

BUILDING DISPUTE PRACTITIONERS' SOCIETY INC.

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Our Ref: LJC: CJ BDPS

14 June, 2000

Productivity Commission
Architects Inquiry
LB2 Collins Street
EAST MELBOURNE VIC 8003

FAXED

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BY FACSIMILE - 9653 2302

Dear Sirs

**RE: Building Dispute Practitioners' Society Inc
Review of Legislation Relating to the Architectural Profession**

Further to our letter to you dated 23 May 2000 advising that the Society wished to register for the public hearing, the purpose of this letter is to set out the position of the Society and a summary of the submissions of the Society in relation to the issues raised by the draft report.

As you may be aware, our Society is composed of a broad range of professionals and experts involved in building dispute resolution in Victoria. The Society's principal aims are to promote and improve the understanding and education of its members in relation to building dispute resolution.

To that end the Society endorses any review which will improve training and disciplinary procedures of architects generally to ensure the maintenance of professional standards. The draft report addresses the issues of whether there should be a national approach to legislation governing architects. The Society feels strongly that the review of the current State legislation must take into account that dispute resolution in both commercial and residential building and engineering matters varies from State to State.

In particular in Victoria there is an overlap regulation additional to the ARCHITECTS ACT Victoria. In particular in relation to domestic constructions, the DOMESTIC BUILDING CONTRACTS ACT 1995 and the BUILDING ACT 1993 and BUILDING REGULATIONS 1994 effectively adopted the system of registration and professional indemnity insurance provided for under the ARCHITECTS ACT. Other building professionals such as engineers, surveyors, builders, draftspersons and managers are also required to maintain registration and insurance under these Acts. The Building Practitioners Board was established under the BUILDING ACT 1993 to oversee those practitioners. If the Victorian ARCHITECTS ACT were to be

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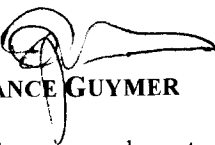
repealed or revoked in order to achieve national deregulation or if that legislation is replaced by national legislation, the needs of the Victorian system would need to be taken into account insofar as the Society is of the view architects would need to still maintain both registration and compulsory insurance in line with the other practitioners mentioned who are covered by the BUILDING ACT 1993. Presently that is achieved by the ARCHITECTS ACT and regulations. You will be aware that an additional overlay is that in domestic disputes, the Domestic Building List of the Victorian Civil and Administrative Tribunal pursuant to the provisions of the DOMESTIC BUILDING CONTRACTS ACT 1995 and the VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL ACT 1998 gives that List of the Victorian Civil and Administrative Tribunal jurisdiction over disputes between owners and other registered practitioners and architects.

The BUILDING ACT 1993 (Vic) also introduced the concept of proportionate liability, to replace joint and several liability for claims for defects in building disputes in both commercial and domestic matters. One of the reasons advanced prior to the introduction of this concept in the Victorian legislation was to give the building industry the ability to spread losses arising from building defects amongst those who are jointly responsible in distinct proportions or shares, including architects. This is therefore a further reason to ensure that any legislative changes introduced nationally must be combined with the maintenance of requirements for architects to both keep some form of registration and insurance (as well as appropriate education standards or requirements) similar to the other building practitioners referred to in the BUILDING REGULATIONS 1994.

In summary, the essence of the Society's submission is that any proposed changes will need to take into account the current Victorian Legislative Scheme whereby building practitioners (including engineers, surveyors, builders, draftspersons, and currently separately architects through the ARCHITECTS ACT) are required to be regulated through registration and insurance and entrance/qualification requirements under the BUILDING REGULATIONS 1994.

We confirm that Mr R Knott will be attended the public hearing both in his own capacity and as our Committee representative to confirm these brief submissions.

Yours sincerely,



LANCE GUYMER

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