legal and ethical obligations** in financial, contractual, and project matters.



Must ensure appropriate supervision of unregistered employees



TIP: Check out the ARBV Guideline on Supervision of unregistered employees for more guidance.

Question 1: Based on clause 4 of the Code of Conduct, Client-architect agreements must contain:

- (a) The name, registration number and contact details of the architect providing the services
- (b) The scope of work, fee and payment terms, timeframes, and procedures for changes to the contract
- (c) How the agreement may be terminated and for what reason
- (d) All of the above
- (e) a) and c) only
- (f) b) and c) only

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***Question 1: Based on clause 4 of the Code of Conduct,
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Summary: Code of Conduct



The Code of Conduct ensures that architects act **ethically, transparently, and professionally**, protecting both clients and the integrity of the profession.



Non-compliance may lead to disciplinary actions by the **Architects Registration Board of Victoria (ARBV)**.

Question 2:

Sarah is the project architect on a residential project with a team of 5. The team is made up of Sarah, 1 architectural student, 2 architectural graduates, 2 architects. Who can sign off on drawings and instructions?

- (a) Anyone on the team
- (b) Any registered architect at Sarah's firm
- (c) Any registered architect involved in the project, that supervised and checked the drawings or other documents

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Question 2:

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ARCHITECTURAL
PRACTICE
STRUCTURES

Sole Trader

Partnership

Company

Responsibilities as a Sole Trader

In Victoria, Australia, sole traders have specific **legal obligations** under Corporations Act 2001 and the Business and Licencing Authority Act 1998.

1. Business Registration

Australian Business Number (ABN): Required for invoicing, tax, and government interactions. Register via the Australian Business Register (ABR).

Business Name Registration: If trading under a name other than your own, you must register it with ASIC (Australian Securities and Investments Commission).

2. Tax & Financial Obligations



Income Tax: Report business income as part of your personal tax return with the ATO (Australian Taxation Office). **Income Tax Assessment Act 1936**



Goods and Services Tax (GST): Register for GST if your annual turnover is \$75,000 or more. **A New Tax System (Goods and Services Tax) Act 1999**



Pay As You Go (PAYG) Instalments: If required, you may need to make quarterly tax payments. **Section 202CF of the Income Tax Assessment Act 1936**



Superannuation Contributions: While not mandatory for yourself, you must contribute to employees' superannuation if you hire staff. **Superannuation Industry (Supervision) Act 1993 (SIS Act),**

3. Employment Obligations (If Hiring Staff)



Fair Work Compliance: Follow wage laws, workplace conditions, and employee entitlements under the **Fair Work Act 2009**.



WorkCover Insurance: If you have employees, you must register for **WorkSafe Victoria insurance**. **Workplace Injury Rehabilitation and Compensation Act 2013 (WIRC Act)**



Payroll Tax: If your payroll exceeds the state threshold (\$900,000 annually), payroll tax applies. **Payroll Tax Act 2007**



Equal Opportunity Employers have a responsibility to recruit staff in a non-discriminatory way and maintain a workplace that is safe and free from discrimination. **Equal Opportunity Act 2010**

3. Employment Obligations (If Hiring Staff) continued...

They also have a responsibility to make sure their workplace is safe and free from sexual harassment or victimisation.

Employers can be held legally responsible for workplace incidents of:

- [discrimination](#)
- [bullying](#)
- [racial and religious vilification](#)
- [sexual harassment](#)
- [victimisation](#).

Employers also have responsibilities under [federal anti-discrimination laws](#).

TIP: Check out the ARBV guidance on Compliance with all relevant laws.

4. Compliance & Regulations



Consumer Law: Must follow **Australian Consumer Law (ACL)**, including fair trading, refunds, and advertising rules. **Schedule 2 of the Competition and Consumer Act 2010.**



Privacy Laws: If collecting customer data, comply with **Australian Privacy Act 1988.**



Occupational Health & Safety (OHS): Employers have a responsibility to provide a safe workplace, comply with **WorkSafe Victoria regulations**. This can be in a physical office or working remotely. **The Occupational Health and Safety Act 2004 (OH&S Act)**



Architects have an obligation to ensure that they design safe buildings and structures including workplaces. **Section 28 of the Occupational Health and Safety Act 2004**

5. Personal Liability & Risk Management



Unlimited Liability: As a sole trader, you are **personally liable** for business debts.



Insurance: Consider **public liability, professional indemnity, or income protection insurance.**

TIP: Check out the ARBV Guideline on Professional Indemnity Insurance for further guidance.



Contracts: Ensure clear terms with suppliers, clients, and employees to protect your business.

Question 3:

Architectural Firm Z employs staff and has a physical office space, however they also have adopted a hybrid working model. Is the employer responsible for providing a safe working environment at the employee's home?

- (a) Yes – the employer is required to provide a safe working environment even if this is at home
- (b) No – only in the office the employer occupies

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Question 3:

Architectural Firm Z employs staff and has a physical office space, however they also have adopted a hybrid working model. Is the employer responsible for providing a safe working environment at the employee's home?

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1. Director's Duties Under the Corporations Act 2001

As a director, you must:

- **Act in Good Faith & Best Interests of the Company**
 - Make decisions that benefit the company and its shareholders, not personal interests.
- **Exercise Care, Skill & Diligence**
 - Act responsibly and ensure the company is managed properly.
- **Prevent Insolvent Trading**
 - You must not allow the company to trade if it cannot pay its debts. Personal liability can arise if you continue trading while insolvent.
- **Avoid Conflicts of Interest**
 - Disclose any personal interests that may conflict with company affairs.
- **Ensure Financial Records Are Kept**
 - Maintain proper accounting records and ensure annual financial reports are prepared and, if required, audited.
- **Ensure the Company Complies with Laws**

The company must follow tax laws, employment laws, consumer laws, and industry-specific regulations

2. ASIC & Company Compliance Obligations

Annual Review & Fees: A Pty Ltd company must complete an **annual review** with ASIC and pay the required fee.

Registered Office & Business Address: Ensure the company has a **registered address** for official notices.

Lodging Company Changes: Notify ASIC of any changes (e.g., directors, shareholders, addresses) within 28 days

3. Tax & Financial Responsibilities



Australian Business Number (ABN) & Tax File Number (TFN): The company must have both.
The Business Names Registration Act 2011 , Taxation Administration Act 1953 - external site (TAA).



Company Income Tax: Pty Ltd companies pay a flat **corporate tax rate** (currently 25% for small businesses).
Income Tax Assessment Act 1936 - Sect 317



Goods and Services Tax (GST): If turnover is **\$75,000 or more**, GST registration is required.
Section 84-89 of A New Tax System (Goods and Services Tax) Act 1999



Pay As You Go (PAYG) Withholding: If paying employees or directors' wages, the company must withhold and remit PAYG tax.
Taxation Administration Act 1953 - Schedule 1



Superannuation Guarantee (SG): The company must contribute **at least 11.5% (as of 2024)** of employees' wages to their superannuation funds. **Superannuation Industry (Supervision) Act 1993**



Fringe Benefits Tax (FBT): If the company provides benefits (e.g., cars, entertainment) to employees, FBT may apply. FBT year runs from 1 April to 31 March. **Fringe Benefits Tax Act 1986**

4. Employment Law & Workplace Compliance



Fair Work Compliance: Follow minimum wages, conditions, and unfair dismissal protections under the **Fair Work Act 2009**. Review & comply with relevant Industrial Awards i.e. Architects Award 2020

Provide each employee with the relevant Employment Information Statement i.e. Employee, Casual, Fixed Term



WorkCover Insurance: Mandatory if you have employees (through **WorkSafe Victoria**). Workcover can extend to include contractors or subcontractors. **Workplace Injury Rehabilitation and Compensation Act 2013 (WIRC Act)**



Payroll Tax: Applies if wages exceed the state threshold (\$900,000 annually in Victoria). This is paid monthly by the 7th of each month. **Payroll Tax Act 2007**

5. Risk Management & Personal Liability



Director Penalty Regime: You can be personally liable for **unpaid PAYG withholding, GST, and superannuation.**



Personal Guarantees: If you personally guarantee company loans, you are liable if the company defaults.



Director Disqualification: ASIC can **ban you** from managing companies if you breach director duties or engage in illegal conduct.



Insurance: Consider **Directors & Officers (D&O) liability insurance** for protection.

Question 4: As a company operating an architectural practice in Victoria, which of the following obligations would apply to your company?

- (a) Payroll tax
- (b) WorkCover Insurance
- (c) Employee superannuation guarantee
- (d) Professional indemnity insurance
- (e) Fair Work compliance
- (f) All of the above would apply
- (g) Only a), b) and c) would apply

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Question 4: As a company operating an architectural practice in Victoria, which of the following obligations would apply to your company?

- (a) Payroll tax
- (b) WorkCover Insurance
- (c) Employee superannuation guarantee
- (d) Professional indemnity insurance
- (e) Fair Work compliance
- (f) All of the above would apply**
- (g) Only a), b) and c) would apply

Competition and Consumer Act 2010 (CCA)

Australian Competition
and Consumer
Commission (ACCC)

Fair Business Practices

Prohibition of Anti-Competitive
Agreements:

Fair Pricing and Competition:

Acting in the Best Interest of
Clients:

Responsibilities under Competition Law

Specific Examples of Potential Issues:

- Price-Fixing:
- Market Division:
- Unfair Contract Clauses:
- Misleading or Deceptive Conduct:

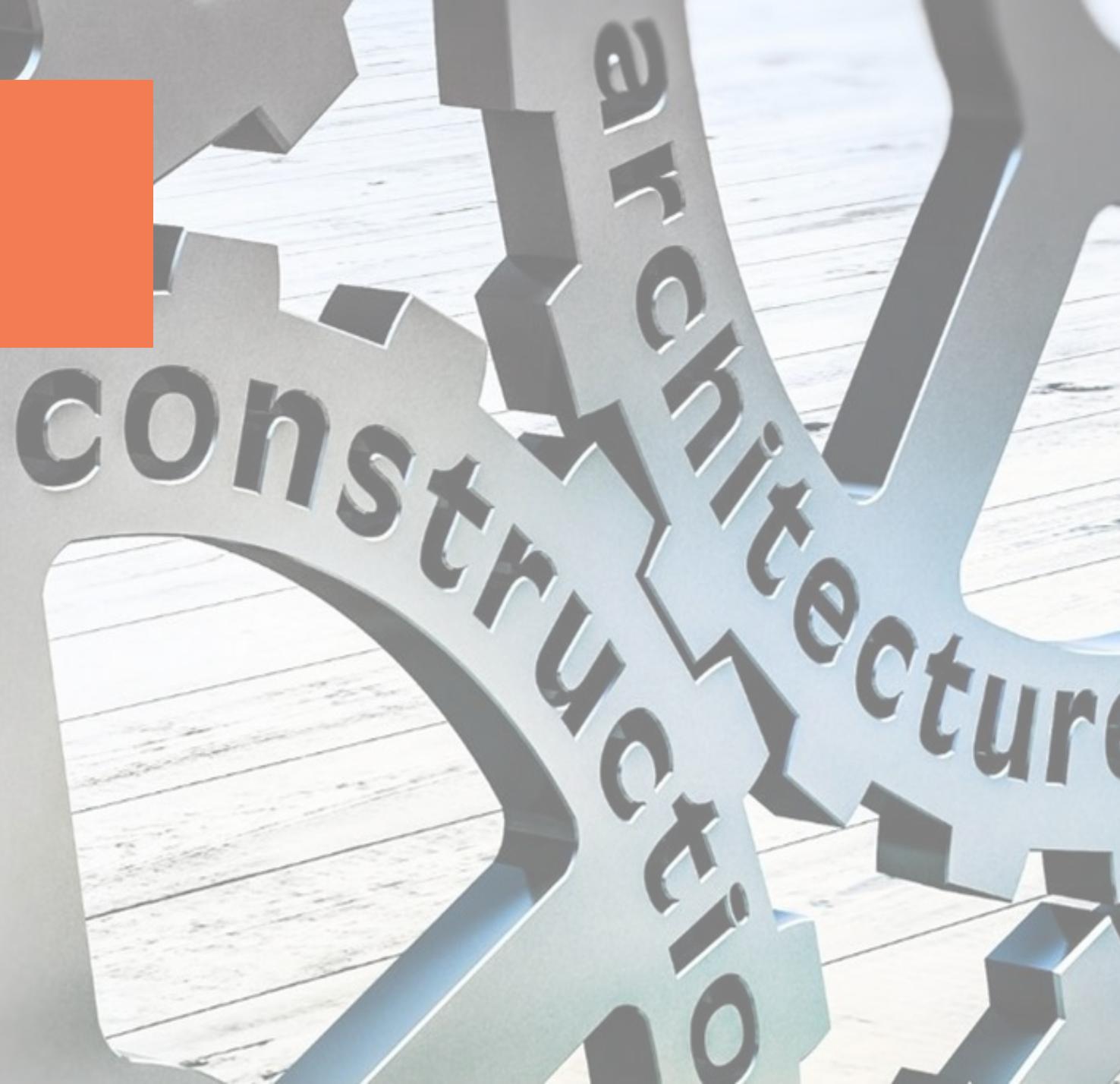
Additional Considerations

Architectural Competitions:

- Architectural competitions should be conducted fairly and transparently, with clear rules and criteria for judging.
- Endorsement of Competitions:
- Architectural professional associations can play a role in endorsing competitions to ensure they are conducted fairly and ethically.

Q&A

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Architects
Registration Board
of Victoria

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