



5 July 2023

Hon Sue M Ellery BA MLC
Minister for Finance; Commerce; Women's Interests
12th Floor, Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister

RE: CONTRACTING AND PROCUREMENT IN THE DESIGN SECTOR

I am writing to you on behalf of the West Australian Chapter of the Australian Institute of Architects (the Institute WA), the peak body for the architecture profession in Australia.

In WA we have more than 1300 members, together employing thousands of people in WA's construction sector.

Annually our members are involved in billions of dollars worth of West Australian construction projects. Our 2023 awards program alone, which features major projects by the West Australian government and the private sector, has a combined total value of approximately \$1.4 billion.

As a critical part of the construction sector, we are writing to you in relation to the Building Industry Reform Package 2022 released by the Master Builders Association of Western Australia (MBA WA).

In consultation with our members, we have considered MBA WA's key recommendations to ensure a more sustainable and diverse building and construction industry in WA.

We agree with the MBA WA that there are three critical areas to be addressed. As identified by MBA WA, these are:

1. Procurement Reform;
2. Contract Format Rationalisation to address risk sharing; and
3. Industry jobs and skills.

In this letter we have set out our views on these three critical areas as they apply to the architecture / design phase of construction.

Procurement Reform – defining “best value for money”

In the MBA WA's Reform document they talk about procurement reform requiring a balanced assessment where value is determined across multiple criteria - selection being based on the merit of their complete offer not based solely on the “lowest price wins” scenario. This makes sense. Whether you are buying groceries or a car, decisions to purchase are not based solely on price.

We agree with the MBA WA that tender assessment – as it applies to design as well as construction - should provide a comprehensive assessment of both quantitative and qualitative criteria. Each should be considered of equal value to the Principal.

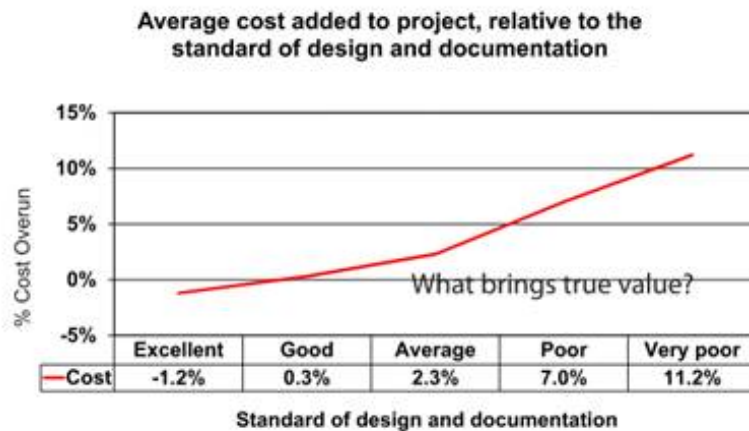
As stated by the MBA WA, the weighting of the scoring against the qualitative criterion and the tender sum should be designed to generate an outcome that gives the Principal the “best value for money” - which is not necessarily the lowest price.



In terms of design, value for money cannot be determined solely on the upfront cost of the service. The ongoing cost implications for the project in its entirety must be considered – given that the quality of construction drawings and contract administration impacts the overall project cost.

High quality documentation and contract administration, and sufficient budget for this, protects all parties, resulting in fewer variations.

Incomplete and substandard documentation ultimately leads to more variations and an increase in the overall project cost. This is illustrated in the diagram below from a Design and Documentation Quality Survey published by the CSIRO in 2000:



We note that while the CSIRO Survey investigating changes in design and documentation quality within the Australian construction industry and its effect on construction process efficiency (written by Paul A. Tilley and Stephen L. McFallan) is now 20 years old, the principles hold true.

As stated by the MBA WA, considering the State Government is one of the largest principals in WA, you are in a position to take a leadership role in supporting a more sustainable building industry by setting the standard in assessing tenders. In particular, in relation to design, by assessing State Government projects across multiple criteria, providing true value for money in the long term.

Contracting

Our members are seeing a trend towards highly modified contracts, with much time spent with lawyers talking to lawyers on both sides. They are also seeing collateral warranties and disproportionate risk. As contracts become more onerous, insurance escalates – and, in time, business will no longer be viable.

With the high level of construction sector insolvencies we have seen post COVID, architects offer a safeguard for clients – both government and private – with the insurance of the architect serving as a backstop. That is, provided the architecture practices survive.

Again, considering the State Government is one of the largest principals in WA, you are in a position to take a leadership role in supporting a more sustainable building industry by setting the standard for contracting across State Government projects, with fairness for all.

Industry jobs and skills

Skills and training are key to all sectors of the economy.

We have been advocating for a number of years now for access for the architectural profession to the training funds managed by the CTF, especially given that these funds are raised via a compulsory levy from every project an architect designs.



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Currently the definition of “construction worker” under the Act is based on the definition in the Construction Industry Portable Paid Long Service Leave Act 1985 – which focusses on works carried out “on site”, which means architects and others are left out.

As a result, our profession has missed out on receiving millions of dollars in training assistance – training which would have made a significant difference to the capacity of younger architects to improve their skillsets and enhance the architectural profession.

Based on our discussions with the MBA WA, it’s not just architects and design professionals who miss out based on this definition, but also cabinet makers and other off site workers – even through every project they work on contributes to the levy.

To be able to extend coverage to architects and other design professionals requires the BCITF legislation being amended. The simplest way to fix this is by including a definition of the construction industry in the Building and Construction Industry Training Fund and Levy Collection Act 1990 without referring to the Construction Industry Portable Paid Long Service Leave Act 1985. This would then permit architects, design professionals, cabinet makers and other off site workers to be included in this definition.

The State Government is currently in a position to fix this inequity in training assistance between off site and on site construction workers.

Further Feedback

As stated at the beginning of this letter, the above is an outline of our views on the three critical areas identified by MBA WA as they apply to the architecture / design phase of construction.

In this letter we have not sought to provide feedback on specific reforms raised by MBA WA. We note that our members are aligned with some of MBA WA’s reform ideas but others they are not. For example, our members support rise and fall in the cost of materials - although not labour.

If you would like us to provide further feedback in relation to MBA WA’s reform ideas we would be pleased to do so.

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Thank you for taking the time to consider our letter.

We would be pleased to meet with you to discuss these matters further.

Yours sincerely,

Sandy Anghie RAIA
STATE PRESIDENT WESTERN AUSTRALIA
AUSTRALIAN INSTITUTE OF ARCHITECTS