

2 March 2010



Australian Institute of Architects

Ms Louise Sylvan  
Commissioner  
Regulatory Burdens: Business and Consumer Services  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

Dear Ms Sylvan

*Annual Review of Regulatory Burdens on Business – Business and Consumer Services*

The Australian Institute of Architects (the Institute) is an independent, national, member organisation with almost 10,000 members across Australia and overseas. The Institute exists to advance the interests of members, their professional standards and contemporary practice and expand and advocate the value of architects and architecture to the sustainable growth of our community, economy and culture. The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

The Institute welcomes the opportunity to make a submission to the Productivity Commission's inquiry into regulatory burden on business and services. There are four issues in particular, which the Institute would like to bring to the Commission's attention.

*Building Code*

The Building Code of Australia governs the minimum necessary standards of building safety, health and amenity, among other things, required nationally for the building sector. The building code is produced and managed by the Australian Building Codes Board (ABCB). The ABCB was established under an inter-government Agreement signed by the Australian and State and Territory governments in 1994.

Although the Building Code of Australia provides the national standard for building approvals (permits) to which all state and territory legislation must relate, it also accommodates local requirements through its provisions for local environmental issues such as wind speeds, cyclone requirements etc.

The Institute is supportive of the ABCB model but within that model, some state and territory jurisdictions have developed additional, appended requirements which have the effect of a parallel building code. In the Institute's view, this undermines the efficiencies derived from the move to nationally consistent regulation under the ABCB, and creates an unnecessary business cost to architects (and the industry) who work across jurisdictions.

In relation to the building code, the Institute suggests the Commonwealth lead a renewed and consistent focus on benchmarking state and territory requirements to ensure uniformity of regulation wherever practicable.

### *Cost to purchase the Building Code*

The Building Code in effect, regulates the building sector, however in order to comply with its requirements, architects and others working in the building sector, are required to purchase the Code, its revisions and relevant Australian Standards referred to within the Code (the Code currently refers to over 140 Standards). This is an ongoing cost for the profession with regular revisions of the Code to be purchased and represents a burden on the industry, particularly for sole traders and small to medium enterprises.

In the Institute's view, the Building Code should be available free online, as with most government regulation, and the ABCB should be adequately funded by government to enable this.

### *Australia's Planning system*

The Institute is concerned that overall, the current planning system is not working efficiently, resulting in lengthy delays and additional compliance costs.

The problems of an inefficient process are exacerbated by a similar set of problems to the building code. There is a lack of consistency between states and territories, and at a micro level by inconsistency between local government area planning schemes, even when purportedly made under the same state or territory authorization.

Architects often have to navigate specific planning requirements for different areas of Australia. Although architects do navigate the variations in local planning laws, they can act as a barrier to architects practising across jurisdictions. The same difficulties apply across the building industry, as variation negates efficiency.

The trend towards local government use of planning rules to regulate what are essentially building regulation matters, no matter how well intentioned, in itself points to a failure of the system. With over 500 local councils across Australia, the amount of additional compliance cost just to navigate differences in geographic areas is extremely concerning.

Within the planning system, the current development assessment system is convoluted, inefficient and under resourced, resulting in lengthy delays and additional compliance cost, adding to the cost of the development eventually approved.

Despite its imperfect operation, the model of the ABCB provides a vastly better system than its solely jurisdiction based predecessors. The Institute would like to see national guidelines for planning approvals.

The Institute suggests that for planning regulations, a similar arrangement to the building code should be implemented through an intergovernmental agreement. To enable an expedited resolution of this issue, the Institute suggests that the Commonwealth Government needs to take leadership in this area and utilise such models as National Competition policy to provide the necessary incentives for change.

The Institute strongly advocates for the Leading Practice Model for Development Assessment in Australia (developed by the Development Assessment Forum) to be adopted in harmonised form by the Local Government and Planning Ministers Council and in turn implemented by the State/Territory and Local Governments.

### *National Registration*

To reduce unnecessary regulatory burden and cost to architects, the Institute also supports the establishment of a National Register for architects, where architects register and pay a fee in their home state which automatically entitles them to placement on a national register, thus allowing architects to work in all Australian state and territories without having to complete separate registration processes nor pay registration fees across multiple jurisdictions.

While the Mutual Recognition Act 1992 (Cth) goes some way to alleviating this, by permitting an architect to seek recognition in another state or territory, it does not of itself guarantee that the recognition will be granted. Under the Act, a registration authority may refuse recognition if it does not consider that the 'occupation' is equivalent and the difference cannot be met by imposing conditions.

In our response to the Productivity Commission's review of mutual recognition schemes in December 2008, the Institute called for the establishment of a National Register for architects, and expressed our support for the Commission's draft recommendation that the Mutual Recognition Act be amended to clarify that continuing professional development (CPD) apply equally to all registered persons within an occupation including those registered under mutual recognition. We note that the Commission's January 2009 report upheld this recommendation.

Unamended, the Act allows conditions to be imposed such as compliance with the particular CPD requirements of that state or territory, where the architect is already subject to CPD, but with different requirements in their home state or territory.

There is a potential for onerous and burdensome duplication of registration requirements acting against cross-jurisdictional harmonised legislation. In fact, the NSW Board of Architects has expressed the view that any architect registered there must comply with the NSW CPD requirements of the Board, irrespective of their home state or territory CPD requirements.

Given that the academic and practical experience requirements for initial registration as an architect are presently harmonised, in a practical sense by adoption by the Boards in each state and territory of the same National Competency Standards, it seems illogical that another set of requirements, such as individual state and territory CPD requirements, could override that harmonisation.

The Institute calls on the Commonwealth Government to take the lead in establishing a National Register, through inter-governmental agreement if necessary.

I would be happy to discuss any of the points raised in this submission should you require more information or seek clarification.

Yours sincerely,

David Parken, LFRAIA  
Chief Executive Officer