

# The Productivity Commission Inquiry

## Review of Legislation Regulating The Architectural Profession

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## ***Executive Summary***

We do not believe that the primary recommendation of the Draft report, that the Architect's Acts should be dismantled over the next two years is in the greater interest of the wider community. At the least, deregulation should be put on hold for at least five years, to allow the existing "spill overs" and "information asymmetries" to be addressed with nationally focused remedies, such as national registration, and transparent disciplinary provisions.

There are several areas within the Draft Report where the existing frameworks and regulatory mechanisms have been identified as not working sufficiently well from the perspective of either consumers or the architectural professions. These areas should be addressed and remedied as an intermediary step before any moves to deregulation.

## ***Architectural services versus architectural practice***

*"Professional versus non-professional"*

*"Building design and related services versus building procurement services"*

The Productivity Commission (PC) has tried to define what architects do, what the community believes architects do, and what other professionals do that is similar to architects. I believe that the PC needs to adopt a broader view of where architects stand within the process. I feel that "architectural services" are a broad range of skills – many of them quite general, in terms of the building industry – that, when combined can be utilised by our clients to procure an appropriate built response to their identified needs.

This raises several issues:

1. *Design (generally understood to only mean "drawings")*

Although an integral part of the procurement processes, the design process is not our core service.

2. *Service vs Practice*

The services outlined should not be understood as being the full extent of what we do in our architectural lives. Considerable time (unpaid) is spent undertaking projects – competitions, debates, discussions, kite flying – for the fun, and the freedom. I have told our recent work experience students that architecture is a social disease – it gets under the skin, and inhabits many or all aspects of ones life.

3. *"A rose by any other name..."*

My understanding of the registration process is that it is an examination of the broad areas covered by architectural practice. A high level of specialisation – which is exhibited by many of the "Building Designers" noted in the Draft – is almost actively discouraged, due to the need of the profession for a good understanding of these broad based skills.

As an aside, I do know of some building designers who have taken a political decision not to register as an architect, which I can fully understand.

4. *Defined Roles and skills*

In the deregulated environment proposed in the PCDR, what becomes the determining factor in describing what an architect is or does? Is it purely market driven? How is "community service" factored in? What is the effect on "secondary professionals" such as "architectural drafts people", or "architectural consultants"?

By opening up the field, the proof of credentials is left to actions under the Trade Practices Act, and the federal court process – an expensive (for the consumers) and lengthy process. How can the profession of architecture be a profession when there is no definition of what an architect is or does.

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5. *Non-service based activities*

In order to be in a professional position where architectural services can be competently offered, architects invest large amounts of time and effort in research and learning other areas of information that may not be directly related to the core services offered. These are done in order to provide a more rounded service for the consumer, to provide not only what they are asking for, but also to understand what they are not asking for.

The “price” for the rounded service is the name Architect. This title creates a space within which a suitable series of skills can be developed. And it always takes years. For instance, recent exhibitions and magazine article on “young” architects rarely includes those under the age of 35. How can there be fair competition when some practice under the same title without the same skill base.

Another example is that the recent Productivity Commission Report into the Environmental Sustainability of Commercial Buildings. In this report was a finding that essentially read that the green design expertise currently within the building professions, are of (effectively) no value until the price of electricity was increased to more closely match the social cost of production. If this were enacted, and the green design principles being taught were abandoned, there would be a potentially disastrous lag when the electricity price is increased, and there are no skilled professionals to meet the demand.

### ***Post-deregulation and market failures***

The PC needs to be concerned with the effects of deregulation. Who will address market failures, and through what mechanism. What will constitute a market failure, as opposed to the normal schisms of the market.

From the point of view of tertiary education of architects, what will define the skill base that the “profession” will need. How will standards be addressed?

### ***Refining the existing system***

The PCDR has identified many of the weaknesses of the existing state based regulatory system. There are several key aspects of the system that could be better utilised to the benefit of all.

1. *Disciplinary provisions*

The existing provisions of the state-based boards need to be enhanced by being made:

- Independent – or at least arms length.
- Transparent
- Accessible
- Affordable
- Fair
- National

2. *National Registration and regional distinctiveness*

National registration, with supplemental regional qualification should be considered, to allow all registered architects to practice nationally. New, regionally based supplemental qualifications (ie tropical, alpine, cyclonic etc.) requirements could be developed, to ensure that, for instance, an architect based in Hobart could adequately develop a project in Darwin. Alternately, it becomes a tool for local distinctiveness in an already crowded market.

Costs of registration could be streamlined, by allowing practices be registered for free, as long as the directors maintain their qualifications.

Compulsory Professional Development programmes, and renewable licences should also be explored as methods of maintaining professional skill bases to current standards. It may be that registration should include a certain amount of PD provided by a third party.

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3. *Deregistration and alternate models.*

In developing the Draft Report, the PC appears to have two separate tests for legislative intervention. For the legislation under review, the onus is for the benefits of the legislation to be clearly above the costs, or else removal is recommended. For any other form of legislative intervention (which removal of legislation should be considered) the benefit of the action must again outweigh the costs, or else no change can be recommended. This is a fundamental contradiction that occurs through out the report.

From this perspective, although the PCDR indicates that the costs outweigh the benefits of the existing regime, it has not been demonstrated anywhere that the benefits of removing the legislation outweigh the costs of this action.

4. *International regulation and exported services*

Although the benefits of regulation in terms of the export of our services has been heavily played as a reason for retaining the regulation, for small practices such as mine, it is not relevant. It feels slightly short sighted to refrain form an action, only because of the potential impact on our export markets.

In addition, it is interesting to note that the examples of international practice given appear to only describe those, which support the PC's primary finding. A broader survey of international practice should have been described, if only to remove the perception of bias. It also remains to be seen that best practice is the equivalent of international best practice, is the equivalent of practicing in Australia...

### ***Terms of Reference***

The Productivity Commission appears to have paid little attention to Paragraph 4(a) of the terms of reference. Little discussion of these broad areas is evident.

In addition, the PC appears to have developed an a priori finding, and the discussions around items 5(b),(h) and (k) appear to be primarily focussed on backing the primary finding.