

**HAMES SHARLEY**

## **Response to the Productivity Commission on the Review of Legislation Regulating the Architectural Profession**

**For discussion in Perth on Tuesday 6 June at the P.C. Hearings**

### **Hames Sharley**

Hames Sharley is one of the largest multi-discipline architectural practices based in Perth. We currently have over 65 staff in the Perth office and over 150 staff in the offices in Melbourne, Adelaide and Auckland with the intention of expanding to other State capitals in the next five years. The practice offers services in the fields of architecture, interior design, urban & regional planning, landscape architecture, health planning, and applied economic and social research.

Work in split between the private and public sectors with approximately 70% for commercial clients and 30% for public clients. Currently between 28-30% of our income is from overseas consultancies.

Particular specialities of the practice include retail planning and architecture, health planning and hospital design, public buildings and multi-residential developments.

Hames Sharley's submission to the Productivity Commission's hearing in Perth will be presented by Warren Kerr, a National Director of Hames Sharley with specific responsibilities for health planning and hospital design consultancies. Warren is a qualified architect with a Master's Degree in Health Administration, who during his career has been registered as an architect in Western Australia, Victoria, Queensland, Tasmania and the A.C.T.

Over his 25 year career specialising in the planning and design of hospitals, Warren has headed up the Commonwealth Government's Hospital Design Group, the Dept of Veteran's Affairs hospital planning and design unit, the W.A. State Government's Hospital Design Group and the hospital design groups of two major private sector

architectural practices providing architectural services throughout Australia and overseas.

The experience he has gained as a member of the Senior Executive Service of the Commonwealth Government and the W.A. Government as well as a Director of two major private sector architectural practices, is reflected in this submission.

Unfortunately, prior commitments have prevented other Directors of Hames Sharley attending the Productivity Commission' Perth hearings, although their comments are included in the contents of this submission.

To ensure that issues related to the impact of the Commission's recommendation to repeal the Architect's Acts on the market for architectural education in Perth, Hames Sharley has invited Professor Laurie Hegvold, Head of Curtin University's School of Architecture, Construction and Planning to accompany Warren Kerr to address the Productivity Commission on this issue.

### **Hames Sharley's Objectives**

The primary reason for Hames Sharley's existence is to develop with skill and integrity the ideas and aspirations of our clients to produce solutions that excel. In order to consistently provide high quality architectural and planning consultancy services which meet this aim, Hames Sharley has adopted a corporate philosophy which includes the following considerations:

- To seek to provide efficient and effective services of appropriate quality to all clients
- To seek to address the overall problems of our clients through a multi-disciplinary approach.
- To deal with clients, staff, consultants, suppliers and competitors in an honest and honourable manner.
- To constantly improve the quality and effectiveness of the services we provide.
- To create a humane organisation which contributes to the betterment of society.
- To recruit, train and develop high quality staff who each can each act as ambassadors for the firm in their respective fields.

- To progress the state-of-the-art in each of our disciplines through study, research and advocacy.
- To conduct our corporate affairs in a manner that is satisfying and rewarding for clients, staff and associates.
- To enhance our reputation and influence through the provision of high quality advice to clients, professional organisations, governments and the community generally.
- To ensure that Hames Sharley has the financial resources to adequately meet our commitments and to achieve the aspirations outlined above.

These aspects shape our approach to all issues, including this response to the Productivity Commission. Our major reasons for spending the time and effort required to prepare this response are as follows:

- To assist the Commission to obtain factual evidence for consideration.
- To assist the Commission to understand the implications of its recommendations
- To ensure that current and future architects have the opportunity to improve the built environment for all Australian and overseas clients
- To ensure that the architectural profession is provided with opportunity to improve (rather than diminish) the level of service it provides to the clients and the community it serves.

### **Response to the Productivity Commission on the Review of Legislation Regulating the Architectural Profession**

Hames Sharley has read with interest the Productivity Commission's draft Report on the Review of Legislation Regulating the Architectural Profession, and notes with concern the Commission's recommendation that State and Territory Architect Acts be repealed after a two year period. It appears from our reading of the draft Report that this recommendation stems more from economic ideology than practical reality. We also believe that the Productivity Commission has not adequately addressed its Terms of Reference and considered fully the implications of its recommendations.

While not explicitly stated in the Terms of Reference, the draft Report also suffers from a lack of appreciation of the role that the architectural design process plays in

the production process for a building (or improvement to the built environment). It must be recognised that the provision of architectural services is only one part of the production process. It is considered significant, because it determines the efficiency of the product (the building) and the resultant costs which flow from those design decisions.

If the Productivity Commission was requested to examine the whitegoods or electrical appliance industry, it is unlikely that it would be only asked to examine the **design** of fridges or video tape recorders (VCRs). Over the past two decades, there has been significant improvements in the sophistication, convenience, production and quality of VCRs for example, while the costs of these items have steadily dropped. However, these improvements have been achieved NOT by minimising the input into the design and research phase of production, but by spending additional effort on these aspects in order to create efficiencies in the production and operation of the resultant product.

Hames Sharley believes that the Productivity Commission needs to take a holistic view of the economic costs in the production of a building.

It appears that the Commission's approach is predominately based on the assumption outlined on page 5 of the Introduction to the Draft Report which states that:

*“Competition generally will foster production efficiency and thus generate lower prices and better levels of service for consumers.”*

It is acknowledged that the application of these criteria to competition for the supply of commercial and industrial goods has produced benefits for consumers (as per the example of VCR's cited above). However this has not been the case in relation to professional services. As the recently released CSIRO Report <sup>1</sup> on design and

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<sup>1</sup> Design and Documentation Quality Survey BCE Doc. 00/113 00/114 00/115 CSIRO

This Survey finds that:

- 1 the price competition has driven down fees of Design Consultants in the construction industry by 24% in real terms over the last fifteen years;
- 2 as a direct result the quality of design and documentation services have declined; and as a consequence,
- 3 buildings are costing more and taking longer to construct.

documentation in the construction industry demonstrates, lower prices are resulting in significantly lower service to consumers.

In the case of the professional services of architects, better service is a product of the application of high levels of knowledge and skill to design research and to the development and documentation of design solutions. This results in a more efficient and effective product (the building).

The quality of the architectural service is proportional to the time and level of intellectual capacity that is applied. This in turn is determined by the working revenue available.

The intellectual process of creating an optimum design solution and providing adequate service, in the interests of the client, cannot be improved by competition which forces a reduction in the amount of time that an architect spends on a project.

The criteria quoted above from the Report may be represented as follows;

***Production efficiency + lower prices = better service for consumers***

In relation to the professional services of architects the criteria that should be adopted to guide Competition Policy can be represented as follows;

***Knowledge + applied design research = better services for consumers  
+ adequate resources***

We believe that a form of competition based on knowledge and capability will produce the best result for clients and the community.<sup>2</sup>

While the recommendations of the Productivity Commission draft Report may save costs in the provision of architectural services, the results could be more expensive buildings which cost more to operate and become a liability rather than an asset for the community. This will not be in the interests of consumers or the public.

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<sup>2</sup> In the United States of America the Federal Government's 'Brooks' legislation requires this type of competition for architectural and engineering services on publicly funded projects. Similar competition arrangements have also been introduced in the United Kingdom.

## Specific Issues

To assist the Commission in its analysis, Hames Sharley wishes to highlight the following issues addressed in the order they are recorded in the draft Report.

### TERMS OF REFERENCE

#### Page IV **Background**

*(a) achieve greater consistency in any future regulation of the architectural profession.*

Hames Sharley does not believe that the Productivity Commission has examined in sufficient detail, the improvements which are required to the existing legislation, before making a decision to repeal the legislation.

#### Page IV **Scope of Inquiry**

*4. In making assessments in relation to the matters in paragraph 3, the Commission is to have regard to the following matters, where relevant:*

*(a) quality of the built environment and government legislation and policies relating to ecologically sustainable development; social welfare and equity considerations, including community service obligations; government legislation...etc..*

Hames Sharley was extremely disappointed in the poor standard of the economic research evident in the draft Report regarding issues related to the quality of the built environment and the impact of the architectural profession in creating an ecological sustainable development.

#### Page V **Scope of Inquiry**

*5. The Commission's report will:*

*(g) assess and balance the costs and benefits of the restrictions identified – benefits, costs and impacts of the restrictions, and their alternatives, are to be quantified wherever practical;*

*(h) in assessing costs and benefits in (g), consideration is to be given to the long term social, cultural and economic impacts of architectural services;*

Hames Sharley notes that only a very superficial analysis of these issues is evident in the draft Report. Very few costs are quantified and almost no attempt is made to consider the long term social, cultural and economic impacts of architectural services.

## Page 9-23 **2 Current Regulation of Architects**

No mention is made of the attempts made by the various Boards over many years to update the Acts and to improve their consumer protection arrangements.

No mention is made that the majority of the Boards require Board members to undertake their duties without remuneration.

## Page 10-11 **2.2 Objectives of the Acts**

No mention is made that the Second Reading speeches were aimed at ameliorating architects practising at that time who opposed the additional restrictions the Architects Acts would invariably require.

## Page 25-48 **3 Architects and the Market for Building Design and Related Services**

Significant aspects regarding the evolution and development of the architectural profession have not been included.

For example the structure of the industry is an important aspect in understanding the demand for architectural services and the sophistication of the services provided.

In Western Australia, there is no dominant force in the building design consulting industry in Western Australia. It is comprised of a large number of small firms operating on low margins with minimal investment in infrastructure. The cyclical nature of the construction industry has resulted in a desire to avoid commitment to investment in overheads, which may be unsustainable should the industry go into decline.

It is a relatively unsophisticated industry in terms of marketing, structure, management, R & D, and training. This is primarily due to its history and evolution.

Up until the early 1990's, the Government's PWD/BMA was the major building design consulting practice in Western Australia. By juggling the extent of work placed with the private sector, it could maintain a stable workload for its staff and ensure continuity of training and skills development for the range of specialities required for Government projects.

During the 60's, 70's and 80's, any major Government projects outsourced to the private sector were only allocated to practices based in this State. The opportunities for large consulting practices based in the eastern states, to gain a foothold in the WA market were strictly limited and this approach was echoed by the major private clients with a "buy WA first" approach.

However, during the 1980's and 1990's this approach changed. The creation of national client conglomerates and the downsizing of the Government's in-house consulting capacity, resulted in a series of projects of sufficient scale to attract the well-established consulting firms of the East to undertake work in WA. Initially this was undertaken in joint ventures with local firms and often this led to national partnerships and amalgamations.

The creation of national firms has been one of the major structural changes of the last decade. Because of the low margins in the industry, these mergers and amalgamations enabled the larger firms to spread their risks over a number of state-based markets. For example, should South Australia and Victoria be in decline, but NSW and Queensland booming, the income and survival of a national firm could be assured.

The larger WA firms which didn't take up the opportunity to amalgamate, often perished (sometimes on the basis of missing a single large project). In the architectural field, the past decade has witnessed the demise of a number of the major firms as the senior partners with marketing contacts and/or recognised skills have retired.



The lack of assets, “brand name” recognition or assured client lists within building design consulting practices has resulted in the evaporation of the net worth of consulting companies. It is now common for partners to no longer buy in to consulting practices and the potential liabilities of an existing track record often outweigh the marketing advantages gained from the claimed ownership of successful projects.

The “shelf life” of all but the larger consulting practices is therefore often limited to the productive working life of the principals.

As a result, there is no incentive in the building design consulting industry to invest in training or research and development activities.

The boom/bust cycle of the industry also restricts the opportunity to build up a long-term permanent workforce within many practices. As a result, a significant percentage of the workforce are independent contractors with no long-term interest in the establishment of systems and procedures within individual firms.

The need to minimise overheads is reflected in the nature of the accommodation housing the majority of architectural and engineering consulting practices. Few firms can afford the CBD accommodation housing other professional consulting firms such as accountants and lawyers.

Prior to 1995, the WA Government maintained a significant in-house source of architectural and engineering advice, knowledge and expertise within the Building Management Authority (and its predecessor the Public Works Department).

In addition to providing over 70% of the building design consulting services required by State Government agencies, these Departments were also responsible for the majority of research and development undertaken in the industry and both were a significant provider of training to practitioners, particularly young graduates.

With the outsourcing of consulting services to the private sector, the Government's role in the provision of information, training and R & D has now ceased. This will result in a gradual decline in the standards in the industry unless other methods are found to ensure that adequate funds are directed to training and R&D.

Over the past decade, the building design consulting industry in WA has been influenced by a number of significant events.

The establishment of national consulting firms and the outsourcing of government work has been outlined above.

One of the major influences over the past decade has been the steady increase of fee bidding as a selection technique within the industry. While deregulation formally occurred in the engineering and architectural professions in the late 1970's and 1980's, it was only during the 1990's that the application of fee bidding became widespread.

The dominant position of large clients in the relatively small W.A. market, has provided them with the opportunity to implement fee bidding with devastating effect.

The result has been a steady decline in the profitability of consulting practices, a real reduction in remuneration, a curtailment of training, and a substantial reduction in the quality of documentation provided to building contractors.

The tight profit margins have also resulted in a lack of opportunities for graduates. Many firms do not wish to take on graduates because of the extra time required to train them in the practicalities of day to day operations. In the past this important task was undertaken for many graduates during their employment with Government agencies such as the BMA / PWD.

The start of the 1990's also saw the expansion of the project management industry in Western Australia. As in other States, the architectural and engineering professions failed to recognise project management as a separate specialty within their own

disciplines and instead spawned the creation of another set of professional practices with their own overheads and costs, resulting in further downward pressure on fees for the building design professionals.

Where specialty markets have been created within building design professions, it has generally been through external influences, rather than through planned internal restructuring of the industry. For example, the promulgation of the Heritage of Western Australia Act in 1990 has seen a significant growth in the numbers of heritage architects and historians specialising in this field.

The outsourcing of government work has also seen a growth in firms specialising in works such as schools, hospitals, courthouses and prisons which were previously undertaken in-house by the WA State Government. However, many of the practitioners in these fields received their training in Government, often through sponsored overseas or interstate study. New ways of gaining this expertise now need to be developed.

During the same period, the building design consulting professions have witnessed the adoption of computerised technology for the drafting of drawings, word processing, accounting, time programming and information retrieval. The consequent investment in I.T. systems is only now starting to impact on the structure of the industry. While many larger firms have now developed relatively sophisticated computer systems, a large number of smaller firms have either very basic systems or none at all. The result has been a division in the perceived quality of the work produced within the professions between those firms who have the equipment to produce colour plots and 3D images and those who still rely on manual drafting.

During the early part of the decade, the push for Quality Assurance forced many consulting practices to revise their operating systems and procedure guidelines. Again, the cost of this initiative has had the effect of dividing the professions into those who can afford the ongoing costs of certification and those (invariably smaller practices) who cannot comply with those requirements.

As the WA construction consulting industry ventures into the new millennium, it faces an uncertain future.

The impact of fee bidding continues to force reductions in services, training and research. However, because of the nature of the industry (i.e a large number of small firms), it is unlikely that economies of scale will be developed to provide enhanced efficiencies.

Further segmentation within the industry will be evident with the proposed WA Building Act shortly to provide for third party certification of building approvals and the creation of a new consulting profession – the building certifier.

Increased regulatory pressures may also result in an increase in the size of major firms and the demise of the smaller firms as the complexity of consulting practices require greater support services.

This trend will be accentuated with the increasing investment required in computers and information systems to operate a construction consulting practice (although these costs may diminish in future years as IT becomes cheaper).

As noted above, access to the latest IT wizardry is already creating a divide in the presentation techniques between consulting practices.

At present there is no agreed future vision for the building design consulting industry in WA. No future 'ideal' structure for the industry has been determined or agreed and no strategy has been determined to deal with the emerging trends and influences. In addition, no benchmarks in relation to quality have been established for the industry, no agreement has been reached on what would comprise "best practice" initiatives and as a consequence, no program has been implemented to aim for "world's best practice" standards.

Unfortunately, as noted in your report, there is no factual data being collected in a consistent format, which enables accurate trends to be defined or predicted. Unlike other professions (e.g. medical and legal practitioners) where the responsible

Government agency maintains workforce planning data to monitor supply and demand in the health and legal markets, no analysis has been undertaken of the workforce needs for the building design professions. Because of this, it is not possible to assess change in the size and profitability of the professions over past years.

To determine trends, the building design consulting industry must rely on anecdotal evidence. However firm evidence does exist on the lack of research and the low level of training undertaken within the professions, which make up the building design consulting industry.

As one of the largest practices in Western Australia, Hames Sharley is committed to the maintenance and improvement of standards in the building design consulting industry and to the cost effective provision of services to ensure that WA has a built environment which is sustainable, energy efficient and appropriate for its climate, culture and lifestyle. It therefore is most interested in the implications of the recommendations outlined in the draft Report.

### Page 37 **3 Architects and the Market for Building Design and Related Services**

The quote by Ovie Taylor that some of the world's best designers were not architects, is left unchallenged. Both Walter Burley-Griffin and Frank Lloyd-Wright complied with the requirements then extant for recognition as an architect. It is important that the final Report contains facts and not inaccuracies.

### Page 47 **Exports of Architectural Services**

It is important to recognise that the export of architectural services is a relatively new development, albeit one that is developing rapidly. The development of cheaper airfares, and communications technology has facilitated the expansion of this sector of the architectural industry over the last decade.

However, the critical importance of legislative registration of Australian Architects cannot be over emphasised.

Overseas markets are highly competitive. It is imperative that Australian firms are not disadvantaged by Australia becoming one of the few Nations in the developed world to repeal the requirement for architectural registration. This recommendation would provide a major advantage to many of our competitors in our overseas markets.

#### Page 47 **4 The Case for Regulation**

Despite repeating in Section 4.2 When is Regulation Warranted that the public interest test requires consideration of social, cultural and environmental impacts of regulation, no detailed consideration of these issues are addressed in this chapter.

#### Page 65 **4 The Case for Regulation – International Issues**

The implications of your recommendations on the market for architectural education is glossed over without detailed considerations of the issues. Professor Laurie Hegvold is most concerned with the impact on the overseas architectural students educated at the Curtin University of Technology and has been invited by Hames Sharley to attend the hearing to present his views on this issue.

#### Page 67 **5 Potential Benefits of Current Regulation**

No consideration is provided of the benefits which could accrue if improvements to the current system of registration were implemented. This gives the impression that the recommendation to repeal the Acts is a foregone conclusion.

#### Page 79 **6 Costs of Current Regulation**

No comparisons are provided of the costs of other registration systems or of the alternatives proposed. Recent advice to Hames Sharley indicate that the CPA advertising campaign used by the accountants cost over \$4 million. The benefits of a legislative based registration system completely funded by architects are obvious.

## Page 89 **6 Costs of Current Regulation - Benefits of Registration**

The Directors of Hames Sharley have repeatedly observed the incentive created in architectural graduates by the need to pass Registration exams, to update their knowledge and skills. If continuing education was included as part of Registration requirements, this incentive would overcome many of the arguments put forward in the draft Report for repeal of the Acts.

## Page 89 **6 Costs of Current Regulation - Current Standards of Registration**

Hames Sharley believes that rather than abolishing registration, it should be enhanced through the creation of specialist registration categories. For instance the field of hospital design is now becoming so complex that endorsement of a specialist category in this field may be warranted. For example, many “GP” architects who undertake hospital design often fail to perceive that an integral part of the design problem is the need to work with the client to reduce the operational costs of providing health care services. As operational costs can now equal the capital costs within two years, this is the major opportunity to create efficiencies. However, the skills and techniques to provide this advice are often unknown to GP architects. By concentrating just on the building, they could be disadvantaging their clients.

A specialist categorisation system would certainly assist Australia’s reputation in Asia in the provision of architectural services.

## Page 97 **7 Consistency and Duplication of Regulation**

Hames Sharley believe that the annoying inconsistencies between the different State Acts are not of sufficient importance to justify abolishing the Architects Acts.

## Page 97 **7.3 International Trade in Architectural Services**

Hames Sharley is astounded that the Productivity Commission admits that it does not know what impact its recommendation to repeal the Acts would have on the

international competitiveness of Australian Architects. One of the Commission's Terms of Reference is to determine these impacts.

While the draft Report then goes on to suggest that an "alternative mechanism" could be established to replace registration, it provides no details of how this could work, and MORE IMPORTANTLY fails to describe how an "alternative mechanism" would overcome the perceived deficiencies of registration.

It should be remembered that Australia's is not a member of any significant trading bloc and the trading relationship with countries in the South East Asian region, which forms the main target market for Australian architects exporting their services, is an uneasy one. It would be unwise to proceed with any change to the regulation of architects in Australia until agreement had been reached with world and regional trading partners to determine what, if any, alternative mechanism they would accept as assurance that Australian architects continue to meet an acceptable standard of professionalism.

The Commission's attention is also drawn to the Federal Government's proposal for an Asia Pacific Economic Community Agreement to establish the "APEC Architect Scheme" providing mutual recognition of architectural qualifications throughout the region. There is little prospect of this proposal proceeding if Australia does not have a statutory system of registration which maintains a credible system of accreditation of architectural courses.

## Page 111 **8 Net Benefits of Architects Acts**

Hames Sharley believes that the comparison of costs and benefits is very superficial, has not been thoroughly investigated and therefore does not adequately present the facts.

## Page 117 **9 Alternative Models and Approaches**

Again, while the draft Report suggests that an "alternative mechanism" could be established to replace registration, it provides no details of how this could work, and



MORE IMPORTANTLY fails to describe how an “alternative mechanism” would overcome the perceived deficiencies of registration.

### Page 143 **10 Appropriate Regulation: the Commission’s Assessment**

Again, the fact that the Productivity Commission admits that it does not know what impact its recommendation to repeal the Acts would have on the international competitiveness of Australian Architects is a major concern as one of the Commission’s Terms of Reference is to determine these impacts.

The impact on international agreements is also not adequately addressed. For example, the undermining of the Trans Tasman Mutual Recognition Act 1996, would present additional difficulties for Hames Sharley in sharing staff between our offices in Australia and New Zealand.

In all our dealings with overseas countries, we are only aware of three which do not require the registration of architects, being Denmark, Sweden and Ireland. From our experience Denmark and Sweden have such a culturally developed sense of design that it is difficult to compare their needs with Australia in this regard. The latest advice we have received from Ireland is that the need for registration has finally been recognised by the Irish Government and that a legislative basis for architectural registration should be in place by the end of this year or early next year.

Hames Sharley believes that it would be worthwhile to include a section in the Report outlining the situation in countries elsewhere in the world and explaining why Australia should create a precedent in repealing the Architects Acts.