

30 May 2000

Architects Inquiry
Productivity Commission
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To the Commissioner

Submission to the Productivity Commission

We hereby submit voluntarily, in the interests of the community, the following considered comments to the Productivity Commission in relation to the "Review of Legislation Regulating the Architectural Profession - Draft Report" without prejudice. We request that the Commission be prepared in the Public Hearing in Perth to respond to each numbered point in this submission.

PREAMBLE

We recognise the importance of reviewing legislation as part of progressive democratic government. It is submitted that the method of the Review reported here is questionable. It is submitted that the draft report is:

- irresponsible and inept with respect to the application of research methods; both quantitative and qualitative;
- prejudiced and blatantly dismissive of submissions received in public consultation;
- unfair and biased and irresponsible in hastening prematurely to findings;
- blatantly dismissive of professionally prepared guidelines for unifying architects' registration legislation nationally;
- inconsistent and biased in its treatment of opinions and conjecture; and
- dependent upon conjecture and hearsay as the basis of its prejudiced findings.

The procedures of the Commission's review as reported are haphazard and unaccountable, without proper and consistent authentication of information gathered in the inquiry. The Commission in the 'Draft Report' finds that the current legislation is not anti-competitive, nor was it found under the previous review to be restrictive to trade practices. Yet, the Commission holds glibly and without substantiation that in the hypothetical absence of architects' certification legislation, 'consumers' (direct and indirect users as well as sponsors of architects work with reduced standards of built environment education) would remain sufficiently informed and balanced in their estimation of what an 'architect' is and what

constitutes 'architectural practice'. The Commission holds that the best interests of consumer (including the taxpayer) are served by lowering community standards by repealing legislation entirely. The Commission also has seen fit to contemptuously dismiss presently proposed guidelines for uniform national architects' legislation which have been diligently prepared by the AACA.

The commission has failed in its responsibility to properly provide in this review:

- A methodical and reliable survey of values held by 'consumers' of architectural services for empirical and accountable comparison with an equivalent methodical and reliable survey of values held by 'consumers' of non-architectural services such as building-drafter-designer services; and
- A methodical and reliable survey of measures of architects' service, performance and work quality in holistic terms for the Australian community.

We submit herewith fifty four comments on the 'Draft Report' and request that the Commission respond methodically and objectively to each point of criticism of the document:

1. Title; The title of the review is illegal and/ or misleading and should be changed.
2. The publication of the draft report and the response timeframe is unfairly timed for the industry and the profession to properly respond and should be re-commissioned.
3. Terms of Reference; Error; Item 1 is not labelled, or missing.
4. Background Purposes 2 (a) and 2 (b) of the Review have not been adequately addressed, as elaborated in succeeding points.
5. The commission has not informed itself adequately about actual architectural practice processes in order to understand the differences between architects and building designers.⁴
6. The Review has not addressed the Scope of Inquiry (a), as elaborated in succeeding points.⁵
7. The report gives insufficient evidence that assessments have had due regard to Part 4 of the Scope of Inquiry. (a) and (b)⁶ and Part 5 (b), (e) and (k)⁷ (as outlined below)
8. The Commission has failed to consult properly with the key interest group, which is the group of users of buildings in Australia and users of architects' other services in Australia⁸, to determine whether there is any difference, however little, between (publicly accessible) Australian buildings and works of architects which have been influenced by the work of architects and (publicly accessible) Australian buildings which have not been influenced by the work of architects.
9. Overview - Background The implied definition of 'competition' in this review has ignored an integral part of competition, which is the concern for competition which leads to high quality of architecture⁹ Overview pXIV

The cited general definition (Oxford Concise) of an architect, intended for lay people and school pupils, is unsuitable for this Government funded specialist document.¹⁰ Technical training in building design (drafting) is fundamentally different, and not comparable, to tertiary level specialist educational qualifications and professionally supervised internship experience.¹¹ Page XVI; The professional distinction between the provision of architectural services and drafting is more than a matter of words, especially for literate consumers who have an interest in these services.¹² Page XVIII; The exclusion of 26% of Australian architects from statistical consideration in this review is incorrect and unfair.¹³ This may be illegal under equal opportunity legislation.

10. Section 1 Part 1. 1 Background. The public interest has not been properly assessed. The professionally prepared AACA guidelines have not been properly considered.¹⁴

11. Section 1 Part 1.2 Key Issues. Definitions are misleading, unprofessional and inadequate for the purposes of this Review.¹⁵ The statements that "other dictionaries contain similar definitions" and "legislation subtly alters this definition", while they may be suitable for a high school project, are irresponsibly inaccurate and unprofessional from a Government Commission. The statement that "for most architects in Australia, building design remains a core feature of their work (Draft Report... p.3) is an inaccurate and simplistic generalisation.¹⁶

12. The summary of architects and non-architects submissions to the inquiry (approximately 400 in number) are not enumerated in the report, nor are their contents, whether in favour or against statutory certification, numerically tabulated, compared or analysed. The analysis is completely random. The commission must properly provide a tally of the submissions in favour and against statutory certification in order to be accountable and fairly assess the submissions.

13. The latter group cited (non-architects), wishing to market themselves as architects, without adequate qualifications or experience, have a conflict of interest, and therefore cannot fairly assess the costs and benefits of legislation, or the value of "public good". No credible and tested list of benefits has been provided by the commission, nor the total cost (monetary or non-monetary) of each benefit to the public.

14. Section 1 Part 1.3 Assessment Criteria - Core criteria - Community welfare - has not properly been considered or assessed by the commission in this review. The commission's statement - "Lower prices and better levels of service for consumers" gives an irresponsibly simplistic impression of the benefits of competition, devoid of considerations of moral and ethical standards. It is the government's responsibility to consider the moral and ethical standards of the provision of the services of an architect to the society at large, and this issue has not been assessed by the commission in this review.

15. The section on “Assessing Costs and Benefits” (“Draft Report” p.5) is a crude and philistine characterisation of the costs and benefits of architects legislation and has no inherent value to the report.

16. The assessment of the model of the architectural services and building design and related services profession in the absence of regulation is inadequate in this report.¹⁷

17. Section 2 Part 2.1 The history of architects in Australia before 1921 is not culturally or professionally relevant to

Australian architects in 2000¹⁸ "Protection of the Built Environment" addressed in the 'Draft Report...' page 12 is not a direct responsibility of Architects Acts, but an aspiration of architects, encouraged by the architectural profession through advancement and advocacy of architecture, which is reinforced by the Acts.

18. The statement "discussions with participants ... indicate this clause... has had little impact" is unsubstantiated and inaccurate. (Draft Report... p. 14)¹⁹

19. Section 2 Part 2.4 The present review takes an irresponsibly narrow view of economy because the practice of architecture reaches beyond the scope of a 'marketable activity'.²⁰

20. Section 2 Part 2.6 The reference to training is offensive in this context, (Draft Report... p.17).²¹ The features of jurisdictions regulating architects professions are not evaluated, financially, monetarily, morally or ethically, which should properly be the central purpose of the Review.

21. Section 2 Part 2.9 The commission has failed to address the social and cultural dimensions of the built environment.²²

22. Section 3. The commission in "seeking further data and information on the profile of the architectural profession in Australia" is referred to the Royal Australian Institute of Architects, APESMA, BOMA, consumer survey consultancies and similar organisations.

23. Section 3. Part 3.1 The inappropriateness of this analysis is outlined above.

24. Section 3. Part 3.2 The citation of an unsubstantiated personal comment is inappropriate. (Draft Report, p.35) The submissions cited on page 37. numbers 374 and 376 are biased and conjectural, and it is bewildering that this report should present them as if they were part of any substantial argument.²³

25. Section 3. Part 3.2 The 'professional distinction' of architects is indeed a largely a social one. This does not devalue society's appreciation of what it calls architecture.²⁴ The citation of COAG 1997 pp 23-24 is inappropriate to professional architectural services, which are not a "product.. or a supply... which can be substituted" because they rely on judgement based upon qualifications and experience. (p.38) The statement in Para. 2 of page 38 about providing the same services" is incorrect.²⁵

26. Section 3 Part 3.4 The report's suggestion that any preference for the services of architects over "other service providers" is based on the use of the word 'architect' rather than the service is preposterous. The professional leadership and advocacy of professional architects in neighbouring Asian developing countries in the region of Australia is not sufficiently evaluated.

27. Section 4. The case for regulation The chapter is unfairly biased against regulation (based on cost alone) from the outset.²⁶ Part 4.1 The importance of statutory certification for end users of the work of architects other than purchasers of architectural services has not properly been addressed.²⁷

28. Section 4 Part 4.2 The section says that "all benefits, economic and non-economic, tangible and intangible, must be taken into account (Draft Report ... p. 5 1) yet the Review has failed to do this.

29. Section 4 Part 4.3 The reference to economic theory citing an obscure 30 year old Journal Article by Akerlof (Draft Report.. p53) is dismally incompetent. The finding that "Government intervention may be justified, provided that benefits outweigh the costs" is reached in a glib and simplistic way, without adequate substantiation.

30. Section 4 Part 4.4 The definition of public realm benefits of architects' statutory certification as "Spillovers and Externalities" is narrowly fiscal and does not adequately assess the cultural and social benefits to a developed society. Reference to "minimum inputs and outputs" does not reflect the value of built environments and aspirations toward excellence of professional architects. The analysis of cultural benefits and environmental and cultural sustainability of the work of architects is inadequately glossed over in the report.

31. Section 5 Part 5.1 The "literature" referred to in para. 2 is not specified.²⁸ In page 68, emphasis is placed only on the potential for 'harm' rather than comparing this with the potential for 'good' that suitably qualified and experienced architects might potentially do for 'consumers', so failing to address the benefits stated in the terms of reference of the review.

32. Section 5 Part 5.1 "Information Provision" (Draft Report... p.73) The 'information provision' approach is an ethically irresponsible approach by the commission, based on the provision of data only (raw, disparate, scattered and incidental) rather than also including knowledge (socially informed contextual information).²⁹ The suggestion that architects boards are inherently self-interested is contradicted by the fact that they are not marketing bodies but professional bodies, and comprise some members excluded from the "profession" as defined by the Commission (retired senior architects, etc.) in Appendix B. The sentence following at the foot of page 73 is grammatically incorrect.

33. Section 5 Part 5.2 The statement that "clients may choose to ignore the advice of the architect" is a moot point.(p. 76).³⁰

34. Section 5 The finding that "in most cases, alternative regulations are in place to address various spillovers" (Draft Report... p.78) is nebulous and has not been substantiated or demonstrated.³¹ The finding that "these approaches address the issues more directly and comprehensively than certification of architects" is unsubstantiated. No recommendation for the possible improvement of the legislation is made, as required in the Terms of reference 5 (e)

35. Section 6 Part 6.1 - the Commission relies on uncertainty as foundation for its argument that restrictions in the use of the title 'architect' may have impeded competition. For example: "restrictions on the use of the title 'architect' and its derivatives may have unnecessarily constrained information available to consumers about competent providers. "(Draft report... p.79);Restrictions on advertising by architects in several jurisdictions may limit competition between architects and also their ability to compete with others in the building design and related services market." (Draft report... p.79);³² The Commission does not adequately demonstrate through citation that architects believe that costs of registration affect their ability to be competitive on the market place. (Draft report... p.79). The Commission highlights its own inaccuracies in findings when it states that, "there is only limited direct evidence of the competitive and efficiency impacts of the restrictions contained in the Architects Acts and significant data limitations preclude exact quantification of the costs involved.. However, the general size of the effects and the markets in which they arise can be postulated." (Draft report... p.80)³³

36. Section 6 Part 6.2 - the costs to consumers and non-architects, referred to in p.80, para. 4 are not measured.³⁴ Further conjecture on the part of the Commission is presented here. There is a fundamental flaw in the methodology being used in the Commission's analysis of data of relationships between fee-for service, charged by architects, and non-architects alike. The Commission does not appear to have gathered this vital information in order to draw conclusions.³⁵

37. The Report also misses the point of standard setting when it suggests that, "the registration requirements of the Acts are quite stringent and preclude easy qualification by other building design professionals." (Draft report... p.80)³⁶ The report also fails to acknowledge here that non-architects are not precluded from gaining registration.³⁷

38. Section 6 Part 6.2 - the Commission fails in the depth and quality of its research when it states, "Those who only require these services infrequently, such as customers in the single dwelling market, may not be familiar with the range of providers available." (Draft report... p.82) The obvious market majority that project home builders and building designers hold in the domestic arena would suggest the contrary.³⁸

39. In para. 4, p. 83, the Commission incorrectly and narrow-mindedly deduces that because the majority of consumers use non-architects there is consequently no discernible difference in the quality of service provided. In addition, the report then cites and unquestionably relies on some well-worn submissions (numbers 374 and 377), in an attempt to substantiate and accurately measure these differences.³⁹ No attempt is made by the Commission to analyse this information in a credible manner.

40. In para. 5, p. 83, further unqualified probability of costs is used to add weight to the Commission's findings.⁴⁰

41. Section 6 Part 6.2 - The Commission makes reference to the use of the title 'architect' and its derivatives outside the building industry as being good reason to de-regulate the title and its derivatives even further.⁴¹ An increase in the proliferation of the use of the title and its meaning would suggest the opposite - a need for greater protection for the consumer and not less.

42. The Commission, in reporting on a finding from the Trade Practices Commission from 1992, does not appear to hold those findings in high regard. It cites, "The Commission (TPC) therefore concludes that current restrictions on use of generic title 'architect' and its derivatives are not having a significant effect on competition."⁴²

43. In para. 1, p.90, the Commission fails to provide data to substantiate its claims. No information is provided to ascertain how many consumers of architectural services the Commission contacted in order to determine: whether consumers had considered lower-cost alternatives; and/or whether they had adequate choice and information available to them in the market place in order to determine the service best suited to their needs.⁴³

44. In para 2. P.90, the report pointedly highlights that architects have limited power in the market place through the legislation of registration. They also note that low average incomes reflect competition amongst architects under the current legislation.⁴⁴ In the next paragraph on the same page, the Commission surmises that architects have to bear high costs in the act of being registered.⁴⁵ No information is presented to acknowledge: how many submissions from Architects were received that indicated that the costs of registration were unacceptable to architects; and whether or not these costs shackled architects in being competitive in the market place.

45. Section 6.2 Findings - The Commissions qualifying statement in its reported findings do not diminish their acknowledgment that, "The anti-competitive effects of the Architects Acts appear to be limited." (para. 1, p.91)

46. Section 6, Part 6.3 - gross inaccuracies in the ability of the Commission to conduct its research into the architectural services are evident in the statement, "At the time these restrictions were introduced, single discipline practices predominated and architects were more likely to provide all services from design through to supervision of building." (para. 2, p.91)⁴⁶

47. Section 6, Part 6.4 - highlights that recurrent costs of operating the Acts in most jurisdictions are entirely met by registration fees paid by architects and other income of Boards." (para. 5, p.95)⁴⁷

48. Section 7, Part 7.3 - with regard to the international market for architectural services, it is noted that international precedent for de-regulation do not exist.⁴⁸ This highlights the Commission's recommendations for de-regulation to be even further exposed to risk because of the uncertainty attached to such proposals for de-regulation. The Commission might like to ask the question, "if de-regulation is of greater benefit to the consumer than the costs, then why haven't regulated countries, with even stronger beliefs in the free-market ideals enacted repeals of existing similar legislation?" The Commission further acknowledges another flaw of de-regulation, when it refers to the related adverse effect on international competitiveness in the global economy of de-regulation.⁴⁹

49. Section 8, Part 8.2 - Further gross generalisations on consumer costs are provided by the Commission, when they state that consumers bear costs through a lack of knowledge of the existence of the availability of alternative, non architectural services.⁵⁰ What evidence does the Commission offer in support of this claim? How many clients of architects were surveyed to justify this statement? Later in para. 3, the report exposes its shallow analysis when it states: "It is very difficult to quantify the magnitude of these effects."; and in para 5 - " On the whole, the anti competitive costs of restrictions on the use of the title architect and derivative terms appear to be limited. Nonetheless, they cannot be ignored." If the Commission was able to quantify all of its perceived costs and benefits then it would be fair to say that the anti-competitive costs referred to previously cannot be ignored. In the absence of such information the facts are that restrictions on the use of title 'architect' and its derivatives are on the whole negligible.

50. In para 1, p. 115 - factual support for statements made on costs to young architects appears to be elusive.⁵¹

51. Section 8, part 8.3 - again we see insubstantial and one-sided evidence and illogical conclusions being provided by the commission to support the claim that, " Though community costs are limited because competition in the market for building design and related services is not hindered significantly, the Commission considers that the public benefits of the current system, in terms of consumer protection, information provision, and community-wide effects are negligible. The Commission therefore, is of the view that the costs of current legislation regulating architects outweigh the benefits, and that net public benefits are negative."

52. Section 9, Part 9.3 - A gross error appears in the Commission's understanding of the relationship between professional affiliation and registration.⁵² There is no current compulsion for architects to be a member of a professional affiliation.

53. Para 4, p 139 - in projecting scenarios for the transition of de-regulation, the Commission misinterprets the claim made in Hodge and Collard's submission (sub 30, p. 1).⁵³ The thrust of this statement should have highlighted to the Commission that deregulation would increase consumer confusion. Submission number 30 cannot be used as a means of supporting the argument that there would be no confusion with deregulation because it already existed.
54. Section 10 - in stating agreement with a statement reported in the review of similar UK legislation (para. 1, p. 14 8), the Commission have omitted to acknowledge that the finding of the 1993 review of UK legislation resulted in maintaining architects certification legislation.

Yours sincerely

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Stephen Parkin

NOTES

- 1 The draft report of the Review should correctly be titled the "Review of Legislation Regulating the Architectural and Building Design and Related Professions" If the present Review is intended to address the services and professional activities of not only architects, but non-architects who would wish to compete with architects in the 'profession of architects', such as building designers, as appears to be the case here, then it is suggested that the title constitutes an offence in contravention of the Western Australian Architects Act as amended §29, (1.) (b) (iii) (Fine; One thousand dollars) Note: The essential role of an architect is to design buildings which are as durable, as convenient and as beautiful as possible within the time and financial resources available. These factors require careful consideration, but nevertheless in the history of Western culture, are usually appreciated by consumers consciously or sub-consciously in their daily life. It is clearly a question of good economy for a consumer to receive valuable services from an architect who is appropriately rewarded with a reasonable monetary consideration. The vocation of an architect is one which involves passion and aspiration, which goes beyond fulfilling the minimum competencies, and where there is a duty and aspiration to please not only paying patrons but many others with whom the architect is not bound in contract.
- 2 The timing of the report and hearings in the last month of the 1999-2000 financial year is unfairly designed to coincide with the pre-GST construction rush with which the same Assistant Treasurer has been actively involved. It is unreasonable to expect an adequate number of architects and others involved in the building industry at this time to take the extensive time needed to make comprehensive comment on such a poorly prepared report.
- 3 2 (a) The purpose of the inquiry is to achieve greater consistency in any future legislation of the architectural profession in Australia. The purpose of 'achieving greater consistency' has been treated superficially. The reasons for excluding the possibility of legislative reform appears prejudiced. (b) The purpose of the inquiry is to assist State and territory governments in the legislation review obligations under the Competition Principles Agreement, in relation to legislation that regulates the architectural profession. The present inquiry has not addressed competition between only members of the architectural profession, but any professional or non - professional or hobby building designers. The scope of the architectural profession is different to that of the building design and drafting practice.
- 4 It is suggested that the members of the Commission familiarise themselves with the differences at law as well as the cultural differences in the history of culture between the architectural profession and building 'design' in Australia and the rest of the world. It will be apparent that the difference is far more fundamental than semantic (words). The definition cited on p.34 is a small improvement. Suggested reference works; Jon Stevens 1998 "The Favored Circle; the Social Foundations of Architectural Distinction" (An analysis of the architectural profession, by an Australian author, which goes beneath the surface to uncover its underlying value system) Derek Senior 1964 "Your architect" (An English lay persons' view of what architects do)

Jonathan Hill 1998 "The Illegal Architect" (An English educators characterisation of the legality of architecture as a profession) Alec Eggleston 1955 "The Practicing Architect" (A traditional Australian view of Architects) Sarah Chaplin et. al. (eds) 1998 "Consuming Architecture " Architectural Design Issue Vol 68 No 1-2 Jan -Feb 1998 (A survey of Architecture's role in Consumerism) Francesca Hughes (ed.) 1998 "The Architect; Reconstructing her Practice" (A survey of cultural reforms to the architectural profession) Also a comparative national review tour of RAI A award winning and BDAA and MBA award winning buildings would be advisable.

- 5 Scope of Inquiry (a) Legislation which restricts competition should be retained only if the benefits to the community as a whole outweigh the costs, and if the objectives of the legislation cannot be achieved by other means, including non-legislative approaches. This review does not demonstrate that the benefits of the legislation do not outweigh the costs. Consumers currently choose to commission services as they require, whether architects' services or not. Consumers have a right to pay as they choose fit and necessary for legitimate architectural services. They have a right to know whether architects services are legitimate. In addition, the value beyond the contractual benefits should take into account the non-monetary community benefits from architects who participate in education, local councils, advisory capacities, public sector positions, and voluntarily taking part in community services such as responding to legislative reviews such as this one. A non-legislative (market-regulated) approach would commodify the title architect, making it a freely available marketing word, with no public sector responsibility towards its legitimacy of use in terms of qualifications and experience of the user of the title. There is no available model worldwide where the 'privatisation' of regulation of architects has led to a maintenance of status quo or to an improvement of the value for money of an architects services, although there may be examples where the net value for money of services (taking into account misinformation or deceptive marketing) on average has been markedly reduced.
- 6 (a) The assessments in relation to the matters in Para 3 have not, as required, had due regard to legislation and policies relating to ecologically sustainable development, social welfare and equity considerations, community service obligations. (b) The assessments in relation to the matters in Para 3 have not, as required, had due regard to recent or current legislation reviews in Western Australia such as the Architects Amendment Act 1981.
- 7 5. The commissions report has not. (b) taken sufficient steps to publicise the review in order to identify public interest rationale for the legislation; and (k) determined a preferred option for regulation
- 8 Including those who commission architects services which do not lead to buildings being erected, or those who act on voluntary or advisory bodies and community work where architects are active.

- 9 "Competitive" is correctly defined as "sufficiently low in price or high in quality to be successful against commercial rivals" Collins English Aust Edition p.220) The commission seems to have overlooked the second part of the definition.
- 10 The commission cites the Australian Concise Oxford Dictionary definition of an architect as "a designer who prepares plans for buildings ships etc. and supervises their construction" whereas a more reasonable and educated definition is reflected in the Collins English Australian Edition p56 defines an architect as "A person qualified to design buildings and to supervise their erection" The commission is referred to these more illuminating definitions of an architect for comparison The Oxford English Dictionary describes an architect as "a skilled professor of the art of building, whose business it is to prepare the plans of edifices, and exercise a general superintendence over the course of their erection" or "one who designs and frames any complex structure, esp. the Creator, one who arranges elementary materials on a comprehensive plan." 1989, p.613 Webster's Third New International Dictionary "A person skilled in the art of building" 1971
- 11 Anyone can be trained to prepare plans as a mechanical operation. However the intellectual and cultural engagement of an architect is not solely practical but aspires to be holistic, ethical and community minded. These qualities can best be judged not by marketeers and consumers but by objective and fully informed legislative bodies, based on assessment of qualifications and experience such as those examined by the architects registration boards. Any person may be called an architect in the street or in the press in relation to devising tax reforms or a grand scheme of some sort or a crime, however, in order to take part in the profession of architecture, which infers expertise about the built environment, certain socially agreed qualifications and experience should be expected by the community.
- 12 The point is made in page XVI that any services provided by an architect may be performed by non-architects but may not be designated as architectural services. The commission claims that the difference is purely a difference of words; a philistine attitude which is deeply concerning from a government commission. The commission has not suitably informed itself about the cultural qualities of the architectural profession. It is suggested the Commission inform itself about the qualities (including non-quantifiable) of architect's work as required in 5 (g) of the scope of review. A comparison of the RAIA awards and the MBA awards would give an impression to an intelligent person of how architects work and aspirations might be compared to those of builders.
- 13 The definition of architects as practicing architects only in the report is misleading and incorrect. The persons excluded from the figure of 11600 who legitimately belong to the architectural profession may include those who are retired, working in other disciplines, (such as drafting) and those undertaking parenting duties, educators, those working for builders or those soon to give birth, etc., all of whom are actively part of the social role of architect in the community, regardless of their 'market' significance. Important note on Appendix B: The method used by the commission in Appendix B , reducing the "effective" number of architects in Australia from 12000 to 8600 who are practicing is inequitable and irresponsible. The excluded group are part of the profession, even though they may not be involved in the "market". The commission's method excludes those who are retired, working in another discipline or job, parenting, on pregnancy leave, etc, even temporarily, or

those whose practice is too small to have an Australian Business Number. The method effectively dismisses the importance of architects who are not significant in the "marketplace" yet may contribute substantially to awareness and advocacy of design and the built environment as a result of their qualifications and experience. It would be equally incorrect to dismiss from a tally of building designers those who have other full-time or part-time jobs or hobbies (e.g. drafters).

- 14 The public interest is not better assessed in the present review than in the TPC in 1992. The AACA National Legislative Guidelines are not legislation, but guidelines, however, their suitability for use as a guide for legislative reform has not been properly considered, and it is this Commission's responsibility to do so under their Terms of Reference 4 (a) and (b) and 5 (c).
- 15 The definitions are repeated from above. A dictionary such as Oxford English Dictionary or Webster's Third New International Dictionary of the English Language (unabridged) should be consulted for a more precise definition. See footnote 10 above.
- 16 The Commission has not defined what the commission has dismissed as non-core features of an architects work, such as materials research and testing, specification writing, design development, environmental and acoustic design, interior architecture, colour consultancy, graphic and signage design, urban design, etc.
- 17 The model has not been sufficiently developed to make any informed, balanced or judicious assessment.
- 18 Not any more relevant than the history of architects in other developed countries, which the review has not properly addressed. Australia is part of a global culture and economy, no longer a colony!
- 19 Specific discussions and sample groups and the exact impacts should be cited and assessed objectively. Pure conjecture should be excluded from a report of this nature.
- 20 Architects practices are not limited to only the acts of designing and "erecting or supervising the erection of a structure or building". (Draft Report... p. 15) Thus, performing the aforesaid act without qualifications or experience or intellectual intent may or may not lead to what is socially or culturally mandated as architecture in Australia. Precise restriction of practice of 'drafting' or 'building design' or 'architectural practice' may not be effected legislatively. The meaning of these activities is guided by titles of those professing to have expertise due to qualifications and experience. Professional titles valued by society are currently upheld through legislation. Whether practice is considered 'architectural' is established socially, not only by the market. (refer Stevens, J 1998 passim.) Every person may form a private opinion of what constitutes architecture, from the workings inside a computer to a system of government policy reforms.
- 21 being applicable to animals rather than professional people.
- 22 The comment on restriction on the "dimensions of buildings that non architects can design" (Draft Report, p.22) misses the point rather than the letter of such legislation. Dimensions of buildings and their impact on the quality of the built environment are not merely physical, being measurable in millimetres, but social and cultural.
- 23 Submission 374 "...quality standard of work..." is an inaccurate claim which is not substantiated. Drafting industry awards are not equated with architectural awards. Submission 376 in the reference to "university

training clearly reflects a biased misunderstanding of the meaning of tertiary education and its distinction from drafting exercises.

- 24 This applies for example with 'sex therapists' or 'medical doctors' Claims (as in Submission number 34) to the equivalence of architects' and building designers services generally, are clearly uninformed.
- 25 Non-architects cannot provide all the same services as architects, because they usually lack the qualifications and experience to do so. "Similar" is not "identical". The distinction is critically important in this Review.
- 26 The commission equates "informal regulation" with legislative certification, two completely incomparable things in today's architectural profession.
- 27 The work of architects is not only a product but also an architectural culture. The latter has not been addressed.
- 28 If the "literature" is 30 years old as in point 29 above, then the report is of no real value and should be discarded.
- 29 At present, consumers may be able to inform themselves, however in the absence of legislative certification of architects, the understanding of what architects do would quickly deteriorate (as the report has shown) and lowered standards of built environment education will find consumers less equipped to make responsible decisions about their environments, including decisions with respect to the 'value' (socially and monetarily) of architects.
- 30 It does not necessarily mean that the architects' advice is of no worth to the public, if ignored by a client. Ignoring the advice of a non-architect (a person without sufficient qualifications and experience) can equally mean that the latter advice is of no worth, but is by nature of (cheaper) business, less likely to be in the interests of the public.
- 31 It is inaccurate bureaucratic waffle.
- 32 Where is the Commission's empirical evidence to support these claims?
- 33 The Commission does not expand on the 'general size' or magnitude of the effects.
- 34 "Any additional search costs for consumers or promotion costs for non-architects represent costs of restrictions of title..." (Draft report... p.80)
- 35 "For those groups of consumers which predominantly use architects, fees are likely to be somewhat higher than otherwise because competition available from possibly lower cost alternatives is somewhat inhibited." ... " (Draft report... p. 80) The Commission does not refer the reader to any evidence of substantiating data.
- 36 Surely, it is in the consumers best interests for professional standards to be set to minimise the risk to consumers from under-qualified and under-experienced people deeming themselves to be architects. It is also arguable that there are in fact greater benefits available for the consumer through stringent registration requirements than the Commission currently recognises.
- 37 Architects Acts allow for people who do not possess five years of education from an accredited institution and two years practice experience to apply for registration. The AACA provides a mechanism for registration based on equivalent non-tertiary qualifications and experience.

- 38 Given that the majority of consumers in the domestic market already use the services of project home builders or building designers over architects, this suggests in the first instance that the consumer is already adequately aware of the availability of these services.
- 39 "The continuing success of non-architects indicates that many consumers consider their services to be of a similar nature to those provided by architects, and sufficient quality to meet consumer needs (Chapter 3). Several participants from the building design sector (for example, the BDAA (sub. 40), Michael Purtell (sub. 374) and James Frewin (sub. 377) argued that non-architects, such as building designers, were capable of providing good quality building design and related services on a wide range of residential and commercial projects (box 6. 1)" (Draft report... p.83)
- 40 A distortion of the mix of demand between architect and non-architect providers and probably some increases in costs." (Draft report... p.83)
- 41 "In most jurisdictions the restriction on use of derivatives extends beyond the building design and related services market. There is no benefit to consumers or the broader community of such a wide-ranging restriction of title. Architect and architecture are terms increasingly used outside the building industry - particularly in the computer industry - to describe different types of systems and their creators." (Draft report... p.83)
- 42 The Commission does not offer any factual evidence in opposition to the finding from the TPC of 1992.
- 43 In general, any impediments to competition are likely to result in higher prices for consumers and a reduction in quantities consumed. Data presented in Chapter 3 indicate that, on average, income of architects is somewhat lower than many non-design professions. However, architects' fees appear to be somewhat higher than those of some non-architects. This may, in some cases, reflect a more extensive or better quality service. However, in some markets, it may also partly indicate failure by consumers to consider lower-cost alternatives, reflecting the division of supply of building design and related services created by the Architects Acts." (Draft report... p.90)
- 44 In some industries (for example, monopoly public utilities) producers dissipate returns available from market power in over-servicing or other excessive cost, rather than taking them purely as large profits. However, the absence of restrictions on practice suggest that the Architects Acts bestow only limited market power on architects and relatively low average incomes largely reflect this competition, rather than indicating inefficient practices." (Draft report... p.90)
- 45 "Nonetheless, registration requirements may impose unnecessarily high costs on architects." (Draft report... P.90)
- 46 There is obvious error in the Commission's understanding of the services offered by architects. Architects in providing contract administration services to clients, do not 'supervise' building, this is the job of the builder. Architects tend to make periodical 'inspections' of the building under construction, on behalf of the client.
- 47 It would seem that the Commission has only been able to accurately measure one cost without the need for spurious claims. It has measured the costs of registration.

- 48 "As the Commission is not aware of any precedents where other comparable countries have removed registration, it is difficult to ascertain the impact that such a move would have on the international competitiveness of Australian architects." (Draft report... p. 108)
- 49 "It is possible that, if registration no longer existed in Australia, and there were no commensurate change to regulatory arrangements in other countries, the competitiveness of Australian architects on the world market would be impeded. However, alternative mechanisms could be devised to meet requirements imposed by overseas consumers and regulators." para 5, P. 108
- 50 "Some consumers may not be aware of the existence of other providers of design services apart from architects." P. 114 para 3 –
- 51 " It is also possible that registration requirements are necessarily onerous, imposing additional 'entry' costs on young architects, discouraging registration." P. 115 para 1. How many submissions from young architects noted the costs of registration either, discouraged them from registering or placed unnecessary costs on them to be competitive in the market place?
- 52 "A significant difference from the current statutory system, however, is that there would be no compulsion on architects to be members of any professional association in order to use the title architect." P 134 para 2 –
- 53 " There is already great confusion amongst the public as to the differences between a drafter, building designer and a registered or graduate architect. The deregulation of the profession would only exacerbate this confusion. (sub 30, p. 1)"