



PARLIAMENT NSW (LEGISLATIVE COUNCIL)

Review into the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020



NSW CHAPTER

Submission issued 04 July 2024

ABOUT THE INSTITUTE

The Australian Institute of Architects (Institute) supports more than 14,000 members to be ethical, effective, and engaged practitioners. Its work strengthens the architectural profession and shapes egalitarian communities. Since its inception in 1929 and with a rich history spanning over nine decades, the Institute has consistently championed the highest standards of professionalism, creativity, and ethical practice across the built environment.

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1 INTRODUCTION

The Institute appreciates the opportunity to assist the Legislative Council's Public Accountability and Works Committee with its review of the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020. Indeed, any opportunity to appear before the Committee will be welcome.

This submission addresses the terms of reference, highlighting the effectiveness of current regulations, the desirability of an independent NSW Building Commission, and contemporary issues impacting the architectural profession and building quality in New South Wales. It is also consistent with the Institute's earlier submissions from 2020 and the relevant documents provided by the Committee to provide a comprehensive overview of our ongoing concerns and recommendations.

2 FUNCTIONS EXERCISED OR DELEGATED BY THE SECRETARY

The functions exercised or delegated by the Secretary of the Department of Customer Service are crucial in implementing the Design and Building Practitioners Act 2020. The Institute recognises improvement; however, some areas require attention to ensure compliance and enhancement of building safety and quality:

- **Consistency and Clarity**
There remains a need for clearer guidelines and consistent application of standards across projects. Variability in interpretation can lead to confusion and uneven compliance.
- **Training and Education**
Continuous professional development and training for practitioners on the specifics of the Act are essential. The Institute advocates for mandated regular training sessions to ensure all practitioners remain up to date with legislative requirements and best practices.

3 POLICY OBJECTIVES AND EFFECTIVENESS OF THE ACTS

The policy objectives of the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 aim to enhance building quality and safety. While the objectives are valid, the effectiveness of the terms of the Acts can be improved:

- **Consumer Protection**

Strengthening consumer protection mechanisms within the Acts can further bolster confidence in the residential apartment market. Measures such as a streamlined dispute resolution process and clear accountability frameworks are critical.

4 INDEPENDENT NSW BUILDING COMMISSION

The Institute supports an independent NSW Building Commission. Such a body can provide unbiased oversight and drive higher standards across the industry. Key recommendations include:

- **Autonomy and Authority**

The Commission should operate with full autonomy, with the authority to enforce compliance, impose penalties, and oversee all aspects of building regulation.

- **Stakeholder Engagement**

Ongoing engagement with industry stakeholders, including architects, engineers, builders, and consumers, is essential. The Institute recommends advisory panels to provide the Commission with diverse perspectives and expertise.

5 CONTEMPORARY ISSUES AND RECOMMENDATIONS

Addressing contemporary issues is vital for the continued relevance and effectiveness of the Acts. The Institute highlights the following areas of concern, supported by our earlier submissions from 2020:

- **Sustainability and Environmental Impact**

The Acts should provide stronger provisions for sustainable building practices and environmental performance. This includes mandating energy-efficient designs, sustainable materials, and practices that reduce the carbon footprint of new buildings.

- **Technological Advancements**

Embracing technological advancements in building design and construction can enhance compliance and quality. The Institute advocates for integrating digital tools such as Building Information Modelling (BIM) into regulatory frameworks.

- **First Nations Values**
Aligning building practices with First Nations values and priorities is essential. The Institute supports incorporating these values into policy and regulatory frameworks to promote inclusive and culturally sensitive development.
- **Principal Design Practitioner Role**
The role of the Principal Design Practitioner should be expanded to include oversight and coordination of prescribed building work. This would ensure continuous oversight and quality assurance on large projects, as outlined in our previous submissions.
- **Insurance Requirements**
The Institute has expressed concerns regarding the adequacy and availability of Professional Indemnity (PI) Insurance for design professionals. The insurance requirements must be reviewed and adjusted to ensure they are realistic and do not impose undue burdens on practitioners.
- **Contracting Out of Proportionate Liability**
The regulations should ensure that no contract or agreement can exclude the proportionate liability provisions of the Civil Liability Act 2002. This is critical to maintain fairness and accountability across the industry.
- **Design Practitioner – Architectural Class Experience**
The Institute does not agree that individuals in the ‘Design Practitioner – Architectural’ class should be required to have five years of recent and relevant practical experience. The current robust process for registration as an Architect in New South Wales under the Architects Act 2003 ensures that architects have the requisite experience to competently conduct their obligations under the Design and Building Practitioners Act and Regulations 2020. Requiring an additional five years of practical experience would create a second registration process, which the Institute strongly opposes.

6 CONCLUSION

The Institute appreciates the Committee reviewing these critical pieces of legislation and looks forward to working productively to improve the quality of the New South Wales built environment.

Once again, please do not hesitate to request representation at a hearing to provide greater detail.