Australian Institute of Architects

ARCHITECTS REGULATIONS 2026 (VIC) — MINISTERIAL SUBMISSION

Prepared by Practice of Architecture Committee (POAC)
for the Australian Institute of Architects (AIA)

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Executive Summary

The Architects Regulations 2026 (S.R. No. 29/2026) came into force on 26 April 2026, replacing the Architects Regulations 2015. While some elements of the new Regulations are accepted by the profession as reasonable updates, a significant number of the new requirements are impractical, legally problematic, commercially unworkable and - unreasonably - were not adequately consulted upon before enactment.

Fundamental Process Failure

The Regulatory Impact Statement was released on 31 December 2025 - New Year's Eve - with a submission deadline of 2 February 2026. This consultation period spanned the summer holiday break and did not reflect the substantive changes that were ultimately enacted. The RIS assessed a materially different version of the Regulations to those that were gazetted. This is not genuine consultation; it is a procedural formality that has produced regulation the profession did not agree to and cannot practically comply with.

This submission identifies the key provisions that require urgent review, explains the commercial, legal and practical consequences of each, and calls on the Minister to act before these requirements cause irreversible harm to Victorian architectural practice and Victoria's competitiveness as a place to do business.

Part 1: Background and Context

1.1 The Regulations and the Sunset Process

The Architects Regulations 2015 were due to sunset on 26 April 2025 and received a 12-month extension before being replaced by the Architects Regulations 2026. The Regulations set the framework for architect registration, CPD, fees, and — most significantly — the Victorian Architects Code of Professional Conduct (the Code), which governs every aspect of how architects engage with clients. The Code has been substantially expanded and amended in the 2026 iteration, adding extensive new prescriptive requirements that go well beyond the previous framework.

1.2 The Consultation Failure

The Subordinate Legislation Act 1994 requires a Regulatory Impact Statement (RIS) to be prepared and consulted upon before significant regulatory changes are made. In this case, the process was compromised in two fundamental respects.

- The RIS was released on 31 December 2025, with public submissions closing 2 February 2026 - a consultation window that spanned the Christmas and New Year holiday period when practices are closed and clients are unreachable. This can not be reasonably seen as an oversight – this was a structural barrier to genuine engagement.
- The RIS assessed the proposed Architects Regulations 2025 - a materially different draft from the Architects Regulations 2026 that were ultimately gazetted. Provisions that now appear in the enacted Regulations were not part of what the profession was asked to comment on. The consultation process therefore did not meet its own statutory purpose.

Part 2: Critical Issues — Provision by Provision

The following issues are presented in order of severity. Some provisions are accepted by the profession as reasonable; these are noted in Part 3. The majority of contested provisions relate to Clause 6 of the Code (Use of Clear and Unambiguous Client Agreements), which has been substantially expanded and which, in its current form, is unworkable.

Issue 1 — Mandatory Written, Signed Agreement Before Any Services (CRITICAL)

Clause 6(1) of the Code provides that an architect must not collect any fee or provide architectural services - explicitly including concept designs, sketches or reports - unless a written and signed agreement is already in place. This is unworkable in practice.

The first meeting with a client frequently results in preliminary sketches, feasibility assessments or basic design concepts - precisely the work that gives both parties enough information to decide whether to proceed to a formal engagement. Requiring a fully executed written agreement before any of this work can occur inverts the normal sequence of a professional engagement and will prevent architects from doing what clients actually need them to do.

The provision also creates an irresolvable contradiction: architects cannot explain what services they will provide - and therefore what agreement to sign - without doing some preliminary work. But they cannot do that work without a signed agreement.

- Interstate architects, who are not subject to equivalent Victorian requirements, will be able to provide preliminary design services that their Victorian counterparts legally cannot - a direct competitive disadvantage created by the Regulations.
- Unregistered building designers operating in Victoria face no equivalent requirement, creating a perverse incentive for clients to engage unregistered practitioners.
- Ironically, the OVGA (Office of the Victorian Government Architect) - itself a significant procurer of architectural services - will need to examine how its own engagement processes interact with this provision.
- Competition entries require substantial design work submitted speculatively, before any client relationship exists, let alone a signed agreement. The competition organiser is not a "client" in the conventional sense at the point of entry; there may be no agreed scope, no agreed fee, and no bilateral agreement to sign. Yet the work produced is unambiguously "architectural services" including concept designs and sketches - precisely what Clause 6(1) prohibits without a prior signed agreement.

Issue 2 — Mandatory 7-Business-Day Review Period Before Signing (CRITICAL)

Clause 6(2) requires that an architect provide the proposed client agreement to the client at least 7 business days before requesting the client's signature. Read together with Clause 6(1), no services can be provided and no fees collected during this period. A mandatory 7-business-day waiting period before a client can engage an architect - regardless of the client's wishes, the urgency of the project, or the nature of the services - is a restriction on the freedom of both parties to contract on their own terms. It may constitute an unlawful restraint of trade. The Commissioner for Better Regulation and the Victorian Economic Growth Commissioner should be asked to assess this provision against the Government's own red tape reduction commitments.

The provision has no practical mechanism for situations where a client has an urgent deadline - planning applications, council hearings, development approvals - and needs architectural services to commence immediately; where a developer or construction lawyer presents a bespoke agreement to the architect on their own terms and timeline; or where an existing client relationship warrants flexibility on process without compromising on substance.

Issue 3 — Expanded Mandatory Agreement Content: 20 Required Elements (CRITICAL)

Clause 6(4) sets out an exhaustive list of matters that must be included in every client agreement. The 20 prescribed elements include scope, timeframes, fee structures, disbursements, variation processes, IP ownership, insurance details, complaint handling procedures, and the ARBV complaints pathway. Together, these requirements will significantly increase the length and complexity of every architect-client agreement regardless of project scale, increase legal fees for both parties, impose a disproportionate burden on small practices and sole practitioners, and pass costs directly to consumers — contrary to the RIS's assessment that the Regulations impose no additional cost.

The RIS did not adequately model the compliance cost of the expanded client agreement requirements on small practices.

Issue 4 — Disclosure of All Project Team Members and Their Registration Status (HIGH RISK)

Clause 6(7) requires that, on entering into a client agreement, the architect must provide the client with the names of all officers and employees who will be involved in the provision of architectural services, their role, and their registration status. This provision fundamentally misunderstands the relationship between corporate law and the Architects Act. When a client engages an architectural firm, the contractual relationship is with the entity, not the individuals. Imposing individual staff disclosure under the Architects Act creates a direct conflict between two regulatory regimes.

- On large projects, team composition changes throughout the project lifecycle. Requiring disclosure of all team members at contract execution creates an ongoing administrative burden with no clear compliance pathway.
- The requirement to disclose registration status means a client agreement for a large project must identify dozens of individuals, some of whom are graduates or technicians with no registration number to provide. The disclosure serves no consumer protection purpose - it simply creates confusion.
- This provision, in combination with the ARBV complaints mechanism, creates a direct pathway for clients or third parties to identify and pursue individual staff members - not just the practice - for disciplinary action. This raises significant HR and employment law issues that the Regulations do not address.

Issue 5 — Bespoke Agreements Presented by Clients (HIGH RISK)

The Regulations are drafted on the assumption that the architect always prepares and presents the client agreement. In reality, on government, VSBA, large developer driven commercial, infrastructure and development projects, it is common (often mandatory) for the client to present the architect with their own bespoke agreement, drafted by construction lawyers. A developer's standard form agreement will not contain the 20 prescribed elements in Clause 6(4).

The architect cannot legally sign an agreement that does not comply with the Code however the Regulations provide no mechanism for addressing this situation.

This is particularly acute for novated contracts, government panel contracts where the terms are non-negotiable, and construction management contracts where the architect is engaged by the builder under the builder's standard terms. In each of these scenarios, the Regulations place the Victorian architect in an impossible position: comply with the Code and lose the work, or accept the work and breach the Code. Neither outcome is acceptable.

Issue 6 — Mandatory Complaint Pathway Disclosure in Every Agreement (HIGH RISK)

Clauses 6(4)(r) and (s) require every client agreement to include the practice's complaint handling process and specific information about how a client can make a complaint to the ARBV. The profession does not oppose complaint handling processes per se. However, the requirement to embed an active ARBV complaints pathway in every client agreement creates significant concerns.

- It signals to clients, at the moment of engagement, that making a complaint against their architect is a likely or expected outcome. This fundamentally undermines the professional relationship before work has begun.
- It creates a low-friction mechanism for vexatious complaints against individual registered architects, including employed staff identified under Clause 6(7). Complaining to the ARBV is now a single step embedded in every engagement document.
- The ARBV does not have the resources to manage a significant increase in complaint volumes. A wave of complaints - founded or otherwise - will overwhelm the ARBV's capacity to regulate the profession meaningfully. This is a systemic risk the RIS did not address.

Issue 7 — Retroactive Application to Existing Agreements (HIGH RISK)

Clause 6(3) provides that a client agreement must not contain terms purporting to apply retrospectively to services provided before the agreement was signed. The profession accepts this in principle. However, the ARBV has advised that all existing client agreements entered into before 26 April 2026 must now be updated to comply with the new Regulations. This creates a profound internal contradiction - the ARBV is requiring architects to retrofit new terms into existing agreements — which is itself a form of retrospective application. Clause 6(3) prohibits retrospective terms - the ARBV's own compliance guidance requires them. The profession cannot comply with both.

The Regulations provide no transitional provisions, no grace period and no guidance on how to handle existing agreements. This is a significant omission that the ARBV cannot remedy through guidance alone.

The commercial reality of 'Novation' is the presentation to the Architect of a bespoke agreement at the point of the engagement of the Contractor to the Head Construction Contract – about 40% through the architectural process. This 'Consultancy Agreement' as noted above will not be written to the acceptable and mandated inclusions for Architects as they are general consultant agreements based on Australian Standard agreements. These agreements are often referring to scope of works retrospectively complete. How would Architects be expected to manage these situations?

Novation is the dominant contractual mechanism on medium to large commercial, residential and infrastructure projects in Victoria. Understanding how it works in practice exposes a fundamental structural incompatibility with the Regulations as drafted.

In a typical novation arrangement, the architect is initially engaged by the developer or owner under a direct appointment. At the point the head construction contract is executed - typically when the design is 35–45% complete - the architect's appointment is novated to the head contractor. From that point, the architect's client is the builder, not the owner. The architect continues to complete the design and administer the contract, but their contractual obligation runs to a party whose commercial interests are frequently in tension with the design outcomes the owner originally commissioned.

The Regulations are drafted on the assumption of a single, bilateral client relationship initiated by the architect at the start of a project. Novation breaks every element of that assumption:

- The architect does not initiate the novation agreement. It is presented to them - typically as a condition of continuing on the project. Refusal means losing the commission at the point of maximum vulnerability.
- The novation agreement will not comply with Clause 6(4). These documents are standard form construction contracts - typically AS 4122 or bespoke equivalents - generally drafted to serve the developer's or contractor's commercial interests. They will not contain the 20 mandated elements. They will not include the ARBV complaints pathway. They will not have been provided 7 business days before signature.
- The scope of works referenced in the novation agreement is often retrospective by design. At the point of novation, a substantial portion of the architectural services have already been delivered under the original appointment - to a different client, on often different terms. The novation agreement will incorporate or reference that prior scope, meaning the architect is being asked to sign an agreement that inherently applies retrospectively to work already performed. This directly engages Clause 6(3)'s prohibition on retrospective terms - placing the architect in simultaneous breach of two provisions of the Code through a single, commercially unavoidable act.
- The ARBV's guidance that existing agreements must be updated to comply with the 2026 Regulations is unworkable in the novation context. The original client - the developer - no longer has a contractual relationship with the architect post-novation. They cannot be asked to sign an amended agreement. The head contractor, who is now the client, was not a party to the original engagement. Neither party can remedy the non-compliance; the architecture of the transaction makes it structurally impossible.

The practical consequence is that Victorian architects on novated projects face a choice the Regulations do not acknowledge and cannot resolve: decline to execute the novation agreement and abandon the project mid-delivery - with all the professional, financial and reputational consequences that entails - or execute an agreement that is non-compliant on its face and accept the disciplinary exposure that follows.

This is not a matter of administrative inconvenience. Novation is how a significant proportion of Victoria's built environment is actually procured. A regulatory framework that cannot accommodate it is not a framework for the real world.

Issue 8 — Working with an Architect Checklist for Class 1 and 10 Buildings (MODERATE)

Clause 6(4)(t) requires that, for Class 1 and Class 10 buildings, every client agreement must include the architect's obligation to provide the client with a current copy of the ARBV's Working with an Architect Checklist. While the profession understands the consumer protection intent, the Checklist is produced by the ARBV 'from time to time' - meaning its content may change after a client agreement is signed. If the Checklist is updated mid-project, it is unclear whether the architect must re-provide it, and whether a new version constitutes a variation to the agreement. The requirement also applies regardless of the sophistication of the client, which is administratively disproportionate.

Issue 9 — ARBV Enforcement Capacity Gap (SYSTEMIC)

The Architects Regulations 2026 have significantly expanded the number and complexity of obligations on registered architects. The Code now runs to 17 detailed clauses, many with multiple sub-requirements. The ARBV is a small statutory authority funded by registration fees. It does not have the investigative infrastructure of a major regulator. The new Regulations have exponentially increased the number of potentially enforceable obligations without any corresponding increase in the ARBV's enforcement resources. The profession is concerned that selective or inconsistent enforcement will follow — creating legal uncertainty and the perception of arbitrary regulation.

The Code requires architects to comply with 'all applicable Victorian and Commonwealth laws' (Clause 2(1)). This is an extraordinarily broad obligation. It is unclear what the ARBV considers to fall within this requirement, or how it would assess non-compliance with laws that have nothing to do with architectural practice.

Issue 10 — Interstate Practice and Competitive Disadvantage (HIGH RISK)

Victoria-registered architects frequently undertake work in other states and territories under the mutual recognition framework. The new Regulations raise significant questions about how the Victorian Code of Professional Conduct interacts with work delivered interstate. NSW does not have an equivalent 7-business-day pre-signing requirement. A Victorian architect tendering for NSW work is therefore subject to a requirement that their NSW competitors are not. The requirement to include ARBV complaint information in every client agreement is also meaningless to an interstate client who has no connection to Victoria's regulatory framework.

Victorian architects will be less competitive for interstate and international work if their engagement processes are more cumbersome, more prescriptive and less commercially flexible than those of architects registered in other jurisdictions. The Regulations as drafted make it harder, not easier, to export Victorian architectural services.

Part 3: Provisions the Profession Accepts

For completeness and to demonstrate the profession's good faith, the following provisions are accepted as reasonable updates to the regulatory framework:

- **Clause 7:** Fee and cost transparency — the obligation to provide regular statements of account and not exceed agreed fee structures is accepted as reasonable practice.
- **Clause 6(4)(o):** Withdrawal and termination obligations — clarity on how agreements may be terminated by either party is accepted.
- **Clause 15:** Record-keeping obligations — subject to reasonable clarification of format and access requirements, the 10-year record retention obligation is accepted.
- **Clause 2(3)(d):** Insurance representations — architects must be covered by required insurance and must not misrepresent their coverage. This is accepted.
- **Clause 6(4)(p):** Intellectual property clarity — inclusion of IP ownership and licence terms in client agreements is accepted as good practice.

Part 4: Unintended Consequences

4.1 Cumulative Burden on Small Practices

Architecture in Victoria is dominated by small and medium practices. Many sole practitioners and boutique firms serve the residential market - the very clients the Working with an Architect Checklist and complaint pathway requirements are designed to protect. These practices do not have in-house legal teams. They cannot absorb the cost of preparing and maintaining legally compliant agreements for every residential engagement without passing that cost to their clients. The cumulative effect of all the new requirements is a material increase in the cost of engaging a Victorian architect for a residential project. Some homeowners will choose to engage an unregistered building designer instead. The Regulations will have actively harmed the consumers they purport to protect.

4.2 Victoria as a Place to Trade

The Victorian Government has committed to reducing red tape and improving the State’s competitiveness as a business environment. We submit that the Architects Regulations 2026 - in their current form - are not proportionate to their objectives. They impose significant new compliance costs on a profession that is already well-regulated, without adequate modelling of the commercial consequences, and without genuine consultation with the practitioners who must implement them.

Architects from interstate registered in their home jurisdiction can engage Victorian clients under mutual recognition on terms that comply with their own (less prescriptive) state’s Code of Conduct. Victorian architects cannot reciprocate. This asymmetry disadvantages the Victorian profession on their own turf.

4.3 Litigation Exposure

The expanded Code of Conduct creates significant litigation exposure for Victorian architects. Any breach of the Code may constitute unprofessional conduct. A client who is dissatisfied with an architectural service - regardless of the merit of their complaint - can now point to a specific provision of the Code as a basis for an ARBV complaint, potentially in addition to a civil claim.

The requirement to identify all project team members (Clause 6(7)) creates a documented record that can be used in litigation to argue that a specific individual - not just the firm - was responsible for a particular service. Professional indemnity insurers are likely to treat the expanded Code as expanding the potential scope of covered claims, with premium increases to follow.

Australian Institute of Architects

Requests to the Minister — June 2026 Meeting

The profession respectfully requests that the Minister:

- **Suspend enforcement** of Clauses 6(1), 6(2) and 6(7) of the Code pending a structured review with the profession, to allow practices to continue to operate commercially while compliance frameworks are developed.
- **Acknowledge the consultation failure** by formally recognising that the RIS did not reflect the enacted Regulations and committing to a genuine post-enactment consultation process with a representative working group.
- **Commission a red tape assessment** from the Commissioner for Better Regulation on the 7-business-day pre-signing requirement and the mandatory 20-element agreement, with specific focus on the impact on small practices and residential clients.
- **Issue transitional guidance** clarifying how architects are expected to handle existing client agreements entered into before 26 April 2026, including novated contracts and government panel agreements.
- **Engage with interstate regulators** to assess the competitive impact of the Victorian Code on architects practising under mutual recognition, and to consider harmonisation of client agreement requirements with other jurisdictions.
- **Review the ARBV's enforcement capacity** to ensure that the expanded Code can be enforced consistently and transparently, and that architects and their clients have clear guidance on how complaints will be assessed under the new provisions.

Conclusion

The architectural profession in Victoria supports good regulation. We support transparency, competence and accountability. We support consumer protection. What we cannot support is regulation that was not genuinely consulted upon, that is commercially unworkable, that places Victorian architects at a competitive disadvantage to their interstate peers, and that will — despite its stated intentions — increase costs for the very consumers it is designed to protect.

The Architects Regulations 2026 contain provisions that, in their current form, are impractical for the majority of architects to comply with in the ordinary course of practice. They create legal uncertainty, expose practitioners to litigation risk, and make Victoria a harder place to practise architecture. None of this is consistent with the Government's stated commitments to reduce red tape and grow the Victorian economy.

We are asking for regulation that works - that can be practically implemented, that reflects commercial reality, that has been developed with genuine professional input, and that protects consumers without penalising the practitioners who serve them. We ask the Minister to work with us to achieve that outcome.